

# On the Normative Consequences of Virtue and Utility Friendships in Aristotle

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**Abstract:** In this article, I use the expanded hohfeldian model presented by Wenar to argue that, according to Aristotle's theory of friendship, every bond of friendship that is based on utility or virtue creates duties and hohfeldian incidents between those who are friends. In section 1, I provide a quick presentation of Hohfeld's work and of Wenar's hohfeldian model. In section 2, I present my thesis about the creation of certain hohfeldian incidents and certain duties in virtue and utility friendships as conceived by Aristotle. In section 3, I give a broad characterization of Aristotle's theory of friendship and of the three great kinds of friendship that he recognizes. In section 4, I defend the thesis that it is only in virtue and utility friendships that duties are created. In section 5, I specify what are the hohfeldian incidents created by these two kinds of friendship. In section 6, I specify the two ways in which, according to Aristotle, these incidents and duties might be created. In section 7, I conclude with a brief recapitulation of the argument.

**Keywords:** Aristotle, Hohfeld, friendship, normativity, duty.

**Resumen:** En este artículo utilizo el modelo hohfeldiano extendido, presentado por Wenar, para argumentar que, según la teoría de la amistad de Aristóteles, todo lazo de amistad basado en la utilidad o la virtud crea deberes e incidentes hohfeldianos entre aquellos que son amigos. En la sección 1 proporciono una presentación rápida de la obra de Hohfeld y del modelo hohfeldiano de Wenar. En la sección 2 presento mi tesis sobre la creación de ciertos incidentes hohfeldianos y ciertos deberes en las amistades basadas en la virtud y la utilidad tal como fueron concebidos por Aristóteles. En la sección 3 ofrezco una caracterización general de la teoría de la amistad de Aristóteles y de los tres grandes tipos de amistad que reconoce. En la sección 4 defiendo la tesis de que los deberes se crean solamente en las amistades basadas en la virtud y la utilidad. En la sección 5 especifico cuáles son los incidentes hohfeldianos creados por estos dos tipos de amistad. En la sección 6 especifico las dos maneras en que, según Aristóteles, podrían crearse estos incidentes y deberes. En la sección 7 concluyo con una breve recapitulación de la argumentación.

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**Palabras clave:** Aristóteles, Hohfeld, amistad, normatividad, deber.

### ***1. Hohfeld, Wenar and the hohfeldian incidents***

Wesley Newcomb Hohfeld was an American jurist who published a series of articles between 1909 and 1917 that were very important for 20<sup>th</sup> century analytical philosophy of right and established Hohfeld as a major precursor to the deontic logic that was later formulated by Von Wright.<sup>1</sup> His two major contributions were the articles “Some Fundamental Legal Conceptions as Applied in Judicial Reasoning” (Hohfeld 1913) and “Fundamental Legal Conceptions as Applied in Judicial Reasoning” (Hohfeld 1917). In these articles, Hohfeld analyzed how jurists and judges alike use the word “right” to speak of the rights of groups and individuals such as the right of free speech, the right to vote, the right to abort and etc.

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<sup>1</sup> On this point see Saunders 1990: 465. Although some have questioned the usefulness of the hohfeldian framework, as Hudson and Husak 1980 for example, these attempts are more often than not met with quick and thorough replies like the one we find in Perry 1980 against Hudson and Husak 1980.

According to Hohfeld, although the word “right” was used in these contexts to name several different juridical relations, there are some basic meanings of the word, each of those basic meanings express a clear and simple juridical fact and all rights are in fact complex juridical facts made up of the agglutination of these simple juridical facts. Although his analysis was confined to the use of the word in the juridical realm, his concepts been used by many who followed him to analyze the way we talk about rights in the most diverse contexts.<sup>2</sup>

Indeed, we do say that we have the right to believe in a proposition p, that we have or don't have the right to feel a certain way and that we have or don't have the right to do a certain action. Besides, we say not only that a citizen has the right to vote, but also that a football player has the right to hit the ball with his feet or his head, but not with his hands, that the chess player has the right to take a certain time to decide what move he is going to make and that he has or does not have the right to move a certain piece in a certain way, just like we say that a judge has the right to order somebody's arrest and that the officials in customs have the right to order a traveler to open his bags.

Today, many scholars have been working on Hohfeld's theory in order to improve and expand its capacities.<sup>3</sup> Others have chosen to apply it in order to analyze and clarify the works of other philosophers.<sup>4</sup> In the case of Aristotle, the hohfeldian incidents were used with great success by Fred Miller Jr. to clarify Aristotle's political thought in *Nature, Justice and Rights in Aristotle's Politics* (Miller Jr. 1997) and in “Aristotle's Philosophy of Law” (Miller Jr. 2007).<sup>5</sup> Although the present work is indebted to the contributions of professor Fred Miller Jr., the use that is made of the hohfeldian incidents in the present work is original in at least two ways: in what follows, I use the expanded model proposed in Wenar 2005: 223–237 instead of the dominant model,<sup>6</sup> and I employ this model in Aristotle's theory of

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<sup>2</sup> For example, Wenar 2015.

<sup>3</sup> For example, Wenar 2005 and Biasetti 2015.

<sup>4</sup> In the case of Thomas Hobbes this use is particularly developed. Indeed, the first standard application of the hohfeldian incidents to Hobbesian thought has already been rightly criticized in Curran 2002, 2006a and 2006b, and the errors that were pointed out have already been overcome in Yates 2013.

<sup>5</sup> The author also used the hohfeldian incidents to clarify affirmations we find in several of our primary sources for ancient Greek law in Miller Jr. 2009.

<sup>6</sup> In the classic model we have only four incidents – privileges, claims, powers and immunities. Although Hohfeld decided to call ‘right’ what others and I prefer to call ‘claim’, this same fourfold division is the one we find at the heart of the two tables of eight jural opposites we find in Hohfeld 1913: 30 and Hohfeld 1917: 710. As noticed by Cook 1919: 724–725,

friendship – an area of his work in which the hohfeldian incidents have not yet been employed to clarify his thought.

For the purposes of this paper, the expanded hohfeldian model can be summed up as follows.

An individual has a *single privilege* (S. Pr.) to  $\phi$  when he has no duty not to  $\phi$  and a duty to  $\phi$ . This is maybe the case of a sheriff right to break down a door behind which a wanted fugitive is locked *if* we assume the right came with a duty to break down the door and pursue the fugitive. On the other hand, an individual has a *paired privilege* (P. Pr.) to  $\phi$  when he has no duty to  $\phi$  or not to  $\phi$ . This is the case of the chess player that has the right to capture his opponent's pawn and the right to abort many believes women should have.

An individual has a *claim* (Cl.) on another when this other has a duty towards him to  $\phi$  or not to  $\phi$ . For every claim possessed by one individual there is some other who has a duty towards him to fulfill that claim. Your (Cl.) that I not strike you correlates to my duty not to strike you, your (Cl.) that I help you correlates to my duty to help you, your (Cl.) that I do what I promised correlates to my duty to do what I promised, and an employee's (Cl.) to his pay correlates with his employer's duty to pay him.

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these four terms were already employed by lawyers and judges at the time Hohfeld wrote his works in order to express the same concepts he would later formulate, but they were not always used in a consistent manner to express *only* these concepts. It should also be pointed out that although the consistency of the hohfeldian notion of a privilege was questioned in Moritz 1960: 9-10, Moritz 1973 and Christie 1973: 814-822, the answers provided in Mullock 1970a, Mullock 1970b and Mullock 1977 were sufficient to resolve all of the concerns raised by Moritz and Christie and that no new questions regarding the consistency of that notion have been put forward ever since. Nevertheless, the expanded model designed in Wenar 2005 is a significant improvement over this model because it allows us to clearly distinguish between two different types of privileges and powers, those that are simple and those that are paired.

An individual has an *immunity* (Im.) towards another when this other lacks the ability to change his normative situation in a particular way. We say that a tenured professor has an (Im.) to being fired, which correlates to the university's lack of a power to fire him, and that a witness sometimes has an (Im.) against prosecution, which correlates with the government's lack of power to prosecute her.

Since the adoption of hohfeldian language to clarify Aristotle's thought has already been defended and justified in Miller Jr. (1997: 87-142), I will not elaborate much on this matter. Nevertheless, there is one objection that can be made against the employment of this language that, as far as I know, Miller Jr. does not address, namely, that hohfeldian models employ the notion of duty and that, according to many, such talk is not helpful at all when it comes to analyzing the work of Greek philosophers.

In my opinion, the best way to address these doubts in the present context is to explain why we should talk of duty and of hohfeldian incidents when carrying out the analysis of Aristotle's theory of friendship. In what sense does our talk of duties and hohfeldian incidents make a difference? What does the notion of duty add to it? What would be lost if instead of using the idea of duty we simply referred to justice, or if we spoke only of normative consequences or normative requirements? I believe that the argument in the next pages can be used to answer these questions, and it might be useful to provide a brief summary of it both in order to clarify how exactly it can be used to answer them and to prepare the reader for the exposition that is to follow.

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## ***2. Duties and hohfeldian incidents in Aristotle's theory of friendship***

As I intend to show, there is one concept that is central to Aristotle's theory of friendship which justifies our talk of duty while applying the hohfeldian model proposed above, namely, the term *opheilema* (NE VIII 13, 1162b5-34; IX 2, 1164b23-1165a35), which is usually translated as either debt or obligation. As we shall see, Aristotle believes that virtue and utility friendships always create debts or obligations of cooperation between friends, which means that to have a friend of this type means owing them certain actions or behaviors in virtue of having this precise relationship with him.

I say this word justifies our talk of duty while employing hohfeldian language because, although the word duty has several meanings, in one of these meanings to have a duty is to owe the performance of an action to

somebody or some group, and this is the meaning of the word which I'm using. Therefore, one might say that the reason I believe we are justified in employing this concept of duty in Aristotle's theory of friendship is because I believe that whenever there is an *opheilema* there is also a duty in this sense. As we shall see in section V, the word *opheilema* was indeed used – both by Aristotle and before him – to indicate a debt or an obligation that has the general form of an action that is owed to somebody by somebody. To have an *opheilema*, in these cases, is to owe an action to somebody, and since this is precisely the definition of the concept of duty that I'm employing, we can say that at least in these cases to have an *opheilema* is to have a duty in the sense of the word that is pertinent for this discussion.

In light of this, I think it is indeed reasonable to propose the use of this notion of duty to clarify this aspect of Aristotle's theory of friendship. But the use of the Hohfeldian model implies not only the use of this notion of duty but also the use of at least some of the Hohfeldian incidents. As we shall see, for this use to be fully justified we need to bear in mind not only Aristotle's use of the term *opheilema*, but also his talk of accusations (*enklémata*) and recriminations (*mémpeis*) between friends (Aristotle, *NE VIII* 13, 1162b5–34), and of a friend's capacity or ability both to “liberate” a friend, so to speak, of the performance of any actions that this friend owes to him because of their friendship (Aristotle, *NE VIII* 14, 1163b18–23), or, alternatively, to exact (*epizetéo*) from him what their friendship allows (Aristotle, *NE VIII* 14, 1163b13–18).

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If what is said below is correct, these aspects of Aristotle's theory could be perspicuously formulated in Hohfeldian terms by saying that to every debt a friend has to another friend there is a claim that the debt is paid – a Hohfeldian incident – that belongs to him who is owed, and that he who is owed has a paired power over he who owes because he has the ability to simply waive his claim, doing away both with it and with the friend's duty. If we accept these conclusion, I see no reason not to recognize that the notion of duty I am employing does not hinder our understanding of Aristotle's thought, and that this very same notion can be used, together with the expanded Hohfeldian model, to further our understanding of the normative consequences of utility and virtue friendships in Aristotle's thought. If what is said in what follows is correct, we should include duties and Hohfeldian incidents among these consequences.

I believe I have said enough about the Hohfeldian model I have chosen to employ and about the concept of duty that features in it to show why I believe it can be helpful to those who seek to understand Aristotle's theory of friendship. It is now time to turn our attention to this theory and see if our interpretation of it can support the claims we have made so far.

### 3. *Justice, friendship and cooperation in Aristotle*

In book I of the *Nicomachean Ethics*, Aristotle says that all human beings have a desire for happiness and that happiness is an end that is both complete and sufficient (Aristotle, *NE* I 7, 1097a35–b22). In book IX, he says that human beings need friends in order to be happy because they need to live with others so as to be happy (Aristotle, *NE* IX 9, 1169b17–21), and there are at least two passages of his work where a strict relationship between having friends and living in community is postulated. These passages are the following:

The objects and the personal relationships with which friendship is concerned appear, as was said at the outset, to be the same as those which are the sphere of justice. For in every community we find some sort of justice and friendship: one notes that shipmates and fellow-soldiers speak of each other as “my friend”, and so in fact do the partners in community. But their friendship is limited to the extent of their community, as is the kind of justice that exists between them. (Aristotle, *NE* VIII 9, 1159b25–30)

It is manifest therefore that a political community is not merely the sharing of a common locality for the purpose of preventing mutual injury and exchanging goods. These are necessary preconditions of its existence, yet nevertheless, even if all these conditions are present, that does not therefore make a political community, for a political community is a community of families and of clans in living well, and its object is a full and independent life. At the same time this will not be realized unless the partners do inhabit one and the same locality and practice intermarriage; this indeed is the reason why family relationships have arisen throughout the political communities, and brotherhoods and clubs for sacrificial rites and social recreations. But such organizations are produced by the feeling of friendship, for friendship is the motive of social life; therefore, while the object of a political community is the good life, these things are means to that end. (Aristotle, *Pol.* III 5, 1280b30–40)

As we can see, Aristotle thinks not only that friendship and justice exist in every form of community, but also that friendship is the reason why men live in communities. To be a part of a community is to be connected by a bond of friendship with the others who are a part of it. Although Aristotle recognizes the existence of many different types of community throughout his work, the purposes of this paper make it unnecessary to work out the many differences between the many communities mentioned by Aristotle.

As it is the case with many of his theories, Aristotle departed greatly from his predecessors when it came to explaining friendship. Before him, there were those who thought that it was caused by likeness and those who thought it was caused by difference (Aristotle, *EE* VII 1, 1235a5-28, *NE* VIII 1, 1155a33-8). Aristotle himself thought that these explanations were too general to say anything meaningful about friendship, and he ended up rejecting both explanations in favor of his own functional account in which friendship is explained teleologically. For the philosopher, friendship is something that happens as a means to some good that is the end of the friendship.

In both ethical treatises, Aristotle recognizes the existence of three great kinds of friendship, namely, pleasure friendship, utility friendship and virtue (or character) friendship (Aristotle, *EE* VII 1, 1236a32-33, *NE* VIII 3, 1156a7-8). These three kinds are distinguished according to the kind of good at which they aim, but what exactly does it mean to say that a given friendship “aims at” a good of one of these three kinds?

As we go through his theory of friendship in the *NE*, we see that Aristotle recognized the existence of many different kinds of community, that according to him to each community corresponds one bond of friendship, and – crucially – that in every bond of friendship the friends expect each other to cooperate proportionally to the achievement of the goal that is the aim of the friendship.<sup>7</sup> According to the interpretation I’m proposing, in two of the three great kinds – namely, in utility and virtue friendships – the bond of friendship creates not only a mutual expectation of cooperation, but also a duty to cooperate.

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Nevertheless, it is important to notice that this cooperation can take place in many ways and that, according to Aristotle, the duties created by these bonds of friendships are not always sufficient to produce cooperation. In order for us to properly understand Aristotle’s theory of friendship these two points must be clear. In what follows, I’ll deal with them in the order they were stated.

In what concerns the way cooperation happens, Aristotle assumes that if me and my friend are friends in view of the pleasure of drinking together, then we will be disposed to cooperate so as to both (a) drink together and (b) have and give pleasure in an appropriate way in drinking together so as to perpetuate our friendship and keep having opportunities of drinking together in the future (Aristotle, *NE* VIII 4, 1158a18-23). In doing so, we would regularly cooperate towards the achievement of having pleasure in

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<sup>7</sup> As recently noted in Pakaluk 2005: 263.

drinking together and naturally create in each other the expectancy of future mutual cooperation towards the same end. But according to Aristotle the pleasure in being around each other and in both giving and receiving pleasure from each other is only typical of pleasure and virtue friendship.

In a friendship of utility, it may very well be the case that the only act of cooperation is an exchange of goods that each friend obtained independently. These cases of friendship can happen even when the friends do not have any pleasure in each other's company, take no pleasure in helping each other out and the only aim each friend has in the friendship is the benefit with which the other is supposed to provide him (Aristotle, *NEVIII* 4, 1157a12-14). Although it must be clear that to Aristotle this is friendship in its lowest form (Aristotle, *NEVIII* 4, 1158a18-19), we should also stress the fact that he counts an association of this form as a case of utility friendship.<sup>8</sup>

Virtue friendship is a kind of friendship that is significantly different from both pleasure friendship and utility friendship. Virtue friendship is similar to pleasure friendship because in both kinds the friends take pleasure in being together and benefiting each other, and it is similar to utility friendship because in both cases the friends are useful to one another (Aristotle, *NE VIII* 4, 1157a20-25). Nevertheless, according to Aristotle we become virtuous by doing virtuous actions ourselves, which means one person cannot provide another with virtue in the same way one can provide another with pleasure or useful things. It is simply not possible to just "give" virtue that way. Besides, even if it were possible that would not be what Aristotle calls virtue friendship because according to him virtue friendship is a friendship between people who are already virtuous.<sup>9</sup> Because of this peculiarity it is not easy to determine what is the good that is provided and aimed at in virtue friendship; scholars have disagreed considerably in this matter.

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According to some, virtue friendships help and/or improve the practice of virtuous actions.<sup>10</sup> According to others, virtue friendships would provide the individuals that took part in it with a special kind of pleasure, namely,

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<sup>8</sup> The question of the presence of goodwill in all friendships has been much discussed, and Mulgan 1999: 23 may be right when he says that the most prudent thing we can do is to leave the question open. Since the thesis I'm defending does not depend on this point, I'll not elaborate on my position. For an opinion different than my own see Zingano 2015: 205.

<sup>9</sup> On the difference between being friends with someone because of their character and because of their personality – which can be the case in pleasure friendships – see Reiner 1991: 78-82.

<sup>10</sup> Kraut 1989: 135-136, 169-170, Millgram 1987: 371, Schollmeier 1986: 379-388, Schoeman 1985: 292.

the pleasure of being aware and contemplating the virtuous friend and his virtuous activities.<sup>11</sup> A third interpretation argues that virtue friendships help virtuous men to better understand themselves because, since Aristotle states that such a friend is “another self”, it is possible for us to see and better understand ourselves by observing these friends and their virtuous behavior.<sup>12</sup> A fourth interpretation claims that virtue friends allow individuals to continue to perfect themselves even after they have acquired the virtues.<sup>13</sup>

For the purposes of this discussion it is unnecessary to choose any one of these interpretations, and it could even be conceded that different kinds of virtue friendship could aim at different benefits. Nevertheless, it is worth noticing that, whether the final aim is simply to cooperate in order to be able to achieve even greater feats, to delight in some sort of virtuous pleasure by contemplating these actions, to observe them in order to attain self-knowledge, or to provide us with a model that we can imitate in order to continue to perfect ourselves even after we acquire the virtues, according to all interpreters it is with the performance of virtuous actions that virtue friends are committed.

Having clarified how I understand the three kinds of friendship, I can now move on to my thesis about the duties that are created by utility and virtue friendships.

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#### **4. Aristotle on debts, duties, accusations and recriminations in virtue and utility friendships**

According to Aristotle,

Accusations (*enklémata*) and recriminations (*mémpseis*) occur solely or chiefly in friendships of utility, as is to be expected. In a friendship based on virtue each party is eager to benefit the other, for this is characteristic of virtue and of friendship; and as they vie with each other in giving and not in getting benefit, no complaints nor quarrels can arise, since nobody is angry with one who loves him and benefits him, but on the contrary, if a person is of good feeling, he requites him with service in return; and the one who outdoes the

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<sup>11</sup> Annas 1977: 548, 550, Schroeder 1992: 214.

<sup>12</sup> Cooper 1977: 301-302, Cooper 1980: 324, and Arreguín 2010.

<sup>13</sup> Vakirtzis 2015.

other in beneficence will not have any complaint against his friend, since he gets what he desires, and what each man desires is the good. Nor again are complaints likely to occur between friends whose motive is pleasure either; for if they enjoy each other's company, both alike get what they wish for, and it would seem ridiculous to charge (*enkaléo*) somebody for not being agreeable to you, when you need not associate with him if you do not want to do so. But a friendship whose motive is utility is liable to give rise to complaints (*enklematiké*). For in this case the friends associate with each other for profit, and so each always wants more, and thinks he is getting less than his due; and they make it a grievance that they do not get as much as they want and deserve; and the one who is doing a service can never supply all that the one receiving it wants. It appears that, as justice is of two kinds, one unwritten and the other defined by law, so the friendship based on utility may be either customary (*ethiké*) or conventional (*nomiké*). Hence occasions for complaint chiefly occur when the type of friendship in view at the conclusion of the transaction is not the same as when the relationship was formed. Such a connection when on stated terms is one of the conventional type, whether it be a purely business matter of exchange on the spot, or a more liberal accommodation for future repayment, though still with an agreement as to the quid pro quo; and in the latter case the debt (*ophélema*) is clear and cannot cause dispute, though there is an element of friendliness in the delay allowed, for which reason in some states there is no action at law in these cases, it being held that the party to a contract involving credit must abide by the consequences. The customary type on the other hand is not based on stated terms, but the gift or other service is given as to a friend, although the giver expects to receive an equivalent or greater return, as though it had not been a free gift but a loan; and as he ends the relationship in a different spirit from that in which he began it, he will complain. (Aristotle, *NEVIII* 13, 1162b5-34)<sup>14</sup>

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As we can see, the key concepts in this text are the ideas of accusation (*enklémata*), recrimination (*mémipseis*) and debt (*ophélema*). This latter term

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<sup>14</sup> Although many still translate *ethike* as 'moral', the use of this word by interpreters of Aristotle's thought has been heavily criticized by Anscombe 1958: 1-2 and, even if I managed to answer the author's objections, if I translate *ethike* as moral I might give the reader the false impression that I believe that the duties created by this kind of friendship are moral duties. As for the translation of *nomike* as legal, which is also still very common, it could give the impression that these friendships and the duty they create are legal duties. In fact, the only difference Aristotle is seeking to establish is a difference between friendships where the debts that are owed are clearly established by convention and friendships where what is owed is left unspecified, even though the fact that something is owed is not denied by any party.

is the most important of the three, for the accusations and recriminations are about unpaid debts, and they rely on the assumption that the friend owed to the individual that is complaining to pay de debt. Since according to the definition of duty we are using to have a duty is to owe an action to somebody, it seems more than reasonable to say that those who have *ophellema* in the sense of the word that is being employed by Aristotle also have duties according to the definition we are using.

That being said, it is important to notice that according to what is said in the passage just quoted accusations (*enklémata*) and recriminations (*mémpseis*) never occur in virtue friendships, are ridiculous in pleasure friendships and most common in utility friendships. Given such a disparity, it seems that we need to ask if Aristotle thought that debts and duties were present in every friendship. In order to answer this question, we will need to understand Aristotle's reasons for saying that accusations (*enklémata*) and recriminations (*mémpseis*) never occur in virtue friendships, are ridiculous in pleasure friendships and most common in utility friendships.

According to what was said above, the reason that complaints and recrimination will never happen in virtue friendships is not because virtue friends don't have debts or duties towards each other, but because virtuous people will never ask of anyone, let alone a friend, more than what is fair, and virtuous people are by definition people who desire to act virtuously. Since to satisfy a duty towards a virtue friend is to act virtuously, it is indeed reasonable to say that virtuous people will actually seek to satisfy their duties towards each other not only for the benefit of their friends, but also because by doing so they'll be acting virtuously.

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But when Aristotle says that complaints aren't likely to arise between pleasure friends because "it would seem ridiculous to charge somebody for not being agreeable to you, when you need not associate with him if you do not want to do so", it does seem like he is saying that no pleasure friends need to be associated with each other, and that no debts or duties concerning the giving and receiving of pleasure are created between pleasure friends. Aristotle is not really denying that pleasure friends may accuse and recriminate one another for not being pleasant to each other. What he is saying is that such complaints are always ridiculous, and if they are always ridiculous it is because there can never be any real debts or duties at stake between pleasure friends. For where there are debts or duties, then it is at least conceivable that there can be justified charges in case the debt is not paid and the duty is not fulfilled.

Although at first one might feel inclined to resist this argument, and maybe even try to find other passages of Aristotle's work that would justify the attribution of debts and duties to pleasure friends, I believe if we take a

look at a few of the associations that Aristotle counts as pleasure friendships we will see that not attributing duties to these friendships is a welcome result. Indeed, Aristotle specifically mentions as examples of pleasure friendship the friendship between witty people (Aristotle, *NE* VIII 3, 1156a12-14, VIII 4, 1157a5-7), the lover and the loved (Aristotle, *NE* VIII 4, 1157a5-12) and children (Aristotle, *NE* VIII 4, 1157a25-33), and it seems that in all of these cases it is very counter intuitive to posit the existence of debts and duties of cooperation to achieve the goal of the friendships in question.

According to Aristotle's theory, two friends who like each other because they are witty will try to be together in order to enjoy each other's wittiness as best as they can. In these cases, it is reasonable to say that each friend will expect the cooperation of the other in the joint task of being witty together. But it is also certainly ridiculous to imagine these people feeling like they have been taken advantage of and accusing and recriminating each other for not having been witty in a particular occasion, or to imagine that any one of them would demand of the other that he be witty now, or in a particular way, in order to repay his own wittiness in one or more past occasion.

The friendship between lover and the loved is a special case because Aristotle thinks it can become a virtue friendship when, as a result of intimacy, both have come to know and love each other's virtuous character. But, when it is for pleasure, Aristotle represents it as a friendship where the lover delights in looking at the beloved and the beloved delights in being looked at. To say that in these cases the people involved in such a friendship *owe* these actions to each other, so that any one of them would be justified in demanding, accusing and recriminating the other for not doing his part, seems very unintuitive, and the interpretation I'm offering exempts us from trying to justify this affirmation.

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To make matters even more difficult, in the case of children there is the additional question of whether or not it is plausible to propose that they could have the concepts of debt and duty and be capable of applying it among themselves.

Given all these difficulties, it is indeed fortunate that Aristotle did not claim that pleasure friendships could give rise to justified recriminations and complaints. If we accept this thesis we will be positing an important difference between pleasure and utility friendships, and the first thing we have to be clear about is what exactly does that difference amount to. In my view, the difference is a difference between what you can only expect and what you can not only expect, but also demand of somebody. Pleasure friends can expect but cannot demand of each other that they repay with pleasure the pleasure they have been given, but utility and virtue friends can both expect and demand of each other that they repay proportionately

whatever benefit they have been given whenever and however they can.  
Indeed, according to Aristotle,

(...) friendship exacts (*epizetéo*) what is possible, not what is due; requital in accordance with deservingness is in fact sometimes impossible, for instance in honoring the gods, or one's parents: no one could ever render them the honor they deserve, and a man is deemed virtuous if he pays them all the regard that he can. (Aristotle, *NEVIII* 14, 1163b13-18)

Although the philosopher speaks of friendship generally in this passage, I believe what Aristotle has previously said about pleasure friendships is enough for us to understand he is talking only about utility and virtue friendships in this passage. It is only in these friendships that one would be justified in exacting anything of one's friends, for it is only in these friendships that the friends really owe anything to each other.

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Before we move on, it might be prudent to point out that the interpretation I'm proposing does not erase the difference between pleasure and virtue friendships, nor does it render duty talk irrelevant in both cases. Indeed, although Aristotle believes complaints are ridiculous in pleasure friendships and rules out their occurrence in virtuous friendships, it seems to me that his reasons for ruling them out in virtuous friendships are different from his reasons for ruling them out in pleasure friendships, and nothing that is said above commits us with thinking otherwise.

In the case of virtuous friendships, Aristotle seems to believe that both the character of the individuals involved in the friendship and the duties that pertain to each is known to both parties, and that these characters are such that they make each one sure of the other's efforts to fulfill their reciprocal duties. That they would be so assured is understandable, for it is the mark of a virtuous man to spontaneously seek to do virtuous actions, and to fulfill one's duties towards one's friends when the friendship is a virtue friendship is to act virtuously.

In other words, according to the interpretation I'm proposing there are no duties to cooperate in the case of pleasure friendships, while in the case of virtue friendships there is always a duty to cooperate, and the reason why it makes no sense to complain or recriminate a virtuous friend for his behavior is because you know his character is such that he would have fulfilled his duty to you if he could and, according to Aristotle, friendship can only exact what is possible. That is all that friends are allowed to ask of each other.

Having showed why I believe all bonds of virtue and utility friendship do indeed create duties between friends, I will now try to clarify which Hohfeldian incidents I believe these two kinds of friendship always create.

## 5. On the hohfeldian incidents that are created by virtue and utility friendships

As we have seen, Aristotle states that if A is a utility or virtue friend of B for the sake of C, then A has a duty towards B to contribute proportionally or equally to the achievement of C, and B has a duty towards A to contribute proportionally or equally to C. Since Aristotle clearly thought these duties were owed to another and could be exacted by this other, I see no reason not to recognize that, in hohfeldian terms, we could say that both friends have a (Cl.) of proportionate contribution towards the goal of the friendship on each other.

So, if what is said above is correct, we can safely conclude that utility and virtue friendships create duties and at least one hohfeldian incident between friends, namely, a claim of proportionate contribution. But there is one passage which allows us to say that such friendships also create a (P. Po.).

Indeed, according to Aristotle,

(...) a debtor ought to pay what he owes, but nothing that a son can do comes up to the benefits he has received, so that a son is always in his father's debt. But a creditor may discharge his debtor, and therefore a father may disown his son. (Aristotle, *NEVIII* 14, 1163b18-23)

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As we can see, in this context to discharge can only mean to annul the debtor's debt, one's own (Cl.) that the debt be paid and the debtor's correlative duty of paying the debt. In this passage, Aristotle claims that a father may actually discharge the son's debt to him altogether by disowning him, just like any creditor may discharge his debtor. In light of what has been said so far, it seems plausible to suggest that he would also agree that a father may discharge his son from any particular duty he has towards himself without renouncing him altogether and annulling all the debts and duties his son has towards his own father.

Since the (Cl.) generated in every virtue and utility friendship is about the paying of debts, it seems that Aristotle thinks that with this (Cl.) comes the (P. Po.) of discharging or not discharging this (Cl.) and, consequently, of annulling or not annulling its correlative duty. This (P. Po.) can be exercised with regard to a (Cl.) and a duty that exists either by virtue of the kind of friendship the friends have or of some service that was rendered by one friend to the other. In each case, he who is owed the duty may discharge his friend from the obligation of fulfilling it – either at a particular occasion, or at all.

I believe I've said enough to ground my thesis according to which the bonds of virtue and utility friendship as conceived by Aristotle always

create duties and at least some of the hohfeldian incidents. But how exactly are these duties and hohfeldian incidents created? This is what I attempt to show in the next section.

## **6. On how duties and hohfeldian incidents are created in virtue and utility friendships**

If we look to Aristotle's text for clues as to how duties and hohfeldian incidents are created inside virtue and utility friendships, it seems we must conclude that according to him these duties can be created either by the bonds of friendship themselves (Aristotle, *NE VIII 9*, 1159a35-1160a2) or through the mutual interaction of the friends in their acts of cooperation (Aristotle, *NE VIII 14*, 1163b12-19). By using the word *ophellema* in *NE VIII 13*, 1162b5-34 to name debts that are created in both these ways Aristotle is following a practice that can be seen in Greek literature before him, and it will be profitable to take a quick look at a few of those occurrences in order for us to have a better idea of the kind of normative relation that Aristotle is envisioning.

278 | The passages I selected are (a) "on this property, I have the following debts" (Demosthenes, *Private Orations* 42: 26), (b) "I owe many thanks to the gods" (Sophocles, *Antigone*: 315), (c) "I'm not obligated to die for you" (Euripides, *Alcestis*: 682), (d) "Come, let me see; what do I owe? Twelve minae to Pasiás" (Aristophanes, *Clouds*: 18-21), (e) "Socrates: Really I am greatly indebted to you, Theodorus" (Plato, *Statesmen*: 257<sup>a</sup>), (f) "I have produced witnesses to the fact that I did not enter the magistrates' hall, and that, as the fine was unjustly imposed on me, I neither owe it nor in justice ought to pay it" (Lysias, *Lysias* 9: 9), and (g) "I owe you a repayment in proportion" (Herodotus, *Persian Wars*: 1.41-42).

Occurrences (a), (d) and (f) are about pecuniary debts, but in (b), (c) and (g) what is owed is an action. Aristotle and the Greeks applied the word *ophellema* for debts of both kinds, and for this reason we must assume that whatever Aristotle says about *ophellema* should be valid for debts of both kinds. This shouldn't surprise us. After all, it may very well be argued that in (a), (d) and (f) what was owed was also an action, namely paying whatever it is that was due.

As we can see, the word *ophellema* was indeed used – both by Aristotle and before him – to indicate a debt or an obligation that has the general form of an action that is owed to somebody by somebody. To have an *ophellema*, in these cases, is to owe an action to somebody, and since this is precisely the definition of the concept of duty I'm employing, we can say

that at least in these cases to have an *ophelema* is to have a duty in this sense of the word.

In (c), Feres, the father of Alcestis, replies to his son's scolding of him for not having accepted to die in his place stating that he has no such duty, and he does so with the following words:

I begot you and raised you to be the master of this house, but I am not obliged to die for you. I did not inherit this as a family custom, fathers dying for sons, nor as a Greek custom either. [685] For you are happy or unhappy for yourself alone. What you should in justice have received from me you have: you rule over many subjects, and I shall leave to you many acres of land, for I received the same from my father. (Euripides, *Alcestis*: 682-688)

The first thing I would like to note is that the father of Alcestis states that he does not have the duty to die for his son because the customs of his country and his family did not establish such a duty. Also, the formulation of the supposed custom makes it clear that the character is actually referring to the inexistence of a rule that regulates this aspect of the relationship between parents and children so as to create the duty his son is supposing he had. Last but not least, in claiming that he received no such custom from his family or his country Feres both recognized that the political community and the family had customs that created duties for the individuals that are a part of them, and supposed that they were the only origins of any debts and duties. For he implies that if he did not receive the duty from one of these two sources, then he simply does not owe that action to his son.

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As we can see, Aristotle is following the ideas of his time when he recognizes that an individual had certain debts and duties by virtue of participating in certain communities. But he also followed the Greeks when he recognized that debts and duties could be created in other ways. In (b), for example, the guard that notified Creon that Polinices' body had been buried says he owes many thanks to the gods for not having been killed by the king on account of the news he brought, clearly assuming that it was somehow due to their help in that particular occasion that he is still alive, and that it was the help they provided at that time that created in him the debt he is now mentioning. As we shall see, the same thing can be said of the passages (e) and (g).

Passage (e) can be read as follows,

Socrates: Really I am greatly indebted to you, Theodorus, for my acquaintance with Theaetetus and with the Stranger, too.

Theodorus: Presently, Socrates, you will be three times as much indebted,

when they have worked out the statesman and the philosopher for you.  
(Plato, *Statesmen*: 257a)

In this passage, Socrates affirms that he has himself become indebted to Theodorus when he met Theaetetus and the Stranger through him. Theodorus did Socrates a great service because both Theaetetus and the Stranger have proven to be great companions for Socrates in his search for knowledge. Because of this, Socrates recognizes he now owes Theodorus something of importance. Theodorus replies states that this debt will yet grow, for the two will keep helping him until they work out the statesman and the philosopher. As the value of the service he has rendered grows, suggests Theodorus, so does Socrates' debt to him.

As for the passage from Herodotus' *Histories*, it can be read as follows:

Croesus sent for Adrastus the Phrygian and when he came addressed him thus: "Adrastus, when you were struck by ugly misfortune, for which I do not blame you, it was I who cleansed you, and received and still keep you in my house, defraying all your keep. Now then, as you owe me a return of good service for the good which I have done you, I ask that you watch over my son as he goes out to the chase. See that no thieving criminals meet you on the way, to do you harm. Besides, it is only right that you too should go where you can win renown by your deeds. That is fitting for your father's son; and you are strong enough besides". "O King", Adrastus answered, "I would not otherwise have gone into such an arena. One so unfortunate as I should not associate with the prosperous among his peers; nor have I the wish to do so, and for many reasons I would have held back. But now, since you urge it and I must please you (since I owe you a return of good service), I am ready to do this; and as for your son, in so far as I can protect him, look for him to come back unharmed". (Herodotus, *Persian Wars*: 1.41-42)

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As we can see, in this passage the debt between the two men was also created by the help that one of them provided the other at a particular time. But this passage is also helpful because it shows us something that the passage about customary friendships of utility only suggests, namely, that a friend could ask of another friend for some specific action as repayment for some debt. This is an action that could have normative consequences between the friends, just as it does in the passage from Herodotus where Adrastus recognizes that he must perform the action that Croesus is asking of him. For it is clear that he did not have the duty of protecting the son of Croesus before he was asked by him. Before Adrastus asked, Croesus had the duty to reciprocate Adrastus' favor in a proportionate way. Once Croesus

asked him and Adrastus recognized that protecting Croesus' son would be reciprocating Croesus' favor in a proportionate way, then Adrastus' acquired the duty to accept the task and to protect Croesus' son. If Croesus had asked something different of him, but of equal importance and difficulty, he would presumably feel obliged to accept and do it too.

As we saw above, Aristotle does seem to recognize that this is possible at least in customary friendships of utility. Indeed, according to the philosopher in this kind of friendship the first service is rendered as a gift, the giver expects to receive an equivalent or greater return but what is to be returned – which is the debt that he is owed – is not clearly stated at the beginning. Because of this fact, customary friendships of utility leave room for this kind of request. In Aristotle's language, we could perfectly well say that Croesus and Adrastus have a utility friendship of the customary kind, for the terms of their exchange were not previously stated, and that when called upon by Croesus to pay his debt in a particular way Adrastus chose to accept the request.

Last but not least, if what was said above is correct we can very well say that, in all uses of the word *opheilema* that were analyzed above, whenever someone has an *opheilema* one does owe an action to some people or group of people. Although we cannot rule out an occurrence where this word points us towards something different, we can say that whenever it is used like it is used in these passages it marks the presence of a duty – if, off course, the word duty is taken in the sense that we are taken it here.

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I believe I have sufficiently justified my thesis. It is now time to conclude.

## 7. Conclusion

According to what was said above, the bonds of utility and virtue friendships as conceived by Aristotle always create duties of proportionate contribution between friends, even though it is only in utility friendships these duties give rise to accusations and recriminations, and at least two Hohfeldian incidents.

The thesis about the creation of duties was grounded in an analysis of the Aristotelian use of the word *opheilema*. According to the interpretation defended above, the reason we can say that these two types of friendship create duties is because both types of friendship create that which Aristotle calls an *opheilema* (NE VIII 13, 1162b5–34; IX 2, 1164b23–1165a35) and, as we have seen, to have an *opheilema* in the sense of the word we find both in Aristotle and before him is to owe an action to somebody, and to owe an action to somebody is to have a duty in the sense of the word that is pertinent to us.

The thesis about the creation of hohfeldian incidents, on the other hand, was grounded not only in Aristotle's use of the term *opheilema*, but also in his talk of accusations (*enklémata*) and recriminations (*mémpseis*) between friends (Aristotle, *NEVIII* 13, 1162b5-34), and of a friend's capacity or ability both to "liberate" a friend, so to speak, of the performance of any actions that this friend owes to him because of their friendship (Aristotle, *NEVIII* 14, 1163b18-23), or, alternatively, to exact (*epizetéo*) from him what their friendship allows (Aristotle, *NEVIII* 14, 1163b13-18).

If what was said above is correct, we can conclude that to every duty of proportionate contribution between friends there is, in each friend, a claim to the fulfillment of this duty by the other friend and a paired power to liberate that same friend from this duty. And, if this is so, then the thesis announced in the beginning, namely, that virtue and utility friendships create duties and hohfeldian incidents between friends, has been proven.

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