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The Rule of Law and the Imitation of God in Plato's *Laws*

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ABSTRACT

Scholars interested in the characterology presupposed by constitutional government have occasionally turned to Plato's *Laws*, one of the earliest and most penetrating treatments of the subject. Even so, interpreters have neglected a vital tension that the *Laws* presents as coeval with lawfulness itself. Through a close reading of the dialogue's opening passages, I argue that the rule of law for Plato is implicated in a certain paradox: it both prohibits and requires the imitation of god. Law cannot safely originate with human beings; yet human beings must involve themselves nonetheless in laying law down. Trustworthy lawgivers must revere the gods while at the same time emulating them, must somehow make law themselves while regarding that very task as beyond their ken. Although the political psychology of lawfulness would therefore seem incoherent, I conclude by surveying reasons for thinking this inference unwarranted.

Il faudrait des dieux pour donner des lois aux hommes.

J. J. Rousseau, *Du Contrat Sociale* (II.7)

Until relatively recently, the rule of law was thought to presuppose laws that are divine. For how can law command authority if its framers betray the same fallibility and avarice that law itself is needed to correct and restrain? Worries of this kind lead some social scientists today to dismiss law as an “epiphenomenon,” but they led the classical and biblical traditions to find in divine law an alternate foundation for political authority. Is there a sense in which this alternative really escapes the quandary confronting human law? Or does it simply conceal that problem behind a veil of faith and piety? I explore these questions here by turning to Plato's *Laws*, the dialogue in which Plato most deeply broaches them himself. My purpose is less to show how Plato redeems divine law than to elucidate his understanding of its internal tensions. Through a close reading of the dialogue's opening passages, I argue that the rule of law for Plato is implicated in a certain paradox: it both prohibits and requires the imitation of god. Law cannot safely originate with human beings; yet human beings must involve themselves nonetheless in laying law down. Trustworthy lawgivers must revere the gods while at the same time emulating them, must somehow make law themselves while regarding that very

task as beyond their ken. Although the political psychology of lawfulness would therefore seem incoherent, I conclude by surveying reasons for thinking this inference unwarranted.

The notion that the rule of law depends on reverence for the gods is held as a customary belief in many traditional societies, classical Greece not excepted. Consider the words of the messenger in Euripides's *Bacchae*, reporting the brutal dismemberment of King Pentheus. “To practice moderation and reverence for the divine [*to sōphronein de kai sebein ta tōn theōn*],” he says, “this is best. And I think it the wisest practice in use by mortal men” (1150–53).¹ The “lawless” king has dared to mock the cult of Dionysus. Pretending to a forbidden knowledge, he has judged the god whom the Bacchantes worship a false idol and has committed outrages against Bacchus and his maenads accordingly. Although the god is “new,” the young king's refusal to accept or even consider his divinity presents a threat to ancestral piety and therewith to *nomos* itself. As the chorus had earlier sung:

Slowly it proceeds
But trustworthy nonetheless
The might divine.
It calls to account those among mortals
Who, with mad conviction, honor senselessness
And fail to extol the divine things.

The gods lie hidden in manifold ways
 The long tread of time
 And hunt the irreverent (*ton asepton*) down.
 For never must a man think
 And habitually do
 That which is stronger than law (*tōn nomōn*).
 For it is a light expense
 To think this to have strength:
 Whatever is divine.
 That which remains lawful over a long span
 Is lawful by nature for all time (877-96).

According to the chorus, *nomos* is sustained less by worship of any particular god than by the veneration of “divine things” and thus by the observation of human limits. It is reverence for the divine that lies behind the authority of ancient custom. Pentheus might claim to defend the customary things against innovation, but he ends up attacking them unwittingly, pretending as he does to knowledge of the gods to be worshiped. As far as the chorus is concerned, doing so is to “to think thoughts not mortal.” It is to put oneself above *nomos*. To this extent the fate of Pentheus is an object lesson in the neglect of reverence, one that those who would defend the law would do well to learn.

A similar notion seems to be at work in the opening passages of Plato’s *Laws*, which famously begins with the word “god” and the question of whether a deity is to be “given credit for laying down [the] laws” of Crete and Sparta (634a1-2).² The nameless old man who asks this question cannot be in earnest; a well-traveled Athenian, he presumably knows already its answer, a presumption confirmed in any case by his subsequent citation of Homer.³ Seeing as the men to whom he puts his query belong themselves to the Cretan and Lacedaemonian regimes, the question has rather the character of a test: in what light do these sons of Crete and Sparta regard the founding myths of their cities?⁴ The answer proves instructive. The Cretan, Kleinias responds: “A god, stranger, a god—to say what is at any rate the most just thing.” It is Zeus who is believed to have originated the laws of Crete, through the medium of his son, King Minos (624a7-b3; *Minos*, 319c1-20d7). In apparent homage to that story, the action of the dialogue will unfold on the way to the cave and temple of Zeus, high upon Mt. Ida (625a5-b7).⁵ It is there that the god is said to have instructed the king and furnished him with the Cretan laws. As we later learn, Kleinias is to lead a committee in the drafting of potentially novel laws for a new colony in Crete (702b4-d5). He too is to be a Cretan lawgiver; he is making the pilgrimage to Zeus’s cave in emulation of Minos. But how seriously does Kleinias take the Minoan story? Does he hope to be

visited by divine inspiration, as the myth tells of the legendary king? Or is Kleinias wiler than that? His answer to the Athenian’s question suggests he is wily indeed (compare 641e6-7). To ascribe to Zeus the origin of the Cretan laws, he avers, is to say only what is just or lawful, but what is just or lawful is not necessarily what is true.⁶ Kleinias implies that Minos merely claimed to have conversed with Zeus in devising his laws, when in fact he relied on none other than himself. Inasmuch as Kleinias would emulate Minos, he must similarly intend to be his own authority, his own god. And he must similarly intend to use the name of god to enhance the authority of the laws he would himself lay down.

In this way, Plato introduces Kleinias as a paradigm of irreverence.⁷ He would do himself what pious Cretans believe belongs to gods.⁸ Pious Cretans believe their laws good because laid down by a benevolent, superhuman power. As with other ancient regimes, their laws define the way of life around which Cretan sociability is organized, something on whose behalf the regime makes great claims. Kleinias and his Spartan companion Megillus acknowledge that laws such as theirs aim at nurturing virtue as a whole (630e2-3), which is to say the excellence of character attending the best human life. Such matters presuppose ethical questions about which people are prone to deep disagreement and confusion. It makes sense that societies whose laws would answer such questions would regard human nature as inadequate to the task of laying such laws down. But another reason to think lawgiving the task of a god is the self-dealing reasonably suspected of human leadership (691c5-d1, 713c6-8, 714b3-d3).⁹ Especially where laws are demanding—enjoining rigorous self-control, obedience, and altruism—citizens want to know that their sacrifices redound if not to personal advantage then at least to the common good. But precisely laws of this kind attract self-interested rulers and lawgivers; the sacrifices they enjoin can be profitably exploited by acquisitive leaders.¹⁰ If Kleinias intends to become a lawgiver himself, without seriously expecting the help of divine inspiration, then from the pious Cretan perspective he minimizes the task at hand and either misjudges or conceals his own selfish motives.

That these fears are well founded is in the sequel confirmed. When asked the reason for the Cretan laws ordaining common meals, gymnastic training, and the employment of special weaponry, Kleinias responds with an amazing speech.¹¹ Without mentioning Zeus at all, he claims that Minos “condemned the mindlessness of the many, who do not realize that for everyone throughout the whole of life an

endless war exists against all cities...For what most humans call peace, he [Minos] held to be only a name; in fact, for everyone there always exists by nature an undeclared war among all cities” (625e5-26a5). Seeing as all good things depend on victory in war (626b1-3), it follows that good things cannot be held in common, even that there is no common good. The good things are acquired by some by being taken from others, which is why the indispensable condition of enjoying them is military strength, if only to defend against others’ depredations. Kleinias might blunt the full repulsiveness of this view; he takes care to attribute what he says to Minos rather than personally vouch for it and speaks of never-ending war only among the cities themselves. But if the cause of war is the private, zero-sum nature of the good things, then why think of war as confined to foreign affairs? Shouldn’t domestic politics harbor the same undeclared conflict, not only among certain groups but even among private individuals? Criminal law and patriotic norms might forestall such conflict from being acknowledged openly. But if the good things really can’t be enjoyed in common, then a deep antagonism must abide among seemingly cooperative people; friendliness must belie necessity or subterfuge. Indeed, the laws themselves must reflect this antagonism. The laws of Minos might look to victory abroad, but such victory would be merely the first if obligatory step in an even uglier game. On Kleinias’s premises, Minoan law must look equally to victory at home, securing for the lawgiver or his successors what has allegedly been obtained for the city.¹² That Kleinias accepts these premises himself and is fully alive to their implications we learn in due course. The Athenian spurs him not only to affirm his agreement with the Cretan lawgiver (626b6-c3), but to acknowledge the regressive logic of his argument. Victory in war, he concedes, is as necessary for a neighborhood, household, and even “for one man in relation to another” (626c11-12) as it is for the city in relation to foreign powers. “All are enemies of all in public” (626d7-8).

The foregoing attests to the wisdom of the pious outlook that Kleinias overturns: lawgiving is the task of a god, not least because human lawgivers abuse the prerogatives that they assume. Supposing the good things to be harshly scarce and privately obtained, human lawgivers are prone to using public authority for personal gain.¹³ The laws they decree merely claim to redound to the good of the commons. Still, it remains unclear how the pious interpretation of Cretan law would ultimately avoid this problem. Most people agree with Kleinias about the

nature of the good things (686e4-8), even if they resist or ignore the conclusions at which he arrives. Many people observe the demands of justice believing they thereby serve the common good. Some even consider such observance inherently good in its own right. But few simply identify justice with the good itself, to say nothing of personal happiness (662a). Most assume what is good for themselves to be limited by and in tension with the good of others, which is why practicing justice seems so impressive. The good things are conventionally held to be private and competitive. But if that’s right, then can there really be a common good for justice to serve? Isn’t justice always another’s good, inasmuch as it involves forgoing the good things ourselves that others might enjoy them? If pious Cretans regard the good in this light, then it is hard to see how they avoid the problem that Kleinias has spied out. Aren’t the pious simply chumps, inviting others’ exploitation? Their reverence for law keeps them from breaking it, and from becoming lawgivers themselves. But precisely these behaviors enable the irreverent to get ahead at others’ expense.

An even greater problem for Cretan tradition is that the mortal lawgiving it proscribes seems unavoidable. Tradition holds that Zeus gave his laws not to the Cretans but to Minos, and it is Minos who is said to have conveyed Zeus’s laws faithfully to the people. Prophecy is the privilege of loners; the gods do not speak directly to the assembled multitude. But if lawgiving is the task of gods because of the fallibility of men, then why trust lone men to convey faithfully what the gods have given them? Shouldn’t prophets always be suspected of forgery? And what of the worry that future lawgivers simply won’t be visited by the same inspiration from which Minos is believed to have benefited? If ever new laws need laying down or when old laws need equitable interpretation, how are lawgivers and judges to proceed if the voice of god is not forthcoming? To make law themselves is to transgress mortal limitations. But to leave lawmaking alone may be to ignore what is urgently needed. Reverence would thus forbid what necessity demands. The cure for predatory leadership to which tradition turns would prove worse than the malady from which it claims to deliver us.

At the very outset of the *Laws*, then, we find the paradox that Plato writes into its heart: the rule of law both prohibits and requires the imitation of god. The central place that this puzzle will assume in the dialogue (e.g., at 716a–d) suggests that the stranger who takes the lead neither rejects the Cretan tradition of divine law nor ignores the many problems

confronting it. Rather he shows how to broaden and deepen that tradition and others like it, that they might better navigate these problems and better achieve the ends at which they already if implicitly aim. To do so however he will need to iron out the grave inconsistencies that such traditions harbor. Above all he will need to make explicit and expand the understanding of human ends that such traditions convey.

Humbling Kleinias

This project the Athenian begins immediately. Indeed, it is an ambition that he seems to have conceived well before joining Kleinias and Megillus on their pilgrimage. It is he who initiates the conversation and who, without needing to be told, identifies Kleinias by name and city (629c3).¹⁴ He similarly has foreknowledge of the destination of the men he joins (625b1-2) and later (848d3, 860e6) is the first to speak the name of the city that Kleinias is to found. As Albert Keith Whitaker observes, Kleinias is wrong to think it a stroke of luck to have chanced upon the stranger (702b4-5), who proves himself so able in matters political. “The stranger knows who Kleinias is, where he is from, and where is going before he interrupts him...it seems not unreasonable, then, to conclude that the stranger has sought out a conversation with a serious political actor in order to affect profoundly his prosecution and his understanding of his political task.”¹⁵

The Athenian’s first step in this direction is to avail himself of Kleinias’s character, which proves more conventional than the Cretan had initially let on. However much he might disdain the mindlessness of the many, Kleinias remains attached to popular notions of nobility and justice, and susceptible to shame.¹⁶ He may have ceased believing in the founding myths themselves, and thereby given himself over to selfish ambitions, but his character proves open to reverence’s reanimation. With great tact, the Athenian humbles Kleinias and awakens him to the magnitude of the task before him and to the indispensability of his aid. He invites Kleinias to draw a surprising but telling conclusion from his Minoan reasoning: just as there exists a ceaseless if undeclared enmity between all men, so there exists a war within our very selves. Of his own accord, Kleinias declares victory in this internal war to be “the first and best of all” while calling self-defeat “most shameful” (626e1-3). He thus betrays a concern for goods apart from those won or lost in conflict with others. We don’t seize possessions from nor lose them to ourselves. Rather, we say that

we master ourselves when we overcome deviant impulses; we speak of being defeated by ourselves when we yield to shameful passions (633e, 644b ff.). In other words, victory is best not when securing for ourselves the good things, but when expressing in ourselves certain virtues. Or rather, victory is good not merely in an instrumental, mercenary sense but as something inherently meritorious, something noble and seemly. To admit as much, however, is to throw the Minoan view into incoherence. For if victory is best as something seemly, then seemliness must impinge on how we use victory for acquiring other goods. Laws should be ordained with a view not just to any triumphs but to noble ones.

The Athenian brings out these implications by reversing the Minoan argument. If each of us is at war with ourselves because of war’s ubiquity, then must not each family, neighborhood and city be at war itself too (626e-27a)? And seeing as internal victory in the case of ourselves implies the mastery of our lesser parts by the better, must the same not also hold in these other cases? But if it does, then families, neighborhoods, and cities are victorious over themselves only when their virtuous members rule over their vicious peers (627b). As much would seem to follow from the parallelism between individual and group. Self-mastery implies the triumph of virtue over vice. This inference from ourselves to groups is one that Kleinias has never drawn from his view. “What is now being said is very odd,” he remarks; “yet it is very necessary to agree to it” (627b). He believes that composite groups are at war with themselves because he thinks of their parts as cities unto themselves. He looks on internal conflict from the perspective of foreign affairs and its attendant contest for scarce resources. But if internal conflict in the city and among its lesser groups can be understood on the model of the composite soul, as Kleinias now recognizes, then the victory of those groups over themselves cannot be, or cannot only be, a matter of some group members securing possessions against the others. Victory and laws that aim at victory must engender virtue.

Having taken Kleinias this far, the Athenian delivers his coup de grace (627c). Drawing on another aspect of self-mastery, he drives home the extent to which internal conflict must differ from war with foreigners. Foreigners can be killed or banished; not so parts of the soul. To master or be superior to ourselves is not to vanquish our desires and aversions but to tame them. If self-mastery in composite groups is relevantly similar, then groups too must accommodate themselves to their defeated parts. The Athenian

appeals to the family to make Kleinias feel the force of this point; vanquishing or destroying our kin seems as abhorrent or absurd as doing so with ourselves. Nevertheless, “where there were many brothers...it wouldn’t be at all surprising if more of them turned out unjust and fewer of them just” (627c). In the family that is superior to or master of itself, how should the just brothers rule the unjust? Is doing so even possible given the strength of the greater number?¹⁷ The Athenian asks his companions to consider how a consummate judge would resolve quarrels among such brothers and Kleinias grants that he would do so not simply by destroying the wicked brethren. Rather, he would make “the worthy men rule and [allow] the worse to live while making them willing to be ruled” (627e). Self-rule in the family is a matter of persuading the many wicked brothers to be ruled by the few worthy ones. It is a matter of reconciliation rather than destruction.¹⁸ Having agreed on this much, the Athenian asks Kleinias to reconsider the city. Won’t its own quarrels be best resolved through civil peace instead of civil war? And seeing as civil peace is the political analogue to the first and best victory, shouldn’t it take precedence over external war and victory over foreigners? On the premises to which Kleinias has agreed, both conclusions would seem to follow. But then it also follows that laws laid down for the sake of victory must look primarily to internal peace. Kleinias must either deny that self-mastery is the most splendid victory or must give up on the Minoan thesis that law is properly dedicated to war. The Athenian has uncovered their mutual inconsistency.

In a sense, the Athenian has merely vindicated the cynical assessment of the Minos myth: the Cretan laws cannot be divine because on examination they are incoherent. They should not command our veneration because they do not stand above our finitude. Yet the Athenian has also begun to disabuse Kleinias of his complacency. If Kleinias has been cynical of the old stories surrounding the Cretan laws, it has been because cynicism excuses playing god and thus seizing goods. But since the good things include the virtues, as he has admitted, playing god makes less sense than Kleinias had supposed: the best thing of all cannot be acquired by force. Indeed, ordaining laws to subdue others looks like permitting the worse part of one’s soul to subdue the better. Playing god looks like the most shameful defeat. The incoherence brought to light in the Cretan law thus reflects the incoherence in Kleinias himself. After all, it is the latter’s construal of Cretan law that the Athenian has undone. Seeing as that construal speaks to Kleinias’s

reasons for becoming a lawgiver himself, the Athenian’s *reductio* redounds to the coherence of those reasons, or rather to the lack thereof. If Kleinias really would get what he wants or even know what he truly desires, then he had better think harder about the enterprise on which he has embarked. Who better to help him do so than this thoughtful, provocative stranger upon whom he seems to have so happily chanced?

Divine Law According to Reason

Having opened a void in Kleinias’s self-understanding, the Athenian now moves to fill it: he revitalizes the myth of which Kleinias had become contemptuous. His efforts so far may have moved the Cretan further from reverence for that myth, but he refuses Kleinias his old conclusion that no law is really divine, that all law reflects the lawgiver’s competitive self-interest. Without challenging the claim that Minoan law makes on its own behalf—that it originates with the highest god—the Athenian invites consideration of what truly divine law would require. If the Minoan law seems to fall short of those requirements, he suggests the blame be laid not on the law itself but on the shortcomings of its interpreters (630d). “He appeals as it were from the accepted interpretation of revelation to revelation itself, which discloses its true meaning only to those who never forget that, being divine, it is supremely reasonable.”¹⁹ In other words, he shifts the burden of proof for law’s divinity. God speaks to lawgivers not in historical time, through miraculous messages inaccessible to others, but in the judicious use of human reason whose fruits are demonstrable to others at any time, in any place. As the Athenian will famously claim, divine law is that which is “ordained by intelligence” (*tēn tou nou*, 714a1-2). The gods themselves can be identified with intelligence (897b1-2).²⁰ Because humanity has a share of intelligence, we can reveal divine law to ourselves. With this subtle but profound modification, the Athenian begins to solve the problem bedeviling Cretan legal tradition. Lawgivers and their successors need not wait on Zeus to reveal his will; they can access divine law by consulting human wisdom. Nor are those who would be ruled by divine law incapable of scrutinizing those who claim to lay it down on the gods’ behalf. The pretensions of a Minos can be put to the test by sufficiently reasonable people. In the event, the Cretan laws themselves fail this test, even if the Athenian never makes explicit the implication that they cannot be divine. To this extent, he vindicates cynicism of the Cretan laws. But the Athenian shows such

cynicism to be misplaced in the case of the best possible laws. The best possible laws really would descend from “gods,” whom the Athenian will delicately reconceive as the most uncommon human beings. There are some like himself whose wisdom transcends the mortal nature of other men (645b3-8, 835b5-c8, 875c3-d5). Truly “divine” laws would also better accommodate the political necessities associated with law-giving. Their genesis would be most unlikely but would at least be brought within the ambit of the naturally possible; such laws have a superhuman, but not supernatural, cause.

Still, one could be forgiven for thinking the Athenian’s solution to come at the expense of reverence for law, which may prove a political necessity in its own right. Reverence arises in the presence of that which calls to mind human finitude;²¹ if the human comprehends the divine, as it must if divine law originates with human beings, however godlike they may be, then divine law appears to lose its awesome character. The Athenian seems to collapse the affective distinction between gods and men in claiming divine law to be known through human reason. And doing so seems only to place him on the other horn of the dilemma. Either we revere law but cannot know it apart from unaccountable inspiration or we know law through responsible human reason but then cannot reverence it as something divine. Seeing as men like Kleinias are wont to abuse the authority they would assume in making law themselves, won’t forsaking reverence for law simply invite their lawless plunder? If human nature is as corruptible as tradition maintains, then suggesting that revelation is accessible to unaided human reason would seem to yoke reason to the ministry of corrupt impulses. The Athenian’s noetic account of revelation would restate rather than resolve the problem with which the dialogue begins.

The puzzle only deepens with the Athenian’s subsequent account of what rational revelation ordains (631b-32d). Supremely reasonable laws, he says, adopt as their end the happiness not only of those who conceive and administer them but of all who use them (631b5-6 with 875a6-b1). This they accomplish because they provide all good things (631b6 with 631a5-8). The good things he divides in two: human and divine, adding that the former “depend on” (*ērtētai*, 631b7) the latter in that the city that receives the divine will acquire the human goods as well but if lacking the former will lack the latter too. Among the human goods he lists in rank order health, beauty, strength, and wealth. The divine goods he identifies with prudence or intelligence (*phronēsis*, 631c6; *nous*, 631c7), moderation, justice, and courage,

again rank-ordered, although to justice he assigns a special place inasmuch as it is a mixture of the others.²² Truly divine laws, he seems to say, aim at the common good rather than the good of the lawgiver or rulers exclusively and such laws understand the good at which they aim as the happiness of those who use them. Happiness they conceive as the favoring of goods of the soul to those of the body, and as the prioritizing of certain goods of either class to others of that class, all without excluding goods of any class.

Needless to say, much is going on in this difficult passage, more even than is attested by the wide-ranging disagreement that it has provoked among interpreters.²³ For what exactly does the Athenian intend when he says that the human goods “depend” on the divine? Does this dependency obtain only at the level of the city, or does it apply to the individual person as well? Why is justice alone described as a mixture of the other virtues, including intelligence? And why call the virtues divine? Does he mean to say that they transcend human nature? Does he therefore imply that divine law aims at that which human beings cannot obtain? If so, how does divine law engender happiness? If not, does the Athenian forsake reverence after all, bidding men become gods?

The Persistence of Tradition

As interesting and important as are the disagreements among scholars of the *Laws* on these questions, they do not take us to the heart of the puzzle introduced by the Athenian’s remarks. This we can appreciate only by considering what is in some ways their most obvious yet perplexing aspect: their presentation of the virtues as goods that are divine. Interpreters usually assume that the Athenian intends the divine as a beacon for human improvement; they are struck by his reform of classical piety away from a transactional exchange of services and toward the imitation of perfection.²⁴ But scholars seldom dwell on the problem introduced if he also means for the divine to delineate human capabilities, as it does in traditional accounts of divine law. The Athenian’s rational account of such law might radically transform tradition, not least by adhering to the Socratic practice identifying the divine with philosophic autonomy.²⁵ Yet precisely that identification suggests tradition inasmuch as the virtue associated with the philosopher is radically inaccessible, precious, and rare. Such virtue is “divine” not only because it alone can be the source of law in the strict sense but also because it transcends human nature as it overwhelmingly presents itself. The virtue

that is divine is off-limits to the citizen who remains a “human being,” in whom the divine should inspire feelings of respect and awe.

Interpreting the Athenian along these lines does raise a number of difficulties, for on this view he speaks of piety as a matter of emulating “god” and of revering the divine at the same time. Does that make sense? How can we resemble that which we forswear? Doesn’t the invitation to become like god work at cross purposes with exhortations to reverence him? Why extend such invitations at all if the Athenian would preserve the traditional curb against unjust lawgivers? Indeed, it is tempting simply to dismiss these questions by reading the *Laws* as a more thoroughgoing repudiation of tradition. If the Athenian holds that all men should become as philosophic as they are severally able, then he need not encourage reverent awe to keep some or most from overreaching themselves.²⁶ Popular enlightenment brooks no great risk. As we have already begun to see, however, this cannot be his real position. Insofar as political men remain like Kleinias, the Athenian suggests emulating his own tactful approach to handling them. Men like Kleinias must practice politics in a spirit of humble service and according to rules over which they have little input. They must refuse to be their own authority lest they abuse their own prerogatives. And what is philosophy if not the quest to replace opinion believed on authority with wisdom won by thinking for ourselves? Far from encouraging such philosophic daring in Kleinias, the Athenian unsettles his self-assuredness only to replace it within a safer dogmatism. He “softens” and “melts” the Cretan only to forge his soul in new molds (compare 671 b-d and 853e). It is true that citizens living under truly divine law would be morally superior to Kleinias.²⁷ They would benefit from the rigorous education that such law puts into effect. But the Athenian speaks of the precise nature of that education in the most ambiguous of terms. Occasionally he seems to say that it would bring out the whole of virtue in its pupils, helping them achieve the serene internal harmony of “a perfect human being” (653a9-b1). But more often he describes the virtue to which education aspires as a form of self-mastery grounded in habit-bred “moderation” (compare 696d-e with 716d, 732 b, and 733d-34c). He seems to imply that the virtue for which civic education prepares citizens is not so removed from the condition into which he guides Kleinias.

Indeed, we can begin to work out the difficulties associated with the rule of law for Plato only by attending to this very inequality between Kleinias and the Athenian. For if the rule of law appears to

presuppose contradictory virtues, it may be that it simply presupposes different virtues in different sorts of men. Similarly, if the Athenian seems to present piety in a contradictory light, it may be that he simply speaks at different times (or even simultaneously) to different audiences. In those like Kleinias, for example, he encourages a respect for divine things and an observance of the gulf separating the divine from all that is human. He might renovate this traditional virtue by redefining that which stands above the human, but he avails himself of its psychology nonetheless. On the other hand, precisely because he redefines the divine things in terms of reason, the Athenian conceives of and speaks to men like himself who might succeed him as advisors to statesmen of the future (769c). The divine law that statesmen should revere must descend from the god that rules the philosopher. It is therefore imperative that the philosophic kind involve itself in the lawful regime, if not as its ruler than as its advisor. And it is therefore incumbent upon someone in the Athenian’s position to speak past the subphilosophic men he otherwise seems to lead. He must also address those he would encourage to throw off the very reverence he otherwise encourages. The manifold problems associated with the rule of law thus find their starkest expression in this double movement, in suspending for some the reverent awe that otherwise holds injustice in abeyance.

It’s important to see that this summative aspect of the problem is not in principle insoluble. Contradictory qualities are not being demanded of the same citizen. Rather, the difficulty is in successfully communicating diverse imperatives to diverse people, and especially in founding institutions that reproduce that same multi-level rhetoric. The Athenian’s quixotic defense of drinking parties (641 b ff.) would seem to be the model on which such institutions would be built, as other readers have occasionally noticed.²⁸ In the name of enhancing the reverent awe of the drinkers, the symposium opens an aperture through which the drinkers can ascend out from law’s authority. Drinking temporarily frees us of our sense of shame, our *aidōs*, and fills us with audacity (649a-b, 671 b). It thus reveals those whose lawfulness depends on shame and awe. But seeing as those who speak and act unlawfully can be later shamed for doing so (671d-e), drinking paradoxically affords an occasion for intensifying *aidōs*, for augmenting the fear of disgrace (649c-d, 672d).²⁹ The free-wheeling, antinomian atmosphere of the symposium is surprisingly compatible with sober respect for tradition and law. Drinking can be defended before the tribunal of

tradition. On the other hand, of course, one must not forget what it is that can be said in such an atmosphere. The drinking party represents a refuge for the raising of questions that could never otherwise be raised, at least not respectably. Even as he serves respectable convention by shaming those who speak vulgarly, a skillful “symposiarch” might free others from the trammels of conventional thinking. He might lead some of the drinkers to “embarrass” themselves in pedagogically fruitful ways. He might equally distinguish those who abuse the liberation that drunkenness affords from those who have less need of *aidōs*, those whose reverence for justice is natural, not artificial (cf. 648d–e, 777d). The “well-ruled” drinking party presents itself as testing and reinforcing lawfulness and conventional virtue even as its ruler spies out those who might benefit from a very different kind of education.

Obviously, this suggestion cannot be defended fully here. Nor is suggesting it to say that the *Laws* proposes an “actionable” program for resolving the problems that it raises with lawful governance. The point is rather that the psychology of lawfulness conceived in the dialogue is not as incoherent as it might otherwise appear. Appropriately reimagined, divine law does not as a matter of course dissolve into absurdity. When we think through rigorously the needs that divine law tries to meet, we confront an array of difficulties and tensions that make rather dim the prospects for using divine law well. But these are not quite of a piece with a problem like that of the *Republic*, which does seem intractable in principle, notwithstanding Socrates’s tendentious claims to the contrary. Like the simply-best regime, the regime under divine law requires the leadership of philosophy. But where the former radically abstracts from the consent of nonphilosophers, the latter is built on ensuring such consent is possible. And where the simply-best regime would compel philosophers to rule, the second-best would require only that they advise the political men whose consent they secure. If Aristotle is correct to write that “he [Socrates?] gradually brings it [the regime of the *Laws*] around again toward the other regime [of the *Republic*]” (*Politics*, 1265a3–5), there are important ways in which the Athenian stranger does not consummate this movement. “Education is the same” (1265a6) inasmuch as it prepares both cities for the rule of philosophy. But it makes all the difference that the city of the Magnesians would dilute that form of rule in the name of achieving harmony between just and unjust men. Like justice, divine law points to the need of the rule of wisdom, even

if wisdom teaches that that very need can never be fully met.

Notes

1. Based on the translation found in Paul Rahe, *Republics Ancient and Modern* (Chapel Hill: University of North Carolina Press, 1992), 215–16.
2. Unless otherwise noted, translations of the *Laws* are based on Thomas L. Pangle, trans., *The Laws of Plato* (Chicago: University of Chicago Press, 1980). For the Greek, I have relied on John Burnet, *Platonis Opera*, vol. 5 (Oxford: Oxford University Press, 1907).
3. Pangle, “Interpretive Essay,” in *The Laws of Plato*, 379.
4. That the Athenian is testing or probing his interlocutors is confirmed at 633a1–5. Compare Mark J. Lutz, *Divine Law and Political Philosophy in Plato’s Laws* (DeKalb, IL: Northern Illinois University Press, 2012), 38, which treats these tests as part of an open-minded inquiry into the claims made on behalf of divine law. My own view is that the Athenian approaches the conversation with Kleinias less neutrally. He rightly suspects and confirms Kleinias’s disrespect for the customary account of Cretan law, *pace* Leo Strauss, *What Is Political Philosophy?* (Chicago: University of Chicago Press, 1959), 31. For an excellent account of Kleinias’s disrespectful attitude in this regard, see Pangle “Interpretive Essay,” 379–82. See also Catherine Zuckert, *Plato’s Philosophers: The Coherence of the Dialogues* (Chicago: University of Chicago Press, 2009), 65.
5. For the distinction between the argument or “speeches” of a dialogue (the things said by one or more of its characters, ostensibly in support of some controversial proposition) and its action or “deeds” (the ways in which the characters interact with one another, as well as with the setting or framing device), see Leo Strauss, *The City and Man* (Chicago: University of Chicago Press, 1964), 59–60.
6. Leo Strauss, *The Argument and the Action of Plato’s Laws* (Chicago: University of Chicago Press, 1975), 3. If what is just is what is lawful, which it must be if the lawful is what is enjoined by the gods, then Kleinias seems to be referring to the law the Cretans share with the Lacedaemonians, the one that forbids the young from inquiring into the integrity of the laws and that “commands all to say in harmony, with one voice from one mouth, that all the laws are finely made by gods” (634d). To ascribe to Zeus the origin of the Cretan laws is to conform to this “law of laws” (Strauss, *Argument and Action*, 11). Readers of the *Republic* are of course already familiar with the Socratic proposition that just speech is not necessarily truthful. Compare *Republic* 539c–d. For an alternate reading of this passage, see Christopher Bobonich, *Plato’s Utopia Recast: His Later Ethics and Politics* (New York: Oxford University Press, 2002), 260n22.
7. The beginning of the *Laws* may thus be an allusion to *Odyssey* XVII, 485–87: “For the gods do take on all sorts of shapes, appearing as strangers, and thus they range through the cities, watching to see which men are lawful, and which irreverent [*hubrin*]” (trans.

- Lattimore, with modifications). Like Odysseus, the Athenian is a godlike man who goes about incognito, testing the reverence of others. Kleinias does not prove an incorrigible Antinous, against whom the *Odyssey's* warning is directed, but he does betray a hubris all his own. Compare Albert Keith Whitaker, *A Journey into Platonic Politics: Plato's Laws* (Lanham: University Press of America, 2004), 7–11 and Lutz, *Divine Law*, who interpret Kleinias as pious, religiously conservative, and more or less simple-minded. Bobonich, *Plato's Utopia Recast*, helpfully stresses the extent to which Kleinias thinks that “goods other than virtue are much more important than virtue itself” (122) while acknowledging Kleinias’s enduring if contradictory and subterranean attachment to virtue’s intrinsic merit (133). Even so, Bobonich neglects the antinomian character of Kleinias’s corruption.
8. In what follows, I try to adhere to a distinction between piety and reverence that is not always clear in the classical sources. Piety (*hosios*) I take to be a species of justice, viz. that part of justice that pertains to the gods. Reverence (*aidōs, sebas, eusebeia*) I take to refer to the virtue governing certain “emotions of self-assessment,” viz. awe and shame, one that uses these emotions to prevent the reverent person from transgressing the limits imposed by her human nature, especially in the direction of that which is vouchsafed to the gods. See Gabriele Taylor, *Pride, Shame, and Guilt: Emotions of Self-Assessment* (New York: Oxford University Press, 1985) and Paul Woodruff, *Reverence: Renewing a Forgotten Virtue* (New York: Oxford University Press, 2014). The two virtues are obviously related and can even collapse into each other in ways not unlike how piety can collapse into justice. Consider, e.g., *Euthyphro* 5d–6a, where Euthyphro claims to act justly because he imitates Zeus. As Strauss rightly remarks, one must contrast the “orthodox” view of piety as doing what the gods tell us to do with Euthyphro’s notion, which is doing what the gods do. “Euthyphron’s view of piety is heretical” because irreverent. Leo Strauss, “An Untitled Lecture on Plato’s *Euthyphron*,” *Interpretation* 24, no. 1 (1996): 13.
 9. As the context of the second and third passages makes clear (esp. 712e–13a), the Athenian somewhat exempts Crete and Sparta from his disparagement of human rulers (somewhat, because the context of the first passage suggests that Sparta at any rate has succeeded in avoiding tyranny only through good fortune). His point in all three passages is that only where “a god” rules rather than human beings, through the medium of divine law, will rule redound to the common advantage rather than the narrow interest of rulers. Human nature is too selfish to be permitted the latitude of legislating and governing without reverence.
 10. Cf. Machiavelli *Prince*, 15.1.
 11. In response to the disturbing conclusion that Kleinias draws from this speech, the Athenian addresses him as an “amazing man” (*ô thaumasie*, 626e1).
 12. See also 706a4–b1, where the injustice of Minos is intimated more explicitly.
 13. As the dialogue unfolds, it becomes clear that Kleinias desires tyranny (661d6–e5). This may account for Plato’s decision to assign Kleinias the same name as the father and son of Alcibiades. See Zuckert, *Plato's Philosophers*, 71n39.
 14. By contrast, neither Kleinias nor Megillus ever speak the stranger’s name, nor seem to have any other prior acquaintance with him. See Whitaker, *Journey*, 14.
 15. Whitaker, *Journey*, 15. In the same vein, it is no doubt significant that certain biographical details especially endear Megillus and Kleinias to the Athenian’s leadership. Megillus comes from a family of *proxenoi* to Athens (642b–d), while Kleinias claims descent from Epimenides (642d–43a), a seer and legendary friend to the Athenians. It seems incredible that the Athenian would have been ignorant of these facts before his well-timed intervention.
 16. Compare Lutz, *Divine Law*, 39, which argues that Kleinias represents “the serious citizen who lives under divine law” and who, as such, “closely associates reasoning about the laws with the divinity of the laws.”
 17. The difficulty being the problem of justice that comes to sight in the *Republic*: the unjust are attracted to rule and are ruled only against their will, all the while being more numerous and thus stronger than the just and therefore unlikely to be coerced successfully. The just meanwhile are unlikely to force their rule upon the unjust, not only because they are fewer and thus weaker but because they are uniquely repelled by rule itself.
 18. Matters might seem complicated by the third option canvassed by the Athenian: a judge-cum-lawgiver whose laws permit the unjust a share of rule. Despite the Athenian’s pejorative comment against this judge (627e3–4), Kleinias prefers him to the others. Even so, the point about the need to accommodate injustice rather than vanquish those attracted to it applies to both second and third options. Just as the best judge allows the worse to live while making them willing to be ruled, so the lawgiver-judge is “capable of taking over a single divided family and destroying no one, but rather reconciling them...thus securing their friendship for one another” (627e3–28a3). The bigger, unacknowledged difficulty is that political reconciliation—*unlike* psychological harmony—implies a dilution of virtue, which presumably explains why the Athenian holds the first, violent judge superior to the third, lawgiving one. See Pangle, “Interpretive Essay,” 384.
 19. Strauss, *Argument and Action*, 7.
 20. The Athenian refers to “the god” or gods with a variety of names, and in both the singular and plural. He calls intelligence (*nous*) “god, in the correct sense” (897b1–2), but he also speaks of gods as “souls” (899b), whose visible bodies move about the heavens (898c), and as the anthropomorphic Titans, Olympians, and Chthonians. These diverse ways of speaking of the divine have led commentators to ponder the gods’ metaphysical status, either as inanimate principles of the intelligible realm or as animate and sensible intermediaries between the intelligible and the visible. For the former tendency, see Stephen

Menn, *Plato on God as Nous* (Carbondale: Southern Illinois University Press, 1995); Robert Mayhew, *Plato: Laws 10* (New York: Oxford University Press, 2008); and Robert Mayhew, “The Theology of the *Laws*,” in *Plato’s Laws: A Critical Guide*, ed. Christopher Bobonich (New York: Cambridge University Press, 2010), 197–216. For the latter tendency, see Gerd Van Riel, *Plato’s Gods* (Farnham: Ashgate, 2013). Few, however, have dwelled on the puzzle introduced by exhortations to imitate god with which I am concerned here. Van Riel does recognize something of the problem, but he explains it away by distinguishing “moral” from “intellectual” resemblance; man resembles god in becoming virtuous rather than in thinking god’s thoughts. In my view, this distinction does not resolve the most important part of the paradox. It is precisely because the god is a “moral” paradigm that the exhortations to emulate him present a puzzle; it is the god’s comprehensive virtue (899b, 900d-e) that makes him the measure of human excellence and a law unto himself.

21. Woodruff, *Reverence*, 113.
22. As noted in Susan Sauvé Meyer, trans., *Plato: Laws 1 & 2* (New York: Oxford University Press, 2015), 112-13, the “intelligence” to which moderation is related is in the most authoritative MS in the accusative (*meta noun* “after intelligence”), although interpreters including Sauvé Meyer herself have often substituted the genitive (*meta nou*, “with intelligence”). I follow Pangle in keeping with the MS accusative. The resulting sentence is puzzling in that it leaves justice as the only virtue to be “mixed” with intelligence, despite being in third place after moderation, but the puzzle reflects the multiplicity of virtue that truly divine law aspires to cultivate, as I suggest below and argue elsewhere. To anticipate: truly divine law makes room for law-bred virtues guided by opinion and at the same time for philosophic virtues that transcend opinion. The former consist in a certain moderation and courage but lack intelligence and ultimately justice, whereas the latter encompass all four virtues in their strict sense. Sub-philosophic moderation is ranked second after intelligence, I suggest, because in the sub-philosophic soul it “stands in” for intelligence. For a different, and ultimately condescending solution, see Richard F. Stalley, *An Introduction to Plato’s Laws* (Indianapolis: Hackett, 1983), 58.
23. Some scholars have thought the Athenian means that the human goods depend on the divine in the sense that the latter are a sufficient cause of the former. See esp. Julia Annas, *Virtue and Law in Plato and Beyond* (New York: Oxford, 2017), 106–111 and Strauss, *Argument and Action*, 8. Others have read this claim in a less implausible light, as asserting that it is the *value* of the human goods that depends on the presence of the divine. See, e.g., Bobonich, *Plato’s Utopia Recast*, 126 and Lorraine Smith Pangle, *Virtue is Knowledge: The Moral Foundations of Socratic Political Philosophy* (Chicago: University of Chicago Press, 2014), 214 (but cf. 261n3). Susan Sauvé Meyer (*Plato*, 109–10) has developed still another reading by distinguishing a “political version” of the Athenian’s

claim from a “personal version”.

24. See, e.g., Glenn R. Morrow, *Plato’s Cretan City: A Historical Interpretation of the Laws* (Princeton: Princeton University Press, 1960), 469 and Annas, *Virtue and Law*, 128–129.
25. Compare 951b–c and 966d with *Phaedo* 81a, *Republic* 500c–d, *Sophist* 216b–c, *Theaetetus* 175e–76c; Arist., *NE* 1177b26–34.
26. See, e.g., Robert W. Hall, *Plato* (London: George Allen & Unwin, 1981); David Cohen, “Law, Autonomy, and Political Community in Plato’s *Laws*” *Classical Philology* 88, no. 4 (1993): 301–17; and Bobonich, *Plato’s Utopia Recast*.
27. Bobonich, *Plato’s Utopia Recast*, 110–111 and Ryan K. Balot, “An Odd Episode in Platonic Interpretation: Changing the Law in Plato’s *Laws*,” in *Ethics in Ancient Greek Literature: Aspects of Ethical Reasoning from Homer to Aristotle and Beyond*, ed. Maria Liatsi (Berlin, Boston: De Gruyter, 2020), 72.
28. See e.g. Strauss, *Argument and Action*, 20–21. Cf. Strauss, *What Is Political Philosophy?*, 31–32 & “Plato,” in *History of Political Philosophy*, ed. Leo Strauss & Joseph Cropsey (Chicago: University of Chicago Press, 1989), 79–80.
29. Shalini Satkunanandan, “Drawing Rein: Shame and Reverence in Plato’s Law-Bound Polity and Ours,” *Political Theory* 46, no. 3 (2017): 331–56.

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