

IMITATIONS OF VIRTUE:
PLATO AND ARISTOTLE ON NON-IDEAL CONSTITUTIONS

by

Jeremy W. Reid

Copyright © Jeremy W. Reid 2017

A Dissertation Submitted to the Faculty of the

DEPARTMENT OF PHILOSOPHY

In Partial Fulfillment of the Requirements

For the Degree of

DOCTOR OF PHILOSOPHY

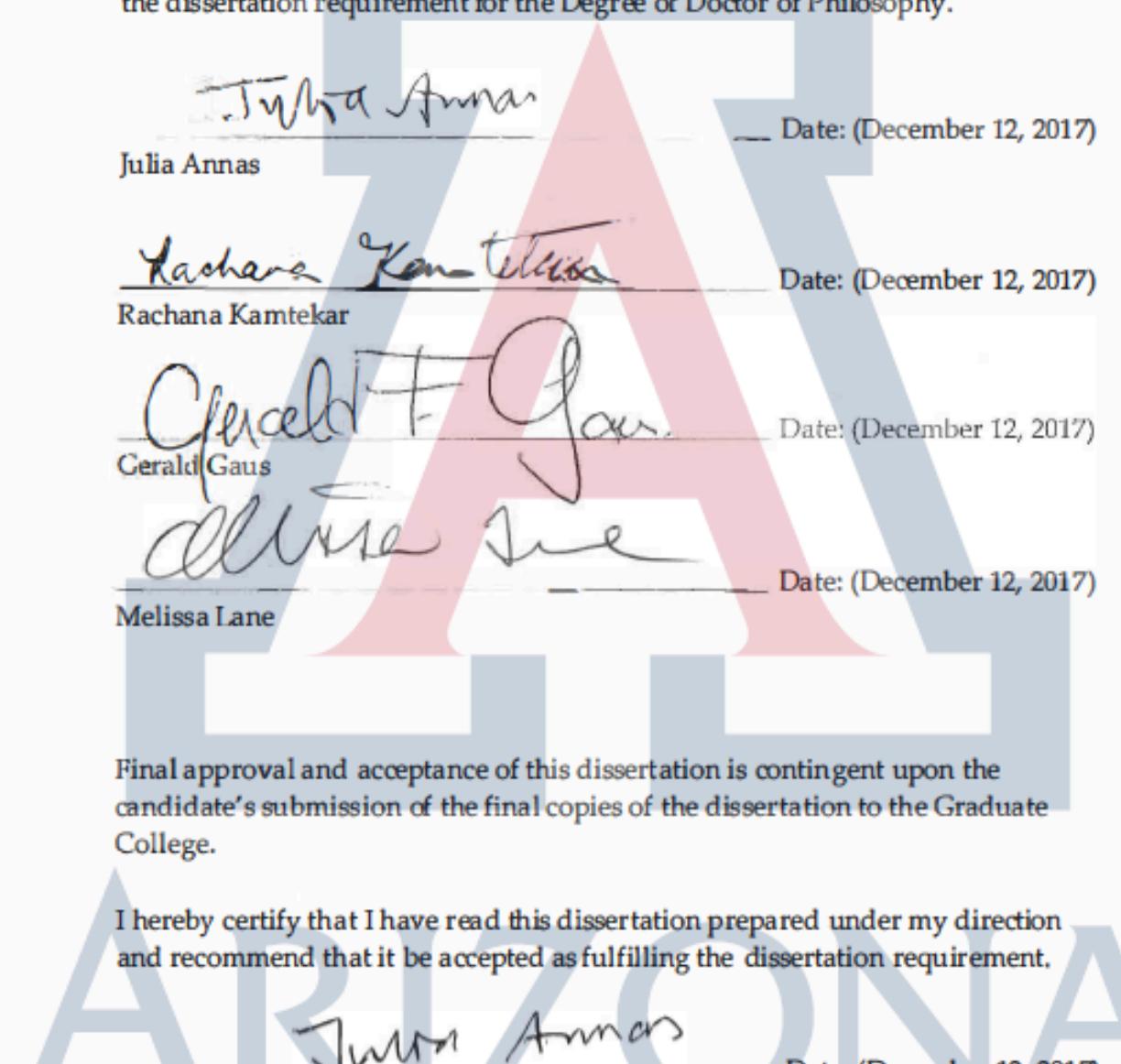
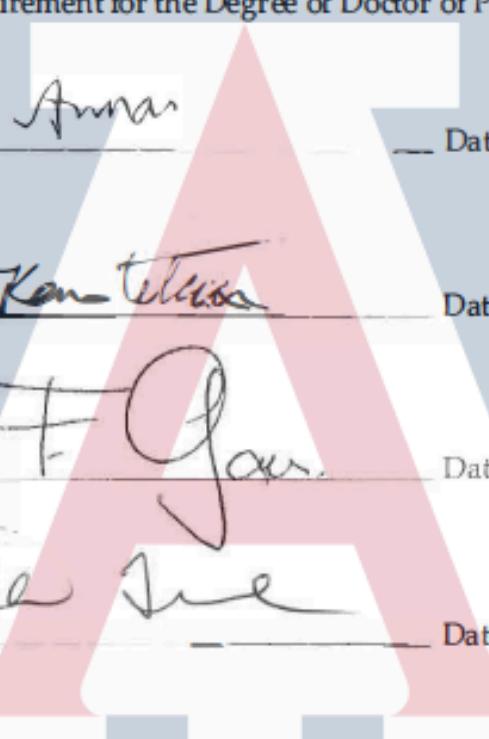
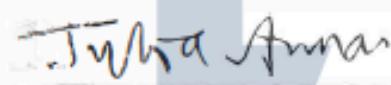
In the Graduate College

THE UNIVERSITY OF ARIZONA

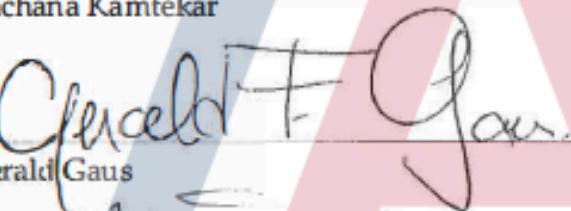
2017

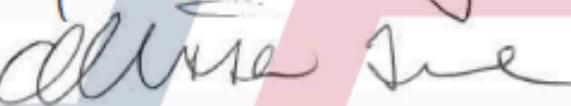
THE UNIVERSITY OF ARIZONA
GRADUATE COLLEGE

As members of the Dissertation Committee, we certify that we have read the dissertation prepared by Jeremy W. Reid, titled *Imitations of Virtue: Plato and Aristotle on Non-Ideal Constitutions* and recommend that it be accepted as fulfilling the dissertation requirement for the Degree of Doctor of Philosophy.




Julia Annas _____ Date: (December 12, 2017)


Rachana Kamtekar _____ Date: (December 12, 2017)


Gerald F. Gaus _____ Date: (December 12, 2017)


Melissa Lane _____ Date: (December 12, 2017)

Final approval and acceptance of this dissertation is contingent upon the candidate's submission of the final copies of the dissertation to the Graduate College.

I hereby certify that I have read this dissertation prepared under my direction and recommend that it be accepted as fulfilling the dissertation requirement.


Dissertation Director: Julia Annas _____ Date: (December 12, 2017)

STATEMENT BY AUTHOR

This dissertation has been submitted in partial fulfillment of the requirements for an advanced degree at the University of Arizona and is deposited in the University Library to be made available to borrowers under rules of the Library.

Brief quotations from this dissertation are allowable without special permission, provided that an accurate acknowledgement of the source is made. Requests for permission for extended quotation from or reproduction of this manuscript in whole or in part may be granted by the head of the major department or the Dean of the Graduate College when in his or her judgment the proposed use of the material is in the interests of scholarship. In all other instances, however, permission must be obtained from the author.

SIGNED: Jeremy W. Reid

ACKNOWLEDGEMENTS

This dissertation has been far from a lone endeavor and there are many people to whom I owe much. I am grateful for comments and written feedback from Danielle Allen, Willie Costello, Huw Duffy, Sukaina Hirji, Emily Hulme, Dhananjay Jagannathan, Marta Jiminez, David Keyt, Brian Kogelmann, Mitzi Lee, M.M. McCabe, Katy Meadows, Fred Miller, John Proios, David Riesbeck, Evan Rodriguez, Susan Sauvé Meyer, Danny Shahar, Eric Solis, Hannah Tierney, Robert Wallace, Gina White, and Josh Wilburn.

I am especially grateful to my committee for their tireless work, guidance, and insight. It's been an honor to work with you all.

To Julia Annas, thank you for the endless books and constant encouragement; for making sure I work, write, and achieve in a timely manner; for reminding me about generalizing subjunctives; for telling me I need to read the *Laws* and for helping me to understand it; for making my crazy, speculative ideas more reasonable; for the cat pictures; for the travel and research support; for the wine, opera, conversation, and friendship.

To Rachana Kamtekar, thank you for the ever-unpredictable-but-always-insightful comments; for encouraging my crazy, speculative ideas; for teaching me how to read texts and notice when other people aren't; for the sage life advice; for the samosas; most importantly, thank you for making me fall in love with Plato.

To Jerry Gaus, thank you for being the inevitably sub-ideal philosopher; for telling me that political philosophy starts at Hobbes and for reading a dissertation on ancient philosophy anyway; for letting me use your office and fill it with Greek; for showing me the difference between giving probing criticisms and just being mean; for appreciating the value of substantial reading lists and for reminding me that a book a day is perfectly feasible; for the beers and stories.

To Melissa Lane, thank you for doing this work from pure charity; for treating me well as a *xenos* at Princeton; for making time when so many people are clamoring for it; for giving me so many helpful drafts of papers; for making me read more widely; for showing why ancient political thought matters.

Finally, thank you to my friends and family for your support. I love you dearly.

CONTENTS

Abstract	6
Introduction	8
Imitating Skill: Non-Ideal Constitutions in Plato's <i>Statesman</i>	18
1. The ranking of constitutions	19
2. Three principles of imitation	27
3. Preventing harm and making a polis stable: constitutional change, lawfulness, and the case for democratic institutions	40
4. The psychology of the <i>Statesman</i> : courage, temperance, and lawfulness	54
5. How to improve an actual polis	72
Politics Without Knowledge: The Mixed Constitution in Plato's <i>Laws</i>	78
1. How far is Utopia? The dramatic setting and constraints of the <i>Laws</i>	81
2. The analysis of constitutions in Book III: the mixed constitution	87
3. The institutions of Magnesia and the mixed constitution in practice	105
4. The analysis of constitutions in Book IV: good-natured kings, tyrants, and the rule of law	121
5. Legal conservatism, legal reform, and habituation in Magnesia	127
6. The question of citizen virtue: punishment, motivation, and epistemic progress in the <i>Laws</i>	149
7. Conclusion: Plato's non-ideal political philosophy	163
Working With What You Have: Aristotle on Moderating Existing Constitutions	167
1. Aristotle's political ideals and the mixed constitution	170
2. Habituation, law, and legal change in Aristotle	188
3. Aristotle on the variety of governments, stability, and constitutional change	198
4. The problem of extreme constitutions	215
5. The virtue of citizens and the virtue of the city	224
Conclusion	241
Bibliography	254

ABSTRACT

Plato and Aristotle both believe that in ideal circumstances the best form of government obtains when virtuous and knowledgeable people rule. But surprisingly, alongside their well-known views in ideal political philosophy, they also have rich and complex views on non-ideal political philosophy, and these views turn out to be deeply conservative. In the *Statesman*, *Laws*, and *Politics*, Plato and Aristotle recognize stability problems generated by non-ideal circumstances. Specifically, their views on the law's role in habituation of character, and habituation's role in ensuring the authority of the law lead them to think that the high costs of changing the existing legislation and constitutional arrangements normally outweigh the benefits gained.

However, though he rejected the tyranny, he did not administer affairs in the mildest possible manner, nor in the enactment of his laws did he show a feeble spirit, nor make concessions to the powerful, nor consult the pleasure of his electors. Nay, where a condition was as good as it could well be, he applied no remedy, and introduced no innovation, fearing lest, after utterly confusing and confounding the city, he should be too weak to establish it again and recompose it for the best. But those things wherein he hoped to find them open to persuasion or submissive to compulsion, these he did, combining both force and justice together, as he says himself. Therefore when he was afterwards asked if he had enacted the best laws for the Athenians, he replied, 'The best they would receive.'

– Plutarch, *Life of Solon*, §XV.1–2

INTRODUCTION

There is a story that Plato went to Syracuse to help a city whose constitution had become tyrannical. The justification for this, the author of the letter claims, was that Plato was ashamed lest he appear to himself as a pure theorist, unwilling to touch any practical task (*Ep. VII*, 328c). So Plato got on a boat, sailed west to do politics, and tried to save the city. He did not succeed.

Many people do not think the story is true, but it is a good story nonetheless.¹ What is particularly interesting about the *Seventh Letter* is that it tacitly assumes that Plato, despite living through an incredibly complicated, violent, and tumultuous period of politics, didn't really have much to say about all that – he was a theorist who envisaged a radical utopia, far removed from the vicissitudes of Athenian politics. Plato did not tinker with the broken machinery of existing political institutions; rather, this philosopher envisaged a wholly different world of politics, where the knowledgeable ruled, and all free citizens were brought up under an education system that ensured that people became and stayed virtuous. When asked how Plato thought an actual city like Athens should be improved, then, the standard answer seems to be either to make philosophers kings and kings philosophers, or to wash your hands of the whole messy business and focus on making yourself just.

The goal of my project here is to show why we shouldn't think that that story is true either. Neither Plato nor Aristotle were utopians who had nothing to say about how to improve actual city-states, nor were they pure political theorists who did not concern themselves with the intricacies of institutional design and legal practice. To be sure, Plato and Aristotle had bold utopian visions about how the best society would be run, but they were also careful not to make the mistake of thinking that the best society is the same thing as the best possible society for particular people in particular cities at particular times. In short, Plato and Aristotle had learnt Solon's lesson about feasibility –

¹ For the details, see Irwin, "The Inside Story of the Seventh Platonic Letter: A Sceptical Introduction"; Burnyeat and Frede, *The Pseudo-Platonic Seventh Letter*.

they knew that what is best is not the same thing as the best the city can accept. They had a non-ideal component to their political theory.

This project is timely for a number of reasons. Firstly, scholarship on previously neglected parts of Plato's writings is beginning to bloom, particularly with respect to the *Statesman* and *Laws*.² There are, however, still pretty serious gaps in this scholarship regarding many details of the political theory and its normative structure, leaving many important questions unasked and many hard questions unanswered. Similarly, while our understanding of Aristotle's ideal political theory has been advanced greatly in recent years, the so-called "empirical" middle books (IV–VI) of the *Politics* are more often gestured at than they are seriously discussed, and when they are, they are given only a fraction of the space that Books III, VII, and VIII are.³ Thus I hope to provide a more extensive study of these works that connects the non-ideal theory in both Plato and Aristotle. While I do not ignore the importance of the ideal theory, there are many interesting and compelling things to find when we focus a little more light on these relatively neglected passages of text.

Moreover, there is a curious puzzle in how contemporary scholars think about ancient ethics and ancient political theory. When we are doing ancient ethics, we stress how difficult it is to become virtuous, how few virtuous people there are, how virtue often functions as an ideal, and how the Sage is rare as the phoenix. And yet when we turn to the political works, we are told that ancient political philosophy focuses on having the government populated by virtuous people, so that they can exercise their practical wisdom and political knowledge for the benefit of the community. Questions of institutional design, it is sometimes claimed, are secondary to concerns about getting the right people in the room making the decisions. The real problem with politics, it seems,

² For example, recent books include Annas, *Virtue and Law in Plato and Beyond*, Marquez, *A Stranger's Knowledge*, Bobonich, *Plato's Utopia Recast*, Sauvé Meyer, *Plato: Laws 1 & 2*, El Murr, *Savoir et gouverner: Essai sur la science politique platonicienne*. There are also a number of excellent recent articles published on the psychology and punishment in *Laws*.

³ Representative examples of this are Kraut, *Aristotle: Political Philosophy*, Riesbeck, *Aristotle on Political Community*, and Inamura, *Justice and Reciprocity in Aristotle's Politics*, all of whom provide though and extensive discussions of Books I–III, and VII–VIII, but comparatively brief discussions of IV–VI.

is that politicians aren't virtuous, and so things go badly and we should fix the problem by emphasizing that the best constitutions are the ones in which virtuous people rule.

But thinking about these trends in ancient ethics and politics side-by-side raises a rather obvious question: where did all these virtuous people come from? If virtuous people are few and far between, how are virtue-ethically inclined thinkers supposed to realize their political solutions? Those in more contemporary liberal streams of political theory don't deny that it would be nice if we could have morally good and politically knowledgeable people running our institutions – but to focus on that issue misses an important part of their project, namely how to stabilize, make efficient, and distribute justice in a society that cannot rely on the presence of good and knowledgeable rulers. Were Plato and Aristotle so naïve as to think that good rulers would solve *institutional* problems of politics? I hope to show that the answer to this is, resolutely, "no." To do this, though, we will need to see how Plato and Aristotle thought that the non-virtuous and not-fully-virtuous could be managed and utilized for the common good in politics. We need to think more about how conflict, disagreement, and partial understandings of justice in the citizen body can function within a eudaimonist framework. When we move to non-ideal political theory that takes such a framework seriously, we need remember that people *don't* agree about the good, about happiness, about what virtue is and how you achieve it, about justice and who merits what – and that they could get violent if their beliefs and habits are contradicted too seriously. Perfectionist politics, then, needs to take seriously what we have learned from virtue ethics: that virtue is a difficult achievement, and one rarely accomplished.

When we start to think about the problem in this way, though, we might also start to see how these ancient concerns connect with issues in contemporary political philosophy. Firstly, there is recent interest in ideal and non-ideal political theory more generally, particularly around questions of whether ideals are action-guiding for politics and whether ideals are necessary for our political theorizing.⁴ Plato and Aristotle both

⁴ See, for example: Gaus, *The Tyranny of the Ideal*; Estlund, "Human Nature and the Limits (if any) of Political Philosophy"; Simmons, "Ideal and Non-Ideal Theory"; Schmidtz, "Ideal Justice"; Cohen, "Facts and

have strong utopian threads in their theorizing, but what role do such ideals play in their non-ideal theory? Do the two projects inform each other, and if so, how? Or are they just different projects with different goals and methodologies? While I do not make any claims to resolving the complicated and difficult questions about ideal and non-ideal theory more generally, I do believe that by better understanding the full range of theorizing that Plato and Aristotle engaged in we can fruitfully explore importantly different models of how such a project might go, especially against the backdrop of Rawlsian political philosophy.

Secondly, there are more direct upshots for two camps of contemporary theorists, namely those who take virtue ethics seriously as a normative framework but are unclear about what implications such a framework might have for politics, and those who take perfectionism seriously as a framework for politics but are unclear about how virtue ethics might fit into such a framework. The basic problem for both groups is that virtue politics has this nasty habit of turning out authoritarian, and Plato and Aristotle often don't look especially helpful for avoiding this impression. If you think that happiness consists mostly in virtuous activity and that the role of the state is to promote the virtue of the citizens, it seems as though the state now has at least some justification to coerce its citizens into doing things that will make them virtuous – indeed, it may even be that it would be *unjust* not to. While this is obviously a simplification of a much more complex debate, there is at least a *prima facie* issue of incorporating many commonly accepted liberal rights and freedoms into such a system, and in taking seriously the problem of deep and intractable disagreements about value that occur in the political sphere. For those who think that these aren't simply things that would be nice if they were incorporated into a system but are in fact the most central problems of political philosophy, virtue ethicists and perfectionists face an uphill battle in producing a tenable political philosophy.

Principles", and *Rescuing Justice and Equality*; Miller, "Justice for Earthlings". Valentini, "Ideal vs. Non-ideal Theory: A Conceptual Map" provides a helpful summary and classification of the contemporary debate.

Although this is primarily a study in the history of philosophy, Plato and Aristotle's non-ideal theory can give contemporary theorists new resources with which to approach some of these issues. By focusing on the importance of cultivating lawfulness in the citizens, for example, we can see that compliance with the law is not assumed, but that this compliance rests on the citizens in some way appreciating and being motivated to follow the laws as good and just. Thus even if you have a robust and comprehensive conception of the good, it doesn't follow from this that a government should coercively impose that conception on the citizens if the citizens have no reason to accept it as good and the laws of that city wouldn't be adhered to by those citizens. Subsequently, this project should be of interest to a variety of ancient philosophers, historians, ethicists, and political theorists alike. While the texts are often long and difficult, in non-ideal theory the details matter. I believe, however, that the rewards are richer than they might appear.

Before outlining the structure of the chapters, let me first address the question of scope for this project. I focus here on Plato and Aristotle, specifically the second half of the *Statesman* (from 291d to the end), the *Laws*, and the *Politics* (with an emphasis on Books IV–VI). These are the texts that I believe directly address the question of non-ideal political theory and so deserve the most attention, though of course other passages from the corpus are relevant. Is it possible to fully engage with Plato's political theory without addressing the *Republic* head on? Yes, actually. Both the *Statesman* and *Laws* are dialogues that are more-or-less self-contained and they don't seem to presuppose a working knowledge of Kallipolis. Moreover, Plato explicitly (and infrequently) mentions the kinds of political ideals from the *Republic* in the *Laws* when it seems relevant to him, so I will rely on Plato's judgment with respect to the autonomy of the work. Finally, the *Republic* isn't especially helpful for answering the kind of question I am interested in. It assumes the existence of knowledgeable and virtuous rulers, and its discussion of non-ideal states in Books VIII–IX is at best descriptive. It is also unclear how the psychological parallels in this passage are supposed to relate to actual constitutions. Given the wealth of scholarship on the *Republic* and the scholastic intricacies of its

interpretation, then, I thought it best to set it to one side here and to focus on the passages in the Platonic corpus that deal with non-ideal states directly.⁵

The *Seventh Letter* is a trickier beast. The short reason for its omission here is that I don't think it's by Plato. But even if it were, it displays a curious lack of interest with the kinds of political institutions and actual laws that so occupy Plato in the *Laws* (and even, when you look harder, in the *Statesman* and *Republic*). Indeed, I think it displays the kind of naïve reading of Plato that some err in today in presupposing that simply by making the rulers philosophers all our problems of political institution design will evaporate.⁶ So, at best, the *Seventh Letter* unhelpfully suggests what everyone agrees on anyway – that it is better when better people are in charge – and at worst it reinforces what I think is a pernicious mistake of virtue-theorizing about politics.

What about non-ideal political philosophy after Aristotle? In our extant sources, Epicureans don't discuss constitutions, and neither (to my knowledge) does the early Academy. The Stoics certainly do, but matters here are harder than they might first appear. Malcolm Schofield and Katja Vogt have both produced excellent works piecing together what we can learn about Zeno's *Republic*, and Andrew Erskine has valiantly tried to show how the Stoics used this ideal in their actual political practice.⁷ The problem is that Erskine makes the mistake of thinking that prescriptions in the ideal state translate into prescriptions in non-ideal circumstances. For example, the Stoic ideal city is a city of Sages and so Zeno prescribes a number of egalitarian policies on the basis of this equality of virtue. It is fallacious, however, to infer from the egalitarian policies in

⁵ This is not to say that normative principles cannot be inferred from the *Republic* that are useful for non-ideal theorizing. For example, Kamtekar's "Social Justice and Happiness in the Republic: Plato's Two Principles" provides an excellent example of the kinds of concerns that extend beyond ideal circumstances. It remains an open question, however, what institutional suggestions Plato would recommend for non-ideal circumstances in light of these more general normative principles.

⁶ For the claim that all existing states are bad and practically incurable, and that those states should be run by philosophers, see 326a–b, 326d, 328a, 335d. The *Letter* is actually more nuanced than the standard "Philosopher-King" narrative suggests, though. For example, the author warns against the use of violence to change the constitution and that if the best constitution can only be brought about through exiles and slaughter, then one should rather just pray for the city (331d). Moreover, the author also emphasizes the importance of the rule of laws rather than the tyrannical rule of one man (334c–d, and possibly suggested by 336a, 337a–d, 351c).

⁷ Schofield, *The Stoic Idea of the City*; Vogt, *Law, Reason, and the Cosmic City*; Erskine, *The Hellenistic Stoa*.

the ideal state that the Stoics would also support egalitarian policies in non-ideal states. Though we are all drowning in vice on the Stoic schema, some are closer to the surface than others, so if we are apportioning political authority on the basis of virtue, the Stoics could very well support inegalitarian policies in non-ideal circumstance. I am not saying that this is the correct reading – I am saying we cannot *know* what they thought we should do in non-ideal circumstances, because one cannot infer these kinds of prescriptions from the discussion of the ideal state. Indeed, as far as I can tell, we have only one fragment from the Stoics that suggests what they thought is best for non-ideal constitutions, and that is that they supported a mixed constitution.⁸ Beyond this, I believe, we can only speculate.

The most serious omission for this project is Cicero. Cicero's *Republic* gives not only a valuable discussion of constitutions, but justifies the Roman mixed constitution on grounds both of its ideality and its feasibility. Moreover, his own engagement in politics, about which we can learn in great detail from his letters and speeches, gives us rare insight into how his political theory may have translated into actual laws and decrees. I thus consider a discussion Cicero's thought to be the next development of this project, though given the vastly different and complicated background of Roman law and political institutions required to do justice to such a task, I take it as out of the scope of this project. Nonetheless, I think Cicero makes a valuable contribution to ancient political theory, especially with respect to issues central to non-ideal theory, and this is a fruitful topic for future research. Let me turn now, though, to the contributions I make with respect to Plato and Aristotle.

My main question is as follows: what did Plato and Aristotle think that we should do in non-ideal political circumstances? By “non-ideal circumstances”, I mean primarily situations in which the laws, education system, and moral quality of rulers are not directed to and productive of virtue. But Plato and Aristotle also consider a number

⁸ Diogenes Laertius, *Lives of the Eminent Philosophers*, VII.131. Erskine rightly points out that we cannot be sure which Stoic philosophers Diogenes thinks believed this. However, I think he is mistaken to reject the possibility of this being early Stoic thought because it is incompatible with what we find in Zeno's *Republic*. Both Plato and Aristotle reject the mixed constitution in ideal circumstances but advocate it in non-ideal circumstances, so I see no reasons why the Stoics could not also have held this consistently.

of other constraints that can properly be labeled “non-ideal”, for example, geographical undesirability, problems of population size, and existing social norms that work against what an ideal lawcode would prescribe. So what should people wanting to improve *those* kinds of cities do?

I argue for two main theses. Firstly, both Plato and Aristotle think that, other things being equal, a mixed constitution is best. Plato understands a mixed constitution as a constitution that mixes the “monarchical” principle and the “democratic” principle, which in fact amounts to what Aristotle understands by a mixed constitution – the combination of democratic and oligarchic laws and institutions. In more theoretical terms, the mixed constitution is a constitution that appropriately blends hierarchical, authority-based institutions with institutions that promote the freedom and equality of citizens. As we will see, there are a number of ways that this can be achieved, and which ones are to be implemented when depends on the details of the case at hand.

Secondly, I argue that Plato and Aristotle both recognize a serious constraint on improving existing states, which is that substantial political changes risk causing a breakdown in lawfulness and thus risk destabilizing the city. Subsequently, both philosophers – perhaps surprisingly – turn out to be *legal conservatives* in non-ideal circumstances. While they recognize that cities can be moderated in such a way that would improve them in the abstract, but in practice these changes may do more harm than good, so cities should err on the side of enforcing existing legislation and political arrangements than experimenting with new options. Navigating this tension between keeping existing arrangements and improving them by moderating the constitution is, I believe, the fundamental problem of ancient non-ideal political philosophy.

The justification for this view emerges from each of the discussions of non-ideal states that we find in our extant texts from Plato and Aristotle. Chapter one explores Plato’s *Statesman*, which explicitly claims that when there are no knowledgeable statesmen, existing states should strictly abide by their existing laws. I argue that Plato prescribes this because he thinks that the rule of law plays an important role in preventing citizens from being harmed by the power of their rulers and because changes

in legislation create political instability. I claim that this position is well motivated for Plato, given the violent political history of constitutional change in Thucydides' *History of the Peloponnesian War*. But the *Statesman* also suggests a way of improving states by creating institutions that better mix "naturally courageous" and "naturally temperate" character types. Plato describes these character types in the same way that Thucydides describes the conflicting temperaments of Athenians and Spartans respectively, and democratic cities and oligarchic cities more generally. Thus the *Statesman* tries to improve cities by removing a conflict that is central to Thucydides' political history. Yet a lingering tension exists in the dialogue between the blueprint for improving cities and the prescription to retain the existing laws.

Chapter two provides a reading of the *Laws*, which is an extensive and detailed account of Plato's "second-best" city. In this work, unlike in the *Republic*, nobody is assumed to have comprehensive political knowledge and nobody is outstandingly virtuous. I focus on the much-neglected third book of the *Laws*, which explicitly lays out the normative foundations of this political project. I argue that Plato endorses a theory of the mixed constitution, where a good constitution mixes oligarchic institutions that promote authority and hierarchy relations with democratic institutions that promote freedom and equality, and the mean for this mixture is determined relative to the psychologies of the citizens. The city of the *Laws*, however, is also deeply conservative in its attitude towards legislation in that there are no mechanisms for laws to be changed and citizens are to think of the law as their divine master and the public manifestation of reason. This conservatism is best understood in light of the psychological theory in this work, which focuses on habituating pleasures and pains in accordance with the prescriptions of reason – a process that takes many decades, and is undermined when the law is changed. Here, too, we see a tension in Plato's non-ideal theory between a model for improving states by better mixing their constitutions and a deep concern that the costs of changing legislation will outweigh the benefits.

Chapter three argues that this fundamental tension is resolved by Aristotle's more fine-grained analysis of constitutions. Although he recognizes that changes in

legislation have deleterious effects on character and the stability of the state, Aristotle holds that some constitutions are fundamentally unstable and thus require substantial institutional revision. With his characteristic attention to detail, Aristotle's analysis reveals the multifarious ways in which oligarchic and democratic institutions can be better mixed within the limits of a state's existing political framework, thus providing a method for improving states without putting strain on the conceptions of justice and the good in the citizen body.

Far from being unconcerned with issues of non-ideal theory, then, both Plato and Aristotle have rich and complex accounts of what we ought to do when we cannot rely on the goodness of virtuous rulers, and of how existing states can achieve political stability, even when there is widespread disagreement about justice and the good. This is not to downplay the importance of the utopian elements of their political theory, but rather to emphasize that the non-ideal theory in Plato and Aristotle is more developed than we might otherwise have thought.

As always when we engage with ancient thought seriously, we need to approach these texts with both charity and a critical eye. Plato and Aristotle at times defend downright monstrous political policies and I am far from suggesting that, for example, it would be great if we lived in the city Plato describes in the *Laws*. Nonetheless, we should not let such details obscure more interesting normative insights – the views on bird-hunting and non-procreative sexual relations are not an essential part of Plato's views and it is unfair to criticize the work as a whole on the basis of such curiosities. With some philosophical creativity, we can find in Plato and Aristotle compelling perspectives that can engage fruitfully with contemporary concerns.

So should Plato have been ashamed as a “pure theorist” if he didn't actually go to Syracuse to fix the tyrannical constitution? I don't think so. We don't need to tell such a story to justify Plato's engagement with actual states – we just need to read the texts we have a little more closely. Let us turn, then, to what Plato wrote.

CHAPTER ONE

Imitating Skill: Non-Ideal Constitutions in Plato's *Statesman*

The goal of Plato's *Statesman* is to define the skill of statesmanship. As is familiar to students of Plato's political philosophy from the *Republic*, it is knowledge (*epistêmê*) that has normative priority and acts as the justifying ground for the actions of rulers; the true Statesman is somebody who knows what is best for each individual citizen and for the polis as a whole, regardless of whether or not the person with this knowledge in fact occupies a political office. Insofar as the rulers are acting from knowledge, their actions are good. But what happens when nobody with this knowledge can be found? Luckily, the *Statesman* also contains one of the clearest discussions of non-ideal states in Plato's corpus, explicitly ranking ordinary constitutions (constitutions in which a Statesman is not present) and suggesting that there are ways in which non-ideal states can "imitate" the ideal Statesman in better and worse ways. The *Statesman* is thus the best place to start when thinking about the relationship between Plato's political ideal of a polis ruled by knowledge and non-ideal imitations of this ideal. What is it that makes one non-ideal state better than another, and how is it that non-ideal states imitate the Statesman?

The discussion will proceed in five sections. In section one, I will discuss the ranking of the non-ideal constitutions; in section two, I will provide an account of how the non-ideal constitutions can be understood as imitating the skill of the Statesman in varying degrees, especially insofar as they prevent citizens from being harmed and prevent the city from collapsing; in section three, I will motivate the plausibility of

Plato's legal conservative position, and the position that law⁹ and democratic institutions are effective safeguards for the kind of harm that arises from rulers acting out of ignorance and for personal gain; in section four, I will ask why Plato should describe the task of the Statesman as weaving together the naturally courageous and the naturally temperate citizens, and argue that this psychology is borrowed from Thucydides where it tracks not only the divide in character between Athens and Sparta, but also the divide between the kinds of characters produced under democracy and those under oligarchy, thus giving us reason to think that this psychological divide tracks the main source of political conflict in ancient Greece while in addition providing a way to characterize harm and improvement in non-ideal states; in section five, I will highlight a tension that seems to arise between the normative guidance following from the argument for legal conservatism and the argument for moderating existing constitutions, and suggest that this dilemma is the main problem facing non-ideal states for Plato.

1. The ranking of constitutions

Plato is utterly clear in the *Statesman* that there is only one correct constitution (ὁρθὴν... πολιτείαν), and it is the one where the rulers have expert knowledge (293b). This position stands in contrast to the alternatives that Plato seems to think were standard in the constitutional debates of his time, which divided constitutions into rule by one, few, and many, and then subdivided those types by further criteria such as consent of the ruled, wealth distribution, or lawfulness (291e).¹⁰ It is important to note from the outset that Plato will have more to say about the role of these other criteria in his political theory elsewhere, but the *Statesman* highlights the normative priority of knowledge for justifying rule and political action by the rulers. This is because of the skill analogy that permeates the dialogue. The true Statesman is a skilled practitioner with a certain kind of knowledge, who acts on an object (the polis and the citizens who comprise it) for their

⁹ It should be remembered throughout that the Greek word for law, *nomos*, refers to both laws and conventions – i.e. established social norms.

¹⁰ For one such (imagined) constitutional debate, see Herodotus, *Histories*, III.80–82.

benefit, in order to bring about the flourishing of the citizens and the city.¹¹ The skill justifies the Statesman in performing any action he sees fit.

Plato motivates this extreme authoritarian position by considering doctors. Politics, he claims, is like medicine, and in medicine it doesn't matter whether the doctor is following written rules, or whether his patients aren't persuaded of the goodness of the treatment, or whether they are poor or rich – what matters is that the doctor is acting from his medical knowledge and skill for the sake of body's good, improving and preserving the body (293a6–293e6). From this, the Visitor concludes:

"V: It must then be the case, it seems, that of constitutions too the one that is correct in comparison with the rest, and alone a constitution is the one in which the rulers would be found truly possessing expert knowledge, and not merely seeming to do so, whether they rule according to laws or without laws, over willing or unwilling subjects, and whether the rulers are poor or wealthy – there is no principle of correctness according to which any of these must be taken into any account at all.

YS: Right.

V: And whether they purge the city for its benefit by putting some people to death or else by exiling them, or whether again they make it smaller by sending out colonies somewhere like swarms of bees, or build it up by introducing people from somewhere outside and making them citizens – so long as they act to preserve it on the basis of expert knowledge and what is just, making it better than it was so far as they can, *this* is the constitution which alone we must say is correct, under these conditions and in accordance with criteria of this sort. All the others that we generally say are constitutions we must say are not genuine, and are not really constitutions at all, but imitations of this one; those we say are 'law-abiding' have imitated it for the better, the others for the worse."¹² (293c5–293e6)

So the ideal constitution will be one ruled by knowledge, and this knowledge is used to benefit the citizens. The Statesman, however, does not rule only (or even for the most part) by individual decree, but by law.

Laws are unlike wisdom in that they are general and uniform in their prescriptions.¹³ Because of "the dissimilarities between human beings and their actions, and the fact that practically nothing in human affairs ever remains stable", laws necessarily fail to prescribe "what is best and most just for all at the same time" in such a way that "covers all cases and will last for all time" (294a10–b6). Human affairs are not

¹¹ We are given little help in the *Statesman* to characterize "benefit" or "flourishing". I attempt to sketch at least one way of thinking about benefit and harm in section four, but will remain relatively neutral on the content of what flourishing consists in until the following chapter on the *Laws*.

¹² Translation of the *Statesman* are from Rowe in the Cooper *Complete Works of Plato*, with modifications.

¹³ For a fuller discussion of Plato's critique of law, see Lane "Platonizing the Spartan Politeia in Plutarch's *Lycurgus*", p. 62.

uniform, either at one moment or across time, and these differences are salient in determining what is just and best. Wisdom, on the other hand, is sensitive to such differences and is able to discern what should be done with respect to each person at each moment in each set of circumstances. Thus the Visitor concludes that “it is impossible for what is perpetually simple to hold well [εὖ ἔχειν] in relation to what is never simple” (294c7–8).¹⁴

But it is also impossible to prescribe correctly for large groups. Plato introduces an analogy with a physical trainer: just as a trainer cannot make sure that each person does exactly what is best for their physical benefit and thus employs general prescriptions out of necessity, so too a Statesman cannot get it exactly right for all of his citizens all of the time and thus institutes laws “according to the principle of ‘for the majority of people, for the majority of cases, and roughly, somehow, like this’” (294c10–295a8). For as the Visitor asks, “how would anyone ever be capable... of sitting beside each individual perpetually throughout his life and accurately prescribing what is appropriate to him?” (295c10–b2). So the Statesman, in practice, always uses laws.¹⁵ The rule of reason is mediated in real cities through law, as that is the best even the Statesman can do in a political setting.

When Statesmen are around to recognize when laws should be changed, they ought to do so and it would be foolish to resist their expert prescriptions, merely because they are doing something contrary to what has been written down (295b10–296a4). While it is commonly believed that written laws ought only to be changed when the Statesman can persuade the citizens that it is right to do so, this violates the principle that skill is primary, as it is laughable to say that a doctor acts wrongly when he forces a patient to do something that benefits him, or that a captain acts wrongly when he saves

¹⁴ Rowe here translates εὖ ἔχειν as “be useful” – but this is a misleading translation, especially given what follows: it’s not that laws aren’t *useful* but that they don’t always get it right. Rules of thumb are very useful.

¹⁵ As noted by, for example, Sauvé Meyer, “Plato on the Law”, p. 377. Rowe claims that in the best city the Statesman does not use laws, but I cannot see his justification for this given the difficulties of adjudicating for every individual of a collective at every moment. Thus I take it that Plato’s point is that the Statesman is not *bound* by the prescriptions of the law (Rowe, “The Statesman and the Best City”, p. 40). Curiously, Rowe notices this very problem two pages later (p. 42), so I can only assume that he takes the Statesman to be an impossible ideal – but an ideal nonetheless.

the ship without persuading the crew (296a5–297b4). Therefore, the best *possible* constitution will be one in which (a) the Statesman *provides* the laws, and (b) is around to *change* the laws as the occasion requires.

Having sketched the form of the correct constitution, the Visitor then turns to the “imitations” – the non-ideal constitutions. What separates the ideal from the non-ideal constitutions is that in the non-ideal constitutions the ruling offices are not held by people with knowledge. If the ruler or rulers in a non-ideal regime did come to have this knowledge, regardless of the *arrangement* of offices, such a regime would no longer be imitating the ideal constitution, but would then *be* the ideal constitution (300e). So having set the knowledge criterion aside insofar as it is not satisfied in non-ideal constitutions, the Visitor then explicates what he calls a “second-best” principle for evaluating non-ideal constitutions: lawfulness.

The Visitor explains that in the absence of a knowledgeable Statesman, “no one in the city should dare to do anything contrary to the laws, and that the person who dares to do so should be punished by death and all the worst punishments” (297e, cf. 302e). Some commentators have understood the referent of “laws” to be the laws that the Statesman would prescribe, rather than whatever laws the polis happens to have.¹⁶ This is a natural reading of the passage directly preceding the introduction of the second-best principle, which states that “given that this constitution we have talked about is on our view the only correct one...” non-ideal constitutions “ought to employ the written documents that belong to this one, and save themselves in that way, doing what is now praised, although it is not the most correct thing to do” (297d).

The reading, however, is problematic insofar as it assumes that people in non-ideal constitutions could get access to the laws that a Statesman would prescribe. Moreover, later in the dialogue the Stranger strongly suggests that this principle of strict lawfulness holds *regardless* of what kind of laws are laid down. At 300b, the Visitor speaks of “laws that have been established on the basis of much experience [ἐκ πειρας]

¹⁶ Notably Rowe, “Killing Socrates”, p. 72. His, however, is the minority view. See, for example, Klosko, *The Development of Plato’s Political Theory*, p. 212, and Marquez, *A Stranger’s Knowledge*, p. 267–269.

πολλῆς]”, whereas the laws of the Statesman are the product of knowledge, not experiment; at 300c, the relevant class of people are those “who establish laws and written rules about anything whatever”; and at 300d, “any individual whatever or any large collection of people whatever, for whom there are actually written laws established” are to follow the laws; then at 300e–301a, in the summary of the prescription, the Visitor says that:

“The requirement, then, as it seems, for all constitutions of this sort, if they are going to produce a good imitation of that true constitution of one man ruling with expertise, so far as they can, is that – given that they have their laws – they must never do anything contrary to what is written or to ancestral customs.”

Finally, at 301e–302a, people come together to write down written laws *without knowledge*, so it is hard to see how such laws could be the laws that a Statesman would prescribe. Thus while everybody will concede that it would be better for a city to follow the laws a knowledgeable Statesman would lay down rather than whatever laws they might happen to have (because they are the best *ex hypothesi*), we should understand the non-ideal constitutions to have ordinary laws and not the laws of the Statesman’s constitution.¹⁷

The Visitor then starts a discussion of how the superiority of skill to law could be abused by those who do not in fact possess the skill. Returning to the previous analogies of the ship-captain and doctor, he gets Young Socrates to imagine these practitioners doing cruel things to their subjects and justifying it by claiming to have the respective skill (297e11–298b7). Upon seeing these injustices, the people would form “a sort of council” [βουλήν τινα] that prevents these men from having “autonomous control either of slaves or of free men” [ἀρχειν αὐτοκράτορι μηδετέρᾳ μήτ'οὖν δούλων μήτ'έλευθέρων], and then the people establish an aristocratic or democratic “assembly” [ἐκκλησίαν] to determine and write down [γράψαντας] rules to govern the practice of the skills, where laymen and experts have equal weight in the contribution of their

¹⁷ Marquez claims that “the Stranger nowhere says that the citizens should never attempt to change these laws in accordance with experience through institutions like the Nocturnal Council” in claiming that Plato does not endorse strict legal conservatism in the absence of knowledge, but the texts seem clear to me on this point (*A Stranger’s Knowledge*, pp. 288–289). Of course, Plato could have changed his mind about the stringency of the legal conservatism in the *Laws*, but that is another matter.

opinions (298b8–e3). The Visitor continues by imagining that the people set up offices elected by lot [λαγχάνη] to put people in charge of steering or administering medicine, and then establish courts [δικαστήρια] and audits [εὐθύνειν] to vote against [καταψηφισθῆ] and punish those who do not practice the skill in accordance with the written rules (298e5–299a7). This is a passage loaded with Athenian democratic legal jargon, and the clear implication is that democracy and institutions that check and limit power come about primarily as a response to the abuse of that power (cf. 301c6–d6).

But these aforementioned institutions, it seems, do not go far enough in preventing the potential abuse of power. The Visitor then says that the people will need to establish a law against inquiring [ζητῶν] into the various skills against what the written documents prescribe [παρὰ τὰ γράμματα],¹⁸ and if anybody should violate this prescription in recommending the autonomous rule [αὐτοκράτορας ἀρχεῖν] of the skills, then he should not be called an expert but a babbling sophist [ἀδολέσχην τινὰ σοφιστήν] and be indicted [γραψάμενον] in the courts (299b2–c3). Thus, “there must be nothing wiser than the laws” and it will be held that anybody can understand medicine or seafaring because they can understand what is written down and customary (299c5–d1). The Visitor then extends this picture of government by written rules to all skills and sets Young Socrates up for the conclusion that this would destroy all of those skills and make life “unlivable” (299d1–e10).

Given the importance of and priority of skill in the *Statesman*, some commentators have taken this passage to be a deep critique of Athenian democracy and a kind of *ad absurdum* of the rule of law argument, further suggesting that the lawful constitutions are really very bad imitations of the ideal constitution.¹⁹ In particular, Rowe has taken this passage to entail that it was right for the Athenian democracy to kill

¹⁸ Rowe translates παρὰ “above and beyond” – but this misses a potential subtlety wherein people could seek justifications for the written laws, which would go “above and beyond” them without being *against* them. Presumably in the *Republic*, the philosopher-kings inquire into the justifications for their laws but never find any conflict between what their inquiries reveal and what the laws prescribe.

¹⁹ Rowe, for example, says that the lawful states “would actually involve making investigation into the truth a capital offence” (“Killing Socrates”, p. 66, italics original). For the explicit *ad absurdum* claim, see p. 74. See also Rosen, *Plato’s Statesman: The Web of Politics*, pp. 172–173.

Socrates and thus that it *cannot* be sincere given Plato's admiration of his teacher.²⁰ But this approach is too flat-footed.²¹ For one, the text is clearly hyperbolic in that Athenian democracy hardly tried to extend rigid written rule-following to farming, carpentry, painting, and other items on the list.²² It might be objected that this destruction of skill and ban on inquiry is the *logical consequence* of the democratic principles introduced to check power, but we should be wary of slippery slopes and the fact that there existed a thoroughly democratic society which did not result in this lawful over-reaching should make us look for a way to explain how a middle ground between complete autocracy of skill and complete democratic equality is possible.²³ More importantly, the democratic example is introduced in its extreme form as a contrast class: the Visitor uses it to show that even the most ridiculously expansive lawfulness and equality of judgment is *better* than letting some ignorant person pay no attention to the laws and use his office for personal gain. This establishes that lawfulness is rightly the second-best way of proceeding, *even in its most extreme version* (300a1–c4). In other words, it is always better to be strictly lawful than to allow people to use power ignorantly.²⁴ We thus have a clear and perfectly cut ranking: rule by knowledge not limited by law is best; rule by law but

²⁰ "But – and this is my central point – if Plato really is willing even to contemplate the idea that the democracy was justified in killing Socrates, he will surely have abandoned everything he ever seemed to stand for – not only the idea of free inquiry, but the main thing that that inquiry always seemed to be *for*, namely the goal of a better and more virtuous life... In short, if we are being asked to settle for absolute adherence to law, under the terms given, we are also being asked to approve of the killing of Socrates. So my question is: can we really suppose Plato to have been quite so prodigal with his principles" (Rowe, "Killing Socrates", p. 67). Rowe overlooks the distinction we find in the *Crito* between being wronged by the laws and by the people who use the laws (54b–c). Even if Socrates was wrongly put to death under Athenian laws, it doesn't follow that the Athenian laws were bad. For example, it could be that Socrates was tried and convicted under a law that didn't in fact apply to him. This would be an error of the people using the law, not the law itself. But even if the particular law *did* properly apply to Socrates, this *still* wouldn't entail that the law was bad – for if laws are supposed to work well *for the most part*, then we would expect that there would be particular instances where they do not work well. So neither of these explanations for why Socrates was killed entail that the law in question is bad.

²¹ Lane is especially resistant to this reading in that the attitude Plato is describing of the "democrats" here bears little resemblance to Athenian democracy (*Method and Politics in Plato's Statesman*, p. 151, 154, 160–161). She rightly criticizes (e.g.) Gill for assuming that this passage reflects conventional Greek thinking about constitutionalism ("Rethinking Constitutionalism in *Statesman* 291–303").

²² It is noteworthy, however, that doctors in Egypt seem to have worked under such principles. See Nightingale, "Plato's Lawcode in Context: Rule by Written Law in Athens and Magnesia".

²³ As is also argued by Marquez, *A Stranger's Knowledge*, pp. 285–288.

²⁴ Rowe actually recognizes this point but doesn't seem to think it is much of an achievement. We are given no argument as to why ("Killing Socrates", p. 72). Killing Socrates was bad, but surely Critias was worse.

without knowledge is second-best; rule without law and without knowledge is worst.²⁵

This holds in all cases for Plato.

With the second-best criterion in place, the Visitor then ranks the traditional arrangements of offices: when law-abiding, monarchies are superior to oligarchies, and oligarchies are superior to democracies; but when lawless, democracies are superior to oligarchies, and oligarchies to tyrannies (302e–303b). Familiar as it might be, it is actually far from clear what justified this ranking in the text. Where was Plato's argument for the relative superiority and inferiority of each of these constitutions? If *all* of the good non-ideal constitutions are strictly law-abiding, then why should it make any difference if one, few, or many people are in office, given that it is really the laws who rule? Shouldn't they all *equally* imitate the Statesman insofar as they are equally lawful?²⁶ And with respect to the lawless regimes, the only reason we are told democracies are better than the others is because "under it offices are distributed in small portions among many people" (303a) – but why should Plato think that *that* has anything to do with creating a better imitation of the knowledgeable Statesman, which is the *only* normative standard we have been given?

I propose that to answer these questions, we need a richer understanding of how it is that non-ideal constitutions imitate the Statesman. And once we see what grades the imitations, we will be much less likely to dismiss the six non-ideal constitutions as unimportant for understanding Plato's political philosophy.

²⁵ This strictly comparative reading is well emphasized by Samaras, *Plato on Democracy*, p. 173.

²⁶ It is often suggested that the ranking of the lawful constitutions is justified on the grounds that it is simply the reverse of the unlawful constitutions: democracy is the best of the lawless constitutions, it is argued, because its rulers can do the least harm, so monarchy is the best of the lawful constitutions because its ruler can do the most good. Seductive as this reasoning might be, we should remember that the lawful rulers still lack knowledge and political expertise – that's what separates them from the Statesman – so it does not seem obvious to me that an ignorant monarch who follows the law will do any better than a group of ignorant oligarchs who follow the law. The justification for the ranking of the constitutions is thus much more obscure than many commentators have noticed.

2. Three principles of imitation

Commentators have struggled to make sense of the claim that the non-ideal constitutions are better or worse imitations of the Statesman.²⁷ An initially alluring approach is to make what I will call the Content Assumption: this is the idea that the *only* way that a non-ideal state could imitate the constitution ruled by knowledge is by having *the same laws* as that constitution.²⁸ On this reading, better imitations have more of the Statesman's laws, and worse imitations have fewer of them. But this understanding of imitation runs into problems. Firstly, we have already seen that it is not at all clear how these non-ideal states are supposed to get access to the Statesman's laws, unless they happen upon them by chance (which I take to be unlikely). Secondly, it

²⁷ Klosko, for example, says that the rule of law "is in fact the polar opposite of the statesman's rule" (*The Development of Plato's Political Theory*, p. 210). He continues by saying that this "polar opposition between scientific rule and this strict rule of laws eliminates what appears to be commonsensical middle ground, that even in the absence of the statesman's art, inhabitants of ordinary states should deliberate about their laws and revise them, in order to improve them. Plato's position in the dialogue rules this out" (pp. 210–211). I hope to show in part why this "commonsensical" middle ground is specious. Marquez argues that states in which the Statesman's laws are used are imitations, but thinks that a lawful state without the Statesman's laws is merely an "empty imitation... a snapshot of the wrong thing" (*A Stranger's Knowledge*, p. 295). He later says that "all of them must have a kind of imitative art... since all of them ultimately imitate the knowledge of the genuine statesman (either lawfully or lawlessly) without actually having it" but his explanation as to how this happens is rather thin (*ibid.* 301).

²⁸ Rosen, *Plato's Statesman: The Web of Politics*, p. 167; White, *Myth, Metaphysics and Dialectic in Plato's Statesman*, pp. 116–117. Rowe is explicit: that "the laws are based on 'much experiment', and because 'some advisor or other' have persuaded the assembly to adopt them, is surely not meant as a positive recommendation of them; what would be needed for that would be precisely the *knowledgeable* advice which is not available... What are described as 'imitations of the truth' are not, and do not include the laws we have now..." (*Introduction to the Statesman*, p. 17). He also writes that the imitations with respect to the best laws will "aim at them, and get as close to them as they can" ("The Statesman and the Best City", p. 43), but it is obscure what this amounts to. What is it to aim at a law you don't know and how do we determine what counts as getting closer or not? Rowe himself puzzles over the first of these problems but seems not to notice that the real challenge actually comes with the second problem. His solution to the first problem is to say that just as everybody aims at the good, so too ignorant legislators are aiming at the good; but because only the best constitution actually brings about the good, everybody is in fact aiming at the Statesman's constitution, though they don't know this (p. 46). See also his "Killing Socrates", pp. 72–73. Marquez' position is more sophisticated, but he puts a heavy emphasis on the content of the non-ideal laws (*A Stranger's Knowledge*, pp. 277–281). Samaras thinks that the non-ideal constitutions try to imitate the wisdom of the Statesman, which is specified later as the content of the laws (*Plato on Democracy*, p. 173, 175–177). Lane is explicit that the Content Assumption is false: "Each [constitution] will have its own laws derived, in the case of the ideal, from memoranda, and in the case of the best-second, from experience and persuasion. There is no reason to expect the content of these laws to be similar at all" (*Method and Politics in Plato's Statesman*, p. 159).

saddles Plato with a bad standard of evaluation and one that he elsewhere recognizes as bad: if I have a set of ordinary laws and then I add a law from, say, Kallipolis, it does not follow that I have improved my polis. In fact, I've probably made it worse. Good laws come in bundles and work together as a cohesive whole relative to a set of people with specific psychologies (*Laws* 638c). For example, the laws granting the Philosopher-Kings of the *Republic* far-reaching executive powers are not good laws for cities in which the rulers do not have an extensive education program that seeks to ensure that they will not abuse such powers. Thirdly, there is more to the skill of the Statesman than what he prescribes. What I propose, then, is that we think harder about what a skill is for Plato and then think about the various ways in which aspects of the Statesman's skill can be imitated for better or for worse.

While controversial in detail, I take it to be reasonable to assume that Plato thinks:

A skill (*technē*) is [1] *a kind of knowledge* [2] *set over an object* [3] *that benefits the object* [4] *for a particular end or function.*²⁹

For example, the skill of piano tuning is a knowledge of pitches and harmony, applied to a piano, that brings the tunings of the strings into relative or absolute harmonies, in order to perform certain pieces on them. Similarly:

The political skill is [1] a kind of knowledge³⁰ [2] set over a polis (understood as a collection of human beings) [3] that benefits the polis [4] for the sake of the flourishing of the city.

²⁹ I take [2] and [4] to be related insofar as the kind of thing something is determines what its function is, so the end of a thing determines its good and thus what counts as a benefit or harm. The clearest statements of this conception of skill are at *Rep.* 341d–342e, 345b–346e and *Gorg.* 464b–465d, 500b–501e, 502e–503a, 503d–505c, 517e–519e. *Euth.* 291e–292e seems to provide a problem for this reading insofar as it separates the results of a skill from its benefit, but the dialectical context makes this an unusual passage in that only knowledge of use strictly speaking benefits, otherwise health and freedom from faction, for example, are neither good nor bad (by nature?). It is also noteworthy that the *Euth.* conception of skill and benefit leaves Socrates in aporia.

But once we realize that it is not merely the *prescriptions* of the Statesman that are being imitated but his *skill* taken as a whole, we see that there are in fact a number of elements which can be imitated in greater or lesser degrees. An imitation of acting from knowledge, for example, is acting from true belief, and a worse imitation is acting from ignorance.³¹ Similarly, acting in such a way that promotes only the unity but not the flourishing of the polis would be an imitation, and acting in such a way that promotes the stability but not the unity would be a less good imitation.³² Presumably what stops imitation from being a hopelessly vague notion is that the object in question (e.g. the city) is fixed, and thus the proper teleology of the skill can be determined. So the reason that my drinking coffee is not a poor imitation of the Statesman is that my drinking coffee is not an action set over the polis. What makes a tyrant the most perverse imitation of the Statesman is that the tyrant is not even really aiming at the city as an end of his actions, but is rather using it instrumentally for his own personal gain. Of course, any account of imitation in Plato is going to be controversial, so at least with respect to the *Statesman*, suffice it to say that B imitates A when B shares essential structural features of A's activities, but has or results in lower-grade versions of those structural features.³³ Because there are three structural features of the Statesman's skill – knowledge of politics, producing benefit to the citizens, and promoting the flourishing

³⁰ I leave this deliberately vague because the details of what exactly the Statesman knows is controversial and at any rate it is incidental to my purposes here what his knowledge consists in. Given the passage at 284e, I am skeptical of any attempt to provide a tidy account of what the knowledge is, though it must at least include knowledge of souls and the effects of laws on the souls, taken both individually and collectively.

³¹ I take it that Plato thinks there is a constitutive knowledge norm to doxastic states, whereby true belief and ignorance are failing in varying degrees to perform their true function.

³² It may be that *disagreement* rather than unity promotes stability, but this is not an option Plato considers. For a further justification as to why he thinks this, see section 4.

³³ Readers who are unhappy with this characterization may rest assured that not much hangs on the exact details here. For my purposes, what is crucial is seeing why the Content Assumption is mistaken and that the idea of a skill provides us with more resources to think about the respects in which non-ideal states *could* imitate the Statesman, aside from his knowledge and prescriptions. I certainly do not intend this characterization of imitation to hold across Plato's corpus, let alone beyond Plato. For a discussion of imitation in the *Statesman* with which I generally agree, see Lane, "A New Angle on Utopia", pp. 286–289.

of the polis – there are three possible dimensions of imitation with respect to the Statesman.

What I want to suggest now, then, is that the non-ideal constitutions imitate the Statesman’s skill for better or worse insofar as they instantiate to varying degrees three principles:

- A. *The Epistemic Principle*: laws should only be established or changed by those who have knowledge.
- B. *The Benefit Principle*: rule and laws should benefit the ruled.
- C. *The Flourishing Principle*: rule and laws should promote the flourishing of the citizens and the city.

These principles derive respectively from parts [1], [3], and [4] of the definition of the political skill. They are also commonplaces in discussions of Plato’s political philosophy.³⁴ But let me explain the textual justification for each of these principles in the *Statesman* and how it is that the non-ideal constitutions instantiate them to varying degrees, as the non-ideal versions of these principles have not been explored nearly as much.

The Epistemic Principle is the least controversial so far as the *Statesman* goes. Melissa Lane, for example, argues that lawful states imitate the Statesman insofar as they never change laws *out of ignorance*. That is to say, rulers don’t adjust the status quo unless they know that there is a better alternative available. Although rulers without knowledge also don’t change laws they ought to change (which a Statesman would), at the very least they are not making things worse and, perhaps through being aware of their ignorance, they also realize that it is better to stay with what is established.³⁵ Obviously this has a certain Socratic flavor to it, and such a rationale would explain why

³⁴ For example, Schofield, *Plato’s Political Philosophy*, p. 148, 173, 175 *et pass.*; Annas, *An Introduction to Plato’s Republic*, p. 102 *et pass.*, *Virtue and Law in Plato and Beyond*; Kamtekar, “Social Justice and Happiness in the Republic”, explicitly p. 203; Rowe, “The Statesman and the Best City”, p. 49; Samaras, *Plato on Democracy*, p. 138, 145–146; Rosen, *Plato’s Statesman: The Web of Politics*, p. 155; White, *Myth, Metaphysics and Dialectic in Plato’s Statesman*, pp. 105–106, 108.

³⁵ *Method and Politics in Plato’s Statesman*, p. 158–159. Lane’s reading is widely endorsed, though in conversation she has noted that a fuller account is required. See, for example, Klosko, *The Development of Plato’s Political Theory*, p. 213; Rowe, “The Statesman and the Best City”, p. 41, “Killing Socrates”, p. 73.

Plato thinks that there is some value to laws not instituted from knowledge but adopted over time “on the basis of much experience” ($\varepsilon\kappa\pi\varepsilon\iota\varrho\alpha\varsigma\pi\omega\lambda\bar{\eta}\varsigma$, 300b).³⁶ The experience of the laws is greater than that of an individual citizen, and so in the absence of a knowledgeable Statesman, the laws are to be thought wiser than the citizens.³⁷ Of course, what one learns from experience is, for Plato, of a lower epistemic caliber than knowledge, but it is better than ignorance and still has some predictive power.³⁸ We could thus understand Lane’s point about this kind of epistemic imitation as ensuring that the laws established on the basis of true beliefs are not being overturned by ignorance.

The Epistemic Principle also gives us a way to understand why Plato ranks monarchy as first among the lawful constitutions and democracy as last. In the discussion of non-ideal regimes, the Visitor twice reminds us that large groups are incapable of acquiring skill. Firstly, the Visitor and Young Socrates dismiss the possibility that a mass of people – or even fifty people – in a city could acquire expertise on the grounds that a mass of people couldn’t even acquire expertise at something as trivial as checkers, let alone politics (292e–293a). At most, the Visitor suggests “a few” people could acquire such a skill (293a). We are reminded of this conclusion just before the explicit ranking of the non-ideal constitutions, where the Visitor says that “a mass of any people whatsoever would never be able to acquire this sort of expert knowledge and so govern a city with intelligence” (297b). This suggests that the likelihood of acquiring political skill is one of the factors that determines why smaller number of rulers in a lawful regime is better than larger numbers.³⁹ It should also be noted here that the critique is not just of democracy, but of oligarchy too insofar as actual ancient oligarchies

³⁶ Rowe translates $\pi\varepsilon\iota\varrho\alpha\varsigma$ here has “experiment”, which seems to miss the point here about grades of Platonic epistemology. For an alternative and more optimistic translation of this passage, see Skemp, *Statesman ad loc.*

³⁷ See M.H. Miller, Jr. *The Philosopher in Plato’s Statesman*, p. 100. Thus it is not simply, as Sauvé Meyer claims, that the Rule of Law in the imitative regimes amounts to “legislation from ignorance” (“Plato on the Law”, p. 377).

³⁸ *Gorgias* 501a–b; *Theaetetus* 178d–e.

³⁹ This is the version of the epistemic principle of imitation Sauvé Meyer suggests, though she admits she can find no explanation for the ranking of non-ideal constitutions in the context of this passage (“Plato on the Law”, p. 378).

normally had a few hundred to a few thousand rulers. Thus Plato's mention of the possibility of group knowledge in "a few" would only vindicate seriously trimmed-down oligarchies.

What is important, however, is that the conception of epistemic imitation is scalar and is determined by the likelihood that one of the rulers will attain political knowledge. One person is *more likely* to attain this political skill than larger groups, and the size of democracies makes them hopelessly unlikely to attain such knowledge. Knowledge is hard enough for one person to attain, so requiring more people to reach this standard to legitimate the constitution decreases the probability of it happening. Moreover, Plato may be thinking that at least with smaller groups, if somebody *could* attain political knowledge then it will be easier for them to persuade their fellow rulers of the truth, whereas this would be almost impossible in a democratic forum where people will inevitably hold different standards of evaluation and then the unfortunate Statesman will be out-voted. Of course, in a monarchy, if the king should acquire the political skill, then he can directly put into action this knowledge by sovereign decree.⁴⁰ Thus we see that lawful states imitate the Statesman's skill insofar as they satisfy the epistemic principle to varying degrees, with monarchy being the closest to the Statesman and democracy being the furthest away. So much for the Epistemic Principle – let us turn now to the more neglected aspects of the Statesman's skill.

A prominent feature of the *Statesman* is the analogy of statesmanship with various commonplace skills, and in each of these analogies what is emphasized is the connection of a particular kind of knowledge with a benefit conferred on the object. The Visitor mentions a doctor who does extreme things but "acts for our bodies' good, making them *better* than they were, and so *preserves* what is in their care" (293b); he then mentions an expert trainer who gives instructions "appropriate to the physical condition of each" making "prescriptions about what will bring physical benefit" (294e); finally, the Visitor speaks of a steersman or ship-captain who "always watching out for what is

⁴⁰ This would justify monarchy being a better arrangement of offices than oligarchy and democracy, *only if there were a Statesman present*; it doesn't explain why a lawful monarchy without knowledge should be better than a lawful democracy without knowledge.

to the benefit of the ship and the sailors, preserves his fellow sailors" (296e–297a).⁴¹ This final passage is especially illuminating in that it explicitly emphasizes the connection between the correct exercise of skill and the necessary benefit to the object:

"And there is no mistake, is there, for wise rulers, whatever they do, provided that they watch for one great thing, that by always distributing to those in the city what is most just, as judged by the intelligent application of their expertise, they are able both to *preserve* them and so far as they can to bring it about that they are *better* than they were?" (297a–b).

Here we see a tight connection between justice, the exercise of expertise, and the resulting benefit to the objection. Indeed, it seems that finding ingenious ways to bring about benefit is partly constitutive of skill itself. *Ex hypothesi*, non-ideal regimes do not have the 24-carat version of this skill that ensures that citizens are benefitted so far as possible by good laws and policies. I contend, however, that an important rationale for the constitutional rankings is the extent to which they benefit citizens or at least prevent harms.

An underappreciated feature of the *Statesman* is that the passage about the abuse of positions of power and authority *explains* how it is that laws and democratic institutions come about and to some extent *justifies* them (298a–300c). The assembly, law-suits, audits, courts, and elections by lottery are all responses to people in office abusing power and harming those whom they were supposed to benefit. Similarly, the laws themselves about how particular skills are to be practiced establishes codes of

⁴¹ There seems to be an exception to the benefit condition at 296e1 – but the text is especially problematic. Here is how the relevant section could be translated: "But if the person using force is rich, then is that just, or if he is poor, are the things forced then unjust? Or if some should persuade or not persuade, or be rich or poor, or in accordance with what is written down or contrary to it, [version one: reading δοξα σύμφορα or δοξα τὰ σύμφορα with Hermann, Stephanus, and Ficino] if he does something beneficial, should this be our gold standard of rightness concerning these things about the administration of cities, which the wise and good man will [reading διοικήσει as indicative] administer to the ruled?" This reading is particularly congenial to the connection between a skill and the necessary benefit of the object. Alternatively, however, it may read: "But if the person using force is rich, then is that just, or if he is poor, are the things forced then unjust? Or if some should persuade or not persuade, or be rich or poor, or in accordance with what is written down or contrary to it [version two: reading δοξα μη σύμφορα ή σύμφορα with manuscripts BTW] or if he should not benefit or benefit, should this be our gold standard of rightness concerning these things about the administration of cities: that which the wise and good man would [reading διοικήσει as subjunctive] administer to the ruled?" This suggests that benefit is incidental to whether something counts as the proper use of the skill. I note this as possible, but it seems to me at odds with the clearer analogies that focus on the benefit to the object. If this second version of the manuscript is the correct one, it could still be argued that Plato's point is that even if you *happen* to benefit, this is not yet sufficient for ruling well. In that case, what the Visitor would be saying is that those who claim to rule well because they benefit the citizens are still not ruling correctly because they don't have knowledge.

behavior that are generally beneficial even if they are not as beneficial as the free reign of the skill itself (properly practiced) would be. So the law establishes generally beneficial norms and prohibits harms, especially harms committed for the sake of personal gain (298a–b). Moreover, democratic institutions ensure that nobody is above the law, establish procedures for investigating potential abuses of power, and institute ways to punish abuses of power.⁴²

This point about the protective function of the law provides the justification for thinking that lawful constitutions imitate the Statesman’s skill. Insofar as the rulers are constitutionally bound by existing legislation, they are *at least generally* prevented from making sovereign decrees for personal gain and must rule in accordance with established custom. Of course, many existing constitutions (in Plato’s time and our own) include laws that do not aim at the general benefit of the citizens. So why should we think anything of such laws? Remember, though, that the lawful regimes are meant to be compared to a constitution where rulers are *violating* the established customs because they are ignorant and vicious. With this contrast in mind, it is clear that being bound by established norms – even though they may be in part harmful – is going to be better than lawless profiteering by the rulers.⁴³ Thus, lawful constitutions better imitate the Statesman’s skill insofar as they more closely approximate his benefit to the citizens than their lawless alternatives do.

For similar reasons, lawless democracies are better imitations of the Statesman’s benefit to the citizens than are lawless monarchies. Recall that the Visitor said that democracies are preferable to their lawless alternatives because:

“[rule by] the many, in its turn, we may suppose to be weak in all respects and capable of nothing of any importance either for good or for bad as judged in relation to the others, because under it offices are distributed in small portions among many people” (303a).

⁴² Pace Klosko who claims that laws in the *Statesman* “are not considered in connection with the need to restrain rulers and protect subjects” (*The Development of Plato’s Political Theory*, p. 204).

⁴³ I argue more for the plausibility of this claim in section 3 below. Cf. Marquez, *A Stranger’s Knowledge*, p. 260.

The democratic division of power means that *even when* rulers are acting for personal gain, no one person has any more power than any other (at least in principle).⁴⁴ This minimizes the extent to which rulers acting for themselves can harm the ruled, unlike the monarch who has both great power to benefit and great power to harm. So democracy constrains skill, but it also constrains ignorance.⁴⁵ Moreover, we can fairly take Plato to have assumed that democracies would have had short terms for most if not all appointments in office.⁴⁶ In conjunction with the courts and audits, this would have provided disincentives to abuse power for personal gain and minimized the capacity rulers have for long-term exploitation of the ruled. Thus, the Benefit Principle also provides a justification for the lower ranking of non-ideal constitutions.

The third principle of imitation to explicate is the Flourishing Principle.⁴⁷ I take this principle to be foundational for Plato's political philosophy: the goal of the Statesman is not to make only one part of the city happy but to spread it throughout the city as a whole.⁴⁸ Because Plato thinks that in order to be happy, the citizens have to be virtuous, the Statesman needs to aim primarily at the virtue of the citizens. While this is the *highest* or *final* goal of Platonic political philosophy, Plato also recognizes that less lofty versions of this goal are important too: namely, promoting the unity and friendship of the citizens – or, even more modestly, the prevention of conflict and faction (*stasis*), and the preservation of the city as a whole.⁴⁹ In a way, this criterion provides the clearest example of different levels of imitation. A city that merely survives is doing better than one that collapses due to faction, and a city that is unified is better than one in which parts of the population are at odds with one other but not to such an extent that it causes

⁴⁴ Aristotle will point out that demagogues cause democracies to end up acting like tyrants (*Politics* 1292a5–30), but Plato is surely right that democracies are at least *better* than oligarchies and tyrannies in this regard.

⁴⁵ Sauvé Mayer, "Plato on the Law", pp. 378–379. Somewhat puzzling is her claim that in lawless democracies "the evil effects of [the rulers'] unscrupulousness tend to cancel each other out" (p. 379).

⁴⁶ See section 3 below.

⁴⁷ Hitz takes Plato's talk of constitutional imitation to be connected to its ideal goals in "Plato on the Sovereignty of Law", p. 372. Because she thinks that the goal of the Statesman is to instill virtue and thus promote the happiness of the citizens, she can be seen as defending imitation with respect to benefit and teleology.

⁴⁸ E.g. *Rep.* 420b–e.

⁴⁹ Marquez, *A Stranger's Knowledge*, p. 258.

a breakdown in adherence to the laws.⁵⁰ Because Plato thinks that *no* existing regimes properly aim at the whole of virtue (and thus happiness), all non-ideal constitutions are to be assessed in terms of how well they promote the unity and stability of the city.⁵¹

That this is a part of the conception of a skill in the *Statesman* is highlighted by the focus on *preservation* as well as benefit in the analogy passages. It is most clearly seen when the Visitor asks whether we should “wonder at something else, namely at how strong a thing a city is by its nature” (302a):

“For in fact cities have suffered such things now [i.e. many evils] for time without limit, but nevertheless some particular ones among them are enduring and are not overturned. Yet many from time to time sink like ships, and perish, and have perished, and will perish in the future through the depravity of their steersmen and sailors, who have acquired the greatest ignorance about the greatest things – although they have no understanding at all about what belongs to the art of statesmanship, they think they have completely acquired this sort of expert knowledge, most clearly of them all.” (302a–b)

This passage directly precedes the ranking of the lawless constitutions, suggesting that it is one of the criteria Plato has in mind when making his comparative judgments. The implication is that while democracies may be full of ignorance, the institutional design it entails regulates the ignorance of the rulers in such a way that it helps to prevent the downfall of the city. In other words, while ignorance of statesmanship causes cities to collapse, what is remarkable is the way in which democracies can preserve themselves despite their ignorance of the political skill. Moreover, as we will see in Section 4, lawful constitutions also foster unity and stability through the inculcation of shared beliefs and uptake of shared social norms, explaining why on this third criterion of imitation, lawful constitutions better imitate the *Statesman* than lawless ones in general.

So now we have three criteria by which we can judge how well a non-ideal constitution is imitating the skill of the *Statesman*. But the fact that these criteria are derived from a single definition of the *Statesman*’s skill should not mislead us into thinking that there is really a *single* scale of evaluation that Plato is using, such that an

⁵⁰ Thanks to Hendrik Lorenz and Ben Morrison for clarifying this thought for me.

⁵¹ Lane notes that stability is a goal of the second-best constitutions, but she does not mention it as a criterion of imitation (*Method and Politics in Plato’s Statesman*, p. 159).

improvement along one dimension necessitates improvement along another dimension.

Why?

When a person is in *full* possession of statesmanship and his activity is successful, the Statesman's knowledge benefits the citizens by making them virtuous, which causes them to agree with one another about the laws and who should rule, which causes the polis to flourish free from faction and conflict. This is the political ideal for Plato.⁵² But in non-ideal regimes – i.e. when rulers do not have knowledge – institutions that allow for a wider scope of ruler sovereignty *also* allow for greater harms to be done to the citizens, and threaten the stability of the city. Similarly, when citizens are not properly educated, what may *in fact* be a benefit to the citizens could be perceived as harmful, and thus form the basis for faction and conflict between classes or groups within the city.⁵³ Finally, as the Visitor suggests (299b), allowing for greater inquiry into the laws and customs may cause more people to think that they know when they don't, which would cause harm and instability, whereas banning inquiry into matters contrary to the law will make a city more stable (because of shared beliefs and values) and prevent egregious harms, but will obviously make it more difficult to acquire the true art of statesmanship. To be clear, it is granted that an increase in knowledge of the rulers will lead to more benefit and greater stability, but crucially an increase in the *conditions that lead to people acquiring knowledge and the free exercise of that knowledge* may produce greater conflict and harm.

The consequence of this mode of evaluation is that Plato in the *Statesman* recognizes that not all improvements necessarily take a non-ideal polis closer to the ideal polis: making a lawless city strictly lawful will make it better, but it will not necessarily make it more like how the Statesman would arrange it. Notice that when the Visitor talks about the second-best regimes he changes the criteria that he used to separate the Statesman's constitution from all the others. As I have tried to show, this does not mean that the criteria are unrelated to the original definition and from the

⁵² Or are at least necessary conditions of it.

⁵³ Cf. *Gorgias* 521d–522d.

normative theory of the rest of the dialogue – for example, excessive courage, lawlessness, and political conflict are bad because they detract from the flourishing of the citizens in different ways. But because it is only in ideal states that the normative elements are fully unified in practice, we shouldn't think that making a constitution more lawful will make it *more likely* to produce a Statesman. Importantly, Plato seems to think that in non-ideal conditions the Epistemic Principle and the Benefit Principle pull in *opposite* directions: in having more robust institutions and laws to protect citizens from harm, one also makes a city less conducive to inquiry and the individual judgment that is integral to the full exercise of a skill.⁵⁴ In recommending strict lawfulness in non-ideal constitutions, then, Plato is advocating a non-ideal theory that does not assume that improvements are always improvements towards the ideal. What makes lawfulness normative is *not* that it gets a city closer to the Statesman's constitution, but that it is the best *imitation* of that regime – it better instantiates a key feature of the Statesman's rule, namely the protection of the citizens from harm.⁵⁵

Of course, the Visitor also reminds us in the dialogue that laws are like “some self-willed and ignorant person”, making general proclamations that fail to change when they need to (294b–c). So while in general lawfulness benefits the citizens and results in the preservation of cities, changing political circumstances will mean that the second-best method of proceeding is not without risks. Thus while the Flourishing Principle is often more closely related to the Benefit Principle, ultimately the ignorance

⁵⁴ Sauvé Meyer calls this the “bleak” conclusion of the *Statesman*: “non-experts are barred from engaging in legislation (on the grounds that they are scoundrels), but political experts are not forthcoming (301d–e). Thus there is no prospect of relief for the sorry condition of those who live under bad laws” (“Plato on the Law”, p. 379). She in fact argues that this dilemma should invite skepticism as she thinks that the first horn of the dilemma is rejected in the *Laws*. Bleaker still is what Rowe takes from this dilemma: “[a city] must either set itself in stone, or allow (go on allowing?) disregard of the laws. Plato’s attitude seems to be exactly the one that he represents (at least most of the time?) through the Socrates of the *Republic*, that the only *real* way forward, the only route which would give us a city really to be proud of, according to the most ascetic view, would be to wipe the slate clean and start again” (“Killing Socrates”, p. 73, italics and parenthetical comments original). I hope to show in what follows that there is a less bleak – and less drastic – way forward for Plato.

⁵⁵ In this way, Plato’s conception of non-ideal theory departs importantly from that of Rawls and those who follow him. This will be discussed more in the conclusion of this project. The point about Plato’s political philosophy being non-transitional with respect to the ideal has been well emphasized by Annas, *An Introduction to Plato’s Republic*, p. 186.

of laws could cause a constitution to fail because they prescribe what they always have rather than recognizing that a new course of action is required.⁵⁶ This further complicates the way in which non-ideal states are to be evaluated, insofar as the third criterion of imitation is not necessarily correlated with either the first or the second criteria reliably. Perhaps surprisingly, the focus on preventing *harm* seems to dominate Plato's evaluation more than preventing *ignorance*. The logic underlying this could plausibly be that Plato just doesn't think that ignorance can be purged and replaced with knowledge in large populations. So, because it is impossible to correct widespread ignorance systematically, the best a non-ideal constitution can do is to prevent rulers from *acting* on this ignorance. Alternatively, Plato thinks that because the laws are the product of much hard-won experience, that they are going to be wiser than most – if not all – actual citizens, so in making the citizens lawful, he is making them wiser than they were.⁵⁷ At any rate, what is clear is that non-ideal states aim first and foremost at the prevention of harm.

Thus, there are three principles of imitation in the *Statesman* and they are independent in non-ideal contexts. Making a city more likely to produce the knowledge of a Statesman and giving the office greater scope of authority can make a city more vulnerable to the abuse of power by the rulers and also increase disagreement and conflict among those who are inquiring about the laws and the values they prescribe. Making a city better able to protect citizens from harm requires securing laws that apply to the rulers and ruled alike, and instituting offices like the scrutiny and audit that limit and check political power; this makes the exercise of political knowledge more difficult and the restrictions on inquiry decrease the likelihood of a citizen acquiring knowledge. The strict adherence to the law, however, could lead the city to flourish less in the long

⁵⁶ Cf. Marquez: "Given the scarcity of genuine political knowledge and the abundance of malicious imitations, it is generally (but not necessarily always) better to err on the side of law; but if the city always erred on the side of law it could never be open to the transformative knowledge and action of a genuine statesman, and hence would be trapped in what we might call... a suboptimal equilibrium" (*A Stranger's Knowledge*, p. 235).

⁵⁷ For a similar defense, see Marquez, *A Stranger's Knowledge*, pp. 289–290. Perhaps this is also why Socrates and some later Skeptics follow the law rather than whatever appearances happen to strike them.

run, as the laws would not be changed in the circumstances where they ought to be. Therefore, the benefit principle and knowledge principle pull in opposite directions in non-ideal contexts.

3. Preventing harm and making a polis stable: constitutional change, lawfulness, and the case for democratic institutions

But are these claims about what law and democracy can do plausible, and do we have reason to think that Plato believed them? Shouldn't he be concerned by the fact that many existing states in his day had bad and unjust laws, and if so, why would he think that *those* laws should be adhered to on pain of death?⁵⁸ Because much of my argument relied on speculations from suggestive but underdetermined passages of text, we have to move beyond the *Statesman* here to bolster the case, but there are a number of arguments that can be provided to motivate Plato's legal conservatism. Most centrally, what I want to claim is that Plato is much more concerned with the abuse of power and the dangers of regime change than he is enamored with the possibility of philosophically enlightened reform. This motivates him to think that establishing and preserving lawfulness is more important than trying to bring about the ideal constitution, because constitutional changes in fact tend to go badly and people tend not to follow unfamiliar laws, even if they are better laws objectively speaking.

First, then, I will discuss key passages from Xenophon, Thucydides, and Herodotus on regime change and law to show how Plato could be drawing from

⁵⁸ Cf. Rowe: "Sticking by *bad* laws would hardly count as anything like the best, which is what the second-best case is clearly intended to produce, or help to produce (i.e. something at least passably like the best)..." (Rowe, "The Statesman and the Best City", p. 42). See also Bobonich, "some of the laws of extant constitutions can surely be highly defective: the laws may be self-contradictory, outmoded or may require the commission of flagrant acts of injustice. Why would Plato hold that we must nevertheless 'stick to' them? Even if there is now no knowledgeable person available to correct them on the basis of knowledge, this does not place contemporary citizens at an epistemic disadvantage to the original establishers, since they too lacked knowledge. Indeed, if Plato thinks that there are ethical differences among people who fall short of knowledge, contemporaries may well be ethically superior to the original establishers of the laws. It is implausible to hold that the costs of change must *always* outweigh any possible gain." (Review of Rowe, *Statesman*, p. 438).

currents in existing Greek thought regarding political conflict and constitutional reform. This will situate Plato's writing in the appropriate context. I will end this section by reviewing some familiar arguments for the value of democratic institutions as a response to corruption and the abuse of power.

Constitutional change and lawfulness in the Greek Historians

The immediate historical background to Plato's political thought is the Peloponnesian War. While many aspects of the war undoubtedly influenced Plato's writing, here I will focus on three main themes from the historians' record: (a) the violence of constitutional changes, (b) the lack of ensuing stability, and (c) the value of lawfulness.

The first constitutional change in the *History of the Peloponnesian War* results from the Corcyrean civil war in Book III. In Thucydides' narrative, the conflict over Corcyra between Spartan-sympathizing oligarchs and Athenian-sympathizing democrats is what opens the floodgates to the numerous revolutions that fill the later books of the *History*. As Corcyra is the first case of civil strife and faction (*stasis*) that he mentions, Thucydides gives a particularly vivid account of the violence and its cause:

"For the seven days that Eurymedon stayed there after his arrival, the Corcyreans butchered those fellow-citizens they regarded as enemies, charging them with putting down the democracy, but some also died because of personal hatred and others at the hands of those who owed them money. Every form of death prevailed, and whatever is likely in such situations happened – and still worse. Fathers killed sons, men were dragged from the sanctuaries and killed beside them, and some were even walled up in the sanctuary of Dionysos and died there. With this savagery, the civil war progressed, and it seemed all the more savage because it was the first, while later the rest of Hellas, almost without exception, was also in turmoil, with rival efforts everywhere by the popular leaders to bring in the Athenians and the oligarchs, the Lacedaemonians. In peacetime they had neither the pretext nor the willingness to call them in, but during war, with alliances available to both factions for damaging their opponents and at the same time strengthening themselves, occasions for bringing in outsiders were readily found by those wishing to make any change in government. And during the civil wars the cities suffered many cruelties that occur and will always occur as long as men have the same nature, sometimes more terribly and sometimes less, varying in their forms as each change of fortune dictates. For in peace and good circumstances, both states and individuals have better inclinations through not falling into involuntary necessities; but war, stripping away the easy access to daily needs, is a violent teacher and brings most men's passions into line with the present situations. So the condition of the cities was civil war, and where it came later, awareness of earlier events pushed to extremes the revolution in thinking, both in extraordinarily ingenious attempts to seize power and in outlandish retaliations. And in self-justification men inverted the usual verbal evaluations of actions. Irrational recklessness was now considered courageous commitment, hesitation while looking to the future was high-styled cowardice, moderation was a cover for lack of manhood, and circumspection meant inaction, while senseless anger now helped to define a true man, and deliberation for

security was a specious excuse for dereliction. The man of violent temper was always credible, anyone opposing him was suspect. The intriguer who succeeded intelligent, anyone who detected a plot was still more clever, but a man who made provisions to avoid both alternatives was undermining his party and letting the opposition terrorize him. Quite simply, one was praised for outracing everyone else to commit a crime – and for encouraging a crime by someone who had never before considered one. Kinship became alien compared with party affiliation, because the latter led to drastic action with less hesitation. For party meeting did not take place to use the benefits of existing laws, but to find any advantage in breaking them. They strengthened their trust in one another less by religious law than by association in committing some illegal act... All this was caused by leadership based on greed and ambition and led in turn to fanaticism once men were committed to the power struggle. For the leading men in the cities, through their emphasis on an attractive slogan for each side – political equality for the masses, the temperance of aristocracy – treated as their prize the public interest to which they paid lip service and, competing by every means to get the better of one another, boldly committed atrocities and proceeded to still worse acts of revenge, stopping at limits set by neither justice nor the city's interest but by the gratification of their parties at every stage, and whether by condemnations through unjust voting or by acquiring superiority in brute force, both sides were ready to satisfy to the utmost their immediate hopes of victory. And so neither side acted with piety, but those who managed to accomplish something hateful by using honorable arguments were more highly regarded. The citizens in the middle, either because they had not taken sides or because begrimed their survival, were destroyed by both factions" (III.81–82).⁵⁹

This rich passage establishes a number of tropes that will be repeated throughout the course of the war. The first is that civil wars in this period occurred between oligarchic supporters and democratic supporters, where the victors of the one group killed or exiled the prominent defenders of the other, and "those in the middle... were destroyed by both factions". Secondly, Thucydides forefronts the fact that high-minded justifications for the conflicts – variations on "political equality" by the democrats or "temperance" by the oligarchs – were often thinly veiled pretexts for seeking revenge, resolving personal vendettas, and attempts to gain wealth.⁶⁰ Thirdly, the violence in such civil conflicts was particularly brutal, and Thucydides emphasizes the unjust and impious nature of the killings, pitting family members against each other and leading to acts of sacrilege. Subsequently, Thucydides observes that, in order to achieve governmental change, a breakdown of general lawfulness was necessary, such that people disregarded the existing laws in their attempts to seize power. And when a shared set of laws ceases to be what unifies a group, people band together from the plots they collectively plan and execute. Civil war creates a harsh "us" and "them", where

⁵⁹ Thucydides translations are from Lattimore, with modifications.

⁶⁰ This does not detract from the fact that these slogans reflected the core public justifications for oligarchies or democracies.

those who do not share the values of the one group kill those in the other group, and those with moderate views are vilified as each political ideology and evaluative framework is pushed to its extremes. Given that every city has rich and poor, and that oligarchic and democratic sympathies tend to track wealth distinctions, this kind of conflict was particularly widespread and seriously compromised the stability of a city. It is easy to see, then, why Thucydides concludes that “faction is the greatest destroyer of cities” (IV.60).

There were a number of constitutional changes during the Peloponnesian war following the Corcyra conflict, and the violence necessary for these changes is a refrain in Thucydides’ narrative. First in democratic Megara, the hoplites were commanded to seize control and, in establishing “an extreme oligarchy”, a hundred Athenian sympathizers were sentenced to death (IV.74); then Athens attempted to change Boiotia to a democracy (IV.76); then Sparta incited an oligarchic revolution in Argos (V.76), and again in Sikyon (V.81); there was then a counter-revolution in Argos, “which the people won, and they killed some and exiled others” (V.82). Perhaps the most tumultuous set of constitutional changes was in Samos, where the democratic masses, with the help of the Athenians, first rose up against the oligarchy, killing two hundred and exiling four hundred aristocrats and re-distributing their property; the ruling democrats also “extended no rights to the land-owning classes nor was it allowed any longer for anyone from the common people to give a daughter to them in marriage or take one from them” (VIII.21). These extreme measures caused a subsequent oligarchic revolution (VIII.47–48), and then a series of violent counter-revolutions (VIII.63, VIII.73). While these are some of the constitutional changes that he describes explicitly, Thucydides also suggests that the Athenians used constitutional change as a political tool to bring cities over to their side (VII.55) and mentions that towards the end of the war Spartans were setting up oligarchies wherever they stopped among Athenian subject cities (VIII.64–65).

The Athenians themselves were also particularly anxious about an oligarchic revolution during the war, for example, when they took the mutilation of the herms as a sign of oligarchic conspiracy (VI.27, VI.60–61), and in the widespread suspicion citizens

had of one another regarding oligarchic sympathizing (VIII.68). This fear was warranted, insofar as in the decade following 411, Athens underwent four constitutional changes, from democracy to the oligarchy of the Four Hundred in 411, then to a more moderate oligarchy of the Five Thousand, then the brutal oligarchy of the Thirty Tyrants in 404, then had the democracy re-established in 403.⁶¹

As Thucydides' narrative breaks off at 411, we have to turn to Xenophon's *Hellenica* to understand the details of the Athenian constitutional changes at the end of the fifth century under the Thirty Tyrants. Xenophon writes that the Thirty were appointed to set up a new constitution, but that they delayed doing this, appointing people to office arbitrarily and arresting and sentencing the democrats who had opposed them previously (II.3.11). He writes that at this point the Thirty "began to consider how they might become free to do just as they pleased with the state", which involved the unchecked use of power and seeking additional military support from Sparta so that they could remove anybody who opposed them (II.3.13).⁶² Xenophon reports that Critias, the leader of the Thirty, as saying that "it was impossible for people who wanted to gain power not to put out of the way those who were best able to thwart them" (II.3.16). The protagonists of the constitutional change thus believe that in order to institute a new order, it is necessary to kill or exile one's opponents. And that is just what Critias did. Xenophon writes that under the Thirty "great numbers [were] continually – and unjustly – put to death" (II.3.17), many because of personal enmity but also many for the sake of securing property (II.3.21), and additional property was seized in order to fund the army and pay the private guards (II.3.21–22). Aristotle reports that "after a short time they had killed no less than fifteen hundred men" (*Ath. Pol.*, XXXV.4) and then proceeded to deprive their opponents of their citizen rights (XXXVII.1–2).⁶³

⁶¹ Going further back, Aristotle reports that Athens in fact had *eleven* constitutional changes from Ion until after the war (*Ath. Pol.* XLI.2). If, as Morrow has argued persuasively in *Plato's Cretan City*, Plato's constitution in the *Laws* bears strong similarities to Athens' first non-tyrannical constitution – that of Solon – we might speculate (with some qualifications) that Plato did not see these numerous constitutional changes as beneficial.

⁶² Translations of Xenophon are from Brownson.

⁶³ Translations of the *Ath. Pol.* are from J. M. Moore.

Of central importance is the speech that Critias gives to the Council (*boulê*) to justify his actions. As Xenophon has it, Critias spoke as follows:

"Gentlemen of the Senate, if anyone among you thinks that more people than is fitting are being put to death, let him reflect that where governments are changed these things always take place; and it is inevitable that those who are changing the government here to an oligarchy should have most numerous enemies, both because the state is the most populous of the Greek states and because the commons have been bred up in a condition of freedom for the longest time. Now we, believing that for men like ourselves and you democracy is a grievous form of government, and convinced that the commoners would never become friendly to the Lacedaemonians, our preservers, while the aristocrats would continue ever faithful to them, for these reasons are establishing, with the approval of the Lacedaemonians, the present form of government. And if we find anyone opposed to the oligarchy, so far as we have the power we put him out of the way; but in particular consider it to be right that, if any one of our own number is harming this order of things, he should be punished." (II.3.20)

The logic of this speech begins with the thought that it is simply a commonplace that when governments are changed, these injustices occur; moreover, because the Athenians were brought up under a democracy (and are thus accustomed to freedom), we should expect them to be especially resistant to a change to oligarchy; finally, those changing the government think that their political system is the correct one and that the opposing one is "grievous", and that they are thus further justified in removing those opponents from the city one way or another. These sentiments are echoed later in his speech when Critias is attacking Theramenes and he says that "all sorts of changes in government are attended by loss of life" and that when the democracy changed to an oligarchy previously and vice versa, those on the one side killed many of those on the other side (II.3.32).

I have labored the point about the violence of revolutions somewhat and the conclusion is reasonable upon historical reflection on our own time as much as Plato's, but in our more idealistic moments as philosophers it is easy to forget that constitutional changes are bloody matters. Revolutions provide ample opportunity for vice, break down the institutions that help us to live together, and often promote or necessitate actions that ordinary people would otherwise never do. In particular, what we should take from Thucydides and Xenophon's narrative so far are three key points: firstly, constitutional changes often result in many people being killed or exiled; secondly, that the people who are killed or exiled are primarily those from the opposing political group

or the moderates; finally, these political changes are often funded by or result in the seizing of private property and redistribution of wealth. To my knowledge of these historians, the only constitutional change where there were not extensive killings and upheavals was the re-establishment of the Athenian democracy in 403. One notable reason that this might have gone smoothly is that in this constitutional change the *previous* laws were re-established (τοῖς νόμοις τοῖς ἀρχαίοις χρῆσθαι, II.IV.42), rather than having a new set of laws and institutions introduced. New constitutions and laws are harder to make stick, and people are more likely to comply with the laws and customs they know and under which they were educated.

And indeed, Thucydides makes insightful observations in the *History* regarding lawfulness and attitudes towards to the law throughout the Peloponnesian War. Interestingly, the only passage that speaks of law-changing *positively* is in the opening Corinthian address to the Spartans in 432 exhorting them to take action against the Athenians. “Just as in technology,” the representative says, “the most recent ideas must always prevail; for a city at peace, fixed customs are best, but those forced into full activity also need full development. This is exactly why Athenian institutions, because of the extent of their experience, have seen more innovation than [those of Sparta]” (I.71). The basic idea here seems plausible enough – new circumstances require new laws – but one wonders if it is not tinged with a certain irony, given that Athens lost the war and its policies regarding its allies and vassals were hardly stable.

During Thucydides’ account of the Mytilene conflict, Kleon’s speech suggests that the Athenians are particularly prone to ignoring or to changing laws and that this is in fact a point of weakness for them. “The greatest danger of all,” he says, “is that we will not stand fast over anything that is decided and will not realize that by following worse laws without deviation a state is stronger than when it has good laws that are not binding, that ignorance combined with self-control is more beneficial than cleverness combined with intemperance, and that compared with more intelligent men the less gifted usually run their states better. For the former want to appear wiser than the laws and to prevail over what is said at any time in the common interest, as though they would not display their thoughts in other more important ways, and as a result of this they often ruin their cities; but those who mistrust their own intelligence find it proper to be less learned than the laws and less capable than the fine speakers in finding fault with arguments, and by acting as impartial judges rather than competitors they are more successful.” (III.37)

Notably Kleon lost the vote for his resolution, further suggesting that the Athenians were unsympathetic to such arguments. But of greater significance is the explicit claim that it is better for a city to have worse laws that are followed than good laws that cannot generate compliance from the citizens. We hear the same thought from Alcibiades in his address to the Athenians, when he says that:

“I have no doubt whatsoever in my mind that a city never inactive [μὴ ἀποάγμονα] would be soonest ruined by change to inaction, and that men who conduct their affairs with the least violence to their normal character and customs, even if these are less than ideal [τοῖς παροῦσιν ἥθεσι καὶ νόμοις, ἣν καὶ χείρω τῇ], are the ones who live in greatest security.” (VI.18)

Deviating from what is customary, even when it results in an improvement in legislations, is risky. Specifically, the risk is that citizens will cease to be lawful. Every improvement in actual law has to be weighed against a potential decrease in overall lawfulness and respect for the law.

In another passage regarding the Corcyrean conflict in Book III, Thucydides writes that:

“With public life confused to the critical point, human nature, always ready to act unjustly even in violation of laws, overthrew the laws themselves and gladly showed itself powerless over passion but stronger than justice and hostile to any kind of superiority. For men would have not placed revenge about piety, gain above justice, if not for the destructive power of envy. And the universal laws about such things, laws that offer hope of salvation to all in adversity, men see fit to do away with at the outset in taking revenge instead of letting them stand until they actually run into danger and find need of them.” (III.84)

Recall that the wider context of this is the civil strife that pitted fellow-citizens against one another. Here Thucydides is pointing out that the natural envy of people towards one another can push them to violate the law, and that this ultimately leads to the destruction of the city. The law can “offer hope of salvation” and is what people turn to when they realize that they need its protection, but obviously if lawfulness has already broken down at that point, it is too late. That law protects those who are being wronged and is disregarded by those with the power to do the wronging is evident from a chilling line in Book One, where Thucydides writes that “it is clear that those who are in a position to use force have no need for legal procedures” (I.78).

While these discussions are far from systematic, a number of key ideas emerge: firstly, that the Spartans tended to be more law-abiding and resistant to change than the

Athenians, who like to innovate; secondly, that the Athenians are urged to stick with their existing laws because it is better for a city to have worse laws that are followed than good laws that are ignored; finally, that those with power and desires for personal gain flout the laws in such a way that harms their fellow citizens and leads to civil strife.⁶⁴

We can see from these discussions of constitutional changes and lawfulness, then, that Plato in fact has excellent historical reason for favoring legal conservatism, even if this means endorsing a set of laws that contains suboptimal laws. While Rowe may be right to resist the conclusion that Plato could wholeheartedly endorse a set of institutions that killed Socrates, non-ideal political philosophy in the real world is about trade-offs. Plato was all too aware that a number of existing states had bad laws and that Athens was one of them. This, however, does not preclude the thought that it would be *worse* for citizens to stop following their existing laws, or even to try to improve on their laws if those very laws would not be complied with. As we saw in Thucydides, it is better to have worse laws followed than good laws ignored.

To be clear, I am not saying that Plato is making this argument for legal conservatism in the *Statesman* explicitly. Rather, the problem is that the text seems clear that in non-ideal states we ought to follow the existing laws strictly, and what we are seeking here is a justification for why Plato would prescribe such an apparently extreme position when it is also clear that he would not fully endorse the actual laws of many existing states (including Athens). What we get from the historians, then, is a justification for legal conservatism that would have been available to Plato and would likely have been attractive to him in the light of recent historical events.⁶⁵ Thus, even if

⁶⁴ See also the discussion of constitutions in Herodotus, where a major strike against monarchy is that “a monarch subverts a country’s ancestral customs, takes women against their will, and kills men without trial” (III.80). But note that the final reason in favor of monarchy – which wins out – is that Persia is already a monarchy and Darius argues that “we should not abolish our ancestral customs, which serve us well. That is not the way to improve matters” (III.82). So even though a monarchy is the most able to abandon the ancestral customs (which is taken to be bad without argument), the fact that Persia is already a monarchy counts in favor of its goodness as a constitution *given the circumstances*.

⁶⁵ Lane also speculates that this legal conservatism could be a Pythagorean idea (*Method and Politics in Plato’s Statesman*, p. 157n42). Iamblichus describes the Pythagoreans as approving ‘of a city’s remaining in its ancestral customs and laws, even if they were a little worse than those of other cities; for to skip easily out of

we grant fully that Plato thinks that lawful oligarchies and monarchies are better than lawful democracies, it does *not* follow that, if we find ourselves in a lawful democracy, we ought to try to reform our constitution into an oligarchic or monarchical constitution. I suggest that the reason for this is that Plato thinks it is more likely that the changing of the constitution will cause a breakdown in lawfulness and then the state will then collapse into one of the worse lawless forms of constitution.

There is a plausible insight here about the relationship between knowledge and compliance with laws. In the discussion of non-ideal constitutions in the *Statesman*, remember that Plato is concerned with prescribing for *rulers who don't have knowledge* and for *citizens who don't have knowledge*. Given this double ignorance, it is reasonable that Plato would be extremely reluctant to have such people change the laws – even if they are trying to improve their polis – because the changes proposed are likely to be worse than the existing laws that have force in the city and are unlikely to generate compliance from people who don't recognize them as good or as their own. Again, this is not to deny that Plato thinks that, for example, the laws of the *Republic* are far superior to the existing laws of Athens – but ordinary Athenians would not *follow* the laws of the *Republic* because they haven't been educated to recognize them as good, so implementing such laws would cause the breakdown of Athenian lawfulness rather than improve the city. Plato's extensive discussion on moral education from early years in the *Republic* should alert us to the importance of education in his political theorizing. Because actual citizens have not had this education, we should think seriously about what is best for citizens with diverse and perhaps even opposing conceptions of the good. I propose that in such circumstances it is plausible to think that Plato would focus on what enables the city to survive in a relatively unified way, namely, the existing laws.⁶⁶ Indeed, in the *Republic* Plato is sensitive to such considerations about transitions to ideals, as he emphasizes the difficulty of establishing Kallipolis because only those

the existing laws and to be at home with innovation is not at all advantageous or salutary" (KRS 475=DK 58D3).

⁶⁶ Cf. *Republic* 590d: "It is better for everyone to be ruled by divine reason, preferably within himself and his own, otherwise imposed from without, so that as far as possible all will be alike and friends, governed by the same thing... This is clearly the aim of the law, which is the ally of everyone."

brought up under its laws are fit to run it, so it's hard to see how the project could get off the ground.⁶⁷ Given this, it is reason that Plato in the *Statesman* should provide a radically different – and much more conservative – set of prescriptions.

Of course, there are plenty of objections to these arguments too. Perhaps the costs of transition wouldn't be very high; perhaps people aren't so ignorant of the consequences of a proposed change in legislation; perhaps citizens could quickly learn to follow the new laws; perhaps the alternatives aren't as risky and unpredictable as they're being made out to be. Granted. It is unclear how such questions could ever be resolved in the abstract anyway and defending these assumptions individually would require a much longer discussion. But the point is that there could be a number of reasons why even a creative and bold thinker like Plato would prescribe conservatism for non-ideal states given the competitive and unstable political ecology of ancient Greece where compliance with the laws could not be assumed and states could quickly come to bloody ends.

Democracy as a response to tyranny and corruption: the case for democratic institutions

I claimed above that one of the ways in which democracies better imitate the Statesman's skill is in its abilities to prevent the citizens from being harmed. Now I will attempt to show now that this was in fact a common justification for democracy – and a sensible one too. So before returning to Plato, there is one final passage in Thucydides that is worthy of mention because of its acute analysis of the relative merits of oligarchy and democracy In Book VI, Athenagoras, a popular democratic leader of Syracuse attacks the young oligarchic sympathizers of the city. Thucydides reports the speech as follows:

"Now then, as I have often asked myself, just what is it you want, young men? To hold office right now? That is unlawful; the law was established in view of your incapacity, not to disgrace you if qualified. Is it rather to avoid sharing the same rights as the majority? Now how is it right that the same people not enjoy the same status? It will be said that democracy is neither wise nor fair, that

⁶⁷ The difficulty is explicitly recognized at 502c. It is true that Plato also suggests taking a generation of children away from their parents (541a), but it's hard to see how this acts as a genuine solution to the problem of how you get the first generation of rulers. See Annas, *An Introduction to Plato's Republic*, pp. 185–187, and *Platonic Ethics: Old and New*, pp. 72–95.

those with property are also the best qualified to rule best. What I say is, first, that the people means everyone, oligarchy a segment; next, that the rich are the best guardians of property while the wise give the best advice, but for hearing and then judging the people are supreme; and that in a democracy these, individually and collectively, have a fair share. Oligarchy offers the many a portion of the danger and is not simply greedy over the benefits but takes them all away and keeps them. Those among you who are powerful or young are eager for this, but it cannot be attained in a major city." (VI.38–39)

They crucial justificatory move in this passage is that democracies are in fact fairer than oligarchies because every citizen shares equally in the dangers and benefits under a democracy, but that under an oligarchy the whole population is endangered but only the wealthy reap the benefits. This is a familiar point in democratic theory it is worth highlighting because it is the primary reason Plato suggests for as to why a lawless democracy is preferable to the lawless constitutional alternatives. It is precisely because power is evenly divided in a democracy that democracy generally hinders individuals or groups from exploiting their fellow citizens.

This mode of argument recurs in ancient thought. For example, in Herodotus' constitutional debate, democracy is defended as the best solution to the problem of tyranny:

"Monarchy is neither an attractive nor a noble institution. You have seen how vicious Cambyses became and you have also experienced similar behavior from the Magus. How can monarchy be an orderly affair, when a monarch has the licence to do whatever he wants, without being accountable to anyone [τῇ ἔξεστι ἀνευθύνω ποιέειν τὰ βούλεται]? Make a man a monarch, and even if he is the most moral person in the world, he will leave his customary ways of thinking. All the advantages of his position breed arrogant abusiveness in him, and envy is ingrained in human nature anyway. With these two qualities he has in himself every evil: all his atrocities can be attributed to an excess of abusiveness or envy. Now, you might think that an absolute ruler is bound to be free from envy, since there is nothing good that he lacks, but in fact his natural attitude towards his people is the opposite of what you would expect. He resents the existence of the best men, while the worst of them make him happy. There is no one better than him at welcoming slander, and there is no one more erratic in his behavior. I mean, if your admiration for him is moderate, he is offended at your lack of total subservience, and if you are totally subservient, he is angry at you as a flatterer. And now I come to the most important problems with monarchy. A monarch subverts a country's ancestral customs, takes women against their will, and kills men without trial. What about majority rule, on the other hand? In the first place, it has the best of all names to describe it – equality before the law [ἰσονομίην]. In the second place, it is entirely free of the vices of monarchy. It is government by lot, it is accountable government [ύπεύθυνον δὲ ἀρχὴν ἔχει], and it refers all decisions to the common people. So I propose that we abandon monarchy and increase the power of the people, because everything depends on their numbers." (III.80)

The speaker here, Otanes, is justifying democracy on the grounds that monarchy allows for the worst of evils and democracy is free from such risks. Notably, one of the major

concerns he raises about monarchy is its ability to overthrow the ancestral customs and laws at will. At any rate, the main thrust of the defense of democracy here concerns *avoiding harm* and making the rulers accountable to others as equals. It is because monarchy is safer than the other forms of government that is argued to be the best by Otanes. Notably, the reason Darius wins the debate is because he defends kingship in its *best* form – in other words, he theorizes away the problem of the corruption of rulers (III.82). And while Darius was a relatively good king of Persia, his son Xerxes was far from the image of kingly monarch espoused here, so we may wonder again whether Herodotus' discussion here is meant to leave us with a note of irony that highlights how quickly fortunes can change for a nation under a monarchy.

But even if democracy is better than tyranny or oligarchy at hindering the rulers from harming their fellow citizens from harm, why should we think that a tyranny of the *majority* is really much better? Aren't they just allowing different kinds of domination, such that in oligarchies the rich dominate the poor but in democracies the poor dominate the rich?

This is surely a genuine concern, but it is important to note that democratic institutions in the ancient world seem to be associated with much more than just majoritarian voting and the equal opportunity for participation in office for male citizens. Recall the earlier passage from the *Statesman* where Visitor hypothesizes how a group would respond to being harmed because of somebody abusing the sovereignty of skilled rule (298e–299d). Plato mentions here not only the establishment of laws delimiting how the skill may be practiced, but also the establishment of courts [δικαστήρια], audits [εὐθύνειν], and the assignment of offices by random lottery [λαγχάνη]. The point here is that these institutions are associated with democratic practices insofar as nobody is held to be above the scrutiny of anybody else: everybody can be held accountable. While the lottery was used for positions that (democrats would argue) anybody could do, they also have the benefit of preventing ambitious, power-hungry people from scheming to occupy particular offices. It is worthwhile, then, to

think more carefully about these particular democratic institutions in Plato's Athens to see how they could plausibly be ways of preventing harms.

Firstly, the vast majority of offices were held only for a year or for short terms (Aristotle, *Ath. Pol.* III.4–5, LX.1). Most offices could be held only once, with the exception of a seat on the Council (*boulê*), which a man could have twice, and military offices, which a man could have multiple times (LXII.3).⁶⁸ Short terms in office obviously prevents long-term abuse of power, especially given that office-holders were subject to an audit at the end of their term. Athenian office-holders were not only subjected to a scrutiny (*dokimasia*) before taking office, but were reviewed and audited at the end of the term to ensure that their performance was lawful and free from corruption (LV.1–5).⁶⁹ Given the often-harsh penalties for crimes in office, these institutions provided a strong disincentive for people to abuse their positions of power.

The popular court (*dikasteria*) was also crucial for punishing abuses of power and legal procedure in Athens. Importantly, decisions from the smaller council of Five Hundred (the *boulê*) were subject to a right of appeal in the court, so executive powers were checked to a certain extent, giving more power to the people and making it harder for bribes and corruption to be effective (IX.1–2, XLI.2, XLV.2–3). Notably, during the reign of the Thirty Tyrants, the jurors (*dikastai*) were abolished, which allowed them to act with impunity in their crimes against the Athenian people (XXXV.2). Again, this is good political common sense: having unchecked offices allows for greater abuses of power and ensuring that nobody is above the law or the scrutiny of their fellow citizens keeps everybody subject to the disincentives of punishment. The crucial point here though is that because this is fundamentally an egalitarian way of thinking about the relationship of one citizen to another – nobody is above the law or the judgment of his peers – it is also importantly democratic in the ancient world for this reason.

⁶⁸ Military offices were considered to be positions that required extensive skill to hold, however, so they are the exception that proves the democratic rule.

⁶⁹ For an excellent discussion of the role of scrutiny and audit in Athens, see Morrow, *Plato's Cretan City*, pp. 215–229.

Thus it is plausible that law and democratic institutions are superior to their alternatives with respect to satisfying the Benefit Principle of imitation introduced above. Whatever other criticisms he has for these modes of rule, at least in these respects Plato is right to think that they have comparatively positive effects on the well-being of the citizens. We should not think, then, that law is unimportant for Plato's political philosophy or that he is an outspoken and unequivocal critic of democracy. Rather, his thinking on these issues is subtle – with respect to knowledge and the sovereignty of skill, rule by the law and the people may be inferior, but they also secure against the abuse of power, and this is no unimportant feat.

4. The psychology of the *Statesman*: courage, temperance, and lawfulness

In the previous section, we saw why Plato could have good reasons for thinking that constitutional changes tend to go very badly. In this section, I will argue that Plato, following Thucydides closely, also suggests *why* this should be the case. Plato's explanation is ultimately psychological, and this fact explains in part why he should discuss psychology after discussing constitutions, ending the dialogue with the analysis of naturally courageous and naturally temperate types of people.⁷⁰ Moreover, understanding the connection between this psychology and constitutions will shed light on why the blending of these types is largely constitutive of the Statesman's knowledge and activity. On the reading of the *Statesman* I will defend, there is reason to think that, for Plato, constitutional changes go badly because (a) people are educated relative to a set of laws, so when laws change substantially people are less likely to respect and follow those laws, especially when the laws do not reflect the values they recognize, and (b) constitutional changes in practice tend to make cities more *excessive* and not more moderate, which polarizes one of the major groups of a city, causing faction. Again, while the text of the *Statesman* is somewhat indeterminate on this issue, it is suggestive

⁷⁰ I am greatly indebted to Joshua Wilburn for his extensive help on this aspect of Plato's psychology, and for pointing me to Thucydides as a source for it.

and its continuity with Thucydides' analysis is unlikely to be merely accidental. Finally, better understanding the connection between the psychology of the citizens and the Statesman's task allows us to characterize harm and the source of political conflict in the dialogue in a more substantive way.

Naturally courageous and naturally temperate types

In the closing pages of the *Statesman*, the Visitor explains how the weaving analogy introduced earlier applies to statesmanship. Just as the weaver weaves together the warp and the woof in order to make fabric, the Statesman weaves together the naturally courageous citizens and the naturally temperate citizens to create a harmonious whole. Therefore, knowledge of these psychological types and how they ought to be brought from conflict into friendship and agreement with one another is a major part of the Statesman's knowledge and provides a primary goal for his activities.

Almost all of the scholarship on this psychology has been concerned with determining whether or not this psychology is a development from the psychology of other Platonic dialogues (especially the *Republic* and *Protagoras*) or whether it is consistent with it.⁷¹ Surprisingly, there has been very little discussion of where this psychological division came from in the first place or why Plato is using it here. Why should we think that *this* way of dividing up the population is the central task of the Statesman, rather than, for example, weaving together the rich and the poor, or some other more commonsensical class division? I will thus briefly summarize the psychological division in Plato's text so that we have a clear conception of what it entails, and then show that the same division is used consistently in Thucydides'

⁷¹ The center of the controversy is Bobonich, "The Virtues of Ordinary People in Plato's *Statesman*". See also Mishima, "Courage and Moderation in the *Statesman*". My own view is that the *Statesman* and *Republic* are consistent on this point. We are told that guardians must be gentle and high-spirited at the same time, even though these are opposites and it seems impossible to combine them because of this opposition (375c). After getting stuck (375d), Socrates realizes that it must be possible to combine them because dogs are gentle to those they know and the opposite to those they don't know (375e). So the gentle and spirited natures are opposites in the *Republic* but they can be combined. In the *Statesman*, we are told that the courageous and temperate natures are opposites (306b) but also that it must be possible to combine them because the single offices are to be filled by people with both natures (311a).

psychological descriptions of oligarchic and democratic peoples, exemplified by (but not limited to) Sparta and Athens.⁷² Thus Plato *is* in fact using a commonsensical explanation for what causes political conflict – disagreement between courageous democrats and temperate oligarchs – but we have to do some work to see this connection.

In the *Statesman*, “courage” (*andreia*) and “temperance”⁷³ (*sôphrosunê*) are scalar concepts that refer to a collection of character traits, values, and actions. While they are both parts of virtue (306a–c), they are notoriously called “extremely hostile to one another” and “occupy opposed positions in many things” (306b, cf. 307c). So how does Plato characterize each of these types?

The Visitor begins by explaining that we praise a number of qualities under the description “courageous” (306e). These qualities, he says, include “sharpness [όξύτητα] and speed [τάχος], whether in bodies, or in minds, or in the movement of the voice” (306d). Later he also adds “vigor” [*σφοδρότητα*] and “manliness” [*ἀνδρικόν*] to this list (306e). Naturally courageous people are warlike, we are told, insofar as “they are always drawing their cities into some war or other because of their desire for a life of this sort, which is more vigorous than it should be [διὰ τὴν τοῦ τοιούτου βίου σφοδροτέραν τοῦ δέοντος ἐπιθυμίαν εἰς ἔχθραν], and that they make enemies of people who are both numerous and powerful, and so either completely destroy their own fatherlands, or else make them slaves and subjects of their enemies” (308a). When courageous people are properly educated they become “tame” [*ήμεροῦται*] and are able to “share in what is just”, otherwise they “slide away towards becoming like some kind of beast” [*πρὸς θηριώδη τινὰ φύσιν*] (309e). When courageous people are not moderated but rather

⁷² We should be careful not to think that just because we have Thucydides and that Plato might have read Thucydides that Plato was therefore directly influenced by Thucydides. I am open to the suggestion that both Thucydides and Plato are drawing upon a common way of thinking about political conflict in this period. For my purposes, what is important is that Plato is not conjuring this distinction *ex nihilo* but that it was an existing way in which political conflict was explained.

⁷³ I will translate *sôphrosunê* consistently as “temperance” and never as “moderation”, emending all translations as necessary. The reason for this is that I will need to speak of “moderating” constitutions and characters, by which I mean making them less excessive, which does not necessarily mean making them more temperate. For example, excessively temperate people are moderated by making them more courageous.

marry with and are raised by other courageous types, their nature will “come to a peak of power at first [ἀρχὰς ἀκμάζειν ϕώμη], but in the end it bursts out completely in fits of madness [παντάπασι μανίαις]” (310d). Finally, we are told that courageous people are “inferior... in relation to justice and caution [ποός μὲν τὸ δίκαιον καὶ εὐλαβὲς ἐκείνων ἐπιδεέστερα], but have an exceptional degree of keenness when it comes to action” [τὸ δὲ ἐν ταῖς πράξεσι ἵταμὸν διαφερόντως ἵσχει] (311b).

Naturally temperate types are the opposite of naturally courageous types (307a). When we praise temperance in various activities, we praise what is “quiet” [ήσυχαιά], “calm” [ήρεμαιάς], “steady” [βραδέα], “gentle” [μαλακά], “even and measured” [λεῖα καὶ βαρέα], “restrained” [σωφρονικά], “orderly” [κοσμιότητος], and what “employs slowness at the right time” [ἐν καιρῷ βραδυτῆτι προσχρωμένην] (307a–b). Naturally temperate types “are always ready to live the quiet life, carrying on their private business on their own by themselves” [αὐτοὶ καθ’ αὐτοὺς μόνοι τὰ σφέτερα αὐτῶν πράττοντες], they are “unwarlike” [ἀπολέμως] and are “always ready to preserve peace” [ἄγειν εἰρήνην], making them “perpetually at the mercy of those who attack them” (307e). Subsequently, they are prone to exchange freedom for slavery [ἀντ’ ἐλευθέρων πολλάκις ἔλαθον αὐτοὺς γενόμενοι δοῦλοι] (308a). When naturally temperate people are well educated, they “become genuinely moderate and wise, so far as wisdom goes in the context of life in a city” [σωφρον καὶ φρόνιμον (ὡς γε ἐν πολιτείᾳ)] otherwise they become shamefully simple-minded [εὐηθείας] (309e). When naturally temperate types are not moderated and are too shameful [αἰδοῦς], they become “more sluggish than is timely” [νωθεστέρα φύεσθαι τοῦ καιροῦ] and “utterly weak” [παντάπασιν ἀναπηροῦσθαι] (310d–e). Finally, when in office, they are characteristically “markedly cautious, just, and conservative, but they lack bite, and a certain sharp and practical keenness” [εὐλαβῆ καὶ δίκαια καὶ σωτήρια, δοιμύτητος δὲ καὶ τίνος ἵταμότητος ὀξείας καὶ πρακτικῆς ἐνδεῖται] (311a).

Neither one of these types is praiseworthy or blameworthy without qualification, but rather when they occur at the right time they are praiseworthy and when at the

wrong time they are blameworthy (307b).⁷⁴ In addition, each type of person is more disposed to praise their own kind of character and to censure the opposite, taking one set of qualities as “akin” [οἰκεῖα] and the other as “alien” [ἀλλότρια] in such a way that causes “hostility” [έχθραν] between the groups (307d). Note then that these are not only personalities, but substantive value systems, each of which is prone to “seeking after that nature that belongs to itself” (310d).⁷⁵ Importantly, both natures have a share of the correct judgment insofar as there are times when each is appropriate, but both are also prone to become excessive in their own direction and deficient in their opposite if they are not moderated. The Visitor takes this source of conflict very seriously, pointing out that “in relation to the most important things, [their disagreement] turns out to be a disease which is the most hateful of all for cities” (307d). Thus disagreement between courageous types and temperate types is a cause – perhaps even the *primary* cause – of faction in cities.⁷⁶

The Statesman’s job is to navigate and ideally prevent this conflict between the two psychological types and value systems. He does this by instilling in the citizens a “divine bond”: shared true beliefs about what is fine, just and good (309c). While the details of this are annoyingly under-described in this dialogue, the thought seems to be that while the two psychological types have naturally different value systems, if they are able to share beliefs about what is fine, just and good, they will recognize that the values of those opposite to them are sometimes appropriate. But in order for them to *acquire* this belief, the education system, marriages, and laws need to be set up in such a way that the citizens come to be *receptive* to such judgments, which requires that their nature be moderated (308e, 309d, 310b). For example, if I am a naturally courageous type, I

⁷⁴ Given the discussions of the *kairos* earlier in the dialogue with respect to the Statesman’s judgment, this passage is especially suggestive insofar as it appears as though the Statesman will himself have to be the kind of person who has blended the courageous and temperate dispositions in himself in order to secure his right judgment. For a discussion of the central importance of the *kairos* in the *Statesman*, see Lane, *Method and Politics in Plato’s Statesman*, pp. 132–136 *et pass.*, and “A New Angle on Utopia”.

⁷⁵ See the excellent discussion in Lane, *Method and Politics in Plato’s Statesman*, pp. 174–186, which also draws a parallel here between Plato’s analysis of character and language, and that of Thucydides regarding the Corcyra conflict.

⁷⁶ Cf. Klosko, *The Development of Plato’s Political Theory*, p. 208.

simply won't believe the law if it tells me that to live at peace with neighboring cities is fine and just, unless I at least have a share in the temperate nature. Thus the education of character is a *prerequisite* to acquiring the beliefs and values that the law tries to inculcate in order that I might be friendly to and harmonious with my fellow (opposing) citizens.⁷⁷

Thucydides' political psychology: courageous democracies and temperate oligarchies

But where did this account of character types come from and why is it being used in a Platonic dialogue on political skill? It is my contention that Plato is working in a tradition of political thinking found in Thucydides' *History of the Peloponnesian War*.⁷⁸ Thucydides uses this psychology to explain political conflict and, in particular, why it is that lawlessness and faction come about. Understanding this connection is interesting in itself because it situates Plato's thought more closely with that of his historical contemporaries, but it also turns out to shed new light on the relationship between the Visitor's discussion of constitutions and his discussion of psychology. For in Thucydides, it is not just that some people happen to be naturally courageous and others naturally temperate, but also that the naturally courageous tend to favor *democracies* and are brought up under *democratic laws*, whereas the naturally temperate tend to favor *oligarchies* and are brought up under *oligarchic laws*. Thus the psychological distinction tracks the fundamental political divides of fifth-century Greece, or so I will argue.

The connection between the division of character types in the *Statesman* and that of Thucydides has been noted but underdeveloped in the secondary literature on Plato, so first let me survey the evidence for the claim.⁷⁹ The most striking comparison between

⁷⁷ Cf. Lane: "the entire discussion presupposes that policy follows from desire; the point is that only statecraft, never the untutored desire of either group, could advocate and desire such a mixed policy" ("A New Angle on Utopia", p. 278n12).

⁷⁸ This account of character may, of course, be Thucydides' invention – but it may also be that we have just lost the other texts that would confirm it as a commonplace of political psychology.

⁷⁹ See Lane, "A New Angle on Utopia" (pp. 280–281, though it is curiously absent in her book); she also draws attention to the conflict in the fourth century between "a faction of radical democrats headed by Demosthenes, advocating an aggressive anti-Macedonian policy, and a conservative landed faction favouring peace with Philip". See also Samaras, *Plato on Democracy*, p. 182, who defers to Cole, "Weaving and Practical Politics in Plato's *Statesman*", p. 203, who cites "the Corcyraeans versus the Corinthians, in Thucydides, *Peloponnesian War* 31-44; Cleon versus Diodotus on the fate of Mytilene, *PW* 37-49; the Melian

the Athenian and Spartan temperaments comes in Book I, during the Corinthian speech to urge the Spartans to stop the Athenians:

"[The Athenians] are definitely innovators [νεωτεροποιοί] and quick [οξεῖς] to form their plans and carry out whatever actions they resolve. But you [Spartans] preserve the status quo [τὰ ὑπάρχοντά τε σώζειν], making no further resolutions, and in your actions not even to complete what needs to be done. And again, they are bold [τολμηταῖ] even beyond their strength and risk-takers [κινδυνεύνται] beyond their judgment and hopeful [εὐέλπιδες] amidst dangers, but your way is to act short of your power and to mistrust your judgment even over certainties and to believe that you will never find an escape from dangers. And yet again, they are ready to act while you are delayers and they are always abroad while you are the most home-bound of all. For they believe that by being away they are gaining; you, that by making any move you will damage even your present assets... "For [the Athenians] alone possess and hope as a single undertaking, on account of their speed in acting on their resolutions [διὰ τὸ ταχεῖαν τὴν ἐπιχείρησιν ποιεῖσθαι]. In hardship and danger they toil throughout their lives for such ends, and least enjoy what they have on account of always acquiring and thinking that there is no holiday except in doing what the occasion demands, and that leisure without accomplishment [ήσυχίαν ἀποάγμονα] is more of a misfortune than burdensome activity. And so, if someone were to sum the up by saying that they were born to have no peace themselves [μήτε αὐτοὺς ἔχειν ἡσυχίαν] and allow it to no one else, he would be right." (I.70)

The primary contrast here is between the quickness and ambition of the Athenians and the slowness and conservatism of the Spartans. The Athenians are quick to make plans, take action, and start conflicts, whereas the Spartans hesitate, stick to what they know, and prefer not to interfere with other cities. The Athenians are confident in their hopes that their plans will succeed, are warlike, and believe that a quiet life where you keep to yourself (ήσυχίαν ἀποάγμονα) is an unhappy life (cf. II.40).

Thucydides is consistent in his descriptions of the Athenians and their democratic leaders throughout his narrative.⁸⁰ When Sparta tries to make peace on moderate terms, for example, during the Pylos conflict, the Athenians consistently "grasped at more [τοῦ πλέονας ὠρέγοντο]" (IV.21, 60) and would not do on moderate [μετρίοις] terms what the Spartans proposed (IV.19, 20, 22; V.15).⁸¹ Their grasping for

dialogue, PW 85–113". All of these discussions only raise the similarity in passing and with almost no development. There has been much ink spilled on Thucydides' psychology, but this literature has tended to focus on Thucydides' conception of "human nature" and has tended to focus on the egoist-sounding passages from the discussion of the Corcyrean. The notable exception to this trend is North's excellent discussion in *Sophrosyne*, pp. 100–114, which I follow closely.

⁸⁰ Pericles is a slightly more complicated case. See below.

⁸¹ While *metrios* and its cognates is reserved in the *Statesman* purely for those who achieve the mean, it is connected more colloquially with the characteristics of the naturally temperate types in that they are the ones who are "measured" and "reasonable" rather than bold and daring. Plato makes the connection with what is *metrios* with temperance himself in, for example, at *Republic* 399b, 431c, and 560d (though he also

more is most notable during the deliberation about the disastrous Sicilian expedition, with the Athenians becoming more eager and desirous [πολὺ δὲ μᾶλλον ὥρμηντο], even despite Nicias' warnings that it would fail (VI.24). Moreover, the Athenian people are frequently described as angry or quick to anger (II.60–65; III.42; III.44; V.46; VIII.1, 54).⁸² Finally, the Athenians are drawn to innovation and making new laws (I.71), always looking for the newest thing and wishing to be seen as the quickest in following a new argument, rather than sticking to what has been handed down to them by tradition (III.38).

Pericles' Funeral Oration also features a number of these tropes concerning the Athenian character:

"For in that we [Athenians] are both especially daring [τολμᾶν] and especially thorough in calculating what we attempt, we can truly be distinguished from other men, for whom ignorance is boldness but calculation brings hesitancy. Rightly would they be judged strongest in spirit [ψυχῆν] who recognize both dangers and pleasures with utmost clarity and are on neither count deterred from risks... We are unique in being benefactors not out of calculation of advantage but with the fearless confidence of our freedom [ἡ τῆς ἐλεύθερίας τῷ πιστῷ ἀδεῶς].” (II.40)

Pericles emphasizes that the Athenians are emboldened through their deliberation and are not put off by potential risks. Pericles also makes extensive use of the concept of freedom in his speech, and especially noteworthy is when he connects freedom with both happiness and courage, urging the Athenians to: “judge that happiness is freedom and freedom courage” [τὸ εὐδαιμον τὸ ἐλεύθερον, τὸ δ’ ἐλεύθερον τὸ εὐψυχον] and thus “not stand aside from the dangers of war” (II.43).

Two of the most notable Athenian leading citizens are also described as exemplars of these qualities. Themistocles “was with the briefest deliberation the most

uses it more generally to refer to the moderated types). For the wider connection between *metriotes* and temperance, see North, *Sophrosyne*, p. x, 9, 95, 98, 114, 136, 138, 141, 143, 147, *et pass.* North notes that Thucydides uses *metrios* in place of *sôphôn* when talking about the Athenians, p. 102, 104, 113. On Thucydides' account, *sophrosyne* is un-Athenian.

⁸² I have tried to rely on the *Statesman* characterization of courageous and temperance types by itself as much as possible, but here we do need to turn to the *Republic*, for susceptibility to anger is not one of the qualities of courageous types mentioned in the *Statesman* (and its absence is puzzling). Anger as a symptom of (particular excessive) courageous types is mentioned at, e.g. *Rep.* 376a, 411b, 563d, 586d–e. A full defense of the legitimacy of taking this aspect of Plato's psychology as parallel across the dialogues is of course required, but is beyond the scope of this project. Given its prominence of anger in Thucydides' characterization of the Athenians, though, it ought to be noted.

effective in decisions" and was "by natural ability, with rapid deliberation, was certainly supreme in his immediate grasp of what was necessary" (I.138). Alcibiades, too, is described as "victory-loving [φιλονικῶν]", sensitive to slights to his honor, and extremely ambitious (V.43). His character is most clearly revealed in Thucydides' account of him during the deliberations about the Sicilian expedition: "Most passionately [προθυμότατα] urging on the expedition was Alcibiades son of Kleinias," he writes,

"who wanted to counter Nikias, because he was at odds with him politically in other respects and Nikias had mentioned him critically, and who was above all eager to take command and hoped that this would enable him to conquer both Sicily and Carthage, and that by succeeding he would at the same time add to his personal wealth as well as prestige [δόξη]. For he was held in such esteem among the citizens that he indulged himself in expenditures beyond his actual resources, both for horse-breeding and for other luxuries; and to a great extent it was this which destroyed the Athenian city. The masses, frightened by the magnitude of his license in conducting his personal life and of his aims in absolutely everything he did, whatever it was, developed hostility toward him as an aspiring tyrant, and while he as a public person managed the war with the utmost skill, they as private individuals detested him for his behavior, and by entrusting the city to him they ruined it in short order." (VI.15)

Alcibiades is ambitious for money and reputation, and tried to gain them through extremely dangerous military enterprises. That he was seeking to capture not just the Sicilian cities but Carthage too shows the extent of his ambition. Notably his ambition is also connected to his lavish and intemperate lifestyle, and his desire to rule over others. In his own speech to the Athenians, Alcibiades appeals to the same values that we have already seen throughout the *Histories*:

"This is the way we built our empire, in exactly the same way as anyone else might, by our energetic [προθύμως] response to every appeal, whether from barbarians or Hellenes, whereas if we were to stay inactive [ήσυχάζοιεν] or let race determine whom we should help, the insignificance of our additions to the empire would put its very existence in danger. For when there is a superior power, one does not simply ward off its attacks but takes the steps that will keep them from occurring. And there is no possibility for us to regulate the amount of empire we want but a need, now that we have reached this stage, to make aggressive plans while allowing no defections, because of the danger of being ruled by someone else if we do not rule others. And inaction [τὸ ἥσυχον] must not mean for you what it does for others, unless you are also going to change your ways to conform." (VI.18)

Alcibiades is thus energetic, quick to act, and constantly grasping for more. He urges the Athenians to rule others lest they run the danger of being ruled, employing the term "inaction" (*hesuchia*, i.e. "quiet", "keeping to yourself") pejoratively as something un-

Athenian. Thus, the Athenians are consistently described in terms that bear striking resemblances to Plato's characterization of naturally courageous types, and the kinds of values that they respond to in the hortatory speeches are those that naturally courageous people admire and see as their own. They see the values associated with the naturally temperate types as bad, foreign, and opposed to their own.

Compare, by contrast, the characterization of Sparta. After the Corinthian description of Spartans as slow and conservative, the Spartan king Archidamos defends these qualities of his people:

"Feel no shame over the slowness [βραδὺ] and hesitation for which they blame us most of all; by hurrying, you will delay the end because of starting unprepared.... It is very possible that true temperance [σωφροσύνη] is this quality of ours. It is the reason that we alone are not filled with insolence by our successes and give way less than others in misfortunes and are not swept away into perils against our better judgment because we are gratified by those who cheer us on... Through our orderliness [εὔκοσμον] we are rendered both warlike and wise: the former, because a sense of shame is the greater part of temperance, and courage is the greatest part of shame [αἰδώς σωφροσύνης πλείστον μετέχει, αἰσχύνης δὲ εὐψυχία]; and good deliberators [εὔβουλοι], because we are educated with too little learning to despise the laws and too temperately [σωφρονέστερον], through our strictness, to disobey them, nor in such a way that after using too much useless cleverness [ἀχρεῖα ξυνετοί] to make a fine case against our enemies' preparations we proceed against them with quite contrasting results, but so as to consider our neighbors' designs comparable to ours and the chances that turn up as beyond determining by calculation... Therefore, let us never abandon these practices that our fathers handed down to us and we ourselves to our benefit have kept all this time, let us not be hurried [βραχεῖ] into deciding in the brief space of a day about many lives, possessions, cities, and reputations, let us decide calmly [καθ' ἡσυχίαν]." (I.84–85)

Archidamos takes the fundamental Spartan virtue to be temperance (*sophrosunē*), and he draws a number of connections between that quality and slowness, hesitation, orderliness, shame, and calmness. Notably, he *defends* these qualities as positive traits in opposed to the Athenian hurrying, cleverness (especially in words), and sensitivity to the exhortations of the crowd. Thucydides himself attributes this slowness to the Spartans, for example, when he says that:

"Although the Lacedaemonians were aware of [the Athenian increase in power], they did not oppose it except in limited ways and remained inactive most of the time, slow as in the past to go to war unless they were forced to" [οἱ δὲ Λακεδαιμόνιοι αἰσθόμενοι οὔτε ἐκάλυνον εἰ μὴ ἐπὶ βραχύ, ἡσύχαζόν τε τὸ πλέον τοῦ χρόνου, ὅντες μὲν καὶ πρὸ τοῦ μὴ ταχεῖς ιέναι ἐς τοὺς πολέμους, ἢν μὴ ἀναγκάζωνται] (I.118)

And again, on receiving good evidence of Pausanias' machinations:

"But not even then, not even trusting some informers among the helots, were they prepared to take extraordinary action against him, observing the practice so customary among them, slowness in planning anything irrevocable against a Spartan citizen without indisputable proof." (I.132)

Thus slowness, risk aversion, and reluctance to go to war seem to be a quality consistently attributed to Spartans.

In addition, Thucydides writes that Spartans "all uniformly obey [their] orders" (I.121), the Spartan general Brasidas is described as "moderate" [μέτριον] and even "gentle" [πραότητα] (IV.108), and the Spartans are said to have a reputation throughout Greece for indecision and slowness (V.75). There was also a notable instance in which the Spartans did not act in their normal fashion and Thucydides highlights this fact: when Orchomenos was captured, the Spartans became angry and "in their rage they made an immediate decision, uncharacteristically" [ύπ' ὄργῃς παρὰ τὸν τρόπον τὸν ἔχαυτῶν] (V.63). We can see from Thucydides' descriptions of the Spartans, then, their character is in line with what Plato calls naturally temperate types.

Though we do not have many descriptions of the characters of other states, it is notable that the ones we do have are in line with the oligarchic (Spartan) and democratic (Athenian) divide. When the democratic Argives attack the Spartans, the Argives attack "with violence and anger" [ἐντόνως καὶ ὄργῃ] in contrast to the Spartans marching "slowly and to the tune of many flutes as their law provides, not for religious reasons but so that they proceed evenly as they march to the music" (V.70). Similarly, note how Thucydides describes the oligarchic Chians:

"For the Chians alone, of all the people I have known of next to the Lacedaemonians, have been prosperous and at the same time temperate [ἐσωφρόνησαν], and the more their city increased in stature the more securely they ordered themselves [ἔκοσμοῦντο]." (VIII.24)

And a few lines later, they find a way to end political plotting in "the most temperate possible way" [μετριώτατα]. Thus their values and characteristics are consistent with their oligarchic counterparts in Sparta.

If this speculation is correct, that the characteristic temperaments of Athens and Sparta are connected with their type of constitution, then Thucydides gives us a way to

explain why it is that democracies favor democracies and oligarchies favor oligarchies.⁸³ Thucydides explicitly says that this is the case at a number of points, for example, Mantinea shares kinship with Argos because they are both democracies, as do Argos and Athens, whereas Boiotia and Megara share kinship with Sparta because they are both oligarchies (V.29, 31, 44). These differences of values are thus likely to be the ones that Thucydides has in mind when he says that:

“friendship between individuals and associations between states can in no way be permanent unless they are formed by those who recognize one another as honorable and have similar principles in general; for through discord in thinking, differences in conduct also come about.”
(III.10)

Differences in constitution reflect and cultivate differences in habits, values, and character, so it makes sense that oligarchies would side with oligarchies, and democracies with democracies.⁸⁴

So what happens when these values come into contact in Thucydides? Of particular interest is his characterization of Pericles. As we have in the Funeral Oration, Pericles exhorts the Athenians with their own values, calling them daring, free, courageous, and so forth. But note how Thucydides describes Pericles' rule and the reactions of the Athenians in the passages of text following his oration and the plague:

“For as long as [Pericles] presided over the city in peacetime he led it with moderation [μετρούως] and preserved it in safety and it became the greatest in his hands, and when war broke out it is clear that he foresaw the power it had at this time... For he said that by keeping quiet [ήσυχάζοντάς], looking after the fleet, not extending the empire, and not endangering the city they would prevail; yet they managed all these affairs in the opposite way, and in accordance with personal ambition [φιλοτιμίας] and personal gain they pursued other policies that seemed unrelated to the war, to the detriment of both themselves and the allies, since, when these succeeded, they brought honor and benefit more to individuals but, when they failed, they did

⁸³ North takes the democracy/courage and oligarchy/temperance connection to be very strong. Her argument is especially compelling with respect to the oligarchic-sympathizing aristocrats of Athens, who she takes to be temperate types (*Sophrosyne*, p. 99, 101, 112). Thus she thinks that temperance, oligarchy, and aristocracy form a close triad.

⁸⁴ Note that oligarchy is associated with temperance *as a governmental type*, even in Athens (VIII.53). Thus it is not merely that the Spartans, for example, happened to be temperate and happened to be an oligarchy. Rather, the thought is that there is a tight connection between certain values and certain kinds of government, such that Athens changing their constitution to an oligarchy would be seen as reflecting a commitment to order and temperance. Note also Xenophon: “the Lacedaemonians would trust any form of government sooner than a democracy” (*Hel.* II.3.45), and Aristotle, regarding the constitutional change to the Four Hundred: “The decisive consideration in winning over the majority of the [Athenian] people was the belief that the king of Persia would be more likely to make a military alliance with them if their government was oligarchic” (*Ath. Pol.*, XXIX.1–2).

damage to the city regarding the war... [Pericles] even contradicted [the Athenians] in their anger [*όργήν*]. Certainly, whenever he perceived that they were arrogantly confident in any way beyond what the situation justified [*παρὰ κατὸν ὑβρει θαρσοῦντας*], he shocked them into a state of fear by his speaking, and again, when they were unreasonably afraid, he restored them to confidence. And what was in name a democracy became in actuality rule by the first man. Those who came later, in contrast, since they were more on an equal level [*ἴσοι*] with one another and each was striving to become first, even resorted to handing over affairs to the people's pleasure. As a result, many mistakes were made, since a great city ruling an empire was involved, especially the expedition to Sicily, which was a mistake no so much of judgment about those they were attacking as because the senders did not subsequently make decisions advantageous for the participants, but by engaging in personal attacks over the leading position among the common people they both reduced the vigor of the armed forces and for the first time fell into confusion in the administration of the city." (II.65)

Pericles is explicitly described as trying to moderate the Athenians and he puts forth a number of policies that we have seen are antithetical to the Athenian temperament. He urges them to keep quiet, not to extent the empire, and to stay away from danger. Yet the Athenians refused to listen to this advice and did the opposite, because of their love of honor and ambition. Nonetheless, Pericles tried to counteract the characteristic Athenian anger, confidence, and arrogance because it was "untimely". Thucydides even goes as far as to say that under Pericles Athens was only nominally a democracy. The thought seems to be that Pericles had such authority and power over the Athenians that it more closely resembled a monarchy than a democracy, in contrast with the government after his rule, which was characterized by equality.

This passage is especially revealing of what we might call Thucydides' implicit political philosophy, which is grounded in the idea that for a polis to do well, it needs to moderate its excessive characteristics. As we can see, Pericles tried to moderate the excessive Athenians and in the end they rejected his policies. The disastrous consequences of the Athenians ignoring this advice are foreshadowed by Thucydides' mention of the Sicilian Expedition and the lack of good judgment involved in that mission. Moreover, the passage quoted above falls in the narrative right after the height of Athenian glory in the Funeral Oration and the horrendous reversal of Athenian fortune caused the plague. While constitutional excess can hardly be to blame for physical illness, the literary imagery of Athens falling into sickness parallels

Thucydides' description of the political degeneration of Athens in ignoring Pericles' sound guidance.

We could think, then, of the general structure of Thucydides' commentary on Athens as a slope down from the Funeral Oration in Book Two to the Sicilian Expedition in the later books of the *History*, caused by the Athenians' excessive ambition and lack of sound judgment. If democratic excess is the sickness, then Thucydides gives us the cure at the very end of Book VIII, where he writes that Athens "clearly had the best government" under the Five Thousand because of "a moderate blending between the few and the many came about" [μετρία γάρ ή τε ἐς τοὺς ὀλίγους καὶ τοὺς πολλοὺς ξύγκρασις ἐγένετο] (VIII.97).

Before this moderate blending came about, however, Athens changed from a democracy to a relatively small oligarchy of four hundred men. Thucydides notes that there was a concern that such a government would not be stable as the large number of sailors in Athens would "be unwilling to stay under an oligarchic system" (VIII.72). And indeed, that government was quickly overturned. Thucydides writes that the leading men of the Athenian government "wanted to be rid of so excessively narrow an oligarchy and that it was necessary instead to designate the Five Thousand in reality not in name and put the government on a more equal basis" [τὴν πολιτείαν ἴσαιτέραν καθιστάναι] (VIII.89). Notably, Thucydides notes that this was not necessarily a sincere civic-minded plan. He writes that

"This was the constitutional guise of their arguments, but in their personal ambition most of them were caught up in just the sort of situation in which an oligarchy emerging out of a democracy is surest to be destroyed; for everyone instantly expected not to be equal but far ahead in every single case; but under a democracy, when an election is held, each man can tolerate the outcome more easily in the belief that it was not through his peers that he was denied." (VIII.89)

Thus Athens is such that their demographic composition makes them hostile to narrow oligarchies and in addition their leading citizens are too ambitious and resistant to hierarchy to accept a form of government that does not include them. So while it is good for cities to be blended moderately, the constitution will not generate compliance unless it is in line with the dominant character of the people.

Characters, constitutions, and harm: towards a theory of moderated constitutions

Let us now review the themes from Thucydides and consider their significance for how we understand the psychology and position on law in Plato's *Statesman*. In section three, we saw that constitutional changes tend to go badly and often result in a more unstable state. In this section, we developed some conceptual resources to explain *why* this should be the case.

The modest explanation is as follows: during a constitutional change, in order to seize and consolidate control, one party (either oligarchic or democratic) has to kill or exile the leading citizens and supporters of the other party, and, as Thucydides noted, those in the middle – the political and ethical moderates – get destroyed by both sides (III.82). This causes the resulting constitution to be more excessive than before, and reduces the likelihood of the citizens being lawful, as there are always going to be political detractors (especially of extreme regimes); because Thucydides thinks that good constitutions are moderated constitutions that manage to mix the democratic and oligarchic elements, whenever a constitution becomes more excessive, it gets worse.⁸⁵

The more speculative explanation is that in addition to the citizenry being roughly divided along oligarchic and democratic lines, Thucydides also has a psychology whereby democracies tend to produce quick, ambitious, clever, warlike people and oligarchies tend to produce slow, peaceful, people who keep to themselves.⁸⁶ Kinship between peoples is shared because of their shared values and customs, and conversely with the opposite. The habits of each of these people are reflected in their

⁸⁵ Note the parallel in *Republic* VIII concerning the decline of the oligarchic man into the democratic man whose transformation is in part explained in terms of a re-evaluation of terms. He comes to call "shame foolishness and temperance cowardice" [αἰδῶ ἡλιθότητα... σωφροσύνην δὲ ἀνανδρίαν], and he says that "measured and orderly expenditure is boorish and mean" [μετριότητα δὲ καὶ κοσμίαν δαπάνην ὡς ἀγγοικίαν καὶ ἀνελευθερίαν] (560d). He then calls "insolence good breeding, anarchy freedom, extravagance magnificence, and shamelessness courage" [νέβριν μὲν εὐπαιδευσίαν καλοῦντες, ἀναρχίαν δὲ ἐλευθερίαν, ἀσωτίαν δὲ μεγαλοπρέπειαν, ἀναίδειαν δὲ ἀνδρείαν] (560e). In *Statesman* terms, the temperate values come to be called vices and the excesses of the courageous values come to be virtues. This further confirms the thesis that Plato connects natural temperance with oligarchy and natural courage with democracy. Lane aptly notes the parallel between this passage and Thucydides III.82 (*Method and Politics in Plato's Statesman*, p. 184).

⁸⁶ For the historical context of temperance as primarily (but not exclusively) an oligarchic and aristocratic virtue, see North, *Sophrosyne*, for example pp. 12–13, 44.

respective constitution and is further cultivated by it. This means that when a constitutional change happens, the people who were brought up under one set of laws and social norms are confronted with a new set of laws and social norms that are foreign to their way of life, and so they are more likely to reject it. Because both of these qualities are sometimes appropriate, as the opening address from the Corinthian delegate in the *History* suggests, a good constitution will try to cultivate both of these sets of qualities to the right degree so they can both be exercised at their appropriate times. Thus, a city should try to moderate their constitution for both ethical and political reasons: ethically, because characters become excessive in the absence of moderation, and politically, because a code of laws and customs that is too extreme will not be complied with by the citizens, resulting in an unstable polis.

A major upshot of the more speculative reading is that it explains why Plato's *Statesman* should end with a discussion of the naturally courageous and naturally temperate types of citizens. For we asked earlier why should we think that the blending of *these* two psychologies is the primary activity of the *Statesman*? There certainly isn't an obvious or intuitive answer, and the commentary on this passage of the dialogue has been insufficiently puzzled by this question. On my reading, however, the reason that the *Statesman* mixes these two characters is that these two characters reflect the main political divide in ancient Greece.⁸⁷ Thus, to mix the naturally courageous and naturally temperate types in a city so that they can be friends, united in a shared adherence to the law and the beliefs it provides, *just is* to solve the fundamental political problem facing cities in Plato's time. To mix those character types well is to prevent faction.⁸⁸

⁸⁷ Thus Klosko's criticism that Plato simply ignores economic factors in his analysis of conflict is ultimately mistaken, insofar as the democratic/oligarchic distinction does track wealth distinctions roughly (*The Development of Plato's Political Theory*, p. 209).

⁸⁸ Lane notes the connection between Plato and Hobbes here insofar as "Hobbes and Plato agree in diagnosing evaluating conflict as a profound tendency rooted in the diversity of human dispositions. It is not a trick of rhetoric nor a function of corruption: it is rather the starting point, the condition to which politics must respond... Both [the *Statesman* and the *Leviathan*] present evaluative redescriptions rooted not neighbourliness of vice and virtue, but in the cognitive-cum-emotional temperamental judgments of individuals" (*Method and Politics in Plato's Statesman*, p. 191-192).

In addition, this explanation sheds new light on some of the more eyebrow-raising passages of text in the *Statesman*. Consider, for example, the Visitor's discussion of marriages between naturally courageous and temperate types. While this normally prompts a discussion of the eugenics program in the *Republic* and raises questions about just how natural these natural types are, there is also a much more sensible way that we can explain why Plato would be concerned about marriage. Recall that in the Samos debacle the revolutionary democrats, upon seizing control of the government and redistributing property, *banned marriages between the common people and the aristocracy* (VIII.21). Though it is unclear how common this practice was, that it occurred and was surely a case of stark class division provides a reason to think that somebody as concerned with social unity as Plato would want to make sure that this separation does not happen. If lack of intermarriage is a sign of hostility between the two main factions of a city, then ensuring intermarriage at least goes some way in obviating this hostility.⁸⁹ Moreover, if the psychological types also roughly track wealth divisions (with those supporting oligarchy generally being richer and democrats generally being poorer), then this would be a further way for Plato to ensure that the city maintains a relatively large middle class.⁹⁰

Finally, if the mixing of naturally courageous types and naturally temperate types also reflects a mixing of democratic values and oligarchic values, there is a clear sense in which the *Statesman* is preparing the groundwork for the discussion of constitutions in *Laws*, Book III, which argues that the correct constitution will hit the mean between the monarchical principle and the democratic principle. But more on this in the next chapter.

Let me end by pointing out a significant feature of the discussion of natural characters in the *Statesman*, namely, how it gives us an account of how the souls of a

⁸⁹ One wonders why Plato assumes that such people would get along, rather than just move conflict back into the family.

⁹⁰ More on the importance of this in Chapters Two and Three.

person and how a city can be harmed.⁹¹ The account is disarmingly familiar (but not because of Plato): a person's character becomes worse insofar as it moves away from the mean of courageous and temperance, so a person is harmed if they are caused to become excessive or deficient in these respects. A city is also harmed if it is caused to become excessive or deficient in these respects, but importantly, the attribution of the predicate "courageous" to a city is not justified by, for example, a surplus of courageous people over temperate people. Rather, the Statesman's activity is to weave these types together in the city in such a way as to make them *harmonious*, and what this amounts to is not so much making *everybody* a moderated type as arranging the courageous people and temperate people the right way in the city.

There is an important point here with respect to Plato's non-ideal political theory: while individuals are benefitted by becoming more moderate, Plato seems to be working on the assumption that there are *always* going to be people in the city who are not moderate in this way, and thus fall on the outer regions of the courageous/temperate scale.⁹² This is made especially vivid by the analogy with weaving: it is not the case that the weaver treats the wool such that it becomes an homogeneous whole and then makes that into the fabric – rather, the assumption of the weaving analogy is that there is going to be warp and woof, and you have to blend them in the right way to make a good piece of fabric (309b). Similarly, then, the implication seems to be that while citizens cannot become so excessive as to be "unusable" in the city – that is, unable to live at peace with their fellow citizens under the law – ultimately the Statesman is trying to make the opposing character types harmonious with one another. While we are not told the details of how this works, it is not hard to speculate. For example, it seems like both types of people will need political representation in the government of the city, but naturally courageous people will be more suited to military offices, because such roles require making decisions quickly and decisively, whereas naturally temperate people

⁹¹ It is noteworthy that earlier in the dialogue harm is also used in a perfectly colloquial sense so as to include cutting, burning, killing, exiling, the seizing of property, etc.

⁹² See also Samaras, *Plato on Democracy*, p. 186.

will be more suited to positions on city councils or juries.⁹³ Ideally, though, single-position offices will be filled by moderate people and group offices will be filled by the correct mixture:

"By choosing the person who has both qualities to put in charge wherever there turns out to be a need for a single officer, and by mixing together a part of each of these groups where there is a need for more than one" (311a).

Thus, a city is harmed *either* when its population becomes so excessive or deficient that the Statesman cannot blend them harmoniously *or* when the arrangement of the citizens fails to be harmonious. Both of these states of affairs would make the city unstable, increase conflict, and likely cause it to decline into excess along one dimension or other. So the Visitor concludes that "everything in cities cannot go well, either on the private or on the public level, unless both of these groups are there to give their help" (311b).⁹⁴

5. How to improve an actual polis

In this chapter, I have tried to motivate the position that the second half of Plato's *Statesman* is more puzzling than has previously been recognized and then attempted to provide a richer explanation of its underlying logic. While I grant that much of what I have said is speculative, the text itself is undetermined at a number of crucial points where the arguments are unclear or entirely absent, but the conclusions are important for understanding Plato's political thought.

I began by asking what justified the ranking of the non-ideal constitutions in the dialogue and in what sense they could plausibly be considered better or worse imitations of the Statesman's skill. I concluded that the non-ideal institutions imitate the Statesman's skill better when they better satisfy the Epistemic Principle, the Benefit Principle, and the Flourishing Principle. Importantly, law lacks the context-sensitive knowledge that the Statesman possesses and it constrains the exercise of skill; given that

⁹³ For a discussion of the offices and subordinate magistracies, see Lane "Political Office and Political Expertise in Plato's *Statesman*".

⁹⁴ Cf. Klosko, *The Development of Plato's Political Theory*, p. 209, who finds this doctrine of weaving puzzling and unhelpful.

skill has normative priority for Plato, lawful rule is a second-best approach. But law is also an effective safeguard against the ignorant abuse of power as are democratic institutions, both of which prevent the citizens from being harmed to a greater extent than their opposites. The trade-off, though, is that democratic institutions are not conducive to rulers acquiring political knowledge, as Plato thinks that only one person or possibly a small group of people could acquire political knowledge. Thus, there is a fundamental opposition between the extent to which a non-ideal constitution can secure its citizens from harm and the extent to which its rulers are likely to become true Statesmen.

In section three, I then tried to explain why Plato would be drawn to a legal conservative position with respect to non-ideal states. Why would somebody so evidently counter-cultural in his utopian political thinking recommend that non-ideal states follow their laws – whatever they happen to be – strictly on pain of death for anybody without knowledge who defects? To answer this, I turned to Plato's political context as described by the Greek historians. Here we saw that in fact constitutional changes tend to go very badly, particularly insofar as they cause a breakdown in general lawfulness as a disposition in the citizens, or, in more modern terms, in the level of compliance. It makes sense, then, that Plato would recommend *against* changing constitutions because he would want to avoid gratuitous deaths, exiles, and distributions of property for an end result that is unlikely to be stable. Aside from the historical evidence of actual constitutional changes, we have good philosophical reasons for thinking that rule of law and compliance obtaining generally – regardless of the *content* of the laws – has a number of positive effects both for the stability of the city as a whole and for its individual citizens. While this may not be the best state of affairs, it is not obvious that abiding by all the laws in cities that include bad laws is utterly deplorable, as often the transition costs to a better set of laws would be very high, and, as Thucydides (via Kleon) so aptly put it, by following worse laws without deviation a state is stronger than when it has good laws that are not binding.

In section four, I tried to motivate the position that there is a further connection between Plato's *Statesman* and Thucydides' *History* by looking at the psychology used in both texts. It is far from obvious why the Statesman's skill should consist primarily in the blending of the naturally temperate and the naturally courageous types, but in Thucydides these types of characters appear to track respectively the division between oligarchic Sparta and democratic Athens. If, as I think is plausible, this division was the fundamental political divide in fifth and fourth century Greece, then it makes sense that the Statesman's job would consist primarily in finding a way to make these groups of people live harmoniously together with one another. It also provides the framework (albeit proleptically) for the theory of the mixed constitution insofar as a good city will have both of these elements blended, leaving us to think further about what kinds of institutions could produce this kind of blending. I will end by highlighting a tension in what we might call the non-ideal normative guidance that Plato's *Statesman* provides.

Say Pericles recognizes that Athens is excessively courageous and democratic. Would Plato recommend that Pericles encourage the city to abide strictly by the existing (excessive) laws, or should he moderate it by, for example, changing the education system so that it becomes more temperate? Let's survey the options.

Firstly, one might think that in recognizing the excess of the existing laws and in recognizing how to improve them that Pericles has attained the political skill or the requisite kind of knowledge. Because the political skill is not normatively constrained by the law, Pericles is not bound by Plato's legal conservative prescriptions and he can improve Athens as he sees fit. This approach, however, sets the bar far too low for what could count as political knowledge for Plato. While I want to remain neutral on whether the Statesman's knowledge is comprehensive as that of, for example, the philosopher-kings or whether it is just a directive knowledge for the good governance of the city, it is certainly more comprehensive than merely recognizing some aspect of the city as needing improvement and recognizing something that looks like an improvement.

Importantly, Plato in the *Statesman* does not seem to recognize the possibility of improvement by those who have mere true belief. And there might be a very sensible

explanation for this: true beliefs are not comprehensive or reliable, so with something as complex and serious as politics, it is better to err on the side of caution. For example, it would be a mistake to think that just because Pericles recognized Athens as too courageous that this can be remedied by, for example, preventing the city from going to war. It might be right for the city to go to war in that particular instance, or it might be that stopping them from going to war does the citizens more harm than good and improvements in the direction of temperance need to be more piecemeal. Those without comprehensive knowledge would make these kinds of mistakes whereas the knowledgeable Statesman would not. Thus, it appears that to be true to the text of the *Statesman* we should reject the possibility of piecemeal knowledge and deny that rulers with mere true beliefs can legitimately act contrary to the established laws.

Is Plato in practice, then, an extreme legal conservative? While he acknowledges the possibility of political knowledge, if the standard is almost never met by actual rulers, then Plato's non-ideal political philosophy turns out to be one of the most stringently conservative positions in the history of philosophy: *always* stick with the existing laws *whatever they are*. On this reading, Pericles should simply enforce the existing laws as they are. I have tried to motivate this position to some extent by showing that it might be better than the alternative: ignorant tampering with conventions that work, albeit poorly in many cases. But this really is an unlovely conclusion for as nuanced a thinker as Plato. While this position may likely prevent citizens from being harmed more than the lawless alternative, it seems too flat-footed to be the whole story.

I suggest, then, that what Plato would in fact recommend Pericles to do is to moderate the *composition of those who hold offices* within Athens and by means of decree change the policies *within* the confines of the established laws.⁹⁵ Law in ancient Greece did not exhaust the possibilities for political action and I have already suggested how it is that particular offices could be filled in such a way that the city as a whole becomes

⁹⁵ For a further discussion of the role of offices in the *Statesman*, see Lane, "Political Expertise and Political Office in Plato's *Statesman*".

more moderate, namely by aiming at having the combined effects of temperate and courageous people deliberating together approximating the mean. Single posts should be filled with the most moderate people and joint offices like the council should have an appropriate balance of the two main groups. This would mean that the city has a firm base of established convention and law that provides a degree of stability and unity to the city, but those laws would be interpreted and applied in the best way those citizens can manage.⁹⁶ Most importantly, if a decree turns out to have mischievous consequences or somebody appointed to political office turns out to be unfit for the role, it can be overturned without affecting overall lawfulness in the city (democratic institutions like the scrutiny and audit will obviously help with this). Thus we can allow for a narrow window of trial-and-error and possible improvement while retaining the spirit of legal conservatism.

The problem with this reading is that it goes beyond the text of the *Statesman* in a way that many will find troublingly speculative. At any rate, I think it is in accordance with the spirit and logic of the dialogue, but more evidence needs to be mustered to make this reading of Plato's non-ideal political philosophy plausible. So to that end, let us summarize briefly the conclusions from the *Statesman* and then turn to that wealth of detail, the *Laws*.

In this chapter I argued that there are two primary normative theses that we can find in the *Statesman*. The first is a principle of legal conservatism: constitutional change tends to go badly and so there should be a presumption in favor of sticking to the existing laws unless one is able to attain a comprehensive knowledge of the political skill (which is unlikely). The second is a principle of moderating constitutions: the Statesman's primary activity is to mix together the naturally courageous and naturally temperate types of people, which also amounts to mixing together the democratic and oligarchic elements of a city. Looking forward, it is my contention that these two

⁹⁶ Curiously, Plato is silent on the role of legal interpretation in his works. I am deeply puzzled by this given the debates surrounding the interpretation of law in the Athens of his day. It is not wild speculation, however, to assume that Plato thinks that naturally courageous and naturally temperate types would interpret the key terms of laws in accordance with their own values. What, for example, counts as "aggression" or "reasonable" will obvious differ between the groups.

normative principles are in fact the primary guiding principles for the key texts in ancient non-ideal political philosophy, and I will work through the relevant passages of Plato's *Laws* and Aristotle's *Politics* to support this claim. In addition, I will attempt to show how these philosophers navigated the other major problem found in Plato's *Statesman*, the trade-off between constitutions that allow for rulers to acquire and use skill (rule by the few) and constitutions that better protect the citizens from harm (rule by the many).

CHAPTER TWO

Politics Without Knowledge: The Mixed Constitution in Plato's *Laws*

For Plato, what justifies the far-reaching powers of the Philosopher-Rulers and the ideal Statesman is knowledge. Because these people have knowledge of the good, knowledge of how to apply the good to politics, and are motivated by the good, Plato ensures that those with comprehensive political knowledge also have comprehensive moral virtue. Thus there is a perfect harmony between those who *ex hypothesi* know what is best and their desire and ability to carry it out. But for political theorists who think that centralized political knowledge is a hard-won achievement and that unchecked power tends not to incentivize morally good action, this Platonic position is at best unhelpful and at worst misses the central problems of politics and the arrangement of coercive state powers.

Luckily, scholarship is blossoming on what is Plato's most detailed political work – the *Laws* – and in the *Laws*, it is never assumed that there will be philosophers to rule, and comprehensive knowledge is a cognitive state achieved by few (if any) of the citizens. Thus, it is a very real concern in Magnesia, the city of the *Laws*, that rulers could turn out to be criminals and citizens could be ignorant of political and moral truths.⁹⁷ How, then, does Plato respond to these problems? How does he try to obviate the pernicious effects of the vicious and improve the situation of the ignorant?

In this chapter, I will argue that in the *Laws* Plato tries to create a constitution, legal system, education program, and penal code that aims to incentivize and habituate every citizen to act in accordance with reason and virtue. Plato has used a number of

⁹⁷ As Bobonich colorfully puts it, "Plato recognizes that, lamentably, some citizens are stupid, insane, bad, or criminal..." (*Plato's Utopia Recast*, p. 397).

methods to motivate the citizens of Magnesia to perform virtuous actions habitually so that they will come to love virtuous actions and some may go on to gain a better understanding of why the virtuous actions the laws prescribe are good. But vicious and ignorant people cause political problems, even if they are in the process of being improved. So Plato not only has to design a system that benefits the souls of the citizens by improving their character, he also has to make a city that *works* – that is, the city government has to punish those who commit crimes in an effective way; it has to work to generate compliance with the laws; it has to bring about stability between groups of citizens who disagree about how best to run the city; it has to adjudicate conflicts in how legislation is interpreted and implemented, and it has to pool information from people whose grasp of the good is fragmentary at best. Magnesia, then, has to deal with a number of problems that are all but entirely absent in the *Republic*, many of which are the problems central to what we now call non-ideal political philosophy.

I will proceed in six sections. In section one, I will consider the dramatic context of the *Laws* and the issues associated with founding a new colony. I will also clarify what I take to be the philosophical constraints that Plato has placed on himself in this dialogue, and thus pinpoint the way in which the *Laws* is a “second-best” or non-ideal political project. In section two, I will provide a reading of the sadly neglected third book of the *Laws*, which argues that the best constitution is a constitution mixed of monarchy and democracy. Because the mixed constitution has been taken to be an empty promise on which Plato does not deliver, I will defend the seriousness of the proposal, and then in section three, detail the ways in which the mixed constitution is implemented throughout the *Laws*. In section four, I will consider an objection to the view that Magnesia is a mixed constitution and that Plato endorses it seriously as a normative proposal by working through Book Four of the *Laws*, which seems to suggest that Plato is keeping his older views about virtuous monarchs in his back pocket, as it were. With the normative equipment of the *Laws* in place, in section five I will argue that while Plato gives us a road-map for how to improve an actual polis, the legal conservatism of the *Laws* confirms the reading that Plato is deeply concerned with

stability insofar as he thinks that new laws are unlikely to generate compliance or be substantial enough improvements to justify the costs of a more flexible attitude to the power of legislation. However, I will argue that the *Laws*, unlike the *Statesman*, provides some suggestions for working within the constraints of a fixed constitution and lawcode, both with respect to the implementation and interpretation of the laws and with respect to possible (though extremely rare) changes in the lawcode itself. In section six, I will consider the role of the penal code and incentive system used in Magnesia, and consider the possibility of epistemic progress by the citizens. I argue that the penal code is designed to bring about lawfulness in the citizens, and that this in turn benefits them by habituating them in accordance with reason. I end by showing that even though citizens of Magnesia may lack comprehensive political knowledge, there is good reason to think that they are gaining competency in the subordinate branches of political knowledge, and this lower-level skill makes their city better run.

While the *Laws* is a dialogue with a specific context and purpose, throughout I will gesture at ways in which the arguments Plato provides can provide the basis for understanding his non-ideal political philosophy more generally. What we will see, once again, is that Plato defends a version of the mixed constitution with a very conservative bias. Without the security of knowledge and virtue, we find in this text a Plato deeply concerned with preventing the abuse of political power and with ensuring the rule of law.⁹⁸ In the end, we are still left with the tension from the *Statesman* in that it seems that while Plato is able to suggest ways in which constitutions may be improved in theory, in practice it is normally best not to implement these changes. If anything, the moral psychology of the *Laws* provides us with more reasons for thinking that Plato opposes legal change because it tends to be harmful, both for the individuals of the city and the

⁹⁸ It is worth noting that I will assume that the Athenian visitor speaks for Plato's views in the *Laws*. While the dialogical context opens up space between Plato's characterization of his speakers and his own views, my interest here is in exploring how taking the Athenian at his word might help us to form a more complex understanding of Plato's political philosophy. I have tried to remain within the confines of the *Laws* for the justifications for most of my interpretations here, so for readers who are skeptical of the inference that what the Athenian says represents what Plato believes, I encourage them to substitute "the Athenian" for "Plato in the *Laws*" and welcome any suggestions as to how we might better understand the Athenian's political views.

city as a whole. Once again, the problems of non-ideal theory lead Plato to a conservative conclusion.

1. How far is Utopia? The dramatic setting and constraints of the *Laws*

In the *Laws*, an Athenian Visitor sets out to establish a lawcode for a new colony in Crete. His interlocutors are Clinias, from Knossos, and Megillus, from Sparta. Ancient Greek cities often sent out colonists to start new cities, so questions of initial legislation were important. This context also goes some way to start afresh with new legislation, though it is far from wiping the political slate clean; the colonists are already grown adults and have been educated and habituated under a particular set of laws.

Plato is aware that this fact – that people have histories – generates problems. The question of where the colonists are to come from arises early in the establishment of the actual laws in Book IV. The Visitor supposes that they will be Cretan and *not* from all of Greece, even though he has noticed that there are émigrés there from the mainland (707e). Clinias suggests that they will in fact be from all of Greece (708a), but the Athenian raises doubts: “It would not be equally easy,” he says,

“For states to conduct settlements in other cases as in those when, like a swarm of bees, a single clan goes out from a single country and settles, as a friend coming from friends, being either squeezed out by lack of room or forced by some other such pressing need. At times, too, the violence of civil strife might compel a whole section of a state to emigrate; and on one occasion an entire state went into exile, when it was totally crushed by an overpowering attack. All such cases are in one way easier to manage, as regards settling and legislation, but in another way harder. In the case where the race is one, with the same language and laws, this unity makes for friendliness, since it shares also in sacred rites and all matters of religion; but such a body does not easily tolerate laws or politics which differ from those of its homeland. Again, where such a body has seceded owing to civil strife due to the badness of the laws, but still strives to retain, owing to long habit, the very customs which caused its former ruin, then, because of this, it proves a difficult and intractable subject for the person who has control of its settlement and its laws. On the other hand, the clan that is formed by fusion of various elements would perhaps be more ready to submit to new laws, but to cause it to share in one spirit and pant (as they say) in unison like a team of horses would be a lengthy task and most difficult.” (708b–e)⁹⁹

This is an important passage. Firstly, it reveals the power of habituation and education for Plato and their relevance for lawgiving, a theme that recurs throughout the *Laws*.

⁹⁹ Translation of the *Laws* are by Bury, with modifications.

One cannot determine in the abstract which laws will generate compliance and be internalized by the citizens – the lawgiver needs to look to the existing habits and beliefs of the population. The upside of an homogenous group of people is that they are likely to experience more internal harmony, but their shared habits make them resistant to change, even if the existing norms are harmful to the polis. Diverse groups, on the other hand, are more likely to comply with new laws, but are also more likely to experience internal dissent – presumably because they better feel the urgent need to compromise and comply with a new authority, but then disagree about moral norms and the proper understanding of the laws in practice. Thus the mundane fact that Megillus is from Sparta and Clinias is from Crete turns out to be significant – it is *their* understanding of law which is the object of agreement in the dialogue and *their* beliefs from which the Athenian is working.¹⁰⁰ Thus relatively ordinary Dorians could theoretically come to understand the proposals of the *Laws* as good, but this does not mean that the Visitor's laws would work for just any colonists from anywhere. The question of where the colonists come from is, frustratingly, not decisively resolved in the *Laws* but the problem of existing habits and laws is clearly of primary importance, and it is notable that later the Athenian says that it is only by necessity and never willingly (έκοντας) that new citizens "with a bastard training" (νόθη παιδεία) are admitted to the city.¹⁰¹

So Magnesia is not really much of a clean slate after all. Rather, it is an improvement for people from particular existing Greek states, and the institutions introduced have to be within the horizon of possibilities for the Dorian interlocutors and colonists: they have to be able to come to see the new lawcode as a good improvement on what they already have. The setting of the colony provides an opportunity to establish new laws, but Plato does not think that any set of laws will generate compliance just because the lawgiver says that they are good laws, provides public arguments for their goodness, and provides sanctions for those who break them. Rather, the *Laws* starts from existing laws and customs that real Greeks actually followed, and

¹⁰⁰ Annas, *Virtue and Law in Plato and Beyond*, pp. 41–48.

¹⁰¹ My own view is that the colonists would be from Crete, as per the Visitor's original suggestion.

then seeks to improve them in plausible ways.¹⁰² That the Athenian is legislating for people, who, at least for the first generation, have pre-existing habits, characters, and laws is thus an important feasibility constraint in the *Laws*, as these factors have consequences for the kinds of political institutions and social norms which could be accepted and followed by the citizens.

Another constraint in the *Laws* is what has (perhaps unhelpfully) been called Plato's "pessimism about human nature".¹⁰³ At a number of points, the Visitor makes concessions to features of human psychology that seem to annoy him as unfortunate necessities, or factors that at least make practical politics less good than it otherwise might. The Visitor also makes a number of comments which suggest that he has a rather low view of the average person. For example, at the beginning of the penal code in *Laws* IX, the Visitor says that it is in a sense shameful to make laws for a number of outrageous and impious crimes, but because they are not legislating for sons of gods and heroes but for men, it is necessary to account for things that no well brought-up citizen would consider (853b–d, 872c–d). Human nature may be somewhat flexible, but Plato realizes that there will always be citizens who are like beans that cannot be softened on the fire and are thus "uninfluenced by laws, however powerful" (853d) – people who we would call "bad eggs". But even in normal cases, Plato is far from sanguine about the characters of most people, as when he speaks of "the general infirmity of human nature" (854a). Moreover, swearing oaths in lawsuits is banned as "well-nigh half the citizens are perjurors" anyway, so oaths are nothing more than cheap talk (948d). More specifically, the Visitor thinks that few people hold true to the prescriptions of virtue when the going gets tough: "Small is the class of men," he says,

"Rare by nature and trained, too, with a superlative training, who, when they fall into divers needs and lusts, are able to stand out firmly for moderation, and who, when they have the power of

¹⁰² Morrow, *Plato's Cretan City*, pp. 72–92 on Plato's relationship to Solon; Annas, *Virtue and Law in Plato and Beyond*, pp. 32–40, on Magnesia being a combination of Athens and Sparta.

¹⁰³ Is Plato more optimistic about human nature elsewhere? If so, where? The *Republic* is normally the work gestured at, but *Republic VI*, for example, hardly fills one with confidence about the general caliber of humanity. Moreover, Plato always recognizes that political knowledge and virtue is hard to come by, so the fact that he is now writing a work in which this extremely high standard is not achieved doesn't indicate that he is somehow giving up. For further discussion, see Annas, *Virtue in Law in Plato and Beyond*, pp. 72–78; Laks. "Legislation and Demiurgy".

taking much wealth, are sober, and choose what is of due measure rather than what is large. The disposition of the mass of mankind is exactly the opposite of this; when they desire, they desire without limit, and when they can make moderate gains, they prefer to gain insatiably." (918c-d)

Of course, virtue has always been hard to attain in Plato's eyes, but what is striking here in the *Laws* is the extent to which those who are not virtuous are greedy and incapable of basic decency. The passage just quoted comes from Plato's discussion of traders and inn-keepers who take advantage of people in need by price gouging – a blatant violation of Greek hospitality norms about the kindness owed to strangers and travellers.

For our purposes, though, the most significant aspect of Plato's focus on the baser inclinations of humans is that there is a pronounced concern throughout the *Laws* for people who abuse political power. Consider the following striking passage, where the Athenian highlights the difficulties of avoiding corruption in politics:

"No man's nature is naturally able both to perceive what is of benefit to the civic life of men and, perceiving it, to be alike able and willing to practice what is best. For, in the first place, it is difficult to perceive that a true civic art necessarily cares for the public, not the private, interest – for the public interest binds states together, whereas the private interest rends them asunder – and to perceive also that it benefits both public and private interests alike when the public interest, rather than the private, is well enacted. And, secondly, even if a man fully grasps the truth of this as a principle of art, should he afterwards get control of the state and become an irresponsible autocrat, he would never prove able to abide by this view and to continue always fostering the public interest in the state as the object of first importance, to which the private interest is but secondary; rather, his mortal nature will always urge him on to grasping and self-interested action, irrationally avoiding pain and pursuing pleasure; both these objects it will prefer above justice and goodness, and by causing darkness within itself it will fill to the uttermost both itself and the whole state with all manner of evils. Yet if ever there should arise a man competent by nature and by a birthright of divine grace to assume such an office, he would have no need of rulers over him; for no law or ordinance is mightier than knowledge, nor is it right for reason to be subject or in thrall to anything, but to be lord of all things, if it is really true to its name and free in its inner nature. But at present such a nature exists nowhere at all, except in small degree; wherefore we must choose what is second best, namely, ordinance and law, which see and discern the general principle, but are unable to see every instance in detail." (875a-d)

Here the Visitor makes it utterly clear that Plato has not *abandoned* the position from the *Republic* and *Statesman* that reason and knowledge are utterly supreme and ought only to rule and never be ruled. The problem, as I am trying to emphasize, is that this knowledge is so rare that in actual societies Plato here endorses a different normative model in practice – namely, the rule of law and (as we will see in Book Three *et passim*) the mixed constitution. The above-quoted passage also makes it clear what Plato thinks the general problems are for people who hold political office, namely that they

inevitably value private interest over the common good, and that they are never immune to the temptations of pleasures and wealth. Thus, far from assuming the benevolence of rulers in Magnesia, Plato basically stipulates that without various sanctions in place, people will not rule for the sake of the ruled but for their own benefit.

So the project in the *Laws* is explicitly second-best, but when first-best options are almost never feasible, second-best options start to look rather appealing and rather important for understanding Plato's political philosophy in practice. Methodologically, perfect ideals are still normatively prior for Plato but when the ideals are impossible, we are to implement "whatever of the remaining details comes nearest to this and is by nature most closely akin" to it, ensuring that the legislation is expedient and practicable (746b–c). Of course, what counts as being "close" to an ideal for Plato is extremely difficult to determine (recall that strict lawfulness to existing laws is the "closest" regime to the rule of the Statesman) but the crucial point is that in the *Laws* the Visitor is deeply concerned with the feasibility of his proposals. To take a clear example to demonstrate this, consider the discussion of how property is to be distributed in Magnesia. The Visitor is explicit that a shared property regime like that of the *Republic* is best, but Magnesia has a second-best arrangement – one that is "as close to it as possible" – whereby there is private property but it is distributed along egalitarian grounds and is extremely difficult to accumulate (739b–d). Similarly, after an initial voting process to appoint a certain group of possible magistrates, the Visitor makes use of the lottery to determine who will hold office. This is explicitly flagged "as being contrary to strict justice" insofar as it employs a bad conception of equality (strict numerical equality), but it is nonetheless required by "necessity" to avoid civil discord (757d–758a).

So Magnesia is supposed to be feasible and this requires compromising on ideals.¹⁰⁴ Moreover, it is set in a context that was plausible in the ancient Greek world – founding a colony. The *Laws* is also supposed to produce a constitution, legal system,

¹⁰⁴ The Athenian also expresses annoyance at how close Magnesia has to be to the sea (704b–705a). This detail shows that the *Laws* really is concerned about the problems that real cities will have to face. Plato could have imagined Magnesia further inland (what would have prevented him?) but this provides an opportunity for him to explore how cities ought to deal with less-than-perfect circumstances.

and education system for people who are corruptible and never assumed to be infallibly virtuous or immune from the temptations of private gain over the public good, especially in positions of political power. Finally, and perhaps most surprisingly, the Athenian Visitor, who is establishing this framework, is never said to have political *knowledge* or the *art* of statecraft. Rather, he is said to have “had a lot of experience and... studied the field for a long time” (968b).¹⁰⁵ The absence of knowledge and philosophy more generally in Magnesia has been noted and well emphasized by a number of commentators.¹⁰⁶ “As to wisdom and settled true opinions,” the Athenian says, “a man is lucky if they come to him even in old age” (653a). In the *Laws*, then, nobody is able to exercise the absolute authority that the *Statesman* established was justified for those with knowledge. The whole dialogue works (with qualification) at a lower cognitive level; citizens are expected to acquire true beliefs, but they are never assumed to have comprehensive understanding like that of the Philosopher-Rulers.¹⁰⁷

Thus Plato never relies on full virtue or political knowledge to make his political institutions *work* in Magnesia. Strikingly, then, the *Laws* is an exercise of political philosophy that takes seriously the cognitive limitations that face normal people in a relatively ordinary political setting and the inevitable disagreements that will arise in such a setting.¹⁰⁸ It is in these ways that I understand that *Laws* to be a second-best way

¹⁰⁵ Note also how late this comes in the dialogue. What reason are we given for thinking that the Athenian is any kind of authority before this?

¹⁰⁶ See e.g. Morrow, *Plato's Cretan City*, pp. 573–590; Bobonich, *Plato's Utopia Recast*, pp. 89–93; Schofield, *Plato: Political Philosophy*, pp. 177–178; Klosko, *The Development of Plato's Political theory*, pp. 199–201.

¹⁰⁷ Comprehensive knowledge is not *ruled out* for those in the Nocturnal Council, but it is also never assumed that anyone will have it in such a way that those in the city can *rely* on it for political purposes, as is central to the arrangement of Kallipolis.

¹⁰⁸ Bobonich (*Plato's Utopia Recast*, pp. 91–93) argues that Plato changed his mind about the ability of non-philosophers to appreciate the value of virtue, and that this is what motivates the change in political thinking; a possibility that was not available in the *Republic* becomes available in the *Laws*, and this means different good political arrangements are also possible. With Laks (“Legislation and Demiurgy”), I think that the text supports the view that Plato is engaging in a different but complementary political project in the *Laws*. Thus, Plato hasn't changed his mind about human nature or what non-philosophers are capable of; rather, he is proposing a workable city that doesn't require Form-knowing Philosophers to be in charge. Thus, the difference in the standard for virtue is a *result of* the different political project – not the *motivation for it* (cf. Kraut, “Ordinary Virtue from the *Phaedo* to the *Laws*”, p. 64). For a parallel, Aristotle's psychology doesn't change between books VII–VIII and books IV–VI of the *Politics*, but different problems arise when not all of the citizens are assumed to be virtuous and so different political solutions need to be provided.

of doing Platonic political philosophy and the sense in which it is non-ideal. So let us turn now to the general framework that the Visitor introduces for such a city: what is the appropriate constitution when Statesmen and Philosopher-Rulers are absent, and what institutions does Plato think are best in these circumstances?

2. The analysis of constitutions in Book III: the mixed constitution

Magnesia, I contend, is Plato's paradigm of a well-mixed constitution. In the *Laws*, the Athenian claims that there are two "mother constitutions" from which all the others are derived or of which they are variations (693d). A good constitution, he argues, is one that partakes in both forms proportionately so that a city can have "freedom and friendship combined with wisdom [ἐλευθερία τ' ἔσται καὶ φιλία μετὰ φρονήσεως]" (693d–e).¹⁰⁹ Indeed, the final quasi-historical analysis of the constitutions of Persia and Athens at the end of Book III of the *Laws* is supposed to demonstrate that both the monarchical principle and the democratic principle when unmixed create a defective and unstable constitution, whereas good constitutions are mixed (693e–694a, 698a–b). This theoretical discussion directly precedes the actual laws that occupy the rest of the dialogue, and, for example, in the middle of Book VI we are reminded that the policies discussed are supposed to reflect the "mean between a monarchic constitution and a democratic constitution [μοναρχικῆς καὶ δημοκρατικῆς πολιτείας]" because "midway between these our constitution should always stand" (756e–757a). So Plato in the *Laws* appears to be adopting a new classification of constitutions from that we saw in the *Statesman* and from those of the *Republic*: here, there is a continuum from extreme monarchies to extreme democracies, and good constitutions somehow hit a mean between the two.¹¹⁰

¹⁰⁹ For a fuller discussion of this as the target of legislation, see Laks, "Freedom, Liberty, and Liberality in Plato's *Laws*".

¹¹⁰ This does not mean that the normative analysis is entirely new. As I argued in the final section of Chapter One, the discussion of naturally courageous types and naturally temperate types may also suggest that Plato thinks that the Statesman's art consists in mixing constitutions well. At any rate, the idea of a good constitution being a mixed one can be seen in Solon and Thucydides.

Despite this very interesting (and suggestively Aristotelian) way of thinking about constitutions, the actual discussion of constitutions in *Laws* III has received little detailed analysis in the secondary literature and many of its key concepts remain unclear.¹¹¹ Most centrally, what exactly are the monarchical and democratic principles, and how are you supposed to mix them? Moreover, what little there has been written on the mixed constitution in the *Laws* is often treated in discussions of democracy, where the sense in which Magnesia is free and democratic is often dismissed as being cheap talk, as though Plato could never *really* reconcile himself to many features of democracy at all. Consider for example Rowe, who writes that there is not much “evidence of any

¹¹¹ The most detailed discussions are: Morrow, *Plato's Cretan City*, chapter 10, Annas, *Virtue and Law in Plato and Beyond*, chapter 3, and Schofield, *Plato: Political Philosophy*, pp. 74–89. Morrow follows Aristotle in analyzing the mixture in terms of combining oligarchic and democratic institutions, but recognizes that this does not get us as far as Plato seems to intend. He then adopts a much looser conception of what could be “mixed” about the mixed constitution, but his analysis seems to have very little systematic unity (see especially p. 535 for just how many things can count as mixed). Annas, on the other hand, understands the conflict to be between the monarchical principle of authority and the democratic principle of freedom, but her central understanding of the mixed constitution in Magnesia is that it is a combination of Spartan and Athenian institutions. It is not clear to me, however, why Sparta should be paradigmatic of the monarchical principle Plato is expounding. Annas is right that Magnesia uses Spartan institutions extensively, but this seems to be the *result* of the theory of the mixed constitution and not its theoretical *basis*. Schofield’s discussion is somewhat general, but he identifies the “moderate freedom” in Athens as being a combination of (a) “voluntary acceptance of the rule of law” and (b) “freedom of participation in the political system that citizens must enjoy if they are to be proper citizens, and not simply the slaves of their rulers” (p. 80). I think that these claims are correct, but they fail to explain the logic of the theoretical discussion from Book III, in particular how it could be that monarchy and democracy form a single continuum. In other words, what are the principles that *justify* why this moderate freedom is a good thing. Similarly, Stalley’s analysis is rightly critical of alternatives that try to map on the analysis to actual constitutions, but his positive analysis fails to meet his own standard. “The balance to be sought between monarchy and democracy,” he writes, “is not a midway point between having many restrictions on personal liberty and having none. It is a condition in which restrictions are accepted willingly because they are recognized to be good” (*An Introduction to Plato's Laws*, p. 78). While willingness is certain an important aspect of freedom (cf. Lane, “Plato's Refashioning of Liberty on ‘Spartan’ Lines: Rule as Requiring Willing Obedience to Rulers”), it is unclear how this willingness could make sense of the Book III discussion, as people could submit willingly to a democracy or a monarchy, and either could in fact be good for the citizens, so a single continuum, once again, cannot be generated. The scale, then, is not one of degrees of willingness. Klosko understands the mixed constitution in Magnesia as referring to “a mean between the extremes of arbitrary rulers and an unbridled, tyrannical mob” (*The Development of Plato's Political Theory*, p. 239), but this doesn’t make sense of the Persia case as Cyrus had just as much power for arbitrary rule as Cambyses; if, however, Klosko’s point is that Cyrus ruled for the benefit of the ruled and Cambyses didn’t, then Plato should not have used a *continuum* but a discrete analysis of constitutions like that in the third book of Aristotle’s *Politics*. Later he glosses the two principles as “the democratic principle of freedom from arbitrary authority with the monarchic principle of powerful magistrates who are not susceptible to popular whims” (p. 241). Again, these are consequences of the two principles but they cannot form the theoretical basis that is supposed to provide the justification for the particular institutions.

reconciliation in the *Laws* to what Athenians of the day would have called democracy... ‘Democracy’ in the *Laws* merely means the involvement in and control, under the law, of day-to-day government by the 5,040 male citizens,” such that “the sense in which the city of Magnesia is a ‘democracy’ is minimal”.¹¹² Schofield thinks the inclusion of freedom and democracy into the mixed constitution is disingenuous in that “willing obedience, not freedom, is what the Athenian Stranger often prizes most.”¹¹³ Similarly, Prauscello claims that the Athenian *says* that Magnesia is supposed to be a mixed constitution but that in fact it turns out to be “a deeply hierarchical society”, and she cites Kraut approvingly in his claim that the “recognition of the importance of unequal relationships among human beings” goes unchallenged in the *Laws*.¹¹⁴ Thus the general impression that the *Laws* is democratic only insofar as it begrudgingly makes use of voting and the lottery (better alternatives being unavailable) stands as current scholarly orthodoxy.¹¹⁵

This reaction is fair enough and not without appeal. It is true that Magnesian laws do promote a hierarchical society in many ways. Moreover, their invasiveness into a number of aspects of the citizens’ lives appears extremely paternalistic to modern readers, not to mention the punishment system which looks outright draconian. Magnesia is not anything like the liberal constitutional democracies with which we are familiar – but this an unsurprising result, and if that’s what we were hoping Plato would argue for, our time would be better spent elsewhere. Nonetheless, Plato seems to think that Magnesia *is* democratic in some respect and it is important to understand what he means by monarchy, democracy, and their mixture in order to grasp the normative basis for his project in the *Laws*. And indeed, it is not obvious upon reflection what Plato means by these central ideas or the wider web of concepts with which he associates them. Thus I will attempt to get clear on what the political theory in Book III is on Plato’s

¹¹² Rowe, “Killing Socrates”, pp. 74–75.

¹¹³ Schofield, “Freedom and Justice in the *Laws*”, p. 290.

¹¹⁴ Prauscello, *Performing Citizenship in Plato’s Laws*, p. 68; Kraut, “Ordinary Virtue from the *Phaedo* to the *Laws*”, p. 52.

¹¹⁵ Even Morrow at times thinks that the authoritarian elements are more readily observable, especially with respect to the education of the citizens (p. 532).

own terms and then ask how Magnesia might implement this normative vision of a mixed constitution. In particular, I will defend the idea that the fundamental relations Plato is concerned with in his discussion of constitutions are those of *authority* and *equality*, that is, the extent to which citizens submit to the judgment of an authority and the extent to which they decide for themselves.¹¹⁶ But this stands in need of substantial justification, so let us now turn to the Athenian's crucial discussion of Persia and Athens to see more clearly how a mixed constitution is to be understood.

Persia was ruled by kings. Therefore, on a simple analysis of constitutions (like that we get in the *Statesman*) it is a monarchy. But under Cyrus, the Athenian claims, the Persians "maintained the mean between slavery and freedom [μὲν τὸ μέτριον μᾶλλον δουλείας τε καὶ ἐλευθερίας]". He continues:

"For when the rulers gave a share of freedom to their subjects and advanced them to a position of equality [ἐλευθερίας γὰρ ἀρχοντες μεταδίδοντες ἀρχομένοις καὶ ἐπὶ τὸ ἵσον ἀγοντες], the soldiers were more friendly towards their officers and were spirited [προθύμους] in times of danger; and if there was any wise man amongst them, able to give counsel, since the king was not jealous but allowed free speech [παροησίαν] and respected those who could help at all by their counsel – such a man had the opportunity of contributing to the common stock the fruit of his wisdom. Consequently, at that time all their affairs made progress, owing to their freedom, friendliness and shared reason [δι' ἐλευθερίαν τε καὶ φιλίαν καὶ νοῦ κοινωνίαν]." (694a-b)

Thus Persia under Cyrus was a monarchy, but it was a monarchy that gave the citizens freedom and brought them into more equal relations with the king, allowing them to speak freely and bring counsel to the ruling powers.

Things began to decline when Cyrus' son Cambyses came into power. Because Cyrus had neglected education, Cambyses was spoiled in the palace and was brought up by women who never opposed him in anything he did and made sure that everybody praised him in everything he did (694d). Thus Cambyses was without the harsh military training that his father had had, was "over-pampered and undisciplined", and killed his brother "through annoyance at his being put on an equal-footing with himself... mad with drink and debauchery" (695b). He ended up losing the better part of

¹¹⁶ This is not the only conception of equality available in ancient political thought, and notably it emphasizes what Aristotle calls arithmetic equality rather than proportionate equality. I hope to show with my analysis that this conception of equality *qua* deciding for oneself plays an important role in the *Laws*, precisely because it functions as the correlate of an authority relation, and that this interplay is fundamental to Plato's normative political project.

Persian empire fighting against the Medes, “who despised the stupidity of Cambyses” (695b).

The Persian constitution improved again under Darius, who was a military man and was not raised in the palace (695c). Darius introduced laws which brought about a greater degree of political equality [*ἰσότητα*] and regulated the tribute-money so that more of the wealth was distributed to the people “whereby he secured friendliness and fellowship amongst all classes of the Persians” (695d).¹¹⁷ But, like Cyrus, Darius neglected education and his son Xerxes was spoiled, becoming inept in the same ways as Cambyses had before him (695d–696a).

The Athenian summarizes the lesson from the Persian constitution as follows, highlighting what happens when a monarchy becomes excessive:

“We found that [the Persians] grew still worse, the reason being, as we say, that by robbing the commons unduly of their liberty and introducing despotism in excess, they destroyed in the State the bonds of friendliness and fellowship. And when these are destroyed, the policy of the rulers no longer consults for the good of the subjects and the commons, but solely for the maintenance of their own power; if they think that it will profit them in the least degree, they are ready at any time to overturn States and to overturn and burn up friendly nations; and thus they both hate and are hated with a fierce and ruthless hatred. And when they come to need the people to fight in their support, they find in them no patriotism or readiness to endanger their lives in battle; so that, although they possess countless myriads of men, they are all useless for war, and they hire soldiers from abroad as though they were short of men, and imagine that their safety will be secured by hirelings and aliens. And besides all this, they inevitably display their ignorance, inasmuch as by their acts they declare that the things reputed to be honourable and noble in a state are never anything but dross compared to silver and gold.” (697c–698a)

Firstly, depriving citizens of freedom and forcing them to obey the monarchy destroys the bonds of community, especially those between the rulers and the ruled. Rulers then stop caring for others in their society, ruling for their own sake and not for the sake of the whole, purely seeking to preserve their own power and make wealth, even if this means invading friendly neighboring states. This lack of concern for the ruled, unsurprisingly, undermines the loyalty that the ruled have for their country, and thus

¹¹⁷ The Athenian seems to understand “equality” here in economic terms and in terms of political power. So under Darius and Cyrus, there was more freedom and equality because the king shared resources with his subjects and allowed them to exercise political authority, particularly with respect to how their judgments were incorporated into deliberation about how the state should be run. The greater freedom came about because the subjects were more able to decide for themselves and the greater equality came about because the king respected this in political decision-making.

undermines the morale and dedication of the army, making the state weak and vulnerable despite having large numbers. Finally, when the rulers are only out to make money, the social norms of the state are undermined – for who is going to believe that some war is for the sake of some noble cause when everybody in the army knows that the king is just trying to fill the coffers. Thus, the downfall of the Persian regime is “due to excess of slavery and of despotism [διὰ τὴν σφόδρα δουλείαν τε καὶ δεσποτείαν]” (698a). So much, then, for excessive monarchy – what of excessive democracy?

The discussion begins by stating the intended conclusion of the analysis, namely, to “show how complete liberty, unfettered by any authority, is vastly inferior to a measured rule by others [ή παντελής καὶ ἀπὸ πασῶν ἀρχῶν ἐλευθερία τῆς μέτρου ἔχουσης ἀρχῆς υφ’ ἐτέρων οὐ σμικρῷ χείρων]” (698a–b).¹¹⁸ As with the Persians under Cyrus, the Athens at the time of the Persian wars a democracy but it was moderated. Under Solon’s constitution, the Athenians had shame [*αἰδώς*] as their ruler [*δεσπότις*], “because they were living as willing slaves to the laws then [δι’ ἣν δουλεύοντες τοῖς τότε νόμοις ζῆν ἡθέλομεν]” (698b). In addition to shame keeping the populace law-abiding, the fear of the impending invasion also brought the people together and made them enslaved to the rulers and the laws to a still greater extent (698b–c). This common attitude towards the rulers and the laws greatly increased the friendship the citizens felt towards each other in Athens (698c), as did the necessity of the Athenians bonding together (without any additional help from other city-states) for the battles of Marathon and Salamis, where they were saved by their fear, shame, subjection before the laws, and mutual friendship (699b–d).

After the Persian Wars, however, Athens “suffered the same fate as the Persians – they through reducing their people to the extreme of slavery, we, on the contrary, by urging on our populace to the extreme of liberty” (699e). Just as Persia became excessively monarchical, Athens became excessively democratic. Initially, “under the older constitution, the people were in no way authoritative, but they were also

¹¹⁸ Bury here translates “... is vastly inferior to a moderate form of government under elected officials”, reading *αἱρετῶν* rather than *ἐτέρων*. The manuscripts have *ἐτέρων*, and my reading will show why the emendation is not necessary.

voluntarily enslaved to the laws [οὐκ ἦν... ἡμῖν ἐπὶ τῶν παλαιῶν νόμων ὁ δῆμός τινων κύριος, ἀλλὰ τρόπον τινὰ ἐκῶν ἐδούλευε τοῖς νόμοις]” (700a). Note well that, at this time, everybody considers Athens to have democratic *institutions*, but the Visitor nevertheless claims that the people (*demos*) were not authoritative (*kurios*). He then explains that the Athenian lawfulness and subjection to the laws was best exemplified in the musical practices: categories and forms of musical performance were clearly delineated and standards of good performance were determined by “the authority that knew about these things and used its knowledge to judge them” (700c). Moreover, people who were well educated would listen attentively and performers would not pay attention to the clapping, catcalls, and shouts of the audience showing approval or disapproval during the performance; instead, “the majority of citizens were willing to be ruled in an orderly fashion” (700c–d). Things started going downhill, however, when composers started mixing musical genres and taking the pleasure of the audience as the criterion for a good performance, though they were “ignorant about what is just and lawful for the Muse” (700d). Consequently, the Athenian says, “they gave the ordinary man not only a taste for breaking the laws of music but the arrogance to set himself up as a capable judge” (700e).

This is an initially puzzling passage, but it reveals something deeply important about Plato’s understanding of freedom in the *Laws*. Athens did not literally have what we would call “laws” about music. Again, laws (*nomoī*) covers not only written laws but conventions and established practices. Plato’s point in this passage, then, is that there were conventions, based on expertise or established collective experience, which determined the correct styles for particular musical genres. Indeed much of the discussion from the first two books of the *Laws* is occupied with exactly this topic. The Athenians are called slaves to the law, then, in the sense that they upheld and recognized the authority of their musical conventions.

The significance of this discussion of music is that Athenians became excessively free when they started to ignore the opinions of their (in this case, epistemic) superiors

and set themselves up as the standard of correctness.¹¹⁹ They stopped caring what legitimate authorities and superiors thought, so they began to break the rules whenever they wanted to, disregarding the experts and established conventions: “music proved to be the starting point of everyone’s conviction that he was wise about everything and of general disregard for the law” (701a). It is from this point that the Athenian can infer that “complete freedom was not far behind” (701a). He continues, “the conviction that they *knew* made them unafraid, and assurance engendered effrontery. You see, a reckless lack of respect for one’s betters is effrontery of peculiar viciousness, which springs from a freedom from inhibitions that has gone much too far” (701b). People started to think that they knew what is best and so could disregard those who are in fact better or wiser than they were.

So, unchecked freedom first led to a disregard for the opinions of authorities and the established conventions, but then it led the Athenians to ignore morality and law altogether:

“Next after this freedom would come the sort that involves the loss of the willingness to be enslaved to the rulers; following upon this is the rejection of the enslavement to and guidance by one’s father and mother and elders; the next to the last stage involves seeking not to have to obey laws; after this comes the ultimate freedom when they cease to give any more thought to oaths and pledges and everything pertaining to the gods...” (701b–c)

The sequence is that the person who does not have their freedom bounded sets up their judgment as superior to those who possess skill and expertise (as in the musical example), then as superior to family, then the law, then the gods themselves, overturning the hierarchies that ought to be respected.¹²⁰ It is for this reason that unchecked freedom leads to hubris and injustice on Plato’s account.

So what does Plato mean when he says that a constitution should mix monarchy and democracy? Well, let’s start by thinking about what Plato means by freedom and slavery, as excessive democracy is characterized by excessive freedom, and excessive

¹¹⁹ For expertise and correctness in music, see for example *Laws* 656e-657b, 668b, 669a-b.

¹²⁰ Thus Schofield is wrong to say that in the Athens passage that “there is no mention of freedom in the narrative [Plato] develops” (“Freedom and Justice in the *Laws*”, p. 294). Showing how Athens went from moderate freedom to excessive freedom is the explicit point of the passage, and so we should try to understand freedom in such a way that makes this claim come out true.

monarchy is characterized by excessive slavery. But the Athenians were not literal slaves – that would make nonsense of the argument. The idea is that the Athenians were slaves to the laws and to the rulers when they *subjected* themselves to the laws and rulers, that is, they were law-abiding, respected the authority of the laws, and did not hesitate to follow what they commanded, especially during times of war. The sense of slavery, then, is the extended sense in which slaves don't decide for themselves what to do – they did what they were told.¹²¹ Notably, the Athenians were *voluntary* slaves to the laws during the Persian wars, so they realized that it was best that they and everyone else followed what the law prescribed. Conversely, the Athenians became excessively *free* not when they were interfered with minimally, but when they decided for themselves what to think and what to do in an increasingly large number of domains. So freedom here is understood as something like *self-rule* and slavery is *other-rule*, where the underlying concept is the extent to which you take *yourself to be authoritative* and the extent to which you take *something or someone else to be authoritative*.¹²² Thus we can see the connection between this thought and another important thought that Plato begins to develop in the

¹²¹ I have become increasingly dissatisfied with the assumption that *douleia* should be translated as “slavery”, as it seems clear to me that in the *Laws* – and indeed, in the political culture of Plato’s time more broadly – that *douleia* often has the much wider connotation of “subjection”, and thus a *doulos* is a subject or, in a political context, a vassal. This is not the place to defend this suggestion more fully, but I will note that translating *douleia* as “subjection” throughout *Laws* III makes the argument and main point much more perspicuous to the reader, who otherwise has to make sense of a very specific and perhaps misleading image. Plato may be trying to be dramatic or paradoxical in calling the Magnesians and old Athenians voluntary slaves, but even here the usage must be taken metaphorically. Thus, it is not clear to me what the motivation is for retaining the strict sense of *douleia*, especially if we think that Plato can here be justly defended against the charge of authoritarianism. Many contemporary political philosophers, for example, think that it is important that citizens comply with the law and that citizens should not rely on their private judgments about justice, but they would never describe this in terms of *slavery* to the laws. The point is perspicuous and well emphasized without the unpalatable associations of slavery. For a defense of the image, however, see Annas, *Virtue and Law in Plato and Beyond*, chapter 4. Lane also suggests that Plato often uses the term [“slavery”] as a metaphor for rule simpliciter, not for bad rule” (“Persuasion et Force”, p. 176)

¹²² Pace Miller, “Platonic Freedom”, who argues that freedom is tantamount to virtue in the *Laws*. Cf. Lane’s compelling alternative understanding of freedom as willingness to obey in “Placing Plato in the History of Liberty” and “Plato’s Refashioning of Liberty on ‘Spartan’ Lines: Rule as Requiring Willing Obedience to Rulers”. Though I agree with Lane that willingness to obey plays an important part in Plato’s final political vision, we disagree on whether this is the result of freedom *itself* or from freedom being mixed with a principle of authority to generate willing obedience. In other words, we agree on what the result of the mixture is, but we disagree on whether freedom (properly understood) *is* the result of the mixture or one of the ingredients.

Laws (and that Aristotle makes central), that of *ruling* and *being ruled*: rulers decide for themselves what ought to be done, and the ruled obey what someone else decides.

This reading of the Persia-Athens passage also makes good sense of the basic political point underlying the analysis of constitutions in Book III: a well functioning society has to achieve a balance of people deciding for themselves and people deferring to various publically recognized judgments about laws, social norms, and conventions. A society that is excessively authoritarian fails to recognize the capacities that people have to manage their own lives and exercise their own abilities, thus becoming increasingly unstable as the ruled fail to see the laws as reflections of their conceptions of how they ought to live and as rulers become increasingly prone to corruption, destroying the bonds of friendship between ruler and ruled. On the other hand, a society where everybody relies on their own private judgment about the best way to live fails to achieve a social unity, and thus gain the benefits of social co-operation that depend on shared and publically recognized norms, and if such a society is democratic, it also becomes insensitive to claims of genuine authorities as the informed few are overwhelmed and out-voted by the ignorant masses.

Note also that this way of expressing the thought behind the analysis of constitutions as a continuum between monarchy and democracy, self-rule and other-rule, is also in line with the way in which Solon describes the mixed constitution, as recorded in the *Constitution of Athens*. “The people,” he says, “will follow their leaders best if they are neither too free nor too much restrained, for excess produces insolent behavior when great wealth falls to men who lack sound judgment” (*Ath. Pol.*, XII.2). Thus Plato seems to be following Solonian tradition by thinking of constitutions in terms of excesses and deficiencies in freedom and restraint.¹²³

The analysis of monarchy and democracy, however, is not just about freedom and slavery relations between citizens, and between the rulers and the ruled. Plato also seems to think that these conceptions of monarchy and democracy bring with them a number of related ideas. Notably, in the discussion of Persia under Cyrus and Darius,

¹²³ See also Morrow, *Plato's Cretan City*, p. 522.

the Persian constitution was more measured because they brought about more *equality* in the populace, and allowed free speech (*parrhesia*) in the court, resulting in civic friendship. Moreover, when the soldiers felt allegiance to their country, they were spirited (*prothumos*) and courageous fighters. Similarly, in the discussion of Athens during the Persian Wars, there is a strong emphasis on the *shame* (*aidōs*) that was widespread among the citizens, whereas the decline of lawfulness is in part explained by an increasing propensity towards pleasure (cf. 647a). Plato's use of shame (*aidōs*) here is especially important given that this particular word for shame conveys a strong sense of social position, respect for limits and hierarchy, and knowledge of what is conventionally appropriate.¹²⁴

Thus monarchy and democracy in *Laws* III convey much more than rule by one or rule by many. Plato is not just talking about the governing body of the state; he is talking about a principle or a kind of value, embodied a set of institutions and a social ethos, which include notable affective dimensions. Monarchy and democracy are on a single continuum because they reflect different ways in which societies can be more or less inclined to think about their place in society, the governing institutions being just one manifestation of this underlying social ethos. The reason this is important is that it goes a long way to showing why Aristotle's criticism of the mixed constitution of Magnesia is misguided. Aristotle criticizes Plato for saying that he is mixing monarchy with democracy when really he is mixing oligarchic institutions and democratic institutions (*Pol.* II.7, 1266a1–30). Notably, this is what Aristotle thinks a mixed constitution is, but he misses Plato's point. Insofar as oligarchic institutions reflects the monarchic *principle*, namely that of hierarchy – that some are more qualified than others to decide political matters, that equality should be proportional and not arithmetic, etc. – oligarchic institutions in Magnesia *do* mix monarchical elements into the constitution because they reflect and inculcate monarchical ideas about the place of the citizen in the city and what particular citizens are qualified to do. The reason Plato doesn't talk about oligarchy in *Laws* III is that oligarchy doesn't have its own principle; rather, it is a

¹²⁴ Cairns, *Aidōs*, p. 13 *et passim*.

moderated version of both democratic and monarchical principles, and thus can be explained (as the Athenian suggested it could) as a derivation or variation on the mother-constitutions.¹²⁵ Saying that constitutions should be mixtures of oligarchies and democracies, then, would mess up Plato's underlying normative theory of *what it is* that is being mixed when constitutions are mixed.¹²⁶ Aristotle is being overly literal in his interpretation of Plato.

Moreover, once we start to think of mixing constitutions in a way which explicitly brings in not just institutions but also affect and social ethos, we might wonder how this picture from *Laws* III fits with the psychological analysis of political mixture that we saw at the end of the *Statesman*. I speculated, with evidence from Thucydides, that the naturally courageous types were more closely aligned with democracy and democratic institutions, and that the naturally temperate types were more closely aligned with oligarchy and oligarchic institutions. While not pronounced, there seems to be a thread of the *Laws* that supports this reading. When the monarchy was moderated in Persia, the soldiers were more spirited (*prothumos*), and when the democracy was moderated in Athens, the citizens had more shame (*aidōs*), but when each of the constitutions became excessive, these qualities disappeared – i.e. when a constitution is moderated, both courageous and temperate qualities are encouraged in the citizens, and when constitutions are excessive, the excessive version of the respective natural types is fostered.

Moreover, the *Statesman*'s division between naturally courageous characteristics and naturally temperate characteristics is hinted at in several passages throughout the *Laws*.¹²⁷ In Book I as part of the discussion of symposia, the Athenian says that the

¹²⁵ While oligarchic institutions are moderated, they are closer to monarchy than they are to democracy on the continuum.

¹²⁶ Of course, Aristotle has a point too: it's unhelpful to say that a good constitution should mix monarchy and democracy when really none of the institutions central to monarchy end up being in the mixture. So Aristotle's criticism is fair insofar as Plato could have said what he meant more clearly, but it's off the mark insofar as Plato isn't just jumping straight to the practical upshot of his theory.

¹²⁷ As is noted but not developed by a number of scholars: Sauvé Meyer, *Plato: Laws 1 and 2*, pp. 100–101, 113; Bobonich, *Plato's Utopia Recast*, pp. 288–292; Carone, "Pleasure, Virtue, Externals, and Happiness in Plato's Laws", pp. 336–337; Cairns, *Aidōs*, p. 374n90. The connection to constitutions is (to my knowledge) unnoticed.

lawgiver needs to cultivate in the soul two things: the greatest possible confidence [θαρόήσομεν], and its opposite, the greatest possible fear, called shame [αἰδοῦς] (649c). When drunk, people lose their shame and become increasingly “confident and bold and unduly shameless [εὐελπιν… θαρόαλέον… ἀναισχυντοτερον], and unwilling to submit to the proper limits of silence and speech, of drinking and of music, making him consent to do in all ways the opposite” (671c), which makes them “speak freely” [παρόησίας], “turn a deaf ear to his neighbours, and regards himself as competent to rule both himself and everyone else” (671b). Similarly, in the early history of constitutions in Book III, once communities started growing, the first division of legal arrangements comes about because one group of people were more orderly and the other group were more courageous, and thus made their children more like themselves [έαυτοὺς κοσμιωτέρων μὲν κοσμιώτερα καὶ ἀνδρικῶν ἀνδρικώτερα] (681b). It is at this period that the Athenian says that forms of simple constitutions began to proliferate (681c-d). The ideal king in Book IV is described as being both naturally courageous and naturally temperate (709e–710b), and the total rule of humans by the daimons under the reign of Kronos gave those people “peace and modesty and orderliness and justice without stint, and thus made the tribes of men free from feud and happy” (713e).

In addition, in Book V the Athenian seems to connect excesses and deficiencies in bodies and wealth with the courageous and temperate excesses and deficiencies in the soul:

“Bodies which hold the mean position between all these opposite extremes are by far the most temperate and stable; for while the one extreme makes the souls puffed up and proud, the other makes them lowly and spiritless. The same holds good of the possession of goods and chattels, and they are to be valued on a similar scale. In each case, when they are in excess, they produce enmities and feuds both in states and privately, while if they are deficient they produce, as a rule, serfdom” (728e–729a).

Thus Plato seems to be assuming that there is an underlying continuum of natural characters that can be pushed in either a excessively courageous direction or an excessively temperate direction by a number of factors, including wealth. This is reiterated in Book VII, where the Athenian says that “whereas luxurious living renders the disposition of the young morose and irascible and too easily moved by trifles, its

opposite (which is uttermost and cruel enslavement) makes them lowly and mean-spirited [*ἀνελευθέρους*] and misanthropic, and thus unfit to associate with others" (791d).

Striking evidence also comes in a discussion of punishment in Book V, where the Athenian says that:

"Every man ought to be at once spirited [θυμοειδῆ] and gentle [πρόσωπον] in the highest degree. For, on the one hand, it is impossible to escape from other men's wrongdoings, when they are cruel and hard to remedy, or even wholly irremediable, otherwise than by victorious fighting and self-defence, and by punishing most rigorously; and this no soul can achieve without noble anger [θυμοῦ γενναίου]. But, on the other hand, when men commit wrongs which are remediable, one should, in the first place, recognize that every wrongdoer is a wrongdoer involuntarily; for no one anywhere would ever voluntarily acquire any of the greatest evils, least of all in his own most precious possessions... No one, therefore, will voluntarily admit into this most precious thing the greatest evil and live possessing it all his life long. Now while in general the wrongdoer and he that has these evils are to be pitied, it is permissible to show pity to the man that has evils that are remediable, and to abate one's passion and treat him gently, and not to keep on raging like a scolding wife; but in dealing with the man who is totally and obstinately perverse and wicked one must give free course to wrath [ὀργήν]. Wherefore we affirm that it behooves the good man to be always at once passionate and gentle" (731b-d).

The two aspects of Plato's theory of punishment – that the incurable be treated with anger and the curable gently reformed – require that the good person have what appear to be contradictory traits, harshness and gentleness. The argument shows, though, that while injustice is to be punished harshly, nobody does injustice willingly, so those who are capable of reform really want to be improved (they are just ignorant). Thus anger is justified in the incurable case and pity in the curable case.¹²⁸

This distinction between natural types also comes up, importantly, in the discussion of marriage and child-rearing in Book VI. The Athenian says that "the man who knows he is unduly hasty and violent in all his actions should win a bride sprung from orderly parents; while the man that is of a contrary nature should proceed to mate himself with one of the opposite kind" (773a-b). This goes against the natural tendency that everybody has, which is to marry someone most like themselves, but when this happens "the whole state becomes ill-balanced both in wealth and moral habits" (773b-

¹²⁸ Strictly speaking, the anger (*thumos*) is justified *only instrumentally* as a way for citizens to bring themselves to purge the city of what must be purged. Thus this is not an endorsement of retributivism and remains compatible with the view that in a sense all unjust people should be pitied as nobody does justice unwillingly. More on this is section 6.

c). Thus, the Athenian reiterates, “that man of hasty tempers must be obliged to seek alliances with those of slower tempers, and the slow with the hasty [θάττους δὲ ἥθεσι πρὸς βραδυτέρους καὶ βραδυτέρους πρὸς θάττους ἀναγκάζειν τῇ τῶν γάμων κοινωνίᾳ πορεύεσθαι] (773c, also 930a). This language of natural character types generated by marriages and childbirth bears strong parallels between the discussion we found in the *Statesman*. Finally, in Book VIII, the Athenian says that a lack of decent military training and engagement in noble pursuits turns those with orderly natures [φύσει κοσμίους] into traders, ship-owners, and servants, whereas it turns the naturally courageous [τοὺς δὲ ἀνδρείους] into pirates, burglars, temple-robbers, fighters, and despots (831e).

I have emphasized these passages at length because they help to explain why it is that the analysis of mixed constitutions in Book III is *normative*, and normative for Plato, who explicitly sets out to make virtue the goal of his legislation. The point is that different constitutional arrangements have different effects on character. In particular, *ruling* makes people bolder and more naturally courageous, whereas *being ruled* makes them more orderly and more naturally temperate.¹²⁹ Thus when the Athenian says that a city should partake in both monarchy and democracy “if it is to have freedom and friendliness combined with wisdom” (693d), and again that it must be “free, intelligent, and a friend to itself” (701d), this is not a mere aside of Platonic buzzwords; rather, the idea is that democratic institutions foster freedom in the citizens, monarchical institutions establish hierarchies of authority that allow the city to be intelligent and wise, and the law must harmonize these elements in such a way that these competing elements complement each other and produce friendship and agreement between the citizens.¹³⁰ Moreover, this way of thinking about the constitution is intimately connected

¹²⁹ Naturally temperate types are claimed to be more law-abiding in Marquez, *A Stranger's Knowledge*, p. 323; cf. North, *Sophrosyne*, pp. 100–114, 121–122, 128, 132, 137–139. Xenophon suggests that *sophrosyne* includes *eutaktein* (orderliness) and *peitarchein* (obedience) in *Memorabilia* 3.5.21, *Cyropedia* 3.3.58; 5.3.43; 5.4.44; Xenophon also seems to use *tapeinos* as a term of praise in combination with *sophrosyne* in *Agesilaus*, 11.11.

¹³⁰ Schofield thinks this appeal to freedom is ultimately empty and that really Plato ends up aiming at *fear*, wisdom, and friendship (“Freedom and Justice in the *Laws*”, p. 296). I hope to show that following Schofield on this point would be an error and would result in a serious distortion of Plato’s political ideals.

with the conception of justice in the *Laws*, insofar as justice is said to arise from the combination of temperance, courage, and wisdom (631c–d).

Thus the mixed constitution is a normative proposal because (a) it respects two things that Plato thinks ought to be respected: hierarchy and equality, and (b) because the ethos that a well mixed constitution fosters aims not only at a part of virtue, but at the whole of virtue. The mixed constitution is what allows a city to achieve the stated goal of producing freedom (through democratic institutions), wisdom (through monarchical institutions), and friendship (through their harmonization).¹³¹ Moreover, another lesson to gain from the histories of Athens and Persia is that when constitutions are mixed, they *work* and are *stable*. The simple constitutions contain the seeds of their own demise insofar as they lead to excess and breed faction when they are not moderated. Moderated constitutions, on the other hand, are more likely to last through the challenges that politics provides. But it is significant that the mixed constitution is not justified merely in terms of stability. Consider as a contrast case the discussion of the Dorian cities in Book III. Argos, Messene, and Sparta all originally had kingships, but the Athenian says that only Sparta survived because it divided the power of the king (691d–692c). This passage is important because it is one of the few discussions (and is perhaps the *only* discussion) of what we call the constitutional *division of powers* before Polybius' writings about the Roman republic. For our purposes, it is a good test case because the Athenian recognizes that the division of powers, in putting a limit on the potential corruption of the rulers or power of the people, makes for a very stable and long-lasting constitution; but because this kind of divided constitution does *not* cultivate

¹³¹ Laks agrees that the monarchical principle is tied to wisdom, and the democratic principle to freedom, but he also thinks that democratic institutions promote friendship ("Freedom, Liberty, and Liberality in Plato's *Laws*", p. 138). This is a compelling proposal but I think ultimately wrong. The reasons for preferring the reading I am suggesting are that friendship also breaks down when legitimate claims to superiority are not respected, because it is *also* in that case that equals are not being treated equally (in the proportionate sense). As Schofield points out with reference to a key passage from Book VI: "the Stranger enunciates first some terms on which friendship cannot be secured: (i) slaves and masters cannot be friends (so pure monarchy – which is essentially despotic – will not be able to deliver it); (ii) as for citizens, given that they include the good and the bad (or the better and the worse), you will not get friendship between them if they are accorded equal honours, that is, given equal access to public office (so pure democracy will not work either). The reason that neither despotism nor egalitarianism will make for friendship is that both provoke stasis-generating resentments" ("Freedom and Justice in the *Laws*", p. 286, emphasized again p. 287).

the whole of virtue in the way that a mixed democracy and monarchy does, it is *normatively* inferior to the kind of legislative proposal Plato is advocating in the *Laws*.¹³² Stability is thus one concern in this dialogue and one recognized as a politically interesting problem, but the primary concern is that of improving the citizens, and this can only be done with a well-mixed constitution that provides a space for both monarchical and democratic elements.

One way of clarifying why it is that Plato does not think that a Spartan-type division of powers model is the best constitutional regime in all circumstances is to think about how it is that a constitutional should be mixed *relative to a citizen body, i.e. a set of psychologies*.¹³³ For example, states that already have a large population of naturally temperate citizens and who have been raised under a monarchy should *remain* a monarchy, because their habits will be ill-suited to democratic modes of government (and they probably won't want to partake in a highly participatory governing institution anyway – they'd rather mind their own business). However, because such a state is prone to becoming excessive, it ought to be moderated in light of democratic principles, as the Athenian says happened in Persia under Cyrus and Darius.

What such a moderation would amount to would be retaining a generally monarchical political structure, but incorporating a more democratic ethos into the running of the government and in instituting particular democratic laws or magistracies. Thus a state could retain its monarchical leanings in terms of general institutional structure, while being more democratic with respect to particular political norms. For example, as with Cyrus, a monarch could have the final say in decision-making, but various leading citizens or representatives could be part of the deliberative process. Perhaps over a long period of time such a state could become a more even mix of its

¹³² As Annas rightly points out, the division-of-powers model assumes a plurality of competing interests which are effectively managed, which is entirely contrary to the unified way that Plato wants a state like Magnesia to function whereby all of the parts of the city are aiming together at the same goal.

¹³³ Consider as a parallel the choice of lives in the Myth of Er of the *Republic* (618a–619b). If you know that you have the kind of soul that is susceptible to corruption, then you shouldn't pick a life that includes political power, for example. Socrates urges us to choose the "mean" life with respect to external goods, but the mean (as with Aristotle) depends on the psychology of the person and what circumstances are the most conducive to improving that *particular* kind of character.

more architectonic institutions, as would happen if the sole monarch were replaced by an oligarchic council, but the point is that the *mean* constitution for a temperate, monarchical state is going to be different than that for a courageous, democratic state.¹³⁴ Thus, one cannot simply criticize an institution in the abstract. As the Athenian says in Book I:

“In my opinion all those who take up an institution for discussion and propose, at its first mention, to censure it or commend it, are proceeding in quite the wrong way. Their action is like that of a man who, when he hears somebody praising cheese as a good food, at once starts to disparage it, without having learnt either its effects or its mode of administration – in what form it should be administered and by whom and with what accompaniments and in what condition and to people in what condition” (638c-d).

Magnesia has the benefit of starting more-or-less afresh (though with some notable qualifications from the previous section), so it can mix a constitution that has strong monarchical and democratic elements, but it is far from obvious that such a constitution should be applied to, for example, fourth-century Athens or Sparta in light of Plato’s political theorizing.

So much, then, for the normative proposal of Book III: a good constitution is a constitution that mixes together democracy and monarchy well, promoting both the ability of citizens to rule and be ruled (an explicit goal of education: 643e), and also the ability to decide for themselves and the disposition to defer to their betters depending on their place in the hierarchy of the city. But does Magnesia actually do this in practice? It is one thing to have a theory about what the best state should be like; it is quite another thing to implement the theory well with laws and institutions that instantiate these principles. So does Magnesia deliver on the mixed constitution, or has Plato failed by his own standard? It is to these questions I now turn.

¹³⁴ For a fuller defense of the claim that constitutions should only be changed and improved very slowly, see Section 5.

3. The institutions of Magnesia and the mixed constitution in practice

In this section, I will explain how the institutions and laws of Magnesia blend monarchy and democracy, first by looking at the hierarchical aspects of the *Laws* and then by looking at the respects in which equality is promoted. The idea is that while these institutions have different effects on the souls of the Magnesians, they work together towards a common goal; thus, the final result should be that the beliefs and habits instilled in the citizen body by these different institutions are *harmonized* with each other, like the high and the low notes of a musical chord – opposing in theory, but complementary in practice. The goal, I take it, is that Magnesians will think that deferring to the orders of others and the establishment of hierarchy is good in some respects or regarding particular matters, and that deciding for themselves and treating others as equals is good in other respects and in other matters. It is in this way that the mixed constitution thus reflects the political truths encapsulated in both democracy and monarchy, but without the over-generalizing tendencies that each of them has in their pure form. Notably, though, Plato at a number of points also moderates existing democratic or oligarchic institutions, combining both principles into a single institution – but this is no problem. Just as the harmony of democratic and monarchical institutions teaches citizens the respects in which hierarchy or equality are justified, so too do particular mixed institutions reflect the fact that both of these political systems get something important right about how politics should be done and what is good for the souls of the citizens.¹³⁵ Let us begin, then, with the monarchical institutions of Magnesia and the way in which the *Laws* instills a hierarchy of authority in the city.

¹³⁵ Notably, Aristotle says that there are three ways of mixing a constitution: (1) have a combination of oligarchic and democratic laws, (2) have a combination of oligarchic and democratic institutions, and (3) have institutions that are the mean between oligarchic and democratic institutions (*Politics*, V.9). Plato's conception of mixing here is very similar, though as we will see his base principles vary in conceptual focus.

Monarchical institutions: hierarchy and being ruled

Magnesia, obviously, has no kings or queens, and it would be a mistake to think of monarchy in the *Laws* in such a flat-footed way. What we are looking for are institutions that reflect the idea that someone or something has standing to determine what you ought to do or believe, and in that way they are justified to *rule* you. Rather than being the final say in how to conduct one's life in some respect, one defers to the authority of something or someone external. This is monarchical because the position of a citizen in a monarchy is that of being ruled.

The clearest place to start is the subjection of all the citizens to the laws themselves, as this is the most pronounced hierarchy and authority relation in the city. The Magnesians are raised to be strictly law-abiding and to comply with the laws as a matter of well-established disposition and character.¹³⁶ The goal of the education system and penal code is to make the citizens "slaves to the law" and the citizens are to think of the law as divine (715d). Moreover, Plato uses "law" broadly such that it does much more than prescribe particular actions to co-ordinate and habituate the citizens; it also gives them beliefs about the value of money, honor, and virtue, and about what the good life consists in. While the goal is to inculcate these beliefs in the individual citizens (ideally through persuasion), the incentive structure provided by the rewards and punishments and the content of the laws themselves also creates a publically recognized culture in Magnesia so that the city has a unified purpose – namely, the promotion of virtue in the citizens.

Infamously, to achieve this goal, Plato suggests a number of extremely far-reaching and surprising laws: bird-hunting and fishing are banned, because they are cowardly ways to acquire food (823e); foreign travel is heavily restricted, and banned for anyone under 40 (949e–950e); homosexual relations are completely outlawed (838e–839d); there are compulsory festivals where dancing is required from citizens of all ages (670a–b), and there are drinking parties that are used to see who is still temperate when their reason abandons them (671e–672e). The *Laws* can quickly appear ridiculous when

¹³⁶ See Annas, *Virtue and Law in Plato and Beyond*, chapter four; Schofield, *Plato: Political Philosophy*, pp. 81–83.

the legislation is cherry-picked in this way and I do not wish to defend Plato's prescriptions at every point, as that would be dogmatic loyalty in excess. Rather, I will show the structure of the hierarchy that the laws respect and promote, and then suggest why Plato is onto something politically important in thinking about the role of authority relations in society in this way.

Let us return, then, to the kinds of hierarchies that the Athenians were said to overturn in their excessive freedom. Firstly, they overturned the conventions regarding music and art [τὴν μουσικὴν] – epistemic authorities – arrogantly thinking that they knew best; then they refused to be subject to the rulers [τοῖς ἀρχοντὶ δουλεύειν], then to their parents and elders, then to the laws themselves, then to the gods (701a–b). All of these hierarchies are established and enforced in Magnesia, so that the Magnesians don't make the same mistakes that the Athenians did. There are objective standards of goodness in music and dance that are learned (e.g. 654d–656c, 657c), and the public performances are to be judged not by the crowd but by chosen judges whose reactions of pleasure and pain are well cultivated (658c–659c). The Athenian speaks in praise of the Egyptian artistic conventions, which remained fixed over thousands of years, and he seeks to emulate this practice in Magnesia (657a–b). No need to change a thing that you've gotten right, after all, and the musical experts have spoken.

Additionally, the magistrates are the primary vessel through which the law is implemented and enforced, so we can expect that the citizens are to follow their orders insofar as they are habituated to follow the law.¹³⁷ But Plato is emphatic that the magistrates and rulers are servants to the law and must act within its confines, lest the state be ruined (715d). In Book VI, the Athenian says that:

"It is needful that every man should hold the view, regarding men in general, that the man who has not been a servant will never become a praiseworthy master, and that the right way to gain honour is by serving honourably rather than by ruling honourably – doing service first to the laws, since this is service to the gods, and secondly, the young always serving the elder folk and those who have lived honourable lives." (762e)

¹³⁷ Note, though, the system of appeals and audit, discussed below. Annas describes the attitude of the Magnesians to the magistrates as that of the Spartans, where even the most powerful citizens run when a magistrate summons them (Xenophon, *Constitution of the Spartans*, VIII.2). She also rightly emphasizes the fact that the law delivers *epitaxeis* – orders – not requests (*Virtue and Law in Plato and Beyond*, chapter four); Herodotus describes the Spartans as being slaves to the law at *Histories* VII.164.

Rulers and officials are not to get puffed up with their own authority, but must think of themselves as enacting what the laws prescribe and they must understand ruling as delivering the commands of the laws rather than their own dictates. Notably, the magistrates are to see themselves as doing a public service and not ruling for their own gain – if they receive gifts while in office, for example, they are to be put to death, lest public office be considered a way to make profit off those they rule (955c–d).¹³⁸ While many of the offices are relatively mundane, it is an important aspect of Magnesia that the highest positions – the Guardians of the Law – do have fairly wide-reaching authority. Morrow notes that “the guardians of the law are a board possessing powers without parallel in the democracies of Plato’s time” and he believes that this is one of the primary ways in which Magnesia can be seen as having monarchical institutions.¹³⁹ The 37 people who comprise this group are supposed to be experienced in politics and renowned for their virtue (753e), and thus their discretion over the most important matters of the city is justified on the grounds that Magnesians have been taught to value.¹⁴⁰ They are to be obeyed not merely because they have been elected, but because they are almost certainly going to be able to make better decisions than the other citizens.

Plato’s hierarchies also extend into the private sphere. Throughout the *Laws*, Plato places an emphasis on the importance of family in a way that is striking after the radically counter-cultural proposals of the *Republic*. Within the family as well as in the city, there is a hierarchy of authority that is enforced. In Book IX, the Athenian says,

“Now the better are the superiors of the worse, and the older in general of the younger; wherefore also parents are superior to their offspring, men to women and children, rulers to ruled. And it will be proper for all to revere all these classes of superiors, whether they be in other positions of

¹³⁸ This may seem extreme, but as we will see in section 6, Plato reserves the death penalty for those citizens whom he takes to be incurable. Given how much effort gets put into trying to teach the citizens that ruling is not for personal gain but for the good of the ruled, the implication here seems to be that somebody who takes gifts or bribes has so utterly missed the point about how rule is to be conducted that there is no hope for them. Notably, this law would also have an important deterrent effect for anybody who thinks that they might make a quick buck off holding office.

¹³⁹ Morrow, *Plato’s Cretan City*, p. 526.

¹⁴⁰ For details on the various roles of the Guardians of the Laws, see Morrow, *Plato’s Cretan City*, pp. 195–215.

authority or in offices of state above all; and to enforce this is just the purpose of our present discourse." (917a)

Again, it's easy to see Plato here as being parochial, especially insofar as the Magnesian women are given the same education as the men, so the reasoning behind why he has returned to a more conservative proposal is unclear. Perhaps he simply thought it more feasible given the assumptions of his society, and it is worth noting that women nonetheless have far more opportunities in Magnesia than they did in any ancient Greek city.¹⁴¹ At any rate, the justification for why the younger are to obey their elders and children their parents is presumably the commonsensical point that young people are more likely to think they know when they don't, whereas parents and the elderly have learned from experience and have (probably) progressed further in virtue. This point about age and experience would also explain why the Guardians of the Law have to be at least 50 before they can hold that office (755a).

Finally, Magnesians are to be servants of the gods. Indeed, the authority of the law can be traced to the fact that it is the public manifestation of reasoning or calculation [λογισμός] (644d) and we have already seen how Plato thinks that doing service to the laws *just is* doing service to the gods in Magnesia. Moreover, it is clear from Book X of the *Laws* that the Athenian has some fairly sophisticated theological underpinnings. The details of this (rather complex) picture are not necessary here, but the main idea is that there is a natural hierarchy and order in the universe, governed by reason, of which the hierarchies in Magnesia are a microcosm.¹⁴² Thus, the respect for the gods that the citizens will have reflects a deeper appreciation for the order and harmony of the universe, and reveals at least a minimal appreciation of the goodness of the rule of reason in the city and the cosmos. The hierarchies that reason generates also provides the citizens with a metaphysical reason to honor the soul over the body, and thus to value virtue over bodily and external goods (e.g. 726a–729a).

¹⁴¹ Cf. Bobonich, *Plato's Utopia Recast*, pp. 384–389.

¹⁴² See Annas, *Virtue and Law in Plato and Beyond*, chapter 5; Laks, "Legislation and Demiurgy"; Morrow, The Demiurge in Politics: The *Timaeus* and the *Laws*, and PCC, p. 400 and Chapter 8 more generally. For more on the theological basis of the work, see Mayhew's excellent commentary on Book Ten (*Plato; Laws X, Translation and Commentary*).

So it is important for Plato that the Magnesians are trained to recognize and respect the appropriate hierarchies, and to understand their place in this hierarchy. Indeed, much of the orderliness of the city depends on the acknowledgement of and compliance with such relations. Notably, the most extensive list of these various hierarchies is introduced in Book III, right before the discussion of Persia and Athens. Here, the Athenian explains the various claims to rule that are put forward. First is the right of parents over children; second is the right of noble over the ignoble; third is the right of older over younger; fourth the right of masters over slaves; fifth is the right of stronger over weaker; sixth (called “the most important”) is the right of those with understanding over those without understanding; seventh is the rule of those with good luck (for example, those chosen by random lottery) over those without such luck (690a-c). All of these claims are introduced at a distance – it is not obvious that the Athenian endorses them at this stage of the dialogue, though Clinias is pretty excited by most of them – but it is noteworthy that as the work progresses and more of the concrete institutions are explained, all of these kinds of hierarchical relations find a place in Magnesia in one form or another. We can thus see Plato as thinking that each of these claims to rule gets something right, but also why they need to be ordered in a coherent system lest faction arise; the reason for this is that these claims to rule often come into conflict and thus people can claim that they legitimately ought to rule on the basis of one of these criteria, but this generates political dissent (690d).¹⁴³ One major project of the *Laws*, then, is to try to find a place for these hierarchies where each is appropriate, and then to habituate the citizens to recognize them with the help of the laws to enforce this structure. These considerations, I contend, are the way in which the *Laws* mixes the monarchical principle into the constitution.

¹⁴³ More carefully, the text is ultimately underdetermined as to whether these claims to rule are incorporated for the sake of stability or because they are in some way correct (but normally overextended in poorly designed societies). It is unclear to me how to decide this question, but if these claims are recognized in Magnesia merely to avoid faction then that would be a substantial normative compromise on Plato’s part. Some of the claims to rule are justified on independent grounds – e.g. parents over children because they are more likely to have gained wisdom from experience, and the use of the lottery to give the gods a say in who is chosen – but the hard case is the rule of the stronger over the weaker, for which it is hard to provide independent normative grounds. I ultimately remain agnostic on this issue.

Before moving onto the ways in which Magnesia is democratic, though, there is one final passage worth considering because of its connection with a controversial passage we encountered in the *Statesman*. Early in Book I, the Athenian speaks with praise of the Spartan and Cretan attitude towards the law: “one of the best of your laws,” he says,

“Will be that which enjoins that none of the youth shall inquire which laws are wrong and which right, but all shall declare in unison, with one mouth and one voice, that all are rightly established by divine enactment, and shall turn a deaf ear to anyone who says otherwise; and further, that if any old man has any stricture to pass on any of your laws, he must not utter such views in the presence of any young man, but before a magistrate or one of his own age.” (634d–e)

Recall from the *Statesman* that commentators like Rowe took the ban of inquiry suggested there to show that the relevant passage must be an *ad absurdum* for the attitude to the law presented there. This passage from the *Laws* complicates that picture. It is true that such a ban on inquiry does not find its way into the lawcode of Magnesia explicitly, and even in this praise of Dorian practice, the ban is limited to children. Nonetheless, the attitude reflected in this passage is fairly representative of the way in which Magnesians will think about their law and (as we will see in section 5) the law itself is extremely difficult to change. Thus while Plato is obviously a great advocate of critical inquiry and is a philosopher who is happy to think well beyond the confines of his own culture, he also seems to think that most people are far too eager to change what has been the hard-won fruit of experience and skill, and that most people think themselves wise about complex matters that they are in fact ill-equipped to comment on. Magnesians, then, are trained to be humble and to respect the law, and inquiry into the foundations of the law are reserved for the outstanding citizens who become part of the Nocturnal Council from Book XII. For the vast majority of citizens, however, the law has the final word.¹⁴⁴

¹⁴⁴ The problem for my purposes here is that Plato thinks that Magnesia has *good* laws – so of course he doesn’t think that most of them are going to need to be changed any time soon. But one wants to know what kind of attitude to the laws people in less ideal states should have, and it is not obvious that this passage helps us answer that question. I will, however, argue for a generally strong conservative bias in section five on independent grounds.

Democratic institutions: equality and ruling

While it is true that the hierarchical elements are much more striking on first contact with the *Laws*, once we start to think about democracy in Magnesia in terms of equal relations between citizens where each decides for him or herself and, in particular, their active participation in ruling, the hierarchical elements we have just considered do in fact get balanced out in a rather impressive way. Plato in the *Laws* retains the thought from the *Republic* that those with understanding and virtue ought to rule over the ignorant – but nobody in Magnesia is assumed to be outstandingly superior in virtue, so the day-to-day operations in the *Laws* run along basically egalitarian grounds. Citizens may be slaves to the law, but under the law citizens are to be treated as more-or-less free and equal. So let us turn to the institutions that reflect this commitment to the equality of citizens.

Firstly, while citizens are to obey the laws, the laws themselves have preambles that are designed to persuade the citizens that they ought to follow the prescriptions of the law, as is merited by their status as free people.¹⁴⁵ Force is only used as a back-up threat for when persuasion fails.¹⁴⁶ The use of persuasion is explicitly hailed as a way in which the Magnesian citizens are free and escape the domination of others (832c–d). Its importance comes out most clearly in the analogy between the free doctor and the slave doctor presented in Book IV (720a–e). The Athenian explains the difference between how slaves and free people are to be treated as follows:

Ath: "As the sick folk in the cities comprise both slaves and free men, the slaves are usually doctored by slaves, who either run round the town or wait in their surgeries; and not one of the doctors either gives or receives any account of the several ailments of the various domestics, but prescribes for each what the deems right from experience, just as though he had exact knowledge, and with the assurance of an autocrat; then up he jumps and off he rushes to another sick domestic, and thus he relieves his master in his attendance on the sick. But the free-born doctor is mainly engaged in visiting and treating the ailments of free men, and he does so by investigating them from the commencement and according to the course of nature; he talks with the patient himself and with his friends, and thus both learns himself from the sufferers and imparts instruction to them, so far as possible; and he gives no prescription until he has gained the patient's consent, and only

¹⁴⁵ As is also noted by Schofield, *Plato: Political Philosophy*, pp. 84–88; Bobonich, *Plato's Utopia Recast*, p. 105; for a more skeptical view of the connection between the preludes and freedom, especially against those who think that citizens have to consent to the laws, see Klosko, *The Development of Plato's Political Theory*, pp. 244–246.

¹⁴⁶ See Lane, "Persuasion et force dans la politique platonicienne".

then, while securing the patient's continued docility by means of persuasion, does he attempt to complete the task of restoring him to health. Which of these two methods of doctoring show the better doctor, or of training, the better trainer? Should the doctor perform on and the same function in two ways, or do it in one way only and that the worse way of the two and the less humane?" Cl: "The double method, Stranger, is by far the better." (720c–e)

It is unfitting for a free person to be forced or to be the mere passive recipient of actions – even actions that may be beneficial for them. Even beneficial coercion requires giving justification. Subsequently, free people ought to be given explanations for the prescriptions given to them. In the *Laws*, this happens by means of the preambles that explain why it is that the laws in question ought to be obeyed.¹⁴⁷ The point of the *double* method, however, is that if persuasion fails then the laws are justified in using threat of punishment to incentivize citizens to act in accordance with the law. Plato does not think that if a citizen fails to be persuaded of the goodness of a law, then that law is unjustified for that person – rather, he thinks that that person is *owed* a justification for the law insofar as they are a free person, but if they reject it then the threat of punishment is applied. Nonetheless, the addition of the preambles is a major innovation on Plato's part and his own justification for them depends on what he thinks is owed to free people in virtue of their status as free people. This, then, is a democratic institution (even though it has, to my knowledge, no precedent in actual democratic practices of Plato's time).

Secondly, almost all of the most prominent Magnesian offices and magistracies are open to all of the citizens, regardless of their level of wealth or property; in other words, Magnesia has an extremely democratic conception of citizenship, in that no property qualification is required for political participation.¹⁴⁸ The *Laws* is actually a rather extreme democracy in this respect, as more moderate ancient democracies put

¹⁴⁷ The actual content of the preambles raises a number of issues. For one, the generality of the preambles often wildly underdetermines the specific content of the laws. More troubling are the preambles regarding the laws against homosexuality, which explicitly contain what (the Athenian thinks) would be *psychologically effective* at getting people to refrain from homosexual acts ("think of it like incest!"), and what is the actual *justification* for why homosexual acts ought not to be performed. On the whole, however, I think most of the preambles do go a decent way in respecting the rational capacities of the citizens and the homosexuality preamble is anomalous, even if it does cause one to raise an eyebrow at the project as a whole. For further discussion on the generality of the preambles and the cognitive capacities of the citizens, see Hitz, "Plato on the Sovereignty of Law", pp. 375–379.

¹⁴⁸ As Morrow notes, *Plato's Cretan City*, pp. 528–529. See also pp. 133–134 and below.

low-level property requirements on citizenship.¹⁴⁹ Plato could have made Magnesia more “middling” here, but recall that the point is to *harmonize* the monarchic and democratic elements and not just average them out, as it were. What follows is that Plato thinks that democracy gets something importantly right about having every citizen actively participate in the running of the city in one way or another, and that the exclusion of local citizens (including women) from office breeds dissent and discord.¹⁵⁰ Any of the citizens, then, could end up as a Guardian of the Law and, most importantly, all of them will end up gaining experience in ruling and in giving orders to others.¹⁵¹

Thirdly, property in Magnesia is distributed and maintained at strict egalitarian levels, and it is effectively impossible for a citizen to become outstandingly rich.¹⁵² Land is distributed by lottery to the head of the family, and after that the buying or selling of land is prohibited (741b). Upon the death of the head of the family, the owner may bequeath it to one of his sons (745b, 923c).¹⁵³ With respect to movable property, the Athenian says explicitly that it would be best if everyone entered the colony with equal levels of wealth, but this is impossible so it is necessary to have unequal property classes (744b). Subsequently, the Athenian establishes four property classes. But Magnesians assess public contributions relative to the class a citizen is in, and thus relative to the resources each citizen has to make those contributions:

¹⁴⁹ This is reported by Aristotle, *Politics*, IV.4, 1291b30–1292a7; IV.9, 1294b3–6; VI.2, 1317b17–1318a10.

¹⁵⁰ Metics and slaves are excluded from the Magnesian conception of citizenship, but women are to receive education and military training, and are also to vote and participate in office (785b, 805a–d, 814a–c). For a fuller discussion of women in Magnesia, see Bobonich, *Plato's Utopia Recast*, pp. 384–389.

¹⁵¹ See also Schofield, *Plato: Political Philosophy*, p. 80.

¹⁵² As is noted by Klosko, *The Development of Plato's Political Theory*, p. 243. For a fuller account, see Morrow, *Plato's Cretan City*, chapter four. Bobonich, following Brunt, argues for an even more egalitarian conclusion, in that they believe the classes turn out to be a “sham” insofar as the upper property classes have their wealth only from what they brought with them to the colony. As none of the citizens have especially good ways to make money (e.g. manufacture, commerce), “once wear and tear have taken their toll on the richer citizens' initial stock of movable goods, they will not be able to maintain a significant edge over the less well-off citizens” (Bobonich, *Plato's Utopia Recast*, p. 376). Magnesia thus turns out to be even more egalitarian with respect to wealth than it first appears on their reading.

¹⁵³ As Annas points out, this variation on primogeniture is a clever innovation designed to prevent the increasing division of land among children, which ended up harming Sparta in particular (*Virtue and Law in Plato and Beyond*, p. 156n26, cf. Aristotle, *Politics* II.6, 1265a35–b17). Morrow, quoting Aristotle (*Pol.* 1270a29–31) notes that Sparta also encountered problems with respect to large portions of land falling into the hands of a few, such that the land supported a fraction of the population it could have (p. 107).

“Since... one man will arrive with more money and another with less, it is necessary for many reasons, and for the sake of equalizing chances in public life, that there should be unequal valuations [ῶν τε κατὰ πόλιν καιρῶν ἵστητος ἔνεκα, τιμήματα ἀνισά γενέσθαι], in order that offices and contributions may be assigned in accordance with the assessed valuation in each case – being framed not in proportion only to the moral excellence of man’s ancestors or of himself, nor to his bodily strength and comeliness, but in proportion also to his wealth or poverty – so that by a rule of symmetrical inequality they may receive office and honours as equally as possible, and may have no quarrelling.” (744b–c)

Plato thus recognizes that different levels of wealth allow people to make contributions to public life more or less easily, so the virtue of someone cannot be measured by looking at their action alone, but rather they must be assessed in light of their economic position. This equalizes the contributions, making the judgments of worth “symmetrical” despite being quantitatively different. Directly following this passage, however, is Plato’s ban on either excessive wealth or excessive poverty (as both are harmful), and his law stating that anybody who manages to make money exceeding the allotments limits for the classes must give the surplus to the state (744d–745a). With respect to the actual classes, no man in the upper property class may be more than four times richer than the man in the poorest property class, with the remaining two classes determined by the man owning twice or three times as much as the man in the poorest class. Moreover, these classes have no effect on who can partake in the most important offices in Magnesia, though minor magistracies are only available to the top property class and the top property class is marginally more represented in the assembly when calculated on a percentage basis. Nonetheless, the actual number of representatives from each class is identical and this provision is defended by Morrow as not being oligarchic but in fact implemented to help ease the burden on the lower property classes, who will have less time for days of voting and the performance of relatively minor administrative tasks than the richer citizens will have.¹⁵⁴ What we would expect from a oligarchic use of the property classes is the opposite of what Plato gives us: if Plato had oligarchic intentions here, minor magistracies would be given to the poor and the most important ruling offices would be given to the rich – but instead property levels are relatively

¹⁵⁴ Morrow, *Plato’s Cretan City*, p. 134.

equal and the differences in wealth have almost no effect on rule or representation in the Magnesian government.

Fourthly, Magnesia makes extensive use of popular courts, which exemplify the ideas that (a) every citizen is skilled and competent enough to pass judgment on the conduct of their fellow citizens (in most cases), and (b) that nobody is so far above the authority of anyone else that they cannot be subject to their judgment, especially in matters of justice. Nobody is immune to prosecution on grounds of status. Institutionally, Magnesia has a three-tiered court system. It is somewhat under-described, but the idea is clearly that there are bodies of popular and tribe-based courts where people ought to be involved in judging as much as possible, as injustice affects the whole state so the whole state should have a share in judging (767e–768b). There is then also a court of appeals, where the judges are elected from the full body of officials, presumably to settle particularly difficult or controversial cases where higher levels of juridical skill are required to generate good results (766d–768e, 956b–957c).¹⁵⁵ Whether Athens had anything like a court of appeals is controversial, but its prominence in the *Laws* is certainly a Platonic innovation and a particularly brilliant one at that. Here Plato notices that most people are perfectly competent to judge most cases and that they should do so insofar as they are invested in the well-being of the city and they are affected by injustices. This is the prominent democratic element of the proposal. But the inclusion of an additional court of appeals constituted by experts strongly suggests that Plato wants to find a place for skill and juridical knowledge in his legal system. So, under this arrangement, the people are fundamentally equal and are authoritative in most cases, but there are also safeguards in place so that those with additional skill and competence can exercise their judgment in difficult cases. Given our contemporary court system, it is easy to take this for granted as good common sense, but Plato ought to be commended here on his ingenuity in recognizing and combining both the authority of

¹⁵⁵ Morrow, *Plato's Cretan City*, pp. 251–273. He notes that there are also miscellaneous military and family courts (pp. 270–271). See also Bobonich, *Plato's Utopia Recast*, p. 382 for a brief summary of the court system.

the populace and the need for juridical skill with his institutions here. The court system in the *Laws* is the mixed constitution at its most elegant.

Fifthly, Magnesian office-holders are frequently subjected to scrutiny before taking office and *every* office (but one) is audited at the end of the term (761e).¹⁵⁶ This institution, which was extensively used in the Athenian democracy, extends the basic idea about accountability to one's fellow citizens and extends the scope of the judgment of one's peers. While Plato would have associated these offices with democratic constitutions – kings do not get audited – there is also an important sense in which they advance Plato's project of mixing the constitution.¹⁵⁷ The reason for this is that the office of the auditor is one which requires the utmost virtue on account of its far-reaching powers for indicting corrupt public officials. Auditors are thus selected for their superior character and power of judgment – indeed, the Athenian says that “all the auditors should have amazingly complete virtue [δεῖ πάντως τοὺς εὐθύνους θαυμαστοὺς πᾶσαν ἀρετὴν εἶναι]”, and they are to be appointed through a series of complex rounds of nominations and elections (945e–946b). Notably, though, these men are not immune to corruption and there are penalties in place for those who abuse their position when they themselves are audited (946d–948b).¹⁵⁸ Nonetheless, the auditors have special powers for punishing public officials and the extent of their influence reflects the idea that nobody is above the judgment of anybody else in the city.

Sixthly, many offices are filled by the public vote of all the citizens. This strikes us as a democratic procedure, but it may be objected that Greeks would not have viewed it as especially democratic; indeed, Aristotle himself calls it an oligarchic or aristocratic way of appointing officials, as those who get elected tend to be the rich or the skilled

¹⁵⁶ The exception to this mentioned in the passage is the final court of appeal, but presumably this is to stop an infinite regress of appeals.

¹⁵⁷ For the audit being understood as a quintessentially democratic institution, see Robinson, *The First Democracies*, p. 50, 63, 126.

¹⁵⁸ I take this to be strong evidence that even when Plato speaks in the *Laws* of citizens having complete virtue or having every virtue (the other instance being in reference to those on the Nocturnal Council, 962d), it doesn't follow from this that they are incorruptible or that Plato really is relying on character alone to make political institutions work well. Note also that both of these passages come very late in the *Laws* – it would be extremely misleading of Plato as an author to mention at this late stage that what the whole city really depends on is the character of the leading citizens.

(*Pol.* IV.9, IV.15). We need to be careful here, though. Aristotle's point is that election by vote is *less* democratic than election by lottery because it is the rich who tend to get elected, but it doesn't follow from this that it is a *completely* undemocratic procedure, especially in a city with relatively small differences in overall wealth and no obvious way to exercise personal wealth in getting oneself elected.¹⁵⁹ Consider, by contrast, a procedure whereby officials are appointed by an existing council or authoritative figure, as happens in the British House of Lords. Such a procedure is clearly not at all democratic, as the people have no say in or power over who ends up being in office. Plato could have had the Guardians of the Law fill the magistracies and offices, but instead he prefers to have public votes that involve all of the citizens. Everybody's vote in Magnesia only counts for one and voting clearly encourages political participation from the citizens. Moreover, Plato thinks that even bad people are relatively good at judging virtue in others (950b–c), so it is far from clear that he should be disparaging of the abilities of the masses to vote well for the people who ought to hold the offices. Finally, Aristotle is not the only representative of Athenian thought on this issue. Consider the following from Isocrates' *Areopagiticus*, which provides a democratic justification for election:

"Furthermore they [sc. those ruling in the time of Solon and Cleisthenes] considered that this way of appointing magistrates was also more democratic than the casting of lots, since under the plan of election by lot chance would decide the issue and the partisans of oligarchy would often get the offices; whereas under the plan of selecting the worthiest men, the people would have in their hands the power to choose those who were most attached to the existing constitution." (7.23)

Thus I contend that we should understand the systems of popular voting in Magnesia as being a moderated democratic institution, and the voting of the smaller councils (like that which establishes who sits on the final court of appeals) as being a moderated oligarchic or monarchical institution. This is in line with the text where the Athenian says that a system of popular voting combined with fines for those in the highest property classes who do not attend the election produces a mixed constitution (756e). In addition, Magnesia does occasionally make use of election by lottery, for example in the

¹⁵⁹ Cf. Morrow, *Plato's Cretan City*, p. 529.

appointment of religious offices (759b), and in the final stages of elections to determine the winning candidates (756e).¹⁶⁰ The use of lottery is clearly a democratic institution, even though it has a more restricted scope than it did in Athenian practices. At any rate, the Athenian hails this selection by election and lottery as exemplifying the mixed constitution (756e–757a).

Finally, I would note that there is something especially democratic about the highest authorities and offices in Magnesia being *groups* rather than *individuals*. Plato in the *Laws* never gives one citizen extensive power to do anything concerning the public (especially given that most offices are only held for a year), and the smallest group of powerful officials, the Guardians of the Laws, is never compromised of fewer than 37 people.¹⁶¹ Thus there is always a group of people with whom even the most powerful citizens are equal, and with whom they must share authority. In this sense, Magnesia is far more democratic than Sparta, the Roman Republic, and indeed most contemporary constitutional democracies, all of which have prominent offices that concentrate power in the hands of only a few.¹⁶²

Thus, despite first appearances, once we better understand what Plato means by democracy and how it is to be mixed into the constitution of Magnesia, we can see that there are actually a surprisingly large number of ways in which the *Laws* incorporates democratic institutions and moderates them to better suit the overall goal of his political project. I also take this way of thinking about the mixed constitution to provide a substantive contribution to the ongoing debate about whether Plato was “pro-democratic” or “anti-democratic”. As I see it, Plato recognizes the legitimacy of *some* of democracy’s claims – particularly with respect to the way in which people who are free

¹⁶⁰ Klosko emphasizes the use of lottery as a particularly democratic institution in Magnesia, but he claims that it is used in “selecting virtually all officials”, which does not seem obvious to me from the text (*The Development of Plato’s Political Theory*, p. 242).

¹⁶¹ It is true that the number of auditors is smaller, but they are not *ruling* in the same way that other office-holders are.

¹⁶² It is not obvious that this is a good piece of institutional design. Cicero defends the office of the consuls and the *senatus consultum ultimum* on the grounds that particular emergencies of state require individuals to be given extensive powers. One suspects the Magnesian government would not be able to respond especially quickly to unexpected dangers.

and relatively equal ought to be treated – and the value of *some* of its central institutions. But insightful thinkers rarely leave things as they find them, and Plato also has a number of criticisms of and improvements to Athenian democracy that are worked out in detail in the *Laws*. Skill and knowledge are always superior for Plato, but the kind of skill necessary to judge an ordinary court case is not as demanding as the kind of skill necessary to adjudicate a complex piece of legislation in a difficult appeal case. Similarly, most people are perfectly capable of voting well on who will do a good job of making sure that the local farming laws are enforced, but determining who ought to be in charge of watching the watchmen requires more experience and expertise. It would be silly for Plato to deny these points, and one of the ingenious aspects of the *Laws* is the way in which he manages to create a fundamentally democratic society that also generally gives authority to those who deserve it.

This way of thinking about the mixed constitution also gives us a way to think about our own society differently. For there are in fact a number of live issues regarding the scope of democratic power and the place of authority relations in a society of free and equal citizens. In the first instance, we recognize in our own institutions a number of legitimate hierarchies (for example, Supreme Court Justices are not determined by majority vote nor can just anybody choose to run), and there are a number of controversies about precisely what ought to be a matter of majority opinion and what should be left to the experts. Consider the widespread debate in the United States about vaccination, the fluoridation of water, and climate change – on the one hand, there is a relative consensus within the scientific community, but this is met with popular resistance. Should expert judgment or public opinion and voting determine what the government ought to do in these circumstances? There is not the space here to explore how this Platonic analysis of a mixed constitution applies to various contemporary societies and political problems, but it is at least worthwhile to pause to consider the

ways in which the Platonic conflict between legitimate hierarchies of authority and relative equality for free and equal citizens play out for us now.¹⁶³

4. The analysis of constitutions in Book IV: good-natured kings, tyrants, and the rule of law

In this section, I will consider a strong textual objection to my reading of the role of the mixed constitution in Plato's *Laws*, which comes from the somewhat tricky passage at the beginning of Book IV. Here, the Athenian talks about a young and good-natured monarch in a way that bears striking resemblances to both the Philosopher-Rulers of the *Republic* and the ideal Statesman of the *Statesman*. While this monarch is never said to have knowledge, there is surely a puzzle here about the relationship between the praise of the monarchical constitution that the Athenian delivers and the mixed constitution I argued was the normative political model in the previous section. Why is Plato introducing this figure? Does he represent the real political ideal of Magnesia, of which the mixed constitution is but an imitation? Or does he play some other role in explaining how it is that a comprehensive and unified body of legislation could come about?

Let us try to piece together the flow of argument through the start of Book IV. After raising the question of where this new city is to be geographically, the Athenian considers where the colonists are to come from (a passage we saw already in section one). Recall that the problem was that, on the one hand, when a group of colonists share the same cultural background, they have friendship with each other but do not have uptake on new laws and tend to cling to old laws, even laws that caused the political instability in the first place; on the other hand, when a group of colonists is diverse in background, they are more willing to submit to new laws but it is difficult for them to

¹⁶³ A particularly interesting example of this was the recent drama concerning the changing of the New Zealand flag. Both the original design and the final decision were left to public submission and public referenda, with many decrying the process as a failure because it was woefully lacking in expertise from graphic designers, visual art experts, and, of course, vexillologists. Even flag design, then, brings authority and equality into conflict.

work together and decide what the laws should be in the new colony because they lack shared customs (708c–d).

This prompts the thought that perhaps *lawgivers* don't do much work at all. For it seems as though whatever laws a new colony ends up with are a matter of chance and circumstance – simply *imposing* laws on people doesn't work, as the laws need to arise organically from the norms of the population, and they change because of war, poverty, and disease.¹⁶⁴ Thus some might claim that legislation is just a product of chance rather than skill, and that “no man ever makes laws, but chances and accidents of all kinds, occurring in all sorts of ways, make all our laws for us” (708e–709b). Bizarrely, the Athenian grants that this position about chance controlling all things may be the case for seafaring, navigation, medicine, and generalship,¹⁶⁵ but he says that it is also true that God controls all things and that Chance and Occasion work with God in the control of human affairs [μετὰ θεοῦ τύχη καὶ καιρός, τὰνθρώπινα διακυβερνῶσι σύμπαντα] (709b). The better way of characterizing the situation, then, seems to be that skill works in conjunction with these forces. Thus, the Athenian asks, “would not, then, the man who possessed skill in regard to each of the crafts mentioned be able to pray aright for that condition which, if it were given by Chance, would need only the supplement of his own skill?” (709d). The skilled legislator must then wait for the right moment to exercise his skill for it to be effectual.

So what is this opportune moment? It is in trying to answer this question that the idea of the good-natured monarch is introduced. The Athenian says that the lawgiver will wish for a state under a monarchy, where the monarch is young, has a good memory, is a quick learner, is courageous, magnificent, and temperate (709e–710a).¹⁶⁶

¹⁶⁴ The thought about disease is perhaps meant to recall the Athenian plague recounted in Thucydides just after Pericles' Funeral Oration, in which case the broader implication is not only that laws changed, but also that citizens' attitudes to the laws are changed. In this episode, it is not as though Pericles had failed to habituate the citizens to be lawful, but rather that the harshness of the circumstances caused a general breakdown in civil obedience.

¹⁶⁵ Cf. *Euthydemus* 280a, where the skills are said to make their own luck.

¹⁶⁶ This temperance is explicitly qualified as *natural* temperance and not temperance *qua* wisdom (710a–b). Presumably it couldn't hurt if this young monarch were wise as well, but what the Athenian is emphasizing is his natural goodness of character.

The Athenian says that the monarch needs to have these naturally virtuous qualities “if the state is to acquire *in the quickest and best way possible* the constitution it needs for the happiest kind of life. For there does not exist, nor could there ever arise, a quicker and better form of constitution than this” (710b). This passage may make it look as though Plato is still committed to a virtuous monarchy being the best form of constitution – or at any rate raises a puzzle about the relationship between monarchy and the mixed constitution given how quickly and nonchalantly this evaluation of monarchy as the best constitution that is and ever could be is introduced.

But the dialectical context concerns the *establishing* of legislation; specifically, the most opportune moment for exercising the *legislative* art in writing a new lawcode. When the Athenian says of this good-natured monarchy that there isn’t a “quicker and better form of constitution than this”, the context is clearly a paraphrase of the previous of the previous sentence, which only concerns the best way to establish a constitution. And in the passage directly following, the Athenian says that the good fortune consists in such a monarch meeting with “a praiseworthy lawgiver” (710d). The best state *arises* most effectively when there is a single good ruler combined with a good lawgiver – note especially that Clinias says that the best state *comes about* from a tyranny but not that it *is* a tyranny [ἐκ τυραννίδος ἀριστην... γενέσθαι πόλιν] (710d). In other words, what the Athenian is concerned with here is how to *get to* the kind of constitution that Magnesia has, and the easiest way to do this is via an absolute monarchy. The Athenian then argues that the more rulers there are, the harder it will be to establish a new legislation (though, curiously, he thinks that it is easier to establish new legislation with a democracy than with an oligarchy (710d–e)). But the point is that

“The change takes place when nature supplies a true lawgiver, and when it happens that his policy is shared by the most powerful person in the state; and wherever the state authorities are at once strongest and fewest in number, then and there the changes are usually carried out with speed and facility.” (710e–711a)

We should thus read the passage about a good-natured monarch in a deflationary way: if you want to establish a new body of legislation, the quickest and easiest way to do it is

via a sovereign with absolute power. Why? Because there's no red tape when you're the only person who gets to call the shots.

This is why after his praise of monarchy, the Athenian says to Clinias "But you, very likely, have never so much as set eyes on a monarchical state" to which Clinias replies, "No, nor have I any craving for such a sight" (711a). Clinias knows that monarchies are bad because they quickly devolve into tyrannies and almost no Greek city had a monarchy – let alone a stable monarchy – by the time Plato was writing the *Laws*. The Athenian emphasizes further his point about the opportune moment for legislating in saying the good constitutional changes come about most easily when those in office have a "heaven-sent desire for temperate and just institutions" (711d) and that "whenever the greatest power coincides in man with wisdom and temperance, then the germ of the best polity and of the best laws is planted; but in no other way will it ever come about" (711e–712a). At the end of this speech, Clinias says only "*Iσως*", which (annoyingly) can mean either "perhaps" or "certainly" (712a). All this talk of monarchs exercising absolute power may very well be making him uncomfortable.

At any rate, the discussion then moves onto what kind of constitution should be established in Magnesia, given the previous discussions. Clinias asks whether it will be a democracy, oligarchy, aristocracy, or monarchy, and checks again to make sure the Athenian doesn't want to establish a tyranny, for (with nervous laughter?) he says "that we can never suppose" (712c). Megillus then speaks up and worries about this classification of constitutions, as his own Spartan constitution from one angle looks like a democracy, from another angle an aristocracy, and from another a kingship; Clinias then says the same about his home city Knossos (712d–e). The Athenian replies that his interlocutors are right to think that their states partake in a number of constitutions, but that "those we named just now are not constitutions, but arrangements of states which rule or serve parts of themselves, and each is named after the ruling power" (712e). His point is that these cities are not properly unified, but are composed of particular groups trying to get ahead, and that those groups use their power for their own sake and not for the sake of the whole city. Importantly, none of the interlocutors here seem to think that

the simple analysis of constitutions is particularly helpful for determining what kind of constitution they should establish.

The Athenian then continues with a story about how, in the age of Kronos, we were ruled by daimons because,

“Kronos was aware of the fact that no human being... is capable of having autocratic control of all human affairs without becoming filled with violence and injustice [ἀνθρωπείᾳ φύσις οὐδεμίᾳ ἵκανή τὰ ἀνθρώπινα διοικοῦσα αὐτοκράτωρ πάντα, μὴ οὐχ ὑβρεώς τε καὶ ἀδικίας μεστοῦσθαι].” (713c)

Now, we are to imitate the age of Kronos, by ordering our homes and states “in obedience to the immortal element within us, giving to reason’s ordering the name of ‘law’” (713e–714a). But not just any laws will do. The Athenian recognizes that laws, like constitutions, are often used merely to benefit whoever has happened to seize power and that then the rulers will call following their laws “justice”, claiming that it is right that the stronger ruler the weaker, using the laws to further secure their power (714b–d).

With this consideration in mind, the Athenian finally returns to the discussion of how they will design the constitution and allocate power in Magnesia. The Athenian’s position is that no one group should rule, but that the laws should rule and that laws should aim at the common benefit of all (715a–d). The justification for why no one group should rule is revealing:

“Where offices of rule are open to contest, the victors in the contest monopolise power in the state so completely that they offer not the smallest share in office to the vanquished party or their descendants; and each party keeps a watchful eye on the other, lest anyone should come into office and, in revenge for the former troubles, cause a rising against them. Such polities we, of course, deny to be polities, just as we deny that laws are true laws unless they are enacted in the interest of the common weal of the whole state. But where the laws are enacted in the interest of a section, we call them “feudalities” [literally, “conflictions”] rather than “constitutions”; and the “justice” they ascribe to such laws is, we say, an empty name.” (715a–b)

This passage is particularly reminiscent of the themes from Thucydides we explored in the previous chapter, especially in the discussion of faction and constitutional change in Samos. Everyone should participate in the constitution and the laws must aim at the benefit of the whole city, not a portion of it. The Athenian seems to think that this account of the role of law has answered the question at hand regarding which constitution ought to be established, because he then moves onto the Address to the

Colonists, the introduction of the preambles, and finally onto actual legislation. What conclusions about Plato's constitutional theory, then, are we supposed to draw from this puzzling passage of text at the start of Book IV, and how does it fit with the justification for the mixed constitution in Book III?

Let's recap the argumentative structure of Book IV. Firstly, the Athenian considered whether all legislation was merely a matter of chance and the product of circumstance. This thesis was rejected, as all the crafts work in accordance with the opportunities that Chance provides.¹⁶⁷ Secondly, the ideal conditions for changing legislation were described, specified as the meeting of a good-natured monarch with a good lawgiver. Thirdly, it was asked what kind of constitution such a team would establish. The simple constitutions were rejected as candidates, as were the hybrid Spartan and Knossian models, because they did not create a unified city but rather ossified rule by one faction over another in various ways. Fourthly, the Athenian emphasized the general inability of humans to hold office without being corrupted, so laws ought to rule and ought to aim at the benefit of all.¹⁶⁸ This transitioned into the actual lawcode of the *Laws*.

As I argued in the previous section, the actual lawcode of Magnesia reflects the principles of a well-mixed constitution in Book III and harkens back to that discussion explicitly. This discussion in Book IV does not undermine this reading. Most importantly, the good-natured monarch is introduced explicitly as a device for establishing the kind of lawcode that was agreed is best, and the simple constitutions are rejected as candidates for such a lawcode. The presence and willingness of a good-natured monarch provides the best opportunity for the exercise of the legislative art. Moreover, the Athenian is explicit in Book IV that human beings cannot hold absolute power without being corrupted, so even if a good monarchy is the best constitutional arrangement when viewed at a particular moment, it is most certainly not the best

¹⁶⁷ Recall also the importance of the *kairos* in the discussion of the Statesman's skill in the *Statesman*. See Lane, *Method and Politics in Plato's Statesman*, pp. 132–136.

¹⁶⁸ Cf. 856b on the seriousness of making the laws a slave and how this leads to the violence and civil strife.

constitutional arrangement when looked at over time. Having a good-natured king is an unusual godsend, and one cannot rely on people of such a character being present.

Thus, given the actual content of the lawcode of Magnesia, we should think that what ought to be established is a mixed constitution, where the laws are understood to rule (even if they are to be managed by people). And when we look at the distribution of power throughout the long passages of the *Laws*, what we find is not a simple constitution and certainly nothing even remotely resembling an absolute monarchy, but a complex set of institutions where various groups of people administer the laws and no one group can ever be said to be the rulers and another group the ruled. This is why the Athenian never gives a straight answer in Book IV as to what kind of constitution he is going to legislate for. Quite simply, Plato doesn't have a name for what Magnesia is. While he is building from existing constitutional models, Magnesia is just a new kind of political thing.

5. Legal conservatism, legal reform, and habituation in Magnesia

In this section, I turn to another important aspect of the non-ideal theory of Magnesia, developing a theme already introduced in Plato's *Statesman*. There we saw that Plato prescribes a rigid legal conservatism in states where a knowledgeable Statesman is absent. Given that there are no Statesmen in the *Laws*, does Plato seem to endorse the same strict conservative view there? Can Magnesians change the law, and if so, under what circumstances? What we will see here is that once again Plato's theory generates a tension in that he provides a blueprint for improving constitutions – better mix monarchy and democracy – but that the costs of changing the existing legislation normally outweigh the benefits, leading him to conservative normative prescriptions in non-ideal circumstances.

Much of what I have to say about these questions follows the excellent work already done by commentators on how and when the law can be changed in

Magnesia.¹⁶⁹ The orthodox position is that Magnesia's laws are extremely difficult to change, but that there are some mechanisms in place for doing so.¹⁷⁰ As this conclusions follows from a number of complex and unexpected passages deep in the *Laws*, many readers will not have the relevant institutions at the forefront of their mind, so I will first re-cap the main arguments for how the law can be changed and then explain the general conservative bias throughout the work. What I add to this discussion, however, is a greater emphasis on the justification for why, from within the perspective of his own texts, Plato is so conservative with respect to the laws. It may seem that laws oughtn't to be changed in Magnesia because Plato thinks that he has gotten them more-or-less right, and so you shouldn't fix what isn't broken; people shouldn't fiddle with the laws because they would only be fiddling with what is already good and fiddling makes them worse. I contend that this way of thinking of the fixity of the laws in Magnesia is a superficial way of understanding the non-ideal political philosophy of the *Laws*. We can provide a deeper justification for why laws oughtn't to be changed (or should be changed only rarely and slowly) by looking at the connections between: (a) the habituation of character at which the laws aim, (b) the unity of purpose and shared expectations the laws provide between the citizens, (c) the attitude the citizens are to have towards the laws and the authority of the laws, and (d) the deleterious effects of changing the law in these domains.

Thus I will argue that Plato doesn't think that laws shouldn't be changed because he has delivered the legal truths from on high (on the contrary, we have good reason to think that he believes these laws will need to be improved on occasion), but because changing the laws frequently would undermine many of the main things at which the Magnesian laws are explicitly said to aim, namely, harmony between judgments and

¹⁶⁹ Especially Bobonich, *Plato's Utopia Recast*, pp. 395–408, and Morrow, *Plato's Cretan City*, p. 571.

¹⁷⁰ Notably under the guidance of the Nocturnal Council. See Marquez for a strong statement of this view, as he thinks that the Nocturnal Council "overcomes" the dilemma between law and knowledge in the *Statesman*, and is the institution "which is intended to let the city steer a relatively safe course between the Scylla of excessive conservatism and the Charbydis of excessive and unreflective openness to legal innovation" (*A Stranger's Knowledge*, pp. 290–294). As will become clear, I do not believe that the texts Marquez cites justify his conclusion.

pleasures and pain in the citizens, unity between citizens, and the authority of the laws over the citizens. These reasons do not just obtain in Magnesia, but across other political settings as well. Therefore, I contend that Plato's qualified legal conservatism does not apply only in states with the best laws – it applies in non-ideal states that genuinely benefit the souls of citizens.

Changing the law and legal innovation in Magnesia

We saw in the *Statesman* that in non-ideal states, where there is nobody with comprehensive political knowledge, Plato prescribes that citizens should stick by their existing laws, whatever they happen to be. The *Laws* has a complicated relationship to this position. On the one hand, as I have stressed, nobody is assumed to have this comprehensive political knowledge in Magnesia, but on the other hand, the institutions of the Guardians of the Law and the Nocturnal Council seem designed to gain expertise in various branches of political knowledge.¹⁷¹ Are these the people who are responsible for improving and changing the law of Magnesia?

As I will argue, the *Laws* – long and detailed as it is – seems curiously untroubled by the problem of how and when to change legislation (if at all), and we have to piece together the position from the dark and thorny passages in the middle of the lawcode. So does Plato here think that laws can and should be changed? If so, under what circumstances? And what method does he prescribe for doing so? I contend that the key passages that have been pounced on by commentators on both sides in fact radically underdetermine a coherent position on general procedures for changes to the law, such that we ultimately don't know how Plato envisaged such a process might occur. We can find some firm ground though. What I will argue is that Plato acknowledges (a) that it is sometimes necessary to change laws over time, and (b) the possibility that existing laws can be improved through discovery and inquiry – but that this happens *so rarely* that citizens, as matter of habit and collective political culture, are not to think about making

¹⁷¹ Even in the *Statesman*, a lack of complete *politikê technê* does not preclude the possibility of acquiring complete skill in rhetoric, generalship, or judging. More on this in section 6.

changes in legislation, and that, in practice, changes in legislation are so difficult that they will (almost) never occur, except by what would be nothing short of a miracle of collective political action. In short, laws may need changing eventually, but most people needn't ever worry themselves about that in Magnesia, and substantial legal improvements are apparently of so little concern to Plato that he does not give the rulers a feasible procedure or institutional mechanism to go about making them. So let us turn to the relevant texts now to fill out this picture.

An important text regarding the Magnesian attitude towards amendments in legislation comes from the address to the Guardians of the Law in Book VI. There, lawgiving is said to be like painting, and the Guardians of the Law are to be like painters who continually touch-up their work over time:

Ath: "You know how, for instance, the painter's art in depicting each several subject seems never to get to an end, and in its embellishing it seems as if it would never stop laying on colours or taking them off – or whatever the professional painters term the process – and reach a point where the picture admits of no further improvement in respect of beauty and lucidity... Suppose that a man should propose to paint an object of extreme beauty, and that this should never grow worse, but always better, as time went on, do you not see that since the painter is mortal, unless he leaves a successor who is able to repair the picture if it suffers through time, and also in the future to improve it by touching up any deficiency left by his own imperfect craftsmanship, his interminable toil will have results of but short duration?... Well, then, do you not think that the purpose of the lawgiver is similar? He purposes, first, to write down the laws, so far as he can, with complete precision; next, when in the course of time he puts his decrees to the test of practice, you cannot suppose that any lawgiver will be so foolish as not to perceive that very many things must necessarily be left over, which it will be the duty of some successor to make right, in order that the constitution and the system of the state he has organized may always grow better, and never in any way worse."

Cl: "This, of course, is what everyone naturally desires."

Ath. "Suppose then that a man knew of a device indicating the way in which he could teach another man by deed and word to understand in a greater or less degree how he should conserve or amend laws [φυλάττειν καὶ ἐπανορθοῦν νόμους], surely he would never cease declaring it until he had accomplished his purpose."

Cl: "He certainly would not."

Ath: "Must not we three act thus on the present occasion?"

Cl: "What is it you mean?"

Ath: "We are about to make laws, and Law-wardens have been appointed by us; therefore, since we are in the evening of life, while those compared to us are youthful, we should not only legislate, as we say, ourselves, but also make legislators, as well as Law-wardens [νομοθέτας τε καὶ νομοφύλακας εἰς τὸ δυνατόν], of these very same men, so far as we can." (769a–770a)

For a number of reasons, founding legislators cannot get everything right all at once.

Any initial lawcode is going to have gaps that are going to need to be filled in later by the next generation of lawgivers. The Athenian thus introduces the Guardians of the

Law as the group of people responsible for this task. The analogy with the painter is helpful here: the founding lawgiver gives the general shape of the lawcode – the main contours and hard bits, as it were – and the Guardians of the Law fill in the rest, and then repair damages which occur to the original legislator's work on account of the wear and tear of time. But you don't need to be Michelangelo to do the sky in the Sistine Chapel, nor do the later restorers need to have the original Master's skill. They do, however, need to understand how their work fits in with the general vision that the master painter lays down and ensure that the work they are doing is congruent with that project. Notably, the painters who help the master painter finish the painting and the restorers who fix the effects of damage *do not change the work*; they don't get to decide that the Sistine Chapel roof would have looked better if it had been a sunset scene or if the people had more clothes on.¹⁷² The lawcode that we have been given, then, is assumed to be *incomplete*, but it is also basically right in the form that we have it in the *Laws*.

Thus, the Guardians of the Law are to understand that the laws aim at the promotion of virtue in the citizens (and the Nocturnal Council is to understand what virtue *is*), and this will help them see the vision of the original lawgiver's laws. The Athenian addresses them as follows:

"Beloved Keepers of the Laws, in many departments of our legislation we shall leave out a vast number of matters (for we needs must do so); yet, notwithstanding, all important matters, as well as the general description, we shall include, so far as we can, in our outline sketch. Your help will be required to fill in this outline; and you must listen to what I say about the aim you should have before you in doing so. Megillus, Clinias and I have often stated to one another that aim, and we agree that it is rightly stated; so we desire you to be in immediate unison with us, as our disciples, and to aim at those objects at which, as we three have agreed, the lawgiver and Law-warden ought to aim. The sum and substance of our agreement was simply this: that whatsoever be the way in which a member of our community—be he of the male or female sex, young or old—may become a good citizen, possessed of the excellence of soul which belongs to man, whether derived from some pursuit or disposition, or from some form of diet, or from desire or opinion or mental study, to the attainment of this end all his efforts throughout the whole of his life shall be directed; and not a single person shall show himself preferring any object which impedes this aim; in fine, even as regards the State, if it seems necessary, he must allow it to be destroyed [ἀνάστατον] rather than voluntarily submit to the yoke of slavery under the rule of the worse, or else he must himself quit

¹⁷² Cf. Brunschwig, who cites this passage from the *Laws* to show that Plato wished for the "slow development of the laws [*cette lente mise au point des lois que souhaitait Platon lui-même*]" and to proceed by "small corrections [*rectifications mineures*]" with respect to legislation ("Du mouvement et de l'immobilité de la loi", p. 518, 536. Brunschwig is in turn referencing this reading in De Romilly, *La loi dans la pensée grecque*).

the State as an exile: all such sufferings men must endure rather than change to a polity which naturally makes men worse. This is what we previously agreed upon: so do you now keep both these objects of ours in view as you revise the laws, and censure all the laws which are unable to effect them, but welcome all such as are able to do so, and, adopting them wholeheartedly, rule your lives by them. All other practices, which tend towards ‘goods’ (so-called), other than these, you must bid farewell to.”¹⁷³ (770a–771a)

The crucial point is that virtue is to be valued above all else, and every law in unison should aim at this goal. That is what the Guardians of the Law have to understand, and it is such an important point that it is preferable to leave your own city to be destroyed rather than let it be taken over by bad people and suffer under bad laws that worsen souls.¹⁷⁴ Notably, though, neither of these two passages suggests that Plato thinks that the main outline of the lawcode will need to be changed, given that virtue is the goal of legislation. That is to say, Plato does not suggest *here* that the Guardians of the Law should be on the lookout for brilliant new ways to promote virtue in the citizens and improve the composition of the legal painting; rather, they are to paint within the lines and make sure the colors don’t fade.

This reading is confirmed by the two key passages where the Guardians of the Law are explicitly described as filling in the gaps in the lawcode. Young lawgivers need experience in law-giving if they’re going to do a good job, so the Athenian assigns to them easy cases that haven’t been determined by the original law-giver:

“These cases [sc. petty cases concerning complaints and misdemeanors] cannot be left without legal regulation, but at the same time they do not deserve the attention of an aged lawgiver; so the young lawgivers shall make laws for these cases, modelling their small rules on the great ones of our earlier enactments, and learning by experience how far they are necessary in practice, until it be decided that they are all adequately laid down; and then, having permanently fixed them, they shall live in the practice of them, now that they are set out in due form.” (846c)

¹⁷³ Bury gets the thought about the destruction of the state wrong here, so I have modified the translation. Cf. Saunders, who gets closer: “No man, whoever he is, should ever be found valuing anything else, if it impedes his progress— not even, in the last resort, the state. Rather than have the state tolerate the yoke of slavery and be ruled by unworthy hands, it may be absolutely necessary to allow it to be destroyed, or abandon it by going into exile. All that sort of hardship we simply have to endure rather than permit a change to the sort of political system which will make men worse.” As England *ad loc.* points out, the sentence is grammatically impossible so something must be done to fix it, though I think the underlying thought ultimately (though not easily) can become clear. For a discussion of the difficult grammatical problems in this passage, see England, *The Laws of Plato*, pp. 601–602.

¹⁷⁴ It doesn’t follow from this that *any* non-ideal city should be left to burn. More on this important thought below.

The model here is that the young law-givers try out legislation for these cases, then once the laws have been adequately tested and are thought to be complete, they are *permanently fixed*. Consider also the comment concerning religious legislation, that “none of these should the lawgiver alter in the slightest degree” (738c-d). This general model of a period of trial then permanent establishment is supported in a later passage in Book XII, which discusses the legislation concerning minor courts:

“The old lawgiver, however, may pass over all such legal observances as are trivial and easy of discovery, and the young lawgiver shall fill up his omissions. In dealing with the private law courts this method would be reasonable, but in connection with the public courts of the state, and all those which the officials have to use in managing the affairs which belong to their several offices, there exist in many states quite a number of admirable ordinances of worthy men; and from these the Law-wardens must construct a code which is suitable to the polity we are now framing, partly by comparing and amending them, partly by submitting them to the test of experience, until each such ordinance be deemed satisfactory; and when they have been finally approved, and have been sealed as absolutely unchangeable, then the magistrates shall put them into practice all their life long.” (957a–b)

So, working from existing states, young lawgivers are to think of something to fill in the gaps of the lawcode, put it to the test to see if it works in practice, and, if it does, it is to be left as absolutely unchangeable.

There is one text – *and only one text* – that explicitly raises the possibility that established legislation might be altered substantially. It comes from a passage in Book VI, and the topic under discussion is legislation concerning sacrifices and dances:

“It is, as we said, necessary that in regard to all matters involving a host of petty details the law-giver should leave omissions, and that rules and amendments should be made from year to year by those who have constant experience of them from year to year and are taught by practice, until it be decided that a satisfactory code has been made out to regulate all such proceedings. A fair and sufficient period to assign for such experimental work would be ten years, both for sacrifices and for dances in all their several details; each body of officials, acting in conjunction with the original lawgiver, if he be still alive, or by themselves, if he be dead, shall report to the Law-wardens whatever is omitted in their own department, and shall make it good, until each detail seems to have reached its proper completion: this done, they shall decree them as fixed rules, and employ them as well as the rest of the laws originally decreed by the law-giver. In these they must never make any change voluntarily; but if it should ever be thought that a necessity for change has arisen, all the people must be consulted, as well as all the officials, and they must seek advice from all the divine oracles and if there is a general consent by all, then they may make a change, but under no other conditions at any time; and the objector to change shall always prevail according to law [εἰ δέ τις ἀνάγκη δόξειέ ποτε καταλαβεῖν, πάσας μὲν τὰς ἀρχὰς χοῇ συμβούλους, πάντα δὲ τὸν δῆμον καὶ πάσας θεῶν μαντείας ἐπελθόντας, ἐὰν συμφωνῶσι πάντες, οὕτω κινεῖν, ἄλλως δὲ μηδέποτε μηδαμῶς, ἀλλὰ τὸν καλύοντα ἀεὶ κατὰ νόμον κρατεῖν].” (772a–d)

The position here first looks to be identical with the two passages quoted above: the lawgivers fill in the gaps, test their suggestions, and leave them as fixed. But then we get the surprise. Apparently, leaving laws unchangeable is the *ideal* and they should never be changed *voluntarily*, but if “some necessity [τις ἀνάγκη]” compels the city, then by unanimous consent and “under no other conditions at any time”, the law can be changed.¹⁷⁵ As has been noted, the context here is rather specific and it would be odd for Plato to introduce a general principle about changes in legislation in the thickets of particular laws concerning sacrifices and dances in Book VI, laws explicitly labeled as “petty details”. More alarming is the condition that must be met for laws to be changed – the consensus of the citizens. No actual procedure (e.g. voting) is actually mentioned in this passage, so we are left in the dark as to how such a condition could be institutionalized and implemented. At any rate, if this is the condition that must be met for legislative change to occur, one is left with the sneaking suspicion that Plato doesn’t really want many laws changed at all.

So let’s take stock thus far. The legislation laid down, even that of the young lawgivers, is to be *thought* unchangeable. If the citizens are compelled by necessity to change a law, then this change is not brought about voluntarily and is only enacted if every citizen consents. Explicitly, this is the only circumstance under which laws can be changed. Note that this is the conclusion even on the most charitable reading possible, whereby the method for changing the laws concerning sacrifices and dances extends to all other laws – an assumption that displays a rather reckless disregard for context, especially given that these are “petty” issues rather than important ones, and given that these are ordinances laid down by young lawgivers who are filling in the gaps of legislation rather than central pieces of legislation given by the original lawgiver. At best, then, we get a very weak existence proof: there is at least one way to change the law in Magnesia. But it’s almost never going to work if you try, because there must be universal consent. One is not filled with hope of progress.

¹⁷⁵ Notably under such conditions there would be no breakdown in compliance with the law, as everybody would want to follow the new law. Other changes in legislation would be much more likely to generate compliance and thus stability problems.

It is with this framework in mind that we have to consider the role of the Nocturnal Council regarding legal reform in Magnesia. While some have hailed the Nocturnal Council as Plato's "solution" to the non-ideal political problems from the *Statesman*, it is far from clear how their duties and skills relate to the institutions of the earlier books.¹⁷⁶ While we should do our best to be judicious in considering the role of the Nocturnal Council in the work as a whole, one cannot help but think that this is one of the loose ends generated by the incomplete condition of the *Laws*. At any rate, let us try to see what role Plato gives to the Nocturnal Council and consider what the motivation would be for the introduction of such a body (especially so late in the work).

Firstly, the Nocturnal Council is to try to acquire knowledge of the goal of legislation:

Ath: "What, now, shall we say about a State? If a man were to be plainly ignorant as regards the political mark to be aimed at, would he, first of all, deserve the title of magistrate, and, secondly, would he be able to secure the salvation of that object concerning the aim of which he knows nothing at all?"

Cl: "How could he?"

Ath: "So now, in our present case, if our settlement of the country is to be finally completed, there must, it would seem, exist in it some element which knows, in the first place, what that political aim, of which we are speaking, really is, and, secondly, in what manner it may attain this aim, and which of the laws, in the first instance, and secondly of men, gives it good counsel or bad. But if any State is destitute of such an element, it will not be surprising if, being thus void of reason and void of sense, it acts at haphazard always in all its actions." (962a–c)

This is in line with the founding legislator's aim as quoted above in the Address to the Guardians of the Law. The Nocturnal Council needs to know what the aim "really is", namely what the nature of virtue is (e.g. how it is one and many, how the virtues are individuated but also how they are a unity, etc.), and also what the most effective means for attaining it are. Without this knowledge, a magistrate would not be able to "save", "secure", or "preserve" [σώζειν] the city, nor would he be able to establish which laws, decrees, and people give it "good counsel or bad". All this, though, is compatible (and perhaps even required by) the painter analogy from Book VI. The Guardians of the Law need to know what the original lawgiver was aiming at and how he was aiming at it in order to do a good job of filling in the gaps and correcting for the

¹⁷⁶ Marquez, *A Stranger's Knowledge*, p. 291.

damages of time. But we do not yet have an argument for the Nocturnal Council playing a role in changing existing legislation.

The best case for this role, however, comes from the discussion of ambassadors. Magnesia is basically an isolated community, and nobody under the age of 40 is allowed to travel abroad anywhere (951d). But the city does send out embassies to the oracles and sacred sites on the mainland, and competitors to the Panhellenic sporting and cultural events, "men who will gain for the state a high reputation in the sacred congresses of peace, and confer on it a glorious repute that will rival that of its warriors" (950e–951a).¹⁷⁷ More importantly, Magnesia sends out ambassadors, empirically informed political scientists who seek out brilliant people and good cities in order to learn more about what it takes for a city to be well-run:

"If any of the citizens desire to survey the doings of the outside world in a leisurely way, no law shall prevent them; for a State that is without experience of bad men and good would never be able (owing to its isolation) to become fully civilized and perfect, nor would it be able to safeguard its laws unless it grasped them, not by habit only, but also by conviction. Amongst the mass of men there always exist—albeit in small numbers—men that are divinely inspired; intercourse with such men is of the greatest value, and they spring up in badly-governed States just as much as in those that are well governed. In search of these men it is always right for one who dwells in a well-ordered State to go forth on a voyage of enquiry by land and sea, if so be that he himself is incorruptible, so as to confirm thereby such of his native laws as are rightly enacted, and to amend any that are deficient. For without this inspection and enquiry a State will not permanently remain perfect, nor again if the inspection be badly conducted." (951a–c)

This is a very revealing passage. Magnesian ambassadors go out into the world not just to confirm that their laws are good, but also to make sure that they are not missing out on any good political ideas that could improve their polis. So while Plato thinks that these laws are basically right for the kind of people for whom he is legislating, he is also open to them learning and improving. It is this text that suggests that Plato is also open to the possibility of larger or more central portions of the lawcode being revisable. For example, if a Magnesian ambassador happened upon a city in Italy and discovered that they divided the branches of government, thus de-centralizing power and better insuring the state from the corruption of public officials, then it looks as though the Nocturnal Council has good reason to suggest that (e.g.) the duties of Guardians of the

¹⁷⁷ One wonders how well this was thought out – won't the best athletes be much younger than 40? Even given the Magnesian physical education program, this seems unduly optimistic.

Law should be divided in a similar way. Or perhaps an ambassador would discover a state where men and women ate together in public food-halls, and that they experience more civic friendship as a result.

The problem is that it is utterly unclear how the Nocturnal Council and Guardians of the Law (whose membership overlaps but is not co-extensive) would pass such a legislative change. Persuading thousands of not very highly educated citizens and farmers of the benefits of a different kind of constitutional design or of different gender norms so that there results a unanimity of consent seems a hopeless task, but it is hard to see what political improvement could be weighty enough to justify a substantial change in legislation (and thus justify the potential damage the citizens' attitude towards the fixity of the law) that also would be obvious enough for the whole citizen body to realize all at once that it's a good idea *and* have everybody motivated appropriately towards achieving this good in the proposed. Perhaps the Guardians of the Law could make the move from the *Statesman* that they are acting from political knowledge and thus whatever they do is justified, as knowledge is subject to no authority, so forcing the new law upon the Magnesians. But remember that the Guardians of the Law are a council of 37 members, which is probably too large a number to acquire political knowledge on the *Statesman's* grounds anyway (especially without the more rigorous higher education of the *Republic*), and having one or two Guardians act unilaterally without the full sanction of even that one council is so antithetical to every Magnesian political procedure that I cannot believe that Plato would have had it in mind. Such people would surely be convicted of tyrannizing during the audit of their term and be punished accordingly.

Thus the best thing we can safely infer from this passage concerning the ambassadors in the context of the *Laws* as a whole is that Plato is open to the possibility of substantial legal improvement, but that it is not a central concern of the dialogue or of the citizens of Magnesia, and that he has no feasible institution or procedure in place by which such a change could be enacted without grossly violating the constitutional constraints of the city. Most citizens wouldn't even consider changing the law, as they

think it is divine, and in addition, they don't travel so wouldn't see other ways of life and are well accustomed to the laws that they have always had. The clear conclusion is that for all intents and purposes, Magnesia is a deeply conservative society and that the reason there is no systematic discussion of how the law is to be changed is because it isn't supposed to be.¹⁷⁸

Law and habituation

So why does Plato take such a conservative position with respect to the laws in Magnesia? It may seem that Plato is simply impressed with his own legislative brilliance in giving such good laws and that any deviation from them would amount to deviating from truth and correctness in politics. Now, there is nothing that *rules out* this understanding of the *Laws*, but it makes it somewhat uninteresting. Moreover, I believe that there are resources in the text to give a much richer explanation for the fixity of the laws; namely, that changing the law undermines the effects of *habituation*. Thus although Plato thinks that Magnesia has good laws, there is also a more general principle at work here – and it is a principle which extends to other non-ideal cities. The understanding of law and habituation that we glean from the *Laws* is then an important piece of theoretical apparatus for understanding Plato's non-ideal political theory, and ancient virtue politics more generally. I will thus discuss the views in the *Laws* that we get about law and the habituation of pleasures and pains, which form a central part of Plato's understanding of virtue, and then explain how this grounds the views about the pernicious effects of innovation concerning legal and social norms.

In the *Laws*, individual character virtue is understood primarily in terms of appropriately trained pleasures and pains. Magnesians are to be pleased and pained by the right things, at the right times, to the right degree. For Plato, emotions and reactive

¹⁷⁸ A similar conclusion regarding changing the law in Magnesia is reached by Klosko, though for slightly different reasons. As he sees it, the laws would have to be changed by people in office, and office is attained by election, but "victory in an election does not guarantee wisdom, and Plato does well not to give an elected official the power to tamper with the system of education" (*The Development of Plato's Political Theory*, p. 251, cf. 256–257). While he recognizes that the passages mentioned seem to suggest the theoretical possibility of change, the obstacles Plato puts in their way are "all but insurmountable" (p. 251).

attitudes are complexes of pleasures and pains, so the training of pleasures and pains concerns training all of our non-rational affective resources in order that they may be in line with reason.¹⁷⁹ Importantly, the goal of law and education is to habituate these reactions and evaluations into the citizen body as a whole so that these attitudes are shared by all. The main account of this view comes early in Book I:

“The upshot for our legislative inquiry that virtually the whole subject [of educative institutions] concerns pleasures and pains, those in cities and those in individual characters. These two springs flow freely by nature and whoever draws from the right one at the right time and to the right extent lives a happy life – whether a city, an individual person, or an animal – while the one who draws from them unintelligently and at the wrong time lives the opposite way.” (636d–e, trans. Sauvé Meyer)

So the happiness of the individual and the city depends on measured and timely affective responses, but what determines when is the right time to be pleased and how angry to get? The answer by now should be unsurprising: the law, i.e. the public manifestation of reason in the city, and those who have acquired good characters in accordance with the law. Thus the Athenian says that:

“The soul of a child must not become trained to feel pleasure or pain that opposes the law, or opposes those who accept the law. Rather, it must follow the law and be pleased and pained at the same things as are the elderly.” (659d, trans. Sauvé Meyer)

All citizens are educated to be strictly law-abiding, but this means more than just them thinking that the laws and social norms of the city are good; if successful, these judgments about the authority of the law and its content will be supported by one’s own affective attitudes, and the collective praise or blame of the community.

As honor and shame can be conceived of as pleasures and pains which take the judgments of others as their object – i.e. honor is being pleased at another’s thinking I am good or did a good thing, and shame is being pained at another’s thinking I am bad or did a bad thing – these emotions are central to the education of the citizens. When discussing how the Magnesians will view and value the divine goods (virtue) and

¹⁷⁹ This is not to say that pleasures and pains are *wholly* non-rational or do not involve reasoning in some way, as Bobonich has argued they do in the *Laws* (*Plato’s Utopia Recast*, pp. 331, 340–1). My view does not depend on specific claims about the rationality (or lack thereof) of pleasure and pain.

human goods (good looks, money, etc.),¹⁸⁰ the Athenian says that the lawgiver must take special care to ensure that these goods are always praised consistently and in the right way, right from childhood:

"When the citizens join together in marriage, when they beget and raise children, male or female, when they are young, and as they mature and reach old age, [the lawgiver] must take care to mete out honour and dishonor correctly. In the citizens' dealings with each other, he must scrutinize carefully their pains and pleasures, their desires, and the general intensity of their passions. He will praise and blame these correctly, through the laws themselves. As for their feelings of anger and fear, when their souls are disturbed on account of misfortune, and relief from these in times of prosperity – the sorts of feelings people have in illness, war, poverty, and their opposites – for all of these he must define and teach what is admirable and what is not in different people's responses." (631d–632a, trans. Sauvé Meyer)

It seems a bit odd to think of a law-giver or a magistrate yelling at or blaming children for not understanding the conditional axiology of external possessions and thus being pleased inappropriately by their new toy or being pained by their old toy breaking – but that's not what Plato has in mind anyway. Rather, the idea is that the social norms for children will be fixed and consistent, so that the games they play and the stories they hear reflect the values of the city appropriately. The Athenian explains his position as follows:

"My view is that anyone who will be good at anything at all when he is grown must practice it right from childhood; both his playtime and his serious attention must be occupied with its activities. Those who will be good farmers or builders should build toy structures or work the soil in their play, and their caregivers should supply them with miniature tools of the trade, replicas of the real ones. What they must learn, in particular, are the essential preliminary skills. The future carpenter learns to take measurements, and the warrior to ride a horse, by doing these things (or things like them) when they play. It is through playful activities that the caregivers try to direct children's pleasures and desires towards what they must do when they are fully grown. Indeed, it is of the utmost importance for education, on our view, that one receives a correct upbringing, since this inculcates as far as possible in the soul of the child at play a passion for the occupation in which the grown man will need to be completely good... Now let's be precise about what we are calling education. As it is, when we praise and disparage the upbringing of different people, saying this person is educated and that one uneducated, the latter is often quite thoroughly 'educated' in retail trade or merchant shipping or some other such thing. But our discussions, presumably, is not with those who consider that sort of thing to be education. Rather, it concerns the education that, right from childhood, directs a person towards virtue, giving him an appetite and passion to become a perfect citizen, one who knows how to rule and be ruled with justice. I think it is clear that this sort of upbringing is what our present account aims to single out with the title 'education'... If it ever goes off course and there is the possibility of correcting it, then anyone, at any time of life, must devote all his energies towards correcting it." (643b–644b, trans. Sauvé Meyer)

¹⁸⁰ The value of the human goods depends on the possession of the divine goods in order for them to be beneficial, so citizens will be trained always to value virtue above money and the rest (660e–661e).

Thus because people take pleasure in what is familiar to them in accordance with how they have been brought up, the education system must be designed with a eye to how these people should be citizens and progress towards virtue. This needn't be taken to be a kind of indoctrination of the *Platonjugend*. We now think it's important that girls as well as boys play with science toys so that they too can be pleased at the idea of becoming an astronaut or an engineer, and of course we think that children should learn the value of sharing and fairness in the games that they play with others. This is the same idea that underlies Plato's focus on education – if we want to raise children to become integrated citizens, we need to make sure that we are not doing anything to undermine that project in the formative years by, for example, instilling pernicious gender norms or false beliefs about what makes for a good person.

Thus we can see that the education system that Plato is envisaging in the *Laws* is supposed to bring the citizens' affective resources into line with the values that the city promotes by means of the laws. And the Athenian is explicit that the extensive process of habituation of pleasures and pains is supposed to make it easier for citizens to *grasp the account* of why the values promoted are good values later in their life, and perhaps even go on to acquire true wisdom from that point. This point is nicely brought out when the Athenian is working up to his definition of education in Book I. There, he says:

"When we are children, the first sensations we experience are pleasure and pain, and it is in our pleasures and pains that virtue and vice first develop in our souls. By the time we are old, we are lucky if we have also developed wisdom and stable true opinions, for these goods and all that they involve complete a person, but it is the virtue that first develops in children that I am calling education. If pleasure and liking and pain and hatred develop correctly in our souls when we are not yet able to grasp the account, and when we do grasp the account they agree with it because they have been correctly trained by appropriate habits, this agreement is virtue in its entirety. But the part of virtue that consists in having properly nurtured pleasures and pains, so that we hate what we should hate and love what we should love from beginning to end, if you separated this off in your account and called it education, you would be exactly right, in my view." (653a–c, trans. Sauvé Meyer)

This passage connects the affective side of education with Plato's ultimate goal, namely the development of virtue and wisdom. Notably, though, "education" in the *Laws* is used in this more restricted sense to cover the proper development of one's affective resources, reflecting the difference in focus of the *Laws* from the extensive higher

education of the central books of *Republic*.¹⁸¹ There is, of course, higher education in the *Laws* in the form of the Nocturnal Council, but the Athenian's point here is that we are to consider a citizen of Magnesia to be well educated when his pleasures and pains are in accordance with law and reason – not when he can do astronomy or show the unity and divisibility of virtue.

But what does all of this talk of training pleasure and pain have to do with changing the law and social norms of Magnesia? Well, the point is that if education is to be successful, the pleasures and pains of each citizen must be thoroughly habituated from childhood over the course of many years. Changing the laws and social norms will undermine this process if at one time one action is praised and then later that action is blamed, and so forth. Habits are hard to break, but they are also often hard to form, especially when there are motivations and temptations to act contrary to the habit. But Plato doesn't just want citizens to *do* the right thing, he wants them to *feel* the right way about those things as well (689a–e) – and that takes substantial and long-term training to achieve. Hence, this is why the Athenian makes such a fuss over the pernicious effects of innovation generally, especially with respect to innovations in art and children's games:

"Nothing, as we shall find, is more perilous than change in respect of everything, save only what is bad—in respect of seasons, winds, bodily diet, mental disposition, everything in short with the solitary exception, as I said just now, of the bad. Accordingly, if one considers the human body, and sees how it grows used to all kinds of meats and drinks and exercises, even though at first upset by them, and how presently out of these very materials it grows flesh that is akin to them, and acquiring thus a familiar acquaintance with, and fondness for, all this diet, lives a most healthy and pleasant life; and further, should a man be forced again to change back to one of the highly-reputed diets, how he is upset and ill at first, and recovers with difficulty as he gets used again to the food,—it is precisely the same, we must suppose, with the intellects of men and the nature of their souls. For if there exist laws under which men have been reared up and which (by the blessing of Heaven) have remained unaltered for many centuries, so that there exists no recollection or report of their ever having been different from what they now are—then the whole soul is forbidden by reverence and fear to alter any of the things established of old. By hook or by crook, then, the lawgiver must devise a means whereby this shall be true of his State. Now here is where I discover the means desired—alterations in children's games are regarded by all lawgivers (as we said above) as being mere matters of play, and not as the causes of serious mischief; hence, instead of forbidding them, they give in to them and adopt them. They fail to reflect that those children who innovate in their games grow up into men different from their fathers; and being thus different themselves, they seek a different mode of life, and having sought this, they come to desire other institutions and laws; and none of them dreads the consequent approach of that result which

¹⁸¹ As Aristotle points out (*Politics*, 1265a1–10), the education program of the *Laws* has much in common with the earlier education of the Guardians of the *Republic*.

we described just now as the greatest of all banes to a State. The evil wrought by changes in outward forms would be of less importance; but frequent changes in matters involving moral approval and disapproval are, as I maintain, of extreme importance, and require the utmost caution." (797d–798d)

The crucial passage in this is where the Athenian says that children who innovate when young grow up to be different from their parents, and thus seek a different way of life and different government. The changes of norms in younger generations create a different value system from that of the older generation, and thus pave the way for civic conflict. This rationale also explains why it is that the Athenian was so enthusiastic about the ban on inquiry of the young in Sparta and Knossos (634d–e), as this kind of policy ensures that the children will be brought up in the same way as their parents. Presumably a similar law would obtain in Magnesia insofar as everyone is brought up to think that the law is divine, and it is not until one enters the Nocturnal Council and considers the legislation of other states that one considers how the laws and social norms might be different.

Thus Plato's theory of the habituation of character virtue in the *Law* provides two strong reasons for why changes in the legal and social norms of the city would be bad. Firstly, such changes undermine the development of individual virtue, insofar as changing norms makes it more difficult to cultivate stable affective responses in accordance with law and reason. Secondly, changes to legal and social norms undermine the unity of the city, as they cause different groups of citizens to have different reactive and evaluative attitudes, and lead to faction and disagreement about what the laws should be and how the city should be run.

Moreover, with this understanding of character and habituation in mind, we can see why the Athenian was troubled in Book IV by the problem of where the colonists came from (discussed in section one). If a large group of people were habituated under one set of laws and social norms, then the cumulative social pressure generated by the deeply ingrained affective attitudes would make it extremely hard for them to adopt a new set of laws wholesale and there would be a very strong temptation for them simply to revert back to their old social norms; on the other hand, if the group of colonists were

habituated under diverse laws, then those colonists will see more reason to adopt new laws and norms collectively (because everyone would see that they cannot simply impose their own view without others like themselves to support their view), but they also won't have a shared core of norms by means of which they can actually *feel* as though their fellow-citizens are in fact part of their same moral community. This is why I contend that it is plausible that the original set of colonists envisaged by the Athenian are Cretans – their laws are close enough to Magnesian laws that they can be adopted by the colonists easily, and their understanding of their own norms can plausibly be enlarged in such a way that there could be a relatively seamless transition over time.

At any rate, this point about the importance of keeping laws fixed so that social and legal norms can be surely established is made explicitly by the Athenian in a later passage regarding how important it is that a state should stay fixed in its laws and customs until at least a full generation has grown up under the same laws:

"The fact that we are legislating lightheartedly and boldly for inexperienced men, in the hope that they will accept the laws we have now enacted. Thus much at least is plain, Clinias, to almost everyone—even to the meanest intelligence—that they will not readily accept any of those laws at the start; but if those laws could remain unchanged until those who have imbibed them in infancy, and have been reared up in them and grown fully used to them, have taken part in elections to office in every department of State,—then, when this has been effected (if any means or method can be found to effect it rightly), we have, as I think, a strong security that, after this transitional period of disciplined adolescence, the State will remain firm." (752b-c)

Thus, because people are inexperienced with new social norms, the laws must remain unchanged and people must believe that they cannot be changed, lest they be constantly tempted to revert back to some other system. And of course, we are all born inexperienced, so for the sake of new colonists and for the sake of children, laws must remain fixed.

Finally, it should be noted that the habituation Plato is trying to establish concerns not only the *content* of the laws – what is to be praised and blamed, etc. – but also an attitude towards the laws *themselves*. We have already seen in sections two and three that citizens are to see themselves as part of a natural hierarchy whereby they are subject to the laws and the public officials are to see themselves as enacting the commands of the laws rather than ruling over the laws. Being able to change the laws

and make amendments constantly gives the impression that exactly the opposite is the case – that the laws are tools used by the rulers to serve whatever purposes they happen to have. A major point of the Rule of Law model that Plato defends for non-ideal states in the *Statesman* and *Laws* is that if the laws stay fixed, then rulers cannot abuse the powers of legal coercion for personal gain. Being able to change the law undermines the integrity of this model and (rightly) would generate a skepticism in the citizen body about what this “justice” amounts to. Subsequently, changing the law in Magnesia would be pernicious because it would change people’s *attitude* towards the law and their belief in its integrity and divinity, thus also undermines its authority and place in the natural hierarchy that Plato is trying to establish legitimately.

Let us summarize. It might be thought that the reason Plato is so conservative in the *Laws* is because he thinks that he has basically gotten the laws right, and that any changes in the law amount to deviations from the true and good laws. Here I have tried to motivate a deeper rationale for this conservatism by appealing to Plato’s notions of habituation and education that permeate the text. I have argued that changing the law undermines: (a) the habituation of character and thus the development of virtue at which the laws aim, (b) the unity of purpose as well and shared evaluative attitudes that the content of the laws provide between the citizens, and thus the stability of the city, and (c) the attitude the citizens are to have towards the laws and the authority of the laws themselves.

Beyond Magnesia

The upshot of this understanding of law and habituation in the *Laws* is that it goes a long way in helping us develop Plato’s non-ideal political theory outside of Magnesia, and in explaining further why Plato’s prescriptions for non-ideal states in the *Statesman* were so conservative. Let me explain how I see this line of reasoning as working, with the explicit caveat in place that the justifications for legal conservatism given above work best in Magnesia, but that nonetheless many of the points are general in form and thus could be applied to other non-ideal states.

Working backwards, consider reason (c) first. Plato is perfectly aware that there is a general skepticism about the normative status of laws and that the “justice” they espouse is really just what benefits the stronger, namely, those who happen to hold power. But having a stable set of laws which are effectively unchangeable introduces a kind of constitutionalism – or at least a constitutional core of legislation – that prevents the hijacking of law for the particular purposes of the rulers. While of course laws can be bent and interpreted in ways that serve the interests of those in power, there are limits on how far this can be done and how effective it will be in duping the citizens. Thus conservatism in this regard prevents the rulers from legal tyrannizing and establishes a set of norms to which all rulers must be subject and to which the citizens know the rulers are subject. This secures a mutual set of expectations and prevents certain harms to the citizens from being legally sanctioned. Legal conservatism on a core of norms thus establishes rule of law and a kind of constitutionalism in non-ideal states. A bold position, to be sure, but a good check on tyranny nonetheless.

Now consider reason (b), that legal conservatism promotes the unity of purpose, shared evaluative attitudes, and thus the stability of the city. Given that Plato (perhaps mistakenly) thinks that diversity of normative beliefs and evaluative attitudes undermines the stability and unity of the city, how this justification extends to non-ideal states is fairly straightforward. Firstly, it will reduce conflict between generations about how the city ought to be governed. Moreover, while Sparta, for example, has less than 24-carat laws by Plato’s lights, it is fairly clear that he recognizes that the Spartan commitment to its lawcode and education system had serious benefits for the long-term stability of the city. Moreover, as we saw in the passages from Thucydides, constitutional and legal changes generate faction and result in further attempts to seize power so that things can be returned to “the way they should be”. Having a standing policy in place that stipulates that laws cannot be changed in this way largely obviates this problem by generating a shared core of norms acknowledged by all the citizens, so that even if they disagree in other areas, they at least agree on, for example, a core set of procedures by which disputes can be settled. Moreover, conservative states in this

regard are going to be less likely to lose the benefits of shared collective experience as a result of young and inexperienced politicians thinking that innovating parts of the lawcode will be better when it in fact won't, especially in light of the additional costs associated with changing the law.

Finally, consider reason (a), that changes in legislation undermine the habituation of the citizens' characters and their development towards virtue. Obviously Plato wouldn't think that this reason is as strong outside of Magnesia precisely because other states don't have laws that systematically aim at the promotion of virtue in the citizens. Consider the claims throughout Books I and II of the *Laws* that Sparta and Cretan laws overvalue courage. There is a serious objection here: the fact that Plato recognizes that other states do not aim at virtue properly entails that people fully habituated under these laws have been habituated in a way which is *detrimental* to their overall virtue; if you are habituating people to take pleasures and pains in the wrong things – i.e. there is harmony between pleasures and pains and judgments, but the judgments are *wrong* – then how is this habituation making them more virtuous? Wouldn't it be *better* if these laws were changed or if the citizens *defected* on the laws that they thought were undermining their progress towards full virtue?

This is a forceful objection, but it is not clear that it succeeds – at least not in many normal cases. Non-ideal political theory is about trade-offs and so for the objection to succeed, the objector would have to show that the benefits from changing the law and from citizens defecting outweigh the costs. And it is far from obvious that the trade-offs in non-ideal situations will fall in favor of changing the law in many situations. Remember that these people aren't good at identifying what the existing bad laws are and what the better alternative laws would be, as they do not have comprehensive political knowledge. Thus even if it were objectively true that some law undermined virtue, there is an epistemic problem in identifying that law and its effects in a complex bundle of existing legislation with all of its interdependencies. Moreover, Plato seems to think that states like Sparta and Athens *do* improve character to a certain extent – see especially the defense of the Athenian laws in the *Crito*. There is no inconsistency here:

laws can be partially beneficial with respect to virtue without being the best possible laws. So changing the law may threaten to undermine the partial benefit which the existing laws provide, and we cannot be sure that the new laws would be able to secure a greater benefit. Thus even when we consider only the deleterious effects on the habituation of *partial* virtue, there seems to be a justification in favor of sticking with the existing laws in some paradigm cases.¹⁸² Combined with the other reasons listed above, there is a compelling case for legal conservatism even in states with laws less good than those of Magnesia, insofar as the benefits gained from leaving the laws unchanged normally outweigh the benefits of changing the laws on Plato's terms.

But this does not mean that there is no tipping point and this point will be determined by the details of the particular case at hand. We have already seen the relevant passage, from the address to the Guardians of the Law:

"Not a single person shall show himself preferring any object which impedes this aim [sc. the development of virtue]; in fine, even as regards the State, if it seems necessary, he must allow it to be destroyed [ἀνάστατον] rather than voluntarily submit to the yoke of slavery under the rule of the worse, or else he must himself quit the State as an exile: all such sufferings men must endure rather than change to a polity which naturally makes men worse." (770d–771a)

So there are at least some states in which the laws are so bad and so harmful to your character that you ought to leave them entirely. Presumably it is also better to change the laws in such states – though given the problems we have encountered with constitutional changes thus far, one wishes Plato gave us more help on how he thinks this should be done, especially if good-natured kings and skilled lawgivers are in short supply. The important point, though, is that identifying *some* bad laws in your own state is not sufficient to justify your going into exile. On the whole, it might be better for your own moral development that you glean the benefits of living in a city with relatively decent laws than going off in search of a Magnesia. Athens, while imperfect, benefitted Socrates – and it is not clear that he would have done any better elsewhere.

¹⁸² This justification will be even more compelling for those who think that virtues cannot be understood in a culture-independent way. For example, it would be no strike against Roman laws that they did not instill the Athenian understanding of justice – what's important is that the citizens are being habituated to have a shared understanding of justice that functions well in that society for the sake of the flourishing of the citizens of that city. There will be extreme cases and arcane counterexamples, but they are problems for heavily culture-dependent theories of virtue and not for Plato.

Thus while there could be changes in the Magnesian legislation and in legislation of other non-ideal states that would in fact be better than the status quo with respect to the promotion of virtue, Plato has good reason to think that the costs of changing the law in that regard will often outweigh the benefits. His non-ideal theory, then, is decidedly conservative, despite him recognizing the possibility of political improvements in Magnesia and in existing states. These improvements, however, come with high costs and, while the exact calculations will vary with the particulars of the situation, on the whole Plato's valuation of the role of law and the importance of people being habituated to comply with and endorse it outweigh the utopian aspirations he might have in practice.

6. The question of citizen virtue: punishment, motivation, and epistemic progress in the *Laws*

The final aspect of Plato's *Laws* that deserves detailed examination for our purposes is the role of the penal code. Even in ideal settings, institutions of punishment may be required in order to ensure just citizens that other citizens will also act in accordance with the demands of justice.¹⁸³ Thus even if punishments are never meted out and the jails never used, they may still play an important role in securing justice in the city. Of course, in non-ideal settings, punishments play a more active role.

Plato's text is surprisingly obscure when it comes to determining the level of virtue in the citizens of Magnesia. The detail of the penal code and discussion of the activity of the court system certainly gives the impression that citizens will break the law; on the other hand, the whole system of education is designed to make citizens virtuous – or at least extremely law-abiding – so unless Plato thinks that the Magnesian education is ineffective, it's hard to see whom the punishments are for. Indeed, the Athenian claims that having citizens of Magnesia break the law is not something we should hope for or *expect* (*ἐλπιστὸν*, 853d, cf. 872c–d, 880d–e), and while there is

¹⁸³ This is why Rawls includes punishment in the well-ordered society in part III of *A Theory of Justice*.

certainly good textual evidence that Plato is especially concerned with the possibility of visitors, metics, and slaves breaking the law (853d–854a), there are also a number of punishments specifically for citizens (for example, all of the punishments that involve office-holding, which is reserved for citizens).

There has been much valuable discussion on citizen virtue in the *Laws* from modern commentators.¹⁸⁴ While I believe that paying greater attention to the later books of the *Laws* and the penal code provide some interesting new resources for determining what kind of virtue (if any) the Magnesians have, for our purposes here this question can be left hanging. As mentioned above, even if all the citizens are virtuous, the penal code could still play an important role (a) in making the political system more robust, and (b) in dealing with visitors, slaves, and metics. More importantly, though, nobody is born virtuous, and much of the penal code is explicitly aimed at the improvement of the citizens (e.g. 854d–e, 862d). Thus I will provide an account of how the punishments and incentives of Magnesia improve the souls of the citizens, which may occur either in the earlier years of the citizens (before they become virtuous) or throughout their entire lives (if they never become fully virtuous). I will then end by exploring two aspects of moral progress in the *Laws*: firstly, the harmonization of pleasures and pains in the soul with the prescripts of law; secondly, the increase in the understanding of the citizens in the subordinate branches of political science. While the citizens do not achieve political knowledge wholesale (or if they do, not in a way Plato can rely on), they do achieve competence, and perhaps even expertise, on the basis of their character and experience, especially with respect to judging legal cases.

My main thesis is that the penal code shapes pleasures, pains, honor, and shame in such a way that the law habituates the Magnesians well so that they take pleasure and

¹⁸⁴ See, for example: Annas, *Virtue and Law in Plato and Beyond*, chapter 6; Bobonich, *Plato's Utopia Recast*, chapter 2; Carone, "Pleasure, Virtue, Happiness, and Externals in Plato's *Laws*"; Hitz, "Plato on the Sovereignty of Law"; Kamtekar, "Psychology and the Inculcation of Virtue in Plato's *Laws*"; Kraut, "Ordinary Virtue from the *Phaedo* to the *Laws*"; Wilburn, "Moral Education and the Spirited Part of the Soul in Plato's *Laws*", "Akrasia and Self-Rule in Plato's *Laws*". There is also extensive discussion on whether the *Laws* conception of virtue is a change from the conception of other dialogues, especially the *Republic*, and if so, whether the view is compatible with those conceptions. This debate does not concern me here.

pain in the right things; subsequently, citizens will act in the way that a virtuous agent would act, but not necessarily for the reasons that a virtuous agent would do them. This is what I call *artificial virtue*, for the citizens do the right thing consistently – indeed, *habitually* – but only in a reliable way because of external institutional sanctions and rewards. I contend that developing a legal system that cultivates artificial virtue is how Plato responds to non-ideal psychologies and seeks to improve their characters.

Incentivizing virtuous actions: rewards and punishments in Magnesia

Plato gives Magnesia a detailed penal code that punishes people who commit unjust acts. Why? Since I think the penal code is doing more than one thing in the *Laws*, let me lay out its two primary functions: firstly, it serves to make the society more robust; secondly, it serves to benefit and improve the characters of both the punished and the citizens at large.¹⁸⁵ Let me go through these functions now.

With respect to the first function, the penal code better ensures that people will act in accordance with the law and promotes the common knowledge of this fact. In other words, the penal code ensures that citizens are reliably just and can be trusted to be so.¹⁸⁶ Strictly speaking, Plato only needs the *threat* of punishment as a way to make a society of virtuous people more robust and stable in this way. This model takes the most optimistic view of the education system of the *Laws* in that it assumes that all of the citizens are virtuous; the education system is designed to be *effective*, and it is effective when citizens are virtuous and are motivated to act for virtuous reasons. Thus, the model assumes, *all* citizens in Magnesia will want to do what the law and justice requires. But this does not mean that substantial portions of the *Laws* are there just for

¹⁸⁵ There is a thorough literature on the justification for punishment in the *Laws*: see Allen, *The World of Prometheus*, chapter 10; MacKenzie [McCabe], *Plato on Punishment*, pp. 195–203; Lewis, “The Limits of Reform: Punishment and Reason in Plato’s Second-Best City”; Morrow, *Plato’s Cretan City*, pp. 552–554; Saunders, *Plato’s Penal Code*; Stalley, “Punishment in Plato’s *Laws*”; Wilburn, “Tripartition and the Causes of Criminal Behavior in *Laws IX*”. I believe, however, my analysis of the mechanism by which punishment improves and benefits is novel, and navigates some of the central problems that that literature has raised.

¹⁸⁶ In Part III of *A Theory of Justice*, Rawls assumes that citizens will have a sense of justice and be motivated to act on it; however, he still sees the need for a penal code in such a society in order to assure just citizens that *other* citizens will act in accordance with the demands of justice (pp. 211, 276–277, and especially 504–505).

rare occasions of injustice. Rather, the penal code plays an important role in making sure that virtuous citizens *stay* virtuous by over-determining the reasons to be just. Not only do citizens recognize that, for example, performing their duty as a country warden is the virtuous and thus the right thing to do, they also see that they would be dishonored and fined (or exiled or killed) if they failed to perform this duty – so why even consider it? Modern readers may worry that this is the wrong kind of reason or one thought too many for people who are supposed to be virtuous, but it may also just be good political common sense. Such back-up mechanisms make the system more robust because virtuous-but-not-infallible people will not be tempted to commit injustices (they may have other interests that conflict with their commitment to the law). Moreover, virtuous people may need assurance that their fellow citizens are also virtuous, so that they don't worry, for example, that their fellow-citizens will abandon them on the battlefield or perjure in court. Thus, even in a virtuous society, the penal code is still beneficial for the city and the citizens because it makes the city more robust, and gives the people good reason to trust their fellow citizens in joint endeavors.

The first explanation of the penal code assumes that all citizens are virtuous and then shows why the penal code may still be required. Of course, in Magnesia there are in fact bad eggs (853c–d) and those who have “shunned education” (880e). Moreover, there will be foreigners and slaves who have not received Magnesian education. Finally, there are citizens for whom the education in virtue is not (yet) complete. For those who are optimistic about the education system of Magnesia, the relevant class of citizens here is comprised of those troubled lawless youths. For readers who are less optimistic about the efficacy of Magnesian education and think that the education never ends, the relevant class of will be citizens of all ages.¹⁸⁷ In either case, virtue is not attained and thus we can reasonably expect that at least some of them will commit crimes.

¹⁸⁷ Showing my hand to some extent, I will say that the discussion of symposia and dancing from *Laws* I and II suggests the latter to me, but there is nothing in the text that rules out that some citizens will move beyond the need to have their characters re-adjusted in old age. Cf. Kamtekar, “Psychology and the Inculcation of Virtue in Plato’s *Laws*”.

As we discussed above in Section II, even though injustice is a great evil, because nobody does wrong willingly, those who commit crimes and can be improved should be treated gently; on the other hand, if the criminal is incurable, they ought to be punished harshly (731b–d). Subsequently, we should distinguish between punishments for criminals of the first kind and for those of the second. Incurable people receive the death penalty and are handed over to the gods, whereas the rest of the punishments in Magnesia are supposed to be reformatory (e.g. 862c).¹⁸⁸ Clearly the problem lies in explaining how it is that the wide array of punishments for those who are curable improve their souls, but first it is worth noting that at least one function of the penal system is to execute people who have no hope of living in a lawful way in order that the city is purged (862e).¹⁸⁹ In addition to their being a threat to other citizens and the city as a whole, because happiness depends on virtue these people cannot live happy lives – a swift death may be their best prospect, and punishment can be managed better by gods in the afterlife (870d–e).

Most of the punishments, however, are supposed to improve the souls of the punished *and* those who see the punishment occur (934b). To do this, the Athenian normally prescribes fines in minor cases (e.g. 857a–b, 865c, 868a, 877b), and exile in more serious cases (e.g. 864e, 865e, 867c–d, 868a, 868c, 877b).¹⁹⁰ The Athenian also often prescribes shame-based punishments explicitly (e.g. 721d, 741c, 762c, 873d), but also implicitly insofar as certain criminals are banned from holding public office (WHERE). In addition, the incentive system of Magnesia also has a positive aspect, and the

¹⁸⁸ See Bradley Lewis, "The Limits of Reform"; Stalley, "Punishment in Plato's *Laws*"; Wilburn, "Tripartition and the Causes of Criminal Behavior in *Laws IX*", p. 122–124. Note also the difference in punishments between voluntary and involuntary cases, especially throughout the punishments for murder and assault.

¹⁸⁹ How exactly Plato determines the epistemic conditions for this remain a puzzle for me. The thought seems to be that some crimes show an attitude so antithetical to that of the Magnesian ethos that such a person must be insensitive to education. But some crimes that receive the death penalty are much worse than others. For example, people in office who receive gifts or money are to be put to death (955c–d). Clearly Plato is concerned about corruption here, but is it obvious that every person who receives money while in office is *incurably wicked*? There are ways to motivate the plausibility of this position, but I suspect it will still be a stretch for all but the most loyal Plato devotees. At any rate, lobbying will not be a problem in Magnesia.

¹⁹⁰ Thanks to Clerk Shaw for stressing to me that physical punishments (whippings and beatings) are used primarily on slaves throughout the *Laws* ("Punishment and Psychology in Plato's *Gorgias*"). They are occasionally used on recalcitrant citizens, e.g. 881d.

lawgiver is to use anything at his disposal to motivate citizens to love justice and hate injustice:

Ath: And we should affirm that our cure for injustice lies in this direction—

Cl: What direction?

Ath: In this—that whenever any man commits any unjust act, great or small, the law shall instruct him and absolutely compel him for the future either never willingly to dare to do such a deed, or else to do it ever so much less often, in addition to paying for the injury. To effect this, whether by action or speech, by means of pleasures and pains, honors and dishonors, money-fines and money-gifts, and in general by whatsoever means one can employ to make men hate injustice and love (or at any rate not hate) justice—this is precisely the task of laws most noble. (862c-d)

An underappreciated aspect of Plato's legal system is the extent to which it positively incentivizes just actions using a wide array of motivational resources. Especially striking is the extent to which honors are distributed as rewards (e.g. 855a, 921d–922a), especially to those who hold office (e.g. 947a, 947e, 952b–c), which further shows how not being able to hold office in effect removes honor from particular citizens (948a, 966d).

Insofar as these punishment and rewards are supposed to improve the souls of the punished and those who see the punishment, the primary function for the penal code is that of continued education and improvement. Virtuous people, even in a virtuous society, do not start out virtuous; rather, becoming virtuous is the product of many years of training, habituation, and learning. Thus, even if fully virtuous people are not tempted to act in unvirtuous ways, there will surely be times in their *development* when they are so tempted. Perhaps some people who one day become virtuous will even commit crimes in their youth. But *how* exactly do these retributivist-looking punishments – fines, exile, dishonor – actively improve people in the way that the Athenian suggests they do?¹⁹¹ What is the mechanism by which the improvement of character occurs? And why would giving Magnesians pleasures, money, and honor make them more virtuous? Does Plato really think you can pay people into being more virtuous? Surely not. But you can incentivize people into becoming *lawful* by using these diverse motivational tools, and therein lies the key to understanding how the penal code and rewards system of Magnesia improves the souls of citizens.

¹⁹¹ This puzzle is emphasized by Saunders, *Plato's Penal Code*, p. 172. My proposal has much in common with Stalley, "Punishment in Plato's *Laws*".

Punishments and rewards incentivize citizens who are not yet fully virtuous to act in accordance with the law by appealing to other motivations that virtuous people may not possess – or at least think little of – for example, the desire for money, bodily pleasure, freedom from bodily pain, or honor. Because these motivations are common, a political system that channels these energies effectively can cause citizens to be lawful even when they are not virtuous. I may think that listening to court cases is boring, but I will do it if I get fined for not doing it; similarly, I may think military service running around the Cretan countryside is a waste of time, but I will do it if I want to be honored and know that I will be banned from office if I don't fulfill my military obligations. This much is mundane and unremarkable – what does it have anything to do with the development of virtue?

Remember that education in the *Laws* occurs largely through the correct training of pleasures and pains, and that this happens through years of habituation. Because reasons that are motivating for the virtuous are not guaranteed to be motivating for the unvirtuous (or not sufficiently motivating to ensure reliability), if you want to habituate people to do what virtuous people do consistently, it is necessary to appeal to other motivational resources to get them to act in accordance with virtue. This is a familiar thought from how we raise children – give them an hour of video games if they do half an hour of piano practice, and over time they will come to do their piano practice by habit, and eventually even come to enjoy it. Plato, I contend, is extending this basic thought to many of the actions prescribed by law in Magnesia. People may not at first want to participate actively in the government of the city and in public festivals with all that dancing, but over time they become used to doing what the law requires of them. They do the virtuous thing, but not necessarily under the virtuous description of the action. Subsequently, the institutions of the *Laws* make it so that citizens do the virtuous thing consistently. The virtue of the city consists in having everyone do what they ought to (i.e. what the law prescribes), even though the individual citizens may be at different stages of moral development.

We can put this point about how punishments and rewards improve citizens in more precise Platonic moral psychological terms.¹⁹² Different things appear good to different people, depending on what they find pleasant, painful, honorable, shameful, beneficial, and harmful. If money appears a great good to me, then stealing may appear good to me if it provides an opportunity to obtain a large sum of money quickly and easily. Punishment adjusts how the action appears to me by attaching a great disvalue on the action, which outweighs the perceived gain. But doing this effectively will depend on the psychology of someone who is tempted to steal money – namely, someone who finds money good. Thus, the punishment for stealing is a fine double to the amount stolen (857b). If someone who wanted to maximize their wealth found themselves in a society where the fine for stealing \$50 is \$100, then stealing is unlikely to be a good way to make money. The punishment, then, brings how things appear to that person in line with what law and virtue prescribe – i.e. “stealing is bad”. Of course, this person thinks that stealing is bad because it’s an imprudent way to maximize wealth, but they are also being habituated not to steal and the thought of stealing gives them an anticipatory pain as they consider losing their money.¹⁹³

The above explanation shows how punishment can improve the souls of citizens *just because* it acts as a deterrent for particular kinds of actions.¹⁹⁴ But how does it improve the person who has already committed the crime? How does punishment reform the criminal? This is a difficult question to answer, but thinking about what things appear good to the criminally minded and why they appear that way to them may provide some helpful resources. In the aforementioned case, the would-be thief deliberates in prospect about two values: the value of the money gained from the theft, and the disvalue of the fine if caught. Because the person deliberately correctly – the

¹⁹² In what follows, I draw much inspiration from Moss’s excellent “Appearances and Calculations”, though she does not explicitly argue for the applicability of her account to the *Laws*. See also Carone, “Akrasia in the *Republic*: Does Plato Change His Mind?”.

¹⁹³ Cf. *Philebus*, 36a–b. It might be objected that this merely reinforces the over-valuing of money, but perhaps minimizing appetites is the best that can be done for people who are insensitive to other values (especially moral values and the *kalon*).

¹⁹⁴ Deterrence is implicitly claimed as a function of punishment at, for example, 855a.

disvalue does outweigh the value – the action stopped appearing good. But something must have gone wrong in the deliberation of someone in Magnesia who *did* commit the theft so that the action continued to appear good to them. Perhaps they overestimated the conditional in thinking that they wouldn't be caught, or perhaps they ceased to anticipate how bad it would be to be fined that sum of money. If such a person were actually fined, then they very likely would be much more hesitant about their prospects of avoiding detection in the future, and they would now have a memory of how bad it was having to pay that money. Both of these factors would improve future deliberation and thus bring their appearances of what is good and bad closer into line with what the law and virtue prescribe. Subsequently, insofar as a punished person is given additional psychological resources (primarily, memories) with which to deliberate better in the future, they are improved.¹⁹⁵ If they are *still* insensitive after having this happen to them a number of times, then we may have good reason to think that their deliberative capacities cannot be improved, and that they have incurably bad characters.

From this account, what I want to suggest is that many Magnesians in the process of their education will cultivate *artificial virtue*. Because of the law, and the system of rewards and punishments it prescribes, citizens will act consistently in line with reason and virtue. Indeed, they will be *habituated* to such actions because they have done them since childhood, and done them reliably because of the diverse motivational resources drawn upon to keep them in line. Subsequently, they will take pleasure in good things and be pained by bad things, and things will appear to them as good or bad in line with how a virtuous person would think about them. But – and this is a substantial qualification – for people who do not have *knowledge* of why these things are good or bad, the reliability of their actions and appearances depends on the institutions of the city, and the social norms to which their fellow citizens will hold them accountable. *There is no guarantee that they will maintain these habits outside of Magnesia.*¹⁹⁶

¹⁹⁵ For the appetites having and being influenced by memory, see Lorenz, *The Brute Within*, pp. 4–6, 55, 102–106.

¹⁹⁶ This point is highlighted by Kraut ("Ordinary Virtue from the *Phaedo* to the *Laws*", pp. 66–68). There he draws attention to the fragility of the Magnesians' virtue by showing how even mere exposure to other

Hence, this kind of virtue is merely artificial, as its stability and reliability comes ultimately from a source outside of the agent.¹⁹⁷ While some citizens may progress beyond this artificial virtue – especially through training in the Nocturnal Council – I believe that the cultivation of this kind of virtue is the main focus of Plato’s institutional design in the *Laws*. At any rate, the achievement of this kind of virtue generated by habituated obedience to the laws is a necessary stage in the moral development of the citizens of Magnesia.

Increasing understanding: expertise in the subordinate branches of political knowledge

So far the account of moral progress in the *Laws* has focused primarily on the cultivation of pleasures and pains, and their role in deliberation and action. But the Athenian is explicit that laws must be grasped by more than habit (951b), and we have already seen that education is only complete when a person grasps the account in addition to having rightly nurtured pleasures and pains (653a–c). As many have pointed out, at least one function of the Nocturnal Council seems to be providing the Magnesians with higher education in order that they might achieve this more advanced cognitive state; Bobonich is especially optimistic about the educative role of the Nocturnal Council with respect to the citizen body as a whole, as he believes that a substantial percentage of the Magnesian population will have received education there.¹⁹⁸ While I have no qualms

customs and ways of life threatens to undermine their virtue. This explains the strict laws concerning ambassadors and foreign travel in the *Laws* (742b, 949e–951a).

¹⁹⁷ Cf. *Republic* 590b–d. This will be an especially prominent feature of the account of virtue in the *Laws* if one makes much of the above-quoted passage that somebody is lucky if they even manage to achieve *stable* true beliefs (653a); if most citizens in Magnesia do not have stable true beliefs, then it is really is the law and the political institutions that are responsible for their habituation and the reliability of their behavior.

¹⁹⁸ Bobonich actually seems somewhat inconsistent on this point. Earlier in *Plato’s Utopia Recast*, he writes, “Most citizens will not undergo the advanced studies received by members of the Nocturnal Council and they will not possess the sort of knowledge of understanding (*epistêmê*) that Plato contrasts with true belief” (p. 199). Later he writes that “A significant number of Magnesians will have had such an education [in the Nocturnal Council]. We should expect that the previous general education will be of a sufficiently high level to allow them to benefit from these advanced studies and we can expect them to diffuse widely throughout the rest of the population what they realize is an extraordinarily valuable possession for any human being” (p. 394). We needn’t attribute outright contradiction to him, though. Bobonich’s point is probably that while not everybody who enters the Nocturnal Council will become a Philosopher, it does provide something like a general education or mentorship program to a large number of citizens in Magnesia such that its influence is felt throughout the city. Cf. Morrow, *Plato’s Cretan City*, p. 504 and pp. 500–514 more generally.

with this approach and believe that something like this must be going on with the Nocturnal Council, the fact of the matter is that as an institution, it is not well integrated into the *Laws* as a whole, and *Laws XII* fits awkwardly at best with the construction of the rest of the work. Subsequently, I want to explore another avenue of cognitive improvement for citizens in Magnesia, namely what they learn from experience in the subordinate branches of political expertise.

In the *Statesman*, the ideal Statesman has a special kind of knowledge, which is labeled “political” (*politikē*). One of the functions of this knowledge is to organize the subordinate magistracies – oratory, generalship, and judging – and ensure that their activities are timely (305d).¹⁹⁹ But these subordinate magistracies are *skills*, branches of knowledge that are subordinate to the Statesman’s knowledge, and they permit of expertise in their own right. While I have been assuming that few (if any) citizens of Magnesia achieve the kind of comprehensive political knowledge that the Statesman has, there is no reason to infer from this that the citizens cannot become competent in the subordinate branches of political science. Indeed, there is good reason to think that one of the ways in which Magnesians make progress individually and collectively is by attaining skill in these lower-level domains of political activity. This point about gaining expertise in lower-level skills is not especially emphasized in the text of the *Laws*, but I believe it is an important avenue of inquiry to explore in light of the discussion in the *Statesman*, and because of the role of learning from experience that permeates the *Laws*. There is more education and learning that goes on in Magnesia than simply what occurs in the Nocturnal Council.

Firstly, we have already seen that the young Guardians of the Law are to practice making laws in minor areas (e.g. 846c). Because the lawcode in the *Laws* is incomplete, the Guardians of the Law more generally are to fill in the gaps whenever they should come up, with an eye to the original purpose of the laws as a whole – the development of virtue. Moreover, those who hold this office are also responsible for determining when particular cases are genuine exceptions to the lawcode that has been laid down.

¹⁹⁹ See Lane, “Political Expertise and Political Office in Plato’s *Statesman*”, pp. 66–72.

Consider the following passage, which clearly makes a distinction between the letter of the law and the spirit of the law:

"If any man have a complaint against the ordained laws concerning testaments in respect of any detail, and especially of those relating to marriage; and if he affirms on oath that of a truth the lawgiver himself, were he alive and present, would never have compelled the parties to act as they are now being compelled to act in respect of marrying and giving in marriage; and if, on the other hand, some relative or guardian supports the compulsion of the law; what we declare is that the lawgiver has left us the fifteen Law-wardens to act for the orphans, male and female, as both arbitrators and parents, and to these all who dispute about any such matters shall go for judgment, and their verdict shall be carried out as final. If, however, anyone maintains that this is to confer too much power on the Law-wardens, he shall summon his opponents before the court of select judges and secure a decision regarding the points in dispute. On him that is defeated there shall be imposed by the lawgiver censure and disgrace—a penalty heavier than a large fine in the eyes of a man of right mind." (926b-d)

Here the Athenian says that there will be situations where someone will claim that if the original lawgiver was present, he would not judge in the way that the law in fact judges in the particular case. The Guardians of the Law are to have a rich enough understanding of the lawcode that they can realize that this is a genuine exception, and change the verdict accordingly. In this way, from their studies and their experience in life and lawgiving, the Guardians of the Law are to develop what Aristotle will call "equity" (*epieikeia*, NE V.10) – the ability to discern when the generality of the law overlooks the relevance of the particulars. Given that part of political knowledge involves appreciating both the correctness of a law in general and its incorrectness in a particular case, it seems clear that the Guardians of the Law are to have expertise in this part of political skill.

But a close reading of the *Laws* in fact reveals that Plato is happy to leave a number of points of judging up to the individual discretion of the office holders. There are at least nine other points of legislation where magistrates are left to decide laws or particular punishments, and in some cases because an existing law is thought to generate the wrong result (770b-c, 779d, 854d, 867d-e, 876a-e, 880c, 926c-d, 942a, 943b). The fact that this kind of discretion is left up to the Guardians of the Law and not the popular juries may suggest that the guardians are here exercising juridical skill in determining the particulars. Thus, even though nobody in Magnesia may have

comprehensive political knowledge and the Statesman's skill, they may very well be competent and knowledgeable magistrates and judges.²⁰⁰

It is not only the Guardians of the Law, though, who are thought to make progress in the subordinate political skills. In particular, the citizen body as a whole, when well educated and experienced, will make progress with respect to judging court cases. Consider what the Athenian says about the difference between judges in good and bad states, which comes in a digression during the assault laws on which matters should be left to the discretion of judges and what matters should be managed by the legislator:

"In a State where the courts are poor and dumb and decide their cases privily, secreting their own opinions, or (and this is a still more dangerous practice) when they make their decisions not silently but filled with tumult, like theaters, roaring out praise or blame of each speaker in turn,—then the whole State, as a rule, is faced with a difficult situation. To be compelled by some necessity to legislate for law courts of this kind is no happy task; but when one is so compelled, one must commit to them the right of fixing penalties only in a very few cases, dealing oneself with most cases by express legislation—if indeed one ever legislates at all for a State of that description. On the other hand, in a State where the courts have the best possible constitution, and the prospective judges are well-trained and tested most strictly, there it is right, and most fitting and proper, that we should commit to such judges for decision most of the questions regarding what penalties convicted criminals should suffer or pay. On the present occasion we may well be pardoned if we refrain from ordaining for them by law the points that are most important and most numerous, which even ill-educated judges could discern, and could assign to each offence the penalty merited by the wrong as suffered and committed; and seeing that the people for whom we are legislating are themselves likely, as we suppose, to become not the least capable of judges of such matters, we must commit most of them to them. None the less, that course which we frequently adopted when laying down our former laws, both by word and action—when we stated an outline and typical cases of punishments, and gave the judges examples, so as to prevent their ever overstepping the bounds of justice—that course was a perfectly right one then, and now also we ought to adopt it, when we return again at last to the task of legislation." (875e–876e)

In bad states, the lawgiver should prescribe as many penalties in advance as possible, as the judging should not be left up to people who are incompetent to judge correctly in a setting that is not conducive to good judging. But in good states, it suffices for the lawgiver to provide the courts with a few good examples, and then leave it up to the jurors to determine the details in accordance with the examples laid down.

²⁰⁰ Whether we call this "knowledge" with the qualification that it is not comprehensive, or "stable true belief" is incidental here. The relevant point is that these office-holders have gained through experience – and perhaps also through philosophical study in the nocturnal council – the kind of epistemic standing which allows them to judge the particulars of a given situation reliably and correctly. They have become proficient in a branch of politics.

Notably, the Athenian thinks that Magnesia is the *second* kind of state, where the jurors should be competent and well trained. It is possible that this refers only to the higher courts of appeal in Magnesia, run by a sub-set of the Guardians of the Law, but the text justifies no such restriction, and popular courts are more plausibly what Plato has in mind here given how he has structured the court system. This means, though, that Plato thinks that the Magnesians will not be so ignorant that they cannot determine what each criminal requires in order to punish them appropriately and improve their character if possible, which is the goal of most of the Magnesian punishments. Given the complexity of the penal code in the *Laws*, this is no mean feat. And while it is notable that discretion is primarily introduced in determining minor details of legislation and in judging particular cases – i.e. problems with the *generality* of law as such – these passages about judging well reveal something important about how Plato thinks that parts of political knowledge may be dispersed and the level of political savvy that the citizens in Magnesia will have once properly educated and experienced.

Finally, what of the other subordinate branches of politics: generalship and oratory? Well, the citizens all undergo extensive and rigorous military training, so they will at least be well trained in military arts, though it's hard to see Magnesia getting into many actual military conflicts – what city would want to invade Magnesia? Perhaps the military force is there in case of another wave of Persian (or Macedonian?) invasions, but they are on Crete and don't have a navy, so it's not clear how helpful they would be as an auxiliary force for the other Greeks. At any rate, the Magnesians would certainly not have any kind of ambition to conquer other states themselves. Nonetheless, the Magnesian hoplites would be well trained in giving and receiving orders, and their lifestyle (especially their gymnastic competitions) is designed to give them military competence (814d). It is reasonable to infer that they would at least be decently skilled in the art of generalship.

There is no professional oratory in Magnesia – but there is surely public speaking, especially in the Council and the Assembly, and to a lesser extent in the law-courts. That there might be a way of doing this well is not explored in the *Laws*. The

omission here is somewhat disappointing given that the *Statesman* seems to suggest the possibility of oratory forming a part of a well-ordered political society.²⁰¹

To conclude, what we see is that penal code and the citizens' activity in the court system plays an important role in improving Magnesia and the Magnesians. While it may also be required in more ideal conditions with a more virtuous citizenry, the penal code certainly plays a central role in developing the characters of people who have not yet achieved virtue. Moreover, the citizens' political activity in ruling and in judging allows them to learn equity and gain political competence from experience, in many cases supplemented by theoretical inquiry in the Nocturnal Council. So even while comprehensive political knowledge may be difficult or impossible attain, there is still good progress that can be made in non-ideal states in the subordinate branches of political knowledge and on the path towards virtue of character.

7. Conclusion: Plato's non-ideal political philosophy

Let us reflect now on what we can learn about Plato's non-ideal political philosophy generally from these readings of the *Statesman* and *Laws*. Because there is no extended or detailed discussion of what Plato thinks we should do to improve actual states, these conclusions are of course provisional – but I hope that by now they should at least appear to be well motivated and in the spirit of the Platonic political project.

I contend that Plato thinks that we improve non-ideal states by better mixing the constitution, where the institutional elements of the mixture are understood to be democratic and monarchical institutions, and the psychological elements are understood (in part) to be either naturally courageous types and naturally temperate types, or freedom and equality on the one hand and authority and hierarchy on the other.²⁰² A good constitution (*ceteris paribus*) is one in which both equalizing and hierarchical

²⁰¹ The possibility of a philosophically informed oratory is also a major contention of the *Phaedrus*.

²⁰² While I have gestured at a connection between the *Statesman* psychology and the *Laws* psychology, a fuller discussion will have to wait for another day. More modestly, Plato recognizes a variety of contrasting psychological elements that a good society needs to blend appropriately.

institutions are appropriately blended, so that in areas where free citizens have similar capacities nobody has authority over any other, but that in areas where there is a natural hierarchy of authority, such a hierarchy is respected and effective in decision-making and policy-making. For 4th century BCE Plato, this means, in effect, blending what would have been called by his audience democratic and oligarchic institutions (though the theoretical extreme of the oligarchic principle of inequality is monarchical rule). So while it is true that Plato thinks that reason and law should rule in a city, the *actual form* that this takes in non-ideal states is a mixed constitution.

There are, however, two important qualifications in the Platonic normative model. Firstly, the good mixture of the constitution is determined relative to the existing citizen body and their respective psychologies. Though it is possible to think of a perfectly mixed constitution in the abstract, in practice, legislation starts with people who already have ways of life and beliefs about what a good life consists in. Thus Persia was well moderated when the naturally hierarchical elements of monarchy were balanced with equalizing kings and public policies, and Athens was well moderated when the naturally equalizing elements of democracy were balanced with a deep respect for the authority of the laws and the authorities in the city. Similarly, I suggested that the mixed elements of Magnesia were developed from political models that the Dorian population could recognize as good and sufficiently similar to their own. Thus the mean of the mixed constitution takes into account stability concerns raised by the existing social structures and norms of the relevant population.

Secondly, there is a strong conservative bias in favor of preserving the existing laws of the polis, *whatever they happen to be*. The reason for this is that it is better to have suboptimal laws followed than better laws ignored, and people will not follow laws that they have not been habituated to follow and recognize as good. Thus, when improving a non-ideal city, it is not enough simply to correct its democratic or oligarchic excesses; rather, one should moderate the city only with respect to the changes that are likely to have uptake in the majority of the citizen body. Without this, lawfulness as a whole could break down, which is an outcome worse than preserving the status quo.

Subsequently, Plato's non-ideal political philosophy generates a tension between the recognized imperfection of a state and the risk of destabilizing that state in the hope of improving it. I have argued that Plato seems to favor preserving the existing laws rather than hoping for piecemeal improvement. And while it is true that there is always the possibility of a knowledgeable lawgiver meeting with a good-natured tyrant who could change the lawcode wholesale, the lawgiver is still limited by the existing psychologies of the citizens and the possibility of what social norms and laws they could follow.

The reading of the *Laws* I have provided also makes a substantial contribution to what we could call Platonic virtue politics, insofar as it suggests that people concerned with the development of virtue in society as whole should think about the kinds of motivations and incentives that different kinds of people respond to. People are not born virtuous and reasons generated by virtue will not move everyone in society.

Subsequently, for the purposes of education and development, and for the purposes of stabilizing a good society, lawgivers will need to develop a penal code and incentive system that encourages people in act in virtuous ways. The hope then is that by habituating people to do the right thing, they may eventually come to see why such actions are good, or at least have weaker motivations that oppose right reason. While the prospects of creating a society of fully virtuous society are not good, there may be a more promising way forward in developing the kind of artificial virtue of people who act well in a structured political and social environment. I suggest, then, that those interested in a contemporary Platonic-inspired virtue politics should investigate social norms that are in accordance with virtue or lead people towards virtue, and that could be stabilized by drawing on a variety of human motivations.

Finally, I want to end this discussion by casting doubt on what sometimes seems like a standard reading of Plato's political philosophy: that the only hope for society is a virtuous revolution led by a knowledgeable philosopher-king or statesman. In the first place, the *Republic*, *Statesman*, and *Laws* all make it clear how rare this knowledge is, and its coming-to-be is certainly not something that we should patiently wait for or rely on. Most people just don't have the kind of systematic political and ethical understanding

that would justify their establishing a good lawcode by force. So while knowledge has normative priority for Plato, political justification by appeal to comprehensive knowledge would rarely – if ever – be invoked in constitutional change. But as I have tried to show, finding someone with this kind of political knowledge is only one half of the problem anyway, and there is a further problem with what the content of this political knowledge is and how it must respond to the constraints generated by the citizen body. Improving non-ideal states for Plato is substantially limited by the psychologies and existing norms of the local population, as the laws need to have uptake in the citizens, which won't happen if the citizens don't recognize those laws as good. Even philosopher kings, then, would be limited by the practical problems generated by ruling over people with imperfect grasps of the good. In practice, Plato's political philosophy is deeply conservative.

CHAPTER THREE

Working With What You Have: Aristotle on Moderating Existing Constitutions

One can be less speculative in working out what Aristotle believed we ought to do in non-ideal states. Not only does Aristotle provide a discussion of an ideal state – the “city of our hopes and prayers” – in Books VII & VIII of the *Politics*, but he also clearly separates this discussion from his discussions of what is best for most states in ordinary circumstances, and what is best for particular states under particular assumptions. Aristotle clearly recognized that one size does not fit all, and that the features of the ideal state that make it the best could not obtain across all states. For example, Aristotle notices that once city-states reach a particular size, it is hard for them to have a constitution other than a democracy (III.15, 1286b20–22).

But this attention to the facts of political science also generates a number of puzzles regarding the normative structure of the *Politics*; in particular, what is it that justifies Aristotle’s prescriptions for non-ideal states? Why is it that some combination of oligarchy and democracy is best for most states? And why does Aristotle seriously consider the ways in which monarchies and tyrannies can be sustained, even though he acknowledges that they can barely be called constitutions properly speaking? Previous commentators have provided a number of answers to these questions, some even positing a developmentalism within the *Politics* itself, whereby Book III, VII, & VIII form an “utopian” period where Aristotle endorses a virtuous aristocracy, and Books IV–VI form a later “empirical” or “practical” period where Aristotle endorses a mixed polity.²⁰³ Contemporary commentators have generally been more modest in their assumptions

²⁰³ Jaeger, *Aristotle: Fundamentals of the History of his Development*, 259–92; For the view that Aristotle changed his mind between the two books without making claims about development, see Hansen, *Reflections on Aristotle’s Politics*; Cf. Riesbeck, “The Unity of Aristotle’s Theory Constitutions”, pp. 2–3.

regarding the (admittedly disjointed) composition of the *Politics*, and have pointed out that the normative proposals from the middle books share much in common with Aristotle's avowed political ideals insofar as these non-ideal states come close to resembling the ideal state with respect to, for example: the reciprocity, community, and friendship between the citizens;²⁰⁴ the operative conception of justice in the city;²⁰⁵ the receptivity to rational governance;²⁰⁶ the extent to which the common good is promoted;²⁰⁷ and the role of the number of rulers and the role of the economic classes.²⁰⁸

Much of this scholarship is of the highest quality and is worthy of endorsement. My focus here, however, is on how the key themes that shaped Plato's political philosophy in the *Statesman* and *Laws* can illuminate the general structure of Aristotle's political theorizing too, especially with respect to non-ideal states.

Firstly, I continue to explore the idea that what justifies oligarchic institutions is the way in which they generate legitimate hierarchies of *authority*, and that what justifies democratic institutions is the ways in which they respect the *equality* of citizens. For Aristotle these two concepts are represented by the oligarchic and democratic principles of justice respectively. In normal circumstances, Aristotle believes that a state will be comprised of a large number of citizens who are more or less free and equal, but that there will also be a number of citizens who are superior with respect to judgment, political skill, and deliberation. What this means is that in order for both groups of citizens to share in the constitution in the way that they should, a mixture of democratic and oligarchic institutions will be required.

Secondly, I argue that Aristotle's political theorizing is also limited by practical constraints generated from the actual habituation of the citizens. Because Aristotle thinks that citizens need to be habituated relative to a constitution and its conception of justice, substantial constitutional and legal changes are unlikely to succeed. This will go some way in explaining Aristotle's treatment of constitutions that are far from the ideal

²⁰⁴ Inamura, *Justice and Reciprocity in Aristotle's Politics*, p. 162.

²⁰⁵ Yack, *The Problems of a Political Animal*, p. 222.

²⁰⁶ Destréé, "Aristotle on improving imperfect cities", pp. 216–7; Miller, "The Rule of Reason".

²⁰⁷ Kraut, *Aristotle: Political Philosophy*, p. 389.

²⁰⁸ Riesbeck, "The Unity of Aristotle's Theory of Constitutions", p. 30.

and show why they are not mere observations about stability. But I also contend that Aristotle's fine-grained analysis of constitutions and the possible iterations of their parts provides a way to improve non-ideal states that navigates the tension we saw in Plato's political theorizing between how it is that states should be designed (the well-mixed constitution) and what stability requires (legal conservatism). On my reading of the middle books of the *Politics*, Aristotle believes that states should retain the outlines of their existing constitutional structures, but should moderate particular institutions that tend to excess and are self-undermining. A wise teacher taught me that Aristotle should always end up saying something sensible, and this proposal is just that: rulers (or worse yet, philosophers) should not impose new utopian structures to replace political arrangements that are working pretty well, but, bearing in mind that what is conventional is not the same as what is good, changes can be made to particular institutions that citizens could recognize as genuine improvements.

I will proceed in five sections. In section one, I will show how the ideas of authority and equality operate in Aristotle's normative political theorizing through his two principles of justice, attempting to close the gap between the more utopian theorizing of the various books of the *Politics*. In section two, I will explore Aristotle's comments about the habituation of citizens relative to constitutions and the stability problems that this habituation generates, showing how there is a general conservative bias that favors existing political structures. In section three, I will show how Aristotle navigates this normative tension by providing a fine-grained analysis of political institutions and parts of constitutions, allowing a reformer to moderate a constitution within the existing structures, thus both improving it and keeping it stable. In section four, I will show how this way of thinking about Aristotle's normative political theory helps to make better sense of the discussions of monarchy and tyranny in the middle books; in particular, I will argue that both tyranny and extreme forms of democracy are by nature unstable, but that it is possible to improve both using the same normative principle of mixture. Finally, in section five, I will connect this discussion of constitutions with Aristotle's discussion of citizenship, showing both what qualified

virtue (“virtue relative to the constitution”) in non-ideal states amounts to, and how Aristotle (like Plato) tries to cultivate artificial virtue in the citizen body as a whole through law and political institutions. Thus we will have a new way of understanding how Aristotle’s political theorizing is related to his ethical thinking with respect to the general claims that what ultimately matters is promoting the happiness of the citizens and that this is done by making the citizens more virtuous.

1. Aristotle’s political ideals and the mixed constitution

Because of the disjointed nature of the *Politics*, one can reconstruct its logical structure in a number of ways. As my goal is to understand the relationship between Aristotle’s political ideals, his discussion of non-ideal constitutions, and the normative basis of this discussion more generally, I will begin by looking at Aristotle’s two principles of justice: (1) treating equals equally, and (2) treating unequals unequally. I believe that this is Aristotle’s way of giving an explicit normative basis to the concepts of political equality and political hierarchy or authority that we saw in Plato’s *Laws*: those with justified authority over others ought to be treated unequally, and in the absence of such a justified authority, people ought to be treated equally.²⁰⁹ While it would be a mistake to think that ancient political philosophy is *only* concerned with justice (to the exclusion of other political values like community, friendship, and flourishing), justice is surely a central concern of Aristotle’s political project. Moreover, Aristotle claims that these principles of justice justify democratic constitutions and oligarchic constitutions respectively, but also that justice properly speaking necessarily involves both principles. Thus the more a constitution embodies these two principles in their proper place in the institutions and social practices of the city, the better that constitution is. Thinking of Aristotle’s analysis of constitutions in terms of their relation to complete justice is therefore a fruitful way to understand the *Politics*. And while the normative structure of

²⁰⁹ For excellent discussions of the connection of these two principles of justice with the principles of equality and hierarchy, see Schofield, “Equality and Hierarchy in Aristotle’s Political Thought” and Yack, *The Problems of a Political Animal*, chapter seven.

this analysis may be relatively straightforward – indeed, the principles of justice seem uninterestingly analytic – because the demographics of actual cities may vary widely with respect to who is equal to whom in which ways, the application of Aristotle's analysis turns out to be much more complex and illuminating than it may first appear.

Two principles of justice and two primary constitutions

Aristotle introduces the two principles of justice as a way of explicating what is distinctive about oligarchy and democracy:

"The first thing one must grasp... is what people say the defining marks of oligarchy and democracy are, and what oligarchic and democratic justice are. For they all grasp justice of a sort, but they go only to a certain point and do not discuss the whole of what is just in the most authoritative sense. For example, justice seems to be equality, and it is, but not for everyone, only for equals. Justice also seems to be inequality, since indeed it is, but not for everyone, only for unequals. They disregard the "for whom", however, and judge badly. The reason is that the judgment concerns themselves, and most people are pretty poor judges about what is their own. So since what is just is just for certain people, and consists in dividing things and people in the same way (as we said earlier in the *Ethics*), they agree about what constitutes equality in the thing but disagree about it in the people. This is largely because of what was just mentioned, that they judge badly about what concerns themselves, but also because, since they think they are both speaking up to a point about justice of a sort, they think they are speaking about what is unqualifiedly just. For one thinks that if they are unequal in one respect (wealth, say) they are wholly unequal, whereas the other lot thinks that if they are equal in one respect (freedom, say) they are wholly equal." (III.9, 1280a7-25)

This theme recurs throughout the *Politics* at a number of important points (e.g. III.12, 1282b16–22; V.1, 1301a25–35) and elsewhere in the corpus (e.g. *EE*, VII.9.5, 1241b32–34). The underlying thought is relatively straightforward: justice is equality for equals and inequality of unequals. Oligarchs grasp one part of justice in thinking that because they are unequal to the people²¹⁰ with respect to wealth, they ought to rule over the people, whereas democrats grasp another part of justice in thinking that because the poor are just as free as the wealthy, they ought to share in rule equally.²¹¹ Aristotle will elsewhere criticize the criteria on which these judgments are based, but what is important is the

²¹⁰ To avoid confusion, I will use "the people" throughout this chapter to refer to the *demos*, and "the population" to refer to the inhabitants of the city-state taken as a whole.

²¹¹ Robinson claims that "equality is not prominent in Aristotle's conception of democracy" and there is an "almost total absence of equality [in] Aristotle's conception of democracy" (*Commentary*, p. 82). Given that numerical equality figures centrally in the democratic conception of justice, I hope to show that equality in fact plays an important role in Aristotle's understanding of democracy.

structure of the analysis: oligarchs identify a way in which they are superior to the people, and use that as a justification for exclusive rule; democrats identify a way in which they are equal to the other citizens and use that as a justification for shared rule.

Aristotle thinks both groups are partly right and partly wrong. There are hierarchies in nature and in society, and the better ought to rule over the worse (*Pol.* I.5). But in political society it is hard to find people who are unqualifiedly better in every respect, which means that often people will be more or less equal. Aristotle says that, “it is a bad thing for a constitution to be organized unqualifiedly and entirely in accord with either sort of equality. This is evident from what actually happens, since no constitution of this kind is stable” (V.1, 1302a1–5). No city can stabilize operating with only one of these conceptions of justice, because it is obvious that not all people are equal in every respect or unequal in every respect. Subsequently, a city that tried to arrange its institutions on the basis of only one of these conceptions would start faction by illegitimately disenfranchising a substantial portion of the population and preventing it from participating in the constitution (V.1, 1301a37–39).²¹²

Aristotle believes that inequality is one of the main sources of faction: “for faction is everywhere due to inequality, and when unequals do not receive proportionately unequal things (for example, a permanent kingship is unequal if it exists among equals). For people generally engage in faction in pursuit of equality” (V.1, 1301b26–29, cf. V.2, 1302a22–31).²¹³ But equality is spoken of in two ways (V.1, 1301b29) – numerical equality and proportionate equality, where proportionate equality involves treating unequals unequally (as when one gives the person who hold 75% of the stocks 75% of the profits and the person who holds 25% of the stocks 25% of the profits) – so when some group thinks that their legitimate equality or inequality is not being respected, this provides a ground for faction.²¹⁴

²¹² “Faction” here translates *stasis*. For more on this concept, see Keyt, *Commentary*, pp. 63–65.

²¹³ I owe much regarding the connection between faction and perceived injustice to Yack, *The Problems of a Political Animal*, chapter seven.

²¹⁴ Aristotle recognizes that there are a number of other ways in which faction can come about, but this is certainly a major theme throughout the discussions of conflict and stability in Book V (see especially the causes of changes in constitutions in general: V.3–4).

Somebody who has a complete understanding of justice will be able to identify the ways in which various people and various groups are both equal and unequal, and then apportion their political roles accordingly. Some offices require particular skills or take up a large amount of time or money and thus shouldn't be given to just anyone; but there are also offices for which most people are perfectly competent, regardless of their level of education or financial status. Most offices, however, probably fall somewhere in the middle. Aristotle's point is that oligarchs tend to overgeneralize and think that a regular citizen isn't fit, for example, to judge a court case, whereas democrats overgeneralize in the other direction and think that anybody can make important decision about the running of the city. The person with the complete understanding of justice overgeneralizes in neither of these ways, but gets it right, recognizing that the city in fact needs to find a place for both kinds of justice, because each kind of justice is partly right.

I have labored this somewhat rudimentary point about the two kinds of justice because it provides the basis for Aristotle's understanding of what structures oligarchies and democracies, and why it is that Aristotle's theory commits him to thinking that a good constitution must mix oligarchic and democratic institutions. For just as Plato thought that there were two "mother" constitutions, one based on the democratic principle and one based on the monarchical principle, so too Aristotle thinks that pure oligarchy and pure democracy are somehow *prior* in political analysis, with the one embodying political relations based solely on the principle of treating unequals unequally and the other embodying political relations based solely on the principle of treating equals equally. It is from within this framework that I believe Aristotle's analysis of constitution makes the most sense overall, and how we can best account for his discussions of (a) the ideal state, which is aristocratic, (b) the goodness of polity, and (c) the defectiveness of monarchies and extreme democracies.

Aristotle claims that oligarchy and democracy are the main forms of constitution. One part of this claim is merely descriptive:

"Two constitutions primarily arise: democracy and oligarchy. For good birth and virtue are found in few people, whereas wealth and freedom are more widespread. For no city-state has a hundred good and well-born men, but there are rich ones in many places." (V.1 1301b39–1302a2)

Virtuous people are few and far between, so they rarely make a claim to rule on the basis of their inequality with their fellow citizens. On the other hand, every city has people who are more wealthy and no city is made entirely of slaves, thus wealth and freedom are the main claims to rule. This way of thinking of constitutions would make aristocracy and polity moderated variants of oligarchies and democracies, and kingship an extreme oligarchy. But Aristotle also seems to reject this taxonomy, even though it is what people believe:

"But there are held to be mainly two constitutions: just as the winds are called north or south, and the others deviations from these, so there are also said to be two constitutions, democracy and oligarchy. For aristocracy is regarded as a sort of oligarchy, on the grounds that it is a sort of rule by the few, whereas a so-called polity is regarded as a sort of democracy, just as the west wind is regarded as northerly, and the east as southerly... People are generally accustomed, then, to think of constitutions in this way. But it is truer and better to distinguish them, as we have, and say that two constitutions (or one) are well formed, and that the others are deviations from them, some from the well-mixed "harmony", and others from the best constitution, the more tightly controlled ones and those that are more like the rule of a master being more oligarchic, and the unrestrained and soft ones democratic [ἀληθέστερον δὲ καὶ βέλτιον ὡς ήμεῖς διείλομεν, δυοῖν ἡ μιᾶς οὐσίς τῆς καλῶς συνεστηκίας τὰς ἄλλας εἶναι παρεκβάσεις, τὰς μὲν τῆς εὖ κεκραμένης ἀρμονίας τὰς δὲ τῆς ἀρίστης πολιτείας, διλγαρχικὰς μὲν τὰς συντονωτέρας καὶ δεσποτικωτέρας, τὰς δ' ἀνειμένας καὶ μαλακὰς δημοτικάς]." (IV.2, 1290a13–29)

Aristotle's point here is that the given order of explanation isn't right. You should start with the good form of the thing, and then explain the rest in terms of defective variants of the good form. This is sound philosophical methodology, but the differences between the approaches do not amount to a substantial challenge here. The point is that there is a *single scale*: in the middle are (a) the constitution which is a "well-mixed harmony" – the polity – and right beside it (b) the best state, aristocracy, where democracy is a defective variant of the former and oligarchy a defective variant of the latter.²¹⁵ Notably, Aristotle

²¹⁵ The passage in question is far from clear. An alternative reading is that there are *two* constitutions which are primary – polity and aristocracy – and the rest of the constitutions are to be explained as deviations of these. But if this reading is right, it is hard to see why Aristotle would waver between saying that "two or one constitutions" are well formed. Rather, he should have just said two constitutions are well formed and left out the "or one". But on my reading, it doesn't really matter whether we think of polity and aristocracy as two constitutions or one – what's important is that they are in the *middle* of the scale, with democracy and oligarchy going off in other directions (cf. IV.8, 1293b23–27). This keeps Aristotle's analysis clean and also allows him to speak of a "mean" in a (relatively) tidy way. I also believe that there are linguistic grounds for

also characterizes oligarchies as being more *despotic* than the mean and than democracies in just the same way that Plato characterized constitutions that were excessively monarchical.

So what Aristotle has given us is an account of justice whereby the oligarchic group errs in overgeneralizing claims to rule on the basis of inequality and the democratic group errs in overgeneralizing claims to rule on the basis of equality. Moreover, the analysis of constitution relies on there being two poles of extremes with increasingly defective oligarchical or democratic constitutions, and a mean constitution that appropriately harmonizes these elements. As this analysis has relied primarily on materials from Books IV and V of the *Politics*, let me turn now to explain how this analysis makes sense of the seemingly contradictory passages in Book III and of Aristotle's ideal state in Books VII & VIII.

Ideal theory

Aristotle neatly distinguishes the different projects of political science at the beginning of Book IV of the *Politics*. There, he not only points out a kind of ideal/non-ideal theory distinction, but also stipulates different kinds of non-ideal theory based on different assumptions:

"It is clear that it belongs to the same science [i.e. statesmanship] to study: [1] What the best constitution is, that is to say, what is must be like if it is to be most ideal, and if there were no external obstacles. Also [2] which constitution is appropriate for which city-states. For achieving the best constitution is perhaps impossible for many; and so neither the unqualifiedly best constitution nor the one that is best in the circumstances [τὴν ἐκ τῶν ύποκειμένων ἀριστην] should be neglected by the good legislator and true statesman. Further, [3] which constitution is best given certain assumptions [τὴν ἐξ ύποθέσεως]. For a statesman must be able to study how any given constitution might initially come into existence, and how, once in existence, it might be preserved for the longest time. I mean, for example, when some city-state happens to be governed neither by the best constitution (not even having the necessary resources) nor by the best one possible in the existing circumstances, but by a worse one. Besides all these things, a statesman should know [4] which constitution is most appropriate for all city-states. Consequently, those who have expressed views about constitutions, even if what they say is good in other respects, certainly fail when it comes to what is useful. For one should not study only what is best, but also what is possible, and similarly what is easier and more attainable by all. As it is, however, some seek only the constitution that is highest and requires a lot of resources, while others, though they discuss a more attainable sort, do away with the constitutions actually in place, and praise the Spartan or

preferring this reading insofar as it keeps the two *men/de* clauses symmetrical, though this is not a decisive consideration.

some other. But what should be done is to introduce the sort of organization that people will be easily persuaded to accept and be able to participate in, given what they already have, as it is no less a task to reform a constitution than to establish one initially, just as it is no less a task to correct what we have learned than to learn it in the first place." (IV.1, 1288b21–1289a5)

This is an important passage for understanding Aristotle's theory of constitutions and for understanding the senses in which a constitution might be "best" for a city-state. The four projects are as following:

- I. The ideal constitution: i.e. what is the best constitution that is possible for humans, but is not limited by practical constraints?²¹⁶
- II. The best constitution for cities where the circumstances or materials limit the possibilities: e.g. what kind of constitution should cities with a large population of poor people have, or a city with no possibility of sustaining a class of farmers have?
- III. The best constitution on the basis of some hypothesis of what the constitution is: e.g. if a city has a kingship, how did it come to be and what is the best way to preserve such a constitution?
- IV. The best practicable constitution for most: given the difficulty of attaining the ideal constitution, what is the constitution that most city-states should aim at, will be generally beneficial, and one that "people will be easily persuaded to accept and be able to participate in given what they already have"?²¹⁷

²¹⁶ Aristotle's assumptions about human nature in the ideal state are complicated. It is clear that the citizens in the ideal state will be virtuous, but Aristotle also tells a story about how they come to be virtuous through their education. So he is not *stipulating* virtuous behavior as an assumption of the project, but he is taking it to be a result of the political arrangement. This is a way in which Aristotle's ideal state is different (and more practicable) than, for example, the Carens market or David Estlund's sense of "ideal" ("Human Nature and the Limits (if any) of Political Philosophy").

²¹⁷ This classification is controversial (Cf. Destrée, "Aristotle on improving imperfect cities", p. 212; Kraut, *Aristotle: Political Philosophy*, pp. 428–433.). The text itself is not helpful in distinguishing the second and third categories clearly. I take it that the main contrast is between the kind of assumption under which the study operates: in the second case, the emphasis is on the circumstances or the materials ($\tau\grave{\jmath}\nu \epsilon \kappa \tau\omega\nu$ $\bar{\nu}\pi\kappa\epsilon\mu\acute{e}\nu\omega\nu \bar{\alpha}\bar{\eta}\bar{\iota}\sigma\tau\eta\nu$), so we start with some geography and demographic, and then ask what constitution would be best for those; the third category starts by assuming a constitution as an end ($\tau\grave{\jmath}\nu \bar{\varepsilon}\bar{\xi} \bar{\nu}\pi\theta\acute{e}\sigma\omega\zeta$) and then asking how it could come to be and what would keep it stable (cf. Aristotle, *Physics*, II.9 for a parallel use of $\bar{\varepsilon}\bar{\xi} \bar{\nu}\pi\theta\acute{e}\sigma\omega\zeta$, and Alcinous, *Handbook of Platonism*, XXXIV for a slightly different but plausibly related use of $\bar{\varepsilon}\bar{\xi} \bar{\nu}\pi\theta\acute{e}\sigma\omega\zeta$ with respect to constitutions). Thus, the second category assumes the materials and asks what constitution would be best, whereas the third category assumes the constitution

It would take a book to fully explain the details of each of these political projects. Fortunately, many such books have been written. Let it suffice here to sketch an outline of the main positions Aristotle takes for each of these projects, and then focus my energies on explaining the relationship between the projects. Throughout, my argument will be centered around the idea that Aristotle is trying to best implement complete justice – treating equals equally and unequals unequally – into the constitution, but that practical details regarding the number of virtuous citizens in the city and stability concerns lead Aristotle to think that deviations from the unqualified best constitution are justified. A consequence of this reading is that Aristotle in fact compromises on justice in non-ideal circumstances because of practical constraints.²¹⁸ But before we sink into that mire, let us look turn our gaze upwards and look at Aristotle's ideal theory.

In Book III of the *Politics*, Aristotle divides constitutions six-fold, distinguishing rule by one, few, and many (as in the *Statesman*), and then subdivides those categories into good and defective kinds by whether they aim at the benefit of the whole or merely at the benefit of the rulers (III.7, 1279a25-32; 1279b4-10). The good constitutions are called kingship, aristocracy, and polity respectively; the bad constitutions are called tyranny, oligarchy, and democracy. Aristotle also claims explicitly that:

“The best of them must of necessity be the one managed by the best people. This is the sort of constitution in which there happens to be either one particular person or a whole family or a

and asks how the materials could be worked to support such a constitution. Kraut glosses the classification as follows: (I) the ideal city; (II) regimes that cannot be called democracies or oligarchies because they are mixtures of both; (III) the various forms of democracy and oligarchy; (IV) the rule of middle class. We agree on (I). I think his reading of (II) cannot be right because there will be circumstances in which a mixed constitution is not best for that population – the materials require a stricter oligarchy or democracy. We agree on (III) but I would stress that this category is best exemplified by the studies of kingship and tyranny in Book V, though this does not exclude the studies on how to preserve oligarchy and democracy. (IV) is where we part ways most strongly. Kraut notes that on his reading (II) and (IV) are very similar, but he argues that (IV) is a distinct category because it is the non-ideal constitution Aristotle most favors. By contrast, I consider having a large middle class to be *one way* of creating a mixed constitution in just the same way that choosing institutions mid-way between oligarchy and democracy is a way of mixing constitutions. So on my reading, (IV) is the project of mixing constitutions, which can be done through harmonizing oligarchic and democratic elements *and* by having a large middle class, but (II) explores the possibility that the mixed constitution is not best for all cities, e.g. those with an especially large population, which need to be democratic (hence why (IV) explicitly says the best constitution for *most* cities).

²¹⁸ I will deal with this consequence in section III. Theorists will differ on whether this is a virtue or a vice of the view.

number of people who virtue is superior to that of all the rest, and where the latter are capable of being ruled and the former of ruling with a view to the most choiceworthy life" (III.18, 1288a32–37)

As we have already seen, Aristotle thinks that better parts should rule over worse parts. When one part of the city is outstanding in virtue *and the other part is capable of being ruled*, then the virtuous should rule over the others. Notoriously, Aristotle believes that this is true even when the citizens are themselves virtuous (i.e. fully fit to govern well) but there is nevertheless one godlike person outstanding in virtue – in such a situation, the godlike man ought to rule over them unqualifiedly (III.17, 1288a26–29). Crucially, though, this situation *only* arises in a city where there is a law such that all recognize merit and virtue justifies the claim to rule (III.17, 1288a13–15). Aristotle thinks that this is a common element in the conceptions of justice in various constitutions, "for they all claim to merit rule of the basis of superiority in something, though not superiority in the same kind of thing" (III.17, 1288a23–24), but nonetheless it is important that the other citizens would recognize the rulers as outstanding *and* qualified to rule in virtue of this fact. The virtuous are most qualified to rule because they are the people best able to do what rulers should do, namely deliberate well, even though they are not sufficient to make a city function:

"The well-born, the free, and the rich reasonably lay claim to office. For there must be both free people and those with assessed property, since a city-state cannot consist entirely of poor people, any more than of slaves. But if these things are needed in a city-state, so too, it is clear, are justice and political virtue, since a city-state cannot be managed without these. Rather, without the former a city-state cannot exist, and without the latter it cannot be well managed." (III.12, 1283a10–25)²¹⁹

Thus from Book III, we can see that Aristotle's criteria for distinguishing the better constitutions from the worse depends primarily on the character of the rulers: the very best constitution has the very best person (or people) running it, being outstanding in virtue to the others in the city; the good constitutions have rulers that aim at the benefit of the whole rather than the part; the defective constitutions aim only at the benefit of a part.

²¹⁹ There are manuscript variants here that read "military virtue" (*polemikēs*) rather than "political virtue" (*politikēs*).

The thought that the best state is run by the best people is reinforced in Books VII and VIII of the *Politics*. Here Aristotle presents “the city of our prayers”, that is, the best city we can wish for, where “many circumstances are as ideal as we could wish, although none should be impossible” (VII.4, 1235b37–39). It is noteworthy that it is the *circumstances* of the city which are said to be as ideal as possible – Aristotle clarifies that by “ideal” he means things like the number of citizens and the size of the territory, giving the statesman the best materials possible to work on (VII.4, 1235b39–1236a5). But these ideal circumstances will allow Aristotle to construct a city in which the citizens have the best shot at becoming virtuous through an extensive education system and political system.²²⁰ He does not *assume* his citizens in the ideal state will be virtuous – their virtue is the *result* of a well-designed political system. It is because of their education and way of life that the city will possess “men who are unqualifiedly just (and not given certain assumptions)” (VII.9, 1328b38).

Aristotle also reaffirms the points made about justice and the superior claim to rule of the virtuous in Book VII:

“For among those who are similar, ruling and being ruled in turn is just and noble, since this is equal or similar treatment. But unequal shares for equals or dissimilar ones for similars is contrary to nature; and nothing contrary to nature is noble. Hence when someone else has superior virtue and his power to do the best things is also superior, it is noble to follow and just to obey him.”
(VII.3, 1325b7–14)

Thus it is natural for those who are virtuous to rule, but when people are equal in virtue it is best for them to rule and be ruled in turn (VII.14, 1332b12–29). Beyond this point, however, it is surprisingly difficult to work out the structure of the political institutions in Aristotle’s ideal state – perhaps because of the incomplete state of Book VIII. We are told many things about the musical education the citizens are to receive and their gymnastic education is gestured at, but how does the court system work? Is there a council and assembly? How many people are on it and what are their terms in office? What do people vote on and what is left to the authority of individual office-holders? What are the laws concerning corruption and auditing? Is there a system of appeals or

²²⁰ The education system is most fully laid out in Book VIII, whereas Book VII focuses on the circumstances in which the ideal city is to be constructed.

veto regarding particular policy decisions? None of these questions are answered in the extant corpus, and after reading the *Laws*, one suddenly misses the details of how the constitution is actually supposed to work.

We can say some things about the constitution of the ideal state though. For starters, it is clear that the rulers are to rule *because* they are virtuous. This makes the constitution primarily aristocratic. But because all of the male citizens are to receive an education aimed to make them virtuous and nobody is assumed to be *outstandingly* virtuous, the constitution also looks like a polity insofar as the citizens are free and more-or-less equal with respect to their virtue, ruling and being ruled in turn.²²¹ Moreover, the ideal state has a conception of citizenship that involves all the citizens being active in the political system (see especially VII.3), which is a hallmark of democratic constitutions. It does not matter whether this city better merits the label “aristocracy” or “polity” – it contains elements of both, and well-mixed constitutions are supposed to be hard to distinguish anyway.²²² For my purposes, what is crucial in the institutional design of the ideal city is that it clearly involves a complete conception of justice, emphasizing *both* that those superior in virtue and deliberation deserve unequal treatment because of their unequal abilities (especially regarding women, metics, and slaves), *and* that those equal in virtue deserve equal treatment (especially regarding

²²¹ It is unclear to me whether Aristotle envisages the ideal state to have rotating offices of adult male citizens ruling. The young male citizens are ruled (VII.14, 1332b32–42), but this is unsurprising. It appears as though Aristotle thinks that the younger men should occupy the military offices and the older men the deliberative offices, as “it is natural for physical strength to be found among younger men and practical wisdom among older ones, [so] it is beneficial and just to assign the tasks to each group on the basis of age, since this division is based on merit” (VII.9, 1329a13–17). This makes the constitution look decidedly more aristocratic than it does democratic, insofar as one group effectively holds office for an extended period of time, ruling through the later period of their life (as Schofield notes, (*Saving the City*, p. 105)). Kraut (*Aristotle: Political Philosophy*, p. 227) cites the beginning of this passage in claiming that “the adults will share in ruling and being ruled by turns (VII.14, 1332b26–7)” but the following lines in Aristotle’s text (esp. 1332b35–38) make it clear that this is achieved by being ruled when you are young and then ruling when you are older. Thus it is wrong to infer from the comment that it is necessary for a community to rule and be ruled in turn that the adults rotate in this way.

²²² If I were forced to give an answer, I would say it errs more on the side of aristocracy because of the emphasis of virtue as the criterion for rule (rather than, for example, freedom – the equality of the citizens is incidental in the ideal city in a way that virtue being the justification for rule is not). Moreover, the population of the ideal city is strictly managed, which suggests that Aristotle is concerned about it moving in a democratic direction (see VII.4). If there is little rotation in office-holders, this would be a decisive consideration in calling Aristotle’s ideal state an aristocracy.

one's fellow adult male citizens). Thus the citizens of the ideal state recognize that virtue is what justifies their claim to rule, and their relative equality with their fellow citizens justifies their need to be ruled by others willingly, precisely because this is what nature and justice require.

Non-ideal theory

It is with this understanding of what makes a city-state good and just for Aristotle that we can return to the middle books of the *Politics* and assess the ways in which better or worse mixed states approximate the ideal state. For while the ideal state is helpful for understanding what the good organization of a city is, it is also impractical in most actual circumstances.²²³ Hence Aristotle also asks:

“What is the best constitution, and what is the best life for most city-states and most human beings, judging neither by a virtue that is beyond the reach of ordinary people, nor by a kind of education that requires natural gifts and resources that depend on luck, nor by the ideal constitution, but by a life that most people can share and a constitution in which most city-states can participate? For the constitutions called aristocracies, which we discussed just now, either fall outside the reach of most city-state or border on so-called polities (that is why the two have to be spoken about as one).”
(IV.11, 1295a25-34)

I contend that in non-ideal circumstances, Aristotle believes that actual states are worse than the ideal state insofar as (a) the claims to rule are worse than those in the ideal state, i.e. they are not based on merit or virtue,²²⁴ and (b) considerations of stability or adverse circumstance necessitate compromises regarding the organizational structure of the city. Both of these reasons compromise the conception of justice in the city and its effective implementation. But because most cities are non-ideal in some way, evaluating non-ideal constitutions and knowing the ways in which they are good and bad is also a central concern of the practically minded political thinker.

The first kind of compromise that non-ideal states must face is the most obvious: most cities cannot arrange ruling to be assigned on the basis of virtue because virtuous people are few, far between, and hard to identify. Aristotle writes that, “while it is

²²³ Cf. Kraut: “One cannot take an oligarchy or democracy and transform it (even by degrees) into a perfect constitution. Utopia cannot be created out of misshapen human resources. If one seeks to form a perfect society, one must therefore begin afresh.” (*Aristotle: Political Philosophy*, p. 196)

²²⁴ See Lane, “Claims to rule: the case of the multitude”.

possible for one or a few to be outstandingly virtuous, it is difficult for a larger number to be accomplished in every virtue, but it can be so in military virtue in particular" (III.7, 1279a39-b2), and "in a case where people are similar and equal, it is neither beneficial nor just for one person to control everything" (III.17, 1287b41–1288a2). The ideal state has an education system that is supposed to produce virtuous people reliably – but most states don't have that, and so having a political system that relied on there being virtuous people to hold office would either fail through lack of qualified candidates or be corrupted by inferior people. Thus it is unsurprising that oligarchies do not justify rule on the basis of virtue simpliciter (as this could lead to the conclusion that every citizen should rule, being more or less equal in virtue), but on the basis of wealth. Obviously this is an inferior claim to rule insofar as wealth is no guarantor of skill in ruling (if only it were), but it was at least plausibly correlated with important qualities for ruling in ancient Greece, namely education and the possession of the leisure necessary for the performance of administrative duties. It is easy to see, then, how the conception of justice based on treating unequals unequally can be fudged in a non-ideal state: the wealthy may lay claim to rule on the basis of their superior skill and merit, but it may appear to the people as though they don't really have these superior skills and that they are ruling purely because they have more money.²²⁵ Both parties would probably be partly right, depending on which individuals one focused on.

There is also, however, a whole class of political problems that arise from considerations of stability and circumstance that require a city to compromise on ideal institutional design. This means that if a city is to survive, it must either be less effective or less just than some alternative arrangement. A prominent reason for this kind of compromise is sheer population size. Aristotle writes that, "now that city-states have become even larger, it is perhaps no longer easy for any other constitution to arise besides democracy" (III.15, 1286b20–22). When there are large numbers of people and limited offices, it is easy for many citizens not to participate in ruling. This is bad, as it

²²⁵ For the wealthy laying claim to rule on the basis of superior skill, see for example Herodotus, *Histories*, III.81, and Pseudo-Xenophon (The Old Oligarch), *Constitution of the Athenians*, I.3.

means that citizens do not share in the constitution, and disenfranchising citizens in this way causes dissent and faction. Thus in cities where there are large populations, the solution is to make the constitution more democratic in allowing the citizens, for example, to vote on matters of public policy, sit on juries, and participate in assemblies and councils:

“It would not be safe to have [the multitude] participate in the most important offices, since, because of their lack of justice and practical wisdom, they would inevitably act unjustly in some instances and make mistakes in others. On the other hand, to give them no share and not to allow them to participate at all would be cause for alarm. For a state in which a large number of people are excluded from office and are poor must of necessity be full of enemies. The remaining alternative, then, is to have them participate in deliberation and judgment, which is precisely why Solon and some other legislators arrange to have them elect and inspect officials, but prevent them from holding office alone.” (III.11, 1281b25–34)

This passage is followed by the now-famous “Wisdom of the Many” passage, which, as Inamura rightly emphasizes, justifies democratic particular democratic institutions on the basis of their collective skill.²²⁶ Thus while some democratic practices may be mere compromises for the sake of stability, not all of them should be thought of in that way.

But the way in which most non-ideal states can best approximate the ideal state is by mixing their oligarchic and democratic institutions. The goodness and stability of well-mixed constitutions is a theme repeated a number of times throughout the central books of the *Politics*. For example, Aristotle says that “the better mixed a constitution is, the more stable it is” (IV.13, 1297a6–7), and that

“the defining principle of a good mixture of democracy and oligarchy is when it is possible to speak of the same constitution both as an oligarchy and as a democracy. For it is clear that speakers speak of it in this way because the mixture is a good one. The mean too is like this, since each of the extremes is visible in it. This is precisely how it is with the Spartan constitution” (IV.9, 1294b14–19).

I believe that the reason mixed constitutions are good for Aristotle, and why he believes they are in fact stable, is simply because they closer approximate the complete conception of justice.

We have already seen that Aristotle thinks that democratic institutions embody one side of the justice coin and oligarchic institutions embody the other. It makes sense, then, that a city that effectively mixes both kinds of institutions will produce people who

²²⁶ Inamura, *Justice and Reciprocity in Aristotle's Politics*, chapter 3, section 4. I discuss this more in section five.

will likely see the legitimacy of the claims made by democrats and oligarchs alike, and will also reduce faction because neither party believes that they are being disenfranchised by the constitution.²²⁷ Hence, Aristotle writes that a constitution is well mixed when “none of the parts of the city-state as a whole would even want another constitution” (IV.9, 1294b38–40). He repeats a similar thought elsewhere, emphasizing that the multitude that wants the constitution must be greater than the multitude that doesn’t in every part of the city (V.9 1309b17–18; II.9, 1270b21–22). So the well-mixed constitution is in fact good because it embodies the complete conception of justice, and is stable because each factional conception of justice is harmonized in the city. This does not mean that democrats and oligarchs in such a state *agree* on the conception of justice – rather, the claim is that neither of them is sufficiently dissatisfied with the arrangement that they think that their conception of justice is not adequately represented in the constitution and the way of life of the city.

Those who are able to see and appreciate both sides of the argument, as it were, are those who form the middle economic class of the city. Aristotle claims that poverty makes people too humble and unable to rule, and luxury makes them too arrogant and unable to be ruled (IV.11). Those who have great wealth, like Plato’s Persian kings, learn only to rule like masters and do not know how to follow orders, whereas the poor become petty, malicious and envious from their state of subjection. Naturally here Aristotle praises the “mean” constitution, by which he means the city which has a large number of citizens in the middle class, and it at least appears that the praise of this “mean” constitution is equivocal with respect to the constitution which is the “mean” between oligarchy and democracy. There is perhaps an unhelpful slide in terminology here, but there is also a connection in that excessive oligarchies tend to encourage particular citizens only to rule in the same way that the rich are accustomed only to be masters and never those on the receiving end of orders. Similarly, just as citizens in a well-mixed constitution share in both ruling and being ruled, so too citizens in the middle economic class escape the vices of character that arise from only ruling or from

²²⁷ For a similar defense, see Yack, *The Problems of a Political Animal*, pp. 235–236.

only being ruled. Hence polity is also described as arising from a mixture of rich and poor citizens (IV.8, 1294a22–23). Thus both the constitution that is mean between oligarchy and democracy, and the constitution that is mean in having a large middle class approximate the ideal state in its appreciation and embodiment of the complete conception of justice, and the correlate willingness of the citizens both to rule and be ruled.

So what are the actual principles by which a constitution is to be well-mixed? We have just seen that a constitution can be mixed in one way through the presence of a large middle class. The three primary ways of mixing a constitution, however, are: (a) mixing the legislation of oligarchy and democracy; (b) taking the mean organizations of both oligarchy and democracy; (c) mixing the political institutions of oligarchy and democracy (IV.9). Aristotle is helpful with examples here. It is an oligarchic law to fine the rich if they do not take part in deciding court cases but they do not pay the poor to do so; conversely, democracies pay the poor but do not fine the rich; the mean law is doing both (IV.9, 1294a36–41). A mean organization is to put neither a high nor a low or non-existent property assessment for membership in the assembly, but set a moderate standard that falls between the two (IV.9, 1294b3–6). Aristotle also thinks that voting is an oligarchic institution when combined with a property assessment, insofar as it selects on the basis of merit and tends to favor the rich, whereas election by lottery without property assessment is a democratic institution; thus an aristocracy or a polity will combine these methods by using voting but not require a property assessment (IV.9, 1294b7–13). So the best non-ideal cities will be ones that have these kinds of mixtures.

When cities are not so mixed, they tend to self-destructive extremes. Aristotle writes that it is a common mistake to think that more democratic institutions will help to preserve democracies (and vice versa with oligarchies). But in fact both of these approaches overlook the mean:

“Many of the things that are held to be democratic destroy democracies, and many that are held to be oligarchic destroy oligarchies. But those who think that this is the only kind of virtue push the constitution to extremes. They do not know that constitutions are just like parts of the body. A straight nose is the most beautiful, but one that deviates from being straight and tends toward being hooked or snub can nevertheless still be beautiful to look at. Yet if it is tightened still more

toward the extreme, the part will first be thrown out of due proportion, and in the end it will cease to look like a nose at all, because it has too much of one and too little of the other of these opposites. The same holds of the other parts as well. This can also happen in the case of constitutions. For it is possible for an oligarchy or a democracy to be adequate even though it has diverged from the best organization. But if someone tightens either of them more, he will first make the constitution worse, and in the end it will not be a constitution at all. That is why legislators and statesmen should not be ignorant about which democratic features preserve a democracy and which destroy it, or which oligarchic features have these effects on an oligarchy. For neither of these constitutions can exist and survive without rich people and the multitude, but when a leveling of property occurs, the resulting constitution is necessarily of a different kind. Hence by destroying these classes through extreme legislation, they destroy their constitution.” (V.9, 1309b20–1310a2)

While this is not Aristotle’s most helpful analogy, the overall point is clear: just as a body can be beautiful because proportionate with respect to itself, so too a constitution can fall from the ideal and yet still be a good constitution if its elements are well balanced and harmonized. But constitutions destroy themselves and it becomes difficult even to call them constitutions when they move too far in the direction of pure democracy or oligarchy, for cities will always have rich and poor people, and pushing the constitution to one of the extremes will not fail to disenfranchise and cause dissent among one of the groups. Just as a nose, then, ceases to be recognizable *as a nose* when it is too hooked or too snubbed, so too a *politeia* ceases to be a *politeia* when too many of the *politai* are not part of the running of the city.

Thus the ideal constitution is one in which the rulers are virtuous and, being equal to their fellow virtuous citizens, rule and are ruled in turn; next, the best constitution that most states can achieve is the constitution which is a harmonious blend of democratic and oligarchic institutions, embodying both oligarchic and democratic principles of justice and their respective claims to rule in such a way that neither group would want the constitution to change.

Aristotle then ranks the other oligarchic and democratic constitutions in terms of how far they depart from this ideal of a mixed constitution:

“What the best constitution is, then, and why it is so is evident from these considerations. As for the other constitutions (for there are, as we say, several kinds of democracies and of oligarchies), which of them is to be put first, which second, and so on in the same way, according to whether it is better or worse, is not hard to see now that the best has been determined. For the one nearest to this must of necessity always be better and one further from the middle worse – provided one is not judging on the basis of certain assumptions. I say “on the basis of certain assumptions,”

because it often happens that, while one constitution is more choiceworthy, nothing prevents a different one from being more beneficial for some." (IV.11, 1296b1–12)

As a general principle, the less mixed a constitution is, the worse it is. Fair enough. But notice that Aristotle is also committed to the claim that some constitutions which depart further from the mean constitution may be more beneficial than those that are closer to it "on the basis of certain assumptions". Elsewhere Aristotle also writes that "democracy is perhaps more necessary than oligarchy for some, whereas for others the reverse holds" (IV.2, 1289b18–19). Moreover, there seem to be circumstances where particular oligarchic or democratic laws would not be beneficial in moderating a constitution, "if indeed there are several kinds, and not one kind of democracy nor one kind of oligarchy only" (IV.1, 1289a22–25).

But why? If oligarchies and democracies only grasp part of the truth about justice and virtue and they tend to promote lopsided characters in the citizen body, how could such constitutions be anything other than more harmful than well-mixed constitutions? When Aristotle does talk about the more extreme constitutions, he seems to switch to a more descriptive rather than a normative register. Consider the following passage:

"Ancient constitutions were oligarchic and kingly, and quite understandably so. For because of their small population they did not have much of a middle class, so that, being small in number and poor in organization, the people put up with [ύπέμενον] being ruled." (IV.13, 1297b25–28)

Because the ancient people couldn't muster enough power for anything better, they submitted to – "put up with" – being ruled in a way that disenfranchised them from the constitution. But this hardly shows that it was a good thing for ancient constitutions to be run in such a way, only that they can be stable in such circumstances. So why would some more extreme constitutions be better than more mean constitutions? Relatedly, why would a legislator or statesman need to study *particular* cases of constitutions (e.g. Athens or Sparta) rather than just apply these general principles of moderation, which seem to work for the most part?

The answer, I contend, is that Aristotle also has a conservative side to his non-ideal political philosophy, and that without looking at the way in which particular peoples have been habituated and educated relative to their constitution, it is impossible

to determine what is best and most beneficial for them.²²⁸ Because moving closer to the mean constitution could generate costs from breakdowns in lawfulness, it follows that it may be best all things considered to leave a constitution in a more extreme position than try to make it conform to the constitution that would be best in the abstract. Obviously there are strong parallels here with the legal conservatism I defended with respect to Plato's *Laws* and *Statesman*, but let us first consider the Aristotelian evidence for this position on its own terms and then reflect on ways in which Aristotle may be engaging with his teacher.

2. Habituation, law, and legal change in Aristotle

Aristotle never says anything as extreme as Plato does about not changing the law. Indeed, the main textual evidence for Aristotle's attitude towards legal innovation is characteristically balanced and even-handed, as he presents both sides of the debate on legal change with resolving the puzzle. The relevant passage comes in his discussion of other proposed and existent constitutions in Book II of the *Politics*:

"Generally speaking, everyone seeks not what is traditional but what is good. But the earliest people, whether they were "earth-born" or the survivors of some cataclysm, were probably like ordinary or foolish people today... So it would be strange to cling to *their* opinions. Moreover, it is not better to leave even written laws unchanged. For just as it is impossible in the other crafts to write down everything exactly, the same applies to political organizations. For the universal law must be put in writing, but actions concern particulars. So it is evident from these considerations that some laws must sometimes be changed. But to those who look at the matter from a different perspective, great caution will seem to be required. For if the improvement is small and it is a bad thing to accustom people to casual abrogation of the laws, then some of the rulers' or legislators' errors should evidently be left unchanged, since the benefit resulting from the change will not be as great as the harm resulting from being accustomed to disobey the officials. Moreover, the model drawn from the crafts is false, since making a change in a craft is not like changing a law. For the law has no power to secure obedience except habit; but habits can only be developed over a long period of time. Hence casual change from existing laws to new and different ones weakens the power of the law itself. Finally, if laws are indeed to be changed, are they all to be changed, and in every constitution? And who is to change them? Any at all or certain people? For these things make a big difference. Let us therefore abandon this investigation for the present: there will be other occasions suitable for it." (II.8, 1269a3–27)

²²⁸ Cf. Yack, "In all cases, the mixed regime should be constructed and maintained in accordance with the kinds of institutions that local traditions and experience make most acceptable" (*The Problems of a Political Animal*, p. 235).

We do not have the text where Aristotle discusses this matter more fully (if he ever got around to writing it), so we have to work with what we have here. There are two views he considers.

The first view argues that people do not seek what is merely conventional but what is good, and given that many laws were given by less enlightened people than us now, there is no reason to think that their laws are any better than what we could come up with. Moreover, no law can correctly foresee all the particulars, so in addition to recognizing exceptions, some laws need to be modified when they end up getting particulars systematically wrong. From this Aristotle concludes that “some laws must sometimes be changed”. Not the boldest call for legal progress in the history of western thought, but it is a conclusion carefully stated and it also has the virtue of being true.

Aristotle then considers another unnamed group of thinkers who oppose legal innovation. Firstly, Aristotle notes that changes in law generally undermine respect for the law and for those giving the laws. The reason for this is that the law generates compliance through habit, and habits take a long time to form. Making changes in legislation, then, interrupts the formation of habits, and thus chips away at what makes people obedient to laws. This argument resembles the one that I suggested Plato was giving in the *Laws*, though we should be careful in attributing it to him given the anonymity of Aristotle’s presentation. Finally, Aristotle considers a number of practical problems with changing the law: whether they are to be changed all at once, and in every constitution, and by whom? Again, the text is condensed here so it’s hard to reconstruct a full argument, but there are some problems we can plausibly guess Aristotle has in mind.

The question of whether the laws are to be changed all at once may allude to the Platonic concern that lawcodes should be a coherent whole, like a well-designed body, rather than a bunch of limbs attached haphazardly to each other. It seems strange to us to think that laws could not be changed in isolation, but if Aristotle shares Plato’s worry that laws should be internally coherent and aim at the same goal, it is easy to see how individual changes in legislation (especially in the absence of a complex professional

legal system) could create a disorderly mess. The question of whether laws should be changed in every constitution is also obscure, though I will sketch the outlines of an answer in section 4: the reasons for changing the laws in extreme and defective constitutions are much more pressing than the reasons for changing the laws in the more moderate constitutions. Finally, the question of who should change the laws may allude to the set of problems raised in our discussion of the *Statesman*, as it may be that changes in the law from people with expertise in lawgiving and politics are beneficial, but most people lack this expertise and in such cases, it is better to stick by the existing legislation and trust the fruit of tradition and experience rather than rely on one's partial understanding or the specious reasoning of professional orators. These explanations of Aristotle's questions are speculative, but we don't have to work too hard to see at least the shadow of some of the problems regarding legal change that a close reading of Plato's works raised.²²⁹

So where does Aristotle come down in this debate? Scholars have divided on this issue.²³⁰ Given the modesty and sensibleness of the conclusion that at least some laws should sometimes be changed, it is reasonable to think that Aristotle does endorse this

²²⁹ Saunders says of the passage that "there is no reason to believe that Aristotle is here thinking of Plato in particular" (*Commentary*, p. 148), citing parallel instances of legal conservatism in Euripides and Thucydides. He is right that there is no reason to think of Plato *in particular* regarding Greek attitudes about respect for the law, but there may be a very good reason to think of Plato if the concern is about the relationship between the law and *habituation of character*.

²³⁰ Lockwood thinks that the aporia is resolved by considering Aristotle's actual prescriptions in favor of legal and constitutional change, which he takes to be both innovative and progressive ("Politics II: Political critique, political theorizing, political innovation", pp. 74–5). Others who favor the progressive reading of Aristotle include Nussbaum ("Non-Relative Virtues", p. 38), Simpson (*Commentary*, pp. 110–112), and Destrée, who says that Aristotle is "without hesitation positive" about changing the law ("Aristotle on improving imperfect cities", p. 207). Those on the fence include Saunders, who writes that Aristotle has "some sympathy with the 'caution' enjoined by the conservative views" but he also seems to accept the skill analogy, and concludes by saying that "if the defects in the laws were substantial, the calculation of advantage would change [in favor of changing the law]" (*Commentary*, p. 147–8); Brunschwig takes the aporia to be unresolvable, arguing that sometimes we need only minor changes and other times more profound reforms ("Du mouvement et de l'immobilité de la loi", pp. 527, 530, 535), and Pangle assumes that both sides are to be taken seriously (*Aristotle's Teaching in the Politics*, pp. 8–9). The sole conservative voices seem to be Strauss (*The City and the Man*, pp. 21–25), though even he only really goes as far as to say that Aristotle "is much less sure than Hippodamus of the virtues of innovation" (p. 21), and De Romilly, who takes the arguments from habituation to have serious weight and she connects them both with what Kleon says in Thucydides and what Aristotle says about habituation in the *Ethics*, albeit briefly (*La loi dans la pensée Grecque des origines à Aristote*, pp. 220–225).

conclusion – especially given how hard it is to construct an Aristotelian criticism of the reasoning for this claim. So the real question is under what circumstances does Aristotle think the law should be changed.²³¹ Answering this question largely depends on the extent to which we think that Aristotle endorses the arguments for legal conservatism and how pressing he thinks the practical problems are for implementing legal change. Thus I will now argue that Aristotle has excellent reason in both his ethical and political works for endorsing the conservative arguments from habituation, and for endorsing them strongly. My goal is to show how Aristotle errs on the side of conservatism in his views regarding changing the laws for actual states (this section), but then specify the conditions under which (a) minor legal change would be beneficial (section 3), and (b) more substantial and perhaps even comprehensive legal change would be justified (section 4).

Law and habituation in the Ethics

For Aristotle, virtue of character results in part from habituation (*EN* II.1, 1103a17). A necessary element of this process is that one's pleasures and pains are trained. The reason Aristotle gives for this is as follows:

"We must take as an indication of a person's states the pleasure or pain consequent on what he does, because the person who abstains from bodily pleasures and finds his enjoyment in doing just this is temperate, while the person who finds doing it oppressive is intemperate; and the person who enjoys facing up to danger, or at least does not find it painful to do so, is courageous, while he who does find it painful is a coward. For virtue of character is concerned with pleasures and pains: it is because of pleasure that we do bad actions, and pain that we abstain from noble ones. It is for this reason that we need to have been brought up in a particular way from our early days, as Plato says, so we might find enjoyment or pain in the right things; for the right education is just this."
(*EN* II.3, 1104b3–12)

Here the parallel with Plato's moral psychology in the *Laws* (and the early books of the *Republic*) is explicitly noted. From birth, we begin to take pleasure in certain things and be pained at others, and these form the bases of character traits. Aristotle expands on this point a few lines down:

²³¹ Thus I am not denying that the text is aporetic nor suggesting that we should pick a "side", presenting the kind of dogmatic reading of an aporetic text that Brunschwig warns against. What we want to know is what force each side of the aporia has in Aristotle's considered theory, and nothing prevents one side of the aporia from presenting better or more far-reaching arguments than the other.

"Pleasure has grown up with all of us since infancy and is consequently a feeling difficult to eradicate, ingrained as it is in our lives. And, to a greater or lesser extent, we regulate our actions by pleasure and pain. Our whole inquiry, then, must be concerned with them, because whether we feel enjoyment and pain in a good or bad way has great influence on our actions... So this is another reason why the whole concern of virtue and political science is pleasures and pains: the person who manages them well will be good, while he who does so badly will be bad." (*EN* II.3, 1105a1–13)

The habituation of pleasures and pains is so important for Aristotle that he says it is the "whole concern of virtue and political science." To educate someone's character just is to ensure that their pleasures and pains are properly directed, and the goal of proper education is "enjoying and hating well" (*EN* X.9, 1179b25–26). As a number of commentators have stressed, this habituation of pleasures and pains cannot be entirely unreflective or mechanical for it to result in full virtue,²³² but the text makes it clear that a necessary condition of character virtue – and perhaps a rather large part of character virtue – just is the result of being habituated to enjoy some things and hate others.

Fortunately, a complete account of how exactly it is that habituation results in full character virtue is not required for our purposes here. All that needs stressing is that Aristotle believes character traits result from habituation, that this process begins from childhood, and takes a long time to complete. The important connection I want to draw now concerns the relationship between habituation and the law, as it is the business of political science to habituate the citizens correctly.²³³ Indeed, Aristotle says that "legislators make the citizens good by habituating them, and this is what every legislator intends" (*EN* II.1, 1103b3–5). Those brought up under better laws have a better shot at developing character virtue, as they will have been well habituated from childhood, whereas those who grow up under bad laws will have to work against their education to improve. As Aristotle says in the closing chapter of the *Nicomachean Ethics*:

"If one has not been reared under the right laws it is difficult to obtain from one's earliest years the correct upbringing for virtue, because the masses, especially the young, do not find it pleasant to live temperately and with endurance. For this reason, their upbringing and pursuits should be regulated by laws, because they will not find them painful once they have been accustomed to

²³² Most famously Burnyeat in "Aristotle on Learning to be Good". See also (*inter alia*) Annas, *Intelligent Virtue*, chapter two, and Jiminez, "Aristotle on Becoming Virtuous by Doing Virtuous Actions" and "Aristotle on Steering the Youth by Pleasure and Pain" for stressing the cognitive elements in Aristotle's theory of habituation.

²³³ See Kamtekar, "The Relationship Between Aristotle's Ethical and Political Discourses (X.9)".

them. Perhaps it is not enough, however, that when they are young they get the right upbringing and care; rather, because they must continue to practice and develop their habits when they are grown up, we shall need laws for this as well, and generally for the whole of life. For the masses heed necessity rather than argument, punishments rather than what is noble." (X.9, 1179b31–35)

It is crucial that people do not find virtuous actions painful and vicious actions pleasant; consequently, their actions – when they are both children and adults – need legal regulation, for once they are accustomed to doing those actions, they will not find them hard. Thus, for Aristotle, law plays a central role in the habituation and the moral development of citizens.

In addition, lawfulness plays an important role in Aristotle's conception of justice, and under one of its disambiguations, being just amounts to being lawful (*EN* V.1, 1129a31–b1). Indeed, Aristotle is perhaps even puzzlingly emphatic about the connection between justice and lawfulness, and that being just in this sense amounts to complete virtue in a particular way:

"Since, as we saw, the lawless person is unjust and the lawful just, it is clear that whatever is lawful is in some way just; for the things laid down by legislative science are lawful, and each of these we describe as just. The laws have something to say about everything, their aim being the common interest either of all the citizens, or of the best, or of those in power, or of some other such group. So, in one sense, we call anything just that tends to produce or to preserve happiness and its constituents for the community of a city. Law requires us to do the acts of a courageous person... as well as those of a temperate person... and similarly it demands actions in accordance with the other virtues, and forbids those in accordance with vices, correctly if it correctly established, less well if it is carelessly produced. Justice in this sense, then, is complete virtue, not without qualification, but in relation to another person... And it is complete virtue in the fullest sense, but it is the exercise of complete virtue. It is complete because he who possesses it can exercise his virtue in relation to another person, not only himself." (*EN* V.1, 1129b11–33)

Because justice concerns one's relation to others, and the law prescribes that one act well and virtuously with respect to others, being lawful amounts to acting well with respect to others. Law itself is also a necessary condition for justice, "for what is just exists only among people whose relations are governed by law" (*EN* V.6, 1134a30). Because justice is said in more than one way, there are other ways to assess the justice of an action, but nonetheless at least one important sense of justice is produced by lawfulness and has the existence of laws as a precondition of judgments of justice.

Much of this will be familiar to readers of Aristotle's ethics, but it is worth emphasizing the political dimensions implicit in the account of habituation and justice

here. Law is crucial for habituation of character virtue in general, and justice in particular.²³⁴ For Aristotle, law does not just co-ordinate social activities – it is the main source of determining what people find pleasant and painful, and of which actions are regularly performed by the members of that society. Moreover, it informs their conception of what is just because one sense of justice is lawfulness.

But if law is to perform these functions – habituating the citizens, and providing a determination of just and unjust actions – *it cannot be constantly changing*. Habituation only works if the actions are repeated consistently, and citizens are unlikely to have firm convictions about the particulars of justice if the prescriptions of the laws oscillate. This does not mean that laws can never change, as a single change in law is unlikely to undermine all habituation, but it does provide evidence for a general conservative bias. Because an important function of law is habituation and this function will not be effective in a particular area if there is change in that area, it is better to gain the effects of even a suboptimal law than to experiment with a number of different laws in the hope that one of them will be better.²³⁵ To be sure, if one *knows* that some particular law would be substantially more beneficial than the existing arrangement, then one should change it. But how optimistic is Aristotle of these kinds of changes in non-ideal constitutions? Does Aristotle in fact recommend changes in adequate but suboptimal regimes? In short, what is the threshold for “good enough” laws?

Being educated relative to the constitution

²³⁴ Gisela Striker points that laws provide the content of general moral rules for Aristotle (and not merely of justice) that are crucial in guiding our deliberation before we have developed the kind of moral perception that allows us just to “see” the right things (“Aristotle’s Ethics as Political Science”, pp. 139–140). This position is extended from justice to all of virtue by Lee, who writes that, “The law spells out in detail what the right thing to do is, and the virtuous person is someone who correctly grasps what the law requires of her, and does it for the right reasons. For the virtuous agent decides what to do by considering what is legislated for citizens in her society for the common good” (“Justice and the Laws in Aristotle’s Ethics”, p. 105). I would add to Striker’s point the claim that for such laws to be good laws in the first place, they must generally produce the right result. Equity (*epieikeia*) corrects the exceptions – not the rule.

²³⁵ Cf. Saunders: “Habit being something that takes time to grow, and is weakened by frequent change, the laws ought not to be changed ‘causally’, even when they are to some extent deficient. For the habit of disobeying slightly imperfect laws, or the rulers who frame and administer them, encourages a general disregard for good law; and that will damage one’s *eudaimonia*, happiness, to a greater degree than it will be benefited by changes in slightly imperfect laws for the better.” (*Commentary*, p. 148).

Aristotle recognizes that most – if not all – existing states fail to prescribe what is in total accordance with virtue and reason. Thus, being a good citizen is not the same as being a good person (*EN* V.2, 1130b28–29, *Pol.* III.4, 1276b30–34), though this is possible in the best state (IV.7, 1293b5–7).²³⁶ Nonetheless, Aristotle stresses throughout the *Politics* that “the virtue of a citizen must be suited to his constitution” (III.4, 1276b30–31) and thus that “education should suit the particular constitution” (VIII.1, 1337a14).²³⁷ Thus the habituation and conception of justice that citizens receive will be – *and should be* – different according to the constitution under which one lives. And “living in a way that suits the constitution should be considered not slavery, but salvation” (V.9, 1310a35).

For those who have emphasized the importance of being habituated under only the best laws for the development of virtue,²³⁸ it is striking how emphatic Aristotle is that education has to be different in different states. Part of the justification for this position is explicitly said to be the stability of the city. This is to be expected if habituation is the main way in which the laws generate obedience. Aristotle writes that:

“Of all the ways that are mentioned to make a constitution last, the most important one, which everyone now despises, is for citizens to be educated in a way that suits their constitutions. For the most beneficial laws, even when ratified by all who are engaged in politics, are of no use if people are not habituated and educated in accordant with the constitution – democratically if the laws are democratic and oligarchically if they are oligarchic. For if weakness of will indeed exists in a single individual, it also exists in a city-state. But being educated in a way that suits the constitution does not mean doing whatever pleases the oligarchs or those who want a democracy. Rather, it means doing the things that will enable the former to govern oligarchically and the latter to have a democratic constitution.” (V.9, 1310a10–25)

If oligarchies and democracies are going to survive and be stable, they have to have different education systems – as the social norms and conceptions of justice in each will differ, and they will not generate compliance unless they harmonize with the political arrangements of the cities. If there is a discord between the political arrangement and

²³⁶ I will discuss this more in section five. See also Hitz: “The correct form of education – that is, one provided by a truly good political system directed at the proper end of human life – does not yet exist” (“Aristotle on Law and Moral Education”, p. 266).

²³⁷ Reeve here renders *pros* in these contexts as “suited to”, though it could equally be translated as “relative to”.

²³⁸ For example, Hitz “Aristotle on Law and Moral Education”; Lee, “Justice and Law in Aristotle’s *Ethics*”.

the habits and beliefs of the citizens, then there will be a kind of city-wide weakness of will, where the laws prescribe one thing and the citizens do another.²³⁹

This is an important pragmatic consideration, as the ability of citizens to live together under the constitution they have is also important for Aristotle's conception of good government (*eunomia*), and he recognizes that the best laws will not work in every society because they will not always generate compliance:

"Good government does not exist if the laws, though well established, are not obeyed. Hence we must take good government to exist in one way when the established laws are obeyed, and in another when the laws that are in fact obeyed are well established (for even badly established laws can be obeyed). The second situation can come about in two ways: people may obey either the best laws possible for them, or the unqualifiedly best ones." (IV.8, 1294a3–9)

Thus laws which are not the laws of the ideal state may still be the best available for a city, and thus good government can obtain in such a city. As Aristotle puts it elsewhere, if a city is to have organization it needs to have laws which are obeyed, for "the organization *is law*" (III.16, 1287a18). Moreover, Aristotle emphasizes the importance of rule of law, and a failure to generate legal compliance may also amount to a breakdown in rule of law (III.16, 1287a18–32). And a central reason why good laws fail in particular societies is that the best laws fail to have an adequate basis in the customs and habits of the existing population, and thus such laws will not be followed by those people (III.16, 1287b5–8).

There is, then, a tight connection for Aristotle between habituation and law, and law and constitutions. People need to be habituated if they are going to develop stable

²³⁹ Keyt *ad loc.* criticizes Aristotle's analogy here: "Democracy and oligarchy are deviant constitutions, and the laws that accord with deviant constitutions are bad laws (III.11, 1282b8–13). But Aristotle says that 'the weak-willed man is like a city that votes for all the *right* decrees and has *good* laws, but never uses them' (EN VII.10, 1152a19–21). Thus, a weak-willed man is not like a democracy or an oligarchy that disregards its laws. Such a city should be likened rather to an irresolute thief; and Aristotle would call a person with the principles of a thief, not weak-willed (EN VII.8, 1151a10–28, 9.1151a29–b4), but vile (EN II.6, 1107a8–17)." This is a very interesting insight. Rather than charge Aristotle with inconsistency, however, we could see him as working with a more expansive conception of justice in these books. The *Politics* III passage Keyt cites says that in the simple classification of constitutions oligarchies and democracies are unjust, but on this classification the constitutions *ex hypothesi* aim only at the benefit of the ruled. That Aristotle can use the weakness of will analogy here in *Politics* V suggests that now democracy and oligarchy are (in some respect) *good enough*, such that it is better to follow those suboptimal laws and gain the benefits of habituation than to break those laws. To be sure, the laws in oligarchies and democracies are less just than the laws of aristocracies and polities, but they still get *something* about justice right. We should not, then, simply dismiss these constitutions out of hand – democracies and oligarchies are not the political equivalent of thieves.

character traits, and the habituation needs to correspond to the form of constitution that the people will be living under if the law is to generate compliance from the citizens and ensure the stability of the city. Though it is only in the best constitution that a good citizen is also without qualification a good person, Aristotle seems to think that it is better that citizens in non-ideal constitutions gain the benefits of a stable body of law and education through their lawfulness than through trying to change the constitution and law to one that is theoretically better but will not be followed.

We can reasonably conclude, then, that in light of these accounts of law and habituation that Aristotle would take very seriously the arguments against frequent changes to the law as presented in *Politics* II.8. Though that passage is technically presented at a distance from his explicit endorsement, Aristotle's understanding of how it is that habits become ingrained in people and as social norms in cities more generally suggests that these are arguments he has reason to accept.

But the real test for the extent of Aristotle's conservatism comes from looking at the actual prescriptions he gives for various non-ideal states throughout the central books of the *Politics*. We will turn in the next section, then, to exploring Aristotle's suggestions for better mixing constitutions in order to improve them, and then in section four look at Aristotle's discussion of extreme constitutions. My contention is that in relatively moderate constitutions, Aristotle's advice for changing laws and institutions concerns changes that are small within the evaluative framework of the constitution and thus would not undermine the conception of justice or habits of the people, ensuring compliance. His advice for more extreme constitutions, however, is more drastic, precisely because the laws and institutions of those constitutions are *internally* unstable and thus the benefits of changing them outweigh the costs incurred, largely because such regimes could never generate compliance or reliably produce long-term stability in the first place. Thus we can see that Aristotle does seriously endorse the conservative arguments in the discussion from Book II because his prescriptions for actual democracies and oligarchies assume that the existing constitutional framework should be retained and that infrequent, minor changes are best. But we also see that the

conservative arguments are endorsed in part *for the sake of stability* because in extreme constitutions (which are not internally stable) more substantial changes are required – there is no point trying to stabilize something that large sections of the population could not accept. Let us, then, turn to Aristotle's prescriptions for how to preserve non-ideal states.

3. Aristotle on the variety of governments, stability, and constitutional change

In the discussion of Plato's *Statesman* and *Laws*, we saw that Plato opposed both legal and constitutional change because of its detrimental effects on lawfulness in the city and on habituation. But surely it is not that case that every change of law or every change in the arrangement of political offices has these deleterious effects. It is one thing to claim that substantial constitutional changes (oligarchy to democracy, for example) or widespread revisions of the law will fail to have uptake in the citizens; but it is quite another thing to claim that changing the way in which public councilors are elected from lottery to voting will have the same effects. Political changes come in many forms, and Plato's conservative worries may only apply to some of them.

It is within this framework that I want to explore the central books of Aristotle's *Politics*. Aristotle's fine-grained analysis of the possible *kinds* of laws and constitutional arrangements, and the *degree* to which they are democratic or oligarchic is what allows him to find a way to moderate constitutions without undermining lawfulness and habituation. As I understand Books IV and V, one reason Aristotle is detailing the particular laws and arrangement of offices and ordering them in terms of how extreme or moderate they are is so that his students can see how particular, small changes can be made that will improve the city but *within the framework of the existing constitution*.²⁴⁰ Aristotle's discussion in the central books takes for granted that, if the city is an

²⁴⁰ Cf. Kraut: "[Aristotle] thinks that social problems are often to be solved not by extreme changes, but by moderate steps that preserve the best features of long-established institutions." (*Aristotle: Political Philosophy*, p. 352). Consider, by contrast, Destree, who writes that improving oligarchies qua oligarchies and democracies qua democracies "should only be conceived of as the last resort in the worst case scenario" ("Aristotle on improving imperfect cities", pp. 213–4).

oligarchy or democracy, the goal is to *preserve* and *moderate* the constitution the city already has: we are not told how to turn democracies into aristocracies – we are told how to improve what's already there.²⁴¹

One way to understand this project is in light of Aristotle's discussion of the kinds of ideals appropriate for particular circumstances given in IV.1. The political scientist needs to know the best possible constitution, but also needs to know what is best given certain assumptions and what is best because it is the easiest to attain for most cities. If we are right in thinking that a moderated democracy ("polity") or moderated oligarchy ("aristocracy") is the constitution that meets this description, then the question we should ask is *why* this moderate constitution is the easiest to attain for most cities. I propose that the answer to this question is that the moderate mixed constitution is the constitution that can be approached through small incremental improvements from most existing states and because it best instantiates the two conceptions of justice that the two main groups of the city endorse. Aristotle does not give us this proposal explicitly, but he gives us the resources to construct the view in some detail; for we are given the ideal for the circumstances described in detail (the mixed constitution), the psychology of the major groups in the city (rich oligarchs and poor democrats), and the description of how constitutions can deviate incrementally from the ideally mixed constitution by having increasingly extreme laws and arrangements of offices.

Thinking about Books IV–VI in this way shows why the central books are not "mere" political science as opposed to normative political philosophy. The two are importantly related: it is by understanding the details of how constitutions can become more or less moderate that we are able to improve existing constitutions in such a way

²⁴¹ Monarchies and tyrannies complicate the picture in various ways, but I will discuss them in Section Four. Ober also provides a fascinating historical explanation for this conservative tendency of the *Politics*: "After the establishment of the League of Corinth [in 337], it was no longer feasible to advocate revolutionary constitutional changes within existing poleis of mainland Greece. According to the league's charter, each polis was guaranteed the enjoyment of its existing government (in some cases after pro-Macedonian oligarchies had been installed); subsequent attempts at political subversion would not be tolerated" (*Political Dissent in Democratic Athens*, p. 292). While it seems implausible to me that such a particular historical exigency should systematically constrain Aristotle's general and far-reaching political theorizing, it is nonetheless a fascinating feature of the context of the *Politics*.

that needn't threaten lawfulness or undermine habituation. The reason for this is that the legal and constitutional changes proposed would be too small to challenge the operative conception of justice in the society. But by making small changes over a long period of time, the society will become better and more just. Again, this project is somewhat speculative in that Aristotle never fully describes the relationship between the attainable ideal described in Book IV and the discussions of the species of constitutions in IV through VI – though he does say that we will study “how someone who wishes to do so should establish these constitutions (I mean, each kind of democracy or oligarchy)” (IV.2, 1289b20–22, cf. VI.1).²⁴² I hope to show that my proposal makes good sense of the passages taken together and also why it is that Aristotle does not prescribe substantial constitutional changes for existing oligarchies and democracies. Existing states should not reach for utopia, and this evaluative framework, which combines concerns about lawfulness, habituation, and stability with a model for improvement based on small incremental change, explains why.

Let us turn now to the details of the proposal and its textual justification. I will begin by explaining how Aristotle thinks of constitutions in terms of their constitutive parts, then explain the varieties of oligarchies and democracies Aristotle recognizes, then how it is that constitutions can change from one species to another to make them more or less moderate.

The analysis of democracies and oligarchies

For Aristotle, constitutions are determined by the arrangement of their parts, and the defining part of the constitution is the arrangement of the offices:

“It is evident, therefore, that there must be several constitutions that differ in kind from one another, since these parts themselves also differ in kind. For a constitution is the organization of offices [πολιτεία μὲν γὰρ ἡ τῶν ἀρχῶν τάξις ἐστί], and all constitutions distribute these either on the basis of the power of the participants, or on the basis of some sort of equality common to them (I mean, for example, of the poor or of the rich, or some quality common to both). Therefore, there must be as many constitutions as there are ways of organizing offices on the basis of the superiority and varieties of the parts.” (IV.3, 1290a5–13);

²⁴² This seems to include all the varieties of constitution more generally, but presumably the statesman will want to establish the best variety. Importantly, though, if such a statesman is in a rather extreme state, he will need to know how to establish the other varieties in order to get closer to the most moderate version.

To understand the full classification of actual and possible constitutions, then, it is necessary to elucidate all of the possible parts and arrangement of offices. Notably, this passage is followed by the discussion about the two main constitutions that we have already seen, suggesting that the primary dimension along which we should evaluate the arrangement of offices is the extent to which they are oligarchic or democratic.²⁴³ Aristotle likens this political project to that of understanding animals in biology (IV.4, 1290b25–39). If we want to understand animals, we have to grasp their necessary parts and variations. This seems a basic point, but it is significant when we compare it to the constitutional analyses that define constitutions simply by the number of rulers who hold office.²⁴⁴ Aristotle has realized that there are *many* ways in which a city might be more or less oligarchic, and more or less democratic.

The discussion continues by specifying the necessary parts of the city itself: the farmers, craftsmen, traders, hired laborers, warriors, priests, public servants (the landed elite), and civil servants (those who actually hold office; IV.4, 1290b39–1291a40). This may seem like a distraction from the discussion of the different types of oligarchy and democracy, but it could also be that Aristotle is highlighting this because cities have these different parts, and the way in which constitutions arrange these elements and incorporate them into the constitution (or restrict them from it) in fact determines the character of the oligarchy or democracy. The elements of the city are the material for the arrangement of the offices. Simply focusing on whether the rulers of the city are one, few, or many bypasses all of the interesting political questions about, for example, whether farmers and craftsmen should participate in government, what the role of the traders should be and how much influence they should have, what the relationship of the class of priests is to the role of government, whether all citizens should be warriors

²⁴³ Aristotle ends the chapter by saying that the good constitution should be a well-mixed harmony, whereas the more oligarchic constitutions are more “strained” and “despotic”, the more democratic constitutions are “loose” and “soft” [οὐλιγαρχικὰς μὲν τὰς συντονωτέρας καὶ δεσποτικωτέρας, τὰς δ’ ἀνειμένας καὶ μαλακάς δημοτικάς, IV.3, 1290a27–29]. I am not entirely sure how to parse the analogy about tension, but it is at least striking that oligarchic constitutions are characterized by their being more despotic.

²⁴⁴ Aristotle criticizes Plato’s constitutional analysis in the *Republic* for assuming that there is only one form of oligarchy and democracy at V.12, 1316b25–27.

and all warriors citizens or whether the military and generalships should be separate from administrative offices, whether only those with money and property should participate in government or whether it should be open to all free people. These were not only pressing considerations in ancient Greece, but are central questions in the history of politics and political theory. Thus Aristotle's attention to the various parts of the constitution lays the framework for a political analysis that can begin to address the complexity of questions adequately. It is insufficient to say that a constitution is good or bad merely on the basis of the number of rulers when these details about the arrangement of political parts can make or break a city.

Aristotle then distinguishes five kinds of democracy: the first is where anybody can participate in voting and office, regardless of citizen status;²⁴⁵ the second is where anybody who meets a low property assessment may participate, regardless of citizen status; the third is where all uncontested citizens (*ἀνυπεύθυνος*, i.e. citizens not liable to an audit) participate and the law rules; the fourth is when all citizens participate, and the law rules; the fifth is when the democracy is the same in one of these respects but the multitude rules by decree rather than law (IV.4, 1291b30–1292a7).

This classification is interesting insofar as there are three separate standards for ways in which democracies can be more or less democratic, which is to say ways in which people in a city can be more or less equal: (1) insofar as they apply standards for citizenship, applying them rigorously, loosely, or not at all; (2) insofar as they apply standards for wealth and property, with higher standards being less democratic and more oligarchic; (3) insofar as they remain subject to the law or not. The last kind of democracy is particularly important insofar as Aristotle says that "it is reasonable to object that this kind of democracy is not a constitution at all, on the grounds that there is

²⁴⁵ This is not explicit in the text, but without this qualification it is hard to see how it differs from the third and fourth categories. Moreover, it is at least an interesting conceptual possibility to consider a democracy that allowed anyone in the city to participate, regardless of citizenship status – presumably an important option given the traders and metics. I also assume that the proviso "that the law rules" applies to the first two classes otherwise they are hard to distinguish from the fifth category. Robinson also rightly notes that we should supply that the first two kinds of democracy here are law-abiding, though he is frustrated by the passage's "exasperating unmethodicalness" and calls the division "very brief and obscure" (*Commentary*, p. 81). It is more elided than we might like, but the components are clear enough.

no constitution where the laws do not rule" (IV.4, 1292a30–32), yet nonetheless it is the one where the many is *authoritative* [κύριον], as what the public decrees is final (IV.V, 1292a5). Thus any constitution where rule of law obtains will be one in which the people are not ultimately in authority, as they are subject to the law and its prescriptions.

Aristotle's discussion of types of oligarchies mirrors this classification of democracies, explaining that oligarchies can have high property assessments that exclude the poor, and that they can have ways of reducing the number of people who can participate in office, either by using voting from a group of elites or inheritance (IV.5, 1291a39–1292b10). Just as more extreme democracies used equality as a justification for increasing the scope of who can participate in office, more extreme oligarchies use wealth (high property assessments), merit (voting), and lineage (inheritance) to narrow the scope of who can participate in office. As IV.6 makes clear, these kinds of policies fall on a spectrum, especially regarding property assessments, and are subject to practical limitations that might compromise how exclusive or inclusive they actually are. For example, poor farmers may be allowed to participate in the constitution but may actually refrain from doing so because of a lack of leisure. This makes what may look like a more extreme democracy less so in practice.

The ways in which democracies and oligarchies can arrange the constitution is further specified in Book VI of the *Politics*, which details particular examples of democratic or oligarchic laws and policies. Because the goal of a democracy is freedom, democrats want "not to be ruled by anyone, or failing that, to rule and be ruled in turn," which explains why freedom as a goal is in fact best satisfied by egalitarian institutions and laws (VI.2, 1317b14–17). Laws which exemplify this goal are listed as follows: selecting officials from the whole population; having all rule and ruling in turns; having all offices (or offices that don't require skill) be filled by lot; having no property assessment for office or one as low as possible; having limits on the number of times one can hold offices; having office appointments be short-term; having everybody serve on juries and conduct audits; giving the democratic council authority over as much as possible and the individual offices over as little as possible; paying people who serve in

the assembly, courts, and public offices; removing permanent offices, or having permanent offices filled by lot (VI.2, 1317b17–1318a10). Oligarchic policies are simply the opposite of these (VI.6).

Crucially, though, how oligarchic or democratic a constitution is does not depend solely on the structure of the institutions and laws, but also on habits and training of the citizens. Aristotle explains why as follows:

“One must not overlook the fact that it has happened in many places that constitutions which are not democratic according to their laws are none the less governed democratically because of custom and training. Similarly, in other places, the reverse has happened: the constitution is more democratic in its laws, but is governed in a more oligarchic way as a result of custom and training. This happens especially after there has been a change of constitution. For the change is not immediate, but people are content at first to take from others in smaller ways. Hence the pre-existing laws remain in effect, although those who have changed the constitution are dominant.” (IV.5, 1292b11-21)

Though one dominant party may change the laws and the arrangement of offices in the constitution, the actual activities of the city take longer to change because the training and habits of the citizens fits with the older constitution. This is an important passage insofar as it emphasizes the distinction between the institutions of the city and the habituation of the citizens, but it also strongly suggests that it was the previous political institutions that played a large part in shaping these habits. Presumably if in the new political arrangement there is not a good match between what the laws prescribe and how they have been trained, conflicts will arise or laws will be ineffectual. Note, though, that Aristotle says that, “people are content at first to take from others in smaller ways”. People are not resistant to change *per se* and will be happy to adjust to new laws with the threat of punishment or because they see them as genuine improvements. What does *not* happen, however, is that people just adopt the new political structure wholeheartedly. Training and habituation thus slow the process of political change and act as a constraint on the possible institutions and laws that can be implemented effectively (recall V.9, 1310a10–25).

Thinking about the relationship between habits and institutions also explains why Aristotle’s discussion in IV.6 about how it is that particular forms of oligarchy or democracy come to be is not mere political science. It is no coincidence that some cities

are arranged some ways and others in other ways – rather, particular constitutions arise because of the circumstances of the development of that city, which in turn will affect the way that those people live their lives and think of particular constitutions as good. Geographical details about what kinds of crops can grow where and how much care they need will determine how much leisure the farmers have, and thus whether they can in practice participate in the constitution; similarly, cities that start out with a small number of property owners will be more likely to form an oligarchy because they have more power, and cities that allow for the rich to raise and train horses will be a more stable oligarchy because they can muster a strong cavalry regiment (VI.7). Actual political institutions are thus embedded in a complex network of factors that shape the lives of the citizens.

So how should we think about these multifarious forms of constitutions in light of what Aristotle says about the best form of constitution being a well-harmonized mixture of oligarchy and democracy? Two approaches that emphasize the goodness of the mean constitution would be as follows: firstly, one might select from the available options the most mean laws and institutions. So if oligarchs put a high property assessment on holding office and democrats put a low property assessment on holding office, we should have a middling property assessment on office. It might be objected that while this averaging approach works for certain issues (for example, with respect to the economic middle class) it is too blunt an instrument to apply to all the various political issues Aristotle raises. A second approach, then, might emphasize the appropriate harmonization of the various offices. A good constitution, on this reading, is one that has neither too many nor too few oligarchic institutions, but a good number of oligarchic institutions that are appropriately balanced by a good number of democratic institutions. So, for example, if a city has a high property assessment with respect to who can deliberate on the council, it should allow a large group of poorer people to judge court cases and audit officials. In that way, the oligarchness of the council will be harmonized with the democraticness of the courts.

While there is merit to both of those approaches to understanding Aristotle's political theory in these books of the *Politics*, ultimately I think that they fail to appreciate why certain political institutions arise in certain circumstances and why citizens find them acceptable arrangements for living together. How offices are arranged and which laws gain adherence depend to a large degree on facts about the habits of the citizens and the practical constraints that face that particular city. Thus while I accept that Aristotle thinks better constitutions are more moderated constitutions generally, it is not the case that every city can have a well-moderated constitution in practice. Rather, considerations about stability and of habituation limit the possibilities of improving existing constitutions – in particular, they limit how substantial the changes to constitutions can be and how quickly these changes can occur. It is by thinking about these kinds of factors that we should come to appreciate just how conservative Aristotle's political philosophy may be in practice, despite his bold claims about what the best states are like. So how do these constraints figure in the prescriptions that Aristotle gives about preserving and moderating existing states? In what way do the concerns about habituation, lawfulness, and stability shape the ways in which cities can be improved?

Practical constraints on moderating existing constitutions

Recall the claim from Book II of the *Politics* that some laws must sometimes be changed. Our questions are when should these laws be changed, and how should they be changed? It is clear enough that Aristotle thinks that better constitutions, in general, are better mixed constitutions. When possible, then, laws and constitutional arrangements should be changed if they can be made more moderate without deleterious effects. What I want to emphasize is that this conditional may be harder to satisfy than has been previously noticed: either because the costs of changing the existing arrangements are greater than the resulting benefit, or because a less moderate constitution might actually be better in the particular circumstances. As we have seen, even more moderate constitutional arrangements and laws may not be accepted by the population because

they run contrary to the habituation and training of the citizens, or (in more modern terms) they are outside the citizens' conception of the good. Furthermore, there may be geographical, economic, or historical reasons why particular laws and institutions have arisen in particular cities that in turn explain why those arrangements work in those cities (but perhaps not generally) or why general advice about mixed constitutions being better may not apply in those cases.

These considerations are suggested throughout the discussion of non-ideal states, and the preservation of the constitution is explicitly flagged as a goal in *Politics* VI.5:

"For a legislator... or for those seeking to establish a constitution of this kind,²⁴⁶ setting it up is not the most important task nor indeed the only one, but rather ensuring its preservation. For it is not difficult for those who govern themselves in any old way to continue for a day or even for two or three days. That is why legislators should make use of our earlier studies of what causes the preservation and destruction of constitutions, and from them try to institute stability, carefully avoiding the causes of destruction, while establishing the sort of laws, both written and unwritten, which best encompass the features that preserve constitutions. They should consider a measure to be democratic or oligarchic not if it will make the city-state be as democratically governed or as oligarchically governed as possible, but if it will make it be so for the longest time." (VI.5, 1319b33–1320a4)

Anybody with enough power can make any constitution work for a few days, but if a constitution is going to last, the legislator must pay attention to what makes a constitution stable. Aristotle's clearest and richest discussion of stability comes in Book V of the *Politics*, and it is there that I believe we will see most clearly the constraints on constitution changes emerging from his discussion of faction. Because the preservation of the constitution is explicitly a goal for a good Aristotelian legislator, we should turn to that discussion now to consider the implications for how non-ideal states might improve and under what circumstances they should make such an attempt.

Aristotle says that, "faction is everywhere due to inequality, when unequals do not receive proportionately unequal things. For people generally engage in faction in

²⁴⁶ The referent of τινὰ τοιαύτην πολιτείαν is not entirely clear. I believe the most plausible candidate is the disorderly constitution where everybody lives as they want (VI.5, 1319b30–32), which people find pleasant. I thus take Aristotle's point to be that it is easy to set up a constitution like this (because of the popular support), but it won't *last* because that kind of constitution is inherently unstable. Much the same point applies if the referent is the extreme democracy mentioned at 1319b1 and the quoted claim is making a summary point. At any rate, the point generalizes to all constitutions.

pursuit of equality" (V.1, 1301b26–29). The problem, as we saw in section one, is that both oligarchs and democrats have only a partial conception of justice where they do not recognize (or recognize fully) the claims to equality or inequality of the other group. Thus, faction comes about because one group thinks that they are being treated unjustly with respect to what they deserve. Aristotle claims that this perceived inequality leads people either to try to change the constitutional type (e.g. oligarchy to democracy), or for them to keep the constitutional type but either (a) seize power for themselves, (b) make the constitution more or less oligarchic or democratic, or (c) establish or abolish a particular office within the constitution (V.1, 1310b4–26). Thus constitutional changes are principally the result of faction about equality, where in one case some people "believe that they are getting less, even though they are the equals of those who are getting more" or in another case where "those who desire inequality (that is to say, superiority)... believe that, though they are unequal, they are not getting more but the same or less" (V.2, 1302a24–28). Aristotle evenhandedly notes that sometimes their desires are just, sometimes not (V.2, 1302a28–29).

In addition to perceived inequality, Aristotle also identifies a host of particular causes of faction, listed in V.2–3 as: profit (when people greedily try to gain more), honor (when people feel that they have not been sufficiently honored or that others have been unjustly honored), arrogance (when people think they deserve more and so become acquisitive), fear (when people worry that they will become the victims of injustice, or if they have committed an injustice and worry that they will be punished), superiority (when some individual or group becomes too powerful for the city), contempt (in a democracy, when the rich are contemptuous of disorganization and anarchy; in an oligarchy, when the majority do not participate in the constitution), disproportionate growth (when one part of the city becomes substantially larger or smaller than the other parts), electioneering (when the elections are rigged so that one group can seize control), carelessness (when people unfriendly to the constitution end up occupying important offices), gradual alteration (when an unnoticed small change in law or policy ends up having large consequences), dissimilarity (when ethnic differences

end up dividing the population), and location (when geographical differences divide the population).

It is noteworthy that many of these causes of faction result from people abusing power and taking advantage of the existing political arrangements.²⁴⁷ While my focus here is primarily on the ways in which Aristotle evaluates institutions, one should not pass quickly over the fact that even good institutions can be torn asunder by love affairs, personal greed, and power-grabbing. As long as governments have to be run by less-than-fully-virtuous people, these problems will inevitably arise. Nonetheless, a good legislator equipped with Aristotelian psychology could try to establish institutions that are resilient in the face of these problems and minimize the likelihood of their arising in the first place, through both moral education and incentive systems.

Having identified the causes of faction, Aristotle then applies his analysis to particular constitutional types, explaining why and how they change. Democracies change primarily because popular leaders or demagogues behave badly, especially when they bring lawsuits against the wealthy property owners, causing those with wealth to unite against the people (V.5, 1304b20–24). Moreover, when the popular leaders are also generals, the democracies can degenerate into tyrannies (though he notes this happens less often than it used to as the popular leaders tend now to be rhetoricians). Aristotle also says that democracies change into the lawless kind when the officials are elected, but from the whole population and not on the basis of a property assessment; this leads the people to have authority over the laws (V.5, 1305a28–32).²⁴⁸ Oligarchies change primarily when the rulers treat the multitude unjustly, or when the rich who hold power treat the rich who do not hold power badly. Both cause the overthrow of government, but result in different constitutional forms. Oligarchies can

²⁴⁷ Cf. III.16, 1287a35–1287b3: “Doctors never do things contrary to reason because of friendship, but earn their pay by healing the sick. Those who hold political office, on the other hand, do many things out of spite or in order to win favor. And indeed if people suspected their doctors of having been bribed by their enemies to do away with them, they would prefer to seek treatment derived from books. Moreover, doctors themselves call in other doctors to treat them when they are sick, and trainers call in other trainers when they are exercising, their assumption being that they are unable to judge truly because they are judging about their own cases, and while in pain.”

²⁴⁸ The mechanism by which this happens is unclear.

also change from within when a popular leader arises within the ruling elite, when a leader gains favor with the people, or when a smaller group within the oligarchy tries to seize more power. Aristotle also notes that oligarchic constitutions change when the leaders spend their money profligately, when they have to hire mercenaries during a war (which often results in the establishment of a tyranny), and when factions arise within the oligarchy over marriages and lawsuits. Finally, oligarchies often change because those who held power ruled too much like masters and thus caused resentment in those who did not rule (V.6, 1305a37–1306b5). Aristocracies change for much the same reason that oligarchies do (being a kind of oligarchy), but also because the constitution fails to get a good mixture of both oligarchy and democracy, causing it to lean in one direction or the other (V.7, 1307a5–12).

Notably, most of the constitutional changes Aristotle details are for the *worse*. While there have surely been unintended constitutional and legal changes that turned out well for the city, it is striking that Aristotle focuses on the negative consequences. One way to think about what is going on in these passages is that Aristotle emphasizes what *destroys* or *degenerates* a constitution, thus giving his trainee lawgivers and politicians prescriptions about what to avoid. It may also be that Aristotle thinks that it is a more pressing task to stop a city from worsening than it is to improve it. Because there are so many causes of political degeneration, the first priority should be to guard against such harms, especially in constitutions that are already acceptably moderate. Of course, this is not inconsistent with Aristotle also thinking that constitutions ought to be improved if they can be, but perhaps it would be to get ahead of oneself politically to focus on making the constitution as good as possible before understanding the gravity of what could go wrong. Again, this is speculative – but it is at least worth stressing that it is no easy thing to stop a constitution from degenerating, given the number of ways constitutions can change for the worse.

So for a constitution to be changed without causing faction or harming the city in other ways, Aristotle's litany of problems will have to be avoided. This is a difficult task and we can see why Aristotle would take the conservative arguments from Book II for

leaving the law fixed seriously. Even what are in fact genuine improvements to the constitution may be seen as creating unjustified inequalities in the city by those who have been habituated to see the existing arrangements as just and good, which will in turn create more faction and may risk de-stabilizing the city. When it comes to making practical changes to existing constitutions, then, what matters is not so much a good philosophical argument that a well-brought-up and moderate Aristotelian would accept, but what the actual citizens would accept. So on the assumption that some laws should sometimes be changed, how might a good Aristotelian legislator improve the constitution given these practical constraints?

After showing how constitutions degenerate, Aristotle turns his attention to identifying ways in which constitutions can be preserved. He lists ten ways in which this can be done. Firstly, lawfulness should be maintained by ensuring that nobody breaks the laws in even small ways, “for illegality creeps in unnoticed in just the way that property gets used up by frequent small expenditures” (V.8, 1307b32–34). Secondly, the population should not be deceived or tricked. Thirdly, those in government offices should treat those not in office well, not acting unjustly towards or dishonoring those who do not share in ruling. Fourthly, people should be made aware of the dangers that might harm the constitution, so that they are vigilant in protecting it.²⁴⁹ Fifthly, one should protect against rivalries and factions between important citizens. Sixthly, property assessments should be adjusted for inflation and for the total wealth of the citizens, ensuring that the government type does not change because the same amount of wealth ends up being more or less valuable relative to what it was. Seventhly, one should not allow anybody to become too powerful too quickly, but to give small honors over a long time rather than large honors all at once. Eighthly, an office should be

²⁴⁹ Aristotle may be suggesting that leaders should engage in fear-mongering here, which is particularly odd given that he said only a few lines above that the people are not to be tricked or deceived. Given this, I think it makes the most sense to read this prescription in the slightly deflationary way in which I have glossed it. A plausible interpretation would be to stress the point that the leaders are making the people aware of *temporally* “faraway dangers”, which people are good at underestimating. So Aristotle’s point is that while things might be fine now, leaders should take care to remind people that if they are not careful, then they won’t be prepared when various far-off dangers become near.

established to ensure that people are living in a way which is beneficial to the constitution and to guard against the flourishing of only one part of the city. Ninthly, make it impossible to make a profit from holding public office, both because of what officials are paid and through procedures that prevent corruption with respect to public funds.²⁵⁰ Finally, democracies should respect the rich by not distributing their wealth and property, and oligarchies should take good care of the poor and should punish the rich harshly if they treat the poor arrogantly (V.8, 1307b19–1309a32).

But these suggestions are mostly relatively minor changes of practice rather than substantial constitutional changes and most of them focus on *preserving the existing constitution* – what about positive changes to the arrangement of offices or the lawcode itself? This question is harder to answer and to some extent we must go beyond the text itself. Nonetheless, some strategies do present themselves and we can still ask whether these strategies are inconsistent with the Aristotelian texts that we do have.

For one, changes in the constitution would be good and stable if both oligarchic and democratic parties recognized the new arrangement as reflecting principles of justice that they accepted. Although they have competing conceptions of justice, it would be strange if a large group had a *purely* democratic or oligarchic understanding of equality. More likely is that people tend to emphasize particular inequalities or equalities in circumscribed domains and then make policy decisions on the basis of those. But as long as they recognize some of the competing claims of justice as legitimate, there will be ground to stand on for justifying a constitutional change that made the city more moderate (perhaps there is an important place for rhetoric and public speech here). For example, Aristotle seems to suggest that even democrats recognize that just not any office can be filled by lottery, as some offices, like generalships, require special skills that not everybody possesses. On the basis of this, somebody could argue that some other office is relevantly similar to the generalship and thus should also be appointed on the basis of election. An ambassador, for example,

²⁵⁰ Given that Aristotle has already said that it is good in polities to pay the poor for holding offices, the point here is not that government officials should never be paid, but that what they make from office should not be so lucrative that it actively incentivizes people to hold office.

should have knowledge of the language and customs of that country, ensuring that they do not inadvertently cause offense. Just as a general needs military skills, so too an ambassador needs cultural and diplomatic skills, and so the city's representative should not just be randomly appointed. Using arguments like this, groups who might otherwise come into conflict could be shown to have common ground and thus both would accept the more moderate political arrangement. This would change the existing constitution for the better, but in such a way that maintains the general framework in which citizens have been habituated and which they currently accept.

Next, the alterations to the law and constitution may stick if the changes were sufficiently small, such that they would not anger the opposing party. Aristotle writes that people tend to overlook small alterations (V.3, 1303a21–24), and though his point is that these can be harmful if the small changes have large effects down the road, it is possible to implement small changes that have the effect of *slowly* making the constitution more moderate over time. Say you lived in an excessively oligarchic city with a high property threshold for holding office. Simply leaving the threshold where it is over time would have the effect of getting lower and lower once one accounts for inflation. Or conversely, in an excessively democratic city, assuming the citizens already accepted *some* property assessment for holding office, raising it slightly over time should not fall outside of their purview of what is acceptable. This seems to me an especially promising Aristotelian solution insofar as it recognizes the dangers of large constitutional changes, but also takes advantage of Aristotle's fine-grained analyses of the ways in which any number of laws and institutions may be marginally more democratic or oligarchic. Because the changes are minor, it is hard to see how such changes would undermine the habituation of the citizens (thus escaping the Platonic worry from the *Laws*), but it would also succeed in making the non-ideal city more like the well-mixed city over time. Again, because Aristotle has provided us with a number of dimensions along which law-makers might slowly turn the tide, this strikes me not only as a sensible way of understanding how these discussions fit together, but also as a promising way to moderate a constitution within the stability constraints discussed.

Finally, changes in the constitution are likely to be stable if they appeal not to one or other of the extreme factions, but rather to the middle class. Because not all political changes need to be *either* fully oligarchic *or* fully democratic, there will be a number of possible constitutional changes that appeal to the interests of the middle class. Although Aristotle has classified institutions and laws on an oligarchic-democratic spectrum, changing (for example) an extreme oligarchic institution or law to a more moderate one will likely appeal to those in the middle as well as to the democrats. Thus while the oligarchs may be upset, they may think that the opposition is too great to cause trouble. The problem with this strategy is that it depends on the presence of a substantial middle class and would work best with a large middle class – both of which are conditions that will not obtain in every city. Moreover, cities with a large middle class are also the most likely to have relatively moderate laws and constitutions anyway, so it is unclear how useful such an approach would be for reforming an oligarchy or democracy which is too extreme. At any rate, it is possible that appealing to the middle class could allow for more substantial legal and constitutional changes as their numbers could help stabilize the new arrangements if they see them as good and beneficial.

All this being said, one of the major considerations against changing the law *frequently* still stands. Even if we have identified ways in which particular laws and institutions can be changed in ways which would be beneficial and would not threaten to de-stabilize the city, adherence to the law itself still depends on the habituation of the citizens to those laws. If the law is changed constantly, then people will not be dispositionally lawful as they will see themselves as above the law *insofar as they can change it when they want to*. Rather than seeing the law as something to which they must submit, they see it as a tool for coercing others into serving their own advantage. Thus for the law to be respected and for rule of law to obtain, people must be habituated to follow it *especially* when it limits the actions they are inclined to perform. Changing the law frequently arouses suspicion that it is not the needs of the city prompting the change, but the desires of the rulers.

This point is vividly brought out in a case study of Thurii that Aristotle provides in Book V. He describes the point of example as follows:

"Aristocracies are particularly apt to change imperceptibly by being overturned little by little... Even a small thing can cause [constitutions] to change. For once one thing relating to the constitution is abandoned, people can more easily change something slightly larger next time, until they alter the entire order." (V.7, 1307a40–1307b6)

In Thurii, the same man could not be general twice except after a four-year interval. But those generals who showed great talent became popular with the troops, and had contempt for the government – especially given that the army was more powerful than the government. Thus they changed the law so that the same men could hold generalships repeatedly. The officials were initially reluctant but thought that once this law had been passed, the rest of the constitution would be left alone. But the military then continued to propose further changes to the constitution and the officials were helpless to stop them. Finally, the constitution was changed into a dynasty ruled by the people who had first instituted the changes (V.7, 1307b6–19).

Thus, the moral of the story is that you have to be careful in deciding which laws to change. Changing one important law could quickly lead to other important laws being thought of as negotiable (especially if they have public support in the moment), undermining lawfulness in the citizens more generally. So while I believe that Aristotle does provide his lawmakers with ways to better moderate existing constitutions, when we look at the middle books of the *Politics* more closely, we see that these prescriptions are heavily qualified and we are left with a more conservative Aristotle than we might otherwise have expected.

4. The problem of extreme constitutions

The reading of Aristotle's *Politics* I have been defending so far claims that in relatively moderate democracies and oligarchies constitutional changes should be small and infrequent, and that the primary focus for politicians and lawmakers should be on preserving existing arrangements and ensuring lawfulness rather than on bringing

about (even positive) changes. The reason for this conservatism is that those constitutions are likely to be stable, but if not guarded will likely change to become more extreme, often through the abuse of power by officials, and that the costs and risks of changing such constitutions will not outweigh the benefits.

This picture, however, does not work so well for extreme constitutions, i.e. extreme versions of democracies and oligarchies, including kingships and tyrannies. These constitutions, I contend, are not inherently stable and so more drastic measures may be required to preserve them or to change them into a more moderate constitutional form. Aristotle's discussions about monarchy in particular have puzzled commentators and he has been accused of "Machiavellianism" in giving advice about how tyrants could secure their rule.²⁵¹ Given the overarching theme that constitutional changes are often bloody and dangerous matters, the fact that Aristotle is concerned with what could stabilize a monarchy should come as less of a shock, but there is still an interesting question about what citizens and rulers in such a state should do and whether they ought to try to reform the constitutional structure. I defend the view that Aristotle thinks that monarchies *just are* extreme oligarchies, and that makes them fundamentally defective and thus risk becoming de-stabilized quickly.

I will proceed by showing why Aristotle thinks that extreme constitutions are by their nature unstable, then outline what he says about the preservation of such constitutions, and end by discussing the circumstances under which extreme constitutions should be preserved or reformed. Once again, this discussion is speculative insofar as what we have is a collection of discussions that do not obviously cohere and whose claims appear to suggest different courses of action for those in extreme constitutions. What I hope to do is provide a reading of these "hard case" discussions that fits with the normative claims we have already seen in the *Politics*, showing that Aristotle's claim that mixed constitutions are better than extreme constitutions is consistent with his claim that non-ideal states should often be preserved because of

²⁵¹ See Keyt, *Commentary*, p. 176.

considerations about stability. Let us consider first, then, why extreme constitutions are by nature unstable.

The most extreme constitution is tyranny, which Aristotle calls “a combination of ultimate oligarchy and ultimate democracy” (V.10, 1310b2–4) insofar as it combines the authority over the laws as in the most extreme democracy and the masterly dynastic kind of rule as in the most extreme oligarchy. This also makes tyranny the most harmful constitution because “it is composed of two bad constitutions and involves the deviations and errors of both” (V.10, 1310b5–7). Tyrannies are also destroyed for the same reasons that extreme oligarchies and democracies are destroyed, and Aristotle says that those constitutions are in fact “divided tyrannies” (V.10, 1312b34–37).

The reason that extreme constitutions are unstable is that they violate the conception of justice of a substantial portion of the population. In extreme oligarchies, the poor think it is unjust for them not to participate in the constitution even though they are free; in extreme democracies, the rich think it is unjust for them not be given special offices and honors on the basis of their inequality with the masses, and that the city should be better ordered to avoid the poor being able to systematically outvote them. Thus in both constitutions, an important part of the city could start faction on the basis of claims about equality. Recall also that for a constitution to be stable, the majority of each part of the city has to want the constitution (V.9, 1309b17–18; II.9, 1270b21–22).

Because the inequalities in a tyranny are the greatest of any constitutional type, Aristotle thinks that tyrannies are intolerable for any free people and that if a tyranny survives it does so by ruling over unwilling people:

“Any monarchy is necessary a tyranny of this kind [sc. tyranny in the highest degree] if the monarch rules in an unaccountable fashion over people who are similar to him or better than him, with an eye to his own benefit, not that of the ruled. It is therefore rule of unwilling people, since no free person willingly endures such rule.” (IV.10, 1295a19–23)

Free people demand some share in rule or at least some accountability over those who rule them. Thus because tyrannies do not allow this (by definition) free people do not live under such rule voluntarily – they are being treated like slaves. Indeed, Aristotle claims that people are so resistant to being ruled in this way that kingships no longer

arise, because kinship is rule over willing subjects but people no longer think that there is anybody so outstanding that they deserve the office of a king; thus they call anybody who tries to set up such an office a tyrant (V.10, 1313a3–10).

Because extreme constitutions are insufferable for the ruled, they tend to be overthrown rather than reformed. Aristotle thinks that more moderate oligarchies and democracies tend to become more extreme versions of their own kind (in part by thinking that more oligarchic laws are good for oligarchies and more democratic laws good for democracies, V.9, 1309b20–22); he claims, however, that extreme constitutions tend to become more moderate (V.6, 1306b16–21). Though Aristotle does not explain this difference explicitly, the causes of change in more moderate constitutions are because of the rulers whereas the causes of change in extreme constitutions are because of the ruled. In the former, it is the rulers who push the constitution to become more extreme and this happens against the wishes of the ruled; in extreme constitutions, it is the ruled who cause the change because they think the constitution is intolerably unjust. It is in this way that extreme constitutions are *internally* unstable insofar as features of the constitution necessarily disenfranchise important parts of the city, rather than the instability being caused by some external threat or contingent fact about the characters of the rulers.

So the difference in the causes of change between more moderate and more extreme constitutions is significant. In more moderate constitutions, well-trained rulers and politicians could stop the degeneration of the constitution by instituting the kinds of preservation policies Aristotle suggests. Moreover, because mixed constitutions do a better job of grasping the full conception of justice, the more moderate the constitution is the easier it will be to persuade more people that the constitution is good. Extreme constitutions, however, have a much harder job of preserving themselves because the ruled are *right* that they are the victims of injustice and their indignation is justified. The resistance to such rule means that if tyrannies are to survive, they must do so by force and deceit rather than by the consent of the ruled.

This reading is supported by the advice that Aristotle gives about how to preserve tyrannies. Tyrannies are preserved, he claims, through a number of insidious means: “cutting down” the outstanding men; prohibiting associations and schools, making sure that the people remain ignorant and cannot band together; keeping the citizens in public view; using spies and informants so that people are scared to speak freely; impoverishing the people so they lack the leisure and resources to form militia; taxing the people to destroy the estates of the wealthy; warmongering (V.11, 1313a34–1313b32). As Aristotle notes, “there is no vice they leave out” (V.11, 1314a12–14).

But tyrannies are also preserved by an opposing strategy whereby the tyrants try to appear as much as possible like a good and caring king. Using this strategy, the clever tyrant should take good care of public funds, appear dignified rather than harsh, develop political virtue,²⁵² avoid any appearance of behaving hubristically towards young boys and girls, treat the women of his household respectfully, restrain himself from indulging in bodily pleasures, beautify the city, be zealous concerning the gods, honor those who excel in the city, make sure that others decide punishments for those who break the law, refrain from corporal punishment, and ensure the safety of the rich and the poor (V.11, 1314a40–1315b10).

These two strategies side-by-side make for a curious chapter. With respect to the first strategy, Aristotle cannot be endorsing these proposals, insofar as they require the tyrant to be utterly vicious and rule in such a way that gravely harms the citizens. No good comes of this, even in terms of stability, and it is hard to see how the harms of a constitutional change would always be so great as to out-weight the harms of living under an unrestrained tyrant. More plausible is that there is an historical fact to explain – some tyrannies have been stable, for centuries in Persia and Egypt, and for many years even in Greek city-states, so how was this achieved when such constitutions are so

²⁵² Some editors emend πολιτικής to πολεμικής (i.e. “military virtue”) here, though I see no good reason not to read the mss. Aristotle isn’t saying that the tyrant should go off to war and do well there in order to preserve the constitution – he is saying that the tyrant should act like a decent king. Thus saying he should cultivate political virtue seems more plausible on philosophical grounds, and it is what the manuscripts have. Keyt argues for the emendation on the grounds that it is what Machiavelli recommends (*Commentary*, pp. 177–178). Interesting perhaps, but unconvincing for determining Aristotle’s view.

insufferable for the ruled?²⁵³ It is here that I am most willing to grant that Aristotle is engaging in descriptive political science. Moreover, one might reasonably question the effectiveness of Aristotle's proposals, as they depend on widespread deception and keeping the population in a profound state of subjection. Obviously there have been (and continue to be) states that have functioned like this, but Aristotle notes that the tyrannies he knows of have tended to be rather short-lived (the longest was 18 years; V.12, 1315b34–36).

The second strategy, where the tyrant behaves like a good king, is much more interesting. Although Aristotle uses the language of *appearance* throughout his prescriptions, one wonders just how much one can really appear temperate and frugal and just without at least being continent.²⁵⁴ After all, this “tyrant” will have to control his sexual desires in private, make sure that other people decide court cases, make his expense reports public, and so forth. What is the difference between such a figure and a supremely continent man who finds himself crowned king? Thus it seems like Aristotle's advice for how to stabilize a tyranny is ultimately to *stop being a tyrant*.

But to fully understand just how unstable Aristotle thinks tyrannies are, we should consider what he says about how to stabilize kingships, which are supposed to be substantially more long-lasting than tyrannies (V.10, 1312b38–39). For kingships too, being a kind of extreme oligarchy, are relatively unstable and are preserved by being less like kingships. “Kingships in particular,” he writes:

“are preserved by being made more moderate. For the fewer areas over which kings have authority, the longer must their office remain intact. For they themselves become less like masters, more equal in their characters, and less envied by those they rule. This is also why the kingships of the Molossians lasted a long time, and that of the Spartans as well. In the latter case it was because the office was divided into two parts from the beginning, and again because Theopompus, besides moderating it in other ways, instituted the office of the overseers. By diminishing the power of the kingship he increased its duration, so that in a way he made it greater, not lesser.” (V.11, 1313a18–30)

²⁵³ Destrée rightly points out that Aristotle probably intends his own advice to replace the traditional methods by which tyrants have retained power (“Aristotle on improving imperfect cities”, p. 219).

²⁵⁴ See Keyt on Aristotle's use of appearance language and the word *hypokrinesthai* at 1314a40 (*Commentary*, pp. 139, 175); Keyt also claims that, unless monarchical power is challenged, the informed tyrant and the good king do not differ in actions, but only in motivation (p. 177). See also Destrée, “Aristotle on improving imperfect cities”, pp. 220–21.

Kingships, then, are preserved not only through the good behavior of the king but by establishing institutional ways to supervise the power of the king and to lessen his power, which is to say that the best kingships look more and more like oligarchies. So tyrannies should be preserved by turning them into kingships and kingships should be preserved by being further moderated in turn.

Thus Aristotle's prescriptions for tyrannies and kingships do not fit the general conservative theme I have been developing. There is a good reason for this though – such constitutions are not stable because they are likely to violate the conceptions of justice of substantial portions of the population. The concern about constitutional change was that it undermined the habituation of the citizens and risked falling outside of the citizens' conception of justice and the good, but this concern doesn't apply in monarchies because the citizens likely *already* think that the conception of justice embodied in the constitution is wrong and that they are not being treated as they ought to be. The rich have a natural proclivity towards oligarchic institutions and an oligarchic conception of justice, whereas the poor have the opposite towards democracy. Given the necessity of such demographic differences in population, a constitution whose conception of justice is an affront to both groups is going to be unstable. More moderate constitutions can be preserved with minor changes and good government, but extreme constitutions are best preserved with more drastic institutional and legal changes. These changes will not cause de-stabilizing faction, though, because they are not working against the beliefs and desires of the population, but rather in concert with them.

People can be habituated to accept an oligarchic or a democratic conception of justice, but it may be that Aristotle thinks that the social and economic factors that are necessary in any city make a kingship untenable in the long-term. This is why it is a significant empirical fact for Aristotle that there aren't many kingships in ancient Greece – it suggests that there is something fundamentally unstable about such a mode of rule for free people (especially given Aristotle's views about the length of human history; II.5, 1264a3–4; VII.10, 1329b25–35). Of course, none of this undermines what Aristotle says about the benefits of kingship when the king is outstandingly virtuous, but it does

explain why in normal circumstances Greeks settle into oligarchic or democratic constitutions – these are the reliably stable forms of government for normal cities.

My focus so far has been on the extreme government forms of tyranny and kingship, but we can apply these lessons to Aristotle's discussion of extreme oligarchies and democracies too. The same arguments that justify more substantial constitutional changes to monarchies will also justify some changes to extreme oligarchies and democracies. Tyrannies are unstable because they embody a conception of justice that a substantial portion of the population cannot accept, thus making the rule over such citizens involuntary for those citizens. Substantial changes could be made in those constitutions when the new arrangements are likely to be accepted by the citizens. These arguments apply in extreme oligarchies and democracies because these extreme constitutional forms also disenfranchise a substantial portion of the population in such a way that makes their rule at least partially involuntary for the citizens. Thus the conservatism does not apply in these constitutions. Extreme constitutions should not be left alone and preserved as they are, as their preservation in fact *consists in* and *depends on* their being moderated.

This account is not quite so tidy with respect to extreme democracies and oligarchies as it is with respect to tyrannies though. Tyrannies alienate the rich and poor, the oligarchs and the democrats alike – their rule is insufferable for the whole population, even if for different reasons. Extreme democracies and oligarchs, on the other hand, enjoy the support of an important subsection of the population, and thus constitutional and legal changes that do not work for the perceived benefit of those groups are likely to be met with resistance. Extreme democracies can be kept stable because of the large numbers supporting the democratic government, whereas extreme oligarchies need to be kept stable through being guarded more heavily and through being well organized (V.6, 1320b30–1321a4).

The difference between these extreme constitutions and the more moderate constitutions, however, is that it is going to be much easier to make a good case for change in extreme constitutions than in moderate constitutions. As mentioned above, it

is unlikely that anybody has a *purely* oligarchic or democratic conception of justice, and it is much easier to point to the pernicious consequences of, for example, not establishing rule of law or not allowing the oligarchs to be audited for their use of public funds. Thus while constitutional changes in oligarchies and democracies should be less extreme than those in tyrannies, it is consistent with what Aristotle has told us about stability and about the best constitutions to think that in extreme oligarchies and democracies substantial constitutional changes are possible and should be implemented to stop the constitution from being destroyed.

The general principle I believe Aristotle advocates, then, is that the more extreme the constitution is, the more it is that substantial constitutional changes are justified. Constitutions that are already moderate (understood in an expansive way to include many existing democracies and oligarchies) should focus on preserving the constitution and gaining the benefits of strict lawfulness, making only small and infrequent improvements in order to better moderate the constitution. Constitutions that are more extreme should take more drastic measures, because those constitutions are inherently unstable anyway and so must make changes in order to prevent collapse. Notice, though, that the same arguments and ideals apply in both cases. For both, firstly, it is generally better to have a better mixed constitution; secondly, there are costs (especially with respect to lawfulness and habituation) that come from changing the laws and constitution; finally, the changes that are proposed should be acceptable to the citizens with respect to their conception of justice, equality, and the good. The differences in prescription between moderate and extreme constitutions come from the relative costs and benefits of making constitutional changes, and the extent to which the citizens already endorse the conception of justice. So the particulars of Aristotle's proposal are complex, but the argumentative structure and normative foundations are consistent throughout.

5. The virtue of citizens and the virtue of the city

While this is not the place to defend a full account of Aristotle's theory of virtue and its development, it is nonetheless worth taking time to reflect on some ethical implications of the reading I have been defending. Of particular interest is, firstly, a curious phrase that Aristotle uses: virtue and justice relative to (or suited to) the constitution [ἀρετὴν καὶ δικαιοσύνην ἐν ἐκάστῃ πολιτείᾳ τὴν πρὸς τὴν πολιτείαν; V.9, 1309a36–37, cf. III.4, 1276b30–31) and, secondly, Aristotle's related claim that it is only in the best state that the same person is a good person and a good citizen (IV.7, 1293b5–7). On this understanding of Aristotelian political philosophy, because the preservation of the constitution is a goal of good citizens even in non-ideal states, virtuous people will also take as an end in their deliberation the preservation of the constitution.²⁵⁵ As I have been defending the view that in non-ideal states, good politicians and lawgivers will often not seek to bring about the (unqualifiedly) best state, we should consider the implications for the *virtue* of the citizens in such states.

I will first consider a situation in which a gold-star, 24-carat virtuous agent finds herself in a thoroughly average state, such that she is able to recognize with remarkable clarity the laws that are bad and how they would ideally be improved. I will then consider a situation in which somebody in that average state has fully grasped and internalized the conception of justice and understanding of virtue that is espoused there, but who lacks the ability to see possible improvements. I will end by considering the virtue of non-ideal states taken as a whole, developing the idea that non-ideal states should by their structure seek to create a kind of collective, artificial virtue.

The best person and the best citizen in a non-ideal state

For Aristotle, the virtue of a person and the virtue of a citizen cannot be unqualifiedly the same (III.4, 1277a12). The argument for this claim is as follows:

²⁵⁵ I am grateful to Dhananjay Jagannathan for his help on this issue and for this precise formulation.

"Just as a sailor is one of a number of members of a community, so, we say, is a citizen. And though sailors differ in their capacities... it is clear both that the most exact account of the virtue of each sort of sailor will be peculiar to him, and similarly that there will also be some common account that fits them all. For the safety [σωτηρία] of the voyage is a task [ἔργον] of all of them, since this is what each of the sailors strives for. In the same way, then, the citizens too, even though they are dissimilar have the safety of the community as their task. But the community is the constitution. Hence the virtue of a citizen must be suited to his constitution. Consequently, if indeed there are several kinds of constitution, it is clear that there cannot be a single virtue that is the virtue – the complete virtue – of a good citizen. But the good man, we say, does express a single virtue: the complete one. Evidently, then, it is possible for someone to be a good citizen without having acquired the virtue expressed by a good man." (III.4, 1276b20–35)

The first thing to note is that the word translated "safety" here is σωτηρία, which can equally well be translated as "preservation."²⁵⁶ Thus the task or characteristic activity of the citizen – the criterion by which a citizen is judged – is the preservation of the constitution.²⁵⁷ What is especially interesting is that Aristotle infers from the difference in the types of constitution that the way in which a citizen should perform his task must also be different. This claim is not explained in the passage, but we can see from passages we have already discussed that different constitutions have different conceptions of justice, and different constitutions are preserved by different kinds of behavior, laws, and governance. Therefore, what it means to preserve a democracy is different from what it means to preserve an oligarchy, so the virtue of citizens in each constitution must be different.

Later in Book IV, Aristotle emphasizes the differences in virtue between an unqualifiedly good person and a good citizen as follows:

"For only here [in an aristocracy] is it unqualifiedly the case that the same person is a good man and a good citizen. But those who are good in other constitutions are so relative to their constitutions." (IV.7, 1293b5–7)

It is only in aristocracies where the virtue of a citizen and the virtue of a person come together. In every other form of constitution, then, there must be some explanation of why it is that these concepts diverge. A quick suggestion would be simply to point out

²⁵⁶ Reeve often translates σωτηρία and its cognate verb σώζειν as "preservation" and "to preserve" in many of the passages in the middle books of *Politics* that we have already seen.

²⁵⁷ Two clarifications: note that this is the *ergon* of the citizen and not the *definition* of the citizen, which is someone who shares in deliberation and rule. The claim is that what a citizen *does* aims at preserving the constitution. Furthermore, this is a claim about *citizen* virtue, not *political* virtue. The distinction is important because I argue that you can be a good citizen without being wise or virtuous, whereas political virtue requires *phronesis* (*EN* VI.8, 1141b23–33).

that in aristocracies, virtue is the goal of the constitution, and so the goal of a citizen must also be to be virtuous (as opposed to free or rich). Thus, in aristocracies and in aristocracies alone, fulfilling the conditions of being a good citizen is sufficient for fulfilling the conditions for being a good person. But we should think a little more deeply than this, for why should it not be the case that a fully virtuous person is able to discharge his duties as a democratic citizen perfectly well, such that he is both a good person and a good citizen unqualifiedly even though these are distinct kinds of virtue?²⁵⁸

Consider a situation in which a person with complete virtue – call her Rose – finds herself in the kind of state that is non-ideal but good enough. For argument's sake, let's say that this is a democracy that is stable and has been for some time; it has a large population so substantial changes to the constitutional structure to make it more oligarchic would likely disqualify many people who have enjoyed citizen rights thus far and would incite public anger; finally, while the values promoted in this democracy focus somewhat unhealthily and disproportionately on freedom and equality, other more moderating values are espoused implicitly in one way or another. Thus, on Aristotelian grounds, such a state would be a non-ideal but good enough democracy.

Consider now what it would mean for Rose to deliberate and live in such a state. Let's say she is an elected representative at some level of government. Firstly, Rose would have to take as an end in her deliberation the preservation of the democratic constitution. From this, she would oppose measures that would make the democracy more extreme, because she knows that this would make the constitution worse; but she would also oppose more oligarchic measures that sought to limit the authority of the people, knowing that the freedom-loving citizens would not be able to live under such laws. Presumably, Rose would defend the existing constitution in this regard with some regret – it would be what Aristotle would classify as an action of mixed voluntariness (*EN* III.1, 1110a4). For she understands that in fact a more moderate law would be better for everyone (especially the next generation) and would be a great proposal in more

²⁵⁸ It is possible that Aristotle is merely making a conceptual point here about when citizen virtue and complete virtue amount to the same thing. This is a plausible reading. Nonetheless, it is interesting to think about how citizen virtue and full virtue might be interact in other ways.

favorable circumstances. Nonetheless, she defends the existing law in the face of a more extreme alternative (“Well, that would only make people more zealous than they already are!”) and a law that wouldn’t be followed (“A nice thought, but what’s the point of spending all this time and money if it’s not going to work and we’ll just have to change it back anyway?”).²⁵⁹ Thus, the goal of preserving the constitution ends up causing Rose to deliberate about ends that are not unqualifiedly good. Her task as a citizen acts as a constraint on the full exercise of her virtue.

Her task as a citizen will also cause Rose to have to do things that she wouldn’t otherwise choose to do. Say the law requires public officials to stand and recite a pledge that emphasizes the ultimate value of freedom every morning before the work day starts, or requires her particular cabinet position to pass judgment on complex economic issues that she hasn’t had the training to address as excellently as she would like. Again, both of these she does with mixed feelings, but the first seems too trivial to make a fuss over and the second reflects a deep commitment to democratic government and representation – being able to hand over the final judgment to a university economist would be a substantial structural change. Thus citizen virtue in non-ideal states will also mean that virtuous agents will have to do things that they otherwise wouldn’t do, and will be habituated in ways that they know may harm their character in the long run. For example, Rose would know that getting used to making decisions for yourself when you really should defer to an expert also makes it easier to act similarly in the future but in

²⁵⁹ This kind of reasoning shows why Destréé simplifies Aristotle’s picture too much regarding good people who live in non-ideal states. Destréé writes: “If one happens to live in a less than good city, for example in a democracy or an oligarchy, wouldn’t it be evident that in that case aiming at a better situation for one’s city, that is trying to improve or reform it, would be what Aristotle would have praised as the noble and divine thing to do? Without doubt, one should preserve the well-being of one’s city when its constitution is good. But given the fact that the happiness of people depends on how good the constitution they live under is, it would have been very odd if Aristotle had praised the citizens of a bad constitution for trying all they can to preserve it at all costs!” (“Aristotle on improving imperfect cities”, pp. 206–7). But Aristotle *does* say that good citizens preserve imperfect cities, so we should not dismiss this claim out of hand as obviously implausible. The mistake is to think that constitutions are simply good or bad and that bad constitutions should be preserved “at all costs” – actual cities are more complex than that, and suboptimal laws and institutions are often worth preserving.

different circumstances. While virtuous characters are resilient, it is nonetheless unpleasant to have to be on one's guard in the face of such habituated actions.²⁶⁰

Nonetheless, Rose might still seek to make small changes to the law and constitution of the kind mentioned in section III. There is no in principle reason why she couldn't identify small changes to the law that people would accept and that would result in a more moderate constitution. In other words, Rose could work within the law to improve it. This course of action is not especially different from the account given by some contemporary virtue ethicists who have focused on the relationship between virtue and role duties. A lawyer, for example, could do her job in defending a client by getting the client acquitted through a sophisticated legal loophole, but then use that very case as an example of why the statute needs to be worded differently when petitioning to change it.²⁶¹ Thus we should think of the lawyer's job as more expansive as just defending their clients, but as participating in a wider network of legal practice and reform. So too good citizens can act within the confines of the law while seeking legitimate ways to reform it if possible.²⁶²

Moreover, the parallel between lawyers and citizens is especially illuminating here. Lawyers would be *bad* lawyers if they broke the code of conduct required of them (so too psychiatrists or doctors who violate codes of confidentiality) and would be disbarred if they themselves broke the law. Many of the benefits we gain from having professional lawyers and doctors come about because of secure institutional rules that foster trust between client and practitioner. Even though in particular circumstances, this will result in suboptimal or outright bad outcomes, the existence of such rule-

²⁶⁰ I am assuming for the sake of argument that somebody might be habituated well so that they develop virtue, and then encounter legal or social norms that threaten to undermine that habituation. It is a difficult to determine whether Aristotle thinks virtuous people can be habituated such that they might achieve complete virtue in non-ideal states.

²⁶¹ I owe this example to Rosalind Hursthouse, from whom I have learnt much. See her insightful, "Two Ways of Doing the Right Thing" for further discussion. Hursthouse in turn cites Dare, *The Counsel of Rogues*, (pp. 53–55).

²⁶² This way of thinking, which distinguishes between the role of a citizen *qua* legislator and citizen *qua* law-follower is not dissimilar from Rawls's discussion of the different kinds of justifications given by judge and legislator in his "Two Concepts of Rules". In both cases, the *kind* of justification for the action is going to differ depending on whether we think of the action as within the practice or one which seeks to reform the practice.

governed institutions is overall beneficial. Of course, this does not guarantee that all of the rules are good, well-worded, and complete at inception – but it is crucial that the process by which the rules are changed is also an institutional one rather than by the individual discretion of the practitioners. Similarly, we gain many benefits in society by having a stable body of law and through the trust that others will also abide by these rules. Moreover, it is difficult to determine if somebody is breaking the law because they think it unjust or merely inconvenient. As citizens, then, we are required to follow the law as it stands and then take appropriate institutional steps to try to change the law if we think it can be improved by giving reasons that appeal to considerations about justice and the common good that others can accept. This is a plausible argument against civil disobedience and given what Aristotle says about the function of the law and how it gains adherence in a population, we should not be surprised if he endorsed it.

But what about situations in which the law goes beyond the pale in asking citizens to do things that virtuous agents would not characteristically do? Does Aristotle not give an account of civil disobedience in such cases? The answer, in short, is no.²⁶³ While Aristotle recognizes that the generality of laws can often lead to particular judgments being incorrect, the virtue of equity (*epieikeia*) is a virtue exercised primarily by jurors and those giving decrees – not by regular citizens considering whether or not they should follow the law (EN V.10).²⁶⁴ From the perspective of a citizen, you should not make an exception of yourself either when laws in their generality fail to account for particulars or when you think a law is unjust.²⁶⁵ While it is possible that individual

²⁶³ Cf. Keyt, *Commentary*, p. 65.

²⁶⁴ Kraut's discussion of equity is excellent (*Aristotle: Political Philosophy*, pp. 108–111) as his discussion of justice as lawfulness more generally (pp. 105–118), but he does not notice this distinction between the perspective of the juror and the perspective of the citizen. Showing that jurors are justified in not following the letter of the law in determining punishments or that law-givers are justified in passing a decree for a particular circumstance does not justify citizens living under that government from breaking the law.

²⁶⁵ Kraut cites *Politics* VII.2, 1324b22–7 for the claim that it can never be lawful to enslave those who are not natural slaves (*Aristotle: Political Philosophy*, p. 116n27), but this text says only that it is unlawful to rule or enslave neighboring cities, so it cannot be a task of statesmanship or legislation. He also cites EN III.1, 1110a26–7 for the claim that there are actions for which we should accept death rather than perform, suggesting to him another possible ground for Aristotelian civil disobedience. But this text does not say what he needs it to say, namely that we should *break* laws for the common good or for the sake of justice. There are actions so horrible that they mar your life to such an extent that it would no longer be worth

citizens could claim that they are acting in accordance with the spirit of the law and the law-giver, allowing such an appeal (especially to people who lack political knowledge) would undermine the social function that the law provides in setting regular expectations and co-ordinating activities for the city.²⁶⁶ Perhaps if some action were so obviously exceptional and required by equity, a citizen could violate the law in the hopes that the jury would recognize it instantly as such, but we have no text where Aristotle recommends such a thing. Moreover, the really interesting case is the one in which the intent of the lawgiver was bad and unfairly partisan (as would occur in the defective constitutions), and a citizen broke that law *because* it is bad and partisan. This does not seem to be a matter of equity, and Aristotle acknowledges the existence of such laws, yet nowhere does he say to disobey such laws. Rule of law and lawfulness, it seems, is always better than disobedience. Aristotle's position, then, is that though laws should sometimes be changed, laws should never be broken.

At any rate, we can see why complete virtue and citizen virtue are not the same thing except in an aristocracy. For in the other constitutions, what is required of a citizen will mean that virtuous agent will have to deliberate about ways to preserve a non-ideal constitution in ways they would not normally deliberate, they will have to do things that they would not normally choose to do, and they would potentially be habituated in ways that they know may harm their character. Thus, because they are acting in the role of a citizen, a virtuous agent might not appear as a virtuous agent characteristically does. We could still discover that they really are fully virtuous if we talked with them and asked them why they are doing what they are doing, how they felt about particular laws, and how they would rearrange the constitution if things were different, but their goodness as a citizen at least qualifies the sense in which they are acting as a virtuous agent would.

living, but this is not civil disobedience. The fact that Kraut has to go to an extreme passage on voluntariness in the *Ethics* to find even a single example of something that could be interpreted as civil disobedience shows how absent the idea is from the *Politics*. Kraut's view is not so far from mine, however, in that he affirms that lawfulness is required in non-ideal states as part of one's duty to be ruled well (pp. 379–384).

²⁶⁶ The first book of the *Rhetoric* claims that laws should be as fully determined as possible and leave as little to the discretion of the judges as possible.

Consider now a citizen who has drunk deeply of this constitution's kool-aid – call him Jack. Jack was brought up in this democracy, has fully embraced its norms, and takes freedom and equality to be the supreme political values. Jack, too, is an elected representative in this state, and he and Rose agree on many issues, but for rather different reasons. Jack rejects more extreme democratic policies as breaking with a perfectly good tradition ("Why fix what isn't broken?"), and rejects oligarchic proposals as immoral and unjust ("What kind of a person would even think that that is a good idea?"). His acting in accordance with the laws of the land is fully voluntary and he is more than happy to preserve the existing constitution – duties all gladly performed without a second thought.

Jack seems to be somebody who possesses the virtue of a citizen, and it seems that Aristotle would think that he is well fitted for high-power offices:

"Those who are to hold the offices with supreme authority should possess three qualities: first, friendship for the established constitution; next, the greatest possible capacity for the tasks of office; third, in each constitution the sort of virtue or justice that is suited to the constitution (for if what is just is not the same in all constitution, there must be differences in the virtue of justice as well)." (V.9, 1309a33–39)

Jack certainly has friendship for the constitution, and the kind of justice that is suited to it. We may be left to wonder, however, at how well he does in his capacities for the tasks of office. For though he would do a good job of following the rules, for example, he lacks the kind of critical detachment and global understanding that would allow him to see when general laws don't get the particular cases right, or when the laws themselves ought to be reformed. Jack is going to be unlikely to appreciate considerations about how other constitutions work, and may not be able to see why Rose would propose reforms to make the existing constitution more moderate. Hopefully Rose could provide Jack with reasons that are accessible (though perhaps implicit) in his perspective, though these may be hard to muster if the arguments depend on claims about the value of order or justified hierarchies in society. All this being said, it is hard to see on what grounds Aristotle could criticize Jack for being a bad citizen.

Aristotle is no pro-diversity liberal, but it is at least interesting that it is no failure of the virtue of *citizenship* if a citizen cannot see conceptions of justice other than that of

the constitution. To some extent, this is puzzling: as somebody who goes out of his way to see the truth of differing perspectives in his own political theorizing (and philosophizing more generally), Aristotle does not seem to build any of this ecumenicism into his virtue of citizenship. If understanding that oligarchs and democrats both get something fundamentally right about justice, and oligarchs and democrats are all but inevitable in every city, why should the task of a citizen be sufficiently explained purely by reference to whatever the actual constitution happens to be – especially given that this would be a deeply impoverished perspective for both the budding political philosopher and for the fully virtuous person?

One response might be to point out that Aristotle thinks that constitutions are often not preserved merely by enforcing the status quo, but by moderating constitutions.²⁶⁷ Thus Jack could not *really* be excellent at preserving the constitution without knowing, for example, that adding democratic law onto democratic law will in fact harm the democracy, and so the inclusion of other values is necessary for the good functioning of the democracy. This is a promising way forward and is consistent with the passages that we saw in sections III and IV. It does, however, make it look like the virtue of the citizen and complete virtue really do amount to the same thing – for only the virtuous person would have a full understanding of justice, and only they would know when and how to change the laws to ensure that the constitution is best preserved. Perhaps we have returned to Plato's point in the *Statesman*, then, that there is a big difference between those who have political knowledge and those who merely follow laws, however well.

A middle ground would be to suggest that good Aristotelian citizens need to know what preserves their constitution, but they needn't *endorse* the values antithetical to their constitution. A good democratic citizen, then, could value oligarchic institutions purely instrumentally as a way to ensure that the democracy remains stable.²⁶⁸ They could still think that the oligarchs are utterly wrong in their views about what the best

²⁶⁷ Such a suggestion is proposed by Kraut (*Aristotle: Political Philosophy*, p. 370).

²⁶⁸ Cf. Kraut's point that good citizens need only to have true belief and not practical wisdom (*Aristotle: Political Philosophy*, pp. 369–71).

society is, but recognize that they need to be appeased so that they don't cause trouble, and that things tend to go better when it's not freedom and equality all the way down. Thus a good citizen could appreciate everything that Aristotle says about how to stabilize a constitution, but reject the normative assumptions that both oligarchs and democrats have a part of the truth. Such an approach would preserve the distinction between the virtue of a citizen and complete virtue, without committing Aristotle to the view that you can be a blind ideologue and still be a perfect citizen.

Artificial virtue in non-ideal states

Finally, we should consider the ways in which the functioning of non-ideal state might imitate a virtuous state and a virtuous agent. In Aristotle's ideal state, the laws are manifestations of the reason of a fully virtuous person, and the institutions embody the complete conception of justice, synthesizing what the oligarchs and democrats each get right.

But no actual cities meet Aristotle's ideal and it is impossible for a city to be comprised only of good people (III.4, 1276b40–1277a1). Moreover, the final chapter of the *Nicomachean Ethics* paints a rather grim picture about the motivations of ordinary people:

"As things are, though [arguments] appear to have the power to influence and encourage those young people who possess generosity of spirit, and perhaps to make susceptible to virtue a character that is well bred and truly loves what is noble, they seem unable to influence the masses in the direction of what is noble and good. For the masses naturally obey fear, not shame, and abstain from shameful acts because of the punishments associated with them, not because they are disgraceful. For, living by their feelings as they do, they pursue their own personal pleasures and the means to them, and avoid the opposed pains; and they do not have even an idea of what is noble and truly pleasant, since they have never tasted it. What argument, then, could reform people like this? For displacing by argument what has been long entrenched in people's characters is difficult if not impossible." (X.9, 1179b7–18)

Although Aristotle's ethical works emphasize the importance of acting for the sake of the noble, most of the population is motivated by base pleasures and pain, avoiding even shameful acts only because of their fear of punishment. Thus one of the primary functions of law is to incentivize such people to act decently and to habituate them to take pleasures in the right things and be pained by the right things (even if this is only

stable because of the threat of punishment; X.9, 1179b31–1180a5). At least in this way, then, law-abiding citizens will generally be acting in accordance with reason (X.9, 1180a14–18). Moreover, laws can curb the regular proclivities we may have towards vicious actions. “To be under constraint,” Aristotle writes, “and not to be able to do whatever seems good, is beneficial, since freedom to do whatever one likes leaves one defenseless again the bad things that exist in every human being” (VI.4, 1318b38–1319a1).

A citizen body merely acting in accordance with the law, however, looks to be a pretty poor imitation of the wisdom and character of the fully virtuous agent – especially if the laws were not given by a virtuous, knowledgeable lawgiver. But there are passages from the *Politics* that suggest there are other ways in which non-ideal states can imitate virtue. For while the average citizen is unlikely to be a beacon of moral excellence, Aristotle does think that most people have a good grasp of at least *some* of the truth and when such people come together in the right way, the city collectively may be capable of coming much closer to the whole truth.

The now-famous text often used to illustrate this point is the Wisdom of the Many passage from *Politics* III:

“The many, who are not as individuals excellent men, nevertheless can, when they have come together, be better than the few best people, not individually but collectively, just as feasts to which many contribute are better than feasts provided at one person’s expense. For being many, each of them can have some part of virtue and practical wisdom, and when they come together, the multitude is just like a single human being, with many feet, hands, and senses, and so too for their character traits and wisdom. That is why the many are better judges of works of music and of the poets. For one of them judges one part, another another, and all of them the whole thing.” (III.11, 1281a42–1281b10)

Aristotle wants to show that it is possible for a group of out-perform “the few best people”. Given the complexity of the contemporary discussion about this issue, we should proceed carefully.²⁶⁹ Firstly, this passage is introduced as a reply to those who

²⁶⁹ Ober, “Democracy’s Wisdom”; Waldron, “The Wisdom of the Multitude”; Lane, “Claims to Rule: The Case of the Multitude”; Bobonich, “Aristotle, political decision making, and the many”; Wilson, “Deliberation, Democracy, and the Rule of Reason in Aristotle’s *Politics*”; Cammack, “Aristotle on the Virtue of the Multitude”; Landemore, *Democratic Reason*, chapter 3, section 2. Thanks to Brian Kogelmann for his discussion of the relationship between what Aristotle says with the contemporary literature in political theory.

say that only the skilled few should be authoritative in the state because only they are capable of judging well.²⁷⁰ Aristotle's point out that this isn't true *at least with respect to some issues*, as he notes that in music and poetry the multitudes in fact judge better. So we have at least one counterexample in reply to those who claim that only the skilled few should rule because only they can judge well. Secondly, given the examples of music and poetry, the kind of mechanism by which the many are superior to the few is *aggregation*.²⁷¹ Thus Aristotle may have anticipated the so-called Miracle of Aggregation.²⁷²

The problem is that the domains to which Aristotle applies this principle seem to be contexts of collective *deliberation*, and it is unclear what exactly the multitude are supposed to be contributing.²⁷³ But the mechanism by which large groups of people outperform experts in *deliberation* is different from that of voting.²⁷⁴ Thus just because Aristotle noticed that crowds do well in musical and dramatic performances does not mean that he would be justified in thinking that they are capable of out-performing experts in deliberation on the council or in the assembly. Finally, diverse groups only

²⁷⁰ Inamura, *Justice and Reciprocity*, pp. 85–96; Riesbeck, *Aristotle on Political Community*, pp. 20–23.

²⁷¹ Dramatic works in Athens were judged by a panel of ten judges, chosen by lot. This actually complicates the matters, because it's not clear if Aristotle is talking about the decision of these judges or of the crowds at these festivals. I suspect the correct reading is that Aristotle has noticed the difference between what the judges picked, and what the crowd (though booing and cheering) thought was best. Cf. Cammack, "Aristotle on the Virtue of the Multitude", pp. 190–192.

²⁷² For the Miracle of Aggregation, see e.g. Landemore, *Democratic Reason*, pp. 156–159.

²⁷³ Lane and Cammack think the point is that the poor can collectively contribute more *money* to the feast than the few rich people, but Aristotle's example is supposed to show that they are superior in wisdom; see Bobonich, "Aristotle, political decision making, and the many" for the puzzles this analogy raises. I must concede that if Aristotle's conclusion is about democratic deliberation, it is at least misleading that he uses firstly a financial analogy, and then an example of mere aggregation.

²⁷⁴ See Landemore, *Democratic Reason*, p. 53 on the difference between "talkers" (those who justify the wisdom of the many for its superior *deliberative* powers) and "counters" (those who justify the wisdom of the many on the basis of features of aggregative voting); Cf. Ober, "Democracy's Wisdom", pp. 107–108. Kraut takes collective deliberation to be the main way in which the many can outperform experts (*Aristotle: Political Philosophy*, pp. 404–6). He presents some evidence for the view that Aristotle intended his argument to apply to collective deliberation, but then we are left with a problem: if Aristotle didn't see the difference in mechanism between aggregation from voting and shared deliberation, then his examples of poetry and music aren't good counterexamples. Moreover, as Bobonich points out, the Athenian political institutions, even though they involved public speeches of various kinds, are not good models for collective deliberation ("Aristotle, political decision making, and the many", p. 153). To put people into teams, Kraut, Landemore, Ober, Wilson, and Kogelmann think Aristotle is a talker; Waldron, Cammack, and Lane think he is a counter; Bobonich is generally skeptical. I suspect he is a counter (and I am largely persuaded by Cammack), but the text is too condensed and our contemporary debate too sophisticated to settle the matter.

out-perform experts when there is a clear success condition or evaluation metric for the task.²⁷⁵ “Making more money” is a clear evaluative metric – “making the city better” is not. Aristotle also notes that this principle of the superiority of the many to the few excellent people doesn’t work in every multitude, but emphasizes that it is at least *sometimes* true (III.1, 1281b15–21). Thus it is unclear (or at least deeply controversial) what kind of justification Aristotle is giving for the credentials of the multitude, and whether the justification is any good.

I have poured cold water on recent excitement about this passage because I think that, in excitedly trying to claim it as an antecedent to particular contemporary strategies in epistemic democracy, we have overlooked a more interesting implication of why Aristotle thinks that (*pace* Plato) large groups of people are often more competent than their individual flaws and biases might suggest. *Why* groups judge well in plays is that “one of the judges one part, another another, and all of them the whole thing.” Each person has an individual focus and together they can judge the whole well. But this is also how Aristotle thinks about most people’s views on ethical truths and truths about justice. The many aren’t idiots – they have their beliefs because they are latching onto some part of the truth, but it is much harder to grasp the whole picture. Again, oligarchs aren’t *wrong* in thinking that in some areas unequals should be treated unequally, but they overextend their principle and fail to appreciate the democrats’ point.

Thus, despite the popularity of the passage from III.11, what has been neglected by commentators on Aristotle’s political thought is that a better example of collective virtue (or political competence) is *justice in the city as a whole*. Even if Aristotle cannot show that a moderate constitution would outperform the best constitution, he may still be able to show that a moderate constitution that balances oligarchic and democratic conceptions of justice in its laws and institutions imitates the best state by reflecting the complete conception of justice in the city taken as a whole. Thus, just as the fully virtuous person sometimes employs the oligarchic principle of justice and sometimes the democratic principle of justice in accordance with her practical wisdom, so too does the

²⁷⁵ Gaus & Hankins, “Searching for the Ideal: The Fundamental Diversity Dilemma”, section 6.

city sometimes use one conception of justice and then the other. Now obviously the city's operations are not going to be performed in such a precise, reasoned, and orderly way as the fully virtuous person would dictate, but neither will it show the biases of more extreme constitutions. It has all of the conceptual resources, as it were, of the virtuous agent, even though it may lack the executive unity.²⁷⁶

Crucially, the upshot of this picture of artificial virtue – an imitation of virtue created through the structure of the institutions of the city – is that it does not require any particular citizen to be fully virtuous for its functioning, nor does it require the institutions and laws of the city to be laid down by a fully virtuous person, equipped with full knowledge of political science. Rather, all it requires is that normal kinds of

²⁷⁶ There are complex questions here about what the goodness of the city consists in for Aristotle. This debate has been shaped by the exchange between Martha Nussbaum ("Nature, Function, and Capability: Aristotle on Political Distribution") and David Charles ("Perfectionism in Aristotle's Political Theory: Reply to Martha Nussbaum", though see also Miller, *Nature, Justice and Rights*, pp. 194–224 for a brief and lucid summary). The most plausible readings of the *Politics* identified there are as follows:

- Distributive Conception (DC): The best political arrangement is that arrangement according to which anyone whatsoever might do best and live a flourishing life (1324a23–5).
- Holistic Conception (HC): A political arrangement is good (or virtuous in some concrete respect) just in case it has the same structure that is the structure of goodness (or some concrete virtue) in the soul of an individual human being.
- Whole-Part Conception (WP): A political arrangement is good as a whole just in case its citizens are (each and every one?) good as individuals.
- Whole-Part* Conception (WP*): A political arrangement is good just in case it secures that positions of political power are held in a stable and secure fashion by those who are virtuous.

Nussbaum enumerates the first three, to which Charles adds the fourth (with Nussbaum, I cannot see how the fourth is a variant of the third (for Charles is *not* saying that a city is good just in case its rulers are good), making the acronyms even more annoying). My goal here is not to show that one of these is correct or to provide my own alternative reading; rather, I aim to provide some additional reasons Aristotle might have the texts that support each of these readings. In particular, the reading I am suggesting in this section shows why the structure of the good city imitates the structure of the virtuous person's soul (as in HC), and why, in turn, this could benefit the citizens with respect to their habituation and understanding of justice. Because I do not claim that non-ideal states make their citizens *virtuous*, it fails to meet the standards proposed in DC, WP, and WP*. Nonetheless, insofar as the citizens are *benefitted* with respect to their character and understanding of justice, I believe that it goes some way in capturing what is of normative significance in each of the other conception Nussbaum and Charles suggest. For citizens who live under better political arrangements of the kind I describe will have better characters, will subsequently flourish more, and will be more likely to be good rulers. This is not to downplay the tensions between the conceptions of political goodness, but each of the conceptions are supported by rather compelling texts, and we should try to provide some way of glossing them in the same normative spirit if we can. Finally, my concern is with non-ideal states, so it should come as no surprise that such states will fall short of Aristotle's standards for complete political goodness. We can, however, still provide some explanation of why Aristotle should think that some non-ideal states are better than others by reference to the normative criteria Aristotle provides throughout the *Politics*.

people recognize that those who disagree with them are not to be expunged or ignored, but respected and compromised with. Democrats don't have to think oligarchs are *right* (and vice versa), but they do have to recognize the oligarchs' claims as reasonable and so ought to be given some authority in the city. By doing this, the city as a whole can function in a way similar to the best city and the fully virtuous agent. Thus, we can provide a new of explaining why it could be that "the courage, justice and practical wisdom of a polis have the same ability and structure by partaking in which each human being is said to be just, practically wise and moderate" (VII.1, 1323b33–6) By having a moderate constitution, a non-ideal city can be *good* even if none of the citizens have anything more than middling decency.²⁷⁷

Recall Aristotle's criteria for determining the best constitution for most cities and people,

"judging neither by a virtue that is beyond the reach of ordinary people, nor by a kind of education that requires natural gifts and resources that depend on luck, nor by the ideal constitution, but by a life that most people can share and a constitution in which most city-states can participate" (IV.11, 1295a25–31)

The picture I have sketched here explains both why the mixed constitution is a good constitution, but also why it is feasible and realistic in exactly the ways that Aristotle wants it to be. It does not depend on rulers having outstanding virtue nor a rigorous political and moral education, as Plato stressed in his political works. Rather, Aristotle's best state for most circumstances depends on people being reasonable enough to recognize that the large number of citizens with whom they disagree are probably not crazy but onto some part of the truth, and to agree to live in accordance with laws shared with these people, even though they no doubt think that some of them are suboptimal. Doing this does not simply pile ignorance upon ignorance, but allows our partial understandings of justice and the good to come together for the benefit of the city as a whole and (perhaps unbeknownst to them) the citizens themselves.

²⁷⁷ Pace Kraut: "One of [Aristotle's] fundamental assumptions is that if citizens have a false conception of justice and happiness, then their city's constitution must be equally defective." (*Aristotle: Political Philosophy*, p. 435)

It is no doubt true that Aristotle thinks good cities are *improved* by the presence of fully virtuous people, but good cities do not *depend* on the presence of fully virtuous people for their goodness and stability. Rather, the goodness and stability of the city depends on the way in which its laws and institutions co-ordinate and structure the behavior and deliberations of the citizens. These citizens, though not fully virtuous, do have a grasp of part of the truth and when cities are moderated well, they may reach similar conclusions as the fully virtuous agent. Thus, non-ideal states may share in the goodness of the ideal state and imitate virtue through good political organization. Because virtuous people are rare and we cannot rely on their continued presence should we be lucky enough to get them into office, this way of thinking about Aristotle's political philosophy is both fruitful and feasible while also remaining within his normative framework. Aristotle's advice to us and to his contemporaries, then, is not to bring about the ideal state – for such a thing is almost certainly impossible for most actual societies – but rather to organize the state in such a way that we might best collectively imitate virtue using laws and institutions that our fellow citizens can accept and embrace as good.

What we can see working in Aristotle's *Politics*, then, is an account of civic life that is ordered around two principles of justice – a democratic principle that stresses the equality of people and an oligarchic principle that stresses the ways in which people with unequal abilities or resources deserve unequal treatment. A complete conception of justice involves both of these principles in their appropriate context, which is when the claims to equality and inequality are justified. While the best claim to rule on the basis of inequality is the difference between the virtuous and the non-virtuous, in most cities nobody will be so outstandingly virtuous to merit ruling over the rest nor would such a political arrangement be stable. Subsequently, the best that most cities can hope for is an approximation of the complete conception of justice through having both oligarchic and democratic institutions functioning in the city. These institutions will allow otherwise opposing citizens to work together in endorsing the existing constitutions. How well mixed a constitution can be, however, depends on a number of demographic,

geographic, and historical factors that limit which constitutions will be acceptable to the people and stable for the city. While Aristotle does think that laws should sometimes be changed, legal changes should generally be minor and infrequent in most states. Most states exist as they are because the constitution works for the people, though this does not preclude their being improved in small ways or their being corrupted through bad administration. While these suboptimal laws may be frustrating for those with a richer conception of justice or a more virtuous character, the political benefits gained from having a working body of law and functional government outweigh what would be gained from civil disobedience. Rather, good people should work within the confines of the existing constitutional structure to ensure that it works as well as it can, stop it from being corrupted, and seek out institutional changes that the city can accept as being just and for the sake of the common good.

On my reading, Aristotle is no political radical. His advice is safe and sensible in avoiding potentially grievous harms to citizens, though we may rightly worry that he is all too content to accept situations of systemic political injustice. Nonetheless, Aristotle's political theory takes central facts of politics seriously. He recognizes that people in any ordinary state will inevitably disagree about what justice and the common good is. He recognizes that people will be motivated sometimes by noble goals like rectifying unjust inequalities, but sometimes by greed, revenge, and power. And he recognizes that the best society for human beings is something quite different from what we can accept now. Aristotle's *Politics* thus neither depends on virtuous people for its functioning nor ignores the role of virtuous ideals in our political practice. Rather, it focuses on the ways in which aspects of virtue already manifest themselves in the beliefs and actions of more-or-less ordinary people, and then asks how political institutions might bring such people together in a way that they do better together than they would by themselves.

CONCLUSION

Let's take stock of where we've come. I began by asking the question of what Plato and Aristotle prescribe for non-ideal states. The answer I proposed was that, in the absence of reliable, virtuous, and knowledgeable rulers, Plato and Aristotle both endorse a form of the mixed constitution, understood in practice to be a combination of oligarchic and democratic institutions. While details of the particular political circumstances may warrant a more democratic or more oligarchic society, generally speaking the normative model in non-ideal states is the mixed constitution. The main constraint on bringing about the mixed constitution, however, comes from the dangers involved with changing the law, particularly with respect to undermining the habituation of the citizens. Thus while rulers in non-ideal circumstances should try to aim at the mixed constitution, they ought not to bring about changes that would undermine the lawfulness of the citizens.

I also argued that there are two interesting implications that emerge from this political account, which may be of special interest to ancient ethicists and those interested in thinking about virtue politics in non-ideal circumstances. The first of these is that in non-ideal states, citizens can imitate virtue through the political institutions and laws that they follow. While their characters may not have the stable kind of order, knowledge, and reliability that would merit us saying that such people have firm and stable dispositions to act virtuously, nonetheless the incentive structure provided by good laws and political institutions may result in an imitation of virtue – that is to say, they act *as though* they were virtuous and they live *in accordance* with reason, but not from the state of soul by which virtuous people act or *with* virtue. The second of these implications is that we can run a similar story about cities as a whole imitating virtue through well-balanced political institutions. If the complete conception of justice and the complete understanding of virtue in some important way involves recognizing the claims of democrats and oligarchs alike, a city could imitate this complete conception through balancing and mixing democratic and oligarchic institutions. Without having any individuals as rulers who have this full understanding, the balancing of such

institutions would cause the city to behave as though it were being ruled by such people. Just as a fully virtuous person would sometimes favor democratic policies, sometimes oligarchic policies, and sometimes a compromise between both, so too could a city reflect this mixed view if its democratic and oligarchic institutions are integrated into the constitution and its laws reflect both sides of the debate about justice. Thus, again, without actually having any institutions given or run by virtuous people, a city with perfectly ordinary demographics can approximate the normative ideal for politics.

As we covered a lot of texts to get to this conclusion, let me summarize thematically the arguments for each of the four main claims made. Hopefully this will also go some way in showing how my readings of these texts are unified and why I think that these issues were prominent concerns in Plato and Aristotle's political theorizing (and why these philosophers are not as far apart as one might have thought).

The mixed constitution

In Plato's *Statesman*, one of the main functions of the ideal Statesman (the person who possesses the political skill) is to manage marriages and blend together through public institutions and law the naturally courageous and naturally temperate types of people. While this account is clearly meant in the first instance to be a claim about how the Statesman interacts with the psychologies of his citizens, I argued that there may also be a more directly political dimension to this account insofar as courageous types and temperate types may be produced by democratic and oligarchic institutions respectively. In Thucydides, the psychologies of those people who live in Athens and in other democracies are described in the same terms that Plato uses to describe naturally courageous types, and the psychologies of people living in Sparta or under oligarchic governments are described in the same terms as the naturally courageous types. While speculative, we have reason to think Plato believed that the habits and mode of governance in democracies and oligarchies have psychological implications for the kinds of people such cities produce. This reading also has the upshot of showing why the division of psychologies into courageous and temperate types should be an

especially important *political* division – an otherwise mysterious move at the end of a dialogue on the ideal Statesman in full possession the political art.

Nonetheless, Plato's endorsement of the mixed constitution in non-ideal circumstances is most clear from the discussion of constitutions in Book III of the *Laws*, and throughout that dialogue's institutional and legal proposals. In Book III, the Athenian visitor says that a good constitution should be a mean between monarchy and democracy, and then provides historical examples of Persia and Athens where each of them (while remaining a monarchy and democracy respectively) erred too far on the side of either the monarchical principle or the democratic principle. Because this discussion only makes sense if the monarchical and democratic principles admit of degrees, I suggested that the monarchical principle is ultimately a principle reflecting the extent to which citizens submit to the *authority* of others, especially the rulers and laws, establishing a *hierarchy* in society, whereas the democratic principle is a principle reflecting the extent to which the citizens are *free* (i.e. choose for themselves) and thus establish *equality* between their judgments and those of others in their society. This reading allows us to understand the discussion of constitutions as being along a single scale and, insofar as Plato thinks that both principles get something right, shows why both principles need to be incorporated in the laws and institutions of Magnesia. This reading also has important upshots for our understanding of Plato's views on democracy. While scholars like Ober claim that Plato had, for example, a "visceral horror of democratic assemblies", I believe that a richer understanding of the *Laws* shows that Plato saw (or at least, came to see) a conditional value of democracy and democratic institutions – democracy gets important things right, but is prone to excess and is politically deficient in its pure form, and so needs to be blended with institutions that reflect the monarchical principle of authority to produce balanced citizens and a stable state.²⁷⁸

While Aristotle in fact criticized Plato's understanding of the mixed constitution, I argued that in practice there is more common ground here than Aristotle lets on.

²⁷⁸ Ober, *Political Dissent in Democratic Athens*, p. 291.

Aristotle complained that Plato says he is mixing monarchy with democracy when really he is mixing oligarchy with democracy, as there are no kings in Magnesia. If Plato's point, however, is that what needs to be mixed are institutions that reflect the *principles* of monarchy and democracy, then we can see that he in fact agrees with Aristotle, as oligarchic institutions reflect monarchical principles of hierarchy and authority. For Aristotle, too, thinks that the constitution best suited for most cities and most people is a mixture of oligarchy and democracy. Also like Plato, Aristotle thinks that democratic and oligarchic institutions and laws fall on a scale, with some being more extreme and some being more moderate than others. Interestingly, Aristotle also claims that democrats and oligarchs disagree about the correct conception of justice, but each of them are partly right and that the complete conception of justice incorporates both views. Thus, for Aristotle, the best feasible constitution for most seeks to bring together competing conceptions of justice, and does so by mixing democratic and oligarchic institutions. In normal circumstances, this also makes the constitution more stable, with the excessive and deficient elements of oligarchy and democracy acting as checks and limits on each other.

Both Plato and Aristotle, then, endorse a mixed constitution in practice for most non-ideal constitutions. It is important to note that their political ideal theory is arguably very different from this model, but there are important normative similarities that should not be overlooked. For example, in both the *Statesman* and *Republic*, Plato emphasizes the importance of the city being run by knowledgeable, virtuous agents in order to ensure that reason rules in the city. Because Plato worries in the *Laws* about the corruptibility of absolute power, Magnesia is run more democratically, but this is plausibly understood as the safest way to ensure that reason rules in the city, as such democratic institutions make it much harder for vicious people to use political power for evil or for the laws (which are the public manifestation of reason) to be overturned. Thus I contend that much of what we see in the *Laws* and in the middle books of the *Politics* should not be understood as a change in normative view, but as a development of how these normative goals are to be implemented in circumstances in which compromise is

necessary. Finally, we should not understand the mixed constitution as being what Plato and Aristotle would prescribe for *all* non-ideal states. Both philosophers highlight politically salient features that might make, for example, a more extreme democracy the appropriate constitution for that particular city. Aristotle is explicit that a large population virtually necessitates democratic form of government. Thus while it would be better if cities had smaller populations so that they could have a more mixed form of constitution, sometimes altering population size isn't an option and so a more mixed constitution isn't feasible. In non-ideal circumstances, details like this matter for the exact prescriptions, but, to repeat, this should not be understood as a change in normative model so much as a working out of the practical implementation of more general political goals.

Legal conservatism

In the *Statesman*, there is the only explicit discussion of what Plato thinks that non-ideal, already existing states with a body of laws should do. The prescription was surprising, both in terms of its force and content: those states should stick by their existing laws, whatever they happen to be. While those with political knowledge are not bound by the dictates of existing laws, those without such knowledge should not presume to be wiser than the laws, and should thus do their best to preserve them as they are. I argued that this prescription can still be understood as an imitation of the Statesman's rule, especially insofar as it prevents citizens from being harmed by non-virtuous and ignorant rulers, but that it does seem to stand in tension with the prescriptions from the end of the dialogue about mixing courageous and temperate types.

This tension in Plato between the endorsement of the mixed constitution in combination with the legal conservative prescription for non-ideal states continues through the *Laws*. For there, too, Plato seems hostile to any kind of legal change and innovation. Despite establishing a philosophically informed Nocturnal Council and recognizing the possibility of finding better political arrangements through foreign travel, Plato provides no official mechanism for changing the laws in Magnesia. At best,

lawgivers are to fill in the details of existing legislation – not to provide improvements to what is already there. The *Laws* does, however, provide an explanation for why Plato thinks that legal innovation is pernicious, namely that it undermines the habituation of character that is so central to the goals of the *Laws*. Laws are supposed to habituate particular actions, and so reliably produce pleasures and pains with respect to those actions. Because this habituation takes many years to be effective and works on the non-rational part of the soul, changing the law undermines this habituation by quite literally breaking the habit that the law is promoting and interfering with the mechanism by which pleasures and pains become orderly. Thus insofar as Plato is concerned with developing firm and stable character traits through habituation, legal innovation generally provides a threat to the development of character. He leaves us with a problem, then: it would be better along one dimension for non-ideal states to have a better mixed constitution, but along another dimension it would be better for non-ideal states to remain with their existing laws.

While not explicit, I believe that we can read Aristotle's *Politics* as trying to navigate this Platonic tension. Aristotle, like Plato, endorses a theory of habituation of character, and the aporia from Book II of the *Politics* makes clearer the relationship between the authority of the laws and the habituation of the citizens. Aristotle can avoid Plato's extreme legal conservative position, however, by highlighting two things: firstly, that minor changes of legislation that make a city more moderate needn't undermine habituation *if the change is sufficiently small*; secondly, if we care about habituation in part because it helps to ensure lawfulness and thus the stability of the city, then extreme constitutions should change their laws more drastically. This is because extreme laws that disenfranchise large parts of the population or that reflect a conception of justice and the good that people cannot accept cannot gain reliable support from enough of the citizen body to be effective. Thus there is no point trying to enforce legal conservatism for the sake of stability in states that are so suboptimal that they cannot be stabilized in their current form. The preservation of such cities in fact depends on their laws and institutions being moderated. But while Aristotle may provide a way to avoid Plato's

extreme legal conservative position, we should not underestimate the conservative thread in Aristotle's own thought. Changing laws too drastically or quickly still undermines habituation, and this is a cost that is to be taken seriously in the political calculus. Moreover, a major part of Aristotle's project is dedicated to the project of preserving existing constitutions – even ones that are suboptimal and in many ways unjust. While it would be better in the abstract for a constitution to be more moderate, in practice the dangers of constitutional change were real and present in the fragile ecosystem of the Greek city-state. Finally, Aristotle talks about moderating constitutions *within* the framework of the existing constitution, rather than supposing that we should change from one non-ideal constitutional type to an ideal type. The assumption is that we will be working with what we have, not revolutionizing.

Imitating virtue in the citizens

The vast majority of people will not become virtuous. Plato and Aristotle knew this, and provided political mechanisms for making ordinary people better. The incentives that law and punishment offer can be channeled in such a way that people act *as though* they are virtuous – or at least in such a way that they wouldn't perform the vicious actions that they otherwise might be very tempted to perform.

While the *Statesman* mentions the use of law to make individuals more or less courageous or temperate, the connection between the use of law and psychology is ultimately obscure. This account, however, is much clearer in the *Laws*. There, the Athenian says that we should channel as many psychological resources as we can to make people act justly and in accordance with the law. Thus the law sometimes provides arguments that appeal to one's reason, but also provides punishments and rewards, which lead the citizens to think that breaking the law is painful and shameful and bad, and following the law is pleasant and honorable and good. On my reading, many of the citizens of Magnesia are not counterfactually reliable in their actions. In Kraut's words, their virtue is "fragile" – it relies on the presence of the law and these external incentives to keep them in line. This is not to deny that *any* citizens of Magnesia

will become virtuous – the whole point of the legal code is to make as many people as possible virtuous so it would be a pretty spectacular failure if nobody achieved this kind of character. It is a mistake, though, to think that a *vast* portion of the population achieves full virtue; rather, I envisage Magnesia to be a city of degrees of virtue, but where almost everybody remains law-abiding and the norms of the city are stable *precisely because the main sources of human motivation are aligned with the laws*. Almost all citizens, then, act as though they were virtuous, even though many of them wouldn't act in such a way without the external incentives provided by the law and the society.

There are suggestions that Aristotle holds a similar view to Plato in this regard, especially if we take the comments in the last chapter of the *Nicomachean Ethics* seriously about most people being motivated by pleasure and pain, thus needing the incentives of law to lead them to act justly. Sadly, we do not have enough texts from Aristotle that tie together this psychological claim with issues in non-ideal political theory. It is clear that Aristotle thinks that law is good at preventing people from acting viciously in most circumstances, and that, for example, excessive freedom or centralized power are harmful to individuals as well as to societies. Nonetheless, there is still a heated debate about whether somebody can become virtuous if they don't act for the sake of the noble, and whether habituation can be successful at improving character when the actions are not fully voluntary. So while we can say much about the importance of lawfulness and its connection with habituation in Aristotle's ethical and political theory, ultimately we must be modest here in how much we claim about the psychological benefits cities can provide to citizens in non-ideal circumstances.

Imitating virtue in the polis

Just as individuals can imitate the virtuous agent through institutional structures, so too can non-ideal constitutions imitate the ideal constitution through the blending of democratic and oligarchic institutions. We can take the ordinary and regular political institutions that already have substantial support from some part of the citizen body,

and combine them in such a way that leads the city as a whole to function more like the moderate mixed constitution.

Plato's *Statesman* provides two mechanisms for promoting this kind of artificial virtue in the city. The first is the use of marriages and "social weaving" by the ideal Statesman, who is able to recognize when people are excessively courageous or excessively temperate, and then match them with their opposing types to balance them out. While the primary context of this discussion was marriages, I argued that we can also see a political parallel to this in the composition of the subordinate magistracies. If there is a council of seven people, for example, the Statesman will ensure that the three hot-headed courageous types are balanced out by four cooler and more restrained temperate types. The collective action of that council, then, should more closely approximate the balanced judgment of a fully virtuous person. The second mechanism is the use of law in general – the divine bond that unites cities. The details of exactly how this works are unclear in that text, but the *Laws* give us this picture with intricate particularity.

In the *Laws*, the actual laws of Magnesia are supposed to combine the authoritative, hierarchical principle of monarchy with the democratic principle of freedom and equality. Plato is not designing political institutions *ex nihilo*, but is combining and modifying existing Spartan and Athenian institutions – correcting the narrow but disciplined Dorian laws with the democratic Athenian laws that promote active political engagement from the whole citizen body. While Magnesia is still a relatively idealized political situation, the general principle behind the construction of its constitution is generalizable: existing institutions that have already been shown to work and be stable can be combined with one another to produce a more moderate and balanced city.

For Aristotle, the best constitution for most is a mixture of oligarchic and democratic institutions. Part of the justification for this is that both the oligarchs and the democrats get something right about justice, and the complete conception of justice recognizes the merit in both factions while also recognizing when each conception ought

to be applied. Cities that effectively blend these institutions, then, imitate the complete conception of justice embodied in the ideal state. While any given oligarch or democrat mightn't grasp or appreciate the complete conception of justice, a more agonistic model that plays the competing claims off each other is nonetheless able to approximate the functioning of the ideal city. Once again, this picture does not rely on outstanding or exemplary individuals or utopian political arrangements. The idea is that we re-arrange the institutions that already exist and use the beliefs that ordinary people already have to form something more effective, orderly, and wise.

This proposal is ultimately about imitations. The way in which these non-ideal but improved constitutions function will lack the executive unity of the city run by the ideal Statesman, or by the assembly of virtuous people in the city of Aristotle's prayers. For this reason, it may be more unstable, more liable to internal change, more vulnerable to external threats, more likely to make errors in legal reform, and suffer many other dangers. But they are also feasible. They provide goals for people like us and guidance in circumstances about which political philosophers with eudaimonist leanings have previously said very little. What we have to do in non-ideal circumstances is unlikely to please a fully virtuous agent as politics is full of hard decisions and compromises – including compromises about justice – must be made. But this approach, I believe, provides superior normative guidance both to an unworkable utopia and to washing one's hands clean of the mess of politics.

Further research

So where to from here? Inevitably, most scholars of ancient politics will want to know more about the relationship between these non-ideal states and the ideals they are supposed to imitate in some way. Thus, more needs to be done on the relationship between the *Laws* and the *Republic*, and the normative vision of the middle books of the *Politics* in relation to Books III, VII & VIII. As the works I have focused on continue to attract more attention, I have no doubt that much will be written on this and I welcome such projects. Furthermore, there is a clear parallel between the kind of defense of

lawfulness I provide and the defense that Socrates gives in the *Crito*. Do Socrates' attitudes in this work reflect a more general principle about lawfulness in non-ideal states, or are there circumstances in which Plato and Aristotle can provide a robust justification for civil disobedience?

Perhaps more interesting are the puzzles that are raised in both Plato and Aristotle about the mechanism by which law is supposed to habituate. Can habituation be successful (or even ameliorative) when the laws are suboptimal, and when the kinds of incentives used are neither especially noble nor virtuous? If so, why? Is there a psychological story that we can tell about how the law encourages non-virtuous people to become better? What happens when people shift from being motivated by pleasure and pain, to honor and shame, to virtue and the *kalon*? Can laws bring about such changes in moral motivation? Furthermore, I am increasingly sure that we need a more substantial account about *exactly* how habituation works. For example, Plato and Aristotle seem to speak of habituation as a primarily non-rational process that works only on pleasures and pains, but it is clear that the virtue that is supposed to result from habituation involves a number of fundamentally *cognitive, rational* states. How does the rational state emerge from the non-rational habituation? Are there lower-grade states of character virtue that consist only in the ordered state of pleasures and pains? Are these orderly non-rational states *partly constitutive* of character virtue, or simply necessary requirements for the development of cognitive aspects of virtue? While these questions have been primarily the domain of ancient ethicists, I believe that the political works force us to ask harder questions about virtue and habituation, and more resources with which to answer such questions.

With respect to more central political questions, much more work needs to be done on Plato and Aristotle's attitudes towards legal change and innovation. I have argued that there is a strong conservative bias in their political theory, but there are many points at which my arguments may become unstuck and have raised genuine puzzles. The *Politics* is a particularly difficult work in this regard, and the central aporia about legal change in Book II has but one focused treatment in the secondary literature.

Moreover, I believe that this discussion could be enriched by discussions of Athenian legal practice, and attitudes towards legal change in the Greek orators. Is Kleon's view as reported by Thucydides egregious, or was there a mainstream conservative current with which Plato and Aristotle may be engaging? Understanding how and why laws were in fact changed or preserved will likely shed light on what intellectual targets Plato and Aristotle may have had.

Moreover, we should look beyond Athens. Not only does Cicero develop ancient constitutional theory in light of the historical developments that brought about the Roman republic, but Cicero very much engaged in the circumstances of non-ideal politics and sought to preserve the constitution in the face of powerful forces of change. Moreover, the *De Re Publica* raises a number of interesting issues related to this project. Cicero claims that monarchy is the best constitution in the abstract, but that the mixed constitution (here understood as the constitutional divisional of powers into three branches, rather than the mixture of two competing principles) is the best workable constitution. He also claims that the Roman constitution emerged organically from existing Roman practices and historical contingencies. But most importantly, Cicero cannot have been under any illusion about the quality of characters that politics attracts and produces, and thus the kinds of machinations that may be required to deal with such people.²⁷⁹ Thus while Cicero clearly values virtue, we should not infer from this that he thinks that political institutions should operate on the assumption that all people are motivated by and work towards the *honestum*.

Finally, there are some seeds of ideas that could grow into contributions to contemporary political theory. For one, Plato and Aristotle may provide a model of non-ideal theory that is normatively grounded in ideal theory, but nonetheless is a non-transitional model. On the standard Rawlsian model of ideal and non-ideal theory, ideal theory sets the goal and non-ideal theory helps us get to the goal. Thus, one non-ideal constitution is better than another non-ideal constitution if it is further along the path to

²⁷⁹ Memorably, Cicero complains that Cato speaks "as though he were living in Plato's republic rather than Romulus's shit hole [*dicit enim tamquam in Platonis politeia, non tamquam in Romuli faece*]" (*Letter to Atticus*, 2.1.8).

the ideal. Plato and Aristotle, however, seem to talk about non-ideal constitutions as imitations of an ideal, but there is no reason to think that a better imitation is somehow a step closer to *bringing about* the ideal in the actual world. For example, if we moderate a democracy in the kind of way that Aristotle thinks we should, it is then a better imitation of the ideal state – but this may have nothing to do with the new democracy being more likely to produce a virtuous aristocracy. In fact, it may even be *further* away from the ideal in Rawls's sense insofar as the new constitution may further entrench democratic values that would prevent a move to the ideal aristocracy.

I would like to end by considering some implications for contemporary virtue politics. There is a general impression that those interested in perfectionism and the development of virtue have little to say about issues of conflict, stability, and substantive disagreements about value. I hope to have shown that even if this is an oversight in the contemporary literature, it is not an oversight in the ancient literature. On the contrary, I have contended that these issues are central to ancient non-ideal political theory, and that you can be a card-carrying eudaimonist while caring deeply about what actual people (rightly or wrongly) believe about justice and the good. For contemporary perfectionists working in a liberal society, I hope that drawing attention to Plato and Aristotle's attitudes to the importance of legal compliance and providing constitutions that most can accept will help us to develop views where even those who have "the truth" must necessarily interact sincerely and respectfully with those people with whom they disagree. Sometimes it may look as though Plato and Aristotle have a solipsistic grasp on the good, and then use political society as a canvas on which to paint their vision. This isn't right. Plato and Aristotle have bold views of their own, to be sure, but when it came to actual politics and proposals that affect actual individuals, they took the central political problems seriously – and so should we.

BIBLIOGRAPHY

- Allen, Danielle (2002). *The World of Prometheus: The Politics of Punishing in Democratic Athens*. Princeton University Press.
- Annas, Julia (1981). *An Introduction to Plato's Republic*. Oxford University Press.
- (2000). *Platonic Ethics: Old and New*. Cornell University Press.
- (2011). *Intelligent Virtue*. Oxford University Press.
- (2017). *Virtue and Law in Plato and Beyond*. Oxford University Press.
- Barnes, Jonathan, trans. (1984). *The Complete Works of Aristotle*. Princeton University Press.
- Bobonich, Christopher (1995). "The Virtues of Ordinary People in Plato's *Statesman*", in Rowe (ed.) *Reading the Statesman: Proceedings of the III Symposium Platonicum*. Academia Verlag.
- (2002). *Plato's Utopia Recast*. Oxford University Press.
- (2015). "Aristotle, political decision making, and the many", in Lockwood and Samaras (eds), *Aristotle's Politics: A Critical Guide*, Cambridge University Press, 142–162.
- Brownson, Carleton L. trans. (1918). *Xenophon: Hellenica*. Loeb Classical Library: Harvard University Press.
- Brunschwig, Jacques (1980). "Du mouvement et de l'immobilité de la loi", *Revue Internationale de Philosophie*, 34, 133/134, 512–540.
- Burnyeat, Myles (1980). "Aristotle on Learning to be Good", in Rorty (ed.) *Essays on Aristotle's Ethics*, University of California Press, 69–92.
- Burnyeat Myles and Michael Frede (2015). *The Pseudo-Platonic Seventh Letter*. Oxford University Press.
- Bury, R.G. trans. (1926). *Plato: Laws*. 2 vols. Loeb Classical Library: Harvard University Press.
- Cairns, Douglas (1993). *Aidōs: The Psychology and Ethics of Honour and Shame in Ancient Greek Literature*. Oxford University Press.
- Cammack, Danielle (2013). "Aristotle on the Virtue of the Multitude", *Political Theory*, 41 (2), 175–202.
- Carone, Gabriella (2001). "Akrasia in the *Republic*: Does Plato Change His Mind?", *Oxford Studies in Ancient Philosophy*, 20, 107–148.
- (2002). "Pleasure, Virtue, Externals, and Happiness in Plato's Laws", *History of Philosophy Quarterly*, 19 (4), 327–44.

- Charles, David (1988). "Perfectionism in Aristotle's Political Theory: Reply to Martha Nussbaum", *Oxford Studies in Ancient Philosophy*, 6, supplementary volume, 185–206.
- Cohen, G.A. (2003). "Facts and Principles", *Philosophy and Public Affairs*, 31 (3), 211–245.
- (2009). *Rescuing Justice and Equality*. Harvard University Press.
- Cole, Eve (1991). "Weaving and Practical Politics in Plato's *Statesman*", *Southern Journal of Philosophy*, 29 (2), 195–208.
- Cooper, John, ed. (1997). *Plato: Complete Works*. Hackett Publishing.
- Crisp, Roger, trans. (2014). *Aristotle: Nicomachean Ethics*. Cambridge University Press
- Dare, Tim (2016). *The Counsel of Rogues? A Defence of the Standard Conception of the Lawyer's Role*. Routledge.
- De Romilly, Jacqueline (1971). *La loi dans la pensée Grecque des origines à Aristote*. Les Belles Lettres.
- Destrée, Pierre (2015). "Aristotle on improving imperfect cities", in Lockwood and Samaras (eds), *Aristotle's Politics: A Critical Guide*, Cambridge University Press, 204–223.
- Dillon, John, trans. (1996). *Alcinous: Handbook of Platonism*. Oxford University Press.
- El Murr, Dimitri (2014). *Savoir et gouverner: Essai sur la science politique platonicienne*. Vrin Publishing.
- England, E.B. (1921). *The Laws of Plato*. University of Manchester Press.
- Erskine, Andrew (2011). *The Hellenistic Stoic: Political Thought and Action*. Bristol Classical Press.
- Estlund, David (2011). "Human Nature and the Limits (if any) of Political Philosophy", *Philosophy and Public Affairs*, 39 (3), 207–237.
- Everson, Stephen, ed. (1996). *Aristotle: The Politics and The Constitution of Athens*. Cambridge University Press.
- Gaus, Gerald & Keith Hankins (forthcoming), "Searching for the Ideal: The Fundamental Diversity Dilemma", in Vallier and Weber (eds.) *Political Utopias: Contemporary Debates*, Oxford University Press.
- Gill, Christopher (1995). "Rethinking Constitutionalism in *Statesman* 291–303", in Rowe (ed.) *Reading the Statesman: Proceedings of the III Symposium Platonicum*. Academia Verlag.
- Hansen, Mogens Herman (2013). *Reflections on Aristotle's Politics*. University of Chicago Press.
- Hitz, Zena (2009). "Plato on the Sovereignty of Law", in Balot (ed.) *A Companion to Greek and Roman Political Thought*, Wiley-Blackwell, 367–381.
- (2012). "Aristotle on Law and Moral Education", *Oxford Studies in Ancient Philosophy*, 42, 262–306.

- Hursthouse, Rosalind (2008). "Two Ways of Doing the Right Thing", in Farrelly & Solum (eds), *Virtue Jurisprudence*, Palgrave Macmillan, 236–255.
- Inamura, Kazutaka (2015). *Justice and Reciprocity in Aristotle's Politics*. Cambridge University Press.
- Irwin, Terence (2009). "The Inside Story of the Seventh Platonic Letter: A Sceptical Introduction", *Rhizai*, 6 (2), 127–160.
- Jaeger, Werner (1955). *Aristotle: Fundamentals of the History of his Development*. Oxford University Press.
- Jiminez, Marta (2015) "Aristotle on Steering the Youth by Pleasure and Pain", *The Journal of Speculative Philosophy*, 29 (2), 137–164.
- (2016) "Aristotle on Becoming Virtuous by Doing Virtuous Actions", *Phronesis*, 61, 3–32.
- Kamtekar, Rachana (2001). "Social Justice and Happiness in the *Republic*: Plato's Two Principles". *History of Political Thought*, 22 (2), 189–220.
- (2010). "Psychology and the Inculcation of Virtue in Plato's *Laws*" in Bobonich (ed.) *Plato's Laws: A Critical Guide*, Cambridge University Press, 127–48.
- Keyt, David (1999). *Aristotle: Politics, Books V and VI*. Oxford University Press.
- Klosko, George (2006). *The Development of Plato's Political Theory*. Oxford University Press.
- Kraut, Richard (2002). *Aristotle: Political Philosophy*. Oxford University Press.
- (2010). "Ordinary Virtue from the *Phaedo* to the *Laws*", in Bobonich (ed.) *Plato's Laws: A Critical Guide*, Cambridge University Press, 51–70.
- Laks, A. (1990). "Legislation and Demiurgy: On the Relationship between Plato's "Republic" and "Laws""", *Classical Antiquity*, 9 (2), 209–229.
- (2007). "Freedom, Liberty, and Liberality in Plato's *Laws*", *Social Philosophy and Policy*, 24 (2), 130–152.
- Landemore, Hélène (2013). *Democratic Reason: Politics, collective intelligence, and the rule of the many*. Princeton University Press.
- Lane, Melissa (1995). "A New Angle on Utopia: The Political Theory of the *Politicus*", in Rowe (ed.) *Reading the Statesman: Proceedings of the III Symposium Platonicum*. Academia Verlag, 276–291.
- (1998). *Method and Politics in Plato's Statesman*, Cambridge University Press.
- (2010). "Persuasion et force dans la politique platonicienne", trans. D. El Murr, in A. Brancacci, D. El Murr and D.P. Taormina (eds), *Aglaïa: autour de Platon. Mélanges offerts à Monique Dixsaut*, Vrin, 165–98.

- (2013). "Claims to rule: the case of the multitude", in Deslauriers & Destréé (eds) *Cambridge Companion to Aristotle's Politics*, Cambridge University Press, 247–274.
- (2013). "Platonizing the Spartan Politeia in Plutarch's *Lycurgus*", in Harte and Lane (eds), *Politeia in Greek and Roman Philosophy*, Cambridge University Press, 57–77.
- (2013). "Political Expertise and Political Office in Plato's *Statesman*", in Aleš Havlíček, Jakub Jirsa and Karel Thein (eds), *Plato's Statesman - Proceedings of the eighth Symposium Platonicum Pragense*, OIKOY MENH, 49-77.
- (forthcoming). "Placing Plato in the History of Liberty"
- (forthcoming). "Plato's Refashioning of Liberty on 'Spartan' Lines: Rule as Requiring Willing Obedience to Rulers"
- Lattimore, Steven, trans. (1998). *Thucydides: The History of the Peloponnesian War*. Hackett Publishing.
- Lee, Mi-Kyoung (2014). "Justice and the Laws in Aristotle's Ethics" in Lee (ed), *Strategies of Argument: Essays in Ancient Ethics, Epistemology, and Logic*, Oxford University Press, 104–123.
- Lewis, V.B. (2011), "The Limits of Reform: Punishment and Reason in Plato's Second-Best City," in Koritansky, P.L. (ed.) *The Philosophy of Punishment and the History of Political Thought*, University of Missouri Press.
- Lockwood, Thornton (2015). "Politics II: Political critique, political theorizing, political innovation" in Lockwood and Samaras (eds), *Aristotle's Politics: A Critical Guide*, Cambridge University Press, 64–83.
- Lorenz, Hendrik (2006). *The Brute Within*. Oxford University Press.
- Marchant, E.C. & G.W. Bowersock, trans. (1925). *Xenophon: Hiero. Agesilaus. Constitution of the Lacedaemonians. Ways and Means. Cavalry Commander. Art of Horsemanship. On Hunting. Constitution of the Athenians*. Loeb Classical Library: Harvard University Press.
- Marchant, E.C., O.J. Todd, & Jeffrey Henderson, trans. (2013). *Xenophon: Oeconomicus, Memorabilia, Symposium*. Loeb Classical Library: Harvard University Press.
- Márquez, Xavier (2012). *A Stranger's Knowledge*. Parmenides Publishing.
- Marr, J.L. & P.J. Rhodes, trans. (2008). *The Old Oligarch: The Constitution of the Athenians Attributed to Xenophon*. Aris and Phillips.
- Mayhew, Robert (2008). *Plato; Laws X, Translation and Commentary*. Oxford University Press.
- MacKenzie [McCabe], M.M. (1985). *Plato on Punishment*. University of California Press.
- Miller, David (2013). *Justice for Earthlings: Essays in Political Philosophy*. Cambridge Universiy Press.

- Miller, F.D. (1997). *Nature, Justice and Rights in Aristotle's Politics*. Oxford University Press.
- (2013). "The Rule of Reason", in Deslauriers & Destrée (eds) *Cambridge Companion to Aristotle's Politics*, Cambridge University Press, 38–66.
- Miller, M.H. (2012). *The Philosopher in Plato's Statesman*. Springer Science & Business Media.
- Miller, Walter, trans. (1914): *Xenophon: Cyropaedia*. Loeb Classical Library: Harvard University Press.
- Mishima, Teruo (1995). "Courage and Moderation in the *Statesman*", in Rowe (ed.) *Reading the Statesman: Proceedings of the III Symposium Platonicum*. Academia Verlag, 306–312.
- Morrow, Glen (1960). *Plato's Cretan City: A Historical Interpretation of the Laws*. Princeton University Press.
- (2013)."The Demiurge in Politics: The *Timaeus* and the *Laws*", *The American Philosophical Association Centennial Series*, 187–203.
- Moss, Jessica (2008). "Appearances and Calculations: Plato's Division of the Soul", *Oxford Studies in Ancient Philosophy*, 34, 35–68.
- Nightingale, Andrea (1999). "Plato's Lawcode in Context: Rule by Written Law in Athens and Magnesia", *Classical Quarterly*, 49 (1), 100–122.
- Norlin, George, trans. (1929). *Isocrates: On the Peace, Areopagiticus, Against the Sophists, Antidosis, Panathenaicus*. Loeb Classical Library: Harvard University Press.
- North, Helen, (1966). *Sophrosyne: Self-Knowledge and Self-Restraint in Greek Literature*. Cornell University Press.
- Nussbaum, Martha (1988). "Nature, Function, and Capability: Aristotle on Political Distribution", *Oxford Studies in Ancient Philosophy*, 6, supplementary volume, 145–184.
- (1988). "Non-relative Virtues: An Aristotelian Approach", *Midwest Studies in Philosophy*, 13 (1), 32–53.
- Ober, Josiah (2001). *Political Dissent In Democratic Athens: Intellectual Critics of Popular Rule*. Princeton University Press.
- (2013). "Democracy's Wisdom: An Aristotelian Middle Way for Collective Judgment", *American Political Science Review*, 107 (1), 104–122.
- Pangle, Thomas (2013). *Aristotle's Teaching in the Politics*. University of Chicago Press.
- Perrin, Bernadotte, trans. (1914). *Plutarch: Lives, vol. 1: Theseus and Romulus, Lycurgus and Numa, Solon and Publicola*. Loeb Classical Library: Harvard University Press.
- Prauscello, Lucia (2014). *Performing Citizenship in Plato's Laws*. Cambridge University Press.

- Rawls, John (1955). "Two Concepts of Rules", *The Philosophical Review*, 64 (1), 3–32.
- (1987). *A Theory of Justice*. Harvard University Press.
- Reeve, C.D.C. trans (1998). *Aristotle: Politics*. Hackett Publishing.
- Riesbeck, David (2016). *Aristotle on Political Community*. Cambridge University Press
- (2016). "The Unity of Aristotle's Theory Constitutions", *Apeiron*, 49 (1), 93–125.
- Robinson, E.W. (1997). *The First Democracies: Early Popular Government Outside Athens*. Franz Steiner Verlag.
- Robinson, Richard (1996). *Aristotle's Politics: Books III and IV*. Oxford University Press.
- Rosen, Stanley (2004). *Plato's Statesman: The Web of Politics*. St. Augustine's Press.
- Rowe, Christopher (1999). *Plato: Statesman*. Hackett Publishing.
- (2001). "Killing Socrates: Plato's Later Thoughts on Democracy", *Journal of Hellenic Studies*, 121, 63–76.
- (2013). "The Statesman and the Best City", in Aleš Havlíček, Jakub Jirsa and Karel Thein (eds), *Plato's Statesman - Proceedings of the eighth Symposium Platonicum Pragense*, OIKOYMENH, 40–50.
- Samaras, Thanassis (2002). *Plato on Democracy*. Peter Lang Publishing.
- Saunders, T.J. (1975). "Plato's Clockwork Orange", *Durham University Journal*, 5/68, 113–117.
- (1994). *Plato's Penal Code: Tradition, Controversy, and Reform in Greek Penology*. Oxford University Press.
- (1996). *Aristotle: Politics Books I and II*. Oxford University Press.
- Sauvé Meyer, Susan (2006). "Plato on the Law", in Benson (ed.) *A Companion to Plato*, Blackwell Publishing, 373–387.
- (2015). *Plato: Laws 1 and 2*. Oxford University Press.
- Schmidtz, David (m.s.) "Ideal Justice"
- Schofield, Malcolm (1999). "Equality and Hierarchy in Aristotle's Political Thought", in *Saving the City: Philosopher-Kings and Other Classical Paradigms*, Routledge, 88–100.
- (1999) *Saving the City: Philosopher-Kings and Other Classical Paradigms*. Routledge
- (1999). *The Stoic Idea of the City*. University of Chicago Press.
- (2006). *Plato: Political Philosophy*. Oxford University Press.
- (2013). "Freedom and Justice in the *Laws*", in Boys-Stones, El Murr, and Gill (eds.) *The Platonic Art of Philosophy*, Cambridge University Press, 283–297.
- Schöpsdau, Klaus (1994). *Platon: Nomoi (Gesetze): Buch I–III. Übersetzung und Kommentar*. Vandenhoeck und Ruprecht.

- Shaw, C. (2015), "Punishment and Psychology in Plato's *Gorgias*", *Polis*, 31, 75-95.
- Simmons, A.J. (2010). "Ideal and Non-Ideal Theory", *Philosophy and Public Affairs*, 38 (1), 5–36.
- Simpson, Peter (1997). *The Politics of Aristotle*. University of North Carolina Press.
- Stalley, R.F. (1983). *An Introduction to Plato's Laws*. Hackett Publishing.
- (1995). "Punishment in Plato's *Laws*", *History of Political Thought*, 16 (4), 469–487.
- Strauss, Leo (1978). *The City and the Man*. University of Chicago Press.
- Striker, Gisela (2009). "Aristotle's Ethics as Political Science", in Reis (ed.) *The Virtuous Life in Greek Ethics*, Cambridge University Press, 127–141.
- Valentini, Laura (2012). "Ideal vs. Non-ideal Theory: A Conceptual Map", *Philosophy Compass*, 7 (9), 654–664.
- Vogt, Katja (2008). *Law, Reason, and the Cosmic City*. Oxford University Press.
- Waldron, Jeremy (1995). "The Wisdom of the Multitude: Some Reflections on Book 3, Chapter 11 of Aristotle's *Politics*", *Political Theory*, 23 (4), 563–584.
- White, David (2007). *Myth, Metaphysics and Dialectic in Plato's Statesman*. Routledge.
- Wilburn, Joshua (2012). "Akrasia and Self-Rule in Plato's *Laws*", *Oxford Studies in Ancient Philosophy*, 43, 25–53.
- (2013). "Moral Education and the Spirited Part of the Soul in Plato's *Laws*", *Oxford Studies in Ancient Philosophy*, 45, 63–102.
- (2013) "Tripartition and the Causes of Criminal Behavior in *Laws IX*", *Ancient Philosophy*, 33 (1), 111–134.
- Wilson, J.L. (2011). "Deliberation, Democracy, and the Rule of Reason in Aristotle's *Politics*", *American Political Science Review*, 105 (2), 259–274.
- Yack, Bernard (1993). *The Problems of a Political Animal: Community, Justice, and Conflict in Aristotelian Political Thought*. University of California Press.