

## Aesop and Greek Law

*It is often suggested that Aesopic fables were used in ancient Greece as a source of ethical education for children, especially by those who were not part of the aristocratic class. They would thus fall under the category of “practical ethics,” less comprehensive but more immediately useful than the more abstract ethics found in philosophical treatises. If that is so, then we would expect to see the ethical code of the fables reappear in adults who gave speeches in Athenian courtrooms, which were locations where practical ethics was of greater value than abstract philosophy. Yet this does not appear to be the case. The author concludes by considering several reasons why the practical ethics of children do not seem to be connected to the practical ethics of adults in ancient Athens.*

**Keywords:** *fable, Ancient Greece, ethics, law, Aesop*

### Introduction

In his book “Ethics in Aesop’s Fables: The Augustana Collection,”<sup>1</sup> Christos Zafiropoulos says that “the ideas of the Greek fable remain to be studied and placed in the broader framework of Greek thought” (Zafiropoulos, 2001). Almost twenty years later, this is still true. Although Zafiropoulos’s book and other work, as well as work by others such as Leslie Kurke’s Aesopic Conversations (Kurke, 2011) have helped to incorporate Aesopic fable into our understanding of the ethical and intellectual life of the ancient Greeks, there is still much more that can be done to show where Aesopic fable fits with other elements of Greek thought. One part of that thought which we might expect to fit closely with Aesopic fable is the ethical content of courtroom speeches in Athens. Fables and courtroom speeches are both expressions of practical ethics rather than elaborately developed philosophic systems. They are both aimed at a popular, rather than an elite, audience. And they are both designed to influence behavior by showing how some actions are rewarded while others lead to suffering. But, as this paper will demonstrate, if we compare the two, we find that the moral values presented in the fables are not those found in the courtroom speeches. The argument has three parts. First, I must establish that the Athenian courtroom was a place where ethical principles were given public expression, and why speakers in the courtroom would have found it beneficial to appeal to such principles. Following that, I will discuss the ethical principles that are appealed to in the courtroom speeches and those that are found in the Aesopic fables, and show that they have very little in common. Finally, I will suggest some reasons why the two sets of ethics, although they are similar in some ways, are ultimately not compatible.

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<sup>1</sup>The Augustana collection is the earliest extant collection of Greek fables, probably dating to the first or second century A.D. (Zafiropoulos, 2001).

## 1 **The Importance of Ethical Arguments in the Athenian Courtroom**

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3 Scholars of Athenian law<sup>2</sup> often discuss the ways in which Athenian law  
4 differs from American law. One of the main differences is that the Athenians had  
5 no trained judges or professional lawyers whose job it was to make sure that trials  
6 conformed to a pre-established set of rules and standards, such as what kinds of  
7 evidence could and could not be introduced, or what kinds of testimony were and  
8 were not appropriate. Athenian legal practices left a great deal of discretion to the  
9 prosecutor and the defendant as to how they wanted to make their cases. They also  
10 left a great deal of discretion to the citizen jurors to decide how they wanted to  
11 evaluate and interpret whatever evidence was presented to them. It was up to the  
12 jurors to decide what evidence was relevant, what testimony was to be taken  
13 seriously, what arguments were persuasive, what the relevant law or laws were,  
14 how those laws were to be interpreted, whether the defendant was guilty or  
15 innocent, and in some kinds of cases what punishment was appropriate if the  
16 defendant was found guilty. “A *dikasterion* (juror)...decided the whole issue [of  
17 the trial], whereas a modern jury decides only the question of fact and is bound by  
18 the judge’s ruling on questions of law” (Sealey, 1982). They did this because “The  
19 Athenians...thought giving juries unlimited discretion to reach verdicts based on  
20 the particular circumstances of each case was the most just way to resolve  
21 disputes” and they “favored equity and discretion over the strict application of  
22 generalized rules” (Lanni, “Verdict Most Just”: The Modes of Classical Athenian  
23 Justice, 2004). One of the things that would be seen as irrelevant or prejudicial in a  
24 modern American courtroom, but which was a key part of the Athenian legal  
25 process, was the jurors’ assessment of the character of the litigants. “[S]peaker’s  
26 characters, both as a basis for accepting their words and as a means of attacking  
27 them, were an explicit part...of the Athenian courts and legal rhetoric” (Johnstone,  
28 1999). There were two main reasons for this. First, character evidence was  
29 important for deciding the outcomes of particular cases. Second, the process of  
30 presentation of character-based evidence by the litigants and the passing of  
31 judgment on this evidence by the jury served to help define and create the  
32 Athenian democratic community of which the trial process was a part. Let us  
33 consider each of these reasons in turn.

34 As part of the process of arriving at a verdict, jurors were expected to evaluate  
35 and pass judgment on the behavior and character of the litigants in ethical terms:  
36 “Athenian litigation by its very nature seldom depended upon arguments about  
37 statutory interpretation or legal doctrine. It employed instead assessments of  
38 character, reputation, and probability, cast in terms which appealed to the  
39 knowledge and values which the judges, as ordinary citizens, possessed” (Cohen,

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<sup>2</sup>And Greek law. The vast majority of what is known about Greek law comes from a relatively narrow time period at Athens, and the degree to which we can generalize from this limited time and place to reach broader conclusions about Greek law and its history is disputed. Since I will only be looking at appeals to ethical principles in Athenian courtrooms, I need not participate in disputes about the ability to generalize. It should be noted, however, that Aesopic fables would have been known throughout Greece and date back to at least the Homeric era, so the ethics of the fables can almost certainly be applied to Greek eras and cities other than classical Athens regardless of one’s position on whether the ethics of the courtroom can be so applied.

1 1995). This view is shared by Adamidis, who writes: “Extensive reference to  
2 character evidence was received by the court as relevant to the legal case and  
3 served its quest for truth by assisting it to uncover the exact facts of a legal case”.  
4 It can be argued that in the absence of modern investigative techniques for  
5 collecting evidence (such as fingerprints or DNA), the jurors had little choice but  
6 to base their decisions at least in part on whether they believed that the person  
7 being accused of the crime was likely to have committed it. VerSteeg says that  
8 “juries were often forced to make decisions based upon the comparative  
9 reputations and social contributions (both prior and anticipated) of the litigants  
10 rather than on a dispassionate analysis of facts” (VerSteeg, 2009). If a speaker  
11 could demonstrate that they were of good character, or that their opponent was not,  
12 this could be taken by the jury as evidence of their adherence to, or failure to  
13 adhere to, a particular cultural norm. If the speaker adhered to the norm, they were  
14 seen as likely to adhere to the law embodying that norm. Therefore, someone who  
15 had a negative or unethical trait could be seen as someone who was deviating from  
16 a cultural norm and that could lead to being seen as someone who was willing to  
17 disobey the law (Adamidis, 2016). The figure of Socrates is useful here. Because  
18 of his unusual lifestyle, he was already regarded with suspicion by the Athenian  
19 jurors and they were predisposed to judge him harshly, as he said at his trial. He  
20 argued that the so-called first accusers, (such as Aristophanes in the Clouds), who  
21 had slandered him his whole life, were the ones that made it possible for Meletus,  
22 Anytus and Lycon to successfully prosecute him. Socrates said that he would be  
23 found guilty not because he was unjust but because the jurors were predisposed to  
24 see him as likely to behave outside the law since he was outside the norms of  
25 Athenian behavior and was not believed to support the democratic principles the  
26 Athenians believed in. Obviously, one way to reaffirm a set of principles is to  
27 publicly punish people who do not conform to those principles –“enforcing the  
28 law reinforces the norm” (Adamidis, 2016). This interpretation of the Athenian  
29 legal process emphasizes the social and communal functions of the trials as they  
30 create the community and its norms. Karayiannis and Hatzis go so far as to affirm  
31 that “Penalties were not set in accordance with the graveness of the crime but to its  
32 antisocial character and immoral nature.” (635)

33 Thus, Athenian courts have as one of their primary functions the evaluation of  
34 the litigants in terms of their adherence to the community’s democratic norms and  
35 the promotion of these norms. This is done both to help determine the outcome of  
36 a case and to publicly show which behaviors the community regards as  
37 unacceptable. We can therefore expect the litigants to appeal to these communal  
38 values and claim to be supporting them while arguing that their opponents have  
39 violated these values and can be expected to continue to violate them in the future.  
40 In the next section of this paper we will discuss the ethical values to which  
41 litigants made their appeals in more detail.

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## 1 Ethical Principles in the Athenian Courtroom

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3 Having established that demonstrating adherence to communal democratic  
4 ethical norms is a crucial part of the Athenian legal process, both for determining  
5 trial outcomes and for sustaining the community, we must then ask: what specific  
6 norms did the legal process promote? Adriaan Lanni says that the values that were  
7 enacted during courtroom proceedings were the “democratic cooperative values”  
8 that fostered a “sense of justice and fairness” (Lanni, 2006). Lanni includes among  
9 these values reciprocity and *philia*; honesty and fair-dealing; honor, revenge, and  
10 shame; and self-restraint and willingness to compromise. Let us briefly consider  
11 each set of values in turn.

### 12 *Reciprocity and philia*

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14  
15 Reciprocity in Athens had two elements, memorably expressed by Cephalus  
16 in Plato’s Republic: helping friends, and harming enemies. Although Plato’s  
17 Socrates rejects this principle, by and large the men of Athens did not. An  
18 Athenian citizen was expected to respond to both help and harm with reciprocity.  
19 Those who were his *philo*, a word which is usually translated as “friends” but  
20 which could (and under normal circumstances would) also include family,  
21 neighbors and fellow citizens, could expect him to perform the “reciprocal duties  
22 and obligations that accompanied each of these relations and differed according to  
23 the strength of the relational tie” (Lanni, Law and Justice in the Courts of Classical  
24 Athens, 2006). This might include things like helping one’s *philo* in time of  
25 financial crisis by giving no-interest loans or outright gifts, helping them find a  
26 husband for a daughter, caring for them when ill, or serving as a character witness  
27 at a trial. In the absence of social welfare programs, one’s network of *philo*  
28 provided protection against many of life’s dangers, so providing assistance to them  
29 whenever possible was an important duty to perform, out of self-interest if for no  
30 other reason. Enemies could also expect to be repaid in kind – as we will see  
31 below when we discuss honor – but Lanni argues that this repayment of harm  
32 often happened not immediately and in the streets but later in the courtroom,  
33 because of the Athenian norms of self-restraint and compromise, which we will  
34 also discuss below.

35 Positive reciprocity has an important connection to the legal process, because  
36 in most Athenian courtroom cases the primary evidence was provided by oral  
37 testimony from witnesses. This combined with the reliance on demonstrating the  
38 fitness of one’s character meant that it was of vital importance to maintain a  
39 network of friends and relations, particularly of people who would be considered  
40 reliable character witnesses and who jurors would trust to give a fair and accurate  
41 recounting of events. Someone who did not have a reliable group of friends and  
42 family who could testify on their behalf was vulnerable if they ever found  
43 themselves in court, not only because they had no one to help them but also  
44 because of the implication that they had no friends because of some ethical failing  
45 or character flaw, or because they did not adhere to cultural norms, thus making it  
46 seem more likely that they were in fact lawbreakers or sycophants. Positive

1 reciprocity was a key part of maintaining these networks and was, therefore, a key  
2 virtue in classical Athens. It was of practical value in legal struggles both in and of  
3 itself and as a trait that men in court were eager to show they possessed.

4 Negative reciprocity pushed citizens in a different direction: to respond to  
5 attacks on one's person or one's honor with immediate retaliation. To allow an  
6 insult or an act of hubris against oneself to go unpunished was to lower one's own  
7 status because it meant being suspected of cowardice and unmanliness. Yet the  
8 kind of self-help which increased one's status as a powerful individual undermined  
9 the community. Ongoing feuds and cycles of retaliation based on a need to  
10 preserve or increase individual status which had been the norm among aristocrats  
11 in an earlier era were not good for sustaining democratic community. This will be  
12 discussed further below. For now, we should recognize the importance of positive  
13 reciprocity as a value that litigants would appeal to in a courtroom setting in  
14 Athens.

#### 15 16 *Honesty and fair dealing*

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18 "Honesty and fair dealing were considered important components of  
19 *dikaiosynê* ("justice"), one of the primary Athenian virtues" (Lanni, *Law and*  
20 *Justice in the Courts of Classical Athens*, 2006). Lanni notes that this understanding  
21 of justice as a constraint on the pursuit of personal advantage emerged only in the  
22 late fifth century, and would have been out of place in the time of Homer (and of  
23 Aesop). Honesty and fair dealing emerge as part of a change towards the  
24 cooperative ethics that we find in the classical democratic polis and away from the  
25 ethics of the Homeric heroes whose pursuit of honor and glory was individualistic  
26 and allowed for any behavior that helped achieve these goals (Lanni, *Law and*  
27 *Justice in the Courts of Classical Athens*, 2006). It seems reasonable to believe that  
28 the assertion of these values in the democratic courts helped them to take hold and  
29 become more widely adopted, given that the courts were such a prominent part of  
30 the *polis* and were such important locations for participating in the determination  
31 of what is just and what is unjust.

32 Honesty and fair dealing emerge, therefore, as important parts of the Athenian  
33 democratic ethos and as important courtroom values. Because individual jurors  
34 had such wide discretion over the judicial process, they were often encouraged by  
35 courtroom speakers to think about whether a particular episode had been fair or  
36 had been the result of dishonesty, regardless of whether it was within the strict  
37 boundaries of the law. Demonstrating that one had been honest and dealt fairly  
38 with others in the past made it seem more likely that one had displayed these  
39 virtues in the incident under consideration in the courtroom, and that one's  
40 opponent was therefore in the wrong.

#### 41 42 *Honor, revenge, and shame*

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44 Honor, revenge, and shame were crucial values for Greek men going back at  
45 least as far as the Homeric heroes, and some scholars have asserted that the  
46 Athenian courtrooms were simply one more arena for aristocratic litigants to enact

1 those values. This argument suggests that the aristocrats' long running disputes  
 2 and attempts to assert status over one another were the real subjects of legal cases,  
 3 which were masked by other alleged motives and actions but were really war by  
 4 other means. For example, Cohen argues that in Athenian legal disputes, "While  
 5 litigants portray envy as base, they advance vengeance as a respectable motivation  
 6 for litigation" (Cohen 83). This is especially true because with regard to many  
 7 crimes the laws specified that anyone, not just the person or persons who were  
 8 harmed, could prosecute people who committed the crime. This allowed citizens  
 9 to be taken to court by other citizens who had not been directly harmed and whose  
 10 motive was, at least in part, a desire for revenge for some previous, unrelated harm  
 11 (which can also be thought of as a form of negative reciprocity). This had  
 12 advantages for the city as a whole, since it would make everyone watchful for  
 13 possible violations of the law by their enemies, and kept the city from needing to  
 14 devote resources to policing. It also transferred decision-making power over who  
 15 would gain and who would lose status and honor to the courtroom procedures and  
 16 the values of city as a whole, rather than keeping it within the aristocracy. Those  
 17 decisions would be made on the basis of communal, democratic values, and this  
 18 process would emphasize the subordination of the aristocrats to the people as a  
 19 whole and not vice-versa.

20 Lanni, however, rejects this view of the courtroom as battlefield as  
 21 incomplete. Certainly competition for honor and status could make up part of what  
 22 was involved in litigation, and they remained important as values for the citizenry  
 23 as a whole in a range of public arenas, "but Athenian moral values were a good  
 24 deal more complex than the pursuit of public honor and avoidance of shame"  
 25 (Lanni, *Law and Justice in the Courts of Classical Athens*, 2006). For individual  
 26 litigants, honor and shame would often be subordinated to the fourth set of  
 27 courtroom virtues.

28

29 *Self-restraint, willingness to compromise, and individual conscience*

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31 One element of the complexity of Athenian moral values is further explained  
 32 when Lanni frames self-restraint and willingness to compromise as being in  
 33 opposition to the norms of honor and revenge just discussed: "The law court  
 34 speeches thus suggest that alongside the traditional pull of honor and revenge were  
 35 strong norms of cooperation and moderation in the face of social conflict" (Lanni,  
 36 *Law and Justice in the Courts of Classical Athens*, 2006).<sup>3</sup> Speakers often tried to  
 37 persuade jurors that they had tried to compromise with their opponents, had  
 38 requested informal arbitration, or had even overlooked wrongs they had suffered  
 39 for the sake of maintaining peace and harmony within the city. While the speaker  
 40 certainly valued honor, they claimed to value other things more, and thus had  
 41 restrained themselves from avenging their honor extrajudicially, as opposed to  
 42 their opponents, whose behavior is lacking in self-restraint.

43 "[Speakers] emphasize their own reasonableness and willingness to settle the  
 44 claim and portray their opponents as querulous, dishonest, and even violent"  
 45 (Lanni, *Relevance in Athenian Courts*, 2005). Although self-restraint is applauded,

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<sup>3</sup>See also (Allen, 2003), Chapter 3, for a discussion of anger and moderation.

1 the litigant who asserts that they have behaved with self-restraint is also clashing  
 2 with the cultural norm discussed above that says that he must defend his own  
 3 manly honor (Fisher, 2013). As we noted earlier, he is expected to repay someone  
 4 who harms him with harm; he is expected to revenge himself on anyone who hurts  
 5 him. His failure to retaliate to harm done to him can cut in both directions; it can  
 6 appear as praiseworthy self-restraint or as shameful cowardice. By not responding  
 7 to a wrong immediately himself and instead taking the man who has harmed him  
 8 to court he is relying on the jurors' feeling his anger at being mistreated and acting  
 9 on that anger by punishing the one who has harmed him. Since he was expected to  
 10 respond to being harmed by seeking revenge, litigants would explicitly appeal to  
 11 this desire for revenge as a motivation for being in court. So the argument was: of  
 12 course I am manly enough to desire revenge and maintain my honor, but I put a  
 13 greater value on the laws of the community; therefore, instead of immediately  
 14 retaliating I have brought my opponent here. I have done this because I am  
 15 confident in your ability to uphold the laws and norms of our community, and you  
 16 should now satisfy my deferred desire for revenge and uphold my honor, because  
 17 by harming me this man has also harmed your laws and norms and by extension  
 18 all of you as well. Lanni concludes that "To win, litigants were encouraged to  
 19 represent themselves in ways that decreased, rather than enhanced, their honor and  
 20 status according to the traditional moral code" (Lanni, *Law and Justice in the*  
 21 *Courts of Classical Athens*, 2006). This is in keeping with the emphasis on  
 22 community and democratic values rather than individual or elite values.

### 25 **Ethical Principles in Aesopic Fable and their Relationship to Courtroom** 26 **Principles**

28 Having briefly described the ethical values that were prominently displayed in  
 29 the Athenian courtrooms, we can turn to a discussion of the ethical values in  
 30 Aesopic fable. In the course of this discussion, I will analyze the values found in  
 31 fables in terms of the categories used by Lanni, and show that the two sets of  
 32 values are largely incompatible.

#### 34 *Reciprocity and Philia*

36 Zafiropoulos claims that reciprocity is one of the main themes to be found in  
 37 the Aesopic fables as well as Greek ethical life in general. He writes that  
 38 "[R]eciprocity operated at the very heart of many frameworks of social life in the  
 39 Greek *polis* from the Classical period onwards" (Zafiropoulos, 2001). And his  
 40 position that "Reciprocity in Greek social life dominated the content and the  
 41 behaviour associated with friendship and enmity" (Zafiropoulos, 2001) puts him in  
 42 agreement with Lanni's views and her assessment of courtroom speech.

43 Also like Lanni, Zafiropoulos argues that reciprocity takes two forms for the  
 44 Greeks. One of these he calls amicable, which is the kind of reciprocity one owes  
 45 to one's friends, and the other he calls hostile, which is the kind of reciprocity one  
 46 owes to one's enemies (Zafiropoulos, 2001). Amicable reciprocity, he argues, is

1 conspicuous in the fables by its absence. “The reader usually reads about betrayal  
 2 of friendship, failure to reciprocate a benefaction and so on” (Zafiropoulos, 2001).  
 3 Characters in the fables consistently pursue their own advantage, even at the  
 4 expense of a friend. For example, in the fable of The Two Dung Beetles, Perry  
 5 84<sup>4</sup>, one beetle goes in search of food, promising to bring back some for his friend  
 6 if he finds anything. He is successful in finding a new food source and gorges  
 7 himself there all winter, but he fails to bring anything back for his friend when he  
 8 returns home in the spring, offering only the excuse that “It’s the nature of the  
 9 place: there is plenty to eat there, but the food cannot be taken away” (Gibbs,  
 10 2002). Here the beetle ignores the promise made to his friend in order to have the  
 11 rich food supply all to himself – a clear violation of the norms of friendship.

12 The general message of the fables is that it is dangerous to rely too much on  
 13 other people because they cannot be trusted to follow the norms of positive  
 14 reciprocity. This, Zafiropoulos says, “bears no relation to the democratic view of  
 15 reciprocal relations” (Zafiropoulos, 2001). So we see a strong difference between  
 16 courtroom ethics and fable ethics: the citizens of Athens are expected to behave  
 17 consistently with norms of reciprocity, while the characters of fable usually do not.

18 On the other hand, hostile reciprocity in the fables is ubiquitous. Of course,  
 19 this does not necessarily mean that acting out of a desire for harming one’s  
 20 enemies turns out to be a good choice: “hostile reciprocity is effective, with  
 21 disastrous consequences” (Zafiropoulos, 2001). For example, he discusses the  
 22 fable of the Two Enemies, Perry 68, in which two enemies are travelling on the  
 23 same boat, occupying opposite ends so as to avoid each other, when it is hit by a  
 24 storm and begins to founder. The man in the stern asks the helmsman which end  
 25 will sink first, and when he hears that it will be the prow, he says that he is not  
 26 troubled by the thought of his own death because he will see his enemy die first  
 27 (Gibbs, 2002). A number of other fables share the theme that one’s own suffering  
 28 is unimportant as long as one’s enemy is also suffering at least as much (and,  
 29 preferably, more).

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### 31 *Honesty and Fair-dealing*

32

33 Recall that Lanni discusses the concepts of honesty and fair-dealing under the  
 34 heading of justice, and argues that justice serves as a form of self-restraint. This is  
 35 not consistent with the ethics demonstrated in the fables. Zafiropoulos argues that  
 36 “Justice, either as a virtue or in its judicial aspect, is hardly mentioned in the  
 37 *Augustana*” (Zafiropoulos, 2001). Victory in the fables is usually determined by  
 38 superior physical strength, or else by cunning, persuasion, and trickery. Fairness  
 39 does not enter into it. Honesty from others is not to be expected, and relying on it  
 40 is foolish. Consider, for example, the fable of The Fox and the Raven, Perry 124,  
 41 in which a fox notices a crow holding a piece of cheese that it is about to eat, and  
 42 tells the crow that he is the most handsome bird of all, and if only his voice  
 43 matched his appearance he would be first among all birds. The crow decides to  
 44 demonstrate his voice, letting loose a horrific “Caw!”, and in doing so lets go of

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<sup>4</sup>The standard system for referring to Aesopic fables was developed by Ben Edwin Perry in his *Aesopica*, published in 1952.



1 the cheese, which the fox picks up and runs off with (Gibbs, 2002). Here the fox  
 2 achieves victory through false flattery. As Zafiroopoulos also notes, throughout the  
 3 fables, economic transactions of any kind usually include some kind of dishonesty.  
 4 This was consistent with the generally low view aristocratic Greeks had of  
 5 merchants, who achieved wealth while not actually producing anything. So  
 6 honesty and fair dealing are praised in the courtroom, but do not operate as values  
 7 in the world of the fable.

#### 8 9 *Honor, Revenge, and Shame*

10  
11 As we have seen, revenge can be understood in terms of hostile reciprocity,  
 12 repaying someone who has harmed you with harm in return. Like other forms of  
 13 negative reciprocity, revenge in the fables is quite often successful, but it can also  
 14 have negative consequences for the one who achieves it. “The Frog and the  
 15 Mouse,” Perry 384, is probably the best known fable of this kind. In this fable, a  
 16 frog offers to teach a mouse how to swim. The mouse agrees, and the frog uses a  
 17 string to tie one of their rear legs to one of the mouse’s front legs, supposedly to  
 18 help the mouse learn. But instead of swimming, the frog dives to the bottom. “As  
 19 the mouse was choking, he said, ‘Even if I’m dead and you’re still alive, I will get  
 20 my revenge!’” The mouse then drowns, but his body floats to the surface, where it  
 21 is picked up by a raven. The frog, unable to detach himself from the dead mouse,  
 22 is picked up as well. After eating the mouse, the raven eats the frog as well, and  
 23 the mouse therefore gains his revenge in the end although he is not alive to enjoy it  
 24 (Gibbs, 2002).

25 In the fables, even the gods seem to endorse revenge. In Perry 198 (Apollo  
 26 and the Snake), a snake who has been repeatedly stepped on enters a temple and is  
 27 told by Apollo “‘If you had simply killed the first person who stepped on you, no  
 28 one would ever have dared step on you again!’” (Gibbs, 2002). This fable  
 29 demonstrates that if you let people walk all over you, they will keep doing it; but  
 30 once you demonstrate that you will repay someone who harms you with even  
 31 greater harm, you will no longer be victimized.

#### 32 33 *Self-restraint, Willingness to Compromise, and Obedience to Individual Conscience*

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35 Here we find the most significant difference between the principles that are  
 36 promoted in the courtroom speeches and those found in the fables. Zafiroopoulos  
 37 writes that “The *Augustana* advises the immediate satisfaction of one’s interests in  
 38 the field of daily action” (Zafiroopoulos, 2001). While things like “love of wealth,  
 39 greed, gluttony, idleness and arrogance” usually turn out badly, and “inner strength  
 40 and prudent thought and action” are rewarded, there is no indication that things  
 41 like self-restraint and willingness to compromise are worth pursuing for their own  
 42 sake or will lead to positive outcomes (Zafiroopoulos, 2001). As was discussed  
 43 above under the heading of amicable reciprocity, self-restraint for the sake of an  
 44 abstract ethical principle is ill-advised; survival is what matters, and survival often  
 45 dictates immediate self-gratification. On the other hand, self-restraint is important  
 46 when it comes to knowing one’s limits. You should try to get whatever you can

1 within the limits of your abilities, but trying to be more than what you are, or to  
 2 challenge someone who is stronger than you, will lead to disaster. As has been  
 3 said, victory in the fables almost always goes to whoever is physically stronger,  
 4 regardless of what other factors might be considered. For example, in the fable of  
 5 The Wolf And The Lamb, Perry 130, a wolf finds a lamb, and “He did not want to  
 6 rush upon the lamb and seize him violently. Instead, he sought a reasonable  
 7 complaint to justify his hatred.” He offers several reasons to the lamb that would  
 8 justify his aggression, which the lamb is able to refute, but in the end the lamb’s  
 9 ability to speak well does him no good as the wolf eats him anyway, saying ““You  
 10 are not going to make this wolf go without his dinner, even if you are able to easily  
 11 refute every one of my charges!”” (Gibbs, 2002). The wolf is able to pretend to  
 12 exercise self-restraint but, being stronger, ultimately does not need to restrain his  
 13 desires and is able to get what he wants.

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## 16 **Conclusions**

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18 Both Aesopic fable and courtroom speeches demonstrate widely held  
 19 principles of popular ethics in ancient Athens – yet they seem to be largely  
 20 inconsistent with one another. Why would this be the case? There are a number of  
 21 possibilities.

22 One possibility, which would be supported by Zafiropoulos, is that the fables  
 23 reflect the views of the lower classes at Athens, while courtroom speeches reflect  
 24 the views of the wealthy. Poor people have little choice, the argument goes, but to  
 25 take advantage of every opportunity as soon as it presents itself, even if that means  
 26 (for example) failing to honor reciprocity or committing an injustice if one has the  
 27 ability to get away with it.<sup>5</sup> Thus the fables illustrate a world in which the struggle  
 28 for survival is paramount, and ethical principles that do not promote this  
 29 worldview have no place. On the other hand, courtroom speeches, at least the ones  
 30 that have survived, were written by professional speechwriters, and because only  
 31 the wealthy could afford this, the speeches would have been given by wealthy men  
 32 who would not have had the same ethical codes as the poor, and would have been  
 33 expected to demonstrate aristocratic values. This suggestion has some appeal, but I  
 34 think that appeal is mitigated by the fact that although the speakers were wealthy  
 35 and aristocratic, the jurors were not. It would be important to speak an ethical  
 36 language that the jurors would understand and support. What is more, the jurors  
 37 would not have been likely to be sympathetic to a speaker who appealed to a  
 38 “higher” code of ethics than the one the jurors held, or made appeals to norms that  
 39 they did not share. The courts were in part constructed to uphold democratic  
 40 values, so it would be strange if the jurors were routinely persuaded by aristocratic  
 41 ones.

42 Related to this is the possibility that because the fables are older than  
 43 democracy, they represent older values. Because fables are associated with slaves  
 44 and the lower classes, this would not necessarily mean that they are reflecting

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<sup>5</sup>This would be consistent with Aristotle’s argument that the poor are base in petty ways, and must be (or at least act) subservient to the wealthy, which is morally corrupting.

1 aristocratic values, but rather the values the masses would have had to adopt to  
 2 survive under an aristocratic or tyrannical system. That is, they reflect not the  
 3 values that aristocrats would have held but the values that aristocrats would have  
 4 wanted the masses to hold. These values would have been gradually superseded  
 5 by the newer democratic values that the people chose to adopt.

6 A third possibility is that the fact that the fables (usually) involve animals and  
 7 not human beings is significant here. It is possible that the reader is meant to  
 8 conclude from the fact that although animals in fable do not reciprocate good  
 9 deeds that humans, being higher than animals, should do so; or that humans should  
 10 be able to engage in self-restraint where animals cannot. This would be consistent  
 11 with Hesiod who says in the Works and Days that humans but not animals have  
 12 the capacity for justice, and with the well-known story told by Protagoras in  
 13 Plato’s dialogue of that name, who says that it is to human beings alone, and to all  
 14 of them equally, that Zeus gave justice, so that we can live together in cities and  
 15 not perish. The fables remind us that we, as humans, are expected to follow norms  
 16 that animals are not capable of understanding.<sup>6</sup> So in this regard, seeing negative  
 17 behavior such as dishonesty and the failure to engage in positive reciprocity  
 18 displayed in stories about animals is meant to serve not as an example but as a  
 19 warning.

20 A final possibility has to do with the structure of a fable as opposed to the  
 21 structure of a trial. Most fables and all trials involve two parties in a struggle with  
 22 one another. However, only the trial is rooted in a larger community. This  
 23 community existed before the events that are narrated in the courtroom and will  
 24 continue to exist after the verdict. Fables are one-shot events: the characters do not  
 25 have a past; they lack identities (they do not have names; it is always “a fox” or  
 26 “the wolf”); the setting for events is almost never specified (sometimes it is “a  
 27 field” or “a pond” but with very few exceptions there is no more detail than that);  
 28 there is no setting in terms of time. Given this, there is no incentive for the  
 29 characters not to pursue their immediate interests.<sup>7</sup> However, if you are going to be  
 30 interacting with the same people again, or if you might be interacting with those  
 31 who can witness your behavior and pass judgment on it (i.e. the jurors and the  
 32 courtroom audience), then you should cooperate. In this case we are invited to  
 33 reflect on the specific circumstances of human (but not animal) community that  
 34 encourage reciprocity and an adherence to norms of justice, even if for purely self-  
 35 interested practical reasons.

36 It is, of course, also possible that Lanni is wrong in her understanding of  
 37 Athenian courtroom ethics or that Zafiroopoulos is wrong about fable ethics (or  
 38 both of them are wrong). This would certainly be a project for future research. But  
 39 in evaluating their scholarship we should be careful not to assume that the fact that  
 40 their views of Athenian ethics diverge means that one of them must be wrong; we  
 41 should not assume that the ancient Athenians had a single, monolithic set of ethical

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<sup>6</sup>This would be consistent with Aristotle’s well-known assertion that only human beings have speech and therefore only human beings can discover justice.

<sup>7</sup>Thus, the prisoner’s dilemma may be relevant here – if you are only interacting with someone one time, circumstances may dictate that you not cooperate in order to guarantee the best outcome. But repeated interactions dictate a different strategy.

1 virtues that were all consistent with one another. As Zafiroopoulos notes, the  
 2 Athenians had an ethics based on aristocratic individualism, as well as one based  
 3 on democratic communalism (Zafiroopoulos, 2001). If we find that these different  
 4 ethics are present in different degrees in different areas of practical ethics, we  
 5 should not be surprised. The ability to compare multiple sources of information  
 6 about Athenian ethics is an important part of understanding this subject, and I  
 7 believe that Aesopic fable is an important source of information for this project.

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