Plato's pragmatic project : a reading of Plato's Laws
Bartels, M.L.

Citation
Bartels, M. L. (2014, June 10). *Plato's pragmatic project : a reading of Plato's Laws*. Retrieved from https://hdl.handle.net/1887/25982

Cover Page

The handle http://hdl.handle.net/1887/25982 holds various files of this Leiden University dissertation.

Author: Bartels, Myrthe Laura
Title: Plato's pragmatic project : a reading of Plato's Laws
Issue Date: 2014-06-10

CONCLUSION:
PLATO'S PRAGMATIC PROJECT

The present study has taken as its starting point a number of anomalies in *Laws*. It has discussed these in detail and attempted to offer a reading of *Laws* in which the anomalies can all be integrated into a philosophically coherent argument. The absence of φιλοσοφία and the diminished prominence of δικαιοσύνη, the Cretan setting, the absence of Socrates, the *symposion* as a model for social norms, and the positive attitude to πείθειν—all these are features that, in a Platonic text, demand explanation.

The present thesis has made these peculiarities the basic ingredients of its reading. It has argued that they can all be explained as reflections of a *pragmatic* project. *Laws* does not assume, or appeal to, a higher, metaphysical moral Truth, and we encounter the familiar Platonic terminology reappropriated in the service of an un-prototypical political project.

Some stock Platonic terms, such as φιλοσοφία and δικαιοσύνη, have almost disappeared from *Laws*. Their diminished prominence is consistent with our observation that the moral norm presupposed in *Laws* is not the metaphysical norm of the absolute Good, and that *Laws*' philosophy does not acknowledge an objective moral authority. Φιλοσοφία and δικαιοσύνη are central notions in the metaphysically oriented system of Plato's *Republic*—

which is, both in its plan (the founding of a *polis*) and in its scale, *Laws'* counterpart within Plato's oeuvre. Φιλοσοφία and δικαιοσύνη are part of a system with a metaphysical orientation, which seems to be the reason why these terms would have been ill-fitting in the context of a political project that operates on the basis of a different, and much less uniform, kind of norm.

The conversation of *Laws* is situated on the island of Crete. The interlocutors, Cleinias and Megillus, come from a particular cultural tradition. *Laws* is thus the only text in Plato's oeuvre that is not set in, or near, Athens; and it is the only text in which the discussion starts off from the recognition that different cultural traditions and different societies have different conceptions of morality and virtue. The Cretan setting situates the law code of the interlocutors in a specific cultural and geographical context. Thus, both the discussion and the action taking place at the dramatic level of *Laws* reflect the assumption that any act of lawgiving is necessarily endemic in, and attuned to, a specific, practical, *context*.

Laws is the only Platonic text in which Socrates is absent. The *persona* of Socrates in Plato's works is closely connected with the claim that there exists a higher moral Truth. In *Apology* we witness how Socrates introduces the awareness of this Truth to his fellow citizens, and how he justifies his mode of life in terms of it; in *Crito*, we witness how Socrates justifies his refusal to escape to the friends who have offered to save him by appealing to a higher, more abstract loyalty than the loyalty of human friendship; in *Republic*, Socrates designs a truly just *polis* (see chapter two). The absence of Socrates from *Laws* is therefore consistent with our observation that the discussion of good laws does not unfold on the assumption that there exists a higher moral Truth.

The *symposion* is introduced in the opening discussion (Books I-II) as a scenario from which moral norms can be derived. The norm implied by this scenario is social cohesion and the σωτηρία of the group as a whole. A *polis* has to be *livable*. The pragmatic norm of livability sparks off a whole set of ideas and

assumptions about human virtue and the well-organized society. In the livable *polis* social interaction is characterized by φιλία, friendliness and benevolence. Virtue is the quality that enables human beings to live together harmoniously and peacefully, self-restraint. Ἀρετή can be acquired, and strengthened, by *training*. The pragmatic norm is much more dynamic and vague than the Good (which only manifests itself in the (only) just society (a static class-society)), thus allowing for diversity of, and gradations in, livable *poleis*. Consequently, ἀρετή and the good *polis* can only be defined by approximation: ἀρετή is moderate, non-aggressive behaviour, and the good *polis* is a harmonious, friendly society.

Finally, *Laws*' positive attitude to πείθειν can also be explained in terms of *Laws*' pragmatic project. The persuasive preamble is presented as the friendly legislative alternative to the directive of the law by itself, without persuasion, which is a form of βία (violence). Again, we see that "friendliness" determines interaction (in this case between preamble and citizen) in the *polis*. At the same time, the conceptualization of πείθειν as "friendly" implies that *self*-restraint is constitutive of virtue. From the perspective assuming that the livability in a *polis* depends upon citizens' success in restraining themselves, πείθειν is thus of crucial importance. (We may recall that the Laws in *Crito* offer Socrates two options: to "persuade or obey".) Πείθειν thus occupies a centre-stage position in the *polis* in which the key to social cohesion is the internalization of the laws of the *polis*.

In summing up these anomalies, I have roughly followed the sequence in which they are discussed in this thesis. The aim of this study has been to determine the ontological status of the law code in the *Laws*—are these true, just laws, or are these laws part of a different conceptual normative framework? The basic puzzle of *Laws* was the fact that the interlocutors in the dialectical discussion formulate laws on their own authority, that is, without attributing them in some way to a higher, expert moral authority—in fact, the figure of the

moral expert seemed to be absent altogether. This puzzle necessitated a reading of *Laws* that aims to do justice to the internal structure of the text: how does the text introduce, embed, and justify the lawgiving of the interlocutors? In chapters three to six I have attempted to elucidate *Laws*' internal structure, as part of the aim of this study has been to get a more firm grasp on *Laws* as a textual composition. Thus, my reading has to a large extent been guided by the sequence of the conversation of *Laws* itself, all the while bearing in mind the question why Plato has composed his work in the way he did. At the same time, I have attempted to present, as far as *Laws*' own dynamic and non-essentialistic philosophy allows, a coherent account of the philosophical underpinnings of the law code formulated at the dramatic level, and of the place of this law code within *Laws*' own philosophical outlook.

The argument of this thesis may be summed up as follows. In the opening discussion of *Laws*, Plato sets the scene for a political project that is unlike anything that we find in the rest of his oeuvre. He introduces various unknowns to his audience: a distant, unfamiliar, Cretan setting, an anonymous Athenian stranger, and two Dorian interlocutors. In this bewildering landscape, he resumes his familiar philosophical terminology of the unity and plurality of the virtues to set off a discussion about the basis of laws. The familiar terminology is used to introduce a new philosophical perspective on morality, and a notion of virtue based on a non-metaphysical norm. In a critique on the Cretan and Spartan law codes and the Cretan and Spartan conception of ἀρετή as ἀνδρεία, the Athenian is able to persuade his interlocutors that ἀνδρεία does not suffice. For ἀνδρεία he substitutes a notion of ἀρετή firmly grounded in peace and internal harmony. All societies ought to aim at peace and friendship.

The view on human virtue encountered in the opening books is an ethical naturalist or biological view. In ethical naturalism the ultimate norm is the preservation of society, society constituting the natural environment for human beings. Ethical naturalism approaches humans as a *species*; it does not only

stipulate that human society is the proper environment for the human being, but also that individual human excellence (which may broadly be referred to as "rationality") is the very behaviour that allows human beings to live together durably. This entails a relatively optimistic view of the human being: for, since the assumption is that societies are the *natural* habitat for humans, and that virtue is the kind of behaviour that allows societies to continue to exist, it seems only logical to assume that human beings possess an *innate potential for rationality*. The individual society befalls the task of educating this potential.

Books I and II present us with a playful idea of the form such almost life-long education (παιδεία) could assume. The Athenian has established a parallel between the Cretan/Spartan *syssitia* and his *symposia*, between Cretan/Spartan *gymnasia* and his *khoreia*. The *symposia* and *khoreia* have replaced the Cretan-Spartan institutions as the more sufficient education. *Paideia* is χορεία: a training in τάξις, order. In the discussion of *paideia*, we again encounter traces of a naturalist view of human morality. The citizenry (until 60) is divided into three age-choruses (children, 18-30, 30-60). The paideutic mechanism in each chorus shifts: for children, χορεία is a training in physical restraint, motivated by the pleasure they take in musical order (rhythm and harmony); for the elderly citizens, it is a training in intellectual restraint, the need for which is motivated by their simultaneous inebriation and the natural inhibition that comes with old age. The terminology of the four virtues, or at least of the two most opposite virtues, ἀνδρεία and φρόνησις, are mapped onto the ἀρετή of the two age classes most distinct from each other: in Book XII, ἀνδρεία is the virtue associated with children, φρόνησις is the virtue associated with seniors.

The opening Books (I-III) create the conceptual room for the interlocutors to embark on their own legislative project. The fact that the interlocutors themselves formulate laws is telling: lawgiving is apparently not the preserve of a moral expert. The qualified lawgiver, to the extent that *Laws* gives indications about him, is, whatever his qualification, not a moral expert. There is no fixed

qualification for a lawgiver—the requirement is merely that he aims at φιλία for his *polis*.

After the reconstruction of the philosophical scene of *Laws* and its discussion about the basis of laws, we have proceeded to the analysis of the law code of the interlocutors on the dramatic level and *Laws'* own notion of lawgiving. The Athenian introduces an analogy between the lawgiver and the painter immediately before the interlocutors embark on formulating laws (in Book VI). This analogy is of major importance for several reasons: it occurs at a crucial place in the conversation, it is the one passage in *Laws* in which the Athenian presents the most fully worked-out analogy for lawgiving, and, not least, because the analogy introduces the conceptual framework that will prove to be of structural importance for the interlocutors' own subsequent lawgiving in Books VI-XII.

The painter-analogy represents lawgiving as a prolonged *process*, that, due to its very nature and subject matter, can only be (if at all) concluded after a significant amount of time. This seems surprising in the light of the mimetic interpretation of painting in other dialogues, most notably *Republic*. But in *Laws*, there is no hint that the initial lawgiver is imitating a fixed model. Instead, lawgiving is a dynamic process, that will be terminated only if the regulations on a certain subject are sufficient. This sufficiency cannot be attained within one generation. The original lawgiver-painter therefore needs successors. The Athenian divides the process of lawgiving in two phases: first, the drawing of an "outline" (περιγραφή) by the original lawgiver, and subsequently, the filling in and amending of this outline by the lawgivers' successors.

The distinction between an outline and filling in details recurs at several places in the interlocutors' own law code, suggesting that the interlocutors are the functional equivalent of the original lawgiver in the analogy. In those cases, the painting terminology justifies why the Athenian at that point refrains from laying down down more specific regulations. These meta-legislative reflections,

about future procedures of lawgiving, offer a view of who is to complete the laws on certain issues, and reveal why lawgiving is a process. Future legislation is usually left to the lawguards in cooperation with the specialised, local officials (ἀγορανόμοι, ἀστυνόμοι, priests, judges, θεωροί, in some cases the entire δῆμος). This suggests that the reason why lawgiving is a long-term process is that *experience* and testing of regulations in practice are necessary if laws are to become sufficient. Even after the fixation, however, there are indications that supplementation and revision of the laws may go on, on the basis of insights acquired by the law-watchers who travel to other *poleis* to inspect foreign laws, or in case practice demonstrates that current regulations are insufficient.

The analysis of the interlocutors' own lawgiving, and of the painter-analogy that introduces it, reveal an image of lawgiving as a *complex, dynamic* and *provivional* process. This process involves the input of various generations of lawgivers and various kinds of magistrates over a longer (or perhaps even indefinite) period of time. This conception of lawgiving squares to some extent with dialectic as a philosophical method of which the results remain provisional. The fact that the Athenian forbears to fill in all the details is not problematic in a dialectical context.

Laying down laws is one aspect of νομοθεσία (lawgiving for the *polis*). But the Athenian highlights another aspect: νομοθεσία as the influencing of, and mode of addressing, the citizens (lawgiving within the *polis*). From the point of view of this study, this discursive aspect of lawgiving is especially interesting. For it is for lawgiving thus conceived, as a mode of address from lawgiver to citizen, that the Athenian introduces dialectic, or something stongly resembling dialectic, as the proper form of νομοθεσία. The proper way for laws to address the citizen(s) is by πείθειν, persuading. The law is therefore to be prefaced with a persuasive preamble.

The persuasive preamble is in turn conceptualized, via the two doctor-analogies (in Books IV and IX), as friendly and instructive discourse, and comes to be modelled on dialectic itself. The Athenian models the persuasive preambles upon the interlocutors' own lawgiving λόγῳ, "in speech". Through a *mise en abyme*-effect, the proper mode of legislative speech is made to resemble the dialectical conversation of the interlocutors themselves. The assimilation of preambles to dialectic is further strengthened by the unclear transitions from the preamble to the frame conversation. The authority behind the preamble is the lawgiver, but since the preambles are in the conversation formulated by the Athenian, he is ultimately the authority for the laws in the *Laws*.

As a final step, we had to investigate whether or not the Athenian is an authority of the kind of the moral expert. The same in fact had to be done for another entity that may seem to be a reintroduction of the philosopher-kings, the so-called nocturnal council. Upon closer analysis, we found that neither of these two entities is the equivalent of the moral expert as we meet him in other Platonic texts. The function of the nocturnal council is to preserve the *politeia* and the laws that have been laid down, which is why it is only fully introduced *after* the discussion of the laws themselves. There is no suggestion that the laws are laid down by the council, and the qualification and function for which it needs this qualification are entirely at odds with the idea of ruling a *polis* on the basis of philosophical knowledge.

The sort of authority with which the Athenian stranger can be credited is of a fundamentally different kind than that of the moral expert. His authority ultimately has its basis in the impression he makes on his interlocutors. They judge the insight of the Athenian in ancient law codes of a superior and divine kind, resembling that of a μάντις. This awe on the part of the interlocutors for someone who is able to proceed on the road of lawgiving on the dramatic level provides the motivation for according the Athenian the role of lawgiver. Cleinias and Megillus consider the Athenian fit to lay down laws on the basis of

the discussion until that point (the end of Book III). Thus, *Laws*' own legislative project, in which the interlocutors lay down laws on their own authority, reflects *Laws*' pragmatic norm: the laws in *Laws* are formulated by a lawgiver who is esteemed for his insight and performs his role well.

The specific interpretive principle of charity that I adopt in this study gives precedence to internal textual consistency and coherence over doctrinal consistency. This principle enables us to see how the familiar Platonic themes, analogies, and terminology are employed in the service of a radically different message in *Laws*. The present thesis has attempted to show that the familiar Platonic vocabulary and the familiar Platonic antitheses are used to convey a pragmatic norm that is new in Plato's oeuvre. The view that Plato's project in *Laws* is pragmatic challenges the current assessments of *Laws* as a merely practical (rather than ideal) and as a second-best (rather than the best) *polis*. The unitarian practical and the developmental second-best interpretation share the assumption that the ultimate norm for society and human virtue is a metaphysical one—even if that norm may be largely out of reach and obscured by more practical arrangements.

In this world, there is no moral expert, no objective idea of justice, and no single just *politeia*. Whereas *Republic* addresses justice as an essence and shapes its *polis* on that basis, *Laws* is a pragmatic project. Its interlocutors design laws in a world where the preservation and viability of society are considered the highest good. This entails a much *less well-defined* conception of what is good and bad; but at the same time it entails a more *optimistic* view of human capacity for virtue and for peaceful coexistence in society. The main justification for calling *Laws* more optimistic than *Republic* is that, according to the reading presented here, *Laws* assumes that answer to what morality and moral goodness are given with mankind's social nature, and that the answer to good and bad is given within a more low-brow conception of the livable society. The

answer to good and bad is not given by an *a priori* Good in another world. The fact that the three interlocutors decide among themselves on a law code in *Laws*, inspired by the immediate case of a future Cretan colony, suggests a change in moral outlook.

The text-internal analysis offered in this thesis of course raises one major question: why has Plato in *Laws*, his last work, embarked on a project so fundamentally at odds with the core principles of his own philosophy? Tantalizingly, however, this question cannot be settled in a definitive way. Looking at Plato's presumed biography for an explanation is a possible way of addressing the striking discrepancy between *Laws* and the rest of his oeuvre, but I wish to confine myself to what I consider to be a less speculative strategy of reconciliation.

     Laws was written in the mid-fourth century B.C.E.; Plato died in 347 B.C.E. and, as we saw in the Introduction, according to ancient reports, left the work without having made the final correction (διόρθωσις). As I have suggested at various points in my argument, a number of ideas that are characteristic of *Laws* but militate against core principles of Plato's own philosophy in other works in fact strongly resemble the contemporary philosophical discourse of Isocrates and Aristotle in particular (and, somewhat further removed in time, also that of Protagoras, to whom Aristotle seems heavily indebted). Aristotle's naturalistic ethics, his idea of man as a social animal and of virtue understood in terms of disposition and character on the one hand,[1] and Isocrates' rhetorical notion of philosophy and virtue as being a composite interaction of natural giftedness, education, and practice on the other, seem in fact closer to *Laws'* construction of ἀρετή as self-control that can, and must, be trained, than to much that we find in Plato's other work. The resemblance with Isocrates also lies in the fact that

---

[1] I am not the first to note that *Laws* exhibits some very striking similarities with Aristotle's views. See *e.g.* BOBONICH (2002), chapter 5.

Laws does not stipulate beforehand what qualifications a good lawgiver is required to have, but entertains the idea that suitability will manifest itself in practice.

Plato's last work reflects a practical notion of authority, according to which the good lawgiver is the individual who proves worthy to perform that function well. In Plato's pragmatic project, the human life worth living is not determined by an otherworldly vision that can only be an object of knowledge, but by humans' own social nature.