

## PLATO'S UNEASY FOUNDING: ON REPUTATION IN THE *LAWS*

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### Abstract

*In Greek political theoretical practice, according to Rousseau and Arendt, the founder of a constitution leaves once he has legislated. The politeia of Plato's Laws violates this familiar trope. This observation—hitherto unnoticed in the secondary literature—suggests that scholars have not paid sufficient attention to Magnesia's founding. Herein I establish the role of reputation in the founding, thus touching upon a concept that is central to Plato's Athens yet radically understudied in Platonic studies. I begin by outlining the parameters of founding: the conceptual commitment that humankind lives not in the age of Cronus, but in the age of Zeus. I then evince that in this age reputation is both instrumental to, and constitutive of, the founding. The instrumental role is shown via the presence of Magnesia's founder, Cleinias of Cnossos, in the frame of the dialogue. The constitutive role is evidenced in the legislation for the incoming Dorian colonists. I conclude by proposing some virtues of Plato's account as motivated by my reading.*

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In Plato's *Laws*, the Athenian Stranger contends that, when it comes to founding constitutions (*politeiai*) «no one has yet given [to this good

start (*to ge kalōs arxasthai*)] the praise it deserves» (VI, 754a. Cf. VI, 775e).<sup>1</sup> It turns out that this good start contravenes a familiar trope in political thought. Rousseau approvingly writes that, «When Lycurgus gave the laws to his homeland, he began by abdicating the throne. It was the custom of most Greek cities to entrust the establishment of their laws to foreigners.»<sup>2</sup> Arendt contrasts the lawgiver to the citizens, stating that, «for the Greeks... the right to *politeuesthai*, to engage in the numerous activities which eventually went on in the *polis*, was entirely restricted to citizens».<sup>3</sup> In Plato's *Laws*, however, the founder does not leave; on the contrary, Cleinias of Cnossos joins a prestigious institution of the *politeia* and becomes a citizen of Magnesia. In failing to attend to this manifest incongruity and in its casualness with which it approaches the good start that Magnesia demands, influential secondary literature vindicates the Athenian's complaint.<sup>4</sup>

Herein I focus on a particular aspect of the founding (*oikeisēs*) of the political order (*politeia*), to wit, the role of reputation. Despite the fact that reputation is a feature of Plato's work and context, scholars have scarcely addressed the place of reputation in Plato's thought. I begin with a brief account of the parameters of founding, that is, the conceptual commitment in Plato's political thought that we are in «the age of Zeus» and not in «the age of Cronus».<sup>5</sup> I go on to show that in the age of Zeus reputation is both instrumental to, and constitutive of, the founding. The instrumental role of reputation is shown via the presence of Magnesia's founder in the frame of the dialogue. The constitutive role of reputation is

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<sup>1</sup> Quotes from the *Laws* appear in text in parentheses denoting Book and paragraph numbers; unless otherwise stated they are from Plato 2004.

<sup>2</sup> Rousseau 2011, 181.

<sup>3</sup> Arendt 1958, 194.

<sup>4</sup> For example, Balot 2006, 223: Magnesia is a city that can be «founded on consent». While absence of evidence is not evidence of absence, important work on Plato's political thought that treat the *Laws* does not seem interested in the problem of founding: see Bobonich 2002; Laks 2005; Schofield 2006.

<sup>5</sup> The coinage is taken from *Statesman* 272b.

evidenced in the legislation directed at the incoming Dorian colonists.<sup>6</sup> I conclude by revisiting the incongruity between what we read in Rousseau's chapter on the legislator in the *Social Contract* and what we read in Plato's *Laws*, and propose some virtues inherent in the latter account.

### ***The Parameters of Founding: the Age of Zeus***

Prior to discussing founding proper, we must inquire about the general presuppositions that pertain to the common circumstances of humankind. In other words, what self-understanding of the human situation do Platonic foundings presuppose? A schematic answer to this question will pave the way for an account of the role of reputation.

Three old men populate the frame of the *Laws*: an Athenian who remains nameless throughout, the Spartan Megillus, and the Cretan Cleinias from Cnossos. They are in Crete, on a pilgrimage to the shrine of Zeus (I, 625a-b). Once Cleinias reveals that he has been charged with the founding of a colony of Cnossos, the Athenian claims the authority of a «fiction (*muthō*)» (IV, 713a) or account in which «there is a lot of truth (*hō logos, alētheia chrōmenos*)» (IV, 713e) to say that «there existed, in the age of Cronus, a form of government and administration which was a great success, and which served as a blueprint for the best run of our present-day states (*tis archē te kai oikēsis gegonenai epi Kronou ma' eudaimōn, hēs memēma echousa estin hētis tōn nun arista oikeitai*)» (IV, 713b). During that age, people «were provided with everything in abundance and without any effort on their part» (IV, 713c). This was possible only because of what the god knew (*gignōskōn*), namely, that «human nature (*anthrōpeia phusis*) is never able to take complete control of all human affairs without being filled with arrogance and injustice» (IV, 713c). Hence Cronus «appointed kings and rulers for our states; they were not men, but beings of a superior and more divine order –spirits

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<sup>6</sup> My treatment of the *Laws* does not exhaust what the dialogue has to say about the role of reputation in foundings; of course, I do not mean to suggest that only in the *Laws* may we find such evidence in Plato's political thought.

(*daimonas*)» (IV, 713c-d). From such rule resulted «peace, respect for others, good laws, justice in full measure, and a state of happiness and harmony among the races of the world» (IV, 713e). This fiction appears in the *Statesman* in somewhat different terms. Therein we read that humankind in the age of Cronus were earthborn, under the guardianship of daemons, and were made «ageless and deathless». In the age of Zeus, however, men are born of men, under the guardianship of men, men age, and men die.<sup>7</sup> Says the Stranger to Young Socrates: «This is the story, Socrates, of the life of men under the government of Kronos [sic.]. Our present life [is]— said to be under the government of Zeus (*‘ton dē bion, ō Sōkrates, akoueis men ton tōn epi Kronou: ton de d’hon logos epi Dios einai*)».<sup>8</sup> Taken together, these accounts divulge the self-understanding presupposed by Platonic foundings. We may reformulate this as follows: *politeiai* are human creations and therefore tethered to the kind of being that the human is; a principal characteristic of the human being is its mortality.

According to the Athenian Stranger, the moral of the story is that

where the ruler of a state is not a god but a mortal, people have no respite from toil and misfortune. The lesson is that we should make every effort to imitate the life men are said to have led under Cronus...in obedience to what little spark of immortality lies in us (*mimeisthai dein hēmas oieitai pasē mēchanē ton epi tou Kronou legomenon bion, kai hoson en hēmin athanasias enesti*).

*Laws* IV, 713e (see IV, 713b quoted above).<sup>9</sup>

Here is the relationship between the age of Cronus and the age of Zeus: it is one of mimicry. The «spark of immortality» (IV, 713e) humans

<sup>7</sup> *Statesman* 273e.

<sup>8</sup> *Statesman* 272b.

<sup>9</sup> The age of Zeus is «imitating and following» the age of Cronus. *Statesman* 273e-274a.

carry connects the present to the age of Cronus. In short, the normative proposal is that Platonic foundings ought to be godlike.

Still, it is unclear what it is to mimic the age of Cronus in the age of Zeus. For example, it cannot make sense to say that an age that needs political constitutions mimics an age that had none. I take my cue from Lane who, writing about the *Statesman*, argues that we should understand imitation as a «second-order imitation»: the imitation is in the decision of what to do in the age of Zeus, just like Cronus decided what to do with the universe.<sup>10</sup> It is the «structural demand for autonomy [that] is the key motif of the age of Zeus... their autonomy is to be patterned in the specific form of 'imitation' of the cosmos.»<sup>11</sup> Focusing on the founding of *politeiai*, I take Lane's account forward to posit that reputation is both instrumental to, and constitutive of, a proper founding in the age of Zeus.<sup>12</sup>

### ***Reputation as Instrumental: Cleinias the Founder-Citizen***

That the Athenian addresses the founder, Cleinias, in the second person, puts the *Laws* at the beginning of a tradition of political theoretical texts on foundings that choose this mode of address, the most famous of which is Machiavelli's *Prince*.<sup>13</sup> I claim that Cleinias's reticence to divulge the task of founding results from his hesitant attitude towards the undertaking; an appeal to his reputation is instrumental in overcoming such an attitude. It follows from this that a view of the *Laws* where either

<sup>10</sup> Lane 1998, 109. It is important that «such second-order imitation can allow for substantial divergence in the actions of imitator and imitated». Lane 1998, 109.

<sup>11</sup> Lane 1998, 108-9.

<sup>12</sup> The reader should bear in mind that what follows is governed by the «basic truth... that no political theory, liberal or other, can determine by itself its own application. The conditions in which the theory or any given interpretation of it makes sense to intelligent people are determined by an opaque aggregation of many actions and forces». Williams 2005, 28. One might add that this highlights the importance of the parameters of founding.

<sup>13</sup> For an exposition and extension of this point, see Williams 2005, 57-58. Machiavelli's *Prince* is a go-to text for a so-called «modern» take on reputation. He writes, *inter alia*, that «in all his doings a prince must endeavour to win the reputation (*fama*) of being a great man of outstanding ability». Machiavelli 1999, 72.

Cleinias is coupled with Megillus under the heading of «evaluative audience» or which fails to distinguish between the two is unsatisfactory.<sup>14</sup> On my reading, Cleinias is a privileged interlocutor because the founding of Magnesia passes through him.

While the Cnossian is present from the beginning of the dialogue, Plato hides Cleinias' unique situation until the end of Book III. This is something to be explained. After all, Cleinias need not have been present from the start, for it often occurs in Plato's philosophical dramas that the main interlocutor(s) make a delayed entrance (e.g. the sophist Protagoras and the geometer Theaetetus in the dialogues that bear their names). Nor is this a case of dramatic irony, i.e. one where the author reveals to the audience something unbeknownst to the interlocutors.<sup>15</sup> What necessitates Cleinias' presence in the dialogue from the start?

The opening gambit of the *Laws* may provide us with a clue. This first question, posed by the Athenian, alludes to the parameters of founding: «Tell me, gentlemen, to whom do you give the credit for establishing your codes of law? Is it a god, or a man?» (I, 624a). Cleinias responds –probably with hesitation– that it is a god.<sup>16</sup> As the pivot of the Magnesian enterprise, the Athenian perturbs Cleinias from the very beginning, putting

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<sup>14</sup> For an example of the former, see Morgan 2013; for an example of the latter, see Zuckert 2004. I accept that Cleinias and Megillus are part of the same evaluative audience only insofar as they are Dorians. This, however, is insufficient to explain their respective roles in the *Laws*.

<sup>15</sup> For a discussion of these issues, see Griswold 2002. I agree with Schofield that the audience of the *Laws* is broadly construed: «Plato wanted two things above all of the discourse he was to develop in the *Laws*: first, that it should reflect and embody a sense of a transcendent moral framework for political and social existence; second, that it should be capable of being persuasive –because *inter alia* generally intelligible– to a population at large, not to just an intellectual elite.» Schofield 2003, 13. Cf. Yunis 1996, 236. For the multiple audiences of the *Laws*, see Rowe 2010, 32 *sq.*

<sup>16</sup> Cleinias's answer is: «A god, sir, a god – and that's the honest truth (*theos, ô xene, theos, hôs ge to dikaiotaton eipein*).» *Laws* I, 624a. Pangle's translation, unlike Saunders', readily betrays the hesitation in the Cretan's words: «A god, stranger, a god – to say what is at any rate the most just thing.»

him in a dilemma.<sup>17</sup> Cleinias knows that his answer secures the highest normative authority for the laws of his city, Cnossos. Had he answered «man» he would have foregone this advantage. It would, however, have made Cleinias' future task of founding Magnesia easier to embark upon. After all, he is all too aware he is not a god: if Cleinias is sincere about god being the lawgiver of Crete and its cities, then when founding Magnesia he should follow *those* divinely-informed laws. He would not begin anew in collusion with a pair of non-Cretans, but only transpose the laws of Minos onto Magnesia. When the task of founding becomes common knowledge and the account of the *politeia* has been completed, Cleinias knows that to translate their *logos* into *ergon* is to rethink what he came into the dialogue believing about the Dorian constitution of his city of origin.<sup>18</sup>

There is another bite to Cleinias' situation: his words and actions put him on the verge of committing impiety. By saying that a god was the founder of the Cretan constitution, it follows that the founding of Magnesia will be less-than-godly. And this while Cleinias is on a pilgrimage to the cave of Zeus, mimicking Minos who journeyed every nine years to receive instruction from Zeus (I, 630c).<sup>19</sup> Cleinias has no such recourse to a lawgiver god. Even though, strictly speaking, both Minos and Cleinias are in the age of Zeus, the gap in circumstances between Cleinias and the founder of Cnossos is unbridgeable. The suggestion is, therefore, that laws are needed that will allow future Magnesians to respond as Cleinias does to the first question, to wit, that Magnesia was founded by a god.

«Let us therefore summon God to attend the foundation of the state (*tēs poleōs kataskeuēn*)», the Athenian prays (IV, 712b); in the age of Zeus, this can only be understood metaphorically. Cleinias must have the

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<sup>17</sup> Contrary to Zuckert, therefore, I do not think that the Athenian saves his interlocutors' blushes. The Athenian's demand that Cleinias become a citizen of Magnesia is compelling evidence to this effect (VI, 753a). Zuckert 2004, 379.

<sup>18</sup> For these beliefs, see I, 625c-626b.

<sup>19</sup> *Minos* 319c; scholars do not agree whether Plato is the author of this dialogue.

courage of his conviction that they «stick to the path on which... God himself is guiding us» (XII, 968b) even if he has had no rapport with the god. To explain why «it is no accident that the laws of the Cretans have such a high reputation (*eudokimoi*) in the entire Greek world» (I, 631b), the Athenian divides the benefits of the laws into two classes: human and divine, the «former depend[ing] on the latter» (I, 631b-632a). Human laws should be grounded in, and look towards, the divine.<sup>20</sup> Hence, to steep Magnesia in theology and religion is to psychologically nudge Cleinias into wholeheartedly proceeding with the founding of the new city. Perhaps if Cleinias sees that the Magnesians will in fact attribute their founding to a god, he can proceed with the task of founding.

At the beginning the expectation is that each interlocutor will have preferences that match their heritage: as Dorians, the Spartan and the Cretan will overlap, whereas the Athenian will stand out. This is evidenced in the discussion of the symposia. Both Dorians resist the Athenian's recommendation that drinking parties are useful for a city on patriotic grounds: the Stranger is from a city that allows symposia, whereas they are from cities that bar them altogether. For them, the Spartan and Cretan institution of the mess hall (*sussition*) is sufficient as a school of virtue.<sup>21</sup> Contrary to the Dorian purge of pleasure from the *politeia*, however, Magnesia will have city-regulated symposia combined with choruses in which men as old as the interlocutors will be expected to participate (II, 670a). The argument for the symposia relies on human nature, specifically, «that human beings are so imperfect that they cannot be controlled through persuasion alone: they must also be trained in the proper use of their desires».<sup>22</sup> This is consistent with what Cronus knows about human beings (IV, 713c).

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<sup>20</sup> «[T]he *Laws* itself aims at articulating a certain tension, one which mirrors the radical and irreducible polarity between the human and the divine.» Laks 2005, 267.

<sup>21</sup> To the shock of Megillus and Cleinias and contrary to Dorian practice, both women and men are to participate in Magnesia's mess halls (see VI, 781a-d).

<sup>22</sup> Murray 2013, 111.



As such, both Dorians share a suspicion towards the Athenian. To mitigate this suspicion, Plato deploys the language of friendship and guest-friendship (*philia* and *xenia*) to inscribe affection or goodwill (*eunoia*) from each Dorian towards Athens. Megillus' family represent Athenian interests in Sparta («they are *proxenoi*», I, 642b) and, by listening to Spartans blame and praise Athens, he has «acquired a whole-hearted affection for her, so that to this day, I very much enjoy the sound of your accent» (I, 642c). Cleinias's affection for Athens is decidedly religious and related to the past survival of Athens: the «divinely inspired» Epimenides—an *oikeios* to his family—«obeyed the command of the oracle to go to Athens, where he performed certain sacrifices which the god had ordered» and told the Athenians that it would take the Persian invasion a decade to manifest, and that the invasion would fail. «That was when my ancestor formed ties of [guest-]friendship (*exenōthēsan*) with you Athenians, and ever since then my forebears and I have held you in affection» (I, 642e-643a). The Athenian later extols the seer Epimenides and his practical (*ergō*) achievement (III, 677d-e).

The prolonged absence of the task of founding Magnesia allows an airing and subsequent leaving aside of reputational assumptions that might otherwise obstruct the project of founding a city that is made up of laws both local and foreign (III, 702c). That Books I through III have in part an instrumental character, is shown when the Athenian urges Cleinias to «cast your mind back to the beginning of our discussion and watch what I'm up to», not long after we discover about Cnossos' plans to found Magnesia (IV, 705d). As Meyer notes, referring to discussions of other *politeiai* in Book III: «Deliberations in the original legislative moment [i.e. what the three interlocutors are engaged in], since they concern the relative merits of different sets of norms, are in effect exercises in comparative politics. Such comparisons feature in every legislative moment described or enacted in the text of the *Laws*.»<sup>23</sup> It is by imitating legislators of the past that legislators of the present do well. Once obstructive reputation assumptions about the motives of the Athenian have been left

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<sup>23</sup> Meyer 2006, 384.

aside, Cleinias can oblige the Athenian's demand for a «test (*elegkhos*)» for «what would be the ideal way of administering a state, and the best principles the individual can observe in running his own life (*pōs pot' an polis arista oikoiē, kai idia pōs an tis beltista ton hautou bion diagagoi*)» (III, 702a-b). Cleinias may comfortably divulge his secret about the task of founding he had known all along: «I won't keep you in the dark about my position (*ou gar apokrupsomai sphō to nun emoi sumbainon*)» (III, 702c).

At the tail end of the dialogue it becomes clear that Cleinias must do justice to his heritage if Magnesia is to manifest. The Athenian explicitly address Cleinias' pivotal role. Via an appeal to Cleinias' future legacy among the yet-to-be Magnesians, he exhorts the Cretan to proceed with the founding. He calls upon Cleinias to «establish the state of the Magnesians... and if you're successful you'll win enormous fame (*kleos arē megiston*); at any rate you'll never lose a reputation for courage (*andreiotatos einai dokein*) that will dwarf all your successors» (XII, 969a-b).<sup>24</sup> We know that Cleinias is susceptible to such an appeal because it was he who first, and from the very beginning, showed concern about a legislator whose high reputation is justified: «We Cretans would say [about Rhadamanthus] that he won this reputation [for justice] because of the scrupulously fair way in which he settled the judicial problems of his day.» The Athenian was quick on the uptake: «A distinguished reputation (*kleos*) indeed, and one particularly appropriate for a son of Zeus» (I, 625a). If the *politeia* is to manifest, then it is Cleinias' reputation among its future denizens to which the Athenian ought to appeal. We may conclude therefore that the textual evidence resists a retreat to the dogmatic position that «the desire for fame cannot be the right Platonic reason for doing anything».<sup>25</sup> The reward of fame and reputation is apposite to the age of Zeus, for it is very much a reward that mortals can give.

<sup>24</sup> Pangle also notices that the Athenian appeals to the founder Cleinias' fame. Pangle 1980, 416-417.

<sup>25</sup> Wilburn 2013, 95 n.60.

By appealing to Cleinias' reputation, the Athenian's exhortation drives a wedge between Cnossos and Magnesia. For the anomaly –which the secondary literature ignores– is that Magnesia, while a colony of Cnossos, will self-consciously resist imitating the principles of its mother. «Cleinias of Cnossos» (I, 629c) will be the first to make this step, opting for a potential city rather than an extant one. Whether Cleinias can (or will want to) take solace in the fact that Magnesia, as a Cretan city and a colony of Cnossos, will partake in the «high reputation (*eudokimoi*) in the entire Greek world» of Cretan laws (I, 631b) depends on how far he thinks Magnesia deviates from these laws.<sup>26</sup> The end of the *Laws* leaves us wondering whether Cleinias will go ahead with the founding. Thus the dialogue closes as it had opened, namely, with a dilemma for Cleinias, a dilemma that evidences the precariousness of foundings in the age of Zeus.<sup>27</sup>

If Arendt is to be believed, the precondition of founding is that the founder(s) must never be assimilated: «for the Greeks... the lawmaker was like the builder of the city wall, someone who had to do and finish his work before political activity could begin... [he] could be called from abroad and commissioned without having to be a citizen, whereas the right to *politeuesthai*, to engage in the numerous activities which eventually went on in the *polis*, was entirely restricted to citizens».<sup>28</sup> The Athenian

<sup>26</sup> The quote about «high reputation» is what the Athenian thinks Cleinias ought to have said about the Cretan laws so as to avoid the implication –which Cleinias wrongly draws– that the Athenian's criticism has «reduce[d] our Cretan legislator to the status of a failure.» *Laws* I, 630d.

<sup>27</sup> Since the age of Zeus is the age of autonomy it coheres with what is said by the Speaker who relates the message of Lachesis in the Myth of Er, to wit, that «the responsibility lies with the one who makes the choice; the god has none (*aitia helomenou: theos anaitios*).» *Rep.* X, 617e. The language of *aitia* (cause, responsibility) and the question of its locus is found in the Athenian's salvo with which the *Laws* opens: «Tell me, gentlemen, to whom do you give the credit for establishing your codes of law? It is a god, or a man (*theos ē tis anthrōpōn humin, ō xenoī, eilēphe tēn aitian tēs tōn nomōn diatheseōs*)?» *Laws* I, 624a. As in the *Republic*, the three Fates make their appearance towards the end of the *Laws* at XII, 960c-d.

<sup>28</sup> Arendt 1958, 194. Saxonhouse contrasts (ancient) foundings to (modern) constitutions altogether; referring to Arendt's *On Revolution*, Saxonhouse points out that the model of founding therein is wholly unlike that of foundings we read about in Greek tragedies. Saxonhouse 2009, 45-46.

insists that Cleinias be made a citizen of this colony (*kai auton se politēn einai tautēs tēs apoikias*) (VI, 753a). Cleinias is not only a founder of Magnesia, but also a future citizen who will participate in its institutions as a Guardian of the Laws. Cleinias' knee-jerk reaction is to seek help from the Stranger and Megillus. Unfortunately, the response he receives from the Athenian is not encouraging: «Athens is haughty... and Sparta also is haughty, and both are far distant: but for you this course is in all respects proper» (VI, 753a, Bury translation).<sup>29</sup> The Athenian raises the issue in the context of the «special duty» the citizens of Cnossos have towards Magnesia. This justifies why «It's absolutely vital to give your best attention to choosing, first of all, Guardians of the Laws (*nomophulakas*)» (VI, 752d-e). There will be thirty-seven of these, nineteen of whom will be drawn from the incoming colonists and eighteen from Cnossos including Cleinias. Whereas Arendt's claim would identify Cleinias' task as an act of foreign policy on behalf of his home city, the text attests otherwise. By making Cleinias a citizen of Magnesia, Plato shows us a salient characteristic of foundings in the age of Zeus: that foundings presume a prior founding, that is, the pre-existence of another city from which the founder hails. Put differently, Cleinias is in a quandary which Minos, Lycurgus, and Solon, never encountered.<sup>30</sup> If this *politeia* is to manifest, its ambivalent founder will have to become a Magnesian citizen and assume an active role in its institutions. The Athenian must therefore exhort Cleinias to seek a good reputation among the future Magnesians.

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<sup>29</sup> In discussing this passage, Lane, 2010 focuses on the Athenian's rider to the claim that Cleinias in addition to seventeen of the Guardians of the Laws will be Cnossians: «either by persuading you or compelling you, with a measured amount of force.» *Laws* VI, 753a (Pangle trans.).

<sup>30</sup> Occurrences that may make the founding easier, such as a young tyrant who assists the legislator and/or a stroke of luck (IV, 709e *sq.*), are exceptions that prove the rule in the age of Zeus.

***The Pursuit of Reputation as Constitutive of the Founding: Colonists in the Laws***

Reputation is not only instrumental to the founding; it is constitutive of it too. The interaction in which the foreigners of the frame engage is analogous to the initial interactions among the incoming colonists. In getting the city started, Cleinias and the motley crew of colonists are similarly placed with respect to the positive and negative preconceptions they bring in their train.<sup>31</sup> The colonists will be Greek foreigners «of Dorian stock».<sup>32</sup> The Athenian is serious about addressing their situation: «we should assume our colonists have arrived and are standing before us» (IV, 715e). These foundings are, in part, the result of necessity: «Such migrations occur because of the pressures of land-shortage... sometimes a given section of the community may be obliged to go off and settle elsewhere because it is harassed by civil war (*stasesin biazomenon*), and on one occasion a whole state took to its heels after being overcome by an attack it could not resist» (IV, 708b). More specifically and relevantly, Magnesia is made up of people who bring to the city the reputation of their city of origin. The Athenian recognizes «that at the start they won't readily accept any [of the laws] at all» (VI, 752c). Therefore, unlike the *Republic's* constitution, the *politeia* of the *Laws* confronts the question of what happens when you cannot begin with the young.<sup>33</sup>

In fact, we are explicitly and elegantly told that they lack unity. «So it won't be at all easy for the Cretan states to found their colony. The emigrants, you see, haven't the unity of a swarm of bees: they are not a single people from a single territory settling down to form a colony with

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<sup>31</sup> The colonists «are prone to cling blindly to the laws and institutions of their original home». Barker 1960, 365.

<sup>32</sup> Morrow 1993, 62; cf. 11 and 59. See Meyer 2006, 384; Gill 2003, 45; and Pangle 1980, 422 *et passim*.

<sup>33</sup> The «quickest and easiest way» for Kallipolis to be founded, Socrates avers and Glaucon repeats, is to «send everyone in the city who is over ten years old into the country», *Rep.* VII, 540e-541a. From the perspective of the *Laws* it becomes obvious that this claim solved for the problem of acculturation.

mutual goodwill between themselves and those they have left behind» (IV, 708b). The Athenian describes the task using an aqueous metaphor: «it's as though we have a number of streams from several sources, some from springs, some from mountain torrents, all flowing down to unite in one lake. We have to apply ourselves to seeing that the water, as it mingles, is as pure as possible, partly by draining some of it off, partly by diverting it into different channels» (V, 736a-b).<sup>34</sup> If the lake is to be preserved, it needs to be managed.<sup>35</sup> The juxtaposition of the metaphors is revealing: the unstable, malleable, life-constituting medium that is water is more befitting to the arriving colonists than a metaphor which shows many individuals acting for the sake of the species. The legislators have their work cut out for them if «the laws in force [are to] impose the greatest possible unity on the state (*kata dunamin hoitines nomoi mian hoti malista polin apergazontai*)» (V, 739d).

How do these colonists transition to a state of unity? The injunction to the incoming colonists to appear as they are levels the playing field, as it were: «the soundest and most important rule is this: if you mean to be perfect, you should seek to live in good repute only if you are really good in the first place, but not otherwise (*to men gar orthotaton kai megiston, onta agathon alēthōs houtō ton eudoxon bion thēreuein, chōris de mēdamōs, ton ge teleon andra esomenon*)» (XII, 950c).<sup>36</sup> The operational principle behind this is that «There can be no greater benefit for a state than that the citizens should be well-known to one another» (V, 738e). The functioning of Magnesian laws depends upon this. «Whether the figure you cut in the eyes of others is good or bad, you should never underestimate its importance» (XII, 950b).<sup>37</sup>

<sup>34</sup> For the claim that we should not be serious about the varied origins of the colonizers, see Brunt 1993, 253n.33.

<sup>35</sup> This aqueous metaphor befits the two related traits of human nature: «pleasure and pain, you see, flow like two springs released by nature.» *Laws* I, 636d.

<sup>36</sup> The injunction is mentioned in the context of Magnesia's reputation; ergo, it applies to individuals and to cities alike.

<sup>37</sup> Saunders writes «that efficient educational legislation will not be possible unless it is firmly based on the characters, beliefs, prejudices and practices of the colonists.» Saunders 1986, 208.

The pursuit of reputation motivates obedience to these laws. As each citizen struggles to be recognized as the most obedient servant of the laws and values of Magnesia, he will emerge from the shadow of the reputation of his former city and make his character known to his fellows. The best Magnesian man is a man of virtue, which is to say that he is indeed virtuous and is acknowledged by others to be such. The legislator couches this in epinician language familiar to his audience from the poetry of Xenophanes and Pindar:

In dealings with the state and one's fellow-citizens, the best man (*aristos*) by far is the one who, rather than win a prize at Olympia or in any of the other contests in war and peace, would prefer to beat everyone by his reputation for serving the laws of his country (*doxē hupēresias tōn oikoi nomōn*) – a reputation for having devoted a lifetime of service to them with more distinction than anyone else.

*Laws* V, 729d.<sup>38</sup>

Therefore, a good reputation is earned by fulfilling the twin ethical injunctions: to obey the laws and to appear as you are.

Reputation is apposite because it is already of concern to the many: it provides a ready path to virtue in the age of Zeus. The pursuit of a good reputation is grounded in this nature that «involves above all, pleasures, pains and desires... That is why we should praise (*epainein*) the noblest life – not only because it enjoys a fine and glorious reputation (*mē monon hoti tō schēmati kratei pros eudoxian*) but because...it excels in providing what we all seek: a predominance of pleasure over pain throughout all our lives» (V, 732e-733a). The noblest life deserves praise for two reasons: because of the reputation it earns among others and

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<sup>38</sup> For the argument that the *Laws* is littered with the epinician language and themes of poets like Pindar and Xenophanes, see Morgan 2013. Independently of my argument herein, Wilburn observes that «there is significant positive emphasis throughout the preludes and laws, and in the Athenian's characterization of the lawgiver's aims throughout the dialogue, on the love of victory and good reputation». Wilburn 2013, 91.

because it gives its bearer a predominance of pleasure over pain throughout his life. Pleasures and pains «correspond to the most extensive part of a state, the common people (*dēmos te kai plēthos poleōs estin*)» (III, 689b). Since a good reputation must always and necessarily depend on others, whereas the experience of pleasure and pain need not, it is clear why the ideal for any citizen must be the former.

By urging the pursuit of reputation, the legislator establishes interdependence among the citizens: he demands both that they render judgments on others and that they not discount the judgments others make of them. Hence the universal proposal that «every citizen of every state should make a particular effort to show that he is straightforward and genuine (*haplous de kai alēthēs aei*), not shifty, and try to avoid being hoodwinked by anyone who is» (V, 738e). The Magnesians desire a good reputation, that is, he desires to be seen as virtuous in the eyes of the other citizens. If the city is to last they must become a company of friends (see III, 693b-c; V, 743c; VIII, 837a). The legislator must therefore design an environment in which reputation can be pursued: «At every stage the lawgiver should supervise his people, and confer suitable marks of honor or disgrace...he must use the laws themselves as instruments for the proper distribution of praise and blame» (I, 631e-632a).<sup>39</sup> The incoming colonists are thus reassured that in Magnesia they will have the opportunity to attain a good reputation.

It is likely that the tendency to self-honor will be especially acute in the first generation of colonists. Lacking corporal unity, the experience of pleasure and pain will probably be more salient in their judgments, making prospective unity tenuous.<sup>40</sup> Magnesia is a new settlement; these citizens begin by mutual strangers and must transition from this to being friends. This takes place when each citizen pursues a good reputation because

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<sup>39</sup> I discuss the institutional process by which this happens in Avgousti 2015, 111-134.

<sup>40</sup> I propose a schema that describes how a Dorian becomes a Magnesian in Avgousti 2015, 78-89.



this is what the best men seek, and via the promotion of intrastate competition among thusly motivated citizens. As Cohen remarks, «social relations are essentially evaluative and competitive...a politics of reputation».<sup>41</sup> Hence the Athenian proposes that a life of victory over oneself and over others (see I, 626c-e) is measured by the extent to which one obeys the city's laws. These two are connected in the sense that a victory over oneself involves not only suppressing illicit pleasures and withstanding pains, but also overcoming the «excessive love of ourselves (*sphodra heautou philian*) [that is...] the cause of each and every crime we commit» (V, 731e). To love oneself excessively is to engage in a «false mode of self-honor», to loosen the bonds of friendship.<sup>42</sup> It is spiritedness (*thumos*) that adjoins the city to the individual and the individual to the city; therein lies the possibility of disconnect both because one may overreach in the attempt to have the best reputation and because, having attained it, he may find himself wanting to overreach the gods.<sup>43</sup> In sum, with respect to the public (*koinon* or *dēmosion*) realm, the age of Cronus is to immortality as the age of Zeus is to the pursuit of reputation. Since immortality is no longer available to human beings, they must try in their terminal lifespan to earn a name for themselves; their name, like their descendants, has the potential to transgress their mortal condition.

Hence, with respect to the private (*idion*) realm, the age of Cronus is to immortality as the age of Zeus is to marriage, procreation, and the family. Recall that in the age of Cronus «it was no part of man's natural endowment to beget children by intercourse»; men were earthborn.<sup>44</sup> And in the *Symposium*, Socrates reports Diotima to have said that it is

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<sup>41</sup> Cohen 1995, 62-63. Cohen is writing about Aristotle's discussion of anger in *Rhetoric*, II.2, 1378a32-1380a4.

<sup>42</sup> Friedländer 1969, 429.

<sup>43</sup> By making the *politeia* thumetic, Plato invites the familiar problems associated with social emotions such as envy and anger. For a defense of Magnesia's thumetic nature see Avgousti 2015, 102-111.

<sup>44</sup> *Statesman* 271a; cf. the attention to the «natural (*zōogenes*) bond, human ties» at *Statesman* 309c.

by procreation that humankind becomes immortal.<sup>45</sup> The mechanism by which this happens is humankind's love for immortality: «it's immortality they [men] are in love with (*tou gar athanatos erōsin*)».<sup>46</sup> As Pangle notes of Magnesia, it is a «*thumotic eros* which underlies marriage and the family».<sup>47</sup>

Marriage is generative of families, and individual is understood as being part of a family. It is the family (*genos*) that is the claim of each individual to immortality. «It is the family, which, in the narrowest sense possesses this fame and carries on the name», writes Jaeger.<sup>48</sup> Political office depends on a good family name, for «if your candidates are to deserve promotion to positions of power, their characters and family background must have been adequately tested, right from their childhood until the moment of their election» (VI, 751c). Therefore, for example, in the nominations for the office of Guardian of the Laws, the name of each nominee comes with «the candidate's father, tribe and deme» (VI, 753c). Similarly, Magnesia's law on suicide highlights the importance of one's name in the city: those who commit suicide are buried on the city's borders, apart from the rest, in unmarked graves (IX, 873b-c). The permanent absence of a marked grave is a blemish upon the perpetrator's family.

When it comes to marriage, the legislator recommends that «we should seek to contract the alliance that will benefit the state, not the one that we personally find most alluring» (VI, 773b). Hence the law on adultery: «After the period of child-bearing, the chaste man or woman should be highly respected (*panta eudokimos*); the promiscuous should be held in the opposite kinds of «repute» (though *disrepute* would be a better word) (*ho de tounantion enantiōs timasthō, mallon de atimazesthō*)»

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<sup>45</sup> «This is the way that every mortal thing is maintained in existence (*touto gar tō tropō pan to thnēton sōzetai*)». *Symposium* 208a.

<sup>46</sup> *Symposium* 208e.

<sup>47</sup> Pangle 1980, 472; here, and elsewhere in this paper, emphasis is in the original.

<sup>48</sup> Jaeger 1986, 243. Cf. Schofield 2006, 320. The attention lavished upon the prelude to the marriage laws cannot be understood without acknowledging that marriage itself is a religious duty.

(VI, 784e). A good reputation is an incentive to be chaste, whereas a bad reputation is an incentive to avoid promiscuity. Insofar as chastity and promiscuity provoke opposite kinds of gossip, they are matters of societal concern.<sup>49</sup> The threat to one's reputation acts, we might say, as an enforcement mechanism. What the law on adultery instructs the Magnesians is that the pursuit of a good reputation is achieved through a marriage wherein the respective halves remain faithful to one another. By logical necessity, the provisional law on adultery looks back to the marriage law (IV, 721b-d). As a union between two persons it is an example and a symbol of the union of the citizens. Its existence and progeny secure the future (stability) of the *politeia*. As part of the founding project, monogamy in marriage is reflective of the monogamy in allegiance to the city. This brings us back to Cleinias the Cnossian, for it is precisely the issue he has to face. As the first dissenter from Cnossos, Cleinias presages the inevitable tension between Magnesia and its mother. We can expect, the Athenian says, that «any child is going to fall out with his parents sooner or later» (VI, 754b).<sup>50</sup>

### **Conclusion**

My reading shows the magnitude of the founding task at hand: «however you organize a society (*en pasē kataskeuē politikē*), it looks as if there will always be trouble and risk» (V, 736b). This is unsurprising given the fragility and fiendishness of foundings in the age of Zeus. It is one thing to acknowledge that autonomy demands second-order imitation; it is another to enact it.

It would be hard to deny that the conceptual apparatus Plato deploys inspires Rousseau's chapter «On the Legislator (*Législateur*)» in the

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<sup>49</sup> As Hunter notes of Athens, «gossip penetrated into the privacy of the oikos [sic]...Gossip thus represents a point of articulation of family and community, oikos [sic] and polis [sic]». Hunter 1993, 116

<sup>50</sup> Citing VI, 751c-d; 752b-c and 754a-d, Saunders observes «the constant presentation of the problems of transition as *educational*». Saunders 1986, 206.

*Social Contract*.<sup>51</sup> There are two points of agreement. One, that «Gods would be needed to give men laws» (before he goes on to cite Plato's *Statesman* in the very next sentence).<sup>52</sup> And two, that the task of founding is gargantuan: «He who dares to undertake the establishment of a people should feel that he is, so to speak, in a position to change human nature».<sup>53</sup> This reminds us of the aqueous metaphor used to describe the lack of unity among the colonists. Rousseau is emphatic that «The legislator is in every respect an extraordinary man (*un homme extraordinaire*) in the state.»<sup>54</sup> Rousseau's legislator—a man with a «great soul (*la grande âme du législateur*)»—has «recourse to an authority... which can compel without violence and persuade without convincing... [i.e.] divine authority (*l'autorité divine*)».<sup>55</sup> This sets up the political theoretical claim that «he who has command over men must not have command over laws, he who has command over the laws must no longer have any authority over men.»<sup>56</sup> According to Rousseau, political theory became political practice in «most Greek cities» whose «custom [was]... to entrust the establishment of their laws to foreigners», he avers, citing Lycurgus' Sparta.<sup>57</sup> Rousseau's claim is at once descriptive and normative: «He who drafts the laws, therefore, does not or should not have any legislative right.»<sup>58</sup>

On the evidence of Plato's *Laws*, to say that legislators of today mimic legislators of old is to say that legislators remain present once the founding has been completed. Rousseau helps us identify the problem

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<sup>51</sup> For an elaboration of what Rousseau learned from the age of Cronus-age of Zeus binary, see Williams 2007, 118-121.

<sup>52</sup> Rousseau 2011, 180-181.

<sup>53</sup> Rousseau 2011, 181.

<sup>54</sup> Rousseau 2011, 181.

<sup>55</sup> Rousseau 2011, 182-3.

<sup>56</sup> Rousseau 2011, 181.

<sup>57</sup> Rousseau 2011, 181.

<sup>58</sup> Rousseau 2011, 182. This gives birth to the paradox that «in the work of legislation [we find] two things that seem incompatible: an undertaking that transcends human capacities and, to execute it, an authority that is nil». Rousseau 2011, 182. Plato's *Laws* avoid this paradox.

that this creates, to wit, that the authority of the laws is permanently conflated with the authority of the ever-present legislators. Reputation poses a related issue: a reputation-bearer can outlive his reputation. In short, by becoming a citizen, the founder risks undermining what he has created. Cleinias must lead by example and, as Guardian of the Laws, not undo his creation.

We must now ask: what are the virtues of Plato's account? The obvious one is that the *Laws* do not fall prey to the language of exceptionality. Cleinias is a flawed man, hardly one with «a great soul». It is easier to imagine a real-life Cleinias than it is to imagine Rousseau's legislator. *Inter alia* Cleinias hesitates, angers, and is particularly attached to the traditions of Cnossos. If psychological realism is a measure of the political theory of foundings, then Plato's *Laws* trump what Rousseau has to say in the *Social Contract*.

Not only is there no exceptional individual at the moment of founding, there is no single individual either.<sup>59</sup> This multiplicity of founders also recommends Plato's account. When the Legislator is voiced, he is voiced by a Stranger (with whom he is not identical) and subject to the approval of the other two interlocutors. Writing about the collaborative enterprise of the *Laws*, Morrow notes that, «Plato's choice of an Athenian Stranger to be the interlocutor with the two Dorians indicates clearly his intention to confront the Dorian way with the traditions of his native city.»<sup>60</sup> We may agree, but we must add that this is done for the sake of constructing something altogether new. The fact of the Athenian's strangeness cannot absolve the necessity for a separate legislating voice. Insofar as the Athenian also allows greater changes in the law during the first decade of Magnesia's existence (see VI, 752c), he gestures towards future

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<sup>59</sup> The extraordinary man may be the «dictator (*turranos*)» whom the Legislator (*nomothētēs*) requests to cooperate in Magnesia's founding (*Laws* IV, 709e sq). Note, however, that such a founding is still one of multiple founders; and if the founding never relies on one man, then it is arguable that the demand for extraordinariness is dampened.

<sup>60</sup> Morrow 1993, 74.

founders.<sup>61</sup> And, more banally, the multiplicity of founders is also highlighted by the fact that Cleinias is one of ten Cnossians who are assigned the task of legislating for the colony of Magnesia (III, 702c).

Lastly, the perspective of reputation helps us see another implication. In his discussion of political participation in Plato's city, Wallach writes that «Magnesia directly involves the *demos* in the authoritative exercise of political power to a greater degree than any twentieth century democracy.»<sup>62</sup> Indeed, if Magnesia is a constitution that subjects both its founder-citizens and its denizens to the collective reputational judgment of the city, then it is hardly surprising that Bodin characterized this *politeia* as «the most democratic ever».<sup>63</sup> By making reputation instrumental to and constitutive of the founding, Plato points the way to a form of political power that is sourced in the people.

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<sup>61</sup> Saunders 1972 and 1986 argues for provisionality; he is followed by Bobonich 2002, 394 *sq*; Cohen 1993, 314; and Pradeau 2002, 154 *et passim*. Pradeau is correct to emphasize the perfectibility of the legislating task. Both Stalley and Klosko disagree with the general point about provisionality; see Stalley 1983, 82 and Klosko 2006, 250-251.

<sup>62</sup> Wallach 2001, 380n.91. I take it that the point applies to twenty-first century democracies too.

<sup>63</sup> Bodin 1992, 103.

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