

Freedom and Legislation in Plato's *Laws*

Abstract

In this paper, I develop and defend a new interpretation of law in Plato's final work, the *Laws*. There Plato emphasizes the free status of citizens, saying that the appropriate ideal for a political community composed of free individuals is voluntary deference to law. I examine Plato's claim that in order to legislate in accordance with this free status, the lawgiver ought to attach preambles to laws, often called legal preludes. I criticize two prominent views of the purpose of the preludes: one that argues their aim is to make individual citizens wise through rational persuasion, and one that argues that their aim is to produce compliance through non-rational means. I argue that both of these views have neglected the important connection between the use of preludes and their stated purpose, which is to treat the listener as free. Instead, I propose and defend an alternative view of their purpose: the preludes promote willing obedience to laws on the basis of their wisdom, though they do not bring about understanding of the reasons behind the law. When construed this way, the legal preludes evince a concern for the kind of freedom that is available to citizens who are subjected to law. The value of this freedom is not reducible to the lawgiver's aim of intelligent rule, although the value is conditional on intelligent rule. This interpretation of the legal preludes suggests that Plato has a coherent answer to a fundamental problem raised by the idea of law — namely, how a coercive legal order can aim at both the happiness and the freedom of citizens.

1. Introduction

In his final work, the *Laws*, Plato suggests that a political community is defective whenever its subjects are ruled involuntarily. In order to promote willing obedience among citizens, he recommends establishing a law code in which directives are preceded by persuasive speeches. Scholars are divided on how to interpret the legal preludes that Plato recommends. Some argue that they are philosophical arguments meant to rationally persuade citizens, while others have argued that they are rhetorical devices designed to produce acquiescence without understanding. I will suggest that both of these views have neglected the important connection between the use of preludes and their stated purpose, which is to treat the listener as free.

This neglect is understandable, since it is difficult to see how prelude-led legislation counts as treating the listener as free. Most of the preludes operate by way of praise and blame, where these techniques are designed to weaken the inclinations to disobey, not provide reasons to obey. Few preludes contain the full rationale arrived at through expert legislative deliberation, and in any case, many of the citizens are not in an epistemic position to understand the rationales that are provided. Even for the wisest citizens who are capable of full understanding, it seems that obedience must be paramount: even the rulers, it is said, should be slaves of the laws. Thus, the interpretive challenge that motivates this paper is to explain how the preludes exhibit respect for citizens' freedom when they are aimed first and foremost at producing obedience.

In what follows, I develop and defend the view that the preludes aim to bring about willing obedience — that is, the deference to law that is appropriate for free subjects. The deference of free subjects rests on a belief that legal directives are intelligently aimed at the good of the city, although the citizen need not understand why. The deference view thus departs from two prominent interpretations, the intellectualist and non-intellectualist accounts. Against the intellectualist, I argue that the preludes are not expected to produce understanding on the part of each listener of the independent reasons for doing the action that the law commands (for instance, arranging funerals in a particular way). Against the non-intellectualist, I argue that the preludes aim at more than concord and acquiescence, as that could be achieved in other ways. Rather, the preludes are aimed at performing and expressing a certain kind of consideration for citizens. That is to say, the practice of delivering preludes attests that the rulers seek to be obeyed on the basis of their intelligence, as opposed to obedience on the basis of the threat of violence or an assertion of self-validating authority. I defend the deference view as the one that fits best with the aims of lawgiving as stated in the *Laws* — to make the city wise, free, and friendly to itself.

Ultimately I argue that the legal preludes evince a concern for freedom as non-instrumentally valuable, although freedom's value is conditional on its being accompanied by intelligent rule.

2. Legal Preludes

In the design of Magnesia's legal system, the Athenian advocates the use of a prelude (or preamble), a persuasive and exhortatory speech preceding the declaration of each law.¹ The Athenian presents the practice as a brand new development in the evolution of lawgiving:²

It's likely that none of the lawgivers has ever reflected on the fact that it is possible to use two means of giving laws, persuasion and violence (insofar as the uneducated condition of the mob permits). For they set down laws, not tempering combat with persuasion, but with unmixed violence alone. But I, O blessed ones, see the need for yet a third way of handling laws, one not at all in use nowadays. (722b-c)

It is worth noting that there is a textual issue in this passage. My translation is modified from the Pangle, who follows Ast, England and Des Places in replacing μάχην with ἀνάγκην (England 1921, 466; Pangle 1988, 526).³ Thus he translates it is "failing to mix compulsion with persuasion" {Pangle, 1988, 109}. I do not think this substitution is necessary, especially in light of the two references to βία in the passage. If we accept the reference to μάχη, then the force involved in lawgiving is described as combative, the kind that occurs in battle. Moreover, rather than persuasion and force being two equal elements in a mixture, roughly on a par, the accusative case of combat suggests that it is more basic, while persuasion (in the dative) is the additive ingredient. This locution suggests that one is more indispensable than the other, hence there is an in-built limit to how far law can be modelled on reasoned persuasion.

¹ For the remainder of the paper I present the views of the main speaker, the Athenian Stranger (hereafter, the Athenian), as a plausible representative of Plato's views in this dialogue.

² Translations are from Pangle {Plato, 1988} unless otherwise noted.

³ E.B. England notes the oddity of word choice, saying that "the only defense of the MS. reading that seems possible is the assumption that *πειθοῖ κεραννύντες μάχην* is a poetical quotation" {England, 1921, 466}. Pangle notes the amendment to "necessity" adopted by England and Des Places {Pangle, 1998, 526}.

However one reads the text, the Athenian is presenting the preludes as more than just optional supplements. Rather, they are part of the true nature of lawgiving, that is, what is appropriate when setting down laws. Why? The immediate answer is delivered only by way of metaphor, based on two kinds of doctors in a city:

You understand that sick people in cities, slaves and free, are treated differently. The slaves are for the most part treated by slaves... None of these doctors gives or receives any account of each malady afflicting each domestic slave. Instead, he gives him orders on the basis of the opinions he has derived from experience. Claiming to know with precision, he gives his commands just like a headstrong tyrant and hurries off to some other sick domestic slave... The free doctor mostly cares for and looks after the maladies of free men. He investigates these from their beginning and according to nature, communing with the patient himself and his friends, and he both learns something himself from the invalids and, as much as he can, teaches the one who is sick. He doesn't give orders until he has in some sense persuaded... Which of these two procedures is better? (720b-d)

The Athenian is contrasting two situations: the slave situation, in which commands are determined without understanding and delivered without explanation, and the free situation, in which commands are guided by understanding and preceded by explanation. The passage suggests that, quite apart from whether the medical directives are correct and aimed at health, there is something improper about giving commands to a free person without an accompanying explanation. And since the expectation of compliance is present in both cases, the passage suggests that the value of the explanation is not exhausted by increased behavioral compliance with the doctor's directives in that particular instance.⁴

By analogy with the doctor of free patients, therefore, the lawgiver for free subjects ought to provide an accompanying explanation *because* this befits the relationship between two free citizens whenever one directs the other. The implication is that when lawgiving fails to provide preludes, it is in some sense falling short of the sort of relationship that should obtain between lawgivers and free citizens.

⁴ It may be that the free patient would be less compliant if treated as a slave patient, but this does not show that the only reason for the free doctor to behave differently is to produce the desired behavior. I thank Kinch Hoekstra for this observation.

What effects are the preludes expected to have on the subjects? In particular, what do the preludes imply about the cognitive, epistemic, and motivational capacities of citizens, and especially the appropriate role for these capacities in deference to law? The answers to these questions are not entirely clear. One issue is that the account of the soul is allegorical. In the *Laws*, the Athenian characterizes human psychology using the imagery of a divine puppet, composed of internal cords working either in coordination or opposition:

Let's consider each of us living beings to be a divine puppet... The passions work within us like tendons or cords, drawing us and pulling against one another in opposite directions toward opposing deeds, struggling in the region where virtue and vice lie separated from one another. Now the argument asserts that each person should always follow one of the cords, never letting go of it and pulling with it against the others; this cord is the golden and sacred pull of calculation (τοῦ λογισμοῦ), and is called the common law (κοινὸν νόμον) of the city; the other cords are hard and iron, while this one is soft, inasmuch as it is golden... It is necessary always to assist this most noble pull of law because calculation, while noble, is gentle rather than violent, and its pull is in need of helpers. (644d-645a)

Thus the best element of the psyche is by nature gentle and cannot exert a dominating force.⁵ Instead, it must be aided by a process that leads the other parts to accord with it rather than to oppose it.

It is natural to think that the preludes can play a role in bringing about this internal accord. The Athenian says that the purpose of the prelude, “which the speaker gives in order to persuade, is... that he who receives the law uttered by the legislator might receive the command – that is, the law – in a frame of mind more favorably disposed and therefore more apt to learn something... [which is why it] would correctly be called a ‘prelude’ rather than an ‘account’ of the law” (723a-b).⁶ The prelude is aimed at making the hearer more receptive to whatever is

⁵ This passage raises many questions that cannot be resolved here, not least of which is how a puppet can have agency. For further discussion, see {Sassi, 2008; Bobonich, 2010; Frede, 2010; Wilburn, 2012; Meyer, 2012}.

⁶ Here I have translated λόγος as “account,” since Pangle’s translation as “argument” might seem biased with respect to the question at hand. In a more neutral way, perhaps, E.B. England indicates that *logos* is to be understood as the “text” or “body” of the law, as opposed to its “introductory matter” {England, 1921}. As will become clear, I do not object to Pangle’s translation, since I suspect that the emphasis on the contrast between *prooimion* and *logos* implies that the prelude is not best construed as an argument.

coming next, so that the pull of *logos* is more able to have its way. If the gentle tendon associated with reasoning needs assistance in order to pull against the tougher tendons, then the preludes could provide this sort of assistance. But on this picture, it still remains unclear whether the hearer of the prelude has been *rationaly* persuaded.

2.1. The Point of the Preludes

The purpose of the preludes is contested. Commenters tend to frame their disagreement in terms of rationality: at one end, rationalists think that the preludes are essentially forms of rational argumentation meant to influence beliefs through the giving of reasons; at the other end, non-rationalists view the preludes as essentially aiming to harmonize the passions in order to produce compliance. I believe that there is textual support for both of these views, but there are two problems with accepting this spectrum.⁷ First, many of the preludes involve discourse explaining why the law commands as it does. In these cases, it is undeniable that preludes contain the presentation of rational considerations, even if not full-blown deductive reasoning. Even so, the presence of rational considerations favoring the law need not exhaust the nature or purpose of the speech, which is said to aim at obedience. In other words, the content of some of the preludes does not settle the question of how the delivery of preludes affects the soul. The second problem with the rationality dichotomy is that, even if some discourse is aimed at spirit and passions, it need not be *ipso facto* non-rational.⁸

⁷ (Bobonich 2002) presents evidence in favor of rationalism about the preludes; (R. F. Stalley 1983; R. Stalley 1994) and (Laks 2000) present evidence in favor of the non-rational function of the preludes.

⁸ For example, Bobonich thinks that even rhetoric that operates on the passions can be “indirectly rational” and “contribute to a person’s rationality” {Bobonich, 2002, 115-116}. So the division is not as informative as we might hope.

Therefore, rather than focusing on the dichotomy of rational and non-rational, I would like to focus on what really divides the commentators -- namely, whether the preludes lead to a genuine cognitive or epistemic achievement in the listener regarding the reasons behind the laws. Christopher Bobonich has advanced the view that the preludes are best understood as rational persuasion, where this is essentially intellectualist. He thinks that the preludes aim to “teach” in such a way that a subject genuinely learns why performing the action is good for her.⁹ While other forms of training like music and gymnastic count as education for Plato, the preludes are thought to educate in a distinctive way. The hearer of the prelude is “asking to be given good epistemic reasons for thinking that the principles lying behind the legislation are true;” thus, the preludes “provide an account of what goods are to be pursued, why they are to be pursued, and of the relations among these goods.” Bobonich and other intellectualists tend to support their view in three ways.¹⁰ They take the recondite Book X prelude addressing atheists to be paradigmatic; they cite particular prelude examples in which philosophical reasoning occurs, and – most importantly – they lay heavy emphasis on the programmatic claims and metaphors implying that the lawgiver educates the citizens through the preludes.¹¹

The proponents of the non-intellectualist account of the preludes take a different view. They note that the Greek word choice for prelude – invoking music and myth – strongly connotes the encouragement aimed at rousing the spirit through aesthetic pleasure and

⁹ Overall, Bobonich argues for the following functions of the preludes. The preludes attempt to influence beliefs through appealing to rational considerations; do not inculcate false but useful beliefs; do not effect persuasion through non-rational means; ask the citizens to actively learn, not be passive; teach the citizens why the laws are fine and just, and why following them is good. {Bobonich, 2002, 104-106}.

¹⁰ Discussions of the preludes in Irwin and Annas seem to be inclined towards the intellectualist construal, though it is not as explicit as in Bobonich {Irwin, 2010; Annas, 2010}.

¹¹ Bobonich in particular also argues that the overall project of the Laws makes best sense on the assumption that the preludes somehow improve the citizens’ epistemic position regarding what is good: otherwise, how could laws aim at making the whole city wise? However, this argument assumes that the preludes contribute to making the city wise by making individual citizens wise.

storytelling. They cite multiple particular preludes in which non-intellectual discourse seem to dominate, preludes in which honor, fear, pleasure, and shame are used to activate the motivational capacities of citizens who are about to hear the laws {Stalley, 1994}.¹² As Andre Laks observes, the *Laws* show a remarkable concern with “phenomena like rational emotions (among which a central place is given to ‘shame’), non-argumentative forms of discourse (praise and blame), and myths and public opinion (especially regarding the existence of gods)” {Laks, 2000, 278}. They also take the constitutional prelude spanning Books IV and V to be paradigmatic, disputing that the theological prelude in Book X has primacy as the exemplar.¹³ Furthermore, they interpret the programmatic remarks differently: the fact that the preludes educate does not mean that their purpose must be epistemic improvement. They argue that the preludes cannot aim, at least in the first instance, to persuade citizens by increasing their epistemic grasp of the lawgiver’s reasoning without coming into conflict with other related claims in the *Laws*.

I think there are enough textual shortcomings in both the intellectualist and the non-intellectualist construals to motivate the search for an alternative account of the preludes.¹⁴ I hope to develop an alternative that can avoid some of these difficulties, and, at the same time, shed light on the special connection between preludes and freedom.

¹² Passages designated as *prooimia* by Stalley include: 773a-e (the law on marriage); 854a-c (law on temple robbery); 869e-870d (law on voluntary homicide); 879b-c (law on assault); 888-907d (law on atheism); 916d-917d (law on selling adulterated goods); 923a-c (law on wills); 927a-c (law on orphans); 930e-931a (law on caring for one’s parents); 931e-932a (law on respect for parents). See esp footnote 5 in {Stalley, 1994, 157}.

¹³ And they have good grounds for doing so because, as André Laks notes, “The argumentative flavor in Book X is the exception. For the most part, preambles are speeches of praise and blame” (Laks 2000, 289).

¹⁴ For compelling objections to the non-intellectualist, see {Bobonich, 2002}, and for compelling objections to the intellectualist, see {Wilburn, 2013}.

3. Promotion of Deference

Though preludes are discussed and delivered at various places in the Laws, I want to consider two passages in particular, which help to illustrate my proposal.¹⁵ In Books IV-V, the Athenian delivers the prelude that introduces the entire law code (726a-734e). This paradigmatic prelude consists mostly of inducement to correct action through praise and blame, as announced at the outset: “In turning to the next matters [what sort of person one should be to lead the most noble life], we must speak not of law, but rather of how praise and blame can educate each of them so that they become more obedient and well-disposed to the laws that are going to be laid down” (730b). A fuller translation might be “more obedient to the rein and favorably-minded” (εὐηνίους μᾶλλον καὶ εὐμενεῖς), suggesting the image of a horse that is cooperative and tractable with minimal guidance. Thus in the opening examination of how preludes ought to function, the lawgiver invokes a notion of animal-like tameness. Employing the notion of docility right from the beginning, as the aim of delivering the prelude, would seem to count against the view that obedience is attained by means of an intellectual improvement.

In the light of these programmatic remarks about how the preludes function, consider the prelude for the law against defilement (temple robbery):

Someone would say the following by way of dialogue and encouragement to that man who is [haunted] by an evil desire to despoil something of the sacred things: “You amazing man, the evil that now moves and turns you to temple robbery is neither human nor divine, but a certain gadfly that grows naturally in human beings as a result of ancient and unexpiated injustices. It is an accursed thing that revolves around, which one must take precaution against with all one’s strength. Learn now what the precaution is: When any of such opinions seize upon you, go partake of exorcisms; go as a suppliant to the temples of the gods who ward off evil; go and frequent the company of the men said to be good among you; hear, and try yourself to

¹⁵ It is worth noting that the normal challenges of interpreting an aspect of a Platonic dialogue are amplified here, due to the different *types* of passages that bear on the question. Here is my categorization. First, there are two paradigmatic preludes that apply in some sense to the entire legal system (the constitutional prelude in Book V and the theological prelude in Book X, addressed to atheists who deny that law has any authority). Second, there are many particular preludes to individual laws regarding such matters as defilement, marriage, theft, etc (see list above). Third, there are programmatic remarks in which the Athenian discusses the purpose of the preludes, relying on declarative statements as well as metaphors. And fourth, there are discussions of proximate issues (citizens’ psychology, the aims of the lawgiver). Any adequate construal of the preludes ought to be sensitive to all of the above.

say, that every man must honor the noble and the just things. Flee, without turning back, the company of bad men. (854a-c)

In order to reinforce the gravity of this crime, the law declares that anyone caught robbing a temple after receiving this prelude is to be branded on his face and hands, publicly flogged, and then thrown naked outside the city (854d). The prelude of such an important crime has not been sufficiently considered, in my view, especially compared to the Book X prelude.¹⁶ While it may be directed at a particular subset of citizens, many of the preludes share this feature, indicating that the preludes are meant to encompass a heterogeneous citizenry.¹⁷

The language of the defilement prelude is focused almost entirely on disabling or weakening the passions that are pulling the person towards defilement, rather than the providing reasons to honor sacred things. If the subject learns anything, it is what remedial measures to undertake, rather than “the reasons behind the law” {Bobonich, 2002, 118}. It begins by disassociating the person’s passion from himself, tracing it back to something with which the person’s soul has no connection. It is followed by a flat order to counteract the passion by taking certain actions – exorcism, visiting good men, fleeing bad men. It also includes a command to simply recite to oneself that “every man must honor the noble things,” but notice that there is no “because...” after the self-directed recitation. In my view, the speech aims overall to increase the person’s aptitude for being obedient to the law’s command by weakening his contrary inclinations. By contrast, the giving of reasons to refrain from the crime of defilement as such is apparently not considered as bearing on the aptitude for obedience, since no reasons are given.

¹⁶ As one would expect of an intellectualist, Bobonich discounts the centrality of the defilement prelude, since he thinks it is meant only for particularly intractable people: foreigners and slaves. While it is true that these groups are mentioned, bad citizens are mentioned as well. Thus, he overstates the restricted scope of application by neglecting the reference to the incorrigible citizen, as well as the reference to general human nature in the discussion preceding this prelude (853c-854a). In any case, the Book X prelude is also aimed at a particularly intractable subset of citizens, but Bobonich does not downplay it accordingly.

¹⁷ For a discussion of the preludes’ heterogeneity in terms of different life stages, see {Buccioni, 2007}.

Neither the exhortation nor the remedy involves philosophical arguments. Indeed, the exhortation to honor sacred things (a common theme of preludes) does not easily admit of a rationale beyond their identification as sacred. Therefore, I conclude that the defilement prelude is attempting to reorient the person's psyche in the direction of obedience, but not by the application of arguments in favor of the particular directive as such. I believe the preludes function this way more often than not, which calls for an interpretation of their purpose that gives primacy to the aim of obedience.

3.1. Primacy of Obedience

I propose to understand the preludes as aimed at willing obedience. The claim that comes closest to describing the preludes' function is the following: they "artfully attempt to promote what is to come" (ἔχουσαί τινα ἔντεχνον ἐπιχείρησιν χρήσιμον πρὸς τὸ μέλλον περαίνεισθαι) (722d). In my view, the aim is to persuade a subject that the law is worthy of being obeyed. If I am to persuade you to do something willingly, then you have to see it as worth doing in some sense. In delivering the preludes, the lawgiver can be seen as asserting that the subsequent directive, "Do X," is for the sake of the common good, and then offering some considerations relevant to that assertion. The subject is then meant to accept that the assertion is correct (doing X is for the sake of the common good) without fully understanding why it is true. The subject accepts that the assertion is correct because they come to believe that it is supported by some intelligent reasoning. This sort of persuasion still involves understanding, namely, the subject comes to understand *that* the law is thought by intelligent leaders to advance the good of the community. But the subject does not gain the sort of understanding of the law that allows him to rationally scrutinize and determine whether he independently has a conclusive reason to perform the act,

that is, a reason to do X that is *independent* of its being a law. This sort of unforced acceptance of the law — a willingness to obey the law’s directive because it is seen as valid — is the aim of the prelude.

Thus, while the aim of a prelude is to render you more willing to submit to the law, this submissiveness is effected independently of whether you understand why the prelude’s particular content counts as sufficient grounds for performing the act that the law prescribes. Thus the aim of obedience takes precedence over the aim of cognitive improvement in the delivery of the preludes. In other words, while each prelude aims to bring about obedience, the degree to which this involves coincides with an epistemic achievement will depend on the circumstances.

Still, the preludes aim at obedience on the basis of a *kind* of understanding, one that falls short of the legislator’s wisdom. And here is where I would question that it can be likened to ideology, at least as that term is normally understood. Malcolm Schofield’s argues that the preludes structure and set the terms for our orientation to the world, where this is in contrast to providing rational arguments. He observes, “... the prelude does not treat the requirement of marriage at that age as following from the metaphysical explanation of the desires it alludes to: in that sense no argument is here presented for the requirement. That only goes to confirm that the persuasive rhetoric of the prelude is designed to do something else: to get people to see themselves and their lives in a framework larger than politics...” {Schofield, 2006, 321}. I will return to this point shortly, but I want to flag that while I agree with the overall distinction, I am not sure we have said enough about what kind of understanding is compatible with deference.

What I want to emphasize at the moment is the following. Since the preludes are inevitably followed by commands, they must cooperate with the way in which a command motivates, not substitute for or displace that motive. This suggests that law has a distinct

motivational profile, that is reducible neither to reason, emotion, or appetite. The Athenian argues that human nature is driven by desires which must be restrained “with the three greatest checks — fear, law, and true reason” (783a). The classification of law as distinct from reason supports the idea that a prelude’s effect must be compatible with law’s essential nature as a command. It also supports the idea that philosophical understanding is not the overarching and governing aim of a legal prelude. Rather, the aim is for the citizen to regard the laws as an intelligent means of bringing about the common good. When the citizens obey on this basis, they have the sort of understanding that is compatible with law’s nature as a command. It is compatible because the law’s motivational effect is not independent of the fact that it is a promulgated legal directive. This is what makes law distinct from true reason.¹⁸

So, while it is true that the preludes present rational argument as a matter of their *content*, their *purpose* is the promotion of willing obedience. This willing obedience involves a deference to law, on the grounds that it is seen to be an intelligent directive. In other words, the compliance arises from a belief that the command is valid because it reflects intelligence about the good of the individual or the city (or both). Importantly, this deference must be motivationally efficacious regardless of the subject’s epistemic grasp of the rationale offered (though the subject may make progress over time). Upon hearing a prelude followed by a command, the subject is expected to affirm the directive to do X as an intelligent means of bringing about a state of affairs she believes is good, though she does not rationally understand why doing X is an intelligent means, or why it is the means that has been singled out via this particular legislation.

¹⁸ It is worth noting that while law is distinct from true reason as an element of our motivational landscape, this does not preclude law from serving our conformity with reason from the perspective of morality. In fact, this understanding of law’s authority is echoed in early modern legal theory — Hobbes says that “Law is a command of that person (whether man or council) whose instruction is the reason for obedience” — as well as in contemporary legal positivism, such as Joseph Raz’s service conception {Hobbes, 1998, 154; Raz, 2006, 1014}.

3.2. Learning from the Preludes

The deference view does not deny that lawgiving involves teaching and learning. Instead, it seeks to recast the learning in a new light. A passage cited earlier described the purpose of the preludes as preparing the listener to receive the law with a certain readiness to learn. The prelude is meant to render the audience “more apt to learn something” (723a-b).¹⁹ This implies that some learning occurs after the prelude -- namely, upon hearing the prescription. The deference view is able to accommodate the idea that some learning occurs upon hearing the prelude-prescription pair, since it relies on a more subtle account of the relationship between learning and obedience.

The limited and proleptic content of the preludes supports the idea that they aim only at partial understanding. While the preludes present general rationales for laws, they very rarely contain a justification corresponding to the specificity of what is commanded. Zena Hitz observes that, for example, while the marriage prelude gives a rationale for marriage in general, it does not give a rationale for setting the maximum age of 35. She says, “These features of the preludes raise the disturbing specter that the preludes encourage citizens to obedience generally, without giving much of an explanation of why they ought to obey in these particular and very specific ways” {Hitz, 2009, 376}. I agree with Hitz that the intended effect of non-specific justification is non-specific obedience, but I would not conclude that it is disturbing. A

¹⁹ Joshua Wilburn has recently criticized the intellectualist position by arguing that the preludes are aimed at the non-rational part of the soul, and on this basis he denies that the preludes “teach” {Wilburn, 2013, 88-97}. Wilburn’s view, although developed independently of mine and not focused on the political, shares a lot of ground in the textual criticism of the intellectualist position. For example, we agree that not enough emphasis has been placed on referring to the preludes as *paramuthia* (96). However, we disagree on whether the prelude-legislation brings about understanding. Wilburn says, “In short, what all of this suggests is that while moral education surely does appeal to the Magnesian citizens’ rationality in various ways, what it does not do is teach them in any meaningful sense. That is precisely why deference and obedience to law are so important in Magnesia” {Wilburn, 2013, 96-97}. Wilburn’s ultimate concern to make room in the *Laws* to retain the *Republic’s* idea of a spirited part of the soul leads him to defend the aim of obedience *in opposition* to the aim of understanding. As will become clear, my view finds a way to marry obedience and understanding without eliminating either one.

generalized attitude of obedience is a perfectly sensible aim if the preludes are there to promote deference rather than full understanding. And given the *Laws*' emphasis on habits and moderation among citizens, generalized obedience is a more plausible aim.

To clarify the different kind of understanding involved in the view I am proposing, it will help to contrast it with Julia Annas's depiction of the preludes. Annas thinks that the preludes put forth an "ethically salient aim" for the practices about to be commanded:

The preambles set out for the citizens ideals of living that they are to achieve in following the laws. As they come to see obedience to laws in the light of ethical aims, they appreciate that following the laws is the way to become temperate, disciplined, and thus better people. The citizens thus come to aspire to an ideal in doing what they do, and see their actions as aimed at a good beyond that of merely following the rules. They come to see that they have reasons for doing what they do, reasons referring to the good achieved for them and for society in their following these rules and engaging in the practices they structure. {Annas, 2010, 84-85}

The philosophical advantage of such an account, according to Annas, is that it can show how the law makes citizens virtuous while maintaining the law's supreme authoritativeness.

In my opinion, Annas's concern with how the laws make citizens virtuous leads her to construe the preludes as necessarily improving the epistemic situation of the subject regarding the rationale underlying the law. Since the possession of virtue requires grasping why the commanded act is good for its own sake, then in order for the prelude to produce virtue, what the subject must gain from hearing the prelude is a motivating reason to follow the law's command that attaches to the *content* of the prescribed act.²⁰ So while Annas hopes to resist the intellectualist position, it seems that in order for the law to produce virtue in the way that Annas

²⁰ It is central to Annas's proposal that the subject gains a sufficient reason to follow the law that attaches to the content of that particular law. In considering the marriage prelude, she says, "Without the understanding provided by the preamble, someone might get married as a possibly disagreeable obligation. With it, he is more likely to think of getting married in an unforced way, as something he does without prompting at a certain stage of life because it is part of what he understands as living well. He will find getting married attractive, and will see his life as improved by his change in status, because he is aware of it as part of what humans do in a good society where the generations are linked" {Annas, 2010, 85}.

envisions, the prelude must ultimately operate in such a way that it fits the intellectualist construal.²¹

To avoid this collapse, we need an interpretation that makes obedience more distinct from acting on the basis of understanding. At the same time, whatever understanding is attained must remain compatible with securing a deferential form of obedience. On the view that I propose, the kind of understanding that accompanies willing obedience *enables* deference, rather than making deference unnecessary. This, in turn, helps us understand the subtle relationship between the subject owing obedience and the ruler owing justification. As Annas herself observes, “[An authority’s] being prepared to explain [directives] to you doesn’t take the edge off the fact that you still must do what he says.”²² It is true that prelude legislation depicts the lawgiver as expecting to be obeyed. But this expectation is tied to providing the subject with a basis for thinking their deferential obedience is justified — so it does take the edge off, in a sense. In this way, the deference view of the preludes can integrate the aims of obedience and learning.

4. The Aims of Legislation

My interpretation of the purpose of the preludes — namely, the promotion of willing obedience — fits best with the threefold aim of legislation articulated in the *Laws*. The Athenian says that

²¹ With regard to the puzzle that concerns Annas — that is, how prelude-led law produces virtue — I would suggest that in producing obedience to law, the preludes secure a form of moderation.

²² Annas seems to admit there is a role for deference. She says, “The citizens’ rational grasp of the good aim of the laws has to be compatible with the attitude of deference... it would be unsafe to take Plato to be adumbrating the idea that free citizens are entitled to have laws presented for them to accept on the basis of their own reasoning... Even for those capable of understanding it, rational persuasion alone does not provide an adequate basis for their attitude to the laws” {Annas, 2010, 76-77}. It is not yet clear to me how this acknowledgement fits with her claim that the preludes promote virtue by providing the kind of understanding that she thinks is required for citizens to be virtuous, i.e. understanding why the action is to be performed for its own sake. I would be inclined to argue that preludes contribute to virtue by producing moderation, through deference to law.

the lawgiver should have a composite aim in giving the laws: “that the city be free, that it be a friend to itself, and that it possess intelligence” (701d, 693b). At 693c the Athenian says that the three goals are the same in some sense. It is evidently not clear to the interlocutors how the lawgiver can aim at all three simultaneously. But their perplexity at this point is only natural, because freedom has been maligned as a dangerous political ideal. I regard the remainder of the *Laws* as a meditation on how these aims of legislation are both unified and composite. The three aims may be jointly achieved, I argue, when the citizens willingly obey laws that are intelligent and are seen to be intelligent.

4.1. Intelligence

For the city to possess intelligence, it is necessary that the laws be intelligent and the citizens obey the laws — this much, at least, is shared with the *Republic*. But the citizens also have a share in intelligent rule in a stronger sense. The Athenian thinks that while the citizens of Magnesia are not in a position to legislate, they are fit to pass judgment on wise rule, because they can recognize wisdom, or lack thereof, in others. He says, “The many happen not to be as deficient in their judgment of who among the rest are wicked and good, as they are deficient in the essence of virtue; there is a certain divine shrewdness even in bad men, such that very many even of those who are especially bad can distinguish well, in their speeches and opinions, the better human beings and the worse” (950b). Accordingly, the city’s constitution includes a democratic assembly and democratic elections of magistrates.²³ Through their participation in selecting the magistrates, the citizens install those that they believe to be wise in positions of authority. So in a sense, if they select moderately well, they are responsible for the wiser ones

²³ For a fuller description of selection by vote, by lot, or by some combination, see Excursus C in {Morrow, 1960}.

among them being elevated to power. And an implication of this procedure is that the citizens presumably look upon the officials as being relatively wise.

However, it is important to notice that the non-intellectualist can tell a similar story about how the city comes to possess intelligence. That is, the non-intellectualist could argue that the citizens obey the laws (and magistrates) on the basis of believing that they are wise, without any need for the preludes' *playing a role* in believing they are wise. Indeed, their account of the operation of the preludes is consistent with the preludes being non-verbal music. The non-intellectualist would be under pressure to admit that the preludes educate in the same way that dancing and gymnastics do. This would be hard to justify when the interlocutors take such care, time and again, to compose preludes that contain persuasive content related to the substance of each legal prescription. It might be thought that such an observation pushes us back towards an intellectualist construal. But the deference view offers an alternative explanation of how prelude-legislation contributes to making the city intelligent. Since the practice of prelude-giving allows the subjects to base their obedience on recognizing the laws as intelligent directives, the preludes enable subjects to participate in the wisdom that rules the city. Individuals do not possess the wisdom of the rulers, but they possess a willingness to be guided by it. Their judgments concerning intelligent rule forms the basis of their willing obedience. The account that I have proposed thus shows how the preludes contribute to rule by intelligence, but without requiring that the preludes make each citizen intelligent.

This advantage of my interpretation is illustrated by the way in which citizens are directed to participate in juries. The Athenian says, "Anyone who does not share in the right of judging considers himself not at all a sharer in the city itself" (768b). Citizens are deemed fit to participate in lower court juries, but not in higher courts. And yet, consider how the higher courts

conduct their deliberation in public for capital offenses.²⁴ While the public is allowed to observe the deliberation, they are not involved in any direct way, other than periodically participating in selecting the judges through a highly filtered electoral process. In the higher courts, the many do not contribute epistemically to the deliberation (marking an important difference with Aristotle's account of sharing in rule). However, the procedure demands the public rehearsal of an extremely thorough investigation, aimed at squeezing out every last epistemic contribution of the judges involved, and it requires that they each reflect multiple times in public about what the other judges have said. In a sense, what is offered up to the public is the quality and integrity of the deliberation. The prescribed public procedure aims to demonstrate to and thereby reassure the public that expert intelligence has been brought to bear. And in virtue of this performance, the institutionalized power of judges attests that it is not self-validating, or merely power for power's sake. This affirmation, in fact, lies at the heart of every claim of legitimate authority. By enacting a group dialogue of examination, the procedure itself acknowledges that the result is not self-validating (recall the self-assuredness of the slave doctor, by contrast).

While these constitutional provisions illustrate how the patient learns from the doctor, how does the doctor learn from the patient? This learning is reflected in Magnesia's constitution in three ways: citizens' inputs through participation in lower courts, citizens' opportunity to appeal severe decisions to the law guardians by explaining how their implementation would be disastrous (926b-c), and the provision for sending observers abroad to discover and report on better constitutions (951a-952c). These official legal provisions for learning, although tightly

²⁴ The Athenian proposes an elaborate and iterative process involving the following: a subset of the best judges deliberate one at a time, seated in an ordered row by age, hearing speeches from accuser and defendant, with citizens observing. The eldest begins orally judging, making inquiry into what has been said; then it continues down the row, going one by one from eldest to youngest. Each subsequent judge questions what was found wanting, or ratifies what was not found wanting. The judges all sign the verdict, post it publicly, and reconvene next day for the same procedure; at the end of the second day they sign, reconvene the following day, then the vote at the end of the third day is "made sacred" (855c-856a).

circumscribed, reflect the idea that in order for the free doctor to aim at willing obedience, they must be willing to learn from the patient in an ongoing way — that is, simultaneous to the administration of justice.

Finally, the preludes advance the aim of making the city intelligent by promoting habitual obedience to the law, because the rule of law reflects the rule of intelligence. This claim about the connection between law and intelligence depends on three strands of argument. First, Book X presents an intricate theological argument for the connection between law and *nous*, urging us to believe that law is an emanation of the most divine element of human nature.²⁵ Second, the Athenian argues that lack of intelligence corresponds to lack of ordered consonance - both in the soul and in the city (689a-d). Third, the Athenian argues that the rule of law is less corruptible than rule by a person, so it is superior.²⁶ Whereas the picture in the *Republic* suggests that knowledge should rule in the form of a philosopher-king, the view in the *Laws* is that man's nature is too weak to be trusted with such a burden as sovereign power (691c-d, 713c, 875a-d). Therefore, the Athenian insists that the laws must have supreme authority.²⁷ Indeed, he uses the language of subjection to describe the attitude to the law, saying that “rulers are servants of the laws... it is this above all that determines whether the city survives... Where the law is itself ruled over and lacks sovereign authority, I see destruction at hand” (715d).²⁸

²⁵ How the laws embody intelligence (*nous*) cannot be addressed adequately here, but it is an important element of my interpretation.

²⁶ However, Plato still thinks perfect knowledge is best: “No law or order is stronger than knowledge (*ἐπιστήμη*), nor is it right for intelligence (*νοῦς*) to be subordinate to anyone, but it should rule over everything” (875c). This creates pressure to marry *nous* and *nomos*, which is, of course, exactly what he attempts to do in Book X.

²⁷ However, the constitution of Magnesia includes a “Nocturnal Council,” a group of elders who interpret and oversee the constitutional regime. Whether this council undermines the sovereignty of law is contested. See {Morrow, 1960; Klosko, 2008; Hitz, 2009}.

²⁸ What Pangle translates as “lacks sovereign authority” could also be translated as “lacks supreme power”: ἐν ἧ μὲν γὰρ ἂν ἀρχόμενος ἦ καὶ ἄκυρος νόμος, φοβερὰν ὁρῶ τῇ τοιαύτῃ ἐτοίμῃν οὖσαν {Plato, 1988}.

In light of these considerations, it seems that the deference view is able to explain how the preludes contribute to making the city intelligent. It accounts for this better than the non-intellectualist account, and no worse than the intellectualist account. Its chief advantage over the intellectualist account lies in how it connects to the other aims of legislation — namely, freedom and friendship.

4.2. Freedom and Friendship

According to the medical metaphor, the lawgiver is required to give a subject a persuasive explanation because it fulfills the sort of relationship that should obtain between a ruler and a free subject. Now I will argue that the deference view makes best sense of how the preludes contribute to the realization of this relationship.

One of the most striking claims in the *Laws* is the denial that a regime can be a true *politeia* unless all the constituents accept it voluntarily:

Democracy, oligarchy, tyranny... are not really regimes, but conflict-regimes (στασιωτεῖται). For none of them constitutes a voluntary rule over voluntary subjects, but instead a voluntary rule, always with some violence, over involuntary subjects. Since he is afraid, the one ruling will never voluntarily allow the one ruled to become noble, or wealthy, or strong, or courageous, or in any way warlike... The present regime escapes this [because] it presumably dwells in the greatest leisure, and they are free as regards one another. (832c)

Evidently, there is no true polity without voluntary acceptance of the rulers by the ruled — a condition that is explicitly linked with freedom. This passage supports the idea that the legislative aims of freedom and friendship are distinct from the aim of wisdom, since true political community is not possible if the rule is maintained by violence, or if one part of the city

is afraid of another (especially if the rulers are afraid).²⁹ Thus in the *Laws*, willing obedience is a necessary part of a true political community, or at least one that is worthy of the name.³⁰

Just as freedom is a distinct aim of the lawgiver, so is friendship. Early in Book I, the Athenian asks, “Which would be better [with respect to correct lawgiving]? The one who destroyed the wicked among them and set the better to ruling themselves, or the one who made the worthy men rule and allowed the worse men to live while making them willing to be ruled?” (627e). The point seems to be that if subjection is necessary, it is better if the subjection is accepted voluntarily. But the passage goes on to make another point. The context is a family in conflict, where some brothers cannot get along with other brothers, and there is a need to call upon a judge to establish order. After posing the two alternatives above, the Athenian then says, “But I suppose we should mention the judge who is third in respect of excellence... one capable of taking over a single divided family and destroying no one, but rather reconciling them by laying down laws for them for the rest of time and thus securing their friendship for one another” (627e-628a). This allegory indicates that when a community is divided, friendship is to be secured by a kind of reconciliation *through* the laying down of laws. This in turn suggests that

²⁹ This passage appears to be a repudiation of the *Statesman* argument that willingness is not a criterion of correct rule (292a). Melissa Lane suggests that this apparent reversal can be avoided by drawing a distinction between the validity of a claim to rule, on the one hand, and better and worse ways of ruling, on the other hand. She says, “The focus [of legislating with preludes] is on the way that the modality of address (whether gentle or not) will affect the recipient’s disposition and psychology, so that they will be willing to be treated or to act as required, not on their moral or even their political entitlements. Gentle address [via preludes] ... is not owed to citizens in virtue of their moral freedom, and it does not underpin the more fundamental question of the validity of rule” {Lane, 2011, 15}. Lane seeks to separate the lawgiver’s orientation to freedom from his orientation to intelligence, saying that only the latter is definitive of ruling as such. This allows her to maintain that knowledge remains the sole criterion of the validity of rule in the *Laws*. In my view, there is another way to make sense of the lawgiver’s composite aim that does not require excluding freedom and friendship from what is definitive of ruling. And that is to show how prelude-law blends the three aims — intelligence, freedom, friendship — in such a way that they can be jointly achieved.

³⁰ The point made in this passage turns on using *politeia* in a descriptive and normative sense. Laks observes that the concept is normative in two senses: *politeia* is a distribution of power in which knowledge is supreme, and an agreement between constitutive parts. “The result is a tension that pervades all of Plato’s political thought” {Laks, 1990, 218}.

how the laws are delivered matters as much as the content of the laws. Recalling the doctor metaphor, we can see that friendship between the giver and receiver of directives is possible in the free case in a way that it is not in the slave case. The free doctor is able to commune with the patient and his friends before he gives his orders. The hope is that prelude-led legislation will transform the basic violence that is inherent in lawgiving into a kind of friendship, one that involves freely following the guidance of intelligent laws. In this way, the threefold composite aim of legislation becomes a single aim, and in a sense, a single criterion for correct lawgiving.

In my view, the Athenian is inviting us to understand Magnesia as the city in which the citizens accept rule by intelligence, because they voluntarily submit to the constitutional order.³¹ Through their obedience, they voluntarily defer to whatever intelligence there is in the city. They obey willingly, even though they do not grasp the rationale underlying the particular act that is intelligently commanded. The acknowledgement that willing obedience must be one aim of the legitimate exercise of authority is what grounds the demand for commands to be accompanied by explanation, even when full understanding is out of reach. Moreover, it is this free acceptance of intelligent rule that provides the basis for friendship. Recall that the free doctor communes with the patient and his friends before he gives his orders. The hope is that prelude-led legislation will transform the violence that is inherent in lawgiving into a kind of friendship, one that involves freely following the guidance of intelligent laws. In this way, the threefold composite aim of legislation can be blended together, forming an integrated single criterion for correct lawgiving.

³¹ Magnesia's constitution incidentally fulfills the description offered in Plato's *Menexenus*, which hypothetically eulogizes the Athenian constitution as "rule by the best, with popular approval" (238d).

4.3. Free Patient and Free Citizen

Someone that is sympathetic to the intellectualist construal might be inclined to treat freedom and friendship as secondary aims, relative to the over-arching aim of wisdom. I think this understanding of the preludes would miss something important. To explain why, it is necessary to examine closely a passage in which the medical metaphor is revisited. In Book IX, the Athenian returns to the guiding idea of modeling legislation on the free doctor's behavior. He asks his interlocutors to imagine what would happen if the slave doctor stumbled across the free doctor engaging in dialogue with his free patient. He thinks the slave doctor would declare "Idiot! You're not doctoring the sick man, you're practically educating him, as if what he needed were to become a doctor, rather than healthy!" (857d). Kleinias seems to think that the slave doctor has a fair point, as he asks, "Wouldn't he be speaking correctly?" The Athenian agrees only conditionally, saying that lawgiving *would* be that sort of education *if* it were conducted in the sort of leisurely conditions they currently enjoy — namely, "the lack of any necessity to legislate" (858a). This is an ambiguous response. Recall that the original catalyst for the dialogue was precisely the necessity of writing legislation for a new colony, and the speakers repeatedly remark on how the art of city-founding must accommodate itself to necessity.³² At that point in the dialogue, they are legislating, in one sense, but in another sense, they are not yet legislating but rather pursuing an inquiry. Given these two levels, the Athenian's response suggests that the practice of prelude-led legislation both is and is not the sort of education aimed at turning citizens into philosophers.

The deference view can make better sense of the medical metaphor than the the intellectualist or non-intellectualist can. When the free doctor interacts with the free patient, there

³² The cosmological account in the *Timaeus* shows a similar emphasis on aiming at the best while accommodating necessity.

is the following subtext: “I invite you to share in my intelligence as far as is possible for you, but with an eye towards persuading you to obey me on the basis of my intelligence.” Why display the intelligence this way, in the form of an explanatory address? After all, there are other ways of showing someone that you have intelligence pertaining to what they should do (for instance, reputation of past success). If the prelude way is the one that corresponds to the freedom of the one being directed, this must be because, in some sense, it amounts to acknowledging that the relationship between them is not one of master-slave. The doctor seeks to be obeyed on the basis of a free recognition of his intelligence, where this recognition is prompted by an attestation that his authority derives from something beyond himself. This acknowledgement and expectation of being obeyed on these terms, in contrast to the slave doctor’s self-proclaimed authority, is what makes the relationship appropriate for free persons.³³

If the free subject of law is analogous to a free patient, then it must be meaningful to say that he is not a slave patient, but neither is he a doctor — nor need he be seen as a defective free patient insofar as he is not a doctor. The citizens of Magnesia fall somewhere in between, and moreover, this in-between space is described as *free*.³⁴ The intellectualist position, however, understands freedom in terms of making the patient a doctor. Bobonich’s discussion of the preludes implies that he sees freedom as individual rational autonomy. That is, one is free when one acts from a rational grasp of what is objectively valuable (i.e. the non-relational properties that make something fine or good). He says, “The Athenian’s justification for providing preludes

³³ Here it seems clear that the medical metaphor is a deliberate reworking of the one deployed in the *Statesman* (293b-301d), which illustrates that law has a “built-in” generality problem because it is unable to address the particulars of what justice requires. In contrast, the medical metaphor is deployed in the *Laws* to show that law has a “built-in” freedom problem, so to speak. Lane also draws this parallel, though the terms of our comparisons differ. “While in the *Statesman*, the problem with law is its ignorance, in the *Laws*, the problem with law (as threat) is its tyranny: its ruling by force alone, without using the gentle and gentling persuasion which is possible and desirable in virtue of the kind of creatures we are” {Lane, 2011}.

³⁴ For further discussion of the various notions of freedom that occur in the *Laws*, see {Laks, 2007; Stalley, 1998; Bobonich, 1991; Schofield, 2010}.

to the laws... makes it clear that simply following reasonable commands, without grasping for oneself the reasons underlying them, is the condition of a slave. Thus the citizens' education will employ arguments that 'come close to philosophising' in order to provide them with a rational grasp of the principles underlying the lawgiver's account of the good life" {Bobonich, 2002, 199}. For Bobonich, the way in which the preludes aim at freedom is by aiming to make the patient into a doctor; otherwise, presumably, the patient may as well be a slave.

In my view, the way in which preludes aim at freedom cannot rest on such a tight connection between understanding and obedience without losing the distinctiveness of freedom. Laks acknowledges this when he says, "Rousseau and Kant redefined 'freedom' in terms of obedience to the law, and this is a conceptual move that Plato could certainly have entertained. He did not, however." {Laks, 2007, 143}. This resistance to absorbing freedom into the rule of reason is what makes Plato's views in the *Laws* so innovative.

Any sense of freedom that is at play in justifying the preludes ought to be consistent with the longest discussion of freedom in the *Laws*: the argument that a mixed constitution is best because it avoids excessive freedom. In Book III, the Athenian faults, on the one hand, the excesses of freedom exhibited by his Athenian ancestors and, on the other hand, the excesses of servitude exhibited by the Persians.³⁵ He says, "My people have in a way suffered the same thing the Persians suffered - they by leading their populace into complete slavery, and we by leading the majority in the opposite direction, into complete freedom" (699e). The discussion includes an aetiology of excessive freedom, culminating in "seeking not to have to obey laws" (700a-701c).³⁶ It is clear here that excessive freedom is not an excess of individual rational autonomy.

³⁵ Thanks to Myrthe Bartels for further discussion of this point.

³⁶ The entire discussion spans 693d-702b, culminating in Kleinias's announcement that he has been charged with founding a new colony. The Athenian notably praises an earlier era of Athens, in which the citizens were "willing to

The discussion of the mixed constitution in Book III also makes clear that freedom is compatible with being subjected to authority. Here, I suggest, is the real insight offered by the medical metaphor. The medical and legal cases both explore the moral possibilities for a relationship that irreducibly involves obedience. In both contexts, one person is commanding another on the basis of superior knowledge. It is assumed that since the commanded person can never possess this superior knowledge, they can only obey. What we should take away from the medical metaphor is that, whenever there is a relationship of command, there is one way of delivering the commands that makes freedom and friendship impossible, and another way that makes freedom and friendship possible. In the latter case, the key factor is that both commander and commanded acknowledge that the right to command arises from superior intelligence aimed at the good of the one being commanded.³⁷ The value of attaining this is not independent of intelligent rule, but neither is it reducible to intelligent rule.³⁸ Hence the deference view is more amenable to a notion of freedom under the law than the alternatives. Therefore, interpreting the preludes as promotions of willing obedience fits best with the project of legislating for free citizens.

be ruled in an orderly fashion,” such that they were “voluntarily enslaved, in a certain sense, to the laws,” thereby foreshadowing his ideal of voluntary rule (700a).

³⁷ Laks argues that the medical analogy is deliberately inapt, because we are meant to see that the free doctor’s dialogue would make the delivery of the prescription unnecessary; in contrast, the prelude will never make the delivery of the law unnecessary. He says, “As every reader knows, pure prescription... looms large in the Laws... The legislative prelude is doomed to remain a prelude” {Laks, 1990, 223-224}. I think this observation contains some truth, but it goes a bit too far in claiming that the doctor-patient dialogue would dissolve the need for a directive. In fact, the negotiation of everyday necessity is as much present in the delivery of medical directives as in legal directives. Even the gentlest of doctors must still give prescriptions, so we cannot so quickly escape the force of the analogy.

³⁸ I lack space to develop it here, but I hope to explain why freedom can’t be reducible to individual wellbeing. Part of the answer is that it is a property of the relationship that obtains between an “orderer” and an “ordered” entity (when the ordered entity has a capacity for being self-ordered), both in dyadic relationships and between one and many. Insofar as Plato sees freedom as an excellence belonging to the polis, it is essentially relational, and so he can resist better than Aristotle can the reduction of freedom to individual eudaimonism.

5. Conclusion

If this interpretation is plausible, what emerges from Plato's innovation of legal preludes is the possibility of reconciling two independent normative aims in politics: citizens' happiness and citizens' freedom. Attempts to justify law's authority often face a conflict between these two aims, but the prelude theory of law shows how they can be integrated without reducing one to the other — that is, while maintaining that they are both valuable ends. The content of the laws aims at, and is ultimately evaluated on the basis of, its conduciveness to happiness on the part of the citizens. And yet, there is an excellence involved in how the laws are to aim at this happiness: the laws must be laid down in such a way that they recognize citizens' free status — namely, aiming at willing obedience of laws viewed as intelligent. The prelude to each law is one manifestation of this recognition, thereby affirming the significance of freedom. It is remarkable that such a freedom-oriented view can be found in the last work of Plato, who is often thought of as the first critic of freedom.

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