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**Persuasion and Compulsion**  
**: Principles of the Constitution in Plato's *Laws***

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**Supervised by Prof. Christopher J. Rowe**

This thesis is submitted for the degree of Master of Arts by research.

Durham, 2005



15 MAR 2006

## Abstract

Hyeok Yu

Persuasion and Compulsion: Principles of the Constitution in Plato's *Laws*

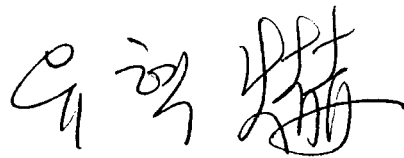
(MA by Research Thesis, Department of Classics and Ancient History, University of Durham, 2005)

This thesis expounds a central and distinctive feature of Plato's *Laws*: the coupling of the idea of a law-code as an embodiment of an ethical framework for communal life, with an emphasis on Plato's use of persuasion as a means of recommending the code to individuals within the community and inviting them into philosophical engagement with the law and society. The main task of this work is to specify each of the contexts in which persuasion is being used and to analyse persuasion as used in the *Laws*. It reveals that persuasion and legal force can be combined harmoniously to contribute to the improvement of people's mind and moral consciousness, and thus to draw people's willingness to follow the law voluntarily. But more emphases will continue to be laid upon persuasion, as cultivation of virtuous and autonomous citizens (and bringing up the legislators in the future generation) is one of the ultimate aims of the whole legislative project in the *Laws*. Therefore, persuasion in the *Laws* is not merely persuasive (rhetorical) but also fundamentally philosophical; the *Laws* itself is designed to open the way to practise philosophy.

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A handwritten signature in Chinese characters, likely 'Gao Hong' (高洪), written in black ink.

## **Acknowledgement**

I dedicate this thesis to my parents and all of my family for all their wholehearted devotion to support me in every possible way. In addition, I should like to extend my most grateful thanks to my supervisor Prof. Christopher J. Rowe at University of Durham, to Prof. Kim, Nam Duh and to Prof. Lee, Tae-Soo at Seoul National University for all their advice and supervision. I also express my thanks to all of my friends, colleagues, and students whom I have ever had for their great encouragement on various occasions.

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## I. Preliminaries

What are the principles of the whole project of law-giving described and discussed in the *Laws* of Plato? This is the fundamental and leading question of my exploration into this grand work of Plato.

To begin with, however, the *Laws* of Plato seems to be so voluminous that one might be struck with a kind of feeling of awe, when one encounters and glances at it for the first time. It seems also quite natural that the first impression we get would be something of that sort. Going beyond these somewhat superficial comments on the dialogue, moreover, it contains almost every detail of the political life of the citizens in the city of Magnesia, including everyday life, educational and religious institutions, constitutional laws and actual legal codes which would be applied to the whole life in this city. So, it seems quite reasonable to suppose that Plato could have intended the whole project to influence actual political practice within his own life time. It seems worth considering the relationship and historical resonance with the institutions of ancient Greek culture. And some scholars have indeed taken these historical aspects into consideration.

But, what I think still more important is the fact that philosophical (or theoretical) investigation into the grounds of legislation, or into those of ruling by the law, is being pursued simultaneously during the process of actual law-giving, as is often the case with





platonian dialogues overall.<sup>1</sup> So to speak, as A. Laks puts it, the *Laws* might be called 'an exposition of political principles' and 'a treatise of applied legislation' at the same time.<sup>2</sup> This is one of the authentic features of the *Laws* that make it an original and influential work in the whole history of political philosophy; moreover, this characteristic feature generates quite a number of philosophically interesting questions.

Considering these circumstances, it does not seem to me, at least, easy to find a short cut to reach the core of Plato's political ideas displayed in this grand work. Even if I were fortunate enough to have reached the kernel and were then trying to find out a way to get out of this labyrinth, it seems to me difficult indeed to follow a right track and even to be precise in summarizing his ideas. It looks quite dazzling and dizzy to follow every path suggested in this lengthy, labyrinthine work. This situation tells me that I need to find some strategies to get it through efficiently; I need a kind of 'pivot', with the aid of which I could view the object of my investigation from several different perspectives.

As mentioned above, the leading question of my exploration in the broad sense is "What are the constitutional principles in Plato's *Laws*?" To put it otherwise, what is the meaning of the law itself and of ruling by laws? What are the roles of laws? What are the goals of legislation in Plato's political philosophy (and his ideas on ethics in general)?

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<sup>1</sup> This will be discussed again, when I am going to explore the two main goals of the discussion in the *Laws*.

<sup>2</sup> Laks (2000), p. 258.

However, still, I need to be more specific: while I have been reading the whole work of the *Laws* of Plato, I have found out that one of the most distinctive components or remarkable features of the legislative discourse in the dialogue is the pairing (or the duality) of persuasion vs. compulsion, or of preludes vs. legal codes. The relationship between these two elements interests me so much philosophically that it made me suppose, as a working hypothesis, that this duality could, and will, give me a kind of clue to find a right path to get through and out of this whole labyrinth.

So, to sum up, in the *Laws* of Plato there are two fundamental components (principles) of the laws: persuasion and force. Firstly, the whole process of legislation shows a certain tendency to reduce laws to persuasion (preludes) as much as possible; secondly, on the other hand, the same legislative process has to accept the need for legal constraints and actually set down legal codes. Then the question is: is it ever possible to combine the two elements of laws without any contradiction? How can we (or should we) combine them and make them compatible in a single unified constitution? How are they to be connected? These are my central questions in this thesis.

If we could accept, furthermore, the analogy between a human being and a city, and between a human being and the whole world itself, which Plato draws in various passages, then how can reason persuade the other, irrational, parts of a human being, of a city state, and of the whole world? These are also philosophically very interesting questions.

I suppose, as a working hypothesis, that the actual relationship between the two component parts can be traced back and be reconstructed through a thorough textual analysis of the Plato's *Laws*. We can sort out the passages in which preludes and legal

codes, each corresponding pair regarding the same subject matters, show themselves together; and then analyse these actual examples in order to show why and in terms of what they –i.e. persuasion and compulsion- really matter and how both of them are actually to be related.

Using this kind of method as a pivot, so to say, now I am trying to deepen my exploration from several different points of view looking at the same object of my investigation. So, in a way, it is sometimes inevitable to refer to some points of discussion repeatedly, as matters are quite closely correlated with each other.

## II. What are the principles of legislation?

### 2.1. How do we define law?

Let me begin with a seemingly small, but fundamental, question: what is law? From a certain point of view this question seems quite odd when we first face it; as we tend not to ask such a question in an ordinary situation. Is it due to the fact that the concept of *law* is so fundamental that we have no choice but to take it as one of our fundamental vocabularies with which we do understand, and describe, our ordinary experience in the political community? Possibly it might be so. However, it is also a meaningful question to ask, since it leads us to think over the definition of law, the nature of it, and even more our understanding of it more deeply in its fundamentals.

A modern reader will probably answer this question as follows:

Law. 1. a rule, usually made by a government, that is used to order the way in which a society behaves, or the whole system of such rules:

2. the system of rules of a particular country:

3. a general rule which states what always happens when the same conditions exist:<sup>3</sup>

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<sup>3</sup>Cambridge Advanced Learner's Dictionary ;

<http://dictionary.cambridge.org/define.asp?key=44956&dict=CALD>

According to the definition of this modern dictionary, the law is a system of rules that a society or government develops in order to deal with crime, business agreements, and various kinds of social relationships, and to regulate them in a proper and orderly manner. It is true that in our ordinary life one might implicitly, or explicitly, take this sort of definition for granted.

To go beyond one step further, the underlying idea of the definition is that the law is something that has been laid down by people and people's consent, i.e. by a political authority in a community, which has been endowed with power to rule over the ruled. In a modern democratic nation it is usually a parliament or something equivalent that is composed of representatives selected by vote of people according to its constitution and convention. As a result, laws are given by the consent of the majority of general public; this is to say that the legitimacy of legal codes is given by the opinion of the majority of people. This implies that laws are something changeable according to the people's decision, when a political body representing the majority, and thus people's opinion, has changed.

But, interestingly enough, the ancient understanding of law is quite different from that of our modern one. In the *Laws* the ultimate founder of laws is said to be a god, not human beings. At the beginning passage of the Bk. I . (624a1 ff.) the interlocutors are opening their conversation with the question about the originator (author) of the laws (or, legal system) (*tēn aitian tēs tōn nomōn diatheseōs*) ; and this is said to be a god. In Crete it is Zeus; in Sparta it is Apollo. In Crete, in addition, Minos, a legendary figure, is said to have used to go for a consultation to his father Zeus every ninth year and to have

laid down laws. This indicates that laws are of divine origin, and thus of divine nature; they are based on the divine order, not on an arbitrary collection of beliefs of human beings. Once the laws are given as such, people must assume that the rules and laws are immutable, and that even a single detail should not be altered, if they can help it. Therefore change in laws is something that is very difficult to be realized. If the circumstances have become irresistible, and so if change of laws are inevitable, the Guardians of the laws should consult all the officials, the entire citizen body and all the oracles of the gods. Moreover, only if the verdict is unanimously in favour, can they amend the existing laws, but never in any other conditions whatsoever (772a-d). That is to say, in order for the laws of the city of Magnesia described in the *Laws* to be amended, the consent of all the officials and the entire citizen body (which would be enough in a modern political system) does not suffice the necessary conditions. In addition to these conditions, *the verdict of the oracles of the gods* should be in favour, since the legitimacy of the laws is originated from, and is given by, divine orders of the gods. This is one of the distinctive features of laws in the *Laws* that is clearly different from the modern conception of laws.

To return back to our initial question of definition of law, however, the *Laws* itself doesn't seem to give any clear definition of law; rather, it just tells us their origin, their ultimate goals, and how laws should be given and organised in order to establish an ideal state and to run happy life of its citizens. How does this happen? What is the reason for the lack of definition of law?

One of the reasons for this seeming lack of clear definition of law could be found in the following consideration. First of all, the definition of law which appears in the *Minos* could give us some clues, I think.<sup>4</sup>

Law is then (an art of) finding out what (really) is (*ho nomos ara bouletai tou ontos einai exeuresis*). (*Minos* 315a3)<sup>5</sup>

Here in the discussion of the *Minos*, law (*nomos*) is identified with the discovery of beings (or, of reality). At first glance, it seems odd and difficult to understand why law is identified as such, because we usually regard laws as something that has been laid down and codified in a written format, and so certain work done, by the legislator. But here 'a finding out' or 'discovery' can be understood either as the act (or, activity and procedure) of finding out something or as something that has been found out as the result of such an activity, in an equivocal way. If we could accept the equivocal usage of the word as legitimate, then we could be justified to identify law not only with the result of certain activity of legislation but also with the activity itself of discovering the reality (the way the world is). In addition, as a skill (or, technique) is also said to be a discovery of

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<sup>4</sup> Though the authenticity of the *Minos* is questionable, and generally doubted, the basic idea of the dialogue seems to me quite Platonic. I suppose it would not be totally absurd to consult certain passages and to make use of it in order to expand our scope of discussion.

<sup>5</sup> Or, "Then ideally law is discovery of reality." (*Minos* 315a3/ tr. Schofield, in Cooper & Hutchinson (edd.))

things<sup>6</sup>, law (*nomos*) can be regarded as equivalent to, if not identical with, a sort of technique, namely the art of law giving (i.e., the legislative technique).

Generally, a sort of technique (expert knowledge; *technē* or *epistēmē*) is identified, and defined, in terms of its object (or, the intended result of production), e.g. architecture is a technique of constructing a building. When a technique is to be applied, and is to be used, to produce a certain intended product, what is required first is to designate its object of production. Then, in order to produce the object aimed at a technician (or, an expert) should know how to produce it. The knowledge how to produce the aimed result comes from understanding the way the relevant things work together and from imitating the way the nature works; in this sense the first principle (and thus beginning point) of a technique is the discovery of the way the world is, since a technique (an expert knowledge) should follow and imitate the order of nature.

This is also quite true of political technique, and accordingly of the legislative technique. As will be explicated with discussion of the myth of the age of Kronos, later on, in the present age we are now living in we are deprived of the care and control of god. Therefore, we should take care of ourselves by ourselves; we needed to adopt certain kinds of techniques in order to survive. There should be every kind of techniques which

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<sup>6</sup> “A skill is surely in our view a discovery of things, is it not?” (*hē gar pou technē hēmin heuresis estin tōn pragmatōn, ē gar?*) (*Minos* 314b5-6 / tr. Schofield)



we learn from gods; and politics or political technique (*politikē technē*) can also be counted as one of the most indispensable skills, as it were, with which we should be equipped by imitating the work of god (i.e. the happy life that is said to have been led by people under Kronos' control). Moreover, since techniques follow the way the world is, the product of a technique is also an imitation of the nature (order) of the world. As the art of legislation is an indispensable element of the political technique, although it is the second best one, the product of the art of legislation (*nomos*) should be a certain result based on the way the world is. Therefore, we need to know the ultimate reference point of our human endeavour: the reality, i.e. the way the world is.

In this regard, we can say that it is quite reasonable and understandable to concentrate on the question of the origin of laws and of the ultimate aims/goals of legislation (*nomos*) in the first place, when the interlocutors in the *Laws* are starting their discussion about laws and legislation, without giving any clear definition of law from the beginning. What is then the aims/ goals of legislative project described in the *Laws*?

## 2.2. Goals of legislation/ Aims of discussion among interlocutors in the dialogue

The first thing to investigate here is “What are the goals of legislation?” Let’s begin with a passage of the text:

Ἀθηναῖος. ταῦτα γὰρ πάντα εἴρηται τοῦ κατιδεῖν ἕνεκα πῶς ποτ’ ἂν πόλις ἄριστα οἰκοίη, καὶ ἰδίᾳ πῶς ἂν τις βέλτιστα τὸν αὐτοῦ βίον διαγάγοι: εἰ δὲ δὴ τι πεποιθήκαμεν προὔργου, τίς ποτ’ ἂν ἔλεγχος γίγνοιτο ἡμῖν πρὸς ἡμᾶς αὐτοὺς λεχθεῖς, ὦ Μέγιλλέ τε καὶ Κλεινία;

Athenian. The object of all these discourses was to discover how best a State might be managed, and how best the individual citizen might pass his life. But as to the value of our conclusions, what test can we apply in conversing among ourselves, O Megillus and Clinias? (*Laws* 702a – b / tr. Bury)<sup>7</sup>

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<sup>7</sup> The quotations of English translation of the *Laws* are both from Bury and from Saunders. I make use of both of them, depending on the specific context. Both of them have their own merits. Saunders’ is simple, compact, and more intelligible; Bury’s is much nearer to the original Greek structure of the sentences.

When quoting English translation, proper names are put as exactly as given in each translation; but elsewhere as to Greek proper names I prefer to use literal transliteration as possible. So, in case where every English author doesn’t seem to adopt a unified way of transliteration, nor to follow the

Here we can see quite distinctively the two major goals of the whole enterprise and discourse in the *Laws*, namely 'to discover (1) how best a State might be managed and (2) how best the individual citizen might pass his life'. As will be discussed later on, (1) the first aim reflects the constitutional parts of legislative discourse, while (2) the second one corresponds to the laws which are to be given, executed, and be put into practice in everyday life by magistrates as well as by the citizens in the city. And these two are closely interwoven and mutually supportive goals of the legislation in the city of Magnesia which is now being built by discussion, or by *logos* (*en logō*).

Moreover, when the interlocutors are discussing the need for the mixed constitution, the goals of the legislator within (the framework of) the city of Magnesia was being told like this:

Ἀθηναῖος. ταῦτ', ὦ Κλεινία καὶ Μέγιλλε, ἔχομεν ἐπιτιμᾶν τοῖς τε πάλαι πολιτικοῖς λεγομένοις καὶ νομοθέταις καὶ τοῖς νῦν, ἵνα τὰς αἰτίας αὐτῶν ἀναζητοῦντες ἀνευρίσκωμεν τί παρὰ ταῦτα ἔδει πράττειν ἄλλο: οἷον δὴ καὶ τὸ παρὸν εἶπομεν, ὡς ἄρα οὐ δεῖ μεγάλας ἀρχὰς οὐδ' αὐτὸν ἀμείκτους νομοθετεῖν, διανοηθέντας τὸ τοιόνδε, ὅτι πόλιν ἐλευθέραν τε εἶναι δεῖ καὶ ἔμφρονα καὶ ἑαυτῇ φίλην, καὶ τὸν νομοθετοῦντα πρὸς ταῦτα βλέποντα δεῖ νομοθετεῖν. μὴ θαυμάσωμεν δὲ εἰ πολλακίς ἤδη προθέμενοι ἄττα, εἰρήκαμεν ὅτι πρὸς ταῦτα δεῖ νομοθετεῖν βλέποντα τὸν νομοθέτην, τὰ δὲ προτεθέντα οὐ ταῦτ' ἡμῖν φαίνεται ἐκάστοτε: ἀλλὰ ἀναλογίζεσθαι χρή, ὅταν πρὸς τὸ σωφρονεῖν

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same principle, e.g. one use 'Clinias' (like Bury), the other use 'Cleinius' (like Saunders), I am going to stick to literal transliteration: like 'Kleinius' and 'Megillos'.

φῶμεν δεῖν βλέπειν, ἢ πρὸς φρόνησιν ἢ φιλίαν, ὡς ἔσθ' οὗτος ὁ σκοπὸς οὐχ ἕτερος ἀλλ' ὁ αὐτός, καὶ ἄλλα δὴ πολλὰ ἡμᾶς τοιαῦτα ἂν γίγηται ῥήματα μὴ διαταραττέω.

(Athenian.) ... Such, O Megillus and Clinias, are the charges we have to make against the so-called statesmen and lawgivers, both of the past and of the present, in order that, by investigating their causes, we may discover what different course ought to have been pursued; just as, in the case before us, we called it a blunder to establish by law a government that is great or unblended, our idea being that a State ought to be free and wise and in friendship with itself, and that the lawgiver should legislate with a view to this. Nor let it surprise us that, while we have often already proposed ends which the legislator should, as we say, aim at in his legislation, the various ends thus proposed are apparently different. One needs to reflect that wisdom and friendship, when stated to be the aim in view, are not really different aims, but identical and, if we meet with many other such terms, let not this fact disturb us. (*Laws* 693a – c / tr. Bury)

Here the three goals of the legislator are mentioned by the Athenian: "... our idea being that a State ought to be (i) free and (ii) wise and (iii) in friendship with itself, and that the lawgiver should legislate with a view to this." (693b) Although these three aims seem to be quite different from one another apparently, they can be seen as, and actually are, identical not only with one another, as the Athenian himself also explains at the end of the above passage; but also these aims are identical, I think, with aforementioned two aims: (1) securing the best way to manage a state and (2) securing the best life of individual citizens. I'd say these three aims – a state's being (i) free and (ii) wise and (iii) in friendship with itself- are just further explications of (1) and (2), since the well-being of a state depends on the well-being of its citizens, and also since the well-being of the state and its citizens can be secured and can be gained, in Platonic understanding, when we focus on the freedom, wisdom, and a certain kind of internal harmony (within itself) of the whole citizen body. Therefore, we can say that all these aims are the same, or at least so closely interconnected one another.

In a different context, on the other hand, the major goals of legislation, or the intended results to be pursued by this legislative discourse, and thus what the interlocutors are actually aiming at in the whole process of the dialogue *Laws*, are formulated in a rather slightly different variation. This is clearly told by Kleinias:

Κλεινίας, ἐγὼ τινα, ὦ ξένε, μοι δοκῶ κατανοεῖν. ἔοικεν κατὰ τύχην τινα ἡμῖν τὰ τῶν λόγων τούτων πάντων ὧν διεξήλθομεν γεγονέναι: σχεδὸν γὰρ εἰς χρείαν αὐτῶν ἐγὼγ' ἐλήλυθα τὰ νῦν, καὶ κατὰ τινα αὐτῶν καιρὸν σὺ τε παραγέγονας ἅμα καὶ Μέγιλλος ὄδε. οὐ γὰρ ἀποκρύψομαι σφῶ τὸ νῦν ἐμοὶ συμβαῖνον, ἀλλὰ καὶ πρὸς οἰωνόν τινα ποιούμαι. ἢ γὰρ πλείστη τῆς Κρήτης ἐπιχειρεῖ τινα ἀποικίαν ποιήσασθαι, καὶ προστάττει τοῖς Κνωσίοις ἐπιμεληθῆναι τοῦ πράγματος, ἢ δὲ τῶν Κνωσίων πόλις ἐμοὶ τε καὶ ἄλλοις ἑννέα: ἅμα δὲ καὶ νόμους τῶν τε αὐτόθι, εἴ τινες ἡμᾶς ἀρέσκουσιν, τίθεσθαι κελεύει, καὶ εἴ τινες ἐτέρωθεν, μηδὲν ὑπολογιζομένους τὸ ξενικὸν αὐτῶν, ἀν βελτίους φαίνονται. νῦν οὖν ἐμοὶ τε καὶ ὑμῖν ταύτην δῶμεν χάριν: ἐκ τῶν εἰρημένων ἐκλέξαντες, τῷ λόγῳ συστησώμεθα πόλιν, οἷον ἐξ ἀρχῆς κατοικίζοντες, καὶ ἅμα μὲν ἡμῖν οὐ ζητοῦμεν ἐπίσκεψις γενήσεται, ἅμα δὲ ἐγὼ τάχ' ἂν χρησαίμην εἰς τὴν μέλλουσαν πόλιν ταύτη τῇ συστάσει.

Clinias. I think, Stranger, that I can perceive one. It is a piece of good luck for me that we have dealt with all these matters in our discourse. For I myself have now come nearly to the point when I shall need them, and my meeting with you and Megillus here was quite opportune. I will make no secret to you of what has befallen me; nay, more, I count it to be a sign from Heaven. The most part of Crete is undertaking to found a colony, and it has given charge of the undertaking to the Cnosians, and the city of Cnosus has entrusted it to me and nine others. We are bidden also to frame laws, choosing such as we please either from our own local laws or from those of other countries, taking no exception to their alien character, provided only that they seem superior. Let us, then, grant this favour to me, and yourselves also; let us select from the statements we have made, and build up by arguments the framework of a State, as though we were erecting it from the foundation. In this way we shall be at once investigating our theme,

and possibly I may also make use of our framework for the State that is to be formed. (*Laws* 702b-d / tr. Bury)

Here Kleinias says “we shall be (a) at once investigating our theme, and possibly I may also (b) make use of our framework for the State that is to be formed. (*Laws* 702d)” Therefore, I think, the aims of the legislative discourse in the *Laws* can also be said to be (a) a certain kind of theoretical investigation (*episkepsis*) as well as (b) its practical application (*chrēsaimein*) into the actual legislation of the Cretan colony.

Based on this passage I think we can distinguish (some levels of) aims of legislative discourse according to specific contexts. To speak generally, but not always, the Athenian takes the role of the legislator, and takes the burden of the theoretical investigation more often than the other participants. By contrast, according to the above passage, the city of Knossos has entrusted Kleinias and his nine colleagues with the task of founding a colony; they are asked also to give laws. Kleinias is therefore more interested in the practical applicability of the laws which are now being discussed. Moreover, since the dialogue as a whole comprises various contexts of discourses, each of these contexts is to be revealed by interlocutors in every specific occasion; therefore the aims of legislative discourse are to be specified accordingly.

Now I suggest that there are to be found out three different contexts (or, levels) which we can discriminate:

- ①. The theoretical investigation or meta-level reflection on the principles of the laws
- ②. The actual law-giving, which is now being given by the *logos* in the *Laws*, as a paradigm
- ③. The proposed plan of application into the actual political practice

The first level (or, context) is being displayed, and is quite clearly recognizable, when the interlocutors are reviewing two famous legal codes, the Cretan and the Spartan, and are having discussions about the nature of education and the proper use of arts (Bk. I. - Bk. II.), about the lessons of history (Bk. III.), about the nature of legislator's *logos* (Bk. IV.), about penal code and justification of punishment (Bk. IX.), and about piety, atheism, and theology (Bk. X.). All of these can be specified as theoretical explorations, though in a certain sense they all have some practical implications. In these contexts certain types of theoretical investigation are addressed mainly -1) by the Athenian to Megillos and Kleinias; however, at the same time -2) we, the readers of the *Laws*, are also being invited to the theoretical exploration on the principles of legislation by the author, Plato, especially when we are actually reading the work, like myself here and now. Here the theoretical discussions are being carried on, in and outside of the dialogue, i.e. on two subsequent levels (contexts): one between -1) the Athenian and his interlocutors (Megillos and Kleinias), and another between -2) the author and the readers of the *Laws*. Accordingly the aims of legislative discourse in these contexts, so long as each one is theoretically oriented, can be characterised as a discovery of principle(s) in each case. This can, and will, probably lead us to the way to the philosophical investigation.

On the second level (context) -②- , the constitution of the city of Magnesia and regulations and legal codes regarding each and every area of civil life is being discussed, and being laid down (from the first address to the new colonists (Bk. IV.) all the way through to the completion of the whole work (Bk. XII.) with some excursions). On this level the discourse the city is supposed to be established by an ideal legislator; therefore the aims of legislative discourse on this level is to construct the whole institution of the

ideal city within the *logos*. The whole discourse of law-giving is supposed to be delivered -3) by the ideal legislator, and to be given to the citizens of Magnesia in an imaginary space of discourse, or of *logos*, though it is actually presented -4) through the mouth of the Athenian to his companions. Furthermore, so long as it is being established in the realm of ideal setting of *logos*, -and as it will be based on the divine principle and on the nature of the universe, as Plato sees it- it will remain as an ideal, and as a paradigm.

The third one -③- is clearly indicated by the participants before and after the actual construction of the city by *logos*. Kleinias is said to have been called for the assembly of the Cretan city (Bk. IV. 702b-d), and shows his great interest in the practical applicability of the laws of Magnesia, which will be given at that point, into his actual politics. In addition, on the closing scene at the end of the whole dialogue (Bk. XII. 968e6 ff.), Megillos suggests, in his great willingness, that the Athenian should accept the role of legislator in the Cretan colony, and urges Kleinias to enroll him, the Athenian, as a partner in the foundation of the state; they reach an unanimous consent. Within the *Laws* this level is *only* suggested by the interlocutors; but not actually realized within the dialogue. When the discussion in the present scene of the *Laws* is over, and when the interlocutors come back to their actual political life, the practical application will be realized, outside of the dialogue, in the actual world. If we were ever interested in participating in the actual politics of each one of our society, we can find further suggestions and implications from the paradigm given in the *Laws*. Moreover, every



effort to imitate such a paradigm will be made in every possible context, be it theoretical or practical, outside of the ideal setting, and whoever the possible reader of it might be.<sup>8</sup>

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<sup>8</sup> Nightingale (1993) has also maintained that she had examined “several levels of discourse in the *Laws*: the (A) the lawgiver’s address to the citizens in the form of preludes; (B) the Athenian’s conversation with his interlocutors; (C) and the direct address to the secondary legislators”. (pp. 299-300.) It seems to me just a simple specification, not a systematic one. In my opinion, in the first place the lawgiver’s first address to the colonists, if this is what she means by (A), is surely a sort of prelude in broader sense; but it is not in the strict sense of the term. (See, below Ch. V.) And the lawgiver is supposed to talk to his citizens not only by way of preludes but also by way of actual laws. As to (C), the secondary legislators are still legislators, and this will also be done in the city of Magnesia, in an ideal space. (A) and (C) belong to the same level of discourse according to my specification, namely to the second one.

Surely enough this is mainly due to different points of view. The main focus of her emphasis lies in the authority of the law-giver. She suggested that “On all of these levels, utterances of the Athenian-as-lawgiver are invested with an authority that is divine.” (*Ibid.*) And thus she further suggests that “this text does not invite its readers to practice philosophy; on the contrary, it consistently indicates that the investigation of issues at hand has already been completed.” (*Ibid.*) But I am of different opinion; by theoretical investigation, in resorting to the level ①, and also partly to the level ②, practicing philosophy is still open to us, since the exploration and the every effort to understand the basis of the legislative principles and of the paradigm will also lead us to the way to philosophy. In a certain sense, even if we could accept that philosophical investigation of the issues seems to have been already completed as to a specific issue, owing to the practical urgency from the legislator’s side, we don’t need to say that every citizen in the city of Magnesia, and every reader of the *Laws*, is already deprived of all the possible criticism. Though what is given by the legislator is only the result of the prior dialectical discussion, a citizen (or, a reader) can start his philosophical inquiry from the time when he first encounters it, and afterwards. Philosophy is a lifelong project, and access is open to it for every citizen in every occasion.

Accordingly, to sum up, aims of the legislative discourse will include the followings: ① theoretical investigation and inquiry on the principles; ② establishing an ideal state by *logos*, a paradigm, which is ultimately based on the research on the nature of the world.; ③ finding out practical implications into the actual politics by consulting the ideal paradigm.

But, as we can often see and I mentioned just above, each of these levels is in a way interwoven one another, seems to be overlapping sometimes, and is to be revealed just in every specific occasion. For example, aforementioned (1), (2), and (i), (ii), (iii) seem to be aims of the level ② in the first place; but from these we can also draw further implications as to ① and ③, according to our specific interest in hand. This is also due to the Platonic way of presenting ideas, i.e. due to the dialogue form. Therefore, the roles of each interlocutor should be more closely analyzed in each context.<sup>9</sup>

To expand our scope more broadly, however, if we return back to the aforementioned aims -(1), (2), and subsequent (i), (ii), (iii)-, the considerations about aims of legislation above, from a certain point of view, do not seem to give clear indicators that show us the city of Magnesia is really different from the other form of state, e.g. a modern nation. Modern nations will surely argue that (1) securing the best way to manage a state and (2) securing the best life of individual citizens, and their

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<sup>9</sup> This will be examined in Ch. V., when I am going to focus on the contexts of persuasion.

explications – (i), (ii), and (iii)-, are also the aims of their own political system. What is then the original, and decisive, difference that enables us to distinguish the city of Magnesia from other political systems, especially from modern ones?

One indicator will show itself up from following consideration. At the beginning passage of the *Laws* (Bk. I. 624a ff.), as mentioned above, three old men are starting on their way to the cave where a legendary figure, Minos, is said to have got laws from his divine father, i.e. Zeus, and brought it to the people every ninth year. This shows us a core characteristic of laws: laws have a sort of divine origin. They have an association with the god and, therefore, its origin is a divine one. All in all, acknowledging the god, being the originator of the laws, is the most distinctive indicator of the principle of legislation in the *Laws*, as opposed to the modern conception of law and of its origin.

The next passage tells us clearly the importance of god as a ruling, or managing, principle of the city:

Ἄθηναίος. ὄντως γάρ, ὦ ἄριστοι, πολιτειῶν μετέχετε: ἄς δὲ ὠνομάκαμεν νῦν, οὐκ εἰσὶν πολιτεῖαι, πόλεων δὲ οἰκήσεις δεσποζομένων τε καὶ δουλευουσῶν μέρεσιν ἑαυτῶν τισι, τὸ τοῦ δεσπότητος δὲ ἐκάστη προσαγορεύεται κράτος. χρῆν δ' εἶπερ του τοιούτου τὴν πόλιν ἔδει ἐπονομάζεσθαι, τὸ τοῦ ἀληθῶς τῶν τὸν νοῦν ἔχόντων δεσπότητος θεοῦ ὄνομα λέγεσθαι."

Athenian. Yes, gentleman, for you really do partake in a number of constitutions. But the ones we named just now are not really constitution at all, but they are just a number of

arrangements of running a state which rule or serve parts of themselves, and the state is named after the ruling power in each case. But if the state ought to be named after any such thing, the name it should have borne is that of the god who is the true ruler of rational men. (712e-713a)<sup>10</sup>

Though it does not seem to be an immediate, and urgent, concern of the Athenian here, if he had to name the city according to the same principle as the one just mentioned – ‘which part of the city has the power to control over the whole city?’<sup>11</sup>, he will have to say, so he answers, “it should be named after god who is the true ruler of rational men”, since the city is to be governed by god, i.e. by the divine principle, not by a party of certain group of people.

Accordingly the constitution of the city of Magnesia should be called *theocratia*, as Saunders has pointed out<sup>12</sup>, even though it is not clearly expressed in a definite word in the text. In this regard, the constitution of the city is deeply rooted in the divine

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<sup>10</sup> This passage is my own rendering with some modifications on Bury's and Saunders'.

<sup>11</sup> But the previous discussion in the passage of the text tells us that the Athenian would not admit that so called constitutions are really constitutions, rather he argues that they are just factions. So, the criterion suggested by the question “which part of the city has the power to control over the whole city?” does not actually give him, and us too, a real criterion, though it can be regarded as a practically useful criterion to distinguish political arrangements. It is quite reasonable for him to make such an assertion, for there is only one political arrangement that is worthy of being named constitution in its own sense of the term.

<sup>12</sup> See, Saunders (1970), p.170.

principle<sup>13</sup>, which can be understood as almost equivalent to the law of nature. The problems related to the god as the principle of legislation are to be explicated in more depth in the next chapter.

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<sup>13</sup> cf. Nightingale (1993). Interestingly enough, she suggests that the legal codes in the *Laws* are presented as something sacred like a scripture; but I do not agree with the details of her argument. See above footnote n.8.

### III. The myth about the age of Kronos and its implications

The *Laws* and the *Statesman* of Plato have the myth of the age of Kronos<sup>14</sup> in common; it is designed to show us a kind of model of political community, in reference to which we are to try to build our own just and ideal human community in each context. Moreover, in each narrative and story-line we can find out some common, and some different, factors involved; the differences seem to me not so seriously crucial as to make any great discrepancy between the two instances. But these common and different factors are to be closely elaborated: in each case we can draw quite closely similar lessons; however, at some points we can find out some differences in their points of emphasis. Now I am going to have a close look at each passage of the two dialogues.

#### 3.1. The myth of the age of Kronos in the *Laws*

After the Athenian's declaration that the city of Magnesia should be called after the god, i.e. *theocratia*, Kleinias asks what that god is. But this question seems to be a clear indication that he doesn't understand what the Athenian intended to say at this point. In response to the question, the Athenian asserts that they should make use of the myth, if

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<sup>14</sup> When quoting from an English translation of someone else, I put it as 'Cronus' as exactly as given in the text. But I myself use the literal transliteration, 'Kronos'.

they are going to answer the question clearly and satisfactorily. Given the consent from Kleinias that using the myth will be quite relevant and will thus be justified, the Athenian tells his interlocutors the story:

Athenian: It certainly will. Well now, countless ages before the formation of the states we described earlier, they say there existed, in the age of Cronus, a form of government and administration which was a great success, and which served as a blueprint<sup>15</sup> for the best run of our present-day states..... The traditional account that has come down to us tells of the wonderfully happy life people lived then, and how they were provided with everything in abundance and without any effort on their part. The reason is alleged to be this: Cronus was of course aware that human nature, as we've explained, is never able to take complete control of all human affairs without being filled with arrogance and injustice. Bearing this in mind, he appointed kings and rulers for our states; they were not men, but beings of a superior and more divine order – spirits. We act on the same principle nowadays in dealing with our flocks of sheep and herds of other domesticated animals: we don't put cattle in charge of cattle or goats in charge of goats, but control them ourselves, because we are a superior species. So Cronus too,

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<sup>15</sup> I take it that the English word 'blueprint', as Saunders renders it, could be somehow misleading: it is the translation of the 'hēs' in the '*hēs mimēma echousa estin hētis tōn nun arista oikeitai*' (713b3). In the context it is a sort of model, *paradeigma*, or something that we should imitate; an imitation is a kind of approximation to an original so that the (result of) imitation and the (original) being imitated cannot be the same in principle. In my understanding, however, a blueprint implies that every detail of the blueprint should be realized as exactly as it is designed in its original plan, when we build e.g. a house, be it ever so small and minute. But when making an imitation of something, we can imitate something without its being the same as the original to every specific detail. An approximation to the original will also be enough to be called an imitation. Since the myth tells us also that the given environment of our age of Zeus is drastically different from that of Kronos, it implies that the ideal state of governance in the age of Kronos can not be realized literally in the same fashion; the only we can get is an imitation of, and an approximation to, the ideal. In this sense 'hēs' is something that we can consult as a model when we establish the city of Magnesia by legislation.

who was well-disposed to man, did the same: he placed us in the care of the spirits, a superior order of beings, who were to look after our interests – an easy enough task for them, and a tremendous boon to us, because the result of their attentions was peace, respect for others, good laws, justice in full measure, and a state of happiness and harmony among the races of the world. (*Laws* 713a9-e3 / tr. Saunders)

In the passage above, the Athenian introduces the myth about the age of Kronos, according to which everything was taken care of, and governed, by Kronos. As a result, under his rule, everything was in a state of happiness and harmony; there was no need for human beings to control over themselves. Just as we now take care of our flocks of sheep, so did Kronos take care of all human beings. In such a situation there was no urgent need of any human political community whatsoever. Then, what would be the intent and moral of the myth, if there had not been anything that can be called a political organization? What would be the object of our human imitation and its product, if the given environment were totally different from present one?

Though a myth in general is somehow a fictional story –in the sense that we cannot give a factual ground or historical evidence-, it has a moral and a lot of truth even for us today. When we try to analyse the myth in more depth, certain significant meanings will emerge from inside layers. The moral we can get from it seems to be quite clear, the Athenian himself also continues as follows:

Where the ruler of a state is not a god but a mortal, people have no respite from toil and misfortune. The lesson is that we should make every effort to imitate the life men are said to have led under Cronus; we should run our public and our private life, our homes and our cities, in obedience to what little spark of immortality lies in us, and dignify this distribution of reason with the name of 'law'. (*Laws* 713e3-714a2 / tr. Saunders)



The myth shows us, I think, a meaningful truth, since it basically gives us deep insight into the nature of politics in terms of the following points: it tells us about (1) our present human condition, (2) the characteristic of ideal ruler, (3) the aims of political government, and (4) the means (or the ways) to accomplish them.

Firstly, in terms of our human condition, the ruler of a state in which we are now living is a mortal human being, not a god; therefore, the people have no rest from toils and ills. It is mainly due to our human conditions and to our fragile nature. While the people in the age of Kronos are said to have lived wonderfully happy lives, and to have been provided with everything in abundance and without any effort; by contrast, in our present age there is no one like Kronos who took care of human beings in the past. In addition, human nature is never able to take complete control of all human affairs without being filled with arrogance and injustice, as we human beings are not self-sufficient and therefore are in everlasting need of something (someone) else other than ourselves. Thus, in order to be supplied with everything we need, and thus to lead a happy and just life, we should make every effort by ourselves; no one else other than human species could do it for us.

Secondly, the god, Kronos, *being in love of humanity* (*ho theos ara kai philanthrōpos ōn*), appointed kings and rulers for our states. They were beings of a superior and more divine order (daemons), and were to look after our interests. This implies that the ideal ruler (or, legislator) in our present age should love his own citizens. Owing to *his love for his fellow citizens*, he will appoint certain magistrates, agents, or

something equivalent to daemons to take care of our interests. His task of ruling is basically motivated by his love for the fellow citizens.

Third, the result of Kronos' rule was peace, respect for others, good laws, justice in full measure, and a state of happiness and harmony among the races of the world. And these will turn out to be our goals to achieve in our political society, as we should imitate the life of men under Kronos' regime.

In the fourth place, in order to reach these goals, and, therefore, to achieve the ideal state of human political society, we should make every effort (*pas ēi mēchan ēi*; by every means) to imitate the life of the age of Kronos. Moreover, when we run our public and our private life, we should obey the immortal element within us and give to reason's ordering the name of law. Here it is clearly declared that human beings, as mortal beings, should imitate the deed and ability of immortal god; we can, and should, imitate the deed of god since we are endowed with a little bit of immortal nature, i.e. reason (*nous*). *By means of reason* and reason's ordering ability, we can imitate, and approximate to, the ideal way of life. This is the ultimate lesson and the truth revealed by the myth; thus the need for using reason as the principle of ruling (legislation) is justified here in a definitive way.

Let's go back just briefly to the initial question of Kleinias. He asks: "What god is it?"(713a5) In answer to this question, however, the Athenian does not give in the end any specific individual name of a god as an equivalent to Kronos, after whom the city of Magnesia should be named. The only thing that can be regarded as god (the immortal being) in the context is *a little bit of immortality within us* -i.e. *reason-*, and 'the

distribution of reason (*tēn tou nou dianomēn*)'. At last reason (*nous*) is dignified as the principle of ruling and of running a healthy political community as a whole.

### 3.2. The myth of the age of Kronos in the *Statesman*

The myth of the age of Kronos, with slightly different details, but with basically the same content and moral, appears also in the *Statesman*. It will be of use to explore the myth in the *Statesman*, as it tells us about the nature of world's order and of its movement, the nature of ideal kingship, the ideal way of life in the age of Kronos with more details.

The myth<sup>16</sup> is introduced during the process of finding out the (definition of) real statesman (*Statesman* 268e-274e). And the whole process of narrating the myth designed to show us, and to give the interlocutors, some help and hints in searching out for, and attaining, a proper answer to the following question: who is the real statesman? (Or, to put it in another way) What is the definition of him?

In spite of the slightly different contexts in which the myth is being introduced, the implications we might get from it is fundamentally near to each other. In short, I think the lessons can be formulated as follows:

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<sup>16</sup> Surely, we can draw here a specific kind of implication, depending on our specific interests and points of view. What I would like to focus on here is implications in terms of possibilities to build a political community and to bring up citizens who are going to take care of the city by themselves in accordance with leading principles of their own city.

(1) The age we are now living in is the period of Zeus' rulership; the era of Kronos' control has long been forgotten, in which everything was 'self-sufficient' (*autarkes*).<sup>17</sup>

(2) Once the order of the whole world has changed, accordingly everything changed, "imitating and following on the condition of the universe, and in particular, there was a change to the mode of conception, birth and rearing, which necessarily imitated and kept pace with the change to everything." (*Statesman* 274a / tr. Rowe)

(3) As the environment has changed totally in our era of Zeus' control, however, nothing is self-sufficient -maybe except gods-.<sup>18</sup> Human beings, therefore, are always in need of someone else other than themselves (either collectively –in the sense that we

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<sup>17</sup> Does the concept of 'self-sufficiency' entail 'no relation to anything at all'? If something is self-sufficient, then does it follow that the thing in question has no relation to anything at all other than itself? In its extreme case, we can say that. It has to have no relation to anything. But usually we use the term in a relatively moderate way; there could also be possibilities for something to have certain relations to others while remaining the same. Cf. Aristotle, *Nicomachean Ethics*, Bk. 8-9, where passages dealing with 'ideal person', '*autarkeia*' and 'friendship' suggest a series of interesting insights.

<sup>18</sup> What about the whole universe? In the myth narrated in the *Statesman*, the universe itself can be said to have some deficiency, because its components parts –namely bodily elements- have deficiency and therefore a certain kind of disorder. Depending on specific points of view, however, the whole universe can be said to be complete and harmonious on its own way, though it has a kind of turbulence on one specific level. Is it a kind of idea that the universe is governed by pre-established harmony?

human beings are in need of someone or some other species other than human beings<sup>19</sup>-, or distributively –in the sense that each of us human beings is in need of someone other than him/herself within the same group of human beings-), to survive, to get nourishment, to reproduce offspring etc, i.e. to manage their whole lives.

(4) This state of affairs is, basically, due to the fact that human beings are composed of two elements: the one divine, the other mortal (bodily). This is also due to the order of the whole world. “Remaining permanently in the same state and condition and being permanently the same belongs only to the most divine things of all, and the category of body is not of this order.” (269d / tr. Rowe) Now since the heavens, which are regarded as the most divine and have a portion of many blessed things from its progenitor, have their share of body; in consequence, it is impossible for them to be altogether exempt from change. This is also quite true of human beings; therefore, human beings are bound to suffer everlasting changes and toils.

(5) Since Kronos is no longer in control of human affairs in our present time, and accordingly, it was no longer possible to for a living creature to grow within the earth under the agency of other's putting it together. But “just as the world-order had been instructed to be *master of its own motion*, so too in the same way *its parts were instructed themselves to perform the functions* of conception, birth and rearing so far as possible by

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<sup>19</sup> What I mean here by this expression is that in this world there are also so many entities and species other than human beings that comprise the whole nature and universe.

*themselves*, under the agency of a similar impulse.” (274a-b / tr. Rowe) But the same will be true of all the areas of human activities; not just of conception, birth, and rearing, but also of education and of establishing a human political community. This is to say, as there is no one who takes care of the herds of human beings, human beings should take care of themselves by themselves.

(6) Having been deprived of the god, and of the care from the god, human beings are by themselves weak and defenceless, and in those first times were still without resources and without expertise of any kind. As a result they were in great difficulties, because they had to live their lives through their own resources. In order to overcome this situation, human beings need certain kinds of techniques and knowledge. This is why the gifts from the gods have been given to us, along with an indispensable requirement for teaching and education (274b-c). For human beings to survive and to lead a happy life, we need to employ various kinds of techniques, including especially a political technique.

(7) One more notable point of consideration is that “the statesmen who belong to our present era are much more like their subjects in their natures and have shared in an education and nurture closer to theirs.” (275b9-c4 / tr. Rowe) This is quite an important point, I think, as it tells us clearly the important role of education in establishing a political institution. As the would-be ruler and the subjects themselves share their education and nurture, and the (future) statesmen are to be brought up, and educated, from inside of their political community by themselves, education is an indispensable element of politics. The importance of education can never be exaggerated.

All in all, these are the lessons and implications we can get from the myth of the age of Kronos in the *Statesman*. Comparing with that in the *Laws*, it has rather more full details, but basically the same moral. It tells us about (1) our human conditions in the present era, (2) the nature of ideal ruler, (3) the aims of political community, and (4) the means to achieve them. This is the truth the myth (in a way fictional one) is trying to show us as to matters of politics.



## **IV. What is 'Persuasion' in Plato's *Laws*? Its objectives and functions**

The objective of this chapter is to answer the following questions: what should we understand by *persuasion* in Plato's *Laws*? What does it do? What is the meaning and function of persuasion? What are its goals and how does it work? Why does the legislator need it in his legislation? In what kind of format is it to be formulated? The use of persuasion in legislation could be regarded as 'one of the most important innovations' of Plato in the history of legal thought.<sup>20</sup> Persuasion and precludes –given as the appropriate form of delivering persuasion- will turn out to be, I think, the key concepts for accessing the core of the political ideas in the *Laws* of Plato.

### **4.1. Address to the new colonists**

In exploring these central questions above, I'd like to begin with the first address to the new colonists in the Bk. IV. It is meaningful, in my opinion, not only because it is supposed to be the *first* address, fairly a good occasion to announce what the legislator

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<sup>20</sup> Plato himself refers to this point at *Laws* 722b4-c2, and some other commentators too.

has in mind *directly to*, and in front of, the new-comers of this city<sup>21</sup> which is now being built up in the *logos*; but also it is meaningful because it will help us to see more clearly several levels of persuasion and to distinguish them more distinctively as we examine them.

In the address to the new colonists (715e7-718a6)<sup>22</sup>, the addressees are supposed to have just arrived in an imaginary city within the discussion between interlocutors. This speech is therefore addressed to the people in the city just before the city is to be constituted, presumably according to certain specific principles. Because it is the first

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<sup>21</sup> However, it still has a hypothetical nature; it is *supposed* to be addressed to the people *in a hypothetical situation*.

<sup>22</sup> Where does the first address to the new colonists end? ① Does it continue until 718a6? ② Or, just until 716b7? According to the text and English translation of the Loeb edition, it ends 716b7; by contrast, if we follow the Oxford Text, it goes up to 718a6. Considering the fact that the first address is also *a kind of* prelude and that it deals with the theme of gods, and after having expounded in those areas, as to the matters relating to the human life and human relationship it is claimed that the law needs to use both persuasion and force, ① (seeing it as continuing until 718a6) would be more favourable to the direction of my interpretation. But, if I take it this way, I need to explain why or how it is justified to divide, just at this point, at 718a6, the speech of the Athenian into two pieces, though it appears to keep going to 718c6. If one took the position of ② (taking the first address as continuing just until 716b7) following the text of the Loeb edition, it should have been due to the simple fact, I suppose, that Kleinias' response at 716b8-9 seems to be close remarks to the Athenian's speech. But this line of reading should explain how this spontaneous reaction from Kleinias makes such a great difference as to cut down the continuity of what the Athenian is saying before and after Kleinias' short remark. I follow the reading of ①, as in the Oxford text.

address to the whole body of citizens before the actual building-up of the city, it could be in a way read as a kind of general preamble to the whole project of building the city in the dialogue *Laws*. In my opinion, such a reading can be justified so long as we could find in the address an outline of a general idea or a kind of general manifesto (or, charter) of this city state.<sup>23</sup>

What is then the ultimate principle of this city and its constitution? It is said to be god; moreover, god is even said to be the measure of all things in the following passage.

In our eyes God will be “the measure of all things” in the highest degree - a degree much higher than is any “man” they talk of. (716c / tr. Bury)<sup>24</sup>

Now some questions can be raised: How is god the ultimate principle of the constitution of the city in the *Laws*? What is then the law which is based on, and resorts to, god? In order to try to answer these questions, let's look at the following passage of the first address more closely.

Athenian Let us, then, speak to them thus: “O men, that God who, as old tradition tells, holdeth the beginning, the end, and the center of all things that exist, completeth his circuit by

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<sup>23</sup> What is then the legitimate criterion in judging whether a given passage is actually a preamble or not? We can think of several points to refer to: first, in its form/general feature; second, its contents; third, its actual function. And it depends mainly on a given passage in a specific context; in that sense its function would be most important. But we consider the whole of its aspects.

<sup>24</sup> It is apparently a reference and an allusion to the Protagoras' thesis, namely “Man is the measure of all things.”

nature's ordinance in straight, unswerving course. With him followeth Justice, as avenger of them that fall short of the divine law; and she, again, is followed by every man who would fain be happy, cleaving to her with lowly and orderly behavior; but whoso is uplifted by vainglory, or prideth himself on his riches or his honors or his comeliness of body, and through this pride joined to youth and folly, is inflamed in soul with insolence, dreaming that he has no need of ruler or guide, but rather is competent himself to guide others,--such an one is abandoned and left behind by the God, and when left behind he taketh to him others of like nature, and by his mad prancings throweth all into confusion: to many, indeed, he seemeth to be some great one, but after no long time he payeth the penalty, not unmerited, to Justice, when he bringeth to total ruin himself, his house, and his country. Looking at these things, thus ordained, what ought the prudent man to do, or to devise, or to refrain from doing?" (715e6-716b8 / tr. Bury)

In this passage god is described as holding the principles –‘the beginning, the end, and the centre’- of all things and to complete ‘his circuit by nature’s ordinance in straight, unswerving course’. Surely, this idea is adopted from a ‘old tradition’<sup>25</sup>, but god is said to be, in what follows, the most legitimate grounding of justice, which is in turn the basis or the criterion of human happiness and unhappiness and of ‘what the prudent man ought to do, to devise, or to refrain from doing’. Within this context here god is said to be the ultimate principle of the constitution of the city.

In addition, in a sense, the god can be a representation of wisdom or of the rational principle; as in the expression ‘*completes his circuit by nature's ordinance in straight,*

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<sup>25</sup> The argument of this address depends, therefore, in a way, on the traditional *topos* of ‘*homoion tōi homoiōi*’. Then my question is: How far is it legitimate to resort to such a *topos* in order to give a reasonable account? Is it a tight argument at all? Or, is it just enough to give a kind of *plausible* account without logically firm ground?

*unswerving course*' of the above passage the movement of god is said to be almost similar to, or exactly identical with, that of heavenly bodies when they do go on their own orbits. Thus, god is apparently identified with the heavenly bodies and their movement. More interesting is the description of the way god goes on his own path; it is described as a 'straight unswerving course' (*eutheia perainei kata physin peri poreuomenos*). It seems quite an unusual and even strange expression; how can a circuit movement be a straight one? But I think we can understand it as a kind of simile (or analogy); if so, then it would mean to tell us, I think, that the heavenly bodies do not ever go astray from their due course of movement in their orbits. So, in their movement according to their orbits, '*the way they actually go on* (or, the way they are)' and '*the way they should go on* (or, the way they should be)' match together always.

If we are justified in understanding god as the law of nature, as expressed in 'God who, as old tradition tells, holdeth the beginning, the end, and the centre of all things that exist,' god is apparently identical with the law of nature as well as with the heavenly bodies. In that sense their movement exemplifies (or, actualizes) the possibility of the matching together (or, coincidence) of *the fact* and of *a certain kind of law (necessity) that they should follow*. This is why god could, and should, be the ultimate reference for justice and human happiness in this passage.

As to the status of this address, there is still a room for considering more. But, at least, *in terms of its contents*, it tells us about a kind of reward and punishment (avenge) in accordance with human deeds. In that sense it shares a common feature with the preambles which will appear later on in the dialogue. Furthermore, since it tells us a

general principle of the constitution, namely god, it seems to be entitled to be called by the collective name *preamble*.

Once god is declared to be the ultimate principle of the city as well as its constitution, and to be the measure of all things, and since this is, so to say, what the whole project of, and the discussion on, legislation in the dialogue is all about, all matters concerning legislation should be regulated by this principle. In accordance with the ultimate principle, god, the interlocutors, as participants in the legislative discourse, “would be aiming most straight at the mark of piety” (717a3-4) in the first place. In order to hit the mark, and therefore, to be a moderate man who is dear to god, it is claimed first of all that we should show respect and reverence to certain deities. Now at 717a-718a the Athenian enumerates due honours and worship to be paid to deities, apparently in a kind of hierarchical order: (1) honours paid to the Olympians and the gods who keep the State; (2) honours to the gods of the under-world; (3) worship to the daemons and (4) to the heroes; (5) private shrines legally dedicated to ancestral deities; (6) honours paid to living parents as well as (7) honours to them after their death.<sup>26</sup>

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<sup>26</sup> The status of parents in the context should be more clearly clarified; in our modern minds it seems odd to regard parents as something of deity. We seem to regard ‘our relationship to our parents’ as a totally human one. But Plato could have held a different idea on it.

Of course, I need to consider the interrelation between ‘piety / worship to gods’ and our behaviour and manner towards our fellow citizens; the best way to worship gods properly is to lead a

These are, in general, duties towards 'all that are mightier than ourselves'. (718a) I would, then, raise questions: why should we offer worship to these deities and mighty forces? Is there any legal backing for these rules, or any rational justification? The Athenian says here clearly:

For to these duty enjoins that the debtor should pay back the first and greatest of debts, the most primary of all dues, and that he should acknowledge that all that he owns and has belongs to those who begot and reared him, so that he ought to give them service to the utmost of his power. (717b6-c2 / tr. Bury)<sup>27</sup>

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good relationship with fellow citizens, as Plato would say. But what matters here, I think, is '*our attitude towards parents as a kind of deity which is superior to us*', as Plato himself puts it here, not parents *as natural persons, as fellow members of our human society, as we regard them as such nowadays* in modern Western context.

I should also check rather more historical examples how parents are worshipped in ancient Greek cultural context; I think in modern Western culture parents are not supposed to be worshipped after their death. But still in Korean culture, or in East Asian culture, parents are supposed to be 'respected/ worshipped' even after their death in a certain specific way at least by traditionally oriented families.

It is not so relevant here to mention a Korean culture and custom, but what I mean by it is clear. There could have existed a different or alternative way of 'worshipping' one's own parents, and so a different conception about one's own parents and their status in one's world view.

<sup>27</sup> Cf. *Crito* 50a-54d. A similar idea of returning back what one has been endowed from, and due services to parents, ancestors, fellow citizens, the laws, and the whole institution of the state is presented by the personified laws.

According to this passage, our duty (*themis*) to the gods and other powerful mighty entities is conceived of as paying back a debt. To put it another way, the basic model of certain rules of life that we should follow issues this kind of instruction: "Pay your debts, and then you will be rewarded duly by them!"<sup>28</sup> This is the principle and the way of justification of the duties of the citizens as regards to the deities.<sup>29</sup>

Now, on the other hand, if we focus on the way the Athenian himself explains, there are two elements here: (1) the rules we should follow (the duties of the citizens) and (2) their justification (explanation / grounding). But what the Athenian here says is a kind of 'mixture' of both elements. There is no clear distinction drawn consciously by the

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<sup>28</sup> It is a kind of paraphrase which seem to me to be able show the basic model structure. Moreover, I don't need to stick to the word 'rewarded'; I can translate in other ways, if appropriate. What we need to do is to allow the possibility of understanding the word 'rewarded' as referring to something slightly different, and to try to understand analogies and examples more flexibly. Our human life *as it is* –particularly when it is being led in a favourable and positive way- could be understood in a sense as a kind of reward according to the lines of explanation by way of analogy Plato gives us, I suppose. Words can be used in differently various ways sometime depending on contexts.

<sup>29</sup> '*Paying debt to the gods*' and '*paying debt to other persons*' are quite different from one another. Among human beings paying debt is not a matter of praise, nor a matter of particular virtue. However, when we pay debt to the gods, our deed will be regarded as a virtuous one. In this case of worship to gods, it is a matter of praise, or of virtue. Analogy of 'paying debt' is not a perfect one; it doesn't perfectly explain what worship to gods is. But it is Plato's analogy (simile), not mine; however, if we could show him a kind of generosity, in accordance with *the principle of charity*, we could read and understand the passage as such.



speaker himself up to this point. If my observation serves me right, there has been no mention of the need for a kind of persuasion, nor of legal force, nor of a prelude in this realm of superhuman forces, or of divine entities, as yet up to this point.

## 4.2. Need for persuasion and force

As we go on, however, to what follows (718a6 ff.), now we encounter 'duties to children, relations, friends and citizens, and those of service done to strangers, and of social intercourse with all those classes' (718a / tr. Bury). It is in this area of human life and relationships that it is said that the law needs to use both persuasion and force in the strict and narrow sense of the terms.<sup>30 31</sup> Let's have a look at the passages from Bk. IV.

718a-c:

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<sup>30</sup> Human relationships are fundamentally relations between equals, as opposed to the relationship between human beings and gods. As to this point, we can refer to, once again, the myth of the age of Kronos which appears in the *Laws* as well as in the *Statesman*. The myth has an implication on this point: the ruler and the ruled have the common basis of breeding (*trophēs*; or, nourishment) and education (*paideias*). See, *Statesman* 275c. The laws that the legislator is now to give, by using both persuasion and force, thus, will be in a way confined to the area of human life and relationship.

<sup>31</sup> Moreover, we need to distinguish the cases (1) where religious institutions are practised in due manners by the state authorities and (2) where certain rituals and institutions are not properly observed, or e.g., certain sanctuaries are vandalized by an individual citizen. In cases of (1) to keep practising service to gods is to be regarded as virtuous; in these cases we don't need to enact a specific law as to this matter using both persuasion and force. Gods should be simply worshipped in a certain specific way that the whole institution and the custom of city permits and regards as honourable. However, in cases of (2) certain deeds of disrespectfulness are crimes to gods; they should be judged and punished by a specific law in which the legislator needs to use both persuasion and force.

As regards duties to children, relations, friends and citizens, and those of service done to strangers for Heaven's sake, and of social intercourse with all those classes,-by fulfilling which a man should brighten his own life and order it as the law enjoins, -the sequel of the laws themselves, partly by persuasion and partly (when men's habits defy persuasion) by forcible and just chastisement, will render our State, with the concurrence of the gods, a blessed State and a prosperous. There are also matters which a lawgiver, if he shares my view, must necessarily regulate, though they are ill-suited for statement in the form of a law; in dealing with these he ought, in my opinion, to produce a sample for his own use and that of those for whom he is legislating, and, after expounding all other matters as best he can, pass on next to commencing the task of legislation.

Clinias What is the special form in which such matters are laid down?

Athenian It is by no means easy to embrace them all in a single model of statement (so to speak) but let us conceive of them in some such way as this, in case we may succeed in affirming something definite about them.

Clinias Tell us what that "something" is.

Athenian I should desire the people to be as docile as possible in the matter of virtue; and this evidently is what the legislator will endeavor to effect in all his legislation. (718a-c / tr. Bury)

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One might say that the distinction between (1) and (2) does not seem to be quite clear; but one of the points that I would make here is that there will certainly be a distinction of some sort between what virtue demands and what law is able to force. More specifically, (1) is a matter of whole religious institution which should be observed in a certain specific way; moreover, it is a kind of *positive* suggestion. Main concerns of (1) lie in encouraging people to act in a virtuous way. Surely, these should be properly observed by individual citizens; however, it has still a general character, because it is addressed to the people as a general public. However, (2) issues a specific individual case, only when an individual person did actually commit a transgression. After that there will constitute a law suit, a judgement, and a legal sentence by the legal authority and its enforcement.

From the above passage here, first of all, we can see clearly that *persuasion* and *force* are the elements of legislation as regard to the human life and relationships.<sup>32</sup> Moreover, it is obviously ascertained that the need for persuasion and force is closely, or more directly, linked with the objectives and the aims of legislation. Then what are the ultimate goals of legislation in this city? What is said directly in the same sentence answers this question: 'the sequence of the laws themselves will render the state a blessed state and a prosperous.'(718b) With these in mind, persuasion and force can be only meaningful so long as they can serve this purpose of the legislation:

But, still, it is not yet clearly stated what persuasion and force properly are. Why are they so necessary in the legislation of the city in the Plato's *Laws*? What do they do? What are their aims, roles and function?

In what follows directly, the Athenian says: "There are also matters which a lawgiver, if he shares my view, must necessarily regulate, though they are ill-suited for statement in the form of a law." (718b / tr. Bury) In other words, it is said there are

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<sup>32</sup> It is in this area of legislative discussion that the term 'persuasion' is being used in its narrower sense. Then, what about the longest prelude in the *Laws X*? One might raise a question whether it is a prelude precisely in the area of human relationships into the gods. Surely, that is true. I wouldn't deny the longest prelude in the *Laws X* is a prelude concerning the relationship between human beings and gods; moreover, it gives a basis of introducing a legal force when a certain specific transgression is done by an individual person. What I mean here is that we need to specify in more depth common features and differences among preludes in different contexts. The longest prelude in the Bk. X will then, according to its content and its grand scale, turn out to have its own special status.

certain things that the legislator must say, but that are inappropriate to be formulated in the form of legal code. What are they then? However, once again the Athenian doesn't answer to this question directly; rather he asserts that in dealing with these matters the legislator needs to produce and show a kind of model (*deigma*) for the use of himself and citizens, and still further, "after expounding all other matters as best he can, pass on next to commencing the task of legislation." (718c/ tr. Bury)<sup>33</sup> Still he even goes on further saying that "it is by no means easy to embrace them all in a single model of statement but let us conceive of them in some such way as this, in case we may succeed in affirming something definite about them." (718c/ tr. Bury) Having been asked to tell what that "something" is by Kleinias, as we go on one step further, the Athenian still doesn't give a direct and short answer; his immediate concern, and so his immediate response, seems to be obviously directed to the matter of virtue.

Athenian. I should desire the people to be as docile as possible in the matter of virtue; and this evidently is what the legislator will endeavor to effect in all his legislation. (718c / tr. Bury)

Once again, the Athenian refers to one of the fundamental aims of the legislator and his legislation. To make the citizens virtuous, to put it more accurately, to make them

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<sup>33</sup> It will be clearly shown that the Athenian himself plays the role of legislator at certain stages of the discussion afterwards, when he himself is soon trying to show the model and also to legislate actual legal codes later on.

'well-disposed / well-prepared to be persuaded in heading towards virtue'<sup>34</sup> is (one of) the most important goals of the legislation and the constitution of this city; this goal is almost equivalent to making people more likely to follow what the legislator regards as something good and necessary to make the city a blessed and a prosperous one. With these fundamental aims and objectives of legislation in mind, persuasion and force are the basic and necessary elements of the legislation, which are meant to serve this purpose.

Up to now, however, what has been stated clearly is just one of several features of persuasion and force: persuasion and force should serve -actually serve, as the author might argue- the ultimate goals of the legislation. But it does not seem to have been fully explained yet what persuasion and force actually are<sup>35</sup>, why they are necessary elements, and why there are certain matters that the legislator must say but that are inappropriate to be formulated in the form of legal code. What are then these matters at all?<sup>36</sup> Due to

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<sup>34</sup> My own rendering.

<sup>35</sup> Here the Athenian tends to show a sort of tendency of putting off answering the question directly, and also of putting off giving the actual legal codes. Laks refers it as 'the repeated postponement of the work of legislation' (Laks (2000), p.288.). My concern here, however, is more focused on the dialectical feature/ argumentative strategy of the dialogue. In my opinion, presumably, this kind of tendency has also something to do with the feature of persuasion that the author is perpetually trying to show us; by doing this, at the same time, I suppose, the author seems to be always trying to persuade us. I will discuss it more later on.

<sup>36</sup> This will turn out to be the (something that should be formulated in the form of) prelude corresponding to each of specific legal codes, after all.

what specific characteristic features of these matters does the legislator need to adopt another kind, or another format, of discourse/language?

In many passages of Plato's dialogues, on the other hand, as is noted frequently, there are various thematically (objectified) methodological considerations and also at the same time their practical application into the examination on the matters in hand. I think it is also the case here in what follows, 718c ff. The Athenian himself explains –I suppose Plato himself also tried to explain and to make us consider- why we need persuasion and force in the legislation, and he even tries to show us the examples of two modes of legal codes, one with full consideration on the surrounding matters in question which amounts to the supportive –or even philosophical- backing of the legal code, and another without it. Now therefore I think it would be a good idea to follow what the author tries to explain by himself. Let's follow his explanation. Just immediately at 718d2 ff. the Athenian says:

It occurs to me that the sort of approach I've just mentioned, provided it is not made to totally uncouth souls, will help to make people more amenable and better disposed to listen to what the lawgiver recommends. (718d2-4 / tr. Saunders)

What does the expression 'what has been just said (*ta toinun dē lechthenta* ; the sort of approach)',<sup>37</sup> here at 718d2 mean? If we could be justified in understanding it as referring literally to the discussion that has been just going on including the very method

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<sup>37</sup> As Saunders (1970) renders it in his translation. p.179.

that he himself asserted just above as a plausible way of legislation (or, of legislative investigation) and that he is now about to adopt in exploring what sort of thing that –i.e. ‘certain matters that the legislator must say but that are inappropriate to be formulated in the form of legal code’- is and in what particular form (*en tini schēmati*) such topics are expressed, then we may also take the whole sentence, I believe, as saying “the sort of approach (or, the very methodological consideration on the legislation) will help to make people<sup>38</sup>, especially their souls (*psychē*), *more amenable and better disposed to listen to*<sup>39</sup> what the legislator recommends.” That is to say, this procedure of methodological considerations on the plausible way of legislation will also help to make people –also possibly us, the readers- better disposed to be persuaded of what the lawgiver would regard as necessary in his legislation.

I think it is crucially important because this procedure itself, which follows the very method –or the methodological consideration- just mentioned above, is claimed to be helpful in making people more disposed to follow what the legislator says. Furthermore,

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<sup>38</sup> Who are these people? It is not clearly specified in the sentence; the property of ‘being amenable and better disposed to listen to’ is just attributed to the soul (*psychē*). This would be implicitly the soul of each individual citizen in the city which is now being built on by the discussion (*logos*); on another level, however, this could be in my opinion the soul of each individual reader or audience of this work of the *Laws*.

<sup>39</sup> ἡμερώτερόν τε ἂν ἀκούειν καὶ εὐμενέστερον ; *hēmerōteron te an akouein kai eumenesteron*: tamed (cultivated) and well-disposed to listen to.



in my opinion, the *people* here can be read as referring the readers<sup>40</sup> or the audience of this dialogue; if this is the case, a different kind of persuasion of the readers is implicitly going on at a different level of discourse,<sup>41</sup> which is being actualized when we read the text of the dialogues. At the end of the proposed consideration on the plausible way of legislation, as a result, *we, the readers*, will also be better disposed –so, will have been *persuaded*- to accept the need for both persuasion and force in the laws that will have been laid down by the legislator. Consequently, therefore, this very procedure itself of methodological considerations on the plausible means (or, way) of legislation will make both citizens of this city and the readers of the discussion in the *Laws* become more

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<sup>40</sup> Or, it will be better to identify them with an ideal reader.

<sup>41</sup> At a different level of discourse, when we consider the effect of the whole discussion on the readers, a kind of persuasion of the readers (or the audiences) is perpetually in progress. Here I think 'what is sought after', namely 'persuasion', is mirrored (or, reflected) on 'how it is being pursued', or the way the investigation through discussion is going on; in other words, the examination on the persuasion is being executed in a persuasive way. In this way, I suppose, it is being shown 'what persuasion is' vividly, though at least partly. This feature of the dialogue, let's say, 'the mirroring/reflective relation between what is sought after and how it is being pursued', I think, is also crucially important, because it shows us in a more specific way what persuasion is aiming at and how persuasion is to be executed.

Moreover, I should say this feature itself is not my own discovery; there have been such ideas in some books. But at least an obvious attempt to find out such a characteristic feature in the passages of Plato's *Laws* has not yet been found out within my bibliographical research up to now. Hopefully it could be a meaningful feature in explaining the nature of persuasion as I put it here, if my argument be well justified.

virtuous in the sense that they and *we* are more likely to be persuaded by what the author, as the lawgiver, recommends as necessary in his legislative discussion in terms of its contents as well as in terms of its form.

However, the proposed result to be achieved by this discussion might seem (to somebody in our modern capitalistic, profit oriented age) to be something of no great importance but only of a trivial nature, i.e. it only makes his listener better disposed to listen to (*eumenesteron*), and so that much more ready to learn (*eumathesteron*); nevertheless, it would be totally satisfiable,<sup>42</sup> says the Athenian. Why should we, or the legislator, then, be pleased just at this point? Why must we content ourselves with the anticipated result of the discussion and of its persuasion, which seems quite restricted at a first glance? Why does it have to be expressed as a property –grammatically an adjective- attributed to the soul of a person? Why does it just have to do with ‘the disposition’ of the listeners?

The Athenian answers this question by quoting Hesiod:

“smooth is the way that leadeth unto wickedness, no sweat is needed to traverse it,” since it is “passing short,” but

“In front of goodness the immortal gods  
Have set the sweat of toil, and thereunto

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<sup>42</sup> My own rendering of 718d4-7. The Greek word for ‘satisfiable’ here is ‘*agapēton* (one must be content)’.

Long is the road and steep, and rough withal  
The first ascent; but when the crest is won,  
'Tis easy travelling, albeit 'twas hard." (718e2-719a2 / tr. Bury)<sup>43</sup>

This is to say, in short, we cannot possess the good and virtue perpetually all at once, as we human beings are basically mortal, and imperfect, as opposed to god(s). Every moment when we take action we (or, our souls) are always exposed to the danger of going wrong; therefore, owing to the fragile nature of human beings, we have to keep struggling towards the good and virtue, against a possible way leading to vice.<sup>44</sup>

Thus, here it is ascertained once again that the cultivation of virtue and virtuous citizens, i.e. the education and improvement of citizens, is the ultimate aim of the legislator; just giving laws to fit certain surrounding conditions is not a real aim of the legislator in Platonic understanding. In addition, this task of cultivating virtuous citizens

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<sup>43</sup> Originally from Hesiod, *Works and Days* 287 ff. Another translation renders it:

"Badness can be got easily and in shoals; the road to her is smooth, and she lives very near us. But between us and Goodness the gods have placed the sweat of our brows; long and steep is the path that leads to her, and it is rough at the first; but when a man has reached the top, then is she easy to reach, though before that she was hard." (Hesiod. *The Homeric Hymns and Homerica with an English Translation* by Hugh G. Evelyn-White. *Works and Days*, Cambridge, MA., Harvard University Press, 1914.) cf. The same lines appears in the *Protagoras* 340d.

<sup>44</sup> Also it is basically, and partly, because the ability (the power and the function) of soul -the *dynamis* of *psychē*- and virtue (*aretē*) can be understood as a kind of disposition according to which a person (his soul) takes his action and leads his life. Let's consider and try to answer this question more afterwards, when considering the formal structure of persuasion.

should be executed by the willingness, by the readiness, and by the consent of the citizens ; not by force nor by violence of the political power. As an ideally virtuous citizen will act on a highest moral criterion, there will be no use resorting to violent force. Moreover, the procedure itself of bringing up virtuous citizens should take righteous measure and methods. In this regard persuasion is to be preferred over force.

But still, one might raise a question like this: "How can you be consistent with what you said before in quoting from a poet? Didn't you say there at the passage 656c ff. that poets will not be granted to be qualified to teach whatever they like?" But this question doesn't seem to be based on a sound understanding of what Plato intended to tell us here. If we focus just on the content of what is brought into the discussion, regardless of who has told it and who is the author of it, it will incur no great problem so long as it can suggest to us and help us to see the truth, the way our world is. In this regard, it won't matter at all to bring a quotation from Hesiod. Moreover, surely enough, Hesiod is a clear exception; he does not belong to a group of poets that Plato would have regarded as unqualified. He is a poet of another sort. What matters here is that the passage (quotation) from Hesiod tells us the truth about human nature, our fragile nature in the way towards the cultivation of virtue and virtuous life.

On the other hand, however, even though the quotation from Hesiod is justified, the aforementioned question is not a totally absurd one; it will incur an interesting, and important, problem about the nature of legislator's *logos*. This is to be discussed in the following section.

### **4.3. What is the nature of the *logos* that the legislator will use?**

In the *Laws* 718a6 ff. the plausible way of legislation is now being discussed: what would be the appropriate way of legislation? What elements are to be used? In what way should the legislation be accomplished? During this discussion what is said in the first place is the ultimate aim of the legislation; at 718c8-10 the Athenian says that he should “like the citizens to be supremely easy to persuade along the paths of virtue<sup>45</sup>; and clearly this is the effect the legislator will try to achieve throughout his legislation”. (tr. Saunders) Here it is obviously expressed that to make ‘the citizens to be easy to persuade along the paths of virtue’ is one of the most fundamental aims of legislation. And a few lines below, moreover, it is also said that this legislative discourse itself will help ‘to make people more amenable and better disposed to listen to what the lawgiver recommends’ (718d2-4 / tr. Saunders). As these are the ultimate and fundamental aims of legislation,

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<sup>45</sup> It would be a better idea to differentiate what the Athenian says-and his position- from what the proposed ideal legislator should do when he gives the laws, even though the Athenian sometimes identifies the ideal legislator with himself when he says “... a legislator who thinks as I do simply must mention ...” (718b5-7 / tr. Saunders). This will be more consistent with my previous suggestion. There will be at least three dimensions of discourse, of relation between the speaker and the audiences: (1) the ideal legislator to the new colonists in the city of Magnesia; (2) the Athenian to Megillos and Kleinias; (3) the author of this work of *Laws* –Plato- to the readers-including us-. It would be fruitful to try to separate each position, i.e. the position of the Athenian, and the one of the law-giver, depending on the points of focus.

the whole procedure of legislation –including also its elements required and the way it should be carried on- should arguably contribute to reach these goals.

In addition, the legislation is basically a certain kind of procedure which is carried on by reason, by language (*en logōi*: ἐν λόγῳ) ; then, one might be curious about legislator's usage of language. What is the nature of the *logos* that the legislator will use in his legislation? What are distinctive features of his language in comparison with that of other professions/experts e.g. like poets? What makes him so different from others who have expert knowledge which deals with language (*logos*)? Following this line of questions, I think, from now on at 719a ff., interlocutors are trying to clarify the notable characteristic of the legislator's language (*logos*), which is being explained in opposition to, and in comparison with, that of poets.

Let's begin with a passage in which poets are being criticised:

Athenian: 'Now didn't we hear you saying a few minutes ago that a legislator ought not to allow the poets to compose whatever happened to take their fancy? You see, they'd never know when they were saying something in opposition to law and harming the state.' (719b4-7 / tr. Saunders)

This question is raised to the legislator by an imaginary interlocutor<sup>46</sup>; here he is trying to reconfirm the legislator's claim that poets should not be allowed to say whatever

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<sup>46</sup> A similar question to this one was raised at the end of previous section, taking a slightly different focus.

they want in their creation (or, recitation). According to his assertion, they are not qualified because they'd never know what they are doing even when they are saying what is against law and thus harming the city. In my opinion, what is more, what we can read off from the passage is the fact that by asking this question he also wants to clarify the distinction between the expert knowledge of poets and that of the legislator.

Prompted by the question above, an imaginary interlocutor, in a hypothetical situation, is taking the poet's side and is addressing the legislator:

“There is an old proverb, legislator, which we poets never tire of telling and which all laymen confirm, to the effect that when a poet takes his seat on the tripod of the Muse, he cannot control his thoughts...” (719c1-4 / tr. Saunders)

In other words, when he recites a poem, at that moment he is out of his mind, he is like a fountain where the water flows off. As he is inspired by a kind of divinity, he cannot control himself. His art is the art of imitation; in his imitation he represents men with contrasting characters. In doing so, he is often obliged to contradict himself. But he does not know whether this or that, among what he has told, is true. Therefore, he cannot remain self-consistent, nor self-identical.

For the legislator, however, it is impossible to speak in such a manner in his legislation. He is not allowed to say two different things as to a single specific issue; on

the contrary he must say just one as to a single specific issue.<sup>47</sup> In other words, the legislator is required to use his language unequivocally.

This is also clear from the following consideration. Immediately in what follows, the imaginary interlocutor gives an example of a funeral rite.<sup>48</sup> Say, a funeral can be extravagant, inadequate or modest; if the legislator should choose one of these three alternatives, he will choose the moderate one. But if the imaginary interlocutor, as poet, should compose “a poem about a woman of great wealth and how she should give instructions for her own funeral, he should recommend the elaborate burial; a poor and frugal character, on the other hand, would be in favour of the cheap funeral, while the moderate man of moderate means (*metron de ousias kektēmenos*) would recommend accordingly”. (719d7-e3 / tr. Saunders) This is to say, a poet is normally required to say what is just appropriate and moderate in each occasion. And here the expression *the moderate (metrion)* could be for him, a poet, something similar to an arithmetical mean; he does not need to specify what this ‘moderate’ exactly means. On the other hand, what is required of the legislator is something of higher, stricter, and more precise standard.

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<sup>47</sup> *tōi de nomothētēi touto ouk esti poiein en tōi nomōi, duo peri henos, alla hena peri henos aei dei logon apophainesthai.*(719d1-3)

<sup>48</sup> This is actually prompted by what the legislator was supposed to have said at 717e in his first address to the new colonists. Therefore, the discussion here is being carried in an imaginary, and hypothetical, realm of discourse between imaginary interlocutors.



The legislator must say what 'the moderate' is, and how big it is; otherwise he must realize that he still has some way to go before it can be a law. In short, the language of the legislator should be consistent, rational, and precise as to each occasion to which it is to be applied.

To expand our scope of discussion somewhat more broadly, like in many passages of the works of Plato, i.e. like in *Ion*, in *Phaedrus*, and in *Apology*, the contrast between poets and philosophers is discussed repeatedly over and over again. It is no great wonder Plato points out so frequently that poets say different things about the same subject -so that they are inconsistent-; therefore, this contrast is in a way rather a familiar distinction. Then, what reveals this contrast exactly? How does this contrast help us to understand the nature of legislator's language (*logos*)? First of all, poets are also persuasive; then, the point of contrast between poets and the legislator will not be a matter of persuasive force of the language they use in each case. Rather, this is a matter of using consistent rational language, rational *logos*. I think this point of contrast amounts to that of contrast between poets and *philosophers*. Then, can we say the legislator in the *Laws* be identical with, or nearly an approximation to, a philosopher? I would say: "yes, probably to a certain extent." The legislator and philosopher have an important feature in common in that they are using consistent rational, and precise, language, even though, occasionally, they can also adopt persuasive language as well.

#### 4.4. Analogy of two types of doctor

What is then required of the legislator in order to be justified to claim his own right to the expertise in legislation? In the previous section it was shown that the legislator's language should be consistent, rational, and precise as to each occasion. Are these requirements simply sufficient enough? What would be then further requirements? The next thing that is said to be required of him is using words of encouragement or persuasion. At 719e7-720a2 it is declared that the legislator should not skip any such announcement *at the beginning of his laws*; he should *not* say what one should and should not do *without* ceremony. He should not simply threaten the penalty for disobedience before passing on to the next law, without adding to his statutes *a single word of encouragement or persuasion*.

What is then the nature of this word of encouragement or persuasion? Why does the legislator need to adopt such an announcement? To answer this question, the Athenian says that it is quite the same with doctors; and thus he may further argue that it is reasonable to introduce the analogy of two kinds of physicians/doctors. What does this analogy reveal and imply? In what point does it help us to understand the nature of the legislator's language, and, to be more specific, the features of words of encouragement and persuasion? Let's have a close look at what the Athenian says in what follows.

He says that among doctors one follows one method of treatment, one another. It is significant, he argues, to recall the two methods, so that the same request could be made

of the legislator that a child might make of its doctor, to treat him as gently as possible.<sup>49</sup> According to him, they say there are two kinds of doctors: (1) doctors and (2) doctors' assistants. But usually they call the second ones also doctors; however, the latter ones pick up the skill empirically, by watching and obeying their masters. So, they have no systematic knowledge such as the free man doctors have learned for themselves and pass on to their pupils. (720a2-b7)

As to further decisive points of difference between two categories of doctors he says:

Athenian: [...] A state's invalids include not only free men but slaves too, who are almost always treated by other slaves who either rush about on flying visits or wait to be consulted in their surgeries. This kind of doctor never gives any account of the particular illness of the individual slave, or is prepared to listen to one; he simply prescribes what he thinks best in the light of experience, as if he had precise knowledge, and with the self-confidence of a dictator. Then he dashes off on his way to the next slave-patient, and so takes off his master's shoulders some of the work of attending the sick. The visits of the free doctor, by contrast, are mostly concerned with treating the illness of free men; his method is to construct an empirical case-history by consulting the invalid and his friends; in this way he himself learns something from the sick and at the same time he gives the individual patient all the instruction he can. He gives no prescription until he has somehow gained the invalid's consent; then, coaxing him into continued cooperation, he tries to complete his restoration to health. (720b8-e2 / tr. Saunders)

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<sup>49</sup> This is actually the purpose of introducing the analogy; the same request should be, and will be made, of legislator by the citizens. This is to say that the legislator should treat the citizens of the city as gently as possible, which implies that the legislator should make use of persuasion. The need for using persuasion is to be discussed more later on.

Here quite obviously enough, the practice of a doctor who treats slaves is contrasted with that of a doctor who treats free men. What is then the point of contrast? Since all doctors will issue a certain kind of prescription, and use other healing treatment of any kind, if necessary, this –making prescription- is not a distinctive feature that enables us to distinguish two categories of doctors. The notably distinctive feature between them lies in the way of their using language and reason, *logos*. One kind of doctor, who treats slaves, never gives any account, nor is prepared to listen to his patients. Therefore, he is not ready to use his reason (or reasoning faculty) and language. He simply prescribes what he thinks best in the light of his experience, and is self-confident like a dictator; but in reality he has no precise knowledge. He rushes off from one patient to the next, and so he will be of help to his master by taking off some burden of work assigned to the master. But, all in all, he doesn't make use of language and reason, *logos*, properly.

On the contrary, the other sort of doctor, who deals with free men, *gives an account* of the particular illness of the individual patient, and prescribes what is best, based on his precise knowledge. He is also *prepared to listen to* his patient, not being in a hurry to move from one patient to another, since his method is to *investigate* the patient (and his illness) from the very first beginning (or, principle) and according to the course of nature (*ap' archēs kai kata physin*). Therefore, he is ready to *talk with* the patient himself and with his friends, and so he himself *learns something* from the sick and *gives instructions* to them as well. Only after has he *gained the patient's consent* and thus *securing the patient's continued cooperation by means of persuasion*, he will give his prescription, and will attempt to complete the task of restoring the patient to health.

If we focus on all of the italicised expressions – i.e. to give an account, be also prepared to listen to, to investigate the patient (and his illness) from the very first beginning(principle) and according to the course of nature (ap' archēs kai kata physin), to talk with, to learn something, to give instructions, to gain the patient's consent and thus securing the patient's continued cooperation by means of persuasion- from the above passage, then it is quite clear that all of these are tasks of using language and faculty of reasoning. From this simple fact it follows that the distinctive feature of the second type of doctor lies in the specific way of using language, and more, in using reasonable, rational, and persuasive language. Without this ability to give reasonable account according to the nature, and to gain patient's consent by using persuasive language, he cannot be an ideal type of doctor. The better type of doctor should have, in this regard, a certain kind of expert knowledge in logos, in addition to his prescription.

What will then come up with the analogy? Surely, it was designed to show the nature of legislator's language, and the word of encouragement and persuasion. If I were to suppose that there could be a direct parallel between a doctor and a legislator, and between citizens and patients, then the passage can be re-formulated as follows:

(1) A state's citizens include not only free men but slaves too. But, normally in Greek and Platonic understanding, slaves are not citizens at all; therefore, it is better to re-formulate the sentence like this: in a state there are some differences among characters of whole body of citizens. Some are liberally-educated and like free-men in its proper sense; some others are not fully educated and thus like slaves. To be more accurate, this is also applicable, I assume, to the inner world of an individual citizen. It can be said that

some component parts of soul of an individual human being are likely to behave like free men; some others are like slaves.

(2) A certain type of legislator (or, statesman) will manage to rule his citizens simply by issuing orders, regulations (prescription), and what he thinks best in the light of his experience and with the self-confident of a dictator, resorting to force. But he never gives any account (or, justification) of his orders and policy and of the whole surrounding political situation, since he has no precise knowledge in politics. He is not prepared to listen to what his citizens need and maintain; but he is busy in rushing off from one issue to another. In any case, his task is a bit useful, so far as he can, to a limited degree, take effective measures to realize the well-being of the city and its citizens, and thus relieve fellow citizens (and fellow statesman) of pains and efforts needed.

(3) Another type of legislator (statesman) will manage to rule his citizens and will be mostly concerned with issues about free men, or with the corresponding part within the human soul. When he make regulations, he will give an full account (justification) of the particular enactment, and will then legislate (prescribe) what is best, based on his precise expert knowledge in legislation (and in politics). He is also prepared to listen to what citizens require of him, without being in a hurry to move from one issue to another, since his method is to investigate the political issues, from the first principle (beginning) and according to the course of nature (*ap' archēs kai kata physin*). Therefore, he is ready to talk with fellow citizens, and so he himself learns something from them and gives instructions to them as well. But he gives no legal code (prescription) until he has gained the citizen's consent, and thus securing the citizen's further continued cooperation by

means of persuasion. Then he attempts to complete the task of his legislation, namely realizing the well-being of the city and its citizens.

From a certain point of view, surely, these re-formulations (1), (2), and (3) have some limitations, as I admit, because there is no strict parallel in a narrower sense. There will not be, first of all, two kinds of citizens, as mentioned above. The whole citizen body cannot be divided into two sub-categories, i.e. into citizens and slaves. Rather, there will only differences among characters of citizens, and probably different parts (or, certain tendencies) within the soul of an individual citizen. Secondly, in the city of Magnesia there will not be two kinds of legislators. The two types are suggested only as alternative candidates; one will be chosen, but the other discarded.

In this sense the analogy does not allow a strict parallel; however, in spite of these limitations, the re-formulations of mine could be at least a plausible paraphrase of the analogy, I think. And this is what the author would have intended to show somewhat more vividly by way of adopting the analogy of two categories of doctors.

Going back to the original stream of thought in the text, then which of the two methods makes a doctor a better healer? Surely enough, the second one should be preferred; the interlocutors reach a consent that they should use the double method to

achieve a single effect<sup>50</sup>. But, on the contrary, if they use the less satisfactory approach, it will make the patient more recalcitrant, and, thus, difficult to be cured.

What then is the double method? What is its merit, when applied to legislation? This will be discussed in the next section.

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<sup>50</sup> i.e. the patient's health, as Saunders suggests. See Saunders, p. 182.



#### 4.5. Two examples of legal code: on marriage law

In what follows, 720e7-722c5, two examples of legal codes are introduced in the discussion, when the Athenian is trying to explain what the proper way of legislation would be, and, moreover, to show how the “double method and the single work out when applied to legislation” (720e7-8 / tr. Saunders). The examples are chosen from the marriage law. Why does he then choose the marriage law in particular? In the first place, in my opinion, marriage is in a way one of the beginning points of building the whole of a human political community<sup>51</sup>; therefore, the legislation on marriage could be a

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<sup>51</sup> Furthermore, it will be also very interesting to discuss the idea of blending/mixing people of different characters together in reference to the *Republic* and *Statesman*.

And also in the *Laws* itself, there is actually the passage which introduces and deals with this idea, i.e. the passage regarding the marriage law (772d5-774c2). The focus of that passage is somewhat different from that of the marriage law illustrated here as an example. Here at 721a9-721d6 the main interests lie in the idea that human beings are *pursuing immortality* by way of marriage and procreation; however, the passage 772d5-774c2 deals mainly with *selection of a partner* and the idea of ‘*blending opposite temperaments*’.

meaningful starting point of legislation. In this regard it is quite understandable that the author chose two examples of marriage law as illustrations.<sup>52</sup>

Now 721a9-721d6 two kinds of legal codes are given: (1) one in a simple format; (2) the other in a complex format. Let's have a look at the passage:

Athenian. Let us state the law in its simple form first: how will it run? Probably like this:

“A man shall marry when he is thirty years old and under five and thirty; if he fails to do so, he shall be punished both by a fine in money and by degradation, the fine being of such and such an amount, and the degradation of such and such a kind.”

Such shall be the simple form of marriage law. The double form shall be this,

“A man shall marry when he is thirty years old and under thirty-five, bearing in mind that this is the way by which the human race, by nature's ordinance, shares in immortality, a thing for which nature has implanted in everyone a keen desire. The desire to win glory, instead of lying in a nameless grave, aims at a like object. Thus mankind is by nature coeval with the whole of

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<sup>52</sup> Moreover, it is also reasonable enough to suppose that the author would have wanted readers to refer to another Platonic passages, where some sorts of ideas, which is very similar to those that are now delivered in the second –doubly complex- form of the marriage law, are expressed and explored in a more explicitly dialectical way of narration, e.g. *Symposium* 201e-212c. Interestingly enough, in *Symposium* 209d-e, it is said that laws are immortal children of legislators; according to the idea, by way of giving laws to the city, each legislator is in a way pursuing to procreate his own immortal children, by reason. As citizens can participate in immortality by way of marriage and procreation of their own children, so can legislators by legislation. If the procreation of children is one of the most important goals of marriage, then this parallel between citizens-children vs. legislators-laws will turn out to be more understandable and convincing. In each case they have one ultimate goal in common: to *take part in immortality* by way of procreation. If this is the case, then the choice of marriage law, as examples of plausible/appropriate way of legislation, can be accordingly understood as more reasonable. The corresponding passages will help us to answer the question how far and in what way preambles of legal codes actually have philosophical nature.

time, in that it accompanies it continually both now and in the future; and the means by which it is immortal is this: by leaving behind it children's children and continuing ever one and the same, it thus by reproduction shares in immortality. That a man should deprive himself thereof voluntarily is never an act of holiness; and he who denies himself wife and children is guilty of such intentional deprivation. He who obeys the law may be dismissed without penalty, but he that disobeys and does not marry when thirty-five years old shall pay a yearly fine of such and such an amount, lest he imagine that single life brings him gain and ease, and he shall have no share in the honors which are paid from time to time by the younger men in the State to their seniors." (721a9-721d6 / tr. Bury)

What is then the difference between the first example and the second one? Which of the two is to be regarded as better, and accordingly to be selected in the actual legislation? At first glance, seemingly the first one is shorter and compact, because it only contains what citizens to follow and the punishment on a failure to follow it, i.e. it employs threats alone; the second one seems to be *double in length* as a result of combining threats with persuasion. Even though it is the length that seems to make a clear difference between the two formats here; the length, or the brevity, is not the decisive point that gives us a certain necessary criterion for choosing one from the other. If the brevity matters, then Megillos, the Spartan, could have made another choice. Obviously enough it is quite a common knowledge in ancient world that the Laconians are famous for their brevity in what they say/ write; Megillos is not an exception either, as he readily accepts. As to these two models of legal code, however, even Megillos himself asserts that he would choose the longer one. In addition, on the other hand, he says, as the city which is supposed to choose and use one of the two examples is Kleinias', it is necessary that what is now being enacted (the laws) should be accepted by Kleinias. In answer to this request, Kleinias agrees with Megillos and expresses his readiness to accept the second format of legal code.

What are, then, merits of this complex format? In what directly follows, the Athenian points out that what is important and what we should value here is not its extreme brevity or prolixity, but its excellence (*ta beltista*).<sup>53</sup> So, it is claimed the second one is preferred because of its excellence. But the Athenian says that the merits of complex model are not confined to its practical applicability. The second model is twice as valuable as the first one not only for its practical purposes; but also its excellence can be seen more clearly when we remind ourselves again of the example of two kinds of doctors, just mentioned above 720a ff.. The analogy of doctors presents us a very exact parallel.<sup>54</sup> In other words, the method of a doctor of free men is equivalent to the second complex format (of legal code); that of a doctor of slave-patient amounts to the first simple format. But as regards this, the Athenian says, if we look around and look into what actual legislators have been doing in history, it seems that they actually employ one method, i.e. sheer force only. As the result, he says, it also appears that no legislator has ever yet tried to make use two methods, namely, persuasion and force, in dealing with the uneducated masses (*epi ton apeiron paideias ochlon*); in their legislation they do not mix compulsion with persuasion. But according to the Athenian it is an essential requirement to mix these two elements together; furthermore, he insists that another, third element

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<sup>53</sup> Or, 'high quality', as Saunders puts it. p. 184.

<sup>54</sup> Then, here again, we are now facing the former question again: what is the nature of the language that doctors of free men use? As to this question, I'd like to suggest what follows.

should still be accepted for the first time in the proper legislation, which is to be found nowhere at present.

What is then the third element of legislation?<sup>55</sup> It is nothing but preambles, or preludes to laws. It is quite an ordinary custom, as the Athenian says, for almost every kind of speech or verbal expressions to have preludes, which provide a kind of artistic preparation which assists towards the further development of the subject. But for the laws no one has ever yet uttered a prelude, or composed or published one, just as though there were no such thing. But he maintains that it is also useful for the legislative procedure to adopt such things, i.e. preambles, into the legal code, and this is the new innovation Plato made here in legal history.

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<sup>55</sup> Moreover, it is also questionable why is it called the third element? What are then the first, and the second? I'd like to answer as follows: we have already got two elements by adopting double method, by using complex format: first, persuasion, and second, force. In that sense, what comes next will be the third one. Even though, in terms of its content(s), persuasion presented together with a legal code has no great difference from the one presented as a prelude just before the legal code, however, they, persuasion in a legal code and persuasion presented as a prelude, are different from each other in terms of *their formal, linguistic, or stylistic features*. In short, persuasion and force will be the first and the second one, though it is not clear stated in the text, which is the first, and which is the second. Now then, if you would like to add one more element, it should be called the third one. And the third element will constitute a fairly new form (genre) of stylistic expression which is quite distinct from the other two elements.

Or, does 'the third' have a certain special meaning in Platonic wording or in the ancient Greek culture? I would like to search for it again, if there were any such thing at all.

## V. Several contexts of persuasion and Specification of preludes

As shown in the previous considerations on the proper method of legislation, persuasion and preludes are indispensable components of the whole project of legislation in the *Laws*. However, I think, we can distinguish several kinds of preludes and persuasion according to each context of discussion, because each of the preludes and persuasions in the *Laws* has somewhat different and distinctive features, though they in general share the same features/elements in so far as they are trying to persuade the citizens, and thus are of *persuasive force*. Probably, in a certain sense, persuasion itself, insofar as it is being carried on to try to persuade people's minds, has its own function and retains its core features all the same regardless of different contexts it appears; different features could be merely accidental ones. But I think it would be of help to examine the functions and features of persuasion in view of each specific context in which persuasion is being used. This kind of approach will enable us to see, I believe, several meaningful features of persuasion in a more specifically detailed way. As a proposal or as a trial I would like distinguish several kinds of persuasion in accordance with contexts it appears as follows:

(1) The first address to the new colonists (715e7-718a6): it is *a sort of prelude, in a broader sense*. But it is also a certain type of mixture of rules and justifications as to gods, divinities, the whole of religious institution, and the whole of legislative project;

(2) The general preamble in Bk.5. (723d5 - (726a1-) -734e2)<sup>56</sup>: it is given as a kind of extension of the first address, *without a specific law*;

(3) Justification of constitutional law, magistracies, educational system, economical system etc. : it sets out the framework of political institution of the city, but *not in the form of preamble*;

(4) Every specific prelude and persuasion *in a more strictly narrower sense*, in conjunction with each of the specific legal codes specified in relation to every detailed human life and relationship; *within the system of legal codes*, which are being laid down at 769a1-960b, there can be made some more specifications on the preludes and persuasion, according to the nature of each specific legal code. For example, the longest preamble in the Bk.10. (885b4-907d3) has a distinctive feature.

Then, how can this specification be justified? I would like to answer this question based on the very simple factual evidence in the first place. In my first basic observation one thing seems to me obvious: within the laws discussed and given in the *Laws*, some specific divisions of legal enactment have preludes, but some do not. Where exactly does this difference take place? Why? Is there any necessary or traceable reason?

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<sup>56</sup> The actual preamble starts at the beginning of the Bk. V. 726a1; but earlier from 723d4 the introduction of the general preamble is being prepared already.

In some regulations dealing with e.g. constitutional laws, magistracies, various institutions of education, gymnastics, religion, agriculture, manufacture, city, market, and resident aliens (Bk. V. - Bk. VIII.), there *seems to be no (or, at least, little) element of preludes*, in spite of the fact that there surely are certain justifications relating to the need for the constitutional arrangement as such and discussions on the goals of implementing various magistracies, institutions, regulations on the various human relationships. How are these justifications different from the ordinary preludes, which usually precede the relevant legal codes? In a sense they are of same characteristic and of same purpose; because they give some sorts of fundamental and persuasive groundings for citizens to follow the given regulations and legal codes. But what is exactly the decisive difference, and the criterion according to which we can judge definitely?

I would like to answer the question as follows: as to the constitutional law(s), in my opinion, there is no possibility of implementing and arranging the magistracies of the city of Magnesia in another way than is stated and ordained in the constitutional law(s) of this city. If it were the case, and so that the city –or say, just one constituent part- could ever be arranged and implemented in a different way, then (the whole of ) the city arranged in this way is not to be called ‘the city of Magnesia’ just due to the very single deviant and problematic constituent part. Moreover, the so-arranged city should be called another city with a totally different name, because the very one single deviating constituent part in question is not a legitimate one. They, magistracies and constitutional parts, therefore,



have to be organized exactly in the way it is stated in the relevant regulations of the laws, if they want to be constituent parts of the city of Magnesia respectively. It is impossible not to follow the regulations; there is no alternative way.<sup>5758</sup>

Is it, then, much too trivial a point? Will justification of the constitutional arrangement be sufficient regardless of its being a persuasion or not? Or, can it, i.e. the justification of the constitution by itself, be regarded as the same kind of persuasion? One might raise such questions. In any case, however, this justification and the persuasion in the form of preludes are different. They differ from each other at least in one point; they are addressed to different audiences: one to the whole general public, another to every individual citizen of the city.

In addition, concerning the educational system, there are certain justifications of the educational system by and large (Bk. VII.); but there seems to be no clear distinction between preludes and legal codes in the regulations of educational system. Is it due to the specific nature of education in general? Education and its goals –the cultivation of man-

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<sup>57</sup> Here again we can find out and refer to 'the normative usage of terms'; the city of Magnesia can be itself insofar as it is organized and is being managed in accordance with the specific regulations stated in its own constitutional law.

<sup>58</sup> The next question, then, will be like this: what is the ultimate source, grounding, and justification of each of the institutions of the city? I think this is to be answered in reference to the ultimate principle of legislation, *theos*, the law of nature, and to the concept of *politeia* in its proper sense. There will be, and is, only a single politeia in its strict sense.

are something to be accomplished in the actual process of education. In a sense, one might say, it is impossible for one to be a man without being engaged in the educational system as such and without following the due procedures. If one is to grow up as a man, as *a proper/legitimate citizen* in the city, one should be enrolled in the due curricula in this regulative system. So, I'd say we can find out a certain close linking of ideas among 'institution', 'human being', 'human personality/character' in Plato's texts.<sup>59</sup>

How could we answer the initial questions of this chapter then? If I were allowed to suggest my rather abrupt speculation on these matters here, isn't it the case that a persuasion has its own proper meaning when it is open to every individual *NOT to follow* the regulations themselves? When some other alternatives are totally unattainable and so when there is no other way but to follow a certain specific order of things, there will be no persuasion in its proper sense. If my speculation be reasonable, then it sounds quite understandable that there is no persuasion as to the constitutional laws and as to the regulations on the educational system.

However, as to each of those regulations that include preludes, my basic and close observation tells me that preludes –and their proposed goal of persuasion- are rather *individual-oriented*, i.e. *addressed to the every individual citizen in the state*. Preludes are trying to persuade every individual person of this city; this is obvious especially when

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<sup>59</sup> Here once again, we can call to our mind *the normative usage of terms*.

we look into the penal codes and some other areas of legal codes regarding human relations. Actually this is where I think a persuasion has its own proper meaning, directed to every individual citizen, according to my consideration up to now.<sup>60</sup>

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<sup>60</sup> Surely enough, furthermore, even within the area of penal codes, even though this is where a certain distinction between preludes and legal codes seems to be clearest, some specific regulations and the relevant passages do not have preludes. Why? What does this difference among specific legal codes mean? This is also one of the further points of consideration.

## VI. Persuasion in progress

In this chapter I would like to explore the concept of persuasion, and then next to consider the formal structure of persuasion which is being in progress in the contexts of the *Laws*.

### 6.1. What is persuasion?

First of all, one's perspectives on persuasion (what persuasion is) differ with the contexts; as a starting point of my discussion I would like to consider the following passage from the *Theaetetus*.

Socrates. The profession of those who are greatest in wisdom, who are called orators and lawyers; for they persuade men by the art which they possess, not teaching them, but making them have whatever opinion they like. Or do you think there are any teachers so clever as to be able, in the short time allowed by the water-clock, satisfactorily to teach the judges the truth about what happened to people who have been robbed of their money or have suffered other acts of violence, when there were no eyewitnesses?

Theaetetus. I certainly do not think so; but I think they can persuade them.

Socrates. And persuading them is making them have an opinion, is it not?

Theaetetus. Of course.

Socrates. Then when judges are justly persuaded about matters which one can know only by having seen them and in no other way, in such a case, judging of them from hearsay, having acquired a true opinion of them, they have judged without knowledge, though they are rightly persuaded, if the judgement they have passed is correct, have they not?

Theaetetus. Certainly.

Socrates. But, my friend, if true opinion and knowledge were the same thing in law courts, the best of judges could never have true opinion without knowledge; in fact, however, it appears that the two are different.

Theaetetus. Oh yes, I remember now, Socrates, having heard someone make the distinction, but I had forgotten it. He said that knowledge was true opinion accompanied by reason, but that unreasoning true opinion was outside of the sphere of knowledge; and matters of which there is not a rational explanation are unknowable--yes, that is what we called them--and those of which there is are knowable.

Socrates. I am glad you mentioned that. But tell us how he distinguished between the knowable and the unknowable, that we may see whether the accounts that you and I have heard agree.

Theaetetus. But I do not know whether I can think it out; but if someone else were to make the statement of it, I think I could follow. (Theaetetus 201a-d, / tr. Harold N. Fowler)

In exploring the concept of persuasion, it would be helpful to examine what it is opposed to. As we can see here, persuasion (or, persuading) is understood in opposition to, and distinguished from, teaching. When one is trying to teach someone, according to the passage, what matters is the truth about what actually happened; while persuading somebody in some contexts is making him have an opinion, regardless of the truth. So in the case of lawsuits there are two competing positions that make claims, and give arguments for their claims, about the truth, which is only accessible to the person accusing or the accused<sup>61</sup>, but not necessarily accessible to any other person. In this

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<sup>61</sup> Of course, one might raise question, whether the truth is indeed accessible to them. It is true that in an actual lawsuit persons involved could be more likely to have rather biased opinions and prejudice; nevertheless, it is not the point of the *Theaetetus* passage. The passage presents us, I think, a kind of thought-experiment; the lines of thought go on like this: suppose we could distinguish the different (epistemological) status of people involved in a lawsuit –the person accusing and the accused,

situation, the jury will make their judgement only according to the respective testimony of two opposing parties. Basically the problem is caused by the limited accessibility of the truth about what actually happened.

This can be applied in a very similar way to questions about the possibility of human knowledge and its legitimate grounds. Let's consider the fundamental presuppositions upon which our human knowledge is to be sought after and possibly be established with legitimate truth-claims. Usually we do distinguish reality from phenomena following the Platonic way of understanding the way the world is. In addition, suppose an aspect of reality to be accessible only to a certain group of wise and divine agents,<sup>62</sup> not to ordinary people, then what remains for ordinary people, and what is only accessible to mortal, human beings, will be a set of phenomena. Then, perhaps our claims on truth and on reality would only be very fragile. Even if we suppose we *happened to encounter* truth and reality directly, if we were once to try to argue and to lay claim, in opposition to other people, to true knowledge of the reality we happened to encounter, we could not

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and judges-, then we can also distinguish knowledge from (mere) persuasion. That's the main point of the passage.

<sup>62</sup> We can draw a parallel between this group of wise people-as regards human understanding of the reality- and the person accusing or the accused –who were on the spot and are supposed to have had access to the matter in hand-, and also between ordinary people and the jury. The latter groups are supposed to have a limited access to the truth or to the fact of what happened actually; the former two groups are supposed to have had direct access to the reality or to what happened on the spot.

make them see the reality in the direct way in which we encountered it.<sup>63</sup> We have no other way than to try to persuade them to believe that we actually happened to encounter the reality in question and that we have access to the content of knowledge of the reality; that is the most that we could do. Surely, there is still the possibility that other people themselves could encounter the reality in the future incidentally or by divine help; but that is just another story. For the moment what we can do, when arguing with them in trying to make ourselves understood and to share a meaningful conversation with them, is just to try to express and explain what we have seen, and to persuade them to believe it.

Given that (a sort of) persuasion is typically used when teaching is impossible or inappropriate,<sup>64</sup> the best thing we can do is to influence the formation of a person's belief system or his particular set of opinions, not to make someone have a set of knowledge about the truth and reality. In other words, my point here is (1) that there is a strong and distinctive distinction between reality and phenomena; (2) if this is the case, then, according to this distinction and following its implication, the aim of teaching will be to make somebody have access to the reality. (3) On the other hand, however, what we could get from persuasion is not a certain piece of knowledge about the truth and reality,

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<sup>63</sup> These lines in my consideration might remind somebody of the arguments in some passages from fragments of (allegedly) historical Gorgias, e.g. "*On Not-Being*" and "*The Encomium of Helen*". It will be of help to examine the relevant passages from these works of Gorgias.

<sup>64</sup> Cf. the passage from Plato's *Gorgias*. I am going to discuss the passage soon a few lines below.

we could not make someone have the knowledge of, and access to, reality. The best thing we could do is just to cause someone to have an opinion, hopefully a true opinion in the happiest case, *even though we could accept that the original point of reference, pursued by persuasion, is directed to the reality.*<sup>65</sup> The most we could get by persuasion is to make someone have *a true opinion*, not *true knowledge*, about the reality and truth.<sup>66</sup>

However still, if we consider the passage at *Gorgias* 451a-455a, it seems to suggest to us a rather different kind of treatment of the relationship between persuasion and teaching. In the passage 451a-455a Socrates is trying to specify, or to make Gorgias himself answer the question, what rhetoric is, what kind of expertise rhetoric is, and what sort of product/result rhetoric guarantees. Gorgias says that rhetoric is the ability to persuade with speeches either judges in the law courts or statesmen in the council-chamber or the commons in the Assembly or an audience at any other meeting that may be held on public affairs (452e; 454b). But Socrates is not yet satisfied with the answer. The point Socrates is making is that rhetoric is not the only producer of persuasion; therefore he argues that we need to specify what rhetoric is aiming at. In the course of this discussion Socrates argues that there are two forms of persuasion; one providing

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<sup>65</sup> In this regard, to attain the reality and the truth is an ideal goal of our human beings; the goal is not attainable just at one stroke, nor our effort to reach the goal is to be fulfilled all at once. The only thing allowed to us human beings is probably a sort of everlasting approximation to the ideal.

<sup>66</sup> Let's consider further how this could be applied to persuasion of the citizens by the legislator in the context of the *Laws*.



belief without knowledge, and the other sure knowledge. He goes on to say that rhetoric is a producer of persuasion for belief, not for instruction in the matter of right and wrong, and that the rhetorician's business is not to instruct a law court or a public meeting in matters of right and wrong, but only to make them believe (454e-455a).

In brief, the passage from the *Gorgias* seems to show that Plato could have argued that there is a kind of persuasion which results in true knowledge, not merely a belief.<sup>67</sup> In general, we could say that the *Gorgias* passage gives us a big problem not easy to solve all at once. But it is still challenging and gives us also a clue to understand what Plato means by persuasion in a roundabout way.

If we, however, look into the passage more precisely, the example in the passage from the *Gorgias* is taken from the case of mathematics (or, *arithmetike*). In mathematics it could be possible to teach someone, to make someone have knowledge, and to make someone having been persuaded as well. But we should consider more how far this could be true, and under what specific conditions this could happen, in other areas of human intellectual expertise, which use the *logos*, and especially in the areas of moral and political expertise.

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<sup>67</sup> Cf. Stalley (1983), p.43. Bobonich (1991).

## 6.2. The formal structure of persuasion

Now in this section I am going to consider the formal structure of persuasion; I think it is worth considering the formal schemes of persuasion, because it will reveal how persuasion is being in progress and what specific features the persuasion, which is being pursued here, has in these passages at 718a6-723d4. These passages are crucially important I think because right here the methodological consideration on the plausible way of legislation –which is supposed to use both persuasion and force- is thematically brought into focus, and in a certain type of persuasive way. From the passages 718a6-723d4, I think, the logical structure or the general schemes of persuasion can be formulated as follows:

(1) There is supposed to be an object of investigation by way of discussion, let's suppose it, say, x ;

(2) depending on the theme and the nature of the object of the discussion, x can be either ① a general rule or a specific regulation, which the lawgiver recommends, to be observed by the citizens and to be enacted on a specific area of human life and relationship, or ② a concept/ term 'persuasion' itself on a rather more peculiar level.

(3) Explicitly or implicitly, the suggested leading question can be formulated like this: “What is x? Why do we need x?” The whole procedure of discourse is dominated by this (these) question(s).<sup>68</sup>

(4) The questioner and the person being asked to answer are trying to find out the answer to these questions together.

(5) At the moment the questioner asks the question “What is x? What sort of thing is x?”<sup>69</sup>, the person being asked tends to show a kind of attitude/behaviour of putting off answering directly. The answerer seems to keep a direct answer in reserve, either due to the difficulty (or, complexity) of the matters in question, or due to a kind of educative project in his mind purposefully; or due to both of these possibilities.<sup>70</sup>

(6) Rather, the answerer tends to say like this: “We need to investigate, first of all, in what area of related matters x belong to.” In other words, he seems to claim the need for

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<sup>68</sup> The leading question can be obviously found out at first glance, or sometimes slightly hidden, but it will soon be revealed with no great difficulty in many cases.

<sup>69</sup> See, 718c7. This question is being asked explicitly here: “Λέγε τὸ ποῖον. *Lege to poion.*”

<sup>70</sup> This can be read off depending on the context and on the way the discussion in the dialogue is going on. It is true to say, I think, that the discussion on the law is ‘accompanied by an impulse to reach beyond the law’, as Laks (2000) expresses it. (p. 288.)

specifying the domain of discourse where the matters in question lie, viewing them from a much broader perspective.<sup>71</sup>

(7) Still further, he also tries to answer by himself or to make the participants in the discussion answer the following question: “What is (are) the goal(s) of x, in relation to the whole state of affairs within the domain of inquiry it belongs to?”

(8) The role, the status, possible implications, or the function of x is to be explained in relation to the (ultimate) goal(s) of x within the specified domain of discourse.<sup>72</sup>

(9) The interlocutors go on to elaborate on the interconnections among subsequent matters in the surrounding situation.

(10) Sometimes certain examples<sup>73</sup> and certain kinds of digression –on a surface level- could be introduced so long as it can help us, both the interlocutors in the dialogue and the readers, to see and understand the whole domain of the matter in question,

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<sup>71</sup> What matters here at 718c is the virtue of the citizens; obviously enough it is in the context of moral, ethical, political, and legislative discourse that persuasion is brought into focus.

<sup>72</sup> This is a sort of teleological element in explanation that the author seeks to achieve.

<sup>73</sup> Examples in the dialogues seem to be, more often than not, specially selected, or rather designed, to show clearly the whole state of affairs and the subsequent interconnections. They are generally supposed to bear a kind of parallel or isomorphic structure as the *paradeigma* in the *Statesman*.

plausibly and hopefully from a broader point of view. It can be led to –introduced as– either a lengthy excursion, or mere a short suggestive implication with variations in accordance with the contexts and need for it. In many cases, after all, a seeming digression turns out to hold a certain truth about the question in hand.

(11) There appear sometimes, or rather more frequently, methodological considerations on what the plausible/preferable way of inquiry would be like. These considerations also help us to see and grasp the whole matter in question from a much broader perspective.

(12) Occasionally this leads to show us a specific feature of Plato's dialogue: a kind of mirroring/ reflecting relationship between 'the object sought after, i.e. x, by examination' and 'the way of examination/discussion is being carried on to find out what x is and to explain why x is needed'. In other words, the nature of x is mirrored/ reflected into the way the participants are trying to explain what 'x' is and why x is needed in the domain of discourse where x belongs to. On a more abstract level, when a certain 'being' –e.g. 'x' or 'persuasion'– is pursued to be discovered by discussion (logos), the procedure itself of discovery as an approximation to the 'being' in question also shows the nature of the 'being'.

(13) In this regard, if this feature is to be applied to the discussion which seeks to answer the question "what is persuasion?", then the discussion on *persuasion* is being pursued in a *persuasive* way.

(14) In doing so, therefore, it is also claimed that one of the goals of discussion at *Laws* 718d2-7 is to make people, the listener, to be '*hēmerōteron* (tamed, civilized, gentle, cultivated)', '*eumenesteron* (well-disposed, favourable, gracious, kindly)', and '*eumathesteron* (ready or quick at learning)',<sup>74</sup> which are almost equivalent to 'be willing to be persuaded' and 'be ready to learn and get educated'. (718d2-7)

(15) In this way, rather indirectly, the essence of x (what x is) and the need for it (why x is needed) is to be revealed to both parties of discussion. Once the interlocutors have seen the whole picture of the state of affairs, and therefore have understood the whole matter in question, they -both questioner(s) and answerer(s) together- are now in position to understand 'what x is', and are also supposed to be better disposed to accept the need to implement x in the domain of the discourse, on their own accords voluntarily. It is based on the optimistic trust on the potentials and on the voluntary capacity of the souls of the citizens (or, more broadly the potentials and willingness of listeners).

(16) We, the readers of the dialogue, are also supposed to be persuaded correspondingly following this whole procedure of examination by *logos*. This is also one of the things that the discussion on the method of legislation has been getting at after all.

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<sup>74</sup> The educational purpose of discussion is revealed here.

Now let's consider how a particular persuasion works more specifically when it is applied to each individual citizen of the city in relation to the legal matters, or to each of the enacted legal codes as in the example of the passage 721c8-d6.

(17) If a citizen is persuaded (*peithomenos*) to accept the need for x, which is (to be substituted for) a specific code of law, and therefore to act in accordance with what x tells; 'he will be allowed to go his way without penalty' (721d4/ tr. Saunders) and in some cases could be highly regarded as virtuous accordingly.<sup>75</sup>

(18) If a citizen, however, is not persuaded (*mē peithomenos*) to accept the need for x, nor to follow what x ordains, he must pay a specified sum of penalty, in order to make him stop thinking that not following x is a comfortable and easy way of life, and must be deprived of due honours.

These two –both (17) and (18)- are basically conditional sentences. If we can justifiably bring these conditional sentences into the context of the interaction between the person trying to persuade –the specific legal code x- and the persuaded one –the citizen-; and so into the flow of time continuum, and into the context, when a persuasion takes place actually; then both of them can be interpreted as follows<sup>76</sup>:

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<sup>75</sup> Implicitly suggested by (18)

<sup>76</sup> (19) is almost equivalent to, and a subsequent variation from, (17) ; (20) is equivalent to (18).

(19) If persuasion is actually realized in a successful manner, there is no need to resort to legal force. Assuming that whether persuasion is successfully actualized or not is revealed *only when* an individual citizen does actually do any good or any wrong in a specific instance; then persuasion is being addressed to an individual citizen, is being realized in the interaction with the person, retains its persuasive power (*dynamis*), and so is only meaningful *before and until up to the time point* a specific action is accomplished by the person and so long as he did not commit any wrong deed.<sup>77</sup> Meanwhile, a proposed persuasion is not meaningful (for the person in question) any longer *after and from the time point afterwards* when the person actually goes wrong, and so long as he remains unwilling to be persuaded to follow the code of law. Then, it amounts to the case of (18), which is almost equivalent to (20).

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<sup>77</sup> Let's consider the following case: Suppose there is a person who has led his whole life in a good and beautiful manner as the law recommends without any actual reference to the legal codes enacted actually in the city; therefore, further suppose there could be such a possibility that the person has not gone astray ever in any single action he has taken during his whole life, without having had any chance to encounter the legal codes and what they ordains. Then, can we say that he has been/ is persuaded by the law which has been enacted and claimed their legitimacy in the city? In a sense I would say "yes"; so long as every action he has taken is a realization (actualization) of the good what the law of the city ordains, and also we could accept that a person's virtue is revealed only when a specific individual action is taken by the individual citizen. It will incur further questions on the criterion of specifying / individuating a virtuous man and also on the modality which consists in the relation between the legal code and its addressee, the citizen.



(20) If an instance of persuasion is not successfully accomplished, i.e. if an individual citizen does actually do wrong, then we need to resort to the legal constraint. Once given the legal constraint in a (written) form of legal code, however, it retains still a certain persuading power and functions of another sort, *before and so long as* a citizen doesn't commit any transgression. But *after and from the point onwards* when a citizen went actually wrong, and so long as he shows no willingness to get improved and cured (in his soul), the legal constraint should be then actualized as a compelling force at last. Furthermore, however, this legal force still retains a sort of persuading power in view of another series of possible future actions the person will take, and also for the people in general public.<sup>78</sup>

(21) In this regard, therefore, a meaningful parameter according to which either persuasion or force, or both of them, will be (judged to be) put into practice and be actualized is *a specific time point or an instance* when an individual action of an individual person is fulfilled properly, or ironically enough, especially when the person does go wrong.

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<sup>78</sup> By implication of the expression 'in order to make him stop thinking that not following x is a comfortable and easy way of life' in (18) .

(22) If we could assume that a person's virtue is to be revealed and actualized (only) when he exerts a virtuous deed in a specific instance of the time context<sup>79</sup>; then the best thing that we can do in order to make a person virtuous is to make the person be better disposed to learn, to accept, and to follow the right track in every instance of his life.

(23) This is due to the fact that we cannot guarantee ourselves everlasting possession of the good and the virtue. As we human beings are basically mortal and imperfect as opposed to god(s), every action we take is always in danger of going astray. Therefore, owing to the fragile nature of human beings striving towards the good and virtue, we have to struggle our way towards the good, against a possible slippery path to vice, all the time through our life.<sup>80</sup>

To sum up, one of the things that I have been trying to do here in this chapter is to describe how actual persuasion of people by the legal code could be in progress step by step in the time context. In other words, as a hypothesis, I suggest there could be a kind of interaction, between the legal codes and individual actions taken by the citizens, which

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<sup>79</sup> The hidden supposition here might be that a person's virtue cannot be recognizable without referring to his (outer) behaviour, since there is no direct access to the inner world of a person, to the *psychē*. When building a political community and establishing its legal constitution, it could be practically plausible to assume that a virtuous man can be only recognizable by his actual deed, and objective behaviour. But it is still a further point of discussion whether the hidden supposition here is, in reality, true or not.

<sup>80</sup> As expressed in the quotation from Hesiod at 718d7-719a3.

is supposed to take place in a flow of time. I have been trying to show how persuasion is being actualized in each phase of the dialectical interaction between legal codes and an individual citizen on a hypothetical dimension of discourse.

As a result, the above consideration up to now, focused especially on the passages at 718a6-723d4, shows how persuasion is being executed in the context of the *Laws*. Persuasion basically deals with people's soul, the orientation, and the disposition to act in a certain preoccupied or habituated –hopefully in a good- way of life. Its goal is 'to make people better disposed to learn and to follow what the legislator recommends', which is almost equivalent to 'to make people virtuous', one of the ultimate goals of the whole legislation and of the legal codes that use both persuasion and force.

## VII. Conclusion: the nature of preludes

Then, here again, we are now facing the former question again: what is the nature of the language the ideal legislator will use in his legislation? What is the nature of the language a doctor of free men will use when he is trying to cure his patients? To be more specific, what is the nature of the persuasive elements, which provide some sort of supporting grounds for a specific legal code, as given in the second example of legal code? What is the nature of the relevant preambles?

In a way these questions seem to me to be aiming at one central question: do preambles, and the proposed persuasive elements in them, have any philosophical traits at all? Or, are they just persuasive only, and purely rhetorical?

If it is right to put the questions in this way, then I'd like to suggest the following considerations. One of the most important features of the second format of the legal code, which are not explicitly mentioned/ revealed on a surface level, in my opinion, is this: it makes us *think over the whole circumstances of human life and the status/ significance of marriage within it*. Just after saying what this marriage law recommends for every individual – “A man *shall* marry when he is thirty years old and under thirty-five” (721b6-7 / tr. Bury)- , it gives us a sort of philosophical background, or at least a suggestion for us (or, the citizens) to think over the human nature and conditions in our human life: “*bearing in mind that this is the way by which the human race, by nature's ordinance, shares in immortality, a thing for which nature has implanted in everyone a*

keen desire.” (721b7-c1) That is to say, it recommends us to think of, and to bear in mind, the fact that the human race tries to share in immortality by nature, and that marriage is one of the important (or, even indispensable in a sense) ways by which this essentially ultimate goal of human beings is to be achieved.<sup>81</sup>

Of course, it doesn't show us explicitly how the legislator came to this kind of conclusion, or a series of insights into the human nature and human life; but at least one thing is clear enough from this. If we consider such and such human conditions as a whole regarding a certain specific matter, namely regarding marriage, and if we could understand what marriage means in our human life and how it is important, then *we are more likely to be persuaded*<sup>82</sup> by what the legal code recommends/ ordains us to do. In other words, rather more generally, the persuasion (or, persuasive elements, the proposed reasonable explanation and backing of the recommended action) represented by the second format of legal code *leads us to think of* this or that *specific action in particular* (and its subsequent meaning/ significance) recommended by the very specific regulation *in relation to all*. It is obviously I think one of the most important and distinctive traits of philosophical reflection to consider the following question: what is good for me, what kind of action will contribute to my overall good, *all things considered* in relation to the matter in hand? In this sense, the second format of legal code and its persuasive elements

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<sup>81</sup> This is also reflected in the *Symposium* 201e-212c.

<sup>82</sup> This is actually one of the most important and central aims of the legislation. *Laws* 718c8-10.

makes us, the readers/ hearers<sup>83</sup> of this legal code, aware of, and see, the whole set of circumstances concerned, with a more global perspective. And from this point of view, at last, we are more likely to be capable of making right choice and judgement, and of following what the legal code recommends.

Given that it is fairly possible to read off such an aspect from the second complex format legislation, and also given that my suggestion be indeed justified, the second format of legal code and the relevant preamble understood as such can surely be understood as being of a philosophical nature, up to a point at a *low* –but very *basic and fundamental*- level, at least.

Then, the next question, one might raise in response to this way of reading, will be as follows: why then does the second format of legal code *not* show us such a series of philosophical arguments/ considerations in a more direct way? Why does it *just implicitly encourage us* to think of the whole surrounding situation? Why not spell out the whole explicitly?

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<sup>83</sup> In a sense we need to separate the positions, or the status of readers from that of hearers. I am trying to distinguish the *three different dimensions of discourses*, and accordingly *of audiences* (in Ch. II and Ch. V), which is to be found out when we read the work of the *Laws*, more generally Platonic dialogues. (1) One given by an ideal legislator to the citizens of Magnesia; (2) the other given by the Athenian to the interlocutors, Megillos and Kleinias; and (3) the third one given by the author, Plato, to us, the readers. And ‘readers’ might suggest, more generally, ‘the readers of Platonic dialogues’; ‘hearers’ would mean ‘the hearers of what the Athenian says within the dialogue between interlocutors’ in the context of the *Laws*.

Possible answers will be I think: (1) Just imagine what will happen, if we allow an ideal legislator (who has supposedly got philosophical education and is accordingly capable of giving philosophical arguments/ explanations, if and whenever he will) to refer to relevant series of philosophical arguments in every occasion. Will such a way of legislation turn out to be efficient, or even to be accomplished at some point? It could be too long to be used in an actual city life, and its legal system.<sup>84</sup> Due to this practical applicability it won't be a plausible idea to allow an ideal – and philosophical- legislator to give full philosophical arguments on every occasion.

(2) It is reasonable enough to suppose that readers of Platonic dialogues could, and more or less easily and surely will, be reminded of other passages which deal with very similar ideas, contents, and implications. If this is the case, we could say we are indirectly recommended, actually invited, to refer back to other Platonic passages.

(3) Persuasive elements are intended to bring about a reaction from the readers/hearers, I suppose. It could be then to some extent more appropriate to leave a room for readers' due effort just by giving some hints, without giving whole series of systematic display.

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<sup>84</sup> This can be supported from passages from the *Statesman* 294a6 ff., especially 295a4-7, where Eleatic Stranger says: "But he [i.e. the legislator] will, I think, set down the law for each and every one according to the principle of 'for the majority of people, for the majority of cases, and roughly, somehow, like this', whether expressing it in writing or in unwritten form, legislating by means of ancestral customs." (*Statesman* 295a4-7 / tr. Rowe)

(4) Persuasive elements are actually persuasive and in a way gentle, not compulsive.

That is to say, they are trying to move people's mind more gently; then it could be easier for a person to follow what persuasive elements say *voluntarily, of his own accord*.<sup>85</sup>

Well, these points are based on my humble and crude speculation, which doesn't seem to have found its supporting ground from the text yet. But, in general, when a certain strong force assails upon us, we tend to resist firmly for our protection. Even though the strong force will eventually contribute to my overall good, a kind of 'resistance' could be a way of natural response at first hand. On the other hand, when something of a certain soft and mild nature comes upon us, usually we tend not to be stiff, nor resisting. Possibly it makes us more curious and willing to know more about it. Then, we are more likely to act on our accords, voluntarily. This kind of simple version of explanation on the way our souls (minds of human beings) are acting and reacting upon could be of help too.

(5) Moreover, the presence of legal force in the actually enacted laws can be viewed as a sort of persuasion, in an indirect way. It is quite right to assume that legal force is needed not only for the purpose of punishment and cure, but also for the purpose of prevention of possible wrong deed and transgression in the future. Once laid down, the legal codes will also have persuasive role and persuasive power. In a certain sense, this can be also understood as something motivated by legislator's love for the fellow citizens.

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<sup>85</sup> Is it literally voluntary indeed in this case? One of us might ask such a question. But it could be supported in reference to the consideration on the analogy of two types of doctors.



Without any love and any care for the fellow citizens, the legislator wouldn't take any action, nor any measure; he will simply be indifferent to them in that case. However, as he is keenly concerned about over-all good, well-being, and happy life of the whole body of citizens, like mothers will take care of their children, he is ready to resort to compulsory force, if necessary and if it is inevitable. Adopting legal force, therefore, in the enacted laws will surely have an effect of making people think over the surrounding situations more deeply, care about their own over-all good, and lead their life in a virtuous way. It will, therefore, contribute to the improvement of people's mind and moral consciousness, and thus will draw people's willingness to follow what the law-giver ordains voluntarily. In this way two elements of legislation, persuasion and force, can be combined to build a harmony without contradiction.

But, still, more emphases will continue to be laid upon persuasion; and this way of presentation -preferring persuasion, but also combining legal force together-, I suppose, will make people more philosophically motivated than a rather more aggressive and compelling way of presentation, because philosophy cannot be motivated, nor be getting started, by external compulsion.

In this regard, we could be justified to find out *philosophical elements* from the passages of the *Laws*, especially from the preambles; but due to the way of presentation, philosophical reflections (or, dialectical arguments) themselves are not given directly in an explicit format. In that case what we are given here will be the results (summary and hints) of already fully developed philosophical reflections (dialectical arguments) rather than reflection itself. In this sense, in preambles, and in the address to the new colonists

we can hardly find a tightly woven dialectical argument. However, on the back of it, or when we try to read between the lines, we can find out clues/traces of prior philosophical reflections/arguments. Therefore, I suppose, in a way it is not a fair way of setting problems like this: “Are preambles *tightly* argumentative, or *merely* persuasive?” As shown above, even though it depends on each of the specific contexts of legislative issues and of legislative discourse, preambles are *neither fully* argumentative/dialectical, *nor merely* persuasive. What is presented in preambles is actually the conclusions, or say, distillation, of fundamentally deep consideration/reflection on the matters in hands. In other words, what is suggested in preambles presupposes a set of philosophical arguments; dialectical arguments are already there behind the present scene.

From this, however, it does not follow that “this text of the *Laws* does not invite its readers to practice philosophy.” Nor is it legitimate, I maintain, to say that arguments in the *Laws* “are designed to end, rather than begin, the conversation.”<sup>86</sup> I would not accept such a position of interpretation, considering the important roles of the *Laws* itself as to the educational programme of the state.

As the Athenian maintains clearly, the *Laws* itself will be used as an educational text in the city (811c3-812b1) ; the ‘collected works’ of the *Laws* impressed him so much that he will regard them as “being the most eminently acceptable and the most entirely

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<sup>86</sup> Nightingale (1993), pp.299-300.

appropriate for the ears of the younger generation.” (tr. Saunders) Therefore, he goes on to say that he couldn't recommend a better model than this to the Guardian of the Laws in charge of education. Being given the best model for educational text he takes this opportunity as a bit of good luck and inspiration of gods.

Moreover, the *Laws* itself is said to be the truest and the most genuine tragedy; therefore, the law-givers themselves are also said to be tragedians by themselves (in an imaginary dialogue supposed to be held between poets and legislators). (817a1-817e4) Why do they then maintain they themselves are true tragedian? It is because their “entire state has been constructed so as to be a ‘representation’ of the finest and noblest life.” (817b3-4 / tr. Saunders) Here Plato recognizes the power of tragedy to build people's opinion and their way of life.<sup>87</sup> Since tragic poets are also serious and inspired, and since their themes are the same with that of the legislator, -i.e. duties of citizens, human nature, moral life, and institutions of the state-, the legislator regard tragic poets as his rival. But the legislator will not allow tragedians “to set up stage in the market-place” and bring their actors whose fine voices will carry further than the legislator's, and “to declaim to women and children and the general public, and talk about the same practices” as the legislators do; since they treat the same issues differently, so as to contradict to legislators.

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<sup>87</sup> See also 658d; 838c.

Only when the doctrines of tragic poets proved to be the same as, or better than, that of legislator's, tragedians will be allowed to produce their own plays. (817d)<sup>88</sup>

All of these are surely due to the tragedy's power; tragedy delights the people and seduces soul so efficiently.<sup>89</sup> In this sense legislators should not be ignorant of the power of tragedy; they should make best of it. Therefore, they themselves are determined to compete with tragic poets and to overcome them. In this regard, the *Laws* itself can be said to be one of the truest and finest element of the whole project of education, especially of moral education of future generation. As the study of tragedy (or, being engaged in it) will arouse people's moral sensitivity by its persuading power,<sup>90</sup> so will the study of the *Laws* itself (including various kinds of addresses, arguments, legal codes, and preludes as to the variety of issues) promote people's moral awareness, and even their moral awakening.

In addition, education aims at bringing up not only ordinary citizens but also the legislators of the future generation; since the legislators in our present age (including the future legislators) share their breeding, nurture, and education in common together with

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<sup>88</sup> See similar lines of consideration in Morrow (1960), pp. 374-375.

<sup>89</sup> "Tragedy is that form of poetry which most delights the populace and seduces soul." (*Minos* 312a / tr. Schofield)

<sup>90</sup> It is often called '*tragōidia peithousa*'. As to persuasion in the ancient Greek cultural context, especially in reference to tragedies, see Buxton (1982).



their fellow citizens (as expressed in the myth of the age of Kronos), the future legislators are to be fostered, and be educated, by the very same educational system. Their curriculum will surely include the study of the *Laws* itself as a core element. And the legislators of the future generation should be equipped with competent expert knowledge in political life, which implies that they will necessarily have to possess exquisitely genuine knowledge of the law of nature, and ultimately of philosophy. In the long run, therefore, the study of the *Laws* itself will contribute to bringing up the legislators in the future generation in a roundabout way. Therefore, the *Laws* itself is *designed to open the way to practise philosophy*, I would maintain.

All in all, as cultivation of virtuous and autonomous citizens as a whole is one of the ultimate aims of the whole project of legislation in the *Laws*, and as the law-giver will surely be a man of self-control and justice, and of expert knowledge in political life; every citizen should imitate the legislator and follow the way of life he suggests. By imitating the ideal legislator, possibilities of having access to the true nature of the universe and the reality are *open also to every citizen*, probably in ideal cases.

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