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THE PASSIONS OF THE WISE:
PHRONËSIS, RHETORIC, AND ARISTOTLE'S
PASSIONATE PRACTICAL DELIBERATION

ARASH ABIZADEH

THERE ARE AT LEAST TWO REASONS WHY contemporary moral and political philosophers should be attentive to Aristotle's account of practical reason. First, in contradistinction with views that characterize the emotions primarily as a hindrance to practical reasoning, moral philosophers have become increasingly impressed with the revived Aristotelian insight that good practical reasoning systematically relies on the emotions. Second, accounts of practical reason have become increasingly important for political philosophers seeking to theorize the regulative principles governing democratic deliberation. My intention in this paper is to demonstrate that Aristotle shows how an account of practical reason and deliberation that constructively incorporates the emotions can illuminate key issues about deliberation at the political level. First, I argue that, according to Aristotle, character (*êthos*) and emotion (*pathos*) are constitutive features of the process of phronetic practical deliberation: in order to render a determinate action-specific judgment, practical deliberation cannot be simply reduced to logical demonstration (*apodeixis*). This can be seen, I argue, by uncovering an important structural parallel between the virtue of *phronêsis* and the art of rhetoric. Second, this structural parallel helps to tease out the insights of Aristotle's account of practical deliberation for contemporary democratic theory—in particular, the ethical consequences that follow from the fact that passionate political deliberation and judgment are unavoidable in democracy and are always susceptible to straying from issuing forth properly ethical outcomes.

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I

Aristotle's critique of democracy rests on his fears about demagoguery, a regime led by popular leaders who, by appealing to the people's passions, are capable of ingratiating themselves with a majority thereby led to tyrannize a helpless minority—even to the detriment of the majority itself. Of course, modern liberal democracies have developed various responses to alleviate some of the fears that Aristotle, and in other ways Plato, articulated so long ago. One of liberalism's most significant answers to the threat of the tyranny of the majority has been constitutional constraint on democratic decision-making.

Yet Aristotle himself anticipates the limits of such an answer. Obviously, the application of abstract laws to particular circumstances cannot be carried out by the laws themselves. The problem this introduces is what we might call the "indeterminacy of written *nomos*." I say "written *nomos*" because Aristotle makes a fundamental distinction between written and unwritten *nomos*: the former refers to the codified written laws legislated by a particular polis, the latter refers to the unwritten tacit norms that seem to be agreed upon by all and that invariably cannot be codified (as abstract rules).¹ The indeterminacy of written *nomos* refers to Aristotle's thought that the antecedently specified abstract rules that constitute the written laws are never sufficient to issue forth in a determinate injunction in the face of particular circumstances.

Why? Because the answer to the practical question of what ought to be done in particular circumstances can never, for Aristotle, be fully codified in human speech or writing as a series of abstract antecedently specified rules—there is always a remainder not captured in or by abstract *logos*. In other words, the indeterminacy of written *nomos* is simply a political manifestation of a more general condition: the indeterminacy of universals when employed in practical reason, or what I shall call the "indeterminacy of abstract *logos*" (and here I mean to evoke connotations of both reason and speech). This inde-

¹ *Rhetoric* 1.13.1373b2–7; 1.13.1374a18–28; 1.10.1368b7–9. Compare with *Politics* 3.16.1287b5–9. The translations of Aristotle's *Politics* (hereafter, "Pol") and *Rhetoric* (hereafter, "Rhet") I cite, sometimes with slight modifications, are *On Rhetoric: A Theory of Civic Discourse*, trans. George A. Kennedy (New York: Oxford University Press, 1991) and *The Politics*, trans. Carnes Lord (Chicago: University of Chicago Press, 1984).

terminacy refers both to (a) the fact that abstract reason is insufficient to issue in determinate normative injunctions in particular circumstances, and (b) the parallel fact that practical philosophy, whether ethical or political, can never be fully codified in language as a series of antecedently specified set of general practical principles.² The ubiquitous requirement for *in situ* judgment and the impossibility of final abstract codification arise from several interrelated features of practical philosophy that render it inexact.³ In part, this inexactness arises from the fact that (1) abstract rules developed *ex ante* cannot cover every particular contingency that may arise in the future.⁴ (2) What is good unconditionally (*haplôs*) may not necessarily be good for me (or good for this or that person or people).⁵ (3) Abstract rules, sound as they may be in general, turn out sometimes to be inapplicable in particular cases; in politics, this means that decency or fairness (*epieikeia*) requires that written *nomos* be occasionally overridden, for the sake of justice itself.⁶ One might add to Aristotle's reasons that

² That ethics is in an important sense uncodifiable has been much discussed in Aristotle scholarship. See, for example, John McDowell, "Virtue and Reason," *The Monist* 62, no. 3 (1979): 331–50; Norman O. Dahl, *Practical Reason, Aristotle, and Weakness of the Will* (Minneapolis: University of Minnesota Press, 1984), 79; Nancy Sherman, *The Fabric of Character: Aristotle's Theory of Virtue* (Oxford: Clarendon Press, 1989), 16–18; Eugene Garver, *Aristotle's Rhetoric: An Art of Character* (Chicago: University of Chicago Press, 1994). Daniel T. Devereux makes the interesting statement that "[i]n the case of practical knowledge . . . it is the universals that are indeterminate and imprecise while the judgments about particular acts in particular circumstances are precise and determinate. If there is a discrepancy between the particular judgment of the practically wise person and a universal rule which applies to the situation, the defect is on the side of the universal; it is the particular judgment that is authoritative"; "Particular and Universal in Aristotle's Conception of Practical Knowledge," *Review of Metaphysics* 39, no. 3 (1986): 483–504 at 497–8.

³ *Nicomachean Ethics* 1.3.1094b12–26. The translation of the *Nicomachean Ethics* (hereafter, "NE") I cite, sometimes with slight modification, is that of Terence Irwin (Indianapolis: Hackett, 1985).

⁴ *Rhet* 1.13.1374a28–b1.

⁵ Concerning goods that are good *haplôs*, Aristotle believes that though "human beings pray for these and pursue them, they are wrong; the right thing is to pray that what is good *haplôs* will also be good for us, but to choose [only] what is good for us"; *NE* 5.1.1129b4–7. Aristotle makes a parallel distinction in the *Politics* where he distinguishes a regime that is best *haplôs* from regimes that are best for most cities and those that are best given the circumstances (*Pol* 4.1.1288b22–8). Compare Garver, *Aristotle's Rhetoric*, 57.

⁶ *NE* 5.10.1137b12–30; *Rhet* 1.13.1374a26–8.

(4) abstract rules cannot also determine the rules of their own application. Consequently, it is unreasonable ever to demand of moral and political philosophy (*politikê*), and the written laws, that they be exact (*akribês*) in the way that mathematics might be. We cannot remove the deliberating agent from ethics and politics, reducing *politikê* to a passive application of universal principles to particular circumstances. Judgment is required.

But how does the individual render his judgment determinate? We get an indication of what Aristotle's answer would be when he deals with the indeterminacy of abstract codification in the specific instance of the laws. Here he appeals to the *epieikeia* (decency or fairness) exercised by the moral agent, by which the individual may override the written laws for the sake of justice. Aristotle says that:

what is decent is just, but is not what is legally just, but a rectification of it. The reason is that *all law is universal*, but in some areas no universal rule can be correct; and so where a universal rule has to be made, but cannot be correct, the law chooses the [universal rule] that is usually [correct], well aware of the error being made. And the law is no less correct on this account; for the source of the error is not the law or the legislator, but the nature of the object itself, since that is what the subject-matter of action is bound to be like. Hence whenever the law makes a universal rule, but in this particular case what happens violates the [intended scope of] the universal rule, here the legislator falls short, and has made an error by making an unconditional rule. Then it is correct to rectify the deficiency; this is what the legislator would have said himself if he had been present, and what he would have prescribed, had he known, in his *legislation . . . this is the nature of what is decent—rectification of law in so far as the universality of law makes it deficient*. This is also the reason why not everything is guided by *law*. *For on some matters legislation is impossible*, and so a decree is needed. For the standard applied to what is indefinite is *itself indefinite*.⁷

When Aristotle uses the term *nomos* in this passage, he evidently has in mind written *nomos*, as the frequent reference to the legislator indicates, as does the fact that he uses *nomos* here interchangeably with matters of legislation. That *epieikeia* is making up for the deficiencies of—and is being contrasted to—written *nomos* and not to *nomos* as a whole is made even more clear in *On Rhetoric*, where he speaks of *epieikeia* as an instance of unwritten *nomos*.⁸

But what might the *epieikeia* of the particular, deliberating agent be providing that written *nomos* does not, and that allows the proper treatment of particulars? The answer emerges in Aristotle's discus-

⁷ *NE* 5.10.1137b12–30, emphasis mine.

sion of written laws in the *Politics*. There he is addressing the argument that “to rule in accordance with written [rules] is foolish in any art” because “laws only speak of the universal and do not command with a view to circumstances.” What is the written law lacking that renders it insensitive to the particular circumstances? It is lacking “the passionate element” which “is not present in law, but every human soul necessarily has it.” On the one hand, Aristotle notes, it might be argued that “what is unaccompanied by the passionate element is superior to that in which it is innate.” On the other hand, the existence of this “passionate element” in the human soul means that “he will deliberate in finer fashion concerning particulars [or: in particular cases].”⁹ The rule of written law, then, is identified with the “rule of the intellect,” which in turn is contrasted with the passionate element found in the human soul.¹⁰ What the written laws lack in comparison with a deliberating agent is the passionate element found in his soul: different parties might cite this lack as advantageous or disadvantageous, but the upshot is that “to legislate concerning matters of deliberation is impossible.”¹¹

Now, if it is the lack of a passionate element that renders written *nomos* insufficient for matters of deliberation, then how could the practical deliberations of an individual render a determinate action-producing judgment if deliberation itself were solely a matter of (passionless) logico-deductive reasoning from premises? The answer is that it could not. But Aristotelian deliberation is not simply a matter of logical demonstration.

In order to make good this claim, in section 2, I will first examine Aristotle’s account of rhetorical deliberation in order to demonstrate the constitutive role of *êthos* and *pathos* there. Then, in section 3, I

⁸ The context of the discussion is Aristotle’s attempt to identify “two species of just and unjust actions (some against written, others unwritten laws).” He proceeds to refer to “two species of unwritten law. These are, on the one hand, what involves an abundance of virtue and vice . . . and on the other hand things omitted by the specific and written law. Fairness [*epieikes*], for example, seems to be just; but fairness is justice that goes beyond the written law”; *Rhet* 1.13.1374a18–28, emphasis added. So fairness falls under the second species of unwritten laws.

⁹ *Pol* 3.15.1286a19–22.

¹⁰ *Pol* 3.16.1287a29–33.

¹¹ *Pol* 3.16.1287b22–3.

will uncover a structural parallel between the art of rhetoric and the virtue of *phronêsis*, a parallel suggesting that *êthos* and *pathos* are constitutive of phronetic deliberation as well.

II

One might expect Aristotle to say that the function of the art of rhetoric¹² is to persuade; but he says instead that “its function is not to persuade but to see the available means of persuasion in each case”—and to identify fallacious sophistry where it arises. He defines rhetoric as “an ability [*dunamis*], in each [particular] case,¹³ to see the available means of persuasion.”¹⁴ The fact that the rhetorician does not shoot directly for the end of persuasion is precisely what renders rhetoric a *technê* (art or craft): it has not just a given end or external good but also guiding ends or internal constitutive goods.¹⁵ The given end of the practice of medicine, to cite one example of an Aristotelian

¹² There are, according to Aristotle, three species of rhetoric (*Rhet* 1.2.1357a36–b29). The first is deliberative rhetoric (*sumbouleutikon*), whose telos is the advantageous or expedient (*sumpheron*) and the harmful, and which concerns exhortation or dissuasion about future action. This is the kind of rhetoric used in the political deliberative councils, which deliberate about the common matters of the polis, seeking the advantageous (compare *Pol* 4.14.1298a–b). (There is a broad and a narrow sense of collective political deliberation in Aristotle. “Deliberation” in the broad sense serves to designate both political deliberation proper [in the councils], and judicial deliberation, but in the narrow sense distinguishes political deliberation proper from judicial deliberation [compare *Pol* 7.9.1329a3–5]. The locution “deliberative rhetoric” employs the term in the restricted sense.) The second is judicial rhetoric (*dikanikon*), whose telos is the just and unjust, and which concerns accusation or defense regarding a past action. This is the kind of rhetoric that takes place in the courts where deliberation seeks a judgment that renders justice (compare *Pol* 7.8.1328b13–15). The third species of rhetoric is epideictic. Its telos is the noble and shameful, and it involves praising or blaming someone or something presently. I am concerned only with the first two species, because these are the ones appropriate to the “deliberative” element of the polis—the councils and the courts.

¹³ Kennedy notes in his translation that “*In each case (peri hekaston)* refers to the fact that rhetoric deals with specific circumstances (particular individuals and their actions).” See Aristotle, *On Rhetoric*, 36–7.

¹⁴ *Rhet* 1.2.1355b25–6.

¹⁵ Garver, *Aristotle’s Rhetoric*, chap. 1.

technê, may be to maintain the life and health of its patients, but the guiding end of the doctor qua practitioner of medicine is to perform his *technê* well, which involves, for instance, following certain standard procedures and rules. One can thus perform the *technê* well—that is, fulfill its guiding ends—via a masterful application of its procedures and rules, even if one fails to achieve its given end (for example, the patient dies.) Of course a *technê* for which there were no reliable relation between its guiding and given ends would fail to be viable; the necessity for *technê* arises because there are some given ends that are best achieved by not pursuing them directly. Persuasion is one such end for Aristotle.¹⁶

Aristotle identifies three means of persuasion through speech: the proofs (*pisteis*) of *êthos*, *pathos*, and *logos*. “Of the *pisteis* provided through speech [*logos*] there are three species: for some are in the *êthos* of the speaker, and some in disposing the listener in some way, and some in the argument [*logos*] itself, by showing or seeming to show something.” He goes on to say that there is persuasion through *êthos* insofar as the speech of the rhetorician gains the trust of the audience, and that “this should result from the speech [*logos*], not from a previous opinion that the speaker is a certain kind of person.” Furthermore, persuasion occurs “through the hearers when they are led to feel *pathos* by the speech [*logos*].” And third, regarding logical demonstrations via paradigm or enthymeme, Aristotle says that “[p]ersuasion occurs through the arguments [*logoi*] when we show the truth or apparent truth from whatever is persuasive in each case.”¹⁷

Two comments are in order. First, I have included the word *logos* from the original text in order to flag an important feature of Aristotle’s discussion of the *pisteis*. Although, following Aristotle, commentators refer to the tripartite *pisteis* of *êthos*, *pathos*, and *logos*, in fact all three *pisteis* for Aristotle occur in “*logos*.” In other words, when we call the third *pistis* “*logos*,” we are using the word in a restricted sense meaning logical *demonstration* (*apodeixis*), as an

¹⁶ See Garver, *Aristotle’s Rhetoric*, 29–33. “Unless achieving the external end were desirable, no one would ever develop an art. Arts do not lose their given ends when they develop their own autonomous ends in addition” (28).

¹⁷ *Rhet* 1.2.1356a1–20.

instance falling within the broader sense of *logos*.¹⁸ Aristotle's broader notion of practical *logos* or discursive rationality is not constructed in contrast to *êthos* and *pathos*—rather, it includes these. The restricted sense of *logos*, as the third *pistis*, refers to strict demonstration or logical persuasion via the use of paradigms and enthymemes: “I call rhetorical *sullogismos* an enthymeme, a rhetorical induction a paradigm. And all [speakers] produce logical persuasion by means of paradigms or enthymemes and by nothing other than these.”¹⁹ In one place Aristotle calls enthymeme a “*sullogismos* of a sort,”²⁰ and in another a “rhetorical demonstration [*apodeixis*].”²¹ The reference to *apodeixis* is key here because, as Burnyeat notes, for Aristotle “*apodeixis* is the term that suggests logical stringency.”²² It is this restricted sense of *logos*, as a series of logico-deductive demonstrations that are thereby codifiable, to which the notion of the indeterminacy of abstract *logos* refers.

Second, one way in which to interpret these passages is disjunctively: one might take Aristotle to be saying that persuasion operates via *êthos*, *pathos*, or *logos*, on different occasions. In fact, however, Aristotle understands the role of the three *pisteis* conjunctively: the art of rhetoric requires that *êthos*, *pathos*, and *logos* operate every time. What is important here is that Aristotle advances the conjunctive account by explicitly linking the insufficiency of *logos* (in the re-

¹⁸ There is a parallel here in Aristotle's regime typology. Just as *êthos*, *pathos*, and *logos* (in a restricted sense) are three *pisteis* that occur in *logos* (in the broad sense), so too does Aristotle use the word *politeia* both to designate “regime” in the broad sense of any regime, including monarchy and aristocracy, and to designate the specific regime which Anglophone translators call “polity” or “constitutional government.”

¹⁹ *Rhet* 1.2.1356b4–7. The meaning of the Greek word *sullogismos* is not quite the same as what we normally mean in English by the word syllogism, with its two premises and conclusion, so I have left it transliterated in the original. On this point, see M. F. Burnyeat, “Enthymeme: Aristotle on the Rationality of Rhetoric,” in *Essays on Aristotle's Rhetoric*, ed. A. O. Rorty (Berkeley: University of California Press, 1996), 88–115 at 100. Earlier he had noted that “a *sullogismos* as Aristotle defines it is at least the following: a valid deductive argument in which the premises (note the plural) provide a logically sufficient justification for a conclusion distinct from them” (95).

²⁰ *Rhet* 2.24.1400b37.

²¹ *Rhet* 1.1.1355a4–7.

²² Burnyeat, “Enthymeme,” 94.

stricted sense) to the fact that the given end of rhetoric is not just to persuade, but to persuade in producing a determinate judgment:

since rhetoric is concerned with making a judgment (people judge what is said in deliberation, and judicial proceedings are also a judgment) it is necessary not only to look to the argument [*logos*], that it may be demonstrative and persuasive [*apodeiktiktos kai pistos*] but also [for the speaker] to construct a view of himself as a certain kind of person and to prepare the judge; for it makes much difference in regard to persuasion (especially in deliberations but also in trials) that the speaker seem to be a certain kind of person. . . . There are three reasons why speakers themselves are persuasive; for there are three things we trust other than logical demonstrations [*apodeixeis*]. These are *phronêsis* and virtue [*aretê*] and good will [*eunoia*].²³

As he goes on to elaborate, “goodwill and friendliness” are matters of the *pathê*, which “are those things through which, by undergoing change, people come to differ in their judgements.”²⁴

A host of commentators have noted the fact that Aristotle’s broader notion of *logos*, in the context of practical reason, is not constructed in opposition to *pathos* or to the *êthos* that the *pathê* help constitute.²⁵ The main problem such an interpretation faces, however, is chapter 1 of *On Rhetoric*. As is well known, in that chapter Aristotle appears to deprecate rhetorical proofs appealing to *pathos* (he says that “verbal attack and pity and anger and such emotions of the soul do not relate to fact but are appeals to the juryman”),²⁶ and makes no mention of proofs of *êthos*. However, following Brunschwig,²⁷ I would

²³ *Rhet* 2.1.1377b20–8, 1378a6–9.

²⁴ *Rhet* 2.1.1378a19–21.

²⁵ That Aristotle takes the proper emotional responses to be constitutive of *êthos* is, I think, beyond question: “no good person would be distressed when parricides and bloodthirsty murderers meet punishment; for it is right to rejoice in such cases, as in the case of those who deservedly fare well; for both are just things and cause a fair-minded person to rejoice. . . . All these feelings come from the same moral character, and opposite feelings from the opposite”; *Rhet* 2.9.1386b26–32. And elsewhere: “let us go through the kinds of character, considering what they are like in terms of emotions and habits and age of life and fortune [*tuchê*];” *Rhet* 2.12.1388b31–2. For discussion, see L. A. Kosman, “Being Properly Affected: Virtues and Feelings in Aristotle’s Ethics,” in *Essays on Aristotle’s Ethics*, ed. A. O. Rorty (Berkeley: University of California Press, 1980), 103–16.

²⁶ *Rhet* 1.1.1354a16–18.

²⁷ Jacques Brunschwig, “Aristotle’s Rhetoric As a ‘Counterpart’ to Dialectic,” in *Essays on Aristotle’s Rhetoric*, 34–55 at 45–6.

argue that far from undermining the claim that *logos* is related to *pathos*, Aristotle is specifying that relation. For the *pathê* he deprecates are those that draw “attention to matters external to the subject” at hand.²⁸ In other words, the kind of *pathos* that forms a legitimate *pistis* is one that is “entechnical,” which is found in the speech (that is, *logos*) itself.²⁹

A second problem is actually to specify the relation between *êthos/pathos* and *logos* in Aristotle’s thought. Nussbaum argues, for example, that for Aristotle the emotions are constituted by cognitive beliefs that individuate the different emotions; Sherman too sees cognitions as constitutive of emotions; Cooper argues that *logos* can persuade desires (*orexeis*) in general because the desires raise cognitive validity claims; Leighton argues that emotions affect perception, which in turn affects judgment; and Wardy argues that in rhetorical contexts the proper *pathê* “enhance our receptivity to truthful *logos*.”³⁰ I will try to show that Aristotle’s view of the relation is importantly clarified by examining it in the context of a structural parallel between rhetoric and phronetic practical deliberation.³¹

²⁸ *Rhet* 1.1.1354a15–16.

²⁹ For further discussion of this issue, and in particular chapter 1’s relation to the rest of the work, see Kennedy, *On Rhetoric*, 27–8; Robert Wardy, “Mighty is the Truth and It Shall Prevail?” in *Essays on Aristotle’s Rhetoric*, 56–87 at 62–3, Troels Engberg-Pedersen, “Is There an Ethical Dimension to Aristotelian Rhetoric?” in *Essays on Aristotle’s Rhetoric*, 116–41 at 131, and Glenn W. Most, “The Uses of *Endoxa*: Philosophy and Rhetoric in the *Rhetoric*,” *Aristotle’s Rhetoric: Philosophical Essays*, ed. A. Nehamas (Princeton: Princeton University Press, 1994). As will become clear, my view is different from Jürgen Sprute’s attempt to resolve the apparent discrepancy. He suggests that the emotion-free rhetoric of chapter 1 is an “ideal rhetoric” described in order to “determine what is essential to rhetoric in general”; Sprute, “Aristotle and the Legitimacy of Rhetoric,” *Aristotle’s Rhetoric: Philosophical Essays*, ed. A. Nehamas (Princeton: Princeton University Press, 1994), 119. Sprute seems to suppose that appeals to emotion and atechanical appeals are one and the same, and concludes that Aristotle’s proscription of atechanical appeals is also directed against the emotions. For example, he says that for Aristotle the laws ought “to forbid speaking outside the subject and hence using means of persuasion like arousing emotions” (119, my emphasis), and so concludes that “arousing emotions and representing character, are not directly concerned with the subject but have only a supplementary function in persuading” (122). But arousing emotions are not always atechanical, and *êthos* and *pathos* are constitutive *pisteis* of rhetoric.

III

Since for Aristotle the telos of the polis is *eudaimonia*,³² the legitimate political role that he assigns rhetoric implies a belief in at least the possibility that rhetoric can yield ethical judgments consistent with the right reason of a phronetic person (*phronimos*). This possibility is indicated by Aristotle when he immediately follows his characterization of rhetoric as a capacity to prove opposites—the rhetorician, he says, “should be able to argue persuasively on either side of a question”—with the parenthetical ethical admonition that it is “not that we may actually do both (for one should not persuade what is debased).”³³ But since rhetoric is a *technê* and not itself a virtue like *phronêsis*, the standard for the rightness of its outcomes must be supplied by a source external to the art itself. This is perhaps why Aristotle’s parenthetical ethical admonition is not repeated anywhere else in *On Rhetoric*.³⁴ for the admonition is not internal to the art of rhetoric itself but is given externally by ethics to rhetoric. Ethical rhetoric must be rhetoric governed by *politikê*, the architectonic discipline.³⁵

But since for Aristotle the legitimacy of political institutions is a function of their contribution to the realization of the telos of *eudaimonia*, the mere possibility of yielding ethical outcomes is not enough. For Aristotle, giving to rhetoric such a prominent and legitimate political role, as the art governing collective practical deliberation in the polis’s institutions, requires that deliberation so

³⁰ Martha Craven Nussbaum, *The Therapy of Desire: Theory and Practice in Hellenistic Ethics* (Princeton: Princeton University Press, 1994), 81–8; Sherman, *Fabric of Character*, 45; John Cooper, “Some Remarks on Aristotle’s Moral Psychology,” *The Southern Journal of Philosophy* 27, supplement (1988): 25–42 at 34–5; Stephen R. Leighton, “Aristotle and the Emotions,” in *Essays on Aristotle’s Rhetoric*, 206–37 at 210, 217; Wardy, “Mighty is the Truth and It Shall Prevail?” 63.

³¹ Compare Wardy: “The famous first words of the treatise [*On Rhetoric*], ‘rhetoric is the counterpart of dialectic’ (1354a1), flatly rejects Socrates’ uncompromising thesis that philosophical arguments are categorically distinct from rhetorical pleas”; Wardy, “Mighty is the Truth and It Shall Prevail?” 58.

³² *Pol* 7.1.1323a14–1324a13.

³³ *Rhet* 1.1.1355a29–31.

³⁴ As Kennedy notes, in Aristotle, *On Rhetoric*, 34 n. 27.

³⁵ *NE* 1.2.1094a28.

governed have a propensity to issue forth in judgments consistent with *phronêsis*.³⁶ Aristotle indeed does think that rhetoric has a propensity to yield correct judgments.³⁷ The question is how to explain Aristotle's well-known optimism here.³⁸

What, in other words, would explain the possibility for and the propensity of the art of rhetoric to yield outcomes consistent with the ethical requirements of right reason as embodied in the *phronimos* and his deliberations? My thesis is that the possibility and propensity for this consistency is furnished by the structural similarity in the argumentative process in both types of deliberation. In other words, I explain Aristotle's optimism by reference to the internal constitution of the *technê* itself rather than by reference to externally imposed ethical constraints not constitutive of the art of rhetoric: for the external strategy fails to explain the nature of Aristotle's optimism about the *technê* itself. At the same time, however, Aristotle's optimism cannot depend on collapsing the category of *technê* into that of virtue; rather, my suggestion is that the structural constitution of the art of rhetoric produces an internally generated propensity to induce judgments consistent with the outcomes of phronetic deliberation. If this is right, then we would have another reason for why Aristotle assigns rhetoric such a central role in politics: not only would rhetoric be a means for generating outcomes with a propensity to be consistent with right reason, but it would potentially do so by bypassing the onerous standard of full virtue required in monological phronetic deliberation.³⁹ By providing structural-technical incentives that substitute for the full virtue required in the monological deliberations of the *phronimos*, rhetoric could enable political institutions to reach correct outcomes despite the ethical shortcomings of the polity's members. In other words,

³⁶ I am tempted to say that collective decisions must have a propensity to coincide with what the phronetic person would decide. But this formulation faces two objections. First, it is not clear that every phronetic person would come up with the same decision, according to Aristotle. (On this question, see Amélie Oksenberg Rorty, "Structuring Rhetoric," in *Essays on Aristotle's Rhetoric*, 14.) Second, and more significantly, this way of putting things is open to the objection that it implies, contrary to Aristotle's intentions, that discussion makes no difference to the outcomes of practical reason. To avoid this latter objection, I say instead that ethical rhetoric is "consistent with" *phronêsis* in the sense that it issues forth in decisions whose wisdom or rightness phronetic persons can recognize.

³⁷ *Rhet* 1.1.1355a14–17, 20–3, 36–8.

³⁸ On Aristotle's optimism, see Wardy, "Mighty is the Truth and It Shall Prevail?" 59–60.

rhetoric might be a way for Aristotle to lower the virtue bar for successful politics.

I have already identified the key structural feature of collective, rhetorical deliberation: it is constituted by three means of persuasion—*êthos*, *pathos*, and *logos*. Whether or not a council or court is persuaded by a speaker to render a particular judgment depends on three species of *pistis* and not just the demonstrative reason embodied in argument. This is what it means to say that the process of rhetorical persuasion is not constituted solely by *logos* in the restrictive sense of the third *pistis*. In collective deliberation, whether the audience finds the conclusions of the rhetorician persuasive depends on the *êthos*, *pathos*, and *logos* embodied in the argument leading to it.

I want to argue that, similarly, when engaged in monological practical deliberation, whether or not the individual phronetic person finds a particular practical conclusion persuasive depends on the elements of *êthos*, *pathos*, and *logos* involved in the deliberative process that lead (or do not lead) to that conclusion. In other words, the key reason why rhetoric has an internally generated propensity to yield outcomes consistent with the practical deliberations of a *phronimos* is that the structure of the deliberative process is similar: in both cases, *êthos* and *pathos* combine with *logos* to lead the “argument” to its conclusion.

The upshot is that *êthos* and *pathos* are, along with logical demonstration, constitutive elements of *phronêsis*: all three are necessary and individually insufficient guides that lead practical deliberation to its conclusions. This structural similarity between the virtue of *phronêsis* and the art of rhetoric is what gives the latter the possibility and internally generated propensity to yield outcomes consistent with the former. The practical deliberations of the *phronimos* leading to a particular conclusion cannot be reduced to a series of logico-deductive demonstrations that fit into a self-sufficient theory of ethics: Aristotle is precisely the thinker who tells us that ethics can never be fully captured by a theoretical system constructed and codified by abstract *logos*. Ultimately, the legitimate and prominent political role that Aris-

³⁹ Phronetic deliberation requires the right conclusion, by the correct process, at the right time, for the correct end (*NE* 6.9.1142b21–34). “For it is not merely a state consistent with correct reason, but the state involving correct reason, that is virtue. And it is *phronêsis* that is correct reason . . . we cannot be fully good without *phronêsis*, or phronetic without virtue of *êthos*”; *NE* 7.1.1145a26–32.

total assigns rhetoric is a function of the fact that, like rhetoric, proper ethical deliberation characterized by *phronêsis* is not just a matter of logical demonstration but is further constituted by the proper *êthos* and *pathos* of the *phronimos*.⁴⁰ This, of course, is reflected in what I called the indeterminacy of abstract *logos*.

The position I am attributing to Aristotle has important limits. I have argued that for Aristotle what accounts for the possibility and propensity of consistency between the outcomes of rhetorical and phronetic deliberation is the fact of their structural similarity. But of course structural similarity is neither a sufficient nor a necessary condition for securing similar outcomes. It is not sufficient: structural similarity only furnishes the possibility and, at best, an internal propensity for rhetoric to secure phronetic outcomes. But this propensity can be undermined: as we shall see, rhetoric has problems, and this possibility of variance from *phronêsis* is their source. Nor is structural similarity a necessary condition for consistency: two structurally very different processes could systematically yield similar outcomes. So the claim here is only that the possibility and propensity for consistent outcomes require an explanation, and that the most plausible explanation to be found in Aristotle is the structural similarity of their respective modes of procedure.

IV

The most obvious objection to my claim that the practical deliberations of a phronetic person require *êthos* and *pathos* to render determinacy—the determinacy of an “ought” judgment required for action—would be to counter that, according to Aristotle, it is not *êthos*

⁴⁰ See also Christopher Lyle Johnstone, “An Aristotelian Trilogy: Ethics, Rhetoric, Politics, and the Search for Moral Truth,” *Philosophy and Rhetoric* 13, no.1 (1980): 1–24, for a similar claim that there is a structural similarity for Aristotle between practical deliberation and rhetoric, stemming from viewing practical deliberation as a sort of internal dialogue: “the activity of the practical intellect is essentially rhetorical in nature” (11). Lois S. Self makes the explicit link between *phronêsis* and rhetoric, suggesting that there is an integral theoretical link “which derives from the nature of the art [of rhetoric] itself; more specifically, that the ideal practitioner of Aristotle’s *Rhetoric* employs the skills and qualities of Aristotle’s model of human virtue, the *Phronimos* or ‘man of practical wisdom’”; Self, “Rhetoric and *Phronêsis*: The Aristotelian Ideal,” *Philosophy and Rhetoric* 12, no. 2 (1979): 130–45 at 131.

or *pathos*, but perception (*aisthêsis*) that renders judgment determinate. Indeed, Aristotle states that one reason why ethics is inexact is that its application in particular circumstances relies on perception; he further says “nothing perceptible is easily defined, and [since] these [circumstances of virtuous and vicious action] are particulars, the judgement about them depends on perception.”⁴¹ The objection can be formulated as follows: (a) it is perception, and not deliberation itself, that renders determinacy; therefore, (b) insofar as I have relied on the assumption that practical deliberation must issue forth in determinate judgments or actions, in order to demonstrate that deliberation must be constituted by *êthos* and *pathos* (without which practical deliberation would remain indeterminate), my argument rests on a faulty premise.⁴²

Against claim (a) I argue that perception itself is constitutive of the deliberative process and not a separate discrete moment. If that is so, then even if the role of *êthos/pathos* were restricted to perception, it would still be constitutive of deliberation. This rejoinder, if successful, addresses claim (b) as well. But I further argue that in any case both the excellence in deliberation and the excellence in perception—both of which are necessary to *phronêsis*⁴³—are partly constituted by the proper *êthos* and *pathos*.

Nancy Sherman’s argument is relevant here. She argues that one important way in which the proper *pathê* help constitute *phronêsis* is that perception itself can occur via the emotions. What is required is a

⁴¹ *NE* 2.9.1109b21–3. He also states: “practical reason is of the last thing [*tou eschatou*], which is an object not of science [*epistêmê*] but of perception”; *NE* 6.8.1142a27–8. In *NE* 6.11.1143b2–6, he identifies perception of the ethically relevant features of a practical situation with practical *nous*: “In demonstrations, *nous* is about the unchanging terms that are first, whereas with respect to what is done in action, it is about the last term . . . the end to be aimed at. . . . We must, then, have perception [*aisthêsis*] of these particulars, and this perception is *nous*.”

⁴² John Cooper provides a version of this position. He argues that, according to Aristotle, deliberation does not issue forth in particular individual actions; rather deliberation comes to an end with a determination of only a type of action, and then perception takes over and then renders a particular action. Thus the particulars about which we deliberate with respect to action refer to judgment regarding specific types of action and not individual actions themselves. See John M. Cooper, *Reason and Human Good in Aristotle* (Cambridge: Harvard University Press, 1975), 23, 39–41. For criticism see Fred D. Miller, “Aristotle on Rationality in Action,” *Review of Metaphysics* 37, no. 3 (1984): 499–520, and Devereux, “Particular and Universal.”

⁴³ *NE* 6.8.1142a22, 28.

person of a certain character, who has the kind of emotional makeup that makes her sensitive to the relevant moral features of the particular situation. Without the proper virtues of *êthos*, and the concomitant *pathê* that constitute those virtues, the agent may simply fail to see what the occasion, in its particularity, calls for. For Sherman, seeing properly via the emotions, and subsequent action accompanied by the proper emotional responses, is part of what it means to exercise *phronêsis*.⁴⁴

It might be objected that one might concede Sherman's point while still restricting the role of *êthos* and *pathos* in *phronêsis* (that is, the role, which cannot be fulfilled by abstract rules, of rendering the agent sensitive to the particularity of the situation) to perception without extending it to deliberation per se. One might concede that *êthos* and *pathos* play a role in rendering determinacy but not that this has to do with deliberation. If the import of *êthos* and *pathos* enters only at the level of perception and not deliberation, then they are simply instrumental to, and not constitutive of, practical deliberation. Indeed, Sherman herself suggests this restriction, when she says that when an agent "fails to notice unequivocal [ethical] features of a situation . . . [it] is not that she has deliberated badly, but that there is no registered response about which to deliberate."⁴⁵

To complete the argument that the proper *êthos* and *pathê* are constitutive of the process of deliberation itself—that is, that the practical deliberations of the phronetic person are in part led by the right ethical emotions and character and not simply by right logical demonstration (which, being indeterminate, would fail to issue forth in determinate practical actions)—two things need to be shown. First, it needs to be shown that *êthos* and *pathos* make a difference to the outcome of deliberation, that is, that they help to render determinate judgments (for example by determining the range of viable argu-

⁴⁴ Nancy Sherman says that "character is expressed in what one sees as much as what one does. Knowing how to discern the particulars, Aristotle stresses, is a mark of virtue"; Sherman, *Fabric of Character*, 4. "Preliminary to deciding how to act, one must acknowledge that the situation requires action. . . . Perception is thus informed by the virtues . . . much of the work of virtue will rest in knowing how to construe the case, how to describe and classify what is before one" (29). Compare with Gisela Striker, "Emotions in Context: Aristotle's Treatment of the Passions in the *Rhetoric* and His Moral Psychology," in *Essays on Aristotle's Rhetoric*, 286–302 at 297–8, whose view coincides with Sherman's.

⁴⁵ Sherman, *Fabric of Character*, 29.

ments). Second, it needs to be shown that they also make for a different process of deliberation. I propose to show this by deepening the analysis of the parallel between rhetoric and *phronêsis*.

V

I have already cited passages in which Aristotle indicates that in order to achieve the guiding end of rhetoric (to find the means of persuasion), the speaker must gain the trust of the audience.⁴⁶ According to Aristotle, in order to gain this trust, the speaker must have quite extensive knowledge of the particularities of his audience. To find the means of persuasion, the speaker must be intimately familiar not just with the common subjects of deliberation⁴⁷ and the customs, legal usages, and constitution of the particular regime,⁴⁸ but also with the audience's particular character or *êthos*, the audience's circumstances, as well as its emotional makeup, which includes its state of mind, the object toward which its emotions are directed, and for what reasons.⁴⁹ That is why Aristotle spills so much ink on these matters.⁵⁰

Recall that *phronêsis* required sensitivity to, and proper perception of, the morally salient particular features of the circumstance at hand. Now it appears that in aiming at rhetoric's guiding end of finding the means of persuasion, the speaker must demonstrate, via his arguments, an adequate grasp of salient particular features of the situation—namely, the constitution, customs, *êthos*, and *pathê* of his

⁴⁶ *Rhet* 2.1.1377b20–8, 1378a6–9.

⁴⁷ *Rhet* 1.4.1359b18–1360a38.

⁴⁸ *Rhet* 1.8.1365b22–1366a23.

⁴⁹ *Rhet* 2.1.1378a19–24.

⁵⁰ Besides the discussion of the subject matters of deliberation (in the restricted sense of deliberative as opposed to judicial rhetoric) and forms of regime that he undertakes in book 1, Aristotle follows chapter 1 of book 2 with ten chapters on the *pathos* of the audience, and five subsequent chapters discussing the particular characters of the young, the old, the middle aged, the well-born, the wealthy, and the powerful. In book 1, Aristotle also states that “since *pisteis* not only come from logical demonstration but from speech that reveals character (for we believe the speaker through his being a certain kind of person, and this is the case if he seems to be good or well disposed to us or both), we should be acquainted with the kinds of character distinctive of each form of constitution; for the character distinctive of each is necessarily most persuasive to each”; *Rhet* 1.8.1366a8–13. Kennedy notes that this passage indicates that a speaker should “at least show an understanding of the political views of the community”; *On Rhetoric*, 77 n. 159.

audience. So in seeking to persuade, the rhetorician is required to emulate the virtuous dispositions of the good seer à la Sherman. The point is that the constitutive structure of the *technê* imposes on the rhetorician the necessity to acquire, as a matter of artful skill, what is in the *phronimos* a matter of internally generated virtue, and that this constitutive feature of rhetoric is one important reason why it has the propensity to yield outcomes consistent with *phronêsis*. Thus it is the structure of the deliberative process itself,⁵¹ and the incentives which the structure imposes on the rhetorician, that constrain the arguments articulated in deliberation in such a way that the arguments must demonstrate an adequate perception of (what turn out to be ethically relevant) particulars.

So it is not that first the council deliberates and then renders a determinate judgment by the subsequent application of good perception of particulars; rather, the process of deliberation itself proceeds forward via a perception of particulars that is good enough to enable the speaker to persuade.⁵² We have thus uncovered two ways in which *êthos* and *pathos* are constitutive of the process of rhetorical deliberation: in one case, we are dealing with (i) the character and emotions of the speaker/persuader, and in the other case with (ii) the character and emotions of the audience/persuadee.

In the case of (i), the character and emotions of the speaker enter the deliberative process via perception. As I have just argued, in order for the rhetorician to find the arguments that persuasively use the *pisteis* of *êthos* and *pathos*, he must adequately perceive the particularities, such as character and emotions, of this audience. But then adequate perception of these relevant contextual features involves, as Sherman has shown, the emotions and character of the speaker himself. In the case of (ii), the *êthos* and *pathos* of the audience are di-

⁵¹ Recall that Aristotle explicitly says that the trust must arise from the (*êthos* of the speaker demonstrated in the) speech itself and not from some antecedent information about the *êthos* of the speaker (*Rhet* 1.2.1356a8–10).

⁵² Engberg-Pedersen (“Is There an Ethical Dimension to Aristotelian Rhetoric?” 124–7) suggests that Aristotle thought that the institutional context of rhetoric (in Athens) skewed rhetorical deliberation toward factual, ethical, or political truth. While it seems to me that Engberg-Pedersen’s general argument is much too strong, the valid core of his position can be accounted for by the argument which I have just advanced, that the structure of rhetoric provides incentives for perception of relevant particulars.

rectly constitutive of the deliberative process in two ways. First (ii.1), in the way just shown, the emotions and character of the audience combine, as *pisteis*, in part to determine the trajectory of arguments the speaker can successfully advance in the process of deliberation, and thereby shape the final outcome. Second (ii.2), these particularistic characteristics of the audience are invariably ethically relevant data that can also buttress premises in the strict logical demonstrations of the *pistis* of *logos* within practical deliberation.⁵³

So, in rhetorical deliberation at least, perception cannot be separated from the process of deliberation because the arguments that are persuasive in deliberation itself require demonstration of that perception—and notice that the reason that this is true is because *êthos* and *pathos* are two sources of *pistis* in rhetoric.⁵⁴ My suggestion is that the same holds in the case of monological phronetic deliberation. If, as I have argued, Aristotle's optimism about rhetorical deliberation hinges on a structural parallel with phronetic deliberation—in particular, that both are constituted by *êthos*, *pathos*, and *logos*—then our account of how *êthos/pathos* constitute rhetorical deliberation can be expected to illuminate their role in phronetic deliberation as well. Of course to demonstrate this is not to “prove” that *phronêsis* and rhetoric share a parallel structure; but if Aristotle's account of *phronêsis* is exclusively and plausibly illuminated by reference to this proposed parallel, then we have further grounds for favoring the proposed interpretation. But how could the account of rhetoric just given translate into an account of monological deliberation and *phronêsis*? For obviously here the persuader and persuadee are one and the same

⁵³ For example, the fact that the citizens of a certain polis have well established feelings of good will and friendship for citizens of another polis may well be an ethically relevant reason to conduct foreign policy in one way rather than another.

⁵⁴ Compare Wardy, “Mighty is the Truth and It Shall Prevail?” 63: “Explicating the second, emotive means of persuasion, he says that ‘the orator persuades through his hearers, when they are led into *pathos* by his *logos*; for when pained or loving we do not render judgment similarly to when in joy or hating’ (1356a14–16). The possibility is thus left open that the proper use of rhetorical skill will indeed speak to our emotions, but only when the *pathê* so formed enhance our receptivity to truthful *logos*, rather than setting our feelings at odds with our reasoning.”

person.⁵⁵ In fact, the distinctions just drawn with respect to rhetoric do help analyze the different aspects of *phronêsis*.

Parallel to the first case above (i), the emotions and character of the deliberator qua persuader (or proposer of arguments) enter the deliberative process via their role in adequate perception. The analogy with the rhetorical context suggests that part of what must be adequately perceived via the help of *êthos* and *pathos* are the particular emotions and features of character of the agent himself (“know thyself”; this is part of point (ii.2) below).

Parallel to the second case, first (ii.1), the emotions and character of the deliberator qua persuadee might be said partly to shape the trajectory of arguments that the deliberator adduces to himself by helping to determine which validity claims he finds persuasive and which not. (For example, a man of cowardly character may find it difficult to persuade himself that the monstrous apparition is in fact an illusion, or that the ugly insect is harmless.) Second (ii.2), the emo-

⁵⁵ Johnstone has previously pointed to the structural similarity between practical deliberation and rhetoric for Aristotle: “If we can reasonably visualize deliberation as a sort of internal dialogue, then the practically wise person, when he or she deliberates, functions as both rhetor and auditor. The ‘right rule’ or ‘rational principle’ of practical wisdom is none other than the faculty for apprehending or observing valid justifications for actions”; Johnstone, “An Aristotelian Trilogy,” 12. He cites Isocrates to illustrate this tendency of the Greeks to view even monological deliberation in terms of an internal dialogue. Barbara Warnick, however, has taken exception to such an interpretation of Aristotle which assimilates “rhetoric to internal reasoning and dialogue”; Warnick, “Judgment, Probability, and Aristotle’s *Rhetoric*,” *Quarterly Journal of Speech* 9 (1989): 299–311 at 301. Two points need to be made in this connection. First, part of the reason that Warnick objects to drawing a parallel between monological deliberation and rhetoric is that she takes herself to be arguing against a position which betrays the “urge to elevate the logical element of rhetoric and to devalue its emotive dimensions . . . to emphasize *logos* and deprecate *pathos* and *ethos*” (299). But that is precisely not the position that I am taking—rather than mitigating the role of the emotions (in rhetoric), my argument has aimed to highlight their role (in deliberation). The second part of Warnick’s concern is that the “need [1] to incorporate audience convictions and values, [2] to simplify argument structures for the comprehension of the multitude, and [3] to direct one’s claims toward decisions affecting the state and the polis are all neglected when Aristotelian rhetoric is applied to forums and situations that Aristotle himself did not consider in the *Rhetoric*” (301). Warnick’s point is well taken—rhetoric is obviously not the same as monological deliberation on all counts—but that does not mean that they have no important structural similarities.

tional makeup and character of the deliberator may be ethically relevant as premises in logical demonstrations the individual considers. (For example, the fact that one feels great affection for a friend may be a good reason to give special consideration to the friend's welfare.)

More generally in this case (ii.2), the emotional makeup and character of the person can be said to be something like a repository or memory of the wisdom of past experience (*empeiria*), which the agent may consult during the course of practical deliberation. Why? This brings us full circle to the original point with which I began. Faced with the indeterminacy of abstract *logos*, not all considerations that are ethically relevant to a particular situation can be gleaned from a set of codified abstract principles (for reasons (1)–(4) in section 1). Now we can see another reason why for Aristotle it is *êthos* and *pathos* that help render determinacy in particular practical circumstances. One's character and emotional dispositions may embody the uncodifiable wisdom of past experience, experience necessary in order for practical deliberation to take account of particularities. "Nor is *phronêsis* about universals only. It must also come to know particulars, since it is concerned with action and action is about particulars. Hence in other areas also some people who lack *epistêmê* but have *empeiria* are better in action than others who have *epistêmê*";⁵⁶ "*phronêsis* is concerned with particulars as well as universals, and particulars become known from *empeiria*."⁵⁷ Consulting "how I feel" about taking a course of action may provide me with important insight about its ethical validity if my character and emotions are virtuously formed—insight based on my previous experience that is unavailable in the form of an abstract set of principles codified in *logos*. For this reason, *logos* in the broad sense includes both *êthos* and *pathos*. This is why Aristotle says that the existence of the "passionate element" in the human soul means that "he will deliberate in finer fashion concerning particulars [or: in particular cases]."⁵⁸ The parallel with *nomos* is almost exact. For just as the *êthos* and *pathos* of a *phronimos* form a repository of the uncodified wisdom of past experience, which supplements his abstract *logos* in the narrow sense, so too does

⁵⁶ *NE* 6.7.1141b15–18.

⁵⁷ *NE* 6.8.1142a15.

⁵⁸ *Pol* 3.15.1286a21–2.

unwritten *nomos* and the *epieikeia* associated with it represent a repository of uncodified experience that supplements the written law.⁵⁹

This suggests why the perception objection is misguided. Perception and deliberation are not discrete events; perception is constitutive of the deliberative process; and the *êthos* and *pathos* of the deliberator qua persuader are constitutive of that perception, and thereby of the deliberative process. Furthermore, the *êthos* and *pathos* of the deliberator qua persuadee are directly constitutive of the deliberative process, in providing *pisteis* that determine the range of potentially persuasive arguments.

VI

Should we celebrate or should we fear the role that Aristotle assigns to *êthos* and *pathos* in practical deliberation, and *logos* more generally? I want to take this question up specifically with reference to two questions: first, the problem of subjectivism that seems to loom behind this account of phronetic practical reasoning, and second, the problem of deception that arises in the case of rhetorical-political deliberation. Having up to now made an exegetical argument about the logic of Aristotle's position, I here want to shift gears and show why the position I attribute to Aristotle is philosophically interesting.

First, the question of subjectivism. Imagine a phronetic person engaged in practical deliberation, deciding whether or not to chastise severely a friend for a wrong he has committed against him. Let us also assume that, among other things, the phronetic person must bal-

⁵⁹ Heidi Northwood (commentary presented at the Canadian Philosophical Association Annual Congress, Sherbrooke, Quebec, June 1999) has suggested to me that passages such as *Pol* 3.15.1286a32–5 (in which Aristotle says “The judgement of a single person is necessarily corrupted when he is dominated by anger or some other passion of this sort”) indicate that it is not because but in spite of the passions that men are able to apply laws to particular cases. But all that these passages indicate are that the passions can lead deliberation astray—if, for example, they dominate or overwhelm cognitive processes in an adverse manner. To suggest that Aristotle saw the emotions as playing a constructive, constitutive, and necessary role in practical reasoning is not to make the obviously false assertion that Aristotle was blind to the negative and even debilitating cognitive effects that the emotions might have on practical reasoning.

ance the chastisement demanded by righteous justice with the forgiveness that friendship demands. My argument has been that on Aristotle's account, the phronetic person cannot, in the heat of the moment, settle matters for himself by a purely logical demonstration appealing to abstract principles. Ultimately, his decision of whether to chastise will rightly be in part informed by what he feels emotionally is the right course of action, and since the dispositional nature of those emotions will be shaped by his virtuous character, those feelings provide an invaluable ethical guide. Now this sort of account invites the charge of subjectivism: to the extent that the Aristotelian deliberator relies on how he feels in order to decide the ethical course of action, and is incapable of coming to the same conclusion by strictly logical deduction articulable in language, to that same extent "ethical" action seems to lack articulable, intersubjectively contestable (rational) grounds and simply appears to register the subjective preferences of an individual subject.⁶⁰

But to say that the phronetic person in the particular circumstances is incapable of deciding and acting solely on the basis of logical demonstrations is not to say that he is incapable, after the fact, of articulating a retrospective justification for the emotions that contributed to his decision or action. He is, and this reflexivity about one's emotions is an important part of being an ethical being. Hence the subjectivism charge falls short. But if that is the rejoinder, and furthermore if the appeal to the emotions is retrospectively translatable into a rational-codifiable account, then it would seem that the phronetic person has relied on his emotions to fill out his practical deliberation not because *logos* in the restricted sense is indeterminate per se, as I have argued, but rather because the abstract principles that were available to this agent were simply incomplete. Now, after having had this practical experience, and having provided a retrospective rational justification, the phronetic person can revise and fill in his abstract principles to cover the offending case, which shows that, contrary to the thesis advanced above, practical deliberation need not in principle rely on the emotions.

⁶⁰ One sort of Thomist response, which I do not canvass here, would be to seek ethical grounding not just in reason but in nature or natural justice, drawing on *NE* 5.7.1134b19–27. But this would require us to see Aristotle as saying that the emotions intuit natural right.

This second objection misses the spirit of the Aristotelian account. First, to say that the emotions are rationally justifiable is not to say that all their content is fully translatable into a rational account. Second, by rational justification I mean intersubjectively contestable in discourse—“rational” does not collapse into logical demonstration here. In other words, rational justification is rational in the broad sense that includes *êthos* and *pathos*. The point is that the emotions themselves are not purely “subjective” but intersubjectively communicable, criticizable, defensible, and so on—in part thanks to the *êthos*- and *pathos*-dimensions of language—even if not fully articulable in the propositional form of a logical demonstration. Third, the reflexive appeal to reason may never be complete; the retrospective justificatory narrative may be in principle interminable, for there may be always more to say. Fourth, and most important, when I say that the phronetic person can now retrospectively provide a rational justification for his emotions, this is not because he has simply filled out the details of his previously underspecified, but in principle fully specifiable, set of abstract principles. Rather, his retrospective rational justification is now possible because his new experience may have resulted in a change in his ethical vocabulary, a change designed to account for the recent practical experience. But this change in vocabulary may also result in a loss: some ethically relevant features previously covered may now be obscured by the new ethical vocabulary, features whose ethical import can subsequently be covered only by the lingering emotional dispositions that the phronetic person’s character maintains as a reminder of the now distant experiences that partly informed his previous ethical vocabulary. Ethics does not collapse into mere subjectivism; nor can it be reduced to an abstract theoretical system of general laws codified in language.

The second question is that of deception, which has ramifications for theories of democracy, especially ones that emphasize deliberation. A deliberative conception of democracy privileges the conditions of communication in the polity for analysis and locates the legitimacy of democracy in free and unfettered communicative processes of political discourse, open to participation by all citizens and meeting various normative criteria.⁶¹ In part, the problem to which Aristotle’s account alerts us arises from the limitation of the comparison between rhetoric and phronetic deliberation: structural similarity, it will be recalled, is not sufficient to ensure a consistency of outcomes.

In book 1, chapter 2 of *On Rhetoric*, speaking of *êthos* as a *pistis*, Aristotle explicitly says that the persuasive effect “should result from speech, not from a previous opinion that the speaker is a certain kind of person.”⁶² This raises the issue of whether the apparent *êthos* presented in speech is the real *êthos* of the speaker. This is in part the question of the rhetorician’s ability to deceive the audience and falsely to gain its trust by simply creating an appearance of *phronêsis* and virtue, even when the rhetorician’s character actually lacks these characteristics. Indeed, the artful or rhetorical *êthos* and the real or practical *êthos* of the speaker⁶³ may be quite at variance. What persuades is not the *phronêsis* and real *êthos* of the speaker but the *phronêsis* embodied in the argument itself. As Garver argues, “The *Rhetoric* licenses inferences from argument to artificial *êthos* but bars further inferences from artificial *êthos* to real *êthos*.”⁶⁴ The problem is that by playing on the *pathos* of the audience, the rhetorician might be able to deceive the audience about not just his own real *êthos* but the *êthos* embodied in the speech and so persuade in a way contrary to ethics and right reason.

In fact, it is not just the *êthos* of the speaker that is problematic; equally at issue is the *êthos* of the crowd. For it is, in part, the character of the audience and its emotional makeup that dictate what sorts of argument will be persuasive. Political deliberation proceeds by persuasion, and if what will be persuasive depends on the *pisteis* of *êthos* and *pathos*, then what particular *êthos* and *pathos* the audience possesses will in part determine the course of the argument. The problem with the unvirtuous crowd is that a popular leader (*dêmagôgos*) can persuade it via flattery⁶⁵ since “tyranny is friendly to the base, for they delight in being flattered.”⁶⁶ Hence Aristotle associates the growth of rhetoric with demagoguery⁶⁷—and demagoguery is dangerously similar to a tyrannical regime. Recall that the goodness of rhetoric must be judged by the external standard that the architectonic discipline of

⁶¹ For a survey of the literature on deliberative democracy, see James Bohman, “Survey Article: The Coming of Age of Deliberative Democracy,” *The Journal of Political Philosophy* 6, no. 4 (1998): 400–25.

⁶² *Rhet* 1.2.1356a8–10.

⁶³ Garver, *Aristotle’s Rhetoric*, 176 and following.

⁶⁴ Garver, *Aristotle’s Rhetoric*, 196.

⁶⁵ *Pol* 4.4.1292a21–4.

⁶⁶ *Pol* 5.11.1314a2–3.

⁶⁷ *Pol* 5.5.1305a13–14.

politikê provides; if rhetoric is not ethical, then it fails to contribute to the proper ends of the polis.

These two problems of deception, which form the basis of Aristotle's critique of democracy as demagoguery, bring the dilemma that democracy faces into full view. On the one hand, the *pathos* constitutive of deliberation helps the proper treatment of particulars,⁶⁸ and because of the insufficiency of abstract rules, deliberation is an inevitable and necessary component of political life. Moreover, by turning collective deliberation over to an art of rhetoric, political institutions can capitalize on its internally generated technical propensity to yield outcomes consistent with phronetic deliberation, in order to lower the virtue bar necessary for successful politics. On the other hand, leaving matters open to deliberation risks abuse—in part because it is a matter of *pathos*, and *pathos*, though of benefit for the treatment of particulars, may nonetheless lead the argument astray. The problem is particularly acute for rhetorical deliberation if rhetoric bypasses the demanding ethical requirements of *phronêsis*: at least the virtue of *phronêsis* requires the right kind of *pathê* constitutive of the right kind of *êthos*.

At this point, Aristotle appears to suggest another institutional-political remedy: a multitude of persons deliberating is less susceptible to being led astray by *pathos* than a few:

the multitude is more incorruptible than the few. The judgement of a single person is necessarily corrupted when he is dominated by anger or some other passion of this sort, whereas it is hard for all to become angry and err at the same time.⁶⁹

But the sentence that follows immediately qualifies this remedy, seeming to take back what had just been given:

This is certainly not easy for many, but if there were a number who were *both good men and good citizens*, is the one ruler more incorruptible, or rather the larger number who are all good? Is it not clear that it is the larger number?⁷⁰

The implication seems to be that the multitude must be virtuous to be preferred. The locution “both good men and good citizens,” where both coincide, is Aristotle's way of referring to aristocracy: rule

⁶⁸ *Pol* 3.15.1286a10–13, 21–2.

⁶⁹ *Pol* 3.15.1286a32–6.

⁷⁰ *Pol* 3.15.1286a38–b2, emphasis mine.

of the virtuous. So now it looks as if unless the multitude engaging in deliberation—both the rhetorician and the audience—possesses virtue, the propensity of rhetoric to yield outcomes consistent with *phronêsis* will be effectively undermined. If the multitude's *êthos* is not virtuous, then the pursuit of the guiding end of rhetoric, to find the means of persuasion, will not serve the ultimate end of the polis identified and elaborated by *politikê: eudaimonia*.

I submit that this is in part the reason why *phronêsis* is, for Aristotle, the paradigm virtue of the individual qua ruler.⁷¹ It is important to note here that it is not just the speaker that is a ruler—"ruler" refers to the entire deliberative body. In other words, ethical rhetoric appears to require that *phronêsis* obtain not just in the rhetorician but additionally in the audience that also makes up the ruling body. The audience must be phronetic not because this enables them properly to infer the real character of the speaker from the artful character embodied in his speech—this possibility is barred—but because the audience's virtue or lack thereof is what dictates the nature of the available means of persuasion (and whether or not they provide the speaker with incentives in favor of ethical rhetoric).

Unfortunately, this appears to undermine the possibility of a political form of deliberation that can bypass the onerous ethical requirements of *phronêsis* while still yielding good outcomes. The political implications would not be heartening for democratic theory if ethical political deliberation were to depend on the entire body's possessing virtue. "This is certainly not easy for many," Aristotle lamented.

Liberalism's proposed response to this problem is to impose constitutional constraint on democratic majorities; but Aristotle's argument demonstrates why this proposal falls short: deliberation is ubiquitous. Aristotle's ideal solution to the dilemma is aristocracy. There is much reason to doubt that Aristotle thought that this solution was available in practice, and it is certainly not available to the democratic theorist who rejects the hierarchical aspects of Aristotle's worldview. Liberalism's answer has been judicial review (by "virtuous" aristocrats called judges?), but that answer itself serves to highlight the tension between democracy and liberalism. Yet the dilemma, between the need for deliberation and the threat of *de facto* tyranny that it poses where the deliberators lack virtue, nonetheless remains, and tyranny

⁷¹ *Pol* 3.4.1277b26.

is not an acceptable alternative for modern democrats either. So Aristotle's critique cannot be ignored.

Nonetheless, an analysis of the Aristotelian notion of rhetoric also provides resources for overcoming some of the problems that it identifies—resources for lowering the virtue bar for successful, ethical rhetoric. Although at first blush it appears that rhetoric could not be ethical unless everyone who engaged in political deliberation—speaker and crowd—were of virtuous character to begin with, this severe conclusion is attenuated by several Aristotelian considerations.

First, Aristotle mitigates the conclusion that everyone in the audience must possess full virtue accompanied by *phronêsis*, by appealing to the notion of *sunesis*: a capacity to judge well “on a question that concerns *phronêsis*” when someone else speaks.⁷² Halliwell rightly says that “[s]unesis is of general political importance; it provides a broad ground of civic deliberation (see *Polit.* 4.4.1291a28). Although, on a normative view, *phronêsis* too is called for by the whole apparatus of political deliberation and judgment (*Polit.* 7.9.1329a2–9), a realistic appraisal of actual constitutions will presumably conclude that this is a virtue to be expected more in exceptional practitioners than in typical audiences of rhetoric.”⁷³

Second, a phronetic rhetorician can, when faced with an unvirtuous crowd, use the power of rhetoric itself to attempt to persuade the audience by appealing not to the virtues that the crowd actually holds now but to an ideal virtuous image of the crowd which the orator rhetorically paints and inspires the crowd to emulate. Thus, the creative act of persuasion would both persuade the audience of an ethical outcome and simultaneously inspire the listeners to become an audience who would indeed choose that outcome.

Similarly, the structure of the rhetorical situation itself may serve to mitigate, to some extent, the fully phronetic virtue required of the rhetorician himself. Where the speaker simply has good will (*eunoia*) toward the audience, he already has a motive to attempt to secure a right outcome. But the structure of the rhetorical situation itself requires such a speaker, in order to deploy the *pistis* of *êthos*, to represent himself in his speech as virtuous—a creative representation

⁷² *NE* 6.10.1143a10.

⁷³ Stephen Halliwell, “The Challenge of Rhetoric to Political and Ethical Theory in Aristotle,” in *Essays on Aristotle's Rhetoric*, 175–90 at 178–9.

which in turn can inspire the good-willed speaker himself to rise up to his own rhetorical model. Thus the internal requirements of the *technê* of rhetoric itself can serve not just to impose an emulation of virtue, as I have argued up to this point, but also actually to instill virtue in both the speaker and the crowd to a degree not previously realized. The creative act of rhetoric has the potential to produce the good reasons for a particular course of action but also to change the character of the deliberators. This is only a potential, of course.

The problem that an Aristotelian analysis of political deliberation identifies admits of two solution-seeking strategies. Indeed, both strategies have their resonance in Aristotelian thought. An institutional response looks to the ways in which the institutional structuring of discursive incentives may help to overcome some of the shortcomings of the virtues of the deliberators themselves—for example, by placing institutional constraints on the types of discourse that enjoy legitimacy in political deliberative settings. (The law courts provide perhaps one of the most institutionalized examples of a setting for deliberation.⁷⁴) Such an institutional approach is necessitated by the fact that the problem of deception, while admitting of attenuation, can never be fully resolved. But Aristotle's critique also suggests that an institutional response, by itself, is insufficient, just as constitutional constraint is insufficient. The second, perhaps complementary, strategy must address the virtues of the deliberators.⁷⁵ An analysis of rhetoric highlights the role that a phronetic leader qua rhetorician can potentially play in instilling such virtue. If democracy is committed to the universal participation of all citizens in the political process, then Aristotle's critique makes the virtues a central component of citizenship and points to the fundamental importance of education in political life. For Aristotle, this education is not limited to a purely "civic" education but must be an ethical one. This, of course, raises a host of thorny problems, such as who will be granted the power to determine the nature of that education or how such an education could be philosophically compatible with liberal freedoms, but the upshot of

⁷⁴ More generally, see Kenneth Baynes, "Liberal Neutrality, Pluralism, and Deliberative Politics," *Praxis International* 12, no. 1 (1992): 50–69, for his discussion of institutions.

⁷⁵ Miriam Galston, "Taking Aristotle Seriously: Republican-Oriented Legal Theory and the Moral Foundation of Deliberative Democracy," *California Law Review* 82, no. 2 (1994): 329–99.

Aristotle's critique is that these are problems that cannot simply be bracketed. Aristotle's ethical and political thought suggests that, contrary to the assumptions of many commentators today, institutional constraints on the citizenry are an insufficient basis for democracy—though in the end he tips his hat in the direction of the institutionalists by pointing to the importance of the laws themselves in the education of the citizenry, and in securing leaders inclined to use the creative powers of rhetoric to transform themselves and their audience for ethical ends.⁷⁶

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