

## DISTANT GOALS: SECOND-BEST IMITATION IN PLATO'S LAWS

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**Abstract:** Political theorists remain divided on the question of Plato's utopianism. Some associate his dialogues with an uncompromising vision of the human good, one that Plato is thought to build into blueprints that he would have humanity implement as far as possible. Others read Plato as a brilliant critic of utopian thinking and insist that his blueprints are not to be understood as normative paradigms at all, but rather as self-destructive parodies. This article develops a third approach to Plato's utopianism by turning to the treatment of 'imitation' (*mimēsis*) in the *Laws*. I argue that the *Laws* requires a distinction between three ways in which an imitation might resemble its 'model' (*paradeigma*). Attending to this distinction adds credence to the view that, for Plato, the good in speech must be 'revised' in order to find satisfactory expression in human deeds.

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### Introduction

Plato's *Laws* should be more familiar to political theorists. In this long and long-neglected dialogue, Plato 'recasts' the good regime he imagines in the *Republic*. In fact, notwithstanding Socrates' arguments in that more familiar work,<sup>2</sup> the Athenian Stranger of the *Laws* appears to claim that the Callipolis, or a regime very similar to it, is impossible.<sup>3</sup> In its place, the Stranger would have his interlocutors found a regime that would be 'second to the best' (*deuterōs . . . pros to beltiston*, 5.739a; cf. 5.739e, 746b–d, 9.853c, 875d),<sup>4</sup> a city he will call 'Magnesia' (9.860e).<sup>5</sup> At the very least, then, the *Laws* qualifies the political theory of the *Republic*. To some interpreters, however, the *Laws* even suggests that Plato radically reconsiders fundamental principles of the theory so masterfully developed in the *Republic*.<sup>6</sup> In either case, we cannot

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<sup>2</sup> Plato, *Republic* 5.472a–73b, 6.499b–502c.

<sup>3</sup> Whether the best regime conceived in the *Laws* is in fact the Callipolis of the *Republic* is the subject of ongoing disagreement. For the affirmative view, see André Laks, 'In What Sense is the City of the *Laws* a Second Best One?', in *Plato's Laws and its Historical Significance*, ed. Francisco L. Lisi (Sankt Augustin, 1998), pp. 108–9; Malcolm Schofield, *Plato: Political Philosophy* (New York, 2006), pp. 9–11, 75. For the case against this view, see Christopher Bobonich, *Plato's Utopia Recast* (New York, 2002), pp. 11–12.

<sup>4</sup> All references given in the body of the text or without further explanation in the footnotes are to Plato's *Laws*.

<sup>5</sup> Unless otherwise noted, all translations of the *Laws* are from *The Laws of Plato*, trans. T.L. Pangle (Chicago IL, 1988).

<sup>6</sup> This is the view defended in Bobonich, *Plato's Utopia Recast* and George Klosko, *The Development of Plato's Political Theory* (New York, 2006). The argument I set

arrive at an adequate understanding of Plato's political thought without appreciating the project he undertakes in the *Laws*.

Doing so requires making sense of an enigma Plato builds into the heart of this project, one side of which I propose to explain here. The *Laws* is indeed preoccupied with a second-best city, and especially with the way of life of its imperfect citizens. These the Athenian Stranger describes in the language of mimesis, 'imitations' (*mimēmata*) of 'models' (*paradeigmata*) he associates with the best regime and most perfect way of life (4.713b3, 4.716c–d).<sup>7</sup> But the Athenian presents the relationship between the second-best imitations and their respective paradigms in a curious light. Magnesia and Magnesians would imitate a city and soul considered superior to themselves, yet would not replicate the attributes that appear to define these paradigms.<sup>8</sup> In fact, the Athenian claims that whatever goodness Magnesians can achieve must be accomplished in discrete conditions that do not seem to resemble those of their models.<sup>9</sup> Furthermore, he characterizes these paradigms as divine and beyond the compass of human possibility (4.713e4–6, 9.875a2–4). These considerations raise two vital questions. First, how can the *Laws* conceive of Magnesia and Magnesians as imitations of models they would not resemble? Second, why does the Athenian call upon the Magnesian lawgiver and citizen to imitate models that they cannot reproduce comprehensively?<sup>10</sup>

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down here adds credence to the opposing view, that the *Laws* evidences no such change in Plato's thought, but rather provides an account of the relationship between theory and practice, as well as of the capabilities of ordinary people, that is relatively lacking in other dialogues. In this respect, I follow Jean-François Pradeau, *Plato and the City: A New Introduction to Plato's Political Thought*, trans. Janet Lloyd (Exeter, 2002 (1997)); André Laks, 'The *Laws*', in *The Cambridge History of Greek and Roman Political Thought*, ed. Christopher Rowe and Malcolm Schofield (New York, 2005), pp. 258–92; and Richard Kraut, 'Ordinary Virtue from the *Phaedo* to the *Laws*', in *Plato's Laws: A Critical Guide*, ed. Christopher Bobonich (New York, 2010), pp. 51–70.

<sup>7</sup> Cf. 7.817b1–6 for the claim that the second-best is an imitation of 'the most beautiful and best way of life'; and 8.829d, where the Athenian describes good citizens as 'artists of noble deeds' (*ergōn . . . dēmiourgoi kalōn*).

<sup>8</sup> That the god whom Magnesians would imitate is to be understood as possessing a 'soul' (*psychē*) is made clear in Gerd Van Riel, *Plato's Gods* (Farnham, 2013). That the theology of the *Laws* maintains the existence of divine souls is suggested at 2.672b and especially 10.899b.

<sup>9</sup> More than any other interpreter of the *Laws*, André Laks has underlined this puzzling aspect of the text. See Laks, 'The *Laws*'; and also André Laks, 'Legislation and Demiurgy: On the Relationship between Plato's "Republic" and "Laws"', *Classical Antiquity*, 9 (2) (1990), pp. 209–29. Nevertheless, as I discuss below, Laks' promising interpretation can and should be taken quite a bit further.

<sup>10</sup> I.e. if the best regime and way of life cannot be reproduced, why not admit that the second-best regime and way of life are, in fact, best? This question is taken up in Laks, 'In What Sense is the City of the *Laws* a Second Best One?'. Pangle also sees the issue in his 'Interpretive Essay', in *The Laws of Plato*, p. 460.

This article attempts to answer the first of these questions. I argue that we can do so convincingly only once we recognize that the Athenian proceeds on the basis of an important distinction between three ways in which an imitation might resemble its paradigm.<sup>11</sup> This distinction is never made explicit in the *Laws*, but I suggest that it is presupposed in the dialogue's treatment of mimesis. Because a paradigm consists in relatively superficial and fundamental properties (or 'elements'), an imitation of a paradigm can resemble the original superficially, fundamentally or comprehensively (in both respects). As we shall see, the Athenian denies that an imitation must bear a comprehensive resemblance to its paradigm in order to resemble its fundamental properties. That is to say, an imitation can resemble its paradigm fundamentally without also resembling that paradigm superficially. Further, in the cases of the Magnesian lawgiver and citizen, the *Laws* suggests that fundamental resemblance to the best regime and way of life actually requires 'abandoning' comprehensive resemblance.<sup>12</sup> This counter-intuitive position depends upon two further claims. First, the Athenian implies that neither the lawgiver nor citizen of Magnesia can faithfully reproduce all the superficial properties associated with his respective model. He characterizes these paradigms as 'divine' and casts aspersions upon human pretensions to transcend the boundaries imposed by mortal nature (e.g. 5.745ef.). Second, he maintains that the goodness of these lofty models depends upon how they combine their superficial elements, how each possesses the fundamental property of being 'consistent with itself' (*homologoumenon auto hautoi*, 5.746c8) because of the *simultaneous* presence of all its superficial elements.<sup>13</sup> Hence, an imitation lacking even one

<sup>11</sup> To some extent, this distinction has been anticipated by scholars working on Plato's theory of forms who argue that Plato denies that an imitative 'participant' resembles its paradigmatic form because the *paradeigma* is self-exemplifying, sharing its 'property' with its participants. Rather than being a perfect *exemplar* of a property (that is, a possible instantiation of that property) a paradigm is an abstract *pattern*, a standard or measure, in light of which (imitative) exemplars might be judged. See William J. Prior, 'The Concept of *Paradeigma* in Plato's Theory of Forms', *Apeiron*, 17 (1983), pp. 33–42. Cf. Laks, 'Legislation and Demiurgy'; Laks, 'The *Laws*'; Stanley Rosen, *Plato's Republic: A Study* (New Haven CT, 2005), pp. 201–26.

<sup>12</sup> In denying this, the Athenian Stranger may be appealing to a distinction made by the Eleatic Stranger in the *Sophist* (235b–36b) between 'realistic' and 'fantastic' imitation, although I do not pursue this possibility here. For discussion of this distinction, see Andrea Nightingale, 'Distant Views: "Realistic" and "Fantastic" Mimesis in Plato', in *New Perspectives on Plato: Modern and Ancient*, ed. Julia Annas and Christopher Rowe (Cambridge MA, 2002), pp. 227–47.

<sup>13</sup> This means that what I am calling 'superficial' properties are those responsible for the presence of 'fundamental' properties, while fundamental properties are those responsible for how a paradigm or imitation ought to be evaluated. Note, though, that the causal power of the former, superficial properties depends upon how they combine with which other; they do not 'cause' fundamental properties in isolation. That self-agreement is the preeminent, fundamental property of the Magnesian paradigms is attested throughout

such element could be less like the original in terms of self-agreement than a discrete set of superficial elements, and so less choiceworthy as well. If it is likely that some of the model's superficial elements will not be reproduced, then attempting to imitate the model comprehensively will be self-defeating. The lawgiver or citizen might succeed at reproducing some of the model's superficial elements, but if he fails to reproduce the others, then he will fail to imitate the model in the respects that ultimately matter. As a second-best alternative, the Athenian recommends imitations that achieve self-agreement and fundamental resemblance to the model indirectly, by pursuing superficial properties unlike those of the model.

Plato thus anticipates an important insight that is, remarkably, only now being recovered by political theorists. In the modern literature, the insight is associated with the so-called 'general theory of the second best', after a study published by Canadian economists R.G. Lipsey and Kevin Lancaster.<sup>14</sup> In welfare economics, the first-best outcome is traditionally defined as 'Pareto efficiency', a condition that obtains in a perfectly competitive market. Lipsey and Lancaster maintained that when a perfectly competitive market is unobtainable, the best course of action will *not* be to approximate the constitutive elements of such a market. Instead, a 'second-best framework' is required, where the fundamental property of efficiency characterizing the Pareto-optimal market can be approximated only with a discrete set of policies and institutions, that is, with a discrete set of superficial properties. As Joseph Heath explains in some of his recent applications of the theory:

What economists found surprising in Lipsey and Lancaster's analysis was the way that it overturned the conventional assumption that, when a first-best outcome is unobtainable, the best course of action will be to

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the *Laws*, but see esp. 3.689a–d, 696c, 5.739c–e. It is also important to note that the Athenian refers to this property (that according to which a regime should ultimately be evaluated) with different names, depending on context. He will variously call it 'virtue', 'wisdom' and 'consonance' (*sumphōnia*); in reference to individuals; and 'friendship', 'freedom', 'intelligence' (*nous*), and 'unity'; in reference to cities. Nevertheless, as he clarifies at 3.693b–c, '... these goals are not different but the same' (693c3–4). To make sense of how these could all be names for the same property, it is helpful to think of the attributes they signify as instantiations of self-agreement, broadly interpreted as rational order. See also footnote 38, below.

<sup>14</sup> For the original article, see R.G. Lipsey and Kelvin Lancaster, 'The General Theory of Second Best', *The Review of Economic Studies*, 24 (1956–7), pp. 11–32. See also Lipsey's more recent reflections on the theory and its reception in R.G. Lipsey, 'Reflections on the General Theory of Second Best at its Golden Jubilee', *International Tax Public Finance*, 14 (2007), pp. 349–64; and Yew-Kwang Ng, *Welfare Economics: Towards a More Complete Analysis* (New York, 2004) for an accessible introduction. For some of the theory's applications in contemporary political thought, see Joseph Heath, 'Ideal Theory in an Nth-best World: The Case of Pauper Labor', *Journal of Global Ethics*, 9 (2) (2013), pp. 159–72.

approximate the conditions required to bring about that outcome, with the thought that this will bring us as close as possible to it . . . [Economists] assumed that if these conditions are approximately realized, then the favoured outcome — Pareto efficiency — would also be approximately realized. What Lipsey and Lancaster were able to show is that, if the conditions required for perfect competition cannot be satisfied . . . then satisfying them as much as possible will not (except *per accidens*) produce an outcome that is as close as possible to the Pareto-optimum. On the contrary, [doing so] will almost always be worse, not better. As a result, the type of policy recommendations that one would be inclined to make within a first-best framework, about how the economy should be organized, have no authority once it is recognized that the first-best outcome cannot be realized. As soon as a single, recalcitrant fact makes it impossible to achieve the first-best, one must switch to the second-best framework. And at that point, any presumption about what the best course of action is must be suspended. Second-best reasoning is therefore not just a shadow, or an approximation, of first-best reasoning; it is a very different exercise.<sup>15</sup>

This article maintains that Plato builds much of the political theory of the *Laws* around a similar insight. Of course, in Plato's case, the first-best 'outcome' does not assume that the welfare of citizens tracks the satisfaction of their preferences, nor that a citizen's real interests can be adequately fulfilled in some optimal exchange of goods and services. Rather, the *Laws* invites us to imagine a first-best regime whose rulers matchlessly excel in educating their subjects to virtue, in what the Athenian calls 'the art whose business it is to care for souls' (1.650b. Cf. 2.671b–c, 6.770c–e). But the Athenian does insist that practising this art with competence in a non-ideal world requires switching to a second-best framework and attending to the circumstances that make this switch necessary, including above all the imperfections of human nature. This also appears to be true of the art of living that would be practised by the ordinary Magnesian citizen. In both cases, the *Laws* envisions models whose fundamental properties should be imitated, but through a distinct set of superficial, second-best elements.

In advancing this argument, I provide an alternative construal of, and textual grounding for, a view associated with André Laks. Laks finds that the *Laws* 'is dominated by a certain pattern of "retreat" ', signalled in the Athenian's claims that the regime the lawgiver should hope to found must be 'second to the best' and possessed of institutions 'destined for men', not gods.<sup>16</sup> This pattern presupposes a theory of possibility that Laks calls 'Platonic paradigmaticism', a theory that connects 'paradigms' to 'imitations' in an unfamiliar way. According to Laks, Platonic paradigmaticism is easily misunderstood by

<sup>15</sup> Heath, 'Ideal Theory in an Nth-best World', p. 164; and Joseph Heath, *Morality, Competition, and the Firm: The Market Failures Approach to Business Ethics* (New York, 2014), pp. 175–6.

<sup>16</sup> Laks, 'The *Laws*', p. 269.

modern readers because of our tendency to think of possibility in Kantian terms. He observes that, for Kant, ‘nothing distinguishes a real object from its possible concept except . . . the actual existence’ of that object.<sup>17</sup> For Plato, however, the possibility of a ‘model’ or ‘paradigm’ does not presuppose that that paradigm be subject to comprehensive reproduction. Indeed, the reproduction of which the paradigm admits presupposes a revision of its original elements, so that its imitation might come ‘as close as possible’ (*kata dunamin*) in action to its model in speech (5.739e3).<sup>18</sup> Accordingly, for Plato, the possible is ‘the greatest proximity’ of action to speech, but where the imitation must diverge or ‘retreat’ from the original in some respect in order to come ‘as close as possible’ in the respects that matter.

Laks maintains that this theory of possibility explains the ‘pattern of retreat’ in the *Laws*, but his promising view needs further development in order to account for the enigma with which we began: how can the Athenian Stranger maintain that the second-best city and Magnesian way of life are ‘imitations’ when they appear so dissimilar from their respective models?<sup>19</sup> Magnesia would be governed by rulers constrained by a legal code, subject to ‘scrutiny’ (*dokimasia*, 6.753d ff.) and ‘audits’ (*euthynai*, 12.945b–48b), and faced with regular elections by ordinary citizens, all of whom would sit in an ‘assembly’ (*ecclēsia*, 6.764a). Members of this assembly would also be empowered to judge certain criminal and civil suits in popular courts (6.767b–68a), make awards of honour or opprobrium, and endorse or reject changes in at least some of the city’s laws (6.772c–d).<sup>20</sup> However, the model to which Magnesia is supposed to approximate is conspicuously different. The first-best regime of the *Laws* would be ruled with ‘autocratic authority’, by beings whose self-sufficient excellence enables them to be laws unto themselves and who

<sup>17</sup> Laks, ‘Legislation and Demiurgy’, p. 214. In this capacity, Laks cites Kant’s *Critique of Pure Reason* A588/B627.

<sup>18</sup> Laks grounds his account of Platonic paradigmaticism in passages from the *Republic* (473a1–b1) and *Timaeus* (30a3, 37d2, 38c1, 42e2, 89d6) where the phrase ‘according to possibility’ (*kata* or *eis dunamin*) recurs in reference to the most proximate condition to the best. See Laks, ‘Legislation and Demiurgy’, pp. 213–18. For an account that draws upon Laks’ analysis to show how this same phrase is used in the *Statesman*, see Melissa Lane, *Method and Politics in Plato’s Statesman* (New York, 1998), pp. 137–202.

<sup>19</sup> This dissimilarity is especially striking in light of how the Athenian defines ‘correctness of imitation’ as the ‘complete reproduction both in quantity and quality of the thing imitated’ (2.668b6–7).

<sup>20</sup> The most thorough treatment of these republican institutions in Magnesia remains Glenn Morrow, *Plato’s Cretan City* (Princeton, 1960), pp. 153–232. See also Richard F. Stalley, *An Introduction to Plato’s Laws* (Indianapolis IN, 1983), pp. 112–22; Nicholas F. Jones, ‘The Organization of the Kretan City of Plato’s *Laws*’, *The Classical World*, 83 (6) (1990), pp. 473–92; Laks, ‘The *Laws*’, pp. 278–85.

would rule god-like subjects capable of practising a radical communism (4.713c–14a, 5.739c–e).<sup>21</sup>

Similarly, the Athenian insists that all would-be citizens of this city make themselves into a likeness of 'the god' (4.716c–d), a being who is 'perfectly virtuous' (*pasan aretēn*, 10.899b6) and autonomously excellent, according to Magnesia's theology.<sup>22</sup> It is true that the god whom Magnesians are called to imitate is described simply as 'moderate' at 4.716b–c, but given the thesis that the genuine virtues are in some sense identical and reciprocal, a claim that continues to be entertained in the *Laws*, it is doubtful that one can be genuinely moderate without possessing the rest of virtue, as is said to be true of the god.<sup>23</sup> In any case, it is striking that the way of life the Athenian would have

<sup>21</sup> That divine beings are supremely virtuous without need of external rational direction or laws, is suggested by, among other things, the Athenian's account of the god in Book 10, as a being who possesses within himself the cause of the well-ordered psychic 'motions' responsible for virtue (10.895c–97d).

<sup>22</sup> The identity of the god to whom the Athenian refers here is initially unclear, especially given the Athenian's frequent references to the traditional pantheon. In light of the theology he later propounds, however, it seems that 4.716c–d refers to a psychological paradigm of self-consistency and rational order. That the enjoinder to assimilate oneself to such a paradigm is a vital component of Plato's political thought has not been sufficiently appreciated. In part, this is because scholars continue to neglect the *Laws*, where the exhortation is curiously directed at would-be citizens. What scholarly discussion exists concerning godlikeness in Plato focuses instead on the metaphysical and ethical aspects of the 'doctrine', as it seems to be associated with the philosophic life in more widely read dialogues such as the *Republic*, *Phaedrus*, *Theaetetus* and *Timaeus*. See David Sedley, '“Becoming like God” in the *Timaeus* and Aristotle', in *Interpreting the Timaeus-Critias: Proceedings of the IV Symposium Platonicum*, ed. T. Calvo and L. Brisson (Sankt Augustin, 1997), pp. 327–39; and David Sedley, 'The Ideal of Godlikeness', in *Plato 2: Ethics, Politics, Religion and the Soul*, ed. Gail Fine (New York, 1999); Julia Annas, *Platonic Ethics: Old and New* (Ithaca NY, 1999), pp. 52–71; Jean-François Pradeau, 'L'Assimilation au Dieu', *Les Dieux de Platon*, ed. Jérôme Laurent (Caen, 2003), pp. 41–52; John M. Armstrong, 'After the Ascent: Plato on Becoming Like God', *Oxford Studies in Ancient Philosophy*, 25 (2004), pp. 171–83. But see footnotes 24 and 53, below.

<sup>23</sup> For the so-called 'unity thesis', the claim that the names for the virtues are in fact names of the same thing, see *Laws* 12.963a–e. Cf. *Laches* 199c–e, *Protagoras* 329c–34a. For the related 'reciprocity thesis', the claim that a person cannot realize one virtue without realizing all the others, particularly wisdom, the 'leader of all virtue', see *Laws* 1.631c, 2.687e–88b, 3.696b–c. Cf. *Protagoras* 329b–30b, 349a–c. For discussion of these claims in the 'Socratic' dialogues and the *Republic*, see Terence Irwin, *Plato's Ethics* (New York, 1995). For discussion of their role in the *Laws*, see Bobonich, *Plato's Utopia Recast*, pp. 289–91. On the other hand, perhaps the Athenian conceives of a lower-grade moderation that *can* exist in the soul without the rest of virtue (3.696d) and it is in cultivating this superficial property that the citizen reproduces a likeness of some fundamental property of the god. I take up this possibility in R. Ballingall, 'The Reverent City: Plato's *Laws* and the Politics of Ethical Authority' (PhD Dissertation, University of Toronto, unpublished), ch. 5.

Magnesians practise in imitation of this god again appears strikingly dissimilar from the divine paradigm. Above all, it is characterized by a species of ‘moderation’, practised in deference to external authority and born of an accurate assessment of one’s limited capabilities (e.g. 5.731d–32b). If we follow Laks in understanding these Platonic imitations as standing in ‘the greatest proximity’ to such spoken paradigms, we need an account of how they can (and why they must) approximate these paradigms in some fundamental respect(s) while otherwise diverging from them so strikingly.

This article identifies such an account in the *Laws* itself, in what the Athenian calls ‘the most correct procedure’ (*to orthotaton*, 739a6, cf. 746b6), and shows that this procedure exhibits the hallmarks of second-best reasoning. In doing so, I depart from Laks, for whom Platonic paradigmaticism is given its main theoretical expression in other dialogues. My concern, then, is to show that the *Laws* contains the primary explanation for its puzzling presentation of mimesis. I also focus the argument on the case of the regime. The puzzle that arises in this case is remarkably analogous to that arising from the citizen’s curious calling to become like the god, so the reasons that the Athenian proffers for resolving the one should have some bearing upon the resolution of the other. Since the Athenian is more forthcoming with these reasons in the case of the regime, as we shall see, it seems to be to Plato’s purpose that the resolution of the problem in that case makes sense of the exhortation to godlikeness as well.

## I

### The Inadequacy of ‘Approximation’ Readings

There are ways of reading the *Laws* that manage to avoid these issues, but none that does so while remaining faithful to Plato’s text. I have argued as much elsewhere, with respect to the enigma engendered by the exhortation to become like the god.<sup>24</sup> Here, I want to begin by showing why another of these apparent solutions fails. This approach would stress that Magnesia and the way of life of its citizens bear comprehensive resemblances to their respective paradigms. These are imitations, then, because they attempt to approximate *all* of the properties of their models, without distinguishing fundamental from superficial properties. This reading would understand the best, and its less-

<sup>24</sup> See Ballingall, ‘The Reverent City’, ch. 2. Generally speaking, there are two types of solutions to this enigmatic idea. On the one hand, one might doubt that the god to whom Magnesians would assimilate themselves is in fact a paradigm of rational order, self-sufficient and completely virtuous. For this view, see Pangle, ‘Interpretative Essay’, pp. 441–5; and Leo Strauss, *The Argument and the Action of Plato’s Laws* (Chicago, 1975), pp. 58–9. On the other hand, one might suppose that the practical target of Magnesians really is the godlike condition of superlative virtue, even if they will necessarily fall somewhat short. See, e.g., Bobonich, *Plato’s Utopia Recast*, pp. 205–8 and Van Riel, *Plato’s Gods*, p. 23. It is a version of this latter view that I try to refute here.

than-best imitations, along a single dimension, where the goodness of the less-than-best reproductions simply tracks their comprehensive resemblance to the first-best paradigm.<sup>25</sup> On this view, the constituent elements of a model would each contribute directly to its model's goodness, irrespective of how it would be combined with other elements. Hence imitations that fail to reproduce one or more of these elements might still qualify as second-best. In this way, the Magnesian lawgiver and citizen could beneficially imitate, in some respects, models that they could not possibly reproduce in all respects. While getting 'as close as possible' to the best is the best that he can do, failing to achieve some element of the model would not, on this reading, compromise the goodness of those elements that he does manage to reproduce. The Magnesian should thus aim at the best even if he knows that he will fail to hit the mark.<sup>26</sup>

This way of thinking about mimesis appears to accord with common sense. Consider the following, rather prosaic, example. Suppose one day I venture forth, with the intention of climbing Mt Bowman, a summit of modest height in the Marble Range of British Columbia, and an easy scramble. Unfortunately, on this day I am compelled to halt my ascent within a few hundred metres of the summit due to bad weather, of which I had been forewarned. Nevertheless, for me, this is a second-best outcome, certainly preferable to a rainy stroll in the valley below. In such cases, even if reproducing all elements of the best is unlikely or impossible, failing to reproduce them comprehensively carries little risk. Suppose reaching the summit of Bowman is best because, under the circumstances, it most faithfully reproduces a paradigm of amateur mountaineering. If there is no great cost in failing to reach the summit, it is better to have made it part of the way than not to have tried at all. It is better to reproduce the parts of the paradigm that are possible, even if one or

<sup>25</sup> This is a common view amongst interpreters. See esp. Malcolm Schofield, *Saving the City: Philosopher-Kings and Other Classical Paradigms* (London, 1997), pp. 28–45; and Malcolm Schofield, *Plato: Political Philosophy* (New York, 2006), pp. 9–10, 75, 98 n.104, 193 n.116, 211, 232. Pangle does briefly allude to something like the view I develop here, to the extent that he recognizes that Magnesia cannot be a straightforward approximation of the first-best regime. See Pangle, 'Interpretative Essay', pp. 459–60.

<sup>26</sup> Another possible rendering of the approximation view would hold that the gap separating second-best imitation from model is the extent to which each of the reproduced elements falls short of the original element it imitates, rather than the extent to which the imitation as a whole fails to reproduce the set of elements constituting the model. The rendering of the view against which I argue here holds that an imitation resembles its model insofar as it reproduces, say, four out of its five constitutive elements. The alternative rendering would hold that the elements of the imitation approximately resemble all five elements of the model. However, we need not detain ourselves with this alternative rendering. The crucial passage at 5.746b–d, which I will shortly scrutinize, admits of two possible interpretations, neither of which is consistent with this alternative rendering of the approximation view. In any case, the considerations adduced below count against both renderings.

more of its parts is not possible. We might similarly try to make sense of Magnesia's citizens and founder imitating godlike paradigms that are apparently impossible, with imitations that are — to some extent at least — unlike those models. The Magnesians should not worry about the gap between the human and the divine, about those elements of their respective paradigms that they cannot reproduce, and should simply reproduce as many elements of these paradigms as they can, even if the resultant imitations would be imperfect necessarily.

This solution runs afoul of at least three difficulties, two of which arise from considering the passages in which the best regime is principally discussed (we will take up the third difficulty in the ensuing section). The first problem with the approximation reading is that it cannot accommodate the rhetorical function assigned to the divine, both within these passages (4.713b–14a, 5.739c–e), which we will shortly scrutinize, and throughout the *Laws* (e.g. 4.715e–16b in light of 9.785b–e). General readers of Plato and Aristotle are, of course, familiar with how their works associate the divine with the philosopher and his way of life.<sup>27</sup> While this association may well be present in the *Laws* as well, as Shawn Fraistat has lately argued,<sup>28</sup> philosophy itself is famously submerged in this dialogue, consigned to the background of the discussion. To be sure, the Athenian ascribes to the Magnesian paradigms a property associated with philosophers in other dialogues.<sup>29</sup> But instead of using the divine to call attention to how this property finds expression in the paradigmatic philosopher, the Athenian avails himself of a more traditional, 'tragic' understanding of the gods where the divine is enclosed by a boundary beyond which a mortal either cannot or must not go, on pain of divine punishment.<sup>30</sup> This rehabilitation of the tragic sensibility is announced at 7.817b, where the Athenian claims that Magnesia is 'really the truest tragedy', being an 'imitation of the most beautiful and best way of life', but an imitation that must necessarily fall short of perfection (e.g. 4.713c, 7.803b, 804a–c, 8.835b–c, 9.853c–d, 874e–75a).

<sup>27</sup> E.g. Plato, *Republic* 500b–d; Plato, *Theaetetus* 175e–76c; Aristotle, *Nicomachean Ethics* 1177a–78a. The association of the philosopher with the gods implies an 'erotic' conception of the divine, where it is choiceworthy to emulate the gods. This idea is not unprecedented in traditional Greek piety and seems to have been represented in Dionysian rites and especially in Orphic ideas. For discussion of both points, see W.K.C. Guthrie, *The Greeks and their Gods* (Boston MA, 1955 (1950)), pp. 174–82, 317–20, 326–7.

<sup>28</sup> Shawn Fraistat, 'The Authority of Writing in Plato's *Laws*', *Political Theory* 43 (5) (2015), pp. 657–77.

<sup>29</sup> I.e. self-agreement (or rational order and its instantiations in superlative virtue, self-sufficiency, etc.). See also footnote 13, above.

<sup>30</sup> For discussion of this 'tragic' register of the divine in traditional Greek piety, see Martin P. Nilson, *Greek Religion* (London, 1949 (1925)), pp. 224–32; Guthrie, *The Greeks and their Gods*, pp. 113–14, 205. For its role in the *Laws* in particular, see Van Riel, *Plato's Gods*, pp. 23–4; Morrow, *Plato's Cretan City*, pp. 449–57.

In associating the best regime and way of life with this traditional view, the Athenian implies that pretension to the best evidences *hybris*, at least on behalf of those to whom he addresses himself in the dialogue. Although the Magnesians and their founder should imitate the divine, the Athenian emphasizes its remoteness from these human figures and underlines the insolence implied in refusing to acknowledge this distance.<sup>31</sup> Such rhetoric would be odd if Plato thought that approximating the best in these cases were like climbing Mt Bowman in bad weather, that is, likely to achieve a second-best outcome. Were this his view, we would not expect him to be so emphatic about the remoteness of the best; failing to fully arrive there would hardly occasion disaster. As we shall see, it makes much more sense to suppose that the *Laws* deploys the gods in a traditional register in order to impart an appreciation for how superficially resembling the best without fully instantiating its superficial properties can be tremendously bad, can utterly fail to reproduce its desirable, fundamental properties.<sup>32</sup>

The second difficulty for the approximation reading is that, according to the Athenian, neither the lawgiver nor the citizen of Magnesia would attempt to reproduce the superficial properties of the best regime or divine way of life. The necessity to avoid doing so is evidenced in the two passages in the *Laws* that deal most directly with the best regime, passages that also illustrate the 'tragic' function the Athenian assigns to the divine. The first passage recalls an episode from the Platonic *Statesman* in which a stranger from Elea discusses a mythical golden age prior to the ascendancy of Zeus. The Athenian Stranger invokes a similar myth in the *Laws*, purporting to describe 'a certain very happy rule and arrangement under Cronos', Zeus's father and predecessor (4.713b). He immediately adds the suggestive remark that 'the best of arrangements at the present time is in fact an imitation (*mimēma*) of this' (713b). The age of Cronos is conspicuous for the salutary despotism of 'demons [*daimones*], members of a divine and better species' (713d). These *daimones* are supposed to have '. . . provided peace, reverence, good laws, and justice in abundance. Thus they made it so that the races of men were without civil strife, and happy' (713e, trans. Pangle, with modifications). According to the Athenian, in the present age of Zeus, a lawgiver should imitate this 'arrangement' of the age of Cronos. But it is also to the Stranger's purpose to dissuade the lawgiver from trying to find latter-day *daimones* and to equip them with despotic power. This discouragement seems to be the point

<sup>31</sup> See, e.g., 4.715–16b with 9.785b–e. Cf. Zuckert, 'It is Difficult for a City with Good Laws to Come into Existence', p. 99.

<sup>32</sup> Consequently, we might contrast the mountaineering example with flying an aircraft, an example used to illustrate second-best reasoning in Heath's *Filthy Lucre: Economics for People Who Hate Capitalism* (Toronto ON, 2009), pp. 72–3. Whereas failing to achieve the desired outcome is no great mischief in the mountaineering case, flying ninety-eight percent of the way to one's destination only to run out of fuel would not approximate the desired outcome, to say the least.

of the myth's characterization of such rulers as beings 'of a different and better species' and 'not human beings' (*ouk anthrōpous*, 713d) as well as the mythic distance the Athenian generates between the epoch of this best regime and that in which we now find ourselves. Whatever one thinks of the intercourse between gods and men also characteristic of traditional Greek piety,<sup>33</sup> the Athenian's myth discourages any hope for a political version of such communion in the present, something he will have occasion to reiterate as the dialogue proceeds (e.g. at 9.853b–c). So as not to have this allegory misunderstood, the Athenian spells out its intended meaning more emphatically. 'Cronos understood', he says, that 'human nature is not at all capable of regulating the human things, when it possesses autocratic authority over everything, without becoming swollen with insolence (*hybreōs*) and injustice' (713c). He concludes that 'there can be no rest from evils and toils for those cities in which some mortal rules rather than a god' (713e4–6). What hope human beings have in the age of Zeus, he says, depends upon imitating the divine despotism of the age of Cronos, but not by setting up the nearest, comprehensive approximation of daimonic overlords, philosopher kings perhaps. Rather, we should obey 'whatever within us partakes of immortality, giving the name 'law' to the distribution ordained by intelligence (*nous*)' (714a, cf. 12.957c).

Now, the precise meaning of the rule of law is a classic problem for interpreters of this dialogue. At times, the Athenian appears to present nomocracy along the lines suggested by the Eleatic Stranger of the *Statesman*, as the indirect rule of a political expert. In this case, the *de jure* ruler strictly adheres to rules prescribed by a more expert, but absent, lawgiver whose own art is directly guided by genuine political and indeed cosmic insightfulness.<sup>34</sup> This appears to fit with the passage under consideration, where law is 'the distribution ordained by intelligence'. However, as interpreters such as Glen Morrow have long maintained, the *Laws* also strongly contrasts the rule of law with autocracy (e.g. 875b3) and associates it with the subjection of magistrates to 'scrutiny' upon taking office and regular 'audits' to ensure that 'no judge or official [is] irresponsible'.<sup>35</sup> In either case, the rule of law cannot be conceived as a straightforward imitation of divine despotism. While in this passage the Athenian claims that the second-best regime resembles its paradigm insofar

<sup>33</sup> This 'erotic' side of Greek piety is emphasized in Herodotus (see 1.131 with 2.49–53, 7.178), who ascribes its provenance to the poetic reconfiguration of Egyptian piety. For a study of Herodotus that emphasizes his interest in this topic, especially its political implications, see S.R. Keith, *The First Political Scientist: Herodotus of Halicarnassus* (PhD Dissertation, University of Toronto, unpublished, 1989).

<sup>34</sup> Plato, *Statesman* 300c. Fraistat, 'The Authority of Writing in Plato's *Laws*'.

<sup>35</sup> Morrow, *Plato's Cretan City*, 548 n.10. See also Stalley, *An Introduction to Plato's Laws*, pp. 80–6; Laks, 'The *Laws*', pp. 263, 271–2, 278–85; Klosko, *The Development of Plato's Political Thought*, pp. 218, 232–7, 246.

as it is governed by intelligence,<sup>36</sup> he is keen to underline that it does so without imitating the superficial property of despotism.

Another wrinkle in this passage becomes immediately apparent when examined in its broader textual situation. So far I have proceeded on the assumption that the characterization of the Magnesians as 'divine' appears to cast doubt on their possibility. Yet this cannot be strictly true, at least with respect to the best regime, simply because the Athenian prefaces his mythological account of that regime by discussing its 'natural genesis' (712a) in a 'tyrannized city' (709e) with 'a lawgiver who possesses the truth' (709c) and a 'divine and erotic passion for moderate and just practices' (711d). Such a person presumably corresponds to those 'certain divine human beings' (12.951b) he conceives periodically throughout the *Laws*, those who have achieved that rarest excellence enabling beneficial despotism. In this way, the Athenian implicitly recalls the association of the divine with the philosopher and the best regime with the Callipolis of the *Republic*. If this is right, then the 'human beings' of the myth of Cronos do not comprise all specimens of our species, but rather the overwhelming majority who lack the exceptional wisdom and moderation of the godlike lawgiver capable of founding the best regime. But it is important to see that this possibility does not imply that a merely ordinary lawgiver such as Cleinias should attempt to set up or become a good-enough philosopher king. To his Dorian interlocutors, the Athenian stresses the singular unlikelihood of such a figure and tacitly claims that the present epoch does not admit of such marvels at all (4.713b3, 9.875d2–3).<sup>37</sup> That he deploys the Cronos myth immediately on the heels of the tyranny passage, and continues to shroud the exceptionally wise lawgiver in the tragic register of the divine, also testifies to his interest in discouraging superficial imitation of the best regime. Lacking the marvellous excellence of a godlike person, merely human lawgivers and rulers cannot beneficially enjoy autocratic authority.

The second treatment of the best regime in the *Laws* echoes this strange insistence on both its profound inaccessibility and dissimilarity from the regime that would be its most proximate imitation. In the first passage, we learn that the best city would be ruled by divine despots who exercise beneficent, supervisory care over human beings. Now the Athenian envisions a city whose subjects are also divine: 'gods or children of gods', he calls them (5.739e, cf. 9.853c). The Athenian might seem to be describing two different cities in these passages. In fact, he is underlining distinctive attributes of, and impediments to, the same, best city. In the first passage, we see that the regime of this city would ascribe supreme authority to divine *nous* (in the person of the daimones or gods), thereby ensuring the happiness of those subject to its power. There, the Athenian is concerned to highlight

<sup>36</sup> See footnote 13, above, and footnote 38, below.

<sup>37</sup> Cf. Plato, *Statesman* 274e–75c.

as an impediment to the best regime the imperfections of merely human rulers. In the second passage, the Athenian sets down the principle around which *nous* would organize a city whose subjects were fully deferential to its authority.<sup>38</sup> Here, it is the imperfections of merely human subjects that impedes the best regime. As is often noted, this principle he sets down is reminiscent of Socrates' description of the Callipolis in the *Republic*: 'that city and that regime are first, and the laws are best', he avers, 'where the old proverb holds as much as possible throughout the whole city: it is said that the things of friends really are common' (739c).<sup>39</sup> However, as only a few interpreters have noticed, the best city of the *Laws* would be capable of going much further than the Callipolis in implementing this principle. In conceiving of subjects as divine, the best city of the *Laws* 'makes common' the family; property; and 'the things that are by nature private' (739c), including perception, action, the passions, judgment and desire, not merely for a ruling and guarding class — as in the Callipolis — but for the 'whole city' (*pasan tēn polin*, 739c). It is possible that this important difference between the paradigmatic cities of the two dialogues accounts for Socrates' more emphatic insistence on its possibility in the *Republic*. In any case, having swiftly ascended to this lofty prospect, the Athenian of the *Laws* is just as quick to remind us of our great distance from such a divine order. Having had occasion to discuss again the best regime in the midst of his treatment of property in the 'regime we've been dealing with', one he now describes as 'second in point of unity', the Athenian returns to this former subject. When he does, he points out that, far from collectivizing 'the things that are by nature private', or attempting to do so as far as possible, this second-best regime cannot safely collectivize even its basic productive activities, since, he claims, 'such a thing would be too demanding for the birth, nature, and education that have now been specified' (740a).

This second discussion of the best city in the *Laws* replicates the double function of the divine evidenced in the first passage, as well as the dissimilitude of the best and its nearest practicable imitation. The divine is associated with both rational order and an order of being beyond the boundary of 'human' possibility. It would be best to fulfil the unity principle (again notice

<sup>38</sup> It should be observed that *nous* does not merely 'cause' the city to be well-ordered or unified, in the sense of efficient causation. *Nous* also seems to instantiate orderliness and unity, and vice-versa. Again, see footnote 13, above. For a discussion of how *nous* might play both roles, based on a reading of the *Philebus* (although one that points to 'goodmakers' that do not necessarily entail 'unity'), see Bobonich, *Plato's Utopia Recast*, pp. 160–79. For discussions of unity as the 'object of politics' in Plato, see Pradeau, *Plato and the City*, and Schofield, *Plato*, pp. 212–18.

<sup>39</sup> Pangle, 'Interpretative Essay', pp. 459–60; Laks, 'Legislation and Demiurgy'. For the proverb's occurrence in the *Republic*, see 424a. The ideal of friendship in unity and communism to which the proverb appeals is closely associated with that work by Aristotle at *Politics* 2.1263a30–31, and in book 2.ii–v generally.

that 'unity' can be understood as an instantiation of rational order) as though citizens were gods, as though they could freely accept holding everything in common. But the Athenian not only rejects such a possibility for Magnesia, he counsels *against* Magnesia's attempting to approximate the degree of communism he associates with the best city. Just as the second-best city would *not attempt* to empower rulers with absolute authority, neither would it try to collectivize the sort of things that the best city would manage to hold in common. In neither of these respects would Magnesia resemble or try to resemble the best regime. Instead, Magnesia would imitate the best (4.713b), 'coming as close as possible to it' (5.739e), by purposefully renouncing the very institutions that characterize the best city.<sup>40</sup>

## II

### Plato's Theory of the Second-Best

The *Laws*, then, does not allow the reader to conclude that Magnesia is an imitation of the best regime because it approximates its characteristic, but superficial, elements. What, then, can the Athenian mean when he says that the second-best is an 'imitation' of the first-best and comes 'as close as possible to it'? My suggestion is that Plato has him provide an explanation of this puzzle in several passages in the *Laws* (this being the third problem for the approximation view) but that this explanation has been overlooked by interpreters and translators who have assumed Plato to be working within a straightforward approximation framework. The heart of this explanation is the Athenian's denial that goodness tracks comprehensive resemblance in the case of the second-best city.<sup>41</sup> He claims that 'the most correct procedure' for a lawgiver is, first, to identify what makes the first-best supremely good (its fundamental property), and then to identify an alternative regime that comes 'as close as possible to it', but only in terms of this good-making property. As we have seen, the best regime is supremely good because of the extent to which it endows intelligence with authority and makes itself into a unity, in short, insofar as it instantiates rational order; and Magnesia would attempt to embody this property in its own institutions, practices and norms as well. But the Athenian warns that the institutions that brought about intelligence and unity in the case of the first-best regime did so only because of their simultaneous presence, only because both the rulers and the ruled were 'gods', in the sense that, unlike ordinary people, they could beneficially wield autocratic

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<sup>40</sup> If it is not already clear, note that these considerations suggest that the superficial properties of the paradigmatic regime include despotic power and superlatively virtuous rulers and citizens.

<sup>41</sup> I find this claim to be the most plausible interpretation of 5.739a–46b, as I argue below.

power and be agreeable to radical communism.<sup>42</sup> If either of these superficial properties of the best regime proves impossible, the Athenian claims that implementing the remaining, superficial property would not preserve its salutary function. Consequently, the lawgiver faced with this situation should identify a discrete set of institutions all of which are possible and would better promote the rule of intelligence and the unity of the city, given the limitations of the ‘raw materials’ with which he must work.<sup>43</sup>

The Athenian begins his explanation of this necessary dissimilarity between the best and second-best as a preface to his discussion of the best regime in book 5 (the second passage of the previous section). As we have already observed, the Athenian had been discussing the question of property when this topic arose. He prefaces this apparent digression by claiming that:

the next move in the process of establishing laws is analogous to the move made by someone playing draughts, who abandons his ‘sacred line’, and because it’s unexpected, it may seem amazing to the hearer at first. Nevertheless, anyone who uses his reason will recognize that a second-best city is to be constructed. (5.739a)

Pangle notes that the game of ‘draughts’ (*petteia*) is in fact ‘a generic name for several board games whose precise rules are unknown to us’. However, as R.G. Austin has observed, we do have evidence independent of the *Laws* for a

<sup>42</sup> David Lay Williams suggests that autocratic power includes the authority to lie. Like other aspects of such power, Williams maintains that (according to Plato) lying might confer benefits only when deployed by supremely virtuous rulers (D.L. Williams, ‘Plato’s Noble Lie: From Kallipolis to Magnesia’, *History of Political Thought*, 34 (3) (2013), p. 385). If this is right, then lying affords an excellent example of a second-best consideration in the *Laws*, where the course of action in the absence of paradigmatic rulers is most seriously considered. According to the Athenian, the lawgiver should not set down offices in comprehensive imitation of the regime governed by such rulers because approximate virtue is insufficient for rendering autocratic power salutary. The case of deception demonstrates why this is so: ‘the very nature of a lie subverts the many checks and balances built into [Magnesia]. A successful lie would only embolden usurpers and encourage the kinds of misdeeds that tempt unaccountable human beings. This is why, I suggest, there is no Noble Lie in the *Laws*’ (*ibid.*). Nonetheless, Williams’ conclusion here is too broad. That deception by rulers is prohibited does not imply an equivalent prohibition on the lawgiver himself, or at least on the philosopher by whom he might be counselled. Indeed, as we have observed, the *Laws* at times entertains the possibility of genuinely virtuous men (1.645b, 2.657a8–9, 12.951b) and the Athenian suggests (*pace* Williams) that the obstinacy in ordinary people of the appearance of a tension between virtue and happiness might require telling them a lie in order that, paradoxically perhaps, they might appreciate the truth (2.663d–e). According to the Athenian, ‘the just and unjust things are shadow-figures. From the perspective of the unjust and evil man himself, the unjust things appear pleasant, the opposite of the way they appear to the just man . . .’ (2.663c). If the virtuous soul (paradigmatically, the god) is the measure, then those who are *not* genuinely virtuous must look upon ‘the just and unjust things’ as though they *were* virtuous.

<sup>43</sup> Cf. Aristotle *Politics* 4.i.

game, apparently called 'five lines' (*pente grammai*), where each player tried to keep his pieces on a 'sacred line'.<sup>44</sup> As Leslie Kurke has found more recently, it seems that moving from this line 'was a last resort for a player who was being beaten'.<sup>45</sup> From Pollux and Eustathius, Kurke quotes proverbs associated with such a move: 'he moves the piece from the sacred line'<sup>46</sup> and 'for people who are desperate and in need of final aid'.<sup>47</sup> While winning a game of *pente grammai* is associated with keeping one's pieces on the sacred line, it seems that one might have to move them from this line in order to do as well as possible, either to win outright through a come-back strategy or perhaps to consolidate a decent position in a game of several rounds. If this is right, then the draughts analogy is relevant to the Athenian's purposes because at least one version of such games admitted of a second-best strategy that is not simply an overall approximation of the first-best strategy, but rather takes a very different approach towards a player's ultimate objective. One 'abandons his "sacred line"' and the superficial property of keeping ones pieces upon it in order to reproduce successfully the fundamental property of victory. This fundamental property would not be reproduced in cases where the player adhered to the paradigmatic strategy but was unable to reproduce all of its superficial properties (i.e. those necessary to make the paradigmatic strategy of keeping to the sacred line choiceworthy, whatever those are). If, as the Athenian suggests, lawgiving is akin to draughts-playing, then the lawgiver should likewise be prepared to 'abandon' his own 'sacred line', which is clearly associated in this passage with the first-best city and its superficial properties.<sup>48</sup> Hence the corresponding 'move' of the lawgiver would be to abandon the superficial properties of his own paradigm in order to reproduce those properties that are fundamental. This may be 'unexpected' and 'seem amazing to the hearer at first' because it entails abstaining from imitation that bears a comprehensive resemblance to the regime considered best. But those familiar with *pente grammai* are already accustomed to this kind of necessity; the Athenian hopes to use the analogy to enliven such people to its existence beyond this more familiar context.

Indeed, the draughts analogy prepares us for the Athenian's subsequent claim that the fullest conceivable instantiation of the unity principle cannot be beneficially approximated. Being cognizant of human limitations, the

<sup>44</sup> Roland G. Austin, 'Greek Board Games', *Antiquity*, 14 (1940), pp. 257–71; and Pangle, *The Laws of Plato*, p. 527 n.16.

<sup>45</sup> Leslie Kurke, 'Ancient Greek Board Games and How to Play Them', *Classical Philology*, 94 (3) (1999), pp. 247–67, 257.

<sup>46</sup> Pollux, *Onomasticon*, trans. Austin, 9.98.

<sup>47</sup> Eustathius, *Eustathii Commentarii ad Homeri 'Iliadem' Pertinentes*, ed. M. van der Valk (4 vols., Leiden, 1971–87), 2.277.15–17).

<sup>48</sup> The superficial property mentioned explicitly in the passage is despotic power: 'Perhaps someone might not accept this [the necessity of founding a second-best city] because he is unfamiliar with a lawgiver who is not a tyrant' (739a5–6).

lawgiver should not attempt to reproduce an imitation of the best regime that bears a comprehensive resemblance to it. The colonists of Magnesia could not be expected to relinquish voluntarily their attachment to enjoying external goods privately; despotic power would be necessary to achieve that kind of unity (4.711b–c, 5.739a) and we have already seen that the Athenian is hardly sanguine about its prospects in all-too-human hands. Even if we were to stumble upon a specimen of divine virtue in human form (perhaps in the Athenian himself, or in a new Nestor (4.711e)), that would still be insufficient. The *Laws* suggests that the excellence of and friendship between the citizens that ought to be amongst the aspirations of a lawgiver and ruler (3.701d, 5.743c) and that underlie the city's unity would be compromised without the voluntary consent of citizens to laws and public policy (3.690c, 697c–d, and esp. 8.832b–d). This is unlikely, even in the case of the most gifted tyrant, because his gifts are so hard to acknowledge. As the proverb correctly states, 'equality produces friendship' (6.757a), and the many are loath to recognize the legitimate inequality in honour and authority owed to such a figure (6.757e). So while the radical communism and asceticism of the best regime would most profoundly support unity in friendship, that friendship depends upon a degree of virtue in ruler and ruled that is simply not foreseeable. Consequently, to use despotism to generate a superficial resemblance to such unity would not reproduce a resemblance that is fundamental. Lacking willing obedience in citizens, the resulting regime would be inconsistent with itself, and fail to reproduce an approximation of unity through friendship.

The Athenian concludes this discussion in Book 5 with his most explicit rationale for Magnesia's dissimilitude from the best regime. In fact, he imagines an iterative procedure where the lawgiver may have to adjust his aim beyond the second-best towards a third or fourth-best city, each time imitating the procedure taken in the initial move away from the first-best.<sup>49</sup> In making this point, the Athenian reminds us that even the second-best Magnesia is

<sup>49</sup> This procedure is anticipated in the 'capstone' to the discussion of drinking at the end of Book 2. There, the Athenian claims that the value of inebriation, and the symposium by implication, depends upon the city treating the practice 'as something serious', making use of it ' . . . in conformity with laws and order, for the sake of moderation' (673e). If the city cannot use symposia correctly, the Athenian claims that the best course would be to revert to an even more extreme version of the Dorian practice that simply forbids indulgences in pleasures considered potentially harmful (674a–b). This is an astonishing confession, given that the symposium appears to represent the correct habituation of desire, a process characterized by controlled exposure to (rather than flight from) pleasures. Recall that 'correct law' is concerned with the education of citizens to virtue (1.632e, 4.705d–e), something that presupposes the 'consonance' wrought by the habituation of desire (2.653a–c). Assuming that something like this education would be an essential institution of Magnesia, the 'capstone' passage introduces what one might call 'third-best reasoning'. The Athenian does not maintain that the symposium model should be approximated when it cannot be reproduced comprehensively. Rather, he implies that failure to reproduce the habituation of desire in accordance with this model

extraordinarily demanding and may give rise to the same problem of imitation as the best regime itself:

The things that have now been described are never likely, as a whole, to find such favorable circumstances that every single detail will coincide precisely as the argument has indicated. That presupposes men who won't object to living in such a community, and who will tolerate a moderate and fixed level of wealth throughout their lives, and the supervision of the size of each individual's family as we've suggested. Will people really put up with being deprived of gold and other things which, for reasons we went into just now, the lawgiver is obviously going to add to his list of forbidden articles? What about this description of a city and countryside with houses at the centre and in all directions round about? He might have been relating a dream, or modeling a state and its citizens out of wax. The ideal impresses well enough, but the lawgiver must reconsider it as follows (this being, then, a reprise of his address to us). 'My friends, in these discourses we're having, don't think it has escaped me either that the point of view you are urging [in aiming at Magnesia] has some truth in it. But I believe that in every project for future action, when you are displaying the model [*paradeigma*] that ought to be put into effect, the most just procedure [*ton dikaiotaton*] is to depart not at all from what is most noble and most true. But if you find that anything is impossible [*adunaton*] in practice, you ought to turn away [*ekklinein*] and not attempt it: you should see which of the remaining alternatives comes nearest [*toutou ton loipon engutata*] to the model and is most nearly akin to it, and arrange to have that done instead. But you must let the lawgiver finish describing what he really wants to do, and only then join him in considering which of his proposals [*ton eirēmenōn*] for legislation are feasible, and which are too difficult. You see, even the maker [*dēmiourgon*] of the most trivial object must make it consistent with itself [*homologoumenon auto hautoi*] if he is going to get any sort of reputation'.<sup>50</sup>

The final sentence of this passage is critically important; it purports to explain by analogy the preceding lines, lines which contain a significant ambiguity. In the final sentence, the Athenian appears to be suggesting that the true lawgiver would not attempt to create a regime that is inconsistent with itself. The only sort of inconsistency he can mean is that brought about by the impossibility of some element of the lawgiver's model, since this is the only inconsistency discussed in the preceding lines. Where some element of the model

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(that is, treating the practice of tasting pleasures 'as something serious') should prompt the lawgiver to abandon it altogether. Even the second-best regime, then, admits of the same need to 'abandon' comprehensive resemblance, where some superficial properties prove impossible to reproduce. Morrow, who sees the point quite clearly, calls this a 'second-best policy'. See Morrow, *Plato's Cretan City*, p. 442 n.150.

<sup>50</sup> 5.745e–46d, based on 'Laws', in *Plato: Collected Works*, ed. John M. Cooper and Douglas S. Hutchinson, trans. Trevor Saunders (Indianapolis IN, 1996), pp. 1318–1616, with significant modifications.

proves impossible, the Athenian seems to be claiming that that would render the regime imitating this model inconsistent with itself, just as a portrait would appear distorted if the painter failed to reproduce a likeness of some conspicuous feature of the model's face. But does he mean that the inconsistency would be resolved by substituting only the impossible element with something else? Or, would he instead have the lawgiver faced with this situation replace the other elements as well, on the grounds that the components of the model are mutually consistent only because of the simultaneous presence of these particular things? In short, is this self-contradiction a question of the possibility of paradigmatic elements or of their mutual compatibility? Interpreters and the major English translators of this passage have assumed the issue to be of the former kind.<sup>51</sup> But doing so overlooks this important ambiguity as well as other textual evidence suggestive of the second reading.

That Plato intends the second construal of this passage is suggested by the fact that he has the Athenian, at 746b6, reiterate a claim about the true lawgiver's procedure, made initially at 739a–b. There, the Athenian had asserted that 'the most correct procedure is to state what the best regime is, and the second and the third, and after stating this to give the choice among *them* [*dounai de . . . haireisin*] to whoever is to be in charge of the founding in each case' (739a–b, my emphasis). This seems to be what is referred to at 746b6. Here, the Athenian observes that he and his companions have continued to discuss the second-best regime as though all of its defining elements would be possible, as though they were 'modeling the city and its citizens out of wax' (746a). Nevertheless, he reassures us that this is in keeping with what he now calls 'the most just procedure', that which allows the lawgiver to 'finish describing what he really wants to do' (746c4–5). Only after this has been made clear should one attend to what would prove impossible and adjust one's aspiration accordingly. If this 'most just procedure' refers back to 'the most correct procedure' introduced earlier, then it is natural to assume that the 'remaining alternatives' of 746c2–3 from which the lawgiver would choose,

<sup>51</sup> Consider how the passage is construed in the major English translations: From *Laws I*, trans. R.G. Bury (Cambridge MA, 1926): '... the person who exhibits the pattern on which the undertaking is to be modelled should omit no detail of perfect beauty and truth; but where any of them is impossible of realization, that particular detail he should omit and leave unexecuted, but contrive to execute instead whatever of the remaining details comes nearest to this' (746b6–c4). From Pangle, *The Laws of Plato*: '... when some aspect of these things turns out to be impossible for a fellow, he should steer away and not do it. Instead, he should contrive to bring about whatever is the closest to this from the things that remain, and by nature the most akin from among the things that are appropriate to do' (746b8–c4). From 'Laws', in *Plato: Collected Works*, ed. Cooper and Hutchinson, trans. Saunders: '... the most satisfactory procedure is to spare no detail of absolute truth and beauty. But if you find that one of these details is impossible in practice, you ought to put it on one side and not attempt it: you should see which of the remaining alternatives comes closest to it and is most nearly akin to your policy' (746b5–c4).

after turning away from the impossible best (or second-best), refer to discrete regime-imitations (the second or third-best, etc.) and not 'details' or 'parts' of the best regime.

The confusion on these points derives from the ambiguity of the direct objects in lines 746b5–c4. Plato uses the indefinite pronoun 'ti', relative pronoun 'hōi' and demonstrative pronoun 'toutōn' at 746b8–c1 to refer to the aspect of 'what is most noble and most true' (746b8) that might prove impossible. He then uses the phrase 'toutou tōn loipōn engutata' to refer to '[that] of the remaining alternatives that comes closest' to what is 'most noble and most true'. The vital point is that the demonstrative pronoun preceding *tōn loipōn engutata* does not have to refer to remaining aspects or details of the *paradeigma* (model) associated with 'what is most noble and most true'. The 'remaining alternatives' (*tōn loipōn*) that qualify this pronoun might equally allow it to refer to alternative regimes that do not harbour impossible elements, given the circumstances. This same ambiguity is present in the subsequent lines as well. Nothing in the Greek requires that the 'proposals' (*tōn eirēmenōn*) of the lawgiver (those from which he would choose in the second step of his procedure) be construed as 'parts' of his ideal legislation, as Pangle's translation has it, for example. In neither of these cases, in fact, does the Greek unambiguously refer to a choice amongst parts, aspects or details of the best regime. Instead, one can just as easily construe the choice in question as referring to discrete regime-imitations, 'remainders' from the most correct and most just procedure. And since this construal fits best with the passage as a whole; with 739a–b, as we have just seen; with the prefatory draughts analogy; and indeed with the passages that discuss the paradigmatic regime itself; we do have good reason to prefer this rendering over the major translations.

### III Implications

These points have important implications for how we should interpret the Athenian's argument on behalf of Magnesia. First, they explain why he would describe regimes and ways of life as imitations of paradigms that they do not appear to resemble. We have seen that the founder of Magnesia should reproduce a likeness of neither the despotic rulers nor the ascetic citizens of the best regime. Doing so would be worse than ensuring Magnesia's more fallible rulers are subject to audits and susceptible of punishment while allowing citizens a measure of private ownership and material inequality. The simultaneous presence of the former, superficial elements in the model is responsible for the model's self-agreement (or rational order).<sup>52</sup> But reproducing an approximation of these superficial elements that differs even slightly from how they are

<sup>52</sup> Again, see footnote 13, above.

present in the model may also prevent the resultant imitation from possessing the desired fundamental properties. Instead, Magnesia would reproduce a likeness only of the model's fundamental properties, in part through establishing the rule of law and moderately unequal, private ownership. Hence the Athenian can intelligibly claim that this second-best regime really is an imitation of the paradigm in which the desirable, fundamental properties are most profoundly present, even while being so dissimilar from that paradigm in most other respects.

Moreover, this same account can be applied to the equivalent puzzle in the case of the Magnesian citizen. Recall how strikingly alike these problems are in the *Laws*. The Athenian claims that the skilful lawgiver should persuade citizens to make themselves into a likeness of 'the god' (4.716c–d). Later, he argues that the god of whom he speaks is 'perfectly virtuous' (10.899b6) and self-sufficient, in the sense that he is his own measure of excellence, a law unto himself, and has no need of others to identify, develop or sustain this excellence (10.895c–97d, 897c). Yet, the Athenian also maintains that whatever virtue may be possible for human beings cannot be practised self-sufficiently. Instead, any pretension to such autonomy is conceived as ruinous, for 'mortal nature will always urge [us] on to grasping (*pleonexian*) and self-interested action (*idiopragian*)' in the absence of law (9.875b, trans. Bury). The Athenian thus appears to claim that citizens should aspire to a condition that they can neither fully realize nor safely seek. One might try to resolve this puzzle by supposing that he means for Magnesians only to approximate the god's way of life, that is, in a straightforward, comprehensive reproduction.<sup>53</sup> But this solution fails to account for the stress the Athenian lays on the necessary dissimilarity between the way of life of Magnesians and that of the god they nevertheless imitate and revere. Just as Magnesia would be dissimilar from the best regime yet would also be its closest possible imitation, so the citizen's way of life would be an imitation of the god and yet would seem strikingly ungodlike. Given this apparent equivalence between these puzzling presentations of mimesis in the *Laws*, one would expect that the solution to the first case would be applicable to the second; and because a solution to the puzzle of the regime is explicitly provided, in the passages at 5.739a–46d, while the enigma of godlikeness is not overtly addressed, we do have reason to think that the explanation in the former case applies to the latter as well. If so, the Athenian must think that Magnesians can approximate the fundamental properties of the god, his own 'consonance' and rationality, without reproducing

<sup>53</sup> Van Riel, *Plato's Gods*, pp. 23–4; Pradeau, 'L'Assimilation au Dieu'. Both these interpreters do observe something of the tension I point out here. Van Riel, moreover, offers a solution by distinguishing 'moral' from 'intellectual' resemblance; man resembles god in becoming virtuous rather than in thinking god's thoughts. But this solution does not resolve the most important part of the paradox. It is precisely in being a 'moral' paragon that the god presents a puzzle; it is his genuine virtue that makes him a measure and autonomous.

his superficial properties, in particular his superlative virtue and autonomy. But precisely how the *Laws* conceives of the citizen's second-best imitation in these respects is a question that, for want of space, must be pursued elsewhere.<sup>54</sup>

Perhaps the most significant implication of the *Laws*' theory of the second-best is that the switch it requires to second-best frameworks would potentially admit of multiple, receding iterations.<sup>55</sup> While the Athenian maintains that Magnesia is possible within the boundaries of human nature, he recognizes that the simultaneous presence of its own superficial properties presupposes a concatenation of tremendously rare circumstances. 'The things that have now been described', he avers, 'are never likely, as a whole, to find such favorable circumstances that every single detail will coincide precisely as the argument has indicated' (5.745e8–46a1). But if Magnesia's own redeeming qualities depend upon the simultaneous presence of all these superficial elements (e.g. '... men who won't object to living in such a community, and who will tolerate a moderate and fixed level of wealth throughout their lives, and the supervision of the size of each individual's family' (5.745e–46a)), then someone intending to found a real polity might be well advised to 'turn away' from Magnesia as well. Thus, the *Laws* envisions a city whose goodness is so difficult to imitate that a real lawgiver should 'turn away' from it too, save in the most exceptional of circumstances, circumstances that the dialogue presupposes but underlines as extraordinary. Most importantly, this proviso should colour how one reads each of the institutional and legal prescriptions of the *Laws*. The Athenian opens the door to the likelihood that many, even all, of his proposals would lose whatever normative force they possess if any one of them proves impossible in a given circumstance of implementation; and in the case of the second-best regime, he suggests that this is indeed quite likely.

However, this vital qualification should not lead to the conclusion that we cannot learn from the efforts of the Athenian in the *Laws*. On the contrary, in calling into question the normative status of the Athenian's city-in-speech, Plato invites us to reflect upon a perennial problem that confronts normative theorizing and political activity. The incongruence between spoken paradigms and their practical representations affects the goodness of the latter in surprising ways, potentially isolating the fundamental from the superficial resemblances between them. Failing to account for this possibility, and its potentially recurrent iterations, is to succumb to a naïve and even dangerous kind of utopianism. This is not to say that Plato's political paradigms themselves are self-destructive parodies of utopianism. Nor is it to dismiss the

<sup>54</sup> I pursue this question in Ballingall, 'The Reverent City', ch. 5.

<sup>55</sup> See footnote 49, above. That the 'switch' to second-best frameworks potentially admits of subsequent iterations is a familiar feature of contemporary discussions of the 'general theory of second-best'. See Heath, 'Ideal Theory in an Nth-best World'; and Ng, *Welfare Economics*, pp. 184–208.

potential worthiness of their most proximate imitations, such as Magnesia. Rather, it is to grasp the significance of how the human capability for envisioning the good often outstrips our potentials for reproducing it in the realm of becoming. It is to recognize, with André Laks, that the good in thought and speech must be 'revised' in order to be approximated, in action, in the respects that matter, and that this revision may admit of several steps, depending upon the kinds of impediments the political craftsman confronts.

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