2017

Why Does Plato's Laws Exist?

Harold Parker
University of Pennsylvania, hparker@sas.upenn.edu

Follow this and additional works at: https://repository.upenn.edu/edissertations

Part of the Philosophy Commons

Recommended Citation
https://repository.upenn.edu/edissertations/2515

This paper is posted at ScholarlyCommons. https://repository.upenn.edu/edissertations/2515
For more information, please contact repository@pobox.upenn.edu.
Why Does Plato's Laws Exist?

Abstract
If the ideal city described at length in Plato's Republic is a perfect and philosophically attractive encapsulation of Plato's political philosophy, why does Plato go on to write the Laws – which also describes an ideal city, albeit one very different from the Republic? The fundamental challenge of scholarship concerning the Laws is to supply a comprehensive account of the dialogue that explains all aspects of it while also distinguishing the Laws from the Republic in a way that does not devalue the Laws as a mere afterthought to the Republic. Past attempts at meeting this challenge, I argue, can be classified under the headings of the democratic, legal, and demiurgic approaches. Although each is prima facie plausible, each also faces its own set of problems. Furthermore, none are truly capable of explaining the Laws in its full specificity; the intricate array of customs, regulations, and practices making up the life of the city described form a complex totality not reducible to the concept of democracy, the rule of law, or demiurgy. Instead, I propose a fundamentally new approach to interpreting the Laws, the systematic approach, which I claim is responsive to the deepest and most innovative tendencies within the dialogue. Specifically, the proper way of conceiving the shift from the Republic to the Laws, I argue, lies in Plato replacing the concept of “cadre” in the former with the concept of a self-governing “system” in the latter. As I deploy these notions, a cadre is a small group of specially qualified individuals, while a system is a large population whose members or constituents affect, and interact with, one another in orderly ways. Each of these concepts gives rise to a corresponding model of government. Under the cadre model, all power is assigned to a small minority of specially qualified individuals, and under the system model, power is periodically rotated between members of a group in accordance with both laws and the extra-legal patterns of social and cultural norms. I use this framework to mount a series of linked investigations into various aspects of the society described in the Laws.

Degree Type
Dissertation

Degree Name
Doctor of Philosophy (PhD)

Graduate Group
Philosophy

First Advisor
Susan Meyer

Keywords
Laws, Plato

Subject Categories
Philosophy

This dissertation is available at ScholarlyCommons: https://repository.upenn.edu/edissertations/2515
WHY DOES PLATO’S *LAWS* EXIST?

Harold Graham Parker, III

A DISSERTATION

in

Philosophy

Presented to the Faculties of the University of Pennsylvania

in

Partial Fulfillment of the Requirements for the

Degree of Doctor of Philosophy

2017

Supervisor of Dissertation

__________________________
Susan Sauvé Meyer
Professor of Philosophy

Graduate Group Chairperson

__________________________
Samuel Freeman, Avalon Professor of the Humanities

Dissertation Committee

Charles Kahn, Professor Emeritus of Philosophy
Alexander Guerrero, Associate Professor of Philosophy, Rutgers University
Samuel Freeman, Avalon Professor of the Humanities
WHY DOES PLATO’S *LAWS* EXIST?

COPYRIGHT

2017

Harold Graham Parker, III
ACKNOWLEDGMENT

The rhythm of my life is punctuated by the unceasing series of claims I have made on the physical, emotional, and cognitive labor of other people. Since most of these claims will go uncompensated, it is only fitting I use this brief space to state a few acknowledgements.

First of all, I would like to thank my adviser, Susan Sauvé Meyer, for her sustained and valuable input and guidance. She has read countless drafts, made countless suggestions, and taken countless meetings with me, and my dissertation – as well as my own formation as a scholar and philosopher – has benefitted tremendously from her sterling example of professionalism and intellectualism. The other members of my committee, Charles Kahn and Alexander Guerrero, are also not without a richly-deserved place in the firmament of my regard: they have contributed mightily and generously in the form of their time and intellectual judgment, and I am deeply grateful to them.

The classical-philosophical community of graduate students at Penn merits my thanks as well. My experience at Penn would simply be unimaginable without the almost constant companionship of colleagues like Max Robitzsch, Aditi Chaturvedi, Brian Reese, and Michael Vasquez. Likewise, my experience in the world in general would be simply unimaginable without my wonderful partner, Alisa Gross.

Lastly, I would like to thank the members of my family (including Wuvvy), especially my mother. In fact, in addition to every other debt I owe her, it is quite possible that my mother’s somewhat impatient literary-critical refrain, “what’s the moral of the story?” inspired the question this dissertation seeks to answer.
ABSTRACT

WHY DOES PLATO’S LAWS EXIST?

Harold Graham Parker, III
Susan Sauvé Meyer

If the ideal city described at length in Plato’s Republic is a perfect and philosophically attractive encapsulation of Plato’s political philosophy, why does Plato go on to write the Laws – which also describes an ideal city, albeit one very different from the Republic? The fundamental challenge of scholarship concerning the Laws is to supply a comprehensive account of the dialogue that explains all aspects of it while also distinguishing the Laws from the Republic in a way that does not devalue the Laws as a mere afterthought to the Republic. Past attempts at meeting this challenge, I argue, can be classified under the headings of the democratic, legal, and demiurgic approaches. Although each is prima facie plausible, each also faces its own set of problems. Furthermore, none are truly capable of explaining the Laws in its full specificity; the intricate array of customs, regulations, and practices making up the life of the city described form a complex totality not reducible to the concept of democracy, the rule of law, or demiurgy.

Instead, I propose a fundamentally new approach to interpreting the Laws, the systematic approach, which I claim is responsive to the deepest and most innovative tendencies within the dialogue. Specifically, the proper way of conceiving the shift from the Republic to the Laws, I argue, lies in Plato replacing the concept of “cadre” in the former with the concept of a self-governing “system” in the latter. As I deploy these
notions, a cadre is a small group of specially qualified individuals, while a system is a large population whose members or constituents affect, and interact with, one another in orderly ways. Each of these concepts gives rise to a corresponding model of government. Under the cadre model, all power is assigned to a small minority of specially qualified individuals, and under the system model, power is periodically rotated between members of a group in accordance with both laws and the extra-legal patterns of social and cultural norms. I use this framework to mount a series of linked investigations into various aspects of the society described in the *Laws*.
### TABLE OF CONTENTS

1. INTRODUCTION

1.1. The problem under consideration 1
1.2. A survey of the secondary literature 5

1.2.1. The democratic approach 5
1.2.2. The legal approach 7
1.2.3. The demiurgic approach 10
1.2.4. Individual authors in the secondary literature 12

1.3. The systematic approach 16

1.3.1. Elucidatory examples of the systematic approach 18
1.3.2. The systematic approach vs. the democratic approach 28
1.3.3. The systematic approach vs. the legal approach 31
1.3.4. The systematic approach vs. the demiurgic approach 33

1.4. The systematic approach in the secondary literature 38
1.5. The plan of the subsequent work 41

2. ELECTING THE NOMOPHYLAKES 46

2.1. Introduction 46
2.2. The analytic of government 55
2.3. Election of the nomophylakes 64

2.3.1. Military membership for electors 67
2.3.2. The function of religiosity 74
2.3.3. The expanded ballot 79
2.3.4. Intelligent process 86
2.3.5. Scene of instruction 94
2.3.6. The use of age restrictions 100

3. ELECTING THE COUNCIL 106

3.1. Schedule of incentives 107
3.2. The function of the lot 116

*Electoral Policy in the Laws*
4. CULTURE AS PROBLEM 128

4.1. Introduction 128

4.1.1. Culture in the broad sense 129
4.1.2. Relevance to the systematic approach 130
4.1.3. Selected aspects of relevance to the secondary literature 132

4.2. Culture as a problem in the Laws 135

4.2.1. The equivalence of culture in the narrow and broad sense 135
4.2.2. The cultural logic of habituation 137
4.2.3. The significance of susceptibility 138
4.2.4. The intrinsic danger of the social field 140
4.2.5. The relevance of the concept of positive feedback 141
4.2.6. Egyptian aesthetics 142
4.2.7. Case study (I): 658e-659c 143

4.2.7.1. Ideal theatrical culture (I): 658e-659b 144
4.2.7.2. Pathological theatrical culture (I): 700a-701c 147

4.2.8. Case study (II): 700a-701c 149

4.2.8.1. Ideal theatrical culture (II): 700a-700d 150
4.2.8.2. Pathological theatrical culture (II): 700d-701c 152

5. CULTURE AS SOLUTION 158

5.1. Orientation 158
5.2. General strategies of cultural management 161

5.2.1. Thematization of the infra-legal 161
5.2.2. Preferred patterns of interaction 163

5.2.2.1. Contest culture 164
5.2.2.2. Memorial culture 166

5.3. Specifically social strategies 170

5.3.1. Social persuasion 170
5.3.2. Social enforcement 171
5.3.3. Social persuasion and social enforcement 172
5.4. Region-targeted strategies

5.4.1. Fan culture
5.4.2. Communal meals
5.4.3. Religious culture

Intellectual Policy in the Laws

6. A DESCRIPTION OF THE NOCTURNAL COUNCIL

6.1. The place in the text
6.2. Three beginnings

6.2.1. The scrutineers
6.2.2. The observers
6.2.3. The logic of finality

6.3. Membership of the council
6.4. Mentorship of the junior guardians
6.5. Meeting time of the nocturnal council
6.6. Rationale of the nocturnal council

6.6.1. Anchor of the state
6.6.2. Mode of competence
6.6.3. The corporate metaphor

6.7. Activities of the nocturnal council

6.7.1. Discussions, education, and research
6.7.2. Reform of atheists
6.7.3. Repatriation of observers

6.8. The operation of the nocturnal council
6.9. Attributed powers
6.10. Vague powers

7. THE NOCTURNAL COUNCIL AND THE SYSTEMATIC APPROACH

7.1. The question of continuity
7.2. The nocturnal council as indirectly elected
7.3. Mentorship of the junior guardians
7.4. Attributed powers of the nocturnal council
7.5. Why the nocturnal council is not nocturnal
7.6. Why the nocturnal council is not a council
7.7. The title of guardian and related expressions
7.8. Vague powers

7.8.1. The authority of the nocturnal council 245
7.8.2. The title claim 251
7.8.3. Legal protectorate 274
7.8.4. The grant 270

8. CONCLUSION 277

9. BIBLIOGRAPHY 286
1. INTRODUCTION

1.1. The problem under consideration

Why does Plato’s last dialogue, the Laws, exist? Or worse yet, does it exist? The underlying subject of the dialogue – describing at length an ideal society – is certainly a subject worthy of human intellectual interest. Indeed, Plato’s more famous dialogue, the Republic, shares this topic. Yet at the same time, the existence of this dialogue – triumphant, complete in itself, and philosophically attractive – hardly calls for justification. It is, in a word, καλή. But if the Republic is perfect, complete, and “classic” in every way, then its self-assured triumph is so much the worse for the Laws. If the Republic already exists, why, then, does the Laws exist? And if the Republic exists, does the Laws even really exist?

One could grant that the Laws exists perhaps as a mere adjunct to the Republic, or as a workmanlike exercise in practicality from the Republic’s template, or even as an expression of Plato’s senility and waning powers, but each of these options is just a way of denying that the Laws really exists in the first place. They are to consign the Laws to the embarrassment and decadence and imperfection of the post-classical – proof of

---

1 The best bibliographical guide to scholarship on the Laws is Saunders and Brisson, Bibliography on Plato’s Laws. Unless otherwise specified, I will use the English translation of the Laws by Saunders contained in Plato, Complete Works. Additionally, there exists a useful English translation of the Laws by Tom Griffith, edited by Malcolm Schofield: Plato: Laws, Griffith and Schofield. The most authoritative Greek text is that Des Place, found together with a French translation in Des Places, Platon: Oeuvres Complètes. The Greek of the Oxford Classical Text is useful as well. Plato and Burnet, Platonis Opera. T. 5.A useful commentary (as well as a German translation) can be found in Schöpsdau, Nomoi. Finally, another useful commentary and English translation, unfortunately only of the first two books of the Laws, can be found in Meyer, Plato.

2 Other ways of denying that the Laws – as a complete, unified, and organized work – even exists would be the separate work-fragmenting suggestions of Müller and Schofield. The former analyzes the Laws as a “Zwitter” without a single, clear essence, and the former claims to identify multiple, distinct “projects” at work in the Laws. Müller quoted in Morrow, “The Demiurge in Politics,” 6. Schofield, “The Laws’ two projects.”.
Plato’s dual existence as both philosopher and individual, i.e., the merely biological continuation of the eternal thinker and author of the Republic, itself an eternal work of which the Laws would be merely a contingent emanation. The Republic and Laws would then correspond to Plato philosophus and Plato comicus. Even if Plato comicus, in a sense, authored Plato philosophus, it is most certainly Plato philosophus, and not Plato comicus, who authored the Republic. There is no reason to believe any subsequent work has the same author in the sense I mean, short of establishing this fact by reference to the work.

So why, indeed, does Plato’s Laws exist? Such a question can be answered in two different ways. On the one hand, we can answer this question with regard to Plato the historical individual (“Plato comicus”). In other words, we can inquire about events in the personal biography of Plato with a view toward explaining his decision to author the Laws. Yet such a line of inquiry is alien to academic philosophy except to the extent it serves as an indirect way of answering other questions falling within its proper domain. After all, the Laws would remain interesting and would remain a “problem” even if it were authored by someone besides Plato. On the other hand, we can answer this question in a resolutely work-focused way. What is the raison d’être, we might ask, of the work itself? (Forget the raisons of the author.) Or, to put it in Aristotelian terms, what is the τέλος of the Laws – i.e., what immanent governing principle informs and makes it the way it is, as distinct from a set of external reasons? In the Laws, when the Athenian asks

---

3 In addition to the philosopher by name of Plato, there was also a contemporaneous comic poet by the same name. These two figures are often distinguished as Plato philosophus and Plato comicus. Here, however, I am using the latter phrase to refer to Plato the historical individual, as opposed to “Plato” the thinker/author constructible from texts.
4 Cf. Morrow: “No one can study the Laws critically without asking what Plato was trying to do when he wrote it.” Morrow, “The Demiurge in Politics,” 5.
Kleinias and Megillus about the purported divine authorship of the law-codes at Sparta and Crete, what he is asking them to exhibit is the underlying spirit or overall rationale at work in these law-codes – their τάξις. All questions of scholarship concerning the Laws are ultimately subordinated to this question, the fundamental question. The present dissertation is an attempt to answer it.

Before giving that answer, I will first canvass the general outlines of the societies of the Republic and Laws, focusing on the elements most useful to my framework. Next, I will describe other popular approaches in the secondary literature before proceeding to describe my own, using examples from the subsequent chapters in this dissertation. Afterwards, I will compare my approach with others in the secondary literature. Finally, I will set out the plan for the rest of my dissertation carrying out this approach in the form of three studies.

In the Republic, a small group of elite “philosopher-kings” preside as absolute rulers of the “kallipolis.” They reign in virtue of the unerring knowledge of the good they are intended to possess. This knowledge both imparts to them the capacity to rule and endows them with the title to rule the rest of the city (540a-b). They rule without the intermediation of laws or checks. Only this group rules; indeed, the exclusivity of their rule follows from the very conception of justice in the Republic as “doing one’s own work” (433a). They are selected for this role after considerable scrutiny and preparation, which takes the form of biological eugenics, character diagnostics, and considerable

---

5 True, Plato does sometimes use expressions in the Republic like “the laws and the ways of life of the city” (484b-c), but “laws” in this connection appears to function as little more than a synonym for the kind of πολιτεία he deems most suitable. Other apparent allusions to legality, etc., in the Republic can be best explained in the same or similar ways which leave the central claim untouched. Cf. n. 19, below.
periods of careful education (502c ff.). In summary, the strategy of governance appropriate to the Republic is the exclusive empowering of a small group as rulers who are in turn made as excellent rulers as possible. Meanwhile, the vast majority of the population plays no effective role in the governance of the polis. The “guardians,” as they are called, appear to possess absolute power within the basic structure of the state.

In the Laws, power is more widely distributed: there exists a variety of different political offices. The chief power-exercising bodies are the nomophylakes (752d-755b), the council (756b-758d), and the assembly (763e-764b). Other magistrates include priests (759b-d), local wardens for the market, city, and country (760b-763e), and various educational officials (765a-766c). These magistracies are mostly filled by elections to which nearly everyone has some form of input or access. A system of popular courts completes the set of political institutions of Magnesia (766d-768e). In sum, instead of being ruled by omnicompetent philosopher-kings, the citizens themselves take turns governing and being governed, and they do, at least in part, in the style of the traditional Greek polis. In addition to the political institutions, an intricate body of religious rites, social customs, and sundry usages and practices (e.g., organized dances in 771a-772a, communal meals in 779d-783b, etc.) — again, partly in the style of the traditional polis, even if significantly redesigned by Plato — adorns the life of the city. Most importantly, there exists no small class analogous to the philosopher-kings of the Republic: i.e., there exists no small class which is cognitively enriched to the maximum extent and then empowered to the maximum extent. Nevertheless, there is still a pronounced interest in

---

6 I discuss these elections at length in Chapter 2 and Chapter 3.
7 I discuss various “cultural” aspects of the Laws in Chapter 4 and Chapter 5.
moral character and cognitive enrichment and distributing power according to attainment in these respects. Finally, there exists a kind of remnant-version of the philosopher-kings of the Republic called the nocturnal council. This council is made up of the most philosophically capable elders of the city and is given important, if vague, responsibilities (951a-952d, 960b-969c).  

1.2. A survey of the secondary literature

The question I want to answer is why the Laws exists. In other words, how can we (a) best describe and organize the ways in which it differs from the Republic and constitutes its own unity, and (b) explain the evident appearl associated with this set of changes? Before enumerating and discussing a variety of attempts by individual scholars to answer these questions, I will describe three general ways the shift could be characterized – namely, the (i) democratic approach, (ii) the legal approach, or (iii) the demiurgic approach. Needless to say, individual scholars may belong to the same general approach but still differ with one another; likewise, the approaches can be combined in various ways. While I think each approach is valid pro tanto, none of them, I argue, can fully answer (a) and (b). Here I will describe each and identify some problems with it. Subsequently, I will describe my own approach, the systematic, and explain how I think it solves the problems with each of the other three.

1.2.1. The democratic approach

\footnote{The nocturnal council is the subject of \textit{Chapter 6} and \textit{Chapter 7}.}
In the *Laws* Plato appears to espouse a markedly more democratic way of proceeding than he does in the *Republic*. After all, in the *Republic* there are no democratic ways of assigning power whatsoever, and in addition, the form of government of democracy comes under specific criticism in Book VIII and other places.\(^9\) In the *Laws*, by contrast the electoral devices of election and lot figure many times – for instance, the members of the council and nomophylakes are partially elected, and the members of the council are also partially selected by lot.\(^10\) In addition, daily life in the *Laws* partakes of a more “activist” character in general according to which citizens are called upon to exercise their own powers and make decisions for the good of the community.\(^11\) Thus, to the extent we are interested in an account of the *Laws* which comprehensively explains it and distinguishes it from the *Republic*, the concept of democracy seems promising.

However, there are two reasons to reject the democratic approach, even while assenting to it *pro tanto*, from the perspective of (a) and (b) above. First, it does not capture the rich specificity of the *Laws*, especially the intricate array of customs, regulations, and practices making up Magnesian life – all in all, a complex totality in no way reducible to the concept of democracy as the distinguishing element from the *Republic*. Many of these things are orthogonal to the question of democracy, and some of them are even anti-democratic. For instance, the complex system of incentives in place for electing the council is anti-democratic, and the memorial culture of Magnesia is

---

\(^9\) Many portions of the *Republic* (as well as Plato’s corpus as a whole) admit of an anti-democratic reading. The most explicit is in 555b-562a.

\(^10\) The election of the nomophylakes is discussed in Chapter 2, and that of the council is discussed in Chapter 3.

\(^11\) For examples of what I mean, see “social enforcement” in Chapter 5.
neither pro-democratic nor anti-democratic. Some aspects, like the “social enforcement” I describe in Chapter 5, are appropriate to the historical reality of contemporaneous Greek democracy, but not captured by the bare concept of democracy. Thus, we must look for supplementary resources if we want to best characterize why the Laws exists.

Second, the term democracy is a problematic term of analysis for tackling the shift from the Republic to the Laws. It highlights contingent sociology instead of marking out what is of fundamental political concern from Plato’s perspective. Namely, the term implies that the δῆμος or “people” is the group possessed of κράτος or “power” in government, but this is not the most important characteristic of government from Plato’s perspective. For Plato, it is irrelevant whether the ruling-element of society is an individual monarch, a small clique of families, or the popular δῆμος. Rather, as he claims in the Statesman, the most important characteristic of government is – regardless of its formal character – whether or not it empowers those with the knowledge and art of ruling. Only a government satisfying this criterion is correctly called a “government” (πολιτεία) at all; other attempts to rule are merely “imitations” of government. So to

---

12 This is analyzed at length in Chapter 5. I also explain it to some extent subsequently in this chapter.
13 Monoson advocates precisely the former sense of democracy and thus brings to light various “democratic” aspects of Plato’s Republic (the Laws is incidental to her main project). However, as correct as Monoson undoubtedly is in this regard, it also seems true that Plato himself did not necessarily think of democracy in this way. I discuss Monoson further below. Monoson, Plato’s Democratic Entanglements.
14 It is also an inadequate basis for the understanding of contemporaneous Attic democracy. For representatives of a different view of actually-existing Athenian democracy, see Balot, Greek Political Thought; Ober, The Athenian Revolution.
15 See Stm., 259a-b, for the related fundamental claim (familiar enough in the Socratic-Platonic context) that only whoever has knowledge relevant to the profession of x ought to be properly called by its name. Thus, most government-names (democracy, oligarchy, etc.) are irrelevant to the extent they do not specify whether those with power possess or do not possess the knowledge relevant to statesmanship (291d-293e). Only constitutions (politeiai) which empower the knowledgeable should even be called politeiai (293d-e). Everything else is just an imitation (293e). In Magnesia, the empowered officials and institutes are meant to
call the *Laws* “more democratic” than the *Republic* is to plot the two, albeit appropriately, along a rather inappropriate axis.

### 1.2.2. The legal approach

What would be a more appropriate axis? The *Statesman* itself gives us a possible clue: some imitations are deemed “for the better” and others “for the worse.” Specifically, it is the presence of law that distinguishes imitations “for the better” from those “for the worse.” The best form of government – the one by those with the knowledge and art of ruling – cannot be bound by law at all. Since the society of the *Laws* certainly features a number of, well, laws, goes to great lengths to inculcate a kind of spirit of law-abiding in general, and is described in Book V as only the “second-best” form of government, it would be tempting to take “law” as the successor-concept to “democracy” in our attempt to formulate an account that satisfactorily explains the *Laws* contrast to the *Republic*.

---

16 See *Stm.*, 293e.
17 See *Stm.*, 294a. This fact has to do with the limitations of the law-form, described below.
18 I will discuss this passage under the heading of the “demiurgic approach” below.
19 Such is the totemic allure of the law-form that Barker even goes so far as to call Magnesia the “law-state.” Guthrie, *A History of Greek Philosophy*, 374. Cf. Sabine: “As the name of the dialogue indicates, the *Laws* was written in an attempt to restore law to the place which it occupied in the moral estimation of the Greeks and from which Plato had tried to remove it.” Sabine, *A History of Political Theory*, 77. At the same time, law – and the rhetoric of law, legislation, etc. – is *not* absent from the *Republic*. Meyer cites many examples in “Plato and the Law;” e.g., *Rep.* 425e and 452c. However, none of them truly anticipate the thoroughgoing concern with, centrality of, and reliance on, the law-form we find in the *Laws*. For instance, in *Rep.* 425e, the law-form is implicitly denigrated in comparison with the judgment of wise and good men. In other cases (such as *Rep.* 452c), apparent talk of “laws” really only denotes an emphasis on elements of the kallipolis that depart from existing Greek reality (such as the inclusion of women in the public sphere). Meyer, “Plato on the Law,” 373.
Unfortunately, there are three problems with this approach – call it the “legal approach.” The first two arise directly from Plato’s repeated and emphatic critique of the law-form considered in isolation. Plato claims in the *Statesman* that the law, due to (i) “dissimilarities between human beings and their actions” and (ii) “the fact that practically nothing in human affairs ever remains stable,” cannot hope to successfully “embrace what is best and most just for all at the same time.” The “simple decisions” codified in law will prove problematic inasmuch as “it is impossible for what is perpetually simple to be useful in relation to what is never simple.”

Second, Plato claims in Book VI of the *Laws* that, regardless of the intrinsic excellence of a set of laws, electing incompetent or unsuitable officials into power will bring disaster. At best, these officials will waste the “good laws” with risible results. At worst, they will pervert them to an end positively destructive to the state, and “the state will find that its laws are doing it damage and injury on a gigantic scale” (751b-c). The disturbing ease with which even “good laws” can be nullified or transformed into their opposite demonstrates both the fragility of laws *tout court* and the necessity they be supplemented with a reliable method of producing and selecting capable individuals to place at their helm.

Third, as we saw with the deficiency of the democratic approach above, there are many distinctive aspects of life in Magnesia which go uncaptured by this description – for example, the preambles to the laws, social enforcement, the provision of communal messes for women as well as men, and so on. However, even as the legal approach fails to adequately describe the specificity of the *Laws* in its entirety, it is nonetheless

---

20 See *Stm.*, 294b-c.
substantially correct. Indeed, I view the approach put forward in this dissertation – the systematic approach – as a supplement and transformed version of the legal approach. I aim to describe what Plato is doing in the *Laws* as in part a response to his own critique of the law-form as well a combination of the law-form with certain extra-legal improvements nonetheless germane to the legal approach: an attempt to make the law-form work given the advantages and disadvantages of groups of actually-existing agents who are cognitive, affective, and practical. However, before discussing this in more detail, let us turn to the last general approach to theorizing the relationship between the *Republic* and the *Laws*.

1.2.3. The demiurgic approach

It is popular to regard the *Laws* as a less ideal – or indeed as a “second best” – version of the *Republic*. In particular, a famous passage in Book V (739c-e) seems to make precisely that claim. After proposing the establishment of a certain city which the Athenian calls “best,” he announces instead the development in what is to follow of a city he calls "second best” (739c-e). Many interpret this as a coded – or straightforward – reference to the *Republic* along with a manifesto of the *Laws*: it is to be the “second best” city after the *Republic*.\(^{21}\) Let us therefore call the approach which emphasizes Plato’s *demiurgy* as the key concept in an account explaining the *Laws* in its entirety and

valuably distinguishing it from the Republic. The concept of demiurgy is borrowed from the primarily cosmological dialogue of about the same time as the Laws, the Timaeus.  

There are three responses that could be made to this way of analyzing the Laws. First, it should be noted that the demiurgic approach comes perilously close to a statement of support for the inexistence of the Laws. After all, the Laws would only exist as a pale imitation of the Republic, and we know how Plato feels about imitations. Of course, advocates of the demiurgic approach may not begrudge that outcome if they think that their approach is indeed the most textually and conceptually sound one. Nevertheless, to the extent that we have a regulative interest in approaches to the Laws which claim that it does exist, we have reason to disfavor in our investigations the demiurgic approach as presently constituted.

Second, the demiurgic approach relies upon a mistaken interpretation of the passage in Book V. In particular, it glosses over the communist criterion adduced to separate the best from the second best city (739c-e). This criterion simply does not do the work many interpreters of the dialogue suppose it to do. In the Republic, only the guardians partake of communism, not the rest of the citizens; thus, given this crucial limitation in the scope of the Republic’s communism, it is incorrect to peremptorily identify the Republic with the “best” society conjectured in Book V of the Laws.  

Furthermore, a great number of other facts about the society in the Republic testify to its not being the best society possible: e.g., its inevitable decline (546a ff.), infanticide

---

22 According to this dialogue, a divine “craftsman” (dêmiourgos) fashions the world in the likeness of some divine model using the imperfect material at his disposal. Thus, I use the word “demiurgic” to characterize the approach oriented to the ways in which the society of the Laws “falls short” of some more perfect model on which it is nonetheless based. See Timaeus, passim.

23 I repeat the main points in this argument put forward by Bobonich. Bobonich, Plato’s Utopia Recast: His Later Ethics and Politics, 10–12.
(459d, 460b-c, etc.), the need to lie to its citizens (382c-d, 389b ff., 459c., etc.), and the
clumsy mechanisms necessary to avoid incest (461e). Of course, this is not, at the same
time, to deny that the Republic, at least according to certain metrics, is “better” than the
Laws. Rather, it is to deny that the two governments are such as to be tidily ranked “best”
and “second best.” Additionally, as Aristotle might remind us, to the extent we are
practically concerned beings we will be primarily interested in the conception of the good
that is πρακτός.24 Thus, any account of the Laws which makes it more “practical” but less
“fine” in comparison with the Republic should not be viewed as a wholly derogatory
determination.25

Finally, to assert the Laws is the “second best” of the Republic is not to make a
contentful assertion regarding the specificity of the Laws. To assert “The Laws is like the
Republic, but less so” is simply to say nothing at all about the dialogue as such.26 To
reduce the statement of the nature of the Laws to the second best of the Republic is to fail
to describe the Laws in itself and, at best, to substitute what is only a proprium for an
account.

1.2.4. Individual authors in the secondary literature

24 See E.E., 1218a-b or E.N., 1096b. For English and Greek versions of these texts, see Aristotle and
Crisp, Nicomachean Ethics; Bywater, Aristoteles Ethica Nicomachea.
25 Thus, Schofield characterizes one of the two projects at work in the Laws as an “idealizing” one and the
other as “trying to cope with human beings as they actually are.” Schofield, “The Laws’ two projects.”
26 Above, I emphasized that the demiurgic approach risks denying that the Laws even exists. Here I make
the somewhat derivative point that it also supplies an insufficient account of why the Laws exists. Of
course, partisans of the demiurgic approach content with the former will find no cause for dissatisfaction in
the latter.
The “systematic approach” which it is the task of this dissertation to expound by means of three linked studies builds on – while also supplementing, extending, and revising – some of the most significant works on the *Laws* in recent scholarship: specifically, those of Morrow, Bobonich, and Laks.

In his magisterial *Plato’s Cretan City* (1960), Morrow offers a comprehensive interpretation of every detail of the new society in the *Laws* from the analytic perspective that such a society is the synthesis of contemporaneous Greek historical materials with Platonic philosophical principles. Morrow analyzes the *Laws* as a “deliberate and sustained effort on Plato's part to illustrate how a philosopher-legislator would proceed, using the materials at his disposal in Greek life.” Morrow’s general approach (the demiurgic *par excellence*) – which I would hardly dare to refute so much as revise or supplement – also shows the pitfalls of regarding the *Laws* as the second best of the *Republic*. While Morrow successfully makes the case for the fact of demiurgy, as well as the “logic” of such a thing, so to speak, his account is incomplete, I contend, without attending to the *very rationale* according to which what is demiurgically utilized is potentially useful.

Ryan Balot in his comprehensive study of contemporaneous classical Greece, *Greek Political Thought* (2006), provides me with important evidence in assessing the

---

27 The first “study” is carried out in Chapter 2 and Chapter 3, the second in Chapter 4 and Chapter 5, and the third in Chapter 6 and Chapter 7.
28 An excellent article by Morrow, The Demiurge in Politics, provides an incisive philosophical précis of this idea.
30 Attending to such a rationale – under the aegis of the systematic approach – necessitates a modification of demiurgy as traditionally understood. To that end, I will distinguish between what I call concessionary demiurgy and creative demiurgy, and I will claim that the latter in particular characterizes Plato’s enterprise in the *Laws*. Creative demiurgy is the mode of demiurgy attuned to the *advantages*, in addition to the *drawbacks*, of material.
specificity of Plato’s demiurgic utilization of historical circumstances. In particular, Balot emphasizes the “culture of participation” along with the widespread “respect for the capacities of individuals” and recognition of the “human importance of free political associating” in the contest of the Athenian polis. 31 These elements also – along with Balot’s additional emphasis in the same context on the supra-legal concept of the good life and infra-legal focus on the character of citizens – go part of the way to illuminating why the Laws cannot be neatly assimilated to the legal approach as what distinguishes it from the Republic by providing contemporaneous evidence for aspects of society that also characterize the Laws. Likewise, the analytic emphasis of Ober on actually-existing Athenian democracy as a “sociopolitical” rather than a “constitutional” phenomenon is an aid to understanding the roundabout and trans-institutional character of the politeia of the Laws. 32

In Plato’s Utopia Recast: His Later Ethics and Politics (2002), Bobonich takes Plato’s view of the capacities of ordinary citizens (i.e., non-philosophers) as the central pivot on the basis of which to understand to Laws. 33 The putative existence of “increased optimism” on Plato’s part would certainly be relevant to his political-philosophy, detracting from the strength of the “philosopher-king” thesis and perhaps motivating a more “Protagorean” picture, one version of which could even be the set of political institutions we find in the Laws. 34 I will say more on the relational possibilities of the

31 Balot, Greek Political Thought, 15, 49.
32 Ober, The Athenian Revolution, 114, passim.
33 Bobonich, Plato’s Utopia Recast: His Later Ethics and Politics.
34 For the thesis, see R., 473c-e. For the picture, see Prt., 320c-323a.
systematic approach and Bobonich’s thesis both below in this Introduction and in the rest of the dissertation.

In Médiation et coercition: pour une lecture des lois de Platon (2005), Laks describes the Laws as “une œuvre relationnelle” (in regard to the Republic) and proposes three different ways of conceptualizing that relation: completion, revision, and realization. He argues that realization is the most appropriate way of conceptualizing the relation although in certain respects revision might be more appropriate. Laks suggests that the Laws presents a set of laws and institutions which are “humainement parlant, les meilleures possibles.” Those of the Republic, by contrast, are simply not possible for human beings. Thus, the Laws seen in this way is a kind of realization, rather than a real revision of the Republic. Yet Laks also argues that so great is the gulf between the gods and humans that the category of realization may even be inadequate to describe the relation between the two dialogues. Rather, the Laws “se presentment moins comme la réalisation d’un modèle que comme un modèle d’un autre type.” In this sense, there is something immitigably revisionary about the Laws. In sum, Laks claims that we should see the Laws as neither an instance of revision nor realization per se, but rather as a “changement d’un niveau (divin) à l’autre (humain).”

35 Laks, Médiation et Coercition, 33. Completion and revision are self-explanatory. By realization, Laks means “l’inscription d’un modèle donné dans un matériau qui ne lui est pas nécessairement adapté, et lui impose ses conditions.” Clearly, realization, then, is a form of demiurgy. Note that a relational work of realization may only partially perform the actual work of realization; rather, to qualify what it must do is “du moins la première étape (de nature encore théorique) sur la voie d’une telle réalization.” Ibid., 41.
36 Laks, Médiation et Coercition, 45.
37 Thus, Laks must argue that passages in the Republic apparently asserting the possibility of the kallipolis assert something like “possibility tout court” and not “possibility for us.” Ibid., 79–85. Cf. Davis, “On the Imputed Possibilities of Callipolis and Magnesia.”
38 Laks, Médiation et Coercition, 42.
39 Ibid.
Furthermore, the key concept Laks find operative in the *Laws* between “optimisme de principe” and “pessimissime de fait” is that of mediation.\(^{40}\) It is the job of the legislator to “mediate” between the perfect model strictly unrealizable by human beings and the human beings themselves. An important part of this mediation consists in the problematization of the law, especially as they are outfitted with preambles.\(^{41}\) Yet everywhere in the *Laws* there exists, according to Laks, “un certain retrait,” given the all-too-human nature of the Magnesians.\(^{42}\)

Monoson seeks to complicate Plato’s ostensibly simple – and negative – view of democracy, substituting for the received wisdom a verdict of distinct ambivalence on Plato’s part.\(^{43}\) To do this, she relies upon a fuller vision of democracy than the mere concept, one supplemented by the contemporaneous rituals, performances, and practices of actually-existing Athenian democracy.\(^{44}\) This approach is certainly compatible with the systematic, and I will reserve some critical comments for below. Schofield, too, casts a salutary light on the way religious festivals, etc., perform an ideological role in Magnesia as well as the ways in which the *Laws* embodies an “Athenian” rather than a “Socratic” paternalism in which pride in the openness of society and the autonomy of citizens to make up their own mind plays an important role.\(^{45}\)

Finally, Samaras also attempts to analyze the shift from the *Republic* to the *Laws* with reference to the concept of democracy. He does not see the passage as one of a

---

\(^{40}\) Ibid., 169.
\(^{41}\) Laks extensively discusses the role of preambles. Ibid., 21, 93–165.
\(^{42}\) Ibid., 36.
\(^{43}\) Monoson, *Plato’s Democratic Entanglements*.
\(^{44}\) Likewise, Prauscello analyzes the specifically choral performances in the *Laws* as rituals with desired political effects. Prauscello, *Performing Citizenship in Plato’s Laws*.
\(^{45}\) Schofield, *Plato*. 
simple evaluative reordering: rather, democracy goes from a “politically inefficient and morally destructive form of government” to something which could “contribute, at least to some degree, towards the best humanly achievable Greek city.”\textsuperscript{46} Thus, Samaras is interested in Plato’s use of democracy as a tool in Plato’s hands (cf. Morrow); he includes in his analysis of power both the “formal” distribution of power and the “informal” distribution of power.\textsuperscript{47}

1.3. The systematic approach

\textit{From law to system}

It is precisely here, therefore, that I would like to introduce my own concept – “system” – as the successor-concept to “law” as what best characterizes Magnesia in comparison with the kallipolis. The “system” concept is at the heart of what I call the “systematic” approach, which I argue is preferable to the legal approach inasmuch as it (i) overcomes the bad generality and (ii) fragility of the law-form which mar the legal approach. Additionally, it (iii) accounts for those elements of the specificity of the \textit{Laws} not captured by the legal approach. The systematic approach also solves problems associated with the democratic and demiurgic approaches.

\textit{Cadre vs. system}

The relevant contrastive concept to that of system is the “cadre.” I claim that the nature of the shift between the \textit{Republic} and \textit{Laws} is best captured by the distinction

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{46} Samaras, \textit{Plato on Democracy}, 349.
\item \textsuperscript{47} Ibid., 234–35.
\end{itemize}
\end{footnotesize}
between “cadre” and “system.” As I deploy these notions, a cadre is a small group of specially qualified individuals, while a system is a large population whose members or constituents affect, and interact with, another in orderly ways. Each of these concepts gives rise to a corresponding model of government. Under the cadre model of government, power emanates from a small cadre of perfect or nearly perfect individuals whose existence it is essential to reproduce from generation to generation. By contrast, under the system model of government power resides in the complex patterns of interaction instituted among and embodied by individuals. These patterns include fixed and orderly electoral procedures, the rule of law, and extra-legal social and cultural norms. It is vital to maintain these patterns for the sake of preserving the dynamic equilibrium constitutive of political order within the system. If power flows from a cadre, it circulates among a system.

The systematic approach is an answer to the fundamental question of why the Laws exists – namely, to demonstrate the system model vis-à-vis the government of Magnesia. In the three studies that follow this Introduction, I want to identify and analyze the ways in which the society of the Laws “governs itself” without having recourse to the totalizing surveillance, intelligence, and authority of a cadre. In so doing, I aim (a) to bring to light the character of the Laws in its specificity, (b) to put forward a general argument about the trajectory of Plato’s political philosophy, and (c) to examine how Plato brings our social destiny to the center of his normative political philosophizing as part of what I will call his creative demiurgy.

1.3.1. Elucidatory examples of the systematic approach
In the *Laws*, the starring role in the polis no longer played by the bodies and souls of a small group of philosopher-kings. Rather, the population at large “governs itself” – not only in the sense of exercising direct political control over themselves in accordance with rules, but in addition in the sense of displaying dispositions as a population that aid their continued existence as an organized population. *This* is the principal shift from the *Republic* – the replacement of a small group with total control by the complex and continuous activity of a population.

(1) Elections

To see what I mean by means of an elucidatory example, consider the prominence and special design of elections in the *Laws*. By an election I refer to an orderly process which elevates to office an individual or group from some candidate-class on the basis of a fixed procedure, typically involving voting or other electoral mechanisms. Take that of the nomophylakes.\(^{48}\) First, all citizens eligible to vote proceed to an especially significant temple, and there anyone who wishes may submit a nominating vote directly on the altar of the temple, including key information both of the candidate and himself on the tablet (753b-753c). Next, for an extended period of time anyone who wishes may remove any tablet to which he objects and place it for display in the market-place instead (753c). Subsequently, the officials in charge of this procedure make a list of the three hundred candidates with the most nominations, and everyone who wishes votes *again*, but this time from the restricted list of candidates (753c-d). The process repeats itself twice more until the list of candidates has been winnowed to just thirty-seven (753d). To cast a vote

\(^{48}\) A large portion of Chapter 2 is devoted to the election of the nomophylakes.
in the final round of voting, electors must “walk between the victims of a sacrifice” before recording their vote (753d).

At first glance, we might take the ubiquity of elections in the *Laws* as evidence for the democratic approach. However, a closer inspection raises questions and leads to criticisms. Take, for instance, the various “religious” aspects of the electoral process, the “rejection round” wherein electors may reject each other’s nominations by removing them from the temple to the marketplace, or the iterative component of the above election – none of them are adequately explained merely as ways of empowering the δῆμος. Thus, (i) the title of democratic does not explain the specificity of the election of the nomophylakes. Moreover, (ii) it is the lot, not the voting-contest as above, which was regarded by the Greeks as quintessentially democratic, and therefore, again, it is problematic to assimilate this election to the democratic approach. Additionally, (iii) there are components of various elections (though not necessarily that of the nomophylakes) which could justly be described as anti-democratic – i.e., they appear to mitigate or restrain the excesses of democratic recklessness.49

Let us therefore consider the election of the nomophylakes in relation to the systematic approach. Recall that a system is a population whose members affect and interact with each other in orderly ways and that the system model of government looks to the complex patterns of interaction instituted among and embodied by individuals as the basis of power. Thus, if an election is a process for elevating a candidate to an office on the basis of a fixed procedure, for the systematic approach, unlike the democratic

---

49 The best example is the schedule of incentives for voting set up for the election of council-members. See Chapter 3.
approach, the key term and relevant concept will be that of *procedure*. Candidates who are elected are chosen on the basis of a rule-following procedure, as opposed to being chosen on the basis of an exercise of pure *discretion*. *Procedure* and *discretion* within the genus of choice correspond to *election* and *appointment* within the genus of specifically political selection. Within this concept-grid, accordingly, we can analyze the *Republic* as featuring the direct appointment of those in power by those in power on the basis of the latter’s (philosophically fortified) discretion and the *Laws* as featuring elections taking place on the basis of open, orderly procedures codified in law.

The systematic approach has no trouble accounting for the specificity of the election of nomophylakes, including the use of voting-contests and anti-democratic elements. The key is to see that the point of arranging things in such a manner is not simply to give the δῆμος as such power, but rather to harness the self-governing capacities of a population within the confines of a set of rules and procedures. Moreover, resorting to the population itself is in no way a mere concession (such as the demiurgic approach would have it), but rather by doing so the election of the nomophylakes makes creatively demiurgic use of the active and social powers of the population participating in it. Indeed, it is the very use of these powers which separates the election from an instance of *mere law* or *mere procedure* (such as the legal approach would have it); rather, it depends upon the solicited operation of the expertise, powers, and discretion of the electors.

---

50 For the details, I will refer to Chapter 2. In particular, see “The function of religiosity” for information on religion in the election of the nomophylakes, and for various comments on the “rejection round” and “iterativeness” of the election see 2.3.3, 2.3.4, and 2.3.5.
There is ample textual evidence that electoral processes such as that for the nomophylakes are not mere procedures (or sets of rules or laws), but rather depend for their success on specific properties of the populations that enact them. The Athenian declares that those who are elected must have undergone testing (βάσανος) “right from their childhood until the moment of their election” (751c5-8). I call that sort of testing “candidate strategies:” it aims to improve and insure the quality of the candidate-class or various candidate candidate-classes from which officers are chosen. In part, such strategies are specifically electoral; but also in part they pertain to all aspects of living in Magnesia. In other words, candidate strategies are part of continuous and society-wide process of βάσανος.

In addition, Plato also relies upon strategies for producing excellence in government through the special training and education of the electors for these offices. I call these “elector strategies.” For instance, Plato decrees that they must “have been brought up [πεπαιδευμένους] in law-abiding habits” (751c8-9). Plato’s elections simply will not function correctly unless the electors possess the right kind of παιδεία. Actually, correctness as such is not even the relevant desideratum – rather, robust correctness is what is required when the Athenian declares that the electors must be “able to approve or disapprove of the candidates for the right reasons and elect or reject them according to their deserts” (751d1-2). Like candidate strategies, elector strategies can also be called “continuous;” elections are not self-contained exercises of self-governance, but rather snapshots in time of the systematic functioning of a population governing itself using an artful arrangement of formal rules and individual powers.
Finally, this election – like other elections in Magnesia – is dependent on more than the personal properties of candidates and electors, but requires also that both groups be integrated within a stable population of citizens who know each other well-enough to form reliable inter-personal discriminations in elections and to make other decisions in light of the regard of others (751d3-5). In sum, what is functional and distinctive about this electoral process is best explained, not through recourse to the concepts of democracy or legality, but through recourse to the concept of a self-affecting population (system) whose forms of “knowledge” about itself are methodically solicited and utilized in non-obvious ways unavailable to the individuals themselves. The system model is, therefore, an intricate kind of demiurgy which is poorly described as a mere concession to the deficient material of human beings.

(2) Cultures

Less directly political-institutional instances of the systematic approach to the Laws are provided by what I call the “contest culture” and “memorial culture” of Magnesia. Both represent ways of tending to self-affecting, self-interacting populations; both require a central framework of law-like policies, rules, or patterns as well as a suitably talented population to abide by, and enact, them; and finally, both throw the differences between the cadre and system model into full relief.

By “contest culture” I refer to Plato’s attempts to manipulate the normative distribution of public honors for the purpose of encouraging socially beneficial, and discouraging socially detrimental, patterns of behavior. For instance, in comparison with

---

51 As an example of the latter, consider the “rejection round” described in Chapter 2.
the individual who merely refrains from crime, the individual who also prevents others from committing crimes is to be honored more than twice as much by the public (730d2-5). He or she is to be declared “the winner of the prize for virtue” (730d5-7). Plato repeatedly signals his desire to institute a kind of friendly, non-jealous competition for virtue among the citizens; within this contest culture they are most successful who help others succeed. Such stipulations dovetail with a host of similar practical recommendations in Magnesia founded on similar analyses of the communicability of virtue by means of inter-personal education, assistance, and correction.52

In sum, through the judicious bestowal of honors the state attempts to use for its own purposes the ability of a population to rate each other and seek each other’s approval; the utility of special modes of influence is recognized and commended to others. In so doing, Plato makes use of the self-affecting dynamic of a population within a system; he relies upon a set of generic policies which must be supplemented by actually sufficiently virtuous people; and he relies upon a population to in part manage itself rather than rerouting all decisions and control through an empowered cadre.

The “memorial culture” of Magnesia functions similarly. By “memorial culture” I refer to the set of guidelines according to which citizens are to continually remind themselves and one another of various maxims and advice. These maxims and advice tend to be “more detailed” (732b5) than the ideological pronouncements featured elsewhere, yet they are no less important inasmuch as they help stitch up the ethical lacunae of everyday life.

52 See Chapter 5 for more along these lines.
If forgetting is an “outflow” of valuable thought, then Magnesian memorial culture aims – via the social functionality of individuals in a population reminding one another – at supplying a perpetual inflow of intelligence, thereby helping to maintain an economy of useful knowledge in circulation and use (732b-c). It helps correct for essential shortcomings of individuals (all individuals) and operates along an infra- and para-legal dimension. Like the contest culture described above, Magnesian memorial culture represents a way of tending to a population of individuals systematically interacting with each other; it combines the enthusiasm and virtue of live individuals with the operation of general directives; and finally, it throws the difference between the cadre and system models into relief. There is no cadre pulling the strings of Magnesian memorial culture (cf. Republic), but it would be likewise inaccurate to describe it as displaying a trust in the δῆμος itself (cf. democratic approach). Rather, it represents a demiurgically innovative way of using the social powers of human beings in groups to a positive end in the absence of a supreme cadre.

(3) Nocturnal council

The ultimate tool with which to further the self-government of a population in regard to the intellectual economy of ideas is the so-called nocturnal council. The nocturnal council is intended to include the wisest old men and the most promising young men; they conduct various sort of intellectual researches and discussion akin to those

---

53 This is part of what could be called the “hydraulic” theory of memory given by Plato in 732b-c.
54 That is to say, it concerns a domain beneath the practical scope of law (infra-legal) and operates alongside compatible laws (para-legal).
practiced by the philosopher-kings of the Republic. \(^{55}\) Among other shadowy ascriptions of power, Plato insists that the state “must be entrusted to it” (969b). Indeed, many have found the nocturnal council to be seriously at odds in spirit with the rest of the Laws, and some have even hypothesized a non-integral text at work. However, as I argue in Chapter 6 and Chapter 7 of this work, there is no contradiction between the nocturnal council and the rest of the government of Magnesia, either in spirit or in fact. Instead, rather than constituting a kind of ersatz or clandestine cadre, the nocturnal council acts as an organ of propagation and dissemination over the population in a fashion totally appropriate to the system model. To see that the nocturnal council is best described as supporting, rather than undermining, the systematic approach, it is simply necessary to review the (\(i\)) “team functionality” that characterizes the mode of operation of the council, (\(ii\)) the status of its members as indirectly elected, and (\(iii\)) the role of the council as a “legal protectorate.”

By “team functionality,” I refer to the special mode of collaboration obtains between junior and senior guardians. Whereas the senior guardians participate in the council mostly in virtue of some other office to which they were elected, the junior guardians participate in virtue of having been selected as promising by the senior guardians. Although the junior guardians do not appear to exercise any special power (even within the circumscribed real powers of the nocturnal council), the Athenian does provide information about how they are to work together (964d-965a). Specifically, the junior guardians are (\(a\)) to survey the whole state and “store up in their memory all the sensations they receive while on guard,” (964e1-5) whereas the senior guardians are (\(b\)
to deliberate in light of the reports of, and with the assistance of, these observers. The atmosphere throughout is characterized as one of open deliberation, discussion, and research. Although the division of labor between the two types of guardians should not be reduced to mere theorists and mere data-gatherers (both seem to require some understanding of either task), nevertheless it is true that the two tiers of council-members together form a complex, cooperative unity whose group-functionality exceeds their individual powers. To this extent, the nocturnal council should not be described as consisting of cadre-like individuals with absolute knowledge and surveillance; rather, the council as such only functions in a corporate sense best described within the systematic approach.

Most members of the nocturnal council occupy it ex officio – i.e., they are indirectly elected to the council via election to another office. Therefore, they are already considerably involved in the daily governance of the state. However, given the predominantly academic and argument-focused character of the council along with their superior understanding of good laws from a standpoint of ends, they are perfectly poised – via circulating, socializing, and co-deliberating with other officials – to amplify the influence of philosophy itself, to exercise a kind of soft, benevolent, and non-coercive control over Magnesian society, and to correct for the deficiencies of the legal form by enriching it with a supplemental intelligence everywhere along the line.

Indeed, the role of the nocturnal council as “legal protectorate” also has to do with the utility of such a supplemental intelligence. The Athenian proposes a law declaring that “the Nocturnal Council of the Authorities shall be constituted the legal protector of the safety of the state” (968a6-7). This declaration seems both ambiguous and ominous;
however, when properly interpreted, I argue, it is both innocuous and supportive of the system model. In particular, that the council is a “protectorate” (φυλακή) – based on how Plato uses similar words in the Laws – has to do with the superior ability of the councilmembers to teach and explain various aspects of virtue and similar topics, i.e., it has to do with the possession by the council of a set of intellectual-discursive skills along with the utility of those skills for the state. The nocturnal council, then, provides a way of embodying the extra-legal yet legally necessary discursive and persuasive capacities of philosophers in such a way as to ensure the permanence and security of the laws themselves. Such an attempt is fully in accord with the system model I claim best characterizes the city of Magnesia.

1.3.2. The systematic approach vs. the democratic approach

The systematic approach to the Laws better captures the work in its specificity than the democratic, legal, or demiurgic approaches. Let us consider each of these terms in turn in comparison with the systematic, beginning with the democratic. Of course, the democratic approach (like the other two) has a great deal to speak for it. Even if it does not completely describe the Laws in its specificity, it certainly captures an important truth about the dialogue to assert that it is more democratic than the Republic: the latter is the enemy to everything democratic, whereas the former does feature many features which could be described as more or less democratic.

However, a closer look at contemporaneous notions of democratic institutions (which feature the lot) reveals the extent to which the character of the Laws is not

---

56 Again, see Chapter 7 for this argument in detail.
reducible to democracy. A useful distinction for sorting out the differences would be the distinction between democracy and popular involvement. Whereas the Laws, certainly unlike the Republic, features plenty of popular involvement in both the directly political processes as well as broader cultural and social tendencies of political relevance, neither of the two can be called democratic sans phrase even if the Laws does feature certain, carefully constrained authentically democratic elements.

Consider, for example, the two linked phenomena in the Magnesian law-code I call “social persuasion” and “social enforcement.” Social persuasion refers to the state’s assignment of reputational predicates in response to preferred or dispreferred patterns of behavior. Social enforcement refers to the enforcement of the law by individuals themselves aware of its violation. Almost always, they appear in combination. For instance, any male who declines to enter marriage and produce children after a reasonable portion of time is to remain officially “unhonored” (ἄτιμος) and not to receive any honors (τιμῆς…πάσης) customarily bestowed by the younger upon the older (774b). Indeed, the young are instructed not to “take the slightest notice of him” (774b). This is what I mean by “social persuasion.” Furthermore, if he attempts to chastise someone else, anyone who does not rush forward to protect the victim will be declared by law to have a cowardly and wretched reputation (774c). This element constitutes what I mean by “social enforcement” (and the medium of enforcement in this case is an additional instance of social persuasion). The joint phenomenon of social persuasion and social enforcement is poorly described as democratic if we refer only to the bare concept of empowering the
Instead, what distinguishes it is its reliance on an *involved population.* It induces certain behaviors on the part of individuals by appealing to their concern for their reputation within that population; and it manages the mutual exchange of influence among that population through accurately matching predicates to character. Furthermore, it expands the reach of the law by in effect “deputizing” everyone, and it quells potential violations of public order or decency by immediately countering them in the fashion of negative feedback.

Similarly, the individual powers of the citizens are frequently and ingeniously mobilized within the political institutions themselves of Magnesia, but this mobilization is, again, better described as *popular* rather than *democratic.* For instance, in the election of the nomophylakes, the “rejection round” arguably shames electors who make bad nominations, thus ministering to the concerns of the electors as members of a population and arguably imparting a conservative orientation to the election overall. To the extent that this set of electoral procedures does actively solicit and make use of the individual contributions of the electors, it could be called broadly democratic, yet their democratic character is hardly unrestrained or unambiguous. Even apart from the decidedly non-democratic ideological environment (intended to stress military service and religious

---

57 On the other hand, it is *well* described as democratic if we refer instead to contemporaneous Athenian democracy. However, the term would also risk being less informative from our perspective since our contemporaneous democracy does not include these phenomena. Used in this way, the term “democratic” alters in meaning to something like “historical,” and in any case, the deferred explanatory task would then become explaining *why* these aspects of history (and not others) make it into the *Laws.* One person who *does* interpret the term in the second sense is Monoson; however, her primary focus is the *Republic,* not the *Laws,* and I find reason to disagree with much of what she says about the *Laws.* Monoson, *Plato’s Democratic Entanglements.*

58 See above for a brief overview of this process and Chapter 2 for a longer one.
observance), various aspects of the procedures limit or corral the democratic preferences of the populace.

Rather than seeing it as straightforwardly democratic, we should, alert to non-democratic or even anti-democratic elements, characterize the election of the nomophylakes as a process which makes intelligent use of the real contributions of the electors without either totally deferring to the electors or writing them off in favor of the superior opinion of a cadre. By incorporating a defined rejection-round and allowing electors to react to each other’s electoral choices in an iterative way, the electoral process is better analyzed as part of the systematic self-management of a population with the aid of rules and procedures than as an exercise of democracy as such.\(^{60}\)

### 1.3.3. The systematic approach vs. the legal approach

Like the democratic approach, there is a sense in which the legal approach is substantially correct. There is no supreme cadre in power; instead, the rule of law could be said in large measure to have taken its place. Most of the Laws is given over – in place of appointing such a cadre – to articulating a set of laws. These laws apply to everyone (i.e., ἰσονομία is in effect), and there is no simple way to abrogate them. However, (i) the

---

59 See Chapter 2.

60 We can make an exactly similar point in the case of the election of the council. Councilmembers are elected from each of the four tiers of Magnesian society as a whole. While anyone can vote for the candidates from each tier, a subtle schedule of incentives and penalties encourages members of the upper tier to vote in every election and everyone to vote in the upper tier elections. On the one hand, this process makes clear and real use of the individual powers of the members of general populace. On the other hand, the input from members of the upper tiers is passively privileged over that from members of the lower tiers. Just as in the case of the election of the nomophylakes, this electoral process makes use of individual electoral contributions in an intelligent way for the good of the whole without either awarding all power and discretion to a removed cadre or giving full rein to democracy as such. Rather, it provides a framework in which a population of varying levels of “knowledge” can reliably appoint suitable candidates to assist in its governance. In sum, the systematic approach best explains the existence of non-democratic and even anti-democratic elements of the Magnesian government.
Laws is more than just laws, and the legal approach fails to completely capture the Laws in its specificity. In addition, (ii) the legal approach’s prospects are further attenuated via the critiques (passim in Plato, including the Laws) of the law-form in general – in particular, its failures of generality and its vulnerability in the hands of inadequate stewards.

Thus, what is needed is a sort of supplement to the legal approach which captures the specificity of Magnesian society and resolves Plato’s complaints. If the rule of law characterizes Magnesia, it is not a rule of law tout court, but a sort of “full-bodied” rule of law (in a word: ἐυνομία). It is exactly this task that the systematic approach aims to achieve, substituting system as the successor-concept to law. The systematic approach encompasses the legal approach along with the recognition that “lawfulness” requires more than a set of laws and that laws do not exist in a vacuum, but are actualized in a human and social environment by a live population.61 To put it bluntly, the systematic approach is the legal approach with a human face.

Since the systematic approach takes within it both a set of general patterns and directives (some of which are laws) and the human beings who govern and are governed by these laws, it possesses the resources to explicate in what ways Plato’s Magnesia is more than a collection of laws. To this end, we must be alert to what I call “culture in the broad sense.” If “culture in the narrow sense” includes physical works of art or discrete products and events, culture in the broad sense refers to the economy of attitudes on all subjects along with the attitude-possessors who influence and are influenced by one

61 This expansion of the legal approach pertains both to matters properly falling beneath the law (infra-legal) and to matters above and beyond the law (supra-legal). I use the word “extra-legal” to mean both categories.
another in various patterns. What Plato wants is something like an *orderly* culture in the broad sense, but such orderliness consists in more than lawfulness *tout court*: importantly, it consists in a kind of equilibrium, an equilibrium that can be either menaced or reinforced by circular causal chains. To show that “orderly culture” rather than “legality” is the relevant distinctive characteristic concept of the *Laws*, I draw attention (in *Chapter 4*) to (i) Plato’s designation of culture in the broad sense as an object of political-philosophical attention and (in *Chapter 5*) (ii) his attempt to repurpose it for the purpose of good governance in general.

Given the need for a supplement to the law in view of its deficiencies, we should examine what I call the (a) thematization of the infra-legal in the *Laws* and (b) the special role of the nocturnal council which consists in the trafficking of a kind of legal expertise that is itself extra-legal. First, Plato pays special attention to the normative framework of daily life that falls outside the scope of explicit law – “unwritten customs,” “ancestral laws,” and the like. Although these things are not “laws,” they are nevertheless the “bonds of the entire social framework” (793b). They do not replace the law, but they do help to endow it with stability (793b-c).  

Similarly, the nocturnal council – in its role as the “legal protectorate,” according to the interpretation I argue most befits this phrase – uses its superior understanding of the *rationale* of the law, along with special intellectual-discursive skills, to protect, justify, and explain otherwise dangerous opacities, plug lacunae, and successfully match it to the particular material grain of a situation. The council disseminates this extra- but pro-legal knowledge and experience by means of the various offices its diverse

---

62 See (5.2.1) for more on the thematization of the infra-legal.
membership holds. As I asserted above, the nocturnal council is best understood as a legal or official supplement to protect and uphold the law even in the face of its own deficiencies or infelicities.63

1.3.4. The systematic approach vs. the demiurgic approach

Like the democratic and legal approaches, the demiurgic approach possesses a kernel of truth in relation to the Laws while failing to capture the work in its full specificity. The systematic approach, on the other hand, preserves the kernel of truth in the demiurgic while resolving or overcoming the problems inherent to it. To begin, it is certainly true of the Laws that the society envisioned is (a) less ideal or “fine” (καλὴ) than a society, conceivably, could be, and (b) that the legislators must make use of the imperfect, all-too-human material at hand to make it as good as they can. So far, so good.

1. However, by such standards all human societies, including that of the Republic, are demiurgic imitations. The Republic itself, which is communist only in the uppermost echelon, does not meet the communist criterion of the “best” society conjectured by the Laws (739c-e).64 In addition, attending to the text of the Republic itself, we find evidence of very many empirical shortcomings, including the unavoidable decay of the society.65 Therefore, the demiurgic approach fails to adequately distinguish the Laws from the Republic in an absolute sense; rather, it is arguable that both are “demiurgic” productions along a continuum. Additionally, the demiurgic approach tells us nothing about how to

63 See Chapter 7 for a defense of this interpretation of the nocturnal council.
64 Only the guardians are said in Book V to partake of communism in relation to property, family, and spouse.
65 For the decline, see R., 546a ff. Other ostensibly non-ideal characteristics include infanticide (459d, 460b-c, etc.), the need for propagandistic lying (382c-d, 389b ff., 459c., etc.), and the apparently secret record-keeping necessary to avoid lateral incest (461e).
think of the distinctive *esprit* and character of the *Laws* in relation to the *Republic* (it substitutes a *proprium* for an account).

2. Similarly, the demiurgic approach as such does not fulfill the desiderata of an inquiry aiming at clarifying the unique account of the *Laws*. In other words, it constitutes a form of withholding existence from the *Laws*. Of course, whether or not the *Laws* actually “exists” in the sense in which I use this word, is itself an open question. We might well decide – after appropriate philosophical and scholarly consideration – that it does not exist in that sense and is merely a pale, inferior version of the *Republic*. However, to the extent we are especially interested in such an inquiry, then we should favor approaches capable of satisfying it, in the style of a regulative ideal.

3. Finally, we should note that a distinction made within the category of demiurgy itself may be capable of resolving the two problems with the demiurgic approach listed under (1) above. Namely, we should distinguish concessionary demiurgy from creative demiurgy. Whereas the former represents solely a falling-off from some standard of perfection due to the exclusive availability of some inferior material, the latter, even if nonetheless still “imperfect,” represents a substantively new way of approaching the original standard based on an appraisal of the *strengths* as well as the weaknesses of the material at hand.66 The *Laws* is a demiurgic production, like the *Republic*, but its

---

66 One counterargument to the supposed distinction between concessionary demiurgy and creative demiurgy might turn on the identity of their products *ceteris paribus*. In other words, if I am creating a product \( p_{cod} \) according to concessionary demiurgy, then this product will not be as fine as the ideal product or model \( p_{m} \), yet it will still be as fine as I can make it. However, if I am creating a product \( p_{crd} \) according to creative demiurgy, then such a product will still be not as fine as \( p_{m} \), yet at the same time it will still be as fine as I can make it, and I will be particularly attuned to the possible strengths of the material. However, this provides no reason in itself to think that \( p_{crd} \) will be better or even different than \( p_{cod} \). If in each case I made the product as fine I could. Thus, creative and concessionary demiurgy would be the same thing. My response is the following. The two notions of demiurgy are only the same under the assumption of
demiurgy, unlike that of the *Republic*, commands our attention in virtue of its creative appropriation of human and social potential. The systematic approach, in turn, recognizes the creative demiurgy at work in the *Laws* and is therefore in this way preferable to the demiurgic approach *tout court*.\(^68\)

Plato’s use of the lot in the election of the council illustrates the creative demiurgy I claim is pertinent to the systematic approach. In particular, there are two modes of equality which I will call, after Aristotle, arithmetical and geometrical.\(^69\) Arithmetical equality is simple to carry out, for all one must do is simply award office by lot. The visible co-personhood of two persons is sufficient to mark them as arithmetically equal. Geometrical equality, by contrast, involves granting “much to the great and less to the less great” in accordance with the “real nature of each” (757c). Whereas arithmetical equality is straightforwardly “visible,” geometrical equality is opaque and invisible (757b). Furthermore, when the positive regime of equality instituted differs from individual beliefs about merit, quarrels are the result; by contrast, when they coincide, “friendship” is the result. On the one hand, the legislator has clear normative reason, then, to institute a regime of geometrical equality: for it involves bestowing upon each a

---

\(^67\) Of course, even if the *Republic* is a demiurgic production, this is arguably not its primary goal. In my view, the primary goal of the *Republic* is to exist as an object of desire.

\(^68\) The ultimate example of creative demiurgy is the discussion of symposia that takes place in Books I-II of the *Laws*. However, I would like to defer a discussion of this passage to a separate work.

\(^69\) See Book V of the *Nicomachean Ethics*. 

---
quantum of power in accordance with the extent of their nature – the attempt to legislate nothing less than justice itself (757c). On the other hand, the (i) emphatic visibility of arithmetical equality, (ii) its corresponding ability to generate large reserves of friendship, and (iii) the necessity of friendship to the very stability of the state, all mean together that there is clear normative reason for the legislator to make use of arithmetical equality. Thus, in sum there is normative reason for the legislator to make use of both forms of equality, as indeed takes place in the case of the election of the nomophylakes. However, it would be inaccurate to describe the legislator’s resort to both as merely a concession and falling away from the strict justice represented by geometrical equality. Rather, either regime of equality represents a combination of benefits and drawbacks to be artfully assembled and mixed by the legislator. Thus, Plato’s creative demiurgy utilizes the “lesser” form of equality as a way of bolstering the philia of the state.

Likewise, the dense social interactivity of human beings – i.e., their ability to influence and be influenced by each other in sometimes rapid and uncontrolled ways – is on one level a problem. It is as a nod to this problemness that Chapter 4 of this dissertation is labeled, “Culture as Problem.” However, Plato response is more than concessionary: yes, on the one hand, he does take steps to limit or staunch this dense social interactivity; but, on the other hand, he also takes steps to take advantage of, and unexpectedly utilize, such an interactivity. Thus, in recognition of Plato’s examination of culture (in the broad sense) as a resource as well as a problem, Chapter 5 is labeled “Culture as Solution.” However, Plato – by taking advantage of measures like social enforcement, social persuasion, competitive culture, memorial culture, etc. – implements a creative rather than a concessionary demiurgy in the Laws. Accordingly, the systematic
approach, to the extent it recognizes the creativity of Plato’s demiurgy, is preferable to the traditional demiurgic approach.

Finally, consider once more the “team functionality” of the nocturnal council whereby the young and old members perform different tasks and form a complex unity with a functionality in excess of that of each faction in itself. Although both actually existing young people and actually existing old people such as can be expected to inhabit the Magnesian colony suffer from various deficiencies, Plato’s demiurgy making use of both of them is not merely concessionary, but rather it intelligently and creatively makes use of the selective strengths and weaknesses of both. Here, once more, Plato’s creative demiurgy pursuant to the systematic approach is more appropriate to the text than the concessionary demiurgy associated with the traditional demiurgic approach.

1.4. The systematic approach and the secondary literature

Having outlined the relative advantages of the systematic approach to the Laws in comparison with the democratic, legal, and demiurgic approaches in general, I will now once again canvass the principal or salient contributions to the secondary literature with the same end in mind.

Morrow’s – to risk the overuse of an adjective – “magisterial” book exemplifies the demiurgic approach to the Laws: Morrow sees the Laws as a combination of (or a modeling from) the kallipolis of the Republic with Athenian history and institutions.70

70 See Morrow, Plato’s Cretan City; Morrow, “The Demiurge in Politics.” Laks makes the excellent point, however, that there is no reason to restrict the empirical material made use of by the demiurge to what is historical; rather, it arguably also includes anthropological facts about humanity. Laks, “Legislation and Demiurgy.”
However, by my lights Morrow underestimates the radicality of the shift from the *Republic* to the *Laws*, and moreover, by designating the details of the new society as mere material for the application of philosophical principles, he overlooks those details—the many intricate customs, rituals, and ideological asides—precisely where we find inflected the shift from the cadre to the system model I have described. The *Laws* represents more than a model applied to material; rather, it offers a philosophically rich and new way of configuring material in general. A virtue of my approach, I believe, is the light my framework can shed on such material as part of the overall political philosophy of the *Laws*. In sum, while Morrow is correct in general regarding the fact of demiurgical utilization, he does not sufficiently exhibit the particular rationale of such utilization. To develop this question of the particular rationale of demiurgic utilization is, in my judgment, to embark upon the systematic approach and replace the concept of concessionary demiurgy with that of creative demiurgy.

Bobonich analyzes the *Laws* under the rubric of an “increased optimism” regarding the moral and intellectual capacities of non-philosophers. This has clear consequences for the political philosophy of the dialogue. Indeed, one way would be for me to see it in harmony with my own approach—i.e., such an increased optimism obviates the need to restrict real power and knowledge to a cadre, thus enabling the system model I claim characterizes the *Laws*. (1) However, one could equally proceed on the basis of an assumption of an increased pessimism on Plato’s part—i.e., Plato’s loss of belief in the possibility of reliably forming a real cadre would thus necessitate his resort

---

71 To this extent, I agree with Laks that the *Laws* represents “un modèle d’un autre type.” However, I also disagree with Laks’s nonetheless concessionary account. Laks, *Médiation et Coercition*, 42.

72 Bobonich, *Plato’s Utopia Recast: His Later Ethics and Politics*. 
to system. In sum, Bobonich’s contention is ultimately orthogonal to my own. (2)

Additionally, *qua* datum, Bobonich’s conclusion doesn’t necessary explain anything; it simply arrives with consequences. By contrast, Plato’s increased awareness of the utility of a system model could be used to explain a *de facto* increased optimism on his part. (3) Finally, it is very hard to disentangle Plato’s purported demotic increased optimism from his elite increased pessimism; in other words, if Plato comes to think *less* of the elite in general, well this is – and it isn’t – an increased optimism regarding the demos. (4) Finally, Bobonich’s argument pertains rather to moral psychology and moral philosophy than political philosophy as such; thus, I explore the political philosophy of the *Laws* in a mode largely complementary to – if nonetheless distinct from, and even orthogonal to – Bobonich’s analysis.73

Laks interprets the *Laws* in comparison with the *Republic* as a political-philosophical work utterly devoted to the all-too-human (read: non-divine) context in which our political projects must take place.74 This carries great significance for the mode of demiurgy we assign to the *Laws*. However, in one sense Laks is wrong to so starkly separate the *Laws* from the *Republic*. As I have argued throughout, given (i) the arguable non-identity of the *Republic* and the “best” city conjectured in Book V of the *Laws* and (ii) the many non-ideal characteristics of the kallipolis in the *Republic*, it does not make sense to partition the two dialogues as pertinent to two different “realms,” divine and human. Rather, we should see both as non-ideal, demiurgic productions along a continuum. However, the contestable status of this background assumption

73 This is a distinct kind of orthogonalness than the kind glossed under (1) above.
74 Laks, *Médiation et Coercition*. 
notwithstanding, Laks is surely correct in finding in the *Laws* a kind of reinvigorated demiurgy and theory of demiurgy. The concept of “médiation” as what characterizes this demiurgy is useful.75 Yet Laks, too, falls victim to the concessionary mania which makes of the Magnesian legislation a series of regrets and concessions. Thus, in a discussion of Laks I would refer to the case above for characterizing the demiurgy at work in the *Laws* as creative rather than concessionary.

With regard to Monoson, I fully agree with her revisionary argument regarding Plato’s view of democracy, in light of the full, concrete, and contemporaneous sense in which we should examine that phenomenon.76 Many aspects of this sense are put to wonderful and sustained use within the *Laws*. However, (1) in large part Monoson ignores the *Laws* in favor of the *Republic*;77 (2) in addition, as I argue in connection with the democratic approach above, the notion of “popular involvement,” issuing from the systematic framework, is preferable to that of “democracy.” In other words, the *Laws*-pertinent evidence assembled by Monoson is better glossed as popular rather than democratic.

Finally, Samaras represents an instance both the democratic and demiurgic approaches.78 My criticism in regard to him can be subsumed beneath these axes. That is, (1) the democratic approach represents a mistake in focus; and (2) his demiurgic approach is concessionary rather than creative. Although Samaras has many interesting

75 Ibid., 36.
76 However, it is certainly troubling that *Plato* does not appear willing to agree in writing with this argument. I.e., he is not willing to interpret the term democracy in the sense specified by Monoson.
77 And, indeed, much of what she says about the *Laws* – or says about the *Republic* in an apparently exclusive way – is contestable. For instance, see my comments on Monoson and the theatrical aspects of democracy in Chapter 4 and Chapter 5.
78 Samaras, *Plato on Democracy*. 

41
tool-pertinent insights into Plato’s use of democracy, he is nonetheless incorrect in labeling Plato’s use of the lot as a “half-hearted concession” along with similar concessionary demiurgic remarks.\(^79\)

1.5. The plan of the subsequent work

So far I have (i) specified the basic question which my own approach to the *Laws*, the systematic approach, is intended to answer, (ii) clarified the problematic in which it has taken shape, viz., the democratic, legal, and demiurgic approaches, (iii) glossed a representative selection of views of the dialogue from the secondary literature, (iv) conveyed the essence of the systematic approach with reference to examples from the subsequent document, and (v) explained why it represents an advance with respect to each of the democratic, legal, and demiurgic approaches, (vi) as well as its relation with the existing secondary literature. In what remains, I would like to (vi) sketch a roadmap of the dissertation that follows.

The following document attempts to give flesh to the systematic approach outlined above. To do this, my analysis takes the form of a series of three linked investigations into various aspects of the life of the city described in the *Laws*. First, I examine the various electoral processes used in the *Laws* (2-3). Second, I analyze the ways in which Plato theorizes or attempts to control potentially turbulent forces of culture operating *outside* the reach of the law (4-5). Third, I examine the institution of the “nocturnal council” and argue that it does not pose a counter-argument to the systematic approach (6-7).

\(^79\) Ibid., 243.
1. Since conforming to a set of electoral procedures epitomizes the system model of government, it is important to undertake an examination of the electoral processes in the *Laws*. To start, I argue that Plato – by explicitly restricting the electorate to members of the military and abundantly distributing religious signifiers and paraphernalia throughout the electoral process – seeks to model the political culture of elections in the city on the military ethic and religious sensibility native to it. The anti-anarchical ideology encoded in these forms of life encourages citizens to make their electoral decisions in a responsibly social way (2.3.1-2). In addition, I show how elections function to educate and improve the electors themselves via the presentation of certain edifying and informative spectacles as part of the electoral process (2.3.5). Finally, I argue that Plato’s judicious use of election by lot promotes solidarity and fellow-feeling among the citizenry without, however, compromising the quality of those ultimately selected (3.2).

Furthermore, I demonstrate how the special format of the voting tablets in use forces voters to contextualize their votes with information Plato thinks relevant (2.3.3); how Plato uses a careful framework of incentives to manage voter apathy (3.1); and how electoral procedures in the *Laws* synthesize the individual contributions of heterogeneous actors into a collective result as part of an intelligent process superior to its individual constituents (2.3.4).

2. Next, I investigate from a systematic perspective the extent to which Plato takes “culture” in the broad sense — i.e., the ways in which large groups of people influence and are influenced by one another in accordance with patterns of interaction which they themselves dictate — as an object of political-philosophical attention. Specifically, I point to Plato’s deep concern in the *Laws* with self-propelling cycles of
influence which possess the potential to harm, destabilize, or destroy the city, as well as Plato’s attempt to mitigate, curtail, or recuperate those tendencies as part of the self-regulation of the city. To do this, I examine the ways in which, for Plato, the freedom we possess to consort with whom we wish or consume which art we wish risks setting into motion patterns of positive feedback culminating in societal catastrophe (4).

Given the dangers above, I next canvass the various strategies of cultural management to which Plato has recourse for his city. I show how Plato makes the proper design of customs, usages, and practices in a city a crucial desideratum of political theory responsible for the stability of law itself (5.2.1); institutes various preferred patterns of interaction among citizens he judges most beneficial for the creation of an intelligent and resilient culture of virtue (5.2.2); and insists that the distribution of honors and status-predicates adorning the public life of the city be arranged in a way conducive to the flourishing of the city. In addition, by insisting that certain classes of public misdeeds be corrected or punished on the spot by bystanders, Plato nips in the bud potentially noxious chains of influence (5.3). Finally, I examine how diverse policies that Plato puts into place — the requirement that devotees of music and theater actively participate in the regulation of these things, the integration of women into the communal life of the city, and the ban on private religion — all have the effect of rooting out potentially threatening pockets of cultural autonomy and subjecting all important spheres of life to public scrutiny, shared appreciation, and common participation (5.4).

3. Finally, I consider in particular one of the most interesting institutions in the Laws — the mystery-shrouded “nocturnal council.” This council meets every morning at dawn and includes many of the powerful officials in the city. It pursues a special
curriculum of science and philosophy similar to that studied by the philosopher-kings of the *Republic* and is suggested to possess wide-ranging powers similar to theirs (6). At first glance, this institution poses a significant challenge for the systematic approach: after all, does the nocturnal council not, in the final analysis, constitute a kind of “cadre” situated at the heart of the *Laws*? I argue that a careful reading of the relevant passages in Book XII does not support this judgment. Not only is the nocturnal council not incompatible with the system model of government, but indeed, it performs a vital function vis-à-vis the research and circulation of necessary knowledge (including the study of other cities or cultures) within the system. The nocturnal council is better characterized as a non-coercive engine of civic improvement functioning within a mutually supportive ecology of institutions than as a shadowy cabal invested with absolute power. Properly understood, the members of the nocturnal council are not philosopher-kings, but philosopher-consultants (7).
2. ELECTING THE NOMOPHYLAKES

2.1. Introduction

The task of Chapter 2 and Chapter 3 is to bring to bear a certain perspective upon a certain subject matter. The subject matter in question is the electoral process or processes in Magnesia as a result of which prospective office-holders (ἄρξοντες) are elected (αἴρεσθαι) and take possession of their offices (ἀρχαί). This topic receives its fullest treatment in Book VI of the Laws. The perspective in question is the “systematic approach” I claim is most appropriate to understanding the (ideal society proposed by the) Laws in its totality. In particular, the systematic approach holds that the Magnesian government of the Laws is a system model rather than a cadre model.

Under the cadre model of government in the Republic, essentially all power lies in the hands of a small elite or cadre of “guardians” (φύλακες) entitled to their rank in virtue of the unerring and omnicompetent knowledge of the good they possess. An extensive program of biological eugenics, character diagnostics, and proper education is responsible for their formation. In turn, they are afforded absolute discretion to manage the state as they think best within the confines of its basic order. By contrast, members of the two subsidiary classes of the kallipolis are powerless; they have no say in the management of the affairs of the city.

Under the system model of government in the Laws, power is widely distributed over a hierarchy of offices which are filled by election and to which nearly all have some form of input or access. A carefully designed set of ideological, cultural, and social

80 For instance, the guardians cannot abolish the prohibition on private property among guardians. However, even this restriction is, technically speaking, superfluous. After all, “no true guardian” would ever do such a thing, etc.
mechanisms bolsters the fitness of the citizen body to select and serve as their own leaders. Whereas in the case of the kallipolis it is the excellence of the ruling cadre that determines the excellence of the city, in the case of Magnesia it is the well-functioning of the system in general that determines the excellence of the city. Note that the concept of a system importantly includes, but also exceeds, the notion of a set of laws or procedures. It also includes the self-interacting population of agents charged with interpreting, conforming to, and extending the law. Although in the part of this dissertation devoted to electoral policy I will mostly focus on explicit procedures, I will also seek to bring out this extra-legal element in the systematic.

In the rest of this section, I will introduce the subject matter in a more detailed way, contribute a few remarks on the structure of the subsequent chapters, and state a few preliminary conclusions regarding what is of systematic interest in the electoral law of Magnesia.

The electoral process

A considerable portion of Plato’s Laws is given over to the project of carefully envisioning what kind of πολιτεία the new city of Magnesia ought to possess. To this end, Plato distinguishes between “two elements in a political system”: (i) the establishment of offices and (ii) the development of bodies of law associated with those

---

81 This project is the principal goal of Books IV through XII. Nevertheless, digressions are frequent and lengthy. It takes place as a result of the ambition of the Athenian and his companions – enunciated at the end of Book III – to subject what they have just decided to be the “ideal way of administering a state [πῶς ποτ' ἄν πόλεις ἄριστα οἰκοίη]” (702a8) to a “test [ἔλεγχος]” (702b2). Kleinias suggests they devote their energies to producing a new set of laws for the colony of Magnesia; fortuitously, he himself belongs to a deputation of Cretans tasked with exactly this. The groundwork for the technical normativity of legislation is laid in Books I through IV; the activity of the demiurge in the Timaeus offers an essential parallel.
offices (735a5-6). The electoral process falls under the former rather than the latter. In a certain sense, electing officers to office is exactly what it means to “establish” (καθιστάνειν) those offices. However, the establishment of offices includes more than just electoral policy; it also extends to such matters as deciding how many offices there should be and over what departments of life and society they should preside. These considerations fall outside the scope of the present investigation. Similarly, I will not discuss the second element in a political system – namely, the development of bodies of law subordinate to an established system of offices. In general, I will not here discuss any element of the offices of Magnesia from the point of view of what they are but only from the point of view of how they come to be.

I employ the term “election” and its paronyms in a generic or “thin” sense to refer to an orderly process which elevates to office an individual or group from some candidate-class on the basis of some fixed procedure. The key term in this definition is procedure. What distinguishes procedure from discretion within the genus of choice is the use of rules. Both procedure and discretion represent personal strategies for navigating contingent situations with practical success. For instance, if I am a doctor attempting to diagnose a patient on the basis of his symptoms, on the one hand I may

---

82 See also 751a-b. I call this distinction “Plato’s analytic of government” and discuss it extensively in 2.2.
83 Plato appears to use καθιστάνειν in this sense in 751a6: τρόπον ὅντας καθιστάμενας. However, in 735a5 and 751a2 he appears to use the verb in a broader way to refer to the establishment of a set of offices in general, not the establishment of a set of individuals in office.
84 This is not to deny that these offices as they exist in their own specificity are of systematic interest.
85 The usual Greek word translated as “election” is ἀἵρεσις. This word has a somewhat wider scope than “election” as stipulated above. With respect to the terms under discussion, ἀἵρεσις as Plato uses it perhaps comes closest to the genus-term “selection.” I will make the Greek wording clear when relevant.
adhere to the rules of diagnostic procedure, but on the other hand I may rely upon my own discretion as a practicing physician.  

Procedure and discretion within the genus of choice are aligned with election and appointment within the genus of political selection. Whereas elected officers are elevated as the result of the operation of procedure, appointed officers are elevated as the result of the exercise of discretion. Whereas rules distinguish procedure from discretion, laws distinguish election from appointment. Of course, election and appointment, like procedure and discretion, may be intertwined in practice. For instance, direct appointment may constitute a single stage of a multi-stage election – e.g., the nomophylakes nominate an initial group of candidates for general, but subsequently there are additional rounds of counter-nomination and voting (755b-d). Likewise, discretion itself may devolve upon the use of certain internalized “procedures” – e.g., a syllogism.

Election and appointment – at least in their typical incarnation – correspond to what we might consider “democratic” and “monarchical” forms of government. The officers who determine policy in a representative democracy are elected as the result of ostensibly neutral or fair procedure; monarchs merely issue diktats appointing their

---

86 Note that discretion may be predicated on either knowledge (ἐπιστήμη) or experience (ἐμπειρία). For Plato, the possession of knowledge implies an ability to give rational explanations. However, the procedure-like explanations offered in cases of knowledge-based discretion are always contextually appropriate and cannot be substituted for the knowledge itself that supplies the principle of their generation according to context. This familiar Platonic theme receives perhaps its most interesting treatment in the critique of writing from the Phaedrus (274b-278b).

87 The aim of my definitions above is to provide rough-and-ready criteria for distinguishing what I believe to be already familiar concepts, not to logically fix these things for all time or claim that they are perfectly immiscible.

88 The key phrase here is “typical incarnation.” For instance, it is technically possible for a monarch to adhere to a dubious “procedure” like elevating into power whoever pays him the most grandiloquent compliments. However, even in this situation it is arguable that the “real power” lies with the monarch and that his “procedure” is really just a disguised form of appointment. See footnote above for a clarification regarding these definitions.
favorites to power. Election, then, are “open,” “fair,” or “public,” while appointments are “closed,” “unfair,” or “private.” However, it would be unwise simply to assume that our association between democracy and election holds for the Greeks as well. Indeed, as I have argued and will argue throughout this dissertation, the democratic approach is an inadequate and incorrect approach to the Laws.

First of all, it is necessary to remember that “election” as stipulated differs from “election” qua voting-contest. Plato uses χειροτονία and related words to denote the latter phenomenon, which frequently figures as part of a more elaborate election procedure. The category of election in general includes both voting contest and election-by-lot. Indeed, it was the lot, and not the voting contest, which was perceived to be quintessentially democratic. The voting contest was perceived to be aristocratic, possibly because it privileges those aristocrats capable of converting into votes the greater resources available to them (including reputational or rhetorical resources). By contrast, the lot privileges no individual above any other individual. However, to the extent that the πολλοί are by definition more numerous than the ὀλίγοι, the lot favors the former as a class.

Nevertheless, there is still “something democratic” about elections, especially, in comparison with pure appointment or those political schemes of an oligarchical or aristocratic cast which severely restrict the circle of political participants, and for this reason, I characterize the democratic approach as possessing pro tanto validity. Thus,

89 I put these words in quotation marks to indicate my own loose usage; I am writing evocatively here rather than scientifically.

90 E.g., χειροτονεῖν, διαχειροτονεῖν, or ἐπιχειροτονεῖν. The key root in all of these is χείρ or “hand.” The dependence of χειροτονία on a merely corporal technology (rather than πινάκια) has two important effects. First, it may be difficult to count the number of raised hands with accuracy. Second, votes are inherently “unsigned” – i.e., they are not associated with their electors. Both are subsequently thematized in Book VI.
Guthrie describes the election of the nomophylakes as taking place on “mainly
democratic lines.” In addition, even if elections favor a certain class with regard to the
officer-class actually elected, they still permit all electors to exercise their electoral
privileges. Indeed, it seems that Plato exploits this combination of factors in his design of
the legislation of Magnesia. As Morrow puts it, “Plato's basic intentions are clear….The
demos is to be sovereign in certain matters, but it is not to rule.” In other words, anyone
can play a political role by contributing to the process of governing, etc., even if
inevitably the “chief officers of the state will be persons of maturity and experience.” Indeed, this state of things comports with the general Athenian-democratic condition
which excluded the exercise of hubris while allowing for the differential emergence of
talent.

In addition, the very fact that electors are called upon at all to make a contribution
of their electoral labor to the process testifies to the at least partial value Plato ascribes
their discriminating powers. This is in accordance with the “increased optimism”
regarding the capacities of the non-philosophers typical of the citizen-body Bobonich has
famously claimed to find in the passage from the Republic and the middle dialogues to
the Laws and the other late dialogues. This increased optimism carries “significant

---

91 Guthrie, A History of Greek Philosophy, 333.
92 Morrow, Plato’s Cretan City, 230.
93 Ibid. Morrow goes on to describe this condition as the “mixture of monarchy and democracy, of authority
and liberty” held out as a desideratum in Book III of the Laws. Ibid.
94 Balot, Greek Political Thought, 79.
95 Bobonich, Plato’s Utopia Recast: His Later Ethics and Politics, other page numbers. See also Monoson,
Plato’s Democratic Entanglements, 125. Laks, by contrast, analyzes the “politisisation” of Platonic political
thought as originating from a shift of focus from divine to definitively human concerns. Laks, Médiation et Coercition, 35.
implications for his political theory.”\textsuperscript{96} After all, the “the way that Plato thinks people are and can be” will certainly affect “what sort of political institutions and practices are appropriate for them.”\textsuperscript{97} Thus, the input of electors figures in both the elections of the nomophylakes and the councilmembers.

However, although Bobonich’s main contention would only support the general drift of the systematic approach, it is not necessary to the latter, and indeed the systematic approach may better explain some aspects of the evidence. Whereas Bobonich relies upon an assumption of “increased optimism” on Plato’s powers in regard to the individual capacities of non-philosophers, the systematic approach need only rely upon the felicitous discovery of new ways of using the group capacities of individuals in groups the members of which are free to remain as dumb and un-philosophical as they were before. Aspects of the electoral process I describe below as “intelligent process” and “scene of instruction” may tell in favor of a new focus placed on group capacities rather than a revision concerning individual capacities.

Regardless, Plato evidently thinks these citizens to be of a high enough standard in general to enfold their contributions into the electoral process in a way expected to be profitable. Of course, this is not to deny, in either case, the plentiful and intricate checks and guiding mechanisms Plato has placed on these contributions – checks and mechanisms which suppose the imperfection of this electoral labor.\textsuperscript{98} However, Plato still values contributions highly enough to solicit them and use them in the first place, even if

\textsuperscript{96} Bobonich, \textit{Plato’s Utopia Recast: His Later Ethics and Politics}, 374.
\textsuperscript{97} Ibid.
\textsuperscript{98} Laks interprets the familiar monarcy plus democracy formula of the \textit{Laws} in terms of competence of rulers plus participation of the citizens. Laks, \textit{Médiation et Coercition}, 62.
he also thinks they have to be used and manipulated in key ways that speak to their limitations. Thus, for instance, in the election of the nomophylakes, there is the elimination-round, and all the nominations of the electors are made to undergo several rounds of iterative scrutiny. Likewise, in the case of the election of the councilmembers, the structure of incentives potentially has key effects on the patterns of voting.

In this sense, Plato’s scheme in Magnesia cleaves close to what some have identified in typical Greek political thought as a “well-articulated conception of good politics and the good life” founded on “healthy public institutions,” “exhibiting respect for the capacities of individuals,” the recognition of the “human importance of free political associating,” and “non-relative accounts of good character and healthy individual psychology.”99 Plato, too, wants to design good institutions that best utilize the capacities of individuals and the tendency for free political associating. In addition, to the extent that these practices allow a robust spirit of equality (ἰσονομία) to take root among the citizens in virtue of their common participation and common rights of participation, as was the case for actually existing democratic societies, Plato can likewise use the spirit of equality engendered for the purpose of stability.100 Cartledge glosses ἰσονομία as “equality of active citizen privileges under the laws, combined with equality of interpersonal respect.”101

Finally, it is in virtue of the active solicitation and utilization of the powers of the ordinary citizens that Plato’s society in the Laws differs from the “rule of law” tout court, in comparison with the rule of philosopher kings, to which so many have tried to reduce

---

99 Balot, Greek Political Thought, 15.
100 Ibid., 49.
101 Cartledge, Ancient Greek Political Thought in Practice, 63.
it. According to this view, the *Laws* carries out the prescription of the *Statesman*: i.e., that the rule of philosophers is best, but second-best is the rule of law. However, the society of the *Laws* is not merely the condition of the rule of law. Rather, it constitutes an innovative and philosophically fascinating mixture of established routines, patterns, and institutions oriented toward the solicitation and utilization of the individual and social powers of ordinary citizens in a manner reminiscent of actual Athenian practice.

*Some structural remarks*

There are three levels of generality at which it is proper to analyze elements of electoral process in the Magnesian πολιτεία: (i) device, (ii) office, and (iii) culture. By (i) “device” I mean a kind of general mechanism or procedure that may be used in multiple contexts and as part of the electoral process for multiple offices – e.g., the scrutiny (δοκιμασία) or counter-nomination (ἀντιπροβολή). By (ii) “office” I mean the position of power or authority (ἀρχή) that is the terminus ad quem of some specific election (αἵρεσις) – e.g., guardian of the laws (νομοφύλαξ) or councilor (βουλευτής). By (iii) “culture” I mean the complete set of operative attitudes belonging to all the relevant political actors in an electoral process, including both candidates and electors, as these attitudes function upon and in concert with one another over both the short-term and long-term. So considered, we should see the culture of attitudes, etc., manifested in relation to the electoral process as continuous with the general culture of attitudes, etc., the entirety of which is possessed of political significance. Politics in Plato’s Magnesia, as well as

---

102 See, e.g., for one articulation of an extremely common view, Guthrie, *A History of Greek Philosophy*, 335.
historical Athens, went well beyond the legal institutions of the polis.\textsuperscript{103} Indeed, it is arguably exactly the more robust network of habits and beliefs enfold the political institutions of the Athenians – or anyone – which allows those institutions to function and continue to function in a stable way.\textsuperscript{104}

A complete assessment of electoral process in Magnesia must make reference to all three levels of generality. In the subsequent document, I will have occasion to alternate among them. However, the narrative of my argument will focus on the electoral process associated with two offices in particular: (\textit{a}) guardian of the laws (\textit{νομοφύλαξ}) and (\textit{b}) council-member (\textit{βουλευτής}). I will examine these offices both as items of interest in their own right as well as \textit{exempla} of various political devices or facets of Magnesian political culture. Prior to my examination of the electoral process for each of these offices, however, I will examine the narrative framework within which Plato’s discussion of electoral policy in general takes place – the “analytic of government.”

2.1. The analytic of government

In Book V the Athenian characterizes as a “prelude” (\textit{προοίμιον}) the long speech on soul, body, and property (726a-734e) which he has just concluded. It would only be natural after such a \textit{προοίμιον}, he suggests, to provide the “tune” (\textit{νόμον}),\textsuperscript{105} or rather a “sketch of a legal and political framework [\textit{νόμους πολιτείας}]” (734e3-6).\textsuperscript{106} The form

\begin{footnotesize}
\begin{enumerate}
\item[103] Balot, \textit{Greek Political Thought}, 5.
\item[104] Ibid., 49.
\item[105] The word \textit{νόμος} can mean either “law, usage, custom” or “melody, strain” (LSJ). (This is one of many puns Plato makes on \textit{νόμος} throughout the \textit{Laws}.) Saunders translates \textit{προοίμιον} in 734e3 as “preface” and \textit{προοίμιον} in 734e4 as “prelude” in what seems to me an unnecessary bit of \textit{variatio} hindering Plato’s (admittedly feeble) joke.
\item[106] Here is the full text of the phrase: τὸ γε ἀληθὲς νόμους πολιτείας ὑπογράφειν (734e5-6).
\end{enumerate}
\end{footnotesize}
taken by the ensuing “sketch” mirrors what Plato considers the fundamental structure of
government.

This structure is illustrated by an analogy with weaving. Just as it is impossible
“to construct the warp and the woof from the same stuff” – since the warp must be
“strong and firm in character,” while the woof must be “softer and suitably workable” –
so it is necessary to distinguish between “those occupying positions of authority” and
those “whose education has been slighter and less testing” (734e6-735a4).

The fundamental distinction between officers and others influences the mode of
presentation of the Magnesian πολιτεία. Inasmuch as it is the officers who will interpret
and enforce the laws (νομοί) of the πολιτεία – whatever they may be – it makes sense to
examine the latter only after the former. Thus, the Athenian declares, “there are two
elements in a political system”: the (a) “installation of individuals in office [τὸ μὲν ἀρχῶν
καταστάσεις ἑκάστοις]” and (b) “equipping those officials with a code of laws [τὸ δὲ
νόμοι ταῖς ἀρχαῖς ἀποδοθέντες]” (735a5-6).

I call this division of narrative labor “Plato’s analytic of government.” In the
section devoted to it, I will (i) provide a more detailed account of the analytic of
government, especially as it pertains to electoral policy, (ii) give an explanation of the
way or ways in which the basic structure of government associated with the analytic is of
systematic interest, and (iii) examine the systematic strategies which emerge in
consequence of the fundamental structure of government, especially again as they pertain
to electoral policy.

*Setting out the analytic of government*
In Book V of the *Laws*, Plato describes the two elements of the analytic of government as *(a)* installing (καθιστάνειν) various individuals (ἕκαστοι) in various offices (ἀρχαί) and *(b)* assigning (ἀποδοῦναι) various laws (νόμοι) to those offices (735a-6). He reiterates the analytic of government at the beginning of Book VI before proceeding to treat the first part of it in detail over the rest of Book VI.\(^\text{107}\) He also provides a more substantive characterization in Book VI of what falls under each of the two elements. Specifically, under the establishment of offices, he includes the decision regarding how many there ought to be (ὅσας τε αὐτὰς εἶναι δεῖ) and how they ought to be filled (τρόπον ὅντινα καθισταμένας), and under the assignment of laws, he includes the decision regarding which (οὕστινάς), how many (ὅσους), and what sort (οἵους) of laws are appropriate to the various offices (ἔκάσταις) (751a6-752b2).

Saunders accurately translates τρόπον ὅντινα καθισταμένας as “how they ought to be filled” (751a6). Clearly, the use of καθισταμένας in 751a6 differs in meaning from the use of καταστάσεις in 751a5 since Plato adduces the former as just one component of the latter. Indeed, it is necessary to distinguish between establishing a system of offices “in general” and establishing a system of offices “in particular.” Only the latter involves installing specific individuals (ἕκαστοι) in office. This, of course, is identical with electoral policy.

*The basic structure of government as systematic*

---

\(^{107}\) There are some minor yet interesting differences between the two formulations. Since they are not relevant to the subject of this paper, I will omit a discussion of them.
The basic structure of government implied by the analytic is itself of systematic interest. Not only do the officers exert a non-negligible influence over the pliable citizen body in a fashion conducive to a culture of order in general, but in addition, as the ones actually empowered to interpret and apply the laws, they hold the success or failure of the laws in their hands. In sum, even in a system model, it is vital to maximize the excellence of officers.

Plato makes an important analogy in Book V comparing the distinction between warp and woof in the case of weaving to the distinction between officers and others in the case of government. Just as the material used to construct the warp must be superior to the material used to construct the woof, so it is reasonable (κατὰ λόγον) to distinguish between “the authorities who are going to rule in a city” and those “whose education [παιδεία] has been slighter and less testing” (734e6-a4). The comparison of politics to weaving is neither an arbitrary aside nor an innovation of the Laws. It should come as no surprise, therefore, that certain details of Plato’s analogy are fraught with political significance. Specifically, the warp is described as “strong and firm in character [ἰσχυρόν τε γὰρ καὶ τινα βεβαιότητα ἐν τοῖς τρόποις εἰληφός]” (734e9-735a1), while the woof is described as “softer and more suitably workable [τὸ δὲ μαλακώτερον καὶ ἐπιεικείᾳ τινὶ δικαίᾳ χρώμενον]” (735a1-2).

The political mobilization of material qualities like hardness and softness is familiar from the Republic. In that dialogue, it was deemed necessary that nascent

108 Plato uses the word “education” (παιδεία) here the way he almost always uses it – i.e., to denote not the acquisition of technical or factual knowledge, but rather a moral-intellectual orientation toward the good and worthy.
109 The Statesman makes extensive use of weaving – see, e.g., 305e-311c.
guardians be both spirited (θυμοειδεῖς) and philosophical (φιλοσοφοῖ) (376b). This complex state was in turn to be produced by the judicious combination of physical exercise (γυμναστική) and music and poetry (μουσική). Physical exercise stimulates the spirited part of the soul, but overindulgence may render it “hard and harsh [σκληρόν τε καὶ χαλεπόν]” (410d8). Likewise, music and poetry stimulate the philosophic part of the soul, but overindulgence may render it “softer than it should be [μαλακώτερον…τοῦ δέοντος]” (410e12). The goal was to use both physical exercise and music and poetry in such a way as to harmonize the spirited and philosophic parts of the soul (ήρμόσθαι…πρὸς ἀλλήλας) (410e8). This would enable the guardians to be both hard and soft in the complementary ways necessary to their portfolio of duties (410e8).

In the Laws, the material qualities of hardness and softness are mobilized for political use in a very different way. Rather than attempting to “balance” or “harmonize” these qualities in the souls of some small, designated class, it is the body of citizens occupying office as a whole (τοὺς τὰς ἀρχὰς ἐν ταῖς πόλεσιν ἄρξοντας) that Plato likens to the warp, “strong and firm in character,” and it is the body of citizens who are not qualified for office as a whole (τοὺς σμικρὰ παιδεία βασανισθέντας) that Plato likens to the woof, “softer and more suitably workable” (734e9-735a4). This new configuration of material qualities over the body politic signaled by Plato’s weaving metaphor is of interest as a systematic strategy of governance. As in the

---

110 It was deemed necessary due to what I have in the past called the “problem of the soldier.” Producing nascent guardians who are both θυμοειδεῖς and φιλοσοφοῖ means they will be χαλεποί toward unknown outsiders but πρῶτοι toward known fellow citizens. I write “nascent guardians” because at the stage of the narrative in question the “auxiliaries” and “complete guardians” had not yet been separated from one another.

111 Saunders translates τοὺς σμικρὰ παιδεία βασανισθέντας as “those whose education has been slighter and less testing.”
Republic, the material qualities of hardness (ἰσχυρόν) and softness (μαλακότερον) are paired with the corresponding pragmatic characteristics of fixedness (τινα βεβαιότητα) and pliability (ἐπιεικεία τινὶ δικαία) (734e9-735a2). Furthermore, both fixedness and pliability are necessary to the integrity of a web or “piece of weaving” (734a6-7); they work together to sustain it. Similarly, the integrity of the polis requires a framework of officers “strong and firm in character” along with a “suitably workable” populace. Appointing the more educated over the less educated exploits local discrepancies in education by magnifying the influence of the former over the latter and thereby maximizing the global degree of education in the polis. This dovetails with Plato’s broader attempt to replace the chaotic and often detrimental processes of reputation-formation endemic to the polis with a self-sustaining culture of excellence.

Plato places additional emphasis on the quality of the officers at the beginning of Book VI. There he is concerned about the danger of elevating “incompetent” (ἀνεπιτηδείους) individuals to office (751b7). After all, if incompetent officials are the ones in charge, it is irrelevant whether or not there is a “well-constructed state [πόλιν εὖ παρεσκευασμένην] with a well-framed legal code [τοῖς εὖ κειμένοις νόμοις]” (751b6-7). At best, the incompetent officials will simply waste these “good laws [εὖ τεθέντων]” with risible results (751b7-8). At worst, they will convert them into a form positively destructive to the state (751b8-c2). The disturbing ease with which apparently “good” laws can be nullified or even converted into their opposite reveals not only the

---

112 Again, Plato uses the word “education” (παιδεία) primarily to refer to moral-intellectual orientation rather than the possession of technical knowledge.
113 I.e., a culture that accurately recognizes and effectively promotes excellence.
114 Alternative translations of ἀνεπιτηδείους are “unfit,” “unsuitable,” and “useless.”
importance of appointing good officials, but also the status of laws themselves as neutral instruments, mere forms, or conditional goods. Yet this judgment does not condemn them as utterly worthless in comparison with the undimmed perfection of the philosopher-king. Rather, if mere laws are to be redeemed, it must be at the hands of capable individuals who receive their formation and are elected into office as the result of a reliable system—a system in which capable individuals are themselves dynamically embedded—operating over a social, cultural, and even biological domain.\textsuperscript{115} For it is the admixture of the human element, flawed yet still fundamentally capable, which can transform an empty collection of laws into a functioning system.

\textit{Consequent systematic strategies}

The importance of the excellence of the officers of Magnesia has been sufficiently established. Electing superior officers not only influences the other citizens in a way beneficial to the polis as a whole, but in addition even well-designed bodies of law require the consistent production, recognition, and exploitation of human excellence capable of redeeming mere mechanism or mere procedure. Let us therefore examine the provisional ways in which Plato announces it necessary to search for or test officers.

In the weaving analogy from Book V, Plato declares that the warp “must be of a superior type of material [διαφέρειν… τὸ… πρὸς ἄρετήν γένος]” (734a8-9). Plato’s use of ἄρετή cannot be an accident. While ἄρετή is used in a non-moral sense with regard to

\textsuperscript{115} Cf. Critias 121a-b, where the ability to maintain the laws of Atlantis diminishes with increasing admixture of moral blood into kingly stock. Likewise, it is in virtue of the limits of laws that Plato resorts to the nocturnal council, but this is a law-focused action rather than a law-trampling one. Samaras, \textit{Plato on Democracy}, 200–201, 297–99.
the warp, the very structure of the analogy dictates we assume that the officers of the state are likewise superior πρὸς ἀρετήν to the others. Plato further describes non-officers as those “whose education has been slighter and less testing [τοὺς σμικρὰ παιδεία βασανισθέντας]” (735a4). Thus, two elements distinguish officers from non-officers: (a) the former have undergone more testing (βάσανος) than the latter and (b) the former are assumed to possess more education (παιδεία) than the latter. The use of the verb βασανίζω offers a convenient link between the function of βάσανος in the moral-intellectual questioning characteristic of Socrates in the early dialogues and the more literal sorts of testing Plato will claim make up a key part of the electoral process.

Plato resumes developing the idea of subjecting the officers of the state to some form of βάσανος in Book VI. Immediately after vividly describing the potentially disastrous consequences of putting the “incompetent” (ἀνεπιτήδειοι) in charge, he claims that what is necessary (δεῖ) for those entering office to have entered office in the right way (ὀρθῶς) is for them to have undergone (δεδωκότας) adequate testing (βάσανον ἰκανήν) “right from their childhood until the moment of their election” (751c5-8).

Furthermore, the βάσανος in question should take as its object not only the candidates themselves (αὐτούς) but also their family background (γένος ἑκάστων). Plato thinks

116 Saunders’ translation does not follow the syntax of τοὺς σμικρὰ παιδεία βασανισθέντας. Following the syntax would produce something like “those who have been tested through education to a lesser extent.” Although Saunders’ translation does appear ultimately to come to the same thing as mine above, it is important to recognize the equivalent conceptual priority of testing (βάσανος) and education (παιδεία) – i.e., “testing” is not a mere attribute of the education the officers happened to receive; it is an essential element in their selection as officers in the first place.

117 As regards ὀρθῶς, Saunders construes the sentence somewhat differently: “…if your candidates are to deserve promotion to positions of power [τοὺς ὀρθῶς ἰόντας ἐπὶ τὰς τῶν ἀρχῶν δυνάμεις]” (751c6). However, this conflates a process producing the right result (i.e., a worthy candidate) with a process producing a result in the right way (i.e., a correctly selected candidate). Plato does not care if a good candidate is somehow elected into office merely by accident. His concern is with reliable systems which consistently and reliably select the good candidates in a manner constitutive of the overall robustness of the system. See also the use of ὀρθῶς in 751d1.
one’s γένος is relevant for two reasons: (a) he thinks our native dispositions are at least partially heritable and (b) he thinks our future behavior is at least partially predictable from the manner of our upbringing. Thus, taking into account the γένος of each candidate in addition to the candidate himself enables more robust judgments concerning suitable candidates to be made.

The above mode of proceeding is an exemplar of what could be called “candidate strategies” – i.e., strategies for producing excellence in government through the subjection of candidates for office to special and rigorous forms of testing. However, Plato also relies upon strategies for producing excellence in government through the special training and education of the electors for these offices. Let these be called “elector strategies.”¹¹⁸ For instance, Plato decrees that the electors (τοὺς μέλλοντας αἱρήσεσθαι) ought “to have been brought up in law-abiding habits [τεθράφθαι ἐν ἤθεσι νόμων εὖ πεπαιδευμένους]” (751c8-9). Note especially the invocation of παιδεία here (somewhat obscured in Saunders’ translation): it is important that electors have received the right kind of education. Furthermore, it is important that they have received the right kind of education and training “so as to be able to approve or disapprove of the candidates for the right reasons and elect or reject them according to their deserts [πρὸς τὸ δυσχεραίνοντάς τε καὶ ἀποκρίνειν δυνατοὺς γίγνεσθαι τοὺς ἀξίους ἐκατέρων]” (751d1-2).

Three points should be made here. First, it is clear that Plato stipulates an “education” (παιδεία) and “upbringing” (τροφή) in “law abiding habits” (ἐν ἤθεσι νόμων)

¹¹⁸ Obviously, “electoral strategies” would be the ideal phrase here, but I often use the word “electoral” in a more general way that might prove confusing.
to be necessary for the electors because these things culminate in a disposition to judgment (δυσχεραίνειν and ἀποδέχεσθαι) which, in an electoral context, ensures that the electors will either elect or reject (κρίνειν or ἀποκρίνειν) precisely those candidates respectively worthy of either election or rejection (τοὺς ἀξίους ἑκατέρων). Second, the mere result that good candidates are elected and bad candidates are rejected is insufficient for Plato. He specifically stipulates that they must be elected or rejected in the right way (ὀρθῶς).\textsuperscript{119} Thus, as above robustness, rather than mere correctness, is the criterion here. Third, we should note Plato’s deep unease concerning elections as this is reflected in the elaborate schemes he adduces for the careful management of the potentially chaotic sentiments of electors.

As a coda to this discussion, we should note note various conditions at the start of the new city which Plato laments:\textsuperscript{120} (a) that the citizens don’t necessarily know one another (ὀντες τε ἀλλήλων ἀγνῶντες) (and thus are not in a position to accurately judge each other’s worth) and (b) that they have necessarily been educated in the right way (ἀπαίδευτοι) (751d3-5). Clearly, the opposite conditions must be desiderata for Magnesia.

### 2.3. Election of the nomophylakes

\textsuperscript{119} I interpret the adverb ὀρθῶς as applying to κρίνειν καὶ ἀποκρίνειν. However, one could also (as indeed Saunders appears actually to do) interpret it as applying to δυσχεραίνοντας τε καὶ ἀποδεχομένους. Still, the point would remain.

\textsuperscript{120} This is part of a larger problem I call “the problem of initial conditions.” Put briefly, given that a huge amount of the attention and effort of a system is devoted to the difficult task of perpetuating that system, and conversely, given that the citizens must have been educated in precisely the right way, etc., for the system to function, how is it ever possible to begin at all? How can the state get a running start? The subject is treated in extenso in the Laws. Indeed, it would not be an exaggeration to call this a methodological obsession on the part of Plato.

64
In this section, I will discuss those points of systematic interest implicated in the 
election of the nomophylakes, the “guardians of the law.” After providing an overview of 
the electoral process for the nomophylakes as a whole,\textsuperscript{121} I will treat six themes in 
succession which pertain to elements of the electoral process. As part of the discussion of 
some of these themes, I may refer to the electoral processes of other offices in Magnesia, 
various electoral devices of wider application, and the political culture in general. The 
themes I shall discuss are (1) military membership for electors, (2) the function of 
religiosity, (3) the “expanded ballot,” (4) the election as intelligent process, (5) the 
election as scene of instruction, and (6) the use of age restrictions.

\textit{Overview of the electoral process for nomophylakes}

Such is the importance of the nomophylakes that the Athenian declares, speaking 
with regard to the initial founding of the government of Magnesia by the deputation of 
Cretans, that it is “absolutely vital [\ἀναγκαιότατον]” that the nomophylakes be chosen 
first (\πρώτους αἱρεῖσθαι) and with all possible care (\ἁπάσῃ σπουδῇ) (752e1-2).\textsuperscript{122} Other 
offices, by contrast, may be allotted less labor (\βραχύτερον ἔργον) (752d7-e1). Now, with 
regard to the future when “the constitution has become established” (753b3), the 
Athenian prescribes the following form for the election of the nomophylakes (\αἵρεσις 
αὐτῶν) (753b4-5).

\begin{footnotesize}
\begin{enumerate}
\item There is some textual dispute about this part of Book VI. See Saunders, “The Alleged Double Version in the Sixth Book of Plato’s Laws.”
\item Schöpsdau gives a helpful overview of the duties of the nomophylakes. In addition to concerning 
themselves with “die Revision von Gesetzen order die Ergänzung von Gesetzlücken und den Erlaß von 
Detailregelungen auf allen möglichen Gebieten,” the nomophylakes are in charge of voter-rolls and 
property-records, play a role in selecting certain high military offices, and in general enjoy “entweder 
alleinige Entscheidungsbefugnis oder ein Mitspracherecht” in a great number of departments. Schöpsdau, 
\end{enumerate}
\end{footnotesize}
First, everyone who has served in the past or is serving at present in the military should participate (753b4-7). Second, they should proceed to “the temple which the state considers to be the most venerable” (753b7-753c1). Third, each elector should place there “on the altar of the god a small tablet [πινάκιον] on which he has written the name of the person he wishes to vote for, adding the candidate’s father, tribe, and deme” as well as the same information pertaining to himself (753c1-4). Fourth, for thirty days anyone who wishes is allowed “to remove any tablet he finds objectionable and put it on display in the market-place” (753c5-7). Fifth, the officials “must exhibit to the state at large the three hundred tablets that head the list” (753c7-d1). Sixth, the electors again record their nominations “on the basis of this list” (753d1-2). Seventh, the “hundred names that head the list” are to be publicly displayed as before (753d2-3). Eighth, “anyone who wishes” must “walk between the victims of a sacrifice” and record which of the hundred he chooses (753d3-5). Finally, the thirty-seven “who receive most votes” are declared elected (753d5-6). In addition, the Athenian further specifies that only citizens between the ages of fifty and seventy may serve as nomophylakes (755a4-b2).

123 Here is the full text: τὸ δὲ τρίτον φερέτω μὲν ἐκ τῶν ἑκατὸν ὁ βουληθεὶς ὃν ἂν βούληται, διὰ τοιμῶν πορευόμενος (735d3-5). Saunders translates ἐκ τῶν ἑκατὸν as “which of these three hundred,” presumably taking ἑκατὸν (which I suspect is an error, perhaps being inserted as a faulty parallel with the use of ἑκατὸν in the second round of voting or a corruption of ἑκάτων or ἑκάστος) with τὸ δὲ τρίτον before. However, τὸ δὲ τρίτον clearly functions to mark this round of voting as the third round, exactly as δὲ τὸ δεύτερον functions a few lines before and indeed as Saunders himself translates: “on the third occasion.” It is thus unquestionably the case that the third and final round of voting is conducted on the basis of the outcome of the second round (i.e., the hundred) rather than of the first round (i.e., the three hundred). There is also a dispute about the meaning of ὁ βουληθεὺς in 743d. Saunders, Notes on the Laws of Plato, 35.

124 Again, here is the full text: ἑπτὰ δὲ καὶ τριάκοντα, οἷς ἂν πλεῖσται γένωνται ψῆφοι, κρίναντες ἀποφηγανόντων ἀρχοντας. Saunders translates κρίναντες ἀποφηγανόντων ἀρχοντας as “must then submit to scrutiny and be declared elected.” Presumably, he is taking κρίναντες to mean something like “having been scrutinized” even though δοκιμασία and its cognates, not κρίναντες ἀποφηγάνων ἄρχοντας, provide the usual lexicon for the scrutiny. However, κρίναντες actually just means “elected,” exactly as it does in several nearby lines, e.g. κρίθεντα (755c7) or προκριθέντας (755d2). That said, Saunders is surely correct to suppose that the nomophylakes were scrutinized. This is confirmed a little later when the Athenian prescribes that the
2.3.1. Military membership for electors

The duty to participate as an elector in the election of the nomophylakes is enjoined upon all who serve “in the cavalry or infantry” or “fought in the field while young and strong enough to do so” (753b4-7). Similarly, the generals are to be elected by “all those who have served in the armed forces at the proper age, or are serving at the time” (755c5-7). Restricting the electorate to this group has important political effects. Specifically, it designates the “military ethic” native to Magnesia as the preferred “political culture” in a way that hopefully mitigates what Plato takes to be an anarchical danger inherent to democracy.

In Book XII, Plato provides a “great deal of advice [πολλὴ μὲν συμβουλὴ]” and a “large number of regulations [πολλοὶ δὲ νόμοι]” on the subject of military service (στρατιῶν δὲ ἕνεκα) (942b5-6). Among them the following principle is deemed to be of the utmost importance (μέγιστον): no one must at any time exist “free from authority” (ἄναρχον) (942a6-7). Accordingly, Plato warns, “nobody must get into the habit [ἔθει ψυχὴν εἰθίσθαι] of acting alone [κατὰ μόνας] and independently [αὐτὸν ἐφ’ αὑτοῦ]” (942a7-b1). Instead, it is necessary that we condition ourselves (διδάξαι τὴν ψυχὴν ἔθεσι) to an “instinctive rejection of the very notion [μήτε γιγνώσκειν μήτ’ ἐπίστασθαι] of doing anything without our companions [τὸ χωρίς τι τῶν ἄλλων πράττειν]” (942c1-3) and that we “live a life in which we never do anything, if possible, except by combined and

generals be “scrutinized in the same way as the guardians of the laws [δοκιμασθέντων καθάπερ οἱ νομοφύλακες]” (755d6). In any case, I myself will discuss the scrutiny qua electoral device not in the present section, but in connection with the election of the βουλή in Chapter 3.

125 Here is the full sentence: μέγιστον δὲ τὸ μηδέποτε ἄναρχον μηδένα εἶναι, μήτ’ ἄρρενα μήτε θήλειαν (942a6-7). Saunders translates, “The vital point is that no one, man or woman, must ever be left without someone in charge of him” (942a6-).
unified action as members of a group [ἀλλ’ ἁθρόον ἀεὶ καὶ ἡμα καὶ κοινὸν τὸν βίον ὅτι μάλιστα πᾶσι πάντων γίγνεσθαι]” (942c3-4). Plato claims that there is no “more powerful or efficient weapon” than this practiced solidarity (942c4-6), which he additionally glosses as a readiness to rule others and be ruled by them (ἀρχεῖν τε ἄλλων ἄρχεσθαι θ’ ύφ’ ἑτέρων) (942c7-8).

Thus, the military ethic Plato envisions for the citizens of Magnesia is above all an anti-anarchical ideology according to which citizens are encouraged to take turns ruling each other and being ruled as part of a group. To this extent, it differs from an atmosphere of mere obedience, as Guthrie rightly recognizes. It is intended to be thoroughly dispositional (e.g., ἔθει ψυχὴν εἰθίσθαι in 942a8, or διδάξαι τὴν ψυχὴν ἔθεσι in 942c2) even to the extent that citizens find repellant the “very notion” (e.g., γιγνώσκειν and ἐπίστασθαι in 942c2-3) of not behaving in accordance with it. Perhaps the most salient aspect of the military ethic of Magnesia is its emphasis upon communal-mindedness: adherents are quite literally instructed to live their life as a κοινὸς βίος.

The language with which Plato restricts the right to participate in elections to the military directly recalls the communal-mindedness central to the military ethic. In the case of the election of the nomophylakes, Plato decrees that everyone “who fought in the field [καὶ πολέμου κεκοινωνίκωσιν]” should “participate [κοινωνοῦντον] in the election of the officers” (753b4-7). Thus, not only does Plato’s use of the verb

126 The link between sociality (i.e., group-formation) and authority, which may appear arbitrary to us, is quintessentially Platonic. Indeed, for Plato to truly be part of a group means to be one with that group, and for a group to act “as one” means that all members must act in immediate concert with the will of the group as a whole.
128 The emphasis is mine. I have also modified Saunders’ translation slightly: he omits any translation of τῆς τῶν ἀρχόντων αἵρεσις (“in the election of the officers”).
κοινονεῖν anticipate the communal-minded rhetoric of the κοινὸς βίος of Book XII, but in addition he uses the very same verb to describe military and political forms of participation in immediate succession. Likewise, in the case of the election of generals, Plato explicitly restricts participation in the electoral process to οἱ τοῦ πολέμου κοινωνοί of past and present (755c6-7). Clearly, Plato wishes to employ for political purposes the anti-anarchical, communal-minded ideology associated with the military ethic of Magnesia. This ethic should in no way be reduced to an atmosphere of unquestioning obedience; rather, one is accustomed to alternating between ruling and being ruled, in all things attending to and being cognizant of the interests of the group. Of course, this is certainly not without Athenian precedent: Balot stresses the close proximity between the military and the political as joined by common associations regarding shame and honor. Likewise, we should be attuned to the trans-institutional character of such a military ethic, regardless of its contingent activation in the case of the election of the nomophylakes, again an Athenian legacy. It is precisely with the support of such extra-institutional circulating ideologies that political institutions function. In the case of ancient democracy, Cartledge asserts that it “like any other politeia, was a total social phenomenon, a culture and not merely an institutionalized political system (as we would understand that).”

Book III contributes additional evidence regarding the association between κοινωνία and the military, the status of κοινωνία as a political desideratum, and the

---

130 Balot, *Greek Political Thought*, 4.
131 Ibid., 5.
132 Balot, *Greek Political Thought*.
133 Cartledge, *Ancient Greek Political Thought in Practice*, 57.
moral-intellectual ramifications of κοινωνία. In the age of Cyrus the “rulers [ἀρχοντες] granted a degree of liberty [ἐλευθερίας] to their subjects [ἀρχομένοις] and put them on the same footing as themselves [ἐπὶ τὸ ἴσον ἄγοντες]” (694a6-7). The result was immediate military success: the soldiers (στρατιῶται) became more friendly (μᾶλλον φίλοι) toward their commanders (στρατηγοίς) and “displayed greater zeal in the face of danger” (694a7-b1). The element of communal-mindedness is eminently visible here: the ἄρχομενοι merge their interests with those of the ἄρχοντες, and the στρατιῶται theirs with those of the στρατηγοί. Moreover, the success of the Persians due to their communal-mindedness extended beyond military affairs. Whenever there was “some sensible man” (τις φρόνιμος) among them who “had some advice to offer” (βουλεύειν δυνατός), Cyrus “felt no jealousy” presumably because he correctly imagined his interests were identical with those of his subjects (694b1-3). Accordingly, not only did Cyrus grant his subjects “free speech” (παρρησίαν), but in addition he actively “valued those who could contribute to the formulation of policy [τοὺς εἴς τι δυναμένους συμβουλεύειν]” (694b3-4). Any intelligent person could therefore make use of his own intellectual capacity (κοινὴν τὴν τοῦ φρονεῖν…παρεῖχε τῇ δύναμιν) for the sake of the common cause (εἰς τὸ μέσον) (694b4-5). Thus, the great κοινωνία that obtained among the Persians in the age of Cyrus facilitated not only military success, but also the formation of a kind of extraordinary communal intellect (κοινὴν τὴν τοῦ φρονεῖν…δύναμιν in 694b5, νοῦ κοινωνίαν in 694b6) oriented toward communal interests.

On Plato and the philosophy of history, see Bury, “Plato and History.” and, especially, Dombrowski, Plato’s Philosophy of History.

Schöpsdau characterizes παρρησία as “das Kennzeichen der Demokratie überhaupt und der attischen im besonderen.” He provides much other interesting information on the historicity of, sources of, and parallels with Plato’s comments on the Persians. Schöpsdau, Nomoi, Buch I-III, 461, 457ff.
Clearly, this is to be compared with the passage in Book XII on the military ethic of Magnesia: in neither case, is obedience *tout court* a political desideratum, but rather an active commitment to the aims of the group and the willingness to employ one’s deliberative intellect to that end.\(^\text{136}\)

Similarly, after Darius introduced a “certain degree of equality for all [ἰσότητα κοινήν τινα]” and oversaw the disbursement of “tribute” (δάσμον) among the people, he was able to stimulate “a feeling of community and friendship among them [φιλίαν…καὶ κοινωνίαν πᾶσιν Πέρσαις]” and to “rally all the people to his side” (τὸν Περσῶν δῆμον προσαγόμενος) through “his generosity in money and gifts” (695d1-3).\(^\text{137}\) Once again, the achievement of κοινωνία issues in military success: “his armies regarded him with such affection that they added to the territory Cyrus had bequeathed at least as much again” (695d4-6).

Finally, let us consider the negative evaluation Plato assigns the reigns of Cambyses and Xerxes.\(^\text{138}\) Here as well we receive testimony, if of an indirect sort, regarding (i) κοινωνία as a political *desideratum*, (ii) κοινωνία as an orientation toward communal interests, and (iii) the permanent association between κοινωνία and military efficacy. Plato claims that Cambyses and Xerxes “were too strict in depriving the people of liberty and too energetic in introducing authoritarian government” (697c7-9). As a result, they came to destroy all “friendship” (τὸ φίλον) and “community of spirit” (τὸ κοινὸν) as existed in the state (697c9-d1). The lack of κοινωνία, in turn, means that the

---


\(^{137}\) I have modified Saunders’ translation in a few negligible ways here.

\(^{138}\) Dusanic believes Book III in general to be a Platonic political statement to his contemporaries regarding the threat from Philip of Macedon. Dusanic, *Istorija i politika u Platonovim “Zakonima” = History and politics in Plato’s “Laws.”* Post, likewise, reads a set of political instructions into Book III. Levi Arnold Post, “The Preludes to Plato’s Laws.”
“policy of the rulers” (ἡ τῶν ἀρχόντων βουλὴ) is not formulated (βουλεύεται), as it was under Cyrus and Darius, in combination with others and with regard to communal interests (ὑπὲρ ἀρχομένων καὶ τοῦ δήμου), but rather exclusively by themselves and “to support their own authority [ἀλλ’ ἐνεκα τῆς αὐτῶν ἀρχῆς]” (697d1-3). The lack of κοινωνία also has dire repercussions for the military: “When they come to need the common people [τοὺς δήμους] to fight on their behalf [περὶ ἑαυτῶν], they discover the army has no loyalty [οὐδὲν κοινὸν], no eagerness to face danger and fight” (697d6-e1). The indifference of the δήμος to the plight of the rulers perfectly mirrors the indifference of the rulers to the plight of the δήμος.

Likewise, the narrative of the Athenians in Book III emphasizes the close connection between κοινωνία and the military as well as the political desirability of κοινωνία. In both key instances of Athenian military success in the Persian Wars, their ability to cooperate with one another and their pro-social attitudes play a key role in the eventual outcome. Furthermore, these things are also associated with an affective deference toward the laws of the community. Let us first consider the case of the battle at Marathon. The Athenians at this battle are said to have “displayed a tremendous spirit of cooperation [σφόδρα φιλία]” (698c2-3). In addition, they are said to have done so – at least, in part – thanks to the “Lady Modesty [δεσπότις …αἰδώς]…a despot who made us live in willing subjection to the laws then in force” [δουλεύοντες… ἠθέλομεν].” (698b5-6) Second, let us consider the invasion of Xerxes. Once again, the Athenians are said to have possessed “a spirit of solidarity [πάντα φιλίαν ἀλλήλων]” (699c1-2), and once again they are said to have done so partly on account of the fear “they had learned to experience as a result of being subject [δουλεύοντες] to an ancient code of laws” (699c2-
In sum, by activating militarity as a preferred context of association, Plato arguably promotes a sense of κοινωνία and deference to authority among his prospective electors. Note, also, the functionality of shame – a mode of social fear contraposed against physical fear – to the link between the political concept of κοινωνία and militarity.\footnote{And see Balot, \textit{Greek Political Thought}, 4.}

We can derive additional information regarding the valence of militarity in the elections of Magnesia from key details of the election of the various military officials themselves. These elections take place amid the assembly of everyone who has undergone or is undergoing military training (755c5-7) convened by the nomophylakes “in the holiest and most capacious place they can find” (755e5-6). The different kinds of soldiers – the hoplites, cavalry, and other ranks – all sit apart from one another in an organized way (755e7-8). The generals and cavalry-commanders are elected by the entire assembly, the phylarchs by the cavalry, and so on in the case of the company-commanders (taxiarchs), \textit{et al.}, with the exception of certain light troops (755e8-a3). However, as is made explicit in the case of the cavalry (756b1-2) and is implicit for all the military elections, the whole assembly beholds both the elections in which the individual electors participate and those put on by others.

In effect, the series of military elections functions as a giant spectacle of the constitution of order beheld by those taking part. The typical onlooker will behold both the entire assembly along with its individual constituents, all organized in such a way as to show the composition of the whole, electing their leaders in a methodical and rule-
bound way. 140 These details of ceremony accord precisely with the military ethic described in Book XII (942a-d): (i) no one is “free from authority” (ἀναρχος), but instead the setting of authorities over all is put on display; (ii) no one acts “alone and independently,” but rather all vote “by combined and unified action as members of a group;” and (iii) all are prepared and further conditioned for “the exercise of authority over others and submission to them in turn.” (942a-d) In sum, the election of the military offices can be viewed as a kind of rigorously controlled theatrocracy. It sheds additional light on the valence of militarity in Magnesia and how we might expect that militarity to influence the electoral process.

2.3.2. The function of religiosity

Religious signifiers and paraphernalia are abundantly distributed throughout the election of the nomophylakes. Each round of nominations is to take place in the “temple which the state considers to be the most venerable [τιμιώτατον]” (752b7-c1). Here the electors place their inscribed πινάκια directly “on the altar of the god” (752c1-3). The temple as a site of religiosity contrasts with the marketplace as a site of secularity, where those who wish may within the specified time-period remove πινάκια from the temple. As part of the third round of nominations, anyone who wishes to participate must “walk between the victims of a sacrifice” on the way to recording his vote (753d3-5). Indeed, the very duration of the election-period (at least thirty days) along with the cumbersome

140 Thus, note the significant theatricality of this electoral process, a tendency which also applies to that of the nomophylakes. Monoson, in her otherwise trenchant analysis of the role of the theatês in Plato, gives short shrift to the function of theatricality and spectatorship in the Laws. Monoson, Plato’s Democratic Entanglements.
series of necessary steps and the alternation of the public display of names and collective submission of πινάκια, is reminiscent of a religious ritual.\textsuperscript{141}

This atmosphere of religiosity extends to other elections. The various military officers are to be elected by everyone once convened “in the holiest [ἱερώτατόν] and most capacious place they can find” (755e4-6). The selection of priests by lot is framed as the direct solicitation of divine intervention: “one should leave it to the god himself to express his wishes, and allow him to guide the luck of the draw” (759b7-c1). Likewise, the ultimate stage in the election of the exegetes requires that “nine names should then be sent to Delphi for the oracle to select one from each group of three” (759d7-8). Finally, with respect to the use of the lot in the election of the members of the βουλή, the Athenian comments, “even then we prayed to the gods of good luck to make the lot give the right decisions” (757e4-6).\textsuperscript{142}

The religiosity appropriate to Magnesia functions, much like the military ethic, as an anti-anarchical ideology in harmony with the preferred political culture of the state.\textsuperscript{143} Plato’s liberal use of the signifiers and paraphernalia of religion in the electoral process is politically efficacious inasmuch as these things instill in the citizens a generalized sense of reverence or piety that Plato thinks beneficial. As in the case of militarity, there is strong Athenian precedent for the link between religion and the political. As Balot comments, “As a result, the political was always intertwined with religious custom,

\textsuperscript{141} Additionally, there may be religious significance to the number three (as in three rounds of nomination), and the placement of the πινάκια on the altar may be supposed to mimic the ritual of a religious offering.

\textsuperscript{142} See Chapter 3.

\textsuperscript{143} Schofield suggests that an important function of religion in Magnesian society is to facilitate interpersonal knowledge among the citizens. Schofield, Plato, 314–15. If this is the case, then the markers of religiosity will also function to an end similar to the one I delineate under the heading of the “expanded ballot” below. Schofield also cites the utility of a “cohesive power of an ideology grounded in religion” more generally. Ibid., 333.
belief, and practice.”¹⁴⁴ Similarly, we should note that the political significance of an atmosphere of religiosity is certainly not limited to certain institutional operations, but rather possesses a trans-institutional or extra-legal character wholly in keeping with the traditional Athenian practice Plato sought to bend to his purpose.¹⁴⁵ Such trans-institutional ideologies function to tie together and undergird the official institutions of the state.¹⁴⁶ They are part of the “total social phenomenon” with which Cartledge identifies the politeia, beyond an “institutionalized political system.”¹⁴⁷

Plato’s most comprehensive statement regarding the form religiosity should take in Magnesia can be found in the “theological address” to the colonists in 715e-718a. There he presents a sympathetic portrait of a man “who means to live in happiness” and adheres to justice “with meekness and humility” (716a3-4), followed by a scathing portrait of a man “whose soul is afire with the arrogant belief [μεθ’ ὕβρεως] that so far from needing someone to control and lead him [ὡς οὔτε ἄρχοντος οὔτε τινὸς ἡγεμόνος δεόμενος], he can play the leader to others [ἄλλοις ἱκανὸς ὢν ἡγεῖσθαι]” (716a7-b1).¹⁴⁸ The Athenian refers to the latter as deserted by god (ἔρημος θεοῦ) and claims that “in his desolation he collects others like himself, and in his soaring frenzy he causes universal chaos…and brings himself, his home and state to rack and ruin” (716b1-5). In the wake of all this, the Athenian proposes to examine “what action” (τί…δρᾶν) a sensible man (τὸν ἑμφρονα) should take and “what outlook” (τί...διανοεῖσθαι) he should possess

¹⁴⁴ Balot, Greek Political Thought, 4.
¹⁴⁵ Ibid., 5.
¹⁴⁶ Ibid., 49.
¹⁴⁷ Cartledge, Ancient Greek Political Thought in Practice, 57.
¹⁴⁸ The rhetoric of “anarchy” (e.g., οὔτε ἄρχοντος) is of course quite familiar.
This quickly takes the form of examining “what conduct” (τίς πρᾶξις) is favored by and in accordance with the wishes of god (φίλη καὶ ἀκόλουθος θεῷ) (716c1).

The Athenian justifies his account of the inner orientation that best fits the above description by reference to two principles: (i) the “old saying” that “like approves of like” (716c1-4) and (ii) his own anti-Protagorean, anti-anarchic contention that “it is god who is preeminently the measure of all things [ὁ δὴ θεὸς ἡμῖν πάντων χρημάτων μέτρον], much more so than any man, as they say” (716c4-6). Thus, if one wishes to become favored by someone of this sort (τῷ τοιούτῳ προσφιλῆ), it is necessary as much possible to become of this sort oneself (αὐτὸν τοιοῦτον ἀναγκαῖον γίγνεσθαι) (716c6-d1). In other words, it is the moderate man (ὁ σώφρων) who is “god’s friend” (θεῷ φίλος) by reason of being similar to god (ὁμοίος), while it is the “immoderate and unjust man” (μὴ σώφρων, ἄδικος) who is god’s enemy (ἀνόμοιός) by reason of being dissimilar to god (ἀνόμοιός) (716d1-3).

To live one’s life according to the principle that god rather than any man is the measure of all things is the very opposite of the anarchic worldview held by the man bereft of god (ἔρημος θεοῦ), who vainly imagines that “so far from needing someone to control and lead him [ὡς οὔτε ἄρχοντος οὔτε τινὸς ἥγεσεῖν δεόμενος], he can play the leader to others [ἄλλοις ἱκανὸς ἡγεῖσθαι]” (716a7-b1). According to Plato, this is the most essential expression of piety and the most important form of worship; engaging in other forms of worship in its absence will be useless at best and counterproductive at worst (716d-717a). Still, the good man is instructed to dwell in the company of the

---

149 In addition, “The same reasoning applies to the other vices” (716d3-4).
150 We receive perhaps an intimation of this belief-complex in the Euthyphro.
gods at all times (προσομιλεῖν ἀεὶ τοῖς θεοῖς) via prayers, offerings, and every form of worship (συμπάσῃ θεραπείᾳ θεῶν) (716d6-e1). Moreover, the supreme piety which Plato declares the “target [σκοπὸς] at which we should aim [οὗ δεῖ στοχάζεσθαι]” (717a3-4) issues in a descending hierarchy of objects we owe reverence. We are also to honor the gods of Olympus, the gods of the underworld, the spirits (δαίμονες), heroes, ancestral gods (πατρῷοι θεοί), and finally our living parents (717a-718a).

Thus, Plato privileges under the auspices of the state religion a very specific inner orientation or mode of piety according to which we are to (i) look to god as the measure of all things, (ii) imitate god by cultivating moderation, etc., and (iii) engage in a range of traditional activities with a general attitude of “reverence.” Furthermore, as in the case of militarity above, the narratives from Book III can help illustrate the mode of piety activated and propagated by the electoral process. In the course of the narrative of Athenian decadence, the average member of the “bad” audience gains the “arrogance to set himself up as a capable judge” in musical matters (700e5-6). Subsequently, this arrogance spreads to non-musical matters as well: everyone comes to possess “the conviction that he was an authority on everything” (701a5-6). This doubly universal arrogance gives rise to “effrontery” (ἀναισχυντία) – i.e., the willingness to traduce or gainsay all standards outside oneself (701a7-8). The great chain of piety is here anticipated as a ladder of impiety as the effrontery of the citizens increases: defiance of authorities, then of parents and relatives, of the laws, and finally of “oaths and promises and religion in general” (701b-c).

In sum, an atmosphere of religiosity functions in Magnesia inasmuch as the latter is associated with a generalized reverence for what is beyond or due deference from the
self. It is thus inherently anti-anarchical and counters the inherently anarchical framework of elections. Electors, suitably primed by the religious elements that figure in the electoral process, are encouraged to make their electoral decisions in a manner that has the best interests of the state at heart – i.e., to choose as if they were not themselves the source of effective choice, but rather to make their choices in the light of social and cultural standards arising from subordination to the good of the community.

2.3.3. The expanded ballot

When the electors of the nomophylakes submit their nominations, they do so by placing a small tablet (πινάκιον) on the altar inscribed with eight pieces of information: (1a) the name of the nominee, (1b) his father, (1c) his tribe, and (1d) his deme; as well as (2a) the name of the elector, (2b) his father, (2c) his tribe, and (2d) his deme (753c1-4). Needless to say, this differs considerably from what most conceive traditional voting to be, as well as from the Greek χειροτονία. According to Morrow, the written ballot was an innovation of Plato’s. Both of these things are “simpler” than the expanded ballot, and there is no permanent record of who voted for whom. Plato’s use of the “expanded ballot” is significant in two main ways. First, it forces voters to contextualize their votes

---

151 Plato explicitly details this process for the first round of nominations. It is unclear if the same must be done for the second and third round of nominations. In the case of the second round of nominations, it depends on how one interprets the ὡσαύτως in τὴν δὲ πόλιν ὡσαύτως ἐκ τούτων φέρειν πάλιν ὃν ἂν ἐκάστος βούληται (753d1-2). However, whether the full “expanded ballot” is used in the subsequent rounds does not really affect the two main arguments. This is because the “Kleisthentic considerations” I adduce in the case of (1a)-(1d) would also apply to subsequent rounds of voting via expanded ballot, but what I say about “signed votes” versus “unsigned votes” would only apply to rounds of nomination followed by the right of removal (for which see 753c5-7) – i.e., the first round alone.

152 Morrow, Plato’s Cretan City, 231.

153 Of course, in the American case, there is a record of who received how many votes (since this is how victory is determined), and there is a record of whether someone voted, but there is no record of the candidate for whom each person voted.
and specifically take account of father, tribe, and deme. Second, the “signed” nature of ballots activates pro-reputational concerns lest, as a result of the elimination-round, invidious inferences are made as to the elector.

By forcing the voter to inscribe on his πινάκιον the apparently “gratuitous” information of the nominee’s father, tribe, and deme, Plato in effect forces the voter to make his nomination with these things in mind – i.e., Plato “thematizes” them as items of interest. To see what the political significance of such a thematization would be, we must examine it in the context of the incredibly important set of political reforms associated with the Athenian politician Kleisthenes. For the details of these reforms, I rely on the excellent account contained in the Αθηναίων πολιτεία (part of the corpus Aristotelicum).154

Kleisthenes was famous as a democratizing reformer. According to Aristotle,155 Kleisthenes “won the support of the common people [δῆμον] by promising to give the state into their hands [ἀποδιδοὺς τῷ πλήθει τὴν πολιτείαν]” (21.1-2). In the aftermath of the fall of the Peisistratids, Kleisthenes became the “chief and leader of the people [ἡγεμὼν ἦν καὶ τοῦ δήμου προστάτης]” (21.4). In addition to inventing (or reviving) the ostracism (22.1), the most important political reform of Kleisthenes was his reorganization of the tribal system.

---

154 It is necessary here to distinguish between history and historiography. The history itself is frankly irrelevant; what matters in the present context is what the Greeks told themselves and thought about their history (i.e., their historiography) and thus how Plato situated his own projects in relation to accepted historiography.

155 With regard to the Αθηναίων πολιτεία, it is the consensus of scholars that, while Aristotle himself is probably not the author, the work was certainly produced by someone in his school. Nevertheless, I will continue to refer to the author of this work as Aristotle, but only as a façon de parler. For English and Greek versions of this text, see Fritz and Kapp, Aristotle’s Constitution of Athens and Related Texts; Thalheim, Aristoteles Πολιτεία Αθηναίων.
Before Kleisthenes, the voting population of Athens belonged to one of four “tribes” (φυλαί). These tribes were regionalized – i.e., concentrated in specific regions of Attica – and they were dominated by powerful, aristocratic γενή. The right to vote was contingent upon tribal membership, which in turn was established via genealogical records. However, after Kleisthenes, the situation would be considerably different. First, he replaced the old set of four tribes with a new set of ten tribes in order, Aristotle tells us, to mix up the population (ἀναμεῖξαι βουλόμενος) “so that a greater number would share in the administration of the state [μετάσχωσι πλείους τῆς πολιτείας]” (21.2). This would occur because the right to vote (i.e., to participate in the πολιτεία, to be a πολίτης) was made no longer contingent upon one’s tribal membership as genealogically certified, but rather upon one’s registration with a certain deme (locality). Thus, Aristotle cites the political slogan contemporaneous with the reforms of Kleisthenes, “No tribe-investigation [τὸ μὴ φυλοκρινεῖν]” (21.2), which was directed, he claims, against “those who wanted to check on family backgrounds [πρὸς τοὺς ἐξετάζειν τὰ γένη βουλομένους]” (21.3). Likewise, Kleisthenes instituted the practice of citizens referring to one another not by their fathers’ names, but rather by the names of their demes (demotic) (21.4). Interestingly, the inherently regional concept of a deme itself underwent something of a de-regionalization: one need not actually live in one’s deme. As Traill comments, “After the time of Kleisthenes, every Athenian, regardless of his domicile, bore one and only one demotic, almost invariably his father's, which he obtained on being enrolled in the deme register after completing his eighteenth year.”

a semi-local unit of affiliation that was heritable from one’s father, yet ultimately
deriving not from heritability *per se* so much as official registration with the deme. This
obviously contrasts greatly with the pre-Kleisthenic situation, described by Balot thus:
“The early polis was controlled by members of the wealthy landed elite, who usually
constructed for themselves elaborate aristocratic genealogies in order to solidify their
places in the political hierarchy.”\(^{157}\) By contrast, the result of demic certification for
citizenship was to render “citizens more secure in their status as citizens.”\(^{158}\)

Furthermore, each of the new tribes was divided into three τριττύς (literally, “a
third”), and each τριττύς in turn comprised a group of demes from a different region of
Attica (24.4). Thus, the political reforms of Kleisthenes worked to (i) de-regionalize the
tribes and thus disable them as units of στάσις by making them supervene upon demes
widely distributed over all Attica, (ii) expand the franchise of voting by making the rights
of citizenship dependent upon demic association rather than genealogical status, and (iii)
lessen the political power of aristocratic γενή by drastically altering the nature of the
φυλαί in which they operated. In sum, as Cartledge puts it, Kleisthenes “transformed the
whole nature of Athenian politics, precisely by finessing or overriding the previously
taken-for-granted, aristocratic factionalism model of political infighting.”\(^{159}\)

Unlike the ten tribes in post-Kleisthenic Athens, the twelve tribes of Magnesia
occupy contiguous territories. However, Plato very cleverly arranges the tribal territories
as radial “spokes” extending from the center of Magnesia. This arrangement effectively

\(^{157}\) Balot, *Greek Political Thought*, 28.
\(^{158}\) Ibid., 48–49. On the centrality of the deme to the new Kleisthenic order, see Cartledge, *Ancient Greek Political Thought in Practice*, 61.
\(^{159}\) Cartledge, *Ancient Greek Political Thought in Practice*, 60.
“deregionalizes” the tribes even while leaving them contiguous. In addition, Plato equalizes the tribes with respect to the membership of the four property-classes. The effect of both of these reforms is to disable, à la Kleisthenes, the tribe as an effective source of στάσις. However, the tribes still persist as a corporate ordering-principle of the population. Thus, members of the same tribe are much more likely to be acquainted with one another.

Plato’s expanded ballot represents a philosophical synthesis of the pre-Kleisthenic and post-Kleisthenic voting regimes. To see this, let us examine each element of it as specified by Plato. First, there is the inclusion of the name of the candidate’s father. This would appear to be a throwback to the pre-Kleisthenic regime. After all, Kleisthenes attempted to substitute address by deme for address by father’s name as a cultural reform parallel to the political reform that substituted demic association as certified by registration for tribal membership as genealogically certified. However, even if the inclusion of the candidate’s father’s name represents a certain “return of genealogy” to political practice in Plato’s Magnesia, it is a transfigured sort of genealogy or “tribal research” (φυλοκρινεῖν). Put simply, Plato replaces political genealogy with moral genealogy: i.e., the point of becoming aware of a candidate’s father is not to assess the candidate’s right to citizenship (or membership in a defined faction) but rather to assess the candidate’s character by reference to his father’s character. This, of course, is exactly the kind of βασάνος Plato advocates at the beginning of Book VI.160

Next, consider the inclusion of deme and tribe. Confusingly, the combination of the two appears to mix elements of both pre-Kleisthenic and post-Kleisthenic regimes.

160 See 2.2 for the part devoted to systematic strategies consequent to the analytic of government.
However, the key is to see how, once again, the apparently pre-Kleisthenic throwback represents in reality something more sophisticated. Specifically, because Plato has in effect already “Kleisthenized” the tribes due to the way they were set up, the kind of tribal faction Kleisthenes sought to avoid cannot really happen. True, it may be more likely that each elector may vote for members of his own tribe, but this effect, as we will see below in the section devoted to the election as an intelligent process, may actually be a beneficial effect – i.e., it utilizes the affective connection between members of the same tribe as a way of having each tribe pay enough attention to itself to discern the most deserving candidates among their fellow tribesmen. This is of a piece with general post-Kleisthenic trend of empowering the deme as a political unit.  

In addition to the candidate’s name, father, tribe, and deme, each tablet also includes the elector’s name, father, tribe, and deme. In other words, as opposed to anonymous or “unsigned” nominations, the nominations for the nomophylakes are “signed” by their nominators. The significance of signed ballots for the electoral process of the nomophylakes, I would argue, is considerable. Taylor, for instance, describes the practice of signed votes as a “precaution against an irresponsible vote.” In brief, the significance of signed ballots lies in the conspicuous publicity of the electoral process.  

---

161 Similarly, one could advert here to the portrait of the contemporary Athenian polis drawn by, e.g., Josaiah Ober, featuring “a constant give-and-take between center and periphery, between specific local understandings, local critics, and the generalized polis-wide democratic ideology.” Ober, *The Athenian Revolution*, 150–51.  
164 Connected with the publicity of the electoral process is its theatricality. The witnessing faculties of the citizens are drawn in, and the citizen himself or herself partly participates in the process as a theatês or
nomophylakes, comes to the fore in two essential ways. First, as part of the first two rounds of voting each elector proceeds to the “temple which the state considers to be the most venerable” (753b7-753c1), where he places his tablet with the requisite information “on the altar of the god” (753c1-2). Thus, each elector is required in effect to avow his vote in a religiously charged context such the content of his voting decision is visible to all. The ties in a public and almost ceremonial way his own name, patronymic, etc., to that of the candidate endorsed. Likewise, as part of the final round of voting each elector is instructed to “walk between the victims of a sacrifice” and record his vote (753d3-5). Again, each elector is forced to avow his choice in a public and spectacular way which potentially opens the elector himself up to scrutiny. One’s fellow citizens are theatai to the political proceedings.165

Indeed, the most powerful evidence of the efficacy of potential scrutiny in the elections of the nomophylakes is the existence of the two elimination-rounds. In accordance with this, after the tablets are displayed in the temple, anyone who wishes may “remove any tablet he finds objectionable [μὴ κατὰ νοῦν αὑτῷ γεγραμένον] and put it on display in the market-place [εἰς ἀγορὰν θεῖναι]” (753c5-7). In both locales (temple and marketplace), the tablet was publicly displayed, and this includes the signature of the elector. However, given the opposite valences of these locales, for one’s...
nomination to be publicly removed from the temple and publicly displayed in the
marketplace could not be received as anything other than a humiliating bouleversement.
Thus, the elimination-rounds accomplish “vote-policing” in two different ways. First,
they shame those voters with evidently poor judgment in a way that alerts others to that
bad judgment. Second, they force all potential voters, in order to avoid such a moment, to
vote in ways that are publicly avowable without undergoing a risk of the contagiously
shameful elimination.

The overall effect of this combination of signed votes with functional publicity is
easy to imagine. If I do not want my vote to be eliminated in a way that will bring shame
upon me, I must take into account the likely elimination proclivities of others. In other
words, I am forced into making my voting decision in a pro-social way that favors
consensus choices over mavericks. To the extent I vote in accordance with prevailing
culture, culture votes through me. This pattern makes sense in the specific context of
Magnesian society, within which individual innovations are primarily viewed as
dangerous deviations from a basically reliable and beneficial public order.

In conclusion, the expanded ballot electors use is of significance in two ways.
First, the more complete slate of information is thematized by Plato in various ways
reflecting a synthesis of the pre- and post-Kleisthenic status quo such that it serves his
own, philosophical, ends and is conducive to the overall order and best functioning of the
state. Second, by insisting ballots are “signed” by the voters Plato forces them to vote in
more socially conscious and solicitous ways. Both of these effects are in agreement with
the systematic approach.
2.3.4. Intelligent process

The election of the nomophylakes is a temporally and spatially extended process in which large numbers of actors participate in defined and orderly ways. Moreover, not only is its outcome in some way the collective result of the separate contributions of individual actors, but in addition these individual actors themselves make their successive contributions to the process in light of, and in reaction to, the contributions of other actors. Furthermore, these actors are – at least, to some degree – heterogeneous with respect to the contingent knowledge of others they possess, the amount of time and effort they have devoted to political considerations in general, and their character dispositions. They are also heterogeneous in the more mundane respects of tribal, demic, and property-class membership.

The election is an intelligent process inasmuch as it is capable of producing an outcome that is likely superior to that capable of being produced by any individual participant in the process. The “choice” (κρινεῖν) of the process as a whole comes about via the solicitation, manipulation, and aggregation of individual expressions of volition (βούλησις) in an essentially intelligent way. Of course, the “intelligence” of the process does not exactly devolve upon a collection of mere mechanism, form, or procedure. Rather, it is precisely through the involvement of these intelligent individuals that the system, paradoxically, is able to exceed them in intelligence. The combination of the citizens into an “intelligent process” superior to them individually is compatible with the “increased optimism” attributed by Bobonich to Plato regarding the capacities of non-

166 And thus, Magnesian citizens contribute to the process both as actors in their own right and, contra Monoson, as theatai or spectators. Plato does in fact, then, live up to this aspect of Athenian democratic practice. Ibid.
philosophers, i.e., ordinary citizens. It is precisely these ordinary citizens who make up the reliable constituents of this process. Moreover, to the extent that their powers and discretion contribute to the excellence of the process as a whole, we can see how the society of Magnesia departs from the “rule of law” tout court paradigm suggested by the Statesman and embraced by many, e.g., Guthrie.

The intelligence shown by the electoral process for the nomophylakes can be subdivided in a few key ways. Whereas a process endowed with combinative intelligence works by combining the contributions of various actors in an intelligent way, a process endowed with iterative intelligence works by the suitably modified repetition of some set of steps based on the outcome of previous iterations. Additionally, combinative intelligence can be subdivided into supplemental and oppositional intelligence: whereas aggregative intelligence works by combining diverse sources of data into a total portrait, oppositional intelligence does the same, but also may attempt to “settle conflicts” among these sources of data. With regard to the electoral process under discussion, I will attempt to exhibit its aggregative intelligence through the first round of nominations, its oppositional intelligence through the removal-period, and its iterative intelligence through the final two rounds of nomination.

In most contemporary scenarios that involve voting, voters vote for one among a set of given options or slate of candidates. Call this “closed voting” because the slate of candidates is “closed.” In some voting scenarios, however, either there is no such slate of pre-given candidates, or it is not necessary to make one’s choice from among them. For

---

167 Bobonich, Plato’s Utopia Recast: His Later Ethics and Politics, 374. However, see the caveats regarding Bobonich.
168 Guthrie, A History of Greek Philosophy, 335.
example, in the American presidential elections, voting is nominally “open” (since, strictly speaking, one can “write in” the name of whoever one wishes) but de facto “closed” (since only candidates on the ballot stand any real chance of winning). In the first round of the election of the nomophylakes, voting is open. There is no pre-given slate of candidates. Rather, each elector is instructed to prepare a πινάκιον with the name of whoever he wishes to vote for (753c1-4). Thus, both nominally and actually, voting is open in the first round of the election of the nomophylakes. Electors may select whoever they wish or think best (so long as they remain unworried about the potential shame which would accrue to them should their nomination be publically removed to the market).

In addition, it is reasonable to assume that different electors have knowledge of different people or different levels of knowledge regarding the same people. In general, each elector will be reasonably well-informed with regard to those who make up his circle of acquaintance. It is also reasonable to assume that these circles of acquaintance track the partition of Magnesia into tribes and demes. Indeed, this assumption is confirmed in Book V: the Athenian ordains that there be allocated “to each division of citizens a god or spirit or perhaps a hero” (738d1-2). Subsequently, the citizens belonging to that division will “gather together at fixed times” for religious ceremonies and “recognize and greet each other at the sacrifices in mutual friendship.” (d4-e1). The intended result is that “the citizens should be well-known [γνωρίμους] one to another” (738e1-2). There is “no greater benefit for a state” (738e1) than such an effect, and it permits each citizen – among other things – to “fill the office he deserves [ἀρχῶν... δίκης... τυγχάνοι]” (738e2-5). As Bobonich points out, Plato’s political schemes require
an implied trust in the ability of the citizens. The importance of corporate deliberation and gathering allows the citizens to exercise these abilities, and the aggregative intelligence of the election of the nomophylakes allows each citizen to make his or her special contribution to the process as a whole, a contribution backed by Plato’s basic belief in the competence of the citizens. This “respect for the capacities of individuals” along with the attempt to utilize the human propensity for “free political associating” are in fact borrowed from actually existing Athenian political practice. Moreover, an aggregatively intelligent process that depends on the contributions of many individual citizens with different circles of experience on the basis of which they are empowered to make their own political judgments activates and presupposes a spirit of equality associated with democratic institutions. It is probably in this spirit that Guthrie labels the election-process for the nomophylakes as taking place on “mainly democratic lines.”

Thus, Plato presumes that the citizens will have different circles of acquaintance – or different circles of acquaintance sufficient for nominating for office – that track their membership in tribe and deme. Accordingly, if each citizen nominates the person from among his circle of acquaintance who he thinks best merits the office of nomophylax and if different citizens have different circles of acquaintance, then the result will be a first round of nominations which captures a wide variety of local maxima. In other words, the first round of voting for the nomophylakes will exhibit aggregative intelligence: it

170 Balot, *Greek Political Thought*, 15.
171 Ibid., 49.
aggregates the individual and incomplete knowledges of the electors into a more complete collective result.

Finally, let us remember that, as we argued above, tribal and demic identity are thematized by the very form of the ballot. Thus, the form of the ballot itself promotes patterns of voting in accord with the affective community and superior knowledge we have of those within our circle of acquaintance as dictated by tribal and demic membership. The expanded ballot, therefore, only bolsters the aggregative intelligence of the process.¹⁷³

Next, let us consider how the concept of oppositional intelligence pertains to the election of the nomophylakes. Oppositional intelligence consists in the weighing of diverse sources of data such that certain sources may cancel out other sources in prescribed ways. Like aggregative intelligence, oppositional intelligence is a form of combinatorial intelligence. However, unlike aggregative intelligence, oppositional intelligence attempts in some defined way to “settle conflicts” among the sources to be otherwise merely aggregated.

The removal-round of the election for the nomophylakes – according to which, for thirty days, anyone who wishes may “remove any tablet he finds objectionable and put it on display in the market-place” (753c5-7) – exhibits oppositional intelligence. If certain citizens disagree strenuously with the nominations of certain other citizens, the first group may remove the nominations of the second group. In other words, the knowledge contributed by certain participants is used to check that of others. The total effect of the power of elimination will be a field of candidates none of whom inspire

strongly negative sentiments from anyone; for if they did, they would be eliminated by those they offend. In addition, since to receive a nomination a candidate must have inspired strongly positive sentiments in someone, the remaining candidates must inspire strongly positive sentiments in some and moderately positive or negative sentiments in everyone else. However, there are no “controversial” candidates – i.e., those who inspire both strongly affirmative sentiments and strongly negative sentiments from different groups. Instead, all the candidates will be “safe.” It is important to recognize the stability-promoting effect – eminently systematic – which the elimination-round has in virtue of the oppositional intelligence it employs. Once again, Plato’s use of oppositional intelligence – a form of combinative intelligence – marks a way in which Plato, like traditional Greek thought, exhibits a respect for, and a desire to bend to his own purposes, the capacities of ordinary citizens and their propensity for free political associating. In addition, the removal-round helps bring about the general condition of Athenian democracy whereby hubris (i.e., claims to extreme superiority) was forbidden, but scope was specifically granted for the differential emergence of talent.

Finally, let us note the difference between passive correction and active correction. To passively correct something is merely to fix it. To actively correct something is both to fix it and to bring the fact of the error itself to the attention of the one who made it in such a way that he is unlikely to make it again. The elimination-round uses active rather than passive correction. Since the rejected tablet is displayed in the marketplace in a way that brings shame upon its original depositor, this action must be

\[174\] Balot, *Greek Political Thought*, 15.
\[175\] Ibid., 79.
seen as somehow signaling something about or to him. I will discuss this further in the next section.

The last way in which the process for the election of the nomophylakes can be said to be “intelligent” lies in its possession of “iterative intelligence.” Unlike combinative intelligence, which proceeds through combining the contributions of diverse actors in a hopefully intelligent way, **iterative intelligence** proceeds through the suitably modified *repetition* of an original series of steps in a way that presumably adds value by producing an even better result. The final two rounds for the election of the nomophylakes exhibit iterative intelligence. After the first round of nominations and eliminations have yielded “three hundred tablets that head the list,” then the electors again are to cast their votes, but this time “on the basis of that list.” (753c7-d2). The “hundred names that head the list” are retained, and the same procedure is repeated to select the final thirty-seven nomophylakes (753d-6). In other words, the output of the first stage becomes the input for the second stage, and the output of the second stage becomes the input for the third stage. While a *single* instance of the above was common in Greek constitutions (the so-called “*prokrisis*”: see, for example, the selection by lot after an electoral *prokrisis*), to use multiple rounds of *prokriseis* was invented by Plato, according to Morrow.\(^{176}\)

Without an iterative component, the cognitive contribution made by electors who voted for candidates who did not make the cutoff for each round is effectively wasted. However, each iteration of the process *recovers* and *puts to use* the cognitive abilities of the otherwise marginalized voters by forcing them to select from among those who *did*

---

\(^{176}\) Morrow, *Plato’s Cretan City*, 231.
make the cutoff. Thus, the total effect for the process is a beneficial one: by iteratively functioning upon its own output, the process will deliver a better list of thirty-seven nomophylakes than could be obtained by means of a single stage of voting. The electoral process for the nomophylakes in virtue of the ways it combines, balances, and solicits cognitive contributions from the citizens to produce a collective result superior to an individual one may be labeled an intelligent process, and a key component of this intelligence is its iterative intelligence, as I have described it. Note, finally, the overlap between the verbs used to describe various parts of the process and an intellectual vocabulary more generally: αἱρεσις (753b3, b7), κρίνω (753c7, d6), βούλομαι (753c5, d2, d4), and δείκνυμι (753c8, d3). It is as if the gathered body of electors is deliberating within itself as a kind of “hive-mind” with regard to the identity of the best nomophylakes. I will have more to say about this element of the process, especially as this kind of simulacral intelligence intersects with visibility and publicity in the intermediate and final stages of the election, in the section below.

2.3.5. Scene of instruction

We have seen above how the election of the nomophylakes can be analyzed as an intelligent process. However, in addition to selecting candidates with a collective intelligence superior to that of any individual participant, the electoral process also works to improve its very participants, to leave them more discerning. To the extent that it does so, the electoral process may be a labeled a “scene of instruction.” It also remains true to the aspects of Athenian democracy embodied by Athenian public rituals and forms of civic participation identified as important by Monoson but withheld from the government
in Plato’s *Laws*. Indeed, ultimately all the various processes of Magnesia function together as part of a polis-wide, self-improving process of processes. The price of stability in a world of corruption, Plato seems to require, is eternal vigilance, play, and religiosity lest a part of the city go off-track. In other words, all the functions of government in Plato’s Magnesia, in addition to their instrumentality, also carry forward a project of continual education, training, and moral and cognitive improvement.

There are three ways in which the election of the nomophylakes may be labeled a scene of instruction. First, the elimination-round functions to educate the electors concerning acceptable candidates and trustworthy fellow electors. Second, the intermediate and ultimate stages of publicity built in to the process propagate knowledge regarding the higher echelons of candidates. Third, the mandatoriness of voting “locks in” electors to giving their formal approbation of candidate in fact worthy of that approbation, thus educating and habituating the electors to similar performances in the future. The edifying functionality built in to the process which I will describe is, again, by no means at odds with the supposition of Bobonich regarding Plato’s “increased optimism” in the capacities of non-philosophers, but rather it presupposes a certain kind of competence if these processes are to have any hope of success. Likewise, that anyone may withdraw the nomination of anyone else speaks to the robust spirit of equality animating the political institutions of Magnesia, which Plato borrows from

---

178 Bobonich, *Plato’s Utopia Recast: His Later Ethics and Politics*, 374. Nevertheless, it broadly tells in favor, I think, of the systematic approach as opposed to the form of the democratic approach Bobonich advances.
actually existing Athens. Finally, it once again demonstrates the distinctness of Magnesia from a society merely premised upon the rule of law. Magnesia is much more than this, as the idea of a pool of continuously self-edifying collection of powers would imply.

Recall that, in accordance with the elimination-round for the election of the nomophylakes, anyone who wishes may remove a tablet from the altar of the god which he finds objectionable and instead put it on display in the marketplace (753c5-7). Previously, I have argued concerning this elimination-round that it (a) functions as an incentive upon the electors worried about having their tablets publicly removed to the marketplace and (b) contributes to the election as an intelligent process in virtue of its oppositional intelligence by ensuring that no candidates remaining inspire seriously negative sentiments from any elector. In connection with the latter point, I also distinguished between passive and active correction, and I claimed that the elimination-round constituted active rather than passive correction inasmuch as it brings attention by design upon the fact that a correction is being made rather than merely and silently correcting it. Here I would like to return to the notion of “active correction” and examine such activity in connection with the theme of this section – namely, as a scene of instruction. Specifically, there are three forms of “education” with regard to the electors we should see in operation as a result of the “active correction” of the removal of a tablet from the temple to the marketplace.

179 Balot, Greek Political Thought, 49.
180 I am sorry to adduce as whipping-boy, once again: Guthrie, A History of Greek Philosophy, 335.
181 Such continuity extends even to the toys of children in Magnesia. See, e.g., Rankin, “Toys and Education in Plato’s Laws.”
First, when someone eliminates the nomination of a candidate by another, he does not merely remove that candidate from contention. Rather, by publicly displaying the tablet with the rejected candidate’s name upon it in the marketplace, he publicizes the fact that the candidate in question was and should be rejected. He “advertises,” in other words, the normative rejectability of the candidate he is rejecting. Thus, anyone who beholds this tablet in the marketplace can adjust their own views accordingly and will beware, in the future, of nominating, associating with, or regarding highly these rejected candidates.

Second, when someone nominates a candidate only to witness the public, shameful rejection of that candidate, he himself – the original nominator – receives a lesson which is above and beyond that received by a bystander elector. The intensity and personal relevance of the removal will exert an especially intense effect upon the elector’s own views. This, of course, makes sense because the elector is, presumably, already in the wrong regarding their views of suitable candidates. Thus, the ordeal of rejection exerts, as we would expect is needed, a specially intense educative effect upon the nominator of the rejected candidate in comparison with those who are merely bystanders to the rejection.

Third, when someone submits a nomination which is rejected, his name in addition to that of the rejected candidate is cast into disrepute. Thus, the bystanders to the elimination now have reason to downgrade the reputation of the nominator in addition to that of the nominee. They have been appropriately “educated” in regard to this, as well. The election-process for the nomophylakes not only functions to select the best
candidates for the job, but in addition improves and informs the electors so as to make better decisions in the future as a the result of these dynamic updates.

The elimination-round alone is not what makes the election of the nomophylakes a scene of instruction. In addition, the public displays built-in to the intermediate and ultimate stage of the election function to edify the electorate. Plato’s emphasis on these rounds of display is noticeable and significant. First, Plato specifically instructs the officials in charge of the election to “exhibit [δεῖξαι] to the state at large [ἰδεῖν πάση τῇ πόλει] the three hundred tablets that head the list” (753c8-d1). Thus, Plato particularly emphasizes the viewing (ἰδεῖν) by everyone (ἰδεῖν) of these leading tablets to be displayed (πάσῃ τῇ πόλει). Second, after the three-hundred names on the tablets have been narrowed down to one-hundred, Plato specifies that, “the hundred names that lead this second time must be publicly displayed as before [δείξαι πάλιν ἄπασιν].” (753d2-3) Thus, once again Plato emphasizes the display (δείξαι) of the tablets to everyone (ἄπασιν). Finally, after this group of one-hundred has been narrowed down, for the final time, to just thirty-seven, Plato specifies that the “thirty-seven who receive most votes must then submit to scrutiny and be declared elected [ἀποφηνάντων ἄρχοντας].” (753d6) Here we see the public declaration (ἀποφηνάντων) of the power of those elected.

There is, first of all, a straightforward instrumental rationale for these rounds of public exhibition. They are needed to inform the electorate with regard to which candidates remain in the running and which have won the contest. However, in addition each round of public exhibition serves an edifying role with regard to the electorate as a whole. It advertises to, and impresses upon, the electorate the pool of esteemed individuals. Thus, those who perhaps didn’t vote for these candidates initially receive
now a kind of “correction” inasmuch as they are successively alerted to who they should have voted for. The result of these edifying displays is to better educate the electors to make better and more reliable electoral decisions.

The final and third way in which the election of the nomophylakes constitutes a scene of instruction is connected with the second way. After the first, second, and third rounds are complete, the roster of remaining names is publicly displayed before all, or in the case of the third round, that of the elected nomophylakes. In addition, the names generated by the first and second rounds serve as the candidate pool for the second and third rounds. Thus, whoever votes for a candidate in the second or third round is forced to vote from the lists produced by the first and second rounds. The vocabulary employed to describe these instances, however, is significant. First, for the second round of voting, “on the basis of this list [ἐκ τούτων] the voters must then again record their nominations [ὃν ἂν ἔκαστος βούληται].” (753d1-2) Literally, the Greek for “their nomination” reads “which he wishes [βούληται]” – i.e., the individual choice and wishes of the voter are emphasized. However, this individual preference must be exercised from among the candidates advanced from the first round (ἐκ τούτων). Likewise, in the case of the final round of voting, each voter is instructed to record which of the hundred (ἐκ τῶν ἑκατὸν) he chooses (ὅν ἂν βούληται) (753d3-5). Again, voters are instructed to exercise individual preference (ὅν ἂν βούληται) from within a pregiven group of acceptable candidates (ἐκ τῶν ἑκατὸν). However, in effect this procedures forces such voters to “own” the result of their constraint. In other words, a vote which may not have been completely their choice in the final analysis becomes their actual choice. Thus, parallel to the other ways in which the election of the nomophylakes is a scene of instruction, voters
are habituated and trained to vote for candidates they should vote for as a result of the very voting process itself. The elections both solicit and educate the choices of the electorate.

Glenn Morrow comments regarding the “demiurgic” orientation of the Laws that, “To accept the disadvantages is the mark of the demiurge in Plato.”182 Here, as we see, Plato not only makes provision for certain kinds of disadvantages that accrue to normal, finite human beings; but in addition he seeks to take advantage of the “disadvantages.”183 He makes the bad discretion of those who would make bad nominations a learning-opportunity for the rest of the community in the three ways I have described and attempts to reform these public bunglers themselves.

Moreover, in marking both some as edifiers and others to be edified, Plato manifests a healthy respect for the political capacities of ordinary citizens – taken all-together in concert, over the long-term – such as we find in traditional Greek political thought.184

2.3.6. The use of age restrictions

His unabashed belief in the superiority of the soul to the body notwithstanding, biology is a real concern for Plato. If nothing else, it certainly affects the operation of soul in the world in the broad sense. Of course, “his” biology is certainly not “our” biology. Nevertheless, both biologies exhibit a degree of regularity that in turn permits certain technical manipulations. At the same time, the nature of the corruptible, material world for Plato means that his biology will possess nothing like the complete scientificty and

183 In Chapter 1, I refer to this as “creative demiurgy” as opposed to “concessionary demiurgy.”
184 Balot, Greek Political Thought, 15.
manipulability (in theory) ours does. Plato puts into place “systematic” strategies in multiple ways in Magnesia which take as their object or rely upon some biological medium for their efficacy. Here, I would like to examine the effect of the age-restrictions put in place for the nomophylakes as an example of one of these biological strategies.

The only citizens who may stand for election as nomophylakes are those between the ages of fifty and seventy (755a4-b2). Other age-restrictions apply to other offices. For instance, the agronomoi must be between twenty-five and thirty years old (760b-c), and priests, priestesses, and exegetes must be older at least sixty years (759b-d, 759d-e). Finally, the minister of education must be older than the age of fifty (765d-766c); however, this requirement is supererogatory since he must be elected from among the nomophylakes in any case. All of these age-restrictions have their own or shared rationales, I believe, but I will not attempt so comprehensive a thesis at this time. Instead, I would just like to examine the case of age-restrictions for the nomophylakes. I will note, however, that it is ultimately impossible to analyze almost any of these age-restrictions in a complete way in isolation from a consideration of the nocturnal council, whose diverse and age-discontinuous membership supplies the hidden logic that connects them all.

The age-restrictions for the nomophylakes include both a floor and a ceiling of allowed age. One must be at least fifty, but no more than seventy. To the extent that we suspect there is a rationale at work, therefore, behind this age-restriction, it must have something to say about both excessive youth and excessive age. We find exactly such a rationale whose main points are articulated in Books II and III of the Laws.

First, the Athenian notes that when “we are children, the first sensations we experience are pleasure and pain, and it is in terms of pleasure and pain that virtue and
vice first develop in our souls” (653a). Subsequently, “when we are old, we are lucky if
we have also developed wisdom and stable true opinions” (653a-b). Ultimately, “virtue in
its entirety” consists of the agreement between our feelings of pleasure and pain and the
“account” (653b).\(^{185}\) However, the nurturing of pleasure and pain in the right way among
the young is what the Athenian calls “education” in this circumstance (653b-c). It is
advisable then, even before the awakening of our full reasonable powers, to have our
pleasures and pains nurtured when you “so that we hate what we should hate and love
what we should love from beginning to end” (653b-c).

The rub lies in what happens to this “education” – i.e., the “condition of having
correctly nurtured pleasures and pains” (653c) – over time. Specifically, it “tends to
slacken and be undone over the course of human life” (653c).\(^{186}\) In this context, the
Athenian recommends festivals and their accompanying choral music as one way of
mitigating or reversing the inevitable age-related decay of our passional education; the
gods bestowed music upon men “to set them back on the correct course” (653d). At the
same time, it is precisely the elderly citizens who supply or reinforce the standard of
propriety that informs all education. The Athenian asserts, “education draws and guides
children toward the correct account that is articulated by the law and accepted as correct
by the worthiest and eldest citizens on the basis of their experience” (659d). Furthermore,
“the soul of a child must not become trained to feel pleasure or pain that opposes the
law….it must follow the law and be pleased and pained at the same things as are the
elderly” (659d-e). Music, then, when superintended in the right way by the elderly, is also

\(^{185}\) An excellent overview may be found in Schöpsdau, _Nomoi_, Buch I-III, 253–56.
\(^{186}\) This sentence in the Greek can be construed in multiple ways. Nevertheless, “Der Sinn des Satzes ist im
großen und ganzen eindeutig.” Ibid., 258.
intended to guide the young: this “agreement” is brought about by “charms in the playful guise of songs” (659a).

Finally, more information on the effects of aging can be found in the passages describing the “third and remaining chorus, that of Dionysus” (665b). This chorus comprises the “best element of the city, whose collective age and wisdom makes it the most persuasive group of citizens” (665d). However, it is not only wisdom which age has brought about or made more likely, but in addition it has brought about for these chorus-members a reluctance or embarrassment at the prospect of singing (665d-e). Special measures are necessary in order to counteract the latter in the form of proposed regulations concerning the consumption of wine. These regulations presuppose a schema of age-related effects. For instance, those under the age of eighteen are forbidden to drink wine since “one should not pour additional fire into their bodies or souls”; the Athenian refers to the “manic condition of youth” (666a). Likewise, those “up to thirty years of age” are allowed to drink wine, but they “must abstain completely from drunkenness and from drinking large quantities of wine” (666a-b). Finally, however, those “approaching forty” are encouraged to partake of wine to a much greater extent than their younger co-citizens because the effect of wine is a “remedy for the crabbedness of old age” (666b). Wine “makes us grow young again and forget our ill temper as our soul’s hardened character softens, like iron that becomes pliable when placed in the fire” (666a-b). This effect, in turn, facilitates those choral performances in whose benefit the Athenian and his companions are especially interested. In sum, the policies of Book II on alcohol and communal music suggest the following theses with regard to the effects of aging: (i) one is more likely to have the correct intellectual position or be wiser in general in a way that
corresponds to complete virtue, and (ii) the passional education which is also part of complete virtue grows weaker over time. These two theses account for why Plato (a) wants to use the wisdom of the old to influence the younger in special ways and also (b) wants to counteract the weaknesses of age with “rejuvenating” effects: these two tendencies of age can and must be balanced in social concert.

This portrait of the contrasting faculties of age and youth is confirmed by similar statements in Book III in the section dealing with the Spartans. To explain why the Dorian states other than Sparta suffered ruin, the Athenian explains, “the mortal soul simply does not exist, my friends, which by dint of its natural qualities will ever make a success of supreme authority among men while it is still young [νέα] and responsible to no one” (691c-d). The soul of a young person is “full of folly [ἀνοίας πληρωθεῖσα]” and “inevitably has its judgment [διάνοιαν] corrupted.” (691d) Thus, “to have a sense of proportion [τὸ μέτριον] and to guard against this danger” is a “first-class lawgiver’s job” (691d). In the case of Sparta, certain “metrical” devices are at work to protect against the danger of youth in power: (i) there are two kings rather than a “single line,” (691d), (ii) there is a council of elders (the Spartan gerousia) with “the same authority in making important decisions as the kings” (691d-e), and (iii) there is the institution of the ephors, “a power which came very close to being held by lot” (692a). Taken together, these three devices transformed Sparta “into a mixture of the right elements, so that thanks to its own stability it ensured the stability of the rest of the state.” (692a) However, whereas the first and third devices function in a mode which is more purely one of youth-oriented restraint

187 Plato is interested in history from the perspective of eliciting patterns useful for legislative rationality. Compare the interest of Polybius, who sought to create a “pragmatic history” useful to statesmen or politicians. See Fritz, The Theory of the Mixed Constitution in Antiquity, 40–44.
– the dyarchy “restricts its [the kingship’s] powers to more reasonable proportions” (691d), and the ephors serve as “a kind of bridle” for a government “still fretting and fuming with restless energy” (692a) – the second device takes advantage of the full gamut of age-related effects. Lycurgus, its legendary inventor, is said to have “blended [μείγνυσιν] the obstinacy and vigor of the Spartans [τῇ κατὰ γένος αὐθάδει ρώμη] with the prudent influence of age [τὴν κατὰ γῆρας σώφρονα δύναμιν]” (692a). Thus, we see once again an attempt to blend or combine the respective (good and bad) effects of youth and age.

What does this mean for the nomophylakes? Recall that, according to the age-restrictions for candidacy put into place for the nomophylakes, one must be no younger than fifty and no older than seventy. Thus, we should expect some rationale for each of the floor and ceiling respectively. The doctrine of age-related effects I have claimed is to be found in Books II and III of the Laws provides exactly such a rationale. According to this doctrine, individuals tend to become less impassioned yet wiser over time. Therefore, we should expect the age-restrictions to enforce a reasonable balance – automatically, merely by sorting the candidates on the level of biological generality – between passion and wisdom.
3. ELECTING THE COUNCIL

In this chapter, I will discuss those points of systematic interest which are *specially* implicated in the election of the council (βουλή). Of course, some of what applies to the election of the nomophylakes also applies to that of the council. In particular, I would cite the themes of the election as intelligent process and scene of instruction. Nevertheless, here I will focus on topics particular to the βουλή or – at least – first broached in the context of the βουλή. As before, I will first provide an overview of the electoral process for the council as a whole and then examine pertinent themes to the election of the council. The specific themes I will examine are (1) the schedule of incentives and (2) the function of the lot.

*Overview of the electoral process for the council*

The council is to be made up of a total of “thirty-dozen” (i.e., 360) council-members (βουλευταί), an amount Plato judges a “convenient number for subdivision” (756b7-b8). Ninety council-members are to come from each of the four property-classes of Magnesia (756b8-c2). Each council-member holds office for one year (756e5-8). Their election takes place over a period of five days (756b-e). The three customary forms of political selection – “nominative” (i.e., open voting), “calculative” (i.e., closed voting), and “sortitive” (i.e., by lot) – figure as distinct stages of the electoral process for the council. Nomination rounds confined to candidates from each of the four property-classes take place on the first four days, while closed voting and the lot are used on the last day.
On the first day, the nomination of candidates from the highest property-class takes place (756c3). Participation is compulsory for everyone upon threat of a fine (756c3-4). The names of the resulting nominees are to be written down (756c5). On the second day, the nomination of candidates from the second highest property-class takes place (756c5-6). As on the first day, participation is compulsory for everyone upon threat of a fine, and the names of the resulting nominees are to be recorded (756c6-7). On the third day, the nomination of candidates from the third property-class takes place (756c7-8). Participation is compulsory for members of the first three classes upon threat of a fine, but members of the “fourth and least wealthy property-class” are exempt from the fine if they do not wish to make a nomination (756c8-d2). On the fourth day, the nomination of candidates from the “fourth and least wealthy property-class” takes place (756d3-4). Although everyone is encouraged to participate, members of the third and fourth property class are exempt from the normal fine if they do not wish to make a nomination (756d4-5). However, members of the first and second property-class who do not make a nomination are to pay triple or quadruple the normal fine respectively (756d6-e1). On the fifth day, the officials in charge of voting display to the whole citizen body the inscribed nominees (756e2-4). Everyone must vote for one of the nominees (ἐκ τούτων) or pay a fine (756e4-5). Based on the results a list is drawn up of 180 candidates from each property-class (756e5-6). Finally, ninety from each group of 180 are chosen by lot (756e6-7). These must be scrutinized, and if they pass the scrutiny, they will serve as council-members for one year (756e6-7).

3.1. Schedule of incentives
Perhaps the most interesting feature of the election of the council is the complex combination of incentives placed upon the Magnesian voters over the first four days of voting. These incentives are sensitive to both the class of the candidate and the class of the elector. Here is a table that collects all of the relevant facts:

<table>
<thead>
<tr>
<th>Round</th>
<th>1st-class voters</th>
<th>2nd-class voters</th>
<th>3rd-class voters</th>
<th>4th-class voters</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st-round</td>
<td>Mandatory to vote or pay fine.</td>
<td>Mandatory to vote or pay fine.</td>
<td>Mandatory to vote or pay fine.</td>
<td>Mandatory to vote or pay fine.</td>
</tr>
<tr>
<td>(nominees from 1st-class)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2nd-round</td>
<td>Mandatory to vote or pay fine.</td>
<td>Mandatory to vote or pay fine.</td>
<td>Mandatory to vote or pay fine.</td>
<td>Mandatory to vote or pay fine.</td>
</tr>
<tr>
<td>(nominees from 2nd-class)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3rd-round</td>
<td>Mandatory to vote or pay fine.</td>
<td>Mandatory to vote or pay fine.</td>
<td>Mandatory to vote or pay fine.</td>
<td>Exempt from fine if choose not to vote.</td>
</tr>
<tr>
<td>(nominees from 3rd-class)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4th-round</td>
<td>Mandatory to vote or pay quadruple fine.</td>
<td>Mandatory to vote or pay triple fine.</td>
<td>Exempt from fine if choose not to vote.</td>
<td>Exempt from fine if choose not to vote.</td>
</tr>
<tr>
<td>(nominees from 4th-class)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5th-round</td>
<td>Mandatory to vote or pay fine.</td>
<td>Mandatory to vote or pay fine.</td>
<td>Mandatory to vote or pay fine.</td>
<td>Mandatory to vote or pay fine.</td>
</tr>
<tr>
<td>(180 top in all classes)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6th-round</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(90 selected by lot)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

In my judgment, there are three points to make based on an inspection of this table. First, we should note that differential incentives apply exclusively to the “nominative” phase of the election. Everyone must participate in the “calculative” phase (i.e., the 5th round) or be fined, and all incentives are irrelevant to the “sortitive” phase as this phase requires no active participation from anyone.
Second, we should note that, as one moves down the schedule of classes, it becomes *more important* for members of the first two classes to make their nominations. Failure to nominate members of the fourth class on the part of members of the first or second class carries a penalty of paying a triple or quadruple fine respectively.

Third, we should note that, again as one moves down the schedule of classes, it becomes *less important* for members of the last two classes to make their nominations. Members of the third class are exempt from fine if they choose not to make a nomination from the fourth class (although of course they *may* do so if they wish), and members of the fourth class are exempt from fine if they choose not to make a nomination from either the third class or the fourth class (although, again, they *may* do so if they wish).

It is important to realize that the *details* of the table above are basically irrelevant. Rather, what is important are the two *general tendencies* described – namely, that as one moves down the schedule of classes it becomes *more important* for the members of the upper classes to vote and *less important* for those of the lower classes. Of course, it may be possible that the *specific numbers* Plato uses are of numerological or philosophical-mathematical significance, but what I am interested to presently explain is the rationale significance for political philosophy of the two general tendencies. In addition, it is worth repeating the insight of Taylor that because the less wealthy are incentivized to vote for the wealthier and the wealthier for the less wealthy a moderating, centrist position will be favored: “neither a Coriolanus nor a Cade will stand much chance of election.”

Before we analyze and seek to explain these two tendencies, it is first worth regarding what relation Plato thinks economic class has with political competence in the

---

first place. In the *Republic*, of course, one class is entrusted with complete political power to the exclusion of other classes. In the *Laws*, by contrast, while all classes of citizens are enfranchised in a general sense, there are class-regarding differences with respect to the eligibility for various offices as well as the specific ways those offices are filled. Thus, we should seek a reason for the *minor* class-differences of the *Laws* in contrast to the *major* class-differences of the *Republic*.¹⁸⁹

A key clue comes in the discussion of the election of the city-wardens (ἀστυνόμοι) in 763d-e. This position is restricted to members of the highest property-class. However, in this case Plato explains the rationale: “these officials too must be men of some caliber [δυνατούς], with time [σχολάζοντας] to go in for public affairs [τῶν κοινῶν ἐπιμελεῖσθαι]” (763d4-6). Those with more power and means (δυνατοί) are best suited for the role of city-warden *precisely because* they have more time (σχολή) to devote to oversight of public or political matters (τῶν κοινῶν ἐπιμελεῖσθαι). They presumably have more such time (σχολή) because their own greater personal resources liberate them from the constant necessity of overseeing the economic reproduction of the household. Thus, since wealthier citizens need occupy themselves less often with personal-economic matters, they in turn have more σχολή available for the consideration or management of what is public or political in the strict sense. As a result, if a certain office or task requires σχολή, then it stands to reason that members of the higher-classes are *more suitable candidates* for that office or task. In some cases, this may be reflected on the level of eligibility *sans phrase*. For instance, city-wardens must

¹⁸⁹ Samaras points out, “In the *Laws*, no citizen class is sustained on the labor of another, as is the case with the *Republic.*” Samaras, *Plato on Democracy*, 227.
be members of the highest class (763d-e), market-wardens must be members of first or second highest class (763e), and so on. In other cases, while eligibility per se may not be an issue, the incentives for participation (or disincentives for non-participation) may differ. Thus, in the case of the council, as Taylor points out, since participating in voting requires losing a day of economic activity, the lower classes may not necessarily want to participate unless they are forced to. Finally, it is important to keep this class-particular criterion distinct from the class-particular criterion of differential susceptibility to corruption or peculation. The thought in typical Athenian practice was that the more well-off were less vulnerable to such things, and certain aspects of Magnesia seem to reflect this bias – for instance, the temple-treasurers must be elected from the members of the highest class (759e-760a). However, at the same time, many Greeks found extremes of wealth just as politically problematic as extremes of poverty. For instance, as Balot points out, Hesiod criticizes the very rich for their desire for bribes as well as the very poor for being lazy or imprudent. Likewise, Solon – whom Plato emulates in key ways – favored a “middling ideology” whose favored population were moderately wealthy, non-aristocratic hoplites. Plato in his division of classes by economic criteria seems to have reflected the same avoidance for extremes while at the same time favoring the moderately wealthier in certain ways.

In sum, as we have seen, it is a consequence of Platonic assumptions that the higher one’s economic class, the more suitable one is for common political

---

193 If one assumes that there are more members of lower tiers than the upper tiers, then the very equality of the number of their representatives will also be biased in the above manner. Morrow, “Aristotle’s Comments on Plato’s Laws,” 151.
responsibilities in virtue of the greater σχολή one enjoys. This general tendency or consequence gives rise in turn to two more specific tendencies or consequences. First, since the members of the higher classes will have more time for activity in pursuit of public affairs, they are more suitable with regard to the slate of responsibilities incumbent upon the members of the council. Thus, they are all, to some extent, “good” candidates in comparison with other classes. To nominate good candidates from this class is therefore easier than it would be to do so from others.

In the “scene of instruction” section above, I argued in the case of electing the nomophylakes that being constrained to vote for someone from a good group of candidates has a beneficial effect inasmuch as it habituates voters to choose as worthy of office those who are (more likely to be) actually worthy of office. A similar effect is at work here. Since the members of the highest class are more likely to be suitable councilmembers than is customarily the case, then to be forced to nominate councilmembers from among this class is to be forced to nominate candidates of a better caliber than average. In the same way, therefore, we should expect that the mandatory requirement of voting for all classes in the nomination stages for the first two classes will have edifying and positive effect upon those voters. It subtly engineers a situation without the use of force in which electors are likely to nominate superior candidates and thus themselves become better at nominating superior candidates. However, in the case of the nomination-stage for the last two classes, since the assumption no longer holds true, then also the effect would not be produced, and so therefore we see voting is optional for the members of the lower classes.
Let us now turn to the second, more specific tendency or consequence of the ground tendency that the higher one’s economic class, the more suitable one is for the exercise of common political responsibilities in virtue of the higher degree of σχολή one enjoys. Not only is it the case that members of the higher classes will be, on average, *better candidates*, but in addition, it is the case that members of the higher classes will be, on average, *better electors*. Both the first and second tendencies are consequences of the ground tendency due to σχολή.

If the members of the first two classes are *better electors* in general than others, then we especially want to utilize their superior powers of political discernment in cases where the field may be particularly thin. This is exactly what the schedule of incentives actually in place does. In the case of the nomination stage for the fourth class, members of the first and second class who do not vote must pay confiscatory fines. Members of the third and fourth class, by contrast, suffer no penalty for failing to vote, and members of the fourth class suffer no penalty for failing to vote in the nomination stage of the third class. This is as it should be since those members will not make an electoral contribution as high in quality as that of the other two classes. The incentives in place makes sense against the background of the two assumptions, *(1a)* members of the upper classes are better candidates in general and *(1b)* members of the upper classes are better electors in general, which are themselves justified on the basis of Plato’s beliefs regarding the efficacy and availability of σχολή, within a general framework such that all parts of society, including even its electoral machinery, are to be put to an edifying turn.

Lastly, let us consider the schedule of incentives put in place in relation to the politics of apathy. *Apathy* rather than *disenfranchisement* is the appropriate
characterization of non-participation in the case of the election of the council. Indeed, note that the absence of explicit disenfranchisement in favor of the implicit affordance for the political discretion of the higher classes is absolutely of a piece with Plato’s larger political strategy: i.e., the sovereignty of the demos is left intact even as the most important forms of political contribution are slanted toward “persons of maturity and experience.”

No one is disallowed or disenfranchised from participating in any stage of the election of the council. However, potential outbreaks of apathy on the part of the electors are handled in different ways. Specifically, the electoral apathy of the higher two classes is never simply tolerated; rather, it is made to incur a fine, even an egregious fine in the case of the last two nominative stages. Plato wants to avoid the effects of such apathy, I have argued, because he wants to utilize the superior electoral discernment of the members of these two classes. However, in the case of the two lower classes, electoral apathy is penalized for the earlier nomination stages, but permitted in the case of the later nomination stages. Here, I have argued, Plato is content to utilize the apathy of the lower classes in cases where they risk making a bad electoral contribution and thus lowering the quality of the process, but wants to counteract it in cases where voting would prove an edifying experience in its own right.

Note that in the calculative stage all are required to vote. If we expect the nominative stages to work reasonably well in producing a good roster of candidates for the council, then even as we prune down this roster of candidates, we also want to exploit the edifying effect of mandatory voting.

---

194 Morrow, Plato’s Cretan City, 230. Additionally, the equal in number membership of council-members from different classes attests to a spirit of equality in Magnesia; see subsequent discussion of this in regard to the lot. Samaras, Plato on Democracy, 234–35.
Finally, with regard to the capacities implicitly attributed to the electors along the lines of Bobonich’s thesis of “increased optimism,” first note that the permitted participation of all citizens in all stages of the election certainly shows a healthy respect for their abilities and values.\(^\text{195}\) Second, note that this is not at all contradicted by the numerous curbs and guiding-strings applied to the electoral contributions of the citizens. An increased optimism is not a belief in perfect optimality as such. The citizens of Magnesia are very much finite individuals – prey, at times, to laziness or bad judgment – and Plato takes steps to ameliorate these possibilities. However, these lapses and those steps in no way detract from the essential fact that the citizens as a body bear chief responsibility for electing and serving in their own government. Of course, the use of the capacities and propensity toward political association of everyday citizens is a hallmark of actually existing Greek political thought.\(^\text{196}\) Likewise, the use of such capacities and propensities within political frameworks to which all citizens have access is tied up in the ideological production of the stability-promoting spirit of equality (ἰσότης).\(^\text{197}\) And finally, let us the formal institutional realities of the schedule of incentives, etc., later considerably when situated against the background of the discretionary use by the citizens of their own powers, etc. \textit{Contra}, e.g., Guthrie, what is going on in the \textit{Laws} is more than what I have called the condition of the rule of law \textit{tout court}, but involves a

\(^{195}\) Bobonich, \textit{Plato's Utopia Recast: His Later Ethics and Politics}. Of course, it should also be stated that making use of their capacities does not presuppose a Bobonich-style thesis, and to the extent that the systematic approach can imagine a nonetheless effective use of their capacities without being underwritten by a Bobonich-style revision of Plato’s opinion on non-philosophers, the systematic approach is to be preferred.

\(^{196}\) Balot, \textit{Greek Political Thought}, 15.

\(^{197}\) Ibid., 49.
sort of systematic specificity of key utility as well.\textsuperscript{198} As Cartledge reminds us, the \textit{politeia} is a “total social phenomenon” over and above the “institutionalized political system.”\textsuperscript{199}

3.2. The function of the lot

The election for the council, as I have described, is divided into three stages: nominative, calculative, and sortitive. I have discussed the nominative and calculative stages above; I will now discuss the sortitive stage. After the nominees for each class have been narrowed down to 180, 90 of those remaining are selected by lot (765e5-7). Uniquely with regard to the political devices figuring this book, Plato gives a lengthy and elaborate justification – and also a critique – of the device of drawing lots (756e-758a).

The method of election (\textit{αἵρεσις}) for the councilmembers arrives at a mean (μέσον) “between a monarchical and a democratic constitution [\textit{μοναρχικῆς καὶ δημοκρατικῆς πολιτείας}].” (756e8-9) It is right (δεῖ) for a constitution (\textit{πολιτεία}) to strike exactly such a mean (\textit{μεσεύειν}) (756e9-10). As the ensuing discourse goes on to show, the rationale for this arises from the different forms of equality, their relation to friendship, and the necessity of friendship to the stability of the state.

The reference to a mean between a monarchical and democratic form of government is a clear callback to Book III of the \textit{Laws}. The subsequent importance in the discourse of friendship (φιλία) also ties back to Book III. However, Plato also goes on to contribute new information in respect of how to achieve this balance and why, strictly

\textsuperscript{198} Guthrie, \textit{A History of Greek Philosophy}, 335.  
\textsuperscript{199} Cartledge, \textit{Ancient Greek Political Thought in Practice}, 57.
speaking, this balance is necessary. In sum, each section of the text enriches our understanding of the other. Before moving on to examine the discourse in justification of the partial use of the lot in itself, let us recapitulate some of the principal, relevant points from Book III.

In the course of the historical-methodological overview of legislation we find in Book III, the Athenian cites three orienting values with regard to which it necessary to legislate: freedom (ἐλευθερία), wisdom (φρόνησις), and friendship (φιλία) (693b-c). Moreover, these values are ultimately co-constitutive: one cannot aim at, and bring about, one without aiming at, and bringing out, the others (693b). By way of explaining “what in the matter of friendship and good judgment and liberty” with reference to which it is necessary to aim (693c-d), the Athenian declares “there are two mother-constitutions…which you could fairly say have given birth to all the others:” monarchy and democracy (693d). Whereas the Persians took the former principle too far, the Athenians took the latter principle too far (693d-e). Neither state “achieved a balance [τὰ μέτρια κέκτηται] between the two” (693e5-7). Yet in reality it is “absolutely vital” for a political system to “combine them [μεταλαβεῖν ἀμφοῖν τούτοις]” if freedom and friendship, along with wisdom, are to reside in the state (693d7-e1).

The two ensuing narratives, one devoted to the Persians and one devoted to the Athenians, are intended to demonstrate the necessity of a compromise between monarchy and democracy to the attainment of a state with freedom, friendship, and wisdom. For instance, in the case of the Persians, under Cyrus the Persians enjoyed a “judicious blend

200 For an excellent discussion of the ways in which Plato uses the adjective ἐλεύθερος, see Laks, “Freedom, Liberality, and Liberty in Plato’s Laws.”
[τὸ μέτριον μᾶλλον] of liberty and subjection [δουλείας τε καὶ ἐλευθερίας]” (694a3-4).

As rulers, the Persians “granted a degree of liberty to their subjects and put them on the same footing as themselves [ἐπὶ τὸ ἴσον ἄγοντες]” (694a6-a7). As a result, “soldiers felt more affection [μᾶλλον φίλοι] for their commanders,” (694a7-b1) and the Persians enjoyed the condition of φιλία in general (694b6-b7). Under Cambyses, however, the situation took a radical turn for the worse. Part of what leads to Cambyses’ downfall is that he was “unwilling to tolerate an equal [ἴσῳ ἀγακτῶν]” (695b5). With the rise of Darius, who introduces a “certain degree of equality [ἰσότητα κοινήν τινα]” (695c10-d1), there reigns a “feeling of friendship and community [φιλίαν...καὶ κοινωνίαν]” (695d2-3). Thus, there is, throughout the Persian narrative, more-or-less of a correlation between the degree of freedom offered to one’s subjects, often described as a matter of “equality” (τὸ ἴσον, ἰσότητα, etc.), and the spirit of friendship (κοινωνία, φιλία) between ruler and subjects (see also 697c-d, where the point is made explicit).

The Athenians run to the opposite extreme. At first, when the so-called “ancient constitution [πολιτεία...παλαιὰ]” of the Athenians was in force (698b4-5), they lived in a sort of moderate, internalized subjection to the laws via the modality of shame, “the mistress of our hearts [δεσπότις ἐνῆν], a despot who made us live in willing subjection [δουλεύοντες... ἡθέλομεν] to the laws then in force” (698b5-6). At the time of the Persian attack, thanks in part to the operation of this social fear enforcing obedience to the laws, the Athenians exhibited a “tremendous spirit of cooperation [σφόδρα φιλία]” (698c2-c3) and were able to ward off the Persians at Marathon. Subsequently, when the Athenians met the Persians again, at Salamis, for the same reasons, they displayed the same “spirit of solidarity [φιλίαν]” (699c1-2). In the case of music, this moderate,
internalized subjection of the Athenians took the following form. Since, after all, the “people” (δῆμος) was not the controlling element (κύριος), instead “they lived in a kind of ‘voluntary slavery’ [ἐκὼν ἐδούλευε] to the laws” (700a3-5). Thus, the Athenians in musical matters deferred to the authority (τὸ...κῦρος) which possesses knowledge and issues judgments on the basis of that knowledge rather than allowing “catcalls,” “uncouth yelling,” and “the applause that indicates approval” to exert any effect in musical matters (700c-d). However, over time this reign of internalized subjection became corrupt – and the aristocracy of good laws yielded to the “theatrocracy” (701a2-4) or “democracy” of each man judging for himself. Everyone gained “the arrogance to set himself up a capable judge.” (700e6) Worse, “music proved to be the starting point of everyone’s conviction that he was an authority on everything.” A spirit of “effrontery” (ἀναισχυντία) – described by Plato as “the reckless lack of respect for one’s betters” (701a8-b1) – took root in Athenian society. This spirit of effrontery ripened and deepened: first, the people refused to submit to the authorities, then to their parents and elders, then to the laws themselves, and finally “they cease to care about oaths and promises and religion in general.” (701b5-c2) Note the functioning of “effrontery” (ἀναισχυντία) as a kind of transmogrification of the ideal of “freedom” (ἐλευθερία) as well as of the related one of “equality” (ἰσότης). The total social breakdown of Athenian society does represent a kind of extreme-point of the unconstrained life (ἐλευθέρος βίος) (see 700a7-8: τοῦ ἐλευθέρου λίαν...βίου), just as it also represents one of extreme equality: each individual regards himself as ἴσος to anyone else, even the very gods, a

---

tendency Plato describes as having “the character of the ancient Titans [παλαιὰν Τιτανικὴν φύσιν]” (701c2-3). But this sort of absolute, anti-social equality is just as incompatible with φιλία as was the absolute tyranny of Cambyses and Xerxes. Malcolm Schofield puts the point very well when he writes of φιλία that it is a “way of articulating the harmony in society that is generated in a system which properly blends wisdom and freedom in the functions that are exercised by different agencies within it although the Athenian couples it particularly with the equality that goes with political freedom in these circumstances.”\textsuperscript{202} Friendship, then, is a success-predicate applied to certain conditions which balance wisdom with freedom.

In Book VI of the \textit{Laws}, Plato returns as part of the justification of the partial use of the lot to this nexus of power, equality, and friendship described in Book III. Here, however, he introduces a crucial distinction hidden beneath our everyday ways of speaking: “we use the same term [ὁμωνύμοιν μέν] for two concepts of equality [διοῦν...ἰσοτήτοιν οὐσαν], which in most respects are virtual opposites [ἔργῳ δὲ...ἐναντίαιν]” (757b1-3). The first kind of equality (henceforth: “arithmetical equality")\textsuperscript{203} (\textit{a}) pertains to “measures, weights, and numbers” and (\textit{b}) is “within the competence of any state and any legislator” because (\textit{c}) to actualize it “one can simply distribute equal awards by lot” (757b3-5)” The second kind of equality (henceforth: “geometrical equality")\textsuperscript{204} is (\textit{a}) the most “genuine [ἀληθεστάτην]” and “best [ἀρίστην]” kind of equality, with the twist that it (\textit{b}) is “not so obvious [οὐκέτι ρᾴδιον παντὶ ιδέην]”

\textsuperscript{203} With this term, I follow Aristotle in Book V of the \textit{E.N.} (= Book IV of the \textit{E.E.}). Aristotle also sporadically returns to the subject in the \textit{Politics}, e.g., Book VI, Ch. 3 (1318a-131b). Aristotle and Lord, \textit{The Politics}.
\textsuperscript{204} Again, I follow Aristotle.
and “needs the wisdom and judgment of Zeus” (757b5-7). Furthermore, it (c) helps the human race “only in a limited number of ways,” but (d) when “states or even individuals do find it profitable, they find it very profitable indeed.” (757b7-c1) Whereas the root principle of arithmetical equality is to treat everyone absolutely equally in virtue of their personhood (thus, the indifference of the lot), the root principle of geometrical equality is to “grant much to the great and less to the less great” and to bestow appropriate amounts (μέτρα διδοῦσα) relative to “the real nature of each [πρὸς τὴν αὐτὸν φύσιν ἕκατέρῳ]” (757c1-4). Thus, in practice the results of applying the geometrical principle of equality may be grossly unequal: for instance, while it will be appropriate “to confer high recognition on great virtue,” in the case of the “poorly educated in this respect” one must do no more than “treat them as they deserve” (757c4-6).

Both forms of equality are totally incompatible with one another: τοῖς γὰρ ἀνίσοις τὰ ἰσα ἄνισα γίγνοντ’ ἄν, εἰ μὴ τυγχάνοι τοῦ μέτρου (757a2-4), which Saunders translates as “Indiscriminate equality for all amounts to inequality,” but which could also be translated as “Rigidly equal treatment for the unequal is itself unequal.” Moreover, both forms of equality give rise to political discord: “both fill a state quarrels between its citizens.” (757a4-5) This may seem particularly surprising in light of the “old saying” (παλαιὸς λόγος) that “equality leads to friendship [ἰσότης φιλότητα ἀπεργάζεται].” (757a5-6) Indeed, the Athenian does not shy away from endorsing the old saying, which he calls “right enough and true.” (757a6) However, he continues, it must be essentially qualified: “what kind of equality [ἡτὶς...ἰσότης] has this potential [ἡ τοῦτο αὐτὸ δυναμένη] is a problem which produces ripe confusion [διὰ τὸ μὴ σφόδρα σαφῆς εἶναι σφόδρα ἡμᾶς διαταράττει].” (757a6-b1) It is important to understand the relevant syntax
of this last sentence with a little more precision than Saunders retains. Men are thrown into confusion because it is so unclear (διὰ τὸ μὴ σφόδρα σαφῆς) which kind of equality is productive of actual friendship. The lack of clarity in this relation between equality and friendship is a positive fact in the world with real effects. Ultimately, it is rooted in, or at least deeply related to, the opacity of soul and virtue. Whereas arithmetical equality is “within the competence of any state and any legislator” because every man is equal to every other on the basis of the lot (757b3-5), geometrical equality, which requires an assessment of intrinsically opaque φύσεις (757c1-4), is “not so obvious” (οὐκέτι ρᾴδιον παντὶ ἰδεῖν) – i.e., it is not easy (οὐκέτι ρᾴδιον) for anyone (παντὶ) to see (ἰδεῖν) – and in fact requires the discernment (κρίσις) of Zeus himself (757b5-7).

Plato does not believe that arithmetical equality is productive of genuine friendship. Honest men (σπουδαῖοι) and scoundrels (φαῦλοι) will not become friends (φίλοι) despite the proclaimed equality between them (757a1-2). Moreover, it opens the door to quarrels launched by those citizens who think they are entitled to more than their “equal” share. The possibility of such quarreling is implied by the statement, immediately following the assertion of unequal treatment meted out to the unequal under a regime of strict equality, “both fill a state quarrels between its citizens.” (757a4-5) Of course, a regime of geometrical equality is also likely to spur quarrels. This possibility not only is implied by the statement that both forms of equality fill a state with quarrels, but in addition is demonstrated at length in the Persian narrative.

---

205 This is, of course, not a critique of his translation. All kinds of nuance has to be sacrificed for the sake of a readable translation. It just so happens the nuance elided in this case is germane to the point I am trying to make.
The discourse intended to justify Plato’s partial use of the lot began with the assertion that the method of election for the council achieved a mean (μέσον) between monarchy and democracy and that it was a normative desideratum (δεῖ) to strike such a mean (μεσεύειν) (756e8-10). If it is a normative desideratum to strike a balance between two things, we should expect there are normative reasons for pursuing each of those things. In the case of geometrical equality, the Athenian explains that such equality – i.e., that which bestows appropriately (μέτρια διδοῦσα) to each with regard to his or her nature (πρὸς τὴν αὐτῶν φύσιν ἑκατέρῳ) (757c1-4) – is nothing less than “strict justice [αὐτὸ τὸ δίκαιον]” (757c6-7). The administration of strict justice, however, is the very essence and ideal of statesmanship (τὸ πολιτικὸν) (757c6-7). Therefore, to the extent that geometrical equality is the aim of statesmanship itself, then it must also be the aim of present enterprise of legislation (Magnesia), as well as any such enterprise of legislation (757c7-d1). The legislator, qua legislator, “must always make justice his aim,” and this means the actualization of geometrical equality (757d1-5). Thus, we see that bringing about geometrical equality is a strongly normative desideratum for reasons that speak to the very essence of good statesmanship and legislation.

However, we are nevertheless compelled also to make use of arithmetical equality to the extent that we want our state to possess stability (σωτηρία). The Athenian cites the “anger of the man in the street [δυσκολίας τῶν πολλῶν]” as a reason to instate the equality of election of by lot (τῷ τοῦ κλήρου ἴσῳ) (757e3-4). Likewise, he invokes the possibility of factional conflicts (στάσεων) in the state (757d7-e1). It is not difficult to analyze the source of this anger and factional temptation. As the Athenian earlier asserted, both forms of equality – arithmetical and geometrical – give rise to intra-
political conflict (757a4-5). In the case of geometrical equality, which distributes power on the basis of the intrinsically opaque qualities of men’s souls, its deliverances are immediately open to challenge and objection. The very opacity of geometrical equality – i.e., the fact that it is not easy (οὐκέτι ῥᾴδιον) for just anyone (παντὶ) to see (ἰδεῖν) (757b5-7) – is the basis for its propensity to generate conflict.

Accordingly, it is necessary (ἀναγκαῖόν) for a state “to apply these concepts in a rather rough and ready way [τούτοις παρωνυμίοισί]” (757d5-7). The word παρωνυμίοισι is crucial in this context: it does not mean, pace Saunders, simply “rough and ready,” but rather, “in a way deviating from the normal sense of a word.” The English derivative “paronymy” is familiar from Aristotle’ Categories. To make use of genuine “equality” (i.e., geometrical equality) in a “paronymous” way means to make use of arithmetical “equality” – a kind of “equality” which, Plato seems to suggest, is a sort of misunderstanding or derivative offshoot of geometrical or genuine equality. The paronymous recourse to arithmetical equality will be undertaken in a spirit of “complaisance and toleration [τὸ...ἐπιεικὲς καὶ σύγγνωμον]” (757e1). The word “complaisance” (τὸ ἐπιεικὲς) could also be translated “convenience;” what is ἐπιεικής is frequently contrasted with what is δίκαιος.206 Here it is necessary to deviate from strict justice (τὸ δίκαιον) for the sake of convenience (τὸ ἐπιεικὲς). As for “toleration” (τὸ σύγγνωμον), the word can also mean “disposed to pardon or forgive.”207 In the same way that in political pardoning or forgiving we “overlook” faults or crimes (often for the sake of the resumption of social harmony), so here the use of arithmetical equality requires a

206 LSJ, ἐπιεικής.
207 LSJ, σύγγνωμος.
kind of overlooking of the real differences in quality of soul for the sake of the
maintenance of social harmony. Such complaisance and toleration, however, “wreck
complete precision [τοῦ τελέου καὶ ἄκριβοῦς...παρατεθραυμένον]” and “are the enemies
of strict justice [δίκην τὴν ὀρθήν].” (757e1-2) Yet it is necessary withal to partake of
them given the visible contingencies of this unwieldy world in which strict justice by
itself is insufficient to hold a state together. Indeed, Plato uses the word “necessary”
(757d5, e3, e6, 758a3: ἀναγκαῖόν, ἀνάγκη, ἀναγκαίως, ἀναγκαῖον) multiple times to
countenance the use of arithmetical equality. It is a concession to material necessity in the
form of the opacity of the soul – regrettable, perhaps, but no less necessary for that – that
we should understand the normative desirability of arithmetical equality as endorsed by
Plato in the *Laws*. It is also as keeping with the historical, visible character of Athenian
democracy – for arithmetical equality, unlike the geometric, *is* easy for anyone to see
(ἰδεῖν) – that we should see the normative desirability of arithmetical equality. Plato
certainly does include in his scheme concessions to the visible, theatrical aspect of
Athenian democracy described by Monoson.208

Thus, as a result of compassing the normative desirability of each of the two
modes of equality, we are in a position to see why we must necessarily employ (χρηστέον
ἀναγκαῖον) “both sorts of equality.” (757e6-758a1) The necessity of the second form of
equality has not always been recognized.209 However, we are also in a position to see, as

---

208 Monoson also notes the special importance of the spectacle of political equality – i.e., arithmetical
equality – to the maintenance of Athenian democracy in the broad sense: “…the Athenians ideally
imagined routine acts of public participation -- that is, the enjoyment of political equality (jury service,
attending meetings, voting, serving as a magistrate, sponsoring a poet, being a Council member) -- to have

209 Thus, for example there is no explanation at all of the important, stability-providing functionality of
a result of compassing the very different forms of normative desirability which
necessitate each of the two modes of equality, that “we should use the second [sc.
arithmetical equality], which inextricably involves an element of chance, as little as
possible.” (757a1-2) To the extent that it is necessary, we should yield to that necessity,
but we should nevertheless try to minimize its extent. This concludes the “justification of
our policy” which the Athenian also calls the “policy a state must follow
[ἀναγκαῖον...δρᾶν] if it means to survive [τὴν μέλλουσαν σῴζεσθαι].” (758a3-4) In other
words, the stability (σωτηρία) of the state is the ultimate rationale for the policy. 210

Now let us examine how the details of election by lot for the council actually
track Plato’s explanation in terms of excellence and stability. The sortitive phase comes
after the nominative and calculative phases, and even afterwards successful candidates
must undergo the scrutiny (δοκιμασία) before assuming office. Each of these things
minimizes the potential negative effects of an unlucky sortition. First, the nominative
phase is skewed – though not coercively so – to favor those reasonably expected by Plato
to manifest a higher degree of political competence. Thus, the slate of candidates
selectable by sortition will be, to some extent, bettered. In addition, the calculative phase

210 Thus, I cannot agree with Samaras’s judgment that Plato’s use of the lot is "little more than an empty
gesture" or a "half-hearted concession." Samaras analyzes Plato’s use of the lot something which is not
"indispensable for good government” but rather a “burden for it.” That Plato countenances it at all is the
mark of an “increased political realism” organized under the judgment “that common people can have a
claim to power and that this claim is not completely illegitimate.” Samaras, Plato on Democracy, 239, 245.
Samaras here uses the word “legitimate” in a rather descriptive sense; thus, it is not that the people “ought”
to have some share in power in some contexts, but that the “realist” legislator is nevertheless forced to
concede it. But to make democratic concessions is necessary to the production of phīlia, itself an
indispensable desideratum of society, and as Plato knows, one must use the material at one’s disposal.
Thus, democracy in the Laws is not an alien, unwelcome organization of society which is begrudgingly
made use of, but rather part of the demiurgic-legislative use of material at hand in the service of making as
excellent as a society as possible. If it is a concession from excellence, then it also an enabling element of
excellence and to that extent “legitimate.” In general, we should see Plato’s demiurgy in the Laws as
“creative” rather than “concessionary,” as I have argued throughout.
narrowed this slate of candidates to 180 per class, 90 of whom will be selected by lot. This massively mitigates the danger of an unlucky sortition, as only the 180 “best” candidates are even available to be selected. Finally, the scrutiny functions as a final safeguard in the event a truly unsuitable candidate nevertheless makes it through the first three stages. Thus, we can see that Plato does indeed use the lot in ways that mitigate its potentially detrimental effects and that correspond to the justification he gives. However, to the extent that he nevertheless does employ the lot, he also reaps its psychological-political benefits. Membership in the council is sortitively determined to some extent, and thus, to some extent, anyone could serve as a councilmember. In this way Plato exploits the “stabilizing” effects of the lot vis-à-vis its maintenance of civic φιλία while at the same time conceding as little as possible to its “flattening” effects vis-à-vis the quality of officers. This procedure is compatible with Plato’s general approach of granting wide rights of political participation within structures intended in various ways to favor the elite among the group. As Morrow points out, this represents Plato’s attempt to make the Magnesian constitution a “‘mixture of monarchy and democracy, of authority and liberty.’” Finally, we can see Plato’s approach in this matter—yielding to the necessity of using the lot in elections, but also utilizing its visibility for the philia-effects—as emblematic of his creative, rather than concessionary, demiurgy at work in the Laws.

Morrow, Plato’s Cretan City, 230.
4. CULTURE AS PROBLEM

4.1. Introduction

The full name of the second study (comprising Chapter 4 and Chapter 5) is “Culture as problem, culture as solution.” It refers to two phenomena, or two moments of the same phenomenon – namely, culture as a “problem” and culture as a “solution.” I will devote to each of these topics its own chapter. In this chapter – Chapter 4 – I will focus on the first of these phenomena, and in the next chapter – Chapter 5 – I will focus on the second.

With the phrase “culture as problem” I mean to refer to Plato’s deep concern with – and careful theorization of – self-propelling cycles of influence which possess the potential to harm, destabilize, or destroy the city. With the phrase “culture as solution,” I mean to refer to Plato’s attempt to mitigate, curtail, or recuperate these tendencies as part of the self-regulation of Magnesia. I use the word “culture” in a broad sense to refer to the interactive zone of influence among persons.

Both of these components depend upon a special sense of the word “culture” which it is necessary to explain before proceeding. In essence, I claim that both Plato’s theoretical concern with and his attempted utilization of culture are novel and significant features of the text of the Laws which command our attention. Furthermore, both phenomena exemplify the systematic approach the present work is intended to carry out. In the remainder of this section, I will explain the sense of culture I intend and situate what I take to be Plato’s main claims in reference to this concept against the background
of the systematic approach. Finally, I will situate my own forays against the background of relevant secondary literature in its broad tendencies.

4.1.1. Culture in the broad sense

By culture, I mean culture in the broad sense as opposed to culture in the narrow sense. Culture in the narrow sense comprehends works of art, musical compositions, and similar artifacts or activities. Culture in the broad sense comprehends the totality of attitudes regarding what is good and bad, pleasurable and unpleasurable, and honorable and shameful, along with the attitude-possessors in the ways they possess these attitudes, as both influence and are influenced by one another, over both the short term and long term, in accordance with patterns of interaction which they themselves, at least in part, dictate. In essence, culture is a conversation, with words and without, held in parallel and in series, between an ever changing cast of interlocutors associating in ever new combinations. It is culture in the broad sense that I claim Plato “problematizes” in the Laws – i.e., (i) he recognizes it as a threat, (ii) designates it an object of political-philosophical attention, and (iii) attempts to repurpose it for his own ends.

212 Germene to his point of view would certainly be the work of Ober, who claims to examine Athens as part of a “history of ideologies.” Ideology, Ober insists, is “not a mask” for the real phenomena at work in a society, but rather “among those elements that constitute historical reality.” Ober, The Athenian Revolution, 3,4,8. Indeed, if Ober’s view of Athenian democracy – a “sociopolitical” phenomenon rather than a constitutional one – is correct, it certainly behooves us to examine Plato’s society in the Laws likewise.Ibid., 114.

213 In regard to the partially constitutive power of the spectator in theatrical encounter, cf. Monoson, Plato’s Democratic Entanglements, 104.

214 Furthermore, as the natural locus of culture in the broad sense in this context is the polis, Plato’s attention to culture could also be seen as part of what Laks calls the “politisisation” of Platonic political thought. Laks, Médiation et Coercition, 35.
Of course, this is not to deny Plato’s longstanding worry concerning and desire to reform culture in the narrow sense. Both themes are evident in the *Laws*. However, Plato’s concern with culture in the narrow sense must be assessed in light of the deep connection between the two kinds of culture – a connection which Plato himself recognizes, repeatedly emphasizing the equivalence in certain respects of life and art and employing one as a metaphor for the other. Specifically, culture in the narrow sense embodies or propagates tendencies of culture in the broad sense often through the assistance of technologies affording them a more spectacular presentation or a more durable existence. The same connection renders culture in the narrow sense a crucial tool for controlling or shaping culture in the broad sense.\(^\text{215}\)

4.1.2. Relevance to the systematic approach

In this Part, I will be canvassing and analyzing some of the ways in which Plato theorizes and attempts to utilize in the *Laws* the special new object of culture in the broad sense. This object itself is of the utmost relevance for the systematic approach. The systematic approach is an attempt to provide a fundamental account of the political philosophy of the *Laws* as it is embodied by the construction of the prospective ideal city of Magnesia. It supposes that the government of Magnesia is best characterized as a system model, as opposed to a cadre model in the style of the city of the *Republic*.

Whereas the cadre model relies on (*1a*) producing a small cadre of perfect or nearly

\(^{215}\) To this end, Prauscello analyzes the role of choruses in bringing about a “sense of human solidarity and communal belonging” via “collective dancing and singing.” These choral performances are among the “whole set of communicative strategies that are deeply indebted to the social and religious fabric of the Greek polis” which the “divinely inspired lawgiver” must employ in order to “provide Magnesia with a communal ideology.” Prauscello, *Performing Citizenship in Plato’s Laws*, 131, 106.
perfect individuals such that \((1b)\) all power in the city emanates from them, the system model relies on \((2a)\) maintaining a large, mutually-interacting body of citizens who \((2b)\) take turns serving as their own leaders according to the outcome of fixed and orderly electoral procedures.

Clearly, “culture in the broad sense” is one way of characterizing the dynamic and complex self-affectivity of the “large, mutually-interacting body of citizens.” On the one hand, these citizens “govern themselves” by means of the democratic or broadly democratic political institutions in which they participate. On the other hand, they “govern themselves” by means of taking an active hand in forming and participating in the social culture that determines the shape of life and society and is inherently political. How Plato conceives of, attempts to mitigate, or attempts to appropriate this special object – culture in the broad sense – therefore, is absolutely of interest to the systematic approach to Plato’s *Laws*. In particular, it is by a focus on culture, I contend, that the case for preferring the systematic to the legal approach becomes especially clear. It makes more sense to characterize the desiderated set of conditions that make up Magnesian life as an “orderly culture” in general than as a rigidly legal order neatly specified under exception-less clauses. The systematic approach supersedes the legal approach by situating laws within their human and social environment and properly cognizing the efficacy of that environment.

To that end, here I seek to analyze the operation of culture in general in the *Laws* from a systematic perspective. First, I will analyze the extent to which Plato judges various aspects of culture problematic. Second, I will analyze Plato’s political-legislative response to problematic aspects of culture. The conclusions of this analysis can be most
easily grasped in the form of three “systematic” theses: (i) the durable existence of state and society presupposes the maintenance of some kind of equilibrium; (ii) the circular causal chains characteristic of the concrete forms of culture familiar to Plato threaten this equilibrium; and (iii) these circular causal chains can be combated or repurposed for the sake of preserving the city.

4.1.3. Selected aspects of relevance to the secondary landscape

The systematic resources of which Plato avails himself for the self-governance of culture go beyond mere “laws” even as they help constitute a cultural environment of general “lawfulness” (εὐνομία). The extra-legal, pro-εὐνομία measures taken by Plato in the realm of culture parallel the passage, as described by Charles Kahn, from the Statesman to the Laws along the legislative dimension: just as we pass from “the utopian rule of an expert and blind obedience to whatever laws are in force” in the Statesman to “a legal procedure of legal reform” in the Laws, so in the Laws we also see more sophisticated patterns of obedience and forms of contributing to the εὐνομία of the state. While such a reliance on the rule of law may remain “second best” from Plato’s standpoint, the detailed attempts of the philosopher to make it work and mitigate its inherent weaknesses nevertheless testify that, as Kahn puts it, “Plato has made his peace with the second best solution.” The cultural solutions to cultural problems undertaken here are part of this solution and part of this peace. By helping us to understand the full scope of the complex Magnesian εὐνομία, we can better understand Plato’s evolving

---

216 Kahn, Plato and the Post-Socratic Dialogue, 230.
217 Ibid., 231, 232, 235.
position in relation to the nature and desirability of the rule of law. Likewise, in view of Plato’s ubiquitous and trenchant criticisms of the law-form itself, we should see the systematic means of which he avails himself as methods of compensating for the deficiencies inherent in law itself.\footnote{218}

In addition, these citizen-participant patterns and citizen-led contributions to the εὐνομία of the state, at their heart, are borrowed from actual Athenian practice.\footnote{219} To the extent that Plato draws upon the wealth of actually existing Greek practices and customs, suitably modified and rigged together on the basis of his own philosophical insight, to enable that “full” εὐνομία which goes beyond mere obedience to, and conformity with, the law, he duplicates, as Glenn Morrow has persuasively argued, the intelligent labor of the demiurge of the \textit{Timaeus} in relation to the brute materials at the latter’s disposal.\footnote{220}

Just as “the world craftsman in the \textit{Timaeus} has to use the stuff that is available, with its determinate but unorganized and irregularly co-operating powers, so the political

\footnote{218} Bobonich discusses a few of these deficiencies and analyzes the preludes as well as prelude-like dynamics of the legislation as a whole in relation to them. See Bobonich, \textit{Plato’s Utopia Recast: His Later Ethics and Politics}, 97–99. Perhaps the most striking upshot of one of Bobonich’s criticisms of the law-form attributed to Plato, namely, the status of traditional law as \textit{mere command}, is his argument that the famous phrase applied in Book III to the Athenians under the ancient constitutions, that they lived in “willing subjection to the laws” (698b), is actually meant to be a derogatory description of the Athenian relation to law.

\footnote{219} E.g., “Athenians recognized that justice, the laws, democracy, freedom, and equality could become pale abstractions unless citizens understood their value and took responsibility for implementing and where necessary, enforcing them.” Balot, \textit{Greek Political Thought}, 53. Monoson, in her otherwise very perceptive and entirely admirable book, which is devoted to precisely these forms of Platonic homage to the concrete practices of Athenian democracy, unfortunately does not do justice to these Platonic debts in the case of the \textit{Laws}. As I attempt to show in \textbf{Chapter 4} and \textbf{Chapter 5}, Plato is well aware of the theatrical possibilities of citizenship and attempts to turn these possibilities to his own advantage. Monoson, \textit{Plato’s Democratic Entanglements}, 208, 232. Similarly, Prauscello, in her supremely perceptive and insightful work, confines her analysis of theatricality to the specifically choral and other artistic performances, as opposed to theatricality as a metaphor for social interaction in general, as I have done. Prauscello, \textit{Performing Citizenship in Plato’s Laws}.

\footnote{220} Morrow, “The Demiurge in Politics,” 7, 8, 10, 15.
demiurge has to use the institutions, customs and traditions of fourth-century Greece.”  

Similarly, in a different article, Morrow himself canvasses the diverse ἐπῳδαί or “enchantments” Plato utilizes, many of them drawn from actually existing Greek practices, etc., from the perspective of bringing about proper character-formation on the part of the citizens.  

Cultural self-regulation and maintenance of a cultural condition parallel to, and suitable for, the rule of law constitute an especially interesting form of Plato’s demiurgic capacity. In sum, Plato harnesses the powers of materiality itself, whose very chaos and danger he diagnoses in the case of the social field, for the decidedly immaterial end of a stable, virtue-promoting civic order. I have elsewhere (in this dissertation) argued that Plato’s mode of demiurgy in the *Laws* should be conceptualized as “creative” rather than merely “concessionary” and that by not attending to this we miss an important aspect of the dialogue.

Finally, Plato’s willingness to authorize the cultural work performed by individuals acting essentially on their own initiative – an area which, as we are well aware, he is convinced holds great dangers – testifies to what Christopher Bobonich has called the “Plato’s increased optimism” (relative to the *Republic* and *Phaedo*) regarding the capacities of non-philosophers. On the one hand, the kind of cultural modalities I describe in this chapter – constitutive of the systematic approach in general – are not only compatible with the rise of optimism attributed to Plato by Bobonich, but in addition they

---

221 Ibid., 15.  
223 Bobonich, *Plato’s Utopia Recast: His Later Ethics and Politics*. See, e.g., 377ff. Bobonich’s thesis regarding the shift from the *Republic* to the *Laws* is oriented around the following four assertions, arguably denied by Plato in the *Republic* but arguably endorsed in the *Laws*: (1) non-philosophers are capable of genuine virtue, (2) non-philosophers are capable of valuing virtue for its own sake, (3) non-philosophers are capable of valuing the genuine well-being or happiness of others for its own sake, and (4) non-philosophers are capable of living happy lives.
could be said to be dependent on it. I.e., it is because of the increased optimism Plato has in the capacities of ordinary citizens that he can entrust them with important components of their own self-governance which nevertheless do not mimic rule by experts, but are in fact “true in spirit” to the idea of a self-governing collectivity. On the other hand, the development of such modalities could be analyzed as an alternative to Bobonich’s thesis. I.e., it is because non-philosophers can work together in certain organized ways that we need not entertain the possibility of a revision of view on Plato’s part concerning their capacities.

Yet, at the same time, they are not merely mechanical, formulaic rituals completed without understanding, but rather, forms of action, speech, etc., that effectively mobilize the (not necessarily perfect) capacities of ordinary citizens to grasp the reasons for things. It is precisely these reasonable capacities that are activated by the systematic ensembles Plato brings to bear. To some extent, Plato is following the proto-systematic lead of actually existing Greek practice. Ryan Balot, for instance, foregrounds within ancient Greek political thought the “respect for the capacities of individuals” as well as the “human importance of free political associating” pursuant to the operation of the polis itself. In addition, Plato appropriates and uses to his own philosophically-informed advantage such proto-systematic elements of Greek political life as a culture of participation, need for the super-legal, social enforcement, and the close connection between culture and politics.

---


4.2. Culture as a problem in the *Laws*

4.2.1. The equivalence of culture in the narrow and broad sense

Culture is the broad sense is the proper object of this treatment. However, as I declared above, by focusing on culture in the broad sense I certainly do not mean to minimize the role of culture in the narrow sense. Plato takes *both* as a theoretical object of potential danger and attempts to enlist *both* in the maintenance of civil order. In addition, as I previously emphasized, both are inherently connected: for one, culture in the narrow sense is a spectacularly effective tool for, or a conspicuous instance of, culture in the broad sense. In addition, as I will begin to argue in the next few sections, there is reason to suppose that both forms of culture are *equivalent* in a certain sense: namely, with regard to their habituating effects.

For instance, in Book II of the *Laws* Kleinias asserts that it seems “likely” (εἰκός) to him that the enjoyment of “gestures or tunes characteristic of badness” as part of some cultural performance will harm the one who enjoys them (656a6). The Athenian claims that it is not likely (εἰκός), but indeed *necessary* (ἀναγκαῖον), that this take place (656b1). In addition, he claims that the necessity of the connection is identical with the necessity of a similar connection. Specifically, in the same way it is necessary for someone who associates with men of wicked character and “enjoys and welcomes their company” (656b3) to become worse, so it is also necessary for someone who enjoys the performance of wickedness to become worse.\(^{226}\) Thus, Plato regards these two modes of

\(^{226}\) Schöpsdau points out that both “Umgang” and “Musik” have “mit Charakteren zu tun.” Schöpsdau, *Nomoi*, Buch I-III, 272.
cultural encounter as equivalent with regard to the habituating effects they produce. Let us examine further what Plato says about interactions within the field of culture in the broad sense in their own right.

4.2.2. The cultural logic of habituation

Furthermore, Plato also regards the dynamic of such encounters as necessary, repeatedly using forms of ἀνάγκη to make this point (ἀναγκαῖον: 656b1, ἀνάγκη: 656b4, ἐκ πάσης ἀνάγκης: 656b7). In other words, the series of events Plato describes here is a repeatable and reliable principle of human interaction; it forms a part of the “logic of habituation,” or the rules for how individuals come to resemble one another. According to this logic, if certain conditions are satisfied for an individual, then a certain result will ensue for that individual. In particular, it supplies the part of the logic of habituation corresponding to a group I will call the “susceptible.” In this case, the first condition is a circumstantial one: he must find himself somehow in association with or in the presence of (συνὼν) “bad men of wicked character [πονηροῖς ἤθεσιν...κακῶν ἀνθρώπων]” (656b2). The susceptible individual exhibits apparently contradictory behavior in their presence. On the one hand, instead of feeling contempt for such men, he “enjoys and welcomes their company.” On the other hand, he is ashamed to praise them, and in fact

227 However, in the case of 656b7 (ἐκ πάσης ἀνάγκης), Meyer argues that the “necessity” referenced derives from the urgency of the stated goal. Meyer, Plato, 236.

228 Strictly speaking, the susceptible individual must be present (συνὼν) not with the individuals sans phrase, but with the wicked habits (πονηροῖς ἤθεσιν) of bad individuals (κακῶν ἀνθρώπων). To be present with the bad habits of bad people, I take it, is not merely to be present with bad people, but rather to be present with bad people somehow manifesting their badness – e.g., through discourse or gesture. This connects with the theme above of the “gestures or tunes characteristic of badness” regarding whose effect the Athenian queries Kleinias (656a6). On a deep level, Plato’s theory of influence – notwithstanding its paranoia – is entirely naturalistic. There are no mysterious mechanisms in play here.
may even condemn them in a half-hearted way. The cognitive deficiency of the susceptible individual with regard to the wickedness of the κακός – he has only a “dreamer’s grasp” of it – lies behind this contradictory behavior and serves as the second condition. It is very common for Plato to use the metaphor of dreaming as a figure for deficient modes of attaining or possessing the truth. In any case, the defective understanding of the susceptible individual is sufficient to produce the kind of mild shame behind his insincere condemnation, but insufficient to forestall or overmaster the simultaneous pleasure he experiences.

The necessary result of these encounters between the wicked and the susceptible is for the susceptible to become more like (ὁμοιοῦσθαι) whatever he enjoys – in this case, the wicked individual (656b4-5). Thus, the wicked individual exerts negative influence upon the susceptible individual as a result of their encounter and the cognitive deficiency of the latter. In the absence of sufficient cognitive guidance, pleasure is the vector of habituation within the context of free encounters.\textsuperscript{229}

\textbf{4.2.3. The significance of susceptibility.}

Allow me to make three brief points before proceeding. First, the mode of habituation associated with the susceptible differs from traditional or direct habituation according to which doing \(x\) makes one more like the sort of person who does \(x\). Here, in a kind of indirect habituation, by doing nothing oneself but nevertheless being in the company of those who do \(x\), one becomes more like those who do \(x\). (Of course, one could add here that, strictly speaking, it is not enough to be in the company of those who

\textsuperscript{229} I.e., by “vector” I mean it determines the direction of change.
do $x$, but in addition one must be in the company of those who do $x$ in a situation where this characteristic is made manifest.) What these two modes of habituation, direct and indirect, have in common is the operation of pleasure in relation to the states of character associated with some behavior.²³⁰

Second, the susceptible individual is not identical with the akratic individual. Although both kinds of individual have a more or less impaired intellectual grasp of wickedness, only the akratic actually does anything wrong. The susceptible individual is not – or at least not yet – so bold as to actually do anything wrong, whatever reason we have to think he is headed in that direction. Third, if the susceptible individual is superior to the akratic individual, then he is also – *a fortiori* – superior to the wicked individual, the κακός.

Indeed, it is precisely the potential for the susceptible to become wicked over time as the result of such encounters – whether social, theatrical, or musical in line with the equivalence of culture in the narrow and broad sense – which so impresses upon Plato the urgency of preventing them altogether, devising ways to bolster the effective power of the intellect within them, or summarily countering them with counter-spectacles of his own. At a minimum, the properly established laws concerning education and music should certainly not give poets *carte blanche* to include in their compositions “whatever they please [*αὐτὸν τὸν ποιητὴν ἐν τῇ ποιήσει τέρπῃ*]” (656c⁴)²³¹ and then teach these

---

²³⁰ And of course, while direct habituation also includes this behavior itself, indirect habituation does not. Perhaps this makes the latter more insidious.

²³¹ Actually, there are two things offensive about elevating the pleasure of the poet as the criterion of good poetry: (i) the subjectivity of the poet, as opposed to someone who actually knows about moral matters, etc., and (ii) the specification of what pleases the poet as what pleases him *in poetry* (*ἐν τῇ ποιήσει*). Similar to the portrait of the susceptible above, it is perfectly possible that the poet may have a favorable
compositions to the “children of the good citizens.” In light of the effect these compositions “may have on their development toward virtue or wickedness,” it would be foolish to empower the potentially idiosyncratic pleasures of the poets in a position where their ability to influence others is so greatly magnified (656c). Of course, a similar lesson applies to non-theatrical or straightforwardly social encounters.

In sum, the case of the susceptible individual – in contrast to the wicked or akratic individual – is in many ways a paradigm case of the default condition of individuals. The susceptible are recognized as dangerous within the audience of culture in the narrow sense. To the extent that the two forms of culture are equivalent, we should expect susceptibility to prove equally dangerous, if no steps are taken, in the social field. In the next section, I discuss Plato’s treatment of the danger of the susceptible within the social field in the specificity of this danger.

4.2.4. The intrinsic danger of the social field

Indeed, the freedom to consort and associate with whomever one wishes – a freedom intrinsic to social encounter – clears the way for new, potentially dangerous forms of circular causality. For instance, in Book V the Athenian complains that “practically no one” calculates (λογίζεται) the so-called “greatest judgment” passed on wrongdoing (κακουργία) (728b2-4). This “judgment” takes the form of a three-step causal sequence. First, the primary consequence of wrong-doing is that one comes to resemble (ὁμοιοῦσθαι) evil individuals or κακοί (728b4). This, of course, is nothing other

attitude to certain things in a poetic context of which he would disapprove if they took place in real life, thereby inadvertently sowing the seeds of subsequent corruption.
than what we called above traditional or direct habituation. Second, because one has come to resemble evil men, one now socially avoids good men (ἀγαθοὶ) and their conversation in order instead to attach oneself (προσκολλᾶσθαι) to evil men and seek out *their* company, their συνουσία (728b5-7). Third, it is a necessary consequence of associating with such people that what one does and endures will coincide with exactly what such people do and say to one another (728b7-c2). Since the κακοὶ by definition are engaged in the doing of κακουργία, this means that the result of association with the wicked is wrongdoing, just as the result of wrongdoing is association with the wicked. One is trapped in a seemingly inescapable cycle of wrongdoing, resemblance of the wicked, and association with the wicked. Thus, susceptibility in the social field proves, given the logic of habituation, the starting-place for a potentially catastrophic slide into vice, vicious acts, and vicious socialization.

4.2.5. The relevance of the concept of positive feedback

Here, a concept from systems theory may be germane – the concept of positive feedback. Positive feedback refers to the operation of certain causal chains within a system such that something produces an effect which in turn produces more of itself, thereby priming the cycle to begin anew at an even higher level of intensity. The most familiar example of positive feedback is the screeching produced by an improperly set-up amplifier: the amplifier literally amplifies its own product unto a kind of sonic

---

Cf. “It is a wonderful thing to / see the semblable coherence of his men’s spirits / and his. They, by observing him, do bear themselves like foolish justices; he, by conversing / with them, is turned into a justice-like servingman. / Their spirits are so married in conjunction with the / participation of society that they flock together in / consent like so many wild geese.” –Falstaff, *Henry IV: Part 2*, Act V, Scene 1.
catastrophe. Similarly, the circular causality enabled by culture in the broad sense – in this case, patterns of association that are dictated by the associating individuals, who are themselves further affected by these very patterns – poses a great danger for individuals, and by extension, the societies made up of these individuals. Allowed to increase unchecked, even the smallest deviations may portend total ruin in the form of cultural catastrophe.  

Perhaps this is why Plato emphasizes in his instructions the maximal degree of effort and forethought that is incumbent on us – e.g., we are to refrain from what is “disgraceful and wicked” with the aid of every contrivance (πάσῃ μηχανῇ), and we are to cleave to what is “fine and good” to the limit of our power (σύμπασαν κατὰ δύναμιν) (728a3-4). Otherwise, the susceptible, as described above, may set off a disastrous chain of positive feedback.

4.2.6. Egyptian aesthetics

The discourse surrounding Egyptian aesthetics in Book II (656d-657b) comports with Plato’s worries regarding the possibility of vicious positive feedback; it is illustrative of the care that must be taken against the possibility of even the smallest deviation from a set of sanctioned norms. Specifically, the Athenian cites the Egyptian principle of deeming it necessary for the young to “be trained to practice fine gestures and songs [καλὰ μὲν σχήματα, καλὰ δὲ μέλη]” (656d7-8). Furthermore, once they established (ταξάμενοι) the different sorts of what was καλὰ, it was declared forbidden to

233 Cultural catastrophe is a possibility that haunted Plato. Cf: “The nightmare of society tearing itself apart in mutual hatred and the pursuit of self-interest is a spectre omnipresent in Plato’s thinking about politics: a nightmare for our own times.” Schofield, Plato, 3, 282. “Ideology,” according to Schofield, is the weapon Plato deploys to avert it.
innovate (καινοτομεῖν) or contrive (ἐπινοεῖν) anything but these ancestral forms (τὰ πάτρια) in every form of music (ἐν μουσικῇ συμπάσῃ) (656d8-e4). As a result of their legislation, the Egyptians have achieved complete aesthetic stability over an immense period of time: no work they produce is either καλλίονα or αἰσχίω than the works of the past. Regardless of any other aspects of Egyptian society we might have reason to criticize, the Athenian says, the aesthetic stability of the Egyptians certainly deserves our attention and praise: it is a superb accomplishment in legislation and statecraft (657a4). Indeed, were it possible for us to know what is correct in these matters (τὴν ὀρθότητα), then it would be necessary to install Egyptian-style reforms codifying what is correct and forbidding departures from it (657b). In this way, as in Egypt, the desire for pleasure and avoidance for tedium which lead to novelty will be prevented from corrupting what might seem old-fashioned in comparison (657b). Stability is an important desideratum, and innovation is a dangerous force to be curtailed.234

4.2.7. Case study (I): 658e-659c

Theatrical and musical performance also lend themselves to the development of dangerous forms of circular causality. This is illustrated by two lengthy passages in Book II and III of the Laws (658e-659c, 700a-701c). Each juxtaposes a good condition of culture (an “ideal culture”) with a bad condition of culture (a “pathological culture”). The first passage comes from a treatment of the normative rationality underlying various aspects of government and society in Book II. Different groups are observed to draw

234 Schöpsdau reasonably points out, however, that it not so much the stability in itself of the Egyptian aesthetic regime which captivates the Athenian as its purported “naturgemäß Richtigkeit.” Nevertheless, its stability is nonetheless to be guarded for the reasons I describe. Schöpsdau, Nomoi, Buch I-III, 277.
pleasure from and approve as good different forms of theatrical performance. Thus, it does not seem possible to single out any one form of theatrical performance as best *simpliciter*; instead, since the varying judgments consistently track the pleasures of the varying judges, it seems possible only to assert *pleasure* – whoever’s pleasure – is the criterion of excellence in theater (658e). The Athenian resolves this quasi-relativism of taste through a modification of the previous formula: pleasure is indeed the criterion of excellence in theater, but it is the pleasure belonging to the individual of singular virtue and education, not “anybody and everybody” (658e-659a). To justify the assignment of these two qualities – i.e., virtue and education, later identified as courage and intelligence – to the ideal judge, the Athenian explains how such a judge would function within the ideal theatrical culture reputed to have existed under the “ancient law of the Greeks” (659a-659b).

4.2.7.1. Ideal theatrical culture (I): 658e-659b

A judge has not done his job properly “if he reaches his verdict by listening [μανθάνοντα] to the audience” or lets himself become distracted by the audience’s clamor and his own “lack of training [ἀπαιδευσίας]” (659a4-6). Thus, in this consists his “intelligence” or “education” – a complete cognitive grasp of the performance at hand such that he can make his decision based on it. Notably, the judge does not listen to or “learn from” (the more natural translation of μανθάνειν, translated by Saunders as “listening” in this context) the audience. In addition, the judge must never alter his judgment on the basis of a lack of courage or timidity (659a-b) – thus, in this consists his “virtue” or “courage.” In sum, the ideal judge sits not as the “pupil” (μαθητής) but as the
“teacher” (διδάσκαλος) of the audience, even going so far as to oppose and correct the audience should they exhibit appropriate or illegitimate pleasure (659b). The didactic relationship between judge and audience is essential. It is the judge who exerts his influence over the audience, even correcting them when necessary, and not the other way around. Of course, the judge also exerts influence, *qua* judge, over the poets tailoring their compositions to meet his approval. Finally, the poets exert influence over the audience via their compositions. However, the scope of this influence is ultimately predetermined by the judges. The diagram of “Model 1” is meant to capture these relations of influence: (1) the judge influences audience, (2) the judge influences poets, and (3) poets influence audience. The end result is that the judge serves as a kind of immutable, trustworthy anchor for the other relationships of influence. The audience, by contrast, has its own influence absolutely minimized: it is not to influence any other group. The poets are allowed a certain degree of influence, but they are ultimately just a transitional form of the knowledge-backed influence of the judges. There is no possibility for vicious positive feedback because the flow of influence over the network of actors is unilateral from judge to audience.

Plato’s description of an ideal theatrical culture supposedly instituted under the “ancient law of the Greeks” supplies an implicit description of a form of pathological theatrical culture opposed in every respect to the ideal one. If the judge lacks either the authoritative intelligence or sufficient courage required for the successful exercise of his office, then he ceases to serve as the teacher (διδάσκαλος) of the audience and begins instead to serve as its pupil (μαθητής).
Instead of exerting his own knowledge-guided influence over the audience, the audience will instead exert *its* influence over *him*. This of course would enable a new form of causal circularity along with the potential for vicious or vice-promoting positive feedback. The “susceptible” proclivities of the audience will issue in erroneous judgments of praise and dispraise on their part: if the judge is swayed through weakness to these judgments or accedes to them against his own better judgment, then they will have a determinate effect upon the content of the productions of the poets. Thus, the pleasure of the susceptible will again prove the vector of their habituation in a way detrimental to themselves and the city itself. The diagram of “Model 2” is meant to capture these relations of influence: (1) the audience influences the judge, (2) the judge influences the poets, and (3) the poets influence the audience. Unlike the case before, the judge is no longer an immutable, trustworthy anchor, but is himself submerged in the self-interacting flow of culture, in a fashion structurally identical to the audience and
poets. There is a definite possibility for vicious positive feedback as influence travels the cycle from audience to judge to poets and back to audience.

4.2.7.2. Pathological theatrical culture (I): 700a-701c

Indeed, the Athenian next turns to critique the theatrical law reportedly in force among the Greek colonies of Sicily and Italy (659b-c). In these cities, the winner of theatrical contests is decided on the basis of a “show of hands [χειροτονία]” (659b8) of audience-members.235 Thus, there is no “judge” *per se*; rather, everyone is a judge. Under this regime, then, the victory-conscious poets – whom the regime is said to have “corrupted” – will naturally produce their compositions with an eye towards the “depraved pleasure of their judges.” As a result, the audience-members “educate [παιδεύουσιν]” (659c2) the poets – i.e., they exert their own destructive influence regarding what is good and bad in theatrical matters. Furthermore, since the poets themselves in the usual way exert influence over the audience via their compositions, the law sets the stage for cycles of vicious positive feedback to develop. The pleasures of the susceptible audience-members ratify the theatrical standards of good and bad. To this end, the law is said to have “corrupted” (διέφθαρκεν) the pleasures – i.e., made them worse in a decisive way – felt by audience-members (659c2-3). Whereas they “ought” to experience “better pleasures” in the course of listening to “the portrayal of characters invariable better than their own”), instead the “complete opposite” has come to pass.

235 Of course, the word χειροτονία is the classic Greek political word for elections. It is thus an important problem to reconcile Plato’s criticism of the very device here with his limited endorsement of the same in Book VI of the *Laws*. Indeed, “limited endorsement” might be too qualified an understatement – it is clearly the device he prefers to the lot.
(659c): these audience-members, presumably akin to the susceptible individuals we profiled earlier, take pleasure in the portrayal of wicked individuals worse than themselves, thereby themselves becoming worse. In addition, since it was as a result of their own input into the process that these corrupting characters were even put on display, the audience members have, as Saunders translates, “no one to thank but themselves” (659c5). However, even though their own bad proclivities were the proximate impetus in their own corruption, in a stricter sense it might be more accurate to blame the bad law or institutional situation which permitted these positive feedback cycles to develop in the first place.

The diagram of “Model 3” is meant to capture these relations of influence. Since the Sicilian-Italian aesthetic regime does not any institutional role for official judges, there are only two actors in the network: poets and audience. The poets influence the audience via their compositions, and the audience influences the poets via their votes. Thus, there is a definite possibility for vicious positive feedback as influence pings back and forth between poets and audience.

4.2.8. Case Study (II): 700a-701c

The second passage thematizing culture-expedited catastrophe is presented in Book III by the Athenian in the course of a series of historical or quasi-historical narratives intended to establish the political-scientific claim that the best πολιτεία

---

236 The Greek that Saunders translates as “no one to thank but themselves” is αὐτοῖς δρῶσιν (659c5). Clearly, this translation in no way corresponds to the actual syntax of the Greek. However, the sense is arguably correct. The πᾶν τοῦναντίον has come about (συμβαίνει) as a result of their own doing (αὐτοῖς δρῶσιν) (659c4-5).
partakes of both democracy and monarchy (693d-702b). To establish this, he seeks to
vitiate both extremes, and in the case of the extreme of democracy, he takes Athens as his
exemplum (699e-701e). Under the “old laws” the Athenians voluntarily existed in a
slave-like relation to the laws, and at this time Athens flourished (700a). However, the
city has lately come to ruin upon the dissolution of this unique relationship between
people and laws. The remainder of the Athenian’s discourse on Athens takes the form of
an explication of this relationship along with an account of its progressive decay. It is
especially important for the light it shines on shifts in epistemological culture and their
attendant behavioral effects.

By way of explicating the voluntary slavery of the people to the laws, the
Athenian refers to the primacy of the laws regarding music. This legislation makes an
especially suitable “starting-place” (ἀρχή) from which to discuss the “excessive growth”
of an anarchical life-style (τοῦ ἐλευθέρου…βίου), or literally, “free life” (700a7-8).
Whether the word ἀρχή is better understood here as meaning cause or starting-place is
ultimately irrelevant given the qualified equivalence between social and musical
encounter with regard to the habituating effects they produce. Indeed, the very suitability
of the first as an illustration of the second testifies to the homogeneity of the common
processes underlying them. The process in question – which an examination of music is
supposed to make evident – is the growth or increase (ἐπίδοσις), in an uncontrolled way
or to an excessive extent (λίαν), of “free life” (ἐλευθέρου βίου). “Free life” – that is the
political-cultural object in question; another way of translating this phrase might be
“living without internalized constraints.”
4.2.8.1. Ideal theatrical culture (II): 700a-700d

Under the old laws, music was divided into different categories and forms such that the musical style of each form in some way especially befitted its implied content. The dangerous urgings of the audience which might inspire innovative deviations from this rule were strictly controlled by the ruling decorum. It was explicitly forbidden to employ one type of song with the content of another. The authority capable of recognizing musical excellence, issuing knowledge-based judgments, and punishing the disobedient was certainly not the whistles, ignorant shouts, and applause produced by the crowd (700c1-c4). Rather, it was a “rule” (a thing δεδομένον, or believed, taken to heart like a dogma) regarding musical performance for people to listen in silence. Those incapable of adhering to this rule from their own volition are kept in line by the “admonition” (νουθέτησις) of the “controlling rod” (ῥάβδου κοσμούσης) (700c4-7). Thus, to put the whole matter in simpler terms, the crowd exerted no influence whatsoever over the poets. The poets themselves produced their compositions in conformity with the law, and the crowd willingly subjected itself to this regime. Note, however, that even under the “old law” not everyone willingly submits; a popular remnant requires the background threat of punishment in order to be kept in line. This dual method in the way a condition of lawfulness is preserved arguably anticipates the combination of rational appeal and stipulated punishment that characterizes Magnesian law in the main. In any case, the way in which the mass of citizens willingly subjects itself to the laws regarding music is meant to illustrate its relationship with the law in general at that time: they “wished to be ruled” (ἠθέλεν ἄρχεσθαι) rather than themselves “passing judgment by shouting [κρίνειν δὲ ἥθελον]” (700d1-2). The model of influence
here is similar to the previous one we observed in the case of the ancient law of the Greeks. However, the law itself has replaced the group of judges. Part of the population adheres to this law on the basis of their own inner strength, and part of the population adheres on the basis of threats. This combination of forms of suasion anticipates the “double-form” laws will take in Magnesian society, and on some level it corresponds to the psychological distribution of forces within the virtuous individual.

The diagram of “Model 4” is intended to capture these relations of influence. Poets influence audience in the usual way. However, both audience and poets are influenced by, and under the control of, the law via the inner relation of force that is volitional adherence to the law on the part of the audience. Note the similarity between “Model 1” and “Model 4;” here, the law takes the form of the knowledgeable judge, but it also requires the willful commitment of the audience in order to stay maintained. As in Model 1, since the flow of influence is unilateral from law to audience, there is no possibility of cycles of positive feedback developing.

4.2.8.2. Pathological theatrical culture (II): 700d-701c

In time, however, this ideal musical culture collapsed into a pathological one. The initial impetus toward collapse came at the hands of the poets. The members of this group, because they (a) lacked complete cognitive mastery with regard to the “correct and legitimate standards laid down by the Muse” and (b) were “gripped by a frenzied and excessive lust for pleasure,” began to manifest the behavior of παρανομία – a key word for Plato in this section, meaning a willingness to break the rules, to violate the law, or to transgress the bounds of decency (700d3-6). Specifically, they mixed the different styles
and categories of music with one another in an inappropriate way out of a lust for pleasure and innovation (700d6-e1). This will have consequences on the hitherto regnant policy of decorum. With their novelty-stimulated, inappropriate mixing, the artists “misrepresented their art” through their implicit claim that there is no standard of correctness (ὀρθότης) in music other than the pleasure of whoever enjoys it, regardless of the moral status of the one enjoying (700e1-5). This, of course, is the familiar popular ideology of art, even institutionalized under the Sicilian-Italian law.

Since the poets continued to exert influence over the audience, before long they also transmitted the delusions of cognitive self-sufficiency which lay behind their own παρανομία (700e5-6). Since the audience-members now fervently believed they themselves knew “what was good and bad in music,” they no longer hesitated to vocalize their cognitive arrogance in the form of noise (700e6-701a2). Thus, the existing economy of influence was radically altered. First, the law ceased to exercise any influence over the audience at all because the audience no longer deferred to any authority outside itself. Second, the audience-members – taking the place of the law – now began to influence the composers via praise or dispraise of their shouts. Plato describes the transition as one from musical “meritocracy” (ἀριστοκρατία) to “a sort of vicious theatrocracy” (θεατροκρατία) (701a2-3). In other words, it is the audience, the θέατρον, which possesses the κράτος or power, a power it comes to exercise over itself via the medium of the composers.237

237 Monoson, tantalizingly, recognizes the relevance of this sequence to her own model of democratic citizenship, but glosses it as the exception proving the rule of Platonic neglect of the theatrical: “The passage decrying theatrokratia does not, for example, dismiss the experience of being a theates altogether, but laments the squandering of a resource, the metamorphosis of a possibility into a corrupting force.”
With respect to the diagrams, Model 4 has decayed into Model 3. Since there are no longer any checks whatsoever on the whims of the audience (the law been rendered effectlesss), there are only two actors (as before): poets and audience. Each influences the other in what is the paradigmatic cycle of vicious positive feedback.

At this point, Plato makes an extremely intriguing qualification which he does not, unfortunately, especially develop. Immediately after describing the replacement of an “aristocracy” by a kind of vicious theatrocracy (θεατροκρατία...πονηρά), he comments, “But if this democracy [δημοκρατία...τις] had been limited to gentlemen [ἐλευθέρων ἀνδρῶν] and had applied only to music, no great harm would have been done.” (701a3-5)

Plato includes here a double qualification: (i) a restriction in the affected population, or more precisely, a restriction in the population of who is allowed to affect the compositions of the poets via their feedback, and (ii) a restriction in domain – i.e., a restriction in what is drawn into the cycle of influence from audience to composers and back again. The second restriction amounts to the division – per impossibile – between culture in the narrow sense and broad sense. It is immediately and explicitly falsified: Plato asserts that an all-pervading cognitive arrogance began with music (ἐκ μουσικῆς...ἦρξε) and grew to overtake every aspect of Athenian society.

The first restriction, however, amounts to the experiment of combining a certain institutional form permissive of a potentially dangerous dynamic of cultural transmission with a certain population. Only the “gentlemen” (ἐλεύθεροι) are allowed to influence the

---

Monoson is absolutely correct, but what she does not follow up on are the many correctives Plato devises to the corruptive power of theatrical encounters. Just because Plato pathologizes an extreme of the social-theatrical situation does not mean he pathologizes the very concept. Monoson, *Plato’s Democratic Entanglements*, 104–5, 227.
composers of songs by means of their praise and dispraise. Undoubtedly, the assumption Plato is making here is that these ἐλεύθεροι have internalized the correct standards which they proceed to apply. Thus, so long as the less educated φαῦλοι are not permitted to similarly exercise their influence, the detrimental consequences will be minimized. Of course, the institutional form itself may still be potentially dangerous, but for Plato, form alone is neither salvific nor condemnatory. What is required, at nearly every stage and in nearly every place, is the combination of suitable agents with a suitable institutional form. Here, such a democracy, while not perhaps immediately bad, would nevertheless be deeply unstable.

From a systematic perspective, what is especially interesting about this aside is the potential shape it would take. “Model 5a” is intended to capture these relations of influence. It features two sites of agency – the poets and the gentlemen-audience – between whom influence is reciprocal. Note, however, that Model 5a – on an institutional or formal level – is identical with Model 3, the very paradigm of vicious positive feedback. It is the difference in the quality of the population engaged in this institutional form that determines whether the dual link of influence is stable and positive or extraordinarily catastrophic.

Of course, one could dispute that modelization of Model 5, claiming that it leaves out the vulgar portion of the population who are not allowed to voice their praise or dispraise, but are nevertheless exposed to the musical influence. Accordingly, we might

---

238 There are also social assumptions in the Athenian context concerning the identity of these ἐλεύθεροι. Schöpsdau nicely explicates the humor of Plato’s conspicuous lamenting of an extension of the franchise beyond the ἐλεύθεροι in the context of an Athens “das sich seiner ἐλευθερία rühme.” Schöpsdau, Nomoi, Buch I-III, 513.
use “Model 5b” to model these relations of influence. Model 5b is structurally similar to both Model 1 and Model 4. Like Model 1, Model 5b relies upon the control of a select group to anchor the relations of influence. However, unlike Model 1, these “judges” qua audience-members are also exposed to the efficacy of music. Likewise, unlike Model 4, there is no anchoring law that structures the reactions and tastes of these audience-judges, but simply their own inertial preponderance of virtuous musical preferences. What we are left with is virtuous positive feedback, or merely stable positive feedback, at least for now.

Unfortunately, this “theatrocracy” – or “democracy” Plato also calls it – is not limited to music. Indeed, the word θόρυβος or “noise” – used to contrast with the silence of audiences under the old law – already has democratic connotations. The willingness of audiences to political speeches to signal their assent or dissent via the noises they made was a kind of democratic politics, one that was already under suspicion for seemingly encouraging speakers to excessively defer to their audience. An all-pervading cognitive arrogance “began from music:” everyone possessed the conviction concerning himself that he was wise with respect to all possible domains (ἡ πάντων εἰς πάντα σοφίας δόξα) (701a5). Plato’s opposition to the intellectual diversity of the city was well-known.

This cognitive arrogance culminates in “lawlessness” (παρανομία) and “license” (ἐλευθερία) in the following manner. Cognitive arrogance begets a kind of generalized fearlessness: individuals are fearless because they think they know. As such, they do not

---

239 Balot, *Greek Political Thought*, 67–68.

240 Ibid., 58.
fear the opinions of their putative betters. However, not to fear on account of recklessness
the opinion of one’s betters is the definition of “effrontery” or “shamelessness”
(ἀναισχυντία). This account of shame goes back to Books I and II: specifically, shame is
a future-oriented fear regarding possible damage to one’s reputation. As the cognitive
arrogance of the population increases, so mounts as well the shameless disregard in
which they hold all authorities outside themselves, and thus the forms of lawlessness and
freedom they embrace also multiply: (i) refusing to willingly submit to the authorities, (ii)
shunning the obedience they owe their familiar elders, (iii) ignoring the laws, and (iv)
ceasing to pay any mind to “oaths and promises and religion in general” (701b-c).

The end-result of theatrocracy as a general principle of culture is complete
cultural catastrophe in a fashion familiar from our discussion of positive feedback. Of
course, the notion of positive feedback could also be applied, if only in a derivative sense,
to the condition of an ideal culture as well as to that of a pathological culture: after all,
the more an audience experiences correctly formulated artistic products in conformity
with appropriate audience-decorum, the easier it is for such an audience to do so.

---

241 Schöpsdau claims there is an important difference between the epistemic or historical status of the
narrative in 700a7-701b3 (mostly dealing with music) and that in 701b5-d2 (extending to non-musical
matters); the latter events are represented not as historical fact but merely as “eine bloße Möglichkeit” and
their narrative as “eine von den attischen Verhältnissen gelöste und an den künftigen Gesetzgeber
gerichtete Warnung.” Schöpsdau cites as evidence (i) the intervening interjection of Megillus (701b4:
'Ἀληθέστατα λέγεις.) and (ii) the verb-tense used in 701b5d2. If we are not to take the causality here
seriously, then my point would be damaged. Luckily, there are three responses to be made to Schöpsdau.
First, the evidence he cites is compatible with his preferred account, but far from dispositive – especially
(i), which is no significance whatsoever. The change in verb-tense by itself is insufficient as well. Second,
Plato employs ἄρρητος-language throughout – e.g., 700a7, but see especially 701a5-7: νῦν δὲ ἦρξε μὲν ἡμῖν ἐκ
μουσικῆς ἡ πάντων εἰς πάντα σοφίας δόξα καὶ ἐγίγνοντο ὡς εἰδότες, ἡ δὲ ἄδεια ἀναισχυντίαν ἐνέτεκεν.
This last quote (from the first narrative) by itself is sufficient to make the point. Third, even were I to grant
Schöpsdau’s claim, my own would be safe since I only want to make an argument about Plato’s causal
beliefs, not his historical ones. Indeed, even Plato himself is primarily interested in history in virtue of the
causal patterns it exhibits amenable to legislative rationality and control. Schöpsdau, Nomoi, Buch I-III,
507.
However, what is distinctive about chains of positive feedback is their instability with respect to any given standard: the more an audience or population departs from some set of standards, even farther will they depart from that set of standards in the future. In the case of the larger ramifications of Athenian theatocracy, the cognitive arrogance enshrined successively destroys all forms of behavior implicitly predicated on deference to an extra-individual authority as to what is best. When the shame-like internalized social constraints constitutive of society itself have all been eliminated, anything is possible. This is the condition of “free life” – both antithetical to society itself and the necessary endpoint of certain self-propelling patterns of influence congenital to society. Additionally, relocating the source of ultimate judgment to the individual gives rise to patterns of cultural anarchy and pluralism which most Greeks would have seen as incompatible with life in the polis as such. Plato in particular “diagnosed contemporary culture as highly susceptible to skepticism and disorder” and laid part of the blame on the very structure of democratic assemblies: “The free circulation of opinions between leaders and demos created a vicious feedback loop in which leaders became the flatterers of demotic desire.”

242 Balot, Greek Political Thought, 5, 12, 15.  
243 Ibid., 190.
5. CULTURE AS SOLUTION

5.1. Orientation

In the previous chapter, we examined how Plato evinces in the Laws a deep worry regarding the self-propelling cycles of cultural influence which, if they are paired with vicious habits or dangerous epistemological attitudes, carry the potential to bring about catastrophic conditions. In this chapter, we will canvass the some of the ways Plato attempts to mitigate or recuperate these same pathways of cultural influence – i.e, the strategies of cultural management to which he has recourse. This section is itself divided into three – loosely delimited – sections: (a) general strategies of cultural management (5.2); (b) specifically social strategies of cultural management (5.3); and (c) and region-targeted strategies of cultural management (5.4). By specifically social strategies of management, I mean those that utilize social interaction for their efficacy. By region-targeted strategies of cultural management I mean those which are associated with, or intended to apply to, specific social or cultural domains. These distinctions are intended to draw out various points of emphasis, not to be utterly distinct from one another.

All three types of strategy of cultural management are vital to the complex culture of “lawfulness” (εὐνομία) Plato must foster in the state of Magnesia. They go beyond mere laws and should be considered in their extra-legal dimension. Plato’s utilization of the extra-legal supplements mere legality in the same way that Charles Kahn has argued a “legal procedure of legal reform” supplements the mere legality of the Statesman.244 If the law-condition nonetheless remains “second best” in Plato’s eyes, the special and

244 Kahn, Plato and the Post-Socratic Dialogue, 230.
extended “peace” Plato has made with this “second best” via the Laws commands our interest and attention. The strategies of cultural management retailed by Plato in the Laws shed crucial light on the concrete reality according to Plato of the rule of law itself. A full consideration of this concrete reality, I have argued, results in what I call the systematic approach. In other words, the systematic approach is intended, at least with regard to its origin, as an improvement of the legal approach which answers for its Platonic criticisms and can prove fully adequate to the rest of the Laws. The canvassing made here of the copious and subtle techniques oriented toward the extra-legal dimension can be considered part of the case for preferring the systematic to the legal approach.

Additionally, Plato’s use of patterns of citizen-participation, citizen-contribution, and citizen-governance borrow from Athenian institutional reality in key ways. Thus, they instantiate the thesis of Morrow regarding Plato’s demiurgic use of “the institutions, customs and traditions of fourth-century Greece.” These Greek materials, in addition, many of which incorporate infra-legal means, are vital to the super-legal environment necessary for the stability and legality of Magnesia. However, what we studied in the previous chapter as uniquely dangerous and threatening from a Platonic perspective, we will study here again as useful and re-appropriated, as pliable material turned to the maintenance of a stable and virtuous political order. Plato’s turn to precisely this source of danger and threat is part of what I have called his creative, rather than concessionary, demiurgy.

---

245 Ibid., 231, 232, 235.
247 Balot, Greek Political Thought, 53.
Lastly, let us recall the thesis of Bobonich asserting the reality of “increased optimism” regarding the capacities of non-philosophers, an optimism which he claims will have definite effects for Plato’s political philosophy. This thesis is certainly compatible with what follows: the cultural work, individual agency, and use of citizens’ capacities for their own common, whether formal or informal, self-governance.\textsuperscript{250} Clearly, these special modalities of self-governance are \textit{additionally enabled} by the kind of position Bobonich espouses. Part of what is so especially interesting about the government of Magnesia is the way it simultaneously testifies both to Plato’s own political-philosophical development and the extent to which he draws upon the proto-systematic drift of contemporaneous Greek political practice. To allow oneself to be comfortable, in a Bobonich-style way, with the exercise by non-philosopher citizens of their own capacities for political governance in an extended way, in this case dovetails with the existence of a culture of participation, the operation of the super-legal, social enforcement, and the existence of a culturalized politics in general in Greek political life.\textsuperscript{251} However, at the same time, one need not necessarily pin these special modalities of self-governance to a Bobonich-style thesis. Indeed, if one rejects the starting-point of such a revision on Plato’s part, it is these modalities in particular that could explain how Plato “makes do” in its absence. Thus, ultimately Bobonich’s thesis is orthogonal to the systematic approach, and in some reckonings of evidence and hypotheses the systematic approach may be a preferable alternative.

\textsuperscript{250} Bobonich, \textit{Plato’s Utopia Recast: His Later Ethics and Politics}, passim.
\textsuperscript{251} Balot, \textit{Greek Political Thought}, 15, 49, 53–55.
5.2. General strategies of cultural management

In this section, I will discuss two tendencies in the Laws: (1) the thematization of infra-legal “customs and usages” as an important domain for political theory; (2) some preferred patterns of interaction involving virtue, vice, and the distribution of intelligence.

5.2.1. The thematization of the infra-legal

At a certain point in Book VII, the Athenian reflects upon the unusually broad scope of their discussion – extending to many apparently mundane or trivial details of daily life – regarding the future state of Magnesia. He clarifies what seems to be a special focus of their discourse as what others have often called the “unwritten customs” (ἀγραφα νόμιμα) or “ancestral laws” (πατρίους νόμους) of a state (793a9-b2). Other terms used in this connection are “habits” (ἔθη), “practices” (ἐπιτηδεύματα), and “usages” (ἐθίσματα). It would be completely incorrect, the Athenian claims, to refer to these things as “laws,” and yet it would also be a grievous error to leave them undiscussed (793b2-b4). For in fact, these infra-legal practices and customs are nothing less than the “bonds of the entire social framework” (δεσμοὶ…πάσης…πολιτείας) (793b4). They link the laws that have already been written and established with those to be established in the future (793b4-6). When properly designed, they envelop and preserve written law: literally, they “cover it round” (περικαλύπτειν) with “safety” (σωτηρία) (b7-c1). The word σωτηρία is especially

---

252 Nightingale: “In the Athenian’s lawcode, then, the unwritten laws are written down.” Nightingale, “Writing/Reading a Sacred Text,” 289.

253 There seems to be a mild joke encoded in these lines. Although it is not right to call out these things (προσαγορεύειν) as laws, it would also not be right to leave them unspoken of entirely (ἄρρητα) (793b2-4). Additionally relevant, most likely, is the phrase “unwritten laws” (ἀγραφα νόμιμα).
associated with stability through time for Plato. However, if something causes them to deviate from the proper design, the result is catastrophic. The Athenian compares the ensuing catastrophe – exactly like the ones we examined above – to:

“what happens when carpenters’ props buckle in a house: they bring the whole building crashing down, one thing on top of another, stays and superstructure (however well built) alike — all because the original timberwork has given way.” (793c)

Laws alone are simply not stable absent a supportive infra-legal framework of customs, usages, and practices by which the state is literally “tied together” (συνδέεται) (793c6). As such, it is incumbent upon the interlocutors to examine and discuss such matters at length, however trivial or mundane their details may appear.

Plato’s recognition of the infra-legal – his marking it out as a crucial desideratum of political theory – should be seen in the context of his concern with catastrophe. Such is the utility of the infra-legal that failure of even a small part may snowball into total catastrophe. It is what unifies the citizenry and helps supply them with the social sensibility which enables the smooth running of the city. In addition, his resort to such “customs” (nomima) or “unwritten laws” demonstrates the demiurgic pattern, described by Morrow, according to which Plato attempts to instill a higher sense of law-abidingness as a character-trait as an organic consequence of the “material” of the civic environment. Plato scours the “traditions and practices of his countrymen” in order to find suitable “devices of persuasion” by means of which “the principles of the laws are woven into the very fabric of the citizens' mind and character.” Elsewhere, Morrow emphasizes the total and super-legal reach of these “enchantments” (ἐπῳδαί) which are

---

255 Ibid., 16.
intended “to bring about conformity to the law, not merely in the public relations of citizen to citizen, but in all the details, even the most intimate, of private life.”\textsuperscript{256} The “full” εὐνομία to which Plato aspires both \textit{requires} and \textit{utilizes} extra-legal conditions and resources.\textsuperscript{257} Morrow calls the legislation of Magnesia “one vast system of total persuasion, the climactic fulfillment of the art of psychagogy that he had outlined in the \textit{Phaedrus}.”\textsuperscript{258} There is also precedent within Athenian society for the necessity of the extra-legal, broadly speaking, to the legal institutions and governing apparatus as such. Values like “courage, honesty, generosity, discipline, respect for others, patriotism, and self-control,” as well as “innumerable traditions and founding cultural myths,” Balot comments, were “critical to their shared project of making their democratic values practicable.”\textsuperscript{259}

\textbf{5.2.2. Preferred patterns of interaction}

Part of what renders culture problematic from the point of view of government is the potential for multiple and extended effects it affords to otherwise self-contained individuals and actions via the avenues of influence available to them. However, the same potential for multiple and extended effect via avenues influence can also be utilized for the sake of creating a resilient and intelligent culture of virtue.

\textsuperscript{256} Morrow, “Plato’s Conception of Persuasion,” 242.
\textsuperscript{257} I use the phrase “extra-legal” as a generic term for “super-legal” and “infra-legal.” What is super-legal is above and beyond the law as such; what is infra-legal operates below the level of law. E.g., patriotic songs are an infra-legal means of promoting a super-legal condition in citizens.
\textsuperscript{258} Morrow, “Plato’s Conception of Persuasion,” 242. As for the putative morality of this “vast system of total persuasion,” Morrow perceptively points out: “We cannot in truth condemn Plato’s methods as unfair means of persuasion without at the same time condemning most of what has ever taken place under the guise of moral instruction. It is exactly what we try to do in our homes, in the church, in every organization or group that wishes to produce and perpetuate a type of character and behavior.” Ibid., 244.
\textsuperscript{259} Balot, \textit{Greek Political Thought}, 53–55.
5.2.2.1. Contest culture

Thus, Plato attempts to manipulate the normative distribution of public honors in order to incentivize socially helpful patterns of behavior. For instance, while the “man who commits no crime” is certainly “to be honored” (τίμιος), the man who, in addition to committing no crimes, actively prevents the wicked from doing wrong is “worth” (ἄξιος) more than twice as much honor as the first man (730d2-4). This arithmetical claim is grounded in an analysis of social utility: the first man only has “the value” (ἀντάξιος) of an individual, whereas the second has the worth of a “legion” (πολλῶν...ἑτέρων) (730d4-5). Plato ordains that the latter individual be publicly declared “the great and perfect citizen of his state” and “winner of the prize for virtue” (730d5-7). Such remarks are more than complimentary: they are socially orienting speech-acts delivered by the state to a population eager for distinctions. Furthermore, they seek to enlist the patterns of interaction displayed by citizens in the service of the state – indeed, in a very real sense they magnify the state and extend its reach. By distinguishing citizens who not only themselves act well, but influence others (in whatever fashion this occurs) to do likewise, they not only incentivize such maximally useful behavior among the citizens, but also mark it out for purposes of orientation. In sum, they recognize the potential for spillover in the social field and they attempt to direct it to the state’s own purposes.

Likewise, Plato tells us, it is necessary to issue the same praise in regard to all the virtues potentially communicable to others by the individuals possessing them (730e). The notion of communicability is captured by the verb μεταδιδόναι and noun κοινωνός: to want to “communicate” (μεταδιδόναι) one’s virtues to others merits praise, but to be
wish to be a “partner” (κοινωνόν) with no one in these virtues merits dispraise (730e3-6). In context, three concrete activities are mentioned – and therefore may be reasonably equated with the “communication” of virtues Plato has in mind: (i) informing the relevant authorities of the wrongdoing of others (730d), (ii) assisting the authorities in chastising (συγκολάζων) (730d), and (iii) not even countenancing (ἐπιτρέπων) wrong in others. Thus, the communication of virtues by these especially helpful citizens proceeds through a process of active education, assistance, and correction. The Athenian specifies a whole scale of honors quantifying this process. First, it is necessary to honor (τιμᾶν) “as in the top rank” the successful communicants of virtue (730e4). Second, it is necessary to honor “in the second place” those individuals willing but unable to communicate the virtues they themselves possess (730e4-5). Third, it is necessary to censure in a qualified way those jealous individuals unwilling but able to communicate the virtues they themselves possess (730e5-731a2).

In general, Plato wants to inculcate a spirit of friendly competition for virtue among the citizens of the state (731a-b). The generous contestant for virtue is said to strengthen the state, whereas the jealous contestant, likely to resort to slander of his fellow contestants, not only hinders his own efforts to attain virtue, but in addition sows “lack of spirit” (ἀθυμία) among his fellow citizens and thereby harms the state (731a6-b3). In sum, Plato is perfectly aware the population of citizens he has to tend is not merely a group of isolated individuals, but a self-interacting, self-affecting community. By instituting the correct kinds of “competitive” social attitudes and incentivizing and promoting the most beneficial forms of interaction, Plato hopes to turn this self-interacting, self-affecting dynamic to his advantage.
5.2.2.2. Memorial culture

Another way in which Plato attempts to re-appropriate cultural dynamics for his own ends – as we learn subsequently in Book V – has to do with the propagation of relevant maxims and bits of advice. By instituting an appropriate “memorial culture” – one within which individuals are meant continually to remind both themselves and others – Plato aims to mitigate or bolster the intellectual deficiencies arising from the unaided powers of individuals in isolation from one another. Thus, these preferred modes of interaction may be seen as a sort of intellectual corollary to the moral modes above.

The particular content most suitable for this memorial culture is characterized in three ways. First, it is described as “more detailed [σμικρότερα]” (732b5) than those items of grand ideological significance compassed in the great hypothetical speech to the colonists that spans large parts of Book IV and V. The word σμικρότερα is the comparative form of σμικρός, which means “small or unimportant.” Second, it is described as “no less useful [χρήσιμα δὲ τούτων οὐχ ἤττον]” (732b6). Thus, the sense of “small” (σμικρός) activated here does not so much pertain to importance in general as to the level of detail in relation to a larger plan. It is important to pay attention both to the “petty” and to the “grand” items of ideology, as these things are equally useful from the point of view of the governance of society. Third, it as described as the kind of thing “which one hears often enough [ἀ…λεγόμενα πολλάκις]” (732b5). As an example of this advice, Plato gives: “excessive laughter and tears must be avoided” (732c). In sum, we

\(^{260}\) *LSJ*, ad loc.
should understand the content of this memorial culture as a set of common maxims or slogans pertaining to how one ought to behave in society in a detailed way.

Plato claims that it is necessary (χρη) to repeat such maxims or slogans to oneself (λέγειν ἑαυτὸν) by way of reminder (ἀναμμηνήσκοντα) (732b6-7). However, at first glance this recommendation – the repetition to oneself of putatively beneficial moral maxims and the like – in no way differs from what one might associate with traditional culture. What marks it as especially Platonic is (a) the key term ἀναμμηνήσκω, invoking as it does the familiar Platonic theorization and lexicon of reminders, reminding, etc., on display in the Theaetetus, the Meno, and especially the Phaedrus and (b) the justification Plato immediately gives of this policy in the terms of what I will call the “hydraulic theory” of memory. In essence, Plato characterizes the “act of remembering” (ἀνάμνησις) as an influx of thought that has drained away (ἐπιρροή φρονήσεως ἀπολειπούσης) via the process of forgetting, likening its dynamic to a sequence of inflow (ἀπορρεῖν) and outflow (ἐπιρρεῖν) (732b7-c1). In the face of this perpetual and unavoidable outflow of intelligence, the economy of knowledge must be supplemented by periodic inflows of intelligence – i.e., ἀναμνήσεις.

This pattern of inflow and outflow of intelligence is reminiscent of the “festival theory of education” the Athenian propounds in Book II (653c-d). The festival theory of education is introduced against the background of Plato’s conception of education as the correct training and orientation in pleasures and pains (653c). Since this training “wears off [χαλᾶται]” over the course of an individual’s life and in many cases “is destroyed

261 With regard to the lexicon of reminding/remembering, present here are ἀναμμηνήσκω (732b6-7), ἀνάμνησις (732b8), and ὑπόμνησις (732d-5).
(653c-7-10), it is necessary to give it certain forms of relief (ἀναπαύλας) and nourishment (τροφὰς) for the purpose of correction (ἴν’ ἐπανορθῶνται) (653d1-d5). Here is Plato is concerned with combatting the outflow and diminution of intelligence as opposed to that of the affective orientation of the soul.

The social ubiquity of advice-giving plays a key role in the memorial culture Plato frames against this outflow of intelligence. The advice he has in mind is such that “every man must give to every other [παραγγέλλειν δὲ παντὶ πάντι ἄνδρα]” (732c2). The density of these encounters will keep such knowledge fresh in everyone’s mind.

Crucially, it is possible for an individual – who is perhaps no longer capable of reminding himself – nevertheless to be reminded by another more diligent than himself. In this sense, the unitary psychology argued by Bobonich perhaps lends itself more easily to such forms of cooperation than the bipartite or tripartite one.262

Plato gives a total portrait of memorial culture such that it is necessary (χρὴ) for every individual (ἕκαστον) to live (ζῆν) in accordance with the expectations associated with a certain kind of moral advice (ταύτας δὴ ταῖς ἐλπίσιν) along with its reminders (ταῖς ὑπομνήσεις τῶν τοιούτων) (732d4-5). No individual must spare any effort (μηδὲν φειδόμενον), “at work and in leisure time alike[ἀεὶ κατὰ τε παιδιὰς καὶ σπουδὰς]” (732d5-6), regarding the content of this advice to “recall it vividly [ἀναμιμνῄσκοντα…σαφῶς] to his own mind and that of others [ἕτερόν τε καὶ ἑαυτὸν]” (732d6-7). In sum, Plato advocates a memorial culture (a) designed to activate a series of action-structuring expectations, (b) bearing upon “petty” (σμικρότερα) but no less “useful” (χρήσιμα) matters of moral advice, (c) by means of a system of reminders

262 Bobonich, Plato’s Utopia Recast: His Later Ethics and Politics, 259.
(ὑπομνήσεις), (d) the carrying-out of which we are to assist to our utmost, and (e) relies centrally upon a social functionality. By participating in it and striving to bring to consciousness – our own consciousness and that of others – we activate the principles of fine living and thereby benefit ourselves, each other, and the state.

The frequent juxtaposition between reminding oneself and reminding others, incidentally, suggests how the assertion in the *Theaetetus* that thought is nothing else but the interior conversation of the soul with itself (*Tht.* 189e) might be put into practice. In addition, the memorial culture of the *Laws* – along with its crucially social component of individuals reminding one another – makes for an instructive contrast with the account of writing as a failed potion for memory at the end of the *Phaedrus*. Finally, we should see this “memorial culture” or “reasonable culture” of Magnesia as complementary to the “intimate relation between reason as expressed in good law and the reason of the individual citizen” emphasized by Bobonich.²⁶³ Both of these phenomena make a contribution to the “full” εὐνομία that is in excess of lawfulness tout court and that reigns in Magnesia. However, the memorial culture I have described, unlike the strictly individual condition described by Bobonich, is a thoroughly social condition: citizens are to remind themselves and each other. To this extent, therefore, one need not see the memorial culture, and by extension the system model in general, as resting on Bobonich’s thesis, but instead one could see these things as alternative to Bobonich’s thesis. While the functionality of memorial culture would certainly be bolstered by an increased optimism in the capacities of individual non-philosophers such as Bobonich describes, it could also offer a useful way of compensating for the very deficiencies,

²⁶³ Ibid., 216.
woefully unrevised, Bobonich assigns to Plato in the context of dialogues like the *Republic* and *Phaedo*. Additionally, this social quality of memorial culture harmonizes with another aspect of the *Laws* argued by Bobonich – namely, his claim that the *Laws* “does not partition the soul into agent-like parts” and is “unitary” rather than bipartite or tripartite.264

5.3. Specifically social strategies

In this section, I mean to examine two strategies of cultural management which are almost always used in combination with one another – namely, “social persuasion” and “social enforcement.” First, I will explain what each of them entails. Second, I will make some comments about their ubiquitous combination. Third, I will go through two examples.

5.3.1. Social persuasion

Social persuasion refers to the codified assignment of state-conferred reputational predicates, benefits, or penalties in response to certain kinds of action or inaction.265 There are two immediate advantages to social persuasion as a strategy of cultural management. First, it exploits the pro-social desire for positive reputational distinction and aversion to negative reputational distinction as an incentive to bring about whatever pattern of action or inaction is desiderated by the legislator. Second, by accurately

264 Ibid., 259.
labeling individuals with the reputations they deserve, social persuasion promotes “reputational justice” – I use the phrase in a fashion analogous to Miranda Fricker’s “epistemic justice.”266 This ensures that the good have maximal influence and the bad minimal influence. For instance, whoever reports to the state the unjust appropriation of wealth by another (913c-d) is to acquire “a reputation for virtue [δόξαν ἀρετῆς],” while whoever fails to do so is to acquire one “for vice [κακίας]” (914a5-6).

5.3.2. Social enforcement

Social enforcement refers to the enforcement of law by whoever becomes aware of or witnesses its violation. For instance, whoever becomes aware of the discovery by another of buried treasure must inform the appropriate authorities (914a-d). Social enforcement may be either mandatory or optional. For instance, it is mandatory for whoever becomes aware of the discovery of treasure to inform the appropriate authorities (914a-d), but it is optional for whoever wishes to inflict punishment on the reproductively obstinate on certain occasions (783e-784d: see extended discussion below). It may take the form of telling the appropriate authorities or the form of a violent punishment administered on the spot. For instance, in the case of buried treasure, social enforcement takes the form of informing the authorities (914a-d), but in the case of the reproductively obstinate, it takes the form of a violent beating on the spot (783e-784d). Social

---

266 Fricker, “Rational Authority and Social Power: Towards a Truly Social Epistemology.”
enforcement is, in general, a familiar aspect of Athenian law and an important part of the Athenian political self-concept. See, for instance, the testimony of Demosthenes:

"What is the strength of the laws? If one of you is injured and cries out, will the laws run up and help you? No: for they are simply written letters and would not be able to do this. What then is their power? It lies in your establishing them securely and giving them authority to help whoever needs them." There are three immediate advantages to social enforcement. First, it mobilizes all bystanders or residents as potential deputies to enforce the law, thereby maximizing the extent of the laws’ enforcement. Second, in certain cases punishment delivered on the spot may be an edifying spectacle for other bystanders, thereby promoting lawful behavior among these witnesses. It makes visible the fact that something wrong has occurred and that it must be set right. Third, enforcing the law habituates the enforcer himself to be more lawful.

5.3.3. Social persuasion and social enforcement

Almost always, social persuasion and social enforcement appear in combination. For example, the penalty for a bystander who does not intervene in a situation requiring his intervention may be to suffer some derogation of reputation or honor. The combination of social persuasion and social enforcement has two benefits. First, it provides a schematized model of honorable conduct for the gentleman (ἐλεύθερος) applicable to a variety of circumstances. Second, it forces the hand of the susceptible or otherwise cognitively deficient by supplying an additional motive to do the right thing.

267 It also constitutes an important part of the theatrical-democratic legacy of Athenian political life, “the vigorous civic practice of being a theatēs whereby men experientially encountered their democratic citizenship” – a component so convincingly articulated by Monoson though not, unfortunately, attributed in deserving measure to Plato’s Laws. Monoson, Plato’s Democratic Entanglements, 207.

268 Demosthenes 21.224, as quoted in Balot, Greek Political Thought, 53.
thereby preventing them from being habituated toward wrong-doing themselves. In sum, social persuasion and social enforcement function in combination in a manner reminiscent of negative feedback: publicly committing some wrong immediately calls forth a host of bystanders prepared to set a good example in comparison with the offender’s bad one. Furthermore, anyone so susceptible as not to intervene in the required way is immediately labeled as reputationally inferior, and thus their ability to influence others is curtailed. Let us now examine two examples.

First, for reasons that need not concern us, Plato adjudges persistent bachelorhood a moral fault (774a-c). Accordingly, the bachelor must remain “unhonored” (ἄτιμος) with regard to all honors (τιμῆς...πάσης) customarily bestowed by the younger upon the older (774b5-b6). All young people are instructed not to “take the slightest notice of him” (774b6). This is a case of what I have called above “social persuasion.” To the extent he cares about his own τιμή, then, he is motivated to take necessary steps so as to prevent such derogation. However, in addition, should he persist in his uncivil habits, his potentially noxious influence is cut off. By specifically labeling him as ἄτιμος and instructing the younger not to pay him any respect, the city neutralizes him as an avenue of influence upon the younger.

Finally, if he attempts to chastise anyone, everyone else must assist and protect the victim. Now, this is a case of what I have called above “social enforcement.” Everyone must intervene in these cases lest the socially unhelpful spectacle of a bachelor chastising someone and exercising apparent authority present itself. But if some bystander fails to provide the required assistance, then that bystander must be declared by law a cowardly and wretched citizen (δειλός τε ἁμα και κακος) (774c1-c2). Here we see a
combination of social persuasion and social enforcement. On the one hand, the potentially harmful spectacle of the hubristic bachelor, etc., is replaced by the potentially beneficial counter-spectacle of the bachelor rebuked, etc. Thus, the chain of bad effects is arrested. On the other hand, should bystanders fail to intervene, they in turn will be labeled cowardly and wretched: in this way, once again, the chain of bad effects is arrested or minimized.

Second, for reasons that again need not detain us, Plato finds the failure of bride and groom to produce children in a timely fashion – or at the very least, their failure to take seriously the production of children – a moral fault (783e-784d). Plato decrees that the reproductively obstinate are to have their names posted up in public (784c7-d1). This is clearly a form of social persuasion because it negatively impacts the reputation of those whose names have been posted up. Additionally, those so named are deprived of the honor of attending weddings, birth celebrations, and similar events (784d2-d3). This is a particularly appropriate form of social persuasion: they are not to be honored, and above all they are not be honored at those occasions most pertinent to their deficient behavior. Now, if the male nevertheless attends one of these events, whoever wishes (ὁ βουληθεὶς) should punish and beat him with impunity (784d2-d4). This is clearly a form of social enforcement – one geared, in addition, to producing the salutary spectacle of the reproductively obstinate punished in a forum most suitable to the nature of their vice. Of course, Plato would rather the childless not attend such gatherings in order to check their bad influence there. However, if they persist in attending, he is perfectly willing to turn the situation to the advantage of those present as well as the city itself. In sum, as we have seen, the toolkit of social persuasion and social enforcement allows Plato to
intervene directly, effectively, and relevantly in the reputation-formation of the citizenry, both because this is an incredibly important domain to manage in its own right and because it can be leveraged for the sake of enforcing various other laws.

Finally, note that the application of these status predicates only makes sense against the background of an affective attachment to honor and aversion to dishonor – i.e., a sense of shame. Thus, contra Bobonich, it is not the case that shame “will thus have a limited role in Magnesia.” Bobonich argues this assertion on the grounds that “it cannot serve as the primary motivation for virtuous action in adults” and that it often comes into play as a last-ditch source of motivation to do the right thing. However, this account elides the importance in general of such last-ditch sources of motivation and Plato’s reliance upon social networks of bystanders and fellow citizens to bring about a state of εὐνομία. Shame, a necessarily social emotion, is a vital ingredient in these networks.

5.4. Region-targeted strategies

Lastly, let us consider region-targeted strategies of cultural management. I call region-targeted strategies of cultural management those which are somehow intended to apply to specific arenas or domains of culture. These arenas or so domains may be singled out either in view of their special intractability or their special importance for culture in general. I will discuss three examples of region-target strategies: (i) a regulated fan-culture, (ii) the integration of women, and (iii) the ban on private religion.

---

In general, we may say that Plato aims to abolish all pockets of cultural autonomy lest they give rise to tendencies of culture that threaten the excellence and stability of the state. In so doing, Plato is carrying forward a general Greek intolerance for pluralism and having a “private life” to an excessive degree. Indeed, to the extent he does make provision for special “pockets” of culture and small groups (such as communal meals for men and women), he tends to appropriate their own special dynamics or arranges them such as to be conducive to the larger aims of the state. This, as Bobonich has noted, is a striking departure from the Republic, which attempted “to foster unity and other-regarding concern by abolishing or ignoring social and political groups that fell below the level of the city as a whole or one of the three social classes as a whole.” Bobonich stresses, by contrast, that “in Magnesia, it is precisely such small groups that provide a main locus for the development and expression of other-regarding concern.” This tendency is illustrative of what Bobonich sees as Plato’s concern with how and to what extent good institutions can be made to work in the real-world circumstances of the 4th Century Greek world, a concern which Glenn Morrow in turn explicitly connects with the agency of the demiurge in the Timaeus. The systematic approach, as I have sought to carry it out, agrees with both of these points with a special emphasis on the chaos and danger of the social field as a form of materiality that must be appropriately utilized for

---

270 Balot, Greek Political Thought, 5, 12, 15. Balot draws the consequence of an intolerance for pluralism from his thesis that “ancient politics was a proper “virtue politics.”” Ibid., 12. The concept of a “private life” among the Athenians is somewhat vexed. On the one hand, as Balot notes, the "idea of private freedom was a commonplace of democratic political thinking,” and the “tolerance that characterized private life was based on egalitarian respect for all citizens,” but on the other hand, the freedoms enjoyed by Athenians were not absolute rights, but rather privileges bestowed by the community. Ibid., 59–60.

271 Bobonich, Plato’s Utopia Recast: His Later Ethics and Politics, 432.

272 Ibid.

273 Ibid., 384–85.

the sake of the good order of the city. I have sought to make this special emphasis more explicit under the heading of Plato’s supposed creative demiurgy: not only is it the case that Plato is “resigned” to make things work as best he can given the flawed, defective material available, but in addition it is the case that Plato is specially alert to the unique advantages of such material, flawed or defective as it may be.

5.4.1. Fan culture

Plato includes an unusual qualification in the election of the chief organizer of the choruses (765a-b). All “who are keen on such things [ὅσοι μὲν φιλοφρόνως ἐσχήκασι περὶ τὰ τοιαῦτα]” must assemble and participate in the nomination-round for suitable candidates (765a5-6). If there is someone “keen on such things” who does not attend, then he must pay a penalty (765a6-7), but others who do not wish to attend are not forced to do so (765a7-8). So, on the one hand, those who do not wish to participate on the basis of a lack of interest in such things generally are not forced to do so, but on the other hand, it is mandatory for anyone who is interested in such things generally to participate. In other words, it is impossible to enjoy and care about art in an apolitical way apart from the deliberative processes of the state. The putative population of citizens who care about art but who would be otherwise unwilling to participate in the formal election procedures for cultural offices are forced to participate. With regard to these nomination procedures, participants are instructed only to judge candidates on the basis of their experience (ἐμπειρία) (765a8-b2). In this way, Plato forestalls the development of an autonomous culture of art-related expertise by forcefully including all known enthusiasts in processes of state culture within which their influence can controlled and directed.
5.4.2. Communal meals

Next, let us consider the integration of women into public life—specifically, communal meals. After discussing the institution of communal meals among the men of Magnesia, the Athenian declares that this custom “points to another measure” (780c). This measure, the Athenian claims, (a) would be as successful as communal meals for men, (b) is currently practiced nowhere, (c) is such that its absence renders much legislative work fruitless, (d) is exceedingly difficult to discuss, and (e) would be difficult to bring about in reality as well (780c-d). With regard to (c)—namely, the apparent centrality of this putative custom—the Athenian gives the following general theoretical statement. The state secures good results for itself to the extent it participates in law (νόμος) and order (τάξις) (780d4-6). However, the good effects of certain well-ordered fields (πολλὰ τῶν εὖ τεταγμένων) will be ruined if “things are controlled either incompetently or not at all in others [τῶν δὲ ἀτάκτων ἢ τῶν κακῶς ταχθέντων]” (780d6-8). Thus, if certain areas are left unregulated, they may give rise to effects down the line which cancel out good effects produced elsewhere. Women, the Athenian continues, supply a conspicuous example of this phenomenon. For instance, since the Dorians have left the life of women largely unregulated, they have not instituted communal meals among women. As a result of this neglect, they have lost control over many things it would be of great benefit to them to control (780e-781a). Indeed, the danger is exaggerated in the case of leaving women unregulated: “a woman’s natural potential for

virtue is inferior to a man’s, so she’s proportionately a greater danger, perhaps even twice as great” (781b1-4).

Moreover, it will be unusually difficult to bring women under the sway of legislation: they are the half of the human race “inclined to be secretive and crafty [λαθραιότερον μᾶλλον καὶ ἐπικλοπώτερον ἔφυ]” (781a2-a4), and they are habituated to a “life of obscurity and retirement” (781c6-d1). Thus, the domain of culture associated with women will prove particularly difficult to reform or control inasmuch as women themselves are particularly intractable and loath to submit themselves to supervision of control. Nevertheless, they must be brought “into the open” (εἰς φῶς) and compelled (προσβιάζεσθαι) to take their food and drink in a communal setting openly and visibly (φανερὰν θεωρεῖσθαι) (781a1, c7, c3-4). By forcing women to break their seclusion and take their meals in public with one another, Plato also opens them up to neighborly surveillance and habituation and puts an end to that the neglect of female culture which in his view threatened the state. Plato offers a striking complement to the assertion of Hannah Arendt that political courage begins with leaving the household;276 neither is politics as such complete, it seems, so long as anyone remains in the household.

5.4.3. Religious culture

Finally, let us consider the ban on private religion. It is illegal for anyone in Magnesia to possess a private shrine in his or her home, and anyone wishing to offer a sacrifice or perform some other religious observance must do so exclusively in the public temples (909d-e). Plato explains this rule as follows: (i) properly founding a temple or

276 Balot, Greek Political Thought, 69.
shrine is such that not just anyone can do it, and those who attempt this often do it for
blasphemous reasons (i.e., to get some material benefit), and (ii) religious activity must
take place under public surveillance because those worshipping privately are more likely
to engage in blasphemous behavior (909e-910b). In sum, religious culture provides yet
another example of a form of previously autonomous cultural development enfolded into
the state’s control and guidance. However, even as Plato seeks to root out private forms
of religion for the sake of political values, he echoes the already politicized status of
religion in Greek life. As Ryan Balot notes, “the political was always intertwined with
religious custom, belief, and practice.”

\[277\] Ibid., 4.
6. A DESCRIPTION OF THE NOCTURNAL COUNCIL

The systematic approach

The goal of the two preceding studies (Chapter 2 and Chapter 3, Chapter 4 and Chapter 5) has been to identify and analyze the ways in which Magnesia “governs itself” without having recourse to the totalizing surveillance, intelligence, and authority of a cadre. First, I examined the various electoral processes in operation in the Laws, seeking to understand the processes specific to various offices, the formal devices they employed, and the electoral culture in general in which they took place. Second, I investigated the extent to which Plato takes “culture” in the broad sense — i.e., the ways in which large groups of people influence and are influenced by one another in accordance with patterns of interaction which they themselves dictate — as an object of political-philosophical attention. Specifically, I pointed to Plato’s deep concern in the Laws with self-propelling cycles of cultural influence possessing the potential to harm, destabilize, or destroy the city, as well as Plato’s attempt to mitigate, curtail, or recuperate these tendencies as part of the self-regulation of the city.

This goal is in line with the systematic approach in general – i.e., the claim that what makes the Laws valuable and distinct from the Republic and what explains all aspects of the dialogue is that the government of the society of the Laws enacts a system model. To recapitulate, I claim that the nature of the radical shift in political philosophy between the Republic and the Laws is best captured by a distinction I make between “cadre” and “system.” As I deploy these notions, a cadre is a small group of

278 In Chapter 1, I gloss the systematic approach as an answer to what I call the fundamental question of scholarship concerning the Laws — viz., why does the Laws exist?
specially qualified individuals, while a system is a large population whose members or constituents affect, and interact with, another in characteristic ways. Each of these concepts gives rise to a corresponding model of government. Under the cadre model of government, all power emanates from a small cadre of perfect or nearly perfect individuals whose existence it is essential to reproduce from generation to generation. By contrast, under the system model of government power resides in the complex patterns of interaction instituted among and embodied by individuals. These patterns include fixed and orderly electoral procedures, the rule of law, and extra-legal social and cultural norms.

*The nocturnal council*

The topic of this chapter differs in nature from both that of the previous two investigations. Rather than analyzing a large yet thematically-linked swathe of diverse material from the *Laws*, I will discuss just one institution in particular – namely, the nocturnal council. In addition, I am interested in the concrete reality of this institution in its entirety rather than in a single, thematically determined aspect of it. Finally, what recommends this topic as relevant to the systematic approach is not so much an apparent affinity with it as an apparent antagonism. The nocturnal council receives a full description only very late in the narrative of the *Laws*; many commentators have found these circumstances troubling, especially given the content that follows. The nocturnal council apparently includes both the wisest old men and the most promising young men of the city, with the latter selected and elevated by the former. Like the philosopher-kings of the *Republic*, they pursue a curriculum of advanced subjects and engage in similar
intellectual activities. The council is described as the “head” of the state (962b-c), an “anchor of the whole state” (961c), an “organ of protection” (962c), and a “safety-device” of the laws and constitution (960e). Should it prove possible to form such a council, Plato insists the state “must be entrusted to it” (969b). Morrow comments, “There is no parallel to this Council in the government of any historical Greek city that we know of.”

The suspicious meeting-time of the nocturnal council, its vague legal powers, and its late place in the narrative combine to endow the nocturnal council with a sinister reputation. Furthermore, its existence has been taken by some to make a mockery of the preceding lengthy description of a moderately democratic apparatus of government occupying Books IV through XII of the *Laws*. The vagueness, too, of the powers attributed the nocturnal council in comparison with the quite specific details provided in the case of other offices, along with the impression of superfluousness (given the previous setup of magistracies and offices) some have taken from it, have also seemed ominous. Some have even gone so far, in light of this apparent incompatibility, to declare the nocturnal council a later insertion by Philippus of Opus – an interpretation described by Morrow as “not impossible, but it should be accepted only as a last resort.” Others, while accepting the genuineness of Book XII, have nevertheless

---

280 E.g., see Guthrie: “To modern readers the functions and powers of the Nocturnal Council have seemed to be left rather vague. Its member as such have no direct hand in the business of government. All magistracies and offices for that purpose have already been provided for, and their various modes of election prescribed, in the earlier books, with far greater attention to detail than has emerged from the present short account.” Guthrie, *A History of Greek Philosophy*, 374.
281 Morrow, *Plato’s Cretan City*, 500. Philippus of Opus is the acknowledged first editor of Plato’s *Laws*. Olympiodorus claims – probably falsely, according to Morrow – that Philippus also “corrected” parts of the *Laws*. Many scholars have sought to advance hypotheses intended to explain the condition of the *Laws* by
considered that “its inclusion necessitates the denial, or at least the reconstruction, of much that has gone before.” In any case, given the strong resemblance to the Republic, it may even make a mockery of the very idea of the novelty and identity of the Laws in comparison with the earlier work. Plato even describes the members of the nocturnal council as “guardians” (φύλακες), using the famous term from the Republic, as if he had made a kind of Freudian slip.

Referring to the rule of law – and its apparent suspension for the sake of the philosophical members of the nocturnal council – Müller describes the Laws as “Zwitter” or a hermaphrodite. Barker declares “the law-state is really destroyed.” Likewise, Malcolm Schofield attempts to disaggregate the “two projects” of the Laws into an attempt to approximate the second-best city to the kallipolis along with one to institute a political system 'more common' than that of an ideal community.” Certainly, it is clear that the institution of the nocturnal council, at least at first glance, poses a significant challenge for the systematic approach. After all, does the nocturnal council not, in the final analysis, constitute a kind of “cadre” situated at the heart of the Laws?

---

282 After the highly successful attempt of Theodor Gomperz to destroy arguments of the sort advanced by Bruns or Bergk through an illustration of the abundant cross-references between the various parts of the Laws. Morrow, Plato’s Cretan City, 517.
283 Ibid., 500.
284 Indeed, Guthrie declares that the members of the nocturnal council are “analogous to the Guardians or philosopher-kings of the Republic,” pointing out that Plato “slips easily back into the terminology of Rep. and calls them so (964c7 and e2, 965c10, 966b5, 968d1, 969c2).” Guthrie, A History of Greek Philosophy, 369.
286 Quoted in Guthrie, A History of Greek Philosophy, 374.
287 Schofield, “The Laws’ two projects.”
Structure of the following argument

First, I will provide a complete description of every aspect of the nocturnal council. Second, I will argue that the nocturnal council does not pose a threat to the systematic approach as I have outlined it. Previously, I declared that to examine some complex entity from a systematic perspective is to identify and analyze the ways in which it “governs itself” without having recourse to the totalizing surveillance, intelligence, and authority of a cadre. I will take the last three criteria as my negative standard of argument vis-à-vis the nocturnal council. In addition, I will interpret the three criteria as a conjunction which, I will argue, the nocturnal council does not, in fact, satisfy. Specifically, the nocturnal council lacks the authority of a cadre.

I will also treat *en passant* a number of side-arguments and minor points regarding the nocturnal council. Ultimately, I will claim, not only is the nocturnal council *not* incompatible with the system model of government, but indeed it performs a vital function within it and is wholly continuous in spirit with the political philosophy animating the rest of the *Laws*.

The description of the nocturnal council is divided into ten sections. First, I will say a little about the place in the text of passages dealing with the nocturnal council along with the essential conjectures to which details regarding the placement of these passages might give rise. Second, I will discuss the “three beginnings” one could conceivably assign the description of the nocturnal council; these three passages approach the spirit of the nocturnal council in related, if different, ways. Next, I will discuss the technical

---

288 Cf. Dies and Gernet, who gloss the nocturnal council as the “organe suprême de surveillance et de gouvernement.” Diès and Gernet, “Introduction,” vi.
details of membership in the council, the mentorship of junior members by senior members, and the meeting-time of the council. From here, I will examine Plato’s most extended account of the rationale of the council from the point of view of the security of the state along with the implications this has for the mode of philosophical competence necessary for its members and the functionality of the council itself within the state. Finally, this will lead directly into an overview of the council’s activities, style of operation, and principal legal powers.

6.1. The place in the text

Almost the entirety of the information we have concerning the nocturnal council comes from two sections in Book XII of the Laws, both near the very end of the work: one from 951d-952b (the “short passage”) and one from 962c-969c (the “long passage”). There are also two mentions of the “nocturnal council” in Book X in the context of policies regarding atheists. Many have found the description of the nocturnal council in Book XII of the Laws to be inconsistent, either in letter or in spirit, with the government apparatus of Magnesia sketched in Books IV through XII. This has given rise to a certain dilemma in the reception history. Either one rejects the authenticity of the passages dealing with the nocturnal council and attributes them instead to Plato’s editor, Philippus of Opus, or one accepts their authenticity but imputes thereby to Plato a charge of inconsistency or a slipperiness in presentation.²⁸⁹

6.2. Three beginnings

²⁸⁹ See, e.g., Morrow, Plato’s Cretan City, 500., for a representative list of these attempts.
Let us now turn to what I have been calling the three “beginnings” of the nocturnal council found in Book XII. Each of these beginnings constitutes a sort of introduction, whether direct or indirect, to the nocturnal council. In addition, each helps to evoke the spirit of the council that is subsequently elaborated and articulate the thematic complex associated with it. Thus, it is necessary for these reasons to examine each of the beginnings in turn. First, I will discuss the office of the scrutineers and the discourse associated with them; second, I will discuss the institution of the θεωροί or observers; and third, I will treat the series of speeches centered on the notions of finality and security.

6.2.1. The scrutineers

The discussion of the scrutineers in 945b-948b in Book XII is directly relevant to the nocturnal council because the scrutineers are, as we will subsequently learn, members of this council ex officio. Furthermore, the discussion of the scrutineers is thematically relevant to the nocturnal council inasmuch as the scrutineers are (i) entrusted with special authority and (ii) recognized by the state at large (iii) for the sake of the corrective influence they exercise over society (iv) which requires special abilities on their part and (v) is of the utmost importance for the preservation of the state.

These so-called “scrutineers” are in charge of the “scrutiny” (εὔθυνα) of officials. The scrutiny is an investigation which takes place when officials leave office and is intended to ensure office-holders were not guilty of any improprieties during their tenure of office. The problem scrutineers exist to solve or mitigate stems from what is problematic about the office-form itself — namely, the possibility that some officer
might say or do something “crooked” (σκολιὸν) because he has been “bent” (καμφθεὶς) by pressure or is lacking in his own power, his own δύναμις, in comparison with the dignity of the office he occupies (945b-c). Note that εὔθυνα literally means “straightening” and that “bent” and “crooked” are part of a tedious series of puns.

The job of the scrutineers, accordingly, is to make inquiries and avail themselves of all decent methods of testing in order to discover any possible evidence of misconduct. Afterward, they are to post written notices publicizing their findings and assess appropriate penalties (946c-e). As such, the scrutineers are called upon to exercise a peculiar form of authority — they make up, as Plato puts it, a kind of “authority over the authorities (τῶν ἀρχόντων ἄρχοντα) (945b-c). The notion of a group of super-officers exercising a form of authority over all other officers is inherently reminiscent of a cadre.

That the scrutineers act as an authority over the authorities is necessary in view of the special vulnerability of the state to “dissolution,” or λύσις, the unravelling of the spirit of community that holds the state together as a state. If the scrutineers fail to do their job properly, then the “sense of justice” (δίκη) which unites all the different officials is dissolved (λυθείσης) and “all the officials go their different ways and refuse to pull together any longer.” From a single state they create many states, in this way destroying the original state.

The ability of the scrutineers to perform the service required of them for the unity and preservation of the state is a function, Plato repeatedly asserts, of the superiority of their virtue to that of those they scrutinize (945c-e). This special — even exemplary — status of the scrutineers is recognized by the state in numerous ways. During the initial stage of procedure for electing the scrutineers, each individual is instructed to nominate
that individual he believes “perfect in every way.” (945e-c) After the winners of the election have been crowned with olive, awarded the highest distinction of the state, τὰ ἀριστεῖα, and made high priests, it is to be publicly proclaimed that “the state of the Magnesians…presents to the Sun-god her three best men; and these, her choicest fruits…she consecrates…as a joint gift to Apollo and the Sun.” (945e-946c)

6.2.2. The observers

The discussion of the observers (θεωροὶ) in Book XII (951a-d, 952b-d) is directly relevant to the nocturnal council because some of these observers ultimately serve on the nocturnal council and all of them must report their observations to the nocturnal council. In addition, the discussion of the observers leads directly the short passage in 951d-952b. It is thematically relevant to the nocturnal council inasmuch as the observers (i) are super-capable individuals (ii) expected to exercise a corrective influence on society (iii) for the sake of its ultimate preservation (iv) on the basis of certain intellectual-empirical duties they perform (v) connected with a special mode of intellectual competence.

In the middle of a discussion concerning different kinds of visitors both to and from Magnesia, the Athenian mentions a new category of outgoing visitors from Magnesia, who embark upon a special kind of study, one characterized as such both by the nature of its subject-matter and the conditions under which it must be undertaken. They pursue as the object of their observation (θεωρία) and investigation (ζήτησις) the customs, laws, and affairs of other nations — their πράγματα or νόμιμα (951a-c, 952b-d). They pursue this object by visiting other nations and engaging in conversation on a variety of subjects: among them are the composition of laws, education, and training.
In particular, they are to seek after the “tracks” of certain “divine individuals” whose edifying company is highly prized and who are born “just as often in badly-ruled states as in the well-ruled.” (951a-c)

Those who wish to embark upon these studies may do so provided they secure permission. However, anyone who wishes to become an observer must be over fifty, of sterling reputation, and not be perceived as vulnerable to corruption (951a-c, 951c-d). These observers are tasked with obtaining a certain body of knowledge deemed essential to the state. It is necessary for any state which wishes to become “sufficiently civilized and perfect [τέλεος]” not to remain unsociable (ἀνομίλητος) with other states and thereby “inexperienced” (ἀπειρος) with regard to the goods and evils of mankind (951a-c). This gathered experience allows the state to “thoroughly protect” (διαφυλάττειν) its own laws by grasping their rationale on the level of knowledge (γνώμη) as opposed to the force of habit (ἔθεσιν). Guthrie, among others, emphasizes that whereas true belief is typically enough for the population at large, the nocturnal council clearly possesses more than true belief.291

This special mode of intellectual competence, in turn, permits the state to strengthen and preserve its finely established customs (νόμιμα) and correct or perfect its deficient ones. In fact, when the observer has completed his period of foreign observation, he is to appear before a special “council that contemplates legislation” (τὸν τῶν περὶ νόμους ἐποπτευόντων) and inform them whether he has encountered anyone

290 Intriguingly, Morrow suggests that the visits of the θεωροί may be an “echo of Plato’s visit to the Pythagoreans in Italy and to other lands during his years of travel after the death of Socrates.” Ibid., 505. Monoson, like others, assimilates the Athenian Visitor to the type of the theôros. Monoson, Plato’s Democratic Entanglements, 234.
291 Guthrie, A History of Greek Philosophy, 370.
“able to give him some information about any problems of legislation or teaching or education” or if himself has made realizations along these lines in the course of his travels (952b-d). The council is of course the nocturnal council. It also has the power to award “high distinctions” (τὰ ἀριστεῖα) to those among the observers who have become even more virtuous while abroad.

Finally, note that the word translated as “contemplates” – i.e., the verb ἐποπτεύω – is a very rare and interesting word whose use by Plato should command our attention. Specifically, it can mean to overlook or oversee, but in particular, it can also mean to be admitted to the highest grade of the mysteries. At this level of initiation, one does not have to wear a veil and could freely look upon the rituals that transpired. Plato often uses ἐποπτεύω and similar language or images from the mysteries as metaphors to convey the idea of some supreme intellectual realization or epiphany – e.g., in the Symposium, the Phaedrus, or the Republic. Thus, it is natural to expect this council possesses some special intellectual competence regarding the working of law that is unavailable to others.

6.2.3. The logic of finality

Let us now turn to the last of the three “beginnings” — what I will call the logic of finality. The discussion of the logic of finality is directly relevant to the nocturnal council inasmuch as it leads into the long passage and presents the principal rationale of the council. Among themes associated with the nocturnal council, it foregrounds the notions of (i) the preservation of the laws, (ii) special intellectual duties, and (iii) a special mode of intellectual competence.
After looking back over the long project of outfitting the new state with appropriate legislation, the Athenian comments that this legislative work is nearly at an “end,” a τέλος. However, he continues, merely for one to create something is not to fulfill the extent of one’s duties of authorship in regard to that thing. Unless one can provide one’s creation with “security” (σωτηρία) so that it will continue to exist after the moment of creation, the creation is in a sense “incomplete” (ἀτελές) (960b-c). Thus, before the Athenian, Kleinias, and Megillus can call their formulation of a set of laws for the Magnesians complete, they must find a way to provide these laws with σωτηρία and ensure their security and stability.

Specifically, they must implant within the laws “a natural resistance to being reversed” (ἀμετάστροφον…κατὰ φύσιν δύναμιν) (960d-e). This “safety-device for our political system and legal code” is nothing other than the nocturnal council. Plato claims that if it were installed “as a kind of anchor for the whole state,” it will provide the state with σωτηρία. The council, furthermore, will accomplish this in the same way the “soul and head” (ψυχὴ καὶ κεφαλὴ) – or more specifically, the intellect (νοῦς) and senses (αἰσθήσεις) – of each living thing help to preserve the continued existence of that thing. To explain this, Plato points to the way a captain and his sailors rely on the observations for the latter and the expertise of the former. In every kind of activity, the essential thing is to recognize the relevant aim (σκοπός) and take contextually appropriate action toward that aim.

Accordingly, if the process of giving Magnesia a constitution is to be complete, there must exist something which “understands in itself” the “target” (σκοπός) at which the statesman would aim along with the ways in which this target can be realized and the
forms of discourse helpful to this project (962b-c). A state which lacks such an element within is mindless (ἀνους) and senseless (ἀναίσθητος) and will no doubt embark upon a random series of reforms which are not conducive to the ultimate aims of the state.

6.3. Membership of the nocturnal council

The topic of membership in the nocturnal council is covered twice in Book XII of the *Laws*, once in the short passage and once in the long passage. In certain details, they differ. I will review each of them individually. Both passages insist that the council be made up of a mix of the young and the old (951d-952b, 961a-c); these are sometimes called respectively junior and senior guardians. Both kinds of guardians are necessary to the functioning of the nocturnal council, but the senior guardians are more important. In this section I will only discuss the membership of the senior guardians, but the next section is devoted to the mentorship process by which junior guardians are admitted.

In the short passage, the nocturnal council is stated to include (a) priests who have won “high distinctions” (τὰ ἀριστεῖα), (b) the ten oldest nomophylakes, and (c) all ministers of education past and present. Let us treat each of these groups in turn. First, priests who have won “high distinctions” is periphrasis for the scrutineers since they are the only priests who have been awarded high distinctions. The scrutineers are elected officials, and we have already reviewed their duties. Second, the nomophylakes are elected officials in charge of most aspects of enforcing the law and protecting the basic organization of society (754d-755b). Finally, the minister of education is an elected

---

official is in charge of “the entire education of boys and girls;” his office is described as “by far the most importance of all the supreme offices in the state.”

In the long passage, the nocturnal council is stated to include (a) all who have been awarded highest honors, (b) the ten oldest nomophylakes, and (c) the official observers (θεωροί) to other lands who have passed the scrutiny of the nocturnal council upon their return (961a-c). There are three differences between the two statements on membership: (i) the first statement only includes priests who have been awarded high honors; (ii) the first statement says nothing about observers; and (iii) the minister of education has disappeared. If we accept an emendation of the text proposed by Theodor Bergk, according to which the word “priests” should be removed from the first formulation, then the first and third problems disappear. The group of those awarded high distinctions, after all, includes only – as far as we know – the scrutineers and certain observers.

There is little to be done in the case of the second difference – i.e., the disappearance of the ministers of education. Perhaps Plato’s persistent laudation of this office and his description of the minister as the “best all-round citizen in the state” imply he, too, has been awarded high distinctions. In any case, if we bring the two formulations together, we will find that the nocturnal includes all past and present ministers of education, the scrutineers, and the ten oldest nomophylakes. Additionally, certain eminent citizens who have successfully undergone a period of foreign observation may have been asked to join.

6.4. Mentorship of the junior guardians
We learn in the short passage that the nocturnal council is to be “mixed” (μεμειγμένος) and include both young men and old men. In the previous section, we examined the membership of the senior guardians, and in this one we will examine that of the junior guardians. Each of the senior guardians is instructed to bring to meetings a young man of his choice between thirty and forty years of age. At the meetings, the junior guardians are expected to “study with all possible zeal” the topics chosen by the senior guardians (951d-952b). Note that the verb for “bring” (προσλαμβάνων) is often used to denote choosing someone as an assistant or partner.

The selection-process is described slightly different in the short passage and in the long passage. In the long passage, the Athenian insists that a prospective junior guardian be chosen by a senior guardian only if the young man seems worthy in both nature and upbringing (961a-c). He is then introduced to the other guardians, and if he seems worthy to them, accepted as a member. However, if the rest of the council elects not to accept him, then the whole consideration-process must be kept a secret from everyone, especially from the rejected candidate himself (961a-c). In the short passage, by contrast, each junior guardian is merely described as having been “chosen” (ἀρέσκοντα) or “summoned” (παρακεκλημένων) by a senior guardian (951d-952b).

The similarity with the kallipolis of the Republic, in which a group of potential future guardians are progressively elevated purely at the discretion of those above, is clear. Likewise, the Republic’s emphasis on identifying those with a certain desired class of “natures” for future training is also present here. The junior guardians are

293 Guthrie, A History of Greek Philosophy, 375.
described in a later passage as having been chosen as the “the best in natural gifts” (τοὺς εὐφυεστάτους) (964d-965a).

If a young guardian proves unworthy (ἀνάξιος) after his selection, then the whole council is instructed to censure the member who nominated him. Those young guardians who win a good reputation, by contrast, are to be guarded (φυλάττειν), watched over (ἀποβλέποντας), and fostered (τηροῦντας) with particular care by the whole state.

Finally, they are to receive special honors so long as they behave well, but if they should not, then they are to be specially dishonored (951d-952b). This also seems similar to the case in the Republic: as one ascends the echelon of forms of testing in the kallipolis, one secures a greater share of honors and is exposed to new forms of training and testing.

6.5. Meeting time of the nocturnal council

There are two sources of evidence regarding the meeting-time of the “nocturnal council.” First, it is very often referred to as, well, the “nocturnal council” (νυκτερινὸς σύλλογος) (908a, 909a, 968a-c). It’s also referred to, at one point, as “the council that must convene in the night (νύκτωρ)” (962c). Second, there are two longer specifications of the meeting-time of the council, one in the short passage and on the long passage.

In the short passage, the Athenian says that the council must meet “every day by strict rule” from “just before dawn” until “the sun is well up in the sky” (951d-952b). Now, “just before dawn” is my translation of ἀπ’ ὄρθρου — the noun ὄρθρος means either dawn or just before dawn. If we assume that the references to the council as nocturnal are even partially accurate, then ὄρθος in this case must mean “just before dawn” rather than just “dawn.” In any case, given the terminus ad quem above, it is clear
the “nocturnal council” begins its meetings while it is dark, but ends them while it is light.

The long passage, again, stresses “dawn” rather than “night” as the time during which the nocturnal council meets. It is described as ὀρθριον, an adjective meaning “at dawn.” In addition, there is a rationale given for this meeting time: this is when there will be the most “leisure” (σχολή) for the members of the nocturnal council from their private and public responsibilities.

6.6 Rationale of the nocturnal council

In this section, I will describe the “rationale” of the nocturnal council. By the “rationale” I mean the complex ways in which the nocturnal council is professed by Plato to benefit or participate in the life of the city. In contrast to the following sections, in which I will discuss the more concrete aspects of the council – its activities, powers, and style of operation – this section pertains to the utility of the nocturnal council considered on a more abstract level. Furthermore, I am concerned to summarize this abstract utility as Plato conceives and describes it. The description of the rationale is best organized according to three themes: (i) the nocturnal council as anchor of the state, (ii) the nocturnal council as exercising ἀκρίβεια, especially with regard to the end of the city as a whole, and (iii) the nocturnal council as the “head” of the state. These themes are familiar from the logic of finality, described above.

6.6.1. Anchor of the state
According to what I have described above as the logic of finality, the authorial duties incumbent upon the author of a thing are incomplete until the author has provided that thing with security (σωτηρία) (960b-c). Thus, in the case of the “laws” which have been elaborated at such length (or the “constitution and the laws,” as Plato sometimes puts it), it is necessary to provide them with security. This instrument of security is, of course, nothing other than the nocturnal council.

The security it is intended to provide is first conceived as a *kind of stability or unchangeability*. The Athenian declares it is necessary to somehow implant with them a “resistance to being reversed [ἀμετάστροφον...δύναμιν]” (960d5-6). Further ways of characterizing the kind of security with which it is necessary to endow the laws suggest it is meant to be *foundational* or *orienting* in respect to the activities of the state. First, the Athenian likens providing σωτηρία to the constitution and laws to laying a firm foundation (961). Second, he describes the council, which is to fulfill this function, as “a kind of anchor for the whole state [οἷον ἄγκυραν πάσης τῆς πόλεως]” (961c4-5).

An examination of the case of animals provides with further clues respecting how the nocturnal council as the instrument of security is intended to discharge its responsibilities. In the case of animals, the saving or preservative element (σωτήρ) in each is its soul and head. More specifically, it is the intelligence and senses (961d). The more excellent an animal’s intelligence and senses, the more likely it is to continue to exist in the face of external threats. In sum, it is the “combination of reason with the highest senses [νοῦς μετὰ τῶν καλλίστων αἰσθήσεων κραθεί]” (961d9-10) which can most appropriately be labeled the security (σωτηρία) of each thing. In support of the claim (that the mixture of intellect and senses is the security of a thing), the Athenian
gives the example of a captain and sailors working together to pilot a ship. The group mixes their sense-perceptions (τὰς αἰσθήσεις) with the captain’s insight (τῷ κυβερνητικῷ νῷ), and in this way “they keep themselves and the whole ship safe [σῴζουσιν αὐτοὺς τε καὶ τὰ περὶ τὴν ναῦν]” (961e3-5). Additional examples from medicine and generalship show that the combination of intellect and senses is effective because it enables appropriate action to be taken in each context toward the appropriate aim (σκοπός) for that context (961e-962a).

The properly preservative knowledge, then, of a thing is the knowledge of the target or aim, the σκοπός, of that thing. In other words, to properly preserve something means to possess special intellectual access to the σκοπός of that thing in order to assess or deliberate toward its satisfaction. Whatever or whoever we install for the preservation of the state must possess this knowledge (962a-b). Since the nocturnal council is intended to be such an “organ of protection [φυλακτήριον]” (962c7), it must possess a single target and direct all its activities in conformity with it rather than dividing its attentions between a host of different aims (962d). Of course, this modus operandi is in direct contrast with that of most states: these places witness a constant stream of legislative fluctuation unorganized by reference to any supreme end (962d-e).

In sum, the nocturnal council, as the instrument of security for the laws and constitution, is intended to exercise a stabilizing influence upon the various institutions of the state by ensuring that they are in conformity with a single supreme end in exactly the manner the combination of intellect and senses performs a similar role in other pursuits. Note that the mode of stabilization here enjoined is with regard to σκοπός; thus, it is

perfectly possible – and indeed likely – that Plato intends the nocturnal council to propose reforms or changes in law or custom. The nocturnal council exists to stabilize the government by means of keeping it oriented towards its fundamental σκοπός, not by means preserving every little detail of the constitution willy-nilly or as it one day stood. Of course, the same intellectual faculty is required for the proposal of intelligent reforms as is for the discernment of unintelligent deviations. Thus, the nocturnal council is perfectly suited to both of these related roles. Morrow glosses the functionality of the nocturnal council in relation to the founding legislation of Magnesia by pointing out that, “Every society in which the sovereignty of law is affirmed has to provide some method for interpreting and expanding its inherited rules.” It is illuminating, however, to consider such a role for the nocturnal council in relation to what is specifically described as a lack by Kahn in the Statesman: “There seems to be no space between the utopian rule of an expert and blind obedience to whatever laws are in force – no room in this dialogue (as there will be in the Laws) for a legal procedure of legal reform.”

6.6.2. Mode of competence

295 On this topic, see Brower’s helpful article. Browers, “Piecemeal Reform in Plato’s Laws.”
296 Cf. “Permanent safeguarding is attained not by rendering the law code itself permanent and immutable, but by insuring that there is an institutional framework in the city that allows for learning new high-level truths and for taking account of circumstances.” Bobonich, Plato’s Utopia Recast: His Later Ethics and Politics, 400. Likewise, Guthrie points out, on the one hand, the assertion in 772a-d that the whole law-system is to be immutable, and on the other hand, the passages in Book VI respecting gaps in legislation, suggesting Morrow’s way of making sense of the respective passages to be best. Guthrie, A History of Greek Philosophy, 368–69.
297 Morrow, Plato’s Cretan City, 501.
298 Ibid., 513–14.
299 Kahn, Plato and the Post-Socratic Dialogue, 230.
The second theme pertinent to the rationale of the nocturnal council has to do with this end-directed guidance to be exercised by the nocturnal council. The Athenian points out that the necessity of ensuring that the various institutions of the state are directed to a single supreme end was first emphasized in Book I (963a; 630a-e). Specifically, the legislator was to aim at virtue (963a), or rather, virtue as a whole in contradistinction to merely some part of virtue or some particular virtue (630d-e). Furthermore, virtue itself was held to be fourfold (τέτταρα) (963a6), consisting of practical wisdom, moderation, justice, and courage (631c-d). Among these, reason (νοῦς, here synonymous with φρόνησις) was itself declared the end of the other virtues (963a).

In the case of other rational pursuits like navigation, medicine, generalship, to which the office of the nocturnal council has been likened, it is in particular the reason employed by the captain, doctor, or general (νοῦν...κυβερνητικόν...καί ἰατρικόν καὶ στρατηγικόν) which aims at some single context-appropriate end (963a11-b2). Currently, we are discussing the reason employed by the statesman (τὸν...πολιτικόν) (963b2). If the analogy between rational pursuits is to hold, then we should expect of the reason employed by the statesman all we expect of the reason employed by the captain, doctor, and general, *mutatis mutandis*. Crucially, this means that we should expect of the respective agents not only (*i*) the ability to *identify* or *indicate* (εἰπεῖν) the end in question, but also (*ii*) the ability to offer a precise description or detailed delineation of it (σαφῶς...φράζειν, διαρθροῦντες, διωριζόμην) (963b3-963c1).

Under (*ii*) note the presence of vocabulary (διαρθροῦντες, διωριζόμην) which implies making distinctions within the general concept of the end. In the case of the end of the statesman – i.e., virtue – possessing this ability means possessing the ability to
specify and distinguish the four kinds of virtue from one another, as well as the ability to explain why the four kinds of virtue are unified under the single word “virtue” (963-964b). The Athenian goes on to describe the special mode of competence we are to expect of those associated with the nocturnal council and characteristic in general of exegetes, teachers, and lawgivers, or “the guardians of the others:” (i) they are to be appropriate interlocutors for those in need of “enlightenment and instruction,” and (ii) they must be able to teach (διδάσκοντα) and explain in detail (πάντως δηλοῦντα) the effect (δύναμιν) of virtue and vice. Thus, these “guardians” are to be capable both in theory and practice (λόγῳ ἔργῳ ἱκανοὶ) and sufficiently knowledgeable regarding virtue (ἀρετῆς πέρι γιγνώσκοντες ἱκανῶς) (964c6-7). The state which lacks such a group must be regarded as “unguarded” (ἀφύλακτον) – i.e., it lacks the end-directed guidance essential to σωτηρία – and therefore succumbs to the same pattern of chaotic innovation and eventual collapse that besets other contemporary states (964c7-d1).300 In sum, the special protective device essential to the stability and σωτηρία of Magnesia will specifically require those who are extraordinary discerning with regard to virtue both in its theory and practice (ἀκριβεστέρους τῶν πολλῶν περὶ ἀρετῆς ἔργῳ καὶ λόγῳ) (964d4-5).301

6.6.3. The corporate metaphor

Morrow, too, emphasizes and discusses the special intellectual access the members of the nocturnal council are expected to have in relation the law and the function of this cognitive access for the salvation of the laws. Morrow, Plato’s Cretan City, 501. According to Guthrie, whereas the members of the council possess knowledge, true belief suffices for those outside it. While it is true that the council has a comparatively superior cognitive grasp of the truth, it may be selling short the population at large to limit them to true belief. Guthrie, A History of Greek Philosophy, 370.
The purpose of the nocturnal council is to endow the state with security 
(σωτηρία). The security-providing element in general (σωτήρ) may be likened to soul and 
head, or more particularly, the intellect and senses (961d). For example, in the case of a 
ship the captain and his crew work to preserve the ship: the captain contributes the part of 
intellect, while captain and crew alike play the part of senses. More specifically, the 
combination of intellect and senses functions to ensure that the proper target (σκοπός) 
governs the relevant practice, enterprise, or craft (961e-962a). Indeed, in general no 
practitioner – e.g., a doctor or general – can be said to possess rational knowledge (νοῦς) 
so long as that practitioner is ignorant of the relevant σκοπός. Thus, in the case of the city 
what we need for its preservation (σωτηρία) is something or someone which understands 
the σκοπός or end of the city. No one who is ignorant of this can even be called a ruler 
(ἄρχων) (962a-b).

So, we must endow the city with something (τι) which understands the σκοπός of 
the city which would be selected for it by a true statesman (πολιτικός). Morrow 
emphasizes this key intellectual capacity, likening it to those possessed by the 
philosopher-kings of the Republic. He claims, thus, that “these closing pages are as 
integral a part of the Laws as are Books VI and VII of the Republic.” The nocturnal 
council is truly the head of the state in the sense of an "intelligence which apprehends the 
reason in the law and the source of this reason in the ordered cosmos." In addition, we 
should expect this entity, whatever it may be, to possess the subordinate capacities of 
understanding what means are best for realizing this aim and who or what among men 
and laws can offer valuable advice for achieving it (962b-c). In this way, the Athenian
asserts, a state so endowed will not be “irrational” (ἄνους) or “senseless” (ἀναίσθητος); i.e., it will possess the safety-providing element that ensures everything the state does conduces toward the essential aim of the state rather than constituting an essentially random and unorganized pattern of activity (962b-c).

In the specific case of the nocturnal council, it will resemble the general form of the safety-providing element – i.e., the combination of intellect and senses – in the following way. The junior guardians – chosen because they are the “best in natural gifts [τοὺς εὐφυεστάτους]” and “possess a sharpness in their whole soul [ὀξύτητας ἐν πάσῃ τῇ ψυχῇ ἔχοντας]” (964e3-4) – correspond to the senses. They will look around the whole state, store up impressions in their memories, and act as reporters for the rest of the council (964e-a). Meanwhile, the senior guardians can be compared to the intellect given the great wisdom (τῷ διαφερόνως φρονεῖν) they display with regard to vital matters of the state (964a). Their role is to deliberate (βουλεύεσθαι), making full use of the “assistance and advice of their juniors” (964a). In this way, the nocturnal council will “truly save” (σῴζειν...όντως) the state (964a) by acting as its soul and head.

6.7. Activities of the nocturnal council

Next, I will proceed to discuss the activities, operation, and powers of the nocturnal council. By “activities” I mean the concrete forms of business and action taken by the council; how they spend their time qua council. By “operation” I mean the general style of how the council goes about whatever it does. Finally, by “powers” I mean the legal rights or duties of the nocturnal council, what they have the power to accomplish qua council. Plato describes three main activities of the nocturnal council: (i) an
academic program consisting of research, education, and discussion; (ii) the policing and therapy of atheists in the new state; and (iii) the dispatching and reception of observers sent to foreign states. Morrow argues that we should note the close resemblance between the Academy and the Council: (1) in subject-matter of studies, (2) in the goal of saving the city, and (3) in their reception of wise visitors.\textsuperscript{303}

6.7.1. Discussions, education, and research

The nocturnal council engages in a range of recognizably academic activities including (a) discussion of political and social matters, (b) research both internal and external, and the (c) pursuit of a theological and philosophical curriculum. Let us treat each in turn.

The Athenian describes the meeting of the nocturnal council as a συνουσία (951e5), a Socratically charged word reminiscent of dialectical exchange, and as featuring “discussions [τοὺς λόγους]” (951e5-a1). In addition, the members of the council are instructed to discuss certain topics “they may discover from external sources [ἄλλοθι πυνθάνωνται]” (952a2) and to concern themselves with “studies [μαθημάτων]” that benefit their “research [σκέψει]” (952a3). Thus, they are devoted both to discussion and research in equal measure.

As for the content of this discussion and research, the Athenian explicitly mentions “laws [περὶ νόμων]” and “their own state [τῆς τε οἰκείας πόλεως πέρι]”

\textsuperscript{303} Ibid., 509–10. Regarding (2), Morrow claims that the Academy was Plato’s vehicle for legislative reform. See Morrow, “The Demiurge in Politics,” 9. See also, in regard to the Academy directly advising the founders of Magnesia, Guthrie, \textit{A History of Greek Philosophy}, 373. Additional information about the involvement of the Academy in founding new cities can be found in Taylor, \textit{Plato: The Man and His Work}, 464. Cherniss, also, emphasizes the exploratory and discursive aspect of the Academy in opposition to a supposed strict fidelity to the Theory of Forms. Cherniss, Harold, \textit{The Riddle of the Early Academy}. 205
(952a1). However, it is reasonable to assume the subject-matter of the discussions and research also includes the topics described in connection with the observer program and the curriculum of theology and philosophy (both shortly to be described). In addition, it is also natural to associate this subject-matter of discussion and research with the mode of competence assigned the nocturnal council in virtue of its role as the preservative element of the state – viz., (i) an understanding of what constitutes the σκοπός of the state, (ii) a grasp of the concrete means for realizing that σκοπός, and (iii) a facility in recognizing appropriate sources of advice (συμβουλία) among laws and individuals (962b5-9).

Finally, the Athenian describes the senior guardians of the nocturnal council as deliberating (βουλεύεσθαι) with the assistance and advice of the junior guardians based on their experience (965a1-3). This accords with other descriptions of the subject-matter of their discussion and research, but it also suggests these discussions and research are particularly oriented toward the necessary decisions and problems of the present.

In addition to mere discussion and dialectical inquiry into social and political matters, the nocturnal council also undertakes positive research into the ways of life and governance at work in other states by dispatching official observers of the customs (νόμιμα) of other nations (952b5-7). Such observers are instructed to visit other lands, observing and conversing with their inhabitants. If they discover anyone capable of “giving some information [τινα φήμην]” (952b7) on the composition of laws, education, or upbringing, or if they themselves have made discoveries of their own, they are to share (κοινωνεῖν) these matters with the rest of the nocturnal council (952b-d). Indeed, Guthrie
describes the activity of the council as “research rather than a degree course.”\(^{304}\) Taylor declares in regard to the council, “One of its chief functions is to foster sound scientific research (952a).”\(^{305}\)

In view of the obviously dialectical character of both the intra-council discussions and the trans-Magnesia voyages, it is surprising that Morrow claims to find none of “that dialectical and philosophical inquiry into first principles on which Plato in the \textit{Republic} had laid such stress.”\(^{306}\) In addition, he wonders “how any citizen who had been subjected for thirty years or more to the strictly supervised regimen we have described could retain the critical power and the freedom of mind required for such study.”\(^{307}\) However, unlike the \textit{Republic}, which in effect bans as dangerous the open traffic of intellectual inquiry, the \textit{Laws} allows it in a controlled set of circumstances intended to reap the positive effects without courting the negative. Taylor, by contrast, points to precisely such passages in Book XII by way of response to the claim that astronomy replaces dialectic in the \textit{Laws}.\(^{308}\)

Finally, let us consider the advanced philosophical curriculum associated with the nocturnal council. It has already been resolved that members of the nocturnal council – if

\(^{304}\) Guthrie, \textit{A History of Greek Philosophy}, 375.


\(^{306}\) Morrow, “Plato’s Conception of Persuasion,” 248. Samaras, similarly, claims to find a shift from the \textit{Republic} to the \textit{Laws} of metaphysics to history and associates this shift in study with a democratic tilt. I disagree with this in a couple of ways. First, “history” does not adequately describe the object of the nocturnal council’s researches even if there is a kind of renewed emphasis on such matters. Plato seems just as interested in synchronic happenings elsewhere as diachronic series in the same place. In addition, he does not seem to care about historicity as such; rather, what is important are the didactic truths and lessons of human behavior. Second, there’s no denigration of metaphysics as such in the \textit{Laws}; see Books X and XII; so rather than a shift from one to the other it makes more sense to talk of the joining of one by the other. Third, it makes more sense to see Plato’s embrace of democracy as demiurgic rather than historical; Plato is interested in democratic forms to the extent they are necessary for the working-over of certain kinds of material. Samaras, \textit{Plato on Democracy}, 260.


they are indeed to put into practice the superior knowledge of statecraft necessary to preserve the state – must exercise superior ἀκρίβεια in regard to distinguishing and comparing the different species of virtue. To do this, they must receive a more advanced education, one that will allow them “not merely to see the many individual instances of a thing, but also to win through to a knowledge of the single central concept, and when he’s understood that, put the various details in their proper place in the overall picture.” (965b)

Thus, what is required of the members of the nocturnal council, and thus what presumably plays an important role in their special activities, is not so much distinct from the social and political content described above as it is its “philosophical” organization in the form of a kind of grand knowledge pertaining to virtue; they must possess “an exact idea of the common element in all the four virtues.” (965c-e)309

Likewise, in the case of “goodness and beauty,” the guardians should understand what it is that unifies instances or types of beauty and goodness within their respective classes (966a). Since the role of the guardians is to keep the state “on track,” so to speak, with regard to its essential σκοπός, it is vital they acquire the necessary mode of intellectual competence which scales up and down in this way and can explain these passages in a fluent and cogent way to others. This desiderated mode of competence is to apply to “all serious questions [πάντων τῶν σπουδαίων]” (966b4-6).

Among these σπουδαία of which it is necessary for the members of the nocturnal council to acquire a superior intellectual grasp (beyond what the law ordains) are theology and other fundamental philosophical topics (966c-968a). Thus, the Athenian

309 See above footnote on Samaras’s claim that the Laws embodies a shift from metaphysics to history. Schofield connects the “methodology of philosophical dialectic” described here to Phdr. 265c-266c and Soph. 253d. Schofield and Griffith, Plato: Laws, 465.
declares that every intended guardian must “work hard [διαπονήσαται] to master every theological proof there is” and that “we must never choose as a Guardian of the Laws anyone who is not preternaturally gifted or has not worked hard [διαπεπονηκότα] at theology” (966c-d).

Regarding the course of higher studies pursued by the guardians, Morrow comments that it “for the most part…parallels that laid down for the guardians in Rep. VII,” but the “astronomy, the theology, and the doctrine of the soul are additions.”310 In sum, we should include among the likely activities of the nocturnal council these practices of intense intellectual labor (Plato’s preferred word in this connection is the verb διαπονεῖν) in service of the most distinguished topics in a fashion consistent with the ἀκρίβεια characteristic of the council.311

6.7.2. Reform of atheists

Plato’s highly fascinating policy regarding atheists is detailed at length in Book X. The senior members of the nocturnal council play an essential role in this policy. In essence, Plato thinks that no one would ever voluntarily commit unholy deeds and or speak impious words did they not profess some sort of atheism (885b). Thus, by controlling the distribution of atheist beliefs among the population of Magnesia, he aims to minimize certain sorts of crimes. Specifically, he divides atheists into three categories: (i) those who do not believe the gods exist, (ii) those who believe that gods exist, but also that they are indifferent to human beings, and (iii) those who believe that gods exist and

310 Morrow, Plato’s Cretan City, 506.
311 Cf. Monoson, Plato’s Democratic Entanglements, 228.
are not indifferent to human beings, but also that they can be “influenced by sacrifices and supplications” (885a-e).\textsuperscript{312} Atheists are to be converted from their atheism by three progressively more intense means of persuasion: (i) the visible evidence of the sun and stars (855c ff.), (ii) written theological discourses forming the preamble to laws on impious behavior (e.g., 887b-c, 890e-891a, 899d, and 907c-d), and (iii) the argument and conversation of members of the nocturnal council. Let us focus on the third.

Anyone who is convicted in the relevant court of “impiety of word or deed” – or any official who does not prosecute cases of impiety which have come to their attention – will be imprisoned in one of two special prisons according to the severity of the offense. (907e-908a) The three forms of atheism mentioned earlier are further subdivided into six forms according to whether each form of atheist, in addition to his intellectual belief, also harbors “an uncontrollable urge to experience pleasure and avoid pain” or “has a naturally just character” (908b-c). The latter, according to Plato, will not commit any crimes, but he will “talk with a complete lack of inhibition about gods and sacrifices and oaths, and by poking fun at other people will probably, if he continues unpunished, make converts to his own views” (908c). The former, by contrast, will dissimulate his atheism as such; instead, “he’s the sort of fellow who’ll make a diviner and go in for all sorts of legerdemain,” and he may become a “dictator or a demagogue or a general, or a plotter in secret rites” (908d-e). Plato views members of the second group, who require permanent segregation and isolation from the population at large (909a-c), as far more dangerous.

\textsuperscript{312} For atheism in general in the Greek context, see Tate, “Greek for’Atheism’”; Tate, “More Greek for ‘Atheism.’”
than those of the first who, he claims, only need “admonition combined with incarceration [νουθετήσεως ἅμα καὶ δεσμῶν]” (908e1-e3).

The members of the nocturnal council assist in a key way in the treatment of this second group – i.e., atheists with a naturally just character. These atheists are remanded into the custody of a “reform center” (σωφρονιστήριον) where “no citizen must come into contact with them” with the important exception of the councilmembers (908e-909a). The members of the nocturnal council visit those in custody and associate (ὁμιλοῦντες) with them for the purpose of admonition (ἐπὶ νουθετήσει) and the salvation of their souls (τῇ τῆς ψυχῆς σωτηρίᾳ) (909a2-a5). It is clear from context that the intervention of the guardians is such as to provide an intellectually more flexible and sophisticated refutation of atheism than what is contained in the preamble. The members of the nocturnal council are exactly qualified to provide this in virtue of the superior ἀκρίβεια and education in theology they possess.

6.7.3. Repatriation of observers

In addition to more traditional observers (e.g., Magnesian emissaries to sacred festivals), the Athenian also decrees it necessary (χρεών) to dispatch to certain other sorts of observers (θεωροῦς) who wish to observe (θεωρῆσαι) in a more systematic way (κατὰ τινὰ πλείω σχολήν) the affairs of other peoples (τὰ τῶν ἄλλων ἀνθρώπων πράγματα) (951a3-7). Morrow suggests that these visits may contain an “echo of Plato’s visit to the Pythagoreans in Italy and to other lands during his years of travel after the death of
The nomophylakes are to grant permission only to those observers who seem invulnerable to corruption while abroad (951a3-7, 951c1). The rationale given for the dispatching of these foreign observers accords perfectly with that of the nocturnal council itself: (i) if the city remains inexperienced (ἀπειρος) with regard to the evils and goods of men (ἀνθρώπων κακῶν καὶ ἀγαθῶν) because it keeps to itself (ἀνομίλητος), then it can never become completely civilized and perfect (ἡμερο ἱκανῶς...καὶ τέλεος) (951a7-b2, and see 951c-2-3); (ii) to protect the laws (τοὺς νόμους διαφυλάττειν), it is necessary to comprehend them from a position of knowledge (τοῦ γνώμη λαβεῖν αὐτοὺς) (951b3-4); and (iii) it will assist in securing (βεβαιούμενον) the customs that have been finely established and correcting (ἐπανορθούμενον) those that are deficient (951c1-c3).

What is the character of this period of foreign observation? The Athenian uses the word “leisure” (σχολή) characteristic of sustained intellectual or academic study (951a7), as well as the term for inquiry or investigation (ζήτησις) (951b8, 951c3, 961a5). Finally, the word θεωρία, in addition to its normal meaning of the dispatching of observers (θεωροί), is also connotative of intellectual contemplation and study. The material emphasized for foreign observation also closely accords with what is discussed by the nocturnal council: (i) the affairs of other peoples (τὰ τῶν ἄλλων ἀνθρώπων) (951a5-6); (ii) the evils and goods of societies (ἀνθρώπων κακῶν καὶ ἀγαθῶν); (iii) the customs of other nations (τὰ ἐν τοῖς ἄλλοις ἀνθρώπως νόμιμα) (952b6); or (iv) anything special

314 Monoson discusses the “concentrated and patterned use of the vocabulary of theorizing” in the Laws. However, this discussion is a component of an overall thesis in regard to the Laws and “theory and theatricality” with which I disagree. Monoson, Plato’s Democratic Entanglements, 208, 228, 229, 232.
(καίριον) on the subject of the preservation of the laws (πρὸς τὴν νομοφυλακίαν) (961a5-6)

Much of this investigation, the Athenian suggests, is to take place in a special way reminiscent of typical Socratic practice, actual Academic research activities, and the very dialogue currently being held between Kleinias, Megillus, and the Athenian. In essence, there are asserted to exist at any given time (ἀεὶ) certain divine men (ἄνθρωποι...θεῖοι), who are never numerous, but who are nevertheless born (φυόμενοι) just as often in cities with ἑνομία as those without (951b4-b7). To “associate” (συγγίγνεσθαι: a Socratic word) with these men is eminently worthwhile and rewarding (951b5-6), and it is necessary for the resident of the state with ἑνομία to track down these individuals in order to converse with them and benefit from their wisdom (951b7-8). The foreign observer is to share with the whole council (κοινούτω τῷ συλλόγῳ ἄπαντι) if he has come across any of these divine individuals capable of imparting some information (τινα φήμην) regarding the composition of various laws (τινῶν περὶ θέσεως νόμων), education (παιδείας), or upbringing (τροφῆς), or if he himself has achieved insight into such things (νενοηκὼς ἄττα) (952b5-9).

The nocturnal council supervises the repatriation of these foreign observers in three ways. First, they are in charge of processing and discussing the significance of any information (φήμη) on the composition of any laws, education, or upbringing, or anything (τί) special (καίριον) on the preservation of the laws (πρὸς τὴν νομοφυλακίαν) the observers have to report (952b7-9, 961a4-6). Second, the foreign observer is to

---

315 Indeed, the “other helpers” cited are, according to Morrow, as cited by Guthrie, Plato’s academy. See Guthrie, A History of Greek Philosophy, 373. See also Taylor, Plato: The Man and His Work, 464.
undergo a kind of moral evaluation upon his return. If he appears to have returned neither better nor worse, he is to be praised on account of his bountiful eagerness (τῆς σφόδρα προθυμίας) (951c1-2). If he appears to have improved in the meantime, he is to be loaded with honors while alive and after his death (951c2-4). Finally, if he appears to have returned corrupted, he must not associate with other citizens for the remainder of his life lest he corrupt them, but simply live in obedience to the laws (951c5-c7). Third, the nocturnal council is to accept into itself as permanent members those foreign observers who have been thoroughly scrutinized (διαβασανισθέντας) upon their return by the other members of the nocturnal council (961a6-8). In addition, it is reasonable to assume that the nocturnal council – or at least its membership – is involved in the “exchange of information [τούτων τισὶν τὸ μὲν διδάξας, τὸ δὲ μαθὼν]” (935d5-6) called for in the event of the arrival in Magnesia of a foreign observer from another city similar to those dispatched by Magnesia (953c-d).

6.8. The operation of the nocturnal council

Let us now discuss the operation of the nocturnal council. By “operation” I mean something perhaps more akin to its “style of operation” – i.e., what common marks does it bring to bear in everything it does, in all of its activities. To some extent, enumerating these characteristics risks duplicating descriptive work above; thus, I may only gesture at them. The two major characteristics of the style of operation of the nocturnal council are (a) its intellectual or academic character and (b) the teamwork between junior and senior guardians.
Under the heading of the intellectual or academic character of the nocturnal council, we may note (i) its research into, and discussion of, matters of law, custom, and other features of the life of the polis, (ii) the empirical, contingent component of this research, (iii) academicity as such (i.e., a set of patterns, habits, and practices), (iv) and the emphasis placed upon speaking on important matters with ἀκρίβεια.

With regard to (i), the nocturnal council is often characterized as vehicle for research, discussion, and inquiry: it is a gathering (σύλλογος) or meeting (συνουσία) devoted to discussions (λόγοι) and inquiry (σκέψις), one that seeks out teachings (μαθήματα) and anyone who has made certain realizations (νενοηκώς) and attempts to discover (πυνθάνεσθαι) whatever it can in the interesting of rendering clearer (εὐαγέστερον γίγνεσθαι) what is obscure and opaque (σκοτωδέρα καὶ ἀσαφῆ) (951d-952b, 952b-d, 961a-c). In content, it pursues – what is variously described as – laws, the affairs proper to the city, customs, legislation, education, upbringing, or whatever pertains to the preservation of the law (951d-952b, 952b-d, 961a-c).

With regard to (ii), there is an important empirical or contingent component to the research described above. For instance, foreign observers are specifically dispatched to other states so that Magnesia may not remain “inexperienced” (ἀνομίλητος) with regard to the good and evil elements of other peoples (ἀνθρώπων κακῶν καὶ ἀγαθῶν) (951a7-b4). Likewise, teachings from “external sources” (ἄλλοθι) and the information (φήμη) someone from abroad may offer are prioritized (951e5-952a2, 952b5-9). Finally, the category of the specially appropriate (καίριον) is emphasized among the field of what is encountered abroad (961a4-6), as are laws and other individuals as sources of advice.
(συμβουλία) distinct from that philosophical knowledge of the aim (σκοπός) of legislation per se (962b7-9).

With regard to (iii), note that the nocturnal council holds its gatherings every day at the same time on the basis of strict rules (951b6-7), is devoted to sharing and propagating items of knowledge within itself (952b7-9), partakes of a special degree of leisure (σχολή) (961b6-8), possesses the power of asking to join their body those who meet certain criteria (961a6-8), and facilitates a general transfer of knowledge and experience from the old to the young through a process of mentorship (951e3-5, 952a6-b5, 961a8-b6)

Finally, with regard to (iv), the Athenian explicitly stipulates that the members of the nocturnal council must exhibit ἀκρίβεια with regard to virtue (965c9-d1, d4-6). To possess ἀκρίβεια in regard to something, as the text frequently explains, means to possess the ability to see and explain to others how the instances of sub-forms of that thing differ and relate to another (963c-d, 964b-d, 965a-c). We should thus certainly expect this ability – to scale upward and downward in an intelligent and fluent way between ideals and practice – to characterize the general operation of the nocturnal council and all its members too.

Finally, let us turn toward the second characteristic of the style of operation of the nocturnal council – viz., the form of teamwork or cooperation obtaining between junior and senior guardians. First, the council is described as “mixed” (μεμειγμένος) with regard to the young and the old (951d5-6): the use of this word recalls the description of the institution of the Spartan Gerousia in Book II by Lycurgus. The latter is said to have “blended [μείγνυσιν]” the prudent influence of age [τὴν κατὰ γῆρας σώφρονα δύναμιν]”
with the “obstinacy and vigor of the Spartans [τὴν κατὰ γένος αὐθάδει ρώμῃ]” (691e3-692a1) at work in the persons of their two kings by forcing them to share their authority with the body of 28 elders (691e-692a). Here, however, it is ultimately not so much the prudent influence of age which makes a necessary contribution to the activity of kingship as the energies and special potentialities of youth which make a necessary contribution to the activity of the council. The junior guardians are instructed to study (μανθάνειν) with all possible zeal (πάσῃ σπουδῇ) those topics which the old have chosen (ἐγκρίνωσιν) (952a6-7).

Much more substantive information regarding the productive interaction of the junior and senior guardians can be found in the Athenian’s justification of the claim that the nocturnal council functions as the head and senses of the state (964d-965a). If the “state itself corresponds to the trunk,” then the junior guardians, who were chosen on account of their “natural gifts” and the sharpness they possess in their whole soul (ὁξύτητας ἐν πάσῃ τῇ ψυχῇ ἔχοντας), (i) survey the whole state (περὶ ὅλην κύκλῳ τὴν πόλιν ὁρᾶν) and (ii) “store up in their memory all the sensations they receive while on guard [φρουροῦντας δὲ παραδίδοναι μὲν τὰς αἰσθήσεις ταῖς μνήμαις]” (964e1-5). The senior guardians, by contrast, who imitate the intellect (νῷ) on account of their superior wisdom in relevant matters (τῷ πολλὰ καὶ ἄξια λόγου διαφερόντως φρονεῖν), deliberate (βουλεύεσθαι) (964e5-965a2). The two groups collaborate in the following way: the junior guardians “act as reporters [ἐξαγγέλους γίγνεσθαι]” for the senior guardians concerning “everything that takes place in the state,” and the senior guardians make use of the junior as assistants (ὑπηρέταις) for their advice (μετὰ συμβουλίας) (964e5-965a3).
Thus, the junior guardians act as an essential conduit that relays and interprets the particular and concrete realities of the state to the senior guardians so that the latter may deliberate and consider them in connection with the most real and fundamental aims of the state as a whole. Note that the division of labor between the junior and senior guardians cannot be reduced to the distinction between data and theory. The junior guardians are made use of for the purpose of advice (συμβουλία): they cannot offer this συμβουλία unless they have at least some intellectual grasp of the general aims of the state. Likewise, the senior guardians do not simply passively accept as current whatever the junior guardians tell them: they are specifically described as possessing a reasonable ability to discern who (τίς...ἀνθρώπων) is capable of giving them good advice and who is not (καλὸς ἤ μή συμβουλεύει), as well as a general means-end knowledge of attaining the fundamental goal of the state (962b7-9). This partial failure of the metaphor is, in fact, not even novel: e.g., the same unequal, but not absolute distribution of prudential and sensory capacity obtained with respect to the captain and his crew (961e).

6.9. Attributed powers

We have so far discussed the activities and style of operation of the nocturnal council. Now, let us go over the “powers” attributed to this body, distinguishing between “specific powers” and “vague powers.” By “specific powers” I mean specific abilities explicitly attributed to the nocturnal council. By “vague powers” I mean powers which it is reasonable to suspect the nocturnal council must possess given overall or emphatic claims about its nature or purpose. First, I’ll discuss the former, and then I’ll discuss the latter.
Amazingly, there are only two specific powers attributed to the nocturnal council (other than those associated with its own membership): (i) the supervision and therapy of certain forms of atheist, as described above; and (ii) the repatriation and processing of foreign observers who have returned from abroad. Since these two things have been amply described under 6.7 above, I will not rehash them here. I’ll discuss whether or not these two specific powers make the nocturnal council like the philosopher-kings of the Republic in the next Part. Finally, let us note that the very paucity of specific powers attributed the nocturnal council has led some to take the “vague powers” shortly to be described all the more seriously.

6.10. Vague powers

Now that we have described the explicitly attributed legal powers of the nocturnal council, let us proceed to examine an important series of claims and proposals to be found on the last few pages of the text. These passages attribute “vague” rather than “specific” powers to the nocturnal council. I will focus on three statements in particular, what I call the “title claim,” the “legal protector” claim, and the “grant” claim. Unfortunately, many have found in these vague powers given the nocturnal council a kind of carte blanche, not heeding the warning of Glenn Morrow in regard to the “grant” that it “is a kind of peroration, and one should recognize that a peroration does not always contain the most precise statement of a speaker's or writer's thought.” Likewise,

---

316 Morrow notes as well that the nocturnal council has only these two explicit responsibilities. Morrow, *Plato’s Cretan City*, 510. Likewise, Schöpsdau emphasizes that the council as such exercises “keine Regierungs- oder Kontrollfunktion im Staat.” Schöpsdau, *Nomoi*, Buch I-III, 125.

Morrow reasonably asserts (though it requires argument) that the essential language of the handover is “obviously too vague to support an inference as to its legal powers; it is an expression only of Plato's belief in the crucial importance of his council.”

Let us consider the “title claim” first. After enumerating a familiar set of philosophical insights and intellectual skills including the ability to give “reasoned explanations” of “consistent rules of moral action” when required (967d-e), the Athenian declares that no one incapable of mastering these things — in addition to the ordinary virtues — “will ever be good enough to govern an entire state, but only to assist government carried on by others [ἄρχων μὲν οὐκ ἄν ποτε γένοιτο ικανός ὅλης πόλεως, ύπηρέτης δ' ἂν ἄλλοις ἄρχουσιν]” (968a-c). Thus, Plato appears to make a kind of knowledge the normative condition of exercising power in the familiar way of the Republic. Since the insights and skills in question are exactly those supposed to be possessed by the members of the nocturnal council, the clear implication of this passage is that whereas the members of the nocturnal council ought to be designated or authorized the “real rulers” of the entire state, the other officers are merely their “assistants.”

The “legal protector” passage occurs almost immediately after the “title claim” and appears to follow in virtue of it. Specifically, the Athenian proposes that the nocturnal council be made the “legal protector [φυλακὴν...κατὰ νόμον] of the safety of the state [χάριν σωτηρίας].” (968a-c) Primed as we are by the title claim above, it is easy to read this passage as an additional grant of authority to the nocturnal council. In view of their superior knowledge entitling them to rule, it seems only fitting they should be awarded a vague, yet impressive sounding title like “legal protector.”

---

Finally, there is the “grant.” The Athenian declared that “if this divine council [ὁ θεῖος…σύλλογος] of ours can be formed, then the state must be entrusted to it [παραδοτέον τούτῳ τὴν πόλιν].” (969b) The word Saunders translates “entrusted” (παραδοτέον) could also be translated “given over” or “handed over.” Plato could not seem to be any clearer: what could it mean to “give over” the state to the council except to authorize the council as the supreme element?
7. THE NOCTURNAL COUNCIL AND THE SYSTEMATIC APPROACH

In Chapter 6, I undertook a neutral overview of all elements of the nocturnal council including its context, membership, rationale, activities, and style of operation. Now, in Chapter 7 I will present a positive argument in full that the existence of the nocturnal council is not incompatible with the systematic approach I claim is the one most germane to the Laws. Recall that the systematic approach is founded on identifying and analyzing the ways in which a society “governs itself” without having recourse to the totalizing surveillance, intelligence, and authority of a cadre. For the purpose of the argument in question, I will interpret the last three criteria as a conjunction. This conjunction of elements is not satisfied by the nocturnal council because the council does not possess the authority of a cadre. Finally, in the course of presenting this argument I hope to clarify the nature of the nocturnal council in its specificity.

The remainder of Chapter 7 is divided into eight sections. First, I will discuss some relevant material bearing upon the sense in which the nocturnal council ought to be considered continuous with the rest of the Laws. Next, in sections 7.2 through 7.8 I will discuss material relevant to the conjunctive case including the predominantly elected membership of the nocturnal council (7.2), the non-threatening nature of the mentorship of junior members by senior members (7.3), the attributed powers of the council (7.4), the sense in which the nocturnal council is a nocturnal council (7.5, 7.6), the sense in which its members are called guardians and the council itself a safety-device, an instrument of security, and an anchor (7.7), and finally the “vague powers” assigned the council (7.8).
7.1. The question of continuity

The continuity I have in mind here is neither textual continuity, which is a matter of cross-references, logical transitions, and perhaps even the organizational structure of a dialogue, nor continuity on the level of what is described, which concerns whether the parts of the government described in the earlier passages are compatible with those described in the later passages, but rather continuity on the level of an explicit theme — i.e., how does the text itself address and comment on the question of its own continuity? It is important to examine passages that thematize the relation of the description of the nocturnal council to the previous description of other parts of the government because these passages affect our interpretation of the nocturnal council in an obvious way. Specifically, there are two important extended statements in Book XII that address the continuity of the nocturnal council with the rest of the government apparatus. First, there is what I called in 6.2.3 the “logic of finality.” Second, there is a passage near the very end of Book XII — what I will call the “addition speech.”

The logic of finality concerns the conditions under which one’s activity can be said to be at an end (τέλος) or under which one’s creation can be said to be complete (τέλεος). One’s duties of authorship toward something are exhausted only when one has provided it with complete and perpetual security (σωτηρία) (960b-c). In the present case, this means that the work of legislating a constitution for the prospective Magnesian colony

---

319 In light of the successful demolition of Bruns or Bergk-style arguments by the work of Gomperz, the apparent incompatibility remains to be explained not by textual, but by interpretative, means. Thus, it is question of descriptive and thematic continuity rather than textual continuity. In this section, I treat the question of thematic continuity. The question of descriptive continuity is an object of Chapter 7 in general. Morrow, Plato’s Cretan City, 517.
cannot properly be said to have come to an end until there has been implanted within it “a natural resistance to being reversed” — a power or δύναμις that, as it turns out, the nocturnal council is intended to exert. (960d-e) Considered from this point of view, the nocturnal council is not only continuous with the rest of the laws, but indeed it is, in a sense, implied by them as their completion or fulfillment. The same reasons which obligated one to construct such a set of laws now also obligate one to provide it with an entity like the nocturnal council. As Kleinias puts it, it would be “laughable” for someone to “labor in vain” at something by failing to “construct it on a firm foundation” (960d-e).

Next, near the very end of the dialogue, the Athenian says to Kleinias and Megillus that it is time to consider whether it is necessary (χρεὼν), in addition (πρὸς) to the body of laws already enunciated, to append or add (προσφέρειν) the institution of the nocturnal council. What is of immediate interest here is the sense in which the nocturnal council is considered something distinct from the other laws, something that can or cannot be appended or added to them. This in turn implies a sort of independence or self-consistency of these laws from the institution of the nocturnal council.320

This impression is furthered by the exchange that follows: Kleinias responds to the Athenian that they must indeed attempt to append it “even if we are only able to bring it off to a small extent” (968a-c). This response on the part of Kleinias does two things: (i) it affirms the normative desirability of instituting the nocturnal council as an appendix to the existing laws; but it also (ii) recognizes as a limiting condition of this desirability the possibility that we may be only able to achieve the institution to a partial extent (κατὰ

320 Cf. in Samaras’s phrase, the council is not political, but “meta-political.” Samaras, Plato on Democracy, 299.
Likewise, a little later, the Athenian begins a statement, “And should this divine council of ours come about…” (968e-969c). The use of the conjunction “if” (ἐάν), the subjunctive case of “come about” (γένηται), as well as the adjective “divine” (θεῖος) foreground the difficulty and perhaps only partial possibility of the nocturnal council. However, to call it divine (θεῖος), is at the same time in no way to detract from the normative desirability of this institution. Indeed, the remainder of the text abounds with the mutual assurances of the interlocutors to engage in the attempt with eagerness, resolution, and a cooperative spirit (968a-969c).

In sum, considering the logic of finality together with the addition speeches illuminates the complex continuity of the nocturnal council with the rest of the Magnesian government and gives rise to an error theory respecting the impression many have taken away from the Laws of the nocturnal council as a hasty yet overambitious appendage to the Magnesian government. For, in a sense the laws of Magnesia are complete, self-consistent, and independent by themselves without the institution of the nocturnal council. In a sense, they don’t “need” the nocturnal council, and this is good because, as we learn, it may be impossible anyway to institute such a council to the full extent. However, in another sense, one that speaks to the fundamental limitations Plato assigned the mere law-form, they do require the nocturnal council, which is perforce consistent with them, if they are to continue to exist in security and stability in a tumultuous world. Thus, the nocturnal council, even if not necessarily necessary, is nevertheless possibly possible, and, to the extent possible, necessary.

It is in this way, and it is within this structure, that we can answer those critics who use the apparent inconsistency of the Laws as a premise to argue either for the
authorship of the latter part by Philippus of Opus or for the claim that Plato did not impart the requisite unity to his final text.\textsuperscript{321} Likewise, we are in a position to situate the apparent vagueness of the nocturnal council’s powers to those modern readers who find it puzzling, especially in the face of the already elaborated structure of magistrates and officers whose duties, etc., have already been described.\textsuperscript{322} However, it still remains to be shown that this unity in political-philosophical conception, whatever its character, is best described as systematic in contrast with the cadre of philosopher-kings of the \textit{Republic}. In addition, to the extent that, like Müller, we see the previous body of laws in the \textit{Laws} and the nocturnal council as representing different principles of government, we must insist that their combination, a \textit{Zwitter} or no, was certainly not unintentional or undesigned, but rather that the essential continuity and integrity of this \textit{Zwitter}-dialogue is thematized and emphasized by Plato.\textsuperscript{323}

\subsection*{7.2. The nocturnal council as indirectly elected}

I argue that the institution of the nocturnal council does not constitute a counter-example to the systematic approach — i.e., that it does not possess the surveillance, intelligence, and authority of a cadre. In particular, I argue it does not possess the authority of a cadre. There are two ways in which the nocturnal council could be said to lack the authority of a cadre. First, the conditions of membership in the council are “open” in such a way that the citizen body of Magnesians themselves essentially

\begin{flushright}
\textsuperscript{321} See Morrow, \textit{Plato’s Cretan City}, 500.
\textsuperscript{322} For a conventional statement of this impression, see Guthrie, \textit{A History of Greek Philosophy}, 374.
\textsuperscript{323} Morrow, “The Demiurge in Politics,” 6. Cf. likewise Schofield’s attempt to distinguish between the two projects of the \textit{Laws}: Schofield, “The \textit{Laws}’ two projects.”
\end{flushright}
determines who sits on it. Second, the council itself does not possess the governmental powers associated with a cadre. This section along with 7.3 are devoted to arguing the nocturnal council lacks the authority of a cadre in the first sense, while 7.4 and 7.8 are devoted to arguing it lacks the authority in the second sense.

Membership in the nocturnal council comprises both junior and senior guardians. It is unclear if junior members even participate in the limited forms of concrete power assigned to the council, but regardless, I will discuss their case in 7.3. Among senior guardians there are, if you recall, the ten oldest nomophylakes, past and present ministers of education, the scrutineers, and certain observers (θεωροί) or possibly others who have been awarded high distinctions (ἀριστεῖα) by the state.

The nomophylakes are elected into their position, and there is no reason to suppose anything suspect about the election process (752d-753d). Similarly, the restriction to the ten oldest of them is not particularly troubling. Now, the election process for the minister of education might be viewed as a little more suspect; after all, only officials of the state are allowed to vote during this process, and only nomophylakes are eligible candidates (765d-766c). Yet, these voting officials themselves were, at the end of the day, elected, as were all the candidate nomophylakes. While it might not be ideally democratic from our point of view, it is nonetheless a far cry from the direct appointment from above that holds in the Republic. Finally, the scrutineers are also elected. Like that of the nomophylakes, there is nothing especially problematic about this process. Thus, the “open” nature of the offices whose occupants are members ex officio of the nocturnal council carries over to the council itself. Its membership is not imposed from above, but is in large part determined by the inhabitants of Magnesia.
True, if one thinks of the nocturnal council as comprising an especially powerful body within the state, then their status as indirectly elected might give one pause if one thinks such elections already favored those of a certain class or those who fit a certain profile. The nocturnal council, then, would only be confirming this original bias built into elections such as they are. Yet such a procedure – admitting the bias – would be entirely within the spirit of Platonic political philosophy. As Morrow puts it, “The demos is to be sovereign in certain matters, but it is not to rule.” In other words, the status of the nocturnal council as indirectly elected does not alter in any way the previously existing paradigm of fundamental popular sovereignty in a system that nonetheless heavily favors as “chief officers of the state” those who are “persons of maturity and experience” and who possibly possess “some measure of the higher education that Plato later describes.”

Additionally, the process by which certain observers (θεωροί) are asked to join the council might give us pause. After all, doesn’t this clause essentially allow the council an unlimited right to determine its own membership in the style of a cadre? In response, it is important to distinguish in Plato’s constitution between the formal possibility of abuse and the material possibility of abuse. In essence, formal possibilities of abuse are irrelevant. There are many of them in the Magnesian constitution. They do not matter because the pro-actively vicious mentality necessary to exploit formal possibilities of abuse is already viewed by Plato as a problem so serious as to render nugatory in comparison the reality of this abuse. Plato certainly does not think, as Kant does, that a

324 Morrow, Plato's Cretan City, 230. Likewise, Schofield describes the elections of Magnesia as “designed to give more authority to those of greater wisdom and virtue.” Schofield, “The Laws' two projects.”
“nation of devils” can enjoy political society together, because Plato believes, as he often emphasizes, that the law-form by itself is insufficient, and that “lawfulness” (εὐνομία) requires both a good set of laws and a body of citizens with a certain disposition toward those laws. If state officials are out to exploit loopholes in order to game the constitution, then the state has bigger problems than these loopholes to worry about.

The right of the nocturnal council to admit observers who meet its approval is a formal, not a material, possibility of abuse. The decision to become an observer is not represented as common, and this errand may take as long as ten years. Likewise, the same argument would apply to the “ἀριστεῖα loophole” if we think the nocturnal council can bestow ἀριστεῖα on whomever it wants for any reason. In reality, there is simply no indication in the text that this award is bestowed on anyone other than the scrutineers and approved observers.

7.3. Mentorship of the junior guardians

As we have seen, the nocturnal council includes a mixture of junior and senior guardians. Each senior guardian nominates a young man between the age of thirty and forty who must pass the scrutiny of the other guardians. If those accepted as junior guardians continue to behave virtuously, then they are rewarded with honors by the state. The junior guardians assist the nocturnal council in its researches, study its curriculum, and collect certain kinds of information in their memory useful to the deliberation of the council.

Although the presence of the junior guardians is certainly important to the functioning of the nocturnal council, there is no indication that they take part in the
exercise of the legal powers of the council. Thus, from a certain point of view there is no reason to fault the selection-process of the junior guardians *in itself*: if they are not delivered into a position of immediate authority, then the method of their delivery is irrelevant. However, we may nevertheless be troubled by the seeming resemblance between the “cursus honorum” traveled by promising young men in the *Republic* and the one traveled by the same group in the *Laws*.

In the *Republic*, children younger than twenty study calculation, geometry, and other forms of education preliminary to dialectic (503e-504a). This education is of a “playful” character because play best reveals, Plato thinks, the natures of children, and the education-process in the *Republic* consists, in large measure, of identifying, promoting, and cultivating those with the philosophic nature suitable for rule (525b-c). At the age of twenty, a subset of these children are chosen on the basis of the testing, given various honors, and subjected to a new program of education intended to unify the previous subjects. The ability to unify such diverse subjects is regarded as a test for those who are “naturally dialectical” (537-d). At the age of thirty, a smaller subset of the group is selected and honored on the basis of the tests they have undergone in “labors, studies, and fears” (537c-d). From the age of thirty to thirty-give this group is in turn subjected to a rigorous course in dialectic and argument; they are tested by the “power of dialectic.” From thirty-five to fifty, this group occupies “office suitable for young people” where they are also tested (539e). Finally, if at the age of fifty they have passed all tests and attained to a kind of philosophical epiphany in addition, they are admitted to the ruling circle. There they will spend most of their time philosophizing, but also exercising political power and educating (540a-c).
Like in the Republic, the trifecta of progressive testing, honors, and selection from above of suitable “natures” figures in the elevation of the young guardians. What’s more, the last three stages in the Republic have a clear analogue in the Laws. The five-year course in rigorous dialectic from the age of thirty to thirty-five in the Republic clearly corresponds to the period spent by the junior guardians on the nocturnal council between the ages of thirty and forty; afterwards, the ex-junior guardians are free to pursue political office, just as the select young men in the Republic hold minor offices; and finally, after they have turned fifty they may join the nocturnal council, again just like the guardians in the Republic.

Yet there is a major difference between the tracks of power in the Republic and the Laws. Specifically, whereas in the Republic the last stage, like every stage, takes place at the discretion of the small group with supreme power, in the Laws there is no guarantee whatsoever that yesterday’s junior guardians will be tomorrow’s senior guardians. As we saw in the previous section, the vast majority of the members of the nocturnal council occupy their position in the council in virtue of the office they were elected into.

Of course, one could make two objections to this point. First, one could claim that perhaps the scrutineers on the council could abuse their power to secure the admission of the former junior guardians. I will treat the possibility of the abuse of the scrutiny in a subsequent section. Second, one might object that the honors given the junior guardians

---

325 Strictly speaking, the junior guardians of the Laws have no prescribed path whatsoever. However, it is quite reasonable, as Morrow recognizes, to expect that they will spend the period of their fifth decade in public office. See Morrow, Plato’s Cretan City, 508. Likewise, Morrow, “The Demiurge in Politics,” 19.
327 Morrow also recognizes this possibility. Ibid.
might later afford them an advantage in the elections indirectly determining the membership of senior guardians.

Here we should recognize that, in all likelihood, just as Plato wants them to have an advantage in these elections, so he also wants them to later end up as senior members of the nocturnal council. Indeed, the nocturnal council’s role as a “leadership program” which identifies those with philosophic natures and provides them additional training intended to develop this nature is perhaps one of its most important functions. Again, we should recognize that nothing in such a procedure is inconsistent with the general Platonic line respecting democratic sovereignty while also restricting in practice officer-membership to those who satisfy a certain standard or belong to a certain class.

Yet unlike the Republic those with philosophic natures must nevertheless secure the consent of the citizen-body before exercising any sort of power, even the limited power inherent in the nocturnal council. In this sense, the assumed ascent of the junior guardians into power partakes of a more general pattern in the Laws of voluntary subjection to the rational persuasion of reason — a form of authority that is and is not. What is surprising in Plato is not that those in power should be reasonably elite, but that they should possess that power only with the consent of those less elite. Likewise, there is nothing illicit about the reputational advantages afforded the junior guardians because they non-coercively indicate relevant facets of the candidacy of this group to a suitably cultivated and educated body of electors interested in voting with this information. This is consistent with Plato’s program and the actual reality of elections for the Greeks.

---

328 Schofield rightly points out that Plato’s elections are “designed to give more authority to those of greater wisdom and virtue.” Schofield, “The Laws’ two projects.”
7.4. Attributed powers of the nocturnal council

In this section I will examine the attributed powers of the nocturnal council. By “attributed powers” I refer to the concrete and specific duties or privileges explicitly assigned the council, and I exclude from consideration, at least for the present, the “vague powers” assigned the council — e.g., the Athenian’s recommendation that the council be “constituted the legal protector of the safety of the state” (968a-c). Among attributed powers, let us also distinguish between directly attributed powers and indirectly attributed powers. Directly attributed powers are those attributed to members of the nocturnal council in virtue of their status as members; indirectly attributed powers are attributed to members of the nocturnal council in virtue of other offices they hold.

The only directly attributed powers to members of the nocturnal council are supervising the repatriation of observers (θεωροί) and the reform of atheists.329 While these are important and difficult tasks wholly in the spirit of the nocturnal council, they do not rise to the level of the concrete power possessed by the ruling cadre in the Republic. Indeed, there may be reason even to qualify these powers. Morrow, in fact, argues that the council “has no power to impose penalties; the case of the foreign traveller whom it thinks to have been corrupted by his experiences abroad is to come before the courts for judgment by the regular process (952c).”330 Thus, at least as regard explicitly attributed powers, we must agree with Morrow that the “existence of this council can hardly be regarded as interfering with the stated duties and functions of the

other officers, since no legal authority is conferred upon it in Plato's legislation.\textsuperscript{331} What power the nocturnal council possesses is “moral, not legal.”\textsuperscript{332}

Let us now consider the indirectly attributed powers. First, note that by definition these powers are not possessed in virtue of membership in the nocturnal council, but rather in virtue of other offices. Since in this case all of the offices are filled by election, there is nothing problematic about officials elected to exercise certain forms of power exercising those forms of power. However, there are still two problems one might raise.

First, one might point to the scrutiny in particular. Could the scrutineers, who sit on the nocturnal council, abuse their power in ways that benefit or are bidden by the council in order to secretly orchestrate who occupies which positions? This seems very unlikely. In the section of the text detailing the duties of the scrutineers, Plato includes explicit provisions both for (i) scrutinized officials who want to protest the result of their scrutiny and (ii) trying and punishing scrutineers who have become corrupt. Indeed, the latter charge may be prosecuted by anyone who wishes to it (947e-948b).

Second, one might worry about the mutual influence or consensus which might emerge among these officials of the council as a result of their frequent and extensive discussions and association. In other words, the nocturnal council itself would spearhead an elite-formation with effects for Magnesia as a whole. In this case, Plato would see such mutual influence or consensus not as problematic, but as a desirable consequence conducive to the unity and excellence of the state. It is frequently emphasized belief of his that the state should have a single aim in line with which it is necessary to bring all

\textsuperscript{331} Ibid.
\textsuperscript{332} Ibid.
the different aspects of society and government. Assisting in the articulation, defense, and realization of this unified aim of society is exactly the point of the nocturnal council. In addition, it is perfectly consistent with the political philosophy of Plato’s *Laws* that the actual rulers be superior to those they rule in “maturity and experience” so long as they rule on the basis of the consent of the latter group.333

7.5. Why the nocturnal council is not nocturnal

The phrase “nocturnal council” implies to many that the body in question meets *deep or late into the night*. However, as I will show, there is significant reason to doubt this. It is significant whether or not the nocturnal council is truly nocturnal because this aspect helps to characterize it as an institution. For many, to be nocturnal carries connotations of the illicit or clandestine; after all, why else meet during the night unless to avoid daytime scrutiny? The nocturnal council, then, would be an organ invisible to the rest of the Magnesian government because, presumably, its proper work would seem incompatible and at odds with the “daylight image” of the Magnesian regime, and the members of the nocturnal council would be dealers in *arcana imperii*.

As explained in 6.5, there are two sources of evidence regarding the meeting-time of the nocturnal council. First, there are characteristic descriptive phrases such as “the council meeting by night [τὸν τῶν νύκτωρ συλλεγόμενων σύλλογον]” (908a4-5), “members of the nocturnal council [οἱ τοῦ νυκτερινοῦ συλλόγου κοινωνοῦντες]” (909a3-4), “the council that gathers at night [τὸν σύλλογον ὁν…νύκτωρ…συνιέναι]” (962c9-10),

and “the nocturnal council of officers [τὸν τῶν ἀρχόντων νυκτερινὸν σύλλογον]” (968a7).

Second, there are two longer specifications of the circumstances in meeting, one from the short passage (951a-952d) and one from the long passage (960b-969c). However, whereas the descriptions of the council in passing give a strong nocturnal impression, the two direct specifications rather suggest that the council meets at or around dawn. For instance, in 951d-952b the Athenian gives the duration of the council’s meeting as from “just before dawn” until “the sun is well up in the sky.”\textsuperscript{334} Likewise, in the long passage the council is said to convene “at dawn [ὀρθριον]” (961b6).

Since the point of the specifications is to describe the actual circumstances of the council, whereas that of the mentions is merely to pick out the nocturnal council, it stands to reason we should prefer the former over the latter as a source of evidence for the intended meeting-time of the nocturnal council. Nevertheless, it would certainly be odd if the mentions were inaccurate with regard to what they successfully picked out. Previously, I argued that we should understand the duration of the nocturnal council as beginning at night just before dawn and ending well into the morning (951d-952b: “the sun is well up in the sky”). Thus, the duration of the meeting of the nocturnal council includes a night component and a day component; it literally encompasses the sunrise. It is not inaccurate, therefore, to refer to it as the “nocturnal council” since this phrase captures a characteristic or signature detail useful in picking out the council even if, at the same time, the phrase does not completely specify the actual meeting-time. Similarly,

\textsuperscript{334} Schöpsdau accurately describes its meeting-period as “vom Morgengrauen bis zum Sonnenaufgang.” Schöpsdau, Nomoi, Buch I-III, 118.
Morrow argues that the dawn marks the starting-time, rather than the whole duration, of the meeting of the council. In addition, Guthrie agrees with this interpretation.

Therefore, we see that the tempting link between what is nocturnal and what is illicit or clandestine is blocked by a more careful consideration of the actual meeting-time of the nocturnal council. It does not meet at night, but rather partly during the night and partly during the night over a period of transition encompassing the sunrise. In addition, there is a perfectly respectable rationale for this mode of proceeding. The council meets “around dawn” (ὄρθριον) because this is precisely when (ἡνίκ’) there is a special degree of leisure (μάλιστ’...τις σχολή) for everyone (παντί) from all other activities both private and public (τῶν ἄλλων πράξεων ἰδίων τε καὶ κοινῶν) (961b6-8). For a body predominately comprised of members ex officio, it is important to find a convenient meeting-time that does not conflict with the heavy political responsibilities already incumbent upon its membership (in addition to their private economic responsibilities).

Thus, the council receives its name “not from any sinister or clandestine function that it is destined to perform, but from the fact that it meets in the early morning, between dawn and sunrise, when the officials are most likely to be free from other duties.” In addition, as Morrow points out, meeting at this time would not be especially onerous or inconvenient: the Greeks were in general early risers in comparison with us. However, it is not a matter of mere convenience: by choosing such an unconventional meeting-time,

---

335 Morrow, Plato’s Cretan City, 503.
336 Guthrie, A History of Greek Philosophy, 370.
337 Samaras emphasizes that the members of the council, as philosophically inclined as they may be, are not professional philosophers, but ordinary members of the community who need time during the day. Samaras, Plato on Democracy, 297.
339 Morrow, Plato’s Cretan City, 503.
the council secures for itself that σχολή – a kind of temporary freedom from non-intellectual concerns – so essential to its very intellectual and academic vocation characterized by discussion, research, and pedagogy. Moreover, it requires the most (μάλιστα) such σχολή in comparison with other pursuits. The clear implication, therefore, is that meetings of the nocturnal council – far from being scheduled with a view toward facilitating something sketchy, clandestine, or illicit – are in fact scheduled with a view toward their conspicuous importance and the special demands (e.g., academic openness) they entail.\cite{guthrie}

The decidedly non-secret, public, and overt nature of meetings of the nocturnal council accords with its preferred modalities of discussion and research (see 6.7) and its overall character (see 6.8). There are, however, three facets of the activity of the nocturnal council which do require secrecy of a sort, but these all carry their own rationale which is there is no reason to export in a more general sense. First, if an external observer returns having been “corrupted” while abroad, then he must not associate (συγγίνεσθαι) with anyone and live as a private citizen (ἰδιότης) (952c5-d4). This instance of secrecy is not troubling for two reasons: (1) it pertains, strictly speaking, not to the members of the nocturnal council, but to a the members of a certain class almost admitted to membership; and (2) the clear function of these restrictions is to prevent or minimize the influence of this latter group on the Magnesian population at large, but if anything we would expect the opposite to obtain in the case of the members of the nocturnal council.

\cite{guthrie} Guthrie, likewise, agrees the name of the nocturnal council is not as sinister as it may at first appear. Guthrie, *A History of Greek Philosophy*, 370.
Second, there is the matter of the atheism policy. A certain class of atheists is only allowed to converse with the members of the nocturnal council (908e-909a). Again, this instance of secrecy is not troubling: there are clear reasons why these atheists must be prevented from influencing others with their dangerous beliefs (see, e.g., 908c). Third, there is the matter of the failed nomination of junior guardians. The Athenian declares that in the event of a proposed junior guardian seeming unworthy to the other members of being included, the consideration process (τὴν…κρίσιν) must be kept secret (ἀπόρρητον) from everyone, especially the rejected candidate (961b4-6). Here, again, there are clear reasons for the particular secrecy unconnected to the operation of the nocturnal council in general. In the case of young men who do not meet the standards of being a junior guardian, the last thing the council would want to do is give the general impression that they are “similar” to those who do (and are thus worthy of emulation, etc., as the latter are). In sum, in the case of all forms of secrecy pertaining to the nocturnal council, there are patently particular reasons for this secrecy which do not admit of a general application.

Thus, as we have we seen, it is misleading to activate the nocturnal symbolism of the “nocturnal council” in a way that implies illicitness, covertness, arcana imperii, etc. First, the council itself is not, strictly speaking, a nocturnal one, but rather more dawn-oriented. Second, the specific associations of nocturnal are manifestly inappropriate to the rationale surrounding the meeting-time of the council and the typical activities and character of the same. It is not the black night with which we should most of all associate the council, but rather the dawn – i.e., the ascent of the sun into the sky. It is surely not incidental that the sun is associated with reason itself in Book X of the Laws; moreover,
watching the “ascent” of the sun, its being put-into-place, could be seen as analogous to the key intellectual function of the nocturnal council as understanding the rationale of laws and institutions in a superior way allowing them, if necessary, to set them right or draft different versions.

7.6. Why the nocturnal council is not a council

The second half of the phrase “nocturnal council” – i.e., council (σύλλογος) – appears to suggest the notion of a legally empowered body with authoritative power over some domain or in relation to other legal bodies. However, it should be noted that there are two words in Greek which may be translated “council” – namely, (1) σύλλογος and (2) βουλή. The word σύλλογος comes from the verb συλλέγειν, which means “to bring together, collect, gather.” Thus, σύλλογος refers first and foremost to any gathering or meeting of individuals. Such a body may or may not be legally empowered; the word itself forecloses neither possibility. The word βουλή, on the other hand, refers to a “council of elders” or “senate” such as the Council of 500 instituted by Kleisthenes or the Areopagus – i.e., legally empowered bodies with specifically delimited roles in the Athenian political process. It is notable, therefore, that the nocturnal council is described as a σύλλογος rather than as a βουλή. Calling the nocturnal council a σύλλογος emphasizes the physical fact and event of their meetings and gatherings as well as the academic and intellectual pursuits – which proceed through eminently social and shared means – enabled by them.

341 LSJ, 9th edition, s.v.
342 LSJ, s.v.
In any case, it is clearly impermissible to infer that the nocturnal council is a legally empowered council on the basis of its very name. Of course, that the nocturnal council is not described as a βουλή in no way implies it is not a deliberative (βουλευτικός) organ. The function of the senior guardians is specifically described as to “deliberate [βουλεύτεσθαι]” (964a2) in light of the information brought them by the junior guardians. However, the deliberative output of the nocturnal council is not endowed with coercive force in virtue of the status of the council, or at least, the description of the council as a σύλλογος gives us no reason to suppose this.

7.7. The title of guardian and related expressions

The members of the nocturnal council are frequently referred to as “guardians” (φύλακες). Since this is the same title held by the members of the ruling cadre of the Republic, it seems natural to expect the powers and role of these two groups to be similar. In addition, the very idea of a “guardian” — the etymology is the same in both Greek and English — appears to suggest that this group is in some way the repository of ultimate power in the state. Moreover, a host of related expressions — the nocturnal council is called the “safeguard” (φυλακτήριον), “anchor” (ἄγκυρα), and “safety-device” (σωτήρια) of the state or laws — may contribute to the same impression. A careful analysis of the context of these expressions is sufficient, I claim, to dissipate this impression.

Let us consider first the simple title of “guardian” (φύλαξ) often applied to members of the nocturnal council. In the middle of a discussion concerning the utility of the ability to speak with exactness (ἀκρίβεια) on the subject of virtue along with as the connection of that ability with having knowledge of virtue, the Athenian contrives a
hypothetical scenario in which “expounders, teachers, and lawgivers” — whom he explicitly describes as “the guardians of the rest of the community” (τῶν ἄλλων τοῦ φύλακας) — are called upon to minister to a criminal in need of “enlightenment and instruction, or perhaps correction and punishment” (964b-d). We should expect each of these individuals to be able to “teach” (διδάσκοντα) and “explain in detail” (πάντως δηλοῦντα) what is the effect of vice and virtue (964b-d) in a way that is superior to the ability of others to do these things.

This is an important passage for understanding what Plato means by “guardian.” By applying the term “guardian” to a new group in virtue of certain activities he goes on to attribute to them, Plato illuminates that in virtue of which he applied the term to the members of the nocturnal council in the first place. Specifically, the new group of exegetes, teachers, and lawgivers are qualified as guardians precisely because of their superior ability to teach and give complete explanations regarding virtue to those who have gone astray and must be set right by means of the persuasive and educative force of these explanations.

Two more scenarios closer to the duties of the actual guardians confirm this view of guardianship. The arrival of a poet or a soi-disant “educationalist” (παιδευτής) who “puts up a better show” than “the winner of the palm for every kind of virtue” are also cases where the intervention of guardians is necessary. Here, again, the problem is to blunt the effect of dangerous agents capable of leading citizens astray, and to do this precisely by means of complete and detailed explanations, speeches with ἀκρίβεια. The Athenian concludes that any city without “efficient and articulate guardians with an adequate understanding of virtue” is simply “unguarded” (ἀφύλακτον) and thus vulnerable to
dissolution. In sum, calling the members of the nocturnal council “guardians” is not to invest them with any particular power, but to recognize their possession of a certain set of intellectual-discursive skills along with the crucial role those skills play in the continued and stable existence of the state. Thus, the members of the nocturnal council are a paradigm example of how – according to Kraut – Plato recognizes the reality of “differential understanding” among the population of Magnesia and seeks to develop a political philosophy and successful model of polis-governance in light of that reality. It is also especially puzzling why Morrow would choose to downplay the possession by the councilmembers of these very skills, pointing to the supposed absence of “dialectical and philosophical inquiry into first principles” as well as the “critical power and the freedom of mind required for such study.”

From this standpoint, it is also easy to see that to call the nocturnal council an “organ of protection” (φυλακτήριον) is to make a similarly innocuous point (962c). The immediate context of the use of φυλακτήριον is the desire that there exist some institution in the state which understands in itself the target (σκοπός) of statesmanship, how to achieve this target, and what sources provide helpful advice in this pursuit (962b-c). To call this institution an “organ of protection” (φυλακτήριον), then, is again merely to emphasize a certain kind of intellectual grasp of statesmanship along with the ability to operationalize that grasp in a concrete way against the background of the urgency in general that this knowledge be attained and disseminated. We should also note that the

---

343 Thus, Guthrie goes too far when he sees the revival of guardian-terminology as indicative of the status of the members of the nocturnal council as philosopher-kings. Guthrie, *A History of Greek Philosophy*, 369.

344 “One of Plato's great contributions to political philosophy lies precisely here, in his recognition of the importance of this unequal relationship among human beings.” Schofield, “Ordinary virtue from from the *Phaedo* to the *Laws*.”

mode of preservation Plato here enjoins is not strict fidelity in all outer forms but rather, as Bobonich puts it, “insuring that there is an institutional framework in the city that allows for learning new high-level truths and for taking account of circumstances.”

Likewise, to refer to the council as an “anchor for the whole state” is not to endow it with sovereignty over the state, but rather to recognize that the state must beware embracing an inconsistent pattern of random and contingent reforms and that the influence of the council is helpful in the struggle against tempting deviations (962b-c).

Finally, and similarly, to describe the nocturnal council as the “safety-device (σωτηρία) for our political system and legal code” is to recognize the causal role the council plays in preserving (σῴζειν) the political system and laws, the πολιτεία and νόμοι, not to somehow install it as the supreme element within those things. In any case, there is no evidence the nocturnal council has legislative power as such. Rather, “If the Nocturnal Council proposed a revision, its recommendations would presumably require the assent of the people, for this is elsewhere said to be required for any revision of the laws (772cd).”

7.8. Vague Powers

---

347 Does the council have the ability to suggest reforms of its own, or does it merely shoot down those of others in a responsible way? The question of the scope for reform in the *Laws* is somewhat vexed. On the one hand, there are passages seemingly denying all reform whatsoever except under impossible conditions. On the other hand, there are other passages which suggest the nocturnal council is to provide positive input in regard to possible reforms or at least the filling-in of the legal infrastructure already laid down. See Guthrie, *A History of Greek Philosophy*, 368–69.
At long last, let us turn to the so-called “vague powers” of the nocturnal council — i.e., the potentially sweeping powers granted near the very end of the Laws in a highly rhetorical set of passages. First, I will treat the title claim, then the legal protectorate, and finally the grant. However, before doing these things I will summarize the essence of the role of the nocturnal council as I see it; I will make my specific arguments respecting these three passages in reference to, and the context of, this summary.

7.8.1. The authority of the nocturnal council

The single most salient fact about the nocturnal council is its overwhelmingly academic character — i.e, its devotion not only to endless research and discussion of laws, customs, virtue and vice, and human affairs in general, but in addition its pursuit of a set of higher philosophical, scientific, and theological topics. These studies afford them clear knowledge of the aim (σκοπός) of a good society, the ability to recognize the most suitable means of achieving that aim, and the ability to discern in their deliberations what is of value in the codified laws or spoken speeches of others.

This knowledge and its constitutive abilities are to ensure the stability of the state by means of preventing bad or random reforms; they are to direct and guide the activity of the state in the same way that the intelligence and senses of a living thing direct and guide its activity for the sake of preserving it. Yet, as Morrow points out, even as the Council “is clearly intended to exert influence, both in criticizing and making amendments and supplements to the laws, and in evaluating the person who are to exercise authority,” there is “no procedure” in a legal sense mentioned or outlined “whereby the Nocturnal Council is to make its insight and intelligence effective in the
affairs of the state.” In the face of this “puzzle,” many have sought to ascribe vast, implicit powers to the nocturnal council, seizing on the some of the passages I will shortly discuss to find evidence of these vast, implicit powers. However, not only are these interpretations wrong, I will argue, but in addition they are unnecessary.

Thus, the principal question, as I see it, is the form this guidance takes. I would argue that it does not take the form of an irresistible structure of command so much as that of the persuasive influence of reason disseminated and elaborated by means of discourse in a masterful way within a culture predisposed to value, cultivate, and follow it whenever possible. The circulation of the population on and off the nocturnal council, as well as the circulation of the current members in their other political capacities, would help to disseminate its influence. This comports with what Kraut has described as Plato’s intelligent recognition and utilization of “differential understanding” among members of the population.

---


350 Likewise, the “absence of legal powers commensurate with the functions which the Council is designed to accomplish is indeed puzzling and is the basis of the criticism frequently made that it is a useless appendage to Plato’s construction.” Morrow, *Plato’s Cretan City*, 510. So conceived, the nocturnal council would contribute to “deliberative democracy.” Schofield, *Plato*, 55–56.

351 Thus, it is by no means true that, as Barker claimed, with the appearance of the nocturnal council “the law-state really is destroyed.” Guthrie, *A History of Greek Philosophy*, 374. Schöpsdau refers to the nocturnal council as a “‘meta-staatliches’ Organ.” Schöpsdau, *Nomoi*, 125.

352 Cf. Bobonich, *Plato’s Utopia Recast: His Later Ethics and Politics*, 391–93. Likewise, Guthrie points to the “carefully planned membership” of the nocturnal council and the resultant “close link” to the deliberations of the state in general. Guthrie, *A History of Greek Philosophy*, 374. The explicit responsibilities of the nomophylakes, in particular—their legislative discretion regarding the revision, completing, and detailed application of the laws – as well as render them perfectly situated to disseminate the influence of the council. Schöpsdau qualifies the power of the nocturnal council as “indirekt durch die ihr in Personalunion angehörenden Beamten.” Schöpsdau, *Nomoi*, Buch I-III, 114–15, 118. Schofield draws attention to the “Athenian” rather than “Socratic” paternalism at work in the *Laws*. This paternalism operates through open institutions, autonomy, etc. (rather than via educating an elite), and so characterized, the nocturnal council could propagate it through its indirectly elected membership.

353 Kraut, “Ordinary virtue from the *Phaedo* to the *Laws*."

246
the “little reflection” on the basis of which we might imagine the “many ways whereby the Council could influence public policy in an interpretative and advisory capacity.”\textsuperscript{354} For instance, the nocturnal council might “perform a necessary function in the interstices and looser joints of the legal structure, not contradicting but supplementing the rule of law.”\textsuperscript{355} We should remember Plato’s well-known skepticism about the reliability and comprehensiveness of the law as such; the members of the nocturnal council, who are (\textit{i}) apprised of the real aim of the laws and (\textit{ii}) familiar with the on-the-ground conditions of society, customs, and population of Magnesia, are perfectly situated to issue tailor-made extensions and reforms of the law in a way reminiscent of the “demiurge.”\textsuperscript{356} Kraut suggests that the residual role played by the “philosophically trained governors” who staff the nocturnal council is connected with Plato’s repeated recognition of the insufficiency of the law.\textsuperscript{357} Likewise, Bobonich repeatedly emphasizes the “open texture” of Plato’s legislation, while Saunders refers to the “documentary fallacy” of letting go unrecognized the necessary detailing and tailoring which Plato everywhere signposts.\textsuperscript{358} Kahn, finally, emphasizes the innovation of the \textit{Laws} in comparison to the \textit{Statesman} with respect to the possibility of responsible reform, but as Kahn points out, both the ability to suggest intelligent legal reforms and the ability to rule by outright decree appear to be part of the same cognitive endowment.\textsuperscript{359}

\textsuperscript{354} Morrow, \textit{Plato’s Cretan City}, 510–11.
\textsuperscript{355} Morrow, “The Demiurge in Politics,” 19.
\textsuperscript{356} Morrow even calls the council “the logical and impressive climax of Plato's demiurgy.” Morrow, \textit{Plato’s Cretan City}, 20.
\textsuperscript{357} Kraut, “Ordinary virtue from the \textit{Phaedo} to the \textit{Laws}.”
\textsuperscript{358} Bobonich, \textit{Plato’s Utopia Recast: His Later Ethics and Politics}, 406–8.
In this way, it would assist in making the law “a living reality, not a dead formula.”\textsuperscript{360} This includes not only the educational molding of many of the future leaders via the mentorship of the junior guardians, but also the operation of the scrutiny. In addition, just as we should expect the scrutineers to bring their nocturnal experience to bear on their daytime activities, so we should expect the same of the other officers. Thus, in view of these channels of influence and the reasonable expectation they acquit themselves in a way consistent with their activities and duties, it does not seem there is anything to fear in the \textit{Laws} as Zwitter.\textsuperscript{361}

Let me cite two aspects of the nocturnal council in favor of this view. First, Plato repeatedly cites the ability of the guardians to speak with exactness (ἀκρίβεια) about what makes virtue virtue and other subjects both as a sign they have the requisite sort of education and knowledge and as the faculty in virtue of which they are to actually perform the function expected of them. Second, all of the principal activities assigned them — (\textit{i}) the repatriation of foreign observers, (\textit{ii}) the reform of atheists, and (\textit{iii}) the deliberation with respect to laws and customs — are essentially conducted entirely through the modality of vigorous discussion. Those observers, in particular, who were recruited to join the council, essentially travel to different states in order to have discussions there. In addition, this view comports with the sense in which, as I argued above, members of the nocturnal council are labeled “guardians.”

In sum, it seems tempting to describe the quality of authority of the nocturnal council in the \textit{Laws} as “a kind of hegemony.” The notion of hegemony invoked here is

\textsuperscript{360} Morrow, “The Demiurge in Politics,” 16.
\textsuperscript{361} Ibid., 6. Cf. also the attempt of Schofield to disaggregate the \textit{Laws} by distinguishing between two different projects. Schofield, “The \textit{Laws’} two projects.”
not the ancient one of a supreme element within a larger set of entities, such as the position of Athens within the network of Greek states, but rather that developed by the Italian philosopher Antonio Gramsci. According to Gramsci, hegemony ("egemonia culturale") denotes the general representation through social or cultural means of the interests or values of the ruling class as the interests or values of all classes. However, even this would be inaccurate: the mission of the members of the nocturnal council is not to substitute their own interests for the interests of the state as a whole, but rather, by consistently discerning, articulating, and arguing for the interest of the state as a whole, to provide this interest with a level of influence sufficient to heal the otherwise inevitable fracturing of interests among officials in power. This quality of the intellectual authority of the nocturnal council would exactly correspond to the desiderated condition among the citizens, so often elaborated and emphasized in the Laws, of a “voluntary slavery to the laws.” Indeed, this quality of the intellectual authority of the nocturnal council is precisely supported by the argument of Bobonich, that the transition from the Republic to the Laws marks an “increased optimism” on Plato’s part in the powers of non-philosophers.362 Thus, it falls under what Bobonich describes as the “significant implications for his political theory” of Plato’s revolution in perspective.363 For the members of the nocturnal council to exert their special authority, the other citizens must be responsive to the compelling arguments they are prepared to retail to them.364

Likewise, if they are to be elevated into such a position by means of indirect election,

362 Bobonich, Plato’s Utopia Recast: His Later Ethics and Politics.
363 Ibid., 374.
364 Thus, “In Magnesia, there will be an intimate relation between reason as expressed in good law and the reason of the individual citizen. The education of Magnesia’s citizens provides them with rational grounds for accepting their political and legal system as well as for their basic ethical and theological beliefs.” Ibid., 216.
there must be appropriate confidence on Plato’s part in the capacities of the citizen electors.

Compare, by contrast, the puzzling insistence of Morrow (in an early work) on the “tragedy of Plato’s intellectual predicament” according to which the necessity that adherence to the laws proceed through “conviction” and not “habit alone” must go unachieved since Plato “has deprived himself of the sole means of correction, viz., the free play of individual criticism.”\footnote{Morrow, “Plato’s Conception of Persuasion,” 249–50.} The nocturnal council, however, is precisely the institution intended to \textit{elevate} the adherence by the population to the laws \textit{from} habit \textit{to} rational conviction, and they are to do this, at least in part, \textit{by means} of the free play of individual criticism.

In sum, if the authority of the nocturnal council is “moral, not legal,” such a qualification is made by no means to \textit{denigrate} that authority. As Morrow puts it, “its moral influence would certainly be very great.”\footnote{Morrow, “The Demiurge in Politics,” 18.} Indeed, we should recognize the immenseness and efficacy of the moral – if not legal – authority of the nocturnal council even if, at the same time, it is necessary to distinguish and not confuse the two modes of authority. The nocturnal council possesses no – or very slight – attributed powers, and they “are subject to the checks that Plato’s law provides to prevent malfeasance in office.”\footnote{Ibid. Morrow is referring to the scrutiny. In addition, note that Plato is well aware of the possibility of scrutineers abusing their position vis-à-vis the scrutiny, and he thus explicitly includes provisions intended to prevent this. In sum, the members of the nocturnal council are responsible to the law in every possible way.} Moreover, conceiving the authority of the nocturnal council in this way allows us to sidestep the difficulties that arise from Plato’s apparently “vague” presentation of the powers of the council in comparison with the detailed duties of the previously
described magistrates: it is because the former do not make up a set like the latter, but rather coexist on top of them.

7.8.2. The title claim

The “title claim” refers to the Athenian’s claim that no one who does not authoritatively possess, in addition to having the merely “ordinary virtues,” a certain canon of philosophical insights and associated intellectual abilities “will ever be good enough to govern an entire state, but only to assist government carried on by others [ἄρχων μὲν οὐκ ἂν ποτε γένοιτο ἱκανὸς θόλης πόλεως, ὑπηρέτης δὲ ἂν ἄλλοις ἄρχουσιν]” (968a1-a4). In particular, the Athenian has in mind (i) the doctrine that the soul is “far older than any created thing,” “immortal,” and “controls the entire world of matter,” (ii) the doctrine that reason is the “supreme power among the heavenly bodies,” and (iii) “essential preliminary studies” (iv) to be surveyed “with a philosopher’s eye” as to “what they have in common,” (v) used “to framed consistent rules of moral action,” and (vi) to provide “reasoned explanation” when possible (967d-e). The resumé of these items of knowledge and skills, as well as the immediately ensuing context (i.e., the proposal to make the nocturnal council the legal protector), leaves no doubt that the Athenian has the nocturnal council in mind.

The passage is problematic for any interpretation of the Laws which supposes, as mine does, that the nocturnal council is not the mere replacement of the cabal of philosopher-kings of the Republic tacked on to the largely dissimilar apparatus of the Magnesian government near the end of the text. For it clearly describes only those who

---

possess the knowledge and intellectual skills associated with the nocturnal council as the capable (ἱκανοί) rulers (ἄρχοντες) with regard to the whole state (ὅλη πόλις); everyone else is, regardless of whatever ordinary virtues they possess, a mere assistant to the other (i.e., “real”) rulers (ὑπηρέτης ἀλλοίς ἄρχουσιν). Not only does this appear at odds with the structure of offices (perhaps now demoted to a kind of assistantship) as previously laid out, but in addition the criterion of the more select group – special knowledge – is highly reminiscent of precisely the criteria put in place for the philosopher-kings of the Republic. There are, however, three reasons to reject such an interpretation of the title claim.

First, it is necessary to recognize that to be a “ruler” (ἄρχων) can mean one of two things: (i) a concrete title of power, or (ii) a success-predicate bestowed in virtue of the special quality with which one would exercise one’s power or the special knowledge one would bring to bear proper to its exercise.

It is precisely the latter which is argued by the Eleatic Visitor in the Statesman (Stm. 259a-b). If some individual is capable of competently advising another individual in...
the matter of the second’s medical practice, then the first deserves the same “professional
title [τοῦνομα τῆς τέχνης]” (Stm. 259a1-a4) customarily bestowed upon the second. In the
same way, if someone is capable of giving competent advice to the king of a country or
possesses the knowledge proper to kingship, it is proper to designate this advice-giver as
“kingly” or an “expert in kingship” (βασιλικός) regardless of their official status as an
actual king or a private citizen (Stm. 259a-b).

Such a position tracks Plato’s general attitude toward the use of names – viz., that
names, regardless of the external and contingent patterns of their conferral, most properly
designate those entities or individuals that satisfy the ideal descriptions associated with
the names. To take another example from the Statesman, Plato argues that constitutions
(πολιτείαι) which do not place those with expert knowledge in control are “not really
constitutions at all” (293d-e).

In sum, there are ample textual parallels for Plato’s favoring the use of a title to
apply to those who ought to hold it in virtue of the knowledge they possess rather than in
virtue of their concrete exercise of the same. Moreover, it is precisely in the context of
the possession of special forms of knowledge that Plato appears to restrict the title of
ἄρχων to the members of the nocturnal council. What it is crucial to realize, however, is
that Plato is commenting not at all on the literal distribution of power in Magnesia, but on
the satisfaction by the members of the council of the normative condition of all rule.371
The latter is, needless to say, a familiar Platonic topos. In this case, however, unlike the
Republic, the distinction between ruler and assistant in the Platonic sense cuts across the

371 Cf. Samaras regarding the formal distribution of power as against the Nocturnal Council. Samaras, Plato
on Democracy, 234–35.
concrete, real-life distribution of offices (ἀρχαί). Plato is not peremptorily upending the system of Magnesian government elaborated at such length in order to replace it with these “rulers.” He is merely characterizing in a forceful and significant way the special knowledge they possess and the special influence they are expected to exert not at all in a manner inconsistent with the already existing apparatus of the Magnesian government, but rather, in a manner in complete consonance and conjunction with it. Indeed, they are to assert this influence, as Morrow puts it, in an “interpretative and advisory capacity.”

Second, let us turn to the object over which the members of the nocturnal council are declared ἄρχοντες: namely, the “entire state [ὅλης πόλεως]” (968a3). It is notable indeed that the state in its entirety, as opposed to any specific part, is singled out as the object of governance. Thus, it is perfectly compatible with the concrete grants of power made to other officers in the Magnesian government for the members of the supreme council to preside in some way over the whole. For instance, one might reign as an ἄρχων in some matter of the city in one’s own right, while also deferring in the manner of a ὑπηρέτης to those deemed the ἄρχοντες of the city as a whole. Actually, given the considerable overlap between the nocturnal council and the rest of the government, it may be more accurate to say that the concrete grants of power to members of the nocturnal council qua normal officers of government are perfectly compatible with the charge of governing the whole qua members of the nocturnal council.

Of course, this so-called compatibility may be called into question if we construe the relation between parts and whole as one of subordination. If being an ἄρχων of the city as a whole means being a supreme commander of the city, then the title claim will

372 Morrow, Plato’s Cretan City, 510–11.
indeed appear to liken the nocturnal council to the philosopher-kings of the *Republic*. However, given the complete vagueness from a concrete perspective of what being an ἄρχον of the city as a whole is supposed to mean, as well as the far from threatening character of the activities and concrete powers of the nocturnal council as constituted, it is not plausible, I argue, to construe being an ἄρχον of the city as a whole as bestowing concrete superiority upon the members of the nocturnal council. Rather, the kind of “superiority” – or “holistic” focus, one might say – attributed to the nocturnal council is perfectly consonant with the emphasis on the critique, reform, and design of institutions in general that characterize the nocturnal council, the longer and more searching perspective on matters of the city it is expected to take, and the special intellectual talents and acquisitions it is expected to possess.

That the members of the nocturnal council appear to be ἄρχοντες of the city as a whole, therefore, does not amount to a grant of concrete supremacy over all the other offices of the city, but rather an emphatic recognition of the extraordinary intellectual or philosophical perspective in relation to the city, over and above the normal call of duty, which the members of the nocturnal council are expected to cultivate and exercise, as well as of the crucial guidance such expertise ought to play in the life of the city over the long term.

Third, it is important to note that the members of the nocturnal council are not literally addressed by the title of ἄρχον. Rather, the statement is made that “no one who is unable to acquire these insights [ὁ δὲ μὴ ταῦτ' οἷός τ' ὢν...κεκτῆσθαι]” could be (γένοιτο) “good enough to govern [ἄρχον...ικανὸς] an entire state, but only to assist government carried on by others.” (968a1-a4) In other words, it is not possible (οὐκ ἂν
ποτε γένοιτο) for someone without a certain ability (ὁ...μὴ...οἷός) to attain a certain ability (ἄρχων...ικανός). The title claim is an assertion regarding capacities: without the capacity for certain insights there is no capacity to rule in a certain way. Since the members of the nocturnal council certainly have the capacity for the desiderated insights, they must also have the capacity to rule in a certain way. However, to assert they have the capacity to exercise a certain kind of rule is not to bestow the title upon them in a full and concrete way; it is merely to characterize the kind of intellectual-political scope they have at their disposal. This is not to say the capacity for a special kind of rule possessed by the members of the nocturnal council in virtue of their acumen and experience simply wilts on the vine; rather, it is essential to the very rationale of the council that its members exercise this capacity, but the correct way of understanding the form this exercise takes is, as I have repeatedly suggested, as concurrent with their other roles as part of the normal apparatus of the Magnesian government.373

So far, I have given three reasons why we should not interpret the title claim as a grant of concrete power which upends the already elaborated apparatus of the Magnesian government or a declaration in any way replacing that government with something similar to what is found in the Republic. Next, I would like to make four corollary points in connection with this interpretation of the title claim.

First, it is necessary to consider together the ambiguity of the title of ἄρχων I have argued is apposite to the title claim with the status of the nocturnal council as indirectly

Morrow, too, emphasizes the distinctness of the roles the ex officio members of the nocturnal council are called upon to play even as they also exhibit a kind of complementarity: “...its function is not adjudication, nor administration, nor deliberation and decision on matters of public policy, but education and inquiry; and the distinctness of this function remains, even though most of its members will themselves be administrators or judges, and even though the ultimate purpose of their studies is the wise conduct of public affairs.” Ibid., 511.
elected. In 7.2, I argued that the nocturnal council does not constitute a cadre due to its “open” conditions of membership. Most of its members sit on the council ex officio, and they are elected into, even if at several removes, these offices in a normal, unproblematic manner. The members of the nocturnal council, most of whom already preside as ἄρχοντες elected in the traditional manner, are then additionally granted the – I have argued – the philosophically significant title of ἄρχων that signals the special perspective and influence they are intended to possess and exercise.

The members of the nocturnal council, then, are thus ἄρχοντες in both senses of the word; however, the first pertains to their concrete exercise of power, whereas the second pertains to their special capacities. The second does not overrule the first; indeed, it is precisely the ambiguity of the term ἄρχων that allows for their harmonious coincidence. The members of the nocturnal council are perfectly positioned to demonstrate the ἀρχιβεία characteristic of that institution in the course of fulfilling the normal duties associated with their offices and associating with the other officers. This supplementation and extension of the legal structure of Magnesia is possible for the members of the nocturnal council on the basis of their grasp of the aim of the law and their ability to bring about those aims, as best they can, by means of the social and cultural material at their disposal. In addition, from the perspective of the rule of law, the “interpretative and advisory” capacities possessed by the council are exactly what are

---

374 Thus, Guthrie cites the “carefully planned membership” of the council in relation to the state’s deliberations. Guthrie, A History of Greek Philosophy, 374.
375 Thus, Morrow: the nocturnal council is “the logical and impressive climax of Plato's demiurgy.” Morrow, “The Demiurge in Politics,” 20.
required for “Plato’s central purpose, the maintenance of the rule of law.”

This extension of the rule of law by its skilled interpreters in a detailed and contextual way is consonant with the feature of the text Bobonich has described as the “open texture” of Plato’s legislation and in relation to which Trevor Saunders has elaborated the “documentary fallacy.”

Likewise, it comports with the need Kraut sees for “philosophically trained governors” in light of the insufficiency of the legal-form.

Precisely because the members of the nocturnal council are already ἄρχοντες in a concrete way— and this is why most of them are even members of the council – it is not necessary to interpret the title claim as a concrete grant of power. Interpreting it, instead, as a success-predicate in virtue of the excellent advice regarding ruling the members of the nocturnal council are equipped to offer (Morrow: “in an interpretative and advisory capacity”) is perfectly compatible with their already-existing concrete responsibilities as members of the Magnesian government. By circulating, socializing, and co-deliberating with other citizens in the course of their duties, the members of the nocturnal council will amplify the influence of the council and serve as soft ἄρχοντες throughout Magnesia.

Likewise, it explains why Plato can permit himself, and why “modern

---

376 Ibid., 18. In addition, Barker is not just incorrect regarding the claim that nocturnal council destroys the rule of law, but rather essentially incorrect regarding the function of that council, which is, if anything, to preserve the rule of law. Barker quoted in Guthrie, A History of Greek Philosophy, 374. A good collection of “conspiracy theorists” regarding the operation of the nocturnal council in the Laws can be found in Samaras. Samaras, Plato on Democracy, 285 ff.


378 Kraut, “Ordinary virtue from the Phaedo to the Laws.”

379 Morrow, Plato’s Cretan City, 510–11.

readers” might get an unhelpful impression of, a certain vagueness in detailing the duties of the nocturnal council compared to his detailing of those of other magistracies.381

In addition, there is nothing problematic or menacing in the coincidence of the special capacities associated with the second sense of ἄρχων with the concrete grant of power subordinate to the first sense of ἄρχων. Those elected as ἄρχοντες in this sense were elevated to office with the consent of the population as a whole as mediated by elections. It is expected that those with such capacities will make good candidates for election, but they still must be actually elected – in this way, preserving the sovereignty of the citizen-body.382

Second, not only is the ambiguity of the title of ἄρχων perfectly compatible with the status of the members of the nocturnal council as indirectly elected via other offices, but in addition it is the coincidence of the two forms of being an ἄρχον in the bodies of the councilmembers that allows the proper exercise of the second form. Thus, the sense in which the members of the nocturnal council are ἄρχοντες is no way a dead letter, but is restituted on the basis of their already existing commitments of office. It is precisely in the course of their existing official responsibilities and in relation to their fellow officers that the members of the nocturnal council can exercise their superior grasp of the proper aims of legislation along with the akribetic faculties necessary to instantiate this grasp and offer successful explanations to others. To do these things is to be an ἄρχων in the

381 Guthrie, A History of Greek Philosophy, 374.
382 Morrow, Plato’s Cretan City, 230.
second sense; and thus the sense of ἄρχειν as ruling in the sense of offering guidance it is incumbent on others to follow is salvaged.\(^{383}\)

Third, we should note the resemblance between a situation in which members of the nocturnal council are ἄρχωντες in the second sense and the puppet example elaborated in Book I of the *Laws* (644d-645c). According to the latter, certain experiences in are likened to “opposing cords or strings that tug against each other” (644e1-2). In such cases, we must cleave to the “sacred and golden pull of reasoning” and “pull against the other strings” (644e4-645a1). However, because “reasoning is a fine thing…gentle rather than violent,” “its pull requires assistants [ὑπηρετῶν]” (645a5-a7). In the same way that the “golden pull” of reasoning requires “assistants” due to its essentially gentle (πρᾷος) rather than violent (βίαιος) nature, so the sound advice of the members of the nocturnal council solicits the adherence of “assistants” via the essentially gentle modality of discussion and explanation. However, this economy of rulers and assistants is essentially overlaid upon the already existing economy of offices, which it no way disturbs, but rather facilitates and optimizes.

Fourth, and finally, let us note that the double-structure of ruling which I have argued is implied by the title-claim befits the longstanding Platonic tendency to subordinate the formal characteristics of power-assignment in government to the wisdom or advice under whose guidance the state is actually governed. For instance, in the *Menexenus* Socrates claims that Athens has always, appearances and the names favored

\(^{383}\) Ibid., 511. Cf., also, Morrow’s “in an interpretative and advisory capacity.” Ibid., 510–11. Likewise, see Guthrie’s observation regarding the “carefully planned membership” of the council considered from the point of view of influencing the deliberations of the state in general. Guthrie, *A History of Greek Philosophy*, 374.
by others notwithstanding, possessed the same constitution – namely, aristocracy (Mx. 238c). The formal characteristics of democracy exhibited by Athens – e.g., the use of elections to distribute power and offices and the lack of barriers to participation based on poverty or ancestry – are irrelevant since the Athenians are said, in any case, to distribute power to “those who are thought best by them at a given time” and whoever “is thought wise or good” (Mx. 238d). Whatever its manifest character, in reality the Athenian government is an “aristocracy” – albeit, an “aristocracy along with popular consent [μετ’ εὐδοξίας πλήθους ἀριστοκρατία]” (Mx. 238c7-d2). Of course, by adducing this material, I certainly do not mean to assert any sincere claim to historicity in the case of Athens on the part of Plato, but only to show Plato’s acceptance of the logical possibility of the sort of situation I claim obtains in the case of Magnesia.

In other words, that Plato via the title claim gestures toward a sort of “aristocracy” of the nocturnal council need not be taken as inconsistent with the rest of the Magnesian government: to the extent that Magnesia is an aristocracy, it is one on the basis, and in the midst, of systematic ways of assigning power which are formally quite remote from the dictatorship of philosopher-kings. Likewise, in the Statesman Plato also subordinates all other characteristics of government – such as lawfulness, coerciveness, or the wealth of the rulers – to the single criterion of whether or not the rulers number among those “truly

384 Morrow, among others, has cited the appropriateness of this description for the society of the Laws. Morrow, Plato’s Cretan City. Likewise, Schofield asserts that the elections of Magnesia are “designed to give more authority to those of greater wisdom and virtue.” Schofield, “The Laws’ two projects.” Ditto Schöpsdau, Nomoi, Buch I-III, 123.

385 According to Bearzot, Plato (like Isocrates) is invested in the idea of substituting his own idealized account of Athenian democracy for the historical reality. Paradoxically, Plato presents as “democrazia” a state “privo di contenuti democratici in senso classico.” Bearzot, Platone E I “Moderati” Ateniesi, XXXVII-- Fasc. 1:106.
possessing expert knowledge” (*Stm.* 293c-d). Only constitutions that satisfy this criterion may be adjudged “correct” – or even constitutions at all; to evaluate constitutions by other formal criteria is to miss what is essential about a constitution. In addition, the confusion of Kleinias and Megillus regarding what formal category best captures the constitutions of Sparta and Knossos (712c-713a) – a confusion subsequently ratified as appropriate and desirable by the Athenian – demonstrates the essential distinctness of the formal characteristics of government from the higher condition I have argued the title claim is intended to assert. Thus, again, from all sides we see that the fact that Plato wants the members of the nocturnal council to be ἄρχοντες need not entail any formal commitment on his part regarding the constitution of the Magnesian government, only that he wants this government to fall within the category of those governments that, regardless of their formal makeup, are guided by expertise such as that possessed by the members of the nocturnal council. That this particular government must, in addition, secure the consent of the governed is ultimately just as important as the previous fact, especially since it affects stability in key ways. However, the first characteristic in no way invalidates the second one, and in fact, conforms to what Morrow has called “Plato’s basic intentions” – i.e., to leave the sovereignty of the demos intact while ensuring those more worthy of office have advantages in securing and holding them. In addition, we can see that Zeller’s claim – which is popular enough386 – that the *Laws* eschews philosophic rule in favor of something like the rule of law falls short.387 On the one hand, the condition of rule in the *Laws* differs from that of the *Republic* inasmuch as it is law-based

and does not grant any ruling clique the power to issue arbitrary and binding decrees to
the rest of the populace. On the other hand, the condition of rule in the Laws differs from
the rule of law tout court inasmuch as the nocturnal council exerts its law-correcting,
law-perfecting influence – reminiscent of philosophic rule and proceeding from
philosophic insight – in a “soft” way that requires the consent and persuasion of relevant
parties. In addition, these authorities, who do possess a certain amount of power over the
laws, are themselves elevated into office in accordance with law and popular consent as
mediated by elections. Thus, Guthrie occupies the middle-ground when he describes the
condition of the Laws as “the rule of law” in comparison to the “arbitrary rule of men”
such that “everyone has a chance to administer but only a few may create or alter” the
laws. This “few” is distinguished by its “exceptional ability,” “seniority,” and
“philosophical training” – the last of which will help them to theorize and deliberate in
accordance with the ultimate aim of all laws.

Finally, we should not view Plato’s apparent preference for rulers in the sense of
philosopher-kings as somehow invalidating of the larger project of the Laws. Certainly,
Plato never modified this preference of his, all things being equal, for the rule of
philosopher-kings over the rule of law; indeed, he thinks certain things are problematic in
the nature of law itself. However, what is noteworthy about the Laws is that he attempts
to make the rule of law work as best he can, and this includes even a certain set of
capacities reminiscent of those of the philosopher-kings activated in service of the law.388
However, he is not instituting them over the law. As Kahn puts it, “the Laws can express

388 Thus, Kraut analyzes the demand for “philosophically trained governors” in this light. Kraut, “Ordinary
virtue from the Phaedo to the Laws.”
Plato's deep preference for the rule of philosophy only indirectly, as it were with nostalgia. Rather, he is only making use of this “differential understanding” as it applies to the nocturnal council in soft yet intelligent ways that respect the sovereignty of the demos.

7.8.3. Legal protectorate

Let us now deal with the status of “legal protector of the safety of the state” (φυλακὴν...κατὰ νόμον χάριν σωτηρίας) attributed to the nocturnal council. Specifically, the Athenian declares, in the light of the immediately preceding title claim, 

“we now have to consider whether we are going to add yet another law to the code we’ve already expounded, to the effect that the Nocturnal Council of the Authorities, duly primed by the course of studies we’ve described, shall be constituted the legal protector of the safety of the state.” (968a-b)

At first glance, it is natural to read this passage, like the title claim, as bestowing supreme power upon the nocturnal council, running roughshod in the process over the previously established Magnesian government. However, a more careful scrutiny of the passage and its context is sufficient to dispel this erroneous impression. First, let us reconsider the question of continuity, as there is important evidence in connection with the legal protector claim that bears upon it. Second, let us examine the status itself attributed to the nocturnal council in light of its precise formulation, the meaning of the relevant terms, and the context, both narrower and wider, of the claim.

Previously, in 7.1 above, I examined the issue of continuity as an explicit theme (as opposed to textual or other sorts of continuity) between the nocturnal council and the

---

389 Kahn, Plato and the Post-Socratic Dialogue, 232.
390 Kraut, “Ordinary virtue from the Phaedo to the Laws.”
rest of the government, arguing that taking two passages together, the “logic of finality” as well as the “addition speech” (which overlaps with the legal protector claim), shows the complex continuity of the nocturnal council with the rest of the Magnesian government. In brief, the nocturnal council is a valuable and even necessary addition to the rest of the laws which serves as a deep complement to them even while, at the same time, it possible for the latter to exist without the former.391

In the case of the legal protector claim, we can see that the claim itself is described as something additional to “the code we’ve already expounded [ἡδη πρὸς τοῖς εἰρημένοις νόμοις ἃπασιν ὁσοὺς διεληλύθαμεν]” (968a4-5) and as something which may be appended (προσοίσομεν) (968a6). Thus, the laws which have been “already expounded” must possess at least a modicum of independence. Subsequently, Kleinias asserts that regulation dealing with the nocturnal council should be appended “even if we are only able to bring it off to a small extent” (968b3-4). The legal protector claim, then, and by extension the nocturnal council in general, is represented as something which (i) which we may be able to bring about only to a small extent or not at all, but which (ii) we should certainly do so to the extent we are able. Before proceeding to analyze the legal protector claim itself, it is worthwhile to emphasize its connection with the apparent relative independence and complementary utility of the nocturnal council. We should thus expect the legal protector claim to embody something which benefits, without necessarily interfering with, the existing government.

391 Cf. “Far from being inconsistent with the rule of law, the Nocturnal Council seems to be essential for the maintenance of that principle.” Morrow, Plato’s Cretan City, 513.
Now, let us turn to the legal protector claim itself: “that the Nocturnal Council of the Authorities [τὸν τῶν ἀρχόντων νυκτερινὸν σύλλογον]…shall be constituted the legal protector [φυλακὴν…κατὰ νόμον] of the safety of the state [χάριν σωτηρίᾳς].” (968a6-7)

In essence, the legal protector claim grants a certain status (“legal protector of the safety of the state”) to a certain entity (“the Nocturnal Council of the Authorities”). The latter is obviously the nocturnal council; however, it is described in a strange way: as the nocturnal council of officers or authorities (τῶν ἀρχόντων). This special phrase performs two functions: (i) it points out that the members of the nocturnal council satisfy the conditions of the title claim immediately above, and thus they count as “genuine” rulers (ἄρχοντες) of the whole state, and (ii) it draws attention to the existing powers of the members of the nocturnal council commensurate with their elected positions as diverse officers of the state.392 In addition, as part of the same sentence, the council is described in apposition as “duly primed by the course of studies we’ve described [παιδείας ὁπόσης διεληλύθαμεν κοινωνὸν γενόμενον]” (968b1).

As for the status assigned to the nocturnal council, it consists of a role “protector” (φυλακή) which is further qualified as “legal” (κατὰ νόμον) and “of the safety of the state” (χάριν σωτηρίᾳς). In the case of both of these modifying phrases, it is possible to construe them in relation not to “protector” (φυλακή), but in relation to the act of becoming or being constituted (ἐσόμενον) as such, but I do not think this grammatical decision has any substantive effect on the meaning of the sentence. Let us first treat the

392 As mentioned previously, the responsibilities of the elected nomophylakes (regarding the detailed extension, revision, and detailed application of the law) to some extent already allow them to execute legal protectorate-like acts. Thus, they’re not being granted anything additional. Schöpsdau, Heitsch, and Carl Wener, “Nomoi. Buch IV-VII.,” 114–15.
role of the council as a “protector” or φυλακή and then examine the significance of the two modifications.

“Protector” (φυλακή) – from the verb φυλάσσω, meaning to “keep watch and ward, keep guard” – refers to a watching, guardian, keeping, or guardianship over something. Like the frequent description of the members of the nocturnal council as “guardians” (φύλακες) and the description of the council itself as a “safeguard” (φύλακτήριον), its description here as a “protector” (φυλακή) suggests at first glance that the nocturnal council has been endowed with ultimate power in the state in a fashion similar to the Republic. However, in the former case, after an examination of the way such terms are used in the context of Book XII, we concluded that they referred rather to (i) the superior ability of the councilmembers to teach and explain facets of virtue and in general apply persuasive and educative force when necessary and (ii) the possession by the council of certain intellectual-discursive skills along with their utility for the state as a whole. Here, too, we should in no way be troubled by the stipulation of the council as a φυλακή.

Neither the official role nor the particular language used to pick it out present any new challenge to our understanding of the council. The nocturnal council is perfectly poised to perform this function as “guardian” of the state. Indeed, it can do so precisely in virtue of its superior insight into the law’s rationale. Meanwhile, there is no evidence it possesses legislative power in excess of this capacity, and as Morrow points out, if it

---

393 To this end, the nocturnal council perhaps functions in a manner reminiscent of what Ober calls the “dialogue between democratic practice and elite critical discourse” ultimately necessary to the former. Ober, The Athenian Revolution, 12. Ober thinks this interplay is necessary because the democratic “regime of truth” as such cannot itself imagine a form of truth founded outside itself. Ibid., 114, 149–51. Of course, Plato would certainly not countenance that part of the analogy. Rather, precisely because Magnesian political practice did want to be founded on something like absolute truth, the nocturnal council (that elite organ) functioned to assist it.
were to propose some specific revision of the constitution, “its recommendations would presumably require the assent of the people, for this is elsewhere said to be required for any revision of the laws (772cd).”

Indeed, this familiar interpretation of φυλακή is bolstered by the context which precedes and follows the legal protector claim. First, the legal protector claim is presented as following in light of the title claim, which explicitly links education (παιδεία) and power (ἀρχή). Second, the council itself is described in apposition as “duly primed by the course of studies [παιδείας] we’ve described.” (968b1) Thus, that the council has been made the φυλακή only denotes their superior state of knowledge, their intellectual-discursive skills, and the ultimate utility of these things from the standpoint of the safety of the state. Indeed, the modifying phrase “of the safety of the state [χάριν σωτηρίας]” (968a7) – literally, for the sake of security – ties the legal protector claim tighter to this complex of ideas. As in the case of atheists and others who have gone astray, the guardians of the nocturnal council use their expertise to set them straight, thus contributing to the stability of the state.

Finally, note that such a conception of nocturnal council as φυλακή is completely compatible with the concerns respecting the question of continuity. The nocturnal council, so conceived according to this interpretation of the legal protector claim as making the nocturnal council the designated source of advice and instruction, fulfills the

395 Additionally, the members of the nocturnal council help to realize concretely the openness in some parts of the legislative texture of the Laws, what Laks calls their “scalar” character. The members of the council, to the extent they further the project of the Laws in both directions, toward the ideals for the sake of which legislation takes place and towards the material realities at hand, partake of “le travail de la médiation” which Laks claim characterizes the Laws as a whole. Likewise, Laks points out “la reserve qui la traverse quant à la promulgation des lois.” Ultimately, “la problématisation de la loi” constitutes “un de ses thèmes directeurs.” Laks, Médiation et Coercition, 21, 48–49, 71.
conditions of *relative independence* and *complementary utility* I argued were implied by the context of the claim.

We have left only to consider the significance of the second modifying phrase “legal [κατὰ νόμον]” (968a6). A somewhat more informative translation of κατὰ νόμον than “legal” might be “according to law” or “by law.” Clearly, there is a difference between the council serving as a protector and the council being designated the *legal* protector. The latter implies an “officialness” on the level of the law itself. The problem, in the present instance, is to discern what the act of “officializing” or “legalizing” the role of the council contributes. The best answer to this question places the legal protector claim against the background of the concerns mentioned in the passage I have called the “logic of finality” (960b-c). In that passage, the Athenian commented that their work of legislating (νομοθεσία) had nearly, but not quite, reached its “end” (τέλος). The creative duties incumbent upon a creator of something are incompletely fulfilled unless the creator can endow the creation with security (σωτηρία). Up until that point, the creation is “incomplete” (ἀτελές).

In the case of the Athenian, Kleiniias, and Megillus, their creation is the laws (νομοί) of Magnesia. They must somehow give these laws “a natural resistance to being reversed” (ἀμετάστροφον…κατὰ φύσιν δύναμιν) (960d-e); they must contrive a “safety-device for our political system and legal code.” In addition to the general point made in connection with the logic of finality, there is also the special insufficiency of the law-form, an insufficiency which figures frequently in the *Laws* and in other dialogues. We should thus view the *legal* (κατὰ νόμον) status of the nocturnal council as protector (φυλακή) as the official capstone to the logic of finality, as well as an attempt to mitigate
the inherent insufficiencies of the law-form itself by means of a legal stipulation. The nocturnal council, by being legally recognized as an authority possessing the relevant wisdom and skills associated with the laws and the governance of the state as a whole, contributes to the stability of the otherwise inherently precarious body of laws and institutions of Magnesia. It represents the attempt to legally internalize or otherwise legalize the extra-legal, superior capacities of philosophers for the sake of the very stability of the laws themselves.396

7.8.4. The grant

Let us finally consider the last of the “vague powers” assigned the nocturnal council – namely, what I have called the “grant” in 968e-969c. The nucleus of the grant is the Athenian’s suggestion to Kleinias and Megillus that “if this wonderful council [ὁ θεῖος…σύλλογος] of ours can be formed, then the state must be entrusted to it [παραδοτέον τούτῳ τὴν πόλιν].” (969b2-3) The Athenian adds, “practically no modern legislator will want to oppose us.” (969b3-b5) Provided that the council members are correctly selected, appropriately educated, lodged in the citadel of the state, and “made into guardians [φύλακες] whose powers of protection [πρὸς ἀρετὴν σωτηρίας] we have never seen excelled in our lives before” (969b8-c3), then the “combined metaphor of head and intellect [κεφαλῆς νοῦ τε κοινωνίας]” of the state will be translated from mere

396 Thus, contra Morrow, who asserts that Plato recognizes without remedying the problem of ensuring adherence to the laws on the basis of conviction rather than habit along with the problem of perfecting laws because he “has deprived himself of the sole means of correction, viz., the free play of individual criticism,” we see that via the nocturnal council Plato aims to remedy precisely these defects by means of precisely that instrument. Morrow, “Plato’s Conception of Persuasion,” 249–50. Thus, also Kraut, in re “philosophically trained governors.” Kraut, “Ordinary virtue from the Phaedo to the Laws.”
“idealistic dreaming [ὄνείρατος…τῷ λόγῳ]” into a genuine waking vision (-widgets-reach) (969b5-7).

First, let us note that nothing in the grant passage exists to disrupt the impression we have received of the “relative independence” of the nocturnal council from the rest of the government. The nocturnal is not treated as a fact accompli: rather, the Athenian asserts that if the nocturnal council can be formed (γένηται), then the state must be handed over to it. However, the state must be prepared to exist with or without the nocturnal council, and the council must be prepared to exist alongside such a state. Additionally, the result of the council being formed is likened to the actualization of the familiar corporate metaphor, itself perfectly compatible with the relative independence of the council from the state.

Second, with regard to that corporate metaphor, if the general context of the grant passage suggests that the actualization of the metaphor is the most apt description of the result of the grant, and thus of what the grant itself entails, then the sense we have gained so far of what it means for the nocturnal council to function as the head of the state assists in disarming the grant passage of its apparent threat. If to “hand over” the state to the council is merely to allow the council to function as the senses and intellect of the state, then there is nothing problematic about the grant.

Third, note the overriding concern with “stability” shown in the formation of the council. The members of the council are to be made into guardians “whose powers of protection [ἀρετὴν σωτηρίας] we have never seen excelled in our lives before.” (969c2-3) If part of the rationale of the grant is to take advantage for the state of the extraordinary ἀρετή σωτηρίας possessed by the members of the council, then “handing over” the state
to such a council hardly portends a radical change in the *status quo*: indeed, it constitutes the permanent sticking-into-place of the *status quo*.

Fourth, let us turn to the brief resumé of the actual conditions of guardianship. The Athenian pointedly mentions that the councilmembers must be “rigorously selected [ἀκριβῶς ἐκλεχθῶσι]” and “properly educated [παιδευθῶσί…προσηκόντως]” (969b8-c1). This suggests that the “handover” in no way violates the selection-procedure and education-procedure for councilmembers we have already canvassed at length. However, we have also argued that the selection-procedure is parasitic upon the (completely systematic) election-procedures for the normal parts of the Magnesian government. Thus, that Plato favors certain kinds of individuals in his election-procedures leaves popular sovereignty intact.397

Thus, as a matter of context – given the grant’s relation to (i) the relative independence of the council, (ii) the corporate metaphor, (iii) the thematization of stability, and (iv) the allusion to the completely non-problematic selection-procedure for the members of the nocturnal council – we need not be excessively worried as to its possibly overthrowing the traditional Magnesian government. Careful examination of the language of the grant itself – “if this wonderful council of ours can be formed, then the state must be entrusted to it” (969b2-3) – supports this view. Clearly, the action to be taken if the council can be formed – namely, that the state (πόλις) must be “handed over” (παραδότεον) to it – is what it is crucial to analyze. What does it mean to “hand over” (παραδότεον, from παραδίδωμι) the “state”?

The best evidence comes from a passage in Book IV in which nearly the exact same phrase occurs (714b-715e). There, the Athenian retails to Kleinias and Megillus the popular theory that (i) law and justice are subordinate to the kind of regime in place (714b), (ii) that the ultimate goal of legislation is to safeguard the established regime against revolution (714b-c), and (iii) justice is in the final analysis merely whatever serves “the interests of the stronger” (714c). In sum, we are presented with a vision of pure power-politics which the Athenian suddenly compares to “one of those claims to authority [ἐκείνων τῶν ἀξιωμάτων ἀρχῆς πέρι],” (714d11-e1) one which “Pindar turned…into a law of nature” (715a1-2). He is referring to a list of seven potential “titles” (ἀξιώματα) drawn up in Book III on the basis of which the right to rule (το ἄρχειν) is distributed (690a-d): e.g., the rule of those of high birth over those of low birth, or the rule of the elder over the younger. In particular, one of titles asserted that “that the stronger should rule and the weaker should obey” (690b4-5). Poetry from Pindar is quoted in support of this claim. It is this claim (ἀχιώμα) that the Athenian asserts lies behind, in essence, the modern theory of law, justice, and the city he describes in Book IV. Having broached the topic of these ἀξιώματα anew, he asks Kleinias and Megillus, “to which side in the dispute [ποτέροις τισίν] should we entrust [παραδοτέα] our state [ἡ πόλις]?” (715a4-5) The same phrase to be analyzed in 969b2-3 – namely, what it means for the state to be “handed over” – occurs in 715a4-5. Thus, it is natural to learn what we can concerning 715a4-5 the better to understand 969b2-3. In the case of former, the Athenian is asking according to what kind of grand pattern or criterion power ought to be distributed? In particular, does whatever faction or ruler in control dictate what is just and legal, or are the authorities themselves subordinate to law and justice?
Unsurprisingly, the Athenian opts for the latter. Indeed, in the case of the former, there is no political system (πολιτεία), laws (νομοί), and or even citizens (πολῖται), properly speaking (715b2-b6). Rather, in the new state to be established, power will not be distributed on the basis of wealth, stature, or birth, but “the highest office in the service [τὴν τῶν θεῶν ὑπηρεσίαν…the gods must be allocated [δοτέον] to the man who is best at obeying the established laws [ὃς…τοῖς τεθεῖσι νόμοις εὐπειθέστατός] and wins *that* sort of victory in the state,” and “who wins the second prize must be given second rank in that service, and so on, the remaining posts being allocated [ἀποδοτέον] in order on the same system.” (715c2-6)

The vocabulary in this passage (δοτέον, ἀποδοτέον) is clearly of a piece with παραδοτέον in 969b2-3. Since both passages describe the new state of Magnesia, it makes sense to assimilate the transfer of power to the nocturnal guardians in the spirit of the kind of power-allocation described here. Likewise, the Athenian’s decision to refer to those usually called “rulers [ἄρχοντας]” as “servants of the laws [ὑπηρέταις τοῖς νόμοις]” in order to highlight the subordination of these officials to the real source of power encoded in the laws (715c-d) is in complete conformity with the proper understanding of the guardians as ἄρχοντες (see 7.7 above): they do not exercise power in their own right as supreme ἄρχοντες of the state, but rather vis-à-vis their superior, akribetic powers of elucidating the law, explaining and arguing their rationale, and fitting them to new circumstances. In other words, precisely because the guardians are “best at obeying” the established laws should power be “handed over” to them. This is to make once again Morrow’s point that the nocturnal council facilitates and enables rather than undermines
or cancels the rule of law.398 It is far from being the case, as Barker asserts, that “the law-state is really destroyed.”399 Moreover, it does not hand over power to philosophers by fiat, but rather centrally emphasizes the normative guidance philosophy is to provide in the state.400 In addition, to the extent that the grant also describes the concrete powers the members of the nocturnal council possess in virtue of their other elected positions, it merely repeats the basic assumption that elite-dominance of elections is not incompatible with popular sovereignty.401

Thus, with respect to the two possible situations the Athenian lays out in Book IV – (a) “the law is subject to some other authority and has none of its own” (715d3); and (b) “law is master of the government and the government is its slave” (715d4-5) – clearly the latter is meant to obtain. To hand over power to the guardians is not to enthrone them as an elite whose every diktat must be obeyed; rather, it is to recognize the urgency of their special philosophical talents in the service of obeying the law, which is the real supreme element in the state, even though it also an inherently fallible medium in need of human perfection for the sake of permanent enduring. It is not to destroy the condition of the rule of law, but to perfect it by means of human assistants.402 Likewise, it is not to reinstitute the rule of philosophers as such, but to approach this condition by means of an alternative constellation of intricate institutions.403 Populating these institutions in a

398 Ibid., 513.
401 Cf. Ibid., 230.
402 Cf. Ibid., 513.
403 Thus, *au contraire* Zeller, who all-too-schematically sets out the differences between the *Republic* and *Laws* thus: “The Republic makes philosophy the groundwork of rational political life and, presupposing philosophical rulers, plans the state purely from the Idea; the Laws seeks to show how far, and through what means, the state may be adequate to its task without this presupposition.” Quoted in Morrow, “The
useful way are the valuable bodies of those characterized by “differential understanding.” Philosophy is neither “absent” nor bearing the fasces in the Laws.  

404 Kraut, “Ordinary virtue from the Phaedo to the Laws.”  
8. CONCLUSION

The present work represents an attempt to answer the question, “Why does the Laws exist?” In answering such a question, I did not propose to supply a set of work-external, author-focused reasons for why Plato composed the work of the Laws. Rather, I proposed instead to give a work-internal, work-focused account of the immanent governing-principle or principles behind the text as a whole, i.e., the underlying spirit or organization which, in turn, solicits both readers and students of the Laws to recognize that there is something new or compelling at work within its pages. My goal, then, one could say, has been to justify the “aesthetic impetus” of the reading-experience of the Laws – i.e., I have sought to show that there is in fact a “there there” with respect to the feeling while reading the Laws that there is something here which is interesting, unique, and well-developed. The question, then, which I have approached, in whatever form it may be put, is perhaps rarely asked in favor of a countervailing tendency of scholarship: namely, to connect the Laws with, and explain it in terms of, other works of Plato, especially the Republic. Yet precisely to do this is to deny an independent existence to the Laws and to make it, for instance, a mere appendix to the Republic; similarly, it is to ignore the self-evident aesthetic impetus, part of the experience of reading or engaging with the Laws, that here is something interesting or compelling.\footnote{Of course, paying appropriate homage to the aesthetic impetus of reading the Laws does not mean taking its content for granted. It could simply be a delusion impossible to substantiate.}

The criterial conditions under which I labored, in other words, are to answer the above question – which I interpret in a work-focused, not in an author-focused way – by supplying an account of the dialogue which (a) explains all its aspects while also (b)
distinguishing the *Laws* from the *Republic* in a way that does not devalue the former. I believe this question is an important one; indeed, its importance goes far beyond the “aesthetic impetus” of the reading-experience of the *Laws*. Properly speaking, all other questions of scholarship concerning the *Laws* are subordinated to, or qualified by, this one, the question of why the *Laws* exists, and so I have called this question the fundamental question of scholarship concerning the *Laws*.

My own answer to the question, the systematic approach, is that what makes the *Laws* distinctive is its embodiment of the system model of government – viz., allowing and empowering a large population of individuals who interact with one another in orderly ways to govern themselves, by means of formal electoral procedures, the rule of law, and social and cultural norms and behaviors. The concepts of cadre and system form a contrastive pair; whereas a cadre is a small group of extraordinary individuals, a system is a large group of more ordinary individuals. The cadre and system models represent different ways of assigning power: whereas the first restricts it to a small group whose existence must be recreated from generation to generation, the second allows it to repose in the complex patterns of interaction carried out by individuals in a system. In sum, I contend that the systematic approach is sufficient to comprehensively explain the various and strange aspects of the *Republic*, and that it does so in a non-prejudicial way in comparison with the *Republic*.

Furthermore, I also describe and distinguish from the systematic approach three other relevant answers to the fundamental question within the scholarly literature: the
democratic approach, the legal approach, and the demiurgic approach.\textsuperscript{407} These approaches take as their generative concepts democracy, law, and demiurgy. All of them contain important insights and could even be described as correct to an extent. However, each of them also has special problems, and additionally none of them can account for the \textit{Laws} in its complete and full specificity. Accordingly, after arguing for the shortcomings of each alternative approach, I show how the systematic approach is capable of appropriating to itself the advantages of each while also solving its problems. This is reflected in the series of system-pertinent concepts I elaborate which are parallel to democracy, law, and (concessionary) demiurgy – namely, popular involvement, culture, and creative demiurgy.

The democratic approach to the \textit{Laws} locates its distinctive element in the more democratic way of proceeding which characterizes this dialogue in comparison with the \textit{Republic}. To a substantial extent, the democratic approach is correct: the society of the \textit{Laws} is more democratic than that of the \textit{Republic}. However, I have argued that there are two problems with it. First, there are many non-democratic or anti-democratic aspects of the \textit{Laws} which cannot be explained by the democratic approach; thus, it fails to provide an answer to the question in the desiderated sense (1.2.1). Second, it plots the two political dialogues along an inappropriate axis – namely, with regard to which material portion of the populace possesses political power rather than regard to whether the power-possessing part is also knowledge-possessing (1.2.1) The system-pertinent concept of “popular involvement” preserves – and even captures in a superior way – those

\textsuperscript{407} For comments on prominent individual authors within the secondary literature, see 1.2.4 and 1.4, in addition to the many other places in the main body of the dissertation where such comments appear.
elements of the *Laws* ostensibly captured by the democratic approach. In addition, many aspects of Magnesian life and society which are not well described as democratic can indeed be well-described with respect to popular involvement (1.3.2). To show this, I point to my subsequent analyses of social persuasion and social enforcement (5.3), as well my examination of the electoral process for the nomophylakeas as “intelligent” (2.3.4).

The legal approach identifies the distinctive aspect of the *Laws* as the rule of law. Again, this is substantially – if not comprehensively – correct. In addition, it is quite close to the systematic approach. Indeed, the legal approach is the direct ancestor of the systematic approach. However, the legal approach suffers from two flaws which the systematic approach escapes: (i) it cannot describe the aspects of the *Laws* which are more than, or different from, the legal; and (ii) it has an uneasy relationship with Plato’s frequent and emphatic critique of the law-form (1.2.2). The systematic approach, by contrast, incorporates the importance of legality, but also situates it within a concrete environment of fallible and social human beings. The system-pertinent concept of “culture” embraces more than purely legal ways of maintaining a sense of order and equilibrium with respect to this human field (1.3.3). In particular, I make this point in dealing with the thematization of the infra-legal (5.2.1) and the nocturnal council (7.8).

Finally, the demiurgic approach identifies the distinctive element of the *Laws* in its demiurgy – i.e., the resort to imperfect human materials in the manner of a demiurge. While of course it is true that the human material in the *Laws* is imperfect and that this affects the style of its use, the demiurgic approach does not succeed in answering the fundamental question, I argue, for three reasons: first, it cannot provide actual content for
such an account; second, it relies upon a mistaken interpretation of a key passage; and third, it misses the key characterizing detail of Plato’s demiurgy in the *Laws*, which turns on what I call the difference between concessionary and creative demiurgy (1.2.3). Concessionary demiurgy simply contains within its concept a regrettable departure from some standard of perfection which is necessary in virtue of the imperfect material available. However, creative demiurgy, which is the system-pertinent concept correspondent to its concessionary cousin, contains additionally within its concept the assessment of the particular strengths of the new, “imperfect” material (1.3.4). In support of this claim, I draw on my analyses of the function of the lot (3.2), the dense social interactivity of human beings for Plato (4.2.4, 5.2.2, 5.3), and the team functionality of the nocturnal council (6.8).

The above clarifies (i) the fundamental question this dissertation is intended to answer, (ii) the particular answer it gives (the systematic approach) with regard to its broad logical characteristics, and (iii) how this answer compares to, or improves upon, other answers. It remains for this conclusion to recapitulate the body of the dissertation. This consists in the three linked investigations spread out over six chapters. The first investigation, consisting of the first two chapters (*Chapter 2* and *Chapter 3*), is devoted to the broad theme of Electoral Policy in the *Laws*; the second investigation, consisting of *Chapter 4* and *Chapter 5*, is devoted to the broad theme of Cultural Policy in the *Laws*; and the third investigation, consisting of *Chapter 6* and *Chapter 7*, is devoted to the broad theme of Intellectual Policy in the *Laws* (even though it only discusses one, albeit an important, part of this policy: the nocturnal council). In each of these investigations, I have sought (a) to shed light on material in the *Laws* which is intrinsically interesting in
its own right, (b) to make the case for the systematic approach by showing its explanatory “fit” in all relevant domains, and (c) to exhibit in situ the systematic approach in comparison with, and in preference to, other approaches like the democratic, legal, and demiurgic, as well as to show how the systematic approach harmonizes with, or departs from, the claims of various authors in the secondary literature.

To carry out these goals in relation to Electoral Policy in the Laws, I first make some preliminary distinctions and theoretical points regarding government and officialdom in the Laws in general (2.2). Key points from this section include the proximate priority of officials in comparison with the laws they enforce, the substantial influence of elected officials, and the characterization of the electoral process itself in terms of elector and candidate strategies. In the remainder of Chapter 2, I take the election of the nomophylakes as a test-case for the systematic approach (2.3). I single out six aspects of this electoral process for extended analysis from a systematic point of view: (i) militarity (2.3.1), (ii) religiosity (2.3.2), (iii) the expanded ballot (2.3.3), (iv) intelligent process (2.3.4), (v) scene of instruction (2.3.5), (vi) and age restrictions (2.3.6). Militarity and religiosity characterize the overall electoral environment and culture, as Plato repeatedly makes clear. I argue that these things are in place in order to make Magnesian political culture resemble its military and religious culture. Based on an analysis of the latter two, I argue that, for Plato, electoral decisions made under their influence are likely to be viewed as superior decisions which help to mitigate the inherent insecurity of voting-contests (2.3.1, 2.3.2). The phrase “expanded ballot” refers to the atypical extent of information recorded on Magnesian ballots. I argue that this additional information forces electors to make use of it in ways which he finds beneficial for the electoral
process (2.3.3). The phrase “intelligent process” refers to ways in which electoral procedures combine and manipulate the inputs of electors in a way as to exhibit a greater intelligence than the providers of those inputs. Specifically, I define and instantiate forms of aggregative, oppositional, and iterative intelligence at work in the election for the nomophylakes (2.3.4). The phrase “scene of instruction” refers to the educative work (including both information and character-improvement) performed upon the electors who participate in electoral processes (2.3.5). Finally, I argue that the use of age-restrictions exploits certain (for Plato) biological facts about human beings (2.3.6).

Next, in Chapter 3 I proceed to an examination of the election for the council-members. Here I single out two additional aspects of electoral processes: (i) the schedule of incentives and (ii) the function of the lot. With regard to (i), I argue that Plato selectively permits and discourages electoral apathy in a way intended to yield the best possible electoral result (3.1). Likewise, with regard to (ii), I argue that Plato carefully combines voting by lot and the voting-contest in such a way as to make maximal use of the differing benefits of both. In particular, the use of the lot is necessary to promote civic friendship among the citizens (3.2).

Having exhibited the systematic approach in relation to the Electoral Policy of the Laws, I proceed to an examination of Cultural Policy in the Laws. Thus, in Chapter 4 I point to Plato’s designation of what I call “culture in the broad sense” – i.e., the ways in which large groups of people are subject to unpredictable waves of mutual influence – as a touchstone for philosophical concern (4.2). I situate this concern in relation to the logic of habituation in the Laws (4.2.2), the social field as a source of danger (4.2.4) and
positive feedback (4.2.5); and, in particular, I flesh it out through two important case-studies of theatrical culture (4.2.7, 4.2.8).

In Chapter 5, by contrast, I present the set of counter-strategies at Plato’s disposal, including the careful use of “infra-legal” customs and practices (5.2.1), the institution of preferred patterns of social and cultural interaction among the citizens such as Magnesian memorial culture and contest culture (5.2.2), and the recourse made to citizens themselves to directly and publicly police one another and thereby arrest potential chains of bad influence (5.3). Finally, I discuss the particular social and cultural organization imposed on different regions of life such as fan culture (5.4.1), single-sex communal meals (5.4.2), and the religious culture of shrines and temples (5.4.3). In each case, the goal is to prevent any section of society from hiving off and developing a dynamic contrary to the needs of public life.

Next, under the heading of “Intellectual Policy in the Laws,” I inspect the institution of the nocturnal council in close relation to the evidence in the text which bears upon it. In addition to shedding light on this institution on its own right, I also want to integrate it within the systematic approach. Indeed, such a task is particularly salient in virtue of the institution’s ostensible inconsistency with this approach: after all, the council appears at first glance almost exactly like a cadre. However, I argue that the nocturnal council lacks the absolute power, knowledge, and surveillance of a Republic-style cadre and instead exemplifies the systematic approach. To show this, in Chapter 6 I present a comprehensive descriptive analysis of every aspect of the nocturnal council, including its textual beginnings (6.2), precise membership (6.3), the mentoring program (6.4), meeting-time (6.5), stated rationales for its existence (6.6), its complete list of activities
(6.7), the “style” of its operation (6.8), and finally its powers of government both explicitly (6.9) and implicitly attributed (6.10). The three chief passages relevant to the determination of this last element I call the “title claim,” “legal protectorate,” and “the grant.”

In Chapter 7 I turn to the argument itself concerning the nocturnal council. First, I argue that the nocturnal council is certainly not at odds with the rest of the governmental apparatus of Magnesia (7.1). Next, I point to the status of its members as indirectly elected, contrasting this with the favored mode of ascent for the guardians of the Republic (7.2) and arguing that the mentorship program does not vitiate this difference (7.3). Subsequently, I precisely canvass and evaluate the explicitly attributed powers of the nocturnal council to the benefit of my general contention (7.4). In the succeeding three sections, I deal with various symbolic accouterments of the council, arguing that we should make too much of its “nocturnal” meeting-time (7.5), that the meaning of council here is decidedly deliberative rather than executive (7.6), and that the awarding of titles such as “guardian” as well as related expressions ought not to give us pause concerning the scope of the council’s powers (7.7). Finally, I give a unified account of the authority of the nocturnal council which is fully compatible with, and indeed a fulfillment of, the systematic approach (7.8.1) while also giving a detailed response to the three passages which seem to grant sweeping powers to the council – namely, the title claim (7.8.2), legal protectorate (7.8.3), and the grant (7.8.4).
9. BIBLIOGRAPHY


Kraut, Richard. "Ordinary virtue from the *Phaedo* to the *Laws.*"


Schöpsdau, Klaus, Ernst Heitsch, and Müller Carl Wener. “Nomoi. Buch IV-VII.” 
Zeitschrift Für Philosophische Forschung 60, no. 3 (September 2006): 478.

Tate, J. “Greek for’Atheism’.” Classical Review, 1936, 3–5.


