Myrthe L. Bartels

Plato's Pragmatic Project

A Reading of Plato's *Laws*

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EINZELSCHRIFT III

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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 is apparent that the text exhibits a number of characteristics that are 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 conspicuous near-omission of philosophy (φιλοσοφία); the absence of the figure of Socrates; the setting of the conversation, which is not Athens but the island of Crete; and the peculiarity of its language and style: the text is written in a contrived and less plain form of Greek that has been criticized for different reasons, as far back as antiquity.

Upon closer inspection, more puzzles emerge. What about the major differences between the beginning of the dialogue (Books I–II) and the rest? The theme of ἀρετή and the four ἀρεταί recalls the so-called early and middle Socratic dialogues, but the topic of the virtues is dropped almost entirely in the rest of the work, including the legislative part itself. This observation becomes even more intriguing as the very end of *Laws* returns to the themes of Books I–II. The strongly Socratic tenor of these parts of *Laws*, which had disappeared from other late dialogues, is in itself equally surprising.

A further question that imposes itself upon the reader is why Plato saw fit to compose a code of laws in the context of a dialectical conversation. Is *Laws* still a dialectical exercise, in which the interlocutors are searching for a higher, metaphysical truth, and seeking to map out parts of that truth via dialectic? The way Plato has composed his text is striking because though it offers laws and preambles, it is often unclear where a law or a preamble to a law starts and where it ends, thus creating the impression of fluidity. Yet another characteristic that defies straightforward understanding is the interlocutors' own ambivalence about their status as lawgivers. While repeatedly asserting that they are making laws, at other times they deny that they are lawgivers and insist that they are merely aspiring to be such.

The major perplexity of *Laws* is therefore its overall composition. Plato's final *opus magnum* presents us with normative texts – laws[1] – embedded in a dialectical

1 For lawgiving as a genre in antiquity: Pl. *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. Pl. *Symp*. 209d1–e4: Lycurgus and Solon are juxtaposed to Homer and Hesiod as begetters of the finest descendants (laws and poems, respectively) that have produced manifold virtue (παντοίαν ἀρετήν, 209e2–3). In *Leg*. 859e1–4 the writings of Lycurgus and Solon are compared to those of Homer and Tyrtaeus. See Sluiter 2000, 297, n. 47 on lawgiving as genre in antiquity. The title of the work, Νόμοι ἢ περὶ

conversation. The very composition of the text raises the question of the *status* of the laws proposed in the text. Are they *the* just laws, laws based on δικαιοσύνη? Are they the laws made by the moral expert on the basis of his expert knowledge (ἐπιστήμη or τέχνη)?

The question of the status of the laws gains urgency when it is noted that δικαιοσύνη, which had featured so prominently in Plato's *Republic*, is strikingly not prominent in *Laws*. This is hardly what one would expect from a Platonic text on legislation. Following on from Plato's *Republic*, it seems natural to assume that the basis of a Platonic code of laws is absolute justice (δικαιοσύνη). How, then, to account for the fact that in *Laws* Plato hardly appeals to δικαιοσύνη? Who but the moral expert could be qualified to lay down good laws?[2] Is the norm underlying the order of society in *Laws* still δικαιοσύνη, but couched in a different terminological framework – that is, in terms of laws instead of in terms of justice? Or does *Laws* really portray a new and different kind of project, which cannot be understood if it is explained against the background of the metaphysics of *Republic*, and is assuming that the two should be, in some way, consistent unhelpful for understanding it?

For the political philosopher, the question of how one knows that the laws are good is an important one. Laws can be unjust, or misapplied, resulting in unjust decisions. Plato himself had witnessed the havoc that can be caused by unjust laws (the regime of the Thirty) or their unjust application (the accusation and conviction of Socrates). If it makes any sense to read *Republic* as a constitution in which Socrates would not have been convicted, this should remind us that the importance of just laws was at the forefront of Plato's thought. In *Republic*, the authority of the philosopher-king suggested that the laws were good. But how does this work in *Laws*, where both references to δικαιοσύνη and references to a moral expert are almost absent?

The present study approaches the problem of the status of the Platonic laws in *Laws* by analysing the composition of the text as a whole. It explores the complexities that result from the interweaving of lawgiving and dialectic, and traces the implications of the embedding of laws in the dialogue form. This may be called a 'literary', 'rhetorical', or 'formal' approach, for lack of a better term.[3] Yet it should

νομοθεσίας, and the classification of the dialogue as πολιτικός are given by Thrasyllus, see D. L. III.60.

2 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 issue of its authenticity, see Morrow 1935; Bluck 1947, 1–2; Edelstein 1966 (who dispute its genuineness); Hackforth 1976; Guthrie 1978, 399–401; Trampedach 1994, 255–259 (who leaves the issue open). 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).

3 Nightingale 1993 (and to some extent 1999) is one of the very few modern interpreters who take into account the 'literary' aspects of the dialogue (although the analysis presented here challenges her claim that the laws in *Laws* are to be read as a fixed, sacred text). She is absolutely right to note that Aristotle reads *Laws* like a treatise rather than a dramatic dialogue (*ibid*., 282). I would go so far as to put forward the hypothesis that many readings of *Laws* current in the 'analytical' philosophical tradition go back to the mode of reading initiated by Aristotle. Cf. n. 27 below.

be borne in mind that the formal characteristics of a Platonic text are part and parcel of, and reflect, the philosophical method adopted, with all its dogmatic presuppositions. The present study approaches the text of *Laws* as a meaningful and coherent whole, and focuses on those mechanisms that convey information about the status of the laws, such as the reflections of the interlocutors upon their legislative activity. The analysis offered is guided by the argument of the text itself and traces the articulation of different phases within that argument. It is precisely because the laws are embedded in an overarching dialectical setting that there is a higher level on which comments *about* the laws are made, and in which the interlocutors reflect on what they are doing.

The originality of the approach taken here consists in the attention paid to the composition of the text as a whole and the context of individual passages: interpretations of individual passages are guided by their relative position in the structure of the argument and the gist of the immediate context. Making this the guiding principle in the interpretation of the text is essential because of the complexity of its architecture. The conversation has different phases and different levels: that of the dialogue proper, preliminary considerations leading up to the laws, the legislation itself, in which we can discern explicitly demarcated laws, different kinds of preambles, self-reflective or meta-legislative passages prompted by the exposition of the laws, and qualifying remarks about the status of the project as a whole. Statements therefore have to be weighed and interpreted in their context.

The question that will continuously function as a point of orientation in my argument is: why has Plato composed his text in this way rather than another way? This is not the kind of question that can be settled in any definitive way; I am not claiming that we can ascertain Plato's true intentions. Yet it is helpful as an interpretative tool because it allows us to classify certain interpretations as less plausible. The underlying premise is that the structure of our text is *meaningful*.

The question of the composition of the text is linked to the question of whether *Laws* attributes the laws to a higher authority, because the text itself portrays an attempt to legislate. In *Republic* the moral experts are a class within society, and the city is just in virtue of their ordering it. The moral expert, in the form of the philosopher-king, is a condition for the just society. This means that if the expert himself is absent – which is the question that the composition of *Laws* raises – the notion of δικαιοσύνη cannot remain the same. There is no such thing as the 'replacement' of the philosopher by law.

Existing interpretations of the text range from the position that *Laws* presents the laws of the constitution of *Republic* to the one that *Laws* presents a 'second best' constitution in relation to the 'ideal' one of *Republic*. Yet despite their differences, the two strands of interpretation converge in the *a priori* assumption that *Republic* and *Laws* presuppose the same moral norm (the absolute Idea of the Good) and the same ideal of justice. In the ideal-practice reading, the laws in *Laws* embody the norm of the Good of *Republic* in a less perfect, more practical form; in the second best reading, the 'rule of philosophy' is replaced by 'the rule of law' whereby this difference is considered to be only a difference in the institution that imposes the moral norm on the city rather than a substantial difference in the moral norm itself.

However, a constitution that deviates from the just constitution cannot be based on the *same* idea of δικαιοσύνη as set forth in *Republic*. The question is, then, whether *Laws* presents justice in different terms (in terms of laws rather than justice), or whether it presents a different project altogether. An additional point of criticism to the current readings is that neither the 'practical' nor the 'second best' view pay due attention to the structure of the text, and they wholly ignore the fact that the laws are embedded in a dialectical conversation.

This book argues that the striking textual composition and set-up of Plato's *Laws* reflects a new moral perspective. This moral perspective is pragmatic and therefore at odds with what we consider the core principles of Platonic philosophy, in particular the idea that the norms of society ought to be based on the absolute Idea of the Good. In *Laws*, good laws are ones that are conducive to the internal harmony of society, rather than ones that embody a fixed idea of justice. Yet Plato has couched this new project to some extent in the old and familiar Socratic terminology and dialogue form, thus maintaining the ostensible suggestion that *Laws* is in fact about the same philosophical material as the dialogues that his language and literary strategy recall. If, however, in the absence of justice (δικαιοσύνη) and the Idea of the Good, the laws are not made on the basis of expert knowledge of an absolute norm, the question is what norm they presuppose. We shall see that in place of expert knowledge, *Laws* introduces another source of authority for laws. As a result of the more pragmatic attitude towards virtue and good laws, this authority figure is much more elusive and much less clearly definable than the moral expert of other Platonic texts. In fact, I shall argue that it is part of *Laws*' unique strategy to focus on *polis*-internal, law-*safeguarding* authority figures (the magistrates, the nocturnal council), thereby pushing the ultimate authority (the lawgiver) out of sight.

The approach adopted here requires that some brief background remarks be made about Platonic dialectic and about the relation between dialectic and authority in the Platonic corpus. What becomes clear about dialectic from the Platonic corpus is that the dialectical method presupposes the existence of a truth independent of the person(s) who search(es) for it: an *a priori* or absolute truth.[4] The assumption underlying the dialectical method as the pathway towards the Ideas is that the truth is consistent: contradictory propositions cannot both be true at the same time. Through tracing consistency between propositions, the dialectical method therefore enables

4 Plato's dialectical method and its alleged development have attracted a good deal of controversy, both as regards its form and its object. As Van Ophuijsen 1999*b* has eloquently put the issue, "(…) it is far from clear to what extent either [Plato's] explicit statements, through the speakers of his dialogues, on dialectic and its ultimate object, or his actual practice of dialectic in these dialogues add up to a consistent and constant conception" (293). Stenzel 1931, Robinson 1941, and Ryle 1966 adopted a developmental perspective and sought to "disengage the method of dialectic from its subject matter" (Van Ophuijsen 1999*b*, 296). For an interpretation of Platonic dialectic that stresses its continuity throughout the philosopher's oeuvre, both in its form and in its object (the Form of the Good), see Van Ophuijsen 1999*b*, who observes that the fact that the ancient tradition was not aware of any major changes is reason to question the alleged discontinuities. For studies of the dialectic of the late dialogues, see the articles collected in Gill & McCabe 1996. The articles collected in Fink 2012 target specific dialogues and passages.

the interlocutors to map out parts of the truth. That the dialectician is not in danger of committing himself to consistent but false beliefs is explained by Van Ophuijsen: "We should remember that elenchus by reduction has the power to achieve more than mere consistency. To derive a logical impossibility from any proposition can be a purely negative exercise, but within binary oppositions such as motion/rest, limited/unlimited, and mortal/immortal, disproving one alternative converts into a positive result. In this way elenchus can lead to the formation of conglomerates of consistent beliefs, the truth of some of which has been established by showing that their contradictory leads to absurdity."[5] By continuing his elenctic investigations, the dialectician should be able "to incorporate several of these conglomerates into fewer of wider comprehension".[6]

Yet insight into the source of truth and reality, which is called the Idea of the Good in *Republic*, cannot be reached via the path of dialectic. Dialectic is only preparatory to the vision of the Idea of the Good. A leap to "the desired synoptic view of reality"[7] remains, and this leap cannot be made in a rational way. If we may rely on the *Seventh Letter* as evidence in this respect, the final step towards what *Republic* calls the Idea of the Good is a matter of some kind of inspiration flaring up, 344b1–c1:[8]

> ἅμα γὰρ αὐτὰ ἀνάγκη μανθάνειν καὶ τὸ ψεῦδος ἅμα καὶ ἀληθὲς τῆς ὅλης οὐσίας, μετὰ τριβῆς πάσης καὶ χρόνου πολλοῦ, ὅπερ ἐν ἀρχαῖς εἶπον· μόγις δὲ τριβόμενα πρὸς ἄλληλα αὐτῶν ἕκαστα, ὀνόματα καὶ λόγοι ὄψεις τε καὶ αἰσθήσεις, ἐν εὐμενέσιν ἐλέγχοις ἐλεγχόμενα καὶ ἄνευ φθόνων ἐρωτήσεσιν καὶ ἀποκρίσεσιν χρωμένων, ἐξέλαμψε φρόνησις περὶ ἕκαστον καὶ νοῦς, συντείνων ὅτι μάλιστ᾽ εἰς δύναμιν ἀνθρωπίνην.
>
> The truth about virtue and vices must necessarily be learnt at the same time as what is true and false in Being as a whole. This, as I began by saying, requires intensive practice over a long period. As they are laboriously practised each in relation to the other, all these items – names, accounts, visual and other perceptions – being tested in good-willing, uninvidious tests by persons engaging in question and answer, all at once there blazes up insight and understanding with respect to each of them exerting itself to the utmost of human capability. (Transl. Van Ophuijsen 1999*b*, 301)

That the objective truth cannot be argued also seems evident in *Phaedo* and *Republic*. In *Phaedo* we find a description of dialectic as the method that ascends to higher hypotheses, until one arrives at the point where there is no need to go any further (ἕως ἐπί τι ἱκανὸν ἔλθοις, *Ph*. 101e1). This alludes in non-technical language to the position of what in the language of *Republic* is called the ἀνυπόθετον: that which has no further explanation. In *Republic* we hear that the dialectical hypotheses are used by way of flights (οἷον ἐπιβάσεις τε καὶ ὁρμάς, 511b5) until one arrives at the ἀνυπόθετον, which is the principle of the whole (ἵνα μέχρι τοῦ ἀνυποθέτου ἐπὶ τὴν τοῦ παντὸς ἀρχὴν ἰών, 511b5–6).[9] This unexplained principle functions as

5 Van Ophuijsen 1999*b*, 301.
6 *Ibid*.
7 *Ibid*.
8 Cf. *Epist.* VII, 341c4–d2.
9 In *Republic*, being and truth themselves rest on the foundation of the Idea of the Good, which lies at the basis and is 'unfounded', τὸ ἐπ᾽ ἀρχὴν ἀνυπόθετον (510b6–7). Cf. [Pl.] *Def*. 414b5

a closing piece for the λόγοι, the accounts of the lower things, but does not have a λόγος itself. In Platonic terms, it would be less correct to say that the dialectical method is defective than that the majestic, overwhelming nature of the Good, which is compared to the power of the sun in both *Phaedo* and *Republic*, cannot be given a rational explanation (λόγος) and couched in words.[10]

The results of dialectic do not amount to being the result of a demonstration: they are not proven and require *belief*.[11] As Gadamer notes, "Was die Hauptfrage der Moral und des Lebens betrifft, bleibt die Dialektik unabgeschlossen, und es gibt kein Resultat, das ein Beweis zu sein beansprucht".[12] The Ideas are ultimately assumptions.[13] The fact that Socrates resorts to telling a *myth* in the event that dialectic fails (in *Gorgias*) is likewise indicative of the conviction that the Good is something that cannot be demonstrated and ultimately remains a matter of faith.[14] This is where there is room for authority in Platonic philosophy. It is therefore not surprising that in the only non-dialectical text of the Platonic corpus, *Apology*, Socrates has no problem with appealing to the authority of the *daimonion* as the legitimation for his beliefs and way of life. Statements that cannot be accounted for or proven in dialectic but are nevertheless taken to hold true are often presented as legitimated by some kind of authority.

The next section will offer a *status quaestionis* on *Laws* and reflect on the interpretative principle(s) that govern most modern interpretations. It will then explain the method adopted in this study, and reflect on the reasons for adopting it. From my interpretative perspective, it is undesirable to ascribe obscurities to the allegedly unfinished status of the text, or to Plato's advanced age. The next section will therefore briefly discuss the ancient evidence for the allegedly unfinished state of *Laws*.

σοφία ἐπιστήμη ἀνυπόθετος· ἐπιστήμη τῶν ἀεὶ ὄντων· ἐπιστήμη θεωρητικὴ τῆς τῶν ὄντων αἰτίας.

10 *Ph*. 99d4–e6; *Resp*. 507b1–509c10.

11 For the method of the dialectician not qualifying as demonstration "in an Aristotelian sense", see Van Ophuijsen, 1999*b*, 301. For a similar view of dialectic, cf. Gadamer 1996, 56–57, who notes that Socrates in *Phaedo* explicitly does not claim to have *proven* the immortality of the soul; in full awareness of the recognition that no certainty can be attained, Socrates maintains that it is better to lead a good life. Gadamer sees a parallel in *Phaedo*'s transcendental argument and Kant's transcendental foundation of the existence of freedom (Freiheit): "Auch Platons Begründung hat (…) etwas Transzedentales und zielt auf die Begrenztheit unserer menschlichen Vernunft angesichts des Rätsels des Todes und der Ewigkeit" (57).

12 Gadamer 1996, 57.

13 As such they are introduced by Socrates in *Ph*. 100b5–7. We could also recall the belief in the existence of θεία σοφία of the Socrates of *Apology*, and his firm conviction that this placed him under the obligation of a divine mission.

14 For this interpretation of the myth of *Gorgias*, see Van Raalte 1991. Also Van Raalte 2004, 310–311.

1.1 *STATUS QUAESTIONIS* AND PRINCIPLES OF CHARITY

The relation between Plato's two major works of political philosophy is still a vexing problem. Why write *Laws*, a *second* constitution, after *Republic*? This question seems to have puzzled the ancients as well.[15] However, it is not only the plain fact that Plato wrote a second constitution that is startling.[16] It is also the impression, shared by many scholars, that the Plato of *Laws* is beyond recognition for anyone familiar with *Republic*.[17] This section offers an overview of the main currents in the modern history of the interpretation of *Laws* from the 19th century onwards.[18] Given the sheer quantity of existing scholarship on the subject, which has experienced a renewed impetus since the 1980s and early 1990s, 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 the content and language of the work were deemed un-platonic by Ast.[19] 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.[20] This is an extreme inference to draw from 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 of *Laws* had been drastically edited after Plato's death, having been left in a state of disorder, or even the result of the amalgamation of two unfinished texts.[21]

15 As may be surmised from an anecdote reported in Stob. 3.13.45 (Hense = Meineke 13, 37): Διογένης ἤρετο Πλάτωνα εἰ νόμους γράφει· ὃ δὲ ἔφη. Τί δαί; πολιτείαν ἔγραψας; Πάνυ μὲν οὖν. Τί οὖν, ἡ πολιτεία νόμους οὐκ εἶχεν; Εἶχεν. Τί οὖν ἔδει σε πάλιν νόμους γράφειν; Unfortunately, no answer is reported. Cf. Jaeger 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*."

16 Assuming that this is the correct chronological order. For the relative dating of *Laws* as a late dialogue, see Bobonich 2002, n. 8 on pp. 482–483 and the literature in Zuckert 2009, 51, n. 1. For the question of Platonic chronology in general (initiated by Tennemann in 1792, who first tried to determine the chronological order of the dialogues) see Lutosławski 1983; Brandwood 1976; Bobonich *ibid*.; Klosko 2006, 14–19, with the literature in nn. 5 and 6 on 15–16. See also Nails & Thesleff 2003, 15, n. 3.

17 Cf. Nightingale 1993, 279.

18 See for a compact overview also Lisi 2001*b*. A bibliography on *Laws* until 1975 is provided by Saunders 2000.

19 Ast 1816, 387: "Ist der Inhalt der Gesetze unplatonisch, so ist es noch weit mehr der Geist und Ton des Werkes und die Sprache."

20 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 *Die Philosophie der Griechen in ihrer geschichtlichen Entwicklung*.

21 This is the view of Ivo Bruns (*Platons Gesetze vor und nach ihrer Herausgabe durch Philippos von Opus*, Weimar 1880), Ernst Praetorius (*De legibus Platonicis a Philippo opuntio retractatis*, diss. Bonn 1884), and Bergk 1893 (references also in Lisi 2001*c*, 279, n. 7); cf. Gigon 1954, 230. Bergk argues that the text of *Laws* as we have it is a compilation of "Bruchstücke"

Once Platonic authorship had become the consensus,[22] 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 (implying a version of the 'unitarian' reading of Platonic philosophy) and the distinction between (2) best and second best (implying usually a 'developmentalist' view of Platonic philosophy). 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*. They asserted virtually the opposite thesis, that is, the thesis that *Laws* is complementary to *Republic*,[23] or that they even describe the same city.[24] The modern view makes a distinction between theory and practice. According to this reading, *Republic* depicts a purely theoretical ideal, whereas *Laws* supplies a more realistic design, adapted to the demands of practice.[25] In this view, the differences between Callipolis and Mag-

made by Philippus of Opus of what were in fact two different texts, each already partly lost when Philippus began his work. The one Bergk calls πρότεροι Νόμοι, the other δεύτεροι Νόμοι. Hypothesizing two different texts solves the problem of why we never get the τρίτη πολιτεία mentioned in *Leg*. 739e5 (*ibid*., 48–52). Assuming that the πρώτη πολιτεία is *Republic*, he alleges that the πρότεροι Νόμοι are (somewhat confusingly) the laws for the δευτέρα 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*.).

22 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 the fact that Aristotle (*Pol*. II, 1265a2–1266a28) refers to *Laws* as a work of Plato, 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 D. L. 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 D. L. VII.36 to have written a reaction to Plato's *Laws* in seven books (Πρὸς τοὺς Πλάτωνος νόμους ζ').

23 This more unitarian approach was initiated by Grote in 1865 and Shorey in 1914. The slight differences between the two dialogues are "outweighed" by "all-pervading correspondences in principle and in detail" (*ibid*., 347).

24 In antiquity, the two were not systematically kept apart. Aristotle saw only few differences between the two: *Pol*. 1265a4–10: ἔξω γὰρ τῆς τῶν γυναικῶν κοινωνίας καὶ τῆς κτήσεως, τὰ ἄλλα ταὐτὰ ἀποδίδωσιν ἀμφοτέραις ταῖς πολιτείαις· καὶ γὰρ παιδείαν τὴν αὐτήν, 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 ὅπλα κεκτημένων, ταύτην δὲ πεντακισχιλίων, 'For with the exception of the community of women and property, he supposes everything to be the same in both states; there is to be the same education; the citizens of both are to live free from servile occupations, and there are to be common meals in both. The only difference is that in the *Laws*, the common meals are extended to women, and the warriors number 5000, but in the *Republic* only 1000' (transl. Barnes). Since Cicero had in mind that the laws in *De legibus* "should fit the type of state constructed in *Rep*. (…) he may well have understood Plato's project in a similar sense", Dyck 2004, 280.

25 Already in antiquity, it seems: Apuleius, *De Plat.* II, 26–27 (*civitas ... non ut superior* [the *polis* of *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); Hentschke

nesia are 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.[26] Underlying this ideal/practice interpretation is the assumption that Plato is consistent throughout his entire oeuvre. This is an interpretative principle of charity in its own right, but a charity grounded on a different basis (*doctrinal* consistency) than the principle of charity that I shall be defending here (*text-internal* consistency), on the grounds that the assumption of doctrinal consistency makes interpreters prone to exaggerate the similarities between Callipolis and Magnesia, and explain away the differences. Another weakness of this interpretation is that it ignores the literary character of the composition of the Platonic texts (especially *Laws*), since it considers this aspect irrelevant for the content of the political proposals.[27]

A somewhat different unitarian explanation holds that the unphilosophical character of *Laws* is to be explained by its internal and/or intended audience. *Laws* was, according to this reading, intended for a 'popular' audience, consisting of non-philosophers.[28] 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.[29] The interlocutors Cleinias and Megillus are, according to this view, a reflection of the non-philosophical external audience.[30] This position is also compatible with a

1971, especially 233, 252–253, 258–259, 264–265, 284–287; Stalley 1983, 2007; Kamtekar 1997; Lisi 2001*b*; Simpson 2003, drawing on Aristotle as evidence; Brooks 2006; Rowe 2010. See also the literature in Lisi 2001*b*, 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*, Vol. I) about the "totalitarian character" of Plato's political philosophy.

26 Shiell 1991, 388, has emphasized that this dualism disregards the fact that *Republic* is to a certain extent also practical, and *Laws* to a certain extent also theoretical or ideal. Laks 1990 (taking Cicero as his starting point), 1991, 2000, 2003 has made a similar point; cf. Lisi 1998, 2000.

27 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."

28 Görgemanns 1960. See Jaeger 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 2001*b*, 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.

29 Görgemanns 1960, especially 43–66, 70–110.

30 For the thesis that Cleinias and Megillus are not philosophers or have trouble following the argument, see: 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, because they hold that "goods other than virtue are much more important than virtue itself"; he connects this ethical shortcoming with the failure of the Spartan and Cretan laws "to treat citizens as free people" (122). But cf. *Cri.* 52e5–53a1, where the personified Athenian laws claim that Socrates used to express admiration for the quality of the

unitarian account of Plato's philosophy: on this account, the lesser prominence of the Ideas (or even absence – this is a disputed issue in itself) and the supposedly 'un-philosophical' nature of the discussion are not to be seen as a direct testimony to Plato's personal convictions at the time. This position has recently been defended by Rowe in his unitarian account of Platonic philosophy (2007).[31] Although the thesis that Plato chose to portray a conversation between a philosopher and two non-philosophers cannot be conclusively disproved, it seems a relatively weak explanation. It tries to explain why we find in *Laws* so little of what might be considered typical of Platonic philosophy, rather than building an interpretation on what actually happens in the course of the conversation. This book argues that the peculiarities of *Laws* suggest that the Platonic project in *Laws* diverges from the rest of the Platonic corpus in such a profound way that the unitarian account of *Laws*' peculiarities cannot do justice to its *status aparte* in the corpus.

As an alternative to the ideal/practice dichotomy, another view was put forward. This is the view that *Laws* represents a 'second best' constitution – second best, that is, to Callipolis. The first to advance this view were Zeller and Wilamowitz. The former argued in his history of Greek philosophy that *Laws* depicts a constitution that had to dispense with philosophical rulers.[32] The latter explained this absence of philosopher-rulers in *Laws* as a sign of the resignation of Plato's old age.[33] Whereas *Republic* and *Statesman* express the view 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 (the magistrates) is subjected to law.[34] Law is codified reason: the second best 'rule of law' is substituted for the 'rule of philosophy', that is, rule by the reason of a living ruler.[35] Plato's change of attitude towards the relation between a living ruler and law may have resulted from his frustrated hopes that a rule by philosophers could be established, possibly after the Sicilian fiasco. This reading assumes *Laws* to be much more pessimistic about

laws of Crete and Sparta. This warrants 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).

31 Although Rowe is relatively brief about *Laws*: "… in the *Laws*, [Plato] can set up a conversation between a philosopher and two non-philosophers who are specifically identified as incapable of dialectical exchange (it simply goes over their heads); a strategy that has immediate consequences for the level of the conversation. The Athenian visitor to Crete in *Laws* cannot, clearly, carry on a discussion with the philosophically unformed Clinias and Megillus of the sort that Socrates (…), can conduct, in the *Parmenides*, with the great Parmenides of Elea" (14).

32 Zeller 1922, 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."

33 Its primary expounder is Wilamowitz-Moellendorff 1919; for more adherents of this interpretation see the literature cited in Lisi 2001*b*. Cf. Hentschke 1971, 163; Trampedach 1994.

34 Adkins 1960, 297–298; Klosko 1984, 2006; Shiell 1991; Schofield 1997; Pierris 1998, 143–145; Wallach 2001; Kraut 2010.

35 The rule of reason embodied in the philosophers is ideal, but law, the νοῦ διανομή, is second best. See Zeller 1922, 952; Morrow 1960, Chapter XI; Yunis 1996, 231; Meyer 2006, 385 "law in its very essence is an expression of reason".

human nature than *Republic*, since it supposes that Plato saw himself compelled to conclude that no human individual can be the sovereign of a state. According to this view, the fact that the constitution of *Laws* relinquishes the idea of the philosopher as the ultimate authority in the state does not mean that Plato's belief in metaphysics as the basis for morality and politics was compromised; Plato only changed his idea about what would be the best constitution, not necessarily his belief in absolute norms for morality.

There is common ground between the ideal/practice and best/second best explanations: they converge in assuming that the metaphysical basis in *Republic* and *Laws* is consistent (in this sense, they are both unitarian). They share the idea that *Laws* presents a modified version of Callipolis (either conceived as the ideal, or as the best constitution). In this view, it is assumed that Plato consistently adhered to his conviction that society and human life ought to be organized on the basis of a metaphysical idea of justice and τὸ καλόν, and both *Republic* and *Laws* offer ways to do this – and it is of secondary importance how that knowledge is imparted in society. 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 respective assessment of the human condition and the rule of law in *Laws*.

The passage generally adduced to support the idea that *Laws*' city is an adaptation of Callipolis, both by defenders of the ideal/practice and of the best/second best thesis, 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'.[36] *Laws* 739a1–e7 has often been read as a kind of commentary on the relation between Callipolis and Magnesia.[37] The passage refers to a city, inhabited by gods or children of gods (ἡ 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 the 'city of gods', wives, children and possessions are all held in common.[38]

Both Laks and Bobonich have convincingly argued, however, that 'the city of gods' cannot refer to Callipolis.[39] It is obvious that the hierarchy of constitutions in

36 In *Laws* 739e4 the Athenian states that the constitution they (the interlocutors) have now embarked upon (this is in Book V) if it somehow came into being will 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 αἱρετέον, τάξιν τε καὶ νόμον. Cf. *Plt*. 297e1–6, where the phenomenon of law (νόμος) is called δεύτερον.

37 For the first time, it seems, by Bergk 1883, 48–51. But see also Zeller 1922, 952.

38 *Leg*. 739c4–5: κοινὰς μὲν γυναῖκας, κοινοὺς δὲ εἶναι παῖδας, κοινὰ δὲ χρήματα σύμπαντα.

39 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' (739c1), 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 chil-

Laws 739a1–e7 is defined by "a model internal to the *Laws* itself".[40] This internal ideal is cast in the phrase κοινὰ τὰ φίλων (739c2–3). A *polis* must be as much as possible a unity, a city in which τὰ φύσει ἴδια (eyes, ears, hands, etc.) are common 'in some way or other' (ἀμῇ γέ πῃ, 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.[41] Unity (ἡ μία) is a scale, on which the community of families that are dispersed throughout the entire city is one extreme. *Laws*' internal ideal thus suggests a more 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 extreme communism is unattainable) 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 designing may, when it comes into being, approximate immortality and constitute a unity 'in a secondary way'.[42]

Some interpreters have seen a confirmation of the second best thesis in a few derogatory remarks about laws in *Statesman*,[43] and in the statement of *Republic* that 'a virtuous person does not need laws'.[44] 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 grounds for drawing definitive conclusions about X in another dialogue. *Laws* develops its own conception of laws and lawgiving, which need not be liable to the criticism of laws voiced in other dialogues.

dren. (…) 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.

40 Laks 2000, 272.

41 For a study of the unity of Callipolis, see Arends 1988.

42 *Leg*. 739e3–4: ἣν [*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.

43 *Plt*. 294a10–297e6, especially 297e1–6; also 300c5–302b3; *Leg*. 875d3–5. Cf. [Pl.] *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.

44 *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 διδῷ 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.

The present study approaches the text of *Laws* through a *text-immanent* use of the philological 'principle of charity'.[45] This means that I shall apply the principle of charity in a specific way: I shall take a single text as my basic unit of interpretation rather than an oeuvre and regard 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. The interpreter assumes a benevolent attitude to the text in order to "bring out the best in the source text", and prefers "a favourable reading over one that attributes a mistake to the author".[46] This methodological principle attributes priority to *internal* consistency (consistency within *Laws*) rather than to consistency between the different Platonic texts, as most exegetes have done so far. I will attempt to develop a reading of *Laws* in which the seemingly un-Platonic elements will add up to a coherent narrative.

This Introduction began by listing some of *Laws*' most striking features. 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. It offers a maximizing interpretative approach, in which these elements are interpreted as adding up to an internally coherent and sensible composition. 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 offering a 'pragmatic project' entails that Plato's last work is at odds with a number of core Platonic doctrines.[47] This of

45 See Sluiter 1998, especially 14–15, for an explanation of the principle of charity. The principle of charity 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. 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).

46 Sluiter 1998, 15 on the principle of charity in general. 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).

47 What I mean by 'pragmatic project' differs from how this term is used in Schofield 2010 (see *ibid*. 22, 24, 26). Taking his cue from a passage in Aristotle's *Politics*, Schofield argues that *Laws* involves two distinct projects. According to him, *Laws*' fundamental enterprise is "idealising" and consists in offering a second best *politeia* that approximates the ideal of *Republic*; this project is manifest in Book I, in "the provisions for social organisation and education" in Books V–VII, and is reaffirmed at the end of Book XII (*ibid*., 26). The other, "subsidiary" and "more pragmatic" project consists in offering the coercion of a law code that can be adopted by different cities, which "needs to encapsulate reflection on human nature as it is" (27). This project is manifest in the historical reflections of Book III, which are "devised with a view to prescribing for the sort of system capable of being generally adopted by political communities" (20), in the rules for the property classes in Book V and the officials in Book VI, and in Books VIII–XII (see *ibid*. 27). Schofield is followed in this reading of *Laws* by Gray 2015 (see 64–65, 70–71, 100). Though it is certainly correct that *Laws* combines both an interest in education in virtue with the coercion of law, these are subsequent 'phases' of the same project: the preambles and the laws come in when education has failed. In contrast to Schofield, I argue that *Laws*

course raises the question of the place of *Laws* in the Platonic corpus as a whole. The Conclusion (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. In any case, the explanation offered by an interpretation that grasps the text as an internally coherent whole should outweigh the fact that the particular interpretation offered in turn raises, with renewed urgency, the question of why Plato embarked on such a radically different project towards 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 lead one to draw such a drastic conclusion, they do agree 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.[48] On second thought, 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 in thought – they acknowledge that a large part of the Platonic vocabulary is re-appropriated in *Laws*, but in the service of a different message.

Methodologically, the consequence is that we have to be very careful about our use of terms and always make explicit 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, 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. Appearances can be deceiving: if in *Laws* Plato is talking about, for instance, φρόνησις, it is not necessarily true that what he means by it, or what he says about it, will be the same as in, say, *Republic*. In fact, it will be argued that Plato not only re-appropriates familiar terms in a new context, he seems even to re-appropriate complete philosophical postulates from his own philosophy. The most important example of this

as a whole, i. e. including its rules for social organization and education, does not presuppose a transcendental moral norm but centres on "human nature as it is". Though my reading to some extent agrees with that of Schofield, it seems to me that he is mistaken in following Aristotle to recognize *both* projects in *Laws*. When Aristotle wonders, in *Pol*. 1265b26–33, which of the two is Plato's real project in *Laws*, he clearly considers these *alternatives*. Aristotle's confusion arises from his apparent awareness that Plato in *Laws* wanted to offer a constitution 'more common' to cities, and failure to see much difference between *Laws* and *Republic* (the two differences he does see are that in *Laws* the women should also participate in the *syssitia*, and that in *Laws* there are 5000 warriors, in *Republic* 1000, *Pol*. 1265a8–10). It is therefore precisely because in his opinion *Laws* does not reflect what Plato wanted to do (that is, Aristotle fails to see in *Laws* what Schofield calls its pragmatic project) that he wonders in *Pol*. 1265b26–33 *in which of the two* Plato in *Laws* engages.

48 Particularly Müller 1968, and, to a lesser extent, Zeller 1839, to which I will refer at the appropriate places in my argument.