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## Introduction

The *Laws* was Plato's last and longest dialogue. Its fortunes have fluctuated. Like many readers since, Aristotle in Book 2 of his *Politics* treated it dismissively as a mere pendant to the *Republic*. But he also took it as the unacknowledged model for much of his sketch of an ideal polity in Books 7 and 8 of the treatise. And plenty of later thinkers have found engagement with the *Laws* important for their own projects in political theory, from Cicero in *On Laws* among the ancients to Montesquieu in *The Spirit of the Laws* among the moderns. The dialogue was not greatly read, nor (when read) appreciated, for much of the nineteenth and twentieth centuries.<sup>1</sup> But interest in it, indicated by the volume of associated scholarly publication, has been steadily rising over the last quarter of a century. The *Laws* is coming to be seen as 'the first work of genuine political philosophy in the Western tradition',<sup>2</sup> and indeed as a multi-dimensional exercise in reflection on how such philosophising should be conducted.

### I. First words

The dialogue begins with a question: 'Is it a god, my friend, who in your view should take the credit for your legal arrangements? Or some

<sup>1</sup> George Grote found Plato's proposed legal system a paradigm of intolerance and intrusiveness exuding a sentiment of infallibility, although for Lord Acton the *Laws* and Aristotle's *Politics* were the books from which he claimed to have learned most about the principles of politics.

<sup>2</sup> A. Laks, 'The *Laws*', in *The Cambridge History of Greek and Roman Political Thought*, ed. C. J. Rowe and M. Schofield (Cambridge University Press, 2000), p. 258.

## *Introduction*

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human?’ As often in a Platonic dialogue, the opening words are designed to adumbrate some of the key preoccupations it will be pursuing. The very first word of the Greek text – θεός, ‘god’ – foreshadows the development of the theological and religious framework for all the substantive theorising that is to be developed. ‘Legal arrangements’ specifies the topic the participants to the discussion will explore. ‘My friends’ marks this as an encounter between individuals from different cities or countries who are bound by a tie of mutual hospitality (ξένοι, the word rendered here by ‘friends’, embraces both guests and hosts): as it will transpire, it is an encounter between two very different cultures, each of which will challenge the other’s presuppositions.

The next few conversational moves establish that the location is the island of Crete (not the Athens usual in a Platonic dialogue), and that the visitor’s Cretan addressee already has with him a companion from Sparta. It will take a couple of pages before it is established for the reader that the speaker of the opening sentence is from Athens (1.626d). The Athenian is never named; it is not until we are five pages into the dialogue that we learn the Cretan’s name (Cleinius: 629c); another thirteen pages will elapse before the Spartan is self-identified as Megillus (642a).<sup>3</sup> Uniquely in a Platonic dialogue, there is and will be no appearance by Socrates. Nor is that the last deviation from the Platonic norm. The identity of speakers is usually made explicit in the first few snatches of conversation.<sup>4</sup> That does not happen here. What does quickly become clear, however, is that these so far anonymous persons are journeying by foot the considerable distance from Cnossos to the cave and shrine of Zeus (probably on Mount Ida) in the summer heat. The Athenian proposes ‘an exchange of views on political arrangements and laws’, and frequent stops in the shade, sensible for elderly people, to raise their spirits.

A picture is developing. The work that is being introduced will not be a formal treatise, nor will it be confined to the articulation of a legal code. It will be a leisured conversation – now and again Cleinius and Megillus

<sup>3</sup> It was not ancient writing practice to specify identity of speakers other than through indications in the text of their speech itself, together with use of a symbol marking change of speaker.

<sup>4</sup> Thus, for example, in the preface to the *Phaedo* Echecrates and Phaedo address each other by name in their opening exchange (*Phd.* 57a). The main speaker in the *Sophist* and *Statesman* is never named, but we learn in the *Sophist*’s first sentence that he is a visitor from Elea.

### *Introduction*

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are made to stress that they have all the time in the world (e.g. 1.642d–e, 3.683a–b) – in which different points of view about social and political order are to be voiced and debated. The implication is that those viewpoints will represent not the stances of particular individuals, but mature mindsets characteristic of Athens, on the one hand, and Crete and Sparta, on the other. Crete and Sparta were well-known paradigms of closed, conservative societies under strong state control, including control of children’s upbringing. The much more open and cosmopolitan Athenian democracy, by contrast, left education in the hands of individual families to arrange as they thought best. Plato’s Athenian visitor will turn out to be an admiring critic of the Cretan and Spartan systems. He is particularly disturbed by their obsession with war and their effective assumption that human virtue begins and ends in courage. But he has no love for democracy, he sees disparities in wealth and the elevation of wealth above virtue as poison fatal for any polity, and above all he harbours a strong conviction of the need for cities to take into their own hands firm control of education, as indeed of all aspects of life. In developing his arguments he deploys formidable intellectual resources derived from many spheres of Greek culture and political organisation, but above all from Socratic ethics – to all of which in their turn Cleinias and Megillus are represented as sooner or later receptive.<sup>5</sup> Plato’s extensive and intricate legal code is in fact much of it a reworking of contemporary Athenian law, embodying a radical new utilitarian penology based on the Socratic view that, since nobody does wrong willingly, criminality is a disease; and advocating a much more inquisitorial form of procedure before the courts, reducing the scope for the rhetoric Plato thought so pernicious.

It now becomes intelligible why he sites the conversation of the dialogue on Crete.<sup>6</sup> He thereby signals to his Athenian readers that if they want a model for a well-ordered society, they should start by

<sup>5</sup> There is in truth more debate, mostly implicit, between the ideas characteristic of the two cultures – in the main reflected in and through the Athenian’s proposals and arguments – than between the participants.

<sup>6</sup> The strong sense of locality Plato creates contrasts sharply with a complete absence – anywhere in the dialogue – of indications of dramatic date, often prominent in the dialogues. C. Zuckert, noting no mention of the Peloponnesian War, argues that some time in the fifth century before that is probably intended (*Plato’s Philosophers: The Coherence of the Dialogues* (University of Chicago Press, 2009), pp. 53–7). The more likely inference is that the reader is not meant to think about any possible dramatic date at all.

### *Introduction*

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thinking about Crete (and Sparta). That stance is in line with the approval of the Cretan and Spartan law-governed systems which was said way back in the early *Crito* to have been expressed by Socrates on frequent occasions (*Crito* 52e). The choice of Crete rather than Sparta probably had several motivations. The story that Minos, its legendary lawgiver, promulgated his legislation after communing (rather like Moses) with a god (1.624a–b) enabled the introduction of a theological register to the dialogue at its outset. But it may also have been important that, whereas Athenians knew or thought they knew a lot about Sparta, which at the time when Plato was writing (the late 350s BC) was a state in decline, whose institutions were no longer working successfully, Crete was much closer to being unknown territory, very probably for Plato himself, too.<sup>7</sup> Cleinias, with whom most of the Athenian's conversation is conducted, could accordingly be portrayed as rather more intellectually alert than a figure representing the Spartan stereotype.

Why Plato (b. 420s, d. 348 BC) decided to devote his final years to the *Laws* we cannot know. An autobiographical dimension has often been perceived. In the 360s Plato had made two visits to Sicily, to the court of the young Dionysius II at Syracuse: one probably in 366, very soon after the latter's accession to power upon his father's death, the other in 361. Both visits were undertaken to oblige Plato's friend Dion, who had hopes of influencing the new tyrant (his nephew), and perhaps initially of Plato's turning him into a philosopher ruler. Both were wretched failures, at least according to the seventh of the surviving letters that represent themselves – in most cases, perhaps all, fictitiously – as Platonic compositions. The *Laws* is vehement in several passages that absolute power will almost inevitably bring about the moral corruption of anyone who wields it. It is hard to think that his recent Sicilian experience did not somehow colour Plato's thoughts on the subject and give an impetus to a much stronger emphasis on the need for the rule of law than in the *Republic*.

<sup>7</sup> Plato himself analyses the corruptions of the 'timocracy' with which he associates the Spartan system in Book 8 of the *Republic*: 8.546b–548c (with 545a); see also *Laws* 7.780d–781b. The *Laws* never comments (for example) on the Cretan practice of inscribing laws on stone for public inspection, as notably in the monuments that still survive from the cities of Dreros and Gortyn. A more sanguine view of Plato's knowledge of Crete is argued in G. R. Morrow, *Plato's Cretan City: A Historical Interpretation of the Laws* (Princeton University Press, 1960), pp. 25–35.

### *Introduction*

It may also be significant that debate in Athens about the original nature of the constitution that the Athenians thought they had inherited from their own lawgiver Solon (early sixth century BC) seems to have been renewed at just this time. Such concerns are prominent in the *Areopagiticus* of Plato's rival, the teacher of rhetoric Isocrates, which probably dates from 355 BC, and the speech *Against Timocrates* composed by the young speech-writer and politician Demosthenes in 353. *Areopagiticus*, written to bring the Athenians to their senses in the aftermath of their second brief attempt to sustain an empire, argues for much that the *Laws*, too, will put forward. Thus, for example, it champions the aristocratic idea that of particular importance for good government is recognition and implementation of a form of equality that accords not the same to all, but what is appropriate to each (*Areop.* 21–3; a thesis endorsed by the *Laws*, which, however, provides also in its use of the lot for the type of democratic equality that Isocrates rejects: 6.757a–758a). One Isocratean stance that might have provoked Plato into rejoinder was *Areopagiticus*' insistence that 'human goodness is not advanced by written laws, but by the habits of everyday life', and that 'those who are rightly governed do not need to fill their porticoes with written statutes, but only to cherish justice in their souls' (*Areop.* 40–1). The *Laws*, by contrast, makes great play of the importance of written law. It is explicit that the good person is the one who 'passes his whole life, consistently, in obedience to the writings of the lawgiver – both his laws and his (positive or negative) recommendations' (7.822e–823a; cf. 9.858e–859a). The comment the Athenian adds reads like a direct rebuttal of Isocrates' formulation: 'This is the most accurate form of words when it comes to praising a citizen.'

For Plato any Isocratean opposition between 'written laws' and 'the habits of everyday life' would have been altogether too simplistic. The first page of the *Laws* already indicates that a discussion of laws must involve exploration of *πολίτεια* – 'political arrangements': all a city's institutions, not only for government, but for property and family, and for dealing with all major aspects of the life of the community. It has rightly been observed that the *Laws* devotes more space to acculturation than to legislation. The 'habits of everyday life' come under explicit scrutiny in the opening pages of Book 7 (at a point where discussion has reached consideration of the birth and upbringing of children). Here Plato's Athenian tackles the problem that, while there is much that goes on in the private sphere for which prescriptive legislation is inappropriate,

### *Introduction*

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and indeed would bring law into disrepute, the lawgiver does need to say something about it (7.788a–c). Accordingly he proceeds to suggest some rules of conduct to be observed by pregnant women and nurses of infants and toddlers. A few pages on, he offers this general reflection on ‘unwritten customs’ (793b–d):

We should neither call these things laws, nor yet pass over them without mention . . . If they are the right customs in the first place, and have become second nature, then they envelope, and completely protect, whatever written laws exist at that point; if they are out of key, and get out of true, then . . . they bring the whole thing down with them . . . Laws, habits, activities – whatever you call them . . . we must find a place for them. Things of this kind all play a part in holding a city together, and of the two types, neither can endure without the other. Which is why it should come as no surprise if a large number of apparently unimportant customs and habits – an incoming tide of them – make our laws a bit on the long side.

So the *Laws* is not prepared in the end to exclude such customs and habits from what it counts as legislation. In the words already quoted from a later passage in Book 7, the writings of the lawgiver will comprise both laws *sensu stricto* and ‘his (positive and negative) recommendations’ (7.822e–823a).

Could laws of any kind be conceived as something for which god or a god is ultimately responsible – as the Athenian puts it in the question that launches the dialogue? As so formulated, and certainly as pursued in the discussion which then immediately ensues, that question relates in the first instance to the reliability of traditional narratives of the origin of law, specifically here of the guidance the Cretan legislator Minos sought from Zeus. In due course the Athenian will tell his own version of what he claims to be just such a narrative, starting with a sketch of a golden age when humans were governed by divine spirits. But the moral he extracts from his story effectively abandons any preoccupations with origins. His point is that in our understanding and valuation of law, we in our time are to emulate governance by guardian spirits. We are to do that by following the prescriptions of ‘whatever there is of immortality in us’ – by which he means our reason – ‘both in public and in private life, in the management of our homes and our cities’. The Athenian indicates the closeness of the connection between reason and law that he postulates by gesturing at an etymological derivation of the word νόμος (‘law’) from νοῦς (‘reason’): the rule of law, which he will now go on to

### *Introduction*

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advocate, is to be conceived as nothing other than the rule of reason, principally in its control of emotions and appetites (see 4.713c–714a, with note 33).

So, as he has already argued early in Book 1, what the Cretan lawgiver ‘and any lawgiver who is good for anything at all’ will have in view in prescribing their laws is above all the promotion of human goodness of the highest order (1.630b–c). By that he means the human excellences associated with reason: the four cardinal virtues of wisdom; ‘the rational state of soul characterised by self-control’; justice; and finally courage (significantly put in last place, as a corrective to the Spartan and Cretan value system). These he classifies on account of their rationality as ‘divine goods’ (1.631b–d). At that point one might wonder whether anything more is really meant by ‘divine’ than ‘exempt from ordinary human weaknesses’. By the end of the dialogue, however, it is abundantly clear that behind the talk of such goods as divine, there stands a cosmic theology (worked out in Book 10) which interprets divinity as the rational control ordering the entire universe – and as something calling for profound human reverence. It will suffice to quote a passage late in Book 12 that pulls together a number of the strands most important in the *Laws*’ developing argument (12.967d–968a):

No member of the human race is ever going to be a firm religious believer unless he has a grasp of these two things we are now discussing: first, that soul is, of all things which are involved in coming into being, the oldest;<sup>8</sup> that it is a thing immortal, and that it controls all physical bodies; and further to that – something we have repeated many times – that in the region of the stars it is mind which is in control; he must also have a grasp of the studies preliminary to these, and must observe those elements of music and poetry which have some connection with them, applying them, with due harmony, to the habits and practices of morality; also, where things have a rational explanation, he should be capable of giving that explanation. Anyone who cannot acquire this knowledge, as well as the virtues required in public life, will never, we can safely say, make a satisfactory ruler of a city as a whole – merely an assistant to others who are rulers.

<sup>8</sup> See 10.891e–892c, 894b–896c. By ‘older’ the Athenian means ‘metaphysically and causally more fundamental’.

## *Introduction*

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### 2. The plan of the dialogue

Readers of the *Laws* often find it a dialogue difficult to navigate, as one topic seems to merge into another, only to reappear several pages or sometimes several books later. How does this vast work, so much less familiar to many who study it than the *Republic*, all hang together? Viewed on the largest scale, the overall structure of the *Laws* is straightforward. The first four and a half books deal with matters preliminary to the main legislative programme, which divides into two: first, a treatment of the organisation of a city-state and its political constitution (5.734e–6.768e), and, second, the specification of the laws which are to govern the life of the community and of those who have dealings with it (6.768e–12.960b). The work concludes with a short section devoted to an account of the review body that is to be charged with ensuring that reason knits the legislation together in a way that exhibits its commitment to self-control and justice (12.960b–969d). A more detailed map is supplied in the synopsis.

That summary gives no indication, however, either of the winding and digressive character of discussion throughout the dialogue or of a number of other complexities in its construction. One of these complicating factors is the formal distinction the Athenian will draw and implement between persuasive preambles and the coercion of a law proper. That distinction is one of the *Laws*' most important contributions to political theory, and will be discussed in section (4) below. Preamble turns out to be a fluid category, which as André Laks points out can also 'metamorphose' into broader philosophical discussion. 'Space is thus allotted, at the very core of the legislative work, to meta-legislative reflection that calls into question the status of the legislative enterprise itself.'<sup>9</sup>

Another such issue relates to the scope of the project undertaken in the dialogue. The problem will become apparent if we return to the passage of Book 1 that we have been considering, on the aim of legislation as the promotion of virtue or the 'divine goods'. For, after introducing the proposition that fostering these ahead of human goods such as health or wealth has to be the prime concern of the legislator, the Athenian gives a sketch of the matters to which particular attention will need to be paid. The focus here is on the marriages the citizens contract, then on the birth and rearing of children, male and female (like the *Republic* the *Laws* thinks quite hard about the place of women in society),

<sup>9</sup> Laks, 'The *Laws*', p. 266.



### *Introduction*

and their conduct as they get older right up to old age, and finally on the appropriate ways to honour and bury the dead. ‘The right way for the lawgiver to manage things’, says the Athenian, ‘is by approval and disapproval’ (not – by implication – by the prescriptions and sanctions of law more narrowly or strictly conceived). Even when ‘actual laws’ are mentioned, the accent is on the way they apportion praise and blame. All this is said to involve teaching and defining what is admirable or not in the way people might cope with anger, fear, and the vicissitudes of human experience.

What the Athenian is clearly looking forward to here is the discussion of these topics that runs from the latter part of Book 6 through Book 7 and most of Book 8, together with the final chapter on the treatment of the deceased in Book 12 (6.768e–8.842a, 12.958c–960b). As his précis would lead one to expect, that discussion contains very little formal legal prescription, much ‘positive and negative recommendation’ (as 7.822e–823a puts it), and a good deal of observation and analysis of human psychology. Otherwise the only substantive topic he anticipates in the Book 1 prospectus is the conduct of business (1.632b): buying, selling, and commercial contracts (dealt with mostly at 11.913a–923c). Here there is talk of justice and injustice, and of legislation prescribing both rewards for those who comply and penalties for those who do not. But the overall impression left by this Book 1 passage is that the legislative agenda, and indeed the core of the entire dialogue, will not be law in the strict sense at all, but the mostly institutional and educative project that occupies the central portion of the dialogue.

There is a great deal in the *Laws*, then, that is not foreshadowed in the prospectus of Book 1: for example, the organisational and constitutional provisions of Books 5 and 6, the penal legislation dealing with homicide, wounding, and assault in Book 9, and Book 10’s treatment of irreligion. Are we to infer that in some way these major contributions to political theory, jurisprudence, and theology do not belong to the core project undertaken in the dialogue? In addressing that question I consider first and more briefly penal legislation, then the treatment of constitutional matters.

In introducing his penal legislation, the Athenian has this to say (9.853b):

It is in a way something of a disgrace to be making laws at all for any of the things we are now about to make laws for – in a city like ours which will be well run, we maintain, and which will realise all the right conditions for the practice of human goodness.

### *Introduction*

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But he goes on to acknowledge that, human nature being what it is, the lawgiver has to make provisions to deal with any citizens who prove impervious to the upbringing, education and training that he has been specifying. In other words, penal legislation does indeed fall outside the core project. It is what a lawgiver has to formulate and put in place in case with some citizens that project is ineffective. Hence the need for laws on homicide, wounding, and assault and battery. The treatment of irreligion in Book 10 is part of the same general penological enterprise, although it will take the form primarily of an extended attempt at what one might call re-education – with the penal provisions envisaged as coming into force only if re-education fails.

Unsurprisingly, therefore, much of the formal legislation is deferred until the last third of the dialogue. Law in the strict sense of coercive prescription is a matter of last resort. The same could not possibly be said of the *Laws*' constitutional provisions. The prospectus of Book 1 had nothing to say about the political dimensions of the legislative programme it adumbrates. But after the Athenian has further developed his views on how to educate citizens in human goodness in the rest of Book 1 and in Book 2, he makes what he announces as a fresh start at the beginning of Book 3. He proposes an investigation into the 'origin of a social and political system' – which is to be the kind of historical enquiry needed to illuminate the way 'cities change for better or worse' (3.676a). A bit later on he suggests that if that enquiry enables an understanding of what makes for a good and stable settlement, or the opposite, and what changes would need to be made to make a city happy, then the whole discussion of 'political arrangements and laws' that the conversation of the dialogue opened with – starting as it did with debate about what the good is that a city should be aiming at (1.625c–628e) – needs to begin as it were *ab initio* (see 3.683a–b, with note 19). Thinking about history gives a new handle on the political and legislative issues at stake.

The rest of Book 3 will use all the theoretical resources so far developed to tackle the problem of what goal the design of a political system should aim to achieve. The Athenian continues with the historical approach he has so far found fruitful, and takes particular episodes of Greek history as materials for constructing exemplary answers to the question of aim. Otherwise he will exploit from Book 1 its moral psychology (1.633d–634b, 644b–645c: see 3.688e–689e, 691c–d), particularly the need for reason in an individual and for law in the city to control emotion and appetite; and its insistence on the need for all four