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A History of the *nomos* *empsychos* idea

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CONTENTS

ABBREVIATIONS	6
INTRODUCTION	9
PART I GENESIS	23
CHAPTER 1 Νόμος and φύσις: historiography of an antithesis	24
CHAPTER 2 The Archytean solution	39
PART II SYNTHESIS	71
CHAPTER 3 The Pythagorean pseudepigrapha	72
CHAPTER 4 Pseudo-Diotogenes's Neopythagorean synthesis	87
PART III METAMORPHOSIS	107
CHAPTER 5 The Philonic metamorphosis	108
CHAPTER 6 The νόμος ἔμψυχος idea in late antiquity	132
EPILOGUE	145
APPENDICES	149
Sources of the νόμος ἔμψυχος idea with translations	150
Stemma of the νόμος ἔμψυχος idea	170
BIBLIOGRAPHY	171

ABBREVIATIONS

References to scholarly literature are rendered in full in the bibliography. The names of ancient authors and the titles of their works are most often given according to the abbreviations applied by *A Greek-English Lexicon* compiled by Henry George Liddell and Robert Scott, revised and augmented throughout by Sir Henry Stuart Jones with the assistance of Roderick McKenzie. In most cases, the Greek texts are electronically copied from the *Thesaurus Linguae Graecae* (TLG), Digital Library of Greek Literature; hence, whenever no specific source of the Greek text is given, the TLG source ought to be consulted.

DK	Walther Kranz (Hrsg.), <i>Die Fragmente der Vorsokratiker. Griechisch und Deutsch von Hermann Diels</i>
KR	G. S. Kirk & J. E. Raven, <i>The Presocratic Philosophers. A Critical History with a Selection of Texts</i>
LCL	<i>Loeb Classical Library</i>
MGH	Georgius Henricus Pertz (ed.), <i>Monumentum Germaniae Historica</i>
PCW	Leopoldus Cohn & Paulus Wendland (ed.), <i>Philonis Alexandrini Opera quae supersunt</i>
PG	<i>Patrologiae Cursus Completus, Series Graeca</i> , accurante J.-P. Migne
PL	<i>Patrologiae Cursus Completus, Series Latina</i> , accurante J.-P. Migne
RI	Johann Friedrich Böhmer (Hrsg.), <i>Regesta imperii</i>

Aegidius Romanus [Aegid. R.]

De regimine principum [Reg.]

Archytas [Archyt.]

Fragmenta [Fr.]

Aristoteles [Arist.]

Ethica Nicomachea [NE]

Metaphysica [Metaphy.]

Politica [Pol.]

Sophistici Elenchi [SE]

Aristoxenus [Aristox.]

Fragmenta Historica [Fr. Hist.]

Athenaeus [Ath.]

Deipnosophistae [Deipn.]

Cicero [Cic.]

Legibus [Leg.]

Respublica [Resp.]

Senectute [Senect.]

Clemens Alexandrinus [Clem. Al.]*Paedagogus* [Paed.]*Stromateis* [Strom.]**Diogenes Laertius** [D.L.]*De clarorum philosophorum vitis***Engelbertus Admontensis** [Engelb. A.]*De regimine principum* [Reg.]**Eusebius Caesariensis** [Eus.]*Demonstratio Evangelica* [DE]*Historia Ecclesiastica* [HE]*Praeparatio Evangelica* [PE]**Hesiodus** [Hes.]*Opera et Dies* [Op.]**Hieronymus** [Jer.]*De viris illustribus* [De vir. illust.]**Homerus** [Hom.]*Ilias* [Il.]*Odyssea* [Od.]**Iamblichus** [Iamb.]*de vita Pythagorica* [VP]**Johannes Chrysostomos** [Jo. Chrysos.]*De paenitentia* [De paenit.]*Homilia in Mattheum* [Hom. in Matth.]*Homilia in i. Timoth.* [Hom. in i. Timoth.]**Josephus** [J.]*Antiquitates Judaicae* [AJ]*contra Apionem* [Ap.]*Bellum Judaicum* [BJ]**Olympiodorus** [Olymp.]*in Pl. Alc. comm.* [Alc.]*in Pl. Grg. comm.* [Grg.]*Prolegomena* [Proll.]**Philo Judaeus** [Ph.]*Abrahamo* [Abr.]*Aeternitate mundi* [Aet.]*Decalogo* [Decal.]*In Flaccum* [Flacc.]*Iosepho* [Ios.]*Legatio ad Gaium* [Legat.]*Opificio mundi* [Opif.]*Providentia* [Prov.]*Specialibus legibus* [Spec.]*Vita Mosis* [Mos.]**Plato** [Pl.]*Epistulae* [Ep.]*Gorgias* [Grg.]*Leges* [Leg.]*Protagoras* [Prt.]*Respublica* [R.]**Proclus** [Procl.]*in prim. Eucl. lib. comm.* [in Euc.]**Procopius Gazaes** [Procop. Gaz]*Paneg. in Anastas.* [Pan.]**Stobaeus** [Stob.]*Anthologica***Themistius** [Them.]*Orationes* [Or.]**Thucydides** [Thuc.]*Historia***Varro***Res Rusticae* [RR]**Xenophon** [X.]*Cyropaedia* [Cyr.]*Memorabilia* [Mem.]

INTRODUCTION

Most of our basic political terminology is Greek in its etymology, and despite of the fundamental gulf between ancient and modern political thought, one might say that the whole of our Western political thinking is forever indebted to its ancient Greek precursors.¹ Notions like natural law, customary law, or the living law ideal, for that matter, would probably have never come down to us in the form uttered by, say, Thomas Aquinas, Richard Hooker, or King James VI and I, had the Greeks not coined their concepts of ἄγραφος νόμος (unwritten law), νόμος φύσεως (natural law), and νόμος ἔμψυχος (living law) first. With this philosophical significance in mind, this study proposes to conduct an inquiry into the history of the νόμος ἔμψυχος idea from its first formulation in the Archytean *On Law and Justice* to its metamorphosis associated with Philo's thought.

My reason for embarking on such a venture is simple: I would like to examine whether there is any merit in that prevailing medievalist claim according to which the νόμος ἔμψυχος idea together with its derivative, the *lex animata* topic, made any significant contribution to the development of Western political thinking in general, and eventually some early-modern theories of sovereignty in particular? This claim is constituted of three interrelated assertions all of which need to be dully considered. The first assertion is that the νόμος ἔμψυχος idea was some sort of a commonplace argument in ancient politics. Second, that the expressions, νόμος ἔμψυχος and *lex animata*, convey virtually the same meaning. And third, that this idea contributed to the formulation of the Western theory of state at large.

The first and the second assertions are mostly discussed together; it is generally believed that the idea that the ruler is incarnate law or law embodied was a familiar topic of Classic and Hellenistic politics which came to be propounded in several works, some of which are considered historically and philosophically significant, like Plato's *Laws* (875c–d) and *Statesman* (294a), or Aristotle's *Nicomachean Ethics* (1132a) and *Politics* (1284a; 1288a), and some of which have fallen into oblivion, such as the Archytean *On Law and Justice* (Stob. 4.1.135), or pseudo-Diotogenes's *On Kingship* (Stob. 4.7.61). At any rate, a host of eminent scholars of ancient and medieval political thought, namely, Erwin Goodenough,² Artur

¹ See Cartledge 2005, pp. 11–22.

² In Goodenough's view, '*lex animata* survived in the codes of both Civil and Canon Law, though not with the full meaning' of the Greek fragments. Goodenough 1928, pp. 100–101.

Steinwenter,³ Ernst Kantorowicz,⁴ Michael Wilks,⁵ Gerhard Aalders,⁶ John Procopé,⁷ Donald Nicol,⁸ Joseph Canning,⁹ and Francis Oakley,¹⁰ argue to various extent that it was this Hellenistic idea which started to overshadow the classical Roman idea of rulership, and it was this idea which was finally adopted by Justinian's Code. Their view is best summarised by Ernst Kantorowicz who, in his monumental study, *The King's Two Bodies*, claims that the 'concept of the Prince as the "animate Law" was a denizen with regard to Roman legal thought. The notion itself, νόμος ἔμψυχος, derived from Greek philosophy; it was blended with the idea of the Roman Emperor being the embodiment of all Virtues and all else worth the living; and perhaps it was not free from Christian influence either'.¹¹

However, for obvious linguistic reasons, the expression, νόμος ἔμψυχος, does nowhere occur in the stricto sensu juristic literature outside of Justinian's *Novellae* (105.2.4), even though its translation, the *Authenticum's* *lex animata*, has definitely made a significant impact on medieval juristic thought. It is not surprising therefore that 'the doctrine of the Prince as the *lex animata*' was 'particularly unknown in the West during the earlier Middle Ages', more precisely before the rediscovery of the *Authenticum* in the early 1100's, and it was revived only 'through the revival of scientific jurisprudence and the literary style of Bologna'.¹²

After the *Authenticum* was uncovered in Bologna, the 105th novel's *lex animata* started to gradually permeate the jurists' and subsequently the canonists' vocabulary and political thinking, equipping them with a powerful symbolism for legal superiority. Though, this legal superiority was already explicit in the novel, which claimed that it was God Himself who subjugated the laws unto the emperor, sending him a living law amongst men,¹³ it was the jurists

³ Steinwenter 1946, pp. 250–268.

⁴ Kantorowicz 1997, pp. 127–137.

⁵ Wilks 1963, pp. 152–163.

⁶ Aalders 1969, 326–329.

⁷ Procopé 1988, pp.26–28.

⁸ Nicol 1988, pp. 64–65.

⁹ Canning 1996, p. 8.

¹⁰ Oakley 2006, p. 48.

¹¹ Kantorowicz 1997, p. 127.

¹² Kantorowicz 1997, pp. 128–129.

¹³ *Nov.* 105.2.4. Schoell 1895, p. 507. 'Omnibus enim a nobis dictis imperatoris excipiatur fortuna, cui et ipsas deus leges subiecit, legem animatam eum mittens hominibus: eo quod imperatori quidem iugis indesinens <est> consulatus omnibus civitatibus et populis gentibusque in singulis quae placent distribuenti, advenit autem cum ipse annuerit trabea, ideoque et imperii consulatus per omnia sit sequens scepra.' (The emperor is fortunately

and canonists of the Middle Ages who, building on this formulation, ‘laid the foundation for the elaboration of the concept of absolute power in the late Middle Ages.’¹⁴

After all, it is hardly surprising therefore that the first documented instance of the technical application of the *lex animata* topic is associated with the glossators; according to the chronicler, Godfrey of Viterbo (c. 1120–1191), the Four Doctors of Bologna, Bulgarus, Martinus, Hugo, and Jacobus, addressed the emperor, Frederick Barbarossa (1122–1190), with the following words at the imperial Diet of Roncaglia in 1158:

Tu lex viva potes dare, solvere, condere leges.
Stantque caduntque duces, regnant te iudice reges;
Rem quocumque velis lex animata geris.¹⁵

You, being the living law, can give, loosen, and proclaim laws; dukes stand and fall, and kings rule while you are the judge; anything you wish, you carry on as the animate law.¹⁶

Though, the simultaneous application of the *lex viva* and *lex animata* expressions are somewhat perplexing, there can be little doubt that Godfrey of Viterbo’s *Gesta Friderici* understands the *lex animata* to constitute a technical term of some kind.¹⁷ And it is this technical sense which gets elaborated on by the glossators of the thirteenth century.

By the 1230’s, one may witness an absolute proliferation of the *lex animata* topic in legal sources. First, according to the *Regesta Imperii*, on 25 June 1230 ‘der erzbischof von Salzburg und der bischof von Regensburg erklären als päbstliche delegirte die veräusserung der stadt Freising für nichtig, presertim cum in nostra et aliorum principum presentia dominus imperator, qui est animata lex in terris, in pleuo consistorio sententialiter declaraverit et quasi pro lege

exempted from everything we have just said because God Himself subjected the laws to him, sending him a living law amongst men; for this reason, the consulate surely belongs in perpetuity with the emperor over every city, every people, and every nation, to render them according to his pleasure, or to assign the consular robe to another, for the consulate always goes along with the imperial sceptre.)

¹⁴ Canning 1996, p. 8.

¹⁵ *MGH SS* 22, p. 316.

¹⁶ Kantorowicz’s (1996, p. 129) translation.

¹⁷ Cf. Steinwenter 1946, pp. 254–255; Kantorowicz 1997, p. 129.

promulgaverit: sedes episcopales nullatenus infeodari posse.’¹⁸ A year later, the emperor’s son, Henry (VII), also stressed the plenitude of royal power, by which kings as living and animate laws on earth are being above the laws (de plenitudine regie potestatis, qua tanquam viva et animata lex in terris supra leges sumus).¹⁹ And finally, in April 1232 Emperor Friedrich II ‘erklärt auf bitte von Asti den schiedsspruch für nichtig, wodurch die von Mailand denen von Alessandria Canelli und Calamandrana und andere besitzungen der Astenser zusprachen, weil die Alessandriner und Mailänder sich gegen seine maiestät, que est lex animata in terris et a qua iura civilia oriuntur, vergingen und demnach den rechtsschutz verwirkten’.²⁰

Beside these three imperial legal documents, the expression has a prominent occurrence in Accursius’s *Glossa ordinaria* too. The *Glossa ordinaria*, which is thought to have mostly been completed by 1230,²¹ invokes the lex animata topic on four occasions: twice associated with the *Digest*, once with regard to the *Codex*, and once in the *Novellae*. Glossing on the ‘Cum lex’ of D.1.3.22, the *Glossa* proclaims that ‘lex, id est imperator, qui est lex animata in terris’,²² a proposition which gets amplified by the gloss on the ‘alieno beneficio’ of D.2.1.5, according to which ‘princeps est lex animata in terris’.²³ Then, at C.10.1.5.2, Accursius explains that ‘principem, qui est vigor iustitiae: unde dicitur lex animata’,²⁴ and finally, the *Glossa* contains a separate note on the ‘legem animatam’ of *Nov.* 105.2.4 too.²⁵

Regardless of the clear resemblances between the *Glossa* and the three above imperial verdicts, which could easily be due to some sort of direct influence,²⁶ it is safe to say, then, that by the middle of the thirteenth century, the expression, lex animata, must have assumed the position of a commonplace argument in legal and political thought. This contention is also backed by a host of subsequent literary evidence. From the jurists, one may mention Andreas of Isernia’s (c. 1230–1316) gloss on the *Liber Augustalis* (3.26),²⁷ Cynus of Pistoia’s (1270–1336/7) polemics on the interpretation of D.2.1.5,²⁸ Albericus de Rosate’s (cc. 1290–1354)

¹⁸ *RI* 5.1.1 1793.

¹⁹ *RI* URH 2 315. Cf. Steinwenter 1946, p. 255; Kantorowicz 1997, pp. 131–132.

²⁰ *RI* 5.1.1 1959.

²¹ Weimar 1995, p. 19.

²² Merlin 1566, I, p. 78D.

²³ Merlin 1566, I, p. 166C.

²⁴ Merlin 1566, V, p. 4B.

²⁵ Merlin 1566, V, p. 211A.

²⁶ Steinwenter 1946, p. 255.

²⁷ Kantorowicz 1997, p. 130 n131.

²⁸ Kantorowicz 1997, p. 130 n129.

gloss on D.1.3.31,²⁹ or Baldus de Ubaldis's (1327–1400) commentary on D.1.3.2.³⁰ Next to the civil lawyers, the *lex animata* topic was invoked by the canonist, Johannes Andreae (c. 1270–1348), in his *Glossa* on the *Liber Sextus* (6.1.14), where he applied the expression to the pope (ad Papam qui est *lex animata* in terris),³¹ and it also appeared in some political writings, such as in Giovanni da Viterbo's (fl. c. 1240) *De regimine civitatum*,³² in Aegidius Romanus's (c. 1243–1316) influential *De regimine principum* (1.2.12), or in Engelbert of Admont's (c. 1250–1331) *De regimine principum* and *De ortu et fine Romani imperii*.

These latter two sources are particularly interesting with a view to our inquiry as both pieces seem to establish some connection with pre-Justinian material. In Aegidius Romanus's *De regimine principum*, 'which was one of the most-read and most-quoted works on a political topic during the later Middle Ages',³³ the topic is introduced with reference to Aristotle's *Nicomachean Ethics*. Aegidius claims that law is a rule of conduct (*regula agendorum*) and according to the fifth book of the *Nicomachean Ethics*, the judge himself, and even more, the king, who brings the law, is some kind of measure in conduct (*regula in agendis*). As such, Aegidius thinks it is adequate to construct a kind of syllogistic argument for the superiority of regal power.

Est enim Rex sive Princeps quaedam lex, et lex est quidam Rex sive Princeps. Nam lex est quidam inanimatus Princeps: Princeps vero est quaedam animata lex. Quantum ergo animatum inanimatum superat, tantum Rex sive Princeps debet superare legem. [...] Cum enim deceat regulam esse rectam et aequalem, Rex quia est quaedam animata lex et quaedam animata regula agendorum, ex parte ipsius personae regiae maxime decet ipsum servare Iustitiam.³⁴

The king or the prince is therefore some kind of law, and the law is some kind of king or prince. For the law is some kind of inanimate prince and the prince is, in fact, some kind of animate law. As much as the animate is superior to

²⁹ Kantorowicz 1997, p. 130 n129.

³⁰ Canning 1987, p. 267.

³¹ Steinwenter 1946, p. 251; Kantorowicz 1997, p. 129 n128.

³² Kantorowicz 1997, p. 130 n130.

³³ Kantorowicz 1997, p. 134.

³⁴ Aegid. R. *Reg. IaIIae* 12, pp. 79–80.

the inanimate, the king or prince ought to be superior to law. [...] For since it is fitting that a rule be right and equitable, and the king is a kind of animate law and a kind of animate rule of conduct, it is absolutely fitting that the king should serve justice by his own royal person.³⁵

Though in many respects, Aegidius's claim about the supremacy of royal power agrees neatly with the other contemporary applications of the topic, there are, however, two peculiarities for which the legal sources cannot account for. For one, Aegidius capitalises on the opposition of animate and inanimate law which, apart from Hostiensis's (c. 1200–1271) *Summa aurea* (under *de officio et potestate iudicis delegati*), does not appear in post-Justinian sources. And for two, Aegidius's argument is highly reminiscent of the kind of transposition introduced by the Ciceronian and Philonic loci discussed in Chapter 5 which might call for a more succinct examination.

As for the other piece, Engelbert's *De regimine principum*, the connection it draws between the *lex animata* topic and the works of Aristotle is even more explicit, even though Engelbert seems to elaborate merely on Aegidius's argument for he claims that the superiority of royal government is based on the fact that a king, who rules rationally, is being a living law; hence, he is superior to other forms of government which are not.³⁶

After all, I believe the third of the above introduced questions, namely whether the *lex animata* topic has made any significant influence on the development of medieval political thought, might be answered in the affirmative; the *lex animata* topic was certainly one of those arguments which carried the late medieval idea of legal superiority. As such, this idea's immense contribution to the development of the so-called 'Western state tradition' is beyond any doubt.³⁷ However, given the multiplicity of topics which were used to enunciate the idea of legal superiority in the later Middle Ages, and given the lack of any comprehensive digital database of medieval legal and political sources, the gravity of the *lex animata* topic's influence on the formulation of the early modern ideas of sovereignty cannot be estimated with any exact

³⁵ Translation mine.

³⁶ Engelb. A. *Reg.* 1.10–11, pp. 25–28.

³⁷ According to Kenneth Dyson (2009, p. vii), '[t]he tradition to which it alludes emphasises the autonomy, distinctiveness and normative character of public power. It attributes action in the service of this power to a fictional person and deliberative agent – the state – in ways that recall Thomas Hobbes, Samuel Pufendorf, and Christian Wolff. The classic state tradition serves to depersonalise public power in a dual sense, seeing it as distinct from both ruler and ruled.'

precision. Based on the prior overview, the idea must have permeated the whole of late medieval and early modern legal and political thinking, and the sources listed above most likely constitute but the tip of an iceberg hidden in obscure codices.

Still, the truth of the final proposition does not render the other two, logically prior, assertions true as well. As for the second claim, namely that the expressions, νόμος ἔμψυχος and *lex animata*, convey virtually the same meaning, one may rightly contest that assuming a Greek concept and its Latin or vernacular counterpart express the same thing would be to presuppose what would have to be shown.³⁸ And this observation leads us to the first proposition and our actual reason for embarking on this venture. The whole of the initial claim according to which a dominant Hellenistic idea of rulership, expressed in the term, νόμος ἔμψυχος, transformed the classical Roman legal and political thinking into something which centres around the emperor being law embodied and superior to positive law is nothing but a mere supposition, founded on very scarce textual evidence. The only place in which Justinian invokes the νόμος ἔμψυχος idea does clearly support such a reading, yet it does not follow that it was the novelists, or their supposed source, Themistius, the Byzantine orator, who absorbed some ready-made Greek idea, and it is not the other way around, namely that it was Themistius, or the novelists who distorted and corrupted a Hellenistic topic of a different sense for their own purposes.

At present, there is simply no answer to the question whether there existed a νόμος ἔμψυχος idea at all, and we cannot know what the relation is, if there is any, between the senses Justinian's *Novellae* and the other ancient sources employ the expression either. In order to be able to assume a position from which these questions may be addressed, a thorough and highly unbiased analysis of the sources is verily warranted; hence, the formative history of the idea deserves, I think, a fuller discussion than those currently at hand.

There are only six studies I know of which treat the history of the νόμος ἔμψυχος idea in some details,³⁹ but, unfortunately, all six seem to commit severe methodological fallacies and recur to uncalled for generalisations which not only make these analyses outdated but render them mostly unreliable as well.

The first in order is Erwin Goodenough's *The Political Philosophy of Hellenistic Kingship* (1928). In this ground-breaking piece of classical scholarship, Goodenough traces the origin of

³⁸ Cf. Quentin Skinner's introduction to his genealogy of the modern state. Skinner 2009, p. 325.

³⁹ The topic is very briefly discussed by Armand Delatte (1922, pp. 84–86) and John Procopé (1988, pp. 26–28) and in somewhat more details by Peter van Nuffelen (2011, pp. 114–118).

the idea to ‘the Persian conception of royal glory as described in the Zend-Avesta’.⁴⁰ He argues that ‘with such a remarkable parallel to the νόμος ἔμψυχος directly at hand in Persia, and attracting the attention of thoughtful Greeks as all Persian customs did, it is impossible for me not to feel that the whole conception got into the Pythagorean tradition, as well as into the other streams of Greek thinking, from the East.’⁴¹ This conception was, in his opinion, fully developed by the time of Isocrates and Aristotle, and it had some familiar aspects with ‘Plato, Aristotle, the Skeptics, and, of course, later the Stoics’.⁴²

The second piece is Louis Delatte’s monumental essay, *Les Traités de la Royauté d’Ecphante, Diotogène et Sthénidas* (1942), in which Delatte, commenting on pseudo-Diotogenes’s application of the term, claims that, though not explicitly, the idea was known to and applied by a host of classical authors.⁴³ Accordingly, Euripides, for instance, had Theseus say in his *Suppliants* (429–432) that a tyrant is someone who keeps the law unto himself. Plato, based on Clement of Alexandria’s second century A.D. interpretation (*Strom.* 2.4.18), thought that the best form of government is wherein a learned politician governs without the laws, while Aristotle likewise presents in the *Politics* (1284a; 1288a) a government in which the ruler’s will has the force of law, and Xenophon speaks of the king as if being a law that can see (*Cyr.* 8.1.22). In Delatte’s opinion, it is precisely this classical tradition which constituted such a heritage on which later authors, like pseudo-Archytas, or pseudo-Diotogenes, did, in fact, rely on.

The third is Artur Steinwenter’s article, bearing the promising title ΝΟΜΟΣ ΕΜΨΥΧΟΣ (1946). In this study, Steinwenter argues that the *lex animata* topic, common to a number of medieval canonists and civil lawyers, goes back to Justinian’s *Novellae* (105.2.4) which,⁴⁴ in turn, applies classical Greek political ideology. In his opinion, ‘Aristoteles hat den Gedanken des νόμος ἔμψυχος bereits gekannt, wenn er ihn auch nicht ausdrücklich formuliert hat. [...] Und Platon setzt im Politikos 294s. auseinander, daß der “königliche Mann” ohne die νόμοι der Polis regieren solle, da er durch seine dem Einzelfall angepaßten Urteile gerechter entscheiden könne als das starre, unpersönliche Gesetz.’⁴⁵ This doctrine found its way to Plutarch and the

⁴⁰ Goodenough 1928, p. 85.

⁴¹ Goodenough 1928, p. 86.

⁴² Goodenough 1928, pp. 62–64.

⁴³ Delatte 1942, pp. 245–248.

⁴⁴ Steinwenter 1946, pp. 251–252.

⁴⁵ Steinwenter 1946, pp. 262–263.

Neopythagoreans, but, eventually, it was most likely transmitted by the fourth-century orator, Themistius, to Justinian's *Novellae*,⁴⁶ and from there to medieval political thought.

The fourth study is the Dutch classicist's, Gerhard Aalders's, chapter, once again running by the title ΝΟΜΟΣ ΕΜΨΥΧΟΣ (1969), in which, in straightforward opposition to Goodenough's position, Aalders discusses a Greek origin for the notion.⁴⁷ According to Aalders, '[d]ie Auffassung, der König sei das inkarnierte Gesetz, führt zur Annahme, daß es eine Vorstellung von einem Idealherrscher und einem Idealgesetze gegeben haben muß. Das findet sich, im Zusammenhange mit dem Gedanken der Mangelhaftigkeit der kodifizierten Gesetze, bei Platon. Mit Recht hat man daher ihn als einen Vorläufer der Lehre des νόμος ἔμψυχος betrachtet.'⁴⁸ Nevertheless, he is apt to note that the oldest literary evidence for the philosophic application of the νόμος ἔμψυχος idea are Hellenistic, belonging to an intrinsically Aristotelian intellectual milieu wherein rulers are ipso facto considered νόμοι ἔμψυχοι; hence, good kings.⁴⁹

The fifth analysis is found in Oswyn Murray's dissertation, *Περὶ βασιλείας: Studies in the Justification of Monarchic Power in the Hellenistic World* (1971).⁵⁰ This is the only piece which explicitly claims that 'to speak of a doctrine at all is misleading; for [...] the phrase νόμος ἔμψυχος is a phrase which can be used to designate not one idea, but several.'⁵¹ Thus, in his opinion, 'the idea itself has no history; there is only the changing use of a phrase.'⁵² Even so, Murray cannot help himself discussing the idea's 'forerunners in earlier literature',⁵³ such as Plato and Aristotle in whose works 'the notion, though not the word' is found,⁵⁴ and he thinks that '[c]ertain passages in fourth century writers do offer some prefiguration of it.'⁵⁵ And he mentions Plato's *Statesman*, Aristotle's *Politics*, and Xenophon's *Cyropaedia*.

Finally, the sixth study is a chapter in John Martens's *One God, One Law* (2003) which mostly elaborates on Aalders's thesis, endorsing an early Greek origin for the idea.⁵⁶ In

⁴⁶ Steinwenter 1946, pp. 260–261.

⁴⁷ Aalders 1969, p. 316.

⁴⁸ Aalders 1969, p. 320.

⁴⁹ Aalders 1969, pp. 320–321.

⁵⁰ Murray 1971, pp. 251–252, 259, 262, 273–281.

⁵¹ Murray 1971, p. 275.

⁵² Murray 1971, p. 276.

⁵³ Murray 1971, p. 251.

⁵⁴ Murray 1971, p. 259.

⁵⁵ Murray 1971, p. 278.

⁵⁶ See also Martens 1991, pp. 55–91.

Martens's view, '[t]he centre of the ideal' which is 'the opposition between the king on one side and the written law on the other, is found, even if undeveloped, in a number of Greek authors whose influence on the living law ideal is probable.'⁵⁷ These probable influences, or forerunners of the concept are Xenophon, Plato, and Aristotle,⁵⁸ though he admits that the term νόμος ἔμψυχος is not found until the Hellenistic period. The distinction between the forerunners and the actual sources of the idea is established on the latter's preponderant concern for certain kingship traits lacking in earlier sources which, in effect, 'oppose the king to the written law, and open the door to a powerful, new, and dangerous concept.'⁵⁹ According to Martens, '[t]he living law ideal is a powerful concept' which enables the king to substitute himself for the law, making, indeed, written law superfluous.⁶⁰

The problem with these studies is, as I have suggested above, mostly methodological. It seems to me that all six scholars consider the νόμος ἔμψυχος notion a unit idea in Lovejoy's sense;⁶¹ hence, their analyses inevitably fall short of the criteria of modern historical scholarship.⁶² They speak of the *origin* of the idea together with its *forerunners* who, though not applying the term explicitly, had its most essential components already *implied* in their thoughts. Albeit, they admit that there are some changes of meaning, or emphasis within the ancient tradition of the νόμος ἔμψυχος idea, most of them still tend to explain these differences away and search for unifying traits and doctrines that arch over the sources and centuries. Their 'mistake lies', I believe 'not merely in looking for the "essential meaning" of the "idea" as something that must necessarily "remain the same", but even in supposing that there need be any such "essential" meaning (to which individual writers "contribute") at all.'⁶³ This kind of methodological fallacy, which Quentin Skinner labels the 'mythology of doctrines', engenders two fundamental misconceptions that frustrate any sound historical analysis. First, 'in writing such histories, our narratives almost instantly lose contact with statement-making agents.' And second, such histories fail to grasp 'what role – trivial or important – the given idea may have

⁵⁷ Martens 2003, p. 32.

⁵⁸ Martens 2003, pp. 32–35.

⁵⁹ Martens 2003, p. 53.

⁶⁰ Martens 2003, p. 65.

⁶¹ Cf. Lovejoy 2001, pp. 15–17.

⁶² See Quentin Skinner's criticism. Skinner 2002, pp. 57–89.

⁶³ Skinner 2002, pp. 84–85.

played in the thought of any individual thinker, or what place – central or peripheral – it may have occupied in the intellectual climate of any given period in which it appeared.’⁶⁴

It might raise some eyebrows therefore that throughout this study, I, too, speak of *the νόμος ἔμψυχος* idea, its genesis, synthesis, and metamorphosis, and it inevitably does, indeed, beg the question of research methodology. My answer to this question is twofold. Obviously, there are certain involuntary paths which are designated by the study’s subject matter: it concerns some texts of ancient Greek prose; hence, textual criticism and the nature of manuscript transmission must inevitably be taken into consideration.⁶⁵ Both are being indispensable tools for any study endeavouring to recollect the intended meaning of thinkers long since past. The intended meaning of some ancient philosopher was, however, not necessarily one with the sense his ideas were taken, and it was certainly at odds with the subsequent receptions of his thought. At this point, to me, it seems we are presented with the difficulty of either sacrificing historicity to generalisation, or generalisation to historicity. From a particularly historical methodological stance, it would be fallacious and misleading to suppose, then, that the authors concerned could somehow be in such a position to knowingly formulate their ideas with any deliberate reference to *the νόμος ἔμψυχος* idea; thus, making our former classification cogent. Nevertheless, I do believe that classifications of this sort are still justified, as long as they are kept strictly in retrospect for the purpose of explicating the driving forces and rational behind the changes of meaning within some philosophic ideas, at present, the νόμος ἔμψυχος idea.

This study considers, then, those ancient Greek sources that make mention of the νόμος ἔμψυχος idea with a dual objective at sight. First, it wishes to restore the historical context, and so the supposed meaning of the loci concerned. And second, it tries to collate the sources and account for the subsequent changes of meaning and emphasis. In identifying these loci, I have resorted to a full corpus search in the TLG database which came up with a total number of 29 search results from the works of 15 distinct authors for the period. These places, I have amended with the two additional extra-TLG finds of Artur Steinwenter (Isidore of Pelusium) and Gerhard Aalders (Procopius of Gaza), making a total of 31 loci derived from 17 distinct authors. Of these various sources, I have decided to focus predominantly on the idea’s early tradition from the most crucial formative centuries of fourth century B.C. to first century A.D. Thus, the study’s proper scope is the history of the νόμος ἔμψυχος idea from its Archytean genesis to its Philonic metamorphosis which, in effect, reduces the number of loci to be considered to but 6,

⁶⁴ Skinner 2002, p. 85.

⁶⁵ See West 1973, pp. 9–15.

occurring in 4 distinct works of three philosophers, namely: Archytas of Tarentum (Stob. 4.1.135.7–14), pseudo-Diotogenes (Stob. 4.7.61.2–7; 4.7.61.31–39), and Philo of Alexandria (*Abr.* 1.5.1–8; *Mos.* 1.162 and 2.4.1–5.1).

One must not forget, however, that the most of ancient Greek literature is forever lost to posterity, and so, it is highly probable that there were some other sources which, unfortunately, did not come to us. What is more, even those classical sources we possess of ancient Greek prose is subject to manuscript transmission; hence, textual criticism ought to take precedence. Then again, the outcome of such a monumental work is, to a considerable extent, determined by the sheer number and quality of the extant sources, and, on the whole, the older, papyri, copies are, in general, though not necessarily, more reliable than medieval manuscripts, or early printed editions. It is remarkably unfortunate therefore that all the Archytean, Diotogenean, and Philonic sources of the νόμος ἔμψυχος idea are preserved in medieval manuscripts and early printed editions only.

By far the best are the two Philonic texts which seem to ultimately derive from third-, or fourth-century Alexandrian copies.⁶⁶ The Archytean text of Part I and the Diotogenes treatise of Part II had, on the other hand, a less smooth transmission than the works of Philo who was cherished by the early Church Fathers for his supposed connection with the Apostle Peter and the first Christian community in Alexandria.⁶⁷ The archetype of both pieces is Stobaeus's fifth-century *Anthology* which is preserved in several, mostly high, medieval manuscript sources and some collections of maxims.⁶⁸ However, these sources' contested authorship and intensely debated date of composition further add to the difficulties already hinging around their critical interpretation. For these very reasons, I have decided to dedicate much of Part I and Part II to the studying of the sources' intellectual context broadly considered and to reflect on those circumstances and doxographic trends that may help to explain or, at least, elaborate on the texts' intended meaning for the νόμος ἔμψυχος idea.

After this fashion, I have organised my discussion into three parts with two chapters each. In the first part, I consider the genesis of the νόμος ἔμψυχος idea which, I believe, is closely associated with the late fifth- and early fourth-century debates over the intrinsic value of social justice, often expressed with reference to the so-called νόμος–φύσις problem. In order to attain a position of grasping the broad context of the idea's genesis, and to support my subsequent

⁶⁶ Cohn & Wendland 1896, p. iii. Royse 2009, p. 63.

⁶⁷ Runia 2009, p. 210.

⁶⁸ See Hense's *Prolegomena*, pp. vii–lxvii.

chronological claims, I have decided to dedicated Chapter 1 to a brief enumeration of the known sources of the said problem, discussing its occurrence by Protagoras, the Anonymus Iamblichi, Thucydides, Antiphon, and the *Gorgias*'s Callicles and the *Republic*'s Thrasymachus and Glaucon.

In Chapter 2, I address the actual question of the νόμος ἔμψυχος idea's Archytean origin which, again, necessitates a thorough analysis of the locus' Archytean context. After stating some general remarks on Archytas's life and his ethical and political theory, I argue for his participation in a debate with the Syracusan hedonist, Polyarchus, over the rational for νόμοι and the goodness of law-abidingness which was likely to have centred around the disparity of their respective sentiment towards ἀπετή. Based quintessentially on the parallels between these testimonia (Ath. *Deipn.* 12.64–65; Cic. *Senect.* 12.39–41) and a genuine fragment of Archytas (Stob. 4.1.139) and the passages of *On Law and Justice*, I claim that the νόμος ἔμψυχος idea was first coined by either Archytas himself, or his fourth-century Peripatetic biographer, Aristoxenus, and it reflects a genuinely Archytean distinction between the rule of a king and that of an inferior magistrate.

In the second part, after elucidating some general aspects of the Pythagorean pseudepigrapha in Chapter 3, I proceed in Chapter 4 with reflecting on pseudo-Diotogenes's Neopythagorean synthesis. Accordingly, in Chapter 3, I endeavour to substantiate that some pseudepigraphic Pythagorean treatises started to appear from as early as the third century B.C. and that by the first century B.C. the circulation of several treatises under the names of supposedly ancient Pythagoreans was attested both in Italy and in the Eastern Mediterranean. After reviewing some evidence for these pieces' early tradition and after a thorough analysis of the lemmata in Stobaeus's *Anthology*, I claim that some collection of pseudopythagorica might have existed by the first century A.D., and it looks like that both loci of the νόμος ἔμψυχος idea, namely pseudo-Diotogenes's *On Kingship* and the Archytean *On Law and Justice* were admitted to the same collection.

In Chapter 4, I consider, then, pseudo-Diotogenes's application of the νόμος ἔμψυχος term which I have characterised as some Neopythagorean synthesis. Based on certain external evidence, *On Kingship*'s doctrinal content, and, above all, on my subsequent theory of pseudo-Diotogenes's authenticating strategy, I argue that Diotogenes is a pseudonym adopted by some obscure Neopythagorean writer who lived sometime between the late first century B.C. and the early first century A.D. Unlike most Neopythagorean forgers, pseudo-Diotogenes devised a minutely sophisticated and deceitful authenticating strategy, a part of which was his employment of the Archytean νόμος ἔμψυχος and νόμιμος ἄρχων distinction. However, the

Diotogenean sense of the idea is distinctly un-Archytean; the Archytean elements in *On Kingship* are mere superficial colourings, designed to lend some authenticity to this piece of forgery.

In the third part, I turn to discuss the idea's Philonic metamorphosis together with its late antique *Nachleben*. In Chapter 5, after stating some basic information on Philo and his writings, I endeavour to introduce his system of law and relate his peculiar understanding of νόμος ἔμψυχος to this system. As a result of my inquiry, I argue for a genuinely Archytean sense in the Philonic loci, and, based quintessentially on Philo's unique ἔμψυχός τε καὶ λογικός syntax and some fascinating parallels between Philo's *Mos.* 2.4–5 and Cicero's *De legibus* 3.2, I claim that both places constitute a paraphrase of some lost Pythagorean passage which is most likely derived from a doxographic paraphrase of the Archytean *On Law and Justice*.

Finally, in the last chapter, I briefly consider the νόμος ἔμψυχος idea's *Nachleben* which, according to my understanding, is constituted of two major traditions. On the one hand, seven early Church Fathers elaborate mostly on Philo's semantic revolution of applying the term to some Biblical figures of the Old Testament, while, on the other hand, distinct late antique Byzantine figures made use of the previously outlined doxographic sense in various contexts. And it is this latter tradition which encompasses Justinian's famous locus which, in turn, seems to be relying on the fourth-century court orator, Themistius.

PART I
GENESIS

CHAPTER 1

Νόμος and φύσις: historiography of an antithesis

In the first part of my discussion, I consider the genesis of the νόμος ἔμψυχος idea which, according to my understanding, is intrinsically associated with the fourth-century Pythagorean, Archytas of Tarentum (cc. 435/410–355), or, at least, Stobaeus’s fifth-century *Anthology* ascribes a seemingly ancient locus (Stob. 4.1.135) to a certain Archytas the Pythagorean (Ἀρχύτα Πυθαγορείου ἐκ τοῦ Περὶ νόμου καὶ δικαιοσύνης). There is, however, an obvious problem with Stobaeus’s attribution; namely that he was surely dependent on some intermediary source which could easily be the product of the Neopythagorean pseudepigrapha. Prior to any analysis of the locus, it is essential therefore to settle these concerns, and so, to roughly decide on the passage’s probable date of composition.

In the subsequent chapter, I argue for the Stobaeian passage’s Archytean origin, resting my claim predominantly on a number of similarities and overlapping themes between some genuine testimonia on Archytas’s moral philosophy and the passages of *On Law and Justice* (Stob. 4.1.135–138, 4.5.61). I believe that the Archytean formulation of the νόμος ἔμψυχος and ἄψυχος distinction goes back to a real or fictitious discussion between Archytas and the Syracusan hedonist, Polyarchus, which was most likely put down by Archytas’s fourth-century biographer, Aristoxenus. If this hypothesis is correct, the term νόμος ἔμψυχος was first coined in a debate, or closely associated with a debate that concerned the so-called νόμος and φύσις antithesis; hence, a brief discussion of this topic is, I think, indispensable with a view to our subsequent analysis.

Νόμος and φύσις: towards an antithesis

It has long been recognised that the two terms, νόμος and φύσις, made an invaluable contribution to the development of early Greek thought.⁶⁹ In the earlier writers νόμος and φύσις

⁶⁹ See Heinimann 1987; Guthrie 1971, p. 55; Kerferd 1981, p. 111; Pohlenz 1953, p. 418; Long 2005, pp. 412–430; McKirahan 2011, p. 405.

do not necessarily delineate mutually exclusive conceptual domains,⁷⁰ but from the fifth century onwards their outspokenly opposed or antithetical use becomes increasingly prominent both in moral and political philosophy.

Apart from its single occurrence in Homer,⁷¹ φύσις seems to first appear as a technical term amongst the Ionian philosophers;⁷² hence, I cannot but endorse Max Pohlenz's celebrated observation,⁷³ according to which '[d]er Begriff der Physis ist eine Schöpfung der ionischen Wissenschaft, die in ihm ihr ganzes neues Weltverständnis zusammenfaßte.'⁷⁴ Although, the first philosophic application of the term is preserved in the Heraclitan fragments (106, 112, 123),⁷⁵ Aristotle's lexicographic definitions, provided in his *Metaphysics* Δ.4 (1014b16–1015a19), are considered far more important from a doxographic point of view. There, Aristotle settles several senses of φύσις⁷⁶ before concluding that 'from what has been said, then, the primary and prevalent sense of nature is the essence of those things which contain in themselves as such a principle of motion'.⁷⁷ Φύσις is, thus, the source (γένεσις) of this self-motion or change (κίνησις): ἡ τῶν φυσομένων γένεσις.⁷⁸ Generally, the verb φύομαι, translated here as 'I grow', is given as the root of the noun, but the stem φυ-, implying existence, renders a much more adequate reading.⁷⁹ Hence, Kirk argues that the 'broad general sense of φύσις, from which

⁷⁰ Barker claims, however, that there was a correspondence between the terms' antithetical application and 'the distinction drawn by the Ionian philosophers between the single and permanent physical basis, and the many and variable physical "appearances", of the visible universe.' Barker 1960, p. 64. Heinimann, on the other hand, remarks that '[b]ei seinem ersten Auftauchen in der Literatur dient es der sachlichen Beantwortung der Frage nach den Ursachen der Verschiedenheit der Völker, nicht dem aufklärerischen Zweck der Entwertung des νόμος zugunsten der φύσις.' Heinimann 1987, p. 28.

⁷¹ *Od.* 10, 303. καί μοι φύσιν αὐτοῦ (i.e. τοῦ φαρμάκου) ἔδειξε.

⁷² According to the ancient doxographic tradition (Ἀναξίμανδρος) ἐθάρρησε πρῶτος ὃν ἴσμεν Ἑλλήνων λόγον ἐξενεγκεῖν περὶ φύσεως συγγεγραμμένον. (Anaximander was the first of the Greeks whom we know who ventured to produce a written account on nature. KR 98, p. 102.) Themistius *Or.* 26.317c.

⁷³ Cf. Guthrie 1991, p. 82.

⁷⁴ Pohlenz 1953, p. 426.

⁷⁵ Cf. Kirk 1975, pp. 159–161, 227–231.

⁷⁶ Six senses according to Ross 1924, pp. 295–296, while Collingwood argues for seven. Collingwood 1945, pp. 80–82. Cf. Miller 2005, pp. 322–325.

⁷⁷ Tredennick slightly modified. ἐκ δὴ τῶν εἰρημένων ἡ πρώτη φύσις καὶ κυρίως λεγομένη ἐστὶν ἡ οὐσία ἡ τῶν ἐχόντων ἀρχὴν κινήσεως ἐν αὐτοῖς ἢ αὐτά: Arist. *Metaph.* Δ.4, 1015a13–15.

⁷⁸ Arist. *Metaph.* Δ.4, 1014b16–17.

⁷⁹ Ross 1924, p. 296; Kirwan, p. 129; Kirk 1975, p. 228. For a general overview see Zhmud 2018, pp. 51–53.

all specialized senses are derived, is “essence” or “nature”, the way a thing is made and, what is at times connected with this, the way it normally behaves.’⁸⁰

‘Nomos dagegen ist’ according to Pohlenz’s widely accepted definition, ‘ein Begriff, der nur das Menschenleben angeht, aus der Erfahrung des Alltages erwächst und das Bewußtsein ausdrückt, daß im Gemeinschaftsleben eine gewisse Ordnung herrscht.’⁸¹ M. Ostwald rightly remarks, however, that this ‘order’ differs ‘from other words for “order”, such as τάξις,’ or κόσμος for that matter, ‘in the connotation that this order is or ought to be regarded as valid and binding by those who live under it.’⁸² At first, νόμος denoted, then, a kind of normative order, something which was practised and accepted (νομίζεται) by a given community.⁸³

The earliest recorded use of νόμος occurs in Hesiod’s *Works and Days* (276–280),⁸⁴ where Hesiod tells us that ‘the son of Cronos has ordained this law [i.e. to listen to justice and forget altogether about violence] for men, that while fishes, wild beasts and winged fowls devour one another, since there is no justice amongst them; but he gave justice to men which turns out to be by far the best’.⁸⁵ Here, νόμος bears precisely the above given primeval sense: ‘an order of living, a way of life, which Zeus has given to men’.⁸⁶ In his groundbreaking essay, Ostwald quite convincingly demonstrates that the defining characteristic of the early applications of νόμος is that it describes, without exception, ‘customary practices’ that are ‘unquestioningly accepted as valid and correct by most people of the society in which they exist’.⁸⁷ From the second half of the fifth century, however, the validity of certain conventional beliefs about reality begins to be questioned and eventually rejected.⁸⁸ Thinkers, like Democritus, started to

⁸⁰ Kirk 1975, p. 228.

⁸¹ Pohlenz 1953, p. 426. M. Ostwald (1969) thinks, however, that there are some early examples of νόμος in which the term describes not only humans’ but also animals’ way of life (p. 21).

⁸² Ostwald 1969, p. 20.

⁸³ Cf. Guthrie 1971, p. 55; Pohlenz 1953, p. 426; Heinimann 1987, pp. 73–78; McKirahan 2011, p. 406.

⁸⁴ Cf. Heinimann 1987, pp. 61–64.

⁸⁵ τόνδε γὰρ ἀνθρώποισι νόμον διέταξε Κρονίων / ἰχθύσι μὲν καὶ θηρσι καὶ οἰωνοῖς πετενηοῖς / ἐσθέμεν ἀλλήλους, ἐπεὶ οὐ δίκη ἐστὶ μετ’ αὐτοῖς· / ἀνθρώποισι δ’ ἔδωκε δίκην, ἣ πολλὸν ἀρίστη / γίγνεται·

⁸⁶ Ostwald 1969, p. 21; cf. Stier 1928, pp. 232–233.

⁸⁷ Ostwald 1969, p. 37. Glossing on Alcman’s usage, Heinimann argues that ‘[a]uf der einen Seite ist νόμος weiterhin die objective, über dem Einzelnen und sogar über der Gemeinschaft stehende und ihr Leben regelnde Ordnung. Seine Bedeutung steigert sich in dieser Richtung noch, und er wird schließlich zum absolut Gültigen und Richtigen, freilich nur solange man sich der Tatsache nicht bewußt wird, daß diese Ordnung eigentlich erst ein Produkt der Gemeinschaft oder ihrer Glieder ist.’ Heinimann 1987, p. 65.

⁸⁸ Cf. Heinimann 1987, pp. 85–89; Guthrie 1971, p. 56; Ostwald 1969, pp. 37–39; Pohlenz 1953, pp. 426–427.

draw a firm distinction between what is commonly belied, though false, and what is, in fact, true.⁸⁹ ‘by convention [are] sweet, bitter, hot, cold, colour, but in truth [there are] atoms and void’ (νόμῳ γλυκύ, νόμῳ πικρόν, νόμῳ θερμόν, νόμῳ ψυχρόν, νόμῳ χροίῃ, ἔτεῃ δέ ἄτομα καὶ κενόν).⁹⁰

Nevertheless, the impact of these scientific considerations about the physical world was not confined to φυσιολογία but bore grave influence on moral and political thinking as well. We already find Archelaus, the pupil of Anaxagoras, who is said to be the first to bring natural philosophy from Ionia to Athens,⁹¹ utter that τὸ δίκαιον καὶ αἰσχρὸν οὐ φύσει εἶναι, ἀλλὰ νόμῳ (the just and the shameful are not by nature, but by convention);⁹² the intrinsic truth of which statement was also supported by subsequent anthropological discoveries for, by the beginning of the fifth century, as a natural consequence of colonisation and trade and military interactions, the Greeks grew conscious of the infinite variety of barbaric customs.⁹³ From this realisation followed, then, that particular (ἴδιοι) νόμοι could not be considered any longer as god-given and true; rather, from the second half of the fifth century, νόμος started to assume a political sense in which validity depended on sheer public opinion.⁹⁴ It came to be seen as ‘something imposed by man on his fellows, or at best created by agreement to set a limit on the freedom of each individual.’⁹⁵ Finally, deprived of its universal validity and general acceptance, a collision between νόμος and φύσις became imminent, eventually dividing fifth-century Greek philosophers into two opposing factions.⁹⁶

⁸⁹ ‘Für den Physiker ist dieser νόμος falsch, da er nicht das wahre, auf mechanischer Gesetzmäßigkeit beruhende Wesen der Dinge bezeichnet.’ Heinemann 1987, p. 88.

⁹⁰ KR 589, p. 422. (DK 68B9) Heinemann claims that τῶ ἐόντι is ‘gleichbedeutend mit ἔτεῃ’ and ‘[d]er Zusatz, τῆ φύσει, der sich textkritisch nicht halten läßt, erweist sich’, in turn ‘von der sophistischen Antithese aus betrachtet, als gleichbedeutend mit τῶ ἐόντι.’ Heinemann 1987, pp. 87–88.

⁹¹ οὗτος πρῶτος ἐκ τῆς Ἰωνίας τὴν φυσικὴν φιλοσοφίαν μετήγαγεν Ἀθήναζε [...] KR 539, p. 395.

⁹² DK 60A2.

⁹³ Kerferd 1981, pp. 112–113; Guthrie 1971, pp. 58–60; Barker 1960, pp. 64–65, Ostwald 1986, pp. 251–252.

⁹⁴ Cf. Ostwald 1969, pp. 39–43.

⁹⁵ Guthrie 1971, p. 59.

⁹⁶ Guthrie 1971 distinguishes three groups, p. 60.

Protagoras and the Anonymus Iamblichii

Some held that the imposition of νόμοι was both necessary and beneficial, as they were regarded the sole means of raising human life above the level of pure brutes.⁹⁷ These thinkers claimed that, contrary to the earlier beliefs,⁹⁸ civic life was the outcome of a long progress of civilisation from original brutality. One of the most prominent representatives of this ‘progress theory’⁹⁹ was Protagoras whose relating ideas are preserved in the Platonic dialogue named after him.¹⁰⁰

According to Plato’s Protagoras,¹⁰¹ men lived, at the beginning, scattered (σποράδην), without cities. Thanks to Prometheus’ gifts, they had craftsmanship (δημιουργική τέχνη), but lacked the ‘art of politics’ (πολιτική τέχνη) which included the art of war. This was, indeed, a vile condition, in which men, incapable of defending themselves, faced utter destruction from all kinds of wild beasts. That is why they sought to gather together and, in order to save themselves, they erected cities. But lacking πολιτικὴν τέχνην they committed injustices (ἡδίκουν) to one another, and so they dispersed and fell prey again. Zeus, fearing that our whole race might perish, sent Hermes to bring reverence and justice to men, so that there would be order in the cities and bonds of friendship to unite them.¹⁰² Αἰδώς and δίκη was distributed therefore to all, for cities cannot stand if only a few of them partake in these.¹⁰³ Nevertheless, Protagoras emphatically suggests that πολιτικὴ τέχνη is not a natural endowment of man, but something acquired by training. That is why, he believes, people do not regard justice (δικαιοσύνη) and other civic virtues (καὶ ἡ ἄλλη πολιτικὴ ἀρετὴ) natural and spontaneous, but something taught (ὅτι δὲ αὐτὴν οὐ φύσει ἡγοῦνται εἶναι οὐδ’ ἀπὸ τοῦ αὐτομάτου, ἀλλὰ διδασκτόν).¹⁰⁴

In a similar fashion, the Anonymus Iamblichii states that since men were incapable of subsisting alone, necessity (ἀνάγκη) forced them to come together with one another and to establish for themselves an entire way of life together with all the crafts necessary for such a

⁹⁷ For a general overview see Guthrie 1971, pp. 60–84.

⁹⁸ Hes. *Op.* 109–110.

⁹⁹ Guthrie 1971, p. 63.

¹⁰⁰ Barker 1960, p. 71; Heinimann 1987, p. 115. For a comprehensive account of Protagoras’ idea on justice see Caizzi 1999, pp. 316–322.

¹⁰¹ Pl. *Prt.* 322a–d.

¹⁰² Ἐρμῆν πέμπει ἄγοντα εἰς ἀνθρώπους αἰδῶ τε καὶ δίκην, ἵν’ εἶεν πόλεων κόσμοι τε καὶ δεσμοὶ φιλίας συναγωγοί.

¹⁰³ οὐ γὰρ ἂν γένοιτο πόλεις, εἰ ὀλίγοι αὐτῶν μετέχοιεν ὥσπερ ἄλλων τεχνῶν.

¹⁰⁴ Pl. *Prt.* 323c.

living. However, they could not live together in a state of lawlessness (ἀνομία), for such a state would prove to be an even greater punishment for them than living on their own. Law and justice rules (ἐμβασιλεύειν) from this necessity over men, and this would not change in any way, for it is fixed with great strength in our nature.¹⁰⁵ For the Anonymus, law and justice are, therefore, beneficial for all, since they constitute the means whereby all men, even those of exceptional bodily and mental strength (ἀδαμάντινος τό τε σῶμα καὶ τὴν ψυχὴν), are saved from ultimate ruin and perishing.¹⁰⁶

Thucydides

On the other hand, in the course of the Peloponnesian War, these traditional justifications of customary practices were met with intense and formidable criticisms from a growing number of dissenters entertaining a much more pragmatic and intrinsically amoral idea of law and justice.¹⁰⁷ In Thucydides' account of the war (2.52.3), we find that in plague-afflicted Athens it was common for people to 'turn completely careless of things sacred or divine' (ὀλιγοφρίαν ἐτρέποντο καὶ ἱερῶν καὶ ὀσίων ὁμοίως), burial customs were disregarded (2.52.4) and 'perseverance in what men called honor was popular with none, it was so uncertain whether they would be spared to attain the object; but it was settled that present enjoyment, and all that contributed to it, was both honorable and useful (τοῦτο καὶ καλὸν καὶ χρήσιμον κατέστη).'¹⁰⁸ We also learn from Thucydides that many believed that one's own interest (τὸ ξυμφέρον) either coincides with or prevails over justice. In the Mytilenaeen debate,¹⁰⁹ Cleon advocates, for instance, a severe punishment for the rebellious Mytilenaeans, arguing that such an action would prove to be both just and profitable (πειθόμενοι μὲν ἔμοι τά τε δίκαια ἐς Μυτιληναίους καὶ τὰ ξύμφορα ἅμα ποιήσετε),¹¹⁰ whereas in the Melian dialogue the Athenians start the

¹⁰⁵ εἰ γὰρ ἔφυσαν μὲν οἱ ἄνθρωποι ἀδύνατοι καθ' ἓνα ζῆν, συνῆλθον δὲ πρὸς ἀλλήλους τῆι ἀνάγκῃ εἴκοντες, πᾶσα δὲ ἡ ζωὴ αὐτοῖς εὐρηται καὶ τὰ τεχνήματα πρὸς ταύτην, σὺν ἀλλήλοις δὲ εἶναι αὐτοὺς κἂν ἀνομίαι διαιτᾶσθαι οὐχ οἶόν τε (μείζω γὰρ αὐτοῖς ζημίαν <ἄν> οὕτω γίνεσθαι ἐκείνης τῆς κατὰ ἓνα διαίτης), διὰ ταύτας τοίνυν τὰς ἀνάγκας τὸν τε νόμον καὶ τὸ δίκαιον ἐμβασιλεύειν τοῖς ἀνθρώποις καὶ οὐδαμῆι μεταστῆναι ἂν αὐτά· φύσει γὰρ ἰσχυρὰ ἐνδεδέσθαι ταῦτα. DK 89, 6.1. Cf. Kerferd 1981, pp. 126–127; Guthrie 1971, pp. 71–73.

¹⁰⁶ οὕτω φαίνεται καὶ αὐτὸ τὸ κράτος, ὅπερ δὴ κράτος ἐστὶ, διὰ τε τοῦ νόμου καὶ διὰ τὴν δίκην σσιζόμενον. DK 89, 6.5.

¹⁰⁷ Cf. Guthrie 1971, pp. 84–116.

¹⁰⁸ Translation from R. Crawley. Thuc. 2.53.3.

¹⁰⁹ For a thorough analysis see Ober 1998, pp. 94–104.

¹¹⁰ Thuc. 3.40.4.

discussion by declaring that they shall not recurse to moral arguments in order to win the Melians over because ‘justice, as the saying goes, has force only amongst equals, the strong accomplish what they can and the weak yield what they must.’¹¹¹ When, in the heat of the debate, the Melians, as a final consideration, introduce a moral argument, asserting that despite of their weaknesses their cause may find divine favour,¹¹² the Athenians simply reply that, according to their belief about the gods and their knowledge about men, it is clear that the mightier rules by natural necessity (ὕπὸ φύσεως ἀναγκαίας).¹¹³ This being a universal law, the Melians shall not expect any Spartan help for the Spartans, more than any others, regard that which is pleasant honourable and that which is beneficial just (ξυνηλὼν μάλιστα ἄν δηλώσειεν ὅτι ἐπιφανέστατα ὧν ἴσμεν τὰ μὲν ἡδέα καλὰ νομίζουσι, τὰ δὲ ξυμφέροντα δίκαια).¹¹⁴

Such ideas were, nevertheless, popular not only with politicians and men in the street but also with a number of prominent intellectuals of late fifth-century Athens. Amongst others,¹¹⁵ Callicles, Glaucon, and the Sophists, Thrasymachus and Antiphon, were all, to various degrees, critics of the more conventional understanding of moral conduct. Glaucon, the elder brother of Plato,¹¹⁶ Thrasymachus, the Chalcedonian orator,¹¹⁷ and Antiphon,¹¹⁸ the man who, according to Thucydides (8.68.1), planned the oligarchic coup of 411, were doubtless historical figures, Callicles, on the other hand, being a somewhat mysterious figure of whom, apart from the Platonic dialogue, no recorded history survives,¹¹⁹ might well be only Plato’s creation. Their relating views, except for that of Antiphon, three substantial parts of whose *Truth* (Ἀλήθεια) is

¹¹¹ Crawley with alterations. Thuc. 5.89.1.

¹¹² Thuc. 5.104.1.

¹¹³ Thuc. 5.105.2.

¹¹⁴ Thuc. 5.105.4.

¹¹⁵ Critical tones may also be found, amongst others, in Aristophanes’ *Clouds* (1410–1419) or Gorgias’ *Encomium of Helen* (DK 82B11, 6).

¹¹⁶ DL II.29.9.

¹¹⁷ DK 85A1.

¹¹⁸ At least as early as the first century B.C. Antiphon the Sophist, author of *Truth* and *Concord*, is distinguished from Antiphon the orator, author of the *Tetralogies* (DK 87A2). The distinction seems to be based, however, on purely stylistic grounds which are, in my opinion, insufficient to challenge *Truth*’s early attribution to Antiphon the orator, son of Sophilus, leader of the oligarchic revolution of 411. See the identity problem in details Gagarin 2002, pp. 37–52.

¹¹⁹ Cf. Dodds 1979, pp. 12–15.

preserved in papyrus fragments (DK 87B44 A, B, I–II), are, however, known only from the Platonic dialogues, *Gorgias* and *Republic* I and II.¹²⁰

Νόμος and φύσις in Plato’s *Gorgias* and *Republic* I and II

The *Gorgias* is an early dialogue which is constituted of three conversations of unequal length.¹²¹ The opening discussion (449c–461b) is set between Socrates and the famous rhetorician, Gorgias, which is followed by a longer conversation (461b–481b) with Gorgias’s young associate, Polus, to be finally superseded by the longest piece (482c–527e), namely the dispute between Socrates and Callicles over εὐδαιμονία and the use of justice. Although the *Gorgias* bears the subtitle ἡ περὶ ῥητορικῆς,¹²² and the debate arises from the question: ‘which of the things that are is rhetoric really about?’,¹²³ the scope (σκοπός) of the dialogue is, after all, twofold: partly it concerns the art of rhetoric and party it is, according to the Neoplatonic commentator, Olympiodorus, ‘about the ethical principles that lead to happiness’ (περὶ τῶν ἀρχῶν τῶν ἠθικῶν διαλεχθῆναι τῶν φερουσῶν ἡμᾶς ἐπὶ τὴν πολιτικὴν εὐδαιμονίαν).¹²⁴ These two themes are, then, bound together into an overarching unity both by the dialogue’s ‘ascending spiral’ movement¹²⁵ and the throughout presence of its principal character, Gorgias,¹²⁶ for ‘Gorgias’ teaching is the seed of which the Calliclean way of life is the poisonous fruit.’¹²⁷ Hence, the clash of Socrates and Callicles is, in fact, a clash of the political and the Socratic way of life dedicated to the pursuit of philosophy.¹²⁸

¹²⁰ Though these Platonic characters surely take account of the views and personalities of the real persons, still one ought to bear in mind that ‘the actual arguments in the dialogues with hardly an exception are composed and manipulated by Plato himself.’ Kerferd 1981, p. 119.

¹²¹ For the dating of *Gorgias* see Dodds 1979, pp. 18–27.

¹²² Dodds 1979, p. 1.

¹²³ Pl. *Grg.* 449c–d. Irwin 1995, p. 16.

¹²⁴ Olymp. *Grg.* pr.4.18–20.

¹²⁵ Dodds 1979, pp. 3–4.

¹²⁶ Stauffer suggests that the continuation of the dialogue after ‘the ensnaring of Gorgias’ may be ‘a continuation of Socrates’ conversation with Gorgias, henceforth to be conducted indirectly but nonetheless intended to remedy the flaws in Gorgias’ understanding and to continue to lay the foundation for an alliance’ between the two. Stauffer 2006, p. 40.

¹²⁷ Dodds 1979, p. 15.

¹²⁸ Pl. *Grg.* 481e1–482b2.

As their intrinsic opposition folds out, Callicles realises that in order to discredit altogether both this philosophic bios in general and Socrates's recent dialectic victory over Polus in particular, he needs to either exhibit the superfluity of philosophy or uncover some fault of Socrates's character. Having both objectives in mind, he decides to charge Socrates with committing the kind of mob-oratory (ἐν τοῖς λόγοις ὡς ἀληθῶς δημηγόρος ὄν) he was so anxious to oust. Thus, wishing to deliver terrible blows both to the rigour and argumentative force of the Socratic ἔλεγχος and the trustworthiness of Socrates's character, he argues that by making an unwarranted leap in his line of reasoning Socrates tricked Polus into conceding (475e) his apparently illegitimate conclusion that doing injustice is not only more shameful, but also worse than suffering it (474c). What is more, in Callicles's opinion, Socrates deliberately led their discussion astray; hence, he could not be earnest about his claim of pursuing the truth (τὴν ἀλήθειαν διώκειν) either. In truth (τῷ ὄντι) the Socratic ἔλεγχος is therefore but some cleverly devised trick of leading things to vulgarities and stock themes of mob-oratory (φορτικὰ καὶ δημηγορικά) because things are clearly not fine by nature, but only by rule (ἃ φύσει μὲν οὐκ ἔστιν καλά, νόμῳ δέ).¹²⁹

In Callicles's account the νόμος-φύσις antithesis is, thus, reduced to a mischief in rhetoric, a mere 'commonplace argument for leading men into paradoxical statements' (τόπος ἐστὶ τοῦ ποιεῖν παράδοξα λέγειν).¹³⁰ Moreover, Irwin is right to remind that '[w]hen Callicles claims that Socrates appeals to what is fine by rule and not by nature, he means that it is only believed to be fine by those with conventional moral beliefs, and is not really fine.'¹³¹ In other words, unlike those Thucydidean descriptions (1.76.2; 2.63.2; 4.61.5) which allow self-interest to overrule conventional moral beliefs, Callicles does not only 'render justice meaningless',¹³² but he point-blank denies that any social or moral value could, in principle, consist in conventional νόμοι qua νόμοι. To Callicles, rules (νόμοι) are laid down by the many weak people (οἱ ἀσθενεῖς ἄνθρωποι εἰσιν καὶ οἱ πολλοί), as part of their 'self-serving conspiracy',¹³³ with the sheer purpose of terrorising the stronger men, capable of having more (δυνατοὺς ὄντας πλεόν ἔχειν), and so, striving to prevent them from actually getting more, they say that taking more is shameful and unjust.¹³⁴

¹²⁹ Pl. *Grg.* 482e2–5. Irwin 1995, p. 56.

¹³⁰ Arist. *SE* 173a7. Barnes 1991, p. 20.

¹³¹ Irwin 1995, p. 171.

¹³² Stauffer 2006, p. 87.

¹³³ Stauffer 2006, p. 87.

¹³⁴ Pl. *Grg.* 483b4–c5; Irwin 1995, p. 57.

Though this position clearly implies the rejection of conventional justice in favour of something he calls natural justice, his account is, nonetheless, definitely not an immoralist one.¹³⁵ Based on Callicles's explanatory addition at 484a5, namely that the 'leonine' man would trample under his foot (καταπατήσας) 'all our writings, charms, incantations, and all the rules contrary to nature'¹³⁶ (νόμους τοὺς παρὰ φύσιν ἅπαντας), it is reasonable to assume that Callicles does not intend to abolish all rules altogether; rather, he merely wishes to provide such a higher and independent standard against which the use and worth of conventional νόμοι are to be tested. Now, in his opinion, this higher standard is nature (φύσις); he believes that nature itself shows 'that it is just for the better man to have more than the worse, and the more powerful than the less powerful.'¹³⁷ 'For what sort of justice did Xerxes rely on when he marched against Greece, or his father against the Scythians? [...] I think these men do these things according to nature, the nature of the just; yes, by Zeus, by the rule of nature' (ἀλλ' οἶμαι οὗτοι κατὰ φύσιν τὴν τοῦ δικαίου ταῦτα πράττουσιν, καὶ ναὶ μὰ Δία κατὰ νόμον γε τὸν τῆς φύσεως).¹³⁸

As ναὶ μὰ Δία indicates, Callicles is clearly coining a new and shockingly paradoxical phrase which is not to be confused with the Stoic idea of νόμος φύσεως.¹³⁹ His "law of nature" is not a generalization about Nature but a rule of conduct based on the analogy of "natural" behaviour.¹⁴⁰ It is 'what normally goes on, and in that sense it is the norm or rule, *nomos*, in nature.'¹⁴¹ Hence, in his view, it is fine and just according to nature (ἐστὶν τὸ κατὰ φύσιν καλὸν καὶ δίκαιον) that a man who is to live rightly should let his appetites grow as large as possible and not restrain them (ὅτι δεῖ τὸν ὀρθῶς βιωσόμενον τὰς μὲν ἐπιθυμίας τὰς ἑαυτοῦ ἕαν ὡς μεγίστας εἶναι καὶ μὴ κολάζειν).¹⁴² In sum, he does not only reduce δίκαιον to might; rather, he seems to imply that might really is, in fact, right (δίκαιος).¹⁴³

Albeit this Calliclean theory of natural justice is doubtless an unprecedented and, strictly-speaking, unparalleled solution for the νόμος-φύσις problem, in *Republic* I Thrasymachus is, nevertheless, found entertaining a seemingly similar position, namely that 'justice is nothing

¹³⁵ Cf. Dodds 1979, pp. 266–267; Kerferd 1981, p. 118.

¹³⁶ Irwin 1995, p. 57. Slightly altered.

¹³⁷ Pl. *Grg.* 483c9–d2; Irwin 1995, p. 57.

¹³⁸ Pl. *Grg.* 483d6–e3; Irwin 1995, p. 57.

¹³⁹ Dodds 1979, p. 268; Irwin 1995, pp. 175–176.

¹⁴⁰ Dodds 1979, p. 268.

¹⁴¹ Irwin 1995, p. 175; cf. Grote 1994, p. 25.

¹⁴² Pl. *Grg.* 491e6–9; Irwin 1995, pp. 65–66.

¹⁴³ Dodds 1979, p. 15.

other than the advantage of the stronger’ (εἶναι τὸ δίκαιον οὐκ ἄλλο τι ἢ τὸ τοῦ κρείττονος συμφέρον).¹⁴⁴ For this very reason, Roslyn Weiss remarks, ‘[m]any readers of Plato think Thrasymachus is just the *Gorgias*’s Callicles by another name.’¹⁴⁵ For Thrasymachus, κρείττων is, however, not an ethical but a political term: regardless of their natural constitution, the ‘stronger’ are those who actually rule the polis (οὐκοῦν τοῦτο κρατεῖ ἐν ἐκάστη πόλει, τὸ ἄρχον).¹⁴⁶ What is more, Thrasymachus happens to be a quintessentially realist figure and a par excellence spokesman of fifth-century Athenian Realpolitik who in his formulation of justice is not the least concerned with its social or moral worth. He simply dismisses conventional justice as some kind of nonsensical foolishness and argues instead for a true and practical definition established on sheer factual grounds.¹⁴⁷ In his opinion, his definition is supported by two such factual truisms, first that in each form of government rules are designed by self-seeking individuals motivated by their own peculiar interests, and second that the just men are everywhere at a disadvantage in comparison to the unjust ones.¹⁴⁸

Justice is, then, identified with the advantage of the established government (ἐν ἀπάσαις ταῖς πόλεσιν ταῦτόν εἶναι δίκαιον, τὸ τῆς καθεστηκυίας ἀρχῆς συμφέρον);¹⁴⁹ hence, all conventional moral judgments are ‘tainted at the source, and so cannot be taken as providing reliable information about justice, or any other moral notion.’¹⁵⁰ In fact, in each form of government the rulers make laws to their own advantage and ‘they declare what they have made, what is to their own advantage, to be just for their subjects and they punish anyone who goes against this as lawless and unjust.’¹⁵¹ From this follows that justice is also ‘the good of

¹⁴⁴ Pl. *R. I.* 338c1–2; Cooper 1997, p. 983. Boter, in agreement with Kerferd and Nicholson, argue, however, that this position ought not to be regarded as Thrasymachus’s definition of justice; rather, in his opinion, Thrasymachus ‘tacitly assumes that the essence of justice is *ισότης*, the opposite of *πλεονεξία*’. Thus, Boter contends that ‘Thrasymachus is only speaking about the *consequences* of justice, and that his real position concerning the consequences of justice is exactly what it professes to be, namely “the advantage of the stronger”.’ Boter 1986, pp. 264–267.

¹⁴⁵ Weiss 2007, p. 93.

¹⁴⁶ Pl. *R. I.* 338d10. Cf. Weiss 2007, p. 94.

¹⁴⁷ Pl. *R. I.* 336b8–c3. τίς, ἔφη, ὑμᾶς πάλα φλυαρία ἔχει, ὃ Σώκρατες; καὶ τί εὐηθίζεσθε πρὸς ἀλλήλους ὑποκατακλινόμενοι ὑμῖν αὐτοῖς; ἀλλ’ εἴπερ ὡς ἀληθῶς βούλει εἰδέναι τὸ δίκαιον ὅτι ἔστι [...]

¹⁴⁸ Reeve 2006, p. 16.

¹⁴⁹ Pl. *R. I.* 338e6–339a2.

¹⁵⁰ Reeve 2006, p. 15.

¹⁵¹ Pl. *R. I.* 338e1–6; Cooper 1997, p. 983. For a detailed analysis of Thrasymachus’s first argument see Reeve 2006, pp. 10–16.

another, the advantage of the stronger and the ruler (ἡ μὲν δικαιοσύνη καὶ τὸ δίκαιον ἀλλότριον ἀγαθὸν), and harmful to the one who obeys and serves.¹⁵² Yet, it is not any kind of injustice Thrasymachus speaks of but tyranny, the most complete (τὴν τελεωτάτην ἀδικίαν) form of injustice, ‘which through stealth or force appropriates the property of others, whether sacred or profane, public or private, not little by little, but all at once.’¹⁵³ Injustice practiced on a large enough scale is, thus, in Thrasymachus’s opinion, stronger, freer, and more masterly than the paying of justice (καὶ ἰσχυρότερον καὶ ἐλευθεριώτερον καὶ δεσποτικώτερον ἀδικία δικαιοσύνης ἐστὶν ἱκανῶς γιγνομένη).¹⁵⁴

In conclusion, it appears to me that, though Thrasymachus does nowhere make actual use of the νόμος-φύσις antithesis, his sophisticated rebuttal of conventional justice in favour of vulgar injustice understood as εὐβουλία (348d2) rightly places him in the camp of the dissenters.¹⁵⁵ Given the structure and scope of the dialogue, one cannot without facing with considerable difficulties distinguish, however, the historic Thrasymachean and the dialectical σκοπὸι. In agreement with Guthrie, I believe that the purpose of the historical Thrasymachus was only ‘to unmask the hypocrisy and show how the meaning of justice’ was ‘being perverted.’¹⁵⁶ On the other hand, the dialectical σκοπός consists in a subtly and brilliantly elaborated critique designed to shed light on the flaws in Socrates’s craft analogy.¹⁵⁷ From the dialectical point of view, Socrates’s apparent victory over the Thrasymachean position was therefore insufficient in itself, and so Glaucon’s challenge and his emended restatement of the Thrasymachean idea was necessary insofar as to raise and prepare for the genuine problem of Plato’s psychological theory.¹⁵⁸

¹⁵² Pl. *R. I.* 343c3–5; Cooper 1997, p. 988. Agreeing with Reeve, pp. 16–19, I do not find the two Thrasymachean arguments mutually exclusive. For a brief summary of challenging interpretations see Boter 1986, pp. 261–266.

¹⁵³ Pl. *R. I.* 344a3–b1; Cooper 1997, p. 988.

¹⁵⁴ Pl. *R. I.* 344c4–6; Cooper 1997, p. 988. Cf. Reeve 2006, pp. 18–19; Weiss 2007, pp. 97–98.

¹⁵⁵ Cf. Kerferd 1981, p. 122.

¹⁵⁶ Guthrie 1971, p. 92.

¹⁵⁷ See Reeve 2006, pp. 7–8, 19, 22–24.

¹⁵⁸ The popular sentiment represented by Glaucon is, in my opinion, markedly different from the one enunciated by Thrasymachus for the many do, in fact, think that there is something good about justice, though not in itself but in one’s reputation for justice. (οὐ τοίνυν δοκεῖ, ἔφη, τοῖς πολλοῖς, ἀλλὰ τοῦ ἐπιπόνου εἶδους, ὁ μισθῶν θ’ ἕνεκα καὶ εὐδοκμήσεων διὰ δόξαν ἐπιτηδευτέον, αὐτὸ δὲ δι’ αὐτὸ φευκτέον ὡς ὄν χαλεπόν. Pl. *R. II.* 358a4–6.) No one who appears unjust might succeed. Cf. Weiss, pp. 100–101. For challenging interpretations see Cooper 2000, pp. 5–27, pp. 6–8; Boter 1986, pp. 267–273.

In *Republic* II Glaucon is, thus, merely playing the devil’s advocate by representing a popular opinion which he otherwise does not endorse.¹⁵⁹ ‘They say’, he argues, ‘that to do injustice is naturally good and to suffer injustice bad (πεφυκέναι γὰρ δὴ φασιν τὸ μὲν ἀδικεῖν ἀγαθόν, τὸ δὲ ἀδικεῖσθαι κακόν), but that the badness of suffering it so far exceeds the goodness of doing it that those who have done and suffered injustice and tasted both, but who lack the power to do it and avoid suffering it, decide that it is profitable to come to an agreement with each other neither to do injustice nor to suffer it (δοκεῖ λυσιτελεῖν συνθέσθαι ἀλλήλοις μήτ’ ἀδικεῖν μήτ’ ἀδικεῖσθαι). As a result, they begin to make laws (νόμους) and covenants (συνθήκας), and what the law commands they call lawful and just (καὶ ὀνομάσαι τὸ ὑπὸ τοῦ νόμου ἐπίταγμα νόμιμόν τε καὶ δίκαιον). This, they say, is the origin and essence of justice (οὐσίαν δικαιοσύνης).’¹⁶⁰

Hence, according to this popular belief, justice is but a mean between the best, that is doing injustice with impunity, and the worst, namely suffering it.¹⁶¹ Nevertheless, since human nature is governed by *πλεονεξία* (359c4–5), given the utmost freedom for licentiousness, no one would opt for justice, but one would ‘catch the just person red-handed travelling the same road as the unjust.’¹⁶² Glaucon asserts therefore that all those ‘who practice justice do it unwillingly and because they lack the power to do injustice’ for ‘anyone’s nature naturally pursues the good, but nature is forced by law into the perversion of treating fairness with respect (τὴν τοῦ ἴσου τιμὴν).’¹⁶³

Antiphon

Finally, in Antiphon’s *Truth*, what, according to the best of our knowledge, seems to be the only Sophistic discourse containing the ipsissima verba of a fifth-century Sophist reflecting directly on the νόμος-φύσις antithesis from an ethical point of view,¹⁶⁴ one may find a somewhat similar preference for injustice. However, due to its fragmentary state, both the internal order

¹⁵⁹ ἐπεὶ ἔμοιγε, ὃ Σώκρατες, οὐ τι δοκεῖ οὕτως· ἀπορῶ μέντοι διατεθρυλημένος τὰ ὄτα ἀκούων Θρασυμάχου καὶ μυρίων ἄλλων, τὸν δὲ ὑπὲρ τῆς δικαιοσύνης λόγον, ὡς ἄμεινον ἀδικίας, οὐδενός πω ἀκήκοα ὡς βούλομαι [...] Pl. R. II. 358c6–d1. Cf. Pl. R. II. 368a7–b4.

¹⁶⁰ Pl. R. II. 358e3–359a5; Cooper 1997, p. 1000.

¹⁶¹ Pl. R. II. 359a5–7.

¹⁶² Pl. R. II. 359c2–3

¹⁶³ Pl. R. II. 359b6–c6; Cooper 1997, p. 1000 slightly altered.

¹⁶⁴ For a detailed analysis see Moulton 1972, pp. 329–366.

of the fragments and their interpretation still facilitate intense scholarly discussion.¹⁶⁵ The longest piece, Fragment A (DK 87B44 A 1–7), covers seven columns, Fragment B (DK 87B44 B 1–2) two columns, the first of which is virtually not readable at all, and Fragment C (DK 87B44 I–II) again two columns. In Fragment B, which might be the first fragment in order,¹⁶⁶ Antiphon argues that by nature all men are born alike, the distinction between Greeks and barbarians is, therefore, not absolute (ἐπεὶ φύσει πάντα πάντες ὁμοίως πεφύκαμεν καὶ βάρβαροι καὶ Ἕλληνες εἶναι, B2.10–15), and so, it is possible to examine those things that are by nature necessary for all men (σκοπεῖν δὲ παρέχει τὰ τῶν φύσει ὄντων ἀναγκαίων πᾶσιν ἀνθρώποις, B2.15–20). Then, at the end of B2 (27–35) he presents nature ‘as a matter of the basic capacities for the kinds of activity in which humans can and typically do engage by virtue of their innate constitution.’¹⁶⁷

Afterwards, at the beginning of the legible part of A1, he defines justice as not transgressing the νόμιμα of the polis in which one is a citizen (δικαιοσύνη οὖν τὰ τῆς πόλεως νόμιμα, ἐν ἧ ἄν πολιτεύηται τις, μὴ παραβαίνειν, 6–11). Although this definition might seem ‘fairly conventional’,¹⁶⁸ it possesses, I believe, two peculiar characteristics. First, as Gagarin has rightly noted, Antiphon uses δικαιοσύνη for describing justice which designates ‘a continuing pattern of behavior’: it ‘is not an absolute virtue that can override other considerations, but rather a type of conduct that one uses for a certain purpose.’¹⁶⁹ And second, Antiphon speaks of νόμιμα which, in agreement with Heinemann, Ostwald, and Gagarin,¹⁷⁰ covers here, I think, a wider spectrum of social rules than the conventional late fifth-century meaning of νόμοι, and hence its translation ought to be rendered as rules or customs perhaps. Thus, it appears, justice is, then, one’s constant endeavour of living up to the standards of society. Antiphon urges us, however, that many things that are just according to the laws are, in fact, hostile to nature (τὰ πολλὰ τῶν κατὰ νόμον δικαίων πολεμίως τῇ φύσει κεῖται, A2.26–30). He argues that a person would best use justice to his own advantage (μάλιστα ἑαυτῷ ξυμφερόντως) if he considered (ἄγοι) the laws important when witnesses are present, but the things of nature (τὰ τῆς φύσεως)

¹⁶⁵ For a brief overview of the contesting interpretations see Riesbeck 2011, p. 268.

¹⁶⁶ Cf. Gagarin & Woodruff 1995, pp. 244–245. Gagarin bases his ordering on the apparent logical priority of Fragment B. Gagarin 2002, p. 68.

¹⁶⁷ Riesbeck 2011, p. 273.

¹⁶⁸ Cf. Riesbeck 2011, p. 270 n12.

¹⁶⁹ Gagarin 2002, p. 74.

¹⁷⁰ Heinemann 1987, p. 139; Ostwald 1986, p. 104; Gagarin 2002, p. 67.

important in the absence of witnesses.¹⁷¹ This is so, because the requirements of νόμοι are not natural, but mere products of agreement (τὰ ὁμολογηθέντα, οὐ φύντ' ἐστίν, B1.29–31), and so they are but supplemental, whereas the requirements of nature are necessary (τὰ μὲν γὰρ τῶν νόμων ἐπίθετα, τὰ δὲ τῆς φύσεως ἀναγκαῖα, B1.23–27). After all, one may violate the νόμιμα of his polis and avoid shame and punishment, provided his deed remains undetected by his fellow citizens, but it is impossible to violate the things of intrinsic nature (τῶν δὲ τῆ φύσει ξυμφύτων) and escape the harm following.¹⁷²

¹⁷¹ Gagarin & Woodruff 1995 with slight modifications. B1.12–23.

¹⁷² B2.3–20.

CHAPTER 2

The Archytean solution

I have argued in the previous chapter that the antithetical application of the two terms, νόμος and φύσις, became increasingly prominent from the fifth century when the validity of certain conventional beliefs about the physical world started to get questioned and eventually rejected. The impact of these scientific discoveries was, nevertheless, not confined to φυσιολογία but exerted considerable influence on moral and political thinking as well. As a result of the gradual decadence of traditional values and conventional morality, witnessed in the second half of the fifth century, many thinkers endeavoured to substitute justice for one's own interest (συμφέρον) as the ultimate rationale of human conduct. Though almost all extant sources of this antithetical use are vividly linked to the crisis of the Athenian democracy, still, the underlying phenomenon was definitely not some Athenian peculiarity. In what is left of Part I, I consider, then, a somewhat different formulation through the chapter's subsequent presentation of Archytas's solution for the ethico-political dilemmas raised by the νόμος-φύσις problem.

Central to this discussion is a debate between Archytas and the Syracusan hedonist, Polyarchus, which came to us through Athenaeus's (*Sophists at Dinner*, 12.64–65) and Cicero's (*De senectute*, 12.39–41) paraphrases of Aristoxenus's fourth-century *Life of Archytas* (Ἀρχύτα βίος). These testimonia are to demonstrate that Archytas was deeply concerned with the νόμος-φύσις antithesis in general and the rational for νόμοι and the goodness of law-abidingness in particular, and they attest both his firm preference for rational deliberation and his utter contempt for the unbridled satisfaction of pleonectic desires. Even so, it is those plentiful similarities and overlapping themes between these testimonia and *On Law and Justice*, ascribed to Archytas the Pythagorean, what make this discussion immensely interesting to us. Based on these evidences, I argue for *On Law and Justice*'s Archytean origin, and so, I claim that the term νόμος ἔμψυχος was first coined in, or closely associated with Archytas's debate with Polyarchus as reported by Aristoxenus.

Archytas in the doxographic tradition

Archytas was an influential Tarantine philosopher and statesman who is believed to be a contemporary of Leodamas of Thasos, Theaetetus of Athens, and Plato;¹⁷³ hence, the best estimate places Archytas's birth sometime between 435 and 410.¹⁷⁴ Unfortunately, despite of his gravity and the excessive amount of attention dedicated to his work, remarkably little is known of his life and education as most of his writings and the relating fourth-century testimonia, including Aristotle's four books and Aristoxenus's *Life of Archytas*,¹⁷⁵ are mostly lost to posterity. There are, however, two brief extant lives of Archytas from late antiquity, one is to be found in Diogenes Laertius's *Lives* (8.79.1–83.6), while the other in the *Suda* (4121), which are supposed to rely on fourth-century sources, arguably, at least in part, on Aristoxenus's *Life of Archytas*. Based on these βίοι and the descriptions provided by the other genuine testimonia for Archytas's life, there appears to be four recurrent motives: his prolonged service as strategos of Tarentum, his involvement with Plato's Sicilian affair, his reputation for master geometer, and his close affinity with Pythagoreanism.

In Archytas's maturity, Tarentum seized the leadership of the Italiote league after the fall of Croton (c. 378), and it emerged as a leading power in Magna Graecia with a military force exceeding even those of Athens.¹⁷⁶ It was of such a Tarentum that Archytas was elected strategos six,¹⁷⁷ or seven consecutive times.¹⁷⁸ From Strabo's (6.3.4.6) 'ὄς καὶ προέστη τῆς πόλεως πολλὸν χρόνον' and, above all, from the *Seventh Letter*'s reference to the friendship of no small political importance between Archytas and the Tarantines on the one hand, and Dionysius II on the other hand,¹⁷⁹ one may suppose that, in addition to their traditional military responsibilities, the strategoi of Tarentum were furnished with a variety of political and diplomatic powers as well. Hence, it follows straightaway that Archytas must have been a dominant figure in fourth-century Tarentine politics, who also happened to be a man of considerable philosophical learning.

¹⁷³ Procl. *in Euc.* Pr. 2.66.8–18.

¹⁷⁴ Huffman 2005, p. 5.

¹⁷⁵ D.L. 5.25.4, 6; Ath. 12.64.1–2.

¹⁷⁶ Cf. Str. 6.3.4. Huffman 2005, p. 11.

¹⁷⁷ Ael. *VH* 7.14.

¹⁷⁸ D.L. 8.79.5–6. Cf. Huffman 2005, p. 12.

¹⁷⁹ Pl. *Ep.* VII. 339d.

He was doubtless deemed one of the most prominent mathematicians of his generation, credited with offering a solution for the Delian problem, namely the duplication of the cube,¹⁸⁰ and as a leading authority on mathematics and geometry he might have had influence on the development of Plato's thought as well. Though, the exact nature of their relationship is highly controversial¹⁸¹ and, apart from the *Seventh Letter*,¹⁸² Archytas is never mentioned explicitly in the extant Platonic corpus, firm evidences suggest Plato's acquaintance with both Archytas's person and his philosophy.¹⁸³ Besides, given the ancient doxographic tradition's unanimous insistence on Archytas's key role in Plato's rescue,¹⁸⁴ we have reason to believe that Archytas was not only a φίλος of, but also ἀνάδοχος for Plato's safe conduct during the time of his Sicilian adventure.¹⁸⁵

Finally, it is this context Archytas's Pythagorean label comes to be associated with, for one of the above doxographic strands endeavours to portray Archytas as Plato's immediate Pythagorean master.¹⁸⁶ Although, neither of these assertions are supported by any contemporary literary evidence, for some reason Archytas's Pythagorean label gained such a prominence that the later tradition does, in fact, uniformly presents him a Pythagorean.¹⁸⁷ Nevertheless, it is quite telling that Plato and Aristotle, who both knew Archytas's philosophy very well and had access to his writings, were, for some reason, reluctant to call him a Pythagorean. Now, the most logical explanation for their reluctance is either Archytas's lack of qualification for Pythagoreanism, or the inexistence of the category, but, since Plato at least definitely drew parallels between Archytas and the Pythagoreans,¹⁸⁸ the more palpable explanation seems to consist in the perplexity which hinged around fourth-century Pythagoreanism.

Wanting any range of well-defined philosophical precepts, the fourth-century Pythagorean ἐταιρεία was most likely some loose society with diffusive membership, and so there cannot have been any settled meaning for the Pythagorean label.¹⁸⁹ However, in the second half of the

¹⁸⁰ See Huffman 2005, pp. 342–401.

¹⁸¹ Cf. Huffman 2005, pp. 32–42.

¹⁸² Pl. *Ep.* VII. 338c–d, 339a–b, 339d–e, 350a–b.

¹⁸³ Cf. Pl. *R.* VII. 530d and the subsequent criticism at 531a–c. Pl. *Grg.* 508a. See Huffman 2005, p. 73.

¹⁸⁴ Pl. *Ep.* VII. 350a–b. *Suda* 4121.2–3; D.L. 8.79.2–4; Plu. *Dio* 20.1.1–2.1.

¹⁸⁵ Plu. *Dio* 18.5.1–5.

¹⁸⁶ Cic. *Resp.* 1.10.16; V. Max. *Facta et Dicta Mem.* 8.7.(ext.)3; Phot. *Bibl.* 249.

¹⁸⁷ Cf. e.g.: D.L. 8.79.2; *Suda* 4121.2; Str. 6.3.4.5–6; Iamb. *VP* 23.104.1–5; 36.267.20.

¹⁸⁸ At *Republic* 530d Plato presents Archytas's words as 'what the Pythagoreans say' (οἱ τε Πυθαγόρειοι φασί).

¹⁸⁹ Cf. Huffman 2005, p. 8; Zhmud 2012b, p. 235; Zhmud 2014, pp. 88–94.

century, after the dissolution of the Pythagorean *ἐταιρεία*, the Pythagorean label assumed a completely different position. In defiance of that fictitious portrayal, which reduced Pythagoreanism to a heap of taboos and superfluous superstitions, some, most notably Aristotle's pupil, Aristoxenus, made significant efforts to preserve its historical reality.¹⁹⁰

Albeit, Aristoxenus hardly had exhaustive and accurate information on early Pythagoreans,¹⁹¹ his knowledge of fourth-century Pythagoreanism must have been fairly comprehensive. He was born sometime around 375,¹⁹² and through his father, Spintharus, he was closely linked with the Pythagoreans of Archytas's circle whom, namely, Echebrates, Phanton, Diocles, Polymnastus, and Xenophilus, he reports to be the last living Pythagoreans and pupils of Philolaus and Eurytus.¹⁹³ Moreover, before he finally joined the Peripatos, Aristoxenus was the pupil of the Pythagorean Xenophilus; hence, he himself must also have possessed a Pythagorean education of some kind. What is more, he was also a keen historian whose historical works demonstrate that he 'carefully collected information, travelled to acquire it and named his sources accurately',¹⁹⁴ so the historicity of the material preserved in his *Life of Archytas* is beyond reasonable doubt.

Nevertheless, Aristoxenus was also known to have strove to present the Pythagoreans in the most favourable light possible; hence, he was prone to hastily attribute some of Plato's doctrines to the school.¹⁹⁵ Now, since Plato's any credible association with a seemingly Pythagorean master could demonstrate his utter dependence on Pythagorean philosophy,¹⁹⁶ it is quite telling that the first documented instance of Archytas's Pythagorean identification just happens to originate with Aristoxenus.¹⁹⁷ Even so, this circumstance does not necessarily mean that Archytas did not share doctrines commonly associated with Pythagoreanism, but a polemic leitmotif, set to discredit Plato's originality, is equally, if not more, possible. Thus, Archytas's supposed influence is most likely but a part of the plagiarism conspiracy beginning sometime

¹⁹⁰ Zhmud 2012b, pp. 229–230.

¹⁹¹ Zhmud 2012b, p. 237.

¹⁹² *Suda* 3927.7–9. I accept Huffman's estimation. Huffman 2019, p. 85.

¹⁹³ D.L. 8.46.2–6.

¹⁹⁴ Schorn 2012, p. 220.

¹⁹⁵ Zhmud 2012b, p. 227.

¹⁹⁶ Zhmud 2012b, p. 227.

¹⁹⁷ Aristox. *Fr.Hist.* 47.2.

in the second half of the fourth century with similar ideas of Plato adopting much from the Pythagorean Epicharmus and buying three books from Philolaus.¹⁹⁸

Archytas's debate with Polyarchus

Although in his extant works, Archytas does never exploit the νόμος-φύσις antithesis, in a fragment of Aristoxenus's *Life of Archytas*, preserved in Athenaeus's *Sophists at Dinner* (12.64–65), we are told that he was certainly confronted with the problem regardless. According to Aristoxenus's anecdote, 'ambassadors from Dionysius the Younger came to Tarentum, among them was Polyarchus, nicknamed "the voluptuary", a man most zealous about bodily pleasures'.¹⁹⁹ 'Since Polyarchus was familiar with Archytas and not a complete stranger to philosophy (ὄντα δὲ γνώριμον τῷ Ἀρχύτῃ καὶ φιλοσοφίας οὐ παντελῶς ἀλλότριον), he presented himself at the sacred precincts, walked about with Archytas and his followers and listened to their discourse.'²⁰⁰ Once, the question for discussion and investigation concerned the appetites and in general the bodily pleasures,²⁰¹ Polyarchus decided to interrupt their discourse by presenting the views of his own:

It has often before appeared to me, gentlemen, as I examined the matter, that the contrivance of these virtues is quite absurd and far removed from nature. For, nature, whenever it speaks with its own voice, commands us to follow pleasures and says that this is the course of a sensible man (ἡ γὰρ φύσις ὅταν φθέγγηται τὴν ἑαυτῆς φωνήν, ἀκολουθεῖν κελεύει ταῖς ἡδοναῖς καὶ τοῦτο φησὶν εἶναι νοῦν ἔχοντος). But to resist and enslave the appetites belongs neither to one who is intelligent nor to one who is fortunate nor to one who understands the constitution of human nature. A strong sign of this is the fact that all men, whenever they lay hold of a power that has sufficient magnitude (ἐξουσίας ἐπιλάβωνται μέγεθος ἀξιόχρεων ἐχούσης), are carried towards bodily pleasures and think (νομίζεῖν) that this is the goal of their power and,

¹⁹⁸ D.L. 3.9.1–10.

¹⁹⁹ Ath. 12.64.2–5. All subsequent translations of Athenaeus are from Huffman 2005, pp. 309–310, unless otherwise indicated.

²⁰⁰ Ath. 12.64.6–9. Huffman slightly altered.

²⁰¹ Ath. 12.64.9–11.

to speak plainly, put pretty much everything else in a subordinate position.²⁰² [...] But the lawgivers, wishing that human beings be reduced to one level and that no individual citizen live in luxury, have caused the class of virtues to rear its head. And they wrote laws about our dealings with one another and about as many other things as seemed to be necessary for political union (καὶ ἔγραψαν νόμους περὶ συναλλαγμάτων καὶ τῶν ἄλλων [καὶ] ὅσα ἐδόκει πρὸς τὴν πολιτικὴν κοινωνίαν ἀναγκαῖα εἶναι) and in particular about dress and the rest of our lifestyle so that it would be uniform. Therefore, since the lawgivers were at war with the clan of those who wanted more than their share (πολεμούντων οὖν τῶν νομοθετῶν τῷ τῆς πλεονεξίας γένει), first the praise of justice was magnified and I suppose that some poet spoke of “the golden face of Justice” and again of “the golden eye of Justice.” And then even the very name of Justice was deified, so that altars and sacrifices to Justice appeared among some peoples. After this Temperance and Self-control joined the revel and gave the name of greed (πλεονεξίαν ἐκάλεσαν) to any preeminence in enjoyment, so that it is the one who is obedient to the laws and the voice of the multitude that is moderate in bodily pleasures.²⁰³

Since ‘[t]here is no reason to doubt that what Athenaeus presents here as from Aristoxenus’ *Life of Archytas*, in fact, has its origin there’,²⁰⁴ and, generally speaking, Aristoxenus appears to be a fairly reliable source on Archytas, I must conclude with Huffman that ‘it seems most likely that what Aristoxenus presents is based on an oral tradition of a meeting between Polyarchus and Archytas.’²⁰⁵ However, the fact that there is simply no evidence for the existence of a Polyarchus matching Aristoxenus’s criteria and that there is some overlapping between the positions of Polyarchus and the *Gorgias*’s Callicles are puzzling to say the least. Even though, in light of what is known of Archytas, the contention that the main lines of the story are historically authentic is, in my opinion, sufficiently amplified.

²⁰² Ath. 12.64.12–24.

²⁰³ Ath. 12.65.18–36.

²⁰⁴ Huffman 2005, p. 312. Cf. Huffman 2019, pp. 254–255.

²⁰⁵ Huffman 2005, p. 311.

The meeting is set in the reign of Dionysius the Younger (367–357) in which time Archytas was certainly still amongst the living.²⁰⁶ Moreover, the *Seventh Letter* attests that between Plato's second (367/6) and his disastrous third (361) visits to Syracuse Archytas and his Tarantine friends maintained friendly relations with the Syracusan tyrant.²⁰⁷ Archytas is said to have visited Dionysius and in a letter to Plato he praised Dionysius's philosophic accomplishments, urging Plato to return to Sicily lest their friendship of no small political importance (οὐ μικρὰν οὔσαν πρὸς τὰ πολιτικά) might get utterly dissolved.²⁰⁸ The *Seventh Letter* suggests therefore that this friendship was, at least in part, concerned with philosophy. Whether this philosophy was Archytean, as G. E. R. Lloyd suggests it was,²⁰⁹ or something else, is impossible to tell; at any rate, the courtiers of Dionysius the Younger were certainly familiar with Archytas and his philosophy.

Thus, if Polyarchus was, in fact, a courtier of Dionysius, he was likely to get acquainted with Archytas, and, given the *Seventh Letter*'s description of the Sicilian βίος εὐδαίμων,²¹⁰ his defence of hedonism is precisely what is expected of some Siceliote not properly cultivated in philosophy (φιλοσοφίας οὐ παντελῶς ἀλλότριον).²¹¹ What is more, this circumstance could also account for the brevity and simplicity of Polyarchus's position and the lack of those minutely elaborated details that otherwise characterise Callicles's argument in Plato's *Gorgias*. Hence, 'while it is plausible enough that Aristoxenus was familiar with Plato's *Gorgias* and *Republic*, there is no indication that he composed the speech of Polyarchus with those texts in front of him or prominently in mind.'²¹² Perhaps the strongest evidence for Polyarchus's independence of Plato is that, unlike Callicles and Thrasymachus, Polyarchus does nowhere call justice 'the advantage of the stronger' or 'another's good'.²¹³ Finally, since Polyarchus's speech is set some twenty years after the traditional date of composition of Plato's *Gorgias*, it is also difficult to

²⁰⁶ His rescue of Plato is traditionally dated to 361. According to Huffman, the estimated date for Archytas's death is likely to be around 355. Huffman 2005, p. 5.

²⁰⁷ Pl. *Ep.* VII. 338c–d.

²⁰⁸ Pl. *Ep.* VII. 339d.

²⁰⁹ Lloyd, p. 167, 172.

²¹⁰ Pl. *Ep.* VII. 326b–d.

²¹¹ Ath. 12.64.7.

²¹² Huffman 2005, p. 315.

²¹³ Huffman 2005, p. 315.

see Aristoxenus's anecdote as the original on which Plato's portrayal of Callicles is drawn, which quite takes away the usual rationale for a supposed fabrication.²¹⁴

Unfortunately, neither Athenaeus, nor other surviving sources did, according to the best of our information, preserve the section of Aristoxenus's *Life of Archytas* containing Archytas's response to Polyarchus's speech; though, there are sound reasons to suppose that one of its abridged paraphrases survives in Cicero's translation in his *De senectute* 12.39–41.

There, Cicero presents 'an ancient discourse of Archytas of Tarentum' which was allegedly handed down to Cato, 'since as a young man' he was 'with Q. Maximus at Tarentum.'²¹⁵ Accordingly,

Archytas used to say that no more deadly curse had been given to men by nature than bodily pleasure, since, eager for this pleasure, our lusts spur themselves on blindly and without restraint to possess it. From this source are born betrayal of the fatherland, from this the overthrow of the state, from this secret conversations with the enemy. To sum up, there is no crime, no evil deed which the lust for pleasure does not drive us to undertake. Debauchery, indeed, and adultery and all such shameful behavior are aroused by no other allurements than those of pleasure. And, although nothing more excellent has been given to man than intellect, whether it be by nature or by some god, there is nothing so opposed to this divine benefaction and gift than pleasure. For, neither is there a place for self-control where lust is master, nor is virtue able to gain any foothold under the tyranny of pleasure. In order to make this better understood, he used to tell people to picture someone spurred on by the greatest bodily pleasure that can be perceived. He was of the opinion that no one would have any doubt that, so long as he was enjoying himself in this way, he would not be able to think about anything, to achieve anything by calculation, anything by deliberation (*dum ita gauderet, nihil agitare mente, nihil ratione, nihil cogitatione consequi posset*). Wherefore, nothing is so detestable and so pernicious as pleasure, since indeed it, when very intense and prolonged, extinguishes all the light of the soul. Nearchus of Tarentum,

²¹⁴ Huffman 2005, p. 311.

²¹⁵ Cic. *Senect.* 12.39.3–5. All subsequent translations of Cicero's *De senectute* is from Huffman 2005, pp. 323–324.

my host, who had persevered in his friendship to the Roman people, said that he had heard from his elders that Archytas said these things in the presence of C. Pontius the Samnite, the father of that one by whom the consuls Spurius Postumius and T. Veturius were defeated in the battle of the Caudine Forks. Indeed he said that Plato the Athenian had been present at the conversation, whom I discover to have come to Tarentum in the consulship of L. Camillus and Ap. Claudius.²¹⁶

Albeit most scholars assume that Cicero's presentation is loosely based on Aristoxenus,²¹⁷ and there are also considerable evidence suggesting that Cicero had some knowledge of Aristoxenus's work in general and his *Life of Archytas* in particular,²¹⁸ the abridged text simply does not pretend to establish any connections with Aristoxenus. Quite on the contrary, Cicero purportedly alludes to a Tarantine oral tradition as Cato's source of information. However, despite of its nuanced details, Cicero's comprehensive pedigree for this tradition is most likely his own invention, designed to explain how Cato had access to Archytas's speech because, in Cicero's opinion, '[t]o assert that Cato had knowledge of the speech from his reading of a second-tier Peripatetic such as Aristoxenus, would make Cato out to be more of a scholar of Greek philosophy than his Roman audience would be willing to accept'.²¹⁹

At any rate, Cicero's account of Archytas's speech squares nicely with the accessible information on Archytas's moral philosophy, and it seems to reflect on some eulogy of bodily pleasures. Since Aristoxenus certainly implied Archytas's response in his *Life of Archytas*, 'it is far simpler to assume that Cicero is drawing on this speech than to arbitrarily posit an otherwise unattested second speech by Archytas on pleasure from which Cicero draws.'²²⁰ From this follows that Cicero's abridged testimony is likely to have its origin either in Aristoxenus's *Life of Archytas*, or some other source heavily relying on the same.²²¹

The central theme of Archytas's speech is that virtue and self-control are not unnatural to man, as Polyarchus wanted us to believe, but necessary preconditions of a rationally organised living. Thus, his problem with bodily pleasures is precisely that man's lust for the enjoyment

²¹⁶ Cic. *Senect.* 12.39.5–41.28.

²¹⁷ See Huffman 2005, p. 325.

²¹⁸ Huffman 2005, pp. 326–328.

²¹⁹ Huffman 2005, p. 328.

²²⁰ Huffman 2005, p. 325.

²²¹ Huffman 2005, p. 327.

of unrestrained pleasures hinders the normal course of reasoning and makes any agent, spurred on by intense pleasures, incapable of rational calculation (*dum ita gauderet, nihil agitare mente, nihil ratione, nihil cogitatione consequi posset*). Though, there are minor similarities with Cicero's presentation and Plato's early works on pleasure,²²² the Archyean origin of Cicero's testimony is well attested by a wide range of textual evidence.

First and foremost, in a genuine fragment (Fr. 3) Archytas identified numerical calculation (λογισμός) as a precondition for human society, since, as a direct opposite of *πλεονεξία*, λογισμός is said to promote like-mindedness and equality (*ισότας*) amongst fellow citizens.

στάσιν μὲν ἔπαυσεν, ὁμόνοιαν δὲ αὐξήσεν λογισμὸς εὐρεθείς· πλεονεξία τε γὰρ οὐκ ἔστι τούτου γενομένου καὶ ἰσότητας ἔστιν· τούτῳ γὰρ περὶ τῶν συναλλαγμάτων διαλασσόμεθα. διὰ τοῦτον ὧν οἱ πένητες λαμβάνοντι παρὰ τῶν δυναμένων, οἳ τε πλούσιοι διδόντι τοῖς δεομένοις, πιστεύοντες ἀμφοτέρω διὰ τούτῳ τὸ ἴσον ἔξειν. κανὼν δὲ καὶ κωλυτὴρ τῶν ἀδικούντων <ἔων> τῶς μὲν ἐπισταμένως λογίζεσθαι πρὶν ἀδικῆν ἔπαυσε, πείσας ὅτι οὐ δυνασοῦνται λαθῆν, ὅταν ἐπ' αὐτὸν ἔλθωντι, τῶς δὲ μὴ ἐπισταμένως, ἐν αὐτῷ δηλώσας ἀδικούντας, ἐκώλυσε ἀδικῆσαι.²²³

Once calculation was discovered, it stopped discord and increased concord. For people do not want more than their share, and equality exists, once this has come into being. For by means of calculation we will seek reconciliation in our dealings with others. Through this, then, the poor receive from the powerful, and the wealthy give to the needy, both in the confidence that they will have what is fair on account of this. It serves as a standard and a hindrance to the unjust. It stops those who know how to calculate, before they commit injustice, persuading them that they will not be able to go undetected, whenever they appeal to it [sc. as a standard]. It hinders those who do not know how to calculate from committing injustice, having revealed them as unjust by means of it [i.e. calculation].²²⁴

²²² See Huffman 2005, p. 334.

²²³ Stob. 4.1.139.9–19.

²²⁴ All subsequent translations of Fr. 3 are from Huffman 2005, p. 183.

From a doctrinal point of view, Fragment 3 clearly serves as the counterpart of Polyarchus's position, for, while in Polyarchus's account the lawgivers wanted to level (ὁμαλίζειν βουληθέντες) society and wrote laws about our mutual dealings (νόμους περὶ συναλλαγμάτων) that our conditions be equal (ὅπως ἢ ὁμαλής), and hence they waged war against the clan of those who wanted more (πολεμούντων οὖν τῶν νομοθετῶν τῷ τῆς πλεονεξίας γένει), in Archytas's opinion, society is established by the realisation of numerical calculation by which πλεονεξία is subdued and proportional equality (ισότης) is brought about. In short, numerical calculation, a specific mental exercise, is the key both to one's mastery over pleonectic desires and the community's ability to maintain ὁμόνοια.

The second evidence for the Archytean origin of Cicero's presentation is provided by a set of genuine testimonies ultimately deriving from Aristoxenus's *On the Pythagorean Way of Life* (Περὶ τοῦ Πυθαγορικοῦ βίου).²²⁵ According to Aristoxenus's anecdote,

Spintharus often told the story about Archytas of Tarentum that, when he arrived at his farm after some time, having recently come from a campaign, which the city mounted against the Messapians, he saw that his steward and the other slaves had not given proper care to the farming, but had shown very extreme negligence. Although he was angry and vexed, in the way that he could be, he said, as it seems, to the slaves, that they were lucky that he was angry with them (ὅτι εὐτυχούσιν, ὅτι αὐτοῖς ὄργισται). For, if this had not happened, they would never have gone unpunished, when they had committed such great wrongs.²²⁶

This anecdote evidently illustrates that, in line with the Pythagorean precept on temperance,²²⁷ Archytas himself refused to punish his servants in anger because in his anger his capacity for rational thought was clearly hindered (εἰς τὴν τῆς διανοίας ἀποκατάστασιν). And third, though Aristotle did not identify his source, it is possible to see his report in the *Nicomachean Ethics* (1152b16–18) on some predecessor's argument against the goodness of

²²⁵ See Huffman 2005, pp. 283–287. Huffman argues at length that what Iamblichus presents at *VP* 31.196–198 comes from Aristoxenus's *On the Pythagorean Way of Life*. Huffman 2005, pp. 287–288, Huffman 2019, pp. 333–336.

²²⁶ Iamb. *VP* 31.197.7–198.1. Translation is from Huffman 2005, pp. 283–284.

²²⁷ Cf. Iamb. *VP* 31.183–213. Huffman 2019, pp. 55–56.

pleasure as a reference to Archytas.²²⁸ Accordingly, Aristotle recalls some saying that pleasure is not good because it is ‘a hindrance to thought, and the more so the more one delights in them, e.g. in sexual pleasure; for no one could think of anything while absorbed in this.’²²⁹

Archytas’s *On Law and Justice* (Stob. 4.1.135–138, 4.5.61)

I believe, it has been amply demonstrated that Archytas certainly engaged in philosophic discussions over the νόμος-φύσις antithesis in general and the rational for νόμοι and the goodness of law-abidingness in particular. What little is preserved of his thought firmly attests both his preference for rational deliberation and his utter contempt for the unbridled satisfaction of pleonectic desires. No inquiry on Archytas’s moral and political philosophy could claim to be comprehensive, however, without considering those fragments in the fourth book of Stobaeus’s *Anthology* which are said to be from *On Law and Justice* (Περὶ νόμου καὶ δικαιοσύνης), ascribed to Archytas the Pythagorean. These fragments reflect on a wide range of fourth-century ethico-political dilemmas, and hence, if their connection with the historical Archytas of Tarentum can, with confidence, be established, they would significantly contribute to a better understanding of both Archytas’s moral and political philosophy and his standpoint in the νόμος-φύσις controversy. Unfortunately, every question related to *On Law and Justice* is subject to intense scholarly debate, and at present there seems to me that there is not even the slightest chance for reaching a scholarly consensus either in terms of its likely authorship and the place and date of its origin, or the extent and internal order of the Stobaeus passages. Currently there are only probable answers and explanations for these queries, and so, I think it is useful to engage into a fuller consideration of the Stobaeus epitomes concerned.

There are five fragments in Stobaeus’s fifth-century *Anthology* which are explicitly stated to derive from Archytas the Pythagorean’s *On Law and Justice*; of these, four fragments are listed in the first chapter (4.1.135–138), under the heading Περὶ πολιτείας and another in the fifth chapter (4.5.61), under the heading Περὶ ἀρχῆς καὶ περὶ τοῦ ὁποῖον χρῆ εἶναι τὸν ἄρχοντα. The first chapter itself contains 161 entries from a variety of mostly fifth- and fourth-century authors, such as Herodotus, Democritus, Demosthenes, Thucydides, Xenophon, Isocrates, yet the bulk of its passages comes from Plato’s dialogues. Also, there is considerable space allotted

²²⁸ See Huffman 2005, pp. 335–337.

²²⁹ ἔτι ἐμπόδιον τῷ φρονεῖν αἱ ἡδοναί, καὶ ὅσῳ μᾶλλον χαίρει, μᾶλλον, οἷον τῇ τῶν ἀφροδισίων: οὐδένα γὰρ ἂν δύνασθαι νοῆσαι τι ἐν αὐτῇ. Brown 2009, pp. 135–136.

to individual Pythagoreans: besides the four fragments ascribed to Archytas's *Περὶ νόμου καὶ δικαιοσύνης*, it lists two short maxims attributed to Pythagoras (4.1.80, 81), three substantial fragments from Hippodamus's *Περὶ πολιτείας* (4.1.93–95), two from Diotogenes's *Περὶ ὁσιότητος* (4.1.96, 133), one from Archytas's *Περὶ μαθημάτων* (4.1.139) and another simply ascribed to Archytas (4.1.132), and finally a longer passage (4.1.49) from Aristoxenus's *Pythagorean Precepts*. Though the maxims are certainly spurious and the Hippodamus and Diotogenes passages also belong to the Pythagorean pseudepigrapha,²³⁰ both the *Περὶ μαθημάτων* and the Aristoxenus fragments are generally accepted as genuine which proves that Stobaeus certainly had access to authentic Pythagorean sources, or some collection containing the same.

The overtone of the fragments' context in Stob. 4.1 gives, in my view, the impression that at least Stobaeus might have regarded the Archytas passages either genuine, or closely associated with some trustworthy testimonia, even though the spurious Hippodamus and Diotogenes fragments may incite a healthy sense of suspicion. Even so, a somewhat considerable objection might be raised against this presumption. In both 4.1.135 and 4.5.61, Stobaeus gives the loci of the fragments as *Ἀρχύτα Πυθαγορείου ἐκ τοῦ Περὶ νόμου καὶ δικαιοσύνης* which, on the whole, squares nicely with the later doxographic tradition's sentiment towards Archytas, yet, at the same time, it seems to be at odds with the lemmata given at 4.1.132 (*Ἀρχύτα*) and 4.1.139 (*Ἐκ τοῦ Ἀρχύτου Περὶ μαθημάτων*). Based on this discrepancy, Hense suggests that the difference may be intended to indicate that the passages at 4.1.139 are from Archytas of Tarentum and not from his Hellenistic forger.²³¹ In agreement with Huffman, I believe that '[n]ot calling Archytas a Pythagorean might suggest his independence of the (pseudo)-Pythagorean tradition, but this seems a lot to read into the expression',²³² and there are, in my opinion, more plausible and convenient explanations for these variations.

Assuming that some kind of syntax governs Stobaeus's lemmata, I think, both variations could be accounted for. In line with the introductions given at 4.1.76–85, 87–89, one may quite easily infer that the variation at 4.1.132 simply suggests some written oral tradition, most likely

²³⁰ Thesleff 1961, p. 115. For a comprehensive analysis of the Hippodamus fragments see Blumenfeld 2003, pp. 139–149.

²³¹ Hense 1909, p. 88.

²³² Huffman 2005, p. 185.

derived from a doxographic collection, as Stobaeus's source of information.²³³ The difference between those at 4.1.139 and 4.1.135 are not very problematic either, though the lemma at 4.1.135 seems to agree with the introductions given for the spurious Hippodamus and Diotogenes passages, and with Stobaeus's usual lemma for the Pythagorean pseudepigrapha in general. Still, while true it is that the lemma at 4.1.135 occurs otherwise only before spurious Archytean passages (3.1.105, 3.3.65, 4.50a.28) and a host of fragments generally associated with the Pythagorean pseudepigrapha, which might cast some doubt on *On Law and Justice*'s authenticity, other entries demonstrate that the mere presence of the lemma used at 4.1.139 is no infallible proof of authenticity either. There are two similar variations applied for the introduction of certainly spurious Archytean fragments; hence, the post-Aristotelian *On principles* is introduced as Ἐκ τοῦ Ἀρχύτου Περὶ ἀρχῶν (1.41.2) and the *On Intelligence and Perception* as Ἀρχύτου ἐκ τοῦ Περὶ νόου καὶ αἰσθήσιος (1.48.6).²³⁴ In conclusion, it looks like *On Law and Justice*'s subscription to the Πυθαγορείου ἐκ τοῦ lemma does not necessarily entail that its fragments are spurious; it might signify, though, that 4.1.135–138 and 4.5.61 and a part of the epitomised Pythagorean pseudepigrapha come from the same collection.²³⁵

Anyway, neither the recurrence to the context, nor the analysis of the supposed syntax in Stobaeus's *Anthology* seem to resolve the authenticity question; hence, most scholars endeavour to approximate the fragments' origin on a comparative phraseological and stylistic basin. Based on these investigations, some scholars have accepted the content of the fragments either as genuine Archytean material,²³⁶ or Classic, or fairly early Hellenistic productions,²³⁷ but most of them argued for the fragments' dependence on Platonic, Aristotelian, and Stoic ideas, and so a late, or even post-Hellenistic date of composition.²³⁸ Though, some points of

²³³ In a quite similar fashion, the *On Being* fragment at Stob. 2.2.4, which seems to reproduce an Archytean discourse in propria persona, is introduced as Ἀρχύτου περὶ τοῦ ὄντος. For these reasons, I find it hardly possible to ascribe the 4.1.132 passage to *On Law and Justice*. Cf. Huffman 2005, p. 599. Horkey & Johnson 2020, p. 456 n. 9.

²³⁴ Cf. Huffman 2005, pp. 597–598.

²³⁵ Holger Thesleff argues for a *Corpus Pythagoricum* as Stobaeus's source for most of the Doric writings attributed to individual Pythagoreans. Thesleff 1961, pp. 119–120.

²³⁶ Delatte 1922, pp. 121–124; Minar 1942, p. 111; Morrison 1956, pp. 155–156; Johnson 2008, p. 26.

²³⁷ Thesleff 1961, p. 114; Blumenfeld 2003, p. 124; Horkey & Johnson 2020, pp. 458–460; Scrofani 2021, pp. 177–204.

²³⁸ Zeller 1868, pp. 92–93; Goodenough 1928, pp. 61–63; Aalders 1975, pp. 27–39; Sinclair 2010, pp. 293–294; Centrone 2000, pp. 487–505; Centrone 2005, pp. 570–575; Murray 1971, pp. 258–259; Burkert 1972, p. 76. n. 156; Schofield 2014, pp. 82–85; Nuffelen 2011, pp. 115–116; Huffman 2005, pp. 599–606.

this criticism are still unevadable and standing, most of its claims are, however, already proved to be inconclusive.²³⁹ After all, apart from some minor issues, such as the fragments' apparent failure to explain what κρατεῖν corresponds to in political terms,²⁴⁰ or the use of ζωόφορος,²⁴¹ it looks like the remaining arguments against authenticity are reduced to but two: *On Law and Justice*'s connection with surely spurious pieces of the Pythagorean pseudepigrapha on the one hand, and its lack of strong connections with genuine Archytean fragments and testimonia on the other hand. For my part, I do not find either argument compelling, and I do hesitate to endorse that prejudiced presumption that, given spurious works far outnumber the genuine pieces of Archyta, a text is to be regarded spurious 'until good reasons are given for regarding it as genuine.'²⁴²

Apart from some similarities with the Pythagorean pseudepigrapha, namely with Diotogenes's *On Piety* (Περὶ ὁσιότητος) and *On Kingship* (Περὶ βασιλείας),²⁴³ Damippos's *On Prudence and Fortune* (Περὶ φρονήσεως καὶ εὐτυχίας),²⁴⁴ and Metopos's *On Excellence* (Περὶ ἀρετῆς),²⁴⁵ which might easily be the result of their drawing on Archytas, a classic of Doric prose,²⁴⁶ I see no reason to contest *On Law and Justice*'s Archytean origin which is otherwise supported by sound linguistic and doctrinal arguments. Thus, a purely dialectical and stylistic approach would, in my opinion, rather suggest that the passages contain the actual views of Archytas of Tarentum: they are all in direct speech and written in a rather consistent 'normal Pythagorean Doric'²⁴⁷ which is not very different from the dialect and style of the genuine Archytean fragment at 4.1.139. And from a doctrinal point of view, there is nothing in *On Law and Justice* which is flatly inconsistent with the genuine fragments of Archytas, what is more, there are, as I shall argue, several compelling parallels.²⁴⁸

²³⁹ Huffman 2005, pp. 600–606.

²⁴⁰ Blumenfeld 2003, pp. 163–164.

²⁴¹ Stob. 4.1.138.53. Huffman 2005, p. 606.

²⁴² Huffman 2005, p. 91.

²⁴³ Stob. 4.1.96.3–4; Stob. 4.7.61.2–7.

²⁴⁴ Stob. 3.3.64.11–12.

²⁴⁵ Stob. 3.1.116.2–3.

²⁴⁶ Greg.Cor. *Dialect.* Pr.

²⁴⁷ Thesleff 1972, p. 63.

²⁴⁸ Cf. Horky & Johnson 2020, p. 456; Huffman 2005, p. 605

These parallels are attested by most of the recent commentators:²⁴⁹ both Carl Huffman and Phillip Sidney Horky and Monte Ransome Johnson accept that the passages of *On Law and Justice* establish some connections with two genuine Archytean fragments (Porph. *in Harm.* 1.5, Stob. 4.1.139), the two testimonia from Aristoxenus's *Life of Archytas*,²⁵⁰ and certain passages from Aristoxenus's *Pythagorean Precepts*.²⁵¹ Nevertheless, they tend to draw fundamentally different conclusions from these observations. For no apparent reason, unless perhaps out of some kind of overcautiousness, Huffman finds it rather difficult to accept *On Law and Justice*'s authenticity due to its lack of 'overlap in terminology and distinctions', even though he admits that 'at the general level, there is a great deal of agreement between *On Law* and what is said in Fragment 3 [Stob. 4.1.139] about justice and the state and what is said in A9 [Ath. 12.64–65] and A9a [Cic. *Senect.* 12.39–41] about pleasure.'²⁵² Horky and Johnson, on the other hand, see no reason to contend with Stobaeus's attribution; they are on the opinion that 'the fragments of *On Law and Justice* originated from a Peripatetic biography of Archytas of Tarentum',²⁵³ more specifically they speculate that they 'were derived from a speech (or dialogue) contained in Aristoxenus' biography of Archytas.'²⁵⁴

Though Huffman certainly has some points, it is quite ambiguous, I think, that linguistic and stylistic considerations amended with a probable reference from Aristotle and a likely testimony from Aristoxenus should, in Huffman's opinion 'make us reasonably confident that Fragment 3', which just happens to follow up on the four passages of *On Law and Justice* in Stob. 4.1, 'is authentic',²⁵⁵ while a very similar style and a host of parallelisms with other late fifth- and early fourth-century sources are insufficient even to warrant a succinct investigation for the passages of *On Law and Justice*. In the chapter's subsequent discussion, I shall side with Horky and Johnson and argue for *On Law and Justice*'s Archytean origin.

²⁴⁹ Nevertheless, Malcolm Schofield point blank denies the probability of any such connections. Schofield 2014, pp. 83–85.

²⁵⁰ Huffman 2005, pp. 604–605. Horky & Johnson 2020, pp. 468, 480–481.

²⁵¹ Huffman accepts the connection with Stob. 4.1.49 but rather denies it with Iamb. *VP* 31.205. Horky and Johnson, on the other hand, argues for likely parallelisms with both Stob. 4.1.49 and Iamb. *VP* 31.182 and 205. Huffman 2019, pp. 67, 108, 141, 356. Horky & Johnson 2020, pp. 474–475, 477, 484.

²⁵² Huffman 2005, p. 605.

²⁵³ Horky & Johnson 2020, p. 458.

²⁵⁴ Horky & Johnson 2020, p. 459.

²⁵⁵ Huffman 2005, p. 184.

Perhaps the most obvious argument for *On Law and Justice*'s Archytean origin consists in its strong connections with the two genuine Archytean fragments mentioned above. In Fragment 2 (Porph. *in Harm.* 1.5), Archytas discusses the theme of musical means, arguing that there are, in fact, three means in music: 'one is the arithmetic, the second geometric and the third sub-contrary [, which they call "harmonic"]'.²⁵⁶ After he defines each mean, Archytas characterises them in terms of whether the ratios of the larger terms in each of the means are greater than, or smaller than, or equal to the ratios of the smaller terms. 'There is no obvious reason for making this comparison in the context of Fragment 2. *On Law and Justice*, however, picks up on precisely this point in connecting constitutions with means.'²⁵⁷

Aristocratic justice is established according to the subcontrary mean. For this proportion distributes a greater part of the ratio to the greater, and a lesser part of the ratio to the lesser. Democratic justice is established according to the geometric mean. For in the geometric mean the ratios of the magnitudes are equal for the greater and the lesser. And oligarchic and tyrannical justices are established according to the arithmetic mean, for it stands opposed to the subcontrary, in that a greater part of the ratio is distributed to the lesser, and a lesser part of the ratio to the greater. These, then, are how many of forms of distribution there are, and their manifestations are observed in political constitutions and households.²⁵⁸

What is the most interesting about this passage is its daring, otherwise unparalleled, originality which rather indicates Archytas's authorship, than the imprint of a Hellenistic forger.²⁵⁹ This 'position is original not only in departing from the Isocratean, Platonic, and Aristotelian accounts of which kinds of proportion apply to which kinds of regime. Archytas also introduces a third kind of proportion absent from these other authors: harmonic (or "subcontrary") proportion.'²⁶⁰

In the other related fragment (Stob. 4.1.139), Archytas claims that 'equality exists, once this [i.e. the discovery of calculation (λογισμὸς εὐρεθείς)] has come into being' (τούτῳ γενομένῳ

²⁵⁶ Translation is from Huffman 2005, p. 163.

²⁵⁷ Huffman 2005, p. 604.

²⁵⁸ Stob. 4.1.137.9–18.

²⁵⁹ Horkey & Johnson 2020, p. 469.

²⁶⁰ Horkey & Johnson 2020, p. 470.

καὶ ἰσότητας ἔστιν),²⁶¹ hence, at least in the context of Fragment 3, λογισμός appears to be that Archytean notion which carries the burden of explanation when his theory of equality is concerned. Since the passage presents λογισμός as a mental activity accessible to all members of the society, Archytas was likely to envision it as a basic understanding of calculation and proportions.²⁶² In that specific context, equality is, thus, a desirable social disposition wherein ‘the poor receive from the powerful, and the wealthy give to the needy, both in the confidence that they will have what is fair (τὸ ἴσον ἔξειν) on account of this.’²⁶³ It serves, then, ‘as a standard and a hindrance to the unjust. It stops those who know how to calculate, before they commit injustice, persuading them that they will not be able to go undetected’.²⁶⁴ The most characteristic aspect of Archytas’s theory of equality is, however, its thorough subscription to the traditional, simple conception of equality without any hint of the distinction between the two different sorts of equality, attested by Isocrates (*Areopagit.* 21), Plato (*Leg.* VI. 757e), or Aristotle (*NE* V.4 1131a).²⁶⁵ Now, the passages of *On Law and Justice* seem to endorse precisely this theory.

In its second passage, *On Law and Justice* defines the justice of nature (τὸ τᾶς φύσιος δίκαιον) as ‘what is proportionate, i.e., what falls to each in accordance with the worth of each’ (τοῦτο δὲ ἐστὶν τὸ ἀνάλογον καὶ τὸ ἐπιβάλλον ἐκάστῳ κατὰ τὴν ἐκάστῳ ἀξίαν).²⁶⁶ According to Aristotle,²⁶⁷ this was certainly a rather conventional definition of justice which, on the whole, squares neatly with Archytas’s theory of proportional equality, or equality according to worth (κατ’ ἀξίαν). Yet, even more convincing for *On Law and Justice*’s connection with Fragment 3 is the conclusion of its third passage:

τιμαί τε γὰρ καὶ κολάσιες καὶ ἀρχαὶ <ἦ> ἐξ ἴσω τοῖς μέζοσι καὶ μήοσι
διανεμόνται, ἢ ἐξ ἀνίσω ἢ τῷ ἀρετᾷ ὑπερέχεν ἢ τῷ πλούτῳ ἢ καὶ δυνάμει. τὸ

²⁶¹ Stob. 4.1.139.10–11.

²⁶² Huffman 2005, pp. 204–205.

²⁶³ Stob. 4.1.139.12–14. διὰ τοῦτον ὧν οἱ πένητες λαμβάνοντι παρὰ τῶν δυναμένων, οἱ τε πλούσιοι διδόντι τοῖς δεομένοις, πιστεύοντες ἀμφοτέροι διὰ τούτῳ τὸ ἴσον ἔξειν.

²⁶⁴ Stob. 4.1.139.14–17. κανὼν δὲ καὶ κωλυτὴρ τῶν ἀδικούντων <ἐὼν> τὼς μὲν ἐπισταμένως λογίζεσθαι πρὶν ἀδικεῖν ἔπαυσε, πείσας ὅτι οὐ δυνασοῦνται λαθεῖν [...]

²⁶⁵ Huffman 2005, p. 214.

²⁶⁶ Stob. 4.1.136.7–8.

²⁶⁷ Arist. *Pol.* V.1. 1301b.

μὲν ὄν ἐξ ἴσω δαμοκρατικόν, τὸ δὲ ἐξ ἀνίσω ἀριστοκρατικόν ἢ ὀλιγαρχικόν.²⁶⁸

For honors, punishments, and rule are distributed either equally to the greater and the lesser, or unequally, by virtue of superiority with respect to virtue, wealth, or even power. Thus, democratic justice distributes equally, whereas aristocratic or oligarchic justice distributes unequally.

Nevertheless, despite of these strong parallels between the genuine fragments of Archytas and the passages of *On Law and Justice*, the most decisive argument for *On Law and Justice*'s Archytean origin, consists, in my view, in its close connections with Polyarchus's speech and Cicero's testimony for Archytas's response.

According to Athenaeus's introductory remarks, Polyarchus is invited, or, what is more likely, abruptly intruded into some Archytean discussion over 'the appetites and in general the bodily pleasures' (περὶ τε τῶν ἐπιθυμιῶν καὶ τὸ σύνολον περὶ τῶν σωματικῶν ἡδονῶν).²⁶⁹ Unlike Archytas, Polyarchus thought, however, that reason and the enjoyment of pleonectic desires are not at all opposed to one another; hence, a debate of some kind folded out between the two. From Athenaeus's testimony, it appears that this debate was likely to have centred around Polyarchus's defence of hedonism, namely: whenever nature 'speaks with its own voice, commands us to follow pleasures and says that this is the course of a sensible man',²⁷⁰ and it is precisely this position that eventually gets fiercely objected by the Archytas of Cicero's testimony. Huffman also accepts this attribution and himself considers pleasures the central theme of their discussion, and that is the main reason why he sees little overlap between the passages of *On Law and Justice* and the Athenaeus and Cicero testimonies.²⁷¹ Nevertheless, there are some indications in the Athenaeus text which warrant for a somewhat different interpretation.

First, it goes without saying that Polyarchus's initial statement that 'the contrivance of these virtues is quite absurd and far removed from nature' (κομιδῇ τὸ τῶν ἀρετῶν τούτων κατασκευάσμα καὶ πολὺ τῆς φύσεως ἀφεστηκὸς εἶναι)²⁷² does not make sense, unless it is

²⁶⁸ Stob. 4.1.137.18–22.

²⁶⁹ Ath. 12.64.10–11.

²⁷⁰ Ath. 12.64.14–16.

²⁷¹ Huffman 2005, p. 605.

²⁷² Ath. 12.64.13–14.

preceded by a discussion of some unspecified virtues.²⁷³ And second, though this omission in itself might not be that problematic, at the end of his speech Polyarchus gives the impression of returning to this self-same discussion of virtues, arguing that the class of virtues (τὸ τῶν ἀρετῶν εἶδος) in general and δικαιοσύνη in particular are but mere social conventions lacking any foundation in nature.²⁷⁴ It looks probable therefore that their debate, at least in the form presented by Aristoxenus, concerned the topic of virtues at some length, perhaps with a special focus on δικαιοσύνη.²⁷⁵

Albeit δικαιοσύνη does neither appear, nor carry much interest in the epitomised passages of *On Law and Justice*, Aristoxenus's epitomiser still thought it for some reason important to imply it in the work's title. In my opinion, the most convenient explanation for this reference to δικαιοσύνη is that there were considerably more to *On Law and Justice* than the passages excerpted by Stobaeus and some of the unpreserved passages are likely to have elaborated either on the theme of political virtues in general, or δικαιοσύνη in particular. This contention and *On Law and Justice*'s connection with Aristoxenus's *Life of Archytas* is somewhat amplified, then, by the four occurrences of the word ἀρετή in the Stobaeus passages, especially because the first time ἀρετή is mentioned, it is directly linked with pleasures in a sentence (Stob. 4.1.135.20–22) which might contain Archytas's reflection on Polyarchus's defence of hedonism and his onslaught against ἀρετή. In full, this highly controversial part of Archytas's moral psychology reads as follows:

συνείρονται μὲν γὰρ τὰ πράξεις ἐκ τῶ ἄρχεν καὶ τῶ ἄρχεσθαι καὶ τρίτον ἐκ τῶ κρατέν. τὸ μὲν ὄν ἄρχεν τῶ κρέσσονος οἰκῆον, τὸ δ' ἄρχεσθαι τῶ χερήονος, τὸ δὲ κρατέν ἀμφοτέρων· ἄρχει μὲν γὰρ τὸ λόγον ἔχον τᾶς ψυχᾶς, ἄρχεται δὲ τὸ ἄλογον, κρατοῦντι δὲ τῶν παθέων ἀμφότερα. γίνεται γὰρ ἐκ τᾶς ἑκατέρων συναρμογᾶς ἀρετά, αὐτὰ δὲ καὶ ἀπὸ τᾶν ἀδονᾶν καὶ ἀπὸ τᾶν λυπᾶν ἐς ἀρεμίαν καὶ ἀπάθειαν ἀπάγει τὰν ψυχάν.²⁷⁶

For the affairs of state are strung together out of ruling, being ruled, and, thirdly, mastering. For ruling is suitable to the better, and being ruled to the

²⁷³ Huffman 2005, p. 312.

²⁷⁴ Ath. 12.65.25–36.

²⁷⁵ Huffman, on the other hand, does not attribute central significance to theme in Polyarchus's speech. Huffman 2005, p. 315.

²⁷⁶ Stob. 4.1.135.14–22.

worse, and being master to both. For the part of the soul that has reason rules, and the irrational part of the soul is ruled, and both are master of the emotions. For virtue is produced out of the mutual adjustment of each, and it leads the soul away from pleasure and pain to peace and absence of emotional suffering.²⁷⁷

Unfortunately, the fragment breaks immediately off with the introduction of ἀρετή without further explicating its relation to ἡρεμία and ἀπάθεια; nonetheless, the passage's definition of virtue as a product of mastery (κρατεῖν) which produces psychological peace and the absence of emotional suffering squares neatly with Cicero's testimony. What is more, Aristotle also reports in the *Nicomachean Ethics* (II.3, 1104b24–25) that some unnamed thinkers define the virtues 'as certain state of impassivity and tranquillity' (ἀπαθείας τινὰς καὶ ἡρεμίας) which might be a reference to Archytas as well.²⁷⁸

Some aspects of this theory of moral psychology have, on the other hand, led some of the recent commentators to express their serious doubts about the passage's authenticity. Thus, Blumenfeld, for instance, claimed that both pseudo-Archytas and Damippos fail to 'tell us what *kratein* corresponds to in *political* terms' and that both 'seem to have difficulty carrying the reasoning into the political.'²⁷⁹ Schofield regarded κρατεῖν the mere product of the writer's endeavour 'to superimpose triadicity on a more basic Aristotelian bipartition', arguing that '[w]ithin that framework, there remains no logical space for the idea of control after all. Instead mutual adjustment of the rational and irrational parts ends up carrying the entire burden of explanation.'²⁸⁰ And finally, Huffman found the passage's strong connections with the spurious Damippos and Metopos treatises possible indications for its forgery.²⁸¹

For my part, I find the latter objection rather inconclusive, and the two former one are, I believe, established on some misinterpretation for the key to the understanding of the passage consists, I think, in the thorough delimitation of τὰ πράξιες. In the Loeb translation, the sentence runs as '*For [scil. political] actions result from the conjunction of ruling, being ruled, and thirdly dominating (kratein),*'²⁸² while Horky and Johnson translate it as 'the affairs of

²⁷⁷ All subsequent translations of *On Law and Justice* are from Horky & Johnson 2020, unless otherwise indicated.

²⁷⁸ Huffman 2005, p. 603; Horky & Johnson 2020, pp. 463–464. Cf. Schofield 2014, p. 83; Dillon 2014, p. 268.

²⁷⁹ Blumenfeld 2003, p. 164.

²⁸⁰ Schofield 2014, pp. 83–84.

²⁸¹ Huffman 2005, p. 605.

²⁸² Laks & Most's translation. *LCL* 527, p. 261.

state’, noting that “‘State’ here translates polis, which can also mean “city” and “city-state.””²⁸³ What the sentence implies, however, is that politically significant actions result from three specific activities, namely ruling, being ruled, and mastering. Ruling and being ruled are considered appropriate actions within the ruler-ruled dichotomy;²⁸⁴ mastery, on the other hand, is regarded an action proper for both ruler and ruled, ‘[t]hat is because law extends to *all* members of the political community’;²⁸⁵ hence, mastery is an action proper when δικαιοσύνη and other virtues are concerned.

I posit, then, my second argument for *On Law and Justice*’s connection with Aristoxenus’s *Life of Archytas* on a cluster of topical affinities between Polyarchus’s speech and the Stobaeus passages.

Beside those passing remarks on virtues, Polyarchus’s speech is fashioned of three propositions. First, which is, in fact, the illegitimate conclusion of the second assertion, that nature ‘commands us to follow pleasures and says that it is the course of a sensible man’ (φύσις [...] ἀκολουθεῖν κελεύει ταῖς ἡδοναῖς καὶ τοῦτό φησιν εἶναι νοῦν ἔχοντος). Second, that a sensible man, having a power of sufficient magnitude (ἐξουσίας ἐπιλάβωνται μέγεθος ἀξιοῦσθαι ἐχούσης) at his disposal, would surely realise that the utmost enjoyment of bodily pleasures is the ultimate goal of his power (τέλος εἶναι τῆς ἐξουσίας).²⁸⁶ And third, that the happiest man alive is the king of Persia ‘For the greatest number and the most complete pleasures have been provided for him.’²⁸⁷ The Archytas of Cicero’s testimony addresses, however, only the first proposition, leaving the second and third assertions intact. But, given Polyarchus’s logical fallacy and the fact that his third claim constitutes but a mere commonplace argument which is logically independent of the two previous assertions,²⁸⁸ it seems remarkably unlikely that the Archytas of Aristoxenus’s *Life of Archytas* could successfully challenge and eventually rout his adversary without sufficiently considering these other two accessory propositions. It is, I believe, mostly likely therefore that ‘what we read in these fragments seems to present a kind of epitome of those ideas.’²⁸⁹

²⁸³ Horkey & Johnson 2020, p. 461.

²⁸⁴ There are strong parallels with both Plato and Aristotle. See Pl. *Leg.* V. 726a. Arist. *Pol.* I.1 1252a.

²⁸⁵ Horkey & Johnson 2020, p. 464. Stob. 4.1.137.3–4.

²⁸⁶ Ath. 12.64.20–23.

²⁸⁷ Ath. 12.65.6–8. εὐδαιμονέστατον ἔφη κρίναι τῶν νῦν τὸν τῶν Περσῶν βασιλέα: ‘πλεῖσται γάρ εἰσιν αὐτῷ καὶ τελειόταται παρεσκευασμένοι ἡδοναί.

²⁸⁸ The similar locus is invoked, for example, by the *Gorgias*’s Polus. Pl. *Grg.* 470e4–5. Cf. Dodds 1979, p. 242.

²⁸⁹ Horkey & Johnson 2020, p. 481.

Finally, my last argument for *On Law and Justice*'s connection with Aristoxenus's *Life of Archytas* consists in those parallels which its passages purport to establish with some other works of Aristoxenus. Of these parallels the most convincing is the similarity between the last passage (4.5.61) of *On Law and Justice* and Fragment 2 (Stob. 4.1.49) of Aristoxenus's *Pythagorean Precepts*. Though the passages are not identical, the 'partially identical language used in the same context makes a connection fairly likely.'²⁹⁰

Archytas on law and rulership

In the previous parts of this chapter, I have argued that Archytas was likely to have engaged in some discussion with Polyarchus, the Syracusan hedonist, over the rational for νόμοι and the goodness of law-abidingness and that this debate was likely to have centred around the disparity of their respective sentiment towards ἀρετή. While Polyarchus was on the opinion that the class of virtues (τὸ τῶν ἀρετῶν εἶδος) in general and δικαιοσύνη in particular were but mere social conventions, far removed from nature, Archytas believed that the very being of each and every human association is derived from its members' capability and willingness to apply the principles of proportional equality to their mutual relations which is intrinsically connected with ἀρετή, the successful mastery over one's pleonectic desires. Also, I have noted that the most characteristic aspect of Archytas's approach is its thorough democratism according to which 'all citizens are able to grasp enough mathematics to ensure a just society',²⁹¹ and that the Athenaeus text implies that there must be some overlap between Archytas's understanding of νόμος and his notion of δικαιοσύνη on the one hand, and his theory of moral psychology on the other hand, though both Fragment 3 and Cicero's testimony for Archytas's reply fail to establish this connection. Now, *On Law and Justice* seems to elaborate precisely on this topic.

Its first epitomised passage emphatically starts with an analogical argument according to which law is in the same position with respect to the soul and life of a human being as attunement in relation to hearing and vocal expression.

²⁹⁰ Huffman 2019, p. 67.

²⁹¹ Huffman 2005, p. 191.

Νόμος ποτ' ἀνθρώπω ψυχάν τε καὶ βίον ὅπερ ἀρμονία ποτ' ἀκοάν τε καὶ φωνάν· ὃ τε γὰρ νόμος παιδεύει μὲν τὰν ψυχάν, συνίστησι δὲ τὸν βίον, ἃ τε ἀρμονία ἐπιστάμονα μὲν ποιεῖ τὰν ἀκοάν, ὁμόλογον δὲ τὰν φωνάν.²⁹²

Obviously, the sense of the passage hangs on the translation of the μὲν–δὲ clause which is, in my opinion erroneously, given in both Horky and Johnson's and the Loeb translation as a correlative conjunction of two balanced clauses. In Horky and Johnson's translation the sentence runs as follows:

The law's relation to the soul and life of a human being is the same as attunement's relation to hearing and vocal expression. For, whereas the law educates his soul, it also organizes his life; likewise, whereas attunement makes his hearing comprehensible, it also makes his vocal expression agreeable.

In both cases, the latter clause, introduced by δέ, describes, however, such an outcome which is logically dependent on those respective instrumental activities set out in the relating μὲν clause. Hence, attunement makes the hearing comprehensible, and so, it makes vocal expression agreeable, while law educates the soul, and so, it makes human association possible. The νόμος of *On Law and Justice* and the λογισμός of Fragment 3 are, thus, intimately connected. That is why law is said to be primary (πρᾶτος ὧν ὁ νόμος),²⁹³ and that is why most of the epitomised passages are deeply concerned with law's relation to proportional equality.²⁹⁴

This interpretation is further amplified, then, by *On Law and Justice*'s subsequent passage where Archytas elaborates on those necessary attributes which make laws complete (τέλῃος).

Δεῖ δὲ τὸν νόμον ἀκόλουθον ἤμεν τᾷ φύσει, δυνατὸν τοῖς πράγμασι, συμφέροντα τᾷ πολιτικᾷ κοινωνία· αἶτε γὰρ ἐνὸς τούτων αἶτε πληθόνων αἶτε πάντων ἀπολείπεται, ἥτοι οὐ νόμος ἢ οὐ τέλῃος νόμος ἐσεῖται. ἀκόλουθος μὲν ὧν κα εἶη τᾷ φύσει, μιμεόμενος τὸ τᾷ φύσιος δίκαιον· τοῦτο δὲ ἐστὶν τὸ ἀνάλογον καὶ τὸ ἐπιβάλλον ἐκάστῳ κατὰ τὰν ἐκάστῳ ἀξίαν. δυνατὸς δέ, αἰ

²⁹² Stob. 4.1.135.3–7.

²⁹³ Stob. 4.1.135.9–10.

²⁹⁴ Stob. 4.1.136.2–8; 4.1.137; 4.1.138.8–10; 4.1.138.51–52.

ποτὶ τὼς νομοθετουμένως ἔχει τὰν συναρμογάν· πολλοὶ γὰρ τὸ τᾶ φύσει καὶ πρᾶτον ἀγαθὸν <οὐχ> ἱκανοὶ δέξασθαι, τὸ δὲ ποθ' αὐτὼς καὶ τὸ ἐνδεχόμενον· οὕτω γὰρ καὶ τοὶ νοσέοντες καὶ τοὶ κάμνοντες τυγχάνοντι ἐπιμελείας.²⁹⁵

The law should be compliant with nature, effective in affairs, and beneficial to the political community. For if it lacks either one or more or all of these things, it will surely not be a law, or not a perfect law. It would, then, be compliant with nature if it were to imitate the justice of nature: this is what is proportionate, i.e., what falls to each in accordance with the worth of each. And it is effective if in relation to those who are furnished with laws it has mutual adjustment. For many people are competent to accept what [is compliant] with nature and a primary good, and it belongs to them and is acceptable to them. For in this way the sick and the suffering receive treatment.

After all, it follows that not any kind of law, but only those which are equitable, effective, and beneficial to the political community are capable of educating the soul in such a manner that may eventually bring an organised living about. What is more, just like the λογισμός of Fragment 3 increases concord by prompting equitable actions: people *seek* (διαλλασσόμεθα) reconciliation in their dealings with others, and the poor *receive* (λαμβάνοντι) from the powerful, and the wealthy *give* (διδόντι) to the needy,²⁹⁶ the νόμος of *On Law and Justice* purports to be effective and, above all, it ‘should be engrained in the characters and the pursuits of the citizens. For it will put the citizens in a self-sufficient condition and distribute the portion that falls to each in accordance with his worth’ (τὸν νόμον ὃν ἐν τοῖς ἡθεσι καὶ τοῖς ἐπιταδεύμασι τῶν πολιτῶν ἐγγράψεσθαι δεῖ· τὼς γὰρ πολίτας αὐτάρκειας θήσει καὶ διανεμεῖ τὸ κατ' ἀξίαν ἐκάστω καὶ τὸ ἐπιβάλλον).²⁹⁷

In short, *On Law and Justice* claims that through laws’ capacity of moral education the citizens’ moral consciousness eventually comes to be enhanced which, in turn, results in the predominance of lawful actions effectively contributing to the stability of their respective political order. Though this Archytean formulation of the goodness of law-abidingness is

²⁹⁵ Stob. 4.1.136.2–13.

²⁹⁶ Stob. 4.1.139.11–14.

²⁹⁷ Stob. 4.1.138.49–52.

distinctly peculiar, there is a strikingly similar passage in Aristotle's *Politics* where Aristotle considers the means for ensuring the stability of constitutions.²⁹⁸

The greatest, however, of all the means we have mentioned for ensuring the stability of constitutions – but one which is nowadays generally neglected – is the education of citizens in the spirit of their constitution. There is no advantage in the best of laws, even when they are sanctioned by general civic consent, if the citizens themselves have not been attuned, by the force of habit and the influence of teaching, to the right constitutional temper – which will be the temper of democracy where the laws are democratic, and where they are oligarchical will be that of oligarchy. If an individual can lack self-control, so can a city. The education of a citizen in the spirit of his constitution does not consist in his doing the actions in which the partisans of oligarchy, or the adherents of democracy, delight. It consists in his doing the actions which make it possible to have an oligarchy, or a democracy.²⁹⁹

Nevertheless, the most emblematic aspect of and our actual reason for considering Archytas's political fragments consists in *On Law and Justice*'s initial distinction of animate and inanimate law.

φαμί δὴ ἐγὼ πᾶσαν κοινωνίαν ἐξ ἄρχοντος καὶ ἀρχομένω συνεστάμεν καὶ τρίτον νόμων. νόμων δὲ ὁ μὲν ἔμψυχος βασιλεύς, ὁ δὲ ἄψυχος γράμμα. πρῶτος ὧν ὁ νόμος· τούτω γὰρ <ἐμμονᾶ> ὁ μὲν βασιλεὺς νόμιμος, ὁ δ' ἄρχων ἀκόλουθος, ὁ δ' ἀρχόμενος ἐλεύθερος, ἂ δ' ὅλα κοινωνία εὐδαίμων· καὶ τούτω παραβάσει <ὁ> μὲν βασιλεὺς τύραννος, ὁ δ' ἄρχων ἀνακόλουθος, ὁ δ' ἀρχόμενος δοῦλος, ὁ δ' ὅλα κοινωνία κακοδαίμων.³⁰⁰

I, for my part, declare that every community is constituted of ruler, ruled, and thirdly, laws. Of laws, one, the animate, is a king, but the other, the inanimate, is written. Thus law is primary; for by means of it, the king is lawful, the ruler

²⁹⁸ Cf. Blumenfeld 2003, p. 133.

²⁹⁹ Arist. *Pol.* V.9. 1310a12–22. Baker 1995, p. 208.

³⁰⁰ Stob. 4.1.135.7–14.

is compliant, the man who is ruled is free, and the whole community is happy. And in contravention of this <sc. law> the king is tyrannical, and the ruler noncompliant; and the man who is ruled slavish, and the whole community unhappy.

Given the fragment's fourth-century origin, this passage contains the first surviving literary evidence for the philosophic application of the νόμος ἔμψυχος idea, and so, it is of paramount importance with a view to our subject matter. The crucial sentence, νόμων δὲ ὁ μὲν ἔμψυχος βασιλεύς, ὁ δὲ ἄψυχος γράμμα, has no variations in the extant manuscript sources and nothing warrants for textual corruption of any sort;³⁰¹ hence, it is likely that what we read is Stobaeus's actual paraphrase, or quotation of some actual Archytean text. This contention is further amplified, then, by a number of internal and external evidence, all supporting our Archytean attribution.

Though some commentators consider the Archytean treatise a Neopythagorean forgery, they, nonetheless, concede to the parallels between *the* νόμος ἔμψυχος idea and some fourth-century sources,³⁰² such as Isocrates's *To Demonicus* (Isoc. 1.36), Xenophon's *Cyropaideia* (8.1.22), Plato's *Laws* (875c–d), and Aristotle's *Nicomachean Ethics* (1132a). Isocrates speaks of the kings' character (τρόπος) as a law worthy of imitation; his advice is to 'obey the laws which have been laid down by kings, but consider their manner of life your highest law' (πειθου μὲν καὶ τοῖς νόμοις τοῖς ὑπὸ τῶν βασιλέων κειμένοις, ἰσχυρότατον μέντοι νόμον ἡγοῦ τὸν ἐκείνων τρόπον).³⁰³ Xenophon has Cyrus describe the good king as 'a law that sees for mankind' (βλέποντα νόμον ἀνθρώποις), while Plato imagines his ideal ruler as someone who, by virtue of his exceptional knowledge and reason, has no need of laws or ordinances. Finally, Aristotle speaks of judges as animate justices; in his opinion, 'to go to the judge is to go to justice; for the nature of the judge is to be a sort of animate justice' (τὸ δ' ἐπὶ τὸν δικαστὴν ἰέναι ἰέναι ἐστὶν ἐπὶ τὸ δίκαιον: ὁ γὰρ δικαστὴς βούλεται εἶναι οἷον δίκαιον ἔμψυχον).³⁰⁴ Calling the king animate law could therefore be in perfect agreement with fourth-century Greek political terminology.

³⁰¹ Hence 1909, p. 82. Thesleff, p. 33. Laks & Most's translation. *LCL* 527, p. 260.

³⁰² Goodenough 1928, pp. 62–63. Steinwenter 1946, pp. 262–263. Aalders 1969, pp. 320–321. Martens 2003, pp. 32–34. Horkey & Johnson 2020, p. 463.

³⁰³ Norlin's translation.

³⁰⁴ Ross's translation, 2009, p. 87.

Exploiting the passage's similarity with Pindar's νόμος βασιλεύς (Fr. 169), Horky and Johnson even go as far as suggesting Archytas's possible dependence on Pindar in his formulation of the νόμος ἔμψυχος idea. In their opinion, 'in the context of late fifth- and early fourth-century BCE political thought the concepts behind these words are not in fact very original. In fact, it was a commonplace from at least Pindar to formulate law as a king.'³⁰⁵ Although true it is that '[f]ew fragments of Greek poetry have been cited in ancient literature as frequently as Pindar's poem on νόμος βασιλεύς',³⁰⁶ and Archytas's reference to Pindar could have served his dialectic purposes, his dependence on Pindar still looks remarkably unlikely to me. In Pindar's poem the law is said to be king over all, both mortals and immortals, which means that the law 'has absolute, unchallengeable, and legitimate power both among men and among the gods.'³⁰⁷ In the Archytean passage, just like in Pindar's poem, the noun βασιλεύς is the predicative of νόμος which equally allows the 'of laws, one, the animate, is king' and the 'of laws, one, the animate, is a king' translations. Nevertheless, given the sentence's μὲν–δὲ clause, the first translation simply cannot, without considerable difficulties, be made good. What is more, in the very next sentence Archytas makes unmistakably clear that he has kings in mind who are, in his opinion, made lawful only with reference to the law: τούτω γὰρ <ἐμμονᾶ> ὁ μὲν βασιλεύς νόμιμος.

After all, Pindar's influence may therefore be ruled out, and, since Archytas's king cannot be deemed to be the fountain of law, his νόμων δὲ ὁ μὲν ἔμψυχος βασιλεύς just cannot constitute a proxy for unwritten law either. Albeit, true it is that γραμμάτων at Stob 4.1.138.22 certainly refers to written laws, within the context of *On Law and Justice*, the familiar distinction between written and unwritten law does not seem to concern Archytas at all. He is twice found emphasising that the law should be effective: it 'should be inscribed not in temples or on doors, but in the characters of those who are its citizens' (καὶ μὴ ἐν οἰκίμασι καὶ θυρώμασιν ἐνῆμεν, ἀλλ' ἐν τοῖς ἦθεσι τῶν πολιτευομένων)³⁰⁸ and it 'should be engrained in the characters and the pursuits of the citizens' (τὸν νόμον ὧν ἐν τοῖς ἦθεσι καὶ τοῖς ἐπιταδεύμασι τῶν πολιτῶν ἐγχρόζεσθαι δεῖ),³⁰⁹ still he does neither venture to condemn written law as such, nor to advocate for royal government. Moreover, his νόμος ἔμψυχος does neither appear to be a technical term of some kind, nor some notion worthy of succinct exposition. The only

³⁰⁵ Horky & Johnson 2020, p. 463.

³⁰⁶ Ostwald 1965, p. 109.

³⁰⁷ Ostwald 1965, p. 126.

³⁰⁸ Stob. 4.1.138.20–21.

³⁰⁹ Stob. 4.1.138.49–51.

conclusion Archytas is willing to draw from his νόμος ἔμψυχος and ἄψυχος distinction is that law is therefore primary (πρᾶτος ὧν ὁ νόμος), for it is the law that makes a king lawful (τούτω γὰρ <ἐμμονᾷ> ὁ μὲν βασιλεὺς νόμιμος) and a magistrate law-abiding (ὁ δ' ἄρχων ἀκόλουθος). Should they contravene the law, kings become tyrants, and magistrates unconstitutional (καὶ τούτω παραβάσει <ὁ> μὲν βασιλεὺς τύραννος, ὁ δ' ἄρχων ἀνακόλουθος). For these very reasons, I believe, the passage merely implies that there are two possible constitutional scenarios: a community is either governed by written laws, or the unwritten ordinances of a king. However, regardless of the mode of governance, each community is ruled by νόμοι deriving their normativity from their intrinsic capacity of moral education.

If my understanding of the passage is correct, Archytas came to a position remarkably close to the one enunciated by Plato's *Statesman*: at 293 Plato had the Eleatic Stranger arrive to the conclusion that the best and, in fact, only real constitution is 'the one in which the rulers would be found truly possessing expert knowledge, and not merely seeming to do so, whether they rule according to laws or without laws, over willing or unwilling subjects, and whether the rulers are poor or wealthy – there is no principle of correctness according to which any of these must be taken into any account at all.'³¹⁰ Despite of this apparent similarity, the passage's drawing on Plato can, however, easily be ruled out for the following reasons.

First and foremost, Archytas's terminology seems to be thoroughly original, and the brevity and simplicity of his exposition is also most likely proof of its originality. Second, unlike Plato's Stranger,³¹¹ Archytas does not express any preference for either mode of governance; in his opinion, the rule of a king and that of a magistrate is equally good, provided that the king is lawful and the magistrate is law-abiding. And third, the two most fundamental themes of Plato's argument, namely his insistence on the distinction between being and seeming (τοὺς ἄρχοντας ἀληθῶς ἐπιστήμονας καὶ οὐ δοκοῦντας μόνον) and his idea of βασιλικὴ ἐπιστήμη,³¹² are altogether lacking from the passages of *On Law and Justice*; though, Archytas does make mention of a true ruler (τὸν ἀλαθινὸν ἄρχοντα) who should, in his opinion, be knowledgeable

³¹⁰ Pl. *Pol.* 293c–d. ἀναγκαῖον δὴ καὶ πολιτειῶν, ὡς ἔοικε, ταύτην ὀρθὴν διαφερόντως εἶναι καὶ μόνην πολιτείαν, ἐν ἣ τις ἂν εὐρίσκοι τοὺς ἄρχοντας ἀληθῶς ἐπιστήμονας καὶ οὐ δοκοῦντας μόνον, ἐάντε κατὰ νόμους ἐάντε ἄνευ νόμων ἄρχωσι, καὶ ἐκόντων ἢ ἀκόντων, καὶ πενόμενοι ἢ πλουτοῦντες, τούτων ὑπολογιστέον οὐδὲν οὐδαμῶς εἶναι κατ' οὐδεμίαν ὀρθότητα. Cooper's translation (1997), p. 337.

³¹¹ Pl. *Pol.* 294a [...] τὸ δ' ἄριστον οὐ τοὺς νόμους ἐστὶν ἰσχύειν ἀλλ' ἄνδρα τὸν μετὰ φρονήσεως βασιλικόν. ([...] but the best thing is not that the laws should prevail, but rather the kingly man who possesses wisdom. Cooper's translation, 1997, p. 338)

³¹² See Peixoto 2018, pp. 249–254, Márquez 2012, pp. 238–259.

with respect to ruling well (ἐπιστάμονά [...] ἤμεν περὶ τὸ καλῶς ἄρχεν), and, in fact, he even went as far as saying that such a ruler should be lawful, for, by having the knowledge of a ruler, he will be this way (δεῖ δ' αὐτὸν καὶ νόμιμον ἤμεν· οὕτω γὰρ ἐσσεῖται τὰν τῷ ἄρχοντος ἐπίστασιν ἔχων).³¹³ However, these reminiscences do not have anything to do with the Platonic categories, they are but restatements of Archytas's prior exposition. Thus, a true ruler is someone who is characterised by having the knowledge of a ruler which manifests itself in his law-abidingness.³¹⁴ That is why a true ruler cannot contravene the law, 'and the one nearest to the law would be the best ruler' (ἄριστος δέ κ' εἴη ἄρχων ὁ ἀγχοτάτῳ τῷ νόμῳ).³¹⁵

Conclusion

After this chapter's succinct examination of Archytas's moral and political philosophy, I think, we can finally, with confidence, settle that Stobaeus rightly ascribes *On Law and Justice* to the Tarantine Archytas, even though, the treatise does most likely not contain his ipsissima verba, but an epitome of Aristoxenus's *Life of Archytas*. Nevertheless, given Archytas's actual political writings, had there been any, are all lost, we cannot but be content with Aristoxenus's testimony and hope for his truthfulness in his portrayal. Whatever be the case, *On Law and Justice* certainly tunes neatly with our understanding of Archytas's philosophy, and the archetype of the treatise itself definitely had its origin in the fourth century B.C. In some way, or another, the genesis of the νόμος ἔμψυχος idea is, thus, intrinsically associated with the Tarantine Pythagorean and his debate with Polyarchus. Unlike the later sources, Archytas did not regard, however, the νόμος ἔμψυχος idea a technical term, or a philosophical notion of some kind; his use of terminology might therefore be only accidental, designated to describe those two possible constitutional scenarios whereby fourth-century Greek communities were being governed, namely written laws, or the unwritten ordinances of a king.

The manner of Archytas's exposition is somewhat reminiscent of the Eleatic Stranger's argument in Plato's *Statesman* (293), but it is depending neither on Plato, nor any other previously mentioned sources, though it tells off such an intellectual milieu as the passage's time of composition wherein such reflections on these two possible constitutional scenarios still carried some practical significance. This period certainly has some overlaps with the late fifth-

³¹³ Stob. 4.5.61.7–8.

³¹⁴ Cf. Horkey & Johnson 2020, pp. 485–486.

³¹⁵ Stob. 4.5.61.12.

and early fourth-century discussions over written and unwritten laws, even though Archytas's focus on practical politics is somewhat more elaborated than this general discussion which suggests a relatively late date of composition within this timespan. This contention and, in fact, the term's actual Archytean origin, is all but strengthened by the Platonic parallel, since these two independent formulations are likely to come from roughly the same period, that is, sometime between, or around Plato's second and third voyages to Sicily.

PART II
SYNTHESIS

CHAPTER 3

The Pythagorean pseudepigrapha

In the first part of my discussion, I have argued at length that the νόμος ἔμψυχος idea had its origin with the fourth-century Pythagorean, Archytas of Tarentum. Next to the Archytean *On Law and Justice*, there are two other loci of the νόμος ἔμψυχος idea which may successfully establish a claim for some kind of a Hellenistic date of composition. These other loci also come to us in Stobaeus's *Anthology*, ascribed to a certain Diotogenes, a Pythagorean. The problem with this ascription is that apart from Stobaeus's attribution there is no written record of Diotogenes at all. The most convenient explanation for this lack of evidence is that Diotogenes is a pseudonym invented by some Neopythagorean writer. A conviction which comes to be amplified by the Diotogenean treatises' close proximity to the Pythagorean pseudepigrapha which seems to delineate a probable background against which the texts could, with relative confidence, be dated.

However, this mere relativity of confidence is due to the Pythagorean pseudepigrapha's intensely disputed origin: there are several possible explanations for these treatises' existence with theories ranging from early Hellenistic to late Imperial dates of composition, and with additional difficulties hinging around the treatises' supposed compilation. In the first chapter of Part II, it is inevitable to consider, then, the distinct approaches to and the doxographic evidence for the Pythagorean pseudepigrapha in order to ascertain a fairly reliable picture of their authors. Based on this chapter's findings, I argue for the existence of some early Imperial compilation in which both pseudo-Diotogenes's *On Kingship* and the Archytean *On Law and Justice* were admitted.

In the next chapter, Chapter 4, after a brief overview of the Diotogenean passages in Stobaeus, I look at his νόμος ἔμψυχος and νόμιμος ἄρχων distinction which seemingly indicates the passage's Archytean dependence. This dependence is, however, only apparent; after the fragments' thorough analysis, I claim that the sole reason for pseudo-Diotogenes's adoption of the term was to purportedly add to the treatise's impression of authenticity by way of invoking a familiar notion that has already been associated with ancient Pythagorean politics. Nevertheless, despite of pseudo-Diotogenes's fraudulent intent, *On Kingship* does, in fact, contribute to the semantic revolution of the term through, what we may describe as, pseudo-Diotogenes's Neopythagorean synthesis.

Approaches to the Pythagorean pseudepigrapha

The Pythagorean pseudepigrapha designates a large-scale literary fraud in antiquity: some 100 treatises fraudulently attributed to Pythagoras and ancient Pythagoreans. Most pieces come from Stobaeus's *Anthology*, but considerable material is preserved by Clement of Alexandria (*Strom.*), Iamblichus (*VP, Protr., in Nic.*), Diogenes Laertius, Porphyry (*VP*), Syrianus (*in Metaph.*), Proclus (*in Tim.*), and Simplicius (*CAG*) as well. The sheer volume of the Pythagorean pseudepigrapha is well illustrated by Thesleff's modern edition (*The Pythagorean Texts of the Hellenistic Period*) of 109 titles ascribed to 44 pseudonyms, covering 229 pages of Greek text with critical apparatus. More than one fifth (47 pages) of these 229 pages are filled with 17 titles under Archytas's name and another 32 pages are on Pythagoras. The length of the pieces varies from complete treatises of several pages (e.g.: the 19 pages long Περὶ φύσιος κόσμῳ καὶ ψυχᾶς from Timaeus Locrus) to some obscure testimonia of a few lines only. Despite of their relative homogeneity and some recurring themes and notions, there are considerable philosophic, stylistic, and dialectic differences to the treatises; hence, most scholars argue for different dates and places of origin.³¹⁶

Holger Thesleff, Leonid Zhmud, and Bruno Centrone are all on the opinion that the writings attributed to Pythagoras or members of his family ought to be set apart from the other pieces.³¹⁷ They do disagree however on the relation between these two classes of writings. Thesleff thinks that the 'majority of the writings of Class II [i.e.: the Doric treatises attributed to ancient Pythagoreans] were composed in the cities of Southern Italy about the middle of the 3rd century B.C. Echoes of this literature may have occurred in 3rd century Syracuse or elsewhere, and remoter echoes in Italy in the beginning of the 2nd century. But Class II is rather centred around 3rd century Tarentum.'³¹⁸ Hence the central importance of Archytas.³¹⁹ 'Class I [i.e.: the writings under Pythagoras's name and members of his family], on the other hand, is likely to have originated in the East: in Alexandria, Athens, or elsewhere, at various dates, and with reflections in Italy from about 200 B.C. onwards.'³²⁰ Nevertheless, Thesleff avowedly reaches

³¹⁶ For a thorough overview of scholarly literature see Thesleff 1961, pp. 30–41. Subsequent findings are enumerated by Zhmud 2019, p. 76 and Männlein-Robert 2018, pp. 633–636.

³¹⁷ Thesleff 1961, p. 99; Zhmud 2019, p. 75; Centrone 2014, p. 316.

³¹⁸ Thesleff 1961, p. 99.

³¹⁹ Thesleff 1961, pp. 76–77.

³²⁰ Thesleff 1961, p. 99.

his conclusion quite arbitrarily, resting his claim fundamentally on ‘formal and external’ criteria which method mostly disregards doctrinal concerns.³²¹ In their effort to amend Thesleff’s shortcomings, both Zhmud and Centrone proposes, with some reservations, a return to Zeller’s original hypothesis of an Alexandrian origin from the turn of the first century B.C. for the writings of Class II.³²²

They both agree that the predominant influence on the Doric pseudopythagorica comes from middle Platonism and that the ‘doctrinal content of these writings bears few traces of early Pythagoreanism’.³²³ Their syncretism and certain treatises’ obvious dependence on Aristotelian doctrines are also explained by the emergence of doctrinal Platonism, beginning in the first century B.C.³²⁴ They think that ‘[t]heir authors’ adoption of the mask of ancient Pythagoreanism certainly entails a firm belief in a deep continuity between Pythagoreanism and Platonism, of the sort that is typical of the Platonic tradition.’³²⁵ That is why they both prefer ‘to describe the authors of the apocrypha as Pythagoreanizing Platonists, who considered themselves to be heirs to the Pythagorean tradition, with a firm belief in the continuity between Pythagoras, Plato and Aristotle.’³²⁶ In Centrone’s opinion, it is this doctrinal Platonism ‘which profoundly shapes the basic orientation of the treatises towards systematization and classification’, making itself manifest in ‘a single coherent system behind the pseudo-Pythagorean writings’.³²⁷ According to Centrone, there are also some intriguing connections between some pseudo-Pythagorean treatises and Eudorus’s theory of principles which seems to strengthen ‘the hypothesis of the proximity of the pseudo-Pythagorean writings to Eudorus’ circle.’³²⁸ This Alexandrian origin is also accepted by Zhmud who thinks that ‘such figures as Eudorus of Alexandria, Arius Didymus and Philo of Alexandria in various ways related to these texts indicate that their authors lived as before in Alexandria.’³²⁹

³²¹ Thesleff 1961, preface. Thesleff 1972, 59. For Thesleff’s critics see Zhmud 2019, p. 76 n14.

³²² Zeller 1868, pp. 92–93.

³²³ Centrone 2014, p. 320. Zhmud 2019, p. 90.

³²⁴ Centrone 2014, pp. 336–337; Zhmud 2019, p. 83.

³²⁵ Centrone 2014, p. 337.

³²⁶ Centrone 2014, p. 337. Zhmud 2019, p. 91.

³²⁷ Centrone 2014, p. 320.

³²⁸ Centrone 2014, pp. 325–326. On Eudorus and the Pythagorean pseudepigrapha see Dillon 1996, pp. 117–121; Bonazzi 2013a, pp. 385–404.

³²⁹ Zhmud 2019, p. 85.

Though it is, indeed, highly probable that first-century B.C. Alexandria has something to do with the pseudopythagorica, the Alexandrian hypothesis is no less conjectural than Thesleff's thesis and there are, in fact, other possible explanations as well. Walter Burkert, for instance, agrees with the Alexandrian hypothesis insofar as to accept that at least 'eine ganze Reihe der dorischen Pseudopythagorica, zumal solcher, die unter dem Namen "Archytas" laufen, tragen den Stempel der Epoche, die durch die Namen Antinochus von Askalon, Areios Didymos, Eudoros von Alexandrie umrissen ist'.³³⁰ He is apt to note, however, that these Alexandrian figures had their Roman contemporaries of equal gravity, names like Cicero, Varro, or Seneca.³³¹ After a brief doctrinal overview, he does not find anything specifically Alexandrian in the pseudopythagorica and, since Pythagoreanism in general was considered rather the par excellence Italian philosophy,³³² he proposes an alternative: '[d]ie Adresse, die damit angesprochen ist, ist kaum das hochmütig-selbstgenügsame Alexandria, sondern eben das Zentrum Italiens: Rom.'³³³ Rome was, in Burkert's opinion, that location where all the distinct doxographic evidences converged. There were known Pythagoreans in first-century B.C. Rome, and those who are usually associated with the pseudopythagorica seem to have had vivid connections there. Posidonius was on friendly terms with several *viri consulares*, Antiochus of Ascalon was the teacher of Cicero, Varro, and Brutus, Arius Didymus was the tutor of Augustus, Alexander Polyhistor, whom Diogenes Laertius credits as his source on the *Pythagorean Memoirs* (D.L. 8.24), was brought to Rome by Sulla, and King Juba II of Mauretania, who had a passion for Pythagoras's writings, was also raised in Rome.³³⁴ According to Burkert, the Roman hypothesis may explain the prominence of pseudo-archytea as well. He argues that after the banishment of the occultist Anaxilaus of Larissa (28 B.C.), due to the subsequent religious persecutions, the Roman Pythagoreans were in desperate need of an unblemished Pythagorean authority of high esteem who stood beyond reproach; and this Pythagorean happened to be Archytas of Tarentum.³³⁵

Recently, Phillip Sidney Horky has put forth yet another explanation for the genesis of the pseudopythagorica which provides some very useful additional insights to Centrone's and

³³⁰ Burkert 1972b, p. 40.

³³¹ Burkert 1972b, p. 41.

³³² Burkert 1972b, p. 41.

³³³ Burkert 1972b, p. 41.

³³⁴ Burkert 1972b, pp. 42–43.

³³⁵ Burkert 1972b, p. 45.

Zhmud's Alexandrian hypothesis.³³⁶ Based quintessentially on Porphyry's testimony (*VP* 53 and 57 and Ibn Abi Usaibia's Arabian epitome³³⁷), Horky envisions a scenario according to which the pseudo-Pythagorean writings, including those attributed to Archytas, were produced around the first century B.C. to reconstruct and preserve the genuine doctrines of the Pythagoreans. In his opinion, Porphyry's testimony indicates that 'there was an original "writing down" of the enigmatic doctrines in Doric' and these genuine works were collected and probably edited by some Archytas who is likely to be that Archytas of Tarentum whom we know.³³⁸ The fruitful doctrines of this collection were appropriated by Plato, Aristotle, Speusippus, Aristoxenus, and Xenocrates and 'what was "superficial and inconsequential" from the Doric texts' were recorded as 'the particular doctrines of the Pythagorean sect.'³³⁹ Later other figures, like Cleinias and Megillus, 'seeking to authorize their own illegitimate ideas as Pythagorean to posterity, assigned them to Pythagoras', but these writings were not accepted.³⁴⁰ Sometime later Pythagoreanism was subjected to intense criticism and even ridicule; as a response to these critics a "group of wise men" emulated Archytas of Tarentum's activities by acquiring, bringing together, and making a collection of the legitimate 280 writings, which had been lost to Greece'.³⁴¹ The whole process was likely to be initiated by an Archytas, the Peripatetic (*peripateticum aliquem Architem*), whom Themistius distinguishes from Archytas of Tarentum, the Pythagorean (*Architem, qui Pythagoricus Tarentinusque esset*),³⁴² though it is likely that there were several authors behind this pseudonym. The other writings attributed to Pythagoras and the Pythagoreans were possibly composed by 'Alexandrian Platonists who reacted to Pseudo-Archytas [i.e.: the Peripatetic], the most prominent of which would have been Eudorus'.³⁴³ Within this context, '[a]uthorization of texts as being genuinely, or spuriously, Pythagorean depended on the pure intellect that Archytas [of Tarentum] exhibited in his discrimination', as reported by Porphyry's testimony.³⁴⁴

³³⁶ Horky 2021, pp. 137–172.

³³⁷ Huffman 2005, pp. 616–617.

³³⁸ Horky 2021, pp. 153–154.

³³⁹ Horky 2021, p. 159.

³⁴⁰ Horky 2021, p. 159.

³⁴¹ Horky 2021, pp. 159–160.

³⁴² Boethius *in Cat. Arist.* 1. *PL* 64, p. 162A.

³⁴³ Horky 2021, p. 160.

³⁴⁴ Horky 2021, p. 160.

Of these hypotheses, I find Horky's explanation the most plausible, though his reconstruction is admittedly tentative too 'and depends both on (a) synthesizing the accounts of Porphyry as preserved in the extant *Life of Pythagoras* with the account preserved by Ibn Abī Uṣaybi'a, and (b) assuming that we can sift through the levels of textual transmission in the passages with any certainty.'³⁴⁵ After all, due to the lack of direct evidence, I fear at present we cannot escape the frustrating non liquet with regard to the pseudopythagorica, and so instead of arguing for a positive theory, I shall confine my subsequent discussion to a mere presentation of doxographic evidence.

Pseudopythagorica in the doxographic tradition

The first literary evidence for the existence of a pseudo-Pythagorean writing comes from Neanthes of Cyzicus (late 4th and early 3rd century B.C.) who, according to Diogenes Laertius's testimony (8.55), thought that Telauges's (a son of Pythagoras) letter to Philolaus and its statement that Empedocles was the pupil of both Hippasus and Brontinus was untrustworthy (μὴ εἶναι ἀξιόπιστον).³⁴⁶ Beside this letter, Diogenes Laertius (8.43) makes mention of some writings attributed to Theano, the fictitious wife of Pythagoras, and his information is likely to come from Hippobotus (fl. c. 200 B.C.), but even so, Diogenes's source seems to have merely a superficial knowledge of the works in question and cannot infallibly guarantee that they really existed at that time.³⁴⁷

Sometime later, but still on the turn of the third and second century B.C. Pythagoras's own writings are attested. The first known reference is associated with the plagiarism conspiracy initiated against Plato in the second half of the fourth century and it goes back to Satyrus (late 3rd century B.C.) who is reported to say that Plato wrote to Dion in Sicily instructing him to purchase three Pythagorean books from Philolaus for hundred minae (ὅτι Δίῳ ἐπέστειλεν εἰς Σικελίαν ἀνήσασθαι τρία βιβλία Πυθαγορικὰ παρὰ Φιλολάου μνῶν ἑκατόν).³⁴⁸ Later (8.15) Diogenes Laertius makes it unmistakably clear that these three books are not by Philolaus, but only published by him, and before that time it was not possible to know any Pythagorean doctrines (Μέχρι δὲ Φιλολάου οὐκ ἦν τι γινῶναι Πυθαγόρειον δόγμα: οὗτος δὲ μόνος ἐξήνεγκε

³⁴⁵ Horky 2021, p. 160.

³⁴⁶ Thesleff 1961, p. 106; Schorn 2014, pp. 309–310; Zhmud 2019, p. 73.

³⁴⁷ Zhmud 2019, p. 79.

³⁴⁸ D.L. 3.9.

τὰ διαβόητα τρία βιβλία, ἃ Πλάτων ἐπέστειλεν ἑκατὸν μῶν ὠνηθῆναι).³⁴⁹ Accordingly, this famous *tripartitum* included *On Education* (Παιδευτικόν), *On Statesmanship* (Πολιτικόν), and *On Nature* (Φυσικόν), and Diogenes Laertius even provides a general outline of the works and quotes the opening sentence of *On Nature*.³⁵⁰ Based on Heraclides Lembus's epitome of Sotion (fl. c. 200 B.C.), Diogenes Laertius also mentions six other works by title, namely *On the Universe* (Περὶ τοῦ ὅλου), the *Sacred Discourse* (Ἱερὸς λόγος) with its opening lines quoted, *On the Soul* (Περὶ ψυχῆς), *On Piety* (Περὶ εὐσεβείας), *Helothales, the Father of Epicharmus of Cos* (Ἡλοθαλῆ τὸν Ἐπιχάρμου τοῦ Κώου πατέρα), and *Croton* (Κρότωνα), and he implies that there were, in fact, more works in circulation.

Though Diogenes Laertius apparently accepts all of these writings as genuine works of Pythagoras, doubting the authorship of an unnamed treatise only, which he considers coming from Lysis of Tarentum, he nonetheless reports that some quite absurdly say that Pythagoras left no writings (Ἐνιοὶ μὲν οὖν Πυθαγόραν μηδὲ ἔν καταλιπεῖν σύγγραμμά φασι παίζοντες).³⁵¹ It is unclear who is Diogenes Laertius having in mind, but we do know that Posidonius (c. 135–c. 50 B.C.)³⁵² and Philodemus of Gadara (c. 110–c. 40 B.C.),³⁵³ and later Josephus Flavius (37–c. 100) shared that opinion.³⁵⁴ The latter was probably ignorant of the pseudopythagorica, but Posidonius's and Philodemus's judgment cannot be dismissed as simple as that. In Burkert's opinion, '[d]as Urteil des Poseidonios, dass es kein Buch des Pythagoras gebe, beruht kaum auf Ignoranz, vielmehr auf kritischer Entscheidung: zwischen Herakleides Lembos und Poseidonios liegt ein kritischer Neuanfang der Philosophiegeschichte, der die angeblichen Pythagorasbücher des Hellenismus wieder in Vergessenheit sinken liess.'³⁵⁵ This seems to explain Philodemus's judgement, but I, for my part, do not find any criticism in Posidonius's statement. Rather, his testimony may imply that he, indeed, accepted the existence of some genuine writings under Pythagoras's name which simply did not come down to his time. However, what is even more important from our point of view is that both Posidonius and

³⁴⁹ Huffman 1993, pp. 13–15.

³⁵⁰ D.L. 8.6, 9–10.

³⁵¹ D.L. 8.6.

³⁵² Gal. *De plac. Hipp. et Plat.* 5.6.43.1–4. Ποσειδώνιος δὲ καὶ Πυθαγόραν φησὶν, αὐτοῦ μὲν τοῦ Πυθαγόρου συγγράμματος οὐδενὸς εἰς ἡμᾶς διασωζομένου τεκμαιρόμενος δ' ἐξ ὧν ἔνιοι τῶν μαθητῶν αὐτοῦ γεγράφασι.

³⁵³ Phld. *Piet.* 3, fr. 10. Zhmud 2019, p. 73 n5. [Πυ]θαγόρου δ' αὐτοῦ γ' οὐδέν φασι τινε[ς] εἶναι τῶν ἀναφ[ε]ρομένων παρὰ [τῶν μαθητῶν εἰς αὐτόν].

³⁵⁴ J. *Ap.* 1.163.

³⁵⁵ Burkert 1972, p. 47.

Philodemus did attest that there were some pseudopythagorica in circulation in the first century B.C. From Philodemus's critical tone and from King Juba II's (c. 48 B.C.–23 A.D.) alleged passion for Pythagoras's writings,³⁵⁶ one may infer that some of these pseudepigrapha must have run under Pythagoras's name, or closely associated with it, like the *Pythagorean Memoirs* (Πυθαγορικά ὑπόμνημα) which was even extensively excerpted by Alexander Polyhistor (1st century B.C.).³⁵⁷ Whereas some others must have appeared under the names of his supposed disciples.

Subsequently, the turn of the common era witnessed a growing interest in Pythagoreanism both in Rome and in Asia Minor,³⁵⁸ hence, the conditions were becoming ever ripe for accommodating an extensive body of pseudopythagorica. And we are told that the Romans had a natural propensity for Pythagoreanism: in his *De senectute* (78) Cicero makes Cato say that Pythagoras and the Pythagoreans, who were almost their fellow-countrymen, were once called Italian philosophers (audiebam Pythagoram Pythagoriosque, incolas paene nostros, qui essent Italici philosophi quondam nominati), and Pliny the Elder (*HN* 34.26) reports that during the Samnite wars (late 4th or early 3rd century) the Romans erected a statue of Pythagoras which was only destroyed by Sulla's construction of the senate house. Moreover, according to the vulgar opinion, Rome's legendary king, Numa Pompilius, was considered a follower of Pythagoras, and Titus Livius in his *History of Rome* (40.29) mentions that in the year 181 B.C. a chest of Numa's writings was discovered, amongst them were seven Greek treatises containing Pythagorean doctrines which were deemed dangerous to the religious institutions, and so Quintus Petillius, the city's praetor, ordered them to be burnt. This Roman sympathy towards Pythagoreanism culminated in the first century B.C. and it is associated with figures like Publius Nigidius Figulus (c. 100–45 B.C.), Marcus Tullius Cicero (106–43 B.C.), Marcus Terentius Varro (116–27 B.C.), Publius Vatinius (c. 95– after 42 B.C.), Anaxilaus of Larissa († after 28 B.C.), Lucius Annaeus Seneca (c. 4 B.C. – 65 A.D.), and the Sextii, most prominently Quintus the Elder (fl. c. 50 B.C.).

Of these notable men, the principal authority on first-century Roman Pythagoreanism is Cicero who himself was deeply interested in both Pythagoras and Pythagoreanism.³⁵⁹ In the *Tusculan Disputations* (3.36, 4.55, 5.30), he repeatedly expresses his high esteem for

³⁵⁶ Olymp. *Proll.* 13.13–14.

³⁵⁷ D.L. 8.24–33.

³⁵⁸ See Flinterman 2014, pp. 341–359. On Roman Pythagoreanism see Kahn 2001, pp. 86–93.

³⁵⁹ Flinterman 2014, pp. 347–349.

Pythagoras, and he even had a larger section (27c–47b) of Plato’s Pythagorean dialogue, the *Timaeus*, translated into Latin.³⁶⁰ As I have argued in the previous chapter, he was certainly familiar with Aristoxenus’s writings, and it is Cicero who first attests some kind of a revival of Pythagoreanism in Rome. In the proem of his translation of the *Timaeus* he wrote that after the disappearance of the Pythagorean school, which flourished for some centuries in Italy and Sicily, it was Nigidius who endeavoured to restore it.³⁶¹ Unfortunately, we do not possess much information about Nigidius; hence, his reputation for a Pythagorean is mostly established by Cicero’s claim. In his proem, Cicero characterises Nigidius as a keen investigator of things which nature has hidden, Pliny mentions him in relation with the magi (*HN* 30.82) and Jerome also calls him pythagoricus et magus who died in exile.³⁶² Finally, if the Bobbio Scholiast can be trusted, it was his house where a circle of Pythagoreans met frequently.³⁶³ The scholion also implies that one of these Pythagoreans was Publius Vatinius who, according to Cicero, called himself a Pythagorean to cloak his own monstrous and barbarian habits.³⁶⁴

Next to Nigidius, a superficial kind of interest in Pythagoreanism is also detectable in Varro’s oeuvre³⁶⁵ and in certain moral teachings of the Sextii, though, ‘[o]ne did not have to share basic Pythagorean doctrines in order to appreciate Pythagorean precepts as ethical guidelines.’³⁶⁶ At any rate, some prominent figures of first-century Rome were deeply committed to Pythagoreanism: according to Pliny’s report (*HN* 35.160), Varro was buried in the Pythagorean style in leaves of myrtle, olive, and black poplar (pythagorio modo in myrti et oleae atque populi nigrae foliis), Seneca abstained from meat (*Ep.* 108.17–22), and Anaxilaus of Larissa, who, just like Nigidius, is described as Pythagoricus et Magus by Jerome,³⁶⁷ was banished for his turbulent Pythagorean teachings by Augustus in 28 B.C. However, despite of this upheaval of Pythagoreanism in Rome, virtually no genuinely Roman figure seems to have any firm connection established with the extant body of pseudopythagorica.

³⁶⁰ On Cicero’s translation of the *Timaeus* see Sedley 2013, pp. 187–205.

³⁶¹ Cic. *Tim.* pr. 1–2. [...] post illos nobiles Pythagoreos, quorum disciplina extincta est quodam modo, cum aliquot saecula in Italia Siciliaque viguisset, hunc extitisse, qui illam renovaret.

³⁶² *Chronicon*, p. 238.

³⁶³ *Scholia Bobiensia* in Vat. 14.

³⁶⁴ Cic. *in Vat.* 14.

³⁶⁵ Flinterman 2014, pp. 346–347.

³⁶⁶ Flinterman 2014, pp. 348–349.

³⁶⁷ *Chronicon*, p. 245.

In Asia Minor, on the other hand, there are some intriguing evidence from this period for the circulation of some Pythagorean pseudepigrapha. Bruno Centrone,³⁶⁸ John Dillon,³⁶⁹ Leonid Zhmud,³⁷⁰ Mauro Bonazzi,³⁷¹ and Phillip Sidney Horky³⁷² are all on the opinion that Eudorus of Alexandria (1st century B.C.) was one way, or another linked to the pseudo-Pythagorean writings and that he most likely had access to some pseudopythagorica. Philo of Alexandria (cc. 13/10 B.C. – 47 A.D.), to whom we are going to return in Part III, says that he happened to chance upon a writing of Ocellus the Lucanian, entitled *On the nature of the universe* (ἐγὼ δὲ καὶ Ὀκέλλου συγγράμματι, Λευκανοῦ γένος, ἐπιγραφομένῳ ‘Περὶ τῆς τοῦ παντὸς φύσεως’ ἐνέτυχον [...]),³⁷³ and at some other place (*Opif.* 100.9–11) he ascribes a two-lines quotation to Philolaus which is almost identical with John Lydus’s (*De mens.* 2.12) quotation from ps.-Onatas of Tarentum. Some hundred years later Nicomachus of Gersea (fl. c. first half of the 2nd century) ‘shows fairly extensive knowledge of Pythagorica’,³⁷⁴ having access at least to ps.-Proros’s Περὶ τῆς ἑβδομάδος (*Theol. arithm.* 57.15–20) besides some genuine Pythagorean sources. While his younger contemporary, Clement of Alexandria (cc. 150–215), had a relatively wide range of pseudopythagorica at his disposal. He quotes from ps.-Athamas (*Strom.* 6.2.17.3), ps.-Hippodamus (*Strom.* 2.19.102.1–2), probably from his Περὶ εὐδαιμονίας,³⁷⁵ ps.-Theano (*Strom.* 4.7.44.2–3), ps.-Thearidas’s Περὶ φύσεως (*Strom.* 5.14.133.1), and ps.-Timaeus’s Φυσικά (*Strom.* 5.14.115.4–5), but he also mentions some other titles, like Brontinus’s Πέπλον and Φυσικά (*Strom.* 1.21.131.5–6), as well.

It seems that by the second century A.D. there was a substantial body of pseudopythagorica in circulation in Asia Minor on which later authors, such as Porphyry (cc. 234–305), Iamblichus (cc. 245–325), or Stobaeus (fl. 5th century), could draw. An extensive number of these writings was arguably collected into some corpus by Iamblichus,³⁷⁶ and it has been suggested that Stobaeus might be using this collection for compiling his anthology.³⁷⁷ Even so, I would like to

³⁶⁸ Centrone 2014, pp. 323–326.

³⁶⁹ Dillon 2014, pp. 261–263; Dillon 1996, p. 121.

³⁷⁰ Zhmud 2019, p. 85

³⁷¹ Bonazzi 2013a, pp. 385–401.

³⁷² Horky 2021, p. 160.

³⁷³ Ph. *Aet.* 12.2–4.

³⁷⁴ Dillon 1996, p. 353.

³⁷⁵ Thesleff 1965, p. 97.

³⁷⁶ O’Meara 2014, p. 406; Zhmud 2019, pp. 90–91.

³⁷⁷ O’Meara 2014, p. 406.

think that some citation mistakes committed by Clement of Alexandria suggest that he was using, apparently a bit carelessly, some sort of collection too. If so, at least some corpus, or corpora of pseudopythagorica must have already been in existence in the first century A.D.

The corpus pythagoricum

Although there is no direct evidence for the existence of a corpus pythagoricum, some later authors' extensive use of pseudopythagorica make some collection's existence rather convenient to be assumed. There is, however, one quite obvious problem with this kind of approach, namely, it is unclear what is the connection, if there is any, between the distinct applications of pseudopythagorica and to what extent should the sporadic references be taken into consideration. There could have existed a single corpus, or several corpora and this corpus, or these corpora could have been produced anywhere from the second century B.C. to the second century A.D., or even in the late third century A.D. if Iamblichus's original compilation is not ruled out. Nevertheless, there are some conspicuous features, such as the pseudonyms and their writings, or the lemmata used, which can, with some promising expectations, be consulted.

Holger Thesleff, for instance, argues that the host of otherwise unattested pseudonyms and obscure pseudepigrapha in Stobaeus's *Anthology* imply that he used a little known 'Corpus Pythagoricum' as his source,³⁷⁸ which collection remained, on the whole, 'untouched by the doxographers' and '[t]he phrasing of the *Vetusta Placita* (Censorin. de die nat. 4. 3), *omnesque adeo Pythagoricos*, suggests that it existed in the 1st century B.C.'³⁷⁹ Based on his thorough analysis of the lemmata in Stobaeus, Thesleff thinks that 'only Doric writings seem to have been admitted in it' and those Doric tracts which were obvious forgeries (Class 2, Type 6)³⁸⁰ were 'somehow differentiated from the rest'.³⁸¹ He is also 'inclined to think that the collection was made in Italy in the early 2nd century B.C. or, if Class II. 6 was added later, in the 3rd century.'³⁸²

I, for my part, do not find Censorinus's (3rd century A.D.) reference to Ocellus Lucanus any conclusive argument either in favour of Varro's knowledge of ps.-Ocellus's *Περὶ τῆς τοῦ*

³⁷⁸ Thesleff 1961, p. 119.

³⁷⁹ Thesleff 1961, p. 119.

³⁸⁰ See Thesleff 1961, pp. 76–77.

³⁸¹ Thesleff 1961, p. 119.

³⁸² Thesleff 1961, p. 120.

παντὸς φύσεως, or the existence of a collection of pythagorica.³⁸³ I am prepared to accept though that Clement’s exhaustive knowledge of pseudo-Pythagorean treatises and especially his two careless citation mistakes point to his dependence on some collection.³⁸⁴ At *Strom.* 5.14.115, he ascribes a two-lines quotation to Timaeus of Locri which, in fact, seems to be coming from ps.-Aristaeus’s *Περὶ ἁρμονίας* (Stob. 1.20.6), while at *Strom.* 5.5.29, he quotes almost verbatim from Stobaeus’s version of ps.-Ecphantus’s *Περὶ βασιλείας* (Stob. 4.7.64.18–21) but attributing it to ps.-Eurysus instead. Both cases imply that Clement relied on some collection which he cited somewhat imprecisely. Since apart from Clement’s misquotation, ps.-Eurysus’s *Περὶ τύχας* is known to us from Stobaeus’s *Anthology* (1.6.19) only, I would not rule out that Stobaeus used, at least in part, the same collection Clement did. However, it is equally possible that Stobaeus had access to other collections as well making his *Anthology* a compilation of several pseudo-Pythagorean corpora. The fact, that there are considerable variations to Stobaeus’s lemmata used for introducing the pseudo-Pythagorean excerpts is likely to strengthen this hypothesis, and so, a brief overview of Stobaeus’s use of lemmata might provide some additional insights to his Quellenforschung,³⁸⁵ even though, due to the subsequent editing processes, it is impossible to determine whether a lemma was imposed by Stobaeus himself, or some later editor of his *Anthology*.

Throughout the *Anthology*, Stobaeus uses five kinds of lemmata for pythagorica. The most widely used variation introduces 22 excerpts in genitive with the Πυθαγορείου ἐκ τοῦ lemma standing before the fragment’s title. From our point of view, this is the most interesting group since both the fragments of the Archytean *On Law and Justice* and ps.-Diotogenes’s treatises, *Περὶ βασιλείας* and *Περὶ ὁσιότητος*,³⁸⁶ are consistently referred to with these lemmata. Beside these three treatises, the self-same lemmata introduce the pseudo-Archytean *Περὶ ἀνδρὸς ἀγαθοῦ καὶ εὐδαίμονος* (Stob. 3.1.195.1;³⁸⁷ 3.3.65.1; 4.50a.28.1) and *Περὶ παιδείσεως ἠθικῆς* (Stob. 2.31.120.1; 3.1.105.1), pseudo-Crito’s *Περὶ φρονήσιος* (Stob. 2.8.24.1), pseudo-Dius’s *Περὶ καλλονῆς* (Stob. 4.21a.16.1), pseudo-Ecphantus’s *Περὶ βασιλείας* (Stob. 4.6.22.1;³⁸⁸

³⁸³ Cf. Varro *RR* 2.1.3; Thesleff 1961, p. 54; Thesleff 1965, p. 125; Centrone 2014, p. 339; Zhmud 2019, p. 85 n67.

³⁸⁴ Thesleff 1961, pp. 121–122.

³⁸⁵ For a comprehensive analysis see Piccione 2021, pp. 73–106.

³⁸⁶ There are two variations to this lemma in Stobaeus. Stob. 1.7.10.1 and 4.7.61.1 uses uncontracted Doric, while Stob. 3.1.100.1, 4.1.96.1, and 4.1.133.1 the Attic genitive.

³⁸⁷ ἐκ τοῦ is omitted.

³⁸⁸ Πυθαγορείου is omitted.

4.7.64.1), pseudo-Hipparchus's *Περὶ εὐθυμίας* (Stob. 4.44.81.1), pseudo-Hippodamus's *Περὶ πολιτείας* (Stob. 4.1.93.1; 4.34.71.1), pseudo-Perictione's *Περὶ γυναικὸς ἀρμονίας* (Stob. 4.25.50.1; 4.28.19.1), pseudo-Philolaus's *Περὶ ψυχᾶς* (Stob. 1.20.2.1), and Theages's *περὶ ἀρετῆς* (Stob. 3.1.117.1).

In addition to these 22 loci, another 6 excerpts begin with almost identical lemmata. The only difference between these and the former ones consists in their employment of locative attributes. Pseudo-Aesaras (Aresas) (*Περὶ ἀνθρώπῳ φύσιος* Stob. 1.49.27.1) and pseudo-Eccelus³⁸⁹ (*Περὶ δικαιοσύνης* Stob. 3.9.51.1)³⁹⁰ are said to be Lucanians, pseudo-Callicratidas a Laconian (*Περὶ οἴκῳ εὐδαιμονίας* Stob. 4.22.101.1 and 4.28.16.1),³⁹¹ pseudo-Cleinias a Tarantine (*Περὶ ὀσιότητος καὶ εὐσεβείας* Stob. 3.1.76.1–2),³⁹² pseudo-Metopus is associated with Metapontum (*Περὶ ἀρετῆς* Stob. 3.1.115.1), and Pempelus with Thurii (*Περὶ γονέων* Stob. 4.25.52.1). To these one might add pseudo-Damippus's *Περὶ φρονήσεως καὶ εὐτυχίας* (Stob. 3.3.63.1) and Philtys's, the daughter of Callicrates, *Περὶ γυναικὸς σωφροσύνας* (Stob. 4.23.61.1).

What makes these two groups immensely interesting is the fact that most of these names are almost completely unknown to us. Callicratidas, Damippus, Dius, Diotogenes, Hipparchus, Hippodamus, Pempelus, Perictione, and Theages are not even listed in Iamblichus's catalogue of ancient Pythagoreans,³⁹³ a list ultimately deriving its authority from Aristoxenus,³⁹⁴ what is more, the names of Callicratidas, Damippus, Dius, Diotogenes, Pempelus, and Perictione appear in Stobaeus only. Since Iamblichus's list is mostly independent of the Pythagorean pseudepigrapha,³⁹⁵ and even he himself assures that many Pythagoreans are not known by their names,³⁹⁶ it is unwise to read too much into Iamblichus's silence on these pseudonyms though. However, this obscurity may point to these groups' relative independence from the other pieces of pseudopythagorica.

³⁸⁹ Most likely Ocellus.

³⁹⁰ ἐκ τοῦ is omitted.

³⁹¹ At Stob. 4.22.101.1 Πυθαγορείου is omitted.

³⁹² At Stob. 3.1.75.1 <Κλεινίου> Πυθαγορείου Ταραντίνου.

³⁹³ Aresas is likely to be identical with Aresandros the Lucanian (Iamb. *VP* 267.40).

³⁹⁴ Zhmud 2012b, p. 236.

³⁹⁵ Zhmud 2012b, p. 236. There are at least 16 names in Thesleff's edition which are not listed in Iamblichus's catalogue. Cf. Thesleff 1961, p. 74.

³⁹⁶ Iamb. *VP* 267.1–3.

The rest of the pseudo-Pythagorean writings may be sorted into three groups. Some excerpts, such as Ἀρχύτα (Stob. 4.1.132.1), or Ἀρισταίου (Stob. 1.20.6.1), are introduced simply with a genitive without reference to title, or to any locative, or other attributes. There are some other instances of genitive but with reference to the title as well, like ps.-Aristombrotus's Περὶ ὄψιος (Stob. 1.52.21.1), or ps.-Eurysos's Περὶ τύχας (Stob. 1.6.19.1). And the final group, such as ps.-Archytas's Περὶ ἀρχῶν (Stob. 1.41.2.1), or ps.-Onatas's Περὶ θεοῦ καὶ θείου (Stob. 1.1.39.1), uses variations of the ἐκ τοῦ lemma but without locative, or other attributes. Based on an overview of Stobaeus's use of lemmata these three groups seem to ultimately derive from Stobaeus himself, though, I must add, there are absolutely no clear rules for his application of lemmata. In general, he prefers the genitive with title form, but there are several exceptions to this rule. For instance, he usually refers to Plato's *Laws* with genitives, Πλάτωνος Νόμων, but at 1.p.7.1 he uses the Πλάτωνος ἐκ τοῦ τῶν Νόμων lemma and at 4.1.115 the simple genitive, Πλάτωνος, lemma. The same trend is observable in Demosthenes's *Philippic* which Stobaeus usually quotes as Δημοσθένους Φιλιππικῶν, but sometimes as Δημοσθένους κατὰ Φιλίππου (4.13.42.1), or Δημοσθένους ἐκ τῶν Φιλιππικῶν (4.8.15.1).

At any rate, the lemmata of these latter three groups would, in my opinion, not reveal any information of their source of origin. Some pieces, like Stob. 4.1.132, may derive from the doxographic tradition, others, like Stob. 1.20.6, may come from some collection, and some might have had their independent manuscript tradition as well, like Stob. 1.20.3–5 which is excerpted from pseudo-Ocellus's Περὶ τῆς τοῦ παντὸς φύσεως. However, the two prior groups seem to be standing apart from the rest of the pseudopythagorica, what is more, the first group holds the most consistency of all. Apart from the two minor exceptions of Stob. 3.1.195.1, where ἐκ τοῦ, and Stob. 4.6.22.1, where Πυθαγορείου is omitted from the lemma, the excerpts are introduced thoroughly with the same lemmata which makes me think that Stobaeus might have excerpted these passages from the same collection, and he might have transmitted their original lemmata as well. The second group differs only in its explanatory remarks from the first group, though its treatises' lemmata are far less consistent. For present purposes, I would like to think that these two groups had their origin in the same collection and the differences may be due to textual corruption, most likely the inclusion of superscript glossae, only.³⁹⁷

³⁹⁷ For Bruno Centrone's suggestion see Centrone 2014, p. 319 n17.

Conclusion

Through the chapter's overview of pseudopythagorica, I have laboured to show that by the first century B.C., the circulation of pseudo-Pythagorean writings under the names of supposedly ancient Pythagoreans was attested both in Italy and in the Eastern Mediterranean. Based on the individual treatises' generally syncretic nature and the prominent occurrence of Platonic, Aristotelian, and Stoic ideas, a characteristic of Middle Platonism, and due to the fact that both Porphyry and Iamblichus accepted the bulk of the treatises genuine Pythagorean material,³⁹⁸ it seems likely that most pieces were produced between the first century B.C. and the first century A.D.

After reviewing Stobaeus's lemmata and the evidence for some earlier tradition, I find no obstacles in assuming that some collection of pseudopythagorica existed by the first-century A.D., and that the Archytean and pseudo-Diotogenean sources of the νόμος ἔμψυχος idea belonged to the same collection. As for its place of origin, I do not venture to make any uneducated guess, even though, it appears that the later tradition was mostly confined to the Eastern Mediterranean.

Also, I have argued that the archetype of Stobaeus's collection could have had, at least some, overlaps with Clement's sources, but it could be rather independent of the other supposed collections. Since it looks like some pieces of this collection elaborate on each other's doctrines and follow their terminology, I would like to think that it was produced and emended over a longer period of time, and it was either excerpted from older collections, or, at some point, it was appended with some early pieces as well.

³⁹⁸ Horkey 2021, p. 161.

CHAPTER 4

Pseudo-Diotogenes's Neopythagorean synthesis

In the previous chapter, I have argued that the two Diotogenean treatises, *On Piety* and *On Kingship*, may come from a collection of pseudopythagorica which could, at least in some form, circulate in Asia Minor by the first century A.D. Also, I have claimed that this circumstance may cast some additional light on the treatises' interpretation, and it may provide a loose background against which the texts could be dated. However, due to the internal borrowings within the corpus, or corpora, and to the individual treatises' varying degree of dependence on later philosophic ideas, it seems rather probable that the collection was created over a longer period of time, and so, on this basis alone, it is impossible to give a dating with any precision. The Archytean excerpts from *On Law and Justice*, for instance, have their origin in the fourth century B.C., whereas the authors of pseudo-Metopus's *On Virtue* and pseudo-Damippus's *On Wisdom and Good Fortune* are tentatively suggested to be roughly contemporaries of Eudorus which makes a late first-century B.C., or even first-century A.D. dating probable.

Though the treatises' dating shall not form this chapter's primary concern, it is still a question that begs for considerable attention. From our point of view, pseudo-Diotogenes's interest lies predominantly in his employment of the νόμος ἔμψυχος idea: he is twice found invoking the term, once at Stob. 4.7.61.2–7 and again at Stob. 4.7.61.31–39. Any correct interpretation of these loci and the assessment of pseudo-Diotogenes's importance with a view to the history of the idea cannot be maintained, however, without first considering a likely date for the passages and establishing some connection with other contemporary references to the νόμος ἔμψυχος idea.

In this Chapter, after a brief overview of the Diotogenean passages in Stobaeus, I argue that the seemingly Archytean νόμος ἔμψυχος and νόμιμος ἄρχων distinction does not constitute any integral part of *On Kingship*'s arguments; rather, it appears to me that the sole reason for pseudo-Diotogenes's adoption of the term was to purportedly add to the treatise's impression of authenticity by way of invoking a familiar notion that has already been associated with ancient Pythagorean politics. In most cases, such a deceitful testimony would not carry much historiographic attention, but not in this particular case. Pseudo-Diotogenes did not only distort fundamentally the original Archytean sense of the νόμος ἔμψυχος idea, he also set the tone for a novel interpretation. This chapter is dedicated to uncovering his contribution to the history of the idea which, in short, is best described as some sort of Neopythagorean synthesis.

Pseudo-Diotogenes: the author, dating, and the texts in Stobaeus

The name, Diotogenes, appears five times in Stobaeus's *Anthology* (Stob. 1.7.10.1; 3.1.100.1; 4.1.96.1; 4.1.133.1; 4.7.61.1), but it does not turn up in any other ancient source. This silence on Diotogenes is somewhat surprising given that Stobaeus preserved a considerable literary production ascribed to him: three fragments of a work *On Piety* (Περὶ ὁσιότητος) and two fragments of *On Kingship* (Περὶ βασιλείας) came to us. The only information Stobaeus shares about Diotogenes is that he was a Pythagorean, using his usual lemma (Διωτογένους Πυθαγορείου ἐκ τοῦ Περὶ βασιλείας)³⁹⁹ for pseudopythagorica. It is no wonder that this obscurity made some scholars come up with a variety of possible explanations. Louis Delatte reports that some consider Diotogenes to be a corruption of either Diogenes, or Diaetogenes,⁴⁰⁰ in Bruno Blumenfeld's opinion Diotogenes is 'most likely not a pseudonym'; rather, it designates a real figure who 'lived in southern Italy, perhaps around the first to second century CE',⁴⁰¹ while Leonid Zhmud thinks that Diotogenes is simply a made-up name.⁴⁰² For my part, I do not find any compelling evidence in favour of textual corruption and the treatises' supposed inclusion into the corpus would rule out Blumenfeld's thesis as well, leaving Zhmud's explanation the only tenable position I am willing to accept.

The treatises themselves are written in an artificial Doric dialect, and they are likely to be the production of a single author,⁴⁰³ though *On Piety* seems to be rather corrupted which makes the comparison somewhat more difficult.⁴⁰⁴ Still, both pieces employ, more or less consistently, some Doric literary convention, such as the Doric $\bar{\alpha}$, $-\bar{\alpha}$ and $-\omega$ for singular genitive, plural accusative in $-\omega\varsigma$, uncontracted $\epsilon\epsilon$, $\epsilon\omicron$, $\omicron\tau\acute{\iota}$ for $\pi\rho\acute{\omicron}\varsigma$, $\tilde{\omega}\nu$ for $\omicron\tilde{\nu}$, thematic infinitive in $-\epsilon\nu$, $\kappa\alpha$ for $\tilde{\alpha}\nu$, $\pi\rho\tilde{\alpha}\tau\omicron\nu$ for $\pi\rho\tilde{\omega}\tau\omicron\nu$, and so on. Furthermore, both *On Piety* and *On Kingship* endeavours to establish its authenticity predominately with reference to the Archytean *On Law and Justice*. The initial lines of the second fragment from *On Piety* (Stob. 4.1.96.3–4) are almost verbatim repetitions of Stob. 4.1.138.20–21 and the νόμος ἔμψυχος and νόμιμος ἄρχων distinction of *On*

³⁹⁹ There are two variations to this lemma in Stobaeus. Stob. 1.7.10.1 and 4.7.61.1 uses uncontracted Doric, while Stob. 3.1.100.1, 4.1.96.1, and 4.1.133.1 the Attic genitive.

⁴⁰⁰ Delatte 1942, pp. 283–284.

⁴⁰¹ Blumenfeld 2003, p. 234.

⁴⁰² Zhmud 2019, p. 86 n75.

⁴⁰³ Thesleff 1972, p. 67.

⁴⁰⁴ The treatise's use of the Doric $\bar{\alpha}$ is inconsistent, at 4.1.133.6 instead of $\tilde{\eta}\mu\epsilon\nu$ the text has $\epsilon\sigma\mu\acute{\epsilon}\nu$, which is utterly unparalleled in the pseudopythagorica preserved by Stobaeus, and at 4.1.96.17 $\omicron\iota$ is written instead of $\tau\omicron\iota$.

Kingship (Stob. 4.7.61.2–6) is but an epitome of Stob. 4.1.135.8–14. Finally, both treatises adopt a distinctly peculiar expression: at Stob. 4.1.133.11–13 law is said to be the superintendent and creator of political unity (ἐξ ἄθεος ποτὶ συμφωνίαν πολιτικὰν φερόντων νόμος ἐπιστάτας καὶ δαμιουργός), just like at Stob. 4.7.61.19–20 the king is described as superintendent and creator of the system he rules (ὧ γὰρ ἕκαστος ἀγεμὼν ἐντι συστάματος, τούτῳ καὶ ἐπιστάτας καὶ δαμιουργός).⁴⁰⁵

Unfortunately, the excerpts do not contain anything which may unequivocally reveal their provisional date of composition. Even though, due to some recent papyri findings (*PBingen 3*) a tentative late first century B.C. has been suggested as a likely terminus ante quem for *On Kingship*.⁴⁰⁶ Based on their thorough paleographic analysis, Isabella Andorlini and Raffaele Luiselli claim that *PBingen 3* was produced around the turn of the common era, but since it employs Σεβαστός, a name which Octavian adopted only in 27 B.C., it was certainly written after that date.⁴⁰⁷ In this papyrus, there are some probably overlapping lines with Stob. 4.7.62.44–48 and, according to them, it is possible that *PBingen 3* is depending on pseudo-Diotogenes and not the other way around. Though this conclusion seems quite tenable to me, and the findings of the said papyri research are, indeed, more than promising, they are, nevertheless, far from absolute certainty.⁴⁰⁸

However, and quite paradoxically, *On Kingship*'s hallmark for authenticity may still give away its time of composition. Given, I believe, the treatise's main claim for genuineness rests on its Archytean borrowings, it ought to have been produced in a period when the νόμος ἔμψυχος idea has already been associated with ancient Pythagoreanism. Quite fortunately, in determining this period, we possess some invaluable early testimonies that may, in my opinion, point to a late first-century B.C. to first-century A.D. time of composition for *On Kingship*.

The first reference to the idea comes from Philo of Alexandria, writing in the turn of the common era, who is found twice invoking the idea with reference to the patriarchs and Moses and once in a rather theoretical discussion on kingship. The first two instances (*De Abr.* 1.5; *Mos.* 1.162) may be Philo's own creations but his third (*Mos.* 2.4–5) employment of the term is doubtless depending on some other source. Unfortunately, Philo does not reveal the subject of his intellectual indebtedness, but since he was known to have access to some pieces of

⁴⁰⁵ The similiarity has been noted by Louis Delatte (1942, p. 250) too.

⁴⁰⁶ Andorlini & Luiselli 2001, p. 161.

⁴⁰⁷ Andorlini & Luiselli 2001, pp. 155–156.

⁴⁰⁸ Considerable doubts are raised by Roskam 2020, p. 204 n7.

pseudopythagorica and since he clearly had some Pythagorean leanings, a Pythagorean source, most likely some doxographer's paraphrase of the Archytean *On Law and Justice*, is more than probable. Some half a century later, the Stoic philosopher, Gaius Musonius Rufus, is believed to have said that the ancients thought that the king was a living law (εἴ περ δεῖ αὐτόν [i.e. βασιλέα], ὥσπερ ἐδόκει τοῖς παλαιοῖς, νόμον ἔμψυχον εἶναι),⁴⁰⁹ and, based on his wording,⁴¹⁰ he seems to be having Archytas and the Pythagoreans in mind.⁴¹¹ This is the first definite evidence for the currency of the notion and for its established connection with the so-called ancients. It would be tempting to suggest that Musonius's observation cannot be founded on the Archytean text alone, and so, it might be considered a terminus ante quem for *On Kingship* or some other, lost source as well, but that is simply too conjectural a reading, one that would also blur the lines of the period's peculiar syncretic approach towards the ancient philosophical schools and to their doctrines. This kind of syncretism is clearly detectable in Clement of Alexandria too who, writing in the late second and early third century, says that Plato's Eleatic Stranger demonstrates that the kingly and statesmanlike man is a living law (ὁ τε Ἐλεάτης ξένος τὸν βασιλικὸν καὶ πολιτικὸν ἄνδρα νόμον ἔμψυχον ἀποφαίνεται),⁴¹² which, from our point of view, signifies that the νόμος ἔμψυχος idea is, by the late second century A.D., no longer associated with ancient Pythagoreanism only.

In conclusion, I think that the most plausible date of composition for *On Kingship* is a period between the late first century B.C. to the early first century A.D., since pseudo-Diotogenes cannot be deemed to capitalise on Musonius unless a contemporary Roman, or a second century A.D. origin is accepted, but in either case the outlined hypothesis about the treatise's supposed admission to the corpus pythagoricum current in Asia Minor would inevitably face with some serious difficulties, leaving many familiar resemblances with other pseudo-Pythagorean treatises current in Asia Minor unexplained.

⁴⁰⁹ Stob. 4.7.67.96–97.

⁴¹⁰ Musonius's phraseology is distinctly Archytean: εὐνομία, ὁμόνοια, and στάσις are all central notions to his discussion.

⁴¹¹ According to Murray (1971, p. 252), Musonius might be referring to pseudo-Diotogenes. While, in Aalders's opinion (1969, p. 316), 'meint er hellenistischen Autoren.'

⁴¹² *Strom.* 2.4.18.4.

The philosophic background of *On Kingship*

In the previous chapter, I have already noted that the predominant influence on the Doric pseudopythagorica comes from Middle Platonism, and this rule is upheld in this particular instance too: most of pseudo-Diotogenes's doctrines can be labelled as Platonic. Beside these Platonic core ideas, a sizeable, yet superficial Archytean influence is also detectable in *On Kingship* which is also flavoured by Stoic and Homeric borrowings.

The Stoic influence is most obvious in pseudo-Diotogenes's portrayal of the prudent, sage-like ruler who is so perfectly virtuous that he is almost completely detached from his subjects.⁴¹³ In his opinion, a true king (οὗτός κα εἶη καττὰν ἀλάθην βασιλεύς) is temperate in pleasures (σώφρων μὲν ἐντι περὶ τὰς ἀδονάς),⁴¹⁴ one, who conquers pleasures and who is not conquered by them, and so, such a king must not resemble the multitude, but he should be far removed from them (ἐπὶ πολλὸν διαφέροντα), regarding manly virtues (ἀνδραγαθίαν), not pleasures his proper objective.⁴¹⁵ At some other place, he goes even further and makes his exposition complete by stating that his king must altogether separate himself from human passions and must draw himself near to the gods both in virtue and magnanimity (χωρίζοντα μὲν ἑαυτὸν ἀπὸ τῶν ἀνθρωπίνων παθέων, συνεγγίζοντα δὲ τοῖς θεοῖς, οὐ δι' ὑπεραφανίαν ἀλλὰ διὰ μεγαλοφροσύναν καὶ μέγεθος ἀρετᾶς ἀνυπέρβλατον).⁴¹⁶ From this perfect moral disposition follows that a king must wield unaccountable power (ὁ δὲ βασιλεὺς ἀρχὰν ἔχων ἀνυπεύθυνον),⁴¹⁷ a distinctly Stoic notion derived from the Stoic identification of sages and kingship;⁴¹⁸ since the king's soul is in perfect agreement with right reason, his commands cannot be anything but fair and reasonable.⁴¹⁹ However, despite of these Stoic ideas, *On Kingship* does not pretend to establish significant connection with Stoicism: pseudo-

⁴¹³ Cf. Murray 1971, pp. 214–215.

⁴¹⁴ Stob. 4.7.62.17–20.

⁴¹⁵ Stob. 4.7.62.2–5. Ὅθεν δεῖ τὸν βασιλέα μὴ νικῆσθαι ὑφ' ἀδονᾶς, ἀλλ' αὐτὸν νικῆν ταύταν, μηδ' ὅμοιον ἤμεν τοῖς πολλοῖς ἀλλὰ ἐπὶ πολλὸν διαφέροντα τούτων, μηδ' ἔργον ἀγεῖσθαι τὰν ἀδονὰν ἀλλὰ μᾶλλον τὰν ἀνδραγαθίαν·

⁴¹⁶ Stob. 4.7.62.56–59.

⁴¹⁷ Stob. 4.7.61.37.

⁴¹⁸ D.L. 7.122.3–6. οὐ μόνον δ' ἐλευθέρους εἶναι τοὺς σοφούς, ἀλλὰ καὶ βασιλέας, τῆς βασιλείας οὕσης ἀρχῆς ἀνυπεύθυνου, ἥτις περὶ μόνους ἂν τοὺς σοφούς συσταίη, καθά φησι Χρῦσιππος ἐν τῷ Περὶ τοῦ κυρίως κεχρηῆσθαι Ζήνωνα τοῖς ὀνόμασιν·

⁴¹⁹ Delatte 1942, p. 248; Murray 1971, pp. 217–218.

Diotogenes's king is nowhere called σοφός, neither ἀπάθεια, nor ὀρθὸς λόγος are mentioned, and contrary to the orthodox Stoic doctrine, he does, in fact, regard ἐπιείκεια a moral virtue.⁴²⁰

Turning to his other source of inspiration, it is somewhat more difficult to estimate the degree of pseudo-Diotogenes's dependence on Homeric ideas, but on the outset, it seems to be arguably even less substantial than the Stoic bent on his thought. The Homeric influence in *On Kingship* is confined to but one possible borrowing and to an idiomatic reference: at Stob 4.7.62.94–95, pseudo-Diotogenes cites a recurring Homeric idiom (*Il.* 1.544; 8.49; 22.167; *Od.* 1.28): ὅκως δὴ καὶ λέγεται ὑπὸ τῶ Ἰωνικῶ ποιητῶ ὥς κ' εἶη 'πατὴρ ἀνδρῶν τε θεῶν τε'. Obviously, this reference does not contribute at all to pseudo-Diotogenes's discussion, yet, on the other hand, his possible Homeric borrowing does, in fact, form the backbone of the first fragment's reasoning.

After the Archytean paraphrase, and most likely after a lacuna,⁴²¹ the Stobaeian text introduces and then it expounds in elaborate details the three duties of a king.

ἔργα δὲ βασιλέως τρία, τό τε στραταγὲν καὶ δικασπολὲν καὶ θεραπεύειν θεῶς.⁴²²

The duties of the king are threefold: military leadership, the dispensation of justice, and the cult of the gods.⁴²³

The Homeric overtone of this specific division is unmistakably manifest which has already been noted by some of the earlier commentators, such as Erwin Goodenough, or Louis Delatte.⁴²⁴ However, as Louis Delatte, and more recently, Geert Roskam, have pointed out, this threefold division of royal duties in itself is insufficient to warrant *On Kingship*'s direct dependence on Homer since the self-same division is found in Aristotle's discussion of Homeric kingship (*Pol.* 1258b) too.⁴²⁵ Nevertheless, Geert Roskam has quite convincingly demonstrated

⁴²⁰ Cf. Murray 1971, pp. 219–222. Stob. 4.7.62.69–71. χρηστὸς γὰρ ἐσσεῖται πᾶς βασιλεὺς τὸ μὲν καθόλω δίκαιός τ' ἐὼν καὶ ἐπιεικὴς καὶ εὐγνώμων.

⁴²¹ Roskam 2020, p. 215.

⁴²² Stob. 4.7.61.7–9.

⁴²³ Goodenough 1928, p. 66.

⁴²⁴ Goodenough 1928, p. 66; Delatte 1942, p. 249. Oswyn Murray, on the other hand, suspects Oriental, most likely Egyptian, or Jewish influence behind pseudo-Diotogenes's threefold classification. Murray 1971, pp. 263–264.

⁴²⁵ Delatte 1942, p. 249; Roskam 2020, p. 208.

that the Aristotelian influence may be ruled out, and pseudo-Diotogenes's familiarity with Homer may be presupposed mostly because the passage employs the characteristically Homeric *δικασπολέν* where Aristotle had *τὰς δίκας ἔκρινον*.⁴²⁶ What is more, based on Dionysius of Halicarnassus's testimony,⁴²⁷ more precisely, on pseudo-Diotogenes's 'strategic use of the article' and the similarities between his and Dionysius's phrasing, Roskam believes that the whole of fragment one might be inspired by pseudo-Diotogenes's 'familiarity with traditional Homeric exegesis.'⁴²⁸ Though this possibility cannot, indeed, be completely ruled out, I doubt that pseudo-Diotogenes had either traditional Homeric exegesis, or Dionysius of Halicarnassus in particular prominently in mind while he was phrasing the initial lines of *On Kingship*. Rather, his employment of the double adjectives, *δικαιοτάτος καὶ νομιμώτατος*, seems to resemble, if anything, that of Xenophon: in the *Cyropaedia* (1.6.27), Cyrus is told to become the most righteous and law-abiding man (*οἷος ἂν ᾦν, ἔφη, ὃ παῖ, δικαιοτάτος τε καὶ νομιμώτατος ἀνὴρ εἴης*).⁴²⁹ After all, it appears to me that the only genuinely Homeric influence in *On Kingship* is the treatise's threefold division of royal duties which might, in my opinion, be interpreted as pseudo-Diotogenes's appeal for Homer's authority in his quest for establishing *On Kingship*'s authenticity.

Still, as I have already mentioned above, the Stoic and Homeric elements in *On Kingship* are no more than superficial colourings which add little to the treatise's discussion which is predominantly determined by Platonic core ideas. Within this group, *On Kingship*'s strongest connection is, quite obviously, established with the various treatises of the Pythagorean pseudepigrapha in general, and the two other *Περὶ βασιλείας* treatises in particular. Common to these treatises is a firm insistence upon the genuinely Neopythagorean notion of *σύστημα* which Bruno Centrone describes as 'a complex structure, comprised of many different parts which, while different or even opposite to one another, are brought together under a common rule.'⁴³⁰ The treatises of the pseudepigrapha, especially those 28 hypostasised to belong to the

⁴²⁶ Delatte 1942, pp. 92–93; Roskam 2020, 208.

⁴²⁷ D.H. *Antiq. Rom.* 5.74.1–2. *κατ' ἀρχὰς μὲν γὰρ ἅπαντα πόλεις Ἑλλὰς ἐβασιλεύετο, πλὴν οὐχ ὥσπερ τὰ βάρβαρα ἔθνη δεσποτικῶς, ἀλλὰ κατὰ νόμους τινὰς καὶ ἔθισμοὺς πατρίους· καὶ κράτιστος ἦν βασιλεὺς ὁ δικαιοτάτος τε καὶ νομιμώτατος καὶ μηθὲν ἐκδαιτιώμενος τῶν πατρίων. δηλοῖ δὲ καὶ Ὅμηρος δικασπόλους τε καλῶν τοὺς βασιλεῖς καὶ θεμιστοπόλους.*

⁴²⁸ Roskam 2020, p. 217.

⁴²⁹ Goodenough 1928, p. 65.

⁴³⁰ Centrone 2014, p. 321.

corpus pythagoricum,⁴³¹ tend to understand the cosmos, then, as an analogous superstructure of different sub-systems characterised and bound together by the idea of ἀρμονία. The par excellence formulation of this idea is found in pseudo-Callicratidas's Περὶ οἴκῳ εὐδαιμονίας (Stob. 4.28.16.3–16), but pseudo-Diotogenes's description also contains its characteristic elements.

According to pseudo-Diotogenes, it is the steersman's duty to save the ship, just like the charioteer's to save the chariot, the doctor's to save the patient, and the king's and commander's duty to save those who are in danger in war.⁴³² These obligations stem, in his opinion, from the very fact that they are the superintendents and creators of those systems which they rule (ὃ γὰρ ἕκαστος ἀγεμὼν ἐντὶ συστάματος, τούτῳ καὶ ἐπιστάτας καὶ δαμιουργός).⁴³³ Later on, his understanding of this analogous and complex superstructure is made even more manifest when *On Kingship* elaborates on the analogy between god and the king.

ἔχει δὲ καὶ ὡς θεὸς ποτὶ κόσμον βασιλεὺς ποτὶ πόλιν· καὶ ὡς πόλις ποτὶ κόσμον βασιλεὺς ποτὶ θεόν. ἅ μὲν γὰρ πόλις ἐκ πολλῶν καὶ διαφερόντων συναρμοσθεῖσα κόσμῳ σύνταξιν καὶ ἀρμονίαν μεμίματαί, ὁ δὲ βασιλεὺς ἀρχὰν ἔχων ἀνυπεύθυνον, καὶ αὐτὸς ὢν νόμος ἔμψυχος, θεὸς ἐν ἀνθρώποις παρεσχαμάτισται.⁴³⁴

The king stands, then, in the same relation to the city as god to the world, and the city stands in the same relation to the world as the king to god. For the city, which is being fitted together of different parts, imitates the world's arrangement and harmony, the king possesses such a power which is not liable to men, himself being a living law who has been transformed into a god amongst men.⁴³⁵

Of course, this kind of analogical reasoning, together with a firm insistence upon natural hierarchy and the intrinsic need for imitation on the one hand, and the ruler's godlike character

⁴³¹ The term, σύστημα, explicitly occurs in 7 treatises (Stob. 1.49.27.17; 3.1.117.32; 3.9.51.10; 4.1.94.27; 4.7.61.20; 4.28.16; 4.39.26–27) preserved by Stobaeus, and only pseudo-Hippodamus's Περὶ εὐδαιμονίας applies a lemma (i.e. Πυθαγορείου is omitted) which may warrant the treatise's independence of the corpus.

⁴³² Stob. 4.7.61.16–19. κυβερνήτα μὲν γὰρ ἔργον ἐντὶ τὰν ναῦν σώζεν, ἀνιόχῳ δὲ τὸ ἄρμα, ἰατρῷ δὲ τὸ νοσίουσας, βασιλέως δὲ καὶ στραταγῷ τὸς ἐν πολέμῳ κινδυνεύοντας.

⁴³³ Stob. 4.7.61.19–20.

⁴³⁴ Stob. 4.7.61.33–39.

⁴³⁵ Translation mine.

on the other hand is a feature endorsed by the other *Περὶ βασιλείας* treatises attributed to the Pythagorean Ecphantus (Stob. 4.6.22, 4.7.64–66) and Sthenidas (4.7.63) as well.

According to pseudo-Sthenidas, the first god is by nature the supreme king and ruler, whereas the earthy king is only by his lineage and through imitation. From this hierarchical relation follows that the former rules wholly and over everything, while the latter rules only over the earth, and, most importantly, the first god governs and gives life to all things eternally, possessing even wisdom in itself, the earthy king acquires mere knowledge and through time.⁴³⁶ In a similar vein, pseudo-Ecphantus also envisions a cosmos fashioned after a sort of celestial hierarchy wherein a single godlike being is posited above both the celestial, sublunary, and terrestrial planes.

παρὸ καὶ τόδε κόσμος ποταγορεύεται καὶ ἔντι τῶν ὄντων ζῶων τεληότατον.
 ἐν δὲ τοῖς μέρεσιν αὐτῷ πολλοῖς τε ὄντεσσι καὶ διαφοροῖς τὰν φύσιν ἐξάρχει
 τι ζῶον καὶ † οἰκειότατον ἐν γενοῖν καὶ διὰ τὸ μετέχεν πλεον τῷ θεῷ. καὶ ἐν
 μὲν τᾷ τῷ θεῷ ὄντος ἀεὶ φύσει τὰ τὰν πράταν καὶ μεγίσταν ἀκολουθίαν
 ἔχοντα ἀσπάζεται ... καὶ τοὶ πλάνητες ἀστέρες· ἐν δὲ τᾷ χώρᾳ τᾷ σελάνας
 ἔνερθεν τὰ δι' εὐθείας ἰόντα σώματα ἅ τῷ δαίμονος φύσις ἔχει τὰν
 διεξαγωγάν· ἐν δὲ τᾷ γᾶ καὶ παρ' ἀμῖν ἀριστοφύεστατον μὲν ἄνθρωπος,
 θεϊότατον δ' ὁ βασιλεὺς ἐν τᾷ κοινᾷ φύσει πλεονεκτῶν τῷ κρέσσονος, τὸ μὲν
 σκᾶνος τοῖς λοιποῖς ὅμοιος, οἷα γεγονῶς ἐκ τᾶς αὐτᾶς ὕλας, ὑπὸ τεχνίτα δ'
 εἰργασμένος λῶστω, ὃς ἐτεχνίτευσεν αὐτὸν ἀρχετύπῳ χρώμενος ἑαυτῷ.⁴³⁷

Wherefore it is called a cosmos and it is the most perfect of all living beings. And in its parts, which are many and of diverse nature, some one living being rules which is most suitable in its origin, and which partakes more in divinity. And in the nature of god, which being eternal, those things which have the first and highest agreement desire ... and the planets. And in the region of the moon, beneath where bodies travel in a straight line, the demonic nature achieves its development. And on the earth and among us, human beings

⁴³⁶ Stob. 4.7.63.3–8. οὗτος γὰρ καὶ φύσει ἐντὶ καὶ πρῶτος βασιλεὺς τε καὶ δυνάστας, ὁ δὲ γενέσει καὶ μιμάσει. καὶ ὁ μὲν ἐν τῷ παντὶ καὶ ὄλω, ὁ δὲ ἐπὶ γᾶς, καὶ ὁ μὲν ἀεὶ τὰ πάντα διοικεῖ τε καὶ ζῶει αὐτὸς ἐν αὐτῷ κεκταμένος τὰν σοφίαν, ὁ δ' ἐν χρόνῳ ἐπιστάμαν.

⁴³⁷ Stob. 4.7.64.7–21.

possess the best nature, but in this common nature it is the king who is the most divine, claiming more of the better elements. Indeed, in his tabernacle he is like the rest, inasmuch as he is formed out of the same material, but he is fashioned by the supreme artificer, who in making the king used himself as an archetype.⁴³⁸

After all, though there are, in fact, distinctly Neopythagorean features in their discussions, all three *Περὶ βασιλείας* treatises are to be interpreted within the conceptual framework of the Platonic tradition, and they are all governed by two interrelated Platonic core ideas: the idea of cosmic hierarchy on the one hand,⁴³⁹ and the intrinsic need for divine imitation (ὁμοίωσις θεῷ) on the other hand.⁴⁴⁰ Even so, there are still considerable differences to the individual treatises' understanding of these ideas. While in pseudo-Diotogenes's *On Kingship* there is simply no sign of any sort of a nuanced celestial hierarchy; rather, the analogy is posited between god and the king who is, then, set above ordinary people. The other two *Περὶ βασιλείας* treatises seem to recur to a much more sophisticated, threefold cosmological division which makes itself manifest in pseudo-Ecphantus's distinction of celestial, sub-lunary, and terrestrial planes of being and pseudo-Sthenidas's hierarchy of the gods. Though he only mentions the first god, who is, in turn, called the father of gods and men (νενομίχθαι τὸν πρῶτον θεὸν πατέρα μὲν θεῶν, πατέρα δὲ ἀνθρώπων ἡμεν).⁴⁴¹

The other central notion, the Platonic idea of assimilation to god is also expressed rather differently in the distinct treatises, even though they all concede to that that this peculiar function belongs with the royal office only. According to pseudo-Diotogenes, it should be kept in mind that royalty is a god-imitating thing (μναμονεύεν δεῖ ὅτι θεόμιμόν ἐντι πρᾶγμα βασιλήα),⁴⁴² and that looking upon a good king ought to affect the souls of the beholders (τῷ ἀγαθῷ βασιλέως ποταύγασις ὀφείλει τρέπεν τὰς ψυχὰς τῶν ποταυγασμένων).⁴⁴³ In pseudo-Sthenidas's treatise, he who is both wise and king is deemed to be a lawful imitator and servant of god (μιματὰς ἄρα καὶ ὑπηρέτας ἐσσεῖται νόμιμος τῷ θεῷ ὁ σοφός τε καὶ βασιλεύς).⁴⁴⁴ And

⁴³⁸ Goodenough slightly modified. Goodenough 1928, pp. 75–76.

⁴³⁹ On the Middle Platonic idea of cosmic harmony see van Nuffelen 2011, pp. 101–121.

⁴⁴⁰ See Armstrong 2004, pp. 171–183; Torri 2017, pp. 9–31.

⁴⁴¹ Stob. 4.7.63.11–12.

⁴⁴² Stob. 4.7.62.98–99.

⁴⁴³ Stob. 4.7.62.66–68.

⁴⁴⁴ Stob. 4.7.63.21–22.

in pseudo-Ecphantus's opinion, the king is a single and unitary creation, a copy of the higher king, someone who is always familiar with his maker, and yet someone who is seen by his subjects as if standing in the light of royalty (κατασκευάσμα δὴ ὧν ὁ βασιλεὺς ἐν καὶ μόνον ἐντὶ οἷα τύπος τῷ ἀνωτέρω βασιλέως, τῷ μὲν πεποιηκότι γνώριμον ἀεὶ, τοῖς δ' ἀρχομένοις ὡς ἐν φωτὶ τῆ βασιλῆα βλέπομενον).⁴⁴⁵

Moreover, both pseudo-Diotogenes and pseudo-Ecphantus insist on the excellent and intermediary nature of the kingly constitution. In pseudo-Diotogenes's *On Kingship* god is said to be the worthiest of those things that are by nature most honourable, but on the earth and amongst the human race it is the king who claims this dignified position (τῶν μὲν ὧν φύσει τιμωτάτων ἄριστον ὁ θεός, τῶν δὲ περὶ γᾶν καὶ τῶς ἀνθρώπων ὁ βασιλεὺς).⁴⁴⁶ While in pseudo-Ecphantus's treatise, those who are established in the royal office are thought to partake in its immaculate nature, and they are expected to understand how much more divine they are than the rest of mankind (βασιλῆα δὲ τὸν ὁμιλήσοντα φύσιός τε ἀχράντω δεῖ μετέχεν, ἐπιστάμεν τε αὐτὸν ὅσῳ τῶν ἄλλων ἐντὶ θεϊότερος).⁴⁴⁷ It is interesting to note that precisely this distinctly characteristic emphasis on the peculiarity of the kingly nature comes to be associated with Pythagoreanism in a scholion on the *Iliad* (*Il.* 1.339–40a.2–4): 'Before the Pythagoreans, Homer has put down that the kingly nature is a mean between the human and divine natures' (πρότερος τῶν Πυθαγορικῶν Ὅμηρος μέσσην ἀνθρώπου καὶ θεοῦ φύσιν βασιλικὴν τέθεικε).⁴⁴⁸ However, and quite unfortunately, the orientation of this dependence cannot with any precision be established.

Finally, a clear, yet rather superficial Archytean influence is also detectable in *On Kingship* which manifests itself in two likely borrowings beside the νόμος ἔμψυχος and νόμιμος ἄρχων paraphrase at the beginning of the first fragment.

The first probable borrowing occurs at Stob. 4.7.61.20–28, where pseudo-Diotogenes outlines the second duty of a king which he summarises in the following manner.

καὶ μὰν τό τε δικασπολὲν καὶ διανέμεν τὸ δίκαιον, ξυνᾶ μὲν καθόλω ἰδίᾳ δὲ καθ' ἕκαστον, οἰκῆον βασιλέως ὥσπερ θεῶ ἐν τῷ κόσμῳ <ᾧ> ἀγεμών τε καὶ προστάτας ἐντί, ξυνᾶ μὲν τῷ ποτὶ μίαν ἀρχάν τε καὶ ἀγεμονίαν τὸ ὅλον

⁴⁴⁵ Stob. 4.7.64.21–24.

⁴⁴⁶ Stob. 4.7.61.31–33.

⁴⁴⁷ Stob. 4.7.64.39–40.

⁴⁴⁸ Roskam 2020, p. 210. The peculiarity of the treatises' reasoning was noticed by Ernst Kantorowicz (1952, pp. 268–269) as well.

ξυναρμόσθαι, καθ' ἕκαστον δὲ τῷ καὶ τὰ κατὰ μέρος <ποτ>τὰν αὐτὰν ἀρμονίαν τε καὶ ἀγεμονίαν συναρμόζεσθαι. ἔτι δ' ἐν τῷ ποιῆν εὖ καὶ εὐεργετῆν τὼς ὑποτεταγμένως ὁ βασιλεύς ἐντι· ταῦτα δ' οὐκ ἄνευ δικαιοσύνας καὶ νόμου.

And in judging and distributing justice, whether as a whole in public law, or to individuals in private law, it is befitting for a king to be like god in his leadership and command of the universe, and in public affairs to bring the whole kingdom into harmony by his single rule and leadership, while binding each together after the same degree of harmony and leadership. And in doing so the king does good to and benefits his subjects, although he cannot do any of that without justice and the law.⁴⁴⁹

In his commentary on this specific passage, Erwin Goodenough quite keenly noted that pseudo-Diotogenes's meaning presupposes a Hellenistic context wherein the sense of the familiar Aristotelian (*Rh.* 1373b) distinction of κοινός and ἴδιος νόμος has already been transformed into fitting an environment dominated by Hellenistic monarchies.⁴⁵⁰ However, should Goodenough's reading be granted, which I do think it should, the passage's emphasis on the central significance of law and justice seems to be at least superfluous if not self-contradictory. It might be interpreted though as a reaffirmation of the initial Archytean paraphrase where kingship is bound to justice and to the law, but even so, pseudo-Diotogenes's insistence on δικαιοσύνη, which cannot exist without the law (ἄνευ δὲ νόμου δικαιοσύνα), is rather redundant, and it certainly does not follow from his prior argument. Of course, this could be the result of Stobaeus's editorial activity, but in this case pseudo-Diotogenes's dependence on the Archytean *On Law and Justice* looks somewhat more probable to me. In the last excerpted passage, Archytas is found to be on the opinion that through being extremely useful, the king will be able to benefit his subjects, and through the laws he will do all his activities relative to reason (διὰ δὲ τᾶς χρηστότατος τὸ εὐεργετῆν, διὰ δὲ τῶν νόμων τὸ ποτὶ τὸν λόγον πάντα ταῦτα ποιῆν),⁴⁵¹ a position that squares neatly with the Diotogenean passage.

⁴⁴⁹ Goodenough (1928, p. 67) modified.

⁴⁵⁰ Goodenough 1928, pp. 67–68. Cf. Blumenfeld 2003, pp. 238–239.

⁴⁵¹ Stob. 4.5.61.10–11. Horky & Johnson 2020, 484.

Later on, in the second fragment, when pseudo-Diotogenes turns to discuss how does a king prove to be beneficial to his subjects (περὶ δὲ χρηστότατος), he indulges into such an eulogy of δικαιοσύνη which is, once again, rather reminiscent of Archytas.

χρηστός γὰρ ἐσσεῖται πᾶς βασιλεὺς τὸ μὲν καθόλω δίκαιός τ' ἐὼν καὶ ἐπιεικῆς καὶ εὐγνώμων. ἔντι γὰρ ἅ δικαιοσύνη κοινωρίας συνεκτικὰ καὶ συνακτικὰ, καὶ μόνα γε ὧν πρὸς τῶς πλατίον ἅ τοιαῦτα διάθεσις ἄρμοστοι τᾶς ψυχᾶς. ὄν λόγον γὰρ ἔχει ῥυθμὸς ποτὶ κίνασιν καὶ ἄρμονία ποτὶ φωνάν, τοῦτον ἔχει τὸν λόγον δικαιοσύνης ποτὶ κοινωρίαν· κοινὸν γὰρ ἀγαθὸν ἔντι καὶ ἀρχόντων καὶ ἀρχομένων, εἴ γε δὴ συναρμοστικὰ ἔντι κοινωρίας πολιτικᾶς.⁴⁵²

Any king will be beneficial [to his subjects] who is universally just, equitable, and benevolent. For justice is the binding and holding together of the community, and such a disposition of the soul is the only basis for harmony with one's neighbours. For justice bears the same relation to community as rhythm to motion and harmony to the voice; for justice is a good shared in common between the rulers and the ruled, and it is that which unites the political community in harmony.⁴⁵³

This passage does, indeed, show striking parallels with the Archytean *On Law and Justice*, parallels that an erudite contemporary reader, familiar with the Pythagoreans, could easily associate with the Tarantine Pythagorean. Though, δικαιοσύνη does not appear in the extant body of *On Law and Justice*, it is still, for some reason, implied in its title, and, as I have suggested in Chapter 2, it is likely that some of its lost passages elaborated on Polyarchus's onslaught against the class of virtues in general, and δικαιοσύνη in particular. Also, there are some intriguing utterances for the harmonising capacity of justice too. In Polyarchus's speech, laws are clearly related to δικαιοσύνη,⁴⁵⁴ and in the first fragment of *On Law and Justice*, law is described as that which educates one's soul, and so organises one's living,⁴⁵⁵ implying that just like the λογισμὸς of Fragment 3,⁴⁵⁶ law is that harmonising principle that makes human

⁴⁵² Stob. 4.7.62.69–77.

⁴⁵³ Goodenough (1928, p. 72) modified.

⁴⁵⁴ Ath. 12.65.24–30.

⁴⁵⁵ Stob. 4.1.135.3–7.

⁴⁵⁶ Stob. 4.1.139.9–14.

association possible. What is more, both pseudo-Diotogenes and the Archytean *On Law and Justice* adopt a similar analogical argument to elucidate its point. While in pseudo-Diotogenes's *On Kingship* this analogy is posited between rhythm and motion and harmony and the voice on the one hand, and justice and community on the other hand, in *On Law and Justice* it stands between law's relation to the soul and life of a human being and attunement's relation to hearing and vocal expression.

Nevertheless, despite of these borrowings, the Archytean elements in *On Kingship* does not seem to make any significant contribution to the treatise's reasoning; rather, it looks like they are but means of pseudo-Diotogenes strategy of lending some authenticity to his work. Apart from these and the above listed Stoic and Homeric colourings, the main body of *On Kingship*'s arguments is still to be characterised as predominantly Middle Platonic which strengthens my initial late first century B.C. to early first century A.D. dating.

On the whole, the treatise has little, if any, originality, what is more it is quite practical and mostly refrains from abstract theoretical considerations.⁴⁵⁷ Thus, it is no wonder that Oswyn Murray describes *On Kingship* as a scarcely 'genuine attempt to rethink the problems of monarchy'; in his opinion, pseudo-Diotogenes 'is derivative, partly on other philosophical views of monarchy, and partly on Pythagorean works on other subjects.'⁴⁵⁸ The only innovative momentum I could find in pseudo-Diotogenes's *On Kingship* is his adoption of the Archytean νόμος ἔμψυχος and νόμιμος ἄρχων distinction to which we are now going to turn.

Pseudo-Diotogenes on the νόμος ἔμψυχος idea

Throughout this chapter, I have claimed that pseudo-Diotogenes's adoption of the νόμος ἔμψυχος idea is but an epitome of the first Stobaeian passage of the Archytean *On Law and Justice*, and it constitutes *On Kingship*'s hallmark for authenticity, designed to lend a sense of authentic Pythagoreanism to this late Hellenistic, or early Imperial piece of forgery. In the previous chapter, I have argued that from the first century B.C. a widespread scepticism towards the alleged writings of Pythagoras emerged which belief 'fuelled a more generally critical attitude towards the authenticity of Pythagorean material, probably discouraged the production of apocryphal texts in Pythagoras' name and favoured the composition of writings bearing the

⁴⁵⁷ Cf. Roskam 2020, pp. 213–214.

⁴⁵⁸ Murray 1971, p. 266.

names of other Pythagoreans.⁴⁵⁹ Also, I have disseminated that most modern commentators agree that in building these treatises' pedigree, the name of Archytas had central significance.⁴⁶⁰ Unlike Pythagoras, the obscure magus, Archytas was the perfect candidate for authenticating strictly philosophical doctrines and he was considered a mediator between the ancient Pythagorean and the Platonist traditions.⁴⁶¹ From this follows that should pseudo-Diotogenes fancied appealing to Archytas's authority in framing his treatise's authenticity, he would certainly be doing nothing out of the ordinary. However, the Archytean dependence of the initial lines of *On Kingship* is anything but straightforward. Apart from the simultaneous occurrence of the νόμος ἔμψυχος term, there seems to be little, if anything in common between the two passages.

Stob. 4.1.135.8–14

νόμων δὲ ὁ μὲν ἔμψυχος βασιλεύς, ὁ δὲ ἄψυχος γράμμα. πρῶτος ὧν ὁ νόμος· τούτῳ γὰρ <ἐμμονᾶ> ὁ μὲν βασιλεὺς νόμιμος, ὁ δ' ἄρχων ἀκόλουθος, ὁ δ' ἀρχόμενος ἐλεύθερος, ἅ δ' ὅλα κοινωνία εὐδαίμων· καὶ τούτῳ παραβάσει <ὁ> μὲν βασιλεὺς τύραννος, ὁ δ' ἄρχων ἀνακόλουθος, ὁ δ' ἀρχόμενος δοῦλος, ὁ δ' ὅλα κοινωνία κακοδαίμων.

Of laws, one, the animate, is a king, but the other, the inanimate, is written. Thus law is primary; for by means of it, the king is lawful, the ruler is compliant, the man who is ruled is free, and the whole community is happy. And in contravention of this <sc. law> the king is

Stob. 4.7.61.2–7

Βασιλεύς κ' εἶη ὁ δικαιοτάτος, δικαιοτάτος δὲ ὁ νομιμώτατος. ἄνευ μὲν γὰρ δικαιοσύνας οὐδεὶς ἂν εἶη βασιλεύς, ἄνευ δὲ νόμῳ δικαιοσύνα. τὸ μὲν γὰρ δίκαιον ἐν τῷ νόμῳ ἐντί, ὁ δὲ γε νόμος αἴτιος τῷ δικαίῳ, ὁ δὲ βασιλεὺς ἦτοι νόμος ἔμψυχός ἐντι ἢ νόμιμος ἄρχων· διὰ ταῦτ' ὧν <ὁ> δικαιοτάτος καὶ νομιμώτατος.

The most just would be king, and the one who complies most with the law would be the most just. For without justice no one could be king, and without law there could not be any justice. For that which is just is in the law, and the law is the cause of that which is just, and the king

⁴⁵⁹ Centrone 2021, p. 118.

⁴⁶⁰ Cf. Centrone 2021, p. 119. Horkey 2021, pp. 141–176.

⁴⁶¹ Centrone 2021, pp. 126–129.

tyrannical, and the ruler noncompliant; and the man who is ruled slavish, and the whole community unhappy.	is surely a living law, or a lawful ruler. This is, then, why he is the most just and complies most with the law.
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These two passages clearly have different focuses and different emphases. While the Archytean passage elaborates on the primacy of law, and it mentions the king only in passing, arguing that it is the law that makes the king lawful and the magistrate law-abiding, pseudo-Diotogenes's argument is centred around the idea of the king being the most just and the most lawful. What is more, although the Archytean νόμων δὲ ὁ μὲν ἔμψυχος βασιλεύς and *On Kingship*'s ὁ δὲ βασιλεὺς ἦτοι νόμος ἔμψυχός ἐντι may look synonymous at first, there is, in fact, a whole range of differences to these passages' meaning. First, the Archytean locus does not seem to be employing the νόμος ἔμψυχος term in a technical sense, ἔμψυχος is simply a differentia specifica of νόμος, whereas in pseudo-Diotogenes's passage, νόμος ἔμψυχος constitutes an idiomatic expression which is applied as a kingly attribute. Second, the two passages have particularly dissimilar, I even daresay conflicting, understandings of νόμος. Unlike Archytas, who fancied that laws are founded on natural justice (ἀκόλουθος μὲν ὧν κα εἶη τᾶ φύσει, μιμεόμενος τὸ τᾶς φύσιος δίκαιον),⁴⁶² pseudo-Diotogenes subscribes to that Sophistic position according to which law and justice are no more than mere social conventions, far removed from nature. This is the very opinion Polyarchus so vehemently argued for in the Athenaeus passages (12.64–65). And finally, while pseudo-Diotogenes's king is, by virtue of his standing, either νόμος ἔμψυχος or νόμιμος ἄρχων, the Archytean distinction of βασιλεύς and ἄρχων is categorical; kingship and rulership are two completely dissimilar offices: the one ought to become law himself, the other needs only to abide by the written law.

After all, there is a great deal of uncertainty concerning pseudo-Diotogenes's source of inspiration, which is well illustrated, then, by the modern commentators' reluctance to produce a stemma of any kind. Both Goodenough and Delatte are safe to say that the νόμος ἔμψυχος concept was already a familiar notion by the turn of the common era with a tradition reaching back to the Socratics,⁴⁶³ and only Murray, who partly concedes to the merits of the prior view,⁴⁶⁴ dares to say that regardless of the exact place the pseudo-Pythagorean treatises occupy in this progression, '[i]nternal evidence might suggest that the earliest [of the two] was pseudo-

⁴⁶² Stob. 4.1.136.5–7.

⁴⁶³ Goodenough 1928, pp. 63–65; Delatte 1942, pp. 243–248.

⁴⁶⁴ Murray 1971, pp. 275–280.

Archytas, who perhaps provided the source for Diotogenes' more extravagant views on νόμος ἔμψυχος'.⁴⁶⁵

There is, however, a considerable problem with these and the like approaches which lays, I think, in the very preconception that urges these commentators to create a coherent and all-encompassing interpretation which is simply lacking in the passage concerned. In fact, the sole purpose of the initial six lines of *On Kingship* is to lend a sense of authenticity by way of invoking some familiar late fifth and early fourth-century ideas that an erudite contemporary reader may easily associate with ancient Pythagoreans. Of course, this does not necessitate that these initial lines are wholly irrelevant with a view to *On Kingship*'s argument. Quite on the contrary, pseudo-Diotogenes's ingenuity manifests itself in his cunning modesty and in his masterful way of establishing some connection between these lines and the main body of his discussion.

What makes his authenticating strategy immensely cunning is the fact that unlike those pseudo-Pythagorean treatises that endeavoured to capitalise on Plato's alleged plagiarism, pseudo-Diotogenes does nothing of this sort but lets his readers' intuition play the trick. He indulges into commonplace arguments, such as the king's need for being just, or the identification of law and justice, of which one may be reminded of reading classics like Xenophon's *Memorabilia* wherein Socrates is caught uttering that what is lawful is just (φημί γὰρ ἐγὼ τὸ νόμιμον δίκαιον εἶναι).⁴⁶⁶ This way, pseudo-Diotogenes may expect to gain his readers' sympathy just to deceive them by hinting some sufficiently rare and at the same time widely known idiomatic expressions that are characteristic of fourth-century political discourse. Such is the νόμος ἔμψυχος term, which Musonius describes as an ancient wisdom on kingship, and such is his employment of the double adjectives, δικαιοτάτος καὶ νομιμώτατος, which, occurring only at four loci in the entire extant body of ancient Greek literature, echoes, once again, a commonplace in Xenophon (*Cyr.* 1.6.28).

Unfortunately to him, pseudo-Diotogenes's deceitful strategy comes at a price. Although he manages to establish a fairly reasonable connection between his initial lines and the rest of *On Kingship*, a host of discrepancies still emerge due to his distance from his sources. The most obvious such conflict is laid open in pseudo-Diotogenes's highly debated use of the νόμος ἔμψυχος and νόμιμος ἄρχων distinction.

⁴⁶⁵ Murray 1971, p. 280. The priority of the Archytean text is supposed by Blumenfeld (2003, pp. 235–236) too.

⁴⁶⁶ X. *Mem.* 4.4.12. Goodenough 1928, p. 65.

There are some commentators, like Louis Delatte, or Oswyn Murray, who do not see any contradiction in the passage. According to Delatte, pseudo-Diotogenes leaves the choice open between two kingship definitions, the one being absolute, the other constitutional,⁴⁶⁷ while in Murray's opinion '[t]he doctrine is an interpretation of Plato's *Statesman*, where, as Diogenes Laertius says in his account of Platonic doctrine, two types of kingship are recognised, the perfect kingship and the king under the law.'⁴⁶⁸ And there are those, like Bruno Blumenfeld and myself who cannot but stand puzzled by the degree of this faulty argument.

The distinction itself is obviously merely a relic 'of an older, now alien, discourse of which Diotogenes has taken the impress.'⁴⁶⁹ We have seen that Archytas distinguishes the lawful king and the compliant ruler, and there is also an entire fragment of *On Law and Justice*, preserved in Stobaeus (4.5.61), which is dedicated to describe the essence of true rulership. Still, while it surely serves pseudo-Diotogenes's authenticating purposes, by imposing this distinction he cannot but inevitably sacrifice the passage's argumentative rigour.

The first two sentences are in the optative and, as Geert Roskam rightly observes,⁴⁷⁰ they shall be rendered as normative prescriptions: the most just ought to be king and the most lawful ought to be the most just. The reason why this must be so, an observation in the indicative, is that the law is responsible for that which is just, and the king is a living law, or a lawful ruler. From this follows (διὰ ταῦτ') that kings are the most just and the most lawful, which is but a 'subtle legitimization of the king.'⁴⁷¹ However, the argument is conclusive only insofar νόμος is being granted a middle term, and so ἡ νόμιμος ἄρχων is not only inconclusive with a view to the premises but it constitutes a *petitio principii* too.

Moreover, *On Kingship*'s subsequent discussion does not seem to be elaborating at all on either of the above themes which, once again, strengthens my hypothesis for the initial lines' logical independence. Despite of the apparent significance of the νόμος ἔμψυχος and νόμιμος ἄρχων distinction, only the νόμος ἔμψυχος term comes to be mentioned in the main body of the treatise, though, true it is, it is understood to constitute such a kingly attribute which agrees neatly with pseudo-Diotogenes's initial premises. Similarly, the other theme, the king's intrinsic connection with justice, is treated only in the passing: at Stob. 4.7.62.29–33, pseudo-Diotogenes claims that a king, just like a lyre, needs to harmonise together the well-lawed city

⁴⁶⁷ Delatte 1942, p. 248.

⁴⁶⁸ Murray 1971, p. 262.

⁴⁶⁹ Blumenfeld 2003, p. 236.

⁴⁷⁰ Roskam 2020, p. 215.

⁴⁷¹ Roskam 2020, p. 216.

by first establishing in himself the most just standard and order of law (ὄθεν ὡς λύραν καὶ πόλιν εὐνομουμένην δεῖ συναρμόσασθαι βασιλέα ὄρον δικαιοτάτον καὶ νόμῳ τάξιν ἐν αὐτῷ πράτον καταστασάμενον). However, this insistence, besides being seemingly superficial, is again in direct contradiction with *On Kingship*'s initial identification of law and justice. These two instances and the above mentioned discrepancy concerning his tautological use of law and justice illustrate that pseudo-Diotogenes failed to embed the Archytean elements into *On Kingship*'s argument. The treatise is virtually a Platonic discussion of royalty with additional but mostly incompatible Archytean and occasional Stoic and Homeric elements.

Conclusion

In this chapter, I have considered in elaborate details pseudo-Diotogenes's application of the νόμος ἔμψυχος term which I have characterised as a Neopythagorean synthesis. Based on some external evidence, *On Kingship*'s doctrinal content, and, above all, on my theory of pseudo-Diotogenes's authenticating strategy, I have argued that Diotogenes is a pseudonym adopted by some obscure Neopythagorean writer from whom two treatises, *On Piety* and *On Kingship*, remain, and I have placed this literary production sometime between the late first century B.C. and the early first century A.D.

Although most of *On Kingship*'s arguments are determined by Middle Platonic core ideas, in order to make his discussion more appealing, pseudo-Diotogenes adopted some widely known ancient topics and idiomatic expressions as well. Unlike most Neopythagorean forgers who wanted to capitalise on Plato's alleged plagiarism of ancient Pythagorean doctrines, pseudo-Diotogenes devised a far more sophisticated and deceitful authenticating strategy. He embedded some characteristically ancient, Homeric, Socratic, Archytean, and other, ideas, expressions, and distinctions that in themselves may not expose the fraud but are capable of tricking the readers into believing that what they are reading does, in fact, actually have its origin in the Classical Period.

I have laboured to show that his νόμος ἔμψυχος and νόμιμος ἄρχων distinction was adopted as part of this authenticating technique and it qualified as *On Kingship*'s principal hallmark for authenticity. However, pseudo-Diotogenes was only interested in invoking the distinction and the peculiar νόμος ἔμψυχος idea, but he was not sufficiently motivated in elaborating on the topic which, together with some other conspicuous characteristics, signals the treatise's initial lines' and this particular distinction's logical independence from the main body of *On Kingship*. Still, despite of this fraudulent intent, pseudo-Diotogenes managed to contribute to the semantic

revolution of the νόμος ἔμψυχος term. Unlike Archytas, who fancied kings are being bound by natural justice, pseudo-Diotogenes set the tone for a novel approach, according to which kings wield unaccountable power by virtue of their godlike status and by virtue of being living laws themselves.

PART III

METAMORPHOSIS

CHAPTER 5

The Philonic metamorphosis

In the previous parts of my discussion, I have considered those loci of the νόμος ἔμψυχος idea which are associated with real or fictitious Pythagoreans. The principal hardship with commenting on these passages consisted in their heavily contested authorship which is mostly accounted for the lack of straightforward evidence and for these treatises' obscure tradition of textual transmission up until their appearance in Stobaeus's fifth-century *Anthology*. In part three, I turn to address the meaning of the νόμος ἔμψυχος idea in the oeuvre of an incomparably better documented thinker, Philo of Alexandria.

Philo was definitely a historical figure who lived in Alexandria in the time of Jesus Christ, and most likely by mere chance, or due to some misconception, the bulk of his impressive literary production came rather intact to us. In his vast writings, Philo invokes the νόμος ἔμψυχος idea on three times, twice in his *On the Life of Moses* (1.162; 2.4–5), and once in *On Abraham* (5). At these places, Philo introduces his unique understanding of the idea which enriches the expression's semantic history with two yet unprecedented and unique features. First, unlike the Archytean or pseudo-Diotogenean loci, Philo twice applies the notion to describe figures who were not strictly speaking kings. And second, at these two places, Philo supplements the term with the distinctly peculiar λογικός adjective.

Although, only an insignificant number of Philo's treatises may be described as political in nature, most of his writings elaborate on the Jewish law, the Torah, which, according to Philo, is νόμος. Throughout his treatises, Philo applies a minutely sophisticated framework of law which makes use of several legal categories, such as νόμος φύσεως, νόμος ἄγραφος, νόμος ἔμψυχος, and so on; hence, the Philonic sense of the νόμος ἔμψυχος idea cannot be treated in itself.

In this chapter, after having some general information on Philo and his writings outlined, I endeavour to introduce his system of law and relate his peculiar understanding of νόμος ἔμψυχος to this system. As a result of my inquiry, I argue for a genuinely Archytean sense in the Philonic loci, and, based quintessentially on Philo's unique ἔμψυχός τε καὶ λογικός syntax and some fascinating parallels between Philo's *Mos.* 2.4–5 and Cicero's *De legibus* 3.2, I claim

that both places constitute a paraphrase of some lost Pythagorean passage which is most likely derived from the Archytean *On Law and Justice*.

Philo of Alexandria: his life and writings

Philo came from one of the most prominent Jewish families of Alexandria. His family ‘enjoyed special relationships with the Roman imperial family’ and they were also related to the Herodians, the ruling dynasty of Judea.⁴⁷² Even so, despite of this illustrious pedigree, we know astonishingly little about Philo himself. That scarce evidence we now possess comes mainly from his own allusions, scattered all over in his oeuvre, and from some early biographical testimonies, such as Flavius Josephus’s remark in his *Antiquities* (18.257–260), or Jerome’s entry in his *De viris illustribus* (11).⁴⁷³

Philo’s date of birth is estimated to be around 20 B.C. mostly because in his *Legatio ad Gaium* he speaks of himself as an old man.⁴⁷⁴ The *Legatio* describes the events of the Alexandrian Jewish embassy to Emperor Gaius which certainly set sail in the winter of 38–39 A.D.,⁴⁷⁵ making Philo roughly sixty-years-old at the time of the voyage. However, in the light of some information about his close family, this estimation may slightly be adjusted. We do know that Philo had two brothers, one, Caius Julius Alexander and another, named Julius Lysimachus who ‘belonged to the council of the Prefect of Alexandria.’⁴⁷⁶ Alexander is thought to be born around 13 B.C., while Lysimachus’s birth is placed around 10 B.C.⁴⁷⁷ Philo is usually understood to be the first-born, though there is nothing to support this hypothesis. Quite on the contrary, his frequent allusions to academic learning and his insistence on a contemplative life suggest that he was rather a second son who had the luxury of living the carefree and prodigal life of the elite,⁴⁷⁸ while his elder brother, Alexander, indulged himself deeply into the family’s

⁴⁷² Schwartz 2009, pp. 9–10.

⁴⁷³ A compendium of testimonies is found in PCW I, pp. lxxxv–cxiii.

⁴⁷⁴ Ph. *Legat.*, 1. Goodenough 1962, p. 8; Sandmel 1984, p. 3; Schenck 2005, p. 9; Schwartz 2009, p. 10; Hadas-Lebel 2012, p. 21.

⁴⁷⁵ Ph. *Legat.*, 190.

⁴⁷⁶ Daniélou 2014, p. 3. As a result of an error in Josephus (*AJ* 19.275–276), Lysimachus is often confused with Alexander. Cf. Sandmel 1984, p. 5.

⁴⁷⁷ Daniélou 2014, pp. 2–4.

⁴⁷⁸ Daniélou 2014, p. 4.

business and provincial politics.⁴⁷⁹ He was doubtless an affluent and highly esteemed businessman who, besides being the Alabarch of Alexandria (Ἀλαβάρχη), that is, ‘a person charged by the Roman government with collecting taxes’,⁴⁸⁰ was made steward over the Egyptian properties of Antonia, mother of Emperor Claudius.⁴⁸¹ These offices alone would place Alexander within the highest circles of Alexandria and no doubt amongst the leaders of the local Jewish community. What is more, he was reported to have an immense fortune at his disposal. According to Josephus, he furnished the gold and silver plating for the decoration of nine gates of the enclosure surrounding the Temple in Jerusalem,⁴⁸² and he lent Herod Agrippa I a huge sum, some two hundred thousand drachmae, simply out of his admiration for his wife, Cypros.⁴⁸³ These instances illustrate that Alexander at least acted as the head of family, and so Philo was most likely born a second son sometime between 13–10 B.C.

The characteristically Roman names of his brothers and the high offices they held indicate that the family had Roman citizenship which they either obtained in Alexandria, or possessed before their arrival in the city.⁴⁸⁴ The prominent occurrence of the name Julius in Philo’s family, both of his brothers and both son of his elder brother, Alexander, were named Julius, may warrant that they ‘have received Roman citizenship in the days of Julius Caesar’s involvement with Alexandria on behalf of Cleopatra’.⁴⁸⁵ However, it is equally possible that it was Philo’s father who decided to settle in Alexandria and, given the family’s relations to the Herodians,

⁴⁷⁹ In Goodenough’s opinion, Philo was the eldest brother, though, due to Philo’s lack of interest, Alexander took the responsibilities of the family estate and ‘continued financially the head of family.’ Goodenough 1962, p. 8.

⁴⁸⁰ Daniélou 2014, p. 2. The title most likely designates a tax official responsible for collecting the customs on the commerce between Egypt and Arabia. Schwartz 2009, p. 12.

⁴⁸¹ *J. AJ*, 19.276. Schwartz 2009, pp. 12–13.

⁴⁸² *J. BJ*, 5.205.

⁴⁸³ *J. AJ*, 18.158–160.

⁴⁸⁴ According to Jean Daniélou (2014, p. 4), the Roman citizenship ‘was impossible for Alexandrian Jews.’ Whereas, in Mireille Hadas-Lebel’s (2012, p. 30) opinion, Roman citizenship ‘had already been accorded’ to Alexander, ‘probably in recognition of the services he rendered to Antonia Minor’. There are considerable problems with the assessment of the Alexandrian Jews’ Alexandrian citizenship too. Based on his reading of 3 Maccabees, ‘Aryeh Kasher has argued that the Jews of Alexandria could not have aspired to full citizenship because of their Jewish identity. Participation in the gymnasium had a significant religious component, even to the point of sacrifice to the gods and participation in religious processions. Kasher seriously questions whether Jews could fully participate in gymnasium life without compromising their Jewish heritage.’ Schenck 2005, p. 43. Cf. Wolfson 1944, pp. 165–168.

⁴⁸⁵ Schenck 2005, p. 12.

Philo's father ought to have possessed Roman citizenship even before his arrival to the city.⁴⁸⁶ The clearest sign for this relation is a marriage between Alexander's son, Marcus Julius Alexander, and Herod Agrippa I's daughter, Berenice in 41 A.D.⁴⁸⁷ The two families' connection could most likely be through the Hasmoneans, which would also confirm the Church Fathers' recurring insistence on Philo's priestly descent.⁴⁸⁸

The only well documented episode in Philo's life was his participation in an embassy to Gaius which was aimed to restore the Alexandrian Jewish liberties after a host of transgressions committed since Gaius's ascension. Though, the problem itself rooted in the native Egyptian population's generations old resentment for the Jews,⁴⁸⁹ the actual chain of events was initiated by Emperor Tiberius's death in 37 A.D. Five years earlier, Tiberius named one of his ardent supporters, Aulus Avilius Flaccus prefect of the Roman province of Egypt and governor of Alexandria. According to Philo, '[h]e was a man who at first gave to all appearance a multitude of proofs of high excellence.'⁴⁹⁰ But after Tiberius's death everything changed. Flaccus fell out of favour, and he had every reason to fear being held accountable for his disloyalty to Gaius.⁴⁹¹ In order to win at least the Egyptians population over to his cause, he dramatically changed his policy and let the Egyptians turn him against the Jews.⁴⁹²

At this point, Herod Agrippa I decided to return to his kingdom and acting on Gaius's advice, he travelled through Alexandria. Philo claims that he intended to enter the city unexpected and undetected, but eventually his stay was discovered which stirred Flaccus's jealousy up against him.⁴⁹³ Although, in public Flaccus greeted Agrippa, he nonetheless let the mob openly ridicule him.⁴⁹⁴ Since these offences went unpunished, soon others were to follow, like the proposal to erect statues of Caligula in the synagogues. Of course, the Jews protested vehemently against such a violation of their ancient customs, but as a result of their refusal their synagogues were seized and the Jews, deprived of their citizenship, were declared guests and foreigners (ξένους καὶ ἐπήλυδας ἡμᾶς ἀπεκάλει μηδὲ λόγου μεταδούς, ἀλλ' ἀκρίτως

⁴⁸⁶ Daniélou 2014, p. 4.

⁴⁸⁷ J. AJ, 19.276–277. Daniélou 2014, pp. 4, 22.

⁴⁸⁸ Daniélou 2014, p. 4. Cf. Schwartz 2009, p. 11.

⁴⁸⁹ See Schwartz 2009, pp. 14–31.

⁴⁹⁰ Ph. *Flacc.* 2.3–4. Colson's translation. LCL 363, p. 303.

⁴⁹¹ Ph. *Flacc.* 9–10.

⁴⁹² Ph. *Flacc.* 17–19.

⁴⁹³ Ph. *Flacc.* 26–31.

⁴⁹⁴ Ph. *Flacc.* 32–35.

καταδικάζων).⁴⁹⁵ A few days after this proclamation, most likely in June 38, the Jews were ousted and driven into a small part of the city. According to Philo, '[t]he Jews were so numerous that they poured out over beaches, dunghills and tombs, robbed of all their belongings.'⁴⁹⁶ The initial hostility soon escalated to a whole-scale pogrom which was ceased only by Flaccus's arrest and eventual execution in September 38.

However, the Jewish calamities were far from their end. First, there were images of Gaius set up in their synagogues,⁴⁹⁷ and second, there was the issue of their unsettled political status, so a delegation was chosen to address the emperor in person.⁴⁹⁸ According to Josephus,⁴⁹⁹ Philo was named head of this delegation which set sail in the winter of 38–39, and it certainly stayed until after Gaius's assassination in 41.⁵⁰⁰ Though, nothing indicates that Philo held any political offices prior to this incident, he was most likely selected on account of his proven merits and experience.⁵⁰¹

Unfortunately, we do not know anything of Philo from after the ambassadors' return to Alexandria. He must have lived at least a couple of years after the embassy, long enough to write his *In Flaccum* and *Legatio ad Gaium*, yet it is unsure for how long. Based on a probable reference in the Armenian translation of his *De animalibus* (58), Philo arguably lived to see a memorable chariot race that took place in 47,⁵⁰² and, given his unawareness of the 'crisis in the Jewish community around the figure of Jesus Christ, Philo must have written before 49'.⁵⁰³

Although, his life lapses mostly into obscurity, his writings were cherished by the early Church Fathers and a significant part of this literary production, a total of 36 treatises,⁵⁰⁴ came to us.⁵⁰⁵ Most of these writings are Biblical in subject and they constitute an 'attempt to reform traditional Greek philosophy by conforming it to the work of God. And that is done in a way so as to be able to show the superiority of Biblical "philosophy" to pagan philosophy.'⁵⁰⁶

⁴⁹⁵ Ph. *Flacc.* 54.1–3.

⁴⁹⁶ Ph. *Flacc.* 56.1–3. Colson's translation. *LCL* 363, p. 335.

⁴⁹⁷ Ph. *Legat.* 134.

⁴⁹⁸ Daniélou 2014, p. 18.

⁴⁹⁹ *J. AJ*, 18.257.

⁵⁰⁰ Daniélou 2014, p. 18.

⁵⁰¹ Schwartz 2009, p. 12. Goodenough 1938, pp. 20, 64.

⁵⁰² Terian 1981, pp. 55–56; Schenck 2005, p. 14.

⁵⁰³ Niehoff 2018, p. 47.

⁵⁰⁴ Two treatises, *De animalibus* and most of *De providentia*, survive in Armenian translation only.

⁵⁰⁵ On the tradition of Philo's writings see Runia 1993, pp. 16–31.

⁵⁰⁶ Daniélou 2014, p. 10.

His works are generally divided into four major categories,⁵⁰⁷ namely the *Quaestiones*, which covers most of *Genesis* and *Exodus*, the *Allegorical Commentary* which offers a more advanced exegetical interpretation of the Biblical texts, the *Exposition of the Law* in which ‘Philo summarizes and presents the Pentateuch in a more structured and thematic form’,⁵⁰⁸ most likely intended for Jews and gentile readers, generally unfamiliar with Jewish culture and institutions,⁵⁰⁹ and finally there are some miscellaneous writings which are philosophic, historic, or apologetic in nature.

Based quintessentially on a comparison between Philo’s works and those literary pieces that were certainly produced in a school setting, Gregory Sterling claims that Philo ought to have ‘had a private school in his home or personally owned structure for advanced students which was similar to schools of higher education run by individuals throughout the Greco-Roman world’,⁵¹⁰ and the hermeneutical texts, at least those of the *Quaestiones* and *Allegorical Commentary*, were designed to cover its curriculum.⁵¹¹ If so, Philo must have written most of his treatises ‘for the private use of himself and his circle of students’, and it is very likely that apart from some possible exceptions his works were never published during his lifetime.⁵¹² However, at some point, his writings were rediscovered by Christian authors in the second century and Philo’s library seem to have passed into Christian hands which was probably due to one of his successors’, or disciples’ eventual conversion to Christianity.⁵¹³ Though, this hypothesis is admittedly conjectural,⁵¹⁴ if Philo did, indeed, have a school, his students would have certainly kept the library, and this ‘would explain both how the material was public property and how not only Philo’s works were known to Christians but some of the other Jewish authors in his library.’⁵¹⁵

⁵⁰⁷ Cf. Goodenough 1962, pp. 30–51; Sandmel 1984, pp. 6–13; Royse 2009, pp. 33–34.

⁵⁰⁸ Royse 2009, p. 33.

⁵⁰⁹ There are a variety of opinions on Philo’s intended audience. While according to Erwin Goodenough (1933, pp. 109–125), the treatises were clearly meant for gentile readers, Ellen Birnbaum and John Dillon (2021, pp. 26–29) quite convincingly argue that the *Exposition* was written for a ‘broad readership’ and ‘with multiple aims’. Cf. Reinhartz 1986, p. 338 n8.

⁵¹⁰ Sterling 1999, p. 150.

⁵¹¹ Sterling 1999, pp. 159–160.

⁵¹² Royse 2013, p. 100.

⁵¹³ Sterling 1999, p. 163.

⁵¹⁴ Sterling 1999, pp. 150–151; Royse 2013, p. 75.

⁵¹⁵ Sterling 1999, p. 163.

Philo's Pythagoreanism

In his works, Philo demonstrates his profound knowledge of Greek philosophy which he must have mastered in the course of and after going through the general education (ἐγκύκλιος παιδεία) in one of the Alexandrian gymnasia.⁵¹⁶ At first, this aspect of Philo's life is difficult to account for because the '[g]ymnasium training for young males included a significant religious component that is hard to reconcile with what we think of as "normal" Judaism. A typical gymnasium was filled with statues of Greek gods, and much of the literature they studied interacted with this religious milieu.'⁵¹⁷ Still, Philo's purely philosophical works, *De aeternitate mundi*, *De providentia*, *De animalibus*, and *Quod omnis probus liber sit*, make it unmistakably clear that Philo attended philosophic lectures and that he was well-acquainted with the major schools' teachings.⁵¹⁸ What is more, since these treatises are full of 'affirmations that absolutely contradict Philo's thought as we encounter it in the remainder of his work', they cannot be considered other than class notes which, as a matter of fact, constitute our primary source of information on Alexandrian philosophic education of the time.⁵¹⁹

In the Philonic corpus, one may find a variety of Platonic, Aristotelian, Stoic, Epicurean, and Neopythagorean ideas, but the single greatest influence on Philo was doubtless Plato to the extent that Jerome even reports a saying among the Greeks according to which ἡ Πλάτων φιλωνίζει, ἡ Φίλων πλατωνίζει (either Plato philonises, or Philo platonises).⁵²⁰ His Platonism was, however, mostly derivative of the type of doctrinal Platonism hallmarked by Eudorus of Alexandria.⁵²¹ Eudorus, who played a central role in the revival of Pythagoreanism in the Platonist tradition,⁵²² and subsequently the Neopythagoreans believed in an essential continuity between Pythagoras, Plato and Aristotle,⁵²³ and they thought that Pythagoreanism can be exploited 'to provide the historical ground for the Early Academic interpretation of Plato.'⁵²⁴ In Philo's thought, this idea is elevated to a level even higher: in his opinion, Moses was, in

⁵¹⁶ Dillon 1996, p. 140; Schenck 2005, p. 11; Daniélou 2014, pp. 4–5. Cf. Hadas-Lebel 2012, pp. 54–58.

⁵¹⁷ Schenck 2005, p. 11.

⁵¹⁸ Daniélou 2014, pp. 40–52. Cf. Runia 2008, pp. 34–43.

⁵¹⁹ Daniélou 2014, p. 40. Cf. Goodenough 1962, pp. 94–97.

⁵²⁰ Jer. *De vir. illust.* 11.

⁵²¹ Dillon 1996, pp. 143–144. Cf. Dillon 2008, pp. 223–232.

⁵²² Cf. Dillon 2014, pp. 261–263.

⁵²³ Centrone 2014, p. 337. Zhmud 2019, p. 91.

⁵²⁴ Bonazzi 2013b, p. 169.

effect, the father of Greek philosophy.⁵²⁵ For this reason, it is almost impossible to identify with any certainty what is Pythagorean in Philo's thought, even though there are some conspicuously Pythagorean features.

Although, Philo has a strictly monistic conception of God,⁵²⁶ he admits the distinctly Pythagorean creative dualism of the monad and the unlimited dyad. In a passage (*Her.* 130–131) extensively and masterfully commented on by Erwin Goodenough,⁵²⁷ Philo posits the Logos, the divine creative activity, 'who cut in succession all the natures of bodies and things which seem to have been joined and united',⁵²⁸ over against 'the unformed matter, out of which the opposites were to be produced'.⁵²⁹ The Logos Cutter (λόγος τομεύς) 'comes into matter, one might say, from the outside, makes the divisions, and remains immanent in creation as the bond between the opposites it has produced'.⁵³⁰ Also, it is interesting to note that the secondary, dyadic principle, which Philo often associates with the Wisdom of God, is identified a maternal, passive principle, which is once again reminiscent of the Neopythagoreans.⁵³¹

The other characteristically Pythagorean trait in Philo's thought is his deep sympathy for number mysticism which comes to be expressed most evidently in his explanation for the rational of creation in *De opificio mundi*. There, Philo expounds the meaning and significance of each number in the decade, and he accords special importance to the number four, six, and, above all, seven.⁵³² To Philo, '[s]o august is the dignity inherent by nature in the number 7, that it has a unique relation distinguishing it from all the other numbers within the decade: for of these some beget without being begotten, some are begotten but do not beget, some do both these, both beget and are begotten: 7 alone is found in no such category.'⁵³³

Even this brief overview is sufficient to demonstrate that there is clearly a detectable Pythagoreanising bend in Philo's writings. Thus, it is not surprising that Clement of Alexandria, the first to explicitly refer to Philo's works,⁵³⁴ twice calls him a Pythagorean.⁵³⁵ Though, this

⁵²⁵ Dillon 1996, p. 143.; Dillon 2014, p. 263. Cf. *Ph. Opif.* 8.

⁵²⁶ *Ph. Her.* 187–188.

⁵²⁷ Goodenough 1932, pp. 117–164.

⁵²⁸ *Ph. Her.* 130.2–131.1. Goodenough's translation (1932, p. 117).

⁵²⁹ Goodenough 1932, p. 132.

⁵³⁰ Goodenough 1932, p. 132.

⁵³¹ Dillon 2014, pp. 264–265. See Heijder 2015, pp. 53–70.

⁵³² Hadas-Lebel 2012, pp. 166–169.

⁵³³ *Ph. Opif.* 99.1–5. Colson & Whitaker's translation. *LCL* 226, p. 79.

⁵³⁴ Runia 1993, p. 132.

⁵³⁵ *Clem. Al. Strom.* 1.15.72.4; 2.19.100.3.

appellation could mean that Philo was a member of the Pythagorean school, based on a comprehensive analysis of the loci, and Clement's similar use of the Peripatetic epithet for Aristobulus,⁵³⁶ David Runia claims, rightly I think, that Philo's epithet was most likely encouraged simply by his writings' affinity with those of the Pythagoreans.⁵³⁷ However, given the fact that Clement also endorsed the continuity thesis between Plato and the Pythagoreans, and since he 'nowhere describes any philosopher as a "Platonist"',⁵³⁸ it is possible to see his appellation a mere indication of Pythagorean themes within a dominantly Platonist framework of Philo's thought.⁵³⁹

At any rate, Philo was doubtless familiar with the basic Pythagorean tenets, and he was, at least superficially, acquainted with some pseudo-Pythagorean treatises. In his *De aeternitate mundi* (12.2–4), Philo says that he happened to chance upon a writing of Ocellus the Lucanian, entitled *On the nature of the universe* (ἐγὼ δὲ καὶ Ὀκέλλου συγγράμματι, Λευκανοῦ γένος, ἐπιγραφομένῳ 'Περὶ τῆς τοῦ παντὸς φύσεως' ἐνέτυχον [...]), and at some other place (*Opif.* 100.9–11) he ascribes a two-lines quotation to Philolaus which is almost identical with John Lydus's (*De mens.* 2.12) quotation from pseudo-Onatas of Tarentum. It is possible therefore to see Philo's references to the νόμος ἔμψυχος idea as ultimately depending on some Pythagorean source.

However, given the complexity of Philo's theory of law, the interpretation of his idea of νόμος ἔμψυχος presupposes some sort of general understanding of the distinct Philonic categories of law. For this reason, I think it is inevitably to briefly address Philo's conception of natural law, unwritten law, and the Mosaic law first.

Philo on natural law, Mosaic law, and the patriarchs

The majority of Philo's writings address various themes and aspects of the Jewish law, the Torah; hence, it is commonly believed that Philo's understanding and definition of law is essential with a view to the interpretation of his thought. The word, torah, 'literally means

⁵³⁶ Runia 1995b, pp. 8–10.

⁵³⁷ Runia 1995b, p. 10.

⁵³⁸ Runia 1995b, p. 8.

⁵³⁹ Runia 1995b, pp. 12–13. For a re-evaluation of Runia's arguments see Otto 2013, pp. 115–138. In her opinion, 'Philo's treatises may have reached Clement as Pythagorean writings, rather than via a chain of exclusively Jewish/Christian readers.' Otto 2013, p. 136.

“instruction, teaching,” and so it has a much wider sense than what the Greek words for ‘law’ generally convey.⁵⁴⁰ Throughout his treatises, Philo’s prevalent choice for ‘law’ falls to νόμος, though he seems to use θεσμός almost interchangeably,⁵⁴¹ beside invoking the more contextual λόγος and ἔθος too. ‘While it is obvious that the use of *nomos* to translate *torah* is not original to Philo’, it serves his purpose remarkably well.⁵⁴² This purpose is twofold, first, Philo is eager to demonstrate that the Pentateuch, as a whole, may be described as law,⁵⁴³ and second, this characterisation ‘permits the comparison he wants to draw to other lawcodes.’⁵⁴⁴

In his works, Philo employs νόμος in a rather eclectic and conventional manner, making use of a wide variety of meanings and forms, such as νόμος φύσεως, νόμος ἄγραφος, νόμος ἔμψυχος, and so on, all of which may, as they do in John Martens’s impressive monograph, deserve a fuller account.⁵⁴⁵ Still, there are but two distinctions holding sway over the entirety of his legal discussion; he divides the Pentateuch into written and unwritten law, and within the written body of law, he discerns general and particular norms.

The law was put down by Moses, and so the whole of the pre-Sinaitic law may be described as unwritten. That this unwritten law (νόμος ἄγραφος) is identical with the patriarchs is evident from *On Abraham*’s subtitle and Philo’s recurring insistences on the patriarchs being ἄγραφοι νόμοι (*Abr.* 276, *Decal.* 1) and ἔμψυχοι καὶ λογικοὶ νόμοι (*Abr.* 5).⁵⁴⁶ The other distinction is less important with a view to our inquiry; the general laws (καθολικός) are the Ten Commandments, while the particular, or special laws (μέρος) are constituted of the other norms of the Mosaic legislation.⁵⁴⁷ It would appear to be logical therefore to proceed alongside Philo’s

⁵⁴⁰ Reinhartz 1986, p. 337.

⁵⁴¹ Cf. Martens 2003, pp. 139–143.

⁵⁴² Reinhartz 1986, p. 345. Cf. Birnbaum & Dillon 2021, p. 10.

⁵⁴³ Ph. *Abr.* 1. Τῶν ἱερῶν νόμων ἐν πέντε βίβλοις ἀναγραφέντων ἡ πρώτη καλεῖται καὶ ἐπιγράφεται Γένεσις ἀπὸ τῆς τοῦ κόσμου γενέσεως, ἣν ἐν ἀρχῇ περιέχει, [...] Cf. Goodenough 1969, p. 74; Birnbaum & Dillon 2021, pp. 10–11.

⁵⁴⁴ Reinhartz 1986, p. 345. Cf. Najman 1999, pp. 55–57.

⁵⁴⁵ Martens 2003, pp. 83–101.

⁵⁴⁶ There are a couple of variations to *On Abraham*’s subtitle, the most generally accepted being ΒΙΟΣ ΣΟΦΟΥ ΤΟΥ ΚΑΤΑ ΔΙΔΑΣΚΑΛΙΑΝ ΤΕΛΕΙΩΘΕΝΤΟΣ Η ΝΟΜΩΝ ΑΓΡΑΦΩΝ <ΤΟ ΠΡΩΤΟΝ> Ο ΕΣΤΙ ΠΕΡΙ ΑΒΡΑΑΜ (The life of the sage who has attained perfection through teaching, that is the first book of the unwritten laws being on Abraham), though it is unsure whether it is original to Philo. Birnbaum & Dillon 2021, pp. 9–10.

⁵⁴⁷ Ph. *Decal.* 154–155. [...] οἱ δέκα λόγοι κεφάλαια νόμων εἰσὶ τῶν ἐν εἴδει παρ’ ὄλην τὴν νομοθεσίαν ἐν ταῖς ἱεραῖς βίβλοις ἀναγραφέντων. ([T]he Ten Covenants are summaries of the special laws which are recorded in the Sacred Books and run through the whole of the legislation.) Colson’s translation. *LCL* 320, p. 83.

principal classification and to consider the nexus of the written and unwritten law, had Philo not associated the unwritten law with the law of nature.

The term, νόμος φύσεως, occurs relatively often, at least 36 times,⁵⁴⁸ in the Philonic corpus, and it is likely to have ‘a variety of meanings’.⁵⁴⁹ Predominantly, the idea is invoked with reference to that law of God whereby the whole world is arranged and subjected to the divine will, but sometimes it designates ‘the law of the nature of matter’,⁵⁵⁰ a characteristically Platonic concept constituting an obstacle which is beyond God’s absolute control.⁵⁵¹ The tension between the two modes of application is obvious: the law of matter is but a negation of Philo’s ‘usual notion that all law is a product of God’.⁵⁵² This tension is, however, merely apparent, and Philo’s distinct senses may still be reduced to a unitary idea of law arching over its different modes of application.⁵⁵³

At the heart of this idea, there is an essentially Stoic understanding of natural law which is intrinsically connected to ὁ ὀρθὸς λόγος.⁵⁵⁴ In *On Joseph* (29–32), Philo describes the law of nature in the following manner:

ἡ μὲν γὰρ μεγαλόπολις ὅδε ὁ κόσμος ἐστὶ καὶ μιᾷ χρῆται πολιτεία καὶ νόμῳ ἐνὶ λόγῳ δὲ ἐστὶ φύσεως προστακτικὸς μὲν ὧν πρακτέον, ἀπαγορευτικὸς δὲ ὧν οὐ ποιητέον· αἱ δὲ κατὰ τόπους αὗται πόλεις ἀπερίγραφοί τέ εἰσιν ἀριθμῶ καὶ πολιτείας χρῶνται διαφερούσαις καὶ νόμοις οὐχὶ τοῖς αὐτοῖς, ἄλλα γὰρ παρ’ ἄλλοις ἔθνη καὶ νόμιμα παρεξυρημένα καὶ προστεθειμένα. [...] ὥστε εἰκότως προσθήκαι μᾶλλον αἱ κατὰ μέρος πολιτεῖαι μιᾶς τῆς κατὰ τὴν φύσιν·

⁵⁴⁸ Ph. *Opif.* 13.4–5; 171.12–13; *Post.* 185.8; *Agr.* 31.2; 66.2; *Plant.* 132.5; *Ebr.* 37; 47.1–2; *Sobr.* 25.4; *Somn.* 2.174.5; *Abr.* 16; 135.2; 249–250; *Ios.* 31.3; *Mos.* 2.7.4; 2.82.1; 2.245.1; *Decal.* 132.4; *Spec.* 1.155.2; 1.202.3; 1.306–307; 3.32.2; 3.112.2–3; 3.189.8; 4.205.1; *Praem.* 42.5; 108–109; *Prob.* 30.2; 37.6; *Contempl.* 59.3; *Aet.* 59.2; *Prov.* 2.23.9; *QE* 2.3b.7; 2.19.4; *Fr.* 27.6; 35a col. 1.3.

⁵⁴⁹ Goodenough 1969, p. 51.

⁵⁵⁰ In most cases, this sense is implied only but almost never expressed in explicit terms. The single exception I could find is *Mos.* 2.7, where Philo likens the four faculties united in Moses’s person to the virgin Graces ‘whom an immutable law of nature forbids to be separated’ ([...] αἷς μὴ διαζεύγνυσθαι νόμος φύσεως ἀκίνητος). Colson’s translation. *LCL* 289, p. 453.

⁵⁵¹ Goodenough 1969, pp. 51–53. Cf. Ph. *Opif.* 8–9.

⁵⁵² Goodenough 1969, p. 53.

⁵⁵³ Cf. Martens 2003, pp. 103–130.

⁵⁵⁴ Goodenough 1969, pp. 53–58. Cf. Horsley 1978, pp. 37–40; Martens 2003, pp. 85–86. On the Stoic idea of natural law see Sellars 2006, pp. 125–129; Vogt 2008, pp. 161–216.

προσθήκαι μὲν γὰρ οἱ κατὰ πόλεις νόμοι τοῦ τῆς φύσεως ὀρθοῦ λόγου, προσθήκη δέ ἐστὶ πολιτικὸς ἀνὴρ τοῦ βιοῦντος κατὰ φύσιν.⁵⁵⁵

For this world is the Megalopolis or “great city,” and it has a single polity and a single law, and this is the word or reason of nature, commanding what should be done and forbidding what should not be done. But the local cities which we see are unlimited in number and subject to diverse polities and laws by no means identical, for different peoples have different customs and regulations which are extra inventions and additions. [...] Thus naturally particular polities are rather an addition to the single polity of nature, for the laws of the different states are additions to the right reason of nature, and the politician is an addition to the man whose life accords with nature.⁵⁵⁶

According to Philo, it is this law of nature which is the paradigm of order and the very criteria of law itself.⁵⁵⁷ The rationale for calling the Torah law consists therefore precisely in its utter agreement with the law of nature which comes to be demonstrated through Moses’s account of the creation which reveals that ‘the world is in harmony with the Law, and the Law with the world, and that the man who observes the law is constituted thereby a loyal citizen of the world, regulating his doings by the purpose and will of Nature, in accordance with which the entire world itself also is administered’ (ὡς καὶ τοῦ κόσμου τῷ νόμῳ καὶ τοῦ νόμου τῷ κόσμῳ συνάδοντος καὶ τοῦ νομίμου ἀνδρὸς εὐθὺς ὄντος κοσμοπολίτου πρὸς τὸ βούλημα τῆς φύσεως τὰς πράξεις ἀπευθύνοντος, καθ’ ἣν καὶ ὁ σύμπας κόσμος διοικεῖται).⁵⁵⁸ It is this polemic leitmotif which governs the entire *Exposition*: Philo labours to prove the inferiority of the laws of the gentiles, while he also insists on their recognition of the excellence of the Mosaic law and the perfection of its lawgiver.⁵⁵⁹ To Philo, the Mosaic law is, thus, clearly the highest material manifestation of the law of nature, though, true it is, their exact relation to one another is left mostly unclear in the Philonic corpus.

⁵⁵⁵ Ph. *Ios.* 29.1–6, 31.1–32.1.

⁵⁵⁶ Colson’s translation. *LCL* 289, p. 157.

⁵⁵⁷ Martens 2003, pp. 98–101.

⁵⁵⁸ Ph. *Opif.* 3.2–4.1. Colson & Whitaker’s translation. *LCL* 226, p. 7.

⁵⁵⁹ Najman 1999, p. 56.

The initial hardship in the course of this assessment arises with regard to the nexus of the written and the unwritten law. In *On Abraham* (3–6), Philo claims that the Mosaic laws are mere images of the unwritten law, that is, their patriarchal archetypes.

ἐπεὶ δὲ τοὺς νόμους κατὰ τὸ ἐξῆς <καὶ> ἀκόλουθον ἀναγκαῖον διερευνησθαι, τῶν ἐπὶ μέρους καὶ ὡς ἂν εἰκόνων ὑπέρθεσιν ποιησάμενοι τοὺς καθολικωτέρους καὶ ὡς ἂν ἀρχετύπους προτέρους διερευνήσωμεν. οὗτοι δὲ εἰσιν ἀνδρῶν οἱ ἀνεπιλήπτως καὶ καλῶς βιώσαντες, ὧν τὰς ἀρετὰς ἐν ταῖς ἱερωτάταις ἐστηλιτεῦσθαι γραφαῖς συμβέβηκεν, οὐ πρὸς τὸν ἐκείνων ἔπαινον αὐτὸ μόνον, ἀλλὰ καὶ ὑπὲρ τοῦ τοὺς ἐντυγχάνοντα προτρέψασθαι καὶ ἐπὶ τὸν ὅμοιον ζῆλον ἀγαγεῖν. οἱ γὰρ ἔμψυχοι καὶ λογικοὶ νόμοι ἄνδρες ἐκεῖνοι γεγόνασιν, οὓς δυοῖν χάριν ἐσέμνυνεν· ἐνὸς μὲν βουλόμενος ἐπιδειξαι, ὅτι τὰ τεθειμένα διατάγματα τῆς φύσεως οὐκ ἀπάδει, δευτέρου δὲ ὅτι οὐ πολλὸς πόνος τοῖς ἐθέλουσι κατὰ τοὺς κειμένους νόμους ζῆν, ὅποτε καὶ ἀγράφῳ τῇ νομοθεσίᾳ, πρὶν τι τὴν ἀρχὴν ἀναγραφῆναι τῶν ἐν μέρει, ῥαδίως καὶ εὐπετῶς ἐχρήσαντο οἱ πρῶτοι· ὡς δεόντως ἂν τινα φάναι, τοὺς τεθέντας νόμους μηδὲν ἄλλ' ἢ ὑπομνήματα εἶναι βίου τῶν παλαιῶν, ἀρχαιολογοῦντας ἔργα καὶ λόγους, οἷς ἐχρήσαντο.

[S]ince it is necessary to carry out our examination of the law in regular sequence, let us postpone consideration of particular laws, which are, so to speak, copies, and examine first those which are more general and may be called the originals of those copies. These are such men as lived good and blameless lives, whose virtues stand permanently recorded in the most holy scriptures, not merely to sound their praises but for the instruction of the reader and as an inducement to him to aspire to the same; for in these men we have laws endowed with life and reason, and Moses extolled them for two reasons. First he wished to shew that the enacted ordinances are not inconsistent with nature; and secondly that those who wish to live in accordance with the laws as they stand have no difficult task, seeing that the first generations before any at all of the particular statutes was set in writing followed the unwritten law with perfect ease, so that one might properly say

that the enacted laws are nothing else than memorials of the life of the ancients, preserving to a later generation their actual words and deeds.⁵⁶⁰

Philo's distinction between image (εἰκόν) and archetype (ἀρχέτυπος) is characteristically Platonic, although it does not echo the familiar metaphysical implications of the *Timaeus* (29b–c).⁵⁶¹ Instead, based quintessentially on Philo's description of the patriarchs as men who lived blameless and good lives (οὗτοι δέ εἰσιν ἀνδρῶν οἱ ἀνεπιλήπτως καὶ καλῶς βιώσαντες), his general emphasis on the connection between law and virtue,⁵⁶² and on the internal order of *On Abraham*,⁵⁶³ corresponding to Philo's discussion of the laws in *On the Decalogue*,⁵⁶⁴ I tend to accept the thesis enunciated by Hindy Najman and Cristina Termini,⁵⁶⁵ according to which it is the virtues which constitute the “linkage” between the ancient biblical figures and the Mosaic ordinances'.⁵⁶⁶ Apparently, this means that the Platonic terminology neither indicates ‘that the early figures necessarily carried out the specific practices ordained in the particular laws’, nor ‘that the particular laws are facsimiles of the words and deeds of the ancients’; rather, both sets of laws, the more general and the particular, ‘exemplify the very same virtues.’⁵⁶⁷ From this follows, that the two are definitely not identical, which is also warranted by Philo's double use of ὡς ἂν suffix,⁵⁶⁸ even though their content seems to be more or less the same.⁵⁶⁹

The principal difference between the Mosaic law and the patriarchs consists in the mode the observer perceives the rules of right conduct. While the patriarchs were guided to lawful action by the sheer light of right reason, the Mosaic law could be observed without the recognition of its intrinsic merits.⁵⁷⁰ This circumstance delineates, then, the written and the unwritten laws'

⁵⁶⁰ Colson's translation. *LCL* 289, pp. 5–7.

⁵⁶¹ For a somewhat challenging reading see Goodenough 1969, pp. 89–90 and Martens 2003, p. 96.

⁵⁶² *Ph. Mos.* 2.7–11; *Virt.* 194–195. Cf. Najman 1999, pp. 57–58; Birnbaum & Dillon 2021, pp. 397–399.

⁵⁶³ Birnbaum & Dillon 2021, pp. 52–53.

⁵⁶⁴ Birnbaum & Dillon 2021, p. 398.

⁵⁶⁵ Najman 1999, pp. 55–73; Termini 2006, pp. 265–295.

⁵⁶⁶ Birnbaum & Dillon 2021, p. 398.

⁵⁶⁷ Birnbaum & Dillon 2021, p. 398.

⁵⁶⁸ Birnbaum & Dillon 2021, p. 150.

⁵⁶⁹ Martens 2003, p. 106.

⁵⁷⁰ *Ph. Spec.* 4.150.4–7. ὁ μὲν γὰρ τοῖς ἀναγραφεῖσι νόμοις πειθαρχῶν οὐκ ἂν δεόντως ἐπαινοῖτο, νουθετούμενος ἀνάγκη καὶ φόβῳ κολάσεως, ὁ δὲ τοῖς ἀγράφοις ἐμμένων, ἐκούσιον ἐπιδεικνύμενος τὴν ἀρετὴν, ἐγκωμίων ἄξιος. (Praise cannot be duly given to one who obeys the written laws, since he acts under the admonition of restraint and the fear of punishment. But he who faithfully observes the unwritten deserves commendation, since the virtue

respective relation to the law of nature. The patriarchs are laws themselves (*Abr.* 276), who lived perfectly virtuous lives and freely followed the dictates of right reason (*Spec.* 4.150; *Virt.* 194–195), and so these unwritten laws are genuinely one with ὁ λόγος φύσεως, that is, the prevalent sense of the Philonic law of nature. It is their words and deeds which comes to be embodied in the Mosaic legislation, framing thereby the perfect copy of the law of nature.⁵⁷¹ However, the Mosaic law is still not exactly identical with the law of nature,⁵⁷² though, true it is Moses's laws are alone ‘firm, unshaken, immovable, stamped, as it were, with the seals of nature herself’ (τὰ δὲ τούτου μόνου βέβαια, ἀσάλευτα, ἀκράδαντα, καθάπερ σφραγῖσι φύσεως αὐτῆς σεσημασμένα).⁵⁷³ In practical terms, the Mosaic law is, thus, a ‘true and reasonable copy of the law of nature’, and as such it ‘must be superior necessarily to those laws which are not’, namely, the laws of the gentiles.⁵⁷⁴

Philo on the νόμος ἔμψυχος idea

The term, νόμος ἔμψυχος, occurs three times in the extant body of Philo's writings, once in *On Abraham* (5.1–8) and twice in *On Moses*; once in the first book (1.162) and once in the second book (2.4–5). Most modern commentators agree that Philo must have borrowed the idea from *the* current Hellenistic portrayal of the ideal king which comes to be expressed most eminently in the pseudo-Pythagorean treatises on kingship.⁵⁷⁵ Although, I have already demonstrated the fallacious nature of the latter assumption, the fact that the νόμος ἔμψυχος idea is invoked in *On Moses* and *On Abraham* may, nonetheless, give credit to the thought of Philo's intellectual indebtedness to the Pythagoreans.

which he displays is freely willed.) Colson's translation. *LCL* 341, pp. 101–103. Cf. Martens 2003, pp. 104–107; Ph. *Legat.* 7.

⁵⁷¹ Martens 2003, p. 96. Cf. Ph. *Mos.* 2.51.9–52.1. [...] τοὺς νόμους ἐμπερεστάτην εἰκόνα τῆς τοῦ κόσμου πολιτείας ἡγησάμενος εἶναι. ([...] the laws were the most faithful picture of the world-polity.) Colson's translation. *LCL* 289, p. 475.

⁵⁷² Martens 2003, pp. 118–121. Cf. Najman 1999, pp. 64–65.

⁵⁷³ Ph. *Mos.* 2.14.1–2. Colson's translation. *LCL* 289, p. 457.

⁵⁷⁴ Martens 2003, p. 99.

⁵⁷⁵ Bréhier 1908, p. 19; Goodenough 1929, pp. 179–181; Goodenough 1938, pp. 90–99; Richardson 1957, pp. 520–521; Goodenough 1969, pp. 127–128; Barraclough 1984, p. 488; Martens 1994, pp. 325–326; Martens 2003, pp. 90–95; Birnbaum & Dillon 2021, p. 151.

On Abraham is the second piece of Philo's *Exposition of the Law* after *On the creation of the cosmos according to Moses*, and it is generally believed that Philo composed the *Exposition* for a 'broad readership and with multiple aims', and he most likely intended it for Jews and gentile readers alike.⁵⁷⁶ Albeit the other treatise, *On the Life of Moses*, does not form any part of the *Exposition*, we have sound reasons to believe that 'it may have been intended as a kind of introduction to it.'⁵⁷⁷ It seems likely that *On Moses* served 'as the first presentation of the Jewish point of view to be given to a gentile who showed genuine interest in the Jews but as yet knew little about them.'⁵⁷⁸ If so, it would have served in both treatises Philo's dialectical purposes, had he related his arguments in familiar terms, such as the νόμος ἔμψυχος idea.⁵⁷⁹

According to a definite and prevailing scholarly consensus, Philo employed the νόμος ἔμψυχος idea with a view to capitalising on its express royal imagery; he wanted to show that the patriarchs and especially Moses did not fall short of the expectations set out for the ideal Hellenistic rulers.⁵⁸⁰ To him, the νόμος ἔμψυχος is, thus, someone 'who has found God, and committed himself to Him in so complete a way that his life flowers in perfect virtue of inner adjustment and outer act.'⁵⁸¹ He is a wise man who forms a living incarnation of the law of nature,⁵⁸² and so his actions are to be regarded 'the λόγοι of God.'⁵⁸³ As such, the νόμοι ἔμψυχοι are royal saviours who mediate between God and the multitude of ordinary men.⁵⁸⁴

Though, I must admit, there is a grain of truth in the above interpretation, still, there are two considerable factors which Philo's modern commentators seem to have utterly disregarded, making their expositions miss their essential Philonic meaning. The first such truism, one need to consider, is that unlike the Archytean *On Law and Justice* and pseudo-Diotogenes's *On Kingship*, Philo twice associates the νόμος ἔμψυχος idea with figures who are not stricto sensu kings, even though both Abraham and Moses are said to be bestowed with God's kingship.⁵⁸⁵ And the second is that at these two instances Philo supplements the term with the distinctly

⁵⁷⁶ Birnbaum & Dillon 2021, pp. 26–29; Royse 2009, p. 33. Cf. Reinhartz 1986, p. 338 n8.

⁵⁷⁷ Royse 2009, p. 47. Cf. Goodenough 1933, pp. 109–125; Birnbaum & Dillon 2021, pp. 3–4.

⁵⁷⁸ Goodenough 1933, p. 124.

⁵⁷⁹ Goodenough 1938, p. 90; Goodenough 1969, pp. 145, 186; Martens 1994, pp. 325–326; Martens 2003, pp. 91–94.

⁵⁸⁰ Goodenough 1929, pp. 179–181; Richardson 1957, pp. 519–521; Martens 2003, pp. 90–95.

⁵⁸¹ Goodenough 1969, p. 137.

⁵⁸² Goodenough 1969, p. 189.

⁵⁸³ Goodenough 1969, p. 151.

⁵⁸⁴ Goodenough 1929, p. 180; Richardson 1957, p. 519; Goodenough 1969, p. 145.

⁵⁸⁵ Ph. *Abr.* 261.2–3; *Mos.* 1.148, 334. Cf. Goodenough 1969, pp. 181–182.

peculiar λογικός adjective which syntax is otherwise unprecedented in the extant body of Greek literature. For these very reasons, I think Philo's indebtedness to the known sources of the νόμος ἔμψυχος idea cannot be taken for granted, and so, I proceed with a close textual analysis of the Philonic loci.

The first Philonic locus is *Mos.* 1.162 which is the final passage of a long digression of an exhortation on Moses's excellence. There, Philo depicts Moses as a friend of God (φίλος θεοῦ) who shared as a partner (κοινωνός) in His possessions, having even the elements at his disposal, obeying him as their master.⁵⁸⁶ In Philo's opinion, the most astonishing sign of Moses's enjoyment of this partnership (κοινωνία) is the fact that God communicated His own title to him, calling him god and king of the whole nation (ὠνομάσθη γὰρ ὅλου τοῦ ἔθνους θεὸς καὶ βασιλεύς).⁵⁸⁷ It is no wonder therefore that 'in himself and his life' Moses 'displayed for all to see, he has set before us, like some well-wrought picture, a piece of work beautiful and godlike, a model for those who are willing to copy it' (καθάπερ τε γραφὴν εὖ δεδημιουργημένην ἑαυτὸν καὶ τὸν ἑαυτοῦ βίον εἰς μέσον προαγαγὼν πάγκαλον καὶ θεοειδὲς ἔργον ἔστησε παράδειγμα τοῖς ἐθέλουσι μιμεῖσθαι).⁵⁸⁸ It is for this reason that Philo calls him a living and speaking law even before his actual act of lawgiving.

τάχα δ', ἐπεὶ καὶ νομοθέτης ἔμελλεν ἔσεσθαι, πολὺ πρότερον αὐτὸς ἐγίνετο νόμος ἔμψυχός τε καὶ λογικός θεία προνοία, ἣτις ἀγνοοῦντα αὐτὸν εἰς νομοθέτην ἐχειροτόνησεν αὐθις.⁵⁸⁹

Perhaps, too, since he was destined to be a lawgiver, the providence of God, which hereafter appointed him to that work without his knowledge, made him a living and speaking law long before.⁵⁹⁰

Apparently, the νόμος ἔμψυχός τε καὶ λογικός of *Mos.* 1.162 is, thus, virtually a proxy for the unwritten law, and it carries the implication that every sage, that is, those who qualify to be ἄγραφοι νόμοι may be described as νόμος ἔμψυχος.⁵⁹¹ It is this reading which gets amplified

⁵⁸⁶ Ph. *Mos.* 1.155–156.

⁵⁸⁷ Ph. *Mos.* 1.158.

⁵⁸⁸ Ph. *Mos.* 1.158.6–159.1. Colson's translation. *LCL* 289, p. 359.

⁵⁸⁹ Ph. *Mos.* 1.162.

⁵⁹⁰ Colson's translation modified. *LCL* 289, p. 359.

⁵⁹¹ Martens 2003, pp. 93–94.

then by the third locus, *Abr.* 5., where the two concepts come to be explicitly united: the patriarchs were living and speaking laws who lived by the unwritten law before any of the particular laws were enacted and these laws, the Mosaic legislation, is but the memorial of their deeds and words (τοὺς τεθέντας νόμους μηδὲν ἄλλ' ἢ ὑπομνήματα εἶναι βίου τῶν παλαιῶν, ἀρχαιολογοῦντας ἔργα καὶ λόγους, οἷς ἐχρήσαντο).

However, this identification of the two terms is seeming only, and if we accept that *On Moses* and *On Abraham* were intended, at least in part, for gentile readers who knew perhaps nothing of Moses and the Jewish Biblical tradition, the Philonic sense of the distinction becomes immediately manifest. Philo wanted to express that the νόμοι ἔμψυχοι were holy men, endowed with all the attributes characterising a sage, who followed the dictates of right reason, and so their lives constituted laws themselves. Although these laws did not qualify as written, given the multiplicity of meanings the word, ἄγραφος νόμος, conveyed,⁵⁹² Philo thought it best to invoke the νόμος ἔμψυχος expression to outline that very conceptual framework in which he was operating. Once he could relate his readers to his meaning of unwritten law, he introduced it without further delay. I do not think therefore that it is a coincidence that the concept, ἄγραφος νόμος, is introduced in *On Abraham* and out of its six occurrences only one is found outside of the *Exposition*.⁵⁹³

This circumstance may cast some additional light on Philo's imposition of the unique ἔμψυχός τε καὶ λογικός syntax too which means perhaps that the deeds and words of the patriarchs were making λογικός, vocal or articulate, the νόμος within them.⁵⁹⁴ Despite of the plausibility of this interpretation, I cannot simply pass by the peculiarity of Philo's wording. Apart from *Mos.* 1.162 and *Abr.* 5, the λογικός νόμος expression occurs at only two loci. It appears once in Clement of Alexandria's *Paedagogus* when, glossing on the Gospel (*Matt.* 25:34–46), Clement calls the previously described rules of charity oral laws which are written in man's heart unlike those laws which are written on stone tablets (Τοιοῖδε μὲν οἱ λογικοὶ νόμοι, οἱ παρακλητικοὶ λόγοι οὐκ ἐν πλαξὶ λιθίνοις δακτύλῳ γεγραμμένοι κυρίου, ἀλλ' ἐν καρδίαις ἀνθρώπων ἐναπογεγραμμένοι ταῖς μόνον φθορὰν οὐκ ἐπιδεχομέναις).⁵⁹⁵ At this locus, the sense of λογικοὶ νόμοι is quite similar to those of the Philonic places, and knowing the

⁵⁹² Cf. Martens 2003, pp. 1–12.

⁵⁹³ Ph. *Her.* 295.6. The five occurrences in the *Exposition* are: *Abr.* 16.4–5; *Decal.* 1.2; *Spec.* 4.149.5, 4.150.6; *Virt.* 194.3–195.1. However, there are some further synonymous expressions. At *Abr.* 5.5, Philo speaks of ἀγράφῳ τῇ νομοθεσίᾳ, at *Abr.* 276.3 θεσμὸς ἄγραφος, and at *Legat.* 115.4 and *Hypoth.* 194.24 ἀγράφων ἐθῶν.

⁵⁹⁴ Goodenough 1969, p. 189.

⁵⁹⁵ Clem. Al. *Paed.* 3.12.94.1.1–4.

degree of Clement's acquaintance with Philo,⁵⁹⁶ it is possible that his terminology is also depending on him. The other locus is found in the sixth-century Byzantine scholar, Asclepius of Tralles's *Commentary on Aristotle's Metaphysics*.⁵⁹⁷ Here, κατὰ τοὺς λογικοὺς νόμους designates simply the rules of dialectical reasoning; hence, the sense of this place is wholly unrelated to the expression's Philonic meaning.

At first glance, it looks like as if the *Exposition's* λογικός νόμος were Philo's own construction, just like his θεσμὸς ἄγραφος which, next to *Abr.* 276.3, turns up in Eusebius's *Demonstratio evangelica* (1.8.1.8) only.⁵⁹⁸ However, given the importance of relating his argument and in the light of some conspicuous parallels between the Philonic loci and Cicero's *De legibus* and Musonius's testimony, I argue for an alternative explanation.

At the beginning of the third book of Cicero's *De legibus*, Cicero proposes to investigate the laws that are appropriate for his ideal republic, outlined in the six books of his *De re publica*.⁵⁹⁹ He begins his inquiry after the following fashion.

MARCVS Laudemus igitur prius legem ipsam ueris et propriis generis sui laudibus.

First, then, let us commend the law itself with words of praise which are both merited and appropriate to its character.

ATTICVS Sane quidem, sicut de religionum lege fecisti.

By all means, just as you did in the case of the law of religion.

MARCVS Videtis igitur magistratus hanc esse uim, ut praesit praescribatque recta et utilia et coniuncta cum legibus. Vt enim magistratibus leges, sic populo praesunt magistratus uereque dici potest, magistratum legem esse loquentem, legem autem mutum magistratum.⁶⁰⁰

You understand, then, that the function of a magistrate is to govern, and to give commands which are just and beneficial and in conformity with the law. For as the laws govern the magistrate, so the magistrate governs the people, and it can truly be said that the magistrate is a

⁵⁹⁶ Runia 1995, p. 1.

⁵⁹⁷ Ascl. in *Metaph.* 253.35–254.1.

⁵⁹⁸ Cf. Martens 2003, p. 144.

⁵⁹⁹ Cic. *Leg.* 3.4.

⁶⁰⁰ Cic. *Leg.* 3.1.18–3.2.6.

speaking law, and the law a silent
magistrate.⁶⁰¹

Just like in the case of Philo's λογικός νόμος, there are no extant occurrences of *lex loquens* antedating Cicero's use; in fact, apart from the Ciceronian locus, the expression turns up in early modern sources only. What makes this peculiarity even more interesting is the fact that based on Cicero's wording and the sentence's syntax, it looks like Cicero is invoking some kind of an aphorism on law and government. First, he begins with a commonplace: it is a magistrate's duty to govern. Then, he introduces the crucial clause with *uereque*, as if he were sincerely expecting his readers' familiarity with and sympathy for the aphorism he was about to spell out. The syntax of Cicero's clause is also telling, *magistratum legem esse loquentem, legem autem mutum magistratum*, which is but a juxtaposition of two assertions where the logical relation is established by mere transposition. According to the author of the *Rhetorica ad Herennium*, 'Reciprocal Change occurs when two discrepant thoughts are so expressed by transposition that the latter follows from the former although contradictory to it (*Commutatio est cum duae sententiae inter se discrepantes ex transiectione ita efferuntur ut a priore posterior contraria priori proficiscatur*),⁶⁰² and he brings, among others, an almost identical example: 'A poem ought to be a painting that speaks; a painting ought to be a silent poem' (*Poema loquens pictura, pictura tacitum poema debet esse*).⁶⁰³

For these very reasons, and especially due to the unprecedented application of the *lex loquens* idiom, I believe Cicero is loosely following some, most likely Greek source.⁶⁰⁴ It is needless to say that the *De legibus* is strongly depending on Plato's *Laws*,⁶⁰⁵ and given Cicero's avowed admiration,⁶⁰⁶ Plato is always a likely candidate.⁶⁰⁷ However, I cannot find anything distinctly Platonic in the Ciceronian locus; rather, the preceding analogical argument (*ut enim*

⁶⁰¹ Keyes's translation. *LCL* 213, pp. 459–461.

⁶⁰² [Cic.] *RH* 4.39.1–3. Caplan's translation. *LCL* 404, p. 325.

⁶⁰³ [Cic.] *RH* 4.39.9. Caplan's translation. *LCL* 403, p. 327. Cf. *LCL* 403, p. 327nc

⁶⁰⁴ It is worth noting that Erasmus of Rotterdam, the Prince of the Humanists, listed the Ciceronian locus in his sixteenth-century collection of Latin and Greek proverbs, the *Adagia*, and considers it of Ciceronian origin. Erasmus 1536, p. 60. Lester Kruger Born, on the other hand, argues for Cicero's consciousness of 'the doctrine of animate law' from the works of Plato, Aristotle, Xenophon, and the Neopythagoreans. Born 1933, pp. 128–137.

⁶⁰⁵ Cf. Annas 2013, pp. 206–224.

⁶⁰⁶ Cic. *Leg.* 3.1.1–6.

⁶⁰⁷ Cf. Keyes's introduction. *LCL* 403, pp. 291–293.

magistratibus leges, sic populo praesunt magistratus) and the parallel Cicero draws with Charondas's laws (*Leg.* 3.5.11–14) seem to suggest some sort of Pythagorean influence.

Some scattered allusions in the *De legibus* (1.57; 2.14; 3.5) indicate that Cicero was certainly familiar with the semi-legendary figure of Charondas, and he might even have a superficial acquaintance with his *Laws*, a Hellenistic version of which is preserved in Cicero's contemporary, Diodorus Siculus's *Bibliotheca historica* (12.11–19), or some version of his Προοίμια νόμων (Stob. 4.2.24).⁶⁰⁸ Moreover, Cicero himself is a considerable authority on Roman Pythagoreanism and an important source on Archytas of Tarentum, doubtless having access to Aristoxenus's *Life of Archytas* and most likely to some pseudopythagorica as well. It is not a completely far-fetched idea to suppose therefore that the Ciceronian locus constitutes a paraphrase of some lost Pythagorean passage. However, my strongest argument for substantiating this claim is not even remotely connected to Cicero as it is provided by the second Philonic locus.

At the beginning of the second book of *On Moses*, Philo enumerates and then considers the faculties (δυνάμεις) which Moses fulfilled, namely the kingly, the philosophical, and those of the lawgiver, high priest, and prophet.⁶⁰⁹ From our point of view, only the first, the kingly faculty is of interest which he describes in the following way.

βασιλεῖ προσήκει προστάττειν ἃ χρὴ καὶ ἀπαγορεύειν ἃ μὴ χρὴ· πρόσταξις δὲ τῶν πρακτέων καὶ ἀπαγόρευσις τῶν οὐ πρακτέων ἴδιον νόμου, ὡς εὐθὺς εἶναι τὸν μὲν βασιλέα νόμον ἔμψυχον, τὸν δὲ νόμον βασιλέα δίκαιον.⁶¹⁰

It is a king's duty to command what is right and to forbid what is wrong. But to command what should be done and to forbid what should not be done is law's peculiarity, so it follows straight away that the king is a living law, and the law is a just king.⁶¹¹

It is almost a verbatim repetition of Cicero's *Leg.* 3.2, the only considerable differences being that magistratus is substituted for βασιλεύς and instead of the silence of laws, their

⁶⁰⁸ Rothkamm 2014, pp. 165–169.

⁶⁰⁹ Ph. *Mos.* 2.2–3.

⁶¹⁰ Ph. *Mos.* 2.4.1–5.1.

⁶¹¹ Colson's translation slightly modified. *LCL* 289, p. 453.

essential justness is emphasised. Since Philo definitely knew at least some of Cicero's works, his *De legibus* being included,⁶¹² it would be convenient to assume that Philo is drawing on Cicero here.⁶¹³ However, Cicero's *lex loquens* simply does not convey the meaning so vitally necessary for Philo's cause. His patriarchs were not simply λογικοὶ νόμοι who articulated the unwritten law of God, they were ἔμψυχοι καὶ λογικοὶ νόμοι, men who were laws themselves. What is more, had Philo been previously acquainted with the νόμος ἔμψυχος idea, he would not have had Cicero's *legem loquentem* so terribly misconstrued. But if he had not been familiar with it, the Ciceronian passage could not have accounted for Philo's knowledge of the idea either. I seriously doubt therefore that Philo could have constructed his characteristic νόμος ἔμψυχος τε καὶ λογικός simply with a view to Cicero. Rather, I think that Cicero and Philo are both depending on a common, Pythagorean source which employs both the νόμος ἔμψυχος and the λογικός νόμος expressions, or stresses in some other way the significance of the king's speech. In my opinion, precisely this circumstance is attested by Musonius when he has his ideal king, who endeavours to live up to the expectations set for a living law, be perfect in both his words and his deeds.

Καθόλου δὲ τὸν μὲν βασιλέα τὸν ἀγαθὸν ἀνάγκη πᾶσα καὶ λόγῳ καὶ ἔργῳ εἶναι ἀναμάρτητον καὶ τέλειον· εἶπερ δεῖ αὐτόν, ὥσπερ ἐδόκει τοῖς παλαιοῖς, νόμον ἔμψυχον εἶναι, εὐνομίαν μὲν καὶ ὁμόνοιαν μηχανώμενον, ἀνομίαν δὲ καὶ στάσιν ἀπείργοντα, ζηλωτὴν δὲ τοῦ Διὸς ὄντα καὶ πατέρα τῶν ἀρχομένων, ὥσπερ ἐκεῖνον.⁶¹⁴

In general, it is necessary above all for a good king to be faultless and perfect both in his words and deeds, especially if he is to be, as it seemed to the ancients, a living law who, being an emulator of Zeus, and like him, the father of his subjects, brings good order and like-mindedness about and guards against the contempt of law and discord.⁶¹⁵

⁶¹² David Lincicum argues for the existence of at least six Ciceronian allusions in Philo's works. Lincicum 2013, p. 153; Lincicum 2014, p. 101.

⁶¹³ This explanation is suggested by Goodenough (1969, p. 186–187n36), though his comment is on *Mos.* 1.162. In Richard Horsley's (1978, pp. 37–39) opinion, the passage is influenced by traditional Stoic thought. While David Lincicum (2013, p. 156) lists Musonius (*Stob.* 4.7.67) as a likely source of borrowing.

⁶¹⁴ *Stob.* 4.7.67.94–99.

⁶¹⁵ Translation mine.

If, indeed, I am right, the source of Cicero and Philo cannot be later than the beginning of the first century B.C.; hence, a lost passage of the Archytean *On Law and Justice*, or of some other work closely following it, seems to be the most plausible account. It would explain Philo's rational for imposing the νόμος ἔμψυχος expression which, in its Archytean sense, could perfectly relate his sense of ἄγραφος νόμος to his yet uninitiated gentile readers, and it could also explain why Cicero appeared to assume that the aphorism he invoked was common with his Roman public.

Conclusion

In this chapter, I have endeavoured to introduce Philo's minutely sophisticated framework of law just to have his peculiar understanding of νόμος ἔμψυχος placed within this complex system. In the course of this enterprise, I have sided with the protagonists of the unitary approach, according to whom there is a harmonious relation between Philo's distinct categories of law. The patriarchs, that is, the ἄγραφοι νόμοι, the Mosaic laws, and the νόμος φύσεως are all interrelated and united by their intrinsic agreement with ὁ ὀρθός λόγος. Though, these categories are common to a wide range of Greek thinkers, Philo was perfectly aware of the fact that his gentile readers would not be able to relate his sense without further assistance. For this reason, Philo decided to invoke the νόμος ἔμψυχος term which, since its first Archytean application, carried the meaning of such a state wherein the principal actor, unbound by the constraints of written law, freely acts in a way which abides by the principles of ὁ λόγος φύσεως. By such an association, Philo could imply, on the one hand, that the patriarchs were holy men who followed the dictates of right reason, and so their lives constituted laws themselves, and, on the other hand, that these laws were νόμοι only due to their perfect agreement with the divine λόγοι.

Although, Philo's sense of the νόμος ἔμψυχος is genuinely Archytean, the Philonic loci do not purport to establish any further connection with *On Law and Justice*, indicating perhaps that Philo had no direct access to the Archytean treatise. Based on his unique ἔμψυχός τε καὶ λογικός syntax, and, above all, on the intriguing parallels between *Mos.* 2.4–5 and Cicero's *Leg.* 3.2, I have argued that both places constitute a paraphrase of some lost Pythagorean passage which cannot be later than the beginning of the first century B.C. Also, this passage must come from a treatise that employs the νόμος ἔμψυχος expression and elaborates on the significance of the

king's speech. Moreover, given Cicero's wording, it appears that the passage's reasoning was assumed, at least by Cicero, to be common knowledge, meaning that it is remarkably unlikely that his source is derived from some obscure Pythagorean. In my opinion, these circumstances all point to one direction: the passage must have come down under Archytas's name, most likely from his *On Law and Justice*. However, the lack of any other Archytean arguments in either Cicero or the Philonic loci suggests that the passage was considerably abridged, and it was probably transmitted via some doxographic collection.

CHAPTER 6

The νόμος ἔμψυχος idea in late antiquity

In my preceding inquiry, I have laboured to show that the νόμος ἔμψυχος idea was first coined in the lost archetype of the Archytean *On Law and Justice*, and I have argued that the expression originated either with the Tarantine Pythagorean himself, or his Peripatetic biographer, Aristoxenus. In either case, it appears that what came down as *On Law and Justice* in Stobaeus's *Anthology* is most likely an epitome of Aristoxenus's *Life of Archytas*. Though, this work is lost, some version of it was certainly accessible to Cicero and Athenaeus; hence, it must have been in circulation at least until the early third century A.D. Also, the findings of part two and part three indicate that an independent tradition of *On Law and Justice* began before the first century B.C., and some of its arguments were incorporated into the doxographic tradition as well.

By the first century A.D., there existed, then, at least four senses of the idea. First, there was the Archytean sense, derived from the two convergent sources, Aristoxenus's *Life of Archytas* and the epitome, *On Law and Justice*. Second, there was pseudo-Diotogenes's sense which drew heavily on the Archytean *On Law and Justice*, even though *On Kingship* understands the νόμος ἔμψυχος idea to constitute a kingship trait mostly inconsistent with the Archytean locus. Third, there was the Philonic sense which served as an explanation to Philo's understanding of ἄγραφος νόμος. And finally, an idiomatic sense, originating with its anonymous doxographer, is also attested.

Up until the second century A.D., the stemma of the νόμος ἔμψυχος idea is fairly reconstructible. Pseudo-Diotogenes drew on the Archytean *On Law and Justice* and probably on the doxographic tradition. Cicero's *Leg.* 3.2 is clearly depending on the idiomatic sense, though he certainly had access to the *Life of Archytas* too. Philo is most likely following the doxographer, and Musonius testifies the currency of the idea accompanied by superficial Archytean terminology which may indicate that he had not only the doxographic collection in mind, but *On Law and Justice* as well. However, from the second century onwards, the idea's tradition is getting more and more opaque. If my hypothesis about the Pythagorean corpora is correct, the principal source, the Archytean *On Law and Justice*, together with pseudo-Diotogenes's treatise were probably preserved in an almost unknown collection of pseudopythagorica, independent of the other supposed collections, and they seem to have

escaped falling into oblivion only due to Stobaeus's activity. It also means that the remaining 23 antique loci of the idea are derived either from Philo, or from the doxographic tradition.

Between the second and the sixth century, the expression occurs in the writings of 13 distinct authors forming two major classes of rather homogenous traditions. On the one hand, seven early Church Fathers, Clement of Alexandria, Eusebius of Caesarea, Gregory of Nazianzus, John Chrysostom, Basil of Seleucia, Theodoret of Cyrus, and the anonymous catenist of the First Epistle to Timothy, constitute the idea's early Christian tradition which ultimately goes back to Philo and Clement of Alexandria. While, on the other hand, the cherished Byzantine orator, Themistius, two significant philosophers, Proclus and Olympiodorus, one of the Desert Fathers, Isidore Pelusium, a Christian rhetorician, Procopius of Gaza, and the great Byzantine emperor, Justinian form the other group which I refer to as the idea's Byzantine doxographic tradition.

The νόμος ἔμψυχος idea in the early Christian tradition

The first Christian author to invoke the νόμος ἔμψυχος idea was Clement of Alexandria who, according to Church tradition, was born in Athens, most likely around 150. Given his extensive knowledge of Greek religion, it is certain that he came from a pagan background,⁶¹⁶ and it is not an overstatement to assert that before his conversion to Christianity he 'was first deeply imbued in philosophy'.⁶¹⁷ In his surviving writings, he cites some 348 authors,⁶¹⁸ though it is very likely that at least some part of this material was known to him only through the doxographic tradition which may account for his two careless citation errors of pseudopythagorica mentioned in Chapter 4.

He must have arrived at Alexandria about 180 where he became a pupil and later associate of Pantaenus at his famous Catechetical school. According to Eusebius' *Ecclesiastical History* (5.10.4), Pantaenus was the head of the school who busied himself with commenting on the treasures of divine scripture, and we may assume that in the course of this endeavour 'he established or built up a reference library of scriptural exegesis, in which his learned Jewish-

⁶¹⁶ Ferguson 1974, p. 13.

⁶¹⁷ Runia 1993, p. 132.

⁶¹⁸ Ferguson 1974, p. 17.

Alexandrian predecessor’, Philo of Alexandria, ‘received an honoured place.’⁶¹⁹ Probably it is in this capacity that Clement first encounters with the writings of Philo, and his understanding of the νόμος ἔμψυχος idea.

In his writings, Clement mentions Philo four times by name, but the degree of his indebtedness to him was considerably greater than that;⁶²⁰ hence, it is believed that Clement had some of Philo’s writings, ‘as it were, on his desk.’⁶²¹ What matters the most from our point of view is the fact that he certainly had access to *On Moses*, which he cites on two occasions (*Strom.* 1.23.153.2–3; 2.19.100.3),⁶²² and most likely to *On Abraham* as well. Thus, it is theoretically possible that Clement derived, at least in part, his sense of the νόμος ἔμψυχος idea from Philo.

In his extant works, Clement employs the expression on three occasions. First, at *Strom.* 1.26.167–168, he calls Moses a living law who was governed by sound reason (Μωυσιῆς δὲ συνελόντι εἰπεῖν νόμος ἔμψυχος ἦν τῷ χρηστῷ λόγῳ κυβερνώμενος). Second, at *Strom.* 2.4.18.4–19.3, he describes the kingly and statesmanlike man a living law, and he associates this description with Plato’s Eleatic Stranger (ὁ τε Ἐλεάτης ξένος τὸν βασιλικὸν καὶ πολιτικὸν ἄνδρα νόμον ἔμψυχον ἀποφαίνεται). And third, at the very same passage, Clement contrasts his Law, who is kingly, living, and right reason, with the law engraved on wooden boards (ἴσασι δὲ Ἕλληνες τὰς τῶν ἐν Λακεδαίμονι ἐφόρων σκυτάλας νόμῳ ἐπὶ ξύλων ἀναγεγραμμένας· ὁ δὲ ἐμὸς νόμος, ὡς προεῖρηται, βασιλικὸς τέ ἐστι καὶ ἔμψυχος καὶ λόγος ὁ ὀρθός).

Since, according to our information, Philo was the first to connect the Pythagorean νόμος ἔμψυχος idea with Biblical figures, the first of the above listed places is almost certainly depending on the Philonic loci.⁶²³ The other two applications, on the other hand, do not seem to accord with Philo’s meaning,⁶²⁴ rather, they exhibit signs of Archytean influence.⁶²⁵ The most conspicuously telling feature that warrants such an influence is the distinction he draws between the living law and the law engraved on inanimate substance, but the allusion to Plato’s *Statesman* (291c) is also noteworthy. However, in the light of Clement’s failure to attribute the doctrine to the Pythagoreans, I earnestly doubt that he had direct access to the Archytean

⁶¹⁹ Runia 1993, p. 23.

⁶²⁰ Runia 1993, pp. 135–156.

⁶²¹ Runia 1993, p. 132.

⁶²² Runia 1993, pp. 135–136.

⁶²³ Martens 1994, p. 326.

⁶²⁴ Cf. Martens 1994, p. 331.

⁶²⁵ For a different interpretation see Martens 2003, pp. 169–171.

material; instead, I would like to think that his Platonic extrapolation constitutes some form of literary misrepresentation stemming from Clement's superficial familiarity with the doxographic source, though, true it is, he assuredly had access to some pieces of pseudopythagorica as well.

Still, given Clement's choice of Plato is not the slightest bit self-seeking, his dependence on some doxographic source looks rather palpable to me. In this case, his attribution of the νόμος ἔμψυχος idea to the Eleatic Stranger would serve his dialectical purposes, as he could connect the concept with his previously introduced Platonic premise (*Pol.* 259b),⁶²⁶ according to which someone possessing kingly science is king irrespective of his actual possession of βασιλεία. From this and the other premise, which states that Christians are kings through Christ's kingship (οἱ Χριστῷ βασιλεῖ βασιλεῖς),⁶²⁷ Clement was able to stress, then, that Christ, his Law, is kingly, living, and right reason (βασιλικός τέ ἐστὶ καὶ ἔμψυχος καὶ λόγος ὁ ὀρθός).

After Clement, the next Church Father to invoke the idea was the Caesarean bishop, Eusebius. Eusebius is thought to be born around 260, most likely a native of the Palestinian city of Caesarea, where he became a pupil and successor of the martyr Pamphilus who founded the famous Caesarean library from the remainder of Origen's working library and subsequent endowments.⁶²⁸ At the time of Eusebius's activity, this library included at least 288 works from a variety of Christian and pagan authors, including Clement and Philo of Alexandria.⁶²⁹ With respect to the known sources of the νόμος ἔμψυχος idea, Eusebius's library contained all eight books of Clement's *Stromateis* and a copy of Philo's *On Abraham*;⁶³⁰ however, it is interesting to note that *On Moses* is missing from Eusebius's catalogue, though this omission is perhaps simply due to Eusebius's oversight or eventual textual corruption in the manuscript tradition.⁶³¹

At any rate, the νόμος ἔμψυχος idea occurs merely once in the extant writings of Eusebius; at the beginning of the fourth book of his *Demonstratio Evangelica* (4.2.2), which elaborates on the divinity of Christ as Son and Logos, he writes that the Father appointed Christ like one all-encompassing power and live and living law, and reason to harmonise and bound together His entire creation (καὶ ὡς μιᾷ τῶν ὄλων δυνάμει ἐνὶ τε ζῶντι καὶ ἐμψύχῳ νόμῳ τε καὶ λόγῳ ἐν

⁶²⁶ Clem. Al. *Strom.* 2.4.18.2.

⁶²⁷ Clem. Al. *Strom.* 2.4.18.3–4.

⁶²⁸ Runia 1993, p. 213. Cf. Carriker 2003, pp. 1–36.

⁶²⁹ For a summary list of the supposed content see Carriker 2003, pp. 299–315.

⁶³⁰ Eus. *HE* 2.18; 6.12.6–13.1. Carriker 2003, pp. 164–177, 196–198.

⁶³¹ Runia 1993, p. 19; Carriker 2003, pp. 173–174.

πᾶσιν ὄντι καὶ διὰ πάντων ἤκοντι τὰ πάντα συναρμόζοιτο ὑφ' ἐνὶ πανσόφῳ δεσμῷ, αὐτῷ δὴ τῷ τοῦ Θεοῦ λόγῳ τε καὶ νόμῳ συναγόμενά τε καὶ συνδούμενα).

Unfortunately, Eusebius did not bother himself with explicating his meaning of the νόμος ἔμψυχος idea which clearly does not form any integral part of the passage's argument. What is more, his peculiar syntax, τε ζῶντι καὶ ἐμψύχῳ νόμῳ, may indicate that he did not employ the term in a technical sense either; hence, it is possible that he did not have any particular understanding thereof at all. However, since apart from Clement, Eusebius is the only Church Father to apply the expression for Christ, I find it hardly unlikely that his terminology could be influenced by anyone but Clement.

Next, the expression turns up by one of the Cappadocian Fathers, Gregory of Nazianzus. Gregory was born around 329 to a Christian mother and a covert father, Gregory the Elder, who built the church of Nazianzus and eventually became its bishop.⁶³² Gregory's family belonged to the wealthy landed families of Cappadocia which allowed him to pursue his studies at the centres of fourth-century Christian learning. First, he completed his elemental studies with Basil the Great at the provincial capital, Caesarea, then he proceeded with his advanced studies at the Palestinian Caesarea Maritima, where, according to Jerome (*De vir. ill.* 113), he was educated together with Euzoius, the future bishop of Caesarea and preserver of Philo's works, by the rhetorician Thespesius.⁶³³ Then, approximately a year later, by the end of 348, Gregory studied in Alexandria, and later that year he moved to Athens.⁶³⁴

In his works, the νόμος ἔμψυχος idea occurs only once; at the very end of his funeral oration on Basil the Great, Gregory states (*Or.* 43.80.7) that Basil lived an exemplary life, one that may guide us as a living law (πρὸς ὃν βλέποντες, ἀπευθυνοῦμεν τὸν βίον, ὡς νόμον ἔμψυχον). At this place, the expression is seemingly used as a rhetorical device which, given the supposed public nature of the oration, is more than perplexing, although, it is equally possible that the expression was added later only, when Gregory decided to edit and emend a considerably shorter oration. Still, based on the style of the oration, we have reason to believe that some form of this panegyric was actually presented on some occasion, though certainly not on Basil's funeral, which is described as a past event, for due to his episcopal occupations and his serious illness Gregory could not attend the ceremony in January 379.⁶³⁵ It is assumed that the oration

⁶³² Daley 2006, p. 3.

⁶³³ Runia 1993, p. 241.

⁶³⁴ Daley 2006, p. 5.

⁶³⁵ Schaff & Wace 1894, p. 395.

was probably composed after Gregory's dethronement of the episcopal see of Constantinople in June 381, and a much briefer version of it may have been spoken on the anniversary of Basil's death.⁶³⁶

Though, Gregory also fails to expound his meaning of νόμος ἔμψυχος, it appears to me that he is employing the term in an essentially Philonic sense, implying that a νόμος ἔμψυχος is someone who has led an exemplary life, worthy of imitation. Since this description is found at *On Abraham* only, a copy of which was certainly present at the Caesarean library, I am inclined to think that the parallel with Gregory's way of application may be explained as resulting from his direct, or indirect dependence on Philo only. As David Runia put it, 'Gregory stands squarely in a tradition of thought in which Platonism and Philonism have been so thoroughly integrated that characteristic themes, terms, and language appear in nearly every other sentence.'⁶³⁷ His direct or indirect acquaintance with Philo is, thus, something which is rather expected.

After Gregory, the next Church Father to use the expression was another Archbishop of Constantinople, John Chrysostom. It is quite unfortunate with a view to our present inquiry that very little is known about his early life and education; based on the scarce evidence we possess, it seems likely that he was born around 349 in Antioch, and he received some of his schooling also in the Syrian metropolis,⁶³⁸ being a student of the rhetorician Libanius, a friend of Themistius.⁶³⁹ Though, at least his mother must have been a Christian, John was not baptised until 367 or 368, when he presented himself for baptism by bishop Meletius.⁶⁴⁰ A couple of years later, he entered church service as a lector, but not long after his initiation, he left Antioch and pursued a rigorous ascetic life in the surrounding mountains for a time of approximately six years. On his return, John resumed his duties as lector, and some two years later he was ordained a deacon and five years after a presbyter who assumed the position of personal assistant to bishop Flavian, the successor of Meletius.⁶⁴¹ We know for certain that in these capacities John 'preached a great deal because of the over nine hundred sermons which survive

⁶³⁶ Schaff & Wace 1894, p. 395.

⁶³⁷ Runia 1993, p. 243.

⁶³⁸ Mayer & Allen 2000, p. 5.

⁶³⁹ Cribiore 2007, p. 2.

⁶⁴⁰ Mayer & Allen 2000, pp. 5–6.

⁶⁴¹ Mayer & Allen 2000, p. 6.

(by no means the original total).⁶⁴² And it is in these sermons that we encounter on six occasions with at least two distinct senses of the νόμος ἔμψυχος idea.

The first mode in which John Chrysostom applies the idea is basically a Christian reformulation of the Philonic sense, according to which the νόμοι ἔμψυχοι are godly men who are guided by the Holy Spirit; hence, they do not require the written laws for righteous conduct. This understanding of the idea is employed at three loci: at the first homily on the Gospel according to Matthew, the thirteenth homily on the Epistle to the Philippians, and the thirteenth homily on the First Epistle to Timothy.

At the beginning of the first homily on Matthew, John emphatically states, roughly in line with the Philonic sense, that following the written law is merely a second best choice, meet for those who lack the graces of the Holy Spirit to live freely without their guidance, but God has made it manifest through the examples of Noah, Abraham, Job, and Moses, with whom He conversed directly (οὐ διὰ γραμμάτων διελέγετο, ἀλλ' αὐτὸς δι' ἑαυτοῦ), that leading a life in which God's laws are inscribed in our hearts (τὰς καρδίας τὰς ἡμετέρας διὰ Πνεύματος ἐγγεγράφαι) is a far better way.⁶⁴³ However, in direct contradiction of the Philonic sense, John's criteria for qualifying for being a νόμος ἔμψυχος is not confined to the pre-Sinaitic patriarchs of the Old Testament only, but the saints of the Christian Church are also being included. In his opinion, the apostles were also νόμοι ἔμψυχοι; what is more, they were even more perfect than Moses, who had to carry tablets of stone in his hands, whereas the apostles carried the Holy Spirit about their minds (Οὐ γὰρ ἐξ ὄρους κατήεσαν στήλας φέροντες λιθίνας ἐπὶ τῶν χειρῶν οἱ ἀπόστολοι, καθάπερ Μωϋσῆς· ἀλλὰ τὸ Πνεῦμα ἐν τῇ διανοίᾳ περιφέροντες, καὶ θησαυρόν τινα καὶ πηγὴν δογμάτων καὶ χαρισμάτων καὶ πάντων τῶν ἀγαθῶν ἀναβλύζοντες, οὕτω πανταχοῦ περιήεσαν, βιβλία καὶ νόμοι γινόμενοι διὰ τῆς χάριτος ἔμψυχοι).⁶⁴⁴

It is this sense which gets amplified, then, at the other two loci as well. At the homily on the Philippians, John refers once again to the apostles as νόμοι ἔμψυχοι, and he calls their life an archetypical example and living law (Ἐννοήσατε πῶς αὐτοῖς ὁ βίος ἀπηκριβωμένος ἦν, ὡς ἀρχέτυπον αὐτοὺς καὶ παράδειγμα κεῖσθαι καὶ νόμους ἔμψυχους).⁶⁴⁵ While, at the homily on the First Epistle to Timothy, he applies the term as an exhortation to leading an exemplary

⁶⁴² Mayer & Allen 2000, p. 7.

⁶⁴³ Jo. Chrysos. *Hom. in Matth.* 1.1. PG 57.13.

⁶⁴⁴ Jo. Chrysos. *Hom. in Matth.* 1.4. PG 57.15.34–41.

⁶⁴⁵ Jo. Chrysos. *Hom. in Philipp.* 13.3. PG 62.273.

Christian life (Τουτέστι, τὸ ἀρχέτυπον τοῦ βίου αὐτὸς ἔσο, ὥσπερ εἰκὼν προκείμενος, ὥσπερ νόμος ἔμψυχος, ὥσπερ κανὼν καὶ ὄρος τῆς εὐζωΐας).⁶⁴⁶

The other sense in which the νόμος ἔμψυχος idea appears in John Chrysostom's writings is with reference to evildoers whose punishment stands as a memento and living law for all to see. This sense occurs at yet another three loci, namely at the second homily on repentance and at two places in the fourth homily *Vidi dominium*. At these places, John twice applies the expression for Cain who, as a living law, wandered about reminding everyone of the grave punishment and sufferings accompanying his fratricide,⁶⁴⁷ and once, he employs the term with reference to the sacrilegious king of Judah, Uzziah, who was struck by leprosy as a punishment for his contempt for the rules of offering sacrifice.⁶⁴⁸

This latter sense is distinctly peculiar with Chrysostom as the idea's punitive application to evildoers is unprecedented before him which may point to his originality in this respect. Nevertheless, given the fact that the Johannine loci occur in public speeches in which the audience's familiarity with the themes and terminology must, to some degree, be assumed, I cannot but suppose the existence of some intermediary source responsible for the general currency of the expression. One possible candidate for this position is Themistius, a friend of Gregory and of the Antiochian orator, Libanius, whose public orations could easily reach the Syrian metropolis. However, albeit the interposition of Themistius could perfectly bridge Constantinople with Antioch and explain the connection between the distinct traditions, it still cannot account for the Johannine loci's revolutionarily Christian senses. It is for this reason I tend to suggest a more problematic, yet far more palpable option, namely, the assumption of some kind of a Christian source capitalising on the Philonic exegetical tradition. This hypothesis would accord, then, with Runia's observation on the overall infiltration of Philonic themes and language into the Early Church Fathers' thought world; furthermore, it is, in my opinion, supported by two additional factors. First, the other Johannine sense does clearly elaborate on the Philonic understanding of the νόμος ἔμψυχος idea, yet we cannot establish any reasonably sound direct connection between Philo and John Chrysostom.⁶⁴⁹ And second, the expression's application as an exhortation to leading a good Christian life is a recurring interpretation of 1Tim. 4:12 which may attest the existence of some local exegetical tradition.

⁶⁴⁶ Jo. Chrysos. *Hom. in. i. Timoth.* 13.1. PG 62.565.20–23.

⁶⁴⁷ Jo. Chrysos. *De paenit.* 2.1.3. PG 49.285–286. *In illud: Vidi dom.* 4.6.

⁶⁴⁸ Jo. Chrysos. *In illud: Vidi dom.* 4.5.

⁶⁴⁹ Runia 1993, p. 270.

The remaining three Christian authors, who employ the idea in a Christian sense, seem to be all depending on John Chrysostom, or perhaps on the common source which influenced Chrysostom's understanding of the idea. Among these, the simplest case is that of Theodoret of Cyrus, a younger contemporary and fellow-Antiochian of Chrysostom, who was certainly considerably influenced by him.⁶⁵⁰ In Theodoret's writings, the νόμος ἔμψυχος idea turns up once, in his line-by-line commentary on 1Tim 4:12, where the sense of the passage is identical with that of the Johannine locus.⁶⁵¹ A similar, yet more general and sophisticated interpretation is to be found in the anonymous catenist's commentary on 1Tim 4:12.⁶⁵² And finally, Basil, the archbishop of Seleucia is found invoking the idea's punitive sense with reference to Cain which is most likely depending on John Chrysostom, although, due to the scarcity of information on Basil, we cannot establish this connection with any certainty.⁶⁵³

The νόμος ἔμψυχος idea in the Byzantine doxographic tradition

Beside the above outlined Christian tradition, the idea's application in the doxographic sense was also gathering momentum in late antiquity. The first to apply this sense after Clement of Alexandria was the fourth-century Byzantine rhetorician, Themistius. Themistius was born around 317, probably in Paphlagonia, but he spent his childhood in Constantinople.⁶⁵⁴ His father, Eugenius, was a teacher of philosophy at Constantinople and the principal influence on the young Themistius.⁶⁵⁵ After completing his general education, Themistius soon established a reputation as a serious philosopher and commentator of Aristotle and one of the leading orators of his day. Sometime around 347, he was already teaching philosophy in Constantinople, where he had such distinguished students as the future Emperor Julian,⁶⁵⁶ and in either 347 or 350, he delivered his first formal oration before an emperor. This marked the beginning of a long career by the imperial court, in the course of which Themistius won favour with five reigning emperors, Constantinus II (337–361), Julian (361–363), Jovian (363–364),

⁶⁵⁰ Pásztori-Kupán 2006, p. 4.

⁶⁵¹ Theod. Cyr. *Interp. ad iTim.* 4.12. PG 82.816.

⁶⁵² Anon. *Catena ad. iTim.* 4.12.

⁶⁵³ Basil. Sel. *Sermo.* 4.3. PG 85.73.

⁶⁵⁴ Heather & Moncur 2001, p. 1.

⁶⁵⁵ Heather & Moncur 2001, pp. 1–3.

⁶⁵⁶ Heather & Moncur 2001, p. 43.

Valens (364–378), and Theodosius (379–395). As a result of this continuous imperial favour, he was vested with prominent official dignities too. In 355 he was created a member of the Senate of Constantinople, from 357 acting as its leading senator,⁶⁵⁷ and Oration 34 attests that between 383–384 he assumed the position of urban prefecture of the imperial capital, though it is possible that Themistius had already held proconsulship (357–359) and prefecture (362–363) before.⁶⁵⁸

During his more than thirty years of imperial service, Themistius produced at least 19 political orations which address either the emperor in person or a member of his household. However, in these speeches Themistius's intended audience was not primarily the reigning emperor, he was rather targeting the local elite for which purpose 'the Senate of Constantinople provided a perfect channel of communication'.⁶⁵⁹ Peter Heather and David Moncur argue, quite convincingly, I think, that in a number of documentable instances 'Themistius was advocating either established imperial policy, or placing an interpretation on past events which suited the needs of the current regime'.⁶⁶⁰ Since 'the emperors were already doing what Themistius wanted', the purpose of his orations was mostly 'to attract the audience's attention away from the emperor as the source of a given policy', principally with a view to protecting the emperor in cases of endorsing highly controversial public policies.⁶⁶¹

It is in these speeches that we encounter with the νόμος ἔμψυχος idea on four occasions which, given the peculiar position of Themistius, could be seen as an expression of imperial court ideology.⁶⁶²

First, the expression turns up in the introduction to Themistius's fifth oration (64b–c) which was delivered on 1st January 364 at Ancyra as 'part of the celebrations being held to mark the consulship of the Emperor Jovian.'⁶⁶³ At this place, Themistius praises the emperor for adopting philosophy, just like his grandiose predecessors, Augustus, Tiberius, Trajan, and Marcus Aurelius, and he explains what is philosophy's contribution to kingship, namely, 'it declares

⁶⁵⁷ Heather & Moncur 2001, p. 46.

⁶⁵⁸ Cf. Brauch 1993, pp. 79–115; Swain 2013, pp. 83–87.

⁶⁵⁹ Heather & Moncur 2001, pp. 29–38.

⁶⁶⁰ Heather & Moncur 2001, p. 33.

⁶⁶¹ Heather & Moncur 2001, p. 34.

⁶⁶² The idea turns up in one of Themistius's private orations, Oration 34, as well, but, since this place does not contribute to our general understanding of Themistius's usage of the term, I have decided to omit its commentary from the above discussion.

⁶⁶³ Heather & Moncur 2001, p. 149.

that the king is living law, a divine law which, in the course of time, has come down from above as outpouring of the eternal Good, a providence of that nature closer to the earth, who looks in every way towards Him, and strives in every way for imitation' (νόμον ἔμψυχον εἶναί φησι τὸν βασιλέα, νόμον θεῖον ἄνωθεν ἦκοντα ἐν χρόνῳ τοῦ δι' αἰῶνος χρηστοῦ, ἀπορροὴν ἐκείνης τῆς φύσεως, πρόνοιαν ἐγγυτέρω τῆς γῆς, ἀπανταχοῦ πρὸς ἐκεῖνον ὄρωντα, πανταχοῦ πρὸς τὴν μίμησιν τεταμένον).⁶⁶⁴

Next, Themistius invokes the idea in his eighth oration (118d), which celebrated the fifth anniversary of Emperor Valens's reign, aired in public on 28th March 368.⁶⁶⁵ This speech is predominantly concerned with the Gothic wars, and it 'sheds much light on the tax reductions of Valens and Valentinian'.⁶⁶⁶ After elucidating the hardships which may attend on the particularities of tax assessment, Themistius observes that there are some things which cannot be determined by law; hence, 'what is needed is a living law which adapts itself to each particular case, being a mundane justice, which is always sympathetic to the people's present circumstances (νόμου δὲ ἐμψύχου δεῖ πρὸς τὸν καιρὸν ἕκαστον ἀρμοττομένου καὶ δικαιοσύνης χθαμαλωτέρας, ἀεὶ τὸ παρὸν τοῖς ὑπηκόοις εὖ τιθεμένης).⁶⁶⁷

Finally, in the sixteenth (212d) and nineteenth orations (227d–228a), delivered between 383 and c. 385, the idea comes to be employed with reference to Theodosius's charitable decision to return part of the properties of persons' condemned of capital offences to their children and other relatives, saving them from utter ruin and poverty.⁶⁶⁸ In these cases, Themistius is eager to emphasize that in the course of his action, Theodosius is far from breaking the law, as, being a living law himself which is superior to its written letter, the emperor is completely free to mitigate the law's injustice and universal harshness.⁶⁶⁹

All these instances illustrate, quite well, I think, that central to Themistius's understanding of the νόμος ἔμψυχος idea is that he considers the emperor the source of law, who is supreme to and above its written letter, and as such, a benevolent emperor, whose rule is characterised by φιλάνθρωπία, is assuredly expected to save mankind from its rigid and harsh application (ὁ δὲ φιλάνθρωπος βασιλεὺς τῷ μὲν γράμματι συγγινώσκει τῆς πρὸς τὸ ἀκριβὲς ἀσθενείας,

⁶⁶⁴ Them. *Or.* 5.64b4–8. Heather & Moncur's translation slightly modified, pp. 160–161.

⁶⁶⁵ Heather & Matthews 2004, p. 12

⁶⁶⁶ Heather & Matthews 2004, p. 13.

⁶⁶⁷ Them. *Or.* 8.118d4–7. Heather & Matthews's translation modified, p. 31.

⁶⁶⁸ Heather & Moncur 2001, pp. 210–211.

⁶⁶⁹ Them. *Or.* 16.212d3–8, 19.227d3–228a8.

προστίθησι δὲ καὶ αὐτὸς ὅπόσον ἐκείνῳ ἀδυνατεῖ, ἅτε, οἶμαι, καὶ αὐτὸς νόμος ὢν καὶ ὑπεράνω τῶν νόμων).⁶⁷⁰

After all, it is safe to say, then, that by Themistius the νόμος ἔμψυχος idea is used as a kingship trait, signaling the emperor's legal supremacy. Albeit, this sense is readily at hand in pseudo-Diotogenes's *On Kingship*, it could also be constructed based solely on the doxographical sense too. What is more, since Themistius lays considerable emphasis on distinguishing the animate law from its written, hence, inanimate letter, the Archytean influence does, in my opinion, appear to be a somewhat even more convincing explanation after all.

After Themistius, the expression occurs by Isidore of Pelusium, Procopius of Gaza, Proclus, Olympiodorus, and the Emperor Justinian. Though, it seems likely that all of these loci endorse the idea's doxographic sense, due to the brevity of their exposition and to the proliferation of possible sources, I do not venture to map these places' relation to the above outlined stemma. The only exception I am prepared to make is that of Justinian whose employment of the νόμος ἔμψυχος idea bears close textual semblance with Themistius.

On the death of his uncle, Justin I, in 527, Justinian became the emperor of the Byzantine Empire. In the next year, he initiated a monumental and greatly ambitious enterprise when he 'appointed a commission to produce a new code of imperial law which would revise the existing ones and add laws passed subsequently'.⁶⁷¹ This project was 'entrusted to a specially appointed committee of ten, headed by the praetorian prefect John of Cappadocia.'⁶⁷² After one year of tremendous work, they compiled the *Codex Justinian*, promulgated in April 529, which was soon appended with the so-called *Quinquaginta decisiones* to remove some outstanding controversies within the ancient juristic texts.⁶⁷³ Impressed by their success, Justinian went further and commissioned his quaestor, Tribonian, to codify the juristic literature which finally took form in the 529 publication of the *Digest*.⁶⁷⁴ Finally, still in 529, Tribonian produced a handbook for law students as well, known as the *Institutiones*. However, despite of this illustrious achievement, Justinian's legislative machinery was not brought to a halt. On the contrary, between 529 and 565, the emperor issued 165 new laws which are now referred to as the *Novellae Constitutiones*. It is in this source, more precisely at the 105th novella, wherein the νόμος ἔμψυχος idea comes to be invoked by Emperor Justinian.

⁶⁷⁰ Them. *Or.* 1.15b3–7.

⁶⁷¹ Cameron 2000, p. 67.

⁶⁷² Humfress 2006, p. 163.

⁶⁷³ Humfress 2006, p. 165

⁶⁷⁴ Humfress 2006, p. 166.

The 105th novel was issued at Constantinople on 27th June 536, addressed to the ex-consul Strageius Apion, and it regulates a variety of issues concerning the consular office. At its very end, the novel makes an exception in favour of the emperor from the previously outlined rules, stating that the consulate belongs in perpetuity with the emperor who is, at the same time, far removed from these provisions because it was God Himself who elevated him above the laws, making him a living law amongst men (ἦ γε καὶ αὐτοὺς ὁ θεὸς τοὺς νόμους ὑπέθηκε νόμον αὐτὴν ἔμψυχον καταπέμψας ἀνθρώποις).

It has long been assumed that this place is depending on Themistius,⁶⁷⁵ which hypothesis is supported by two rather convincing factors. First, just like the novel, Themistius's Oration 19 states that the emperor is νόμος ἔμψυχος, who stands above the written law, and who was sent down to the earth by God from above. And second, the drafting of the novel was certainly overseen by Justinian's quaestor, Tribonian, who received a classical rhetorical training and was doubtless closely familiar with Themistius's orations.⁶⁷⁶

Conclusion

In my preceding inquiry, I have argued that late antiquity witness two separata, yet partly intermingled traditions of the νόμος ἔμψυχος, centred around Alexandria, the Palestinian Caesarea Maritima, Antioch, and Constantinople. This proliferation of the expression in the works of several early Church Fathers and Byzantine philosophers and rhetoricians indicate, I think, that by the second century A.D. the νόμος ἔμψυχος idea was considered a technical term, known to Christians and pagans alike. Since apart from the Archytean locus, neither of our extant places may be deemed to possess the authority necessary for such prominence, I would like to assume the idea's existence in some lost doxographic collection depending primarily on the Archytean *On Law and Justice*. This hypothesis could account for most late antique places and for the possible dialogue between Christians and pagans. Of course, an idiomatic doxographic sense cannot explain the idea's Christian variations, but these, I believe, have been sufficiently related to the idea's Philonic sense.

⁶⁷⁵ Steinwenter 1946, pp. 260–261.

⁶⁷⁶ Steinwenter 1946, p. 260.

EPILOGUE

At the beginning of this study, I have proposed to investigate whether there is any merit in that prevailing medievalist claim according to which the νόμος ἔμψυχος idea together with its translation, the *lex animata* topic, made any significant contribution to the development of the Western theory of state at large. After a brief overview of the medieval juristic literature, I have concluded that the *lex animata* topic was certainly among those arguments which carried the late medieval idea of legal superiority; hence, this idea definitely ‘laid the foundation for the elaboration of the concept of absolute power in the late Middle Ages’,⁶⁷⁷ and so, in effect, it must have had a grave influence on the early modern theories of sovereignty too.

Even so, I was still not convinced that the truth of this conclusion should render the other two, logically prior, propositions true as well. For one, I did not think that the semantic identity of a Greek concept and its Latin or vernacular counterpart could be accepted at face value. And for two, wanting any comprehensive and unbiased study on the νόμος ἔμψυχος idea, I was hesitant to accept that there existed a sufficiently vague and general Classic or Hellenistic theory of rulership, capable of overshadowing other trends, in particular, the classical Roman idea of rulership, which came to be expressed by the νόμος ἔμψυχος idea. In order to attain a possibility of assuming a position from which these questions may be properly addressed, I have decided to conduct a thorough analysis of the sources associated with the formative history of the νόμος ἔμψυχος idea.

Contrary to the above outlined erroneous opinion, I have argued at length that the νόμος ἔμψυχος idea was far from being a commonplace argument of some vague origin; rather, it looks like that the expression was first coined in a debate closely associated with the so-called νόμος and φύσις problem, and that it originated with the fourth-century B.C. Pythagorean, Archytas of Tarentum. Based on the findings of Chapter 2, I claim that Archytas applied the term with a view to distinguishing between two distinct constitutional scenarios, the one in which the political community is governed by laws, and the one in which the political community is governed by the unwritten ordinances of a king.

At some point, this Archytean distinction made its way to a doxographic collection, and by the first century B.C. it was surely known to a wider range of readership. It was at this point

⁶⁷⁷ Canning 1996, p. 8.

that the expression was turned into a commonplace argument which started to gain some prominence mostly amongst those who were somehow, directly or indirectly, touched by the Neopythagorean ideas on politics. However, and quite unfortunately, we do not possess any direct evidence which could prove this hypothesis, for which reason I have endeavoured to substantiate my claim by mapping some unexpected or intriguing points of connection between the ancient sources of the νόμος ἔμψυχος idea.

First, in Chapter 4, I establish the connection between the Archytean locus and pseudo-Diotogenes, the author of *On Kingship*, who, according to my understanding, devised such an authenticating strategy which mostly capitalises on some Archytean overtones and terminology. It came to pass in the course of this enterprise that pseudo-Diotogenes invoked the seemingly Archytean νόμος ἔμψυχος and νόμιμος ἄρχων distinction, but paradoxically, the outcome was a distinctly un-Archytean sense, which I have characterised as pseudo-Diotogenes's Neopythagorean synthesis of Pythagorean, Platonic, and Stoic ideas of rulership.

Then, in Chapter 5, I consider the Philonic application of the νόμος ἔμψυχος idea, arguing that the term, νόμος ἔμψυχος, constituted an important category within Philo's minutely sophisticated framework of law. I claim that he wanted to show that the patriarchs were ἄγραφοι νόμοι in a rather peculiar sense; hence, he decided to invoke the νόμος ἔμψυχος term which, since its first Archytean application, carried the meaning of such a state wherein the principal actor, unbound by the constraints of written law, freely acts in a way which abides by the principles of ὁ λόγος φύσεως. By such an association, Philo could imply, on the one hand, that the patriarchs were holy men who followed the dictates of right reason, and so their lives constituted laws themselves, and, on the other hand, that these laws were νόμοι only due to their perfect agreement with the divine λόγοι.

However, it is my firm belief that Philo had no direct access to the Archytean *On Law and Justice*; rather, he must have constructed his νόμος ἔμψυχος with a view to the idea's intrinsically Archytean doxographic sense. To prove this hypothesis, I have decided to collate the Philonic loci with Cicero's *De legibus* 3.2, arguing that both places must constitute a paraphrase of the self-same lost Pythagorean passage which is most likely derived from a doxographic paraphrase of the Archytean *On Law and Justice*.

Finally, in Chapter 6, I turn to discuss the idea's Nachleben which, I believe, is constituted of two major traditions. On the one hand, seven early Church Fathers elaborate mostly on Philo's semantic revolution of applying the term to some Biblical figures of the Old Testament, while, on the other hand, distinct late antique Byzantine figures made use of the previously outlined doxographic sense in various contexts. And it is this latter tradition which encompasses

Justinian's famous locus which, in turn, seems to be relying on the fourth-century court orator, Themistius.

As a result of my above inquiry, I am prepared to assert with much certainty that the early tradition of the νόμος ἔμψυχος idea is fairly reconstructable up until the second century A.D., and that there definitely existed not one, but several senses of the idea. Though, these several senses seem to be somewhat intermingled, they are still formulated with a view to a peculiar problem, and so, they convey senses distinctive to their context. As such, the Archytean *On Law and Justice* employs the expression in a constitutional sense, describing a form of government wherein the political community is governed by the unwritten ordinances of a king. Pseudo-Diotogenes's uses the phrase with a view to authenticate his forgery without attributing any consistent sense to it. And finally, Philo of Alexandria applies the νόμος ἔμψυχος to Biblical figures who do not quite qualify to be called kings in the ordinary sense of the word.

In conclusion, the principal claim according to which there existed some kind of a general theory of rulership which came to be expressed with reference to the νόμος ἔμψυχος idea has no merit at all. What is more, the sense in which Themistius and later the Justinian *Novellae* employs the νόμος ἔμψυχος idea is far removed from the idea's Archytean, pseudo-Diotogenean, and Philonic sense; hence, the continuity thesis is also falsified. After all, it appears to me that it was Themistius who first started to use the νόμος ἔμψυχος idea as a commonplace argument for expressing the emperor's supremacy over positive law, and it was this sense which eventually influenced the medieval juristic idea of legal supremacy.

This conclusion is, however, but one side of a coin in terms of enumerating the present study's findings, since, down the way of charting a terra incognita of ancient Greek political thought, I have found myself in need of addressing a variety of collateral issues as well. First and foremost, I have managed to successfully demonstrate that the so-called νόμος and φύσις problem, one of the most fertile topics of Classic moral and political thinking, was not confined to late fifth- and early fourth-century Athens but it occupied the thoughts of the Tarantine Archytas as well, whose mathematical solution for this problem offers an alternative to the Platonic theory of ideas. Moreover, I have established the Archytean origin of *On Law and Justice* which, besides providing a glimpse into the formative centuries of the natural law tradition, could therefore be used to construct the intellectual context wherein Plato and Aristotle operated. Furthermore, my analysis of the Pythagorean pseudepigrapha in general, and pseudo-Diotogenes's *On Kingship* in particular may contribute to a better understanding of an undeservedly neglected part of Middle-Platonic ethics and politics, that is the Neopythagoreans. And finally, by way of relating the νόμος ἔμψυχος idea to Philo's general

framework of law, the findings of Chapter 5 may provide some additional insights to the Philonic system of law and to his distinction between natural law, unwritten law, Torah, and the patriarchs.

APPENDICES

Sources of the νόμος ἔμψυχος idea with translations

Archytas of Tarentum (cc. 435/410 – 355 BC)

Ἀρχύτα Πυθαγορείου ἐκ τοῦ Περὶ νόμου καὶ δικαιοσύνης

φαμί δὴ ἐγὼ πᾶσαν κοινωνίαν ἐξ ἄρχοντος καὶ ἀρχομένω συνεστάμεν καὶ τρίτον νόμων. νόμων δὲ ὁ μὲν ἔμψυχος βασιλεύς, ὁ δὲ ἄψυχος γράμμα. πρῶτος ὧν ὁ νόμος· τούτῳ γὰρ <ἐμμονᾶ> ὁ μὲν βασιλεὺς νόμιμος, ὁ δ' ἄρχων ἀκόλουθος, ὁ δ' ἀρχόμενος ἐλεύθερος, ἂ δ' ὅλα κοινωνία εὐδαίμων· καὶ τούτῳ παραβάσει <ὁ> μὲν βασιλεὺς τύραννος, ὁ δ' ἄρχων ἀνακόλουθος, ὁ δ' ἀρχόμενος δοῦλος, ὁ δ' ὅλα κοινωνία κακοδαίμων.⁶⁷⁸

From the Pythagorean Archytas's *On Law and Justice*

I, for my part, declare that every community is constituted of ruler, ruled, and thirdly, laws. Of laws, one, the animate, is a king, but the other, the inanimate, is written. Thus law is primary; for by means of it, the king is lawful, the ruler is compliant, the man who is ruled is free, and the whole community is happy. And in contravention of this <sc. law> the king is tyrannical, and the ruler noncompliant; and the man who is ruled slavish, and the whole community unhappy.⁶⁷⁹

Pseudo-Diotogenes (fl. c. late 1st century BC)

Διωτογένεος Πυθαγορείου ἐκ τοῦ Περὶ βασιλείας

⁶⁷⁸ Stob. 4.1.135.7–14.

⁶⁷⁹ Horky & Johnson's translation, p. 461.

Βασιλεύς κ' εἶη ὁ δικαιοτάτος, δικαιοτάτος δὲ ὁ νομιμώτατος. ἄνευ μὲν γὰρ δικαιοσύνας οὐδεὶς ἂν εἶη βασιλεύς, ἄνευ δὲ νόμῳ δικαιοσύνα. τὸ μὲν γὰρ δίκαιον ἐν τῷ νόμῳ ἐντί, ὁ δὲ γε νόμος αἴτιος τῷ δικαίῳ, ὁ δὲ βασιλεὺς ἦτοι **νόμος ἔμψυχός** ἐντι ἢ νόμιμος ἄρχων· διὰ ταῦτ' ὧν <ὁ> δικαιοτάτος καὶ νομιμώτατος.⁶⁸⁰

τῶν μὲν ὧν φύσει τιμωτάτων ἄριστον ὁ θεός, τῶν δὲ περὶ γᾶν καὶ τῶς ἀνθρώπων ὁ βασιλεύς. ἔχει δὲ καὶ ὡς θεὸς ποτὶ κόσμον βασιλεὺς ποτὶ πόλιν· καὶ ὡς πόλις ποτὶ κόσμον βασιλεὺς ποτὶ θεόν. ἅ μὲν γὰρ πόλις ἐκ πολλῶν καὶ διαφερόντων συναρμοσθεῖσα κόσμῳ σύνταξιν καὶ ἁρμονίαν μεμίματα, ὁ δὲ βασιλεὺς ἀρχὴν ἔχων ἀνυπεύθυνον, καὶ αὐτὸς ὧν **νόμος ἔμψυχος**, θεὸς ἐν ἀνθρώποις παρεσχαμάτισται.⁶⁸¹

From the Pythagorean Diotogenes's *On Kingship*

The most just would be king, and the one who complies most with the law would be the most just. For without justice no one could be king, and without law there could not be any justice. For that which is just is in the law, and the law is the cause of that which is just, and the king is surely a living law, or a lawful ruler. This is, then, why he is the most just and complies most with the law.⁶⁸²

Of the things which are by nature most honourable god is the most excellent, of the things that exist on earth and amongst men the king is the most excellent. The king stands, then, in the same relation to the city as god to the world, and the city stands in the same relation to the world as the king to god. For the city, which is being fitted together of different parts, imitates the world's arrangement and harmony, the king possesses such a power which is

⁶⁸⁰ Stob. 4.7.61.2–7.

⁶⁸¹ Stob. 4.7.61.31–39.

⁶⁸² Laks & Most's translation modified. *LCL* 527, p. 433.

not liable to men, himself being a living law who has been transformed into a god amongst men.⁶⁸³

Philo of Alexandria (cc. 13/10 BC – 47 AD)

De Abrahamo 5.1–8

οἱ γὰρ ἔμψυχοι καὶ λογικοὶ νόμοι ἄνδρες ἐκεῖνοι γεγόνασιν, οὓς δυοῖν χάριν ἐσέμνυνεν· ἐνὸς μὲν βουλόμενος ἐπιδειῖξαι, ὅτι τὰ τεθειμένα διατάγματα τῆς φύσεως οὐκ ἀπάδει, δευτέρου δὲ ὅτι οὐ πολλὸς πόνος τοῖς ἐθέλουσι κατὰ τοὺς κειμένους νόμους ζῆν, ὁπότε καὶ ἀγράφῳ τῇ νομοθεσίᾳ, πρὶν τι τὴν ἀρχὴν ἀναγραφῆναι τῶν ἐν μέρει, ῥαδίως καὶ εὐπετῶς ἐχρήσαντο οἱ πρῶτοι·

For those men [i.e. the patriarchs] have become living and speaking laws whom Moses magnified for two reasons. First, he wanted to show that the enacted ordinances were not at variance with nature, and second that it is not very demanding to live according to the established laws for those who are willing since the first generations lived easily and without difficulty by the unwritten law before any of the particular laws were put into writing.⁶⁸⁴

De vita Mosis 1.162

τάχα δ', ἐπεὶ καὶ νομοθέτης ἔμελλεν ἔσσεσθαι, πολὺ πρότερον αὐτὸς ἐγίνετο νόμος ἔμψυχός τε καὶ λογικὸς θεῖα προνοία, ἥτις ἀγνοοῦντα αὐτὸν εἰς νομοθέτην ἐχειροτόνησεν αὐθις.

⁶⁸³ Translation mine.

⁶⁸⁴ Translation mine.

Perhaps, too, since he [i.e. Moses] was destined to be a lawgiver, the providence of God, which hereafter appointed him to that work without his knowledge, made him a living and speaking law long before.⁶⁸⁵

De vita Mosis 2.4.1–5.1

βασιλεῖ προσήκει προστάττειν ἃ χρὴ καὶ ἀπαγορεύειν ἃ μὴ χρὴ· πρόσταξις δὲ τῶν πρακτέων καὶ ἀπαγόρευσις τῶν οὐ πρακτέων ἴδιον νόμου, ὡς εὐθὺς εἶναι τὸν μὲν βασιλέα **νόμον ἔμψυχον**, τὸν δὲ νόμον βασιλέα δίκαιον.

It is a king's duty to command what is right and to forbid what is wrong. But to command what should be done and to forbid what should not be done is law's peculiarity, so it follows straight away that the king is a living law, and the law is a just king.⁶⁸⁶

Gaius Musonius Rufus (c. 20 – 101)

Μουσωνίου ἐκ τοῦ Ὅτι φιλοσοφητέον καὶ τοῖς βασιλεῦσιν

Καθόλου δὲ τὸν μὲν βασιλέα τὸν ἀγαθὸν ἀνάγκη πᾶσα καὶ λόγῳ καὶ ἔργῳ εἶναι ἀναμάρτητον καὶ τέλειον· εἶ περ δεῖ αὐτόν, ὥσπερ ἐδόκει τοῖς παλαιοῖς, **νόμον ἔμψυχον** εἶναι, εὐνομίαν μὲν καὶ ὁμόνοιαν μηχανώμενον, ἀνομίαν δὲ καὶ στάσιν ἀπείργοντα, ζηλωτὴν δὲ τοῦ Διὸς ὄντα καὶ πατέρα τῶν ἀρχομένων, ὥσπερ ἐκεῖνον.⁶⁸⁷

From Musonius's *That kings should also study philosophy*

⁶⁸⁵ Colson's translation modified. *LCL* 289, p. 359.

⁶⁸⁶ Colson's translation slightly modified. *LCL* 289, p. 453.

⁶⁸⁷ Stob. 4.7.67.94–99.

In general, it is necessary above all for a good king to be faultless and perfect both in his words and deeds, especially if he is to be, as it seemed to the ancients, a living law who, being an emulator of Zeus, and like him, the father of his subjects, brings good order and like-mindedness about and guards against the contempt of law and discord.⁶⁸⁸

Clement of Alexandria (cc. 150 – 215)

Stromateis 1.26.167.3.1–168.1.1

ὁ νομοθετικὸς δὲ ἐστὶν ὁ τὸ προσῆκον ἐκάστῳ μέρει τῆς ψυχῆς καὶ τοῖς τούτων ἔργοις ἀπονέμων, Μωυσῆς δὲ συνελόντι εἰπεῖν **νόμος ἔμψυχος** ἦν τῷ χρηστῷ λόγῳ κυβερνώμενος.

A lawgiver is, then, someone who makes the appropriate assignment for each part of the soul and to their activities; hence, to put it briefly, Moses was a living law who was governed by sound reason.⁶⁸⁹

Stromateis 2.4.18.4.3–19.3.1

ὁ τε Ἐλεάτης ξένος τὸν βασιλικὸν καὶ πολιτικὸν ἄνδρα **νόμον ἔμψυχον** ἀποφαίνεται. τοιοῦτος δὲ ὁ πληρῶν μὲν τὸν νόμον, «ποιῶν δὲ τὸ θέλημα τοῦ πατρός,» ἀναγεγραμμένος δὲ ἄντικρυς ἐπὶ ξύλου τινὸς ὑψηλοῦ παράδειγμα θείας ἀρετῆς τοῖς διορᾶν δυναμένοις ἐκκείμενος. ἴσασι δὲ Ἕλληνας τὰς τῶν ἐν Λακεδαίμονι ἐφόρων σκυτάλας νόμῳ ἐπὶ ξύλων ἀναγεγραμμένας· ὁ δὲ ἐμὸς **νόμος**, ὡς προεῖρηται, βασιλικὸς τέ ἐστι καὶ **ἔμψυχος** καὶ λόγος ὁ ὀρθός·

⁶⁸⁸ Translation mine.

⁶⁸⁹ Translation mine.

νόμος ὁ πάντων βασιλεὺς
 θνατῶν τε καὶ ἀθανάτων,

ὡς ὁ Βοιώτιος ἄδει Πίνδαρος.

The Eleatic Stranger demonstrates that the kingly and statesmanlike man is a living law. Such is a man who fulfils the law, “doing the Father’s will”, and he is being inscribed on a wooden board set high and put to display to serve as an exemplar of the divine virtue to those who are capable of seeing clearly. The Greeks observed that at Sparta the law demanded that the dispatches of the ephors were to be inscribed and displayed on a wooden board, and my law, as I have already said, is kingly, living, and right reason;

law is king of all,
 mortals and immortals,

as the Boeotian Pindar puts it.⁶⁹⁰

Eusebius of Caesarea (c. 260 – 339)

Demonstratio Evangelica 4.2.2

Ὅθεν εἰκότως οἱ χρησιμοὶ θεολογοῦντες Θεὸν γεννητὸν αὐτὸν ἀποφαίνουσιν, ὡς ἂν τῆς ἀνεκφράστου καὶ ἀπερινοήτου θεότητος μόνον ἐν αὐτῷ φέροντα τὴν εἰκόνα, δι' ἣν καὶ Θεὸν εἶναί τε αὐτὸν καὶ λέγεσθαι τῆς πρὸς τὸ πρῶτον ἐξομοιώσεως χάριν, ταύτη τε αὐτὸν ἀγαθὸν φασιν ὑπηρετήν πρὸς τοῦ Σωτῆρος ὑποβεβλήσθαι, ἵνα ὥσπερ δι' ἐνὸς πανσόφου καὶ ζῶντος ὀργάνου τεχνικοῦ τε καὶ ἐπιστημονικοῦ κανόνος τὰ πάντα αὐτῷ ἀπευθύνωτο, σώματα ὁμοῦ καὶ ἀσώματα, ἔμψυχά τε καὶ ἄψυχα, λογικὰ σὺν ἀλόγοις, θνητὰ σὺν ἀθανάτοις, καὶ εἴ τι τούτοις ἕτερον συνυφέστηκέν τε καὶ συνύφανται, καὶ ὡς

⁶⁹⁰ Ferguson’s translation emended, pp. 169–170.

μιᾶ τῶν ὄλων δυνάμει ἐνί τε ζῶντι καὶ ἐμψύχῳ νόμῳ τε καὶ λόγῳ ἐν πᾶσιν ὄντι καὶ διὰ πάντων ἤκοντι τὰ πάντα συναρμόζοιτο ὑφ' ἐνὶ πανσόφῳ δεσμῶ, αὐτῷ δὴ τῷ τοῦ Θεοῦ λόγῳ τε καὶ νόμῳ συναγόμενά τε καὶ συνδούμενα.⁶⁹¹

For this reason, the prophecies proclaim Him “God-begotten”, as He alone bears in Himself the image of the divine nature, which cannot be explained in words, or conceived in thought, and through which He is God and He is called so, because of this primary likeness, and also because the Father had, indeed, appointed Him His good servant in order that as if by one all-wise, living instrument, and artistic and knowledgeable rule everything might be governed by Him, corporal and incorporeal, animate and inanimate, rational and irrational, mortal and immortal alike, and whatever else coexists and is woven in with them as if by one all-encompassing power and one live and living law and reason, existing in all and exceeding through all things, all things might be harmonised together into one, all-wise bond, bound and united by the very Word and Law of God.⁶⁹²

Themistius (cc. 317 – 390)

Orationes 5.64b3–c4

Ἀλλὰ βούλει γνῶναι τὴν παρὰ φιλοσοφίας συντέλειαν; νόμον ἔμψυχον εἶναι φησι τὸν βασιλέα, νόμον θεῖον ἄνωθεν ἤκοντα ἐν χρόνῳ τοῦ δι' αἰῶνος χρηστοῦ, ἀπορροὴν ἐκείνης τῆς φύσεως, πρόνοιαν ἐγγυτέρω τῆς γῆς, ἀπανταχοῦ πρὸς ἐκεῖνον ὄρωντα, πανταχοῦ πρὸς τὴν μίμησιν τεταμένον, ἀτεχνῶς διογενῆ καὶ διοτρεφῆ, καθάπερ Ὅμηρος λέγει, κοινωνοῦντα τῷ θεῷ καὶ τῶν λοιπῶν ἐπικλήσεων, ξένιον, ἰκέσιον, φίλιον, ἐπικάρπιον, ἐάων δοτῆρα, δικαιοσύνης χορηγόν, ῥασιώνης ταμίαν, πρύτανιν εὐδαιμονίας.⁶⁹³

⁶⁹¹ *PG* 22, p. 253.

⁶⁹² Ferrar's translation emended, pp. 165–166.

⁶⁹³ Dindorf 1832, p. 76.

Do you want to know what is philosophy's contribution? It declares that the king is living law, a divine law which, in the course of time, has come down from above as outpouring of the eternal Good, a providence of that nature closer to the earth, who looks in every way towards Him, and strives in every way for imitation, who is absolutely divinely born and divinely nourished, as Homer says, sharing with God these other epithets too: guardian of guests, guardian of suppliants, the kindly one, the bringer of fruits, the giver of good things, orchestrator of justice, steward of ease, overseer of good fortune.⁶⁹⁴

Orationes 8.118d3–7

οὐ γὰρ δέχεσθαι πέφυκεν ἢ τούτων φύσις τύπον ἐστῶτα· **νόμου** δὲ **ἐμψύχου** δεῖ πρὸς τὸν καιρὸν ἕκαστον ἀρμοττομένου καὶ δικαιοσύνης χθαμαλωτέρας, ἀεὶ τὸ παρὸν τοῖς ὑπηκόοις εὖ τιθεμένης.⁶⁹⁵

These are questions [i.e.: details of tax regulation] which cannot be determined in law, for their nature is not such as to admit a fixed form. What is needed is a living law which adapts itself to each particular case, being a mundane justice, which is always sympathetic to the people's present circumstances.⁶⁹⁶

Orationes 16.212d3–8

ἵνα γὰρ τὰ ἄλλα παρῶ, ἀλλὰ χθὲς καὶ πρώην τὰ δυστυχῆ μειράκια ἐκ Γαλατίας, οὐχ ὅσον ἐπὶ τοῖς νόμοις ἀπολωλότα, συνδιετήρησας καὶ

⁶⁹⁴ Heather & Moncur's translation slightly modified, pp. 160–161.

⁶⁹⁵ Dindorf 1832, p. 141.

⁶⁹⁶ Heather & Matthews's translation modified, p. 31.

διεφύλαξας, οὐ παραρρήξας τοὺς νόμους, ἀλλὰ πραΰνας, ὅτι καὶ αὐτὸς **νόμος ἔμψυχος** εἶ καὶ ὑπεράνω τῶν γεγραμμένων.⁶⁹⁷

For, to pass over other events, but only the other day the unfortunate Galatian youths, who had all but perished in accordance with the laws, you protected and preserved, not by breaking the laws but mitigating them, because you yourself are the living law and are superior to its written letter.⁶⁹⁸

Orationes 19.227d3–228a8

πάλαι μὲν γὰρ τοῦτο αὐτοῦ ἀγαστὸν ἦν ὅτι χρυσὸν ἐωρῶμεν πολλάκις ἐκ τῶν δημοσίων ταμείων ἐπανιόντα πρὸς τοὺς οὐ δικαίως εἰσπεπραγμένους, νῦν δὲ εἶδομεν ἀνθρώπους ἐκ τῶν τοῦ Ἰδίου προθύρων εἰς τὸ ζῆν ἐπανιόντας, οὓς ὁ μὲν νόμος ἐκεῖσε ἀπήγαγεν, ὁ δὲ τοῦ νόμου κύριος ἐκεῖθεν ἐπανήγαγε, γινώσκων ὅτι ἄλλη μὲν δικαστοῦ, ἄλλη δὲ βασιλέως ἀρετή, καὶ τῷ μὲν προσήκει ἔπεσθαι τοῖς νόμοις, τῷ δὲ ἐπανορθοῦν καὶ τοὺς νόμους καὶ τὸ ἀπηνῆς αὐτῶν καὶ ἀμείλικτον παραδεικνύναι, ἅτε **νόμῳ ἔμψυχῳ** ὄντι καὶ οὐκ ἐν γράμμασιν ἀμεταθέτοις καὶ ἀσαλεύτοις. διὰ τοῦτο γάρ, ὡς ἔοικε, βασιλείαν ἐκ τοῦ οὐρανοῦ κατέπεμψεν εἰς τὴν γῆν ὁ θεός, ὅπως ἂν εἴη καταφυγὴ τῷ ἀνθρώπῳ ἀπὸ τοῦ νόμου τοῦ ἀκινήτου ἐπὶ τὸν ἔμπνουν καὶ ζῶντα.⁶⁹⁹

For not long ago he [i.e.: Theodosius], being so worthy of admiration, ordered that the gold was to be on many occasions returned from the public treasury to those from whom it was unjustly exacted,⁷⁰⁰ and just now we have seen men returning to life from the mouth of Death, men who were led thither by

⁶⁹⁷ Dindorf 1832, pp. 258–259.

⁶⁹⁸ Heather & Moncur's translation, p. 282.

⁶⁹⁹ Dindorf 1832, p. 277.

⁷⁰⁰ It is a reference to Theodosius's laws allowing children and other relatives of persons condemned of capital offences to retain part of the condemned person's property. Heather & Moncur 2001, p. 248n136.

the law, and who were brought back by the emperor, the one entitled to wield authority over the law, knowing that the virtue of a judge is one thing, and that of the emperor is quite another, the former is concerned with following the laws, while the latter amends their cruelty and harshness, inasmuch as he is a living law and not something put into immutable and unmoved writing. From this follows, I think, that kingship was sent down from the heavens by god as a place of refuge for men that they may escape from the unmoved law to the one which is living and breathing.⁷⁰¹

Orationes 34.10.7–15

καίτοι νῦν εἴ τι χρηστὸν τῆς ἐμῆς ἀρχῆς, οὐκ ἐμόν, ἀλλ' ἐκμέμακται ἐκ τοῦ παραδείγματος. εἰ κέρδους κρείττων ἐγενόμην, ἐζήλωσα τὸν ὄσημέραι πλουτοδοτοῦντα. εἰ τὸν θυμὸν ἐχαλίνουν, πρὸς τὸν χειροτονήσαντα ἀφεώρων. εἰ προὔστην ὀρφανῶν, τὸν κοινὸν ἐμιμούμην πατέρα. εἰ τὸ σιτηρέσιον οὐκ εἶων τὸ πολιτικὸν κακουργεῖσθαι, καὶ τοῦτο ἀπὸ τῆς αὐτῆς ἡρυσίμης πηγῆς. εἰ τὰς δίκας ἐδίκαζον κατὰ νόμους, πρὸς τὸν ἔμψυχον ἔβλεπον **νόμον**.⁷⁰²

Even so, if any good now comes from my office, it is not my doing but has been stamped by this example [i.e.: of the Emperor Theodosius]. If I kept myself above personal gain, I was imitating the man who daily bestows riches. If I held my temper in check, I looked to the man who elected me. If I protected orphans, I imitated the father we have in common. If I did not allow the public bread distribution to be corrupted, this action too I drew from the same source. If I gave judgements in accordance with the laws, I looked to the living law.⁷⁰³

⁷⁰¹ Translation mine.

⁷⁰² Dindorf 1832, pp. 454–455.

⁷⁰³ Heather & Moncur's translation, p. 319.

Gregory of Nazianzus (c. 329 – 390)*Orationes* 43.80.7.1–9

Καὶ οὐκ ἐγὼ μὲν οὕτω θρήνους ἀναμίγνυμι τοῖς ἐπαίνοις, καὶ λογογραφῶ τὴν τοῦ ἀνδρὸς πολιτείαν, καὶ προτίθημι τῷ χρόνῳ κοινὸν ἀρετῆς πίνακα καὶ πρόγραμμα σωτήριον πάσαις ταῖς ἐκκλησίαις, ψυχαῖς ἀπάσαις· πρὸς ὃν βλέποντες, ἀπευθινοῦμεν τὸν βίον, ὡς **νόμον ἔμψυχον**· ὑμῖν δὲ συμβουλεύσοιμι' ἂν ἄλλο τι, τοῖς τὰ ἐκείνου τετελεσμένοις, ἢ πρὸς αὐτὸν ἀεὶ βλέπειν, καὶ ὡς ὀρῶντος καὶ ὀρωμένου, τῷ Πνεύματι καταρτίζεσθαι.

And my present object is not so much to mingle lamentations with my praises, or to portray the public life of the man [i.e. Basil the Great], or publish a picture of virtue common to all time, and an example salutary to all churches, and to all souls, which we may keep in view, as a living law, and so rightly direct our lives as to counsel you, who have been completely initiated into his doctrine, to fix your eyes upon him, as one who sees you and is seen by you, and thus to be perfected by the Spirit.⁷⁰⁴

John Chrysostom (c. 349 – 407)*De paenitentia* 2.1.3

Τί οὖν πρὸς αὐτὸν ὁ Θεός; *Στένων καὶ τρέμων ἔση ἐπὶ τῆς γῆς*· καὶ τιμωρίαν αὐτῷ ἀπέφηνε δεινὴν καὶ χαλεπὴν. Οὐκ ἀναιρῶ σε, φησὶν, ἵνα μὴ λήθῃ παραδοθῆ ἡ ἀλήθεια, ἀλλὰ ποιῶ σε νόμον ὑπὸ πάντων ἀναγινωσκόμενον, ἵνα ἡ συμφορὰ μήτηρ φιλοσοφίας γένηται. Καὶ περιήει ὁ Κάϊν, **νόμος ἔμψυχος**,

⁷⁰⁴ Schaff & Wace's translation, p. 422.

στήλη κινουμένη, σιωπῶσα, καὶ σάλπιγγος λαμπροτέραν ἀφιεῖσα τὴν φωνήν.
Μὴ τις ποιήσῃ, φησὶ, τοιαῦτα, ἵνα μὴ πάθῃ τοιαῦτα.⁷⁰⁵

What did God answer him? *You will groan and tremble upon the earth.* He set for him a dreadful and unbearable punishment. I will not take your life, He said, so that the truth will not be forgotten, but will make of you a law that will be read by everyone, so that your misfortune will become a mother of philosophy. Cain went about like a living law, like a mobile pillar that remained silent yet emitted a voice more brilliant than a trumpet, saying something like this: Let no one else do these things, in order to avoid suffering the same punishment.⁷⁰⁶

Homiliae in Matthaeum 1.3–4

Καὶ γὰρ αἱ πλάκες αὗται πολλῶ βελτίους, καὶ τὰ κατορθώματα λαμπρότερα. Οὐ γὰρ ἐξ ὄρους κατήεσαν στήλας φέροντες λιθίνας ἐπὶ τῶν χειρῶν οἱ ἀπόστολοι, καθάπερ Μωϋσῆς· ἀλλὰ τὸ Πνεῦμα ἐν τῇ διανοίᾳ περιφέροντες, καὶ θησαυρόν τινα καὶ πηγὴν δογμάτων καὶ χαρισμάτων καὶ πάντων τῶν ἀγαθῶν ἀναβλύζοντες, οὕτω πανταχοῦ περιήεσαν, βιβλία καὶ νόμοι γινόμενοι διὰ τῆς χάριτος ἔμψυχοι.⁷⁰⁷

For indeed these tables are far better, and the achievements more illustrious. Since the apostles did not come down from a mountain, as Moses, bearing tables of stone in their hands, but they carried the Spirit about in their minds, and pouring forth a kind of treasure and fountain of doctrines, graces, and of

⁷⁰⁵ PG 49.285.52–286.6.

⁷⁰⁶ Christo's translation, pp. 17–18.

⁷⁰⁷ PG 57.15.33–41.

all things that are good, so they went everywhere around, and became, through that grace, living codes and laws.⁷⁰⁸

In epistulam ad Philippenses 13.3

Ἄρα τύπος ἦσαν οἱ ἀπόστολοι, ἀρχέτυπόν τινα εἰκόνα διασώζοντες. Ἐννοήσατε πῶς αὐτοῖς ὁ βίος ἀπηκριβωμένος ἦν, ὡς ἀρχέτυπον αὐτοῦς καὶ παράδειγμα κεῖσθαι καὶ **νόμους ἐμψύχους**. Ἄπερ γὰρ τὰ γράμματα ἔλεγε, ταῦτα διὰ τῶν πραγμάτων πᾶσιν ἐδήλουν οὗτοι. Τοῦτό ἐστι διδασκαλία ἀρίστη· οὕτω τὸν μαθητὴν ἐνάγειν ὁ διδάσκων δυνήσεται.⁷⁰⁹

Indeed, the apostles were a type because they preserved the archetype as a kind of image. Imagine how perfect their way of life was that it laid down an archetype and example and living laws. You see, what the writings said, the apostles made these clear to all through their deeds. This is the best teaching: in this way it will be able to lead on the pupil.⁷¹⁰

In epistulam i ad Timotheum 13.1

Διὰ τοῦτο καὶ ἐπάγει λέγων, *Ἀλλὰ τύπος γίνου τῶν πιστῶν ἐν λόγῳ, ἐν ἀναστροφῇ, ἐν ἀγάπῃ, ἐν πίστει, ἐν ἀγνείᾳ, περὶ πάντα σεαυτὸν παρεχόμενος τύπον καλῶν ἔργων*. Τουτέστι, τὸ ἀρχέτυπον τοῦ βίου αὐτὸς ἔσο, ὡσπερ εἰκὼν προκείμενος, ὡσπερ **νόμος ἐμψυχος**, ὡσπερ κανὼν καὶ ὄρος τῆς εὐζωΐας. Τὸν γὰρ διδάσκαλον τοιοῦτον εἶναι χρή.⁷¹¹

⁷⁰⁸ Schaff's translation slightly altered, p. 2.

⁷⁰⁹ PG 62.273.25–31.

⁷¹⁰ Allen's translation slightly altered, p. 257.

⁷¹¹ PG 62.565.17–23.

For this reason, he proceeds by saying “but be thou an example of the believers in word, in conversation, in charity, in faith, in purity”, in all things presenting yourself an example of good works. That is to say, let your life be exemplary, set as a model before others, like a living law, and like a rule and standard of good living, for such ought a teacher to be.⁷¹²

In illud: Vidi dominum 4.5.75–79

Δυνάμενος γὰρ ἀξίως τὴν τιμωρίαν ἐπαγαγεῖν, οὐκ ἐπήνεγκεν, ἀλλὰ καθάπερ νόμος ἐν ὑψηλῷ τόπῳ τινὶ λέγων· Μὴ ποιεῖτε τοιαῦτα, ἵνα μὴ πάθητε τοιαῦτα. Ἐξήκει **νόμος ἔμψυχος** καὶ τὸ μέτωπον φωνὴν ἠφίει σάλπιγγος λαμπροτέραν.

God inflicted a mighty and just punishment, one which was not imposed upon but like some law pronounced in a high and lofty place; let no one else do these things, in order to avoid the same punishment. Uzziah went about like a living law and his forehead sent a message more brilliant than a trumpet.⁷¹³

In illud: Vidi dominum 4.6.5–12

Καὶ περιήει ὁ Κάϊν πᾶσι διαλεγόμενος, σιγῇ φωνὴν ἀφίεις, ἀφωνία παιδεύων. Ἡ γλῶσσα ἐσίγα καὶ τὰ μέλη ἐβόα, καὶ πᾶσι διελέγετο διὰ τί στένει, διὰ τί τρέμει· Ἀδελφὸν ἀπέκτεινα, φόνον εἰργασάμην. Ὁ Μωϋσῆς μετὰ ταῦτα ἔλεγε διὰ γραμμάτων, ἐκεῖνος διὰ πραγμάτων περιήει πᾶσι λέγων· «Οὐ φονεύσεις.» Εἶδες στόμα σιγῶν καὶ πρᾶγμα βοῶν; εἶδες **νόμον ἔμψυχον** περιφερόμενον; εἶδες στήλην περιερχομένην;

⁷¹² Schaff’s translation emended, p. 449.

⁷¹³ Translation mine.

And Cain walked about, being separated from the rest and being dedicated to silence, he was trained in speechlessness. His tongue was silent and his voice roaring, and he was avoided by all and for this reason he was groaning and trembling with fear; I have killed my brother, I have brought death to myself. After these, Moses said in the scriptures, Cain walked about declaring to all through his example: “Thou shall not kill.” Do you understand that his mouth being silent, his deed cries out loud? Do you understand that he was carried around a living law? Do you understand that he was going around [a living] monument?⁷¹⁴

Isidore of Pelusium († c. 450)

Epistolae 3.106

Κύριλλῳ Ἐπίσκοπῳ

Ὡσπερ βασιλεὺς ὑπὸ τῶν νόμων ἀρχόμενος, ἔμψυχός ἐστι νόμος· οὕτω καὶ ἱερεὺς ὑπὸ τῶν θεσμῶν βασιλευόμενος, κανὼν ἐστὶν ἄφθογγος.⁷¹⁵

To Bishop Cyril

Just as the king, being a living law, rules by laws, the priest, being a speechless rule, is by divine ordinances submitted to the king.⁷¹⁶

Basil of Seleucia († c. 458)

Sermones 4.3

⁷¹⁴ Translation mine.

⁷¹⁵ *PG* 78, p. 978.

⁷¹⁶ Translation mine.

Στένων καὶ τρέμων ἔσῃ ἐπὶ τῆς γῆς· οὐκ ἐδέξω τὴν παραίνεσιν, δεσμεύου τοῖς πάθεσι, καὶ ὁ σὸς τρόμος γινέσθω νόμος τοῖς ὕστερον· περίθι τρέμων, ἔμψυχος νόμος τοῖς ὀρῶσι φαινόμενος, ἔμπνους στήλη τὴν ὁμοίαν ἐκτρέπουσα, νόμος ἀντὶ μέλανος τρόμφ γραφόμενος, πάθος ἀσίγητον τοῖς ὀρῶσι παραγγελία, καὶ κλονουμένη φύσις ἡσυχίαν παραγγελλέτω.⁷¹⁷

You will groan and tremble upon the earth, for you have disobeyed the command, having enslaved yourself with your deed, and your fear shall become a law for posterity; you shall walk about in fear, displaying a living law to those who behold you, a living monument which escaped the same punishment, like a written law inscribed with fear, an ordinance that your calamity cannot be silent to those who behold thee, and your tumultuous nature will exhort peace.⁷¹⁸

Theodoret of Cyrus (cc. 393 – 453/466)

Interpretatio in epistulam i ad Timotheum 4.12

«Μηδεὶς σου τῆς νεότητος καταφρονεῖτω.» Ἀλλὰ τοῦτο οὐκ ἐμόν. Τί τοίνυν ἐπιτάττει μοι τὰ τοῖς ἄλλοις προσήκοντα; «Ἀλλὰ τύπος γίνου τῶν πιστῶν.» Θέλεις, φησὶ, μὴ καταφρονεῖσθαι κελεύων; ἔμψυχος νόμος γενοῦ· δεῖξον ἐν σαυτῷ τὸ τῶν νόμων κατόρθωμα· ἔχε τὸν βίον μαρτυροῦντα τῷ λόγῳ. Τοῦτο γὰρ λέγει· «Ἐν λόγῳ, ἐν ἀναστροφῇ, ἐν ἀγάπῃ, ἐν πνεύματι, ἐν πίστει, ἐν ἀγνείᾳ.»⁷¹⁹

⁷¹⁷ PG 85, p. 73.12–19.

⁷¹⁸ Translation mine.

⁷¹⁹ PG 82.816.11–18.

‘Let no man despise thy youth.’ But this does not concern me. Is it so therefore that what you have enjoined in me appertains to the rest? ‘But be thou an example of the believers.’ Do you wish, that is to say, to prohibit contempt? Be a living law. Exhibit in yourself that which is perfect in the laws. Have your life bear witness to the Word. For it is said: ‘In words, in behaviour, in charity, in spirit, in faith, in chastity.’⁷²⁰

Anonymous

Catena in epistulam i ad Timotheum 4.12

Ἀλλὰ τύπος γένου τῶν πιστῶν, ἐν λόγῳ, ἐν ἀναστροφῇ, ἐν ἀγάπῃ, ἐν πίστει, ἐν ἀγνείᾳ.

Περὶ πάντα εἑαυτὸν παρεχόμενος τύπον καλῶν ἔργων. τουτέστι, τὸ ἀρχέτυπον τοῦ βίου κάλλος, ἔσο ὡςπερ εἰκὼν προκείμενος, ὡςπερ **νόμος ἔμψυχος**, ὡςπερ κανὼν καὶ ὄρος τῆς εὐζωΐας· τὸν γὰρ διδάσκαλον τοιοῦτον εἶναι χρή· ἐν λόγῳ, ὡς καὶ φθέγγεσθαι μετ' εὐκολίας, ἐν ἀναστροφῇ τῇ τῆς ἐκκλησίας, ἐν ἀγάπῃ, ἐν πίστει τῇ ὀρθῇ, ἐν ἀγνείᾳ, ἐν σωφροσύνῃ.

‘But be thou an example of the believers, in word, in behaviour, in charity, in faith, in chastity.’

In all things exhibiting thyself a pattern of good deeds. [Tit. 2.7] That is to say, be a good exemplar of life, be like the image set before you, like a living law, like a rule and standard of good living; for such needs to be a teacher; in word, when speaking out with good temper, in dealing with the church, in charity, in true faith, in chastity, in prudence.⁷²¹

⁷²⁰ Translation mine.

⁷²¹ Translation mine.

Proclus (410/412 – 485)*In Platonis rem publicam commentarii 2.307.6–13*

δῆλον τοίνυν ὅτι τὰ ἔθη νόμιμα ἅττα βούλεται εἶναι, εἰ καὶ ἄγραφα, φασίν, νόμιμα δὲ ὅμως· ἐπεὶ καὶ οἱ ἀληθεῖς νόμοι δέονται γραμμάτων οὐδέν, ἀλλ' ἐν αὐταῖς κεῖνται ταῖς τῶν κατ' αὐτοὺς ζώντων ψυχαῖς ἀκίνητοι μένοντες. καὶ τὰ ἔθη οὖν τὰ παρ' ἐκάστοις ἴδιά τε καὶ κοινὰ **νόμοι** δὴ τινές εἰσιν **ἔμψυχοι**, καὶ ἔπεται νόμοις ἄλλα ἄλλοις, ἢ φυσικοῖς ὡς ἐπὶ τῶν ἀλόγων, ἢ πολιτικοῖς ὡς ἐπ' ἀνθρώπων.

It is clear, then, that even though customs are unwritten, they must have some sort of binding power, since true laws do not need to be put into writing, but, remaining unmoved, they are laid down in the souls of those who live according to them. And so, all customs, the particular and the universal as well, are living laws, and the laws are followed in different ways, by natural inclination among the irrational beings, and politically among men.⁷²²

Procopius of Gaza (cc. 460 – 530)*Πανηγυρικός εἰς Ἀναστάσιον 23*

οὐ μόνον γὰρ ἡμῖν τὰ βέλτιστα διὰ τῶν νόμων νομοθετεῖς, ἀλλὰ καὶ τὸν σὸν βίον **νόμον ἔμψυχον** καὶ παράδειγμα πρὸς σωφροσύνην τοῖς ἀρχομένοις ἀπέδειξας·

Panegyric to Emperor Anastasius 23

⁷²² Translation mine.

For you gave us not only the best laws but you have also displayed to your subjects your own life as a living law and a paradigm in respect of prudence.

Justinian I (482 – 565)

Novellae Constitutiones 105.2.4

Πάντων δὲ δὴ τῶν εἰρημένων ἡμῖν ἡ βασιλέως ἐξηρήσθω τύχη, ἧ γε καὶ αὐτοῦς ὁ θεὸς τοὺς νόμους ὑπέθηκε **νόμον αὐτὴν ἔμψυχον** καταπέμψας ἀνθρώποις· διότι τῷ μὲν βασιλεῖ διηνεκῆς ὕπεστιν ὑπατεία πᾶσι πόλεσίν τε καὶ δήμοις καὶ ἔθνεσι καὶ ἐφ' ἐκάστης τὰ δοκοῦντα διανέμοντι, προσέρχεται δὲ ἡνίκα αὐτὸς νεύσειεν ἡ στολή, ὡς καὶ ἡ τῆς βασιλείας ὑπατεία διὰ πάντων ἔσται ἀκολουθοῦσα τοῖς σκήπτροις.

However, the Emperor is fortunately removed from all those things we have just mentioned as God Himself elevated him above the laws, sending him down to be a living law amongst men; for this reason, the consulate belongs in perpetuity to the Emperor over all cities, peoples, and nations, to govern them in his person and according to his pleasure, or through another, conferring the consular robe on him, for the consular office always goes along with the imperial sceptre.⁷²³

Olympiodorus (c. 495 – 570)

In Platonis Alcibiadem commentarii 8

ἀποκρίνεται δὲ ὁ Ἀλκιβιάδης· ὅταν *περὶ πολέμου καὶ εἰρήνης βουλευόνται*. καὶ ἰστέον ὅτι πέντε ὄντων εἰδῶν περὶ ὧν ἔστιν ἡ συμβουλή καὶ γίνεται, ὡς Ἀριστοτέλης ἡμᾶς ἐν Ῥητορικαῖς τέχναις ἐδίδαξε, κατὰ συζυγίαν

⁷²³ Translation mine.

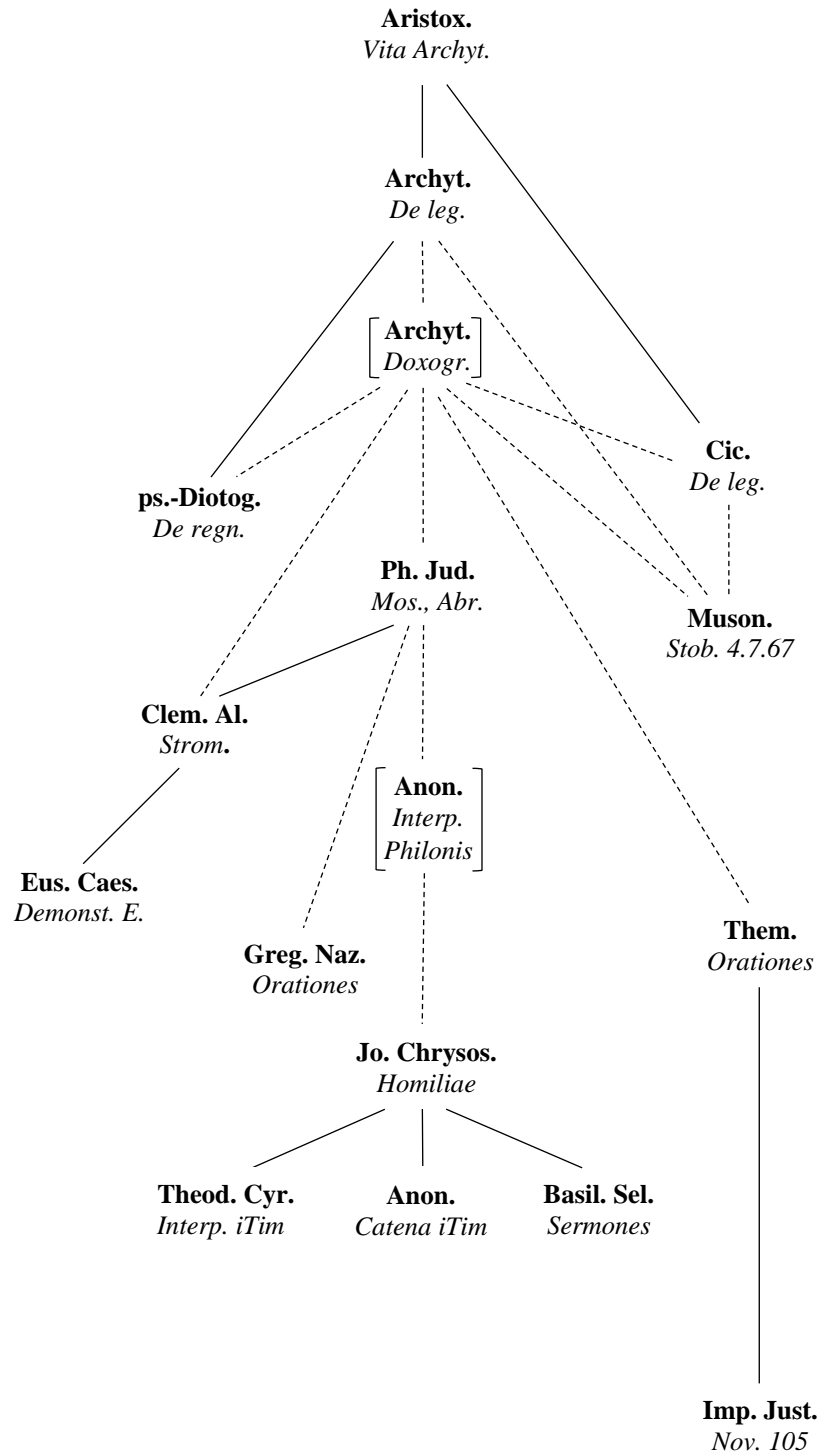
προερχομένων· ἢ γὰρ περὶ νόμων εἰσηγήσεως καὶ ἀρχόντων καταστάσεως (καὶ γὰρ καὶ ὁ νόμος οἶον ἄρχων τίς ἐστὶν ἄψυχος, ὥσπερ καὶ τὸ ἀνάπαλιν ὁ ἄρχων **νόμος ἔμψυχος**), ἢ περὶ πόρου καὶ ἀναλωμάτων, ἢ περὶ εἰσαγωγίμων καὶ ἐξαγωγίμων, ἢ περὶ φυλακῆς πόλεως καὶ χώρας, ἢ περὶ πολέμου καὶ εἰρήνης.⁷²⁴

Now Alcibiades replies, ‘When they deliberate concerning war and peace’. And it should be understood that advice is offered about five species of subject-matter, as Aristotle taught us in the *Rhetorical Arts*, and these are worked out in pairs: for political advice concerns the introduction of laws and the appointment of rulers (for after all the law is a sort of inanimate ruler, just as conversely the ruler is a living law), or income and expenditures, or imports and exports, or the security of the city and country, or war and peace.⁷²⁵

⁷²⁴ Creuzer 1821, p. 71.

⁷²⁵ Griffin’s translation slightly modified, p. 140.

Stemma of the νόμος ἔμψυχος idea



BIBLIOGRAPHY

Text editions and translations

- Adam, James (ed.), *The Republic of Plato*. Edited with Critical Notes, Commentary and Appendices. Vol. 1. Cambridge: Cambridge University Press, 1905. Reprint (1902)
- Aegidius Romanus, *De regimine principum libri III*. Recogniti et una cum vita auctoris in lucem editi per F. Hieronymum Samaritanium. Romae, 1607.
- Aristotle, *Aristotle's Metaphysics*. A Revised Text with Introduction and Commentary by W. D. Ross. Vol. 1. Oxford: Clarendon Press, 1924.
- , *Politics*, transl. Ernest Baker. Revised with an Introduction and Notes by R. F. Stalley. Oxford: Oxford University Press, 1995.
- , *The Nicomachean Ethics*, transl. David Ross. Revised with an Introduction and Notes by Lesley Brown. Oxford: Oxford University Press, 2009.
- , *Metaphysics. Books Γ, Δ, and E*. Translated with Notes by Christopher Kirwan. Oxford: Clarendon Press, 1993. 2nd edition.
- Barnes, Jonathan (ed.), *The Complete Works of Aristotle. The Revised Oxford Translation*. Vol. 1–2. Princeton: Princeton University Press, 1991. Reprint (1984)
- Birnbaum, Ellen & Dillon, John, *Philo of Alexandria On the Life of Abraham. Introduction, Translation, and Commentary*. Leiden–Boston: Brill, 2021.
- Böhmer, Johann Friedrich (Hrsg.), *Acta imperii selecta*. Innsbruck: Verlag der Wagnerschen Universitäts Buchhandlung, 1866.
- Burnet, Ioannes (ed.), *Platonis Res Publica*. Oxonii: e Typographeo Clarendoniano, 1903.
- Chrysostom, Saint John, *On Repentance and Almsgiving*, transl. Gus George Christo. Washington D.C.: The Catholic University of America Press, 2005.
- , *Homilies on Philippians*. Translated with and Introduction and Notes by Pauline Allen. Atlanta: Society of Biblical Literature, 2013.
- Cicero, *De re publica. De legibus*. Translated by Clinton Walker Keyes. Loeb Classical Library 213. Cambridge, Mass.: Harvard University Press, 1928.

- [Cicero], *Rhetorica ad Herennium*. Translated by Harry Caplan. Loeb Classical Library 403. Cambridge, Mass.: Harvard University Press, 1954.
- Clement of Alexandria, *Stromateis. Books One to Three*, transl. John Ferguson. Washington, D.C.: The Catholic University of America Press, 2005.
- Cohn, Leopoldus & Wendland, Paulus (ed.), *Philonis Alexandrini Opera quae supersunt*. Vol. 1–7. Berolini: Typis et impensis Georgii Reimeri, 1896–1930. [PCW]
- Cooper, J. M. & Hutchinson, D. S. (eds.), *Plato. Complete Works*. Cambridge, Indianapolis: Hackett Publishing Co., 1997.
- Creuzer, Fridericus (ed.), *Initia Philosophiae ac Theologiae ex Platonicis fontibus ducta sive Procli Diadochi et Olympiodori In Platonis Alcibiadem Commentarii*. Francfurti ad Moenum: in officina Broenneriana, 1821.
- Dindorfius, Guilielmus (ed.), *Themistii Orationes ex codice Mediolanensi*. Lipsiae: C. Knobloch, 1832.
- Erasmus, Roterodamus, *Adagiorvm*. Venetiis: ex Sirenis Officina, 1536.
- Engelbertus Abbas Admontensis, *De regimine principum*. Ratisbonae, 1725.
- Ferrar, W. J. (ed.), *The Proof of the Gospel being the Demonstratio Evangelica of Eusebius of Caesarea*. Vol. 1. London – New York: Society for Promoting Christian Knowledge – Macmillan, 1920.
- Gagarin, Michael & Woodruff, Paul (eds.), *Early Greek Political Thought from Homer to the Sophists*. Cambridge: Cambridge University Press, 1995.
- Guthrie, Kenneth Sylvan et al. (eds.), *The Pythagorean Sourcebook and Library. An Anthology of Ancient Writings Which Relate to Pythagoras and Pythagorean Philosophy*. Grand Rapids: Phanes Press, 1987.
- Heather, Peter & Moncur, David (eds.), *Politics, Philosophy, and Empire in the Fourth Century. Selected Orations of Themistius*. Liverpool: Liverpool University Press, 2001.
- Hense, Otto (ed.), *Ioannis Stobaei Anthologium. Libri Quarti. Partem Priorem*. Berolini: apud Weidmannos, 1909.
- Heraclitus, *The Cosmic Fragments. A Critical Study with Introduction, Text and Translation* by G. S. Kirk. Cambridge–New York: Cambridge University Press, 1975. Reprint (1954)
- Hesiod, *Theogony and Works and Days*. Translated with an Introduction and Notes by M. L. West. Oxford–New York: Oxford University Press, 1988.

- Kirk, G. S. & Raven, J. E., *The Presocratic Philosophers. A Critical History with a Selection of Texts*. New York–London: Cambridge University Press, 1977. Reprint (1957)
- Kranz, Walther (Hrsg.), *Die Fragmente der Vorsokratiker. Griechisch und Deutsch von Hermann Diels*. Bd. 1. Berlin: Weidmannsche Verlagsbuchhandlung, 1960. Neunte Auflage.
- , *Die Fragmente der Vorsokratiker. Griechisch und Deutsch von Hermann Diels*. Bd. 2. Berlin: Weidmannsche Verlagsbuchhandlung, 1959. Neunte Auflage.
- , *Die Fragmente der Vorsokratiker. Griechisch und Deutsch von Hermann Diels*. Bd. 3. Berlin: Weidmannsche Verlagsbuchhandlung, 1959. Neunte Auflage.
- Laks, André & Most, Glenn W. (eds.), *Early Greek Philosophy*. Vol. 4: Western Greek Thinkers. Part 1. Loeb Classical Library 527. Cambridge, Mass.: Harvard University Press, 2016.
- , *Early Greek Philosophy*. Vol. 9: Sophists. Part 2. Loeb Classical Library 532. Cambridge, Mass.: Harvard University Press, 2016.
- Lutz, Cora E., Musonius Rufus “The Roman Socrates”. In Alfred R. Bellinger (ed.), *Yale Classical Studies*. Vol. 10. New Haven: Yale University Press, 1947, pp. 3–147.
- Merlin, Gulielmus (ed.), *Digestum Vetus, seu Pandectarum Iuris Civilis Tomus Primus*, etc. Parisiis, 1566.
- , *Volumen Legum*. Parisiis, 1566.
- Niebuhrus, B. G. (ed.), *Corpus scriptorum historiae Byzantinae. Pars I.: Dexippi, Eunapii, Petri Patricii, Prisci, Malchi, Menandri, Olympiodori, Candidi, Nonnosi et Theophanis historiarum reliquiae, Procopii et Prisciani Panegyrici*. Bonnae: E. D. Weberi, 1829.
- Olympiodorus, *Life of Plato and On Plato First Alcibiades 1–9*, transl. Michael Griffin. London–New Delhi–New York–Sydney: Bloomsbury, 2015.
- Philo, *On the Creation. Allegorical Interpretation of Genesis 2 and 3*. Translated by F. H. Colson & G. H. Whitaker. Loeb Classical Library 226. Cambridge, Mass.: Harvard University Press, 1929.
- , *On the Cherubim. The Sacrifices of Abel and Cain. The Worse Attacks the Better. On the Posterity and Exile of Cain. On the Giants*. Translated by F. H. Colson & G. H. Whitaker. Loeb Classical Library 227. Cambridge, Mass.: Harvard University Press, 1929.
- , *On the Unchangeableness of God. On Husbandry. Concerning Noah's Work As a Planter. On Drunkenness. On Sobriety*. Translated by F. H. Colson & G. H.

- Whitaker. Loeb Classical Library 247. Cambridge, Mass.: Harvard University Press, 1930.
- , *On the Confusion of Tongues. On the Migration of Abraham. Who Is the Heir of Divine Things? On Mating with the Preliminary Studies*. Translated by F. H. Colson & G. H. Whitaker. Loeb Classical Library 261. Cambridge, Mass.: Harvard University Press, 1932.
- , *On Flight and Finding. On the Change of Names. On Dreams*. Translated by F. H. Colson & G. H. Whitaker. Loeb Classical Library 275. Cambridge, Mass.: Harvard University Press, 1934.
- , *On Abraham. On Joseph. On Moses*. Translated by F. H. Colson. Loeb Classical Library 289. Cambridge, Mass.: Harvard University Press, 1935.
- , *On the Decalogue. On the Special Laws, Books 1–3*. Translated by F. H. Colson. Loeb Classical Library 320. Cambridge, Mass.: Harvard University Press, 1937.
- , *On the Special Laws, Book 4. On the Virtues. On Rewards and Punishments*. Translated by F. H. Colson. Loeb Classical Library 341. Cambridge, Mass.: Harvard University Press, 1939.
- , *Every Good Man is Free. On the Contemplative Life. On the Eternity of the World. Against Flaccus. Apology for the Jews. On Providence*. Translated by F. H. Colson. Loeb Classical Library 363. Cambridge, Mass.: Harvard University Press, 1941.
- , *On the Embassy to Gaius. General Indexes*. Translated by F. H. Colson. Index by J. W. Earp. Loeb Classical Library 379. Cambridge, Mass.: Harvard University Press, 1962.
- , *Questions on Genesis*. Translated by Ralph Marcus. Loeb Classical Library 380. Cambridge, Mass.: Harvard University Press, 1953.
- , *Questions on Exodus*. Translated by Ralph Marcus. Loeb Classical Library 401. Cambridge, Mass.: Harvard University Press, 1953.
- Philo of Alexandria, *On the Creation of the Cosmos according to Moses. Introduction, Translation and Commentary* by David T. Runia. Leiden–Boston–Köln: Brill, 2001.
- Plato, *Gorgias*. A Revised Text with Introduction and Commentary by E. R. Dodds. Oxford: Clarendon Press, 1979. Reprint (1959)
- , *Gorgias*. Translated with Notes by Terence Irwin. Oxford: Clarendon Press, 1995. Reprint (1979)
- Powell, J. G. F. (ed.), *M. Tulli Ciceronis De Republica, De Legibus, Cato Maior de Senectute, Laelius de Amicitia*. Oxford: Oxford University Press, 2006.

- Ross, W. D. (ed.), *Aristotelis Politica*. Oxonii: e Typographeo Clarendoniano, 1957.
- Schaff, Philip (ed.), *A Select Library of Nicene and Post-Nicene Fathers of the Christian Church. Vol. 10: Saint Chrysostom: Homilies on the Gospel of Saint Matthew*. New York: The Christian Literature Company, 1888.
- , *A Select Library of Nicene and Post-Nicene Fathers of the Christian Church. Vol. 13: Saint Chrysostom: Homilies on Galatians, Ephesians, Philippians, Colossians Thessalonians, Timothy, Titus, and Philemon*. New York: The Christian Literature Company, 1889.
- Schaff, Philip & Wace, Henry (eds.), *A Select Library of Nicene and Post-Nicene Fathers of the Christian Church. Second Series. Vol. 7: S. Cyril of Jerusalem: Catechetical Lectures. S. Gregory of Nazianzum: Select Orations, and Letters*. Oxford–New York: James Parker–The Christian Literature Company, 1894.
- Schoell, Rudolfus (recognovit), *Corpus Iuris Civilis. Editio stereotypa. Vol. III: Novellae*. Berolini: apud Weidmannos, 1895.
- Sophocles, *Antigone*, ed. Mark Griffith. Cambridge: Cambridge University Press, 1999.
- Stuart Jones, Henricus (ed.), *Thucydidis Historiae. Tomus I-II*. Oxonii: e Typographeo Clarendoniano, 1942. Reprint (1901)
- Taylor, Thomas, *Political Fragments of Archytas, Charondas, Zaleucus, and Other Ancient Pythagoreans, Preserved by Stobaeus*. Chiswick: C. Whittingham, 1822.
- Terian, Abraham, *Philonis Alexandrini de animalibus. The Armenian Text with an Introduction, Translation, and Commentary*. Chico: Scholars Press, 1981.
- Thesleff, Holger (ed.), *The Pythagorean Texts of the Hellenistic Period*. Åbo: Åbo Akademi, 1965.

Secondary literature

- Aalders, G. J. D., ΝΟΜΟΣ ΕΜΨΥΧΟΣ. In Peter Steinmetz (Hrsg.), *Politeia und Res Publica. Beiträge zum Verständnis von Politik, Recht und Staat in der Antike*. Wiesbaden: Franz Steiner Verlag, 1969, pp. 315–329.
- , *Political Thought in Hellenistic Times*. Amsterdam: Hakkert, 1975.

- Andorlini, Isabella & Luiselli, Raffaele, Una ripresa di Diotogene Pitagorico, *Sulla regalità*, in PBingen 3 (Encomio per Augusto?) *Zeitschrift für Papyrologie und Epigraphik*, Bd. 136 (2001), pp. 155–166.
- Annas, Julia, Plato's *Laws* and Cicero's *de Legibus*. In Malcolm Schofield (ed.), *Aristotle, Plato and Pythagoreanism in the First Century BC. New Directions for Philosophy*. Cambridge: Cambridge University Press, 2013, pp. 206–224.
- Armstrong, John M., After the Ascent: Plato on becoming like God. In David Sedley (ed.), *Oxford Studies in Ancient Philosophy*. Vol. 26: Summer 2004. Oxford: Oxford University Press, 2004, pp. 171–183.
- Balot, R. K., *Greek Political Thought*. Oxford: Blackwell, 2006.
- Barker, Sir E., *Greek Political Theory. Plato and his Predecessors*. London: Methuen, 1960. Reprint.
- Barker, Andrew, Archytas Unbound. A Discussion of Carl A. Huffman, Archytas of Tarentum. *Oxford Studies in Ancient Philosophy*, Vol. 31/Winter (2006), pp. 297–321.
- Barnes, Jonathan, *The Presocratic Philosophers*. London–New York: Routledge, 1982.
- Barney, Rachel, The Sophistic Movement. In Mary L. Gill – Pierre Pellegrin (eds.), *A Companion to Ancient Philosophy*. Oxford: Blackwell, 2006, pp. 77–97.
- Barracrough, Ray, Philo's Politics. Roman Rule and Hellenistic Judaism. In Wolfgang Haase (Hrsg), *Aufstieg und Niedergang der römischen Welt*. Bd. 21/1: Religion (Hellenistisches Judentum in römischer Zeit: Philon und Josephus). Berlin, Boston: De Gruyter, 1984, pp. 417–553.
- Berns, Gisela, Nomos and Physis (An Interpretation of Euripides' Hippias). *Hermes*, Bd. 101, H. 2 (1973), pp. 165–187.
- Blumenfeld, Bruno, *The Political Paul. Justice, Democracy and Kingship in a Hellenistic Framework*. London: T&T Clark International, 2003.
- Bonazzi, Mauro, Eudorus of Alexandria and the 'Pythagorean' pseudepigrapha. In Gabriele Cornelli, Richard McKirahan & Constantinos Macris (eds.), *On Pythagoreanism*. Berlin: Walter de Gruyter, 2013, pp. 385–404. [Bonazzi 2013a]
- , Pythagoreanising Aristotle: Eudorus and the systematisation of Platonism. In Malcolm Schofield (ed.), *Aristotle, Plato and Pythagoreanism in the First Century BC. New Directions for Philosophy*. Cambridge: Cambridge University Press, 2013, pp. 160–186. [Bonazzi 2013b]

- Born, Lester Kruger, Animate Law in the Republic and the Laws of Cicero. *Transactions and Proceedings of the American Philological Association*, Vol. 64 (1933), pp. 128–137.
- Boter, G. J., Thrasyrachus and ΠΛΕΟΝΕΞΙΑ. *Mnemosyne*, Vol. 39, Fasc. 3/4 (1986), pp. 261–281.
- Brauch, Thomas, Themistius and the Emperor Julian. *Byzantion*, Vol. 63 (1993), pp. 79–115.
- Bréhier, Émile. *Les idées philosophiques et religieuses de Philon d'Alexandrie*. Paris: Alphonse Picard & Fils, 1908.
- Brown, Lesley, Glaucon's Challenge, Rational Egoism and Ordinary Morality. In Douglas Carnis, Fritz-Gregor Herrmann & Terry Penner (eds.), *Pursuing the Good. Ethics and Metaphysics in Plato's Republic*. Edinburgh: Edinburgh University Press, 2007, pp. 42–60.
- Burkert, Walter, Hellenistische Pseudopythagorica. *Philologus*, Bd. 105, H. 1–2 (1961), pp. 16–43.
- , *Lore and Science in Ancient Pythagoreanism*. Transl. Edwin L. Minar. Cambridge, Mass.: Harvard University Press, 1972. [Burkert 1972a]
- , Zur geistesgeschichtlichen Einordnung einiger Pseudopythagorica. In Kurt von Fritz (ed.), *Pseudepigrapha I. Pseudopythagorica – Lettres de Platon Littérature pseudépigraphique juive*. Genève: Fondation Hardt, [1972b], pp. 25–55.
- Burnet, John, *Early Greek Philosophy*. London: Adam and Charles Black, 1908. Second edition.
- Caizzi, Fernanda Decleva, Protagoras and Antiphon: Sophistic debates on justice. In A. A. Long (ed.), *The Cambridge Companion to Early Greek Philosophy*. Cambridge: Cambridge University Press, 1999, pp. 311–331.
- Calabi, Francesca, *God's Acting, Man's Acting. Tradition and Philosophy in Philo of Alexandria*. Leiden: Brill, 2008.
- Cameron, Averil, Justin I and Justinian. In Averil Cameron, Bryan Ward-Perkins & Michael Whitby (eds.), *The Cambridge Ancient History. Vol. 14: Late Antiquity: Empire and Successors, A.D. 425–600*. Cambridge: Cambridge University Press, 2000, pp. 63–85.
- Canning, Joseph, *The Political Thought of Baldus de Ubaldis*. Cambridge: Cambridge University Press, 1987.

- , *A History of Medieval Political Thought. 300–1450*. London – New York: Routledge, 1996.
- Carriker, Andrew James, *The Library of Eusebius of Caesarea*. Leiden–Boston: Brill, 2003.
- Cartledge, Paul, Greek political thought: the historical context. In Christopher Rowe & Malcolm Schofield (eds.), *The Cambridge History of Greek and Roman Political Thought*. Cambridge: Cambridge University Press, 2005, pp. 11–22.
- Centrone, Bruno, *Introduzione a I Pitagorici*. Roma–Bari: Laterza, 1999.
- , Il ΠΕΠΙ ΝΟΜΩ ΚΑΙ ΔΙΚΑΙΟΣΥΝΑΣ di pseudo Archtia. In M. T. Ghindi, A. S. Marino & A. Visconti (eds.), *Tra Orfeo e Pitagora*. Napoli: Bibliopolis, 2000, pp. 487–505.
- , Platonism and Pythagoreanism in the early empire. In Christopher Rowe & Malcolm Schofield (eds.), *The Cambridge History of Greek and Roman Political Thought*. Cambridge: Cambridge University Press, 2005, pp. 559–584.
- , The pseudo-Pythagorean writings. In Carl A. Huffman (ed.), *A History of Pythagoreanism*. Cambridge: Cambridge University Press, 2014, pp. 315–340.
- , Authority and Doctrine in the Pseudo-Pythagorean Writings. In Michael Erler, Jan Erik Heßler & Federico M. Petrucci (eds.), *Authority and Authoritative Texts in the Platonist Tradition*. Cambridge: Cambridge University Press, 2021, pp. 115–129.
- Chesnut, Glenn F., The Ruler and the Logos in Neopythagorean, Middle Platonic, and Late Stoic Political Philosophy. In Wolfgang Haase (Hrsg.), *Aufstieg und Niedergang der Römischen Welt. Geschichte und Kultur Rom im Spiegel der neueren Forschung*. II. Bd. 16: Principat. Teil Bd. 2. Berlin–New York: Walter de Gruyter, 1978, pp. 1310–1332.
- Chu, Antonio, Thrasymachean Rulers, Altruistic Rulers and Socratic Rulers. In Douglas Carnis, Fritz-Gregor Herrmann & Terry Penner (eds.), *Pursuing the Good. Ethics and Metaphysics in Plato's Republic*. Edinburgh: Edinburgh University Press, 2007, pp. 61–75.
- Collingwood, R. G., *The Idea of Nature*. Oxford: Clarendon Press, 1945.
- Cooper, John M., Two Theories of Justice. *Proceedings and Addresses of the American Philosophical Association*, Vol. 74, No. 2 (2000), pp. 5–27.
- Cornelli, Gabriele, *In Search of Pythagoreanism. Pythagoreanism As an Historiographical Category*. Berlin: Walter de Gruyter, 2013.
- Criboire, Raffaella, *The School of Libanius in Late Antique Antioch*. Princeton–Oxford: Princeton University Press, 2007.

- Cross, R. C. & Woosley, A. D., *Plato's Republic. A Philosophical Commentary*. London: Macmillan, 1994. Reprint (1964)
- Daley, Brian E., S.J., *Gregory of Nazianzus*. London–New York: Routledge, 2006.
- Daniélou, Jean, *Philo of Alexandria*, transl. James G. Colbert. Cambridge: James Clarke & Co, 2014.
- Delatte, Armand, *Essai sur la politique pythagoricienne*. Liège–Paris: Vaillant-Carmanne–Édouard Champion, 1922.
- Delatte, Louis, *Les Traités de la Royauté d'Ecphante, Diotogène et Sthénidas*. Liège: Faculté de Philosophie et Lettres, 1942.
- Dillon, John, *The Middle Platonists. 80 B.C. to A.D. 220*. Ithaca, New York: Cornell University Press, 1996. Revised edition (1977)
- , Philo and Hellenistic Platonism. In Francesca Alesse (ed.), *Philo of Alexandria and Post-Aristotelian Philosophy*. Leiden–Boston: Brill, 2008, pp. 223–232.
- , Pythagoreanism in the Academic tradition: the Early Academy to Numenius. In Carl A. Huffman (ed.), *A History of Pythagoreanism*. Cambridge: Cambridge University Press, 2014, pp. 250–273.
- Dorandi, Tiziano, Iohannes Stobaios. In Christoph Riedweg, Christoph Horn & Dietmar Wyrwa (Hrsg.), *Philosophie der Kaiserzeit und der Spätantike*. Basel: Schwabe Verlag, 2018, pp. 471–478.
- Dyson, Kenneth, *the state tradition in western europe. a study of an idea and institution*. Colchester: ECPR Press, 2009. Reprint (1980)
- Etman, Ahmed, A Light from Thucydides on the Problem of Sophocles' *Antigone* and its Tragic Meaning. *L'Antiquité Classique*, T. 70 (2001), pp. 147–153.
- Ferguson, John, *Clement of Alexandria*. New York: Twayne Publishers, 1974.
- Fideler, David R., Introduction. In Kenneth Sylvan Guthrie et al. (eds.), *The Pythagorean Sourcebook and Library. An Anthology of Ancient Writings Which Relate to Pythagoras and Pythagorean Philosophy*. Grand Rapids: Phanes Press, 1987, pp. 19–48.
- Flinterman, Jaap-Jan, Pythagoreans in Rome and Asia Minor around the turn of the common era. In Carl A. Huffman (ed.), *A History of Pythagoreanism*. Cambridge: Cambridge University Press, 2014, pp. 341–359.
- Gagarin, Michael, *Early Greek Law*. Berkeley: University of California Press, 1989.
- , *Antiphon the Athenian. Oratory, Law, and Justice in the Age of the Sophists*. Austin: University of Texas Press, 2002.

- , Early Greek Law. In Michael Gagarin & David Cohen (eds.), *The Cambridge Companion to Ancient Greek Law*. Cambridge: Cambridge University Press, 2005, pp. 82–96.
- Goodenough, Erwin R., The Political Philosophy of Hellenistic Kingship. In Austin M. Harmon (ed.), *Yale Classical Studies*. Vol. 1. New Haven: Yale University Press, 1928, pp. 55–102.
- , Kingship in Early Israel. *Journal of Biblical Literature*, Vol. 48, No. 3/4 (1929), pp. 169–205.
- , *The Jurisprudence of the Jewish Courts in Egypt. Legal Administration by the Jews under the Early Roman Empire as Described by Philo Judaeus*. New Haven: Yale University Press, 1929.
- , A Neo-Pythagorean Source in Philo Judaeus. In Austin M. Harmon (ed.), *Yale Classical Studies*. Vol. 3. New Haven: Yale University Press, 1932, pp. 117–164.
- , Philo's Exposition of the Law and His De Vita Mosis. *The Harvard Theological Review*, Vol. 26, No. 2 (1933), pp. 109–125.
- , *The Politics of Philo Judaeus. Practice and Theory*. New Haven: Yale University Press, 1938.
- , *An Introduction to Philo Judaeus*. Oxford: Basil Blackwell, 1962. 2nd edition (1940)
- , *By Light, Light. The Mystic Gospel of Hellenistic Judaism*. Amsterdam: Philo Press, 1969. Reprint (1935)
- Gower, Jeffrey D., The Sovereign and the Exile: Archytas and Aristotle on the Living Law. *Epoché: A Journal for the History of Philosophy*, Vol. 19, No. 2 (2015), pp. 311–328
- Grote, Dale, Callicles' Use of Pindar's Νόμος Βασιλεύς: Gorgias 484B. *The Classical Journal*, Vol. 90, No. 1 (1994), pp. 21–31.
- Gulley, Norman, The Authenticity of the Platonic Epistles. In Kurt von Fritz (ed.), *Pseudepigrapha I. Pseudopythagorica – Lettres de Platon Littérature pseudépigraphique juive*. Genève: Fondation Hardt, 1972, pp. 105–130.
- Guthrie, W. K. C., *A History of Greek Philosophy. Vol. I. The Earlier Presocratics and the Pythagoreans*. Cambridge: Cambridge University Press, 1991. Reprint (1962)
- , *A History of Greek Philosophy. Vol. III. Part 1: The Sophists*. Cambridge: Cambridge University Press, 1971.
- Hadas-Label, Mireille, *Philo of Alexandria. A Thinker in the Jewish Diaspora*, transl. Robyn Fréchet. Leiden–Boston: Brill, 2012.

- Harlap, Shmuel, Thrasymachus's Justice. *Political Theory*, Vol. 7, No. 3 (1979), pp. 347–370.
- Hatzimichali, Myrto, The texts of Plato and Aristotle in the first century BC. In Malcolm Schofield (ed.), *Aristotle, Plato and Pythagoreanism in the First Century BC. New Directions for Philosophy*. Cambridge: Cambridge University Press, 2013, pp. 1–27.
- Heather, Peter & Matthews, John, *The Goths in the Fourth Century*. Liverpool: Liverpool University Press, 2004. Reprint (1991)
- den Heijer, Arco, Cosmic Mothers in Philo of Alexandria and in Neopythagoreanism. In David T. Runia et al. (eds.), *The Studia Philonica Annual. Studies in Hellenistic Judaism*. Vol. 27. Atlanta: Society of Biblical Literature, 2015, pp. 53–70.
- Heinimann, Felix, *Nomos und Physis. Herkunft und Bedeutung einer Antithese im Griechischen Denken des 5. Jahrhunderts*. Darmstadt: Wissenschaftliche Buchgesellschaft, 1987. Reprint (1945)
- Horky, Phillip Sidney, Approaches to the Pythagorean Acusmata in the Early Academy. In Paul Kalligas et al. (eds.), *Plato's Academy. Its Working and Its History*. Cambridge: Cambridge University Press, 2020, pp. 167–187.
- , Archytas: Author and Authenticator of Pythagoreanism. In Constantinos Macris, Tiziano Dorandi & Luc Brisson (eds.), *Pythagoras redivivus. Studies on the Texts Attributed to Pythagoras and the Pythagoreans*. Baden Baden: Academia Verlag, 2021, pp. 137–170.
- , Italic Pythagoreanism in the Hellenistic Age. In M. Garani, D. Konstan & G. Reydams-Schils (eds), *The Oxford Handbook of Roman Philosophy*. Oxford: Oxford University Press, Forthcoming.
- Horky, Phillip Sidney & Johnson, Monte Ransome, On Law and Justice Attributed to Archytas of Tarentum. In David Conan Wolfsdorf (ed.), *Early Greek Ethics*. Oxford: Oxford University Press, 2020, pp. 455–490.
- Horsley, Richard A., The Law of Nature in Philo and Cicero. *The Harvard Theological Review*, Vol. 71, No. 1/2 (1978), pp. 35–59.
- Hourani, George F., Thrasymachus' Definition of Justice in Plato's *Republic*. *Phronesis*, Vol. 7, No. 2 (1962), pp. 110–120.
- Huffman, Carl A., *Philolaus of Croton. Pythagorean and Presocratic. A Commentary on the Fragments and Testimonia with Interpretive Essays*. Cambridge: Cambridge University Press, 1993.

- , Archytas and the Sophists. In Victor Caston & Daniel W. Graham (eds.), *Presocratic Philosophy. Essays in Honour of Alexander Mourelatos*. London – New York: Routledge, 2019. Reprint (2002)
- , *Archytas of Tarentum. Pythagorean, Philosopher and Mathematician King*. Cambridge: Cambridge University Press, 2005.
- , The *Pythagorean Precepts* of Aristoxenus: Crucial Evidence for Pythagorean Moral Philosophy. *The Classical Quarterly*, New Series, Vol. 58, No. 1 (2008), pp. 104–119.
- , The Peripatetics on the Pythagoreans. In Carl A. Huffman (ed.), *A History of Pythagoreanism*. Cambridge: Cambridge University Press, 2014, pp. 274–295.
- , *Aristoxenus of Tarentum: The Pythagorean Precepts (How to Live a Pythagorean Life). An Edition of and Commentary on the Fragments with an Introduction*. Cambridge: Cambridge University Press, 2019.
- Humfress, Caroline, Law and Legal Practice in the Age of Justinian. In Michael Maas (ed.), *The Cambridge Companion to the Age of Justinian*. Cambridge: Cambridge University Press, 2006, pp. 161–184.
- Johann, Horst-Theodor, Hippias von Elis und der Physis-Nomos-Gedanke. *Phronesis*, Vol. 18, No. 1 (1973), pp. 15–25.
- Johnson, Monte Ransome, Sources for the Philosophy of Archytas. *Ancient Philosophy*, Vol. 28 (2008), pp. 1–27.
- Kahn, Charles H., *Plato and the Socratic Dialogue. The philosophical use of a literary form*. Cambridge: Cambridge University Press, 1999. Reprint (1996)
- , *Pythagoras and the Pythagoreans. A Brief History*. Indianapolis, Cambridge: Hackett Publishing, 2001.
- Kantorowicz, Ernst H., Deus Per Naturam, Deus Per Gratiam. A Note on Mediaeval Political Theology. *The Harvard Theological Review*, Vol. 45, No. 4 (1952), pp. 253–277.
- , *The King's Two Bodies. A Study in Mediaeval Political Theology*. With a new preface by William Chester Jordan. Princeton, New Jersey: Princeton University Press, 1997. Reprint (1957)
- Kearley, Timothy G., The Creation and Transmission of Justinian's Novels. *Law Library Journal*, Vol. 102, No. 3 (2010), pp. 377–397.
- Kerferd, G. B., *The sophistic movement*. Cambridge: Cambridge University Press, 1981.

- Klosko, George, The Refutation of Callicles in Plato's 'Gorgias'. *Greece & Rome*, Vol. 31, No. 2 (1984), pp. 126–139.
- Lane, Melissa, Socrates and Plato: an introduction. In Christopher Rowe & Malcolm Schofield (eds.), *The Cambridge History of Greek and Roman Political Thought*. Cambridge: Cambridge University Press, 2005, pp. 155–163.
- Lévy, Carlos, Philo's Ethics. In Adam Kamesar (ed.), *The Cambridge Companion to Philo*. Cambridge: Cambridge University Press, 2009, pp. 146–171.
- Liebs, Detlef, Roman Law. In Averil Cameron, Bryan Ward-Perkins & Michael Whitby (eds.), *The Cambridge Ancient History. Vol. 14: Late Antiquity: Empire and Successors, A.D. 425–600*. Cambridge: Cambridge University Press, 2000, pp. 238–259.
- Lincicum, David, A Preliminary Index to Philo's Non-Biblical Citations and Allusions. In David T. Runia et al. (eds.), *The Studia Philonica Annual. Studies in Hellenistic Judaism*. Vol. 25. Atlanta: Society of Biblical Literature, 2013, pp. 139–167.
- , Philo's Library. In David T. Runia et al. (eds.), *The Studia Philonica Annual. Studies in Hellenistic Judaism*. Vol. 26. Atlanta: Society of Biblical Literature, 2014, pp. 99–114.
- Litwa, M. David, The Deification of Moses in Philo of Alexandria. In David T. Runia et al. (eds.), *The Studia Philonica Annual. Studies in Hellenistic Judaism*. Vol. 26. Atlanta: Society of Biblical Literature, 2014, pp. 1–27.
- Lloyd, G. E. R., Plato and Archytas in the *Seventh Letter*. *Phronesis*, Vol. 35, No. 2 (1990), pp. 159–174.
- Long, A. A., Law and Nature in Greek Thought. In Michael Gagarin & David Cohen (eds.), *The Cambridge Companion to Ancient Greek Law*. Cambridge: Cambridge University Press, 2005, pp. 412–430.
- , The eclectic Pythagoreanism of Alexander Polyhistor. In Malcolm Schofield (ed.), *Aristotle, Plato and Pythagoreanism in the First Century BC. New Directions for Philosophy*. Cambridge: Cambridge University Press, 2013, pp. 139–159.
- Lovejoy, Arthur O., *The Great Chain of Being. A Study of the History of and Idea*. Cambridge, Mass.: Harvard University Press, 2001. Reprint (1936)
- Martens, John W., *The Superfluity of the Law in Philo and Paul. A Study in the History of Religions*. Hamilton: McMaster University, 1991. Doctoral dissertation.

- , *Nomos Empsychos in Philo and Clement of Alexandria*. In Wendy E. Helleman (ed.), *Hellenization Revisited. Shaping a Christian Response within the Greco-Roman World*. Lanham: University Press of America, 1994, pp. 323–338.
- , *One God, One Law: Philo of Alexandria on the Mosaic and Greco-Roman Law*. Boston–Leiden: Brill, 2003.
- , The Meaning and Function of the Law in Philo and Josephus. In Susan J. Wendel & David M. Miller (eds.), *Torah Ethics and Early Christian Identity*. Grand Rapids: Eerdmans, 2016, pp. 27–40.
- Mayer, Wendy & Allen, Pauline, *John Chrysostom*. London–New York: Routledge, 2000.
- Márquez, Xavier, *A Stranger's Knowledge. Statesmanship Philosophy & Law in Plato's Statesman*. Las Vegas–Zurich–Athens: Parmenides Publishing, 2012.
- Männlein-Robert, Irmgard, Der Neupythagoreismus. In Christoph Riedweg, Christoph Horn & Dietmar Wyrwa (Hrsg.), *Philosophie der Kaiserzeit und der Spätantike*. Basel: Schwabe Verlag, 2018, pp. 633–638.
- McKirahan, Richard D., *Philosophy Before Socrates. An Introduction with Texts and Commentary*. Indianapolis, Cambridge: Hackett Publishing, 2010. Second edition.
- Miller, Fred D., Jr., Naturalism. In Christopher Rowe & Malcolm Schofield (eds.), *The Cambridge History of Greek and Roman Political Thought*. Cambridge: Cambridge University Press, 2005, pp. 321–343.
- Minar, Edwin Leroy, *Early Pythagorean Politics in Practice and Theory*. Baltimore: Waverly Press, 1942.
- More, Jonathan, On Kingship in Philo and the Wisdom of Solomon. In Johann Cook & Hermann-Josef Stipp (eds.), *Text-Critical and Hermeneutical Studies in the Septuagint*. Leiden–Boston: Brill, 2012, pp. 409–425.
- Morrison, J. S., Pythagoras of Samos. *The Classical Quarterly*, Vol. 6, No. 3–4 (1956), pp. 135–156.
- Moulton, Carroll, Antiphon the Sophist, *on Truth*. *Transactions and Proceedings of the American Philological Association*, Vol. 103 (1972), pp. 329–366.
- Murray, Oswyn, *Περὶ βασιλείας. Studies in the Justification of Monarchic Power in the Hellenistic World*. Oxford, 1971. Ph.D. Dissertation.
- , Philosophy and Monarchy in the Hellenistic World. In Tessa Rajak et. al. (eds.), *Jewish Perspectives on Hellenistic Rulers*. Berkeley, Los Angeles–London: University of California Press, 2007, pp. 13–28.

- Najman, Hindy, The Law of Nature and the Authority of Mosaic Law. In David T. Runia & Gregory E. Sterling, *The Studia Philonica Annual. Studies in Hellenistic Judaism*. Vol. 11. Atlanta: Society of Biblical Literature, 1999, pp. 55–73.
- Nicholson, P. P., Unravelling Thrasymachus' Argument in *The Republic*. *Phronesis*, Vol. 19, No. 3 (1974), pp. 210–232.
- Nicol, Donald M., Byzantine political thought. In J. H. Burns (ed.), *The Cambridge History of Medieval Political Thought c. 350–c. 1450*. Cambridge: Cambridge University Press, 1988, pp. 49–80.
- Niehoff, Maren R., *Philo of Alexandria. An Intellectual Biography*. New Haven–London: Yale University Press, 2018.
- Nuffelen, Peter van, *Rethinking the Gods. Philosophical Reading of Religion in the Post-Hellenistic Period*. Cambridge: Cambridge University Press, 2011.
- Oakley, Francis, *Kingship. The Politics of Enchantment*. Oxford: Blackwell, 2006.
- Ober, Josiah, *Political Dissent in Democratic Athens. Intellectual Critics of Popular Rule*. Princeton, New Jersey: Princeton University Press, 1998.
- , The orators. In Christopher Rowe & Malcolm Schofield (eds.), *The Cambridge History of Greek and Roman Political Thought*. Cambridge: Cambridge University Press, 2005, pp. 130–141.
- , Law and Political Theory. In Michael Gagarin & David Cohen (eds.), *The Cambridge Companion to Ancient Greek Law*. Cambridge: Cambridge University Press, 2005, pp. 394–411.
- O'Meara, Dominic J., *Pythagoras Revived. Mathematics and Philosophy in Late Antiquity*. Oxford: Clarendon, 1989.
- , *Platonopolis. Platonic Political Philosophy in Late Antiquity*. Oxford: Clarendon, 2007. Reprint (2003)
- , Iamblichus' *On the Pythagorean Life* in context. In Carl A. Huffman (ed.), *A History of Pythagoreanism*. Cambridge: Cambridge University Press, 2014, pp. 399–415.
- Osborn, Eric, *Clement of Alexandria*. Cambridge: Cambridge University Press, 2005.
- Ostwald, M., Pindar, Nomos, and Heracles. (Pindar, Frg. 169 [Snell²]+POxy. No. 2450, Frg. I). *Harvard Studies in Classical Philology*, Vol. 69 (1965), pp. 109–138.
- , *Nomos and the Beginnings of the Athenian Democracy*. Oxford: Clarendon, 1969.
- , *From Popular Sovereignty to the Sovereignty of Law. Law, Society, and Politics in Fifth-Century Athens*. Berkeley, California: University of California Press, 1986.

- Otto, Jennifer, Philo, Judaeus? A Re-evaluation of Why Clement Calls Philo “the Pythagorean”. In David T. Runia et al. (eds.), *The Studia Philonica Annual. Studies in Hellenistic Judaism*. Vol. 25. Atlanta: Society of Biblical Literature, 2013, pp. 115–138.
- Payne, Andrew, The Division of Goods and Praising Justice for Itself in *Republic II. Phronesis*, Vol. 56, No. 1 (2011), pp. 58–78.
- Pásztori-Kupán, István, *Theodoret of Cyrus*. London–New York: Routledge, 2006.
- Peixoto, Miriam, On the Limits of Law and the Sovereignty of the Wise. Conjectures about the Primacy of Law in Plato’s *Statesman*. In Beatriz Bossi & Thomas M. Robinson (eds.), *Plato’s Statesman Revisited*. Berlin–Boston: de Gruyter, 2018, pp. 249–262.
- Penner, Terry, Socrates. In Christopher Rowe & Malcolm Schofield (eds.), *The Cambridge History of Greek and Roman Political Thought*. Cambridge: Cambridge University Press, 2005, pp. 164–189.
- Piccione, Rosa Maria, Caratterizzazio e di lemmi nell’ *Anthologion* di Giovanni Stobeo. Questioni di metodo. *Revista di Filologia e di Istruzione Classica*, Vol. 127, No. 2 (1999), pp. 139–175.
- , *Pseudopythagorica* nell’ *Anthologion* di Giovanni Stobeo: provenienza, principi di selezione e distribuzione. In Constantinos Macris, Tiziano Dorandi & Luc Brisson (eds.), *Pythagoras redivivus. Studies on the Texts Attributed to Pythagoras and the Pythagoreans*. Baden Baden: Academia Verlag, 2021, pp. 73–106.
- Pohlenz, Max, Nomos und Physis. *Hermes*, Bd. 81, H. 4 (1953), pp. 418–438.
- Pomeroy, Sarah B., *Pythagorean Women. Their History and Writings*. Baltimore: The Johns Hopkins University Press, 2017.
- Procopé, John, Greek and Roman political theory. In J. H. Burns (ed.), *The Cambridge History of Medieval Political Thought c. 350–c. 1450*. Cambridge: Cambridge University Press, 1988, pp. 21–36.
- Raaflaub, Kurt A., Poets, lawgivers, and the beginning of political reflection in archaic Greece. In Christopher Rowe & Malcolm Schofield (eds.), *The Cambridge History of Greek and Roman Political Thought*. Cambridge: Cambridge University Press, 2005, pp. 23–59.
- Reeve, C. D. C., *Philosopher-Kings. The Argument of Plato’s Republic*. Cambridge, Indianapolis: Hackett Publishing Co., 2006. Reprint (1988)
- Reinhartz, Adele, The meaning of *nomos* in Philo’s *Exposition of the Law*. *Studies in Religion*, Vol. 15, No. 3 (1986), pp. 337–345.

- Richardson, W., The Philonic Patriarchs as *Nóμος Ἐμφυλῆος*. In Kurt Aland & F. L. Cross (eds.), *Studia Patristica*. Vol. 1: Papers presented to the Second International Conference on Patristic Studies held at Christ Church, Oxford, 1955. Part 1. Berlin: Akademie Verlag, 1957, pp. 515–525.
- Riesbeck, David J., Nature, Normativity, and *Nomos* in Antiphon, fr. 44. *Phoenix*, Vol. 65, No. 3/4 (2011), pp. 268–287.
- Romilly, Jacqueline de, *The Great Sophists in Periclean Athens*, transl. Janet Lloyd. Oxford: Clarendon Press, 2002. Reprint (1992)
- Roskam, Geert, Some Fresh Air into the Neopythagorean Tradition: The Fragments *On Kingship* by Diotogenes. *The Cambridge Classical Journal*, Vol. 66 (2020), pp. 203–220.
- Rothkamm, Jan, Cicero’s Orientalising Rhetoric of Law in the *De legibus*. *Museum Helveticum*, Vol. 71, No. 2 (2014), pp. 155–171.
- Rowe, Christopher, The Place of the *Republic* in Plato’s Political Thought. In G. R. F. Ferrari (ed.), *The Cambridge Companion to Plato’s Republic*. Cambridge: Cambridge University Press, 2007, pp. 27–54.
- Royse, James R., The Works of Philo. In Adam Kamesar (ed.), *The Cambridge Companion to Philo*. Cambridge: Cambridge University Press, 2009, pp. 32–64.
- , Did Philo Publish His Works? In David T. Runia et al. (eds.), *The Studia Philonica Annual. Studies in Hellenistic Judaism*. Vol. 25. Atlanta: Society of Biblical Literature, 2013, pp. 75–100.
- , The Text of Stobaeus: The Manuscripts and Wachsmuth’s Edition. In Jaap Mansfeld & David T. Runia (eds.), *Aëtiana IV. Papers of the Melbourne Colloquium on Ancient Doxography*. Leiden–Boston: Brill, 2018, pp. 156–173.
- Runia, David T., *Philo in Early Christian Literature*. A Survey. Assen: Van Gorcum, 1993.
- , *Philo and the Church Fathers. A Collection of Papers*. Leiden: Brill, 1995. [Runia 1995a]
- , Why does Clement of Alexandria call Philo ‘The Pythagorean’. *Vigiliae Christianae*, Vol. 49, No. 1 (1995), pp. 1–22. [Runia 1995b]
- , Philo and Hellenistic Doxography. In Francesca Alesse (ed.), *Philo of Alexandria and Post-Aristotelian Philosophy*. Leiden–Boston: Brill, 2008, pp. 13–54.
- , Philo and the Early Christian Fathers. In Adam Kamesar (ed.), *The Cambridge Companion to Philo*. Cambridge: Cambridge University Press, 2009, pp. 210–230.

- Sandmel, Samuel, Philo Judaeus: An Introduction to the Man, his Writings, and his Significance. In Wolfgang Haase (Hrsg), *Aufstieg und Niedergang der römischen Welt*. Bd. 21/1: Religion (Hellenistisches Judentum in römischer Zeit: Philon und Josephus). Berlin, Boston: De Gruyter, 1984, pp. 3–46.
- Saunders, Trevor J., Antiphon the Sophist on Natural Laws (B₄₄DK). *Proceedings of the Aristotelian Society*, New Series, Vol. 78 (1977–1978), pp. 215–236.
- Schenck, Kenneth, *A Brief Guide to Philo*. Louisville: Westminster John Knox Press, 2005.
- Schmitz, Heinz-Gerd, Physis versus Nomos. Platons politiktheoretische Auseinandersetzung mit Kallikles, Thrasymachos und Protagoras. *Zeitschrift für philosophische Forschung*, Bd. 42, H. 4 (1988), pp. 570–596.
- Schofield, Malcolm, Approaching the *Republic*. In Christopher Rowe & Malcolm Schofield (eds.), *The Cambridge History of Greek and Roman Political Thought*. Cambridge: Cambridge University Press, 2005, pp. 190–232.
- , Plato and practical politics. In Christopher Rowe & Malcolm Schofield (eds.), *The Cambridge History of Greek and Roman Political Thought*. Cambridge: Cambridge University Press, 2005, pp. 293–302.
- , Archytas. In Carl A. Huffman (ed.), *A History of Pythagoreanism*. Cambridge: Cambridge University Press, 2014, pp. 69–87.
- Schorn, Stefan, Aristoxenus' Biographical Method. In Carl A. Huffman (ed.), *Aristoxenus of Tarentum. Discussion*. New Brunswick: Transaction Publisher, 2012, pp. 177–221.
- , Pythagoras in the historical tradition: from Herodotus to Diodorus Siculus. In Carl A. Huffman (ed.), *A History of Pythagoreanism*. Cambridge: Cambridge University Press, 2014, pp. 296–314.
- Schwartz, Daniel R., Philo, His Family, and His Times. In Adam Kamesar (ed.), *The Cambridge Companion to Philo*. Cambridge: Cambridge University Press, 2009, pp. 9–31.
- Scrofani, Francesca, Le traité Sur la loi et la justice et le fragment 3 attribués à Archytas. Une théorie de la loi en rapport avec celle du Minos attribué à Platon. In Constantinos Macris, Tiziano Dorandi & Luc Brisson (eds.), *Pythagoras redivivus. Studies on the Texts Attributed to Pythagoras and the Pythagoreans*. Baden Baden: Academia Verlag, 2021, pp. 177–204.

- Sedley, David, Cicero and the *Timaeus*. In Malcolm Schofield (ed.), *Aristotle, Plato and Pythagoreanism in the First Century BC. New Directions for Philosophy*. Cambridge: Cambridge University Press, 2013, pp. 187–205.
- Sellars, John, *Stoicism*. London–New York: Routledge, 2014.
- Sheppard, D. J., *Plato's Republic. An Edinburgh Philosophic Guide*. Edinburgh: Edinburgh University Press, 2009.
- Sinclair, T. A., *A History of Greek Political Thought*. London: Routledge, 2010. Reprint.
- Skinner, Quentin, *Visions of Politics*. Vol. 1: Regarding Method. Cambridge: Cambridge University Press, 2002.
- , A Genealogy of the Modern State. *Proceedings of the British Academy*, Vol. 162 (2009), pp. 325–370.
- Speyer, Wolfgang, *Die literarische Fälschung im heidnischen und christlichen Altertum. Ein Versuch ihrer Deutung*. München: C.H. Beck, 1971.
- Spronk, Klaas, The Book of Judges on Kingship and the Greek *peri basileias* Literature. In Manfred Oeming & Petr Sláma (eds.), *A King like All the Nations? Kingdoms of Israel and Judah in the Bible and History*. Zürich: Lit Verlag, 2015, pp. 119–126.
- Stauffer, Devin, Socrates and Callicles: A Reading of Plato's *Gorgias*. *The Review of Politics*, Vol. 64, No. 4 (2002), pp. 627–657.
- , *The Unity of Plato's Gorgias. Rhetoric, Justice, and the Philosophic Life*. Cambridge: Cambridge University Press, 2006.
- Steinwenter, Artur, ΝΟΜΟΣ ΕΜΨΥΧΟΣ. Zur Geschichte einer politischen Theorie. *Anzeiger Akademie der Wissenschaften in Wien Philosophisch-historische Klasse*, Bd. 83, (1946), pp. 250–268.
- Sterling, Gregory E., 'The School of Sacred Laws': The Social Setting of Philo's Treatises. *Vigiliae Christianae*, Vol. 53, No. 2 (1999), pp. 148–164.
- , Introduction. In David T. Runia et al. (eds.), *The Studia Philonica Annual. Studies in Hellenistic Judaism*. Vol. 25. Atlanta: Society of Biblical Literature, 2013, pp. 69–73. [Sterling 2013a]
- , "A Man of the Highest Repute": Did Josephus Know the Writings of Philo? In David T. Runia et al. (eds.), *The Studia Philonica Annual. Studies in Hellenistic Judaism*. Vol. 25. Atlanta: Society of Biblical Literature, 2013, pp. 69–73. [Sterling 2013b]
- , Introduction. In David T. Runia et al. (eds.), *The Studia Philonica Annual. Studies in Hellenistic Judaism*. Vol. 26. Atlanta: Society of Biblical Literature, 2014, pp. 93–97.

- Stertz, Stephen A., Themistius: A Hellenic Philosopher-Statesman in the Christian Roman Empire. *The Classical Journal*, Vol. 71, No. 4 (1976), pp. 349–358.
- Stier, Hans Erich, ΝΟΜΟΣ ΒΑΣΙΛΕΥΣ. *Philologus*, Bd. 83, H. 3 (1928), pp. 225–258.
- Swain, Simon C. R., *Themistius, Julian, and Greek Political Theory under Rome. Texts, Translations, and Studies of Four Key Works*. Cambridge: Cambridge University Press, 2013.
- Taylor, A. E., *Plato. The Man and His Work*. London: Methuen, 1949.
- Taylor, C. C. W., Democritus. In Christopher Rowe & Malcolm Schofield (eds.), *The Cambridge History of Greek and Roman Political Thought*. Cambridge: Cambridge University Press, 2005, pp. 122–129.
- Termini, Cristina, The Historical Part of the Pentateuch according to Philo of Alexandria: Biography, Genealogy, and the Philosophical Meaning of the Patriarchal Lives. In Núria Calduch-Benages & Jan Liesen (eds.), *History and Identity: How Israel's Later Authors Viewed Its Earlier History*. Berlin: de Gruyter, 2006, pp. 265–295.
- Thesleff, Holger, *An Introduction to the Pythagorean Writings of the Hellenistic Period*. Åbo: Åbo Akademi, 1961.
- , On the Problem of the Doric Pseudo-Pythagorica. An alternative Theory of Date and Purpose. In Kurt von Fritz (ed.), *Pseudepigrapha I. Pseudopythagorica – Lettres de Platon Littérature pseudépigraphique juive*. Genève: Fondation Hardt, 1972, pp. 59–87.
- Thomas, Rosalind, Writing, Law, and Written Law. In Michael Gagarin & David Cohen (eds.), *The Cambridge Companion to Ancient Greek Law*. Cambridge: Cambridge University Press, 2005, pp. 41–60.
- Torri, Paolo, Homoiōsis theōi. *A study of the telos in Middle Platonism*. Università degli Studi di Milano – Katholieke Universiteit Leuven, 2017. Doctoral dissertation.
- Trapp, Michael, *Philosophy in the Roman Empire. Ethics, Politics and Society*. London–New York: Routledge, 2017. Reprint (2007)
- Vogt, Katja Maria, *Law, Reason, and the Cosmic City. Political Philosophy in the Early Stoa*. Oxford: Oxford University Press, 2008.
- Weimar, Peter, Accursius. In Michael Stolleis (Hrsg.), *Juristen. Ein biographisches Lexicon Von der Antike bis zum 20. Jahrhundert*. München: Beck, 1995, pp. 18–19.
- Weiss, Roslyn, Wise Guys and Smart Alecks in *Republic 1 and 2*. In G. R. F. Ferrari (ed.), *The Cambridge Companion to Plato's Republic*. Cambridge: Cambridge University Press, 2007, pp. 90–115.

- West, Martin L., *Textual Criticism and Editorial Technique applicable to Greek and Latin texts*. Stuttgart: Teubner, 1973.
- Wilks, Michael J., *The Problem of Sovereignty in the Later Middle Ages*. Cambridge: Cambridge University Press, 1963.
- Winston, David, Philo's Ethical Theory. In Wolfgang Haase (Hrsg), *Aufstieg und Niedergang der römischen Welt*. Bd. 21/1: Religion (Hellenistisches Judentum in römischer Zeit: Philon und Josephus). Berlin, Boston: De Gruyter, 1984, pp. 372–416.
- Winton, Richard, Herodotus, Thucydides and the sophists. In Christopher Rowe & Malcolm Schofield (eds.), *The Cambridge History of Greek and Roman Political Thought*. Cambridge: Cambridge University Press, 2005, pp. 89–121.
- Wolfson, Harry Austryn, Philo on Jewish Citizenship in Alexandria. *Journal of Biblical Literature*, Vol. 63, No. 2 (1944), pp. 165–168.
- , *Philo. Foundations of Religious Philosophy in Judaism, Christianity, and Islam*. Vol. 1. Cambridge, Mass.: Harvard University Press, 1962. [Wolfson 1962a]
- , *Philo. Foundations of Religious Philosophy in Judaism, Christianity, and Islam*. Vol. 2. Cambridge, Mass.: Harvard University Press, 1962. [Wolfson 1962b]
- Zeller, Eduard, *Die Philosophie der Griechen in ihrer Geschichtlichen Entwicklung*. III/2. Leipzig: Fues's Verlag, 1868.
- Zhmud, Leonid, *Pythagoras and the Early Pythagoreans*. Translated from Russian by Kevin Windle and Rosh Ireland. Oxford: Oxford University Press, 2012. [Zhmud 2012a]
- , Aristoxenus and the Pythagoreans. In Carl A. Huffman (ed.), *Aristoxenus of Tarentum. Discussion*. New Brunswick: Transaction Publisher, 2012, [Zhmud 2012b] pp. 223–249.
- , Sixth-, fifth- and fourth-century Pythagoreans. In Carl A. Huffman (ed.), *A History of Pythagoreanism*. Cambridge: Cambridge University Press, 2014, pp. 88–111.
- , *Physis* in the Pythagorean Tradition. *Philologia Classica*, Vol. 13, No. 1 (2018), pp. 50–68.
- , What is Pythagorean in the Pseudo-Pythagorean Literature? *Philologus*, Bd. 163, H. 1 (2019), pp. 72–94.