
Reading nature through culture in Plato and Aristotle's works on law

K W Junker

Department of Philosophy, Queen's University of Belfast, Dublin City University

Abstract

*In the human and natural sciences there are many ways of examining nature. While archaeologists, anthropologists and other scientists prefer to examine nature empirically, philosophers and other humanists are more likely to examine texts in order to arrive at an idea of, for example, the Greek world's understanding of nature. Among the scholarly treatises that we typically consider to be sources for research into Greek philosophy of nature and the environment, I selected, for the purposes of this paper, Plato's *The Laws* and Aristotle's *Constitutions of Athens*. In this paper I will argue that if we want to understand ecology or environment as cultural concepts, and we look to the law of Classical Greece, or at least Athens, we find that knowing the law is not the direct process of the present day - that is to say, we cannot simply look to written codes to understand the legal practices. Plato in *The Laws*, points to a comportment toward nature, through the law, which can be based upon objectively-obtained values, without resulting in material scientism. With this in mind, we citizens can determine environmental policy and law, without pretending that it is dictated by earth, air and water.*

1. Introduction - law as a resource for philosophy

There are a number of ways in which we can try to understand the Classical Greek world's comportment toward nature. Archaeologists and anthropologists can of course examine physical evidence from that place in time. Philosophers and other humanists, on the other hand, are more likely to examine texts in order to arrive at an idea of the Greek world's understanding of nature. Among the scholarly treatises that we typically consider to be sources for research into Greek philosophy of nature and the environment, one does not often find legal texts. I want to consider legal sources, because of the public and mediating nature of their use in culture. Unlike poet' academic or philosophic texts which may only represent an elite part of the culture, and therefore be considered a skewed representation of the culture on the whole; legal texts, in theory, were produced by the citizenry of a democracy and gained meaning in application with a larger cross-section of that democracy. Moreover, given the public sense that we have of ideas like

the natural environment and ecology, the law consequently becomes a useful repository for gauging public opinion. In legal texts, one might even catch glimpses of the reception of philosophical works on nature. Thus, although our contemporary sense of law, especially among its practitioners, may be to focus upon mechanical manipulation of rules, law may also serve the need of repositing cultural attitudes in a democracy. But there are problems.

We face a difficult task in looking directly to law for evidence of cultural attitudes toward ecology and the natural environment in Classical Greece, both because the nature of the law was very different from that to which we are accustomed today, and because the legal system produced few written records from which we can conduct research. (This latter point sounds particularly strange to us today, given the paper mills that the practice of law in all cultures has become.) In Classical Greece, the arbiters of a trial, the *dikasti*, sitting in numbers of several hundred, decided both issues of law and issues of fact. They did not record their decisions in any way. Consequently, scholars of Greek law often find it necessary to resort to indirect sources of the law in order to deduce what the state of legal affairs was. Thus, if our task is to understand attitudes toward nature by looking at legal texts, we must turn to legal texts other than the decisions of particular cases. To what or whom may we look for the specifics of these attitudes and relationships towards nature? There are three extant sources.

First are the most primary of sources - forensic speeches that survive from the Attic Orators. These speech texts provide us with a record of the law as practised. Unfortunately, not all that many of these primary sources have survived. Thus, we must turn to secondary sources - philosophical texts on the law and nature.

The surviving texts of the philosophers themselves, insofar as they discuss nature and the law, do indeed provide evidence of the Greek attitudes toward, and understanding of, what we might call the natural environment. These attitudes and understanding are found in the law of property. As S. C. Todd has advocated, "of all surviving sources, it is the philosophers who supply the most explicit statements about the nature of property fin the law]". (Todd, 237)

And finally there are tertiary texts, such as comedies (old and new) and fragments of public documents memorialised in stone. While it is of no small importance to look at such tertiary sources for critical commentary on the law, I will presently focus upon only those secondary sources provided by the philosophers. In this case, the ones I have selected are Plato's *The Laws* and Aristotle's *Constitutions of Athens*.

2. The argument - objectivity or scientism?

In looking to these philosophical texts, what ideas of nature, instituted in the law, do we find? The anachronistic quality of our notions of "environment" and "ecology" force us to consider different entryways into understanding. The most fruitful topic we can research is that of "nature". Monologues on nature, however, often break down into *dissoi logoi* about whether nature or culture, referred to as *physis* and *nomos*, is primary. This binary trap occurs because of the appeal of scientific materialism in our thinking. This is a false choice and can become a trap. The trap lies in believing that understanding can be achieved by creating a hierarchy of derivation. Once we allow our understanding of nature to be framed by this hierarchy, scientific materialism will almost inevitably lead one to conclude that nature is primary and culture is derivative. For the purposes of my discussion at present, using contemporary categories, that would mean that "environment" or "ecology", however we construct their meanings, are primary, and laws regarding "environment" or "ecology" are secondary and derivative. My argument is to the contrary. If we allow this binary trap to ensnare us at all (and ideally, we should not), then we must look to ways other than scientific materialism, as I have called it, in order to understand the Greeks' relationship to nature. In the same way that present cultural and linguistic categories like "nature" "ecology" and "environment" are anachronistic when applied to Ancient Greece, so too is the more obvious cultural category of "law". Before the year 500 B.C., it was not the word *nomos* that was used to mean law, but rather the word *thesmos* which was preferred. "And this change is surely significant: 'that which is laid down by (by the gods?)' had given way to 'the order that men impose.'" (Todd, 386) So we must ask ourselves whether we really want to know what was "really happening" in Greece over two millennia ago, or are we looking for relationships with our own present cultures?

Of course in considering such an alternative, I am suggesting that an alternative in Greece might also have something to offer us today. The demands of our relationship to nature have changed somewhat. Compared to more homogenous Classical Greek culture, one of the most notable changed demands is our need for a pluralistic social positioning in nature. This would just be one of the more obvious changes. It is not only a change in our understanding, but in our needs. If we do not remain mindful of these changes, we are practising nothing short of Whig history, by pretending that Classical Greek relationships to nature bear directly upon our own.

Once we are caught in the trap of believing we can only decide which is primary, nature or culture, perhaps the greatest difficulty in understanding how culture could be primary lies in method. The approach or method to

understanding must meet both the demands of pluralism and a semblance of objectivity. Therefore, in an effort to counter the tendency toward scientific materialism in one's method, I look to the notion of dialectic. To champion this approach, I naturally rely upon Plato. Through dialectic, "objective" values can be obtained that need not rely upon a scientism of nature. In practising dialectic to arrive at agreed-upon values, we recognise the cultural ordering of our relationship to nature, instead of acting as though it is determined by nature itself. Ultimately, dialectic can then provide a method for establishing a relationship to nature that is based upon culture, and not driven by a scientific materialism in nature. It can also satisfy our desire for some sense of absolute knowledge, which, post-Descartes, we would be likely to call "objectivity." Through dialectic, we can ground our knowledge in our practices, without resort to the simple foundation of knowledge which places so much faith in materiality. Bringing my argument back to law, I would suggest that in its most rigorous practice, dialectic is perhaps best exhibited in the adversarial setting of the law court.

3. Evidence - *The Laws*

In his *The Laws*, Plato describes the details of a natural and cultural Utopia. A utopia of course is a place that does not exist; it is an idea. From these ideas of society, Plato goes on to prescribe the specifics of laws that should be executed. It is important to note the prescriptive direction of this relationship: we should move from ideas to laws in practice. This of course raises the question of where one gets the ideas. In Plato's utopia, called "Magnesia," the guiding principles will be that absolute moral standards exist, and that such standards can be, however imperfectly, embodied in a code of law. (Saunders, 29) These principles dictate the structure and organisation of the new state in several aspects that concern what we would call the "environment". Ideal laws must rest upon an ideal environment. This we must consider seriously - the existing actual environment does not provide a sufficient place upon which to found and occupy an ideal culture. For Plato, it is an ideal environment which provides a foundation for law. To provide a sense of the connection that I am suggesting, I turn first briefly to Plato's description of Magnesia, then look more closely at the laws that would be necessary to bring Magnesia about.

The ideal place known as "Magnesia" is "a small state, nine or ten miles from the sea, in country which will afford a decent, but not a luxurious, standard of living. Being a rugged, rather than flat site, Magnesia will only be able to produce that which it needs, and export little, thus keeping gold and silver surpluses from corrupting its inhabitants." [*The Laws*, 705] At almost

every step of the way in constructing Magnesia, Plato is quick to point out the cultural ramifications of the natural feature he describes. Having little of the wood necessary for ship-building is also a benefit to Magnesia, for example, because a good society, according to Plato, "should have a difficulty in copying the practice of its antagonists to its own undoing." [*The Laws*, 705] This rather odd notion that a lack of wood would be a good thing, has its basis in the lower cultural value placed upon mariners compared to infantrymen. The presence of wood for ship-building would be capable of turning infantrymen, who were credited with more noble war practices, into mariners.

Another culturally - important feature was population. There were to be precisely 5,040 citizens, plus aliens and slaves. This sense of population control suggests a recognition that "market place" economic dynamics will not produce the desired cultural conditions of a utopia, just as market place utilitarianism is insufficient for someone to attain moral virtue. From these examples, which I use to provide illustration only, we can get a sense of Plato's connections between nature and culture. I now turn to the laws that Plato thinks will make this so.

While the principles derived from the observation of nature are not solely determinative of moral virtue or the law, the physical presence of nature does affect moral virtue. Book V of *The Laws* concludes as follows:

"There is a further consideration we must not ignore; some localities have a more marked tendency than others to produce better or worse men, ... Some, I conceive, owe their propitious or ill-omened character to variations in winds and sunshine, other to their waters, and yet others to the products of the soil, which not only provide the body with better or worse sustenance, but equally affect the mind for good or bad..." (The Laws, 747)

In addition to illustrating the affect that nature may have on the moral virtue of agriculture, this passage provides the sense of organisation of the laws that looks to the organisation of the properties of the earth - winds, sunshine, waters and soil. If we follow this organising principle throughout *The Laws*, we find the following culture ensuing.

Soil

The second half of Book V describes the procedure for founding the new state and distributing the land. Here we see how the size alone is destined to develop cultural values. The relatively small size of Magnesia, aside from any particular attributes of the soil, is designed to encourage intimacy and friendship among its inhabitants. In addition to its size, its location is

important, because such a remote location will deter visitors, particularly those from abroad, such as sailors and traders, who could have a negative affect upon Magnesia in that they are potential sources of innovation and discord. (Saunders, 29.)

In Book V, Plato states that the division of land should be made "with some such thought as this, that he to whom a lot falls is yet bound to count his portion the common property of the whole society, and, since the territory is his fatherland, to tend it with care passing that of son for mother, the more that the land is the divine mistress of her moral children; and to think likewise of all the gods and spirits of the locality." (*The Laws*, 740) Every citizen of Magnesia would own a farm capable of providing for himself, his family and his slaves. Farms were to be inalienable from the holder's family, and on his death must be handed over to one of his sons. As evidence of the cultural significance of the act of distributing land, Todd notes that in Greek law "agricultural land leased by the polis is characteristically described as 'sacred' rather than as 'public' ". (Todd, 249, fn. 19)

Water

Plato's law regarding water supplies reads very much like nineteenth and early twentieth century torts laws that were enacted to deal with precisely the type of things we would now put in the category of "environmental laws." Our category of environmental laws is a relatively recent creation in the twentieth century. As with agriculture, at their base, these Athenian water supply laws are rules against trespass, and as with agriculture, are characterised by Plato simply as just pronouncements of "sound old laws". [*The Laws*, 844] But unlike the static things like trees and landmarks, of which Plato writes, the flowing nature of water raises issues about the common good of a water supply. This again provides him with an opportunity to opine at length on the connections of nature to culture through the laws. In Plato's scheme, found in paragraph 844 of *The Laws*, anyone may bring water from public waterways on to his own land. Anyone may also cut channels to carry the water, as long as damage to public land is limited to the channel-cutting, and as long as houses, temples and tombs are not harmed. In dry areas where there is no flowing water, a person may dig a well, and if he cannot get water from a well, his neighbours are obliged to furnish him with water. If the neighbours refuse to help a person in need of water, that person may obtain a government order requiring their help. If a person violates any of these safeguards, the Rural or Urban Commissioner may order parties to comply, upon petition from the injured party.

Immediately thereafter, in paragraph 845, while still discussing water, Plato provides insight into the utility of the law to "rescue" nature. Here, Plato already recognises the necessity to go beyond the award of money to a person deprived of their water; an act we recognise today not as a remedy at law, but as a remedy in equity. This extra-ordinary remedy makes plain the relatively important position of nature in Plato's legal scheme: "Water, above all things, is exceptionally necessary to the growth of all garden produce..." Because of the importance of water, and because it can be tampered with, "the law must according come to the rescue." Consequently, Plato advocates enacting the following law, which enables an injured party to obtain equitable relief in addition to a monetary award:

"If one man intentionally tampers with another's supply, whether of spring-water or standing water, whether by way of drugging, or digging, or of abstraction, the injured party shall put the amount of the damage on record, and proceed at law before the Urban Commissioners; a party convicted of poisoning waters, shall, over and above the payment of the fine imposed, undertake the purification of the contaminated springs or reservoir in such fashion as the canon law may direct this purification to be performed in the individual case." (The Laws, 845)

So far, this reading of *The Laws* provides evidence of the explicit links which Plato makes between nature and the law. Later, in Book X, Plato provides us with the interpretative framework for these explicit links. There, during a crucial point in his discussion of Utopian society, he develops the relationship between *physis* and *nomos*. The discussion hinges not on the choice between *physis* and *nomos*, but on the issue of what is more primal, *physis* or art. Using as his opposition a position similar to that of Antiphon in the *Truth*, Plato begins by recounting the position with which he disagrees - what "wise men" tell us about the relationship *physis* and *nomos*:

"Evidently, so they say, all the grandest and fairest of things are products of nature and chance, and only the more insignificant of art. Art takes over the grand primary works from the hands of nature, already formed, and then models and fashions the more insignificant, and this is the very reason why we call them "artificial" Statesmanship in especial, they say, is a thing which has a little in common with nature, but is mainly a business of art; legislation, likewise, is altogether an affair not of nature, but of art, and its positions are unreal." (The Laws, 889)

Here we see Plato connect the real to the natural in the position of his antagonist. I would go further to interpret this as a distinction between the materiality of nature and the real. This material sense of the real ultimately manifests itself in our own day and age as a scientific material realism. The characterisation of law against which Plato speaks is not at all foreign to us

today; it is the characterisation of positive law - the rule of the sovereign backed by force, without appealing to divinity or morality. The point of Plato's diatribe against this position of positive law is that it breeds "epidemics of youthful irreligion - as though there were no gods such as the law enjoins us to believe in - and hence the factions created by those who seek, on such grounds, to attract men to the 'really and naturally right life', that is, the life of real domination over others, not of conventional service to them." (*The Laws*, 890) Positive law is notably arbitrary in this sense, for it has no connection to something outside of itself. But must that thing outside of itself be material? No. This is where we see the importance of dialectic as method.

Plato's interlocutor in *The Laws*, Clinias, a Cretan, asserts that the legislator should defend the claim of law itself and of art to be natural, or no less real than nature, seeing that they are products of mind by a sound argument which I take you [Plato] to be now propounding and in which I concur." (890) This last point is extremely important - the "naturalness" and "reality" of the law are established because they are "products of mind by a sound argument." Having established that we can still have an external something - products of mind by sound argument - in which to anchor our positions in law, without making that something be material, Plato has enabled himself to reverse the hierarchy of *nomos* being derived from *physis*, and made it one of *physis* being derived from *nomos*. With "products of mind by sound argument" as the external non-material reality, a just society can be constructed on laws. Rather than insist that those laws be derivative from material nature, it is our concept of nature that is derived from laws, from products of mind through sound argument. This is how we can then know the soul as well. Plato then concludes by reversing the primary and derivative positions of nature and the soul:

"Soul, my friend, soul is that of whose nature and potency all but the few would seem to know nothing; in this general ignorance of it they know not in particular of its origin, how it is among the primal things, elder-born than all bodies and prime source of all their changes and transformations. But if this is indeed so, must not all that is akin to soul needs be of earlier birth than all that is proper to bodies, seeing that soul herself is older than body? And so judgment and foresight, wisdom, art and law, must be prior to hard and soft, heavy and light; ay, and the grand primal works and deeds, for the very reason that they are primal, will prove to be those of art; those of nature, and nature herself ...will be secondary and derivative from art and mind." (The Laws, 892)

So far, I have concentrated on Plato's *The Laws*, because it is here that he gives us the most explicit statements linking law to nature. But he provides interpretive frameworks for these links elsewhere as well.

In the *Republic* and even in the *Statesman*, Plato gives much attention to the development and station of the ideal ruler with his expert knowledge or moral values. By contrast, in *The Laws*, the ideal ruler with his expert knowledge of moral values is hardly discussed. This is where the rule of law, as an ideal form capable of being as perfect as other ideal Platonic forms, becomes capable of providing an objective alternative to objectivity rooted in scientific materialism. According to Plato, we "should order our private households and our public societies alike in obedience to the immortal element within us, giving the name of law to the appointment of understanding." (*The Laws*, Book IV, 714)

Shortly thereafter, Plato refers to law as "the dispensation of reason" and says that the entire life of the community, including its comportment toward nature, "must accordingly be governed by a detailed code of laws which will express as far as possible the philosopher's vision of the true good." (Saunders, 27) This good, being the true good, never changes. And as we know, one arrives at the nature of this good through dialectic - products of mind by sound argument.

Except for the *Apology*, Plato's work of course does not provide us with texts from speeches given in the presence of the Athenian juries. His work does however provide us with the idea for an alternative means for arriving at a sense of absolute knowledge or objective values. In contrast to the scientism which demands that the material of "nature" holds a primary position from which values and laws are derivative, Plato provides us with sound argument through dialectic. As Plato makes clear, we can arrive at a sense of objectivity by virtue of dialectic, and by doing so, place culture in a position primary to material nature. This argument serves well to lay foundations for contemporary arguments regarding the social construction of nature.

4. Evidence - the Athenian constitution

Morrow has suggested that the detailed provisions of the laws in Plato's Utopian "Magnaesia" were, in general, based on those of the contemporary Athenian law of that time. (Saunders, 31) This fact suggests several things. One is the direction of thought which brings us our rules of law - observation of that which is in place, and alteration of it. This is in distinction to the notion that only a new utopia, Magnesia, could possibly entertain the invention of the new laws. The reason for this could be as A. E. Taylor and others speculate, that Magnesia was of course really Athens, and the laws were for a place really in existence, Athens, not a utopia such as Magnesia. (Taylor, xiii.)

So in order to ground Plato's philosophic pronouncements regarding nature and law in *The Laws*, it can be of help to look to the laws in place at the time. The form of Plato's discussion of the law is very much on the order of a constitution for his Utopian state of Magnesia. It is therefore useful to compare this Utopian constitution to the actual Athenian Constitution as described by Aristotle in his *The Athenian Constitution*.

Research indicates that there may have been as many as 158 *Politeiai* for other *poleis* than Athens (Todd). Today, we have only Aristotle's *The Athenian Constitution*. In it, Aristotle lays out the delegation of duties for aspects of the city's ecology. Aristotle's report on the constitution of Athens provides us with little philosophical discussion of law or the environment. It does give us a sense of the law in place, however. There are just a few provisions which we would recognise as being "environmental" provisions. These serve not to give us a complete picture of Athenian comportment toward the environment, but give us a degree of confidence that what Plato had to say about nature and law in *The Laws*, was in some way grounded in legal practice.

In *The Laws*, Plato theorises about the social ramifications of the availability of timber (ship building) and metal. In Aristotle's *Constitution*, we see that the Athenians were in a regular and regulated practice of mining, to the extent that public contracts were let in order to accomplish mining: "Then there are the Commissioners for Public Contracts [*Poletaie*], ten in number, one chosen by lot from each tribe, who farm out all the public contracts. They lease the mines and taxes in conjunction with the military Treasurer and the Commissioners of the Theoric fund, in the presence of the Council, and grant, to the persons indicated by the vote of the Council [of five hundred], the mines which are let out by the state, including both the workable ones, which are let for three years, and those which are let under special agreements for ten years. (*The Athenian Constitution*, XLVII) There are ten City Commissioners [*Stynomij*], of whom one of the tasks is to "provide that no collector of sewage shall deposit any of his sewage within ten stadia of the walls; they prevent people from blocking up the streets by building, or stretching barriers across them, or making raised drain-pipes with a discharge into the street, or having doors which open outwards; they also remove the corpses of those who die in the streets" (*The Athenian Constitution*, L)

If indeed the laws for Magnesia were commentary intended for the constitution of Athens, and therefore as a reading practice we can ground a reading of *The Laws* in *The Athenian Constitution*, we could take this reasoning a bit further, and read the present constitution for Greece in this context as well. Immediately one may note that the present constitution for the

Greek Republic has remarkably similar provisions to the one described by Aristotle over two millennia ago. Article 18 provides that:

1. The ownership and disposal mines, quarries, caves, archaeological sites and treasures, mineral, running and underground waters in general shall be regulated by special laws.
2. The ownership, exploitation and administration of lagoons and large lakes, as well as the general disposal of areas resulting from the draining thereof, shall be regulated by law.
3. Redistribution of agricultural areas for the purpose of exploiting the land more profitably, as well as the adoption of measures to prevent excessive parcelling or to facilitate rehabilitation of small parcelled farm holdings, shall be allowed in accordance with the procedure specified by special law.

Yet, these constitutional provisions do not suggest the comportment toward nature that Plato suggested in *The Laws*. I would speculate that one reads on for such a failure is the failure to recognise the direction of the relationship which Plato had taken effort to emphasise; that insofar as our relationship to nature is culturally-constructed, we should look to culture, not nature, to determine what that relationship should be. Any pretence that we have arrived at an absolute knowledge or objectivity that is as neutral as the material of nature, devoid of human interpretation, is no more than a manoeuvre to hide the particular cultural comportment that one has taken toward nature in that instance. Facts are determined by arguments, not material.

5. Conclusions

In conclusion, I would highlight the fact that through dialectic, "objective" values can be obtained that need not rely upon a material scientism of nature. This is precisely what Plato's Athenian and Cretan interlocutors were advocating in *The Laws* when they wished to characterise the products of mind. Here, Clinias tells us that a legislator "should defend the claim of law itself and of art to be natural, or no less real than nature, seeing that they are products of mind by a sound argument which I take you to be now propounding and in which I concur." (*The Laws*, 890)

Looking to the law of a democracy can help us to understand the specific cultural values of that democracy. If we want to understand ecology or environment as cultural concepts, and we look to the law of Classical Greece, or at least Athens, we find that knowing the law is not the direct process of the present day - that is to say, we cannot simply look to written codes to understand the legal practices. Scholars of Greek law conclude therefore that

one of the best sources for understanding the law is to review the philosophy of the law. (Todd) The beginning of such an inquiry then would be to consider legal constitutions. Here, we have the ability to compare the constitution for the Utopian state of Magnesia, which Plato describes in *The Laws*, (and which very well may have been a prescription for Athens) with the actual Athenian constitution described by Aristotle.

Plato in *The Laws*, points to a comportment toward nature, through the law, which can be based upon objectively-obtained values, without resulting in material scientism. With this in mind, we citizens can determine environmental policy and law, without pretending that it is dictated by earth, air and water.

References

Aristotle, *The Athenian Constitution*, H. Rackham, trans., Loeb's Classics Series (London: William Heinemann, Ltd., 1961).

Plato, *The Laws*, Trevor J. Saunders, trans. (London: Penguin Books, 1970). Plato, *The Laws*, A. E. Taylor, trans. (London: J. M. Dent & Sons, 1960).

Todd, Stephen, *The Shape of Athenian Law*. (Oxford: Clarendon Press, 1993).

The Constitution of Greece, 7 June 1975, as amended, The Fifth Revisionary Parliament of the Hellenes.