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Plato's pragmatic project : a reading of Plato's Laws

Bartels, M.L.

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Plato's Pragmatic Project A Reading of Plato's *Laws*

PROEFSCHRIFT

TER VERKRIJGING VAN
DE GRAAD VAN DOCTOR AAN DE UNIVERSITEIT LEIDEN,
OP GEZAG VAN DE RECTOR MAGNIFICUS PROF. MR. C.J.J.M. STOLKER,
VOLGENS HET BESLUIT VAN HET COLLEGE VOOR PROMOTIES
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GEBOREN TE AMSTERDAM
IN 1983

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Promotor	Mw prof. dr I. Sluiter (Universiteit Leiden)
Copromotor	Mw dr M. van Raalte (Universiteit Leiden)
Leden	Dr R.M. van den Berg (Universiteit Leiden) Prof. dr C. Bobonich (Stanford University) Prof. dr G.J. Boter (Vrije Universiteit Amsterdam)

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The present thesis reflects, then, what I have come to understand about *Laws* so far. Being imbued with the fact that ultimately every scholarly product is work in progress, at least I feel I have arrived at a point at which, to quote a person who has become much more than a colleague, "the incompleteness is justifiable".

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CHAPTER ONE

INTRODUCTION: LAWS IN DIALECTIC

When we think about Plato's philosophy, *Laws* is usually not the first text that comes to mind. Even at first sight, it exhibits a number of characteristics that seem to be at odds with what we consider typical of Platonic philosophy. Some of the most striking are: the strongly diminished prominence of justice (δικαιοσύνη) and the absence of philosophy (φιλοσοφία); the absence of the figure of Socrates; the setting of the conversation, which, instead of the city of Athens is the island of Crete; the defence of the *symposion* and drunkenness; *Laws'* outright positive attitude to persuasion (πείθω); and lastly, the peculiarity of *Laws'* language and style: the text seems to be written in a contrived and less plain Greek that is criticized for different reasons, already in antiquity.

But something else is puzzling as well. Plato's final work purports to be a conversation between three elderly interlocutors. *Laws* at large is thus set up as a work of dialectic. Of course, this is not surprising. Plato wrote mostly dialogues. But within the overarching dialectical conversation are embedded

normative texts: the interlocutors formulate laws¹ as part of the founding of a city “in speech” (λόγῳ).² There are other texts in the Platonic corpus in which a character formulates discourse that lays claim to authority—we may recall Socrates’ rhetoric in *Apology*, Socrates’ use of a myth to conclude a dialogue (in, for example, *Gorgias* and *Republic*), and the laying down of laws as part of the city-founding in *Republic*. Yet whereas in these cases the normative claims are legitimated by a reference to an authority of some kind (ὁ θεός in *Apology*, an eschatological myth, the philosopher-king in *Republic*—see chapter two), what makes the legislative discourse in *Laws* particularly odd is the fact that a reference to an authority is lacking. The laws are presented simply as the product of dialectic.

Plato’s texts in general reflect the assumption that there exists an objective moral truth. Works such as *Apology* and *Republic* testify to the belief on the part of their author that claims to absolute truth are the preserve of the moral expert.³ Dialectic is a step-by-step quest in search for this moral truth. The advance towards its goal depends on the ὁμολογία (“agreement”) between the interlocutors, and dialectic’s outcomes are *provisional* only. Any claims to the truth of its results and assumptions therefore need confirmation by a higher authority.⁴ It is in terms of an authority-conferring device that the

¹ Lawgiving was considered a genre in antiquity: Plato, *Phdr.* 278c3-4: Solon and ὅστις ἐν πολιτικοῖς λόγοις νόμους ὀνομάζων συγγράμματα ἔγραψεν are juxtaposed to Lysias and other speechwriters, and to Homer and other composers of poetry. Cf. *Symp.* 209d1-e4: Lycurgus and Solon are juxtaposed to Homer and Hesiod as begetters of the finest descendants (laws and poems respectively), that have produced manifold virtue (παντοίαν ἀρετήν, 209e2-3). See SLUITER (2000), 297 n. 47 on lawgiving as genre in antiquity. The title of the work, Νόμοι ἢ περὶ νομοθεσίας, and the classification of the dialogue as πολιτικός are given by Thrasyllus, see Diog. Laert. III.60.

² *Leg.* 702e1-2: ἀτὰρ πειρώμεθα λόγῳ πρῶτον κατοικίζειν τὴν πόλιν. Cf. *Resp.* 369c9: ἴθι δὴ, (...), τῷ λόγῳ ἐξ ἀρχῆς ποιῶμεν πόλιν.

³ See chapter two for a discussion of the *Apology*, *Crito* and *Republic* from the perspective of their genre and authority.

⁴ ROBINSON (1941): “The principle that the answerer must say what he really thinks is a part of the principle that dialectic recognizes no authority” (83).

Platonic myths concluding some of the dialogues, and of the philosopher-king in the *polis*-construction of *Republic*, can be viewed.⁵

It may therefore be asked what would be the basis of a code of laws in a Platonic text, if not true, objective justice (δικαιοσύνη). Who else would be qualified to lay down good laws but the moral expert?⁶ It is therefore natural to expect that a Platonic law code contains some sort of a reference to a higher sanction, on the authority of which we are expected to accept that these laws are *the* just laws. Yet, whereas the Socrates of *Apology* appeals to various divine authorities to back up his claims about the nature of the life worth living, and *Republic* puts the moral expert at the top of its political hierarchy, *Laws* appears to offer nothing comparable.

Laws' composition thus confronts us with a puzzle: rules of conduct are offered, yet without the conclusive confirmation that these rules are based on expert *knowledge*. On the contrary, by embedding the laws in a dialectical conversation, Plato presents the law code as the *product of dialectic*. So, why did Plato compose *Laws* in this way? Is there some sort of reference to a higher authority, and what is the ontological status of these laws? Does the surprisingly minimal role of justice (δικαιοσύνη) in a Platonic work on laws have anything to do with all of this?

The present study investigates the complex of problems that arises from the absence of an authority in Plato's *Laws*. It tackles this set of problems through an analysis of *Laws'* composition and the structure of its argument. It investigates how *Laws* contextualizes and conceptualizes its own law code in order to grasp the epistemological status of the law code, and its justification.

⁵ On the "confirmative" function of the myth in *Gorgias*, see VAN RAALTE (1991). For a discussion of different Platonic myths in their context, see MORGAN (2000).

⁶ The (presumably) autobiographical *Epistula* VII also testifies to the importance of good laws: 324b2, 325c5-326a5, 332b4-6, 334c6-7, 336a3-5, and 337a2-8. For the question of the authenticity of *Epist.* VII see MORROW (1935), BLUCK (1947), 1-2; HACKFORTH (1976). EDELSTEIN (1966) disputes the letter's genuineness. For literature see the notes in EDELSTEIN *ibid.*, 1-4; also on its history of attestation in antiquity. MORROW (1935), 47-79, considers *Epistula* VII genuine and observes that "in style and diction it has the traits of the *Laws* and other dialogues of Plato's latest period" (47).

Taking the peculiarities summed up at the beginning of this chapter as my point of departure, it will be argued that they add up to a coherent framework once it is accepted that in *Laws* politics is naturalistic and pragmatic rather than metaphysical and absolute. The absence of a moral expert from the world of *Laws* is, I submit, a large part of the reason why *Laws'* philosophical principles are at odds with the philosophy of *Republic*. The present thesis will commence with a brief discussion of three Platonic texts on absolute justice as a comparative framework before embarking on an investigation of *Laws*.

This Introduction will offer a set of necessary preliminaries. The chapter starts off with a summary of the *status quaestionis* (section 1.1). After a succinct survey of the scholarly debate about *Laws* and especially about its relation to *Republic*, I will explain the specific interpretation of the “principle of charity” that is adopted in this study and its methodological implications.

The methodological implications of the principle of charity discussed in section 1.1 gain a special urgency against the background of the history of *Laws'* interpretation, to be discussed in section 1.2. Section 1.2 will briefly dwell on this history. It will discuss two factors that seem to have discouraged a reading of the text as it stands. Each of these has its origin in an ancient source. The first is the alleged unfinished state of *Laws*. The second is the discussion of *Laws* in ancient literary criticism (1st and 2nd centuries A.D.). Both of these are connected with the peculiar prose style of *Laws*. Since part of the aim of the present study is to elucidate what makes *Laws* such an idiosyncratic and to some extent inaccessible work, these will be discussed in some detail, though the peculiar prose style of *Laws* would definitely merit closer study in its own right.

With the second half of the Introduction we enter the conceptual realm. Section 1.3 analyzes a notion central to Platonic epistemology, τέχνη, “expert knowledge”. The notion of τέχνη reflects the conceptual underpinnings of the

idea that the basis of moral action is expert *knowledge*, and that there exists a convincing moral authority. The conceptual system of τέχνη as knowledge, and its implications, are an important frame of reference for the present study: it is only from the perspective of what is standard or common in Plato that we can appreciate how Plato applies his stock terminology to the conceptually different environment of *Laws*. Since a large part of this stock terminology—ἀρετή, and the four virtues ἀνδρεία, σωφροσύνη, δικαιοσύνη and σοφία/φρόνησις—depends on his intellectualist interpretation of τέχνη, a discussion of Platonic τέχνη is a necessary background for perceiving the differences between *Laws* and more prototypical Platonic thought. After discussing the Platonic notion of τέχνη, we will look briefly at the notion of τέχνη prevalent in competing, sophistic theories, anticipating one of my conclusions, that *Laws* has more affinity with the sophistic manifestation of τέχνη.

The penultimate section of this Introduction (section 1.4) will offer an overview of the structure of *Laws* according to its own internal caesuras. This succinct anatomy serves as the background for this study's chapter division, and for the thematically oriented discussions in the individual chapters. The final section (section 1.5) will also present a brief prospect of the argument of each of the chapters of this thesis.

1.1 *Status quaestionis* and principles of charity

The relation between Plato's two major works of political philosophy is, until this day, a vexed problem. Why write *Laws*, a *second* constitution, after *Republic*? This question seems to have puzzled the ancients as well.⁷ However,

⁷ As may be surmised from an anecdote reported in Stobaeus, *Anthol.* III. 13, 45 (HENSE = MEINEKE 13, 37): Διογένης ἤρετο Πλάτωνα εἰ νόμους γράφει· ὁ δὲ ἔφη. Τί δαί; πολιτείαν ἔγραψας; Πάνυ μὲν οὖν. Τί οὖν, ἡ πολιτεία νόμους οὐκ εἶχεν; Εἶχεν. Τί οὖν ἔδει σε πάλιν νόμους γράφειν;

not only the plain fact that Plato wrote a second constitution is startling about *Laws*.⁸ It is also the impression, shared by many scholars, that the Plato of *Laws* is beyond recognition for anyone familiar with *Republic*.⁹ This section will take us through a brief overview of the main currents in the modern history of the interpretation of *Laws* from the 19th century onwards.¹⁰ Given the sheer amount of existing (modern) scholarship on the subject, which has experienced a renewed impetus since the '80's and early '90's of the 20th century, this overview can in no way aspire to completeness. My objective, however, is not to be exhaustive, but to illuminate the principles governing the main interpretative currents, in order to better contextualize the contribution of this study.

In the first half of the 19th century both content and language of the work were deemed unplatonic by AST.¹¹ He disputed Platonic authorship (and suggested that its writer may have been Xenocrates, one of Plato's pupils), and was followed in this by others, even into the middle of the 20th century.¹² This is of course to attach a very extreme consequence to the observation that *Laws* in many ways appears unlike the familiar Plato. A somewhat less extreme view, also put forward in the 19th century, was the idea that the text

Unfortunately, no answer is reported. Cf. JAEGER III (1945), 213-214: "But it is remarkable that after he finished *The Republic* he still felt the need of composing the same kind of general survey once again, in another form, and of constructing a second state, after once making the perfect state, the ideally just *Republic*."

⁸ Assuming that this is the correct chronological order. For the relative dating of *Laws* as a late dialogue, see BOBONICH (2002), n. 8 on 482-483 and the literature in ZUCKERT (2009), 51, n. 1. For the question of Platonic chronology in general, see BOBONICH *ibid.* and KLOSKO (2006), 14-19, with the literature in nn. 5 and 6 on 15-16.

⁹ Cf. NIGHTINGALE (1993), 279.

¹⁰ See for a compact overview also LISI (2001b).

¹¹ AST (1816), 387: "Ist der Inhalt der Gesetze unplatonsch, so ist es noch weit mehr der Geist und Ton des Werkes und die Sprache."

¹² AST (1816), 384-392, and (1818); ZELLER (1839); MÜLLER (1968). ZELLER (1839), 128-133, claims that Aristotle's attribution of *Laws* to Plato in his *Politics* was mistaken, but considered the work genuine in his history of Greek philosophy (§1922).

of *Laws* had been drastically edited after Plato's death, it having been left in a state of disorder.¹³

Once Platonic authorship had become the consensus,¹⁴ the beginning of the 20th century witnessed the emergence of two interpretative trends that today still dominate the debate: the distinction between (1) ideal and practice and the distinction between (2) best and second best. They centred primarily on discussing the relation of *Laws* to *Republic*, and, to a lesser extent, to *Statesman*.

The scholars who initiated the distinction between ideal and practice did so in reaction to the earlier denial of Platonic authorship of *Laws*. Those scholars asserted virtually the opposite thesis, that is, the thesis that *Laws* is complementary to *Republic*.¹⁵ According to this view, *Republic* is meant to depict a purely theoretical ideal. To supplement this, *Laws* presents a realistic design, adapted to the demands of practice.¹⁶ The differences between

¹³ This is the view of Ivo BRUNS (*Platons Gesetze vor und nach ihrer Herausgabe durch Philippus von Opus*, Weimar 1880), Ernst PRAETORIUS (*De legibus Platonis a Philippo opuntio retractatis*, diss. Bonn 1884), and BERGK (1893); cf. GIGON (1954), 230. BERGK argues that the text of *Laws* as we have it is a compilation made by Philippus of Opus of "Bruchstücke" of what were in fact two different texts, each already partly lost when Philippus began his work. The one BERGK calls πρότεροι Νόμοι, the other δεύτεροι Νόμοι. Hypothesizing two different texts according to him solves the problem of why we never get the τρίτη πολιτεία mentioned in *Leg.* 739e5 (*ibid.*, 48-52). Assuming that the πρώτη πολιτεία is *Republic*, he alleges that the πρότεροι Νόμοι are (somewhat confusingly) the laws for the δεύτερα πολιτεία ("ideale[n] Forderungen", 114), whereas the δεύτεροι Νόμοι are the laws for the τρίτη πολιτεία (the laws for the Cretan colony, "Bedürfnisse[n] des wirklichen Lebens", *ibid.*).

¹⁴ For an overview of the arguments for *Laws*' genuineness see MORROW (1960), 515-518. An overview of the debate about the authenticity of *Laws* until 1974 is presented in ISNARDI PARENTE (1974). The ancient testimonia, in particular that of Aristotle (*Pol.* II. 1265a2-1266a28), give us no reason to doubt Platonic authorship. Other testimonia include that of Plutarch in *Adv. Colotem* 1126c: Plato left behind καλοὺς μὲν ἐν γράμμασι λόγους περὶ νόμων καὶ πολιτείας. Among the books of Aristotle enumerated in Diog. Laert. V.22 are three books of extracts from Plato's *Laws* (Τὰ ἐκ τῶν νόμων Πλάτωνος α' β' γ'). Persaeus, a pupil of Zeno, is reported in Diog. Laert. VII.36 to have written a reaction to Plato's *Laws* in seven books (Πρὸς τοὺς Πλάτωνος νόμους ζ').

¹⁵ Initiated by SHOREY (1914): *Laws* is "essentially finished" and the slight differences between the two are "outweighed" by "all-pervading correspondences in principle and in detail" (347).

¹⁶ Already in antiquity, it seems: Apuleius, *De Plat.* II, caput 26-27 ("civitas ... non ut superior [the polis of the Resp.] sine evidentia, sed iam cum aliqua substantia", c. 26). The most prominent defender of this position today is LAKS (1990), (1991), (2000). Similarly: FESTUGIÈRE (1936), 423, 426, 444; SAUNDERS (*Republic* and *Laws* "opposite sides of the same coin", transl. xxxiii); HENTSCHE (1971),

Callipolis and Magnesia are therefore solely to be explained by Magnesia's practical purpose, and should not be attributed to any change of mind on the part of their author.¹⁷ It is wise to realize that at the bottom of this ideal/practice-interpretation lies the interpretative assumption that Plato is consistent in his entire oeuvre. This is a interpretative principle of charity in its own right, but a charity grounded in a different basis (*doctrinal* consistency) than the principle of charity that I shall be defending here (*text-internal* consistency). In fact, it is Aristotle who reports that Plato in *Laws* intended to design a more realistic constitution, one that has more in common (*sc.* than Callipolis) with existing constitutions (κοινωτέραν ... ταῖς πόλεσι, *Pol.* 1265a3¹⁸). Yet this point of departure makes interpreters prone to exaggerating the similarities between Callipolis and Magnesia.¹⁹ The primary weakness is that it ignores the literary character of the composition of the Platonic texts,

especially 233, 252-253, 258-259, 264-265, 284-287; STALLEY (1983), (2007); KAMTEKAR (1997); LISI (2001b); SIMPSON (2003), drawing on Aristotle as evidence: BROOKS (2006); STALLEY (2007); ROWE (2010). See also the literature in LISI (2001b), 14, n. 10. According to LISI *ibid.*, p. 14, this ideal/practice interpretation originated after World War II, as a consequence of the polemic (initiated by Karl POPPER in *The Open Society and Its Enemies*) about the "totalitarian character" of Plato's political philosophy.

¹⁷ SHIELL (1991), 388, has emphasized that this dualism disregards the fact that *Republic* is to a certain extent practical, and *Laws* to a certain extent also theoretical or an ideal. LAKS has gone so far as to maintain (in one of his earlier publications on the subject) that the two are complementary: *Laws* presents the laws for the constitution of *Republic*, originally defended in LAKS (1990), *cf.* also (1991), (2000), (2001); *cf.* LISI (1998), (2000).

¹⁸ *Cf.* *Pol.* II 1265b29-31. Aristotle goes on to criticize Plato for assimilating the constitution little by little to the one in *Republic* (κατὰ μικρὸν περιάγει πάλιν πρὸς τὴν ἐτέραν πολιτείαν, 1265a3-4).

¹⁹ *Pol.* 1265a4-10: ἔξω γὰρ τῆς τῶν γυναικῶν κοινωνίας καὶ τῆς κτήσεως, τὰ ἄλλα ταῦτ' ἀποδίδωσιν ἀμφοτέραις ταῖς πολιτείαις· καὶ γὰρ παιδεύειν τὴν αὐτήν, καὶ τὸ τῶν ἔργων τῶν ἀναγκαίων ἀπεχομένους εἶναι, καὶ περὶ συσσιτίων ὡσαύτως· πλὴν ἐν ταύτῃ φησὶ δεῖν εἶναι συσσίτια καὶ γυναικῶν, καὶ τὴν μὲν χιλίων τῶν ὅπλα κεκτημένων, ταύτην δὲ πεντακισχιλίων, "For with the exception of the community of women and property, he supposes everything to be the same in both states; there is to be the same education; the citizens of both are to live free from servile occupations, and there are to be common meals in both. The only difference is that in the *Laws*, the common meals are extended to women, and the warriors number 5000, but in the *Republic* only 1000" (transl. BARNES).

since it considers this aspect irrelevant for the content of their political proposals.²⁰

A somewhat different unitarian explanation holds that the unphilosophical character of *Laws* is to be explained by its intended audience. *Laws* was, according to this reading, intended for a “popular” audience, consisting of non-philosophers.²¹ The assumption of such a popular audience would explain the almost total lack of references to philosophy in *Laws* and the prominence of other techniques such as rhetoric and persuasion (πειθώ) dismissed elsewhere in Plato.²² The interlocutors Cleinias and Megillus are, according to this view, a reflection of the non-philosophical external audience.²³ This position is also compatible with a unitarian account of Plato’s philosophy: on this account, the lesser prominence (or even absence—this is a disputed issue in itself) of the Ideas is not necessarily a faithful representation of Plato’s personal convictions at the time.

As an alternative to the ideal/practice dichotomy the view was put forward that *Laws* represents a “second best” constitution—second best, that

²⁰ Cf. for similar critique NIGHTINGALE (1993), 282: “In treating the *Laws* as a treatise, Aristotle initiates the interpretative approach that is adopted by most of its modern-day defenders. This approach, which proceeds by extracting a political and/or ethical ‘system’ from the rough surroundings of the rest of the text, all but ignores the fact that the *Laws* contains a good deal more than arguments and proposals.”

²¹ GÖRGEMANN (1960). See JAEGER III (1945), 213-214, for the claim that *Laws* is on the level of opinion, not knowledge. Cf. GILL (2003), 44: “Plato seems to have set himself the challenge of trying to carry out a philosophical project in terms that non-philosophers from non-philosophical cultures could understand and agree with.” LISI (2001b), 12 notes that the origin of this view can be traced back to STALLBAUM (1859-1860), X2, vi-xii. SIMPSON (2003) argues that *Republic* and *Laws* address audiences of different ages: the former addresses the young, the latter old men.

²² GÖRGEMANN (1960), especially 43-66, 70-110.

²³ For the thesis that Cleinias and Megillus are not philosophers or have trouble to follow the argument: WILAMOWITZ-MOELLENDORFF (1919), 653; FESTUGIÈRE (1936), 437; ZUCKERT (2009), 66 n. 34, 73-74, 95, 136; MAYHEW (2010), 214-215. BOBONICH (2002) thinks that the shortcomings of the interlocutors are ethical. They think that “goods other than virtue are much more important than virtue itself”; he connects this ethical shortcoming to the failure of the Spartan and Cretan laws “to treat citizens as free people” (122). But *Cri.* 52e5-53a1, where the Athenian Laws claim that Socrates used to express admiration for the quality of the laws of Crete and Sparta, may warrant a more positive evaluation of the background of these interlocutors. ADKINS (1960) asserts that the Cretans and Spartans were admired by “‘upper class’ and philosophic Athenian opinion” (294).

is, to Callipolis. The first to have put forward this view were ZELLER (⁵1922) and WILAMOWITZ (1919). The former argued in his history of Greek philosophy that *Laws* depicts a constitution that had to dispense with philosophical rulers.²⁴ The latter explained this absence of philosopher rulers in *Laws* as a sign of the resignation of Plato's old age.²⁵ Whereas *Republic* and *Statesman* avow that political authority based on objective knowledge should be unconstrained by laws (the situation depicted in *Republic*), *Laws* presents a state in which political authority is subjected to law.²⁶ Law is codified reason: the second best "rule of law" is substituted for the "rule of philosophy", rule by the reason of a living ruler.²⁷ Plato's change of attitude towards the relation between political authority and law may have resulted from his frustrated hopes that a rule by philosophers can be established, possibly after the Sicilian fiasco. This reading assumes *Laws* to be much more pessimistic about human nature than *Republic*, since it supposes that Plato had seen himself compelled to conclude that no human individual can be the sovereign in a state. That the constitution of *Laws* relinquishes the idea of the philosopher as the ultimate authority in the state nevertheless does not mean that Plato's belief in metaphysics as the basis for morality and politics was compromised; Plato only adapted his idea about what would be the best constitution, not necessarily his belief in metaphysical, absolute norms for morality.

²⁴ ZELLER (⁵1922), 951: "Wenn die Republik in der Philosophie die Grundlage jedes vernünftigen Staatslebens erkannt, und den Staat unter der Voraussetzung philosophischer Herrscher rein von der Idee aus entworfen hatte, so wollen die Gesetze zeigen, in welchem Mass und durch welche Mittel der Staat seiner Aufgabe ohne diese Voraussetzung genügen könne."

²⁵ Its primary expounder is WILAMOWITZ-MOELLENDORFF (1919); for more adherents of this interpretation see the literature cited in LISI (2001b), n. 8. Cf. HENTSCHE (1971), 163f.; TRAMPEDACH (1994).

²⁶ ADKINS (1960), 297-298; KLOSKO (1984), (2006); SHIELL (1991); SCHOFIELD (1997); PIERRIS (1998), 143-145; WALLACH (2001); KRAUT (2010).

²⁷ The rule of reason embodied in the philosophers is ideal, but law, as νοῦ διανομή, is second best. See ZELLER (⁵1922), 952; MORROW (1960), chapter XI; YUNIS (1996), 231; MEYER (2006), 385 "law in its very essence is an expression of reason".

There is common ground between the ideal/practice and best/second best explanations: they converge in assuming a consistent metaphysical basis in both *Republic* and *Laws* (in this sense they are both unitarian), and they share the idea that *Laws* presents a modified version of *Callipolis* (either conceived as the ideal, or as the best constitution). Plato consistently adhered to his conviction that society and human life ought to be organized on the basis of a metaphysical notion of justice and τὸ καλόν, and both *Republic* and *Laws* offer ways to do this—it being of secondary importance how knowledge thereof is imparted in society. Perhaps it is more accurate to say that the primary difference between the ideal/practice and best/second best interpretative directions lies with their respective assessment of the status of Callipolis (as unrealizable ideal, or as the best possible constitution), which in turn has consequences for their assessment of the human condition and the rule of law in *Laws*.

The passage generally adduced, both by defenders of the ideal/practice and of the best/second best thesis, to support the idea that *Laws*' city is an adaptation of Callipolis is *Laws* 739a1-e7. This is one of the source passages for the label "second best", since in this passage the constitution of *Laws* is said to come into being δευτέρως, "in a secondary way".²⁸ *Laws* 739a1-e7 has often been read as a kind of commentary on the relation between Callipolis and Magnesia.²⁹ The passage refers to a city, inhabited by gods or children of gods (ἢ μὲν δὴ τοιαύτη πόλις, εἴτε που θεοὶ ἢ παῖδες θεῶν, 739d6). This city has traditionally been identified with Callipolis due to a superficial resemblance: in that city, wives, children and possessions are all held in common.³⁰

²⁸ In *Laws* 739e4 the Athenian states that the constitution they (the interlocutors) have now embarked upon (this is in Book V) will if it somehow came into being be "very near to immortality and unity in a secondary way", ἀθανασίας ἐγγύτατα καὶ ἡ μία δευτέρως. In the preamble on woundings it is stated, *Laws* 875d3-4: τὸ δεύτερον αἰρετέον, τάξιν τε καὶ νόμον. Cf. *Plt.* 297e1-6, where the phenomenon of law (νόμος) is called δεύτερον.

²⁹ For the first time, it seems, by BERGK (1883), 48-51. But see also ZELLER (⁵1922), 952.

³⁰ *Leg.* 739c4-5: κοινὰς μὲν γυναῖκας, κοινούς δὲ εἶναι παῖδας, κοινὰ δὲ χρήματα σύμπαντα.

Both LAKS and BOBONICH have however convincingly argued that “the city of gods”, as it is usually referred to, in this passage is not Callipolis,³¹ for it is obvious that the hierarchy of constitutions in *Laws* 739a1-e7 is defined by “a model internal to the *Laws* itself”.³² This internal ideal is cast in the phrase “κοινὰ τὰ φίλων” (739c2-3). A *polis* must be as much as possible a unity, a city in which τὰ φύσει ἴδια (eyes, ears, hands, etc.) are common “in some way or other” (ἀμῇ γέ πη, 739c7).

The vagueness here is important: in contrast to the constitutional theory of *Republic*, *Laws* assumes that a *polis* can be unified in various ways.³³ Unity (ἡμία) is a scale, on which communism of families dispersed throughout the entire city is the one extreme. *Laws*’ internal ideal thus suggests an egalitarian society, whereas the ideal *polis* Callipolis is a class society. In fact, it is this very property of Callipolis (the order among its three classes) that makes it a just *polis* in the first place. The problem with κοινὰ τὰ φίλων (the reason why it is unattainable in its most extreme) is that human nature is not capable of such a high degree of commonality. The challenge is therefore to design a constitution with the highest degree of unity that is possible (εἰς τὸ δύνατον, 738c6-7; cf. κατὰ δύναμιν in 739d3 and μίαν ὅτι μάλιστα πόλιν in d3-4). Unity differs in degrees and different types of constitutions may exhibit relatively high degrees of unity. The constitution the interlocutors are now

³¹ See LAKS (2000), 272: “(...) what the *Laws* retreats from in the case of communal institutions is arguably something more extreme than anything we find in the *Republic*, since the *Laws*, in sketching the outlines of the ‘first city’, specifies that this community should extend, as much as possible, to the ‘entirety of the constitution’ (739c1f.), whereas the *Republic* explicitly limits communism to the guardians alone.” See also *id.*, (2001), 108-110. BOBONICH (2002), 11-12: “The *Laws* passage [739a3-740a2] presents as the ‘first-best’ city, not that of the *Republic*, but one in which there is, throughout the entire city, a community of property and of women and children. (...) What the *Laws* represents as the ideal—that is to be approximated as closely as possible—is a city in which all citizens are subject to the same extremely high ethical demands.” Cf. PIERRIS (1998), 143.

³² LAKS (2000), 272.

³³ For a study of the unity of Callipolis, see ARENDS (1988).

designing may, when it has come into being, approximate immortality and constitute a unity “in a secondary way”.³⁴

Some interpreters have seen a confirmation of the second best-thesis in a few derogatory remarks about laws in *Statesman*,³⁵ and in *Republic*’s statement that “a virtuous person does not need laws”.³⁶ Negative verdicts about laws in other dialogues than *Laws* have sometimes fostered the view that Plato’s attitude to laws is negative in principle, which seems to have influenced scholars’ assessment of Plato’s project in *Laws*. Yet, claims made about a subject X in one dialogue cannot be sufficient ground for drawing definitive conclusions about X in another dialogue. *Laws* develops its own conception of laws and lawgiving, which need not be liable to criticism of laws voiced in other dialogues.

The present study approaches the text of *Laws* through a *text-immanent* use of the philological “principle of charity”.³⁷ This means that I shall apply the

³⁴ *Leg.* 739e3-4: ἥν [sc. πολιτείαν] δὲ νῦν ἡμεῖς ἐπικεχειρήκαμεν, εἴη τε ἂν γενομένη πῶς ἀθανασίας ἐγγύτατα καὶ ἡ μία δευτέρως. The fact that the Athenian mentions a “third constitution” (τρίτην, 739e5) confirms that he has in mind an ordinal ranking in which different constitutions differ from each other in degrees of being a unity.

³⁵ *Plt.* 294a10-297e6, especially 297e1-6; also 300c5-302b3; *Leg.* 875d3-5. Cf. *Epist.* VII, 337d6. On the opposition between the living ruler and written laws as second-best, see: ZELLER (1839), 28, 39-42; ADKINS (1960), 296-298; GUTHRIE (1978), 178, 186-187; SAUNDERS (1992), 477; NIGHTINGALE (1999), 113; KLOSKO (2006), 211-216; MEYER (2006), 375-380; BROWN (2009), 347-348.

³⁶ *Resp.* 425b7-426e7. See e.g. BARKER (1918), 271 (*contra* whom see OWEN [1953]: “*Republic* does not repudiate any ‘system of law’; it contends only that continuous piecemeal legislation and litigation will be eliminated ἐὰν γε θεὸς αὐτοῖς διδῶ σωτηρίαν τῶν νόμων ὧν ἔμπροσθεν διήλθομεν (425e), since the Guardians will know ὅσα δεῖ νομοθετήσασθαι”, in n. 3 on 90-91); GUTHRIE (1978), 186-187; KLOSKO (2006), 178-179.

³⁷ See for an explanation of the principle of charity SLUITER (1998), especially 14-15. The principle of charity is originally part of a theory of meaning of objectivist philosophers, particularly Donald DAVIDSON and QUINE, who has also referred to it as the principle of “rational accommodation”. As a theory of meaning, it relates utterances to other utterances (rather than a meaningful expression to a discrete entity) and in trying to come up with an interpretation that maximizes the sense between them, it is in that sense holistic. For the Davidsonian principle of charity: DAVIDSON (1984) and (2001), especially chapter 10. SLUITER (1998) sees ancient precursors in the *benigna interpretatio* of Roman law by Roman jurists and in Augustine’s *regula caritatis* as a “hermeneutic instrument” (18).

principle of charity in a specific way: I shall take as my basic unit of interpretation a single text rather than a whole oeuvre. My methodological principle of charity isolates that single text, and regards it as a coherent whole. This assumption puts the interpreter under an initial obligation to maximize the sense and internal coherence of the different statements in the text. S/he assumes a benevolent attitude to the text, in order to “bring out the best in the source text” and he or she prefers “a favourable reading over one that attributes a mistake to the author”.³⁸

This means that I shall be involved in an attempt to reconstruct Plato’s ideology as he represents it. This study is a contribution to the *history of political philosophy*, and we would be disregarding important information if we do not, for analytical purposes, accept what Plato claims.³⁹ This methodological principle thus attributes priority to *internal* consistency (consistency within *Laws*) rather than to consistency between the different Platonic texts, as most exegetes have done so far. It will be attempted to develop a reading of *Laws* in which the seemingly un-Platonic elements, will, somehow, add up to a narrative that is coherent *as a text*. That is, the text *as distinct from* the worldview and political principles that may be deduced from it, and that may, in their own right, be considered more, or less, coherent.

This Introduction began by listing some of the most conspicuous peculiarities in *Laws*. The minimal role of justice, the absence of Socrates, the positive attitude towards persuasion, and the formulation of laws without reference to an authority—all of these are surprising in the light of earlier Platonic works. The present study takes these peculiarities as the basic ingredients of its interpretation and attempts to offer a maximising interpretation, in which these elements add up to an internally coherent and

³⁸ SLUITER (1998), 15 on the principle of charity in general.

³⁹ In terms of RORTY (1984), the approach of this study attempts to draw a “historical reconstruction” rather than a “rational reconstruction”. The first aims to understand the views of ancient philosophers in their own terms, as do historians of science; the latter treats philosophers “as contemporaries, as colleagues with whom [one] can exchange views” (*ibid.*, 49).

sensible text. Since I shall at the same time be arguing that the ancient tradition gives us no reason to doubt Platonic authorship (see the next section), my reading of *Laws* as a pragmatic project entails that Plato's last work is at odds with a number of core Platonic doctrines. This of course raises the question of the place of *Laws* in the Platonic corpus as a whole. The concluding chapter (chapter seven) will suggest a possible way to address the discrepancy between *Laws* and more central works of Platonic philosophy, by viewing the work in its broader intellectual context. Yet, in any case, the explanatory gain of an interpretation that succeeds in grasping the text as an internally coherent whole outweighs the fact that the particular interpretation offered in turn raises, with special urgency, the question of why Plato embarked on such a radically different project at the end of his life.

Several interpreters who have approached *Laws* from a strictly philological point of view have concluded that the work is not authentic. Although I do not think that the results of the analysis offered here should lead one to draw such a drastic conclusion, they do converge with those interpreters in finding significant shifts in the philosophy of *Laws* when compared to the rest of Plato's oeuvre. It might seem paradoxical that my approach, and a number of my conclusions, have more affinity with some of those who contested Platonic authorship.⁴⁰ On second thoughts, however, it seems that the radicalism of ZELLER and MÜLLER has an interpretative advantage: it saves them from explaining away differences between *Republic* and *Laws*. Moreover, their analysis of *Laws* on the level of its style and vocabulary saves them from the mistaken assumption that continuity in terminology (where it exists) automatically means continuity of thought—they acknowledge that a large

⁴⁰ Particularly the work of MÜLLER (1968), and, to a lesser extent, ZELLER (1839), to which I will refer at the appropriate places in my argument.

part of the Platonic vocabulary is reappropriated in *Laws*, but in the service of a different message.

This study investigates to what extent the terminology deployed in *Laws* is familiar, and how Plato uses his own terminology. The consequence of all of this is that we have to be very careful about our use of terms and always make explicit (as I shall try to do as well whenever possible) whether we are talking about, e.g., ἀρετή or τέχνη as Plato uses these terms in *Laws*, or as he uses them elsewhere in his oeuvre. This mechanism, that is, Plato's using part of his *own* vocabulary in the service of a message that differs from the one for which this philosophical idiom was coined initially, will play an important role in the argument of this study. Looks can be deceiving: if Plato in *Laws* is talking about, for instance, φρόνησις, that does not mean that what he means by it, or what he says about it, will necessarily be the same as in, say, *Republic*. In fact, it will be argued that Plato not only reappropriates familiar terms in a new context; he even seems to reappropriate complete philosophical postulates from his own philosophy. The most significant example of this recycling of an earlier postulate is that of the unity and plurality of the four virtues. It will be argued that it is not without significance that this theme occurs only at the beginning and the end of *Laws* (Books I-II, and XII), and has no role in the law code proper.

As interpreters, we therefore need to distinguish between the different *uses* that Plato himself makes of his own philosophical terms. A sensibility to the author's own use of his language can help us, first, to trace the new outlines of the concepts, and second, to try to make sense of those results with the help of the principle of charity explained above. We will see that an important reason why *Laws* keeps eluding our comprehension is that its concepts, familiar though they may seem to us, do not add up to the neat and logical, orderly 'system' from which they were taken and that they served to create. This aspect of *Laws* can be most clearly perceived when *Laws* is

compared to the absolute, closed system of *Republic*, which is why the investigation of Plato's last work will be preceded by a discussion of *Republic* as well as two other texts that assume justice is part of a metaphysical order. An approach that pays special attention to the language of *Laws* is less prone to explain away the differences between *Republic* and *Laws*.

Since we will attempt to interpret *Laws* as a coherent and well-structured text, it is useful to briefly address here the issue of its supposedly unfinished state. The next section will discuss two sets of ancient testimonies that seem to have hindered a reading of *Laws* as a well-structured and coherent composition: (1) reports that Plato died before he could finish *Laws*; and (2) some negative qualifications of the style of *Laws* in ancient literary criticism. This tendency in literary criticism in antiquity is in fact interesting in its own right, since it draws our attention to the ancient reception of the prose style of *Laws*.

1.2 The style of *Laws*

Laws is generally assumed to be Plato's last work.⁴¹ Two ancient sources inform us about the state in which Plato left *Laws* at his death. The first, which is the source modern scholars refer to (if at all) in support of their claim of *Laws*' unfinishedness, is a report in Diogenes Laertius: ἔνιοι τέ φασιν ὅτι Φίλιππος ὁ Ὀπούντιος τοὺς νόμους αὐτοῦ μετέγραψεν ὄντας ἐν κηρῶ:

⁴¹ Plutarch believes that Plato wrote *Laws* when he was "older" than when he wrote *Timaeus*: *De Is. et Os.* c. 48 (= *Moralia* 370f): ἐν δὲ τοῖς Νόμοις ἤδη προσβύτερος ὢν, cf. TARÁN (1975), 131, n. 549. See TARÁN *ibid.*, n. 554 on pp. 132-133 for reasons why it is legitimate to assume that *Laws* is Plato's last work. Aristotle, *Pol.* 1264b26-27, states that *Laws* is a later work than *Republic*. GUTHRIE (1978), 322, feels that there is "much in the tone of the work to suggest that [Plato] wrote it after the failure of his last visit to Sicily in 360". Admitting in note 3 *ibid.* that this is "largely a matter of general impression", he thinks that *Epist.* III, 316a "may indicate that his work with Dionysius II on that visit provided the 'prototype' for the 'preambles' of the laws". See also the literature in note 8 above, on the relative chronology of the dialogues.

“some claim that Philip of Opus transcribed his [Plato’s] *Laws* as they were in wax”.⁴² The second testimony, less well-known, is Proclus’ report in the *Prolegomena Philosophiae Platonicae* (Προλεγόμενα τῆς Πλάτωνος φιλοσοφίας). The anonymous author of the *Prolegomena* reports Proclus’ twofold argument for the spuriousness of the *Epinomis*.⁴³ The first, which is of importance for our purposes, runs as follows: πῶς ὁ τοὺς Νόμους μὴ εὐπόρησας διορθώσασθαι διὰ τὸ μὴ ἔχειν χρόνον ζωῆς τὸ Ἐπινόμιον μετὰ τούτους ὃν εἶχεν γράψαι;⁴⁴ “since death prevented Plato from revising the *Laws*, he cannot possibly have written the *Epinomis* after it”.⁴⁵ In both cases,

⁴² Diog. Laert. III.37. About this testimonium TARÁN (1975), 128-133; MORROW (1960), 515; SCHÖPSDAU (1994), 138-142, who regards this as the most important testimony on this issue (with reference to JAEGER on p. 140, n. 96); also BERGK (1883), 43-44; ZELLER (1922), 978-982. Cf. Diog. Laert. III.25. FRITZ in *RE s.v.* Philippus (2354) connects ἀναγραφεὺς γεγονώς in the *Academicorum Index Herculeum* MEKLER (1902) fr. 13 = DORANDI (1991), III 37 (p. 134) with an ἀστρολόγος (= Philippus) being Plato’s scribe and in this function writing down *Laws*; cf. MORROW (1960), 515; SCHÖPSDAU (1994), 140.

⁴³ For Philippus of Opus, a pupil of Plato, see MORROW (1960), 515-518 (Excursus F), with a brief overview of the question of his possible editorial work on *Laws*. Philippus is listed in *Suda* as the author of *Epinomis*: *Suidas* 418 s.v. Φιλόσοφος: ὃς τοὺς Πλάτωνος Νόμους διεῖλεν εἰς βιβλία ἰβ’, τὸ γὰρ γ’ αὐτὸς προσθεῖναι λέγεται. For the identification of φιλόσοφος as Philippus of Opus, see *RE s.v.* Philippus. TARÁN (1975), 129-130 assumes that the division of *Laws* into twelve books is at least as early as the second century A.D., but later than the fourth century B.C.E. and does not go back to Philippus or the early Academy. Also sceptical is SCHÖPSDAU (1994), 140; see n. 92 *ibid.* for references to scholars who have accepted *Suda*’s report.

⁴⁴ TROUILLARD (Budé) translates “Comment Platon, dit-il, qui n’a pas pu corriger les *Lois*, parce qu’il ne lui est pas resté assez de temps à vivre, aurait-il pu écrire l’*Epinomis*, qui vient après les *Lois*?” (37).

⁴⁵ *Anon. Proleg.* X, 25, 6-8, text and translation WESTERINK. See SCHÖPSDAU (1994), 140 for the value of this testimony. In *Anon. Prol.* X, 24, 10-16 we find the report: ἐσχάτους δὲ τοὺς Νόμους φασὶν γεγράφθαι, διότι ἀδιορθώτους αὐτοὺς κατέλιπεν καὶ συγκεχυμένους μὴ εὐπορήσας χρόνου διὰ τὴν τελευτὴν πρὸς τὸ συνθεῖναι αὐτούς· εἰ δὲ καὶ νῦν δοκοῦσι συντετάχθαι κατὰ τὸ δέον, οὐκ αὐτοῦ τοῦ Πλάτωνος συνθέντος ἀλλὰ τινος Φιλίππου Ὁπουντίου, ὃς διάδοχος γέγονε τοῦ Πλατωνικοῦ διδασκαλείου. “His last work is supposed to be the *Laws*, which he left uncorrected and in disorder, his death leaving him no time to put the finishing touch to it; if it makes a well-edited impression now, this is not Plato’s own work, but that of a certain Philippus of Opus, who became Plato’s successor in his school” (text and translation WESTERINK). Modern scholars are sceptic about the truth of this statement. MORROW (1960), assuming that the author of the *Prolegomena* is Olympiodorus: “One suspects that Olympiodorus, apart from his misinformation about Philippus (he was never διάδοχος of the Academy), merely gives an embellishment of what he found in Proclus” (516). I am not sure, however, that the source for this statement, which is introduced by φασὶν (X.24, 11), is Proclus, who is only introduced in X.25, 6. More convincing to me seems TARÁN (1975), who suspects that Olympiodorus’ remark “is in all

the interpretation hinges on what seem to be technical editorial terms, μεταγράφειν (ὄντας ἐν κηρῷ⁴⁶) in Diogenes, and διόρθωσις in Proclus.

There is some dispute about the exact meaning of the term μεταγράφειν.⁴⁷ Yet although the term is ambiguous, it does not necessarily entail any kind of revision. Moreover, if we indeed assume (for lack of a better option) that ὄντας ἐν κηρῷ means that the text was left on wax tablets, this clause would rather seem to explain the copying of the text to make it ready for publication⁴⁸ than the making of revisions. The term διόρθωσις refers to

likelihood only an inference based on a conflation of Proclus' first argument against the Platonic authorship of the *E[pinomis]* (...), with Diogenes Laertius' statement concerning Philip's editorship of the *Laws*" (128; cf. SCHÖPSDAU [1994], 140-141); "Neither the state of disorder in which Plato is alleged to have left the *Laws* nor the difference between it and the state of the work after publication is to be found in Proclus or any other ancient source" (129). Similarly, *RE s.v.* Philippos, 2358-2359, notes that the report in *Procl.* may be a suspicion and is not necessarily grounded in tradition, and subsequently gives four reasons for supposing that *Laws* as it lies before us has essentially the form in which Plato left it.

⁴⁶ BERGK (1883), 44 n. 1, argues that ἐν κηρῷ is adopted from the visual arts and refers to "den Zustand eines zum Abguss bestimmten Modells, in dem dieses bereits mit Wachs überzogen und somit fertig ist"; Plato has therefore left *Laws* "so gut wie vollendet". TARÁN (1975), 130 n. 542 thinks that it may be literally true that at least part of *Laws* was in wax, and doubts BERGK's metaphorical explanation. SCHÖPSDAU (1994), 141, thinks that it is "schwer vorstellbar" that a work as voluminous as *Laws* is entirely written down on wax tablets (see *ibid.*, n. 97) for references to those who have assumed that ἐν κηρῷ does mean on wax tablets. WILAMOWITZ-MOELLENDORFF (1919), 648 n. 1, assumes that ἐν κηρῷ metaphorically means "im Wachs", "im Konzept"; see also SCHÖPSDAU (1994), 141, with n. 98 *ibid.*

⁴⁷ See TARÁN (1975), 130 n. 543 notes that although the verb μεταγράφειν can mean "either 'to transcribe, to copy', or 'to rewrite, i.e. to correct', in the present context nothing suggests that Diogenes meant the latter". Another argument he brings forward is that Aristotle refers to *Laws* "as if the work contained the ipsissima verba of Plato" (*ibid.*). For a discussion of the meaning of μεταγράφειν, see also SCHÖPSDAU (1994), 141. Although according to ZELLER (⁵1922), 979, n. 2 μετέγραψεν does not mean "Umarbeitung", he indeed assumes that Plato had not been able to give *Laws* "die letzte Vollendung" (978) (on p. 979, n. 2, he notes that the term is used for charges of plagiarism). STALLEY (1983), 2-3 thinks that, although is not clear "whether Philip's contribution to the *Laws* consisted simply in copying out what Plato had written or whether he edited it at all extensively" the former is more likely, since "[t]he text contains errors and discrepancies that could easily have been removed by an editor had he wished to do so. Their presence suggests that Philip generally reproduced Plato's words as he found them" (129). Similarly, in *RE s.v.* Philippos, 2359, we find the argument that the "Unstimmigkeiten" in *Laws* are of such a nature that they can only be ascribed to the author himself; cf. SCHÖPSDAU (1994), 141.

⁴⁸ Which is what διόρθωσις would normally mean, see MORROW (1960), 516, noting that this is consistent with what Cicero says "was the custom with regard to the publication of Plato's dialogues", *Cic. Att.* XIII, 21, 5. See also SCHÖPSDAU (1994), 141-142, with n. 102 on p. 102. PFEIFFER (1968), 65-66, with the references in n. 3 *ibid.*: "(...) it is a fair guess that the first generation of

the process of correction: *Laws* “was not corrected for publication because of lack of time. For this Proclus may well have had external evidence; but however this may be, he probably saw evidence for the lack of διόρθωσις in some passages of the *Laws* itself, as do some modern scholars”.⁴⁹ The supposedly unfinished state of the work has been believed to find confirmation in the allegedly “chaotic” state and style of the text.⁵⁰ For WILAMOWITZ for instance, it was the lack of dialectic exchange that was a sign of the unfinished state of the text, and he was followed by KLOSKO in the first edition of his book (1986). TARÁN’s criticism of those who have concluded on the basis of “a few unusual expressions” that the whole work was left in a state of disorder is just, though in defense of the other side, “a few unusual expressions” understates the case.⁵¹ Proving undeniably that a text is incoherent appears to be a bridge too far. The text-internal reasons in support of the hypothesis that *Laws* is unfinished and lacks coherence seem, to say the least, subjective and impressionistic.⁵² Few scholars have been able to resist

[Plato’s] pupils tried to collect, to arrange, and to copy the autographs of their master, and that this ‘Academy Edition’ became the basis of all the later ones”. See the lemma ‘Publication’ in *Neue Pauly* for what publication entailed in antiquity.

⁴⁹ TARÁN (1975), 129.

⁵⁰ E.g.: BARKER (1918), 292: “The marks of old age are written large in many features of the *Laws*”; WILAMOWITZ-MOELLENDORFF (1919), 647: “Was Platon nach seinem Tode der Welt als sein Vermächtnis übermachte (...) ist ein so wunderliches Chaos, daß viele sich gar nicht damit abfinden können, (...)”. STALLEY (1983), 3, lists “long rambling sentences”, “inconsistencies of detail”, weak characterization, dropping of the dialogue form in Book V, and his impression that Book XI and the early part of XII “read like a connection of disconnected fragments” as “anomalies” that are “most naturally explained on the assumption that Plato died before he could give the *Laws* its final polish. Others may result from a decline in his literary powers. Whichever way one takes it, they support the view that the *Laws* is the product of Plato’s old age.” LAKS (2000), 263: “Certain features of the *Laws*, especially disorder in the last two books, suggest that Plato died before he could put the final touches on his work.” LISI (2001b), 11: “Today [*Laws*] is still considered an unfinished and unstructured work, contradictory and written in a heavy and baroque style.” TARRANT (2003), 55: “*Laws* feels alien even after other works that we think of as ‘late’, which are more imaginative, more compact, more consistently lively, and in most respects still look to be the products of the same person who wrote the *Phaedrus* and the *Cratylus*.”

⁵¹ TARÁN (1975), 130. See also 131, n. 547 for (19th century) literature.

⁵² It is not always clear which textual features are supposed to prove *Laws*’ unfinishedness. ZELLER (1839), 99, gathers *Leg.* 769b-c under “starke Anakoluthieen” (but cf. MÜLLER [1968], 121); WILAMOWITZ-MOELLENDORFF (1910) sees traces of illogical transitions in Book V; WILAMOWITZ-

the temptation of attributing what they considered less successful characteristics of the work to its allegedly unfinished state or Plato's advanced age at the time of composition. Yet, neither of the terms μεταγράφειν and διόρθωσις warrant the conclusion that Philip of Opus *revised* the text, or that Plato left it drafted in outline when he died.⁵³ Although they do leave room for supposing that corrections and/or adjustments were made, they do not imply supplementation of the text. We may therefore, at least as a working hypothesis, assume that the dialogue as a composition, *qua* structure, is complete, and that no parts are missing—which of course, does not rule out the possibility that some formulations have not received their final touch.⁵⁴

In the rest of this section we will briefly look at some evaluations of the style of *Laws* in ancient literary criticism. The ancient literary critics never seem to assume that *Laws* was unfinished. Yet we do find *Laws* connected several times with a particular stylistic flaw, that of ψυχρότης.

MOELLENDORFF (1919) assumes that Plato meant to rework the text in the form of a dialogue: "Offenbar hat Plato einmal einen Anlauf genommen, das was er in seinen Papieren hatte, zu einem Dialoge zu verarbeiten (...)" (648). KLOSKO claimed that *Laws* "shows signs of having been written in the form of uninterrupted discourse and then later, and mechanically, converted into dialogue, a process that Plato apparently failed to complete before his death" ([1986], 17), but abandoned this in the revised edition of 2006. See also VANHOUTTE (1953), chapter II, 15-35 (criticized by HENTSCHE [1971], 187, 239-240).

⁵³ E.g.: GUTHRIE V (1978), 321-322; STALLEY (1983), 2, quoting Diog. Laert. III.37: "The natural reading of this is that when Plato died in 347 BC he left the *Laws* as a rough draft, presumably written on wax tablets. His pupil, Philip, prepared the draft for publication." Cf. BOBONICH (1996), 250 n. 3: Diog. Laert. III.37 "suggests, but does not state, that [*Laws*] was unfinished at Plato's death". LAKS (2000), 263 n. 9: "It is generally assumed that Plato's pupil Philip of Opus edited the text after his death." Although ZELLER (⁵1922) acknowledges that we cannot deduce with certainty from Diogenes' comment the extent of the activity of the "Herausgeber", he thinks that the "Zustand unserer Schrift" (980) confirms that the "Herausgeber" made some more or less incisive changes, inserted previously unplaced notes in the text, and filled in gaps "aus eigenen Mitteln" (979).

⁵⁴ The reference to *Laws* in Isocr. *Phil.* 12 (published 346 B.C.E., shortly after Plato's death in 347) is sometimes used to support the argument that any revising Philippus may have done had to be minimal if *Laws* was already published in 346. See the references in *RE* s.v. Philippos, 2359. Cf. TARÁN (1975), 131, n. 550, with reference also to ZELLER (⁵1922), 443, n. 1.

In (pseudo?)Longinus *On the Sublime* (Περὶ ὕψους), we find the report that many critics “ridicule” (διασύρουσι) him, because he “often writes as if he is carried away by a sort of Bacchic frenzy into harsh and intemperate metaphor and allegorical bombast”.⁵⁵ Longinus himself also criticizes Plato’s language in *Laws*. In the fourth chapter of *On the Sublime* he quotes examples successively from the Sicilian historian Timaeus, from Xenophon and from Plato’s *Laws* when illustrating the stylistic flaw of “frigidity”, τὸ ψυχρόν.⁵⁶ The stylistic flaw ψυχρότης or τὸ ψυχρόν is discussed by a number of ancient authors; apart from Longinus, by Aristotle (*Rhetoric*), Caecilius of Caleacte,⁵⁷ Theophrastus (Περὶ λέξεως), and Demetrius (*On Style*, Περὶ ἐρμενείας).⁵⁸ Aristotle in the third Book of his *Rhetoric* discusses four “stylistic frigidities”, τὰ ψυχρὰ κατὰ τὴν λέξιν.⁵⁹ These are: compounds (τὰ διπλὰ ὀνόματα, ἢ δίπλωσις), foreign or obsolete words (γλῶτται), the use of epithets that are long, untimely or crowded (ἐν τοῖς ἐπιθέτοις τὸ ἢ μακροῖς ἢ ἀκαίροις ἢ πυκνοῖς χρῆσθαι), and unsuitable (ridiculous or overly dignified) metaphors (μεταφοραὶ ἀπρεπεῖς). Apparently, τὸ ψυχρόν is the stylistic flaw consisting in a violation of τὸ μέτριον.⁶⁰ Demetrius in *On Style* quotes Theophrastus’

⁵⁵ Long. *De Subl.* 32, 7-8: ὥσπερ ὑπὸ βακχείας τινὸς τῶν λόγων εἰς ἀκράτους καὶ ἀπηνεῖς μεταφορὰς καὶ εἰς ἀλληγορικὸν στόμφον ἐκφερόμενον. The example is the comparison of a polis to a mixing bowl in *Laws* 773c8-d4, of which the critics say they are truly the words of some drunken poet: νήφοντα γάρ, φασί, θεὸν τὸ ὕδωρ λέγειν, κόλασιν δὲ τὴν κρασιν, ποιητοῦ τινος τῷ ὄντι οὐχὶ νήφοντός ἐστι. See WALSDORFF (1927), 24-25.

⁵⁶ Long. *De Subl.* 4.16-20: ὁ τὰλλα θεῖος Πλάτων τὰς δέλτους θέλων εἰπεῖν ‘γράψαντες’ φησὶν ‘ἐν τοῖς ἱεροῖς θήσουσι κυπαριττίνας μνήμας’. καὶ πάλιν ‘περὶ δὲ τειχῶν, ὦ Μέγιλλε, ἐγὼ ξυμφεροίμην ἂν τῇ Σπάρτῃ τὸ καθεύδειν ἔαν ἐν τῇ γῇ κατακείμενα τὰ τείχη καὶ μὴ ἐπανίστασθαι’, “And what of the otherwise divine Plato? ‘They will inscribe and store in the temples’, he says, ‘cypress memorials’, meaning wooden tablets: and again, ‘As for walls, Megillus, I would consent with Sparta to let the walls lie slumbering on the ground and never rise again.’ The two examples are *Laws* 741c6-7 and 778d3-6.

⁵⁷ Who cites many examples of τὸ ψυχρόν from Plato’s *Timaeus*: fr. 95 OFENLOCH = fr. 23 AUGELLO (2006).

⁵⁸ All discussed in VAN HOOK (1917). For translations of τὸ ψυχρόν: “froid, fade” (WARTELLE); “flat, lifeless, insipid” (LSJ). Alternatively, “chilling”.

⁵⁹ Arist. *Rhet.* III, 1405b35-1406b19. RUSSELL *ad* Long. *De Subl.* 4.16-20 considers Longinus’ use of τὸ ψυχρόν “in essentials” its use in Aristotle’s *Rhetoric* and Demetrius.

⁶⁰ VAN HOOK (1917), 70: “In brief, then, according to Aristotle, frigidity in prose is caused by the use of poetical diction and the employment of extravagantly figurative language.” For Aristotle,

definition of τὸ ψυχρόν in the latter's *Περὶ λέξεως*: τὸ ψυχρόν ἐστὶ τὸ ὑπέρβαλλον τὴν οἰκείαν ἀπαγγελίαν,⁶¹ "frigidity is that which transcends the expression appropriate to the thought".⁶² Τὸ ψυχρόν clearly exceeds what is considered appropriateness of style.⁶³ A common cause is the use of too much poeticism in prose (Demetr. 12; cf. Arist. *Rhet.* 1406a11-13: λευκὸν γάλα is common in poetry but ψυχρόν in prose). These literary discussions suggest that *Laws* contained some expressions that were considered poetic and (inappropriately) bombastic. In modern times, THESLEFF has, on the basis of his stylistic analysis of the Platonic dialogues, characterized the style of *Laws* as the heavy "ὄγκος-style".⁶⁴

Besides *On the Sublime*, there is another ancient source that associates *Laws* with τὸ ψυχρόν. The 2nd cent. AD author Lucian uses the term (in a comical way) of *Laws*. Zeus complains that, since the new great sanctuaries of Apollo in Delphi, Asclepius in Pergamum, Bendis in Thrace, Anubis in Egypt

stylistic virtue consists in lucidity of expression, which is achieved by aiming for the due mean (τὸ μέτριον): e.g. 1405b33-34 (due measure in the use of diminutives and epithets), 1406a15-17 (the use of epithets), 1416b34-36 (the mean between rapidity and conciseness in epideictic speeches, which consists in τὸ λέγειν ὅσα δηλώσει τὸ πρᾶγμα).

⁶¹ See FHS&G II (1992), fr. 686, pp. 532-533; quoted in Demetr., *Eloc.*, 114. See also COPE (1970), 286-287.

⁶² Transl. VAN HOOK (1917), 71.

⁶³ The origin of the metaphor can be found in Ar. *Ach.*, 11, 138, see VAN HOOK (1917), 76: "The listener or reader who is keyed up in warm anticipation of the pleasure and the profit which are to result from an admirable literary production is chilled by disappointment (...) in a manner comparable with the chagrin of Dicaeopolis in the *Acharnians* [l. 11], who, all agape in eager anticipation of seeing a play of Aeschylus, is chilled to the heart by the fatal announcement of the herald: "Theognis, bring in your chorus!" In Ar. *Th.* 170, we find about Theognis: ὁ δ' αὖ Θεόγνις ψυχρὸς ὦν ψυχρῶς ποιεῖ. See VAN HOOK (1917), 73. The term ψυχρότης thus refers to the effect on the listener, which then has come to denote the stylistic flaw itself. Cf. RUSSELL (1981), 20: "Many of the terms that constitute the standard vocabulary of later Greek criticism are first found so used in [Aristophanes'] plays. *Psuchros* is later the regular term for failures caused by misguided ingenuity or grandeur; (...)."

⁶⁴ THESLEFF (1967), 77-80, classifies the style of the late dialogues as the ὄγκος style, which is characterized by "(a) the tendency to *expansion* and *weight*", i.e. "expansive and complicated sentence structure, including large use of participles, genitive absolute, etc.; anaphoric repetition, assonance, polyptoton (...), synonymy, other pairs, and various other accumulative and amplificatory phenomena, such as pleonasm and periphrases; abstract nouns qualified; lack of article; heavy words (partly taken from other styles) such as compounds, extensive derivatives, archaic words, and poetical words", and "(b) the tendency to *variation*" (79, italics in original).

and Artemis in Ephesus were erected, his own altars remain “more frigid than the *Laws* of Plato or the *Syllogisms* of Chrysippus”, τοιγαροῦν ψυχροτέρους ἅν μου τοὺς βωμοὺς ἴδοις τῶν Πλάτωνος νόμων ἢ τῶν Χρυσίππου συλλογισμῶν.⁶⁵ The general point of critique implied in the term ψυχροτέρους is again stylistic. We know from various sources that Chrysippus’ dry and tedious style was proverbial in antiquity.⁶⁶ One option would therefore be to assume that both Chrysippus and *Laws* are liable to the same criticism, and that what *Laws* is criticized for is equally the dryness and dullness of its prose. Another possibility would be to connect Zeus’ complaint to what he has seen so far about τὸ ψυχρόν. In that case, we may again think about the absence of the (pleasant, heart-warming) effect which a successful composition normally stirs.⁶⁷ Zeus would then be using the metaphor ψυχρόν literally: in the absence of sacrifices, his altar remains cold.⁶⁸ Like the literary ψυχρότης, ψυχρόν refers to the situation that results from the failure of a certain effect. A consideration that may be at play here is that indeed the dialogue of *Laws* is much less lively, dramatic, and engaging, than dialogues such as *Protagoras*, *Gorgias*, and *Symposium*. The latter possibility is preferable, both because it is in keeping with our previous findings about τὸ ψυχρόν, and because of its normative dimension.⁶⁹

⁶⁵ Lucian, *Icaromenippus* 24.

⁶⁶ E.g. DH. *Comp.* 4, with DE JONGE (2008), 108-110 and 274-280; Cic. *Orat.* I, 11, 50: *Etenim videmus (...) ieiune quosdam et exiliter, ut eum, quem acutissimum ferunt, Chrysippum, disputavisse.* ZELLER (1923), 43 (to whom WILKINS in his commentary *ad loc.* refers): “(...) die Alten klagen einstimmig über ihre nachlässige und unreine Sprache, ihre trockene und doch oft unklare Darstellung, über die Weitschweifigkeit, die endlosen Wiederholungen, die übermässig vielen und langen Zitate, die allzu häufige Berufung auf Etymologien, Auktoritäten und andere wertlose Beweismittel.” For further references see ZELLER *ibid.*, 44, n. 1. Interestingly, in the same note he refers to a fragment of the work *περὶ ἀποφατικῶν* as an example of “geschmackloser Häufung und Verwendung dichterischer Stellen”.

⁶⁷ See note 63 above.

⁶⁸ SOMMERBRODT (1907), 126 *ad* ψυχροτέρους: “doppelsinnig von den Altären ohne Feuer und den langweiligen Schriften”. For Lucian’s evaluation of Plato, see WALSDORFF (1927), 86-88.

⁶⁹ Another reference to the unpopular style of *Laws* may be implied in Plutarch’s *De Alex. fort.* 328e. Here Plutarch observes that Alexander the Great was far more successful than Plato in introducing his laws: Πλάτων μὲν γὰρ μίαν γράψας πολιτείαν οὐδένα πέπεικεν αὐτῇ χρῆσθαι

1.3 Τέχνη

The Platonic notion of τέχνη is of central importance to our investigation into the (absence of) authority and basis of the laws in *Laws*. Τέχνη, as the analogue for virtue, makes visible the contours of a systematic worldview in which moral action is based upon objective, expert knowledge. Although we do find the analogies of τεχνικός and τέχνη in Plato's final work, their internal structure and logic appears to have changed. In section 1.3.1 we shall briefly look into the Platonic notion of τέχνη and its implications for the idea of authority. This overview is followed in section 1.3.2 by a discussion of a different, "stochastic" notion of τέχνη that has parallels with contemporary non-Academic philosophical trends (the Sophists and Isocrates), and which, I shall submit, the τέχνη-notion of *Laws* resembles.

1.3.1 Structuring principles of the τέχνη-analogy in Plato

The fact that Socrates postulates an analogy between virtue (ἀρετή) and τέχνη in a number of Platonic dialogues⁷⁰ makes τέχνη a very prominent notion in

διὰ τὸ αὐστηρόν· (...) καὶ τοὺς μὲν Πλάτωνος ὀλίγοι νόμους ἀναγιγνώσκομεν, τοῖς δ' Ἀλεξάνδρου μυριάδες ἀνθρώπων ἐχρήσαντο καὶ χρῶνται. "Plato wrote a book on the One Ideal Constitution, but because of its forbidding character he could not persuade anyone to adopt it; (...) Although few of us read Plato's *Laws*, yet hundreds of thousands have made use of Alexander's laws, and continue to use them" (transl. BABBITT).

⁷⁰ There has been some controversy over the question of the exact notion of τέχνη (or ἐπιστήμη) to which ἀρετή is supposed to be analogous: GOULD (1955) argues against an in his view too intellectualist reading of the analogy that ἀρετή is a form of "knowing how" to be moral rather than "knowing that" (knowledge of the nature of good and evil). BAMBROUGH (1956) criticizes the analogy for overassimilating questions about ends (politics) to questions about means (navigation or other specialisms). SPRAGUE (1976) argues that the philosopher-king possesses a second-order craft (of using the products fabricated by the productive crafts) directed by the Form of the Good. IRWIN (1977), (1995) argues that virtue is analogous to a productive τέχνη—criticized by NUSSBAUM (1986), 74. BRUMBAUGH (1978) sees a "literary development" between the use of the analogy in the early and in the late dialogues. Also KLOSKO (1981b); WARREN (1989). The upshot

the Platonic dialogues. This prominence further increases due to Socrates' claim in defiance of the sophists that there exists a true πολιτική τέχνη that is a form of expert knowledge.⁷¹ Although the Platonic notion of τέχνη has some general characteristics in common with its sophistic counterpart (in aiming at a goal, having its own set task and result), Plato's ethical objectivism has implications for the assumptions, overtones and truth status of τέχνη in Plato. The claim that morality is analogous to a τέχνη renders plausible the claim that it is possible to make *objective* distinctions between good and bad, correct and incorrect. Characteristic of the Socratic-Platonic technologizing of morality is its so-called "intellectualism": ἀρετή is analogous to expert knowledge.⁷² Τέχνη and ἐπιστήμη are often juxtaposed⁷³ and in some contexts practically identical.⁷⁴ This intellectualist attitude is particularly manifest in the *Gorgias*, where Socrates forges a conceptual divide between a series of τέχναι and pseudo-τέχναι: the first are ἐπιστήμαι, while experience (ἐμπειρία) is the basis of the mode of proceeding of the pseudo-τέχναι.⁷⁵ Sophistry (σοφιστική) and cake-baking (ὀψοποιική) are, for example, dismissed as the deceptive counterparts—they are ἐμπειρία, "knacks"⁷⁶—of

of ROOCHNIK (1996)'s argument is, somewhat surprisingly, that morality *cannot* be analogous to τέχνη in the Platonic dialogues, see his Conclusion.

⁷¹ For discussions of nuances between the different τέχναι in Plato: BUMBRAUGH (1978), ROOCHNIK (1992), especially 185-189, (1996), BALANSARD (2003). GRAHAM (1991) provides an analysis of the τέχναι on the basis of their distinct ends.

⁷² HEINIMANN (1961), 105-106; STALLEY (2007), 118. On Socratic-Platonic moral intellectualism: KUBE (1969), NEHAMAS (1986); LORENZ (2008).

⁷³ E.g. *Phlb.* 66b9.

⁷⁴ E.g. *Plt.* 300e7-9, *Charm.* 165d4-166a2, 174d8-e7. Practical equivalence is also implied by the use of the adjective ἄλλος in some contexts: e.g. *Tht.* 146c8-d1, 147b7-8; *Charm.* 165d4-6, 174e4. Cf. ἐπιστήμων τέχνης *Gorg.* 448b5-6, c2, e3, 449a4-5, c9; [*Amat.*] 137a9; *Charm.* 171c4-9. LYONS (1963), 139-228, on the Platonic vocabulary of τέχνη, ἐπιστήμη and σοφία.

⁷⁵ For example: *Gorg.* 506d5-8: Ἀλλὰ μὲν δὴ ἡ γε ἀρετὴ ἐκάστου, καὶ σκεύους καὶ σώματος καὶ ψυχῆς αὐτῶν καὶ ζώου παντός, οὐχ οὕτως εἰκὴ κάλλιστα παραγίγνεται, ἀλλὰ τάξει καὶ ὀρθότητι καὶ τέχνῃ, ἥτις ἐκάστῳ ἀποδέδοται αὐτῶν, "But the best way in which the excellence of each thing comes to be present in it, whether it's that of an artifact or of a body or a soul as well, or of any animal, is not just any old way, but is due to whatever organization, correctness, and craftsmanship is bestowed on each of them" (transl. ZEYL in COOPER, CW).

⁷⁶ In contrast to τέχνη, ἐμπειρία "aims at the pleasant without taking into consideration the best" (τοῦ ἡδέος στοχάζεται ἀνευ τοῦ βελτίστου); it is not capable of rendering an account of its

the τέχναι of lawgiving (νομοθετική) and medicine (ιατρική).⁷⁷ Such a pseudo-τέχνη may to the innocent bystander seem identical with the τέχνη itself, but it must not be confused with it at the risk of moral corruption. These pseudo-τέχναι do not aim at virtue (ἀρετή), but at gratification (χαρίζεσθαι) and pleasure (ἡδονή), without making their ‘patients’ morally better.⁷⁸ Dismissing experience and expectations about an audience’s preferences as irrelevant for the true πολιτικός is part of the extremely intellectualist interpretation of the πολιτική τέχνη we find in many Platonic texts. Within such an outlook, a δημιουργός is a convincing authority: the moral expert knows the truth about good and bad.⁷⁹

The technical background of this is, first (i), τέχνης’ “strong conception of knowledge as expertise” combined with “a correspondingly broad conception of ignorance as embracing anyone who lacks complete understanding”,⁸⁰ the logic being that if a person fails to successfully perform

procedure (οὐκ ἔχει λόγον οὐδένα), so that it cannot say what the cause of something is (ὥστε τὴν αἰτίαν ἐκάστου μὴ ἔχειν εἰπεῖν), and therefore it is an irrational activity (ἄλογον πράγμα), *Gorg.* 456a1-6, cf. 464c6-d2. For τέχνης’ capacity to “give an account” (λόγον διδόναι): *Gorg.* 464b-465a5, cf. 500b-501a3. Τέχνη has an objective criterion and is distinct from pseudo-crafts: CHERNISS (1944), 251 n. 157; IRWIN (1977), 71-77; WOODRUFF (1992); BALANSARD (2003), 47-51, 141-142, 146-7.

⁷⁷ That σοφιστική is the counterpart of νομοθετική is especially interesting in view of the large role of πειθῶ in *Laws*’ notion of νομοθεσία, see chapter five.

⁷⁸ E.g. *Gorg.* 462c8-9, 501b5-503a1. Τέχνη and ἐμπειρία are demarcated in the context of attacks on rhapsode and orator: *Ion* 537c1-538b6, 539d5-541c2; *Gorg.* 451a3-d6, 455a8-456a6 (with IRWIN [1977], 74); *Gorg.* 462d10, 463b4, 465a3, 500b4, 500e5 (with BALANSARD [2003], 139).

⁷⁹ Cf. IRWIN (1977), 75: “A craftsman is recognized as an authority in his field, as someone who knows, and is agreed to know, the right method for producing a particular product.” The use of τέχνη-analogy to get the point across that there is a moral expert is also clear in *Crito*, 47a13-48b2 (on this passage see LLOYD [1966], 390-391; IRWIN [1977], 71). If it is accepted (as *Crito* does) that the subject of the just and unjust (περὶ τῶν δικαίων καὶ ἀδίκων), ugly and beautiful (καὶ αἰσχροῶν καὶ καλῶν) and good and evil (καὶ ἀγαθῶν καὶ κακῶν, 47c9-10) is analogous to gymnastics, the conclusion must be that one ought not to have regard for what the many say, but solely for the expert on justice and injustice (ὁ ἐπαῖων περὶ τῶν δικαίων καὶ ἀδίκων, 48d6-7)—to have regard for this one man and the truth herself (ὁ εἷς καὶ αὐτὴ ἡ ἀλήθεια); “εἷς”, opposed to οἱ πολλοί, suggests that it is not based on democratic principles, with which οἱ πολλοί are generally associated.

⁸⁰ STALLEY (2007), 118, argues for the strong conception of knowledge in *Gorgias* as part of his argument (against EUBEN [1994]) for *Gorgias*’ anti-democratic political stance. In *Resp.* 340e1-341a4 Thrasymachus calls Socrates’ black-and-white use of terms ἀκριβολογέομαι (“to be precise in

his τέχνη, he does possess the τέχνη in the first place. And second (ii), the the object of knowledge is objectively good: the person who has knowledge of the Idea of the Good or justice will always act correctly, because true knowledge is knowledge of the good and therefore cannot be misapplied or misused.⁸¹

The Platonic notion of τέχνη functions as a conceptual *frame* for virtue. This frame consists of several elements, which can be activated once one of them is agreed upon in the discussion:

- (1) the object of knowledge (τὸ ἀγαθόν (αὐτό),⁸² εἶδος,⁸³ ἰδέα⁸⁴) (for example the Idea of the Good or Beauty, τὸ καλόν);
- (2) the “expert knowledge” (τέχνη,⁸⁵ ἐπιστήμη,⁸⁶ (ἡ) ...-ική,⁸⁷ σοφία⁸⁸);⁸⁹ furthermore a number of verbs are characteristically

language”). In Socrates’ terminology, no δημιουργός ever fails (ἀμαρτάνει). In *Resp.* 341b4-6 it has to be determined what Thrasymachus means by “ruler” and “stronger” (τὸν ἄρχοντά τε καὶ τὸν κρείττονα): τὸν ὡς ἔπος εἰπείν ἢ τὸν ἀκριβεῖ λόγῳ. He answers: τὸν τῷ ἀκριβεστάτῳ (...) λόγῳ ἄρχοντα ὄντα. Cf. 341c5-6: ὁ τῷ ἀκριβεῖ λόγῳ ἰατρός; 342b6-7: σκοπεῖ ἐκείνῳ τῷ ἀκριβεῖ λόγῳ.

⁸¹ On the (im)possibility of misuse of a τέχνη: IRWIN (1977), 76-77; WOODRUFF (1992), 93-96.

⁸² E.g. *Resp.* 507b4, 532b1, 540a8-9.

⁸³ E.g. *Resp.* 435b1-2, 445c5-6, 511a4.

⁸⁴ E.g. *Resp.* 505a2: ἡ τοῦ ἀγαθοῦ ἰδέα.

⁸⁵ E.g. *Gorg.* 465a5; *Resp.* 341d4, d8, 342a2-b5, c7-8.

⁸⁶ E.g. *Resp.* 342c10.

⁸⁷ In the cases of the feminine adjective ending in -ική the category is “essentially open”, LYONS (1963), 141; one is not “supposed to supply mentally the lexeme τέχνη whenever he reads or hears a sentence containing ἀστρονομική, αὐλητική, etc. It is that the form in -ική may be used indifferently with or without τέχνη and in either case it will be picked up by τέχνη with equal readiness” (*ibid.*, 143). The frequency of forms with the suffix -ική increased rapidly in the classical period under the influence of the Sophists and made its way into the scholarly vocabulary of, among others, Plato, Aristotle, Hippocrates, and Xenophon’s *Oeconomicus*, see DEBRUNNER (1917) §392, 197. On the possibility to extend the class of τέχναι infinitely, see LYONS (1963), 141-144, 160-164. The “semantic motivation” (163) is contained in Greek idiom: “Plato constantly draws upon the possibility of generating from sentences of the form Np / ἐπίστασθαι // Vinf. other hyponyms of τέχνη than those that are ‘institutionalized’ in the society and its language” (*ibid.*, 194-195). In *Gorg.* 464b2-465d7 for example, Socrates talks, parallel to γυμναστική and ἰατρική, about κολακευτική and ὀψοποιική; in *Resp.* we find ποιμενική (345d1, d5), and μισθαρχνητική (346d3, d4).

⁸⁸ E.g. *Resp.* 350d5, 351a3, 354b6; in the just *polis*: 428b2, 429a2, 431e10, 433d6, 443e7.

⁸⁹ For an analysis of the relations between the lexemes of τέχνη and ἐπιστήμη (and ἐπίστασθαι) as “lexical subsystems” of the field of τέχνη, see LYONS (1963), chapter VII, especially 159-184.

deployed in technical contexts to denote the exercise of an expertise, such as ἐπίστασθαι, ἐπιτηδεύειν or ἐργάζεσθαι;⁹⁰

- (3) the “expert” (δημιουργός,⁹¹ τεχνικός, ἐπιστήμων,⁹² ἐπαῖων,⁹³ ἄρχων⁹⁴);
- (4) a “patient” (θεραπευόμενος,⁹⁵ ἀρχόμενος⁹⁶) or beneficiary (expressed in the dative) who undergoes the effects of the expert’s activities and benefits from them;
- (5) the goal (the ἐφ’ ᾧ τέτακται⁹⁷) of the expertise, that which it is meant to establish: a “product” (ἔργον)⁹⁸ if the subject matter is immaterial, or the optimal condition, to which the expert “looks” (σκοπεῖν, (ἀπο)βλέπειν εἰς or πρὸς⁹⁹), for instance: τὸ βέλτιστον,¹⁰⁰ τὸ συμφέρον¹⁰¹ (for instance health, ὑγίεια).

⁹⁰ See for a more comprehensive list, together with examples LYONS (1963), 152-155.

⁹¹ E.g. *Charm.* 173c2, 174e9, 175a7; *Euthyd.* 280c4, 291c8, 292d2, 301c3, 312b3; *Gorg.* 453a2, e5, 454a3, a5, 455a1, 503e1; *Resp.* 340e4-5, 346c5-6, c10, d7.

⁹² E.g. *Gorg.* 449c9, 459b3.

⁹³ E.g. *Crit.* 47b11, c3, d2, 48a6.

⁹⁴ E.g. *Resp.* 342d7, d10, e3.

⁹⁵ E.g. *Resp.* 345e1.

⁹⁶ E.g. *Resp.* 342d1, e5, e9, 345d7, 347d6.

⁹⁷ *Resp.* 346d6.

⁹⁸ The product of τέχνη: *Charm.* 163a10-d8, 165e3-166b6, cf. 174e8-175a7; *Gorg.* 503e1-4 (with εἶδος), *Ion* 537c7-e1 (one ἔργον the preserve of one τέχνη); *Resp.* 346d3-6 (IRWIN [1977], 75, 76 in case of ruling science (superordinate): happiness, see also passages *ibid.*); πειθοῦς δημιουργός ἐστιν ἡ ῥητορική: *Gorg.* 453a2; cf. *Phdr.* 260d4-8; *Plt.* 310e-311a: ἔργον of πολιτική τέχνη is ὕψασμα; cf. *Soph.* 265b4-266c6; ἔργον as divine fabrication: *Resp.* 530a4-8; *Tim.* 30b1-3, 41a7.

⁹⁹ βλέπειν: e.g. *Gorg.* 507d6-7 (ὁ σκόπος ... πρὸς ὃν βλέποντα δεῖ ζῆν), *Resp.* 342e10 (πρὸς ἐκεῖνο [sc. τὸ τῷ ἀρχομένῳ σύμφερον] βλέπων), 343b3 (πρὸς ἄλλο τι βλέποντας), 345c5-6 (οὐ πρὸς τὸ τῶν προβάτων βέλτιστον βλέποντα). ἀποβλέπειν: e.g. *Resp.* 421b7 (εἰς τὴν πόλιν ὄλην), 466a5-6 (οὐκ εἰς ἓν ἔθνος ἀποβλέποντες ἐν αὐτῇ [sc. πόλει]); σκέπτεσθαι/σκοπεῖν: e.g. *Resp.* 342a7 (αὐτῇ [sc. τῇ τέχνῃ] τὸ σύμφερον σκέπτεται), 342b2 (τὸ σύμφερον σκοπεῖν), 342c1-2 (οὐκ ... ἱατρικὴ ἱατρικὴ τὸ σύμφερον σκοπεῖ ἀλλὰ σώματι), 342d5-6 (οὐδὲ ἱατρὸς οὐδεὶς, καθ’ ὅσον ἱατρὸς, τὸ τῷ ἱατρῷ σύμφερον σκοπεῖ οὐδ’ ἐπιτάττει, ἀλλὰ τὸ τῷ κάμνοντι), 342e3-5 (οὐκ ... ὁ ... κυβερνήτης τε καὶ ἄρχων τὸ τῷ κυβερνήτῃ σύμφερον σκέπτεται τε καὶ προστάξει, ἀλλὰ τὸ τῷ ναύτῃ τε καὶ ἀρχομένῳ).

¹⁰⁰ E.g. *Gorg.* 464c4, d1, 465a2; *Resp.* 345c5-6, d2-3, d7, 347a2.

¹⁰¹ E.g. *Resp.* 342a7, b1, c1, c10, d5-6, e3-4, e8, e10, 347d5.

These items above sum up the system in its most complete form, but not all elements are always explicitly present in the text, or even part of the respective τέχνη. But it may be noted that it is often the implications of the τέχνη-analogy that are investigated in the dialogues, as when the interlocutors in the *Charmides* inquire after the “product” of “self-restraint” (σωφροσύνη). We may also note that the terms of the system are often tailor-made to the interlocutor. In the discussion with Thrasymachus in *Republic* Book I for instance, Socrates initially claims that each τέχνη is directed at τὸ σύμφερον (“what is in the interest of X”). This is a temporary stand-in for τὸ βέλτιστον, inserted here because Thrasymachus, who just defined justice as “the interest of the stronger”, is only interested in matters of benefit. The introduction of τέχνη in the discussion enables Socrates to exploit its implications of correctness and work towards the notion of a ‘true interest’.¹⁰²

If we want to understand the philosophical effects of establishing an analogy between morality and τέχνη, we should bear in mind that in the conceptual system of Platonic τέχνη, expert knowledge (the theory or body of knowledge) and its practical *application* are inseparable. It is an automatism that knowing the good is doing it, and the expert’s actions are always guided by his knowledge (the *locus classicus* is *Prot.* 352b3-c7).¹⁰³ Τέχνη is by definition the *correct* application of knowledge.¹⁰⁴ From there it follows that *akrasia*, acting against one’s knowledge of what is objectively best, is impossible.¹⁰⁵

¹⁰² As soon as τέχνη is introduced, notion of correctness (ὀρθότης) come into play, see e.g. *Resp.* Book I. On τέχνη and objectivity IRWIN (1977), 75.

¹⁰³ Cf. ALLEN (1960), 257-258: “The knowledge which is virtue is not merely an abstract or theoretical understanding of value, but the capacity or practical ability to exhibit understanding in action. If this is true, the Socratic Paradox is much less paradoxical”. For a different explanation of the relation between knowledge and conduct, see SANTAS (1964), who attributes a pivotal role to desire (for good things) in his attack on the traditional view.

¹⁰⁴ Of course LLOYD (1966) is correct when he observes that the analogy in *Crito* 48a5ff. “in one important respect (...) does not hold. In gymnastics there is general agreement about ends (namely health) and the trainer’s decisions relate to the means towards those ends, not to the ends themselves. But in questions of right and wrong, on the other hand, the ends themselves are often in dispute, and the politician’s decisions concern *both* means *and* ends (both how the ship of state should be sailed, and in which direction it should point)” (390, italics in original). But the

The consequence of assuming the existence of the figure of a moral expert is that within this framework, questions of *method* or *procedure* are unproblematic. Questions of means, procedure, and application do not come into focus because they are the expert's prerogative and he will, *qua* expert, not make mistakes.¹⁰⁶ Τέχνη therefore proves an especially convenient concept for a philosopher who turns to the realm of metaphysics for the principles of politics. The fact that in Platonic philosophy the object of knowledge and its product exist on different ontological levels does not cause any practical problems, because—the claim is—these levels relate to each other as model and product of expert knowledge.

A final implication of the τέχνη-ἀρετή analogy remains to be discussed. This is an implication on the social rather than the conceptual level. Within the logic of the τέχνη frame, ends have absolute priority over means. Means are legitimated by their objectively good ends, in relation to which all other considerations are negligible. There are no evaluative criteria in addition to the goodness of the goal itself, and the true expert need not justify or motivate his procedure—after all, he is the expert. The expert's capacity to “give an account” (λόγον διδόναι) of his procedure does not demonstrate the goodness of his goal, but gives an account of the means *in terms of* their capacity to attain the end. The goodness of the goal itself is a given within the conceptual frame of τέχνη. If the expert therefore concludes that the

mismatch is part and parcel of the *persuasive* nature of these analogies: it is Plato's *claim* that the domains of gymnastics and morality are analogous.

¹⁰⁵ The Socratic paradoxes arise from the analogy between ἀρετή and τέχνη: *akrasia* (acting against what one *knows* to be truly good) is impossible (knowledge is sovereign); the other side of the coin being that no one willfully commits a moral mistake (οὐδείς ἐκῶν ἐξαμαρτάνει [*Prot.* 345d9-e4, *Gorg.* 488a3-4]—or, conversely, the proposition that μηδένα βουλόμενον ἀδικεῖν, ἀλλ' ἄκοντας τοὺς ἀδικοῦντας πάντας ἀδικεῖν, *Gorg.* 509e5-7). For *akrasia* in Platonic philosophy, see recently BOBONICH & DESTREE (2007), with bibliography.

¹⁰⁶ Cf. ADAM *ad Resp.* 488d: “The true pilot, according to Plato, is one who knows *how* to steer” (italics in original).

realization of the good (e.g. the best *polis*) requires violence, that is not principally rejected.¹⁰⁷

Applied to the social domain, the πολιτική τέχνη has radical implications for the question of how far an authority may go in imposing on others what is good. Even though the dialogues at times admit that some measures will be harsh and unpleasant, they do not consider this in itself reason to refrain from them.¹⁰⁸ Presenting the just *polis* as analogous to a healthy bodily condition (the argument of *Republic*) corroborates these radical implications; for the option of painful surgery is kept open.¹⁰⁹ This seems less the case in *Laws*, where ideas about the well-designed society take into account citizens' *sense of well-being* (i.e. feeling well).¹¹⁰ *Laws* spells out a more 'conventional' or common sense notion of εὐδαιμονία. *Republic* claims that εὐδαιμονία consists in fulfilling one's social role (πράττειν τὰ αὐτοῦ). But the social roles in all cases seem, to put it euphemistically, to deviate to some degree from what humans would in general consider pleasant—that is, in *Republic* there is a relatively large cleft between what it acknowledges that a person intuitively considers pleasant on the one hand, and what *Republic* claims is *truly* pleasant on the other, and for some idea of which an expert is necessary. *Laws*' notion of εὐδαιμονία seems rather to tap into the more

¹⁰⁷ Made explicit in *Statesman* 293d4–e2, 296c8–d4, 308e8–309a3. Cf. LAKS (1991), 423.

¹⁰⁸ Cf. ADKINS (1960), 296–297.

¹⁰⁹ The fastest and easiest way to realize the constitution they have been describing is to send all children above 10 years of age abroad, *Resp.* 540e4–541a7. Both ιατρική (and to some extent γυμναστική) are pre-eminently τέχναι that involve pains: *Ph.* 94c9–d6 (ιατρική and γυμναστική opposed to a 'gentler' (πρᾶότερον) rule by way of threats, exhortations and internal dialogue); *Resp.* 406c10–d2 (burning or cutting); *Phdr.* 248d6 (γυμναστική is φιλόπονος); *Plt.* 293a6–c4 (in political context). Ιατρική is often associated with purification, e.g. *Crat.* 405a6–b4, *Soph.* 226e8–227a1, *Tim.* 89a8–b3.

¹¹⁰ See chapter three, p. 114; cf. the concern with friendliness, chapter five, section 5, p. 179. This does, it should be noted, not mean that there are no harsh measures in *Laws*. Some stipulations of punishments belong to the most grim passages in *Laws*. But whereas in *Laws* punishments are emphatically treated as a last remedy, that only become operative in case the *paideia* has failed, in *Republic* violence is part and parcel of justice itself: (i) the suppression of the producers by the military class of the φύλακες is an ingredient of the just society; (ii) in the surgical implications of the doctor-analogy (see note 109 above).

intuitive notions of musical harmony and consonance, and to appeal more heavily to the senses for justification (the prominence of music as evidently pleasant is an important part of the argument).¹¹¹ *Laws'* "anthropological" approach to pleasure as something humanly recognizable, and a generally powerful motivation, correlates with abandoning the idea of an expert authority on the correctness of emotions.

1.3.2 "Stochastic" τέχνη

The notion of τέχνη is not a Platonic invention. Already in Homer and Pindar do we find clear references to professionals. The earliest examples are the seer, doctor, carpenter and poet.¹¹² The term for professional is usually δημιουργός, a name that reflects the idea that the expert possesses the sort of skill(s) that benefit the populace.¹¹³ The τέχνη become a particularly prominent subject in the sophistic movement of the 5th century B.C.E.,¹¹⁴ when they are seen as the

¹¹¹ See chapter three, especially p. 120ff.

¹¹² Hom. *Od.* 17.383-385: the seer (μάντις), healer of evils (ἱητὴρ κακῶν), woodworker (τέκτων δούρων), and the divine singer (θέσπις ἀοιδός); the herald (κῆρυξ) is added in 19.135. For other early examples of specialists in Greek literature: HEINIMANN (1961), 109 and n. 20 on pp. 109-110. Within the Platonic collection of τέχνη, μαντική is somewhat atypical because it has its source in the divine. Plato's inspired depiction of μαντική deviates from the more down-to-earth practices of contemporary μάντις. In Athenian daily life the μαντική τέχνη consists in the reading of signs, in particular those of the entrails of a sacrificial animal, see VAN STRATEN (1995), 156, cf. 121-122. The μάντις is a specialist like any other, with practical skills like piling firewood on altars, as is suggested by a remark in Ar. *Pax* 1026, where Trygaeos proudly draws attention to the fact that he has piled the firewood on the altar μαντικῶς, "like a true μάντις". In Plato's *Phaedrus* (and in some other authors) we find a distinction between a rational μαντική, that could be learned from the books, and an inspired μαντική, see HEINIMANN *ibid.*, 110 with n. 108, and 127-129; also ZIEHEN in *RE s.v.* Mantis, 1347ff.

¹¹³ Etymology "δῆμιος-φεργός, in turn from δῆμιος ἔργα with verbal reinterpretation of the second member after the types ψυχο-πομπός; partly from -φοργός", BEEKES (2010), 325; cf. CHANTRAINE (1968), 273: "On a l'habitude d'interpréter le mot pour le sens d'artisan «faisant des choses qui concernent l'ensemble du peuple», ce qui convient à des spécialistes qui travaillent pour autrui". Many laymen profit from the skills of one δημιουργός—a doctor, for example: *Prot.* 322c6-7.

¹¹⁴ The notion of τέχνη in sophistic theories comes with a set of assumptions about the goals, results, precise content, and learnability of τέχνη, HEINIMANN (1961), 105-106 and 117-130: (1) the goal of a τέχνη is to accomplish something beneficial; (2) each τέχνη has its own task and result; (3) τέχνη consists in the know-how of the expert, who knows how to use means for their end; (4) as a profession, a τέχνη can hence be learned and taught. On sophistic theories about the

primary causes of man's cultural development beyond the state of animals, the most notably example being the sophist Protagoras.¹¹⁵ Τέχνη acquires various connotations of civilization: an orderly, non-threatened life in opposition to φύσις (a state of nature), and self-governed, more or less predictable and hence secure way of life in opposition to τύχη (being 'governed' by whatever may befall one).¹¹⁶ Humankind is capable to determine its own mode of living. They offer humankind the means to ensure its own survival (σωτηρία) by providing humans with the basic needs for subsistence.¹¹⁷

We also encounter a different type of τέχνη in sophistic circles: not an opposition between τέχνη and τύχη or τέχνη and φύσις, but a bifurcation within the notion of τέχνη itself. Several texts from the Hippocratic corpus are contributions to a polemic about the status of medicine (e.g. Περί ἀρχαίης ἰητρικῆς (*De vetera medicina*), Περί Τέχνης (*De arte*), and Νόμος (*Lex*)).¹¹⁸

(in)teachability of virtue: KERFERD (1981), ch. 11. The idea that τέχνη confers a benefit is omnipresent in Plato, e.g.: *Charm.* 165c10-d2 (ὠφελίαν), *Gorg.* 502d4-504a7 (τὸ βέλτιστον), 464c4-5, 501b4 (τὸ βέλτιστον), *Resp.* 341b-342e.

¹¹⁵ On sophistic theorizing about the development of human culture and society, see KAHN (1981) (sophists as ancient precursors of social contract theory); KERFERD (1981), chapters 10, 12. For a reconstruction of Protagoras' ethical naturalism in ethics, see BERESFORD (2013). On the pre-Platonic notion of τέχνη, see HEINIMANN (1961); ROOCHNIK (1996) chapter 1, with literature on τέχνη, especially as it applies to Plato, in n. 1, p. 18. On pre-Platonic notions of wisdom, see SNELL (1924).

¹¹⁶ E.g. *Pl. Prot.* 321e1-2, 322a5-8 with NUSSBAUM (1986), chapter 4; cf. *Aesch. Prom.* 226-236, 442-506 and *Soph. Ant.* 332-375, which passages are generally thought to echo contemporary sophistic thought. On the νόμος/φύσις-debate, see HEINIMANN (1945); ADKINS (1972), 106-112; KERFERD (1981), chapter 10. Literature on the τέχνη/τύχη antithesis can be found in NUSSBAUM (1986), 442-443, n. 2.

¹¹⁷ HEINIMANN (1961), 118: "In der Sophistischen Kulturgeschichte erscheinen die τέχναι als Mittel, der Menschheit zu helfen, ihre bedrohte Existenz zu retten. ..., immer wieder dienen die τέχναι der σωτηρία der Menschheit, die ohne sie dem Untergang geweiht wäre." Cf. GRAHAM (1991), 10; O'BRIEN (1967), Chapter 2. Judging from the Protagoras-myth in Plato's *Protagoras*, the sophist Protagoras seems to have gone further than other sophistic evolutionary theories in making the preservation (σωτηρία) of humankind not only depend upon the τέχναι providing livelihood (the σοφία περὶ τὸν βίον (321d4), for the elements of which see 322a3-8), but also upon basic notions of morality (the πολιτικὴ τέχνη, in the form of αἰδώς and δίκη).

¹¹⁸ That HEINIMANN (1961), 106-107 aligns himself with a scholarly tradition (see p. 106, n. 9) according to which Plato's notion of τέχνη corresponds to that of *De Arte* and *VM* is due to his 'sophistic'-coloured representation of Platonic τέχνη, disowning its objective foundation and

VM defends an empirical form of medicine against a novel form that proceeds on the basis of an hypothesis (ἐξ ὑποθέσεως, XIII).¹¹⁹ From the attempt to justify medicine's lack of precision in VM,¹²⁰ and from the defence of medicine's fallibility we may reconstruct two grounds on which the status of medicine as a τέχνη came to be disputed: (a) a lack of precision, and (b) the fact that it often fails to cure, or that τύχη instead of the τέχνη has caused a patient to regain his health. By defending the technical status of medicine against these lines of attack, the Hippocratic authors widen the parameters of what can still claim to be a τέχνη, and "open the possibility of (...) a stochastic techne".¹²¹ The more precise τέχναι are, for example, mathematics and the productive τέχναι.¹²² By contrast, medicine, "in which a gap exists between

assuming that Plato considered it teachable. However, his position is distinct from this tradition in that he ascribes the correspondence not to a direct influence of Plato by the Hippocratics, but to a common third source.

¹¹⁹ VM, especially caput I, XIII-XV, XX. In matters that are unclear (τὰ ἀφανέα τε καὶ ἀπορεόμενα), like those things in the sky or below the earth, one is forced to use a postulate (ὑποθέσει χρῆσθαι) if one wanted to state anything about these; but it would not be clear whether his statements were true or not, since there is no test in virtue of which one can attain certainty (caput I). See also DEMONT (2013).

¹²⁰ VM, caput IX, XII. In caput IX we encounter the paradoxical claim that in medicine sense perception is the sole measure of accuracy (μέτρον δὲ, οὐδὲ σταθμόν, οὐδὲ ἀριθμόν οὐδένα ἄλλον, πρὸς δὲ ἀναφέρων εἶσι τὸ ἀκριβές, οὐκ ἂν εὐροίης ἄλλ' ἢ τοῦ σώματος τὴν αἴσθησιν, ed. LITTRÉ).

¹²¹ ROOCHNIK (1996), 61. 'Stochastic' τέχνη is demarcated from other τέχναι by Alexander of Aphrodisias and Philodemus in their discussion of rhetoric. On Philodemus, see HEINIMANN (1961), 123 and ROOCHNIK (1996), 82-83; on Alexander of Aphrodisias ROOCHNIK (1996), 53-55. HEINIMANN (1961) 123, n. 86: "Zur Scheidung zwischen τέχναι στοχαστικά, die ihre Ziel nicht immer, sondern bloß meistens (κατὰ τὸ πλεῖστον, ὡς ἐπὶ τὸ πολὺ) erreichen, und solchen, die immer Erfolg haben, vgl. Sext. *Math.* 1, 72; Cic. *Div.* 1, 24f." and *ibid.*, n. 92

¹²² In *Philebus* 55d1-56c11 we find a bifurcation between two types of τέχναι on similar grounds. Those that make use of number (arithmetic, measurement, weighing) have great accuracy (ἀκριβεία, cf. ἀκριβεστάται τέχναι, 56c8), which makes them τεχνικωτέρα (56b6): these are τεκτονική, ναυπηγία, οἰκοδομία and ξυλουργική in general, because they use the largest number of measuring instruments (56b4-c2). The other kind of τέχναι lack accuracy and "drill the perceptions by experience and some practice, making in addition use of the powers of conjecture, which many call arts, and which get their force from care and effort" (τὰς αἰσθήσεις καταμελετᾶν ἐμπειρία καὶ τινι τριβῇ, ταῖς τῆς στοχαστικῆς προσχωμένους δυνάμειν ἃς πολλοὶ τέχνας ἐπονομάζουσι, μελέτη καὶ πόνω τὴν ῥωμὴν ἀπειργασμένας, 55e5-56a1). Music is such a τέχνη (and especially pipe-playing, αὐλητική): it contains a great deal of τὸ μὴ σαφές (uncertainty), and little of certainty (τὸ βέβαιον). Other τέχναι of this kind are ἰατρική, γεωργία, κυβερνητική and στρατηγική. ROOCHNIK (1996), 53-54.

knowledge and use”, cannot be very precise. The doctor has to “aim” (στοχάζεσθαι) at his goal.¹²³

Characteristic of the stochastic τέχνη is the recognition on the part of the τεχνικός that success is never guaranteed.¹²⁴ “Für die Folgezeit gehört solches Wissen um die Grenzen der Kunst jedenfalls zu den Kennzeichen des vollkommenen Arztes.”¹²⁵ But the recognition of the expert’s fallibility not only pertains to medicine. Similar limits are formulated with respect to rhetoric in Isocrates, Plato’s rival as the head of the more popular rhetorical School at Athens. Educating a perfect orator may not always work out, since there are more variables at play.¹²⁶ Isocrates’ conception of philosophy puts much more of the burden of success on the pupil. The μαθητής has to practice (μελετᾶν), gain experience (ἐμπειρία), and have a certain natural aptitude (φύσις) in order to become a good orator. According to the stochastic conception of τέχνη that prevails outside the Platonic corpus, the capacities of the authority figure are much more limited and problematic. The whole notion of authority is much more problematic because it largely depends on social recognition. The un-Platonic character of *Laws* partly lies in the

¹²³ ROOCHNIK (1996), 107 (he calls this “technē”). It should be noted that the focus of this debate about the status of ἰατρική differs from the Platonic approach to medicine. On the basis of its stochastic interpretation elsewhere, one might have supposed that ἰατρική is unsuitable for Plato’s purposes. But the Platonic focus is different. Plato uses the analogy of medicine to get the claim across that there exists such a thing as the *objectively* and naturally best condition of the soul (and *polis*), analogous to health for the body. This idea is especially prominent in *Republic* and *Gorgias*.

¹²⁴ Cf. HEINIMANN (1961), 122.

¹²⁵ HEINIMANN (1961), 122. His reference to *Resp.* 360e6-361a1 in note 83 *ibid.* is misleading because it fails to take account of the negative import of that context: knowing what one’s craft is capable of and not (τά τε ἀδύνατα ἐν τῇ τέχνῃ καὶ τὰ δυνατὰ διαισθάνεται) is equated to *scheming*: the steersman and doctor are called οἱ δεινοὶ δημιουργοί, and are analogues of the unjust person (ὁ ἄδικος). The unjust person knows what acts of injustice can credibly have a reputation for justice. If something goes wrong, he can fix it (ἐὰν ἄρα πῃ σφαλῇ, ἱκανὸς ἐπανορθοῦσθαι, 361a2; τὸν ἀλίσκόμενον δὲ φαῦλον ἡγητέον, 361a4). The qualification of the ἄδικος thus works along the same lines as that of the moral expert.

¹²⁶ Isocrates’ notion of rhetoric and φιλοσοφία (ἡ τῶν λόγων παιδεία) is therefore very much unlike Plato’s conception of philosophy as σοφία or ἐπιστήμη. E.g. Isocr. *Antid.* 180-220.

substitution of such dissimilar and imprecise factors such as experience and insight for expert knowledge.

We have lingered on the assumptions that underlie the analogizing of morality to τέχνη because the fact that this analogy, and with it the Socratic paradoxes, is relinquished, is part of the reason why Plato in his *Laws* seems so unrecognizable. On the one hand, the automatic link previously assumed to exist between knowing the good and acting in accordance with it is severed. On the other hand, the sufficiency of expert knowledge as a ground for action (the moral intellectualism) is cast into doubt and becomes an insufficient basis for action.

The discussion of *Republic* in chapter two will attempt to demonstrate how the success of Callipolis (for Plato) depends on the assumptions operative in his construal of τέχνη as expert knowledge. The notion of τέχνη as expert knowledge will serve as a foil for my argument for a recalibration of ἀρετή and τέχνη in the chapters on *Laws*. Chapter three will investigate *Laws*' introduction of virtue in the opening books and argue that the τέχνη/ἀρετή-analogy is relinquished. Chapter four will scrutinize the implications of an important defining analogy for *Laws*' conception of lawgiving, the analogy of painting. Chapter five will explore the implications of an analogy for lawgiving that frames lawgiving not as laying down laws but as the direct influencing of the citizens: the doctor-analogy. Chapter six will argue that the so-called "nocturnal council" possesses a τέχνη of the stochastic type, rather than expert knowledge.

It seems not to be without reason that *Laws* does not talk about a νομοθετική τέχνη in either of these representations of lawgiving: νομοθετική τέχνη would presumably have entailed connotations of ἐπιστήμη that needed to be suppressed in this context.¹²⁷ Rather than on expert knowledge, both the

¹²⁷ Cf. the brief discussion of Plato's use of his own terms and his aims above, p. 16.

painter-analogy and the doctor-analogy are grounded in a notion of expertise based on experience.

1.4 The structure of *Laws*

Laws is a notoriously difficult text to get a firm grasp on, due to its length and the scope of its topics. The usual practice adopted by modern scholars, to cite passages without taking into account their immediate context and the phase of the argument, is less preferable for two reasons: first, it suggests that no overall structure and design is visible; second, it obscures from our view *Laws*' own articulations of its project.¹²⁸ For a discussion of the status of the laws one ought to be aware of the different stages of the argument, and of how they are demarcated from each other. This section will briefly present an overview of *Laws*, on the basis of its own indications about its internal structure.

The discussion until 702e2 (Books I-III) forms the opening discussion of the conversation as a whole. Within this opening discussion, there is a minor caesura between the discussion on *paideia* and virtue in Books I-II, that is explicitly concluded at the end of Book II, and the historical discussion of the reasons for the success and fall of constitutions in Book III. For the sake of convenience, I refer to Books I-III as the “opening discussion”.

At the end of Book III, Cleinias reveals that he is part of a committee that has the task of making a law code for a new colony on Crete, to be called Magnesia.¹²⁹ His commission is to compile a law code on the basis of a selection from local νόμοι and νόμοι from elsewhere.¹³⁰ Upon this revelation,

¹²⁸ The artificial division of *Laws* into twelve books is ascribed to Philippus of Opus, *Suidas s.v.* φιλόσοφος. Cf. p. 18, n. 43 above.

¹²⁹ *Leg.* 702c4-d5.

¹³⁰ *Leg.* 702c5-8: ἅμα δὲ καὶ νόμους τῶν τε αὐτόθι, εἴ τινες ἡμᾶς ἀρέσκουσιν, τίθεσθαι κελεύει, καὶ εἴ τινες ἐτέρωθεν, μηδὲν ὑπολογιζομένους τὸ ξενικὸν αὐτῶν, ἂν βελτίους φαίνωνται. “We are bidden also to frame laws, choosing such as we please either from our own local laws or

the interlocutors agree to found a *polis* “in speech” ((τῶ) λόγῳ, 702d1-2, e1), an exercise that will both be a test (ἐλεγχος, 702b2) of their conclusions so far (the merits and demerits of lawgivers¹³¹), and a potential framework for the foundation of Magnesia.¹³² In the deliberation on society and laws in the three opening Books, the lawgiving-in-speech is not yet within sight. But from Cleinias’ revelation that he is part of a committee of lawgivers for a Cretan colony onwards, the conversation is wholly directed to the service of founding this colony. It is important to note that this concerns a foundation *in speech*; for that means that they are not (yet) engaged in making the law code for Magnesia.

But the interlocutors do not immediately commence their lawgiving. The law code only begins at 771a5, in Book VI. The whole section from the end of Book III/ beginning of Book IV till the beginning of the lawgiving in Book VI is concerned with the treatment of a number of subjects that *Laws* apparently considers necessary preliminaries for lawgiving.¹³³ The topics discussed are: the geographical location and local resources of the new colony (Book IV), the need for persuasive preambles (by way of a doctor-analogy, Book IV), and an overview of the magistrates of the colony (Book V, first part of VI). It should be noted that this suggests that a law code must be attuned to the location. The law code in *Laws* is *presented* as tailor-made to a particular, historical, cultural, and geographical context from the beginning: the interlocutors only embark on their lawgiving once these topics have been discussed.

from those of other countries, taking no exception of their alien character, provided only that they seem superior” (transl. BURY).

¹³¹ That this is the topic of their investigation is made explicit at *Leg.* 630e7-631a2, 637d1-3.

¹³² *Leg.* 702d3-5. The end of *Laws* suggests the transition to founding the *polis* for real: *Leg.* 969c4-d3. It is only at that point that the real foundation comes into focus.

¹³³ Cf. HENTSCHE (1971), 253: “Die Erörterung dieser Fragen wie Verfassung, Besitz- und Landverteilung, Ämter etc. ist so gestaltet, daß sie als *Vorfragen* zur konkreten Gesetzgebung behandelt werden. Dadurch ergibt sich eine Straffung gegenüber dem Dahintreiben vor der Gründung der Kolonie” (italics in original).

The discussion between Cleinias' announcement and the beginning of the law code will be designated as the "preliminary discussion". This preliminary discussion does not only deal with a number of apparently necessary topics, but is also the place where the Athenian defines legislation *via* two analogies, the doctor-analogy in Book IV and the painter-analogy in Book VI. Both of these introduce conceptions of lawgiving that are subsequently put into practice by the interlocutors themselves.

The law code itself begins halfway through Book VI and runs from 771a5 to 960b5. Very generally speaking, the sequence of topics in the law code follows the course of human life: it begins with regulations about necessary preliminaries for marriage¹³⁴ (a good marriage being the prerequisite for procreation) and ends with regulations concerning burials, estates and wills.¹³⁵ The suggestion is, at least, that the topics occur in some kind of order, as is indicated by the repeated use of the term ἐξῆς, "in order".¹³⁶

The last law is followed by the discussion of a political organ, the so-called "nocturnal council" (νυκτερινὸς σύλλογος). Although the late introduction of so vital an organ has sometimes been considered unexpected and unanticipated, the reason for its introduction at this stage is made sufficiently clear: for, as the Athenian remarks, no act of generation has

¹³⁴ See chapter four, p. 159f.

¹³⁵ Cf. LAKS (2000), 265-266: "In fact, no less than three principles must be taken into account to explain the fairly complex order of exposition followed in Books VII to XII: (1) the chronological principle of the cycle of human life and its nodal points—marriage and procreation, education, military service, political life, death and funerary arrangements; (2) a reality principle according to which activities linked to survival must be regulated (842e3-5, cf. 842d1-e1); (3) the principle of penal regulation, which rests on a classification of transgressions in order of their degree of seriousness (884a1-885a7)."

¹³⁶ In the context of the law code: *Leg.* 779d6, 780c6, 782d7, 796e4, 804c2, 823d3, d6, 834b1, 853b1, 914b1; cf. 860d3, 900b6 (τὸν ἐξῆς λόγον). In the discussion of the magistrates, this suggestion is present as well: 755b6, 763e4. The idea of a strict sequence is also present in 768d4-6: a complete διέξοδος must go from the beginning through τὰ δεύτερα καὶ τὰ μέσα καὶ πάντα μέρη τὰ ἐαυτῆς ἀπολαβοῦσα till the end (τέλος). It therefore seems somewhat unfair to say that "the argument lurches from topic to topic" (SAUNDERS, *Intr.* p. xlii). Of course, this is the natural form of a law code. But it *feels* unsatisfactory because it is embedded in a Platonic literary dialogue, of which one expects (on the basis of familiarity with the Platonic corpus) a more close coherence.

reached its end before a means has been devised for its preservation (σωτηρία).¹³⁷ The nocturnal council is by this ordering the closure of the act of νομοθεσία. Another interesting aspect about this last section of *Laws* is that it exhibits overt thematic parallels with the opening discussion of Books I and II: for instance, the theme of the unity of ἀρετή and the four ἀρεταί, that had disappeared in the preliminary discussion and the law code itself, is recapitulated in the final section of the work, creating the effect of a ring composition. *Laws* ends on the idea that at this point, the interlocutors will found the city *for real* and therefore harks back to the end of Book III.

In any case, we can see that the structure of *Laws* is hardly as “chaotic” and labyrinthine as often assumed. To explore what this structure tells us about the status of its law code is an important aim of this study. Inconsistencies between passages are not necessarily problematic in nature when one realizes that they are made in the context of different discussions and stages of the argument; in any case, inconsistencies as such do not warrant the assumption that *Laws* is unfinished, or the product of a philosopher past the prime of his literary faculties. I will argue that precisely this lack of consistency of passages taken out of their context is compatible with *Laws*’ own approach to lawgiving and even part of its make up. Recognizing the anatomy of *Laws* instead of assembling apparently similar passages from different sections of the text, without awareness of their context and the framing of the conversation as a whole, avoids lumping together material that belongs to different phases of the discussion.

¹³⁷ *Leg.* 960b5-c1: τῶν πάντων δ’ ἐκάστοτε τέλος οὐ τὸ δοῦναι τι σχεδὸν οὐδὲ τὸ κτήσασθαι κατοικίῃσαι τ’ ἐστίν, ἀλλὰ τῷ γεννηθέντι σωτηρίαν ἐξευρόντα τελέως αἰεὶ, τότε ἤδη νομίζειν πᾶν ὅσον δεῖ πραχθῆναι πεπραχθαι, πρότερον δ’ ἀτελὲς εἶναι τὸ ὅλον. “But in every case, the full end does not consist in the doing, establishing or founding something: rather our view should be that it is only when we have discovered a means of salvation, endless and complete, for our creation, that we have done all that ought to be done: until then, we must believe, the whole of our creation is incomplete” (transl. BURY).

1.5 Plan of this thesis

This thesis attempts to provide an explanation of the legislative project of *Laws* in the context of Platonic political philosophy as a whole. It argues that the anomalies enumerated at the start of this Introduction—the absence of δικαιοσύνη, of philosophy, of Socrates; the Cretan setting; the role of πείθειν—can be explained when it is recognized that *Laws* is oriented towards a *pragmatic* instead of an absolute norm. In fact, our evidence strongly suggests that it is impossible to speak of a—single—norm in the case of *Laws*, because its moral outlook, its approach to lawgiving and its constitution lack the coherence that such an absolute norm imposes. In *Laws* there is nothing so clear and solid as to be comparable with the fixed, metaphysical norm in *Republic* (*Republic* is the text that offers the most elaborate vision on what this absolute norm amounts to, but in fact this goes for every other Platonic text). That does not mean that *Laws* endorses a form of moral relativism, for it continues to rely on some form of objectivity in morals. But this objectivity is more similar to an Aristotelian, biological naturalism (social behaviour is objectively best because it fosters the most harmonious and most enduring societies) than it is to *Republic's* metaphysical absolutism. The law code depends on the specific location and is determined by local circumstances. At the same time, with this caveat, *Laws* is a *leçon par l'exemple*: it offers a workable model for how lawgivers could proceed to create such a harmonious society.

Before coming to an analysis of *Laws* along the lines set out above, this study starts out with a chapter (chapter two) about three other Platonic texts: the (presumably) early *Apology* and *Crito*, and the middle-period *Republic*. The reasons for analyzing this subset of texts have to do with genre as well as theme. Each of these three texts presents a scenario in which absolute justice

either is (in the naturally best city of the *Republic*), or ought to be (in the less than perfect setting of *Apology* and *Crito*), the motivation for action for the just individual. In all three texts, the ultimate norm for moral action is justice. In *Apology*, we encounter a rhetoric inspired by the human wisdom that is *aware* of the existence of a higher knowledge, authorized by an appeal to divine authorities. In *Crito*, Socrates in a different setting presents a different sort of account of his behaviour, one, however, that shares with *Apology* the loyalty to a higher principle as a motivation for action (or refraining from it). *Republic* presents a constitution that encapsulates the moral authority and that is, therefore, just.

In view of the absolutist nature of justice, one would have expected that a Platonic text on legislation would declare διακιοσύνη of paramount importance. What else than true justice could, and should, be the basis for a set of laws in *Laws*? But as noted at the start of this chapter, δικαιοσύνη plays only a limited role. This and the other peculiarities in *Laws* will be addressed in the chapters on *Laws*. How can a Platonic text offer laws without attributing them to a moral expert?

Chapter three investigates the construction of human excellence in the two opening Books of the work. It argues that the specific Cretan context is used to advance the notion of ἀρετή as a cultural variable: in Creta and Sparta, ἀρετή is ἀνδρεία. The subsequent introduction of the three other cardinal virtues besides ἀνδρεία allows the Athenian to argue that ἀνδρεία does not suffice, and to introduce the more general notion of virtue as friendly behaviour and social excellence: virtue as the quality that is necessary for the preservation of society, represented by the *symposia*. Within the boundaries of φιλία, an individual lawgiver or *polis* is at liberty to devise his own code of laws.

Formulating a code of laws is precisely what the interlocutors themselves proceed to do, inspired by a particular, Cretan case. Chapter four

therefore investigates how the interlocutors conceptualize their own legislative activity. The interlocutors' lawgiving is preceded by a painter-analogy, that analogizes an act of lawgiving to creating a painting. Chapter four will argue that the upshot of the analogy is that lawgiving necessarily takes time, and that time and experience are necessary to supplement the gaps left by the original lawgiver. This dynamic notion of lawgiving is reflected in the interlocutors' own law code.

Chapter five moves from the making of laws for a particular *polis* to the yet smaller scale of the effect of laws within that *polis*. It investigates how the laws will influence the envisaged citizens. The *paideia* of the citizens is effectuated by persuasive preambles, which are introduced especially for this purpose, and chapter five will investigate how persuasion works and what notion of virtue *Laws'* form of persuasion implies.

By way of final step, chapter six investigates two agencies outside law code—the nocturnal council and the lawgiver in *Laws*, the Athenian. Does the nocturnal council introduce the perspective of the philosopher-king after all? On the basis of the striking and clear thematic parallels with the opening discussion in Books I and II, it will be argued that the nocturnal council is completely in line with *Laws* on pragmatic, ethical naturalist view on politics, and that its discussion is an apt way of concluding the argument of *Laws*. There remains, therefore, the Athenian stranger. What is his qualification, and how do we know that?

It will be argued that *Laws* does not appeal to a higher principle to justify its laws. It construes a world completely alternative to, and irreconcilable with, *Republic*. *Laws'* composition suggests a worldview that allows no place for a conclusive authority, and where, as a consequence, Plato seems to distance himself from his own Platonism.

CHAPTER TWO

APOLOGY, CRITO, REPUBLIC: THREE PLATONIC TEXTS ON JUSTICE

The present chapter will discuss three Platonic texts that precede *Laws*: *Apology* and *Crito* from Plato's early period, and *Republic* from his middle period.¹ All three texts address questions of justice (τὸ δίκαιον, δικαιοσύνη), but each of them does so in its own way. Despite their differences, they are connected by an underlying theme: exploring the consequences of the existence of an absolute moral norm. *Apology* and *Crito* portray the dilemmas that affect Socrates. Both texts are set in the Athens of 399 B.C.E.—a society which, in Socrates' eyes, fails to live up to the norms of true justice. Conversely, Socrates' way of life is considered inappropriate from the perspective of conventional justice, and *Apology* and *Crito* stage the dramatic lowest ebb—from the perspective of true justice—of that inevitable friction. In *Apology*, Socrates is forced to defend himself before the Athenians at large (section 2.1); in *Crito*, he is faced with the consequences of his failure to convince them (section 2.2).

The third text that will be discussed in this chapter, *Republic*, is of a somewhat different nature (section 2.3). It involves the attempt to construct, in its most persuasive form, a *polis*—called Callipolis—with justice as its defining

¹ For literature on the presumed relative chronology of the Platonic texts, see the references on p. 6, n. 8 above.

characteristic. *Republic* therefore adopts the same belief in an absolute moral norm as *Apology* and *Crito*, but offers a solution to the dilemmas portrayed in the earlier works. In the just society, the problems affecting the just individual in *Apology* (the truth about justice is not convincing) and *Crito* (the just individual has to submit to unjust laws) cannot arise, and Socrates would not have been convicted.

The analyses offered in this chapter serve as a comparative framework for the study of *Laws* in the following ones. Assuming that Plato, and his Socrates, believed in an absolute notion of justice, the present chapter analyzes how this absolute norm takes shape in each of the three communicative settings portrayed. This will provide us with an idea, or set of ideas, about how justice makes its appearance in what may, perhaps somewhat prematurely, be called more prototypical Platonic works. If from there we turn to *Laws* we stand perplexed. For, contrary to what one expects on the basis of Plato's philosophical oeuvre—especially, but not only, the three texts discussed in this chapter—justice (δικαιοσύνη) is not prominent at all in Plato's last work.

The study of absolute justice in its three different contexts is the first step of the argument developed in this thesis. Evidently, each of the three Platonic texts that will be discussed here has attracted considerable scholarly controversy in its own right. Their concise discussion within the scope of this preliminary chapter cannot in any way pretend to do justice to the debate in all its ramifications. The discussion of the primary texts is of limited scope, and necessarily remains somewhat sketchy. Even though I believe that the analysis of *Apology*, *Crito*, and *Republic* in conjunction, as texts revolving around a common dilemma, may offer some new insights, or at least new possibilities for further exploration, the main contribution of this chapter will be to provide us with a suitable foil for the subsequent study of *Laws*.

2.1 *Apology*: Socrates unjustly accused

2.1.1 An isolated Socrates and *Apology*'s philosophical rhetoric

Apology is the only Platonic text that is not a dialectical conversation.² The text reports a sustained defense speech (ἀπολογία) addressed to a mass audience, the court of Athens.³ This setting, the court, forces Socrates to adopt a mode of discourse at variance with his usual, dialectical mode of speech.⁴ Yet although Socrates in his speech formally conforms to the proper way of addressing a court, his speech is a defense speech in a typically Socratic fashion. The argument and attitude displayed by the Socrates of *Apology* are hardly those expected from someone in his position. Normally, the sole purpose of a defense speech is to secure acquittal—a whole genre (forensic oratory) and industry (the professional speech-writers, λογογράφοι) had arisen for the very sake of securing success in lawsuits. Hence the normal procedure would be to try to secure the jury's benevolence and present oneself in the most favourable way possible.⁵

Yet this is not what Socrates does in *Apology*—in fact, Socrates makes clear that winning the multitude's favour might well be his least concern. His care is for something else. *Apology* can be read as what FEAVER & HARE have called an “inverted parody of rhetoric”. First, he claims that in this trial he is not

² With the exception of those *Epistulae* that may be genuine.

³ On the question whether *Apology* is a philosophical work even though not a dialogue, see SLINGS (1994), 36: *Apology* is “a philosophical work, and that implies that it is concerned with the right conduct of life, not only in general, but also with respect to the special activity with which the work is concerned, namely, rhetoric” (cf. Ch. 1 § 2c).

⁴ *Apol.* 17d1-18a3. In *Apol.* 37a5-b2, especially the reference to Socrates' own mode of speech in ὀλίγον γὰρ χρόνον ἀλλήλοις διειλέγμεθα, “there is some irony present, and perhaps a hint that in a dialectical discussion [Socrates] would have convinced the putative jurors”, STOKES *ad loc.* For the difficulty to persuade his audience: *Apol.* 38a7-8.

⁵ Especially since jurors “were prone to decide a case more on the basis of a general assessment of a person's moral character than on an informed understanding of legal arguments”, SLINGS (1994), 90. “Possible scruples [on the part of the jury] about doing this could be dismissed if the moral offence had been explicitly mentioned in the indictment; in that case a discussion of the defendant's general behaviour could not be considered ‘irrelevant to the case’ (ἔξω τοῦ πράγματος)” (SLINGS *ibid.*, 90-91, see also his note *ad* 18a7). Cf. FEAVER & HARE (1981), 210, 212.

the defendant but the accuser; the real person on trial, he suggests, are the Athenians.⁶ Second, Socrates is in fact accusing himself.⁷ He does not attempt to take the sting out of the philosophical activities at which people have taken offence. On the contrary, he confesses to be guilty of the activities that have been the reason for his prosecution. To this it may be added that Socrates' speech is in fact a grand attempt to isolate himself from his fellow Athenians and from their conventional values. Socrates' overt contempt for death as a triviality in the light of his own concern for τὰ μέγιστα emphasizes this dissociation.⁸ Taken together, *Apology's* inversion of the usual arguments of a defense speech—appealing to shared values between city and defendant, the previously impeccable reputation of the defendant, the need to spare the defendant's life—force its audience to recalibrate its moral orientation. Part of *Apology's* purpose is to encourage its audience to adopt a perspective from which these positions (that the Athenians at large stand accused, that conviction and the prospect of death are in fact a triumph, and Socrates' self-accusation) lead to a coherent worldview.

Besides isolating himself from the conventions of his fellow citizens, Socrates in the *exordium* substitutes his own definition of rhetoric, "speaking the truth",⁹ for the conventional definition of being δεινὸς λέγειν ("a formidable

⁶ FEAVER & HARE (1981), 210. *Apology* is an "inverted parody of rhetoric": rhetorical *topoi* are used to effectuate the opposite of what rhetoric aims to do ("success is not winning the case but telling the truth", 205), and to give expression to a "higher authority" (209).

⁷ FEAVER & HARE (1981), 211: "What [Socrates] is doing in this section of the speech [the reply to the unnamed prosecutors] is uncovering the real charge, admitting that he is guilty and claiming the utmost credit for being so." The real accusation he claims to be facing is "just that he is a philosopher. In particular, the real reason for the hatred in which he is held is his habit of consistently exposing powerful figures to the ridicule of the young and rich group that surrounds him. The *Meno* shows the connection between this habit and the trial" (210-211).

⁸ See *Apol.* 30c6-d5.

⁹ τὸν τἀληθὴ λέγοντα, 17b4-5; ὑμεῖς δέ μου ἀκούσεσθε πᾶσαν τὴν ἀλήθειαν, 17b7-8; ῥήτορος δὲ (ἀρετῇ) τἀληθὴ λέγειν, 18a5-6. See SLINGS (1994), 32-34, 36-40, for an explanation of *Apology's* correspondences with the familiar rhetoric of the orators and its use of rhetorical *topoi* within the context of this agenda of truth-speaking. Since truth cannot be taught but only discovered by insight: "Socratic speech as a rule aims at suggesting rather than at asserting the truth. For truth is discovered by insight (σοφία, φρόνησις), and this cannot be siphoned from one mind into another

speaker").¹⁰ The λόγος he is about to give is the only speech he can give; he simply *cannot* defend himself in a different way.¹¹ Knowing the truth means that one is speaking the truth—the rhetorical counterpart of the Socratic automatism that knowing the good is doing the good.¹² The philosophical rhetoric of *Apology*, although it is a mode of speech determined by different rules than dialectic, and although it has different effects, thus shares with dialectic the concern for, and belief in, truth.¹³

In *Apology* we witness a radical, and, in his overt disdain for conventional norms and values, arrogant, Socrates. He launches a deliberate attempt to create a huge gulf between himself and his fellow Athenians. How does he justify his claim to speak the truth? How does the radical Socrates of *Apology* justify his past activities, and motivate his present indifference? The next two subsections will attempt to offer a reconstruction of the divine mission from Socrates' perspective.

like water from a full vessel into an empty one" (*ibid.*, 33, with ref. to *Symp.* 175d3-7). This is similar to how Socrates represents the procedure of the god of Delphi, who inculcated the truth by suggestions (*ibid.*, 34).

¹⁰ *Apol.* 17b8-c2: the claim that he will speak εἰκῇ and τοῖς ἐπιτυχούσιν ὀνόμασιν therefore does not mean that he will not give a very sophisticated speech and use rhetorical *topoi*, but is part of his claim that he will not distort the truth (*cf.* SLINGS [1994], 37). For the use of rhetorical idiom, *topoi* and structure of *Apology*, see SLINGS (1994), 32, with literature. The correspondences with Gorgias' *Defense of Palamedes* are especially striking, see FEAVER & HARE (1981), 207-209 and 215 n. 11; also REEVE (1989), 7-8. Socrates' disclaimers have prompted BRICKHOUSE & SMITH (1989) to deny the rhetorical parallels, 48-59.

¹¹ *Cf.* the notion of Socratic παρρησία. On παρρησία in *Apology*, see VAN RAALTE (2004), 296-305: "Although in Plato's *Apology of Socrates* the term *parrhêsia* does not occur, the *Apology* can be seen as one big exercise in Socratic *parrhêsia*" (296); Socrates can simply not hold his tongue.

¹² *Cf.* SLINGS (1994), 325, *ad* 29a3: "Socrates cannot admit to a separation of theory and practice, of convictions and actions. When someone honestly acknowledges the existence of true gods, endowed with perfect insight (*cf.* 23a5-6), he cannot even think of disobeying him." The idea that Socrates has a mission can only take root because the idea of having received the order to remain at one's post has just been mentioned in the context of a military mission. It is in this context that Socrates really speaks of having received an "order" from the god. Parallel to Socrates' current position before the court, the military context also involves a contempt for death.

¹³ *Cf.* SLINGS (1994), 33: "Socratic speech always aims at truth, which is the highest good (...)."

2.1.2 The oracle and ὁ θεός: Socrates' "mission"

Socrates claims that the real charge he faces is that of his "old accusers": he has the "reputation" (ὄνομα) of being "smart" (σοφός) and he reportedly "educated" (παιδεύειν, διδάσκειν) his younger fellow citizens.¹⁴ Socrates' tactic is to refute this charge by explaining the real nature of his σοφία. His explanation at the same time denies the charge that he educated his fellow Athenians (he could not have done so, for he denies to be σοφός in that sense), and *reframes* the activities that underlie his present prosecution: over the years, he has not been educating his fellow citizens but fighting for justice (τὸ δίκαιον). Still, Socrates goes even further than that: not only does he take full responsibility for his offensive activities; he even claims that these activities were commanded by "the god" and that he has been entrusted, solely among his fellow Athenians, with a mission to "serve the god".

Socrates traces the origin of his mission, *i.e.* his life of elenctic examination of his fellow citizens, to a Delphic oracle. He even refers to the god as his "witness" (μαρτύς), as if the Delphic god himself were giving testimony in his favour.¹⁵ The Pythia reportedly answered the question whether anyone was "wiser" (σοφώτερος) than Socrates in the negative. Knowing that he knows nothing about τὰ μέγιστα¹⁶ and that therefore the oracle cannot be correct, Socrates sets out on a quest for someone who *is* σοφός.¹⁷ This quest

¹⁴ *Apol.* 19a8-20c3. *Apology* 26b2-6 "reflects Plato's treatment of the corruption of the young as *de facto* the main charge", SLINGS (1994), 90, n. 35. Cf. also *ibid.*, 51: "(...) by acting as he does, Socrates is guilty not of breaking the law but of going beyond the normal bounds within which a reasonable and well-behaved citizen would keep himself". Cf. TAYLOR (1954), 90: Socrates was condemned "on what was really a charge of *incivisme*, disloyalty to the spirit of Athenian life", which appeared more vulnerable to threat in the tense political climate at the time of the charge (89-115).

¹⁵ *Apol.* 20e6-8: τῆς γὰρ ἐμῆς, εἰ δὴ τίς ἐστιν σοφία καὶ οἷα, μάρτυρα ὑμῖν παρέξομαι τὸν θεὸν ἐν τοῖς Δελφοῖς.

¹⁶ The ἐπιστήμων or ἐπιστάτης knows the human and political virtue, ἡ ἀνθρωπίνη τε καὶ πολιτικὴ ἀρετή, which enables him to *make others* καλὸς καὶ γαθός, *Apol.* 20a5-b5.

¹⁷ Some commentators have found Socrates' doubts about the god's veracity worrying, either because in their eyes these doubts would make him guilty of impiety after all, or because they consider disbelief hard to reconcile with Socrates' later recognition of the god's authority and obedience. Therefore, there exists some controversy about the exact meaning of the phrase ἐλέγξων

among politicians, poets and craftsmen leads to the conclusion that all, even the craftsmen, who on their part do know many fine things that he does not (πολλὰ καὶ καλὰ ἐπισταμένους), are liable to the same error (ἀμάρτημα, πλημμέλεια): they believe that they possess a σοφία which they in fact do not have. From these disillusioning encounters Socrates infers that there must be two kinds of σοφία: on the one hand, ἀνθρωπίνη σοφία, that is, *not* being ignorant of one's own ignorance about τὰ μέγιστα; on the other hand, a higher, divine σοφία, knowledge about what is truly good.¹⁸ Ἀνθρωπίνη σοφία is thus an informed awareness of the existence of truth and divine σοφία, yet without possessing knowledge of τὰ μέγιστα oneself. By thus casting both the accusation and the oracle in terms of σοφία,¹⁹ Socrates can at the same time

τὸ μαντεῖον (*Apol.* 21c1); does it mean disprove, or merely interpret? For “disprove” or “refute” is argued by BURNET *ad* 21b8 (“tries to prove the god a liar”); HACKFORTH (1933), 88-104; TAYLOR (1954), 80; RYLE (1966), 17; WEST (1979), 106; NEHAMAS (1986), 305; TELOH (1986), 111. Others, emphasizing the oracle's habitual answering in riddles, have argued for an ‘interpretative’ reading: GUTHRIE (1971), 86-88 (“What [Socrates] set out to refute was the obvious meaning of the oracle, its words taken at their face value, in order to discover the answer to its riddle”, 87); REEVE (1989), 21-23 (“Hence his strategy of refutation is interpretative only”, 23, *contra* WEST [1979]); BRICKHOUSE & SMITH (1989), 96 (“[...] Socrates’ attempt to refute the apparent meaning of the oracle only reinforces the view that he sees piety as requiring that he always make ‘the god’s business’ his first priority”, *contra* NEHAMAS); STOKES (1997), 117; MCPHERRAN (2002), 129 (“attempting to refute (ἐλέγξων), to show *false*, the *apparent meaning* of the oracular pronouncement taken at face value, not (...) the oracle of the god”, *italics in original*).

¹⁸ The outcome of *Apology* shows us the *social* implications of recognizing one's own ignorance about τὰ μέγιστα: it spares innocent lives.

¹⁹ Xenophon in his *Apologia Socratis*, 14, reports the oracle in a different version: Χαίρεφῶντος γὰρ ποτε ἐπερωτῶντος ἐν Δελφοῖς περὶ ἐμοῦ πολλῶν παρόντων ἀνεῖλεν ὁ Ἀπόλλων μηδένα εἶναι ἀνθρώπων ἐμοῦ μήτε ἐλευθεριώτερον μήτε δικαιοτέρων μήτε σωφρονέστερον, “Once, when Chaerephon asked in Delphi about me in the presence of many, Apollo responded that no human being was more free, more just, or more moderate than I” (transl. BARTLETT). The difference between Plato's version and Xenophon's has fuelled a discussion about the oracle's historical form. Diogenes Laertius (II.37-38) supports Plato's version. SLINGS (1994) thinks (*contra* BURNET *ad* 21a5) “[i]t is reasonable to assume that § 14 of the Xenophontic *Apology* is a correction of the Platonic formulation” (76). Yet, in § 16 Socrates asks the jury, echoing Chaerephon's question to the oracle, who they know that is more σώφρων, ἐλευθεριώτερος, δικαιοτέρος, and includes σοφός. It therefore seems equally reasonable that Plato singled out σοφία for his own purposes, simply omitting the other virtues. For literature on the issue: MCPHERRAN (2002), 122-123, n. 25; BRICKHOUSE & SMITH (1989), 89, n. 71. A list of ancient sources on the oracle is given in FONTENROSE (1978), 245; see also MCPHERRAN (2002), 115, n. 5. For the reconstructed historical date of the oracle, see REEVE (1989), 21, and the literature in n. 21 *ibid*.

claim that he indeed is σοφός (which explains his ὄνομα) in a way that no-one else is, and at the same time maintain his claim that he has not been educating anyone.

Realizing that he was the only one who had ἀνθρωπίνῃ σοφία, Socrates felt that he had received a command to enlighten others about their own ignorance as well. This he sees as “searching in accordance with the god”, and “the service to the god”.²⁰ From his perspective, it is a task that has been *imposed upon* him by a higher norm over which he has no control and in which he has only limited insight. Truth, because it is *the Truth*, entails commitment and requires to be made known. The person who learns the Truth feels that it should be made known. An issue which has attracted quite some scholarly attention, is how Socrates could have concluded on the basis of the oracle as he reports it in *Apology* that he had a mission, and moreover, that this is what it consists in. Yet considerations of modern deductive logic are not the kind of worries of someone who *believes* (or at least presents himself as believing) that his activities have been divinely commanded.²¹ Here it is important that we

²⁰ *Apol.* 22a4: ζητοῦντι κατὰ τὸν θεόν; 23b4-7: ἐγὼ μὲν ἔτι καὶ νῦν περιώων ζητῶ καὶ ἐρευνῶ κατὰ τὸν θεόν καὶ τῶν ἀσπῶν καὶ ξένων ἄν τινα οἶμαι σοφὸν εἶναι· καὶ ἐπειδάν μοι μὴ δοκῇ, τῷ θεῷ βοηθῶν ἐνδείκνυμαι ὅτι οὐκ ἔστι σοφός; 23c1: τὴν τοῦ θεοῦ λατρείαν; 28e4-29a4: τοῦ δὲ θεοῦ τάττοντος (...) δεινὸν τὰν εἴη, (...) ἀπειθῶν τῇ μαντείᾳ; 29d3-4: πείσομαι μᾶλλον τῷ θεῷ ἢ ὑμῖν; 30a5 κελεύει ὁ θεός; furthermore 30e3-31a1 (Socrates has been placed by the god on the cumbrous horse of the *polis*), and 33c4-7: προστέτακται ὑπὸ τοῦ θεοῦ πράττειν καὶ ἐκ μαντείων καὶ ἐξ ἐνυπνίων καὶ παντὶ τρόπῳ ὧπέρ τις ποτε καὶ ἄλλη θεία μοῖρα ἀνθρώπῳ καὶ ὁτιοῦν προσέταξε πράττειν.

²¹ Many interpreters have considered Socrates' interpretation of the oracle debatable. This ignores the fact that *from Socrates' perspective*, his mission is not his personal (and hence contestable) interpretation of the oracle, but what the oracle, truly and objectively, *meant*. No claim to having received a divine command would survive the scrutiny of logical consistency. In terms of strict logic, Socrates' elenctic activities can of course in no way be deduced from the oracle. Some commentators have—naturally, in vain—tried to reconstrue how Socrates could have concluded from the wording of the oracle that he had a mission, see e.g. BRICKHOUSE & SMITH (1983), KRAUT (1984), 270-274, BRICKHOUSE & SMITH (1989), 88, n. 67; REEVE (1989), 22-28; STOKES (1992), especially 29-42; MCPHERRAN (2002); DOYLE (2004). An overview of the discussion and literature is given by BRICKHOUSE & SMITH (1983), 657-658 nn. 1-4; also by MCPHERRAN (2002), 118-120, nn. 11 and 12. In (2002) MCPHERRAN readdressed the problem of “how exactly Socrates derived from the Pythia's report a command to do philosophy” (120) by providing an analysis along logical lines. He argues that Socrates had a pious commitment to philosophy prior to the oracle, which is the reason why

accept Socrates' claims; from his point of view, *this* is what the oracle means. It means that the god is truly wise (τὸ δὲ κινδυνεύει (...) τῷ ὄντι ὁ θεὸς σοφὸς εἶναι) and that his life's assignment is to "assist the god" (βοηθῶν τῷ θεῷ, 23b7).²² The god thereby becomes the ultimate authority for Socrates' announcement to speak the truth. His claim in the *exordium* that his λόγος will be the whole truth (πᾶσα ἀλήθεια) now appears not to be his own λόγος, but the λόγος of the god.²³ It may be worth noting that he never makes explicit who this god is. The natural inference, that is left to his audience to draw, is that ὁ θεός is "the god of Delphi" (τὸν θεὸν τὸν ἐν Δελφοῖς, 20e8); for that is the only god identified.

The oracle narrative underpins the claim that Socrates' loyalty rests with a different party than the Athenians, and that there exist interests other than those which they recognize, even though, at the same time, his mission ultimately serves the interest of the *polis*. It is from the perspective of his belief in a divine assignment that Socrates' conviction feels to him like a triumph: if the jury will prohibit him to perform the service of the god, death is, under the given circumstances, the best prospect.

"he is being used by the god as a paradigm" (139); cf. DOYLE (2004) for a similar reading of Socrates being used by the god as paradigm. Others have argued that Socrates had already started to examine people prior to the oracle, and in fact had (also) more rational motivations; see in particular VLASTOS (1991), chapter 4, and cf. NUSSBAUM's (1985) ironical reading of the *daimonion*. SLINGS (1994), 80-81, is concerned with the historical origins of Socrates' philosophical activity and argues that, although Plato's literary narrative "creates the impression" that the oracle is its starting point, Plato "never asserts" that it was (81, italics in original). MCPHERRAN (1996) addresses worries about how "Socrates' acceptance of extrarational indicators" can be reconciled with his "profound respect for rational justification" (quotations from [2002], 119). SLINGS (1994) rightly notes that the effect of is cumulative: "Socrates corroborates divine instructions or suggestions with motivations based on his own reasoning" (186, see also 81-82, 153, 197). That Socrates juxtaposes reason and divinity should not surprise us: for association of reason to the divine, we may compare numerous instances in the Platonic corpus, e.g. *Resp.* 500d1-2, 518d11-e2, 590d1-4. Compare also the end of *Crito*, where, after the speech of Laws, instead of ὁ θεός we would have expected ὁ λόγος.

²² *Apol.* 23a5-7.

²³ *Apol.* 20e5-6: οὐ γὰρ ἐμὸν ἐρῶ τὸν λόγον ὃν ἂν λέγω, ἀλλ εἰς ἀξιοχρεῶν ὑμῖν τὸν λέγοντα ἀνοίσω.

2.1.3 Socrates' *daimonion*

Socrates' private conduct is yet another inversion of conventions, this time of what would logically be expected from an Athenian citizen. On the one hand, Socrates tests the individual convictions of his fellow citizens (thus making himself in their eyes guilty of πολυπραγμοσύνη); on the other hand, he does not engage in political affairs (which is incompatible with the Athenian ideal of active citizenship).²⁴ It is in the context of his aloofness from politics that Socrates introduces another deity: his divine sign. He describes this divine sign as "something divine and supernatural" (θεῖόν τι καὶ δαιμόνιον) which arose in his childhood (ἐκ παιδὸς ἀρξάμενον). He goes on to speak about it as "a kind of voice" (φωνή τις γιγνομένη),²⁵ which, when it occurs, always dissuades him from what he is about to do but never induces him to something (ἢ ὅταν γένηται ἀεὶ ἀποτρέπει με τοῦτο ὃ ἂν μέλλω πράττειν, προτρέπει δὲ οὐποτε).²⁶ Socrates never knows in advance when it will occur, it simply keeps him from doing what he is about to do. It is this divine sign that has opposed Socrates' engaging in politics (ἐναντιοῦται τὰ πολιτικὰ πράττειν). We hear why it was a good thing that it did so, *Apol.* 31e1-32a3:

οὐ γὰρ ἔστιν ὅστις ἀνθρώπων σωθήσεται οὔτε ὑμῖν οὔτε ἄλλω πλήθει
οὐδενὶ γνησίως ἐναντιούμενος καὶ διακωλύων πολλὰ ἄδικα καὶ

²⁴ *Apol.* 31c4-7. Cf. SLINGS (1994), 151, for the idea of refraining from πολυπραγμοσύνη, drawing on Pericles' Funeral Oration.

²⁵ *Apol.* 31c7-d3. The *daimonion* is referred to in other Platonic texts as well (*Phdr.* 242b8-9; *Tht.* 151a4), but always to explain Socrates' personal motivation, never in order to advance the dialectical argument. In *Phdr.* 242c1-3, Socrates reports that, when he was just about to cross the river, his habitual divine sign happened to him: τὸ δαιμόνιον τε καὶ τὸ εἰωθὸς σημεῖον, which ἀεὶ δέ με ἐπίσχει ὃ ἂν μέλλω πράττειν. Here, as in *Apology*, he describes it as a voice: τινα φωνὴν ἔδοξα αὐτόθεν ἀκοῦσαι, ἢ με οὐκ ἔα ἀπιέναι πρὶν ἂν ἀφοσιώσομαι, ὥς δὴ τι ἡμαρτήκοτα εἰς τὸ θεῖον, "I thought I heard a voice coming from this very spot, forbidding me to leave until I made atonement for some offense against the gods" (transl. NEHAMAS & WOODRUFF in COOPER, CW). In *Tht.* 151a2-5 the sign sometimes prevents Socrates to associate with those who have, after previous association with him, left his company sooner than they ought to have, and have returned to wicked company (πονηρὰν συνουσίαν), yet now wish to renew their association with him: οὐς, ὅταν πάλιν ἔλθωσι δεόμενοι τῆς ἐμῆς συνουσίας καὶ θαυμαστὰ δρῶντες, ἐνίοις μὲν τὸ γιγνόμενόν μοι δαιμόνιον ἀποκωλύει συνεῖναι, ἐνίοις δὲ ἔα (...).

²⁶ *Apol.* 31d4-5; also 31d6 and 31e3; cf. ἀποτρέπει, 31d1-2.

παράνομα ἐν τῇ πόλει γίγνεσθαι, ἀλλ' ἀναγκαῖόν ἐστι τὸν τῷ ὄντι
μαχούμενον ὑπὲρ τοῦ δικαίου, καὶ εἰ μέλλει ὀλίγον χρόνον
σωθήσεσθαι, ιδιωτεύειν ἀλλὰ μὴ δημοσιεύειν.

It is impossible for any man to be spared if he truly opposes you or any other democratic majority, and prevents many unjust and illegal things from occurring in his city. He who intends to truly fight for what is just, if he is to be spared even for a little time, must of necessity live a private rather than a public life. (Transl. ALLEN, adapted)

Here the looming conflict between society and true justice becomes apparent. The idea of justice (τὸ δίκαιον), for which he has been fighting, sets him apart from the rest of society.²⁷ Once more Socrates emphasizes that he speaks the truth (λέγοντι τᾷληθῇ, 31e1): anyone who is a champion of justice like himself will be forced to oppose the mass on many occasions, if he wants to prevent “many unjust and illegal things” (πολλὰ ἄδिका καὶ παράνομα, 31e4).²⁸ The mass eliminates whosoever dares to oppose its wishes.²⁹ To avoid these risks, which would certainly have led to a premature death, his alternative campaign for justice is to practise dialectics.

We further hear that Socrates' *daimonion* (this time called ἡ εἰωθυῖά μοι μαντική ἢ τοῦ δαιμονίου) has always been rather frequent (πάννυ πυκνή) and obstructed him especially in quite trivial matters (καὶ πάννυ ἐπὶ μικροῖς).³⁰ But in this matter, it did not: it has not obstructed him when he left his house in the morning, nor when he appeared before the court, nor has it opposed him in some part of his speech, on the brink of a particular statement he was about to

²⁷ *Apol.* 19a6, 35c2-4; cf. *Crit.* 47c9-11, d4-5, 47e6-48a1, a7-10, b8-9, c6-d5.

²⁸ Some commentators have denied that the *daimonion* is a moral force: BURNET *ad* 40a5; TAYLOR (1954), 46 (“It had nothing to do with right and wrong, and is never appealed to, in any of the accounts of it, on points of moral conduct, but amounts to a sort of ‘uncanny’ *flair* for bad luck”); SLINGS (1994), 154 (see for more references n. 7 *ibid.*); STOKES (1997), 8. Such evaluations seem hard to comprehend in the light of statements of the kind that the *daimonion* withheld Socrates when on the verge of doing something wrong (εἴ τι μέλλοιμι μὴ ὀρθῶς πράξειν, 40a6).

²⁹ SLINGS (1994) concludes from Socrates' addition of παράνομα (*i.e.* Athenian law) to ἄδिका that the δῆμος “was intolerant of any restriction on its freedom to act as it pleased, even of self-imposed restrictions” (157); see the references in SLINGS *ibid.*, n. 12. The readiness to recall even its own decrees implicitly emphasizes the fickleness of the δῆμος.

³⁰ *Apol.* 40a4-5. Cf. 40b1: τὸ τοῦ θεοῦ σημεῖον, “the sign of the god”.

make.³¹ This implies a discrepancy between what may *seem* important (but what in fact is not—one's life), and what, from a conventional perspective, may seem trivial, but in fact is not.

On comparison, the oracle and the *daimonion* serve the same rhetorical purpose: they act formally as the authorities to which Socrates attributes his unconventional—just—mode of life. The *daimonion* and oracle point in the same direction, but do not have the same amount of precision. Nor are their effects on the audience identical. Whereas the *daimonion* is an internal and somewhat indeterminate moral intuition on an *ad hoc* basis, the oracle is an external authority and a response to a concrete case. The oracle and θεός represent a less ambiguous and contestable source of authority than the *daimonion*: they give Socrates' critical behaviour an aura of inevitability. Moreover, the fact that Socrates was charged with a failure to honour the gods may contribute to the piquancy of Socrates' appeal to the oracle and ó θεός. To the Athenian audience, an appeal to the *daimonion* would probably have been less effective to justify his conduct than referring to the more conventional authority of the oracle of Delphi, which moreover can be *proved* right by critical examination.³² The oracle/θεός justifies the elenctic examinations, and his conduct towards his fellow citizens. The *daimonion* is a (φωνή) μαντική, a voice of divine

³¹ *Apol.* 40a8-b3: ἐμοὶ δὲ οὔτε ἐξιόντι ἔωθεν οἴκοθεν ἡναντιώθη τὸ τοῦ θεοῦ σημεῖον, οὔτε ἡνίκα ἀνέβαινον ἐνταυθοῖ ἐπὶ τὸ δικαστήριον, οὔτε ἐν τῷ λόγῳ οὐδαμοῦ μέλλοντί τι ἐρεῖν. In this context, ἀνέβαινον is not to be interpreted, with ALLEN (1984), as “when I came up here to the courtroom”, but as “I appeared (before the court)” see SLINGS (1994) *ad loc.*

³² I do not see how SLINGS (1994), 154 can conclude: “the ‘sign’ has nothing to do (...) with the mission which is entrusted to Socrates by the god”. MCPHERRAN (1991) distinguishes between “elenctic testing” and “extrarational signification” and takes Xenophon as an hypothesis for a reconciliation between these two “sources of conviction” (348): “Xenophon (...) suggests that Socrates thought that these were two distinct avenues of inquiry, each appropriate to somewhat disparate subject matters (*Mem.* 1.1.6-9)”. The *daimonion* is a species of *mantikê*: “reasonable prediction lies beyond the power of human reason” (354), MCPHERRAN refers to *Apol.* 31d and *Xen. Mem.* 1.1.6-9, 4.3.12: “how or why it is that the result of his obedience will be good-producing is, like many future events, opaque to reasoned calculation” (356). See for literature on the *daimonion* *ibid.*, n. 22, 353-354.

inspiration, not an articulate proposition: this explains why, in contrast to the oracle, Socrates does not subject the *daimonion* to an elenctic procedure.

The accumulation of signs—of the god (ὕπὸ τοῦ θεοῦ), from oracles (ἐκ μαντείων³³), from dreams (ἐξ ἐνυπνίων), and especially their explicit presentation as specific instances of the more general category of divine communication³⁴ (the way in which θεία μοῖρα may communicate its will to a human being³⁵)—is a token of Socrates' belief in his divine mission. To someone thus convinced, the *exact* form in which the divine communication manifests itself, is of secondary importance.

2.1.4 Conclusion

In this section, we have analyzed how the Socrates of *Apology* in a forensic context presents his loyalty to a norm different from the conventional one. The circumstances force him to adopt a mode of speech unlike his habitual one. His

³³ SCHANZ *ad loc.* attributes the accumulation of divine signals to the strength of Socrates' conviction "von seinem Beruf", but considers the plural μαντείων a rhetorical exaggeration: "Rhetorisch übertreibend sagt Sokrates, dass alle nur denkbaren Arten der Offenbarung ihm seinen Beruf vorgezeichnet haben." STOKES *ad loc.* supposes that Plato "is here piling fiction on fiction in the interests of rhetorical force".

³⁴ *Apol.* 33c6-7: καὶ παντὶ τρώπῳ ᾧπέρ τις ποτε καὶ ἄλλη θεία μοῖρα ἀνθρώπῳ καὶ ὅτιοῦν προσέταξε πράττειν. Some interpreters have considered Socrates' appeals to divinity examples of Socratic irony, e.g. NUSSBAUM (1985); VLASTOS (1991), ch. 4; more recently LEIBOWITZ (2010). But this is of course what Socrates *fears* that the jury will think when he motivates why it is not option to live a quiet life by saying that he will in that case "disobey the god" (τῷ θεῷ ἀπειθεῖν, 37e6). As SLINGS (1994) explains, this is the view of those who think that Socrates spoke about the oracle ὡς εἰρωνευόμενος (*Apol.* 38a1): "the jurors will not accept this motivation and think it a mere pretext: as they see it, Socrates had made this choice [make philosophy his calling] because it suited him, and he should not now try to avoid his responsibility by invoking a divine command" (197). But, as I argue here, Socrates' reference to ὁ θεός serves the opposite goal: to claim full responsibility for his philosophical activities.

³⁵ STOKES *ad loc.* notes that a "divine dispensation, θεία μοῖρα, does not normally give orders; orders come from a god (...[ref. to 33c5]); (...) Pl. sometimes uses the phrase 'divine dispensation' to denote the means whereby poets and prophets arrive at the truths they utter without knowledge." In the *Meno*, the course of the argument points to the conclusion that virtue does not come to one by nature or teaching, but by divine dispensation, without insight, *Men.* 99e5-100a1: ἀρετὴ ἂν εἴη οὔτε φύσει οὔτε διδακτόν, ἀλλὰ θεία μοῖρα παραγιγνομένη ἄνευ νοῦ οἷς ἂν παραγίγνεται; cf. *Men.* 100b2-4. The phrase θεία μοῖρα supports Socrates' impression that his mission was imposed upon him by an agency beyond his control. On θεία μοῖρα see also chapter six, p. 226.

interpretation of rhetoric as “truthful speech” aligns it with dialectic’s hypothesis that there exists a moral truth. The goal of this true rhetoric is, in contrast to the usual forensic oratory, completely detached from his own person. His own speech effectively isolates him from his fellow Athenians and their misdirected concerns. The Athenian court and citizens are not those to whom he is answerable, even though his philosophical ἑλεγχος has ultimately been in the service of the city. He is only answerable to “the god” in whose service he has tried, as well as he could given the circumstances, to live his life. This higher cause has been imposed upon him via several divine channels. Whereas the god is presented as the origin of his conduct, the *daimonion* is its legitimation in terms of Socrates’ own intuition: it has shown him the only way open to him to fight for justice in the context of a society with a radically different moral orientation than his own.

In *Crito*, the circumstances are very different. Socrates is not forced to isolate himself. *Crito* is the second Platonic text on justice to which we will now turn. The Socrates we encounter there is a convicted Socrates, who has, in one sense, triumphed (because he has secured for himself what he saw as the only justified option under the circumstances, namely death); yet, in a different way, it is also a Socrates who has failed, since in the end he was unable to convince his fellow citizens of the truth. *Crito* portrays a Socrates who has to face the practical consequence of his failure to unmask the political system as unjust.

2.2 *Crito*: Socrates unjustly convicted

2.2.1 Introduction: the relation between *Apology* and *Crito*

The Socrates of *Crito* displays a very different attitude towards the Athenian court and laws than the Socrates of *Apology*. Whereas the latter announced that he would disobey the court were its verdict that he should terminate his

philosophical activities, the former submits to the court's verdict. Moreover, instead of asserting that his loyalty lies elsewhere, in *Crito* he impersonates a speech by the Athenian laws insisting on his obligation to remain loyal to the Athenian city and its laws, and respect their integrity. His obedience to the very same court and society which he defied in *Apology* raises problems of consistency: how can one explain Socrates' apparent change of attitude and his adherence to different authorities?³⁶ Why does Plato have him impersonate *the Athenian laws* as the authority to which Socrates owes obedience—why does Plato not, for instance, have Socrates attribute his refusal to escape to the *daimonion*, in which case the inconsistency would have been avoided?

The present section will investigate how Socrates motivates his conduct in *Crito* and present a fresh reading of the Laws' speech in its dramatic, dialogical context. Since inconsistency is not to be expected of Socrates in the light of what we hear about him both in *Crito* and elsewhere (where he is repeatedly made to emphasize consistency in one's attitude between words and deeds, and between one's deeds as a characteristic of the virtuous person), and since we have every reason to expect that Plato envisaged to present Socrates' attitude to his conviction as consistent, a reading that makes the figure of Socrates in both texts mutually consistent is preferable.

The first aspect that is worth noting is that the composition and communicative setting of *Crito* are more complex than those of *Apology*: *Crito* is a dialogue between Socrates and his friend Crito, in which Socrates impersonates the Athenian laws in a speech that is designed to persuade Crito.

³⁶ There is an enormous amount of literature on this issue. One explanation put forward distinguishes between the Athenian court on the one hand and the laws on the other, and argues that Socrates' profession of disobedience in *Apology* concerns only the former. See e.g. KRAUT (1984), OBER (2005), 406. *Cri.* 50b2-5 and b7-8, however, do not warrant such a distinction, as the Laws (and therefore Socrates) explicitly put the δίκαι on equal footing with the laws. A similar explanation is SLINGS (1994), arguing that Socrates in *Apology* merely refuses to agree to a proposed compromise that is not "provided for by the law nor suggested by a legal authority acting within the limits of its competence" and does "not question the state's authority, whether manifested in the provisions of the law or the injunctions of a magistrate" (158).

In *Crito*, Socrates engages in dialectic as his usual mode of speech. The fact that Socrates does not appeal to his *daimonion* here may be understood as prompted by the change in setting: Crito does not have access to Socrates' personal divine voice, and at the same time, it is in *Crito* not Socrates' purpose to isolate himself from his audience. Within this dialectical framework, the authority of the *daimonion* cannot be accounted for. After the speech of the Laws, Socrates, in his own person, adds that the sound (αὐτή ἢ ἡχή) of these *logoi* "buzzes" (βομβεῖ) in his ears and makes it impossible for him to hear anything else—he is just as unable to ignore the arguments marshalled by the Laws as his *daimonion* in *Apology*.³⁷ Instead of to his *daimonion*, Socrates, within this setting, appeals to the Laws of Athens as authority. How does he motivate that appeal?

First, we should be clear about the setting of *Crito* and its differences from the setting of *Apology*. As in *Phaedo*, Socrates in *Crito* is engaged in a discussion with people who wish him well. In *Phaedo* he converses with a group of intimates, in *Crito* with his elderly friend Crito, who in fact speaks on behalf of all of his φίλοι. It is therefore a friendly rather than a hostile audience that Socrates addresses in *Crito*. As good φίλοι ought, at least according to public expectations,³⁸ Socrates' friends have repeatedly urged Socrates to accept their offer to help him escape from prison. His refusal to accept this offer compromises their good reputation, since people who do not know what happened will assume that his friends have failed to live up to the expectations of good φίλοι, and have valued the money needed to bribe the guards more than their friend; no sensible person will actually believe that Socrates himself was unwilling to flee, and that he ignored the actual arrangements that were made to smuggle him out of prison and the repeated injunctions of his friends.³⁹

³⁷ *Cri.* 54d2-6.

³⁸ On the popular moral creed of "helping friends, harming enemies" in classical Athens, see VAN BERKEL [diss. Leiden 2012], 13, nn. 69, 71, 73, with literature; DOVER (1974), 180.

³⁹ *Cri.* 44b9-c5; 45d8-46a2.

The speech of the Laws impersonated in the conversation with Crito may therefore be read as an apology for Socrates' *friends*. Socrates has to explain to his friends in the person of Crito that to save him does not, contrary to popular morality, constitute helping a friend.

2.2.2 The speech of the Laws

It is at a critical point in the dialogue that Socrates brings in the Laws as speakers: when Crito is unable to answer his friend when Socrates applies the outcome of the discussion so far to his present dilemma.⁴⁰ The Laws' speech consists, essentially, of two arguments. The first is the importance of refraining from doing injustice (μὴ ἀδικεῖν), including doing injustice by way of requiting injustice (μὴ ἀνταδικεῖν).⁴¹ The second argument is rooted in the dialectical notion of "agreement" (ὁμολογία).⁴² Both arguments are anticipated in the first, dialogic half of *Crito*. In the first part of the dialogue, Crito has given his assent (as he often has in the past⁴³) to the proposition δεῖ μὴ ἀδικεῖν (including μὴ ἀνταδικεῖν),⁴⁴ and to the proposition that it is just to meet one's commitments (or, conversely, that dishonouring one's commitments is ἀδικεῖν).⁴⁵ Since in *Crito* it is Crito who has to be persuaded (this is the immediate rhetorical

⁴⁰ *Cri.* 49e9-50a3: Ἐκ τούτων δὴ ἄθρει. ἀπιόντες ἐνθένδε ἡμεῖς μὴ πείσαντες τὴν πόλιν πότερον κακῶς τινὰς ποιοῦμεν, καὶ ταῦτα οὐς ἥκιστα δεῖ, ἢ οὐ; καὶ ἐμμένομεν οἷς ὡμολογήσαμεν δίκαιοις οὐσιν ἢ οὐ; "See what follows from this: if we leave here without having convinced the city, are we harming those whom we should least do harm to? And are we sticking to a just agreement, or not?" (transl. GRUBE, adapted).

⁴¹ *Cri.* 50a8-51c5.

⁴² *Cri.* 51c6-54b2.

⁴³ *Cri.* 49a6-7.

⁴⁴ *Cri.* 49a4-e4.

⁴⁵ *Cri.* 49e5-7. Some interpreters have found a notion of justice in the speech of the Laws not subscribed to by Socrates. SCHOFIELD (2007), 157 sees a parallel between the argument of the Laws in *Crito* and Socrates' argument in *Republic* to make the philosophers go back into the cave: both concern "how to *persuade* the individual to do something required by the good of the city. In each case the considerations put forward in favor are drawn not from the deeper resources of Socratic or Platonic philosophy but from more popular discourse" (158); cf. "[t]he laws [in *Crito*] appeal for the most part to Simonidean justice" (157).

purpose of the Laws' speech),⁴⁶ it is understandable that the Laws' arguments are in line with the outcome of the first half of *Crito*, and therefore with the central dogma of Socratic philosophy.

The strategy of the Laws (and hence of Socrates to his friend Crito) is to present themselves as Socrates' φίλοι par excellence—friends to whom he owes a previous, greater loyalty than to his human friends: they have given him life, an upbringing, an education.⁴⁷ The Laws appeal to φιλία on the macro-level, to the interest of the *polis* and τὸ κοινόν: what is at stake is not the obligation between friends to guarantee each other's preservation (σωτηρία), but to preserve and contribute to the σωτηρία of society, which is, for every citizen, one's greatest friend.⁴⁸ The Laws refer to the harmful consequences for themselves, and thus to the common interest, and the fatherland (πατρίς⁴⁹): to disobey the δίκη of the jury will be tantamount to overturning the entire *polis*.⁵⁰

⁴⁶ *Cri.* 48e3-5.

⁴⁷ *Cri.* 50d1-e4. He owes to the Laws his γένεσις (50d1-5); his τροφή and παιδεία (50d5-e1). The Laws conclude: ἐπειδὴ δὲ ἐγένον τε καὶ ἐξετράφη καὶ ἐπαιδεύθη, ἔχοις ἂν εἰπεῖν πρῶτον μὲν ὥς οὐχὶ ἡμέτερος ἦσθα καὶ ἔκγονος καὶ δούλος, αὐτός τε καὶ οἱ σοὶ πρόγονοι; For one's parents as one's φίλοι par excellence, see VAN BERKEL [diss. Leiden 2012], 108-110; in *Leg.* 717b4-c6, children must pay back to their parents the "first and greatest debts" (τὰ πρῶτά τε καὶ μέγιστα ὀφειλήματα) they owe them for the years of care (ἐπιμελεία) and pain (ώδιναι παλαιαί) parents have suffered for their sake.

⁴⁸ The analogy between court and war substantiates the Laws' claim that one single act of disobedience would destroy them. The functional comparison between war (πόλεμος) and the courtroom (δικαστήριον) makes sense from the Laws' perspective. A courtroom is for laws what a battlefield is for the fatherland: a situation in which its preservation is at stake. For laws, becoming ἄκυροι equals death. This analogy is often read in the context of the debate whether or not the Laws allow for disobedience or not, e.g., EMLYN-JONES *ad* 51a7-c3 (p. 80), and KRAUT (1984), 21. Such a reading obscures its function, witness EMLYN-JONES' remark (*loc. cit.*) that "Plato here allows Socrates to slide over obvious differences between obeying military orders on campaign and obeying the decision of a court".

⁴⁹ The fatherland (ἡ πατρίς) here seems to be an emotionally grounded representation of the common interest (τὸ κοινόν) in terms of patriotism.

⁵⁰ *Cri.* 50b1-4: ἡ δοκεῖ σοι οἷόν τε ἔτι ἐκείνην τὴν πόλιν εἶναι καὶ μὴ ἀνατετράφθαι, ἐν ἣ ἂν αἱ γενόμεναι δίκαι μὴδὲν ἰσχύωσιν ἀλλὰ ὑπὸ ἰδιωτῶν ἄκυροί τε γίνωνται καὶ διαφθείρωνται; Some interpreters consider this an exaggeration. KRAUT's distinction between "vital and peripheral laws" ([1984], 124; cf. 141-142) seems to spring from such an assumption, but misses the point; from the Laws' perspective, any act of disobedience would be tantamount to destruction (this is the rationale of the comparison between the court and war, see note 48 above), at least for his part (τὸ σὸν μέρος).

The references to Socrates *ὁμολογία* to obey them are part and parcel of their self-presentation as his friends.⁵¹ Socrates thus pledges loyalty to *φιλία* as a principle, instead of to *φιλία* as the bond between individuals. He declares his loyalty to an interest greater than his own life, the city as a whole. The city as a whole was of course also in *Apology* the interest his mission ultimately served. By appealing to the strong belief that one must refrain from committing injustice, he can both maintain that his conviction was unjust and legitimize his refusal to accept his friends' offer.

The famous "convince or obey" (*ἢ πείθειν ἢ ποιεῖν ἃ ἂν κελεύη*, 51b3-4; 52a2-3) argument of the *Laws* is part of the argument from *φιλία*. The *Laws* offer Socrates two alternatives: "both in war and in court and in all situations to do what the city and the fatherland command, or to persuade her [*πόλις* or *πατρίς*] wherein the just lies by nature" (*ἢ τὸ δίκαιον πέφυκε*).⁵² Persuading the Athenian court of what is just is of course precisely what Socrates had attempted to do in *Apology* (*τὸ δίκαιον* would for example have been to give him the rewards of an Olympic victor), but unsuccessfully so.⁵³ *Apology*

⁵¹ Drawing on the notion of "agreement", *ὁμολογία*, the *Laws* claim that Socrates' famous refusal to leave Athens is a token of his loyalty to them: he approved of the laws and of the way they regulate society (a *ὁμολογία* "in deed" (*ἔργῳ*) to abide by them, *ὡμολογήσας ἡμῖν πείσεσθαι*, 51e6). *Cri.* 51d1-53a7. Especially 51e1-4: *ὅς δ' ἂν ὑμῶν παραμείνῃ, ὁρῶν ὃν τρόπον ἡμεῖς τὰς τε δίκας δικάζομεν καὶ τὰλλα τὴν πόλιν διοικοῦμεν, ἤδη φάμεν τοῦτον ὡμολογηκέναι ἔργῳ ἡμῖν ἃ ἂν ἡμεῖς κελεύωμεν ποιῆσειν ταῦτα, (...).* "But we say that whoever of you stays here, seeing how we administer justice and how we govern the state in other respects, has thereby entered into an agreement with us to do what we command; (...)" (transl. FOWLER). Had he found the laws not to his liking, he has had ample opportunity (*ἐξουσία*) to move to any other city of his choice, *Cri.* 51c9-e1. It is especially interesting that the *Laws* here are made to mention Crete and Sparta—the island of Cleinias and city of Megillus in the *Laws* respectively—as those cities Socrates always was saying had good laws (*ἃς δὴ ἐκάστοτε φῆς εὐνομεῖσθαι*), *Cri.* 52e5-53a1.

⁵² *Cri.* 51b8-c1: *ἀλλὰ καὶ ἐν πολέμῳ καὶ ἐν δικαστηρίῳ καὶ πανταχοῦ ποιητέον ἃ ἂν κελεύῃ ἡ πόλις καὶ ἡ πατρίς, ἢ πείθειν αὐτὴν ἢ τὸ δίκαιον πέφυκε.* Cf. 51c1 and 51e7-52a3.

⁵³ In *Apology* he attributes his failure to convince to a lack of time: had the law given him more time for his defense, he would surely have convinced them, see p. 47, n. 4 above. The implication seems to be that, had he been given the opportunity to engage with members of the jury in a dialectical conversation, he would have persuaded them. But under Athenian law this is not possible. This is yet another problem for the just individual, who may have to be forced to defend himself under circumstances that force him to adopt a less than ideal defence strategy. *Apology* is, by implication, the best he could do in his situation.

therefore embodies the stage of *πείθειν*. The “convince or obey” principle in retrospect incorporates the *ἀπολογία* of which *Apology* presents itself as the reflection: if one cannot convince one’s society of what is truly just, one has no other option than to abide by that society’s sentence. Having done what he could to persuade the Athenians, his failure to unmask the political system as incorrect commits him to submission to the laws—at least insofar as the laws and court do not demand something of him that he considers to be an act of injustice.⁵⁴ In a non-ideal society, being compelled to submit to unjust laws is simply the risk that the just individual faces.⁵⁵

That Socrates, as related by the Laws, claims that he has to obey the laws does not mean that the Laws themselves are just—as in his case, it is possible that the laws treat one unjustly. Yet *obeying* the (human) laws here *is* just. Whereas in *Apology* Socrates was led by an absolute authority, in *Crito* he submits to an authority he strictly disputes. Obeying the laws is what is just in the absence of being able to appeal to the authority invested in a true notion of justice. To be sure, Socrates does not explicitly state why one ought to obey the laws, now that he has failed to persuade politics into a better course. He

⁵⁴ Any reading of *Crito* ought to accommodate the fact that Socrates himself presents the Laws as authoritative and is persuaded. WHITE (1996) argues that neither the Laws nor dialectic has authority (see in *Crito*; the only authority is, paradoxically, the recognition that “our own desires for certainty in argument, for authority in the laws—or in reason, or in persuasion—are self-misleading” (127). There is only the situation of the text of *Crito* itself, as “a set of pieces that do not fit together” (125) that “offers us a mode of thought that is inherently inconclusive and puzzling” (127). This reading seems hard to reconcile with the persuasive purpose of the Laws’ speech.

⁵⁵ At the end of their speech, the Laws themselves claim that Socrates has in fact not been treated unjustly by them, but by human agents, *i.e.* the plaintiffs and judges: *Cri.* 54b8-c1: ἀλλὰ νῦν μὲν ἡδικημένος ἄπει, ἐὰν ἀπίης, οὐχ ὑφ’ ἡμῶν τῶν νόμων ἀλλὰ ὑπ’ ἀνθρώπων. That Socrates at this point in the speech holds the Athenians rather than the laws themselves responsible for his conviction is in line with the Laws’ ‘self’-presentation as Socrates’ φίλοι. The Laws suggest that they were *applied* in an unjust way. At *Cri.* 54b4-5, the Laws urge Socrates to obey him, “so that when you have come to Hades you will have all these things to say in your defense to those that govern over there” (ἵνα εἰς Αἴδου ἐλθὼν ἔχῃς πάντα ταῦτα ἀπολογήσασθαι τοῖς ἐκεῖ ἀρχουσιν). Here again, in the Underworld the truth is convincing (recall τοὺς ὡς ἀληθῶς δικάστας in the Underworld, *Apol.* 41a2). The Laws’ reference to the laws in the Underworld (οἱ ἡμέτεροι ἀδελφοὶ οἱ ἐν Αἴδου νόμοι, 54c5-6) implies that these laws represent a different justice than the Laws themselves. The Underworld-scenario therefore confirms that submitting to the verdict falls in with the broader (large-scale) justice scenario. In that final tribunal, he will be acquitted.

presents himself as being under a moral obligation of the kind that a child has to his parents, and someone who has made an agreement to that agreement. He feels morally compelled to submit to the laws as long as he has not convincingly unmasked the political system as unjust. This sense of moral obligation he frames in terms of $\phi\iota\lambda\acute{\iota}\alpha$, in order to meet Crito's bidding. The Laws' arguments are a reaction to Crito's arguments in the sphere of $\phi\iota\lambda\acute{\iota}\alpha$ (that Socrates' choice compromises their reputation as $\phi\iota\lambda\acute{o}\iota$). This is his way of defending himself *vis à vis* his friends, thereby indicating that his primary social attachments are not a matter of personal relationships, but of general principles. In *Apology*, by contrast, Socrates emphasized that he had no choice but to act as he did; he had a divine mission. *Crito* stages a different problem that confronts the truly just individual in a non-ideal society. If one has not been able to persuade society of true justice, one has to submit to the laws, even though they may be unjust.⁵⁶ In this argumentative strategy, the notion of true justice remains out of sight.

2.2.3 Conclusion

The speech of the Laws is, as we have seen, embedded in a conversation between Socrates and his friend Crito. As this is a conversation between friends, Socrates is addressing someone who wishes him well; it is not a speech addressed to enemies. The speech of the Laws can thus be read as an apology for Socrates' friends, in reaction to Crito's arguments in the sphere of $\phi\iota\lambda\acute{\iota}\alpha$. In this speech, Socrates explains to his $\phi\iota\lambda\acute{o}\iota$ represented by Crito why freeing him from prison and helping him escape (as friends would do), would not actually

⁵⁶ On *Crito*'s arguments for legal obligation, see e.g. WOOZLEY (1979), especially 5, 23-26, 76-110; KRAUT (1984); WHITE (1996); BROWN (2006). On the issue whether the Socrates of *Crito* allows for disobedience, see KRAUT (1984), 60-65, 73-76, 125-126, 146. He thinks that "persuade or obey" means that "one may disobey, as long as one persuades" (60). Yet there is only one case in which Socrates admits that one must disobey the laws: if they force one to do something one believes to be unjust, like ceasing to philosophize. On civil disobedience in antiquity, DAUBE (1972).

help him. It is not so that he does not share their concerns—there is a greater interest at stake. Socrates has the Laws introduce the idea of solidarity and *φιλία* in a more principled sense: not the preservation of the individual, and the bonds between individuals, but the preservation of society, and the loyalty of the individual to the community as a whole. He appeals to a large-scale *φιλία* on the level of the *πόλις*.⁵⁷ Both the Socrates of *Apology* and the Socrates of *Crito* ultimately act in the interest of the city. The discrepancy between Socrates' allegiance to different authorities in *Apology* and *Crito* is therefore to be explained by the difference in their communicative setting.

The dilemma cast in the principle “convince or obey” also points to its solution: creating a *polis* with truly just laws. In such a society, one will never be forced to subject to unjust laws. At the same time, to not obey the laws is acting unjustly, because the laws are just. The dilemmas that the just individual faces in *Apology* and *Crito* could not arise in the ideally just society. This ideal society is the just *polis* of *Republic*, to which we will now turn.

2.3 *Republic: the just polis*

2.3.1 Introduction: the solution to the dilemma

Republic does not address problems that the just individual in a non-ideal society has to face. Instead, it pitches Socrates' ideal of “the true city”, or “the just city” (ἡ ἀληθινή πόλις,⁵⁸ ἡ δίκαια πόλις⁵⁹), Callipolis, against other

⁵⁷ Socrates' arguments here may reflect a notion of citizenship that is a precursor of Aristotle's notion of πολιτική φιλία.

⁵⁸ *Resp.* 372e6.

⁵⁹ *Resp.* 434c7-10: χρηματιστικοῦ, ἐπικουρικοῦ, φυλακικοῦ γένους οἰκιοπραγία, ἐκάστου τούτων τὸ αὐτοῦ πράττοντος ἐν πόλει, τούναντίον ἐκείνου δικαιοσύνη τ' ἂν εἴη καὶ τὴν πόλιν δικάϊαν παρέχοι; “For the money-making, auxiliary, and guardian classes each to do its own work in the city, is the opposite. That's justice, isn't it, and makes the city just?” *Resp.* 435b4-7: ἀλλὰ μέντοι πόλις γε ἔδοξεν εἶναι δικάϊα ὅτι ἐν αὐτῇ τριττὰ γένη φύσεων ἐνόντα τὸ αὐτῶν ἕκαστον ἐπραττεν, σῶφρων δὲ αὐτὸ καὶ ἀνδρεία καὶ σοφὴ διὰ τῶν αὐτῶν τούτων γενῶν ἄλλ' ἅττα πάθη

‘ideals’, most importantly that of Thrasymachus. In terms of my analysis, there is more overlap between *Republic* and *Apology* than between *Republic* and *Crito*. In both *Republic* and *Apology* we encounter individuals through whom we acquire an idea about a higher notion of justice—the philosopher-kings and Socrates respectively—whereas in *Crito*, that notion of justice largely remains out of sight. In *Apology*, the account we hear is from Socrates himself; in *Republic*, the philosopher-king is a hypothesis within a dialectical framework: this is what the moral expert would look like within the context of the most convincing account of a just society. The present section will be concerned with the question of what *Republic* reveals about the absolute norm lying beyond the human domain.

2.3.2 *Republic’s* analytical toolbox: ζῶον, ἰατρικὴ τέχνη

One of the notions that has a strong bearing on the conceptual framework of *Republic* is that of ζῶον (“living being”, “animal”, or, in more technical philosophical discourse, “organic whole”). The just *polis* as a class society is likened to a ζῶον in order to illustrate and elucidate some of its fundamental characteristics. In order to understand the implications of this representation of the just *polis*, and to be able to compare its representation to the society depicted in the *Laws*, we shall first turn to a brief analysis of the term ζῶον as an analytic, technical term.

The usual renderings, “living being” or “animal”, do not convey the conceptual significance of ζῶον as a technical notion in philosophical discourse. As a technical, analytic term, ζῶον is the third element in the triad ἔν–ὄλον–ζῶον, each of which denotes a different form of unity, with increasing complexity. What determines this most complex notion of unity is not so much

τε καὶ ἐξεῖς. “But a city was thought to be just when each of the three natural classes within it did its own work, and it was thought to be moderate, courageous, and wise because of certain other conditions and states of theirs” (both translations GRUBE, rev. REEVE in COOPER, CW).

the idea of completeness (unity in the sense that no part is missing, which is already expressed by the term ὅλον⁶⁰), but the internal and functional *order* of its parts: an organic whole stands or falls with the functional order of *all* of its constituent parts. From the analogy of the just *polis* to ζῶον follows that the just *polis* is a unity in all three senses: it is (1) one (μία πόλις);⁶¹ it is (2) a complete whole (ὅλη πόλις); and it is (3) an *organic* whole, *i.e.*, a whole in which all parts have their natural function (ζῶον).⁶² The unity of the just *polis* is therefore a unity with an internal hierarchy (τάξις referring to the order in its respect of being a (vertical) hierarchy, κόσμος to its being self-contained as a whole).⁶³ It is not a unity because its individual citizens have more or less uniform ways of life (this aspect also plays a role, but only within the class of the φύλακες⁶⁴), but it is a unity due to the internal order of its classes.⁶⁵

It is this notion of the correct cooperation of the parts in the just *polis* that is presented as the essence of justice (δικαιοσύνη). In this organic, just whole, every part (and person) is δίκαιος: being just consists in performing one's own

⁶⁰ In Arist. *Met.* 1023b26-27 we find the following definition of ὅλον: ὅλον λέγεται οὐ τε μηθὲν ἄπρεσι μέρος ἐξ ὧν λέγεται ὅλον φύσει, "We call a whole (...) that from which is absent none of the parts of which it is said to be naturally a whole" (transl. BARNES); cf. 1016b12-16: a whole (ὅλον) is called "one" in virtue of the unity of its substance (ἡ οὐσία μία).

⁶¹ Callipolis as μία πόλις, *e.g.*: 422d8, 423c4, d5-6, 462a9-b2.

⁶² The triad ἐν—ὅλον—ζῶον, notions of unity that are logically in line with one another with increasing complexity, is Stoic. A ζῶον is a unity of such a kind that what can be predicated of the whole can also be predicated of each of its constituent parts. This is of course precisely what is the case with the virtue of justice in *Republic*: the whole is δίκαιον, and so is each of the classes. For ζῶον as an organic whole, of which the parts must fit both each other and the whole: Pl. *Phdr.* 264c2-5, with YUNIS (2011) *ad loc.*: "(...) the parts that must be properly disposed are not formal elements such as introduction, narrative, and conclusion, which [Socrates] disparages (266d7-c4, 267d2-4), but the steps of the argument that move the listener from his initial position to the position which the speaker ultimately wants him to hold."

⁶³ κόσμος: *Resp.* 443d4, 506a9 (*polis*) and 500c4 (soul); τάξις is mostly used in the sphere of the individual, to refer to the order of his soul parts: 462c12, 618b3.

⁶⁴ *Resp.* 451d4ff., 461e5, 462b4, c11.

⁶⁵ The idea that a *polis* consists of classes is an everyday given and therefore much easier to accept than the idea that the soul has parts. The interlocutors aim to discover δικαιοσύνη by searching for it in an entity that possesses it on larger scale, on the level of the πόλις, *Resp.* 368c5-369a4; cf. *Resp.* 441d4-5. It is therefore *via* the *polis* that the parts of the soul are introduced.

social function (*suum cuique*, τὰ αὐτοῦ πράττειν⁶⁶). τὰ αὐτοῦ is determined, and imposed upon the individual, by what the whole is by nature. Part and whole are mutually dependent upon each other. Each part depends on the whole for its identity; conversely, the whole can only function (be a whole) if each part performs its proper function. The notion of ζῶον thus implies a *norm* for the internal organization: this is how a constitution *ought* to be, since only this constitution is just; this normative aspect is inherent in the notion of ζῶον.⁶⁷

The τέχνη that produces the ζῶον, *i.e.* the *polis* in its natural condition, is medicine (ἡ ἰατρικὴ τέχνη). For it is distinctive about medicine that the status of its ἔργον, when it concerns the functioning of a ζῶον, is the optimal condition (τὸ βέλτιστον):⁶⁸ “health” (ὕγεια). In *Republic*, medicine is the *analogon* for the kind of activities that will establish justice in a *polis* (corresponding to health in a σῶμα). This objectively best condition is, by definition, the *natural* condition. Analogously, the product of the political expertise is δικαιοσύνη, the objectively best condition for the *polis*.⁶⁹ The analogy of medicine is part of the same picture as the ζῶον: it is the condition that is best *by nature* (φύσει), given the nature of the body and its parts.

Medicine invests the responsibility for, and knowledge of, the natural condition in an authority (a doctor).⁷⁰ Subjective perception (feeling well) is, according to the system of *Republic*, and particularly according to the analogy that associates rule with ἰατρική, declared subservient to the εὐδαιμονία of the whole. To the extent that ἡδονή features in this discussion, it is a true ἡδονή,

⁶⁶ *Resp.* 433a8; cf. 434a1: ἡ τοῦ οἰκείου τε καὶ ἑαυτοῦ ἕξις τε καὶ πράξις.

⁶⁷ This notion of justice is developed on the scale of the *polis* and subsequently propelled back on the individual, creating a kind of boomerang-effect: *Resp.* 591e1, τὴν ἐν αὐτῷ πολιτείαν (about the soul).

⁶⁸ Dependent on the context, τὸ βέλτιστον can be understood in different ways: epistemologically (ἡ ἀληθινὴ πόλις, τὸ ἀληθέστατον, 484c7), ethically (ἡ δίκαια πόλις); or in terms of utility (τὸ σύμφερον).

⁶⁹ *Resp.* 444d3-10 ὕγεια for the body is what δικαιοσύνη is for the soul; cf. 444d12-e1: Ἀρετὴ μὲν ἄρα, ὡς ἔοικεν, ὕγεια τέ τις ἂν εἴη καὶ κάλλος καὶ εὐεξία ψυχῆς, κακία δὲ νόσος τε καὶ αἰσχος καὶ ἀσθένεια. Cf. 591b3-4: τὴν βελτίστην φύσιν.

⁷⁰ Cf. *Prot.* 322c6-7: one expert (δημιουργός), for example a doctor, suffices for many laymen.

the pleasure deriving from the activity designated as just.⁷¹ But Plato is careful to design his system so that the real interest of each of the three classes coincides with its social function. The analogy of *ιατρική* does raise the question what this implies about how far the expert ruler may go in imposing the good upon society. *Ιατρική*, at least in principle, leaves open the possibility of harsh measures, defensible in terms of the absolute good.⁷²

This brings us to another important implication of the medical analogy. The *ζῶον*-analogy implies that the just *polis* is a *polis* in its most natural condition, that is, a *healthy* city. One might have expected that medicine is not the most obvious candidate to serve as an analogy for political expertise in *Republic*. Medicine is, intuitively at least, concerned with administering remedies. Notably in *Gorgias*, *ιατρική* is on a par with “corrective” *δικαιοσύνη*,⁷³ while the regulative *τέχναι* are *γυμναστική* (for the body) and *νομοθετική* (!) for the soul.⁷⁴ Yet in *Republic* these more intuitive, everyday connotations give way to medicine’s inextricable association with health (*ὑγίεια*). Medicine becomes *regulative*: it establishes and maintains the naturally good condition of the *polis* (for instance by the eugenic mechanisms that serve

⁷¹ *Resp.* 419a1-421c6; 586d4-587a6 (with ADAM *ad* 586d).

⁷² Cf. chapter one, p. 31, and chapter five, p. 181. On the question of whether *Republic* warrants the use of violence, KLOSKO (2006), 187-191, 205.

⁷³ In the analogical scheme of the *Gorgias*, *δικαιοσύνη* is a “Fremdkörper”, and *δικαστική* would have been the more regular variant (*δικαστική* is in fact the reading of manuscript F), VAN RAALTE (1991), 315, n. 40. VAN RAALTE *ibid.* argues that *δικαστική* is disqualified because of its association with (imperfect) Athenian jurisdiction (cf. DODDS *ad loc.*, 228), and because *δικαιοσύνη* is precisely what Socrates’ wants to substitute for *ῥητορική* as the counterpart of *ιατρική*.

⁷⁴ *Gorg.* 463e5-466a3, with DODDS’ note *ad loc.*, 226-227. The *Gorgias* makes *γυμναστική* the regulative, *ιατρική* the corrective *τέχνη* for the human body. DODDS *ad loc.* explains that the reason why medicine is corrective may be prompted by the fact that the historical Gorgias “claimed that rhetoric was to the mind what medicine was to the body (*Hel.* 14)”, and *ῥητορική* is the spurious *τέχνη* used to evade punishment, *i.e.* is the ‘τέχνη’ for a soul that has fallen ill. It seems a reasonable supposition that Plato did not use the analogy of *γυμναστική* in *Republic* because *γυμναστική* would have brought us in the domain of *training*, with suggestions that virtue can be attained by exercise, in a gradual process, taught, etc. Training would however have brought us in the sphere of the *Laws*: *γυμναστική*, practiced in the Spartan and Cretan *syssitia* (see chapter three, section 3.2.3, and especially p. 108, p. 113), presents the good condition as something that can be brought about, rather than, absolutely, as the natural condition that is a given. That is why in Callipolis even bodily quality (eugenetics) becomes the product of *φάρμακα*, not *γυμναστική* (see note 75 below).

to keep the classes pure).⁷⁵ This regulative understanding of *ιατρική*, as opposed to its corrective interpretation in *Gorgias*, is derived from its *analogon* in the political domain, the *ἄρχειν* of a city. A clear indication of medicine's regulative interpretation in *Republic* is the conspicuous omission of punitive mechanisms from Callipolis. In terms of the *ζῶον*-analogy, this is perfectly understandable: in a just *polis*, *paideia* does not fail. Hence in the best condition (health), there is no need for punishment.

2.3.3 The *εὐδαιμονία* of the whole *polis* as the natural norm

The *ζῶον* as an analogy for society raises the question of the relation between the whole and its parts. To frame a class society as an organic whole has an important implication: the interest of the whole takes precedence over, and determines, the interest of its constituent parts.⁷⁶ In the case of a (real) *ζῶον*—an animal—of which the parts lack independent existence, that is evident.⁷⁷ But in the case of a society consisting of individuals, one may think that this analogy can have disturbing consequences. The *εὐδαιμονία* of each class is determined by the *εὐδαιμονία* of the whole.⁷⁸

⁷⁵ The term *φάρμακα* does not signify “remedies”, but “drugs”, i.e., means to *bring* a certain condition *about*. The herd of citizens must be of top-quality (τὸ ποιμνιον ὅτι ἀκρότατον εἶναι, *Resp.* 459e1): which requires many drugs (φαρμάκοις πολλοῖς χρῆσθαι, namely the artificial ways of setting up marriages and procreation of the elite), and an even more courageous doctor than if no drugs would have been necessary (ἀνδρειοτέρου δεῖ τοῦ ἱατροῦ), *Resp.* 459c3-7.

⁷⁶ See on the primitive “city of pigs” in *Resp.* 369b4-372e7, 373b1-2: TAYLOR (1999), 289-290 (the philosophic legislator’s “aim in setting up the ideal city is continuous with the aim of the creators of the primitive city, viz. the maximization of *eudaimonia* for the citizens”, 290); further HEMMENWAY (1999); MCKEEN (2004). It is called ἡ ἀληθινὴ πόλις (372e6), ἡ ὑγιεινὴ [πόλις] (373b1-2).

⁷⁷ Another problematic consequence (from our modern perspective) is that conceiving of the *polis* as a *ζῶον* prevents the individual as such from coming into focus. Individuals are only considered in terms of their class, and as such are interchangeable; *Republic* does not imply that there exist relevant differences among the members of each class. Cf. TAYLOR (1999), 288.

⁷⁸ Cf. NEU (1971), 248: “The state’s interest is the individual’s interest—but his *real* one.” Therefore Plato does not, as ANNAS contends, “undeniably subordinate individual interests to the common good” ([1981], 179). TAYLOR (1999) surprisingly argues (with VLASTOS [1977]) that of the three kinds of totalitarianism (282-283), Callipolis is a totalitarian community of the “paternalistic” kind (see especially 295-296) instead of in the second sense (“an organic social unity”, 283). His conclusory statement that “at least in intention [Plato] subordinates the perfectly organized state to the happy

Plato does not shy away from recognizing and addressing directly the problematic nature of this aspect of the just *polis*. Indeed, he has Socrates' interlocutors twice make explicit reservations about precisely this aspect of the just society: the (lack of) εὐδαιμονία of the three classes on their own. The interventions of the interlocutors force the figure of Socrates to offer a justification of the social order that is thereby represented as going even beyond his original intentions. It is in the context of these interruptions, if anywhere in *Republic*, that we may get a glimpse of the kind of norm that determines why this particular social order constitutes *the* just society.

The guards and producers

Doubts about the kind of life that the well-being of the whole imposes are raised for the first time at the beginning of Book IV, where the ways of life of guards and producers are discussed at greater length. Adeimantus asks what Socrates would have to say in his defence in case someone objected to his description of the guards' way of life that this would not make these men particularly happy;⁷⁹ they are in truth the rulers of the city, but do not derive any good from it.⁸⁰ Socrates replies that in establishing their state, they did not aim to make one of its classes happy on their own, but the *polis* as a whole (ὅλη ἡ πόλις, 420b7-8). For their governing principle in founding their *polis* was that

community" (296) *de facto* subordinates justice to εὐδαιμονία and hence defies *Republic's* thesis that the perfectly organized *polis* is the only εὐδαιμών community. POPPER (2006), 81-83, on these *Republic*-passages as evidence of "political holism". See KAMTEKAR (2001) for an attempt to reconcile Socrates' definition of social justice as doing one's own (one's social duty) with the idea that justice is concerned with the allocation or distribution of benefits via what she calls Plato's "happiness principle".

⁷⁹ *Resp.* 419a1-4: Καὶ ὁ Αδείμαντος ὑπολαβὼν, Τί οὖν, ἔφη, ὦ Σώκρατες, ἀπολογήσῃ, ἐάν τις σε φῇ μὴ πάνυ τι εὐδαιμόνας ποιεῖν τούτους τοὺς ἀνδρας, καὶ ταῦτα δι' ἑαυτοῦς, ὧν ἔστι μὲν ἡ πόλις τῇ ἀληθείᾳ, οἱ δὲ μὴδὲν ἀπολαύουσιν ἀγαθὸν τῆς πόλεως, (...); "And Adeimantus interrupted: How would you defend yourself, Socrates, he said, if someone told you that you aren't making these men very happy and that it's their own fault? The city really belongs to them, yet they derive no good from it" (transl. GRUBE, rev. REEVE in COOPER, CW).

⁸⁰ ADAM *ad loc.*: "Adimantus' objection is the dying echo of the view already advocated by Thrasymachus, that a ruler should rule for his own profit" (at 342c7-9, 343b1-d1).

justice was most likely to be found in such a state (ὥήθημεν γὰρ ἐν τῇ τοιαύτῃ μάλιστ' ἂν εὐρεῖν δικαιοσύνην, 420b8-9).⁸¹ This is why Callipolis is the just *polis* in its most appealing form.

He goes on to liken their project of founding a just *polis* to a painter who is painting a statue of a man (ἀνδριάν, see 420c5ff.). The objection voiced by Adeimantus would be like charging him with not using the most beautiful colour for the most beautiful part of the body, the eyes.⁸² Against that charge they could reasonably defend themselves by saying that, had they used purple for the eyes instead of black, the eyes would not appear as eyes (μηδὲ ὀφθαλμοὺς φαίνεσθαι, 420d3-4). It is only by assigning to each part what is appropriate to it that the whole becomes beautiful (εἰ τὰ προσήκοντα ἐκάστοις ἀποδιδόντες τὸ ὅλον καλὸν ποιοῦμεν, 420d4-5).⁸³ Thus, what is καλόν is what is appropriate, and what is appropriate is the *natural* condition. Eyes ought to be black (not purple) because they are eyes, and they are eyes because they are *that* particular part of a man. Similarly (the thought runs), the social role of each class is determined by what each part *is*, which in turn is determined by the whole of which the part is a part. This explains why the whole *polis* cannot be made εὐδαιμόνων simply by leaving it up to each class to decide what will make them most happy, not hampered by other considerations: in that case, the guards would be anything but guards, the farmer would not be a farmer, nor the potter a potter.⁸⁴ The identity of the *polis* as a whole (what a *polis* truly is) is

⁸¹ *Resp.* 420b5-9: οὐ μὴν πρὸς τοῦτο βλέποντες τὴν πόλιν οἰκίζομεν, ὅπως ἔν τι ἡμῖν ἔθνος ἔσται διαφερόντως εὐδαιμον, ἀλλ' ὅπως ὅτι μάλιστ' ὅλη ἡ πόλις. ὥήθημεν γὰρ ἐν τῇ τοιαύτῃ μάλιστ' ἂν εὐρεῖν δικαιοσύνην (...). POPPER (2006) has claimed on the basis of this passage (ch. 5, n. 35, p. 264) that the *polis* of *Republic* is of the extreme totalitarian kind (the first kind of three kinds of totalitarian states in TAYLOR (1999), where the interest of the state is distinct from the individuals who compose it). See for another refutation of POPPER's claim TAYLOR (1999), 284-289.

⁸² *Resp.* 420c5-d5.

⁸³ This is why it is misleading to call the just *polis* "ideal": it is the natural and therefore best condition of a *polis*; only from the perspective of *Apology* and *Crito* could Callipolis be said to be "ideal".

⁸⁴ *Resp.* 420e1-421a3: καὶ δὴ καὶ νῦν μὴ ἀνάγκασε ἡμᾶς τοιαύτην εὐδαιμονίαν τοῖς φύλαξι προσάπτειν, ἢ ἐκείνους πάν μᾶλλον ἀπεργάζεται ἡ φύλακας. ἐπιστάμεθα γὰρ καὶ τοὺς γεωργοὺς ξυστίδας ἀμφιέσαντες καὶ χρυσὸν περιθέντες πρὸς ἡδονὴν ἐργάζεσθαι κελεύειν τὴν

what determines the roles of its parts. In the analogy, this is the form of the statue (what the statue is or represents), which determines which colours the painter has to use. The norm is the model for the colour painter: it is the man himself.

The philosophers

The relation between the εὐδαιμονία of one class and the εὐδαιμονία of the whole is subjected to critical scrutiny a second time in Book VII. At this point, the class of the philosophers has been separated from the rest of the guards. At the end of the cave simile, the poignant demand that the philosophers descend back into the cave prompts Glaucon to raise (again) the question whether they (*i.e.*, the interlocutors) will not be treating them unjustly by giving them a life that is worse than possible (ἔπειτ', ἔφη, ἀδικήσομεν αὐτούς, καὶ ποιήσομεν χειρόν ζῆν, δυνατόν αὐτοῖς ὃν ἀμείνον; 519d8-9).⁸⁵ Socrates replies, 519e1-520a4:

γῆν, καὶ τοὺς κεραμέας κατακλίναντες ἐπὶ δεξιὰ πρὸς τὸ πῦρ διαπίνοντάς τε καὶ εὐωχουμένους, τὸν τροχὸν παραθεμένους, ὅσον ἂν ἐπιθυμῶσι κεραμεύειν, καὶ τοὺς ἄλλους πάντας τοιοῦτῳ τρόπῳ μακαρίους ποιεῖν, ἵνα δὴ ὅλη ἡ πόλις εὐδαιμονῇ. ἀλλ' ἡμᾶς μὴ οὕτω νοουθετεῖ· ὥς, ἂν σοι πειθώμεθα, οὔτε ὁ γεωργὸς γεωργὸς ἔσται οὔτε ὁ κεραμεὺς κεραμεὺς οὔτε ἄλλος οὐδεὶς οὐδὲν ἔχων σχῆμα ἐξ ὧν πόλις γίγνεται. "Similarly, you mustn't force us to give our guardians the kind of happiness that would make them something other than guardians. We know how to clothe the farmers in purple robes, festoon them with gold jewelry, and tell them to work the land whenever they please. We know how to settle our potters on couches by the fire, feasting and passing the wine around, with their wheel beside them for whenever they want to make pots. And we can make all the others happy in the same way, so that the whole city is happy. Don't urge us to do this, however, for if we do, a farmer wouldn't be a farmer, nor a potter a potter, and none of the others would keep to the patterns of work that give rise to a city" (transl. GRUBE, rev. REEVE in COOPER, CW)

⁸⁵ This worry has been shared by some modern commentators, either because they consider ruling contrary to the philosophers' own interest (so ANNAS [1981], 267-269), or because they think Plato fails to justify why the philosophers themselves consider it in their interest to rule (so ADKINS [1960], 290-292; SCHOFIELD [2007], 152). ANNAS' way out (and cf. SEDLEY [2007], 277 n. 32 for commentators holding similar views), that the Good is an "impersonal Good", and that the philosophers learn to conceive of their "personal loss" of happiness ([1981], 268) in an impersonal way misinterprets the fact that the philosophers have an evident interest in ruling: the absence of "punishment" for not ruling (ζημία ἐὰν μὴ ἀρχῇ, 347a5, cf. b6-c3 in Book I), the "punishment" being rule by an inferior. SEDLEY (2007) has shown that Book I "showcases" (272) the developments

Ἐπελάθου, ἦν δ' ἐγώ, πάλιν, ὦ φίλε, ὅτι νόμῳ οὐ τοῦτο μέλει, ὅπως ἐν τι γένος ἐν πόλει διαφερόντως εὖ πράξει, ἀλλ' ἐν ὅλῃ τῇ πόλει τοῦτο μηχανᾶται ἐγγενέσθαι, συναρμόττων τοὺς πολίτας πειθοῖ τε καὶ ἀνάγκῃ, ποιῶν μεταδιδόναι ἀλλήλοις τῆς ὠφελίας ἣν ἂν ἕκαστοι τὸ κοινὸν δυνατοὶ ὦσιν ὠφελεῖν καὶ αὐτὸς ἐμποιῶν τοιούτους ἄνδρας ἐν τῇ πόλει, οὐχ ἵνα ἀφιῇ τρέπεσθαι ὅπῃ ἕκαστος βούλεται, ἀλλ' ἵνα καταχρῆται αὐτὸς αὐτοῖς ἐπὶ τὸν σύνδεσμον τῆς πόλεως.

"You are forgetting again that it isn't the law's concern to make any one class in the city outstandingly happy but to contrive to spread happiness throughout the city by bringing the citizens into harmony with each other through persuasion or compulsion and by making them share with each other the benefits that each class can confer on the community. The law produces such people in the city, not in order to allow them to turn in whatever direction they want, but to make use of them to bind the city together." (Transl. GRUBE, rev. REEVE in COOPER, CW)

This is the same kind objection as the one raised at the beginning of Book IV, to which Socrates refers in his answer (ἐπελάθου, πάλιν, 519e1). Here, in answering to the objection raised in the case of the philosophers, his strategy is a different one. Indeed, the objection in this case can rest on firmer ground. For, in the case of the guards and producers, Socrates' claim was that the life he described for them was truly the most εὐδαίμων life possible, even though one may have assumed otherwise (and Adeimantus voices this reasonable objection). But in the case of the philosophers, Socrates has in fact himself admitted (and this is corroborated by the purport of the cave simile) that the life of pure philosophy (θεωρία) is more εὐδαίμων for the philosophers than ruling

and terminology of compulsion common in the later Books; see also LYCOS (1987), 110: "Socrates is not, of course, arguing that the only thing which motivates practitioners of a craft is to benefit the 'object' of their craft. He is concerned to establish whether, and how, the knowledge which constitutes a craft introduces the idea of an interest that is specific to the craft. The question is whether any such 'knowledge-interest' can be a self-interest." Moreover, any worries about the absence of a positive reward for the philosophers (such as χρήματα or τιμή) should be alleviated by the Socratic-Platonic consideration that it is typical of the ἀγαθός *not* to be paid for the exercise of his πολιτικὴ τέχνη, something which demarcates him from the sophist, see, e.g., *Gorg.* 520c2-e10; for sophists receiving wages: *Gorg.* 519c5-d4; *Prot.* 328b1-c2, 349a2-4; *Soph.* 219-223; *Meno* 90d3-95e.

the city. In other words, for them, there is a life possible that is more εὐδαίμων than the life demanded by the εὐδαιμονία of the whole *polis*.⁸⁶

In answering this objection Socrates does not put forward another analogy, but appeals to “law” (νόμος).⁸⁷ Law “attends to” (μέλει) the εὐδαιμονία of the city as a whole, not to that of one of its classes.⁸⁸ The terminology employed here (μέλει) is reminiscent of that used in the context of τέχνη.⁸⁹ The focus on the *polis* as a whole, of course, does not imply that the individual classes are not εὐδαίμων. The philosophers are here emphatically viewed as part of the *polis*, as a class submitted to this law.⁹⁰ Νόμος therefore

⁸⁶ Cf. ADKINS (1960), 291: “To philosophize is an absolute good. The philosophers would be more *eudaimon* if they remained aloof from politics: accordingly, Plato can offer no real reason why they should go back. Admittedly the city would be better governed, and hence more *eudaimon*, if they went back; but Plato cannot explain why, if one’s own *eudaimonia* is the end of life, one should prefer the city’s—or anyone else’s—*eudaimonia* to one’s own.” ADKINS here ignores (*ibid.*, 290-291) Socrates’ first answer in *Resp.* 519e1-520a4 and jumps straight to Socrates’ second response, in 520b5-c1. He raises the question (*ibid.*, 291-292) why Plato did not assert that the life combining ruling and philosophy was most *eudaimon*. There are two considerations of interest. The first is an important aspect upon which the system hinges: “Plato presents this as an advantage of his system: since the philosophers have a better life to return to ‘outside the cave’ of the affairs of this world, they will not be tempted to set any value on political power as an end in itself, and hence will be just and disinterested rulers” (290). The second consideration has to do with Plato’s background: “Such an assertion would of course be a solution; but to suppose that it is a solution open to Plato is to forget the nature of the movement of which both Thrasymachus and Plato form a part. It is an intellectual, not a moral, movement, and the intellect must always take precedence” (292). It may be worth adding that the conception of the philosopher as moral expert (practitioner of a τέχνη) does not allow for such a strict separation between the two activities, cf. chapter one, p. 30. Cf. SILVERMAN (2010): “the Aristotelian separation of theoretical reason from practical reason and the flight interpretation seems totally belied by what philosophers actually do in the *Republic*”.

⁸⁷ Cf. *Resp.* 590e1-591a3: Δηλοῖ δέ γε, ἣν δ’ ἐγώ, καὶ ὁ νόμος ὅτι τοιοῦτον βούλεται, πᾶσι τοῖς ἐν τῇ πόλει σύμμαχος ὢν, (...). τοιοῦτον refers back to the imposition of rule by a divine and sensible element (from ὡς ἄμεινον ὃν παντὶ ὑπὸ θεοῦ καὶ φρονίμου ἄρχεσθαι, 590d3-4).

⁸⁸ In *Resp.* 420bb6-8, e6-7, 421b7-8 (εἰς τὴν πόλιν ὅλην βλέποντες), 519e3, and 576d9-e1, the well-being of one of its classes is opposed to the well-being of the whole.

⁸⁹ Cf. *Resp.* 345d1-3: τῇ δὲ ποιμενικῇ οὐ δῆπου ἄλλου τοῦ μέλει ἢ ἐφ’ ᾧ τέτακται, ὅπως τούτῳ τὸ βέλτιστον ἐκποριεῖ. “Shepherding is concerned only to provide what is best for that which it is set over” (transl. GRUBE, rev. REEVE).

⁹⁰ This νόμος is therefore *not* on a par with the *polis*-internal νόμοι that govern the life of the class of the guards, mentioned in e.g. *Resp.* 380c5-6 (on poets); 453d1, 456c2, 457b8, c8, 465a1, 471b9-10 (on family life), 534d8-10 (on the place of dialectic in the philosophers’ education) and by implication the laws that will be laid down by the final authority in the city, the philosophers. On these, see LANE (2013), 110-112; ROSSETTI (2013), 356. More often than νόμος the term τύπος is used: LANE (2013), 109; on the τύποι περὶ θεολογίας, BORDT (2003), especially 70-73.

introduces a perspective on the *polis* from the outside. The philosopher is in a sense outside the *polis* (as depicted in the cave simile); yet as the ruler, he is also part of it. This νόμος emphatically views the philosopher in his capacity as *part* of the whole.

Conceptualizing the just society's order as imposed upon it by νόμος, however, does beg the question what sort of law this is, and who made it—it is a question that this passage poses, yet *Republic* as such does not provide an explicit answer to it.⁹¹ Within the system of *Republic*, its analogy of the just *polis* to ζῶον, justice to υἡγία, and ruling to ιατρική, the most reasonable hypothesis would be to think of this as a 'law of nature' (νόμος τῆς φύσεως), since it is nature that determines the constitution of a ζῶον.⁹² Recalling the analogy of the statue discussed above, the nature of the statue (what a man really *is*) determines what colours are appropriate for each part. The νόμος can thus be seen as a law inherent in what a *polis* is by nature: that law, like the man that serves as a model for the statue, determines the function (or, in the case of the statue, the colour) of the parts. Δικαιοσύνη designates the internal structure of the best society; νόμος represents this as necessitated by a higher norm. The

⁹¹ This is *not* a law made by the interlocutors-as-founders of Callipolis, *contra* LANE (2013), 111 (and 113), and SEDLEY (2007), 280, n. 37. They suggest that the fact that the philosophers are required to rule by "law" is because in the context of Book VII the interlocutors call themselves legislators, say that "we" shall compel the philosophers to rule. For the role of lawgivers and laws in *Republic*, see ANNAS (2010); LANE (2013), with further references p. 105, n. 4. For the interlocutors as lawgivers, see *ibid.*, 109, 110-111, and their relation to the philosopher-rulers *ibid.*, 112-113.

⁹² The likening of the parts of the just soul to a ἁρμονία points to the same conclusion, *Resp.* 443d3-e2: (...) καὶ συναρμόσαντα τρία ὄντα, ὥσπερ ὄρους τρεῖς ἁρμονίας ἀτεχνῶς, νεάτης τε καὶ ὑπάτης καὶ μέσης, καὶ εἰ ἄλλα ἄττα μεταξὺ τυγχάνει ὄντα, πάντα ταῦτα συνδήσαντα καὶ παντάπασιν ἓνα γενόμενον ἐκ πολλῶν, σώφρονα καὶ ἡρμουςμένον, (...), "(...) [the just man] harmonizes the three parts of himself like three limiting notes in a musical scale—high, low, an middle. He binds together those parts and any others there may be in between, and from having been many things he becomes entirely one, moderate and harmonious" (transl. GRUBE, rev. REEVE in COOPER, CW). These are the "immovable notes" (WEST [1992], 162, also 219-222): if the intervals are altered, the ἁρμονία will no longer be a ἁρμονία: the proportions between the three notes designated as ὄροι determined by nature (irrespective of the pitch of the system as a whole, and the genus, which is determined by the shifts in position of the notes inside the tetrachord). Νεάτη and ὑπάτη form the boundaries of an octave (2:1). The note μέση lies between these two boundary notes, the interval between νεάτη and μέση being a fifth (3:2), the interval between ὑπάτη and μέση being a fourth (4:3).

particular νόμος mentioned in this passage is thus co-extensive with δικαιοσύνη.

Philosophy without ruling is excluded by the conditions of the system: because the rule of philosophy is the necessary precondition for realizing τὸ βέλτιστον. Ruling is in the philosopher's interest, because the philosopher cannot exist outside Callipolis.⁹³ The fact that the philosophers are several times said to be "compelled" to rule,⁹⁴ indicates that this is conceptualized as a norm that is imposed upon them from the outside.

2.3.4 The philosopher-kings: inside and outside the *polis*

The ζῶον-analogy makes the well-being of the *polis* as a whole the cardinal interest. That this may seem to compromise the interest of the classes taken individually ignores that the true interest of the classes is simply and solely realized in the just *polis*. We have already seen in the previous section that, when this point explicitly enters the discussion, *Republic* refers to the idea of a *natural* norm for the good of a *polis*. But the question remains, of course, how this claim to the natural good of a *polis* is justified: why are we to believe that this is the natural form for a human society? The philosopher-king has a double occupation: he contemplates the Ideas (θεωρία) and he has a social role: to rule the *polis* (ἄρχειν).⁹⁵ As its rulers, they are part of the whole, and as

⁹³ This is anticipated in Book I, where the ruler, if he rules, receives as a reward "absence of punishment" (οὐ ζημία). The "punishment" for not ruling is to be ruled by inferior rulers, which *de facto* means that neither the philosopher nor Callipolis could exist. Therefore, ἀνάγκη and ζημία are juxtaposed.

⁹⁴ Which some scholars have assumed means that ruling is not in the philosophers' own interest. See e.g. ADKINS (1960), 290; WHITE (1986); BROWN (2000); SEDLEY (2007), 272-281.

⁹⁵ By taking turns: *Resp.* 540a9-b5: (...) καὶ πόλιν καὶ ιδιώτας καὶ ἑαυτοὺς κοσμεῖν τὸν ἐπίλοιπον βίον ἐν μέρει ἑκάστους, τὸ μὲν πολὺ πρὸς φιλοσοφίᾳ διατρίβοντας, ὅταν δὲ τὸ μέρος ἦκη, πρὸς πολιτικοῖς ἐπιταλαιπωροῦντας καὶ ἄρχοντας ἑκάστους τῆς πόλεως ἕνεκα, οὐχ ὡς καλὸν τι ἀλλ' ὡς ἀναγκαῖον πράττοντας, (...). Cf. 520d7-9: the philosophers will ἐν μέρει descend back into the cave. According to Aristotle, this alternation (τὸ ἀνὰ μέρος, τάξις) of rulers results in law, *Pol.* 1287a14-18. I do not think that *Republic* endorses such a fundamental distinction between theoretical and practical wisdom as we find in Aristotle. Nor is there sufficient evidence for a "flight interpretation" (the extreme idea that the philosophers eschew the ruling part of their task, as

philosophers, they can see from the outside, as it were, the whole of which they themselves are part. The double role of the philosophers puts them in an ambiguous position: from the internal perspective, they are the ἄρχοντες of the *polis*; from the external perspective, they are at the same time ἀρχόμενοι. Callipolis as an operational constitution thus contains a circularity, since the ἐπιστήμων is at the same time the *external* legitimation for the ἔργον and *part* of the ἔργον itself.⁹⁶ That they have knowledge of this norm does not mean that they are not subject to it; it merely means that they understand *why* their social function is necessary.⁹⁷ The just *polis* stands or falls with their government of it. The philosopher-king outside the *polis* resembles a painter, who “looks at” (ἀποβλέπει) τὸ φύσει δίκαιον καὶ καλὸν καὶ σῶφρον καὶ πάντα τὰ τοιαῦτα and paints a just *polis* on a clean *pinax*.⁹⁸ The natural condition of the *polis* (*i.e.*, the just *polis*) is claimed to be an imitation of its model (παράδειγμα).⁹⁹ The philosopher differs from other lawgivers because he works on a *tabula rasa*.¹⁰⁰

defended by, *e.g.*, KRAUT [2003]). See on these issues, and a comparison with Aristotle, SILVERMAN (2010).

⁹⁶ The same concern is addressed in Book I: the introduction of the additional μισθαρχητική or μισθητική τέχνη, the τέχνη of producing wages (*Resp.* 346b1ff.), when the notion of the ruler’s self-interest has been discarded already in the discussion with Thrasymachus, shows that it is not entirely unproblematic whether or how the δημιουργός benefits from his τέχνη himself, and can thus be seen to anticipate the famous reservation of *Resp.* 519d8-9. Likewise, the substitution of τὸ σύμφερον for τὸ βέλτιστον or τὸ ἀγαθόν as the object of the τέχνη in Book I raises the question *whose* benefit it is and makes it possible to construct the notion of a common interest.

⁹⁷ Cf. ἀνάγκη as that which motivates the philosophers to rule: *Resp.* 347c1-d6, 519e4, 520e1-3, 521b7, 539e4, 540a4-b5. See SEDLEY (2007), 276-281.

⁹⁸ This is a *polis* in which, in contrast to the Athens of *Crito*, the laws are based on τὸ φύσει δίκαιον, cf. ἡ τὸ δίκαιον πέφυκε, and Socrates by implication would not have been convicted. These laws are not the product of human agreement, but made after the image of metaphysical, absolute standards.

⁹⁹ *Resp.* 500d11-501c4; cf. 472c4-d10: the παράδειγμα is the good *polis* in speech that the interlocutors are founding (οὐ καὶ ἡμεῖς ... παράδειγμα ἐποιούμεεν λόγῳ ἀγαθῆς πόλεως; 472d9-10), not a Form (see BURNYEAT (1999), 298, in disagreement with the commentators in note 5 *ibid.*). Here the παράδειγμα is the ἔργον, not the model. It is compared to the most beautiful possible human being, but it is still a human being: again, there is a pre-conceived notion operative of what a *polis* truly is.

¹⁰⁰ The designers of the *polis* who use a divine *paradeigma* “take a *polis* and the characters of human beings like a *pinax*” (λάβοντες ... ὥσπερ πίνακα πόλιν τε καὶ ἦθη ἀνθρώπων): first they clean it, which is not easy to do (πρῶτον μὲν καθαρὰν ποιήσιν ἂν, ὃ οὐ πάνυ ῥάδιον), 501a2-7. A possible purification is proposed in 540e4-541a7: sending all citizens over the age of ten to the

where a divine *paradeigma* (τὸ θεῖον παράδειγμα, 500e2; τὸ φύσει δίκαιον καὶ καλὸν καὶ σῶφρον, 501b2) exists, there is no need to draw on existing laws or customs, or to adopt a more dynamic, cooperative procedure of lawgiving. The Good is an object of knowledge, but, it seems, not a matter of discussion. The philosophers are not represented as talking about the Good, but as looking at it. The Good (τὸ καλόν) exists *a priori*: it is there to be known by every philosopher.¹⁰¹ The painter-analogy portrays the philosopher as standing outside, instead of being part of, the whole.

Republic explains the σοφία of the philosopher-king (what *Apology* called divine σοφία) in psychological terms: the dominance of the λογιστικόν over the soul as a whole. He has a “divine ruling principle” (ἔχοντος ἐν αὐτῷ τὸ θεῖον ἄρχον, 592d1) within himself. Little is said about how he comes to be qualified, or where his qualification comes from. His qualification can be discussed in virtue of the city-soul-analogy. Whereas the qualifications of the philosopher-class are explicitly stipulated in the context of the description of their education (*i.e.* the philosophers qualified in the context of the city), what qualifies the individual philosopher is that the parts of his soul are in the correct order; in terms of the myth of the metals, he has the right kind of soul. In Callipolis it is by and large a matter of genetic reproduction: in most cases, couples will produce children of the same soul-type as they are themselves. It is, however, possible that a silver child will be born from golden parents, or *vice versa*, or, more general, that a couple from one class will beget a soul that

countryside (εἰς τοὺς ἀγρούς), and taking the children “out of the characters of today” (ἐκτὸς τῶν νῦν ἠθῶν) to raise them in the ways of life and laws stipulated by the philosophers (ἐν τοῖς σφετέροις τρόποις καὶ νόμοις), *i.e.* those which the interlocutors have expounded. *Contra* MORROW (1960), 580 and ANNAS (2010), 72, there is a fundamental difference in the original position between the project of *Republic* and *Laws*. Cf. chapter four, p. 136.

¹⁰¹ The combination of a noun (τὸ ἀγαθόν, τὸ καλόν) in conjunction with αὐτό is a characteristic way of referring to the absolute Good, see *Resp.* 507a3: τὸν τόκον καὶ ἔκγονον αὐτοῦ τοῦ ἀγαθοῦ; 532b1: αὐτὸ ὃ ἔστον ἀγαθόν; 534c4: αὐτὸ τὸ ἀγαθόν; 540a8-9: τὸ ἀγαθὸν αὐτό. Sometimes simply τὸ ἀγαθόν: 509b7. Also: 517c1: ἡ τοῦ ἀγαθοῦ ἰδέα; 526e1: τὴν τοῦ ἀγαθοῦ ἰδέαν.

belongs to another class.¹⁰² In such cases, the rulers have to transfer the soul of the child to its appropriate class.¹⁰³ This implies that, in the ideal city, soul quality is not exclusively a matter of the type of soul of the parents.

2.3.5 Conclusion

In this section we have examined *Republic*, the last of the three Platonic texts on justice discussed. *Republic* differs from *Apology* and *Crito* in outlining a truly just *polis*. We have attempted to get a clearer view of what it is that determines the identity of the just *polis* and what is claimed to be the qualification of the moral expert in this setting. In the first subsection, we looked at the implications of *Republic's* strategy to analogize the just *polis* to a ζῶον, justice (δικαιοσύνη) to its internal best condition (ὕγεια), and the rule of this whole to the ἱατρικὴ τέχνη. In the second subsection, we have focused on the most fundamental objection to this system, and examined Socrates' argument in justification of that system. It appeared that in the final instance, all that can be said is that the objectively good status of the just *polis* is natural objectivity, grounded in nature, φύσις. This of course agrees with the *polis'* representation as a ζῶον. In the third subsection, we have investigated how this natural norm is imparted in the best society. The philosopher-king knows the interest of the whole in virtue of his knowledge of the Good. He therefore imposes this on society, and, as part of that society, upon himself. The just city is therefore a closed system: the philosophers know the good of the whole of which they themselves are part. Finally, *Republic* makes ἀρετή clearly dependent upon the natural quality of one's soul; this is yet another way in which it appeals to φύσις.

¹⁰² *Resp.* 415b1-3: ἔστι δ' ὅτε ἐκ χρυσοῦ γεννηθεῖν ἂν ἀργυροῦν καὶ ἐξ ἀργυροῦ χρυσοῦν ἐκγονον καὶ τὰλλα πάντα οὕτως ἐξ ἀλλήλων.

¹⁰³ *Resp.* 415a7-c7.

2.4 Concluding remarks

In this chapter, we have examined three Platonic texts on justice. Each of these three texts portrays individuals who are loyal to a higher principle that is imposed upon them from the outside. We have explored how the notion of a norm beyond the human domain takes shape in each of these texts, and how its shaping is influenced by the respective communicative situations.

Apology portrays how Socrates motivates his conduct before the hostile audience of his jury by appealing to divine authority. *Crito*, by contrast, is a discussion in a much more friendly setting. Socrates defends his refusal to save himself when he has the chance before the friend who offers him this opportunity by stressing his prevailing loyalty to the community of which they are both part. That he pledges allegiance to different authorities in *Apology* and *Crito* is the direct consequence of the different communicative settings and rhetorical purposes of the two speeches: the apology to his enemies and to his friends. *Republic*, finally, develops a hypothesis of the just *polis* in its most persuasive form, and a vignette of the moral expert in this setting. The absolute norm outside the human domain that determines what justice is, is a *natural* norm, φύσις. The system of *Republic* is internally sustainable because it makes the individual(s) who possesses knowledge of the norm themselves the rulers of the *polis* upon which, as a whole, this natural law is imposed.

CHAPTER THREE

SETTING THE SCENE: ἀρετή IN *LAWS* I AND II

After an examination of the absolute moral norm in its different contexts we now turn to *Laws*, the primary focus of this study. The present chapter concentrates on the opening discussion of Books I and II, that is, the part of the dialogue in which the interlocutors are not yet addressing a concrete case of legislation. After what we have seen in chapter two, the opening scene of *Laws* is in many ways bewildering. This chapter will attempt to elucidate what creates this effect. Understanding the structure of the conversation is key to understanding the underlying argument. I shall therefore comment on specific topics in the order in which they appear in the dialogue, in order to grasp how Plato constructs his argument. How does Plato set the scene? What is at stake in Books I and II?

It should be noted at the outset that Books I and II differ considerably from what follows.¹ The familiar Platonic theme of the unity and plurality of

¹ Cf. TECUŞAN (1990): “What to my judgement is most surprising about the first two books is the fact that there is a total gap between these and the following ones: no place could be found in Plato’s City for the *symposion* as it is described here (246). See ZELLER (1839), 59-60 on the internal cohesion of books I-II. BRUNS (1880) considers the combination of wine and music reason to reject the two first books, see n. 19, TECUŞAN (1990), 246. RUTHERFORD (1995), 305 suspects “that some connecting material [between I-II and the rest] had still to be written, for a promised discussion of gymnastics is lacking”. Cf. GIGON (1954), 229-230; MURRAY (2013), 111.

ἀρετή, prominent in Books I and II, is absent from the rest of the work.² This chapter will pay special attention to the treatment of this complex theme in *Laws*. How does Plato use the notion of ἀρετή and the ἀρεταί? Does his use of these terms differ from his use of them in other Platonic works, and if so, are these differences in conceptual structure of ἀρετή or do they merely result from a difference in communicative setting? I shall argue that the specific way in which the unity versus plurality of ἀρετή is discussed in the dialogue serves to construct a new conceptual framework for morality. The theme of the unity and plurality of virtue does not reflect an absolute moral norm, but a norm of a very different kind.

3.1 Setting the scene I: *syssitia* and Spartan ἀνδρεία

We are on the island of Crete. Three elderly men are on their way from Cnossos to the cave of Minos (625b1-2), Crete's mythical king and lawgiver.³ *Laws* is therefore the only Platonic text that is *not* set at Athens. The setting, an amazingly hot day, prompting the elderly interlocutors to take lots of rests (ἀνάπαυλαι) on the way, suggests a leisurely atmosphere.⁴ The three men start a conversation about laws and lawgivers. Where do the νόμοι come from? Is it a god or a man who has laid down our laws?⁵

The interlocutors come from different places in the Greek world. There is an Athenian,⁶ who remains anonymous and takes the leading role in the

² With the exception of the very end of Book XII. For the parallels between the closing section of *Laws* and Books I-II, see chapter six.

³ See SCHÖPSDAU (1994) *ad loc.* for Minos' as lawgiver and his connection with Zeus.

⁴ The road from Cnossos to the cave of Zeus is "sufficient" (ικανή) for a topic of such length as the current state of constitutions and laws, and will provide ample opportunity for taking rests under high trees, which is necessary at their age, *Leg.* 625b1-c2; cf. 722c6-d2.

⁵ *Leg.* 624a1-2 (the Athenian is speaking): Θεός ἢ τις ἀνθρώπων ὑμῖν, ὃ ξένοι, εἴληφε τὴν αἰτίαν τῆς τῶν νόμων διαθέσεως;

⁶ *Leg.* 626d3-5, 634c9, 642b2.

conversation. Socrates is absent.⁷ The Athenian's interlocutors are a Cnossian,⁸ Cleinias, and a Spartan,⁹ Megillus.¹⁰ Cleinias and Megillus come from different cities, but both Cnossus and Sparta belong to the same (Dorian) sphere of influence. Cretan and Spartan customs and constitutions are therefore in broad outlines treated as identical.

The opening books thus portray a confrontation between representatives of two different Greek cultural traditions. From the start, the discussion and the relation between the interlocutors reflects these cultural differences. The Athenian inquires with his Dorian interlocutors about the purpose of the—characteristically Dorian—institutions of the *gymnasia* and *syssitia*.¹¹ Cleinias begins his explanation by pointing to the peculiarities of the Cretan landscape. Crete is not, like Thessaly for instance, a plain. Its surface is uneven and hence more suited to the exercise of running by foot than to riding on horseback. This circumstance forces the Cretans to wear light armour such as arrows and bows. Everything is equipped for the purpose of war, and Cleinias supposes that it was for that purpose that their lawgiver has laid down his laws.¹²

Cleinias here gives his interpretation (ὥς γ' ἐμοὶ φαίνεται, 625e1) of the intention of the original lawgiver.¹³ The interlocutors cannot ask the original

⁷ For the relation between the anonymous Athenian and Socrates, see chapter six, p. 224.

⁸ See *Leg.* 625a1, 629c3, 633d7.

⁹ See *Leg.* 624a4-5, 626c4-5, 635e5, 637b7; cf. 636e7-637b6.

¹⁰ Both of these interlocutors come from cities that were in the Greek world widely known for the superior quality of their laws (εὐνομία). See *Leg.* 631b3-4. For Crete's reputation of εὐνομία, see WILLETTTS (1977), 170; on εὐνομία in Sparta, FINLEY (1975) in CHRIST (1986), 331. Socrates in *Crito* 52e5-6 cites Crete and Sparta as the two examples of εὐνομία.

¹¹ *Leg.* 625c6-8: κατὰ τί τὰ συσσίτια τε ὑμῖν συντέταχεν ὁ νόμος καὶ τὰ γυμνάσια καὶ τὴν τῶν ὀπλῶν ἔξιν; For the Cretan *syssitia*, including parallels with the Spartan *syssitia*, see WILLETTTS (1955), 16, 21-22, 25-27 (Aristotle's comparison of the Cretan and Spartan *syssitia*), 139-140, 156-158 (the literary evidence), 193, 243; cf. *id.* (1969), 106-107; (1977), 184. For the Spartan *syssitia*: KIECHLE (1963), especially 203-220. For the Dorian cultural background and the constitution of Sparta see KIECHLE (1963); for a number of influential contributions on Sparta, see the essays collected in CHRIST (1986) (and also his Introduction).

¹² *Leg.* 625d7-e2: ταῦτ' οὖν πρὸς τὸν πόλεμον ἡμῖν ἅπαντα ἐξήρτυται, καὶ πάνθ' ὁ νομοθέτης, ὥς γ' ἐμοὶ φαίνεται, πρὸς τοῦτο βλέπων συνετάττετο. Cf. 626a5-b4.

¹³ The Athenian later corrects Cleinias' initial interpretation, *Leg.* 628c9-629a3. Cf. 630d2-d7 and 632d1-7: it was the *interlocutors'* mistake to come up with ἀνδρεία as the purpose of the Cretan and

lawgiver about his intention, and therefore the purpose of the lawgiver has to be interpreted through an examination of his laws. This is especially the case for the ancient law codes of Crete and Sparta, since these were reportedly laid down by Zeus (via Minos) and Apollo (via Lycurgus) respectively.¹⁴ Minos and Lycurgus cannot be consulted about the “intention” or “purpose” (διάνοια¹⁵) of their laws. Right from the beginning of *Laws*, it is assumed that a law code has a certain goal or purpose, and that, in the absence of the lawgiver or another entity that knows that purpose,¹⁶ it has to be interpreted. Soon, it becomes apparent that the Athenian in fact has a special talent for reconstructing a lawgiver’s intention on the basis of his laws—the interlocutors, who have themselves been raised under these laws,¹⁷ marvel at the insight of their companion and say that he speaks like a “diviner” (μάντις).¹⁸

Spartan laws, not that of the lawgivers: it is a mistake in *interpretation*. This mistake prompts the interlocutors to go back to the beginning of their investigation, 632d9-e7. See below, p. 86, and chapter six, p. 227, for the role of the Athenian as a gifted interpreter of law codes, repeatedly praised by his interlocutors for his insight in the intention of the original lawgiver.

¹⁴ *Leg.* 625a4-b3, 632d2-4. The insistence on a divine source for legislation is an important part of a kind of principle of charity involved in the interpretation of ancient law codes. The governing interpretative assumption is that a sensible lawgiver must have laid down his laws for the purpose of the highest good: Ἀρα οὖν οὐ τοῦ ἀρίστου ἕνεκα πάντα ἂν τὰ νόμιμα τιθεῖν πᾶς [*sc.* νομοθέτης, c4]; (628c6-7). This highest good is peace, εἰρήνη (628c10). Therefore it can be safely assumed that the good lawgiver makes his laws with an eye to virtue as a whole, not with an eye to only a part of virtue (630d4-e4). Both assumptions *a fortiori* apply to divine lawgivers. If the interpreters’ explanation is inconsistent with one or both of these assumptions (as is Cleinias’ initial interpretation of the Cretan law code as being framed for war and ἀνδρεία), they have to reassess their interpretation. For the Lycurgean laws, see the references in the index in KIECHLE (1963); see also the famous essay of SCHILLER (1790) (= CHRIST [1986], 73-86).

¹⁵ *Leg.* 635a1; *cf.* the phrase (ἀπο)βλέπων εἰς or πρὸς or with object that expresses the purpose (*e.g.* 625e1-2, 626a7, 628a9-10, 630e1-3); also γνώμη λαβεῖν (951b3).

¹⁶ Such as the nocturnal council, see chapter six, section 6.1. Keeping alive the γνώμη underlying a law code is one of the aspects of τοὺς νόμους διαφυλάττειν (*Leg.* 951b3-4), and is one the functions of the νομοφύλακες and the nocturnal council. Keeping alive the ‘spirit’ of the laws contributes to the σωτηρία of *polis* and laws.

¹⁷ “Das Aufwachsen in einer solchen Ordnung macht sie zu kompetenten Gesprächspartnern, die über ihre eigene Staatsordnung am besten Auskunft geben können (vgl. den Hinweis auf die Gewöhnung als Voraussetzung zum Verständnis einer Gesetzgebung 632d6)”, SCHÖPSDAU (1994), 155, *ad* 625a5.

¹⁸ *Leg.* 634e7. For the μάντις-like interpretative skills of the Athenian, see chapter six, p. 227.

Cleinius relates the purpose of the Cretan laws to a general view of the *condition humaine*.¹⁹ The great ἄνοια of the masses, he claims, consists in their failure to realize that every *polis* is always in a continuous state of war with other *poleis*.²⁰ If war requires *syssitia*, and a clear division of roles between ἄρχοντες and ἀρχόμενοι, then that must also be the order of the day during peace (εἰρήνη)²¹—which is, he adds, only a word (ὄνομα); in reality there is no peace.²² The goal of the Cretan polity is to be victorious over the other cities in this state of war (πολέμῳ νικᾶν τὰς ἄλλας πόλεις, 626c2).

The discussion of the *syssitia* and *gymnasia* paves the way for the idea that the Cretan notion of ἀρετή is ἀνδρεία, “courage”, although at this stage the identification of ἀρετή as ἀνδρεία is still implicit. Now ἀνδρεία is of course one of the four cardinal Socratic-Platonic virtues, so we seem to find ourselves on familiar ground here. Yet it should be noted that, through the discussion of Cretan customs, ἀνδρεία is introduced specifically as *the Cretan notion of ἀρετή*. The line of approach to ἀρετή is emphatically contextual (“what is excellence in Crete if we look at the Cretan laws?”). Ἀρετή thereby emerges as a cultural variable. This cultural approach to virtue can only be introduced because of the association of *syssitia* and *gymnasia* with a particular Greek culture.

The very first phase of the opening discussion thus introduces two important premises. The first is that conceptions of ἀρετή vary across different *poleis*, and that different civilizations cultivate different ideas about which human qualities are most worthy of praise. The second is that *therefore*, a person’s notion of ἀρετή is inevitably determined by his or her cultural

¹⁹ Leg. 625e2-5 (Cleinius is speaking): ἐπεὶ καὶ τὰ συσσίτια κινδυνεύει συναγαγεῖν, ὁρῶν ὡς πάντες ὅποτεν στρατεύωνται, τόθ’ ὑπ’ αὐτοῦ τοῦ πράγματος ἀναγκάζονται φυλακῆς αὐτῶν ἕνεκα συσσιτεῖν τοῦτον τὸν χρόνον, “Probably this was his reason also for instituting common meals: he [the Cretan lawgiver] saw how soldiers, all the time they are on campaign, are obliged by force of circumstances to mess in common, for the sake of their own security” (transl. BURY).

²⁰ Leg. 625e5-7.

²¹ Leg. 625e7-626a2: εἰ δὴ πολέμου γε ὄντος φυλακῆς ἕνεκα δεῖ συσσιτεῖν καὶ τινὰς ἀρχοντας καὶ ἀρχόμενους διακεκοσμημένους εἶναι φύλακας αὐτῶν, τοῦτο καὶ ἐν εἰρήνῃ δραστήον.

²² Leg. 626a2-5.

upbringing. This is exemplified by Cleinias and Megillus, who are convinced, even in the face of evidence to the contrary, that their own customs are superior to those of other cities (as we will see below). The sheer length and repetitiveness²³ of the discussion in Books I and II suggests that such cultural ideas are certainly not (always) easy to modify.

Now that Cleinias has put forward his full explanation of the Cretan laws against the background of his assessment of the human condition as immersed in a continuous state of war, the Athenian starts to explore its implications. His argument moves from large scale to small scale (*polis*, village, family, individual). Does the continuous state of war between *poleis* also pertain to the individual—*i.e.*, is not each person also *his own* enemy? Cleinias affirms that the victory over oneself (τὸ νικᾶν αὐτὸν αὐτόν, 626e2) is in fact the most brilliant victory of all.²⁴ If a person is “stronger than himself” (κρείττων αὐτοῦ, 626e7) he triumphs; if he is “weaker than himself” (ἥττων αὐτοῦ, 626e7) he is conquered. The perspective on war has now shifted: the war implied here is not a war against others, but an internal war, against oneself.

Having agreed that the individual can be either stronger or weaker than himself, the Athenian reverses the argument,²⁵ extrapolating from the conclusion about the individual to the larger scale: a household, village, and *polis* can also be either κρείττων or ἥττων ἑαυτοῦ.²⁶ He adduces the example of

²³ See below, n. 130 on p. 116. The fact that some issues repeatedly occur in Books I-II is therefore not to be taken as a sign that Plato was an old man when he wrote *Laws*, that *Laws* is not finished, or that a clumsy editor has reorganised the material. It is the result of the fact that the Athenian attempts to persuade Cleinias and Megillus of something to which they find it difficult to assent because of their cultural upbringing. Books I and II: the Athenian attempts to show the relativity of cultural customs to two people from particular cultural backgrounds, who find it hard to believe that any other laws could be better than their own. That the discussion returns several times to the same question is the result of their incredulity when confronted with the Athenian's defense of an institution that is considered the apex of immorality: the *symposion*.

²⁴ *Leg.* 626e2-5.

²⁵ *Leg.* 626e6: Πάλιν τοίνυν τὸν λόγον ἀναστρέψωμεν, (...).

²⁶ In the sense that, as Cleinias explains, when a city is κρείττων ἑαυτῆς, “the better people” (οἱ ἀμείνονες) have conquered “the mass and the inferior people” (τὸ πλῆθος καὶ τοὺς χείρους). If it was the other way around (the χείρονες who besieged the ἀμείνονες), the city would be ἥττων ἑαυτῆς (627a6-10). The Athenian for the moment leaves aside the definitional problem, which he

an internal family feud between brothers, some better and some worse. Confronted with three ways of settling the dispute, Cleinias and Megillus agree that the best judge is the one who reconciles the brothers by laying down laws and restoring *φιλία*.²⁷ In this case, however, it has to be concluded that the lawgiver lays down his laws with an eye to *the opposite* of war.²⁸ What, then, about the person responsible for harmonising a *polis*? Will he not order life with an eye to the internal war (*στάσις*) instead of to the outside war?²⁹ Cleinias agrees (*Πῶς δ' οὐ*). From this it follows that not war, but peace (*εἰρήνη*) and mutual goodwill (*φιλοφροσύνη*) are the greatest good (*τό ... ἄριστον*) for human beings.³⁰ It is established that a politician will never be a politician in the real sense (*οὐτ' ἄν ποτε πολιτικός γένοιτο ὀρθῶς*) if he only directs his eye towards the external war (*πρὸς τὰ ἔξωθεν πολεμικὰ ἀποβλέπων μόνον καὶ πρῶτον*); similarly, a lawgiver will never be a lawgiver in the strict sense (*νομοθέτης ἀκριβής*), unless his laws for war are made for the sake of peace instead of his peace laws for the sake of war.³¹ Cleinias' initial interpretation, of the Cretan laws as aiming at war and *ἀρετή* as *ἀνδρεία*, is refuted. Moreover, the claim that laws are made for the sake of peace appears to be a general claim

says would require a long discussion in its own right, of whether *τὸ χεῖρον* can ever be "stronger than the better part", *κρεῖττον τοῦ ἀμείνονος* (627b1-2).

²⁷ This is the upshot of the alternatives put to Cleinias in *Leg.* 627b1-628a7. In case of a family feud between just and unjust brothers, who is the best *δικαστής*? Is that (1) the judge who eliminated the *κακοί* and ordered the *βελτίονες* to rule themselves; (2) the judge who made the *χρηστοί* rule and, allowing the *χεῖρονες* to live, made them subject to the rulers willingly; or (3) the judge who will destroy none, but reconciled them for the rest of their lives and laid down laws so as to ensure that they would be friends towards each other ([*δικάστης*] *ὅστις (...) διαλλάξας δὲ εἰς τὸν ἐπίλοιπον χρόνον, νόμους αὐτοῖς θείας πρὸς ἀλλήλους παραφυλάττειν δύναίτο ὥστε εἶναι φίλους*, 628a1-3). Also 628a9-b4.

²⁸ *Leg.* 628a6-7.

²⁹ *Leg.* 628a9-b4.

³⁰ *Leg.* 628c9-11.

³¹ *Leg.* 628d4-e1. Note the difference between the use of the *πολιτικός ὀρθῶς* and *νομοθέτης ἀκριβής*, compared to *Republic* Book I. By contrast, in *Laws* Book I, a lawgiver in the narrow sense is the lawgiver who legislates with the correct goal in mind, peace; whereas in *Republic*, the doctor in the true sense is the *expert* doctor, who *qua* doctor, does not make mistakes (he is *ἀβλαβής*). See chapter one, p. 27.

and to hold true of *societies in general*: a genuine, sensible lawgiver will aim for internal harmony.

All of this bears implications for the nature of ἀρετή. First, the Athenian seems to be moving away from a culturally specific notion of ἀρετή. Second, the substitution of peace for war opens the way for ἀρετή to be reinterpreted in light of this new insight. With an appeal to the poet Theognis,³² the Athenian introduces into the discussion the idea that the warrior who is firm in στάσις (internal war), is far superior to the warrior in a foreign war, who is praised by the Spartan poet Tyrtaeus. The reason is that the good warrior in στάσις possesses, besides ἀνδρεία, the virtues of δικαιοσύνη, σωφροσύνη and φρόνησις, as well, whereas Tyrtaeus praises ἀνδρεία by itself. The introduction of these three virtues besides ἀνδρεία is good Socratic-Platonic practice: together ἀνδρεία, δικαιοσύνη, σωφροσύνη and φρόνησις are the four cardinal virtues.³³ We can therefore easily accept, or at least are expected to easily accept, the Athenian's claim that the στάσις-warrior is superior.

The implication of the Athenian's introduction of the three other ἀρεταί besides ἀνδρεία is that ἀνδρεία is only a "part" of virtue (μόριον).³⁴ Crete and

³² *Leg.* 630a4-6.

³³ In Book I, *Leg.* 630d9-631b1, the Athenian talks about the εἶδη of virtue, and about ἀνδρεία as one μόριον; cf. 631c5-d6, 632d9-e3 and 633a7-9. In 631b3-d6, he distinguishes the virtues as θεῖα ἀγαθὰ from the ἀνθρώπινα ἀγαθὰ, and ranks them hierarchically, ἀνδρεία being the lowest virtue, φρόνησις and νοῦς the highest, or ἡγέμων of all the virtues. MÜLLER (1968), 16-17, notes that the systematisation of the four virtues in a hierarchy is an innovation of *Laws*, but that it "[wird] an keiner Stelle des Gedankengangs irgendeine Bedeutung gewinnen" (17). The unity and plurality of the four virtues is never mentioned in the preambles, where one might have expected it. For an explanation of the logic behind the unity of virtue (especially in *Laches*, *Charmides* and *Protagoras*), see RADEMAKER (2005), 295-299; see also further bibliographical references in n. 1 on 295, and STALLEY (1983), 56-58. As RADEMAKER explains, "if the quality of σωφροσύνη overlaps with that of ἀνδρεία in one of its manifestations, it should follow that the qualities overlap throughout their manifestations: for it is a 'Socratic' axiom that it is *one-and-the-same* state of soul that explains all different types of behaviour that are called by the same virtue term" (*ibid.*, 297). The question is therefore, how, in the absence of a theory of soul parts, the conceptual unity of virtue is upheld in *Laws*.

³⁴ *Leg.* 630e1. A standard sympotic song, and the one most frequently invoked in Plato's work, is the *skolion* on the "four best things". These four things were usually a selection of such things as health, wealth, beauty or physical prowess, or living one's life among friends. See TECUŞAN (1990), 240, with references to ancient sources for this kind of *skolion*. When Plato invokes the motive of four

Sparta are criticized for cultivating only a part of virtue, and that the “least worthy” (τὸ φαυλότατον [μόριον]³⁵) or “smallest” (τὸ μικρότατον [μόριον]³⁶) part. To refer to one of the four cardinal ἀρεταί as a part of virtue, and to speak of different “forms” (εἶδη³⁷) of virtue is a familiar way, in fact, Socrates’ characteristic way (recall for instance *Protagoras*), of speaking about the relation between the four virtues. In this argument, considering ἀνδρεία as a part of virtue now opens conceptual room in the discussion for the introduction of the notion of “the greatest virtue”, ἡ μεγίστη ἀρετή,³⁸ or “complete virtue”, ἡ (συμ)πᾶσα ἀρετή.³⁹

This complete virtue is human excellence in times of peace: the friendly behaviour that enables human beings to live together in a society without internal conflict. It has already been established that internal harmony, peace, is τὸ ἄριστον for a society. The distinction between a “part” of ἀρετή (ἀνδρεία) and ἡ πᾶσα ἀρετή is thus used to widen the scope of ἀρετή *beyond* its culturally specific interpretation and introduce a notion of human excellence characteristic of *humankind in general*. This more comprehensive notion of ἀρετή is the quality that enables people to avoid στάσις: φιλία.

The re-introduction in *Laws* of the Socratic-Platonic axiom of the simultaneous unity and plurality of the ἀρεταί may at first remind one of the solution of this problem in the form offered in *Protagoras*, that ἀρετή is analogous to ἐπιστήμη.⁴⁰ Yet in *Laws* Book I, the unity of the virtues is used to set up a general notion of human virtue as a biological quality, characteristic of humankind, who therefore emerges as a distinctly social species. This social

sympotic goods, “his basic attitude to these sympotic values is to set them in contrast to real virtue”, *ibid.*

³⁵ *Leg.* 630e2.

³⁶ *Leg.* 631a5.

³⁷ *Leg.* 630e3, 632e2.

³⁸ *Leg.* 630c3-4.

³⁹ *Leg.* 630b3, e2-3.

⁴⁰ See KAHN (1996), chapter 8, especially 216-224 (with reference to the recurrence of this theme in *Laws* XII on p. 219). Ἀρετή as ἐπιστήμη in turn presupposes a metaphysical basis, for ἐπιστήμη has an *object* (the Idea of the Good).

virtue is the same for all human societies and thus proceeds beyond culturally specific interpretations of ἀρετή. The familiar Platonic terminology of virtue and its parts here serves a *non*-metaphysically determined concept of human excellence: that of a unificatory notion of ἀρετή over and above regional interpretations. The notion of a “part” of virtue, in this case ἀνδρεία, has served to introduce a regional variant of ἀρετή. But these regional differences are eclipsed when a more general perspective, detached from regional differences, on human society and human civilization as a whole is assumed.

3.2 Setting the scene II: *syssitia* and *symposia*

3.2.1 The weak spot of Spartan law

Returning to the Cretan and Spartan point of departure, the Athenian proposes to define courage. Is ἀνδρεία simply a battle against one’s fears and pains—here he substitutes the Socratic-Platonic interpretation of ἀνδρεία as control of one’s fears for the Spartan conception of ἀνδρεία as courage in the face of the enemy—or is it also the διαμάχη against pleasures and hard-to-resist temptations?⁴¹ Megillus, who now joins in, answers that ἀνδρεία is a battle against all of them. But surely, the Athenian asks, Zeus and Apollo have not codified a “lame courage” (χωλὴν τὴν ἀνδρείαν νενομοθετήκατον, 634a2)? That Spartan and Cretan institutions train the capacity to resist fear is granted. But can Cleinias and Megillus name practices in their cities that bring citizens in contact with ἡδοναί, so as to force and persuade them by means of praise to

⁴¹ *Leg.* 633c8-d3 (the Athenian is speaking): τὴν ἀνδρείαν, δέ, φέρε, τί θῶμεν; πότερον ἀπλῶς οὕτως εἶναι πρὸς φόβους καὶ λύπας διαμάχην μόνον, ἢ καὶ πρὸς πόθους τε καὶ ἡδονὰς καὶ τινὰς δεινὰς θωπείας κολακικάς, αἱ καὶ τῶν σεμνῶν οἰομένων εἶναι τοὺς θυμοὺς ποιοῦσιν κηρίους.

keep them under control (ἡνάγκαζε καὶ ἔπειθεν τιμαῖς ὥστε κρατεῖν αὐτῶν)?⁴²

Megillus now confirms that, although he was able to come up with Spartan laws that counteract pains,⁴³ he cannot do the same for pleasures. Spartan law is, then, fundamentally inadequate because it fails to enable a person to achieve what the interlocutors designated the most difficult victory of all, the victory over oneself.⁴⁴ The underlying implication is that resistance to pleasures needs to be *practised*.⁴⁵ The train of thought concerning learning to master pleasures entirely follows the logic of the Spartan *syssitia* and *gymnasia*, which are instituted for practising to master fears.

The Athenian now moves the discussion beyond the Spartan and Cretan laws, and goes on to discuss, after courage, the control over pleasures, the virtue of “self-control” (σωφροσύνη, 635e6). No institution is entirely undisputable (εἶναι ... ἀναμφισβητήτως, 636a4-5). It is as with a human body: the same regimen is often harmful and beneficial at the same time.⁴⁶ The *gymnasia* and *syssitia* are no exception: they may be beneficial for *poleis* in many respects, but there are also serious drawbacks involved. In the case of internal

⁴² Leg. 634a6-b6.

⁴³ In the exchange between him and the Athenian in Leg. 633a4-c7. These are: (1) the συσσίτια; (2) the γυμνάσια; (3) θήρα; (4) κρυπτεία; (5) γυμνοπαιδία.

⁴⁴ Leg. 634a6-c5.

⁴⁵ Leg. 635c3-d1: ταὐτὸν δὴ τοῦτ', οἶμαι, καὶ πρὸς τὸ ἡδονὰς ἔδει διανοεῖσθαι τὸν αὐτὸν νομοθέτην, λέγοντα αὐτὸν πρὸς ἑαυτὸν ὡς ἡμῖν ἐκ νέων εἰ ἄπειροι τῶν μεγίστων ἡδονῶν οἱ πολῖται γενήσονται, καὶ ἀμελέτητοι γιγνόμενοι ἐν ταῖς ἡδοναῖς καρτερεῖν καὶ μηδὲν τῶν αἰσχυρῶν ἀναγκάζεσθαι ποιεῖν, ἔνεκα τῆς γλυκυθυμίας τῆς πρὸς τὰς ἡδονὰς ταῦτόν πείσονται τοῖς ἡττωμένοις τῶν φόβων. “Now I presume that this same lawgiver should have held the same view about pleasures as well, and should have argued with himself that, if our citizens grow up from their youth unpractised in the greatest pleasures, the consequence must be that, when they find themselves amongst pleasures without being trained in the duty of resisting them and of refusing to commit any disgraceful act, because of the natural attraction of pleasures, they will suffer the same fate as those who are worsted by their fears (...)”, (transl. BURY). For a different view, see BELFIORE (1986): “Plato’s new view that antirational emotion is valuable in itself depends on a new view that *sôphrosynê* involves constant strife (...). Accordingly, *sôphrosynê* is treated idealistically as the complete absence of anti-rational emotion” (428).

⁴⁶ Leg. 636a6-b1.

unrest (στάσεις), *gymnasia* and *syssitia* have harmful effects.⁴⁷ They can be a danger for internal social harmony—precisely that which was claimed to be the greatest human good. In other words, the Athenian invites his Dorian interlocutors to reassess the strong and weak points of their native institutions in the light of the newly established conclusions of their current discussion.

Yet for those who have lived their whole life in a certain tradition it is hard to accept that other laws and customs might be as good, or even better, than their own. Megillus objects that, even though the Athenian's reasoning seems somehow correct and he finds himself unable to come up with a counterargument, he is still convinced that the Spartan lawgiver was right, and that the Spartan avoidance of pleasures (τὸ τὰς ἡδονὰς φεύγειν, 636e6) is the only correct way of dealing with them.⁴⁸ Instead of trying to refute the Athenian's argument, he points to the benefit of the laws that order abstention from pleasures: they save people from the particularly intolerable institution of the *symposia*.⁴⁹ Spartan law has completely banished from its territory the *symposion*, where men as a rule fall victim to the most overwhelming pleasures, incivilities, and a complete lack of sense.⁵⁰ Every person raised under Spartan

⁴⁷ Leg. 636b1-3: ἐπεὶ καὶ τὰ γυμνάσια ταῦτα καὶ τὰ συσσίτια πολλὰ μὲν ἄλλα νῦν ὠφελεῖ τὰς πόλεις, πρὸς δὲ τὰς στάσεις χαλεπά. See WILLETTTS (1955), 154.

⁴⁸ Leg. 636e4-637a2 (Megillus): Λέγεται μὲν ταῦτα, ὦ ξένε, καλῶς πως· οὐ μὴν ἄλλ' ἀφασία γ' ἡμᾶς λαμβάνει τί ποτε χρὴ λέγειν πρὸς ταῦτα, ὅμως δ' ἔμοιγε ὀρθῶς δοκεῖ τὸ τὰς ἡδονὰς φεύγειν διακελεύεσθαι τὸν γε ἐν Λακεδαιμόνι νομοθέτην, περὶ δὲ τῶν ἐν Κνωσῶ νόμων ὅδε, ἂν ἐθέλῃ, βοηθήσει. τὰ δ' ἐν Σπάρτῃ κάλλιστ' ἀνθρώπων δοκεῖ μοι κείσθαι τὰ περὶ τὰς ἡδονὰς. "What you say, Stranger, is excellent, I suppose; none the less I am at a loss to know what reply I should make to it. Still, in my opinion, the Lacedaemonian lawgiver was right in ordaining the avoidance of pleasures, while as to the laws of Cnosus—our friend Clinias, if he thinks fit, will defend them. The rules about pleasures in Sparta seem to me the best in the world" (transl. BURY). On people's partiality when it comes to judging customs other than their own, see also the Athenian's comments in 637b7-d1 and 638c2-639a8, and his comparison with goat-keeping at the end (for which see below, p. 96).

⁴⁹ It is thus the Spartan Megillus, not the Athenian, who is made to bring up the subject of the *symposia*.

⁵⁰ Leg. 636e8-637a7 (Megillus): τὰ δ' ἐν Σπάρτῃ κάλλιστ' ἀνθρώπων δοκεῖ μοι κείσθαι τὰ περὶ τὰς ἡδονὰς· οὐ γὰρ μάλιστ' ἄνθρωποι καὶ μεγίσταις προσπίπτουσιν ἡδοναῖς καὶ ὕβρει καὶ ἀνοίᾳ πάσῃ, τοῦτ' ἐξέβαλεν ὁ νόμος ἡμῶν ἐκ τῆς χώρας συμπάσης, καὶ οὐτ' ἂν ἐπ' ἀγρῶν ἴδοις, οὐτ' ἐν ἄστεσιν ὅσων Σπαρτιάταις μέλει, συμπόσια οὐδ' ὅποσα τούτοις συνεπόμενα πάσας ἡδονὰς κινεῖ κατὰ δύναμιν, (...). "The rules about pleasures at Sparta seem to me the best in the world. For

law would inflict on the spot the most severe punishment upon a drunken partygoer who crosses his path.⁵¹

The Athenian now tries a different argument on Megillus: instead of repeating his point that no institution is entirely beyond criticism, he notes that wine is not unequivocally considered destructive by all societies. Moreover, an Athenian (in whose city drinking is, obviously, allowed) might meet a Spartan's criticism of wine by criticizing the *ἄνεσις*, "liberty", of Spartan women in turn.⁵² Since Megillus is particularly sensitive to criticism of his city's laws, the Athenian immediately tries to alleviate it by pointing to the stock phrase brought up when citizens from different cultural backgrounds marvel at each other's customs. There is one excuse (*μία ἀπόκρισις ἀπολύεσθαι δοκεῖ τοῦ μὴ κακῶς ἔχειν ἀλλ' ὀρθῶς*, 637c4-5): to appeal to "law", νόμος. To the perplexed stranger one may say: "Don't be surprised, stranger; it is our law, and probably in your country there exists a different law about these same issues" (*Μὴ θαύμαζε, ὦ ξένε· νόμος ἔσθ' ἡμῖν οὗτος, ἴσως δ' ὑμῖν περὶ αὐτῶν τούτων ἕτερος*, 637c6-d1).

Yet when Megillus once more, this time quite aggressively, insists on Spartan superiority—in war, and, hence, cultural—over those who are allowed to consume wine,⁵³ the conversation reaches an impasse. The Athenian remains good-humoured and is able to win Megillus over.⁵⁴ It is a fact that people tend to condemn a custom they have only heard bad things about. The example the Athenian puts forward is the rather harmless one of goat-keeping: what if one person praised the rearing of goats, and claimed that a goat was a fine

our law banished entirely from the land that institution which gives the most occasion for men to fall into excessive pleasures and riotings and follies of every description; neither in the country nor in the cities controlled by Spartiates is a drinking-club to be seen nor any of the practices which belong to such and foster to the utmost all kinds of pleasure" (transl. BURY).

⁵¹ *Leg.* 637a7-b1 (Megillus): οὐδ' ἔστιν ὅστις ἂν ἀπαντῶν κωμάζοντί τινι μετὰ μέθης οὐκ ἂν τὴν μεγίστην δίκην εὐθὺς ἐπιθείη (...).

⁵² See SCHÖPSDAU (1994), *ad loc.*

⁵³ *Leg.* 638a1-2.

⁵⁴ *Leg.* 638c2-e6.

possession, whereas another person, who had only seen goats when they were unherded and herded badly, would be critical (πᾶν θρέμμα ἄναρχον ἢ μετὰ κακῶν ἀρχόντων ἰδὼν οὕτω μέμφοιτο, 639a5-6; cf. 639c3-5)—would such criticism be reasonable?⁵⁵ The implication is not spelled out, but obvious: someone who had seen goats being herded by a good herdsman would have been more positive about goats.

There follows a brief discussion of what makes a good ἄρχων. Although a dialectical definition of a good ἄρχων is hardly unique in Plato (recall, for example, Book I of *Republic*), it soon becomes apparent that the good ἄρχων is not defined as the person who possesses the relevant τέχνη. In fact, to be in possession of the relevant τέχνη is *not sufficient*, and only part of the ἄρχων's qualification. A helmsman who only has the τέχνη of steersmanship (ἐὰν τὴν ναυτικὴν ἔχῃ ἐπιστήμην μόνον, 639a9-b1), but is at the same time seasick (ναυτιᾷ) is not a ruler of much use (χρηστὸς ἄρχων).⁵⁶ Likewise, a general who possesses the πολεμικὴ τέχνη but is a coward amid dangers, and seasick because of drunkenness of fear (ὑπὸ μέθης τοῦ φόβου ναυτιᾷ), is not a capable military leader.⁵⁷ A *useful* leader, able to cope with his function (χρηστὸς ἄρχων, ἱκανὸς ἄρχεῖν) needs an additional quality apart from his τέχνη. The two analogies are not explicit about what sort of capacity this is. What sort of quality is immunity to seasickness at sea or to “seasickness” (cowardice) on the battlefield? An additional difficulty is that the two examples may not be entirely analogous. Perhaps the example of the general, against the background of the discussion of ἀνδρεία, implies that one can practise to overcome fearfulness. On the other hand, being prone to seasickness at sea is more likely a matter of natural disposition. What can be established with security is that the common denominator of the two examples is a kind of “firmness”—not being put off by the *inherent* risks of the profession.

⁵⁵ Leg. 639a2-7.

⁵⁶ Leg. 639a9-b2.

⁵⁷ Leg. 639b5-7.

We return to the theme of the *symposia*. The Athenian, it now turns out, has in fact a long-standing interest in these congregations. Still, even though he has seen many *symposia* at many different places, and has, “so to say, questioned” (ὥς ἔπος εἰπεῖν διηρώτηκα, *i.e.*, “participated in”⁵⁸) all of them, he concedes that he has never seen a *symposion* that was regulated correctly. From the recent *analogon* of goat-keeping it followed that a group (κοινωνία) can only be beneficial under the guidance of a capable leader. The commander of an army in a hostile encounter had to be absolutely fearless and undisturbed (μηδὲν τὸ παρόπαν δεδιότα μηδὲ θορυβούμενον, 640b2-3). By analogy, the same obtains for the leader of the friendly ὁμιλία, the *symposion*, which is, due to the participants’ increasing drunkenness, hardly without disturbance.⁵⁹ The task of the symposiarch is to watch over the existing φιλία between the members, and endeavour to increase it.⁶⁰ This requires the ἄρχων of a *symposion*, the symposiarch, to be “imperturbable” (ἀθόρυβος).⁶¹ In addition, he must be “sober” (νήφους),⁶² “sensible” (φρόνιμος)⁶³ or “clever” (σοφός),⁶⁴ and not too young.⁶⁵ Naturally, a drunken steersman or any other drunken leader will upset everything under his command.⁶⁶ But to condemn an institution on

⁵⁸ For a different reading see ENGLAND *ad loc.*, who takes ὥς ἔπος εἰπεῖν with πάσας.

⁵⁹ Leg. 640b6-c2.

⁶⁰ The symposiarch (the term itself is not used in *Laws*) is φύλαξ τῆς τε ὑπαρχούσης φιλίας αὐτοῖς, καὶ ἔτι πλείονος ἐπιμελητὴς ὅπως ἔσται διὰ τὴν τότε συνουσίαν (640c10-d2). The successful *symposion* is thus claimed to continue to augment the φιλία between its participants even afterwards: the description of the symposiarch manifests a distinction between the existing friendship at the time of the *symposion* (τῆς ὑπαρχούσης φιλίας), and the expectation of increasing φιλία in the future (ἔτι πλείονος ... ὅπως ἔσται), which will have been caused “by that gathering then”, διὰ τὴν τότε συνουσίαν (τότε signals that this is spoken in retrospect). ENGLAND’s objections *ad loc.* to the position of τε in 640c10 are therefore misguided.

⁶¹ Leg. 640c6. The requirement “Sich-nicht-aus-der-Fassung-bringen-lassen (μὴ θορυβεῖσθαι)” (640b6), SCHÖPSDAU *ad* 640b6-8 for the symposiarch is clearly pragmatic in nature: the symposiarch must be proof against the rising emotions and not get carried away. See on the characteristics of the symposiarch also TECUŞAN (1990), 251-253.

⁶² Leg. 640d4. Cf. 671d5-e3.

⁶³ Leg. 640c9-10.

⁶⁴ Leg. 640d4.

⁶⁵ Leg. 640d6 (by implication).

⁶⁶ Leg. 641e5-642a2.

the basis of its very worst functioning, as Megillus has done, is a clear sign of ἄγνοια.⁶⁷ The Athenian has now at least succeeded in opening the way for a discussion of the *symposion*, which Megillus previously stubbornly resisted.

3.2.2 Illustrating the need for *paideia*: the “puppet”

But if a *symposion* can be beneficial, what *is* the benefit of drunkenness? Cleinias can see the good *syssitia* do us: if an army fights under good leadership, it will win victory in war, a not inconsiderable good. But if the Athenian is right to assert that a *symposion*, at least when under the guidance of a competent symposiarch, has favourable effects, what important good results derive from such a well-supervised *symposion*, for individuals and for the *polis* (συμποσίου δὲ ὁρθῶς παιδαγωγηθέντος τί μέγα [*sc.* ἀγαθὸν] ἰδιώταις ἢ τῇ πόλει γίγνεται ἄν; 641b1-2; *cf.* 641a4-5)? The Athenian corrects Cleinias’ question: naturally, if one inquires after the benefit for the city of one *symposion* by itself that benefit will be little indeed (εἴποιμεν ἄν ὥς ἐνὸς μὲν βραχὺ τι τῇ πόλει γίγνεται ἄν ὄφελος, 641b5-6). But if Cleinias means to ask a more general question of what great benefit education bestows upon the city (εἰ δ’ ὅλως ἐρωτᾷς παιδείαν τῶν παιδευθέντων, 641b6-7), that question is not difficult to answer: those who have been well educated become virtuous people (παιδευθέντες μὲν εὖ γίγνεται ἄν ἄνδρες ἀγαθοί, 641b8).⁶⁸ Here begins the argument that determines the rest of the discussion until the end of Book II: whether or not *symposia* are beneficial for παιδεία.

The Athenian first presents a general idea of what he has in mind when he uses the term παιδεία. Those who aim to become professionals in anything

⁶⁷ *Leg.* 640d9-e5.

⁶⁸ Interestingly, when Cleinias asks the Athenian whether he can assert whether this claim is true (641d4-5), the Athenian responds by a disclaimer: Τὸ μὲν ἀληθές, ὃ ξένη, δυσχυρίζεσθαι ταῦτα οὕτως ἔχειν, πολλῶν ἀμφισβητούντων, θεοῦ· εἰ δ’ ὅπῃ ἐμοὶ φαίνεται δεῖ λέγειν, οὐδεὶς φθόνος, “The truth of my statement, which is disputed by many, it is for God to assert; but I am quite ready to give, if required, my own opinion, now that we have, in fact, embarked on a discussion of laws and constitutions” (transl. BURY) (641d6-8). The goal of the discussion is *not* to map out the truth.

must practice it from childhood (τοῦτο αὐτὸ ἐκ παίδων εὐθὺς μελετᾶν δεῖν, 643b5).⁶⁹ This holds true for all professions, but the Athenian wants to reserve the term παιδεία for παιδεία in excellence (πρὸς ἀρετὴν ... παιδείαν, 643e4). From the outset, παιδεία is interpreted as *practising* or *training* (consistent with the Spartan idea that ἀνδρεία must be trained, which was the point of departure in the discussion). Παιδεία is a teleological process.⁷⁰ The virtuous (ἀγαθοί) are those able to control themselves, which, in turn, is consistent with the earlier definition of virtue as being κρείττων ἑαυτοῦ.⁷¹ This capacity must be practised by controlled exposure.

The Athenian illustrates his claim about the need for education with an εἰκὼν (644c1ff.). This is the εἰκὼν of the “puppet” (θαῦμα),⁷² and we do well to

⁶⁹ See *Leg.* 643b4-d3.

⁷⁰ *Leg.* 643c6-d3: (...) καὶ πειραῖσθαι διὰ τῶν παιδιῶν ἐκεῖσε τρέπειν τὰς ἡδονὰς καὶ ἐπιθυμίας τῶν παίδων, οἱ ἀφικόμενοι αὐτοὺς δεῖ τέλος ἔχειν. κεφάλαιον δὲ παιδείας λέγομεν τὴν ὀρθὴν τροφήν, ἣ τοῦ παίζοντος τὴν ψυχὴν εἰς ἔρωτα μάλιστα ἄξει τούτου ὃ δεήσει γενόμενον ἀνδρὶ αὐτὸν τέλειον εἶναι τῆς τοῦ πράγματος ἀρετῆς. “So, by means of their games, we should endeavour to turn the tastes and desires of the children in the direction of that object which forms their ultimate goal. First and foremost, education, we say, consists in that right nurture which most strongly draws the soul of the child when at play to a love for that pursuit of which, when he becomes a man, he must possess a perfect mastery” (transl. BURY). SCHÖPSDAU (1994) *ad loc.*: notes that τέλος ἔχειν can be interpreted equally as “erwachsen sein”, but also, in virtue of τέλειον εἶναι, “Vollendung, vollkommene Beherrschung”. In *Laws*, old age (being πρεσβύτερος) is particularly associated with complete virtue, see below, p. 116 and n. 134 *ibid.*

⁷¹ *Leg.* 644b6-7 (the Athenian is speaking): Καὶ μὴν πάλαι γε συνεχωρήσαμεν ὡς ἀγαθῶν μὲν ὄντων τῶν δυναμένων ἄρχειν αὐτῶν, κακῶν δὲ τῶν μὴ. Cf. 626e2-5, where τὸ νικᾶν αὐτὸν αὐτόν is the closing piece of a quantitative series (from *polis* to individual).

⁷² The accounts of the puppet analogy in the scholarly literature vary. Many exegetes have defended a pessimistic reading of the puppet image, arguing that it represents the individual as being at the mercy of irrational forces, or lacking autonomy: e.g. GÖRGEMANNS (1960), 120 n. 2 and 160f.; RANKIN (1962), 131; KLOSKO (2006), 219-221: the puppet analogy is an extension of Plato’s “lack of hope” regarding the philosopher-king on the psychological level; NIGHTINGALE (1999a) thinks it “suggests a lack of complete autonomy” (104); RUSSELL (2005) thinks that the analogy “paints a notoriously alarming picture of human agency and motivation” (226); LAKS (2005), 45-47 connects his pessimistic reading of the puppet with *Laws* allegedly second-best *polis*. Other interpreters have defended an optimistic reading of the puppet analogy. According to ADKINS (1960) “(...) Plato does not assert that the gods pull the strings and that man must needs follow where they lead, in the sense that each individual action is determined from above. The sole relation of the ‘strings’ to the gods seems to be that the gods have planted them in us, and we can do nothing about their presence. In that sense men are at the mercy of the strings, but in no other” (302); STALLEY (1983): “[t]he puppet, oddly enough, has a certain freedom: it can choose which of the three strings to co-operate with. If we take this seriously it suggests that the choosing self is distinct both from reason

keep in mind that what has become known as the “puppet analogy” is an elucidation of the need for *paideia* understood as training.⁷³

Each individual person, although one (ἓνα, 644c4), has within himself two “unsensible and opposite counsellors” (συμβούλω ἐναντίω τε καὶ ἄφρονε, 644c6-7), namely “pleasure” (ἡδονή), and “pain” (λύπη). The Athenian continues (644c9-d3):

ΑΘ. Πρὸς δὲ τούτοις ἀμφοῖν αὖ δόξας μελλόντων, οἷν κοινὸν μὲν ὄνομα ἐλπίς, ἴδιον δὲ, φόβος μὲν ἢ πρὸ λύπης ἐλπίς, θάρρος δὲ ἢ πρὸ τοῦ ἐναντίου· ἐπὶ δὲ πᾶσι τούτοις λογισμὸς ὅτι ποτ’ αὐτῶν ἄμεινον ἢ χεῖρον, (...).

ATH. (...) that, in addition, each man possesses opinions about how these two will occur in the future,⁷⁴ which go by the general name of ‘expectations’; and of these, that which anticipates pain bears the special name of ‘fear’, and that which anticipates pleasure the special name of ‘confidence’; and in addition to all these there is ‘calculation’, deciding which of them is good, which bad; (...). (Transl. BURY, adapted)

Besides ἡδονή and λύπη, we also have beliefs about future λύπαι and ἡδοναί, with the common name “expectation” (ἐλπίς): on the one hand, the expectation of ἡδονή, called θάρρος (“confidence”); on the other hand, the expectation of λύπη, called φόβος (“fear”). In addition to all of these (ἐπὶ δὲ πᾶσι τούτοις), we have “calculation” (λογισμός).

and from the passions, (...)” (61); SCHÖPSDAU (1994) “statt resignatives Symbol *hilfloser Abhängigkeit* des Menschen von der Gottheit zu sein, ist die Marionette gerade umgekehrt ein Bild für die *hilfreiche Lenkung* durch die Gottheit” (235, italics in original); BOBONICH (2002) “we can pull our own wires” (266); LAURENT (2006): “c’est l’homme lui-même qui, par les décisions de l’âme, accepte ou refuse les tractions reçues de l’extérieur...” (461). My own reading supports the more positive assessment of the εἰκόν. For a relatively neutral reading, see FREDE (2010), 116-120.

⁷³ See also the end of the εἰκόν (645c1-4): ἐναργεστέρου δ’ αὐτοῦ γενομένου καὶ παιδεία καὶ τᾶλλα ἐπιτηδεύματα ἴσως ἔσται μᾶλλον καταφανῆ, καὶ δὴ καὶ τὸ περὶ τῆς ἐν τοῖς οἴνοις διατριβῆς, κτλ. “A further result will be a clearer distinction between virtue and vice; the light cast on that problem will perhaps in turn help to clarify the subject of education and the various other practices, particularly the business of drinking parties” (transl. SAUNDERS).

⁷⁴ In 644c9, πρὸς should not be construed with τούτοις ἀμφοῖν (“besides these two”; so SCHÖPSDAU [1994], 236, *ad* 644d1), but in an absolute sense (“in addition”). This reading is confirmed by αὖ, which would otherwise have been redundant: it signals a distinction between ἡδονή and λύπη on the one hand, and, on the other hand δόξαι of τούτοις ἀμφοῖν [λύπη and ἡδονή], φόβος and θάρρος. This also seems to have been the reading of STEPHANUS (who proposed to read μελλόντων) and AST (see ENGLAND *ad loc.*).

In virtue of these different sorts of motivations within one person, the Athenian likens an individual human being to a “puppet, ... the divine [one] among the living animals” (θαῦμα ... τῶν ζώων θεῖον, 644d7-8). The puppet is an image of “each one of us” (ἐκαστον ἡμῶν, 644d8).⁷⁵ In this puppet, there are three forces: θάρρος, φόβος,⁷⁶ and λογισμός. These three forces are called “affections” (πάθη)⁷⁷ and are claimed to resemble “cords” or “strings” (οἶον νεῦρα ἢ σμήρινθοί τινες), that, being opposed to each other, drag human beings along and draw them in opposite directions, towards opposite activities (σπῶσίν τε ἡμᾶς καὶ ἀλλήλαις ἀνθέλκουσιν ἐναντίαι οὔσαι⁷⁸ ἐπ’ ἐναντίαις πράξεις, 644e2-3).⁷⁹

⁷⁵ BOBONICH (2002) thinks that, since the puppet illustrates the phrase “being stronger (or weaker) than oneself”, it illustrates “what goes on in a person during akratic conflict” (262); ANNAS (1999): the puppet is “the person who just drifts and yields unthinkingly to the pulls of pleasure and pain who is like a puppet...” (143). BELFIORE (1986) rightly thinks that “all of the benefits of drunkenness are intended for older people” and that therefore, the puppet “is most naturally taken to represent an older person” (425, cf. n. 15, *ibid.*). Cf. TECUŞAN (1990), 247; SCHÖPSDAU (1994), 231. RANKIN (1962) however thinks that the puppet “is associated with childhood” (131). Cf. SCHÖPSDAU (1994): the analogy “symbolisiert die Seele des erwachsenen Menschen” (231).

⁷⁶ Cf. Arist. *EN* II, 1105b21-22: λέγω δὲ πάθη μὲν ἐπιθυμίαν ὀργὴν φόβον θάρρος φθόνον χαρὰν φιλίαν μῖσος πόθον ζῆλον ἔλεον, ὅλως οἷς ἐπεται ἡδονὴ ἢ λύπη, “By passions I mean appetite, anger, fear, confidence, envy, joy, love, hatred, longing, emulation, pity, and in general the feelings that are accompanied by pleasure or pain” (transl. BARNES).

⁷⁷ BOBONICH (2002), 540 n. 77, raises the question of why λογισμός is called one of the πάθη, and argues that πάθος in Plato is often used in the sense of ‘state’ rather than ‘affection’.

⁷⁸ The cords are “opposite” because they pull a person in opposite directions, *i.e.*, pleasure and pain are opposed to each other, not to reason, like BOBONICH (2002), 264, 541 n. 85, and SASSI (2008), 131, 138, claim. I do not see evidence in this passage for SASSI’s (2008) claim that “a primary aim of legislation is the repression of the *whole* plane of emotions” (138-147, italics in original).

⁷⁹ The cords have often been interpreted as another depiction of soul *parts*, *e.g.* by SAUNDERS (1962), SCHÖPSDAU (1994), 231; WOERTHER (2008), 95-97; SASSI (2008), 130; IRWIN (2010), 99-100. BOBONICH (2002), 261-263 and Chapter 4, has correctly argued (on the basis of arguments different from my own) that the puppet-image does not involve a tripartite soul (*cf.* FREDE [2010], 118): none of the emotions or beliefs “is described as a part or as agent-like and no affection is the sort of thing that could have beliefs or desires” (261). He is criticized by GERSON (2003) and KAHN (2004), who argues that the peculiarities of *Laws*’ psychology can be adequately explained by its different context, so that there is no need to postulate a change in Plato’s thinking about the soul, which he thinks unlikely since *Timaeus* upholds the tripartite conception of the soul. SASSI (2008) argues that *Laws* “downgrades” θυμός and that the “regulatory force of law is intended precisely to fill the gap between the rational and the irrational that is opened up by the reduced motivational role of *thumos*” (138); for a similar association between θυμός and law: SAUNDERS (1962). The question of whether the later dialogues support a tripartite or bipartite soul is a vexed issue in itself. For

The λογισμός weighs up the strong and weak points of the δόξαι about the future. The term λογισμός, “calculation”, *computatio*, implies that this involves some sort of rationality. The λογισμός reasons out how far one must go in ἡδονή and λύπη and helps one to choose, or enables one to make better choices—it is therefore not a standard or criterion, but an instrument or faculty for making practical decisions.⁸⁰

In the εἰκών, the λογισμός is a “golden” (χρυσῇ) cord. By contrast, the cords of θάρρος and φόβος are “hard and iron” (σκληρὰς καὶ σιδηρᾶς) and stronger than λογισμός, which is, because it is golden, “weak” (μαλακῇ).⁸¹ Since λογισμός is elegant⁸² and “gentle” (πραῶς) instead of “violent” (βίαιος),⁸³ it needs the guidance of assistants (δεῖσθαι ὑπηρετῶν αὐτοῦ τὴν ἀγωγὴν, 645a6-7). The weakness of λογισμός and the strength of the other two cords explain both why helpers are necessary and why self-restraint—in terms of the puppet εἰκών, following the cord of λογισμός—needs to be practised. The implicit question is, then, *how*. Since the εἰκών illustrates the need for *paideia* and the *symposia* in particular (645c1-4), the outcome hinted at is that a suitable environment for practising are the *symposia*.

literature on tripartition, also on tripartition in dialogues later than *Republic*, see CAIRNS (1993), 381, n. 111. For a bipartite soul in *Laws* argue REES (1957), SAUNDERS (1962), but “the bipartite analysis can never *exclude* the tripartite” (37, italics in original) and cf. SASSI (2008), especially 133-138, with reference to Arist. *Magn. Mor.* 1182a23ff. (a division between λόγον ἔχον and ἄλογον elements of the soul), and *DA* 432a26.

⁸⁰ Cf. FREDE (2010), who rightly notes that there is “no hint of a higher metaphysical task of the calculative faculty in the *Laws*” (118). However, she considers this to be one of the “omissions” of the puppet-image, the omissions suggesting that the puppet-image “serves only a limited purpose and may not fully disclose Plato’s psychology in the *Laws*” (*ibid.*).

⁸¹ FREDE (2010), 117, argues that this opposition does not mean that calculation has less power than the other two strings, but that the “hardness” of the latter “signifies only their inflexibility”, while reasoning does not exert force. Such a reading, however, seems unlikely in virtue of the fact that the puppet-analogy is meant to illustrate the need for *paideia* and the training of λόγος in the context of the *symposia*. Λογισμός needs helpers precisely because it is weaker than the other two cords.

⁸² *Leg.* 645a5-6: ἄτε γὰρ τοῦ λογισμοῦ καλοῦ μὲν ὄντος; cf. 645a4: τῇ καλλίστῃ ἀγωγῇ.

⁸³ This opposition is reflected in the terminology used to frame the difference between law as persuasive preamble and simple law: *Leg.* 720a5-6: τὸν πραότατον ... τρόπον, opposed to βία (722b6, c2).

Λογισμός is given the name of “law”, νόμος, when it has become the shared conviction of a *polis* (λογισμός (...) ὃς γενόμενος δόγμα πόλεως κοινὸν νόμος ἐπωνόμασται, 644d2-3).⁸⁴ The assistants of the λογισμός of the individual citizen are the laws:⁸⁵ The laws educate the individual citizen in accordance with the λογισμός laid down in the laws. The weak λογισμός of the individual citizen is trained and shaped by the λογισμός codified in the laws.⁸⁶ The characterizations of the λογισμός as “friendly” (πρᾶος) and each of the other cords as “violent” (βίαιος) contain hints about the sort of behaviour associated with λογισμός. The golden cord of λογισμός prompts behaviour that is courteous, reasonable, and according to law; behaviour motivated by either θάρρος or φόβος may be a transgression of the social norms. The puppet εἰκὼν elucidates what the Athenian has in mind with the phrase “being stronger and weaker than oneself” (τὸ κρείττω ἑαυτοῦ καὶ ἥττω εἶναι, 645b2-3).

The εἰκὼν is somewhat complex because λογισμός features in it at two levels. The first level is the individual: the λογισμός is one of the three cords that are by nature present in each individual person (which seems to be the

⁸⁴ *Leg.* 644d2-3 λογισμός (...) ὃς γενόμενος δόγμα πόλεως κοινὸν νόμος ἐπωνόμασται (see also above); 644e6-645a2: ταύτην δ' εἶναι τὴν τοῦ λογισμοῦ ἀγωγὴν χρυσὴν καὶ ἱερὰν, τῆς πόλεως κοινὸν νόμον ἐπικαλουμένην; 645a4-5: δεῖν δὴ τῇ καλλίστῃ ἀγωγῇ τῇ τοῦ νόμου αἰεὶ συλλαμβάνειν.

⁸⁵ Much in the way described by Protagoras in Plato's eponymous dialogue. As soon as children quit school, their *paideia* is taken over by the *polis* and the laws, *Prot.* 326c6-d1: ἐπειδὴν δὲ ἐκ διδασκάλων ἀπαλλαγῶσιν, ἡ πόλις αὐτοὺς τε νόμους ἀναγκάζει μανθάνειν καὶ κατὰ τούτους ζῆν κατὰ παρὰδειγμα, ἵνα μὴ αὐτοὶ ἐφ' αὐτῶν εἰκὴ πράττωσιν, κτλ. “And when they [the sons of the richest citizens] quit school, the city in turn compels them to learn the laws and to model their lives on them. They are not to act as they please” (transl. LOMBARDO & BELL in COOPER, CW).

⁸⁶ ENGLAND *ad* 645a6 sees in δεῖσθαι ὑπηρετῶν αὐτοῦ τὴν ἀγωγὴν a resemblance with *Resp.* 441e3-5. But the claim that τὸ θυμοειδές is ὑπήκοος and σύμμαχος to the λογιστικόν matches the charioteer-analogy in the *Phaedrus*. The gentle pull of λογισμός does not receive assistance from another soul-part. GÖRGEMANNS (1960) disputes that besides λογισμός and the pleasure and pain there is “eine weitere selbständige Kraft”; he thinks rather that one must help others to follow the law; by the ὑπηρεταί thus is meant, according to him, “die staatlichen Erziehung” (121).

reason why a human is a *divine* ζῶον).⁸⁷ The εἰκὼν pertains to human beings in general: all human beings possess (a rudimentary) λογισμός, even though becoming capable of being κρείττων ἑαυτοῦ requires further education. The second level is the *polis*. In the *polis*, λογισμός is the law. The transition from individual to political λογισμός (λογισμός ..., ὃς γενόμενος δόγμα πόλεως κοινὸν νόμος ἐπωνόμασται) suggests that νόμος in practice is the λογισμός of one individual, the lawgiver.⁸⁸ His personal λογισμός has become law.

Due to this ambiguous use of the term λογισμός, any special qualification someone may need in order to become a lawgiver remains out of sight.⁸⁹ The education of a person's λογισμός by the νόμος of the city when this νόμος is itself also a λογισμός entails a circularity.⁹⁰ The εἰκὼν is compatible with the existence of differences between individual law codes. At the same time, it embeds those differences within a unifying conception of the human being as a—potentially—rational ζῶον.

⁸⁷ Leg. 644d8. The fact that human beings are called a θεῖον θαῦμα may be connected with the assertion at 654e3-5 (see below, p. 120, and n. 147 on p. 120), that only human beings have a sense of τάξις.

⁸⁸ The λογισμός that has become law is not a kind of aggregated λογισμός, cf. FREDE (2010), 117. It is the λογισμός of an individual lawgiver. This is conformed by 645b6-7. A *polis* institutes as νόμος the λόγος which it has received *either* from a god *or* from someone with insight in it (ἢ παρὰ θεῶν τινος ἢ παρὰ τούτου τοῦ γνόντος, 645b6). Cf. FREDE (2010), 117-118, although she holds that “it is emphasized that laws *should* come from a god or from someone with superior understanding” (*ibid.*, my italics). This is, however, a factual statement. The point is that the νόμος in a *polis*—according to this εἰκὼν—is λόγος (for the distinction between λόγος and λογισμός, see SCHÖPSDAU [1994], below, n. 89). The alternatives (ἢ ... ἢ ...) leave in the middle who exactly lays down the laws, creating considerable vagueness concerning the original lawgiver; *whose* λόγος it is, is of secondary importance and perhaps cannot be settled in a definitive way.

⁸⁹ Cf. SCHÖPSDAU's note (1994), 233-234 and 237-238 *ad* 644e4-5 on the relation between λογισμός and λόγος. “Dieser ins Gesetz eingegangene und von ihm [*sc.* Logismos] verkündete ὁρθὸς λόγος weist umgekehrt dem λογίζεσθαι des Individuums in der konkreten Situation die Richtung” (234). According to NIGHTINGALE (1999a), the parallel between soul and city is “blurred”, since 644e4-645a8 says that laws “provide the rational deliberation for both city and soul” (104). NIGHTINGALE's interpretation of ἐπικαλουμένην (645a2) as “to call in as a helper or ally” (104, n. 13) reverses the primacy: in her reading, the λογισμός of the individual citizen summons as its helper the law, whereas the content of the λογισμός of the individual is *determined by* the law.

⁹⁰ Cf. SCHILLER (1790) about Sparta: “Der wichtigste Teil seiner [Lycurgus'] Gesetzgebung war daher die Erziehung, und durch diese schloß er gleichsam den Kreis, in welchem der spartanische Staat sich um sich selbst bewegen sollte. Die Erziehung war ein wichtiges Werk des Staats, und der Staat ein fortdauerndes Werk dieser Erziehung” (in CHRIST [1986], 77).

The puppet-analogy reflects an essentially optimistic attitude towards the human capacity for excellence: λογισμός is innate in every person by nature; it is implied that *paideia* in principle enables every person to become ἀγαθός.

3.2.3 *Symposia and syssitia*

The puppet-εἰκὼν has offered a psychological diagnosis of the human being that illustrated the need for *paideia*. Returning to the topic of the *symposia*, the Athenian asks his interlocutors what would happen to such a puppet under the influence of wine.⁹¹ Obviously, wine would intensify its pleasures, pains, agitations and lusts. By contrast, the puppet's rational elements, such as perceptions (αἰσθήσεις), memories (μνήμαι), opinions (δόξαι) and insights (φρονήσεις) would altogether disappear, bringing the adult back to a state of childhood, in which reason is far less prominent.⁹² So, what could be the Athenian's reason for insisting on the ὠφελία of *symposia*, if these lead to bodily as well as spiritual depravity?⁹³

But the effects of training or taking medicine are, the Athenian explains, only initially hard to bear. It is only during the few days after drinking the medicine, or immediately after beginning an intensive training that people find themselves in an almost intolerable condition.⁹⁴ Those who take medicines or go to the *gymnasia* for a work-out do so for the sake of a benefit (ὠφελία) that will

⁹¹ *Leg.* 645d1-2.

⁹² Cf. below, p. 119.

⁹³ *Leg.* 646b4-c1.

⁹⁴ *Leg.* 646c3-7 (the Athenian): Τί οὖν; τοὺς εἰς τὰ ἰατρεῖα αὐτοὺς βαδίζοντας ἐπὶ φαρμακοποσίᾳ ἀγνοεῖν οἴομεθα ὅτι μετ' ὀλίγον ὕστερον καὶ ἐπὶ πολλὰς ἡμέρας ἔξουσιν τοιοῦτον τὸ σῶμα, οἷον εἰ διὰ τέλους ἔχειν μέλλοιεν, ζῆν οὐκ ἂν δέξαιντο; ἢ τοὺς ἐπὶ τὰ γυμνάσια καὶ πόνους ἰόντας οὐκ ἴσμεν ὥς ἀσθενεῖς εἰς τὸ παραχρῆμα γίνονται; "Well then, do we suppose that persons who go of themselves to dispensaries to drink medicines are not aware that soon afterwards, and for many days to come, they will find themselves in a bodily condition such as would make life intolerable if it were to last forever? And we know, do we not, that men who go to the gymnasia for hard training commence by becoming weaker?" (transl. BURY).

result from it in the long run.⁹⁵ The same pertains to the *symposion*.⁹⁶ Yet Cleinias—once again—says that he would be surprised if indeed they could discern such a benefit in *symposia*.⁹⁷

The Athenian now embarks on a somewhat complex argument, drawing a distinction between two kinds of fear (δύο φόβων εἶδη, 646e4). These kinds of fear are each other's opposites. The first kind is the fear that bad things will happen (φοβούμεθα μὲν που τὰ κακά, προσδοκῶντες γενήσεσθαι, 646e7-8). This is essentially the kind of fear that training in ἀνδρεία aims to overcome, cowardice. The second kind of fear is the fear of being thought disrespectful (ἡγούμενοι δοξάζεσθαι κακοί, 646e10-11). This is social fear, the fear of a bad reputation, which is called "embarrassment", αἰσχύνη (647a2).

This social fear is of special interest to the lawgiver.⁹⁸ Any lawgiver who is worth anything (πᾶς [νομοθέτης] οὗ καὶ σμικρὸν ὄφελος—there is absolutely no mention of an *expert* lawgiver) should have the highest regard for this fear and call it αἰδώς, "self-restraint".⁹⁹ The opposite of αἰδώς is θάρρος ("confidence"), which should be called ἀναίδεια ("shamelessness"; cf. ἀναισχυντία) and be declared the gravest fault, both in private and public dealings. Αἰδώς, says the Athenian, "saves" (σώζει) us in many respects. Among these is war. For victory in war is not only motivated by θάρρος in the

⁹⁵ Leg. 646c9-10.

⁹⁶ Leg. 646d5-6.

⁹⁷ Leg. 646e1-2: Ὅρθῳς λέγεις, θαυμάζοιμι δ' ἂν εἴ τι δυναίμεθα τοιοῦτον ἐν αὐτῷ καταμαθεῖν.

⁹⁸ Leg. 646e10-647a2, 647b7, 671d2.

⁹⁹ Leg. 647a10, 649c2, 671d2, 672d8; cf. 699c4-6, where αἰδώς is the "fear" inspired by the traditional laws (ὁ φόβος (...) ὁ (...) ἐκ τῶν νόμων τῶν ἐμπροσθεν γεγονώς). For a study of αἰδώς from Homer to the classical period, see CAIRNS (1993); on αἰδώς in *Laws* *ibid.*, 373-378: "Aidōs/laischunē are here persistently related to fear of the external sanction of disgrace, but the creation of a sense of *aidōs* which can withstand the influence of alcohol also suggests the acquisition of an *instinctive disposition* towards self-control; (...)". Therefore, αἰδώς in *Laws* "appears in thoroughly traditional guise" (374-375, my italics). ROWE (2007) argues that there is a relevant distinction between the αἰδώς τις of the Athenians at Marathon and Salamis (discussed in the historical overview of Leg. III) and the αἰδώς the Athenian wants to produce in the citizens; see especially 99-100. For central place of self-control in *Laws*: CAMPBELL (1981); STALLEY (1983), 54-56 defends the thesis of BARKER (cited in the edition of [1960], 343), that σωφροσύνη is as fundamental to *Laws* as δικαιοσύνη is to *Republic*.

face of the enemy (θάρρος here being a stand-in for ἀνδρεία), but *also* by the fear to be a coward in the eyes of one's friends.¹⁰⁰ The upshot is that each person must therefore be both ἄφοβος and φόβερτος.¹⁰¹

The distinction between two kinds of fear (as object and subject) and two kinds of virtues (θάρρος¹⁰² or ἀνδρεία, and αἰδώς) adumbrates the parallel between the *syssition* (a training in ἀνδρεία) and the *symposion* (a training in αἰδώς).¹⁰³ But this argument does more than establish a parallel. In introducing the virtue of αἰδώς, the Athenian holds on to the idiom of the Spartan-Cretan perspective, which conceives of virtue (ἀνδρεία) in terms of φόβος and θάρρος. Therefore, αἰδώς is introduced under the denominator of "fear". But once αἰδώς has been introduced besides ἀνδρεία/θάρρος, the perspective on these Spartan-Cretan military values changes: θάρρος is cast in a negative light,

¹⁰⁰ Leg. 647b3-7 (Athenian): Οὐκοῦν τὰ τ' ἄλλα πολλὰ καὶ μεγάλα ὁ φόβος ἡμᾶς οὗτος σῶζει, καὶ τὴν ἐν τῷ πολέμῳ νίκην καὶ σωτηρίαν ἐν πρὸς ἐν οὐδὲν οὕτως σφόδρα ἡμῖν ἀπεργάζεται; δύο γὰρ οὖν ἐστὸν τὰ τὴν νίκην ἀπεργαζόμενα, θάρρος μὲν πολεμίων, φίλων δὲ φόβος αἰσχύνῃς περὶ κακῆς. "And does not this fear, besides saving us in many other important respects, prove more effective than anything else in ensuring for us victory in war and security? For victory is, in fact, ensured by two things, of which the one is confidence towards enemies, the other, fear of the shame of cowardice in the eyes of friends" (transl. BURY).

¹⁰¹ Leg. 647b9-c1.

¹⁰² For θάρρος used more or less synonymously to ἀνδρεία: Leg. 647b6.

¹⁰³ That αἰδώς can be trained is the result of the juxtaposition between the *symposion* and training for war implicit in the whole passage, but see especially Leg. 635c3-d6; also 647c8-d7: ΑΘ. Τί δ' ὅταν ἐπιχειρῶμέν τινα φοβερόν ποιεῖν μετὰ δίκης; ἄρ' οὐκ ἀναισχυντία συμβάλλοντας αὐτὸν καὶ προσγυμνάζοντας νικᾶν δεῖ ποιεῖν διαμαχόμενον αὐτοῦ ταῖς ἡδοναῖς; ἢ τῇ μὲν δειλία τῇ ἐν αὐτῷ προσμαχόμενον καὶ νικῶντα αὐτὴν δεῖ τέλεον οὕτω γίγνεσθαι πρὸς ἀνδρείαν, ἄπειρος δὲ δήπου καὶ ἀγύμναστος ὢν τῶν τοιούτων ἀγώνων ὅστισοῦν οὐδ' ἂν ἡμισυς ἑαυτοῦ γένοιτο πρὸς ἀρετὴν, σῶφρων δὲ ἄρα τελέως ἔσται μὴ πολλαῖς ἡδοναῖς καὶ ἐπιθυμίαις προτρεπούσαις ἀναισχυντεῖν καὶ ἀδικεῖν διαμεμαχημένος καὶ νενικηκώς μετὰ λόγου καὶ ἔργου καὶ τέχνης ἐν τε παιδιαῖς καὶ ἐν σπουδαῖς, ἀλλ' ἀπαθὴς ὢν πάντων τῶν τοιούτων; ΚΛ. Οὐκοῦν τὸν γ' εἰκότα λόγον ἂν ἔχοι. ΑΘ.: "And how about the opposite case, when we attempt with the aid of justice to make a man fearful? Is it not by pitting him against shamelessness and exercising him against it that we must make him victorious in the fight against his own pleasures? Or shall we say that, whereas in the case of courage it is only by fighting and conquering his innate cowardice that a man can become perfect, and no one unversed and unpractised in contests of this sort can attain even half the excellence of which he is capable,—in the case of temperance, on the other hand, a man may attain perfection without a stubborn fight against hordes of pleasures and lusts which entice towards shamelessness and wrong-doing, and without conquering them by the aid of speech and act and skill, alike in play and at work,—and, in fact, without undergoing any of these experiences?" CL.: "It would not be reasonable to suppose so" (transl. BURY).

assuming connotations of audacity.¹⁰⁴ In this argument, αἰδώς can replace θάρρος as the central virtue, as θάρρος elicits charges of *overconfidence*. Furthermore, as we saw above, victory in war is attributed to a dual cause: not only to confidence in the face of the enemy, to which a Cleinai and Megillus would readily admit, but also to fear of a bad reputation in the eyes of one's φίλοι. The ambiguity inherent in θάρρος forces the interlocutors to reassess the value of ἀνδρεία—one may go to excess in being courageous, and therefore, as a virtue, ἀνδρεία does not suffice. By contrast, the virtue of αἰδώς is not liable to less favourable interpretations—one cannot excess in αἰδώς. Self-restraint motivated by the fear of the rebuke of others thus substitutes ἀνδρεία as the core virtue.¹⁰⁵ The *symposion* as a training for virtue replaces the *syssition*.

The fact that in the context of the *symposion* αἰδώς emerges as the key virtue is startling in a work of Plato, because αἰδώς eclipses an “increasing discrimination between mere concern for others’ opinions and concern for those of the truly noble”¹⁰⁶ of the kind that we find in texts such as *Apology* and *Crito*,

¹⁰⁴ Leg. 647a10.

¹⁰⁵ CAIRNS (1993) argues that αἰδώς and related terms have an “intimate relationship with conventional values and social disapproval”; they are associated with fear of punishment (which however does not mean that αἰδώς “is envisaged solely as a response to external sanctions” (355). See also above, n. 99, for CAIRNS’ remark that in *Laws* αἰδώς appears in “thoroughly traditional guise”. *Laws* 700a-701b is one of the “earliest expressions of *aidōs* in the state which stress the external sanctions of punishment and popular opinion and advocate deference to human and institutional authority” (*ibid.*, 376). This is baffling in a Platonic work. I submit that conceptually, the role of αἰδώς in *Laws* is similar to its role in Protagoras’ ethics (to the extent that it can be reconstructed; see for a particularly successful attempt BERESFORD [2013]): αἰδώς “is necessary for the existence of the social and political community” (*ibid.*, 358). Both the Protagoras-myth and *Laws* deem αἰδώς essential for the σωτηρία of society. We may also note the following striking correspondences between the purport of the Protagoras-myth and *Laws*: (1) Protagoras’ *logos* in Plato’s eponymous dialogue presents αἰδώς as the product of education, while also allowing for “varying degrees of innate capacity” (the αὐληταί-analogy in *Prot.* 327c-d; cf. *Prot.* B 3 DK), CAIRNS *ibid.*, 356-357, with note 40. (2) This education assumes “that citizens internalize the values imparted in the process of education” (358), which is precisely the thought we encounter in the *symposion*- and χορεία-episode, see below, p. 116ff. (section 3.3). (3) The fact that “the acquisition of those qualities which allow men to live together successfully is assumed to be desirable” assumes the view that it is “better for human beings to live in civilized communities” (*ibid.*, 358, n. 45). Cf. *ibid.*, 376, n. 97.

¹⁰⁶ CAIRNS (1993), 378.

but also *Phaedrus* and *Symposium*.¹⁰⁷ We do find in *Laws* an insistence on the superiority of the opinion of “the most reasonable and most senior people”, οἱ ἐπιεικέστατοι καὶ πρεσβύτατοι (659d3). But these are authorities *within* the context of the *polis*. Senior citizens possess authority because they are the people who are most experienced in the *polis*’ own laws and have had the most extensive *paideia*, not because they possess objective ἐπιστήμη of moral truth. They are internal authorities, fundamentally different from the kind of authority of the philosopher-kings, whose double function, as we saw, gives them a position *outside* the just *polis*.¹⁰⁸

The *symposion* as the context for training virtue replaces the *syssition*. Even though the *symposion* still involves a certain risk that things may get out of hand, in contrast to war it is a relatively safe environment for testing people’s virtue. Wine as a “touchstone” (βάσανος) for people’s moral quality is unrivalled in cheapness, safety and speed (τό τε τῆς εὐτελείας καὶ ἀσφαλείας καὶ τάχους διαφέρειν πρὸς τὰς ἄλλας βασάνους, 650b3-4).¹⁰⁹ The *symposion* is a form of play (παιδιά), and preferable for that very reason: it stimulates a better kind of virtue than ἀνδρεία in a safer environment than war.¹¹⁰ The fact that on the dramatic level the Athenian’s recommendation of the *symposion* is triggered by Megillus’ claim that the Spartan expulsion of the *symposion* proves

¹⁰⁷ We may recall that in *Crito* Socrates *denies* that αἰσχύνη and popular opinion (δόξα) are relevant motivations for action compared to what is truly just to do (44c6-8), and refuses even to be persuaded by the arguments of his friends. Chapter two has offered a reading of the *Laws*’ speech in *Crito* as Socrates’ apology for his choice to his φίλοι in a speech that does endorse the value of φιλία and solidarity, but professes a different priority in his loyalty. This higher φιλία transcends the loyalty to his human friends. In *Gorgias*, αἰσχύνη disqualifies an interlocutor in dialectic, 482e6-483a1, 487a5-2, 494c5; ἀναίσχυντία is, philosophically speaking, desirable.

¹⁰⁸ See chapter two, section 2.3.4.

¹⁰⁹ Cf. ἐν οἴνῳ βασάνου καὶ παιδιᾶς (649d9); the *symposion* allows “insight in the natures and conditions of the souls”, τὸ γινῶναι τὰς φύσεις τε καὶ ἕξεις τῶν ψυχῶν (650b6); cf. τὸ κατιδεῖν πῶς ἔχομεν τὰς φύσεις (652a2-3). “To the connoisseur, the parallelism with dialectics is striking: in the same way as dialectics is a test for the truth of a statement (...), the consumption of wine is a test for the quality of the soul itself”, VAN RAALTE (2004), 306.

¹¹⁰ It is more dangerous to expose a person with a bad and fierce soul to money transactions, or to entrust to a person subdued by sexual pleasures his own daughters, sons and wife, *Leg.* 649e2-650a5. The *symposion* as a test is relatively harmless and therefore a form of παιδιᾶ (649d6, 650a6-7).

the superiority of Spartan law contributes to the playful character of the argument.

An overt defence of *symposia* and even of drunkenness (μέθη) is hardly what one would have expected of Plato.¹¹¹ In the light of the unremitting condemnation, most notably in *Republic*, of music and poetry that portray characters overcome by their emotions, it seems perplexing that wine is recommended as a φάρμακον to augment one's emotions is perplexing.¹¹² The whole *symposion*-episode seems to be Plato speaking in a lighter vein.¹¹³

The discussion in Book I took its cue from the interpretation of the Cretan *syssitia* and *gymnasia*. The *symposion* has, however, replaced the *syssition*. The *symposion* acts as a model or scenario from which the norms for virtue and society can be deduced, and as such it demonstrates also why virtue is such as it is, and why these are the norms. What, then, are these norms?

The *symposion* is a social "gathering" or "community" (ὁμιλία, κοινωνία, συνουσία¹¹⁴) of "friends" (φίλοι).¹¹⁵ In this context, therefore, virtue is friendly,

¹¹¹ BELFIORE (1986), 421, 424; TECUŞAN (1990), 239-244, shows that outside *Laws*, *symposia* in Plato are often adduced in a negative way since they have a "tendency to corrupt" (239), have a link with the lowest soul-part (241, 244) and are a source of pleasure for ordinary people, fundamentally at odds with the *paidia* of the philosopher (239-241). The *symposion* as a social gathering is to give way to dialectic *synousia* in *Prot.* 347c-e (242). In Plato, Socrates is portrayed as constantly "stopping at the frontier of actual *symposia*, which do not belong to the Sokratic—or to the Platonic-Sokratic—world" (243). "But it was with the first two books of the *Laws* that the real change in Plato's attitude towards *symposia* occurred; and it was most spectacular. These books strive at a complete restoration of the sympotic custom" (244); cf. 246 and n. 19 *ibid.*

¹¹² See Socrates' condemnation of Homer as representing Achilles and Priam overcome with grief, or the gods overcome with sexual desires in *Republic* (388a5-390c8). Such stories contribute nothing to the σωφροσύνη of the young (390a4).

¹¹³ GUTHRIE (1978) writes that "the lengthy and humourless disquisitions in the first two books on the moral and educational advantages of drinking-parties" have for a long time been an obstacle to his going through the whole work (382; see also 328-329). In n. 2 *ibid.* he records the contrary opinion of SAUNDERS: "My friend Dr T.J. Saunders and I have agreed to differ on this point, and I must record his contrary conviction that the *Laws* is full of humour, and that the long sermon on drinking-parties is written with tongue in cheek." Cf. RUTHERFORD (1995), 306, and n. 100 *ibid.*

¹¹⁴ The *symposion* as a social gathering: μίαν τινὰ συνουσίαν (639d3); σύνοδοι and κοινωνία (640a4); [ὁμιλία] φίλων δ' ἐν εἰρήνῃ πρὸς φίλους κοινωνησόντων φιλοφροσύνης (640b7-8); συνουσία (...) μετὰ μέθης (640c1-2); περὶ γε συνουσίας (640c9); διὰ τὴν τότε συνουσίαν (640d2); τὴν ἐν τοῖς οἶνοις κοινὴν διατριβὴν (641c8-d1); ἐν τῇ κατ' ὀρθὸν χρειᾷ τῆς ἐν οἴνῳ συνουσίας (652a4-5); πᾶσαν τὴν συνουσίαν (672a1). The goal of *symposia* ought to be to cement its participants

non-aggressive behaviour: the sort of behaviour conducive to the cohesion between the symposiasts. Moreover, the distinction between the *symposion* as a kind of *ὁμιλία* on the one hand and the hostile *ὁμιλία* of war (*πόλεμος*), of which the goal is mutual destruction on the other, indicates that virtue is not solely understood in terms of behaviour, but also in terms of intentions. The attitude underlying friendly behaviour is “benevolence” (*φιλοφροσύνη*, *φιλία*).¹¹⁶

The *symposion* allows *φιλία* and *φιλοφροσύνη* to emerge as the conditions upon which depends the preservation of the group as a whole: social behaviour is normative because its alternative compromises the continued existence of the community.¹¹⁷ The norm for morality is thus a *pragmatic* norm: social stability, the preservation of the group. The *symposion* is a revealing model, because the differences between good and bad behaviour, and its implications, are much more pronounced here than they are in a real society. The wine adds a certain intensity: if all goes well, there is no ground more fertile for the coming into existence or the strengthening of *φιλία* than the *symposion*; but if something goes wrong, things much more easily get out of

to each other instead of setting them on bad terms, as is now their effect: *μᾶλλον φίλοι ἢ πρότερον ἀπαλλάττοντο ἀλλήλων, ἀλλ’ οὐχ’ ὥσπερ τὰ νῦν ἐχθροί* (671e5-672a3; cf. 638c2-e3). “Pflege der Freundschaft galt seit je als Zweck des Symposions”, SCHÖPSDAU *ad* 640b6-8, with references. The term *συνουσία* is in the Platonic corpus often used for a social gathering for the purpose of finding the truth, or more specifically of a teacher and pupil, e.g. *Prot.* 337b3, 338c7; cf. *Epist.* VII. 341c6.

¹¹⁵ *Φιλία* is explicitly stipulated to be the goal (*σκοπός*) of lawgiving in *Laws* Book III, *Leg.* 693b4, c3, c7, e1, 694b6, on a par with *ἐλευθερία* and *φρόνησις*. The purport of the historical overview in Book III is that solidarity is the key to the *σωτηρία* of any society. In line with this emphasis on friendship is *Laws’* repeated emphasis on “friendliness” (*πράοτης*; *εὐμένεια*) as a key element of virtue: the discourse of the law and lawgiver ought to be of a friendly kind; see below, chapter five, section 5.1, p. 179.

¹¹⁶ *Leg.* 640b8, cf. 628c11.

¹¹⁷ *Laws’* depiction of virtue as *αἰδώς* is reminiscent of Protagoras’ notion of morality as the gift of Zeus to humankind: *αἰδώς* and *δίκη*. See BERESFORD (2013), especially 149-158, for a reading of the Protagoras-myth in Plato’s *Protagoras* along the lines of ethical naturalism. Ethical naturalism may be seen as a “middle way” between transcendental realism (of Plato) and the conventionalism associated with the sophists, VAN OPHUIJSEN (2013), 2. *Laws* seems to credit society’s survival to human’s capacity to be rational, like the Protagoras’ myth, which “implies that our intelligence is something that we have because it is a mechanism of survival. *We think in order to live*”, BERESFORD (2013), 147 (italics in original).

hand due to the participants' amplified reactions as a result of their inebriation. The same pragmatic, inclusive norm was in fact implicit in the interlocutors' preference of the arbiter who reconciles the different parties in a family feud.¹¹⁸ The *symposion* as a scenario implies a much more dynamic, and much less clear-cut notion of both the moral norm itself (roughly "that which is conducive to the σωτηρία of the community" —speaking of "*the norm*" may even suggest too much uniformity here, where no single system exists) and of virtue conceived of—generally—as awareness of this social norm, compared to an absolute norm of justice.

This brings us to the conception of ἀρετή that can be derived from the *symposion*. The discussion of the *symposion* creates the notion of ἀρετή as a universally human quality that exists apart from its more specific cultural interpretations. Ἀρετή, conceived of as αἰδώς, is *social* excellence. The scenario of the *symposion* provides a scenario for ἡ πᾶσα ἀρετή, which was previously introduced in a less tangible way, as the sum of the four ἀρεταί (see section 3.1), apart from its strong association with εἰρήνη. The *symposion* frames this universally human ἀρετή in terms of the fear of social disgrace (αἰδώς or αἰσχύνη) in the eyes of one's φίλοι. Φιλία is necessary if these social sentiments are to acquire sufficient compelling power to constrain people's behaviour. Some amount of freedom is necessary if virtue is self-control: there has to be sufficient freedom to enable people to restrain themselves.¹¹⁹ This of course entails a continuous risk that people fail to control themselves¹²⁰—parallel to the *symposion* as a scale model for society at large.

The notion of ἀρετή as a quality necessary for a harmonious society is highly *dynamic*. In the *symposion* ἀρετή is a kind of behaviour, a friendly and communicative attitude. It is, in other words, quite unlike the static notion of

¹¹⁸ Leg. 627d11-628a5; see for this passage above, p. 89, n. 26.

¹¹⁹ Freedom (ἐλευθερία) as the purpose of νομοθεσία: Leg. 693c7-8, d8, 694b6, 701d8.

¹²⁰ At the same time, as we saw above, as a test of the quality of people's dispositions the *symposion* is a relatively safe environment compared to war or innumerable other possibilities one could think of (650a5).

justice in *Republic*, where each person πράττει τὰ αὐτοῦ, and where, moreover, virtue consists in the correct hierarchy of the parts of one's soul.¹²¹ *Laws* also suggests a much more communicative society than *Republic*: people have to coexist peacefully, and virtue is the quality that enables them to do so.¹²² The awareness of the norm is not *expert* knowledge, but σωφροσύνη, a vaguer "sense of" what constitutes good, social, behaviour.¹²³ Moreover, ἀρετή can be acquired by *training*.

In addition, the *symposion* presupposes a much more common sense conception of well-being than *Republic*, in which text it is assumed that most

¹²¹ All of this does indeed seem to imply a "change in standards" for the virtues of the kind noted by ADKINS (1960). He argues that *Republic* stipulates that the rulers are to be the "*aristoi* in philosophy and in respect of war", entailing that courage and wisdom will be "the most highly regarded qualities" (294), whereas *Laws* values the cooperative virtues and law-abidingness.

¹²² Thus, the puppet-analogy resembles the theory of Protagoras in *Protagoras*, in entailing that morality is partly an innate disposition, which does not develop automatically, but which needs further instruction and training, by all sorts of paideutic mechanisms (including laws). See BERESFORD (2013), 151-152, and the very close correspondence with his reconstruction of Protagoras' moral theory to that of Aristotle's analysis of virtue in *Nicomachean Ethics*, that "virtues are neither purely natural nor purely cultural, but that 'nature primes us to receive them, and habituation perfects them'" (BERESFORD [2013], 151) in EN 1103a25-26: οὐτ' ἄρα φύσει οὔτε παρὰ φύσιν ἐγγίνονται αἱ ἀρεταί, ἀλλὰ πεφυκόσι μὲν ἡμῖν δέξασθαι αὐτάς, τελειούμενοις δὲ διὰ τοῦ ἔθους.

¹²³ See *Leg.* 648d1-e7 for σωφροσύνη as self-training in private or in the company of others: ΑΘ. (...) καὶ εἴτε τις ἄρα μόνος ἐν ἐρημίᾳ, τὸ τῆς αἰσχύνης ἐπίπροσθεν ποιούμενος, πρὶν εὖ σχεῖν ἡγούμενος ὁρᾶσθαι μὴ δεῖν, οὕτω πρὸς τοὺς φόβους γυμνάζοιτο, πῶμα μόνον ἀντὶ μυρίων πραγμάτων παρασκευαζόμενος, ὁρθῶς ἂν τι πράττοι, εἴτε τις ἑαυτῷ πιστεύων φύσει καὶ μελέτῃ καλῶς παρεσκευάσθαι, μὴδὲν ὀκνοῖ μετὰ συμποτῶν πλειόνων γυμναζόμενος ἐπιδείκνυσθαι τὴν ἐν τῇ τοῦ πώματος ἀναγκαίᾳ διαφορᾷ δύναμιν ὑπερθέων καὶ κρατῶν, ὥστε ὑπ' ἀσχημοσύνης μὴδὲ ἐν σφάλλεσθαι μέγα μὴδ' ἄλλοιοῦσθαι δι' ἀρετὴν, πρὸς δὲ τὴν ἐσχάτην πόσιν ἀπαλλάττοιο πρὶν ἀφικνεῖσθαι, τὴν πάντων ἦταν φοβούμενος ἀνθρώπων τοῦ πώματος. ΚΛ. Ναί· σωφρονοὶ γὰρ <ᾶν>, ὦ ξένε, καὶ ὁ τοιοῦτος οὕτω πράττων. ΑΘ. "(...) Suppose, then, that a man, actuated by a feeling of shame and loth to show himself in public before he was in the best of condition, should remain alone by himself while undergoing this training against fears and relying on the potion alone for his solitary equipment, instead of endless exercises,—he would be acting quite rightly: so too would he who, trusting in himself that by nature and practice he is already well equipped, should have no hesitation in training in company with a number of drinking companions and showing off how for speed and strength he is superior to the potency of the draughts he is obliged to drink, with the result that because of his excellence he neither commits any grave impropriety nor loses his head, and who, before they came to the last round, should quit the company, through fear of the defeat inflicted on all men by the wine-cup. CL. Yes, Stranger, this man too would be acting temperately" (transl. BURY).

people are ignorant of what truly affords them most pleasure.¹²⁴ Well-being is not defined by a higher norm that is imperceptible for large sections of the citizenry. It is what human beings, *qua* human beings, find pleasant: peace and harmony.

Another characteristic of the social notion of virtue constructed in the context of the *symposion* is that is distinctly uniform in kind. There is no suggestion that some people are more prone to act on the basis of pleasures, or that some people are better capable of being κρείττων ἑαυτοῦ than others—contrast *Republic*, where different people of different classes have different *kinds* of ἀρετή, and virtue depends on one's social *function*.¹²⁵ The *symposion* tests people's moral quality, but this test presupposes individual differences rather than differences between *kinds* of people (as Callipolis does). Correspondingly, the kind of social order that incorporates this uniform notion of ἀρετή is relatively egalitarian. The *symposion* may imply a division of roles, such as speaking and drinking in turns, but such a division is not based on different qualities and serves a solely practical purpose: to avoid irregularities. Distinctions are possible, but these would seem to be quantitative (person A being *more* friendly than person B) rather than qualitative.¹²⁶

Laws combines a definition of ἀρετή in terms of conduct with an attempt to penetrate beyond the surface of mere behaviour and define ἀρετή in terms of a person's "character" (ἔξις, τρόπος, or ἦθος, roughly "disposition"¹²⁷). This suggests an attempt on Plato's part to understand virtue in terms of a more

¹²⁴ Cf. chapter one, p. 32.

¹²⁵ But see below, section 3.3, where the relevant differences are differences in age. Children acquire the capacity for physical self-restraint; moral self-restraint follows later, p. 119.

¹²⁶ This supposition seems to find some support in the fact that drunkenness (μέθη) has different stages (647e2-648a3; 649a9-e2; cf. ENGLAND *ad* 647e1), thus presenting the symposiast with increasing demands on his ability to restrain himself. The qualities required of the symposiarch do not seem to indicate a difference in kind between the symposiarch and the symposiasts, see above, p. 97f. Sobriety and seniority are not a matter of privilege. In addition, the required qualities of being φρόνιμος, "wise", and ἀθόρυβος, "imperturbable", do not so much seem to aim to single out a special kind of person, as to rule out people of whom it is obvious that they are unsuitable.

¹²⁷ The nuances between these terms would merit further research.

permanent feature of one's personality, an attempt which is consistent with his location of ἀρετή on the level of the soul rather than on the level of behaviour in other works.¹²⁸ In *Laws*, the notion of "character" assumes the place that the more technical conception of the soul as consisting of parts has in other Platonic texts.

Finally, the *symposion* implies that, in principle, every human being is, by virtue of being human, qualified not only to become (more) virtuous, but also to assess other people's moral quality (even though one does need an ἄρχων, see below). It suggests that virtue can be identified and examined by means of a practical test, the results of which are visible to all. All of these characteristics of virtue as sociability entail a much more optimistic view of the human capacity for virtue than a conception of virtue as the prerogative of that rare bird—the moral expert.¹²⁹

The scenario of the *symposion* does not rule out the possibility that there exist differences in natural aptness. But it does not assume insurmountable inequalities between people, as does a theory of different soul-types. Now that, in Book I, the difference between a part of virtue and the whole of virtue has served to introduce the notion of human excellence as φιλία alongside its specific cultural interpretations, in Book II the Platonic terminology of the four virtues is reintroduced to analyse the process of *paideia*, training in virtue, in

¹²⁸ *Laws* thus shares the Socratic-Platonic practice to "locate virtue at the 'background' level of the 'state of the soul' that 'explains' virtuous behaviour, rather than on the 'foreground' level of the virtuous behaviour itself", RADEMAKER (2005), 296. The term ψυχή is used in a less technical sense in *Laws* than in those texts in the Platonic corpus that assume a tripartite (or bipartite) soul. Ψυχή in *Laws* does not denote an entity consisting of parts, analogous to a ζῷον, but a more or less stable (although not completely unchangeable) bearer of a particular ἔξις or ἦθος.

¹²⁹ For a different view, see TECUŞAN (1990), who compares *Laws* I-II to *Protagoras* 347c-3 and concludes that Plato's attitude towards the *symposion* in *Laws* reflects a "change towards the irrational" and considers the *symposion* as an expression of Plato's increased pessimism; the Athenian had "no such radiant confidence in man's rationality" (260). See also MURRAY (2013): "The change that comes about in the *Laws* is not a change in the definition of pleasure but part of a fundamental reassessment of human nature and the realisation that human beings are so imperfect that they cannot be controlled through persuasion alone: they must also be trained in the proper use of their desires" (111).

terms of different phases. In this way, the different virtues become related to age groups, and different stages of *paideia*. It is to this analysis of *paideia* that we will now turn.

3.3 Setting the scene III: χορεία and phases of *paideia*

In order to investigate whether revealing people's φύσεις is the only use (ἀγαθόν) of the rightly conducted *symposion* or whether it also offers some kind of *benefit* (τι μέγεθος ωφελίας)¹³⁰ the interlocutors now return to “the correct education”, ἡ ὀρθὴ παιδεία, which the Athenian briefly mentioned before.¹³¹ He now guesses (τοπάζω) that the *symposion* is the “salvation” (σωτηρία) of the correct education.¹³² In order to explain this guess, the Athenian proceeds to define what he means by “the correct education” (ἡ ὀρθὴ παιδεία).

We have already seen that *paideia* is a teleological process.¹³³ The Athenian now distinguishes two phases of that process. Although the whole process right until the end—when a person is “complete” and possesses correct opinions and φρόνησις¹³⁴—can be called *paideia*, here he wants to reserve that term for the earliest phase.¹³⁵ Children's first perception (τῶν παίδων παιδικὴν

¹³⁰ Leg. 652a1-5. The discussion indeed is somewhat repetitive, as the Athenian remarks in 659c9-d3.

¹³¹ In Leg. 643b4-644b4. See above, p. 99. The Athenian claims that it does, at least, that is what the λόγος apparently wants to make clear (ὡς ὁ λόγος ἔοικεν βούλεσθαι σημαίνειν, 652a5-6). They must hear how it does (ὅπῃ δὲ καὶ ὅπως), and pay attention that they are not entangled by the λόγος (μὴ πη παραποδισθῶμεν αὐτοῦ, 652b1).

¹³² Leg. 653a1-3: τούτου [sc. of ὀρθὴ παιδεία] γάρ, ὥς γε ἐγὼ τοπάζω τὰ νῦν, ἔστιν ἐν τῷ ἐπιτηδεύματι τούτῳ καλῶς κατορθουμένῳ σωτηρία.

¹³³ Leg. 643b4-d3; see above, p. 99.

¹³⁴ Leg. 653a7-b1: (...) φρόνησιν δὲ καὶ ἀληθεῖς δόξας βεβαίους εὐτυχὲς ὅτῳ καὶ πρὸς τὸ γῆρας παρεγένετο· τέλειος δ' οὖν ἔστ' ἄνθρωπος ταῦτα καὶ τὰ ἐν τούτοις πάντα κεκτημένος ἀγαθὰ. “But insight, and unshakable true opinions are an enormous felicity for the person who acquires them, even if they come to him towards old age. A man who possesses them, and all the good things they entail, is complete” (transl. MLB).

¹³⁵ This passage is difficult to access because of its dense language (see for a discussion of the difficulties SCHÖPSDAU [1994], 256-257). According to the reading defended here, the Athenian is concerned here with a definitional question. In 653a1 he has announced that he will define what he

... πρώτην αἴσθησιν, 653a5-6), consists of ἡδονή and λύπη. These pleasures and pains have to be conditioned: children have to be taught right from the beginning to hate what must be detested and to like what must be welcomed (μισεῖν μὲν ἃ χρη μισεῖν εὐθὺς ἐξ ἀρχῆς μέχρι τέλους, στέργειν δὲ ἃ στέργειν, 653c1-2). Correct pleasures and pains will accord with reason (λόγος) once that is present. The term ἀρετή is used for the correct perception in children, the more primitive counterpart of φρόνησις and βέβαιοι δόξαι. The Athenian wants to reserve the term παιδεία for this early phase of ἀρετή (παιδείαν δὴ λέγω τὴν παραγιγνομένην πρῶτον παισὶν ἀρετήν, 653b1-2; cf. 653c2-4). The earliest *paideia* is the conditioning of a person's pleasure and pain.

The conditioning of pleasures and pains is distinguished from a later phase of *paideia*, in which a person has acquired λόγος.¹³⁶ Λόγος is a precondition (albeit not a sufficient one) for “firm, true convictions” (ἀληθεῖς δόξας βέβαιοι) and “insight” (φρόνησις).¹³⁷ The ἡδοναί and λύπαι are to be in

means by “the correct education”, ἡ ὀρθὴ παιδεία. His definition follows in 653a5-c4. First, the Athenian distinguishes different uses of the term ἀρετή: this can be used for the virtue in children (παιδικὴ αἴσθησις) and for the virtue of senior people (φρόνησις and firm δόξαι). Having distinguished between these parts of virtue, the Athenian wants to confine the use of παιδεία to the ἀρετή of children, that is to say, to correctness in affections that precedes the presence of λόγος. It is with this demarcation of that the Athenian is concerned in *Leg.* 653b6-c4: (...) τὸ δὲ περὶ τὰς ἡδονὰς καὶ λύπας τετραμμένον αὐτῆς [sc. ἀρετῆς] ὁρθῶς ὥστε μισεῖν μὲν ἃ χρη μισεῖν εὐθὺς ἐξ ἀρχῆς μέχρι τέλους, στέργειν δὲ ἃ χρη στέργειν, τοῦτ' αὐτὸ ἀποτεμῶν τῷ λόγῳ καὶ παιδείαν προσαγορεύων, κατὰ γε τὴν ἐμὴν ὀρθῶς ἂν προσαγορεύοις. “But that part of it [sc. ἀρετή] that is nurtured correctly and has to do with pleasures and pains, so that we hate what we ought to hate right from the beginning till the end, and love what we ought to love—when you isolate that in speech and call it ‘education’, you will, in my opinion, give it its correct name” (transl. MLB). This is in fact a repetition of 653b1-2, παιδείαν δὴ λέγω τὴν παραγιγνομένην πρῶτον παισὶν ἀρετήν. For the interpretation of αὐτῆς in 653b7 as referring to ἀρετή, cf. SCHÖPSDAU (1994), 257, *ad* 653b6: for reason of the correlation between σύμπασα μὲν and τὸ δὲ ... αὐτῆς “[scheint es] am sinnvollsten, den Genitiv αὐτῆς als partitivus auf die Tugend zu beziehen”.

¹³⁶ *Leg.* 653b2-4: ἡδονὴ δὴ καὶ φιλία καὶ λύπη καὶ μῖσος ἂν ὀρθῶς ἐν ψυχαῖς ἐγγίγνωνται μήπω δυναμένων λόγῳ λαμβάνειν, λαβόντων δὲ τὸν λόγον, συμφωνήσωσι τῷ λόγῳ (...). “When pleasure and affection, pain and hatred well up correctly in the souls of those who are not yet capable of grasping these with reason, and then, when they have come to possess reason, these [affections] will accord with reason (...)” (transl. MLB). Cf. 645b4-5: τὸν μὲν λόγον ἀληθῆ λαβόντα ἐν ἑαυτῷ περὶ τῶν ἑλξεων τούτων.

¹³⁷ In 653a8 φρόνησις and ἀληθεῖς, βέβαιοι δόξαι are said to be εὐτυχές ὅτῳ καὶ πρὸς τὸ γῆρας παρεγένετο, “a fortunate thing for the person to whom they come, even if that is in old age”. Most translators to me seem to have interpreted this phrase in an unduly negative way, making the

συμφωνία with the λόγος, which a person only acquires later.¹³⁸ Notably, ἀρετή as συμφωνία¹³⁹ is a concordance between two elements; virtue is not described in terms of a *whole* or a unity.¹⁴⁰ Complete virtue as it is defined here is much more dynamic than the static conception of ἀρετή as a hierarchy of soul-parts.

In this passage at the beginning of Book II the two kinds of virtue discussed are virtue in children and virtue in senior people. This distinction is resumed towards the end of Book XII, where the ἀρετή of animals and children, that does not involve λόγος, is labeled ἀνδρεία, apparently the term reserved for an elementary form of self-restraint.¹⁴¹ The differences between the ἀρεταί

acquisition of φρόνησις dependent on luck, e.g. BURY: "...but as to wisdom and settled true opinions, a man is lucky if they come to him even in old age"; ENGLAND *ad* 653a7: "about wisdom—and fixed right opinions—I say that it is lucky for a man if he acquires it as he is getting old"; SAUNDERS: "But for a man to acquire good judgment, and unshakable correct opinions, however late in life, is a matter of good luck"; SCHÖPSDAU: "so ist es ein Glücksfall, wenn sie [Einsicht und festgegründete wahre Meinungen] jemandem auch nur im hohen Alter zuteil werden"; BRISSON & PRADEAU: "c'est une chance pour quelqu'un d'y parvenir, même lorsqu'il approcha la vieillesse" (contrast PANGLE: "he is a fortunate person to whom it comes even in old age"). Εὐτυχες, however, is "good luck" but "a fortunate thing"; we should, I think, be hesitant to attribute the acquisition of the highest virtue to "good luck"—there is no evidence for such a claim. Rather, whereas the acquisition of correct αἰσθησις normally occurs in childhood, the acquisition of φρόνησις normally occurs in old age. Cf. Cicero's paraphrase in *De Fin.* 5.21 § 58: *Praeclare enim Plato: "Beatum cui etiam in senectute contigerit ut sapientiam verasque opiniones adsequi possit!"*

¹³⁸ For the gerontocratic nature of *Laws'* society: see CAMPBELL (1981), 429; SAMARAS (2010), 172, n. 3; BARTELS (2012). BOBONICH (2002) argues that "the low level perception of order in harmony involves conceptualizing it in accordance with concepts drawn *from* reason" (360, my italics).

¹³⁹ "The ancient writers attach great importance to the distinction between 'concordant' and 'discordant' intervals (*symphōna*, *diaphōna*)", WEST (1992) 160. Concordant intervals are the fourth, the fifth, and the octave, or larger intervals, consting of octave + fourth, etc. Cf. BARKER (2000), 90. Virtue as concordance συμφωνία is completely different from a harmony between soul-parts; cf. MÜLLER (1968): "Das Wissen vom transzendenten Guten beherrschte und durchwirkte (...) in der P[oliteia] die Tugend. Wo ist es bei dem Verfall des Tugendsystems geblieben? Unter den Unklarheiten, die uns befremdeten, war dies die erstaunlichste, daß φρόνησις einer συμφωνία gleichgesetzt wurde und ihren Bezugspunkt zu verlieren schien" (21).

¹⁴⁰ Cf. Isocr. *Panath.* 30-32: *paideia* consists in the inner nature of a man and the harmony of his character.

¹⁴¹ *Leg.* 963e1-8 (the Athenian is speaking): Ἐρώτησόν με τί ποτε ἐν προσαγορεύοντες ἀρετὴν ἀμφοτέρω, δύο πάλιν αὐτὰ προσείπομεν, τὸ μὲν ἀνδρείαν, τὸ δὲ φρόνησιν. ἐγὼ γάρ σοι τὴν αἰτίαν, ὅτι τὸ μὲν ἐστὶν περὶ φόβον, οὐ καὶ τὰ θηρία μετέχει, τῆς ἀνδρείας, καὶ τὰ γε τῶν παίδων ἢ τῶν πάντων νέων· ἀνευ γὰρ λόγου καὶ φύσει γίγνεται ἀνδρεία ψυχῇ, ἀνευ δὲ αὐτοῦ λόγου ψυχῇ φρόνιμός τε καὶ νοῦν ἔχουσα οὐτ' ἐγένετο πώποτε οὐτ' ἐστὶν οὐδ' αὐθις ποτε

are, in the case of human beings, associated with age.¹⁴² The earliest phase of ἀρετή, without λόγος, is ἀνδρεία; the final stage, for which λόγος is prerequisite, is φρόνησις.¹⁴³ The terminology of the four Socratic-Platonic virtues become associated with different age categories. They are made to apply to different stages in the education of an individual. By identifying only the most extreme elements of this process, Plato does not have to indicate a certain point at which λόγος manifests itself in an individual, and can forgo having to be more specific about the manifestation of a person's rational capacity.

What exactly does this earliest *paideia*, the conditioning of pleasure and pain in children, entail? In order to explain how this works, the Athenian first gives a biological sketch of young animals in general, and subsequently isolates the human species. All young creatures (τὸ νέον ἅπαν, 653d7) have a natural inclination to make uncontrolled sounds and movements.¹⁴⁴ They lack *physical* self-restraint (τοῖς τε σώμασι καὶ ταῖς φωναῖς ἡσυχίαν ἄγειν οὐ δύνασθαι, 653d7-8). They are always leaping and jumping—as if engaging in some sort of chorus-dance (οἷον ὀρχούμενα, 653e2)—and producing all kinds of sounds.¹⁴⁵ Unique to human children among the ζῷα¹⁴⁶ is their capacity to perceive the

γενήσεται, ὥς ὄντος ἑτέρου. “Do you ask me this question—why, when calling both the two by the single name of ‘virtue’, did we again speak of them as two—courage and wisdom? Then I shall tell you the reason,—which is, that the one of them has to do with fear, namely courage, in which beasts also share, and the characters of very young children; for a courageous soul comes into existence naturally and without reasoning, but without reasoning there never yet came into existence, and there does not nor ever will exist, a soul that is wise and rational, it being a distinct kind” (transl. BURY). See also below, chapter six, p. 217.

¹⁴² For age-distinctions as characteristic of Spartan *paideia*, see NILSSON (1912) (in CHRIST [1986], 205-225); for the age-distinctions in the social and educational practices in Crete, see WILLETTS (1955), 17.

¹⁴³ This would entail that ἀνδρεία is the most universal and a-cultural ἀρετή (*all* human beings have an innate sense of order), whereas φρόνησις is the ἀρετή that is the most cultural-specific, since it is the result of the education in the norms and values of a specific *polis*.

¹⁴⁴ *Leg.* 653d7-e5; cf. 673c9-d5.

¹⁴⁵ *Leg.* 653d7-e5; cf. 664e3-665a3.

¹⁴⁶ Cf. *Leg.* 653d7-654a5; 664e3-665a6; 673c9-d5. A possible association for the reader of *Laos* familiar with Plato's earlier work might be the Protagoras-myth in Plato's *Protagoras*. Other living animals (τὰ ... ἄλλα ζῷα, 321c4) are called ἄλογα (321c1) and man by implication has λόγος (see for an explanation of this ‘anachronistic’ ascription of λόγος to the human race NUSSBAUM (1986), 100-106). *Leg.* 653c9-d1 is also reminiscent of the Protagoras-myth.

difference between order (τάξις) and disorder, “rhythm” being the name for order in movement and “harmony” for order in the domain of the voice.¹⁴⁷ The education of children therefore consists in teaching them to feel ἡδονή for what ought to be enjoyed, and λύπη for what ought to be detested: to like order (*i.e.*, music) and to dislike disorder.¹⁴⁸ To this end, they have to join in χορεία, which consists of both singing (orderly movement of the voice) and dancing (orderly movement of the body). Children’s willingness to participate in χορεία has its source in pleasure, an idea given support by an etymological link between χορός (“chorus”) and χαρά (“joy”).¹⁴⁹

Plato seems especially to have welcomed people’s *intuitive* association of music with pleasure. Music is a phenomenon of which the essence is order (τάξις), combining rhythm and harmony.¹⁵⁰ This order is a natural order¹⁵¹

¹⁴⁷ Leg. 653e3-5: τὰ μὲν οὖν ἄλλα ζῶα οὐκ ἔχουσιν αἰσθῆσιν τῶν ἐν ταῖς κινήσεσιν τάξεων οὐδὲ ἀταξιῶν, οἷς δὲ ῥυθμὸς ὄνομα καὶ ἁρμονία. “All the other animals do not have the ability to perceive the various kinds of order in movements, nor the various kinds of disorder, [order] which have the name rhythm and harmony” (transl. MLB). Order in movement is “rhythm” (τῇ ... τῆς κινήσεως τάξει ῥυθμὸς ὄνομα εἶη, 664e8-665e1); order in the voice, a mix of high and low pitched sounds, is known as “harmony” (τῇ ... τῆς φωνῆς [sc. τάξει], τοῦ τε ὀξέος ἅμα καὶ βαρέος συγκεραννυμένων, ἁρμονία ὄνομα προσαγορεύοιτο, 665a1-3).

¹⁴⁸ The background here may be Plato’s worries about the rise of the ‘New Music’, see Leg. 700a7-701b; similar worries seem to underly the discussion of musical education in Arist. *Pol.* VIII, 1339a11ff. On the New Music, see recently PÖHLMANN (2011) and CSAPO (2011).

¹⁴⁹ Leg. 653e5-654a5: ἡμῖν δὲ οὗς εἶπομεν τοὺς θεοὺς συγχορευτὰς δεδόσθαι, τούτους εἶναι καὶ τοὺς δεδωκότας τὴν ἑνρhythμόν τε καὶ ἑναρμονίον αἰσθῆσιν μεθ’ ἡδονῆς, ἣ δὴ κινεῖν τε ἡμᾶς καὶ χορηγεῖν ἡμῶν τούτους, ᾧδαις τε καὶ ὀρχήσεσιν ἀλλήλοις συνείροντας, χοροὺς τε ὀνομακέναι παρὰ τὸ τῆς χαρᾶς ἔμφυτον ὄνομα. “(...) to us men the very gods, who were given, as we said, to be our fellows in dance [*i.e.* the Muses, Apollo, and Dionysus], have granted the pleasurable perception of rhythm and harmony, whereby they cause us to move and lead our choirs, linking us one with another by means of songs and dances; and to the choir they have given its name from the ‘cheer’ implanted therein” (transl. BURY). Cf. 657c3-6. See PRAUSCELLO (2011), 139 with references, for the observation that the motif of joy “has very deep roots in the cultic language of choral lyric”.

¹⁵⁰ The *Philebus* (23c4-27c1) presents an ontology of orderly phenomena (with τάξις), one of which is music. The ontology distinguishes four ultimate genera, 27b7-c1: (1) the ἄπειρον, (2) the πέραις, (3) ἐκ τούτων ... μεικτὴ καὶ γεγεννημένη οὐσία, and (4) ἡ ... τῆς μείξεως αἰτία καὶ γενέσεως. Good, orderly phenomena such as health (25e8), music (26a4), the seasons (26b1), beauty, bodily strength and all fine qualities in souls (26b6-7), certain (‘pure’) pleasures, and the mixed life (27d7-10), belong to the third, mixed kind. As COOPER (1999), 150 notes, “Socrates seems to imply (...) that their being the good things they are is a consequence of their being constituted by a combination of *peras* and *apeiron*.” The four *apeira* of music are high (ὀξύ), low (βαρύ), fast (ταχύ) and slow (βραδύ) (26a2-4, cf. 17c11-d6), see for a further explanation COOPER (1999), 151. To generate music, πέραις,

which can be perceived by every human being. The implicit assumption seems to be that every human being can perceive that one interval is concordant while another is discordant; αἴσθησις is a naturally present capacity for virtue.¹⁵² In this way, musical or virtuous behaviour is suggested to be *naturally* correct for human beings *qua* human beings.¹⁵³ Thus, χορεία, which combines singing and dancing, becomes the cultivation of an already present natural sensitivity for and liking of order in movement (τάξις as ὁυθμός) and sound (τάξις as ἁρμονία).¹⁵⁴ The perspective is individual and generic at the same time: the egalitarian tendency inherent in defining a way of life that is best for a human being *qua* human being seems to adumbrate Aristotle's idea of humans as a "by nature a social animal" (φύσει ζῷον πολιτικόν).¹⁵⁵

"determinant", i.e. numerical ratios and proportions, in short, number must be imposed on the indeterminacy: σύμμετρα δὲ καὶ σύμφωνα ἐνθεῖσα ἀριθμὸν ἀπεργάζεται (25e1-2, cf. 25a6-b2). This passage groups distinct phenomena together under the common denominator of order and claims a physical basis for their order. It will be noted that the theory of the mixed life (a mixture of pleasure and pain, cf. *Leg.* 732d8-734e2) and of the mixed constitution (a mixture between extreme monarchy and extreme democracy *Leg.* 693d2-702a1) is construed along these same lines.

¹⁵¹ BARKER (2007): "(...) it is axiomatic for all the theoretical writers whose views can be clearly pinned down that there is an objective and discernible line of demarcation, independent of human whim, decision or ingenuity, between musically well-ordered relations and transformations on the one hand, and on the other the indeterminate chaos of the non-musical. The distinction is not one of convention or taste, but is somehow fixed in the order of things, awaiting discovery, (...)" (10, see also 317-318, 324).

¹⁵² Education in *Laws* is often—justly—described as a form of habituation, according a relatively (compared to *Republic*) prominent role to pleasure, e.g. STALLEY (1983), 45-58; BELFIORE (1986) ("[u]nlike the *Republic*, (...) the *Laws* stresses the importance in education of the elements in the soul opposed to reason", 427); CAIRNS (1993), 377 (with further references in n. 102); CARONE (2003) (both virtue and pleasure are necessary and sufficient for happiness); KLOSKO (2006), 221-225; WOERTHER (2008), 95-98 (focusing on the prominence of musical education in life-long *paideia*). For pleasure in *Republic*, see COOPER (1984), GOSLING & TAYLOR (19832), 97-128.

¹⁵³ PELOSI (2010) sees a parallel between *Laws* and *Timaeus*' conception of the virtuous soul: "the wholly human instinct to grasp that which is musical has to do with the musical origins of the rational human soul, described in the *Timaeus* (below, pp. 189-95)" (65).

¹⁵⁴ MORROW (1960), 304, n. 27, speculates whether the λόγος ("theory") mentioned in 653d6 that also includes material from 664e-665a and 672cd and 673cd, is Plato's own teaching or that of a musical theorist such as Damon, who is referred to by both Plato and Aristotle. He concludes "The same theory of human nature, without the mythology, seems to underlie Aristotle's doctrine of rhythm and harmony (*Pol.* 1340a2ff; cf. *Prob.* 920b29ff; *Poet.* 1448b20ff.)." Indeed, *Laws*' implied theory of human nature seems to have more common ground with Aristotle than with Plato's own *Republic*.

¹⁵⁵ Arist. *Pol.* 1253a3.

3.4 The *symposia* and the third chorus

3.4.1 Χορεία and the three choruses

The physical conditioning (learning to control one's σῶμα and φωνή) of children happens through a practice that is in line with, and "socializes",¹⁵⁶ these two elements, movement and voice. This is χορεία, the singing and dancing in choruses. The gods have given human beings "the rhythmic and harmonic perception accompanied by pleasure" (τὴν ἔνρυσθμόν τε καὶ ἐναρμόνιον αἴσθησιν μεθ' ἡδονῆς, 654a2-3), and are their fellow dancers. Human being's basic sense of music can be cultivated by χορεία.¹⁵⁷ Three (groups of) gods are connected with the choreutic festivals: the Muses, Apollo and Dionysus.¹⁵⁸

A little later, it turns out that the Athenian envisages that not only children, but all citizens, right up until the age of 60, will participate in χορεία.

¹⁵⁶ A similar labelling of social behaviour as 'musical' can be found in *Protagoras* (324d6ff.): a training in rhythm and *harmonia* is an education in political virtue. Acquaintance with fine music makes people more "gentle" (ἡμερώτεροι 326b3, i.e. not ὥσπερ θήριον ἀλογίστως, 324b1), which is juxtaposed to more "well-rhythmed" (εὐρυσθμότεροι) and "more harmonious" (ἐναρμυστότεροι), 326b3. Using one's voice and body in a way that is aesthetically attractive ('gracious') makes it suitable for life in the *polis*: these people become useful *citizens*, i.e. people who will speak and act in the interest of society (χρήσιμοι ... εἰς τὸ λέγειν τε καὶ πράττειν, 326b4). By implication, the norm in both domains (music and politics) is thought of as identical: *only* the use of the voice and behaviour that qualifies as musical is social behaviour: the σωτηρία of the *polis* is made dependent on 'musical' behaviour.

¹⁵⁷ TECUŞAN (1990): "The idea of πρώτη παιδεία (654a6), which one would get while young by attending to the Muses' chorus first, then to Apollo's (...) hints at the fact that Plato in the end came to think of the *symposion* as a kind of δευτέρα παιδεία, both more significant and higher than the first one—given that age on the one hand, and reason, knowledge, and understanding on the other, depend on each other closely (653a)" (248). TAYLOR (1926) notes a parallel between *Laws* teaching of the young to "'feel pleasure and pain' rightly (653b)" and Aristotle; "'rightly' means 'in accord with the rightly uttered discourse of the law' (659d, πρὸς τὸν ὑπὸ τοῦ νόμου λόγον ὀρθὸν εἰρημένον), a sentence which seems to be the source from which the expression ὀρθὸς λόγος has got into the *Ethics* of Aristotle" (469).

¹⁵⁸ *Leg.* 653d3-4.

Paideia therefore covers the entire human life up until this age, which prompts the Athenian's statement that the whole of chorus-dancing (ὅλη ... χορεία) is the whole of education (ὅλη παιδευσίς).¹⁵⁹ For this purpose, he divides all citizens until 60 in three choruses. Each chorus is dedicated to one of the three gods that were said to be people's fellow dancers in χορεία.¹⁶⁰ There are four age groups in total:

- (1) the chorus of the Muses, consisting of children;
- (2) the chorus of Apollo, consisting of the citizens between the ages of 18 and 30;
- (3) the chorus of Dionysus, consisting of those between 30 and 60;¹⁶¹
- (4) a fourth group of μυθολόγοι; these are above 60 and too old to sing and dance.¹⁶²

There are strict drinking rules for each of the choruses.¹⁶³ The first chorus, composed of children, is to abstain from drinking wine entirely: there is no

¹⁵⁹ *Leg.* 672e5-673a1. The interlocutors agree to consider ὁ ἀπαιδευτος as ἀχόρευτος, and τὸν ... πεπαιδευμένον ἱκανῶς as κεχορευκός (654a9-b1). Cf. MORGAN (2013): "Life in Magnesia is one vast choral performance orchestrated by the lawgiver". See on χορεία in *Laws* recently PRAUSCELLO (2011), ROCCONI (2012), CALAME (2013), MURRAY (2013), KURKE (2013), KOWALZIG (2013) and PEPONI (2013).

¹⁶⁰ A chorus usually consisted of χορευταί of the same age group. For a possible historical Spartan model (described by Plutarch) for these three choruses and the chorus of elders, see MORROW (1960), 317-318.

¹⁶¹ *Leg.* 664c4-d2. Those above 60 are unable to still sing and dance, but will tell inspired stories about the same characters [presumably as those represented in the choruses] τοὺς δὲ μετὰ ταῦτα (...) μυθολόγους περὶ τῶν αὐτῶν ἡθῶν διὰ θείας φήμης, 664d2-4. On the interpretation of φέρειν ᾤδᾶς in the parenthesis: PRAUSCELLO (2011), who thinks it is "a reference to the "my-knees-cannot-bear me" (153) motif in lyric poetry. Cf. also ENGLAND *ad loc.*, who refers to 665d9 to support his translation "to support the toil of".

¹⁶² It should be noted that education does not last life long, but only until the age of 60. We will see that the age limit of 60 is also the maximum age of a member of the nocturnal council, whose composition to some extent reflects the Dionysian chorus (for the members of the nocturnal council, see chapter six, p. 220), cf. RITTER (1896), 350. See for discussion of this (nevertheless long) education, TECUŞAN (1990), 248; The fact that education lasts (almost) lifelong has often been given a downright pessimistic interpretation, e.g. WOERTHER (2008), 96; KAMTEKAR (2010), 147.

¹⁶³ The *symposion* is not mentioned in the later books of *Laws*; only at 812b9-c7 do we find a reference to the 60-year old singers of Dionysus. MORROW (1960) considers the elder singers' almost complete disappearance after the second book reason to doubt "whether it is to be taken as more than a symbol for the supervisory role of the elders, particularly as critics and censors of dance and song."

need to pour fire on the fire already present in the bodies and souls of the youngest, and caution has to be taken about their frantic state (τὴν ἐμμανῇ ... ἔξιν τῶν νέων, 666a7). The members of the second chorus, youngsters between 18 and 30 years of age, are allowed to taste wine in moderate quantities. From 30 onwards, the participants are allowed to drink immoderately.¹⁶⁴ The third chorus is restricted to those between 30 and 60: only the elderly (πρεσβύτεροι) are allowed to drink until they are drunk.

In the context of *χορεία*, as with the *symposion*, virtue is a desirable *behaviour*: dancing, *i.e.* elegant bodily postures, and singing, *i.e.* appropriate use of the voice.¹⁶⁵ But whereas the introduction of the *symposion* is concerned with preventing human coexistence from getting out of hand, μουσική¹⁶⁶ is more constructive. *Χορεία* presupposes a χορηγός who governs the movements and songs of the chorus as a whole. This stretches considerably beyond the *ad hoc* nature of the interventions of the symposiarch. *Χορεία* does not (necessarily) envisage punishment. The mechanism that guarantees adherence to choreography and melody differs according to age: for children it is their innate love of moving and making sounds (see above). For the elderly it is fear of

A definite state organ it cannot be (...)” (318). TECUŞAN (1990) also noting its disappearance (with the exception of *Leg.* 812) suggests that the *syssition* “replaces” the *symposion* in the law code, while also aware of differences in their “character and their means” (256). That the *symposion* is not an institution of Magnesia is corroborated by the nature of the reference at 812b9-10: it is only a brief recapitulation in the service of the point the Athenian goes on to make in 812d1ff (τούτων τοίνυν δεῖ χάριν κτλ.).

¹⁶⁴ τετταράκοντα δὲ ἐπιβαίνοντα ἐτῶν in 666b2 is to be explained, with ENGLAND, as “‘when a man is rising forty,’ as we say—*i.e.* enters the fourth decade”; endorsed by SCHÖPSDAU (1994), 312, *ad loc.*, with parallels for this use of ἐπιβαίνω. The reading “after reaching forty” (among others BELFIORE [1986], 80 n. 36, see SCHÖPSDAU *ibid.*) “ist schon deshalb unwarscheinlich, weil dann für die Leute zwischen 30 und 40 Jahren überhaupt keine Regelung bezüglich des Weins vorgesehen wäre”.

¹⁶⁵ Rhythm is the aspect of *χορεία* that voice and body have in common: τὸ δὲ γε κατὰ τὴν τοῦ σώματος κίνησιν ὀυθμὸν μὲν κοινὸν τῇ τῆς φωνῆς εἶχε κίνησει, *Leg.* 672e8-9, *cf.* 673d2-5.

¹⁶⁶ Music (μουσική) is one of the mimetic τέχναι and produces “imitations of characters” (or “ways of life”: μιμήματα τρόπων (655d5) of people in all kinds of circumstances).

behaving disgracefully. Πρεσβύτεροι are fearful of singing, and need wine in order to be ready to do so.¹⁶⁷

3.4.2 The Dionysian chorus and the final answer to the benefit of *symposia*

The third, Dionysian chorus is in retrospect identical to the *symposion*.¹⁶⁸ For the citizens between 30 and 60, drunkenness (μέθη) is to be combined with singing and dancing (χορεία). The Athenian concludes that what their argument (λόγος) had been aiming to demonstrate, that the defence of the Dionysian chorus is justified, has now as far as possible been stated.¹⁶⁹ He recapitulates the question whether the *symposion* is useful for *paideia* one last time: was it really a legitimate claim that this Dionysian chorus deserved the interlocutors' praise? The interlocutors now for the last time return to the question whether the

¹⁶⁷ Leg. 665d9-e10: ΑΘ. Πᾶς που γιγνόμενος πρεσβύτερος ὁκνοῦν πρὸς τὰς ᾠδὰς μεστός, καὶ χαίρει τε ἥττον πρῶτων τοῦτο καὶ ἀνάγκης γιγνομένης αἰσχύνοιτ' ἂν μᾶλλον, ὅσῳ πρεσβύτερος καὶ σωφρονέστερος γίνεται, τόσῳ μᾶλλον. ἄρ' οὐχ οὕτως; ΚΛ. Οὕτω μὲν οὖν. ΑΘ. Οὐκοῦν ἐν θεάτρῳ γε καὶ παντοίοις ἀνθρώποις ἄδειν ἐστὼς ὀρθὸς ἔτι μᾶλλον αἰσχύνοιτ' ἂν· καὶ ταῦτά γ' εἰ καθάπερ οἱ περὶ νίκης χοροὶ ἀγωνιζόμενοι πεφωνασκηκότες ἰσχυνοί τε καὶ ἄσιτοι ἀναγκάζονται ἄδειν οἱ τοιοῦτοι, παντάπασιν που ἀηδῶς τε καὶ αἰσχυνητῶς ἄδοντες ἀπροθύμως ἂν τοῦτ' ἐργάζονται; ΚΛ. Ἀναγκαιότατα μέντοι λέγεις. "ATH. Every man as he grow older becomes reluctant to sing songs, and takes less pleasure in doing so; and when compelled to sing, the older he is and the more temperate, the more he will feel ashamed. Is it not so? CL. It is. ATH. Surely, then, he will be more than ever ashamed to get up and sing in the theatre, before people of all sorts. Moreover, if old men like that were obliged to do as the choristers do, who go lean and fasting when training their voices for a competition, they would assuredly find singing an unpleasant and degrading task, and they would undertake it with no great readiness. CL. That is beyond a doubt" (transl. BURY).

¹⁶⁸ At Leg. 666a2-c6 we hear that the lawgiver forbids those under 18 to drink wine altogether; those under 30 (the νέοι) are allowed to taste it in moderate quantities (drunkenness prohibited); by implication, those who are not νέοι anymore are allowed to get drunk (and recall that their subject was μέθη (637d4, d6, 638d1, 642a2), and meant to illustrate the advantages of μέθη (671e5, 673d10, 674a2)). The identification of the symposiasts with the chorus of Dionysus becomes clear from Leg. 671a1 onwards. For the identification of the chorus of Dionysus with the *symposion*, see RITTER (1896), 17 (and 350 for the Dionysian chorus as "die Vorschule des νυκτερινὸς σύλλογος"); TECUSAN (1990), 246-248.

¹⁶⁹ Leg. 671a1-4: καὶ ὅπερ ὁ λόγος ἐν ἀρχαῖς ἐβουλήθη, τὴν τῷ τοῦ Διονύσου χορῶ βοήθειαν ἐπιδείξαι καλῶς λεγομένην, εἰς δύνανμιν εἴρηκεν· σκοπώμεθα δὴ εἰ τοῦθ' οὕτω γέγονεν. "The primary intention of our argument, which was to demonstrate that our defence of the Dionysiac chorus was justifiable, has now been carried out to the best of our ability. Let us consider if that is really so" (transl. BURY).

symposion (now combined with χορεία) confers important benefits for education. The last part of Book II (before a new topic is broached in III), rounds off the discussion of the *paideia* by recapitulating the different phases of παιδεία, and in particular its last phase, the *paideia* of the citizens between 30 and 60.

We return to the *symposion*. The Athenian recapitulates a number of points he made earlier, just after the puppet-analogy. Yet whereas before he had discussed the possible effects of drunkenness on the puppet (645d1-2), here the conversation turns to the effects of drunkenness on the symposiasts themselves. This congregation will, as the drinking proceeds, grow rowdier.¹⁷⁰ Wine will cause a profound change in each symposiast: he will feel uplifted, blurt out whatever thought comes to mind, and not hold his tongue in order to listen to his neighbour (παρρησίας ἐμπίμπλαται καὶ ἀνηκουστίας ... τῶν πέλας, 671b4-5).¹⁷¹ He will consider himself fit to be in charge of both himself and of others (ἄρχων δ' ἰκανὸς ἀξιοῖ ἑαυτοῦ τε καὶ τῶν ἄλλων γεγρονέναι, 671b5-6). At the same time, wine makes the souls of the drinkers softer, like iron that is melted by fire, and younger. The symposiasts, who are of the age of πρεσβύτεροι, become "pliable" (εὐαγωγούς), just as when they were young.¹⁷²

The person who knows how to educate and mould the souls is the good lawgiver (τῷ δυναμένῳ καὶ ἐπισταμένῳ¹⁷³ παιδεύειν τε καὶ πλάττειν, 671c1-2; πλάστην (...) τὸν ἀγαθὸν νομοθέτην, 671c3). He will lay down sympotic laws that have the power to keep under control the person whose presumptuousness, audacity and impudence cross the limit of what is

¹⁷⁰ *Leg.* 671a4-6.

¹⁷¹ *Cf.* 645d1-646a5.

¹⁷² *Cf. Leg.* 645e5-6; 646a4-5.

¹⁷³ *Laws* entertains a consistent distinction between "knowing how" (ἐπίστασθαι, γινῶναι) and "being able to" (δύνασθαι). We may compare the τέχνη-analogy in *Leg.* 639a9-b2 (see above, p. 96f.), claiming that the τέχνη of steersmanship has to be complemented by a firm stomach at sea, and *Leg.* 875a1-b5, especially 875a2-4: φύσις ἀνθρώπων οὐδενὸς ἰκανὴ φύεται ὥστε γινῶναι τε τὰ συμφέροντα ἀνθρώποις εἰς πολιτείαν καὶ γνοῦσα, τὸ βέλτιστον ἀεὶ δύνασθαι τε καὶ ἐθέλειν πράττειν.

acceptable, and who refuses to take turns in keeping silent, speaking, drinking, and singing.¹⁷⁴ These laws will bring to bear αἰδώς and αἰσχύνη, which the interlocutors have called “divine fear” (θεῖον φόβον, 671d2). Furthermore, the *symposion* will be supervised by the symposiarchs, here called νομοφύλακες and συνδημιουργοί, who are imperturbable and sober (τοὺς ἀθορύβους καὶ νήφοντας τῶν μὴ νηφόντων στρατηγούς, 671d6-7).¹⁷⁵ Here, they are called “officers” of Dionysus, and said to be those over 60. Above, we saw that the entire citizenry up till 60 was to be divided in three choruses, while those over 60, who were unable to sing and dance, were called μυθολόγοι. It now becomes clear that these μυθολόγοι are to be assigned the task of symposiarchs. The sober must govern the unsober—for to fight drunkenness without sober leaders would be worse than fighting enemies without imperturbable leaders (μὴ μετὰ ἀρχόντων ἀθορύβων, 671d8).¹⁷⁶ Anyone who disobeys them will incur as much αἰσχύνη as, and even more than, the person who disobeys the governors of Ares (here again, the *symposia* are envisaged as parallel to the *syssitia*).¹⁷⁷

The Athenian once more poses the question: if *symposia* are organized in such a way, will they not benefit the participants? If the whole congregation and the manners of interaction are regulated by law, and if the sober guide those who are drunk, the symposiasts will end up becoming better friends than

¹⁷⁴ Leg. 671c2-8: τοῦτον δ’ εἶναι τὸν πλάστην τὸν αὐτὸν ὥσπερ τότε, τὸν ἀγαθὸν νομοθέτην, οὗ νόμους εἶναι δεῖ συμποτικούς, δυναμένους τὸν εὐελπιν καὶ θαρραλέον ἐκείνον γιγνόμενον καὶ ἀναισχυντότερον τοῦ δέοντος, καὶ οὐκ ἐθέλοντα τάξιν καὶ τὸ κατὰ μέρος σιγῆς καὶ λόγου καὶ πόσεως καὶ μούσης ὑπομένειν, ἐθέλειν ποιεῖν πάντα τούτοις τὰναντία, κτλ. “And now, even as then, the man who is to mould them is the good legislator; he must lay down banqueting laws, able to control that banqueter who becomes confident and bold and unduly shameless, and unwilling to submit to the proper limits of silence and speech, of drinking and of music, making him consent to do in all ways the opposite...” (transl. BURY).

¹⁷⁵ As will become apparent in the course of Books I and II, the symposiasts are elders, between 30 and 60; they are identified with the chorus of Dionysus, cf. TECUŞAN (1990), 247-248. As may be deduced from the description of the lawgiver’s task, who is to educate and mould (παιδεύειν τε καὶ πλάττειν) the person who does not restrain himself, the only τάξις is that of taking turns in remaining silent, speaking, drinking and singing: ἐκείνον ... οὐκ ἐθέλοντα τάξιν καὶ τὸ κατὰ μέρος σιγῆς καὶ λόγου καὶ πόσεως καὶ μούσης ὑπομένειν, 671c5-7.

¹⁷⁶ Cf. above, p. 97.

¹⁷⁷ Leg. 671d9-e3.

they were before—instead of becoming enemies, as happens during *symposia* as they are currently organized.¹⁷⁸ Cleinias agrees, on the proviso that the *symposion* is organized in the way the Athenian has proposed.¹⁷⁹

The discussion is close to reaching its end. Upon Cleinias' affirmation, the Athenian concludes that they should no longer denounce wine ("the gift of Dionysus", 672a5) in the conviction that it is no good (κακή) and not deserving to be welcomed in a *polis* (εἰς πόλιν οὐκ ἀξία παραδέχεσθαι, 672a6-7). On the contrary, wine has an important function for human *paideia*. Since rationality in no animal with a capacity for it grow automatically, *i.e.*, without any effort, νοῦς must therefore be practised.¹⁸⁰ Wine is the "drug" (φάρμακον) that is given to humans for the sake of acquiring αἰδώς in the soul and health and vigour in the body.¹⁸¹

The interlocutors conclude that if a *polis* uses the *symposion* with laws and order (μετὰ νόμων καὶ τάξεως, 673e4) for the use of practicing self-restraint (ὥς τοῦ σωφρονεῖν ἔνεκα μελέτη), and allows pleasures for the sake of mastering them (τοῦ κρατεῖν αὐτῶν ἔνεκα), then the *symposion* must definitely be instituted. The Athenian would never agree to instituting a *symposion* if there were no severe restrictions as to who would be allowed to consume wine (those whom the Athenian thinks should not be allowed to consume wine are slaves both male and female, magistrates in office, steersmen and judges on duty and

¹⁷⁸ Leg. 671e5-672a3: ΑΘ. Οὐκοῦν εἴ γε εἴη τοιαύτη μὲν μέθη, τοιαύτη δὲ παιδιὰ, μῶν οὐκ ὠφελιθέστες ἂν οἱ τοιοῦτοι συμπόται καὶ μᾶλλον φίλοι ἢ πρότερον ἀπαλλάττοιτο ἀλλήλων, ἀλλ' οὐχ ὥσπερ τὰ νῦν ἐχθροί, κατὰ νόμους δὲ πᾶσαν τὴν συνουσίαν συγγενόμενοι καὶ ἀκολουθήσαντες, ὅποτε ἀφηγοῖντο οἱ νήφοντες τοῖς μὴ νήφουσιν; ΚΛ. Ὅρθως, εἴ γε δὴ εἴη τοιαύτη οἶαν νῦν λέγεις. "If such was the character of the drinking and of such character the recreation, would not such fellow-drinkers be the better for it, and part from one another better friends than before, instead of enemies, as now? For they would be guided by laws in all their intercourse, and would listen to the directions given to the un-sober by the sober" (transl. BURY, adapted).

¹⁷⁹ Leg. 672a4.

¹⁸⁰ Leg. 672c1-2: πᾶν ζῶον, ὅσον αὐτῷ προσήκει νοῦν ἔχειν τελεωθέντι, τοῦτον καὶ τοσοῦτον οὐδὲν ἔχον ποτὲ φύεται.

¹⁸¹ Cf. 649a1-b6. Leg. 647e1, φόβου φάρμακον. Cf. ENGLAND *ad loc.*: "a drug to produce fear" (his italics); not, as TECUŞAN (1990) thinks, "the supposed medicine against fear" (248).

members of the βουλή who plan to attend a meeting ἀξίαν ... λόγου; also, drinking during the day is only permitted for reasons of health, drinking at night is prohibited to men and women planning to procreate; and drinking is also prohibited on many other occasions¹⁸²). Furthermore, if wine consumption is limited, no *polis* would need a great number of grapevines, and the production of wine especially would be kept within the smallest possible limits. With the consent of his interlocutors, the Athenian closes off the topic of wine.

3.5 Conclusion

In Books I and II of *Laws*, Plato sets the scene. It becomes apparent that we are on new territory, both geographically and conceptually. The present chapter has successively looked at three scenes in their order of appearance: Cretan-Spartan ἀνδρεία and the *syssition* (section 3.1), the *symposion* as the analogue of the *syssition* (section 3.2), and χορεία as the analogue of training in the *gymnasion* (section 3.3), and traced how these themes successively influence and shape the notion of ἀρετή. The emphatically cultural approach to virtue at the beginning of Book I serves to introduce the notion of ἀρετή as a cultural variable. In Crete and Sparta, ἀρετή is ἀνδρεία. Once this has been established, the way is free for Plato to introduce, besides ἀνδρεία as one part of virtue, the three other cardinal virtues (δικαιοσύνη, σωφροσύνη and φρόνησις) and the notion of “complete virtue” (ἡ συμπᾶσα ἀρετή).

The scenario of the *symposion* established that social excellence can be practised and trained, analogous to courage in the context of the Cretan *gymnasion*. In fact, ἀρετή can only be acquired by training; although human beings naturally possess a potential for rationality, this potential does not develop by itself—it needs to be educated in the context of the *polis*, by the laws.

¹⁸² *Leg.* 674a7-c1.

The idea that *paideia* is the education of a person's innate rationality ties in with the double nature of ἀρετή: as an innate potential for reason and order, and as a cultural variable. *Paideia* in a *polis* serves to educate the universal potential in the spirit of what a particular *polis* considers ἀρετή. The idea of complete virtue, defined as the quality that enables a society to avoid internal conflict, allows for a generic notion of ἀρετή, as excellence of humankind in general. This generic notion of ἀρετή is the ability to restrain oneself. This ability is referred to as αἰδώς on the social level, implying that the motivation for virtue is a social norm (knowing what is "not done"), while σωφροσύνη focuses on the personal, psychological level, and is closely connected to the idea of having moderate emotions.

Subsequently, the discussion moved to the process of *paideia*—that is, how *paideia* of the citizens works within the framework of a *polis*. The terminology of the four virtues—or rather, ἀνδρεία and φρόνησις—is resumed to analyse the process of *paideia* in different *phases*. Ἀνδρεία, the virtue least associated with rationality (courage can relatively easily turn into audacity) is used for the conditioning of the pleasures and pains of the youngest citizens. Φρόνησις is used for the phase of the πρεσβύτεροι, the senior citizens (between 30 and 60). The whole process of *paideia* within the *polis* is cast in terms of χορεία. The youngest citizens are motivated to participate through their natural inclination towards, and liking of, movement and making sounds. The eldest citizens are motivated by their fear of disgrace (αἰσχύνη).¹⁸³

¹⁸³ In Book X, there is a passage that forms part of the defense against the atheists. The argument of the atheists is that the gods only exist τέχνη and τισιν νόμοις, not φύσει. They also claim that τὰ καλὰ and τὰ δίκαια are matters of dispute, and therefore do not exist by nature. So it seems that we are confronted with opposite views in the same work: the recognition (on the part of the Athenian) on the one hand that certain things can be disputed, and in Book X an attack on those who consider moral concepts as the product of νόμος, human agreement. The solution lies, I submit, in how we interpret what is meant by νόμος and φύσις in the passage in Book X. Of course, as we have already seen, the νόμοι and notions of ἀρετή indeed differ between poleis. Yet at a more general level, that of the human being as species and what is necessary for his survival, ἀρετή is the same: φιλία. This notion of ἀρετή is not conventional: it is a natural fact that communities cannot survive unless people are willing to moderate their impulses and restrain their most self-interested

Laws' naturalist approach to virtue suggests, optimistically, that the basis for virtue lies in human beings themselves, and that virtue is a capacity for understanding what is the appropriate reaction (both in terms of affections and in terms of behaviour) in any given situation. The attitude of *Laws* to the moral and political issues, and man's ability to address these, is thus much more "open", and hopeful, than that of *Republic*. Any pessimistic reading of *Laws* is therefore a serious misinterpretation of the thrust of its argument. Precisely because *Laws* conceives of virtue as contextual and situational, the ultimate goal of one's actions always being social stability and the maintenance of friendly relations between individuals, the norm for virtue, and a sense of that norm, are innate in (human) nature, but in biological rather than metaphysical nature. This does not mean that virtue is completely subjective, but it does mean that the answer to what morality and moral goodness are, lies, and can be found, *within* society, and is not given by another world.

tendencies. It is this more general notion of ἀρετή that is connected to the order in the κόσμος at large.

OUTLINE AND AMENDMENT: THE PROCESS OF LAWGIVING

The previous chapter argued that the opening discussion of *Laws* (Books I-II) introduces a universal and naturalistic concept of virtue as αἰδώς and φιλία. In spite of local differences, across all societies virtue is in a sense also identical: it is the quality that enables human beings to live in peaceful coexistence (φιλία). The general goal of society being σωτηρία, the precise rules that define well-behaved, elegant conduct—ἀρετή on the level of the *polis*—are strictly speaking of secondary importance. Within the confines of φιλία and εἰρήνη, a lawgiver is free to lay down his laws as he sees fit. The making of laws is first and foremost viewed as a practical necessity so as to enable a *polis* to educate its citizens and cultivate social behaviour.

After the discussion of ἀρετή and the historical overview in Book III,¹ Cleinias reveals that he has, with nine other Cnossians, a commission to lay down a law code for a new Cretan colony. The three interlocutors then formulate, on their own authority, a law code, inspired by the case of the future Cretan colony. This law code is a law code λόγῳ, “in speech”—*i.e.*, the laws

¹ The historical overview in Book III basically serves to introduce the need and principle of moderation, which has been identified as the key to a livable society, also on the level of the ruling element in the constitution, producing the notion of the “mixed constitution”.

that follow are *not* the laws for Magnesia, but it is a law code for a *polis* inspired by the case of Magnesia. The actual law code (the διέξοδος τῶν νόμων) starts at 771a5 (Book VI) and runs until 960b5 (Book XII).

This act of lawgiving has been prepared for conceptually by the discussion of the basis of the laws in Books I and II. Also, the fact that the interlocutors on their own authority frame laws is legitimated by what we have heard about lawgiving and its purpose so far. The structure of the text suggests that the interlocutors operate within the framework of Books I and II (and III): the interlocutors' law code follows, and is embedded in, the discussion that has served to establish φιλία (αἰδώς, etc.) as the universally human ἀρετή. The present chapter focuses on the legislation on the dramatic level of *Laws*. Here, we witness a concrete case of lawgiving. How do the legislating interlocutors conceptualize the act of lawgiving (about which we have heard little so far)? What sort of endeavour is lawgiving, if we keep in mind the conceptual system of τέχνη as a *comparandum*? What considerations inform the interlocutors' laws?

In investigating the interlocutors' own notion of the procedure of lawgiving, this chapter will take its cue from an analogy in Book VI. This analogy occurs at a highly significant place in the architecture of *Laws*, right before the interlocutors begin their own lawgiving, and at a point at which they have already announced its beginning. This suggests that the analogy offers a crucial contribution to the approach of the legislators: it *frames* lawgiving. The Athenian likens a lawgiver to (a particular kind of) painter. As we have seen in chapter one (1.3.1) and chapter two (2.4.1), τέχνη-analogies in Plato introduce into the discussion a particular conceptual framework and set of assumptions.

In addition, the painter-analogy is of great *structural* importance for the subsequent lawgiving in the *Laws*. The analogy precedes the dramatic act of lawgiving portrayed, and it articulates the subsequent lawgiving on the dramatic level: at different stages in the course of their legislation the interlocutors reflect on their own legislative activity in the terms and

distinctions originally introduced by the analogy. *Laws* thus features a combination of an analogy for a τέχνη (lawgiving), followed by *an actual example of that τέχνη* in the subsequent discourse. Whereas the opening discussion legitimates the fact *that* the interlocutors themselves legislate, the painter-analogy legitimates the details of their mode of procedure. After the analysis of the analogy, the subsequent sections will discuss those junctures in the law code at which the interlocutors reflect on the activity of lawgiving in terms of the painting-analogy.

4.1 Framing lawgiving: the painter-analogy in Book VI

Before we turn to the analogy in Book VI, however, something ought to be said about the interlocutors' decision to found a city in speech in Book III, and about the discussion in Books IV to VI (until the ἀρχή of the law code at 771a5). At the end of Book III, Cleinias has revealed that he is a member of a legislative committee of Cretans entrusted with the foundation of a new colony on Crete. The interlocutors take this as an incentive to found a *polis* "in speech" (τῷ λόγῳ, 702d1-2, cf. 702e1). Interestingly, the commission of the ten Cretan lawgivers is to select whatever laws the members of the committee find superior, whether local laws or laws from different countries.² The constitution of the Cretan new colony thus lays much more open than usual; for in most historical cases, colonies adopted the constitution of the metropolis.³ This open

² *Leg.* 702c5-9: ἄμα δὲ καὶ νόμους τῶν τε αὐτόθι, εἴ τινες ἡμᾶς ἀρέσκουσιν, τίθεσθαι κελεύει, καὶ εἴ τινες ἑτέρωθεν, μηδὲν ὑπολογιζομένους τὸ ξενικὸν αὐτῶν, ἂν βελτίους φαίνωνται. "We are bidden also to frame laws, choosing such as we please either from our own local laws or from those of other countries, taking no exception to their alien character, provided only that they seem superior" (transl. BURY).

³ "Bei der Einrichtung der Colonie folgte man vielfach den Einrichtungen der Mutterstadt, aus der man auch das heilige Feuer vom Prytaneion mitnahm", *RE s.v. ἀποικία* (where see also for an alphabetically ordered overview of the Greek colonies, 2828-2836), with reference to Hdt. I, 146 (with STEIN *ad loc.*: "Auswanderer pflegten aus dem Prytaneion, dem Herde und Mittelpunkte

definition of Cleinias' commission creates room for the interlocutors to explore their own (or especially the Athenians') ideas about lawgiving and a functional—in terms of maintaining εἰρήνη—constitution.

Yet the interlocutors do not embark upon framing laws immediately. What follows their decision to found a city in speech at the end of Book III is an inventory of the location and natural resources of the new city, of the selection and background of the colonists, the local climate, and general stipulations about the size of the population, the distribution of land, and the possession of money (704a1-751a1, Book IV and part of V). This in turn is followed by an overview of the future Magnesian magistrates (751a1-768c2, Book V and part of VI).⁴ The fact that, upon the interlocutors' agreement to found a colony, the Athenian proceeds to discuss these practicalities signals that such issues are necessary preliminaries that have to be taken into account in any act of lawgiving. This mode of procedure reflects a conception of lawgiving as always and necessarily tailored to a *specific*—geographical, cultural—context (we may also recall Cleinias' instant connection of Cretan laws to the nature of the Cretan χώρα, 625c10ff.).⁵ Laws are not made *tabula rasa*. Books IV until halfway

(ἔστιά) der Mutterstadt, vom heiligen Feuer in die neue Ansiedlung mitzunehmen, als Zeichen und Pfand fortdauernder Blutsverwandtschaft und gemeinsamen Kultes"). Motives for founding colonies are discussed in *Leg.* 707e1-708d7, see also MORROW (1960), 3-4; *Leg.* 752e4-754d4 for assistance of Cnossus in the establishing of the νομοφύλακες for the colony, with MORROW (1960), 204-205, 238-240 (Excursus D), who thinks that this passage reflects two versions of Plato's thought on the matter; the same textual problem is addressed in WILAMOWITZ (1910), cf. chapter one, p. 20, n. 52. GRAHAM (1964) for a study of the relation between historical colonies and their mother city. That the law code of the future colony will not be entirely identical to the Cnossian law code also becomes apparent from the fact that the colonists need some time to become *accustomed* to the laws of the colony, which are new to them 752b9-c8 (with MILLER [1997], 253-254), cf. οἱ γευσάμενοι παῖδες τῶν νόμων (752c3). See MILLER (1997), 253-257 on the metaphor of child/mother for colony/metropolis. The new colony's potential for survival increases if the lawgivers remain in the city until the citizens are ready to take part in the selection of magistrates: see *Leg.* 752-753. *Leg.* 752b9-c8: the character of citizens is determined by the customs of their city: the citizens are to become "of the same disposition" (συνήθεις) as the laws.

⁴ For a succinct overview of the bodies of officials with relevant passages, see STALLEY (1983), 186-189.

⁵ The geographical circumstances have direct implications for the quality of the citizenry: some localities are more likely to produce good or bad characters than others (πρὸς τὸ γεννᾶν ἀνθρώπους ἀμείνους καὶ χείρους, *Leg.* 747d1-e5); good laws must not fly in the face of local

through VI constitute a kind of intermediate phase in the discussion, preparing for the actual διέξοδος τῶν νόμων.

When the last magistrates have been introduced, the Athenian announces that there is no need to postpone their legislation any longer.⁶ But instead of proposing the first law of their code, he introduces an analogy for lawgiving. Or, more accurately, he introduces an analogy for lawgivers. The lawgiver's *analogon* is the professional painter. We will look into the painter-analogy in more detail below, but before we do so, it should be noted that the analogy in fact exploits a contrast that features in a brief afterthought on the courts (δικαστήρια), whose magistrates were the last in line to be discussed in the overview of the magistrates.⁷ The Athenian concludes the subject of the courts by commenting that they have, “like some kind of outline with a line drawn around it from the outside, said some things, yet more or less omitted others” (οἷον περιγραφὴ τις ἔξωθεν περιγεγραμμένη τὰ μὲν εἴρηκεν, τὰ δὲ ἀπολείπει σχεδόν⁸, 768c5-6). The fact that at this point they make only a sketch,

circumstances (οἷς οὐκ ἐναντία νομοθετητέον, 747d4-5, cf. e6-8) such as climate, quality of the water and soil. The preamble on hunting (*Leg.* 823d7-824a9) for example explicitly takes into consideration the possibilities offered by the country for training the right (θεία) kind of ἀνδρεία. Cf. *Arist. Pol.* 1265a18-20: λέγεται δ' ὥς δεῖ τὸν νομοθέτην πρὸς δύο βλέποντα τιθέναι τοὺς νόμους, πρὸς τε τὴν χώραν καὶ τοὺς ἀνθρώπους, “It is said that the legislator ought to have his eye directed to two points—the people and the country”. The χώρα for the new colony (*Leg.* 704a1-d6); the people (707e1-708d5 the future colonists; in Book V the magistrates). There is no reason to suppose, with LAKS (2000) (see especially 263-264, 266, 286-288), that discussion of the local conditions in Books IV and V, and of the preambles in IV, is designed to “postpone” or “suspend” the law because law is “a certain kind of violence” (287). The discussion in Books IV and V is clearly part of what νομοθεσία involves, and is thus not a strategy to postpone lawgiving. Furthermore, the actual διέξοδος τῶν νόμων contains both preambles *and* laws, and there is thus no question of “suspending” law.

⁶ *Leg.* 768d7-e3: νῦν μὲν ἐν τῷ παρόντι μέχρι τῆς τῶν ἀρχόντων αἰρέσεως γενομένης τελευτῇ μὲν τῶν ἔμπροσθεν αὕτη γίγνεται ἂν ἰκανή, νόμων δὲ θέσεως ἀρχὴ καὶ ἀναβολῶν ἅμα καὶ ὄκνων οὐδὲν ἔτι δεομένη, “So now, at the point where we stand—when our exposition has reached so far so as to include the election of the officials—we may find a fit place to terminate our previous subject, and to commence the subject of legislation, which no longer needs any postponements or delays” (transl. BURY). The actual lawgiving starts at 771a5 (ἀρχὴ δὲ ἔστω τῶν μετὰ ταῦτα ἡμῖν νόμων ἥδε τις κτλ.).

⁷ *Leg.* 768c3-d7.

⁸ The adverb σχεδόν, “ferme, propemodum” or “fere, quodammodo” (AST [1835-1838], 348), “about, approximately, more or less, roughly speaking” (LSJ, IV), or σχεδόν τι, mitigates the exactness of

and omit other things from consideration altogether is motivated by the claim that the whole, and accuracy about all of the details, cannot become clear before they have completed the διέξοδος (πρὶν ἂν ἡ διέξοδος ἀπ' ἀρχῆς τὰ τε δεύτερα καὶ τὰ μέσα καὶ πάντα μέρη τὰ ἐαυτῆς ἀπολαβοῦσα πρὸς τέλος ἀφίκηται, 768d5-7).⁹

In 769a7 the Athenian introduces the painter-analogy (καθάπερ ζωγράφων). The implication, made explicit somewhat further onwards (769d1), is that the painter is analogous to the lawgiver. Painting is of course a frequent *analogon* in the Platonic corpus; it is, together with different genres of poetry and μουσική, one of the so-called “imitative arts”, μιμητικαὶ τέχναι. But from the very beginning it becomes clear that the approach of this particular painting-analogy is highly unusual. The perspective adopted here is that of a layman who observes professional painters at work, 769a7-b3:

ΑΘ. Οἷσθ' ὅτι καθάπερ ζωγράφων οὐδὲν πέρας ἔχειν ἢ πραγματεία δοκεῖ περὶ ἐκάστων τῶν ζώων, ἀλλ' ἢ τοῦ χραίνειν ἢ ἀποχραίνειν, ἢ ὅτιδῆποτε καλοῦσι τὸ τοιοῦτον οἱ ζωγράφων παῖδες, οὐκ ἂν ποτε δοκεῖ παύσασθαι κοσμοῦσα, ὥστε ἐπίδοσιν μηκέτ' ἔχειν εἰς τὸ καλλίω τε καὶ φανερώτερα γίγνεσθαι τὰ γεγραμμένα.

ATH. You know how painting a picture of anything seems to be a never-ending business. It always looks as if the process of touching up by adding colour or relief (or whatever it's called in the trade) will never finally get

the statement by inserting a degree of vagueness or indeterminacy: e.g. STEIN III (1894), *ad* Hdt. V.19.10 with further parallels: “σχεδόν ermäßigt die Zuversichtlichkeit des Tons”. σχεδόν is therefore, like ὥς ἔπος εἶπεν, a sign of a colloquial use of terms, instead of using precise language (ἀκριβολογεῖσθαι), which is characteristic of Socrates' use of his terminology (at least, it is an accusation that we hear Thrasymachus make against Socrates, see chapter one, p. 27, n. 80). σχεδόν, with 125 instances, occurs relatively often in *Laws*. See also 768d2.

⁹ *Leg.* 768c6-d7. The subject of the courts is taken up again in 956b3ff., see SCHÖPSDAU (2003), 437. This means that the subject of the courts is addressed at the very beginning as well as at the very end of the law code. SCHÖPSDAU *ibid.* ponders on a possible connection between the courts and the end of the νομοθεσία: “Ein zwingender sachlicher Zusammenhang zwischen der Vollendung der Gesetze und der Regelung und Einteilung des Gerichtswesens läßt sich allerdings höchstens durch den Gedanken herstellen, daß zuerst die Gesetze zu geben und danach die Organe zur Überwachung der Einhaltung der Gesetze einzusetzen sind; (...)” As SCHÖPSDAU notes, not all issues involving the court are settled in 957a-b; rather, the settling of the details is left to the νομοφύλακες (957a1-b5).

to the point where the clarity and beauty of the picture are beyond improvement. (Transl. SAUNDERS)

This seems to be an outright paradoxical representation of painting: is not the painter a producer of paintings, *i.e.*, of finished products? Not so here: painting is an activity *without* “limit” (πέρας). Or at least, that is the viewer’s impression: it seems that painters never cease to continue their work on a painting (χραινείν, ἀποχραινείν, κοσμεῖν¹⁰). The natural conclusion is that painting is an activity which always allows room for “improvement” (ἐπίδοσις)¹¹—or, alternatively, that a painting is never finished, and that perfection is impossible. This analogy clearly does not assume an idealized version of an expert. Whereas Socrates often adduces the expert in very a schematic fashion (the doctor as a producer of health, or health as the result of the doctor’s τέχνη), that image is now problematized. Part of this has to do with the perspective adopted: that of the layman observer. His focalization builds into the analogy from the start a dimension of uncertainty about whether or not a painting is ever finished.

Yet, curious as this depiction of a painter may sound in general, it seems even more puzzling to a reader who is familiar with the numerous painter analogies in the rest of the Platonic corpus. The painter is typically a *mimetic* artist: indeed, the painter and his art often figure as the prototype of the class of the μιμητικά τέχνη, as he does for example in *Republic* X.¹² In chapter one, we

¹⁰ χραινείν is to “touch slightly” hence to “smear, paint” (LSJ); apparently this refers to the painter lightly touching his painting with his brush; ἀποχραινείν, “colour, tint evenly” (LSJ), may, in contrast to χραινείν, refer to colouring larger spaces. In *Resp.* 586b7-c5 we find that pleasures are inevitably mixed with pains, “taking their colour from juxtaposition”, ADAM *ad loc.* He further notes that ἀποχραινείν “had also a more technical sense (τὸ τὰ χρωσθέντα ἐνοποιεῖν *Tim. lex. Pl. s.v.* χραινείν), to which Plato alludes is *Laws* 769a”. AST (1835-1838) has “*colorem vel lumen umbra tempero*” and cites both *Resp.* 586b and *Leg.* 769a.

¹¹ ἐπίδοσιν ἔχειν, “to be capable of progress or improvement” (LSJ): *Thet.* 146b6; *Symp.* 175e5. For ἐπίδοσις in the positive sense of “progress”: τὴν τῶν πόλεων ἐπίδοσιν εἰς ἀρετήν (*Leg.* 676a5); βλάστην καὶ ἐπίδοσιν (*Leg.* 679b2); negative, in the sense of development beyond the proper measure: τὴν τοῦ ἐλευθέρου λῖαν ἐπίδοσιν βίου (*Leg.* 700a8).

¹² For the painter as an imitator, see, *e.g.*, *Crat.* 424d7-425a4, 430b3-4, 430d1-434b2; *Soph.* 235d6-236c7; *Phdr.* 275d5-6; *Prot.* 312c6-d3; *Gorg.* 503d5-504a2; *Resp.* 472d4-7, 596e6, 598bff.

saw that the “product” (ἔργον) of a τέχνη is one of the standards elements of the conceptual framework of τέχνη. The product of a mimetic τέχνη has the status of an *imitation* (μίμησις or μίμημα): it is a likeness of a “model” (παράδειγμα, ιδέα).

This can work out in either of two ways. One possible implication is that the imitation exists on an ontologically inferior level than the object of which it is an imitation. The most notorious example of this negative evaluation of μίμησις is no doubt the discussion of poetry in Book X of the *Republic*. There, painting is the prototypical mimetic τέχνη to which poetry (imitation in words) is likened: although capable of accurate reproduction, both poet and painter lack knowledge (ἐπιστήμη) of the things they reproduce.¹³ Yet the idea of an imitation of a model can also be used to emphasize the similarity between model and imitation. For an example of this understanding of μίμησις, we may also turn to *Republic*. The philosopher-ruler is likened to a painter who paints the just *polis* after the divine παράδειγμα.¹⁴ In both its positive and negative form, the notion of a μιμητική τέχνη presupposes ontological dualism.

With the mimetic interpretation of painting as our frame of reference, it becomes immediately noticeable that the implications attached to painting in *Laws* VI are completely different.¹⁵ First and foremost, in this analogy the painter does not appear to be imitating anything. Second, painting seems to be a never-ending business (even if the perspective of the layman leaves it open whether painting really never stops). These two aspects are two sides of the same coin: the absence of a πέρας for the act of painting a picture is the direct consequence of the absence of a model. When the painter is a copyist, it is never

¹³ *Resp.* 596b4-597e5. This does not mean that Plato’s attitude to poetry is one of pure hostility. See HALLIWELL (2011), 155-207 for a recent and nuanced argument for “Platonic ambivalence” towards poetry. About *Resp.* X, see especially his observations *ibid.*, 182-204.

¹⁴ *Resp.* 500d11-501c9. The philosopher is a “painter of constitutions”, πολιτειῶν ζωγράφος (501c6-7). See HALLIWELL (2011), 182.

¹⁵ προαγματεία, “occupation”, can be almost synonymous with τέχνη. See *Resp.* 528d4, 531d4, 532c. It is also the “treatment” of a subject, manner of dealing with, philosophical argument (*LSJ*).

a question whether or not the painting can be finished: the τέχνη itself consists in ‘producing a copy’.¹⁶

The next stage of the analogy assumes a more hypothetical standpoint than that of the layman observer of painters, 769b6-c8:

ΑΘ. (...). χρησώμεθά γε μὴν τῷ νῦν παρατυχόντι περὶ αὐτῆς ἡμῖν λόγῳ τὸ τοιόνδε, ὥς εἴ ποτέ τις ἐπινοήσῃε γράψαι τε ὥς κάλλιστον ζῶον¹⁷ καὶ τοῦτ’ αὖ μηδέποτε ἐπὶ φαυλότερον ἀλλ’ ἐπὶ τὸ βέλτιον ἴσχειν τοῦ ἐπιόντος ἀεὶ χρόνου, συννοεῖς ὅτι θνητὸς ὢν, εἰ μὴ τινα καταλείψει διάδοχον τοῦ ἐπανορθοῦν τε, ἐάν τι σφάλῃται τὸ ζῶον ὑπὸ χρόνων, καὶ τὸ παραλειφθὲν ὑπὸ τῆς ἀσθενείας τῆς ἑαυτοῦ πρὸς τὴν τέχνην οἷός τε εἰς τὸ πρόσθεν ἔσται φαιδρύνων ποιεῖν ἐπιδιδόναι, σμικρὸν τινα χρόνον αὐτῷ πόνος παραμενεῖ πάμπολος;

ΑΘ. (...). We may still use this fact, which it has occurred to us to mention, to illustrate the following point. Suppose that a man should purpose to paint a figure as beautiful as he can, and [to purpose] that this should never grow worse, but always better, as time went on, do you not see that, since the painter is mortal, unless he leaves a successor who is able to repair the picture if it suffers through time, and also in the future to improve it by touching up any deficiency left by his own imperfect craftsmanship, his great effort will last only a brief period of time? (Transl. BURY, adapted)

In the text cited above the painter himself is the focalizer. What in the first excerpt of the analogy (769a7-b3) was the impression of the layman observing painters at work, has now become the painter’s own recognition: the painter

¹⁶ Cf. CAMPBELL (1981), 440: “The discussion of the *nomoi* is throughout grounded in practical experience rather than in metaphysics. (...) The Lawgiver is no longer the metaphysical artist, described in the *Republic*, who, viewing the pattern of absolute truth, would wipe clean his mortal canvas and establish in ‘this world also the laws of the beautiful, the just, and the good...’. Now he resembles the less exalted bricklayer engaged in mere piecemeal construction.”

¹⁷ ζῶον is the technical term for the object of the painter (ζω-γράφος). In the context of the arts, the term ζῶον refers to an “image”, or “picture” (see also the references in AST [1835-1838], “*imago*”). Hence ζῶον in 769c1 may seem to import after all the idea that the painting is an imitation. However, τοῦτ’ in 769c1 (ὥς κάλλιστον ζῶον καὶ τοῦτ’ αὖ μηδέποτε ἐπὶ φαυλότερον ἀλλ’ ἐπὶ τὸ βέλτιον, 769c1-2) and ζῶον in 769c5 clearly refer to the material picture (ἐάν τι σφάλῃται τὸ ζῶον ὑπὸ χρόνων, 769c4-5). Therefore, especially because of τοῦτο, we have to conclude that ζῶον in 769c1 also refers to the (resultant, material) painting. The superlative ὥς κάλλιστον is not to be understood as “the (objectively) most beautiful imitation (of all)”, but “the most beautiful painting (of which the painter is capable)”. This interpretation is endorsed by ἐπινοέω, “to have in one’s mind”, “intend”, which suggests a personal idea rather than *a priori* knowledge.

knows that he is unable to finish his painting himself. He knows that he is mortal and that he will leave bits and parts open, which will have to be supplemented by a successor. The underlying assumption here is that making a painting is a lengthy endeavour, which takes years of time. The second passage remains inconclusive about the question of whether a painting can ever be finished.

The initial painter (τις in 769c1) purposes (ἐπινοήσκει) to paint a picture as beautiful as he can (ὡς κάλλιστον ζῶον). It should be noted that the analogy does not apply to painting in general, but to the individual act of ‘fabricating a painting’ (cf. εἴ ποτέ τις ἐπινοήσκει, 769b7-c1). The painter who fabricates a painting is analogized to the lawgiver who, on his own authority, fabricates a law code as he sees fit (cf. chapter three). Also, ὡς κάλλιστον ζῶον is the object of ἐπινοεῖν: it is ‘the most beautiful painting’ according to the individual painter’s insight.

Speaking of lawgiving, this passage suggests to us that something is being designed that needs filling in.¹⁸ The incomplete parts of the painting are left open “by [the painter’s] weakness in relation to the art” (ὕπὸ τῆς ἀσθενείας τῆς ἑαυτοῦ πρὸς τὴν τέχνην). That a professional has a “weakness” (ἀσθενεία) “in respect to his art” (πρὸς τὴν τέχνην) is unthinkable from the point of view of *Gorgias* or *Republic*: the expert is qualified to realize the aim of his τέχνη—otherwise, he would not be an expert in the first place.

The function of the successor (διάδοχος, 769c4) is twofold: (i) he must correct any part of the painting that may have deteriorated by the lapse of time (ἐπανορθοῦν ἂν τι σφάλῃται τὸ ζῶον ὑπὸ χρόνων, 769c4-5); and (ii) he has to fill in “what is left open” by the original painter (τὸ παραλειφθέν, 769c5). To create a painting that will not deteriorate, but acquire a better condition is part of the very intention of the original painter: ἐπινοήσκει (...) τοῦτ’ [ζῶον] αὐτὸς μηδέποτε ἐπὶ φαυλότερον ἀλλ’ ἐπὶ τὸ βέλτιον ἴσχειν τοῦ ἐπιόντος ἀεὶ

¹⁸ Later onwards, the term we encounter for this original design is περιγραφή, “outline”.

χρόνου (769c2). The description of the successor's task is ambiguous: it does not give a decisive answer to the question whether painting is a never-ending process. The task under (i) does not necessarily entail an endpoint; in fact, τοῦ ἐπιόντος αἰεὶ¹⁹ χρόνου (769c2-3) and the pronoun ἐπί ("towards") seem to suggest that the process of correction will last indefinitely. If the painting is inevitably affected by the lapse of time, there will be a commensurate process of restoration needed to counteract these affects. By contrast, the task under (ii), filling in what is left open, may seem to entail that that process will at some point in the (distant) future be finished.

In this analogy, the τέχνη of painting is much more complicated than the static idea of 'copying a model'. Creating a painting is a *dynamic* activity: it is a continuous process with various stages that are not clearly demarcated from each other (apart from the fact that filling in what is left open is apparently limited to the successor), a painting takes a very long time (many years) to make, different people will work on the painting (at least two), the painting is susceptible to deterioration over the course of time, and continuous efforts are needed to restore its defects. Strictly speaking, all of these activities belong to the τέχνη of making a painting (sketching as well as restoring and filling in) insofar as they are all necessary to complete and preserve the whole. The analogy is highly rhetorical in assuming a clear distinction between an outline and filling in what is left open. In the process of painting what is left open is evident; yet in the case of lawgiving, these distinctions may not always be so clear.

The idea of painting as a τέχνη of which the final product cannot be realized by its original creator is imposed upon it by the *analogon* of lawgiving, which of course is Plato's reason for introducing the simile. The *analogon* and

¹⁹ In the apparatus criticus of the OCT edition, we find c3 δῆ in marg. γρ. O. The more detailed apparatus criticus of the Budé-edition gives αἰεὶ AO : δῆ α. s.v. O⁴ (δῆ supra αἰεὶ). O is the *Laws* manuscript in the Vatican (Vaticanus graecus I, 9th century). O⁴ is a recensio from the 11th or 12th century ex libro Patriarchae.

definiendum mutually frame one another. That lawgiving is the *analogon* becomes explicit in 769d1-e2, when the Athenian states that the lawgiver's intention is similar to the painter's:

ΑΘ. Τί οὖν; ἄρ' οὐ τοιοῦτον δοκεῖ σοι τὸ τοῦ νομοθέτου βούλημ' εἶναι; πρῶτον μὲν γράψαι τοὺς νόμους πρὸς τὴν ἀκριβείαν κατὰ δύναμιν ἱκανῶς· ἔπειτα προϊόντος τοῦ χρόνου καὶ τῶν δοξάντων ἔργῳ πειρώμενον, ἄρ' οἶε τινὰ οὕτως ἄφρονα γεγονέναι νομοθέτην, ὥστ' ἀγνοεῖν ὅτι πάμπολλα ἀνάγκη παραλείπεσθαι τοιαῦτα, ἃ δεῖ τινα συνεπόμενον ἐπανορθοῦν, ἵνα μηδαμῇ χείρων, βελτίων δὲ ἢ πολιτεία καὶ ὁ κόσμος αἰε²⁰ γίγνηται περὶ τὴν ὠκισμένην αὐτῷ πόλιν;

ATH.: Well then, do you not think that the purpose of the lawgiver is similar? He purposes, first, to write down the laws, so far as he can, with complete precision; next, when in the course of time he puts his ideas to the test of practice, you cannot suppose that any lawgiver will be so foolish as not to perceive that very many things must necessarily be left over, which it will be the duty of some successor to make right, in order that the constitution and the order of the polis he has founded may always grow better, and never in any way worse. (Transl. BURY, adapted)

Since the idea that the original creator of a painting is unable to finish his painting himself has already been introduced in the context of the *analogon*, the idea of an original lawgiver who is unable to finish his law code himself is not new (πάμπολλα ἀνάγκη παραλείπεσθαι τοιαῦτα, 769d5-6).

What is new, however, is that here we acquire some idea about why he is unable to do so. We hear that the original lawgiver will attempt to write down laws “as accurate as his power permits him” (πρὸς τὴν ἀκριβείαν κατὰ δύναμιν). For the first time in the context of the analogy the notion of “accuracy” (ἀκριβεία) is introduced. But what does that mean, if there is no

²⁰ Like the painter, the lawgiver desires that his picture is preserved, and will improve in the course of time. This analogy makes the preservation (σωτηρία) of the law code and of the *polis* for which the laws are made are an integral part of lawgiving. In terms of the analogy, therefore, the nocturnal council, whose function it is to preserve the law code, also has in that sense a legislative function and legislative authority as second lawgivers. Yet there is a fundamental caesura between making new laws by the original lawgiver, and preserving existing ones, which is also reflected in the caesura in the text of the *Laws* itself, which introduces the nocturnal council only at the very end, when the νομοθεσία has been completed. On the role and function of the nocturnal council, see chapter six, section 6.1.

model to be copied? In the case of lawgiving, it is easier to imagine that it is necessary to omit some things than it is in the case of painting (where it seems to raise more questions than answers). The lawgiver's ideas (δόξαντα) must be tested "in practice" (ἐργῶ) "in the course of time" (προϊόντος τοῦ χρόνου).

The necessity to omit so many elements lies in the "material" of the lawgiver: the topics to be regulated are so intricate that it is impossible, at least for a human lawgiver, to foresee in advance every law that may be needed. The lawgiver is not omnipotent: κατὰ δύναμιν and γράψαι (...) ἱκανῶς limit the degree to which a first design can be accurate.²¹ We saw above that the representation of painting (and lawgiving) are highly dynamic. Part of this is that the analogy creates the effect of a *struggle*: making a painting confronts the painter and his successor with difficulties that can only be overcome in the course of time. In this context, ἀκριβεία therefore refers to the fittingness of the laws, their being tailored to the demands of practice (and not to—as one might have expected in the context of a painting-analogy—accuracy of replication).

The painting apparently *begins* on a clean canvas and shapes a *polis*' notion of ἀρετή; as we saw in chapter three, the idea is that a lawgiver is in principle, his aim being the σωτηρία of the *polis*, free to enact as he sees fit. Yet

²¹ The idiosyncratic nature of the painting-analogy in *Laws* may be assessed more clearly in comparison to the analogy between painter and philosopher in *Resp.* 500d11ff., which was discussed briefly in chapter two, see above, p. 79. Socrates likes the philosopher-ruler to a painter who paints a constitution on the basis of a divine model. Several differences seem significant: (1) the philosophers refuse to work on a *pinax* that is not pure (καθαράν, 501a3, a6) and erase the existing *polis* and characters of its citizens (ἡθη ἀνθρώπων) before they commence their own painting. (2) The philosophers work on the basis of a model (παράδειγμα). Their eyes quickly zigzag between model and imitation, so as to produce the best likeness (ἔπειτα (...) ἀπεργαζόμενοι πυκνὰ ἂν ἐκατέρωσ' ἀποβλέποιεν, 501b1-2). They look alternatively "at natural justice, the good, the temperate, and all such things" (πρὸς τε τὸ φύσει δίκαιον καὶ καλὸν καὶ σῶφρον καὶ πάντα τὰ τοιαῦτα, 501b2-3), and at the painting, the δίκαιον in people (καὶ πρὸς ἐκείνο αὐτὸ τὸ ἐν τοῖς ἀνθρώποις ἐμποιοῖεν, 501b3-4). Cf. ADAM *ad loc.* That the philosophers paint a *likeness* is also suggested by the fact that they sometimes erase things, when the likeness is not good enough, and then again paint things anew (τὸ μὲν ἄν (...) ἐξαλείφοιεν, τὸ δὲ πάλιν ἐγγράφοιεν, 501c1). (3) Finally, *Republic* speaks about painters in the plural. In *Republic* there are no differences between individual philosophers—they are identical *qua* philosophers and operate on the same basis, the divine *paradeigma*. By contrast, *Laws* speaks of an individual lawgiver, each of whom fabricates his own creation; the import of the painter-analogy is distributive rather than collective.

the lawgiver's original ideas must in the course of time be adapted and become attuned to real life. Therefore, ἀκριβεία requires that one must have completed the διέξοδος from beginning to end. Furthermore, we may surmise that ἀκριβεία in the case of laws carries overtones of practicality, detail, and perhaps also of equity and fairness; accuracy is necessary because, the more accurate laws are, the less possibility for conflicts is left.

That the efforts of the first painter are necessarily limited is due to the nature of the business. This is not to say that individual lawgivers do not differ from each other; there may be differences in δύναμις. But the general implication is that, whatever the quality of the lawgiver, the product of any human lawgiver will—necessarily—remain incomplete for at least some time. When painting is conceived of as copying a model, the painter's own *judgement* is excluded from consideration. Δόξα is completely irrelevant, since the nature of the product depends solely on replication, and is not influenced by personal ideas. Every painter of constitutions in the *Republic* will paint the same picture.

But the painter-analogy in *Laws* does allow for differences in judgements (ἐπινοήσσειε in 769c1 implies a form of personalized inspiration). The correspondence between painters/lawgivers is formal, not substantial: every sensible act of lawgiving will start out by drawing a framework and fill in details later. Differences in δόξα and δύναμις suggest a dynamic τέχνη.²² It is *logical* not to start with working out the details (for instance, the eyes or nose) if one aspires to paint a picture of, say, mythological figures, or a procession. The

²² The appeal of this analogy should, however, not obscure the fact that the transition from painting to formulating laws requires a major conceptual leap. It is evident what filling in the blanks in the outline of a painting means. But how are we to imagine the same activity when applied to the analogon, i.e., lawgiving? The idea of "filling in blanks" suggests, from an optimistic point of view, that the number of domains for which laws are yet to be made is finite, as if they were clearly visible blanks in a picture. But who knows, and on what basis, what these "blanks" are in the first place? To conceive of absent or insufficient regulations as blanks in a whole, i.e., as evident lacunae that still need to be covered is a clear case of framing: it presents as surveyable at one glance an issue that is in fact much more intricate, since it can only become clear what the blanks are in the course of time. Moreover, to formulate (explicit, verbal) rules to govern people's behaviour is much more complex than filling in blanks on a canvas within an outline.

painting-analogy presents provisionality and vagueness as inherent in lawgiving, since human foresight is necessarily limited. Painting is a process in which the first phases are characterized by a certain degree of fuzziness; leaving things *undetermined* thus becomes a structuring principle of lawgiving as it is represented here. This corresponds to the interlocutors' own legislation in the context of dialectic, λόγῳ. In a law code that is not for real, leaving things open and provisional is not problematic. The painter-analogy is thus an analogy for the dramatic act of lawgiving of the interlocutors in *Laws*, rather than for any act of legislation.

4.2 From the painting-analogy to the law code in *Laws*

The painter-analogy presents lawgiving as a long process which the original lawgiver is unable to complete (if finishing is possible at all). At some point, successors have to be appointed. This is preferably to be done before the death of the lawgiver, since in that case, the lawgiver has the opportunity to instruct his successors.

Appointing successors is in fact what *the interlocutors themselves* proceed to do immediately after the painter-analogy, with reference to their advanced age (ἡμεῖς δ' ἐν δυσμαῖς τοῦ βίου, 770a6).²³ The advanced age of the first lawgiver constitutes a practical reason why a successor is necessary.²⁴

²³ On the high age of the interlocutors, see *Leg.* 799c4-d4 (*πρεσβύται* by implication), 821a7 (*πρεσβύται*), 846c3 (the interlocutors identify themselves implicitly with the first lawgiver, the γέρον νομοθέτης). Cf. 625b4-5, 634d1-2. The successors are not of the age of νέοι absolutely (which is between 18 and 30: *Leg.* 664c6-d1, and Book II, where the group of νέοι is in between παῖδες and πρεσβύτεροι); they are young (νέοι) in relation to the aged interlocutors (πρὸς ἡμᾶς). *Leg.* 892d7 (νεώτατος δ' ἐγὼ τυγχάνων ἡμῶν) is part of an *irrealis* (εἰ ... ἔδει ... διαβαίνειν, d6), and does not imply that the Athenian is indeed younger than the other two.

²⁴ This assumption is also compatible with the consistent connection between ἀληθεῖς δόξαι or φρόνησις and seniority in the *Laws*, see chapter three, especially p. 116; also p. 117, n. 137. The distinction between the lawgiver and his successor(s) is cast in terms of either age or chronology: ὁ πρῶτος νομοθέτης and οἱ δεύτεροι (835b1-2); the γέρον νομοθέτης is distinguished from οἱ νέοι

Therefore, the reference to a successor may imply that a first lawgiver will (in most cases, necessarily) be of advanced age, which is consistent with the association of authority with seniors in *Laws*.²⁵ It is, however, only in light of the analogy that the interlocutors' strategy is fully understandable, for it is the analogy that has framed lawgiving as a lengthy process.

But the parallelism between the lawgivers in *Laws* and the lawgiver in the analogy also manifests itself in the interlocutors' own lawgiving. The Athenian clearly approaches lawgiving as a lengthy process, similar to the principles stipulated in the analogy, and reflects on their own lawgiving in the terms of the painting-analogy. Both the place of the analogy, immediately preceding the lawgiving in the *Laws*, and the correspondence in procedure, suggest that we can read the analogy as the pattern after which the lawgiving on the dramatic level is modelled.

By appointing successors, the interlocutors put themselves on a par with the first painter-lawgiver of the analogy.²⁶ It is their role in the dialogue to legislate. The interlocutors appoint the magistrates designated as "lawguards" (νομοφύλακες), who were introduced in the discussion of the Magnesians in Book V, as their successors.²⁷ The Athenian, imagining that these lawguards are present, addresses them in a fictional speech. In this speech he describes their upcoming legislation in the terms of in the analogy, 770b4-b8:

ΑΘ. Λέγωμεν δὴ πρὸς αὐτούς· ὦ φίλοι σωτήρες νόμων, ἡμεῖς περὶ
ἐκάστων ὧν τίθεμεν τοὺς νόμους πάμπολλα παραλείψομεν—ἀνάγκη
γάρ—οὐ μὴν ἀλλ' ὅσα γε μὴ σμικρὰ καὶ τὸ ὅλον εἰς δύναμιν οὐκ

(846c3-4); cf. οἱ νεωτέροι νομοθέται (855d2); the things left out by the πρεσβύτερης νομοθέτης have to be "filled in" (ἀναπληροῦν) by ὁ νέος νομοθέτης (957a2-3).

²⁵ See chapter three, p. 118, n. 138; also p. 109; also BARTELS (2012).

²⁶ For the interlocutors as the structural equivalent of the lawgiver: *Leg.* 855c6-d4. The εἰσαγωγαί and the προσκλήσεις etc. (ὅσα τοιαῦτα καὶ ὡς δεῖ γίγνεσθαι) in cases involving the death penalty have to be left to the younger lawgivers (τοῖς νεωτέροις νομοθέταις χορὴ μέλειν, 855d2-3). It is "our job" (ἡμέτερον ἔργον), the interlocutors say, to legislate about the procedure for the voting (τὴν διαψήφισιν). The procedure follows in 855d4-856a8.

²⁷ *Leg.* 752d2-755b6. On the lawguards, see MORROW (1960), 198-204; STALLEY (1983), 113-114, 116.

ἀνήσομεν ἀπεριήγητον καθάπερ τινὶ περιγραφῇ· τοῦτο δὲ δεήσει συμπληροῦν ὑμᾶς τὸ περιηγηθέν.

ATH. “Let’s address them thus:—‘Beloved preservers of the laws, in many departments of our legislation we shall leave out a vast number of matters—for we cannot do otherwise; yet, notwithstanding, all important matters, as well as the general description, we shall include, so far as we can, in our outline sketch. Your help will be required to fill in this outline; (...)” (Transl. BURY, adapted)

Like the lawgiver-painter in the analogy, the interlocutors will by necessity (ἀνάγκη) leave many issues open (πάμπολλα παραλείψομεν). But whatever is important (ὅσα γε μὴ σμικρά), and the whole (τὸ ὅλον), will not be left “without outline” (ἀπεριήγητον), “precisely as a kind of sketch” (καθάπερ τινὶ περιγραφῇ). Although the term περιγραφή is not used in the painter-analogy itself, the analogy has prepared us for conceiving of lawgiving as an “outline”, and for conceiving of lawgiving as a lengthy process in the first place.²⁸ The task of the lawguards will be to “fill in the outline” (συμπληροῦν ... τὸ περιηγηθέν).²⁹ This terminology creates the expectation (which is subsequently confirmed) that lawgiving in *Laws* will proceed along the same lines as lawgiving in the analogy. What the interlocutors will be doing in *Laws* is formulate the outline—the idea is that more detailed regulations have to be deferred until the whole διέξοδος τῶν νόμων is complete.

²⁸ The Athenian twice refers to their law code as a περιγραφή (768c5, 770b8). The interlocutors will give some regulations concerning οἰκοδομική: ὅσον τινα τύπον αὐτῶν δι’ ὀλίγων ἐπεξέλθωμεν (778c1-2). Also, the first lawgiver must “set out” (ἐξηγεῖσθαι τύποις, 816c2) the two types of dances, whereas the lawguard has to trace them and fit them into the rest of the musical education. The lawgiver also has to make a distinction between songs suitable for males and for females (τύπῳ τινὶ 802e1). Cf. 803e5, 809b5. In that sense, sometimes it is almost identical to νόμος (801c6, 801d7). In 905c2 there is some suggestion about the basis for that τύπος: if one is not aware of the συντέλεια of the gods, one will never be capable of seeing a τύπος or composing a speech about life to both a person in a state of happiness and to one in a less fortunate state. In 876e1 περιγραφὴν τε καὶ τοὺς τύπους specifically refers to the section of the law code that concerns punishments (τῶν τιμωριῶν).

²⁹ The age requirements for lawguards are such that they will be between 50 and 70. *Leg.* 755a4-b2: the lawguards ought not to be in function for longer than 20 years. They must on appointment be no less than 50 years of age, and not hold office for longer than twenty years. If someone is appointed lawguard at 60, he must not remain in office for more than ten years. The oldest lawguards will be members of the nocturnal council (see chapter six, p. 220).

We may compare *Laws'* appraisal of a περιγραφή to a passage in *Republic*, that casts the notion of an outline in a different light. In relation to the μαθήματα μέγιστα, the *apodeixeis* of the εἶδη of the four cardinal virtues presented earlier³⁰ in the discussion amounts only to a “sketch” (ὕπογραφή, 504d6).³¹ The interlocutors’ earlier statements were lacking in precision (τὰ τότε τῆς μὲν ἀκριβείας ... ἐλλιπῇ, 504b5-6; cf. μέτρον τῶν τοιούτων ἀπολείπον, 504c1). The incomplete (ἄτελές) cannot be a measure of anything (οὐδενὸς μέτρον). Therefore a mere “sketch” of the virtues will not do (504d6-7). Their guards must walk “the longer road” (τὴν μακρότεραν ... περὶτέον, 504d1, cf. b6), aspire to the most complete product (τελεωτάτη ἀπεργασία), and aim at the highest precision (μεγίστας ... τὰς ἀκριβείας) in the most important affairs (τῶν ... μεγίστων, 504d6-e2). This high degree of precision is possible in virtue of the greatest object of knowledge (μέγιστον μάθημα), the Idea of the Good (ἡ τοῦ ἀγαθοῦ ἰδέα, 505a2).

Here, ἀκριβεία depends on (a discussion of) the Good. In the worldview of *Republic*, incompleteness amounts to a failure to persevere, to indifference (ῥαθυμία, 504c5), a trait explicitly said to be of no avail to *polis* and laws. By implication, a city and laws benefit from the zeal of a guard who takes the longer road (τὴν μακροτέραν [ὁδόν]) and who exerts himself both intellectually and physically (μανθάνοντι πονητέον ἢ γυμναζομένω, 504d1); otherwise he will never reach the great principle that is most befitting for a

³⁰ For the references, see ADAM *ad loc.*

³¹ The difference between περιγραφή and ὑπογραφή seems to be twofold. (1) ὑπογράφειν is what teachers do: “trace letters for children to write over” (LSJ, II). In *Prot.* 326d2-5, we find an analogy between this school practice and the education of the citizen by law, both of which enforce (ἀναγκάζειν) a certain kind of writing and behaviour respectively. The ὑπογραφή of the virtues in *Resp.* 504d6 is only an *adumbratio* (ADAM, *ad loc.*), and points to the need for their realization, here called τελεωτάτη ἀπεργασία. By contrast, περιγραφή does not imply a difference between a more and less realised form, an indication and its tracing. (2) ὑπογραφή, as an indication of how one write (or behave), presupposes a conception of what the whole is to look like. By contrast, in the case of a περιγραφή it can only become clear what the whole looks like when the outline is complete, see *Leg.* 768c5-d7 (also above).

person in his position (as guard of *polis* and laws) to learn (τοῦ μεγίστου τε καὶ μάλιστα προσήκοντος μαθήματος ἐπὶ τέλος οὔποτε ἤξει, 504d2-3).³²

In *Laws*, ἀκριβεία depends on the completion of the διέξοδος τῶν νόμων: a rough draft of the whole has to be outlined before further details can be filled in. Due to the nature of the subject matter and the limitations of human foresight, it is simply impossible to advance beyond drawing an outline. The initial incompleteness is part and parcel of the τέχνη of lawgiving as a process. The three interlocutors in *Laws* will do whatever lies in their power (εἰς δύναμιν, 770b7): they will not fall short in zeal. The fact that complete precision is simply not possible at this absolves the interlocutors from having to go into more detail.³³

In their speech to the lawguards, the interlocutors assume a favourable initial situation: a situation in which the original legislators are still alive and can give explicit instructions to their successors (this may not always be the case, for instance, when the lawgiver should die unexpectedly). In such a case, there is a maximum degree of consistency between the two groups of lawgivers, since the second generation of lawgivers has explicitly been instructed by the first lawgiver about what he had in mind in framing his laws. This move seems to express faith in the instruction of (relatively) younger people by older, tying in with the *Laws*' high confidence in the success of

³² LISI (1998) argues that both *Republic* and *Laws* represent "ein theoretisches Modell"; and that the *Laws* is, like the *Republic*, "nur ein Umriß, der der nötigen Nuancierungen und Verbesserungen bedarf" (101-102). In LISI (1985), 246-250 he argues that the *Laws* coincide with the constitution the philosopher writes in the *Statesman*, when he exercises power himself; in LISI (1998) he adds that the rule of law anticipates the rule of philosophy: Magnesia is "ein Staat im Werden, d.h. die Herrschaft des Gesetzes soll solange bleiben, bis die Philosophen ausgebildet werden und schließlich die Macht übernehmen können" (104). He suggests that the fact that *Laws* mostly appeals to existing laws must be explained by the "Vorläufigkeit" of the rule of law (104, cf. 99).

³³ Cf. *Leg.* 875d4-5: it is inherent in law that it can take into account the majority of cases, not all: τάξιν καὶ νόμον, ἃ δὴ τὸ μὲν ὡς ἐπὶ τὸ πολὺ ὁρᾷ καὶ βλέπει, τὸ δ' ἐπὶ πάντων ἀδυνατεῖ. Cf. 925e8-926a3. Some domains, however, cannot be legislated for, or are too trivial to be regarded as real laws: 788a1-c4, 822d2-823a6.

paideia—at least with those people who have already gone through some kind of selection, just as the lawguard.³⁴

The lawguards have to “complete” the interlocutors’ “outline”: τοῦτο δὲ δεήσει συμπληροῦν ὑμᾶς τὸ περιγηθέν (770b8). The Athenian instructs the lawguards where they should look (ὅποι ... βλέποντες, 770c1). This is familiar terminology: βλέπειν εἰς or πρὸς is part and parcel of the idiom of the τέχνη.³⁵ But whereas in other Platonic texts the aim of the τέχνη (for example ὑγίεια, or δικαιοσύνη) was established by an objective norm (φύσις), the lawguards in the *Laws* have to “look at that which we have agreed among each other that a lawguard and lawgiver ought to look at” (βλέποντας πρὸς ταῦτα εἰς ἅπερ ἡμεῖς συνεχωρήσαμεν ἀλλήλοις τὸν νομοφύλακά τε καὶ νομοθέτην δεῖν βλέπειν, 770c5-7; cf. 779e6-7: τό γε μὴν δοκοῦν ὀρθὸν καὶ ἀληθὲς εἶναι πάντως ῥητέον). This goal is, of course, social stability (φιλία, εἰρήνη), the goal of lawgiving as determined in Books I-II,³⁶ and III.³⁷ The object of the lawguards’ contemplation is what *these* interlocutors in *this* conversation have agreed that *πᾶσα ἀρετή* amounts to. The younger lawgivers are to become “of the same conviction” (συγγνώμονας) as, and “pupils” (μαθητάς) of, the interlocutors.³⁸ The law code takes as its goal “complete virtue”, and hence the

³⁴ The instruction of the younger members of the nocturnal council by the council’s older members seems to be a similar mechanism. See chapter six, p. 220, p. 221.

³⁵ See chapter one, p. 29.

³⁶ See chapter three, especially p. 91, p. 111.

³⁷ See *Leg.* 693b1-d1; when the interlocutors said that the lawgiver ought to look at (βλέπειν πρὸς) τὸ σωφρονεῖν, φρόνησις or φιλία, it should be realized that these goals are not different, but the same (ὡς ἔσθ’ οὗτος ὁ σκόπος οὐχ ἕτερος ἀλλ’ ὁ αὐτός, 693c3-4). Cf. 701d7-9: Ἐλέξαμεν ὡς τὸν νομοθέτην δεῖ τριῶν στοχαζόμενον νομοθετεῖν, ὅπως ἡ νομοθετουμένη πόλις ἐλευθέρα τε ἔσται καὶ φίλη ἑαυτῇ καὶ νοῦν ἔξει. The *ἐλεγχος* (702b2) the interlocutors want to submit to is a practical test (εἰ ... τι πεποιήκαμεν προὔργου) of the viability of this conclusion. The lawgiver ought to look at “virtue as a whole”, *πᾶσα ἀρετή*, 630e1-4. Cf. 705e1-706a4.

³⁸ The principle (ἀρχή, 742d1) being that a man will become ἀγαθός and acquire the virtue appropriate to man. The first lawgiver also gives the second lawgivers “bestimmte ‘Muster’ oder ‘Umrisse’ an die Hand oder verweist auf eigene Gesetze, die sie als Muster nehmen sollen”, or even in 840a6ff., “detaillierte Anweisungen zur Formulierung einer zweitbesten Gesetzfassung”: see (with references) SCHÖPSDAU (2003), 439. These concrete cases ought to be settled “mit Hilfe ihrer eigenen Erfahrungen”: 772b-c, 779c-d, 846c (*ibid.*).

conception(s) of excellence in the opening conversation (see chapter three). The most important point of the interlocutors' agreement (ή συγχώρησις) was that a citizen ought at some point in time (ποτέ) to become a "good man" (ἀνὴρ ἀγαθός), and acquire the "excellence of soul suitable to a human being" (τὴν ἀνθρώπῳ προσήκουσαν ἀρετὴν τῆς ψυχῆς, 770d1-2).³⁹ The goal of the laws is ἡ πᾶσα ἀρετή, the virtue befitting a human being because of his social nature.⁴⁰

So far, it has been argued that the law code of *Laws* is on a par with the outline in the analogy, and that the interlocutors are on a par with the initial lawgiver. This does, however, require some further elaboration. The law code in *Laws* is a law code "in speech" (λόγῳ); the interlocutors' law code is a "test" (ἔλεγχος) to see whether their statements about the best life for the individual and the best organization for a *polis* were suitable in any way.⁴¹ Their law code is not the law code for Magnesia (legislation ἔργῳ), which is to follow later (outside the plot of *Laws*).⁴² In addition, the interlocutors sometimes emphasize

³⁹ "... through some occupation, or character trait, some acquisition or desire, opinion, or some kinds of studies", ἕκ τινος ἐπιτηδεύματος ἢ τινος ἡθους ἢ ποιᾶς κτήσεως ἢ ἐπιθυμίας ἢ δόξης ἢ μαθημάτων ποτέ τινων (770d2-4). In other words, how they will acquire virtue is of secondary importance. What counts is the right *behaviour*. An example of encouraging virtue through κτήσις may be the "additional payment" (δίκη ... συνεπομένη) that is owed by the person who commits theft or violence: see below, p. 168, n. 82. This is also connected with the relatively egalitarian conception of virtue (see chapter three, p. 114): virtue is not πράττειν τὰ ἑαυτοῦ, an occupation or curriculum appropriate to members of a specific class (ἐμπειρία, not the assumed condition of the ψυχῇ). Rather, every citizen will acquire virtue in the way(s) that is or are open to him or her (770d4-5).

⁴⁰ See chapter three, p. 91.

⁴¹ *Leg.* 702b1-3 (the Athenian): εἰ δὲ δὴ τι πεποιήκαμεν προὔργου, τίς ποτ' ἂν ἔλεγχος γίγνοιτο ἡμῖν πρὸς ἡμᾶς αὐτοὺς λεχθεῖς, ὦ Μέγιστε τε καὶ Κλεινία; "But as to the value of our conclusions [in Books I-III], what test can we apply in conversing among ourselves, Megillus and Cleinias?" (transl. BURY, adapted).

⁴² See chapter five, section 5.3.2, p. 204. The current order may deviate from the order adopted in a case of real legislation, 778b4-c2: γάμων δ' ἢν ἔμπροσθεν ταῦτα, ὦ Κλεινία, νῦν δ' ἔπειπερ λόγῳ γίγνεται, καὶ μάλ' ἐγχωρεῖ ταύτη γίγνεσθαι τὰ νῦν· ἔργῳ μὴν ὅταν γίγνηται, ταῦτ' ἔμπροσθεν τῶν γάμων, ἐὰν θεὸς ἐθέλῃ, ποιήσαντες, ἐκεῖνα ἤδη τότε ἐπὶ πᾶσιν τοῖς τοιοῦτοις ἀποτελούμεν. νῦν δὲ μόνον ὅσον τινὰ τύπον αὐτῶν δι' ὀλίγων ἐπεξέλθωμεν, "These things are really, Cleinias, prior to marriage; but since our construction is now a verbal one, this is a very suitable place to deal with them; when we come to the actual construction of the State, we shall, God willing, make the houses precede marriage, and crown all our architectural work with our marriage-laws. For the present we shall confine ourselves to a brief outline of our building regulations" (transl. BURY).

that they are not yet lawgivers.⁴³ This is also the note on which the dialogue ends: if we turn to the closing page of *Laws*, we see that the dialogue ends on the prospect of laying the actual law code. In sum, the lawgiving at the dramatic level of *Laws* is an (1) exercise for (2) an outline.

4.3 Blanks in the outline: to be continued...

In view of the presentation of the law code in the *Laws* as an outline, it should come as no surprise that many issues raised in the interlocutors' own legislation in Books VI-XII are explicitly left open⁴⁴ and are deferred to a fictive moment in the future.⁴⁵ Now that we have looked at the instruction of the successors, in this section we will investigate in more detail the omissions in the law code itself.

The interlocutors frame their laws on the fiction that many things will eventually be completed by others. The present section will examine the open ends in the law code, *i.e.*, those junctures in the διέξοδος τῶν νόμων at which the interlocutors defer further legislation to their successors. To be sure,

⁴³ Cleinias likens their own approach to lawgiving to "bricklayers", λιθολόγοι (857e10-858c4). He laughs away the idea that they would have to choose between looking at the best (τὸ βέλτιστον σκοπεῖν) and looking at that which is most necessary (τὸ ἀναγκαϊότατον). Instead, they have the leisure to proceed in the way that bricklayers do: they can gather material at random (χύδην) and select at leisure the items for the future construction (τὰ πρόσφορα τῇ μελλούσῃ γενήσεσθαι συστάσει). At 778b1-c1, the interlocutors state that the order in which they have discussed marriage and building λόγῳ (marriage prior to building) should be reversed when they will legislate in deed, ἔργῳ.

⁴⁴ Made explicit at *Leg.* 768c3-e3, 769a7-771a4, 772c6-d4, 779c5-d2, 816c1-d2, 828b3-7, 835a2-b4, 840e2-7, 846b6-c8, 847d1-7, 849e1-6, 855d1-4, 871c3-d2, 875d4-5, 917e2-918a5, 920b3-c7, 923e8-926a3, 957a1-c1; cf. BOBONICH (2002), 573 n. 67. For a discussion of the law code as an outline, see also SCHÖPSDAU (2003), 438-441ff. On the incompleteness of the law code, see, *e.g.*, MORROW (1960), 203-208, 224-228; BRUNT (1993), 249-250.

⁴⁵ This later stage may also be inside the law code, as is the case with the *syssitia*, 783b5-c4. Although the Athenian does come back to the *syssitia* in 842b, the participation of women is not settled, SCHÖPSDAU (2003), 478-479. According to SAUNDERS (1995), 597 the issues left open are settled in 779dff., 788ab, 839cd. In any case, the thought is that some things will become clear at a later stage.

statements of this kind are made on the level of the outline; the interlocutors themselves are in no way concerned with making amendments or filling in details.

The blanks in the outline offer a view of how the interlocutors suggest that their law code ought to be filled in. They offer but a glimpse of a process aiming at completion at some point in the future. The recognition that additional regulation is needed is often accompanied by explicit instructions to or about the second lawgivers about future legislative procedures.⁴⁶ If anything in *Laws*, these “vistas” into the future are also likely to offer us a view of what is involved in the dynamic process of making a law code. What topics are left open, and how will the future lawgivers proceed? In addition, these vistas may also offer a vision of whether *the interlocutors think* that a law code will be finished at some point in the future. The painter-analogy implied that the law code is in first instance *not* finished, but what about the activities of the successors? What determines that laws are finished? The next section will investigate in what sort of contexts the lawgivers leave certain issues undetermined, how they motivate their decision to do so, and what they reveal about the mode of proceeding to be adopted by their successors.

In the vast majority of cases, filling in the blanks is assigned to the lawguards (as may be expected in light of the Athenian’s announcement in 770a8-9).⁴⁷ They have to legislate on matters which the law has left open δι’

⁴⁶ SCHÖPSDAU (2003), 438-439 distinguishes between three grounds for the inevitable “Lückenhaftigkeit” of the law code: the complete regulation of all the “Sachbereiche” (1) is impossible (for three reasons: the abstractness and generality of the law; because not all necessary “Voraussetzungen” can be known in advance; and because of the limited time that is left for the lawgiver of high age); (2) is unnecessary, since many smaller things can be settled by any lawgiver; (3) would be unbecoming, since a lawgiver of high age would make himself ridiculous.

⁴⁷ On the lawguards, see the index of MORROW (1960); further GUTHRIE V (1978), 333, 353, 369; STALLEY (1983), 113-114; BRUNT (1993), 250; BOBONICH 2002, 380-384, 397; KLOSKO (2006), 250-251, 256-257. For a list of passages about the lawguards’ involvement in amending and revising laws, see BOBONICH (2002), 573-574, n. 67.

ἀπορίαν.⁴⁸ Yet the lawguards are not the only ones involved; in most cases of supplementary legislation, they have to cooperate closely with the officials holding the ἀρχή over the relevant sphere of life. In many instances, for example, the νομοφύλακες are to formulate laws in conjunction with the ἀγορανόμοι and/or the ἀστυνόμοι.⁴⁹ The impression one gets is indeed one of close collaboration between the lawguards and the *astynomoi*, as becomes evident from the regulations about selling in markets.⁵⁰ Legislation is also further deferred to the δικαστήρια.⁵¹

⁴⁸ Leg. 779c7-d2: ταῦτα δὲ πάντα συνιδόντες ταῖς χρεῖαις οἱ νομοφύλακες ἐπινομοθετούντων καὶ τῶν ἄλλων ὅποσα ἂν ὁ νόμος ἐκλείπη δι' ἀπορίαν, "All such details—and all else that the lawgiver is unable to deal with and omits—the lawguards shall regulate by supplementary decrees, taking account of the practical requirements" (transl. BURY, adapted). The law cannot foresee the needs (χρεῖαι) that will arise. Cf. ENGLAND *ad loc.*

⁴⁹ Suitable and adequate regulations concerning import and export (νόμους δὲ περὶ τούτων ... τοὺς πρόποντάς τε καὶ ἱκανούς) (847d1-7); the lawguards, ἀγορανόμοι and ἀστυνόμοι are to designate suitable places (ἔδρας προέουσας, 849e5) for the exchange of goods for money and money for goods (849e1-6); the ἀγορανόμοι and lawguards are to be informed about the adulterations and malpractices of the vendors by those experienced in them (πυθόμενοι τῶν ἐμπείρων περὶ ἕκαστα, 917e4), and to write down rules for what vendors must do and what not (917e2-918a5); legislation is explicitly deferred to the ἀστυνόμοι (918a1-5); the lawguards are to hold a meeting about retail trading together with all those experienced in every branch of retail trading (μετὰ τῶν ἐμπείρων ἐκάστης καπηλείας) (920b7-c1).

⁵⁰ Leg. 917e2-918a5: τὰ δὲ κιβδηλεύματα τε καὶ κακουργίας τῶν πωλούντων οἷ τε ἀγορανόμοι καὶ οἱ νομοφύλακες, πυθόμενοι τῶν ἐμπείρων περὶ ἕκαστα, ἀναγραφάντων ἃ τε χρὴ ποιεῖν τὸν πωλῶντα καὶ ἃ μὴ, καὶ πρόσθε τοῦ ἀγορανομίου θέντων ἐν στήλῃ γράψαντες νόμους εἶναι τοῖς περὶ τὴν τῆς ἀγορᾶς χρεῖαν μνηστὰς σαφεῖς. τὰ δὲ περὶ τῶν ἀστυνόμων ἐν τοῖς πρόσθεν ἱκανῶς εἰρηται. ἐὰν δέ τι προσδεῖν δοκῇ, νομοφύλαξιν ἐπανακοινώσαντες καὶ γράψαντες τὸ δοκοῦν ἐκλιπεῖν, εἰς ἀστυνόμιον θέντων ἐν στήλῃ τὰ τε πρῶτα καὶ τὰ δεύτερα τεθέντα αὐτοῖσιν τῆς ἀρχῆς νόμιμα. "Touching acts of fraud and wrongful acts done by sellers, the market-stewards and the lawguards, after making enquiry from experts in each trade, shall write out rules as to what the seller ought to do or avoid doing, and shall post them up on a pillar in front of the stewards' office, to serve as written laws and clear instructors for those engaged in business in the market. The duties of the city-stewards have been fully stated already; in case any addition seems to be required, they shall inform the lawguards, and write out what seems to be wanting; and they shall post up on the pillar at the city-stewards' office both the primary and the secondary regulations pertaining to their office" (transl. BURY, adapted).

⁵¹ Leg. 855d1-4. Cf. 876a3-876d4: the discretion left to the judges depends on their quality. Some things may be left to the δικαστήρια (dependent on their quality), whereas some must be laid down in laws by the lawgiver himself (αὐτῷ). The lawgiver must τὸ περιγραφὴν τε καὶ τοὺς τύπους τῶν τιμωριῶν εἰπόντας, δοῦναι τὰ παραδείγματα τοῖσι δικασταῖς τοῦ μήδεποτε βαίνειν ἔξω τῆς δίκης (876e1). See SAUNDERS (2001), 89; SCHÖPSDAU (2011) *ad loc.*, MORROW (1960) 243: "law itself pretends to give only an illustrative sample from the multitude of circumstances in which the magistrates are expected to administer reproof, correction, and punishment". For the relation

In religious matters, the νομοφύλακες are to collaborate with the various religious officials. In order to draw up a sacrificial calendar for the new colony, for instance, the expounders (ἐξηγηταί), priests (ἱερεῖς), priestesses (ἱέρειαι), and diviners (μάντις, cf. μετὰ τῶν ἐκ Δελφῶν μαντείων, 828a2) must, together with the lawguards (μετὰ νομοφυλάκων), regulate the things that have necessarily been left out by the lawgiver (ἃ παραλείπειν ἀνάγκη τῷ νομοθέτῃ, 828b5).⁵² Moreover, it is at the discretion of those same religious officials to decide where the laws need supplementation (καὶ δὴ καὶ αὐτοῦ τούτου χρὴ γίγνεσθαι ἐπιγνώμονας τοῦ παραλειπομένου τούτους τοὺς αὐτούς, 828b5-7). Contrary to what has often been assumed, the supposed immutability of the laws in the future is not a sign of their divine origin.⁵³ The

between lawgiver and judge, see also 933c3, 934b7. Greek legislation in general is distinct from Roman and modern legal systems in being procedural rather than substantive: WILLETTTS (1977), 165 ("Greek law, as compared with Roman law, is undefinitive and untidy"); CARTLEDGE, MILLETT & TODD (1990), 1-12. GAGARIN (2005): Greek legislation is unusual "not because gaps are present, but because the Greeks explicitly recognize gaps and are willing to tolerate them. Instead of striving to find rules to fill the gaps in this legislation, laws in several *poleis* specify that judges or jurors should judge cases not covered by the laws 'according to the view that is most just (γνώμη τῇ δικαιοτάτῃ)', or some variation of this Athenian expression", *ibid.*, 35. Cf. the legislation from Eresus, Naupactus and Gortyn cited by SEALEY ([1994], 51-52) (but see GAGARIN's criticism about SEALEY's partial misinterpretation of the law from Gortyn). For gaps in the legislation at Gortyn, see GAGARIN *ibid.*, 36 n. 16.

⁵² In cases of homicide, the lawgiver himself may easily demonstrate (ῥᾷδιον ἀποφαίνεσθαι νομοθέτῃ) that the prosecution of a person who fails to exact retribution for the premeditated murder of a relative must take place through certain prayers and sacrifices to certain gods; however, who these gods are and which procedure of bringing such cases to court is most correct with respect to the divine (τίς ὁ τρόπος ... ὁρθότατα πρὸς τὸ θεῖον ἂν γιγνόμενος εἴη) ought to be legislated for by lawguards together with expounders, diviners, and the god (νομοφύλακες μετ' ἐξηγητῶν καὶ μάντεων καὶ τοῦ θεοῦ, 871c8-d1). The priests have the authority to judge claims by or against music tourists (who come to the city for the performances at festivals) up to fifty drachmae; a greater claim is to be taken to the ἀγορανόμοι (953a3-b5). The ἐξηγηταί, διδάσκαλοι and νομοθέται also have a role in the re-education of criminals (964b8-c4).

⁵³ Whether the laws are really immutable, is disputed; see BOBONICH (2002), 400-408. The import of the unchangeability of the laws thus does not corroborate scholars' claim that the laws are founded on divine authority. See STALLEY (1983), 81-82; BRUNT (1993), 249; NIGHTINGALE (1999a), 121: "In Magnesia (...) the laws are the product of divine wisdom"; KLOSKO (2006), 250-251, 256-257, "Plato intends the laws in Magnesia to have the rigidity of a theocracy", (257). BRUNT and MORROW (1953), 244-245 connect the invariability of the laws with the alleged requirement in *Leg.* 713-714 that "positive law ought to be modelled on divine law (...) [that] will then ensure the true welfare of the citizens. (...) Everywhere Plato [*sic!*] tacitly assumes that he himself apprehends the divine law and can embody it in his code" (244).

provisions for future legislation, including the provisions for rendering the laws immutable, are informed by purely pragmatic considerations; the laws are to *become* immutable only after a due period of testing; they are not immutable laws from the beginning because they have been given to humans by a god. It is simply nonsensical to keep changing laws all the time.

Also involved in legislation are the prize winners in the competitions for virtue: these people have been supremely educated in the *polis'* own educational system.⁵⁴ In *Laws*, authority within the *polis* is related to, and depends on, *experience* (ἐμπειρία). Like the elderly citizens,⁵⁵ the prize winners are an *internal* authority. The elders are most experienced with the *polis'* notion of ἀρετή; the prize winners are superior performers. The requirement of having practical experience with the kind of issues of which one is in charge also emerges from the requirement that those who act as judges in cases of woundings inflicted by one's children, ought to be over 60 years of age and have children of their own (not adopted ones!).⁵⁶ The supervisor of education must also have children of his own.⁵⁷

⁵⁴ *Leg.* 919d3-e9. We may think back to the Athenian's description of *paideia* in virtue in Book I, see chapter three, p. 99. Also, the composers of poetry should have distinguished themselves by noble deeds (829c6-e4): they have to be τίμιοι ἐν τῇ πόλει. This is more important than technical skills.

⁵⁵ *Leg.* 659c9-d4 (the Athenian): Δοκεῖ μοι τρίτον ἢ τέταρτον ὁ λόγος εἰς ταῦτον περιφερόμενος ἦκειν, ὥς ἄρα παιδεία μὲν ἐσθ' ἡ παίδων ὁλκή τε καὶ ἀγωγή πρὸς τὸν ὑπὸ τοῦ νόμου λόγον ὀρθὸν εἰρημένον, καὶ τοῖς ἐπιεικεστάτοις καὶ πρεσβυτάτοις δι' ἐμπειρίαν συνδεδογμένον ὥς ὄντως ὀρθὸς ἐστίν, "This is, I imagine, the third or fourth time that our discourse has described a circle and come back to this same point—namely, that education is the process of drawing and guiding children towards that principle which is pronounced right by the law and which the most decent and eldest people all consider correct on the basis of their experience" (transl. Bury, adapted). For a discussion of the term ἐπιεικής from Homer to Aristotle, see SAUNDERS (2001).

⁵⁶ *Leg.* 878e5-7: ἐκγόνοις δὲ πρὸς γονέας εἶναι τῶν τοιούτων τραυμάτων δικαστὰς μὲν τοὺς ὑπὲρ ἑξήκοντα ἔτη γεγονότας ἐπ' ἀνάγκης, οἷς ἂν παῖδες μὴ ποιητοί, ἀληθινοὶ δέ, ὦσιν, "When woundings of this kind shall be inflicted by children on parents, the judges shall be, of necessity, over sixty years of age who have genuine, and not merely adopted, children of their own" (transl. BURY).

⁵⁷ For the supervisor of education, see *Leg.* 811d5, 812e10, 829d4, 964c4.

Religious choruses of boys and girls

The first laws formulated are those governing a certain type of religious festivals (771a5ff.).⁵⁸ These festivals take place both on the level of the tribe and on the lower level of the twelve communities of which each tribe consists.⁵⁹ Such particular religious festivals are not an arbitrary starting point for the law code, since one of their functions is to provide young boys and girls with opportunities to find a suitable marriage partner (771e1ff.). And since marriage is necessary for procreation, and procreation forms the start of a new human life, the regulations about forming partnerships are logically aimed at begetting new citizens. As explained in chapter one, the law code follows to a large extent the human life cycle from cradle to grave.⁶⁰ Laws and life are, however, not entirely co-extensive: the law code begins with festivals that may lead to a suitable marriage, and after death continues with a discussion of burial rituals, bequests, testaments and some miscellaneous topics. A scope that extends beyond the life of a single human being leads to a broader perspective of the law code on humankind and its mode of life; it is exactly this larger perspective on humans as a *kind* that is characteristic of the *Laws* in general.⁶¹

In the context of these festivals, it is made explicit that some things have not been settled, and we hear explicit instructions about future lawgiving. First, the supervisors (ἐπιμελητάς), organizers (κοσμητάς) and the rulers of the choruses (τοὺς τῶν χορῶν ἄρχοντας) are appointed as lawgivers together with the lawguards (γίγνεσθαι καὶ νομοθέτας μετὰ τῶν νομοφυλάκων).⁶² These

⁵⁸ The law mentioned in 666a3 (ἄρ' οὐ νομοθετήσομεν πρῶτον μὲν κτλ.) about the complete abstinence from wine of those under eighteen is not part of the διέξοδος τῶν νόμων.

⁵⁹ *Leg.* 771d3-e1.

⁶⁰ See above, p. 39, and n. 135 on p. 40.

⁶¹ Cf. the description of human civilization at large as a cycle in *Laws* Book III.

⁶² *Leg.* 772a4-6.

must settle all of the things that the interlocutors leave open (ὅσον ἂν ἡμεῖς ἐκλείπωμεν, 772a6).⁶³ The Athenian continues, 772a6-c4:

ἀναγκαῖον δέ, ὅπερ εἶπομεν, περὶ τὰ τοιαῦτα πάντα ὅσα σμικρὰ καὶ πολλὰ νομοθέτην μὲν ἐκλείπειν, τοὺς δ' ἐμπείρους ἀεὶ κατ' ἐνιαυτὸν γιγνομένους αὐτῶν, ἀπὸ τῆς χρείας μανθάνοντας, τάττεσθαι καὶ ἐπανορθομένους κινεῖν κατ' ἐνιαυτόν, ἕως ἂν ὄρος ἰκανὸς δόξη τῶν τοιούτων νομίμων καὶ ἐπιτηδευμάτων γεγενέσθαι. χρόνος μὲν οὖν μέτριος ἅμα καὶ ἰκανὸς γίγνοιτ' ἂν τῆς ἐμπειρίας δεκαετηρὶς θυσίων τε καὶ χορείων, ἐπὶ πάντα καὶ ἕκαστα ταχθεῖς, ζώντος μὲν τοῦ τάξαντος νομοθέτου κοινῇ, τέλος δὲ σχόντος, αὐτὰς ἑκάστας τὰς ἀρχὰς εἰς τοὺς νομοφύλακας εἰσφερούσας τὸ παραλειπόμενον τῆς αὐτῶν ἀρχῆς ἐπανορθοῦσθαι, μέχριπερ ἂν τέλος ἔχῃν ἕκαστον δόξη τοῦ καλῶς ἐξειργάσθαι, τότε δὲ ἀκίνητα θεμένους, ἤδη χρῆσθαι μετὰ τῶν ἄλλων νόμων οὓς ἔταξε κατ' ἀρχὰς ὁ θεὸς αὐτοῖς νομοθέτης.

It is, as we said, necessary that in regard to all matters involving a host of petty details the lawgiver should leave omissions, and that rules and amendments should be made from year to year by those who have constant experience of them from year to year and are taught by practice, until it be decided that a satisfactory code has been made out to regulate all such proceedings. A fair and sufficient period to assign for such experimental work would be ten years, both for sacrifices and for dances in all their several details; each body of officials, acting in conjunction with the original lawgiver, if he be still alive, or by themselves, if he be dead, shall report to the Law-wardens whatever is omitted in their own department, and shall make it good, until each detail seems to have reached its proper completion: this done, they shall decree them as fixed rules, and employ them as well as the rest of the laws originally decreed by the lawgiver. (Transl. BURY)

This is the first time that the painting terminology is applied to, and interpreted in, a concrete case of legislation: it is necessary (ἀναγκαῖον⁶⁴) that other lawgivers will settle (τάττεσθαι) all those numerous small things that the first lawgiver leaves open (τὰ τοιαῦτα πάντα ὅσα σμικρὰ καὶ πολλὰ νομοθέτην μὲν ἐκλείπειν, 772a7-b1). The original lawgiver will draw an outline (implicit

⁶³ The Athenian again implicitly identifies themselves with the first lawgiver by switching from the first person plural (ἐκλείπωμεν τάττοντες in 772a6) to the neutral νομοθέτης in 772b1.

⁶⁴ Cf. ἀνάγκη, 769d6, 770b6.

in ἐκλείπειν); the officials in charge of the festivals (τούς δ' in 772b1, αὐτὰς ἐκάστας τὰς ἀρχάς in 772c1) will then fill in what is left open.

In this context, we hear more specifically how the remaining lacunae are actually to be filled in. The ἐπιμεληταί, κοσμηταί, etc. in charge of the festivals are to be made lawgivers together with the lawguards. As specialized officials—in the sense of familiar with a certain area of social life—they acquire experience with every new year that passes (τούς δ' ἐμπείρους ἀεὶ κατ' ἐνιαυτὸν γιγνομένους αὐτῶν⁶⁵, 772b1-2). They learn from different situations and needs (ἀπὸ τῆς χρείας μανθάνοντας). The officials will formulate new rules and amend existing ones (τάττεσθαι καὶ ἐπανορθοούμενους κινεῖν, 772b3) every year (κατ' ἐνιαυτόν, 772b3). Later lawgivers are necessary because the supplementation of the law code requires *experience* with the practicalities (τούς δ' ἐμπείρους 770b1; ἐμπειρία in 770b6; cf. ἀπὸ τῆς χρείας μανθάνοντας in b2).

This explains in retrospect why the painter-analogy underscores that a certain period of time is necessary before the painting can be finished. In this case, the interlocutors actually stipulate an appropriate period beforehand: ten years will be a period of appropriate measure (μέτριος, *i.e.*, “reasonable”, neither excessively long, nor too short) and of sufficient length (ικανός) to gain experience with sacrifices and choruses (χρόνος ... τῆς ἐμπειρίας θυσίων τε καὶ χορείων).⁶⁶

As long as the original lawgiver is still alive, he will join the officials in making new laws (κοινῇ, 772c1). After his demise, the officials presiding over

⁶⁵ αὐτῶν is very unspecific: *with what* have these officials become experienced? Cf. BOBONICH (2002), who notes that it is “idle” to search in the text for an exact answer to questions like “Exactly what officials should be involved in each kind of change and how does the procedure work? Where can the proposals for change originate? If the Assembly is involved, does it need to approve by a simple majority of those present and voting or is a super-majority required? If the latter, how high is it? In the offices that must approve, does Plato include, e.g., the select judges? The city wardens?” (399)

⁶⁶ For other suggestions of a trial phase: e.g. 846c5-7: καὶ τῆς ἀναγκαίας αὐτῶν χρείας ἐμπειρώς ἴσχυοντες, μέχρι περ ἂν πάντα ἱκανῶς δόξῃ κεῖσθαι (discussed below). Concerning the regulation of the thorny domain of sexual conduct: if the interlocutors’ first law about sexual conduct does not work, an alternative law must be made instead (840e2-842a3).

the choruses must themselves (αὐτὰς ἕκαστας τὰς ἀρχάς) entrust the lawguards with that part left open within their own jurisdictional sphere (τὸ παραλειπόμενον τῆς αὐτῶν ἀρχῆς, 772c2-3). The filling in of these gaps is to continue until every aspect (ἕκαστον *sc.* τὸ παραλειπόμενον) is believed to have reached the “end of having been completed in a fine way” (μέχρι περ ἂν τέλος ἔχειν ἕκαστον δόξῃ τοῦ καλῶς ἐξεργάσθαι, 772c3-4; *cf.* ἕως ἂν ὅρος δόξῃ τῶν τοιούτων νομίμων καὶ ἐπιτηδευμάτων, 772b3-4). The τέλος τοῦ καλῶς ἐξεργάσθαι and ὅρος of the laws depends on δόξα. It is not made explicit whose δόξα it is, but it is presumably the δόξα of the officials involved in the lawgiving. The final result is a product of agreement on *pragmatic* grounds: it depends on the conviction of those involved rather than on some external criterion (such as likeness to a model).⁶⁷

When the end (ὅρος, τέλος) has been reached, the regulations must be made unchangeable (τότε δὲ ἀκίνητα θεμένους).⁶⁸ However, change is—at least in this case—not completely excluded.⁶⁹ After this ten-year-period, changes can still be made. The impulse has to come from practice itself: when it is believed that a need for change arises, εἰ ... τις ἀνάγκη δόξειε (772c7).⁷⁰

⁶⁷ Amendment is therefore not the imitation of some ideal or pattern world, *contra* MORROW (1960), 584-585; *cf.* 570-571. *Cf.* ZELLER (1839), 29: “nicht der Begriff des Staats ist es, aus welchem die einzelnen Bestimmungen hervorgehen, sondern ganz wie in einer positiven Gesetzgebung werden dieselben einzelnen auseinandergereiht, und eben so vereinzelt und empirisch begründet.”

⁶⁸ For the proverbial phrase μὴ κινεῖν τὰ ἀκίνητα, see *Leg.* 684e1, 843a1 (of the boundary-marks of someone’s land), 913b9 (of another person’s possessions).

⁶⁹ For procedure of νομοθεσία and amending laws at Athens: TODD (1993) for the claim that after the restoration of the democracy (in 403/2), *nomoi* “were for the first time distinguished from and given a privileged status over *psêphismata* (decrees), such that no decree could in future overrule a law” (294-295). In the second half of the fifth century the previously unlimited legislative capacity of the assembly was substituted with the power only to pass *psêphismata*, while the creation of *nomoi* was reserved to a separate body of *nomothetai*, while the assembly could only initiate the procedure.

⁷⁰ Whether this procedure for making amendments pertains only to these religious festivals or to laws in general is contested. AST was the first to argue for a more general reading and proposed to delete θυσίων τε καὶ χορείων. This was countered by RITTER (1896), 171, who rightly argued that the involvement of the μαντεῖαι θεῶν in the procedure points to the narrow reading (the same argument is made by SCHÖPSDAU [2003], 449, and BOBONICH [2002], 396, with reference to RITTER and ENGLAND). The general reading is adopted by MORROW (1953), 245; GUTHRIE V (1978), 368; KLOSKO (2006), 250-251; COHEN (1993), 314; BRUNT (1993), 250; ZUCKERT (2009), 115. For the narrower reading have argued ENGLAND *ad* 772b6; MORROW (1960), 571 n. 54; STALLEY (1983), 82;

Again, it is not made explicit whose δόξα this is. This vagueness is inherent in the nature of lawgiving: it cannot be foreseen how need for changes will appear; and, in any case, it seems that anyone might signal the need for a change.

The Athenian is explicit about the procedure to be followed once the proposal for a change in the laws has been put forward: all officials, the whole *dêmos* and all the oracles of the gods must be consulted, and only if the vote is unanimous in favour of change, must the law be amended (ἐὰν συμφωνῶσι πάντες, 772d2).⁷¹ The participation of the entire citizenry in changing these laws may be due to the fact that the law concerns festivals in which all citizens are involved, and that are crucial for channelling the social interaction between the citizens (this may be the reason why *all* the oracles are consulted as well).⁷²

Details of the music festivals

Although most musical topics have been dealt with exhaustively, some matters, such as regulations concerning the rhapsodes and their retinue and the stock

BOBONICH (2002), 396 (cf. 573, nn. 63 and 64, and for other references see *ibid.*, 573 n. 62). In some other instances the *nomophylakes* are involved (...) In any case, SCHÖPSDAU's comment *ibid.* seems reasonable: "Da aber Platon auch in andern Fällen zunächst eine Zeit der Erprobung und dann eine endgültige Fixierung von Gesetzbestimmungen vorsieht (vgl. 846b-d, 957b), erscheint eine analoge Anwendung der hier gegebenen Vorschriften auf den gesamten Kodex zumindest Platons Intentionen zu entsprechen; der Passus wäre dann ein Nachtrag zu den allgemeinen Ausführungen über die Ergänzung des Gesetzeskodex in 770b-771a, auf die hier 772a6-7 ("es ist jedoch, wie gesagt, unvermeidlich...") zurückverwiesen wird."

⁷¹ MORROW (1960), 571 argues that none of these bodies may object, rather than, literally, "every member of the people"; cf. BOBONICH (2002), 396-397. SCHÖPSDAU (2003), 450, notes that "Gesetzestheoretiker[n]" saw the introduction of new laws as καινοτομία, a term with distinctly negative connotations, while the expression ἐπανορθοῦν τοὺς νόμους common in Athens suggests that "das Ziel der Neueinführung von Gesetzen [ist] die Verbesserung des bestehenden Gesetzeskodex".

⁷² There is no hint in this passage that the protection of the laws against changes is connected with a desire to maintain a close relation between colony and metropolis, as it becomes apparent from many foundation decrees. For Cyrene, Naupactus and Brea, see GRAHAM (1964), 60-61, 67-68. In the case of Naupactus (a colony of Opus) and Brea (a colony of Athens) for instance, the foundation decrees show that a change in the laws would have to be agreed upon by both the colony and the mother city. In the case of Brea, the Athenians deny themselves the right to initiate changes (*ibid.*, 60-61).

chorus-competitions at religious festivals, have to be postponed to some later moment (τότε),⁷³ namely when the respective days, months and years have been allocated to the gods and the frequency of the festivals and their intervals is clear.⁷⁴ The determination of the exact date and program for these choral contests befalls the “regulators of the games” (ἀθλοθεταί), “the educator of the young” (παιδευτὴς τῶν νέων) and the lawguards (835a3-4). These will meet in an assembly and become lawgivers themselves (εἰς κοινὸν ... συνελθόντων καὶ γενομένων νομοθετῶν αὐτῶν, 835a4-5).

The first lawgiver has already stated what is to be the character of the choruses: their speech, their songs, the *harmoniai* that accompany certain rhythms and dance-movements.⁷⁵ The second lawgivers ought to follow in the footsteps of the first lawgiver (καθ’ ἃ ... μεταδιώκοντας δεῖ νομοθετεῖν, 835b2). The latter instruction is not unique to this case; as the Athenian repeatedly makes explicit, the second lawgivers must take the τύποι or intention(s) (βουλήματα, νοῦς) of the first lawgiver as their guideline.⁷⁶ The matters about which the later lawgivers have to decide (and cannot fail) are: when the choral contests are to be held, who is to perform, and who is to

⁷³ Leg. 834e2-835a1.

⁷⁴ Leg. 834e5-6: ταχθέντων τοῖς θεοῖς τε καὶ τοῖς μετὰ θεῶν μηνῶν καὶ ἡμερῶν καὶ ἐνιαυτῶν.

⁷⁵ Leg. 835e7-b2: οἷα δὲ ἕκαστα αὐτῶν εἶναι δεῖ κατὰ λόγον καὶ κατ’ ὥδαν καὶ καθ’ ἀρμονίας ῥυθμοῖς κραθείσας καὶ ὀρχήσεσι, πολλάκις εἴρηται τῷ πρώτῳ νομοθέτῃ. Πόλλακις refers to “e.g. at 798-802” (ENGLAND *ad loc.*). Contrary to ENGLAND *ibid.*, δεύτεροι does not refer to “the committee” (*sc.* of Cretan legislators of which Cleinias is part). This committee is again in the position of the first legislator. The second lawgivers are the officials stipulated, who will become lawgivers themselves to finish the work of the first lawgiver.

⁷⁶ Cf. 802a5-c4: the δοκιμασταί are to select from the many old musical and poetical works ‘that which is appropriate and fitting to the constitution under construction’ (τῇ καθισταμένῃ πολιτείᾳ τὸ πρέπον καὶ ἀρμόττον, 802a8-b1). To arrive at their selection they ought not be guided by the poetic powers of the poets and musicians, but they should interpret the wishes of the lawgiver (ἐξηγουμένους δὲ τὰ τοῦ νομοθέτου βουλευματα, 802c2) so as to select dance, song and χορεία ‘in accordance with the intention of those [wishes]’ (κατὰ τὸν αὐτῶν [*sc.* βουλευμάτων] νοῦν, 802c4). In 816c1-d2 it is said that the first lawgiver ought to ‘expound in types’ (ἐξηγεῖσθαι τύποις) two types of dance: war-dance (πυρρίχη) and peace-dance (ἐμμέλεια), which the second lawgiver has to “search for” (ζητεῖν), apparently in other *poleis*, and “track them down” (ἀνερευνεσάμενον). In 846c4-5 the younger lawgivers are to “imitate” the laws of the old lawgiver (οἱ νέοι πρὸς τὰ τῶν πρόσθεν νομοθετήματα ἀπομιμούμενοι).

accompany the performers (τοῦ τε πότε καὶ τίνες καὶ μετὰ τίνων, 835a6). In any case, it is not difficult to know how things like these ought to acquire the form of law (ταῦτα ... καὶ ἄλλα τοιαῦτα οὔτε χαλεπὸν γινῶναι τίνα τρόπον χρὴ τάξεως ἐννόμου λαγχάνειν, 835b5-6). There is little at stake here: whether something has to be altered again afterwards at some place or other, is of no great importance (οὐδ' αὖ μετατιθέμενα ἔνθα ἢ ἔνθα μέγα τῇ πόλει κέρδος ἢ ζημίαν ἂν φέροι, 835b6-7).⁷⁷ The use of the verb λαγχάνειν ("obtain by lot") reinforces the underlying idea of minor importance.⁷⁸ Both connotations of the lot adduced elsewhere in *Laws*, that it does not matter whether *x* or *y* is selected, and no special qualification is needed to make the decision, are present here. The interlocutors merely state a general principle at this stage: it is to be expected that the future musical officials will offer the choruses the opportunity to compete in turn (χρὴ προσδοκᾶν κατὰ μέρος ἀγωνιεῖσθαι, 835a2-3).⁷⁹

Yet in a domain where differences do matter, and where it is difficult to convince (πείθειν τε χαλεπὸν, 835c1), there is need of an exceptionally bold person (νῦν δὲ ἀνθρώπου τολμηροῦ κινδυνεύει δεῖσθαι τινος, 835c3-4). This

⁷⁷ Cf. 957a1-3: πάντα δ' οὖν ὅποσα σμικρὰ καὶ ῥάδια νόμιμα εὐρίσκειν, πρεσβύτου νομοθέτου παραλιπόντος, τὸν νέον ἀναπληροῦν χρὴ νομοθέτην. "The old lawgiver, however, may pass over all such legal observances as are trivial and easy of discovery, and the young lawgiver shall fill up his omissions" (transl. BURY).

⁷⁸ The verb λαγχάνειν denotes a non-complex situation in which (i) there is no difference between the items or people from whom must be selected; and (ii) it does not require special insight to know what is to be done. These two connotations are apparent from the Athenian's theorizing about the equality imposed by lot, in the context of the discussion of the selection procedure of the βουλευταί, especially 757b3-5: τὴν μὲν ἑτέραν [*sc.* ἰσότητα] εἰς τὰς τιμὰς πᾶσα πόλις ἱκανὴ παραγαγεῖν καὶ πᾶς νομοθέτης, τὴν μέτρῳ ἴσην καὶ σταθμῷ καὶ ἀριθμῷ, κλήρῳ ἀπευθύνων εἰς τὰς διανομὰς αὐτήν. "The one of these [kinds of equality] any State or lawgiver is competent to apply in the assignment of honours,—namely, the equality determined by measure, weight and number,—by simply employing the lot to give even results in the distributions" (transl. BURY). The lot, which comes in at the final stage of the selection procedure (757d5-758a2), constitutes the application of the second, democratic kind of equality.

⁷⁹ χρὴ (835b6) expresses another kind imperative than δεῖ (835b1). χρὴ in general pertains to the *content* of the laws, it is a behavioural norm. δεῖ on the other hand is given with ἀνάγκη and pertains to things that cannot be changed. That the lawgiver is mortal, cannot be altered; it is therefore necessary that he appoints successors, and it is in the same range that the second lawgivers must "follow closely after" (μεταδιώκειν) the stipulations of the first lawgiver. Cf. BERNADETE (1965).

ominous introduction appears, upon Cleinias' enquiry, to refer to the rules for sexual conduct (835d4 ff.; cf. ταῖς μεγίσταισιν ἐπιθυμίαις, c7). The "man with guts" (ἄνθρωπος τολμηρός) will state without inhibition what he considers best for the city and citizens (τὰ δοκοῦντα ἄριστ' εἶναι), ordering that which is appropriate and in keeping with the constitution as a whole (τὸ πρέπον καὶ ἐπόμενον πάσῃ τῇ πολιτείᾳ).⁸⁰ He does not orient himself towards a higher norm; he is guided by τὸ πρέπον: what is in keeping with the current laws, *i.e.*, by what has been laid down by the original lawgiver. In dealing with the extremely difficult subject of sexual passion, he has no other human as his helper, but must follow his own reason alone (λόγῳ ἐπόμενος μόνῳ μόνος, 835c8).⁸¹ Again, we meet an authority figure who is qualified by, and within, the educational system of the *polis*. The supreme παιδευτής, who is in charge of *paideia* as a whole, is himself of course one of the most distinguished citizens.

Public courts

Another context in which the Athenian defers further laws to the interlocutors' successors concerns the topic of the public courts. While it does not receive a separate heading, this topic is addressed at several points in the lawgiving. The courts are adduced whenever a reference to them is necessary because of a possible transgression of the law(s) stipulated immediately before.

The law on bringing in the harvest is one of these cases. A person who brings in his crop may do so by any route that pleases him, provided that he does not cause damage to the property of others. This train of thought then receives a follow-up: the Athenian proceeds to stipulate what is to be done when damage is actually inflicted. What is to be done depends on the size of the damage; if the damage is below three minas, the victim must report to the

⁸⁰ Cf. 783b3-c4: τοὺς προσήκοντας (...) καὶ πρέποντας νόμους.

⁸¹ About the παρηγοσία of the παιδευτής in *Laws* (compared with Socratic παρηγοσία), see VAN RAALTE (2004), 308-309.

magistrates and obtain redress from them. If the damage exceeds three minas, the victim must obtain redress from the culprit by taking his case to the public court. If penalties are judged in a biased way, the official must be liable to the victim for double the damage. This, in turn, is reason to stipulate a general rule: injustices of magistrates may be brought to the public courts by anyone who wishes (τὰ δὲ αὖ τῶν ἀρχόντων ἀδικήματα εἰς τὰ κοινὰ δικαστήρια ἐπανάγειν τὸν βουλόμενον ἐκάστων τῶν ἐγκλημάτων, 846b4-6). The details of bringing a case to a public court are many, and they cannot be left unlegislated for, but they are not worthy of the attention of the old lawgiver, 846b2-c8:

μυρία δὲ ταῦτα ὄντα καὶ σμικρὰ νόμιμα, καθ' ἃ δεῖ τὰς τιμωρίας γίνεσθαι, λήξεων τε πέρι δικῶν καὶ προσκλήσεων καὶ κλητήρων, εἴτ' ἐπὶ δυοῖν εἴτ' ἐφ' ὁπόσων δεῖ καλεῖσθαι, καὶ πάντα ὅποσα τοιαῦτά ἐστιν, οὐτ' ἀνομοθέτητα οἷόν τ' εἶναι γέροντός τε οὐκ ἄξια νομοθέτου, νομοθετούντων δ' αὐτὰ οἱ νέοι πρὸς τὰ τῶν πρόσθεν νομοθετήματα ἀπομιμούμενοι, σμικρὰ πρὸς μεγάλα, καὶ τῆς ἀναγκαίας αὐτῶν χρείας ἐμπείρως ἴσχοντες, μέχριτεροῦ ἂν πάντα ἱκανῶς δόξῃ κεῖσθαι· τότε δὲ ἀκίνητα ποιησάμενοι, ζώντων τούτοις ἤδη χρώμενοι μέτρον ἔχουσι.

And since there are countless petty cases for which penalties must be laid down, concerning written complaints and citations and evidence of citation,—whether the citation requires two or more witnesses,—and all matters of the like kind,—these cases cannot be left without legal regulation, but at the same time they do not deserve the attention of an aged lawgiver; so the young lawgivers shall make laws for these cases, modelling their small rules on the great ones of our earlier enactments, and learning by experience how far they are necessary in practice, until it be decided that they are all adequately laid down; and then, having permanently fixed them, they shall live in the practice of them, now that they are set out in due form. (Transl. BURY)

A similar passage can be found in a passage in Book XI, where the Athenian reflects on the rationale behind, and the purpose of, paying monetary fines (ἔκτισις, δίκη). Every offender who harms another person, either by theft or violence, must, in addition to the indemnity paid to the victim, complete an additional payment (δίκην ... συνεπομένην) “for the sake of correction”

(σωφρονιστύος ἔνεκα).⁸² The idea is, apparently, that an additional monetary fine constitutes an extra motivation to refrain from committing theft or violence in the future.⁸³ The Athenian continues, 934b3-c3:

ὦν δὴ πάντων ἔνεκα χρὴ καὶ πρὸς πάντα τὰ τοιαῦτα βλέποντας τοὺς νόμους τοξότου μὴ κακοῦ στοχάζεσθαι δίκην τοῦ τε μεγέθους τῆς κολάσεως ἐκάστων ἔνεκα καὶ παντελῶς τῆς ἀξίας· ταυτὸν δ' ἔργον δρῶντα συνυπηρετεῖν δεῖ τῷ νομοθέτῃ τὸν δικαστήν, ὅταν αὐτῷ τις νόμος ἐπιτρέπη τιμᾶν ὅτι χρὴ πάσχειν τὸν κρινόμενον ἢ ἀποτίνειν, τὸν δέ, καθάπερ ζωγράφον, ὑπογράφειν ἔργα ἐπόμενα τῇ γραφῇ. ὁ δὴ καὶ νῦν, ὦ Μέγилле καὶ Κλεινία, ποιητέον ἡμῖν ὅτι κάλλιστα καὶ ἄριστα·

All these reasons and considerations make it necessary for the law to aim, like a good archer, at a penalty that will both reflect the magnitude of the crime and fully indemnify the victim. The judge has the same aim, and when he is faced by his legal duty of assessing what penalty or fine the defendant must pay, he must follow closely in the legislator's footsteps; and the latter must turn himself into a sort of artist and sketch some specimen measures consistent with his written prescriptions. That,

⁸² LSJ. Cf. AST (1835-1838) *correctio. Leg.* 934e1 is the only attestation of the word ἡ σωφρονιστύς. LSJ: σωφρονιστύς = σωφρονισμός, "teaching of morality or moderation". The interpretation "correction" derives from the explanation a few lines later: the fine is not to be paid for the sake of paying justice for committing a crime—what is done cannot be made undone—but for the sake of making both the person who commits the crime and those who have seen him being called to justice either loathe injustice completely, or to recover from such an infliction to a large extent (οὐχ ἔνεκα τοῦ κακοῦ γῆραι διδοῦς τὴν δίκην—οὐ γὰρ τὸ γεγονός ἀγένητον ἔσται ποτέ—τοῦ δ' εἰς τὸν αὐθις ἔνεκα χρόνον ἢ τὸ παράπαν μισῆσαι τὴν ἀδικίαν αὐτόν τε καὶ τοὺς ἰδόντας αὐτόν δικαιούμενον, ἢ λωφῆσαι μέρος πολλὰ τῆς τοιαύτης συμφορᾶς, 934a6-b3).

⁸³ For the idea that punishments serve to encourage correct behaviour and to *teach*, cf. Pl. *Prot.* 324a5-c1. This forward-looking attitude is notably different from the *Gorgias'* justification of punishment as "curing of the soul" (*Gorg.* 476a7-479e9, 525b1-c8, also including a deterring function towards others). The idea that (increase of) σωφροσύνη is the product of a fine seems odd in the light of the *Republic's* opposition between σωφροσύνη and φιλοχρηματία (485e3, 486b6), the association of φιλοχρηματία with ἀνευλευθερία (*Resp.* 391c5, 469d6) and with the uncurtailed ἐπιθυμητικόν (553c5). The logic of imposing fines assumes that people are generally attached to possessions (this may be why a city in which all property is common is a "city of gods" see *Leg.* 739b8-e4, discussed in chapter one, p. 11). We may compare the lawgiver's use of τιμὴ and ἀτιμία to motivate people to restrain themselves (631e2-632a2). Therefore, σωφροσύνη is not conceptualized in terms of a quality of soul (order of parts), but in terms of something like self-restraint, "foresight", attentiveness to others. This is a more colloquial use of σωφροσύνη, factoring in that something may go wrong: an occasional wrong act does not mean that one is not virtuous. Cf. for a similar argument about the δίκαιος in the penal laws of Book IX, SCHOFIELD (2012). In another case, σωφροσύνη is itself a kind of tax: metics do not have to pay even the smallest *metoikion*, "except self-restraint" (πλήν τοῦ σωφρονεῖν, 850b3).

Cleinias and Megillus, is the job to which we must now devote our best efforts; (...)” (Transl. SAUNDERS)

This passage shows once more that the aim of the laws is to provide the citizens with ample motivation to behave properly. The lawgiver “aims” (στοχάζεσθαι) at the desired result. Lawgiving is a *stochastic* endeavour. The lawgiver tries to come up with ways to motivate people to exhibit the desired kind of behaviour, using whatever he thinks (on the basis of his experience, of his insight in human behaviour, etc.) will be most effective—in this case the risk of being obliged to pay a fine.

4.4 External influences: adopting laws from other *poleis*

In the sections above, it has been argued that the process of lawgiving is depicted in terms of consistency and pragmatism. The second lawgivers operate on the basis of what was stipulated by the first lawgiver. The fact that lawgiving is to be executed by the lawguards in conjunction with the specialized officials in the relevant areas, suggests that a familiarity with the respective issues is a *conditio sine qua non* for adequate legislation. That is the reason why lawgiving is a long process: lawgiving is modelled upon a notion of τέχνη that is rooted in experience. But it is not only a matter of experience gained by the magistrates in their own city; experience may also be drawn from other *poleis*, 957a4-b3:

τὰ μὲν ἴδια δικαστήρια ταύτη πη γιγνόμενα μέτρον ἂν ἔχοι· τὰ δὲ δημόσια καὶ κοινὰ καὶ ὅσοις ἀρχὰς δεῖ χρωμένας τὰ προσήκοντα ἐκάστη τῶν ἀρχῶν διοικεῖν, ἔστ’ ἐν πολλαῖς πόλεσιν οὐκ ἀσχήμονα ἐπεικῶν ἀνδρῶν οὐκ ὀλίγα νομοθετήματα, ὅθεν νομοφύλακας χρὴ τὰ πρόποντα τῇ νῦν γεννωμένη πολιτείᾳ κατασκευάζειν συλλογισαμένους καὶ ἐπανορθουμένους, ταῖς ἐμπειρίαις διαβασανίζοντας, ἕως ἂν ἰκανῶς αὐτῶν ἕκαστα δόξῃ κείσθαι, τότε δὲ τέλος ἐπιθέντας, ἀκίνητα οὕτως ἐπισφραγισαμένους, χρῆσθαι τὸν ἅπαντα βίον.

In dealing with the private law courts that method would be reasonable, but in connection with the public courts of the State, and all those which the officials have to use in managing the affairs which belong to their several offices, there exist in many States quite a number of admirable ordinances of worthy men; and from these the Law-wardens must construct a code which is suitable to the polity we are now framing, partly by comparing and amending them, partly by submitting them to the test of experience, until each such ordinance be deemed satisfactory; and when they have been finally approved, and have been sealed as absolutely unchangeable, then the magistrates shall put them into practice all their life long. (Transl. BURY, adapted)

On the subject of public courts, the interlocutors instruct the lawguards to adopt laws in use in other *poleis*.⁸⁴ In fact, there is a special body instituted for the purpose of observing laws in other *poleis*: the observers (θεωροί).⁸⁵ The Athenian even seems quite optimistic on this point: in order to regulate their public courts, many *poleis* have no small number of respectable laws (οὐκ ἀσχήμονα ... οὐκ ὀλίγα νομοθετήματα, 957a6-7).

Laws from other *poleis* may thus be adopted in the interlocutors' own city, provided that they are made to fit their own constitution. The lawguards must adopt the laws suitable to the *politeia* (ὅθεν νομοφύλακας χρῆ τὰ πρόποντα τῇ νῦν γεννωμένη πολιτεία κατασκευάζειν, 957a7-b1). Τὰ

⁸⁴ Cf. 843e3-844a7: καὶ ἐὰν φυτεύων μὴ ἀπολείπη τὸ μέτρον τῶν τοῦ γείτονος χωρίων, καθάπερ εἴρηται καὶ πολλοῖς νομοθέταις ἱκανῶς, ὧν τοῖς νόμοις χρῆ προσκοῖσθαι καὶ μὴ πάντα ἀξιοῦν, πολλὰ καὶ σμικρὰ καὶ τοῦ ἐπιτυχόντος νομοθέτου γινόμενα, τὸν μείζω πόλεως κοσμητὴν νομοθετεῖν. "So too if a man, when planting trees, fail to leave the due space between them and this neighbour's plot: this has been adequately stated by many lawgivers, whose laws we should make use of, instead of requiring the great organiser of the city to legislate about all the numerous small details which are within the competence of any chance lawgiver" (transl. BURY, adapted).

⁸⁵ See *Leg.* 951a4-952d4. The observers have to collect information from the rare "divine persons" in other cities, with whom it is worth to associate (ἄνθρωποι ... θεῖοι τινες—οὐ πολλοί—παντὸς ἄξιοι συγγίγνεσθαι, 951b5). The observers have to report back to the nocturnal council. This suggests that practical experience has a clear surplus value for the preservation of the laws (for the observers, see also chapter six, pp. 220, 221, 222). Cf. BOBONICH (2002), 399, the "rationale underlying the appointment of the observers explicitly presumes that the laws of Magnesia may need supplementation or revision and allows for them". The observers have to report back to the nocturnal council, see chapter six, p. 222. The nocturnal council, that has the task to preserve the laws, is thus involved in the process of amending and correcting laws, cf. SCHÖPSDAU (2011), 580: "Die Bewahrung der Gesetze impliziert also keineswegs eine starre Unveränderlichkeit der Gesetze".

πρέποντα [*sc.* νομοθετήματα] have to be compared and corrected in that process (συλλογισαμένους καὶ ἐπανορθουμένους, 957b2⁸⁶); subsequently, they have to be tested in practice (ταῖς ἐμπειρίαις διαβασανίζοντας, 957b2-3). In a way similar to the regulations concerning the chorus festivals of the young discussed under above, this process of testing is supposed to continue until every aspect of it is agreed to have been settled in an adequate way (ἕως ἂν ἱκανῶς αὐτῶν ἕκαστα δόξῃ κείσθαι, 957b3).⁸⁷ The δόξα is that of the νομοφύλακες. When they decide that the laws have been sufficiently finalized, the lawguards will conclude the process and give the laws a seal that will render them immutable (τότε δὲ τέλος ἐπιθέντας, ἀκίνητα οὕτως ἐπισφραγισαμένους, 957b4).⁸⁸

4.5 Conclusion

This chapter has analysed how the interlocutors conceptualize their own act of legislation, that takes place on the dramatic level of *Laws*. The chapter took its cue from the painter-analogy in Book VI. The painter-analogy depicts lawgiving as a lengthy process. This process starts with the drawing of an outline by a first lawgiver, and subsequently this outline is filled in by the lawgiver's successors.

The painter-analogy appeared to have structural implications for the lawgiving in *Laws*. After the painter-analogy, the first thing the interlocutors do is appoint successors for their own legislation; furthermore, in addressing their successor (the lawguards) in a fictive speech, they use the terminology of the painter-analogy (the distinction between outline, and the filling in of what is

⁸⁶ Cf. *Leg.* 951c2-3.

⁸⁷ Cf. *Leg.* 772b4, c4, and p. 159 above.

⁸⁸ The fact that the laws are to be “deployed for the entire lifetime” (χρησθαι τὸν ἅπαντα βίον, 957b5) may modify the unchangeability, and suggest an amount of pragmatism: that these laws remain valid and unchangeable only for the period of one lifetime. See also the discussion in BOBONICH (2002), 400-408 on the alleged immutability of the laws.

left open). The suggestion is therefore that the interlocutors' own law code has the status of such an outline (or rather, of an exercise for a real case of legislation). This idea also continues to underlie the subsequent formulation of the law code itself: the interlocutors repeatedly state that they leave further legislation to other lawgivers, and more detailed stipulations are given as to the process of supplementing the existing laws. The painter-analogy thus seems to be particularly designed for the legislation of the interlocutors that follows it.

This chapter proceeded by examining the basis for the legislation of the interlocutors, and the sources for their laws. First, the interlocutors instruct their successors to legislate in accordance with what they themselves have agreed to be the goal of legislation, "complete virtue". The idea is hence clearly that the interlocutors consider their own legislation to be in line with the notion of virtue set out in Books I and II.

Second, an investigation of the "open ends" within the law code of the interlocutors themselves offers us vistas into their idea of the sources of future legislation. Whereas the painter-analogy does not make explicit *why* lawgiving is a process that lasts many years, these open ends reveal how the law code is to be supplemented, and by whom. The involvement of specialized officials, and the insistence on the fact that supplementation takes many years suggest that further lawgiving depends on, and is informed by, *experience*. Vagueness and incompleteness are therefore inherent in any first act of lawgiving, which is therefore necessarily an "outline".

Whether a law code is ever finished remains equivocal: on the one hand, for pragmatic reasons it is preferable not to keep changing the laws all the time; on the other hand, change is not completely ruled out. The institution of the observers suggests a constant and dynamic re-evaluation of the fittingness of the laws. Furthermore, the fact that the observers have to report back to the

nocturnal council seems to entail that insights of the kind collected by the observers are crucial for the preservation of the laws.⁸⁹

⁸⁹ SAUNDERS (1995) draws a similar conclusion from his investigation into the ambiguous indications about the participation of women in Magnesian society. He warns against a “documentary fallacy”, which is “to suppose that Magnesia is an exact blueprint, fixed in all its details (...) That is not so: Magnesia is a shifting structure”, and “incorporates all sorts of tensions within itself” (603). Cf. BOBONICH (2002), 406.

PERSUADING THE CITIZENS: THE LEGISLATIVE PREAMBLES

So far, we have looked at how Plato sets the scene in the opening Books of *Laws*, bringing to the fore the role of lawgiving in facilitating peaceful coexistence in the form of societies (chapter three), and at how the interlocutors represent their own lawgiving (chapter four). We have argued that the opening scene introduces a pragmatic conceptual framework for morality, and that this pragmatic outlook prepares the way for the interlocutors' own lawgiving on the dramatic level, which in turn reveals a pragmatic approach and proceeds along pragmatic lines.

In this chapter, we will investigate another aspect of lawgiving (νομοθεσία). Besides the act of formulating laws—the aspect of νομοθεσία investigated in chapter four—this aspect of νομοθεσία views lawgiving as a mode of affecting the mind and behaviour of the citizens. The present chapter will investigate how *Laws* conceptualizes this aspect of lawgiving, and what criterion determines the proper discourse of the law. This aspect of lawgiving is particularly interesting from our point of view, since on the dramatic level the laws are embedded in, and hence part of, the dialogue. For the communicative aspect of νομοθεσία the Athenian also introduces an analogy: the analogy of

the doctor in Book IV (with a recapitulation in Book IX). Central to the argument of this chapter is the notion of *πείθειν*, persuasion.

5.1 The purpose of the lawgiver: *πειθώ* and *βία*

The Athenian asks what the lawgiver aims to achieve with his lawgiving. He puts forward his own suggestion: were he a lawgiver, his goal would be to make the citizens “as persuadable as he possibly can” (*ὥς εὐπειθεστάτους*).¹ The issue broached is that of the appropriate *form* of the laws relative to their purpose.² The form of the laws should be such that it furthers the lawgiver’s intention, or that it at least does not thwart it. The goal of making citizens *ὥς εὐπειθεστάτους* is subsequently glossed by *ἡμερώτερον τε ἂν ἀκούειν καὶ εὐμενέστερον*, “more docile and benevolent in listening”. The lawgiver purposes to make the listener *εὐμενέστερος* “more benevolent”, and

¹ *Leg.* 718c8-10: Βουλοίμην ἂν αὐτοὺς ὥς εὐπειθεστάτους πρὸς ἀρετὴν εἶναι, καὶ δῆλον ὅτι πεिरάσεται τοῦτο ὁ νομοθέτης ἐν ἀπάσῃ ποιεῖν τῇ νομοθεσίᾳ, “I want the citizens to be as persuadable as possible to [behave in accordance with] virtue, and evidently this is what the legislator will attempt to do in his entire legislation” (transl. BURY). The pronoun αὐτοὺς can either refer to the laws, in which case *εὐπειθεστάτους* is active/transitive (“persuasive”), or to the citizens, in which case *εὐπειθεστάτους* is passive (“persuadable”, “obedient”). On the ground that the adjective has just (715c2) been used in the passive sense, ENGLAND *ad loc.* opts for the passive sense. This is corroborated by the train of thought in this passage. The issue lies open: how can the lawgiver make the citizens as pliable as possible? Moreover, the ultimate end the lawgiver has in view is to make the citizens persuadable; to make laws persuasive is the means to that end.

² *εὐπειθέστατοι πρὸς ἀρετὴν*—in fact, instead of *πρὸς ἀρετὴν*, the Athenian might also have said *πρὸς τοὺς νόμους*, since that effectively means the same. *πρὸς ἀρετὴν* is, however, stronger rhetorically: these are no *arbitrary* laws. Virtue as obedience to the laws: *Leg.* 922a3-5; cf. ADKINS (1960), 294. But obedience is only the first step in *Laws*’ construction of virtue. It is essential that obedience is secured by friendly means, involving what may be labelled “cognitive endorsement” of the rules. See BOBONICH (1991) for the argument that besides obedience, rational persuasion aims at “inculcating *true* ethical beliefs and the proper desires and emotions in the citizens” and that “having the *right* beliefs and the *right* desires is, in Plato’s view, part of what it is to be virtuous” (383, my italics).

εὐμαθέστερος, “more prone to learning”.³ The citizen has to be made susceptible to new input. What form of the law would maximize this effect?

Now that it has been agreed that the lawgiver’s intention is to make the citizens “as persuadable as possible”, it may not come as a surprise that the solution the Athenian puts forward is to add an element of persuasion to the law itself. The Athenian proposes to preface the law (νόμος) with a “preamble” (προοίμιον), an idea he derives from contemporary musical practices. A musical νόμος is customarily preceded by a προοίμιον.⁴ The same ought to be done with regard to the political νόμος. In fact, the Athenian claims that starting with a preamble is the usual practice in all compositions that are uttered by the voice, that is, not only in musical ones.⁵ From the very beginning, it should be noted, laws are treated as *speech*, a mode of address, rather than as texts that are written down.

The preamble adds an element of persuasion to the law.⁶ The law thus consists of two parts: the προοίμιον, and the νόμος in the strict sense. The

³ Leg. 718d4-6; cf. 723a2-7. On εὐμαθής, see BOBONICH (1991), 371, n. 23, referring to BRANDWOOD (1976): εὐμαθής “always means “good at learning” or “quick at learning (...) and is a trait that Plato thinks is especially distinctive of philosophers” (with references), rather than (pejoratively) “docile”. Εὐμενής and εὐμαθής are standard terminology in rhetorical handbooks, see GÖRGEMANN (1960): “Die Schulrhetorik gibt als Aufgabe des Proömiums an, es solle den Hörer wohlwollend, aufmerksam und leicht belehrbar machen (εὐνους, προσεκτικός, εὐμαθής; bei den Lateinern: benevolus, attentus, docilis). Diese Regeln scheinen im allgemeinen von Isokrates ausgegangen zu sein, doch läßt sich das in den Einzelheiten nicht mehr nachweisen” (40, with nn. 2 and 3; see also 41).

⁴ Leg. 722d6-e7. It is traditional practice that κιθαρωδική ᾠδή (also called κιθαρωδικὸς νόμος) and “every musical composition” (πάση μούσῃ) starts with a preamble. On the musical νόμοι, see WEST (1992), 215-217, with references on 217, n. 69; also 242, 360-363. “At Athens it was the citharodes who were the great display musicians, and *nomos* came to be used especially of their compositions” (*ibid.*, 217). On κιθαρωδία, see POWER (2006), for the προοίμιον his chapter 2. He notes that “for Plato, writing in the fourth century BCE, *prooimia* belong first and foremost to *kitharōidia*” (See the website of the Center for Hellenic Studies:

<http://chs.harvard.edu/wb/1/wo/v8qdlHtbCCaWftTg0yuSHg/10.0.0.0.19.1.7.15.5.1.1.1.5.7.1.1>).

⁵ Leg. 722d3-5: λόγων πάντων καὶ ὅσων φωνῇ κεκοινώνηκεν προοίμιόν τέ ἐστιν καὶ σχεδὸν οἷόν τινες ἀνακινήσεις. For a προοίμιον he gives a rather abstract definition, “a kind of preparation possessing some artistic stimulation expedient for the upcoming recitation”, τινες ἀνακινήσεις, ἔχουσαι τινα ἐντεχνον ἐπιχείρησιν χρήσιμον πρὸς τὸ μέλλον περαινέσθαι (722d5-6).

⁶ Leg. 722d2-723b6. Cf. 718d4-7, 890d1-8.

Athenian presents the persuasive preface to the law as an innovation in the field of lawgiving.⁷ Current legislative practice, which omits the preamble, is less preferable, because, as we now understand, it does nothing to further the lawgiver's purpose.⁸ Indeed, lawgiving by "unmixed laws" is claimed to be equivalent to "violence", βία. Violence effectuates the very opposite of what the lawgiver aims to achieve, for it makes a person "fiercer", "more resistant" (ἀγριώτερον, 720e4).⁹ Πειθώ thus makes its entrance as the more effective means the lawgiver has at his disposal. Every sensible lawgiver ought to prefer the "double method" of attaching a προοίμιον to the νόμος *simplex* (ἅπλουός, 721e2; also νόμος ἄκρατος, 723a1-2).¹⁰ If convincing, the preamble will preempt the need for the "tyrannical command" of the law to speak out.¹¹

⁷ Preambles indeed do not seem to be a custom in ancient Greek legislation. MORROW (1960): "There is indeed a tradition that both Zaleucus and Charondas attached preambles of this sort to certain of their laws, and some alleged fragments of these preambles have been preserved. [Reff. *ibid.* n. 25] But it is more likely that the writings from which Diodorus and Stobaeus drew their excerpts are a later composition fictitiously ascribed to these early legislators, (...). It is more probable that Plato influenced the later tradition about Zaleucus and Charondas than that they influenced him. The Attic laws that have been preserved are without preambles, and are addressed to the magistrates who are to enforce them, not to the general public. (...) In the absence of better evidence than we have for the genuineness of the fragments of Zaleucus and Charondas, we must conclude that this doctrine is original with Plato" (555-556).

⁸ Αθ. Πότερον οὖν ἡμῖν ὁ τεταγμένος ἐπὶ τοῖς νόμοις μὴδὲν τοιοῦτον προαγορεύῃ ἐν ἀρχῇ τῶν νόμων, ἀλλ' εὐθὺς ὁ δεῖ ποιεῖν καὶ μὴ φράζειν τε, καὶ ἐπαπειλήσας τὴν ζημίαν, ἐπ' ἄλλον τρέπεται νόμον, παραμυθίας δὲ καὶ πειθοῦς τοῖς νομοθετουμένοις μὴδὲ ἐν προσδιδῶ; ΑΘ. Should, then, the commander of the laws begin his laws with no such prefatory statement, but declare at once what must be done and what not, and state the penalty which threatens disobedience, and so turn off to another law, without adding to his statutes a single word of encouragement and persuasion? (transl. BURY, adapted).

⁹ Leg. 718b3: βία καὶ δίκη κολάζουσα; 719e9: ἐπαπειλήσας τὴν ζημίαν; 721e2: τῷ ἀπειλεῖν μόνον χρωμένους; 722b6-c1: of the two methods πειθώ and βία contemporary lawgivers use only the latter; 722c2: ἄκρατος βία; 723a1-2: the νόμος ἄκρατος is τυραννικὸν ἐπίταγμα ἀπεικασθέν, 722e7-8. The Athenian starts by observing that a run-through of the law code (τῶν νόμων αὐτῶν ἡ διέξοδος), which involves both πειθώ ("persuasion") and βία ("violence"), will make their own city blessed and happy: Leg. 718b2-5: τῶν νόμων αὐτῶν ἡ διέξοδος, τὰ μὲν πείθουσα, τὰ δὲ μὴ ὑπέκοντα πειθοῖ τῶν ἡθῶν βία καὶ δίκη κολάζουσα, τὴν πόλιν ἡμῖν συμβουλευθέντων θεῶν μακαρίαν τε καὶ εὐδαίμονα ἀποτελεῖ.

¹⁰ Leg. 722b4-c2 (text of Loeb): πρὸς τοῦτο δὲ οὐδεὶς ἔοικε διανοηθῆναι πώποτε τῶν νομοθετῶν, ὥς ἐξὸν δυοῖν χρῆσθαι πρὸς τὰς νομοθεσίας, πειθοῖ καὶ βίᾳ, καθ' ὅσον οἶόν τε ἐπὶ τὸν ἄπειρον παιδείας ὄχλον, τῷ ἑτέρῳ χρώνται μόνον· οὐ γὰρ πειθοῖ κεραννύντες τὴν ἀνάγκην νομοθετοῦσιν, ἀλλ' ἀκράτῳ μόνον τῇ βίᾳ. "But as regards this, it appears that no legislator has ever yet observed that, while it is in their power to make use in their law-making of two methods,—

It is within the terms of the antithesis between violence and friendliness that persuasion as a method of lawgiving acquires the status of “the more friendly method” (τὸν προότερον ... τρόπον, 720a5-6; cf. 859a1-6).¹² *Laos*’ positive assessment of *πειθεῖν* thus to a large extent derives from its opposition to βία, “violence”, or “force”.¹³ The power of speech is not, as it is in *Gorgias*, contrasted with ἐπιστήμη, “expert knowledge”.¹⁴ *Laos* uses *πειθεῖν* as the term

namely, persuasion and force,—in so far as that is feasible in dealing with the uncultured populace, they actually employ one method only: in their legislation they do not temper compulsion with persuasion, but use untempered force alone” (transl. BURY). AST (coni.) and ANNAS (2010), 74 n. 20, have τὴν ἀνάγκην instead of MSS τὴν μάχην (so ZELLER [1839], 90).

¹¹ Leg. 854c7-d1, 870e4-871a1, 880a7-b1, 932a5-7, 941c2-4. The coercive force of law as rule, and stipulation of punishment, remains necessary because there may always be cases in which persuasion fails—after all, the interlocutors are legislating for humans, not for the offspring of gods, 853b4-d4. Here again, preamble and law are treated as speech: if the preamble is effective, the law can remain silent.

¹² The term *πρᾶος* is relatively frequent in *Laos*. Its basic semantic value appears to be “friendly” as the result of a *suppression* of anger (friendliness as the result of one’s own interference in one’s emotions): one remains friendly *inspite of* feelings that would normally induce aggressive behaviour. We may recall the Athenian’s emphatic assertion in Book X (Leg. 888a4-d3) to address the atheists in a gentle way (λέγωμεν πρᾶως, 888a6, cf. a1 ἐν πρᾶεσι λόγοις; for insistence on friendliness also: ἴτω δὴ προόρησις τοιάδε τις ἄθυμος (...) σβέσαντες τὸν θυμόν, 888a4-6), *inspite of* the—entirely justified—anger that the well-educated feels regarding such views. ἀγρίως, “wild”, is the normal term for offensive behaviour towards others, opposite πρᾶως (sometimes also χαλεπῶς). In *Phdr.* 268d7-e6, Socrates imagines how a musician will respond to the man who considers himself an expert in harmonics (ἁρμονικός) simply because he can produce the highest and lowest note on his string. The musician will not respond wildly (οὐκ ἀγρίως εἴποι ἄν· “ὦ μοχθηρὲ, μελαγχολᾷς”), but in a more gentle way, which is in line with his profession (ἀλλ’ ἄτε μουσικός ὢν προότερον ὅτι “ὦ ἄριστε, ...” κτλ.). Here, we again (cf. p. 122, n. 156 above) see evidence for the 4th century Greek association between musicality and social, (self-)controlled behaviour. We should therefore not read ἀγροίκως for ἀγρίως in (i) *Phdr.* 268e1, with OSANN (OCT, app. crit.) and HACKFORTH (1952), 141, n. 2; (ii) nor in *Soph.* 217e7, as does CORNFORD (1973), 167, n. 2, who considers ἀγριον “too strong a word”.

¹³ E.g. *Gorg.* 517b6. In *Republic*, persuasion (story-telling and myths) is a trick to subdue the lower classes: the “Noble Lie”. Likewise, the effect brought about by *πειθῶ* in *Phaedrus*, ψυχαγωγία τις διὰ τῶν λόγων (261a8) entails the absence of self-control and understanding: one is beguiled by the words and arguments and ready to be lulled into believing anything. In this context, it may be recalled that in his *Encomium of Helen*, Gorgias acquits Helen of committing injustice on the ground that she has been overpowered by a higher force. This may be either Ἀνάγκης ψηφίσματα, βία, λόγος, or ἔρως (§6). Speech is a “powerful master” (λόγος δυνάστης μέγας ἐστίν, §8). About the force of persuasion, Gorgias claims: λόγος γὰρ ψυχὴν ὁ πείσας, ἣν ἔπεισεν, ἡνάγκασε καὶ πιθέσθαι τοῖς λεγομένοις καὶ συναινέσαι τοῖς ποιουμένοις. ὁ μὲν οὖν πείσας ὥς ἀναγκάσας ἀδικεῖ, ἡ δὲ πεισθεῖσα ὥς ἀναγκασθεῖσα τῷ λόγῳ μάτην ἀκούει κακῶς (§12).

¹⁴ *Gorg.* 452e9ff., with conclusion in 455a2-6: the *rhetor* who makes speeches about justice and injustice to courts or other crowds only persuades (οὐδ’ ἄρα διδασκαλικὸς ὁ ῥήτωρ (...), ἀλλὰ

for the lawgiving that is more promising with regard to the lawgiver's purpose of enhancing the citizen's willingness to obey the law.¹⁵

It should be noted that issue under discussion here is an issue of *method*. The question is what approach to legislation is likely to be most effective, given that the goal stipulated by the interlocutors is to make the citizen adhere to the law. By engaging in a—pragmatic—deliberation about the effectiveness of different methods, *Laws* brings up considerations that are foreign to those of the conceptual framework of τέχνη as sketched in chapter one (section 1.3.1). In the scenario of *Laws*, the end is given (virtue, obedience to the laws). What remains is the question of the *means*. The question discussed is part and parcel of what I have called a “stochastic” conception of τέχνη (section 1.3.2): if X is the goal, what means would achieve the maximum result possible? In a stochastic conceptual framework, a method *aims* at a goal, can be more or less effective, and one may distinguish between methods in terms of how successful they are in attaining that goal.

This is a fundamentally different way of approaching τέχνη (here, νομοθεσία) than the usual approach to it reflected by other Platonic texts, and the consequences of this new approach cannot be overestimated. From other

πειστικός μόνον), since he cannot educate a crowd in a small amount of time about such important affairs (οὐ γὰρ δήπου ὄχλον γ' ἂν δύναίτο τοσούτον ἐν ὀλίγῳ χρόνῳ διδάξαι οὕτω μεγάλα πρᾶγματα), “craftsman of didactic persuasion concerning the just and the unjust” (πειθοῦς δημιουργός ... διδασκαλικῆς περὶ τὸ δίκαιον τε καὶ ἄδικον, 454e9-455a2). By contrast, ῥητορικὴ is “only persuasive” (πειστικός μόνον). For πειθῶ as the product of ῥητορικὴ: *Gorg.* 453a2-455a7. For the κολακεία-status of σοφιστικὴ: 463a6-b6. In general, what is said about ῥητορικὴ pertains equally to σοφιστικὴ; the main difference between the two is that ῥητορικὴ is corrective and used to acquit oneself of having committed an injustice, while σοφιστικὴ is regulative. Since the regulative τέχνη can prevent wrong from being done, the regulative member of the pair is “more noble” (κάλλιον) than its corrective counterpart, *Gorg.* 520a3-b3.

¹⁵ This opposition of πειθῶ *versus* βία—the verbal *versus* the physical—is a more common opposition than that of πειθῶ *versus* ἐπιστήμη. See for this opposition in Greek literature BUXTON (1982). For persuasion in other Platonic dialogues, see the Appendix of BOBONICH (1991), 387-388; LISI (2000), 66-69 for the view that the different forms of persuasion are all part of a continuum, and that in *Laws* we find different kinds of persuasion, adjusted to the educational background of the addressees; BRISSON (2000) for the idea that rational persuasion of *Gorgias* is jettisoned once the intelligible forms have been introduced; the preambles in *Laws* enchant the citizens by myth and rhetoric.

Platonic discussions, the notion of τέχνη that emerges is *essentialistic*; that is, it is assumed that to each object (ἔργον) applies one τέχνη. This is the principle of the one-to-one mapping of τέχνη to subject matter.¹⁶ The immediate concern in those cases is not the question of the right method (since that is assumed to be given with the goal), but the question of the true goal, or object, on the *a priori* assumption that there exists only one true method to achieve that purpose. For example, ἰατρική is the τέχνη that aims at what ὑγίεια *really* is. Methods that do not aim at the true goal are strictly speaking not a τέχνη (cf. the distinction in *Gorgias* between τέχναι and ἐμπειρίαι). The true ἰατρός is, in turn, the person who possesses the τέχνη.

As we saw in chapter one, the priority of the truth status of the object brings with it a certain indifference with regard to the question of the means deployed to achieve that end.¹⁷ The method of the expert is by definition correct, whether this method involves the use of violence or not. When it comes to the capacity to improve others morally, texts such as *Gorgias*, *Republic*, and *Statesman*¹⁸ show little hesitation in resorting to violent means in order to *impose* virtue. “Plato’s position (...) follows from his belief that these political matters, like technical subjects, are the province of the expert, whose automatic aim for the betterment of his subjects gives him not only the right but the duty to impose his will on them.”¹⁹ Since it is always better to be just, the ruler who

¹⁶ See KAHN (1996), 105-110 (in a discussion of *Ion*). The same idea underlies the principle of specialization in the just *polis* of *Republic*.

¹⁷ See chapter one, pp. 30-31.

¹⁸ For example (1) *Gorg.* 517b5-c2: the sole duty of the good citizen (ἀγαθὸς πολίτης) is to redirect his fellow citizens’ desires and not to allow them free play, so that they will be better people (ἀμείνους ἔσεσθαι), whether by persuasion or force (πειθόντες καὶ βιαζόμενοι); cf. DODDS’ note *ad loc.* (2) *Resp.* 488d-e: if a captain possesses the τέχνη (of steersmanship), it does not matter whether others consent or not (ἐάν τέ τινες βούλωνται ἐάν τε μή). Cf. ADAM *ad loc.*: “Whether others wish [the pilot] to steer or not, is wholly irrelevant”. *Plt.* 293aff. declares this principle “of universal application”, and the same appears true of *Resp.* 488d-e. (3) *Plt.* 296a4-c2: a scientific ruler (or doctor!) who uses force to impose the best (παρὰ τὰ γεγραμμένα βέλτιον ἀναγκάζη δρᾶν), contrary to the established rules, should not be reproached for doing so; and the patients subject to such force would hardly call it “noxious and unartistic” (νοσώδη καὶ ἀτεχνά).

¹⁹ EMLYN-JONES in the accompanying comments to his translation of *Gorgias*, 121.

imposes a person's true good upon him is acting in that person's own interest. Whether that person accepts the ruler's injunctions or not is irrelevant from this perspective. In Callipolis, the preservation of the social order depends upon an armed class. Justice (δικαιοσύνη) is viewed as an imposition of the just on each of the three classes of the just *polis* (including the class of the philosopher-kings).²⁰ There is simply no other way: the imposition of virtue against one's will is claimed to be a bare necessity, for most people are not qualified to know what their true interest (εὐδαιμονία) is.²¹

By contrast, *Laws* distinguishes a successful or more promising way of lawgiving from a less successful one, culminating in the preference for the more friendly method. This reflects a shift of focus from the object of medicine (what is true health?) to the method of practicing it (what is the right way for a lawgiver to address a citizen, or (as we will see below) for a doctor to address his patient?).²² The criterion is a method's—presumed—*effectiveness*. Persuasion wins the day because only friendly means will further the lawgiver's intention. The impact of this shift for the conceptual framework of *Laws* is enormous: it implies that virtue is not assumed to be analogous to expert knowledge (τέχνη, ἐπιστήμη).²³ This may also be why the term νομοθετική is not mentioned; that term may carry with it too “absolutist” overtones (derived from *Gorgias*) to fit in this context.²⁴

The preference of friendly means over violent ones to secure obedience taps into *Laws*' conceptualization of ἀρετή as self-control.²⁵ *Laws* maintains that ἀρετή can only be attained by friendly means (force, after all, will make a

²⁰ See chapter two, especially section 2.3.3.

²¹ See also chapter two, p. 69, with n. 71 *ibid.*

²² Cf. LAKS (1991), “Or les choses se présentent différemment dans les *Lois*, où le fondement de l'analogie cesse d'être le simple résultat de l'art (à savoir, la santé corporelle ou psychique), pour inclure ce que l'on pourrait appeler la relation intersubjective du médecin et de son patient d'un côté, du législateur et de ses sujets de l'autre” (423). BOBONICH (2002): “Here Plato uses the old analogy for quite different purposes...” (98). KOEPLIN (2009), 19: persuasion is *part of* the cure.

²³ Compare chapter three, p. 113.

²⁴ Neither is ἱατρική in the context of the doctor-analogy.

²⁵ Cf. chapter three, pp. 93, 130.

person less submissive, fierce and resistant (ἀγριώτερος)). It is *constitutive of* virtue that a person obeys out of his own free will.²⁶ The citizens have to subject themselves to the laws. Maintaining the social order is as much as possible achieved through the non-violent, positive mechanisms of *paideia*. Punishment only comes into play if *paideia* and the preambles have failed to achieve their goal.²⁷ Ideally, the idea seems to be, a person is his own lawgiver and does not need the laws.

5.2 Two kinds of doctors

5.2.1 The doctor-analogy of Book IV

The Athenian has highlighted a new aspect of νομοθεσία, its mode of address, and introduced the persuasive preamble as the proper way for the lawgiver to tackle the goal of securing obedience. To elucidate the difference between the lawgiver who uses an element of persuasion in his laws and the lawgiver who does not, the Athenian introduces an analogy with two kinds of doctors.²⁸ This τέχνη-analogy is an analogy within the stochastic framework: it compares two

²⁶ A number of interpreters have emphasized the importance of consent in *Laws* as a deviation from *Republic*: e.g. KLOSKO (2006), 204–205. Cf. *ibid.*, 244: “The need for consent sets the *Laws* apart from Plato’s other political works.” In the final analysis, however, KLOSKO considers the role of consent in *Laws* “similar to, though more explicit than, the role of temperance in the state in the *Republic*” (245). In any case, there is no such thing as “an inherent right of consent” (*ibid.*, 246) in *Laws*. According to LAKS (1991), since *Laws* does not relinquish the demand that knowledge is sovereign, the challenge is “de savoir comment le savoir et la raison peuvent gouverner avec la consentement des citoyens” (422, italics in original). Further: BOBONICH (1994); MEYER (2006), 387. For another view, see PRADEAU (2004), 121, n. 34. Therefore, it seems that “consent” is too weak a term in this context. It may, for instance, imply that a person consents to do B while he in fact wishes to do A. In *Laws*, to act virtuously is to *want* to act virtuously. Instead of “consent”, it would be better to speak of “voluntariness”.

²⁷ Cf. Zeus’ remark in the Protagoras-myth in Plato’s *Protagoras*, that he will institute a law stipulating that the person who is unable to acquire a sense of justice will be killed as a disease of the *polis* (καὶ νόμον γε θεὸς παρ’ ἐμοῦ τὸν μὴ δυνάμενον αἰδοῦς καὶ δίκης μετέχειν κτείνειν ὡς νόσον πόλεως, 322d4–5).

²⁸ *Leg.* 719e7–720a2. See also n. 8 on p. 178 above.

types of doctors, instead of, as is most often the function of a τέχνη-analogy, distinguishing the expert, who possesses the τέχνη, from a non-expert. The question is not who possesses the τέχνη, but which doctor is more effective. The doctor-analogy fleshes out the distinction between the mode of lawgiving by which current lawgivers proceed (to lay down laws without preambles) and the lawgiver who proceeds according to the interlocutors' method (to preface laws with persuasive preambles), and illustrates what the Athenian has in mind when he labels the latter's method *πρᾶότερος*.

There are two kinds of doctors: free doctors and slave doctors. The free-born doctors mostly treat free patients (*ιατροί*, 720a7; *ἐλεύθεροι*, 720b2). It is this kind of doctor to whom the lawgiver who deploys persuasion is analogized. The servants of the free doctors are slaves, and their patients are slaves like themselves (*ὑπηρέται τῶν ἱατρῶν*, *ιατροὺς δὲ καλοῦμεν δήπου καὶ τούτους*, 720a7-8; *δούλοι*, 720b2). These slave doctors resemble the current lawgivers, who fail to use persuasion. The slave doctors are either itinerant, paying flying visits to the sick, or remain in the hospitals, 720c1-d1:

(...) τοὺς μὲν δούλους σχεδόν τι οἱ δούλοι τὰ πολλὰ ἰατρεύουσιν περιτρέχοντες καὶ ἐν τοῖς ἱατροείοις περιμένοντες, καὶ οὔτε τινὰ λόγον ἐκάστου πέρι νοσήματος ἐκάστου τῶν οἰκετῶν οὐδεὶς τῶν τοιούτων ἱατρῶν δίδωσιν οὐδ' ἀποδέχεται, προστάξας δ' αὐτῷ τὰ δόξαντα ἐξ ἐμπειρίας, ὡς ἀκριβῶς εἰδώς, καθάπερ τύραννος αὐθαδῶς, οἴχεται ἀποπηδήσας πρὸς ἄλλον κάμνοντα οἰκέτην, καὶ ῥαστώνην οὕτω τῷ δεσπότῃ παρασκευάζει τῶν καμνόντων τῆς ἐπιμελείας·

(...) the slaves are usually doctored by slaves, who either run round the town or wait in their surgeries; and not one of these doctors either gives or receives any account of the several ailments of the various domestics, but prescribes for each what he deems right from experience, just as though he had exact knowledge, and with the assurance of an autocrat; then he jumps and off he rushes to another sick domestic, and thus he relieves his master in his attendance on the sick. (Transl. BURY)

The slave doctor does not give an account of the illness to the individual patient (*οὔτε τινὰ λόγον ... οὐδεὶς τῶν τοιούτων ἱατρῶν δίδωσιν*), nor does he ever receive an account (*οὐδ' ἀποδέχεται* [sc. λόγον], 720c4-5). Perhaps the slave

doctor would not know what to do with such an account, and in any case, he does not have the time to listen to one. His diagnosis is therefore necessarily based on routine (τὰ δόξαντα ἐξ ἐμπειρίας), rather than on careful scrutiny, and his prescription on a first quick impression (he gives his prescription “immediately”, εὐθύς, 719e8). The slave doctor’s permanent shortage of time makes him a tyrant to his patients (καθάπερ τύραννος, 720c6), who departs immediately after having issued his command.²⁹ The tyrannical aspect of his mode of procedure lies in the fact that he states a prescription without granting any opportunity for discussion.

The free doctor’s treatment of free patients is of an entirely different nature than that of the slave doctor, 720d1-e1:

[Ἀρ’ οὖν καὶ συννοεῖς ὅτι ...] ὁ δὲ ἐλεύθερος ὡς ἐπὶ τὸ πλεῖστον τὰ τῶν ἐλευθέρων νοσήματα θεραπεύει τε καὶ ἐπισκοπεῖ, καὶ ταῦτα ἐξετάζων ἀπ’ ἀρχῆς καὶ κατὰ φύσιν, τῷ κάμνοντι κοινούμενος αὐτῷ τε καὶ τοῖς φίλοις, ἅμα μὲν αὐτὸς μανθάνει τι παρὰ τῶν νοσοῦντων, ἅμα δὲ καὶ καθ’ ὅσον οἷός τέ ἐστιν, διδάσκει τὸν ἀσθενοῦντα αὐτόν,³⁰ καὶ οὐ πρότερον ἐπέταξεν πρὶν ἂν πῃ συμπίσῃ, τότε δὲ μετὰ πειθοῦς ἡμερούμενον ἀεὶ παρασκευάζων τὸν κάμνοντα, εἰς τὴν ὑγίειαν ἄγων, ἀποτελεῖν πειρᾶται;

[And do you know that³¹ ...] the free-born doctor is mainly engaged in visiting and treating the ailments of free men, and [that] he does so by investigating them from the beginning and in accordance with nature; [that] he talks with the patient himself and with his friends, and thus both learns himself from the sufferers and imparts instruction to the patient

²⁹ Apparently, “tyrannical” equals the absence of opportunity for exchange. Discussion, of course, takes time. We may compare the Athenian’s claim that the easiest and quickest way to change the ἥθη in a city (adduced in *Leg.* IV, 711a1-c8) occurs in a *tyrannical* city (τυραννουμένη πόλις). If a tyrant wishes to change the ἥθη in his city, he simply makes statutes that praise one thing and denunciate the other, and dishonours the disobedient. Yet this allows the ἥθη to change for the better or the worse: the tyrant can change the ἥθη in any way which he pleases (ὅπηπερ ἂν ἐθελήσῃ, 711b6): towards virtue, or towards the opposite (ἐάντε πρὸς ἀρετῆς ἐπιτηδεύματα, προτρέπεσθαι τοὺς πολίτας, ἐάντε ἐπὶ τοῦναντίον, 711b6-8). Hence, to change ἥθη in a tyrannical way entails the risk of arbitrariness: a tyrannical way of changing ἥθη does not offer room for discussion, and the change can either be for better or for worse. By implication, the thought seems to be that to change ἥθη *via* discussion will at least enhance the chances that they will change towards the better.

³⁰ The implication seems to be: and if that is impossible, to his φίλοι.

³¹ This sentence is part of a question, that starts at 720b8 (Ἀρ’ οὖν καὶ συννοεῖς ὅτι κτλ.).

himself, so far as possible; and that he gives no prescription until he has gained the patient's consent, and only then, while securing the patient's continued docility by means of persuasion, does he attempt to complete the task of restoring him to health? (Transl. BURY, adapted)

The free doctor's method largely consists of an extensive examination of the patient and his illness "from the beginning" (ἀπ' ἀρχῆς) and "according to nature" (κατὰ φύσιν).³² This examination involves both the patient himself, and his relatives. The free doctor, to the extent that he is able, *educates* his patient: διδάσκει τὸν ἀσθενοῦντα αὐτόν (720d6);³³ as opposed to the slave doctor, he gives every individual patient an account of his illness (λόγον ἐκάστου πέρι νοσήματος (...) δίδωσιν, 720c3-4).³⁴ The free doctor's treatment involves mutual instruction: according to the analogy, the free doctor, in communicating with his patient, himself *learns* from his patient as well. Here, again, it becomes apparent that, from the start, lawgiving is envisaged as speech. The free doctor tries as best as he can to instruct his patient, and, in marked contrast to the slave doctor, refrains from issuing prescriptions until he has secured the patient's consent. Also, while curing his patient, the free doctor continuously keeps him calm by means of persuasion (τότε δὲ μετὰ πειθοῦς ἡμερούμενον ἀεὶ παρὰσχευάζων τὸν κάμνοντα).

³² SCHÖPSDAU (2003) connects κατὰ φύσιν in 720b4 (and d3) to 857d3-4, and thinks that the free doctor "die Natur (φύσις) des menschlichen Körpers berücksichtigt" (238). Yet in 720b4 at least, slave doctors are said to acquire medicine "by practice, not by nature" (κατ' ἐμπειρίαν τὴν τέχνην κτῶνται, κατὰ φύσιν δὲ μή), φύσιν thus defining the method of acquisition rather than the subject of study. Likewise, 720d3 κατὰ φύσιν is, like ἀπ' ἀρχῆς, a qualification of ταῦτα [*sc.* τὰ τῶν ἐλευθέρων νοσήματα] ἐξετάζων, thus referring to the method of investigation. The implication seems to be that any τέχνη ought to be acquired not by trial and error, but in the natural way: through αὐτὸς μανθάνειν, 720b4-5. That this is the correct interpretation of αὐτὸς μανθάνειν is corroborated by the argument that virtue is self-control: one has to learn to master oneself.

³³ διδάσκειν; cf. παιδεύειν in Book IX, 857d7, e4. Cf. *Leg.* 885d2. *Laws* encourages us to resist such impressions as that of YUNIS' (2007), who claims that in *Laws*, "law becomes a tool of mass education" (81).

³⁴ In *Phdr.* 271b1-5, the rhetoric modelled upon philosophy is distinguished from contemporary rhetorical practice by a similar argument: philosophy selects the type of speech appropriate to the kind of soul. Education (διδάσκειν) can only take place through fitting (προσαρμόττειν) the right kind of speech to the right kind of soul.

The method of the free doctor effectuates what the Athenian declared to be the purpose of lawgiving earlier in the text: to make the addressee “more docile and benevolent in listening” (ἡμερώτερόν τε ἂν ἀκούειν καὶ εὐμενέστερον, 718d4) as well as a better *learner* (εὐμαθέστερον, 718d5-6). In the doctor-analogy, πείθειν becomes more or less identical to διδάσκειν, and effectuates μάθησις. The difference, to the extent that there is one, entails merely that πείθειν includes the practical consequences of instruction: the patient’s willingness to adhere to the doctor’s prescription(s).³⁵ The underlying assumption is that a citizen who is furnished with sufficient background information about what to do, can, as a rule, be expected to obey.

The difference between the two modes of doctoring may be summed up as follows. The method of the slave doctor is characterized by (1) treatment on the basis of routine; by (2) hurry and the absence of a longer-lasting interaction; and by (3) the complete lack of opportunity for explanation and clarification. The patient’s individual situation is entirely lost in the case of the slave doctor. This type of doctor remains in the hospital (720c3), wherefore he cannot observe the patient in his own environment, or converse with the sick and his φίλοι. The slave doctor pays his patients only flying visits, during which he does not have time to make inquiries into his patient’s individual situation. The description of the slave doctor repeatedly draws attention to his permanent *shortage* of time. He is in too much of a hurry to be able to perform his task properly.³⁶

³⁵ In the Platonic corpus, πείθειν and διδάσκειν are usually opposites. For example, in *Gorg.* 455a1 πιστευτική is opposed to διδασκαλική. In *Tht.* 201a4-c2, the sophists persuade without educating (πείθουσιν οὐ διδάσκοντες ἀλλὰ δοξάζειν ποιοῦντες). In *Plt.* 303e7-304d2, ῥητορεία, besides warfare and judging, is one of the supportive arts of the true statecraft, persuades the mass by myths (μυθολογία), and does not convey teaching (διδασχῇ). It has to implant in the soul of the citizens true opinions about the just, the good and the beautiful (305c5-d8). *Tim.* 51e1-6 draws a contrast between νοῦς, effectuated by teaching (διὰ διδασχῆς), and true opinion, effectuated through persuasion (ὑπὸ πειθοῦς ἡμῖν ἐγγίνεται).

³⁶ He states immediately (εὐθύς) what must be done and what not (719e8-720a1). Other references to continuous haste: περιτρέχοντες (720c2), προστάξας ... τὰ δόξαντα ... οἶχεται ἀποπήδησας (720c5-7). The aorist participles (προστάξας, ἀποπήδησας) suggest a lack of time: the chain of

By contrast, the free doctor's method is essentially a form of instruction. It is a *one-to-one* conversation.³⁷ The free doctor's instruction is tailored to the personal needs and specific condition of the patient. The description of the free doctor's method seems in fact to recall a very familiar process: the dialectical method.³⁸ Therefore, instead of drawing on theories of persuasion in other dialogues,³⁹ it seems more fruitful to evaluate *Laws*' notion of persuasion in terms of Plato's own notion of dialectic. The depiction of the free doctor's method is replete with the familiar dialectical motives: (1) just like dialectic, it is a shared enterprise between doctor and patient (about τὰ νοσήματα, in which the doctor communicates and also learns himself);⁴⁰ (2) it is a one-to-one

completed events produces a kind of staccato effect. The lawgiver/doctor seems already on his way to a next patient when he has stated the threat. In *Tht.* 172d4-173b3, Socrates likens those who are regulars of law courts to slaves in comparison to those who have spent their lives pursuing philosophy, on the ground that the latter always have leisure (σχολή), and develop their arguments in peace at their leisure (τοὺς λόγους ἐν εἰρήνῃ ἐπὶ σχολῆς ποιοῦνται), just like Socrates and Theodorus are doing. The others always have to speak in a hurry (οἱ δὲ ἐν ἀσυχολίᾳ τε αἰὲρ λέγουσι), because they have to stick to the time-limit (the water-clock) and to the pre-fixed statement in the ἀντωμοσία. The effect is moral corruption (173a1-b3).

³⁷ Cf. *Leg.* 888a6-7: λέγωμεν πρῶτως, σβέσαντες τὸν θυμόν, ὡς ἐνὶ διαλεγόμενοι τῶν τοιούτων [*sc.* people who deny the existence of the gods]. A face to face conversation seems to be part and parcel of the attempt to remain friendly to dissidents who refuse to believe in the city's religion.

³⁸ Cf. LAKS (2000), 289: "The *Laws* even goes so far as to picture the doctor 'going back to the general nature of bodies' the hyperbole is evident, but so is the reason for it: the Socratic model of a dialectical conversation constitutes the horizon within which the theory of legislative preamble must be situated."

³⁹ As interpreters have usually done; a parallel with *Gorgias*: JAEGER (1945), 217; MESCH (2003), 60. Parallel with *Phaedrus*: MORROW (1953): "Plato's legislation is (...) one vast system of total persuasion, the climactic fulfilment of the art of psychagogy that he had outlined in the *Phaedrus*" (242). Cf. YUNIS (1996): "within the legal preambles of the *Laws* Plato attempts to implement on a massive scale the kind of instructive rhetoric proposed in the *Phaedrus*" (*ibid.*, 212); YUNIS stresses the difference between the rejection of rhetoric in *Gorgias* and "the creation of a new rhetorical genre of legal-political discourse" in *Laws* (235-236). According to YUNIS (2011), 10, *Phaedrus* discusses the didactic rhetoric hinted at in *Gorgias*.

⁴⁰ Cf. ENGLAND *ad* 720d3. The term ἐξετάζειν is used by Socrates in *Apology* to describe his philosophical activity, *Apol.* 23c4, c5, c8, 28e6, 33c3, 38a5, 41b5, 41c3; cf. *Tht.* 155a1; *Phdr.* 270c7; *Charm.* 172b7; *Tim.* 62c4. It is typically concerned with being (τὰ ὄντα, *Gorg.* 495a8), and with true moral improvement (*Gorg.* 515b1). Hence in that context it refers to conversations that irritate those subject to his scrutiny. By contrast, in *Laws* the scrutiny of the patient about his illness (and in fact, if we recall that the doctor is the *analogon* of the lawgiver, the νόσημα is in fact the inclination to commit an illegal act, a *moral* weakness), is welcomed (this is the gentler treatment the interlocutors are after), and can emerge as the positive counterpart to the slave doctor who hurries from one

conversation (*cf.* ὡς ἐνὶ διαλεγόμενοι, 888a6⁴¹); (3) it instructs the patient on the basis of an account of his individual situation (τινὰ λόγον ἐκάστου πέρι νοσήματος ἐκάστου τῶν οἰκέτων ... δίδωσιν 720c3-5; *cf.* διδάσκει in 720d6 and ἔλεγχον διδόναι in 891a2);⁴² (4) similarly to the dialectical method, which requires that the interlocutor explicitly declares himself in “agreement” (ὁμολογία), the treatment of the free doctor does not proceed without the patient’s assent (*cf.* οὐ πρότερον ἐπέταξεν πρὶν ἂν πῃ συμπίσῃ, 720d6-7); (5) again, like dialectic, the free doctor’s method is not constrained by time (quite unlike the visits of the slave doctor).⁴³ Regarding the representation of the preambles as a distinctly *πρῶτος* mode of address, we may recall that the willingness to clarify one’s statements, σαφέστερον λέγειν, is a token of one’s εὐνοία (“benevolence”) to a serious interlocutor.⁴⁴ The free doctor’s method

patient to the next. In the doctor-analogy, ἐξετάζειν is therefore part of a process of friendly, mutually instructive conversation between doctor and patient (and his φίλοι). The interlocutors in *Laws* refer to their own conversation as ἐξετάζειν in 685a7, 891c9, 900d5.

⁴¹ *Leg.* 888a6 seems to assume a link between speaking one-to-one and the ability to curb one’s anger and remain well-mannered.

⁴² Giving a *logos* (‘account’) as part of what it means to possess a τέχνη: *Gorg.* 464b-465a5; *cf.* 500b-501a and 501a1-3. On giving an account in the context of τέχνη: IRWIN (1977), 71-77; WOODRUFF (1992); ROOCHNIK (1996); BALANSARD (2003), 47-51, 141-2, 146-7.

⁴³ For this aspect of dialectic, see, *e.g.*, *Tht.* 154e7-155a2, 172c2-173b3. When the case of the δυσμαθής is discussed (891a1-4), for whom, on first hearing, what such προστάγματα say may be difficult (εἰ χαλεπὰ κατ’ ἀρχὰς ἀκούειν), it is important to realize that the preambles remain “in all respects fixed” (πάντως ἡρεμεῖ) and offer him the opportunity to visit them many times (πολλάκις ἐπανιόντι). This suggests that the preambles will be saying the same thing over and over. This is not inconsistent with the idea that the preambles will address every person in the appropriate way: for the δυσμαθής the appropriate is repetition of the same.

⁴⁴ *Plt.* 262c2-4. When the young Socrates asks Πῶς, ὦ ξένε, λέγεις τοῦτο; the Stranger responds: Πειρατέον ἔτι σαφέστερον φράζειν εὐνοίᾳ τῆς σῆς φύσεως, ὦ Σώκρατες “I must try to tell you still more clearly, Socrates, out of good will towards your natural endowments” (transl. ROWE). In *Gorgias*, εὐνοία was stipulated as one of the three conditions for successful dialectic. *Gorg.* 486e6-487a3 (Socrates is speaking): ἐννοῶ γὰρ ὅτι τὸν μέλλοντα βασανιεῖν ἱκανῶς ψυχῆς πέρι ὁρθῶς τε ζώσης καὶ μὴ τρία ἄρα δεῖ ἔχειν ἃ σὺ [*sc.* Callicles] πάντα ἔχεις, ἐπιστήμην τε καὶ εὐνοίαν καὶ παρρησίαν, “I realize that a person who is going to put a soul to an adequate test to see whether it lives rightly or not must have three qualities, all of which you have: knowledge, good will, and frankness” (transl. ZEYL). *Cf.* BOBONICH (1991), 376, n. 45: “Plato often suggests a connection between ‘gentleness’ and the ability to learn and teach”, with references *ibid.*

also seems to be properly attuned to the needs of each patient.⁴⁵ Finally, the social status of the free doctor (ἐλεύθερος) may also imply that there is no reason not to speak candidly, but that the conversation is solely informed by the considerations and concerns that come up.

It should be noted however, that dialectic in the context of the doctor-analogy is not entirely the same as dialectic as a search for truth. The dialectical discussion as a search for truth creates, or at least pretends to do so, an equilibrium, in which pressure to state, or agree to, something one does not really hold true is minimized.⁴⁶ In *Laws*, dialectic—if we can still call it dialectic—functions *in the service of convention*. The discussion between the doctor and patient ultimately has the purpose of getting the patient, or citizen, to submit to the prescription willingly. In the case the citizen resists voluntary submission, the law itself will raise its voice and punishment will follow.

5.2.2 The preambles: a brief overview

What sort of texts are these persuasive preambles? The Athenian himself illustrates his innovation by an example. He first formulates a law without a preamble (ὁ μὲν ἀπλοῦς [νόμος]), which runs as follows, 721b1-3:

⁴⁵ In this respect, the speech of the doctor in the analogy may resemble *Phaedrus'* philosophical rhetoric, *Phdr.* 271c10-272a8. In virtue of the preambles' representation as philosophical rhetoric, it seems reasonable to suppose that controlling their reception works similarly to the effect of philosophical rhetoric in *Phaedrus*: to select an argument appropriate to the person who needs to be instructed. *Phdr.* 270b1-272b2. In *Phaedrus*, rhetoric is also compared to medicine. Furthermore, it may be noted that the only time the Athenian alludes to the laws/preambles as written texts, this is as an advantage (μεγίστη βοήθεια) for νομοθεσία: laws' written nature allows the δυνάστης to be educated as well, since he can come back often and reread them: 890e6-891a4. Of course, this insistence on the preambles as written texts is inconsistent with their presentation as speeches elsewhere. These claims cannot be true at the same time. This inconsistency is, however, not problematic in the realm of fiction or thought experiment.

⁴⁶ We may think, for instance, about Socrates' insistence on "speaking one's mind", παρρησία. We find the insistence on παρρησία in contexts when convention may prevent the interlocutor to speak his mind, as in the case of Calicles in *Gorgias*. The absence of time-constraints is part of this equilibrium. The availability of time enhances the chances to reach the truth, because one is not forced to give up when truth appears to be more difficult to attain than initially assumed. On παρρησία in Plato, see VAN RAALTE (2004).

Γαμεῖν δέ, ἐπειδὴν ἐτῶν ἢ τις τριάκοντα, μέχρι ἐτῶν πέντε καὶ τριάκοντα, εἰ δὲ μὴ, ζημιουῖσθαι χρήμασιν τε καὶ ἀτιμίᾳ, χρήμασι μὲν τόσοις καὶ τόσοις, τῇ καὶ τῇ δὲ ἀτιμίᾳ.

A man shall marry when he is thirty years old and under five and thirty; if he fails to do so, he shall be punished both by a fine in money and by degradation, the fine being of such and such an amount, and the degradation of such and such a kind. (Transl. BURY).

The double law is preceded by a preamble, which runs as follows, 721b6-c8:

Γαμεῖν δέ, ἐπειδὴν ἐτῶν ἢ τις τριάκοντα, μέχρι τῶν πέντε καὶ τριάκοντα, διανοηθέντα ὡς ἔστιν ἡ τὸ ἀνθρώπινον γένος φύσει τινὶ μετείληφεν ἀθανασίας, οὗ καὶ πέφυκεν ἐπιθυμίαν ἴσχειν πᾶς πᾶσαν· τὸ γὰρ γενέσθαι κλεινὸν καὶ μὴ ἀνώνυμον κεῖσθαι τετελευτηκότα τοῦ τοιούτου ἔστιν ἐπιθυμία. γένος οὖν ἀνθρώπων ἔστιν τι συμφυὲς τοῦ παντὸς χρόνου, ὃ διὰ τέλους αὐτῷ συνέπεται καὶ συνέπεται, τούτῳ τῷ τρόπῳ ἀθάνατον ὄν, τῷ παῖδας παίδων καταλειπόμενον, ταῦτόν καὶ ἐν ὄν ἀεί, γενέσσει τῆς ἀθανασίας μετειληφέναι· τούτου δὴ ἀποστερεῖν ἐκόντα ἑαυτὸν οὐδέποτε ὄσιον, ἐκ προνοίας δὲ ἀποστερεῖ ὃς ἂν παίδων καὶ γυναικὸς ἀμελῇ.

A man shall marry when he is thirty years old and under thirty-five, bearing in mind that this is the way by which the human race, by nature's ordinance, shares in immortality, a thing for which nature has implanted in everyone a keen desire. The desire to win glory, instead of lying in a nameless grave, aims at a like object. Thus mankind is by nature coeval with the whole of time, in that it accompanies it continually both now and in the future; and the means by which it is immortal is this:—by leaving behind it children's children and continuing ever one and the same, it thus by reproduction shares in immortality. That a man should deprive himself thereof voluntarily is never an act of holiness; and he who denies himself wife and children is guilty of such intentional deprivation. (Transl. BURY)

The preamble places the act of the individual in a larger, cosmic, framework. The refusal to have children is not an act that concerns only oneself; it has a significance for the whole of humankind. The obligation to marry and beget children is motivated by an appeal to humankind (τὸ ἀνθρώπινον γένος) and his natural predisposition (φύσει, πέφυκεν). Humankind shares in immortality by reproduction, and is claimed to have a natural desire for immortality. By reproduction humankind is coeval with time (συμφυὲς τοῦ παντὸς χρόνου,

721c3). Not begetting children is, reasoned along these lines, against nature, and a failure to honour what needs to be honoured (man's share in immortality).

The preambles are, however, more diverse in kind than one might have expected on the basis of this example. A classification endorsed by several interpreters is to divide them into three kinds: rational argument, encouragement by praise and blame, and deterring⁴⁷ tales about divine wrath and punishment.⁴⁸ The preambles exhibit differences both in respect of the phase of *paideia* to which they contribute, and in respect of their style and type of arguments.⁴⁹ It seems that several factors are at play here.

⁴⁷ SCHÖPSDAU (2003), 223-224, rightly notes the deterring effect of "[d]as mit dem Hinweis auf göttliche Sanktionen argumentierende Proömium, das in der Regel warnende Funktion hat" (223). Threat of legal punishment in these cases makes way for threat of divine wrath and punishment for particular actions. For mythical motives in the preambles, see GÖRGEMANNS (1960), n. 3, pp. 59-61; BRISSON (2000), 244-248.

⁴⁸ This is the classification of SCHÖPSDAU (2003), 223-224; similarly LAKS (1991), BOBONICH (1994), and BRISSON (2000).

⁴⁹ Most older analyses of the preambles have claimed that (with only a few exceptions) the preambles are instances of (irrational) "praise and blame" or enchantment (with the implication that such arguments are incomparable to philosophical argument): MORROW (1953) ("adoption of this art of enchantment"), and (1960), 552-560; GÖRGEMANNS (1960), 30-49; VERSENYI (1961) ("non-rational persuasive material rather than reasoning", 70); HALL (1963), 203-208; STALLEY (1983) ("primarily intended to provide moral exhortation", 10, cf. 42-44) and (1994), 169; LAKS (1990), 209-229; YUNIS (1996) ("deliberative rhetoric", 217; "authoritatively pronounced admonition, sometimes with a strong emotional colouring", 229); BRISSON (2005) ("the preambles to the laws do not seek rationally to convince, but to enchant the citizens by means of the charms dispensed by mythology and rhetoric", 117). THESLEFF (1967) on the basis of stylistic analysis concludes that the preambles often use the "rhetorical style". Against these, BOBONICH (1991), (1994), (1996), has defended the view that the preambles employ "rational persuasion". Recently, it has been emphasized that the preambles deploy a spectrum of arguments: SAUNDERS (1992) "combined appeal to sensibility and reason" (472); LISI (2000); BRISSON (2000): preambles draw on means necessary for a particular group of citizens with a particular educational background (especially 69-71); PRADEAU (2005) denies that the preambles "set forth rationally the appropriateness of such-and-such a conduct" (135, cf. n. 20 *ibidem*: they "do not transmit a teaching"), but he does speak of a "totality of resources", including "religious authority as well as threats", "appeal to tradition", "recourse to edifying examples" (136); MEYER (2006): "[g]iven the Athenian's later comment that to legislate using preludes is in fact to engage in *paideia* (857e), we should not be surprised to find the preludes appealing to the citizens in rhetorical as well as intellectual means" (386); ZUCKERT (2009): "combination of reason with appeals to the passions" (113, cf. 122). KOEPLIN (2009): "the preambles use a variety of methods of persuasion" (15, cf. 18); BICKFORD (2009) (*contra* BOBONICH [2002]): "the soul-shaping of the *Laws* involves teaching-persuasion and reasoned inspiration, implying a rich conception of human capacity and change" (150).

The first is the kind of νόμος for which the preamble is the preface: some preambles are the prefaces of a law that attempts to guide a certain aspect of citizen life, for instance marriage; other preambles preface a criminal statute, or set of criminal statutes. The difference is that a preamble that guides the correct customs to be observed in, for instance, marriage or wills, does not operate in the same dangerous zone as the preamble to the penal law, that attempts to change the mind of an almost-criminal. The second relevant aspect that determines the nature of a preamble is the type of person or group of citizens to whom it is addressed. In most cases, a preamble (and law) is only directed at a specific group of people, or a specific individual.⁵⁰ These two aspects, the preamble's contribution to *paideia* and its intended audience, are of course closely related. Together, they determine the nature of the preamble. In addition, it may be noted that the stages of completion of the preambles vary.⁵¹ Some preambles seem to have received their more or less definitive form, whereas others have to be supplemented. Most of the preambles in the category of (almost) final preambles are those addressed to potential criminals, a fact which may suggest that a penal preamble constitutes the most original form, or that the preamble was originally designed as a preface for this kind of statutes (which seems to be corroborated by the fact that the *analogon* used to explain the function of the preambles is the doctor, implying that a preamble addresses someone who has fallen ill). A third category of preambles consists of excerpts from the discussion that the interlocutors say have to be turned into preambles, but are not preambles yet.

Examples of preambles that do not introduce penal laws and have a formative function include the preamble that precedes the law code as a whole

⁵⁰ See *Leg.* 723c1-4: Καλῶς μὲν τοίνυν, ὦ Κλεινία, δοκεῖς μοι τό γε τοσοῦτον λέγειν, ὅτι πᾶσιν γε νόμοις ἔστιν προοίμια καὶ ὅτι πάσης ἀρχόμενον νομοθεσίας χρῆ προτιθέναι παντὸς τοῦ λόγου τὸ πεφυκὸς προοίμιον ἑκάστοις.

⁵¹ See for this categorization of the preambles YUNIS (1996), 227, nn. 26, 27, 28.

(addressed to all mature citizens),⁵² the proposed preamble for marriage regulations (addressed to the young men),⁵³ and the preamble for hunting (addressed to the youths).⁵⁴ Most preambles, however, precede the penal laws formulated in Books IX and X.⁵⁵ These are the preambles against temple-robbing,⁵⁶ against all types of murders,⁵⁷ against impiety,⁵⁸ against adulteration (κιβδηλεία),⁵⁹ the one addressed to those who are dying and are about to make a will,⁶⁰ a preamble to the lawguards and guardians about the care of orphans,⁶¹ and one for the worship of gods, deemed equally fitting for honouring one's parents.⁶² The preambles in Book IX and X are often considered to be the most

⁵² *Leg.* 729a1-734e2. This preamble is in fact clearly demarcated: at 734e3-4, it ends with the closure *Καὶ τὸ μὲν προοίμιον τῶν νόμων ἐνταυθοῖ λεχθὲν τῶν λόγων τέλος ἔχεται*. This preamble is in fact an exception, in so far as it is the only preamble addressed to the citizenry as a whole. But see also *Leg.* 722d1-2, where the interlocutors state that their whole discussion till then is a *προοίμιον*.

⁵³ *Leg.* 721b6-d6; also announced in *Leg.* 772e3-4; the *προοίμιον* starts at 772e7 and addresses the sons of good fathers: *Ὡ παῖ, τοῖνυν φῶμεν ἀγαθῶν πατέρων φύντι*. See also chapter four, p. 159.

⁵⁴ *Leg.* 823b1-824a19. This *προοίμιον* is part of that part of the law code that belongs to *paideia* in a more strict sense (that is, the laws that address the *νέοι*), for after the preamble for hunting has been concluded, the Athenian states *Νῦν οὖν ἤδη πάντα χρὴ φάναι τέλος ἔχειν τὰ γε παιδείας περὶ νόμῳ* (824a20-21).

⁵⁵ See *Leg.* 880a8 (not precisely clear to what preamble this refers).

⁵⁶ The preamble is announced in *Leg.* 854a3-5, concluded by 854c6-7; the preamble in 854b1-c5; the law begins in 854d1, and probably ends at d4, or perhaps after the γάρ-interlude of 854d4-e1, in 855a2 (cf. the lay out in SAUNDERS' translation). The preamble explicitly claims to instruct: *μαθέ* (854b6). If the person who intends to rob a temple notices that his "disease" does not diminish, he should look upon death as the better alternative.

⁵⁷ At *Leg.* 870d4-5 the Athenian says that for all the cases of murder they have enumerated, the preambles mentioned ought to be stated (*προοίμια μὲν εἰρηγμένα ταῦτ' ἔστω*), probably referring to analysis of the various kinds of emotions that may provoke murder in 870a1-d4, but perhaps also the discussion about the distinctions between voluntary and involuntary crime in 860c4ff. The series of laws against premeditated murder on different types of people begins in 871a2 and is concluded in 872c6.

⁵⁸ The preamble against impiety is referred to in *Leg.* 887a3, c1. It begins in 888a7 and is concluded in 907d1. After the preamble, the law itself follows in 907d7- (probably) 908a1.

⁵⁹ *Leg.* 916d6-917b7. The law follows in 917b7.

⁶⁰ *Leg.* 923a2-c2. The law follows in 923c4. Also a special general preamble is to be designed with the purpose of pardoning the lawgiver in case the situation compels the person to disobey the law, as the Athenian explains in 925d5-926a3.

⁶¹ This preamble is mentioned in 926e8. They have given fitting preludes (*ἐμμελῆ ... προοιμιασάμενοι*, 926e7-8) earlier, probably referring to 965eff. (ENGLAND *ad* 927a1).

⁶² *Leg.* 930e5. The discussion that follows (until 932a6) seems to contain fragments that might add up to a complete preamble. The law follows in 932a7-d8.

“rational” ones in their kind by modern interpreters, because they offer the most complex, philosophically sophisticated argumentation.⁶³ But rationality does not depend on the *kind of arguments* used. The preambles are rational because they are mechanisms that encourage a person to *restrain oneself*.⁶⁴

The preambles in most cases address potential criminals, and therefore become effective when *paideia* has failed. Their role in the series of mechanisms that are designed to maintain the legal order is thus strictly speaking after *paideia*: *paideia* is a regulative mechanism designed for all citizens, educating them and training them to internalise the norms. If *paideia* fails and transgression of the law becomes more likely, the preamble has the function to motivate the potential criminal to restrain himself. Persuasion is used to make him internalize the specific law.

If, however, the persuasion of the preamble fails, then there remains the violence (*βία*) of the law (*νόμος*), which, had the persuasion of the preamble been successful, would have remained silent.⁶⁵ In case of transgression of the law, punishment (*δίκη*) follows, although even punishment can assume the form of *paideia*, as in case with the criminals (the atheists) who are sent to the *σωφρονιστήριον* where they are to be instructed by the members of the nocturnal council.⁶⁶ In the final instance, if the crime is very serious and all other mechanisms have repeatedly failed to cure a person of his “illness”, the criminal is considered “incurable”.⁶⁷ The final remedy is death.⁶⁸

⁶³ See n. 81 on p. 201 below.

⁶⁴ Cf. the representation of the laws as assisting the *λογισμός* in the puppet *εικών*, section 3.2.2.

⁶⁵ *Leg.* 854c7-8: τῷ μὲν πειθομένῳ τὸν νόμον ἔαν σιγῇ δεῖ; 938a6-7: πειθομένοις μὲν σιγῇ, ἀπειθοῦσιν δὲ φωνῇ νόμου ἦδε.

⁶⁶ The *σωφρονιστήριον* is one of three kinds of prisons in the envisaged *polis*, *Leg.* 908a1-7: (1) one is to be situated near the market-place; (2) the *σωφρονιστήριον* is to be near the meeting place of the nocturnal council, and (3) one is to be situated in the loneliest and wildest spot in the middle of the country.

⁶⁷ See e.g. *Leg.* 854c4-5, 941d4, 942a4; cf. 877a5.

⁶⁸ E.g. *Leg.* 942a4.

5.2.3 The doctor-analogy of Book IX

In Book IX, we encounter a recapitulation of the doctor-analogy of Book IV. Book IX for the most part contains penal laws. The doctor-analogy is thus recalled in the context of a special type of laws: those addressing possible criminals, who are about to transgress a particular law. The idea of a doctor of course implies that the person addressed, the patient, is someone who has fallen ill. In the realm of the doctor's *analogon*, the lawgiver, the preamble is addressed to the person who almost fails to control himself. The doctor-analogy in Book IX thus seems designed as the *analogon* for a specific type of preamble: the preamble that is prefaced to criminal legislation. It is apparently the criminal who needs more elaborate instruction, and arguments that draw on philosophical conversation. In fact, the doctor-analogy of book IX is followed by one of the most complex pieces of argument in *Laws*: the reflection on the distinction between voluntary and involuntary crimes. The doctor-analogy thus anticipates this intricate piece of argument. The same principle seems to underlie the extremely elaborate preamble addressed to the atheist: like the preamble that addresses the possible future criminal, it (or rather the three preambles that target three kinds of atheism) deploys advanced philosophical reasoning and gives philosophical arguments for why a person ought to obey the law.

Apparently, to make these citizens control themselves requires much more than ordinary *paideia*—philosophy (or the kinds of definitional and cosmological arguments that we associate with philosophy of a more advanced level) is a rough remedy, to be deployed in order to inspire the wicked to self-restraint. The re-education of atheists of course requires a firm *paideia* on the part of the educator. The citizens who have the task to re-educate the atheists in the *σωφρονιστήριον* are the members of the nocturnal council.⁶⁹

⁶⁹ *Leg.* 908a3-5. For the nocturnal council, see chapter six, section 6.1.

The link between the preambles (πείθειν) and education (διδάσκειν) that came to the fore in Book IV is also made explicit in Book IX, 857c4-d4:

οὐ κακῶς ἀπηκάσαμεν, ὅτε δούλοις ὡς ἰατρευομένοις ὑπὸ δούλων ἀπηκάζομεν πάντας τοὺς νῦν νομοθετούμενους. εὖ γὰρ ἐπίστασθαι δεῖ τὸ τοιόνδε, ὡς εἰ καταλάβοι ποτέ τις ἰατρὸς τῶν ταῖς ἐμπειρίαις ἄνευ λόγου τὴν ἰατρικὴν μεταχειριζομένων ἐλεύθερον ἐλευθέρῳ νοσοῦντι διαλεγόμενον ἰατρόν, καὶ τοῦ φιλοσοφεῖν ἐγγὺς χρώμενον μὲν τοῖς λόγοις, ἐξ ἀρχῆς τε ἀπτόμενον τοῦ νοσήματος, περὶ φύσεως πάσης ἐπανιόντα τῆς τῶν σωμάτων, ταχὺ καὶ σφόδρα γελάσειεν ἂν καὶ οὐκ ἂν ἄλλους εἴποι λόγους ἢ τοὺς περὶ τὰ τοιαῦτ' αἰεὶ προχείρους ὄντας τοῖς πλείστοις λεγομένοις ἰατροῖς· φαίη γὰρ ἂν "ὦ μῶρε, οὐκ ἰατρεύεις τὸν νοσοῦντα ἀλλὰ σχεδὸν παιδεύεις, ὡς ἰατρὸν ἀλλ' οὐχ ὑγῇ δεόμενον γίγνεσθαι".

It was no bad comparison we made when we compared all existing legislation to the doctoring of slaves by slaves. For one should carefully notice this, that if any of the doctors who practise medicine by purely empirical methods, devoid of theory, were to come upon a free-born doctor conversing with a free-born patient, and using arguments that come close to philosophy, dealing with the course of the ailment from its origin and surveying the natural constitution of the human body,—he would at once break out into a roar of laughter, and the language he would use would be none other than that which always comes ready to the tongue of the so-called 'doctors': "You fool", he would say, "you are not doctoring your patient, but schooling him, so to say, as though what he wanted was to be made, not a sound man, but a doctor." (Transl. BURY, adapted)

In a similar way to the doctor-analogy in Book IV, the one in Book IX presents treatment by the free doctor as a conversation. It likens the exchange between preamble and citizen to the exchange between two free persons (ἐλεύθερον ἐλευθέρῳ νοσοῦντι διαλεγόμενον ἰατρόν). The doctor's words are even said to be "drawing on arguments resembling philosophy" (τοῦ φιλοσοφεῖν ἐγγὺς χρώμενον τοῖς λόγοις), since they deal with the illness from the beginning (ἐξ ἀρχῆς (...)) ἀπτόμενον τοῦ νοσήματος), and take into consideration the entire physique of bodies (περὶ φύσεως πάσης ἐπανιόντα τῆς τῶν σωμάτων).⁷⁰ This is significant in the context of Book IX, for, as we have seen, the preambles in

⁷⁰ Cf. *Phdr.* 270b4-9.

Book IX and X are the most sophisticated preambles.⁷¹ The recapitulation of the doctor-analogy of Book IV in Book IX thus seems specifically designed to illustrate the envisaged effect of the preambles in the immediate context (Books IX and X).

To the slave doctor, the free doctor's procedure is incomprehensible. The slave doctor, we may recall, represents the lawgiver who *does* think that in lawgiving, the mode of address is irrelevant. Confronted with the method of the free doctor, he will say: "You fool,⁷² you are not curing the sick but educating him, as if he needed to become a doctor instead of healthy" ("ὦ μῶρε, οὐκ ἰατρεῦεις τὸν νοσοῦντα ἀλλὰ σχεδὸν παιδεύεις, ὥς ἰατρὸν ἀλλ' οὐχ ὑγιῇ δεόμενον γίγνεσθαι", 857d6-e1). The slave doctor thinks that the sole goal of medical treatment is to make the patient healthy.⁷³ But according to the analogy in *Laws*, violence makes people obstinate rather than compliant, an insight we owe to the Athenian. Imposing on someone what is good for him is thus not an option in the present scenario. The only option is to educate the patient so as to enable him to control himself.

The slave doctor ridicules his free colleague because the latter acts *as if* his aim is to turn his patient into a doctor, instead of making him healthy (ὥς ἰατρὸν ἀλλ' οὐχ ὑγιῇ δεόμενον γίγνεσθαι, 857e1). Instruction by the free doctor apparently entails that the virtuous person, at least to some extent, himself acquires the necessary basis for persuading and (hence) educating others: he has to become master of himself, his own lawgiver as it were. This may, in some cases, entail the ability to persuade others.⁷⁴ An *active* endeavour to make one's fellow citizens virtuous is also praised in the preamble to the law

⁷¹ See below, n. 81 on p. 201.

⁷² Naturally, good manners are beyond the slave doctor. His behaviour is ἄγριον.

⁷³ Which is, of course, the idea in *Republic*.

⁷⁴ A different interpretation of the analogy is offered by NIGHTINGALE (1999). She argues that the law code in *Laws* is "accorded an almost scriptural status" (102). Correspondingly, when the citizens are said to become like a doctor in 857e1, they are asked to become like Egyptian doctors, who practice medicine by the book (119).

code as a whole.⁷⁵ In that preamble, the faculty to communicate and share one's own virtue with others makes a person twice as virtuous and commendable as the "grudging" person who keeps his virtue to himself.⁷⁶

5.3 Lawgiving λόγῳ

5.3.1 Embedded preambles

We have noted several times that the Athenian consistently represents lawgiving as speech. The doctor-analogy fits this pattern: it represents both the unmixed and the mixed legislation as modes of speech; in other words, laws without preambles are also imagined as a kind of speech, but a less effective mode. In *Laws*, the setting guarantees that the actual preambles and the laws are in fact spoken, since the interlocutors engage in lawgiving "in speech", λόγῳ.⁷⁷ Thus, on the dramatic level of the dialogue, preambles and laws are embedded in, and part of, the conversation between the interlocutors. At the same time, the Athenian postulates an analogy between lawgiving and doctoring that presents lawgiving as a kind of speech resembling dialectic. The doctor-analogy

⁷⁵ *Leg.* 726a2-746d2.

⁷⁶ *Leg.* 730d2-731b3.

⁷⁷ This is the reason why, according to *Laws'* own theory of lawgiving, its laws are not susceptible to the criticism of the written word in *Phaedrus* (written texts are only valuable for mnemonic purposes, since they can only "remind" (ὑπομνήσαι) one of something; they cannot teach), and the criticism of written law in *Statesman*. *Phdr.* 275d8-9: ἐὰν δέ τι ἔρη τῶν λεγομένων βουλόμενος μαθεῖν, ἐν τι σημαίνει μόνον ταῦτόν αἰεὶ. Cf. ENGLAND and RITTER *ad loc.* Cf. *Phdr.* 275d4-9, cf. 275c8-d2 and *Ep.* VII, 344b5-6; 344c1-d2. *Phdr.* 275d9-e5; cf. *Tht.* 164e2-4, where a tale whose author ("father", πατήρ) is not present to defend it, is called an "orphan" (ὀρφανόν). *Statesman* criticizes the fixation and unchangeability of written laws on the grounds that they cannot stay up to date of the condition of the patient—in *Statesman* we meet an analogy between *law* (not lawgiver) and doctor—changes, especially *Plt.* 294a6-c4, 296e4-297a2, 300c10-d2. *Statesman's* verdicts on laws can, however, not without qualification be applied to *Laws*, precisely because the introduction of the preambles is designed to foster laws with the capacity to educate. For this reason would be wrong to conclude, as BLUCK (1947), 133-134, does *ad* 344c ἐν νόμοις νομοθέτου "Plato, then, did not consider his own *Laws* σπουδαιότατον". TOMIN (1998), 204-207, argues, drawing also on *Epistula* VII, that *Laws* "revises" *Phaedrus'* views on writing.

therefore seems to be designed with the upcoming laws in speech in mind (just as the painter-analogy analyzed in chapter four). The doctor-analogy, in other words, specifically pertains to the lawgiving in *Laws*—λόγῳ, that is; the analogy does not offer a general picture of lawgiving.⁷⁸

Although the doctor-analogy is sustainable because the lawgiving that follows it is indeed in speech, the lawgiving embedded in dialectic on the dramatic level and the lawgiving represented as dialectic in the analogy are not entirely parallel. In the lawgiving λόγῳ, in the dialogue, the preambles and laws are *provisional* and *under discussion*. Cleinias and Megillus are not patients, but lawgivers—the patients are not yet within sight. The interlocutors do not need to be persuaded not to commit an illegal act. (Although in Books I and II the Athenian has persuaded them in dialogue of something contrary to their own cultural tradition.) Together with the Athenian the interlocutors engage in a process of formulating a law code for a hypothetical *polis*. They repeatedly ask the Athenian for clarification, and the Athenian never fails to clarify what he has in mind.⁷⁹ The interlocutors discuss the preambles with the objective to test whether they are a successful means to assist the law in its educational task. Within the dialogue, where the interlocutors often identify with the lawgiver,

⁷⁸ The analogy is therefore less misleading than some scholars have assumed, e.g., STALLEY (1994): “the analogy between the legislator and the doctor is (...) highly misleading”, since “the activity of the lawgiver is “necessarily one-sided” (170). He concludes that, therefore, “we cannot reach an accurate evaluation of the preludes simply by taking at face value everything the Athenian says about them” (170-171). Similar critique is expressed by NIGHTINGALE (1993), 283, 291; also *id.*, (1999a), 117-118; YUNIS (1996), 220; WAUGH (2003), 30; KLOSKO (2006), 245, with reference to *Phdr.* 275d and *Prot.* 329a-b; BICKFORD (2009), 151, n. 56 (*Laws* is second best because it relies on written laws). MAYHEW (2010) holds that written texts are praised “because Magnesia is second best, and, related to this, because the rule of law is second best, behind the rule of philosopher-kings (see *Laws* 5.739b8-e7 and *Statesman* 293a6-297e5)” (98), but such a reading misconstrues the *Laws*’ own representation of the preambles. See also below, section 5.3.

⁷⁹ Like spoken texts in the *Phaedrus*, the Athenian *can* respond, and give clarification. Often in the form of φράζε or λέγε (ἔτι) σαφέστερον. E.g. *Leg.* 639e4-640a2, 644d4-6, 664e1, 668d3 (here the Athenian offers clarification himself), 691b10, 700a1-2, 708d8-9, 712c2-5, 714c7, 801c7, 863a3-6, 888e3, 894b5, 960c2-3. Compare also the many instances (especially in Book X, it seems) of Cleinias’ Πῶς λέγεις; See e.g. 889a9-b1. The Athenian always complies with these requests for clarification. For willingness to do so as a token of εὐνοία, see above, n. 44 on p. 189.

the Athenian's tendency to refer to the preamble as if it were a text spoken by the lawgiver, makes perfect sense.

The effect of the presentation of the preambles and laws as under discussion and provisional is reinforced by the fuzzy way in which the preambles are embedded in the dialogue. It is often not quite clear where a preamble starts and where it ends.⁸⁰ This creates an impression of fluidity. Hence, there exists, for example, some scholarly dispute over the status of the two most philosophical and elaborate preambles of *Laws*, (1) the preamble preceding the penal laws in Book IX, and (2) the preamble, or rather series of preambles, addressed to the three kinds of atheists in Book X—are they indeed preambles or are they to be understood as some kind of extra-legal reflections?⁸¹ The function of this vagueness is, at least on the level of the lawgiving λόγος, to suggest that the laws and preambles are under discussion, and remain provisional. The fuzzy boundaries suggest that the preambles as they are

⁸⁰ Cf. STALLEY (1983): "In practice it is often difficult to distinguish the preamble from (a) the general discussion which introduces a particular section of legislation and (b) the law proper which lays down the penalty" (42). When they are explicitly introduced, two formulas can be distinguished: NIGHTINGALE (1993), 286-287: most common is that the lawgiver addresses the citizens or a subgroup in the second person ("Oh friends, we advise/warn you to behave as follows..."). The second group are "injunctions in the third person that are designated either prospectively or retrospectively as 'preludes' (...). The formula for this category of prelude is: "let everyone be advised/warned..."

⁸¹ These two preambles (857e-864c and 887a-907d) are also classified together by MORROW (1960), as preambles that "take[s] the form of a dialogue, eliciting through questions and answers the distinctions and values that underlie the law to follow" (554). But he thinks that Plato does not intend to prefix these lengthy discussions to the actual laws (in the case of the laws against impiety for instance, the "briefer statement in 885b is evidently the formal preamble"). Rather, they "show the kind of defense that he thinks a legislator should be able to give for his prescriptions and that he expects the officials in the new state to be able to give if required." (*ibid.*) In a similar fashion, LISI (2000) argues that IX, 857b4-8[7]64c8, "ne constitue pas un préambule au sens strict, puisqu'elle ne vise pas le possible criminel et n'est pas une admonestation destinée à obtenir une conduite plus adaptée aux lois" (62). Detailed interpretations of 857e-864c in SCHÖPSDAU (1984), SAUNDERS (1991), and SCHOFIELD (2012). YUNIS (1996) includes the address to the atheists in Book X in his list of "preambles complete" (227, n. 26). The preamble of Book X is often adduced as a "rational" preamble (according to some the only one in its kind): YUNIS (1996), 234-235; BRISSON (2000); KOEPLIN (2009); MAYHEW (2008) thinks that it does not appeal to reason alone. According to GÖRGEMANNS (1960), the preambles of Book IX (see 82-85) and X (see 85-100) juxtapose rhetorical and philosophical elements: the philosophical framework and rhetorical preambles mutually influence each other.

formulated in *Laws* are not imagined to be fixed, immutable texts.⁸² The vagueness of their exact body of text gives the impression of fluidity. The preambles are simply part of the exchange between the interlocutors; meta-legislative or more general considerations evolve into direct injunctions and, conversely, injunctions implicitly pass over into ideas that seem to be stated on the level of the dialogue rather than with an imaginary ‘patient’ in mind.

5.3.2 The question of lawgiving ἔργον

Laws is a legislative project λόγῳ, in speech. The Athenian asks whether it is possible to submit the outcomes of their discussion to some kind of test.⁸³ This is the immediate cause for Cleinias to reveal his involvement in the foundation of a Cretan colony—as a test he therefore proposes to establish a *polis* in speech. The legislative project in *Laws* is inspired, or motivated, by Cleinias’ participation in a real foundation. The interlocutors do not set themselves the task of laying down laws for Magnesia. Magnesia is merely the reason why the idea of establishing a *polis* occurred to Cleinias as a test of the kind they are looking for. In fact, to establish a *polis* in speech is killing two birds with one stone: it provides the interlocutors with the test for which they were looking, and at the same time Cleinias thinks it likely that he can make use of such a

⁸² YUNIS (1996), 227, nn. 26-28 gives an overview of the preambles, with passages. Besides “complete” and “abbreviated” preambles, he also finds “explanations to turn into preambles”. Again, the limits cannot always so clearly be drawn. *Laws* does not offer a complete law code, but makes suggestions for the sort of preambles. LISI (2000) insists on the need to differentiate between the preamble *stricto sensu* and more general reflections that provide “un fondement d’ordre philosophique” (61). *Leg.* IX 857b4-864c8 is not a preamble, according to him; MORROW (1960) 554, n. 29 for the contrary view.

⁸³ *Leg.* 702a7-b3: ταῦτα γὰρ πάντα εἴρηται τοῦ κατιδεῖν ἕνεκα πῶς ποτ’ ἂν πόλις ἄριστα οἰκοίη, καὶ ἰδίᾳ πῶς ἂν τις βέλτιστα τὸν αὐτοῦ βίον διαγάγοι· εἰ δὲ δὴ τι πεποιήκαμεν προὔργου, τίς ποτ’ ἂν ἔλεγχος γίγνοιτο ἡμῖν πρὸς ἡμᾶς αὐτοὺς λεχθεῖς, ὃ Μέγιστε τε καὶ Κλεινία; “For all these things have been stated for the sake of observing how a *polis* may be best organized, and how the individual may live his life in the best way. What sort of test, spoken among ourselves, might there be to indicate whether what we have said has any practical value?” (transl. MLB).

project for the future colony.⁸⁴ The way in which the law code in *Laws* is embedded makes clear that it is emphatically *not* the law code for Magnesia.⁸⁵

Only at the very end of the dialogue does the conversation return to the foundation of the colony in which Cleinias is involved. The Athenian has observed that the education of the members of the nocturnal council⁸⁶ cannot be laid down in laws before those most fitted to the task of guarding (ὅσοι ἐπιτήδευοι πρὸς τὴν τῆς φυλακῆς φύσιν) have been selected.⁸⁷ When Cleinias asks what is to be done if that is how things stand,⁸⁸ the Athenian answers that they have to be prepared to take the risk.⁸⁹ He himself is prepared to share in that risk by expounding his views on the education and nurture of the nocturnal council.⁹⁰ With the right selection and education, he says, guards may be raised such as they have never seen in their lives.⁹¹

Megillus is so impressed by the past discussion (ἐκ τῶν νῦν ἡμῖν εἰρημένων ἀπάντων, 969c4) that according to him there can follow only one conclusion: turning to Cleinias, he claims that the foundation of the new colony

⁸⁴ Leg. 702d1-d5: ἐκ τῶν εἰρημένων ἐκλέξαντες, τῷ λόγῳ συστησώμεθα πόλιν, οἷον ἐξ ἀρχῆς κατοικίζοντες, καὶ ἅμα μὲν ἡμῖν οὐ ζητοῦμεν ἐπίσκεψις γενήσεται, ἅμα δὲ ἐγὼ τάχ' ἂν χρῆσθαι μὴν εἰς τὴν μέλλουσαν πόλιν ταύτη τῇ συστάσει, "drawing from the statements we have made, let us establish in speech a *polis*, imagining we are erecting it from the beginning, and this will at the same time provide us with the investigation for which we are looking [*sc.* the ἐλεγχος of 702b2], and I shall in all probability be able to make use of that establishment with regard to the future *polis*" (transl. MLB).

⁸⁵ See also chapter one, p. 38, and chapter four, p. 136.

⁸⁶ For the nocturnal council, see chapter six, section 6.1.

⁸⁷ Leg. 968c9-e5. The selection is to be made on the basis of age, capacity for learning, and character and habit: ἡλικίας τε καὶ μαθημάτων δυνάμεσιν καὶ τρόπων ἡθεσιν καὶ ἔθεσιν (968d2-3). Cf. 969b8-c3.

⁸⁸ Leg. 968e6.

⁸⁹ Leg. 968e7-969a1: Τὸ λεγόμενον, ὦ φίλοι, ἐν κοινῷ καὶ μέσῳ ἔοικεν ἡμῖν κεῖσθαι, καὶ εἴπερ κινδυνεύειν περὶ τῆς πολιτείας ἐθέλομεν συμπάσης, ἢ τρεῖς ἔξ, φασίν, ἢ τρεῖς κύβους βάλλοντες, ταῦτα ποιητέον, "Apparently, my friends, we must 'take our chance with the crowd' (as the saying is), and if we are willing to put the whole polity to the hazard and throw (as men say) three sixes or three aces, so it must be done" (transl. BURY).

⁹⁰ Leg. 969a1-3: ἐγὼ δ' ὑμῖν συγκινδυνεύσω τῷ φράζειν τε καὶ ἐξηγεῖσθαι τὰ γε δεδογμένα ἐμοὶ περὶ τῆς παιδείας τε καὶ τροφῆς τῆς νῦν αὖ κεκινημένης τοῖς λόγοις, "and I will go shares with you in the hazard by declaring and explaining my views concerning education and nurture, the subject now started anew in our discourse" (transl. BURY).

⁹¹ Leg. 969b8-c3.

ought either to be abandoned altogether, or that they should use all means at their disposal to persuade the Athenian to join.⁹² Megillus himself is prepared to participate, and the dialogue ends with the transition from lawgiving λόγῳ to lawgiving ἔργῳ.

Since the project of lawgiving λόγῳ was triggered by the given of the plans for a new Cretan foundation, Magnesia, and the dialogue ends by turning back to the Magnesian case, we may reasonably ask how a law code faithful to *Laws'* own principles, but ἔργῳ, "in deed", would look like. How does the lawgiving λόγῳ (in *Laws*) differ from the lawgiving ἔργῳ (for the future *polis* Magnesia)? What does *Laws* itself suggest about legislation outside the world of the dialogue?

It may be asked, for instance, whether there is any suggestion that the laws in Magnesia will be written down. There seems to be some sort of hint that they will be. In the context of the preambles against impiety in Book X, it is noted that the education of the atheists will be facilitated by the fixation of laws in writing: the written nature of law is an enormous advantage in the education of these stubborn atheists. Yet Plato puts these remarks (perhaps not insignificantly) in the mouth of Cleinias, not in the mouth of the Athenian.⁹³

The Athenian himself, it should be noted, is never made to refer to written laws, and emphatically introduces a conception of lawgiving as a

⁹² Leg. 969c4-7. Ὡ φίλε Κλεινία, ἐκ τῶν νῦν ἡμῖν εἰρημένων ἀπάντων ἢ τὴν πόλιν ἑατέον τῆς κατοικίσεως ἢ τὸν ξένον τόνδε οὐκ ἀφετέον, ἀλλὰ δεήσεσιν καὶ μηχαναῖς πάσαις κοινωνὸν ποιήτεον ἐπὶ τὴν τῆς πόλεως κατοίκισιν. For the enormous impression the Athenian in the discussion and in his role of lawgiver makes on his interlocutors, see also chapter six, p. 229.

⁹³ Leg. 890e6-891a7 (Cleinias!): καὶ μὴν καὶ νομοθεσία γέ ἐστίν που τῇ μετὰ φρονήσεως μεγίστη βοήθεια, διότι τὰ περὶ νόμους προστάγματα ἐν γραμμασι τεθέντα, ὥς δώσοντα εἰς πάντα χρόνον ἔλεγχον, πάντως ἡρεμεῖ, ὥστε οὐτ' εἰ χαλεπὰ κατ' ἀρχὰς ἀκούειν ἐστὶν φοβητέον, ἃ γ' ἔσται καὶ τῷ δυσμαθεῖ πολλάκις ἐπανιόντι σκοπεῖν, οὔτε εἰ μακρὰ, ὠφέλιμα δέ, διὰ ταῦτα λόγον οὐδαμῇ ἔχει οὐδὲ ὅσιν ἐμοιγε εἶναι φαίνεται τὸ μὴ οὐ βοηθεῖν τούτοις τοῖς λόγοις πάντα ἄνδρα κατὰ δύναμιν. "Moreover, such a discourse is of the greatest help for intelligent legislation, since legal ordinances when put in writing remain wholly unchanged, as though ready to submit to examination for all time, so that one need have no fear even if they are hard to listen to at first, seeing that even the veriest dullard can come back frequently to examine them, nor yet if they are lengthy, provided that they are beneficial" (transl. BURY).

conversation between lawgiver and citizen. As we have argued, this conception can be sustained within the world of *Laws*, due to the fact that the interlocutors legislate λόγῳ and that their laws are embedded in a conversation. But it seems almost as if the Athenian carefully avoids to draw from his proposals consequences about lawgiving outside the dialogue. The analogues he offers (of the painter (see chapter four) and doctor (chapter five)), as we have seen, are closely modelled upon the lawgiving λόγῳ of the interlocutors themselves, that is, the lawgiving *within* the dialogue. This is why, as we saw, the doctor-analogy's tacit equation of the preamble with the lawgiver is not disturbing.⁹⁴

The Athenian does imagine a written transcript of the conversation he and his interlocutors have been carrying on.⁹⁵ This transcript, that is, the dialogue *Laws*, he considers the best reading matter for νέοι he can think of. Of all the discourses that he has come across, both in poetry and prose, *Laws* appears to him to be absolutely the most suitable and fitting for the young to hear (πάντων μοι μετρώτατοί γε εἶναι κατεφάνησαν καὶ προσήκοντες τὰ μάλιστα ἀκούειν νέοις, 811d3-5). He cannot think of a better example (παράδειγμα) for a lawguard and head of education to order the educators to teach the children (διδάσκειν ... τοὺς παῖδας).⁹⁶ The Athenian also insists that *Laws* will have to be read by the διδάσκαλοι themselves first, who are then to educate their pupils on the basis of that reading.⁹⁷

⁹⁴ See p. 200 and n. 78 *ibid.* above.

⁹⁵ *Leg.* 811b8-812a1. See on this passage JAEGER (1945), 255; MORROW (1960), 339-340; STALLEY (1983), 10 interprets the fact that *Laws*, or parts of it, can “have a morally improving effect on a relatively unsophisticated audience” as a sign that *Laws* is concerned with “popular” virtues “of the man in the street” rather than with the true virtue of *Republic* that is only attainable by the philosophers; BOBONICH (1991) argues that making *Laws* itself the reading matter for the citizens ensures that the citizens will receive a public statement and rational justification of the laws, for which there is nothing comparable in *Republic*; BOBONICH (1996); (2002), 106-107; ZUCKERT (2009), 106; KRAUT (2010), 68.

⁹⁶ *Leg.* 811d5-e1. That the Athenian thinks *Laws* as a text is suitable reading matter for the young and even children seems highly remarkable.

⁹⁷ *Leg.* 811e5-812a1.

On closer analysis, it appears that *Laws* remains silent about lawgiving ἔργῳ. The dialogue seems deliberately to forbear making definitive statements about what laws faithful to its principles would be like. This is fully in line with its pragmatic and open perspective on the good society. The practical (yet perhaps not initially intended) outcome of the conversation on the dramatic level is that the Athenian has, in the eyes of his interlocutors, proven to be qualified as a lawgiver. This qualification simply manifests itself on the dramatic level. That qualification is a matter of practical demonstration is congruous with the scantiness of *Laws*' explicit statements about the qualified lawgiver:⁹⁸ without expliciting much about a lawgiver's qualifications, the lawgiver is—pragmatically—the person in whom those involved store their trust to perform the task well.⁹⁹ The idea speaking from this reticence seems to be that real laws ultimately depend on the insight of the lawgiver in case.

5.5 Conclusion

In this chapter, we have investigated νομοθεσία as the influencing of the citizens within a *polis*, that is, lawgiving conceived of as a mode of addressing the citizen(s) in order to make them adhere to the law. Not all modes of address are deemed as successful as others. We have seen that the Athenian regards the discourse of the law by itself as a form of violence (βία). To mitigate that violence, he introduced the mechanism of the persuasive preamble. The preamble is to preface, and ideally to render superfluous, the imperative of the law in the narrow sense. The preambles do not impose, but attempt to persuade (πείθειν). Persuasion is thus accorded a central and crucial role in the *polis* of virtuous citizens.

⁹⁸ Cf. n. 53 on p. 224.

⁹⁹ See also chapter six, section 6.2, p. 229.

We have proceeded to investigate the conceptualization of *πείθειν* and the preambles in *Laws*. The role of *πείθειν* may seem bewildering in the light of its assessment in other Platonic texts. Important for our analysis are the two doctor-analogies in *Laws* (Book IV and IX). The preambles are emphatically presented as a “friendly” means to make the citizen adhere to the law, as opposed to the “violent” mechanism of the law itself. The doctor-analogies thus *frame* lawgiving as the interaction between a good doctor and his patient. This interaction between doctor and patient in several respects closely resembles dialectic. Thereby, *πείθειν* becomes virtually indistinguishable from *διδάσκειν*. In addition, the presentation of the preambles as resembling dialectic interaction—the doctor will not give an order until he has secured the patient’s assent—suggests that voluntary submission to the law is constitutive of virtue. Thus, virtue is conceived of, formally, as self-control (which is consistent with the findings of chapter three). Ideally, a person is one’s own lawgiver and does not need laws.

Via the introduction of the preamble and its *analogon*, the good doctor, the Athenian is able to construe a notion of lawgiving as resembling dialectic. The analogy creates the effect of a *mise en abyme*-effect: it constructs an image of νομοθεσία that resembles the dialectical conversation of the interlocutors, on the level of which the analogy is introduced. Subsequently, of course, the interlocutors will formulate laws and preambles in the context of their dialectical discussion. It therefore seems that the analogy itself is designed with the upcoming legislation on the dramatic level in mind: for on the dramatic level, the preambles *are* in fact in speech and form part of the dialectical conversation.

At the same time, the analogy acquires its own persuasiveness from the fact that it is followed by lawgiving in speech. It is *because* the interlocutors frame the preambles and laws in speech that the analogy of lawgiving as such can be upheld. It is also *because* the Athenian is formulating the preambles live

that the comparison of the preamble to a living doctor is convincing. Although Cleinias and Megillus are not the addressees of the preambles in the sense that they are on the verge of committing an illegal act and have to be persuaded to do otherwise, they have been persuaded when the Athenian refuted their cultural conception of ἀρετή as ἀνδρεία. In that sense, as people whom the lawgiver persuades to change their mind, the relation between the Athenian and his interlocutors, and between the lawgiver/doctor and his patient, are parallel.

The analogy becomes plausible because, when the interlocutors start their own legislation, it seems that we witness something very much like what the analogy had earlier described. The analogy also works because in the conversation between the interlocutors, lawgiving is not subject to constraints of time, and because of the way in which the preambles are embedded in the dialectical conversation. The transitions between preamble, law, and conversation of the interlocutors are not always clearly demarcated. This compositorial strategy creates indeed the impression that lawgiving is more like a dialectical conversation than like a fixed and unchangeable text. The analogy is modelled on the lawgiving of the interlocutors in speech, and the claims of the analogy can be sustained because the example of lawgiving that we do get in *Laws* is a dialectical conversation. The composition of *Laws* seems to have the very purpose of corroborating its own claim that the preambles are a live conversation with, and instruction by, a lawgiver.

In *Laws*, the interlocutors lay down laws λόγῳ, “in speech”, and test the outcomes of their discussion by applying their insights to the framing of a law code. One may therefore wonder how this will work in the lawgiving ἔργῳ, for Magnesia. Yet, characteristically, the Athenian refrains from formulating rules for formulating laws outside the dialogue itself, the lawgiving λόγῳ.

CHAPTER SIX

OUTSIDE THE LAW CODE: THE NOCTURNAL COUNCIL AND THE ATHENIAN STRANGER

In this chapter, we will return to the question of the authority of the law code in *Laws*. So far, it has been argued that the source for the laws in Plato's *Laws* is dynamic and pragmatic rather than static and absolute. *Laws* portrays an exercise in legislation inspired by a particular, Cretan, case. On the basis of an analysis of the composition of *Laws* in terms of its own conceptual framework, I have argued that this exercise presupposes a pragmatic notion of morality that excludes the absolute, objectifying perspective of the moral expert. Yet before the absence of the expert can be securely accounted for, two entities need to be examined more closely: the so-called "nocturnal council" and the figure of the Athenian Stranger. Is one of these in some way comparable to, or even some sort of return to, the philosopher-king?

At first sight, either may seem a plausible candidate, since both the nocturnal council and the Athenian stranger are "outside" the law code: the nocturnal council because it is introduced *after* the exposition of law code has been rounded off; the Athenian because he *formulates* the law code. This chapter

will examine the nocturnal council and the Athenian as possible candidates for expert authority. The first part will address the identity and function of the nocturnal council, regarding its role both within the envisaged *polis* and within the overall composition of *Laws*. The second half will examine the figure of the Athenian stranger. Is there any hint that he is a philosopher-king after all—and if not, what *is* his qualification to lay down laws?

6.1 The identity and function of the nocturnal council

6.1.1 The σκοπός of the nocturnal council

In Book XII, the διέξοδος τῶν νόμων¹ is finished off (960b5). Thus, the law code in the strict sense ends with regulations concerning *post mortem* rituals such as the πρὸθεσις.² The Athenian concludes that the laws about the burial of the dead and other ways of disposing of the body (in case of parricides and temple-robbers) have been stated before.³ Although the διέξοδος τῶν νόμων is now completed, the act of νομοθεσία has only nearly reached its end and is not yet complete (ὥστε σχεδὸν ἢ νομοθεσία τέλος ἂν ἡμῖν ἔχοι, 960b4-5).⁴ What remains to be done is developing a mechanism for the “preservation” (σωτηρία) of the law code, 960b5-c1:

τῶν πάντων δ' ἐκάστοτε τέλος οὐ τὸ δρᾶσαι τι σχεδὸν οὐδὲ τὸ κτήσασθαι κατοικίσαι τ' ἐστίν, ἀλλὰ τῷ γεννηθέντι σωτηρίαν ἐξευρόντα τελέως αἰεὶ, τότε ἤδη νομίζειν πᾶν ὅσον δεῖ πραχθῆναι πεπραχθαι, πρότερον δ' ἀτελὲς εἶναι τὸ ὅλον.

¹ τῶν νόμων αὐτῶν ἢ διέξοδος: *Leg.* 718b2, 718c2, 806d2; διέξοδος περὶ νόμων: 812a4-9, 837; cf. 857e4-5. See also chapter four, p. 138.

² *Leg.* 958c7-960b1. The law code therefore ends with the rites accompanying the death of an individual. On the law code as following (roughly) the course of the human life, see also chapter one, p. 39; chapter four, p. 159.

³ *Leg.* 717d, 719d, 854dff., 873b-d, 909c, 947b3ff.

⁴ An act of νομοθεσία thus entails more than simply making the laws—as we saw in chapter four, a discussion of necessary preliminaries (in Books IV-VI) is also part of νομοθεσία, yet not of the διέξοδος τῶν νόμων.

But in every case, the full end does not consist in the doing, establishing or founding something: rather our view should be that it is only when one has discovered a means of perfect preservation for the creation in every case at issue, that we are at length justified in believing that we have done all that ought to be done: until then, we must believe, the whole of our creation is incomplete. (Transl. BURY, adapted)

The Athenian goes on to explain that this mechanism of preservation (σωτηρία) is “the capacity for irreversibility” (ἡ ἀμετάστροφος δύναμις),⁵ which he connects with the function traditionally ascribed to the third of the three Moirai: Atropos, whose name is synonymous with ἀμετάστροφος, is the Moira who makes one’s fate irreversible.⁶ Atropos is the “saviour” of what has been stated (σώτειραν τῶν λεχθέντων⁷), since she makes the spinnings of the Fates irreversible in the fire and thereby effectuates this ἀμετάστροφος δύναμις. In order to complete their project, the interlocutors must now do the same for their law code.

Cleinias enquires with the Athenian what kind of σωτηρία may be secured for their constitution and laws.⁸ The σωτηρία the Athenian has in mind is the σύλλογος that has come up in the interlocutors’ discussion several times

⁵ Leg. 960c9-d1; 960d5-6.

⁶ Leg. 960c7-d1. Cf. *Epin.* 982a4-c5, where the Moirai are associated with the movements of the type of ζῶα in possession of νοῦς. In contrast to the irrational ζῶα, like human beings (who are ἀφρονα, moving ἐν ἀταξία), rational ζῶα, the heavenly bodies, move ἐν τάξει, which is a clear sign of their possession of sense (μέγα τεκμήριον ... τοῦ φρόνιμον εἶναι, 982b2). Rational, consistent motion is a sign of νοῦς. τὸ δὲ ἀμετάστροφον, ὅταν ψυχὴ τὸ ἄριστον κατὰ τὸ ἄριστον βουλευέσθαι νοῦν, τὸ τέλος ἐκβαίνει τῷ ὄντι κατὰ νοῦν, καὶ οὐδὲ ἀδάμας ἂν αὐτοῦ κρείττον οὐδὲ ἀμεταστροφώτερον ἂν ποτε γένοιτο, ἀλλ’ ὄντως τρεῖς Μοῖραι κατέχουσαι φυλάττουσι τέλος εἶναι τὸ βελτίστη βουλή βεβουλευμένον ἐκάστοις θεῶν, “When a soul reaches the best decision in accordance with the best intelligence, the result, which is truly to its mind, is perfectly unalterable. Not even adamant could be mightier or more unalterable. Truly, three Fates hold fast whatever has been decided through the best counsel by each and all of the gods, and guarantee that it is brought to pass” (transl. MCKIRAHAN).

⁷ BEKKER conjectures ληχθέντων for MS. λεχθέντων; see app. crit. and ENGLAND *ad loc.*: “It is natural after the pointed mention of the names of the three Fates to expect *three* etymologies; (...). Otherwise there would be an etymology for Κλωθώ in the word κλωσθέντων, and for Ἀτροπος in ἀμετάστροφον, but none for Λάχεσις” (italics in original).

⁸ Leg. 960e9-11 (Cleinias): τίς οὖν δὴ, φήs, σωτηρία γίγνεται ἂν καὶ τίνα τρόπον πολιτεία τε καὶ τοῖς νόμοις ἡμῖν;

before.⁹ The “nocturnal council”, as it has become known in the scholarly literature (νυκτερινός¹⁰ or ὄρθριος¹¹ σύλλογος), is explicitly introduced as the device of σωτηρία for the *polis* and laws that have been founded λόγῳ. As designing a mechanism of σωτηρία for a creation necessarily *follows* the act of creation proper,¹² the introduction of the council at the very end of *Laws* can be fully accounted for in the light of its function.¹³ Yet its introduction *after* the διέξοδος τῶν νόμων raises the question whether the council is not in fact a means of reintroducing the philosopher-kings, on whose authority the laws of the interlocutors are to be accepted as objectively good, parallel to what happens in *Republic*.¹⁴ So, who are the members of the nocturnal council, and how is its function defined?

In a recapitulation of what the Athenian has indicated before, the council is said to consist of [1] the ten eldest lawguards, [2] the prize-winners in the competitions for virtue, [3] the observers,¹⁵ and [4] a number of younger members, who have been scrutinized in advance.¹⁶ In virtue of its preserving

⁹ Leg. 961a1-2: ΑΘ.: Αἰ· οὐκ εἵπομεν ὅτι δεῖ σύλλογον ἡμῖν ἐν τῇ πόλει γίγνεσθαι τοιόνδε τινά; That the nocturnal council has been hinted at several times before Book XII is an important, but certainly not the only reason why it is an integral part of the argument of *Laws* and completely in harmony with what preceded its introduction. These earlier references to the council are: Leg. 818a1-3 (the τινες ὀλίγοι who will receive the ἀκριβέστερα παιδεία of the three μαθήματα for free people), 908a3-909a5 (οἱ τοῦ νυκτερινοῦ συλλόγου are the only ones who are to come in contact with the atheists sent to the *sophronistērion*), 951d3-952b9 (τὸν σύλλογον ... τὸν τῶν περὶ νόμους ἐποπτευόντων, 951d4-5, in the context of the scrutinizing of the observers). MORROW (1960), 502 also sees in 632c4-d1 a reference to the nocturnal council; cf. GUTHRIE V (1978), 371, n. 1 and SCHÖPSDAU (2011), 576 (with the φύλακες in 632c4 “unmißverständlich angekündigt”).

¹⁰ Leg. 909a3-4, 968a7.

¹¹ Leg. 961b6

¹² Leg. 960b5-c1, see above, p. 210.

¹³ Concerns about the incompatibility of the nocturnal council with the supremacy of law (e.g. BRUNT [1993], 250, “an afterthought”; see also the references in SCHÖPSDAU [2011], 576) are therefore misguided. Cf. SCHÖPSDAU (2011), 581. Some scholars have thought that the late introduction of the council raises questions, e.g. BARKER (1918), 339, 385, 398ff.; MORROW (1960), 500-503, 573-593. The view that the nocturnal council is an “afterthought” has been criticized by STALLEY (1983), 112.

¹⁴ See chapter two, section 2.4.

¹⁵ The observers were introduced shortly before the council (ὁ θεωρήσας τὰ ἐν τοῖς ἄλλοις ἀνθρώποις νόμιμα, 952b5-6). See also chapter four, section 4.3.3, p. 170.

¹⁶ Leg. 961a1-b3: [1] δέκα μὲν τῶν νομοφυλάκων τοὺς πρεσβυτάτους αἰεί, [2] τοὺς δὲ τὰριστεῖα εἰληφότας ἅπαντας δεῖν εἰς ταῦτό συλλέγεσθαι τούτοις, [3] ἔτι δὲ τοὺς ἐκδημήσαντας ἐπὶ

function, the council is an “anchor of the entire *polis*” (ἄγκυρα[ν] πάσης τῆς πόλεως, 961c5).¹⁷ After a rather solemn exhortation,¹⁸ the Athenian goes on to compare a *polis* to a ζῷον. This, it immediately becomes clear, evokes a wholly different set of associations than does the analogy between πόλις and ζῷον in *Republic*. In the present context, a ζῷον is indeed a “living animal”, and in need of a means that ensures its preservation. Generally speaking, the preservation of a ζῷον depends on two faculties: on the ἀρετή of the soul, and on the ἀρετή of its head. It is, in short, the ἀρετή of these two that for every ζῷον secures its salvation (ἡ τούτοις ἀρετὴ δῆπου παντὶ παρέχει ζῶν σωτηρίαν, 961d5). The ἀρετή of the soul is νοῦς; the ἀρετή of the head are the two “sense-perceptions” (αἰσθήσεις), “sight” (ὄψις) and “hearing” (ἀκοή). The general statement about the faculties that ensure a ζῷον’s preservation prepare the reader for the identification of these faculties in the council itself (see below, section 6.2).

In yet another argumentative step, the metaphor of the council as “anchor” of the *polis* is amplified: a *polis*’ endeavour to secure its own preservation is likened to “the art of ship-steering”, ἡ κυβερνητικὴ τέχνη.¹⁹ This, it soon becomes apparent, is not the art of the expert helmsman: it draws on νοῦς *in combination with* the αἰσθήσεις of sight and hearing; analogous to the preservation of a ship, that is, in all circumstances, secured by the κυβερνήτης

ζήτησιν εἴ τί που πρὸς τὴν νομοφυλακίαν γίγνοιτο ἐν καίριον ἀκούσαι καὶ σωθέντας οἴκαδε, δόξαι, τούτοις αὐτοῖς διαβασανισθέντας, τοῦ συλλόγου ἀξιοκοινωνήτους εἶναι· [4] πρὸς τούτοις δὲ ἓνα ἕκαστον δεῖν προσλαμβάνειν τῶν νέων, μὴ ἔλαττον ἢ τριάκοντ’ ἔτη γεγονότα, πρῶτον δὲ αὐτὸν κρίναντα ἐπ’ αἴσιον εἶναι φύσει καὶ τροφῇ, τὸν νέον οὕτως εἰς τοὺς ἄλλους εἰσφέρειν κτλ. For the composition of the nocturnal council, see also below. Cf. 964e1-965a4.

¹⁷ Leg. 961c4-6 (the Athenian): φημί, εἴ τις τοῦτον βάλοιτο οἷον ἄγκυραν πάσης τῆς πόλεως, πάντα ἔχουσιν τὰ πρόσφορα ἐαυτῇ, σῶζειν ἂν σύμπαντα ἃ βουλόμεθα.

¹⁸ Leg. 961c8-9.

¹⁹ The transition from the council as the “anchor of the entire city” to the combined efforts of those who are concerned with keeping the ship on course in the κυβερνητικὴ τέχνη (the κυβερνήτης and ναῦται, 961e3) is not entirely straightforward. The metaphor of the anchor may entail that the primary function of the council is to either (a) to keep the ship on the exact same place at sea in all circumstances, or (b) that the council is primarily necessary in order to keep the ship from drifting away in more dangerous circumstances, *i.e.*, that the council’s function is preventive, rather than active, as suggested by the analogy with the κυβερνητικὴ τέχνη. For another use of the κυβερνητικὴ τέχνη in *Laws*, see chapter three, p. 96 (ναυτικὴ τέχνη).

ἄμα καὶ ναῦται: the helmsman *together with* the sailors (and it is thus not the qualification of the helmsman alone upon which the preservation of the city depends). The faculty of νοῦς is “mixed with” the most beautiful sense-perceptions of sight and hearing.²⁰

This (κυβερνητικός) νοῦς that is active in conducting the process of seafaring has an *object*; the νοῦς mixed with the most beautiful senses is said to be γενόμενος (...) εἰς ἓν (961d9-10), and ὁ περὶ τί νοῦς (961e1). The object of this mixed νοῦς is its “goal”, the σκοπός of the relevant τέχνη. Every professional, whether a steersman, military general, or doctor, “aims” (στοχάζοιτ’ ἄν) at a particular form of σωτηρία.²¹ The goal of the steersman with νοῦς is the salvation of his ship in all circumstances,²² that of the general with νοῦς victory over his enemies, and that of the doctor with νοῦς a healthy bodily constitution.²³ This demonstrates the intrinsic connection between νοῦς and σωτηρία: the natural object of νοῦς is σωτηρία; conversely, aiming for σωτηρία requires νοῦς.

The nocturnal council as the salvatory mechanism of the *polis* embodies νοῦς and the two most beautiful senses, the ἀρεταί of head and soul; and in order to be able to focus on ἓν, one needs πᾶσα ἀρετή (962d2). The leading

²⁰ Leg. 961d8-10: συλλήβδην δὲ νοῦς μετὰ τῶν καλλίστων αἰσθήσεων κραθεῖς, γενόμενός τε εἰς ἓν, σωτηρία ἐκάστων δικαιοτάτ’ ἂν εἴη καλουμένη; In other words, σωτηρία is the best name for the mixed νοῦς that is directed at a single object. Cf. 961e1-3: ἀλλ’ ὁ περὶ τί νοῦς μετ’ αἰσθήσεων κραθεῖς σωτηρία πλοίων ἓν γε χειμῶσιν καὶ ἐν εὐδίας γίγνοιτ’ ἄν; 961e3-5: ἄρ’ οὐκ ἐν νηὶ κυβερνήτης ἄμα καὶ ναῦται τὰς αἰσθήσεις τῷ κυβερνητικῷ νῷ συγκερασάμενοι σώζουσιν αὐτούς τε καὶ τὰ περὶ τὴν ναῦν;

²¹ Leg. 961e7-962a3. Cf. Leg. 963a11-b7. SCHÖPSDAU (2011), *ad* 961e8ff.: “Jede Techne erfordert eine spezielle Vernunft (νοῦς), die sich auf diese Techne versteht und deren spezifisches Ziel kennt; so gibt es je nach Fachgebiet einen κυβερνητικός, ἰατρικός, στρατηγικός und einen πολιτικός νοῦς (961e1, 962b7, 963a-b)” (589).

²² Leg. 961e2.

²³ Leg. 961e8-962a3: ἀλλ’ οἷον περὶ στρατοπέδων νοήσωμεν τίνα θέμενοι στρατηγοὶ σκοπὸν καὶ ἰατρικὴ ὑπηρεσία πᾶσα στοχάζοιτ’ ἂν τῆς σωτηρίας ὁρθῶς. ἄρ’ οὐχ ἢ μὲν νίκην καὶ κράτος πολεμίων, ἢ δὲ ἰατρῶν τε καὶ ὑπηρετῶν ὑγείας σώματι παρασκευήν; “Consider, for instance, what would be the right mark for a general to set up to shoot at in the case of an army, or the medical profession in the case of a human body, if they were aiming at salvation. Would not the former make victory his mark, and mastery over the enemy, while that of the doctors and their assistants would be the providing of health of the body?” (transl. BURY).

principle of complete virtue is that one “looks” and “aims at” an object *that is one thing*, that is, ἀρετή.²⁴ The law codes of other cities, however, even though each aims at its own purpose, “wander” (πλανᾶσθαι) because they all aim at their own—mistaken—purpose (with distributive *polyptoton*: πρὸς ἄλλο ἄλλη βλέπει τῶν νομοθεσιῶν ἐν τῇ πόλει ἐκάστη, 962d8-9).²⁵ In some cities justice is defined (τὸν ὄρον ... τῶν δικαίων) by the aim of enabling a certain group in the *polis* to rule (ὅπως ἄρξουσιν τινες ἐν τῇ πόλει, whether those be the better or the worse); in another *polis* everything is geared towards the acquisition of wealth by some (ὅπως πλουτήσουσιν); whereas yet another *polis* directs its efforts to securing a life of freedom (ὁ ἐλεύθερος ... βίος).²⁶ The diversity of purposes among *poleis* recalls the opening scene of *Laws*: ἀνδρεία was the goal of the Cretan and Spartan laws, and from that perspective of cultural diversity it was implied that other cities have yet their own notion of ἀρετή. Some cities even focus on two goals, on freedom *and* victory in war.²⁷ Finally, there are those lawgivers who pretend to be σοφώτατοι, but who actually end up bringing about confusion by aiming for *all* goals at the same time.²⁸

In that case, the three of them, Cleinias concludes, must have been correct to state that all laws need to have a *single* goal, which is virtue: πρὸς γὰρ ἐν ἑφάμεν δεῖν αἰεὶ πάνθ' ἡμῖν τὰ τῶν νόμων βλέποντ' εἶναι, τοῦτο δ' ἀρετήν που συνεχωροῦμεν πάνυ ὀρθῶς λέγεσθαι (963a2-4). Upon the Athenian's

²⁴ Leg. 962d3-5: ἥς [sc. πάσης ἀρετῆς] ἄρχει τὸ μὴ πλανᾶσθαι πρὸς πολλὰ στοχαζόμενον, ἀλλ' εἰς ἐν βλέποντα πρὸς τοῦτο αἰεὶ τὰ πάντα οἷον βέλη ἀφιέναι. Cf. 963a2-3, 963a11-b7.

²⁵ SCHÖPSDAU translates 962d7-9: “Nun werden wir auch verstehen, daß es kein Wunder ist, wenn die gesetzlichen Einrichtungen der Städte ein schwankendes Bild zeigen, weil die Gesetzgebungen in jeder Stadt jeweils ein anderes Ziel im Auge haben”. The Athenian's critique applies to cities in comparison: every city pursues its own purpose, showing a mosaic of purposes rather than in a consistent image. This explanation is to be preferred over ENGLAND's paraphrase *ad loc.* (“because in each separate state the law-makers pursue all kinds of different aims”), which only applies to the statement in 962e6-9.

²⁶ Leg. 962d9-e4.

²⁷ Leg. 962e4-6: οἱ δὲ καὶ σύνδυο νομοθετοῦνται, πρὸς ἄμφω βλέποντες, ἐλεύθεροί τε ὅπως ἄλλων τε πόλεων ἔσονται δεσπότες.

²⁸ Leg. 962e6-9: οἱ δὲ σοφώτατοι, ὡς οἰοῦνται, πρὸς ταῦτα τε καὶ τὰ τοιαῦτα σύμπαντα, εἰς ἐν δὲ οὐδὲν διαφερόντως τετιμημένον ἔχοντες φράζειν εἰς ὃ τὰλλ' αὐτοῖς δεῖ βλέπειν.

affirmation, Cleinias cautiously reintroduces the flip side of the coin: they previously stated that virtue was in fact four things (τὴν δὲ ἀρετὴν τέτταρα ἔθεμέν που, 963a6).²⁹ Cleinias also recalls that νοῦς is superior to the other three virtues, recapitulating the Athenian's statement in Book I that νοῦς/φρόνησις is the "leader" (ἡγέμων) of the four virtues at which the other three look.³⁰ Therefore it is in the context of the discussion of the nocturnal council that the theme of the unity and plurality of virtue is reintroduced. The reappearance of this theme in Book XII echoes the opening scene.³¹ The unity and plurality of virtue has been discussed only in Books I and II,³² and has not been referred to again until now. Although scholars have often considered the theme of the unity and plurality of virtue an oblique reference to the Idea of the Good,³³ I submit that the text of *Laws* itself (its discussion of the theme in Books

²⁹ Leg. 963a8-9: νοῦν δέ γε πάντων τούτων ἡγέμονα, πρὸς ὃν δὴ τὰ τε ἄλλα πάντα καὶ τούτων τὰ τρία δεῖ βλέπειν. Cleinias here recapitulates 631d5-6; cf. also 631c5-6, where φρόνησις is said to be the leader of the divine goods. SCHÖPSDAU (2011) *ad loc.* also proposes a reference to 967d-e.

³⁰ Leg. 631c6, d56; see also chapter three, n. 33 on p. 90.

³¹ See chapter three, p. 84, n. 2.

³² The overt thematic correspondences between the beginning and the end of *Laws* have led some scholars to speculate that the beginning and end were part of a separate work. BRUNS (1880) (cited by RITTER [1896], 348-349) claims that the council is incongruous with the ἀρχαί expounded in Book VI (cf. GUTHRIE V [1978], 369, n. 2), and concludes that the passage 961aff. is attached to the end by Philip of Opus, but originally belongs together with Book I, to "einer anderen Stufe des politischen Denkens Platons (...), die dem Standpunkt des Staates näher liege als die Hauptmasse der heute in den Gesetzen vereinten Gedanken" (RITTER, *ibid.*, 349). Along the same lines, BERGK (1880), 94-95, has argued that the final part of *Laws* together with Book I belongs to a separate work, the δευτέρα πολιτεία, whereas the rest of *Laws* (roughly) belongs to the τρίτη πολιτεία (on BERGK's argument, see chapter one, n. 13 on p. 6 above). The exposition of the nocturnal council "zeigt einen ganz anderen Charakter, wir befinden uns auf einmal aus der τρίτη πολιτεία in die δευτέρα πολιτεία versetzt" (95).

³³ E.g. BARKER (1918); FESTUGIÈRE (1936), 442-445; POPPER OS I, 215 n. 26(5); CHERNISS (1944): "From among the earliest of the dialogues on through the last—and this means, then, to the very end of Plato's life—the doctrine of ideas is the cornerstone of his thought"; CHERNISS (1953), 375-376, and (1980), 60; JAEGER (1945), 260-262 considers the unity of the virtues the "old Socratic phrase" for the Idea of the Good; BLUCK (1947), 104, n. 77: even "*Philebus* and the *Laws* defend the theory of Ideas"; GÖRGEMANN (1960), 223; MORROW (1960), 573, n. 1 finds "clear references" to the Ideas "in the closing pages (965c)"; GUTHRIE V (1978), 378-381 (with references); PIERRIS (1998); KLOSKO (2006), 184 (and 235); LEWIS (1998), 6 and *ibid.* n. 15 finds references to the Forms in 965d2, 836d7 and 966a5 (also his note 16, pp. 6-7); SCHÖPSDAU (2011), 592; ROWE (2012), 332: the nocturnal council partakes "more Socratico" in a discussion on the unity of virtue.

I and II) is the primary framework in terms of which the discussion of the unity and plurality of the ἀρεταί in the context of the nocturnal council in Book XII ought to be explained.

This phase of the discussion is of a highly dialectical character; the type of the conversation hence also recalls the opening discussion of the dialogue. The Athenian explicitly divides the roles within the conversation.³⁴ Yet Cleinias and Megillus are unable to answer the Athenian's question in what respect these four ἀρεταί can be said to be "one". The Athenian then recapitulates the distinction between ἀνδρεία and φρόνησις developed in Book II, distinguished by the presence or absence of λόγος.³⁵ It is not hard to explain in which way the ἀρεταί differ from each other, he says, 963e1-8:

Ερώτησόν με τί ποτε ἐν προσαγορεύοντες ἀρετὴν ἀμφότερα, δύο πάλιν αὐτὰ προσείπομεν, τὸ μὲν ἀνδρείαν, τὸ δὲ φρόνησιν. ἐρῶ γάρ σοι τὴν αἰτίαν, ὅτι τὸ μὲν ἐστὶν περὶ φόβον, οὗ καὶ τὰ θηρία μετέχει, τῆς ἀνδρείας, καὶ τὰ γε τῶν παιδῶν ἦθη τῶν πάντων νέων· ἄνευ γὰρ λόγου καὶ φύσει γίγνεται ἀνδρεία ψυχῇ, ἄνευ δὲ αὐτοῦ λόγου ψυχῇ φρόνιμός τε καὶ νοῦν ἔχουσα οὐτ' ἐγένετο πώποτε οὐτ' ἐστὶν οὐδ' αὐθις ποτε γενήσεται, ὥς ὄντος ἐτέρου.

Ask me why, when calling both by the single name of 'virtue', did we again speak of them as two—courage and practical wisdom? Then I shall tell you the reason: because the one of them has to do with fear, namely courage, in which beasts also have a share, and the characters of very young children; for a courageous soul comes into existence naturally and without reasoning, but without reasoning, on the other hand, there has never come into existence, nor is there, nor will there be, a wise soul with understanding, [that would be] a sign of a different kind of virtue.³⁶ (Transl. BURY, adapted)

³⁴ In *Leg.* 963b2ff.: Cleinias and Megillus voice the position of the πολιτικός νοῦς, but the Athenian will soon take over when they prove unable to answer.

³⁵ Namely at *Leg.* 653a5-c4. For a discussion of this passage, see chapter three, section 3.3, p. 117ff.

³⁶ ἕτερον ≠ ἄλλον, and is "a different one of the same kind", hence an εἶδος of ἀρετή (φρόνησις) different from another εἶδος of ἀρετή (ἀνδρεία). ENGLAND assumes that ὄντος ἐτέρου refers to φρόνησις and paraphrases: "'for wisdom is a different thing'; i.e. it is not an *inborn, physical quality*, but a *mental acquirement*" (his italics), and is followed by SCHÖPSDAU (2011), 593 ("φρόνησις und νοῦς"). Cf. SUSEMIHL: "ein so ganz anderes Ding ist die Weisheit". RITTER (1859) on the other hand connects ὥς ὄντος ἐτέρου with λόγου and only has a bearing upon the second part of the sentence: "ohne λόγος, als ob dieser etwas von φρόνησις und νοῦς Verschiedenes wäre, gibt es

In line with the definition of *paideia* in Book II, λόγος is a necessary condition for φρόνησις and νοῦς. Ἀνδρεία is the ἀρετή applied to the *paideia* of the youngest children, referring to their early sense of rhythm and melody in music.³⁷ It is distinct from φρόνησις because the latter requires reason (λόγος), while the acquisition of ἀνδρεία does not. This passage in Book XII can therefore be read as an echo of the discussion in Book I. In Book I, the introduction of the theme of the unity and parts of ἀρετή triggered a discussion about what ought to be the basis of laws. In Book XII, this same theme acquires relevance in the discussion of the nocturnal council and its function to preserve the *polis*.

Now that the Athenian has explained in what way two of the four virtues differ from each other, he again questions his interlocutors: having himself answered the question in what way these two ἀρεταί are different and two, it is now the turn of Cleinias and Megillus to state in what way they are one;³⁸ whereupon the Athenian will again ask them to explain in what way they are four (ὅπη τέτταρα, 964a4-5). Whereas in Book I the upbeat for the introduction of the four ἀρεταί is ἀνδρεία (introduced in the discussion of the military societies of Crete and Sparta), in Book XII it is the virtue of νοῦς as the ἀρετή of the soul concerned with the σωτηρία of a ζῶον.

We have seen that the function of the nocturnal council is to preserve the law code and the *polis*. In order to do so, the council keeps its gaze fixed at a

keine φρόνιμος ψυχή" (355). In *Laches* 197a6ff. (referred to by ENGLAND) Nicias denies that animals and little children can be properly called courageous on the ground that their fearlessness is μετὰ ἀπρομηθείας καὶ ἀγνοίας. In *Laws*, by contrast, the absence of something 'prudential' or 'moderate' is inherent in the virtue of ἀνδρεία and animals and children can possess this virtue; and it is precisely the criterium on the basis of which it distinguishes between ἀνδρεία and φρόνησις.

³⁷ This seems to be the reason why ἀνδρεία is relegated to the fourth rank in the hierarchy of the virtues in in Book I. The virtue of ἀνδρεία (training against φόβοι) can be interpreted as training in becoming ἄφοβος (648b6-c5). Yet ἀνδρεία can spill over into θάρρος, recklessness—ἀνδρεία itself does not entail the awareness of a norm or measure. In this respect it is distinguished from φρόνησις (and likely from σωφροσύνη and δικαιοσύνη too), that does entail λόγος: one cannot go too far in σωφροσύνη.

³⁸ *Leg.* 964a2-4: ἢ δὲ ἐν καὶ ταῦτόν, σὺ πάλιν ἀπόδος ἐμοί. διανοοῦ δὲ ὡς ἐρῶν καὶ ὅπη τέτταρα ὄντα ἐν ἐστὶ, καὶ ἐμὲ δὲ ἀξίου, σοῦ δείξαντος ὡς ἐν, (...).

single goal (σκοπός). This single goal is virtue as a whole, a complex unity, being one and four at the same time. The theme of the unity of the virtues thus enters again in the context of a discussion of the function of the nocturnal council. The theme of the unity and plurality of ἀρετή is one of the primary subjects which the members of the council ought to comprehend.³⁹

6.1.2 The qualifications of the nocturnal council

In order to secure its own preservation, a *polis* needs an element that knows (τι τὸ γινῶσκον, 962b5) the following objects: (1) the goal, whatever the political goal may be; (2) in what manner the *polis* may partake in this goal; (3) and who or which (a) of the laws themselves, and (b) of the citizens, gives right or wrong counsel.⁴⁰ This is a reformulation of the claim, discussed above, that a ζῶον needs a νοῦς to aim at its σωτηρία. A *polis* needs a πολιτικός νοῦς. It will thus come as no surprise that a *polis* lacking such an element will invariably act at random, being devoid of both νοῦς and sense-perception (ἄνους οὔσα καὶ ἀναίσθητος, 962c1-2): it requires νοῦς to *aim at* complete virtue.

But the council is not only to aim at virtue; it must also possess “complete virtue” (δεῖ δὴ τοῦτον [...] παῖσαν ἀρετὴν ἔχειν, 962d1-3) if it is to aim at σωτηρία.⁴¹ Here the two lines of argument converge: the council must *aim at*

³⁹ Cf. MÜLLER (1968), 26: “Das gesuchte ἔν in den heterogenen Vier, das ja nie gefunden zu werden scheint, könnte nur ein τι ἐν τῇ ψυχῇ oder ἕξις ψυχῆς sein, also etwas bloßes Formales.”

⁴⁰ Leg. 962b6-9: πρῶτον μὲν τοῦτο ὃ λέγομεν, τὸν σκοπόν, ὅστις ποτέ ὁ πολιτικός ὢν ἡμῖν τυγχάνει ἔπειτα ὄντινα τρόπον δεῖ μετασχεῖν τούτου καὶ τίς αὐτῷ καλῶς ἢ μὴ συμβουλεύει, τῶν νόμων αὐτῶν πρῶτον, ἔπειτα ἀνθρώπων. The indefinite relative ὅστις, the indefinite temporal adverb ποτέ, and τυγχάνει plus participle imply that the contents of the goal are not a given, but up to the particular lawgiver. Therefore this phrase should not be translated, with ENGLAND, as “what our aim as politicians is”, but, “was auch immer dieses Ziel des Staatsmannes für uns sein mag” (SCHÖPSDAU [2011], 151).

⁴¹ Leg. 962d3-5: ἥς [sc. πάσης ἀρετῆς] ἄρχει τὸ μὴ πλανᾶσθαι πρὸς πόλλα στοχαζόμενον, ἀλλ’ εἰς ἓν βλέποντα πρὸς τοῦτο αἰεὶ τὰ πάντα οἷον βέλη ἀφιέναι. “(...); and the prime virtue is not to keep shifting its aim among a number of objects, but to concentrate its gaze always on one particular mark, and at that one mark to shoot, as it were, all its arrows continually” (transl. BURY). Leg. 963a1-4 recapitulates 631b3ff. (πάλατι τιθέμενον), which is also taken up in 705d6-706a4 and ἦν

(στοχάζεσθαι) one single goal, *πᾶσα ἀρετή* (section 6.1.1). At the same time, the council also needs to *possess* *πᾶσα ἀρετή* itself. Indeed, the composition of the council is such that it unites νοῦς and the two senses and thus, *as a whole*, possesses complete virtue. We may recall that the council consists of four types of members: [1] the ten most senior lawguards (961a2-3, cf. 951d7-e1); [2] all the prize-winners of distinctions in virtue (961a3-4, cf. 951d7-8, “of the priests the ones who have won honours”);⁴² [3] the observers (after they have been scrutinized on their return) (961a4-8); and [4] a number of promising young men between the ages of 30 and 40, to be selected and introduced by the aforementioned members, one by each of them (961a8-b4, cf. 951e3-5).⁴³ If a junior is found adequate (ἐπ’ἀξιον) in both nature and education (φύσει καὶ τροφῇ), he is henceforth allowed to attend the meetings of the council. These νέοι represent the sense-perceptions in the council, while its older members represent the faculty of νοῦς, 964e2-965a4:

(...), τῶν δὲ φυλάκων τοὺς μὲν νέους οἷον ἐν ἄκρᾳ κορυφῇ, ἀπειλεγμένους τοὺς εὐφρεστάτους, ὁξύτητας ἐν πάσῃ τῇ ψυχῇ ἔχοντας, περὶ ὅλην κύκλῳ τὴν πόλιν ὁρᾶν, φρουροῦντας δὲ παραδιδόναι μὲν τὰς αἰσθήσεις ταῖς μνήμαις, τοῖς πρεσβυτέροις δὲ ἐξαγγέλους γίγνεσθαι πάντων τῶν κατὰ πόλιν, τοὺς δὲ νῶ ἀπηκασμένους τῷ πολλῷ καὶ ἄξιᾳ λόγου διαφερόντως φρονεῖν, τοὺς γέροντας, βουλευέσθαι, καὶ ὑπηρέταις χρωμένους μετὰ συμβουλίᾳς τοῖς νέοις, οὕτω δὲ κοινῇ σῶζειν ἀμφοτέρους ὄντως τὴν πόλιν ὅλην.

δὲ ἡ συγχώρησις ἔν ἔχουσα κεφάλαιον in 770c7 (συνεχωροῦμεν). On the συγχώρησις of the interlocutors to aim at complete virtue in 770c7, see chapter four, section 4.2, p. 152.

⁴² The prize-winners in virtue-contests: 829c2, 919e4. As has been signalled repeatedly (e.g. GUTHRIE V [1978], 370, n. 2), there is a slight discrepancy between the accounts of the nocturnal council in 951d-e and 961a-b: at 951d the class of the ἀριστεία-winners is limited to priests. A second discrepancy is that at 951e1-3 the current minister of education and all his predecessors are also included in the council (ἔτι ὁ περὶ τῆς παιδείας πάσης ἐπιμελητὴς ὁ τε νέος οἱ τε ἐκ τῆς ἀρχῆς ταύτης ἀπηλλαγμένοι).

⁴³ The two passages in which the composition of the nocturnal council is described, 951d5-e5 and 961a1-b6, are not entirely parallel: see SCHÖPSDAU (2011), 576-579. “Die Diskrepanzen betreffen nur kleinere Details und lassen sich zwanglos damit erklären, daß der Athener aus dem Gedächtnis rekapituliert, wobei er selber eine gewisse Ungenauigkeit der Rekapitulation einräumt (vgl. 961b8)”, 577; see also the further references *ibid.*

(...); and, of the wardens, the younger ones, who are selected as the most intelligent and nimble in every part of their souls, are set, as it were, like the eyes, in the top of the head, and survey the State all round; and as they watch, they pass on their perceptions to the organs of memory,—that is, they report to the elder wardens all that goes on in the State,—while the old men, who are likened to the reason because of their eminent wisdom in many matters of importance, act as counsellors, and make use of the young men as ministers and colleagues also in their counsels, so that both these classes by their co-operation really effect the salvation of the whole State. (Transl. BURY)

By its very composition, the nocturnal council comprises the most beautiful αἰσθήσεις and νοῦς, the two faculties upon which the σωτηρία of the *polis* as a whole depends.⁴⁴ We may recall the likening of politics to seafaring: the council possesses both the κυβερνητικὸς νοῦς (of the steersman) and the αἰσθήσεις (of the sailors). The elderly lawguards and prizewinners in virtue and the observers embody the faculty of νοῦς. Νοῦς is informed by the senses: ὄψις, embodied probably by the θεωροί, and ὄψις and ἀκοή of the younger members.⁴⁵ The talented younger members (bringing with them the qualification of φύσις, as they are required to be εὐφύεστατοι, 964e3) will receive a kind of *paideia* under the direction of the council that will also prepare them to attend the council once they are older.⁴⁶

We can now see that the council as a whole will possess complete virtue. As in Books I and II, the ἀρεταί are associated with age categories. Yet the distinction between the virtues, or rather one cardinal distinction between the two most opposite virtues is not mapped on the individual human life from infancy to the end and the age categories in the *polis* as a whole, but on the council, *i.e.* on a small part of the *polis*. The αἰσθήσεις are represented by the younger members (*cf.* ἀνδρεία); νοῦς is represented by the older ones (*cf.*

⁴⁴ *Cf.* Leg. 967d7-968a1.

⁴⁵ *Cf.* SCHÖPSDAU (2011), 580.

⁴⁶ *Cf.* MÜLLER (1968), 23, n. 1: "Geist und scharfe Wahrnehmung werden hier fast gleichgeordnet: ihre Mischung bringt die Rettung (961d). (...) Mögen sie dann auch nur dienende Funktion haben, so ist doch die Bedeutung, die die Wahrnehmung auf solche Weise bekommt, schon ein Hinweis, daß der Geist nicht mehr der das Eidos schauende Geist ist."

φρόνησις).⁴⁷ Not only the council's function, but also its qualifications therefore yields a picture that is incompatible with the function and qualification of the philosopher-kings as described in *Republic*. The kind of knowledge that is implied in the description of the council suggests experience, aggregated knowledge, and possibly shared deliberation.⁴⁸ There is no suggestion whatsoever that the council possesses expert knowledge of metaphysical objects, or that it requires knowledge of such a kind for performing its function. Moreover, the age requirement (all members of the council must be above 50 years of age, with the exception of the "promising young men") suggests that insight is linked to life experience, in the same way as we saw that in chapter three age was connected to φρόνησις and ἀληθῆς δόξα;⁴⁹ so these older members have become distinguished members within their own society.

In further notable contrast to the philosopher-rulers,⁵⁰ the council receives reports from those officials called "observers" (θεωροί).⁵¹ The

⁴⁷ See chapter three, p. 116 and n. 137 on p. 118.

⁴⁸ *Contra* those scholars who have asserted that the nocturnal council possesses transcendent knowledge: e.g., SAUNDERS' (1962): their task is to attain an "understanding of the metaphysical basis of the laws" (54); cf. GUTHRIE V (1978), 370-371, the guidance of the nocturnal council is based on "genuine knowledge". BRISSON (2005): *Laws* and *Republic* have the same objective: "to give power to those who possess knowledge" (*contra* BOBONICH 2002), cf. PRADEAU (2004), 123. See also note 51 below.

⁴⁹ RITTER (1896), 350, sees another parallel between Book II and XII and supposes that the νυκτερινὸς σύλλογος constitutes "nichts anderes als eine Selektia aus jenem Chore", i.e., the Dionysian chorus. The ages of the chorus and council coincide: the members of both are to be between 30 and 60. See also SCHÖPSDAU (2011), 576. That the council is in some ways analogous to the Dionysian chorus (which consists of all citizens between 30/40 and 60) says a lot about *Laws*' estimation of people for virtue. The council "ist in seiner ersten Einrichtung oder seinen unteren Stufen schon ein treffliches Mittel dazu, dass in stetigem gegenseitigem Umgang, gegenseitigem Wetteifer und gegenseitiger Beobachtung (...) die Tüchtigkeit zur Geltung komme und ihren gebührenden Platz erhalte" (RITTER, *ibid.*, 350).

⁵⁰ For the absence of the theory of Forms, see: ZELLER (1938), esp. 37-43; LAKS (2010), 221, and n. 19 *ibid.*: "The appearance of the phrase *pros hen blepein* (12. 962d4, 963a2-3) is hardly enough to mandate its presence [sc. the theory of Forms]".

⁵¹ Aristotle's remark in *Pol.* 1265a3-4 suggests that he considers the council to resemble the philosopher-kings of the *Republic*. Modern equations of the nocturnal council with philosopher-kings often rest on the basis of the alleged similarities in their objects of study (cf. Arist. *Pol.* παιδείαν τὴν αὐτὴν, 1265a7): BARKER (1907), 202; BARKER (1918), 406-410; TAYLOR (1926) for the claim that the members of the council are dialecticians; GUTHRIE V (1978), especially 368-375: the education of the council seems to be "a revision of that of *Republic* 7", 375 (cf. PELOSI [2010], 116 n. 1:

experience of the nocturnal council is much more reminiscent of contemporary mainstream Athenian notions of philosophy like that of Isocrates. The importance of φρόνησις in *Laws*, which is the defining attribute of the nocturnal council, and which, after all, became the primary virtue in Aristotle's moral naturalism, reflects the shift in orientation from transcendent knowledge to experience-informed knowledge "embedded" in, and informed by, human life and society in its most harmonious and enduring form.

6.2 The Athenian stranger

In the previous section it has been suggested that the nocturnal council does not reintroduce the philosopher-kings. We may now turn to the Athenian stranger. He is the person who formulates the laws in *Laws*—if *Laws*, therefore, operates once again with the concept of the philosopher-king, the Athenian stranger seems to be the most plausible candidate. Before we examine the role of the Athenian as a lawgiver in the dialogue, we may first remember that the figure of the lawgiver himself is not a topic extensively discussed by the

Leg. 967d4-968a1 is a condensed expression of the link between musical, cosmological, ethical and psychical harmony of *Resp.* VII and *Tim.*); KLOSKO (1988) assigns the council the same powers as the philosopher-kings; its introduction "creates a fundamental break in the argument of the *Laws*", (85), the contrary view is argued for by LEWIS (1998); BRUNT (1993) argues that the nocturnal council is a return to the "autocratic rule of true philosophers" (250-251); LISI (1998) argues that the rule of law is temporary and lasts until the philosophers of the council have completed their education and can take over; NIGHTINGALE (1999a), 104 n. 14, assumes that its members receive a philosophical education, which however does not entail that the members are above the law [with ref. to MORROW (1960), 511-514]. See also the literature summed up in LEWIS (1998), 2 n. 1. Others have emphasized the distinctions between the council and philosophers of the *Republic*: SAUNDERS (1992), 468; COHEN (1993) speaks of a "radical break" (301) between *Republic* and *Laws*. KLOSKO (2006), 252-258 argues for an informal, advisory role of the council in contrast to the "legislative authority" of the philosophers; cf. BOBONICH (2002), 391-395 (seconding MORROW [1960], 511-514): Plato does not have to be explicit about the exact powers of the council because *Laws* is not to be understood as a blueprint: "We should thus allow for a range of ways in which the outline of Magnesia sketched above can be realized. They will fall between excluding the nocturnal council from any political role at all and seeing its members as philosopher kings in disguise" (395). ZUCKERT (2009), 132 n. 137.

interlocutors.⁵² Apart from the fact that, in order for a law code to come into existence, *someone* has to lay down laws, nothing specific is said about what qualifies a lawgiver needs to have. The lawgiver is an argumentative presence in a discussion about lawgiving.⁵³ This forms a notable contrast to the philosopher-king in *Republic*, whose qualifications, education, and, to the extent possible, object of knowledge, receive an elaborate discussion. In *Laws*, by contrast, the discussion of lawgivers is very limited.

In the text of *Laws*, when the interlocutors lay down a law code, it is the Athenian who performs the role of lawgiver. What do we hear about him, and what qualifies him to frame laws, albeit in speech (λόγῳ)? Why is the Athenian accepted as an authority by his interlocutors, and what sort of authority is this supposed to be?

The identity of the anonymous Athenian stranger has been the object of quite some speculation. He is presented as an anonymous “stranger” (ξένος), and he is the only interlocutor about whose provenance nothing is revealed (contrary to that of Megillus in 642b2-c6; and that of Cleinias in 642d4-e5). Some interpreters, among whom already Aristotle, have assumed that the anonymous Athenian is in fact Socrates.⁵⁴ Others, by contrast, have drawn attention to the

⁵² See chapter three, p. 104, chapter five, p. 206.

⁵³ The interlocutors reason about what “the lawgiver”, or “the sensible lawgiver”, will likely do about a particular problem: νομοθέτης ἀκριβής in 628d7; a lawgiver who is even μικρὸν ὄφελος in 630c2, 647a8, 663d6; ὁρθὸς νομοθέτης in 660a4; ἀγαθὸς νομοθέτης in 671c3, 688a5, 742d4; μεγάλαι νομοθέται in 691d5; νομοθέται ἔμπειροι in 692b4, cf. 948d3; νομοθέτην ἄξιον ἐπαίνου in 710c8; νομοθέτης ἄκρος in 710d7; ἔμφρων νομοθέτης in 729b5-6; τὸν ὁρθῶς νομοθετοῦντα in 742e1; καὶ μικροῦ νομοθέτης in 890d3. This sensible lawgiver is merely a point of departure for their own reasoning, not a final authority to whom they attribute their proposals. Alternatively, NIGHTINGALE (1993) argues that “the utterances of the Athenian-as-lawgiver are invested with an authority that is divine” (299, see especially 284, 295, 299-300). Similarly, YUNIS (1996), 230: “Plato’s lawgiver speaks virtually as the mouthpiece of god, and thus represents divine authority: the source of the lawgiver’s discourse, like the source of law itself, is the divine reason that animates the benign universe”. Cf. JAEGER (1945) III, 340 n. 77: “God himself is the ultimate lawgiver. The human lawgiver speaks out of his knowledge of God; and his laws derive their authority from God”.

⁵⁴ *Pol.* 1265a10. PANGLE (1980) in his essay, pp. 378-379: “nameless old Athenian philosopher who acts and talks in a manner reminiscent of Socrates”; PLANINC (1991), 26, says that both the *Republic* and *Laws* describe Socrates; ROWE (2007), 90 n. 20 “Socrates replying”.

differences between Socrates and the Athenian; most notably, Socrates never left Athens, and it seems that part of the effect of the Cretan setting is to suggest that we are in a different conceptual realm.⁵⁵ The most widely-endorsed hypothesis seems to be that the Athenian stranger is a spokesman for Plato himself.⁵⁶ However, as with all of Plato's dialogues, the Athenian is a fictional character in an imaginary setting. Even if he would express views to which the historical Plato would have subscribed, it is legitimate to ask, first and foremost, how the Athenian is portrayed as a character in a literary work. It is true that especially in the discussion in the first two books, his attitude and type of remarks (that is, questioning his interlocutors) is highly reminiscent of Socrates. However, a specific identification along the lines of 'the Athenian is Socrates', or 'the Athenian is Plato' does not furnish insights into the qualifications that underlie his role as lawgiver and the main speaker in the dialogue, and risks losing the *dramatic* function and character of the Athenian out of sight.

The Athenian gives long monologues and expositions of the laws and political magistracies.⁵⁷ But rather than interpreting this as a sign of Plato's waning faith in the dialectical method, it should be noted that the expositions

⁵⁵ STRAUSS (1959), 153-154, points out that Socrates did not make laws; MONOSON (2000), 233: "[t]he absence of Socrates artfully records Plato's acknowledgment of the limitations of the life of Socrates as a model for understanding the full range of special knowledge that may be politically significant"; ZUCKERT (2009), 52 n. 5, 58-62, 84-85, 136. Her main thesis is that *Laws* 'predates' Platonic philosophy. The *Laws* presents incompatible views of the universe: the naturalistic of presocratic philosophy, and the (Socratic) unity of the virtues; it thus creates the room for *Platonic* political philosophy to present a worldview that integrated the two (see especially 144-146). "The Athenian thus sounds very much like Socrates" (135).

⁵⁶ CICERO, *De Legibus* 1.4.15 seems to be the first who took this position. Of the same opinion are GADAMER (1980), 71, "A figure in whom more than anyone Plato has most obviously hidden himself"; KLOSKO (2006), 198: "probably a stand-in for Plato himself"; SAUNDERS (1992), 469 "clearly Plato himself"; SCHOFIELD (1997), "the figure who displaces the philosopher in the Stranger's account is the lawgiver: to be interpreted (...) as a sort of projection of Plato's own authorship of the legislative project of the dialogue" (236; cf. 232); and BOBONICH (2002), 8: "Plato's spokesman in the *Laws*" (cf. BOBONICH [1996], 254-255, 260).

⁵⁷ BOBONICH (1996), 259: "(...) even when [Cleinias and Megillus] are present and do assent, there is little effort to show how their beliefs commit them to the laws' provisions". In note 19 *ibid.* he hypothesizes that this may partly be due to the unfinished state of the text (see p. 250), but that, even if acts of assent would be less sporadic, this would not help to show how the interlocutors beliefs commit them to the laws' provisions.

are motivated in the conversation itself: Cleinias and Megillus are eager to hear what the Athenian has to say. In Book I the Athenian is granted permission to speak as long as he likes—which is not motivated, as it is for instance when Socrates is compelled to proceed by telling a myth, by the inability or refusal on the part of the interlocutor to stick to the rules of dialectic.⁵⁸ In Book I, the reason why the Athenian is given the prerogative of speaking as long as he likes is motivated by his Athenian ethnicity.⁵⁹ The speaker is Megillus. The terminology is striking, 642c6-d1:

(...) τό τε ὑπὸ πολλῶν λεγόμενον, ὥς ὅσοι Ἀθηναίων εἰσὶν ἀγαθοὶ διαφερόντως εἰσὶν τοιοῦτοι, δοκεῖ ἀληθέστατα λέγεσθαι· μόνοι γὰρ ἄνευ ἀνάγκης αὐτοφυῶς, θεία μοῖρα ἀληθῶς καὶ οὔτι πλαστῶς εἰσὶν ἀγαθοί.

(...) but I regard as most true the common saying that ‘all of the Athenians who are good are so above all’, for they alone are good not by outward compulsion but by inner disposition, by divine dispensation, and truly and not forged. (Transl. BURY, adapted)

These motivations are purely *pour le besoin de la cause*. Plato uses a fictive association of the Athenians with a *natural* goodness (possibly as opposed to goodness by education) as the motivation in the framework of the conversation. This natural goodness is expressed in a threefold way: (1) it is not the result of “necessity” (ἀνάγκη) but springs from nature (φύσις) itself; (2) it comes about “by divine dispensation” (θεία μοῖρα), and (3) it is goodness “in a true way”

⁵⁸ *Leg.* 642d1-2, d3-4.

⁵⁹ The deviations from the dialectical exchange are motivated: in Book X, 892d2-893a7, for instance, by the trickiness of the *logos*. Cleinias and Megillus risk becoming the victim of a “beguiling argument” (ἀπατηλὸς λόγος) if they follow him into the river, and do well to wait on the riverbank for the Athenian’s signal that it is safe for them to proceed. The metaphor for the λόγος is that of a violent river. His motivation for proceeding momentarily on his own is twofold: first, he claims to have more experience than Cleinias and Megillus with currents (πολλῶν ἐμπειρος ῥευμάτων, 892d6-7). He recognizes a risky λόγος and is competent to assess the risk: confronting people with a λόγος that is beyond them may cost them their life. The second motivation he is made to adduce is his age: being the youngest of the three, he will go ahead to see whether it is safe for the other two to cross. If the river is fordable, then he will help them accross by his own experience (συνδιαβιβάζειν ἐμπειρία, 892e3-4). But if the river is impassable, the risk will be his and he will have spoken in due measure (μετρίως ἂν ἐδόκουν λέγειν, 892e5)—the standard of ‘due’ in this context being what the interlocutors here can handle.

(ἀληθῶς), “not fabricated” (οὐτι πλαστῶς). (1) and (3) basically say that good Athenians are not made good by external mechanisms, such as laws. Considering *Laws*’ own conception of ἀρετή as self-control, this is significant: the Athenian is a person who does not need laws.⁶⁰ In other Platonic texts, θεία μοῖρα is opposed to acting on the basis of expert knowledge (τέχνη or ἐπιστήμη).⁶¹ Something ascribed to θεία μοῖρα seems to be a kind of disclaimer—it is beyond the realm of humans to have insight in what is due to divine dispensation. Socrates in *Apology* attributes his awareness of the existence of Truth to θεία μοῖρα, where the same phrase is part of an enumeration which suggests that his awareness stems from sources of which he has no control. Both the *Phaedrus* (with its emphasis on inspiration ascribed to prophets) and the *Ion* (which deals with the inspiration of poets) assume an unambiguously ‘irrational’ conception of θεία μοῖρα, much like being in a state of *mania*,⁶² and being enchanted by Corybantic rites.⁶³

The Athenian, conversely, uses the term μαντεύεσθαι to refer to his own statements (μαντεύομαι⁶⁴), and both he and his interlocutors label his explanations “oracles”,⁶⁵ and call the Athenian a “diviner” (μάντις) in virtue of his remarkable talent for interpreting the laws of the ancient lawgivers.⁶⁶

⁶⁰ In this respect, it may be significant that he claims to know how symposia ought to be conducted in a correct way, even though he has personally only seen symposia that are badly regulated, 639d5-e3.

⁶¹ *Men.* 99e6, 110b2; *Ion* 536c2, d3, 542a4; cf. *Epist.* II, 313b5, where θεία μοῖρα is opposed to “securely binding fast proofs” (καταδέω τὰς ἀποδείξεις βέβαιως).

⁶² *Phdr.* 244b6-d5. Μαντική accrues to one “by divine dispensation”, θεία μοῖρα, 244c3.

⁶³ *Ion*, 536c2.

⁶⁴ In *Leg.* 694c5, the Athenian divines why the Persian empire was ruined under Cyrus while it was saved under Darius; cf. οἶον μαντεία 694c2; in 885c3 he divines what the atheists will say to them when they call their views misapprehensions.

⁶⁵ *Leg.* 712a4: ταῦτά μὲν οὖν καθαπερεὶ μῦθος τις λεχθεὶς κεχρησμευδήσθω (the Athenian about his own preceding words).

⁶⁶ *Leg.* 634e7-635a2 (Cleinias): Ὁρθότατα γε, ὦ ξένε, λέγεις, καὶ καθάπερ μάντις, ἅπῃ τῆς τότε διανοίας τοῦ τιθέντος αὐτά, νῦν ἐπιεικῶς μοι δοκεῖς ἐστοχάσθαι καὶ σφόδρα ἀληθῆ λέγειν. Cf. chapter three, p. 86. Socrates is also associated with μαντεύεσθαι, and this is therefore not an absolute point of distinction between the Athenian stranger and Socrates: *Crat.* 411b4; *Phdr.* 278e10-279a1; *Charm.* 169b4-5; *Lys.* 216d5. We find it especially often in *Resp.*: 349a4 (Thrasymachus about Socrates); 394d5, 431e7, 505e2, 506a6, 506a8 (Adeimantus about Socrates), 523a8, 531d4, 538a9,

Μαντική is a τέχνη of a radically different kind than the τέχνη of the philosopher-ruler;⁶⁷ the way in which the Athenian justifies his insight comes closer to the figure of Socrates in the *Apology* and *Crito* than to the philosopher-king. Socrates' *daimonion* is concerned purely with his own soul and only dissuades; but the mantic qualities of the Athenian seem to come closer to an actual μαντική τέχνη: he tells others what they should and should not do on the basis of his (assumed) expertise.⁶⁸ The *mantis* is often a "von außerhalb herbeigerufen[er]" specialist.⁶⁹ Moreover, according to Cicero, the Athenians consulted a *mantis* on all kinds of official occasions;⁷⁰ besides warfare, they were especially connected with the founding of a new colony.⁷¹

This qualification of the Athenian has several implications. The first is that it relieves Plato from having to be more specific about what qualifies a lawgiver. Μαντική is a τέχνη, but it is not a τέχνη that can "give an account" (διδόναι λόγον) of its own procedures, or of how the τέχνη may be acquired; nor is it the object of a μάθημα that can be studied and discussed by the people

538b7. Cf. furthermore *Hipp. maior* 292a3; *Plt.* 289c5 (the stranger of himself). But Socrates himself claims to be μαντεύεσθαι, apparently in cases when he cannot fully account for the truth of his claim, but nevertheless insists that it is true. In *Laws*, Cleinias' amazement at the Athenian's μάντις-like interpretative abilities has a function on the dramatic level of the dialogue rather than that it asserts the truth-status of a statement: it is part of the reason why Cleinias and Megillus agree with the Athenian and are willing to go along with him (despite of the discrepancy between the Athenian's proposals and their own cultural tradition). COLLIN (1952) distinguishes three senses in which Plato uses the term μαντεύομαι (with passages): (1) a probable inference concerning the future; (2) an imaginative reconstruction of the past; and (3) "Intuition".

⁶⁷ The word μάντις is traced back to μαίνεσθαι, "prophetische Wahnsinn" or "Inspiration" in Eur. *Bacch.* 299; Pl. *Phdr.* 244b6-d5; *Men.* 99c11-100c2; *Tim.* 71e2-72b5.

⁶⁸ On the μάντις see BOUCHÉ-LECLERQ I-II (1879-1880), HALLIDAY (1913), chapter 5; PARKER (2005), chapter 6. In the context of my argument, it should be emphasised that in everyday (Athenian) life, a μάντις is a religious professional rather than an inspired, prophetic, figure (an association found several times in Plato, see n. 67). The μάντις is the professional whom people could consult for practical questions. See VAN STRATEN (1995), 121-122. For μαντική, see also chapter one, p. 33, n. 112. For the areas of consultation, see PARKER (2005), 118, n. 11; FLOWER (2008), 100-103.

⁶⁹ Hom. *Od.* 17, 382-384. Cf. Isocr. 19, 6. Teisamenos and Aristandros are historical examples of "importierten rel. Experten" *Neue Pauly s.v. mantis*.

⁷⁰ *De div.* 1.95.

⁷¹ *Ibid.* 5; 10. See also MALKIN (1987), 8-9, and chapter 2; ZIEHEN in *RE s.v. Mantis*.

who have acquired it.⁷² The μάντις as a specialist concerned with matters of the organisation of one's life in practical matters may have rendered him an attractive model for a lawgiver. But the fact that Plato presents the interlocutors as being reminded of a μάντις signals that *Laws* is a text in which Plato refrains from making any definitive statements as to the quality of a good lawgiver. Since the Athenian Stranger formulates the laws, the problem of who is qualified to legislate is "solved" as far as the dialogue (lawgiving λόγῳ) is concerned.

Second, the Athenian succeeds in getting his interlocutors on his side (in spite of some initial resistance on their part). He demonstrates to his interlocutors that he is qualified to formulate laws. At the end of Book II, Cleinias and Megillus are persuaded of the sense of his insights and agree that ἀνδρεία does not suffice.⁷³ An important function of the opening discussion (Books I-II) is thus to show *why* the interlocutors are prepared to go along with the Athenian, and how he is able to do so. The interlocutors' assessment of the Athenian's words as reminiscent of a μάντις is part and parcel of this mechanism: they come to consider his insights superior to their own, and even superior to what they consider it is humanly possible to know.⁷⁴ In any case, the characterization of the Athenian seems designed to make clear that he is not an expert, and that we are not dealing with a philosopher-king.

⁷² NIGHTINGALE (1993), arguing that the Athenian from the very beginning construes an ideal lawgiver (above, n. 53, p. 224), claims that the Athenian must speak for this ideal lawgiver "but he tries to avoid identifying himself with this figure". "By deflecting the authorship of the laws away from the Athenian, Plato makes his lawcode appear objective, impersonal, and timeless. It is perhaps for the same reason that he decided to leave the Athenian nameless: if a particular individual had unveiled this code, it would have been less impersonal" (284, with n. 24). The laws are thus "divinely authorized" (285).

⁷³ See chapter three, p. 108.

⁷⁴ The fact that the μάντις is a paid specialist (a fact for which he is often rebuked, see PARKER [2005], 116-118) may perhaps also re-invoke (only in order to leave unexplained) the question of the motivation of the Athenian to engage in a discussion about lawgiving.

6.3 Conclusion

This chapter has examined two agencies outside the διέξοδος τῶν νόμων, the nocturnal council, part of the act νομοθεσία, and the anonymous Athenian, the main speaker in *Laws*, who formulates the law code. We have argued that none of these two serve to introduce an objectifying perspective similar to that of the philosopher-king.

The nocturnal council is introduced under the heading of σωτηρία for the *polis* and laws of the interlocutors. In the context of the discussion of the nocturnal council, the complex theme of the unity and plurality of the four virtues is resumed. Νοῦς mixed with the αἰσθήσεις is vital for being able to aim at σωτηρία. The council's constitution, a combination of the most virtuous elderly citizens (νοῦς) and younger citizens (αἰσθήσεις), is such that it contains both elements. In virtue of this, the council is able to aim at, or "look at", virtue as a whole, πᾶσα ἀρετή. The recapitulation of the theme of the unity and plurality of the virtues of Books I and II is thus very effective; not only does it, on the level of the composition of the text, create the effect of a ring composition and thus provides a suitable end; it also endows the *polis* with a body that is able to look at πᾶσα ἀρετή and aim for σωτηρία. The nocturnal council is to look at the naturalistic notion of virtue introduced in Books I and II.

This leaves us with the Athenian, who formulates the law code in *Laws*. The qualification of the Athenian remains vague—and *Laws* does not reveal much about what qualifies a good lawgiver. A reference to divine lawgivers seems to serve often as a device that makes it possible to discuss lawgiving without having to state anything about the necessary qualifications for doing so, and for making the laws themselves. Through the mouth of his Cretan and Spartan interlocutors, we hear what they think about him—apparently, they deem him qualified to discuss the subject and lay down laws. This qualification receives expression in their assessment of the Athenian's insights as those of a μάντις. But this association of the Athenian with a μάντις is founded on the

confidence of the interlocutors. The authority of the Athenian is not objective, but depends upon their trust. Authority in *Laws* is of a completely different kind than the authority of the moral expert hypothesised in a number of other Platonic texts. This is in line with *Laws'* pragmatic perspective on lawgiving: the lawgiver is the one who, in a particular situation and setting, is able to convince others that he is qualified to lay down laws in that case.

CHAPTER SEVEN

CONCLUSION: PLATO'S PRAGMATIC PROJECT

The present study has taken as its starting point a number of anomalies in *Laws*. It has discussed these in detail and attempted to offer a reading of *Laws* in which the anomalies can all be integrated into a philosophically coherent argument. The absence of φιλοσοφία and the diminished prominence of δικαιοσύνη, the Cretan setting, the absence of Socrates, the *symposion* as a model for social norms, and the positive attitude to πείθειν—all these are features that, in a Platonic text, demand explanation.

The present thesis has made these peculiarities the basic ingredients of its reading. It has argued that they can all be explained as reflections of a *pragmatic* project. *Laws* does not assume, or appeal to, a higher, metaphysical moral Truth, and we encounter the familiar Platonic terminology reappropriated in the service of an un-prototypical political project.

Some stock Platonic terms, such as φιλοσοφία and δικαιοσύνη, have almost disappeared from *Laws*. Their diminished prominence is consistent with our observation that the moral norm presupposed in *Laws* is not the metaphysical norm of the absolute Good, and that *Laws'* philosophy does not acknowledge an objective moral authority. Φιλοσοφία and δικαιοσύνη are central notions in the metaphysically oriented system of Plato's *Republic*—

which is, both in its plan (the founding of a *polis*) and in its scale, *Laws*' counterpart within Plato's oeuvre. Φιλοσοφία and δικαιοσύνη are part of a system with a metaphysical orientation, which seems to be the reason why these terms would have been ill-fitting in the context of a political project that operates on the basis of a different, and much less uniform, kind of norm.

The conversation of *Laws* is situated on the island of Crete. The interlocutors, Cleinias and Megillus, come from a particular cultural tradition. *Laws* is thus the only text in Plato's oeuvre that is not set in, or near, Athens; and it is the only text in which the discussion starts off from the recognition that different cultural traditions and different societies have different conceptions of morality and virtue. The Cretan setting situates the law code of the interlocutors in a specific cultural and geographical context. Thus, both the discussion and the action taking place at the dramatic level of *Laws* reflect the assumption that any act of lawgiving is necessarily endemic in, and attuned to, a specific, practical, *context*.

Laws is the only Platonic text in which Socrates is absent. The *persona* of Socrates in Plato's works is closely connected with the claim that there exists a higher moral Truth. In *Apology* we witness how Socrates introduces the awareness of this Truth to his fellow citizens, and how he justifies his mode of life in terms of it; in *Crito*, we witness how Socrates justifies his refusal to escape to the friends who have offered to save him by appealing to a higher, more abstract loyalty than the loyalty of human friendship; in *Republic*, Socrates designs a truly just *polis* (see chapter two). The absence of Socrates from *Laws* is therefore consistent with our observation that the discussion of good laws does not unfold on the assumption that there exists a higher moral Truth.

The *symposion* is introduced in the opening discussion (Books I-II) as a scenario from which moral norms can be derived. The norm implied by this scenario is social cohesion and the σωτηρία of the group as a whole. A *polis* has to be *livable*. The pragmatic norm of livability sparks off a whole set of ideas and

assumptions about human virtue and the well-organized society. In the livable *polis* social interaction is characterized by *φιλία*, friendliness and benevolence. Virtue is the quality that enables human beings to live together harmoniously and peacefully, self-restraint. *Ἀρετή* can be acquired, and strengthened, by *training*. The pragmatic norm is much more dynamic and vague than the Good (which only manifests itself in the (only) just society (a static class-society)), thus allowing for diversity of, and gradations in, livable *poleis*. Consequently, *ἀρετή* and the good *polis* can only be defined by approximation: *ἀρετή* is moderate, non-aggressive behaviour, and the good *polis* is a harmonious, friendly society.

Finally, *Laws'* positive attitude to *πείθειν* can also be explained in terms of *Laws'* pragmatic project. The persuasive preamble is presented as the friendly legislative alternative to the directive of the law by itself, without persuasion, which is a form of *βία* (violence). Again, we see that “friendliness” determines interaction (in this case between preamble and citizen) in the *polis*. At the same time, the conceptualization of *πείθειν* as “friendly” implies that *self-restraint* is constitutive of virtue. From the perspective assuming that the livability in a *polis* depends upon citizens' success in restraining themselves, *πείθειν* is thus of crucial importance. (We may recall that the *Laws* in *Crito* offer Socrates two options: to “persuade or obey”.) *Πείθειν* thus occupies a centre-stage position in the *polis* in which the key to social cohesion is the internalization of the laws of the *polis*.

In summing up these anomalies, I have roughly followed the sequence in which they are discussed in this thesis. The aim of this study has been to determine the ontological status of the law code in the *Laws*—are these true, just laws, or are these laws part of a different conceptual normative framework? The basic puzzle of *Laws* was the fact that the interlocutors in the dialectical discussion formulate laws on their own authority, that is, without attributing them in some way to a higher, expert moral authority—in fact, the figure of the

moral expert seemed to be absent altogether. This puzzle necessitated a reading of *Laws* that aims to do justice to the internal structure of the text: how does the text introduce, embed, and justify the lawgiving of the interlocutors? In chapters three to six I have attempted to elucidate *Laws'* internal structure, as part of the aim of this study has been to get a more firm grasp on *Laws* as a textual composition. Thus, my reading has to a large extent been guided by the sequence of the conversation of *Laws* itself, all the while bearing in mind the question why Plato has composed his work in the way he did. At the same time, I have attempted to present, as far as *Laws'* own dynamic and non-essentialistic philosophy allows, a coherent account of the philosophical underpinnings of the law code formulated at the dramatic level, and of the place of this law code within *Laws'* own philosophical outlook.

The argument of this thesis may be summed up as follows. In the opening discussion of *Laws*, Plato sets the scene for a political project that is unlike anything that we find in the rest of his oeuvre. He introduces various unknowns to his audience: a distant, unfamiliar, Cretan setting, an anonymous Athenian stranger, and two Dorian interlocutors. In this bewildering landscape, he resumes his familiar philosophical terminology of the unity and plurality of the virtues to set off a discussion about the basis of laws. The familiar terminology is used to introduce a new philosophical perspective on morality, and a notion of virtue based on a non-metaphysical norm. In a critique on the Cretan and Spartan law codes and the Cretan and Spartan conception of ἀρετή as ἀνδρεία, the Athenian is able to persuade his interlocutors that ἀνδρεία does not suffice. For ἀνδρεία he substitutes a notion of ἀρετή firmly grounded in peace and internal harmony. All societies ought to aim at peace and friendship.

The view on human virtue encountered in the opening books is an ethical naturalist or biological view. In ethical naturalism the ultimate norm is the preservation of society, society constituting the natural environment for human beings. Ethical naturalism approaches humans as a *species*; it does not only

stipulate that human society is the proper environment for the human being, but also that individual human excellence (which may broadly be referred to as “rationality”) is the very behaviour that allows human beings to live together durably. This entails a relatively optimistic view of the human being: for, since the assumption is that societies are the *natural* habitat for humans, and that virtue is the kind of behaviour that allows societies to continue to exist, it seems only logical to assume that human beings possess an *innate potential for rationality*. The individual society befalls the task of educating this potential.

Books I and II present us with a playful idea of the form such almost life-long education (παιδεία) could assume. The Athenian has established a parallel between the Cretan/Spartan *syssitia* and his *symposia*, between Cretan/Spartan *gymnasia* and his *khoreia*. The *symposia* and *khoreia* have replaced the Cretan-Spartan institutions as the more sufficient education. *Paideia* is χορεία: a training in τάξις, order. In the discussion of *paideia*, we again encounter traces of a naturalist view of human morality. The citizenry (until 60) is divided into three age-choruses (children, 18-30, 30-60). The paideutic mechanism in each chorus shifts: for children, χορεία is a training in physical restraint, motivated by the pleasure they take in musical order (rhythm and harmony); for the elderly citizens, it is a training in intellectual restraint, the need for which is motivated by their simultaneous inebriation and the natural inhibition that comes with old age. The terminology of the four virtues, or at least of the two most opposite virtues, ἀνδρεία and φρόνησις, are mapped onto the ἀρετή of the two age classes most distinct from each other: in Book XII, ἀνδρεία is the virtue associated with children, φρόνησις is the virtue associated with seniors.

The opening Books (I-III) create the conceptual room for the interlocutors to embark on their own legislative project. The fact that the interlocutors themselves formulate laws is telling: lawgiving is apparently not the preserve of a moral expert. The qualified lawgiver, to the extent that *Laws* gives indications about him, is, whatever his qualification, not a moral expert. There is no fixed

qualification for a lawgiver—the requirement is merely that he aims at *φιλία* for his *polis*.

After the reconstruction of the philosophical scene of *Laws* and its discussion about the basis of laws, we have proceeded to the analysis of the law code of the interlocutors on the dramatic level and *Laws*' own notion of lawgiving. The Athenian introduces an analogy between the lawgiver and the painter immediately before the interlocutors embark on formulating laws (in Book VI). This analogy is of major importance for several reasons: it occurs at a crucial place in the conversation, it is the one passage in *Laws* in which the Athenian presents the most fully worked-out analogy for lawgiving, and, not least, because the analogy introduces the conceptual framework that will prove to be of structural importance for the interlocutors' own subsequent lawgiving in Books VI–XII.

The painter-analogy represents lawgiving as a prolonged *process*, that, due to its very nature and subject matter, can only be (if at all) concluded after a significant amount of time. This seems surprising in the light of the mimetic interpretation of painting in other dialogues, most notably *Republic*. But in *Laws*, there is no hint that the initial lawgiver is imitating a fixed model. Instead, lawgiving is a dynamic process, that will be terminated only if the regulations on a certain subject are sufficient. This sufficiency cannot be attained within one generation. The original lawgiver-painter therefore needs successors. The Athenian divides the process of lawgiving in two phases: first, the drawing of an "outline" (*περιγραφή*) by the original lawgiver, and subsequently, the filling in and amending of this outline by the lawgivers' successors.

The distinction between an outline and filling in details recurs at several places in the interlocutors' own law code, suggesting that the interlocutors are the functional equivalent of the original lawgiver in the analogy. In those cases, the painting terminology justifies why the Athenian at that point refrains from laying down more specific regulations. These meta-legislative reflections,

about future procedures of lawgiving, offer a view of who is to complete the laws on certain issues, and reveal why lawgiving is a process. Future legislation is usually left to the lawguards in cooperation with the specialised, local officials (ἀγορανόμοι, ἀστυνόμοι, priests, judges, θεωροί, in some cases the entire δῆμος). This suggests that the reason why lawgiving is a long-term process is that *experience* and testing of regulations in practice are necessary if laws are to become sufficient. Even after the fixation, however, there are indications that supplementation and revision of the laws may go on, on the basis of insights acquired by the law-watchers who travel to other *poleis* to inspect foreign laws, or in case practice demonstrates that current regulations are insufficient.

The analysis of the interlocutors' own lawgiving, and of the painter-analogy that introduces it, reveal an image of lawgiving as a *complex, dynamic* and *provisional* process. This process involves the input of various generations of lawgivers and various kinds of magistrates over a longer (or perhaps even indefinite) period of time. This conception of lawgiving squares to some extent with dialectic as a philosophical method of which the results remain provisional. The fact that the Athenian forbears to fill in all the details is not problematic in a dialectical context.

Laying down laws is one aspect of νομοθεσία (lawgiving for the *polis*). But the Athenian highlights another aspect: νομοθεσία as the influencing of, and mode of addressing, the citizens (lawgiving within the *polis*). From the point of view of this study, this discursive aspect of lawgiving is especially interesting. For it is for lawgiving thus conceived, as a mode of address from lawgiver to citizen, that the Athenian introduces dialectic, or something strongly resembling dialectic, as the proper form of νομοθεσία. The proper way for laws to address the citizen(s) is by πείθειν, persuading. The law is therefore to be prefaced with a persuasive preamble.

The persuasive preamble is in turn conceptualized, via the two doctor-analogies (in Books IV and IX), as friendly and instructive discourse, and comes to be modelled on dialectic itself. The Athenian models the persuasive preambles upon the interlocutors' own lawgiving λόγῳ, "in speech". Through a *mise en abyme*-effect, the proper mode of legislative speech is made to resemble the dialectical conversation of the interlocutors themselves. The assimilation of preambles to dialectic is further strengthened by the unclear transitions from the preamble to the frame conversation. The authority behind the preamble is the lawgiver, but since the preambles are in the conversation formulated by the Athenian, he is ultimately the authority for the laws in the *Laws*.

As a final step, we had to investigate whether or not the Athenian is an authority of the kind of the moral expert. The same in fact had to be done for another entity that may seem to be a reintroduction of the philosopher-kings, the so-called nocturnal council. Upon closer analysis, we found that neither of these two entities is the equivalent of the moral expert as we meet him in other Platonic texts. The function of the nocturnal council is to preserve the *politeia* and the laws that have been laid down, which is why it is only fully introduced *after* the discussion of the laws themselves. There is no suggestion that the laws are laid down by the council, and the qualification and function for which it needs this qualification are entirely at odds with the idea of ruling a *polis* on the basis of philosophical knowledge.

The sort of authority with which the Athenian stranger can be credited is of a fundamentally different kind than that of the moral expert. His authority ultimately has its basis in the impression he makes on his interlocutors. They judge the insight of the Athenian in ancient law codes of a superior and divine kind, resembling that of a μάντις. This awe on the part of the interlocutors for someone who is able to proceed on the road of lawgiving on the dramatic level provides the motivation for according the Athenian the role of lawgiver. Cleinias and Megillus consider the Athenian fit to lay down laws on the basis of

the discussion until that point (the end of Book III). Thus, *Laws*' own legislative project, in which the interlocutors lay down laws on their own authority, reflects *Laws*' pragmatic norm: the laws in *Laws* are formulated by a lawgiver who is esteemed for his insight and performs his role well.

The specific interpretive principle of charity that I adopt in this study gives precedence to internal textual consistency and coherence over doctrinal consistency. This principle enables us to see how the familiar Platonic themes, analogies, and terminology are employed in the service of a radically different message in *Laws*. The present thesis has attempted to show that the familiar Platonic vocabulary and the familiar Platonic antitheses are used to convey a pragmatic norm that is new in Plato's oeuvre. The view that Plato's project in *Laws* is pragmatic challenges the current assessments of *Laws* as a merely practical (rather than ideal) and as a second-best (rather than the best) *polis*. The unitarian practical and the developmental second-best interpretation share the assumption that the ultimate norm for society and human virtue is a metaphysical one—even if that norm may be largely out of reach and obscured by more practical arrangements.

In this world, there is no moral expert, no objective idea of justice, and no single just *politeia*. Whereas *Republic* addresses justice as an essence and shapes its *polis* on that basis, *Laws* is a pragmatic project. Its interlocutors design laws in a world where the preservation and viability of society are considered the highest good. This entails a much *less well-defined* conception of what is good and bad; but at the same time it entails a more *optimistic* view of human capacity for virtue and for peaceful coexistence in society. The main justification for calling *Laws* more optimistic than *Republic* is that, according to the reading presented here, *Laws* assumes that answer to what morality and moral goodness are given with mankind's social nature, and that the answer to good and bad is given within a more low-brow conception of the livable society. The

answer to good and bad is not given by an *a priori* Good in another world. The fact that the three interlocutors decide among themselves on a law code in *Laws*, inspired by the immediate case of a future Cretan colony, suggests a change in moral outlook.

The text-internal analysis offered in this thesis of course raises one major question: why has Plato in *Laws*, his last work, embarked on a project so fundamentally at odds with the core principles of his own philosophy? Tantalizingly, however, this question cannot be settled in a definitive way. Looking at Plato's presumed biography for an explanation is a possible way of addressing the striking discrepancy between *Laws* and the rest of his oeuvre, but I wish to confine myself to what I consider to be a less speculative strategy of reconciliation.

Laws was written in the mid-fourth century B.C.E.; Plato died in 347 B.C.E. and, as we saw in the Introduction, according to ancient reports, left the work without having made the final correction (διόρθωσις). As I have suggested at various points in my argument, a number of ideas that are characteristic of *Laws* but militate against core principles of Plato's own philosophy in other works in fact strongly resemble the contemporary philosophical discourse of Isocrates and Aristotle in particular (and, somewhat further removed in time, also that of Protagoras, to whom Aristotle seems heavily indebted). Aristotle's naturalistic ethics, his idea of man as a social animal and of virtue understood in terms of disposition and character on the one hand,¹ and Isocrates' rhetorical notion of philosophy and virtue as being a composite interaction of natural giftedness, education, and practice on the other, seem in fact closer to *Laws*' construction of ἀρετή as self-control that can, and must, be trained, than to much that we find in Plato's other work. The resemblance with Isocrates also lies in the fact that

¹ I am not the first to note that *Laws* exhibits some very striking similarities with Aristotle's views. See e.g. BOBONICH (2002), chapter 5.

Laws does not stipulate beforehand what qualifications a good lawgiver is required to have, but entertains the idea that suitability will manifest itself in practice.

Plato's last work reflects a practical notion of authority, according to which the good lawgiver is the individual who proves worthy to perform that function well. In Plato's pragmatic project, the human life worth living is not determined by an otherworldly vision that can only be an object of knowledge, but by humans' own social nature.

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NEDERLANDSE SAMENVATTING

Dit proefschrift presenteert een nieuwe lezing van Plato's laatste en meest omvangrijke tekst, *Wetten*. Deze tekst is opgezet als een dialoog tussen drie gesprekspartners: een Cretenzer (Cleinias), een Spartaan (Megillus), en een Athener, die naamloos blijft. Deze drie gesprekspartners ontwerpen in de loop van hun conversatie een wetscode. In dit proefschrift is de vraag aan de orde wat de status is van deze wetten, of, anders gezegd, waar het gezag van deze wetten vandaan komt. Op basis van de rest van Plato's oeuvre (in het bijzonder Plato's in veel opzichten vergelijkbare werk *Staat*), zouden we immers verwachten dat normatieve teksten in een Platoons werk gebaseerd zijn op een absolute norm (zoals de Idee van het Goede in *Staat*), en worden gerechtvaardigd door middel van een beroep op een hoger gezag (zoals de filosoof-koning in *Staat*). Dit Idee van rechtvaardigheid en een hoger gezag lijken in *Wetten* echter afwezig te zijn. Plato's *Wetten* doet daarmee *in termen van Plato's eigen filosofie* vreemd en ontypisch aan.

Dit proefschrift betoogt dat de afwezigheid van een absolute norm en een hoger gezag begrepen moeten worden in het licht van het soort project dat Plato in *Wetten* opzet. Het betoogt dat dit een *pragmatisch* project is. De pragmatische principes zijn terug te zien in de inhoudelijke discussie, de specifieke invulling die wetgeving in *Wetten* krijgt, en in de opzet van de tekst. Dit wordt beargumenteerd aan de hand van een analyse van de structuur en opbouw van *Wetten*. De hier gepresenteerde interpretatie stelt ons in staat stelt

om *Wetten* als een coherent opgebouwd, kloppend, en volwaardig geheel te zien.

In de Inleiding (HOOFDSTUK EEN) wordt de methodische grondslag van deze dissertatie toegelicht. Dit proefschrift presenteert een tekst-immanente lezing van Plato's *Wetten*; dat wil zeggen dat onduidelijkheden louter binnen de tekstuele "wereld" van *Wetten* zelf verklaard worden, zónder daarbij een beroep te doen wat we over Plato's filosofie weten op basis van andere platoonse werken. Bij een tekst-immanente lezing wordt prioriteit gegeven aan consistentie *binnen* de dialoog zelf, boven consistentie *tussen* platoonse teksten. Het interpretatieve "principle of charity" van dit proefschrift onderscheidt zich daarmee van concurrerende interpretaties van *Wetten*, die vaak geënt zijn op het behoud van consistentie tussen dialogen (en die op basis daarvan eveneens, hetzij op een andere manier "charitable" zijn).

In het kader van een bespreking van de methodiek wordt ook een *status quaestionis* geboden—een overzicht over de relevante wetenschappelijke literatuur tot op heden en een beschrijving van hoe het argument van dit proefschrift zich daartoe verhoudt. *Wetten* wordt vaak, en terecht, benaderd vanuit een vergelijking met Plato's *Staat*. *Staat* is een werk met een vergelijkbare opzet, aangezien de gesprekspartners in deze dialoog eveneens een stad (*polis*) met een bepaalde constitutie (*politeia*) ontwerpen. *Staat* is echter expliciet over de basis waarop de voorgestelde *politeia* berust: de Idee van rechtvaardigheid. Meestal wordt aangenomen dat dit Idee van rechtvaardigheid ook in *Wetten* verondersteld moet worden, maar in die tekst buiten zicht blijft omdat de discussie op een "lager niveau" zou plaatsvinden. De relatie tussen Plato's twee omvangrijke politieke dialogen *Staat* en *Wetten* wordt vaak beschreven in termen van (respectievelijk) "ideaal"/"praktisch" (vanuit een unitarisch model) of "best"/"second best" (vanuit een ontwikkelingsmodel). Wat deze benaderingen doen is verklaringen aandragen voor het feit dat *Wetten* *afwijkt*

van *Staat*. Beide verklaringen zijn gestoeld op de aanname dat het filosofische idee van een stad gebaseerd op metafysische normen in *Wetten* overeind blijft, maar er bepaalde concessies gedaan moeten worden—een redenering waardoor *Wetten* al snel de status van een tweederangs ontwerp te beurt valt. Het specifieke, in dit proefschrift gehanteerde “principle of charity” werkt een meer autonome lezing van *Wetten* uit.

Dit proefschrift presenteert conclusies op basis van een systematische analyse van het filosofische argument van *Wetten*. Daarmee wordt ervan uitgegaan dat de tekst zoals wij die overgeleverd hebben gekregen min of meer indientiek is aan hoe deze door Plato bij zijn dood in 347 v. Chr. is nagelaten en een (min of meer) voltooid, zinvol geordend geheel vormt. (Overigens zonder uit te willen sluiten dat de tekst zoals wij die hebben nog een laatste redactie behoeft.) Dit verdient expliciete vermelding daar in de wetenschappelijke literatuur wel eens de neiging bestaat om onduidelijkheden toe te schrijven aan de vermeend onvoltooide staat van de tekst. Het eerste hoofdstuk biedt een overzicht van de bronnen uit de Oudheid die ervan gewag maken dat Plato bij zijn dood nog niet de laatste hand aan de tekst zou hebben gelegd. Een aantal bronnen bericht dat *Wetten* onaf, of ingrijpend herzien zou zijn voorafgaand aan de publicatie ervan—berichten die met name in de 19^e eeuw tot de veronderstelling hebben geleid dat *Wetten* zoals wij de tekst nu hebben het resultaat is van knutselpogingen door een heruitgever. Op grond van het materiaal neem ik aan dat, ofschoon niet kan worden uitgesloten dat er kleine ingrepen door een editor zijn gepleegd, of dat de tekst een laatste correctie heeft moeten ontberen, er onvoldoende bewijs bestaat voor de these dat *Wetten* na de dood van Plato ingrijpend is herzien. Eveneens bestaat er in de literatuur allerm minst consensus over de vraag welke kenmerken of verschijnselen op de onvoltooide staat van *Wetten* zouden wijzen.

Het tweede deel van de inleiding geeft een schets van het conceptuele systeem dat ten grondslag ligt aan Plato's hantering van de notie

“deskundigheid” (*technê*). *Technê* is een centrale notie in het platoonse gedachtegoed. De notie van *technê* wordt veelvuldig gebruikt als analogie voor het morele domein. Doordat de personages in de platoonse teksten over moraal praten alsof het een expertise is, neemt morele kennis de conceptuele structuur aan van een *technê*. Het soort vermogen van een morele autoriteit wordt daardoor gelijkgesteld aan, bijvoorbeeld, de expertise van een arts. Analooq aan een arts is er een morele expert, iemand die over menselijke moraal met gezag uitspraken kan doen. De term *technê* activeert een aantal vooronderstellingen (afhankelijk van het soort *technê* waarop een beroep wordt gedaan). *Technê* impliceert dat: (1) het soort kennis een bestaand specialisme is (bijv. geneeskunst), (2) met een vastliggend *object* (wat ware gezondheid is), (3) met een vastliggend doel (gezondheid), (4) dat er één *juiste* manier van toepassing van die kennis, en (5) een persoon of groep die objectief baat heeft bij die kennis (de patiënt). *Technê* vervult daarmee een belangrijke persuasieve rol in het werk van Plato. In de inleiding worden de vooronderstellingen van de *technê*-analogie (die in de teksten vaak impliciet blijven) geëxpliciteerd; in latere hoofdstukken zal betoogd worden dat dit model op cruciale punten in *Wetten* op een heel andere manier wordt ingezet en daarmee niet volledig overeind wordt gehouden.

De inleiding geeft eveneens een globaal overzicht van de structuur van *Wetten*. Boek I-III wordt in dit proefschrift aangeduid als de “openingsdiscussie”. In deze fase van de conversatie bediscussiëren de gesprekspartners meer algemene thema’s als het doel van wetgeving, het nut van een aantal sociale instituties (I-II) en bestaande constituties (III). Aan het einde van boek III neemt de discussie een nieuwe wending: als de Athener zich afvraagt of er een soort test is die hen in staat stelt om de werkbaarheid van de constateringën uit hun discussie tot noch toe te testen, vertelt Cleinias dat hij deel uitmaakt van een tienhoofdige commissie die belast is het maken van een wetcode voor een nieuwe op Kreta te stichten kolonie vanuit Knossos.

Geïnspireerd door deze “case” besluiten de drie gesprekspartners nu zelf een wetcode te gaan maken in hun conversatie (*logôi*)—mogelijk heeft Cleinias daar ook nog wat aan als er straks écht wetten gemaakt gaan worden. In Boek IV-VI worden de geografische ligging en magistraten van de voorgestelde kolonie besproken. In Boek VI-XII volgt dan het formuleren van een serie wetten. Boek XII sluit af met de introductie van de zogenaamde ‘nachtelijke raad’ en een overgang naar de werkelijke wetgeving (*ergôi*).

Om te kunnen vaststellen of er in *Wetten* geen sprake meer is van een absolute gezagsclaim moet eerst geanalyseerd worden hoe zo’n claim vorm krijgt. HOOFDSTUK TWEE biedt daarom een beschrijving van dergelijke gezagsclaims in drie andere platoonse teksten: *Apologie van Socrates*, *Crito* en *Staat*. Dit hoofdstuk analyseert hoe in elk van de drie tekstgenres een beroep wordt gedaan op een hoger gezag om de erin gepresenteerde morele claims te legitimeren.

Apologie is een redevoering die Socrates voor de Atheense rechtbank zou hebben gehouden. Socrates is op twee ernstige gronden aangeklaagd: dat hij vreemde goden zou introduceren (*asebeia*), en dat hij de jeugd verkeerde ideeën zou bijbrengen. In zijn verdedigingsrede presenteert hij zichzelf, en zijn gehele levensstijl, als de drager van een goddelijke missie. Hij claimt dat hij niet anders *kon*, omdat hij de godheid dient. Hij herleidt zijn levensloop tot twee verschillende goddelijke instanties: de god in Delphi en zijn goddelijke intuïtie (zijn *daimonion*). Tegelijkertijd is deze verdedigingsrede, paradoxalerwijs, een *aanklacht* tegen de Atheners die een vonnis over Socrates moeten uitspreken. Socrates claimt dat *hij* altijd aan de kant van het recht heeft gestaan en dat het in het belang van de stad is dat men hem laat leven: hij vergelijkt zijn publieke optreden met een horzel die de logge Atheense stad alert moet houden.

Crito is een heel ander soort tekst, wél een echte dialoog, zoals de meeste werken van Plato, en ook complexer *qua* opbouw dan *Apologie*. Ook hierin treffen we een Socrates-figuur die zich verdedigt voor iets dat zijn publiek (zijn

vriend Crito) niet begrijpt. Socrates is inmiddels ter dood veroordeeld, en Crito is gekomen om Socrates ervan te overtuigen dat het beter is om uit de gevangenis te ontsnappen. Hij doet een beroep op de verplichtingen die Socrates heeft aan zijn vrienden (*philoï*). Volgens de gedachtengang van Crito zou het rechtvaardig zijn als Socrates uit de gevangenis zou ontsnappen (om in een andere stad onderdak te vinden). Socrates weigert dit echter—daarmee dus berustend in zijn doodvonnis. Hij stelt het tegenovergestelde, namelijk dat het *onrechtvaardig* is om te ontsnappen, en rechtvaardig om aan de wetten van de stad te gehoorzamen. Hij heeft de kans gehad de wetten te overtuigen (in *Apologie*), maar dat is hem niet gelukt. Nu heeft hij zich te schikken. Dit argument van Socrates wordt verwoord door de wetten van Athene, die door Socrates worden opgevoerd als als zijn eigen opponenten. De speech van de Atheense wetten doet, evenals het argument van Crito, een beroep op vriendschap en loyaliteit (*philia*). Het door de wetten van Athene gehanteerde begrip van loyaliteit is echter loyaliteit aan een groter belang, namelijk het belang van de stad als geheel. Zonder zelf uitspraken te doen over wat rechtvaardigheid nu écht is, kiest Socrates voor het standpunt van de wetten en laat hij zich dus uiteindelijk leiden door de loyaliteit aan de stad. Ofschoon wel is gedacht dat de strijdbare houding van de Socrates-figuur in *Apologie* incompatibel is met zijn minder onbuigzame houding in *Crito*, laat een analyse van de argumenten waarmee Socrates zijn gedrag/keuze legitimeert zien dat hij consistent is in zijn houding ten opzichte van de Atheense *polis*. Het verschil in argumenten tussen *Apologie* en *Crito* wordt verklaard door de verschillende contexten: *Apologie* is een *redevoering* (geen dialoog) voor een *vijandige* setting (een rechtbank); *Crito* is een *dialoog* met een *vriend* (waarin een beroep op een goddelijke intuïtie geen effect zou hebben).

De derde tekst die in het tweede hoofdstuk besproken wordt is Plato's dialoog *Staat* (*Politeia*). In *Staat* is de vraag wat rechtvaardigheid wérkelijk is. Om hier achter te komen wordt een rechtvaardige stad (*polis*) aan een

onderzoek ontworpen: wat is nu het kenmerk van een rechtvaardige stad, d.w.z., wat is het dat een rechtvaardige stad rechtvaardig maakt? Deze vraag wordt beantwoord door uit te gaan van de hypothese van een hoger gezag: de rechtvaardige stad is de stad waarin de morele expert het voor het zeggen heeft. Het derde deel van het tweede hoofdstuk analyseert hoe dit argument vorm krijgt. Deze morele expert is de filosoof. De stad die bestuurd wordt door de filosofen heeft een bepaalde klassenstructuur (met de filosofen die het voor het zeggen hebben). Deze specifieke interne structuur is wat de rechtvaardige stad rechtvaardig maakt, en het is vanwege deze structuur dat de rechtvaardige stad het als enige verdient om “constitutie” (*politeia*) genoemd te worden. *Staat* presenteert een sluitend systeem: we kunnen met zekerheid aannemen dat *deze* stad wérkelijk rechtvaardig is op gezag van de filosoof, die immers expertkennis heeft van het absoluut Goede en daardoor altijd het goede zal doen.

Het tweede hoofdstuk biedt een analyse van hoe claims op een hoger gezag in drie verschillende contexten verschillende vormen aannemen: Socrates die appelleert aan goddelijke instanties in *Apologie*; Socrates die appelleert aan een hogere loyaliteit aan de stad en haar wetten die het individuele belang ontstijgt in *Crito*; en de filosoof wiens gezag berust op zijn kennis van het Goede in *Staat*.

Met HOOFDSTUK DRIE wendt dit proefschrift zich tot *Wetten*. De wetcode die door de gesprekspartners ontworpen wordt begint pas halverwege het werk, in Boek VI. Hoofdstuk drie onderzoekt hoe Plato in de openingsconversatie (Boek I en II) de toon zet voor de rest van het werk. Waar bevinden we ons, wat zijn de thema's die bediscussieerd worden, waar draait het om in deze openingsscène? Twee dingen vallen direct op. Ten eerste de fysieke setting van de dialoog: in *Wetten* bevinden ons op het eiland Creta, terwijl alle andere platoonse teksten zich in of, in één geval (*Phaedrus*), in de directe omgeving van,

Athene bevinden. Ten tweede ontbreekt de figuur van Socrates, die in alle andere platoonse teksten wél optreedt (zij het in verschillende rollen).

Ook de discussie zelf ontwikkelt zich echter niet zoals men dat in een platoonse dialoog zou verwachten. In de eerste twee boeken van *Wetten* treffen we een discussie aan over het nut van *symposia* (drinkgelagen) voor de opvoeding (*paideia*). Het derde hoofdstuk traceert welke opvatting van menselijke kwaliteit of deugd (*aretê*) en de goede samenleving uit deze discussie spreekt. Is dit nog steeds een objectieve, metafysische norm van het goede? De *symposia* worden geïntroduceerd als de parallel van de Cretenzisch-Spartaanse *gymnasia* en *syssitia* (militaire kazernes). Het uitgangspunt van de discussie was dat de Cretenzisch-Spartaanse *gymnasia* erop gericht zijn mensen te trainen in wat in Creta en Sparta geldt als de hoogste deugd: moed in oorlog. Het *symposion* schetst een parallel en in feite superieur scenario, omdat het hetzelfde bewerkstelligt in een vreedzame context: in plaats van een training in militaire moed is een goed geleid *symposion* een training in de deugd van de zelfbeheersing. Dat in Creta en Sparta, de steden waar Cleinias en Megillus vandaan komen, drank überhaupt verboden is, zorgt ervoor dat de discussie een extra lading krijgt: de Athener probeert zijn gesprekspartners ervan te overtuigen dat een gebruik dat bij hen uit den boze is, en waarmee zij dus van kinds af aan zijn opgevoed, in feite juist—mits onder goede begeleiding gedronken—van centraal belang is voor het welslagen van de samenleving.

Dit scenario van het *symposion* als een gelegenheid waarbij deugd wordt getraind wijkt in belangrijke opzichten af van het 'gezagsmodel' voor deugd en een samenleving zoals we dat in *Staat* aantreffen. Hoofdstuk drie betoogt dat het *symposion* een pragmatisch, meer common sense-sociaal model voor ogen stelt. Het beeld van het *symposion* impliceert bijvoorbeeld dat deugd een noodzakelijke voorwaarde is voor het voortbestaan van een samenleving, en dat menselijke deugd dus die kwaliteit is die de menselijke samenleving mogelijk maakt en in stand houdt—een gedachte die we eerder met Aristoteles

(‘de mens is een politieke diersoort’) associeëren dan met Plato. Tevens impliceert het model van het *symposion* dat het gaat om menselijk *gedrag*: het behoud van de groep is afhankelijk van hoe mensen zich jegens elkaar gedragen. Een van de consequenties van deze analyse is ook dat de gedachte van de driedeling van de ziel en de daarbij behorende klassen (zoals we die aantreffen in teksten als *Staat* en *Phaedrus*), incompatibel is met de psychologie en ethiek van *Wetten*.

Zoals gezegd staat in Boek I en II van *Wetten* het nut van *symposia* voor de opvoeding (*paideia*) centraal. In de loop van de discussie worden de *symposia* in retrospectie ingebed in een diachrone beschrijving van opvoeding, van kind tot hoogbejaarde. *Paideia* wordt hier voorgesteld als een proces van socialisatie—waarbij het eindresultaat (complete deugd) in feite de verwezenlijking is van een reeds van nature en vanaf de geboorte aanwezig sociaal potentieel in ieder mens, vergelijkbaar met het aangeboren menselijke vermogen ritme en melodie (kortom, muziek) waar te nemen. Dit lijkt dus een beduidend optimistischer geluid te zijn dan het idee dat we in *Staat* aantreffen, dat het aan slechts zeer weinigen gegeven is om überhaupt de ware deugd te bereiken.

De discussie is beëindigd op het moment dat Cleinias en Megillus instemmen met het nut van *symposia*. Boek I en II vormen daarmee niet alleen een conceptuele inleiding op het werk als geheel, maar zijn ook in termen van de dynamiek tussen de gesprekspartners van fundamenteel belang: de Athener slaagt erin zijn gesprekspartners te overtuigen van een standpunt waarvan het gezien hun achtergrond niet te verwachten was dat zij dat zouden aannemen. Het belang hiervan wordt verder toegelicht in hoofdstuk 6. Een tweede consequentie is dat met het verlaten van het gezagsmodel voor moraal, de weg nu vrij is voor de gesprekspartners om zelf wetten op te stellen.

Na een analyse van de openingsdiscussie en de setting van de dialoog in hoofdstuk drie, richt HOOFDSTUK VIER zich op de vorm van de wetgeving zoals die door gesprekspartners in de praktijk wordt gebracht. Hoofdstuk vier begint met een analyse van de analogie voor wetgeving die direct aan de wetscode van de gesprekspartners vooraf gaat. In deze analogie (Boek VI) wordt wetgeven vergeleken met een specifiek *proces*: het werken aan een schilderij. Hierbij moet opgemerkt worden dat analogieën in Plato's teksten een veel voorkomend persuasief middel zijn (zie ook boven, hoofdstuk een). Zij dienen ertoe om een bepaalde activiteit A (hier: wetgeven) te modelleren op een andere activiteit B (hier: schilderen). Hierdoor wordt het mogelijk om in termen van B (schilderen) over A (wetgeven) te spreken, en neemt de structuur van activiteit A (wetgeven) de structuur van activiteit B (schilderen) aan.

Nu geeft de schilders-analogie in Boek VI zelf een enigszins curieuze voorstelling van schilderen. Schilderen wordt voorgesteld als een activiteit zonder duidelijk eindpunt: het is een gefaseerd proces dat wordt begonnen door een schilder, maar pas kan worden voltooid (zo voltooiing überhaupt mogelijk is—iets wat door de analogie in het midden gelaten wordt) door een opvolger. De eerste schilder maakt een schets. Deze schets moet door een opvolger verder worden ingevuld en (mogelijk) aangepast. *Wetten* is niet het enige platoonse werk waarin de analogie van de schilder wordt gebruikt om een *analogon* (datgene waaraan het analoog is) te “framen” (er een heel gerichte voorstelling van te geven). Schilderen wordt in andere werken doorgaans voorgesteld als “als het vervaardigen van een kopie”. De schilder-analogie in *Wetten* wijkt hier op twee manieren van af: ten eerste is het schilderij (analoog aan een wetscode) geen kopie. Ten tweede wordt schilderen hier niet voorgesteld als een activiteit met een duidelijk eindpunt.

De analogie presenteert wetgeven als een langdurige activiteit—mogelijk een decennium, potentieel oneindig. Deze schilder-terminologie wordt nu ook gebruikt voor de wetgevende activiteit van de gesprekspartners zélf, die op de

analogie volgt. Alvorens namelijk tot het daadwerkelijk formuleren van wetten over te gaan, wenden zij zich tot een fictief publiek. Deze fictieve addressaten zijn hun opvolgers, de mensen die ná hun dood geacht worden de schets van de gesprekspartners zelf verder in te vullen. Deze speech tot de opvolgers (en überhaupt het idee dat er opvolgers nodig zijn) is overtuigend binnen de logica van de zojuist uitgewerkte analogie. Hieruit blijkt ook dat wat de gesprekspartners in *Wetten* zelf doen, de status heeft van een eerste schets, en geen definitieve wetscode is.

Ook in de loop van de wetscode die van Boek VI tot XII geformuleerd wordt, wordt herhaaldelijk teruggegrepen op de schilder-terminologie die in Boek VI is geïntroduceerd. Dit gebeurt op die plaatsen in de wetscode waarvan de gesprekspartners vaststellen dat op een later moment nadere invulling en afstemming nodig is. De tweede helft van hoofdstuk vier analyseert de passages waarin wordt verwezen naar de nadere invulling van de schets. Deze passages bieden als het ware een raam op de toekomst: de gesprekspartners doen hier uitspraken over wat er verder nog bepaald moet worden, wie dat moet(en) doen, en wat voor proces dat is. Wetgeven is nu eenmaal een langdurig proces, omdat er tijd voor nodig is om te testen of de regels goed werken, om vast te stellen of er aanpassingen nodig zijn, en om die te realiseren. Wetgeving is daarmee een *dynamisch* proces, dat een wisselwerking impliceert tussen de praktijk, de ervaring van de wetgevers, en de wetscode zelf.

Het idee van wetgeven waarmee de gesprekspartners werken, en hun eigen wetscode, reflecteren dus een dynamische, pragmatische opvatting van wetgeven. Er is geen suggestie dat de basis voor wetten een hoger idee van rechtvaardigheid zou zijn. De voltooiing van wetscodes, of delen daarvan, lijkt louter ingegeven vanuit pragmatisch oogpunt: het zou een onwerkbaar situatie opleveren om altijd dingen te blijven veranderen; het is in het belang van de samenleving dat er een stabiele wetscode is. Mogelijke veranderingen worden

ingegeven vanuit de praktijk en kunnen alleen met instemming van de betrokkenen worden doorgevoerd.

HOOFDSTUK VIJF onderzoekt een tweede aspect van de vorm die de wetten in *Wetten* krijgen: de zogenaamde preambules: teksten die aan de eigenlijke wet (het gebod of verbod) vooraf gaan. Dit hoofdstuk betoogt dat ook de toevoeging van preambules aan wetten in *Wetten* wijst op een pragmatische benadering van wetgeving. De reden voor de introductie van de preambules is namelijk puur pragmatisch: zij dragen ertoe bij, dat de burgers zich aan de wetten houden. Derhalve is de vraag wat voor soort aanspreekvorm mensen het meest volgbaar maakt, d.w.z. het meest geneigd om te doen wat de wet wil. Het feit dát dit überhaupt door de gesprekspartners ter discussie wordt gesteld is veelzeggend: met deze preambules doen zij een voorstel voor de invulling van wetgeving door henzelf in hun rol van wetgevers.

De kwestie hoe een wetgever burgers het meest volgbaar maakt wordt in *Wetten* beslecht door middel van de introductie van een tweede analogie voor wetgeven, een arts-analogie. Hierin worden twee manieren van wetgeven, (1) zonder, en (2) mét preambules vergeleken met twee soorten behandeling door een arts: wetgeven zonder preambules (met alleen een verbod of gebod) met een slaven-arts, en wetgeven mét preambules met behandeling van vrije patiënten door een vrije arts. De slavenarts gebruikt slechts dreigementen en heeft altijd haast om weer naar de volgende patiënt te gaan. De vrije arts neemt de tijd om de patiënt te overtuigen, en gaat niet over tot het geven van voorschriften zónder diens instemming. De tweede methode zal de meeste volgbaarheid afdwingen; de eerste, die zelfs vergeleken wordt met geweld (*bia*) maakt mensen slechts weerspanniger. De analogie én de keuze voor het inzetten van preambules wordt dus gemaakt op pragmatische gronden.

Er is echter nog iets opvallend aan de arts-analogie. De beschrijving van de tweede, vrije arts, met de nadruk op de afwezigheid van tijdgebrek, op het

gebruik van argumenten, en op het in gesprek treden van arts en patiënt, doet namelijk erg denken aan de platoonse dialectiek, en speciaal aan de dialectische invulling die retorica krijgt in Plato's *Phaedrus*. Volgens veel commentatoren is dit nu echter juist het punt waarop de analogie niet meer stand houdt: wetten zijn geen gesproken teksten; een burger *leest* een wet, en treedt hier niet mee *in gesprek*, zoals de arts-analogie suggereert. Het vijfde hoofdstuk presenteert echter een lezing waarin de analogie binnen de wereld van de *Wetten* overeind wordt gehouden. Ten eerste zijn in *Wetten* zelf de wetten die door de gesprekspartners worden geformuleerd onderdeel van een gesproken tekst, een dialoog. Ten tweede is de wetscode in *Wetten* nog niet de échte wetscode voor de nieuwe Cretenzische kolonie, maar slechts een oefening van wetgeven "in speech" (*logôî*). *Wetten* eindigt met het idee dat de gesprekspartners nu (pas) écht wetten gaan maken, d.w.z. nu voor een werkelijke nieuwe kolonie (Magnesia). Aan het eind van *Wetten* ligt het dus nog relatief open wat nu goede wetten zijn—er is juist géén blueprint van een wetscode gegeven. Deze opzet van het werk zou stroken met het idee dat het aan de betrokken gemeenschap zelf is om wetten neer te leggen, in plaats van een situatie waarin een autoriteit met een hoger inzicht dit van te voren, los van elke context, zou kunnen bepalen. De dialectische situatie blijft dus tot het einde toe in stand.

HOOFDSTUK ZES onderzoekt twee in *Wetten* figurerende instanties van wie men zou kunnen denken dat zij een hogere autoriteit zijn: de wat mysterieuze "nachtelijke raad" die helemaal aan het eind wordt geïntroduceerd (in Boek XII) en de Atheense vreemdeling zelf, die Plato immers de wetten in *Wetten* in de mond legt. Het gaat echter in geen van beide gevallen om een moreel expert/een instantie met morele deskundigheid. Hun taken en kwalificaties zijn niet in overeenstemming met de filosoof-koningen in de *Staat*. De nachtelijke raad wordt geïntroduceerd als een instantie die het behoud (*sôtêria*) van de wetscode garanderen kan garanderen. Dit kan zij doen dankzij haar samenstelling uit

jonge en oude mensen. De raad bezit daarmee de uiteenlopende kwaliteiten die nodig zijn voor het zelfbehoud. De termen waarin de kwalificatie van de leden van de raad worden beschreven grijpen terug op de deugd (*aretê*) terminologie uit Boek I en II. De functie van de raad wordt daarmee geplaatst in een 'naturalistische' kader: het hoogste belang is het behoud van een samenleving. Door het weer opnemen van de terminologie uit boek I en II in het kader van de nachtelijke raad in Boek XII, vormt de discussie van de nachtelijke raad het sluitstuk van *Wetten*.

De naamloos blijvende Athener, die de positie inneemt die in veel andere platoonse werken door Socrates wordt bekleed, blijft de een mysterieuze figuur. Hij beroept zich niet op een hogere autoriteit. Toch heeft hij wel degelijk een bepaald gezag in de dialoog: hij weet zijn gesprekspartners te overtuigen in Boek I en II (zie hoofdstuk drie), en wordt door hen herhaaldelijk geprezen om zijn inzicht in de bedoelingen van wetgevers van lang geleden. Zijn inzicht wordt zelfs vergeleken met dat van een 'ziener' (*mantis*). Maar dit is een heel andere vorm van gezag dan dat van een morele expert: déze gesprekspartners zijn onder de indruk van de inzichten van de Athener, en willen hem graag bij het stichten van Magnesia betrekken. In een dergelijke constructie berust gezag op het inzicht van iemand van wie anderen *geloven* dat het een hoger inzicht is (de Athener wordt door zijn gesprekspartners vergeleken met een *mantis*, een ziener). *Wetten* lijkt dus uiteindelijk ook een meer pragmatische opvatting van gezag te impliceren: mensen moeten gelóven dat iets zal werken en dat een bepaald persoon gekwalificeerd is om bij te dragen, niet op een gezag dat bestaat bij gratie van objectieve morele kennis en daarmee bestaat los van de vraag of anderen zich daardoor daadwerkelijk laten leiden.

De Conclusie (HOOFDSTUK ZEVEN) stelt dat de hier gepresenteerde analyse leidt tot de conclusie dat *Wetten* een 'pragmatisch project' is. Dit betekent dat *Wetten* afstand neemt van Plato's eigen platonisme. Dit werpt een nieuw licht op Plato

en zijn filosofie. De logische vervolgvraag—die open blijft—is hoe we dit zouden moeten verklaren. Het feit dát de hier gepresenteerde analyse deze vraag opwerpt is ondergeschikt aan het belang van een lezing van *Wetten* die ons in staat stelt dit werk als een coherente, weldoordachte en zinvolle tekst te interpreteren. Bezien in het licht van de historische context, en in het bijzonder van filosofen die in die tijd (ca. 350 v. Chr.) werkzaam waren (geweest) in Athene, Isocrates en Aristoteles (die beïnvloed werd door Protagoras), lijkt Plato's pragmatische project in *Wetten* minder een anomalie dan bezien in relatie tot Plato's eigen geschriften.

CURRICULUM VITAE

Myrthe Laura Bartels was born on 21 September 1983 in Amsterdam, the Netherlands. Between 1995 and 2001 she passed through the gymnasium at the Fons Vitae Lyceum in Amsterdam. Between 2001 and 2007 she studied Classical Languages and Literature at Leiden University (doctoraal, with distinction). In this period, she also studied Russian language, literature and history (2003-2004), published poetry in the literary periodical *De Revisor* (2003), was student-assistant of the “lexico-team” preparing the new Ancient Greek/Dutch dictionary (2006-2007), and research-assistant of the project ‘Sources and Echoes of Protagoras’ (2006-2007).

From 2007-2012, she was employed as AiO (Junior Researcher) at the Leiden University Institute for the Arts in Society (formerly Pallas). During her doctorate, she also taught courses on Elementary and Intermediate Classical Greek, on Sophocles’ *Antigone*, and on several Platonic dialogues. Between 2008 and 2010, she was the national representative of the Dutch PhD students in the Educational Board of OIKOS, the Dutch national research school in Classics. In 2010, she co-organized the bi-annual OIKOS-masterclass at the Dutch Institute at Athens for the OIKOS PhD-students. In 2011, she conducted research for this thesis at Stanford University, USA, under the auspices of Professor Chris Bobonich, funded by the Prins Bernhard Cultuur Fonds (Reiman-de Bas Fonds) and the Leiden University Fund (LUF). In the same year she also participated in the MOISA Summer School on Ancient Greek Music at the University of Corfu, Greece. In 2012-2013, she finished her thesis with the support of Professor Ineke Sluiter’s Spinoza Prize. Parts of the research for this thesis were presented as lectures or at national and international conferences, including Amsterdam, Anaheim (USA), Philadelphia (USA), Tokyo (Japan), Stanford (USA) and Katowice (Poland).

