

PERFORMANCE AND POWER:

In what ways is Aristotle's definition of citizenship applicable to the experience of political participation in the places he studied?

Timothy Jack McConnell

University of Leeds

School of Languages Cultures and Societies

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Abstract

This thesis aims to historicise Aristotle's definition of Citizenship. Firstly, it will examine the recent history of scholarship around Greek Citizenship and Aristotle, identifying the approaches and contradictions that have emerged. Then I will closely examine Aristotle's Book III discussion to clarify his definition by analysing his terms. This will include discussion of the key terms of the definition, *arche*, *metechlein*, *koinonein*, and *krisis*. After establishing the Aristotelian conditions for citizenship, this research is focused on examples from the margins of political participation to find the limits of his categories and discover how many 'so-called' *politai* were citizens by Aristotle's standard. This will be divided into two sections, assemblies and courts, following Aristotle's own schema. After reviewing the broad range of evidence just for these institutions across the Greek world against Aristotle's definition of citizen participation, this thesis will discuss the forms of participation that may have been typical for a *polites* but are excluded by Aristotle's definition. It will focus on the problematic category of those called citizens but excluded from the decisively powerful offices of the polis. This will largely be the poor in oligarchies. This survey will examine the inscription evidence with some use of literary interpretations of various partial forms of political participation. This thesis demonstrates that there was widespread participation of unempowered citizens in oligarchies. This makes sense of Aristotle's definition even in the context of radical oligarchy. Finally, it will discuss how this more inclusive definition affects other theories of ancient citizenship and the polis.

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0.1 Overview and structure

As a result of recent reassessments of the evidence for practices of citizenship, Aristotle's definition of citizenship: that a "citizen shares in the judicial and deliberative power of the polis", can be re-examined in a new light. This definition has previously been considered authoritative and reflective of the general use of the term *polites* in Greek. However, recent scholarship has challenged the Aristotelian definition's status as a general understanding by emphasising how *polites* has some quite different associations in other contexts. Most ancient citizens seem to have felt themselves a member of a polis primarily through shared religious activity and, outside of radical democracies, relatively few of the individuals called *politai* were eligible for the offices that held judicial and deliberative power. This demonstrates a significant gulf between Aristotle and his contemporaries on the key issue who can be 'truly' called a citizen. This challenges the authority of the Aristotelian definition and, combined with a range of recent scholarship uncovering the political lives of Greeks beyond Athens,¹ opens space for a re-examination of what exactly Aristotle means by this definition.

This study proposes a specific reinterpretation of Aristotle's definition itself based on the text of the *Politics* and on examples of political participation apparent mainly through epigraphic evidence. This reading is based on combining recent critiques of the normative place of Aristotle's definition in citizenship scholarship,² and systematic historical work on political practices outside of Athens.³ The fundamental adjustment I propose in our reading of Aristotle is that citizens by his definition could participate in official deliberation and judgment without being eligible for political office themselves, moving away from the translation of *arche* as office and towards a broader understanding of *arche* in this context as broader institutional power. This minor alteration has implications for how we can receive the definition as derived from examples. The inclusion of impoverished men as *politai* because of their participation in mass political rituals but the exclusion of women despite their central role in other rituals defines a particular Aristotelian view of the political. This differentiation is useful and important because the multiple forms of marginal political participation practiced in the polis are key to its

¹ Brock & Hodkinson 2002

² Blok 2017, Vlassopoulos 2007, Duploux 2018b

³ Filonik 2023, Rhodes 2023 Duploux 2023 (All in Filonik, Plastow and Zelnick-Abramovitz Eds. 2023) Simonton 2019 Hansen 2004 and the rest of the Copenhagen polis project, Fröhlich 2004, Hans Vans Wees 2002 Lintott 2002 Lomas 2002 (In Brock & Hodkinson Eds. 2002) and most recently Ma 2024.

uniqueness and endurance but must be differentiated from forms that are particularly democratic and Athenian.

The definition of citizenship in *Politics* allows for forms of participation in ruling aside from holding office. Participants in these forms are recognized by Aristotle as citizens. These forms are well documented by surviving evidence and were practiced broadly, including in non-democratic contexts. This is a more inclusive reading of Aristotle's definition than the current consensus. Building on work on Aristotle and ancient practices of citizenship, this study addresses how exactly Aristotle's definition differs from other uses of the term *polites*. The kinds of performances he privileges as political, the trial and the assembly, create a 'political sphere' to the exclusion of domestic and religious performances that contemporaries described as characteristic of a *polites*. This exclusion, I will argue, is linked to the Aristotelian notion of the political relationship as distinct from other forms of human relationship.

This study argues that the political relationship existing between citizens as described by Aristotle does not require that its members hold all power in rotation, but rather that the fundamental requirement is that the ruled party is respected as a *potential* ruler. This requires, of the rulers, an acknowledgement of a certain kind of equality, but not the complete equality of a democracy. This review of Aristotle is supported by a description of the political participation of non-elite citizens and how they exercised it in non-democracies.

Aristotelian participation is embodied by being present, witnessing and minimally participating in legal and political performances in such a way that reaffirms the 'political relationship'. The many circumstances in which citizens participate, but not decisively, in the polis are examples of these performances. This includes a range of political institutions in non-democratic *poleis* as well as the partial forms of participation in certain 'democratic' institutions. This study will present evidence that these forms of participation were meaningfully political and, even if primarily symbolic, show a political relationship that fits a properly understood Aristotelian definition of citizenship. The audience of these events is invited to participate in the role of decision maker, even if only marginally. This participation is the key 'sharing' identified by Aristotle.

The examples discussed are mostly from the Classical and Hellenistic periods, including earlier material from Crete where the epigraphic evidence is particularly rich, but the study is fundamentally synchronic because it primarily examines the citizenship described in Aristotle. The development of citizenship is not being directly examined, but rather examples of citizen

behaviour will be compared to Aristotle's definition. There will be some discussion of changes in the understanding of citizenship, particularly looking at the influences on Aristotle. This approach aims at historicising Aristotle's citizen, so examples are limited by where might be representative of possible case studies for the Aristotelian school. This includes a few examples of later material that may reflect earlier practices which lack independent evidence.

Since the focus of piece is examining the differences between *politai* as described by Aristotle in *Politics*, and the *politai* as they appear to us from other sources, it will be important to disambiguate between these two clearly. I will consistently use "Aristotle's definition" or "Aristotle's citizen" to refer to the abstract person described by 1275b: "a citizen shares in the judicial and deliberative power of the polis." I will use the term *polites/ai* when referring to those persons described by this word in other ancient sources.

1.0 Introduction

1.1 Scholarly context and contribution

Ancient citizenship is an active field undertaking a widespread revaluation of what it meant to be a 'citizen' in the ancient world.⁴ Aristotle is the ancient author that gives us the most complete discussion of citizenship. This has given authority to his definition that has limited our understanding of ancient politics.⁵ Recent attention has examined alternative perspectives on ancient citizenship, and these have provided a much-needed balance to the institutionalist surveys in which Aristotle is the dominant voice.⁶ This thesis will examine his famous definition of citizenship in the light of the new research that covers the political context he was writing in and about. This is a response to three separate calls for studies of the political aspects of citizenship that look beyond Athens and that deal with Aristotle directly. Blok in *Citizenship in Classical Athens* suggests that an in-depth investigation into decrees could sharpen and modify an understanding of citizenship as part of an explicit rejection of Aristotelian assumptions about citizenship. Contrastingly, Vlassopoulos throughout *Unthinking the Greek Polis* defends the value of Aristotle in providing alternative methodological tools for examining the polis. Duploux has recently made the case for reading the performative aspects of Aristotle's definition as a practical rubric for demarking kinds of citizen actions, especially where we lack tidy legal distinctions.⁷ There is the opportunity to start expanding this perspective to give an account of how the polis is enacted in performative terms. The diverse but incomplete evidence means these calls require a combined response, and this thesis will address directly the difficulty of Aristotle's organising dominance in the field of ancient Greek citizenship studies.

As well as these debates around Aristotle, the wave of recent scholarship on the role of the assembly and the courts in oligarchies has enabled this study. Simonton on oligarchy and Fröhlich on accountability are particularly central.⁸ The increasing range and quality of digitised

⁴ Filonik, Plastow & Zelnick-Abramovitz 2023

⁵ Blok 2017 Vlassopoulos 2007

⁶ Duploux 2018b p.47

⁷ Blok 2017 p.279, Vlassopoulos 2007 p.85-96, Duploux 2018a p.250. These ideas are being applied, Ma has described the importance of early decrees in Dreros in terms of their performative force Ma 2024 p.78 "In the terminology of speech-act theory, the community has the monopoly on performative utterances, those words that actually change the world. Of course, the performative utterance does not do anything in itself and has to be carried out—hence the added-on curse, both as a threat and as the authorization of self-help and violence against the guilty man, thus legitimizing or delegitimizing behaviour and individuals in the city."

⁸ Simonton 2017, Fröhlich 2004

inscriptions available online along with many translations and commentaries has enabled cross comparison and was a pre-requisite for this study.⁹ These kinds of organized online resources empower ambitious comparative work, but along with that it has become even more important to consider the principles and assumptions which organized our databases. It is these resources and questions that have motivated this thesis.

A current of opinion has formed that the oligarchic poleis included a broad citizenry that was dominated by a council of oligarchs. In this model the assembly might have little, or no property requirement but was not the sovereign power.¹⁰ Wallace's counter interpretation of oligarchies is that they are composed of citizen oligarchs ruling over a broader disenfranchised non-citizen population.¹¹ He cites Aristotle especially at 1278b10-11, and 1280a1-2, 1291b7-13, translating *politeuma* as "citizen body", and interpreting Aristotle's definition of *polites* to mean someone who is "eligible for office", whilst arguing that oligarchic assemblies held significant power, counted as 'offices' and had property requirements for membership.¹² Simonton disputes Wallace on the actual practice of oligarchies with examples of councils that dominated decision on the one hand and assemblies without property qualifications on the other.¹³ This investigation into Aristotle's discussion of citizenship, and those practices that comply with his framework of politics, finds Aristotle's definition actually supports Alwine and Simonton's understanding of oligarchy. This is in support of Alwine's characterisation of oligarchy, but disputes Alwine's own interpretation of Aristotle's definition of citizen:

"This article mostly follows Aristotle's idea (a citizen being one who shares in the *archai*) but also uses the word to refer more broadly to include any member of the community who could exercise a formal political role, including simply voting ("passive" citizenship, as it is often called in modern scholarship)."¹⁴

⁹ The Packhum Greek inscription database, the Collection of Greek Ritual Norms, and Attic Inscriptions Online.

¹⁰ Alwine 2018 p.264 "selection process divorced from popular will, a system of rotation of offices that discouraged electioneering and pandering, and an accountability structure that prevented the wider citizenry from exercising control over its archons."

¹¹ Wallace 2014

¹² Wallace 2014 p.193, See the first section of the chapter one for a full discussion on the different possible readings of Aristotle.

¹³ Simonton 2017 p.40, 121-37, 171

¹⁴ Alwine 2018 p.238

This 'broader' definition of a community member with a formal political role Alwine offers is, I argue, already present in Aristotle. Indeed, the picture Alwine draws of oligarchy as an emergent condition rather than a particular institutional blueprint seems to be supported by Aristotle's definition of citizenship and his account of oligarchy;¹⁵ the wealthy achieve domination within complex institutions that may have been initially designed with explicitly anti-oligarchic ends. A complex mix of socio-economic factors interacting with institutions decides whether a particular polity is oligarchic or democratic and there is no constitution that is always oligarchic.

I conclude that Aristotle's theory of citizenship is broad enough to include many of those previously thought excluded by his theory. There are many forms of Aristotelian political participation practiced in un-democratic contexts that give citizen men excluded from official positions some 'share in power' in the formally Aristotelian sense. This demonstrates an aspect of citizenship as it was generally understood and practiced that is reflected in Aristotle's definition. Aristotle also excludes many kinds of citizen activities from his selection. Aristotle's approach combines being both descriptive of known political practices and making normative value judgments generates these contradictions in his definition.¹⁶ Aristotle is, debatably, arbitrary about what counts as 'political', and many of his assumptions have had a long afterlife in modern discourse. However, Aristotle's claim that all citizens participate in power in some ways cannot be conclusively disproved regarding his historical context. Even those categories of citizens he overlooks most in his theory, women, participated in formally 'Aristotelian' ways through their roles in the religious institutions of the polis he also overlooks.

1.2 Overview of arguments

This introductory chapter will summarise the various approaches, especially the recent developments, to classical citizenship before proposing a new approach to understanding Aristotle's definition of citizenship that reflects these developments. The following section will summarise relevant parts of citizenship studies because the relationship between modern and

¹⁵ This is not to say that Aristotle's views completely align. Aristotle does assign particular institutions as 'democratic' by nature, but still allows that they could be co-opted by oligarchs. Alwine's discussion of the lottery as an oligarchic form of selection, because it severs the link between official and electorate, is the most significant point of difference. Alwine 2018 p.264

¹⁶ *Top.* 6.145a14–16, *Met.* 1.1025b24; 7.1064a16–19, for Aristotle's discussion of practical science and productive science. *EN* 2.1139a26–8 political science, though it aims to make and maintain something like a productive science, is a practical science in that moral action is the aim.

classical citizenships significantly informs classicists' histories of citizenship. After that, I will discuss the uses of the Aristotelian definition of citizenship in studies of ancient political institutions, which is the context for the recent critiques of Aristotle's definition. I will outline the method that will be applied to re-appraising Aristotle's definition of citizenship through discussing the critiques and alternative approaches to ancient citizenship that this study will build upon. Finding norms of political participation were associated with citizenship, particular those forms of participation not confined to the holding of particular offices. Aristotle's definition is given as "A citizen pure and simple is defined by nothing else so much as by the right to participate in judicial functions and in office"¹⁷ though later chapters will argue that this translation, and the foregrounding of this passage, obscures important aspects of Aristotle's complete definition.

This study will directly confront the question of what citizenship is to Aristotle. Aristotle is arguing that the thing a "citizen" shares is the justice and authority of their polis.¹⁸ Understanding this definition in this study will involve comparing this definition with the lived practice we shall call citizenship. Rather than first defining a group of citizens and then investigating them, this study will describe the activity of Aristotelian citizenship theoretically using *Politics* and then look to concrete examples of different ways in which these kinds of acts were performed. Then the people who performed these acts can be discussed, especially forms of political participation available to otherwise marginalised groups. This will include groups that have previously been thought of as not citizens in Aristotle's sense because of their exclusion from political offices, but that are included by a refined reading of Aristotle's definition. The aim, however, is not to re-imagine an inclusive Aristotle, but rather to properly account for the position of those excluded from citizenship in his model of the *polis*. The chronological and geographical scope of these examples of citizenship will be defined by the scope of the societies known to the Aristotelian school; this study will evaluate Aristotle's definition of citizenship with the practices of citizenship present in the constitutions discussed by Aristotle. Athens will not be discussed directly, as the literature on Athenian citizenship has covered these debates in some detail. To more fully historicise Aristotle these deep but Athenocentric studies of citizenship can be combined with broader studies of citizenship that can then be compared to the image of citizenship Aristotle gives us. This task has been made

¹⁷ Arist. *Pol.* 3.1275a23-24 All subsequent references to Aristotle's *Politics* will be done by Bekker numbering.

¹⁸ 1275b18

possible by the wealth of recent work on ancient citizenship that does not use Aristotle for a core definition of citizenship. The more Aristotle is unburdened of being a dictionary of terms, the more his own unique understanding of citizenship is made visible.

The first problem for a revaluation of Aristotle's citizenship is establishing a basic translation of Aristotle's terminology. The task of defining a word like citizen, so embedded in shifting political and cultural contexts is unlikely to deliver especially satisfying or stable answers but understanding the term is a necessary start to understanding what Aristotle is saying with his definition of a *πολίτης*. Aristotle's assertion of the essential qualities of a *πολίτης* in his works left a clearer record than popular usage of the word itself. Whilst the word is often used, only Aristotle offers explicitly novel definitions. Aristotle himself acknowledges a popular understanding of what a *πολίτης* is, distinct from how he intends to use the word. This 'popular understanding' is that a *πολίτης* is the legitimate child of a *πολίτης* on at least one side.¹⁹ There will be a need to clearly differentiate between a modern citizen (discussed below), the Ancient Greek citizen (to the extent that such a thing had any common features), and Aristotle's "citizen". Translating *πολίτης* as citizen means we must discuss what the word citizen means today as well.²⁰

There has been a wealth of recent studies of political practices outside of Athens that can confront our reading of Aristotle. The fundamental conclusion that requires a shift in the general interpretation of Aristotle is that men who were members of the social institutions of the polis also participated politically to a minimal degree, enough to meet Aristotle's threshold of 'sharing in power'. The most significant examples of this are assembly participation²¹ and accountability procedures,²² along with a wide variety of more marginal forms of participation. This provides a base of evidence that supports Aristotle's definition as broadly inclusive of the male native free population, and that the category that breaks this definition, the so-called *polites* included in the social polis but not the political polis are the women of the polis, not any of the men. This is not to say that Aristotle's definition is simply an accurate reflection of contemporary usage, just that the poor citizens of an oligarchy are included within it.

¹⁹ 1275b23-24

²⁰ This avoids debate on the application of *Asty*, a term avoided by Aristotle, so of only marginal significance to this discussion cf Blok 2005, Hansen & Nielson 2004 p.47-48.

²¹ Simonton 2018 p11-20, Rhodes with Lewis p.502-525

²² Frölich 2004

Beyond this, this thesis will assess just how far this reinterpretation can be pushed. Exactly what forms of participation can be counted as 'Aristotelian', and what are the limits of his conception of the political community. In describing the examples of political activities using Aristotle's approaches I find some forms of participation, certainly practiced by ancient citizens, that fall outside of Aristotle's conception of citizenship even with a very broad reading of that conception. These examples also expose contradictions at the centre of Aristotle's categories where he has non-citizens participating in political ways he formally reserves for citizens. Working through these contradictions refines our understanding of Aristotle's project in *Politics*.

1.3 Modern Citizenship

It is impossible to isolate Aristotle's influence from citizenship as a concept as his work quickly came to frame the field of citizenship studies. Citizenship is simply being a citizen, and 'citizen' is generically defined as "a legally recognized subject or national of a state or commonwealth, either native or naturalized."²³ This modern definition is essentially identical with both Aristotle's summary of the practical shorthand for a 'citizen'²⁴ and the law that qualified 'citizens' in Athens.²⁵ This definition (in its modern form) is very clear, and recognised internationally, almost every individual is recognised by at least one state as 'one of theirs',²⁶ and this forms a structure of international legal identity. Then as now it has proven a philosophically unsatisfying definition because whilst it describes who is called a citizen, it does not explain what citizenship is substantially or how can it refer to a set of values.

Aristotle gives his philosophical criteria for "citizens" (*politai*) as participating in the justice and power of the polis.²⁷ Modern scholarly discussion of citizenship mostly falls into two models, liberal and republican, and these have some features in common with the popular understandings of citizenship. Liberal citizenship is a legal status to which political rights and

²³ *O.E.D* 'Citizen', contrastingly Merriam-Webster Splits The Definition, giving "1: An Inhabitant Of A City Or Town" The First And "2: A) A Member Of A State B: A Native Or Naturalized Person Who Owes Allegiance To Government And Is Entitled To Protection From It" Definitions that separate the colloquial meaning and the more technical meanings but also expressing republican and liberal approaches respectively.

²⁴ 1275b23-24

²⁵ *Dem.* 57.46, *Ath.pol* 26.3

²⁶ Fripp 2016 mentions how this understanding passively indorses liberal citizenship models, emphasised by the legal structure of statelessness.

²⁷ 1275a18-b24

duties can be attached and though they may be necessary to secure the quality and stability of this legal status they are fundamentally secondary aspects. Republican citizenship is membership of a self-ruling community, which wields power over its members by the authority of the share they have in it.²⁸ This is the citizenship model that traces its origins to Aristotle, the modern parameters of republicanism were established by enlightenment thinkers, often engaged in the lived politics of the 18th century. They self-consciously drew on the Roman republic and Athenian democracy explicitly for a philosophical political vocabulary.²⁹ Liberal ideals of citizenship came to prominence later, reflecting the growing power of the state's legal apparatus capable of defending citizens' rights, and an increasing stability that made a highly participatory politics less essential. Liberal citizenship is defined in contrast to republican citizenship, with an emphasis on negative "freedoms from" rather than positive "freedoms to".³⁰ A liberal state protects the individual's freedom, whilst a republican one promotes the collective power of the citizens. Only when taken to their absolutes are these models in tension. This has meant that the republican understanding of Aristotle's definition of citizenship has defined the central debates of citizenship studies for centuries, and that the ways in which Aristotle's conception expresses the republican view of citizenship have been emphasised.

It is not simply that one 'has' liberal citizenship and one 'does' republican citizenship, but rather that republican models see the political 'doing' of citizenship as its primary feature whilst for liberal models it is the legal 'having' of citizenship.³¹ This distinction is significant because, following the traditional republican model, plenty of actions that one might colloquially call 'citizenship' aren't precisely part of citizenship if they aren't political. The scale, complexity and power of modern states means republican models are used mostly as critiques of the contemporary political order in which citizens in the liberal sense often do not participate meaningfully in politics, rather than as descriptive models of how citizenship currently functions as an institution. Anthropological interest in forms of community membership that do not fit into definitions of citizenship as either a liberal or republican model have looked at societies without modern states, laws or politics. These have contributed to a third 'communitarian' model of citizenship, which seeks to de-centre both rights and politics by defining citizenship as practices of participation and negotiation within state and non-state structures and communities. For

²⁸ Bellamy 2008

²⁹ Shachar et al, 2017

³⁰ Berlin 1969

³¹ Leydat 2023

communitarians the individual does not exist prior to the community.³² Lacking context this position appears more radical. The full description of the communitarian position given by Lister and Pia is as a response to liberalism, particularly the idea that there can be an individual in any way prior to society. In trying to create space for all these approaches, Isin gives a technical definition of citizenship which is nevertheless broad enough to include all kinds of citizenship: "Our best offer is to define citizenship as an 'institution' mediating rights between the subjects of politics and the polity to which these subjects belong".³³ These contemporary citizenship studies have influenced recent rethinking of ancient citizenship.

Aristotle's discussion of citizenship held enduring value for scholars, even as existing political circumstances have continued to change. The definitions of republican and communitarian citizenship have evident similarities to Aristotle's description of a *πολίτης* being based in participation in community decisions. A significant list of scholarship in various fields takes for granted that Aristotle's definition of citizenship is truly definitive, or at least a fair philosophical expression of popular views of his time.³⁴ The republican model of citizenship has Aristotle identified as its originator although three distinct citizenships, namely citizenship defined as political participation, Aristotle's definition of citizenship and the citizenship of classical Athens, are reduced to essentially identical citizenships in overviews of the history of republican thought.³⁵ Christian Meier in *The Greek discovery of politics* proposes that the Cleisthenes' reforms in Athens were the moment when the decisive break with the old forms of tribal organisation formed a new sphere of activity that distinguished between informal social group power and a formal structured political sphere, and was able to co-opt the previous forms of identity into a new social identity.³⁶ Meier's narrative goes even further in defining citizenship with political participation than Aristotle does. Greek politics is viewed in this way as an originator of what can be called truly political, and a republican version of the Aristotelian definition of citizenship supports this conceit. This conception of citizenship and political life in general is visible in a range of contemporary scholarship and Aristotle is often cited as an early identifier of

³² Lister & Pia 2008, p.15-20.

³³ Isin 2017 p.1-4.

³⁴ Discussed at 1.4.

³⁵ Lister, Pia 2008, p.1-15.

³⁶ Meier 1990, p.142-144. Meier accepts the central importance of religious identity to the Athenian citizen, but insists that this religion became newly politicised. "It is of course true that the identity of the Athenians rested on common religious observances, but these were themselves politicized, religion being essentially an affair of the polis". This is not exactly opposed to the view that the polis was an affair of religion, but it does suggest Meier is reading citizenship via Aristotle because Aristotle so seldom discussed the sacred in detail.

this model of politics. Arendt, for example, traces the concept of a “political sphere” to Aristotle and “The Greeks” more generally.³⁷ The degree to which she applies an Aristotelian definition is debatable, but she describes the *polis*: “The *polis* properly speaking, is not the city-state in its physical location; it is the organization of the people as it arises out of acting and speaking together, and its true space lies between people living together for this purpose” This certainly uses a form related to Aristotle’s definition of the *polis* as a collection of citizens.³⁸

Balibar offers a useful broad category of citizenship, with particular reference to the long history of interpretations of Aristotle, that addresses the conflict between communitarian, republican and liberal citizenship.³⁹ His objective is to define a form of citizenship that is applicable to the ambiguous conditions often created by modern states, but not dependent on any state’s categories of citizenship. His answer, following Arendt⁴⁰, is “The right to have rights” or “The right to claim rights”, which acknowledges the shifting field of people who have a kind of baseline citizenship in that they can appear in political spaces and make claims as to how they must be treated. This category is useful because it identifies a requirement that humans must meet in their social contexts before they enter the political field. I draw attention to this approach as it is reinvented through classical scholarship in the form of Blok’s “baseline *time*”.⁴¹ Aristotle, for Balibar, was a theorist who attempted to conceptualise the citizen apart from any particular community and did so by seeing a reciprocal relationship between citizens, the ‘ruling and being ruled in turn’ that is the good in citizens. “For him, the ties between citizens come from a rule of reciprocity between rights and duties.”⁴² This view of Aristotle widens this reciprocity and so reframes this aspect of his definition as central. This moves Aristotle from the founder of the institutional and republican models of citizenship, to a thinker reaching towards a more universalist idea, independent of the commitments of any particular school. This idea of a relational citizenship is present in Aristotle.⁴³ In the field of modern philosophy of citizenship the

³⁷ Arendt 2019 p.31-39 Arendt’s image of the political sphere does not depend on her identifying that sphere with being first figured by Aristotle as important, but she traces this concept to Aristotle and ‘The Greeks’ generally Arendt’s image of and advocacy for the political sphere does not depend on her identifying that sphere with being first figured by Aristotle.

³⁸ 1274b33-1275a2 Hansen & Nielson 2004 p.39 on the meaning of “polis” as both people and place. Aristotle is believes firmly that the polis is its people.

³⁹ Balibar 2015

⁴⁰ Arendt 2017 p.305.

⁴¹ Blok 2017 p.201-217 cf 6.5

⁴² Balibar 2015 p.35 and Balibar 2017 p.203-212.

⁴³ 1259b5-6, 1277b14-15 and 1283b42-1284a3 cf Sakellariou 1989 p.257-260.

idea of ancient Greek citizenship remains an outsized influence. This can obstruct thinking about the actual lived experience of ancient Greek citizenship in this period.

1.4 Ancient Citizenship

The influence of classical politics on modern political philosophy has led to a special interest in understanding ancient citizenship so it has received substantial scholarly attention. Aristotle's *Politics* and his other works dominate the available evidence and represent the most complete attempt to explicitly define citizenship from the ancient Greek world.⁴⁴ The *Athenian Politeia* though likely not by Aristotle is certainly of the Aristotelian school and this is probably the category that we can place the fragments of the other Aristotelian constitution. Significantly they apply Aristotelian rubrics of citizenship and constitutions. Aristotle provides unparalleled detail of political institutions. Studies of Greek political institutions and of the rights of ancient citizens have used Aristotle's definition of citizenship as historically descriptive. Aristotle's definitions of *Polis* and *Polites* have been quoted as authoritative or at least broadly representative.⁴⁵ Recent work on citizenship in the Greek world suggest these readings both reproduce a misleading theoretical abstraction in Aristotle's picture of politics⁴⁶ and reflect an evolutionary institutionalism that fails to account for the diversity of Greek societies.⁴⁷ Nevertheless, reading Aristotle in his diverse political context opens new potential understandings of Aristotle as a philosopher.⁴⁸ This following section discusses the tradition of ancient citizenship studies that has taken Aristotle as a primary guide to the practices of ancient citizens.

1.4.1 Following Aristotle

Early approaches to the question of citizenship were interested in how the franchise of citizenship developed and expanded, taking the status itself as a natural feature of

⁴⁴ Including the fragments in Heraclides Lembus *excerpta politiarum* by Dilts 1971.

⁴⁵ Manville 1990 p34, Rhodes 2009a p60, Hansen 2006 p110. Ma 2024 p3 opens with Aristotle's definition of the polis as a community of citizens, though he also offers alternative models. Whilst Rhodes does give a full account of Aristotle's definition that includes the possibility of broader meanings (p58-61), he restates Aristotle's definition as authoritative: "The city was its citizens. The citizens were thought of as men who had a stake in the city.." (p.61).

⁴⁶ Blok 2017 p.1-46

⁴⁷ Duploux 2018b

⁴⁸ Vlassopolous 2007, p.57

community.⁴⁹ German studies of ancient political institutions followed Theodor Mommsen's study of roman political institutions *Romisches Staatsrecht*.⁵⁰ Emil Szanto's *Griechische Bürgerrecht* explicitly claims to be reconstructing the Aristotelian constitutions; the almost entirely lost set of works in which Aristotle, or the Aristotelian school, details the history and arrangements of 158 *politeies*, presumably in a similar way to the Athenian constitution.⁵¹ Szántó takes Aristotle's citizenship as essentially descriptive of the institution as practiced.⁵² Adolph Philippi's *Beiträge zu einer Geschichte des attischen Bürgerrechtes*, by focusing on the minor units and subdivision, in some senses predicts a later approach to Aristotle and lived Greek politics, though his perspective was not widely influential.⁵³ This group of German historians organized epigraphic evidence on Greek law using Aristotle's theoretical framework to complete a survey of the constitutions of ancient Greece, interested in establishing who had the rights of legislative, judicial and deliberative authority.⁵⁴ Although the organising methodology has shifted considerably, the work done in this wave of German scholarship has had a long afterlife in attempts at cross comparison between epigraphic and Aristotelian constitution focused history.⁵⁵

The Copenhagen Polis Centre's extensive publication on *Poleis* and the *Inventory of archaic and Classical Poleis* has been described as a continuation of this tradition.⁵⁶ Its mission statement "to find out what the Greeks thought a *polis* was, and to compare that with what modern historians think a *polis* is"⁵⁷ leaves space for other approaches. However, its formulating definitions follow an Aristotelian mould. Using Aristotle's own description of the polis as a collection of citizens⁵⁸ defining a *polis* as a "small self-governing community of

⁴⁹ Giangiulio 2017 p.33-35

⁵⁰ Mommsen 2014 The Cambridge edition. Mommsen originally published in 1874.

⁵¹ This number appears in a list of Aristotle's work in Diogenes Laertius 5.27, this list includes the Athenian constitution and 157 others. The surviving fragments in Heraclides *Lambi Exc.Polit* seem to be part of this list. These were authored by "Aristotle" or at least by an "Aristotle school". Repetitive phrasing in the surviving fragments may suggest a systematic approach, even if the content focus varies significantly. cf Keaney 1992 p.178

⁵² Szántó 1979 p.13

⁵³ Adolph Philippi 2016 (Hansebooks edition), first published 1870, via Giangiulio 2017.

⁵⁴ Duploux 2018b, p.6-9.

⁵⁵ Fröhlich 2016 p.93-96

⁵⁶ Blok 2017 p.31 makes this argument has part of a wider critique about of studies that accept Aristotle's definition too uncritically.

⁵⁷ Hansen and Nielsen 2004 p.23, Hansen 1995 p.5-13.

⁵⁸ 1274b41, there is particular emphasis on the 'autarchic' element here being defined as 'self-governing'.

citizens living in an urban centre and its hinterland”⁵⁹ demonstrates the importance of Aristotle’s conceptions, but these studies cover a range of different polis institutions. They are discussing citizenship firstly as something one has, by organizing the evidence for who did and did not have it, and what specific rights and duties were part of citizenship even whilst emphasizing that polis citizens are active. Aristotle’s definition of citizenship is often cited to define polis citizenship in Hansen’s work. Hansen’s use of Aristotle’s definition may well arise, as with the earlier institutionalist tradition, from fundamental similarities in their projects, surveying a breadth of *Poleis* and comparing their institutions according to clear constitutional criteria. This study makes ‘polis-centric’ assumptions, but a great advantage of the project over earlier incarnations, beyond its scale and scope is, “its healthy insistence on the primacy and importance of native perceptions”⁶⁰, defining the polis by Ancient Greek descriptions rather than by modern normative expectations; if there is any evidence that it was called a polis at the time, then the Copenhagen Polis Centre’s inventory includes it as a polis. Aristotle also uses *Polis* as a very broadly applicable term for many kinds of polity, and this shared terminological framework is valuable. The inventory tends to assume the comparability and basic similarity of different communities. Nevertheless, the breadth of the Copenhagen Polis Centre’s inventory attempt at this approach makes it a valuable collated archive. This has transformed the varied and fragmentary evidence for the ‘other’ poleis into an archive that can be researched.⁶¹ These extensive works enable broad comparative research.

As different scholars have sought to establish a defining set of citizen’s rights, distinctions have emerged but did not until recently stray far from an Aristotelean definition. Phillip Manville’s study of the origins of Athenian citizenship also centres political rights, even though he emphasizes that Athenian citizen life contained many aspects and even lists them in a way that might suggests a practice of citizenship too diverse to easily define.

“Once entered into legal adulthood, citizens could expect to (and might be expected to) exercise a variety of different prerogatives: to participate in Athenian cults, festivals and worship; to attend, speak and vote in the popular assembly; to serve (after the age of thirty) as a juror in the law courts; to vote (depending on age and eligibility) stand for elected and allotted

⁵⁹ Hansen 1997 p.17. This volume discusses the tension in this definition between a polis as a group of citizens, and the “...urban centre and its hinterland”, which reflects the archaeological evidence of settlement. This discussion demonstrates the tension between the Etic and Emic use of *polis* in scholarship.

⁶⁰ Vlassopoulos 2007, p.65-88, Vlassopoulos 2007, p.65-88. Using Aristotle as a witness rather than as an authority is an idea that will be discussed in more detail.

⁶¹ Giangulio 2017 p.39

offices (*archai*); to seek redress and receive protection under laws; to have the capacity to own land in Attika; to receive public disbursements, whether for services provided, as special distributions, or as maintenance for hardships.”⁶²

Citizenship is continually discussed primarily in this way as a holder of rights, and as active participant in political things. Blok critiques this as a de-facto denial of the citizenship of women, and even notes particular translation omissions and errors that obscure acknowledged cases of female citizenship in our sources.⁶³ Citizenship according to Manville is a set of enshrined protections for the status group, and the political participation that developed as a habit of this status group alongside legal expansions, a position also explored by Ruzé via the inscription evidence.⁶⁴ Manville sees legal developments as “in most cases responses to changes in the social composition of the Athenian community”⁶⁵, but also that specifically the Solonic reforms instituted the authority of ‘civic spirit’, and this centralized and bound citizenship to the polis.⁶⁶ Manville’s account of the development of Athenian citizenship, in many ways, recreates Aristotle’s historical narrative in Book I of the politics. Both conclude that citizenship emerges originally from extending small community life, but that a substantive change occurred when a polis is created by defining a citizen group as shareholders in it.⁶⁷

More recent work has reflected a more diverse and cultural approach to citizenship and moved away from seeing itself as a modern extension of the Aristotelean school. Studies of ancient citizenship influenced by structuralist anthropological approaches shifted from basing a definition of citizenship on institutions to socio-linguistic structure. Structuralist analysis defines notions like citizenship by their web of contrasts and relationships.⁶⁸ Murray characterizes this holistic social view not exactly as structuralism but as influenced by Durkheim by identifying the social and political as primarily religious, in contrast to the

⁶² Manville, 1990 p.8-9

⁶³ Blok 2017 p.32-33

⁶⁴ Ruzé 1997

⁶⁵ Manville 1990, p.217

⁶⁶ Manville 1990 p.212-213

⁶⁷ Aristotle, in Book 1 identifies pre-polis political society as a collection of households. He says these are incomplete forms, that have a lasting influence in foreign places (1252b16-29). The urge to form a *Polis* is natural to humans, but requires an innovation that differentiates it from a collection of households (1252b29-1253a39). Aristotle’s contrast between village and *Polis* is not a simple dichotomy between “Tribal” and “Political” but does suggest a distinctive polis form.

⁶⁸ Graeber 2001, p.13-22 clarifies this approach from Saussure to Dumont.

descriptions of Greek politics built around institutions described above.⁶⁹ The lasting influence of this 'Paris school' on citizenship studies is to consider the embeddedness of Greek religion in politics. Scholars of this school such as Vidal-Naquet and Zeitlin use myth and ritual as evidence for the Greeks' value of citizenship, and position it within a network of associated values.⁷⁰ In many ways the Paris school continued to apply the key assumption about the Aristotelian definition of citizenship and argued that eligibility for political office is the definitive characteristic of a *πολίτης*. It did this via the structuralist understanding that the masculine, the citizen and the political were aligned concepts opposite to the feminine and the private. Sourvinou-Inwood used the valuable insight of the Paris school, that Greek religion was embedded in all aspects of Greek life, public and private, to challenge the exclusion of women from citizenship. She sees the definition of citizenship as a participation in a public sphere that included religion, and consequently that women's right to be priestesses exemplified their citizenship.⁷¹ This is a response to an Aristotle-informed approach to citizenship that tends to imagine a distinct 'political' sphere of ancient life, an approach which can only see the citizenship of women in relation to men. Nevertheless, this defence of the citizenship of women is still framed in terms of the public *archai* that women shared in, a fundamentally Aristotelean formulation.⁷²

Attempts at revisiting evidence to build up a less Athenocentric definition of citizenship demonstrate just how scant the evidence is; essentially the only available evidence comes either from Athenian (or Athens based) writers. Epigraphy is something of an exception. Putting together a set of rights associated with citizenship over a broad timeframe is possible, thanks to epigraphy, particularly grants of *Xenia* and citizenship which are the single largest category of

⁶⁹ Murray 1990 p.5 "To me the essential characteristic of this approach, which is associated with the tradition of Durkheim, is the claim that there is no absolute divide between different spheres of activity, public and private: the political institutions of the ancient city are to be understood in terms of the totality of forms of social interaction. Moreover, if any aspect of ancient society is to be given prominence, it should be the religious, not the political for in Durkheimian theory, at the beginning 'religion pervades everything; all that is social is religious: the two words are synonymous."

⁷⁰ Vidal-Naquet 1986 p.1-7, discusses in his introduction Citizenship as a primary identity grouped with 'Free' and 'Male' against their opposites, 'Foreign, female and slave' with transitional identities such as the ephebic. Zeitlin 1996, p2 stresses the co-dependency of the opposites, an idea present in all structuralist understandings: "This sense of a fuller and more integrated network of diversified cultural meanings was founded in turn on the need for a dialectics of inclusion as the point of both departure and return. No men without women, no masculine self-presentation without consideration of the feminine as a major factor in the enterprise, and no exploration of the dominant discourse without developing convincing techniques of demystification."

⁷¹ Sourvinou-Inwood 1995, p311-322

⁷² It is not just office holding, but certain forms of participation in legal accountability procedures that women could participate in. Cf an inscription at Arkesine IGXII 7,4 Section 4.7 ft.750.

inscribed polis degree.⁷³ Through collected epigraphic evidence for citizenship laws, Van Effenterre and Ruze's anthology finds no clear positive definition of citizenship possible. Rather they find it is more a negative state; one is not a slave and not a *metic*.⁷⁴ Most of the epigraphic evidence that refers to citizenship are the grants of 'citizenship' or *xenia* grants that give special rights that are associated with citizenship to foreigners. This list of "tax exemption (*ateleia*) property holding, land allotment, legal protection against enslavement or property confiscation (*asyleia*) access to public offices, enrolment in a men's club (*andreion*) and participation in civic rituals"⁷⁵ might then be taken together as a list of citizen-like rights and all these rights are associated with citizenship. The methodology for describing citizenship outside of Athens by drawing together disparate inscriptions is one of the few methods available but has the obvious problem that both the norms and the vocabulary of citizenship will vary greatly with time and place. Comparison via the inscription evidence alone is made difficult. An accurate map and timeline of which particular features citizenship had in different times and places is well beyond our reach. Nevertheless, these works that have centred the inscription evidence show such a picture can be started, as is further discussed in the next section on methodology. The accurate borders of what citizenship included and excluded shift, but what these collections of features can point towards is where a central core concept of citizenship might have been.⁷⁶ Inscriptions can also be indicative of subtler aspects of citizenship that shifted more gradually, showing what terms were associated with citizenship at a particular time and place. The obvious limitation to this work is that these grants are by definition exceptional and so the bundle of privileges they grant along with citizenship may bear little resemblance to the presumed rights of "normal" citizens.

John Ma's recent work places Aristotle's citizenship as a reasonably accurate description of his own period of the polis, but uses inscription evidence to suggest a changing citizenship structure from the archaic through to the late roman period.⁷⁷ Defining citizenship in this way brings us back to Aristotle's approach to citizenship as the most detailed conceptual discussion, surviving from the ancient world, of what citizenship fundamentally means and so it is appropriate to look at the problems with Aristotle's definition of citizenship in detail.

⁷³ Mack 2015, p.13

⁷⁴ Van Effenterre and Ruzé 1994 p.27 and the list of citizen vocabulary in inscriptions p.394-395.

⁷⁵ Mack 2015, p.121-125

⁷⁶ Brock 2015 suggests a mutually comprehensible concept of citizenship must have existed based on *Isopoliteia* decrees.

⁷⁷ Ma 2024 p.16-18

1.4.2 Problematising Aristotle

Specialists interested in the reality of ancient citizenship have, through a closer reading of Aristotle and by comparing him to other classical understandings of citizenship, found problems with Aristotle's definition and how it is applied to the reality of polis politics. A problem apparent even within Aristotle's work is the incompleteness of Aristotle's definition. If we imagine a theoretical Aristotelian *polis* populated by classes defined by Aristotle, then we have ambiguous gaps; some of the inhabitants of a *polis* have no clear labelling under Aristotle's system. All the unfree members, slaves and serfs of various kinds are one group. *Metics* (foreign residents), are another group. Would-be citizens (too young or old) are citizens in a qualified sense.⁷⁸ That leaves only the "citizens", but not all of those left over seem to fit the definition that Aristotle gives. In all but the most radical democracies some of the free native residents will be excluded from governing offices and are therefore 'passive' citizens. 'Citizen' women, even more numerically and socially significant, are also excluded from Aristotle's citizenship by definition because of its orientation towards gendered political action. The next chapter focuses on Aristotle's definition and begins with a full discussion of how different readings resolve internal contradictions. This section focuses on various critiques on the application of Aristotle's definition as descriptive of political practices.

Josine Blok's *Citizenship in classical Athens* consolidates much of her earlier work and argues for a break with the Aristotelian model of classical citizenship.⁷⁹ Her criticism is that the influence of Aristotle's definition has pushed scholars, even unwittingly, to imagine a citizenship that fits better with a post-enlightenment republican tradition than with much of what we know about Athenian society. Her focus is the democratic Athenian citizen, and so the issue of passive citizens is not a significant problem. However, the place of women and religious identity in Aristotle or rather their conspicuous absence from his model of the polis does pose a significant challenge, and Aristotle's position on citizen women is ambiguous or contradictory in ways that will be discussed. Blok also diagnoses the problem with earlier scholars of citizenship in ancient Greece:

⁷⁸ 1275a12-25 In this section the 'under aged' are lumped in with those too old for duties with individuals who can bring cases to law courts. This drawing of a category seems to include the passive as citizens but in some qualified sense, which will be discussed in detail in chapter 1.

⁷⁹ Blok 2017

“The Aristotelian definition of citizenship was so authoritative that scholars, in approaching the evidence with it firmly in mind, were inclined to read the evidence in this light and did not notice what did not fit.”⁸⁰

Blok's survey of Athenian citizenship raises ideas central to this study, especially her understanding of *sharing* in the 'polis'⁸¹, her concept of baseline *time* and public participation⁸², and her recommendations for an in-depth investigation of documents outside Athens.⁸³ Blok, identifying the polis as a fundamentally religious institution, defines citizenship as sharing in the polis things of gods and men. It is significant that this definition is alien to modern understandings of citizenship. The specific language of sharing (*μετέχειν*) that Blok uses in this definition precisely locates its contrast with the Aristotelian definition that also uses 'sharing' language. Aristotle models a citizen that shares in “κρίσεως καὶ ἀρχῆς” whereas Blok argues that sharing in the agreement with the Gods that the city is founded on reflects citizenship as it was experienced more than Aristotle's political abstraction.⁸⁴ In contrast to Blok, Vlassopoulos in *Unthinking the Greek polis* argues that Aristotle himself has been misinterpreted by classicists as much as the polis, and that reinterpreting Aristotle rather than circumventing him can help build a better understanding of ancient socio-political history.⁸⁵ Modern concepts of citizenship that find resonance with Aristotle are often attributed to Aristotle; not that it is wrong to see Aristotle's definition as essentially political participation, but this is a reduction of the subtlety in Aristotle's discussion. There is the further problem that classicists applying the idea of political participation to the ancient world have reduced this defining further to 'holding office'. In part at least this is because of Aristotle's argument for an expansive definition of 'office' to include members of a jury or assembly.⁸⁶ These reductions have created a misleading interpretation of Aristotle's "citizen" that seems quite different from the actually existing citizens of his time.

Fröhlich addresses the complex issues in reinterpreting Aristotle's citizenship. *Politics* is a bedrock text for multiple disciplines, and so comparative analysis is often being done at cross-

⁸⁰ Blok 2017 p.35

⁸¹ Blok 2017 p.57 more recently expanded on by Filonik 2023 p.274, including some examples of *mete-* terms in inscriptions.

⁸² Blok 2017 p.187

⁸³ Blok 2017 p.276

⁸⁴ Blok 2014 This is the 'covenant' between Gods and Men.

⁸⁵ Vlassopoulos 2007 p.85-96

⁸⁶ 1275b5-23

purposes, not only with scholars applying different frameworks and working from different linguistic perspectives but working within distinctive intellectual contexts going to Aristotle for different reasons.⁸⁷ He criticises the persistent assumption that Aristotle's citizen is always eligible for *archai* based on a reading of Aristotle's careful defining of *arche* in book III.⁸⁸ He is also critical of a general reorientation of our understanding of ancient citizenship, towards a completely religious' concept of membership, suggesting that this idea works to flatten the polis by imagining a far more equal and depoliticised polis than our evidence suggests.⁸⁹ Fröhlich is always careful not to normalise Aristotle's definition; it is original, philosophical and broad, but overall, he defends the application of Aristotle's principles of citizenship to understand the concepts at work behind the distinctions between citizens and the other inhabitants of the polis.⁹⁰ This thesis expands upon the reading of Aristotle Fröhlich opens. It is a broad reading of Aristotle's definition of citizenship that includes the vast majority of *politai* in the Greek world but nevertheless also understands Aristotle's perspective as novel, philosophical and atypical. This thesis pushes Aristotle's definition a little wider than Fröhlich by emphasising just how many small ways citizens could participate in petty positions of power.

Applying an Aristotelian definition of citizenship as if it was a description of any practiced citizenship is going to give at best an incomplete description of citizenship, and potentially mislead any attempt to describe citizenship as it was. There is also the problem that not using Aristotle leaves us with very little description of citizenship, especially for anywhere outside of Athens. The risk is that by losing Aristotle as an oversimplifying and generalising guide to citizenship we replace him with Attic oratory, or some other Athenocentric understanding of citizenship. Aristotle is clear in saying that citizenship is difficult to categorise and comes in

⁸⁷ Fröhlich 2016 p.93-96

⁸⁸ Fröhlich 2016 p.116

⁸⁹ Fröhlich 2016 p.125-127 "Cette conception de la citoyenneté, dont la base serait d'être présent à des cérémonies religieuses, et de parfois assumer une prêtrise, est somme toute apolitique (au sens étroit du terme), ou du moins propose une version affadie de la politique.... De fait, si le lieu de la prise de décision est secondaire, si le lieu de l'exercice canalisé du conflit, si le lieu de pouvoir (si l'on peut employer ce concept peu solide) l'est tout autant, on brosse alors le tableau d'une cité irénique, certes non sans différence sociale, mais où les rapports sociaux sont fluides et où les conflits sont secondaires."

⁹⁰ Fröhlich 2016 p.129 "Mais, si l'on s'interroge sur ce qui distingue le politès et qui le sépare irrémédiablement des autres habitants de la polis, des politides, des étrangers domiciliés, on ne peut mettre en évidence que ce qu'on appelle les droits politiques, soit la possibilité de prendre part, sous des formes diverses, à la gestion des affaires communes, a minima en participant aux délibérations collectives, sinon en assumant des charges – avec d'innombrables nuances selon les régimes. Peut-on vraiment, de ce point de vue, rejeter en bloc l'analyse aristotélicienne?"

different types. The form of citizenship changes dependent on the structure of the *polis*.⁹¹ This study will follow those who have argued for a broader interpretation.

1.4.3 Alternative approaches to ancient citizenship

Given the serious problems with any definition of ancient citizenship that uses Aristotle's formulation, how else can one go about formulating a definition? Blok discusses how Athenian citizens participated in various institutions throughout their life by taking on formal roles. Her point is that whilst some roles were a special honour, every citizen has the 'baseline *time*' of core foundational participations.⁹² In this argument Blok pulls together a body of evidence from Athens for an assumption that to share (*μετέχειν*) in an institution included roles that could be minor but well defined and held significance. Thinking about the breadth of participation in this way is important for understanding Aristotle's assumption about participating in *arche*, even though Blok rejects Aristotle's focus on *archai* in favour of a broader *timai* as a term that includes the many honours citizens were given. Aristotle usually uses *archai* when referring to citizenship but will sometimes use *timai* and implies that sharing in *timai* is the most general definition of citizenship.⁹³ Blok's definition of citizenship is built first and foremost on the evidence of Attic court oratory in which the speaker is defending his own citizenship. This does give Athenians the credit of understanding their own citizenship, and it makes sense that the kinds of arguments that would be aimed to persuade an Athenian jury, even if they are incidentally untrue for one speaker or another, will be a generally valid.⁹⁴ We lack records from elsewhere of citizens defending their own claim to citizenship. Not to say that expanding Blok's approach is impossible, just that without alternative possible models through which to see citizenship there is a risk of Attic citizenship replacing Aristotelean citizenship as a model which may obfuscate the unfitting details of diverse Greek citizenships. Blok's brief suggestion of how to expand her study of Athenian citizenship to other cities suggests using access to priesthoods and presence at sacrificial ritual as indicative features of citizenships. This is an expansion of the framework she has developed from Athens.⁹⁵

⁹¹ 1275a1-1275b23, 1278a35

⁹² Blok 2017 p.205 Includes a range of core cultic participations in processions, festivals and mysteries.

⁹³ 1278a36-37

⁹⁴ Blok 2017 p.279

⁹⁵ Blok 2017 p.276-79, Blok 2018 applies this approach to Archaic citizenship.

Performativity is a flexible and broad framework, suggested by Duplouy as an approach to citizenship.⁹⁶ Austin referred to words as performative that when spoken perform an action, as a way of describing language which one cannot assign as either true, false, or even untrue; a category that includes a great deal of utterances.⁹⁷ An illustrational example I will apply is the moment of “I do” at a wedding ceremony; the saying of this creates the world in which the marriage has taken place.⁹⁸ This involves witnesses recognising and accepting the performative act.⁹⁹ This approach has been significantly developed and broadened in application since Austin not least due to its potential as a study of how humans construct and relate to abstract ideals and institutions via our speech and acts, and these fundamentals are highly applicable to ancient citizenship. Some utterances perform actions, and so to work they must exist within a context that legitimates them; the performing utterances must be seen, recognised and accepted by witnesses. In this way performativity expands to include the physical performances that legitimize performative speech. Anthropologists have found it useful to build on the concept, finding societies in which performances of recognisable forms of acts give the verbal content a concrete meaning that would otherwise be absent; including anything from oaths of allegiance to rituals of purification.¹⁰⁰ These are “scripts” are a language of extra significance that can be referenced in less rigidly formalised settings in ways which evokes their power and helps a speaker to tell a gripping story or give a convincing speech.¹⁰¹ There is also a possibility for innovation in formalised settings that adapts and creates scripts, provided the innovator is able to properly position the new part of the script within the grammar of the old so that audiences understand and accept its meaning.¹⁰² Citizenship scholar Engin Isin, whilst much of his discussion is about claims to rights and is written towards studies of contemporary

⁹⁶ Duplouy 2018 p.48

⁹⁷ Austin 1962

⁹⁸ Austin 1962 p.5-8

⁹⁹ Austin 1962 p.25-28

¹⁰⁰ The focus is often on political act that are ‘completely’ performative, in the sense that they lack concrete effects, such as electoral politics in undemocratic regimes (see Pisano 2022 p.112 on voting in Russia), but this also includes discussion of acts where the line between functional and performative is blurred, this blurring is described in “political performances as Ritual” in Lewis 2013 p.61.

¹⁰¹ As the term is used in Farenga 2006 discussed below

¹⁰² In Bauman’s discussion of the performance of folklore he references different kinds of rituals of the San Blas Cuna with different associated performances. Bauman 1975 p.304 “The emergent quality of performance resides in the interplay between communicative resources, individual competence, and the goals of the participants, within the context of particular situations. We consider as resources all those aspects of the communication system available to the members of a community for the conduct of performance. Relevant here are the keys to performance, genres, acts, events, and ground rules for the conduct of performance that make up the structured system of conventionalized performance for the community.” Whilst his focus is on appreciating complexity of performance in oral culture, Bauman’s approach helps fine tune a more modest aim of simply identifying the special kinds of scripts of performance contexts and how they might alter how we read ritual situations.

citizenships, discusses the different ways citizenship can be performative. Nevertheless, his contribution is to stress how citizenship, because a citizen is engaging with power, will be inherently transformative “...performative when people act as political subjects, whether they are authorised or not.... when people act as citizens they are not only actively or passively following rules but are also creatively transforming them.”¹⁰³ Isin stresses a contrast between performing citizenship according to conventional rules and performing citizenship to creatively transform those rules. Ancient citizenship is also not static in its performative expression and this power to alter the rules of the game was not reserved to citizens in democracies.

Performativity can be an inclusive approach when describing ancient citizenship, by focusing on how aspects of identity are created by speech and other shared actions. Scholars of Greek citizenship have found it useful to consider the performative approach because it shifts the focus away from citizenship as a set of rights and from the qualifying features of citizens and onto the things that citizens do, typically and definitively. These actions are communicating citizenship to other citizens as an ongoing social identity, and in a performative sense, these communications are citizenship. Citizenship can be considered a performed identity by which individuals claim citizenship by ‘citational’ performances, significant actions identified with citizenship, actions which are recognized and so the claim of citizenship is accepted by others.¹⁰⁴ Duploux in his chapter *Citizenship as performance* sums up this performative definition: “citizenship should not be conceived as a one-way relation between an abstract entity and its members, but as a web of mutual relationships between individuals, including status recognition processes.” This process of status recognition is one that was continually reinforced, building the identity of citizens as they justified their status to each other “...the privileges and opportunities of citizenship has to be permanently demonstrated in order to be acknowledged and accepted by others.”¹⁰⁵ Duploux also defines this position in relationship to Aristotle’s citizen: “As a simple and practical fact, according to Aristotle, those participating in the administration of justice and the holding of office (*metechlein kriseos kai arches*) would be considered as citizens. Nothing more than performing justice and political authority are thus required to account for citizenship, well beyond any consideration of descent.”¹⁰⁶ This is an

¹⁰³ Isin 2017, p.512

¹⁰⁴ The concept of citationality and its ambiguity as it relates to Austin and Performativity is described in “The citation is an act that re-presents some other event of discourse and marks that re-presentation as not(-quite) what it presences” Nakassis 2013, This is concept as it is applied to gender performance by Butler 2006.

¹⁰⁵ Duploux 2018a p.250

¹⁰⁶ Duploux 2018a p.250-51

argument that this thesis will develop, focusing on citizenship as performance in Aristotle by demonstrating the breadth of those who could be said to share in the performance of justice and political authority. There are a considerable range of performances associated with citizenship, and whilst group activities such as festivals and feasts are often specifically recognised as 'citizen' in character, personal and private actions can also be identified with citizenship.¹⁰⁷ Aristotle's construction of citizenship as a kind of relationship that also describes a performance script that leaves room for renegotiation will be examined in the next chapter.

As it has been studied and theorised performative citizenship has focused on the democratic Athenian experience. Simon Goldhill's work on citizenship performativity identifies being a spectator as an engaged citizen act, and this is a foundation that I have built on throughout the process of this study. Being the spectator to all kinds of civil acts, Goldhill has argued that the citizen audience watching and judging at the assembly and the law courts are central participants in democracy: "Indeed, since democracy made the shared duties of participatory citizenship central elements of political practice as well as political ideology, to be in an audience is not just a thread in the city's social fabric, it is a fundamental *political act*."¹⁰⁸ However, these ideas can still be applied in undemocratic (and un-Athenian) contexts, and in fact this form of participatory performance is characterised by its potential breadth. The performance of citizenship includes spectators who witness and accept the performance, and this does not have to be done in 'political' alignment with the performance. Some performative utterances are accepted and legitimised just by being witnessed. The spectators are participating in this aspect of citizenship whether they themselves are 'full' citizens or not, and dynamics between audience and speakers are the space in which a great deal of ancient political action takes place. The way that performativity works to include the ambiguously passive audience is a key feature it shares with Aristotle's approach to relationships of power in the way that the exact nature of ruled elements are made complicit in political action.¹⁰⁹ It contributes to the idea that Aristotle's understanding of citizenship has something in common with a modern performative one, although Duplouy draws attention to the institutionalist focus

¹⁰⁷ Simonton 2018 p.198

¹⁰⁸ Goldhill 1994, p.352

¹⁰⁹ cf 2.5-7

of Aristotle.¹¹⁰ This study will examine more closely these limits, examining exactly to what extent Aristotle can be called an institutionalist.

Farenga in *Citizen and self* applies a version of this performative structure to a sweep of Greek literature from Homer to Plato, mostly looking at Greek literature and Attic oratory.¹¹¹ Farenga connects performing the act of judgment in increasingly complex and reflexive ways to a developing notion of selfhood, exemplified by both literary characters and Athenian citizens. The work attempts an ambitious survey, placing classical Greek literary characters in a framework of citizenship according to which they were able to conceive of themselves performing certain citizen scripts as judging members of their communities. Farenga discusses the witness as an active participant in the things they are witnessing in certain circumstances.¹¹² Farenga, despite scarcely mentioning Aristotle and working from a modern and etic framework of criticism, puts sharing in justice, the 'rendering of a *dike*' at the centre of citizenship and acknowledges this framework is congruent with the Aristotelean definition.¹¹³ Farenga finds citizen scripts in the reported speeches in Homer, in Athenian law and in Plato, whilst this study instead applies speech acts as a framework, to identify what citizen scripts can be found in the more disparate epigraphic evidence discussed earlier.

Farenga's work is a well-defined diachronic application of performativity to citizenship in ancient Greece in which he sketches the relationship of performing judgments to a developing notion of selfhood. The idea that there are certain performable scripts of justice that demonstrate one's claim to judge, and that these scripts are intimately connected to citizenship is an important part of building a full understanding of how citizenship performances can be understood. I will expand this project in two ways; discussing what kind of script Aristotle is reporting exists for citizens, and then exploring examples of this script in action. An important point to disambiguate is that 'script' need not refer to a speaking role. Witnessing a judgment or a political speech is just as much a performed role necessary for the whole, a concept that will be explored throughout this work.

¹¹⁰ Duplouy 2018a p.250-251 "Instead of membership in a legal organization, which introduces a view from the top, archaic citizenship should be described as a form of participation. This is actually the very meaning of Aristotle's concept of *metechein*, although he restricted it to participation in formal institutions."

¹¹¹ Farenga 2006

¹¹² Farenga 2006 p.134-7 p.457-9

¹¹³ Farenga 2006 p.33

Alain Duplouy in both his chapters of the edited *Archaic Citizenship* makes the point that Aristotle himself has something of a performative theory of citizenship, though in *Citizenship in Antiquity* he describes the performative as an alternative approach to Aristotle's definition which he describes as institutional.¹¹⁴ Aristotle occupies both these approaches in tension. Using the example of horse-breeding and starting with the Aristotelean fragment from the constitution of the Cymaians, he connects the ability to publicly perform luxury with citizenship. Duplouy proposes that a performative approach might work as "an alternative to the classical model of (Athenian) citizenship, as promoted by Aristotle and a long tradition of political and legal studies" that is more appropriate for studying archaic history.¹¹⁵ This thesis is in part an expansion of this approach, and how a performative reading of Aristotle will be expanded upon in the final section of this chapter.

Despite these serious difficulties in using Aristotle, any study of ancient citizenship anywhere around the mediterranean struggles to escape the significant influence of Aristotle, even if the specific argument being made is against applying Aristotelian norms to particular cases. The recent collection *Citizenship in Classical antiquity* reflects the broad range of recent scholarship working the area, demonstrating the inescapable importance of Aristotle to this lively field.¹¹⁶ Aristotle is often made use of here, cited in multiple chapters as a description of citizenship at least in its most 'political' aspect.¹¹⁷ Although Duplouy cites Aristotle's description of Cretan serf regulations¹¹⁸ as an example of controls on the performance of citizenship, it is overwhelmingly the definition of citizenship given at 1275b that is applied.. Many authors also note the limitations of Aristotle's definition compared to alternative approaches more inclusive of women and religious community,¹¹⁹ and of the experience of citizenship outside the Greek world.¹²⁰ James Kierstead and Sofia Letteri, building on Blok's work completely avoid the use of Aristotle in their investigation into the associations of Athens, not coincidentally also basing their objection to the Aristotelian model on Attic orators.¹²¹

¹¹⁴ Duplouy 2018a, p.250-251, Duplouy 2023 p.48

¹¹⁵ Duplouy 2018a p.269

¹¹⁶ As a good selection of recent work on citizenship these examples of citations of Aristotle are mostly from "*Citizenship in Classical antiquity*" eds Filonik et al 2023.

¹¹⁷ Woolmer 2023 on Phoenician citizenship p.120 Malkin 2023 on founders as arbitrators p.147, Seelentag 2023 on Cretan Citizenship p.187.

¹¹⁸ Duplouy 2023 p.58, 1264a21-2

¹¹⁹ Fisher 2023 p.373

¹²⁰ Dassow 2023 on Babylonian citizens p.81.

¹²¹ Kierstead and Letteri 2023 p.395

Aristotle's definition of citizenship is used as a formative point for discussions around the ancient view of citizenship¹²², as is Aristotle's categorisation of constitutions,¹²³ as well as the above uses of Aristotle's examples as a source of evidence on citizenship practices. Blok's direct engagement with Aristotle is extensively cited and acknowledged as the most significant recent author directly critiquing Aristotle's definition of citizenship.¹²⁴

Filonik approaches Aristotle's own theorising most directly, discussing the relationship between the Aristotelian definition's language of 'sharing in *arche* of the polis', and the language of 'sharing in the polis' found in the Pericles citizenship law¹²⁵ and in inscriptions¹²⁶. These and other examples that will be explored further in this thesis demonstrate that Aristotle's core terminology is heavily borrowed from contemporary political discussion. Filonik describes the *meta*- terms as a conceptual metaphor that puts 'the share' at the heart of Greek concepts related to community. This concept of sharing is central to Aristotle's definition of citizenship, which is the key example of *metechlein*; to share in the polis. Filonik articulates a history of the metaphor of '*metechlein*' from a literal description of a share in the community feast to a more abstracted share that was still embodied in polis rituals but also would be used to describe a share in other polis activity, including political actions. The feasting analogy is useful here, in which some shares are greater than others, but importantly everyone there gets a share. In Cretan feasting there is social distinction.¹²⁷ Though in Sparta the feasting seems more equal, all citizens must contribute equally to the mess.¹²⁸ Stresses on equal and unequal sharing are both present in overlapping contexts. This reflects Aristotle's own pairing of the oligarchic and democratic forms of 'equality', absolute and proportionate. This approach to the concept of 'sharing' is applied in this thesis, as well as the broader approach to engaging directly with ancient normative ideas of citizenship, questioning them and looking for the differences in their articulation to uncover what ideas are specific to Aristotle.

¹²² Rhodes 2023 p.36, Duploux 2023 p.48, p.51, Carlsson 2023 p.429.

¹²³ Kucharski 2023 p.421

¹²⁴ Frullini p.242 [Speaking of the difference between *Astos* and *polites*: "Both had to do with having access to a set of prerogatives, which is what Aristotle calls 'sharing in the polis' and that Josine Blok – rejecting a narrowly political interpretation of citizenship – has defined as being recognized as an heir to a share of the original covenant between the polis and the gods".

Blok 2018 p.93

Joyce 2023 p.342

¹²⁵ *Ath. Pol.* 26.4

¹²⁶ Filonik 2023 The examples Filonik uses are a citizenship grant in Bargylia (SIG [Syll. 3] 426) and an *isopoliteia* between Miletus and Heraclea (SIG [Syll. 3] 633).

¹²⁷ Whitley 2018, Seelentag 2023

¹²⁸ 1271a26–37; Kulesza 2023 p.179-80

This thesis will detail the forms of 'sharing in the polis' that Aristotle describes and argues that the 'share in the office and judgment of the polis' is, to Aristotle, functionally a 'share in the polis'. Even in extreme oligarchies, the poor citizens are not completely thrown out, but given a much reduced share of the political things of the polis. Holding sacrificial officers to account, or belonging an assembly, or having a role in selection procedures, alone was a form of political share that potentially involved every man who had a share in the most fundamental rituals of the polis. Aristotle is ignoring women here, whose role in the divine things of the polis was far greater than any 'political' role they had,¹²⁹ but the borders of this 'political sphere' are highly contestable; priestesses acted as public *archai* in many meaningful senses¹³⁰ to take an example that challenges assumptions about the essentially male and civic nature of power holding. Shareholding is the central metaphor, and this translates well to English as shareholders can have unequal values and powers, but some baseline kinds of recognition are granted to all shareholders. Aristotle is saying that this baseline includes a certain political share. What does the language of *metechein* imply for Aristotle in terms of actual forms of citizen action? Can we define a difference between 'participating' in Politics and 'sharing' in politics?

The difference between various possible interpretations of Aristotle has not been frequently discussed in the recent scholarship on Aristotle, with his definition at 1275a23 being seen as 'the' Aristotelian definition. Work by Duplouy and Vlassopoulos have demonstrated the potential for a review of this settled view.¹³¹ The start of chapter one is dedicated to a review of the various readings of this definition of citizenship in terms of who is included by Aristotle. The rest of the discussion in *Politics*, Aristotle's other works, and the context that produced them can produce a refined interpretation of Aristotle now that critical perspectives to the conventional reading of Aristotle have developed, and this interpretive work can add important perspective for the historical work being done on citizenship in antiquity. There has been a historic range of interpretations of Aristotle's definition that has not fully settled on a particular reading.

¹²⁹ Eurpides fr. 494

¹³⁰ Connelly 2007 p.188, LSCG 102, Lykourgos frag 6.4

¹³¹ Vlassopoulos 2007, Duplouy 2018b

1.5.0 Methodology

This thesis will historicise the *Politics* and Aristotle's specific application of the term *polites* placing his philosophical theory of political participation in context. It will compare his conception of taking part in politics to the evidence for actual political participation and so historicise Aristotle's theory. The first part will be a reading of Aristotle's politics, especially book III, that identifies the specific activities Aristotle considers 'political participation'. The second part will focus on historical examples of these kinds of participations. The conclusion will discuss in what ways Aristotle's theory reflects these practices, and how we can use Aristotle as a source for ancient citizenship whilst properly historicising his perspectives.

To compare actually practiced forms of participation with the participation of Aristotelian theory this thesis will apply a framework of performativity to both. Though aspects of this approach are described by Goldhill and Farenga and Duploux,¹³² this thesis goes further in applying Austin's performativity to Aristotle's theory of citizenship. Thinking in terms of "what a citizen does when being a citizen" allows for a meaningful cross comparison between the theoretical citizenship of Aristotle to the other records of citizenship behaviour. This thesis will compare the 'citizen activities' outlined by Aristotle, first in his definition and then in his other discussions of participation in power with those activities of power sharing and citizenship discussed in epigraphy and literature, focusing (as much as possible) on the non-democratic. This will make use of 'performativity' as conceptual framework to interrogate both these sources; what exactly is being done and how is citizenship related to these actions.

The following chapter will examine Aristotle's 1275b18-22 definition of citizenship to identify the acts this definition suggests together compose citizenship. The analysis of this passage is organized around uncovering what it is that Aristotle's citizen 'does' when they are taking part. This will create a set of citizen participations comparable to the practices discussed in epigraphy and other literature.

1.5.1 Why performativity?

A performative act does something to the shared world of the performer and their audience.¹³³ This 'shared world' indicates the network of obligations and mutually reinforced relationships

¹³² Goldhill 1999, Farenga 2006, and Duploux 2018a discussed above.

¹³³ Austin 1975

between performers.¹³⁴ Performative acts include marriages, debts, bets, oaths. Significantly these are impactful changes to individual's status. As a framework for analysis performativity asks a series of questions; what is being done? what is the script for this performance? And under what circumstance might the performance be accepted or rejected? This thesis asks these questions of both Aristotle's theory of citizenship and the examples of political participation to enable a comparison of these different discussions of similar activity.

Ancient Greek citizenship is a densely studied and challenging field partly because the ancient discussions around citizenship come from very varied perspectives. Due to the social importance of citizenship as a status, the evidence for these scripts is substantial but diverse. The diverse range of this evidence is a challenge because it is difficult to bring different kinds of evidence into any useful alignment. Even if we focus tightly on the 4th century Athenians, we have philosophical discussion of citizenship, digressions in histories, poetic and dramatic depictions of citizen actions, oratory describing citizenship in contestation, and inscriptions suggesting a legal framework of citizenship norms as well as being the self-conscious representation of collective citizen identity, so trying to tie these together and describe any consistent 'citizenship' across these diverse sources has proved challenging.

This performative framework is a response to this diversity, viewing performance and recognition of citizenship as the best complete approach to a multifaceted identity like 'citizenship' because it allows for cross-comparison between disparate forms of evidence.¹³⁵ This is particularly useful for historicising Aristotle's view of citizenship, as what he describes as the core actions that define citizenship can be compared to the alternative offered by other sources. These are also 'actions' in the performative sense; the focus is on what the citizen achieves in the shared world by their speech acts as opposed to just the physical actions citizens go through.

Centring citizen behaviour and action as opposed to the legal attributes of citizens allows a flexible exploration of how citizenship was embodied, gendered and institutionalised through its performance. The ability to recognize a citizen from their actions and identify a 'citizenly' way of doing things was a consistently important social capacity in polis political cultures. Many

¹³⁴ This construction of a shared space of political action bears important similarities to Arendt's formulation.

¹³⁵ Goldhill 1999 p.10-20, Farenga 2006 p.4 advocate this.

spaces; social, religious and political spaces, were exclusively citizen spaces, and the methods of policing these spaces become the de facto definition of citizenship. The points of tension, where the legitimacy of citizenship is challenged, are what have been left to us as evidence of citizenship requirements in action. The ideas about citizenship then emerge from these points of tension, such as in the Athenian court and on *proxenoi* degrees, where the meaning of citizenship as status is being disputed or publicly announced respectively.¹³⁶

Analysing Greek citizenship as a performable identity, with 'scripts' of these performances surviving in various discussion of citizenship has been a long running approach. This thesis builds on elements of Farenga's concept of the "citizen script" as a "a fixed, stereotypical representation of knowledge incorporating a sequence of actions, speech acts and situations."¹³⁷ Farenga applies this as a tool to compare representation of citizen selves, which gives us a diachronic overview of the relationship between concepts of citizen and self.¹³⁸ This requires in depth representations of citizen actions, and so is only fully applicable where we have the best evidence that allows for this kind of comparison, and so Farenga's study is largely confined to literary examples. Aspects of 'citizen scripts' can be useful for broader study. Starting with the assumption of citizenship as a performance allows us to directly compare different surviving incarnations of this performance; in epigraphic evidence (which as objects, amongst other things, formally perform the citizenship of *polis* members), in reconstructed historical events (in which the ancient writer characterises certain actions as characteristic of citizens being citizens), in drama and literary philosophy (in which conceptions of citizenship are presented) and in Aristotle who uniquely claims to define citizen. Of each of these diverse sources we can ask the question "What actions are being performed by citizens, and what makes these actions 'citizenly'". In this way it can be a tool to unify our various approaches to ancient citizenship studies.¹³⁹

¹³⁶ The focal point for Blok 2017 and Mack 2015 respectively.

¹³⁷ Farenga 2006 p.8

¹³⁸ Farenga 2006 p.11-14

¹³⁹ Duplouy 2018a is optimistic about this approach in general.

1.5.2 From Utterances to recognition to general performing

The term “performative” has acquired some ambiguity. There are two performances going on when a “performative utterance” is made: the utterance is performing an action on the world, changing it in some way, and the speaker is performing the utterance itself. A performative utterance can fail in successfully changing the world if the audience does not accept it, and some of the conditions of acceptance are based on the way the speaker acts. In this way the two ‘performances’ are tied together. Weddings (discussed below) are strong examples because of how recognisable the ceremony is even over time. When one “performs” a marriage, it is both a performance that you put on, and something that you do to the world. A full explanation of performativity should clear up this and other ambiguities and demonstrate how this framework can be applied to both Aristotelian political theory and to the evidence for actual political acts we have from the ancient world.

Performativity is the idea that some words do something to the world as they are uttered. John L. Austin defines which utterances are performative as those that when spoken perform an action. This is a way of describing some of those utterances which one cannot assign as either true, false, or even untrue; a category that includes a great deal of utterances.¹⁴⁰ An illustrative example being the saying of “I do” at a wedding ceremony. The speaker is not describing in the present tense some action (The “taking of this man” in this instance) they are ‘doing’ as such, but rather the saying itself is this action and creates the world in which the marriage has taken place.¹⁴¹ Understanding when saying “I do” ‘works’ and when it does not, requires understanding what other features of the performance of a wedding must be there, and ultimately comes down to witnesses recognising and accepting the performative act.¹⁴² Performative speech enacts a reality and depends upon a performance that confirms its validity.

The “citizen script” is a more specific form of “Citationality” which is any attempt to acceptably reference an abstract performance of citizenship whilst script seems to be the better term for the model of that performance which performers are citing.¹⁴³ Performances of citizenship

¹⁴⁰ Austin 1975

¹⁴¹ Austin 1975 p.5-8

¹⁴² Austin 1975 p.25-28

¹⁴³ Farena 2006 applies this term very broadly. ‘Script is the term that describes the set of words, actions and circumstances by which citizens identify themselves and each other. ‘Citationality’ could describe this process, though Farena elects ‘citizen script’ to communicate the specificity.

work by citation to archetypes of citizenship. Formal political institutions are filled with such scripted performances; swearing oaths, bearing witness, making contracts etc. In this way performativity as an analytical tool of citizenship can be applied to ancient and modern concepts; examples of this abound from oaths of allegiance to rituals of purification.¹⁴⁴

1.5.3 Performer identity and context

Separating a performative utterance that is accepted by its audience and so “works” from one that does not “work” are contextual conditions. The utterance “I do” transforms the status of the couple not just when the ceremony is accurately carried out with everyone correctly saying their lines correctly, but when other contextual conditions are present. This is not about the legal propriety of the wedding, but about whether it is accepted by the audience so they consider the couple truly married. The nature of the performance changes significantly according to cultural context; but everywhere the act of “wedding” a couple does something to them, changes their status in their community. Part of the contextual conditions are aspects of the identity of the participants, which any successful performance must make implicit claims about. In any marriage the couple makes a claim about capacity to enact the performance of marriage. These are conditional identities; they may have to be a certain age, a certain set of genders, a recognised member of certain faiths or certain communities etc. Citizenship was such a conditional identity for many important ancient Greek performative utterances. From marriages to regular sacrifices, binding oaths to political speech making, claims of citizenship are often explicitly stated, and always implicitly being made because being a citizen was a condition of having one's performative utterances accepted by your audience. For example, Citizens had a particular power to bring indictments and inform,¹⁴⁵ which are speech acts.

This framework is appropriate for Greek citizenship studies for three interrelated reasons.¹⁴⁶ Firstly ‘citizen’ is an identity characteristic that is often required for significant performative

¹⁴⁴ Sommerstien 2014 explores what an Oath is p.17, see also p.76 on the pattern of performative language of Oaths. cf The role of performativity in modern citizenship discussed above.

¹⁴⁵ Andocides 1.73-79, Kamen 2013 p.71-78 , see Bok 2017 discussing Dem. 57 among others. Andocides 1.73 includes ‘informing’ as a right that could be taken from some criminal citizens.

¹⁴⁶ Duplouy 2023 p.61 gives a similar set of reasons, concluding “In terms of citizen behaviour, a performative system only works if it is based on a code shared by all members of the community, who act alternately as actors and spectators but are always eventually judges of the conformity of attitudes to the socially valued model. There is no doubt that the Greeks complied with this rule.”

utterances to “work” as described above.¹⁴⁷ Secondly, these acts and our evidence for them often describe audience/performer dynamics where an audience play a vital role in witnessing and “accepting.”^[OBJ] Finally, our contemporary sources, including Aristotle, often talk about citizenship as a performance, as in fundamentally defined by the actions that citizenship status empowers one to do.

Separating a performative utterance that is accepted by its audience and so “works” from one that does not “work” are a set of contextual conditions including the identity of the performer. Given how important being an accepted citizen was to public and even personal life there must have been many ways of demonstrating citizenship, formally and informally with accompanying norms for the performances of citizenship. Much of the extant evidence of the ancient Greek world, particularly of this period, records speech acts that required the speaker successfully make the (often implicit) claim of citizenship identity. Citizens, when performing citizen roles, cannot help but make a claim about their identity as legitimate. There are moments when this claim is explicit, such as the scrutiny young men go through to become fully inaugurated citizens¹⁴⁸ or in the case of citizens defending themselves in court against disenfranchisement. Often the claim is implicit to some degree; when a citizen is taking a share at a public feast, walking with other citizens in a procession, acting as a juror or sitting in the assembly. Though citizenship as an identity status is important, it is not the only concern of Aristotle, who is trying to define what a citizen is fundamentally, rather than just who can justly claim to be one and how.

1.5.4 Reading Aristotle with a performative framework

This conceptual framework informs my reading of Aristotle as well as the epigraphic and textual sources about citizenship that exemplify Aristotelian citizenship and, in many places, challenge it. These questions have informed the selection and interpretation of evidence, with the guiding principle being what is it that these citizens are doing and how is this “doing” particular to citizens. It is useful as a way of both describing Aristotle’s conception of citizenship and creating a categorizing of ancient citizenship that can exist outside of Aristotle’s framework. Aristotle’s definition of citizenship can be read with this performative framework. We can

¹⁴⁷ Isin 2017 for its applicability to modern citizenship.

¹⁴⁸ *Ath Pol* 42 and the Oath inscribed at Archanae; Siewert 1977 p.10, Farenga 2006p.25-27.

recognize a subset of performances he considers definitive, and these performances existed within a wider field of possible kinds of “citizen” performances.¹⁴⁹ These other citizen performances have been studied¹⁵⁰ and so comparison becomes possible between Aristotelian citizenship and other ancient understandings of citizenship that do not have such a single authoritative voice describing them.

Though studies of ancient citizenship have engaged with performativity, this study will apply a theory of speech acts to the conceptions of citizenship expressed in Aristotle and in evidence of how citizenship was practiced. Focusing on what the performative actions are doing, the “doings” of citizenship, rather than its “performance.” This is a subtle but significant distinction in framework. The focus in this thesis is on the speech acts that citizenship is a condition of, rather than citizenship as a kind of performance. This will involve studying many of the same behaviours as previous “performative” studies, but with the emphasis on what citizens are able to do with their words, rather than on how citizenship is claimed with behaviours. This is in service of historicising Aristotle’s understanding of citizenship in new ways. This is a way of looking at the margins of participation, seeing those on the edge of political inclusion acting in minimal ways. Chapter 4 will stretch this framework to include the special circumstances where a meaningful silence can be meaningfully called a “speech act”, in the technical Austin sense of a performative utterance, where it is part of a call and non-response pattern discussed fully in 5.0.

Reading Aristotle with this framework, this thesis describes the various forms of speech act and performance that required citizen status and that Aristotle describes as typical of a citizen. The next chapter reads the key passages of *Politics* with particular attention to what things exactly are being done by citizens, how exactly the acts are performed. This framework focuses on the significance of audience/performer dynamics in citizenship, drawing attention to the ways a crowd could exert power.

It is also important to recognize that this framework is not Aristotle’s, even if there are significant similarities that make such a reading of Aristotle possible.¹⁵¹ Aristotle is generally

¹⁴⁹ Duploux 2018a, Vlassopoulos 2007

¹⁵⁰ Goldhill 1999, Farenga 2006, Duploux 2018a, Frullini 2023, Müller 2023.

¹⁵¹ Duploux 2018a p.249

uninterested in how the status of citizen is claimed and policed through performance. His definition claims the essence of citizenship is in a certain kind of relationship to power that is achieved through effective performative acts. The first chapter of this thesis will discuss what these acts are and how they are performed and what they perform. These are not all performative speech acts, but are all similar kinds of acts in this aspect: they are symbolic actions that must be recognised and accepted by a particular audience in particular circumstances so that they can 'work', and 'working' means that some they have done something to the shared world.

My project uses this performative orientation of Aristotle's definition of citizen to assess its relationship to the other evidence for citizenship on his own terms. Aristotle is creating a specific philosophical definition, but intends it to be useful for practical political thought. Therefore, I read Aristotle's definition of citizenship as broadly applicable; it is based on what citizens do, so anyone performing those actions in relation to the polis is a citizen. I will argue for this position through a discussion of the various readings of Aristotle in the next chapter. Then I will describe what these citizen actions are according to Aristotle using examples of decision-making and judgments from *Politics*. This performative way of understanding Aristotle's approach to defining citizens can then facilitate direct comparisons to what other evidence tells us citizens are 'doing', and this enables a critique of Aristotle on his own terms. Parts 4 and 5 of this thesis will compare marginal political actions, that we have evidence for, against this reading Aristotle to identify what kinds of actions he does and does not account for. The aims in doing are both to refine our understanding of Aristotle as a particular thinker, and to learn how to more critically apply his perspective to ancient politics.

2.0.0 Aristotle's definition of citizenship within the text of *Politics*

The most consistent discussion of the citizen that Aristotle gives is at the start of Book III (up until 1278b22) although he returns to the subject regularly during the rest of Book III and occasionally throughout the rest of *Politics*, this passage lays out his principles on the subject. This passage centres on the 1275b18-22 definition.

“What constitutes a citizen is therefore clear from these considerations: we now declare that one who has the right to participate in deliberative or judicial office is a citizen of the state in which he has that right, and a state is a collection of such persons sufficiently numerous, speaking broadly, to secure independence of life”¹⁵²

The issue is that this definition is not completely clear and leaves open key questions. What exactly is “judicial” and “deliberative” “office”? What qualifies as “participation” in them? This chapter will attempt to clarify these questions focusing first on what is discussed by Aristotle, primarily in *Politics* but also in other works of the Aristotelian school. The subsequent chapters will examine political practices that demonstrate possible answers to these questions.

The confidence with which this definition is stated seems to be contradicted by how he states the general and practical definition of citizen in the next line and at:

“But in practice citizenship is limited to the child of citizens on both sides...”¹⁵³

The difficulty in this definition, as Aristotle acknowledges at 1277b33-1278a41 (and in some sense at 1275b6-9 as will be discussed later) is that it creates a category of individuals who are called citizens by birth but who are not citizens in his technical sense. Depending on how broadly Aristotle's definition is interpreted, this category may be substantial, for example in an oligarchic constitution where there is a high property qualification for office. Some of those of citizen descent will be too poor to pass any property thresholds, even for such a basic office as membership of the assembly.¹⁵⁴ There is a range of interpretations of Aristotle's understanding of these excluded so-called “citizens”. This chapter reviews this literature directly, organised by how this troublesome category is interpreted. The next section traces the overall arguments

¹⁵² 1275b18-22 Translation Rackham.

¹⁵³ 1275b23

¹⁵⁴ 1294b1-6

Aristotle is making in the *Politics* by comparison to the understandings of politics and citizenship he is explicitly reacting against. The majority of this chapter is dedicated to a semantic deconstruction of this definition, first examining the passage in detail, and then reconstructing an Aristotelian understanding of the terms interacting in this definition.¹⁵⁵ Finally, this chapter establishes what Aristotle's parameters for 'participation' are, a set of parameters that are further explained in chapter 3 and then used to examine the evidence for political practices discussed in chapters 4 and 5.

2.1.0 Previous readings of Aristotle's definition

Aristotle's definition of citizenship continues to be used in discussions of ancient political practices¹⁵⁶. However, there is relatively little recent work focused on detailed analysis of *Politics* as a text compared to the extensive historical scholarship that has made use of Aristotle as a piece of historical evidence (or critiqued it as one). On the key issue of who is included as a citizen by Aristotle's definition in Book III only a few scholars have deviated significantly from the more exclusive reading. The definition of 1275b18-22 is the most frequently used by authors making use of Aristotle.¹⁵⁷ There is some division over how this definition has been interpreted. Some scholarship focuses directly on this passage from 1275a4-1275b22¹⁵⁸ who read a form of citizenship which narrowly includes only those eligible for particular political offices. Others have adapted this reading by the inclusion of a concept of "second class citizenship"¹⁵⁹ that Aristotle mentions at 1278a1-6. Some have expanded this reading of citizenship further, either remaining focused on the 1275b18-22 definition¹⁶⁰, or fitting this reading into a broader reading that includes some of the other ways Aristotle defines citizen elsewhere in *Politics*.¹⁶¹

2.1.1 Totally excluding unempowered citizens from Aristotle's definition

Readers have tended to assume Aristotle excludes unempowered citizens. Reading the definition at 1275b18 as including all those potentially eligible for "offices" excludes many adult native poor men in oligarchic constitutions where "offices" have property

¹⁵⁵ Following Sakellariou 1989,

¹⁵⁶ See introduction, Filonik 2023, Vlassopoulos 2015, Duploux 2018b

¹⁵⁷ See above for this definition use in recent scholarship, in older material it appears even more frequently Finley 1991, Manville 1990, Hansen 1998, Mann 2008, Rhodes 2009a amongst others.

¹⁵⁸ Miller 1995, Morrison 1999

¹⁵⁹ Keyt 1993

¹⁶⁰ Riesbeck 2016

¹⁶¹ Vlassopoulos 2015, Sakellariou 1989, Aristotle's alternative definitions of citizenship discussed below and by Sakellariou p.247-260.

qualifications¹⁶². The contention of this view is that the property qualifications in oligarchic constitutions are the minimum requirements for citizenship. I have referred to this as the narrower reading. In this section I will summarise the arguments in favour of this reading and show why they are ultimately inconclusive or leave contradictions in the text.

The narrow reading of the passage at 1275b18-22 seems consistent with Aristotle's later description of the citizen's virtue "to rule and be ruled in turn"¹⁶³ because if a citizen is to be good at ruling, they must be eligible for office. Aristotle defines ruling as the "active" half of the central quality of citizenship. A citizen who cannot hold office is always ruled, and is therefore defective. Whilst passages discussing the working class of a polis demonstrate Aristotle has identified some types of people vital to the polis that do not fit into the citizen body¹⁶⁴, the way he discusses these exceptions can be read as reaffirming a fundamentally narrow rule. His discussion here seems to take for granted that many labourers will be excluded from his definition of citizenship, and he does seem to think of admissibility to office as the key to citizenship. He suggests that all labour might be done by slaves and *metics*, as he believes it was historically.¹⁶⁵ The fundamental response to this argument is that a citizen can be defective, unfulfilled or in some other way not fully embodying citizen virtue, whilst still being a citizen, a separation Aristotle makes explicit at 1276a1-9. Aristotle's anxiety here is over the fact that his definition includes many labouring poor, who even though they stand in a servile relationship to the polis socially, share in its power politically.

Hansen excludes the unempowered *polites* from Aristotle's definition, giving the maximalist position that in a monarchy only the king is a citizen, as the only true power holder.¹⁶⁶ He cites Aristotle supporting this view at 1284a3, in which Aristotle acknowledges the possibility of individuals too individually excellent to legislate for. And again at 1287a8-12, in a discussion of absolutism Aristotle where does outline a constitution in which a monarch has complete power but also names the subjects of such a monarchy *politai*. Finally Hansen cites 1295a17-21 where Aristotle names absolute tyranny but again does not imply that the tyrant is the only true

¹⁶² See the fifth section on *arche* in this chapter for an alternative translation to "offices".

¹⁶³ 1277a14-15

¹⁶⁴ 1278a1-6

¹⁶⁵ 1278a7-10

¹⁶⁶ Hansen 2006 p.112-3 Although in the same passage Hansen suggests that most oligarchies have an assembly even if with a limited competence, also true for many monarchies of this period, and a feature that would give citizenship to the many by Aristotle's standards. Carlier 2002 p.266 on how Macedonian monarchy also involved an assembly with some powers.

citizen. The compressed definition of non-tyrannical monarchy is at 1313a5: the subject of monarchies are willing ceding most power to the sovereign. This suggests some minor power sharing, even in absolute monarchies. So for each of these citations straightforward objections can be raised against Hansen's use of *Politics* to support this narrow reading.

Hansen's position, particularly on the issue of citizenship in monarchy, is somewhat extreme. However, his fundamental reading of Aristotle's definition of citizenship, that it is holding of political power in a narrow sense of the term only represented by eligibility for supreme offices, is also found in scholarship critical of Hansen's use of Aristotle. In the introduction to her work on citizenship in classical Athens Blok makes the case that Aristotle's definition of citizenship excludes most of those called a *polites* in his own time across the Greek world.

"Indeed, the level of abstraction of Aristotle's definition is such that we may wonder whether it was applicable to real, historical poleis at all. If we suppose that as a 'general conception of citizenship in a polis' it ought to work for most poleis, at least where access to archai was concerned, even a quick glance shows clearly that it often did not. In the multi-layered politeia of Sparta, for instance, many *Spartiatiai* never made it to the ephorate, the main archai. In Thebes, which in the course of the fifth and fourth centuries changed from an oligarchy to a system with less restricted political access and then back again, many *politai* were not admitted to leading offices but were still considered *politai*. Even in Athens, where a wide section of the male citizen population was involved in political office, Aristotle's definition did not cover the real-life situations. But the *Politics* does not claim to describe any particular existing polis, it tries to establish what the best possible polis should be like"¹⁶⁷

This objection is built again on a similar reading of Aristotle's definition with a similar focus on 1275b18; that only those who are eligible for political office can be called a *polites* in Aristotle's sense. Although this reading is fundamentally limited, given the breadth of Aristotle's discussion of citizenship, it has been influential in study of ancient Greek political institutions. The definition at 1275b18-22 is the definitive one for these approaches. Blok's central point against Aristotle is more subtle; he centres citizenship on participation in politics whilst other sources of evidence, especially Athenian oratory, associate citizenship more strongly with shared religious practice than political participation.

¹⁶⁷ Blok 2017 p.24

One simple problem that this approach to the definition creates is a series of inconsistencies where Aristotle is referring to unempowered citizens as *politai* without any further explanation, suggesting that he actually does think of these *politai* as citizens in his sense. The clearest examples of this are when Aristotle discusses the difference between monarchy and tyranny and notes that kings are guarded by *politai*, whilst tyrants are guarded by foreigners, a point he brings up twice.¹⁶⁸ Not only are these guards excluded from the most powerful offices in a monarchical constitution because there must surely be outside the royal family, but it suggests a broader pool of citizens in a monarchy.

The narrower definition of citizen can be sustained by reading this list as instances where Aristotle is using the popular definition of *polites* rather than his technical definition. Miller expresses a widely held stance on unempowered citizens:

“There is another group which has an ambiguous status: free, native-born individuals who fail to qualify for citizenship but do possess certain limited civil rights and legal protections. These would often include the descendants of metics, foreigners, or freed slaves, along with manual workers and dispossessed persons who could not meet the minimal qualifications for citizenship. Among the constitutions which Aristotle surveys, only the most extreme form of democracy grants citizenship to all the free inhabitants. In the main Aristotle conforms to the strict definition of ‘citizen’ of Politics III 1, but occasionally he uses the term in a wider sense covering all free natives.”¹⁶⁹

An inconsistency that works for the narrower reading is that it makes sense of Aristotle's comments at III 1275a4-5, 1278a 21–34, that the constitution defines who is a citizen, and that in democracies more people are included. In the narrow reading democracies have substantially more citizens than oligarchies. As will be discussed in more detail where I make a positive case for an inclusive reading of citizenship, this is not an inconsistency for the broader reading either; democracies may well still choose to include a greater number of inhabitants in citizenship from among those with only one citizen parent, and other types of *metic* with a claim to citizenship that may vary between constitutions. Democracies tend to be more inclusive of

¹⁶⁸ 1285a25-27 and 1311a7-8 a more ambiguous contradiction appears at 1332a32-34

¹⁶⁹ Miller 1995 p.147-8

these groups as a political strategy to include more among the poor, and thus proportionately increase the size of the faction of the many.¹⁷⁰

There are poleis where membership of the assembly is limited by property qualification.

Aristotle names this as a kind of oligarchy, and as a generally un-democratic feature.¹⁷¹

Massalia is the polis of this kind that Aristotle gives the most details about.¹⁷² This would mean that, for Aristotle, those who could potentially be citizens if they made the wealth qualifications would count as citizens all the time, but Aristotle does not accept these potential citizens as true citizens. This argument for the narrow reading assumes Aristotle sees these *timemata* qualifications as requirements for any citizenship at all, rather than just for specific political offices. The other arguments we will discuss makes the case that Aristotle connects this requirement to the term *politeuma*.¹⁷³

Some debate over the definition of citizenship is framed as an answer to the problem of coherence that is caused by adopting the position that Aristotle's citizens are only the rulers of the polis. Morrison gives seven possible solutions to this issue, but all based on the premise that Aristotle's definition of citizen means sharing in ruling office and this is in tension with his definition of the good regime "ruling for everyone's benefit, not just the rulers".¹⁷⁴

A more open position is given by Davis in his commentary, though he still excludes the unempowered from citizenship.¹⁷⁵ Davis does connect the definition at 1275b18-22 with other definitions Aristotle gives. He is making the case that the definition of citizenship is a continuation of the question 'what is the polis' asked at the beginning of Book III (1275a1-3) and that this is answered by naming the citizens, those that share the power of the polis. The citizens are therefore the polis, and they collectively hold the responsibility for polis decisions, such as the incurring of debt (1276b14-16). Therefore for Davis the different regimes include completely different people, by different principles; in a democracy the free are citizens, but in an oligarchy the wealthy are. In my view this confuses who holds supremacy (*kurion*) with who are citizens and share (*metechlein*) in the power (*arche*). However, in this discussion he

¹⁷⁰ 1319b7-19

¹⁷¹ 1294b4-14

¹⁷² 1305b1-10, 1320b18, 1321a29-31

¹⁷³ 1279a26-28, On the meaning of *Politeuma* see Hansen 2013 p.39-48

¹⁷⁴ Morrison 1999

¹⁷⁵ Davis 1996 p.72-77

grapples with the central issue; that every regime is defined around this central tension of who is excluded outright, and that makes them “political” (in the sense that Aristotle uses the term in Book I). I will argue that no citizen can be completely excluded but many are politically disempowered. Any political relationship, necessarily including unequal ones, makes its partners citizens by Aristotle's definition.

2.1.2 Counting unempowered citizens as ‘second-class’

Scholars have noticed the problems with this narrow reading of the definition and a position has emerged identifying a “second class” of citizenship implied by Aristotle. Aristotle, discussing labourers names them as a group of incomplete (*Ateles*) citizens.¹⁷⁶ This class can be a way round the problem that, everywhere but extreme democracies, many so-called citizens are excluded from eligibility to magistracies that hold judicial and deliberative power. They are partial citizens that are ruled but do not rule. Mossé names these “passive citizens”, Johnson “incomplete citizens”, and Keyt “second class citizens”¹⁷⁷ all in contrast to the *politeuma*; those who are active as citizens and qualified to take on ruling roles. Though there are significant differences in these approaches, they are grouped by a shared solution to the problem of how Aristotle describes “unempowered citizens” in a categorical system that seems based on the citizens' share in power.

Claude Mossé's essay on the “passive citizen” issue opens an extended reading of citizenship; lesser citizens exist and are passive within the political sphere of the polis.¹⁷⁸ These “second class” Aristotelean citizens are Mossé's way of working through the idea of what the “political partnership”¹⁷⁹ at the heart of Aristotle's model of the polis, might mean for partners in the ruled position. Aristotle sees ruling as the fullest embodiment of citizenship, but being ruled is also an act of citizenship, as is evident from his discussion of the virtue of being a citizen. Mossé, emphasizing the passages on the citizen's virtue to rule and be ruled, suggests that Aristotle is creating definition for groups that were previously ill defined. In creating the category of citizen, he must allow for a large number of ‘passive citizens’ who are permanently ruled and therefore

¹⁷⁶ 1278a1-6 There is a potential corroboration for this category of citizen in the way the theoretical discussion of Athenian oligarchy in *Ath. Pol.* 31 is organised. This would depend on a differentiated use between *astoi*- and *politai*, consistently enough applied to distinguish between ethnic citizens and practicing citizens which seems tentative, at least in the case of Aristotelian thought.

¹⁷⁷ Mossé 1979, Johnson 1984, Keyt 1993

¹⁷⁸ Mossé 1979, read this way by Vlassopoulos 2007 p.77.

¹⁷⁹ 1252a7 ἡ κοινωμία ἢ πολιτική

incomplete citizens. This categorization is drawn from a comparison to the French revolutionary constitution of 1791 which distinguished between active and passive citizens. Mossé's conjecture is that this was an emergent and ill-defined category in the mid 4th century that Aristotle seeks to name. This category names the excluded from power and thereby fits them into an Aristotelian structure of the polis. This understanding of the definition has been used to categorise Hellenistic poleis,¹⁸⁰ and its strength as a historical classification is it differentiates between those who are a citizen for the purposes of descent qualification (passive) for citizenship, and full citizens; a division which is usually gendered in some way as well as having to do with property holding.

This approach also works to explain the *timemata*, the property qualification that is given as a requirement of assembly attendance, to different extents.¹⁸¹ If a property qualification is required to exercise all of the defining features of citizenship, then the "citizen" body must be split into those who do qualify, and those who would qualify if they were richer (totally excluding absolute non-citizens who would not qualify on other grounds regardless of their wealth); the active/passive distinction helps clarify this tiered system. Also in favour of this reading are ancient discussions of citizenship beyond Aristotle that explicitly apply language of 'active' citizenship, such as in the Gortyn code.¹⁸² The existence of these categories in ancient citizenship discourse suggests we can usefully apply them to Aristotle's definition of citizen as well.

In 'Aristotle and Anarchism', Keyt summarizes the argument for this way through the impasse with the 'second-class' citizen:

"The solution to this problem is to be found in Aristotle's tacit recognition of second-class citizenship. There are several reasons for attributing such a concept to Aristotle. First of all, by Aristotle's definition of a full citizen there is only one full citizen in a kingship-the king himself. Thus, the only citizens in a kingship are the members of the royal family. But in two passages in the *Politics* Aristotle, following the normal Greek practice, refers to other men besides the king himself as citizens (III.14.1285a25-27, V.10.1311a7-8). (In both passages a citizen, a *polites*, is contrasted with an alien, a *xenos*.) Since these men do not share in deliberative or judicial

¹⁸⁰ Carlsson 2023 p.429-430

¹⁸¹ 1294b3-14

¹⁸² A verb form of citizen, *poliateuen* appears in two inscriptions in Gortyn G51.7, G72.9.33 Gagarin and Perlman 2016 p.79-80.

office, the citizenship they enjoy must be second-class. Secondly, in discussing revolution Aristotle twice contrasts a group of men who are "outside the constitution" with the group of rulers (V.4.1304a16-17, 8.1308a.3-11). Since these men appear to be neither metics, foreigners, nor slaves, they too must be second-class citizens (compare III.5.1277b33-39). Thirdly and finally, in his essay on the best polis, in a context where only adult males are under discussion, Aristotle uses the expression "citizens who share in the constitution" (VII.13.1332a32-34), which would be pleonastic unless one could envisage (second-class) citizens who do not share in the constitution."¹⁸³

This argument arises from the reading that Aristotle is unacceptably inconsistent if the disempowered citizen is not to be counted as a *polites* at all. We could add more examples to the list given by Keyt, all of which would be solved by accepting these individuals as *politai* in this second-class category. However, the positive case for this category is less persuasive. "Who would these second-class citizens be? Presumably, they are individuals who have a moral, though not a legal, claim, based on their free status and place of birth, to be first-class citizens"¹⁸⁴

It is an implicit category being supposed by the inconsistencies that would otherwise emerge. This argument is made while discussing how Aristotle may have a non-coercive principle, but in addressing these apparent contradictions in Aristotle's view of the citizen Keyt must read that those 'outside the constitution' are still part of the whole of the polis and can be correctly called *polites*. Keyt names them second class citizens because he sees them as having no share, but only a potential share;

"The assumption in the case of a second-class citizen is that he or she would become a first-class citizen should such citizenship be maximally extended, as in a democracy"¹⁸⁵

In broad terms seeing a hierarchy of different citizenships seems sound; there were often tiers of citizenship eligible for different categories of position. However its application to Aristotle specifically means that we miss important aspects of what Aristotle is saying specifically and leaves questions; where exactly do we draw the active/passive line, and the passive/not a citizen line?

¹⁸³ Keyt 1993 p.149-151

¹⁸⁴ Keyt 1993 p.141

¹⁸⁵ Keyt 1993 p.141

Keyt's approach takes the difference between holding the supremacy (*Kurion*) and sharing in the power (*Arche*) as if it is the same as the difference between potential and active citizenship.¹⁸⁶ Keyt makes this case clearly:

"The group of full citizens is thus the supreme political authority in a polis."¹⁸⁷

By this definition it is as if holding a partial share that lacks supreme power is holding no share at all. Overlooking the significance of supremacy leads to the issue in Keyt's argument that a democracy, where all citizens are first class (by Keyt's definition) is nevertheless described as deviant, being governed against the interest of the ruled. This argument of Aristotle's then, does not make sense unless some alteration is made to the definition of democracy:

"The answer is that the definition of democracy that leads to its being classified as a deviant constitution is in terms of social classes rather than free status."¹⁸⁸

By this reading then the rich in democracies are reduced to "virtual second class citizenship"¹⁸⁹ and so because their interests are ignored democracy can be categorised as a deviant constitution. This subtly shifts the categories that Aristotle defines democracy by, from rule by the free to rule by the poor.

This reading of Aristotle does not seem fully supported by what he says at 1279b34-1280a6; that oligarchy is rule of the rich and democracy of the poor, because the grounds on which they hold their power are wealth and freedom. Additionally, this contradicts what he says at 1301a26-1301b4; that democracies are based on the notion that all the equally free are equal in all respects, it is free status that defines the democracy, and it is deviant because the free apply majoritarian principles to overrule other claims to power. These constitutional definitions seem to be based on a principle that all the citizens, whatever their relative shares in the constitution, have equal claim to be ruled fairly. These difficulties are often results of Aristotle giving various and subtly different definitions of *polites*, *politeia* and *polis* throughout Politics.

These two classes of citizen do reflect an aspect of the text; those citizens that are unempowered still must be ruled "politically". This political rule cannot be reduced to "rule for mutual benefit". In Aristotle's justification of slavery in Book I he makes it clear that all

¹⁸⁶ See section 2.4.

¹⁸⁷ Keyt 1993 p.140 citing 1275a26-29; 1278b10-14; 1282a25-39

¹⁸⁸ Keyt 1993 p.142

¹⁸⁹ Keyt 1993 p.142

relationships of rule should be for mutual benefit, and that the difference between them is not this principle but the nature of the rule itself. Political rule is a ruling relationship which is typified by ruling and being ruled in turn, but which extends to more flawed versions of this model; this will be discussed in the concluding section on the virtue of the citizen and a normative definition.

2.1.3 Including unempowered citizens in Aristotle's definition

This thesis builds upon these readings but challenges their particular understandings of who is excluded by the definition; proposing instead that Aristotle is seeking a definition that can be applied across distinct kinds of constitution¹⁹⁰. The relativity of citizen to polis must be built into Aristotle's definition of citizenship, so simply "eligibility for office" is an unsatisfying reading of this definition because it applies only to democracies. Scholars have explored the idea that Aristotle is suggesting an inclusive definition of citizenship.

The core aspects of all the above readings of Aristotle's definition of citizenship are outlined thoroughly by Sakellariou.¹⁹¹ He presents the apparent contradictions in Aristotle systematically, going through the text thoroughly without making attempts to solve them through interpretation. This is the most sustained attempt at a close reading of this part of *Politics* in recent scholarship. The discussion of Book III that follows will engage precisely with his points, but the broad difference of interpretation is that I view the definition as broader, encompassing more of those citizens in oligarchies not eligible for specific offices. This difference stems primarily from a different reading of *arché*. Sakellariou emphasises the significance of *arche* meaning both authority in general and specific positions of authority (offices) but takes the narrow meaning as intended in Aristotle's definition. Sakellariou concludes that "Aristotle uses the term *polites* with a meaning wider than that which he himself defined in successive definitions"¹⁹². This states the problem, but his conclusion is that this is simply an inconsistency in Aristotle's work "attributed to the carelessness of Aristotle himself in the spoken development of his thought, or to a misunderstanding of one of his students who wrote it down, or to some later user of the text."¹⁹³ As I will describe in the following passages,

¹⁹⁰ following Sakellariou 1989, Vlassopolous 2007 p.85-88, Riesbeck 2016.

¹⁹¹ Sakellariou 1989 p.247-260 especially.

¹⁹² Sakellariou 1989 p.264

¹⁹³ Sakellariou 1989 p.251

taking the broader option leads to a more consistent interpretation of Aristotle's definition and use of *polites*. Nevertheless, by outlining every proposed definition of *polites* in Politics Sakellariou does represent the range and complexity of Aristotle's overall understanding.

Sakellariou is not able to explain why Aristotle uses both these terms; if *arche* is encompassing every magistracy that has judicial functions, then why not use just *arche*? The use of both *arche* and *krisis* to me is not superfluous. This is one of the questions that is clarified by taking a more inclusive view of Aristotle. He is making explicit just how inclusive he is being, and this is discussed more thoroughly in the next section.

Sakellariou identifies the ambiguity in the interpretation of *arche* ('office, magistracy' or 'power, function') and its potential significance. It is only by reference to real political participation that this passage of Aristotle is made clear. Sakellariou's discussion of the definition at 1275b "The citizen of the second definition is not the highest, lifelong magistrate like the members of the assembly and of the popular courts in a democracy, because in an oligarchy there were no popular courts, and the assembly was not the highest magistracy." Though this is more significantly inclusive than he gives credit for, Sakellariou relies on the active/passive division of citizen discussed above. This distinction is less clear looking at the concrete examples of political practice; where holding minor offices and enjoying partial participation in judicial functions and unempowered assemblies are all open to poor "passive" citizens in oligarchies. My reading does not directly disagree with Sakellariou in his interpretation of Aristotle's words, but the meaning is significantly changed by reading these words in the context of widespread political participation.

This tradition of emphasising the multiplicity of Aristotle's definition has been picked up by Vlassopoulos; "We should prefer relational definitions to the axiomatic one based on the participation in deliberative/judicial definition."¹⁹⁴ He also recognises the same problematic category in the 1275b definition even whilst seeing Aristotle's overall definition of citizen as more multiple and complex:

¹⁹⁴ Vlassopoulos 2007 p.75

“It is a definition that concerns only the part of the polis that has political rights and participates in political procedures: as it can exclude, apart from the usual slaves, metics and women, the part of the citizen population that has no political rights”¹⁹⁵

Vlassopoulos is interested in Aristotle's use of polis, arguing that he uses it broadly to include political bodies outside the Greek world.¹⁹⁶ This different understanding of Aristotle's polis shifts the ground for how we must understand the citizen. The character of the free person who is governed but does not share in government changes. Rather than the poor in Greek oligarchies, Aristotle might be imagining all kinds of peasantry, freemen and subjects of the various political structures anywhere in the world. This approach suggests a broader reading of Politics in general, and a reading of citizenship in particular that includes poor free men in oligarchies.

Riesbeck, focusing his discussion on Aristotle's understanding of monarchy and community, builds up a reading of Aristotle's definition of *polites* that includes those citizens in a monarchy who, not being in the royal family, will never hold the supreme office¹⁹⁷. There is a key line of Aristotle that supports the understanding that monarchies are populated by citizens, that citizens guard a king, whilst foreign mercenaries guard a tyrant¹⁹⁸, and this also suggests that the subjects of a king are citizens and is clearest of the contradiction of exclusive citizenship discussed above. Riesbeck's argument is more focused on Aristotle's philosophy of monarchy, that the ruled must be ruled in such a way that recognizes their citizenship, even when ruled by a king.¹⁹⁹ This argument can be expanded to include oligarchies and other forms of Aristotelian constitution. Examining specific examples of the kind of constitution that Aristotle was discussing can support this argument effectively.

This inclusive reading of Aristotle's definition creates some inconsistencies of its own. If the unempowered citizens are citizens even in an oligarchy, why are more people included in democracies, and why are some who would be called citizens in a democracy not called so in

¹⁹⁵ Vlassopoulos 2007 p.77

¹⁹⁶ Although Aristotle assumes some chauvinistic ideas about non-Greeks in Asia and Europe being more pre-disposed to tyranny than Greeks 1285a20-25 he also assumes an ongoing process of political development that throws up similar institutional responses to the permanent problems of political organisation 1329b26-28.

¹⁹⁷ Riesbeck 2016

¹⁹⁸ 1311a7-11, 1285a 25-7, see above.

¹⁹⁹ Riesbeck 2016 p.239-248

an oligarchy?²⁰⁰ The more exclusive readings understand this category to be those poorer members of the polis who are now excluded from official positions and are therefore no longer citizens. The example given of a polis where the rich form a majority shows Aristotle has space for, at least in theory, a constitution where someone who is free born and like the rulers in all respects except money might be given no share in *arche*.²⁰¹

The inclusive reading must argue that there is a class which Aristotle describes, of artisans that includes freedmen, *metics*, and the *periokoi* of a polis, and among these classes are some who might be granted citizenship in a democracy but not in an oligarchy.²⁰² Aristotle focuses on this group from 1277b34 to 1278a40, the workers,²⁰³ because they form a particular challenge to his normative moral system, in which a life of manual toil is morally degrading, and so to him they cannot possibly be good citizens in a normative sense.²⁰⁴ These are those people who in Aristotle's ideal constitution would be slaves or serfs, and explicitly not citizens.²⁰⁵ Apart from his normative moral objection, their poverty means they will not pass oligarchic wealth requirements, and so they are excluded from the activities that makes them citizens; this is an issue when they do not fit into the categories of *metics* or freed or enslaved. This is where he invents the second-class citizens who are discussed above and says there are many subcategories of such citizens in different constitutional orders.²⁰⁶ He also describes, in the same section on troublesome boundary cases, how there are different laws on citizen descent, and how these laws can change over time.²⁰⁷ This reflects the multidimensional complexity of actual definitions of citizenship; descent rules, property requirements and sub-polis group customs around key rituals all interact to maintain the ever-changing category of the *politai*. Aristotle acknowledges that the citizen body has ever shifting borders. The difference between reading this section in an inclusive or exclusive way is just how large a chunk of the population

²⁰⁰ 1278a 21–34

²⁰¹ 1290a35–1290a37 Notice that this situation is a theoretical extreme, and for this hypothetical to function in the argument it must be a situation no one would describe as 'democratic'. The historical example just below of a class composition of this kind in ancient Colophon, where the rich are in the majority, does not suggest that the poor of that polis were completely excluded, only that the rich ruled. 1290b15–16

²⁰² Sakellariou 1989 p.263

²⁰³ In this discussion the difference between various status categories of *thetes*, *technitai*, *banausoi* is elided as part of the discussion on citizenship, but Aristotle does not always group all 'workers' together in this broad way 1319a 26–31, 1337b21 cf Nagle 2006 p.119.

²⁰⁴ 1278a21–22

²⁰⁵ 1330a26–27 Although he mentions that slaves should be given the change at freedom as a reward, he does not explain how these freedmen fit into his ideal system at all.

²⁰⁶ 1278a15–19

²⁰⁷ 1278a27–34

falls into these categories of potentially disenfranchised citizens; the more inclusive reading suggests that this category is, in practice, relatively small and does include the entire poor of a polis. In all poleis of any constitution a great many people fall outside the category of citizens by Aristotle's definition or by any others; metics, enslaved, freed, helots, serfs, *perioikoi* and others emerging from the mixing of these social categories.

These categories trouble Aristotle because they concern the shifting borders of citizenship over time and between revolutions, and so are fundamentally at odds with any definition that tries to be eternal. The inclusive reading holds that the difference in the number of inhabitants given citizenship between an oligarchy and a democracy²⁰⁸ are made up by these marginal numbers of this class. This is instead of the decisive chunk of non-ruling *politai* now being counted as citizens that would explain the difference according to the more exclusive reading of citizenship. The inclusive reading does not see poor people living in oligarchies, called *politai* in everyday language, as excluded from Aristotle's definition. This solution will be discussed in more detail in the overall conclusion (6.0), here it is useful to examine the *poleis* that Aristotle is investigating, and observe how these abstracted categories of citizenship relate to actually practiced citizenship in different contexts.

This thesis will argue that whilst the borders of citizenship shift according to constitutional changes, the core Aristotelian definition of citizenship, that those who share in the power of the polis are citizens, holds as a valid possible understanding given the many ways in which citizens could participate marginally and non-decisively. The most persuasive case for a more inclusive reading of Aristotle's definition does not come from the text of the *Politics* itself, but from a broad survey of the poleis he studied that is the focus of chapters 2 and 3. The remaining sections of this chapter will examine the philosophical context of *Politics*, and then systematically break down the language in the definition. This will demonstrate the fundamental openness of Aristotle's definition, and finally this chapter will focus on what kinds of behaviours Aristotle considers 'participation in power'.

In practice we see that the problematic category for Aristotle, those male so-called citizens who are totally excluded from any share of power, is not a large category. Aristotle defines 'sharing in power' more broadly than has often been recognised. Simultaneously our expanding

²⁰⁸ 1275a30

understanding of those *poleis* which are not radical Athenian style democracies has shown an increasing variation of ways citizens participated. In this way the category is squeezed. As I intend to show, the vast majority of those called *polites* did have some 'share' in the power of the polis. The bigger problem for the broad applicability of Aristotle's definition are citizen women. They are implicitly excluded by Aristotle despite sharing *polites* terminology in feminine forms.²⁰⁹ This is connected to Aristotle's relative silence around religious and cult organisation. Examining the practices of local power sharing, the exclusion of women and of sacred offices becomes the most noticeable tension between political arrangements as described in *Politics* and those of Aristotle's world. It is certainly not my intention to defend Aristotle from this line of criticism, but rather to separate out Aristotelean misogyny from that of his later readers. My conclusion here is that Aristotle does not pay attention to women's forms of participation, but that his definition excludes them more by omission than by explicit exclusion. A few examples from inscriptions of women participating in ways that can count as political in an Aristotelian sense can indicate how categories he sets up without giving consideration to women nevertheless do include them in some ways.²¹⁰

2.2.0 Ancient theories of citizenship before Aristotle

Aristotle is responding to a pre-existing set of philosophical ideas within his immediate tradition about the nature of citizenship. Not only is he trying to fit his definition to be useful and recognizable to the many forms of citizenship as it was practiced, but he is also framing it within, and in some ways against, preexisting theoretical frameworks of political thought. His theory of citizenship is an important area of Aristotelian innovation. Similarities are often stressed; Aristotle follows the tradition of a tripartite categorization. Aristotle draws attention, firstly in the opening to *Politics*²¹¹ and then again throughout, to the definitive difference in his understanding of ruling; that political ruling is fundamentally different to other forms. The significance of this break is central to his definition of citizen because this is where a power is exerted in uniquely political ways.

²⁰⁹ *politides* in Euripides *Electra* 1355

²¹⁰ This issue is returned to at sections 4.7.3 and 6.6.

²¹¹ 1252a7-18

This three-constitution system was the paradigm of constitutional thought before Aristotle. Aristotle has a theory that accommodates it but sees the conflict of values between the many and the few as the fundamental driver of political conflict and change. This results in moments of contradiction in *Politics*. Aristotle describes the tripartite division of the constitutions just before he gives his most complete account of two fundamental directions for constitutions; oligarchy and democracy.²¹² He then gives an outline of the principle of all polis communities that is broad enough to include many kinds of independent community²¹³ in that they are related to the ability to contribute to the good life, concluding it is this contribution to shared good living that is the just claim to power in the polis, because that is its purpose.²¹⁴ In book five Aristotle is more concerned with the tension between Oligarchic and democratic ideology of equality as the constant tension that activates factional strife.²¹⁵ These contrasting ways of understanding the fundamental differences in constitutions are overlaid on the simpler “one-few-many” system he has inherited. One way to make sense of this difference is a semantic discussion of how he places different ideas of power in his theory; the contrast between *kurios*, *arche* and *dynamis* which will be explored in the next half of this chapter (2.4). First it is useful to outline the points of departure that Aristotle is making from previous approaches to citizenship.

‘Who is doing the ruling?’ is a categorical question for Aristotle that decides what kind of constitution a polis has, but ‘how are they ruling?’ is a fundamental question that can be asked in any constitution. This question decides in all cases whether a rule is ‘good’ in a normative sense. This is the normative question that can be asked of the category of ‘political rule’: that kind of rule exercised over free people.²¹⁶ This section (2.2) will make the case, with a very brief history of Greek political theorising, that it is with this category and its definition that Aristotle is innovating most decisively. This is also the category that requires his new definition of citizenship.

²¹² 1279a23-1281a9 Aristotle starts by simply defining the three constitutions and their three divergent forms (1279a26-31) but reaches the conclusion that democracy and oligarchy are defined by something other than being the deviant rule of the many or the few but have an underlying principle in each of them based on differing claims to equality and therefore to just power. 1280a2-4

²¹³ Vlassopolous 2011 p.71 Discusses the applicability of Aristotle’s definition of ‘polis’ to non-Greeks, and to other forms of community not generally called *poleis* today.

²¹⁴ 1281a5-9

²¹⁵ 1301a26-1301b7

²¹⁶ First argued for at 1252a8-1252a18, defined more fully 1277b9-22.

2.2.1 Citizenship theory before Aristotle

Aristotle is working within an intellectual tradition and to identify the unique aspects of his approach it is necessary to identify which approaches he takes from this tradition, and where he breaks with it. His general application of *polites* terms are not far from earlier Greek usages, though his specific definition is a novelty.²¹⁷ Earlier Greek political theory has more to say about constitutional forms. We get a kind of political theory in Pindar, where there is recognizable constitutional tri partite division²¹⁸, along with many of the fundamental concepts of politics that concern Aristotle.

“A man straightforward in speech brings forward social order (*nomon*) to everything he does, both under a tyranny, and when the boisterous host, and when the wise watch over the city”²¹⁹

This tripartition also comes with the of citizenship virtue as defined by public speaking, whether honest or dishonest²²⁰. Pindar uses *astos* rather than *polites* for citizen²²¹, the verb used to express ruling here is *tereonti* (watch over)²²², and there is no term for constitution here at all, but there is a connection established between public speaking and good community membership. This is also a very early example of the kind of political assumption that this thesis examines in Aristotle: that in any of the three distinct constitutional structures there is a sphere of politics to which the citizens have some access. One, many and few remain as the three shorthand ways of describing the fundamental approaches to government, but there is a persistent assumption that in all three a 'people', more broadly defined than just the rulers, hold important power.²²³

²¹⁷ Early instances of *polites* are relatively uncommon, but demonstrate a Tyrtaeus uses the plural *politai*, although in a poem too fragmentary to read a detailed meaning P.Oxy. 3316. Cartledge 2016 p.41-45 very generally summarises some of the difficulties in these early occurrences of *poli-* terms.

²¹⁸ Ostwald 2000 p.13-15 “Pindar is the first we know who distinguished between rule by a tyrant, or the wise, or the whole army.”

²¹⁹ Pindar Pyth. 2.86–88 translation Ostwald 2000 p.15

²²⁰ Pindar Pythia 2.78-88

²²¹ Pindar Pythia 2.82

²²² Pindar Pythia 2.88

²²³ Tyrtaeus 4 mentions a 'kratos' of the 'demos' alongside god-honoured kings and a good counsel. Ma 2024 p.83-5

Herodotus's constitutional debate picks up the same tripartite system, but now the constitutional forms are fully described.²²⁴ The terms for monarchy, oligarchy and tyranny are used and applied largely in the way Aristotle would come to apply them. There is not the same stress on tyranny as the deviant monarchy, but tyranny is certainly framed in a negative way, whilst monarchy is up for debate. Although the term *demokratia* is used by Herodotus²²⁵, it is not present here where a democratic system is described but is called *isonomia* by its advocate²²⁶, or just described by the genitive of *demos*. The debate is framed in so clearly Greek terms that most commentators have seen it as a set piece debate for Herodotus rather than any real attempt at reporting a Persian discussion.²²⁷

The word *politeia* first occurs in Herodotus, not in this Persian discussion of different potential forms of constitution, but in the context of Tisamenus' request for Spartan citizenship.²²⁸

Though Aristotle is not the first to use it to refer to forms of government; Thucydides, in the Pericles funeral oration, is an earlier use of *politeia* to mean constitution²²⁹. In Aristotle's most immediate context the word had come to be central in political discourse, Isocrates describes it as the soul of the polis.²³⁰ In *Ath. Pol.* Aristotle uses the term to describe grants of citizenship²³¹ Aristotle uses the term in technical discussion of forms of government that allow us to confidently translate it as 'constitution', and this is generally a narrower use than the word has across the corpus. Although even in Aristotle the single term *politeia* is used to refer to laws, traditions and political culture broadly.²³² Consequently, seeing the term as identical to 'constitution' creates misunderstanding. Aristotle certainly includes educational institutions, the structure of influential social groups, gender roles and other aspects of a society that have significant impact on politics, but which would not be called parts of the 'constitution'. *Politeia* was far less focused on the codified principles of government than the

²²⁴ Herodotus *Histories* 3.80-82

²²⁵ Herodotus 4.137 referring to the choice between 'democracy and tyranny for the Ionians

²²⁶ This is in line with a more generally moderate way of presenting democracy, though the term is flexible in its application Thucydides 4.78 cf Hansen 1999 p.81-84

²²⁷ Forsdyke 2006 p.224

²²⁸ Hdt. 9.33

²²⁹ Th. 2.37, X. *Mem.* 3.9.15 Is an example of this ambiguity- this dative use 'ἐν δὲ πολιτείᾳ τοὺς τὰ πολιτικά' could be translated equally 'in citizen', 'in politics' 'in the work of the constitution', these choices carry distinct implications.

²³⁰ Isocrates 7 Areop. 14

²³¹ *Ath.pol* 54.3 The context here makes it very clear this is not in the sense of 'constitution'.

²³² Blok p.55-57 discusses the use of *politeia* elsewhere in more detail, as well as connections to other Authors.

word 'constitution' is for us, with other terms like *nomos* used alongside to refer to a collection of laws, norms and customs.

2.2.2 Plato

Aristotle starts *Politics* by introducing his concept of political rule, defining it as distinct from other forms of rule.²³³ Aristotle is responding directly to Plato in the opening to *Politics* with this concept of "political rule". Plato, in *Laws* 690, has a passage enumerating the different claims of ruler over ruled, in which he emphasizes they are of one kind, but also notices that these claims are in tension.²³⁴ This language is echoed by Aristotle in Book I of *Politics*. The opening passage of *Politics* may be taking Plato as its opponent, or a particular line of thought that we see represented by Plato.²³⁵ This short section cannot fully explore the tensions present in Plato's understanding of *arche* or the concept of rule in general. It will give a quick overview of where Aristotle is starting from with his response to Platonic political conceptions.

Lane reads Plato's use of *arche* in a way that suggests more continuity between *Republic* and *Laws* and the reading of Aristotle presented here. Her premise is that *arche* as office was an established use of the term that implied rule with some form of accountability, and that Plato uses the term in *Republic* and *Laws* to suggest forms of accountability.²³⁶ This is particularly apparent from Plato's application of the plural *archai*.²³⁷ The contrasting positions Plato gives for this speaks to a tension in Plato's descriptions of rule, that Aristotle seeks to clarify.

There is a specific passage of the pseudo-platonic *Lovers* that Aristotle's 'political rule' distinction is directly responding to in 138C, where Socrates makes the argument that the statesman, the house-manager, tyrant and the king all practice the same art; that of justice and temperance. Aristotle picks up this thread directly, and it is this perspective he challenges at the outset of *Politics*; these "rules" are actually of a different kind,²³⁸ and this is the primary motivating question for the entire text. The Statesman also expresses this unity of art between

²³³ Garsten 2013 p.342 "The originality of Aristotle's account of the polis consists partly in his contention that it is built around a distinctive kind of rule." Though the extent to which Aristotle believes himself to be innovating here is ambiguous, it seems that his particular focus on two-way nature of political power is novel, as will be discussed throughout this chapter.

²³⁴ *Laws* 690d-e

²³⁵ 1252a7-18 Rackham's notes reference Plato and Socrates.

²³⁶ Lane 2023 p.3-9

²³⁷ Lane 2023 p.42-44

²³⁸ 1252a8-23

the statesman, the household manager and the king,²³⁹ and also specifically mentions that a large household is fundamentally the same as a small polis,²⁴⁰ which Aristotle directly refutes.²⁴¹ However we take Plato's position on the different natures of ruling there seems to be strong evidence of a pre-Aristotle position that all forms of ruling were fundamentally identical. This dispute is very significant, as it is the statesman who must act not only justly but politically, and it is by sharing some power that this political relationship is created. This theoretical difference, that political power is its own form of power defined by being partly reciprocal, is behind Aristotle's unique approaches to describing the actualities of this 'political' power.

Aristotle's most sustained direct engagement is with Plato's 'ideal' constitutions,²⁴² but his critiques of *Republic* and *Laws* are connected to different, developed understanding of citizenship. Plato's concern here with idealism and virtue informs Aristotle's approach. Though this is mostly in Books VII and VIII when discussing the ideal constitution, the idea that any constitution must be orientated towards the best form of life is present within Aristotle's definition of citizenship; the polis exists for the sake of the good life, and this kind of virtue ethics is present throughout *Politics*.²⁴³ Plato conflates general virtue with citizen virtue²⁴⁴ whilst Aristotle is careful to draw distinctions between the 'best man' from the 'best citizen'.²⁴⁵ This Aristotelian difference relates to his position on there being a distinct political type of authority, and he points out that it only relates to the virtue of practical wisdom which is important for the ruler but not the ruled. Because the citizen occupies both positions by nature, the nature of his virtue must change. His fundamental critique of Socrates is that he is treating the household and the polis as if they were the same, destroying the separate benefits of both.²⁴⁶ This echoes his first and opening critique: that government of the polis and the household must be treated differently.

This is not to say that assumptions about participation in power are not present in Plato. Plato does prefigure some of the Aristotelian discussion of some of the different and smaller forms of participation available to citizens, including sharing in judgements and the multitude of smaller

²³⁹ Plato *Statesman* 258a-259d

²⁴⁰ Plato *Statesman* 259B

²⁴¹ 1252a14 and 1276b33

²⁴² 1261a5

²⁴³ 1252b29-1253a2, 1278b19-31, 1281a

²⁴⁴ *PL. lg.* 644A-C, 817A2-D8

²⁴⁵ 1276b17-1277b34

²⁴⁶ 1263b30-33

roles and offices being a key form of participation. Plato's Athenian character in *Laws* describes the importance of giving all citizens a share in judging lawsuits.²⁴⁷ He also mentions the importance of a good distribution of sacrificial clubs so that no man lives secretly and everyone might gain "His due honour or office or the justice that is befitting."²⁴⁸ Plato also prefigures a certain performative attitude to citizenship in *Laws*; that civic virtue is a thing done together as a form of mimesis, through choral performance.²⁴⁹

2.2.3 Sophists

Politics also engages with a sophistic tradition that brings a more sceptical and functionalist understanding on the nature of citizenship. Gorgias and Lycophron (who may be master and pupil) are quoted by Aristotle and give important critiques of these idealistic and normative views of citizenship from a more cynical perspective. In 1275b26²⁵⁰; Aristotle reports Gorgias saying, whilst joking, that officials simply decide who is a citizen, and Aristotle thinks of this as basically correct. Aristotle quotes Lycophron, who he calls a sophist, saying: 'The law is a guarantee of men's just claims on each other'.²⁵¹ This would be an example of a polis and a law that doesn't go far enough for Aristotle. These two sophistic ideas are closely related, and both present polis structures, whether about laws or citizenship are merely conventional. Though Aristotle sees these answers as insufficient, he is alert to their critiques. Aristotle seeks accounts of intuitions that connect their lofty, platonic, final purposes like 'aiming at the good life' to their pragmatic immediate purposes and their self-preservation.²⁵²

Politics opens with a particular critique of previous philosophy on this subject: 'political' power is a distinct category, one that has reciprocal elements because of the natures of those being ruled, and so good ruling in the political sense is more complex than other forms of rule. *Politics* maintains the pre-Aristotelian ideas about constitutional orders, but accounts for these traditional categories differently by orientated them around of his new definition of the "political

²⁴⁷ Pl. *lg.* 6.768b

²⁴⁸ *Laws* 738B-F

²⁴⁹ 2.66e-664d. Prauscello, 2014 p.194 "In the second-best city persuasion exercised through public utterances (be they speeches, songs or myths: 2.664a5-6) is indeed the primary form of political communication 2.664c1-2". Plato's approach to the public sphere of communication is all about public morality.

²⁵⁰ 1275b26

²⁵¹ 1280b12, Aristotle's engagement with both these sophists is also attested in *soph.ref.* 183b38 and 174b33 respectively.

²⁵² EN 1130b30-1131b23 This passage sets out the purpose of the *Politics* as a text, and in its critique of the sophists also borrows their approach of applying abstract lesson to practical political purposes.

rule.” This form of rule is defined by its partial reciprocity, this allows for legitimate claims of the ruled for recognition, and so it must involve some forms of power sharing. The one-few-many categories are applied to who operates this form of ruling. This reworking of political theory places the definition of the citizen right at the heart of his project because it defines who qualifies for this “political rule”, and what are its terms.

2.3 The definition of *polites* 1274b33-1275b22

This section offers a reading of Aristotle's definition of citizenship. This reading is focused on how *politai* are defined according to the kind of actions they can take in the polis, and so opens performativity-based analysis of this citizenship. There have been surprisingly few tight readings of this key passage in recent years, though Fröhlich has a similar approach.²⁵³ As discussed, these passages have sustained some significantly different readings, and contain some irreducible ambiguities. The subsequent chapters will demonstrate how this reading of Aristotle can be applied to examples of citizen participation and will show the ways Aristotle was sensitive to his context.

Book three is where Aristotle begins building his own theory of politics as it exists. Having addressed the idea of ‘political rule’ in relation to the emergence of the polis²⁵⁴ and then to those constitutions idealised in previous political philosophy²⁵⁵ the definition of citizenship from 1275a1 onwards is his full explanation of this ‘political rule’. This first part of Book III in which citizen is defined is crucial, as it is Aristotle's idea of the citizen that defines the difference between his work and the political philosophy he is responding to.

As discussed in section 2.2, Aristotle is both applying and refining vocabulary from an existing tradition.²⁵⁶ His characterization in the literature as more pragmatic and ‘moderate’ than Plato is fair²⁵⁷, but focusing only on his particular discussion of Republic can elide an important more general critique of previous approaches to political philosophy that gives Aristotle that position. The statesman is not just a master of a big house or the father of lots of children.²⁵⁸ He

²⁵³ Fröhlich 2016, also Sakellariou 1989, though older and broader in approach.

²⁵⁴ 1253a7-18

²⁵⁵ Especially his central critique of Socrates 1263a30-33.

²⁵⁶ 1252a8-9 Book II contains refutations of political theorists whose work is otherwise mostly lost Phaleas at 1266a40 and Hippodamus at 1267b23, for details on this critique see Balot 2001, as well as his substantial engagements with Plato's Republic 1261a5-1264b26 and Laws 1264b27-1266a29.

²⁵⁷ Davis 1996 p.62-77

²⁵⁸ 1252a7-11, The political science as distinct also at 1255b17; 1252a 7-9; 1324b32.;1325a 27.;1333a3.

is a different kind of ruler, and must exercise his power reciprocally, he rules and is ruled in turn.²⁵⁹ This reciprocity sounds democratic, but this exchange is not even: citizens are not equal. The citizens then are every member of the polis who is party to this exchange. There are many ways that this kind of political relationship can be arranged, though they break down into six main forms of constitution, this is only the broadest grouping of the forms of the entire polis. The various specific offices and political institutions that compose the polis each have their own role in securing this “ruling and being ruled” reciprocity and Aristotle’s work in *Politics* is describing and assessing these many forms. Political rule, because it involves reciprocity and rotation, means having some variation of offices: positions with powers held temporarily then left. This rotation is fundamental for Aristotle because citizens rule and are ruled in turn.²⁶⁰

1274b33 -40

Aristotle introduces the difficulty in defining a polis by the dispute over who is responsible for public acts, the ‘polis’ or the particular rulers of the polis. This theme of who can be held responsible for the actions of a polis informs the structure of the enquiry into power and will reoccur. The statesman and the lawgiver act entirely upon the polis (recalling book I, the distinction between statesmen and heads of households). Here he defines constitution as the arrangement of polis inhabitants (τὴν πόλιν οἰκούντων), notably not citizens, although this is contradicted somewhat in the next line.

Whilst Book 1 discusses a generalised narrative history of how the polis came to be, this section restarts looking at the principles that structure the polis as it exists. The shift here might be read in the Aristotelian terms (although he doesn’t frame it like this), as from the “efficient causes” of the polis to the “formal” and “material causes”.²⁶¹

1274b40-1275a5

Aristotle shifts to citizen instead of polis as the focus of his enquiry, suggesting a view that he never quite fully endorses; that a polis is simply a collection of citizens, so that the citizens and their relationships are the only building blocks you need to know to fully understand a whole

²⁵⁹ Garsten 2013 p.342, 1277b14-15

²⁶⁰ 1277b14-15

²⁶¹ Arist. *Phys.* 195b20-196a2

polis.²⁶² The fact that a polis and its constitutions necessarily include non-citizens becomes a problem for Aristotle.

A polis is a composite thing composed of citizens, so the question 'who is a citizen?' becomes the most important in discovering what a polis is. Citizenship is not the same everywhere, because the nature of belonging to the polis is different depending on the constitution. This difference creates not just distinct categories of citizens, but a full spectrum of citizenships.

1275a5-22

Here Aristotle is telling us what a citizen is not, this time approaching the essence of what a citizen is by a negative method. It is possible that some of these were contemporary alternative theories of citizenship but here they function as hypothetical approaches to clarify and support his ultimate argument. His fundamental insistence that citizens are not just inhabitants means his definition of constitution *politeia*²⁶³ must include the arrangements of both citizens and non-citizens in a polis.

Inhabitants, those governed by a single set of laws and those who are not of an age to directly take part in citizen activity are not citizens 'in essence', although the comparison between these groups tells us that they may all share some aspects of citizenship. This sequence of argument is homing in on the requirements of Aristotle's citizenship.²⁶⁴

That citizens who participate in the common law are citizens in the same way as children and the elderly demonstrates that they are citizens in some qualified way, but not in the fundamental definitive way that Aristotle is looking for in his definition. This is a connection we will return to in the discussion of passive vs active citizenship and in the discussion of participation in justice more generally. The important distinction here is that metics and treaty-

²⁶²This 'wholeness' does not imply that the polis is a complete unity in the way that single organisms are unities, although this is an analogy Aristotle uses (1253a3-29), but his critique of Plato in particular implies that variable senses of 'unity' and 'priority' are possible. Mayhew's (1997) article on 'Parts and Wholes' describes the contradiction that sometimes Aristotle sees free adults as belong to the polis (pol. 1337a27-30), sometimes to themselves (Pol. 1254a8-15, Met. Phys. 982b25-26) the concept of 'political rule' helps make sense of this: there are different ways 'parts' can be yoked into 'wholes' and political rule is how the free are brought together in a polis. More on this and the concept of Polis as Organism in the conclusion.

²⁶³ 1274b39-40

²⁶⁴ Fröhlich 2016 p.105 describes Aristotle's progression of thought here as like a naturalist, seeking the unique features by which to define a species and so systematically eliminating features which other species also exhibit

sharers are covered by the legal system, but only citizens contribute decision-making to it.²⁶⁵ Fröhlich argues that Aristotle rejects the idea that access to justice is a citizen right, reasoning that Aristotle is reflecting the increasing practices of his time which allowed various kinds of foreigners and metics access to the polis court systems.²⁶⁶ However there is room for some nuance here; Aristotle's explicit mentioning of the citizen as a patron that is needed to allow a *metic* to access the courts seems like the assumption is that the power to bring a trial is the central 'participation' going on, and the ability to do this via a patron or under a specific treaty is therefore incomplete.

1275a22-24

“πολίτης δ’ ἀπλῶς οὐδενὶ τῶν ἄλλων ὀρίζεται μᾶλλον ἢ τῷ μετέχειν κρίσεως καὶ ἀρχῆς .”

A range of the translations here can clarify exactly where the key difficulties are in these terms. Rackham gives us “A citizen pure and simple is defined by nothing else so much as by the right to participate in judicial functions and in office.”²⁶⁷

Rackham's insertion of 'right' at this point is unhelpful, because as will see *exousia*, which might be translated as right is not present here but is introduced in the later 1275b22 definition. Lord drops this element, giving “The citizen in an unqualified sense is defined by no other thing so much as by partaking in decision and office.”²⁶⁸ And Barker simplifies further to “a man who shares in the administration of justice and in the holding of office”²⁶⁹

This is the first statement that gives us Aristotle's definition of the citizen. Whilst he spends some time explaining and expanding this definition, it is less clear how he fully justifies his approach. He seems to take it for granted that deliberative and 'juridical functions' are the core functions of the polis, and that these are the characteristic activities of citizens.

²⁶⁵ Whitehead 1977 p.96

²⁶⁶ Fröhlich 2016 p.106 ” Tous les historiens le disent : un des droits du citoyen est d'avoir accès à la justice de sa cité. Aristote rejette ce critère, car, à son époque, en effet, comme il l'affirme, certaines cités ont conclu des conventions, des symbola, qui accordent, à partir du ive siècle, des droits d'accès à la justice aux citoyens des cités partenaires”

²⁶⁷ Translation Rackham 1932

²⁶⁸ Lord 2013

²⁶⁹ Fröhlich 2016 p.107 also gives a range of French translations of which Tricot 1962 ”aux fonctions judiciaires et aux fonctions publiques en général” and Müller 2014 ”aux pouvoirs de juge et de magistrat” are the most distinct from English translations.

The immediate argumentative logic here seems to be that it works as a definition because it does not include those who have been stated as not citizens in the way the proposed definitions earlier in the passage, those of “sharing in a place” or “sharing in a legal system, do include these non-citizens. His case here seems to be that he is proposing a definition for a thing that is well known but has yet to be properly philosophically defined.

1275a24-33

The first piece of elaboration is on the meaning of *arche* in this context, in which Aristotle attempts to clear up the ambiguous language of *arche* and fix a meaning here. This is the vital passage for connecting the most abstract definition of citizenship and how this was reflected in actual living institutions.

Seeing potential problems in the use of *arche*, Aristotle attempts to clarify the term by specifying that it is specifically ‘indefinite’ offices. Rackham’s emphasis on the ‘term limit’ reading of this ‘*aoristos*’ is contradicted in the rest of the passage because the example Aristotle uses here of the juryman and the assemblyman suggests indefinite *aoristos* means not defined by term limits, though the example of the Spartan judges used later at 1275b9 could suggest that here *aoristos* also means indefinite in terms of what they are given the power to do, their remit. Judges in Sparta having the specific limited power to judge specific cases, as opposed to the kinds of juries in democracy where the courts are less limited to specific kinds of cases (in contrast to the Areopagus court, the power to rule of which was limited to specific cases). This is potentially a more open interpretation, but not one we can be fully confident of. As the passage continues the ambiguity of this ‘limitlessness’ persists. Other translations have taken a more open-ended approach, consistently translating *aoristos* as indefinite here and in its later contexts.²⁷⁰ So, in these first two appearances the indefiniteness of the offices is indefinite with regards to time, but when *aoristos* appears again at 1275a33 as an addition to *arche* this also means that he is combining juryman and assemblyman together with one term. This is significant because *aoristos* appears again at 1275b13, and in this context the unlimited refers to more than just time.

²⁷⁰ Lord 2013

He raises and laughs off the idea that members of the assembly or the jury might not be considered officials at 1275a30 'And yet laughable (καίτοι γελοῖον) to rob/deny (ἀποστερεῖν) 'those sovereignly powerful' (τοὺς κυριωτάτους) Arche ἀρχῆς'.²⁷¹ This establishes the relationship between the concept *kurios* via *tous kuriotatous* which helps clarify the meaning of an *arche* without limitations. Those that hold sovereign power self-evidently have a share in *arche* even if this sovereign power is spilt over a large sovereign body of members, such as the assembly.²⁷²

Aristotle locates the confusion as a semantic one, and that "it need not make a difference, it is on account of a name."²⁷³ So he seeks to clarify the issue by defining *aoristos arché* as a combination of these. This particular *arché*, specifically in this passage has a unique meaning he has defined as separate from that of a generic use of *arché*. There are still questions about what exactly these citizens are participating in that depend on our exact reading of *arche*.

Is he referring specifically to members of the assembly and jurors, or more generically to positions that hold the same kind of power that are held by these roles? I believe the tone and purpose of the passage favours the latter option, but there is some real ambiguity.²⁷⁴ The next section goes further to demonstrate this as a key question, but some ambiguities remain. This is the most direct definition of his particular form of *arche* we get from Aristotle; it is a single name for both juryman and member of the assembly.

²⁷¹ There seems to be a real position here: Plato calls a *dicast* a kind of official but only on the day he is pronouncing judgement Pl. *lg.* 767 A. And maintains that the law-courts are ambiguous in their status as officials 768 C.

²⁷² Fröhlich 2016 p.103 gives a somewhat different solution to these issues. though ending in roughly the same conclusions, translating this passage in this way "Le citoyen au sens absolu, aucun caractère ne le définit mieux que la participation à la décision et au pouvoir de magistrat. Or, parmi les magistratures, les unes sont limitées en durée, de sorte que certaines ne peuvent absolument pas être exercées deux fois par la même personne, ou du moins ne le sont qu'après un intervalle de temps bien défini; ou bien le (magistrat) l'est pour une durée illimitée, comme le juré ou le membre de l'Assemblée. On pourrait peut-être dire que ceux-ci ne sont pas des magistrats, qu'ils ne participent pas par ces fonctions au pouvoir de magistrat. Cependant, il est ridicule de refuser le pouvoir de magistrat à ceux qui sont tout puissants."

²⁷³ 1275a30-31

²⁷⁴ Newman 1902 p.135-6 For how the *aoristos* might be read. cf Fröhlich 2016

1275a33-1275b6

The whole being prior to the parts is a key concept of Aristotle's²⁷⁵, and in this context the meaning is relatively clear. A citizen cannot be clearly defined without context because it is a part of a polis, and poleis are different in kind from each other. The exact nature of the citizen is entirely defined by their relationship to the polis, and this relationship changes depending on the constitution. The polis being 'prior' in this sense means its nature defines the nature of the citizens that take part in it. This is a totally aporetic statement though, and the proceeding discussion demonstrates that a definition can be found, but it must be a definition that includes the changeable nature of the overall polis and how that impacts the nature of the individual citizens. The definition must contain flexible terms that change along with the constitution, a formula for citizen rather than a fixed value. Just as the definition of 'foot' can be defined as they all have the similar fundamental purposes; but to be precise it must be relative to the animals whose leg it is as the exact use of legs differs.²⁷⁶

1275b6-1275b14

Aristotle cites two examples of more oligarchic constitutions (although both Sparta and Carthage have some mixed elements) to widen the definition and include not just undemocratic poleis, but also poleis where sovereignty is not so conveniently unified into a single court and assembly.

So, citizens are different in different constitutions, and the choice of these examples of that difference illustrates how Aristotle centres citizenship in an understanding of ἀρχή. What is the ἀρχή that citizens in Sparta share in, if there is no regular general assembly or "justice is judged by parts" rather than a large central jury-court with a broad judicial competence (such as the Athenian courts). So, in these places there are no 'offices without limitations' as he has defined them. This creates a problem in the definition applied to non-democracies. I would argue that the next expression 'ἄλλ' ἔχει γὰρ διόρθωσιν ὁ τοῦ πολίτου διορισμός' suggests that the next definition is framed as the solution to the problem of non-democracies. This is

²⁷⁵ 'prior-ness' defines categories in Book I at 1253a20 where the polis is described as prior to the household, and Book V11 1334b20 Mayhew 1997.

²⁷⁶ Aristotle applies this metaphor to constitutional parts 1284b5.

clearly stated to be the 'definition' of citizen in two lines time, not the statement about *arche* without limitation immediately subsequent.

Note here also, the expression ἐκκλησίαν νομίζουσιν, the custom of assembly, not necessarily implying no assembly meetings ever, but no regular customary practice of assembly. This is compatible with the argument that Aristotle is trying to create a set of rules and understandings for politics that can be applied well beyond the Greek world.²⁷⁷

1275b14-1275b22

So under *tais allais politeiais* "ταῖς ἄλλαις πολιτείαις" (the particular non-democracies without assemblies or broad juries) we cannot call the assemblyman and the dicast 'office without limitation'. This confusing expression ἀλλ' ὁ κατὰ τὴν ἀρχὴν ὠρισμένος, is referring back to the 'ὁ ἀόριστος' office without limits idea, but this time the 'limitations' of an 'office without limitations' seems to encompass not just limitations in time but also limitations in areas of jurisdiction. This makes it applicable to the sectional judging of Sparta that is used as an example. This sentence can be translated with slightly alternative parsing that creates some ambiguity here: "In the other regimes it is not the indefinite ruler who is assemblyman or juror, but one whose office is definite"²⁷⁸ The sense of this phrase I read is that Aristotle is saying that anyone in any position that has the decision making and judging powers that the juryman and assemblyman have, even in only limited matters or for limited amounts of time, can be called an *archon* in this broader sense.

In constitutions where the judicial and deliberative power of the polis is divided among many offices, anyone who shares in any of those offices is a citizen. The problem Aristotle introduces at 1275b6, that up until now the definition works best where deliberative and judicial power is concentrated in popular bodies, is solved by 1275b22, because in those constitutions sharing in other offices also counts as sharing in the general *arche*. This particular use of *arche* is very important because Aristotle is careful to define his own special usage of the very broad term *arche*. This particular Aristotelian neo-logistic sense of *archon* is achieved in two steps; first

²⁷⁷ Aristotle is certainly not assuming any unique creation here, and that citizenship is like serfdom and another example of a political device that has been invented an infinite number of times 1329b26-28.

²⁷⁸ Translation Lord 2013

combining the kinds of function (juridical and deliberative) that Aristotle wants included under the name ὁ ἀόριστος ἄρχων here, by also including positions that have these functions, even in only limited ways.²⁷⁹ This will be explored in depth in the next chapter that describes how this unique application of *arche* refers to the kinds of actions citizens can perform, rather than to any particular positions they hold.

This is clarified by the final form of the definition where ἀρχῆς βουλευτικῆς ἢ κριτικῆς, has replaced the less precise κρίσεως καὶ ἀρχῆς.²⁸⁰ The fundamental tasks of the participating citizen; the decision-making and judgements are identified rather than any particular roles, and this significantly broadens the possible positions that a citizen might share in.

Fröhlich addresses these problems slightly differently, arguing that the key difference in these definitions is the inclusion of *exousia* in the later definition, so it includes everyone who has the possibility of sharing in *arche*, and that this is a sufficient change to include non-democratic constitutions.²⁸¹ My reading here has focused more on the special definition of *aoristos archon* as the difference which broadens the initial definition into the second one that includes non-democracies, but *exousia* also works to include some of those citizens, and this will be discussed in the next section.

My reading and Fröhlich's both show how Aristotle is explicitly emphasising just how broad this definition is; wherever you can take part in judgments and decisions you are a citizen, even if there is no assembly or popular courts. I will argue, by examination of the various ways Aristotle uses βουλευτικῆς and κριτικῆς, that this explicitly includes kinds of selection and account processes, local judicial participation and sitting in assemblies with very little formal power.

²⁷⁹ Johnson 1984 p.80 argues that it is the duties of Jury and assembly that are important "And the offices themselves were important not because there were no tenure restrictions, but because of the duties performed by them, viz. deliberating and judging."

²⁸⁰ 1275a22-23, 1275b19-20

²⁸¹ Fröhlich 2016 p.109 "Il suggère que le citoyen est celui qui a la simple possibilité de participer à cette archè (voir plus loin, III, pour ce terme), ce qui permet de tenir compte des différences de participation accordées selon les régimes. C'est, selon lui, ce type de citoyen (qui n'existe donc pas toujours) qui permet à une cité de vivre en autarkeia, en quelque sorte en autosuffisance, en équilibre. On est donc insensiblement passé d'une définition idéale, à une définition corrigée en fonction des réalités pour revenir à une pratique souhaitable."

This reading emphasises Aristotle's focus on citizenship as access to certain activities rather than access to certain positions.²⁸² This reading is central because it allows for performative theories of speech and action. It is not that holding certain positions is what defines citizens but sharing in the powers that are typically held by certain officials. These powers also exist in an abstract sense divided up amongst the entire citizen body as well. Citizenship is the conditional status that grants citizens the power to do 'official' things in the polis with their speech and actions. The later chapters of this thesis explore examples of how this citizen power to act officially was used, and some of the limits of reading Aristotle in this way.

However, these passages have ambiguities that have sustained significantly different readings. The assumption that Aristotle's citizens must be eligible for all the significant political offices may seem intuitive, especially with the translation of *arche* straightforwardly as office. This translation tends to narrow our conception of what *arche* means to Aristotle, whilst in fact he means to broaden what we can call *arche* with his careful defining of his terms at the start of Book III (1275a-b). Others have described this as an aporetic discussion with no clear resolution.²⁸³

This has been an outline of the interpretation of the definition of citizenship this thesis adopts. The next three sections of this chapter will look at particular Aristotelian terms in detail to more completely map his terminology of power. The first looks at the terms for power, and their related semantic fields that come up in this definition; *exousia dynamis*, *kurion* and *arche*. This will support in detail the arguments here. Then I discuss forms of participating, first through Aristotle's terms describing participation; *metechein* and *koinonien*, then in the next chapter participation is discussed through what is being participated in: deliberation and judgement *boule*, *Krisis*, *haireo* and *Archai*; those things that Aristotle describes as citizen actions. This is the key link between the abstract *arche* and the particular *archai*.

²⁸² Agreeing firmly with Müller 2014, p. 759

²⁸³ Davis 1996 p.63 Terrel 2015 p.61 and to some extent Fröhlich 2016 acknowledge the incomplete nature of *politics*. I am unconvinced that inconsistency can be ascribed to *Politics* being incomplete per se, but rather to the inherently open-ended nature of this definition.

2.4 The many terms for power

The last section examined the core definition of citizenship presented in Book III of *Politics*. This section will examine the key words used at 1275b18-22 to clarify the possible meanings of this definition, focusing on power and sharing. This will involve a close examination of the use of these terms in the Aristotelian corpus. The first part will examine *arche* and the associated semantic field around 'power', including *kratos*, *kurion*, *exousia* and *dynamis*, and the second part will examine and the associated semantic field surrounding 'sharing'.

Power is the fundamental subject of *Politics*, its different varieties, and its correct use. This section seeks to establish a set of translations and relational understandings of the concept of power within Aristotle's *Politics* through a lexical semantic analysis. This is necessary to understand his definition of citizenship because distinct and specific terms that refer to kinds of power are used in ways that can be confused. As discussed above, there are contradictory readings about who is included as a citizen by Aristotle. These readings are informed, in part, by different assumptions about what exactly is the '*arche*' that is being shared, and so careful clarification here is necessary. Aristotle is explicitly focused on different forms of power²⁸⁴ so a clear set of definition for the terms used to discuss subtle differences between kinds of power is vital.

Though '*arche*' is the most central term in the definition, an understanding of this term within the text must be built up using other terms that name related but distinct kinds of power, and Aristotle often uses various terms for power within a single passage that allows us to identify key relations and differences between them.²⁸⁵ This method can locate *arche* within our own English language concepts of 'power' and is very useful for helping make sense of apparent contradictions in Aristotle, as well as helping us clarify practical examples for how Aristotle imagines citizenship is practiced.²⁸⁶

²⁸⁴ cf 2.2

²⁸⁵ 1273a14-17 1275a29-30 1280b12-24 1285a5 And other passages discussed in this section.

²⁸⁶ Some of this approach is taken by Rosler p112-115 Discusses Power in Aristotle as Authority, and refers to *Kurios*, *arche* and *Krisis*.

2.4.1 *Exousia* and *dynamis*

In an approach to the varied vocabulary of power, Aristotle makes a key distinction between different words for power as a capacity. How they are used is vital and gives us some insight into how Aristotle uses this terminology to create taxonomy in *Politics*. *Dynamis* is the more common term and has a connection to natural powers, or capabilities. *Exousia* is usually translated as authority, permission or right²⁸⁷ and while these do capture the meaning, the particular use Aristotle makes of the term needs to be fully explored, because exactly the extent to which it expresses potential rights has a significant impact on who Aristotle considers a citizen.

Exousia is introduced to the definition of citizenship at 1275b18-23, so is a central term to clearly define. 'Liberty to', or 'capability' may be a better translation.²⁸⁸ The inconsistency in this term's common translations between right and capacity is a telling one; we tend to see capacity as an internal possession of an individual, and right as something granted and protected by your community. You may have the capacity to steal but not the right to steal. The difference is often ambiguous; in context the right or capacity to health have individual and social factors that cannot be disentangled. Nevertheless, there are uses that suggest *exousia* can mean a 'granted capacity' in ways we cannot help but translate as 'right'. In Book Two the term is used to describe a feature of Plato's *Laws* that no citizen should be 'allowed' to own more than five times the land of the smallest estate.²⁸⁹ At 1270a20, the special right, *exousia*, to alienate land is granted by the Spartan lawgiver.²⁹⁰ So this is associated most often, but not always, by Aristotle with a granted capacity that includes but is not limited to legally (or otherwise) protected freedoms.²⁹¹ These function as rights. However, the term rights, particularly in the context of citizenship, carries a set of related assumptions and connections in modern European political philosophy that are likely to be inappropriate for understanding Aristotle.²⁹²

²⁸⁷ Such as in Plato symposium 182e, "the lover is given, by custom, the *esousian* to do extraordinary deeds."

²⁸⁸ Rosler 2005 p.159 makes use of *exousia* translated as liberty to, in opposition in terms for authority.

²⁸⁹ 1266b8

²⁹⁰ 1270a20

²⁹¹ Other instance 1291b, 1293a, 1302b, 1315a, 1318a, 1331b, 1332a, 1342a

²⁹² Liberty was once used for 'right' in this narrower sense and became a more generic term over the middle ages see Cohn 2006 for the process of this medieval shift.

Neither translating as 'right' nor 'ability' quite fits the term because Aristotle does not make this distinction clear in the language the way modern English speakers tend to. A helpful counter example is at 1255b 36-37 where Aristotle uses *exousia* to mean capacity in the sense of being rich enough 'to be able' to avoid personal trouble. This use helps us distinguish *exousia* from *dynamis* without resorting to 'right' as a translation. The ability of the rich to avoid trouble is a capacity granted them by their money. The problem is that the *dynamis* terms also indicate potential and can be used in contrast to active power.²⁹³ The implications of this slightly broader and less ahistorical understanding of the term can be brought into focus by contrast with Aristotle's use of *dynamis* in Politics.

Aristotle tends to use *exousia* to describe a socially grounded capacity, usually something that is 'being allowed'. In contrast, more fundamental individual capacity is described using the *dyna-* rooted terms, but so does 'power' more generally when it belongs to an individual. This is not the can/may distinction familiar in English. Elsewhere Aristotle discusses the character of 'the powerful' as similar but better than 'the rich',²⁹⁴ it is their 'power' (τὴν δύναμιν), that allows (ἐξουσία) to perform honour loving deeds. In Politics this relationship is particularly apparent at 1277a5-28, where he describes the ability (τὸ δύνασθαι) to rule and be ruled in turn as praiseworthy. At 1312a9-18 one can have the *dynamis* to seize official power (τὴν ἀρχὴν) and the example used here is when an army general attacks a king. *Dynamis* at 1324b11 refers to the collective military strength of a people.²⁹⁵ The distinct meaning of *Dynamis* can be seen from its range of contexts. In contrast to *exousia* it certainly includes a capability/power that might be exercised either through or against social structures (nature itself has, or can even lack, capacity in this way as shown at 1255b4), whilst *exousia* suggests a power sanctioned by social structures, at least in the way it is used in Aristotle. This understanding of *dynamis* can encourage us to see *exousia* as 'right' because the contrast between these two terms can carry well to the English dichotomy between the 'right to' and the 'capacity to' do something. However, as we have seen, a closer examination of some uses of *exousia* demonstrates we must be careful with this distinction because 'right' carries with it a sense of legal enshrinement along with a series of other post-enlightenment concepts that are not appropriate. The contrast

²⁹³ Arist. metaph.1040b5, most things are not actual substances, but potentialities "It is evident that even of the things that are thought to be substances, most are potentialities *dynamis*" translation Ross W.D 1924 p.218.

²⁹⁴ Arist. Rh 1391b17

²⁹⁵ 1324b10-12

between these two terms for a capacity might be better described as inherent vs situational, although this is also not without problems.²⁹⁶

These differences are clarified at 1302b6-9, during a discussion of how constitutions change, where there is an expression which puts *arche*, *dynamis* and *exousia* in relation to each other. "Among these motives the power (*dynamis*) possessed by insolence and gain, and their mode of operation, is almost obvious; for when the men in office show insolence and greed, people rise in revolt against one another and against the constitutions that afford the opportunity (*exousia*) for such conduct."²⁹⁷ Aristotle ultimately suggests a constitution must manage the δύνανμις of various classes and individuals by appropriately placing them in the constitutional order, granting them an appropriate share of formal power, or *arche*. *Exousia* then is the power granted by the particular arrangement of the constitution, as opposed to *dynamis* which is the all the other power individuals or groups might have at their disposal. *Exousia* should be clearly distinguished from 'rights' here though; the collapsing constitutional order described at 1302b6-9 does not give the holders of *arche* the right to corrupt behaviour but does create the socially grounded opportunity for it.

Miller makes the case for Aristotle having a clear definable understanding of 'rights' in a sense that is commensurable to modern understandings of rights. Miller's defence of this position is that Aristotle, like Locke, roots his assessment of a political regime in its conformity to a 'natural' condition "The underlying ideas are that a polis in a natural condition has a constitution which promotes universal justice (i.e. the common advantage of the citizens), and that a correct theory of distributive justice will yield the assignment of political rights that promotes universal justice."²⁹⁸ Specifically relevant to understanding the definition presented at 1275b is the Aristotelian understanding of 'natural' rights, a set of granted permissions that it is normatively improper to deny people of. These 'rights' exist by nature, even if they can only be acted out in a political community. For example, Aristotle perceives a right to participate in rule if one is capable. Your capacity is natural and can be individually held, and it is by this capacity

²⁹⁶ The terms come into a clarifying tension in *Politics* at 1319a40. For the *exousia* to pass through at will, that not *dynatai* to guard the cheapness in each man?

²⁹⁷ Translation Rackham

²⁹⁸ Miller 1995 p.123

that you qualify for the right.

Aristotle repeatedly makes clear the difficulties involved in defining 'citizenship'; it is not a set of definable traits, but rather a kind of relationship to power. This is how the art of being a statesman is different from other kinds of ruling, because if you rule citizens they share in that rule.²⁹⁹ The language of *exousia* is also important. Capacity or potential can sometimes give a better understanding than 'right' because citizens may lack a formal 'right' to share in rule but have an ability to take part that is created by social acceptance rather than by political edict. This understanding brings *exousia* closer to a modern concept of 'rights' but most translators have avoided 'rights' where it comes up in the key definition at 1275b18.³⁰⁰ 'Rights' simply carries too many implications for the nature of the state as a whole to be reasonably applied in this situation, whether or not Aristotle's appeal to nature has anything in common with Locke's. However, by pursuing the place of *exousia* in the polis as a whole, we can find some clarity for Aristotle's particular meaning.

The introduction of self-sufficiency as a condition of a true polis to the corrected definition at 1275b19-23 might seem a non-sequitur but reading *exousia* as including both right and capacity helps us make sense of this addition. This comment should not be read to mean they produce all they need, because although Aristotle might suggest this is important to true self sufficiency, this is not everything he is saying here. The collection of the citizens must collectively possess the *dynamis* capacity for complete self-sufficient rule, (αὐτάρκειαν) in the 1275b18 definition can be translated as independent, derived from the verb (ἄρκειν), to suffice. However, these 'necessities' he is talking about by 'independence of life' (αὐτάρκειαν ζωῆς) are not primarily material, rather they are about the capacity for political rule.³⁰¹ There must be enough potential

²⁹⁹ Different kinds of rule see *Politics* I 1252a6, in which Aristotle argues against others (see Plato, *Statesman* 258e-261 a. Compare Xen, *Mem.* III.iv. 1 2, III.vi. 14.) and claims that the art of the statesman is different to that of a husband, a father and a master, a claim echoes in NE 1134b8-18 cf Lockwood 2003

³⁰⁰ Sinclair (Revised by Saunders) uses 'entitlements' (P 171) 1992, Reeve uses eligible p.67 1998. Barker (Revised by Stalley) 2009 p.87 also uses 'entitled'.

³⁰¹ This understand avoids discussion of *autarchia* in Aristotle as economic interdependency. Being able to be independent of rule does include the polis being able to secure the necessities of life for itself, but the context of the passage in the definition seems to be that this a less limiting concern than the capacity of the polis to have enough governing power to be independent. These two conceptions of independence meaningfully overlap; a substantial trade deficit, especially with regards to the most fundamental necessities of life will expose a polis to international issues and threaten political independence. The concept is certainly not that more complete economic independence that characterised the 20th century concept of Autarky Derks 2022 p.92-110 cf Asbell 1996 p.98-104.

for deliberative and judicial power to make up the whole polis, without any power being provided from elsewhere; a polis must have its own supreme courts, its own legislator etc, and overall its own capacity for judging and decision making embodied by its officials and citizens. Federalised poleis create some tension with Aristotle here, with many decisions made at an interpolis level.³⁰² However, it is worth noting just how many core governmental functions remain devolved and how careful *sympoliteia* treaties are to create systems that grant absorbed communities some share in decisions that affect them directly.³⁰³

A collective lacking this capacity is not self-governing, so is part of a larger entity and cannot be called a polis in Aristotle's sense. This is connected to Aristotle's definition of *arche* as the deliberating and judging power³⁰⁴ and application of this as the proper application of *archai*: for all formal official power positions of the polis 1299a25-27. A polis then possesses the ability to judge and deliberate about its own business, and this ability is shared (not necessarily evenly) amongst its citizens.³⁰⁵

The combination of 'right' and 'capacity' makes explicit the distinction between actively participating and just being able to participate, a distinction Aristotle makes reference to later when he discusses measures, such as assembly pay, that are different in oligarchies and democracies.³⁰⁶ At first Aristotle obfuscates this distinction in his definition,³⁰⁷ but introduces again it at 1275b19-23 as a correction to explicitly include those citizens in non-democracies. He uses *exousia*, which introduces potential as opposed to permanent power³⁰⁸ so that citizens are defined by the potential to participate. The extent of participation will vary from one individual to another, and from one constitution to another, but always the citizenship of any individual is defined by their participation in power positions even whilst that participation is only potential.

³⁰² Roy 2002 Bearzot 2015

³⁰³ Cf 2.4.1 sympoliteia inscriptions, and 4.4.0 on Chaleion and Oianthea

³⁰⁴ 1275a32-34

³⁰⁵ 1275b20-22

³⁰⁶ 1292b30-41

³⁰⁷ 1275a33

³⁰⁸ The other shift here is from a form of *μετέχω* to a form of *κοινωνέω*; the *mete-* terms appear in the first iteration of this definition 1275a23-25 πολίτης δ' ἀπλῶς οὐδενὶ τῶν ἄλλων ὀρίζεται μᾶλλον ἢ τῷ μετέχειν κρίσεως καὶ ἀρχῆς., then again as this is referred back to 1275a33-34 τίθεμεν δὲ πολίτας τοὺς οὕτω μετέχοντας. but by 1275b19-23 this has been replaced ὅ γὰρ ἐξουσία κοινωνεῖν ἀρχῆς βουλευτικῆς ἢ κριτικῆς, πολίτην ἤδη λέγομεν εἶναι αὐτῆς τῆς πόλεως. This probably has some significance as well, discussed in the previous section.

However, *exousia* as it appears in the later definition of citizenship at 1275b18 can be understood as this kind of 'able' as in not prevented from, rather than specifically 'capable' of. The capacity is implied, but the definition only specifies that a citizen is 'allowed to' share in the decision-making and judgment *arche* of the polis. 'Ability' as a translation gives the sense of potential for power, even without any active share in the *arche*, but we should keep in mind the difference between a potential political community and an actual one. Aristotle describes here the ability to hold in common enough of the positions of power to self-govern a community as what makes a polis.³⁰⁹ In this case then 'right' is justified as a translation, perhaps the use of *dynamis* here might indicate a citizen is one with the inherent capacity to share power, where in fact Aristotle is saying a citizen is someone with the granted capacity.

Aristotle's line on the tyrant's strategic removal of *dynamis* and *exousia* "κὰν τῆς δυνάμεώς τινα δοκῇ παραλύειν, ἐκ προσαγωγῆς τοῦτο δρᾶν καὶ μὴ πᾶσαν ἀθρόαν ἀφαιρεῖσθαι τὴν ἐξουσίαν"³¹⁰, because it includes both terms applied to a practical situation demonstrates how these two forms of power are connected. It is an individual's *exousia* that the tyrant can most directly control, because this includes political rights and therefore constitutional features directly within the tyrant's power to alter. *Dynamis* is a form of power more inherent to a person, though of course having more 'rights' because of your position in a constitution also augments your personal capacity.

In terms of performative speech act theory, *exousia* places citizenship as a basic 'preparatory condition' for performing actions, but a very loose one. Citizenship is a status; in that it is the potential to act that is citizenship. This potential is expressed with *exousia* because it is a constant state for the unqualified citizen in Aristotle's view.³¹¹

2.4.2 *Kurion*

We can translate *kurion* as supreme power, or sovereignty. The key use of this term in Aristotle are how he contrasts it to *arche* and its key role in defining the type of constitution. The kind of constitution, for Aristotle, is defined by which group in the *polis* is *kurion*. The different

³⁰⁹ 1275b22-24 cf Fröhlich 2016 p.109

³¹⁰ 1315a13-14

³¹¹ As opposed to citizen children, whose potential citizenship is not yet fully developed 1275a15-18.

perspectives which Aristotle explores more technically are the oligarchic and the democratic, and here it is by what idealised form of superiority the rulers justify their supremacy.³¹² Aristotle turns this discussion round, giving us a good sense of how *kurion* should be understood as the ultimate power.

The question, as he put it, is what ought to be the sovereign power (*to kurion*) in the polis.³¹³ Whilst particular *arche* can refer to general structural power, as well as specifically delineated positions of power, *kurion* can be used in combination with *arche* to refer to the position of power which holds ultimate authority,³¹⁴ or with *krisis* to refer to the final court of appeal.³¹⁵

Aristotle defines the type of constitution based on what group of citizens is *to kurion*. This intertwines a clear understanding of *kurion* with categorising the constitutions. Starting at 1278b6 Aristotle's entire discussion of the types of constitution is based on a discussion of different classes and their potential for being the supreme, or *to kurion*. He introduces this vocabulary immediately at alongside the start of his discussion of the different constitutions.³¹⁶

He defines these classes by the aspect, wealth, freedom, or "excellence" in which they can constitute a relative majority among the citizens,³¹⁷ and so the case they can make for justly and stably controlling the polis. The group that is *kurion* then is the group that commands the majority of whatever quality the ruling definitions of that particular constitution frames as the quality by which citizens should be treated according to. So, in practice, either their freedom in a democracy or their wealth in an oligarchy. They may be judged by their good birth and excellence in an Aristocracy. The ruling class commands the majority of wealth in an oligarchy, the majority of the freedom in a democracy, the majority of the good birth in an aristocracy. The use allows us to see how Aristotle connects superiority in key sources (both moral and

³¹² Though the focus of my discussion here is on Book III, This question continues through book 4 cf. 1301a26-1301b4.

³¹³ 1281a11 cf 1283b5-9

³¹⁴ This refers to different officials in different constitutions and except in cases of tyranny Supreme offices are generally broken up into separate spheres of jurisdiction. 1310b17-27 Aristotle would prefer the law to be this sovereign wherever possible, but he can held by supreme officers to rule in cases where the law cannot predict 1282b1-7 .

³¹⁵ Supreme courts, as courts of appeal, do not seem to carry the same tyrannical associations as supreme offices do 1267b41-1268a1.

³¹⁶ 1278b9-12.

³¹⁷ 1283a24-1283b9

practical) of political power to which group is *kurion* in the polis and further affirms our understanding of *kurion* as sovereignty, in a sense that can be either practical or moral.

Aristotle clarifies the relative position of rulers and ruled, and makes explicit that those who are ruled are part of the polis, and still citizens, even in the most deviant forms of constitutional order. This is despite some terminological confusion: *politeia* (the governing order and customs) and *politeuma* are often used interchangeably, but this must come with an important caveat for Aristotle. The supremacy, *To Kurion*, of this element makes it a government which need not include all the citizens but should work for their benefit:

“But inasmuch as ‘constitution’ (*Poltieia*) means the same as ‘government’ (*politeuma*) and the government is the supreme power in the state, and this must be either a single ruler or a few or the mass of the citizens (*tous pollous*, Rackham substitutes “citizen” here), in cases when the one or the few or the many govern with an eye to the common interest, these constitutions must necessarily be right ones, while those administered with an eye to the private interest of either the one or the few or the multitude are deviations. For either we must not say that those who are part of the state are citizens (*politas*), or those who are part of the state must share in the advantage of membership.”³¹⁸

Taken as a whole this refutes the idea that those who are excluded from the government in an oligarchy must necessarily not be citizens, though it is not quite as direct as Rackham's translation implies. It is in contrast to Aristotle's comment on the context dependent nature of citizens.³¹⁹ However, the careful use of *to kurion* and *politeuma* avoids this contradiction. To be excluded from the supreme power of government is not the same as to be totally excluded from the polis (although 1278a21–34 suggests there are also a group of people who are excluded in this way). In combination with his definition of citizenship we can infer that it is possible to be a citizen, participating in *arche* but be excluded from the ‘government’, and so it is possible to participate in *arche* in ways that do not give you *to kurion*. This is a central concept, because Aristotle's system of ranking constitution as deviant or not depends on there being a class of citizen who are not part of the ruling class: if those excluded from ruling the polis are not part of

³¹⁸ 1279a26–33 Translation Rackham

³¹⁹ 1275b5, 1278a 21–34

the polis at all, then rule for their benefit doesn't make sense as the measure of quality in constitution.

The way Aristotle describes his version of the system of constitutional categories bears out this reading of *kurion*. The passage at 1290b1-4 explains that a polis is a democracy when the free are sovereign and an oligarchy when the rich are sovereign, regardless of who the numerical majority. This is a key example of Aristotle describing the non-sovereign group as *polites*.³²⁰ Aristotle uses *politeuma* to describe the sovereign citizens³²¹ but those outside of this group can still be called citizens. Royalty and tyranny are interesting cases with their distribution of *to kurion*. Royal rule is about the king being able to secure the majority support of the virtuous.³²² Aristotle also uses *kurion* in this way to describe ultimate power within a constitutional framework when he discusses other theoretical constitutional work in Book II.³²³ This use is connected to a more metaphysical use of '*kurion*'. *Kurion* is the source of formal unity in objects,³²⁴ as well as its ruling principle (*archon*).³²⁵ The sovereign principal in an object defines its formal cause, and so the sovereign class, who are attached to a sovereign principle of power distribution, defines the nature of a constitution.

The word *kurion* is not always just applied to the whole constitution; Aristotle uses *kurion* to describe the power the farmers have over their own estates in Plato's Republic.³²⁶ This demonstrates it does not have to mean supreme in the most ultimate sense of state sovereignty but can refer to the relative local supreme power a man wields in his own household, or offices that are supreme in certain matters.³²⁷ Aristotle uses *kurion* to distinguish the balance of power about and within constitutional structures so here are senses in which there can be gradients of supremacy, especially when Aristotle is talking about particular offices. One might have total supremacy in one kind of jurisdiction, and only limited power in another but these increase the overall supremacy of the office.³²⁸ Nevertheless, the sense of

³²⁰ 1290b1-4

³²¹ 1279a26-8

³²² 1310b9-15

³²³ 1267b40

³²⁴ Aristotle *De Anima* I5 410b10-15; cf. *Pol.* 1254a 34-6

³²⁵ Miller 1995 p.151

³²⁶ 1264a32-35

³²⁷ There are multiple 'supreme offices', even if we mostly hear about them when Aristotle is talking about the risk of any of them transforming into a tyranny 1310b21.

³²⁸ 1322b13-19 captures this range of use talking about how the council tends to obtain supreme power

supreme power is still a good translation. The 'sovereign' in a post-Hobbes political sense is the one whose power cannot be successfully challenged and so defines the terms on which all others hold power. This is very much the sense in which Aristotle consistently uses *kurion*, so whilst his use is much more flexible than Hobbes' specific application, the baggage of modern political theory around sovereignty is less problematic than for the other terms for power we have discussed.³²⁹

Understanding this concept of sovereignty is important to this discussion of *polites* because it is a hierarchal distinction between citizens in Aristotle's model of the polis without the distinguishing characteristic being the possession of a share in *arche*. It makes sense of the way in which some citizens are partially excluded. All functional citizens have a share in *arche*, it is 'to *kurion*' that they may be excluded from. A distinction between sharing in 'to *kurion*' and sharing in *arche* is the defining feature of the political rule as opposed to other forms of rule, there are shares in rule that are not the dominant share. The political rule is about being able to split rule in such a way that there can be forms of taking part in ruling that are not fully supreme.

Having 'supremacy' is distinct to having *arche*, but they have a tight relationship. Aristotle defends using assemblymen and jurymen as prototypes of *arche* because he says they have *To kurion*,³³⁰ as in many poleis these bodies have sovereignty. All citizens share in the *arche* of the polis, but not in sovereignty over it. This eliminates some of the confusion that attends the discussion of citizenship in Aristotle (Outlined in the previous section); poor citizens do take part in the *arche* of oligarchy. This understanding of Aristotle is complementary to an understanding of the oligarchies of this period that notice the many forms of participation they allow for poorer citizens;³³¹ what this reading reveals is that there is space in Aristotle's conception of power for such ambiguities. It is the dominant ruling quality that decides whether you can call the polis a 'democracy' or an 'oligarchy'. This normative categorising application of *to kurion* is clearest in his discussion of monarchy at 1313a5, where he says that contemporary monarchies are not true monarchies because individuals do not excel over their fellows enough to earn willing subjects, they need unwilling subjects. The supreme power of the monarch could only be fully justified by an absolute majority in virtue and Aristotle is saying that in practice

³²⁹ Rosler p115 points out that Aristotle's 7 uses of the superlative, *kuriōtatos* conforms best with the modern usage of sovereign 1268a23;1270b7–8; 1278b9–10; 1279b3; 1282b 15–16; 1287b 5; 1303a17.

³³⁰ 1275a29-30

³³¹ Alwine 2018 p.235-267

monarchies rule by combining virtue and by force. It is the relatively even distribution of virtue that makes true monarchy impossible; there is not enough concentrated quality for a fair assessment to result in the rule of one. The implication here is that virtue and force can be made commensurable via the unit of sovereignty; a king combines force and virtue to come up with enough sovereignty to control the polis.

Sovereignty shifts naturally in constitutions. The complex interplays between the different political forces are described by Aristotle when he is talking about the balance of power shifting, not just through a change in the letter of the constitution but through a mix of change in specific institutions and the social class bases of different particular parts of the constitution. This makes different parts of the constitution become larger, or more powerful in other ways, including an increase in their reputation. The specific example of the Areopagus council gaining reputation during the Persian wars in tension with the almost simultaneous increase in the power of the democratic elements because of the naval victory at Salamis demonstrates how working out where the 'supremacy' in a polis exactly sits is not straightforward and involves lots of calculation of various formal and informal powers.³³² There are also natural causes that may shift the underlying population pressures on the constitution³³³, or an exceptional individual that might monopolise key powers.³³⁴ Defining the constitution by whatever 'the supreme' (*to kurion*) class interest in it is means that one has to make these calculations to name the constitution accurately, and lots of *polies* may remain as border cases, or might be described differently depending on how different factors are weighted.

This interpretation of Aristotle's application of *to kurion* goes some way to answer the critique of Alwine that Aristotle views certain institutions as by nature either oligarchical or democratic even when they are applied to the opposite effects.³³⁵ This defence is lukewarm; Aristotle does identify ideological fixed positions in the democratic and oligarchic forms of equality that function as ends in particular institutions. However, Aristotle does allow that the net effect of

³³² 1304a18-26

³³³ The metaphor Aristotle uses here is how a disproportionately large foot on an animal may turn it into another species altogether 1302b33-1303a4.

³³⁴ This is an argument Aristotle uses for ostracism which is similar to his discussion on demographic change again with the use of the striking metaphor of a painter not allowing a disproportionally large foot, even if it was very beautiful 1284b8-21.

³³⁵ Alwine 2018 p.264 "Aristotle set out to identify constitutional practices that were beneficial for discrete types of regimes, but the *Politics* often assumed that constitutional mechanisms have their own particular nature and hence their own final cause (a tendency in either an oligarchic or democratic direction)."

particular institutions can be lost relative to an increase in the real terms power of other classes, and that the same set of laws and constitutional mechanisms that once described a democracy can come to describe an oligarchy, or vice versa, without the letter of the law changing. The relevant calculations to perceive this 'real power' shift involve the application of *kratos* terms for power, which will be discussed next.

2.4.3 *Kratos*

This root is commonly seen in connection with democracy, or aristocracy, and refers to power. Isolating the meaning is difficult because it is seldom used, at least by Aristotle, outside of these constitutional forms. Aristotle refers to the power 'Marines', the shipboard soldiers, have over the rowers, and the term is paired with *kurion*, suggesting they have sovereignty (*kurion*) and force (*kratos*) on board.³³⁶ This term for power then usually refers to overpowering force and is used in this way in the *Nicomachean Ethics* when Aristotle is talking about those who are overpowered by passion and make the morally incorrect choice but retain the understanding of virtue.³³⁷ *Kratos* used in this way then suggests the overpowering force in any given situation. The broader use of *kratos* suggests it is more associated with force than *kurion*.

We can then get a sense of how the meaning of this term works as a part of the language of constitutional forms. The systematic outline of the constitutions suggests a simple question of the terminology Aristotle applies in his categories; why is it *demo-kratia* and *aristo-kratia* but *mon-archia*, *olig-archia* and *tyrannia*, *politeia*? Firstly, we can see how the regular usage shouldn't be tied too closely to their etymologies, and we especially cannot look for technical distinction here. The differences in the words don't relate to any systematic difference between the constitutions, and the short answer is that Aristotle inherited the terminology but is adapting his own systematic definitions. In the case of *arche* as I will discuss next, the semantic field is so broad that it is just as valid to see the *arche* in monarchy and oligarchy as referring to where the constitution has its origin rather than who holds the offices.

³³⁶ 1327b10

³³⁷ *Nic. Eth.* 1151a5

There is some debate over how to interpret *kratos* and its role in constitutional terminology. Benveniste, tracing the term's use through Homer, translates it to overpowering, dominant, and notes its association to victory in war, and this pattern of use, associated with victory in war and Zeus can be traced consistently through the 4th century³³⁸ Ober, arguing that the *Krat-* suffix used for regimes is more appropriately understood as capacity, therefore suggests that *demokratia* can mean 'empowered demos' without necessarily implying 'overpowering demos'.³³⁹ He argues against the understanding that Greek *demokratia* always meant majoritarian rule. This argument has some merit and gives space for the constitutional practices that involved more mixed sources of power than blunt majoritarianism.³⁴⁰

Cammack notes how the verb *Krateo* refers to victory in battle and to mastery and not to capacity, for which *dynamis* is used. Cammack frames the conclusions of lexical analysis of these power terms "Among those terms, *krat-*, *arch-* and *kur-* could each imply 'rule', albeit on different grounds. *Krat-* connoted rule based on martial superiority, *arch-* rule based on formal office-holding or informal control, and *kur* rule based on the perception of legitimate authority. Yet, what was gained by *kratos* could easily become *kurios*, 'authoritative'—arguably, *had* to become such if the primacy of the victors was to be maintained over time."³⁴¹ This view of *kratos* suggests that *demokratia* as a term emphasises the physically embodied power of the *demos*, by discussing how it was the Athenian capacity to make war, dominate its enemies and assert control of the polis itself that made it a *demokratia*. This is broadly the interpretation I follow, though there is significant particularness to Aristotle's uses, of *arch-* terms especially. The 'physically embodied' aspect of this strength will be elaborated on in the section on assemblies.

This interpretation fits well with Aristotle's discussions on how constitutions change. The use of *kratos* terms gives another useful description of power, along with *dynamis* and *bia* to discuss power that does not come from the constitution and is outside the application of *arche*. *Kratos* refers to raw power, a capacity that can come from any source, and so can represent pressures on a constitutional order that do not arise from the formal relations of offices. The examples

³³⁸ Benveniste 2017 p.361, cf Loraux 2006 p.68-9 discusses this link between the use of *kratos* to mean force in war and its use in *demokratia*. The suggestion in the term is that democracies are, necessarily perhaps, a creation of civil war. Cf Low 2005 p.93-11, and Lauriola 2017 p.336-65 focusing on Democracy in Aristophanes

³³⁹ Ober 2008 p.3-9

³⁴⁰ cf Section 5.1

³⁴¹ Cammack 2022 p.4-5

mentioned above, both in the case of the Marines on a ship³⁴² and how the Persian war changed the Athenian constitution,³⁴³ seem to suggest an association of *kratos* with general military capacity. *Bia* is used when the force in question is more blunt, referring directly to violence or brute force, and so also names a kind of power. *Bias* is a mean to power, a method of it.³⁴⁴

The definition of citizenship itself uses of *arche*, which will be discussed next now that other terms in the semantic field of power have been discussed.

2.4.4 Arche and power

Arche is the central concept in the definition of citizenship and therefore the one that is most specifically defined by Aristotle within *Politics*, alongside *polites*. Aristotle includes a variation of institutions that are *Arche*, in the sense that Aristotle uses it when he is defining citizenship through Book III, can be applied to. These institutions are the range of ways a citizen can share in the power of their polis. This section will demonstrate the significance of this breadth by examining how Aristotle defines the citizen. The citizen is a part of the whole: the polis he is in, so citizenship is defined differently in different poleis.³⁴⁵ The assumption this might lead to is that Aristotle's definition works only for democracies³⁴⁶ and so we can interpret the definition described at 1275b18-22 as 'eligibility for office'. I will directly challenge this reading; proposing instead that Aristotle is seeking a definition that can be applied across distinct kinds of constitution.³⁴⁷ The relativity of 'citizen' to 'polis' must be built into Aristotle's definition of citizenship, so 'eligibility for office' is an unsatisfying reading of this definition because it applies only to democracies.

Aristotle wants to create a flexible definition that is relative to different polis constitutions. He has multiple iterations of the definition between 1275a19 and 1275b22 in pursuit of this broader applicability. The key distinction is the shift from the original definition, which works best for democracies³⁴⁸ into one that defines citizen more flexibly. This distinction will be my focus here

³⁴² 1327b10

³⁴³ 1304a18-26

³⁴⁴ 1304b9

³⁴⁵ 1275a1-1275a5, 1275a35-38

³⁴⁶ Blok 2017 13-19, Hansen 2006 especially p112

³⁴⁷ This following Sakellariou 1989, Vlassopolous 2015, Risebeck 2015 discussed above.

³⁴⁸ 1275b5

because it is between these iterations of the definition of citizenship that he defines *arche*. Aristotle also includes other definitions of citizenship, and though 1275b22 is his most fully developed definition, it is not the final definition he gives. Also significant is his discussion of the virtue of citizenship; ruling and being ruled in turn³⁴⁹, and the 'fullest sense' of citizenship; those who share in the honours of the polis.³⁵⁰ He also distinguishes his definitions from the widespread use of the word *polites* which simply means someone born to citizen parents.³⁵¹

How we might precisely interpret *arche* is then a significant question because different kinds of *arche* are participated in by different groups of potential citizens? Aristotle is using the term as part of a neologism, crafting a term for the hypothetical combined *arche* of the polis.

Arche is the most important and most frequently used term associated with power in Aristotle generally and in Politics. *Arche*'s semantic field is very broad, but Aristotle helps us understand his use of the term in his definitions in Book III with specific examples; for his purposes the typical kinds of *arche* are the juryman and the assemblyman. These examples within his discussion of citizenship show us the relationship between Aristotle's definition of *arche* and *polites*.³⁵² Aristotle of course uses *arche* in other senses elsewhere, but we can be confident that these examples are intended to clarify his meaning in the key definitions of Book III. Nevertheless, there is still a range of interpretations of this term specifically as it appears in the definition of citizenship at 1275a, 1275b, and throughout Politics III that impact our understanding of citizenship, so this specific issue merits careful discussion. Overconfidence in narrow readings of *arche* that deviate in subtle ways from Aristotle's own definition of *arche* creates problems as we try to take on the definition of citizenship as a whole. These language difficulties contribute to the contradictory and confused readings of Aristotle's definition of citizenship. The argument I will expand upon here is that examining a reading of this passage with a particular focus on the meaning of *arche* implies a definition of citizenship that is broader relative to other readings of Aristotle and has implications for how we interpret the purpose of this definition.

³⁴⁹ 1277a26-30

³⁵⁰ 1278a36-41

³⁵¹ 1275b23-25

³⁵² 1275a26-31

Arche is a term with a very wide semantic field. Its use is frequent and varied, reaching around origin, old, power, authority, office, and rule. The breadth of ἄρχη, especially as a noun, is a problem for translators that creates the potential for ambiguity. The verb form (ἄρχειν) is translated as 'to rule', or when passive (ἄρχεσθαι) 'to be ruled' (as in the 1284a definition of the virtue of a citizen)³⁵³ and so though its semantic field is narrow that as a noun, it is still used to cover a wider variety of 'ruling'. This breadth of use is very substantial. The discussion above on other terms in the semantic field can only go so far in narrowing down this meaning: there is a lot of overlap in meaning.

2.4.5 Translating Aristotle's *arche*: against 'office'

The breadth of its general use means we must focus on Aristotle's particular use, and specifically in Book III of *Politics*, to give us a translation we can usefully apply to the definition of citizenship. Reeve, Rackham and Jowett all translate *arche* as 'office' in the key definitions at 1275a32-33 and 1275b18-22. Whilst there are valid reasons for this choice, readers who make use of translations must be careful not to be lulled into a false sense of understanding by this translation. Examining the problems of this translation is a way into examining the scholarly preconceptions that have settled around the definition of citizenship. This has an impact, beyond just semantics, on the entire project of the *Politics*. Critiquing this translation is a way to approach the central issues of *Politics*; what is it, exactly, that citizens are sharing in?

No translation can be perfect. *Arche* has been so frequently translated as 'office'³⁵⁴ because office falls well within the semantic breadth of *arche* and Aristotle's explanation of how juryman and assembly man are the quintessential examples of *arche* without limitations in some ways lead us to that reading; these seem like examples of offices, and he defends them in a way compatible with that reading, and with reading *arche* here more generally. If the *arche* with time limits (1275a25-27) are temporary positions of political power, 'office' works as a translation for *arche*, making use of the English synecdoche of 'office' as a noun referring to a position of power which can be held by individuals temporarily. This understanding works well enough for

³⁵³ 1284a23

³⁵⁴ Most translators use "office" in this key passages in Book III, see above Reeve 2017, Rackham 1932, Though significantly not Fröhlich 2016 (in French) who sees Aristotle as deliberately using the ambiguity. between these concepts within that word here "Dans le texte même, Aristote entretient l'ambiguïté sur le terme archè, simplement «pouvoir» ou «magistrature, charge»"

some of the discussions of *arche* in the Politics; the Spartan Ephorate are an office, in this phrase (1270b8-9 ἡ γὰρ ἀρχὴ κυρία μὲν αὐτῇ τῶν μεγίστων αὐτοῖς ἐστίν) it is this *arche* of ephorate that has the authority, (as we would say the office has the power) but the specific use of office to translate *arche* around 1275a-b when Aristotle is explaining his definition of *polites* can mislead readers about this definition. Our understanding of an office implies limits both with regards to time and scope; the US president is in office for four years and has powers limited by the constitution (in theory). Aristotle describes a new term for an *arche* that combines the roles of juryman and assemblyman, and is without limits, of time or scope; the *aoristos arche*. This is the kind of *arche* he is using as part of his definition in 1275b, and so to translate the *arche* here as office implies a meaning flatly against the specific sense of the term Aristotle is careful to explain.

Aoristos arche is a term he coins firstly for a combination of the roles of juryman and member of the assembly. With this line he is deliberately creating terminology, demarking a use of the word *arche* particular to his definition that is somewhat distinct but close enough to the general definition that using *arche* for it makes sense (political philosophers often need to do this with terms for power). He is also identifying a hitherto unlabelled concept that needs to be named that is best described as the combination of juryman and member of the assembly. He sees this term as worth creating because these two positions (Juror and assemblyman) share something categorically significant, and he uses *arche* to describe the category of things that have this quality in common. This form of *arche* he names '*aoristos arche*', but how can we interpret this *aoristos*? In the first instance he means of unlimited tenure, meaning it is a position you can always hold, but this definition doesn't achieve his intention of naming the form of power that citizens always share in. It is the permanently held *arche* he wants to name and put in his definition as the thing that citizens share. This suggests that *arche* is a term to refer to concepts larger than, but including, political office and that an *arche* with limits could be accurately called political office, and that juryman and assemblyman are *archai* without such limitation.

Aristotle contrasts limited kinds of *arche* as opposed to 'unlimited' kinds. Juryman and assemblyman are unlimited because a citizen can be always in these positions. However, this reading leans on assumptions carried by the translation to *office* and not in the Greek *arche*. This unlimitedness refers to term limits, but also to limits on the scope certain positions have

authority over. The example he uses later suggests indefinite *aoristos* means not defined by term limits, though the example of the Spartan and Carthaginian judges used at 1275b9-17 suggests that here *aoristos* also means indefinite in terms of what they are given power to do, as in not strictly defined; judges in Sparta having limited powers to judge specific cases rather than judges that preside over all kinds of case. He contrasts these kinds of official arrangement to the *aoristos archai* of democratic assemblymen, characterizing them as determined by their particular office.³⁵⁵ *Aoristos* here seems to refer to having a broader, or rather an undefined, remit. This is potentially a more open interpretation of this limitlessness; if the *aoristos arche* is the power that is not strictly defined or limited, it can be used to refer to the general.

A “limited office” implies a term limit, a “limited rule” suggests more a rule that is limited by conditions and circumstance (which may include term limits), and it would make sense that Aristotle’s citizens should have a share in the unlimited ‘rule’ in the polis, even if they are excluded by various reasons from limited offices. ‘Office’ works as a translation for a rule that is limited, but an unlimited office is, in my view, an unhelpfully confusing phrase. Aristotle, foreseeing in his readers confusion arising from the use of *arche* attempts to clear things up by specifying that it is indefinite *arche* he is talking about, a term he defines, if somewhat ambiguously. This is why it is ‘laughable’ to deny the title of *arche* to Assemblymen, because although they do not hold a titled office, they clearly participate in *arche* in this sense. Those that hold sovereign power self-evidently have a share in *arche* even if this sovereign power is spilt over a sovereign body, such as the assembly. This also makes sense of both his comments about term limits and about the breadth of office authority; he wants to say that participating in ‘the total unlimited authority’ of the polis is what makes you a citizen of that polis, even though there is no distinct office that possesses that power.

Understanding this ‘limitlessness’ opens different ways to make sense of later passages; no constitution except for an absolute tyranny could have a position unlimited in its authority, but the concept of unlimited *arche* names the sum of all the authority of all the positions of power in a polis, so is useful for Aristotle. This is the *arche* in which all the *politai* share. We might try translating *arche* as ‘rule’. Elsewhere in Politics *arche* has been read slightly differently by

³⁵⁵ 1275b14-17

translators even when 'office' could be used. In Book I uses of *arche* as a form of power read as a more generic 'rule' rather than 'office'³⁵⁶, so here translators have tended to choose 'rule' (noun). To read its use in the definition of citizenship as 'office' is a choice that disconnects book III from Book I. 'Rule' is often a useful translation because it captures the structured nature of this kind of power implied by the context without confining the term too tightly as 'office' can. The use of this translation in Book I is telling; because Aristotle is here constructing an archaeology of politics, exploring its origins, it is clearer to imagine *arche* as 'rule' because this identifies a kind of relationship of power that can apply both to individuals and to structured political systems. Simply, 'rule' in English has a similarly broad semantic range to *arche*. Aristotle's general use of the term certainly allows for the possibility of this more flexible reading of rule in the key definitions. Unlike most of the terminology he uses, Aristotle is careful to define his particular use of *arche* explicitly against other possibilities, so however we translate *arche* here it is a more specific use of the term than any translation can capture. He does mean *arche* in a narrow sense in Book III than Book I, but assuming this narrowness fits with moving from 'rule' to 'office' works against Aristotle's intent. It is the confusion he detects in the widespread use of *arche* at 1275a that incites this more careful definition.

Office also ties the meaning directly to a position, implying a position within the polis.³⁵⁷

Although Aristotle does seem to attach *arche* and polis in his definition of the citizen, elsewhere in the politics we see *arche* used in a more general sense to simply mean a position of power. This examination of *arche* as Aristotle uses it is not meant as a critique of these translations but is intended as an exploration of the range of possible readings. Interrogating readings that lean on reading *arche* as 'office' creates space for a less contradictory reading of Aristotelean citizenship. Translating as 'rule', as I have explored here, stresses *arche* as a kind of relationship, an aspect which Aristotle speaks about at length in Book I. This translation encourages us to see the connections between Books I and III. The different forms of 'rule' are also a central aspect in Aristotelian understandings of the soul, and this continuity of theme can be somewhat obscured by the use of 'office', as it is discussed in Book 1.

³⁵⁶ 1254a23-30 Rackham's choices here represent the range of translation that the various forms of *arche* require

³⁵⁷ Blok 2017 p.187-198 for a discussion on how exactly the distinction between *archai* and *timai* relates to public roles versus specifically Polis roles, discussed more in chapter 2. Lane 2023 p.53-64 makes that the plural *archai* has a much narrower implication of particular positions of power subject to checks and balances as opposed to the very broad singular *arche*.

2.4.6 The function of Aristotle's *arche*

Another approach to understanding Aristotle's particular use of *arche* here is to examine what purpose this neologism performs in the text.

The wider objective for Aristotle is his discourse context; to clarify that there are different distinct forms of rule with different values, helps explain why he must go on this *aoristos archon* digression to define a new term. Aristotle wants to produce new terminology of power to support his instigating disagreement: the political ruler has a different job to the ruler of other kinds, because he must justly distribute power itself, creating a reciprocal relationship of power. This relationship is not just enacted by 'officials' but also by the assembly and the courts, and decision-making boards, each of which has limits to its powers through accountability, its selection procedures, and its interactions with other official positions. This demands an understanding of power as an abstracted collection, and this passage is where Aristotle defines this abstract collective of polis power. This shared nature of political power is what makes 'political rule'³⁵⁸ distinct from the other forms of rule. It is on his way to defining the citizens, whose definitive capacity is taking part in this collective. This is defining a space that is 'political' as opposed to those areas of power Aristotle does not see the polis as sharing in, such as family life, where other forms of ruling dominate.³⁵⁹

Aristotle struggles to describe this form of power, so he does it through examples, and these examples create problems because they do not fully capture the abstract notions of power. This is why we get a unique definition of *arche*; it solves a problem Aristotle perceives in his own definition.

This problem first arises in the earlier passage because he wants a name for a position of power that combines deliberation and judgment (1275a30) and the approximate words refer to typically democratic bodies, because in those regimes ultimate power is concentrated in just two broad bodies (democratic juries and assemblies) which all citizens may always take part in—therefore this creates a simple starting point for a broad new definition of *arche* he wishes to create through these examples. Later however, he acknowledges that he has built his definition of *arche* on a bad foundation; he also wants to name those that are able, at certain times to hold limited positions of judgment and power. This way the definition of citizenship includes citizens everywhere. His final statement of the definition is even more inclusive, as it introduces

³⁵⁸ An idea he raises at the start of politics 1252a10, and picks up again after the definition 1277b8.

³⁵⁹ 1261b17-21

exousia, so also includes those that have the right to hold these positions. The argument proceeds like this:

1. 1275a23: The citizen in an unqualified sense is defined by partaking in decisions and *arche*.
2. There seems to be an imagined challenge here- some offices have term limits, and you can't occupy them twice, so doesn't that mean you would stop being a citizen once you have served your term? Aristotle answers this by creating a combination term for jurors and assemblymen, who lack term limits, and saying that participating in this newly named thing is what defines a citizen.³⁶⁰
3. However, this generic kind of *arche* without limits seems to only apply to democracies, where the combined jury and assembly have all of this power, and every citizen is always able to occupy those roles. In other places, where there is no general assembly or where the judiciary is divided up, we cannot clump these roles together so easily.
4. Aristotle argues that this isn't a big problem- every official is given some role that involves decision and judgment in some way, even if each particular office has limits on this power. So citizens are also those who take part in any of the official decisions and judgements that are part of the overall power of the polis.

This argument then could be paraphrased: Getting to share in offices is most definitive of citizenship. This doesn't mean that once you have occupied a role with a term limit, and so are no longer eligible, you stop being a citizen. As if once you have been president twice you are no longer a full American. Think instead of the kind of office that you are always eligible for, like that of juror or assemblyman. These are surely officials, because they hold the highest power in the state. And yes, of course some places have no such offices, but there the judicial and decision-making power is divided up. So it is having the right (*ἐξουσία*) to take some part (*κοινωνεῖν*) in decision or judgment, which are 'those kinds of powers held by the assembly and

³⁶⁰ This previous discussion of the novel *arche* is brought into this revised definition by using the term: 'in this way' οὕτως 1275a33.

jury in a democracy' but which in other constitutions may be divided up into many different offices.

This section begins with one definition of citizenship:

πολίτης δ' ἀπλῶς οὐδενὶ τῶν ἄλλων ὀρίζεται μᾶλλον ἢ τῷ μετέχειν κρίσεως καὶ ἀρχῆς

And by the end of this passage, we have reached the slightly different

ὥ γὰρ ἐξουσία κοινωνεῖν ἀρχῆς βουλευτικῆς ἢ κριτικῆς, πολίτην ἤδη λέγομεν εἶναι ταύτης τῆς πόλεως...”

These distinctions are significant because Aristotle's use of *exousia* and *arche* in the definition at 1275b18 he frames as resolving the problems raised by non-democracies. In a democracy the *arche* to which all citizens have access (assemblyman and juryman) hold all power whilst in non-democracies the sovereign power is held by other institutions to which not all citizens have access. This does not mean that citizens are totally without any power, but that they share in power unequally, either because the *arche* institutions in which they share are not decisively powerful, or because the way in which they share in sovereign institutions is not decisive. Translation which did not give enough weight to the significance of the use of *exousia* and *koinonein* tended to downplay the distinction between the two definitions. The introduction of *exousia* and *koinonein* in the second definition creates the space for this broader category of citizen, and therefore includes the unempowered citizens of non-democracies. There has also been an expansion of the *arche* term, now there are two varieties of *arche* (*bouleutikes* and *kritikes*), and each of these terms involves more kinds of officials, not just the juryman and assembly.

2.5 Aoristos arche as 'officialdom'

I have outlined an argument here as to why Aristotle has detailed this circular digression into the specific nature of the *arche*. Aristotle wants to clump together all kinds of power that a polis exercises as a polis and call it *arche*. He first does this by imagining the powers of the assembly and jury as one thing because this the most straightforward way for him to get across the meaning of his new concept: his new definition of *arche*, something like political power. Having constructed this abstract political power, he can then explain that every polis has it, even though in some places the power is distributed across boards and councils, rather than the jury

and assembly. So, when we return to define citizenship at 1275b22, there is slightly refined language to make explicit that there isn't any particular office or body that is always coextensive with the citizen body, but that it is the right to participate in any part of this collected political power that is citizenship.

This abstracted term *aoristos arche* then covers political power that is always being potentially held by citizens, but is variously embodied in all the positions within the polis, both those with a particular authority and those with more general power. It is difficult to translate; 'officialdom' maybe captures something, giving the definition that 'citizens can participate in the officialdom of the polis'. Officialdom includes all particular offices, and is derived from that use of office in English, but it also refers to the more general domain of that kind of power. Membership on a school board or a parish council makes one a part of 'officialdom' and so does serving on a jury. Vitally, 'officialdom' might include roles that do not demand formal investiture, but still contribute to the structuring of this kind of power; roles such as being a legal witness or even just signing a contract implicate one in officialdom. As a whole 'officialdom' wields enormous power, but it is by nature broken into many parts, of vastly differing significance.

Defining this '*Aoristos archon*' the way he does, Aristotle seems to be naming the polis version of this whole officialdom. All the formal power of the polis, whose ultimate authority might be derived from the council, the courts, the assembly and other explicitly political bodies, but which is expressed through many small offices. Vitally, he is including all forms of participation in this officialdom as definitive of citizenship. The possibility of wielding some of this official power is what makes one a citizen in Aristotle sense. These arguments are tentative; they rely on a dense passage that creates some unique terminology, and in doing so assumes a lot of contextual understanding of the semantic field. The most important point is that *arche* is broad and abstract.

That *Political rule* is a different kind of power remains his general argument here. That the authority exercised over free men of the same polis is of a different kind and therefore has different virtues to other forms of authority. This can be expressed most simply as a reciprocal relationship, ruling and being ruled in turn, but the mechanics of this reciprocity of rule in the real context of the polis requires this more complex idea of a general collective shared

authority. The abstracted political authority position must be identified to describe what the individual citizens can take turns occupying. This is not a completely innovative on Aristotle's part; *arche* is already used this way in this way in Plato's *Laws*.³⁶¹ The discussion Aristotle gives serves to specify this use of *arche*, which can have a very broad meaning otherwise.

It remains to be discussed how exactly citizens are said to 'share' or take part. "*metechein*" and "*koinonein*", as the terms to share and to participate, and the related terms of *exousia*, *bouleutikes* and *kritikes* as the things an official is doing when they are being an official.³⁶² Other terms relating to justice and selection also connect this abstract discussion with more actual examples of citizen's roles and will be discussed in the next chapter.

So, Aristotle uses the example of the *arche* that the juryman and assemblyman possess combined in a democracy as a way of discussing a difficult but important abstract concept, the complete various authority of a polis. Under different systems, this rule may not entirely reside in the jury and assembly, but in judges and magistracies. Nevertheless citizens 'share' in this rule in a variety of ways. Understanding the range of ways citizen can share in *arche* in this manner requires examining the examples of deliberating and judging that Aristotle gives us, which are discussed below, however before examining these examples we must discuss how Aristotle describes 'sharing/participation' with his use of both *metechein* and *koinonein*.

2.6 Terms for sharing: *metechein* and *koinonein*

Aristotle's use of *metechien* is well in line with contemporaneous discussions of 'sharing in the polis'. *Metechien* and other *meta*- terms are frequently used to describe the part taken in a polis. Filonik discusses how familiar the Athenian judicial audience is with this term being used "to evoke the normative aspects of relations between an individual and the city-state, sometimes with respect to their specifically political features, at other times to more broadly 'communal' ones",³⁶³ and this is the semantic environment in which Aristotle is describing a more precise definition of citizenship that satisfies his philosophical criteria and fits into a broader model of politics. The use of these terms in Plato³⁶⁴ and in Attic oratory apply to

³⁶¹ Especially 767A and 768C as discussed above.

³⁶² cf Sections 3.1, 3.2

³⁶³ Filonik 2023 p.267

³⁶⁴ *Crito* 51c-d

terminology to similar effect as Aristotle, and he seems satisfied with this preexisting vocabulary of sharing, unlike the vocabulary of power. The important stress on 'having a share' is often missed by translating *metechien* as 'participating'. The polis was a thing 'shared in' to a far greater extent, and in different ways, to how we conceive of participation in modern states.³⁶⁵

The language of sharing and participation is central to the definition of citizenship. What does it mean to 'have a share' in the sense that Aristotle uses in the definitions of 1275a18, 1275b22 and 1278a36-41? Aristotle opens his discussion of citizenship in *metechien* terms; he wants to find exactly what it is about the polis that citizens are sharing in, eliminating the possibilities of 'sharing' the same space and 'sharing' the same legal system.³⁶⁶

This discussion of Aristotle's definition of citizenship has focused on the passages between 1275a19-1275b23 because this is where he explains and expands his 'pure and simple' definition which has been taken as central. Over this passage he shifts from describing citizenship sharing in *arche* using *metechien* language to using *koinonein* language.³⁶⁷ This shift in language is suggestive of a change in focus that returns Aristotle to thinking of the *arche* of the polis as an entity with an identity beyond its constitutive citizens, a whole in which citizens are parts. We go from citizens being those that have a share of *arche* in the polis, to those who have a right to the collective *arche*. The difference is subtle, but the change of emphasis is significant. Aristotle, from the very beginning of *Politics* wants to create both normative and descriptive answers to the question; what is it that you share when you share in the polis? The polis is a kind of *koinonian* (1252a1), a partnership in which the members hold something in common. "ὃ γὰρ ἐξουσία κοινωνεῖν ἀρχῆς βουλευτικῆς ἢ κριτικῆς 'The right to hold in common the deliberative and judicial rule' is the concluding definition of this section. This shift back to κοινωνεῖν returns the focus to Book I, and the citizen as a member of the political partnership.

³⁶⁵ Filonik 2023 p.263-276 for use of *metechien* across poetry, historiography and drama Soph. OT 630, Lys. 18.1, Isoc. 16.46; *Ath. Pol.* 26 with the law of 451/450, cf. Thuc. 2.40.2; and in explicitly political context in Oratory Lys. 34.2, 31.5; Lys. 25.3, 16.5, Isoc. 16.17.

³⁶⁶ 1275a8-14

³⁶⁷ 1275a18-1275b22

The *koinonein* language is paired with *exousia* language, with the earlier iteration of the definition just using *metechein* language. So is the implication that citizens have “a right” to part of the whole, rather than simply “a share” in the whole? Trying to translate these concepts directly leads us into difficulties. The significance of this shift seems to be relevant to the fact the earlier definition fits only with a democracy, whilst the latter satisfies Aristotle as a clearer more generally applicable definition.

Aristotle's use of *metechien* is well in line with contemporaneous discussions of ‘sharing in the polis’. *Metechein* and other *meta* prefixed terms are frequently used to describe the part taken in a polis. Filonik discusses how familiar the Athenian judicial audience is with this term being used" to evoke the normative aspects of relations between an individual and the city-state, sometimes with respect to their specifically political features, at other times to more broadly ‘communal’ ones”³⁶⁸ and by the time Aristotle is writing we find this term appearing across the Greek world.

An important feature of *metechien* usage is that its use alone does not imply an equal share, and when an equal share is being discussed this is made explicit. Aristotle uses just *metechein* alone in the definition of citizenship³⁶⁹, but *ison metechein* to describe the anger that oligarchs feel at the poor having an equal share in the polis³⁷⁰. This distinction is important, it is to explain the differences between the constitutional orders that Aristotle uses to demonstrate the concept of an equal share. *Metechein* alone must include those that share in unequal ways. The concept includes equal and unequal participation, but is also used for kinds of sharing that are neither equal or unequal as such. An example of this is Aristotle's application of *metechein* in *Metaphysics* in his explanation of the theory of forms.³⁷¹ The way the Species ‘shares’ of the

³⁶⁸ Filonik 2023 for this term applied in Attic Oratory.

³⁶⁹ 1275a22-23

³⁷⁰ 1316a39-b3 also at 1280a29 again discussing the oligarchic perception of injustice of an unequal contributor gaining an equal share, but this time in explicitly financial share-holder terms. Aristotle's argument here is against Oligarchic, since the polis does not just exist for the sake of wealth. 1301a20-1301b4 at the start of book 5 is where Aristotle sets out this distinction fully.

³⁷¹ Arist. *Metaph.* 990b31

Genus is such a kind of share.³⁷² The share in 'whiteness' that both swans and snow have is a categorical variety of share that demonstrates the breadth of the concept here.³⁷³

These questions are open because of the possible range of 'political action', and these terms potentially cover many kinds of action. *Arche* understood as the collective official power of the polis is something that can be shared in, or held in common, in a variety of ways. It is these ways of sharing that Aristotle defines as decision-making and judgment forming.

2.7 Performative power of the polis

This chapter has examined in detail how Aristotle works through the consequence of his innovative idea; the 'political rule' that he first introduces in Book I all the way into his Book III definition of citizenship. This puts the relationship he first defines in Book I into the context of the polis. This notion is an explicit theoretical innovation and has far-reaching implications for his theory of politics.

The course of this chapter has followed these implications through Aristotle's definition of citizenship into his constructions of a broad notion of polis power. The thing that citizens of a polis share in is ultimately its whole 'power/officialdom', that thing that is represented by all its official power. This 'power/officialdom' are those parts of the polis that exert authority over citizens. Aristotle limits this conception of the polis with his discussion of the household in Book I, a sphere where different relationships of power dominate. The polis's power is shared between citizens through the many institutions of the polis and is based on the special political relationship that assumes at least theoretical reciprocity- it is not just that the citizens may take a turn at ruling; it is that they are ruled in a unique way as well. Although his theory of the polis

³⁷² Arist. Top. 121a12, cf. 123a8, 143b14

³⁷³ Arist. Top. 121a12

power is based on action; the actions that citizens take and collective actions of the whole polis, citizens still participate in this power when passive.

This form of action is where the ideas of performativity can apply. Citizenship is the status that allows access to the performatively constructed world of the polis, a world in which citizens can act with their speech. A share in official power/officialdom specifies citizen performative power as opposed to the kinds of performances anyone can speak. Anyone can invoke the gods, swear oaths, make promises and others performatively speak in a variety of ways, but only citizens can perform speech acts 'as the polis'. This is a status that is permanent, but the status is affirmed by the potential ability to take on positions of formal authority that are often temporary.

The next chapter will discuss how Aristotle enumerates the particular incarnations of this power, the forms it takes in decision making groups and particular *archai*. In these particulars that Aristotle describes, a picture is built up of a set of institutions that mutually reinforce a lifeworld for those with the potential to act performatively. In this world it is exclusively citizens who are empowered to decide, to accuse, to judge, hold accountable and most fundamentally to witness and affirm each other's performances.

3.0.0 Citizen actions: decision-making, judging, offices and selection

This chapter stays focused on Aristotle's description of citizenship but goes beyond the definition in Book III to look at how Aristotle describes the various roles through which citizenship could be expressed. As discussed in the previous chapter, the definition of citizenship suggests the exemplary kinds of citizens' roles are the juryman and the assemblyman, but the language of the definition is open and includes other roles with similar 'decision-making' powers. The significance of this openness comes in the detail of the argument: citizenship is defined by the exercising of citizen powers.

Aristotle defines two kinds of *arche* that citizens participate in:

ὥ γὰρ ἐξουσία κοινωνεῖν ἀρχῆς βουλευτικῆς ἢ κριτικῆς, ³⁷⁴

The last chapter discussed how examining the language of power suggests a reading of *arche* broader than just 'office'. Aristotle uses an abstract position: the combined jurors and assemblymen, as his examples of citizenship. However, he also includes these whole lists of various official positions (1321b5-1323a10) different kinds of decision making (1298a4-1298a9) and different kinds of courts (1300b15-1301a16) as parts of the polis.³⁷⁵ These parts contain elements of both decision-making and judgment, both *bouleutikos* and the *kritikos*, to some extent, and it is to this extent that they are opportunities for citizen participation. This chapter will first discuss what these two terms that each apply to 'decision-making' refer to exactly and how they describe citizen acts. Though the most typical forms of participation are often clear, defining the outer border of what can qualify as 'sharing' or 'participating' in the actions of citizenship is more difficult.

This use of *bouleutikos* and the *kritikos* is not exactly the same as the similar combination of 'assemblyman' and 'juryman' placed earlier. These two terms are non-specific, and combined they represent all the roles that a citizen might be eligible for. There is also a lot of overlap between them. Jurors, assemblymen, and councils might all be asked to exercise both

³⁷⁴ 1275b19-20

³⁷⁵ 1298a1-4

bouleutikes and *kritikes*.³⁷⁶ Similarly, Aristotle gives us three parts of any constitution: the *bouleuomenon* element, the *archai*, and the *diokazon*.³⁷⁷ These three areas of constitutions are drawn with deliberate overlap, because in different systems each area will have different responsibilities. There are both *bouleutikos* and *kritikos* aspects to positions in all three of the sections of the polis; the *bouleuomenon*, the courts, and the offices. All this redundancy and overlap in his description of polis structures is also a product of how broad and inclusive Aristotle is trying to be. These lists are all couched in discussion of how differently structured constitutions will differ in their distribution of these responsibilities.

This chapter first discusses how Aristotle defines these various 'decision-making' powers, the *bouleutikos* and the *kritikos*, and how we can understand Aristotle's use of these terms. These concepts in Aristotle both refer to a kind of decision-making but do not map neatly onto modern English 'deliberation' and 'judgement'³⁷⁸, and so some precision is important to understand what exactly it is that a citizen is doing when they are exercising these powers that define their citizenship. The next section addresses the use of 'deliberation'. Aristotle uses these terms broadly, and the discussion in the next section investigates how they can apply to every official position, including jurors and assemblies, and to the electorate of these positions.

Then, following Aristotle's own discussion, this chapter then examines how individual official positions exercise these powers and finally examines how the selection of officials indirectly includes an electorate in the decision-making assigned to that position, and how this participation can be understood through Aristotle's definition of citizenship. This sets up the Aristotelian structure of the theoretical polis, against which we can compare the evidence for participation in actual poleis in chapters 3 and 4.

³⁷⁶ These two aspects are combined again as a shorthand for 'political class' in Book VII when Aristotle is laying out his ideal state, and are grouped together in such a way that suggests inherent overlap between deciding and judging. 1329a3-5. The military here is opposed to the combined 'deciding-judging', so that young citizens fight and old citizens 'decide and judge'

³⁷⁷ 1298a1-4

³⁷⁸ These terms have their own issues in English, that overlap with the issues outlined here in the Greek. "Deliberative" in constitutional terms refers to a specific set of government powers and therefore a part of the constitution, rather than "deliberation" which refers to the process of group decision making.

3.1.0 The decision-making terms *boule-* *dik-* *kris-*

These sections (3.1 and 3.2) address a question of terminology in Aristotle's definition of citizenship: how does Aristotle define the *boule-*, *dik-* and *kris-* terms that he applies in the definition discussed in the previous chapter. Citizens share in both *bouleutikos* and *kritikos arches* (by Aristotle's definition). Aristotle wants to specifically include both kinds of positions. The *bouleutikos* refers to roles that make decisions about the shared actions the polis undertakes, and the *kritikos* refers to judgments the polis makes; including of officials, of defendants, and of candidates. In loose terms this may map on to a broadly defined modern executive plus the legislative branch of a constitutional government, though as this section will discuss this comparison is somewhat misleading.

Although the passage from 1298a4 gives us a clear list of what issues the *bouleuomenon* of the polis is in control of, there is still ambiguity in how exactly we can understand the *boule* term as it is applied at 1275b18. There has been some difficulty in this interpretation of *boule* terms in general: to what extent do these terms refer to the discussion leading to decision, or to the decision-making itself. These discussions are relevant for attempts at reconstructing what went on in council and assembly meetings, and to what extent these bodies could be considered "deliberative", and therefore how to understand the significance of sharing in deliberative bodies, even if not everyone has a vote at the end of discussion.³⁷⁹ This issue is addressed in chapter 4 where I discuss the debates between Cammack, Cannavaro and Hansen which are relevant to understanding how assembly power is practically shared. In contrast this section will discuss the positions Aristotle is naming with the expressions *archas boulitikos*, *to bouleuomenon*, and *bouleuesthai* and how we can understand the powers these position hold. This is how office holders and members of decision-making groups are empowered to act whilst in those positions.

³⁷⁹ Such bodies are implied by how Aristotle describes the assembly at Carthage as having more than just deliberation powers 1273a7-14.

3.1.1 The *archas boulitikos*, *to bouleuomenon*, and *bouleuesthai*

Across *Politics* and *Ethics* Aristotle uses a cluster of related *boul-* terminology. Aristotle defines 'to *bouleuomenon*' as that which is sovereign (*kurion*) about war, alliances, laws, serious punishments, and audits.³⁸⁰ Those actions that are within the power of the polis and are done collectively. Aristotle closely associates deliberation with authority so if the deliberative bodies and officials are selected in oligarchic ways, the entire constitution is likely to be oligarchic.³⁸¹ General assemblies had a variety of deliberative powers depending on the constitution, not always every part of *to bouleuomenon* but always some aspect. The Spartan assembly is able to decide on war, for example. Aristotle applies *boul-* terms broadly, and with a lot of overlap with *krisis* terms: officials have some deliberative duties, along with other kinds of duties. Bodies can have some deliberative powers, along with powers of judgement. This overlap keeps Aristotle's understanding of citizenship broad so, even with a narrow reading of *bouleuesthai*, if members of a purely deliberative body have no share in the decisions of the polis (for example if they don't vote on significant issues), they still share in the formation of significant judgments.

Aristotle's understanding of the act of deliberation (*bouleuesthai*) in *Politics* assumes it is making decisions about the course of action for unified polities: it isn't about what the best form of government is. Indeed he explicitly excludes philosophy, which is not deliberation but rather enquiry into what already is true. Aristotle's deliberation in *Politics* as in *Nicomachean Ethics* is about actions to be taken.³⁸² One can deliberate alone, considering alternative courses of action, but his assumption here is that *bouleutikos* roles in the polis involve taking decisions that impact the polis. He uses the term at length in the *Politics* which I will discuss, but his use of the term in *N.E.* helpfully locates the deciding (*bouleutikos*) act within individuals. He makes use of navigation metaphors; the destination is fixed, the route is deliberated upon, once you have traced the route back from the end to where you are you have finished your deliberation.³⁸³

³⁸⁰ 1298a4

³⁸¹ 1298b1-5; 1299a2-4

³⁸² *EN* 1113a17-18

³⁸³ *EN* 1112b17-18

These arguments in *Ethics* suggest that *bouleutikos* describes agents with the power to alter their course, either alone or as a group; it is decision making, rather than discussion around that decision. This is the kind deliberation that Aristotle places within the context of the polis at 1297b35-1299a2. *Bouleuomai* is one term in Aristotle which is narrower and more specific than it first appears. This specificity is demonstrated in the way Aristotle applies the term in contrast to *sumboule* to describe an oligarchic approach to limiting popular access to decision-making:

ἡ τῆς **συμβουλῆς** μὲν μεταδιδόναι πᾶσι **βουλευέσθαι** δὲ τοὺς ἄρχοντας.³⁸⁴

Everyone gets to take part in the supporting discussion (*sumboules*), but only the officials decide (*bouleuesthai*).³⁸⁵

Though it may only be decisions with impact that qualify as ‘deliberation’ in this narrow interpretation of Aristotle, the *sumbouleutic* function of a council or assembly is broader than just this moment of decision and includes judgments. In this way judgement seems to include more ‘deliberation’ in the general sense of group discussion than *bouleutikos* does. Firstly, Aristotle is careful not to describe the assembly as inherently or only a decision-making body; it is likely to have some decision-making functions within its power, but certainly will not have all of them, and usually the less democratic the polis, the less the general assembly is able to decide on. His examples of oligarchic and aristocratic distributions of deliberation still suggest a general assembly having the power to decide on war and audits.³⁸⁶

Citizens participated in ‘decision making’ in a variety of ways beyond the assembly; as minor office holders or as electors. They could have marginal input on minor decisions whilst being excluded from significant decisions. The defining feature of participation in *bouleuesthai* is that it does result ultimately in some decision. Aristotle’s recommendation is to give the common people power to veto.³⁸⁷ There are lots of mixed forms here: even in radical democracy

³⁸⁴ 1298b34-35 so the people are taking part (μεταδιδόναι) in what the decision is derived from (συμβουλῆς) but not the final decision (βουλευέσθαι) itself.

³⁸⁵ Newman p252 describes this as a consultive voice versus an effective voice, cf Aeschin. 2.65 contrasting the discussion with the decisions using *sumbouleuein* and *bouleuomenon* respectively.

³⁸⁶ 1298a36-1298b12, his examples here are not systematically complete so there is frustrating ambiguity on whether the most oligarchic systems he imagines lacks any assembly at all, it does suggest that in theory a constitution could exist where some citizens are totally excluded from all decision-making. 1298b1-6

³⁸⁷ 1298b36-38

magistrates make preliminary decisions for the assembly to approve.³⁸⁸ In oligarchies a few common citizens can be co-opted into the decision-making body of an oligarchy help lend it legitimacy.³⁸⁹ Aristotle proposes sharing moderate decision-making power, without conceding sovereignty, as a strategy.³⁹⁰ This participating in decision making can also be indirect, and the example of this indirect decision making in democracies Aristotle gives is Mantinea, where a special committee is chosen out of all citizens to select the magistrates. This selection of some out of all keeps the demos sovereign, even if they are not all making the decisions all the time.³⁹¹

The *bouleuomenon* decides about making war and peace, alliances, laws, sentences of death and exile and confiscation of property, and auditing magistrates.³⁹² This list covers a lot of the powers of a polis; in modern terms most of the powers of the legislative, important parts of executive power and a few elements of the judicial powers are all grouped together. Aristotle does not imagine a situation where a single body would completely decide all these matters. Even in an extreme democracy where the general assembly is sovereign in all these matters, it delegates and divides practical decision-making power among rotating councils.³⁹³ Obvious practicalities constrain mass deliberations on every aspect of government. The devolution of some decision making in a democracy is practical, whilst in an oligarchy it is political. The line between them is decided by how the procedural mechanisms of oversight share out the ultimate sovereignty.

In any system regular decision-making is done by the magistrates who are empowered to act within their responsibilities. Overall, the way decision making is divided up into sections suggested an understanding of this power that assumes it cannot really be held in a single body.³⁹⁴ Even Athens, where the assembly's sovereignty over everything is important, has a

³⁸⁸ 1298a3

³⁸⁹ 1298b30-49 describes how oligarchies might select members of the multitude to give themselves popular legitimacy. This is distinct from the 'self-selection' of officials 1273a14-15, 1298b2-3 (translated by Rackham as "Co-optation") where the officials themselves select their successors, more on this in chapter 3.

³⁹⁰ Simonton 2018 p.121-147. Simonton focuses on the use of popular representation in oligarchies, and their balance between these methods and coercive ones. Aristotle recommends good government and co-optation but also concedes that coercion was a fact of political life in oligarchy (1290a27-29). Simonton p124-5 examines the successful Corinthian oligarchy with its careful use of assemblies to gauge popular opinion and to lend legitimacy to the oligarchic constitution.

³⁹¹ 1318b22-28

³⁹² 1298a4-8

³⁹³ 1298a30-34 1298a10-34

³⁹⁴ Esu 2024 discusses this in detail, and how Aristotle theorises this p18-23

council which exercises independent decision-making power over some key issues, especially the oversight of officials, as well as its influence as a *pro-bouleutic* chamber.³⁹⁵ Tyranny and monarchy are completely absent from his discussion of the various ways decision making power is broken up whilst a variation of democratic, oligarchic, constitutional and aristocratic forms of decision-making process are listed.

Aristotle's terminology suggests the act of *bouleuesthai* refers to the final decision rather than any 'discussion', but this understanding creates ambiguities. His arguments for including the entire citizen body in decision-making are not just pragmatic but a positive argument for the wisdom of crowds.³⁹⁶ This suggests the discussion process, not just the decision, does matter. Translating *bouleuesthai* as 'deliberation' means we tend to blur participating in decision-making with participating in forming judgements, which is the subject of the next section. Garsten suggests that deliberation splits the polis in half; the rulers make decisions exercising practical wisdom to decide what action is in the best interest of the polis (ideally).³⁹⁷ The ruled half, and he includes the members of the assembly here, exercise 'judgement' *krisis*, and in this way the collective decision uses the virtue of both parts, with the rulers proposing and the ruled selecting. This position makes sense of Aristotle's discussion of the judging wisdom of crowds, and how this is connected to good deliberation and to separation between the virtues of those who make things and those that use them.³⁹⁸ Identifying the crowd at an assembly as 'the ruled' raises other problems. Aristotle identifies these positions as kinds of *archai* and so those citizens occupying them,³⁹⁹ even in relatively disempowered assemblies are not exactly sitting in the 'being ruled' position. Aristotle portrays the user-judge as the highest form of judge, with more power to decide the worth of an object than its maker.⁴⁰⁰ However, the inclusion of judging in the deciding is a vital clarification of Aristotle. *Bouleuomai* as a collective action always involves the *krisis* of the political audience.

³⁹⁵ *Ath. Pol.* 45 for council sovereignty limits, *Ath. Pol.* 46-50 lists many small offices that the council has some decisive power over. cf Rhodes 1972

³⁹⁶ 1286a25-1286b5

³⁹⁷ Garsten 2013 p345

³⁹⁸ 1282a19-24 See also the political like rule of wives 1259a40-b10,

³⁹⁹ As discussed above, he calls the idea that they are not positions of power absurd 1275a29-30

⁴⁰⁰ *Phys.* 194b3-4

3.2.0 Making judgements: *krisis*

What kinds of citizen action is implied by the use of *krisis* as part of the definition of citizenship?

The openness of this term for Aristotle can be demonstrated by the range of examples it is applied to, although he uses these terms far less than *boule* terms. The many are a better 'judge' (*κρίνουσιν*) of music⁴⁰¹, doctors judge what is best for their patient.⁴⁰² The assembly is identified as a site for both judging in a *dika* sense and in the *krisis* sense.⁴⁰³

This comes as part of his argument for the wisdom of the multitude, where Aristotle separates out these three distinct functions of the assembly. He also uses *krisis* referring to all the judgments that *to bouleuomenon* must come to.⁴⁰⁴

This links together judging and deciding. Naturally the people who take the final decision also judge the issues. In this way *kriseis* terms refer to jurors, members of assemblies, and indeed magistrates who must all make judgements as well as come to decisions.⁴⁰⁵ Following this reasoning anyone in a regular position to have their individual judgments affect a final decisions seems to be participating in judgment to at least some extent.

Aristotle also switches between the two terms that can refer to judicial process, using *krisis*, for the more general function of judging and deciding and *dik*- based terms such as *dicast* to refer to positions in the judiciary. To be a judge *dicast* for Aristotle is a more particular role confined to a particular office in the polis as it is any position, judge or juror, with a specific remit to decide a case within parameters set by law.⁴⁰⁶ This includes redress after criminality but is not limited to criminal law and covers any kind of restoration, and there are many forms of court he lists at 1300b15-1301a16 which are discussed later in the chapter on participating in justice. The judging offices that citizens share in could go well beyond the modern conception of a judiciary but are still more limited than the many possible meanings of *krisis*.

⁴⁰¹ 1281b9

⁴⁰² 1331b36 Cf. Hippocrates uses the plural to talk about the turning point in a disease Hp. VM 19- this is the issue about which a doctor must judge to apply a timely and appropriate remedy.

⁴⁰³ 1286a26-29 cf 1300a1-5 The well funded assembly meets all the time and judges everything themselves

⁴⁰⁴ 1298a4-9

⁴⁰⁵ Fröhlich 2016 p107 constructs a similar argument also citing a passage on the monarch's role in judgements 1286a24-27

⁴⁰⁶ Aristotle believes this term is etymologically related to 'half' (*Dixa*) (NE1132a21-33). Connecting his abstracted justice to the practical service a judge provides. Having a role in the judging of equality restoration therefore always means judging both the individual and the circumstances.

3.2.1 *Krisis* and *diké*- terms

A combination of these terms that demonstrate their relative use by Aristotle is part of the passage defining the citizen, where he is describing how jury-less Carthage decides lawsuits⁴⁰⁷, certain 'officials' (*archai*) 'decide' (*krinousi*) all 'lawsuits' (*dikas*). Aristotle switches, between "βουλευέσθαι καὶ δικάζειν"⁴⁰⁸ when he is talking about kinds of duties that an official might be assigned, to "βουλευτικῆς ἢ κριτικῆς"⁴⁰⁹, when talking about the two kinds of role a citizen might participate in. In the rest of *Politics* Aristotle seems to prefer using δικάζειν and this refers specifically to courts and 'lawsuits' and usually participation in the form of being on juries,⁴¹⁰ though sometimes a more general participation in the legal system might be implied.⁴¹¹ Courts arrive at judgements (*Kriseis*),⁴¹² but *krino*- verbs are used referring to making a judgement about things broadly. This includes in legal and official contexts, but not exclusively so by any means. Aristotle's is an unusual use *kritikos*⁴¹³ to mean specifically the judging that is done by the polis, rather than a more general capacity for discernment which is its general use.⁴¹⁴ Aristotle uses this word to describe the capacity for discernment that is innate to all animals⁴¹⁵

In *Rhetoric* Aristotle gives a comparative definition of judge and judgement. This passage makes clear that one can be properly called a "judge" when judging "political contests", whether a dispute or about a decision.⁴¹⁶ Here judging is about the judgment between 'the points at issue', rather than between opponents, and in more general deliberation it is arguments that are opposed, but that you are still properly called a 'judge' for judging between them. This is distinguished from the generic 'judge' discussed above⁴¹⁷ which may refer to any audience of a speech, such as epideictic speech where the spectator (τὸν θεωρὸν) is treated as a judge, even

⁴⁰⁷ 1275b13

⁴⁰⁸ 1275b17

⁴⁰⁹ 1275b19

⁴¹⁰ As it does at 1293a11, 1294a39, 1297a26, 1298b18

⁴¹¹ 1317b27, 1318b31

⁴¹² 1321b36

⁴¹³ 1275b19

⁴¹⁴ See Κριτική in LSJ

⁴¹⁵ Arist. *APo.* 99b35

⁴¹⁶ Arist. *Rh.* 1391b9

⁴¹⁷ 1391b9-20

if their judgement is on the aesthetic qualities of a speech, rather than on the issue it is presenting.

This term for judgement is far less connected to the outcome than '*bouleuomai*', so in the context of *Politics* it better describes roles with discursive influence, but not necessarily concrete constitutional powers. So then why the use of *kritikos* in the 1275b18 definition of citizenship? This discussion in Rhetoric demonstrates the overlap between *arches bouleutikes* and *arches kritikes*, but not that they are coextensive entirely. There is also explicit overlap between the courts and the decision-making: the audit of magistrates appears in both lists, so is part of the decision-making power of the polis and a kind of court.⁴¹⁸ Those 'decision-making' are always judging the issues of the situation, but also there may be some offices, most obviously the jury in a case, where one simply judges without 'making a decision' in Aristotle's narrow sense of *boulemai* discussed above. In these cases, you do not decide upon the means to any end, but simply judge the case as it is put to you. Aristotle's use of both these terms at 1275b18 indicates an acknowledgement of both of these distinct forms of 'decision-making' as the defining features of citizenship. The *arches kritikes* are varied, including more than judges and jurors.

This presents a difficulty for our action-based rubric of citizenship: what exactly is a citizen *doing* when they are 'judging' in this sense? The only potential answer here is participating in debate, debate that can lead to action. Political debate of this kind involves performative speech acts; declarations one might be held to in court and formal disputes.⁴¹⁹ These are performative speech acts because they require citizenship (or other statuses discussed in 4.7.3) to work, and working means they have done something in the shared world, the making of some statements in the right context can constitute a performative act; it is not just that citizens in the assembly are talking, they are also doing things with these words in the performative sense.

These matter for Aristotle because this participation is characteristic of citizenship, even where many citizens only have the right to debate and don't vote on final decisions. Debate requires the citizens to judge (*krinien*) in relation to a decision (*bouleuomai*) assuming there will be a

⁴¹⁸ 1298a6, 1300b20-23

⁴¹⁹ *Ath. Pol.* 59.2, 24.33

vote of some kind. Assemblies may not get a vote on every matter, or even on most matters, but the ability to take part in public debate still has some significance and seems to still be associated with citizenship by Aristotle. Participation in 'judgement' in this sense that is not just the formal judgments of a juror but whatever else is captured by Aristotle's use of *krisis* seems difficult to define. Although these are clearly the core of what qualifies as taking part in judgements, being a judge or juror, there is also a whole set of more ambiguous judgements that citizens take part in; judging between candidates, between proposals, contributing to collective judgments. These examples will be studied throughout section 4.

3.2.0 The magistrates, the plural *archai*

Whilst above this thesis has argued for a more inclusive reading of the *arche*, there are clear places where Aristotle is referring to discrete positions of power that can be reasonably translated as "offices". The use of the plural helps clarify this distinction in English and Greek. To have a share in Office is different from sharing in discrete offices and implies that a more abstract concept being named. The previous discussion has focused largely on this more abstract aspect of *arche*, but there are also ways in which the *archai* as offices can be shown to describe a very broad variety of positions. The passage listing offices at 1321b4 is an extensive and inclusive list of offices from 1321b4 to 1323a10, then after 1322b19 he lists those that are less 'political', though as will be discussed he includes significant roles in this 'less political' category.

Aristotle makes a point of including local officials that operate a sub-polis remit, discusses how these powers ought best to be divided up,⁴²⁰ and also covers some quiet minor seeming officials as vital. The 'market controllers' are named as the most vital officials in any polis,⁴²¹ and these are also the example of an official that might be divided into multiple roles. Though generally it seems Aristotle imagines a polis being divided into multiple administrative sections he doesn't have many explicit discussions of these sub-polis units, the terms he uses in the list of officials are vague,⁴²² but cross referenced with his more explicit naming of

⁴²⁰ 1299b14-17

⁴²¹ 1321b13-15

⁴²² 1321b24

phratrries, tribes and companies earlier also discussing the distribution of public funds it seems clear these are what he is referring to.⁴²³

‘Sharing’ in the ways discussed in any of these official positions might then constitute Aristotelian citizenship. Being eligible for any these offices is potential participation, voting to elect any of these officials is taking part in the judgement of the polis, and being able to audit any of these officials is taking part in the decision-making of the polis. As I have described, much of the decision making and judging that is being done by the polis is being done by officials in positions of power making many smaller decision about the enforcement of laws, with the rest being done by councils, courts and assembly making more consequential law-making decisions, as well as enforcing accountability on these numerous officials. The rest of this section focuses on the issue of Aristotelian vocabulary that breaks up his list of officials.

3.2.1 *Timai* and their relation to *archai*

Aristotle separates his list of official positions between “political” and others (which Rackham notes “Religious”) by this expression:

αἱ μὲν οὖν **πολιτικαὶ τῶν ἀρχῶν** σχεδὸν τοσαῦταί τινές εἰσιν⁴²⁴

In what way does he mean to exclude those officials that are not of a ‘political’ nature? This relates to quantifying exactly how broadly these *archai* are to be understood: the interchangeability between *archai* and *timai*, and so what is the applicability of *archai* to priesthoods and other polis position that might more usually be called *timai*.

The difficulty that Aristotle has in defining citizen is demonstrated in his final shift on the subject. After his considerations on the boundaries of citizenship in various situations, where he is particularly concerned with the citizenship of workers of different statuses, Aristotle retreats to definition from the centre of citizenship again, but this time slightly altering his formulation. He gives a definition of citizenship as “Sharing in the *Timai*” at 1278a35-38 as citizenship in the καὶ ὅτι λέγεται μάλιστα πολίτης ὁ μετέχων τῶν τιμῶν, and elsewhere describes *archai* as a variety of *timai*.⁴²⁵ Blok discusses *archai* in Athens as a particular kind of

⁴²³ 1309a10-14

⁴²⁴ 1322b18

⁴²⁵ 1281a31

timai,⁴²⁶ and this understanding is present in other texts.⁴²⁷ *Timai* are often simply positions of authority, those positions that have power regardless of who happens to occupy them.

However, this interchangeability is complex beyond the idea that *archai* are a subcategory of *timai*. The way Aristotle uses *archai* implies that the plural does refer to 'offices' as in specific positions that can be held and left, but that *arche* singularly as it appears in the definitions at 1275b can be understood more broadly as has been discussed above. *Timai* is a similarly complex term with regards to honour and value, and so we cannot draw a simple division that *archai* are those *timai* that have particular polis powers. Cultic and feminine *archousai*, who were in charge of the Thesmophoria, demonstrate that the distinction is not drawn along gendered lines, or in a way that divides off a 'political' sphere.⁴²⁸ We must conclude, following Blok, that *Archai* are a large subcategory of *timai*⁴²⁹ and that there is no clear distinction between *archai* and *timai*.

His other use of *timai* as offices comes when he is defining the problem inherent in absolute aristocracy, in simply allowing 'the respectable' (τοὺς ἐπιεικεῖς) to always be in office: because offices are honours, you will dishonour some citizens if they are always out of office.⁴³⁰ Putting aside any scepticism we may feel about the existence of a group of categorically 'reasonable' citizens, the problem here for Aristotle is one of proportionate distribution. A constitution cannot distribute power without alongside it distributing honour and worth. Power can be awarded according to who can best use it for the common good,⁴³¹ and therefore a theoretical elite could justly monopolise power. However, this would unfairly dishonour those citizens who never get a go in office only because they happen to live alongside exceptionally reasonable people. This argument helps us see the distinction that Aristotle sees between *archai* and *timai*; the distribution of offices *archai* and rule *arche* in general might be done fairly on the basis of capacity, but *timai* cannot be fairly distributed this way and would cause just feelings of exclusion if they were.

⁴²⁶ Blok 2017 p188-197

⁴²⁷ Mentions of *Timai* (From Blok 2017 p188) Hdt. 1.59, Arist. *Pol.* 1281a31 Pl. *Ap.* 35b: Cf Eur. *IA* 19.

⁴²⁸ For the *archousai* see Is. 8.19–20. For the parallelism between masculine and feminine *archai* in Ar. *Thesm.*, Jacquemin 2005 p344–5

⁴²⁹ Blok 2017 p267

⁴³⁰ 1281a31, for the use of *epieikes* to indicate class, see *Ath. Pol.* 26.1, 28.1 Neil 1901 p209 on how Aristotle uses *epieikes* to indicate political positions.

⁴³¹ 1281a1-9

Simply that different terms are used suggest some difference between the categories, with *timai* being a somewhat broader term. Though it is significant that Aristotle reports, without criticism, 'sharing in the honours' as a frequently used and Homeric understanding of citizenship,⁴³² he still uses *arche* language in his own definitions. This tentative distinction: that *archai* described positions necessarily involving the exercise of some 'power' of decision making is not exclusive to Aristotle's usage. The female *archousai* of the Thesmophoria, involves the management of funds and festival goers and has many political aspects such as election by lottery.⁴³³ Some *timai* are roles that don't necessarily involve 'power' over anyone, but do implicate the polis in the actions of the holder of that *timai*.⁴³⁴

This distinction is fragile, and more a matter of inflection than hard definition. Aristotle's clearest discussion on the subject is that we call offices honours.⁴³⁵ This interchangeability is another argument for an inclusive reading of Aristotle's definition of citizenship. Aristotle's last words on who is fundamentally a citizen are 'those that share in in the honours'.⁴³⁶ This comes after going through his objections to the inclusion of various categories of problematic potential citizens⁴³⁷ he gives this broad, *timé* based understanding of citizenship. The messy concession seems to be that where craftsmen and others share in the *timé* of the polis, they are also citizens in some way. Blok's concept of baseline *timé* is helpful here, and that there is some minimum level of respect which must be accorded to all members of the community. How this idea is connected to Aristotle's own understanding of the connection; baseline time necessarily involves some baseline share in *arche* as well. In this line, which is his last word on the definition of citizenship, Aristotle seems to accept that once the complex business of constant political change is considered, those who share minimally in the *timai* even if that is their only share, are on some level also citizens.

⁴³² 1278 a 35-38

⁴³³ Isaeus 8, 20. [Dem. 59] See Guía & Stevens 2017 for this political nature of the thesmaphoria.

⁴³⁴ Aristotle does not make much mention of honours in general, except as in his broadest definition of citizenship. Proxeny is mentioned at Arist. Ath. 54.3.

⁴³⁵ 1281a31

⁴³⁶ 1278a35-38

⁴³⁷ 1277b34-1278a35

3.2.2 Defining *archai* and priesthoods

Aristotle also describes priesthoods as forms of *archai*, though distinct from the 'political' *Archai*.⁴³⁸ His discussion here reflects just how much low-level official selection he assumed; leaders of choruses, and heralds, and ambassadors are all selected, by lot or vote or other means, and Aristotle is unsure where to draw the line on which of these selected positions are properly called *archai*.⁴³⁹ He concludes this discussion by returning to a version of his definition of *arche*: the combined functions of deliberating and judging are the most characteristic of, and so roles that perform these functions are most properly called *archai*.⁴⁴⁰

In addition to his comments at 1281a31 where he describes these *archai* as called a kind of honours, this suggests that we must understand the term as very broadly applicable, but centred on the functions of decision and judgement. He sets out the many kinds of (*archai*) offices required for the polis, from 1322a30 we see that many positions that are called *timai* in most contexts are being included by Aristotle as a kind of *archai*. A *epimeleia* (ἐπιμέλεια: *superintendency* as it is translated in Rackham and in Barker and Reeve more broadly as 'supervision') is a variety of *archai* (1322a35-40), and some of these responsibilities are the most crucial *archai* in the polis. Although he relegates them to an afterthought in his list of necessary officials, Aristotle does include priests and sacred administrators as a kind of superintendent that is 'not political':

αἱ μὲν οὖν πολιτικαὶ τῶν ἀρχῶν σχεδὸν τοσαῦταί τινές εἰσιν· ἄλλο δ' εἶδος ἐπιμελείας ἢ περὶ τοὺς θεοὺς⁴⁴¹

How this boundary of the *politikai* is drawn is difficult to extract, and he summarises his position by including all responsibilities to do with the *daimonia* (the "divine") falling under the remit of his 'necessary superintendents',⁴⁴² and therefore seemingly 'officials' in his sense, at least where it counts in terms of citizenship. The implication from the full passage here seems to be that priests (ἱερεῖς) are among the *archai* of the polis, although they are not *politikai*, as well as those who maintain the buildings, manage the funds etc. The Barker/Stalley translation makes it explicit that these are those that deal with specifically 'civic' deities, a distinction Aristotle does not make, these are not minor tasks given that they should be the most

⁴³⁸ 1299a15-20

⁴³⁹ 1299a20-21

⁴⁴⁰ 1299a26-28

⁴⁴¹ 1322b18-20

⁴⁴² 1322b30-32

impressive structures,⁴⁴³ and that the expenses of religion are the concern of the entire polis.⁴⁴⁴ Aristotle is more explicit in his tying in of the gods to polis matters when he is discussing the ideal polis in book VII. If Aristotle does conceive of some priests as outside of the polis structure that is not evident from this passage. This discussion will be continued in the conclusion because it is another area where examination of the other evidence for how these roles worked in practice helps refine this position.

Another example which suggests that the actual power wielded by religious officials opens up contradictions between Aristotle's principles of citizen participation and his assumptions about political membership are priestesses. In Athens, where our evidence is most diverse, we can see priestesses exercise a variety of citizen powers. Priestesses of Demeter could legally challenge a priest⁴⁴⁵ and could speak in the assembly and the council.⁴⁴⁶ The priestess's role in public cursing combined with the political characteristics of the *thesmaphorai* officers and the volunteer prosecution of/by priestesses at Arkesine, there is a substantial case to be made that priestesses, and through them certain kinds of women in general, can be called citizens in Aristotle's sense.

3.2.3 Sub-polis positions

Sacred roles are not something that Aristotle examines closely, and neither are positions of authority at the sub-polis level. However, this does not mean they are absent from his concept of the polis. He mentions *phratría* three times: at 1264a8 they are the institutional means through which a radical community of property (like that in Plato's Republic) would be achieved. At 1300a25 they can be used as an electoral ward grouping and at 1309a12 the group which accounts should be sent to ensure adequate transparency. He mentions *phyla* in these places as well, and also as a sub-polis feature that can and should be empowered to moderate democracies.⁴⁴⁷ In each case he recognises these sub-polis institutions as sharing in the polis altogether and as organs through which citizens share in the polis.

⁴⁴³ 1331a25-29

⁴⁴⁴ 1330a8-9

⁴⁴⁵ [Dem.] 59.115-117; Ath. 13.594b

⁴⁴⁶ LSCG 102 IGXII 7, 4

⁴⁴⁷ Either as an electoral constituency 1305a4 or as a distributor of funding for the poor 1320b3

3.2.4 What positions are not part of the polis?

Aristotle's border between the 'political' and, for want of a better term, the 'religious' is very hazy, but is there. He does explicitly say that priesthoods are not the same kind of 'political office'⁴⁴⁸ His list of 'necessary offices' is ordered from most to least necessary, and near the end of list are archons, kings and presidents.⁴⁴⁹ Aristotle clearly considers the *timai* as a part of the polis. *Timai* exist as a separate and larger category of position, with substantial overlap; it is sharing in the *timai* that Aristotle gives as the broadest definition of citizenship.⁴⁵⁰ This definition more clearly includes women⁴⁵¹, and would be more coherent as a definition that includes everyone who is called a *polites*.⁴⁵² However, Aristotle undeniably foregrounds the definition based on participation in decision-making and judgements, and though sometimes priests and priestesses have these powers, it is not their central purpose.

It is a difficult mystery that Aristotle acknowledges the role that these officials play in the polis, but relegates them at every opportunity. Aristotelian scepticism may explain why religion is relegated but doesn't help us exactly define what kind of role citizens participating in the priesthoods are playing.⁴⁵³ It is helpful to step outside the Aristotelian construction for a moment to try and see alternative distinctions between *timai* and *archai*. Blok argues "...that the major distinction between priesthoods and *archai* consisted in the idea that priests and priestesses were selected by and bound to the gods in a strong way not equalled by other offices, because they served those parts of the cults that the gods themselves had laid down and thus lay beyond the authority (and even beyond the room for negotiation) of the polis"⁴⁵⁴

⁴⁴⁸ 1299a19-20

⁴⁴⁹ 1322b18-33

⁴⁵⁰ Sakellariou p259

⁴⁵¹ This is not to say that women are always excluded from *archai* termed positions. Women at the thesmaphoria: The archousai: Is. 8.19–20. For the parallelism between masculine and feminine *archai* in Ar. *Thesm.*, Jacquemin (2005) p344–5

⁴⁵² Priesthoods seem to have had requirements largely the same as citizenship, and explicit inclusion in selection groups for priesthoods was an important part of some citizenship grants [Dem] 59 on the enfranchised plateaans gives an example of how enfranchisement negotiated these rights to the offspring of new citizens. See Canevaro 2010 on this grant

⁴⁵³ Segev's (2018 p317) suggestion that "Aristotle's initially puzzling reference to the "supervision of religious matters" as being of primary importance amongst the different tasks to be fulfilled in the polis. For, in accepting such a use, we are accepting this task as enabling an activity that Aristotle views as the pinnacle of human endeavour" makes sense of Aristotle's discussion of religion in the ideal polis, but I think it is the practical power priesthoods of all kinds come into contact with that makes more sense of how he categorises them in Books IV and V than this more general idea that the priesthood is a necessary part of human flourishing

⁴⁵⁴ Blok 2017 p247

This is a clear perspective, that Aristotle seems to have perceived some version of. The importance and centrality of priests does not undercut, for Aristotle, the fact that they have limited discretionary power compared to officials he considers more 'political', and in some ways priests, because they are tightly bound to perform very particular duties, have one of the more subordinate roles⁴⁵⁵. We should also acknowledge, along with Aristotle, that this lack is relative; priests still have discretionary spending power, can make certain judgements about the sacrifices and festivals they administer and even, through public curses, intervene decisively in the administration of justice, and so in this sense, can qualify in some way for the title of *arche*. Indeed, these powers could be considerable, the assets of temples were often great and their authority decisive.

Though in Athens there was a democratic slide towards all citizens being eligible for most *timai*, with the Solonic wealth criteria becoming less significant,⁴⁵⁶ some offices retained their wealth requirement. As the next chapter will discuss in detail, lots of evidence for the range of officials doesn't give any clues as to the eligibility criteria. A relatively large number of offices in general (*timai* and *archai*) may be a democratic feature.⁴⁵⁷ However, there is a danger here of extrapolating too much from lack of evidence; more thorough epigraphic record keeping may be the democratic feature we are detecting.

Aristotle has a similar approach to defining *archai* as he did to defining *polites*, trying to centre the definition in "power", which leaves a lot of ambiguous cases around the edge. Working towards the idea that fundamentally the role of the true official is decision making and judgement, he sees different official positions as ranked according to how much of this power they have. This means that some offices are more 'official', more properly named, than others, but tellingly Aristotle does not make hard exclusions here: many roles that are barely official might have some small decisions or judgements to make. Some positions of responsibility are *timai* and may be 'more or less' not '*politikai*',⁴⁵⁸ but they are still included in the list of *archai*. As the section on 'selection' will discuss further, participating in these positions can take many forms, not just eligibility for the position, but taking part in the selection process and the

⁴⁵⁵ 1299a24-26

⁴⁵⁶ *Ath. Pol* 47.1

⁴⁵⁷ Blok 2017 p207 "Democracy also meant an expanding ideology to participate in the polis, with strong obligations of every citizen to contribute to the city's welfare, and a political discourse aiming at control by the polis, represented in the boule and assembly, over its own affairs."

⁴⁵⁸ 1322b18

accountability processes as well. It may be that a tightly controlled sacrificial officer, who has a tight budget and a fixed expectation of provision, along with having to go through accounting procedures, does not really exercise judgement or decision-making, but judgement and decision is still associated with the officer, only it is distributed via the selection and accountability process to those who participate in the office in this way. This understanding of participation in judgement and accountability in offices will be explored next.

3.3.0 Making selections

“Selection”, *aireo*- terms in the middle and passive voice appear in Aristotle broadly, including in some non-political contexts to mean a personal choice⁴⁵⁹. The terms indicate the exercise of agency, though that agency can be partial. In political contexts it is usually translated as ‘election’. In some places this describes the meaning well, such as where “ἀρχαιρεσία” is used to describe the election of magistrates instituted by Solon’s reforms⁴⁶⁰, but as will be discussed, the Greek conception of ‘election’ is somewhat broader than a modern one, including more than just ballot box style voting, and certainly not carrying with it any implication that the elections are ‘free and fair’. Mostly Aristotle uses αἵρεσις to describe various forms of selections and the passive αἵρεῖσθαι to refer to the selected. Discussing the selection of magistrates from 1300a10-1300b5 Aristotle contrasts this αἵρεσις ‘selection’ with election by lot κλήρω.⁴⁶¹ He does this repeatedly at 1300b42-1301a11, pairing them together as methods of appointing. His discussion of the selection of judges/jury 1300b40-1301a16 mostly matches his discussion of the selection of other magistrates. The opposition between selection and lottery in this passage emphasises the significance of agency in selection as opposed to lottery, but these concepts are not exclusive and αἵρεσις might also involve aspects of lottery with it as well.

Agency is also emphasised by Plato when he discusses αἵρεσις. In the Laws he is concerned that the first generation of electors will lack the required knowledge of their fellow citizens to appoint good officials.⁴⁶² He devises a complex system with three rounds of voting, at each stage eliminating candidates and allowing the citizens (in this case those who bear arms or

⁴⁵⁹ 1323b20 Describing that the wise ‘choose’ things that are good for the soul

⁴⁶⁰ 1281b33

⁴⁶¹ 1300a10-1300b5

⁴⁶² Plato *Lg* 752c

fought whilst younger) to vote again each round.⁴⁶³ Aristotle is more optimistic about the capacity of citizens to select officials, and tends to give fewer details about either real or theoretical systems of election.

Though the lottery is contrasted against forms of selection presumably because it does not involve agency and therefore has no 'electors', only candidates, Aristotle does not actually enumerate the different forms of selection. There are many kinds of system that include an element of choice that are very different political institutions. Though direct democratic election would certainly be included, the term "αἰρεῖσθαι" is also used to describe selection by a property class, collegiate election,⁴⁶⁴ and when a limited number of officials are the electors for other officials⁴⁶⁵ or even when magistrates select from themselves,⁴⁶⁶ presumably selecting their own successors. As will be discussed more fully in the next chapter, there are examples from the inscription evidence for each of these forms of official selection.

Aristotle's categorisation is based on who elects from whom, but in practice there is a range of selection processes that are not just differentiated this way. Election from pre-approved lists,⁴⁶⁷ irregular election under only certain circumstances, and one-off election to an office who then selects themselves are all possibilities for kinds of limited elections that seem to have existed (see next chapter), which Aristotle tacitly acknowledges but does not go into detail about. These cases create opportunity for participation, but are more complex than simply a group of candidates and a group of electors, so "who elects from whom" stops working as a categorising question. There are also different possible physical processes of election: by ballot, by a visible vote in the assembly, and of course by shout. Although he mentions the "childish" Spartan system⁴⁶⁸ he seems largely uninterested in differentiating between these forms, prioritising the two dimensions of participation: who is allowed to stand, who takes part in choosing. Aristotle is quite clear on selection being a form of citizen participation.⁴⁶⁹ His section on the wisdom of crowds is formed around the question of how the assembly and courts might

⁴⁶³ 753c-e

⁴⁶⁴ 1266a20, discussing Plato's proposals in *Laws*.

⁴⁶⁵ 1273a16 for Carthage's board of five.

⁴⁶⁶ 1273a15 cf 1298b3

⁴⁶⁷ 1266a20 Aristotle does not use προκρίνω here, although it is used to mean pre-selection at *Ath pol.* 81, and by *Attic Orators* at *Isaeus* 8.18-20, *D. Demosthenes*. 57.46, cf. 47,62.

⁴⁶⁸ 1271a10.

⁴⁶⁹ 1281b30- 1282b1

collectively choose (*ἀρχαιρεσία*) through the election of magistrates.⁴⁷⁰ This passage is known for its argument in favour of the wisdom of crowds, but it is also making the connected case that deciding who would make the best decision makers is exactly the kind of thing crowds can be relied upon to decide, against some Platonic concerns.⁴⁷¹ Aristotle is making the case for election as a process that realises mixed constitutional principles. Electing and calling to audit are given as examples of giving the common people a share in the decision and judgements of the polis.⁴⁷² This identifies selection as a form of citizen participation, indeed, as the form of participation Aristotle recommends for the many. This is not a difficult power to defend as a key attribute of citizenship, given that participation in election is exclusive to citizens.

However, electing the official is not quite the same as participating in that office. At times Aristotle seems to differentiate between these things: Sparta's 'democratic' features include the fact that the people 'elect' αἰρεῖσθαι the Gerousia and 'share in' μετέχειν the ephorate.⁴⁷³ This opposition may imply that electing is not a share in that particular office, and here *metechien* is being used specifically to mean eligible for. This passage allows us to be more precise with how "sharing" works. It seems that electing a particular *arche* does not mean a share of those particular *archai* but does constitute a share in the *arche* of the polis in general. Electing seems to give citizens an opportunity to exercise a kind of decision making, but careful reading suggests this is not quite how Aristotle sees it.

We might consider selection an exercise of judgement or of decision-making. As discussed, these aspects of political participation overlap for Aristotle. At 1318b24-26 'election' in this way is paired with 'decision making' but the passage doesn't exactly imply that election is a form of decision making. Election is often assumed to take place at the assembly, and by a similar process to decisions over policy, some form of vote.⁴⁷⁴ It seems to be taking part indirectly in the direct decision-making/judgment that the official being selected will do. The other possibility, that electing officials is decision-making in its own right because the voter is picking a course of action for the polis by selecting someone, seems to be rejected by Aristotle not including this form in his list of all the polis decision-making.⁴⁷⁵ Given that the power to elect

⁴⁷⁰ 1281b33

⁴⁷¹ Crito 47d4-5

⁴⁷² 1281b30-35 This is a celebrated example of Solon's concession of certain powers to the people.

⁴⁷³ 1294b30

⁴⁷⁴ This is also suggested Aristotle's discussion of general assembly business at 1298a23.

⁴⁷⁵ 1298a4-6 Audit of magistrates is included in this list.

magistrates and call them to account are paired together⁴⁷⁶ we might tentatively call the election a share in decisions the magistrate makes, whilst the calling to account is a form of decision making in its own right included in the list of decision making powers⁴⁷⁷ although it is not clear this distinction is important to Aristotle. Selection is explicitly not the only way that citizens ineligible for an office can participate in that office, or it seems in decision making. This is a share in the pooled *archai* of the polis discussed in the last section. The choice is the vital thing. Calling an official to account also seems to be a more direct part of 'participating' in it in some sense.⁴⁷⁸

It seems more like voting for an official is a form of judgment. Because the audit of officials is so definitively placed amongst the decision-making power of the polis,⁴⁷⁹ there are other passages that suggest the election of officials, if it is not in some way decision making must be a form of judgment forming. The wisdom of crowds argument⁴⁸⁰ begins with praise of Solon's constitution in which he gives the common citizens the power to elect officials and audit them but not to hold office, and this satisfies their need to share in both decision-making and judgments.⁴⁸¹ This argument goes on to focus on judgment as the faculty that assemblies do better than individuals, because they collectively have more of the faculty of discernment (*αἴσθησις*), and this extra discernment is connected to better judgments (*κρίνειν*).⁴⁸² Aristotle includes judgments within the activity of the assembled citizens 'as it is now',⁴⁸³ and this seems to include their function of electing magistrates. The discernment applied to choosing between candidates for decision-making office is more an application of judgment than decision-making itself, while auditing officials is seen as a part of decision-making. This pair of understandings might run somewhat counter to English translations of Aristotle and our assumptions about constitutional arrangement but are in line with how Aristotle elsewhere sees the audit of magistrates as active and decisive, whilst voting for them is an important but fundamentally more passive form of participation.

⁴⁷⁶ 1281b30-35

⁴⁷⁷ 1298a6

⁴⁷⁸ 1298a6, 1318b23-31.

⁴⁷⁹ Audit is part of the core decision-making of the polis 1298a4-8 and 1298b6, is among the most important role 1317b28 and selecting magistrates and calling them to account are often grouped as the kinds of powers that are suitable to give to the common people. 1282a14

⁴⁸⁰ 1281b23

⁴⁸¹ 1281b33-35

⁴⁸² 1281b35-39 cf *APo* 99b35 For the connection of perception to cognition.

⁴⁸³ 1286a26-29

Election of significant magistrates by the common people is common enough in oligarchies that it is a central source of tension within them.⁴⁸⁴ There are oligarchies in which the highest property classes hold the offices, but they are elected by broader groups. Aristotle describes three groups as electors in this passage; the mob, the heavily armed, and the common people. His argument here is that wherever some oligarchs have to do election campaigning, they might find themselves acting as demagogues, and so opposed to other oligarchs' class interests and so inclined to form factions. This is something of a contradiction to his point at 1281b30-35 discussed above, where he seems to recommend the practice of having more relaxed restrictions around who gets to vote than who gets to stand for election. The most consistent reading seems to be that whilst it is a good mixed constitutional feature, in certain circumstances, or for certain offices, it can lead to factions.

The significant point about selection is that for Aristotle, selection is a kind of participation in the polis that is typical for citizens whatever the constitution. The selector makes a conscious judgment as the key moment of this participation. Additionally for Aristotle 'selection/election' is categorised by who selects/elects from who. This choice helps cut down on detailed descriptions of election processes, and focuses on Aristotle's prime interest; which class of citizen gains power through the selection of magistrates. However, examining what we know of the details of the processes can reveal quite a difference in just how power is distributed in different systems, even if they both belong to same Aristotelian category of 'all' selecting from among 'some'.

3.3.1 Ostracism

An inverted form of selection is of course ostracism, and many of the claims about the selection of officials also track onto the negative selection in ostracism.⁴⁸⁵ Though pseudo-

⁴⁸⁴ 1305b24-35

⁴⁸⁵ None of the evidence for actual ostracisms breaks the assumption that it is an inherently democratic institution, even if there is enough range of evidence to suggest it is more than just an institution emanating from Athens. The other examples are, at present count: Megara, Argos, Tauric Chersonesos, Kyrene, Thourioi, the Sicilian Naxos and possibly in Miletus. In Syracuse a version of ostracism called 'petalismos' existed as an explicit anti-tyrant measure Diod 11.87 Megaris Possibly Kyrene, which Aristotle calls a democracy Arist. Pol. 1319b15-27 and Heracl. Lemb. 17 and Chersonesos, which is called a democracy in an inscribed citizen oath (*IOSPE* i² 401.14 =Syll.³ 360) Aristotle claims that Argos has the institution (1302b 17-19), and this has been backed by the discovery of two Ostraka in Argos (*SEG* XXXVI 340).

Andocides claims only the Athenians do ostracism in *Against Alcibides*⁴⁸⁶, there seems to be a range of ostracism-like institutions from beyond the immediate Athenian sphere.⁴⁸⁷ Aristotle identifies this as an institution for 'democracies',⁴⁸⁸ though it is the mass voting that makes it democratic; generic exile as a punishment is not specifically democratic and indeed only a few magistrates having the power to sentence citizens to exile Aristotle views as the decisive factor favouring the view that Sparta is an oligarchy.⁴⁸⁹ This is in line with Aristotle's general comments about selective processes; that the democratic/oligarchic nature of the institution is decided by who selects from amongst who.⁴⁹⁰

3.4.0 Aristotle's open terms: the range of possible participations.

Going through the text of the *Politics* we can find and list some of the activities that are done that Aristotle considers as forms of sharing in the polis, and therefore as examples of citizenship. There is participating in any of the decision-making bodies with the powers to make war, alliances, and laws, or sentence to death exile and confiscation property, or audit magistrates.⁴⁹¹ Then there is participating via eligibility to occupy or elect any of the offices listed,⁴⁹² with a particular emphasis on the accounting procedures for offices as an avenue of participation as well.⁴⁹³ These represent a diverse range of potential citizen activity, and in the next two chapters I will follow Aristotle's approach and divides them roughly into two kinds, judicial participation, and assembly participation.⁴⁹⁴

There are two major caveats to this broad grouping of citizen powers. Firstly, it is important to note that 'decision-making' happens in both these major bodies, as does 'judgment'. There is overlap where assemblies act as stages for judicial review and judges impact the assembly debates, and these points of overlap will be discussed. Secondly, though judicial and assembly are the distinct two forms of mass participation, much of the power of the polis was directly held by individual officials and members of boards. These officials, even in oligarchies, have

⁴⁸⁶ Ps.-Andoc. Alc. 6

⁴⁸⁷ For a discussion on the root of this institution and other issues, see Węcowski, 2022 p.35-73, who argues that the evidence favours an Athenian origin of the institution. Cf. Simonton 2017 p.99–100

⁴⁸⁸ 1234a18-23

⁴⁸⁹ 1294b35 Where this is called exile, *φύγις* as opposed to ostracism.

⁴⁹⁰ 1300a30

⁴⁹¹ 1298a4-8

⁴⁹² 1321b5-1323a12

⁴⁹³ 1282a12-25, 1298a4-8, 1318b36-41

⁴⁹⁴ 1275b18-20

some exposure to pressure from courts and assemblies, so it is through these exposures I will discuss these officials as forms of broad citizen participation.

Despite these major caveats it has been helpful to break up these examples for two reasons; firstly, Aristotle seems to consider the juryman and the assemblyman broadly representative as the two primary forms of participation he names in his definition, so dividing the examples in this way allows closer comparison to Aristotle's definition. Secondly the assembly presents a very distinct stage of participation, where specific dynamics of audience participation and performative action can play out and so is a different kind of discussion to judicial procedure that tends to happen in smaller groups.

In addition to this there may be forms of participation that Aristotle does not explicitly include in his examples, but that are included by the definition of citizenship at 1275b18. Having some share in the power of the polis may come through many different acts of participation and based on the language he uses to frame his definition it seems probable that the list above is not exhaustive. The language he uses to describe citizenship is, as has been demonstrated, open ended. Though the different forms of decision-making are listed quite clearly, the various forms of judgement present more nebulous possible routes for participation in power. The definition does give guiding principles for the kinds of actions citizens perform, in terms of what shared abstract qualities of the polis these actions contribute to.

'Officialdom', in the form of the many positions of responsibility within the polis that exercise minor power, was a major avenue of participation. This term in English nicely captures both high level authority of appeals courts and governing councils, but also how small parts of this authority can be embodied in petty officials with only situational power. Though exclusion for the poor from being a major power wielding official is the hallmark of oligarchy, lots of relatively unimportant officials were needed to run even small poleis. These officials needed to be held accountable, selected and rotated precisely to keep them out of real power. This aspect of participation is relatively low level and unimportant, but still significant as precisely the kind of share in the polis that oligarchies can safely give to the poorer citizens. Minor officials will be a major focus of the subsequent chapters, how they were selected and held to account in practice in both the assembly and the courts demonstrates how Aristotelian style participation was a real aspect of citizenship as it was practiced.

4.0.0: Examples of participation: Courts and Justice

The previous chapters have given an account of the many forms of participation implied by Aristotle's definition of citizenship and his subsequent discussion of what those forms of participation might practically involve. This gives a broad rubric with which to examine the evidence of actual forms of participation in comparison to how Aristotle describes this participation. This organisation addresses the question; to what extent is he describing institutions as we can know through other forms of evidence, and in what ways the Aristotelian definition seems to diverge from citizenship as it was generally understood? This chapter concludes that the Aristotelian framework does seem to reflect the ways that citizens were privileged in the legal system. In particular the importance he places on holding officials to account is reflected in how citizens were responsible for enforcing the regulations of the polis on its own officials.

4.0.1 Selection methodology- the 'partial' participations

The aims in this part are focused on contextualising Aristotle's political theory: The use of inscriptions is limited to establishing examples in the inscription record for the kinds of performances Aristotle describes as definitive of citizenship. This also means finding the more partial kinds of this Aristotelian citizenship, rather than just 'eligibility for office holding' that has been the traditional core interpretation of Aristotle's theory. This means looking for the kinds of actions Aristotle discusses as more 'passive' citizen performances⁴⁹⁵: voting and selecting officials, limited deciding, scrutinising, holding to account and witnessing within the two broad theatres of courts and assemblies. There has been a process of selection; this cannot be an exhaustive investigation into all the inscription evidence for these practices. Athens, being well represented in the literature is referred to only in comparison. Furthermore, the focus here is on the relatively limited number of inscriptions that give some evidence for the practices of citizens in those poleis where the participation of many citizens is partial and undemocratic. A totally inclusive study of evidence for political participation is too broad for this thesis. I have included as much as possible of the inscription evidence for the kinds of practices Aristotle describes as being definitive of citizenship, but which do not give most of the participating citizens a decisive or supreme share in the power. In the category of 'justice' this includes being a juror, as well as scrutiny and accounting procedures and processes for selecting officers with

⁴⁹⁵ 1278a17

judicial responsibilities. There are also kinds of participation that have some 'Aristotelian' aspects but that cannot be fully described as citizen participation in the Aristotelian sense. These are bringing trials, witnessing, and public cursing. In the category of assembly this thesis focuses on assemblies in poleis where the assembly does not hold supreme power in the constitution, those places we can describe as 'non-democratic'.

This constitutional category of "non-democracy" is problematic, and in practical terms can be difficult to define, particularly when all the evidence for political procedures comes from a small number of key inscriptions, and many of the poleis of this period are particularly prone to stasis. A broad overview of the inscription evidence underlines the extent of this problem: simply looking at broad data Athens is strongly overrepresented in the inscription record.⁴⁹⁶ Include other very explicitly democratic *poleis* along with Athens and limit the focus to political inscriptions and this domination becomes even more pronounced. "Non-democracy" is deployed here in the broadest possible sense, to include anywhere not explicitly labelled democratic. The purpose of this category is to draw attention to institutional arrangements that are not aimed at empowering the *demos* but have more mixed purposes.

Therefore, the central interest is on the form of participation in itself; is a share of political power being given that is not a full or equal share? This category is derived from the reading of Aristotle in part one of this thesis that includes citizens that are excluded from office, but that have this kind of partial share. As the second part of this thesis will demonstrate, these forms of participation are common, even ubiquitous among poleis where we have any evidence for political procedure.

This chapter will also look at fringe cases of participation where there are some 'Aristotelian' aspects of the participation, but that probably sit outside his categories. These cases clarify the definition of these categories and help situate Aristotle's theory in its historical context. This includes where the assembly claims power that is not officially sanctioned, or where unofficial crowds and mobs exert decisive political power. It also includes forms of witnessing in court, bringing trials, and participation in sacred offices, making the case that in certain circumstances these can be forms of Aristotelian participation. Also discussed is the day-to-

⁴⁹⁶ Hedrick 1999 goes through the numbers supporting this and gives useful commentary and how we might interpret this as an expression of Athenian political character.

day participation in legal norms through self-help, and where this impacts the polis legal structures. These forms of participation help to see where and how Aristotle draws the line around 'political' forms of participation.

The point of this selection is to focus on examples of partial citizen participation, to see how Aristotle's understanding of this participation relates to the evidence we have for actual practices. These examples can also be compared to Aristotle's own discussion of examples, particular in *Ath. Pol* but also scattered throughout *Politics*.

4.0.2 Civic inscriptions as performances of the polis

This second part of the thesis makes substantial use of inscriptions as valuable records for kinds of political performances. Applying the performative framework described above to inscriptions can be used to identify important parts of the performance scripts; who could speak, to who and when, and what parts of this process were considered important enough to be recorded and how do all these behaviours relate to citizenship as a practice. Previous work in this area has tended to focus on inscriptions in which citizenship, its granting and the granting of other statuses are the subject.⁴⁹⁷ This work provides a valuable model here, focusing on identifying patterns in the record as enduring norms of these processes. This introduction will establish how this framework can be applied to the inscription evidence.

It is important to recognize inscriptions as a kind of performance. Public inscriptions are not complete legal codes and would have to be supplemented with a lot of unwritten laws and understandings; the assumption that they were a check against arbitrary power is weak, and they had a variety of functions more akin to other public monuments than to public records.⁴⁹⁸ Private inscriptions are our best evidence for individuals⁴⁹⁹ from the ancient world in general. Public inscriptions claim to speak for a group to themselves, others, and the gods. In many cases they represent the citizen body to itself and so are a central performance of citizenship in themselves. The claim to speak for a polis or key civic group is what distinguishes a public

⁴⁹⁷ The inscription evidence for *proxeny* is rich enough for a detailed history Mack 2015 Lasagni 2017 p.88 discusses these approaches.

⁴⁹⁸ Thomas 1995

⁴⁹⁹ Athenian metics expressed their relationship to their social identity and the polis through self-representation on funerary monuments. Wijma 2023

inscription from a private inscription that claims to speak only for a private group of individuals. Inscriptions also allow us to infer key pieces of information about the context in which the recorded decision was made.

4.0.3 Civic inscription's formulaic performance

To discuss how inscriptions function as performances, this section will break down common features of formulaic public inscriptions, working on the specific example:

θεοί.
ἔδοξεν τῇ βουλῇ καὶ τῷ δήμῳ.

Whilst “θεοί. ἔδοξεν τῇ βουλῇ καὶ τῷ δήμῳ” is very frequent in Athens, more so than elsewhere, significant features are very common or similar.⁵⁰⁰ Public inscriptions tend to open with an address the Gods and claim to be speaking for a group of people, either the demos, the council, or people of the city identified by the city ethnic (eg the Athenians). The exact significance of the address to the gods is difficult to identify. It is a very common feature of the formula of inscriptions, and it is not unreasonable to think of the gods as an intended audience for the inscriptions. Blok's model of the polis as a ‘covenant between Gods and men’,⁵⁰¹ and the physical context of inscriptions which is so often on temple walls and in sanctuaries seem to fit understanding this as a literal address to the gods, or at least a calling on the gods to witness. It makes sense for rules governing the polis to be addressed to the gods, as these rules concern them.

The verb δοκέω in the third person aorist tense ἔδοξεν is used often to indicate that the inscription is recording the deliberated decision of a group, usually followed by “τῇ βουλῇ καὶ τῷ δήμῳ” or “τῇ πόλει” by the city ethnic or a sub-division.⁵⁰² “ἔδοξεν” is very common. The form communicates that a process of group decision has happened. The process by which this decision is reached varies more than the formulaic opening of inscriptions might suggest. Identifying patterns in this form gives an interesting indication of which group is being claimed as the decision-making body with the authority to decree. This identifies the polis with its decision-making bodies and the decisions they make. The particular articulation of the

⁵⁰⁰ Rhodes with Lewis 1997 p.11-34 on the significance and distribution of enactment formulae.

⁵⁰¹ Blok 2014

⁵⁰² Rhodes with Lewis 1997

formulae discussed here seems to be an example of the influence of Athens from the mid-fourth century onwards on the political language of other poleis,⁵⁰³ but these are working with an already established pattern of inscription language dating from the earliest surviving inscriptions on Crete where we find all these elements: the gods are addressed, the polis will is invoked, particular officials and the people (*damioi*) are cited as active agents of the decree, even if in a different order and with different emphasis.⁵⁰⁴

The address is to the Gods, but who exactly is making that address? In some sense it comes from the groups that made the decision the decree is recording; it is them that caused the inscription to be made and whose actions it records. Day argues, with epigram and dedication especially, that there is a more immediate sense in which either the inscription itself or the reader is making the address to the gods.⁵⁰⁵ In this sense then public inscription can also be re-performative in which the reader re-enacts the act of decree,⁵⁰⁶ an act that functions like an oath taken by the polis (or other group, such as the demos or council). In this way public political inscriptions construct the identity of the polis and its legal commitments.

4.0.4 Inscriptions as a part of public political performance

The inscription record is an early and self-conscious expression of a polis' identity, or its civic memory. Aristotle dates the creation of officials who must record legislation very early in Athenian development and connects them with the Archons.⁵⁰⁷ They are responsible for the public recording and preservation of laws and had tight rules about office iteration and election.⁵⁰⁸ In Datala, Crete, the Spensithios inscription provides for a permanent position, "writing and remembering the public things" and enshrines the scribe's duty (and all his descendants) to always be present and share in ever public ritual.⁵⁰⁹ The public recording of laws was self-consciously performed to express the lasting nature of the laws, and by extension the polis and its structures.

⁵⁰³ Rhodes with Lewis 1997 p.550-8.

⁵⁰⁴ Gagarin and Perlman 2016 Dr.1

⁵⁰⁵ "I argue throughout that dedicatory inscriptions, especially epigrams, offer a large body of evidence for texts as re-performative, that is, as tools for re-enacting the rite of dedicating" Day 2010 p.32.

⁵⁰⁶ Producing honour and acclaim Svenbro 1993 p.62.

⁵⁰⁷ Thomas 1995 p.74 notes the connection also in the Spensithios inscription between the recorder and the record, "Scribes were treated not so much as neutral repositories of records, as many modern scholars would have it, but just like other officials."

⁵⁰⁸ Ath Pol 3.4

⁵⁰⁹ A bronze Mitra, SEGXXVII 631.

There are places where inscriptions are part of the physical context in which citizenship is performed, for example court judgements occurred near the site of inscribed laws. In this way, implicit reference to epigraphy could be part of a citizenship performance. A substantial amount of the epigraphic evidence relevant to citizenship comes in the form of various *proxenia* decrees. It is important for a *proxenos* to be able to point to an inscription with his name on it to defend his rights and privileges because such a member of the community might lack the social network of citizens that could be his witnesses. In this way they could have functioned as a prop supporting this performed status. This is not to suggest that such a legalistic purpose was necessarily primary; naturally *proxenia* decrees also functioned according as prestigious symbols of a community honouring its friends. Lists of rights granted, and the names of grantees could be used as a referenceable record. There are other props that could contribute to demonstrating more regular citizenship identity. Citizens lists could function as a material aid to proving citizenship along with jury tokens and other less permanent materials that have not survived. These items contribute to a compelling case but are not complete proofs of citizenship in and of themselves; a possible citizen would still have to demonstrate his identity aligned with the citizen record and this would require reputable witnesses.⁵¹⁰ Overwhelmingly, the evidence for records of citizens comes from Athens. Having a documentary prop in the performance of citizenship should be viewed as the exception; citizenship of most kinds was not generally proved by documentation; even Athens lacks any centralised register of citizens.

The claim, present consistently across examples, that decrees are issued by the assembly is significant especially where other traditions describe the constitution as oligarchic. Members of the bodies these inscriptions claim to represent are certainly citizens in Aristotle's sense, even if the body holds no formal powers, as long as they are gathered for the formal enactment of the decree. An assembly that does not vote, or have fully protected rights of speech may still participate in the decrees that are issued in their name, as discussed in chapter 4. Aristotle and the inscription evidence reflect a shared understanding of the nature of political participation. A decree is a record of a speech act, and a kind of speech act of the polis.

Chapters 4 and 5 will make extensive use of the content of inscriptions as evidence for political practices. While making use of inscriptions in this way it is important to remember that these

⁵¹⁰ As in Dem.57 and Isae. 12

are not neutral records, but politically complex objects with histories. Though their complexities present challenges, inscriptions as a form of evidence offers too potentially rich a source for the study of political ideas to be marginalised. They are not just archives of law, but material performances of polis self-presentation and so carry in them the best-preserved version of the voice of many poleis.

4.1.0 Overview of legal structures

This chapter will examine the range of participation in court structures known from Greek poleis. It will first discuss the different forms of participation in the courts that Aristotle considers with some direct examples of these methods in action. Then it will discuss some related forms of participation that Aristotle does not discuss, systematically moving from more to less 'Aristotelian' forms of participation. Finally, I return to Aristotle, discussing how his analysis of this aspect of the polis relates to the other evidence. This chapter will support the claim that I made in a reading of Aristotle's definition in Book III of *Politics*, that "participating in justice" in Aristotle's sense involves much more than just serving as a juryman in an Athenian style jury court, by focusing on Aristotle's listing of forms of justice in Book IV.

4.1.1 Vocabulary

There is enough similarity between the language used to describe judicial systems in Athens and elsewhere to identify some Pan-Hellenic terms for the essential elements of the justice systems and set of legal norms and understandings that are shared to a significant extent⁵¹¹, even if the institutional structures of the poleis systems vary significantly in their procedural details. *Dik*- terms are consistently associated with structures of justice. Greek inscriptions that associate *dika* terms, in the Cretan dialect to clear judicial systems comes from the earliest extant decrees.⁵¹² The key terms for judge/juror and court are *dicast* and *dikasterion*. *Dicast* refers to both judge and juror, and in Greek there is not a distinction between these

⁵¹¹ Gagarin 2005 p29-40; Rhodes with Lewis p.529.

⁵¹² The seventh century Dreros law SEG27.620, and the Gortyn IC IV13 both contain *dika* terms.

roles. So apart from their role in judging a case, we cannot infer much about a *dicast* : they may be a hereditary magistrate or one of a mass jury selected from all citizens regularly.⁵¹³

The earliest extant literary instances of these terms are found in Herodotus.⁵¹⁴ He is referring to an early Median king and a Spartan court. Hesiod speaks of judgments using the same terms for justice and decision, but he uses the term *basileus* for the people making these decisions, suggesting an assumption of monarchy, even where some power is shared.⁵¹⁵ Aristotle describes a significant range of potential judicial roles, listing eight kinds of court categorised by their responsibilities.

There are also some dialect variations; *halia* seems to refer to a court in certain circumstances but may also mean assembly. This term is similar of course to the archaic Athenian *Heliaia*. The Solonic constitution may have separated the courts from the assembly or may have put key judicial power in the assembly, depending largely on the interpretation and credibility of Ath Pol 9.1.⁵¹⁶ This ambiguity emphasises just how interchangeable the two bodies are. In less well documented poleis we cannot distinguish them. In addition to this, the terms for magistrates with judicial responsibilities could include almost every known official role in the ancient world given how broadly Aristotle defines the various judicial roles, as discussed in the previous chapter.

In practice, the difference between court and assembly was not clearly defined. Aristotle reflects both this distinction and this overlap by using *juryman* and *assemblyman* as the typical examples of ongoing roles in the polis⁵¹⁷ as more fully discussed in the previous chapter. He describes them as having different purposes, before he brings the roles together under his explicitly novel use for the term '*arche*'.⁵¹⁸ Aristotle is combining these roles with one term because he thinks it is useful to understand both these roles, though differently inflected, as the exercise of power that is characteristic of the citizen.

⁵¹³ In Plato alone *dikastes* is used at *Apology* 35C to refer to juryman while talking to the jury, whilst the same term in the pseudo platonic *Lovers* 138D is used in a list alongside *basileus* and seems to refer to an individual with persisting authority that we would call a judge.

⁵¹⁴ *Dicast* 1.96, *Dikasterion* 6.85

⁵¹⁵ Hes. *Op.* 256-269

⁵¹⁶ Hansen 1989 p.260, MacDowell 2015

⁵¹⁷ 1275a27

⁵¹⁸ 1275a30-32 cf section 2.4.4

The persistent impression of a clear division between courts and assemblies might well emerge from histories that take Athens as the model⁵¹⁹, where the broad and relatively well-defined remit of the courts helped them function as a highly democratic institution that could keep democratic pressure on serving officials. There is also evidence from elsewhere that they are treated as very distinct institutions with different roles in the polis. According to Aristotle even in more constitutionally varied poleis, tensions between court actions and powerful officials would often be a source of *stasis*.⁵²⁰ Courts and assemblies have various points of overlap before Aristotle, who ties the terms together with his definition of citizenship. Although there are examples of clearly distinguished structures for both a court and an assembly space, the archaeological evidence tends to suggest multifunctional spaces.⁵²¹ We can reasonably imagine judicial proceedings in a variety of spaces because in Athens we see the use of theatre as a functional political space.⁵²² There is not the kind of clear separation of powers characteristic of modern constitutional polities, and alongside this there is often no clear separation of political spaces. There is variation, with many recorded instances of legal disputes being placed in front of an assembly, there are also instances of an assembly referring matters to courts. This ambiguity has meant that the *halia*, a term used in Sicily and Arkanania is sometimes interpreted as a special court, sometimes as a kind of assembly, and we lack sufficient information to make a decisive judgment in the case of Megara and Selinous. This example underlines how regional vocabulary can make it even more difficult to put a decisive line between assembly and court.

Problems with categorising this evidence go beyond just issues of terminology; institutions that are all called courts (*dikesterion*) had very different remits, powers and selection procedures. It is not possible to infer the method of jury/judge selection from the name given to the political body. In some cases, we may not even be able to tell the difference between a court and the assembly. There are likely to be other cases where poleis with other terms for juridical bodies

⁵¹⁹ Aristotle's construction in Book III plays a role in this impression, see chapter 2. It may also be that the eighteenth-century idea of constitutional separation of powers has influenced political historians to regard these spheres as more distinguishable in Greek.

⁵²⁰ A clear example being the notables of Rhodes forming a faction because of the lawsuits being brought against them 1302b24.

⁵²¹ Hansen and Nielson 2004 p.1376: The polis Inventory Index 24 lists Olbia in Pontos, Lato in Crete having different structures for *ekklesia* and *dikesterion* but far more often only a *bouleuterion* or a *prytaneion* remains.

⁵²² Hansen, Fischer-Hasen 1994 p.51-53. In more informal ways the theatre of Dionysus might have been a venue for festival related business such as voting to censure behaviour during the festival as in Aechines 3.52-53, cf Dem. 21.

have been undercounted. There is a lot of overlap between the kinds of questions brought before boards of magistrates, courts and assemblies. Many courts also allowed for appeals to other bodies⁵²³ and we lack sufficient evidence to decide if a court holding the final authority of the polis at large does is typical or a distinctively Athenian/democratic feature. The rough distinction applied here is that selected member bodies are discussed in this chapter whilst assemblies of all kinds, included those with entry requirements and fixed numbers are discussed in the next chapter.

4.1.2 Aristotle's descriptions of various courts

As discussed above, Aristotle sees participation in the 'judicial matters' of the polis as definitive of citizenship. The most unambiguous aspect of this interpretation is that judges (and jurors) that have decision-making power in any of these courts are participating as citizens. Aristotle lists these courts as making of the polis.

1. Courts of account
2. Courts prosecuting offenders against 'public interest'
3. Constitutional courts
4. Courts for magistrates and private persons in dispute about penalties (a different form of accounting)
5. Large scale private contracts
6. Homicide (four subcategories: murder, manslaughter, justified killing, defendant in absentia)
7. Metic courts
8. Courts for cases of petty contracts⁵²⁴

As will be fully discussed in this chapter, this theoretical division of courts does somewhat reflect the very partial picture of the separation of court powers that we have evidence for. Separate courts existed for homicide, metics, special constitutional courts and a variety of account procedures. Athens is the best 'match' and though it may be his overarching framework has an Athenocentric slant to it, it might also be that similar separations existed elsewhere, and we simply do not have the same detail of evidence to check. Given how

⁵²³ IvO 7 at Elis for example.

⁵²⁴ 1300b20-1300b36

common religious offenses are in our record of Athenian cases, they do seem to be noticeably absent in Aristotle's list, presumably falling under 'offences against the public interest' though this is not made explicit in Aristotle. This presumes an overlap between 'public interest' and sacred crime.⁵²⁵ If there really "is no such thing as non-contagious religious danger"⁵²⁶, then we might reasonably assume that, for example, cutting down a sacred olive tree might well have constituted an offence against 'the public interest' in Aristotelian terms as the language he deploys here is very broad. This interpretation may be plausible, but it lacks much positive evidence in its favour. Aristotle describes this court simply as trying those accused of offenses '*of common injustice*'⁵²⁷ and there are not examples elsewhere of this term being attached to sacred offenses. A more in-depth discussion of how Aristotle treats, or rather avoids treating, 'religious' matters is beyond this section and will be revisited in the conclusion. Offences that cannot be categorised elsewhere in his system seem to all fit into this category.

Mundane criminal courts also seem largely absent from this list. This might be explained by an assumption of self-help and local help as a norm, with the formal court system of any polis being there more to resolve disputes arising after the application of these norms. This environment of legal enforcement will be discussed more fully below because of how important it makes witnesses relative to a modern justice system, and how other vital forms of participation in the legal system are overlooked by Aristotle. Family law is also a major area of dispute that does not seem to have its own court, though this might be somewhat explained by how much ordinary marriage law, inheritance and other common legal disputes would be dealt with by officials at Athens, and only appear in court if challenged.⁵²⁸ Though it seems Aristotle does not list these among the 'courts', the officials that adjudicated these matters could be selected or held accountable in ways that involved broader citizen participation in ways Aristotle does list, and he lists officials with kinds of responsibilities.⁵²⁹ The selection and oversight of these officials are forms of participation, even if their place in the court system is somewhat overlooked by Aristotle.

⁵²⁵ Sokolowski 1969 makes such a claim, and it is difficult to fully dispute this approach cf Harris and Carbon 2015.

⁵²⁶ Parker 1983 p.257

⁵²⁷ 1300b15

⁵²⁸ Fisher 1990

⁵²⁹ 1321b4-1322 perhaps the officials for contracts and good order 1321b14-15, or one of those to do with estates 1321b23-24.

Aristotle does here seem to partially have Athenian courts in mind, with separate contract courts and murder courts, but that does not mean other poleis do not have comparable separations. The Athenian Areopagus is an older court, predating the democracy but retaining an important judicial role. The shift is described by Aristotle from *Ath Pol.* 3.6 where the archaic Areopagus controls 'the greater part' of affairs of state, to the limited (but still important) judicial remit of the later Areopagus.⁵³⁰ It seems plausible that this kind of institutional history, where older judging bodies are retained with reduced or altered mandates as the polis goes through political change could also explain the multiple judging bodies present in other poleis. This may also happen in reverse, with historic democratic institutions that once held decisive power in the polis remaining but waning, fulfilling important ritual and judicial functions.

The importance of 'scrutiny' and 'account' to Aristotle is evident from this list, as well its inclusion in the core decision-making functions of the polis. It comes first, and the third and fourth courts on the list could also be used for the public control of officials in some way. The policing of officials as a regular matter for the courts may well be the prominent role of polis judiciaries and therefore accounts for much of the citizen participation not just in justice but in official decision making as well. There is an argument that account should be included among the powers of the assembly in Aristotle's model, as he also mentions electing magistrates and accounts as among the deliberative body's powers.⁵³¹ Certainly, in many poleis we see the assembly is the venue for parts of the accountability processes.⁵³² It is important to remember that though he attributes both *krisis* and *arche* in the polis to the citizen, this does not map onto a clear separation of constitutional powers between jurors and assemblymen. Citizens may well exercise both types of power, alternately or simultaneously, through various institutions. Account is mentioned both as a kind of court and as a part of the *bouleuemenon* function⁵³³ it is clearly a relevant to both kinds of citizen activity. I have included it in this chapter because the process of accountability often came in the form of legal challenges for officials, but it is important to note that Aristotle also sees it as an assembly event. It also involves both judgment and decision-making because it concerns the business of officials which themselves

⁵³⁰ *Ath Pol* 57.3

⁵³¹ 1298a3-7

⁵³² PEP Chios 23=ML 8 discussed below.

⁵³³ 1298a4

have various functions. This is another significant example of overlap between the tasks of the polis.

Comparing Aristotle's list of courts at 1300b15-1301a16 to the list of polis officials at 1321b3-1323a12 we can see some judicial responsibilities that are largely missing from his list of courts appear as official responsibilities. There are lots of overlaps in jurisdiction, with some kinds of responsibilities appearing in some form on both lists, for example the court of private contracts and petty contracts must surely overlap with superintendent of boundaries between private estates. The implication of the appearance of a court in the list seems to be that a court is more than a single magistrate and may involve a jury or council, and so power is exercised more collectively over these matters, with more direct participation from citizens. Generally, less democratic constitutional arrangement invests more power in the magistrates and in narrower selected groups.⁵³⁴

Aristotle's focus on accountability is reflected in the evidence of political practices. Judicial pressure on officials is diversely attested enough that it can be called a panhellenic norm,⁵³⁵ for whilst the Athenians demonstrate the most detailed systematic procedures for legal regulation of officials, we constantly see glimpses of other poleis having officials regulated by the threat of trials. In just the Athenian context we are presented with an array of overlapping legal procedures. In the section below 'scrutiny' is used to refer to procedures taking place before office, 'account' to those procedures that take place upon leaving office, whilst special procedures for legal challenges against sitting officials will be discussed individually. This roughly maps onto the Athenian division of terminology described in *Ath. Pol* between *dokimasia* and *euthyna* for scrutiny and account,⁵³⁶ with *eisangelia* referring to serious impiety or treason charges against sitting officials⁵³⁷ and *graphe* being a more general term for a variety of legal challenges that may include those to sitting officials. Aristotle tends to avoid this term, preferring to be more specific, but it appears referring to legal indictments of magistrates in

⁵³⁴ Aristotle's discussions on how these different modes of institution suit different constitutions are at 1298a10-1298b13 for the distribution of decision making and at 1300b40-13001a16 for the selection of judges.

⁵³⁵ Fröhlich 2017, and more fully Fröhlich 2004 justifies this position at length, and will be discussed more in the section on accountability in this chapter.

⁵³⁶ *Ath. Pol.* 59.4 and 48.4 respectively.

⁵³⁷ *Ath. Pol.* 8.4, 59.2

Pseudo-Xenophon.⁵³⁸ In Athens (and to some extent Sparta, see below) only is it possible to create this systemic list of vocabulary because in other places we lack evidence of specific and separate procedures. I will use 'scrutiny' to refer to the examination of prospective citizens, as *dokimasia* also has this meaning. The various scrutiny and account procedures are discussed in detail below, using Fröhlich's extensive work on *le contrôle des magistrats* and the overall conclusion is that holding magistrates to account is one area where Aristotle's particular interest is reflected in the wealth of diverse evidence for existing political institutions of account.

Aristotle recommends, in various ways throughout *Politics*, that the *demos* should be empowered to have control over the examination, scrutiny and account of polis offices. He critiques the Spartan Ephorate for being bad at this vital function,⁵³⁹ and he defends Solon's constitutional changes on the grounds that they used control of the magistrates as a way of given the *demos* a share without giving them supremacy.⁵⁴⁰ It is also a recommendation he makes for non-democracies as a way of conceding power usefully to the *demos*.⁵⁴¹ Relatedly, he recommends that public funds should be handed over in front of all the people, and copies of records stored with various sub-polis organisations (κατὰ φρατρίας καὶ λόχους καὶ φυλᾶς) one of his few significant mentions of such groups.⁵⁴² These are all normative proposals from Aristotle, but they do suggest an underlying range of possible forms of popular involvement in these courts of account.

4.2.0 Examples of Aristotelian participation from more to less formal

As discussed in the previous chapter Aristotle describes sitting as *dicast* in any of these courts is exactly the kind of participating in judicial matters that is definitive of citizenship. Therefore, so is being eligible to sit on these courts, or participating in the selection of those judges that do sit in judgment. This theoretical participation in Aristotle is reflective of a whole range of inscription evidence that suggests many kinds of judicial participation. There is also a range of

⁵³⁸ [Xen.*Ath. Pol.*] 3.2

⁵³⁹ 1271a68

⁵⁴⁰ 1274a18-21

⁵⁴¹ 1318b21-25

⁵⁴² 1309a10-14 καὶ ἀντίγραφα κατὰ φρατρίας καὶ λόχους καὶ φυλᾶς τιθέσθωσαν, See also his recommendation for new democracies to create new groups to outnumber old associations 1319b24-28.

evidence of kinds of participation that may not be explicitly part of Aristotle's conception of justice, but that is a more ambiguous kind of participation in justice.

To deal with the range of evidence this section is divided into thematic discussions of different forms of participation in the justice system: being a judge and jury and their selection procedures are combined because this evidence naturally occurs together. Then there will be a list of the various judging bodies we have evidence for, and the extent to which citizens participated in them, this includes some courts at sub polis level. This section also includes discussions of the particular contexts from which we get examples of inscriptions and how these contexts must affect the way we read the evidence for participation. Then accountability procedures are examined, which is where the evidence from outside Athens is most extensive. Then issues of access to court, volunteer prosecution, and witnessing in court are grouped together. Then informal participation is discussed. Finally, this chapter ends on a discussion of how much of the context for Aristotle's understanding of citizenship participation in justice can be reconstructed, and how this reconstruction might affect our reading.

This set of examples of judicial participation is organised by going from (roughly) more to less explicitly 'Aristotelian' forms of participating in justice. The most explicit forms are judges and jurors. Then there is the procedure for scrutiny and account of officials, although as discussed this would have often been, at least partially, an assembly job. It is included here because this role was also often taken on by specific boards and courts and, as will be discussed, it requires forms of engagement such as bringing accusations and bearing witness that have more in common with the themes of this chapter. Some more general aspects of judgment in the assembly are discussed next chapter. Then there is the form of participation in judgments provided by playing a role in the selection procedure for these roles.

Some of the most typical forms of participation are the broader forms of privileged citizen participation in the courts as prosecutors and witnesses, and these are among the less explicitly 'Aristotelian' but are still acknowledged by him as kinds of forms of citizen participation.

The final category in this chapter are those parts of the judicial system that were completely excluded by Aristotle, but these aspect of mass participation are important to include .The norms of self-help and mob justice exert an important influence on the regime of justice that

Aristotle theorises, and by examining this category against the others we can best find the limits of Aristotle's conception of citizenship. The status of citizenship, because of privileged citizen access to the justice system, would have had a decisive impact on the application of self-help in day-to-day life, because of who could support their own actions by appeal to court. Mob justice, not unlike self-help, often created the conditions out of which more formal politics formed. Group violence like stoning, or the tearing down of a house, sometimes had semiformal recognition in the law and revolutionary violence could be a foundational collective act of new constitutions. These forms of participation are the least clearly Aristotelian, but they are still kinds of sharing in the *arche* of the polis, even if indirectly.

The concluding section of this chapter will make the argument that speech act theory can help make sense of Aristotle's inclusions and exclusions. Citizenship empowers individuals to act with their words; whilst those excluded from this idea of citizenship can access some forms of performative speech act, these forms of action are excluded from Aristotle's conception of the polis. The rare exceptions, where non-citizens can act as crucial witnesses in the Gortyn code demonstrate how the borders of the polis are always in contest and will be examined in section 4.7.3.

4.2.1 Overview of the evidence for different judging bodies

Around 23 *Dikasteria* are attested, along with 4 (or up to 6 depending on some interpretation over Corinth's council of 80 and Lokroi) *Gerousiai*.⁵⁴³ This is following the Copenhagen Polis Centre's study, looking for groups or particular magistrates identified with a *dike* term. This method counts the number of courtrooms better than counting the number of purpose-built court buildings. Many poleis have assigned juridical responsibilities to bodies that might be called 'councils', and to the various assemblies and there is not a consistent demarcation of the powers or responsibilities of these groups, so this is often the source of uncertainty. Aristotle, along with other sources, presumes courts are a universal feature of the polis.⁵⁴⁴

Among the less descriptive evidence, we have a passing mention of a *halia* is our direct evidence for a court in Selenous and Megara (In Sikelia), and we have only a *halia* and a *prodika*

⁵⁴³ Hansen and Neilson 2004 p.1341-2

⁵⁴⁴ Harris and Rubenstien 2004

grant for Korkyra. Akragas, Naxos, Phokaia have only isolated or indirect mentions of courts with little to analyse. Evidence for Delphi's court comes from a grant of *prodika*, and we can assume court activities in its constitution, but we lack any further details for this period. We mostly know the constitution at Eresos through a group of inscriptions related to a trial of tyrants when it seems that in this one particular case the majority of the demos took on judging roles.⁵⁴⁵ These are suggestive of courts rather than true detailed evidence, and so only useful as evidence for Aristotelian participation in so much as the universal presence of courts suggest non-arbitrary judgments as a norm, which in turn implies some form of reciprocity and accountability between the court and community it judges.

The material that gives the most details about actual participation are the more focused juridical inscriptions that can be found for Elis, Tegea, Arkesine, Kos, Chios, Erythrai and Gortyn.⁵⁴⁶ These inscriptions will all be discussed in more detail and have been selected because they give some details about how citizens were involved in the process of justice with a particular focus on marginal forms of participation. There are also inscriptions discussing detailed juridical arrangements at the Cretan poleis of Bionnos and Lyktos. However, at Bionnos the key inscription is too fragmentary to be read for procedural detail⁵⁴⁷ and at Lyktos the archaic inscriptions have uncertain contexts⁵⁴⁸, so both places will be discussed along with Gortyn.⁵⁴⁹ Often where we have lists of magistrates within the constitution, we have passing mentions of *-dikai* named officially who presumably had juridical duties at Histiaia/Oreos Karystos, Megara, Mantinea, Thasos, and Herakleia,⁵⁵⁰ though with no further details about their selection or specific duties we can only guess their role by analogy. As will be discussed later the particularly useful examples demonstrate forms of participation that are not

⁵⁴⁵ *IG* xii.2 526, cf. Teegarden 2013 p.115-141

⁵⁴⁶ Elis primarily IvO 2, 3, 4 IvO 17, 39,

Tegea *IGv.* ii 6, *IPArk* no.5

Arkesine *IGxii.7* 3.39, 42, *IG* xii.7 3.32, 49-50

Kos (Iscr. Cos ED 26 Iscr. Cos ED 90.4, 9)

Chios PEP Chios 76 = Körner no. 62, and two ambiguous inscriptions that may refer to Chios or Erythrai ML8=PEP Chios 23 and 25

Then those inscriptions that are certainly from Erythrai, I.Erythrai 1.16-17; *IG* i³ 14.5; *SEG*36 1039.29, I Erythrai 2

Gortyn *I.Cret.* iv 72, and the other inscriptions of the Gortyn code.

⁵⁴⁷ *I.Cret.* ii.xxx.1

⁵⁴⁸ *I.Cret.* I.xviii.3, *SEG* 35 991A.8

⁵⁴⁹ Gagarin and Perlman 2016

⁵⁵⁰ Hansen and Nielsen 2004 p1341-2, Jones 1987 p.77, p.94, p.132-3, p.184, p.162.

straightforwardly 'democratic', in that they describe procedures that distribute shares in the decision, but not equally.

A handful of *Gerousiai* are also attested (Kroton, Lokroi, Kyrene, Knidos, Euhesperides, and potentially Corinth) but there is no solid evidence of their selection process. The Aristotelian perspective on these bodies is somewhat contradictory, as although they are featured most prominently in undemocratic regimes, he seems to frame them as moderately democratic features.⁵⁵¹ If the Spartan *Gerousia* is typical then these bodies functioned as courts in certain circumstances, though we lack any specific examples of this in action. In Sparta certain judicial powers lay with the *Gerousia* (discussed separately at 4.5.1). At Lokroi and Corinth we have passing evidence for the judicial powers residing in the *Gerousia* and at Kyrene in the Ephorate.⁵⁵² Finally at Knidos⁵⁵³ and Kroton⁵⁵⁴, whilst we lack explicit evidence for explicitly 'dike' roles in their *Gerousia*, there is enough evidence to infer some juridical magistrates. A more detailed discussion of how participation worked in the Spartan constitution and the kind of juridical inferences we can make about similar poleis has its own section in this chapter because this evidence contributes to the picture of juridical involvement of citizens in a variety of 'non-democracies' that are otherwise underrepresented in our detailed sources.

The section on accounting demonstrates where Aristotelian models best fit the available evidence. Account procedures are detailed in broad variety because they are represented in a lot of diverse kinds of evidence, and so are relatively well attested.⁵⁵⁵ Discussion of accounting is especially prominent in Aristotle's discussion of citizen participation in oligarchies, and so this a valuable point of corroboration between Aristotle and other sources on the function of modes of political participation. These procedures are discussed in their own section of this chapter.

⁵⁵¹ With the associated flaws in the Spartan constitution 1271a6-20.

⁵⁵² In Heraclides Heraclid. Pont. (FHGii 212; Arist. fr. 611.115-17.

⁵⁵³ A *Gerousia* like council described in Plut. Mor. 292A-B, and *prostatai* from the inscription I.Knidos 160.2.

⁵⁵⁴ Our sources for Kroton's constitution are particularly dubious according to Hansen et al p.268, cf Robinson 1997 p.76.

⁵⁵⁵ Fröhlich 2004, as will be discussed below makes the case for accounting as a panhellenic norm of office holding.

Judge and jury selection do seem to vary in some of the ways Aristotle suggests at 1300b15-1301a16 but there are also variations in procedure that Aristotle does not go into. Though we do not have the evidence to fully exemplify all the possibilities Aristotle lays out, we do have some indicators of varied court selection systems. Lottery techniques were certainly common; we have archaeological evidence in the form of jury tokens from democratic Sinope⁵⁵⁶ and suggestions of such systems at Arethousa⁵⁵⁷ but clearly, selected courts, aldermen councils and individual magistrates were also common as justice systems. A particular judging magistrate is mentioned in an inscription at Arkesine⁵⁵⁸ where a separate court is also mentioned.⁵⁵⁹ Most frequently inscriptions reference juridical boards, at Kyrene,⁵⁶⁰ at Chios,⁵⁶¹ at Thasos⁵⁶² and potentially the δικάστα at Zeleia.⁵⁶³ We cannot draw certain conclusions about the method of selection, though where the jury is larger (three hundred at Thasos and at Chios) we cannot imagine an especially exclusive procedure.

At Eresos an inscription records a jury specially appointed by the assembly to try tyrants⁵⁶⁴ and though it records the number of voters the selection process is not known. The majority of the courts attested are simply labelled a *dikasterion* in passing, so we know nothing certain about the make up of the court except by inference from the nature of the constitution.

Reading Aristotle we might suspect that the trend is for democracies to select more juries and oligarchies to have more appointed magistrates along with some mixture of procedures being common. This is supported by the extensive information we have on Athens, and what we gain from Aristotle's own discussions. Sinope and Arethousa and some references to the courts as popular elsewhere show there is random juror selection in other democratic constitutions. However, as discussed above methods of selection is an area where the evidence is particularly lacking and unclear. The strongest indicator of a broad participation in the juries is the number of *phylai* that seem to have had devolved juridical functions; the small scale suggests that any circulation of judging officers would have meant including a good

⁵⁵⁶ Robert 1937 296ff no13

⁵⁵⁷ Moschonisioti et al. 1997 Polis Inventory No. 546. Hansen and Nielson 2004 p.817.

⁵⁵⁸ *IG* xii.7 3.39, 42

⁵⁵⁹ *IG* xii.7 3.32, 49–50

⁵⁶⁰ Heraclid. Pont. FHGii 212; Arist. fr. 611.115–17

⁵⁶¹ PEP Chios 76

⁵⁶² *SEG* 36 790.8, *IG* xii.8 263.7

⁵⁶³ SGDI 5532 Syll.³ 279 Receuil 530 and SGDI 5533 Receuil 531

⁵⁶⁴ *IG* xii.2 526, Teegarden 2013 p.115-141

number of the community, and therefore cannot have had restrictive selection criteria. For example, at Elis the variety of local courts discussed below seem to have had a varying selection criteria. Inverting this question, The Areopagus court at Athens is a prominent example of democratic constitutions maintaining some particular undemocratically selected court and we have some evidence of some 'democratic' jury procedures in undemocratic time and places (at Elis, for instance).

There is some varied evidence of courts functioning as a constitutional check. The function of the courts might be respected even by tyrants.⁵⁶⁵ Relatedly, courts often have a role in solving inter polis disputes, with foreign courts invited to resolve problems, and the recognition of courts dealing with sacred disputes that may cut across different polis. Delphi and Aegina both certainly have courts of this nature, and this kind of dispute resolution is well attested.

4.3.0 Being a judge or juryman, judge and jury selection

4.3.1 Athenian courts in Aristotle

The best-known lawcourts are of course Athenian and there is no comparably detailed knowledge of process from any other polis, and our sources are quick to describe the Athenian system as very democratic. One way of integrating the evidence is asking what exactly about the Athenian system was unique, and what made it so democratic. This has a few overlapping answers; the scale of jury, the eligibility of all citizen men over 30, the randomised selection process, its accessibility to all citizens, its very broad judicial competence, the status of its decision as representative of the polis at large, and the impossibility for any other body to overrule it.

The Aristotelian writer of the *Ath. Pol.* Views the Athenian jury-court system as exceptionally democratic because of their monopolisation of the significant judicial competences of the polis.⁵⁶⁶ Especially significant is the power of the jury court as the final court of appeal for trials of officials,⁵⁶⁷ and essentially all other offences can be appealed to the jury-court (with the

⁵⁶⁵Sakellariou 1989 p.65 on this as evidence for a contiguous 'state' even for tyrants.

⁵⁶⁶ *Ath. Pol.* 41.2

⁵⁶⁷ *Ath. Pol.* 45.1, 55.4

exception of homicide).⁵⁶⁸ Two of the three features of Solon's reforms that Aristotle sees as most 'democratic' is the ability for anyone to bring a charge to court, and that it is a jury court in which the people have a vote that is the ultimate court of appeal.⁵⁶⁹ Seeing the second of these features as democratic seems a natural application of Aristotle's theoretical construction in *Politics* that concentration of the judicial power in popular bodies characterises democracy.⁵⁷⁰ The former also seems to follow from how *Politics* discusses managing the problem of this openness of democratic courts.⁵⁷¹ So here there is a clear case that *Ath. Pol.* expresses Aristotle's position via the Athenian example: the 'democratic' aspect of courts is increased by broadening access to the most authoritative court, as well as that court having a jury to which many are eligible. Other constitutions had a place for jury courts with broad selection criteria, but their judicial competence might be narrower or subject to oversight or could have their decisions be appealed in less democratically composed bodies.

Aristotle gives a somewhat confusing but systematic breakdown of the various possible methods of picking judges/jurymen⁵⁷² essentially matching his breakdown of the possible decision-making power in the polis. This passage does not make clear who is doing the selecting, but rather is only concerned with the class of citizens that the selection is being made from. As discussed, 'selection' may cover a variety of methods that Aristotle tends not to discuss in detail, but his assumptions tend to be some form of voting, though often from a pool of candidates limited by property qualifications, or by a preselection process. A notable difference between this discussion on the selection of judges and the previous one on the selection of magistrates is that in this discussion he does not mention different pools of electors, only different pools of candidates. Although this may imply an assumption that the elector pool here is the citizenry at large, it seems more likely that this is an abbreviated version of Aristotle's longer discussion of election.⁵⁷³ We can find evidence for lottery systems, for various forms of voting and for various forms of self-selection that will be discussed in this section.

⁵⁶⁸ *Ath. Pol.* 57.4

⁵⁶⁹ *Ath. Pol.* 9.1

⁵⁷⁰ 1317b26-31

⁵⁷¹ 1320a13-18

⁵⁷² 1300b40-1301a16

⁵⁷³ 1300a10-1300b5

4.3.2 Other lottery systems

We are most familiar with jurors being selected by lot, but the idea of a lottery for selection was ubiquitous across the Greek world; feasting, parcels of newly colonised land, inheritances were all frequently distributed by lottery. Blok argues that its consistent political application is an especially democratic, even particularly Athenian, innovation.⁵⁷⁴ Judging boards were often selected, at least partially, by lottery. The lottery as a part of the selection process was enduring, but we cannot be sure of the details of the process, and in many cases elements of pre-selection seem likely to have been present.

Known examples of partial lottery selection survive in inscriptions; five men were selected from thirty at Ephesos to advocate in Zeleia, eleven of the council selected at Delphi to judge breaches of the law on interest⁵⁷⁵ and in Gortyn seven men drawn by lot to assess a financial issue on the agora.⁵⁷⁶ This is along with judges selected for festivals, such as at Berioa⁵⁷⁷, and other kinds of sacred role such as the important 'interpreter poets' at Delphi.⁵⁷⁸

Jury tokens are a find that might distinguish these kinds of smaller scale board lotteries from a broader, and therefore a more democratic, application of the lot. Finds of jury tokens that suggest some kind of regular sortation and the use of a sortition machine for jury service are mostly confined to eastern poleis within periods of significant Athenian influence. The examples include Strya⁵⁷⁹ Abydos⁵⁸⁰ Arethousa⁵⁸¹ Olbia in Rhodes⁵⁸², Thasos⁵⁸³ somewhere in West lokris⁵⁸⁴ and Sinope on the Black Sea having some of the clearest examples of *heliast* tokens.⁵⁸⁵ These finds might bear out the suggestion that jury sortition is an Athenian export to

⁵⁷⁴ Blok & Malkin 2024 p.272-275

⁵⁷⁵ 5 Ephesos (ca. 297): Ephesos 4, IEph 4 + Add. p. 1, A. 8–9 Zeleia (late fourth cent.): IMT Aisep/ Kad Dere 1135; Delphi: FD III 1:294, early fourth cent.

⁵⁷⁶ IC IV 162 (ca. 250–200)

⁵⁷⁷ 3 Beroia: EKM, 1 Beroia 1, B ll. 49–54 (in the early second century).

⁵⁷⁸ Eur. Ion 413–16, See McLeod 1961 for the oral bards at Delphi.

⁵⁷⁹ Hansen & Neilson 2004 p.660 No.377, C5 IG xii.9 56 with add. p.176; cf. SEG 42 794.

⁵⁸⁰ SEG 55.1306

⁵⁸¹ Moschonisioti et al. 1997

⁵⁸² Robinson 2011 p.170 with allotment for jurors explicitly described in IG 12.1.55.

⁵⁸³ SEG 60.946–57

⁵⁸⁴ SEG 65.2037

⁵⁸⁵ Robert (1937) 296ff no. 13

some extent,⁵⁸⁶ however the finds of distinctive circular clay jury token at Mantinea align with jury selection being a feature in different kinds of democracy.⁵⁸⁷

Some kinds of citizen list might suggest that they were used in a sortition process, with lead tables from Korkyra being quite ambiguous,⁵⁸⁸ but most, even when on smaller lead tablets such as Kamarina's citizens list found in the temple of Athena were more likely for other purposes rather than as part of lottery system.⁵⁸⁹ Outside of these examples the selection process for courts outside of Athens can scarcely be seen from inscription evidence. The problem with this evidence for this purpose is that the eligibility condition to be included in this lottery are not explicit. We might assume a democratic norm of all citizens being eligible but the precise conditions, such as the age one becomes eligible or how the system is administered, is unknown. All this citizen list evidence really demonstrates is the capacity of at least some poleis to run lottery systems.

Lottery systems could be combined in complex ways, including elements of election and selection in ways that spread decision making power, and many different forms of sortition from a list (*klerosis ek prokriton*) are possible. An illustrative example of how complex combination systems could be is the method of judging the Athenian city Dionysia. The judges themselves were selected, one from each of the ten Athenian Phyle, by lottery from a list of candidates proposed (so that it might be a surprise to the man selected). These ten then each swore an oath and wrote down their judgement of which of the choruses were best. Five of these ten judgments were then drawn at random, with the majority deciding the winner, and if the first five yielded no overall majority they kept drawing until one chorus had a majority.⁵⁹⁰ In the case of a strong majority for a single chorus, it is very unlikely for a loser to win on the lot, but the more the vote is split three ways the more chance plays a role. The result of this system is both judges and their judgements are selected with a combination of chance and agency, whilst obfuscating when the most significant moment of decision lands. Aristotle's discussion at 1300a10-b5 suggests that these kinds of combination were not unusual. In many cases a

⁵⁸⁶ Blok & Malkin 2024 p.272-275

⁵⁸⁷ Aristotle describes this as the best moderate democracy 1318b6-27 Robinson 2011 p.37, Jones 1987 p.132-5.

⁵⁸⁸ Calligas 1971, Jones 1987 p.159-61

⁵⁸⁹ Polis Inventory No.28. Hansen and Nielson p.202 Cordano 1992

⁵⁹⁰ C. W. Marshall and Stephanie van Willigenburg p.90-107, Blok and Malkin 2024 p.294

certain amount of secrecy regarding the actual mechanics of the system would be part of the point, so it is unsurprising that we do not have the details of many systems.

This attested diversity of the lot as a general method of selection in different circumstances, and the potential for fine tuning the lot with forms of preselection suggests that this would have applications well beyond just purely democratic institutions. The lot might be used to give a 'share' to a breadth of polis members, whilst the actual proportionate share of power this might give marginalised citizens could be very minimal. Indeed, the obscuring quality of combined lottery systems might be applied to legitimise elite power. Everyone's name might be in the pot, but if some names are there more than others this can weight the outcome towards some individuals, whilst still giving everyone a chance. The way Aristotle describes fairness and proportional equity seems very compatible with the application of weighted lots. These are, however, largely speculative suggestions as there is not strong evidence for lottery systems outside of democratic poleis. The evidence does not exclude the possibility of use of partial, undemocratic lottery systems in poleis' official selection and it seems very possible given the broad significance of 'the lot' as a method of selection beyond the explicitly 'political' offices.

4.3.3 Eligibility criteria

Courts and judicial procedures are widely attested, but we can usually only guess the eligibility rules for sitting on them as judge or juror; of the 29 *dikasteria* most have no details about eligibility associated with them. Aristotle references political systems where the law courts are drawn from a broader pool than other political bodies. He uses *politeuma* to refer to those who are eligible to be magistrates, whilst the jury courts, in this case, are composed of members from a wider selection pool.⁵⁹¹ The implication seems to be that it is not unusual for some citizens to have their only form of political participation be through the courts. Explicit criteria are not completely unknown in the inscription record: we have Erythrai, in which eligibility for being a judge/juror is limited by income being the clearest example.⁵⁹² Sometimes we can infer eligibility criteria based on how other officials are selected, such as the *kosmoi* at Gortyn. In

⁵⁹¹ 1305b29-39

⁵⁹² I. Erythrai 2; Liddel 2021 p.80-82

Athens we know citizen men over 30 qualified,⁵⁹³ and at Sparta the multiple judging bodies had various selection criteria based on age and prominence which is discussed below.

Eligibility for serving as a judge is a core aspect of institutional design that is mostly absent from the inscription record. Wealth according to a census and membership of a specific descent group are the two possible kinds of eligibility restriction. Aristotle reports officials in Apollonia are restricted to the minority who can trace descent to its original founders, despite an otherwise democratic constitution.⁵⁹⁴ Cretan laws at Dreros and Gortyn certainly seem to suggest a limited eligibility for *kosmos*.⁵⁹⁵ Erythrai limited eligibility to be a *dikastes* to those with thirty staters, whilst also having certain other magistrates selected by lot⁵⁹⁶ and that anyone can bring a trial.⁵⁹⁷ These examples of explicit limitations are unusual, and in most cases we must make informed assumptions. Applying Aristotle, we assume that there are likely to be more restrictions to office holding in oligarchies. It is also possible to suggest that a small polis with short terms and tight iteration rules must have quite broad eligibility criteria to have enough potential officials. Again, the evidence for either exclusion or inclusion is limited, and can support a range of hypotheses. As will be discussed, many poleis seem to have had their judicial powers divided into different forms of court with different selection criteria.

4.3.4 Jury size

The amount of judicial work that needs to be done, especially when large juries are stipulated, means that the qualifications in some cases cannot have been that demanding. At Chios the scale of a judicial panel suggests relatively broad selection criteria. The key text, dated to the early 6th century, may refer to Chios or to Erythrai.⁵⁹⁸ This text gives us a council with some judicial functions, and some judicial functions for the assembly as well.⁵⁹⁹ There is a panel of three hundred 'unbribed' men, but this is only mentioned, and it is not clear if this is the central judicial organ, even though its size would suggest significance. Whether this inscription refers to archaic Chios (which seems most likely) or Erythrai the early date makes it significant

⁵⁹³ Ath Pol 45.1

⁵⁹⁴ 1290b11-14

⁵⁹⁵ SEG 27 620

⁵⁹⁶ 2B.25-32

⁵⁹⁷ B.14-24

⁵⁹⁸ PEP Chios 23= ML 8, Polis Inventory No. 203 Hansen & Nielson 2004 p.1067

⁵⁹⁹ PEP Chios 23=ML 8

because it predates direct Athenian influence over the judicial system. Three hundred jurors, even in the relatively large Chios would require a broad eligibility criterion. This is the same number as late 6th century Thasos where multiple inscriptions mention a board of three hundred.⁶⁰⁰ The trial of the tyrants at Eresos, likely an outlier as a one-time trial, suggests broad eligibility criteria for its jury of 1000.⁶⁰¹ Few patterns are discernible here, except that none of these larger juries could have excluded many citizens, and that lots of the evidence refers to courts with a role providing a constitutional check on officials.

4.4.0 Participation in selection and qualifications for selection

We now move on from the eligibility criteria for judges and juries to the procedures for the selection of judges and jurors. This 'election' includes classic majoritarian voting by a show of hands or ballots from among pre-selected candidates but it is not limited to this form of selection. Complex selection procedures, suggested by the evidence, that indirectly includes people in ways other than by simply giving everyone a vote. For example only having 'voters' at an earlier stage of selection, or by having citizen's names entered into a draw, then only the drawn names getting to vote on candidates: in this way everyone in the draw 'participates', but not everyone gets a vote.⁶⁰² The method of selection for jurors is rarely described except by Aristotle. Even in Athens, before Aristotle,⁶⁰³ exactly how the juror pool was selected by tribe is not clear,⁶⁰⁴ and neither is how exactly the process was divided by tribe. Across the whole of Aristotle's area of study *dicasts* can be chosen by vote or by lot, from a pool of either all citizens or a certain class. He is not clear on who gets to vote for *dicasts*, but this can also be called participation in this way, deciding who gets to decide these cases. What is clear from Aristotle's discussion is that selecting those who judge is also participation in the system of justice. The way in which this qualifies as a 'decision' in Aristotle's sense is discussed in the previous chapter, in the section on the terminology of Aristotle "βούλευμα".

⁶⁰⁰ *IG* xii.8 276.5–7 Meiggs Lewis 1989 p.264

⁶⁰¹ *IG* XII, 2, 526, Teegarden 2013 Ellis-Evans 2012

⁶⁰² Aristotle *Rhet. ad Alex.* 1424b1–3 on the lot for offices in Oligarchy. Malkin and Blok 2024 for the varied application of the lot. Robinson 1997 p.227 for the lotteries' association with democracy.

⁶⁰³ *Ath Pol* 63

⁶⁰⁴ Jones 1987 p.42-44

Inscriptions will describe a variety of officials as having been 'selected' (αἰρεθέντας),⁶⁰⁵ occasionally it is specified that they are selected by the demos,⁶⁰⁶ or by another magistrate. This 'selection' is the possible moment when a range of citizens broader than those eligible for the office 'take part' in the decision. The form of this taking part is not made clear in most cases, but we have a few examples that give some impression of the range of possibilities. The examples from un-democratic poleis I have focused on here may exemplify methods of participation that include the demos but restrict their role so the balance of power remains in the hands of the dominant class.

A central form of citizen participation, in Aristotle's sense, in the Spartan legal system is through the selection processes for the Gerousia and the Ephorate. Aristotle claims the methods of selection for the Ephorate and Gerousia both involve all the citizens,⁶⁰⁷ and the *demos* is also said by Aristotle to 'share in' the Ephorate.⁶⁰⁸ The selection of ephors and the Gerousia is ambiguous as it turns on the interpretation of a contrast clause at 1294b29-31 that is part of Aristotle's discussion on defining the constitution of Sparta. Rhodes contends that the ephors were elected by the assembly from the members of the assembly against Rahe who argued for ephors being selected by lottery from an elected shortlist.⁶⁰⁹ This debate demonstrates that the difficulty in interpreting forms of participation emerges from a plethora of evidence for different existing and potential forms of selection. Plato simply describes the ephorate as "not far from election by lot".⁶¹⁰ The diverse possible answers to the questions "Who elects from who?" are further complicated by the introduction of different forms of 'election'; lotteries, several stage elections, mixed member bodies and numerous other possible systems. Aristotle identifies the election by vote (rather than by lot) of all the offices as its definitive oligarchic feature.⁶¹¹ This is also how Spartan citizens participate indirectly in the judicial process, by electing those officials who will be judging. In this way the Spartan citizenry has quite a lot of indirect involvement in the justice system via their involvement in the election of *gerontes* and *ephors*. This engagement does not constitute popular control of the judiciary,

⁶⁰⁵ Kalaureia *IG* IV 840, and a priestess selection at *IG* XII 245.

⁶⁰⁶ Syll 1219

⁶⁰⁷ 1294b29-31

⁶⁰⁸ 1270b18-19

⁶⁰⁹ Rhodes 1981, Rahe 1980

⁶¹⁰ Plato *Laws* 692a

⁶¹¹ 1294b23-35

with elite and systemically powerful figures able to dominate the process but is the main way the citizens of Sparta participate in the justice system in an Aristotelian sense.

An early 5th century bronze tablet,⁶¹² records a treaty between Chaleion and Oianthea⁶¹³ and describes a system of selection by which there are magistrates that select the jury "If citizen bring suit against citizen according to the treaty, the magistrates are to select the jury from the best men available, after they have sworn the five-fold oath. The jury are to take the same oath. The majority is to prevail"⁶¹⁴. This form of selection, where a particular magistrate is empowered to select the jury has a lot in common with the 'self-selection' discussed next, and seems to be a variety of 'some selecting from all', in Aristotle's terms.⁶¹⁵ This has some similarities to the Spartan process for selecting ephors and the Gerousia in that it involves a decision taken by the assembly in some capacity, but also a degree of pre-selection.

This kind of mixed-selection procedure also fits in quite different contexts: the influence of the assembly can be altered significantly. We can assume some that this kind of selection was common for sub-polis officials as well, given our limited knowledge of selection processes at this level. The organization of the particular Isthmos subdivision at Kos describes a system where previous judges select a candidate to replace them, and then this is affirmed by the members.⁶¹⁶ The fundamental method of selection here seems to be the 'self-selection of successor' Aristotle mentions at 1273a15-16 and 1298b2-3.⁶¹⁷ This kind of affirmation seems comparable to the practice in undemocratic assemblies where a tightly controlled agenda was merely presented to the assembly who would then affirm it without the opportunity to debate the legislation. Isthmos has a *demarchos* who is head and judge, and an *arheuon* who runs the festival. The *demarch* acts as judge, but the *demesmen* vote as a jury on accusations of mis-management punishable by fine. Accusations are encouraged by a share of the fine going to the accuser. The *arheuon* may nominate his successor, but the *demarch* may call for an election

⁶¹² This *Treaty* at the British Museum 1218.2.

⁶¹³ Hansen & Nielsen 2004 p.394, no. 166 p.396.

⁶¹⁴ Trans F.H Marshall

⁶¹⁵ 1300b40-1301a16

⁶¹⁶ ASAA 41-42 (1963-1964)151-163, no.6. *IG* XII,4*IG* XII,4*IG* XII,4*IG* XII,4 1:100

⁶¹⁷ 1273a15: Rackham translates as 'co-optation.'

in some circumstances depending on how the inscription is interpreted.⁶¹⁸ The *demarch* can also be put on trial (presumably) by the *demesmen*. Though this decree is somewhat late in the second century, and is in an explicitly democratic context, it offers a rare glimpse into the kinds of local structures of participatory justice.⁶¹⁹ It serves as an example of the kinds of practices that might be elided and expressed by only “selected”. The ordinary *demesmen* exercise their participation relatively passively in the everyday running of the *phylai*, but during key moments of stress their designated role could be decisive. A more democratic version of this system at the polis level might be the Mantinean system where a board elected from the whole then have the power to select magistrates, where even though they are do not have offices, Aristotle describes this system as democratic because of the power to decide it grants the *demos*.⁶²⁰

These systems that mix in an element of officials selecting with an assembly vote, or affirmation of the selected candidates show a way that a share in selection can be given to the broad citizenry, without much meaningful power being conceded. These selection systems give a range of options for complex sharing of power in the process. It seems, from this evidence, that Aristotle's extensive list of theoretical selection procedures⁶²¹ actually undercounts the ways that the selection process could be broken up into parts. The limited evidence also suggests that officials often had a role in appointing their successors, something that is compatible with Aristotle's categories of selection but which he does not detail.

4.5.0 'Going by sections' Variety of courts and sub-polis judiciary as evidence for some form of participation

Where we have our best evidence, it seems like a variety of different judges and courts created a piecemeal judicial system, without clear lines of appeal that create any 'supreme-court'. Dividing the judicial competence creates constitutionally complex polities which are difficult to reconstruct from the limited evidence available. It also provides lots of opportunities for citizen

⁶¹⁸ This is a set of regulations for the management of a donated fund, meaning its procedures seem designed to minimise the direct influence of the assembly. This is discussed further in the section on scrutiny account in this chapter.

⁶¹⁹ Jones 1987 p.240

⁶²⁰ 1318b25-29

⁶²¹ 1300a10-1300b13

participation in the justice of the polis that does not threaten the constitutional order of non-democracies. The contrast between the jury courts of Athens as bulwarks of democratic power, and the section courts of other polies should not be overstated. Lots of poleis would have the assembly decide certain important trials, and non-democracies might also have a centralised high court. Aristotle cites Carthage where a single kind of magistrate rules on all cases.⁶²²

4.5.1 The example of Sparta

Aristotle starts with Sparta as the example of a polis that divides its judicial power into many offices with a variety of selection and election procedures. Aristotle calls the Spartan king 'legal' and so not sovereign in all things, only military matters on campaign and 'things of the gods',⁶²³ which seem to include some judicial matters. The two hereditary monarchs judged cases about heiresses, adoption and public roads according to Herodotus.⁶²⁴ Aristotle describes this as a typical monarchy constrained by laws; but sovereignty on military campaign and in matters of the gods.⁶²⁵ The Gerousia seems to hold most general juridical power,⁶²⁶ with the ephors having power over *periokoi*.⁶²⁷ Aristotle complains of the Ephorate having power in important cases⁶²⁸ monopolising the powers of scrutiny and account over officials.⁶²⁹ The assembly does function as a court in exceptional circumstances involving royal succession.⁶³⁰ There may also be some lesser judges we don't know anything about.⁶³¹ The notable difference to Athens is not that Spartans are totally excluded from the judicial power, but rather that they are not necessarily included all the time or in all cases. In Athens the democratic jury-courts are virtually always the final court of appeal, whereas in Sparta the assembly only presides over unusual cases, and there is no broad lottery appointed jury.

This example demonstrates some of the more indirect ways a citizen might be involved in the justice system in various ways. If you get old enough, you will be eligible for the Gerousia, and the entire assembly selects them,⁶³² giving every citizen not always an active role but a definite

⁶²² 1275b10-13

⁶²³ 1285a5-7

⁶²⁴ Hdt. 6.57.4-5

⁶²⁵ 1285a6-7

⁶²⁶ Xen. Lac. 10.2; cf. Arist. Pol. 1294b33-34, 1275b10

⁶²⁷ Isoc. 12.181

⁶²⁸ 1270b29-31

⁶²⁹ 1271a6-9

⁶³⁰ MacDowell 1986 p.133-35

⁶³¹ Xen. Lac. 8.3 cf MacDowell 1986 p.123-150.

⁶³² Pl. Leg. 691D-692A; Plut. Lyc. 26

share in the judicial system. Sparta is the example Aristotle gives of a polis that divides up the responsibilities of justice. The constitutional complexity of Sparta has some unusual features, but given the array of various officials with unknown roles attested elsewhere, we cannot assume Sparta was exceptionally complex. These kinds of indirect methods by which citizens had some share in the constitution may well have existed in other non-democracies.

The example from Xenophon of the trial of Sphodrias demonstrates how participation in the justice system interacted with other aspects of the political system unofficially. Sphodrias wishes to make use of his son's special relationship with the son of king Agesilaus to get himself acquitted. Agesilaus' son does not directly petition his father, but there is a sequence of whispers in which the King is persuaded to pardon.⁶³³ Though not directly intervening the power of the king is here made clear; that simply by suggesting the king's opinion it is possible to sway other Spartans in the Ephorate.⁶³⁴ This kind of influence is also evidence that a concept of Spartan public opinion has some significance. People do not want to disagree with the king, so part of the king's power comes from him being seen in public. There is some discussion of Spartan public spaces: mess-halls and the banks of Eurotas where youths exercise in which the King, and who he is talking to, is seen. In connection with this, the need to be seen to be fair influences the king and his opinion then influences other juridical roles.

Spartan justice is here expressed in a way that involves both deference to a king and impactful public opinion.⁶³⁵ 'Public opinion' is not something a wise king can ignore, and this 'public' is defined by their privileged citizens' access to certain spaces, and their participation in judicial apparatus. The vulnerability of the Spartan kings to prosecution demonstrates how these structures of judicial participation could be used as a popular check on power, but only in certain circumstances and serves as some of the best examples of how demotic but non-revolutionary power might be exercised in generally more oligarchic/ Aristocratic constitutions. The kings were affected by political pressure because of their vulnerability to the courts; and this vulnerability often became a significant crisis. King Leotychidas (c.545- c.469BCE) was found guilty of taking a bribe.⁶³⁶ His punishment was banishment to Tegea and having his house

⁶³³ Xen. Hel. 5.24-33

⁶³⁴ Xen. Hel. 5.32-33

⁶³⁵ Lewis 1996 p.120-122

⁶³⁶ Herodotus 6.72, Pausanias 3.7, 9-10

torn down. An entire line of Spartan kings experiences acute pressure from judicial elements of the spartan polis: from Pausanias the Regent being starved to death in the sanctuary of Athena by Ephors, through his son Pleistoanax forced into exile by the Ephors between 445 and 427BCE, and then finally the two trials of his grandson Pausanias, the second one leading to a death sentence forcing him into exile.⁶³⁷ The case of King Agis II demonstrates how this process could be tamed in a way that creates some accountability for the king. He was threatened under this law in response to failing to fully execute a decisive war against Argos.⁶³⁸ He faced a large fine and would have had his house torn down, but it is not clear where exactly these articulated legal threats came from beyond just the collective “Lacedemonians”, this collective seems to be a broader body than just the Ephorate and the Gerousia, but the vagueness of this body underlines this as a constitutionally irregular threat.⁶³⁹ He was able to negotiate with the “Lacedemonians” reaching the compromise of allowing an unprecedented law appointing ten Spartan officials to oversee his behaviour. This episode, and the other episodes of Spartan kings being prosecuted formally or informally, might suggest the involvement of the Spartan assembly or at least the Ephorate using the threat of popular actions against the king. The sectional justice system of Sparta breaks up judicial power as part of system of checks and balances, and in so doing offers a marginalised decision-making role to the assembly in special trials and in the selection of very judicially powerful Ephors and Gerousia.

The technical features of the Spartan constitutional structure demonstrate a system dominated by its central board of Ephors elected annually and the mixed member Gerousia, composed of some elected lifetime members and the kings.⁶⁴⁰ The nature of Spartan constitution was up for debate in the classical period,⁶⁴¹ and the Spartan kings were constrained by both formal and informal checks, which shows how popular power can be difficult to define. It is therefore hard, for Aristotle and for us, to completely rule out the argument that Sparta was in some ways a democracy with a sovereign *demos* that exerted its power through powerful judicial bodies.

⁶³⁷ Cartledge 1987 describes this narrative, cf Parke 1945.

⁶³⁸ Thuc 5.60, 5.63

⁶³⁹ Thuc. 6.63 *Λακεδαιμόνιοι* δὲ ἐπειδὴ ἀνεχώρησαν ἐξ Ἄργους τὰς τετραμήνους σπονδὰς ποιησάμενοι, ἄγιν ἐν μεγάλῃ αἰτίᾳ εἶχον οὐ χειρωσάμενον σφίσιν Ἄργος, παρασχὼν καλῶς ὥς οὐπω πρότερον αὐτοὶ ἐνόμιζον· ἀθρόους γὰρ τοσούτους ξυμμάχους καὶ τοιούτους οὐ ῥάδιον εἶναι λαβεῖν. ἐπειδὴ δὲ καὶ περὶ Ὀρχομενοῦ ἡγγέλλετο ἐαλωκέναι, *πολλῷ δὴ μᾶλλον ἐχαλέπαινον καὶ ἐβούλευον εὐθὺς ὑπ' ὀργῆς* παρὰ τὸν τρόπον τὸν ἑαυτῶν ὥς χρή τὴν τε οἰκίαν αὐτοῦ κατασκάψαι καὶ δέκα μυριάσι δραχμῶν ζημιῶσαι

⁶⁴⁰ Pl. Leg. 691D–692A; Plut. Lyc. 26.

⁶⁴¹ Aristotle presents the debate 1294b19–34, Early Isocrates describes Sparta as an Oligarchy Isoc 3.24, but later argues that it can be described as a democracy Isoc 7.61, 12.145, 12.178 Alwine 2018 p.236.

However, the extent to which these bodies were representative of the demos or vulnerable to pressure from them is obscure and subject to change over time. Under certain circumstances through informal pressure and formal channels the larger group of assembly-going Spartans might have been able to assert power. Though Aristotle does not give a conclusion to the debate on Sparta, the discussion demonstrates that *politeia* includes both formal constitutional powers and the way that people are in the habit of interacting with those powers.

The way Aristotle frames Sparta as an example suggests that it is not an atypical justice system, even if the Spartan constitution in general is unusual.⁶⁴² If the Athenian democracy concentrated judicial competence in its jury-courts as a final court of appeal, the Spartan system 'went by sections',⁶⁴³ dividing up the judicial powers along with those of the assembly. Some basic features of this judicial distribution include different judicial competences shared between the Kings, the Ephors, and Gerousia.⁶⁴⁴ The Spartan way of distributing power is not the only way that the judicial power might be broken up, although it is typical of what Aristotle is trying to describe by this expression. This is different to the distribution of judicial power 'by parts' that is created by local courts and judges exercising judicial power over sub-polis units such as *demes* and tribes. The Athenian system of sub-polis courts allows for appeal to higher courts, and so the root of judicial power remains in the jury courts of the whole polis. In Sparta, and other divided judiciaries, the judicial power is divided at the highest level, so even after any appeals the highest court will depend on the particular crime. This is a spectrum, even the relatively judicially unified Athenians had some divided competence between the Areopagus and the jury courts. This spectrum contains many possible permutations of judging bodies with different kinds of citizens participation, exercising different judicial authority.

4.5.2 Sub-polis variation in courts

Judicial responsibilities are often localized, and it seems likely that these local courts would provide the broadest possibilities for citizens to participate in the legal process. This section focuses on the instances where we have some details; evidence suggests multiple courts

⁶⁴² 1275b10 Alwine 2018 also takes Sparta as typical of undemocratic system of judicial constitutional checks.

⁶⁴³ 1275b7–13

⁶⁴⁴ The kings ruled on adoptions, inheritance and Hieresses, 1285a6–7, Hdt. 6.57.4–5, Ephors had some judicial authority over the *perioikoi* Isoc.12.181 and over the Kings themselves as discussed. Gerousia was the capital court Xen. Lac. 10.2; cf. Arist. Pol. 1294b33–34, 1275b10.

(Mantineia, Erythrae, Herakleia) and officials with judicial responsibilities, but little descriptive evidence about the nature of these courts is available. The central argument is that it is reasonable to extrapolate from this and suggest that most poleis would have had a range of court institutions, including courts for civic subdivision.⁶⁴⁵

The very incomplete evidence from beyond Athens for judicial functions at sub-polis level in *phylai* suggest that some functions are usually devolved, particularly enrolment and scrutiny of citizens. *Phylai*, *phratrai* and *demes* also work as electoral/judicial wards for certain *archai*. Judges at Elis and Tegea are selected from each tribe. The tribes in Syracuse seem to be responsible for the scrutiny of new citizens.⁶⁴⁶ It may be that positions called *dike* in inscriptions are not judges but those responsible for arranging and announcing trials, such as the officer at Chios or Arkesine.⁶⁴⁷ The Athenian *demes* seem to have had their own judicial and decisive bodies mimicking those at the polis level, but here Aristotle stresses these bodies' role in recording and policing citizen membership.⁶⁴⁸ There is some evidence for similar organisation in smaller and less democratic poleis, and even when there is less practical need for sub-division administration, these associations constructed and maintained local identity; with local officials administering citizenship, making decrees, and organising military subdivisions.⁶⁴⁹ Though my discussion focuses on the participation of poorer citizens locally in oligarchic poleis, the reverse seems to have also been true in places, with some *phratries* maintaining aristocratic descent eligibility criteria; meaning some they could be the administrator for more restrictive eligibility criteria for particular roles.⁶⁵⁰

In many poleis we have a range of names of political bodies but can only speculate on their procedures or functions by analogy to better known poleis. Megaris has a range of possible institutions fulfilling some functions of a court: the three hundred certainly functioned as a

⁶⁴⁵ Tegea and the funeral Labyadai at Delphi CID 1 9, Rougement 1977.

⁶⁴⁶ Plutarch Nikias 14.5-6 Jones 1987 p.175, and some later imperial period inscriptions attesting *phyle* level judges at Philippopolis IGBR III (1) no. 902, 903 Jones p.270-274 and Dorylaion Jones p.360.

⁶⁴⁷ Chios PEP *Chios*, 76, Arkesine IG xii.7 3.32

⁶⁴⁸ *Ath. Pol.* 62, Deme decree mimic polis level 'decided by' formulations, see Rhodes/Osbourne 2007 No. 46 p.230 Brock 2023.

⁶⁴⁹ Brock 2023 p.229-30 see in particular Labyadai of Delphi Rhodes Osbourne 2003 p.7 no.10.

⁶⁵⁰ See Tenos IG xii suppl.303 with Étienne (1990) 40-42 no. 2.

court⁶⁵¹ but inscriptions also mention the *aisymnatai*,⁶⁵² five *demiourgoi* in C4⁶⁵³ and five *polemarchoi* in the third century BCE.⁶⁵⁴ Mantinea, where a healthy range of inscription evidence has survived, had an extensive range of officials and boards, with mid 5th century courts or 'councils' of ταμιαί *tamiai*⁶⁵⁵ some *theoro*,⁶⁵⁶ and *polemarchoi*,⁶⁵⁷ along with *stalogrphoi*⁶⁵⁸ and *Thesmotoaroi*⁶⁵⁹ are attested as well.⁶⁶⁰ We do not know the roles of these different officials, except what their names suggest, but we do know that there were 5 *phylai* of Mantinea.⁶⁶¹ This range of roles in itself from Chios/ Erythrai⁶⁶² gives perhaps the most detailed account of a varied judicial system, with judicial responsibilities divided between a group of three hundred, a council of 15, a *basilieus* and another *keykes* official with responsibility to announce and organise the court. This variety of public officials, bodies and courts that we have testified suggests that there is enough space in the inscription for the division of the juridical competence of the polis into many parts, as Aristotle suggests 'going by sections',⁶⁶³ for this variety in officials and boards. Moreover, in the context of relatively small communities a complex array of different kinds of courts increases the likelihood that a high ratio of the citizenry were eligible for some kind of participation in at least some courts.

Selecting judging officials from each *phyle* is a feature known at Erythrai and at Tegea and likely at Elis as discussed below. Based on matching the number of *phyle* with the number of particular judges we can assume that judges were selected by *phyle* at Megara, Lokroi Epizecphyrioi and at Kyzikos also.⁶⁶⁴ Some officials with responsibility for managing the funds of local groups such as Isthmos at Kos also face a local accounting.⁶⁶⁵

⁶⁵¹ Demosthenes references the three hundred of Megaris charging a promenant citizen for meeting with Phillip in 346BCE Dem 19.295.

⁶⁵² IG vii 15

⁶⁵³ IG vii 41

⁶⁵⁴ IG vii 27–28 for Polemarches as military jurors see the ad hoc courts of Xenophon's 10,000 appoint the captains as a jury Anabasis 5.34–35.

⁶⁵⁵ IG v.2 261.7

⁶⁵⁶ Thuc. 5.47.9

⁶⁵⁷ Thuc. 5.47.9

⁶⁵⁸ SEG37 340.18

⁶⁵⁹ SEG37 340.20

⁶⁶⁰ Assembly Xen. Hell. 6.5.4–5 and strife Xen. Hell. 5.2.6 Hansen & Nielson 2004 p.519.

⁶⁶¹ Jones 1987 p.132–35

⁶⁶² PEP Chios 23=ML 8

⁶⁶³ 1275b10 καὶ τὰς δίκας δικάζουσι κατὰ μέρος

⁶⁶⁴ Jones 1987 p.95

⁶⁶⁵ Carratelli ASAA 41–42 (1963–1964) 161–163 no. 6

There are judicial functions that make the most sense devolved to extremely local levels. Identity, who is truly who or related to who would have been a very significant aspect of legal disputes over inheritance, citizenship, local property boundaries, marriages and burials. Even if cases are decided by undemocratic judges, they would have to have some frequent engagement with local communities, and require some local legal apparatus to maintain records, mostly in the form of community memory. Brock suggests the application of Dunbar's number (100-250) as a reasonable rule of thumb for the size of groups which tend to have some form of self-government, particularly with regards to policing member's identities.⁶⁶⁶ Judicial knowledge of the very local doesn't require participation in the judicial power in the sense of selecting judges or being eligible for juries, but the evidence we have suggests a significant number of local courts assigned to these matters. Formal witnessing, as will be more fully discussed, often includes the witness in Aristotelian participation, depending on the extent to which this role involves decision making and judgment. The next section will look at Elis in detail, where a particularly rich epigraphic record reveals some mechanisms of interaction between the polis and sub-polis judiciary.

4.5.3 Elis

Elis has a comparatively rich epigraphic record, with a range of early inscription materials, and is discussed in literature, in part due to its relevance as the administrator of the Olympic games. A useful passage of Pausanias⁶⁶⁷ discusses the selection of Olympic judges, and constitutional details can be picked up from the conflicts mentioned by Aristotle⁶⁶⁸ and passages of Xenophon's *Hellenica*.⁶⁶⁹ Olympic regulation dominates the inscription record for Elis, with a few that mention court systems that oversee the games. This may not be a typical kind of legal participation, being concerned so centrally with hereditary *theorodokoi* and with the *Hellenodikai* that oversaw the games. We can see from Pausanias that the *phylai* in Elis, by 368 BCE, each had a *Hellenodikes* and that this number had increased over time. It is by the number that we can roughly date the inscriptions. Other than one *Hellenodikes* coming from every *phyle*, we do not have any information about judge/jury selection. Elis is worth a more

⁶⁶⁶ Brock 2023 p.232

⁶⁶⁷ Pausanias 5.9.4

⁶⁶⁸ 1306a13-19

⁶⁶⁹ Xen.Hell. 3.2.27-29, 7.4.15-16

careful investigation because we have inscriptions that seem to be issued by more localised judicial bodies that indicate how these sub-polis groups were integrated into the polis wide legal system.

Aristotle describes Elis as having once been a very narrow dynastic oligarchy; although we cannot be sure, the 6th century seems to be the date of the change he is referring to. Elis might be described as democratic possibly after a synoecism in 471. Diodorus and Strabo⁶⁷⁰ both mention the synoecism and this may also be the date of a constitutional change, though it is not labelled as a democracy. It seems to be democratic by c.400 because we know of an attempted factional coup that killed a man 'of the demos'⁶⁷¹; whilst Pausanias calls this an explicitly oligarchic uprising.⁶⁷² It is certainly a pro-Spartan uprising. A successful and explicitly oligarchic coup under Spartan pressure occurred in 365. However, this does not imply that the preexisting constitution was democratic. Xenophon's framing suggests that a rival faction was trying to change the constitution into a democracy.⁶⁷³ This leaves the inscriptions naming the *damos* as evidence for a democratic shift in the constitution, and this feature exists before and after the synoecism. The synoecism seems to be the occasion that spurred the creation of the more extensive legal inscriptions particularly IvO 2.⁶⁷⁴

Pausanias explicitly states that first there was one judge chosen from the Oxylids, a specific descent group of the Eleans, and then the Olympic judges are selected by lot from the Eleans from the 50th Olympiad, then after the 95th nine judges were selected. This would put the first shift in the 580sBCE. However, Shaw suggests that Pausanias may have followed the Eleian archive of the games which does not record 27 games other historians refer to, and so this would place the change in 472BC, so parallel to the other changes in Eleian constitutional make up.⁶⁷⁵ This would also roughly align this constitutional change with archaeological evidence of significant construction at the site.⁶⁷⁶ If we do not accept this timeline correction, it is still worth noting the oversight that the *damos* has over judges according to the inscriptions. Though

⁶⁷⁰ Diod.11.54.1; Strabo 8.3.2

⁶⁷¹ Xen.Hell.3.2.27–29

⁶⁷² Paus.3.8.4–5

⁶⁷³ Xen. Hell. 7.4.15–16

⁶⁷⁴ Bourke 2018. All the Elis inscriptions are published in Dittenberger and Purgold *Die Inshriften Von Olympia* 2023, and are referenced by IvO number.

⁶⁷⁵ Shaw 2003 p.96

⁶⁷⁶ Barringer 2005

it is convenient to align construction and Synoecism with this significant shift in Olympic judge selection, there is no strong reason to assume all the changes came together.

There is early evidence of varied court practices at the different sub-polis levels of Elis. IvO 2 shows a set of checks that make officials (*mastroi*) oversee each other in a form of scrutiny. It is clear that the *hellondikas* are important officials in the civic life of Elis beyond their role in judging Olympic games disputes. SEG XXXI 358 tell us that these officials also review judicial decisions. Though the roles are outlined, we do not know anything about the process by which they were selected. An honourific inscription IvO 11 grants the right to be *damiorgia*, this may suggest that not all citizens could be, but is inconclusive. There is some suggestion that not all the Elian communities were governed democratically even after the synoecism.⁶⁷⁷ The *damiorgos* is a board of officials that have responsibility over local *deme* officials in Elis, including *demes* that may have only just been brought into the Elian polis.⁶⁷⁸

The *damos* is mentioned before the synoecism of the 470s in IvO 4,3 and 7. The bronze plaque IvO 7 says that the *damos plethyon* (probably an assembly) can take final decisions in jurisdiction. Overall, this lays out a court system that is accessible, with routes of appeal and means of challenging sitting officials. The accessibility is suggested with rewards for successful prosecutions and punishments in IvO 7. These earlier inscriptions have lost the details of their issuing body. Though they concern details of the sanctuary of Olympian Zeus, and are in the Elian dialect, they could come from a particular Elian community, or some collection of them not yet including the full political community described in IvO 2. This period of Elian legal institutions includes different courts and judges with overlapping with slightly different systems of oversight being brought together. A decision by “The three judges of Pellana” recorded in a bronze plaque from this part of the 5th century includes further oversight of officials forbidding ‘bearing arms together’ and ‘making assemblies’.⁶⁷⁹

⁶⁷⁷ Bourke 2018 p.90-97

⁶⁷⁸ Jones 1987 p.142-45

⁶⁷⁹ Hallof 2021

Elis can be seen as a kind of league, becoming a unified single polis steadily over the 5th century, but this does not mean that its constitution was ever uniform. This regional variation accounts for the difference between particular inscriptions. Robinson characterises Elis as an early democracy on the basis of the repeated prominence of the '*Damos Plethyon*' as a final authority citing IvO 9, IvO 3 and IvO 11.⁶⁸⁰ However accurate this characterisation is, the people seem to have some share in the judicial system via oversight of the *Damos*. Selection for some roles may have had aristocratic elements, but assemblies also have significance as courts of appeal. Overall, the evidence for Elis suggests some participation in the legal system for citizens, but of to varying degrees depending on exactly which sub-polis community they belong to.

The 5th century Elian judicial competence is more democratically organised, with a final court of appeal at the "*damos plethyon*", but in contrast to Sparta there is more localised variation, with different judgments applying to different places. The extent of broad citizen participation in the system depends on the interpretation of '*damos plethyon*', but the implication of that inscription is that under certain circumstances popular participation is asserted.⁶⁸¹ We know nothing about selection criteria for either the judges or the assembly at the times inscriptions, making the final characterisation of this period of the constitution impossible.

4.6.0 Scrutiny and account

There are three key forms of official accountability procedures I will discuss together as 'accounting' forms of participation: the scrutiny that takes place before entry into office, the accounting that takes place upon leaving office and any special procedures for accusation of official wrongdoing that might take place during or after the official's term. I have grouped these different procedures as they are all ways of providing a judicial check on the actions of officials that give the opportunity for participation in significant decisions.

⁶⁸⁰ Robinson 1997 p.109

⁶⁸¹ Notice the symmetry of language with the Tyrtaeus fragment 4: δῆμον τε πλήθει νίκην καὶ κάρτος ἔπεσθαι.

Aristotle suggests holding officials to account as a good way of giving the poor in oligarchies a share in the constitution.⁶⁸² He recommends this as a good example of participation for the non-*kurios* citizens, and its repeated inclusion in the list of courts suggests it is a common feature, whether every citizen takes part or not. This is reflected in the presence of inscriptions and references in texts relating to accounting procedures across different forms of constitution. There is a greater variation of evidence for holding officials accountable than for other forms of legal procedure. The evidence for accountability in oligarchy, though present is less well attested; Herodotus' Persian debate presents accountability as a democratic scheme.⁶⁸³ This section examines the evidence to decide just what kind of accountability we do have evidence for in oligarchy. There is overlap between this section and the previous sections, with the courts and judges discussed in previous sections often presiding over accounts, but also enough evidence that is specific to procedures of scrutiny and account that in many cases suggest these procedures have their own courts.

Aristotle groups these functions slightly differently. The court of account is the first of his eight kinds of court, and this matches his use of the *euthun*- terms in book six discussing account⁶⁸⁴ as the kind of power that poorer citizens exercise when they have no access to offices. He disapproves of the Spartan Ephorate for monopolising this role⁶⁸⁵ and notes that hold magistrates to account can make up for a lack of power.⁶⁸⁶ Officials in Athens had to undergo a scrutiny entering office, and give an account to a jury upon leaving. Aristotle mentions these procedures as moderate ways to give some deliberative power to the poor without completely democratising the constitution as well as a democratising step in the development of the Athenian constitution.⁶⁸⁷ Those poleis securely in the Athenian orbit echo the scrutiny procedures of Athens, late 4th Century Imbros requires officials to undergo general examination (*euthynai*) and give an account⁶⁸⁸

⁶⁸² 1318b21-25

⁶⁸³ Hdt. 3.80.3-6

⁶⁸⁴ 1318b21-25 cf 1282a3-5

⁶⁸⁵ 1271a2-10

⁶⁸⁶ 1318b21-25

⁶⁸⁷ 1274a15-21, 1281b32-24

⁶⁸⁸ *IG XII. VIII* 47 demonstrates a very Athenian vocabulary of official accounting, though it likely comes from after independence. cf Jones 1987 p.187-8.

Scrutiny has been documented and examined in Rhodes with Lewis⁶⁸⁹ and most thoroughly in Fröhlich who sees the varied evidence of scrutiny as substantial enough to call it the central method of official regulation across essentially all Greek Poleis of the classical and Hellenistic period.⁶⁹⁰ Scrutiny is mentioned in a wide range of material, and is a major concern of legal inscription. It is also mentioned in texts frequently. Particular details of scrutiny procedures are attested outside of Athens, but the evidence tends to be fairly scarce and late. Scrutiny is a useful case of marginal participation because the examining body has little formal scope for interpretation of the rules. This means they lack much meaningful power but are still a formal kind of participation for Aristotle.

Fröhlich concludes that accounting for officials leaving office is securely enough attested, in a variety of forms, that it can be called a universal feature of the polis,⁶⁹¹ and that, at least for the 3rd century where the evidence is more complete, ordinary citizens took some part in this process.⁶⁹² There at least thirty-four poleis which have certain evidence of officials having to go through a specific account procedure, of these about half come from Delian league democracies, but many also come from well outside the direct influence of Athens.⁶⁹³ In addition, we have evidence of officials with the specific responsibility for accountings either *euthynoi* (a mostly Athenian term), *exetastai* and *logistai*.⁶⁹⁴ Assuming all officials with these names had similar accounting duties everywhere, we can take fragmentary evidence of them just existing as evidence of accounting procedures going on as well. Applying this small assumption, we can include ten more polis to the overall number with certain attestation, plus a few with likely references to accounting.⁶⁹⁵ Account giving of some kind seems to be as old as

⁶⁸⁹Rhodes with Lewis 1997 p.528-29

⁶⁹⁰Fröhlich 2004 See especially p.363-402.

⁶⁹¹ Fröhlich 2004 p.402

⁶⁹² Fröhlich 2004 p.527

⁶⁹³ Fröhlich 2004. This is derived from Fröhlich's list p363-65 with some removed if they appear only after the mid 2nd century BCE.

⁶⁹⁴ *Exetastai* and *Logistai* described by Aristotle as officers of account 1322b7-12 cf Fröhlich 2017 for an overview of the vocabulary of these officials.

⁶⁹⁵ Fröhlich 2004

Euthynoi p.103:

Kalaureia: *IG* IV, 841; Syll.³ 993

Exetastai p.117-120:

Samos: *IG* XII 6, 172, 1. 71-79; *IG* XII 6, 169 Minoa Amorgos: *IG* XII 7, 245 + 237 Parion: I. Priene 63; I.

office rotation and continues well beyond Aristotle's period. The Achaean league has potent federal level accountability on the use of public funds at least until the 180s BCE, when a cycle of political violence follows Chaeron's attempt to subvert this process with murder.⁶⁹⁶ This makes accounting in its various forms, whether a regular public procedure or a particular official's responsibility, as one of the most broadly attested polis institutions. The evidence is still heavily weighted towards democracies, but some is found in professed non-democracies. Fröhlich concludes that, at least into the Hellenistic period, this accounting was a universal feature of office holding in the polis.⁶⁹⁷

4.6.1 Who participates in the accounting?

Aristotle's framework suggests a sketch of different kinds of participation in the process of account. Alwine minimises popular involvement in oligarchic accountability procedures and suggests that other oligarchies likely followed the Spartan example; characterising the Ephorate and Gerousia as unregulated elite bodies. As the above section discusses, this is true up to a point, but obscures the partial popular involvement in the selection of these bodies.⁶⁹⁸ In Sparta the assembly had a share, just not a leading share, in the selection of officials, and so in other undemocratic systems we might expect similar structures. Officials with particular duties to perform accounting might be selected by ways that ordinary citizens participated in.

However, there are forms of participation we can identify that involve many citizens partially, ensuring some share of power for the assembly and for poorer citizens whilst maintaining domination or control of key veto points. Examination of these systems in democratic or mixed regimes can indicate some the ways in which institutions might be structured to give marginal forms of power away, whilst retaining ultimate control.

Parion 1, 27-28 Phocaea: I. Priene 64, 9-10 Elis: Syll.³ 694, 32-39 Mytilene: *IG* XII 2, 5 corrected *IG* XII Suppl. p. 2-3, *IG* XII 2, 7 corrected *IG* XII Suppl. p4

Logistai p.77-8:

Rhodes: Lindos II, 190, 10-11; Astypalea: *IG* XII 3, 168; Syll.³ 722 + *IG* XII Suppl. Gambrium: *IJG I, 3; Syll.³ 1219 Ephesus: IJG I, IV; Syll.³ 742; I. Ephesos I a, 8, 27-31.

⁶⁹⁶ Polybius 24.7.1-4

⁶⁹⁷ Fröhlich 2004 p.527

⁶⁹⁸ Alwine 2018 p.262

The ways that civil structure is preserved in inscriptions allows us to establish an account procedures as a virtually universal feature of poleis. Political exposure to the powers held by the demos, either direct or indirect, is harder to demonstrate in many cases. Often this exposure is limited or indirect, and inscriptions rarely give us more than names of councils or particular boards within the constitution that we do not know from other sources. Gambrion, a community near Pergamum, shows how even detailed inscriptions leave large gaps in our constitutional knowledge. Gambrion is known by a mention in *Hellenica*⁶⁹⁹ and a gift recorded by a 326BCE inscription mentions no decision-making body and suggests a direct Macedonian influence.⁷⁰⁰ A 3rd Century funerary law inscription introduces a *Gynaikonomos* (officer for the behaviour of women discussed below) who is chosen 'by the people' (*demos*), and the language of the inscription suggests the treasurer is appointed the same way (the repeated use of same root verb *aireo*), and though the law is new it is implied these are established positions.⁷⁰¹ The accounting is mentioned for the cost of the inscription itself, for which the treasurer has to report to the "*logistai*". This suggests that the demos gather to make some official appointments, and then certain accounting is done at *logistai*,⁷⁰² and the constitutional relationship between this group, the council and the demos is not known. This example demonstrates the ambiguity involved in working out who exactly takes part in accounting procedures, even in a case where the same inscription describes the involvement of the demos in other ways.

Donations of funds intended to permanently provide for a festival from the interest made have left inscriptions that give unusual levels of accounting detail. The assembly is often given a role in overseeing the management of these funds, even whilst the power to dispose of the fund is carefully kept out of their hands. Inscriptions at Korkyra, Kalaureia and Delphi⁷⁰³ are examples of a kind of "Hypothecation", where a source of state income is ringfenced for a particular purpose.⁷⁰⁴ It might sometimes be in the interests of a democratic polis to give up control of a

⁶⁹⁹ Xen. *Hell.* 3.1.6

⁷⁰⁰ Hansen & Nielson no. 808 *Syll.*³ 302

⁷⁰¹ *CGRN* 108= *LSAM* 16

⁷⁰² *CGRN* 108 ln36

⁷⁰³ Discussed below. Also the inscription at the sub-polis *phyle* of the Isthmos as Kos discussed previously.

⁷⁰⁴ Flandreau, Pietrosanti, Schuster define this in the 19th century context. The significance of this goes beyond just ring-fenced taxes. Hypothecation is how sovereign entities can secure debt, even if these entities could be

fund, whilst benefiting from the festival or sanctuary it provides for. In this way we see examples of how procedures can be designed to include the assembly, but to prevent it from having a direct involvement with fund managers that would threaten the capital of the fund itself. These procedures might inform us of that possible ways that less democratic constitutions might be structured to include the assembly but minimise its power in other ways, and so in this way are useful examples of uneven power sharing. A certain amount of transparency and exposure to popular oversight are also very important in undemocratic regimes, perhaps even more so than in democracies, to reassure potential creditors and partners that funds cannot be embezzled.

Korkyra has a single inscription that details a procedure of accounting for administering a donated festival fund (from the early 2nd Century).⁷⁰⁵ Though there is a selection and oversight role for the assembly (*halia*) it does not have direct power to affect the management of the fund, a pattern found among similar donations of this period.⁷⁰⁶ Though certain powers are acknowledged as belonging to the assembly along with the council, either the council or the assembly elects the fund managers from among the wealthiest and gives at least the option of a vote on the management of the fund.⁷⁰⁷ Perhaps a more secure kind of oversight is provided for at ln71-72 ⁷⁰⁸ I interpret this to mean that it is up to both the council and the assembly to decide if the fund managers should pay a fine for failing to produce the fund and interest as stipulated. Given that the interest rates demanded are 24%⁷⁰⁹ it seems quite possible that the fund would fail to make its expected returns at some point. In this case the discretion to fine the managers for failing to meet these payments would constitute a considerable power precisely because it does not have to be enforced, giving the democratic structures a leverage over the fund managers. Some power to limit the financial behaviour of funds is given to the assembly in this case and also appears at a similar inscription at 3rd Century Kalaureia.⁷¹⁰

very difficult to collect debt from. Creating a legal framework in which some incomes are managed independently of the sovereign, but with oversight reassures creditors that they will be able to get their money back. Aristotle is clearly alert to similar concerns with the polis and debts at 1276a10, but a full exploration of how the concept of hypothecation can be applied in this context is beyond the scope of this study. Here it is sufficient to take it as an example of an indirect relationship with decision-making bodies where some control over a fund is maintained, but at a distance.

⁷⁰⁵ IG IX.12 .4 798

⁷⁰⁶ Delphi SIG 631 ll.1-6 and 8-13. See below.

⁷⁰⁷ IG IX.12 .4 798 ln48-49

⁷⁰⁸ IG IX.12 .4 798 ln 71-72

⁷⁰⁹ 2 dr. per month per mina, ll.53-55 as calculated by Harter-Uibopuu 2011.

⁷¹⁰ IG IV 841

The power to appoint the fund's managers, is only ever given in a limited sense by a 2nd century BC Delphic decree allowing the assembly to select the first managers (*epimeletai*) but then only vote on subsequent manager from a preselected list.⁷¹¹ Aigiale has the most explicit limiting of the assembly's influence over the fund's management despite, or perhaps because, of the more explicitly democratic alignment of their constitution.⁷¹² The donor may be more cautious about giving serious capital over for a specific purpose (In this case an *agon* and a feast to heroize his deceased son), when the assembly is used to proposing its own motions and so might seize that capital in the future. There is a protective clause explicitly preventing the assembly altering the fund's regulation,⁷¹³ and allowing only the wealthiest citizens to take over running the fund, with only the original officials selected by the polis, then selecting their own successor, though these officials are vulnerable to prosecution.⁷¹⁴ Other poleis have similar positions which are selected more directly by the polis.⁷¹⁵ Oversight itself constitutes a significant share in the Aristotelian sense, even without the power to elect the official you are overseeing. The relative participatory weight of this kind of accounting may be very significant for poleis depending on just how much of their spendable income may derive from donators who wish to see their money put to specific purposes in perpetuity.⁷¹⁶

There are examples where accounting takes place regularly that suggests a great deal of accounting oversight. Rhodes with Lewis give five polis that required officials make monthly accounts available: Delos, Hypinias, Myania, Gambreion, and Teos.⁷¹⁷ Monthly accounts are also mentioned in *I. Priene* 4 and in PEP 41 of Teos.⁷¹⁸ These examples are mostly democratic poleis. Myania⁷¹⁹ Hypania in Ozolian Locris, are a pair of *sympoliteia* poleis that exchange monthly accounts.⁷²⁰ This is an ambiguous case because is not clear whether this involved any scrutiny

⁷¹¹ SIG 672

⁷¹² *IG* XII.7 515

⁷¹³ *IG* XII.7 515 Ll.122-130

⁷¹⁴ *IG* XII.7 515 Ll. 129-30 See Rubinstein 2003 p.87-113 for the methods of this prosecution.

⁷¹⁵ *IG* IV 841; Bringmann and von Steuben 2000, Delphi SIG 672; and *IG* IX.12 .4 798.

⁷¹⁶ There is an argument to be made that this is a form of state hypothecation. Tying a state expense to a particular fund in perpetuity by tightly legislating how this money is spent. Building credible hypothecation can allow institutions to incur debt securely, making this very important. Fully developing this argument is beyond the scope of this study.

⁷¹⁷ Rhodes with Lewis 1997 p.529

⁷¹⁸ Hansen & Nielson 2004 p.1101-2

⁷¹⁹ Hansen & Nielson 2004 no.164 p.395

⁷²⁰ *IG* ix². I 748

of individuals, but the process of accounting between *sympoliteia* partners recorded in the inscription suggests 'giving an account' in general was a part of political culture,⁷²¹ and that it is the particular circumstances of the *sympoliteia* that has led to this regular practice being recorded in inscription.

An early 5th century Elia account of fining officials certainly implies a potent accounting procedure.⁷²² As discussed, Elis's role as host of the Olympic games puts more outside pressure on transparent courts and officials. Other accounting procedures are attested at Olbia on the black sea⁷²³ where there is a fourth century *dikasterion* structure, though scrutiny powers seem to fall to the assembly or one of the 'councils' described.⁷²⁴

We do also have evidence that some form of accounting took place by exemptions from accounting that are given in certain circumstances, as at Delos for when officials are unable to extract money owed,⁷²⁵ and more interestingly at Tomi on the black sea an exemption for exceptionally appointed generals.⁷²⁶ The presence of these exemptions strengthens the argument for a general rule; it seems that part of the conception of official positions was the expectation of some form of accountability.

The general prevalence of some kind of accounting for office holders does not always mean that these procedures involved large numbers of citizens. Accounts may be given to governing councils or other narrower groups. Giving accounts is common even in non-democracies. An ephebic oath from 3rd century BCE Dreros enshrines a permanent form of scrutiny, where it is the sworn duty of every citizen to denounce wrongdoing officials to the council at a fixed time when they leave office, and for the council to be liable should they fail to investigate.⁷²⁷ This represents a participatory responsibility for citizens should they witness official wrongdoing. Its presence in the Ephebic Oath suggests an emphasis on this as a performative gesture, but the

⁷²¹ F.Delphes iii.4 352.ii.4–5

⁷²² *I. Olympia* 2, cf Rhodes with Lewis 1997 p.93-96

⁷²³ *IOSPE* i² 32, late 3rd century.

⁷²⁴ *IOSPE* i² 32 14.2–3; *IOSPE* i² 26; *IOSPE* i² 325; *SEG* 32 794 For analysis of these and interpretation of the dialect differences in these inscriptions see Dubois 1996. This is similar to a detailed procedure from Corcyra recorded by *IG* ix. I 694.

⁷²⁵ *I. Delos* 502,509, *SEG* xxiii 498

⁷²⁶ *I. Scyth. Min.* ii 2

⁷²⁷ *IC* I ix 1= Syll_527 translation at Austin M 2006 p.208.

way it references the scrutiny does suggest that the accounting is a very regular part of official life that was open to public participation. This Dreros inscription is unusual in making explicit an aspect of citizenship that was surely significant everywhere and will be discussed in the next section; where there are robust account structures then citizens must act as witnesses in these trials.

Though a breadth of evidence exists for scrutiny procedures existing in general, the evidence giving details of these procedures is somewhat narrower: Olbia, Priene, donations of Attalides of Delphi, and the gymnasium of Beroia.⁷²⁸ In Athens officials are held to account by auditors and accessors who are elected by lot who then bring the audit before the jury court.⁷²⁹ Heavy fines are issued for embezzlement and corruption, with lighter fines for maladministration. Though there is evidence to securely suppose that some form of account was a near universal feature of polis offices, many aspects of the Athenian approach in particular seem to be uniquely democratic features. But which of these features? Most importantly, is some kind of engagement of all citizens with the process of account ubiquitous or specifically Athenian? The Athenian citizen has several points of engagement with the process of accounting. Firstly, he might be selected to be an auditor, then he might be on the jury to whom the audit is brought. Though it seems like the extent of this power of audit is particularly democratic, the evidence the suggests that some these responsibilities also rested with common citizens in more oligarchic poleis.

The range of non-democratic engagements with the process of holding officials to account is broad. At the lowest level, being able to bring charges against wrongdoing officials may be the most limited right. This power is necessary wherever officials are constrained by the law. Then being able to elect, or to in some way participate in the selection of, officials who scrutinise gives citizens a share in that process as well. In many cases the assembly seems to have some power to bring charges against officials, or to limit their activity, and this is an area where the role of the assembly straddles Aristotle's notion of *krisis* and *bouleuomai* through the limited powers of these assemblies. These processes are all attested in non-democratic contexts and

⁷²⁸ Gauthier 1993

⁷²⁹ *Ath. Pol.* 54

allow a partial participation in official polis procedure without granting much decisive power to poorer citizens.

Establishing exactly how particular procedures for account giving worked is much harder than establishing the general importance of accounts. The key question is in what way were citizens able to participate in this procedure, and if this participation was broader than other offices. Citizens are relied upon to report official wrongdoing through established channels. The gymnasiarch law of Beroia exemplifies this form of accountability.⁷³⁰ It specifies the gymnasiarch can be called to account by any citizen within 24 months of his leaving office.⁷³¹ Indeed, it seems to suggest that there is innovation in the kinds of public official that are being subjected to public scrutiny.

The 'truth and reconciliation' processes that very consistently take place after officials leave office, by demanding officials account for themselves and their actions, play a vital role in constructing an emergent and continuing identity for the polis that is composed of citizens but is also a separate entity. Citizens pass through these as thresholds in and out of official roles, and they differentiate the act of the citizen individual from the act of the official. The speech acts of the official have extra powers, the ability to speak for the polis in an official capacity, and these extra powers invite oversight.

In many contexts the processes described here were probably a rubber stamp, but even the slight possibility of a fraught legal challenge is significant and would lend weight to all these procedures. Opening a space for popular challenge to individual elites, even in the controlled circumstance of a court of account, is a form of sharing the polis in Aristotle's sense, and one that he explicitly recommends.⁷³² Where the accounting was done by, or at least in front of, the assembly, there is a greater degree of exposure to popular anger that will be discussed in the next chapter on the assembly.

Aristotle focuses on accounting as he thinks holding office should be more unattractive so only people who care take up office. He does not trust poor people in office, but he does trust them

⁷³⁰ *EKM* 1. Beroia 1 Early 2nd Century BCE Context explained in Kaye 2023 especially p.255.

⁷³¹ *EKM* 1. Beroia 1 ln 107

⁷³² 1318b18-42

to scrutinise politicians and officials, using crowd wisdom⁷³³ and he believes if the officials fear those members of the poorer class they will be less corrupt.⁷³⁴ Aristotle uses this as an example of political best practice. Aristotle's interest in institutions of accounting is reflected, as has been shown, with a wide range of known accounting procedures. These procedures are a natural fit for Aristotle's preference for mass political participation mainly as a balance to elite overreach. They also provide a natural opportunity for limited political participation. The power to bring a prosecution against a corrupt official certainly affects the governing of the polis, whilst keeping lawmaking and executive decision making at a manageable distance from this direct popular pressure. It also makes sense that highly competitive elites suspicious of their peers would arrive at this kind of institution to discourage corruption, maintain trust in officials, and add a check against individuals accumulating too much power through polis position.⁷³⁵

The pressures of a public budget that is needed to support many polis activities means that a dependable set of accounting practices, that must have been instituted in many contexts, have left a relatively good range of physical evidence. Records of loans at Epizephyrian Lokroi⁷³⁶ and a whole series of special procedures to account for money spent by specially chosen magistrates on particular projects, such as in Oropos⁷³⁷ when read in combination with the more explicit evidence for accountability procedures discussed above suggest a need for fiscal transparency in the polis. This pressure would be felt by oligarchs and democrats alike, and the best way to reassure potential creditors or public donors that the polis budget was secure and free from embezzlement would be an open process of accountability. Even if the final decision to punish offending officials might be retained by elites, opening the process to accusations from citizens in general would be an important aspect of this accountability.

These features do more than assure fiscal reliability, they also construct a contiguous polis identity. These are political events where the identity of the polis is constructed through the performance of officials witnessed by the assembly or a court of account. These events differentiate a polis account book, and decide what acts were truly committed by the polis, rather than by rogue individual. This kind of construction requires an audience of active

⁷³³ 1281b33-1282a24

⁷³⁴ 1318b18-41

⁷³⁵ Simonton 2017 p.107

⁷³⁶ *IG Locri*. 1–37, Costabile 1992

⁷³⁷ *I.Oropos* 294; Fröhlich 2004 p.170-179, p.401-409.

participation to act as witnesses that police officials. Broad citizen participation in these proceedings reinforces the sense of polis identity, and through the performative utterances of officials swearing in and out of offices 'The Polis' is formed as a separate entity from just those individuals who happen to occupy those positions. This is the issue Aristotle is referring to in Book III when he discusses issues of polis identity, and it is significant that discharging public debts is the first concern he brings up when discussing what is truly the act of a 'polis' or not.⁷³⁸ Widespread accounting of officials is a very important piece of context for Aristotle's citizenship on two counts. Firstly, Aristotle repeats its significance, and it exists in some form in so many attestable poleis, aligning his theoretical construction of the polis with polis practices. Secondly, it is a feature that significantly impacts specifically the way a citizen is ruled on a practical and context level. Citizens, either directly or indirectly, take part in holding accountable the officials that hold authority over them. This connects Aristotle's differentiation of 'political rule', the theoretically reciprocal rule that is specially applied to citizens, to his definition of citizenship as a share in 'officialdom'. Accountability procedures expose officials, in some way at least, to the power of citizens; creating a practical reciprocal relationship to those officials that is status citizens always hold.

4.6.2 The Dokimasia

The *Dokimasia* is the examination given to all citizens, and this particular term seems to be more Athenian, with most examples coming from Orators⁷³⁹ though Xenophon uses the term about horses passing muster.⁷⁴⁰ Except for the Gortyn code there doesn't seem to be much evidence for the details of this kind of procedure with this name outside of Athens, but some version of it must have been widespread.⁷⁴¹ This kind of broad oversight of who appears on the list of citizens is perhaps similar to the Gortyn code's law on adoption; ⁷⁴² it must be done publicly at a meeting of citizens, creating witnesses for any future challenge to legitimacy. The lack of explicit evidence here is probably more reflective of just how assumed these kinds of sub-polis level procedures are; local memory would be needed to keep track of descent.⁷⁴³

⁷³⁸ 1276a10

⁷³⁹ Among the most prominent Lys. 15.2, Aeschin 1.2, Demosthenes 44.41.

⁷⁴⁰ *Eq.Mag.* 3.9

⁷⁴¹ PL. *Lg.* 759d, 765d, 769d Plato's passing use of the expression to as part of his description for election processes for various magistrates suggest that the scrutiny of candidates is routine and recognisable enough to not need specific explaining.

Feyel 2009 especially p.375-378 for how the term can be applied outside of Athens. Cf Fröhlich p.234-5

⁷⁴² G72.10.35-36

⁷⁴³ Brock 2023 p.229-230

This form of participation is not just participation in its own right, but also empowers sub-polis groups as de-facto keepers of citizen lists, an important point of potential contention. This is a local process that could potentially provide symbolically significant participation at the local level for citizens excluded from general polis political action. Accepting the argument that citizen registration must be local for practical reasons, we can extrapolate that this would involve a good number of people, witnessing the official registration of births and adoption in local *demes*, tribes, or *phratries*. Witnesses from these events might then play a role in the scrutiny process of magistrates for office, when candidates are formally checked to be a true citizen before taking on official power. Though our evidence for this process is scant, it seems likely that local poorer members of a wealthy candidates *phratry* might be called on to swear an oath and attest his citizen identity had been properly recognised, giving the poorer members a rubber-stamp level of participation in the process. However, this discussion is largely speculative.

4.7 Marginal participation: bringing trials, witnessing, and public cursing

All the participation in trials described above qualifies as 'Aristotelian' in the sense that it gives a share, directly as a juror or indirectly via elections, in the ultimate decision made. The forms of participation described here are the power to bring trials and the power to participate in trials as witnesses. The ability to bring accusations of official wrongdoing to a trial or an account procedure that has a direct impact on the *arche* of the polis and therefore might be called a 'share' of official power. The whole spectrum of participation from formalised accusation at pre-assigned meetings for giving account to the continuous ability to inform on the officials were all vital parts of the matrix of official accountability. The *Ath. Pol.* lists this right to inform on unlawful official activity,⁷⁴⁴ and this form of participation has a more direct impact on the polis and is discussed above. The power to accuse officials and bring them to trial is therefore an important part of the powers of scrutiny discussed above. The power to bring private cases is less directly linked with citizenship by Aristotle.

⁷⁴⁴ *Ath. Pol.* 45.2

Aristotle dismisses the right of suing and being sued in court as a definition of citizenship in its own right, but the fact that a *metic* must have a citizen patron suggests that the power to freely bring a case to trial has some relationship with citizenship,⁷⁴⁵ and in the Athenian constitution Aristotle lists an accessible court system as the most characteristically democratic of Solon's reforms.⁷⁴⁶ Though this is largely because of the democratic nature of the Jury-court, its accessibility is also emphasised. However, the power to instigate a trial seems to be a border case for Aristotle, and under certain circumstances such as the trial of an official, it seems like this is a form of participation.

The 'anyone willing' language found in *Ath Pol* 9.1 is not exclusive to Aristotle or to Athens, it is echoed by a 4th century Tegean decree on the procedure for bring trials.⁷⁴⁷ This term is sometimes used to refer to the right to speak in the assembly,⁷⁴⁸ and appears in Attic inscriptions often; it can be used in a range of Attic contexts to refer to sanctuaries open to anyone able to pay such as at the orgeones of Bendis.⁷⁴⁹ In each case the vocabulary means an interaction is open to any member, and sometimes this includes non-citizens.⁷⁵⁰ Given this comment in *Ath. Pol.*, and how ambiguous the outline for what kind of legal activity exactly qualifies as 'participation in the justice of the polis' is, a broad reading of 1275a9-19 potentially includes being able to bring cases freely (and without a patron). It is not a right held exclusively by citizens. *Metics* are active in Athenian courts as witnesses and defendants and under some circumstances as prosecutors, as appears in Lysias.⁷⁵¹ This reflects comments Aristotle makes about commercial contracts at 1275a11-14. Nevertheless, as both Aristotle and Lysias suggest, these are very the specific conditions of having entered a mutual contract under which non-citizens can bring a trial, and that this kind of contract is created by the power of a citizen. It seems like the people being excluded by Aristotle here are those who are covered by the same laws, and that the ability to bring cases to court through a patron is a citizen-like activity that brings *metics* close to a kind of qualified citizenship, like minors. This reading emphasises the way in which bringing trials freely actually is a kind of citizen participation. This is not a

⁷⁴⁵ 1275a11-14

⁷⁴⁶ *Ath. Pol.* 9.1

⁷⁴⁷ Micheal 585, Rhodes with Lewis p.90 cf p.529.

⁷⁴⁸ *Ath. Pol.* 43.6, Aesch. 1.23

⁷⁴⁹ *IG* II2 1361

⁷⁵⁰ RO 37 (genos), *IG* II2 1237 (phratry), *IG* II2 1275 (thiasos), *IG* II2 1361 (religious organisations); *IG* II2 1225 (deme).

⁷⁵¹ Lysias 12, Lysias 22, Lysias 31

contradiction: in *Politics* Aristotle stresses that this right is often awarded via a citizen patron. It is the emphasis on the how freely citizens can bring trials that especially prominent in the Solonic constitution that makes it 'democratic', and to be empowered to bring trials is definitive of citizenship more generally. The possibility of being able to hold to account by bringing suits against each other, and especially against officials in positions of power in the polis, does grant a meaningful political share, in the sense of being part of holding officials accountable.⁷⁵² This power by exposing officials to scrutiny, is a practical lever of minor participation, that would have real social implications for how officials treated poorer citizens as opposed to those non-citizens who could be more easily abused (unless they had a citizen patron).

We can find a different kind of evidence that proves the ability to bring other citizens and officials to trial; the rewarding of prosecutors, for which there are multiple examples in the inscription record. Rewards for volunteer prosecutions are attested from Elis,⁷⁵³ Thasos,⁷⁵⁴ Delos⁷⁵⁵ and at Opous.⁷⁵⁶ An inscription at Arkesine also demonstrates a non-polis example of a mechanism to reward and encourage priestesses for informing on other women of the sanctuary misbehaving in some way.⁷⁵⁷ Indeed, the use of fines and informers to protect sanctuary privileges is well attested.⁷⁵⁸ This approach to the enforcement of laws that effectively deputises all citizens, or indeed any community members on an ad-hoc bases is found across the Greek world and throughout the classical and Hellenistic period. This practice of rewarding volunteer prosecutors works alongside officials who have a special responsibility to impose fines and ultimately to bring trials against both citizens committing ordinary offences and officials failing in their special duties, with examples at Thasos⁷⁵⁹ and Chios⁷⁶⁰, and there is evidence these systems overlapped with each other, with other inscriptions at Thasos showing a role for volunteer prosecution.⁷⁶¹ There is a range in terminology here which reflects a range in how these practices functioned. In some places, the citizen reporting the lawbreaker would

⁷⁵² Many tyrannies and Oligarchies endure if the ruler doesn't prevent the people from working or rob them 1318b20-27.

⁷⁵³ IvO7

⁷⁵⁴ IG XII 8, 267

⁷⁵⁵ ID 1-2, 509

⁷⁵⁶ IG IX 1 [2], 3: 718 [C5] More on volunteer prosecution see Rubinstein 2004

⁷⁵⁷ Arkesine IG XII 7,4

⁷⁵⁸ LSCG 65.79-80 LSCG 111.4-10; 84.14-16; LSCG 69 (At Oropus) LSCG Suppl. 53.19-20; cf. LSCG 37.

⁷⁵⁹ IG XII 8, 265 The Apologoi.

⁷⁶⁰ PEP Chios, 76

⁷⁶¹ IG XII 8, 267

also prosecute him in court, but not always.⁷⁶² Having regular rewards for informants and prosecutors reflects the need for active participation in the law for it to be an effective institution. This participation includes those other than citizens, and institutions other than poleis. Nevertheless, I would suggest that the prosecution process for polis officials constitutes participation in the legal system in Aristotle's sense based on his comments,⁷⁶³ because of its importance as a form of scrutiny.

Although volunteer prosecution is characterised as a democratic feature in Athens, the participatory element is also present in non-democracies, and exists in forms very different from those at Athens. The fine for not reporting a crime shows that citizen participation in bringing prosecutions could be partly mandated, and though in most cases fines are for officials who fail to prosecute, some citizens are also obligated to prosecute in a range of sacred offences.⁷⁶⁴ There is undoubtedly a widespread understanding that fines and rewards for prosecution should be built into lawmaking. Bringing a trial against an official is an action that appears in historical narratives, either as an individual⁷⁶⁵ or a whole community.⁷⁶⁶ Volunteer prosecution is also attested at the sub polis level in the regulation of the Labyadai at Delphi CIn10 "Whoever is responsible for the conviction of anyone doing something contrary to the law is to have half (the fine)" the inscription implies a full sub-polis court for the Labyadai dealing especially with the subjects of the inscription.⁷⁶⁷ The suggestion in Ath. Pol. 9.1 that being able to bring trials "freely" is characteristic of democracy is not disproven, though in Diogenes Laertius we hear that Empedocles is able to bring charges against magistrates before democracy was asserted in Akragas.⁷⁶⁸ The active encouragement of prosecuting in some form exists in non-democracies, and also must include people who are not citizens, even if citizens have greater responsibilities to participate in the law of polis.

⁷⁶² Rubinstein 2003 discusses this in more detail.

⁷⁶³ 1275a9-19

⁷⁶⁴ Sokolowski 1969 LSCG no. 65, l. 78-80 no. 79, l. 28-31; no. 105; no. 111, l. 4-6; no. 116 (penalty for not reporting); no. 136, l. 33-35; no. 148; no. 166, l. 27-34; LSS no. 24, l. 7-8, 11-12 cf Rubinstein 2003.

⁷⁶⁵ Empedocles in Diog. Laert, 8.2.64

⁷⁶⁶ Herodotus 93

⁷⁶⁷ RO 1 Rhodes Osborne 2003 p.7

⁷⁶⁸ Diog. Laert. 8.2.64 Robinson 1997 p.78-80

Taking steps to practically empower citizens to make use of the law is found in the inscription evidence. In addition to being able to bring trials, some inscriptions mention the publication of trials. At Chios there is also provision for cases to be made known publicly (in the countryside as well as the city centre) by the *kerykes*⁷⁶⁹ and this is connected to account rendering at Chios.⁷⁷⁰ Some cases at Gortyn in archaic Crete were tried in front of an audience and evidence from Arkesine stipulates that the *dikasterion* is situated in the urban centre.⁷⁷¹ Public witnessing to justice is important, but also there are times when certain matters are taken out of public view. Aristotle does not seem to consider knowledge of trials as a part of citizenship, though it is clearly a pre-condition that must exist if citizens are to meaningfully take part in them.

4.7.1 Being a witness

Judges and jurors are not the only potentially decisive role in these judicial systems. The actual process often requires witnessing, formal witnesses who are those people that have been gathered to witness a planned legal event such as an adoption, the reading of a will, or crucially the *dokimesia* that might later be called into question. This is as opposed to accidental witnesses who saw something relevant to a case and might be called to bear witness to it in the trial. In many ways the examples we have from Gortyn and Athens suggests a lot of overlap in how these kinds of witness are treated, and especially in the fact that formal witnessing is entirely a citizen privilege, whilst incidental witnessing favours citizens. Focusing on how the witness can exercise power we can explore how witnessing functions as a form of 'participation' in judicial matters of the polis, one that Aristotle may have in mind when he frames his definition of citizenship.

Though Aristotle explicitly includes the decision-making parts of courts, it seems incorrect to entirely exclude the witnessing aspects of justice, both in the sense of seeing justice done and the role of the witness in the case itself. There are some instances in *Politics* where simply seeing something done is presented as form of participation, one that is at least necessary, if not sufficient. The most direct example is that public funds should be transferred in the presence of the assembly,⁷⁷² also magistrates in Aristotle's ideal constitution should spend

⁷⁶⁹ PEP Chios 76 Hansen & Nielson 2004 p.1067-68

⁷⁷⁰ Migeotte *Souscriptions* 58 13-15

⁷⁷¹ *IG XII.7* 3.32, 49–50

⁷⁷² 1309a10-14

time in the gym, because to be seen encourages respect (1331a41-2). This section will make the case that in some of the limited examples where we have evidence for kinds of formal witnessing that should be done by citizens, we can reasonably call this participation in justice in an Aristotelian sense. There are also a few kinds of witnessing that are ambiguous as to whether they give the witness a political share.

4.7.2 In Athens and the *Ath. Pol.*

The significance of citizenship in the legal system of Athens goes beyond being covered by the same laws; it is the pre-requisite for all kinds of participation, not just being a member of the jury, but having a privileged role as a witness. This is a very significant power, given how important witness testimony was in the courts.⁷⁷³ This is connected to the discussion below on self-help because being a preferred witness empowers individuals to take the law into their own hands, giving legal protection for social violence to slaves, to those guilty of certain crimes like adultery, and other violent actions that having citizenship status transforms into legal actions. Aristotle does not discuss this aspect of practical legal enforcement directly; this functioning of a legal system seems unremarkable to him but is a necessary context for us to understand his notion of citizenship. I focus on the issue of witnessing here as a part of trials that took part in a court setting.

In Athens witnesses are needed to attest that the defendant has been properly summoned to court. The importance of having the act of summoning the accused formally witnessed is satirised by Aristophanes in *Wasps*. As Philocleon drunkenly disturbs the marketplace, many of the annoyed shop owners he meets and abuses summon him to court, an act that must be witnessed formally. The scene concludes with Philocleon being dragged away by his son saying “those summoning you will run out of witnesses.”⁷⁷⁴ The word for witness used here is *kleter*, which appears to be a witness particular for the act of summoning to court. In this passage both *kleter*, and *martyria* are used, and though this a comic situation with Philocleon simultaneously committing crimes and being summoned, this situation may not be that unusual, and we do see *kleteres* called as general witnesses. Not being able to prove the summons was correctly issued can lead to mis-trials. Demonsthenes *Against Meidias* alleges an instance where

⁷⁷³ In the Athenian context see Thür 2005, see also the section on witnessing in Cretan Law cf Todd 1990.

⁷⁷⁴ Aristophanes *Wasps* 1443-4

Meidias avenges an arbiter who has decided a case against him. He is able to illegally force a vote on a case even though he has not properly summoned his opponent and has no *kleteres* for the summons, but convicts his absent opponent. A similar instance is alleged by Demosthenes⁷⁷⁵ where a prosecutor first uses his own brother as summoning-witness, then enters no name at all and convicts the speaker in absentia. In Demosthenes against⁷⁷⁶ the summoning party is careful to have witnesses with him when he goes to summon the defendant, and the defendants witnessed.⁷⁷⁷ The term is also applied outside the Athenian context to mean the summoner of an assembly; Aeschines⁷⁷⁸ These broader metaphorical uses suggest on ongoing relevance to the term. In the late classical context this role seems to be the exclusive right of a citizen man, as suggested by the Aristophanes joke in *Wasps*⁷⁷⁹ where the summoner must act on behalf of a woman. This role of a summons witness then has a central role in law, as the summons is the first legally agreed upon step to a proper trial. It is not just the jury that 'participate' in the power of the court. This is similar to the power witnesses in Gortyn have to transform events into legal truth, discussed below.

There is evidence that the other polis legal systems also had a privileged role for citizens as witnesses. The Gortyn code has multiple roles for witnesses in the trial which will be discussed in detail below, at Eleutherna there are regulations that apply directly to how a judge is able to apply the law, and a witness is able to exercise significant legal power, not just influencing cases, but in certain circumstances being able to decide cases with judges bound to ruling according to witness testimony if only one side has witnesses.⁷⁸⁰ At Gortyn the assembly must act as a witness to adoption.⁷⁸¹ At Lyktos a 6th century decree suggests citizens have a particular role as witnesses, though the reconstruction is not certain.⁷⁸² Citizens are treated as privileged, but not exclusive, witnesses at Athens. The practice of only accepting the testimony of slaves when it is extracted by torture is well attested.⁷⁸³

⁷⁷⁵ Dem 53.15

⁷⁷⁶ Dem 34.13-15

⁷⁷⁷ Dem 40.28, 47.27, and Ar. Birds 145, 1420 for more general use of κλητήρ as a witness to summons.

⁷⁷⁸ Aeschines Supplicants 620

⁷⁷⁹ *Wasps* 1412

⁷⁸⁰ Hansen & Nielson 2004 p.1158

⁷⁸¹ *I.Cret.* iv 72.x.35, xi.14 cf Hansen & Nielson 2004 p.1164

⁷⁸² Hansen & Nielson 2004 p.1176

⁷⁸³ Lysias 4.10-11

Formal witnessing is a well attested part of many legal processes, unsurprising given the lack of documentary evidence. Witnesses for manumission from Elea,⁷⁸⁴ explicitly these examples show a citizen as a witness, but not a native from the polis that the manumission is happening in. The use of inter polis citizen witnesses is also attested for fines.⁷⁸⁵ The requirement for adoptions and manumissions to be witnessed reflects the significance of these status changes for the polis as a whole. The formal witness is a frequent character in the glimpses we get of ancient law in general, and it is a significant privilege of citizenship. To exemplify this form of power and how it borders with incidental witnessing the next section will examine the example of the Gortyn code.

4.7.3 The role of witness in the Gortyn Code

The Gortyn code is detailed and complete enough to allow for a more detailed kind of analysis. Viewing a law code as a series of scripts for a particular set of performative events; trials, with all the associated legal performances, gives an insight into the social context of the law. This is particularly valuable for those places in the ancient world where our only source is the often-fragmentary inscriptions that refer to laws and procedural regulations. The act of legal witnessing is a particular kind of legal performance. It is this legal performance of witnessing that transforms merely seeing things into the testimony of witnesses and so into legal truth. In societies where not everyone is qualified to be a witness, legal truth becomes a privileged performance with significant power. Its distance from familiar Athens, physically, chronologically and politically make it an interesting case study of forms of participation that are not being expressed through a democratic or Athenian lens, and it demonstrates some of the variations in participation that can be possible within the construction of poleis as a legal framework for its members. It also is demonstrative of the performative power that comes with citizenship and how the highly performative utterances in court, where everything said is also an act because of the impact of words in court space, is so central in the construction of citizenship as a status.

⁷⁸⁴ 95 Hansen & Nielson 2004 p.344, *SGDI* 1351

⁷⁸⁵ A Daulian grammateus witnesses the payment of the fine by the Phokians' poleis CID ii 112.11 cf Paus. 10.3.2, Hansen & Nielson 2004 p.411 See also Erochos (CID ii 38.4,6,14–15; cf. *IG* ix.1 111(337/6)) Hansen & Nielson 2004 p.417 and a citizen of Lilaia who witnessed the Phokians' payment of the fine imposed in 346 (*IG* ix.1 111.14 CID ii 38) Hansen & Nielson 2004 p.421.

The 6th century BCE Gortyn Code is a unified set of rules inscribed on one wall in twelve columns.⁷⁸⁶ The text appears to mostly originate from a single period with a later addendum on the same wall. The complete inscription at G72 covers the creation of a legal community, first by defining its boundaries with the enslaved and serfs, then by defining its social reproduction by regulating its sexuality, its marriages, and its inheritances. The role of witnesses in the law is a prominent aspect of the Gortyn Code, occurring 20 times and in every section of the laws. An overview of the use of this vocabulary demonstrates how 'Witnesses' constituted a significant legal category of person and suggests an important connection with the category of citizen.

Judges are bound by the law to respect the evidence of witnesses under certain circumstances,⁷⁸⁷ in cases where one litigant can produce witnesses, and another can't for example. This stipulation is unique in ancient law codes, and its repetition suggests emphasised importance. In cases disputing a person's status as free or enslaved, witnesses speaking for freedom are to be believed over those speaking for slavery.⁷⁸⁸ A witness swearing can change the sentence of the guilty⁷⁸⁹ or even the verdict.⁷⁹⁰ A judge is explicitly required to rule according to witness testimony.⁷⁹¹ These stipulations do seem to be an explicit rule against the potential arbitrariness of judges, passing some power over to witnesses. The uncontested oath of a witness must be decisive in court. Certain legal performances must be done in front of a number of witnesses; making a will⁷⁹², dividing inheritance,⁷⁹³ declaring a ransom⁷⁹⁴ formally presenting enslaved children to their father's owner,⁷⁹⁵ and making a contract.⁷⁹⁶ These formal witnesses act as a legal check against any denial that these things took place. Witnesses may later be asked to testify to these events in court, rendering them verifiable in the performance of the law. In the instances when the non-free contribute evidence to a trial the language of witness (*μαρτυς*) is not used about them,⁷⁹⁷ and their evidence is either supported by a named

⁷⁸⁶ G72 in Gagarin and Pearlman (2016) from G72.1.1 to G72.12.19, henceforth referenced by column and line.

⁷⁸⁷ G72. 1.14, 11.27, 9.43

⁷⁸⁸ G72.1.15-20

⁷⁸⁹ G72 2.20

⁷⁹⁰ G72 9.43

⁷⁹¹ G72 1.22., 11.27

⁷⁹² G72 3.21

⁷⁹³ G72 5.52-3

⁷⁹⁴ G72 2.28-9, 2.33

⁷⁹⁵ G72 3.51

⁷⁹⁶ G72 9.46

⁷⁹⁷ G72 4.8, 2.14-5

witness⁷⁹⁸ or has unguaranteed and ambiguous influence over the case.⁷⁹⁹ This gives witnesses power in the courtroom, particularly significant in Gortyn where the judge was in an exclusive and undemocratic position. The Gortyn code constructs a realm of legal truth that is the exclusive privilege of those qualified to be witnesses over and against the various non-free and non-rights-bearing inhabitants.

It should be noticed that those of explicit non-free status do take a single marginal part in the creation of proof in court. This one counterpoint to my discussion is the instance of an enslaved woman 'swearing',⁸⁰⁰ in the circumstances of her being sexually assaulted. There are a range of fines payable for rape, and this includes if a free man rapes an enslaved woman. The possibility of an enslaved woman testifying against a free man to have him convicted troubles the image of the exclusive right to participate in the construction of legal truth the rest of the code suggests. This example bears closer examination because it demonstrates the tensions within the privilege to create truth.

If someone should force a slave of the household,
He will pay two staters; but if she has already had sex,
One obol during the day, but if at night
Two obols. And the slave woman is to be the one who swears⁸⁰¹

The framing of the enslaved woman swearing an oath suggests this is an exception to the rule and nowhere else in this passage is it explicit that the victims of rape must testify. Though the function of this exception is not completely clear, who the fine for this offense payable to is ambiguous, as is the exact nature of the evidence that she is to give. Masters litigated on behalf of slaves at according to roughly contemporary law G47.1-16, but Gagarin and Perlman suggest that G72.3.40-4 indicates serfs litigating for themselves, though it seems equally possible that this could be a litigation between serfs' landlords. Gagarin and Pearlman note how this is an example of Cretan slaves having more rights than in classical Athens, and the scale of fines demonstrates an abstract value placed on the bodily autonomy of slaves which is a feature of Cretan law that separates it from Athenian law and what we know of other Greek legal norms.

⁷⁹⁸ G72 4.8

⁷⁹⁹ G72 2.14-5

⁸⁰⁰ G72 2.15-6

⁸⁰¹ Translation Gagarin and Perlman G72.2.9-15

This view of slavery in Crete generally was first framed by Finley and is overwhelmingly informed by the Gortyn Code.⁸⁰²

This view of the 'right holding' Cretan slave is supported by the elision of a significant shift in the language between the laws at 1.14 and as 2.15, one that has been repeated by Gagarin and Pearlman, and Lewis. Lewis, though otherwise sceptical that we can meaningfully call the slaves of Crete 'rights holding', thinks that the example at 2.15-16 outlines a case where "...the testimony of slaves in Gortyn could prevail over that of free persons."⁸⁰³ This conclusion seems to be arrived at by applying the rule at 1.14-16, that the judge must side with witnesses, to the situation at 2.15-16 which simply stipulates that the victim of this crime should swear an oath.

This language of oath taking *ὀρκιοτομέω* present at G72.2.15 is related yet distinct from that of 'witnessing', *Μαῖτις* present at 1.15, and later at G72.2.18-20, where the testimony of a witness is set as a specific condition for a prosecution. In the code witnesses (*maitus*) appearing in court testify (*apopone*). The slave woman can swear an oath but is not described as a witness in the same way. Witnesses and judges also swear oaths as part of the legal process and have distinct roles and status; I would propose that the enslaved swearing an oath is a third kind of participant that has been assigned consciously different language to describe their role. This is accompanied by there being no associate guarantee that her 'swearing' be respected in court the way a witness testimony is.

There is something to the argument that there are relatively more legal protections for the enslaved in the Gortyn code, just that these protections are not derived from holding a full 'witness' status in court. There is certainly greater representation for slaves in court than in Classical Athens, and suggestions elsewhere in the Gortyn Code that slaves had certain rights.⁸⁰⁴ The code has legal space for marriage between free and enslaved, and for property owning among serfs and the enslaved. Lewis argues that marriages and legal property between slaves seems to function as an extension of the slave-owner's rights; when there is a marriage between slaves of different owners, disputes between the owners could arise out of matters of inheritance, divorce, etc. We might suggest something similar in this case, in which the

⁸⁰²First in Finley 1960, then Finley 1981 p.133-140.

⁸⁰³ Lewis L. 2013 p.415

⁸⁰⁴ cf Lysias 4.10 on issues of slavery in Athenian law.

assumption is that the guilty free person at 2.9-15 is not the owner of the enslaved women, and so might be prosecuted by the owner. In this way the passage might be read more as an extension of his property rights, rather than an expression of her basic rights. Therefore, the woman's testimony is needed to establish certain associated facts (has she had sex before, did it happen at day or night both relevant according to G72.2.10-14) which affect the amount of the fine, but to which the only other witness would be the guilty man. The need for these specific facts is the context in which she must 'swear'. The legal dispute seems to be between the free man who owns her and the guilty man, and so again it is citizens who form the law and use it.⁸⁰⁵ The language of the laws avoids naming her as a witness, or her evidence as testimony in the way it does for other instances of witnessing. This exception demonstrates the rule, that the creation of legal truth in trial was an exclusive privilege, carefully separated from the giving of incidental evidence.

The central importance of witnesses demonstrates a desire in the code to make disputed subjective events public and resolve them into objective agreed facts through the process of the trial. Evidence points to the process of the trial itself being public, as does the inscription itself, on display at the Sanctuary. The code, especially the prominent G72 inscription is a record of 'public creation' (see below for details on its display conditions), in one text it outlines the procedures for deciding cases of who is free and who is a slave, and in doing so constructs a community, enlisting members of this community to police its borders. Witnesses get to decide who is free, and disputes between them are centrally resolved by a judge.

A truth system is created, between judge, oaths sworn to the gods, witnesses and the law itself. The judge is also bound by the laws, hemming in their discretionary power to decide. All deciding by judges and testimony by witnesses is accompanied by Oath, whether testifying or judges deciding. The inscription itself is formally addressed to the gods; a feature so universal in Greek inscription that it is easy to miss how this ties the law to the gods in a similar way to the binding affect Oaths (in theory) have on witnesses and judges. This exclusive influence over legal truth would give those eligible to be witnesses enormous power over others, especially if they avoided conflict with other potential witnesses.

⁸⁰⁵ Lewis 2013 p.415 "These rules did not grant or acknowledge rights for slaves, but were chiefly aimed at clarifying the property rights of free citizens in complex scenarios where disputes over 'who owns what' might have led to conflict and litigation."

This creation of the legal community occurs in a context when the language of citizenship is not fully settled; Citizen *Polites* related terms appear in only two forms in The Code, and in both cases, they identify roles related to the witnessing of legal acts. The inscription evidence is largely our only detailed insight into 6th century Cretan society, so we cannot be sure who can be a witness or who is a citizen. Witnesses are varyingly but not consistently qualified as having to be free persons and adults, or adults for fifteen years. Foreigners have their own status distinct from citizen. It is possible that the stipulation of 'free' in some places implies that slaves could be witnesses in other cases, this seems unlikely. One practical argument for the status qualification for witnesses is the need to exclude any persons vulnerable to being compelled by a higher status litigant; a person's own slaves are surely not meaningful witnesses as they could be compelled to give false testimony. In addition to this traditional argument, as I have demonstrated here, witnessing has the significant effect of creating an exclusive group of people who are allowed to construct 'true' opinion about events and contribute to shared enactments of justice. This is especially significant given that the subject of these trials often concerns who is free, and therefore not just who is eligible for citizenship, but who is eligible to decide on matters of freedom and slavery. Consequently, it seems unlikely that this power would be granted to non-free or out-group persons. This does not exclude the possibility that there may be difference between various tiers of civic qualifications; witnesses who participate in the legal community, *politias* and *wastia* for full citizens, *poliateuei* for 'active in civic life', and the *kosmoi* who are the aristocratic ruling political class of Gortyn, who may be exclusively qualified to be judges and other leading officials.

The language of citizenship appears only twice in the code. It is stipulated that a rememberer be 'active in civic life' (*Poliateuei*)⁸⁰⁶, language that mirrors the citizen/foreigner distinction for different forms of trial elsewhere in Gortyn Law.⁸⁰⁷ *Poliateuei* is a qualification required for a *mnamon*, a "Rememberer", who seems to act as a record of contracts.⁸⁰⁸ It is also mentioned as a requirement for sons to swear oaths on what seems to be a matter relating to their father's inheritance, but the inscription is relatively unclear.⁸⁰⁹ Any other positions this status qualifies an individual for are unknown. *Politias*, which Gagarin and Perlman translate as 'citizen' is

⁸⁰⁶ G72.9.32-34

⁸⁰⁷ G13, G64.4, G80.8

⁸⁰⁸ G72.9.33

⁸⁰⁹ G51

found twice in the section on adoption, both referring to a gathering of citizens in the Agora before which the adopter announces or renounces an adoption.⁸¹⁰ It is not clear what exactly is meant by *poliateuei* and *politias*.⁸¹¹

Twice elsewhere in Gortyn law is citizen-like terminology used to describe a '*wastia dika*' or 'citizen trial' as Gargarin and Pearlman translate it.⁸¹² '*Wastia*' being etymologically closest to the attic '*Asty*', used in Athens to specify urban dwelling citizens. The difference between a '*politias*' a '*wastia*' and someone '*poliateuei*' is not clear, and they are both pieces of vocabulary that exist exclusively in Cretan inscriptions. Based on this passage in the code, 'Citizen trials' took place in the Agora. This is also where adoptions would take place and the implication seems to be that it would occur at the same spot and therefore that these are events that have a similar public witnessing requirement. This paradigmatic public location means that just as witnesses in the trial contribute to the rendering of justice, citizens witnessing the trial itself see justice done. To be tried in public represents, in some ways, a stronger guarantee of non-arbitrary judgment than the public display of laws (whilst equally creating a system vulnerable to be influenced by the public reputation of a litigant). The extent of the influence of the crowd is of course speculative, but the multitude of witnesses at least creates an incentive for judges to act according to law.

The Gortyn code is a troublesome source for citizenship, particularly 'Aristotelian' citizenship. It is much earlier than most other inscription evidence, but it does have a consistently applied vocabulary of citizenship, giving a good sense of some of the legal privileges exclusively associated with 'citizen' status. It also gives an impression of how the judicial structure of the polis might create strong distinctions between those who count as full legal witnesses and those who do not. This distinction then maps onto the citizen privileges that we see elsewhere. This form of exclusive participation in the law is powerful in itself, but the element that makes it an Aristotelian form of participation is how this power can be wielded against officials, particularly judges, meaningfully granting a share in judgements to those empowered to act as legal witnesses.

⁸¹⁰ G72.10.35-36 announcing and at 11.14 renouncing.

⁸¹¹ G72.9.33, also at G51

⁸¹² G13h-g2, G64

4.7.4 Public Curses

Although a category of public act that Aristotle does not directly address, public curses are a significant part of civil life. Aristotle acknowledges curses in passing as a public concern,⁸¹³ and the Aristotelian *Athenian constitution* takes the public belief in the curse on the Alcmaeonidae seriously.⁸¹⁴ Public curses were part of the opening of Athenian assemblies,⁸¹⁵ and officials have the responsibility of pronouncing public curses at Chios⁸¹⁶ (c.450)) at Mylasa⁸¹⁷ and here a curse is put on a decree inscription against anyone who changes the decision recorded and at Eleuthernia in Crete (I.Cret. ii.xii.3i is here perhaps referring to oaths for Kosmoi officials or for witnesses in court), also at Gambrion.⁸¹⁸ These curses are public and so in performative ways witnessing the curse at minimum involves passive participation, and at Athens we know the audience seem to have spoken along with the curse.⁸¹⁹

Through the selection of officials, the *demos* did 'participate' in a strictly Aristotelian sense in public curses. The example of the funeral regulations at Gambrion in the 3rd Century⁸²⁰ discussed above for its inclusion of account procedures also shows that 'public cursing' was an act of the polis which citizens participated in. This curse is used to support a specific funeral regulation, which in turn defends the ritual purity of the community at large. This community near Pergamum is known by a mention in *Hellenica*⁸²¹ and a gift recorded by the inscription Syll.³ 302 that suggests a direct Macedonian influence in the polis, beyond that its constitution is unknown. The *stele* first sets out regulations for mourning periods, then has an official that takes on the responsibility to pray (ἐπεύχομαι) that good things happen to men and women who obey this law and "the opposite" happen to law breakers.⁸²² An official is chosen by the *demos* for purifications (ἀγνισμοῖς ln17-19), and the name suggests responsibilities over the laws of women.⁸²³ Aristotle suggests that a *Gynaikonomos* is an undemocratic office, and this claim is

⁸¹³ 1303a28-35

⁸¹⁴ *ath. Pol* fr.8., 20.2

⁸¹⁵ Aeschin. 1.23 with scholia, Hansen 1987 p.90

⁸¹⁶ *PEP Chios* 76 D.7-9

⁸¹⁷ *I.Mylasa* 1 *I.Mylasa* 2, and *I.Mylasa* 3 367/8 BCE.

⁸¹⁸ Syll 1219

⁸¹⁹ Ar. Thesm 331, 352 Parker 1983 p.193-4

⁸²⁰ Syll 1219

⁸²¹ Xen. *Hell.* 3.1.6

⁸²² Syll 1219 ln20-25)

⁸²³ cf 1322b39

based on the well documented idea that the poor are less able to enforce harsh restriction on women, needing them to work.⁸²⁴ The constitution of Gambrion is never called a democracy (and there are no named democracies in the region in that period), so it is significant that the *demos*, in 'selecting' this office in particular, is given a share of both the political and sacred things of the polis through the selection of a public curse official. We do not know what other duties this official had. Here participation in the polis as defined by Aristotle as overlapping significantly with the sharing in the sacred things "*hiera kai hosia*" of the polis. However public cursing, by its very nature requires the active participation of the members of a community to enforce the curse.

Cursing is a duty of officials as well as a vital part of enforcing accountability and punishing official misconduct. The thorough curses at Teos are targeted at those resisting officials, as well as those officials who fail to curse with adequate force.⁸²⁵ The curses we know from both Athens and Sparta focus on offences that, though they might be committed by a private citizen, seem more likely to be done by an official using their power; subverting the privilege of the Spartan king,⁸²⁶ supporting tyranny, taking bribes,⁸²⁷ are all crimes that officials might have more occasion to commit. The early inscription at Dreros also invokes a kind of curse to punish *kosmoi* who occupy the office twice in ten years that they will be both 'useless' and 'god accursed'.⁸²⁸ In these ways cursing is both an official act, and an appeal to the gods, and therefore the community, to enforce correct official behaviour. Priestesses had a role in performing public curses,⁸²⁹ and it is interesting that one refused to carry out this role in the case of Alcibiades, implying a certain degree of autonomy.⁸³⁰

Public cursing is an important example of the power of the performative utterance. The mechanism of public cursing as an effective punishment is through the acceptance of the polis: someone is cursed because the community hears they are cursed and accepts this status. A curse is the performative utterance *par excellence* in that, if successfully accepted, it makes a significant change to the world through speech. Retribution on the cursed and enforcement

⁸²⁴ 1323a3-7

⁸²⁵ OR 102 Translation Osbourne Rhodes 2020 p.4-14

⁸²⁶ Hdt. 6.56

⁸²⁷ *Ath. Pol.* 16.10, *Ar. Thesm.* 332-67.

⁸²⁸ Gagarin and Perlman 2016, Dr 1, Ma 2024 p.78

⁸²⁹ *Lys.* 6.51

⁸³⁰ *Plut., Alc.* 22.4 cf McClure 2018

then becomes an issue for self-help; cursing encourages the community to attack and kill, or at minimum ostracise, the cursed with the assurance of legal support.⁸³¹ In this way public curses are a direct appeal to unofficial violence (discussed in the next section) made by officials and enacted by laws. This appeal bridges the gap between the forms of justice that Aristotle recognises explicitly as a part of the structured polis, and the implied social fabric that supports the possibility of these structures.

4.8 Social underpinning of the legal order

4.8.1 Self-help and gossip

The legal system of a polis, indeed any ancient legal system, is built on the assumption that most social rules are enforced by violence in the form of “self-help”: punishment for more minor crimes, especially but not exclusively against non-citizens, is regularly enacted by citizens with the courts only being troubled if a citizen later had a dispute with the original punishment.⁸³² These instances usually only enter our record when there is a need to resolve such a dispute, such as the complex adultery laws at Athens.⁸³³ Demosthenes appeals to this norm explicitly, reminding citizens that it isn't only sworn-in jurors who enforce the laws, but the law depends on citizens coming to someone's aid.⁸³⁴ *Against Meidias* was not actually spoken before a jury but withdrawn under pressure or for a bribe.⁸³⁵ The fact that Demosthenes is stating this undergirding norm of the legal system seems to be an example of his over-earnestness given that the whole case is over a single punch. Nevertheless, it seems to reveal to us a usually unstated understanding: citizens are the law. The power and responsibility to enforce day-to-day legal and moral order was very diffuse but supported by the polis courts through citizen witnesses in place and citizen jurors after the fact. There is an assumption, perhaps overstated by the Old Oligarch but nonetheless generally present, that normally citizens can use violence freely against unknown slaves and even *metics*.⁸³⁶ The discussion of

⁸³¹ Parker 1983 p.193-196 On the force of community violence implied by public cursing. An Athenian republication of Draco's law OR 183A ln25-30 demonstrates this assumption in the exception, saying that "If anybody kills a killer, or is responsible for his being killed, when he is keeping away from a frontier market and Amphiktyonic contests and rites, he shall be liable to the same things as for killing an Athenian; the appeal judges shall decide", suggesting that the norm would be an automatic exemption from consequence for such a killing.

⁸³² Hunter 1994 p.137-140

⁸³³ *Lys.* 1, amongst others

⁸³⁴ *Dem* 21.223-225

⁸³⁵ *Plu. Dem.* 12 (Harris 1989)

⁸³⁶ *Pseudo-Xen. Ath. Pol* 1.10

Gortyn above is a demonstration of how this power might look different in a less democratic context where they cannot be judges but have a protected power as witnesses. Nevertheless, its fundamental logic is the same: citizens, as members of the polis, are supported by its judicial structures against those outside the polis.

Seen from this perspective the courts function as a support for the privileged power of citizens in this regard, allowing them a route of appeal and support not freely available to other community members in the event of a disputed act of violent punishment. The court is a resort for citizens who generally enforced rules personally and socially. As Lanni argues "The courts complemented, rather than supplanted, informal sanctions."⁸³⁷ Gossip and social disapproval were considered valid forms of evidence, privacy was constantly at risk, even from slaves.⁸³⁸ Whilst this applies most clearly to the famously litigious Athenians, any polis with a public court and the possibilities to act as a witness, including as a character witness, creates a dynamic where informal sanctions against immoral behaviour are intertwined with the formal legal institutions. This form of participation in the legal structures is present in Aristotle's political structure, though perhaps this is not enough to qualify one for citizenship explicitly.⁸³⁹ Women's exclusion from the court space at Athens made their status precarious and vulnerable to being disinherited.⁸⁴⁰

This understanding of how witnessing relates to the judiciary and to citizenship reflect the sometimes porous boundaries of polis courtrooms. As we have seen from the Gortyn code, whilst the most important kinds of formal witnessing are a citizen privilege, in some circumstance non-citizens could witness as well. The ability to be recognized as a witness in court should not be underestimated though. To be a witness might be considered to participate in justice in some circumstances.⁸⁴¹ Given the power granted witnesses in the Gortyn code, where their word might overrule a judge in some circumstances⁸⁴², this is surely an example of witnesses 'participating' in justice. The Gortyn exemption demonstrates how conscious ancient lawmakers were aware of how powerful the status of witness was. The carving out of a

⁸³⁷ Lanni 2018 p.155

⁸³⁸ Hunter 1994 p.89

⁸³⁹ 1275a9-11

⁸⁴⁰ Kennedy 2024 p.270 suggests downward mobility through legal challenge for citizen women (particularly widows) was a real possibility.

⁸⁴¹ Purgatory Oaths, at Delphi. Buck (1955), no. 52, C 25-9, D 22-5, and, for example, Hdt. 6.86.5.

⁸⁴² Gargarin Pearlman 2016 p.341, Gortyn G59.

theoretical exemption in the specific case of sexual assault is an acknowledgement that in private situations this severely overpowers those who the full rights to be witnesses. This exception demonstrates a general rule; a majority of those with the right to witness held a monopoly on legal truth. In this way these two aspects of informal community policing; communal information and self-help violence, meet on the formal stage of law courts. There must be an interplay between the formal and these informal aspects of justice.⁸⁴³ Athenian laws around adultery deal far more with the consequences of spontaneous justice being delivered ad hoc than with the original crime itself. How should we read Aristotle's understanding of the citizen's share of justice in this context? As in other matters, we can say that whilst the context of popular participation creates assumption about the policing of society, Aristotle largely ignores these features or takes them as read when discussing the courts function as a part of the constitutional structure of the polis.

The way Aristotle acknowledges but decentres these informal forms of justice seems connected to his approach to sacred matters as well; taking them for granted as foundational social mechanisms whilst largely overlooking participation in them as expressions of citizenship. He does not discuss collective enforcement of social norms (whether by gossip, violent self-help, or spontaneous stoning), which were a significant enough part of the concept of *diké* to be frequent occurrences that seem to meet his requirements of a 'citizen's share', but he focuses on the courts in their explicitly political function. This critique of Aristotle does say something about the kinds of participation he privileges, but we must be careful about repeating the tidy 'Antigone' dichotomy here between secular and sacred, state and personal. Aristotle includes courts we would consider 'sacred' in his lists: murder courts, courts of account when they refer to sacred funds, presumably courts of 'public interest' might include potential polluting crimes.⁸⁴⁴ Nevertheless, his version of accounting does not ever include explicit discussion of a polis's relationships with Gods as a driving factor.

How might we account for these relative absences? To a certain extent forms of 'sacred' justice are invisible to him because they form such a basic element of society. "Baseline time"⁸⁴⁵ is a useful concept here; citizens are assumed to be 'participating' in these core (and largely

⁸⁴³ Cohen 2012, Hunter 1994

⁸⁴⁴ *Ath Pol.* 60.2-3 Discussion of sacred Olive trees as a provider of polis income uses some of the language of public interest.

⁸⁴⁵ Blok 2017 p.200

religiously inflected) ways before they can be even registered as visible to larger scale political institutions. The justice system is one in which the gods were generally very visible in every case, being sworn to and called upon, and there is not a separate legal system for the things of the gods.⁸⁴⁶ Aristotle does implicitly discuss these inseparable aspects of Greek society, but does not name them 'sacred' because that is taken as read.

These answers are more satisfying in some cases than others: it may make sense in the context of the legal participation discussed here that Aristotle does not need to say that the murder courts are of particular Gods, or that the public interest naturally involves avoiding sacred pollution. It is a more felt absence when discussing the concept of citizenship, or the motivations for civil strife. In these cases, it may be that Aristotle's perspective is simply unusual. He may well have had a unique perspective on everyday sacred matters as a philosopher in his particular circumstances, as a *metic* in Athens and therefore an outsider partially excluded from aspects of religious life, or perhaps even as the accused in a possible impiety charge⁸⁴⁷ connected to his departure from Athens.

4.8.2 Popular violent justice: house-razing and stoning

Reading Aristotle's account of the ancient court it is tempting to imagine a system of due process always presided over by citizens and only threatened by occasional stasis. In practice the legal system was a complex interplay of formal and informal rules and systems that maintained citizen power whilst resolving disputes well enough to avoid spiralling violence. This section will examine the forms of participation in justice that Aristotle does not discuss, and how they interact with those matters he does focus on. There is considerable overlap between the popular and the institutional methods of justice.⁸⁴⁸ This overlap gives context for this account of the institutions of justice that seeks to outline their participatory features. Even without a formalized jury with the job of establishing guilt there is a role for the onlookers in a trial. Indeed, the institutional systems of justice can only exist within an extra-institutional set of legal understandings that structure the assumptions of courts.

⁸⁴⁶ Parker 2005 p.61

⁸⁴⁷ Parker 1996 p.276-7

⁸⁴⁸ Forsdyke 2008

Stoning is a frequent feature of popular justice that appears enough over a range of sources that it has a set of identifiable consistent features. It is most consistently presented as the punishment for treason, particularly though not exclusively suitable for treacherous elites. In some cases, it is sometimes formalised and might follow a trial or public vote, though this seems to occur more in dramatized stonings than in their historic counterparts.⁸⁴⁹ but is also presented as a natural popular response to outrageous betrayal.⁸⁵⁰ It is aimed often at leaders: tyrants⁸⁵¹, treacherous proposals from demagogues⁸⁵² and generals, whether for failing to press advantages⁸⁵³, or deceiving their men.⁸⁵⁴ It can also be aimed at traitors more broadly, either for betraying trust with sexual violence⁸⁵⁵ or traitors in war.⁸⁵⁶ There is not a tidy distinction between formal and informal stoning, and it is presented as punishment typical of both institutional control and popular rebellion. Though instances of stoning are recorded, there are comparatively fewer during the later classical period, although soldiers do still stone.⁸⁵⁷ It is a punishment applied to women⁸⁵⁸ and for sexual transgression.⁸⁵⁹ On more than one occasion the wives of guilty powerful men are stoned by the women of the city.⁸⁶⁰ Stoning has political associations.⁸⁶¹ It is collective and so implicates the entire crowd directly in the violence both spreading out any potential sacred pollution from the act of killing, but also binding all those who acted to agreement about the rightness of the action. This makes it politically powerful, marking the decisive moment in many civil conflicts. Later Roman writers identify stoning more consistently as an excess of the mob⁸⁶² although it remains a sometimes-used official punishment in the Roman army to maintain watch discipline.⁸⁶³

⁸⁴⁹ Aesch. *Sept.* 196-7, Eur. *Or.* 46-9, Ion 1220-1245, Soph. *Ant.* 36, Palamedes in Fragments of Euripides and Aeschylus and Dio Chrys. *Or.* 13.21.

⁸⁵⁰ Aesch Agamemnon 1117, 1615-17

⁸⁵¹ Hdt. 5.38

⁸⁵² Lycides in Athens Hdt. 9.5 cf. Ar. Ach. 204-36, Lycurg. Leoc. 71

⁸⁵³ Thuc. 5.60.6

⁸⁵⁴ Xen. Anab. 5.7.2

⁸⁵⁵ Pausanias 6.6.7

⁸⁵⁶ Diod. 13.87.5, 91.3, Pl. Ep. 7.354d

⁸⁵⁷ Thucydides 8.84 The Syracusan and Thurian sailors under the command of Astyochus try to stone him and the army of the ten thousand Xenophon Anabasis 6.7-11.

⁸⁵⁸ Callimachus Epigrams 41

⁸⁵⁹ Euripides Bacchae 355-7

⁸⁶⁰ Dionysius of Halicarnassus, Ancient Orators 4. On the style of Demosthenes 31.

⁸⁶¹ Paus. *Corinth* 32

⁸⁶² Appian Civil wars 83, Dio Chrysostom discourse 46.6, Polybius 2.5, 27.

⁸⁶³ Polybius 6.37 Polybius identifies the gathered Carthaginian army as predisposed to stoning those that address them (of all ranks) because of its multi-linguistic make up Polybius 1.11-14.

Destruction of the house has much in common with stoning,⁸⁶⁴ in that it can be an officially sanctioned or spontaneous act carried out by the community, it is an appropriate punishment for political elites and it carries an even stronger association with eliminating the polluting effect of the target. Of the 11 recorded instances of *Kataskaphe* that Connor discusses, they mostly occupy an ambiguous state between decree and spontaneous act.⁸⁶⁵ The Locrian Law is the only example of regular law that stipulates *Kataskaphe*, as a punishment for murder.⁸⁶⁶ The Spartans raze the house of King Leotychidas⁸⁶⁷ and threaten King Agis.⁸⁶⁸ Tyrants are the targets at Corinth⁸⁶⁹ and at Syracuse.⁸⁷⁰ Argives punish their generals with *Kataskaphe*.⁸⁷¹ In Athens *Kataskaphe* is inflicted on traitors.⁸⁷² Aristotle does not mention the practice or use the term. All the instances suggest that this was a community wide action.⁸⁷³ The Locrian case is particularly interesting, as we have both an inscription giving the general law, and an example of it in practice.

Stoning and raising a house occupy ambiguous positions relative to the justice of the polis. They are mass actions committed by the polis at large and though they might be decreed or legally sanctioned in some way, the act itself is always somewhat spontaneous; no one threw a stone or tore down a house completely calmly. They seem to count as something more than a legal penalty, representing a community's need to utterly denounce and exclude the poison that murder, tyranny or treachery might introduce. Allowing these crimes to go unpunished threatens the community's relationship with the divine⁸⁷⁴ and the seriousness of these crimes as a threat to fundamental communal order is obvious. In this way the legal system is supported by a shared legal-ish understanding that mass violence is a justifiable and necessary response to offenses that are serious enough to undermine the legal order entirely. The implication they share is that they are acts done by the whole community, regardless of who is

⁸⁶⁴ Diodorus 12.78.5 Presents it as a gentler alternative to stoning, where soldiers start stoning but are moderated down to house destruction.

⁸⁶⁵ Connor 1985

⁸⁶⁶ Meiggs-Lewis 13 This law is presumably at work after the Murder of Hesoid in Locris (Plutarch Moralia 162Bff cf Pausanias 9.31.6

⁸⁶⁷ Hdt 6.72

⁸⁶⁸ Thuc. 5.63

⁸⁶⁹ Nicolaus of Damascus (FGrH 90 F 60 = Exc. de insidiis p.22.4

⁸⁷⁰ Plutarch Timoleon 22.1-3

⁸⁷¹ Diodorus 12.78.5 though Connor 1985 p.82 is sceptical as this is very similar to the Spartan instance of the same from Thucydides 5.63.

⁸⁷² Craterus FGrH 342 F5 and F17

⁸⁷³ Isocrates 16.26 is something of an exception, suggesting that the will to act against the Alcmaeonids came from the Pisistratids rather than the community at large.

⁸⁷⁴ Parker 1983 p.121

actually picking up a stone, and in this way these forms gesture towards the collective responsibility for maintaining fundamental rules.

These mass violent actions exert pressure even when they are not committed. The existence of stoning and house-raising as culturally (and even legally) forgivable possibilities gives crowds options of actions to take against unpopular leaders. This means that in the assembly, and other mass gatherings where there is announcement of policy or deliberation, the will of the crowd commands some respect. In this way, though they are not formally recognised parts of Aristotle's conception of participation, they do act within his conception, giving power to crowds that may not otherwise have formal power. This effect will be discussed in the next chapter on assemblies.

4.9.0 Foreign courts and juries

Something of a challenge to Aristotle's idea of jury membership as a cornerstone of citizenship is the Hellenistic introduction of 'foreign courts'. The earliest example of this is Tegea in 324, putting this a little too late for Aristotle.⁸⁷⁵ I mention this here as an example of the limits Aristotle's conception of the independent polis in the period immediately following his work. This might be to arbitrate between polis⁸⁷⁶ but also could cover an internal matter that neither side can trust local courts to fairly judge.⁸⁷⁷ See also Megara arbitrating a dispute between Epidaurus and Corinth with a jury of 151.⁸⁷⁸ These processes are distinct from the inter-polis treaties that are earlier and relate to legal structures for mutual residencies in which the courts seem to have contained citizens from both polis to judge.⁸⁷⁹

⁸⁷⁵ Gathier 1993 p223-225, Heisserer 1981 p.24-36

⁸⁷⁶ For example Sparta and Messene in *I. Olympia* 52

⁸⁷⁷ *I. Priene* 44

⁸⁷⁸ *IG IV2* 1 .71

⁸⁷⁹ Such as the bronze tablets recording a treaty between Chaleion and Oianthea British Museum, nr. inv. Bronzes 1896, 1218.2. cf Zunino 2017

4.10 Conclusions

Having surveyed the varieties of judicial participation, we can roughly categorize how different aspects of justice fit into Aristotle's scheme. Aspects of justice characteristic of Aristotelian citizenship:

Eligibility for selection for juries, and other judging positions.

1. Eligibility to vote for certain judges/other participation in judge selection processes
2. The scrutiny and calling to account of officials, and bringing suits against officials

Aspects of justice having some connection to citizenship

1. The role of witnesses in trials
2. The witnessing of trials themselves
3. The ability to bring suits in general
4. Participation in sacred regulations that may be covered by Aristotle

Aspects of justice excluded by Aristotle

1. Participation in violent 'self-help'
2. Participation in Mob justice

The systems we do know suggest that most oligarchies allowed poorer citizens some indirect participation in the *deciding* (βούλευμα) of justice. Even a poor citizen in an oligarchy that has no mechanisms of selection that include him still participates in justice by being able to bring lawsuits against officials, even if only in certain situations. This form of participation is mentioned in Aristotle and seems to be a significant aspect of citizenship to in certain situations; being able to bring significant suits against officials gives a broader range of citizens a share in that office. Those excluded from most offices might judge on special occasions in the assembly or act as juries in lower courts whose work was generally politically unimportant. Evidence for this kind of participation is thinner, especially for smaller poleis without much epigraphical record. Minor officials as administrators of justice do seem more centrally important to Aristotle than they are in the legal epigraphy, but the absence of evidence cannot be taken as evidence of absence for these roles. Aristotle's particular interest in different ways

to hold officials accountable is generally reflected in a broad range of evidence for these procedures in inscriptions.

Aristotle's discussions of sharing in judicial matters creates some tension with his discussion of ideal constitutions: citizens must have some share in these decisions in order to give them the position they deserve as citizens, but Aristotle prefers sovereign laws and important judges to be insulated from popular concerns. Most of his advice is therefore about how to grant some share without giving much serious judicial power to most citizens. The lower baseline of legal participation for citizens is the ability to bring cases to trials, and participation in those trials as witnesses, rather than the ability to directly judge all kinds of cases. Participation of this kind is reflected in inscription evidence and other discussions of trials stressing the importance of being able to bring cases, being able to give evidence that meaningfully impacts the case, and those cases being held publicly (if not necessarily being completely open to a general public).

Aristotle creates a definition of the polis that has a complex relationship to law and justice. Although he consistently praises constitutional orders that maintain their laws and keep them sovereign, there is always a place for citizens to participate, interpreting their laws in particular cases. There is participation in justice that is significant to other commentators and to the epigraphical record that Aristotle does not consider definitively 'citizen' in nature. The agonistic norms of legal dispute set a high standard of everyday participation in the law; many members of the community must not only uphold the law, but act as police and prosecutors. Social knowledge and extra-judicial justice are important in that they underwrite the real power of ordinary citizens to meaningfully participate in the more official polis centred aspects of justice Aristotle does acknowledge. The polis needs a functioning level of social legal norms, including religious regulations as a foundation for the laws and regulations that are particular to the polis. Aristotle then considers citizenship to be defined not so much by 'decision making' participation in the law in general, but with this specifically polis aspect of it. This understanding of Aristotle's citizenship still, in practice, includes many free, native-born men. Examining the law, we can identify the contradictions of Aristotle's model of the polis because of how intertwined the legal order of the polis is with non-citizens, even though 'justice' is a characteristically 'citizen' activity.

The judiciary is a citizen institution; run by citizens, and is space where citizens have exclusive powers. This chapter has given an overview of just how broad the evidence is that this understanding holds good in a variety of Greek contexts. Even if, as Aristotle says, *metics* also may sue or be sued this always happens through citizen patrons. The way judicial domination and the day-to-day social fact of 'self-help' interact make this a very significant social power of citizenship. The law is carried by citizens always and the power to construct the law through its discrete enforcement, even if others might be present in law as kinds of witnesses, seems to be a huge part of the day-to-day social power of the citizenship status. This privileged citizen interaction with judicial structure creates a condition of a partially 'prerogative state' for citizens whose dealing with non-citizen could be unfair and arbitrary, except for the check offered by citizens against each other.⁸⁸⁰ In this environment where ad-hoc justice in the first place is the norm being able to bring charges after the fact with reasonable confidence of a fair hearing is a very practical power. Demosthenes sums up this relationship between citizens and laws: 'the laws are strong through you and you through the laws'.⁸⁸¹ This power relates directly to polis officials and institutions; magistrates have more opportunities to treat citizens unjustly and consequently are exposed to greater legal scrutiny. This scrutiny requires a community of citizens with an interest in the collective good that comes from reliable officials. As discussed above, accountable officials make the polis a good debtor and lender, a good marketplace, and a good enforcer of religious norms. Citizens share in, and collectively construct, a legal world and Aristotle emphasises how this is entwined with a political world to create continuous polis identity.

The concept of 'officialdom' as that kind of generalised *arche* that the citizen's share in is useful here to understand how the Aristotelian theory relates to the day-to-day practice of law. Citizen status is defined by access to official power itself; the ability to hold a position of authority in the polis. This chapter has demonstrated just how varied these could be. However, even when not active, this status changes the citizen's relationship to those structures. Citizens engage with polis officialdom as one with the potential to invoke its authority, and at the most fundamental level this means that they have a more secure ability to appeal to the courts. A citizen can call on the market overseer⁸⁸² to resolve disputes over trading standards in the Agora

⁸⁸⁰ Fraenkel 2017 p.57 The 'prerogative state' concept was created to discuss nazi legal practice, the normative accountability processes of the state is placed under the prerogative power of the state as a whole and state police forces wield this arbitrary power.

⁸⁸¹ Dem 21.223-225 Discussed above.

⁸⁸² A key official for Aristotle 1321b14, and one he likes to think with as an example 1299b17.

with the knowledge that they themselves might be market overseers one day, or could be involved in holding the overseer to account, or at the very least be able to formally raise accusations of official wrongdoing that the overseer would have to answer. Aristotle abbreviates these complex interactions with official into a general 'sharing in' *aoristos arche*. In non-democratic situations this sharing is unequal: it may be mediate through representatives, or explicitly not on an equal footing with wealthier citizens.

5.0.0 Examples of participation: Assembly

The assembly is a space of the ancient polis that needs particular attention because of its central role as a space of participation of the more marginalised citizens. Many of the events already discussed- elections, accountability procedures, and special trials - would have happened at an assembly, or under assembly-like conditions. These bodies would have issued laws and decrees but also conducted regular business.

The partial image we get of assemblies in undemocratic contexts is discussed below, though the Athenian assembly is richly documented and widely discussed.⁸⁸³ It is difficult to know what features of the Athenian assembly, if any, were present in un-democratic contexts. The assembly is associated with democracy, and often is presented as the embodiment of the *demos* at large. This association is not broken in less democratic contexts.

5.0.1 Defining assemblies

A key aspect of Aristotle's definition of citizenship is being able to attend the assembly. It is one of two typical citizen roles (along with juror) he identifies. The assembly was a norm of political life existing throughout, and beyond, the Greek world. Many assemblies took place in explicitly undemocratic contexts. These undemocratic assemblies are, from a modern political science perspective, playing a quite different role in the structure of government. Undemocratic assemblies do not exist to discover the popular will and express it because they take place within a political structure explicitly not governed by majority decisions. The form of political participation they practically represented then needs to be examined if we are to understand what Aristotle means by centring the assembly in his definition of citizenship.

Defining what exactly assemblies do as a functioning institution means placing them in their political context and understanding how they fitted into various polis constitutions. As discussed in the first chapter Aristotle frames participation in the assembly as a characteristic

⁸⁸³ Thomas 2008, Ober 2009

action of citizenship,⁸⁸⁴ so it is important to define what kind of assemblies he could be referring to and how participation in the assembly constitutes 'a share in the power and justice of the polis'. Aristotle uses *ecclesia* to refer to constitutional meetings of the citizen assembly, not just for voting on matters of state but also for other occasions.⁸⁸⁵ *Ecclesia* is also used for some irregular assemblies called by an individual,⁸⁸⁶ whilst *demos* is often used to refer to 'the people' in a broad sense. The assumption seems to be that this group are those represented by the assembly,⁸⁸⁷ though of course other sub-polis groups would be the avenue for representative governance in many circumstances.⁸⁸⁸ This discussion of assemblies starts with the many ways an assembly can be a deliberative institution of power because that is how Aristotle describes the assembly membership that is characteristic of citizenship.

It is possible to make the case for a politically significant 'general assembly' of sorts being a regular feature of political life as far back as Homer.⁸⁸⁹ Significantly, assemblies are important even in places which are not defined as 'democracies', and in places where we lack the evidence to be certain they had any regular assembly meetings. We should not take the norms of fifth century Athens, with regular constitutionally enshrined assemblies with fixed powers, as the norm. In fact, given Aristotle's discussion of democracies' assembly practice⁸⁹⁰, it seems safe to assume Athens is at one extreme, with its assembly meeting more regularly, for longer, and with more constitutional power to deliberate and pass original legislation. Nevertheless, it is important not to overgeneralise this assumption: as discussion of the evidence demonstrates

⁸⁸⁴ 1275a25-34 See Chapter 1

⁸⁸⁵ *Ath. Pol.* 42 *Ecclesia* is used for a formal gathering in the theatre that watches coming of age citizens drill. It seems *Ecclesia* suggests a mass event with a political inflection, rather than a technical term for constitutionally empowered body, though there's likely no hard line between these two.

⁸⁸⁶ Arist. [*Oec.*] II, 1349a15-38

⁸⁸⁷ 1282a25-43 is a key passage exemplifying this, Aristotle uses *ecclesia* and *demos* in a passage that discusses the collective sovereignty of groups. Especially at line 34-38:

'the people' (ὁ δῆμος) is the collective version of the assemblyman (ὁ ἐκκλησιαστής). This clarifies the circumstances under which they are used almost interchangeably elsewhere cf *Ath. Pol.* 54. Hansen 2010 discusses the tight relationship between *demos* and *ecclesia* in the Athenian context.

⁸⁸⁸ Brock 2023 p.232

⁸⁸⁹ *Il.* 18.243-254, *Il.* 1.54, 2.51 *Il.* 2.93, *Od.* 2.69 Here Telemachos uses ἀγορά referring to a properly gathered mass assembly, invoking an orderly meeting overseen by Zeus and Themis to shame the suitors. cf *Od.* 9.112 Other early discussions of assemblies from Hesiod *Th.* 81-93 idolises the role of the good king in the assembly. Cf Farenga 2006 p.117-119, De Ste Croix 1972 348-349.

⁸⁹⁰ *Pol.* IV. 1298 A 3-34, VI. 1320 A 17-29 discussed Chapter 1.

assemblies with very limited formal powers within polis political structures were not unusual and were still, at least potentially, politically significant occasions.

The assembly is the key site for performances of citizenship in the Aristotelean sense, and it sees different forms of participation and power sharing. Identifying these multiple forms of participation means drawing several strands of evidence together into a discussion of what constitutes participation itself. Including these assemblies in our discussion of how citizenship was defined by involvement in them requires first an overview of the different possible kinds of political impact an assembly could have, in which I will argue that participation in deliberation could take many forms, and that assemblies served other vital purposes in which members participated. Then I will lay out the evidence for what participation in assemblies physically involved in different contexts. This will be based on inscription evidence which provides a scattered but in places detailed picture of regular assembly sizes and frequency. This can be complemented with discussions of assemblies in ancient authors that describe the more unusual assemblies and give partial but vital impressions of assembly atmosphere. Finally, I will discuss to what extent was participation in assemblies an acknowledged part of citizen behaviour in ancient authors outside of Aristotle.

The 'Mob' *ochlos* does come up in Aristotle, as an element excluded from the constitution but with potential power;⁸⁹¹ 'demagogues' in oligarchies can appeal to this force, especially in situations where certain offices have electors otherwise excluded from the constitution or when the lawcourt juries are drawn from a wider pool than the usually political citizens. These examples imply that the 'mob' is able to wield some influence through polis institutions, but also that this power is pushing against the established institutions of the polis. In addition to the discussion of Mob justice in the previous chapter, this chapter will discuss how conceptions of the Mob overlapped with the assembly, and how this overlap affects our reading of Aristotle.

5.0.2 Vocabulary of assemblies

The extent to which the various terminology of assembly names a phenomenon, varied but coherently as a single kind of political construct is derived from the fact that the mass meeting

⁸⁹¹ 1305b30-40

of citizens for a political purpose was a known phenomenon. We will be looking at a variety of different regions, each with different terms translated as 'assembly'. There is a constellation of terms around *ekklesia* ἐκκλησία used to describe political mass gatherings. The range of meanings which we translate these terms into are informed by their context in literature, particularly in the definitive works of Aristotle which gives modern readers clear political definitions. These translations tend to truncate a more diverse range of shifting terms and practices. The range of terminology in inscriptions shows us more of this diversity.

The significant question is: can we match different sets of assembly practices with different terms for assembly consistently enough that the term used only can indicate what kind of assembly practices are being referred to. What do different terms suggest? The surviving literature sometimes uses these more general terms interchangeably; Herodotus refers to what seems to be the same meeting first as a *sullogos* (σύλλογος) then as a *sunedrion* (συνεδρίον).⁸⁹² Thucydides uses *sullogos* (σύλλογος) and *ekklesia* (ἐκκλησία) to distinguish between specially called meetings, that might be public, and the regular assembly respectively.⁸⁹³ *συνέδριον* is used for a meeting of selected peoples, often representing different allies in a war council.⁸⁹⁴ '*Ekklesia*' is the presumed usage that means a political meeting, which in many cases is implied to have formally acknowledged powers, though this does not always mean it was regular.

The overview of discussions of assembly that follows focuses on those events referred to as ἐκκλησία. However, it is important to note that Aristotle's understandings of *boulemaenon* or *krisis* are not limited to formal *ekklesia* but is worded to include anything where decisions are made that impact the polis. The range of these potential impacts is discussed in chapter two, but some of those arguments are repeated below with specific attention to how the dynamics of an assembly might affect how these impacts are felt.

⁸⁹² Herodotus 8.74-8.75

⁸⁹³ Thuc. 2.22 The usage here suggests *sullogos* is a broader term, that might be used to include larger meetings as well as small war councils.

⁸⁹⁴ Hdt. 8.75 as mentioned, 8.56, X. HG 7.1.39, D. 18.22, Aeschin. 2.70.

5.1.0 Aristotle's definition of assemblies

The assemblyman is given as one half of the typical role of the citizen, along with juryman, in Aristotle's definition of the citizen. It is therefore a central role within Aristotle's schema of the polis. This role is defined broadly, as with the juryman. However, because of the undefined and open potential of polis deliberation, more is left for us to infer from Aristotle's context what exactly he is thinking of. It is important to keep separate the idea of the assembly and the 'deliberative' (*bouleuomenon*); they overlap, but the concept of the deliberative encompasses more than just the assembly, even if that assembly is in charge of all foreign policy and lawmaking. This *bouleuomenon* is also not wholly encompassed by combining the council (*boule*), even if the council may hold most of the deliberative power. The deliberative power of the polis seems to include more than a combination of assembly and council as well. Aristotle assigns certain charges of death and other judicial matters to courts or to particular offices in certain constitutions, so these are also part of the 'deliberative' in the way Aristotle defines it⁸⁹⁵

The *bouleuomenon* in this sense (war, alliances, laws, serious sentencing) then is a theoretical construction of 'deciding power' that the polis needs; and the list he gives suggests we should understand this power as including any decision, large or small, that the 'polis' as an entity makes. Democratic government seeks to give more of this power to more of the citizens, while oligarchs seek to keep as much power as possible in the hands of a few.⁸⁹⁶ The most extreme form of this might remove all deliberative power from the assembly, but even in the hypothetical cases described Aristotle does not mention fully abolishing the assembly, and only in some cases is there no customary assembly.⁸⁹⁷ In these forms the *bouleuomenon* held by various councils, though as discussed below it is hard to find a secure example of a polis with absolutely no assembly even in special circumstances.⁸⁹⁸

The most significant, and therefore most threatening, potential power of the assembly is its ability to make laws that affect the general constitutional makeup of the polis. The scope of the legitimate constitutional power of the assembly is effectively defined by the probouleutic procedure, which Aristotle recognises at 1299b20-40. He envisages a range of possibilities for the assembly's role in deliberation on lawmaking, from a total decisive power to the weakest possible veto. In all cases some probouleutic procedure is needed, even in the most radical

⁸⁹⁵ 1298a4-10

⁸⁹⁶ Aristotle details how these powers can be differently distributed in some detail 1298a4-b12

⁸⁹⁷ 1275b9

⁸⁹⁸ See the discussion below, Simonton 2019 p.121, Rhodes with Lewis p.21, p.486.

democracies, as in those places there is a need for decisive action to emerge from the mass meeting. Depending on how democratic the constitution is debate and resolutions may or may not be allowed during an assembly or may only be framed by magistrates. Interestingly he also sees a difference between a veto and the power of assent.⁸⁹⁹ The assemblymen might be paid for attending or not, or in an oligarchic system they might have to register to attend, then be fined for non-attendance, so discouraging the poor from registering at all.⁹⁰⁰ These poor would still count as citizens because they could take up their share in the polis, even if they are discouraged from doing so.

Where there is a deliberative popular assembly there is also a council that prepares the agenda. This is even more important when the assembly, as at Athens, is empowered to make many consequential decisions and allows everyone to speak. Selecting this council by lottery would be democratic, but mixing in property qualification, weighted lottery, protected seats, and other procedures can serve to either moderate this democratic nature or overturn it so a decisive majority of the actual decision-making power is held by a minority, even whilst a token share in the power of selection is still held by all citizens. In any assembly meeting speakers would have to take turns, and a certain amount of organization would be needed to facilitate debate, with larger, more equal, and more open assemblies requiring more organisation than smaller, more hierarchical ones.

These several intersecting spectrums of regulation create a potentially vast array of functionally different possible forms of assembly. Modern political science would define an even moderately democratic ancient assembly as a very strong unicameral legislature, and its moderate oligarchic opposite as just an advisory chamber.⁹⁰¹ As will be discussed below a good deal of this theoretical range seems to be reflected in real assemblies. An assembly may be ubiquitous feature of poleis, but its role in the constitutional order varies widely. For this reason, it is important to look not just at the range of possible constitutional properties of the assembly, but also its permanent extra-constitutional potential, its informal power and significance. As discussed below there is a range of evidence of the assembly as the site of

⁸⁹⁹ 1298b26-41

⁹⁰⁰ 1297a15-29

⁹⁰¹ This comparison should only be taken lightly, and goes to show the difficulty in categorising the polis by standards of modern political science, cf Colomer 2011

constitutional disruption, and this assumption underwrites a lot of why the assembly is considered so significant to citizenship for Aristotle.

5.1.1 What is an assembly for: discussion and decision

There is a difficult relationship to navigate between 'deliberative' as it is used in modern democracies and the '*boulemenos*' as it is used in Aristotle, touched upon in chapter 2. It is important in a slightly different sense here; participating in making a decision is distinct from just taking part in a discussion but has many areas of overlap. Much that deliberative theory can tell us about assemblies in practice is still relevant to this discussion of ancient Greek assemblies and to Aristotle's understanding of them. Firstly, the citizen in the assembly does 'share' in the power of the polis in ways other than by his share in decision; he shares in the judgement power (*arches kritikes*).⁹⁰² Secondly, which will be discussed here, the common situation is that the poorer member of the assembly is marginalised, but not entirely excluded, from decisive power (*arches bouleutikes*).⁹⁰³ This bit part in making decisions also includes them in public discourse, which can then allow them to impact more significant decision makers in a variation of ways that will be discussed in this chapter.

Aristotle cites participation in the 'decision making', along with the 'judgement', as the preeminent example of citizenship itself. You can participate in the 'decision' in many ways. This participation should not be reduced to voting; every aspect of attending the assembly should be included, and in this section via reviewing the varying functions of the assembly I can demonstrate just how varied the forms of meaningful participation in the power of the state could be. Though the Athenian assembly was also an executive and legislative institution, all assemblies are at least deliberative because at them individual members of the political group discuss policy.⁹⁰⁴ Whilst I am proposing an expansive view of what constitutes an assembly, what all these assemblies share is a kind of deliberative function in which information is shared between citizens. To understand how assemblies can function as participatory institutions in differing political bodies it is important to first break down how the core deliberative function of an assembly relates to its other less formally recognised functions.

⁹⁰² 1275b18

⁹⁰³ 1275b18

⁹⁰⁴ Deliberation can be defined in ways that imply a public sphere Cohen 1989, p.21 "Justification through public argument and reasoning among equal citizens". cf Dryzek 2000.

Contemporary literature tends to focus on deliberation as a (potential) feature of existing democratic structures or as a category of democratic institution which debates decisions. It is necessary to have a definition of deliberation that is disentangled from democracy and democratic principles so it can be applied to the very different social context and constitutional arrangements of ancient Greece. Oligarchic political systems must deliberate too. Assemblies can deliberate on collective action and legislation. There are two related spectrums on which we can place all assemblies; the first is measured by how fully members can participate in discussion, and the second by the degree to which full consensus required for decisions. To put it another way, how many members can speak? And how many members must consent to a decision? Taken together these two spectrums define how 'deliberative' an assembly is. These spectrums are easy to ignore looking at ancient Greek Assemblies, but it serves as a reminder that Assemblies can include, and exclude, in varied ways.

Decision making, even when entirely democratic, can be approached in different ways by the assembly. To understand ancient assemblies, it is useful to contrast consensus and aggregative approaches. An aggregative approach informs popular understandings of political strategy and was dominant in theoretical literature on democracy before the 'deliberative turn' in the late 1980s.⁹⁰⁵ This approach views the democratic process as one of fairly aggregating the preferences of citizens so that the most popular possible policies are enacted.

"Voters pursue their individual interests by making demands on the political system in proportion to the intensity of their feelings. Politicians, also pursuing their own interests, adopt policies that buy them votes, thus ensuring accountability. In order to stay in office, politicians act like entrepreneurs and brokers, looking for formulations that satisfy as many, and alienate as few, interests as possible. From the interchange between self-interested voters and self-interested brokers emerge decisions that come as close as possible to a balanced aggregation of individual interests."⁹⁰⁶

There is within this aggregative model room for debate about what kind of system most fairly aggregates the preferences of voters into a group decision (What weight should be placed on

⁹⁰⁵ Wollheim 1962 p.76 Frames the democratic process as a kind of machine that is fed individuals' choices, Mansbridge 1983 p.17 reflects on this 'aggregation' approach. The term 'deliberative turn' is from Dryzek 2000 p.5.

⁹⁰⁶ Mansbridge 1983 p.17

strength of feeling? How regularly should votes be held? What is an appropriate balance between accurately reflecting voter diversity and creating stable government? Are all questions that are discussed within this model). Deliberative democracy, as opposed to the aggregative model discussed above, stresses the importance of the process itself as an experience undergone by individuals. Deliberation stresses the need for a lengthy and serious discussion including every interested party, ideally resulting in a consensus in which everyone agrees with the final decision. Sometimes in this model at the end of a democratic process all participants preferences are still aggregated so that a decision is reached but only after there.

All theorists of deliberative democracy defend the basic assumption; that the process of deliberation can change the preferences of the individuals that take part in it.⁹⁰⁷ Habermas, Rawls and Cohen all describe fair discussion itself as transformative for the individuals who take part in in, as they come to understand alternative points of view their perspective shifts to accommodate their interlocutors.⁹⁰⁸ If the process could not change the participants, then disagreements without clear majorities on either side and with third option supporters could simply not be solved by deliberation, and these are precisely the political problems which we use deliberation to try and solve. Though deliberative processes are used extensively in representative democratic systems, the point about changing the participant has key caveats that apply particularly when those participants that are functioning as a representative of a constituency in the deliberation. Elected representatives tend to see themselves as occupying a more fixed position according to the platform they were elected on. The all-important 'we-perspective' is difficult to reach when members are, in some senses, trying to adopt the perspective of their constituents rather than their assembled fellows. A directly democratic deliberative chamber does not have this problem, but some of the issues associated with it emerge from the fact that any assembly is always in some senses representative; there is never every possible member present at an assembly, and present members will belong to other communities with relevant interests outside the community assembled.

⁹⁰⁷ 'individuals are amenable to changing their judgements, preferences and views during the course of their interactions, which involve persuasion rather than coercion, manipulation or deception' (Dryzek 2000; p.1).

⁹⁰⁸ "Under the pragmatic presuppositions of an inclusive and non-coercive rational discourse among free and equal participants, everyone is required to take the perspective of everyone else, and thus project herself into the understandings of self and world of all others; from this interlocking of perspectives there emerges an ideally extended we-perspective from which all can test in common whether they wish to make a controversial norm the basis of their shared practice" Habermas 1995; pp.117-118.

Emphasizing this use of the assembly as an institution that promotes consent leads us to see it as a medium of mass communication, that allows the citizen body to understand different views and collaborate on shared goals. In more hierarchal assemblies with limited rights to speech, this becomes a more one-sided understanding where elites are given a platform to frame issues so as to draw consensus out of the many. Aristotle discussing the virtue of assemblies as basically collective pools of discernment he focuses on the benefit of a large pool of knowledge in a crowd, but he is explicitly talking about the deliberative function of a democratic assembly, we might consider assemblies without democracy as having a purpose that is not decision-making.⁹⁰⁹ When ancient authors discuss leadership the ability to persuade and carry crowds is a significant virtue regardless of context. There are clear examples of the use of the assembly in Homer to disseminate information, but part of what makes the assembly useful for persuasive communication is the possibility that its members might deliberate on issues as well as hear them.⁹¹⁰

The ancient Greek assembly, whether the large potent assembly of Athens or smaller more constrained assemblies, should be viewed as a deliberative body only occasionally in the technical constitutional sense of a chamber with powers to review policy and legislation deliberatively. However, they can always be seen as a deliberative body in the more abstract democratic theory sense; as a group who transform themselves through the process of deliberation with each other. Recent scholarship on the Athenian assembly supports this conception by looking at the frequency of unanimous votes⁹¹¹ and Thucydides' description of the discussion before the Sicilian expedition⁹¹² that suggests consensus building was the core concern of the assembly. The final decision was the result of the assembly discussing at length so even polarising issues could be talked through until a decision agreeable to everyone could be reached.

Focusing on assemblies as deliberative bodies, although they had other functions⁹¹³, means deciding if they focused on building consensus. The evidence for assembly procedure outside

⁹⁰⁹ 1281a39-1282a41 Aristotle is talking in favour of empowering the many in certain public functions for the sake of better deliberative outcomes, cf Ober 1990 p.163-165 on Collective wisdom in Aristotle and Isocrates.

⁹¹⁰ Starr 1986 p.18-21; Ruzé 1984 p.248-249.

⁹¹¹ Canervaro M. 2018

⁹¹² See Hesk, J P 2017 for discussions of Euripides and Thucydides as examples of this approach.

⁹¹³ Other strictly constitutional purposes involve legislation, appointments to elected positions, The assembly as a medium for communication is often seen in small (by modern standards) associations where the assembly also functions as an organisational meeting, informing members on group strategy that will affect their personally

of Athens is limited, but certain features of assemblies are documented that suggest it is at least possible that consensus building went on in them. Firstly, deliberation takes time, so regular and long assembly meetings are needed. Secondly, consensus decisions are unanimous⁹¹⁴ so records of votes are useful. Thirdly assembly procedure itself that explicitly encourages consensus building; the evidence for procedure is so scarce that we can discuss it in detail. Finally, we can look at literature that refers to the assemblies and discuss how these events are framed by ancient writers and what their expectations are.

Significantly for discussion for the context of the ancient world, deliberation need not be democratic. Organisations in which power is very unevenly distributed can still use deliberative techniques to decide on the best courses of action, and to bring relatively powerless members round to supporting decisions.⁹¹⁵ The process of the deliberation itself can be undemocratic as procedural inequities can structurally advantage some people or positions, making the discussion unfair. Consensus finding processes reach the point where the group has accepted a particular course of action; this is not the same as majority support for that action. Deliberation, as we are defining it here, involves meaningful discussion towards consensus. Getting a group, particularly an ancient assembly, towards consensus would involve persuasion, listening and adjusting proposals to address the concerns of many but could also involve misleading and suppressing discussion, a certain manipulation of debate and outright bullying⁹¹⁶. The function of this kind of consensus building (although it would hardly please modern proponents of deliberative practices) is to get mass citizen 'buy in' that can improve organisational cohesion. In this sense the function of assemblies is to construct a unified citizen body. This would be an account of the assembly that focuses on the outcomes, rather than an investigation into how members experienced assemblies. A key conclusion is what Aristotle takes for granted: widespread agreement about the nature of the questions, particularly the purposes of assemblies.

activity whilst also being the forum for discussing changes to that strategy, this is obvious related to the function of information aggregation discussed by Ober 1989 p.70-71.

⁹¹⁴ Some deliberative theorists suggest alternative approaches to consensus that have less stringent demands for unanimous decisions Dryzek 2000.

⁹¹⁵ He 2006 discusses how The People's Republic of China often use local deliberative assemblies in planning processes to improve the efficiency of government planning rather than out of democratic commitments.

⁹¹⁶ Zuckerman 1968 p.526-27, p.538-44 notes the use of town meetings in Colonial Massachusetts were orientated around this consensus building.

5.2.0 Ancient Greek assemblies: general characteristics

The frequency and potency of ancient public mass meetings are very alien to modern political contexts, and therefore require careful reconstruction. The work of Cammack and Ober, while fixed in the Athenian context, is highly informative about the kinds of deliberating that went on in the democratic assembly.⁹¹⁷ Institutional analysis of the constitutional powers of the assembly, its formal processes and its members' roles is a vital aspect of this reconstruction but is insufficient to describe its place for Aristotle: this is partly because these very rules and norms were contestable in the assembly, and Aristotle acknowledges that through the assembly citizens participate in judgements, not just decisions. The assembly means more to Aristotle than a simple list of its constitutional powers might suggest. Modern mass meetings are also rituals and performances that have an impact beyond their formal outcomes.⁹¹⁸ Therefore, it is also important to understand the expectations made about what an assembly could mean. This potential that the assembly represents is especially significant outside of the democratic contexts and is vital to understanding why membership of the assembly is fundamental to Aristotelian citizenship and to what that citizenship means.

Citizen assemblies were common features of poleis and should not be thought of as an inherently democratic, or even a particularly Greek, institution. Epigraphic records, wherever we have them, overwhelmingly indicate the presence of a citizen assembly. Although the Athenian assembly is best attested by far, we have a few discussions of the other assemblies (Sparta and Syracuse are discussed at some length) and mentions of many more kinds of assemblies (Homeric assemblies, army assemblies). Ancient discussions of political activity tend towards implying a public character to political discussion, even if not explicitly democratic. These ideas have become the consensus of recent work,⁹¹⁹ but demonstrating the evidence underlying this consensus requires a broad survey of the various contexts of inscriptions. I will discuss these inscriptions here, but my focus remains on how this might be understood as a context to the Aristotelean discussion of citizenship, rather than the myriad other approaches that might be taken.

Ancient authors can support our understanding of what is meant by an ancient assembly, both by the things they assume their readers know, and by what they tell explicitly. Not all assemblies are 'citizen' assemblies. Even excluding other words for mass meeting, *ekklesia* is

⁹¹⁷ Cammack 2021, Ober 1989

⁹¹⁸ McComas, Besley and Black 2010

⁹¹⁹ Simonton 2017, Rhodes with Lewis 1997

still applied to describe mass meetings called under tyrannies, of *amphictyons* and of armies.⁹²⁰ In the second part of this chapter there will be a detailed discussion of these sources and the assemblies they portray. I will use discussions of special assemblies to look at how, in certain cases, the assembled used the event of 'the assembly' to participate in politics.

Whilst Aristotle identifies certain characteristics of an assembly as indicative of a democratic constitution (regular meetings, payment for attendance, the ability to discuss all matters) he mentions inverse features for an oligarchic polis,⁹²¹ all this reinforcing the notion of the citizen assembly itself as a ubiquitous feature. He is aware of poleis without a regular assembly⁹²² but this language frames this condition as exceptional, and also suggests that an irregular assembly, or a non-general one, would be occasionally called even in these places.

5.3.0 *Bouleuesthai*: distinguishing decision-making from deliberation

These terms were explored previously (3.1), but here the discussion on *bouleuesthai* we cover how it refers the process of decision making itself, specifically regarding group decisions in the assembly. The dynamics of these groups are significant to the question of how power is shared, because we hear about different kinds of engagement with the deliberative process. If we are to make any use of theoretical constructions of assemblies as sites of 'deliberation', we must confront the differences in the understanding of this core tenet of direct democratic and other theories of deliberation. There are arguments for identifying the moment of decision itself as the *bouleuesthai*. Aristotle discusses *boule* as a function of the human mind and soul,⁹²³ and it is always resolution that the agent has the power to put into practice. So though often translated as 'deliberation' it actually refers, for Aristotle at least, to the decision making itself, as opposed to deliberative theorists who emphasise the importance of the discussion. I have called Aristotle's understanding of *bouleuesthai* 'decision making' as opposed to the more general deliberation it is generally translated as. This is still an incomplete translation, and certainly elements of what we would call 'deliberation' are included in Aristotle's use of *bouleuesthai*. I will make the argument that these ideas overlap in key ways when the

⁹²⁰ Aristotle applies it to Homeric army assemblies 1285a11, Herodotus 3.142 applies to an impromptu meeting called by a tyrant in Samos, and is applied to limited meetings of the Amphictyons in Delphi, in Aeschines 3.124 and Athens in Ath Pol. 43.4.

⁹²¹ 1320a3

⁹²² 1275b7-9

⁹²³ EN3. 1111b4-1113a15 and EE2 1225b18-1227a32

bouleuesthai is considered as a series of performative speech acts. This means examining this 'decision making' more closely to so we can locate how the decisive action takes place. However, the assembly, though often a site of at least some decision making, is not just about decision making. These extra significances of the assembly are discussed in modern scholarship, both the importance of deliberation in democracies, and the significance of manufactured consent in oligarchies.⁹²⁴

Aristotle first defines the difference between choice and free action.⁹²⁵ He is careful to define what the subjects of βουλευόμεθα can be in ethics (βουλευόμεθα; the same term as used in political contexts). This is defined in a limited way: το βουλευέσθαι is reserved for those things that are within our power to affect, but with uncertain results. ἀλλ' ὅσα γίνεται δι' ἡμῶν μὴ ὡσαύτως δ' αἰεὶ, περὶ τούτων βουλευόμεθα. Even within this narrow category we deliberate about how to achieve things, not about what we wish to achieve; about means, not ends⁹²⁶

EN 1113a19-20 Puts out key terms *Boule* and *Kriesis* in relation to each other:

ὄντος δὴ τοῦ προαιρετοῦ βουλευτοῦ ὀρεκτοῦ τῶν ἐφ' ἡμῖν, καὶ ἡ προαίρεσις ἂν εἴη βουλευτική ὄρεξις τῶν ἐφ' ἡμῖν· ἐκ τοῦ βουλευέσθαι γὰρ κρίναντες ὀρεγόμεθα κατὰ τὴν βούλευσιν⁹²⁷

Though the same word, *bouleuesthai*, is used in *Politics*, the decision-making processes of groups and individuals must be different. There is a live debate around how we can interpret this word, and the associated norms of Athenian democratic decision-making, with internal 'decisiveness', which surely includes some debate. It is difficult to place where the "βουλευόμεθα" is taking place. Is it a collective act? Or is it that the many members all do the "βουλευόμεθα" internally, and the collective decision is the aggregated result of this? Or should we include some discussion between the members in combination with internal thought as part of the 'βουλευόμεθα'? There is an argument that in the political context that the

⁹²⁴ Canavero 2018, Simonton 2019 p.121-133

⁹²⁵ EN 1139a22-26 Aristotle also describes choice *Prohairesis*, as a desire that has been decided *orekeos bouleutike*.

⁹²⁶ EN 1113a16-17

⁹²⁷ EN 1113a19-20

translation of βουλευόμεθα as “Deliberation” (Present in Rackham) might be better replaced with “decision making”, getting away from a notion of discussion and debate, towards the action and outcome, this still doesn't fully capture the problem of it being about ‘means’ rather than ‘ends’.⁹²⁸

Our concept of ‘debate’ might be better captured by the way Aristotle uses συμβουλή, such as at 1298b34, where helpfully the two terms are placed in contrast, ἢ τῆς συμβουλῆς μὲν μεταδιδόναι πᾶσι βουλευέσθαι δὲ τοὺς ἄρχοντας. This also captures an important tension, taking part in the discussion is still taking part; it invites citizens to form judgements about proposals and in the situation imagined by Aristotle here the magistrates are susceptible to influence but retain the decisive power.

There are forms of participating Aristotle is not addressing when he uses *Boule* based terms, but perhaps is addressing with *Krisis* terms as discussed below, and these are discussed by modern theories of deliberation.⁹²⁹ The point of “Deliberation” as it is conceived of by advocates of deliberative democracy is that the discussion itself is transformative, it alters the participants view rather than just an aggregate of prior positions into a compromise. Aristotle, in contrast, views deliberation as a specific process: the exercise of practical reason to ends. These are ends which should be aimed for in their own right. According to Aristotle whilst everyone can recognise this practical reason, applying it correctly is a form of excellence.

Canavero argues that the norm, at least in democratic assemblies, was for consensus decisions that followed meaningful deliberative debate. He cites the evidence of forty-three decrees which give votes for, and the fact that these are overwhelmingly unanimous, that the assembly must have involved a good deal of discussion, in order for such consensus decisions to be reached.⁹³⁰ This interpretation of these unanimous decisions has been challenged and the

⁹²⁸ Aristotle is clear that the end of the polis is the good life. However, he often discusses people getting this wrong, right from its first introduction in *politics* (1258a2) implying that people are often mistaken about what ends they should seek, particularly in the context of politics. It is still possible to disagree about ends without debating them, because the fact that the ends are undebatable.

⁹²⁹ Theorists of deliberative democracy have placed stress on hearing out opposing positions, not just making decisions together but coming to understand the questions together. Whether this is meant broadly as ‘public sphere’ Habermas 1984, or in research more focused on specific processes of political discussion. Polletta and Gardner 2018 p.70-85

⁹³⁰ Canavero 2018 p.8

exact nature of this deliberation is difficult to reconstruct. Hansen imagines a series of speeches, with the vast majority of the assembly audience listening and deciding between opposed positions.⁹³¹

Bickford, applying these ideas to Aristotle's discussions of *Bouleuesthai*, concludes that *Bouleuesthai* is the correct exercise of perceiving the relevant parts of a question.⁹³² She makes the overall claim that perceiving each other's perspective is a key piece of political deliberation. Deliberation is the ability to perceive relevant facts, and in politics people's opinions are relevant facts. In this way she concludes that attentiveness is the key aspect of deliberation.⁹³³ These arguments work even if we take a very narrow understanding of *bouleuma*, because participating in a decision might include sharing views and listening, even if the decision itself does not include these discursive aspects. To extend her theory, a share in deliberation then might be thought of as including someone as having an opinion that is necessary to consider. Therefore, to discover who 'has a share' in decision making, it is not enough to ask who makes the decisions, but whose opinions (not interests) they must consider in making them. In this way collective judgments and collective decisions are connected.

Cammack wants to re-frame what exactly is meant as "deliberative" in this context. She summarises the debate on oratorical discussion: "As Hansen argues, there was no "exchange of views" in the Athenian assembly, only "debate," that is, a "series of speeches of varying length" dominated by "a small group of half- or fully-professional orators."⁹³⁴ These debates were inherently agonistic, in that speakers aimed to persuade the audience to vote as they advised, against the arguments of their rivals. As Elster notes, speakers did not even necessarily address one another. They might talk "about each other—to point out weaknesses in their opponents' characters or arguments—but not to each other,"⁹³⁵ a procedure quite different from what most deliberative democrats have in mind."⁹³⁶ However she considers that this doesn't mean we can call these simple agonistic debates simply majoritarian either.

⁹³¹ Hansen 1998 p.142-144

⁹³² Bickford 1996 p.403, cf Nussbaum 1990 p.61

⁹³³ Bickford 1996 p.419

⁹³⁴ Hansen 1999 p.142, p.144

⁹³⁵ Elster 1998 p.2

⁹³⁶ Cammack 2020 p.490

If Aristotle locates *bouleuma* specifically as the moment of decision, rather than the discussion of that decision⁹³⁷ then, as Cammack argues, the so-called 'deliberation' *bouleuma* of an assembly is actually an event internal to each participation individual. This argument is against the ideas of those who apply the idea of consensus decision-making to the assembly, as these arguments assume that the moment of deliberation is in the discussion.⁹³⁸ Deliberation, on this view, is working out the best approach to already agreed ends. We have discussed (via Bickford and Canevero) how Aristotle considers agreed ends to be limited to what goods are desirable for their own sake, and therefore deliberation about how to get there includes a wide variety of reasoning that is beyond the purely instrumental, that which we might call 'practical reasoning'. In other words, following Cammack, there is a difference between defining and this 'deliberation' in Aristotle's view which might be better called a decision; we cannot decide what is good, though we may debate it, whilst we can decide how to pursue good because this is within our power to affect.⁹³⁹ To 'deliberate' is then to make an impactful decision about your course of action, and so in the political context this implies having power.

Cammack argues that just the term "*bouleuma*" on its own, at least in the Athenian context, cannot be taken to imply any actual discussion.⁹⁴⁰ Juries didn't go into 'deliberation' and discuss the case; they 'deliberated' by deciding. She argues based on Athenian practice (assembly, courts and council) and on Aristotelian discussions that *koinologeomai* is probably closer to the ancient term for deliberation in the sense it is used by modern (especially communitarian) political thinkers discussing 'deliberative' democracy. She centres the vote as the deliberative moment for the assembly, when the crowd could make a judgment about each other's commitment.⁹⁴¹

In the specific contexts she discusses Cammack's reading (of βουλευομαι) seems to work, though such a tidy distinction between the internal moment of decision and the general participation in deliberation is impossible to draw in most cases. Majoritarian decision-making makes particular sense when the primary purpose of the assembly is military decisions. Citizens assume that they will remain with the collective even if their preferred decision is outvoted, non-compliance would be radical and treasonous. Under these circumstances

⁹³⁷ As *NE* 1112b would suggest, discussed in chapter 2.

⁹³⁸ Cammack 2020

⁹³⁹ Cammack 2013 p.234

⁹⁴⁰ Cammack 2020 and Cammack 2021

⁹⁴¹ Cammack 2021 p.151

majoritarianism solidifies support for the outcome; the knowledge that most people are behind an action encourages everyone that it is the best course. Doubters are reassured by their fellow citizens' commitment to very important military decision. Other assembly business that was less simple, less dramatic, or requiring less of a full commitment from most citizens would require some discursive framing before the vote and would also be more susceptible to passive resistance from the minority after a vote had passed. The threat to this process is a consistently outvoted minority developing a solidarity within themselves opposing the majority; this is the condition of stasis. The polis splits in two, and it makes sense that this is the civil condition the Greeks seem to have so feared.⁹⁴² Some deliberation to achieve a broader consensus, even if it largely went on between representatives of interest groups outside the assembly itself, must have been a part of this process. These issues affect the decision-making of individuals in some way.

In addition to these general considerations any 'internal' decision is always mediated through collective participatory acts. There is no 'neutral' method of aggregating opinions, and though a public show of hands seems to have been the norm for the Athenian assembly, a range of procedural options are attested. A truly secret ballot might be rare,⁹⁴³ and other methods of 'voting' such as acclamation blur the borders of majoritarianism; even a show of hands or division process allows for voters to reflect the popularity of their own positions and mixes elements of deliberation into majority. The multistep procedures for selection of key roles (discussed in the section on *aireo*) goes further to obfuscate where the moment of decision lies. 'Simple' majoritarianism is never so simple, as different forms of voting means aggregating decisions in different ways and can lead to different results.

The distinction between deliberation as discussion as opposed to 'making a decision' highlighted by this discussion of *bouleuomai*, though inherently blurry, is significant because it helps us see why Aristotle privileges the political aspects of citizenship. Participation in positions of 'decision-making' has a central place in Aristotle's definition,⁹⁴⁴ and in this way Aristotle distinguishes the 'political sphere' which is accessed only by citizens and is where decisions are made, from the broader social sphere that was also occupied by citizens, and where their membership is key. Deciding '*Bouleuesthai*' requires power. So Aristotle's understanding of this term (τὸ βουλευέσθαι), the decision, is relatively narrow, but his

⁹⁴² Finley 1985 p.44

⁹⁴³ Though more common in judicial contexts.

⁹⁴⁴ 1275b18

understanding of 'participation' is relatively broad. To be eligible to sit on the panel of those who scrutinise decision making officials is, based on Aristotle's discussion, to share in decision making. This distinction is useful, because it can focus an understanding of how Aristotle's conception of citizenship is different from a socially grounded one.⁹⁴⁵ A stake in the outcome is not enough, because deliberation is about the means not the ends, to take part in deliberation one must have some share in the decision making process. Majority votes on proposals are not the only way the ancient assembly might include the people in the decision, and strict decision making is not the only kind of share citizens have in the polis who are also able to exercise their citizenship by participating in 'judgements'.

This understanding of *Bouleuomai* doesn't mean we should disregard the relevance of these ideas of the assembly. The assembly is not just for decision-making, but for making judgements as well, and especially in undemocratic poleis it is a key location for information sharing for elites; necessary for organising wars and other community wide projects. It is the less tidy and official forms of 'deliberation' that occur in the assembly that provide the background for some of its less recognised significance in Aristotle's definition: the judgment making, rather than the decision making. How assemblies with their combination of decision-making power and judgment have real impacts, especially in un-democratic contexts, will be the focus of this final chapter. Vitally, judgement, on all kinds of matters, happens in the assembly. It seems that the way Bickford describes the assembly deliberation has more to do with Aristotle's term *Krisis* than with *Boulemai*. The assembly exercises judgments about the application of the law, about the correct position on key issues, and all these things constitute significant aspects of citizen participation that does focus on means rather than ends, and so Aristotle can class it as 'decision-making' *boulemai*.

This narrow definition of deliberation identifies it as a kind of political discussion where the fundamental unity of interest in the decision-making body is assumed, and the debate is only over the route to the agreed ends. This theoretical requirement of unity to make decisions collectively presents something of a contrast with Aristotle's discussion of different constitutions where, it seems, every existing polis is predisposed to disagreements that will

⁹⁴⁵ For Examples the understanding we might get from looking at how citizenship was discussed in court Oratory Blok 2017.

lead to factions at odds over political aims.⁹⁴⁶ Where is the place for ideological disagreement in collective decision making? The democratic and oligarchic outlooks are at odds about the nature of equality, but it is not clear from Aristotle whether this constitutes a disagreement about ends or means. Indeed, the incommensurability of these positions is the fundamental rift at the heart of any polis, it is a conflict that must be managed but can never actually be resolved; the absolute victory of either side creates the conditions for fresh conflict to emerge along the same fault lines. Discussion of a fair distribution of power in the polis is not 'deliberative'. Indeed, the text of *Politics* itself cannot be said to be deliberative, since it largely consists either of attempts at delivering what the true 'ends' of politics are, or a speculative opinion which Aristotle is in no position to effect.

5.3.1 Aristotelian consequences of the theories of deliberation

These reflections on how 'deliberation' applies to the ancient assembly have some consequences for this enquiry into forms of political participation. Neither Aristotle, in the way he talks about participation, or modern commentators view the assembly as simply a political opinion aggregation machine. Nevertheless, Aristotle still places the assembly as the most typical form of participation in the polis, and assembly membership is very present in his definition of citizenship. The variation in decision-making powers of assemblies are defining features of different constitutions, but there is no assembly so powerless that it doesn't count at all as a form of participation. The assembly is also a place where citizens participate in the *krisis* of the polis by making judgements on public matters and have impacts on the *archai* of the polis through their election and holding them accountable. All these forms of participation are interconnected in a variety of ways accounting both for Aristotle's lack of clear definition of assembly, and for all the overlaps between responsibilities assigned to different parts of the polis.

The next section will look in detail at our evidence for assemblies as they were recorded.

⁹⁴⁶ 1301a26-1301b5 Suggests there is some potential revolutionary element in every constitution, in that the difference between the democratic and oligarchic outlooks are fundamentally irreconcilable and likely to keep occurring as alternative positions.

5.4.0 What the inscriptions can tell us about assemblies

Aside from just how widespread the practice of assembly with some legislative role was, we do sometimes get small pieces of detail from inscriptions about assemblies. A good number of the inscriptions that survive well enough to read at all are grants of citizenship and *proxenia*. These grants will include the decision-making bodies that made the decree. The most common enactment formulae are 'council and *demos*', but also 'council and polis' and just the city ethnic is also used. Due to the tendency for the top of decrees to be quite damaged these sections are most often incomplete. The *demos* appears most consistently in democratic poleis as part of the enactment formulae, but not exclusively.

5.4.1 A chronological overview of the "undemocratic" assembly in inscriptions

The *demos* (or *damos* in the Doric and Cretan dialects that appear more in the archaic period) are present in the inscription record from the archaic period. Though the early laws of Crete (discussed elsewhere) do not make much mention of the *Damos*, the law on adoption from the Gortyn code makes it explicit that adoption must be done before the gathered people and implies a place for regular gatherings.⁹⁴⁷ A 7th century law from Tiryns specifies the *Damos* itself "resolving" and this seems to be the earliest decree suggesting a legislative role for the assembly.⁹⁴⁸ An inscription from Chios gives us a relatively detailed Archaic constitution,⁹⁴⁹ and suggests a popular assembly with an associated council that conducts probouleutic business. Elis is a good example of a community with multiple attestations of an assembly from the end of the 6th and the early 5th century. *IvO* 7 mentions a possibility for appeal to the *damos plēthuon* for cases of offences committed in the Olympic sanctuary.⁹⁵⁰ *IvO* 4 also mentions the *damos*, connecting its role with an office called *damiorgia* who oversee a different set of Olympic officials. Although this inscription is too incomplete to be sure of the role the *damos* has in this system, the context would suggest some kind of oversight. *IvO* 3 has a slightly different term, *zamos plathuon*, which seems to also refer to an assembly, but the inscription is

⁹⁴⁷ Gortyn Code G72.10.33-11.23 Gargarin and Perlman p.39, p.75-79.

⁹⁴⁸ Nomima I.78= IGT 31= *SEG* 30.380 This is a particularly intriguing inscription, written in serpentine script that concerns the regulation of drinking van Effenterre Ruzé 1994 p.296 cf. Koerner 1985 who gives translations and Ekroth 2023 p.46-64.

⁹⁴⁹ ML 8, Simonton 2019 p.14 doubts that much can be taken from this inscription in terms of the actual functioning of the council.

⁹⁵⁰ Siewert Teuber 2013

very incomplete. These early inscriptions consistently demonstrated a role for the assembled people.⁹⁵¹ Nothing here describes the assembly as having general authority, but it has a specific role in legal appeal and oversight.

Although the quantity of explicitly democratic inscription increases in the classical period there is less detailed inscriptions from known non-democracies. This may have as much to do with how we are counting and categorising democracies as an actual trend; if we take an inscription mentioning the *demos* as sufficient evidence for a democratic constitution, then our list of non-democracies with any procedural inscriptions becomes very thin.⁹⁵² The most significant early examples of non-democratic inscriptions that indicate some mass participation are the Locrian settlement decree⁹⁵³ establishing a colony refers to a 'vote of the polis' alongside a vote in the council, and so perhaps suggests that the polis could be used to refer to an assembly of some kind, though the context is forbidding any citizen to propose a seditious law. In Halikarnassos⁹⁵⁴ a special joint meeting between citizens of Halikarnassos and Salmakis resolves property disputes between the communities, seemingly as a part of a synoecism. The city ethnic or just the noun 'polis' are used in decrees of this period. A federal decree for Argos, Knossos and Tylissos⁹⁵⁵ credits the decree to a 'sacred assembly' that seems to be in Argos, with the other

⁹⁵¹ A greater role than previously thought following Alwine 2018 p.238 Gagarin 2008, Simonton 2017 p.11-20.

⁹⁵² Robinson's case for a democratic Elis pre-471 BCE is based on *demos* related terms in their inscription record. Robinson 1997 p.108-111

Thouria's Hellenistic inscriptions *IG* v.1 1379,1380,1384,1386,1388 with their formulaic references to the *demos* suggest it is a democracy, argues Shipley Hansen & Nielson 2004 p.566 no.322.

Epidauros p607 no.348 Piérart makes this argument based on inscriptions formulae. The inscription *IG* ii² 105.35-37 referring to the *demos* Fischer-hansen, Nielsen and Ampolo use to describe Syracuse under the tyranny of Dionysus as democratic "in formal terms" p.227 no. 47

Similar arguments can be made about lesser-known *Poleis* and account for the labelling of some less prominent "democracies", particularly during the Hellenistic period when the inscription record is richer: Amphipolis, (Tod 150 = Syll.³ 194) and Olbia Avram, Hind and Tsetschladze in Hansen & Nielson 2004 p.937-939 no. 690

In combination with other evidence that points towards a democratic orientation, prominent and central roles for the *demos* in inscriptions is a reasonable indicator of constitution. There is even nothing wrong with these arguments based solely on inscriptions if "democracy" is defined broadly as a constitution that gives key powers to the *demos*, but this is not how it is defined by Aristotle. Neatly categorising all these *poleis* as democratic elides both mixed constitutions and the ancient debate on what exactly defines a democracy. As with polities today, many *poleis* likely had a contestable constitutional definition, as is shown by Aristotle's report of the debate over Sparta's constitution 1294b19-21

⁹⁵³ c500 ML 13

⁹⁵⁴ c460 ML 31

⁹⁵⁵ From c450 ML 42

cities. Megaris is an example of a polis where the later classical constitution shifts and so its difficult to describe the constitution at the time of this inscription.⁹⁵⁶

Later Hellenistic decrees give more details of the assembly's role in scrutiny, and more references to the 'demos' in enactment formulae. The mentions in enactment formulae are from across the Greek world including (but not limited to) Sicily⁹⁵⁷ at Halikarnassus various formulae refer to the assembly⁹⁵⁸ as well as at Aegina⁹⁵⁹ and at Larisa.⁹⁶⁰ Though a case can be made that some later epigraphic material may suggest some norms of assembly behaviour, I have taken 146BC (The battle of Corinth) as the decisive cut of point, for this survey, not just because this where Pausanias periodizes,⁹⁶¹ but because beyond this point even tentative inference from inscriptions about the state of institutions during Aristotle time some 180 years earlier seems difficult. This investigation is particularly interested in the function of assemblies that are not claiming to be democratic bodies, and this focus means so of the difficult questions of Hellenistic democracy can be avoided; the potentially undemocratic nature of the whole polis does not matter here, just the specific processes of their assemblies.

5.4.1 What are the functions of inscriptions regarding assemblies?

Having narrowed our focus to those sets of inscriptions from which we get details of assembly practices, we can make some generalisations about what the function of inscribing these things into stone was.

Looking at the poleis themselves, based on Hansen's inventory 144 (archaic and classical) poleis have decision making bodies that are attested. Of these 24 have only a boule or *dikasterion* attested, rather than a broader assembly. 'Assemblies' of some kind are attested then in 120 poleis, with some caveats. The inventory does not distinguish between *demos* and *ekklesia* in coming to this number. Though this suitably summarises the gist of the evidence it elides the difference between our written sources, which tend to reference *ecclesia*, and the

⁹⁵⁶ Diod 15.40.4

⁹⁵⁷ Kamarina *SEG XII* 379 and Gela *SEG XII* 380.

⁹⁵⁸ As *ekklesia* *SEG IV* 183, and as *demos* *SEG* 26; 122.

⁹⁵⁹ Rhodes with Lewis p.67

⁹⁶⁰ Rhodes with Lewis p.180 Here we have inscriptions that record the assembly, where assemblies are described as 'lawful' and the proposers of decrees are named discussed in more detail below.

⁹⁶¹ Paus 7.16.9

inscription evidence which tends to prefer *demos*. This assumption is relatively secure, as in some place's *demos* must refer to assemblies; not just at Athens where the inscriptions make it clear that *demos* refers to an assembly but also else⁹⁶² or similar. These instances securely connected the use of 'demos' in inscriptions to 'the assembly'. Nevertheless, *when Demos* is used only in the enactment formulae we might be sceptical as to what 'people' exactly is being gestured at. We can at least say that decrees mentioning the *demos* decided on at an assembly.

Estimating how many attestations of assemblies come from known non-democracies introduces the problem of varying standards and vocabulary for constitutional categorising into our already fraught list. Often, we are only aware of a constitutional assignment when an ancient source reports stasis, and this might indicate more a direction of travel than an absolute assignment.⁹⁶³ Inscriptions often have uncertain dates and periods of democracy or oligarchy may be brief, so even if we have an inscription indicating an assembly, and a certain description of constitutional change, we also need to date both these things accurately to describe this as an attestation of a non-democratic assembly. Then we have poleis which are never assigned a constitution or are only ever given ambiguous descriptions, such as Delphi. Given all these caveats it is still possible to say with some certainty that we have at least thirty attested assemblies in times and places that are known to be non-democratic, with much higher number likely. Simonton concludes that assemblies were a feature of oligarchies,⁹⁶⁴ and there is evidence (discussed below) of irregular mass meetings in other non-democratic poleis.

It is helpful to clarify the uncertainty in the evidence by a survey of the inverse cases, where no assembly can be attested. Of these 24 poleis with an attested decision-making body but without attested assemblies, many have possible assemblies, such as Massalia which has a dubious assembly attested or Aigina which has later attestations.⁹⁶⁵ Most have such a lack of evidence that the one decision making body we have is virtually all we know about that place's political structure. Many of this category are accounted for by poleis of the Boeotian league, and their councils are attested due to mention in *Hell. Oxy.*, in reference to their league

⁹⁶² SEG 18.570

⁹⁶³ For example Xen. *Hell.* 6.5.6-9 describes a revolution that is certainly anti-spartan in character, but doesn't describe the new constitution as democratic.

⁹⁶⁴ Simonton 2017, Ma 2024 p.220-222 suggests a picture of convergence, where more poleis adopted democratic institutions including the regular assembly.

⁹⁶⁵ Massalia by inference from Strabo 4.1.5 and IG xiv 357, Aigina just by *demos* in 159-144 BCE in IG IV 1.1.

membership.⁹⁶⁶ The exceptions from Boeotia that do have evidence for an assembly are Thebes which is larger and has a wider variety of evidence available generally, and Oropos, whose status fluctuated in and out of the league and where we have information from its periods as a dependency of Athens.⁹⁶⁷ The Boeotian league is uniquely poorly preserved in inscription detail, so the only non-assembly decision making body at all attested comes from the single source of the *Hell. Oxy.* This incident of preservation seems suggestive that there are other assemblies, and other decision-making bodies in general, which existed and functioned regularly, but which have left no trace yet discovered.

Essentially wherever we have any detail, from inscriptions or from literature about the politics of a polis, we usually have evidence for an assembly, and this is almost as true for non-democracies as for democracies. This context is what supports the consensus that assemblies are a practically ubiquitous features of the ancient polis.

5.4.2 Access to the assembly

The first potential axis on which to categorise assemblies is who is allowed to attend. At a glance it can seem intuitive to suggest that limiting access to the assembly to only certain citizens would be normal in oligarchic polis, but this seems not to be the case. The rights-based approach to citizenship has given us a plethora of works discussing who could actually come to assembly meetings. Membership of the deliberative bodies is a significant factor defining the constitutional spectrum for Aristotle, implying this is a label he is using for constitutional analysis that need not be referring to the assembly, but rather the body in which meaningful decisions happen.⁹⁶⁸ This is a statement of tendency rather than a hard categorisation; explicitly non-democratic poleis (Sparta for example) could have assemblies open to all full citizens. The distinguishing limit is on what these accessible assemblies had the power to deliberate on. Nevertheless, there are places that seem to have excluded some people called citizen from bodies called assemblies, and these cases are worthy of examination for what they tell us about the diverse understandings of assembly.

⁹⁶⁶ *Hell. Oxy.* 19.3

⁹⁶⁷ *Diod.* 14.17.1–3, *Thuc.* 2.23.3

⁹⁶⁸ 1298a 9–35

Rhodes with Lewis furnish a full discussion of access to the assembly.⁹⁶⁹ Assemblies are often vaguely described as open to all, though this openness is not quantified. The explicit exceptions to openness can be listed, although implicit exclusion was probably more normal. We can suggest that federations more often needed explicit exclusion in their assemblies. In the late fifth and fourth centuries Boeotia's assembly had a property qualification for access.⁹⁷⁰ Rhodes with Lewis suggests the Arcadian federation's 'ten thousand' likely excluded some citizens.⁹⁷¹ A tentative theory explaining this could be that smaller partners in federations would demand a certain regulation on assembly attendance to avoid being swamped in decision making bodies by more populous member states, or that assembly sizes had to be limited for practical reasons. In Delphi there seems to be distinct assemblies that include different classes of citizens.⁹⁷² Coin distributions at Polga and Sillyum distinguish between the amount given to assembly members (*ekklesiastes*) and the amount given to citizens⁹⁷³ and whilst this may suggest some distinction in status it could equally suggest some assembly pay. After the main period for this study, in the first century AD in Tarsus the assembly members paid a fee to attend,⁹⁷⁴ although in context *Dio Chrysostom* is arguing against this practice, and it seems to be more of a citizen's poll tax. Both these arrangements fit into Aristotle's scheme for assembly pay in democracies; whilst the oligarchic list system he mentions cannot be demonstrated, there are surviving examples of citizen lists that may form a part of this system.⁹⁷⁵

Implicit exclusion seems to have been a significant factor in suppressing turnout. Aristotle suggests designing the assembly's conditions in this way. Even in democratic Athens working citizens may have simply had other business that made regular journeying to the assembly impossible. This is demonstrated by the obverse, when the Peloponnesian war brought rural citizens and swelled the assembly. Such clear-cut examples of implicit exclusion are difficult to confidently locate. Assembly dates seem to have sometimes matched up with festivals that would bring rural citizens into the centre anyway, such as the Tean assembly aligning with the festivals of Anthesteria, Heracles or Zeus.⁹⁷⁶ These kinds of calendar alignments give more opportunity for fine tuned assembly manipulation: some assemblies would be much easier to

⁹⁶⁹ Rhodes with Lewis 1997 p.507

⁹⁷⁰ *Hell. Oxy.* 19 ii

⁹⁷¹ *IG* v. I.38 Xen. *Hell.* Vii. i. 38, Rhodes with Lewis p.507

⁹⁷² *F. Delphes* III, iv. 98, *SEG* xii 226

⁹⁷³ *IGRR* iii 409;800,801

⁹⁷⁴ *Dio Chr.* XXXIV 21-23

⁹⁷⁵ Kamarina *SEG* 41; 778-795

⁹⁷⁶ *OR* 102 ln29-35

attend than others for certain parts of the polis based on the festival calendar, and so in highly predictable patterns. Any reasonably canny political actor with probouleutic powers could use this to considerable advantage, timing assembly business according to the kind of assembly it was being addressed to.

5.4.3 Frequency of the assembly

The question of how frequent assemblies were has a greater variation of answers than the question of who was permitted to attend but is a question we can more consistently answer. A frequent assembly is one of the norms of democracy that Aristotle suggests,⁹⁷⁷ so we might expect substantial variations in the regularity of assembly meetings. Rhodes with Lewis suggest monthly meetings as a general norm although we have a selection bias in that this is founded upon epigraphic evidence, and polis which record more meetings epigraphically are also more likely to be democracies.⁹⁷⁸

It is possible to suggest a norm of universal citizen access to assemblies that took place regularly, at least technically. Whilst arguing for the ubiquity of a 'universal' citizen assembly in general it is important to stress just how varied the practical character of these assemblies could be, both from one polis to another and the same assembly at separate times. Assemblies could be under-attended with implicit barriers to attendance for poorer and more rural citizens, or they might not hold any decisive legislative power. Following Aristotle's guide to the indicatively democratic features of an assembly we see just how many ways an assembly could be undemocratic. A key question to get at the de facto political functioning of a place would be: who is actually able to come to the assembly? Even in the most intense moments of participatory democracies the Athenian assembly cannot have contained close to the number of citizens eligible to attend. Simply having an 'assembly' which every citizen is allowed to attend does not actually reveal details of the distribution of power in a polis, but its presence as a general norm is significant for how citizenship is conceptualised.

⁹⁷⁷ 1298a3-34, 1320a17-29

⁹⁷⁸ Rhodes with Lewis 1997 p.504-9 Chersonesus in Crete (*I. Cret.* I. vii 5); Colophon in Crete (PEP K 6); Delphi (IG ix. ii 1109), "Cities from which we have a good supply of dated decrees have spread through the various months of the year" p.504. Oropus, with its very full list of dates of inscriptions, demonstrate this. Less frequent meetings also take place; Acragas Gela, every two months. Teos and Abdera also have regular assemblies (based on curses PEP Teos 261,262).

Multiple meetings a month in Athens, Samos (PEP 122, 1-2), and Cyzicus (*IK* 8)

Chersonesus in Crete⁹⁷⁹; Colophon in Crete⁹⁸⁰; Delphi,⁹⁸¹ demonstrate assemblies throughout the year along at least slightly ambiguous constitutional orders but otherwise the monthly dated inscription are certainly democratic. Oropus, with its very full list of dates of inscriptions, is one (sometime) oligarchy that demonstrates a regular assembly. Less frequent meetings also take place; in Acragas Gela, every two months. Teos and Abdera have attested assemblies based on requirements for public curses.⁹⁸² The regularly meeting assembly is, according to Aristotle, more democratic, though it may also be that regular unpaid meetings were impractical for poorer citizens to attend and could therefore shift initiative towards more oligarchic tendencies.

5.4.4 Probouleutic procedures and decree proposers

Probouleutic procedures give us an impression of the level of control and oversight assemblies might have been constrained by. An inscription from Cyme demonstrates this two-step process: "Resolved by the council" "that it should be resolved by the people."⁹⁸³ Indicating quite clearly in the language that the council is the prime mover of this decree. Good probouleutic procedure could both empower and disempower the *demos* depending on details we simply do not have access to. Examples of the power of probouleutic procedure will be discussed with regards to Sparta.⁹⁸⁴ Large assemblies with vaguely defined powers seem particularly vulnerable to domination by a probouleutic council alert to its powers simply by the need to keep the crowd organised.

We can also get some impression of how assemblies were dominated by certain characters because some inscriptions that name the proposer. The Thessalian inscriptions are an example of how motions in the assemblies were dominated by a few figures because they have the presiding officials named along with the proposers of decrees. This means we can see that officials with known names are most of the proposers of decrees, enough to suggest that, for at

⁹⁷⁹ *I. Cret.* I. vii 5

⁹⁸⁰ PEP K 6

⁹⁸¹ IG ix. ii 1109

⁹⁸² PEP Teos 261,262 these are at least every year and probably more regularly. cf Adak & Thonemann

⁹⁸³ SEG XXXIII 1035-41 Rhodes with Lewis 1997 p.485

⁹⁸⁴ cf 5.5.4

least a period in the late 3rd century, only officials could propose decrees.⁹⁸⁵ Larisa is a good example, as Aristotle discusses on several occasions in *Politics* and so is one of the best attested of the oligarchies. A board of *Demiourgoi* is implied⁹⁸⁶ and Polito-*phylakes* elected by the assembly,⁹⁸⁷ together with magistrates controlling who is allowed in the agora.⁹⁸⁸ So in Larisa an assembly's power was muted, with a careful use of elected representatives suggested by Aristotle to control democratic debate, and the assembly itself dominated by few proposers.⁹⁸⁹ These forms of assembly domination suggest that giving officials exclusive powers of proposals in assembly was a widespread practice and one that could fix formal power in an assembly open to all citizens in favour of a smaller governing body.

These patterns may be suggestive of domination, but is it that different from the assemblies of democracies? Orators mastering rhetoric and so misleading the assembly is a perennial concern not just at Athens but wherever assemblies are significant institutions. There is a consistent theme in ancient writers that assemblies are vulnerable to manipulation; to being persuaded to act against their own best interests by dishonest speeches and political theatre. Though this work is often grounded in anti-democratic political assumptions, we can still take seriously their report of an experience of assemblies controlled by demagogues and so not always acting according to a more considered popular will. Nevertheless, a direct comparison in terms of decree proposers reveals a stark difference between democratic Athens and oligarchic Larisa. The demagogue is a spokesman for the broader crowd of assemblymen in Athens, and analysis here suggests that whilst some speakers are much more frequent participants in debates, a wide range of names appear proposing degrees, suggesting a broad distribution of active participation⁹⁹⁰. In contrast, as noted above, all the evidence in Larisa shows a narrow range of proposers. The difference between the oligarchic and the democratic assembly is merely a difference in degree than in kind, but the cumulative effect of a muted assembly along with other oligarchic institutional features works to disempower the demos. Nevertheless, and as a counterpoint to the picture of assembly domination drawn in this

⁹⁸⁵ Rhodes With Lewis 1997 p.179 *SEG* xxix 529

⁹⁸⁶ 1275b29

⁹⁸⁷ 1305b29

⁹⁸⁸ *Pol.* 1331a30

⁹⁸⁹ Hansen & Nielson 2004 p.695 Proposers: Rhodes with Lewis 1997 p.490-7, 512, 556.

⁹⁹⁰ Hansen 1989 and Ruzé 1997 have analysed the evidence on the proposers of Athenian decrees to suggest that political initiative was fairly evenly distributed.

section, the next section will explore reasons why undemocratic assemblies might exist at all, and how exactly they constitute participation for their members. This will be done through reconstructing the environment of the assembly with the use of ancient descriptions of mass meetings.

5.5.0 Reconstructing assemblies by accounts

A well-ordered, or 'lawful', assembly would for the most part simply assent to the legislation placed before it by the council and go through the procedures confirming magistrates. These kinds of meetings appear in our inscription record, as we have seen, very frequently. Ancient literature tends to be more interested when significant matters of foreign policy are being decided in the assembly or when the assembly seizes its opportunity for revolutionary action. Around half of the assemblies attested in non-democratic constitutional context come from mentions in literature.⁹⁹¹

5.5.1 Themes of ancient authors

Ancient writers discussing various assemblies, refer to enough common features to suggest a consistent institution of the assembly and provide a useful definition, even if any definition based exclusively on either the powers or the members of an assembly is not enough. *Ekklesia*, often but not always used with *sunago*⁹⁹², is used to refer to extraordinary assemblies called by an individual but is also used to describe more constitutionally regular assemblies. Assemblies are used to represent the citizens of a polis, an army, a collection of poleis, and occasionally even generic people of a region. Consistently in literature from Herodotus to Diodorus the assembly is portrayed as rowdy, fickle, occasionally violent, and always liable to be misled.

⁹⁹¹ See here the Inventory of Archaic and Classical Poleis, especially Index 12 on decision making institutions Hansen Nielsen et al 2004. Of those texts most of the evidence for undemocratic assemblies comes from the major histories; Thucydides, Herodotus, Diodorus has particular interests in certain assemblies all discussed below.

⁹⁹² 'Gathering together' is occasionally used in a more general sense, but usually implies some political cause. Someone is doing the gathering for some purpose with the entire spectrum of political types, even if that is often announcing rather than seeking a consensus decision.

These are well discussed points of the ancient critique of democracy⁹⁹³, but it is useful to review in detail accounts of conduct in assemblies because they can provide important reflections on the experience and atmosphere of these events. Assemblies are moments of high drama that reveal the character of the masses and the leaders that speak to them that writers want to convey. Indeed, historians express their moral reservations about assemblies in their retellings of these moments. Assessing the conduct of historical figures for their judgement and ethics is within the self-assigned remit of ancient historians and accounts of speeches in the assembly reveal the character of political actors either for its own sake as a study on virtue⁹⁹⁴ or as part of broader historical narratives.⁹⁹⁵

As well as examining character, the assembly meetings are also used to move political narratives on or to stage set piece debates for the reader. Assemblies in histories are significant moments in the narrative that connect the decisions of an individual to the course of action taken by an entire polis, army, or other group. This simplifies the narrative and creates the assembly as a foil for the powerful characters. Disreputable characters manipulate the assembly and play to its worst emotions, but reputable ones must manage the assembly using similar techniques.⁹⁹⁶ The assembly in this way functions in the narrative as a test, not just of oratory skill but of character. In addition to this, long debates framed as assembly meetings are used as dialectic digressions that invite the reader to consider how they would resolve conflict between differing positions. This does not mean these meetings are entirely fictional, but suggests some invention, and a heavy editorial hand, to clean off details that do not contribute to the tidy framing of discussions. Diodorus especially, and historians in general, represent 'the assembly' as a single undifferentiated mass, rather than discussing different factions within the assembly.⁹⁹⁷

I have used references to assemblies of the army because of their frequency and therefore their significant contribution to assumptions about what a mass assembly was for and what one could be like. The army assembly is also an important site of conflict from Homer through to

⁹⁹³ Plato *Rep* Pseudo-Xenophon, cf Roberts 2011

⁹⁹⁴ Diod 30.15

⁹⁹⁵ Thuc 1.20-22, and particularly the famous formulation at 1.22.1 where the purpose of speeches is given as clarifying the historical narrative, speakers explain their positions and give details that are designed more to reflect "the sentiments most befitting the occasion", reflecting what people would say. See also Her. 1.1, and subsequent speeches where they function to explain motives and causes.

⁹⁹⁶ Diod 16.68, 18.64, Thuc. 2.65

⁹⁹⁷ Diod 13.19-33 for example reports a debate on killing prisoners of war. The crowd is represented as cheering for opposite sides in turn.

Roman writers. There is violently enforced discipline but also the most potential for violent popular disruption. Xenophon's soldiers of the 10,000 will listen to reason but will also shout down opponents and stone to death messengers routinely.⁹⁹⁸ The circumstances of an army on campaign are unique and different to those that take place at home, the soldiers are very aware of the proximity of death and have serious personal stakes in every decision made. Additionally, they are desensitised to, and practiced in, collective violent action. The experience of fighting on campaign is common enough to Greeks of this period that these assemblies certainly informed political assumptions, but the circumstance are clearly different in most cases. A persistent strain in scholarship sees the polis, particularly the assembled polis, as essentially the army.⁹⁹⁹ To the extent that there is any merit in this idea, it could more easily be reversed; Greek armies behave more like polis assemblies than the other way around.¹⁰⁰⁰

5.5.2 Noise and silence

Assemblies were noisy, to the extent where effectively a popular veto is exercised over any potential speaker by the crowd refusing to let them be heard. Members of assemblies could shout down speakers they disagree with and render them unable to present their arguments. There is some suggestion of attempts at regulating this behaviour but the regulations we have evidence for target speakers for incitement rather than the crowds themselves.¹⁰⁰¹

This generates an environment where an energised and vocal minority can manufacture stalemate against a more tempered majority; even in a modest sized assembly a large minority of members can create enough noise to prevent any speaker from appealing to quieter members. Given how much easier disruption is than deliberation, we can assume that any successfully held assembly required good will from a strong majority of its members. This functions as a veto that could delay meaningful discussion, legislation, and action. The fact that assemblies could be derailed underscores how willing members would have to be to hear

⁹⁹⁸ Xen. *Anabasis*. 5.6

⁹⁹⁹ Hanson 1995 presents the most extreme version of this army first analysis, but there are echoes elsewhere. Aristotle 1297b15-30, where he describes old monarchies becoming new constitutions and so cavalry armies becoming hoplites can be used by this approach, although it isn't exactly clear what process Aristotle views as causal here.

¹⁰⁰⁰ Explored in Nussbaum 1967.

¹⁰⁰¹ Diod 13.92-96 The example from Diodorus is an instance of fines for rabble rousing not working at all to prevent it.

each other out for this not to happen. Significantly, whilst regular boisterous assemblies were held more in democratic places (this seems to go for extraordinary assemblies, as well as regular ones) the special assemblies held by armies and in non-democratic situations also had a tendency to become rowdy.¹⁰⁰² Assemblies without voting powers can only assert themselves by the noise they make, and though this may seem like a flimsy power its capacity to impact policy should not be overlooked.¹⁰⁰³

A certain amount of quiet would be a necessary condition for audible speech in the assembly. Speakers would have to command attention and deal effectively with disruption if they were going to be heard.¹⁰⁰⁴ The Homeric assembly is policed with elite mocking and beating of those who speak out of turn as Odysseus does to Thersites, an act he is praised for and causes laughter among the men.¹⁰⁰⁵ Though the violence is not always present, the use of public laughter to police speech reappears consistently, and speakers are praised for their ability to undercut interruption with wit.¹⁰⁰⁶ Some popular noise and the threat of violent repression could exist together in many assemblies. At Athens at least, when the right to speak in the assembly was more substantially established¹⁰⁰⁷, heckling and shouting down seem to be common practice.¹⁰⁰⁸ *Isogoria* was a right that many chose not to exercise where it did exist¹⁰⁰⁹ and so informal and internal repression of political speech likely existed everywhere. The social risks of public speaking would have put many off, and particularly in places where one's right to speech was unprotected it may have been dangerous. At Athens there are penalties for making unconstitutional proposals and deceiving the demos,¹⁰¹⁰ and it would follow that anywhere freedom of speech in the assembly did not also mean freedom from legal, political or personal consequences. In these ways an assembly with thousands of members who theoretically could speak moves from a cacophony to a manageable level of noise.

¹⁰⁰² Xen Ana. 1.4, Diod 18.36-39

¹⁰⁰³ De Ste Croix 1979 p.348-349 argues that counting votes is a substantial democratic innovation, and that the assembly of Homer has no power, although I would argue that the possibility of mutiny creates influence even when it is a difficult option to use.

¹⁰⁰⁴ *Rhet.* 1414a16-17

¹⁰⁰⁵ *Il* 2.260-77

¹⁰⁰⁶ Diod 13.83

¹⁰⁰⁷ *Isogoria* in Athens seems to have developed from Cleisthenes reforms, at least in conscious reflection Raaflaub "Freien Bürger Recht" p.28-34.

¹⁰⁰⁸ *Rhet* 1355a2-3, Dem. 19.23-24, 46

¹⁰⁰⁹ Dem. 22.30 There is also some debate on the organs of *isogoria* even in Athens Griffiths 1966.

¹⁰¹⁰ Notable by their suspension for the abolishment of the democracy Thuc 8.67.

Even with these various noise moderating factors, complete silence in large groups of people, under any circumstances, was relatively unusual. Assemblies could also be completely silent, though it seems to be only in exceptional circumstances. Long silences in crowded spaces are tense and unusual, but demonstrate either situations in which the assembly is out of ideas, or potential criticism has been silenced by fear. Diodorus reports this occurring, under these circumstances, after Philip declares war on Athens in 337.¹⁰¹¹ Commanding a silence functions as a demonstration of supreme political authority.¹⁰¹² Both these assemblies were silent because of their relative lack of power, either because there is nothing that can be done or because the assembly is deferring to an individual's power. In either case, significantly, the assembly itself is lacking substantial power, and the speechlessness of leaders and participants reflects a genuine lack of political options. Though Speakers have the political initiative the crowd participates in these speeches by their reactions.

The level of sound in the assembly was important to how effective it could be as a deliberative body. Whether silent or deafening, the noise was a product of the assembly acting together that, though indefinite, had a meaningful impact on political events. Even if the noise was a product of a loud minority, it would have been experienced as the collective action of the entire assembly. Speakers would have to be led in some ways by the wishes of the crowd they were talking to.¹⁰¹³ We see often very powerful individuals moderating their message in response to the mood of the crowd.¹⁰¹⁴ This form of shared participation in political space can be missed by a simple report of what rights assemblymen held. The related informal and indefinite collective power held by assemblies was in some sense also undergirded by their potential for violence, or at least assertion of popular force.

5.5.3 Violence and potential

Assemblies had potential for violence. Reports of violence in the assembly are relatively rare, but these instances demonstrate the threat was always implicit in a crowd. Attempts at regulation may mitigate the possibility of sudden deadly violence but, as the descriptions of violence show, the mob could find a way. Diodorus' reports of assembly violence show just how

¹⁰¹¹ Diod. 16.84

¹⁰¹² Diod 19.81

¹⁰¹³ Diod. 13.31 The Laconian general Gylippus suggests speakers reacting directly to the audience wishes.

¹⁰¹⁴ The Otis Mutiny is an example of this in the context of an Army Diod 17.109, Curtius, 10. 2. 8–4. 3; Justin, 12. 11. 5–12. 7; Plutarch, Alexander, 71. 1–5; Arrian, 7. 8–11.

common this could become during periods of strife.¹⁰¹⁵ Though actual violence in assemblies seems rare from our evidence, and far more likely at specially called or irregular assemblies than at constitutionally regular ones, the credible if unspoken threat of popular violence surely informs regular assembly discourse. Angering the assembled people is always risky, even if they have formally submitted to leaders and have no constitutional power.¹⁰¹⁶

Between the possibility for violence and the chance of some other unexpected turn occurring, the assembly provides a space for extra-constitutional action to impact politics with popular support. Assemblies managed by elites represent the co-opting of this potentially disruptive popular energy to support measure. What remains an open question is how, if at all, this form of power was acknowledged and talked about. Ancient writers seem to have two distinctive ways of acknowledging this potentially disruptive assembly power, either by fearfully condemning the ungovernable chaotic assemblymen, or by complaining of assemblies' vulnerability to manipulation.

5.5.4 The Spartan assembly

Between the literary interest in the Spartate constitution and Thucydides' recording of the origin of the Peloponnesian war, we have significant details about the procedure and atmosphere of the Spartan assembly. A fragment of Tyrtaeus outlines the ideals of the Spartan system and grants, in somewhat ambiguous terms, a leading role to the Spartan assembly.¹⁰¹⁷ Beyond the broad strokes surviving of the Great Rhetra, Spartan assembly procedural details come to us by Thucydides,¹⁰¹⁸ Xenophon¹⁰¹⁹ reporting incidences of the assembly, Aristotle discussing the constitution of Sparta¹⁰²⁰ and Plutarch's life of Lycurgus,¹⁰²¹ with other eclectic mentions of procedures that have not fully survived. Though Sparta is a kind of mixed constitution Aristotle barely mentions its assembly; it is the ephorate and social regulations. He details the Spartan

¹⁰¹⁵ Diod 13.87, Diod 12.19

¹⁰¹⁶ The army's threat in Eur. *IA*. 517 is enough to motivate Agamemnon to infanticide.

¹⁰¹⁷ Tyr. Frag 4 give 'Victory and power' to 'the multitude of the demos'

This fragment is via Strabo 8.4.10. See Cammack 2025 p.22 for a discussion of this fragment's significance for assumptions about archaic assembly power.

¹⁰¹⁸ Thuc. 1.87

¹⁰¹⁹ *HG* 5.2 and *HG* 3.3.8 suggest another body, 'the small assembly' otherwise unknown, but perhaps a council.

¹⁰²⁰ 1265b35-1266a2, 2.1269a30-1271b20

¹⁰²¹ esp. *Lyc.* 6.6-7 26.3-5

assembly indirectly because it is the same as the Cretan;¹⁰²² The assembly gets to confirm resolutions put to it by the council and monarchy. At a minimum they are consulted on declarations of war, and they have some juridical role. They also probably have some kind of role in selecting some officials as discussed in the previous chapter.

De Ste Croix discusses the powers of the Spartan assembly and he accepts Aristotle's picture in *Politics* as essentially accurate. In addition to the powers Aristotle suggests¹⁰²³ Croix suggests that the Spartan assembly could merely ratify decisions and accept decisions, and members had no right to speak.¹⁰²⁴ He justifies these two speculations by the absence of evidence for meaningful debate, the general attitude in Sparta of aristocracy and deference, and the significant powers held by other institutions of the Spartan constitution that would reduce the need for deliberation in the assembly. Additionally, De Ste Croix points out the potency of the juridical Gerousia that would have heavily influenced the decisions of Spartan Kings.¹⁰²⁵ Instances of decision described as being taken 'by the Spartans'¹⁰²⁶ can be taken as a formulaic synecdoche or referring only to ratifying not debating. All we can know for certain that the assembly had the power to vote on is war, and we can assume that the right to speak in the assembly was limited, probably to Ephors and Kings. The Ephors also exercise ad hoc procedural control, to famous effect in Thucydides,¹⁰²⁷ giving them the ability to manufacture consensus to a certain degree.

Given how limited their powers were, the Spartan assembly is a good counter-example to the empowered Athenian assembly. The function of this assembly is not primarily deliberation. There is a clear similarity between the Spartan assembly and assemblies held in armies. Important military decisions directly affect all fighting citizens, and effective management of the large body of armed men would need more of an active willingness to participate than more

¹⁰²² 1272a11-14 Aristotle doesn't address the spartan assembly in the main section on the spartan constitution, but references its features talking about similarities with the Cretan assembly powers 1265b33-66a1.

¹⁰²³ That is the assembly as a body for confirmation of resolutions formulated by the council (1272a11-14).

¹⁰²⁴ De Ste Croix 1979 p.124

¹⁰²⁵ De Ste Croix 1979 p.134-5

¹⁰²⁶ This occurs several times (Thuc. 1.128; Xen., HG 5.4.13; Plut., Lys. 30.1; and similar passages) or 'the citizens' (Diod. 14. 89. 1); cf. Xen., HG VI iv.5

¹⁰²⁷ Thuc. 1.128 cf Cartledge 1987 on the power of deciding to divide here.

subtle points of policy. The voting by acclamation would have allowed a degree of anonymity in opposition to war and so encouraged the reluctant to voice (if only generally) concerns at that point. Having an accurate measure of the citizen body's feelings about a war would have been useful information for Spartan leaders making military decisions. It may have been difficult otherwise to gauge the popularity in a political environment in which authority is not questioned, so the value of this kind of popular feedback to power holders should not be underestimated. The shouting may have worked to emphasise the feeling of consensus around popular decisions, with the case in Thuc. emphasised as an exception. The ability of the ephors to change procedure gives them the flexibility to manage assembly opposition. Sceptically we might also add that in ambiguous cases the officials charged with judging the volume of the shouts might have placed a significant thumb on the scales, further increasing their power. The Spartan assembly then serves as an example of how the institution could be a useful organ of elite power, but significantly it functions in this way because of the share in polis decisions it gives to assembly members.

The assembly could have functioned as a check on potentially ambitious kings who could otherwise exert their executive power to make war, and in combination with other features of the constitution this is a real and significant power ¹⁰²⁸. Sparta was famously averse to adventurist wars, a reputation that suggests this check was somewhat effective. Spartan kings would be forced to put together a substantial case for war, work with the Ephors, and this process would make rash action difficult even if securing popular support for a war was not the most important limiting factor. The Spartan citizens also get to bear witness to the reasoning for a war, and each other's enthusiasm for one. This again works to promote consent both by traditional persuasion and by creating an atmosphere of enthusiasm. The affirmation of the assembly affirms the war itself, which has an important formal social and religious significance. ¹⁰²⁹

5.5.5 'Special' Assemblies

Though we have evidence for some regular assemblies in oligarchies, it is very sparse. We don't know what these events were like, or who attended. What historians do discuss is special

¹⁰²⁸ Hdt 6.56 mentions the traditional right of Spartan kings to make war without opposition.

¹⁰²⁹ Tyr. Fr.4 referenced above makes an explicit connection, the victory of the many of the demos is part of an Oracle of Apollo. Indeed, we might read the famous spartan religious scruples as an expression of the veto powers vested in the assembly, who may be less likely to countenance religious impropriety than political elites.

assemblies. Tacitus's advice is that the moment you hear of war, you must call a general assembly and let the citizens of your polis know what is going on. These kinds of events get detailed attention in our sources, because they relate to matters of war and peace and they have a lot of impact on the kinds of things historians are interested in – the rise of empires, and course of big wars, the careers of generals and kings.

In Homer we see two different kinds of assembly. The fraught assembly in book 2 of *The Iliad* is introduced as unreasonably large and difficult to order. Though Agamemnon had been able to overrule the mass of the Achians before¹⁰³⁰ he is unable to get them to obey him. They hear Agamemnon's plan to test their resolve, lying to them and informing them that he has had a bad omen. Against his hope they promptly break and flee in disorder.¹⁰³¹ It takes Odysseus berating the army to bring the assembly to order. He persuades the kings,¹⁰³² but uses the stick and harsh words for the men of the demos.¹⁰³³

At the end of the *Odyssey* book 24, line 412-469, a less military 'assembly' is called amongst the grievors of the suitors. They have a known 'gathering place',¹⁰³⁴ suggesting this is not a unique event. They hear both sides, and whilst more than half leave, the rest choose to try to catch Odysseus and effectively execute a civil war. This kind of impromptu assembly turned mob has some features in common with the routing army, but is more self-organised and has a specific purpose. As such it represents a political nightmare for the elite, and only the intervention of Zeus and Athena prevents more civil bloodshed. The fact that the opposition to Odysseus fails to win round a majority of the crowd¹⁰³⁵ suggests that perhaps a more pro-active response to the suitors' families, where Odysseus gets ahead of the plotters and confidently called an assembly of his own, could have solidified his support and shown the opposition they were in a minority. This would have been a risk for him but given that he ultimately ends up having to compromise with only those Ithacans most radically opposed to him anyway, it may have been the best course of action. The failure of Odysseus to effectively manage this civil strife almost ruins his homecoming, and peace is maintained only by the direct divine intervention. These examples demonstrate that the basic models for how assemblies might be controlled,

¹⁰³⁰ *Il* 1.22-25 The Achean's shout their Agreement to respect the priest.

¹⁰³¹ *Il* 2.144-150

¹⁰³² *Il* 2.188

¹⁰³³ *Il* 2.198

¹⁰³⁴ *Od* 24.420

¹⁰³⁵ *In* 463-6

and the dangers of failing to control them are fully present already in these Homeric examples. Calling and controlling assemblies, even if they become chaotic, seems to be a better option than allowing the people to meet independently where opposition to the elite might gain the initiative.

An assembly might also be used by rulers to draw out opposition. In a passage of Herodotus we are told of a new tyrant assuming power in Samos and asserting control by calling an assembly. Maeandrius takes Samos and calls an assembly of the town, and calls on them to share power.¹⁰³⁶ He wants wealth and a hereditary priesthood. Someone challenges him on this in the assembly, so he shifts his policy, asserts a more violent control and makes himself despot. Someone speaks against the usurpation, and whilst this challenge at first seems to disrupt the seizure of power, ultimately it works in his favour. The challenger is quietly put to death the following day. As Frullini notes "It could seem natural to use *politai* with regard to an assembly meeting, but the passage makes clear that the essential element of 'horizontal' collective action has no place here: Maeandrius claimed to have the right to succeed to Polycrates and wield absolute power over the Samians, rejected their demands for a financial audit, and eventually imprisoned his opponents." This is part of Frullini's wider point, that *Astos* refers to the group for which individuals perform status.¹⁰³⁷

5.5.6 Potential and potency

These writers are generally more interested in the speakers rather than the audience, who only get discussed if they act in a way that is unusual or impactful. This can help us discuss how the crowd can affect the outcome. How do assembly members 'take part' if not by voting on final decisions? Most obviously there is disruption. Disruption can take several forms. There is speech, a well-timed unsanctioned shout might become a fully disruptive chant as discussed above. These acts are disruptive if the assembly is unable to continue according to its procedural norms; losing a vote in an assembly with that power, even when it is unexpected, is not 'disruptive' in this sense, and so this idea of disruption applies mostly to assemblies whose formal powers are limited.

¹⁰³⁶ Herodotus 3.142-143

¹⁰³⁷ Frullini 2023 p.244-255

There is also clear influence short of disruption. Before a crowd reaches the stage of genuine disruption, it may become visibly restless in a way that has a measurable effect on speakers. Then there are important but less tangible effects about the assembly as a sight of knowledge sharing. The gathered people hear and act on new knowledge, when they learn of important events. They come to understand their stake in events can go on to act accordingly. In these circumstances, even if they are able to regain control of the assembly, elites may receive permanent reputational damage.

Assemblies held in these non-democratic contexts differ from those held in democratic contexts as they are presented generally as more controlled, quieter and less chaotic. However, rule breaking disruption can always occur and any disruption that does happen is a more dramatic break from the status quo than it would be if constitutionally formal routes to objection were permitted. The assemblies of armies debating what to do seem particularly prone to this kind of full disruption. There is the Homeric assembly at which the entire army almost routs itself.¹⁰³⁸ Xenophon in *Anabasis* is constantly fighting against an army that is baying for more pay and a faster way home.¹⁰³⁹ The army tends to shout down speakers it dislikes, and on more than one occasion spontaneously stones envoys to death. The army of the ten thousand through the *Anabasis* recreates polis institutions, adopting assembly norms more to maintain unity and make difficult decisions.¹⁰⁴⁰

These extraordinary events are common enough, or at least loom large enough in shared assumptions about assemblies, to affect the meaning of even well controlled orderly assemblies. These forms of influence are underwritten by the potential to completely derail the event, with mass violence or just mass disobedience. I want to call this a practical veto, held by crowds over the speakers. This practical veto is always held, even if it is not a formal right. It is the potential exerted by the Homeric assembly in *Iliad* as they flee, and partially asserted by the nosier hecklers. In a “normal” and well-ordered assembly, even if the crowd has little or no formal power, they give implied consent to the outcome of the limited discussions by allowing them to take place. Large crowds are not naturally quiet or orderly, and so being a generally well-behaved audience can powerfully signal consent to speakers. It is largely through this

¹⁰³⁸ II 145-155

¹⁰³⁹ Xen. *Anabasis*. 1.4, 3.2, 5.4, 5.6-7

¹⁰⁴⁰ Nussbaum 1967 and Hornblower 2010 for a full discussion on this and other examples of armies behaving this way.

passive consent that the mass assembly participates in the power being wielded by speakers. Discussed in theory this form of participation may seem abstract, but physically being in a large crowd of people, listening, cheering at appropriate times and refraining from disruption, this can feel like a very concrete form of participation.

So, given these widespread representations of ad-hoc mass meetings as prone to violence and disaster, this is surely evidence that an oligarchic constitution would wish to completely avoid assemblies, having no mass meetings of the people. This position is partially advocated; anti-democratic thinkers are aligned in their fear of assemblies in general. We get this from Xenophon (put into the mouth of Cyrus) and from the Old Oligarch.¹⁰⁴¹ Plato in the *Republic* suggests any meeting of the people including the theatre, army camps, and just a busy town square are potential sites of problems.¹⁰⁴²

Leaders ruling without the majority consensus of the citizens are always in a precarious position, and mass gatherings seem to be something to be avoided (Aristotle certainly suggests keeping them to a minimum for oligarchies). There is this double-edged nature of assemblies. You can symbolically communicate your supremacy over a polis, demonstrating to people either indifferent or perhaps only gently opposed to your rule that you have the power to stage manage large public events. On the other hand, they are flashpoints for organised resistance, and the same platform constructed to proclaim your power can be co-opted by those who want to undermine you.

Another reason to call an assembly is to build consensus around a decision that is going to require sustained engagement from even the poorer citizens; most typically going to war. This is reason Aeneas Tactius suggests calling an assembly of soldiers or citizens if you are invaded straight away.¹⁰⁴³ If you cannot keep control of the assembled citizen men, then you will not be able to command them with confidence during a battle.

¹⁰⁴¹ Xenophon *Cyr* 2.2.20, [Xenophon] *Ath, Pol.* 1.9, 2.17, 3.1

¹⁰⁴² Plat. *Rep.* 6.492b-c

¹⁰⁴³ Aen. *Tact.* 9.1

The assembly is a forum to spread information, in a more controlled way than gossip, that works both ways. Oligarchs want to hear news a broad range of views so they can address the concerns of the polis. This doesn't have to be done in a general assembly but might be done more privately. Simonton picks up two mentions of Pharsalus as an example of how effective this might be. One from Aristotle, describing it as an oligarchy 'in agreement with itself', where the few and the many treat each other well. The other a Pharsalian law (from pseudo-Plato *Sisyphus*) is that if one of their leaders asks an individual Pharsalians must go and join them in deliberation.¹⁰⁴⁴ Taking these two mentions of Pharsalus together suggests that the involvement of citizens in the deliberative process leads to a more congenial oligarchy. This kind of system maintains the environment it can thrive in. Pharsalus may have had a relatively low level of class antagonism so rich and poor citizens, when invited to deliberate with the rulers, can discuss shared interests more easily and therefore come to friendlier agreements in the future. In a less friendly environment, it might be more difficult to persuade isolated individuals to give genuine criticisms in a council than in front of a mass of citizens in the assembly, even though the later option would be more dangerous for the elites. This is an example of the elite trying to capture the benefits of assembly without the risks.

However much it may be something elites wish to avoid, "the people" do meet sometimes. Festivals, public events, and failing that the public space of the market all create the possibility of people coming together, seeing their mutual support for a revolutionary cause, and acting as one. If you don't create and control official channels for the demos, they may find their own opportunities, as the grievors of the suitors do in book 24 of the *Odyssey*. These are often cited as potential trouble from rulers, whether they have a particular political purpose or just create space for such a purpose to emerge.¹⁰⁴⁵ These reasons for outnumbered political rulers to invite the risk of the assembly are discussed in Simonton's book on oligarchy. However, I want to focus on how the binding strength of undisrupted assemblies can be understood as a performative phenomenon that depends on the possibility of disruption for its power.

¹⁰⁴⁴Simonton 2018 p.222 with [plato] 387b-c cf. 1306a9–10

¹⁰⁴⁵ These are examples of advice against large public events specifically because they provide a platform for political opposition [Xen.] *Ath. Pol.* 2.9–10, 3.2; Plat. *Rep.* 6.492b; Arist. fr. 89 Rose; Theopomp. *FGrH* 115 F 213, 233; Plut. *Mor.* 818c, 821f, as well as the previously discussed implied warning of *Odyssey* 24 ln412–469.

This potential also has a binding effect on the citizens that creates a real feeling of participation that gives silence performative force. Through witnessing and not disrupting, assembled citizens take part in proceedings. A modern wedding ceremony demonstrates nicely what I mean by this performative participation, picking up on themes of performative contexts discussed at 1.5.3. Guests are not a purely passive audience but are players in the production even if they do not have speaking roles. At some point in the ceremony there will be a moment when the floor is opened with "Speak now or forever hold your peace". This is always an awkward moment: you are not meant to voice opposition to the union here, even though that is what you are being explicitly invited to do. The purpose of this moment is to have the audience performatively participate in the ceremony. You are now bound to respect the marriage and may be a legal witness to it even if you had no other opportunity to voice your doubts.

Actual serious disruption of weddings at "Speak now..." is extremely rare whilst the idea of disruption at this point is very common in representations of weddings in literature and popular culture. This distinction serves to emphasise the presence of the possibility of disruption, even whilst it is virtually never applied. This tension gives performative force to non-action in this very specific circumstance; if you had a good enough reason, you could object and since you did not you can be called to witness the event. There is a subtle coercion present in this discourse, and this would be more pronounced when the idea is applied to explicitly political circumstances. In both the theoretical examples mentioned by Aristotle explored in chapter two and the actual examples of assemblies and mass meetings discussed in this chapter we find ancient Greek assemblies having only very limited formal powers often being called to legitimise the decisions of rulers. These powers might include a formal vote on an issue, but might also be limited to just the power to witness things (such as the exchange of accounts discussed in the previous chapter), or simply be present for debates. These circumstances may have given rise to similar dynamics of performative discourse, where a theoretical, but practically difficult, opportunity was given to veto proceedings in such a way as to give performative illocutionary force to the crowd's silence, or to its relative lack of disruptive action. Disruptions at this moment are often represented in the literature for similar reasons that wedding disruptions are in our media: they represent the exceptional circumstances that legitimises the routine processes, and so loom large in the imaginary.

This performative understanding emphasises the fundamental similarity between mass cultural and political occasions. A festival, like an assembly, gives citizens the opportunity to see

themselves and each other participating in the polis. 'Audience' does not completely capture the significance of the role, it might be better to say that the crowd has a citizen script, in which their role does not speak, or speaks only once *en mass* to signal assent. The gathered citizenry was so central to polis politics, that their gathering, even at 'non-political' events has political potential, and this is reminiscent of Plato's concerns. The festival and the non-democratic assembly are scripts with a lot in common, whereby those watching participate in the festival, witnessing assembly performers and have some formalised role in events. Simonton discusses how dominating the public festivals was an important tool of the oligarchy.¹⁰⁴⁶ He stresses this as a form of information control and the projection of an image of power.¹⁰⁴⁷ These events, though powerful as messages of political domination, could present ambiguous dangers for the oligarchs.

Seeing these events as performances gives a way to discuss their political ambiguity, one that acknowledges the Greek stress on witnessing as a form of participation. Like the wedding, the opportunity to disrupt the script at key moments implicates the witnesses, but also creates a moment of genuine instability and this is how we can understand the carefully managed public events of oligarchies. The paradox is always present, because to create complicity the event must leave some space (even very narrow and impractical) for disruption. Having the event take place before a mass audience is enough to open the space for disruption. It is this space that compels the audience into performatively participating.

The actual exercise of the 'practical veto' is difficult and risky. To exercise this power the assembly must be unified and committed, and there are serious consequences for individuals who speak out of turn without support. Nevertheless, stasis was frequent everywhere, with very few poleis able to sustain a reputation for political stability. Keeping the possibility of disruption and the presence of class tensions in mind, we can also view the assembly, especially the regular and administrative assembly, as a unifying ritual. Collective religious rites are observed, *proxenos* are honoured and so group cohesion and unity are established. In this way the medium of the assembly is the most important message, it is a 'coming together', both literally and figuratively.

¹⁰⁴⁶ Simonton 2017 p.196, p.227-231.

¹⁰⁴⁷ Scott 1990 p.45-68 Scott pushes this further, emphasising how the performance of authority, however staged and artificial, is made 'true enough' simply by its performance.

5.6 Citizenship in assembly: conclusions

We get somewhat different impressions from the literary and the inscription evidence for assemblies, reflecting the different purposes of a historical narrative and a local inscription. However, taking the evidence together creates a fuller picture of the institution. The formulaic nature of the inscriptions, how often they privilege other decision-making bodies (boards, councils, Gerousia) suggests a marginal but persistent role for assemblies with a particular authority as a court of appeal or in the affirmation of grants of citizenship. In contrast the particular assemblies picked out by historians demonstrate how in times of war or civil conflict the assembly could become a literal battleground. Considering the assembly as a performative space, these distinct pictures are mutually reinforcing, with the implicit threat of popular disruption or violence transforming the purely passive audience into an audience that is actively choosing non-action.

There is a twofold significance to participation in the assembly as a citizen act. Firstly, even passive engagements in politics (hearing decrees, seeing elites, receiving foreign embassies etc) should be seen as a meaningful performative action in its own right that constitutes a share in the polis through the exercise of judgement (*krisies*), and is a requirement for further participation. Secondly, and in some senses underlying that assertion, the assembly creates a space for potential disruption of the status quo simply by being a mass of bodies officially bearing witness to events. The persistence of the assembly as a norm, even in periods and places where it lacked significant impact, suggest it was a functional institution that could give a potentially strife ridden polis a certain amount of cohesion. Beyond the functional purpose I wish to argue that the experience of participating in the assembly felt like an empowering performance of one's own citizenship.

Aristotle is naming this participatory aspect of the assembly when he describes the share in judgement exercised by the assembly just by sharing in the discussion whilst officials make the decisions.¹⁰⁴⁸ The silence of an assembly has a performative force that gives consent and reaches the threshold, for Aristotle, for a share in the *arche* of the polis for its members. In many cases it also seems that the assembly had a formal role in elections and accounting procedures, but the power that the assembly held as a potential site of disruption informs its share. It is worth drawing particular attention to the way that holding officials accountable in the specific ways Aristotle describes as constituting participation is often done through

¹⁰⁴⁸ 1298b34-35

assemblies where the formal procedures seem likely to have included an element of this performative non-action: where the meaningful assent of the assembly is difficult to formally register in strict constitutional terms, but which certainly can be registered as participation in Aristotle's sense.

These two aspects; passive participation given force by potential disruption, are present even in the most undemocratic assemblies. Citizens, overwhelmingly, are members of the assembly for Aristotle, and the assembly in some senses is the most complete physical representation of the polis. Membership of the assembly is contested and changeable, as are the powers associated with the assembly. The significance of the assembly as the site of these, and other, political contests is what makes membership so fundamental to Aristotelian citizenship. He defines the assembly so broadly but places such importance on it that we must look at the assumption of what the assembly could mean to see why it is so important. The inscription evidence firstly indicates that the assembly is ubiquitous. It then suggests this stable role for a mass assembly permitting a real participation in power that is weighted in favour of elites.

Some citizens, as in people called *politai*, may be excluded from the assembly. The majority of these exclusions would be de-facto; without pay, and with long distances to travel the rural poor would only be able to attend occasional assemblies scheduled to coincide with major festivals already bringing them into town. Oligarchs would be motivated and empowered to manipulate attendance and agenda carefully. Those explicitly excluded because of a property qualification would be among those most vulnerable to practical disenfranchisement and by Aristotle's reckoning becoming citizens in name only.¹⁰⁴⁹ However, this condition is not inevitable for those excluded from the assembly because even this group might exercise some Aristotelian citizenship through participation in a sub-polis group.

¹⁰⁴⁹ A condition Aristotle implies 1278a40.

6.0.0 Conclusions

6.1.0 Returning to Aristotle with the evidence of citizenship in action

The previous two chapters enumerated how different citizens might have some part in power, and this section will compare these forms of participation with Aristotle's broad theoretical constructions discussed in chapters 1 and 2. Aristotle constructs a definition of citizenship theoretically broad enough to include the vast majority of men called *polites* in ancient poleis, including poor citizens of oligarchies who fail to qualify for official positions. This position is fundamental; without this reading not only does *Politics* not discuss its political context, but it also lacks fundamental internal consistency. Accepting this, *Politics* can be read as a philosophical abstraction that is nevertheless based on observations of a variety of real practices.

Focusing on the outer cases of citizen participation, there are many ways in which largely disempowered citizens nevertheless took part sufficiently to qualify as citizens in Aristotle's sense. Oligarchies exhibit evidence of having ways for the citizens to take part. They have assemblies with limited powers, certain boards of officials that are indirectly elected by those assemblies, and local sub-polis organisations which execute limited but important functions of the polis. There is also evidence from democracies of ways of accounting that are careful to give the *demos* some share in power whilst not giving them the balance of decision-making power. These methods of power sharing, such as allowing the *demos* some oversight of accounts, would be completely compatible with a tight oligarchic control of the polis whilst also helping reassure financial benefactors of the oligarchy that there is some accountability. Our gaps in knowledge remain substantial, and it is entirely possible that in some situations Aristotle's definition of citizen is at odds with who are actually called *polites*, but the evidence suggests this would be unusual.

6.2 Aristotle's citizenship and other citizenships

The evidence discussed in this thesis shows that someone participating in the social life of a polis enough to be recognised as a *polites* would also be 'participating' in the strictly Aristotelian sense. This argument can be made by comparing Aristotle's understanding of 'participation' with the existing evidence for different kinds of citizen participation, and my overall conclusion is that the two are broadly compatible. A coherent case can be made that a strong majority of adult males who were called *politai* were able to do some things that Aristotle

would describe as political participation. 'Political participation' does not need to be the central activity by which these *politai* expressed their citizen status for it to still be a persistent feature of social life. This seems to be true even outside of self-consciously democratic poleis: those places where political participation was by definition marginal and indecisive, it was a persistent and ubiquitous aspect of citizen life.

The central caveat to this conclusion is our relative lack of evidence for procedures of official accounting from non-democracies. This is the form of marginal participation that, based on Aristotle, seems most likely to have involved poorer citizens. This problematic category of citizen might be especially difficult to define where a property qualification for membership of the assembly excludes them from many of the processes I have discussed. These citizens still must have been registered in some way at a local level, even if just to be eligible for the property assessment. This registering must have involved participation in a *phyle* or *phratry* that acknowledged births and marriages, which would have involved these individuals in some forms of local official activity. In the highly oligarchic situation where this organisation in no way gave to all its members any form of oversight over its officials, even at the local level, then we might have a *polites* in name only. Even here the potential for a citizen to activate latent forms of participation through their ability to formally witness and other minor aspects of judicial participation still seems to be included in Aristotle's notion of citizenship. These kinds of claims seem likely to remain speculative because sufficient evidence of these political situations is unlikely to emerge.

There is an inevitable implication of 'power' in the social relationships that create citizenship; the associations that registers and administers citizens must be managed in a way that exercises authority over, but also relies on, ordinary citizens to maintain the reliability and credibility of these institutions. These institutions are then judicial and support the administration of justice. If one is socially included as a citizen, one also becomes, at least minimally, politically included. This is how Aristotle arrives at a definition of citizenship that is based on participation in power. This participation is easier to see at the upper end, where office holding, or voting on major decisions is a clear example of ruling. The 'being ruled' side of Aristotle's formulation, where the citizen out of power nevertheless retains some share in the power he is being ruled by, seems realised by the citizen community upholding the institutions that administrate them.

Aristotle, by rooting his definition of citizenship in power, and discussing at length and with reference to examples the forms of this power, contributed significantly to the definition of the political sphere. Through decision making, assembly and court participation, collective judgements, Aristotle defines a particular notion of power, and therefore of the 'political'. However, rather than viewing it this way, as the 'Aristotelian', (or more generally the 'Greek') invention of a political sphere which took collective decisions,¹⁰⁵⁰ it might be better to consider this issue as a later construction of a 'non-political'. The kind of "political rule" which Aristotle defines by the potential for role reversal is a relationship that exists in many contexts we might classify as social rather than political. The rotation of priesthoods and ceremonial roles, even at the smallest scale, creates relationship of "political rule" in Aristotle's sense. A range of social situations, from ancient sacrifices to a modern American family BBQ, involve specific roles with certain powers and responsibilities that may rotate from one event to the next, or over generations. The reciprocity that this rotation creates, where one rules and is ruled in turn, is the fundamental relationship of everyday politics that Aristotle places at the centre of his analysis of the polis. Aristotle does not divide this decisively between a social and political sphere but assumes this logic of political rule operating at every level where social equals interact.

6.3 Access to speech acts

An aspect of performativity that this survey of political practices brings out is the central role that performative force plays in the practical functioning of Greek citizenship. Citizens, as distinct from others in the polis community, can do things with their words. Bringing lawsuits, whether private or as part of accounting procedures, is a vital citizen power in many different constitutional situations. This involves a performative speech act that has very significant force. Locating citizenship in performative speech connects the socially grounded acceptance of citizens to their political rights. Successfully bringing a trial means having access to the right context and the correct script to perform the 'official' action, and this access to the 'official' sphere seems to be what Aristotle is trying to name with his discussion of citizenship from 1275a-1275b. The exceptions to citizenship defined by shared legal systems; metics and

¹⁰⁵⁰ This idea of invention runs counter to Aristotle's view of political institutions arising many times in history because similar structures are created to deal with eternal problems 1329b26-30. Aristotle discusses associations beyond what we might call political NE1160a8-23 cf Gray 2022 who places this shift in the later Hellenistic.

partners in commercial treaty¹⁰⁵¹ are those whose legal performance must be mediated through citizens.¹⁰⁵²

The performative speech act is the minimal act of participation in power. I have suggested through this survey that your ability to make something happen in the shared world of the *Polis* is your (Aristotelian) citizenship. Aristotle had a particular understanding of where the borders of that shared Polis world lay, and whilst this is broader than just those who have decisive power, it is narrower than every realm that performative speech can act upon. Swearing on the gods is speech that performs an act, and access to this power was not limited to citizens, but the oaths made upon the particular Gods of the polis that then place obligations on other polis members to enforce your promise and so are exclusive performative acts that do require citizenship to be actionable.

Speech acts are policed, they only 'work' when the audience accepts them. The conditions of this acceptance are the speaker's identity and context. I understand Aristotle's claim as being that participation in the decision-making of the polis is the definitive aspect of citizen identity because this guarantees your ability to make accepted speech acts; it is the point where identity and action meet. It means that you are ruled politically, because the ruler recognises your potential to rule them through your application of certain speech acts. This implies only the feeblest and context dependent form of equality; for example, a citizen being ruled upon by a polis official may be able to raise objections during that official's accounting procedure that turns the power of the polis around. This potential has a permanent effect on the nature of their relationship, even if it remains fundamentally very unequal. A citizen rules and is ruled in turn.¹⁰⁵³ In this way a citizen is unlike a *Metic*, or an enslaved person, or any noncitizen, whose potential power for recourse against unfair treatment is very limited, is mediated by other citizens, or does not come through polis structures at all.

This vision of political power and citizenship systematically excludes women to a significant extent. Although there are ways in which citizen women have this characteristically reciprocal relationship with political power the forms of political reciprocity that Aristotle names and is

¹⁰⁵¹ 1275a11-15

¹⁰⁵² Frölich 2016 discussion of this passage comes to the most similar conclusions.

¹⁰⁵³ 1277b14-15

concerned with are overwhelmingly male privileges. The potential power of priestesses and the associated access to performative speech this gives some women as polis agents and witnesses, being the key exception. These problems align with Aristotle's broader philosophical system, one that consistently struggles to theorize a coherent place for women.

The Euxethos appeal that Blok uses as an example is an excellent case to demonstrate the range of these exclusively citizen speech acts, because the appeal is based on him citing every example of his identity as a citizen being accepted in the past by his accusers. This includes aspects of Aristotelian citizenship: serving in official capacity and being mutually recognised as a citizen as well as examples of his accusers accepting his identity at sacrificial events. It is useful to recognise Aristotle's framework as a particular, rather than a universal, definition of citizenship but it is nevertheless a perspective that is compatible with other understandings of citizenship that do not emphasise the political in the same way.

The specific environment of group decision-making created in the assembly in particular, but also in other group meetings, creates an environment where it is possible to define a non-speech act. Here by not saying anything, complicity is communicated and this does something, as a speech act would. This kind of complicit action is important to recognise in corporate decision making. When Aristotle is talking about letting the assembly hear the rulers speak¹⁰⁵⁴ and rendering accounts in front of tribes and *phratrries* as a way of giving these audiences a share in power,¹⁰⁵⁵ I see this kind of effect as what he is gesturing towards. Quantifying the share in power is illusive, and accepting this particular argument is not a prerequisite for accepting the overall argument about the breadth of forms of citizen participation; other forms of marginalised shares in power are available. However, it does clarify the significance of the ancient assembly to Aristotelian theory and to oligarchic poleis in particular.

6.4 Non-citizens

Certain readings of Aristotle suggest that he imagines a far more bloodless and harmonious vision than the socio-political reality of Aristotle's world. Some of his idealised language supports this conclusion; it should ideally "benefit" the slave to be mastered, the wife to be

¹⁰⁵⁴ 1273a10

¹⁰⁵⁵ 1309a11-15

“husbanded”.¹⁰⁵⁶ The diverse forms of marginal participation should not be read as arguments that some broad egalitarian logic was at work in Greek political practice of this period; but rather that the citizen/non-citizen distinction was a very significant social border. Aristotle constructs a political theory behind citizenship status in response to its clear day-to-day importance. The polis created its own identity by reinforcing the social distinctions between citizens and non-citizens.

To emphasise the ways that citizens could participate is also to emphasise the ways that non-citizens could not. Though conflict within the citizen community itself was common enough¹⁰⁵⁷ this violence was managed and moderate compared to the day-to-day violence targeting those excluded by the polis.¹⁰⁵⁸ The judicial structures of the polis in particular function at the sharp end of that exclusion: where citizens held the privilege of creating legal truth, this would have reinforced other power imbalances to create stark social inequalities. Those lacking the ‘right to have rights’ are placed in a situation of social dependency on citizens. The largest power differentials present in Aristotle’s *Politics* are within the household itself, where the non-political (in his terms) forms of power dominate social relations.

6.5 The sliding scale and Baseline *timé*

Aristotle does not understand citizenship in the same way as the Attic orators, and there are marginal cases where the Aristotelian definition breaks down. It is important here not to get bound in a kind of precision fallacy. It may not be possible to for Aristotle to perfectly define the borders of his citizenship, and ambiguous cases clearly do exist, but this does not mean his categories’ core definitions have failed or have no explanatory power. The overlap between the interpretation of Aristotle offered here and Blok’s concept of ‘baseline *timé*’ demonstrates how the political citizenship and the more social/religious conception offered by Blok from a reading of Attic oratory are usually discussing different aspects of the same individuals.

¹⁰⁵⁶ 1255b5-15

¹⁰⁵⁷ Not just in the form of all out *stasis* and but also the constant hum of an antagonistic society Cohen 1995 p.194.

¹⁰⁵⁸ See Kamen 2023 for a comparison of how violence’s victims of differing statuses were treated.

Baseline *timé* refers to the minimal level of recognition which was required to access the social life of citizenship.¹⁰⁵⁹ The spaces this thesis has discussed were exclusively for citizens and policed as such. If you are poor and marginalised, you will struggle to exercise even those political rights that are technically afforded to you, and this makes you fundamentally less of a citizen. This statement is descriptive, but Aristotle gives this some normative force by describing the active part of this as 'sharing in rule'; something that can be done well or not. Impoverished citizens, or those otherwise unable to maintain their social obligations enough to be recognized (in Euxitheos's case very literally) as citizens will drop out of citizenship by either understanding. Aristotle is inclined to view this as a moral failing, but it nevertheless in practice overlaps with a view of citizenship that emphasises its 'non-political' aspect.

The 'right to have rights' notion of minimal citizenship¹⁰⁶⁰ seems particularly applicable to both Aristotle's construction of citizenship and the social reality of his contemporaries. The ability to participate in local administration, particularly in the enforcement of the law, is the social practice that gives an individual a form of personhood visible to the polis. It grants access to performative utterances that can affect the world of the polis.

Aristotle's view properly understood, then, is that what distinguishes the *polites* from the other inhabitants of the polis is the possibility of participation of any kind in managing those public matters that assert the power of a *polities*. This echoes Fröhlich's conclusion "... la possibilité de prendre part, sous des formes diverses, à la gestion des affaires communes, a minima en participant aux délibérations collectives, sinon en assumant des charges – avec d'infinies nuances selon les régimes."¹⁰⁶¹ A value of Aristotle's definition is its potential breadth – *power* – defined as a share in decision making matters might be applied to many institutions, and contains within it the possibility to be applied in ways that are not completely apparent in Politics.

6.7 Reading Aristotle's polis

Aristotle begins *Politics* with a particular premise: that political power is different from other forms of authority. He is seeking to precisely refine this difference in the *polis* context. Aristotle

¹⁰⁵⁹ Blok 2017 p.201-206

¹⁰⁶⁰ Balibar 2015 p.35

¹⁰⁶¹ Fröhlich 2016 p.129

introduces Book III by exploring the definition of polis.¹⁰⁶² We know from Book I that the polis is a kind of partnership,¹⁰⁶³ but what kind exactly? Aristotle sees the polis as a decision-making entity. The polis can make decisions, speak, and commit to actions.¹⁰⁶⁴ This gives it the agency and contiguous corporate identity to meaningfully make (and break) promises as individuals do. The polis is an entity with composite agency, made up of its citizens. The degree to which one citizen's agency is empowered within this composition is ordered by the particular constitutional arrangements. Aristotle innovates and allows for a more flexible interpretation of each institution within a constitution by describing the two underlying principles by which the fairness of these institutions can be judged: oligarchic and democratic. Between 1298a1-1301a16 he goes through many different institutions and is able to clearly describe them as oligarchic or democratic. Occasionally he describes aspects of institutions as aristocratic, particularly election by vote from a particular class.¹⁰⁶⁵ The sharing of this agency is what distinguishes the *polis*, the political partnership, from the other forms of partnership. It is the citizens that are the members of this political partnership.

It is significant that the very first example Aristotle uses to discuss the agency and contiguous identity of the polis is an act.¹⁰⁶⁶ After the discussion of citizenship, the second example Aristotle uses is the polis' responsibility to debts incurred before a revolution.¹⁰⁶⁷ This question, tightly linked with the question of the agency of the polis discussed first is recognisably institutionalist and demonstrates that Aristotle also recognises the central importance of institutions' capacity to carry debt. This capacity is a product of the ongoing corporate identity of the polis, capable of outliving all its individual members. Some of these *polites* may never be eligible to be a judge, or even a market official, but they would be able to bring a prosecution against a corrupt market official or be a key witness in such a case. In this way the power of the polis as a whole is created through the participation of its citizen parts.

¹⁰⁶² 1274b33

¹⁰⁶³ 1252a1

¹⁰⁶⁴ 1274b35-37

¹⁰⁶⁵ 1300a40-1300b5

¹⁰⁶⁶ 1274b35-36

¹⁰⁶⁷ 1276a10-16

6.8 Aristotle's philosophical definition of citizenship

Aristotle does not help us much as an enumerator of citizen rights. Burial rights are absent from Aristotle, but clearly important. The special rights of priests and priestesses to the polis are also often ignored. Property rights are similarly a frequent part of citizenship that Aristotle pays little attention to; although his discussion of the ideal constitution implies that only citizens should have property rights.¹⁰⁶⁸ Citizenship's heritability is something that Aristotle discusses as a practical understanding rather than a philosophical definition, but other sources naturally emphasise inheritance as the fundamental truth of citizenship. The broader understanding of 'sharing in the things of the gods' that was so important to how *politai* felt themselves part of their polis that Aristotle only mentions it in passing. However, these forms of social participation bring with them a potential for political participation as well. Property and inheritance rights must be defended in court, membership of religious groups means feasting and festivals that must be overseen by priests, and these priests are selected somehow and overseen somehow. The citizenship of women also involves official responsibilities of some kind. This thesis has attempted to demonstrate that properly applying Aristotle's definition to his context we see that sharing in polis life in any way brings with it some form of participation in power, though usually these participations are unequal and often relatively passive. Citizenship is defined, for Aristotle, by a potential in that passivity expressed as a relationship to power that gives some permanent share in power.

For us to understand this philosophical definition, it can be helpful to think in terms of access to performative speech. Citizens, through a range of possible means, which at the least powerful end includes bringing an accusation in a court of account, or speaking up at the assembly, or being eligible to occupy a petty office, have access to a kind of performative speech act that affects the world of the polis. This performative participation in the polis can even be embodied by silent complicity at key moments in a managed assembly. Although access to this sphere might be understood as membership of polis cults and citizen descent groups, Aristotle sees this access as secured by possibility of holding positions of polis authority, positions he defines abstractly to include the partial authority of jurors or assembles, because that creates a reciprocal relationship with power that is quite different to other relationships of power. One that can rule must be ruled differently, and this difference is felt in both theoretical and

¹⁰⁶⁸ 1330a16-18

practical levels. The citizen-subject must be ruled, but in a way that includes not just their interests but their legitimate claim to a share in the ruling itself.

Democratic assumptions about sharing in power have pulled focus towards what it means to have an equal share in power, whilst ancient (and modern) writers focused on elites have tended to discuss what it means to have a large share in power. This thesis has attempted to focus on shares of power that are small and unequal. Aristotle concludes that power defines the category of citizen, and because power in the polis can come in many small forms, so can citizenship. This is a category that Aristotle theorizes because the distinction between a small unequal share and no share held an undeniable significance socially, and recognising this significance also motivates our ancient citizenship studies. It is also a category that he finds troublesome. This shared recognition of citizenship's troublesome significance makes Aristotle, though no colleague, a valuable witness.

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