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

Bartels, M.L.

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Author: Bartels, Myrthe Laura

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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 (πειθώ); 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: Lysurgus 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 κατοικίσειν 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, ἢ 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 unplatonic, 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 πρώτοι 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 πρώτοι 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); HENTSCHEKE (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 an 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 ἑτέραν πολιτείαν, 1265a3-4).

¹⁹ *Pol.* 1265a4-10: ἔξω γὰρ τῆς τῶν γυναικῶν κοινωνίας καὶ τῆς κτήσεως, τὰ ἄλλα ταῦτ' ἀποδίδωσιν ἀμφοτέροις ταῖς πολιτείαις· καὶ γὰρ παιδείαν τὴν αὐτὴν, καὶ τὸ τῶν ἔργων τῶν ἀναγκαίων ἀπεχομένους ζῆν, καὶ περὶ συσσιτίων ὡσαύτως· πλὴν ἐν ταύτῃ φησὶ δεῖν εἶναι συσσίτια καὶ γυναικῶν, καὶ τὴν μὲν χιλίων τῶν ὄπλα 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. HENTSCHKE (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 $\nu\omicron\upsilon$ $\delta\iota\alpha\nu\omicron\mu\eta$, 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 (¹⁹²²), 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” (ἀμῆ 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 (ἡ μία) 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: ἤν [sc. πολιτείαν] δὲ νῦν ἡμεῖς ἐπικεχειρήκαμεν, εἴη τε ἂν γενομένη πως 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 SLUTTER (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 προεσβύτερος 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 διεἴλεν 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 αὐτοῦς· εἰ δὲ καὶ νῦν δοκοῦσι συντετάχθαι κατὰ τὸ δέον, οὐκ αὐτοῦ τοῦ Πλάτωνος συνθέντος ἀλλὰ τινος Φιλίππου Ὀπουντίου, 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 κηρῶ⁴⁶) 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 κηρῶ 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 κηρῶ 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 κηρῶ does mean on wax tablets. WILAMOWITZ-MOELLENDORFF (1919), 648 n. 1, assumes that ἐν κηρῶ 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 μεταγράψειν 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 (1922) 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 (1922), 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 μέτρον.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 γὰρ, φασί, θεὸν τὸ ὕδωρ λέγειν, κόλασιν δὲ τὴν κρᾶσιν, ποιητοῦ τινος τῷ ὄντι οὐχὶ νήφοντός ἐστι. See WALSDORFF (1927), 24-25.

⁵⁶ Long. *De Subl.* 4.16-20: ὁ τᾶλλα θεῖος Πλάτων τὰς δέλτους θέλων εἰπεῖν ‘γράψαντες’ φησὶν ‘ἐν τοῖς ἱεροῖς θήσουσι κυπαριττίνας μνήμας’. καὶ πάλιν ‘περὶ δὲ τειχῶν, ὦ Μέγιλλε, ἐγὼ ξυμφερομένην ἂν τῇ Σπάρτῃ τὸ καθεύδειν ἔαν ἐν τῇ γῆ 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 ψυχρὸν in the latter's *Περὶ λέξεως*: τὸ ψυχρὸν ἐστὶ τὸ ὑπέρβαλλον τὴν οἰκείαν ἀπαγγελίαν,⁶¹ "frigidity is that which transcends the expression appropriate to the thought".⁶² Τὸ ψυχρὸν 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 ψυχρὸν 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 ψυχρὸν. 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 ἄν 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 ἀύστηρόν· (...) 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 πολιτικὴ 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 τέχνηαι and pseudo-τέχνηαι: the first are ἐπιστήμηαι, while experience (ἐμπειρία) is the basis of the mode of proceeding of the pseudo-τέχνηαι.⁷⁵ Sophistry (σοφιστική) and cake-baking (ὀψοποιική) are, for example, dismissed as the deceptive counterparts—they are ἐμπειρίαί, "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 τέχνηαι in Plato: BUMBRAUGH (1978), ROOCHNIK (1992), especially 185-189, (1996), BALANSARD (2003). GRAHAM (1991) provides an analysis of the τέχνηαι 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, e9; [*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 ἢ γε ἀρετὴ ἐκάστου, καὶ σκεύους καὶ σώματος καὶ ψυχῆς αὐτῶν καὶ ζώου παντός, οὐχ οὕτως εἰκὴ κάλλιστα παραγίγνεται, ἀλλὰ τάξει καὶ ὀρθότητι καὶ τέχνῃ, ἣτις 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 τέχνη 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), τέχνη’s “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 τέχνη’s 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 αἰσχρῶν 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, ἀλητική, 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 τέχνηαι 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 μισθαρονητική (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 ἐπαίων,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 ῥητορικὴ: *Gorg.* 453a2; cf. *Phdr.* 260d4-8; *Plt.* 310e-311a: ἔργον of πολιτικὴ 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 σκοπὸς ... 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 ... ἰατρικὴ ἰατρικὴ τὸ σύμφερον σκοπεῖ ἀλλὰ σώματι), 342d5-6 (οὐδὲ ἰατρὸς οὐδεὶς, καθ’ ὅσον ἰατρὸς, τὸ τῷ ἰατρῷ 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 ἀδικούντας πάντας ἀδικεῖν, *Gorg.* 509e5-7). For *akrasia* in Platonic philosophy, see recently BOBONICH & DESTREÉ (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 ἰατρική (and to some extent γυμναστική) are pre-eminently τέχναι that involve pains: *Ph.* 94c9-d6 (ἰατρική 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). Ἰατρική 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 (ἰητὴρ κακῶν), woodworker (τέκτων δούρων), and the divine singer (θέσπις ἀοιδός); the herald (κηροῦξ) 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 Trygaios 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 "δῆμιον-φεργός, in turn from δῆμιον 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 τέχνηαι are, for example, mathematics and the productive τέχνηαι.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 σταθμὸν, οὐδὲ ἀριθμὸν οὐδένα ἄλλον, πρὸς δὲ ἀναφέρων εἶση τὸ ἀκριβές, οὐκ ἂν εὐροίης ἄλλ' ἢ τοῦ σώματος τὴν αἴσθησιν, ed. LITTRÉ).

¹²¹ ROOCHNIK (1996), 61. 'Stochastic' τέχνη is demarcated from other τέχνηαι 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 τέχνηαι 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 τέχνηαι on similar grounds. Those that make use of number (arithmetic, measurement, weighing) have great accuracy (ἀκριβεία, cf. ἀκριβεστάται τέχνηαι, 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 τέχνηαι 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 ἄς 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 τέχνηαι 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 “techne2”). 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 σφαλῆ, ἰκανὸς ἐπανορθοῦσθαι, 361a2; τὸν ἀλισκόμενον 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 (ἢ 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 ἐπέρωθεν, 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 (ἔλεγχος, 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 ἑαυτῆς 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 κατοικίαι τ’ ἐστίν, ἀλλὰ τῷ γεννηθέντι σωτηρίαν ἐξευρόντα τελέως ἀεὶ, τότε ἤδη νομίζειν πᾶν ὅσον δεῖ παραχθῆναι πεπραχθῆναι, 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 περίθειν—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 *δικαιοσύνη* 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.