

BEYOND LEGISLATION, CLOSE TO PHILOSOPHY. PLATO'S LAST CRITIQUE OF WRITING IN THE *LAWS*

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I.

In the Platonic dialogue *Laws*, three men of advanced age attempt to expound the regulative principles and the legislative foundations of a city under constitution. The dialogue contains both a long thread of reflections on legislation and numerous examples of specific regulations and statutes. That the latter is the case is not self-evident. Especially to anyone who is familiar with the reservations of the *Politicus* toward the creation of written regulations, it should strike as paradoxical, since in this dialogue, the law in its generality is considered incapable “of determining exactly what is noblest and most just for one and all and enjoining upon them the best” (294a-b). Human affairs are subject to a complexity incompatible with the rigidity and univocality of the legislative imperative: “That which is persistently simple is inapplicable to things which are never simple” (294c).

This critical position toward the law keeps to the critique of writing in *Phaedrus* (274b - 278c) and draws from its arguments. Writing in general “always says just one and the same thing for ever”, entirely lacking in liveliness and flexibility. In the same way that writing is incapable of answering the questions that constantly arise anew and is forced to always say “the same”, the law is incapable of adapting to dissimilar and constantly changing circumstances and conditions. Just like writing is unable to choose its recipient and reaches people who possibly lack the capacity to understand it, being continually subject to misconceptions and arbitrary interpretations, so is the force of the law based solely on the generality of its meaning and on the universality of its implementation. Just like the writer’s spirit becomes petrified in writing and cannot “help itself”, so does the legislator’s vital

political knowledge and will become petrified – an aggregation of regulative provisions prone to arbitrary interpretations. Just as writing does not increase knowledge but generates a semblance of knowledge, so do laws generate a semblance of justice, treating dissimilar matters in a similar way. The parallelism is also ratified by the fact that Plato's Socrates exposes the disadvantages of writing by referring to the example of the law. The law appears as the most characteristic case of writing (*Phaedrus* 257e, 278c), and its institution is an especially “disgraceful” (277d-e) action – even if we are used to consider the legislator “wise” (258a) and “godlike” (258c).

Therefore, it is surprising to find the following view on legislation contained in a passage of the *Laws*:

“And it is an enormous help for intelligent legislation, when legal instructions, once written down, remain fixed and permanent, ready to stand up to scrutiny for ever. So there's no reason for alarm if at first they make difficult listening, for even the simpleton will be able to go back again and again and examine them. Nor does their length, provided they are useful, justify anyone in committing what seems impious to me: refusing to help them as best he can.”¹

This view is stated by Clinias in the context of a discussion on the difficulties entailed in proving the existence of God. The Athenian stranger had previously (889e - 890a) brought up the dispute concerning *nomos* and *physis*, attributing priority to the latter. While *physis* signifies the constant and unchangeable, the drawback of the *nomos* lies in the doubts it creates, in the variability and instability it produces. It is exactly this shortcoming Clinias seeks to play down in the given passage. Moreover, drawing from a previous remark of the Athenian distinguishing between “threat” and “persuasion” (*ἀπειλή* vs. *πειθῶ*, 890 b-c), Clinias seems to appeal to the power of writing as the supreme form of persuasion. The law is not simply a medium, but a goal in itself that merits every possible “help”. According to Clinias, the most important “help” is provided by writing.

The immobility, inflexibility and invariability of writing, which in *Phaedrus* indicated imperfection and inferiority, are turned here into advantages. Especially, the complete inertia of the written *logos* (*τάχυντος ἡγεμεῖ*) is treated as a support to understanding, if not as a condition of the possibility of understanding *logos*. Whereas in *Phaedrus* the inertia and self-sufficiency of writing rendered “self-help” (*βοηθησα αὐτῷ*) impossible, here it appears as a necessary presupposition of its continual “examination”. Whereas the only “help” was to be expected from the writer himself, i.e. the only one who could contribute to the correct apprehension of his views by explaining them dialogically, now everybody is indiscriminately called to help, each and every one can contribute according to their abilities. Whereas writing, when publicized and distributed, remained subject to misconception, here it seeks out access to the “masses” (*τῶν ἄνθρ*, 890c). What

philosophically constituted a deficiency now appears as an advantage in regard to the “many”, since even the “simpleton” can always return to the written law, study it and ultimately understand it.

Do we have here one of the many revisions of the Platonic position that allegedly took place in his advanced maturity? Does Plato confess, not long before his death, the unattainable and unrealistic status of his earlier views, subjecting them to fundamental revival? Is he perhaps abandoning his reservations toward writing by and large? Rather than giving a negative answer, we ought to discard these questions as rather superficial. We cannot really probe into the problem of Plato's presence in his dialogues here;² we must restrict ourselves to pointing out that an unqualified identification of Plato with (some of) the dialogic *personae* appearing in the dialogues is certainly hasty and uncritical. This applies even to the Socrates of *Phaedrus*, but surely even more to Clinias of the *Laws*. The views of the writer Plato ought to be reconstructed on the basis of each dialogue as a meaningful unit and do not coincide with the views of any individual participant in the dialogue. Socrates cannot be considered a Platonic mouthpiece when he undertakes a vehement attack on writing in *Phaedrus*. On the other hand, certainly, the meaning of this attack cannot remain unnoticed and neither can the fact that it takes place within a written document. The Socratic critique of writing should be interpreted as indicating a *tenzion*, characteristic of Plato's relationship toward writing, rather than an instance of Platonic performative contradiction.

Especially in the case of Clinias, it would be hardly convincing to read his almost naive defense of writing as a position of Plato himself. Clinias is not even the leading interlocutor of the dialogue but only the “most eager” one (*πρῶθυμώτατος*, 890e), who seeks in the petrifying stillness of imperative writing the quiescence of a successful state constitution. Clinias' “persuasion” produces a conviction that depends exclusively on the persistent iterance of legal imperatives. This “persuasion”, however, is nothing but an extension of “violence” (*βία*), which is intensified through the constant repetition of the imperative language of legal statutes.

Does this mean, nonetheless, that the passage cited above is insignificant and that it could be ignored? The answer to this has to be negative. Clinias' statement carries out an important task within the Platonic dramaturgy. His uncritical, flat and simplistic praise of written statutes constitutes—from the perspective of the dialogue as a whole—an *ironic warning* against a reading of the *Laws* that would consider them simply as a collection of legal rules in view of the foundation of a new state. In this way, the “most eager” Cretan represents and prefigures all those readers and interpreters of the *Laws* who take the text as a legal code or treatise. On the contrary, to a reader who is familiar with Plato's reservations toward writing, the preference of Clinias for the written legal code is a warning against the hazards entailed in the self-sufficiency of a legal text. In Clinias' defense of writing we come across Plato's very last critique of writing.³

II.

The intervention by Clinias is an illustration of a Platonic reflection on the nature of legislative activity. The *Laws* do not aim primarily at constituting a legal code, but at investigating assiduously – although not elaborately or completely – the nature of law and *polis*. As already noted, the political element is conceived here as a symbiosis normatively regulated as much by persuasion as by violence. This contradiction between persuasion and violence/threat pertains to the whole dialogue,⁵ outlining the dual orientation and the complex duty of the legislative task. The incorporation of persuasion into the legal issue, which signifies the most important innovation of Plato's philosophy of law, leads to an elaboration of the prominent *preludes*.⁶ Moreover, it leads to a shift of the dialogue's epicenter. The preludes are not mere samples of successful implementation of persuasion. The overall theoretical discussion of their character and aspirations signifies the *Laws*' shift from the technical-legislative field to the sphere of philosophy. Particularly, the theoretical digression on justice in the fourth book of the *Laws* (718a - 723d) incorporates a purely philosophical interrogation into the dialogue.

The Athenian refers there to "issues which a legislator who thinks as I do simply must mention, but they are not easily expressed in the form of a law" (718b). These issues originate from the commitment to achieve persuasion. This commitment does not only outline an essential task of the legislator, but also undermines the traditional form (ὄρχη) of the law and leads to its overcoming. "In what form (ἐν τῷ ὄρχηται) can then such issues be expressed?" The Athenian does not possess a simple answer: "It is not very easy to confine their exposition to a single type" (ἐν ἐνὶ τύτῳ, 718c). The reason for the lack of a unique "type" of persuasion is obvious: the multifariousness of the legal material and of the necessary means of persuasion, as well as the philosophic complexity in the elaboration of the preludes, demand an analogous plurality of forms and types of persuasion.

One of the legislator's obligations is to render people – through the preludes and the traditional means of rhetoric persuasion – "more amenable" and "better disposed" to his counsel, "easier to teach" and "more complying to virtue" (718c-d). The legislative persuasion is guided here primarily by an almost moralistic approach, confirmed also by the reference to Hesiod (718e - 719a). More important is the next section (719a - 719e), where the imaginary dialogue between a legislator and a poet leads to the heart of the issue. The "measure" (μέτρον) does not coincide with the "average", but each time depends on the available means. The "measure" has nothing in common with mediocrity or the average but should be determined in a way that pays regard to the multifarious and constantly changing life form. Surely enough, immediately afterward, the poet will urge the legislator to institute specific monetary limits for burial expenditures. This retreat is essentially a resignation from the claims of rationality innate not only in the concept of "measure", but also in every persuasion, in every political intention and activity. The poet's stance and expectations demonstrate thus *ex negativo* the necessity of an alternate course of

dialogue: the shift from the law's threat to the prelude's persuasion, with the purpose of a closer determination of the relationship between persuasion and violence. At any rate, the Athenian narrating this imaginary dialogue can not be content with this outcome. He prefers to insist on "something at the beginning of the laws" that includes elements of "encouragement and persuasion" (720a) and whose archetype is the previous address to the settlers (715e - 718a).

The Athenian then attempts to put the accent on this view through the renowned medical analogy (720a-e), the importance of which can hardly be overrated. Just like children hope for a mild treatment from the doctor, we also are used to looking for a "gentle" legislator. We can indeed discern two kinds of doctors: the free doctors, who learn their art by getting to know the "nature" of their subject-matter (κατὰ φύσιν, 720b), and their assistants who – like slaves – practice medicine empirically and learn by simply observing the former. The slave doctor gives instructions without justification, yet "as if he had precise knowledge". He acts arbitrarily like a tyrant, performs his services hastily and without paying much attention and primarily aims at the "relief" (ῥασαύων, 720c) of his master from the care of patients. On the contrary, the free doctor

"treats and examines the illnesses of free men. While he explores their outset and their nature (ὄντ' ἀρχῆς καὶ κατὰ φύσιν), consulting the sick and his friends, he learns something himself from the sick and at the same time he teaches him as much as he can. He gives no prescription until he has somehow persuaded the sick; then, always appealing him through persuasion, he tries to complete his restoration to health" (720d-e).

To this doctor, who carries out his task in a twofold way (δύτῃ), corresponds a legislation that utilizes not only violence, but also persuasion. On the basis of the distinction between the two doctors and referring to the legislation concerning marriage, the Athenian presents now two general types of legislation (720e - 722c). The "simple" law exclusively employs threat, while the "double" law begins with an illustration of the institution and the goals of marriage, which corresponds to a demonstration of the *arche* and the *physis* of its object. Following the praise of the "double" legislation by both Megillus and Clinias, the Athenian confirms with self-complacency that "the double kind of doctors was aptly compared" to legislation (722b). Has this indeed been the case? Is the medical analogy really appropriate for determining the nature of legislation? Can we find the model of a legislator in a doctor who orders nothing without the consent of the patient?

III.

The major drawback of the slave doctor was his inability to "give account" of an illness (720c). This phrase clearly refers to the philosophic activity, which thus appears to have infiltrated the free doctor. The investigation of *arche* and *physis* indicates basic and fundamental knowledge, acquired dialectically through

discussion with both the patient and his family. The goal of the cure is combined with or even overshadowed by a distinct cognitive interest. The free doctor primarily seeks to learn and teach. He values both the goal (the cure) and the means he will be utilizing. Indeed, these means gain precedence over the goal: the necessary cure and treatment will not take place if the patient does not consent to it.⁹ Could the legislator though accept such restraint of his imperative role? Could the legislator make the institutional force of his orders dependent on the consent of their recipients?

Effective persuasion would render violence or its threat useless and pointless. Whoever is persuaded by the prelude does not even need the main law. The prelude renders the laws redundant,¹⁰ at least with regard to the element of threat contained in them. In contrast, in the analogy the conversation of the doctor is not enough to substitute the (possibly painful) therapeutic treatment. Apart from this, the legislator could never emulate the free doctor, drawing the recipients of his orders into discussion. Considering both this and the factual observation that the prelude of the *Laws* themselves do not always contain the dialogic elements expected from the analogy, some readers have inferred the utter failure of the analogy. R.F. Stalley characterized it as "highly misleading" and recorded a "discrepancy between what the Athenian actually does and what he says he is doing".¹¹ A. Nighingale pointed out the incompatibility between the roles of doctor and legislator, since it would be impossible for the latter to partake in dialogic discussions.¹² Apart from this, it is clear that, in spite of the importance attributed to the citizens' consent in the *Laws*, the attempt to attain this consent has certain limits. Persuasion cannot substitute supervision and regulative enforcement and this cannot depend on the approval of the citizens. The theoretical model of a social contract remains completely alien to Platonic political thought.

The medical analogy thus *fails in its proclaimed purpose*: it is indeed unable to illustrate the legislator's activity and task. Yet, is this its real purpose altogether? This seems all but certain. Later in the dialogue, when the Athenian brings up the subject again, he ascribes a new and completely different dimension to the analogy:

"Make no mistake about what would happen, if one of those [slave] doctors who practice medicine empirically and without *logos* were ever to come across a free doctor conversing with a free patient. This doctor would apply his arguments close to philosophy, grasping the disease from its outset and returning to the whole nature of the body. But the other [slave] doctor would immediately give a tremendous shot of laughter and would say precisely what most so-called doctors are always ready to say. 'You fool, he would say, 'you are not treating the patient, but nearly training him – as if he wanted to become a doctor rather than get well again.' And wouldn't he be right to say that? – Perhaps he would [...]'" (857c-e).

This passage reveals the true character and purpose of the analogy and its

implications. It also undermines and conclusively refutes its initial, alleged meaning. Here it becomes clear that the legislator *cannot* emulate the dialogic activity of the free doctor.¹³ The practice of this doctor does *not* illustrate the legislator's mission, but rather the situation of the three old men during their conversation. Just as the free doctor postpones treatment through teaching, so they follow their constant, yet not admitted, desire to change the subject of their discussion from legislation to philosophy, to procrastinate by all means in drafting the colony's laws. The three men prefer philosophy to legislation. And the new legislators, who due to their own advanced age they would like to create (770a), are nothing but dialecticians – in the same way that the free doctor did not primarily seek to cure, but to produce his equals.¹⁴

To the extent that the free doctor moves "close to philosophy" (ἐγγύς τοῦ φιλοσοφῆν), he is bound to suspend his therapeutic pursuit, evoking laughter. This laughter, coming from the slave doctor, from the conventional legislator and from "common sense" in general, confirms the experienced reader's suspicion: evoking of laughter is a trait of philosophy. Characteristically enough, the adjacency of doctor to philosophy does not trouble the three men at all. The slave doctor's disdain for the substitution of "treatment" by "training" does not contradict the intentions of the dialogue. The free doctor is just as "unwise" as the three old men, who for a whole day and in the summer's heat discuss the character and aim of legislation – or maybe as "unwise" as every philosopher who prefers to study the *arche* and the *physis* of legislation instead of composing specific statutes. The free doctor is the alter ego of the Socratic midwife.

IV.

The medical analogy decisively surpasses its initially assigned goal. It does not proceed to a simple restoration of rhetoric practice through the incorporation of persuasion and does not attempt to simply integrate the Socratic model of dialogic discussion in the legislative production,¹⁵ but leads beyond actual legislation, towards philosophic reflection. As a simile for the legislative enterprise, the medical analogy indeed fails, since it is unable to convey a model of legislative activity in the strict sense. Nonetheless, it is absolutely successful as a reminder of the primary intention of the dialogue, which always tries to escape the threat and violence of legislative enforcement and dwell as much as possible on a free philosophic discussion about justice. In order to accomplish his mission, the legislator remains at last *forced to follow the practice of the slave doctor*. The *Laws* try to avoid this, conducting a *balanced wavering between legislative mission and philosophic reflection*. Plato seems to be aware that the alternative to a slavish legislator forced to use "threat" is not a "milder" legislator, but only the philosopher. Only philosophy bears true persuasion.

Philosophy is central in the dialogue on account of the preludes. They are introduced in the dialogue as a mediating instance that leads from legislation to

philosophy. It is not surprising, therefore, that the very first prelude in the dialogue is not the account of a legislator, but a discussion among the three men. The address to the settlers (715e - 718a) will constitute "that entire *logos*" (723a), acclaimed as a general prelude to the whole legislative system. The preludes are not equally necessary to all laws (723c) and present great differences among themselves, too. Yet, they are founded upon a common denominator: they provide the possibility of an alternative *logos*, different from that of strict legislative enforcement. Besides, and despite the reference to a "single" and a "double" law, it is made clear from the start that the law in fact consists in an "order".¹⁵ Notwithstanding the coexistence of prelude and command within the "double law", the true nature of the law lies in its imperative threat. On the basis of this clarification, the preludes can be distinguished from real legislation and provide the possibility of reflection that leads *beyond the law*.

The *Laws* transcend the laws: they do not aim at their apotheosis, but at their critique.¹⁶ Legislative action is a necessary evil, to which free thought is always preferable. This is why the Athenian, right after clarifying the meaning of the medical analogy, regards as great fortune the fact that

"we are not obliged to legislate. We are simply reflecting on every kind of state and trying to discern the best and most necessary and how this could be accomplished. In this way now it seems that we can examine the best in legislation, if we want to, or again the most necessary. Let us choose, then, one of the two. – This is a ridiculous choice, my friend. It is not as if we were legislators forced by some irresistible necessity to legislate at once, without being allowed to put it off until tomorrow." (857e - 858b)

The three men prefer to engage (until 864c) in a discussion about the theoretical foundations of penal law. This discussion will then function as a general prelude to the specific juristic statutes. Well aware that "legislation has never been properly thought out" (857c), they prefer to deal with the true nature of law and justice and the legitimacy of penalties, instead of arraying more legal regulations. This digression on criminal law is not an exception or irregularity,¹⁵ but a *philosophic prelude par excellence*. The same applies to the proof of the existence of God as a prelude to the law on impiety (885c - 907d), which makes clear that the proper "form" (οὐσία) of persuasion is the manifold "form" of philosophic dialogue.

The preludes do not have a common logical structure; as already mentioned, they cannot be "confined and expressed in a single type" (ἐν ἑνὶ τύπῳ, 718c), but take many forms. Some appear as addresses, while others are written documents that can also be used as educational material.¹⁶ They do not represent a rational theory, nor do they bear samples of persuasion invoking reason and depending on it.¹⁷ Their only common characteristic is rather the fact that they all stand and move "close to philosophy". What does this proximity mean?

Magnesia is certainly not a state of philosophers. Neither is the dialogue's aim a

philosophic simplification, a layout of philosophy for the crowds, who need to be convinced of the superiority of philosophers (or philosopher-kings). In most cases the *Laws* do not present philosophic *logos*. The distinctive trait of the dialogue's philosophic objective is that the philosophic *logos*, while not always in the foreground, casts constantly its shadow as an alternative to legislation doomed to force and threat.¹⁸ Andre Laks is right in observing that the *Laws* attempt to release the law from its intrinsic violence;¹⁹ he seems, however, to disregard that this is feasible only through the perspective of a non-legislative *logos* – a perspective shown in the preludes. This necessity, covertly present throughout the dialogue, is directly expressed in the tenth book by Clinias, who acknowledges that the institution of the law against impiety leads the dialogue in an area "beyond legislation" (νομοθεσίας ἔντος βαίνειν, 961d).

Laks is right on a second observation, when in the various forms of preludes he discerns a correspondence to the heterogeneity of the Platonic dialogues.²⁰ This correspondence, which is anything but incidental, allows us to assume a deeper correlation: the appeal to the preludes is rendered necessary for the same reasons that lead to the preference of the dialogic form. Most important of these reasons is a fundamental characteristic of Platonic thought: the fact that it is ruled on multiple levels by *tensions* and *adversities*.

In spite of his reservations toward writing, Plato composed written documents; in spite of his reservations against the inflexibility of stable and unchanging laws, he incorporated such laws in his late work. This does not indicate any Platonic contradiction, but two parallel efforts to intermediate between distrust on the one hand and necessity on the other. Plato writes documents in which he incorporates his reservations toward writing: he writes *dialogues* and creates thus a new form of philosophic expression. Moving analogously, he composes laws in the "second sailing" of the foundation of his "second state".²¹ Without doubt, the *Laws* represent an "opening" to the political reality. We would be oversimplifying though, if we were to regard the dialogue as an adoption of an uncritical political "realism", thus overlooking the *Laws'* critical stance toward the law.

V.

The motivation and intentions of the Platonic decision to compose written documents (dialogues) and laws (in the *Laws*) are the same²² – and both decisions keep pace with essential modifications. Plato's texts are dialogues. As such, even if they do not contain the "most valuable" aspects of his philosophy,²³ they attempt to avoid the problems and dangers of written documentation. They restrain as much as possible the spreading of an appearance of knowledge, they do not lack in vivacity, they restrict the inclination to self-sufficiency, they support their reader's active participation in philosophic reflection. The Platonic critique of writing is stated not only explicitly in the relative passages of *Phaedrus* and the *Seventh Letter*, but also performatively in the entirety of the dialogues. Plato's laws, likewise, are

"double". This does not only mean that apart from the actual law they also contain an introductory prelude. It does not simply mean that the whole legal system is charged with producing persuasion on top of violence. The incorporation of the prelude brings forward a perspective of critique toward the law, which—explicitly or implicitly—is present throughout the dialogue, co-determining its deeper intentions. With the mediation of the *Politicus*, the—sheer problematic—duality of the philosopher-king of the *Republic* has been ruptured: freedom is distinctive of philosophy, not of politics. It is the free and not the slave doctor who can maintain his freedom—it is *the philosopher and not the legislator*.

Clinias' defense of writing forces persuasion itself to appear as something "tyrannical". With the naïveté of an empiricist, the Cretan in fact repeats the position of the slave doctor, who states his commands and constantly repeats them, so they can be rendered understandable even to the "simpleton". The careful reading of the medical analogy, however, transforms that defense into a critique of writing. Despite what Clinias maintains, Plato's critical stance toward writing sustains fully its power in the *Laws*. While composing laws, Plato remains aware that the law's nature is always monologic²⁴—eventually slavish and despotic at once.²⁵ This does not indicate a complete undermining of the law or its substitution with philosophic argument,²⁶ but rather a shift of the epicenter of the dialogue—from the laws to the prelude, and through them to a shift from legislation to a discussion "about the beautiful and the just and all the most important things".²⁷ Contrary to the view of numerous "most eager" interpreters,²⁸ the *Laws* do not constitute a legal code, but a genuine work of philosophy. The dialogue's readers are not urged to submit to the legislator's authority,²⁹ but are summoned to philosophy.

The tension at the core of this shift as expressed in Plato's last critique of writing is ultimately the tension between the ideal of a political sovereign with unlimited freedom of decision, on the one hand, and the necessity of statutory legislation in writing, on the other. Plato develops his philosophy in and through this tension; he does not put forth any rigid or fully elaborated thesis, but retains his critical reservation toward the law and attempts an escape forwards, an escape to philosophy. Philosophy in the *Laws* is not an *ancilla legislationis*, but a self-sufficient alternative against practical legislation.³⁰

Notes

¹ *Laws* 890e–891a. Hereafter Stephanus page numbers refer to the *Laws*; I am using the translation of T. J. Saunders: *Plato. The Laws* (Penguin: Harmondsworth 1970) with modifications.

² The most recent important publications on this issue are included in G. A. Press (ed.) *Who Speaks for Plato?* (Lanham: Rowman & Littlefield Publishers, 1999).

³ The opposite interpretation, regarding Clinias' views as a direct expression of Plato, is adopted by E. Jouët-Pastré: "Le jeu de lecture du *Phédrus* aux *Lois*", in F. L. Lisi (ed.), *Plato's Laws and its historical significance. Selected papers of the I. International Congress*

on *Ancient thought*. *Salamanca 1998* (Sankt Augustin: Academia Verlag, 2001), 33–40.

⁴ Some of the relevant passages are 718b, 721e, 722b.

⁵ Plato is himself aware of this innovation: cf. 722b–c, 722c. – For an evaluation of the significance of "persuasion" in Platonic philosophy and in particular its function within the prelude, see Chloé Balla, *Πλατωνική περίβω* (Athens: Polis 1997), 129–174; see also her recent text "Isocrates, Plato, and Aristotle on Rhetoric", in *Rhizai. Journal for Ancient Philosophy and Science* 1 (2004), 45–71.

⁶ The medical analogy functions in a different way in other dialogues. In *Gorgias* (521a), the comparison to the doctor's activity denotes a "struggling (*δυνατότητα*) to force the Athenians to become better". In 512d–522a the doctors seem to employ every means of force possible, whereas in the *Politicus* 293a–b they are assigned the right to "cure us with our consent or without it (*ἐὰντε ἐξόχρατς ἐὰντε ἀκούρατς*), by cutting us or burning us or causing us any pain". Here Plato seems to be aware of only one type of doctor, the slave. ⁷ Cf. H. Görgemanns, *Beiträge zur Interpretation von Platons "Nomoi"* (München: Beck, 1960), 54.

⁸ R. F. Stalley, "Persuasion in Plato's *Laws*", *History of Political Thought* 15 (1994), 170–171. Cf. also: "the analogy [...] breaks down precisely because the legislator's persuasion is accompanied by a threat".

⁹ A. Nightingale, "Writing/Reading a Sacred Text: A Literary Interpretation of Plato's *Laws*", *Classical Philology* 88 (1993), 287–8.

¹⁰ Cf. also A. Laks, "The *Laws*", in C. Rowe & M. Schofield (eds.), *The Cambridge History of Greek and Roman Political Thought* (Cambridge: Cambridge University Press, 2000), 290: "the medical analogy, if properly understood, implies the recognition that legislative discourse will not be able to follow the medical model of free discussion". Laks adds: "Unfortunately, no adequate analysis of the two highly complex passages and their relationship is available." – In a more recent essay Laks offers a new interpretation of the medical analogy, also stressing the differences between the two passages in the dialogue ("In what sense is the city of the *Laws* a second best one?", in F. L. Lisi (ed.), *Plato's Laws*... 112–113).

¹¹ See 857 d–e. These new legislators would have as primary mission not legislation but education.

¹² As Laks maintained ("The *Laws*", 289).

¹³ Cf. 723a: τὴν ἐνστάσιν, ὁ δὲ ἔστιν ὁ νόμος.

¹⁴ Cf. also A. Laks, "Legislation and Demiurgy: On the Relationship between Plato's *Republic* and *Laws*", *Classical Antiquity* 9 (1990), 222, and also "The *Laws*", 286.

¹⁵ Cf. H. Görgemanns, *Beiträge*... 83: "This however is something different than a prelude, it is a theoretical discussion of legislators among themselves, which interrupts the course of legislation."

¹⁶ Cf. 811c–e.

¹⁷ This was essentially the view of Ch. Bobonich in the essay "Persuasion, Compulsion and Freedom in Plato's *Laws*" (*Classical Quarterly* 41, 1991, 365–388); this view is principally aimed against Morrow's "Plato's Conception of Persuasion" (*Philosophical Review* 62, 1953, 234–250). Bobonich based his thesis on the medical analogy, but he read it literally, as a depiction of legislative activity.

¹⁸ J. Waugh, on the contrary, attributes to the prelude exclusively the role of a "narrative justification" and understands their insertion as a renunciation of philosophy. "The polis needs not only philosophy, but also narrative discourse" ("Oral Preambles and Written

Laws. The Dialogic Character of the *Laws* and Lawfulness", in F.L. Lisi (ed.), *Plato's Laws*..., 30).

¹⁸ See among others his latest relevant text "In what sense...", 111.

¹⁹ "Platons legislative Utopie", in E. Rudolph (ed.), *Polis und Kosmos. Naturphilosophie und politische Philosophie bei Platon* (Darmstadt: Wissenschaftliche Buchgesellschaft, 1996), 53.

²¹ The institution of laws was described as "second sailing" in the *Politicus* 300c (likewise in the *Laws*, 739a, 739c, 875d). The phrase in this context does not mean the same as in *Phaedo*. There it is not about the "second best" sailing, but simply about the second one, who – as a recourse to *logoi* and a "sup-position of Forms", after the failure of the first sailing – will be shown to be the indubitably best sailing. On the contrary, in the *Politicus* (as in *Philebus* 19c) the "second sailing" appears as the result of the awareness of the unattainable of an ideal that nonetheless continues to be recognized as such.

²² This parallelism is also recognized by Bobonich, who seems however to underestimate its deeper, underlying aspirations. See "Reading the *Laws*", in C. Gill - M.M. McGabe (eds.), *Form and Argument in Late Plato* (Oxford: Clarendon Press, 1996), 265: "In both cases, the intent is to bring it about not only that members of the audience have true beliefs, but also that they develop some grasp of the basic explanatory principles underlying these beliefs." In the same text, developing and partly reconsidering his former interpretation ("Persuasion..."), Bobonich mentions a "genuine tension in Plato's views between guaranteeing stability and encouraging reflection" (273). This tension truly exists, but I do not believe that it is the dominant tension within the dialogue. – On the contrary, the refusal of G. Müller (*Studien zu den platonischen "Nomoi"*, München: Beck, 21968) to recognize the tensions in the Platonic thought and especially in the *Laws* was the main reason of his belief that the *Laws* is not a genuine Platonic text.

²³ Cf. *Phaedrus* 278d: τιμωτέρα.

²⁴ Cf. 719d: οὐ δὴο περὶ ἐνός, ἀλλὰ ἐνὰ περὶ ἐνός ἀεὶ δεῖ λόγον ἀποφραίνεσθαι.

²⁵ Especially the slave doctor behaves "just like a tyrant" (καθάρτεγ τύραννος, 720c). On the other hand, the tyrant appears frequently in the Platonic corpus as somebody who above all tyrannizes himself.

²⁶ As A. Laks supports ("Platons legislative Utopie", 53), speaking of a Platonic "utopia" of the *Laws*.

²⁷ Cf. 890b: περὶ καλῶν καὶ δικαίων καὶ δεινῶν τῶν μεγύτων.

²⁸ See (e.g.) H. Görgemann, *Beiträge*..., 102-103: "The last Platonic opus is a legal text, which according to his own conviction nobody needs to approach in 'full seriousness'. Therefore we have to conclude that [...] no final philosophic venture is presented here."

²⁹ Cf. A. Nightingale, "Writing/Reading...", 300: "it seems reasonable to conclude that the text asks the readers to defer to the authority of the lawgiver [...] this text does not invite its readers to practice philosophy".

³⁰ The interpretation offered here has been presented in a different form in the essays "Νομοθετικός χαρακτήρας. Δίκαιο καὶ φιλοσοφία στὸν Πλάτωνα καὶ Νόμους" (*Loi-philosophie* 5, 2001, 67-93) and "Platons letzte Schriftkritik" (*Allgemeine Zeitschrift für Philosophie* 27, 2002, 95-110). – I would like to thank Philon Ktenides for help in the English translation.