

Julia Annas, (2017) *Virtue and Law in Plato and Beyond*. Oxford; New York: Oxford University Press. vi + 234 pages, \$45.00, ISBN: 9780198755746 (hbk).

There has been no more exciting development in recent Anglophone scholarship on ancient moral and political theory than the appearance of a rich and growing body of work on the relationship between law and virtue. (That, at any rate, is the reviewer's biased opinion.) How does law influence character? How could coercion or social pressure produce real virtue, rather than mere conformity?

These questions open up texts such as the Plato's *Laws* and the *Statesman* that were long neglected and they reveal multiple paths of connection between the political thought of Plato and Aristotle, as well as later thinkers. Best of all, they are broad, deep, and universal questions. When we advocate one law or another, at bottom we want our own political communities to share our values, not just as matters of behavior or opinion, but as matters of habit and feeling, as reliable states of excellence. If we are thinking clearly, our advocacy for a law or for a broad political direction is never a mere advocacy for force, but expresses hope for a type of virtue to be more broadly shared. Our interest in virtue rather than conformity holds whether that virtue is compassion for the poor, respect for human life, excellence in enterprise, or the tolerance of difference or disagreement.

Julia Annas has been at the vanguard of the opening up of ancient political theory to questions about law, thanks to a series of important essays, two on the relation of law and virtue in the *Laws*, with connections drawn to Cicero and Philo; and one on law in the *Republic*.<sup>1</sup> It is a pleasure to see them presented in a single volume and with their common threads tied together. The arguments of the original essays have been revised and expanded for greater nuance and clarity. The new parts of the book not originating in the essays struck me as on the whole less compelling than the rest, for reasons I explain below.

The book should inspire enthusiastic and serious thinking about its questions and authors. Furthermore, it is short and portable, readable and clear,

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1 'Virtue and Law in Plato', in C. Bobonich (ed.), *Plato's Laws: A Critical Guide* (Cambridge: Cambridge University Press, 2010), pp. 71–91; 'Virtue and Law in the *Republic*', in R. Patterson, V. Karismanis, A. Hermann, and C.H. Kahn (eds.), *Presocratics and Plato: Festschrift at Delphi in Honor of Charles Kahn* (Chicago: Parmenides Press, 2012), pp. 165–182; 'Plato's *Laws* and Cicero's *De Legibus*', in M. Schofield (ed.), *Aristotle, Plato and Pythagoreanism in the First Century BC: New Directions for Philosophy* (Cambridge: Cambridge University Press, 2013), pp. 206–224. This reviewer is personally indebted to the work Annas has done to open up these questions; my own work on the topics was sparked initially by the first of these papers.

manageable in size and easy to follow. As always, such stylistic virtues come at a cost: the interpretations are often not followed through to the bottom, to the point of sometimes seeming rather casual and left open to obvious objections. Details, whether textual, argumentative, or interpretative, are short. The references to secondary literature or other primary sources are also thin – this makes for easier reading, but it takes away from the book's usefulness as an introduction to the topics for scholars or for graduate students. Nor is it easy to imagine undergraduates reading it, thanks to the difficulty and clumsiness of its central text, Plato's *Laws*.

Annas has a nose for the best questions, and her work is fertile ground for future investigative projects. One wonderful question that Annas raises is the simple question of what law is. She suggests that it is the directive function of reason, or sometimes 'public reason', and that it frees us from the chaos of following pleasure and pain (pp. 121, cf. 21-22, 75). She also makes the obligatory point that *nomos* also means custom, and that Greek laws needed not to be written down.

There are puzzles here worth poking at. What makes a given custom a law, that is, an expression of reason? If the citizens of Sodom by custom gather whenever an out-of-towner visits and demand that he be gang-raped, is that custom a law of Sodom? Is it an expression or an ordinance of reason? The Spartans are forbidden private property, so they hide secret stashes of wealth (*Republic* 548a; cf. Aristotle, *Politics* 2.9 1270b30-35, 1271b15-17). Hiding forbidden wealth presumably is a custom – it is at any rate a widespread habit – but one indicating the breakdown of *nomos*. Moreover, the oligarchic custom permitting a man to sell all of his property in *Republic* 8 seems to be the case of a lawless law, a use of the instruments of public order to feed the appetites of the rulers (552a-b). One could argue the same for the democrat's law of equality, as described in the *Republic* (558c, 561b).

Are only the laws of Magnesia (and Kallipolis) to be identified with reason? Or do ordinary laws also have a rational force? At *Statesman* 300bc, the latter is strongly suggested, and so too is it suggested by the explicit use of the laws of existing cities to build Magnesia in the *Laws*. These ordinary laws may have only partial force, cultivating only a part of virtue (as argued about Sparta at *Laws*, 630e; cf. Aristotle, *Politics* 2.9 and 7.2). But in what way is a conventional law, aiming at a part of virtue, an expression of reason? It is a pity that Annas' book does not broach this question. No book is perfect, and the brevity of Annas' book is admirable. But Annas emphasizes the importance of the use of existing constitutions in the *Laws* as suggesting greater feasibility for the regime described. What about the existing constitutions could justify

their use (given their limitations)? Annas' account of law feels incomplete in this respect.

I suspect that Plato's identification of law with reason suggests a substantive account of reason well beyond a simple habit pursued in common or a set cultural behavior, bad or good. Furthermore, I suspect that this substantive account has something to do with the importance of restraining the appetites and passions, and with the partial contribution such restraint makes to human happiness. Seen this way, Plato's notion of law will be normative, as Annas suggests: not everything called a law will be a real law. On the other hand, ordinary laws will have some value, for instance, in restraining dangerous or harmful impulses. But to develop such an account would require a different book than the one Annas has written. It is to her credit to have opened up the space for it.

The main excitement of the book is its lively and clear introduction of questions, like the one about the nature of law, and texts – often under-studied – that provide abundant fuel for fresh thinking on Plato's political thought in particular and ancient political thought in general. But Annas also advances a thesis about Plato's political theory: The chief difference between the *Republic* and the *Laws* is not, as has been thought, the difference between an ideal regime based on the rule of the best and most virtuous persons on the one hand, and an ideal regime based on the rule of law on the other hand. Rather, for Annas, the regime of the *Laws* solves a difficulty facing the regime of the *Republic*. In the *Laws*, Plato shows how to put the regime into actual practice, whereas, in terms of real life, the regime of the *Republic* is doomed from the start. The founders of Kallipolis, according to Annas, will need to have the philosophical education inculcated by the regime itself; therefore, it will never be able to get off the ground. By contrast, by choosing the low-wattage Cleinias and Megillus as the chief interlocutors of the *Laws*, and by starting from features of well-known conventional regimes, Plato shows a path to persuading ordinary Greeks of the value of a regime ordered to virtue and happiness by philosophy.

Annas' thesis is a mixed bag. On the one hand, she argues with overwhelming force of fact that the regime of the *Republic* has laws, and so the contrast between the two regimes simply can't be between the rule of persons on the one hand and the rule of law on the other hand. The evidence that the regime described in the *Republic* will have laws is impossible to overlook, and sadly neglected in the current literature. The education is said to be kept in place by laws (445e) and there are clear examples of rules described as laws (*nomoi*), for instance the abolition of the nuclear family (457b-c), the regulation of birth (461b), and regulations for conduct in war (471c) (cf. Annas p.14). Socrates and

his interlocutors are referred to several times as 'lawgivers' (456c, 534d-e, 417b, 471c). We may hope that the strength of the evidence Annas marshals will put to rest forever the idea that the regime of the *Republic* is a rule of persons.

On the other hand, Annas' claim that the regime of the *Republic* faces an inescapable start-up problem seems weak. The repeated description of Socrates and his interlocutors as lawgivers bears reflection. Where will the founders of Kallipolis come from? The answer is right here: from certain Athenians who, by a certain coincidence of nature and chance, happen to have virtue sufficient to envision a regime dedicated to the fullness of human excellence and human flourishing. That is not to say that the interlocutors of the *Republic* intend to found a city immediately. But if they are capable of determining its chief features and (also crucial) finding them attractive, people like them would be able to found it, given the right circumstances. Such a picture fits quite a lot better with the text of *Republic* 6 and 7 than Annas' account does. There, the difficulty of finding a philosopher-ruler is granted, but it is emphasized that it is not impossible (e.g. 499d). Furthermore, it is clear that they arise in other cities, although without the obligation to rule (496d).

Early on in the *Republic*, Socrates praises the natures of Glaucon and Adeimantus, and tells them that 'something divine (*theion*)' has affected them to make them suspect that justice is better than injustice (368a). I gather he is suggesting that natural virtue is a sort of divine dispensation, a lucky break, as Aristotle describes it (*Nicomachean Ethics* 10.9, 1179b20-23). Without education made secure by law, divine favor or luck is where virtue comes from. In the case of Glaucon and Adeimantus, whatever they have is sufficient for them to be dubbed 'lawgivers', as we saw earlier, and it is in the role of permanent lawgivers that Socrates seeks out philosopher-rulers: 'There would always have to be resident in such a state an element having the same conception of the constitution that you the lawgiver had in framing its laws' (497c-d; trans. Shorey).

The education in Kallipolis may or may not be sufficient to cultivate full philosophical virtue, but to my knowledge it is never said to be strictly necessary. I cannot find any stronger claim from Socrates than that 'it is fitting (*prosékon*)' that the law should prescribe the study of number to the rulers (525b-c). More likely than the necessity or sufficiency of the program of philosophical education is that it is simply a good program, one that for the most part will produce good results. The educational program is an attempt to make the production of philosophers less haphazard: rather than leaving it to nature and chance, we will breed them by human endeavor. That at any rate would be a more plausible claim for the value of a course of education (could anyone expect more?), and I see no reason to deny it to Plato's Socrates.

Likewise, Annas is right to emphasize the dull intellects of Cleinias and Megillus as crucial to the distinctiveness of the *Laws vis à vis* the *Republic*. Surely it is important not only to convince bright young aristocrats like Glaucon and Adeimantus of the value of law and virtue for happiness, but also the ordinary people who presumably would form the bulk of any city's citizenry. Such persuasion is set out as an objective in the *Republic* at 590d-591a. But the difference in the quality and kind of the interlocutors raises a possibility that Annas does not consider: that the regimes of the *Laws* and the *Republic* may be substantively the same, but seen in the two dialogues from two points of view, the sophisticated and the ordinary.

It is true that there are important differences between the two regimes: the nuclear family and private property have been restored (*Laws* 739e-745e); and the lower class of the *Republic*, producers and manual laborers, are no longer citizens in the *Laws*, but slaves excluded from citizenship. At 739a-e, we get an explanation of these differences: the *Laws* is second-best. However, as Malcolm Schofield has argued, it seems plausible to think that they are two versions of the same project; and if so, we can expect something closer to identity than Annas seems to admit.<sup>2</sup> For instance, if we think of the *Laws* as in part a sort of '*Republic* for dummies', we might be able explain the vagueness and lack of clarity surrounding the Nocturnal Council – what do Cleinias and Megillus need to know of it? And why would interlocutors who can barely understand basic theology need a fuller and more eloquent account of the metaphysical structure of the universe?

It is strange that Annas uses *Laws* 874e-875d as evidence that Plato has come to reject the idea of philosopher-rulers. The passage argues that the rule of law is superior to the rule of persons, since knowledge of the civic good is rare, and the power to enact it without being corrupted non-existent, or nearly so. But on Annas' own powerful argument, the philosopher-kings of the *Republic* do not rule without laws. Their role, as described in the passage above, is extremely similar to that attributed to the Nocturnal Council (*Laws* 951a ff.), to keep the knowledge behind the laws alive as the city continues.

Annas argues that the knowledge is described differently; the philosopher-rulers of the *Republic* are given abstract knowledge, culminating in knowledge of the Good; while the Nocturnal Council are given knowledge of the unity of virtue, with a much more obviously practical intention (Annas, pp. 141-148). But again, the difference in the audience is relevant here: do Cleinias and Megillus need to know about the highest splendors available to philosophy?

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2 M. Schofield, 'The *Laws*' two projects', in C. Bobonich (ed.), *Plato's Laws: A Critical Guide* (Cambridge: Cambridge University Press, 2010), pp. 12-28.

They are evidently not cut out for it. They need to know, rather, that the Nocturnal Council has their good in mind, and that their knowledge can keep the laws and their goals safe.

There are indeed good arguments, if not overwhelming ones, that Plato changed his mind in significant ways between the political accounts given in the two dialogues.<sup>3</sup> Still, the use of different audiences strikes me as a highly useful tool for arguing for a broad consistency, at a minimum, between the dialogues. The different audiences explain completely, for instance, the absence of a more sophisticated tripartite psychology and the absence of a long argument concerning the value and metaphysical status of mathematics.

The start-up problem of the *Republic* and the differences between the interlocutors are only a part of Annas' argument that the *Laws* is meant to describe a more practically feasible regime than the *Republic*. Annas points out that the regime of the *Laws* is explicitly described as a colony established by people from different cities, and that such a colony has a real-life parallel in the Thurii founded in 443 BCE (Annas, p. 39 with note). The *Laws* allows us to imagine more easily how a regime devoted to true virtue and happiness will be put into practice.

It does seem that the greater legislative detail given in the *Laws* is to a purpose. Despite the details on implementing the colony, and the Stranger's insistence that the law-code is an indivisible whole, it seems suited to be a sort of handbook, useful for a legislator to tinker with existing constitutions, much like Aristotle's *Politics*. Likewise, the beauty and persuasive power of the *Republic* may have a special purpose of its own, a 'turning of the soul' or conversion for young aristocrats from the values of cave-dwellers to the values of philosophers. As such it too may be compared with the *Nicomachean Ethics*, Aristotle's own protreptic work on *politikê* or politics, also lacking much in legislative detail.

Still, the greater interest in practicability displayed by the *Laws* lies in tension with the ways that, like the *Republic*, it too suggests radical change. As Annas discusses, in *Laws* 708e-712a the Stranger describes the founding of the colony as undertaken by the cooperation between a lawgiver and a tyrant. We are meant to imagine a single implementation of an entire law code – not simply 'changing from within' as Annas puts it. Seen in this light, the difference between the *Republic* and the *Laws* seems not to reflect a difference between gradual alteration of a city and a radical re-founding. Rather, the two dialogues present two versions of a radical re-founding, the latter presented with more

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3 See C. Bobonich, *Plato's Utopia Recast* (Oxford: Oxford University Press, 2002) for a thorough and clear set of such arguments.

imaginative detail and with more concessions to human nature, so far as property and the family are concerned, and with a serious attempt to persuade ordinary people that life in such a regime would be appealing.

Not every book can be a thorough and decisive study of its topics; we also need books that provoke enthusiasm, take chances, and spur on further thinking. For its wealth in prospects for philosophical excitement, this book is beyond reproach, and should be received with gratitude by scholars of ancient political thought.

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