MUSICAL JUDGMENT:

AESTHETICS AND JURISPRUDENCE IN PLATO

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April 2013

A thesis submitted to McGill University in partial fulfillment of the requirements of the degree of Doctor of Philosophy

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ABSTRACT

This dissertation turns to Plato's writings on music and the law in order to delimit the relationship between the aesthetic and juridical dimensions of political order, and in particular, to show how these dimensions are manifested in citizens and are constitutive of political judgment. The central claim of my thesis is that for Plato, justice requires an affective attachment that, in turn, requires it be coextensive with a kind of musical beauty. In order for the conditions of justice to obtain, we must not only define justice, we must also *desire* it as we do the beautiful; this affective requirement is fulfilled by the musical dimension of the law. The ancients understood law and music to share in the same intrinsic properties of order, establishment and restoration; the ambiguity of the word *nomos*, which could mean both song and law, underscores this worldview according to which ethics and aesthetics are governed by the same principles. In Plato, musical desire works within this framework: music engenders in the soul a pre-rational cognitive recognition of the intrinsic order that constitutes its beauty; musical inspiration, in turn, provides the motive force for active juridical citizenship. Surprisingly little scholarly attention has been paid to Plato's treatment of music and few scholars treat Plato as committed to the rule of law. I show that Plato's attention to both music and law throughout the dialogues underscores the political importance of an aesthetic education that is also juridical; the pedagogical function of the law is to cultivate a civic ethos in which citizens are passionately engaged with, inspired by, and take ultimate pleasure in, the principles of justice.

RÉSUMÉ

Dans cette dissertation je m'appuie sur les écrits de Platon sur la musique et le droit pour déterminer la relation entre les dimensions esthétique et juridique de l'ordre politique et, plus particulièrement, pour montrer comment ces dimensions se manifestent chez les citoyens et entrent dans le jugement politique. Le postulat central de ma thèse est que, pour Platon, la justice requiert un attachement affectif qui, à son tour, exige qu'elle soit coextensive à une sorte de beauté musicale. Pour que les conditions de justice soient réunies, nous devons non seulement définir la justice mais la *désirer*, tout comme nous désirons la beauté; la dimension musicale du droit satisfait à cette exigence affective. Pour les anciens, le droit et la musique avaient les mêmes propriétés intrinsèques d'ordre, d'établissement, et de restauration; l'ambiguïté du terme *nomos*, voulant dire tant chanson que droit, souligne cette vision du monde selon laquelle l'éthique et l'esthétique sont régies par les mêmes principes. Chez Platon, le désir musical agit dans ce cadre: la musique engendre dans l'âme une reconnaissance cognitive pré-rationnelle de l'ordre intrinsèque qui en constitue la beauté; l'inspiration musicale, à son tour, est le moteur de la citoyenneté juridique active. Il est étonnant de constater le peu d'attention consacré dans les travaux d'érudition au traitement de la musique chez Platon et seul un petit nombre d'auteurs voient Platon comme étant engagé à l'égard de la règle de droit. Je montre que l'attention qu'accorde Platon à la musique et à la règle de droit tout au long des dialogues souligne l'importance sur le plan politique d'une éducation à la fois esthétique et juridique; la fonction pédagogique du droit est de promouvoir un éthos civique dans lequel les principes de justice sont pour les citoyens une source d'engagement passionné, d'inspiration et, ultérieurement, de plaisir.

ACKNOWLEDGEMENTS

I would like to thank my supervisor, Arash Abizadeh, for his commitment to me throughout my tenure at McGill. Arash pushed me to grapple with philosophical problems I wanted to avoid, challenged me to be analytically rigorous in my thinking and writing, and insisted that I should trust my intellectual instincts. I am a better scholar for having been his student. I would also like to thank Christina Tarnopolsky, whose work on Plato I take as exemplary for my own. This dissertation has benefitted immeasurably from her intellectual generosity, extensive feedback and insightful comments. I am also extremely grateful for the incisive comments and feedback provided by my examining committee, which, in addition to Arash and Christina, was comprised of Jacob T. Levy, Victor Muniz-Fraticelli, Eric Lewis, Jill Frank and Hudson Meadwell.

I would also like to make special mention of the fertile intellectual environment provided by the Research Group on Constitutional Studies (RGCS). Writing a dissertation can be lonely business; as an RGCS fellow I have been part of a vibrant community of scholars and friends.

I am grateful for the generous financial support provided throughout my years at McGill by the James McGill Fellowship, the Groupe inter-universitaire en philosophie politique (GRIPP) Fellowship, the McGill Majors Fellowship, the Principal's Graduate Fellowship, and the Nathan Steinberg Fellowship. I also wish to thank Christopher Manfredi, Juliet Johnson, Richard Schultz and Stuart Soroka for their support while I wrote this thesis.

This dissertation would not have been possible without the love and support of some extraordinary people. I am deeply grateful to Frederick Davidson, who changed the course of my life, and made the path to this PhD possible, and to my grandparents, Anna and Andrzej Nowakowski, who were alive to see the beginning of all of this and are in my heart here at the end. I am profoundly humbled by the love and support of my mother, Eve Anders, who has shown me throughout my life that dreams and hard-work are great friends. Most importantly, none of this would have been possible without the love, patience, and support of my husband, Luke Moreau, and my little girls, Sienna and Laila. Their love makes my life important.

This dissertation is dedicated to Professor Horst Hutter. Ten years ago, I walked into his undergraduate class on Plato. It changed my life.

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INTRODUCTION

MUSIC, PHILOSOPHY, POETRY AND LAW

The dialogue *Phaedo*, which recounts the last day of Socrates' life, opens with two seemingly disparate meanings of music (*mousike*)*:* the conventional and widely accepted sense of music that involves poetry, on the one hand, and the seemingly unconventional sense of music that Socrates here identifies with philosophy, on the other (*Phaedo* 60d-61b). Socrates confesses that throughout his life he had interpreted a recurring dream that bid him to "make music" as an injunction to practice "the greatest music" that is philosophy (60e-61a). After his trial and sentence, however, he decided to reconsider his recurring dream as a bid to "make what is popularly (*demode*) called music" (61a). But popular music, which concerns "poetry and myths (*muthous*) rather than speech (*logous*)" (61b) falls under the purview of the true poet and not the philosopher. Socrates acknowledges here that he is no "mythmaker (*muthologikos*)" (61b) and so has had to borrow from the poets to make this popular music. There is, however, another type of music that may also be impeding Socrates' ability to make music, philosophic or poetic: he has claimed some days prior that the only music he in fact hears – the music that prevents him from hearing anything else – are the laws of Athens (*Crito* 54d).

To explain: Socrates' reconsideration of music at the end his life was brought about because of a law prohibiting state-executions during religious festivals. His trial took place the day after the sailing of the Athenian state galley on its annual mission to the island of Delos and Socrates could not be put to death until the ship returned. During this time, the

Crito tells us, his friends tried to persuade him to allow them to bribe his jailers and send him off into exile. Socrates here famously refuses his friends' exhortations on two grounds. First, he argues that given the benefits a citizen enjoys under the laws of a city, he is in turn required by justice to do whatever those laws mandate. This means that a citizen is forbidden from disobeying legal commands even if he believes the law to be unjust; he is in some sense enslaved to the laws of his city (*Crito* 52d). Second, each citizen also enters into a type of contract with the laws of a city, and is thus obligated to "abide by this just agreement" (50a). In this sense, a citizen is obligated by the agreement he made because, as the personified laws of Athens tell Socrates, "so decisively did you choose us and agree to be a citizen under us" (52c). In order to make his friends understand how he can be both enslaved by the laws and freely choose to enter into contract with them, Socrates explains that the laws (*nomoi,* singular *nomos*) are a type of music that "resound" in him so completely that they "prevent [him] from hearing anything else"; they fill his whole soul, he claims, like the music-induced frenzy of the Dionysian revelers at the great festivals (54d).

The ease with which Socrates introduces music into this discussion here underscores the ambiguity of the word *nomos*, which could mean both song and law, and is indicative of the ancient Greek worldview according to which ethics and aesthetics were governed by the same principles. Socrates' recurring dream had long instructed him to give music an essential place in his life; the dream does not, however, even in the last moments of his life, divulge precisely what kind of music. Instead, it discloses to Socrates what it always has, namely, that music is a life-defining activity; Socrates' experience of Athenian law has long shown him the extent to which musical activity – philosophic or poetic – is first and foremost, a juridical *way of life*.

My intention in this thesis is to show that the presence of musical discussions in these dialogues and their interconnectedness with the law highlights what is true of the greater Platonic literary corpus, namely, that Plato's work is grounded in a serious meditation on both Athenian legislative and musical practices. I argue that Plato creates in his dialogues a political cosmos that is, as the Greek etymology of *cosmos* implies, both ordered and ornamented, both juridical and aesthetic. Most importantly, I show that for Plato, the twin strands of the jurisprudential and aesthetic dimension of political order are instantiated in the citizen, and more particularly, are constitutive of political judgment.

SCHOLARSHIP ON MUSIC AND LAW IN PLATO

Musicologists and scholars of ancient Greek music treat Plato as an important historical source.[1] The political relevance of Plato's writings on music, however, has been

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[1] The best scholarship on music in ancient Greece that treats the Platonic dialogues as historical sources in context with other extant evidence are, Andrew Barker, ed. *Greek Musical Writings: The Musician and His Art*, vol. 1 (Cambridge: Cambridge University Press, 1984); *Greek Musical Writings: Harmonic and Acoustic Theory* vol. II (Cambridge: Cambridge University Press, 1989); M.L. West, *Ancient Greek Music* (Oxford: Oxford University Press, 1992). I refer to these works, and the translations of the ancient testimony provided therein, extensively throughout this dissertation. There is a small body of scholarship concerned with Plato's treatment of music, and its place in the history of Greek music, more generally: Edward A. Lippman, *Musical Thought in Ancient Greece* (New York: Columbia University Press, 1964); Warren D. Anderson, *Ethos and Education in Greek Music* (Cambridge: Harvard University Press, 1966); *Music and Musicians in Ancient Greece* (Ithaca: Cornell University Press, 1994); Warren Anderson and J. Mathiesen Thomas, "Plato," *Grove Music Online. Oxford Music Online*: http://www.oxfordmusiconline.com/subscriber/article/grove/music/21922. I treat Anderson's work cautiously; it is based on decisive interpretive assumptions about Platonic political philosophy and thus more difficultly 'historical.'

I also want to mention here that Plato sits at the heart of a contemporary debate in musicology. 'Platonism in music' refers to the ontological status of a musical work: it understands a musical piece as an abstract entity that exists independently of its performances, and whose properties in fact determine the perceptible phenomena that count as performances of that work. 'Simple Platonism' argues that musical works are entities that exist independently of their perceptible manifestations. 'Complex' or 'Modified Platonism' argues that musical works come to exist as a result of human action: musical works involve specific artistic properties according to who composed them and their performance. (See Peter Kivy, "Platonism in Music: Another Kind of Defense," *American Philosophical Quarterly* 24, no. 3 (1987); Julian Dodd, "Defending Musical

insufficiently considered by Anglophone scholars working in the history of political thought.[2] Only a handful of scholarly articles, chapters and full-length book treatments have ever been published on music in Plato, and many of them only recently.[3] The scholarly situation on Plato's treatment of law is similar. Scholars working on ancient Greek law use Plato as a historical source both in terms of reconstructing various Athenian institutional practices and for understanding their moral, or ethical, underpinnings.[4] Yet

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Platonism," *British Journal of Aesthetics* 42(2002). For discussion of the debate see, Stefano Predelli, "Platonism in Music: A Kind of Refutation," *Revue international de philosophie* 238(2006).) Although the debate itself falls outside of the purview of this thesis, I show below that it nonetheless captures some of the same ontological and epistemological issues with which Plato was himself concerned, in light of the rise of professionalism in music during his time.

[2] A bibliographic survey of French, Italian and German scholarship suggests there is a limited, but significantly more robust, European tradition of examining Plato's writings on music. Two works, one in German and one in French, are cited regularly by British Plato scholars in particular: Hermann Koller, *Die Mimesis in Der Antike* (Berne: Franke, 1954); Evanghelos Moutsopoulos, *La Musique Dans L'oevre De Platon* (Paris: Presse universitaire de France, 1959).

[3] Frederique Woerther, "Music and the Education of the Soul in Plato and Aristotle: Homeopathy and the Formation of Character," *Classical Quarterly* 58, no. 1 (2008); Francesco Pelosi, *Plato on Music, Soul and Body* (Cambridge: Cambridge University Press, 2010); J.B. Kennedy, *The Musical Structure of Plato's Dialogues* (Montreal: McGill-Queen's University Press, 2011); Malcolm Scholfield, "Music All Pow'rful," in *Plato's Republic: A Critical Guide*, ed. Mark L. McPherran (Cambridge: Cambridge University Press, 2010).

[4] The body of scholarship is substantial. See, for example, J. Walter Jones, *The Law and Legal Theory of the Greeks* (Oxford: Clarendon Press, 1956); Douglas M. MacDowell, *The Law in Classical Athens* (Ithaca: Cornell University Press, 1978); Martin Ostwald, *From Popular Sovereignty to the Sovereignty of Law* (Berkeley: University of California Press, 1986); David Cohen, *Law, Violence and Community in Classical Athens* (Cambridge: Cambridge University Press, 1995); Harvey Yunis, "The Rhetoric of Law in Fourth Century Athens," in *The Cambridge Companion to Ancient Greek Law*, ed. Michael Gagarin and David Cohen (Cambridge: Cambridge University Press, 2005), 191-208; Josiah Ober, "Law and Political Theory," ibid., 384-411; E. Harris, *Democracy and the Rule of Law in Classical Athens* (Cambridge: Cambridge University Press, 2006). Even scholars who argue that Plato is hostile to democracy and thus provides little insight into the aims of Athenian judicial practices have a difficult time not using Plato as a source: Adriaan Lanni, for example, who discounts Plato's value on precisely these grounds, turns to the Platonic dialogues in several instances in order to buttress his arguments regarding the underlying notions of justice and morality played out in Athenian courts. (Adriaan Lanni, *Law and Justice in the Courts of Classical Athens* (Cambridge: Cambridge Universtiy Press, 2006), 4, 24, 38-40, 27, 98.)

Plato is virtually ignored by legal theorists,[5] and more generally, he is significantly undervalued as a legal philosopher by scholars working in the history of political thought.[6]

I argue that the neglect of music and the law in the scholarship has to do in large measure with our *Republic*-centered understanding of the Platonic political project.[7] The *Republic* is the lens through which we understand Plato: other dialogues, and the philosophical claims made therein, always stand in relation to it. Plato's magnum opus is rarely thought of as particularly concerned with music, whereas it is usually understood as hostile to law. This admixture of musical neglect and juridical hostility has, in turn, helped to lessen the scholarly value we place on the *Laws* – already widely understood to advance Plato's 'second best' political regime – where the city in speech is both wholly musical and wholly juridical. I argue, however, that scholars misread the *Republic* on law and music, and

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[5] Plato is commonly considered an early proponent of the natural law tradition, most particularly because of claims made in the *Minos* (whose authenticity is still debated), *Hippias Major* and *Laws* that there cannot be bad law. I address these dialogues and claims below. (Huntington Cairns, *Legal Philosophy from Plato to Hegel* (Baltimore: Johns Hopkins University Press, 1949), 44; John Finnis, "Natural Law: The Classical Tradition," in *The Oxfird Handbook of Jurisprudence and Philosophy of Law*, ed. Jules Coleman and Scott Shapiro (Oxford: Oxford University Press, 2002), 3-4.) Plato receives little consideration from legal theorists aside from this interpretive strand: recent rehabilitative efforts include, Eric Heinz, "Epinomia: Plato and the First Legal Theory," *Ratio Juris* 20, no. 1 (2007): 97-135; Brian Burge-Hendrix, "Plato and the Rule of Law," in *Law, Liberty and the Rule of Law*, ed. Imer B. Flores and Kenneth E. Himma (New York: Springer, 2012), 27-48.

[6] Scholars generally understand Plato to be concerned with three particular legal issues: (1) the possible disjunction between procedural and substantive justice raised in the *Apology*, (2) those having to do with obedience/disobedience to the law raised in the *Crito* and (3) the scope and purpose of legal punishment adumbrated in the penology of the *Laws*. (See respectively, Josiah Ober, "Socrates and Democratic Athens," in *The Cambridge Companion to Socrates*, ed. Donald R. Morrison (2011), 138-78; Trevor J. Saunders, *Plato's Penal Code* (Oxford: Clarendon, 1991); J. Peter Euben, "Considering the Crito," *Political Theory* 6, no. 2 (1978): 149-72.)

[7] The editor of the recent *Cambridge Critical Guide to the Republic* puts it as follows: "Although other Platonic texts supersede the *Republic* in some aspect or another, [it] nevertheless brings together all of Plato's prior work, ranging over everything from moral psychology, philosophy of education, aesthetics, and comparative political science to epistemology and supra-sensible metaphysics – unifying them all into a comprehensive vision that is at once theological, philosophical, political and moral. The *Republic*, then, is celebrated as Plato's central text, and scholars continue to regard it as Plato's magnum opus." (Mark L. McPherran, "Introduction," in *Plato's Republic: A Critical Guide*, ed. Mark L. McPherran (Cambridge: Cambridge University Press, 2010), 1-2.)

subsequently, miss the important ways in which the *Laws* is wholly compatible with the *Republic* on the one hand, and thus the overarching Platonic political project, on the other.

PLATO AND THE RULE OF LAW

In the standard reading of the *Republic*, the antipathy to law is said to be revealed in the discussion on education (423c-427a) where the interlocutors agree that good education and upbringing, if preserved, will not only produce good citizens but will also improve the city with every new generation (424a-b). This is because proper education inculcates a spirit of lawfulness in the individual that, in turn, permeates the city as whole. The educational regime is thus understood to be in tension with the law insofar as legal instruments would be the signs of "diseased souls" and thus indicate that the state has not educated its citizenry properly.[8] Scholars thus point to the end of this discussion on education where Socrates declares further legislation to be unnecessary (425d-e) as proof that in the ideal regime of the *Republic* legal instruments are not only unnecessary but in fact would demonstrate that philosophy had failed.[9] Yet the interlocutors do in fact continue to enact legislation and engage in broader jurisprudential questions long after Socrates makes this

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[8] Ernest Barker, *Greek Political Theory: Plato and His Predecessors* (London: Methuen, 1918), 226, 37, 340. Klosko follows Barkers lead claiming that "Plato believes that the ills that beset existing societies lie at their very heart…Laws passed to correct specific ills will simply be corrupted and rendered ineffective." (George Klosko, *The Development of Plato's Political Theory* (New Yourk: Methuen, 1986), 138, 42. Julia Annas acknowledges the importance of the references to the law in these same passages, but nonetheless, judges the laws themselves to be inconsequential. (Julia Annas, *An Introduction to the Republic* (Oxford: Clarendon Press, 1981), 105-07.) Despite their claims, Barker, Klosko and Annas, like most scholars, in fact leave unexamined the prevalence of the law in the *Republic*. Compare Morrow's extensive treatment in Glenn R. Morrow, *Plato's Cretan City* (Princeton: Princeton University Press, 1960), esp. 573-93.

[9] Barker, *Greek Political Theory: Plato and His Predecessors*, 278.

claim; law, I argue, is in fact present throughout the *Republic* in four salient ways that challenge the depiction of this dialogue as anti-law.

First, the interlocutors are engaged in founding a city in speech; as founders they agree that it is their task to give law (452e, 456b, 462a, 497c), refer to themselves as legislators (*nomothetai*) (497d, 530c), and repeatedly refer to the activity they are engaged in as legislating (detailed below).[10] Second, in building the city in speech the interlocutors enact significant legislation. They create laws regulating medical and judicial practices (409e), music and poetry (424c-425e), festivals and marriages (459e), births (461b), sexual relations (461e) – including legislating against pederastry (403b-c) – and conduct having to do with kinship (463d-e). They establish by law the parameters for dispute resolution and punishment (464d-465a) and regulating financial transactions between citizens (555e-556b). They create a "law about women" (457b) whereby women guardians are made equal to their male counterparts, and then extend the previously enacted law on communal property amongst the guardians (417b) to include familial communism (457c-e). They also establish laws regulating the conduct of the guardians in warfare (468b, 471b-c). All laws having to do with the "establishing of temples, sacrifices and other forms of service to the gods, daemons, and heroes, burial of the dead, and the services in their favor" are given to Apollo to legislate through the Delphic oracle (427b-c).

Third, the interlocutors also engage in more strictly jurisprudential questions. They make explicit claims about what the role of law should be (465b, 519e, 590e) and are wholly concerned with what might compromise lawfulness (551a). To this end they

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[10] Josiah Ober notices that the interlocutors refer to themselves as *nomothetai* at 530c, but does not press his examination any further: "The ideal society of the *Republic* is ultimately predicated not on established law but on fundamental moral principles on the one hand and the enlightened leadership of philosophical kingship on the other." (Ober, "Law and Political Theory," 406-07.)

examine the nature of bad laws (555c) and bad lawgivers (538d-539a) as well as conditions brought about by bad constitutions (563d-e, 587c). The detailed delimitation of a complex human psychology in the middle of the discussion (the tripartite division of the soul) is also re-framed three times near the end of the dialogue in terms of its relationship to the law, lawfulness and lawlessness (571b-c; 587a; 607a). The interlocutors also make the relationship between poetry and law an explicit contest over education (365e): they criticize Homer on the grounds that he is no legislator (599e) and is thus guilty of putting bad 'constitutions' in the soul of each citizen (605b).

Finally, all matters concerning education and its results in the city in speech are matters of law. The educational regime of the citizens is mandated explicitly by laws concerned with poetic speech about the gods. These laws specify models (*tupoi*) for how the gods should be portrayed in the stories recounted to children (380c, 383c). Those citizens selected to be guardians will, in turn, become guardians of this education that they have themselves received (413e). Lawlessness (*paranomia*) is here identified as the source of degeneration of the state (424d): public education thus aims at inculcating lawfulness (*eunomia*) in the citizens from the earliest age (425a). Opinion in accordance with the law is understood to provide political stability (433d): one of the primary functions of the guardians is thus to preserve the opinions inculcated by the law through the educational regime (429c-d, 430a-b). Preservation is here understood to be a kind of civic courage; preserving this education in fact makes them the "the guardians of the laws" (421a, 484c, 504c). As guardians, they must be "warriors and philosophers" (525b); the laws thus also mandate the course of their higher education for the sake of both war and their own philosophical self-shaping (525a-c, 530c). Similarly, the educational regime of potential philosopher-kings is also mandated by laws which specify that particular attention is to be

paid to their training in mathematics and dialectics (525b, 530c): future philosopher-kings are to receive an "education that will allow them to ask and answer questions most knowledgeably" (534d-e). Philosophers are also then compelled by the law to rule (499b-c, 520a, 539e) and similar to the guardians, their education brings with it a civic obligation: "the law produces such people in the city, not in order to allow them to turn to turn in whatever direction they want, but to make use of them to bind the city together" (519e-520a). Finally, Socrates also suggests that philosopher-kings will rule through the law (501e-502c).

Although I do not want to claim here that the *Republic's* main preoccupation is law or the rule of law, this brief exposition not only shows that law is very much present in the *Republic,* but most importantly, that law is a precondition for the emergence of the ideal city-in-speech, and in turn, for its preservation by the guardians and rule by philosophers. When Socrates famously suggests legislation to be unnecessary insofar as "it isn't appropriate to dictate to men who are fine and good" what they can easily find out for themselves, he adds the important but often ignored caveat, "provided they preserve the laws previously laid down" (425e).[11] The *Republic* cannot be said to be hostile towards the law.

The *Republic* is often understood as providing a superior alternative to Athenian procedural justice in the substantive justice of philosophical kingship; we lose the juridical subject in the ideal city in speech, but we keep Socrates, or at least philosophy, alive. In turn, we understand the *Laws* to have abandoned this utopian ideal, and along with it philosophy, in favor of the more practicable but second best rule of law.[12] Scholars thus

[11] Jerome Hall, "Plato's Legal Philosophy," *Indiana Law Journal* 31, no. 2 (1955-1956): 180-81; Morrow, *Plato's Cretan City*, 578-79.

draw an antithesis between the rule of philosophy and the rule of law and make this antithesis central to our understanding of the greater Platonic project.[13] Setting aside the question of philosophy in the *Laws*, I show here that for this antithesis to exist, any robust concept of the law would need to be, if not absent, then at least denigrated in the *Republic*; the *Republic* would need to be "anti-law." A modest survey of the dialogue simply shows this not to be the case.

PLATO AND MUSIC

I argue that the general scholarly neglect of music stems from the way in which we understand the *Republic* to articulate Plato's aesthetic concerns, namely, through the banishment of the poets from the ideal city in speech and Socrates' claim there of a

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[12] Gregory Vlastos provides the general sentiment: "We see Plato rehabilitating in the *Laws* many of the democratic rights he had wiped out in the *Republic*. Though he does not discuss the earlier theory, does not allude to it in any way, we can be certain he has abandoned it. I do not know of any other case where the creator of a major philosophic theory moved out of it so coolly when he found himself unable to give adherence to its supporting assumptions." (Gregory Vlastos, "The Theory of Social Justice in the *Polis* in Plato's *Republic*," in *Interpretations of Plato*, ed. Helen F. North (Leiden: Brill, 1977), 36-37.)

[13] The absence of the rule of law in the *Republic* and philosophy in the *Laws* begins with Eduard Zeller, who maintained that "the *Republic* makes philosophy the groundwork of rational political life and, presupposing philosophical rulers, plans the state purely from the Idea [Forms]; the *Laws* seeks to show how far, and through what means, the state may be adequate to its task without presupposition." Eduard Zeller, *Plato and the Older Academy*, trans. F. Alleyn and A. Goodwin (London: Longmans, Green, 1888), 522. Similarly, Ernest Barker argued that whereas in the *Crito* and again in the *Laws* Plato follows the general Greek conception of the sovereignty of law, he specifically rejects this conception in the *Republic*. (Barker, *Greek Political Theory: Plato and His Predecessors*, 36.) Bernard Schwartz argues that although law is present in the *Republic*, any meaningful notion of the rule of law disappears under philosophical kingship. (Bernard Schwartz, "Of Administrators and Philosopher-Kings: The *Republic,* the *Laws* and the Delegation of Power," *Northwestern University Law Review* 72, no. 4 (1978): 443-60.) Similarly, see Klosko, *The Development of Plato's Political Theory*. David Cohen, "Law, Autonomy and Political Community in Plato's *Laws*," *Classical Philology* 88(1993). Scholars who argue for the presence and significance of philosophy in the *Laws* and the rule of law in the *Republic* include Morrow, *Plato's Cretan City*, 573-93; Andre Laks, "Legislation and Demiugy: On the Relationship between Plato's *Republic* and *Laws*," *Classical Antiquity* 9, no. 2 (1990). On the presence of philosophy in the *Laws* see also Leo Strauss, *The Argument and Action of Plato's Laws* (Chicago: University of Chicago Press, 1975), 14, 75, 128-29.

"famous quarrel between philosophy and poetry" (*Republic* 607b). Scholars generally understand this claim to suggest an antipathy between poetry and philosophy that has important implications for the Platonic political project. Resolving this antipathy starts from the premise that Plato is in varying ways hostile towards poetry even while he engages in a multifaceted philosophical assimilation of it: Plato writes in a kind of poetic form, creates poetic myths within his dialogues, and acknowledges in certain instances the political and pedagogical usefulness of poetry. The *Republic* thus suggests to most scholars that the politically relevant dimensions of 'art' reside in poetry: scholars uniformly note the musical passages in the *Republic*, but they are understood either metaphorically, or to be circumscribed by Plato's concern with the poets, and are thus rarely evaluated on their own merits.[14] Yet Plato makes some extremely ambitious claims for music in the *Republic*, which suggests that his musical concerns are fundamental to his philosophical aesthetics in a way that precedes his concerns with the poets.

The most striking claims regarding music in the *Republic* have to do with Socrates' assertion that education in music is "most sovereign (*kuriotate*)" because of music's unique capacity to shape the soul (*psuchagogia*):

> First, because rhythm and harmony permeate the inner part of the soul more than anything else, affecting it most strongly and bringing it grace, so that if someone is properly educated in *mousike*, it makes him graceful, but if not, then the opposite. Second, because anyone who has been properly educated in *mousike* will sense it acutely when something has been omitted from a thing and when it hasn't been

[14] For many scholars, this places Plato in the literary tradition, rather than the musical, insofar as it focuses on language. Thus Moutsopoulos, whose book-length treatment of music in Plato nonetheless claims that the "liberating power of music is comparable to philosophical contemplation; both lead to a kind of purification. Words and myth are the link between the two disciplines." (My translation) (Moutsopoulos, *La Musique Dans L'oevre De Platon*, 17.)

> finely crafted or finely made by nature. And since he has the right distastes, he'll praise fine things, be pleased by them, receive them into his soul, and, being nurtured by them, become fine and good. He'll rightly object to what is shameful, hating it while he is still young, and unable to grasp the reason, but, having been educated this way, he will welcome the reason when it comes and recognize it easily because of its kinship with himself. (*Republic* 401d-402a)

Music's capacity to prepare the soul to recognize its kinship with reason and its affinity to the virtues is so profound that the soul itself is said to be structured like the limiting notes of a musical scale (443d). The real musician, in turn, is identified as one who harmonizes the parts of his soul (412a; 591d). Moderation, Socrates here claims, is a kind of ordering principle akin to consonance or harmony (430e); if a man is properly trained in music, he will act with moderation and due measure in all matters (399b-c), cultivating the harmony of his body for the sake of consonance of his soul. Socrates thus determines that all just and fine actions – whether having to do with acquiring wealth, physical health or engaging in politics or private matters – are concerned with achieving and preserving this inner harmony (443e). In other words, what is at stake in musical education is nothing less than the just life.

Scholars have tended to treat these and other references to music as metaphorical. I argue instead that even in Plato's ideal city these claims are in important ways literal and practical. Music is identified as essential to developing the learning element within us (530c-531c); to be a-musical (*amousas*) is to be a hater of "reasoned speech," to be ignorant and stupid, and live one's life like a savage (411c-e). 'Experts' are thus called upon to determine the music appropriate for the educational regime; modes and rhythms are included or

excluded according to their intrinsic ethical content (398d-399c). In turn, the *polis* must guard against any innovation in music that is contrary to this established order, on the grounds that musical modes are never changed without upsetting the most important laws of a city (424c). Music is here made the defining characteristic of the well-ordered soul and the well-ordered city; the importance of music in the *Republic* indicates that our understanding of the aesthetic question in Plato is limited when narrowly construed through the old quarrel. These limitations are made unmistakable in the *Laws*, where the city in speech is literally sung into existence.

The *politeia* of the *Laws* starts from the premise that human nature is musical (2.653d): the movements of infants are the precursors to dance and song (2.665a) and it is claimed that well-measured music and musical motion habituates children to moderation (7.791a-b). The effect of music on our disposition is so deeply rooted in human nature that its power is repeatedly treated as an enchantment (2.664b-c, 665c, 666c, 671a; 7.812c, 887d; 10.903b; 12.944b) and music is thus harnessed in the service of the civic education. A musical educational curricula is established not only for the young, but is also institutionalized to extend to the whole community (2.653c-d): child and adult, male and female, slave and free, all participate in a choral education that harmonizes reason and the passions, habituates our inclinations and aversions, (2.664d, 665b, 670a-b, 671d-e; 7.812b-c) and consonance (*sumphonia*) itself is thus named virtue (2.653b-c). Music and education are so intimately connected here (1.642a) that an educated man is defined as one who sings and dances well (2.654b). Music is thus explicitly identified as the first line of defense against political and moral degeneration (3.700a-701c); everything having to do with music is highly legislated (7.798e-802e, 812a-813a, 814d-816d) and music itself is embedded in the most important institutions of the *polis*. The actual laws are thus also structured musically:

each law is supplemented with a prelude (*prooimia*) similar to the kind used in musical compositions and which acts as a kind of "preparation" for further development of the subject of the law (7.727a-734e). The structure of the entire constitution is in fact musical; music is made the primary political, juridical and educative device for bringing the characters of the population to accord with the judgments of the legislators as they are embedded in the laws (2.666d-671a, 670c-671a; 7.812c).

I thus argue that Plato creates in the *Laws* a political cosmos that is, as the Greek etymology of cosmos implies, both ordered and ornamented, both juridical and aesthetic. The *cosmos* of the *Laws* is an order concerned with the arrangement of laws and the organization of behavior into categories of legality and illegality. It describes a legal worldview and specifically juridical way of thinking and being that is wholly concerned with answering the question "what it justice?" In this sense, it is a juridical order that is profoundly shaped by, even as it gives shape to, the law. On the other hand, this *cosmos* is an aesthetic order: it describes a musical way of thinking and being that is wholly concerned with questions of beauty, pleasure and the passions. In this sense it is also an affective order that contains within it elements that cannot wholly be contained by any positive articulation of law and justice, and for this reason, it necessarily reaches beyond the juridical order of which it is co-constitutive; the *Laws* remains paradigmatically incomplete without the rest of the dialogues, on the one hand, and the reader, on the other. The same may be said of the *Republic*, and any other Platonic dialogue.

I thus want to insist along with a handful of scholars on the importance of law in Plato[15] and with another handful of scholars on the importance of music;[16] I show in this

[15] The classicist Huntington Cairns argued that Plato "took the widest possible view of law. [It] was a subject which he kept constantly before him, and there is scarcely a dialogue in which some aspect is not treated explicitly. His theory of law is a fundamental part of his general philosophy."

thesis how they are fundamentally intertwined. I argue that the limited scholarship on both topics in some ways underscores the notion that they must be understood in light of one another: *nomos* as both song and law. In order to begin to make sense of Plato's writings on music or law, scholars must grapple with this ancient worldview in which law and music are understood to share in the same intrinsic properties of order, establishment and restoration, and according to which ethics and aesthetics are governed by the same principles.

PLAN OF THE WORK

Our contemporary interpretive commitments to Platonic chronology of composition and its widely accepted associated theories of development are so strong that

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(Huntington Cairns, "Plato's Theory of Law," *Harvard Law Review* 56, no. 3 (1942).) Jerome Hall also identified law to be "the central and unifying subject of Plato's philosophy. (Hall, "Plato's Legal Philosophy." Both Cairns and Hall feature in a recent compilation of essays on Plato's relevance to modern law, in which the editor is engaged in a rehabilitative project of Plato's worth as a legal scholar and is thus interested in disabusing the widely held notions that Plato's legal philosophy is (a) dependent on metaphysical assumptions (the theory of the Forms) and (b) morally and institutionally anachronistic. (Richard O. Brooks, ed. *Plato and Modern Law* (Aldershot: Ashgate, 2007).

[16] Francesco *Pelosi's Plato on Music Soul and Body* is important in this regard. Pelosi starts from the premise that for Plato, true conditioning of the soul is an activity of the mind in which soul attempts to free itself from body. Music provides a unique insight into this schema insofar as, on the one hand, it is primarily an activity of the body, and on the other, it imparts beneficial qualities to the soul. Thus for Pelosi, "the most relevant contribution that a reflection on music offers the study of a philosophy of the mind in Plato consists in illuminating the area of intersection between psychic and physical, which in a dualist perspective tends to remain hidden." He argues that Plato identifies music as a conversion of the sensible to the intelligible; as the science of harmonics, music is preparatory to philosophical dialects, and as motion, music acts like an intervention on disturbed rationality, restoring harmony and order to soul. Pelosi thus contends that motion proves to be the "hub around which the soul-body-music dynamic in Platonic reflection rotates." (Pelosi, *Plato on Music, Soul and Body*, 114-19.) I share in Pelosi's impulses here, if not in his ultimate conclusions, that although Plato is well aware that complex interactions between musical, psychic and corporeal movement exists", there exists "no definitive explanation in the dialogues of how these interactions come to pass." (*Plato on Music, Soul and Body*, 198; 99-200.) I suggest that Pelosi is here in fact identifying a shortcoming of his own analysis, which is self-professedly limited by metaphysical concerns.

as general claims they require almost no scholarly defense. In Chapter One, "Reading Plato", I argue that these interpretive approaches seriously limit, and often distort, our understanding of Plato's thought on important topics, in particular, aesthetics and jurisprudence. Rather than insisting on a division of the dialogues into groups that are united internally, and doctrinally and philosophically distinct from one another, I argue that we should treat the dialogues as an ordered arrangement of interrelated conversations; a literary cosmos. I show in this chapter that this interpretive approach is far more consistent with how Plato's contemporaries read him; not only is there little evidence or suggestion that Plato changed his views in any significant fashion in the ancient scholarship but there is also the implicit assumption that the dialogues do not track, in chronological order, the development of Platonic philosophic doctrine. To approach the dialogues from the ancient cosmological worldview does not do away with certain significant differences or developments in and throughout the corpus; it does, however, understand those distinctions to result from the changes in perspective afforded by the cosmos itself.

In Chapter Two, "Jurisprudence and Legal Persuasion," I focus on Plato's *Apology, Crito* and *Euthyphro* alongside the forensic speeches to show that Plato's philosophical treatment of existing legal statutes and the Athenian juridical outlook is not to persuade his readers of an unconventional view of law and justice, and obedience and piety, but just the opposite. I argue that Plato is in fact concerned with recuperating, and not contesting, certain juridical aspects of Athenian citizenship. In order to see this, however, Platonic jurisprudence must be disentangled from the deliberative and agonistic schools of interpretation. I show first, via the forensic speeches, that drawing the kind of distinction that scholars normally do between applying laws and applying justice does not work in the Athenian case; the open-texturedness of the law meant that Athenians had to re-make the

laws (substantively interpret offenses like impiety) every time they engaged in disputes that required legal judgment. Second, I argue that scholars generally misunderstand the legal process to be primarily about contestation and feuding at the expense of the law. I show that this understanding has in fact led to an incorrect understanding of the charges against Socrates as well as Plato's philosophical treatment of the events surrounding the trial, along with the trial itself.

In Chapter Three, "Musical *Mimesis*", I turn to the *Republic* to advance a notion of musical *mimesis* that is widely overlooked in the scholarship. Scholars of *mimesis* all look primarily to Books 2, 3 and 10 of the *Republic* in order to articulate, on the one hand, what they think Plato meant by *mimesis* and, on the other, the compatibilities or incompatibilities between the different senses of the term which he elucidates. Almost without exception, these scholars overlook what these same books, to say nothing of the *Republic* as a whole or the rest of the corpus, have to say about music. I show that in musical *mimesis* Plato is wholly concerned with a kind of pre-rational cognitive assimilation that prepares the soul for reasoned judgment; musical *mimesis* is the precondition to *logos* (reasoned speech, account). Music is able to do this because it is not imagistic; music does not produce mediated representations but rather produces alterations in the condition of the soul itself. I argue that musical *mimesis* is thus wholly distinct from other types of *mimesis* because it is, by virtue of this similarity, necessarily a reciprocal activity; it isn't simply that music actualizes the conditions of the soul but also that the soul instantiates the conditions of music. Plato's attention to musical modes in the *Republic* thus has to do with the premise that only in musical *mimesis* does the soul experience what it does in 'real' life.

In Chapter Four, "Musical Inspiration: Plato's Muses" I turn to the importance of musical inspiration in relation to the law. The dialogue *Laws* shows that although Plato

does not want to imagine legislators or citizens dispossessed of their reason he does nonetheless envisage them inspired by the Muses. I show through the *Ion* and the *Phaedrus* that Plato's recuperation of the Muses in the service of a politically salutary inspiration involves a distinction between Homer and Hesiod. In Homer, divine inspiration is not only the gift of knowledge, but also the particular authority that factual knowledge carries; for Plato, Homeric inspiration is particularly dangerous precisely because of the affective reach and moral authority that results from this privileged understanding. In contrast, Hesiodic inspiration does not involve claims of knowledge, but rather involves a kind of musical motion or persuasion. In Hesiod, political and judicial decision-making is made a parallel activity to singing: both depend on the persuasive abilities the Muses confer on poet and magistrate alike. I argue that through Hesiod, Plato recuperates and deepens our understanding of musical inspiration as a kind of motion that has generative power; divine musical inspiration is an essential force for active juridical citizenship precisely because of its ability to illuminate, rather than replace, human understanding.

In my concluding chapter, "The Musical Constitution," I turn to the *Laws* where, I show, the rhetorical force of this dialogue's title (*Nomoi*) is embodied in a legal regime that is entirely musical. I argue that Plato is here particularly concerned with framing questions of political judgment within the broader context of political legitimacy, obligation and consent. Political obligation turns on the notion that the legitimate authority of the *polis* requires consent as it is embodied in its laws: consent is here manifest in a true legislation which is structured musically and involves extensive preludes whose function it is to persuade the citizenry of their legitimacy. I show that these preludes are musical in both the mimetic sense I delineate in Chapter Three and the inspirational/motive sense I flesh out in Chapter Four. Making persuasion integral to the law seems to suggest that the law must

appeal to our self-interest in order to be persuasive, but this is not the case when the persuasion is musical; citizens who have been correctly trained in musical motion are able to properly engage in active reinterpretation of the laws both to themselves and in the law courts. I thus return here to the questions I raised regarding the open-texturedness of Athenian law in Chapter Two to show that when legislation is structurally, mimetically, ethically and paiduetically musical, a careful, and explicit, consideration of the law provides our first and most comprehensive instruction on justice.

METHODOLOGY AND PRIMARY SOURCES

All Greek cited is transliterated and without accents. I use lemmas exclusively except when referring to the title of work; in the case of nouns, the singular and plural is also indicated where required. I have also retained the customary Latinized spelling of proper names (e.g. Socrates, not Sokrates). All Greek transliterations are from the Greek and Roman Collection archived by the Perseus Digital Library, Perseus Project, at Tufts University, available at http://www.perseus.tufts.edu/hopper/collections. All translations cited are, or derive, from the following editions:

Plato's *Alcibiades* is from Nicholas Denyer. ed. *Plato: Alcibiades* (Cambridge: Cambridge University Press, 2001); the *Euthyphro*, *Apology*, and *Crito* are from C.D.C. Reeve, *The Trials of Socrates* (Indianapolis: Hackett Publishing, 2002); the *Phaedrus* is from Robin Waterfield, Plato *Phaedrus* (Oxford: Oxford University Press, 2002); the *Laws* is from Thomas L. Pangle, *The Laws of Plato. Translated, with Notes and Interpretive Essay* (Chicago: University of Chicago Press, 1980). The remaining Platonic dialogues and texts cited, including those often considered spurious, are from those collected in John M. Cooper, ed. *Plato: Complete Works* (Indianapolis: Hackett Publishing, 1997). In the case of the *Republic*, in addition to the G.M.A. Grube translation included in the *Complete Works*, I also consult Allan Bloom, *The Republic of Plato. Translation with Notes and Interpretive Essay* (New York, Basic Books 1968).

For Hesiod, I use Glenn W. Most, *Hesiod. Theogony, Works and Days, Testimonia* (Cambridge: Harvard University Press, 2006); Homer is from Robert Fagles *Homer. The Iliad* (London: Penguin Books, 1990) and *Homer. The Odyssey* (London: Penguin Books, 1997). All of the 'musical writings' – Aristophanes *Clouds*, Athenanaeus *Deipnosophistae*, the Hibeh Papyrus, Olympiodorus *Anonymous Prolegomena to the Philosophy of Plato*, Pseudo-

Aristotle *Problems*, Pseudo-Plutarch *De Musica*, Strabo *Geography* and Timotheus – are from Andrew Barker, Greek Musical Writings: 1 (Cambridge: Cambridge University Press, 1989). Aristotle and Pseudo-Aristole are from Jonathan Barnes, *The Complete Works of Aristotle: the Revised Oxford Translation* (Princeton: Princeton University Press, 1984. Diogenes' *Lives of Eminent Philosophers* and Demosthenes' forensic speeches are from Loeb Classic Library.

All other texts are from the archived sources of the Greek and Roman Collection at the Perseus Digital Library, noted above.

CHAPTER ONE

READING PLATO

This thesis treats the Platonic corpus as a type of literary cosmos wherein the dialogues are in conversation with one another and collectively manifest a unity of Platonic philosophical ideas and intent. In particular, I assume that the dialogues are significantly different from treatises; they are the finished works of *art* of a careful writer. Individually, the dialogues give the impression that Plato always had the reader in mind. He writes to attract the reader to philosophy by not only debating issues the reader would find important but also by challenging his customary assumptions. As a whole, the corpus makes clear that Plato also used the dialogue form to seduce the reader to his own, specifically Platonic, worldview; this seduction has to do with leaving incomplete certain central philosophical doctrines in the individual dialogues which are to be completed by the reader on the one hand, and with reference to the rest of the corpus on the other. This interpretive approach, on which I have more to say below, is today referred to as the 'unitarian view,' and was the dominant way to read the dialogues up until the nineteenth century. A decisive rejection of this sensibility is the impetus for most of our contemporary interpretive commitments to Plato.

The great majority of Plato scholars now accept a set of tenets that first gained currency in the nineteenth century, namely, that Plato wrote and completed his dialogues one after another and that it is possible to order his writings chronologically into three main periods of composition: early, middle and late.[17] The assumptions and arguments

[17] With some notable exceptions discussed below, scholars accept the general division of dialogues provided by the influential classicist F.M.Cornford in the early twentieth-century. F.M. Cornford, "The Athenian Philosophical Schools," in *The Cambridge Ancient History V.6*, ed. J.B. Bury, S.A. Cook, and F.E. Adcock (London Cambridge University Press, 1927), 310-32; A.E. Taylor, *Plato: The*

that underlie these basic chronological distinctions are, in broad strokes, as follows: The 'early dialogues' – which are sometimes also described as the 'Socratic dialogues' and include such works as the *Apology, Charmides, Crito, Euthyphro, Gorgias* and *Ion* – depict the historical Socrates much as he would have been at Athens. They trace the trajectory of Socrates' own philosophic life in its inception, in *elenchic* discussions with the young men who congregated around him, at his trial and in the days before his death. As Plato himself grew to be philosophically independent of Socrates' teachings and founded the Academy, he wrote the dialogues that comprise his 'middle period', such as the *Cratylus*, *Phaedo*, *Phaedrus, Republic,* and *Symposium*. In these works Plato puts his own positive philosophical teachings, most notably the three-part-schema of the soul and the theory of the Forms, in the mouth of Socrates.[18] Finally, in the dialogues that comprise Plato's 'late period' – the *Parmenides, Theaetetus*, *Sophist, Statesman* and *Laws* – Plato presents his more mature philosophical understanding, for the most part, in the mouths of non-Socratic spokesmen. The general consensus is that these dialogues challenge the theory of the Forms either directly or in their noticeable absence and thus indicate a change in Plato's philosophical views.

Scholars working from the chronology of composition approach agree that there are important doctrinal differences between the early, middle and late dialogues and most

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Man and His Work (London: Methuen & Co., 1929); W.K.C. Guthrie, *A History of Greek Philosophy, 6 Vols.* (Cambridge Cambridge University Press, 1962-1981), 4: 48-52; C.C.W. Taylor, "The Origins of Our Present Paradigms," in *New Perspectives on Plato, Modern and Ancient*, ed. Julia Annas and Christoper Rowe (Cambridge: Harvard University Press, 2002).

[18] Scholars sometime suggest that Book 1 of the *Republic* was written earlier than the rest of the dialogue, and that it is only after Book 1 in the dialogue that Plato moves on to elaborate his own vision, which in turn rejects several Socratic teachings. See C.D.C. Reeve, *Philosopher-Kings: The Argument of Plato's "Republic"* (Princeton: Princeton University Press, 1988); Gregory Vlastos, *Socrates, Ironist and Moral Philosopher* (Ithaca: Cornell University Press, 1991), 46-47. For an opposing view see Charles H. Kahn, "Proleptic Composition in the *Republic*, or Why Book 1 Was Never a Seperate Dialogue," *Classical Quarterly* 43(1993).

specifically that these differences relate to the accounts of a deeper psychology and new metaphysics Plato offers in the middle dialogues.[19] First, they argue that the more complicated psychology afforded by the tripartite division of the soul in the *Republic* (and *Phaedrus*) indicates Plato's rejection of the Socratic thesis that 'virtue is knowledge'. On these understandings, Plato's partition of the soul provides a "phenomenology of deliberative conflict" wherein the passions can either come into conflict with reason to produce negative results (vice, weakness of the will, etc.) or work in concert to produce virtuous action.[20] Second, and interrelated, the Forms provide Plato with an entirely stable intelligible world over and above the sensible, and ethically dangerous, world of particulars. Rational philosophical exposition through dialectical engagement provides access to the intelligible world, harnessing the ideal in the service of moral excellence, thereby mitigating the morally and politically pernicious consequences brought to bear by acting upon our irrational desires.[21] On these understandings, both the ideal city of the *Republic* and the 'second best' city of the *Laws* are made possible; the discrepancies between the two in fact indicate that Plato's political thought was driven by an increasing pessimism about the

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[19] Thus, Cooper's thesis on the moral theory of the middle dialogue is that they "definitely abandon the craft analogy and many of its more obnoxious sequelae – the merely instrumental character of the virtues, the Socratic paradox of incontinence, the exclusively cognitive conception of virtue, the "good-dependence"of all desires." John Cooper, "The *Gorgias* and Irwin's Socrates," *The Review of Metaphysics* 35, no. 3 (1982). Many of these issues are fleshed out in particular though the *Gorgias* which is believed to be a "transitional" dialogue between the early and middle periods. See Vlastos, *Socrates, Ironist and Moral Philosopher*, 86-91; George Klosko, "The Insufficiency of Reason in Plato's *Gorgias*," *The Western Political Quarterly* 36, no. 4 (1983); Christina Tarnopolsky, *Prudes, Perverts and Tyrants* (Princeton: Princeton University Press, 2010), 35-38.

[20] Christopher Bobonich, "Plato on Akrasia and Knowing Your Own Mind," in *Akrasia in Greek Philosophy: From Socrates to Plotinus*, ed. Christopher Bobonich and Pierre Destree (Leiden: Koninklijke Brill NV, 2007), 41.

[21] See the general discussion in Terry Penner, "Socrates," in *The Cambridge History of Greek and Roman Political Thought*, ed. Christoper Rowe and Malcolm Scholfield (Cambridge: Cambridge University Press, 2006); Christoper Rowe, *Plato and the Art of Philosophical Writing* (Cambridge: Cambridge University Press, 2007), 41.

possibility of human excellence given his own insights about the complexities of human moral psychology.[22]

The chronology of composition is thus significant insofar as it provides an essential interpretive key to understanding the dialogues either because (a) Plato's thought changed as he matured as a philosopher (the so-called 'developmental' or 'revisionist' theses)[23] or

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[22] This pessimism is usually understood to stem from Plato's involvement at Syracuse, where he is believed to have first traveled at the invitation of the tyrant Dionysius (c.430-367BCE). In the *Seventh Letter*, Plato tells us that although his meeting with Dionysius had little reformatory effect – he advised him to cease ruling as a tyrant and instead establish a regime of laws – Plato at this time met his brother-in-law, Dion, who subsequently became a student of Plato's. After the tyrant's death, his son, Dionysius II inherited his rule and seemed to aspire to become more of an enlightened despot than his father: he cut taxes, released unjustly confined prisoners and made Dion a political advisor. It was during this period that Dion invited Plato to return to Syracuse and assist in educating Dionysius II to philosophy. (328a-b) Plato returned to Syracuse in 367, at which time he gave Dionysus the same advice he had given his father, namely, to cease completely being a tyrant and set up a legal regime (331d-e; 334c-d) Factions within the court threatened by Dion's influence over Dionysius, however, managed to turn the tyrant against his uncle and secure the latter's exile. Plato was placed under house arrest for some time, but the young tyrant valued what Plato thought of him and eventually set him free. Six years later, Dionysius II sent emissaries to Athens to convince Plato to return to Syracuse; the emissaries were told to report on Dionysius' progress in philosophy as well as deliver a veiled threat against Dion should Plato refuse their invitation. In 362 Plato traveled to Syracuse and was once again quickly embroiled in court intrigue. He returned to Athens and related the events of his trip to the still-exiled Dion, who formed a plot to invade and liberate Syracuse, and in fact, subsequently successfully forced Dionysius out of Syracuse with the help of Plato's students at the Academy (although not Plato himself). Heraclides took over for a period during which time Dion was once again exiled. In turn, when Dionysius tried to retake Syracuse, Dion returned to thwart him and again took power. Following his assassination in 353 Dion's followers fled to Leontini; it was their request for Plato's advice that motivated the Seventh Letter. (see Debra Nails, "The Life of Plato of Athens," in *A Companion to Plato*, ed. Hugh H. Benson (Malden: Blackwell Publishing, 2006), 6-10; Gregory Vlastos, "Socratic Knowledge and Platonic 'Pessimism'," *Philosophical Review* 66(1957): 226-38.) Klosko maintains that Plato had lost the idealism of the *Republic* before he traveled to Syracuse and that part of his intention with the *Laws* was to effect real reform there. (Klosko, *The Development of Plato's Political Theory*, 185-88, 238-40.) Schofield, who remains skeptical about the authenticity of the *Seventh Letter*, assesses Plato's involvement at Syracuse through an examination of the extant evidence. (Malcolm Scholfield, "Plato and Practical Politics," in *The Cambridge History of Greek and Roman Political Thought*, ed. Christoper Rowe and Malcolm Scholfield (2005), 293-302.)

[23] Scholars working in the analytic tradition, and focusing on methodology or logical argumentation, claim, for example, that Plato's mature thought evinces a rejection of the theory of the Forms and a turn towards linguistic analysis. They focus in on the arguments, or methods of arguments, used to support or invalidate a thesis, rather than the project of establishing doctrines in order to work out doctrinal distinctions between the early, middle and late dialogues. Two classical examples of this approach are Gwilym Owen, "The Place of the *Timaeus* in Plato's Dialgues,"

because (b) the early dialogues prepare the reader for understanding the doctrines advanced in the middle period, most particularly the *Republic* (the so-called '*proleptic* thesis', taken from the Greek *prolepsis*, meaning "the anticipation of things to come")[24]. On either view, dating the dialogues chronologically according to when Plato wrote them helps explain what the more so-called 'unitarian' readings – which assume a unity of philosophic doctrine and continuity of purpose across the corpus – apparently cannot.[25]

Classical Quarterly 3(1953)., and Gregory Vlastos, "The Third Man Argument in the Parmenides," *Philosophical Review* 63(1954).) In his later and widely influential book, *Socrates, Ironist and Moral Philosopher*, Vlastos charts the course of Plato's development accordingly in order to claim that it is possible to recover within limits the views and arguments of the historical Socrates in the early dialogues. He writes, "Plato makes [Socrates] say whatever he – Plato – thinks at the time of writing would be the most reasonable thing for Socrates to be saying just then in expounding and defending his own philosophy." (*Socrates, Ironist and Moral Philosopher*, 50 (his emphasis).) Morrison makes a strong case against Vlastos, that although the basic historical facts of the trial as they are 'reported' in the Apology are reliable, there is no reason to suppose the dialogue provides us with Socrates' actual arguments. (Donald Morrison, "On the Alleged Historical Reliability of Plato's *Apology*," *Archiv fur Geschichte der Philosophie* 82(2000).)

[24] Charles Kahn is the scholar most often associated with the proleptic thesis. At one time he distinguished the early dialogues (*Apology, Crito, Ion, Hippias Minor, Gorgias* and *Menexenus*) from the what he termed the pre-middle dialogues (*Laches, Charmides, Lysis, Euthydemus, Protagoras, Euthyphro* and *Meno*) from the middle dialogues (*Symposium, Phaedo, Republic*) on the grounds that a major function of the pre-middle dialogues is to prepare the reader to receive and understand the doctrines espoused in the middle period dialogues. (see Charles H. Kahn, "Did Plato Write Socratic Dialogues?," *Classical Quarterly* 31, no. 2 (1981); "Plato's Charmides and the Proleptic Reading of Socratic Dialogues," *The Journal of Philosophy* 85, no. 10 (1988). For a critical assessment of Kahn's views see Charles L. Griswold, "Unifying Plato: Charles Kahn on Platonic Prolepsis," *Ancient Philosophy* 10(1990).) More recently, Kahn revised his arrangement of the dialogues into three chronological groups – early, middle and late – but without any claims to chronology of composition within each group. Rather than call this interpretation strictly proleptic, Kahn here prefers ingressive: the dialogues in his Group 1, which roughly include his previous 'early' and 'pre-middle' division, are arranged according to "various degree of ingress into the Platonic thought-world that finds its fullest expression in the *Republic*." (Charles H. Kahn, *Plato and the Socratic Dialogue* (Cambridge: Cambridge University Press, 1996), 48, and more generally 36-70. Also see "On Platonic Chronology," in *New Perspectives on Plato, Ancient and Modern* ed. Julia Annas and Christoper Rowe (Cambridge: Harvard University Press, 2002)., and the critical assessment of Kahn's views by Charles L. Griswold, "Comments on Kahn," in *New Perspectives on Plato, Modern and Ancient* (Cambridge: Harvard University Press, 2002).) George Klosko, who firmly positions himself "in the development camp" nonetheless argues for a proleptic view of the early dialogues. (Klosko, *The Development of Plato's Political Theory*, 19-21.)

[25] Until recently, the most notable challenge to the development hypothesis from the so-called 'unitarian' view was Paul Shorey, *The Unity of Plato's Thought* (Chicago: The University of Chicago Press, 1903)., followed by F.M. Cornford, *Plato's Theory of Knowledge* (London: Routledge, 1935). For

To support both the importance of dating the dialogues, and the interpretive claims the dating is supposed to help substantiate, scholars appeal to three main types of empirical evidence: ancient sources, textual references within the dialogues and 'stylometric' analyses. First, in terms of the ancient evidence, scholars refer to Aristotle, who reports that the *Laws* was written after the *Republic*, a claim repeated by two other ancient authorities, Diogenes Laertius and Olympiodorus, who add that the *Laws* was left unrevised on wax tablets at the time of Plato's death.[26] On this evidence it is almost universally accepted that Plato wrote the *Laws* last. Second, the evidence presented within the fictional frame of the dialogues themselves is of two sorts: certain dialogues make reference to historical events thereby providing a fixed date only after which they could have been written while others refer implicitly or explicitly to other dialogues and are thus believed to have been composed after the dialogue to which they refer.[27] Finally, and perhaps most significantly in terms of contemporary scholarship, stylometry, or the statistical method used to measure stylistic features of the dialogues – such as reply formulas, unique appearances of words, avoidance of hiatus (when a word that begins with a vowel follows a word that ends with a

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more recent studies offering a 'unitarian' reading see Timothy Shiell, "The Unity of Plato's Political Thought," *History of Political Thought* 12, no. 3 (1991); Rowe, *Plato and the Art of Philosophical Writing*.

[26]Aristotle, *Politic*s 2.6.1264b-26-77; Diogenes, *Live of Eminent Philosophers*, 3.3.7; Olympiodorus, *Anonymous Prologemena to the Philosophy of Plato*, 6.24.

[27] In terms of historical dates internal to the dialogues, the *Symposium*, for example, alludes to the King's Peace of 386 BCE (182b) and to the Spartan division of Arcadia in 385 (193). In terms of dialogues explicitly referring to one another, the *Statesman*, for example, is believed to have been written after the *Sophist* because it refers to it on several occasions (257a, 258b, 266d, 284b, 286b). (Martin Ostwald, ed. *Plato: Statesman* (Indiannapolis: Hackett Publishing Co., 1992), vii-viii.) Implicit in this understanding is that dialogues only 'refer back' to other dialogues in terms of chronology of composition. Scholars generally discount the possibility that a dialogue may contain an implied reference to a dialogue written after. (See, for example Kahn, "On Platonic Chronology," 95n.4.)

vowel) – claims to be able to track the gradual and sudden changes in Plato's writing style, and thus provide the chronological order in which he wrote his dialogues.[28]

Our contemporary interpretive commitments to Platonic chronology of composition are so strong that as a general claim they require almost no scholarly defense.[29] To wit, the controversy surrounding both the methods that should be used in this ordering and the implications of the ordering in our understanding of Plato not only constitutes a vast body of scholarship unto itself, but remains relevant in a not ancillary fashion to the most recent, and philosophically disparate, interpretations of Plato.[30] Recently, however, a

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[28] Gerard R. Ledger, *Recounting Plato, a Computer Analysis of Plato's Style* (Oxford: Oxford University Press, 1989); Leonard Brandwood, "Stylometry and Chronology," in *The Cambridge Companion to Plato*, ed. Richard Kraut (Cambridge: Cambridge University Press, 1992); Charles M. Young, "Plato and Computer Dating: A Discussion of Gerrard R. Ledger, Recounting Plato: A Computer Analysis of Plato's Style and Leonard Brandwood, the Chronology of Plato's Dialogues," in *Oxford Studies in Ancient Philosophy*, ed. C.C.W. Taylor (Oxford: Oxford University Press, 1994), 227-50.

[29] This is not to say, of course, that alternative interpretive lenses have not also always existed alongside the chronology of composition theses, simply that they have not, as Dustin Gish wants to claim, "discredited" this more dominant and mainstream view. (Dustin Gish, "Platonic Dialogues, Socratic Inquiries: A Symposium on *Plato's Philosophers*," *Perspectives on Politics* 40(2011).) Nonetheless, the influence of Leo Strauss and Jacques Derrida, for example, both instrumental in making relevant to our understanding of the dialogues the "literary and dramatic details as well as the conceptual arguments [within]" should not be undermined. (Danielle Allen, "Platonic Quandries: Recent Scholarship on Plato," *Annual Review of Political Science* 9(2006).) As Strauss himself originally put it, an "adequate understanding of the dialogues understands the 'content' in light of the 'form'," or, later, "the argument [in light of] the action." (see Leo Strauss, "On a New Interpretation of Plato's Political Philosophy," *Social Research* 13, no. 4 (1946): 352; *The Argument and Action of Plato's Laws*; Jacques Derrida, "Plato's Pharmacy," in *Dissemination* (Chicago: Chicago University Press, 1981).)

[30] Thesleff, for example, who argues against the traditional chronological arrangements of the dialogues does not challenge the fundamental premises of Platonic chronological investigation per se. (Holger Thesleff, "Platonic Chronology," *Phronesis* 34, no. 1 (1989).) Kahn believes the prolonged and continuing endeavors to establish a linear ordering of the entire corpus has now undermined scholarly confidence in the "one solid, objective or at least, reliably inter-subjective" result of the chronological studies since the nineteenth century, namely, the division of the dialogues into early, middle and late writing periods. (see n.7; Kahn, *Plato and the Socratic Dialogue*, 42-48.) Recent scholarship that both assumes the importance of the chronology of composition for its substantive claims and seeks to advance the debate accordingly includes Christopher Bobonich, *Plato's Utopia Recast* (Oxford: Clarendon Press, 2002); Tarnopolsky, *Prudes, Perverts and Tyrants* esp.35-38.

re-examination of the ancient evidence has raised serious questions about the validity of the assumptions and arguments that underlie these basic chronological distinctions, as well as the conviction of their fundamental interpretive importance.[31]

First, Aristotle merely claims that Plato wrote the *Laws* after the *Republic* and not that it was Plato's last work. Diogenes and Olympiodorus also only claim that the *Laws* was left unrevised on wax tablets at the time of Plato's death, meaning that it was not transcribed. Scholars have thus pointed out that we cannot take these claims to mean that Plato wrote the *Laws* last without the prior, speculative, assumption that Plato had his dialogues transcribed as he completed them. Moreover, there is also ancient evidence which suggests that Plato was in the habit of repeatedly reworking different passages of different dialogues, and thus would likely have preferred to work in wax, which is easily erasable. In *On Literary Composition*, Dionysus of Halicarnassus writes, "Plato did not leave off combing and curling and in every manner replaiting his dialogues, even at eighty years of age. Doubtless the stories about the man's love of labor are familiar to every lover of speeches, especially, among others, the ones about the tablet which they say was discovered when he died, with the beginning of the *Republic* set down in manifold ways."[32] Diogenes also mentions the claims of earlier commentators that various versions of the beginning of the *Republic* were discovered after Plato's death. Thus second, if Plato did indeed rewrite his dialogues throughout his life, stylistic and stylometric patterns would not be evidence of

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[31] Jacob Howland, "Re-Reading Plato: The Problem of Platonic Chronology," *Phoenix* 45, no. 3 (1991): 189-214; Kenneth Dorter, *Form and Good in Plato's Eleatic Dialogues* (Berkeley: University of California Press, 1994); John M. Cooper, ed. *Plato Complete Works* (Indianapolis: Hackett, 1997), vii-xxvi; Harold Tarrant, *Plato's First Interpreters* (Ithaca: Cornell University Press, 2000); Catherine H. Zuckert, *Plato's Philosophers* (Chicago: Unversity of Chicago Press, 2009), 1-5; Harvey Yunis, *Plato: Phaedrus* (Cambridge: Cambridge University Press, 2011), 23-24.

[32] *On Literary Composition*, 25. Quoted in Howland, "Re-Reading Plato: The Problem of Platonic Chronology," 202.

the date of composition of any given dialogue or of chronological groupings of dialogues.[33] Finally, scholars note that, on the one hand, none of the ancient sources ever mention that Plato changed his views, while on the other, Aristotle claims that Plato consistently defended the theory of the Forms throughout his life.[34]

Certain scholars have thus embarked on finding alternative interpretive postures that might account for the organization, character and content of the Platonic corpus. Most recently, for example, some have turned to the historical dates internal to the dialogues themselves either to advocate a reading of history back into the dialogues no matter the range of interpretations, or to use the dramatic dating of the dialogues in order to organize the entire corpus.[35] Others are engaged in stichometric analyses – most particularly the counting of lines in each dialogue – to show that Plato made mathematical arrangements of his philosophical concepts and arguments within each dialogue and consistent to the

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[33] This may help explain why, as Kahn notes, stylometric analyses have struggled with how to place the dialogues into the traditional early- middle -late groupings since "the intermediate group defined stylistically includes both the *Parmenides* and the *Theaetatus*, which are generally counted as 'late' from a developmental point of view. On the other hand, the 'early' group includes the *Symposium, Phaedo* and *Cratylus*. A traditional developmentalist who recognizes that the stylistic division is chronological must simply accept the fact that Plato's stylistic and philosophical developments do not proceed at the same pace." (Kahn, "On Platonic Chronology," 100.) For criticisms of various aspects of stylometric methodology see also Young, "Plato and Computer Dating: A Discussion of Gerrard R. Ledger, Recounting Plato: A Computer Analysis of Plato's Style and Leonard Brandwood, the Chronology of Plato's Dialogues," 243-50. I also want to note that whereas the *Cambridge Companion to Plato* includes a full essay on stylometry, both *Blackwell's Companion to Plato* and the *Oxford Handbook of Plato* are significantly more reserved: the latter in particular includes an article by T. H. Irwin in which he shows several problems of a chronological order based on stylistic measurements. (T.H. Irwin, "The Platonic Corpus," in *The Oxford Handbook of Plato*, ed. Gail Fine (Oxford: Oxford University Press, 2008).)

[34] Dorter, *Form and Good in Plato's Eleatic Dialogues*, 3-5; Zuckert, *Plato's Philosophers*, 4.

[35] For a detailed prosopography see, Debra Nails, *The People of Plato* (Indianapolis: Hackett Publishing Company, 2002). For the dramatic dating of the whole corpus, see Zuckert, *Plato's Philosophers*., and the articles included in a Symposium on Zuckert's book: Robert Kraynak, "A Revolution in Plato Scholarship," *Perspectives on Politics* 40, no. 4 (2011): 188-91; Mary P. Nichols, "Plato's Socrates: One among Many, but Preeminent," ibid.450: 186-87; Christina Tarnopolsky, "Deciphering the Socratic Narrative in Plato's Philosophy," ibid.40: 192-96; Gerald Mara, "The Drama of Philosophy," ibid.: 200-04; Arlene Saxonhouse, "Homeric Resonances," ibid.: 205-08.

corpus.[36] This thesis is based on a strategy of reading borrowed from the ancient and pre-19th century sources that involves recognizing where the dialogues themselves invite reference to other dialogues or where they require other dialogues for the sake of coherence. I claim that each dialogue is both a unity unto itself and necessarily incomplete without the rest of the corpus, on the one hand, and without the reader, on the other.

In this same spirit, the Hackett edition of *Plato: Complete Works* follows the first century AD arrangement of the Platonic dialogues by Thrasyllus of Alexandria, a court astrologer and philosopher from Egypt.[37] Thrasyllus arranged Plato's writings into nine tetralogies (groups of four works each) beginning with the *Euthyphro* and ending with the *Letters*, to which he also appended a group of 'spurious' works that presumably circulated under Plato's name but that he judged to be written by others. The tetralogies and their order do not appear to be determined by any single criterion – some appear to be grouped together by subject matter, others by style – and they do not claim to present the dialogues in any supposed order of their composition by Plato. Instead, Thrasyllus' arrangement treats the dialogues as philosophic dramas by arranging them into tetralogies like those of the tragic poets who competed at the festival Dionysia with three tragedies and a satyr-play.[38] It is from Thrasyllus' arrangement that we derive all of our medieval editions of

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[36] Most recently, J.B. Kennedy has used stichometric analysis to argue for a underlying musical structure to Plato's dialogues. His analysis claims to reveal that each dialogue can be divided into twelve-note musical scale, and that the passages that accord with each note are relatively harmonious or dissonant. Kennedy's claims accord with many of the ancient sources, who insist that Plato used Pythagorean 'musical' symbols to conceal his own views within the dialogues. See J.B. Kennedy, "Plato's Forms, Pythagorean Mathematics, and Stichometry," *Apeiron* (2010); *The Musical Structure of Plato's Dialogues*.

[37] Cooper, *Plato Complete Works*, vii-xxvi; esp.xii-xviii.

[38] Diogenes, *Lives of Eminent Philosophers*, 3.56-6.

1. *Euthyphro, Apology, Crito, Phaedo*
2. *Cratylus, Theaetatus, Sophist, Statesman*

Plato, and most notably Marsilio Ficino's Latin translations first published in 1484, which includes all of the works included in the tetralogies (save the *Clitophon*) but not in the same order.[39] I want to note that Thrasyllus' treatment of the dialogues as interconnected philosophical dramas follows the ancient interpretative tradition that the Platonic corpus as a whole constituted a well-ordered arrangement of interrelated conversations, a type of literary cosmos.[40] This interpretive attitude, in which this thesis partakes, is derived from

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3. *Parmenedis, Philebus, Symposium, Phaedrus*
4. *Alcibiades*, Second Alcibiades*, Hipparchus*, Rival Lovers**
5. *Theages*, Charmides, Laches, Lysis*
6. *Euthydemus, Protagoras, Gorgias, Meno*
7. *Greater Hippias, Lesser Hippias, Ion, Menexus*
8. *Clitophon, Republic, Timaeus, Critias*
9. *Minos*, Laws, Epinomis**, the 13 *Letters**

Following Cooper, the asterisks indicate those dialogues that are now generally agreed upon to be written by someone else, and the first *Alcibiades*, *Letters* and *Minos,* on which there is no consensus. (Cooper, *Plato Complete Works*, v-vi.) The *Alcibiades* and *Minos* were considered authentic not only by Thrasyllus but every other commentator until the 19th century. The *Mino*s was also explicitly included in the first known organization of fifteen dialogues in the Platonic corpus by Aristophanes of Byzantium somewhere around 200 BCE; Thrasyllus' more inclusive organization of the entire corpus is understood as an intentional improvement on this first grouping. I discuss the *Alcibiades* and *Minos* further below.

[39] Marsilio Ficino (1433-1499) plays a significant role not only in the history of Western Platonism but concomitantly in the history of Western music theory and Plato's influence therein. Under the auspices of his patron Cosimo de' Medici, Ficino founded the Florentine Academy, the earliest known school of Platonism in modern Europe. He was the first to translate the entire Platonic corpus into Latin, bringing the dialogues, which had been lost to the West for some one thousand years, to a significantly wider audience. In addition to his translations (to which he also appended his own commentaries) Ficino published among other original works his own *De vita comparanda*, or, *Three Books on Life*. This work, which offers a systematic explanation of the connections between planetary harmonies, musical modes and bodily temperaments, became the *locus classicus* for sixteenth- and seventeenth- century discussion of the effects of music on human character. (see Paul Oskar Kristellar, *Studies in Renaissance Thought and Letters*, vol. III (Rome: Edizioni di Storia e Letteratura, 1993), 96-98; Gary Tomlinson, *Music in Renaissance Magic* (Chicago: Chicago University Press, 1993), 84-89; Penelope Gouk, "The Role of Harmonics in the Scientific Revolution " in *The Cambridge History of Western Music Theory*, ed. Thomas Christensen (Cambridge University Press, 2002), 225-29.)

[40] I am not unique in using the term 'literary cosmos. ' Howland uses this term as I do in reference to the *Anonymous Prolegomena to Platonic Philosophy* where Olympiodorus claims that Plato chose to write in dialogue form "because the dialogue is a kind of cosmos." (Howland, "Re-Reading Plato: The Problem of Platonic Chronology.") For Griswold, each individual dialogue is a literary cosmos, given that "the degree of unity they possesses individually is greater than that evinced by the

three main assumptions about the dialogue form in which Plato chose to write, of which the first two are wholly compatible with any of the interpretive postures previously discussed, whereas the last one is not.

First, the dialogues were themselves understood to imitate, as closely as possible, the complexity of actual philosophic conversations. As Diogenes puts it, the dialogues are "composed of questioning and answering concerning some philosophical or political matter, together with the fitting delineation of the disposition of the dramatic characters who are introduced and the rendition of diction."[41] In other words, the dialogue form enters into the philosophical and political meanings of the conversation itself. Thus to understand the dialogue is to grasp it as a whole conversation, with distinct participants whose individual dispositions and proclivities enter into, and are revealed by, how they respond to one another.

Second, insofar as Plato chose to practice philosophy through writing, the dialogues were also understood to be pedagogical instruments designed by him to provoke the souls of his readers, the very provocation of which entered into his (the reader's) understanding of the dialogue. In his *Anonymous Prolegomena to Platonic Philosophy* Olympiodorus writes, "so the dialogue also has its characters, the questioners and the questioned, and our soul, sitting in judgment, now sides with the questioners, now with the questioned."[42] The pedagogical function of the dialogue has to do with its *aporetic* nature: the dialogues are meant to educate the reader to correct activity of political judgment through participation in continual questioning rather than through seeking definitive

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corpus, the primary object of interpretation is the individual dialogue." (Griswold, "Comments on Kahn," 130, 34.) I have more to say on the importance of a 'cosmological' approach below.

41 Diogenes, *Lives of Eminent Philosophers.*

42 Olympiodorus, *Anonymous Prolegomena to the Philosophy of Plato.*

answers. To understand the unity of any single dialogue as a whole conversation thus also involves understanding the ways in which the dialogue points beyond itself – most fundamentally, to the reader – and necessarily remains paradigmatically incomplete.

Finally, ancient commentators also observed that conversations in certain dialogues are explicitly linked to one another as parts of the greater Platonic literary cosmos. They thus adopted a reading strategy whereby the interpretation of passages in one dialogue could be supported with reference to different parts of the corpus on the assumption that Plato intended this; it was ultimately the entire *corpus* with which the reader was engaged and must interpret. In the same passage of the *Prolegomena* cited above, Olympiodorus writes, "For in the same way as a dialogue has different personages each speaking in character, so does the universe comprise existences of various natures expressing themselves in various ways; for the utterance of each is according to its nature. It was in imitation, then, of God's creation, the cosmos, that [Plato] did this. Either this is the reason, or it is that the cosmos is a kind of dialogue."[43] Thus, although the ancient commentators certainly speculated about when Plato wrote his dialogues, their interpretive 'lens' was the model of the greater cosmos: the cosmos in which the dialogues participated and which they imitated. This so-called 'unitarian' sensibility carried on through the Middle Ages to the Renaissance Platonists, the writings of Jean-Jacques Rousseau and through to the nineteenth century.[44]

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[43] *Anonymous Prolegomena to the Philosophy of Plato*

[44] Diogenes recounts that Plato wrote tragedies and poems in his youth, and that is was at the festival Dionysus that Plato first heard Socrates speak, and "consigned his poems to the flames." He also makes reference to an anonymous story that the *Phaedrus* was Plato's first dialogue "for the subject matter has about it something of the freshness of youth." (Diogenes, *Lives of Eminent Philosophers*.) Marsilio Ficino, for whom Diogenes was an important authority on the ancients, believed the *Phaedrus* to be Plato's first dialogue: "Our Plato was pregnant with the madness of the

My insistence on reading the dialogues from a more 'unitarian' view thus starts from the premise that this interpretive approach is more substantively consistent with the aforementioned dialogical, pedagogical, and cosmological understandings underlying the ancient (and pre-modern) readings of Plato. This interpretive lens has significant intellectual purchase: it should (a) help us understand the ways in which the dialogues were received at the time of writing, or within the proximal future; (b) provide some understanding of the way in which Plato expected his dialogues to be read at least at the Academy; and (c) help us identify certain conceptions as foreign to Plato and his contemporaries, and thus make us aware of having them bear significantly upon, and thus distort, our interpretations of the texts.

The so-called spurious works often discounted as bearing in any significant sense on our understanding of Platonic political philosophy take on a renewed relevance here that helps underscore the point. Although these works were included as part of the Platonic corpus up until the nineteenth century, modern scholarship largely focuses on them to the extent that it can prove or disprove their authenticity in and through chronology of composition. I argue that whether or not Plato wrote these texts is surely relevant, but even on the assumption that Plato did not write them, these texts are valuable to us as historical sources because they are among the first sophisticated philosophical

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poetic Muse whom he followed from a tender age or rather from his Apollonian generation. In his radiance, Plato gave birth to his child, and this was itself almost wholly poetical" (Michael J.B. Allen, ed. *Marsilio Ficino: Commentaries on Plato, Vol 1: Phaedrus and Ion* (Cambridge: The I Tatti Renaissance Library, Harvard University Press, 2008), xv-xvi.) Ficino also believed the *Meno* and the *Phaedo* were written in Plato's youth, but in ordering the dialogues he preserved Thrasyllus' placement of the Phaedrus as the fourth member of the third tetralogy, which included the *Parmenedes*, *Philebus,* and *Symposium*. In choosing to follow Thrasyllus' schema, Ficino thus appears to have made an interpretive commitment: as the 'satyr-play' of the tetralogy, the *Phaedrus* is the dialogue which preserves the link to the origins of tragedy in rituals honoring the god Dionysus.

interpretations of Platonic political philosophy from within the Academy.[45] In other words, even if these texts are spurious they manifest concretely the dialogical and pedagogical aspects of Platonic interpretation detailed above. I refer to three of these so-called spurious works, namely *Definitions*, the *Alciabiades I* (hereafter simply *Alcibiades*) and the *Minos*, in this thesis.

Definitions is a philosophical dictionary that scholars uniformly agree was likely written by members of the Academy rather than Plato himself.[46] It consists in philosophical terms organized into the three branches of philosophy recognized by the Academy (nature, ethics, knowledge and language) followed by a list of non-classified terms, some of which are drawn directly from Plato's dialogues (for example the definition of a sophist at 415c from the *Sophist* at 231d). The text of *Definitions* thus not only refers directly to other dialogues understood to be unquestioningly written by Plato, but is also in keeping with the systematic approach to definition by collection and division advocated in the *Phaedrus* (and practiced explicitly in the *Sophist* and *Statesman*). Although *Definitions* is largely ignored by developmental scholars on account of its spurious nature, it nonetheless puts into practice what these same scholars understand to be Plato's own positive philosophical teachings from his middle period; it provides a concrete manifestation of the practice of dialectics advocated in the very dialogues that the developmental theses claim to be central to Platonic philosophy. I want to note that *Definitions* is not in dialogue form; as such it is also a useful resource insofar as it provides a clear indication of some of the philosophical vocabulary in use at the Academy. This is no small contribution given that ancient Greek

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[45] Thomas L. Pangle, "Editor's Introduction," in *The Roots of Political Philosophy: Ten Forgotten Socratic Dialogues* ed. Thomas L. Pangle (Ithaca: Cornell University Press, 1987).

[46] D.S. Hutchison, "Definitions," in *Plato Complete Works*, ed. John M. Cooper (Indianapolis: Hackett Publishing Co., 1997).

words can hold multiple meanings (the dual notion of *cosmos* as ordered and ornamented and of *nomos* as law and song are but two examples) and that Plato both contributed to expanding the meaning of conventional language while also inventing new words.[47]

Unlike *Definitions*, the dialogue *Alcibiades* was up until the 19th century assumed to be an authentic work of Plato's and held a significant place in the corpus. The dialogue depicts a philosophical seduction: Socrates here attempts to get a young Alcibiades to enter the philosophic life through a cultivation of the self, a philosophical self-shaping (*askesis*). Ancient commentators such as Iamblichus believed the dialogue contained the "seed" of all Platonic wisdom; Olympiodorus regarded it as the essential introduction to the corpus and wrote an extensive commentary on it, as did Proclus, who claimed of the *Alcibiades*, "Let this then, be the start of philosophy and the teaching of Plato, the knowledge of ourselves."[48] By late antiquity, the standard view of the text was that it contained "the general, unitary and comprehensive outline of the whole of [Plato's] philosophy."[49]

Some of the importance of the dialogue certainly had to do with the historical personage Alcibiades, who figured in a not incidental way in Socrates' life and at Athens more generally. Alcibiades was a famous Athenian politician and general in the Peloponnesian war, during which time he was accused of crimes against Athens, defected to the Spartan side, and later became a double-agent in the Persian wars alternatively

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[47] Plato is famously known for coining terms ending in *–ike* to denote specific verbal arts or skills: in particular, he is believed to have coined the term *rhetorike*, likely in the process of composing the *Gorgias*. (Edward Schiappa, *Protagoras and Logos: A Study in Greek Philosophy and Rhetoric* (Columbia: University of South Carolina Press, 2003), 39-53; Jeffrey Arthurs, "The Term Rhetor in Fifth- and Fouth-Century B.C.E. Greek Texts," *Rhetoric Society Quarterly* 23, no. 3/4 (1994).)

[48] Iamblichus, 72-72; Olympiodorus 10.18-11.6; Proclus 11.1-21 The ancient commentators were also critical: other dialogues such as the *Eryxias* and *Axiochus* were deemed inauthentic. See Diogenes, *Lives*, 3.62 and Nicholas Denyer, ed. *Plato: Alcibiades* (Cambridge: Cambridge University Press, 2001), 14.

[49] Proclus 12

helping to bring devastation and glory to Athens. Association with Alcibiades thus brought both goodwill and hostility: in the *Frogs*, Aristophanes writes of the Athenian attitude towards Alcibiades, "They long for him, they loathe him, they want to have him."[50] In the *Accusation of Socrates*, written following Socrates' trial and execution, the sophist Polycrates claimed that Alcibiades had been Socrates' pupil and that his "spectacular corruption" was living proof that Socrates had indeed been guilty of "corrupting the youth" of Athens.[51] In response to the *Accusation*, admirers and detractors of Socrates alike responded with dialogues and other writings that attended to the relationship between the two men; Plato's *Protagoras* and *Symposium* figure among them, as does the dialogue *Alcibiades*.[52]

The 19th century philologist Friedrich Schleiermacher raised the still debated question of authenticity, arguing that the dialogue was missing the uniform style, philosophical content and irony of the other dialogues.[53] Scholars have since argued that

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[50] Aristophanes, *Frogs*. 1425

[51] Polycrates' pamphlet, which was written around 392 BCE, supposedly included a record of the prosecution speech made by Antyus, one of Socrates' formal accusers at his trail. The pamphlet itself does not survive; what we know of it comes mainly from the written replies to it by Xenophon. (see Thomas C. Brickhouse and Nicholas D. Smith, *The Trial and Execution of Socrates: Sources and Controversies* (Oxford: Oxford University Press, 2002); Robin Waterfield, *Why Socrates Died* (New Tork: W.W. Norton and Co., 2009).)

[52] There were apparently a series of dialogues named *Alcibiades* written by different authors including Aeschines. Of all of these dialogues only the two ascribed to Plato survive, namely, the so-called *Lesser Alcibiades*, or *Alcibiades II* and the so-called *Greater Alcibiades*, or *Alcibiades I* (here referred to simply as *Alcibiades*). (see Denyer, *Plato: Alcibiades*, esp. 1-5.) Xenophon's defense of Socrates, for example, includes a section in which he absolves Socrates of responsibility for Alcibiades' (and Critias') behavior. (Xenophon. *Memorabilia* 1.2.12-48; see Michael Gagarin, "Socrates, 'Hybris' and Alcibiades' Failure," *Phoenix* 31, no. 1 (1977).) I address the connection between the education of Alcibiades and the charges against Socrates in my Chapter 2, "Jurisprudence and Legal Persuasion."

[53] Friedrich Schleiermacher, *Introduction to the Dialogues of Plato* (Cambridge: University Pitt Press, 1836), 328-39. Although Schleiermacher's influence was and remains tremendous, scholarly

the dialogue is spurious on the grounds that (a) it contains two rare poetic words not found elsewhere in the Platonic dialogues, (b) it is stylistically too perfect a match to other texts and (c) it does not fit the widely accepted development scheme of dividing the writing into early, middle and late periods. [54] On these last two points, scholars argue that the *Alcibiades* appears to run through the writing styles of all three periods in order while referring to certain doctrinal claims out of order. I argue, however, that (a) the place of privilege given the *Alcibiades* by ancient commentators coupled with (b) modern scholars' identification of Plato's central doctrinal claims (made throughout the rest of the corpus) in the *Alcibiades* render in certain important ways inconsequential claims of spuriousness. Setting aside the question of whether or not Plato wrote the dialogue, modern commentators in fact help identify why the ancient readers made the *Alcibiades* the 'gateway' dialogue to the corpus: from antiquity to the present, everyone agrees that all of the significant Platonic questions

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opinion was not unified in the 19th century. In his *Plato and the Other Companions of Socrates*, George Grote wrote that it was an "injudicious novelty, introduced by Schleiermacher, to set up a canonical type of Platonism, all deviations from which are to be rejected as forgeries." On Grote's examination, the *Alcibiades* is "a very characteristic specimen of the Sokratico-Platonic method: both in its negative and positive aspects." Grote also defends the *Alcibiades II*, which is generally accepted as spurious today. (see George Grote, *Plato and the Other Companions of Sokrates, Vol 2* (London: John Murray, Albemarle Street, 1888), 19, 7; more generally 1-32.)

[54] See the discussion in Denyer, *Plato: Alcibiades*, esp.14-25. Noted by Denyer, Vlastos claims that the *Alciabiades* is "a plethora of echoes and regurgitations" that also contradicts certain details of the other dialogues. (see Gregory Vlastos, *Studies in Greek Philosophy I* (Princeton: Princeton University Press, 1993), 292 n.91.) The editors of the *Cambridge Companion to Plato* and the *Oxford Readings in Philosophy: Plato II* each mention it only once and that its authenticity is debated. (Richard Kraut, "Introduction," in *The Cambridge Companion to Plato*, ed. Richard Kraut (Cambridge: Cambridge University Press, 1992), 35; Gail Fine, ed. *Oxford Readings in Philosophy: Plato Ii* (Oxford: Oxford University Press, 1999), 31.) The small group of scholars who do debate its authenticity are largely ambivalent. Julia Annas, for example, has long challenged the arguments against authorship without explicitly making the case for authenticity, a posture refuted, along with the authenticity of the dialogue, by Nicholas Smith. (see Julia Annas, "Self-Knowledge in Early Plato," in *Platonic Investigations*, ed. Dominic J. O'Meara (Washington, D.C.: Catholic University of America Press, 1985), 111-38; "Ethics and Argument in Plato's Socrates," in *The Virtuous Life in Greek Ethics*, ed. Burkhard Reis (Cambridge: Cambridge University Press, 2006), 41-44; Nicholas D. Smith, "Did Plato Write the Alcibiades?," *Apeiron* 37, no. 2 (2004).) Exceptionally, Christopher Rowe, who approaches the corpus from a more unitarian sensibility, maintains that the *Alcibiades* is not written by Plato, but nonetheless uses it as a Pseudo-Platonic text to make his case on self-knowledge in Plato. (Rowe, *Plato and the Art of Philosophical Writing*, 122-42.)

– methodological and doctrinal – are raised in this dialogue.[55] Contemporary scholars dismiss the *Alcibiades* not because of the substantive philosophical claims made therein, but because the fact that those claims are assembled into one dialogue makes the text impossible to place along the developmental continuum.[56] The *Alcibiades* thus serves as a primary example of an essential disjuncture between the dominant modern and ancient approaches to Plato: modern scholars eschew the dialogue for precisely the reasons ancient and pre-modern scholars found it so valuable.

The dialogue *Minos* is a similar case, but unlike the *Alcibiades*, it has fallen into relative obscurity, which may have to do with the subject matter and its particular philosophical treatment: the *Minos* is the only dialogue in the Platonic corpus in which Socrates specifically asks the question, "what is law?" Scholars thus deny the authenticity of the dialogue on stylistic grounds buttressed by philosophically substantial claims. First, they argue that the *Minos* is a "strange mixture" written in the style of the so-called Socratic dialogues (early period) while its subject matter is more akin to the late-period dialogues

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55 Pangle defends the entire Thrasyllan corpus, including the *Alciabiades*, in his Pangle, "Editor's Introduction." For explicit defenses of the dialogue's authenticity along the grounds I argue here see also Stephen Forde, "On the Alcibiades I," in *The Roots of Political Philosophy: Ten Forgotten Socratic Dialogues*, ed. Thomas L. Pangle (Ithaca: Cornell University Press, 1987); David M. Johnson, "God as the True Self: Plato's *Alcibiades I*," *Ancient Philosophy* 19(1999); Denyer, *Plato: Alcibiades*, esp.1-27.

56 Denyer, who's work on the *Alcibiades* has contributed tremendously to restoring the dialogue's reputation as authentically written by Plato, is interesting on this point. Based on three references internal to the dialogue Denyer argues it was written in the early 350s BCE, when Plato was about seventy years old, and ten or so years before his death. The *Alcibiades* was thus written after Plato's trips to Sicily during which time he failed to turn the young tyrant Dionysius onto the path of philosophy Denyer argues that it is thus reasonable to surmise that Plato would have at that time written a dialogue in which an "older philosopher tries to win [over to] philosophy a young man subject to all of the temptations of political power." Denyer seems to agree with developmental theories that Plato's literary style can be grouped into three main periods, but unlike these scholars he does not see corresponding doctrinal developments. He thus argues that Plato intentionally employs three literary styles in this dialogue in order to show Alcibiades' own philosophical development: "the intellectual changes in Alcibiades, and in the sorts of conversations he is able to cope with, are reflected in the changes of literary manner, from 'early', through 'middle' to 'late'. (*Plato: Alcibiades*, 14, 24 and more generally, 1-25.)

such as the *Statesman* and the *Laws*,[57] and second, that the dialogue contains substantive claims that are at odds with undisputed parts of the rest of the corpus. Scholars object in particular to Socrates' claim here that an unjust law cannot properly be considered law (*Minos* 317c). This claim is said to be at odds with the *Apology*, where Socrates is understood to speak of unjust Athenian laws as laws (*Apology* 37a-b) and with the general tone of the *Crito*, where Socrates is understood to be obligated by the same laws that do him a grave injustice. Third, the dialogues apparent direct-references to the *Laws* should be understood as a kind of later commentary on Plato's actual claims there.[58] These claims, however, are (a) highly speculative, (b) assume interpretive claims about other dialogues that may or may not be correct, and (c) find no support in any scholarship that predates the nineteenth century.

First, it simply isn't clear that Socrates in the *Apology* and *Crito* is not in fact advancing the same coincidence between law and justice made here. Second, the claim itself, namely, that an unjust law is not a law – finds explicit corroborative support in another Platonic dialogue as well as outside of the corpus. First, in the *Hippias Major*, Socrates claims that when legislators "who are trying to make laws fail to make them good, they have failed to make them lawful – indeed, to make them law" (*Hippias Major* 284e).

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[57] Paul Shorey suggests that the dialogue may have been partly written by Plato and partly by someone else. (Paul Shorey, *What Plato Said* (Chicago: University of Chicago Press, 1933), 425.) Anton-Hermann Chroust argues that the *Minos* is an excellent example of the style and technique of Plato's early dialogues: the *Minos* "displays an astonishing grasp of Platonic thought" and must therefore have been written by one of Plato's "last disciples." (Anton-Hermann Chroust, "An Anonymous Treaty on Law: The Pseudo-Platonic Dialogue Minos," *Notre Dame Law Review* (1947-1948): 47n2; 47-53.) Hall claims the *Minos* was written some 250 years after Plato and is probably of Stoic origin. (Hall, "Plato's Legal Philosophy," 199.). Christopher Rowe agrees with all of these claims.

[58] For a discussion on all three aforementioned points see Christoper Rowe, "Cleitophon and Minos," in *The Cambridge History of Greek and Roman Political Thought*, ed. Christoper Rowe and Malcolm Scholfield (Cambridge: Cambridge University Press, 2005), 303-09.

Second, Xenophon attributes precisely this identification of justice with the law to Socrates in his *Memorabilia,* where Socrates asserts that "to be conformable to the laws, and to be just, is the same thing."[59]

Second, I argued earlier that Thrasyllus' tetralagies appeared to be organized according to certain substantive connections as well as dramatic clues: in his ninth tetralalogy, the *Minos* provides an appropriate introduction to the *Laws* (*Epinomis* and *Letters*) on substantive grounds. Contemporary scholars who regard the *Minos* to be authentic view it in precisely this light, as an introduction to the *Laws.*[60] Thrasyllus also had contemporaneous company in Aristophanes of Byzantium, the famous librarian at Alexandria, who was the first to organize the Platonic corpus somewhere around 200 BCE: Diogenes reports that Aristophanes arranged fifteen of the dialogues into trilogies: the first included the *Republic, Timaeus* and *Critias*; the second the *Sophist, Statesman* and *Cratylus*; the third the *Laws, Minos* and *Epinomis*; the fourth *Theaetaetus, Euthryphro* and *Apology*; and the fifth the *Crito, Phaedo* and *Letters.*[61]

The grounds for declaring the *Minos*, as well as the *Alcibiades* and other dialogues, inauthentic are thus problematic; I argue that they stem from the same impulses that suggest incorrectly an antithesis between philosophy and the rule of law in the corpus, and that plays out in various dialogues according to Plato's specific philosophical development.

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[59] Xenophon. *Memorabilia* 4.4,12

[60] Morrow, *Plato's Cretan City*, 35-39; Leo Strauss, "On the *Minos*," in *Roots of Political Philosophy: Ten Forgotten Socratic Dialogues*, ed. Thomas L. Pangle (Ithaca: Cornell University Press, 1987), 65-75; Thomas L. Pangle, *The Laws of Plato. Translated with Notes and Interpretive Essay* (Chicago: Chicago Univeristy Press, 1980), 511 n.2; Mark J. Lutz, "The Minos and the Socratic Examination of Law," *American Journal of Political Science* 54, no. 4 (2010): 988-1002.

[61] Diogenes describes the remaining dialogues – although he does not name them – as following these trilogies in "no particular order Diogenes 3, 61-62

PLATO'S COSMOS

I have already noted that the ancient sources understood the corpus as a type of literary cosmos, wherein the dialogues are in interplay with one another and with the reader, and I have thus far followed scholars in referring to this understanding as an 'interpretive approach.' I want to now clarify what is meant by cosmos here in order to suggest that it is better to understand the ancients as reading Plato according to a shared cosmological worldview that is informed by different notions of time, temporality and order than those that inform our modern chronology of composition and associated developmental readings of Plato.[62]

I previously noted that on the developmental view, the dialogues manifest a specific philosophical chronology: they trace Plato's Socratic youth and take us through the philosophical idealism of his more mature adulthood through to his progressively philosophically pessimistic old age. The developmental thesis thus assumes certain philosophical doctrines to be absent or present in the individual dialogues along a linear continuum. I want to now stress that this assumption imposes upon Plato and his writings

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[62] There is an extensive body of literature that examines Platonic cosmology and most particularly its treatment in the *Timaeus*. Much of this literature is concerned with cosmogony and related metaphysical issues that fall outside of my present concerns. The *Timaeus* also figures prominently in debates over chronology of composition. (see Owen, "The Place of the *Timaeus* in Plato's Dialgues," 339-78; H.F. Cherniss, "The Relation of the *Timaeus* to Plato's Later Dialogues," in *Studies in Plato's Metaphysics*, ed. R.E. Allen (London: Routledge & Keegan Paul, 1965); Donald Zeyl, "Visualizing Platonic Space," in *One Book the Whole Universe: Plato's Timaeus Today*, ed. Richard D. Mohr and Barbara M. Sattler (Las Vegas: Parmenides Publishing, 2010), 117-30.) I do want to note, however, that the relationship between Plato's cosmology and his political project is generally under-examined. (see, Gabriela Roxana Carone, *Plato's Cosmology and Its Ethical Dimension* (Cambridge: Cambridge University Press, 2005); Cynthia Freeland, "The Role of Cosmology in Plato's Philosophy," in *A Companion to Plato*, ed. Hugh H. Benson (Malden: Blackwell Publishing, 2006), 199-213.)

a notion of time and order that would have been foreign to his own cosmological worldview, wherein temporality is subject to chronological order but time itself is conceived of as spherical or circular (eternal and complete) rather than linear (limited and progressive).[63] In other words, temporality (or the physical world of becoming) is part of,

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63 The ancient cosmological worldview is subject to extensive philosophical treatment in the *Timaeus* where time is conceived of as a moving image of eternity, and the cosmos as coextensive with the universe: "Time, then, came into existence along with the universe so that just as they were begotten together, they might also be undone together, should ever there be an undoing of them. And it came into being after the model (*paradeigma*) of that which is eternal so that it might be as much like its model (*paradeigma*) as possible. For the model is something that has being for all eternity, while it, on the other hand, has been, is and shall be for all time, forevermore. Such was the reason, then, such the god's design for the coming into being of time, that he brought into being the Sun, the Moon and the five other stars, for the begetting of time. These are called 'wanderers' (*planeta*) and they came into being to set limits to and stand guard over the numbers of time" (38b-c). Plato here elaborates two fundamental premises: first, time itself is directly related to the ordered movement of the heavenly bodies, who are alternatively the guardians and instruments of time (38a, 42d). Second, the relationship between eternity and time has to do with the relationship between the Forms and their copies: time is "a moving image of eternity that proceeds according to number" (37d) and not eternity itself. What occurs within this moving image is what we understand to be temporality. Many scholars note (significantly given the topic of this thesis) that the "number" according to which this moving image proceeds is musical: proportions found within musical intervals, such as the 1:2, 3:2, 4:3, 9:8 and 256:243 are the shared proportions according to which god created the universe and human beings (35a-48c). In other words, the relationship between the soul and the universe, along with the harmony of each (36c-d), resides in a shared musical proportion and ordering. (see the excellent discussion, including a review of the literature, in Pelosi, *Plato on Music, Soul and Body*, 68-113.)

I noted previously that John Kennedy uses stichometric analysis in order to show that Plato gave his dialogues a similar musical structure; Kennedy's central claim is that Plato embedded into each of his dialogues the Pythagorean musical structure of a twelve-note musical scale. According to Pythagorean music theory, certain notes are harmonious whereas others are either dissonant or neutral; Kennedy shows that Plato's dialogues are divided into twelve parts, each imitating the relative value of its corresponding musical note: at more harmonious notes the dialogues address beauty, virtue and the Forms in general, whereas at more dissonant notes the interlocutors discuss their opposites, ugliness, vice and shame. (Kennedy, *The Musical Structure of Plato's Dialogues*; "Plato's Forms, Pythagorean Mathematics, and Stichometry.") Although I am not in a position to evaluate Kennedy's positive claim, I do want to note that his thesis accords with ancient and modern scholars alike, who insist that Plato used Pythagorean musical symbols to conceal his own views within the dialogues. There is a rich tradition in the scholarship that traces a Pythagorean influence on Platonic number theory, much of it bound up with the question of esotericism, but always concerned with questions of musical harmony. (Robert S. Brumbaugh, *Plato's Mathematical Imagination* (Bloomington: Indiana University Press, 1968); Walter Burkert, *Lore and Science in Ancient Pythagoreanism* (Cambridge: Harvard University Press, 1972), esp.15-52; Ernest G. McClain, "Thirty Seven Musical Guardians in Plato's *Laws*," *The Journal of Musicology Research* 2, no. 3 (1978): 181-203; *The Pythagorean Plato* (York Beach: Nicolas-Hays, 1984).)

and subject to, a greater order that has no beginning and no end (the intelligible world of being).[64] Of course, I do not want to claim that the ancients did not understand the notion of development; instead, I claim that issues of development are subject to, and so ordered by, something other than the linear connections suggested by the developmental theses.

To approach the Platonic corpus as a literary *cosmos* is to, along with the ancients, understand it as analogous with the universe, a microcosm analogous of the macrocosm.[65] I argue that the rejection of this cosmological worldview as bearing on *how* Plato wrote, and concomitantly how he expected his dialogues to be read, has not only significantly affected the value we ascribe to the so-called spurious works, but has also resulted in serious neglect of certain central philosophical principles and a distortion of certain others across the canon.

In particular, and as I have already noted, we tend to frame Plato's political project in and through the *Republic*, the dialogue which also contains the complex psychological theory of the tri-partite soul and the metaphysical theory of the Forms. I noted earlier that the developmental theses understand the *Republic* to be a 'middle period' dialogue, and so to contain Plato's own positive philosophical teachings, and thus brings these philosophical doctrines to bear on the corpus in three specific ways. First, both the theory of the Forms and more complex psychology are understood to be manifestly absent from the 'early'

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[64] As Vernant argues, an essential feature of the Greek cosmos was its circular or spherical character. Along with Vlastos and Kahn, Vernant draws a connection between the ancient cosmological worldview and political thought that antedates Socrates: "The circle's special value for the Greeks is well known. They considered it the most beautiful and perfect shape…The political domain [similar to the movement of the heavenly bodies] appears to have been attached to a representation of space that deliberately emphasized the circle and its center." (Jean-Pierre Vernant, *Myth and Thought among the Greeks* (New York: Zone Books, 2006), 205; and see esp. 197-259.)

[65] The Ancient Greek word *cosmos* had as its primary meaning "order" or "arrangement." Scholars suggest that it was Plato who developed the word to denote, first, the structure of the heavens, and second, the order of the universe as a whole. (see Aryeh Finkelberg, "On the History of the Greek Word Kosmos," *Harvard Studies in Classical Philology* 98(1998); Freeland, "The Role of Cosmology in Plato's Philosophy.")

dialogues in which Plato expounds Socrates' own philosophical teachings. Second, the theory of Forms is understood to be either absent or explicitly challenged in the 'late period' dialogues, indicating a change in Plato's views, whereas third, the more complex psychology is generally agreed to be present and wholly salient to these same 'later period' dialogues. When viewed through the developmental lenses, the *Republic's* exposition of these central philosophical doctrines thus determines – and I argue distorts – how we understand Plato's thought on other important topics in very specific ways; I attend to two of these distortions in this thesis, namely, aesthetics and jurisprudence.

Abandoning the standard chronology of composition and its associated theories of development changes how we read Plato. Rather than insisting on a division of the dialogues into groups that are united internally, and philosophically if not doctrinally, distinct from one another, we can treat the dialogues as parts united in a single body of work and in various ways. I argue that this interpretive approach is far more consistent with Plato's contemporary readers; not only is there little evidence or suggestion that Plato changed his views in any significant fashion in the ancient scholarship but there is also the implicit assumption that the dialogues do not track, in chronological order, the development of Platonic doctrine.[66] Moreover, the cosmological worldview permits us to insist on a notion of developments, in the plural, throughout the corpus and thus see "the constant development and redevelopment which Plato makes of his thought as he interrogates, refracts and revises current problems in the context and for the purpose which each dialogue differently unfolds."[67] In other words, as a literary cosmos, the

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[66] Tarrant, *Plato's First Interpreters*. Dorter notes, for example, that Aristotle "always writes as though Plato consistently defended the theory of Forms throughout his life." (Dorter, *Form and Good in Plato's Eleatic Dialogues*, 3, and more generally 1-17.)

Platonic corpus can account for the varying perspectives of the dramatic personae within the particular contexts of the individual dialogues *and* the perspective of each individual dialogue as a whole. This change in perspectives not only allows for differences across the texts, but also, I argue, for those important similarities chronology of composition and development theses either miss or ignore – in particular, those having to do with Plato's jurisprudence and aesthetics.

[67] Melissa Lane, "Socrates and Plato: An Introduction," in *The Cambridge History of Greek and Roman Political Thought*, ed. Christoper Rowe and Malcolm Scholfield (Cambridge: Cambridge University Press, 2005), 162.

CHAPTER TWO

JURISPRUDENCE AND LEGAL PERSUASION

Classical Athens was a litigious culture: up to four separate courts were in session somewhere between 175 and 225 days a year, and could collectively hear up to forty cases a day, depending on the charges.[68] Athenian litigiousness was so pervasive that foreigners referred to Athenians as *philodikoi*, or 'lovers of litigation', and the comedic poets poked fun at the seriousness with which Athenian citizens identified themselves as juridical subjects.[69] I argue in this chapter that Athenian litigiousness was not simply an institutionalized form of 'feuding behavior'; litigants in Athenian courts made jurisprudential arguments to citizen-juries, who, in their capacities as judges, debated both the procedural and substantive aspects of the law.[70] Although almost no actual law codes or statutes survive, the extant evidence in the writings of the philosophers and their students, the forensic orators and the comedic poets suggests that jurisprudence at Athens was profoundly tied up with answering the question "what is justice?"[71] Justice, of course, was a central concern

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[68] Mogens Herman Hansen, *The Athenian Democracy in the Age of Demosthenes* (Oxford: Oxford University Press, 1991), 186-87.

[69] Athenian litigation is a common joke in the comedies of Aristophanes: the characters in the *Birds* establish a new city in the sky in order to avoid Athens' penchant for excessive litigation and the main character of the *Wasps* is an old Athenian addicted to serving on juries. (for a succinct discussion of Aristophanes see S.C. Todd, *The Shape of Athenian Law* (Oxford: Oxford University Press, 1993), 148-50.)

[70] I use the term jurisprudence here in its traditional and broadest sense to mean the philosophy of law, or the application of philosophy to law.(Richard A. Posner, *The Problems of Jurisprudence* (Cambridge: Harvard University Press, 1990). On the beginnings of jurisprudence in Greek thought see Jones, *The Law and Legal Theory of the Greeks*; Jaqueline De Romilly, *La Loi Dans La PenséE Grecque, Des Origines à Aristote* (Paris: Les belles lettres, 1971); Michael Gagarin and Paul Woodruff, "Early Greek Legal Thought," in *A History of the Philosophy of Law from the Ancient Greeks to the Scholastics*, ed. Fred D. Miller Jr. and Carrie-Ann Biondi (Dordrecht: Springer, 2007).

of Plato's, who tells us in the *Seventh Letter* that he finally turned away from practical politics to philosophy because of his encounter with Athenian law during the trial and subsequent death sentence of Socrates (324b-326b):

> I did not cease to reflect how an improvement could be brought about in our laws, and in the whole constitution (*politeia*), yet I refrained from action, waiting for the opportune moment. At last I perceived (*noesai*) that all existing states are badly governed (*politeuontai*) and the conditions of their laws practically incurable without some miraculous remedy and the assistance of fortune; and I was forced to say, in praise of true philosophy (*orthen philosophian*), that from her height alone it is possible to discern what the nature of justice is, both political and individual. (325d-326a)

Most scholars agree that Plato's depiction of the trial and death of Socrates indicates that his concern with justice arose from the disjunction at Athens between legal procedure and substantive justice.[72] I argue that this is not how Plato and the Athenians

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[71] The other main source for the Athenian legal system is the Aristotelian *Constitution of the Athenians* which presents a partial history and description of the legal and political institutions at Athens, and was probably written by one of Aristotle's students. In terms of actual laws, the first written laws at Athens were Draco's code of 621/0 BCE. Plutarch preserves the tradition that gives rise to our word 'draconian,' namely, the incommensurable penalty of death for even the smallest crimes: "when asked why he fixed death as the penalty for most offences, [Draco] answered that he thought small offenses deserved it, and he knew no greater penalty for the great ones." (Plutarch. *Solon* 17.2-4) Draco's laws on homicide were apparently the only laws not abolished by Solon, and were re-inscribed on stone in 409/8, fragments of which have been preserved.

[72] See, for example, Ober, "Socrates and Democratic Athens." Gagarin and Woodruff argue that earlier thinkers (such as Homer and Hesiod) were concerned with process (by which they mean regulating conflict and bringing order) whereas thinkers from the fifth century onwards were more concerned with substance (or rules and standards that governed the way human beings lived their lives). (see Gagarin and Woodruff, "Early Greek Legal Thought."For a general treatment of the procedural orientation of Athenian law see Todd, *The Shape of Athenian Law*, esp.64-67.)

generally thought about law and about justice; instead, they always understood the law as embodying a *conjunction* between legal procedure and substantive justice.

In this chapter I focus on Plato's *Apology, Crito* and *Euthyphro* alongside the forensic speeches to show that Plato's philosophical treatment of existing legal statutes and the Athenian juridical outlook is not to persuade his readers of an unconventional view of law and justice, and obedience and piety, but just the opposite. I argue that Plato is in fact concerned with disentangling and recuperating the fundamental juridical aspects of Athenian citizenship from their agonistic and deliberative counterparts. First, I show via the forensic speeches, that drawing the kind of distinction that scholars normally do between applying laws and applying justice does not work in the Athenian case; the open-texturedness of the law meant that Athenians had to re-make the laws (substantively interpret offenses like impiety) every time they engaged in disputes that required legal judgment. Second, I argue that scholars generally misunderstand the Athenian legal process to be primarily about contestation and feuding at the expense of the law; I show that this understanding has in fact led to an incorrect understanding of the charges against Socrates as well as Plato's philosophical treatment of the events surrounding the trial along with the trial itself.

THE *APOLOGY* AND THE LAW AGAINST IMPIETY (*ASEBEIA*)

When we examine the events that began with the legal charge against Socrates and culminated in his execution as they are depicted in the *Euthyphro, Apology* and *Crito*, it is

clear that they proceeded according to the established judicial procedures at Athens.[73] At the time of Socrates' trial there was no public prosecutor. Instead, judicial proceedings were initiated and prosecuted by ordinary citizens. In the case of Socrates, the proceedings began when the poet Meletus brought charges against him before the *basileus*, the public magistrate chosen by lottery responsible for public crimes. The charge against Socrates was as follows: "Socrates is guilty of corrupting the young and of not believing (*nomizo)* in the gods in whom the city believes (*nomizo*), but in other new spiritual things" (*Apology* 24b-c).[74] The magistrate then summoned the litigants to his office for a preliminary hearing (*anakrisis*) where he recorded their personal information and heard the main charges and evidence. During the *anakrisis* Socrates, like all defendants, could bring a motion to dismiss the case on the grounds that it was not admissible. In turn, the magistrate had to decide whether he accepted the charge or not. Although we have very little evidence for what happened at the *anakrisis*, it seems clear that this hearing was a type of litmus test not only for the viability of the evidence but for the viability of the way in which the accuser was interpreting the statute. What I mean is that the magistrate not only had to interpret the law but judge that the jury would interpret the statute in the same vein.[75]

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[73]A.R.W. Harrison, *The Laws of Athens, Volume 2: Procedure* (Oxford: Oxford University Press, 1971); Stephen Todd and Paul Millett, "Law, Society and Athens," in *Nomos: Essays in Athenian Law, Politics and Society*, ed. Paul Cartledge, Paul Millett, and Stephen Todd (Cambridge: Cambridge University Press, 1990), 1-18; Hansen, *The Athenian Democracy in the Age of Demosthenes*, 178-224.

[74] In the *Lives of Eminent Philosophers* (2.5.40) Diogenes recounts the charges as follows: "This indictment and affidavit is sworn by Meletus…against Socrates: Socrates is guilty of refusing to recognize the gods recognized by the state, and of introducing other new divinities. He is also guilty of corrupting the youth. The penalty demanded is death." Both accounts of the charges use consistent vocabulary, most particularly, the word *nomizo*, which involves "belief," but also an "esteeming and recognition through right action." Plato has Socrates recount the charges using slightly different vocabulary in the *Euthyphro* (2c-3b) which I discuss below.

[75] Harris argues that magistrates in fact gave accusers considerable latitude in accepting cases, whereas juries were reluctant to vote in favor of prosecutors who relied on new or unusual

Persuaded by the preliminary case against Socrates, the magistrate issued a *graphe,* a writ of public indictment, for the crime of *asebeia* (impiety) remanding the matter to the *diakasterion* (public court). The case was tried in a single day by the 501 jury members who had been selected randomly from the pool of Athenian citizens over the age of thirty. The litigants were given identical periods of time in which to present their respective accusations and defense. As per custom, each side could use their allotted time as they saw fit: in mounting his prosecution Meletus conceded the floor to two associates, and in mounting his defense, Socrates included a cross-examination of Meletus.

It is during the cross examination of Meletus that scholars identify a disjunction between legal procedure and substantive justice. Although Athenian law forbade *asebeia* it left the definition of impiety (and piety) open to interpretation. Meletus thus had to persuade the jury that the accusations against Socrates constituted *asebeia* and also show that Socrates had committed those acts. However, during the cross-examination Meletus demonstrates that he has no understanding of the charges he himself has brought to bear on Socrates. Meletus here equates impiety with atheism: he accuses Socrates of "not believing in gods at all" (*Apology* 26c). If impiety is indeed atheism, the first charge would hold, namely that Socrates does not believe in the gods of Athens. But according to the second charge Socrates is not an atheist, rather, he believes in false gods (26d-28a). Meletus maintains both positions at once, and is thus not only incapable of providing a clear definition of impiety but therefore unable to show how it is connected to the third charge of corrupting the youth. Socrates is nonetheless convicted of the crime of *asebeia* and sentenced to death.

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interpretations of the law. (see E. Harris, "Open Texture in Athenian Law," *Dike* 3(2000): 35; Sally C. Humphreys, "Family Quarrels (Dem.39-40)," *Journal of Hellenic Studies* 109, no. 182-185 (1989).

But Socrates had anticipated that any verdict against him would not turn on whether he had committed the acts of which he is accused or on whether those acts constituted a violation of the statute. During his defense he points out that the charges against him are not completely new: for years he has been accused of being an atheist and a teacher of dangerous sophistic arts (18b-c). In the time allotted to him as a defendant he was thus unlikely to undo the years of slander and false opinions about him. Any verdict would therefore be the result of prevalent prejudice rather than proved accusations (28a-b). When the personified laws of Athens later tell Socrates that he was wronged "not by the laws but by men" (*Crito* 54c) it seems clear to most scholars that Socrates accepted the authority of a legal system concerned with meeting the necessary conditions of procedural, and not substantive, justice.

I want to advance two issues, however, that complicate this understanding of the trial. First, although the *Crito* makes clear that Socrates accepts the authority of Athenian law it is not clear that this law for him is only procedurally just. Socrates here claims that to disobey the laws would be to "destroy" (*diaphtheiro, apollumi*) them and become an "enemy of the constitution (*politeia*)" (*Crito* 50a-b, 50d, 51a, 52d; 53b-c) that made his life possible. Athenian law provided him the necessary conditions of birth, upbringing and education compatible with the demands of a philosophic life (50c-e; 51e-52d). In other words, Socrates was a product not only of his own philosophic *askesis* (self-shaping) but also of Athenian civic culture; Socrates could not have practiced philosophy under a tyrannical political order. Thus, for Socrates, matters of substantive justice thus operate within a more comprehensive framework of not harming this same *politeia*. Second, the "open texture" of Athenian law left room for creative statutory interpretation, which in turn gave litigants a

chance to confront one another and argue for a better definition of the law.[76] Scholars tend to argue that injustice occurred in this case from a shift in focus; rather than concerning themselves with defining impiety, litigants and jurors alike concerned themselves with assessing the moral quality of Socrates himself.

Yet insofar as Athenian legal procedure (a) began with a recorded offence and (b) then allowed for debate over relevant terms including the legal status and moral quality of said offense, it isn't clear where the procedural and substantive aspects of the law leave off from one another. Moreover, and as I argue throughout, the wide scope of judicial interpretation that led to his conviction appears to be an institutional virtue for Socrates, who could, on the one hand, agree that impiety was worth legal punishment (*Apology* 29a), while on the other, simultaneously engage in a search for the definition of impiety. In order to flesh out these claims I want to first examine briefly in context the concept of law (*nomos*) and then turn to one of our main sources for Athenian law as it was practiced in the

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[76] The term "open texture" is borrowed from H.L.A. Hart, who observed that the law depends on its "capacity to recognize particular acts, things or circumstances as instances of the general classification which the law makes." Of course, the application of general rules to particular cases is mortgaged by future particularities unknowable in the present: legislators cannot know in advance all of the future situations the law will have to address nor can they predict what interests will take precedence in those situations (respectively, "ignorance of the facts" and "indeterminacy of aim"). The "open texture" of the law thus has to do with the fact that it cannot settle the particularities of a future case in advance. In cases where it is not clear how to apply the general rule, Hart argues that all one can do is "consider whether the present case resembles the plain case 'sufficiently' and in 'relevant' respects." This is because, despite its open texture, legislative language also provides its own necessary limits. In other words, the capacity of the law depends on (1) its ability to provide clear rules and (2) the recognition that there will always arise disputes about the law that only individuals can resolve. (H.L.A. Hart, *The Concept of Law* (Oxford: Oxford University Press, 1961), 121-27.) Harris rightly notes that while Hart's analysis of 'open texture' is insightful, it is not entirely original, and goes back to Plato and Aristotle and the nature of Athenian law. (Harris, "Open Texture in Athenian Law," 28-30.) For dispute over the use of this term at Athens, see Robin Osborne, "Law in Action in Classical Athens," *Journal of Hellenic Studies* 105(1985): 43-44. Gagarin suggests that Athenian laws were so excessively vague that they in fact reduced the ability of litigants to argue that a wrong they had suffered was covered by law. (Michael Gagarin, *Writing Greek Law*, vol. Cambridge University Press (Cambridge, 2008), 210-11.)

public courts, namely the forensic speeches, of which Plato's *Apology* is an example, in the widest sense.[77]

The Greek word *nomos* (plural *nomoi*) is usually translated as "law" but its meaning has greater implication and scope than the manner in which we normally understand law as the formal product of legislative activity.[78] The ancient Greek conception of *nomos* does not include the same sharp distinction between the customary and the legal implied in the English word law. *Nomos* refers to a designated form of social order and implies its rules of moral behavior or manners, beliefs and practices having to do with the divine, and community customs, as well as its formal legislation. In other words, *nomos* does not distinguish a social realm of custom that is in some sense independent of legal authority.[79] This is particularly relevant given that the term *nomos* to denote law arose in the classical period under Athenian democracy, signaling a change in jurisprudential thinking from the archaic period, which designated its laws *thesmoi* (singular *thesmos*). The fundamental distinction between *thesmos* and *nomos* is that the former denotes the decree of a single authoritative person (divine or human) "who is thought of as standing apart from and above the persons on whom his law is binding," whereas the latter signifies rule "motivated less by the authority of the one who imposed it than by the fact that it is regarded and

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[77] Scholars have recognized for some time that the dialogue parallels the structure of the forensic speeches, incorporates the rhetorical *topoi* of the orators, and also might function as a philosophical parody that reverses the traditional function of the speeches in order to put the judges, rather than the defendant, on trial. (For a discussion and review of the literature see, Douglas D. Feaver and John E. Hare, "The Apology as an Inverted Parody of Rhetoric," *Arethusa* 14, no. 2 (1981); S.R. Slings, ed. *Plato's Apology of Socrates* (Leiden: Brill, 1994).)

[78] Extensive scholarly treatments of the word *nomos* and its cognates include, Emmanuelle Laroche, *Histoire De La Racine Nem- En Grec Ancien* (Paris: Klincksieck, 1949); Martin Ostwald, *Nomos and the Beginnings of Athenian Democracy* (Oxford: Oxford University Press, 1969).

[79] Pace Thomas L. Pangle, *The Laws of Plato* (Chicago: The University of Chicago Press, 1980), 511n.1.

accepted as valid by those who live under it." [80] The sense of lawfulness implicit in *nomos* is thus distinct from the one in *thesmos*; it imports with it the way of life particular to Athenian democracy, which notably distinguished the citizen, or *polites*, from the subject, slave, foreigner, and non-citizen.

Nomos is also distinct from *psephisma* (plural *psephismata).* In the fifth century, both words were used to refer to the same legal decision, but scholars argue that *nomos* seems to have been used to stress the content of a law whereas the word *psephisma* was used to stress its more procedural elements.[81] An important change to the legal system was introduced in the fourth century distinguishing *nomoi* from *psephismata* in both form and substance: in form, *nomoi* were now decisions made by jurors in their capacity as *nomothetai*, or lawmakers, in courts of law whereas *psephismata* were decisions made by the Assembly.[82] At Plato's Academy and in practice at Athens, *nomoi* were now also defined as "the political judgment of many people, not limited to a certain time" whereas *psephismata* denoted "political judgments limited to a certain time" (*Definitions* 415b). Thus in substance, democratic Athens also now distinguished general and permanent laws as *nomoi* from decrees dealing with individual and temporary issues as *psephismata*.[83]

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[80] Ostwald, *Nomos and the Beginnings of Athenian Democracy*, 19, 55. As Ostwald notes, both Draco (c.621 BCE) and Solon (c.594 BCE), to whom the earliest written legislation is attributed, referred to their laws or statutes as *thesmoi* and never *nomoi*.

[81] Mogens Herman Hansen, "Nomos and Psephisma in Fourth Century Athens," *Greek, Roman and Byzantine Studies* 19, no. 4 (1978); *The Athenian Democracy in the Age of Demosthenes*, 161-62; Todd, *The Shape of Athenian Law*, 18-19, 294-95.

[82] Mogens Herman Hansen, *The Sovereignty of the People's Court in Athens in the Fourth Century B.C and the Public Action against Unconstitutional Proposals* (Odense: Odense Universitetsforlag, 1974), 15-18.

[83] Hansen notes that modern public theory makes a similar distinction between general and individual norms, the former without limit of duration, the latter "emptied of their validity once their content has been fulfilled." (*The Athenian Democracy in the Age of Demosthenes*. Also see Alan Boegehold, "Resistance to Change in the Law at Athens," in *Demokratia: A Conversation on*

Plato is uniquely concerned with *nomoi* whose implications are aesthetic as well as jurisprudential: *nomos* also means song or tune.[84] He never uses the term *psephisma* in any of the dialogues and only uses *thesmos* once, in the *Phaedrus*, to signify a divine ordinance that is out of human control and has nothing to do with human ordering (248c).[85] These distinctions (to which I return in more detail below) underscore the importance of *nomos* and its democratic and general connotations, not simply at Athens as the forensic speeches make clear, but also as the *Apology*, *Crito* and *Euthyphro* show, in Platonic jurisprudential thinking.

THE LEGAL SPEECHES

The canon of roughly 100 forensic speeches were written by a group known as the Attic Orators during the period between 430 and 323 BCE, and as sources, are not without

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Democracies, Ancient and Modern, ed. Josiah Ober and Charles Hedrick (Princeton: Princeton University Press, 1996).) These changes are the subject of significant scholarly controversy, most particularly when they are tied to the apparent shift from popular sovereignty to sovereignty of law. (See Ostwald, *From Popular Sovereignty to the Sovereignty of Law*; Raphael Sealey, *The Athenian Republic: Democracy or the Rule of Law* (University Park: Pennsylvania State University Press, 1987). Arguments against this shift include Josiah Ober, *Mass and Elite in Democratic Athens* (Princeton: Princeton University Press, 1989).)

[84] I show in the ensuing chapters that musical *nomos* is concerned with the compulsive character of human response, the regulation of what we think of as 'psychic' movement (for the ancients, the movement of the soul), issues of nature, identity and difference and ultimately the politics of citizenship. I show in Chapter 5 that *nomos* as song or tune is particularly prevalent in the *Laws* (700b, 722e, 743e, 775b, 799e) where the range of activities in the *polis* are all ordered by a sense of *nomos* that is always both aesthetic and jurisprudential.

[85] Socrates here calls it the "law of the inevitable." The only other use of *thesmos* occurs in the *Eighth Letter*, where he says that Dion would urge the men of Syracuse to accept laws that "give the highest honor to the excellence of the soul, the second place to that of the body….and the third and lowest rank to wealth…The sacred tradition (*thesmos*) that ranks them in this order might rightly be made a positive law (*nomos*) among you, since it makes truly happy those who live by it." (355a-c)

their problems.[86] First, they are not official records of the trial proceedings but rather were written by speechwriters (*logographoi,* singular *logographos*) for their litigant clients (and sometimes for themselves). Second, in certain cases the speeches were published with revisions that omitted citations of laws or witness testimonies. Third, only two pairs of speeches representing both sides of the legal dispute survive and we rarely know the outcome of any of the cases. Fourth, we do know that these speeches were used as tools for teaching young men the art of rhetoric in later periods. The scholarly value of these speeches thus does not lie in what they can tell us about the particular 'facts' of a given case. They are valuable, however, in terms of what they can tell us about the Athenian juridical outlook. On the one hand, the speeches contain the type of 'legal reasoning' we might expect of them, including references to, and exegesis of, the applicable statutes. On the other hand, they also contain accounts of the litigant's public services, character attacks of the opposing side, and a host of other extra-legal details meant to appeal to the jury's sense of honor or pity. Both arguments are of course present in the *Apology* and contribute to the understanding of Socrates' trial as procedurally just but substantively unjust. Before turning to the scholarly disagreements regarding how we should interpret these legal and extra-legal claims, however, it is worthwhile to first note the points of consensus.

Scholars generally agree that the legal statutes quoted in the speeches are a good representation of the actual laws. Most notably, they demonstrate that although Athenian

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[86] The ten orators who make up the canon are: Aeschines (ca.395-ca.322), Andocides (ca.440-ca.390), Antiphon (ca. 480-411), Demosthenes (384-322), Dinarchus (ca. 360-ca. 290), Hyperides (390-322), Isaeus (ca. 415-ca. 340), Isocrates (436-338), Lycurgus (ca. 390-ca. 324), and Lysias (ca. 445- ca. 380). Not all of the Attic orators were Athenian citizens; Dinarchus, Isaeus and Lysias were metics. It is generally agreed that several speeches included in the canon were written by lesser-known logographers and falsely attributed to a member of the canon, perhaps by publishers hoping to sell more books. Seven of the speeches attributed to Demosthenes, for example, are thought to have been written by Appollodorus. (See S.C. Todd, "Law and Oratory at Athens," in *The Cambridge Companion to Ancient Greek Law*, ed. Michael Gagarin and David Cohen (2005).)

law was very specific in terms of procedures meant to ensure fairness, it tended not to include explicit substantive definitions of the statutes themselves, and upon which their application nonetheless hinged. It was left to citizen juries to determine both the general definition of a given law and its meaning in particular application. Although we know little about the law on impiety (*asebeia*), the law on outrage (*hubris*), which was similar in both kind and substance, is a well-documented example.[87] It reads,

> If anyone commits hubris against another, whether child or woman or man, whether free or slave, or if he does anything outrageous against anyone of these, let anyone who wishes of those Athenians who are entitled, bring an indictment (*graphe*) before the judges (*thesmothetai)*; and they shall bring the case before the Heliastic Court within thirty days from the date of the indictment, unless some public business prevents, in which case it shall be brought on the earliest possible date. Whomsoever the Court shall condemn, it shall at once assess the punishment or the fine which he is considered to deserve. In all cases where an indictment is entered, as the law directs, if anyone fails to prosecute, or after prosecution fails to obtain one fifth of the votes of the jury, he shall pay a thousand drachmas to the Treasury. If he is fined for the assault, he shall be imprisoned until the fine is paid, provided that the *hubris* was committed against a freeman.[88]

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[87] Nick Fisher, "The Law of *Hybris* in Athens," in *Nomos: Essay in Athenian Law, Politics and Society*, ed. Paul Cartledge, Paul Millett, and Stephen Todd (Cambridge: Cambridge University Press, 2002). Kenneth J. Dover, *Greek Homosexuality* (Cambridge: Harvard University Press, 1989), 34-42.

[88] Demosthenes, "Against Meidias," 21.47. Note the use of *thesmothetai* by Demosthenes here translated as judges. Although by the end of the fifth century laws were no longer called *thesmoi* at Athens, the term *thesmothetai* was retained as the official title of the six junior archons, or judges, in the *dikasterion* (people's court). *Thesmothetai* were elected yearly and were responsible for recording ordinances to preserve them for trial and preparing lists of the days on which the public courts were to sit. The 'Heliastic' Court here refers to the people's court: Heliaia is a leftover term from

We should note that the law specifies (a) the categories of persons against whom committing *hubris* is a crime, (b) the procedure to be followed in prosecuting the crime, and (c) the range of penalties the guilty party could suffer. But the law does not in fact define *hubris* or specify what action constitutes an outrage. This meant that in every given case of *hubris* it was up to the litigants to debate what the defendant purportedly did and the legal meaning of those actions. But it was the citizen-jurors who ultimately rendered judgment on the substance of the law and how it applied to the particular case in front of them.

Citizens thus had to first determine the *nature* of the offense. Prosecution for *hubris*, like prosecution for *asebeia*, was not a private lawsuit filed to determine compensation for the victim. Rather, it was an indictment for an offense against the polis as a whole. Anyone who physically assaulted or slandered another person, for example, could be brought up on charges but not all assaults or slander counted as the public crime of *hubris*. To establish that an act was *hubris* meant that the jury had to be persuaded that the act proceeded from a certain disposition on the part of the accused: in the case of a physical assault, from the belief on the part of the accused that by virtue of his economic or social position he "could treat free men as if they were slaves."[89] In other words, the prosecution had to prove that the accused did not believe in the legitimacy of the law, that he did not believe the law could render 'unequals' equal. The act should be understood as a crime of *hubris* not because of the physical violence alone but because of the underlying "assault against the law" of which the physical violence is a manifestation. As an act of *hubris*, the crime is thus

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the archaic period when it was possibly the only court but by the 4th century it was often used as synonym for the *dikasterion*. (Aristotelian *Constitution of the Athenians*, 3.4; 59. Hansen, *The Athenian Democracy in the Age of Demosthenes*, 190-91; Ostwald, *Nomos and the Beginnings of Athenian Democracy*, 174-75.)

[89]Demosthenes. *Against Meidias* 21.180

prosecuted by *graphe* (plural *graphai*), or writ of public indictment, rather than *dike* (plural *dikai*) which was a private suit; the crime was understood to do violence to the *politeia* and so directly affect the safety and welfare of the polis as a whole.[90]

Unlike modern legal practices where the state prosecutes offenses against itself, at Athens, the action had to be brought by private suit first; it then became a public suit not because the state, or *polis*, prosecuted the crime but because the offense itself was deemed a public one. In order to persuade the jury that the accused had indeed committed an act of *hubris* citizen-prosecutors thus used the two sorts of legal and extra-legal arguments I previously noted. Scholars are generally divided on the significance of these arguments between those who view litigation as socio-political drama, which I term the 'agonistic view', and those who see the courts as involved in attempts to implement the rule of law, which I term the 'juridical view'.[91]

On the agonistic view, these speeches demonstrate that extra-legal considerations not only trumped the law, but that litigation was primarily a form of "feuding behavior" wherein Athenians sought to publicly define, contest and evaluate their socio-political relationships.[92] The example of Demosthenes' famous speech *Against Meidias* from which

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[90] Hansen, *The Athenian Democracy in the Age of Demosthenes*, 192-96. There were more than fifty different types of *graphe* at Athens. For a discussion on the different types of *dikai* and *graphai* see Todd, *The Shape of Athenian Law*, 98-112.

[91] Representative of the agonistic view are Osborne, "Law in Action in Classical Athens; Sally C. Humphreys, "Law as Discourse," *History and Anthropology* 1(1985); Sally C. Humphreys, "Social Relations on Stage: Witnesses in Classical Athens," ibid., no. 2; Ober, *Mass and Elite in Democratic Athens*; Humphreys, "Family Quarrels (Dem.39-40); Cohen, *Law, Violence and Community in Classical Athens*; Robin Osborne, *Athens and Athenian Democracy* (Cambridge: Cambridge University Press, 2010). Representative of the juridical view are Ostwald, *From Popular Sovereignty to the Sovereignty of Law*; Sealey, *The Athenian Republic: Democracy or the Rule of Law*; Hansen, *The Athenian Democracy in the Age of Demosthenes*; Harris, "Open Texture in Athenian Law; Lanni, *Law and Justice in the Courts of Classical Athens*.

we have the law on *hubris* cited above is used as a case in point. In this speech, Demosthenes accuses Meidias of waging a kind of warfare against him while he was serving as a chorus leader at the Greater Dionysia festival. Demosthenes claims that Meidias tried to sabotage the competition through bribery, harassment, coercion, and other acts of aggression that culminated in Meidias publicly slapping him during the actual procession. Demosthenes wrote this speech for the prosecution of this slap (although it is unclear whether it was ever in fact delivered)[93] but in it claims to have been a victim of the greater crime of *hubris*. In the course of Demosthenes' speech it becomes clear that this particular offense – the slap – is but the most recent incident in a long-standing hostility between these men that has involved accusations and legal charges of intimidation, bribery, military defection, murder and false prosecution, to name but a few. [94] On the agonistic view, the important point here is that the statute under which this particular suit was brought acted as a procedural mechanism for moving that feud onto to a public stage, but as law – both in its general and particular sense – it in fact mattered little.[95] That none of

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[92] Cohen, *Law, Violence and Community in Classical Athens*, 87-88, and more generally 87-118; Osborne, "Law in Action in Classical Athens," 52. For a view of the public courts as forums for rhetorical contests, see Yunis, "The Rhetoric of Law in Fourth Century Athens."

[93] Aischenes claimed that Demosthenes "sold for thirty *minai* both the insolence to himself and the adverse vote which the people gave against Meidias in the precinct of Dionysos" (3.52) Scholars usually take this mean that the suit was dropped and thus the speech never delivered, although there is some dispute. (see Harris, "Open Texture in Athenian Law," 132-36.)

[94] The dispute had originally to do with whether Demosthenes was justly deprived of his inheritance.
Demosthenes claims that Meidias initially insulted him in his house in front of his female relatives, and that he, Demosthenes, responded by bringing a suit of slander against Meidias. Demosthenes was apparently able to block the suit by abusing the legal process, and in turn, Meidias retaliated by bribing a third-party to falsely accuse him, Demosthenes, of military desertion. On a later occasion Demosthenes claims that Meidias tried to have him prosecuted for a murder he did not commit and that he, Meidias, frequently attacks Demosthenes friends and associates. In short, Demosthenes accuses Meidias of using the advantages of wealth to intimidate, coerce and to harm an ordinary citizen like himself.

the previous charges were settled between these men is indicative of a legal culture that is itself part of a greater agonistic ethos: Athenian litigiousness should be understood as an institutional expression of this fundamental social value. The role of the courts was thus not primarily to resolve disputes according to established rules and principles equally and impartially applied. Instead, the courts were the public locus of "ideological mediation" that contributed significantly to the stability of Athenian democracy for some 200 years.[96]

On the juridical view, the extra-legal arguments in the speeches are extraneous and reflect only the 'amateurishness' of the system:[97] the magistrate who prepared the case and presided over the proceedings was an ordinary citizen appointed by lot for a one-year term; there was no state-prosecutor; every charge had to be brought and carried through by regular citizens acting either on their own behalf or in the public interest; judgment was not rendered by a judge but by a jury of several hundred ordinary citizens. In short, there was a complete absence of legal professionals or experts in the public courts; extra-legal argumentation simply reflects the non-professionalization of the Athenian legal system. The legal reasoning in the speeches, however, demonstrates that Athenian citizens understood themselves to be juridical subjects committed to the rule of law in its most comprehensive sense.[98] In mounting his case against Meidias Demosthenes reminds the

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[95] Cohen, *Law, Violence and Community in Classical Athens*, 90. On the role of private suits as a restoration of honor, see Osborne, "Law in Action in Classical Athens," 52-53. Yunis argues that even though litigants did dispute the law, Athenian trials lacked any mechanism for considering what the law was in general or what the law required in a particular case, on the basis of norms derived from the law itself. (Yunis, "The Rhetoric of Law in Fourth Century Athens," 194.)

[96] Ober, *Mass and Elite in Democratic Athens*, esp.3-52, 141-52, 239-339.

[97] Hansen, *The Athenian Democracy in the Age of Demosthenes*, 178-224; E. Harris, "Law and Oratory," in *Persuasion: Greek Rhetoric in Action*, ed. I. Worthington (New York: Routledge, 1994), 137; Harris, "Open Texture in Athenian Law," 78n85.

[98] Ostwald, *From Popular Sovereignty to the Sovereignty of Law*, 497-524; Hansen, *The Athenian Democracy in the Age of Demosthenes*, 161-77; Sealey, *The Athenian Republic: Democracy or the Rule of Law*, 146-48.

jury of the procedural aspects of the law on *hubris* (cited above). But Demosthenes also asks the jury to define Meidias' actions as a public crime against the *politeia* rather than a private offense, and to do so by considering the nature of law itself. He argues, for example, that the particularity of physical violence violates the very nature of the universality of the law and brings with it a communal fear that undermines the strength of the laws to secure order.[99] He thus asks each jury-member to consider the case at hand from the point of view of law, and not from extra-legal considerations; Demosthenes tells them, "the laws are strong through you and you through the laws."[100] These claims thus demonstrate that litigants paid careful attention to substantive issues and questions about the interpretation of the law; they assumed that citizen-jurors, to whom these speeches were in fact addressed, would do the same. Thus on the juridical view, litigants would only have made jurisprudential arguments if they considered the citizens in the court to be collectively bound by the rule of law.

The *Apology*, *Crito* and *Euthyphro* also provide an understanding of the Athenian citizen as primarily a juridical subject. I argue, however, that these dialogues also challenge (a) the understanding of the prevalence of extra-legal argumentation as amateurish advanced by the juridical view and (b) the notion that the legitimacy of the public courts was usurped in the service of social drama advanced by the agonistic view. Both of these views misunderstand the legal speeches to be primarily about contestation and feuding; I show that this understanding has in fact led to an incorrect understanding of the charges against Socrates as well as Plato's philosophical treatment of the events surrounding the trial along with the trial itself. I argue first, that Athenians did not consider law and justice

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[99] Demosthenes, *Against Meidias*, 21.45, 220-222.

[100] *Against Meidias*, 224-225.

as differing standards and often treated them as identical. [101] Writs of public indictment (*graphai*) are indicative of this very understanding: to be a citizen at Athens was to be juridical subject, at once delimited by and acting within the comprehensive legal framework of not harming the city. Second, both legal and extra-legal arguments were considered relevant in public courts because just verdicts involved both the particular circumstances of the case and the broader context of the dispute. The relative importance of the legal and contextual information was open to dispute by the litigants, and made possible by the open-texture of Athenian law. Legislators "readily acknowledged the 'gaps' in the laws" because they saw the role of citizen-juries – of juridical subjects – as filling in what was

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[101] On this point, scholars often note the claims made in the forensic speeches (see, for example, Demosthenes 19.179; 42.2 and C. Carey, "Nomos in Attic Rehtoric and Oratory," *The Journal of Hellenic Studies* 116(1996): 41.) Plato exposes, and subjects to philosophical treatment, this same outlook in the *Republic*, where the just and the legal coincide in the three slightly different definitions of justice advanced by Thrasymachus, Glaucon and Adeimantus. The first mention of law in the dialogue is made by Thrasymachus, who advances the traditional understanding according to which law is made with a view to the regime type, and justice follows as the advantage of the stronger, namely, the established ruler(s). (338e-339a) A short time later, Glaucon, who also identifies the just with the legal, argues that it is the weaker rather than the stronger who make the law. On Glaucon's account, the just and the legal are the result of an agreement made out of fear by those "who have done and suffered injustice and tasted both, but who lack the power to do it and avoid suffering it." (358d-359a) In other words, the political compact (*suntheke*) is itself founded on an agreement amongst the weak to neither commit nor suffer injustice. The stronger man, to whom Glaucon here refers as the "true man (*alethos andra*)" (359b), would never willingly enter into such an agreement with the weak because he is able to commit injustice with impunity. Thus, neither the weak nor the strong value justice as a good, rather, they value justice instrumentally to the extent they are able to commit injustice without suffering. Law and justice coincide on Glaucon's accounting, precisely because the law recognizes the universal and natural human inclination towards injustice and levels the possible resulting imbalances: human "nature is forced by law into treating equality with honor." (359c) Glaucon's argument is reinforced a short time later by his brother Adeimantus, who provides the poetic, or popular, account of law and justice. On the one hand, this account claims repeatedly that justice and moderation are noble, but also that insofar as they go against nature, are difficult to acquire. On the other hand, although "licentiousness and injustice" cannot be said to be noble, they are "shameful only in opinion and law." (364a) We know this to be the case because of the polis-sanctioned accounts of the divine in popular poetry, where the gods are depicted as committing repeated injustices and excusing it in human beings via the correct "sacrifices, prayers and offerings" (365e). Justice is thus simply a matter of law and opinion whereas injustice is a matter of human and divine nature.

required to achieve substantive justice in particular cases.[102] Thus, third, I ultimately argue that Plato provides an understanding of Athenian law and judicial practices that does not do away with contestation; instead, the realm of contestation is distinguished from, and in turn made possible by, the educative function of the law.

I have already noted that the crime of impiety, or *asebeia,* was similar to the crime of *hubris* in both kind (writ of public indictment) and substance (not singularly defined). I want to now reexamine the accusation against Socrates as it is characterized in the *Apology* in light of its similarities to prosecutions for *hubris*.

Socrates begins his cross-examination of Meletus by re-stating the charges against him: "Socrates is guilty of corrupting (*diaphtheiro*) the young and of not believing (*nomizo*) in the gods in whom the city believes (*nomizo*), but in other new spiritual things. Such is the accusation (*egklema*). Let us examine it point by point" (*Ap*ology 24b-c).[103] We usually read these charges to mean that Socrates is accused of two things, impiety (not believing in the gods of Athens and/or believing in false gods) *and* corrupting the youth.[104] But this is not right. Impiety here does not refer to the absence of proper devotion to the gods as an individual and private moral failing. The word for *impiety* in this sense of persons unholy or

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[102] Michael Gagarin, "The Unity of Greek Law," in *The Cambridge Companion to Ancient Greek Law*, ed. Michael Gagarin and David Cohen (Cambridge: Cambridge University Press, 2005).

[103] Diogenes (2.5.40) recounts the charges as follows: "This indictment and affidavit is sworn by Meletus…against Socrates: Socrates is guilty of refusing to recognize the gods recognized by the state, and of introducing other new divinities. He is also guilty of corrupting the youth. The penalty demanded is death." Both accounts use consistent vocabulary, most particularly, the word *nomizo*, which involves "belief," but also an "esteeming and recognition through right action." cf. *Euthyphro* 2c-3b.

[104] M.F. Burnyeat, "The Impiety of Socrates," in *The Trial and Execution of Socrates*, ed. Thomas C. Brickhouse and Nicholas D. Smith (New York: Oxford University Press, 2002).

profane is *anosios,* as opposed to *hosios*, referring to someone holy or pious.[105] *Asebeia* is a juridical term, and like *hubris*, it characterizes a specific *act* as a *public* crime. Athens did not prosecute for unorthodoxy of belief. In fact, it would be difficult to say what orthodoxy of belief consisted in at Athens, given its polytheistic theology whose 'doctrinal content' consisted primarily in the stories of the poets.[106] Prosecutions for *asebeia* thus identified something one did - a specific *act* - as proceeding from a certain disposition on the part of the accused and threatening the welfare of the polis. Two significant points regarding the language Socrates uses in restating the accusation against him buttress this understanding.

First, Socrates does not use the word *asebeia* here and does not characterize the charges against him as a *graphe* (writ by public indictment) but rather refers to the accusation as an *egklema*. The wording is significant: in Athenian law, an *egklema* is a written complaint, but generally of the sort that leads to a private (*dike*) rather than a public (*graphe*) suit.[107] Socrates thus begins his cross-examination of Meletus by denying him the public nature of the accusation. Second, Socrates then insists on cross-examining Meletus by revisiting each point of the accusation: (1) corrupting the young, (2) not believing in the gods of Athens and (3) believing in other spiritual things. In other words, Socrates here makes it clear that he has been brought to trial for the act of corrupting the youth which Meletus would have the jury understand as *asebeia* insofar as that act is the manifestation of not believing in the gods of Athens and believing in false gods. Socrates' defense strategy is

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[105] The nature of what constitutes the holy versus the profane, *hosios* versus *anosios*, is for Plato antecedent to questions of legal impiety, and is taken up explicitly in the *Euthyphro*. I discuss the significance of these distinctions below.

[106] Pace R.E. Allen, *Socrates and Legal Obligation* (Minneanapolis: University of Minnesota Press, 1980).

[107] Demosthenes. *Against Phormio* 34.16

to thus characterize the accusation against him as a private quarrel and make the crux of the public indictment dependent on the coherence of all three points of the accusation.

Recalling the law on *hubris* as it is stated and elucidated in *Against Meidias*, public prosecution (a *graphe)* turned on whether blatant disregard for the law and the other person was a prominent feature of the criminal act. Without this 'dispositional' element the proper legal action would be a private suit (a *dike*).[108] The charge of *asebeia* requires similar judgment: the jury had to determine that the nature of the offense (corrupting the youth) proceeded from a certain disposition (regarding belief in the gods and the law) and so affected the safety and welfare of the polis as a whole. Setting aside the question of what act exactly constitutes 'corrupting the youth' for a moment, Socrates is first concerned with undoing the part of the charge that has to do with his 'disposition'. As I have previously mentioned, it is during the cross examination that Meletus is shown to hold the untenable position that Socrates is an atheist who also believes in false gods. For most scholars, this logical inconsistency should have been sufficient to undo the legal charge against him; they thus point to the 'extra-legal' prevalent prejudices against Socrates as the actual reasons for his conviction. However, it is Socrates himself who in fact reminds the court of these 'extra-legal' claims within the context of determining the substance of the law on impiety.

Socrates suggests that his accusers have no clear idea of what they mean by corruption, He says, "If one asks them what he [Socrates] does (*poion*) and what he teaches (*didasko*) to corrupt them, they are silent […] but so as not to appear at a loss, they mention those accusations that are available against all philosophers, about "things in the heaven and below the earth," about "not recognizing the gods" and "to make the weaker argument

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[108] In the case of a physical assault or violence, a *dike aikias*, and in the case of slander, a *dike kakegorias*. (Hansen, *The Athenian Democracy in the Age of Demosthenes*, 356.)

the stronger." (23d) This partly answers the question of how to understand the substance of the legal charge of *impiety*: corrupting the youth has something to do with "doing" and "teaching." Later in the cross-examination, Socrates claims that Meletus confuses him with Anaxagoras (26d-e), a philosopher and friend of Pericles, who was tried, fined and exiled from Athens for teaching 'scientific' explanations of divine phenomena (for example, that the earth and moon are made of stone). Anaxagoras thus did violence to the *politeia* by undermining the legitimacy of its gods. Socrates denies Meletus this comparison: not only does he, Socrates, believe in the gods of Athens, but he has never taught about the gods or any other matter at all. Socrates has always denied being a teacher. (19b-24b)

What I want to point out here is that although Socrates denies he corrupted the youth (28a) he does not in fact deny that corrupting the youth constitutes *asebeia*.[109] Thus on the one hand, the *Apology* provides an incomplete understanding of impiety: the formal charges leave open the question of what constitutes corruption and the 'extra-legal' argumentation raises two possible corrupting acts, doing (*poieo*) and teaching (*didasko)*. On the other hand, Plato's contribution here is also wholly jurisprudential: to understand the crime of impiety in this way, as corrupting the youth, only makes sense if the laws – and thereby the *politeia* – are implicated in their upbringing. In other words, the *politeia* and its laws would need to be at stake in the education of the youth if their corruption constituted a public crime.

In order to flesh out these claims I want to return to the *Crito*, where, I argue via the forensic speeches, Plato elucidates how corrupting the youth has to do with the law and the constitution. In order to show in what way this corruption is itself impious, I first turn

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[109] Cohen, *Law, Violence and Community in Classical Athens*, 189-90.

briefly to the *Euthyphro*, where Plato disentangles impiety (*asebeia*) from un-holiness, holiness and piety (*anosios, hosios*, and *eusebeia*).

THE *EUTHYPHRO* AND LEGAL 'IMPIETY'

Socrates encounters Euthyphro outside the office of the magistrate: he is on his way in to answer the charge of *asebeia* brought against him and Euthyphro is on his way out, having just deposed murder charges against his own father for the death of a servant.[110] From a legal perspective, murder was considered to be a private rather than a public offense. Prosecution for murder thus fell under the category of a *dike* rather than a *graphe*. But murder was also understood to be an offense against the gods, an impious act in the (legally) private sense of *anosios*, since it entailed pollution (*miasma*) which if not ritually purified was displeasing to the gods. But as Euthyphro himself points out, it was also considered *anosios* for a son to take the sort of action he was taking against his father; his own family believes Euthyphro to be violating his divine obligation to filial devotion. Euthypho, however, is a *mantis* (a prophet or a seer); he claims to be an expert on divine matters and thus to know that these conventional ideas "of the divine attitude to holiness (*hosios*) and unholiness (*anosios*) are wrong" (4e). This claim to expertise prompts the ensuing examination of the nature of holiness (*hosios*) commonly referred to in the scholarship as the so-called '*Euthyphro* dilemma or 'argument.'[111]

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[110] Stalley and Long incorrectly claim that Euthyphro is prosecuting his father for impiety. (Richard F. Stalley and Roderick T. Long, "Socrates and the Early Socratic Philosophers of Law," in *A History of the Philosophy of Law from the Ancient Greeks to the Scholastics*, ed. Fred D. Miller Jr. and Carrie-Ann Biondi (Dordrecht: Springer, 2007), 37.)

[111] Terence Irwin, "Socrates and Euthyphro: The Argument and Its Revival," in *Remebering Socrates*, ed. Lindsay Judson and Vassilis Karasmanis (Oxford: Oxford Unversity Press, 2006).

In broad strokes, the Euthyphro argument runs as follows: Euthyphro initially defines the holy as "what is loved by the gods" (6e-7a). However, since he also accepts the traditional, poetic, accounts of the gods, he has to admit that what is loved by some gods is hated by others: the gods quarrel especially over matters of right and wrong (6b-c). On this understanding, Socrates points out, Euthyphro's definition implies that the same thing may be both holy (loved by one god) and unholy (hated by another). Socrates suggests that they leave this issue aside by examining instead the claim that the holy is what is loved by all gods. He then asks Euthyphro whether the gods loving something *makes* it holy or whether the gods love something *because* it is holy (9e-10a). Euthyphro agrees to the latter claim (10d); hence, the holy cannot be defined as what the gods love.

Certain crucial premises are not fully defined here and the conclusion reached will turn out to be provisional; still, I argue that the conclusion is significant.[112] Euthyphro has here agreed that the standard for whether something is holy is prior to, and independent of, whether the gods love it. This premise allows Socrates to argue that the holy is part of the just and thus, I argue, to shed some light on the nature of the charge against him (11e-13e).

I want to make note of a peculiarity in the scholarship on the *Euthyphro* that bears on our understanding of the *Apology* and the charge against Socrates. I have already noted the formal distinction between *asebeia*, the legal charge of impiety, compared with *anosios*, to act unholy in the legally private sense. Plato uses both words in the *Euthyphro* along with the corresponding *eusebeia* and *hosios*, which I render respectively as pious and holy. Scholars

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[112] The discussion will eventually lead back to Euthyphro's original premise that something is holy because it is god-loved (15b-c); the dialogue will conclude aporetically which does not concern me here. For a helpful treatment of the details of the argument, see Marc S. Cohen, "Socrates on the Definition of Piety: *Euthyphro* 10a-11b," in *Plato's Euthyphro, Apology and Crito*, ed. Rachana Kamtekar (Oxford: Rowman & Littlefield, 2005), 35-48.

generally do not note Plato's use of these distinct terms and most translators treat them as interchangeable.[113] I argue, however, that the dialogue intentionally distinguishes the holy from the pious (*hosios* from *eusebeia*) precisely to underscore the distinction between the private sense of unholy (*anosios*) from the public crime of impiety (*asebeia*). This is significant, I claim, because the accusation of *asebeia* against Socrates does not in fact include an accusation of unholiness (*anosios*). The words *asebeia* (impiety) and *eusebeia* (piety) do not occur within the context of the so-called *Euthyphro* dilemma; the words used here are exclusively *anosios* and *hosios*, which I consistently render as unholy and holy. As I have already pointed out, the dialogue leaves unresolved the precise meaning of holiness (*hosios*)(15c-d); the dialogue does, however, claim that both holiness and piety (*eusebeia*) have to do with justice. Socrates and Euthyphro here agree that holiness (*hosios*) is that particular part of justice directed towards the gods whereas piety (*eusebeia*) is that particular part of justice that is directed towards human beings (12e). There are two immediate consequences of this agreement.

First, as particular acts of injustice, *anosios* and *asebeia* are substantively different from one another. Euthyphro's prosecution of his father for murder can only be judged

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[113] I have found one scholar who notes the difference at 5c-d only, and dismisses its significance: "The adjective *hosios* is treated as interchangeable with *eusebes*, meaning, 'well disposed towards the gods', 'reverent', or 'religious'." (C.C.W. Taylor, "The End of the *Euthyphro*," *Phronesis* 27, no. 2 (1982): 110; 09-18.) A sample of scholars with whom I engage in this thesis who do not note the difference include Thomas C. Brickhouse and Nicholas D. Smith, *Plato's Socrates* (Oxford: Oxford University Press, 1994); Burnyeat, "The Impiety of Socrates," esp.139-42; Gregory Vlastos, "Socratic Piety," in *Plato's Euthyphro, Apology and Crito*, ed. Rachana Kamtekar (Lanham: Rowman & Littlefield, 2004), 49-17; Terence Irwin, "Socrates and Euthyphro: The Arguement and Its Revival," in *Remembering Socrates*, ed. Lindsay Judson and Vassilis Karasmanis (Oxford Oxford University Press, 2006), 58-71. In terms of translations, Grube is almost consistent in translating *anosios* and *hosios* as impiety and piety, and *asebeia* and *eusebeia* as ungodliness and godliness, but this is also confusing insofar as virtually all English scholarship refers to the charge against Socrates as impiety. (See G.M.A. Grube, "*Euthyphro*," in *Plato Complete Works*, ed. John Cooper (Indianapolis: Hackett Publishing, 1997); C.D.C. Reeve, "Euthyphro," in *The Trials of Socrates*, ed. C.D.C. Reeve (Indianapolis: Hackett Publishing, 2002).)

unholy (*anosios*) to the extent that it violates his prior obligation by the gods to filial devotion. Euthyphro argues that prosecuting his father for murder is holy precisely because Zeus punished his own father for committing injustices (6a). Euthyphro's actions, as contentious as they may be, do not in and of themselves give rise to any juridical dispute. Euthyphro is accused of being unholy (*anosios*); he is not accused of committing a crime (*asebeia*). Socrates is of course accused of a crime; but his actions can only be judged impious (*asebeia*) to the extent that they violate his obligations to obey the laws of the polis; devotion to the gods is only incidentally related to the crime and the charges do not, as a matter of fact, include the claim of *anosios*.

Second, it may very well be, as Euthyphro wants to claim, that piety (*eusebeia*) and holiness (*hosios*) coincide through our care of (13b) and service to (13d) the gods; Socrates makes a similar claim in the *Apology* that he serves the god in trying to persuade human beings – and most particularly Athenian citizens – to care for the well-being of their souls (29d-30b).[114] But this coincidence is of secondary importance; holiness and piety are similar insofar as they both share in the form (*eidos*) of justice (6e). In turn, justice is the paradigm (*paradeigma*, 6e) from which particular behaviors are judged either holy or pious; holiness is thus the virtue of being properly disposed in both word and action towards the gods whereas piety is the virtue of being similarly properly disposed towards human beings. Socrates is not accused of violating a divine obligation (*anosios*); as the *Crito* makes clear, he is accused and indicted of violating his obligation to never harm the *politeia*. Unlike divine obligation, obligation to the polis is a matter of law.

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[114] On the strength of this claim in the *Apology* and the *Euthyphro*, Vlastos thus argues that Socrates advances a "revolutionary" new concept of piety as "doing god's work to benefit human beings – work such as Socrates' kind of god would want done on his behalf, in the service to him." (Vlastos, "Socratic Piety," 60; 49-71.)

THE *CRITO* AND THE LAW OF LAW

The speech given by the personified laws of Athens at the end of the *Crito* is not an obvious example of forensic oratory; nonetheless, I argue, it should be understood as an instance of legal oratory for three intertwined reasons.[115] First, the personified laws begin their speech by characterizing Crito's proposal to break Socrates out of jail as a crime worthy of public indictment: the action will "destroy [them], the laws, and indeed the city as a whole" (50b; 50d, 51a, 52d); it will break the authority of the courts (50b) and of the laws meant to enforce the courts' judgments (50c). Second, in their personification, Socrates attributes to the laws the characteristics of an orator mounting a speech in defense of the laws and city (50b-c). Third, the laws then proceed to mount a defense of themselves in which they provide evidence, both 'legal' and 'extra-legal', for their case. In both procedure and substance, I argue, the wording of this speech closely approximates the Athenian legal processes against unconstitutional legislation, the *graphe paranomon* (a writ of public indictment against proposing illegal decrees) and the *graphe nomos me epitedeion theina* (a

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[115] I thus move away from the standard interpretations of this speech. On the dominant view, the arguments given by the personified laws are Socrates' own; whether or not Socrates delivers the speech in his own name makes no difference to the interpretation of the dialogue. On these readings, Socrates argues in favor of the rule of law and finds the arguments persuasive enough to obey his sentence and face execution. Scholars are in turn concerned with reconciling what Socrates has to say about justice, the law and obedience in this speech, with what he has to say about these same topics elsewhere in the corpus, and most particularly the *Apology*. (Allen, *Socrates and Legal Obligation*; Vlastos, *Socrates, Ironist and Moral Philosopher*; Brickhouse and Smith, *Plato's Socrates*.) On the alternative view, Socrates personifies the laws in order to distance himself from defending the rule of law. On this understanding, the speech is for the benefit of Crito, not Socrates. Crito remains unconvinced by Socrates' earlier and more philosophical arguments; Socrates must turn to the 'second best' alternative to philosophy, namely the law itself, in order to successfully persuade Crito that he must obey his sentence. For two very different readings stemming from this view see Melissa Lane, "Argument and Agreement in Plato's Crito," *History of Political Thought* 19, no. 3 (1998); Roslyn Weiss, *Socrates Dissatisfied* (Oxford: Oxford University Press, 1998).

public suit for proposing an improper law, hereafter *graphe nomos*).[116] In both cases, the suit resulted from proposed legislation that was contrary to, and thus understood to be destructive of, the Athenian constitution, its laws and their underlying democratic principles.

To explain: Between 410 and 399 BCE Athens collected, revised, and published her existing laws by inscribing them in stones displayed on the porch of the *stoa basileios*. (Not incidentally, this is the same porch where Socrates, on his way into the magistrate's office for the preliminary hearing to determine the validity of the charge against him, encounters Euthyphro). With the restoration of democracy in 403, Athens decided the collected laws were insufficient for governing the *polis* and that she needed to establish a procedure for making new laws.[117] The *graphe paranomon*, which antedates both the legal codification and restoration of democracy, set the precedent for this process: it subjected decisions made by the popular Assembly (*ekklesia*) to review by the courts, thereby implicitly recognizing that the task of making new laws should not be left to 'the many' (*hoi polloi*) in the Assembly. A new set of procedures for reviewing existing law and passing new laws by boards of *nomothetai* – lawgivers who were identical with sworn jurors of the courts – were thus instituted. The two corresponding processes by which citizens could now challenge in court a proposed legislation helped formalize the distinction between *psephisma* and *nomos*

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[116] On the explicit connection between the *graphe paranomon* and the *Crito*, see Brickhouse and Smith, *Plato's Socrates*, 147-49; Geoffrey D. Steadman, "The Unity of Plato's *Crito*," *The Classical Journal* 101, no. 4 (2006). I rely on the general treatments of both *graphai* in Hansen, *The Sovereignty of the People's Court in Athens in the Fourth Century B.C and the Public Action against Unconstitutional Proposals*; *The Athenian Democracy in the Age of Demosthenes*, 205-12; Sealey, *The Athenian Republic: Democracy or the Rule of Law*; Ostwald, *From Popular Sovereignty to the Sovereignty of Law*.

[117] For a debate on the revisions that took place see Noel Robertson, "The Laws of Athens, 410-399 Bc: The Evidence for Review and Publication," *The Journal of Hellenic Studies* 110(1990); P.J. Rhodes, "The Athenian Code of Laws, 410-399 B. C.," ibid.111(1991).

discussed earlier: the old procedure of *graphe paranomon* was retained in the case of impermanent decrees (*psephismata*) concerning immediate issues enacted in the Assembly and the new *graphe nomos* was enacted by law for use in the case of general and permanent laws (*nomoi*) passed by lawgivers in the law-courts.[118]

The procedural mechanisms of the *graphe paranomon* and the substantive concerns of the *graphe nomos* are particularly useful for helping us understand the nature of Athenian citizenship. I argue that Plato's tacit philosophical treatment of these laws in the *Crito,* is to make the case for the necessary role of the law in educating its citizens by delimiting what is at stake: badly educated citizens, this dialogue argues, will in fact destroy the *politeia*.

Two possible grounds could give rise to a *graphe paranomon*; either the proposed statute did not fulfill all of the necessary preliminary procedures in the Assembly before it was ratified or it contravened existing law. In either case, if the jurors decided in favor of the prosecutor, the defendant was fined and the statute repealed if it had already been passed in the Assembly. If the jurors decided in favor of the defendant, the proposed statute was automatically passed, whether or not the Assembly had formally deliberated and voted. The *graphe paranomon* thus highlights the extent of the power of the law courts at Athens; the process not only allowed jurors to decide matters of law but to pass and repeal those same matters of law without input from the popular Assembly. In other words, final

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[118] Of the two procedures the *graphe paranomon* is far better attested to in the forensic speeches: thirty-five examples of *graphe paranomon* survive compared with only six *graphe nomon me epitedeion theinai*. Similar to any other *graphe*, the *graphai* against unconstitutional legislation could be brought by any citizen. It was introduced by a *hypomosia*, an allegation under oath that the legislation was unconstitutional; once the accuser swore this oath he was obliged to mount a prosecution and pursue his claim through to the jury's verdict, otherwise, he would be fined and banned from ever again bringing such a *graphe*. On the difference between the two procedures see Hansen, *The Sovereignty of the People's Court in Athens in the Fourth Century B.C and the Public Action against Unconstitutional Proposals*, 28-65 esp. 44-48; *The Athenian Democracy in the Age of Demosthenes*, 205-12.

scrutiny of the law did not lie in the hand of the majority; instead, it went to the experts in the law courts.[119]

I previously pointed out in the context of the *graphai* against Meidias and Socrates that there was a complete absence of legal 'professionals' at Athens; there were no state prosecutors, formal judges, or officers of the court in any professional capacity. Instead, ordinary citizens filled these roles. I argued there against what I termed the 'juridical view' that treats the extra-legal argumentation in the forensic speeches as insignificant and simply indicative of the amateurishness of the legal system. The *graphe paranomon* further challenges this characterization of the legal system; in the absence of identifiable legal professionals the procedure nonetheless ascribes an expertise to the courts of law. In other words, although the same 'ordinary citizen' participated in the Assembly and in the courts, the *graphe paranomon* shows that in court he held the specific qualifications of the *nomothetai* provided in the Heliastic oath, by which all jurors swore:

> I will cast my voice in consonance with the laws and with the decrees passed by the Assembly and by the Council, but, if there is no law, in consonance with my sense of what is most just, without favor or enmity. I will vote only on the matters raised in the charge, and I will listen impartially to accusers and defenders alike.[120]

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[119] I am only here underscoring the procedural mechanism of legal review involved in the *graphai paranomon*. There is significant debate in the scholarship regarding whether the 4th century constitutional reforms in general replaced the political sovereignty of the people with the "sovereignty of law." (*The Sovereignty of the People's Court in Athens in the Fourth Century B.C and the Public Action against Unconstitutional Proposals*, 15-21; Ostwald, *From Popular Sovereignty to the Sovereignty of Law*, 497-524.) I agree with Ober's claim that this debate imports a false antinomy between "a 'rule of law' that was exterior, superior and in opposition to the will of the people…Athenians themselves never acted or thought that way." (Ober, *Mass and Elite in Democratic Athens*, 22.)

[120] The oath does not survive in its complete form. I follow Hansen, who translates this oath from a nineteenth century scholarly reconstruction from fragments in various forensic speeches. (Hansen, *The Athenian Democracy in the Age of Demosthenes*, 182-83.) An extensive if incomplete version of the oath in Demosthenes' speech *Against Timocrates* (24.149-51) is generally accepted to

This oath, which was sworn in the name of Zeus, Apollo and Demeter and ended with the juror invoking divine punishment against himself should he abrogate his sworn responsibilities, had significant juridical import: the forensic speeches make it clear that judgments by the sworn jurors in the law courts held greater weight than those taken by the *demos* in the Assembly who swore no oath.[121] It is worth noting that whereas citizens could attend the Assembly at the age of eighteen, they could only be appointed jurors by lot starting at age thirty; I argue that the ancient Greek's respect for oaths and the greater maturity and experience that comes with older age are significant factors at play here.[122] The oath delimits what is required of the regular citizen to enact his role as juror and lawgiver; it stipulates that jurors must base their decisions on only two criteria, (1) the law and (2) its underlying principle of justice. The first criterion was easily enough fulfilled once Athens codified her laws: *nomothetai* now turned to the written laws in making their decisions. The expertise required by the second criterion, namely, knowledge of the principles of justice, was of course less readily identifiable; this chapter argues that answering the question "what is justice?" was a central concern of all Athenian jurisprudential thought. This oath requires of the *nomothetai* an inward turn in answering this question; this turning inward is significant insofar as judges were not permitted to deliberate before voting. The oath thus makes explicit that the law and the principles of justice constitute the expertise that turns a regular citizen into a sworn *nomothetai*; in the

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be a development of the original, which may go back to the time of Solon. The oath was taken by all Heliasts at the beginning of each year. (Harrison, *The Laws of Athens, Volume 2: Procedure*, 48; Ostwald, *From Popular Sovereignty to the Sovereignty of Law*, 11-12n30; 159-60.)

[121] Demosthenes. *Against Timocrates* 24.78

[122] Aristotle. *Constitution of Athens* 42.1, 62.3; Hansen, *The Sovereignty of the People's Court in Athens in the Fourth Century B.C and the Public Action against Unconstitutional Proposals*, 50.

context of the *graphe paranomon*, justice and the law are the criteria by which the citizen qua *nomothetai* can revisit the decision he made in his capacity as member of the *hoi polloi* (the many) in the Assembly.

I thus want to note that the *graphe paranomon* also challenges the characterization of litigation at Athens as primarily a form of feuding behavior advanced by the agonistic view I discussed previously. Certainly, the principles of deliberation institutionalized in the Assembly provided the forum in which citizens could publicly define, contest and evaluate their socio-political relationships. But both the law and the absence of deliberation in the courts set a procedural limit to such contestation there. The *graphe paranomon* underscores this important institutional distinction made at Athens between matters of the people and matters of law. Certainly, the *graphe* also shows how these matters are consolidated in the citizen and most particularly in his judgment; it is the same citizen who judges in the Assembly and in the law-courts. But he does so from the different perspectives that accord with his institutional identities: as a member of the *hoi polloi* his judgments result from deliberation and opinion whereas in his capacity as *nomothetai* his judgments result from the law and the principle of justice. I argue that these very same distinctions are subjected to philosophical treatment by Plato in the *Crito.*

Socrates and Crito agree that matters of justice and injustice "about which [they] are now deliberating (*bouleuo*)" (47d) cannot be settled by the "opinion (*doxas*) of the many (*hoi polloi*)" (48a); instead, they must turn to those who know about these things (47a-48a,) namely, the laws (50a-54d). Before turning to the experts, however, they establish a "common ground" in order to avoid the "inevitability of despising one another's opinions" that occurs when there is "no common to deliberation (*koine boule*)" (49d). The language used up until this point in the dialogue is significant. The term *hoi polloi* signifies not only

"the many," but more strictly, "the majority;" *boule* and its cognates not only always signify deliberation, but at Athens, *boule* was the name given to the deliberative body of the Assembly (*ekklesia*), also known as the Council of five hundred. Crito has previously suggested that his proposal to break Socrates out of jail is a function of his judgment as part of the 'many' (*hoi polloi*) (44c-d) and that it is clearly contrary to the law (44e-45a). Thus when Socrates and Crito agree to judge this proposal solely on whether it is just or unjust, and in turn choose the just course of action, (48b-50a) they effectively remove the matter from consideration by the opinion of the many and appeal to those who will judge it by the criterion of justice, namely, the laws. I argue that in turning to the laws for a defense of themselves, and thereby the verdict against Socrates, Plato is subjecting the Athenian civic ethos already institutionalized in the *graphe paranomon* to his own philosophical exposition; he is showing us here that good citizenship practices recognize that whereas political deliberation need not involve justice, the law must.

In turn, in order for deliberation to be just – that is, in order for political judgment to yield justice – it must also have something to do with the law. This 'something,' I argue, involves more than the *ethos* of subjecting deliberative judgments to judicial review institutionalized in the *graphe paranomos*. I noted previously that Socrates and Crito establish their 'common ground' using the language of deliberation: they agree that "neither to do wrong nor to return wrong is ever right, nor is bad treatment in response for bad treatment." (*Crito* 49d) It becomes immediately apparent, however, that the implications of this view cannot be worked out on the same deliberative grounds that led to its establishment; it is up to the personified laws of Athens to persuade Crito of the necessary consequences of this shared view (49e-50c). I thus want to underscore that the move from the language of the Assembly to the language of the courts occurs over the Socratic

principle to never do harm. In order to flesh out the implications of this move I want to now return to the forensic speeches and then to the speech given by the personified laws, which I have already claimed to be an example of forensic oratory in the particular sense of the *paranomon* cases.

Against Timocrates – from which we have *in extensio* the Helliastic oath – is concerned with a proposed law by Timocrates to grant bail to all state debtors. Demosthenes wrote the speech for Diodorus, who has brought a *graphe nomos* against Timocrates on the grounds that his proposed law is "neither appropriate or just, but against all the laws."[123] Similar to the *graphai* brought against Meidias for *hubris* and Socrates for *asebeia*, this case also involves legal and 'extra-legal' argumentation. In the speech, it becomes clear that there is a long-standing hostility between these men that has involved accusations and legal charges for murder, impiety, false prosecution and defrauding the polis, to name but a few. Diodorus claims that Timocrates present actions are motivated by personal gain;[124] the debtors on whose behalf Timocrates has proposed the law are, in fact, his political allies and known criminals. Unlike the *graphai* explicitly concerned with the actions and disposition of a person, however, the *paranomon* cases are explicitly about the law proper.[125]

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123 Demosthenes, *Against Timocrates* 24.1.

124 *Against Timocrates,* 24.3.

125 Thus on the 'agonistic' and 'juridical views' I noted above, the presence of 'extra-legal' argumentation here has to do with whether the thrust of these procedures was in fact more political than legal. I argued previously that that these views misunderstand the speeches to be primarily about feuding and the amateurishness of the system; insofar as the *paranomon* cases have to do with questions of law proper this misunderstanding also sets up a false antipathy between what scholars term "the sovereignty of the people" (agonistic view) and "sovereignty of law" (juridical view) See n.45 above. Yunis argues that these *graphai* played a double role as political and legal review. (Harvey Yunis, "Law, Politics, and the *Graphe Paranomon* in Fourth Century Athens," *Greek, Roman and Byzantine Studies* 29, no. 4 (1988).)

Diodorus argues that if the jurors grant merit to Timocrates' law "the other laws which you [the *nomothetai*] have written against those who harm the polis will be [made] invalid."[126] The proposed law does not only contravene an existing law but also undermines "practically all of the laws there are in the city," including laws concerning the ratification of new legislation and the punishment of indicted criminals.[127] Diodorus reminds the jurors that that the laws are responsible for "everything that is good in the city:" from its revenue and military position to its freedom and democracy;[128] Timocrates' proposed law is an assault upon the laws, and the democracy that established those laws and is in turn protected by them. What is at stake in the *graphe nomon me epitedeion theinai* brought upon Timocrates is thus not simply an existing piece of legislation; instead, it calls into question an entire system of jurisprudence.[129] Two intertwined premises raised in the speech flesh out Athenian juridical thinking and bear in particular on the jurisprudential claims advanced in the *Crito.*

The first has to do with the temporal dimension of the law. Didodorus characterizes the retroactive reach of Timocrates' proposed law as its most shameful (*aischros*), terrible (*deinos*) and illegal (*paranomos*) provision.[130] The proposed law would grant bail to state debtors already jailed thereby overturning the past verdicts of juries. The law thus draws within its purview "all past time, without any limitation" thereby imputing to the legal system a retroactive force that is so pernicious it threatens to turn its democratic

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[126] *Against Timocrates* 24.5

[127] *Against Timocrates,* 24.66, 17-67.

[128] *Against Timocrates* 24.216, 5.

[129] Ostwald, *From Popular Sovereignty to the Sovereignty of Law*, 125-29.

[130] Demosthenes, *Against Timocrates,* 24.194.

laws (*nomoi)* into tyrannical commands (*thesmoi)*.[131] Recalling the so-called laws passed by the Thirty Tyrants, Diodorus reminds the jury, "under oligarchies, each man is licensed to undo past deeds and to arrange future deeds however he wants, while [in a democracy] the laws tell us what must happen in regard to future deeds by convincing people that they will benefit from those who use them."[132] Good laws, he argues, must legislate for the future and not the past[133] in order to, among other things, secure the legitimacy and authority of the law in the present.

The importance of the temporal dimension of the law is evident in the *graphe nomos* itself, wherein the procedural and substantive dimensions of the law are explicitly collapsed in the law's defense of itself. Diodorus argues that the importance of the *graphe* as law is that it preserves the integrity of the citizens *qua* sworn jurors. Included in the laws Timocrates has transgressed is the one stating that no law can be introduced that contravenes another existing law;[134] the law of the *graphe nomos* itself. The premise of the *graphe* has to do with the consequences that would arise if litigants in court appealed to equally valid but contradictory laws: jurors would be required to vote against their oath in order to render a verdict.[135] Lawmakers instituted as law this *graphe* precisely in order to safeguard against this eventuality; as a part of this safeguard, Diodorus notes, lawmakers

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[131] *Against Timocrates,* 24.44.

[132] *Against Timocrates,* 24.76.

[133] *Against Timocrates,* 24.116.

[134] *Against Timocrates,* 24.33.

[135] *Against Timocrates,* 24.35.

also established by law the jury as the "guardians (*phulaka*s) of the laws."[136] The jury's power to protect the law is thus protected by the very laws it has, in turn, sworn to protect; in effect, it is the law that judges and defends its own legality.[137]

The law defends itself on precisely these terms in the *Crito* in what is commonly referred to as the "persuade or obey" doctrine. The laws make three slightly different claims about persuasion (*peitho*) here that I want to note. They first assert that Socrates must "persuade [his country (*patris*)] or obey its orders," (*Crito* 51b) and then clarify both the purview of obedience and the subject of persuasion: "both in war and in courts and everywhere else, one must obey the commands of one's city (*polis*) and country (*patris*), or persuade her as to the nature of justice (*dikaios*)"(51b-c).[138] Later, they end their speech by telling Socrates that he should also be "persuaded by [them, the laws] who have brought him up" (54b). The personified laws are here exhorting Socrates to uphold the underlying principles of the *graphai* by making *persuasion about justice* the precondition to both obedience and authority.[139] What I mean is that the laws persuade Socrates that his obligation to them

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[136] *Against Timocrates,* 24.36-37.

[137] *Against Timocrates,* 24.118.

[138] The mix of stringent and lenient language in these first two claims is the cause of some significant interpretive controversy that is only incidentally germane to the discussion at hand, and which I attend to throughout as necessary.

[139] Brickhouse and Smith read the 'persuade or obey' portion of the speech as providing the possibility for Socrates to invoke the *graphe paranomon.* Although their treatment is limited they seem to confuse the *graphe paranomon*, having to do with temporary decrees made in the Assembly with the *graphe nomos* having to do with permanent laws enacted in the lawcourts. Steadman, who argues that the entire dialogue is modeled on the procedure of the *graphe paranonom*, mentions the *graphe nomos* in a footnote but does not view the distinction between the two procedures as bearing significantly on interpretation. Yet Socrates would have had to launch the latter kind of suit in order to challenge the law on *asebeia*; I argue here that the scope of each *graphe* is substantively different and that this difference is wholly significant: one extends to decisions made by the people in the Assembly whereas the other includes the decisions made by lawgivers in the courts. (See *Brickhouse and Smith, Plato's Socrates, 147-49; Steadman, "The Unity of Plato's Crito," 363n4.*) Persuasion as the precondition to legal obedience is Plato's explicit concern in the *Laws* where he introduces a great

involves two intertwined premises: (a) knowing he can try to persuade them that a particular law is unjust and (b) that this possibility is itself both protected and promoted by the laws themselves.[140]

I have already shown through the *graphe paranomon* that at Athens matters of justice fell under the purview of the courts and not the popular Assembly. When the laws assert that Socrates should persuade them about the nature of justice they are thus making a specific claim about the kind of persuasion Socrates might employ, namely, that suited to the law courts rather than the Assembly. I argue that the only persuasion option the laws in fact give Socrates is thus to confront the law on *asebeia* and try to persuade it that it is unjust. Socrates does not pursue this course of action; instead, he embeds that single law within the greater Athenian system of jurisprudence in defense of itself against Crito's illegal proposal and in defense of the verdict against him.[141]

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innovation to existing ancient Greek notions of law. The Athenian Stranger here suggests that lawgivers should prefix preambles, or preludes, to their legislation in order to persuade citizens to obey the attached law. (*Laws* 718a-623d)

[140] On this point I am wholly indebted to Kraut, who first argued against the widely held notion that persuasion here is an allusion to the opportunity to participate in lawmaking in the Assembly; I wholly agree with his assessment that the forum of persuasion envisaged here is the law courts. I disagree with the conclusions at which Kraut arrived, however, most particularly that in the repetition of "persuade or obey" are iterations of grounds for civil disobedience. (See Richard Kraut, *Socrates and the State* (Princeton: Princeton University Press, 1984), 54-90.) Berges (who makes no reference to the *graphai* or any specific legislation) also argues that obligation to the law here has to do with the role of Athenian law in promoting and protecting its citizens, but her argument is driven by the greater thesis that Plato, and not Aristotle, is the originator of so-called Virtue Ethics. (Sandrine Berges, *Plato on Virtue and the Law* (London: Continuum, 2009), 30-51.)

[141] Xenophon recounts that when Critias was one of the Thirty Tyrants he drafted a law that made it illegal to "teach the art of words." After being shown the law and expressly forbidden from having discussions with the young Socrates explicitly confronts the legality of the law. (Xenophon, *Memorablia* 1.2.31-) In the *Apology* (18c-d; 19c) Socrates attributes the charge that he is a 'teacher of dangerous verbal arts' to Aristophanes' portrayal of him in the *Clouds* where Aristophanes also has Socrates claim "there in no Zeus" (Aristophanes, *Clouds,* 367). By contrast, Plato has Socrates swear by Zeus twice in the *Euthyphro*, once when Euthyphro tells him he is prosecuting his father for murder (Plato. *Euthyphro,* 4e) and again when he asks Euthyphro whether he really believes the poetic accounts of divine binding and castration. (6b).

The *graphe nomos,* in turn, helps explain Socrates' course of action precisely in the terms laid out by personified laws and in concert with his dictum to never do harm; persuasion of the law cannot destroy those same laws that protect and promote the very possibility of persuasion. The laws here persuade Socrates of their authority on the grounds that they have long been persuading him; to affirm their legitimacy in his upbringing, he cannot now, as Timocrates' wants to do with his proposed law to grant bail to state debtors already convicted, draw the past within his purview without also compromising their legitimacy in the present. If he were to choose the illegal action proposed by Crito, he would effectively be rendering a verdict *on the law* that contravenes the principles of the Heliastic oath the personified laws are here demanding, namely, to persuade them as to the nature of justice. In other words, in order to persuade the laws Socrates must remain a juridical subject, at once delimited by and acting within the comprehensive framework of not harming the city.

PLATO'S JURIDICAL CITIZEN

I have previously suggested that we don't usually think of Plato as committed to the rule of law because we tend to frame his political project in and through the *Republic,* which we read as offering a superior alternative to Athenian procedural justice in the substantive justice of philosophical kingship. On this understanding, we lose the juridical subject in Plato's ideal city in speech but we keep Socrates, or at least philosophy, alive. For this to be the case, however, any robust concept of the law would need to be, if not absent, then wholly denigrated in the *Republic*: the *Republic* would need to be "anti-law." I have

shown previously that it is not.[142] I want to now underscore what few scholars treat explicitly, namely, that the dialogue we refer to as the *Republic* is in fact called *Politeia* in Ancient Greek (and in antiquity also given the 'double title' *Peri diakaiou*, or *On the Just*).[143]

The word *politeia* is usually translated as 'constitution' or 'form of government,' but its meaning in ancient Greek involves significantly more than the fundamental laws and institutional ordering these terms imply today. *Politeia* signified a whole way of life of a *polis*, referring to the origin and development of a particular society and involving matters of birth, marriage and death, matters of education, health, war and crime, as well as actual government institutions and formal laws.[144] The word itself appears to have been originally coined to denote the individual status of citizenship (*polites*) in its widest sense; *politeia* had

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142 In my introductory chapter I argued that law is present throughout the *Republic* in four salient ways that challenge the depiction of this dialogue as anti-law. First, as founders of a city in speech the interlocutors agree it is their task to give law (*Republic* 452e, 456b, 462a, 497c), refer to themselves as legislators (*nomothetai*), (497d, 530c) and repeatedly refer to the activity they are engaged in as legislating. Second, in building the city in speech they enact significant legislation having to do with medical and judicial practices (409e), music and poetry (424c-425e), festivals and marriages (459e), births (461b), sexual relations (403b-c, 461e), dispute resolution and punishment (464d-465a), financial transactions (555e-556b), warfare (368b, 471b-c), etc.. Third, they engage in more strictly jurisprudential questions including what the role of law should be (465b, 519e, 590e) and what might compromise lawfulness (551a); they examine the nature of bad laws and lawgivers (555c, 538d-539a) as well as conditions brought about by bad constitutions (563d-e, 587). Fourth, everything having to do with education is a matter of law; education aims at inculcating lawfulness (*eunomia*) in all citizens from the earliest age (425a), including in future philosopher-kings (534d-e) who are later compelled by the law to rule (499b,c, 520a, 539e) and in turn rule through the law (501e-502c).

143 The history of the title *Republic* originates with Cicero, who at one time chose to transliterate the Greek *Politeia* into the Latin alphabet, but by the time of his *De legibus*, was translating Plato's *Politeia* as *Respublica.* In the first century AD Thrassylus added the now customary subtitle "On the Just", translating the Greek *peri diakaiou* which literally means, on the just thing. (See Allan Bloom, *The Republic of Plato* (Basic Books, 1968), 439440n1; Eric Nelson, *The Greek Tradition in Republican Thought* (Cambridge: Cambridge University Press, 2004), 1.) Diogenes claims that Thrassylus is the one who gave *Politeia* its double title, but there is some scholarly dispute regarding its possible Platonic origins. (Diogenes 3.56-60; R.G. Hoerber, "Thrasylus' Platonic Canon and the Double Titles," *Phronesis* 2, no. 1 (1957).) As many scholars note, Plato is of course not alone in this more comprehensive understanding of *politeia.* Thucydides, for example, attributed Athens' greatness to its democratic form of government and democratic way of life. (Thucydides. *Funeral Oration* 2.36.4-42.1)

144 cf. Leo Strauss, *Natural Right and History* (Chicago: University of Chicago Press, 1953), 135-39.

to do with the 'rights' that delimited the individual as a member of a particular *polis*.[145] In this sense *politeia* was a descriptive term referring to various political regimes (oligarchy, democracy, etc.). But by the late fifth and early fourth centuries the collective and particularly Athenian democratic sense of *politeia* had developed significantly: *polites* were active members of the Athenian *polis* and it was precisely the collective activity of citizenship (*politeuo*) that determined how the *polis* was run. To be a *polites* was to be a free man, to live in a free 'state', and so to have public affairs administered in a certain way according to a certain form of government in which one participated. *Polites* and *politeia* were thus mutually constitutive: individuals shared in the life of the *polis* directly determining, and in turn determined by, the conditions of active citizenship manifest in the constitution.

This latter understanding of *politeia* is not only Plato's, but one he helped to advance through philosophical treatment in the dialogues. One of the ways in which he does this, I argue, is precisely by opposing the conventional and general use of the word to designate any number of possible forms of governmental associations. In the *Republic*, the ideal city in speech is identified as having a "correct (*orthos*) and beautiful (*kalon*)" *politeia* in contradistinction to those that are "bad (*kakos*) and mistaken (*hamatano*)" (448e-449a; 544a). I have argued elsewhere that this *politeia* is itself wholly constituted by law. In the *Laws*, the interlocutors explicitly deny the status of *politeia* to any political order whose laws are established to favor a particular part of the polis rather than for the good of the whole (715b). These laws are not, in fact, "true laws (*orthos nomoi*)" nor are the inhabitants of the polis "citizens (*polites*)" but are rather declared to be "partisans (*stasiotes*)"(715b-c). These

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[145] For an extensive treatment of *politeia* see, Jacqueline Bordes, *Politeia Dans La Pensée Grec Jusqu'à Aristote*, Collection Des Études Anciennes (Paris: Les Belles Lettres, 1982).

sorts of false-constitutions are subsequently named *stasioteiai*, or factions, because none of them constitutes "a voluntary (*hekoton*) rule over voluntary subjects, but instead a voluntary rule, with some force, over involuntary (*aekonton*) subjects" (832c). *Politeia* and *nomos* are thus intertwined in two significant ways. First, the law itself must satisfy certain conditions – namely, to aim at the good of the whole – to be legitimately law. Only this true *nomos* is constitutive of *politeia*. Second, only the inhabitants of a *polis* ruled by true law are citizens. In other words, there is no *politeia* absent of true law on the one hand, and the voluntary agreement of its constituent parts, the *polites*, on the other. The inhabitants of Plato's true constitution are thus significantly the same juridical citizens he subjects to philosophical treatment in the dialogues that depict the trial and death of Socrates.

Plato is in his dialogues appealing to existing legal procedures embedded within the greater jurisprudential system and outlook that already exists at Athens; his philosophical treatment of the *graphai* and the Athenian juridical outlook is not to persuade his readers of an unconventional view of law and justice, or obedience and piety, but just the opposite. Instead, Plato is engaged in a philosophical recuperation of the Athenian citizen that involves reaffirming the necessary and intimate connection between law and justice that existed at Athens. This recuperation does not do away with the agonistic and deliberative Athenian citizen, but it does make him the consequent part of the story; for Plato, the juridical citizen precedes his deliberative counterpart precisely because law provides the necessary ethical framework in which politics can then take place.

CHAPTER THREE

MUSICAL MIMESIS: PLATO AND THE AESTHETIC QUESTION

We usually frame the aesthetic question in Plato in relation to the banishment of the poets from the ideal city in speech of the *Republic* and the claim here that there is a "famous quarrel" between philosophy and poetry (607b). This claim suggests to most scholars that there is an antipathy between poetry and philosophy that bears significantly upon the Platonic political project. Resolving this antipathy has to do with the premise that Plato is in varying ways hostile towards poetry even while he engages in a manifold philosophical assimilation of it: Plato writes in a kind of poetic form, creates poetic myths within the dialogues where he in certain instances also acknowledges the pedagogical and political usefulness of poetry. Although scholars identify two great themes that dominate Plato's treatment of poetry throughout the corpus – namely, inspiration and *mimesis* – the *Republic* itself addresses only the latter. Thus *mimesis,* which we understand in its most general sense to mean artistic imitation or representation,[146] is not only believed to be

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[146] Although word *mimesis* has entered into the vernacular and designates artistic imitation or representation, the precise meaning of the word prior to, and subsequently in, Plato remains controversial. Halliwell, who provides the definitive contemporary scholarly treatment of *mimesis*, argues that prior to Plato there was little philosophical theorizing about *mimesis* but that the term was used to denote a series of corresponding works or activities and their "putative real-world equivalents:" (1) visual resemblance, including figurative works of art, (2) emulation/ imitation of behavior, (3) impersonation, including dramatic enactment, (4) expression, vocal or musical, and (5) metaphysical conformity, of the material world to the immaterial. Thus for Halliwell, "*mimesis* amounts to a concept (or family of concepts) of [artistic] representation." (Stephen Halliwell, *The Aesthetics of Mimesis* (Princeton: Princeton University Press, 2002), 15-16.) Nagy offers a slightly different view regarding the pre-Platonic notion of *mimesis* (which Halliwell discounts). Nagy claims that *mimesis* and its cognates designate the "reenactment, through ritual, of the events of myth." Reenactment can occur through speech alone, bodily movement alone or a combination of the two, and the reenactment can be of the original myth or of one (or many) previous reenactments of the myth. For Nagy, *mimesis* is a poetic-authorial activity predicated on the timeless, unchanging and ritualized authority of myth. (Gregory Nagy, "Early Greek Views of Poetry and the Poets," in *The Cambridge History of Literary Criticism, Vol. 1*, ed. George A. Kennedy (Cambridge: Cambridge

central to the quarrel but is also generally understood to be the correct 'aesthetic lens' through which to resolve the complications the quarrel brings to bear on Plato's philosophy of 'art' and Platonic philosophy more generally.

In Book 2 the critique of poetry focuses on its content: the poets are here accused of creating false stories (*muthoi*) about the gods that set bad examples for the young who cannot yet distinguish between truths and falsehoods (377e-392c). In Book 3, the focus shifts from the content of poetry to its form or style (*lexis*): these stories are told through straight narration (*diegesis*), *mimesis* or some combination of the two (392d; 394c). Socrates here isolates the mimetic component of poetry as its deceptive part: when Homer narrates in his own voice in the *Illiad* he does not hide himself whereas when he speaks "as if he were" Chryses, begging Agamemnon to release his daughter, he engages in a kind of deceptive impersonation (392d-394c). Finally, in Book 10, the distinction between impersonation (*mimesis*) and straight narration (*diegesis*) collapses: here all poetic discourse is characterized as mimetic where *mimesis* now denotes a kind of image-making comparable with painting. The painter is like someone holding up a mirror (596d-e); he produces mere

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University Press, 1989), 47-51.) Glenn Most also understands *mimesis* in this vein, stressing that "a relation of *mimesis* to authoritative figures from the past – heroes, fathers, philosophers, authors – was deeply ingrained in ancient [Greece]." Most thus argues that the concept of *mimesis* is closer to 'actualization,' by which he means, "objects, events, or actions which, because they are divine, past or canonical […] enjoin upon us the obligation to restore their actuality." (Glenn W. Most, "Mimesis," in *Routledge Encyclopedia of Philosophy*, ed. E. Craig (London: Routledge, 1998).) Although Most does not specifically attend to music, his definition of *mimesis* accommodates the very notion of musical *mimesis* I advance here.

On Halliwell's accounting, it is difficult to overstate the importance of Plato's legacy for the "history of mimeticism, [which] can be described as a combination of philosophical gravitas (mimesis cannot be divorced from the biggest, most serious problems that confront philosophy) with the disquieting, though inconclusive, suggestion that philosophy and art may be somehow at odds with one another and even perhaps ultimately irreconcilable." Halliwell argues that if we are to believe Derrida, "Plato's treatment of mimesis is central to the process by which 'Platonism' has both dominated and blighted the history of Western thought." (Halliwell, *The Aesthetics of Mimesis*, 38-39; on Derrida see 374-78; Jacques Derrida, *Dissemination* (Chicago: Chicago University Press, 1981).

reflections of objects in the sensible world, objects which are in turn less real than the Forms which are true reality. The tragic poet is just this sort of artist: he paints verbal images of people, events and things that are also a third removed from the truth (597e; 600e-601a); the poet thus has "no worthwhile knowledge of the things he imitates" (602b-c) precisely because he appeals to our "desires, pleasures and pains" (607d). Poetic *mimesis* thus corrupts the soul; it uses "trickery" rather than truth and appeals to the base appetites and passions rather than rationality (602c-608b). The poets are thus banned from the city in speech with the famous claim that there is an "ancient quarrel" between philosophy and poetry (607b).

There are significant and extensive controversies regarding what in fact Plato is saying about *mimesis* in Books 2, 3, and 10, as well as how these relate to one another and whether they are ultimately compatible.[147] These controversies fall outside my immediate concerns, but I do want to point out three interrelated points of scholarly consensus with which this project is concerned. First, scholars of *mimesis* in the *Republic* all look primarily to the three sections outlined in my brief exposition above in order to articulate, on the one

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[147] For example, Else argues that Book 10 was written later than the rest of the *Republic*, and that the critique of mimetic poetry here should thus be understood as Plato's response to contemporary criticism of his own views on poetry, including to an early version of Aristotle's *Poetics*. (Gerald F. Else, *The Structure and Date of Book 10 of Plato's Republic* (Heidelberg: Carl Winter, 1972).) Annas argues that the definitions of *mimesis* are intentionally irreconcilable because they refer to different activities: in Book 3, *mimesis* refers to the rhapsode and the different aspects within a work of poetry whereas in Book 10 *mimesis* refers to the poet and poetry as a whole. (Julia Annas, "Plato on the Triviality of Literature," in *Plato on Beauty, Wisdom and the Arts*, ed. Julius Moravcsik and Philip Temko (Totowa: Rowman & Allanhead, 1982), 1-28.) Janaway argues that *mimesis* in both books refers to the same kind of poetry, but its sense changes according to perspective: in Book 3 it refers to the performer whereas in Book 10 *mimesis* refers to the audience. (Christoper Janaway, *Images of Excellence: Plato's Critique of the Arts* (Oxford: Oxford University Press, 1992), esp.106-31.). Murray argues that although Book 3 leaves room for a potentially beneficial poetic *mimesis*, Book 10 essentially does not. (Penelope Murray, *Plato on Poetry* (Cambridge: Cambridge University Press, 1997), 1-6.) Halliwell argues for a 'narrow' definition of *mimesis* in Book 3 and a 'wider' definition in Book 10. (Halliwell, *The Aesthetics of Mimesis*, esp.48-63.) A full treatment of these controversies would require a much more sustained examination than I can provide here; I am only concerned with those elements shared by these interpretations that bear specifically upon this project.

hand, what they think Plato meant by *mimesis* and, on the other, the compatibilities or incompatibilities between the different senses of the term which he elucidates. Second, the terms of the quarrel between poetry and philosophy, as articulated by these scholars, depend upon the intervening tripartite division of the soul (Book 4) and theory of the Forms (Books 5 and 6).[148] Accordingly, mimetic poetry is banned from the ideal city in speech by some scholars on psychological grounds (it appeals to the destabilizing appetitive and desiring lower parts of the soul and thus subverts reason)[149] and epistemological grounds (poets are regarded as possessing and conveying knowledge when in fact they only produce pleasurable images of images)[150] or because it works through imaginative identification which is considered dangerous by Plato.[151]

These interpretations of the quarrel all depend on a general understanding of poetic *mimesis* as a primarily *logo-centric* activity, where logos is understood in its narrow sense as speech, or reasoned account.[152] Socrates certainly identifies language as the poets' imitative

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[148] Naddaff, for example, argues that the definition of mimetic poetry as the imitation of images in Book 10 only seemingly contradicts Book 3's *mimesis* as impersonation precisely because the implications of the tripartite soul and theory of Forms are already implied in Book 3. (Ramona Naddaff, *Exiling the Poets: The Production of Censorship in Plato's Republic* (Chicago: Chicago University Press, 2002).)

[149] Moss banishes the poets on psychological grounds: she argues that the greatest charge against imitative poetry in the *Republic* is that it trades on ethical illusions that are extraordinarily compelling because they are realistic; these realistic illusions provoke and habituate the soul to non-rational response. (Jessica Moss, "What Is Imitative Poetry and Why Is It Bad?," in *Cambridge Companion to Plato's Republic*, ed. G.R.F Ferrari (Cambridge: Cambridge University Press, 2007), 440; 15-44.)

[150] Janaway, *Images of Excellence: Plato's Critique of the Arts*, esp. 133-57.

[151]Ferrari argues that according to Plato, *mimesis* is a kind of enactment. The poet enacts and imaginatively becomes the characters he represents in order to see the world from their point of view, as a kind of "technical procedure" in the service of their "path to understanding." In other words, the poets engage in *mimesis* as a route to knowledge. (G.R.F Ferrari, "Plato and Poetry," in *The Cambridge History of Literary Criticism*, ed. George A. Kennedy (Cambridge: Cambriadge University Press, 1989), 116-17.) See also Halliwell, *The Aesthetics of Mimesis*, 80.

tool: on the one hand, the poet engages in *mimesis* when he speaks in the voice of another, and on the other, he creates mimetic images painted in speech. Whether through impersonation, or representation, or both, the poet uses language mimetically; this activity is particularly dangerous precisely because of the psychological, epistemological and metaphysical deceptions made possible through "falsehoods in words" (382b-d). Of course, one significant problem with focusing on a logo-centric *mimesis* as the point of distinction between philosophy and poetry is that Platonic philosophy, presented in dialogue form, is itself mimetic.[153] In other words, it is not *mimesis* per se, but the mimetic

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[152] Scholars working in the developmental tradition argue that any antinomy between 'Socratic philosophy' strictly speaking and poetry in the so called early dialogues such as the *Apology, Euthyphro* or *Ion* must necessarily occur, and so be understood, without recourse to Platonic *mimesis*. On this understanding it is significant that the language of *mimesis* is explicitly used first in the *Cratylus*, which is considered by many developmental scholars to be a transition dialogue from Plato's early period to his late period. (see the discussion in *The Aesthetics of Mimesis*, 43-48; and 43n6.) Scholars thus tend to argue that Socrates' quarrel with the poets in the early dialogues results from different concerns, namely, from the poets claim to divinely inspired knowledge, inspiration that in turn provides the poet with the authority to interpret the divine world. On these understandings, Plato's treatment of inspiration and *mimesis* in the dialogues advances "two totally distinct conceptions of art." (Eva Schaper, *Prelude to Aesthetics* (London: George Allen & Unwin, 1968), 49.) Whether and how these distinct concepts can be reconciled divides scholars into two general groups vis-à-vis Platonic aesthetics.

The first, and dominant view, understands inspiration and *mimesis* as either incompatible or unrelated features of artistic activity: inspiration has to do with its the divine aspect whereas *mimesis* refers wholly to human activity (E.N Tigerstedt, "Plato's Idea of Poetical Inspiration," *Commentationes Humanarum Litterarum* 44, no. 2 (1969); Morriss Henry Partee, *Plato's Poetics: The Final Authority of Beauty* (Salt Lake City: University of Utah Press, 1981).) Plato's treatment of inspiration thus maps onto his own philosophical development in two ways: first, the critical treatment of inspiration in the 'early dialogues' such as the *Ion* stands in contrast with the seemingly more laudatory account of inspiration in the 'middle dialogue' *Phaedrus*, and second, this laudatory account contrasts with the damning of *mimesis* in the same 'middle period' *Republic*. On these understandings, Plato's criticism of art does not function as a coherent whole. Instead, Socrates and Plato have distinct, and for the Socrates of the early period at least, exclusive quarrels with the poets. On the second, and far less explored view, inspiration and *mimesis* are related in artistic activity in two principal and often interrelated ways. First, scholars argue that Plato's criticism of poetry is always on epistemological grounds, that the critique of inspiration in the *Ion* and of *mimesis* in the *Republic* both have to do with the poet's lack of knowledge, and second, inspiration and *mimesis* are portrayed by Plato as forms of impersonation and thus address the same concerns over the pernicious consequences of poetry on the ethical lives of the public. (See, for example, Penelope Murray, "Inspiration and *Mimesis* in Poetry in Plato " in *The Language of the Cave*, ed. Andrew Barker (Edmonton: Academic Printing and Pubishing, 1992); Ferrari, "Plato and Poetry.")

relationship of language to reality that appears to be at stake in the quarrel. In order to recuperate *mimesis* in the service of Platonic philosophy, certain scholars thus draw a distinction between good and bad *mimesis*, where good *mimesis* is understood as the philosophical imitation of the Forms and where the Platonic dialogues and the myths created therein are the only type of poetry accepted by Plato.[154]

I argue, however, that there is a non-logocentric characterization of poetic *mimesis* in Book 3 of the *Republic*, having to do with musical composition and modes, that is widely overlooked in the scholarship. Socrates here defers to Damon, the renowned fifth century BCE music theorist, who showed that song is the *mimesis* of characters and modes of conduct: courage, cowardliness, moderation, frenzy, etc. (398c-400b). The interlocutors identify the three component parts of song – words, harmony, and rhythm (398d) – and explicitly claim that the poet engages in *mimesis* through rhythm and harmony (399a-c). Unlike Book 3's first notion of *mimesis* through impersonation, this secondary sense of

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153 Stanley Rosen, for example, points out that *mimesis* is a kind of self-concealment: the poet's voice mediates that of another, much as "Plato imitates all of his characters, whether philosophers, sophists, statesmen, mathematicians, or even women or evil men." (Stanley Rosen, *Plato's Sophist: The Drama of Original and Image* (New Haven: Yale University Press, 1983), 19.) Derrida relates Plato's notion of "mimetic logocentrism" to the speech/writing hierarchy he reads into the dialogues, and claims "Plato is bent on presenting writing as an occult, and therefore suspect, power. Just like painting, to which he will later compare it, and like optical illusions and techniques of *mimesis* in general."(Derrida, "Plato's Pharmacy," 80.)

154 On this understanding, Plato is concerned with underscoring the dangers of any mimetic activity that is not subordinated to the rational part of our soul; unregulated *mimesis* appeals to our base passions making it difficult to distinguish between what is true and what is appearance on the one hand, and between what is best and what is merely pleasurable on the other. In order to mitigate the inherent dangers of *mimesis* all art must therefore be placed under the auspices of philosophy and "conscripted into the rational search for genuine moral excellence." (Janaway, *Images of Excellence: Plato's Critique of the Arts*, 183. The first to argue this point was J. Tate, "'Imitation' in Plato's Republic," *Classical Quarterly* 22, no. 1 (1928): 16-23; "Plato and 'Imitation'," *Classical Quarterly* 26, no. 3-4 (1932): 161-69.) Other scholars argue that the exile of the poets in the *Republic* is about the impossibility of any good poetry at all: good poetry would not be an art but simply a life lived well. See in particular Alexander Nehemas, "Plato on Imitation and Poetry in *Republic* 10," in *Plato on Beauty, Wisdom and the Arts*, ed. Julius Moravcsik and Philip Temko (Totowa: Rowman & Littlefield, 1982), 47-78.

poetic *mimesis* does not have to do with speech: here, the poet engages in *mimesis* through the musical and non-logocentric aspects of his activity. In turn, Book 10 makes almost no mention of this non-linguistic musical *mimesis* when banning the poets from the city in speech. And why should it? The poet's musical *mimesis* does not raise a problem for the interlocutors in Book 10 who are concerned with banning all forms of poetic *speech*, and, in fact, "strip the poet's words of their musical colorings" (610b) prior to banishing them.[155] Nothing is said about musical *mimesis* here, I argue, precisely because music does not quarrel with philosophy over *logos* (speech, reasoned account). Music thus seems to fall outside of the conceptual parameters delimited by the dominant contemporary *mimesis* scholarship.

I thus want to move away from the notions of Platonic aesthetics circumscribed by the old quarrel; the quarrel is, in any event, introduced as *poiesis* and not *mousike* at the outset of Book 10 (595a-b).[156] Instead, I want to revisit the aesthetic question in the *Republic* at the point where most contemporary *mimesis* scholars leave off, namely, the moment in Book 3 when Socrates and Glaucon agree that they have likely completed their discussion of "the part of *mousike* that concerns speech (*logos*) and stories (*muthos*) [having] spoken both of what is to be said and how it is to be said" and that it remains "to discuss lyric odes and songs" (398b-c). *Mousike* is here explicitly broken down into its two component parts, marking the transition, I argue, from a notion of *mimesis* concerned primarily with poetry

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[155] The separation of music from words is significant throughout the corpus and something I attend to throughout this thesis. Let me here posit the Platonic *Definitions*, which tells us that speech (*logos*) is "linguistic sound…without music" (414d) and that dialectics (*dialektos*) is also "without music" (414d). Rosen notes that nothing is said in Book 10 about music as distinguished from poetry "no doubt because it would be much more difficult to identify what it is supposed to imitate." (Stanley Rosen, *Plato's Republic: A Study* (New Haven: Yale University Press, 2005).)

[156] Also noticed by Scholfield, "Music All Pow'rful," 239.

and other so-called 'arts' to one concerned with music strictly speaking. Although contemporary *mimesis* scholars largely ignore these passages, I show below that the ancient commentators also identified a distinct and specific notion of musical *mimesis* in Plato.[157]

INTRODUCING MUSICAL MIMESIS

The notion of musical *mimesis* arises in the *Republic* in the context of delimiting an upbringing for the future guardians of the city in speech in which they will be exposed to music from a young age in order to acquire, through habituation, the correct aesthetic, ethical and intellectual habits. Musical education is "most sovereign (*kuriotate*)," Socrates here claims, because of music's unique capacity to shape the soul:

> First, because rhythm and harmony permeate the inner part of the soul more than anything else, affecting it most strongly and bringing it grace, so that if someone is

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157 I have found only a handful of contemporary scholars who examine notions of musical *mimesis* in Plato (see Pelosi, *Plato on Music, Soul and Body*, 29-67; Scholfield, "Music All Pow'rful," 229-48.) I want to acknowledge that certain *mimesis* scholars refer to a seemingly idiosyncratic piece of scholarship that treats a distinctive notion of musical *mimesis* from its other forms, Hermann Koller's *Die Mimesis in der Antike*, which is written in German and not translated. (Koller, *Die Mimesis in Der Antike*.Koller apparently argues that the concept of *mimesis* arose from cult-dances in honor of Dionysus in which dancing, music, and words formed a unity to mean primarily 'presentation', 'representation' or 'expression.' On Koller's account, when these components became separated different notions of *mimesis* arose, in particular: (1) through the Pythagoreans and the musical theorist Damon, a notion of musical *mimesis* that included a theory of ethical education and (2) a distinct notion of *mimesis* as 'imitation' specific to painting and invented by Plato in *Republic* 10. (see J. Tate, "*Review* of Die Mimesis in Der Antike. Nachahmung, Darstellung, Ausdruck by H. Koller," *The Classical Review* 5, no. 3/4 (1955): 258-60; Gerald F. Else, "'Imitation' in the Fifth Century," *Classical Philology* 53, no. 2 (1958): 73-79.) Tate, Else and other scholars generally reject Koller's assertions. (See, for example, Alexander Nehemas, *Virtues of Authenticity* (Princeton: Princeton University Press, 1999), 258-60; Halliwell, *The Aesthetics of Mimesis*, 6n15, 14n20, 15n32, 17n39, 22n53.) I am not in a position to evaluate Koller's book on its own merits nor, in turn, the criticisms leveled at his claims. Nonetheless, beyond the validity of any single hypothesis, Koller's work raises the more general point I substantiate here, namely, that there exists a notion of *mimesis* connected to music that is distinct from the notions of *mimesis* connected to the 'arts' more generally.

> properly educated in *mousike*, it makes him graceful, but if not, then the opposite. Second, because anyone who has been properly educated in *mousike* will sense it acutely when something has been omitted from a thing and when it hasn't been finely crafted or finely made by nature. And since he has the right distastes, he'll praise fine things, be pleased by them, receive them into his soul, and, being nurtured by them, become fine and good. He'll rightly object to what is shameful, hating it while he is still young, and unable to grasp the reason, but, having been educated this way, he will welcome the reason when it comes and recognize it easily because of its kinship with himself. (401d-402a)

This passage provides an indication of how musical education of the soul (*psuchagogia*) takes place: music assimilates itself to the soul as a kind of pre-rational cognitive perception or recognition that, in turn, prepares the soul for reasoned judgment. To be more specific, music prepares the soul to recognize its kinship to reason and its affinity to the virtues (moderation, courage, etc.). The general claim seems to be that education in music is most sovereign because in a fundamental sense, music both precedes and is a precondition to *logos* (reasoned speech, account). I want to note here that Socrates will provisionally conclude the discussion of musical *mimesis* in Book 3 by imagining a scenario in which music is omitted from a person's upbringing, making explicit music's particular provenance over the soul. Socrates envisages someone who "never touches *mousike* or philosophy" and "never associates with the Muse" (411c-d). Whatever "love of learning" (*philomathes*) this person might have had would soon become "enfeebled, deaf, and blind, because he never tastes any learning or investigation or partakes of any discussion or any of the rest of *mousike*, to nurture or arouse it" (411d). This person

becomes a hater of reasoned argument (*misologos*) and is completely a-musical (*amousos*).[158] Devoid of rhythm or grace "or any of the rest of *mousike*", persuasion is lost on him; ignorant and stupid as he is, he lives his life like a wild animal, by "force and savagery" (411e).

In order to determine the *mousike* suitable to the paideutic task at hand, the interlocutors turn first to the seemingly more 'technical' questions of musical modes, or *harmoniai,* and then to musical meter, or rhythm.[159] The criterion upon which the modes and rhythms are evaluated are explicitly mimetic and ethical: which sort is an imitation (*mimemata*) of which sort of life (*bios*). (400a) Glaucon is here called upon by Socrates in his capacity as *mousikos* (398e) to delineate the *harmoniai* that express various moral habits so that they might determine which modes should be accepted or rejected in the city in speech. The context in which the term *mousikos* is used here suggests that Glaucon is an 'expert' on technical questions having to do with music in its strict sense; one who knows about the harmonic and rhythmic elements of musical structures, compositions and instrumentation.[160] Socrates, who admits to knowing little about the more technical aspects

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[158] I leave *amousos* here as a-musical, with the important caveat that *mousa,* in the strictest sense, means Muse; to be *amousos* literally means to be without the Muses.

[159] I follow convention in using the words 'mode' and *harmonia* interchangeably. I want to acknowledge, however, that the ancient Greeks do not use the word 'mode' which comes from the Latin *modus*, meaning among other things 'measure' and 'standard'. In Western music theory, and dating back to the Middle Ages, mode usually refers to a type of scale, which is an ordered series of intervals whose first key, or tone, defines that scales' intervals, or steps. Hellenistic and Roman music theorists attribute to *harmonia* a similar notion of 'modal scale'. Although *harmonia* has much broader semantic implications in the sixth and fifth centuries BCE, in Plato and others these meanings are nonetheless inclusive of the same musical components (ordered intervals, tone, steps, etc.) as our modern notions of mode. (On the interchangeability of *hamonia* and 'mode' see Giovanni Comotti, *Music in Greek and Roman Culture* (Baltimore: Johns Hopkins University Press, 1989), 24-28; West, *Ancient Greek Music*, 177-89. Musicologists debate the interchangeability of *mode* and *harmonia.* For a brief overview see Woerther, "Music and the Education of the Soul in Plato and Aristotle: Homeopathy and the Formation of Character," 91n.11.)

[160] Barker, *Greek Musical Writings: The Musician and His Art*, 130n21.

of music proper (399a) nonetheless delimits the ethical qualities by which the *harmoniai* should be judged: he names nostalgia and mournfulness, along with "drunkenness, softness and idleness" as inappropriate character traits for the guardians. Glaucon, in turn, identifies the modes that imitate these "lamenting" and "relaxed" moral habits – namely the Lydian and Ionian – that must therefore be excluded from the city in speech (398d-399a). Once Socrates and Glaucon have determined that the ethical content of the two remaining modes – namely, the "moderate and courageous" Dorian and Phrygian *harmoniai* – render them essential to the upbringing of the guardians, they turn their attention to rhythms. Socrates would like to proceed in the same manner, leaving Glaucon to individuate the rhythms once he has defined their ethical content. But here, their collective musical knowledge is insufficient and they turn to a musical 'expert', namely, the renowned fifth-century musical theorist Damon of Oa.

Before examining in detail Plato's philosophical treatment of musical *mimesis* I want to highlight two interrelated aspects of the conversation at hand that serve to place this discussion within the greater context of fifth-century musical concerns at Athens. First, the tone of these music passages are worth noting; the certainty with which Socrates and Glaucon proceed to identify the *harmoniai* according to precise ethical content suggests that the topic was both familiar and in some sense uncontroversial. Plato is indeed appealing to convention here: Ancient Greeks generally believed that the *harmoniai* expressed the dominant ethical character of the tribes of their presumed origin or the regions in which they remained prevalent.[161] Plato's original readership would have thus taken it for granted that music formed an integral part of any system of education precisely because of music's intimate connection to the greater cultural *ethos*. Second, the mention of Damon in this

[161] Athenaeus. *Deipnosophistae*, 623d-626d.

regard is significant. Damon, I argue, not only stands behind much of Plato's philosophical treatment of musical *mimesis* but also underscores its ethico-political implications; in both the tone of these passages and in the appeal to Damon, I now show, Plato is injecting himself into the debates that arose in the late fifth-century BCE as a result of the so-called 'New Music revolution.'[162]

THE "NEW MUSIC" REVOLUTION & DAMON OF OA

The 'New Music' was a movement that rejected traditional music and musical practices at Athens; its musicians altered the typical structures of songs and musical compositions, modified instruments, incorporated various types of rhythms and meters and added 'theatrical' aspects to musical performances.[163] The *dithyrambic* poets and *citharodos* were the first to experiment with new musical techniques in the popular *mousikoi agones* (musical competitions): dithyrambs were lyric songs involving the words of famous

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[162] Plato is an important historical source for our knowledge of Damon as none of his writings survive. Other ancient sources on Damon are limited and those who do offer a reconstruction of some of his music theorizing also seem to rely on the testimony within the Platonic dialogues. (see Robert W. Wallace, "Damon of Oa: A Music Theorist Ostracized," in *Music and the Muses*, ed. Penelope Murray and Peter Wilson (Oxford: Oxford University Press, 2004).) There is also some scholarly disagreement regarding the influence of Damon in Plato. Anderson, for example, argues that the musical education of the *Laws* underscores Plato's extreme and "repellent rigidity" vis-à-vis music and political ordering in general. This "rigidity" distinguishes him in particular from Damon. Anderson warns that we should not read positive comments regarding Damon and music in the *Republic* or any other dialogue "ex cathedra". For example, Anderson argues that Plato would "never have called [Damon] an eminently fit associate for young men" as he has Nicias do in the dialogue *Laches*. Most fourth-century Athenians would have discounted anything Nicias had to say: he was widely disparaged as the general whose "deference to superstition deprived Athens of her last chance to escape disaster" (Anderson, *Ethos and Education in Greek Music*, 110; 77-79; 64-00.) I thoroughly disagree with Anderson's reading; his attitude towards Plato's musical writings is indicative of the greater understanding of the conservative Plato who advocates the 'closed society'.

[163] Eric Csapo, "The Politics of New Music," in *Music and the Muses*, ed. Penelope Murray and Peter Wilson (Oxford: Oxford University Press, 2004), 207-47.

poets such as Pindar or Simonides performed by choruses and accompanied by the music of the *aulos* (a kind of windpipe) whereas *citharodia* were solo-concert performances wherein the poet-singer accompanied himself on the *cithara* (a stringed instrument similar to the lyre).[164] The musical competitions, which were judged by the *demos*, rewarded originality and innovation in musical techniques and styles, and subsequently, helped give rise to the professionalization of the musician. Critics of these new musicians accused them of basing their musical compositions on the pleasure of the audience rather than according to standards of "right and wrong." Given the centrality of *mousike* in Athenian society, the criticism of the fifth century turn towards professionalism in music extended well beyond issues having to do with technical innovation and the pleasure of the audience; rather, and as the comedic poets make manifestly clear, the New Music in fact challenged deeply held convictions regarding politics, justice and ethics at Athens and beyond.

In Pherecretes' comedy *Chiron* (ca. late fifth century BCE) a disheveled personified Music complains to the character Justice of the increasingly outrageous (and violently sexual) treatment she has suffered recently from the *citharodes* and dithyrambic poets. [165] Music claims that the poet Melanippides (ca.480-415 BCE) was the first to misuse her and accuses him of setting music on its degenerate path towards over-elaboration and complexity. Music is here referring to the professionalization of the musician brought about in part by Melanippides' innovations on the *aulos* the consequences of which have

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[164] Michaelides, *The Music of Ancient Greece: An Encyclopedia*, 39-46; 168-72.

[165] Pherecretes. *Chiron* 155, in Eric Csapo and William J. Slater, *The Context of Ancient Drama* (Ann Arbor: University of Michigan Press, 1995), 337-38; West, *Ancient Greek Music*, 357-64. Ps.-Plutarch also quotes from Pherecretes *Chiron* in the context of demonstrating that the comedic poets "put on display the absurdity of later music-mincers," a general reference to the disorganized mess of modern composers. (Ps.-Plutarch. *On Music* 1142d-1142b in Barker, *Greek Musical Writings: The Musician and His Art*, 237-38.)

done her irreparable damage. Up until the New Music revolution the *aulete* played a wholly subordinate role to the poets. Since it is impossible to simultaneously sing and play a wind instrument *aulos*-players could only accompany the poet's words. The poet thus hired and paid for the *aulete*, who received little or no recognition for any musical talent independent of the poet. Under the New Music, however, *aulos*-playing became an intricate musical art independent of poetry and the *aulete*, in turn, became valued for his virtuoso skills and showmanship.[166] By the late fifth century BCE the independent contribution of the *aulete* to the musical competitions was significant enough that the *polis* assumed their cost and placed them under a regulatory institution.[167] In the professionalization of the *aulos*-player instrumental music thus managed to emancipate itself from poetry; in turn, a significant consequence of this emancipation would be to render the poets' words subordinate to music.[168]

Music also names the dithyrambic poet Timotheus of Miletus (ca.450-360 BCE), whose maltreatment of her, she tells Justice, goes beyond all the others she has mentioned: "if he met me somewhere walking alone without words or dance, he stripped me and undid me with his dozen strings."[169] Music is here referring to Timotheus' replacement of the

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166 The most celebrated *aulete* of the time was Pronomus of Thebes, who is said to have captivated his audiences not only by playing his instrument, but by his facial expression and movement of his body. (see West, *Ancient Greek Music*, 366; Robert W. Wallace, "An Early Fifth-Century Athenian Revolution in Aulos Music," *Harvard Studies in Classical Philology* 101(2003): 73-92.)

167 The professionalization of the musician occurred at the same time that an actor's profession arose at Athens. (see Csapo and Slater, *The Context of Ancient Drama*, 332; 221-24; Peter Wilson, "Athenian Strings," in *Music and the Muses*, ed. Penelope Murray and Peter Wilson (Oxford: Oxford University Press, 2004).)

168 Werner Jaeger, *Paideia*, vol. 2 (Oxford: Basil Blackwell, 1947), 225.

169 Timotheus was a controversial figure in the New Music revolution. Several sources claim that he was initially widely ridiculed and despised for his musical innovations; Timotheus' despair was apparently so great that he considered killing himself. It wasn't until the poet Euripides, who

traditional, and hallowed, seven-stringed cithara of Terpander in favor of the twelve-stringed instrument he innovated; a reference which is in fact an appeal to the fundamental Greek belief in the intimate connection between music and political order, and that to do violence to one is to do violence to the other. To explain: There is a widely reported story in the ancient sources that Spartan officials forbade Timotheus from appearing there precisely because of his musical innovation on the *cithara*.[170] Although we usually think of Sparta as primarily a military culture, it was also the first great center of music in Greece; the very constitution of Spartan society was in fact conceived of in musical terms and music was intimately connected with the Spartan civic ethos.

In Spartan tradition music preceded the law: Lycurgus, the legendary lawgiver of Sparta responsible for its founding constitution, brought his laws from Crete only after he had already sent ahead the lyric poet Thaletas, whose songs had in them the qualities of order (*kosmos*) and establishment (*katastasis*). [171] When Sparta was in a state of civil unrest (*stasis*) in the first half of the seventh century BCE, an oracle recommended sending for another lyric poet, namely Terpander from Lesbos; Terpander was famous for having

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perceived the 'greatness' of Timotheus' music, collaborated with him on the dithyrambic poem the *Persians* that Timotheus gained widespread popularity. (Satyrus. *Life of Euripides* 39.22 in Csapo and Slater, *The Context of Ancient Drama*, 339.)

[170] Timotheus makes reference to the event himself in his *Persians*: "For the noble, long-lived leader of Sparta, a people abounding with flowers of youth, shakes me and flares up against me and drives me away with the fire of blame, because I dishonor the older music with my new hymns." (Timotheus. Persians, P.M.G. 791, 202-40 in Barker, *Greek Musical Writings: The Musician and His Art*, 96.) Athenaeus provides more detail, reporting that Timotheus was "examined by a Spartan tribunal, accused of undermining the ancient music, and when someone was on the point of cutting off his extra strings, he gestured to a statuette of Apollo that they had, which was holding a lyre whose strings were equal in number to his own arrangement; and he was acquitted." (Athenaues. *Deipnosophistae* 636d-e in *Greek Musical Writings: The Musician and His Art*, 298.) For a general discussion of Timotheus see West, *Ancient Greek Music*, 361-64; Pauline LeVen, "Timotheus' Eleven Strings: A New Approach (Pmg 791.229-36)," *Classical Philology* 106, no. 3 (2011).

[171] Gregory Nagy, *Pindar's Homer* (Baltimore: Johns Hopkins University Press, 1990), 367-68. Also see Ps.-Plutarch *On Music* 187.9-10 in Barker, *Greek Musical Writings: The Musician and His Art*, 214-15 and discussion in n.65-66.

invented the *citharodic nomoi,* solo songs in which the performer accompanied himself on the lyre. He now used these songs to restore public order at Sparta.[172] Spartan tradition thus stressed that the effects of the lyric poet are like those of the most powerful lawgiver (*nomothete);* music has the same intrinsic properties as law: namely, the capacity for order, establishment and restoration.[173] In this context, Timotheus' technical modifications of the *cithara* were much more than innovative alterations to that instrument's structure. Instead, any change in the existing musical structure at Sparta would alter the existing political order; among other things, it would change the *ethos* of the law upon which the *polis* was established and its order depended.

The connection between music, law and political order thus in some sense originates at Sparta, in Terpander's invention and use of the oldest type of *citharodic nomoi*.[174] The ancients attributed the dual notion of *nomos* as music and law to this tradition precisely because the very rhythmic patterns used to establish the rule of law were themselves called *nomes*; these *nomes*, in turn, were protected against innovation by the same legal order they helped establish.[175] Plato in the *Laws* in fact makes reference to this tradition when he has

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172 West, *Ancient Greek Music*, 31. Philodemus reports that Steisichorus also put a stop to the civil discord (*stasis*) of a polis by singing in their midst, just as Terpander had done at Sparta. (Nagy, *Pindar's Homer*, 368n157.)

173 Nagy notes that in Spartan tradition, the role of lyric poet and lawgiver are differentiated while in other traditions, they are represented by the same person, as is the case with Theognis of Megara. (see *Pindar's Homer*, 368.)

174 Ps.-Plutarch provides the examples of Thaletas and Terpander at Sparta to show that "cities with the best laws and customs have been careful to cultivate music of the noble kind." (Ps.-Plutarch. *On Music* 187.42 in Barker, *Greek Musical Writings: The Musician and His Art*, 247.)

175 Ps.-Aristotle writes that the dual notion of *nomos* as law and song has to do with a kind of legal memory: "before men knew the art of writing they used to sing their laws in order not to forget them." (Ps.-Aristotle. *Problems*, 19.28.) Ps.-Plutarch explains the tradition on technical grounds having to do with the pitch of a cithara song: in each song "the pitch which belonged to it was maintained throughout. This is why these pieces were given their name: they were called *nomoi*

the Athenian Stranger claim, "the strange fact should be accepted that our songs have become laws (*nomoi*) just as in ancient times, people gave this name to songs sung to the cithara." (*Laws* 799e) In the *Republic,* Plato builds on this tradition, but here he has Socrates credit Damon for making the connection between music and political order explicit: "As Damon says, and I am convinced, the musical modes are never changed without change in the most important laws of the city." (*Republic* 424c) This reference to Damon has particular salience not only in Plato's own philosophical treatment of music, but also historically, in the context of the general musico-political concerns of fifth-century Athens.

Damon was a music theorist, great friend of Socrates and, according to Isocrates, widely "reputed in his day to be the most sagacious (*phronimos*) among the Athenians." [176] He is best known for studying the effects of different types of music on behavior and character from which he developed an 'ethos theory of music' which identified the intrinsic ethical properties of specific rhythms and harmonies. The cursory overview of the passages in the *Republic* where Socrates and Glaucon are concerned with determining which modes and rhythms are to be part of the education of the guardians I provided above, and to which I return to below, are based on this notion of musical ethos. It is less well known that Damon was also a political advisor to Pericles: Alcibiades, in the Platonic dialogue named after him, claims that Pericles became proficient in the art of politics by seeking the counsel of experts: "even now, despite his advancing age, he consults with Damon for the

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because derivation from the form of pitching established for each was not allowed." (Ps.-Plutarch *On Music* 187.6 in *Greek Musical Writings: The Musician and His Art*, 211.) Aristides emphasizes the social/civil origins of the word *nomos*: he writes that the ancient Greeks "prescribed certain melodies, which they called *nomoi*, for customary usage both in private revelries and in public religious festivals, employing their role in religion as a device to ensure their stability – even the name they gave them was a promise they would remain unchanged." (Aristides. *De Musica* 2.6 in *Greek Musical Writings: Harmonic and Acoustic Theory* II, 463.)

[176] Isocrates, *Antidosis*, 15.235.

same purposes." (*Alcibiades* 118c) Some of Damon's political influence was certainly tied to his philosophical treatment of music: Plutarch notes that it was after studying music's effects on behavior under Damon's tutelage that Pericles constructed the Odeion music hall, reorganized the musical component of the Panathenaic festivals and selected musicians himself for the dithyrambic competitions.[177] But Damon also worked hard to expand the Athenian democracy in ways that appear independent of his musical concerns: the Aristotelian *Athenaion politeia* reports that it was on his insistence to "give people their own" – the slogan coined by Damon calling for the redistribution of Athenian imperial income to the masses – that Pericles instituted payment for jury duty, a milestone in the growth of fifth-century democracy.[178] Damon's influence over Pericles was so great, in fact, that he was thought to be "the proposer of most of Pericles' measures and for that reason was later ostracized."[179]

For certain ancient commentators, the ostracism attests to the depth, and widely perceived dangerous nature, of Damon's political influence. Plutarch writes that Damon was ostracized because he was discovered to be a "great schemer" (*megalopragmon*) and a

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[177] Plutarch, *Pericles,* 13.6.

[178] Aristotelian, *Athenaion politeia,* 27.4.

[179] *ibid* 27.4. In addition to the literary sources, there is some immediately contemporaneous evidence of Damon's ostracism in the form of four pottery *ostraka* with Damon's name scratched on them. (Nails, *The People of Plato*, 122.) The *ostraka* (singular *ostrakon*), from which the word ostracism is derived, were the pottery shards used as voting tokens in determining cases of ostracism. Ostracism involved a two-step process: once a year, citizens were asked in the Assembly whether they wished to hold an ostracism. If they voted yes, some two months later in the *agora* (marketplace), they would scratch the name of the citizen they wanted to expel on the pottery shards; if presiding officials counted 6000 *ostraka* with the same name on them, that citizen was expelled from Athens for a period of ten years, after which he was allowed to return. Unlike a legal trial, in the case of ostracism there was no formal charge and no defense could be mounted by the person expelled. (On ostracism generally, see P.J. Rhodes, *The Greek City States* (Cambridge: Cambridge University Press, 2007), 161-62; Ober, *Mass and Elite in Democratic Athens*, 73-75; Martin Ostwald, "The Reform of the Athenian State by Cleisthenes," in *The Cambridge Ancient History* ed. John Boardman, et al. (Cambridge: Cambridge Univerity Press, 1988), 334-46.)

"friend of tyranny" (*philoturranos).*[180] Plutarch also believed there was no essential connection between Damon's musical theorizing and his political advising; instead, he claimed Damon was a consummate sophist who hid behind "the name of music (*mousike*) in order to conceal from the multitude his real power" and influence at Athens.[181] Most other ancient commentators, however, understood there to be an essential relationship between Damon's musical theorizing and his political concerns. Olympiodorus, for example, who offers a significantly more positive view of Damon's influence at Athens, writes about the "songs which Pericles learned from Damon, through which he harmonized the city."[182] Importantly, there is also sufficient extant evidence to suggest that Damon himself treated music as a political phenomenon, or more precisely, that his philosophical treatment of music was oriented towards practical political concerns.

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[180] Plutarch. *Pericles* 4.1-2. Despite the extant evidence Damon's ostracism has been recently doubted. (See the discussions in Wallace, "Damon of Oa: A Music Theorist Ostracized," 249-67; Anthony Podlecki, *Perikles and His Circle* (London: Routledge, 1998), 17-23.)

[181] The notion of a 'musical sophist' is brought up explicitly in Plato's *Protagoras* (316d-317a). Protagoras here lists well-known figures of the past, who, he claims, were exponents of the "art of sophistry (*sophistike techne*)" but who, because of the hostility which this profession provokes disguised their true activities as something else: Homer and Hesiod disguised themselves as poets, yet others as athletic trainers. Protagoras here names Agothecles, "a great sophist" who used "music as a front, as did Pythoclides of Ceos and many others." Damon is connected to this tradition in the *Laches* (180d) and the *Alicibiades* (118c) The question of whether or not Damon was in actual fact a sophist is not easily answered; recent debates regarding Plato's philosophical treatment of sophistry in the dialogues compounds the difficulty. A sustained examination of either issue is not possible here, although I do contend that Plato's Socrates treats Damon as a *mousikos* and not a sophist. By traditional consensus, sophists taught argumentative techniques (the art of rhetoric) for a fee to those who sought success in various public arenas, such as in the law courts or the Assembly; Damon's concerns were with the effects of music rather than speech, and although Pericles and others are often referred to as his 'students', Damon is not known to have ever charged them a fee. (See Robert W. Wallace, "Plato's Sophists, Intellectual History after 450, and Sokrates," in *Cambridge Companion to the Age of Perikles*, ed. Loren J. Samons II (Cambridge: Cambridge University Press, 2007), 215-37; Andrew Barker, *The Science of Harmonics in Classical Greece* (Cambridge: Cambridge University Press, 2007), 72-74.)

[182] Olympiodorus. *Plato Alcibiades Commentary*, 138.4-11 in Wallace, "Plato's Sophists, Intellectual History after 450, and Sokrates," 224. Comotti argues that Damon's exile may have resulted from his persuasion of Pericles to build the Odeion music hall at an enormous cost to the state treasury. (Comotti, *Music in Greek and Roman Culture*, 29-30.)

Damon is purported to have written a speech to the Areopagus Council, the political body filled with retired state officials who enjoyed little real power but were vested with certain high judicial functions and with the responsibility of supervising public morality in general. In this speech, Damon appealed to the Council to exercise its influence in regulating musical practices and education at Athens on the premise that musical modes are intimately connected with the ethical disposition of the soul.[183] Philodemus, the Epicurean poet and philosopher writing in the first century BCE, reports the event in his treatise *On Music*, in which he levels a sustained critique of the arguments Damon made in his speech, in particular, Damon's insistence that certain musical modes inculcate courage, moderation and justice.[184] It is unclear whether Damon delivered the speech, or whether he wrote the speech with the intention that it be made public simply as a philosophical

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[183] I show in Chapter Five that Plato in the *Laws* models the Nocturnal Council on the Aeropagus Council, and places under its auspices the very same musical concerns raised in this speech by Damon.

[184] Philodemus, *On Music* 4.33, 37. On Philodemus' accounting, "When someone inquired whether music led to all the virtues or only some, Diogenes of Seleucia says that Damon the music theorist thought that it led to just about all and that he said that a boy singing or playing the kithara ought to reveal not only his manliness and self-control but also justice." And, "The concept that some people have of justice is ridiculous. It is unimaginable that sounds affecting only the sense of hearing, which is irrational, should contribute something to the disposition of the soul, which gives insight into what is profitable and what is unprofitable for community life and causes us to choose the former and avoid the latter." (Philodemus. *On Music* 1.13 in Csapo and Slater, *The Context of Ancient Drama*, 343. On Philodemus see West, *Ancient Greek Music*, 251; Richard Sorabji, *Emotion and Peace of Mind* (Oxford: Oxford University Press, 2000), 87-91; Halliwell, *The Aesthetics of Mimesis*, 249-59.) Philodemus' critique echoes those of a speech known as the *Hibeh Papyrus* which is dated to the fourth century BCE around the time Plato opened his Academy. We know neither the author of the speech nor the circumstances of its delivery; the speech levels a three-pronged critique of fifth-century musical practices against what is explicitly the Damonian ethos theory of music, namely, the premise "that some melodies make people self-disciplined, others prudent, others just, others brave, others cowardly." (*Hibeh Papyrus* 1.13, col. 1.1- 2.15 in Barker, *Greek Musical Writings: The Musician and His Art*, 184-85.) Damon is not mentioned here by name, but scholars generally agree that the list of ethical qualities listed here correspond closely to those of which Damon is purported to have written in his speech to the Aeropagus Council. (on the Hibeh Papyrus, see *Greek Musical Writings: The Musician and His Art*, 183-85; West, *Ancient Greek Music*, 247-48. On the scholarly debate surrounding the speech to the Aeropagus Council see Anderson, *Ethos and Education in Greek Music*, 190-91.)

critique. I argue, however, that whether or not the speech was delivered is immaterial; its value lies in its historical depiction of the politically weighted concerns of fifth century BCE musical practices at Athens. The New Musicians wanted to liberate music from its conventional technical and social constraints; but they left the more profound ethical and political implications of their innovations to be explored by their proponents and critics alike. For Damon – and indeed for Plato – the New Music revolution compromised the foundational jurisprudential tenet essential to Athenian civic virtue, namely, an understanding of the law (*nomos*) as necessarily instantiating a musical *ethos*.

By way of returning to the discussion of musical *mimesis* in the *Republic*, I want to underscore that Plato's philosophical treatment of music builds on this very tradition in two ways. First, the dual notion of *nomos* handed down from Sparta is at stake, I argue, in Socrates' insistence that the guardians must, above all else, preserve the system of education and upbringing of the city in speech: they must "guard as carefully as they can against any innovation in *mousike* or physical training that is counter to the established order" (424b). Second, Damon's theory of musical *ethos* is behind Socrates' ensuing claim that the best mode of defense available to the guardians is to build "their bulwark (*phulakterion*) in music" (424c); not only are the guardians themselves to receive a musical education, but in turn, music is the means by which they are to preserve the system of education upon which the unity of the city depends. For Plato, the mechanism by which the guardians are to be educated and in turn preserve the harmony of the *polis,* I now show, is through a kind of *mimesis* that is distinctly and uniquely musical; only musical *mimesis* incorporates the juridical and ethical traditions I have just discussed.

MUSICAL MIMESIS: ASSIMILATION AND RECIPROCITY

When Socrates adumbrates the notion of musical *mimesis* in Book 3, he claims that "fine words, concord (*euarmostia*), grace and rhythm follow upon good disposition (*euetheia*)" (400e) and then explains that "gracelessness, bad rhythm and disharmony are akin to bad words and bad characters, while their opposites are akin to, and are *mimemata* of, the opposite, moderate and good ethos" (401a). The language Socrates uses here is important: only fine words, concord, grace and rhythm have to do with *mimesis* and are consequent to virtue and good *ethos*. Gracelessness, bad rhythm and disharmony are *akin* to bad words and bad character, but they do not have to do with *mimesis* here nor do they follow bad *ethos*. Instead, gracelessness, bad rhythm, disharmony, bad words and bad characters can be grouped together as *un-musical* like kinds. In other words, Socrates is not here distinguishing between good and bad musical *mimesis*; he is determining what might be considered musical *mimesis* properly speaking. I argue that one of the fundamental distinctions between musical *mimesis* and its imagistic counterparts is that, unlike the possibility of good and bad poetic *mimesis*, for example, there is no such thing as bad musical *mimesis*; there is only such a thing as being a-musical (*amousos*).

I referred earlier to the scenario Socrates envisages in which music is omitted from a person's upbringing. In such a case, whatever "love of learning" (*to philomathes*) the person might have had is never aroused or nurtured. Without rhythm or grace "or any of the rest of *mousike*" he can no longer make use of persuasion; ignorant and stupid as he is, he "bulls his way through every situation by force and savagery like a wild animal." This person, Socrates says, is "a hater of reasoned speech (*misologos*) and completely a-musical (*amousos*)" (411d-e). This a-musical person stands in contrast with the person who "achieves the finest blend of music and physical training and impresses it on his soul in the most measured

way;" this is the one "we'd most correctly call completely harmonious (*euaramostos*) and musical (*mousikos*) more than the one who brings the strings of an instrument into unison with one another" (412a). Socrates' invitation to see a real musician in the one who harmonizes the parts of the soul is not simply metaphorical; rather, I argue that it builds meaningfully on Damon's *ethos* theory of music and helps establish the important notion that music is somehow within the soul. The ancient commentators are instructive on this notion.

Aristides Quintilanius (ca. 3rd c. AD) argues that the essential foundational tenet of Damon's ethos theory of music has to do with a notion of similarity or assimilation (*homoioo, homoiotes*). He writes, "The harmoniai…resemble either the intervals which are commonest in them, or the notes that bound them: and the notes in turn resemble the movements (*kinema*) and emotions (*pathema*) of the soul. The fact that it is through assimilation (*homoiotes*) that the notes both instill a character (*ethos*) previously absent, in children and in older people too, and draw out the character (*ethos*) that lay hidden within, was demonstrated by the followers of Damon."[185] *Homoiotes* signifies not simply assimilation, but similarity and likeness: the suggestion here is thus that music can instill from without an ethos previously absent and it can bring out a latent ethos from within because of its similarity to the structure and movement of the soul itself. In Athenaeus, this same notion of similarity/assimilation (*homoiotes*) seems to inform what he identifies as the mutually constitutive nature of music and *ethos* in Damonian thought: "It is well said by the school of Damon the Athenian that songs and dances are the inevitable result of a certain kind of motion in the soul: those souls that are beautiful and characteristic of free men

[185] Aristides Quintilianus *De Musica* 2.14 in Barker, *Greek Musical Writings: Harmonic and Acoustic Theory* II, 483.

create songs and dance of the same kind, while the opposite sort create the opposite."[186] Thus on the one hand, the music a soul will create and presumably find pleasurable determines its character (*ethos*) and, on the other, a person's character determines what music it will create and enjoy.

I thus want to recuperate from Damon, via Aristides and Athenaeus, the importance of a specifically musical notion of *homoiotes*: ethical assimilation is possible in music because music and the soul are similar in both structure and movement. Plato's musical *mimesis* builds on these Damonian notions in two specific ways.

First, Socrates at the end of Book 4 explicitly likens the structure of the just soul with a musical structure: the just person "tunes (*harmonia*) the three parts of himself like three limiting notes in a musical scale – high, low and middle" (443d). He harmonizes "those parts and any others there may be in between" producing a self-controlled (*sophron*) and beautifully ordered, unity (443d-e). [187] All just and fine actions thus have to do with "preserving (*sozo*) and achieving (*sunapergazomai*) this inner harmony" (443e). Socrates is here claiming, on the one hand, that the soul has a musical structure and, on the other, that

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[186] Athenaeus. *Deipnosophistae,* 628c in *Greek Musical Writings: The Musician and His Art*, 287. Athenaeus of Naucratis in Egypt wrote this fifteen-volume work entitled the *Deipnosophistai*, or *Sophist's Dinner*, in the late 2nd century AD. Much of the original work is lost, but what remains of Books 4 and 14 is particularly valuable in terms of preserving information on ancient Greek music and musical practices from as early as the 8th century BCE. All of the passages having to do with Damon and the musical modes are delivered by the jurist and musician Masurius, who is said to be "an excellent and clever man on every subject, for he is second to none as an expositor of laws; he devotes himself unceasingly to music and even plays instruments." (623e; his speech concludes at 639b)

[187] This mention of the intervening notes between the high, middle and low parts of the scale opens up the possibility the soul may also contain several more parts than the three appetitive, spirited and reasoning parts identified in Book 4. (see Nicholas D. Smith, "Plato's Analogy of the Soul and State," in *Essays on Plato's Psychology*, ed. Ellen Wagner (Boston: Lexington Books, 2001), 127-28.) Cf. Ferrari who argues that Plato may instead be conceding that a soul is unlike a musical scale insofar as the soul does not contain more than three parts. (G.R.F Ferrari, "The Three-Part Soul," in *The Cambridge Companion to Plato's Republic*, ed. G.R.F Ferrari (Cambridge: Cambridge University Press, 2007), 189-91.

the soul's ability to produce its own harmony is neither given nor fixed by its musical constitution. Instead, the soul requires active tuning in order to achieve harmony and maintain its unity. This tuning, I argue, is the activity of Socrates' "true musician" (412a) and is the very movement within the soul to which Aristides and Athenaues refer. Socrates is here describing a *just* soul: the character of the soul *qua* just is constituted in the very act of harmonizing the parts of the soul into their unified virtue.[188]

Second, for Plato, the notion of assimilation (*homoiotes*) is particularly important in consideration of a musical *mimesis* that also involves words; a *mimesis* that has to do with *mousike* in its more comprehensive sense.[189] I noted earlier that with the professionalization of the musician, instrumental music freed itself from poetry; an attendant consequence was

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[188] Anderson incorrectly remarks that unlike Damon, Plato does not seem to assign an ethos to genera, musical instruments or individual notes, only to modes. (Warren D. Anderson, "The Importance of Damononian Theory in Plato's Thought," *Transactions and Proceedings of the American Philological Association* 86(1955): 100-01.) I show throughout that in terms of genera and musical instruments in particular, this is an extremely limited reading of Plato's philosophical treatment of *mousike*. J. Kennedy's recent treatment of the Pythagorean influences in Plato also suggests that Plato explicitly considered the ethos of individual notes. (Kennedy, "Plato's Forms, Pythagorean Mathematics, and Stichometry; *The Musical Structure of Plato's Dialogues*.)

[189] Few scholars pay attention to Plato's use of the word *homoiotes* and its cognates, or to the different senses in which it is deployed in the service of the different discussions on *mimesis* in the *Republic*. In the context of dramatic poetic *mimesis*, for example, *homoiotes* seems to signify a kind of "self-likening" by the poet (393c) or reciter (396a-b) to the figures depicted in the poetic work. This is what Haliwell refers to as a kind of deep psychological identification wherein "the mind orients itself to, and positions itself 'inside' the viewpoint of the speaker" particular to the dramatic mode of *mimesis* he identifies in Books 2 and 3. (see Halliwell, *The Aesthetics of Mimesis*, 52, 60.)

Schofield explicitly identifies *homoiotes* with the speech aspect of musical *mimesis* here; he argues that Plato wants us to envisage the singer who "sets to music the sort of words that are characteristically used by courageous or judicious people in situations that call forth their courage or their judgment – employing one mode for courage, another for *sophrosune*….That way he imitates the courageous or *soprhon* person by assimilating himself to them. But what enables him achieve this is the way the modes in question (which Glaucon identifies as Dorian and Phrygian) *themselves* imitate the notes and cadences characteristic of such speech." In other words, musical *mimesis* is made possible through speech insofar as musical modes imitate the notes and cadences of spoken words. (Scholfield, "Music All Pow'rful," 238-39.) Pelosi argues that Plato does not "mention the process that brings the soul to assimilate itself to music" in the *Republic*; in the *Timaeus*, Pelosi argues, *homoiotes* is identified as a kind of perceptive mechanism of the soul having to do with acoustic phenomena that helps explain the different ways in which the soul receives and reacts to sound. (Pelosi, *Plato on Music, Soul and Body*, 43, 169-80.)

to render the poets' words subordinate to music. Plato is highly critical of this practice. In Book 3 of the *Republic* he has Socrates and Glaucon determine that music (rhythm and mode) must conform to the words and not the other way around. The argument, which turns on the reciprocal nature of musical *mimesis*, runs as follows: First, grace and gracelessness follow (*akoloutheo*) good and bad rhythm and modes respectively (400c). Rhythms and modes, in turn, follow words: "good rhythms follow fine words by assimilation (*homoioumenon*) while bad rhythms follow the opposite kinds of words." The same is true for "harmony and disharmony." In turn, the "style (*lexis*) and content of the words, follow the disposition of the speaker's soul (*psuches ethei*). (400d) Significantly, whereas good and bad rhythms and modes follow upon good and bad words respectively, only good rhythms and modes are attendant upon good words by assimilation (*homoioo*). In other words, Plato is here indicating that the musical soul (disposition) is the necessary precondition to the *logos* upon which actual music is attendant.

Platonic musical *mimesis* can thus be summed up as follows: in the same way that the harmony of the tripartite soul is a fundamental aspect of virtue itself, so too is musical order an aspect of the *mimesis* of virtue. Music is the product of this particular movement in the soul (the harmonization or tuning) while it simultaneously actualizes the conditions of the soul itself (the tuning occurs within a delimited musical structure). Thus, on the one hand, music is consequent to good ethos or virtue: the harmonious structure of the soul and its attendant *ethos* are expressed in actual music (mode, rhythm and song). On the other hand, music is a *mimesis* of good ethos or virtue: the way in which music expresses justice, for example, corresponds in its audible structure to the structure and movement in the soul of justice itself. The *homoiotes* of musical *mimesis* is thus a kind of correspondence, or a likeness of kind, that is simply not possible of any kind of image-making *mimesis*, including

poetry's images in speech. This distinction is crucial. Music is not imagistic; it does not produce mediated representations but rather manifests the conditions of the soul itself. I argue that musical *mimesis* is thus wholly distinct from other types of *mimesis* because it is, by virtue of this *homoiotes,* necessarily a reciprocal activity; it isn't simply that music actualizes the conditions of the soul but also that the soul instantiates the conditions of music; Plato's attention to musical modes in the *Republic* thus has to do with the premise that only in musical *mimesis* can the soul experience what it does in 'real' life.

RECUPERATING THE MODES

I noted previously that Plato is explicitly appealing to convention in the discussion of *harmoniai* where Socrates and Glaucon identify particular dispositions or characteristics associated with the Ionian, Lydian, Dorian and Phrygian modes. Ancient Greeks generally believed that the *harmoniai* expressed the dominant ethical character of regions from which they originated or in which they remained prevalent; it was Damon, in turn, who made these ethos correlations explicit and for which he is best-known.[190] Socrates' characterization of the *harmoniai* he rejects is an uncontroversial appeal, via Damon, to convention: the Lydian mode is here associated with melancholy, expressive of sorrow and lamentation, and the Ionian with the kind of softness and indolence that accompanies drunkenness[191] (398c). Of the two modes Socrates privileges for the city in speech, his

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[190] Athenaeus, *Deipnosophistae,* 624c, 625d-626a.

[191] According to Pseudo-Plutarch, Damon invented the *harmonia* called the 'relaxed-Lydian' which Socrates explicitly bans from the city-in-speech because it is "soft and sympotic."(Ps.-Plutarch. *De Musica* 1126e in Barker, *Greek Musical Writings: The Musician and His Art*, 222.)

association of the Dorian mode with manliness, courage (*andreia*) and temperance is also conventional, whereas there is "notorious difficulty" with his similar characterization of the Phrygian mode.[192] The passage is as follows,

> Just leave me the mode (*harmonia*) that would suitably imitate (*mimeomai*) the tone and rhythm of a courageous person who is active in battle or doing other forceful deeds, or who is failing and facing wounds, death, or some other misfortune, and who, in all of these circumstances, is fighting off his fate steadily (*karteountos*) and with self-control (*paratetagmenos*). Leave me also another mode, that of someone engaged in a peaceful, unforced, voluntary action, persuading someone or asking a favor of a god in prayer or of a human being through teaching and exhortation, or, on the other hand, submitting to the supplication of another who is teaching him and trying to get him to change his mind, and who, in all of these circumstances, is acting with moderation (*metrios*) and self-control (*sophroneo*) , not with arrogance but with understanding, and is content with the outcome. Leave me, then, these two modes, which will best imitate the forced (*biaios*) or voluntary (*hekousios*) tones of voice of those who are moderate (*sophron*) and courageous (*andreia*), whether in good fortune or in bad. (399a-c)

I want to note first that the city in speech will require two kinds of music, one suited to forced, or involuntary actions, namely the Dorian mode, the other to voluntary activity, namely, the Phrygian.[193] Involuntary actions are so named because they result from

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[192] *Greek Musical Writings: The Musician and His Art*, 168; West, *Ancient Greek Music*, 180.

[193] Schofield suggests that "it is tempting to see a further contrast: between music that imitates behavior expressive of the *thumoiedes* and a music that imitates activity characteristic of the learning-loving element's developed capacity of rationality: the practical rationality required of the ruler of a

situations of duress; they are the steadfast and measured actions required during war or situations of force or when faced with death or misfortune. The Dorian mode, which was the most widely used and well regarded *harmonia* at Athens from at least the fifth century if not earlier, suited this kind of action: Pindar acclaimed it as being the most dignified and, according to Athenaeus, Heraclides claimed it displayed manliness and courage in its forcefulness and simplicity.[194] In the *Laches*, a dialogue whose topic is primarily courage, Plato has the Athenian general after whom he names the dialogue claim that "the Dorian mode is the only harmony that is genuinely Greek" (188d) and according to Aristotle's *Politics,* "everyone agrees that it is the steadiest and the one that has the most 'manly' character."[195] The Dorian mode was thus precisely the music capable of inculcating the necessary courage required to act in situations of misfortune or force.

Voluntary actions, by contrast, arise in times of peace not war, and have to do with persuasion rather than force; they are those situations in which one can act freely, but nonetheless, also require moderation and self-control. The difficulty for certain ancient commentators and contemporary scholars arises with the connection Socrates draws between the Phrygian mode and the temperate virtues when the majority of ancient sources make the Phrygian mode the *harmonia* of frenzied inspiration, associating it especially with the cult of Dionysus, the Corybantes and the music of the *aulos*.[196] Some of

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city, or of someone on the receiving end of instruction or persuasion in the assembly." (Scholfield, "Music All Pow'rful," 237.) Unfortunately he does not flesh out his claims any further.

[194] Pindar fr. 67 in West, *Ancient Greek Music*, 179-80. Athenaeus, *Deipnosophistae,* 624d-e.

[195] Aristotle. *Politics,* 1342b12 cf. 1340b4. The last book of Aristotle's *Politics* is dedicated to music and musical education, and deals with many of the same ethical, etc. questions I treat here in Plato. To pursue Plato's philosophical treatment of music in Aristotle's own philosophical treatment of music is, however, a separate project. I use Aristotle as a historical source and in the same vein as the other ancient testimony.

this difficulty is compounded by Plato himself: immediately following these characterizations of the Dorian and Phrygian modes, Socrates and Glaucon turn to instruments, where they accept only the lyre and the cithara into the city in speech (399c-d). The *aulos* is here explicitly banned on the grounds that it has the greatest compass of any instrument and, in fact, is imitated (*mimema*) by all other pan-harmonic instruments (399d). Socrates and Glaucon conclude the discussion on modes and instruments in agreement that they "certainly aren't doing anything new in preferring Apollo and his instruments to Marysas and his" (399e).

The naming of Marsyas and Apollo here is generally understood to refer to a popular legend that gained currency at Athens during the fifth-century underscoring a certain anxiety over the *aulos*. Marsyas was a mythical shepherd, or satyr, and one of the Phrygian musicians who introduced the *aulos* and the Phrygian *harmonia* to Greece. In his *Marsyas,* the poet Melanippides (whom Music accuses of having done her irreparable damage in Pherecretes' comedy *Chiron)* recounts that the *aulos* was originally invented by Athena who then threw it away because of the ugly distortions to her face brought about by blowing into the pipes.[197] The *aulos* fell in Phrygia where Marsyas found it, and returned with it to Athens, where he famously challenged Apollo and his lyre to a musical contest, lost, and was hanged and skinned alive. In the *Politics* Aristotle claims that although Athena might have cast away the instrument because it made her ugly while playing, "it is more likely that it was because education in *aulos*-playing has no effect on the intelligence,

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[196] Athenaeus records much of the ancient testimony in his *Deipnosophistae* at 623d-626d. For a comprehensive overview of the testimony see Anderson, *Ethos and Education in Greek Music*, 107-09; Barker, *Greek Musical Writings: The Musician and His Art*, 163-68. On the Phrygian mode see West, *Ancient Greek Music*, 180-81.

[197] Melanippides' play is cited in Athenaeus, *Deipnosophistae* 616e-617f. Aristotle also refers to the legend in *Politics* 1341b. cf. Plato. *Euthydemus* 285d

whereas we attribute knowledge (*episteme*) and expertise (*techne*) to Athena."[198] On this understanding, the *aulos* is an enemy of *logos* in the most comprehensive sense of the word; playing the *aulos* prevents the employment of speech and the deployment of reason. The opposition between Marsyas and his *aulos* and Athena/Apollo and the lyre is thus necessarily also an opposition between the Dorian and Phrygian modes: Aristotle criticizes Socrates' inclusion of the Phrygian mode in the city in speech on the grounds that it has the same effect as the *aulos* he bans: both are orgiastic and emotional and stand in explicit contrast to the steadfast and rational Dorian mode and its instruments.[199]

Scholars thus generally take one of three interpretive positions regarding Socrates' permission of the Phrygian mode in the city in speech. The first is to either ignore it, or make note of it, while leaving it unexamined.[200] The second is to treat the passage on the modes as indicative of Damon's view of what is required in musical education, which is only provisionally accepted by Socrates and Glaucon.[201] The third view is to treat Socrates' acceptance of the Phrygian mode in the city in speech as an insignificant lapse in his

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198 Aristotle. *Politics* 1341a-b

199 "The Socrates of the *Republic* was not right to retain only the Phrygian along with the Dorian, however, particularly since he includes the *aulos* among the instruments he rejects. For the Phrygian has the same power among the harmonies that the *aulos* has among the instruments, since both are frenzied and emotional. All Bacchic frenzy and motions of that sort are more closely associated with the *aulos* than with any other instruments, whereas among the harmonies, the Phrygian melodies are the ones suited to them." (Aristotle. *Politics* 1342a32-b8; and through b34).

200 See, for example, Kenneth Dorter, *The Transformation of Plato's Republic* (Oxford: Lexington Books, 2006). Barker notes that there is some conjecture that Plato deliberately ignored the facts of current practice preferring instead to base his views according to shared structural similarity of the Dorian and Phrygian modes. (Barker, *Greek Musical Writings: The Musician and His Art*, 168.)

201 Aristides, for example, argued that musical education for Damon involved an attempt to instill and harmonize qualities which, although equally socially and politically necessary, are also necessarily and naturally opposed. Carnes Lord, "On Damon and Music Education," *Hermes* 106, no. Bd., H.1 (1978).

management of the musical order.[202] In any case, all three points of view insist, following Aristotle, that there is no *auloi* permitted in the city on which to play Phrygian music. There is, however, an important difficulty with these interpretations that turns on the assumed connection between the *aulos* and the Phrygian mode.

Socrates does not ban the *aulos* from this city in speech because of its passionate and enthusiastic character. Instead, the *aulos* is rejected in consideration of the technical characteristics of the instrument; it is the "most 'many-stringed' of all" and is in fact "imitated (*mimema*)" by all of the other "pan-harmonic (*panarmonia*) instruments" (399d). In other words, the *aulos* has the greatest range of all instruments, wind or stringed, which provides that instrument with great innovative capabilities. Socrates, I argue, is here rejecting from the city in speech the *aulos* of the New Musicians, the instrument upon which the professional musicians rose to fame in the musical contests by emancipating themselves from the poets. I have already shown that with the professionalization of the musician instrumental music freed itself from poetry, but that like the poets, the New Musicians also pandered to the pleasure of the audience, thus giving rise to an attendant problem of judgment: as the Athenian Stranger describes them in the *Laws*, these musicians,

> unintentionally, in their idiotic way, misrepresented their art, claiming that in music there are no standards of right and wrong at all, but that the most correct criterion is the pleasure of a man who enjoyed the performance, whether he is a good man or not. (700d-e)

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[202] For a contemporary view, see Peter Wilson, "The Aulos in Athens," in *Performance Culture and Athenian Democracy*, ed. Simon Goldhill and Robin Osborne (Cambridge: Cambridge University Press, 1999), 92; 58-94.

I argue that when Socrates in the *Republic* banishes the "*aulos*-makers (*aolopoious*) and *aulos*-players" and their instrument (399d) from the city in speech, he is placing a necessary moratorium on these professional musicians in order to make room for the musically educated 'amateur.' (Moreover, wind instruments are not in fact completely banned: Socrates and Glaucon agree that there would be some sort of windpipe (*syrinx*) for the shepherd (*nomeus*) to play in the countryside (399d). Although this mention of the *syrinx* appears incidental, it nonetheless leaves open the possible utility of a technically simplified *aulos*, already in use in the countryside, and so within reach of the city.)

I thus want to note that in keeping with his discussion of the *aulos*, Socrates is similarly silent about the so-called Dionysian components of the Phrygian mode; on the face of it, neither the banishment of the *aulos* nor the acceptance of the mode have to do with their enthusiastic or passionate characteristics.[203] This does not mean, however, that Plato mis-characterizes the Phrygian *harmonia* when he describes it as a *mimesis* of moderation or that Socrates is mistaken to include it in the city in speech. Instead, I argue that Plato is in fact making reference to the origins of Phrygian music and suggesting the mode be used precisely in the manner in which it was understood and employed in practice, in the cult of Dionysos. The *Laws* provides some needed clarity.

In the *Laws*, the Athenian Stranger refers to the women who use rhythms and modes to cure "Corybantic conditions" in the soul of babies and children (790d). The Corybantes were the Dionysian revelers who sang and danced themselves into rapturous states not only in order to commune with the gods, but also as a cure for manic

[203] Pelosi argues that Plato is "opportunistically silent" about the enthusiastic component of the Phrygian mode; Plato can only accept this mode on condition that there is only a partial consideration of its character. (Pelosi, *Plato on Music, Soul and Body*, 44-47.)

depression.[204] Insofar as the soul of a manic depressive oscillates between great elation and deep terror, and both are extreme states of the soul that dispossess it of order, the Corybantes believed that "vigorous motion" from without, namely music and dance, has an ordering, and so curative, effect on the soul.[205] In other words, the enthusiastic and passionate music of the Corybantes "by canceling out the internal agitations of the soul that give rise to fear and frenzy, induces a feeling of calm and peace in the soul" (791a-b). This is precisely the sort of musical cure used to calm infants and children; when a child is agitated his mother does not keep it still, but

> takes care to move him about, rocking him constantly in her arms not silently, but humming a tune. It's exactly as if (*atekhnos*) they were charming the children with *aulos*-playing (*katalousi*), even as it is done for the maddened Bacchic revelers, to whom they administer this same cure, which consists of the motion that is dance (*choriea*) and the music of the Muses (*mousa*). (790e)[206]

This sort of music is a kind of "training in courage," in that it helps us "overcome the terror and fears that assail us" (791c). When Socrates in the *Republic* characterizes the Phrygian mode as moderate (*metrion*) and self-controlled (*sophron*), he does not mean that it lacks in enthusiasm or passion. Instead, I argue that following the Phrygian tradition, Socrates takes for granted that this passionate *harmonia* brings with it the necessary moderating *ethos* in situations where one can act freely.

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[204] Bennett Simon, *Mind and Madness in Ancient Greece* (Ithaca: Cornell University Press, 1978), 151, 256.

[205] Ivan M. Linforth, "Corybantic Rites in Plato," *University of California Publications in Classical Philology* 13(1944-1950): 121-62.

[206] Pangle translates *mousa* as simply music. Strictly speaking, however, *mousa* means Muse. Plato is careful not to use the word *mousike* here.

By way of illustrating such a situation, Socrates in fact concludes the discussion of the musical education of the guardians by turning to erotic love. Here, he claims that excessive pleasure (in this case, a kind of a-musical base sexual desire) is incompatible with moderation, and that the right kind of love is the "love of order and beauty that has been moderated by education in music" (403a-b). Music brings the soul to this passionate love of beauty; musical education thus "ought to end in the love of the fine and beautiful." (403c) In the *Laws*, the interlocutors similarly determine that only musical imitations of virtue are beautiful (*kalon*) (655b) and that the only thing they can properly call music is in fact the kind that involves similarity (*homoiotes*) to the *mimesis* of the beautiful (*kalon*)" (668b). Both music and the musical soul must thus be judged according to a kind of aesthetic criterion that is also necessarily ethical. Beauty in music should be judged by the pleasure it produces; this is not, however, the pleasure of any chance person nor is it the pleasure of a professional musician. Instead, it is the pleasure of the finest (*kalon*) and best (*beltistos*) men, (658e) who are musical amateurs in the professional sense but wholly musical in the philosophical sense, whose moderate passions lead them to true Beauty.

I noted at the outset of this chapter that scholars who examine *mimesis* in the *Republic* stay within certain passages of Books 2, 3 and 10, and make *mimesis* central to the quarrel between philosophy and poetry. The power Plato ascribes to music to model the soul according to aesthetic and ethical content outside of these passages but within the *Republic* (and supported in the *Laws*) challenges these interpretations in two interrelated and important ways. First, for Plato, musical *mimesis* is only possible through a kind of reciprocal activity precisely because music and the soul instantiate and actualize one another; musical *mimesis* is an actualizing activity rather than a representational or imitative art. Second, in musical *mimesis*, Plato is wholly concerned with a kind of pre-rational

cognitive assimilation that prepares the soul for reasoned judgment; musical *mimesis* is the precondition to logos (reasoned speech, account) because of its ability to actualize in the soul the very courage, moderation and indeed passions, necessary for said judgment. If this is correct, questions having to do with musical *mimesis* precede and inform not only the quarrel between poetry and philosophy, but also the role of deliberation, contestation, and any other speech act – including lawmaking – in political ordering.

CHAPTER FOUR

MUSICAL INSPIRATION: HOMER, HESIOD, PLATO AND THE MUSES

In the dialogue *Cratylus*, Socrates suggests an etymological connection between music and philosophy: "the Muses and music in general are named, apparently, from their eager desire (*mosthai*) to investigate (*zetesis*) and do philosophy" (406a). Plato thus famously appropriates the Muses for philosophy; this appropriation is usually understood through the *Republic* as an intentional disruption of the pedagogical authority and influence of the poets. Here, Socrates determines that the ideal *polis* is only possible under the auspices of the philosophic Muse: when she is in charge, the constitution (*politeia*) achieved in theory will also exist in practice, whether it is past, present or in the future (499c-d; 501e). Similarly, Socrates shows that the process of constitutional degeneration will begin when men neglect "the true Muse, and her companions, *logos* and philosophy" (548b); not incidentally, these men have been educated by force rather than persuasion, and thus value "physical training more than *mousike*" (548b-c). When Socrates later identifies the quarrel between philosophy and poetry (607b), he does so through an appeal to the pleasure-giving (*heduno*) Muse "studied through the eyes of Homer" (607d): if she is admitted into the city in speech, pleasure and pain will rule (*basileuo*) instead of law (*nomos*) or reason (*logos*) (607a). Scholars thus generally read into these passages a distinction between a higher Muse of philosophy and a lower Muse of poetry. I argue, however, that the Platonic dialogues resist the general account of the Muses this claim presupposes.

The standard interpretation of the Muses in Plato is to collapse the Homeric and Hesiodic accounts; Plato is said to provide a unified treatment of the Muses.[207] If a

[207] See Eric A. Havelock, *Preface to Plato* (Cambridge: Belknap Press, Harvard University Press, 1963), esp. 97-114; 51-56; Catherine Collobert, "Poetry as Flawed Reproduction: Possession and

distinction is noted, it usually has to do with Hesiod's attention to detail; scholars contend that although many of the traditional attributes of the Muses are already well-established in Homer it is in Hesiod that their story fully unfolds. From Homer, we learn than they are the daughters of Zeus who dance on Mount Olympus who delight the gods with their singing and dancing, and inspire the poet-bard to sing of fighting heroes and great deeds of the past. Hesiod, in turn, provides a privileged insight; he meets the Muses in their special haunt on Mount Helicon where they breathe into him the ability to delight the minds of mortals with song, just as they delight the gods. Hesiod recounts the story of their birth to their mother Mmemosyne (Memory) and names each Muse: Clio, Euterpe, Thalia, Melpomene, Terpsichore, Erato, Polymnia, Urania and Calliope (Glorifying, Well-Delighted, Blooming, Singing, Delighting in Dance, Lovely, Many Hymning, Heavenly, Beautiful Voiced). The Muses are thus well established in the epic poems as the patron goddesses of *mousike:* the complex of instrumental music, poetic word and coordinated physical movement that formed an integral part of Greek *paideia* (education) and cultural practices in general.

The Muses' connection to *mousike* and *paideia* is of singular importance to Plato; in the following chapter I examine the institutional dimension of their relationship. First, however, I argue here that in recuperating the Muses under the auspices of philosophy,

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Mimesis," in *Plato and the Poets*, ed. Pierre Destree and Fritz-Gregor Herrmann (Leiden: Brill, 2001), 41-61; Penelope Murray, "Plato's Muses: The Goddesses That Endure," in *Cultivating the Muse*, ed. Efrossini Spentzou and Don Fowler (Oxford: Oxford University Press, 2002). The collected essays in G.R. Boys-Stones and J.H. Haubold, eds., *Plato and Hesiod* (Oxford: Oxford University Press, 2010). to which I attend throughout, provide certain needed corrections. I want to note, however, that this trend is not particular to Plato scholarship. Generally speaking, although the centrality of the Muses to Greek cultural practices is taken for granted, the question of what types of activities the Muses presided over and specifically how they fulfilled their function is rarely investigated. Notable exceptions include Pietro Pucci, *The Song of the Sirens* (Lanham: Rowan & Littlefield, 1998), 31-48; Efrossini Spentzou and Don Fowler, eds., *Cultivating the Muse* (Oxford: Oxford University Press, 2002); Penelope Murray and Peter Wilson, eds., *Music and the Muses, the Culture of Mousike in the Classical Athenian City* (Oxford: Oxford University Press, 2004).

Plato distinguishes between Homer and Hesiod; the poets provide accounts of the Muses and musical inspiration that are, for Plato, in important ways different.

HOMER'S MUSES

In Homer, the Muses are not only associated with poetry, song and dance, but also more specifically with pleasure, on the one hand, and a type of knowledge and historical memory, on the other.[208] In the divine realm, their function attaches solely to pleasure: they live on Mount Olympus with their father, Zeus, and delight the gods with their singing and dancing.[209] In the mortal realm, however, their function is to impart knowledge to the poet-bard (*aiodos*)[210] through inspiration; the Muses bestow upon the *aiodos* the divine gift of song, which involves primarily the ability to sing of great deeds of the past:

> Sing to me now, you Muses who hold the halls of Olympus!
> You are goddesses, you are everywhere, you know all things –
> all we hear is the distant ring of glory (*kleos*), we know nothing

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[208] In addition to the scholarship listed throughout, for more general accounts of Homer I rely on Nagy, *Pindar's Homer*; Andrew Ford, *Homer: The Poetry of the Past* (Ithaca: Cornell University Press, 1992); M.L. West, "The Invention of Homer," *The Classical Quarterly* 49, no. 2 (1999); Barbara Graziosi, *Inventing Homer* (Cambridge: Cambridge University Press, 2002).

[209] That hour then,
> and all day long till the sun went down they feasted
> and no god's hunger lacked a share of the handsome banquet
> or the gorgeous lyre Apollo struck or the Muses singing
> voice to voice in choirs, their vibrant music rising (Homer. *Iliad* 1.600-04)

[210] I follow convention in translating the term *aiodos* as poet-bard. West argues that in Homer (Odyssey, 1.154, 328; Iliad 2.599; 9.186-91) *aoidoi* are singers who accompany themselves on a stringed instrument, whose songs always recount a great deed of the past and who may or may not 'perform' in front of an audience. (M.L. West, "The Singing of Homer and the Modes of Early Greek Music," *The Journal of Hellenic Studies* 101(1981): 113-29.) Anderson emphasizes that *aiodos* is used exclusively in the *Odyssey* to denote a 'professional' singer. (Anderson, *Ethos and Education in Greek Music*, esp.29-30.)

> who were the captains of Achae? Who were the kings?
> The mass of troops I could never tally, never name,
> not even if I had ten tongues and ten mouths,
> a tireless voice and heart inside me bronze,
> never unless you Muses of Olympus, daughters of Zeus
> whose shield is rolling thunder, sing, sing memory
> all who gathered under Troy.[211]

Divine inspiration is here characterized as a kind of knowledge whose medium is musical. The poet-bard makes it clear that he could not have knowledge of epic events independent of the Muses' song; human beings "know nothing." Later, the *aiodos* will ask the Muses to help him identify the bravest of the Acheans and the correct sequence of events of two decisive moments of the Trojan War; he will then go on to provide the very information he requested of the deities.[212] The Muses tell the poet-bard what he wants to know – what he will in turn recount through song – by recalling events to his mind at which he was not in fact in attendance. The Muses thus guarantee the accuracy of the *aiodos*' song. The so-called singing test to which Odysseus subjects the famous poet-bard Demodocus in the *Odyssey* serves as a prescient example.

Odysseus encounters Demodocus at a banquet hosted by Alcinous, the King of Phaeacia. Odysseus' ship had been wrecked off the coast a few days prior; he has lost everything and now attends the feast as the honored, but anonymous, guest of the royal court. In the course of the banquet, Demodocus entertains the guests with three songs: the

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211 Homer. *Iliad* 2.484-93

212 Ibid. 2.716-12; 11.218-20; 14.508-10

first recounts an otherwise obscure quarrel between Odysseus and Achilles; the second describes an adulterous affair between two Olympian gods, Ares and Aphrodite; the third celebrates the fall of Troy and Odysseus' stratagem of the Trojan horse.[213] Demodocus, here described as the *aiodos* "the Muse adored above all others," is also blind; he cannot know that Odysseus, a major personage in his own songs, is among his audience. It is Odysseus who recognizes himself in the first song and subsequently challenges Demodocus to sing about the Trojan horse episode "true to life as it deserves"; Odysseus promises the bard that in exchange, he will spread his fame as a singer, telling the world "how freely the Muse gave (Demodocus) the gods' own gift of song." [214] Inspired by the Muse to sing "the famous deeds of fighting heroes"[215] Demodocus sings "as if (he) were there himself or heard it from someone who was;" Odysseus weeps uncontrollably and finally reveals his true identity to his royal hosts.[216]

There are three interrelated aspects of Homer's account of the Muses' divine gift to which I want to draw attention. First, the Muses inspire the poet-bard with song; the *aiodos*, in turn, is connected to the Muse's gift by 'knowing it.' In other words, divine inspiration is knowledge; the Muses' divine perspective provides them first-hand knowledge of the events that they, in turn, share with the poet-bard. Homer would have us understand that this knowledge is factual in kind. Demodocus' song conveys a full and accurate depiction of the events surrounding the Trojan horse episode possible only in witness testimony; Odysseus, who was in fact witness to the events described, verifies the accuracy of the

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213 Homer, *Odyssey*, 8.73-82; 8.266-366; 8.499-520.

214 *Odyssey*, 8.496-98.

215 *Odyssey*, 8.73-74.

216 *Odyssey*, 8.491; 8.521-35.

account. The poet-bard's connection to the Muses thus provides him access to divine knowledge that is wholly distinct from human hearsay; divine inspiration is not simply the gift of knowledge but also the particular authority that factual knowledge carries.

Second, song is always characterized in Homer as involving or provoking an admixture of pleasure and pain. The very divine gift of song bestowed upon Demodocus was "mixed with good (*agathos*) and evil (*kakos*) both:" the Muse blinded him, and then gave him the power of "sweet, pleasurable" (*hedus*) song as recompense.[217] When Demodocus sings he too provokes both pleasure and pain: Odysseus weeps at the bard's account of his quarrel with Achilles while the Phaecian audience is delighted,[218] and everyone, including Odysseus, relishes and rejoices in his account of the heartache and

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[217] *Odyssey*, 8.66-69. Homer was blind; certain ancient commentators thus believed this description to be autobiographical (see the discussion in Graziosi, *Inventing Homer*, 125-63.) Physical blindness is, of course, incidental to music. I want to note, however, that blindness in connection with the Muses occurs in significant ways in both Homer and Plato. In the *Iliad*, the Muses blind the Thracian singer Thamyris for boasting that he would be victorious in any song competition, even one in which the Muses themselves were singing. (Homer, *Iliad.* 2.594-600). In Homer, blindness thus seems to attach to the Muses and involve both punishment and gift. Similarly, in Plato's *Phaedrus* (243a-b) Socrates recounts the story that Homer and Steisichorus were both blinded by Helen for saying that she had gone to Troy; Steisichorus "true follower of the Muses that he was" recanted in a poem called the Palinode, where he told the 'true' story that Helen had never been to Troy, and his sight was restored. Homer's blindness thus implies that his version of the Trojan War is in some sense not true – it may simply depart from fact, or it may involve slander, or misrepresentations. (see Pratt Louise Pratt, *Lying and Poetry from Homer to Pindar* (Ann Arbor: University of Michigan Press, 1993), 132-36.) In Plato, physical blindness is subjected to philosophical treatment in several dialogues; in the *Symposium*, for example, Socrates tells a young Alcibiades that "the inner eye of thought begins to see clearly when our real eyes start losing their sharpness of vision." (*Symposium* 219a) In the *Laws,* the interlocutors agree that the sovereignty of the law is essential for the well-being and security of the city they are founding; this insight is characterized as the "keen sight" afforded by old age, in contrast with the "dull vision" of youth. (*Laws* 715d-e). The increasing physical blindness that comes with old age thus may well have to do with philosophical insight; in the context of this project on music in Plato, the relationship between loss of sight and increased aural capacity is thus worth examining further. It might also pose a further challenge to Erik Havelock' famous suggestion that the transition from Homer to Plato is a transition from orality to writing: the eye supplants the ear. (Havelock, *Preface to Plato.*)

[218] Homer, *Odyssey*. 8.83-92.

sorrow caused by the adulterous Olympian gods.[219] When Demodocus sings of the sack of Troy he represents Odysseus as an epic hero; the song pleases everyone save Odysseus, who instead weeps like a woman whose husband has died in defense of his city; Odysseus weeps as though he too suffered at the hands of his own heroic actions. Implicit in the Muses' gift of song is thus an awareness of the paradox that pain – recorded here in poetic song – can also give pleasure.[220]

The authority of the poet-bard thus cannot be divorced from the affective dimensions of his divine gift. In addition to guaranteeing the factual truthfulness of the poets' song, the Muses also guarantee what we might understand as its 'emotional' truthfulness. Demodocus sings as though he were present at the events he depicts in his songs; Odysseus' responses confirm that the songs are not only an accurate depiction of the suffering and pain he himself experienced during the Trojan War, but also the "heartbreaking torment" and immeasurable suffering war brings to bear by those "unable to beat the day of doom from home and children."[221] The combination of factual knowledge and affective knowledge thus translates into a kind of moral authority and pedagogical privilege; the poet-bard provides knowledge of the human condition and so the ability to live with it better. Thus when Socrates in the *Republic* famously refers to Homer as the "educator of Hellas" (606e) he is, amongst other things, reaffirming the fundamental Greek belief that the experience of poetry is an account of knowledge, factual and affective, whose purview is the exclusive domain of the inspired poet; that the origins

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219 *Odyssey*, 8.367-9.

220 MacLeod calls this the "aesthetic paradox." (Colin W. MacLeod, ed. *Homer: Illiad Book Xxiv* (Cambridge: Cambridge University Press, 1982), 7; 1-8.)

221 Homer, *Odyssey*, 8.520-33

of this belief are found in Homeric poetry itself, where the poet-bard has authoritative knowledge of the moral value of poetry, is precisely Socrates' concern with the Homeric tradition.[222]

When Socrates' in the *Republic* refers to Homer as a great educator, he does so in the context of advising Glaucon to pity those who value Homer too highly, who accept Homer uncritically as their guide in life: "welcome these people and treat them as friends, since they are as good as they are capable of being" (607a). Socrates reiterates the justice of having banished poetry from the city in speech, though he welcomes "its defenders, who aren't poets themselves but lovers of poetry (*philopoietes*)" to show that it is not only pleasurable but beneficial, and thus has merit as an educational tool (607d-608b). As it stands, however, the Muse of epic and lyric poetry makes "pleasure and pain…kings (*basileuo*) instead of law (*nomos*) or reason" (607a).[223] Socrates has previously asked Glaucon

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[222] Homer's pedagogical and moral authority in antiquity is well documented in the ancient sources. Xenophanes recounts that Nicias had his son Niceratus memorize all of Homer. Niceratus, who claims to listen to the recitations of the Homeric rhapsodes every day, argues that Homer is the only worthwhile guide in life; Homer is an expert on "practically everything pertaining to man;" (Xenophon. *Symposium* 3.5-6; 4.6) According to Plutarch, Alcibiades struck one schoolmaster when he discovered he did not own a copy of Homer but praised another who had a copy he had 'corrected' himself. (Plutarch *Life of Alcibiades* 7.1) In the *Frogs*, Aristophanes refers to the memorization and recital of Homer as a central part of Greek education (*paideia*); Aeschylus here sums up the sentiment by remarking to Euripides that "schoolboys have a master to teach them, grown men have the poets. We have a duty to see that what we teach them is right and proper." (Aristophanes, *Frogs*.727-729; 1054) Havelock suggests that the poets in general, and Homer in particular, provided "a massive repository of useful knowledge, a sort of encyclopedia of ethics, politics, history and technology, which the effective citizen was required to learn as the core of his educational equipment." (Havelock, *Preface to Plato*, 27; 61-86; Murray, *Plato on Poetry*, 15-17.) For the use of Homer in education in general see Werner Jaeger, *Paideia*, vol. 1 (Oxford: Basil Blackwell, 1967), 35-56.

[223] Socrates refers to Homer here as "the most poetic of the tragedians and the first among them;" (607a) he had also introduced the topic at hand by insisting the interlocutors "consider tragedy and its leader, Homer." (598d) Tragedy is referred to another four times in Book 10 (595b, 597e, 602b, 605c) and thus seems to be Socrates' main, though not only, target in his critique of poetry. The connection of tragedy with Homer suggests that tragedy here refers not to a 'literary genre' but to the 'tragic vision' the poets advance in general, and to which I attend throughout. Most scholars agree that epic language, stories, and personages inextricably inform tragedy (Simon Goldhill, "The Language of Tragedy: Rhetoric and Communication," in *The Cambridge Companion to Greek Tragedy*,

whether any city would ever give Homer credit for being a good lawgiver (*nomothete*) who benefitted the city; Glaucon replied that not even the Homeridae would claim this for Homer. Homer, they agree, "is no Lycurgus or Solon" (599e).

The reference to the Homeridae here is to an ancient group of poet-bards who referred to themselves as the 'descendants of Homer;' of whom they claimed to have special knowledge and to be in unique possession of otherwise unknown poems.[224] Pindar

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ed. P.E. Easterling (Cambridge: Cambridge University Press, 1997), 127-50.) Other scholars argue that we should simply understand the Homeric poems as tragedies themselves (MacLeod, *Homer: Illiad Book Xxiv*.)

There are significant debates in the literature on the *paideutic* function of tragedy; these debates fall outside of my immediate concerns. I do, however, want to note two groups of scholarship whose claims strike me as wholly compatible with those I advance here. First, scholars argue that tragic plays provided the audience with the experience of a shared civic identity by raising political and moral issues; the Athenian experience in the theatre was motivated by a conscious desire on the part of the *polis* to maximize social, political and democratic-ideological cohesion. (see, for example, Simon Goldhill, "The Great Dionysia and Civic Ideology," in *Nothing to Do with Dionysos?*, ed. John J. Winkler and Froma I. Zeitlin (Princeton: Princeton University Press, 1990), 97-129; Edith Hall, "The Sociology of Athenian Tragedy " in *The Cambridge Companion to Greek Tragedy*, ed. P.E. Easterling (1997), 93-126.) Said provides a discussion of both the claims that tragedy endorsed civic ideology and the contrary claims that it questions it. (Suzanne Said, "Tragedy and Politics," in *Democracy, Empire, and the Arts in Fifth-Century Athens*, ed. Deborah Boedeker and Kurt A. Raaflub (Cambridge: Harvard University Press, 1998).) Monoson offers a comprehensive engagement with ancient testimony and contemporary scholarship; the Athenian self-understanding provided through engagement in the dramatic festivals and tragic plays form an important context from within which she reads Plato's political thought. (S. Sara Monoson, *Plato's Democratic Entanglements* (Princeton: Princeton University Press, 2000), esp.88-110; 206-38.) Second, other scholars argue that tragedy provided the audience with a mainly emotional experience: "the tragedian aims primarily to evoke an emotional response from his audience, (who in turn) value his work because of the pleasure that accompanies such emotional excitation under the controlled conditions of theatrical fiction." (Malcolm Heath, *The Poetics of Greek Tragedy* (Stanford: Stanford University Press, 1987). Tragedy provides "a uniquely vivid and piercingly pleasurable enactment of human suffering (that) combined debate with reportage, rhetoric with divine revelation, lamentation and hymns with reasoned argument, all seasoned with *pathos* and music and the dance." (Jasper Griffin, "The Social Function of Attic Tragedy," *Classical Quarterly* 48(1998): 60; 39-61.)

[224] Isocrates claimed that some of the Homeridae relate the story that Helen appeared to Homer in a dream and told him to compose an epic poem about the Trojan War. (Isocrates, *Helen*, 10.65.) The Homeridae were controversial in antiquity. There were accusations that they corrupted the Homeric tradition by (a) not preserving the authorial purity of the *Iliad* and the *Odyssey* in the transmission of those poems, and (b) attributing poems to Homer that were in fact authored by one of his 'descendants.' Evidence of the Homeridae dates from the 6th to the 4th centuries BCE after which there is no mention of them. (see Nagy, *Pindar's Homer*, 22-23; 73-74; 79; West, "The Invention of Homer," 364-82; Graziosi, *Inventing Homer*, 208-17, 20-27; Ruth Scodel, *Listening to Homer* (Michigan The University of Michigan Press, 2002), 58-61.)

identified them as "singers of stitched words" [*rhapton epeon aoidoi*] – the literal definition of *rhapsodos* – so that by the fifth century the *rhapsodos* came to replace *aiodos* to denote a singer of epic poetry.[225] Socrates in the *Republic* refers to both Homer and Hesiod as rhapsodes (600d) and the Athenian Stranger in the *Laws* claims that to "play the Homer" in a competition is to *rhapsodian*, to rhapsodize (658b). Setting the question of Hesiod aside for now, I want to turn to the dialogue *Ion* to show that Plato is particularly concerned with the Homeric tradition handed down from the *aiodos* to the fifth century rhapsodes. In this dialogue, the rhapsode Ion claims that he is such a fine interpreter of the meaning of Homer's poems that he should be "crowned by the Homeridae with a golden crown" (530e). Ion does not claim to be a Homeridae but he does present the descendents of Homer as the proper judges of his art;[226] it is Homer who provides the very criteria by which Ion defends himself to Socrates as a prize-winning rhapsode *of Homer*. Against the mandate of the *Republic*, in the *Ion*, a poet thus makes a defense of poetry.

HOMER AND POETIC INSPIRATION

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[225] Pindar, *Second Nemean Ode*, 2.1. Similarly, Hesiod uses the notion of *rhaptein aioden* in describing himself and Homer as poets who "sing" after "weaving in new hymns the fabric of their songs." (Hesiod. fr.357 quoted in Bruno Gentili, *Poetry and Its Public in Ancient Greece* (Baltimore: John Hopkins University Press, 1988), 6-7.) Certain scholars argue that although *aiodos* and *rhapsodos* were both originally used to denote the poet-performer, distinctions having to do with the manner of performance or the relative importance of improvisation as opposed to memorization make them substantially distinct from one another. Gentili argues that this distinction is untenable in archaic Greece where "creation and repetition continue to coexist as two aspects of the rhapsode's activity even in the sixth century." (*Poetry and Its Public in Ancient Greece* (Baltimore: John Hopkins University Press, 1988), 6-7, with notes 236-38.) See also the discussion in M.L. West, *Hesiod: Theogeny* (Oxford: Clarendon Press, 1966), 163-64 n30.)

[226] Graziosi, *Inventing Homer*, 214.

Ion professes to be the best at his profession in Greece because of his expertise in Homer's poetry, his ability to interpret the content of his works for the audience and to speak beautifully in his own right about Homer. (530c-d) The rhapsode thus here affirms that his profession has to do with a mastery of the art of poetry, knowledge of the subject matters depicted within poetic compositions, and a privileged access to a particular poet's thoughts. Socrates presses Ion on the first two points. First, if rhapsody were a skill that relied on the mastery (*techne*) of poetry qua *poetry*, Ion should be as good at performing any poet as he is at performing Homer (532c).[227] Second, if rhapsody were a skill that involved knowledge (*episteme*) about the content of poetry, Ion would necessarily need to be learned in a vast array of subject matters, from charioteering to medicine (537a-540c). But Ion is, self-professedly, an expert on Homer not Hesiod (533c). And of course, Ion is a rhapsode by profession, not a chariot-driver or a doctor. Socrates thus contends that the accomplishments of rhapsody are not due to the skill (*techne*) or knowledge (*episteme*) particular to the rhapsode, but must come from some other power, a proposition he develops in the famous analogy of the magnetic chain of divine inspiration:

> …this is not a skill (*techne*) in you, speaking well about Homer, but a divine power that moves you as a magnetic stone moves iron rings…this stone not only pulls (*ago*) those rings if they're iron, it also puts power in the rings, so that they in turn

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[227] There is substantial scholarly dispute as to whether a *techne poetike* exists in Plato; Socrates does in this dialogue refer to what is usually translated as "an art of poetry as a whole [*poietike gar pou estin to holon*]" (532c) Rijksbaron argues that the notion of an art of poetry is here introduced argumentatively: if there were such a thing there ought also to be experts capable of judging its products. In the case of poetry, unlike sculpture or painting, there can be no such judges precisely because Plato here denies the poets the faculty of composing poetry. (Albert Rijksbaron, *Plato Ion, Or: On the Iliad.* (Leiden, Netherlands: Brill 2007), 9-14. Kenneth Dorter argues that *episteme* and *techne* are used interchangeably in the dialogue, especially at 537d-e and 538b. (Kenneth Dorter, "The *Ion*: Plato's Characterization of Art," *The Journal of Aesthetics and Art Criticism* 31, no. 1 (1973): 65n.2.)

> can do (*poien*) just what the stone does – pull other rings – so that there's sometimes a very long chain of iron pieces and rings hanging from one another. And the power in all of them depends on this stone. In the same way, the Muse makes (*poieo*) some people inspired (*entheos*) herself, and then through those who are inspired a chain of other enthusiasts is suspended. (533d-e)

The rhapsode is thus linked to the divine in a similar fashion as the ensuing magnetized rings in the chain are to the original lodestone: the chain of divine inspiration moves from Muse, to poet, to rhapsode, to audience (535e-536b). Ion agrees; the analogy echoes the claims in Homer that divine inspiration (*entheo*) is the source of poetry. Socrates insists, however, that if Ion is to accept his place in the chain of divine inspiration he must relinquish his previous claims that his rhapsodic powers are derived from his own expertise (*techne*), knowledge (*episteme*) and understanding (*dianoia*) of Homer (530b-d).[228] Instead, if Ion is indeed "possessed by a divine gift from Homer," he must acknowledge that his powers as a rhapsode trace back through Homer to the original divine 'magnetic' source, the Muse. Ion is never fully willing to admit that his rhapsodic powers are derived from divine inspiration *through* Homer rather than his own particular mastery *of* Homer (542a).

This passage in particular is most often read as Plato's clearest offensive against poetry; scholars argue that the chain of divine inspiration demonstrates that poetry trades on human cognitive passivity in two intertwined ways.[229] First, the rhapsode is here

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[228] Socrates here claims that knowledge of the poet's thought is crucial to the rhapsode's task of "mediating the meaning of the poet for the audience." The Greek word used in this section is *dianoia*, which signifies thought, intention, meaning but also, with Plato, is the faculty of intelligence/ understanding that directly precedes true insight (see the analogy of the Divided Line at *Republic* 509d-511e).

seemingly characterized as a passive mouthpiece for the gods: he is inspired (*entheoi*), possessed (*katechoimenoi*), not in his senses (*ekprhon)* and without his reason (*nous meketi*); in short, he is mad. This mania, in turn, is incompatible with skill (*techne*), knowledge (*episteme*) and understanding (*dianoia);* not only is the rhapsode not knowledgeable about the form or content of the poetry he recites, but his very mania undermines the necessary rationality true knowledge of either requires. Second, the rhapsode transmits to his audience this same admixture of passivity and mania; great epic poetry not only depicts extraordinary feats of passion but induces passionate responses to those events that simultaneously undermine the spectator's effort at rational self-control. When Ion recites a tragic story not only are his eyes full of tears but his otherwise happy spectators weep as though actually miserable; when Ion recounts a frightening event not only does his own hair stand on end but his spectators, although unharmed, are also frightened. (535c-e) Great epic poetry thus has a "stunning effect"; (535b) rhapsode and audience alike cannot help but feel misery or fear as though they were present at the tragic events depicted therein. (535c)[230]

On these understandings, the *Ion* thus help set the terms of the 'old quarrel' by characterizing poetry as something that happens *to* us, whereas philosophy is something we actively engage *in*. Thus when Socrates in the *Apology* (22a-c) and *Phaedrus* (245), and the Athenian Stranger in the *Laws* (682a; 719c-d), describe the inspired poet as a passive instrument who knows nothing of what he is saying and cannot explain the source and

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[229] For a range of interpretations that rely on this assumption, see: Tigerstedt, "Plato's Idea of Poetical Inspiration," esp. 13-29; Allan Bloom, "An Interpretation of Plato's *Ion*," *Interpretation* 1(1970): 43-62; Martha Nussbaum, *The Fragility of Goodness* (Cambridge: Cambridge University Press, 1986), 224; Suzanne Stern-Gillet, "On (Mis)Interpreting Plato's *Ion*," *Phronesis* 49, no. 2 (2004): 169-210; Rijksbaron, *Plato Ion, Or: On the Iliad*. .

[230] Tigerstedt famously argued that mania as full divine possession, and so qua passivity, is Plato's innovation (E.N Tigerstedt, "Furor Poeticus: Poetic Inspiration in Greek Literature before Democritus and Plato," *The Journal of the History of Ideas* (Apr.-Jun., 1970).) Also see E.R. Dodds, *The Greeks and the Irrational* (Berkeley: University of California Press, 1951), esp. 64-102.

meaning of his poetry, scholars generally agree that Plato is referring to the effects of divine inspiration as they are explicated here in the *Ion's* magnet analogy. I have shown that in the context of the Homeric Muse and her divine gift of song this characterization of poetic inspiration is well substantiated; I argue that Homer's treatment of the Muse also delimits Plato's concerns with poetic inspiration in three interrelated ways. First, inspiration in Homer is shown to be *logo-centric* in the most comprehensive sense of the word; the poet's inspiration by the Muse provides him the knowledge, speech, reasoned account, words, understanding to which he would not otherwise be privy. Second, the *aiodos* does not believe his own logos to be displaced; instead, he sees himself as participating in the higher divine logos. Third, the poet's pedagogical privilege and moral authority is predicated on the tacit acknowledgment by the audience/community that the poet's own human understanding is augmented precisely as Homer depicts. This final point underscores the political dimension of Plato's concern.

In Homer, as well as Hesiod, the poet-bards claim they could not accomplish their feats without the help of the Muses. The magnet analogy, in turn, shows the greater implications of their invocation: an inspired community is created here wherein each ring participates simultaneously in being empowered by the previous ring(s) and empowering the ring below. I argue that when Socrates returns to the analogy for the second time he claims that this process builds, if not a whole community, then at least those involved with guiding its musical *paideia*:

> …an enormous chain of choral dancers and dance teachers and assistants are added hanging off the sides of the rings that are suspended from the Muse. One poet is attached to one Muse, another from another…From these first rings, from the poets, are suspended various others, which are thus inspired (*enthousiazo*), some by

Orpheus and others by Musaeus but the majority are possessed and held by Homer. (536a-b)

The Muse may supply the first and necessary inspiration but it is the poet, Socrates here suggests, who determines the dominant character (*ethos*) of the chain. That Homer is singled out as the poet from whom the majority is inspired certainly underscores his dominant role in shaping the cultural *ethos*. I want to note, however, that the cursory mention of Orpheus and Musaeus also suggests that the Muses may inspire other poets differently: Orpheus and Musaeus were legendary musicians and poets whose divine inspiration involved magic and prophecy, rather than knowledge.[231] Socrates is not here

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[231] Orpheus and Musaeus are usually understood to precede Homer and Hesiod, although they are not mentioned by name in Homer's *Iliad* or *Odyssey* or Hesiod's *Theogony* or *Works and Days*. Plato's reference to them here in the *Ion* is not incidental; they are mentioned together at *Apology* 41a and *Republic* 364e, and Orpheus is referred to explicitly in several other dialogues, including at *Cratylus* 402b *Laws* 669d, 677d, 782c, 829e, *Republic* 620a and *Symposium* 179d. I want to note here that Orpheus plays a significant role in the history of Greek music; he was a famed singer, lyre player, shaman, magician and founder of Orphism. Not incidentally, the most important of the Orphic sects were the Pythagoreans. Musaeus may have been Orpheus' son, disciple or teacher.

The ancient Greeks believed Orpheus to be the first real musician, although it isn't clear whether he was a real person or a mythical figure. According to certain traditions he was the son of the Muse Calliope and Apollo, according to others his father was the King of Thrace. Legends claim that he was presented the lyre by Apollo, instructed in its use by the Muses, and that the power of his music was so strong it enchanted not only gods, humans and animals but Nature herself: the trees and rocks at Mount Olympus are said to have been moved there by the sound of his lyre. He is said to have saved the Argonauts from the seduction of the Sirens by out-singing them and to have journeyed into the underworld in order to fetch his dead wife, where the charms of his music suspended the torments of the damned and provided him with safe passage to the lord of the dead. After failing to recuperate his wife, Orpheus returned to Thrace, where, consumed by grief he treated Thracian women with such contempt that in revenge they tore him to pieces as the men sat by entranced by his music. After his death, the Muses collected the fragments of his body and buried them at the foot of Mount Olympus. His head, which is said to have continued singing after it was severed from his body, was interred at Antissa and his lyre was carried off to Lesbos, the first great seat of music and lyre. Early astronomers believe that Orpheus' lyre finally became a constellation, placed by Zeus among the stars, at the intercession of Apollo and the Muses. (see W.K.C. Guthrie, *Orpheus and Greek Religion* (Princeton: Princeton University Press, 1993), 1-5; 25-62; Ivan M. Linforth, *The Arts of Orpheus* (New York: Arno Press, 1973).

claiming the superiority of prophetic inspiration, but he is leaving open the possibility of alternate forms of inspiration by the Muses.

I argue that, in the course of showing Ion that Homeric inspiration-as-knowledge is a wholly incorrect understanding of the Muses' divine gift, Socrates does in fact deploy a non-*logocentric* characterization of inspiration that is not circumscribed in Homer. Socrates concludes the magnet analogy by characterizing the possession adumbrated therein as musical: like the Corybantes and their dances, the poets are under divine possession as soon as they "have started on the harmony (*harmonia*) and rhythm (*rhuthmos*)" (534a). When Socrates returns to the magnet analogy a short time later, he mentions that the Corybantes can only hear the strain of music (*melos*) of the god who inspires them; they can "sing and dance to that song (*melos*)" but are lost to any other (536c). Divine inspiration is here characterizes as a kind of a non-*logocentric* musical power of movement; it isn't the words of a song that cause the Corybantes to sing and dance, but its underlying musical structure; music has a specific kind of motive power. This notion of musical inspiration is not Homer's, I argue, but it is Hesiod's, to whom I now turn.

HESIOD'S MUSES

Hesiod describes the Muses as mysterious, nymph-like creatures: "shrouded in thick invisibility, by night they walk, sending forth their very beautiful voice (*ossa*)" for the pleasure of the gods of Mount Olympus.[232] The Muses give great "pleasure to the mind" of their father, Zeus, by singing of "what is, and what will be, and what was before,

[232] Hesiod, *Theogony*, 1-21.

harmonizing in their sound;" a pleasure that is shared by the divine community as the goddesses' "immortal voice (*ossa*)" spreads among them. [233] Hesiod recounts that when he met the Muses at their usual pastoral haunt on Mount Helicon, they spoke directly to him:

> "Field dwelling shepherd, ignoble disgraces, mere bellies: we know how to say (*legein*) many false things (*psuedos*) similar (*homoios*) to genuine ones, but we know, when we wish, how to proclaim (*geruo*) true (*aletheia*) things." So spoke the great Zeus' ready-speaking daughters…and they breathed a divine voice (*audè*) into me, so that I might glorify (*kleo*) what will be and what was before, and they commanded me to sing of the race of the blessed ones who already are, but always to sing of themselves first and last.[234]

The distinction the Muses make here between truth and plausible falsehoods is generally considered problematic insofar as Hesiod is here seen to undermine his own ensuing project.[235] I argue instead that the Muses are here specifying an important precondition to their divine gift:

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233 *Theogony*, 35-53.

234 *Theogony*, 22-34.

235 The controversy surrounding these lines falls into two main scholarly groups. The first has to do with the possible rivalry between Homer and Hesiod and the question of poetic 'fiction.' Verdenius, for example, argues that Hesiod is here indirectly denouncing the falsity of Homer's poetry; Hesiod is generally concerned with disassociating himself from the heroic tales recounted in Homer in order to position his own poetry as the only true poetic discourse. (W.J. Verdenius, "Notes on the Proem of Hesiod's *Theogony*," *Mnemosyne* 25, no. 3 (1972): 234-35.) Murray similarly suggests that Hesiod is here contrasting the true content of his own poetry with the plausible 'fiction' of the Homeric epic. (Penelope Murray, "Poetic Inspiration in Early Greece," *The Journal of Hellenic Studies* 101(1981). West rejects these interpretations on the grounds that "no Greek ever regarded the Homeric epics as substantially fiction." West argues instead that these lines suggest that Hesiod had hitherto lived his life in ignorance of the truth. (West, *Hesiod: Theogeny*, 161-62.) Ledbetter argues that Hesiod's account of the Muses does not amount to a theory of fictionality because we are in no position to challenge the truth of these lines or of the *Theogony* more generally. (Grace M. Ledbetter, *Poetics before Plato* (Princeton: Princeton University Press, 2003), 41-48.) Other

by declaring themselves as speaking both truth and falsehoods, the Muses render their own communications beyond the capacity of human judgment. This premise, to which I return below, is itself predicated on the following two points: First, when Hesiod explains his newly acquired musical abilities, he makes a distinction between what the Muses empower him to sing compared to what they sing themselves. The Muses' songs celebrate (*kleos*) "what exists and will come and what has come before" whereas the Muses 'breathe into' Hesiod the ability to sing of "what will come and what has come before."[236] Hesiod is not sanctioned to sing of what exists (*ta onta*); instead, his musical abilities are limited to recounting events of the past and the future.[237]

Second, Hesiod characterizes the voice of the Muses as *ossa* and the voice the Muses breathe into him as *aude*: although both words designate voice and have to do with song, *ossa* is exclusively divine whereas Muses and poets share in *aude*.[238]I want to note that

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scholars focus instead on the possibility of a theory of language in Hesiod (and archaic Greece more generally). Pucci makes the Derridean argument that Hesiod is here distinguishing between two realms of communication that places "truth" in the medium of logos rather than ontology: the "truth" the Muses can represent in language is fundamentally different from human reality; it is thus incapable of presenting reality and is therefore necessarily false. (Pietro Pucci, *Hesiod and the Language of Poetry* (Baltimore: Johns Hopkins University Press, 1977). Ferrari counters these arguments by insisting on the precision of Hesiod's formulation here: the Muses specify that only falsehoods, and not language in general, are "like the genuine." For Ferrari, there is no question in Hesiod of metaphysical truth or the capacity of language to represent it, only a question of whether or not the Muses wish to speak the truth. Ferrari offers an overview of Pucci and similar 'Derridean classicist' theses on these lines in Hesiod. (Giovanni Ferrari, "Hesiod's Mimetic Muses and the Strategies of Deconstruction," in *Post-Structuralist Classics*, ed. Andrew Benjamin (London: Routledge, 1988), 45-78.)

[236] Hesiod, *Theogony*. 38; 32

[237] This distinction is also explicitly noted in Jenny Strauss Clay, "What the Muses Sang: Theogony 1-115," *Greek, Roman and Byzantine Studies* 29, no. 4 (1988): 330; Derek Collins, "Hesiod and the Divine Voice of the Muses," *Arethusa* 32, no. 3 (1999): 255.

[238] The Muses sing in their o*ssa* at *Theogony* 10, 43, 65, 67, in their *aude* at 39, 44, 48; the poet-bard sings in his *aude* at *Theogony* 31. Scholars generally agree that *ossa* in Homer means rumor or report rather than voice. Ford notes that Homer only uses it in the phrase "the *ossa* of Zeus". (Ford, *Homer: The Poetry of the Past*, 175.) Collins argues that *ossa* in Homer, Hesiod and throughout the archaic period, consistently refers to the "insuperable constraints placed on divine communication

the songs of both the Muses and the poets are characterized as *kleos,* meaning they celebrate and memorialize their subject matter.[239] However, when the Muses sing a *kleos* about "the laws (*nomos*) and cherished ways (*ethos*) of the immortals" they use their divine *ossa*, which is not a voice that human being can in fact hear.[240] Hesiod makes no appeal to this *ossa;* he ends the proem by asking the Muses simply to "grant him a lovely song"[241] so that he may, in the voice (*aude*) they have breathed into him, sing his own *kleos* of the divine.

Hesiod thus draws attention to divine communication (*ossa*) as a hindrance, or limitation, to human knowledge; we cannot transcend our mortality and so we simply cannot know the divine *kleos*. [242] It is true that the poet-bard is granted a kind of limited

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as it is filtered into the mortal world." (Collins, "Hesiod and the Divine Voice of the Muses," 260; 41-62) Nagy draws etymological connections between the names Hesiod and Homer to these same passages in the *Theogony*. He notes that the name Hesi-odos, meaning 'he who admits the voice', is a compendium of the different notions of voice here: the root ieh- of Hesi- corresponds to the characterization of the Muses as *ossan hiesan* 'emitting the voice' at *Theogony* 10, 43, 65, 67, while the root of –odos recurs as –aude at *Theogony* 31, "designating the power of poetry conferred upon the poet." (Gregory Nagy, *Greek Mythology and Poetics* (Ithaca: Cornell University Press, 1990), 47.) Similarly, the name of Homer, Hom-eros, meaning 'he who fits the song together', corresponds to the characterization of the Muses as *phonei homeureusai* 'fitting (the song) together with their voice' at *Theogony* 39. (*Pindar's Homer*, 372-73.)

239 The songs of the Muses are characterized as *kleos* at *Theogony* 44, 67, 105 and those of the poet-bards at 32, 100. I disagree with Collins, who argues that Hesiod's claim that the Muses also sing *kleos* is simply "part of the conceit of the poet, to identify what he sings with what the Muses sing." (Collins, "Hesiod and the Divine Voice of the Muses," 249.) Collins insists on a distinction between the *ossa* of the Muses and *kleos* of the poet, which strikes me as confusing the glorified account (*kleos*) with the possible voices, divine (*ossa*) or shared (*aude*), in which the *kleos* might be transmitted.

240 Hesiod, *Theogony*, 65-67; 43-52.

241 *Theogony*, 104.

242 Certain scholars claim that the Muses songs adumbrate the contents of the *Theogony* and that Hesiod simply transmits the divine song to his human audience. On this understanding, the song for which Hesiod asks the Muses help "combines the subjects of their performance and uses motifs and phrases from all previous descriptions." (William G. Thalmann, *Conventions of Form and Thought in Early Greek Epic Poetry* (Baltimore: Johns Hopkins Unviversity Press, 1984), 139.) For a

participation in the divine through the *aude*; when Muses sing of the past, present and future – that is, when they sing celebratory accounts about being and time – they do so in this shared voice that Hesiod can ostensibly understand. Nonetheless, the *aiodos* can never himself verify the truth of the divine communication; he can never know whether the Muses speak the truth or falsehoods that resemble the truth. The poet-bard cannot, therefore, claim to be an authority of the glorified accounts he himself sings; when he sings about the past or future it is without recourse to divine authentication. In Hesiod, the divine gift of song is not, as in Homer, the divine gift of knowledge; in Hesiod, the poet-bard cannot claim to know the content of the divine *ossa,* and significantly, because he is not empowered to sing about the present, he cannot give the equivalent of the Muses' divine *ossa* to his audience. In other words, insofar as inspiration is not knowledge and precludes singing about temporal events, the *aiodos* cannot claim factual knowledge about events at which he was not himself in attendance (past or future) nor those for which he might in fact bear witness. In Hesiod, the Muses guarantee the *aiodos* will not misrepresent his inspiration as knowledge of *any* temporal realm.

In Homer, the pleasure of the poetic experience is directly related to the knowledge imparted by the Muse through the poet-bard to the audience; Homer's Muse is, as Plato aptly describes her, "pleasure-giving." (*Republic* 607a, 607c) Hesiod's Muses, in contrast, only endow the poet-bard to sing with pleasurable effect; Hesiod conceives of himself as actualizing, through a participation in, the Muses own pleasuring of the gods' minds through song. Importantly, Hesiod's notion of divine inspiration does not include knowledge, factual or affective; he makes no claim that he is in any way capable of evaluating the truth or falsity of the Muses words and makes no suggestion that his

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discussion and systematic refutation of Thalmann and other scholars who advance this interpretation, see the discussion in Clay, "What the Muses Sang: Theogony 1-115."

audience is capable either. Thus whereas the Homeric rhapsode treats his audience as potential recipients *of* divine knowledge, Hesiod's rhapsode treats his audience instead as potential participants *in* the divine inspiration. The distinction for Plato is significant: whereas Homer's *aiodos* claims to guarantee the truth of the divine communication, Hesiod vouches for the manner in which the divine communication was transmitted, namely, through a kind of musical inspiration, or *mania*. It is this Hesiodic notion of musical mania, I now show, that Plato deploys against Homer's notion of inspired poetic knowledge in the *Ion's* magnet analogy.

MUSICAL INSPIRATION

I want to return to the *Ion* by way of the *Republic* (where, I argue, Plato invites us to consider the nature of the lodestone according to precise criteria) and the *Laws* (which helps clarify its relevance vis-à-vis musical inspiration.) First, in the *Republic*, once Socrates and Glaucon determine that not even the Homeridae would claim that Homer was a good lawgiver (*nomothete*) who benefitted the city, Socrates suggests other criteria upon which they should also judge Homer's pedagogical privilege. He asks, "as befits a wise man, are many inventions and useful devices in the crafts or sciences attributed to Homer, as they are to Thales of Miletus and Anarchasis the Synthian?" Glaucon confirms there is "nothing of that kind, at all" (600a). Thales of Miletus (c.624 – 546 BCE) was and is considered to be the first Greek philosopher. He is included as one of the Seven Sages (so named for their association with the cult of the oracle at Delphi) and is credited with moving Greek thought away from its mutho-poetic origins towards natural philosophy; Thales famously proposed that the multiplicity of the material world could be explained by an underlying

material cause, which he believed to be water. Especially significant to the topic at hand, he is also the first recorded philosopher to consider magnetism and the behavior of the lodestone.[243]

Aristotle reports in his *On the soul* (*de Anima)* "Thales, too, to judge what is recorded about him, seems to have held the soul (*psuche*) to be a motive force, since he said that the magnet has a soul (*psuche*) because it moves the iron."[244] Hippias preserves the simplicity of the argument: Thales adduced two premises, (1) if anything has motor it has *psuche* and (2) magnets have motors, from which he inferred that (3) magnets have soul (*empsuchos*).[245] To be *empsuchos* signified for the ancient Greeks not only living, but also 'animate.' Thales' identification of soul with magnet thus had to do with a shared animating principle. Thales believed that the soul is the first principle from which all other things are derived; as first principle, the soul 'knows' everything because everything is composed of soul. The soul's power to originate movement is thus predicated on the principle that like is known by like.[246] The identification of the magnet with the soul has to do with similarity: both soul and magnet are constitutively productive of 'animating' motion whose power operates on a principle of known likeness.

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243 Aristotle, *Metaphysics*, 938b6-11, 17-22; 84a. Thales left no written work; for a discussion of the ancient testimony see Keimpe Algra, "The Beginnings of Cosmology," in *The Cambridge Companion to Early Greek Philosophy*, ed. A. A. Long (Cambridge: Cambridge University Press, 1999), 45-65, esp. 45-54; Jonathan Barnes, *The Presocratic Philosophers* (New York Routledge, 1982), 4-17.) Plato provides the first reference in history to the Seven Sages in the *Protagoras* at 342e-343b.

244 Aristotle, *On the Soul*, 405a19-05a20. Diogenes writes that "Aristotle and Hippias say he ascribed souls to lifeless things too, taking the magnet and amber as his evidence." (Diogenes, *Lives of Eminent Philosophers*, 1.1.23.)

245 Hippias. DK 86B6 in Barnes, *The Presocratic Philosophers*; ibid.

246 Aristotle, *On the Soul.* 405a21-405b32. Aristotle provides a survey of early philosophic treatments of the soul and shows that with one exception, the early philosophers were in agreement with these principles, "hence, all those who admit but one cause or element, make the soul also one (e.g. fire or air), while those who admit a multiplicity of principles make the soul also multiple."

Contemporaries of Plato who enquired into the nature of magnetism agreed with Thales' premise that the magnet has motive force but set the question of the soul aside; the stone's powers were attributed to various causes all having to do with simple attraction: Empodocles (c. 490-430BCE) proposed that lodestones had tiny pores that emanated empty atoms which drew in air, causing a suction-like wind that drew objects towards the stone; Democritus (460-370BCE) thought the magnet worked through a principle of sympathy, like drawing like; later thinkers thought the magnet manifested a daimonic presence, drawing objects to it through a kind of enchantment.[247] Plato's exposition of the magnet in the *Ion* indicates his dissatisfaction with simple mechanical and magical notions of magnetic attraction:

> This stone not only attracts (*ago*) those rings, if they're iron, it also puts power in the rings, so that they in turn can do just what the stone does – pull (*ago*) other rings – so that there is sometimes a very long chain of iron pieces and rings hanging from one another. And the power in all of them depends on this stone. (533d-e) [248]

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[247] There are very few references to magnetism in the extant evidence : Empodecles' and Democritus' investigations are recorded in Alexander of Aprhodisias' *Questiones* ca. 200AD. (see W.K.C. Guthrie, *A History of Greek Philosophy V.2* (Cambridge: Cambridge Univerity Press, 1965), 232, 73. 426; Sandra Blakely, *Myth, Ritual and Metallurgy in Ancient Greece and Recent Africa* (Cambridge: Cambridge University Press, 2006), 141.) Scholars note that the Greeks never had any real understanding of the nature of the magnet and did not put it to industrial use; Guthrie, for example, argues that the Greeks had no understanding of the principle of polarity nor is it clear that they had any understanding of the lodestone's repelling power. (Guthrie, *A History of Greek Philosophy V.2*, 232n1.) The Greeks did, however, make medical and magical use of the magnet: lodestones were cold for example, and so able to draw the heat out of overly hot bodies; if inscribed with an incantation and worn around the neck the stone could provide the wearer with great insight or induce delusions; a different inscription allowed the magnet to also be used as a contraceptive. (John Scarborough, "The Pharmacology of Sacred Plants, Herbs, and Roots," in *Magika Hiera*, ed. Christopher A. Faraone and Dirk Obbink (Oxford: Oxford University Press, 1991), 158-59; Blakely, *Myth, Ritual and Metallurgy in Ancient Greece and Recent Africa*, 141-43.)

I argue that Plato recuperates, and in fact provides new meaning, to Thales' connection between soul and magnet by treating the magnet as analogous to divine inspiration; the connection between soul and magnet allows Plato to provide an understanding of musical inspiration as a kind of motion that has generative power. In order to clarify this claim I want to turn briefly to the *Laws* where the Athenian Stranger sets out to prove that the soul is "first of all things" (895c) through a consideration of motion; his proof, I argue, is a recuperation of Thales claims laid out above.[249]

The Athenian Stranger begins with the simple premise that some things move and others are at rest (893b); a consideration of things in motion leads to a distinction between ten types of motion, nine of which are motions that move other things (893c-894c). The most important motion, the Athenian Stranger claims, is the one that "moves both itself and other things" (894c). Everyone is familiar with this motion; it is the motion that every person senses when attracted or repelled (897a). In order to show how this motion is different from all others, the Athenian Stranger asks about the origins of motions in general: if most motions merely move other things, what moves the motion? (895a) He

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[248] The only other explicit treatment of the lodestone and magnetism in the Platonic corpus is in the *Timaeus*, where Plato's dissatisfaction with simple attraction is expressed differently. Here, Socrates says, "there is no such thing as a force of attraction…there is no void; these things push themselves around into each other; all things move by exchanging places, each to its own place…due to interactive relationships among these phenomena" (Plato. *Timaeus* 80c)

[249] Whether the proof is in and of itself persuasive falls outside of my immediate concerns. (see R.F. Stalley, *An Introduction to Plato's Laws* (Indianapolis: Hackett Publishing Company, 1983), 166-78; Robert Mayhew, *Plato Laws 10* (Oxford: Oxford University Press, 2008).) Although Thales is not mentioned here by name, the Athenian Stranger uses his proof of the self-moving soul to show that "all things are full of gods" (899b), echoing the famous dictum by Thales recorded in Aristotle; "Certain thinkers say the soul is intermingled in the whole universe, and it is perhaps for that reason that Thales came to the opinion that all things are full of gods." (Aristotle. *On the Soul* 411a8-10) Scholars uniformly remark upon this implicit reference without further examination. (Pangle, *The Laws of Plato*, 534n25; Stalley, *An Introduction to Plato's Laws*, 173.) Mayhew notes that the language in Greek is virtually identical in Plato and Aristotle. (Mayhew, *Plato Laws 10*, 153-54.)

suggests that there could be a chain of motion, one thing moving another and so on, but this does not explain what causes the chain of motion in the first place. (894e-895a) Insofar as there are motions, he argues, there has to be a first motion; the first motion, since it is not moved by something else, can only have moved itself. The Athenian Stranger thus substantiates Thales' premise; "soul drives all things through its motion." (897a) Unlike Thales this claim does not here reduce to a material cause; in Plato, the soul is itself motion. Similar to Thales, however, this exposition of the soul provides the framework within which to understand the behavior of the magnet, and in the case of the *Ion*, Hesiodic musical inspiration.

The *Ion* shows that the magnet is self-moving and generative of animating motion; motion is here characterized as power (*dunamis*) and empowering (*dunamis entithemi*): the lodestone attracts and empowers the iron ring to also attract and empower. (*Ion* 533d) Insofar as the magnet is self-moving, it empowers the iron rings to also be productive of animating motion; the magnet creates a chain of like-to-like. Reinserting Hesiod's Muses, poet, rhapsode and audience back into the analogy, musical inspiration can now be understood as a kind of motion that has animating power in two ways: first, similar to the magnet, self-motion constitutively distinguishes the divine Muses from their mortal counterparts and second, similar to the iron rings, Hesiod is empowered to act like the Muse through a participation in their animating power. Hesiod recounts that the Muses were born "caring for song" and with a "spirit that knows no sorrow;" sending forth a beautiful voice they give pleasure to Zeus' mind through song.[250] Hesiod knows this about the Muses because when he sings he participates in this divine pleasure; through his own

[250] Hesiod, *Theogony*, 35-67.

care for song he knows no sorrow "for quickly the gods have turned it aside."[251] Hesiod does not experience divine pleasure because he has been told a story about it; I showed previously that the Muses' communication falls outside of human understanding. His experience comes from actually participating in the divine pleasure himself. In other words, the magnet analogy shows that whereas in Homer the poet connects to the Muses gift by 'knowing it', Hesiod connects to the Muses gift by living it.

The relationship laid out in the magnet analogy is thus certainly inspired, but insofar as inspiration no longer has to do with *logos* in any sense, the divine mania described here does not need to displace understanding or rationality. To wit, if Ion is inspired he is also always aware of how his performance is being received by the audience and adjusts accordingly for maximum affective impact; his livelihood, in fact, depends on such calculations (535d-e). Scholars generally claim this as proof that mania and *logos*, in its wider sense as understanding or rationality, are incompatible: the chain of inspiration is clearly disabled, or broken.[252] I argue instead that Plato is here indicating that divine inspiration and logos are necessarily, and importantly, different functions of the soul; Plato here shows that divine inspiration has to do with movement itself whereas *logos* has to do with the ordering (or disordering) of that movement. At no time prior to, during, or after Ion's

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[251] *Theogony*, 93-104

[252] For certain scholars this is proof that Socrates is joking when he praises poetic mania; Bloom argues that the real magnet is the audience and that Ion must give them what they want. (Bloom, "An Interpretation of Plato's *Ion*," 61.) Ferrari argues that "Ion is not actually lost in a world of his own; but his mind is lost to his proper function of understanding." The rhapsode's performance, in turn, transports the audience to an imaginary world through imaginative and 'emotional' identification with the personages depicted therein, but it does not engage our understanding. (Ferrari, "Plato and Poetry," 96; 92-99.) Weineck understands the rhapsode as a proto-literary critic: he simply cannot be mad like the poet he interprets because criticism must differ from poetry in order to perform its task. On her understanding, only the poet thus remains enthused, dispossessing him of his *noos* and so his poetry. (Silke-Maria Weineck, "Poetic Madness and the Birth of Criticism in Plato's Ion," Arethusa 31(1998): see esp. 29-34.)

claim that he is "fully aware" and "pays close attention to his audience" (535e) does Socrates suggest that Ion is not inspired. In fact, Socrates uses this very awareness of the audience to try and convince Ion that he is indeed the "middle ring" in the chain of musical inspiration (535e-536d), the "interpreter of the interpreter" (535a).[253] Musical inspiration is, for Plato, wholly compatible with *logos* in its wider sense (knowledge, rationality) and narrower sense (speech, reasoned account) precisely because it is something other than *logos;* as motion, it is different in kind.

Plato's notion of musical inspiration is thus highly critical of Homer, who wants to collapse divine inspiration and human *logos* into a singularly pleasurable poetic account, while it recuperates Hesiod, who provides a way in which they can properly remain distinct and harmonious. Homeric inspiration is dangerous in Plato's view, precisely because it induces a kind of sickness in the soul by incapacitating and debasing human *logos*; in the *Timaeus*, Socrates calls this sort of sickness dementia, or mindlessness (*amathia*), resulting from pleasure and pain in excess.[254] Musical inspiration of the Hesiodic sort, however, holds the potential of illuminating human understanding by bringing it back to the higher

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[253] 'Interpreter' here translates *hermeneuo*, which signifies interpretation, but also to "expound, to put into words, give utterance, explain." In his translation of the *Ion*, Paul Woodruff translates *hermeneuo* and its cognates as 'present' and 'represent.' The rhapsode must thus "present the poet's thought to audience," (530c) the poets are "representatives of the gods" (534e) and rhapsodes "representatives of representatives." (535a). Woodruff's translation is more compatible with the view that poetic inspiration renders the poet, rhapsode, and audience passive. I want to preserve *hermeneuo* as interpretation, however, not only for understanding the *Ion* but also because the notion of interpretation I claim is developed in this dialogue has to do with other forms of *logos* in other Platonic texts. Most notably, at *Laws* 12.966b the Athenian Stranger asserts that the "true guardians of the laws must have genuine knowledge of the true nature (of the laws) and be capable of both interpreting (*hermeneuwin*) in word the real difference between good and bad actions and conforming to that distinction in practice."

[254] Plato, *Timaeus*, 86b. Following an account of the diseases of the body (*soma nosemata*) Socrates provides a very brief description of the disease of the soul (*psuche*) which he here terms mindlessness (*anoia*), and of which there are two kinds, madness (*mania*) and ignorance (*amathia*); "pleasure and pain in excess are the greatest of the soul's diseases."

realities from which it proceeds. The distinction is especially significant for Plato, I now show, because in Hesiod the Muses inspire not only poet-bards, but also rulers (*basileis*).

MUSES AND MAGISTRATES

I previously noted that unlike in Homer, Hesiod recounts the story of the Muses' birth and names them; he also extends their domain to include forms of non-poetic communication. The Muses were born to Mmemosyne (Memory) and Zeus, the result of nine nights of love-making from which Mmemosyne bore nine "like-minded (*homophronas*)" daughters who "care for song" and have a "spirit that knows no sorrow".[255] The Muses are then introduced:

> Clio and Euterpe and Thalia and Melpomene
>
> And Terpsichore and Erato and Polyhymnia and Ourania
>
> And Calliope, who is foremost of them all. [256]

Scholars uniformly note that by the time of this introduction their names have already acquired resonance; in the preceding lines of the proem, Hesiod has described the powers and domain of each Muse in precisely the terms that now make up their individual names.[257] Clio (Glorifying) recalls the *kleion* the Muses sing in their divine voice (*ossa*) I discussed above and Euterpe (Well-Delighted) recalls the delight (*terpo*) the Muses' songs

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[255] I leave Most's translation of *homophronas* as 'like-minded' although other scholars render the Greek "of like disposition" (West, *Hesiod: Theogeny*, 176n.60.) or "all of one mind" (Murray) The spirit of all of the translations is that *homophronas* signifies a harmony or concord.

[256] Hesiod. *Theogony:* 77-79. Homer makes reference to nine Muses once, in the *Odyssey* 24.63-66, but the number of Muses was not fixed in antiquity.

[257] West, *Hesiod: Theogeny*, 180-81.

give to the mind and heart of their father.[258] Thalia (Blooming) signifies the pastoral land and 'joyous festivities' (*thalia*) of the Muses domestic lives while Melpomene (Singing) refers to the celebration in song (*melpo*) of the laws and ways of the gods. Terpshichore (Delighting in Dance) reminds us of the multiple passages where the Muses are described as giving pleasure (*terpo*) and dancing (*choros*).[259] Erato (Lovely) describes the lovely (*erao*) voice that is uniquely the Muses' *ossa*, Polyhymnia (Many Hymning) the celebratory hymns (*humneo*) the Muses sing to the gods, and Ourania (Heavenly) the rising up of those hymns to the heavens (*ouranos*).[260] Finally, Calliope (Beautiful Voiced) is a reminder that the Muses *ossa* is, above all else, a voice (*ops*) that is beautiful (*kalon*).[261]

This notion of a beautiful voice is the particular characteristic of the Muse under whom magistrates (*basileis*) are placed.

> She (Calliope) is the greatest of them all,
> for she attends upon venerated kings (*basileusin*) too.
> Whomever the daughters of great Zeus honor,
> And behold when he is born as a Zeus-nourished king (*basileon*)
> they pour sweet dew upon his tongue,
> and his words (*epe'*) flow soothingly from his mouth. The populace
> look to him as he decides disputes (*themistas*)
> with straight judgments (*dikesin*); and speaking publicly without erring,
> he quickly ends even a great quarrel by his skill.

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258 Hesiod, *Theogony*, 65-67, 43-52 (kleos); 37 (terpo)

259 *Theogony*, 63-65 (thalia); 66 (melpo); 37 (terpo); 7,63 (choros)

260 *Theogony*, 65, 70 (erato); 70 (humneo); 71 (ouranos)

261 *Theogony*, 68

> For this is why kings are prudent, because when the populace
> is going astray in the assembly they easily manage to turn the deeds around,
> effecting persuasion (*paraiphamenoi*) with mild words (*epeessin*).[262]

These lines are much discussed in the scholarship because, it is generally argued, the Muses are not elsewhere associated with kings or magistrates (*basileus*) or the gift of eloquence; certain scholars thus discount the relevance of these lines while others make the case that Hesiod is here advancing a notion of persuasive speech.[263] I have already shown, however, that that in Hesiod the Muses' gift is not a gift of speech (*logos*) in any sense. I also argued that in Plato, the Muses' gift has to do with motion; I now show that the juridical aspect of these lines suggests that musical motion is a kind of non-logocentric persuasion.

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262 Hesiod, *Theogony*, 79-90.

263 Murray argues that the lines "sit awkwardly in the general context" of the proem. (Penelope Murray, "The Muses and Their Arts," in *Music and the Muses*, ed. Penelope Murray and Peter Wilson (Oxford: Oxford University Press, 2004).) Murray is in agreement with West, who argues that these lines mark a "contrived transition" to the subject of kings and magistrates (*basileis*) and must have been included to flatter the 'royal' audience in front of whom the proem was likely first performed. (West, *Hesiod: Theogeny*, 43-44; 181-82.) This line of reasoning strikes me as particular unsatisfying; whether Hesiod was motivated by a particular audience to include these lines does not explain the connections he draws here between the *basileus* and the Muses.

Scholars who argue for a notion of persuasive speech generally claim that Hesiod is simply deepening this notion which is already present in Homer. They identify this affinity between the two poets according to the shared terminology employed to describe the power of persuasive language: in Homer, Nestor's voice "flows from his tongue sweeter than honey" (Homer. *Odyssey 1*.249) while in Hesiod, the voices of Muses and poets alike "flow from their sweet mouths" while out of the mouth of the kings "the words flow honey." (Hesiod *Theogony* 39-40, 97, 84) (see Pucci, *Hesiod and the Language of Poetry*, 1-44; Thalmann, *Conventions of Form and Thought in Early Greek Epic Poetry*, 139-43; Jeffrey Walker, *Rhetoric and Poetics in Antiquity* (Oxford: Oxford University Press, 2000), 1-7.) Other scholars suggest that Hesiod's conception of persuasive speech differs substantially from that of Homer precisely because Homer's Muse never inspires anyone other than the poet. Friedrich Solmsen, "The "Gift" of Speech in Homer and Hesiod," *Transactions and Proceedings of the American Philological Association* 85(1954): 1-15.

Scholars suggest that Hesiod is here underscoring the importance of persuasion in a proto-legal oral culture; persuasive speech was an integral part of dispute resolution precisely because legal judgments were pronounced orally.[264] Other scholars suggest that these verses attest to the fact that kings and magistrates had to be able to frame their executive orders and legal judgments in verse form and were thus likely assisted by the poet-bard (*aiodos*); magistrates must have thus created a body of oral law which was passed down, not in legal prose, but in poetic-verse, or song.[265] On this latter point, magistrates are thus here vested, through the daughters of Memory (*Mnemosyne*), with the power of maintaining the collective legal memory.[266]

These scholars collectively point to the premise that the authority of the *basileus* derives not simply from his ability to make "straight judgments" but also because he has the power of persuasion bestowed upon him by the Muses. In other words, Hesiod is here suggesting that effective ruling has to do not only with judgment but with the ability to persuade the people of the decisions a ruler or magistrate makes in his official capacity. Political rule and judicial judgments are thus here made parallel activities to singing; both

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[264] This notion of 'proto-legal' is Michael Gagarin's, who is here inserting an intervening stage of legal development into H.L.A. Hart's famous argument that writing plays an important role in society's transition from the "pre-legal to the legal." (Hart, *The Concept of Law*, 94-95.) Gagarin argues that the trial scene on Achilles shield depicted in Homer's *Illiad* (18.497-508) provides "the clearest and strongest evidence for the existence of a formal, public legal procedure in preliterate Greece." In this scene "two men at odds over satisfaction for a murder committed" voluntarily submit their dispute for settlement in a public trial, where they each plead their case and accept the judgment of an independent arbiter. (Homer. *Illiad* 18.497-508; Michael Gagarin, *Early Greek Law* (Berkeley: University of California Press, 1986), 26-27.)

[265] Catharine P. Roth, "The Kings and the Muses in Hesiod's Theogeny," *Transactions of the American Philological Association* 106(1976): 331-38.

[266] I have noted elsewhere that Plutarch claimed that Lycurgus forbade the writing down of Spartan law on the grounds that the laws would best be secured if they were implanted (*egkatastoikheioo*) in every citizen's character (*ethos*) and way of life (*agoge)* through song. (Plutarch. *Lycurgus* 13.1.) Roth also notes this passage and connects it to a notion of legal memory. ("The Kings and the Muses in Hesiod's Theogeny," *Transactions of the American Philological Association* 106(1976): 336.)

depend on the persuasive abilities the Muses confer on *aiodos* and *basileus* alike. For Plato, this persuasion is prior to any speech act, poetic or rhetorical, precisely because it is musical. In other words, musical motion is prior to any logos; if the *basileus* is to persuade in matters of justice (*dike*) he must first learn about the correct use of musical motion. I argue that Plato recuperates Hesiod's Muses in the *Phaedrus* precisely to illustrate the consequences of the correct and incorrect use of musical motion.

PLATO'S MUSES

The conversation that takes place in Plato's *Phaedrus* is quite literally set to the music of the Muses.[267] In the opening paragraphs of the dialogue we encounter the young Phaedrus outside the city walls memorizing a speech on love that Lysias, the great fifth century orator, has recently composed. Phaedrus runs into Socrates, "a man who is sick (*nosounti*) with passion for hearing speeches" and seeing him, Phaedrus is delighted; "he had found a partner for his frenzied dance (*sugkorubantiao*) and urged him to lead the way" (228b). The friends lead one another through the countryside searching for a place to sit

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[267] The relationship between the *Ion* and the *Phaedrus* on poetic inspiration is controversial.; I want to note the three main strands of interpretation. On the first and least popular view, Socrates' praise of divine mania in both dialogues is sincere, and they should thus be interpreted in light of one another. This is the view of Ficino who believed Plato developed his 'system of mania' in the *Phaedrus* according to which we should interpret what is said about mania in the other dialogues. (Marsilio Ficino, *Commentaries on Plato, Volume I: Phaedrus and Ion*, ed. Michael J.B. Allen, trans. Michael J.B. Allen (Cambridge: Harvard University Press, 2008).) For a more recent examination that reads Plato as positive on mania and therefore ambivalent on art see Dorter, "The *Ion*: Plato's Characterization of Art," 65-78. The second view agrees that the praise of divine mania in the *Phaedrus* is earnest but sees it is insincere (or ironic) in the *Ion*: in any event, Plato in the *Phaedrus* provides a "reassessment" of his previous views. (see, for example, Nussbaum, *The Fragility of Goodness*, 200-35.) The third, and most widely held view, reads both dialogues as condemnations of poetic inspiration. On these interpretations any positive statements of mania in the dialogues are ironical and/or polemical in the service of Plato's quarrel with poetry. (see for example Bloom, "An Interpretation of Plato's *Ion*," 43-62; Stern-Gillet, "On (Mis)Interpreting Plato's *Ion*," 169-210.)

where Phaedrus might read the speech aloud, and finally settle on a secluded spot under a "chaste tree" where the fresh country air "echoes with the summery sweet song of the cicadas' chorus" (230c). Phaedrus begins to read.

I want to note that in these details of the introductory setting to the dialogue Plato has reassembled familiar aspects of Greek cultural practices and divine myths into a philosophical whole that have to do with his recuperation of the Muses in three interrelated ways. First, Socrates' love of speeches (*logoi*) is here diagnosed as an illness (*nosos*). The word *noseo* implies a sickness in body or soul; a disorder of the soul is a manic condition induced by excessive passion or desire. The linking of *nosos* with *logos* here precipitates Socrates' later reference to Lysias' speech as a *pharmakon,* the medicinal term for poison and cure, or more specifically for potions or charms that can be noxious or healing. Speeches (*logoi*), Socrates is here adumbrating, are as dangerous as they are enchanting. Second, the cure for Socrates' illness is to dance (*sugkorubantiao*) with Phaedrus; the word for dance here refers to the Corybantes, who believed that external motion from without, namely music and dance, canceled out the "internal agitations of the soul that give rise to fear and frenzy" thereby inducing "a feeling of calm and peace in the soul" *(Laws* 791a-b). Dancing will bring about order to Socrates' disordered soul. Third, the music to which Socrates and Phaedrus will dance – the music that will play in the background throughout the entire dialogue and help cure Socrates of his sickness – is the summery, sweet song of the cicadas.

Socrates' brief remark upon the cicadas here alludes to a myth he will recount later, and of which Phaedrus, a self-professed "lover of the Muses (*philomouso*)" (259b), is conspicuously unaware. The myth tells the story of the first singers:

> When the Muses were born and song (*aiode*) was created for the first time, some of the people of that time were so overwhelmed with the pleasure (*hedone*) of singing (*aeido*) that they forgot to eat or drink; so they died without even realizing it. It is from them that the race of the cicadas came into being; and, as a gift (*geras*) from the Muses, they have no need of nourishment once they are born. Instead, they immediately burst into song, without food or drink, until it is time for them to die. After they die, they go to the Muses and tell each one of them which mortals have honored her. To Terpsichore they report those who have honored her by their devotion to the dance. To Erato, they report those who honored her by dedicating themselves to the affairs of love, and so too with the other Muses, according to the activity that honors each. And to Calliope, the oldest among them, and Urania, the next after her, who preside over the heavens and all discourse (*logos*), human and divine, and sing with the sweetest voice (*phone*), they report those who honor their special kind of music by leading a philosophic life. (259b-d)

Although scholars widely claim that Plato fabricated this myth, with the exception of its connection to the Muses, they leave unexamined aspects of its possible origins.[268] I argue that Plato's choice of cicadas for this myth is highly significant in mytho-poetic terms, having to do with Homer's mention of the cicadas in the *Iliad* and Hesiod's naming of the Muses in the *Theogony*, and in zoological terms, having to do with the particular characteristics of this specific animal species.

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[268] Waterfield notes that the phrase used at 259b which he translates as "seems to have passed me by" is a clear indication that the myth is an invention. (Plato, "Phaedrus," ed. Robin Waterfield (Oxford: Oxford University Press, 2002), 97n259b.)

First, I argue that the connection of the cicadas to the Muses can be understood as a compendium of Homer's mention of the cicadas in the *Illiad* and Hesiod's account of the Muses in *Theogony*. There is a moment at the beginning of the *Iliad* when it seems as though the war might end; the armies are poised outside the gates of Troy, ready for a decisive duel between Paris, the Trojan prince who precipitated the war by stealing Helen from her husband, and Menelaus, said aggrieved husband. Sitting "aloft the tower" at the gates to witness the duel are the "old chiefs of Troy" – the King and his "wise" councilors – who are long past the days of fighting, but are "eloquent speakers still, clear as cicadas settled on treetops, lifting their lily-like voices (*ops*) through the forest."[269] The Trojan elders catch sight of Helen, and remark to one another in "gentle, winged words" that it is no wonder the men of Troy and the Argives have gone to war for such "beauty, terrible beauty!" The wise, prudent councilors among them acknowledge the power of Helen's beauty but are not diverted by it themselves; they urge the King to surrender Helen and end the war.[270] The King, of course, does not heed their counsel to devastating effects.

The Greek word *ops* used here by Homer to characterize the 'voice' of the cicadas is used in Hesiod to denote the particular voice of the eldest Muse: Calliope is a compendium of *kalon*, meaning beautiful, noble or fine and *ops*, meaning voice. As I have previously shown, Calliope's role in Hesiod is differentiated from the other Muses; she is the Muse of kings and magistrates; Plato also accords Calliope a privileged position here in the *Phaedrus* as the Muse of philosophers. I have already shown that in Hesiod, the Muses communicate in a divine voice that precludes human understanding; the beautiful voice in

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[269] Homer, *Iliad,* 3.148-152.

[270] *Iliad,* 7.321-52.

which Calliope sings and inspires kings, magistrates and philosophers is thus divested of speech (*logos*) but includes a kind of persuasion.

Plato's choice of cicadas here underscores the point: the ancient Greeks believed cicadas to be anatomically peculiar and distinct from other animals. Aristotle reports that cicadas have no mouths, lungs or pharynx, and thus no voice or possibility of language particular to them; instead, they communicate through their bodies by emitting not simply a humming noise, as do bees for example, but actual song.[271] I argue that Plato's choice of cicadas for this myth thus involves three intertwined premises. First, the connection between cicadas and Muses is zoologically determined, a function of their inborn species musicality, in which music itself does not involve language or voice. Second, the music of the cicadas in the *Phaedrus* is analogous to the 'lily-like voices' of the old wise men of Troy; the cicadas converse (*dialego*) among themselves, watching to see whether Socrates and Phaedrus will be "diverted by the beauty of their song" or whether they will engage in their own "conversation (*dialego*) steadfastly navigating around them as if they were Sirens." (258e-259b) The cicadas thus act like the wise old councilors of Troy, who were not themselves immune to the effects of the beautiful Helen, but who recognized the

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[271] In the *Symposium*, Aristophanes claims that in order to reproduce, cicadas cast their seeds into the ground and not one another. (Plato. *Symposium* 191c) Aristotle similarly suggests that after copulation cicadas place their eggs in husks that are planted into the ground; they emerge from these husks to live on tree branches. Aristotle also claimed that cicadas have no mouth, eat only dew which they lap up with a tongue-like organ and that it is only the male cicada who sings through his body. (Aristotle, *History of Animals*. 532b11-18; 556a15-556b21; 682a9-29) On aural communication in general, Aristotle distinguishes between animals that emit sound and animals that have voice. Of animals that have voice "some have articulate speech, while others are inarticulate; some are noisy, some are prone to silence; some are musical, and some unmusical." (Aristotle, *On the Soul.* 488a31-488b1) Aristotle also distinguishes between sound, voice, and language; he concludes that animals without lung and pharynx have no voice and animals without tongues have no language. On these criteria, insects have no voice and no language: "but some of them make a humming noise…and others are said to sing, like the cicada." (Aristotle, *History of Animals*. 535a29-535b1)

devastating sorrow the desire for her beauty would reap. In Plato and Homer, cicadas sing a cautionary tale about the devastating consequences of unrestrained pleasure in beauty.

Third, the cicadas signal that the musical 'cure' that will bring order to Socrates' speech-loving disordered soul has to do with the kind of persuasion that precedes speech. Speech is here characterized as a *pharmakon*; on its own, speech can be poisonous or healing. Plato thus does not here deploy speech to cure Socrates' sickness; instead, he deploys music. Phaedrus is not allowed to read the speech until the summery "sweet song of the cicadas" plays in the background; the entire conversation in the *Phaedrus* is quite literally set to their music. I argue that Plato is ultimately suggesting that divine musical inspiration precedes, and thus helps determine, how the soul will receive logos (*speech*). I thus want to recall here that Hesiod's Muses are confined to performing for a divine audience and in this sense, they are divine singers. Their human counterparts, in turn, are not endowed with divine knowledge but with the kind of curative ability that comes from divine inspiration, namely, the ability to empower souls to move themselves.

In Hesiod, the relationship of Muse to poet-bard is thus inspired in a sense that is wholly compatible with the notion of musical *mimesis* I presented previously; the relation of musical *mimesis* and musical inspiration is made possible by the divine model it actualizes and in which it participates. I argue in my next chapter that Plato has Hesiod present this divine model in the *Laws*.

CHAPTER FIVE

THE MUSICAL CONSTITUTION

The dialogue *Laws* recounts a political founding in speech. Three old men – a Cretan, a Spartan, and an unnamed Athenian – travel on foot to the shrine of Zeus' birthplace on Mount Ida. Their discussion has to do with stated practical matters, namely, the *politeia kai nomoi* (constitution and laws) for the new city of Magnesia being founded in Crete: they determine the basic principles needed to underlie any proper system of law, deal with various preliminaries to legislation, and describe in significant detail the constitution and laws for the new city. Scholars thus generally agree that the dialogue provides a strong argument for the rule of law, in particular, insofar as every official in the city is subject to judicial control. The introduction at the end of the dialogue of the infamous Nocturnal Council, established to act as 'guardians of the laws', has thus always posed significant problems for interpreters of this text.

To explain: the Council is made up of the most distinguished senior and junior members of the polis who are collectively responsible for overseeing the laws, and most particularly, for preserving their noetic basis (12.951d-952a, 964e-965a). Insofar as all legislation must be directed towards the single goal of virtue (12.962c-963a), the preservation of the laws themselves depends, in the first instance, on dialectical reasoning: members of the council must be able to distinguish between the four cardinal virtues – courage, wisdom, justice and moderation – all the while perceiving their unity (12.963a-964a, 965b-e). They must be able to grasp the 'one' in the 'many' without destroying their difference (12.966a-b) and apply this same method of dialectical inquiry to the most important matters, namely, the nature of the soul, the movement of the cosmos and the existence of the gods (12.966b-e). In turn, the Council members are to bring these

philosophical insights to bear on all matters relating to legislation; the Council is to be the ethical guardian of the polis and its legal institutions (12.951d, 961c-d). For many scholars, the imposition of these philosophically-minded guardians of the law thus seems to betray the very principle of the rule of law advocated throughout the rest of the dialogue; even in his "second-best" regime (5.739a-740c), scholars argue, Plato cannot help but return to the philosophical kingship of the ideal polis of the *Republic*.[272]

The debate surrounding the integrity of the Nocturnal Council vis-à-vis the rest of the dialogue thus usually involves an assumed antinomy between philosophy and the rule-of-law; this seems correct to most scholars who read a more fundamental antipathy between philosophy and politics in the rest of the Platonic corpus.[273] I argue, however, that

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[272] Scholars have long argued that the Nocturnal Council is the actual, behind-closed-doors, ruling authority of the city of Magnesia. (See for example, Zeller, *Plato and the Older Academy*, 539-40; Barker, *Greek Political Theory: Plato and His Predecessors*, 406; 08n1; Laszlo Versenyi, "The Cretan Plato," *The Review of Metaphysics* 15, no. 1 (1961): 77-78; Pangle, *The Laws of Plato. Translated with Notes and Interpretive Essay*, 493.) In what remains one of the most detailed historical examinations of the dialogue, Glenn Morrow argues that the Nocturnal Council's influence is informal and indirect; the Council does not obviate the principle of the rule of law because its purpose is to engage in discussion and teaching rather than direct rule. (Morrow, *Plato's Cretan City*, 500-15.) Morrow's arguments have persuaded many, if not most, subsequent interpreters. (see for example, Charles H. Kahn, "Review of Morrow, *Plato's Cretan City*," *Journal of the History of Ideas* 22(1961): 421; Robert W. Hall, *Plato* (London: Routledge, 2004), 134; Stalley, *An Introduction to Plato's Laws*, 112; Bobonich, *Plato's Utopia Recast*, 408.) George Klosko remains unconvinced by Morrow's thesis: he argues that the Nocturnal Council stands formally outside the legal structure of the regime while it exercises formal and direct authority over it. (George Klosko, "The Nocturnal Council in Plato's *Laws*," *Political Studies* 36(1988).) I disagree with Klosko, who misses the important point that members of the Nocturnal Council are citizens of Magnesia and are thus subject to the written laws of the constitution; there is no legal provision made for the Council exempting its members from the legal jurisdiction of the constitution. I show here that unlike other citizens, however, the Council members do not in fact require written rules to guide them to right action; the Council members follow the laws because they have a comprehensive understanding of truth upon which the laws are based. (pace Andrea Wilson Nightingale, "Plato's Lawcode in Context," *The Classical Quarterly* 49, no. 1 (1999): 104n14; Cohen, "Law, Autonomy and Political Community in Plato's *Laws*."; for a defense of Morrow against Klosko see V. Bradley Lewis, "The Nocturnal Council and Platonic Political Philosophy," *History of Political Thought* 19, no. 1 (1998): 1-20.)

[273] Malcolm Scholfield provides the general sentiment: Plato's *Laws* "offers an account of transcendent moral and religious framework of political and social life, and the legal norms needed to sustain it, that is designed to be persuasive to citizens at large […] without any particular talent

these debates miss or ignore the salient characteristic of the Nocturnal Council and their role in the future city of Magnesia: what makes this ethical guardianship possible is not only philosophical insight, but sound musical judgment. In order to fulfill their obligations in the Council members are required to (a) complete the essential preliminary studies in mathematics and harmonics (7.817e), (b) understand what these studies have in common by examining them together with music, (c) apply this knowledge in framing correct ethical and moral rules, and (d) provide a reasoned account of these matters when possible (12.967e-968a). Altogether, the council members receive – and continue to participate in– an education that is musical; this provides them with the unique qualifications to instruct the polis in virtue and live their own lives accordingly.

Commentators either take the reference to music and musical education here to be an explicit reference to philosophy or they keep music and philosophy distinct;[274] regardless, music in its strict sense is not treated as particularly significant in understanding the role of the Council.[275] This is a mistake. The Council members are indeed made here

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for philosophy or any experience of it." (Malcolm Scholfield, *Plato: Political Philosophy* (Oxford: Oxford University Press, 2006), 18.)

[274] Most scholars claim there is an "ambiguity", possibly intentional, with regards to music. (See for example, Stalley, *An Introduction to Plato's Laws*, 134-35.) The Greek indicates what I've suggested here, where music is the domain of the Muses: the Nocturnal Council must be able to connect their other studies to their knowledge of music: they must be able to view or examine together (*suntheomai*) in association (*koinonia*) with music (*mousa*). Certain scholars take this to be an explicit reference to philosophy; Saunders thus translates the passage as "[a council member] has to master the essential preliminary studies [and] survey with the eye of a philosopher what they have in common." (Trevor J. Saunders, "Laws," in *Plato, Complete Works*, ed. John M. Cooper (Indianapolis: Hackett Publishing Company, 1997). Compare Pangle's translation: "He should see what is common to these things and the things that concern the Muse." Pangle does not treat directly the question of the council's coherence in the overall schema of the text, but he does interpret the council members as "wise men" who "rule the city, if only invisibly, like demons, while the majority would accept on faith their guidance in the most important matters." (Pangle, *The Laws of Plato*, 493.)

[275] Thus Laks, for example, notes that members of the Council devote themselves "to the advanced study of scientific disciplines in relation to the law" but mentions only kinetics and mathematics.

the authoritative judges of the most beautiful music (2.668b): insofar as music is the *mimesis* (imitation as actualization) and likeness (*homoiotes*) of particular dispositions (*ethos*) and the ways of life proper to them (*tropoi*), these "fine and best men" are necessarily the authorities on the objectively best way of life. At the same time, insofar as this best way of life is also truly juridical – based on the rule of law that is also musically inspired – the Nocturnal Council should be understood as paradigmatic of the sound political judgment Plato wants to inculcate in all citizens, rather than as standing apart from them. We should understand the Nocturnal Council in this manner precisely because the *Laws* does indeed provide the fullest expression of the importance of the rule of law to Platonic jurisprudence. The interlocutors accept the term "servants (*huperetes*) to the laws" for the men usually said to be rulers (*archon*); the Athenian thus claims,

> Where the law is itself ruled over and lacks sovereign authority, I see destruction at hand for such a place. But where it is master (*despotes*) over the rulers and the rulers are slaves (*doulos*) of the law, there I foresee safety (*soteria*) and all the good things which the gods have given to cities. (4.715c-d)

I argue in this chapter that for Plato, the 'sovereignty of the law' is the foundational tenet of a just political system. His overarching aim in the *Laws* is to demonstrate that the rule of law is only meaningful to the extent to which its citizens are law-abiding. The *eunomia*, or law-abidingness, of the Nocturnal Council is paradigmatic of the sound political judgment Plato wants to inculcate in all citizens. Plato does this by insisting on two ways in which legislation has an educative role to play. On the one hand, legislators must establish laws and appropriate educational institutions to govern the upbringing of children and citizens of all ages. On the other hand, legislation itself must also involve a kind of

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(Andre Laks, "The Laws," in *The Cambridge History of Greek and Roman Political Thought*, ed. Christoper Rowe and Malcolm Scholfield (Cambridge: Cambridge University Press, 2005), 283-84.)

education, shaping the ethos of its citizens through persuasion and not by force. I show here that legislation is only educative to the extent to which it is musical; the interlocutors agree that the constitution of Magnesia depends upon the "strange fact" that its "songs become laws" (7.799e).

THE MUSICAL *PAIDEIA*

The Athenian makes it clear, at the outset of the *Laws*, that it is not the aim of the conversation to provide a full exposition of *music*; in any event, he claims, it would "never be possible to give an account of music (*mousike*) without going into the whole subject matter of education (*paideia*)" (642a). This claim underscores the extent to which music and education were intimately connected at Athens and in Greece more generally, and anticipates the ensuing discussion.

Despite the Athenian's initial protests, the interlocutors of the *Laws* cannot help but give a full account of music as they delimit the educational regime of the city they are founding. I previously noted that the musical education of the guardians in the *Republic* is premised on the traditional Greek education which involved "gymnastics for the body and *mousike* for the soul" (*Republic* 376e). Here in the *Laws*, Plato explicitly identifies that education as *choreia*, the widespread Greek practice of choral dancing and singing in honor of the gods at the great festivals.[276] The interlocutors here agree that the "the uneducated (*apaideutos*) man is without choral-training (*achoreutos*)" whereas "the educated man" is fully trained in *choreia* (654a-b) and, in fact, "*choreia* as a whole is the same as education as a

[276] Peter Wilson, *The Athenian Institution of the Khoregia: The Chorus, the City and the Stage* (Cambridge: Cambridge University Press, 2003); A.P. David, *The Dance of the Muses: Choral Theory and Ancient Poetics* (Oxford: Oxford University Press, 2006), esp.22-51.

whole" (672e). Plato's particular innovation in the *Laws* is to formally institutionalize the customary practices underlying these claims in the civic curricula at Magnesia.

Plato's philosophical treatment of the choral *paideia*, I show, involves three intertwined steps. First, it arises against the backdrop of the intimate connection between Sparta's musical and juridical practices; Spartan choral education to law-abidingness (*eunomia*) provides the model for the educational regime adumbrated in the *Laws*. Second, the Spartan model, understood within the Platonic notion of musical *mimesis*, is in turn shown to be lacking; Sparta is no longer musical enough, Plato here shows, because she has ultimately misunderstood the coincidence of virtue and pleasure. Thus third, whereas Plato's treatment of musical *mimesis* in the *Republic* is concerned with delimiting the intrinsic relation of music and *ethos* (such as courage, justice and their opposites), his philosophical recuperation of Spartan *choreia* for his own educational project in the *Laws* develops the mimetic relation of those ethical values to the pleasures and pains associated with them.

SPARTAN CHORAL PRACTICES

In Chapter Two, I argued that although we think of Sparta as primarily a military culture, she should also be thought of as the first great seat of music in Greece: the very constitution of Spartan society was in fact conceived of in musical terms and music was intimately connected with the Spartan civic ethos. Lycurgus, Sparta's famous lawgiver, brought his laws from Crete only after he had already sent ahead the lyric poet Thaletas, whose songs had in them the qualities of order (*kosmos*) and establishment (*katastasis*). [277] In

the early seventh century BCE, when Sparta was in a state of civil unrest (*stasis*), she again sent for a lyric poet, in this case Terpander, who used song to restore public order.[278] For Sparta, music and law thus share in intrinsic properties, namely, the capacity for establishment, restoration and order. The shared musical and juridical capacity for order is particularly germane here in the *Laws* where, I argue, Plato's recuperation of Spartan musical practices has to do with the *eunomia*, or law-abidingness, for which Sparta was widely admired in antiquity. Thucydides said of the Spartans that they had once been the most lawless of all the Greeks; the *eunomia* brought about by the first social reorganization, or establishment, gave Sparta "freedom from tyrants" and hundreds of years of political stability.[279] Xenophon argued that Sparta's power and prosperity was directly tied to "Lycurgus, who gave them the laws that they obey," and Aristotle used the Spartan legislator as his example that genuine statesmanship aims at *eunomia*.[280]

The coincidence of law-abidingness and music in Spartan choral practices serves as the model for Plato's musical education in the *Laws*. The training of choruses to sing and dance at the many festivals and other occasions is not particular to Sparta – choral dance and song played an important role throughout Greece – but Sparta and Crete, in contrast

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[277] Nagy, *Pindar's Homer*, 367-68. Also see Ps.-Plutarch *On Music* 187.9-10 in Barker, *Greek Musical Writings: The Musician and His Art*, 214-15 and discussion in n.65-66.

[278] West, *Ancient Greek Music*, 31. Philodemus reports that Steisichorus also put a stop to the civil discord (*stasis*) of a polis by singing in their midst, just as Terpander had done at Sparta. (See, Nagy, *Pindar's Homer*, 368n157.)

[279] Thucydides. *Peloponnesian War*. 1.18.1;

[280]Aristotle. *Nichomachean Ethics* 1102a9, 1112b14; Xenophon. *Constitution of the Lacedaimonians* 1.1-3. Demosthenes is notable in this regard for his "moderate hostility" towards Sparta and his reluctance to use Spartan law or their constitution in any way as a model to be emulated. There is a significant body of secondary literature that examines the ancient testimony on Sparta and *eunomia*. I have relied here on, Morrow, *Plato's Cretan City*, esp. 40-62; Anton Powell, *Athens and Sparta* (London: Routledge, 2001), 222-25; N.R.E Fisher, "Sparta Re(De)Valued: Some Athenian Public Attitudes to Sparta between Leuctra and the Lamian War," in *The Shadow of Sparta*, ed. Anton Powell and Stephen Hodkinson (London: Routledge, 2003), 347-400.

with Athens, institutionalized choral training.[281] At Athens, choruses were formed anew for each event and funded by the *choregos* (chorus leaders), a polis-appointed wealthy Athenian citizen, as part of the *leitourgia*, or public service system. In the case of original plays and performances the poet who authored the piece usually trained his own chorus; the ad hoc nature of choral training meant that Athenian choruses were thus not suitably stable institutions for musical education.[282] In contrast, choral education at Sparta was part of the civic *paideia*: Spartans were divided into three choral groups – the children's chorus (*paides*), the chorus of young men (*akmazontes*) and the chorus of the elders (*gerontes*) – who were trained in song and dance appropriate to their age groups.[283] At Sparta the *choregos* did not act as benefactor; instead he, or she, was a kind of chorus-manager who was also a teacher. The tragic poet Pratinas of Phlius, remarking upon the stability and constancy of the choruses at Sparta, noted that of all the Greeks, the Spartans were those who preserved their music most strictly, comparing the Spartans with cicadas in their unremitting preparedness for choral singing.[284]

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[281] West, *Ancient Greek Music*, 36-38.

[282] This is not to undermine the importance of the *choregos* as a civic institution through which vast amounts of private wealth were channeled into the celebrations and numerous festivals at Athens. On this point, Wilson argues that Plato's "vision of the ideal pedagogy in the ideal city" presented in the *Laws* should be understood to manifest his anxiety with such existing choral practices at Athens; at the same time, Athens also serves as the model for philosophical appropriation: Wilson argues (briefly) that Plato is concerned with the way in which dramatic choral productions, in particular in tragic plays, are managed in a well-ordered city. (Wilson, *The Athenian Institution of the Khoregia: The Chorus, the City and the Stage*, 1-6.)

[283] Plutarch. *Life of Lycurgus* 21.1-4

[284] Athenaeus. *Deipnosophistae* 3.14. The Platonic dialogues make no direct mention of Pratinas, who was by birth a Dorian but lived at Athens as a *metic* (foreigner) at the end of the 6th century BCE. Nonetheless, his influence on Plato's treatment of *choreia* here in the *Laws*, and music throughout the corpus strikes me as apparent on several levels. First, Athenaeus also recounts that Pratinas vehemently protested the subordination of choral singing to *aulos*-playing he witnessed at Phrygia, arguing that instrumentation must always be subordinate to song, as it is in a Dorian chorus. I have

From Sparta, Plato recuperates the kind of political stability made possible when a *polis* is both inherently musical and law-abiding. I argue that the Spartan division of choruses is formally institutionalized in the civic *paideia* of the *Laws*: the curricula at Magnesia is explicitly divided into three choral stages – the chorus of children up to age eighteen dedicated to the Muses, the chorus of young adults dedicated to Apollo, and the chorus of the elders, aged thirty to sixty, dedicated to Dionysus – in which the entire population – man and child, free and slave, female and male – is required to participate (2.664c-d, 665c). In turn, the choruses are sanctified by law to ensure their stability: if anyone presents a chorus contrary to these he is "subject to the indictment for impiety (*dike asebeia*) by anyone who wishes [to] bring forward the evidence (*parekho*)" (7.799a-c).[285] One of the most significant duties of the Supervisor of Education, who is also a lawmaker, is thus to maintain the proper relation between specific gods and their corresponding choral types (7.813a, 817b; 3.700a-701b); he must ensure that all elements of the musical

already shown that Plato has similar concerns in the *Republic*. Here in the *Laws* the Athenian similarly protests against the playing of the *aulos* or *kithara* other than to accompany dance and song; only an uneducated, a-musical man would use either instrument alone (*Laws* 669e-670a). Second, along with Aeschylus, Pratinas is one of the earliest tragic poets to have competed at the Great Dionysia at Athens, and is particularly well known for having invented the satyr play. By the end of the sixth century BCE, tragedy had become increasingly separated from its heroic mythology and Dionysian roots; in turn, the chorus of the satyrs became an incongruous element in the tragic plays. Pratinas' innovation was to give the satyrs a free stage for themselves whereby they could treat the same subjects upon which the tragedies were founded in the spirit of a Dionysian chorus. The importance of the satyr Marsyas for our understanding of musical *mimesis* in the *Republic*, and in particular, for Plato's recuperation of the Dionysian elements of music, is but one example in the Platonic corpus of Plato's preoccupation with satyrs. (On the satyr play and its relevance see, P.E. Easterling, "A Show for Dionysus," in *A Cambridge Companion to Greek Tragedy*, ed. P.E. Easterling (Cambridge: Cambridge University Press, 2003).).

[285] Changing Pangle's "by anyone who wishes to bring the charge." *Parekho* in general signifies to hand over, or furnish, or offer for a purpose; in law *parekho* refers to the underlying proof or evidence for the charge, rather than the charge itself. In the *Apology*, Socrates calls upon his own jury as evidence (*parekho*) in his defense against the charge of impiety (*asebeia*): most of the men on the jury have heard Socrates conversing and can bear witness to whether he has ever spoken in contempt of the gods "to any extent at all" (*Apology* 19d).

education are consistent with one another and fit into their particular choral genre by law (7.817e). I examine what is specifically involved in this education below.

First, however, I want to note that Plato's admiration for Spartan musical practices is not uncritical: the martial nature of Spartan music is well attested in the extant evidence which makes it clear that Sparta valued choral education for facing the dangers of war.[286] We know from Plutarch that Spartan songs treated "serious and edifying" themes; they told of the good fortune that befell those men of valor who died for Sparta and the painful and tormented (*kakodaimon*) lives of those men who acted like cowards (*treo*).[287] Xenophon similarly reports that "Lycurgus made it clear that happiness was the reward of the brave, misery the reward of cowards" who were shamed in public by fellow citizens and punished by exclusion from the community; in the case of choral practices, cowards were punished by being "relegated to the most ignominious position" in the chorus. [288] The emphasis on physical courage and cowardliness (2.667a), and their attendant rewards and punishments, is precisely what makes the curricula of Spartan *choreia* unsuitable to the educational regime of the *Laws*.

At the very beginning of the dialogue, in the context of determining what kind of judge and lawgiver would bring "harmony to the city" (1.628b), the interlocutors examine two possibilities: the lawgiver who orders its way of life with a view to external war and the one who focuses primarily on internal (or civil) war (1.628a-b). The Athenian here surveys

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[286] Ps.-Plutarch recounts that Spartans played a tune on the *aulos* called "The Melody Castor" when they advanced against their enemy. (Ps.-Plutarch. *On Music* 26.) Similarly, in the *Deipnosophistae*, Athenaeus writes that because rhythmical music inspires courage and good character, "Spartans, the bravest of men, march to war to the *aulos*" (627d); Athenaus also reports that Aristoxeunus claimed the war-like nature of the Phyrric dance makes it clear that it was a Spartan invention (630d).

[287] Plutarch. *Life of Lycurgus* 21.4

[288] Xenophon. *Constitution of the Lacedaimonians*. 9.3-5

two poetic accounts (*muthologos*): Tyrtaeus, Sparta's favored poet, values most the man who shows courage in external war (1.629b-629e) whereas the poet Theognis values the man who can be trusted in civil strife (1.630a). This trustworthiness, the Athenian argues, requires not only courage, but also justice, moderation and prudence: "a man would never become trustworthy and sound in the midst of a civil strife if he did not have the whole of virtue" (1.630b). In contrast, one need only use mercenaries as an example to demonstrate that the courage required to die for one's *polis* in war may in fact be accompanied by rash, unjust, insolent and imprudent behavior (1.630b-c). In other words, Sparta's singular emphasis on courage has not only neglected the virtues required for civil friendship, but has created the dangerous conditions that lead to civil war.[289]

Plutarch wrote of the Spartans that they were at once the "most musical and most warlike" of all the Greeks.[290] I argue that for Plato these notions are incompatible. Plato's criticism of Sparta has to do with her loss of a true, juridical music: where Sparta had once used music to bring order to civil unrest she now used music in the service of external war (3.692a-692d).[291] Sparta's shift in her musical practices belies a more profound educational

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[289] Plato does not discount the value of sound political judgment in times of war; as Jill Frank has shown, in the context of the demands of war, the *Republic* insists that judgment and hence justice, necessarily involves "holding conflicting beliefs together in a harmony that depends on their differences, even as it mediates them" (Jill Frank, "Wages of War: On Judgment in Plato's *Republic*," *Political Theory* 35, no. 4 (2007).) Plato does, however, object to the posture that the Spartan preparedness for war invites the very conditions of war upon itself.

[290] Plutarch. *Life of Lycurgus* 21.4

[291] Music was a part of all Greek military training and not exclusive to Sparta. The Athenian later describes a style of dancing called the Pyrric, which involves "the motions executed to avoid blows and shots of all kinds, dodging, retreating, jumping into the air, crouching; and it also tries to represent the opposite kind of motion, the more aggressive postures adopted for shooting and discharging javelins and delivering various kinds of blows" (*Laws* 8.815a). The pyrric was performed by Athenian youths as part of their training in *gymnastik*e and was one of the most popular events of the Panathenaic games. Athenaeus claims that in the poems Socrates composed while awaiting execution, he referred to Pyrric, and wrote that the young men who performed these choral dancing most beautifully were also the best in war. (Athenaeus. *Deipnosophistae* 628f; Plato,

shift in emphasis from the principles of musical order (rhythm, harmony and due measure) to the poetic and physical aspects of song and dance. Spartan songs now educate her citizens to use victory in war as a test for ethical or moral virtue and defeat as evidence of moral inferiority, and training in gymnastics is given priority over music in order to inculcate the physical courage required in war (2.673c, 667a). The upshot is that martial virtue has compromised *eunomia*: Spartan boys, for example, learn to steal as part of their education to the deceitfulness required of them in the military.[292]

On these grounds, the Athenian later claims that Spartans (and Cretans) have the *politeia* of an armed camp and not a *polis;* the Spartan constitution raises soldiers and not political administrators (1.667a) and has never really achieved the most beautiful song *(kalos ode*) (1.666e). From Sparta, I argue, Plato thus recuperates the structural elements of her juridical choral model – the *paradeigma* (3.692c) – but not the moral content or physical emphasis of her current practices.[293] The Spartan constitution is, as Socrates suggests in the

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Phaedo 60c-d) Thus for all Greeks, not only Spartans, competition amongst the young formed part of their general military training; to this end choral contests provided an essential education in competition not on an individual basis but in how to best serve the city and its gods as a group. (West, *Ancient Greek Music*, 29; Robin Osborne, "Competitive Festivals and the Polis: A Context for Dramatic Festival at Athens," in *Athenian Democracy*, ed. P.J. Rhodes (Oxford: Oxford University Press, 2004), 216; Sheramy D. Bundrick, *Music and Image in Classical Athens* (Cambridge: Cambridge University Press, 2005), 78.)

[292] Thucydides reports a Spartan commander, aiming to persuade his soldiers of the virtue of a surprise attack, claims of this education, "those stealthy actions (*klemmata*) involve the greatest glory when they most deceive the enemy and most benefit one's friends."

[293] *Paradeigma* has two distinct but intertwined meanings in ancient Greek: pattern or model but also examplar or precedent. Importantly, a *paradeigma* is not a representation; it can be an image – here the image is a choral model – but this image is qualitatively different from the sorts of representative images of the poets painters or other artists. Danielle Allen has rightly noted that scholars have yet to provide a fully developed account of the concept of *paradeigma* in Plato. She claims that particularly in terms of the *Republic*, scholars have "intuitively" noticed its importance but do not take the time to "scrutinize the concept directly." (Danielle Allen, *Why Plato Wrote* (Chichester: Blackwell Publishing, 2010), 148-53. This is precisely the intuition of scholars like Andre Laks, who refers to Plato's *paradeigmatism*, without fleshing it out any further (Laks, "The Laws.") Allen is largely correct but she misses Stanley Rosen's short but important contribution on

Republic, "a mixture of good and bad" (*Republic* 548b). The inadequacy of Spartan musical legislation shows Plato the possible dangers of a political order oriented towards a single virtue; the Athenian in the *Laws* thus insists that legislators of the city in speech be oriented towards the whole of virtue in order to bring harmony to the new *polis* (3.688a-b, 697b-c). This harmonization begins in the civic choral education.

MUSICAL *MIMESIS* AND CHORAL PLEASURE

For Plato, the fundamental *paideutic* value of *choreia* has to do with its particular mimetic capabilities. In Chapter Three, I argued that in the *Republic*, Plato develops a notion of musical *mimesis* that is distinct from its imagistic counterparts (poetry, painting, etc.): music is the product of a particular movement in the soul, a harmonizing or tuning of its constituent parts, while it simultaneously actualizes the conditions of the soul itself (the tuning occurs within a delimited musical structure). I thus argued that, on the one hand, music is consequent to good ethos or virtue (the harmonious structure of the soul and its attendant ethos are expressed in actual musical modes, rhythm and song) and on the other, that music is a *mimesis* of good ethos and virtue (the way in which music expresses courage, for example, corresponds in its audible structure to the structure and movement in the soul of courage itself). The *homoiotes* (assimilation) of musical *mimesis* is therefore a kind of correspondence, or a likeness in kind, that necessarily makes musical *mimesis* a reciprocal activity: it isn't simply that music actualizes the conditions of the soul but also that the soul instantiates the conditions of music. Plato's philosophical treatment of *choreia* in the *Laws*

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the topic. (Rosen, *Plato's Republic: A Study*, 201-26.) I am not here advancing a full theory of *paradeigmatism* in Plato, although in the context of musical mimesis and the law, it strikes me as a fruitful path for future reasons. For now, I use the term to denote its dual meanings noted above.

relies precisely on these premises. Here, however, he also shows that musical *mimesis* and the *homoiotes* proper to it are ethically ambivalent: the pleasure one derives from music may not be morally or politically salutary. Thus, whereas Plato's treatment of musical *mimesis* in the *Republic* delimits the intrinsic relation of music and *ethos* (justice, courage, and their opposites), his treatment of *choreia* in the *Laws* develops the mimetic relation of those ethical values to the pleasures and displeasures associated with them: pleasure is identified as the underlying criterion of sound musical judgment on two fronts.

First, in the context of describing the aim of the choral education at Magnesia the Athenian refers to the 'widespread account' of the musical roots of human nature. This account identifies the inability of babies and young children to keep their bodies or voices still: "they leap and jump as though they were dancing and playing together, and emit all sorts of cries" (2.653e). By nature, these motions are disordered; they are the violent movements of a soul that lacks the prudence proper to it and is thus "completely mad" (2.672c). But these movements also contain within them the raw material of ordered movement – namely, rhythm and harmony (2.664e-665a) – and are thus the source of dance and song (2.672c-d). Unlike other animals who lack perception of order and disorder in motion, human beings perceive rhythmically ordered bodily and vocal movements and are thus able to derive great pleasure from music (2.653e). This perception, and its concomitant joy, is a gift from the Muses, Apollo and Dionysus, who use it "to move us, and lead us in choruses, joining us together in songs and dances: "choruses" thus get their name from the joy – *chara* – which is natural to song and dance (2.654a). The choral *paideia* in the *Laws* is thus an institutionalization of musical pleasure.

Second, the interlocutors determine that what is involved in choral participation is the *mimesis* of characters (*ethos*), or ways of life (*tropos*), exhibited in all sorts of actions and

fortunes (2.655d). On the understanding of musical *mimesis* adumbrated above, this means that fine or beautiful postures (*kala schemata*) and songs (*kala mele*) will inculcate their constitutive virtues, such as a courage (*andreia*) and temperance (*sophrosune*) (2.655d-e; 7.802e); similarly, bad or ugly (*aischra*) postures and tunes, such as those corresponding to the coward (*deilotes*), will inculcate the opposite (2.655b). Although this mimetic schema appears straightforwardly reciprocal, a problem arises in judging what constitutes beauty in music, insofar as most people judge musical correctness (*orthos*) according to its power to provide pleasure to the soul (2.655c). The Athenian here remarks that pleasure is necessarily derived from a correspondence between one's nature and *ethos* (disposition), and the choral dance and song in which one participates; in virtue of this pleasure we judge music to be beautiful and correct (*orthos*). Similarly, a disjunction between ethos and music results in displeasure, from which we judge music to be ugly and wrong. There are those, however, who through a discrepancy between their natural disposition and upbringing, take pleasure in music they know to be bad; although they may be ashamed to participate in, or praise, such choral activity in public, "they nonetheless do delight in [it] when they are all by themselves" (2.656a-656b). Pleasure in wicked dance and song is dangerous precisely because of music's mimetic nature: one becomes assimilated (*homoiotes*) to those habits and dispositions, good or bad, in which one takes pleasure. The interlocutors here agree, "there is no greater good or evil for [human beings] than such complete necessary (*anagke*) assimilation" (2.656b).[294]

[294] In musical *mimesis*, self-indulgence of the wicked sort slides necessarily into the kind of self-deception that Socrates in Book 2 of the *Republic* characterizes as the "true lie", namely, "to be false in one's soul about what is, and to be ignorant and to have and hold falsehood there"(*Republic* 382a-b). Here, good stories (*muthologos*), whether true or false, are those that make the soul better by conforming to two patterns (*tupoi*): (1) that the gods are the cause of good things only and not of anything wicked or bad (379b-c), and (2) that the gods do not change shape or otherwise deceive human beings (380d). These patterns (*tupoi*) are here also called laws (*nomoi*) (380c-d); importantly,

The pleasure afforded the soul by song and dance thus cannot be identified with what most people claim to be good or "correct" music (*mousike orthotes*); pleasure is an essential criterion for musical judgment, but this is not the pleasure of any chance theatre-goer, for example, whose pleasure is derived from the charming effects of the choral production, without any consideration of whether the music is truly correct, on the one hand, or what that correctness might entail, on the other.[295] This kind of musical pleasure is not holy (*hosion*) (2.655c-d). Instead, music should be judged by the finest *(kalon*) and best (*beltistos*) men (2.658e), whose pleasure is derived from "music that contains a *homoiotes* (assimilation) to the *mimesis* of beautiful (*kalon*)" (2.668b).[296] I have already noted that judgments of beauty in music fall under the auspices of the Nocturnal Council; I want to now underscore the particularities of their musical education that provides the right qualifications to instruct the polis in virtue and live their own lives accordingly.

The supplementary musical education of the Council involves the application of their preliminary studies in mathematics and harmonics – understood through their knowledge of music – to the framing of the laws (7.817e; 12.967e-968a) The need for such

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what makes these stories 'good' is not their content (*logos*) but the underlying order – the patterns or laws – to which that content conforms. Scholars who examine forms of non-musical *mimesis* in the *Republic* usually interpret these claims in light of their dramatic position (Book 2) in the dialogue. (See my discussion in Chapter Three).

[295] I showed in Chapter Three that this is the notion of pleasure made possible by the New Musicians, who here in the *Laws*, are said to have "unintentionally, in their idiotic way, misrepresented their art, claiming that in music there are no standards of right and wrong at all, but that the most correct criterion is the pleasure of a man who enjoyed the performance, whether he is a good man or not. (*Laws* 700d-e)

[296] Unless otherwise noted, I leave Pangle's translations of *kalon* and *kalos* as fine, beauty and noble; I show throughout that beauty in music certainly involves the kind of 'moral' or ethical beauty denoted by fine and noble. Scholars who examine these same passages in the *Laws* collapse the claims regarding beauty in music into a more general account about "art". (See, for example, Halliwell, *The Aesthetics of Mimesis*, 61-71.) Similarly, the relation of beauty (*kalon*) to the good (*agathon*) more generally in Plato is controversial, and falls outside of my immediate concerns. (See, for example, Drew A. Hyland, *Plato and the Question of Beauty* (Bloomington: Indiana University Press, 2008).)

an education is made evident early on in the dialogue, where the interlocutors determine that any mortal soul "responsible to no one" ignores the rule of proportion, or due measure (*metron*), in the service of satiating his desires (3.691c). The result is always that the soul becomes filled with the greatest sickness, namely, "folly (*anoia*)"; with its judgment corrupted, a diseased soul incurs the enmity of even its closest friends which, in turn, ruins the soul itself and annihilates the whole of its power (3.691d). The claim here mirrors those of the *Republic,* where Socrates suggests that moderation is a kind of mastery of pleasure and desire, and should be understood as an ordering principle akin to consonance or harmony (*Republic* 430e); if a man is properly trained in *mousike*, he will moderate the excessive pleasures within, cultivating the harmony of his body for the sake of the consonance of his soul (591d). Moderation in the *Laws* is tied directly to legislation in the principle of due measure: any great lawgiver must in the first instance understand due measure to guard against the danger of folly. Without consonance (*sumphonia*) the Athenian asks, "how could you ever get a glimmer of sound judgment?" (*Laws* 3.689d)

The principle of due measure, or moderation, is thus importantly at play in the musical educational regime at Magnesia. I want to now recuperate the general definition of musical beauty provided at the outset of this discussion, namely, that "all postures or tunes that belong to virtue are beautiful" (2.655b). This definition of beauty also delimits the institutional requirements and the correct (*orthotes*) aim of the more straightforwardly 'political' aspects of the choral *paideia* (2.654e).

"WHAT EDUCATION IS AND WHAT POWER IT HAS"

Scholars who examine the *paideia* of the *Laws* generally take the general conclusion of the discussion for the full account: education must inculcate virtue, therefore virtue can

be taught. I argue that this is not quite right; the educational regime delineated here does not teach virtue, instead, it acts as a kind of conditioning of the soul that makes the manifestation of virtue possible. I show here that three distinct accounts of "what education is and what power it has" (1.643a) are in fact delimited, namely, education to citizenship, education to perfect humanity, and education to lawfulness. Although these accounts together provide the whole of the aim of choral education at Magnesia, as constituent parts they are in important ways distinct. I show that individually, the educations to perfect citizenship, humanity and lawfulness delimit the particular spheres of human activity in which individual virtues are manifest; together, they create the necessary condition in the soul for the whole of virtue to obtain.

The first treatment of education offered is "the education from childhood in virtue, that makes one desire (*epithumea*) and love (*erastes*) to become a perfect citizen (*teleos polites*), who knows how to rule and be ruled with justice (*dike*)" (1.643e). This definition of education is contrasted with an "upbringing that aims at money, or at some sort of strength, or some other sort of wisdom (*sophia*) without intelligence (*noos*) and justice (*dike*)"; this latter sort of upbringing is in fact "vulgar, illiberal (*analeutheros*) and wholly unworthy to be called education" (1.643e-644). Three important claims are made here. First, this account of education in fact provides a comprehensive definition of citizenship as ruling and being ruled with justice. Second, education involves the shaping of desire or love – our erotic drives – rather than inculcating knowledge or opinion. Third, the kind of cognitive process involved in this education is noetic intellection (*noos*). On this understanding, education must aim at cultivating the true wisdom required for human beings to develop an erotic attachment to citizenship; our erotic attachment to citizenship is cultivated through ruling and being ruled in turn with justice.

Despite the Athenian's claim to "recollect again the correct education (*orthos paideia*)" (2.653a) previously delineated, his second treatment of education does not focus on perfect citizenship, but is instead concerned with perfecting the human condition.

> I say that the earliest sensations (*aisthesis*) in children are in pleasure (*hedone*) and pain (*lupe*), and that it is in these that virtue and vice first come to being in the soul. As for prudence (*phronesis*), and true opinions (*alethes doxas*) that are firmly held, he is a fortunate person to whom it comes even in old age. He who does possess them, and all the good things that go with them, is a perfect human being (*teleos anthropos*). Education, I say, is the virtue that first comes into being in children. Pleasure and liking (*philia*), pain and hatred (*misos*), become correctly arranged in the souls of those who are not yet able to reason (*logos*), and then, when the souls do become capable of reasoning, these passions can in consonance with reason affirm that they have been correctly habituated (*ethizo*) in the appropriate habits (*ethos*). This consonance (*sumphonia*) in its entirety is virtue (*arete*) (2.653a-c).[297]

We should note first, the Athenian is here suggesting that although prudence and true opinion are commensurate with perfect humanity, our erotic longings are already manifest as virtues and vices long before we have any reasoned opinion about them: human nature is intrinsically musical. In its immature form, virtue thus has to do with a kind of non-

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[297] Saunders translates this passage as, "Then when he does understand, his reason and his emotions agree in telling him that he has been properly trained by inculcation of appropriate habits. Virtue is this general concord of reason and emotion." Both translations underscore the general scholarly understanding that the educational regime of the *Laws* is significantly more concerned with "emotional conditioning" that that of the *Republic*. My arguments throughout this chapter show that these understandings are not quite right; virtue is the concord of much more than simply reason and the passions. (Stalley, *An Introduction to Plato's Laws*, 9, 43; Klosko, *The Development of Plato's Political Theory*; Woerther, "Music and the Education of the Soul in Plato and Aristotle: Homeopathy and the Formation of Character; Richard Kraut, "Ordinary Virtue from the *Phaedo* to the *Laws*," in *Plato's Laws: A Critical Guide*, ed. Christopher Bobonich (Cambridge: Cambridge University Press, 2010), 51-70.)

logocentric elementary perception (*aisthesis*) of musical order; education, in turn, consists in the habituation of pleasure and pain so that a soul develops the correct habits "to hate what one should hate from the very beginning until the end, and also to love what one should love" (2.653c). A child who grows up with "ordered and moderate (*sophron*)" music will hate the opposite kind when he hears it, proclaiming it illiberal (*analeutheros*) (7.802d). In other words, the importance of this education lies in the habituation of pleasure and displeasure so that a child does not come to love disorder and thus mistake it for a kind of freedom; to love disorder is to be enslaved by a kind of inner discord. This education thus prepares the soul of the child for (mature) virtue, namely, the prudence and true opinion required to perfect its divinely given humanity.

The third treatment of education involves "the drawing and pulling of children toward the argument that is said to be correct by law, and is also believed, on account of experience, to be really correct by those who are most decent and oldest" (2.659d). The aim of this education is to habituate the child's soul to feel pleasure and pain in accordance with the law; the education to lawfulness is accomplished by "the things we call songs (*ode*), but which are really incantations (*epode*) for soul (*psuche*)" (2.659e) that have as their serious goal the consonance required for "true judgment" (2.659a). Unlike the treatments of education to perfect citizenship that prepares the soul for justice, and to perfect humanity that prepares the soul for prudence, the education to lawfulness does not claim to prepare the soul for specific virtues. Instead, it delimits the means by which the entire choral education is to take place, namely, through song. The Athenian had previously claimed that "consonance (*sumphonia*) in its entirety is virtue" (2.654b); the education to lawfulness makes possible this consonance that is also the whole of virtue.

Before attending to the persuasive nature of song and its particular ability to charm (*epode*) the soul to lawfulness, I want to examine the implications of reconciling the demands of perfect citizenship, humanity and lawfulness under one, harmonious education. First, the education to perfect humanity is similar in kind to the education to perfect citizenship insofar as neither claims to instill virtues; instead, both educations aim at providing the necessary condition in the soul for virtues to obtain (justice, in the case of perfect citizenship, and prudence, in the case of perfect humanity). Second, the education to lawfulness is of a different nature insofar as it is what makes these conditions possible even while it also constituted by them. From the perspective of the education to perfect citizenship – where citizenship is defined as ruling and being ruled with justice – this relation means that, if citizens are to be lawful, the law cannot undermine justice in any way. The education to citizenship is consonant with the education to lawfulness because citizenship itself requires justice and the law to be mutually constitutive. The definition of citizenship here thus defines the law as *just* law. In turn, from the perspective of the education to perfect humanity – where perfect humanity is defined as having prudence and correct opinion – the relation to the law has to do with musical pleasure. The perception of musical order upon which the education to perfect humanity is based is also the precondition for the education to lawfulness: the education to lawfulness in fact depends on the musicality of human nature, and our ability to perceive and take pleasure in musical ordering. Obedience to the law thus helps prepare one's soul for prudence, because the education to lawfulness involves bringing those same pleasures and displeasures with which the education to perfect humanity is concerned, in line with law.

The immediate consequence of unifying the three definitions of education is thus a more precise definition of law as necessarily just and pleasurable: the just law must not only

prepare citizens for justice, obedience to the law must also be pleasurable, in order to prepare those same citizens for prudence. The just and pleasurable law would thus actively cultivate what is necessary for becoming both a perfect citizen and perfect human being. Importantly, obedience to the law would, in this case, ensure that the citizen was not divided against himself by having to choose between citizenship claims and personal claims, or, to put it another way, between the common good and the individual good. The interlocutors thus determine that insofar as "no one would voluntarily be willing to be persuaded" to do something that brings them more pain than pleasure, the lawgiver must never "split the pleasant (*hedus*) from the just (*dike*), and the good (*agathon*) from the beautiful or fine (*kalon*)" (2.663b). This claim is the perspective of the just soul, for whom the just life is necessarily more pleasurable than the opposite, and for whom it is thus worth doing the just things willingly. In contrast, the unjust soul, whose judgment is necessarily corrupted, would understand the opposite to be true; divided against himself, the unjust soul would have to be forced to do the just things. The upshot for the lawgiver is that voluntary persuasion is predicated on laws that are not only just and good, but also, in which we derive pleasure as we do in the beautiful; I argue that the necessary coincidence of pleasure and justice, and the good and the beautiful in legislation, is also the criteria of sound musical judgment.

In other words, the choral education at Magnesia is an education to musical judgment that is also juridical: the education is concerned with the consonance (*symphonia*) that is also the whole of virtue adumbrated here in the full definition of "what education is and what power it has" (1.643a). This consonance is specifically achieved through beauty (*kalon*) in music, namely, the music that belongs to the whole of virtue that it helps inculcate through song (*ode*) (2.673a). Importantly, as a whole, the choral education is based

on perception of musical beauty and its progressive assimilation; musical pleasure is here thus shown to vary with age. Citizens must, from a young age, learn what is *kalon* in music: this is made possible through an education that uses songs (*ode*) as enchantments (*epodai*) since the souls of the very young are not able to endure 'serious study' (2.659e). This early training in musical beauty provides the necessary conditions for these same citizens to correctly adjudicate between citizenship claims and personal claims. In what I now show is a firm move away from Sparta toward Athens, music is thus identified as primarily and necessarily song: the interlocutors here agree, "the vocal aspect, reaching to the soul, we regarded as education in virtue and we named it – how I don't know – music." (2.673a) The intimate connection between beautiful song and just law established in the choral education will result in the later agreement that, in the city they are founding, the "songs have become laws (*nomoi*)" (7.799e).

FROM SPARTA TO ATHENS: MIMESIS, INSPIRATION AND THE LAW

In the context of determining what structure the law should take in the future city the Athenian contrasts lawmakers with poets. The comparison appears incidental, and not surprisingly, has played virtually no part in discussions of Platonic aesthetics, on the one hand, or Plato's treatment of the law, on the other. Here, the Athenian imagines how a poet might speak of the law:

> 'There is an ancient myth, O lawgiver (*nomotheta*), which we ourselves always repeat and which is also the accepted opinion of all the others, to the effect that the poet, when seated at the tripod of the Muses, is not at that time in possession of his senses (*ouk emphron*), but is like some spring that readily lets flow whatever comes

> up from within. Since his art (*techne*) consists in *mimesis* he is compelled to contradict himself often, by creating human beings that are opposed to one another; and he doesn't know if either of the diverse things said is true. For the lawgiver, however, it isn't possible to create this in a law (*nomos*) – to make two speeches about one subject – but he must always exhibit one speech (*logos*) about one subject.' (4.719c-d)

It is widely noted in the scholarship, if cursorily treated, that this is the only time in the entire Platonic corpus where inspiration and *mimesis* are explicitly brought together.[298] I argue that this passage is significant: Plato brings *mimesis* and inspiration together to show the failings of what I previously identified as Homeric inspiration-as-knowledge while it simultaneously recuperates Hesiodic musical-inspiration in the service of musically mimetic legislation. In other words, this passage shows that inspiration and *mimesis* coincide in music and the law.

First, scholars assume that the Muses' tripod is probably Plato's invention.[299] I suggest instead that Plato is referring to the *Works and Days* where Hesiod explicitly mentions such a tripod; I show below that the *Works and Days* plays an explicit, and significant, role here in the *Laws* and elsewhere in the corpus.[300] Hesiod here recounts that

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[298] Collobert is an exception, but also indicative of the *logocentric* treatment of *mimesis* and inspiration in the scholarship. She argues that the Muses reveal factual truths to the poets; the poet's failing does not turn on whether he understands the Muses words but in his inability to repeat them accurately. Collobert claims that this failing is unavoidable: in his role as divine interpreter, the poet must translate, or convert, the Muses words into human discourse. This conversion causes a gap between human and divine that cannot be breached, although the poet is unaware of the gap, and so unaware that his repetition is flawed. (Collobert, "Poetry as Flawed Reproduction: Possession and Mimesis," 41-61.)

[299] Murray, "Poetic Inspiration in Early Greece," 94-95; Nickolas Pappas, "Plato on Poetry: Imitation or Inspiration?," *Philosophy Compass* 7, no. 10 (2012): 676.

[300] Several of the collected essays in Boys-Stones and Haubold, *Plato and Hesiod.*, make mention of the influence of the *Works and Days* on the *Laws* although none treat the relation of these texts as

he traveled to Chalcis to participate in the burial ceremony and funeral games in honor of the king (*basileus*). At Chalcis, he competed in a poetic contest (*agon*) in which he was victorious, and won a bronze tripod which he later dedicated to the Muses.[301] Hesiod placed the tripod at the sacred grove at Mount Helicon where the Muses first set him "on the path of clear sounding song."[302] The one time in his works that Hesiod mentions winning and dedicating a tripod to the Muses is in a contest concerned with political affairs, namely, the transition of ruling authority; I argue that the reference to Hesiod's tripod here in the *Laws* underscores the important role that Hesiodic musical inspiration plays in the dialogue's philosophical treatment of the law.

Second, the poet seated at Hesiod's tripod exemplifies Plato's critique of the Homeric poet-bards and their claims to inspired knowledge. In Chapter Four, I showed that Homeric inspiration-as-knowledge is a wholly incorrect understanding of the Muses' divine gift: musical inspiration is not knowledge. The poet seated at the tripod of the Muses is inspired, but insofar as he understands himself in *logocentric* mimetic relation to the Muses – whether in the sense of interpreting, representing, or impersonating the Muses' *logos* – he will necessarily present "falsehoods in words" (*Republic* 382b-d).[303] This is

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their primary focus. See in particular, Dimitri el Murr, "Hesiod, Plato and the Golden Age: Hesiodic Motifs in the Myth of the *Politicus*," in *Plato and Hesiod*, ed. G.R. Boys-Stones and J.H. Haubold (Oxford: Oxford University Press, 2010), 276-97; Barbara Graziosi, "Hesiod in Classical Athens: Rhapsodes, Orators and Platonic Discourse," ibid., 111-32.

[301] Hesiod. *Works and Days* 654

[302] Hesiod does not mention Homer, but later thinkers did imagine Homer to be present at the contest. A work known as the *Certamen* (denoting the Latin title of the *Contest of Homer and Hesiod*) recounts such a poetical *agon* between Homer and Hesiod in which Hesiod is victorious; his prize is a bronze tripod which he dedicates to the Muses. There is significant scholarly controversy regarding the date of the *Certamen*. In the 2nd c. AD, Pausanias recounts that a tripod believed to be Hesiod's offering to the Muses was being shown to tourists who visited their grove on Mount Helicon. (See the discussion in M.L. West, "The Contest of Homer and Hesiod," *The Classical Quarterly* 17, no. 2 (1967).)

precisely because, as the Athenian here suggests, that part of the Muses divine gift is to ensure that the poet-bard can never himself verify the truth of the divine communication. Hesiod makes the similar claim in the *Theogony* that the poet-bard can never know whether the Muses 'speak' the truth or tell falsehoods that resemble the truth. The poet-bard cannot, therefore, claim to be an authority of the glorified accounts he himself sings insofar as he has no recourse to divine authentication. The Athenian's exhortation to the lawgiver is not about divine inspiration; instead, the Athenian does not want legislators to act like the poets who put into words their claims of inspired knowledge; lawmakers must put into one speech (*logos*) only such knowledge that can be verified without recourse to the divine *logos*.

At the same time, the Athenian is also suggesting that lawmakers must include inspiration in their legislation. In Chapter Four I showed that Hesiod makes an explicit connection between Muses and magistrates. This connection underscores the premise that effective ruling has to do with the "correct judgments" made by rulers and magistrates in their official capacities, on the one hand, and with the ability to persuade the people of those decisions, on the other. Political rule and judicial judgments are made parallel activities to singing in Hesiod; both depend on the persuasive abilities the Muses confer on *aiodos* and *basileus* alike. For Plato, I thus suggested, this persuasion is prior to any speech act, poetic or rhetorical, precisely because it is musical. In other words, music's motive power is prior to any *logos*; if the *basileus* is to persuade in matters of justice (*dike*) he must first learn about the correct use of musical motion. I now show that it precisely this

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[303] This is a direct challenge to those conventional *mimesis* scholars who understand inspiration and *mimesis* as distinct, and unrelated, spheres of poetic activity. (See my review of the literature and main arguments in Chapter Two)

Hesiodic inspiration that Plato institutionalizes in the structure of the laws and law-code at Magnesia.

I argued at the outset of this chapter that Plato insists on two ways in which legislation has an educative role to play in inculcating sound political judgment: I have already shown that legislators must establish laws and appropriate educational institutions to govern the upbringing of children and citizens of all ages. I now turn to the other way in which legislation has an educative role to play, namely, that the law itself must educate its citizens through persuasion and not by force. Plato's philosophical treatment of legislative *paideia* involves three intertwined aspects. First, the turn to the laws is a move away from Spartan law-abidingness to Athenian law; I ultimately argue that the open-texturedness of Athenian law provides the model for Plato's musical legislation.[304] Second, insofar as Plato's appropriation of the Athenian legal model involves a notion of Hesiodic musical inspiration, his laws identify the shortcomings of law at Athens. Third, through Hesiod, Plato redefines what the law *is*, which ultimately collapses the distinction between legal impiety (*asebeia*) and private un-holiness (*anosios*) that I argued is central to our understanding of the charges against Socrates. Unlike Sparta, Athens proves in many ways to be properly musical, but similar to Sparta, she proves to be insufficiently law-abiding (*eunomia*).

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[304] Glenn Morrow has famously shown that, "the pattern [Plato] lays down is in the main the procedure of Athenian law…but it is Athenian law modified at many points and in many directions, we may say, that are suggested by the law itself." (Morrow, *Plato's Cretan City*, 295-96.) Saunders argues that Plato's most significant innovations of Athenian law in the *Laws* include (a) a radical penology where the purpose of legal punishment does not involve retribution or deterrence as it did at Athens, but 'cure' of the criminal's diseased soul; (b) making legal procedure less confrontational and more inquisitorial than at Athens and (b) institutionalizing judicial appeal, from the lower courts to a higher tribunal, which was not allowed at Athens. (Trevor J. Saunders, "Plato's Later Political Thought," in *The Cambridge Companion to Plato*, ed. Richard Kraut (Cambridge: Cambridge University Press, 1992), 464-92.)

LEGISLATIVE *PAIDEIA*

In Chapter Two, I argued that Plato's philosophical treatment of existing Athenian legal statutes and the Athenian juridical outlook is not to persuade his readers of an unconventional view of law and justice, and obedience and piety, but just the opposite. I suggested that Plato is in fact concerned with disentangling and recuperating the fundamental juridical aspects of Athenian citizenship from their agonistic and deliberative counterparts. I showed that drawing the kinds of distinction that scholars normally do between making laws and applying justice does not work in the Athenian case, where the open-texturedness of the law meant that Athenians had to in some sense re-make the laws (substantively interpret offenses like impiety) every time they engaged in disputes that required legal judgment. I thus argued that the wide scope of judicial interpretation that led to Socrates' conviction is in fact, for Plato, an institutional virtue of the Athenian legal system: the open-texturedness of the law meant that Socrates could agree that impiety is worth legal punishment while simultaneously engaging in a search for the definition of impiety. In other words, the Athenian legal system allows for the important possibility that the laws themselves can have an educative role to play. Plato subjects to philosophical treatment this very notion in the *Laws*, through a medical analogy, in which legislators are likened two kinds of doctors, slave and free.[305]

[305] I treat the claims made here as straightforwardly analogous in the service of establishing a musical legislation; I want to acknowledge, however, that this gives short shrift to the significance of medicine here and throughout the corpus. The similarities between medical and musical persuasion are here made explicit; like music, Plato's philosophical treatment of medicine is also greatly understudied. I want to make mention here of two scholarly works on medicine in Plato that helped shape certain claims in this thesis. First, Randall Baldwin Clark offers a book-length treatment on the significance of Plato's various uses of medicinal metaphors and analogies in the *Laws*. Clark reads these metaphors against the backdrop of the traditional magical healing of the

The slave doctor, who may be free or enslaved himself (4.720b), treats only slave patients. His diagnoses are based on "the opinions he has derived from experience" (4.720c) rather than any informed knowledge of the particularities of his individual patients (4.720c). The slave doctor nonetheless claims to know "with precision" what ails the sick, to whom he issues orders without explanation, acting like a "headstrong tyrant" (4.720c). In other words, the slave doctor uses the threat of continued illness or worse, to get his patients to follow his commands. The free doctor, by contrast, treats (mostly) free patients, learns as much as he can about the nature of the illness and the afflicted patient, and does not give orders until he has "in some sense persuaded" his patient to consent to the cure; the free doctor understands that this consent is itself predicated on "teaching the one who is sick" about the illness and the necessary cure (4.720d). Importantly, whereas the slave doctor learns nothing from his patients, the free doctor not only educates his patients but also "learns something himself" (4.720d).

The slave doctor's commands are analogous to simple legislation that employs threat alone, whereas the free doctor's orders are double in length because they embody persuasion as well as threat. The Athenian thus claims that it is likely that lawgivers have not considered the fact that it is possible to use two means of giving laws, persuasion and violence; lawgivers have used "only the latter, failing to mix compulsion with persuasion in

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temple priests and mystery rite shamans, on the one hand, and the emergent scientific medicine of the Hippocratic physicians, on the other. In this particular medical analogy in the *Laws*, Clark argues, Plato is deliberately subverting the Athenian understanding of legislation as a kind of rational medicine in favor of the traditional medicinal magic. Clark goes a long way in recuperating the significance of divine inspiration in Platonic philosophy. (Randall Baldwin Clark, *The Law Most Beautiful and Best* (Lanham: Lexington Books, 2003). Second, Bennett Simon examines aspects of the *Republic, Phaedrus* and *Laws*, along with the tragic plays and other extant evidence, through the lens of psychiatric medicine. Bennett's identification of the Corybantic use of dance to cure mental and emotional distress, including psychosis, in the cults of *Dionysus*, underlies my claims regarding the politically salutary use of motive force (Simon, *Mind and Madness in Ancient Greece*.)

their lawgiving, they have used unmitigated violence alone" (4.722c-d). The Athenian thus proposes a third way of handling the law:

> All speeches (*logon*), whatever pertains to the voice, are preceded by preludes (*prooimia*)…which artfully attempt to promote what is to come. It is the case that, of the songs sung to the kithara, the so-called laws or *nomoi*, like all music, are preceded by preludes composed with amazing seriousness. Yet with regards to things that are really laws, the laws we assert to be political, no one has ever either uttered a prelude or become a composer and brought one to light – just as if it were a thing that did not exist in nature…but [our discussion has shown that] such a thing really does exist. (4.722d-e)

Legislators should affix preambles, in the form of musical preludes, to the laws themselves (718a-723d); the laws proper exercise force by imposing penalties for disobedience whereas the preambles exercise persuasion by educating citizens to the purpose of the specific laws. This suggestion has proven remarkably controversial in the scholarship, where questions having to do with the coercive nature of the preamble itself, are assiduously contested.[306] Central to these debates is a general concern that making

[306] Popper famously argued that what Plato designates as persuasion here in fact "means largely lying propaganda;" the preludes are simply another indication of Plato's violent antipathy to the ideals of an 'open society.' (Karl Popper, *The Open Society and It's Enemies*, vol. 1 (Princeton: Princeton University Press, 1966), esp.138-56; 270-84.) For Morrow, the preambles are similarly a device of social control in that they provide the ruler with the legal means to do with human beings as he wishes. (Glenn R. Morrow, "Plato's Conception of Persuasion," *The Philosophical Review* 62, no. 2 (1953): 234-50.) A similar line of interpretation is taken by both Stalley, who sees the advocacy of persuasion here as a threat to liberty and individuality, and Mayhew, who renders the persuasion of the preamble wholly incidental to the coercive nature of the law. (R.F. Stalley, "Persuasion in Plato's Laws," *History of Political Thought* 15, no. 2 (1994): 157-77; Robert Mayhew, "Persuasion and Compulsion in Plato's *Laws* 10," *Polis* 24, no. 1 (2007): 91-111.) On the other side of the debate, scholars argue that the preludes to the laws underscore Plato's concern with winning the informed consent of the citizens. (Hall, *Plato*, 86-95. Cohen, "Law, Autonomy and Political Community in Plato's *Laws*.") The preludes demonstrate Plato's concern with individual freedom and in fact

persuasion integral to the law suggests that the law must appeal to our individual interests in order to be effective. In turn, this holds the possibility that the laws may inculcate an appeal to self-interest; the law would thus instantiate in us the very characteristic the law is supposed to mitigate, namely, that the individual puts himself ahead of the common good. These debates, however, leave aside or completely ignore the musical nature of the legislative preamble; I argue that the preamble sidesteps these concerns insofar as it is persuasive because of it musical, rather than *logocentric*, characteristics.

The Athenian offered an important caveat as the impetus for this "third way" of handling legislation, namely, that legislators have not considered that it is possible to use two means of giving laws "insofar as the uneducated condition of the mob permits" (4.722c). The "condition of the mob" in the *Laws* is educated; the law-code of Magnesia thus cannot be forced upon its citizens. Instead, legal order depends on the effectiveness of the legislative prelude, which, in turn, depends on the musical education of our human natures, identified in the choral education above. In an important sense, the preludes are thus musically mimetic: preambles are persuasive because they actualize the (musically educated) conditions of our (musically structured) soul. The full political effectiveness of the legislative preamble, however, turns on the way in which it also involves the kind of Hesiodic musical inspiration I identified above. Divine musical inspiration is divested of speech (*logos*) but includes the kind of persuasion that precedes, and thus helps determine, how the soul will receive *logos* (speech). The Athenian has this notion of Hesiodic musical inspiration in mind when he claims that this is why the prelude should be "correctly called

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render the city in speech of the *Laws* significantly less authoritarian in tone than that of the *Republic.*(Christopher Bobonich, "Persuasion, Compulsion and Freedom in Plato's *Laws*," *Classical Quarterly* 41, no. 2 (1991); Laks, "Legislation and Demiugy: On the Relationship between Plato's *Republic* and *Laws*.")

a prelude (*prooimion*) rather than an argument (*logos*) of the law" (4.723a-b). I now show that the preludes are the musical motive force that empowers souls to move themselves because of how Plato, through Hesiod, defines the law.

HESIODIC MUSICAL INSPIRATION AND THE DEFINITION OF LAW

Although the *Laws* opens with a question about the source of law – "Is it a god or some human being who is given the credit for laying down your laws?" (1.624a) – the conversation turns quickly to the law's purpose (1.625c). I showed that whereas at Sparta legislation is directed towards the goal of victory in war (1.626a-c), at Magnesia all legislative activities, including the choral education, are to be directed to the single goal of making the citizens completely virtuous (3.688a-b). Simlarly, in order to bring about the well-being and happiness of its citizenry, Magnesian law must be directed towards virtue and common good (1.631b; 2.697d; 4.715b; 9.875a-c; 11.923b, 925a; 12.962b-c). Plato is not here suggesting that the law *ought* to aim at this particular end; instead, he is making the important claim that the law must, by its very nature, inculcate the whole of virtue; any ruling measure that does not seek the common good cannot, strictly speaking, be called a law.[307]

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[307] Scholars note a number of points of contact between Plato and Aquinas that would place Plato in the natural law tradition. Most particularly, Aquinas argues that by definition law is directed to the common good, which, in turn, involves making people virtuous. A tyrannical law cannot, therefor, properly be considered law, instead, tyrannical commands are perversions of the law. (Aquinas. *Summa Theologica* 1a, 2a-e, 90. See Glenn R. Morrow, "Plato and the Law of Nature," in *Essays in Political Theory Presented to George H. Sabine*, ed. Milton R. Konvitz and Arthur E. Murphy (Ithaca: Cornell University Press, 1948), 19-20; Stalley, *An Introduction to Plato's Laws*, 23-34; Finnis, "Natural Law: The Classical Tradition," 3-4; V. Bradley Lewis, "Reason Striving to Become Law: Nature and Law in Plato's Laws," *American Journal of Jurisprudence* 54(2009): 67-91.)

In the context of determining what form the constitution (*politeia*) of Magnesia should take, the interlocutors distinguish between genuine and false constitutions, and agree that Crete and Sparta are genuine *politeia* because their laws (*nomoi*) aim at the common good. In turn, they explicitly deny the status of *politeia* to any political order whose laws are established to favor a particular group or part of the polis; not only is this kind of arrangement far from being a "genuine constitution (*politeia*)" but its laws cannot be considered "true laws (*orthos nomoi*)" nor can its inhabitants be considered citizens (*polites*) (4.715b-c). Instead, inhabitants of such a polis are named "partisans (*stasiotes*)" (4.715b) and the sorts of false constitution under which they live are subsequently named *stasioteia*, or factions, because none of them constitutes "a voluntary rule over voluntary subjects, but instead a voluntary rule, with some force, over involuntary subjects" (7.832c). The definition of what the law is arises in this context; the Athenian interrupts the discussion on true and false *politeia* to introduce the Hesiodic myth of the Golden Age, the divine age of Cronus.

In the *Works and Days*, Hesiod presents what is commonly referred to as the Myth of Ages, in which he traces the history of mankind from the Golden Age through the Silver and Bronze Ages, the Age of the Divine Race of Heroes, to the present Iron Age.[308] He recounts that the Olympian gods first made "a golden race" of mortal men who lived in the time of "Cronus, when he was king in the sky."[309] The golden race is described as having lived a happy, pastoral existence, free from work and innocent of the complexities of life in a polis; they were loved by the gods, lived at peace, and knew nothing of sorrow

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[308] Hesiod. *Works and Days* 109-201.

[309] Ibid. 109-127

or war. The golden race did not age, although for reasons not provided by Hesiod, they died "as if overpowered by sleep."[310] Upon their death these golden beings were transformed into benevolent *daimones* who served as guardians for mortal men. In the *Cratylus*, Plato makes it clear that 'golden' does not literally mean that this race was made of gold; Socrates quotes from the *Works and Days* in order to demonstrate instead that golden signified that this race was good (*agathos*) and noble or beautiful *(kalon*) (*Cratylus* 398a). In the present context of the *Laws*, the Athenian claims specifically that Cronus was a "friend of humanity"; he established *daimones* as rulers or magistrates (*basileis*) precisely to give human beings the "peace, awe, good laws and justice without stint" undermined by a natural human inclination to excess (4.713b-714a). The Athenian thus advocates,

> We should imitate (*mimeisthai*) by every device the way of life that is said to have existed under Cronus; in public life and in private life – in the arrangement of our households and our cities – we should obey within us whatever within us partakes of immortality, giving the name law (*nomon*) to the distribution (*dianomen*) ordained by intellection (*nous*) (4.714a).[311]

Scholars have long noted the double wordplay here, where *nous* is related to *nomos*, and *dianome* is substituted for *daimones*: law, as the distribution of the intellect, takes the place of the daimones in the age of Cronus. The divine element within us which claims obedience is *nous*. This definition of the law thus importantly points human beings towards the most just life: the Athenian is here claiming that a life of obeying the law, as formulated by the divine *nous* within, is a *mimesis* (actualization) of the way of life of the just god

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[310] Ibid.

[311] Changing Pangle's "intelligence" to "intellect."

(4.713e). Justice and the law coincide here in human intellection which is also divine. There are two interrelated points I want to note about the relevance of this myth.

First, I argue that the reference here to the age of Cronus, or the Golden Age, makes the musically mimetic and inspiring qualities of the myth – rather than its poetic (or *logocentric*) elements – essential to our understanding of law.[312] This distinction is significant because Hesiod does not escape Plato's criticism when he, like Homer or any other poet, recounts false *muthologos* about the gods: Socrates in the *Republic* (377e) accuses Hesiod of telling falsehoods (*pseudos*) about Cronus in the *Theogony*.[313] Hesiod recounts that Cronus ruled the Golden Age after castrating and deposing his own evil father, Ouranos. In fear of a prophecy that he would be destined to be overpowered by a child of his, Cronus swallowed each of his children as they were born, save the youngest, Zeus, who was hidden on Crete by his mother. Zeus grew up to punish his father: he forced Cronus to disgorge his siblings and then led the Olympian gods in a ten year war against their father and the Titans, before finally forcing them, defeated, into the depths of the pit of Tartaros. It is precisely this part of the myth that Socrates uses by way of example that the poets composed the "greatest falsehoods about the most important things" (*Republic* 377e) to inaugurate the ensuing discussions on the pernicious and dangerous nature of poetry: the

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[312] Scholars generally agree that although Hesiod was not the first to recount (or invent) a "lost age" of perfect happiness, two features of this description are specifically attributable to him, namely, the naming of this time as 'golden' and its inclusion in a series of increasingly degenerate 'metal' ages. It is thus also widely noted that this myth underlies the *Republic's* famous 'noble lie', the so-called 'myth of the metals' (*Republic* 414e-415c). (Helen Van Noorden, "'Hesiod's Races and Your Own': Socrates' 'Hesiodic' Project," in *Plato and Hesiod*, ed. G.R. Boys-Stones and J.H. Haubold (Oxford: Oxford University Press, 2010), 176-99; Dimitri el Murr, "Hesiod, Plato and the Golden Age: Hesiodic Motifs in the Myth of the *Politicus*," ibid., 276-97; Finnis, "Natural Law: The Classical Tradition.")

[313] Especially 154-232; 453-506; 687-736

logocentric aspects of the myth – the *muthologos* – depicts the gods committing specific acts of injustice.

Second, this is also precisely the part of Hesiod's myth that Plato has Euthyphro marshal as demonstrative proof that the law requires him to bring charges against his own father for committing an injustice in the *Euthyphro*: here, Euthyphro tells Socrates that Zeus "the best and most just of the gods" placed his "own father in fetters because he unjustly swallowed his children, and that [Cronus], in turn, had castrated his own father for similar injustices" (*Euthyphro* 5e). Euthyphro's action of bringing charges of murder against his father for the death of a slave give rise to an accusation of unholiness (*anosios*): Euthyphro's family claims that bringing murder charges against his father is a violation of his divinely given obligation to filial devotion. Euthyphro, in turn, argues that prosecuting his father for murder is holy (*hosios*) precisely because Zeus punished his own father for committing injustices (6a). Plato here shows that although holiness is distinct from piety it unavoidably helps constitute it: Euthyphro believes that it is pious to things that are holy. Euthyphro's actions are a *mimesis* of the stories of the gods in Homer; they demonstrate precisely the political implication of *logocentric mimesis* upon which Socrates bans the poet from the city in speech in the *Republic*.

I thus want to recall the distinction I made in Chapter Two between piety and holiness (*eusebeia* and *hosios*), on the one hand, and impiety and unholiness (*asebeia* and *anosios*), on the other. I showed there that holiness is that part of justice directed towards the gods, whereas piety is that part of justice directed towards human beings (*Euthyphro* 12e). In turn, as particular acts of injustice, I showed that impiety (*asebeia*) is a juridical term identifying a specific act as a public crime, whereas unholiness (*anosios*) is an act that violates a prior obligation to the divine. I argued that this distinction is significant in

understanding the charges against Socrates insofar as Athens did not prosecute for unorthodoxy of belief: the charge of *asebeia* against Socrates could not rest on whether he believed in the gods of the polis or invented new gods (*Apology* 24b-c) insofar as neither constituted a public crime. Instead, insofar as a *graphe asebeia* identified something one did – a specific *act* – as threatening the welfare of the polis, the charge against Socrates had to rest on the accusation of corrupting the youth (24b). I suggested that in order to understand impiety in this way, the *politeia* and its laws would need to be at stake in the education of the youth if their corruption constituted a public crime. I argued that this is precisely the notion of impiety Plato has in mind in the *Crito*, when he has the personified laws of Athens mount their own defense, and this is also the notion of impiety he has here in the *Laws*.

The Athenian here presents a model constitution and the fundamental principle underlying it: "that polis and that political system are first, and those laws are best, where….the things of friends really are in common" (5.739b-c). In this paradigmatic political order, everything has been done to exclude "what is called private (*idion*)" from all aspects of life (5.739c). The unity of the city is in fact predicated on "making common the things that are by nature private" so that, as much as possible, every part is in unison and feels pains and pleasures simultaneously and with regards to the same things (5.739c-d). Such a *polis* would be inhabited by gods or children of gods; one should not look elsewhere for a model (*paradeigma*) of a *politeia* (5.739d-e).The interlocutors agree that if the city they are founding ever came into being it would be closest to this model (*paradeigma*) and its unity would be in second place (5.739e). I argue that the divine *paradeigma* for the model city they are constructing is precisely Hesiod's Golden Age actualized within us as law.[314]

CONCLUSION

The definition of law as the "distribution ordained by intellection" satisfies two important jurisprudential requirements for Plato, namely, that the law embody both human reason and a kind of divine intention. First, the education to perfect citizenship itself requires noetic intellection; the citizens of Magnesia require the law to embody human reasoning so that they can rule and be ruled with justice. Second, insofar as the law is also a *mimesis* of the divine, this definition answers the question of what ends the law should serve by making common what we think of as private, first and foremost, our individual dispositions. Plato shows throughout the *Laws* that the preservation and welfare of the polis depends on the *ethos* of its citizen body (3.678b; 4.705a, 708c); the importance of acquiring a virtuous disposition is thus not a matter of private interest, it is socially and politically relevant. By interiorizing the law in the manner in which Plato does through Hesiod's Golden Age, he makes it so that the individual soul does not have priority over the polis through its actualization of the collective divine *nous*.

Third, this definition of the law also collapses the distinction between piety (*eusebia*) and holiness (*hosios*); justice to the divine and justice to the community are here co-constitutive of the divine juridical *paradeigma* instantiated within us. Importantly, this renders unimportant direct knowledge of the gods, and only requires the same knowledge Hesiod claims to have of the Muses, namely, that we know the gods only by virtue of our

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[314] Commentators widely note the parallels to the *Republic* here, where Socrates cites the same proverb, "friends possesses everything in common" (424a) and the ideal city in speech is also based upon a kind of property and familial communism. Scholars thus generally assume that the model here is the ideal city of the *Republic*, and certainly, the parallels are striking. (Pangle, *The Laws of Plato*, 459-61.) I propose that these parallels suggest that my reading of Hesiod's Golden Age actualized within is also the inspired, juridical *paradeigma* of the ideal city in speech in the *Republic*.

inspired participation in the divine pleasure; divine pleasure is here derived from the unity of "peace, awe, good laws and justice without stint." An important consequence is thus to make impiety (*asebeia*) a public crime in precisely the manner in which Socrates envisages in the *Apology* and *Crito*, namely, the crime of harming the constitution and its laws.

Thus, finally, the implications of this definition of law for our understanding of Platonic jurisprudence are also aesthetic: Plato's insistence here in the *Laws* – and as I have shown, throughout the rest of the corpus – that justice involves a turning inward is here made explicitly juridical and musical. I noted earlier that the Athenian claims that music should be judged by the "finest and best men (2.658e) whose pleasure in music is derived from "music that contains an assimilation (*homoiotes*) to the *mimesis* of the beautiful" (2.668b). The Athenian here inferred that this kind of musical pleasure is holy (*hosios*) (2.655c-d). I have insisted throughout this thesis that musical *mimesis* is qualitatively different from other 'artistic' kinds of *mimesis* insofar as music is not imagistic; music does not produce mediated representations but actualizes the conditions of the soul itself. The conditions of the soul, Plato makes clear in the *Laws*, are as divinely juridical as they are divinely musical: in defining the law the Athenian has claimed that a life of obeying the law, as formulated by the divine *nous* within, is a *mimesis* of the way of life of a just god (4.713e). I argue that in the definition of the law as the divine *nous* within, Plato shows us in what ways we can now properly conceive of music as producing *unmediated* and inspired images – images that are not of the 'artistic' sort (representations) – but as a *paradeigma*, or model, in which it participates: the *paradeigma* of music is law.

To recap: Human nature is here said to be musical (2.653d): the movements of infants are identified as the precursors to dance and song (2.665a) and it is claimed that well-measured music and musical motion habituates children to moderation (7.791a-b).

The effect of music on our disposition is so deeply rooted in human nature that its power it repeatedly treated as an enchantment (2.664b-c, 665c, 666c, 671a; 7.812c, 887d; 10.903b; 12.944b) and music is thus harnessed in the service of the civic choral education. A musical educational curricula is established not only for the young, but is also institutionalized to extend to the whole community (2.653c-d): child and adult, male and female, slave and free, all participate in a choral education that habituates their inclinations and aversions and harmonizes their souls to the whole of virtue (2.664d, 665b, 670a-b, 671d-e; 7.812b-c); consonance (*sumphonia*) itself is thus named virtue (2.653b-c). Music and education are so intimately connected here (1.642a) that an educated man is defined as trained in song and dance (*choreia*) (2.654b). Music is explicitly identified as the first line of defense against political and moral degeneration (3.700a-701c); Sparta and Athens both serve as cautionary examples. Everything having to do with music is highly legislated (7.798e-802e, 812a-813a, 814d-816d) and music itself is embedded in the most important institutions of the polis. The actual laws are structured musically: each law is supplemented with a prelude which allows for further development of the subject of the law (7.727a-734e). The structure of the entire constitution is in fact musical; music is made the primary political, juridical and educative means by which the citizens participate in the law.

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