

## Civic Freedom in Plato's *Laws*

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### Abstract

In Book 3 of Plato's *Laws*, we read that a legislator must aim to endow the *polis* with a trio of properties: freedom, wisdom, and internal friendship (*philia*). This paper explores what such freedom consists in, with a focus on the so-called doctrine of the mixed constitution. It argues that such freedom is a constitutional matter; that it is not to be identified with 'voluntary servitude to the laws' cultivated by persuasive preludes to the laws; nor is it the rational self-control essential to virtuous character, or citizens' ability to decide and act for themselves; nor is it a restriction on the size of individual political authority. Rather, it is a freedom based on equality: a *polis* is free to the extent that its constitution mitigates the inherent inequality between rulers (*archontes*) and ruled (*archomenoi*), between those who wield political authority and those who are subject to that authority.

### Keywords

Plato – freedom – *philia* – equality – mixed constitution – preludes

In the middle of Book 3 of Plato's *Laws* we are told that a legislator who is framing a constitution should have the goal of making the state 'free, wise, and a friend to itself' (693b4–5). The trio (*eleutheria*, *phronēsis*, *philia*) is invoked regularly over the rest of the book (693c8–9, d8–e1, 694b6–7, 701d8–9), and two of its members have already been introduced. That a state should have *phronēsis* (wisdom) and that this is a goal the legislator must have in view has already been asserted earlier in Book 3 (687e–688b), where it replicates a claim that is made forcefully in Book 1 (631b–d) and persists to the end of

the dialogue (963a8–9). That a state must have internal *philia* (roughly, internal friendship or comity) has also been prepared for earlier in Book 3, where we are told that *phronēsis* requires internal agreement (*sumphōnia*) – whether internal to a person, or to a city (688e–689e, 698a).<sup>1</sup> The trio's third member, by contrast, has had no such introduction. The claim that the legislator aims to provide the state with freedom (*eleutheria*) is unprecedented at this point in the *Laws*. There have been passing references in Book 3 to the freedom gained by one city or nation when it ceases to be ruled by another (687a7, 694a5), but such national liberation is not what the Athenian<sup>2</sup> has in mind when he invokes freedom as part of the trio. The freedom belonging to a state that is salient from the design stance of the legislator is a matter of its governmental structure, its *politeia*: the way in which the various ruling authorities or offices (*archai*) are defined.<sup>3</sup> I label this *civic freedom* in my title, in deference to the Latin translation of *πόλις* by *civis* – but will eschew the label in my discussion, so as not to cloud the interpretive waters.<sup>4</sup>

- 1 The importance of civic concord is also emphasized in Book 1 (628c–d), as noted by K. Schöpsdau, *Platon: Nomoi (Gesetze) Buch I–III, Übersetzung und Kommentar* (Göttingen: Vandenhoeck & Ruprecht, 1994), p. 447; A. Laks, 'Freedom, Liberality, and Liberty in Plato's *Laws*', *Social Philosophy and Policy* 24 (2007), pp. 130–52, at p. 136; and M. Schofield, 'Friendship and Justice in the *Laws*' in G. Boys-Stones, D. El Murr, and C. Gill (eds.), *The Platonic Art of Philosophy* (Cambridge: Cambridge University Press, 2013), pp. 283–97, at p. 285. The topic of *philia* is also taken up later in the *Laws*: in Book 5 (743c5–d2), in Book 6 (756e9–758d9, discussed by Schofield, pp. 286–8); and in Book 8 (836e–837d, discussed by D. El Murr, 'Philia in Plato', in G. Gurtler and S. Stern-Gillet (eds.), *Friendship in Ancient and Medieval Philosophy* (Albany: SUNY Press, 2014), pp. 3–34, at pp. 5–9). See also K. Gantar, 'Eine Polis in Freundschaft mit sich selbst' in J. Cobet et al. (eds.), *Dialogos* (Wiesbaden: Steiner, 1976), pp. 59–65.
- 2 The unnamed Athenian is the main speaker in the dialogue, whose interlocutors are a Cretan named Cleinias and a Spartan named Megillus. The latter might be modelled on the Megillus who was one of the three Spartan envoys on a peace mission to Athens in the later years of the Peloponnesian wars (D. Nails, *The People of Plato* (Indianapolis: Hackett Publishing, 2002), pp. 197–8; S. Dušanić, *History and Politics in Plato's Laws* (Belgrade: Serbian Academy of Sciences and Arts, 1990), pp. 362–4). Since the Athenian devotes many pages to discussing Athens and Athenians, I shall occasionally refer to him as 'Plato' rather than 'the Athenian', but without any intent to prejudge the thorny issue of whether the main speaker in a Platonic dialogue expresses the views of Plato.
- 3 Book 3 of the *Laws* is, from the opening sentence (676a1), an inquiry into constitutions (*politeiai*); see also 676c2, c8.
- 4 The alternative label *political freedom* is also potentially confusing since, like the phrase in my title, it is often construed simply a property of individual persons. There is some tendency among interpreters of Plato to construe the freedom of a *polis* in this way, e.g., Laks, 'Freedom, Liberality' p. 135 and *passim*; Schofield, 'Friendship and Justice' pp. 287, 292; J. Reid, 'The Mixed Constitution in Plato's *Laws*', *Australasian Journal of Philosophy* 99 (2021),

My project in this paper is to understand what such freedom consists in.<sup>5</sup> Over the rest of Book 3, we learn that it is the freedom associated with democracy and that it is grounded in equality – two fairly traditional associations in Plato's day (e.g., Eur. *Suppl.* 404–8; Thuc. 2.37.1–2). In a more distinctively Platonic mode, we are told that it is taken to excess in contemporary Athens (693d5–6, 699e4) but was present in due measure in the ancient Athenian constitution (701e3–5).<sup>6</sup> Various interpretations have been offered as to what this freedom amounts to: that it is a matter of citizens ruling themselves, deciding for themselves what to do and think; that it is a matter of citizens being persuaded, rather than forced, to follow the laws; even that it consists in the voluntariness of their submission to the laws.<sup>7</sup> While each of these proposals contains an important element of truth, I will argue that none of them succeeds in identifying a type of freedom that fits the schema of Book 3: freedom that is both present in ancient Athens and taken to excess in contemporary Athens. I shall propose instead that, for Plato in the *Laws*, a polity is free to the extent that its structure of governance or 'rule' (*archē*) mitigates the inequality that is inherent to the relation between those who wield political power (*archontes*) and those who are subject to that rule (*archomenoi*).

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pp. 1–18, *passim*; however, Plato makes it clear that the freedom, wisdom and *philia* in the trio are properties of a *polis*.

- 5 I shall sometimes phrase this as a question of what freedom is grounded in, or what makes a city free.
- 6 The ancient Athenian constitution is that of the early fifth century CE, at the time of the Persian wars (698b3). It is the constitution credited to Solon and revised by Cleisthenes (Schöpsdau, *Nomoi*, on 698b4, pp. 490–1; G. Morrow, *Plato's Cretan City* (Princeton: Princeton University Press, 1960), pp. 78, 83–4, 135 n. 118.) What I refer to as 'contemporary Athens' is Athens at the dramatic date of the dialogue, which is no earlier than 408/7 BCE, if Dušanić is correct that this was the date of the Spartan mission to Athens on which the historical Megillus was a member (S. Dušanić, *History and Politics*, pp. 364–6; Nails, *People of Plato*, pp. 197–8). Plato's intended audience would have been Athenians of the mid-fourth century. Schöpsdau notes that the features of contemporary Athens depicted at 701b5–c4 (T3 below) are not presented as actually the case in at the dramatic date of the dialogue, but as a future potentiality (Schöpsdau, *Nomoi*, p. 506); however, that does not matter for our present purposes.
- 7 The proposal about self-rule is defended in Reid, 'Mixed Constitution', pp. 3–7; versions of the proposal about persuasion and voluntariness are articulated by R.F. Stalley, 'Plato's Doctrine of Freedom', *Proceedings of the Aristotelian Society* 98 (1998), pp. 145–58, at p. 157; and by M. Schofield, *Plato: Political Philosophy* (Oxford: Oxford University Press, 2006), pp. 81–8. My own view has much in common with M. Lane, 'Placing Plato in the History of Liberty', *History of European Ideas* 44 (2018), pp. 702–18, although Lane does not offer a proposal about what freedom consists in.

## 1 The Constitutional Doctrine of the Mean

When invited to explain his declaration that the trio of freedom, wisdom, and *philia* should be kept in view by the legislator (693c8–d1), the Athenian invokes a constitutional theory that is often called the doctrine of the ‘mixed constitution’ but which I prefer to call the ‘Constitutional Doctrine of the Mean’ or, for brevity, the ‘Constitutional Doctrine’, or simply the ‘Doctrine’. It holds that monarchy and democracy are the two ‘mothers’ from which all constitutions derive (693d2–5). Some constitutions are excessively monarchical, as in present day Persia, and others are excessively democratic, as in present day Athens (d5–6). Still others achieve ‘due measure’ (*ta metria*, e6) of monarchy and democracy, as in the home cities of his interlocutors, Crete and Sparta, as well as in Athens and Persia in the past (693e5–694a1). It is only when this *metriotēs* (701e4) of monarchy and democracy is achieved that ‘there will be freedom and friendship along with wisdom’ in a city (693d8–e2). For stylistic reasons I will sometimes render *to metrion* and its cognates as ‘appropriate measure’ rather than ‘due measure’.

In expounding the Constitutional Doctrine of the Mean, which takes up the rest of Book 3 (693d–701e), the Athenian quickly drops the terminology of monarchy and democracy.<sup>8</sup> He substitutes ‘freedom’ (*eleutheria* and its cognates) for ‘democracy’ and for ‘monarchy’ he substitutes either ‘despotism’ (*despoteia* and its cognates) or its converse, ‘slavery’ (*douleia*), or both. The substitutions may be summarized as follows:

TABLE 1 Monarchic and democratic elements in a constitution in *Laws* 3

	Monarchy	Democracy	
1	μοναρχία	δημοκρατία	693d4–5
2	τὸ μοναρχικόν	τὸ ἐλεύθερον	693e5
3	δουλεία	ἐλευθερία	694a4
4	τὸ δεσποτικόν	τὸ ἐλεύθερον	<del>694a5</del> 697c8
5	δουλεία τε καὶ δεσποτεία	ἐλευθερία	698a6, b1

<sup>8</sup> μοναρχία occurs only once (693e5) in the statement of the Doctrine in Book 3, and δημοκρατία occurs only once more there, in a figurative sense (701a4), although when Plato returns to the Doctrine in Book 6, he reverts to this constitutional vocabulary (756e–758d). André Laks finds it a significant change from Book 3 that the latter passage does not explicitly invoke freedom (Laks, ‘Freedom, Liberality’, p. 138); however, I would argue that the substitutions in Book 3 make it unremarkable. In any case, the focus of that discussion in book 6 is on *philia*, a different member of the trio.

TABLE 1 Monarchic and democratic elements in a constitution in *Laws* 3 (cont.)

	Monarchy	Democracy	
6	πάσα δουλεία	πάσα ἐλευθερία	699e3–4
7		δημοκρατία ἐν [μουσική]	701a4
8	δεσποτικωτάτη	ἐλευθερικωτάτη	701e1–2
9	δεσπόζειν	ἐλευθεριάσαι	701e4–5
10	δουλεία	τοῦναντίον	701e7

Having made these substitutions, the Athenian concludes his exposition of the Constitutional Doctrine without mentioning monarchy or democracy:

T<sub>1</sub>

ATHENIAN: We said that there are three things a legislator must aim at when devising legislation: that the city for whom he is legislating be free, that it be a friend to itself, and that it be wise. Isn't that so?

MEGILLUS: Indeed we did.

ATHENIAN: It is with those things in mind that we singled out the constitution that is the most despotic (*despotikōtatēn*) and the one that is the most free (*eleutherikōtatēn*) and are inquiring which of these forms of government is correct (*potera.... orthōs politeuetai*). When we considered a moderated version [*metriotēs*] of each – of despotism (*despotazein*) in the one case, and of freedom (*eleutheriasai*) in the other – we saw that in these cases there was great prosperity, but that when either is taken to the extreme – of slavery (*douleias*) in one case, and of its opposite in the other – no good has come of it to either [people].

*Leg.* 701d6–e8<sup>9</sup>

9 All translations are my own and are based on the Greek text of the Budé edition, Platon, *Oeuvres Complètes*, Tome XI.2, *Les Lois, Livres III–VI*, Texte établi et traduit par E. des Places (Paris: Belles Lettres, 1951). I shall also occasionally discuss translations by Schöpsdau, and by R.G. Bury (Plato, *Laws*, Books I–IV with an English Translation, Loeb Classical Library (Cambridge, MA: Harvard University Press, 1926)); T.L. Pangle (*The Laws of Plato: Translated, with Notes and an Interpretive Essay* (Chicago: University of Chicago Press, 1980)); L. Brisson and J.-F. Pradeau (*Platon: Les Lois Livres I à VI, nouvelle traduction, introduction et notes* (Paris: Flammarion, 2006)); and T. Griffith (Plato, *The Laws*, M. Schofield (ed.) (Cambridge: Cambridge University Press, 2016)).

The constitutions (*politeiai*) invoked here are those of Athens and Persia, and it is clear that the despotism attributed to the one and the freedom attributed to the other are predicated directly of those constitutions. Despotism and freedom – invoked here as verbs, *despotazein* (e4) and *eleutheriasai* (e5) – characterize the way in which a polity in question is governed (*politeuetai*, e3), rather than the status of individual persons within the polity. Like the freedom in the trio that the legislator is supposed to have in view, the freedom invoked in the Constitutional Doctrine belongs to a state directly, in virtue of its constitution, rather than derivatively in virtue of the freedoms enjoyed by its citizens.

We can appreciate the relevance of the Constitutional Doctrine of the Mean to the legislative trio of freedom, wisdom, and *philia* as follows.<sup>10</sup> The Doctrine specifies that one element of the trio, freedom, must be neither excessive nor deficient but duly measured. As Schöpsdau notes, it is the only member of the trio that tends to excess.<sup>11</sup> As for the trio's two other elements, *philia* and *phronēsis*: they too are invoked in the exposition of the Doctrine. In the portrait of Persia under the reign of Cyrus (694a–b), which we will consider in greater detail below, we are told that a polity with a 'due measure' of freedom will enjoy *philia* and wisdom as a result. By contrast, we are told, when Persian freedom is unduly restricted under Cyrus' successors, *philia* between rulers and subjects is destroyed (697c–698a). While the analogous point is not made explicitly in the portraits of Athens, the *philia* of the ancient Athenians is emphasized (698c2–3, 699c1–2), and their city is commended for having achieved 'due measure' of freedom (*metriotēta tina ... tou eleutheriasai* – 701e3–5). I will argue below that the excessive freedom in the portrait of contemporary Athens (700a–701c) deprives it of the communal wisdom attributed to Persia under Cyrus (694b7). In sum, the Constitutional Doctrine of the Mean clarifies the relation between the freedom, wisdom, and *philia* that the framers of a constitution must aim to bestow on a state. A 'due measure' of freedom for a state will be one that enables that state to have wisdom and *philia*.

Let us now turn to the question of what such freedom consists in.

<sup>10</sup> It is sometimes proposed that monarchy is what provides wisdom to a city and democracy is what provides the other two elements of the trio (e.g., Laks 'Freedom, Liberty', p. 138 and, to an extent, Reid 'Mixed Constitution', p. 8). Schöpsdau argues (*Nomoi*, p. 453) that this tidy way of connecting the trio to the Constitutional Doctrine does not fit with the text; for example, as we will see below in T4, it is the equality and freedom introduced to Persia by Cyrus, thereby restricting the monarchical element, that gives the regime 'community of wisdom' (*nou koinōnia*, 694b7).

<sup>11</sup> Schöpsdau, *Nomoi*, p. 448.

## 2 Freedom, Servitude, and Despotism

As T1 indicates, freedom is construed as the opposite of slavery (*douleias* ... *de tou enantion* – 701e7). The traditional opposition between freedom (*eleutheria*) and slavery (*douleia*) – reflected, for example, in Thuc. 2.63.1, 2.78.4 – is central to the original conception of freedom in ancient Greece, according to which being free is a matter of one's social or legal status, of not being another person's chattel.<sup>12</sup> Later extensions of the notion of *eleutheria* come to include a political sense, including Plato's usage in the present context, but the contrast with *douleia* persists.<sup>13</sup> In these extensions of the opposition between freedom and *douleia*, I prefer to translate *douleia* as 'servitude' rather than 'slavery'. Servitude, unlike slavery, comes in degrees, and so is suitable for articulating the Constitutional Doctrine of *Due measure*, on which freedom and its opposite, *douleia*, come in degrees.

In T1, and more generally in the exposition of the Constitutional Doctrine, it is often not *douleia* but *despoteia* (despotism) – or a combination of the two – that is invoked as freedom's opposite. This is unremarkable, since slavery in the original sense is a relation between master (*despotēs*) and slave (*doulos*). If freedom is the status of not being a slave, then it may equally be characterized as the status of not having a master.<sup>14</sup> Thus despotism and servitude are two sides of the same coin. Where there is despotism, there will also be servitude, and to precisely the same degree. To characterize a state or a constitution as despotic, in the extended political sense of concern to us, is thereby to characterize it as exemplifying servitude (*douleia*), and to precisely the same degree.

By contrast, servitude and freedom are *inversely* related. The excessive despotism of Persia in the reign of Xerxes and his successors is a matter of Persian freedom being unduly restricted (697c7–9). More generally, the exposition of the Constitutional Doctrine makes it clear that a constitution that achieves a due measure of freedom will thereby achieve a due measure of despotism.<sup>15</sup> While freedom and *servitude* are not independent of each other, they are not 'two sides of the same coin'. Rather, they are contradictory opposites, since complete (excessive) freedom and complete (excessive) despotism are

12 O. Patterson, *Freedom in the Making of Western Culture* (New York: Basic Books, 1991).

13 The development is traced by K. Raaflaub, *The Discovery of Freedom in Ancient Greece*, trans. R. Franciscono (Chicago: University of Chicago Press, 2004). Originally published as *Die Entdeckung der Freiheit* (Munich: Oscar Beck, 1985).

14 The basic conception of freedom that Plato is working with therefore has much in common with what gets called 'republican freedom', on which see P. Pettit, 'Free Persons and Free Choices', *History of Political Thought* 28 (2007), pp. 710–8.

15 As noted by Schöpsdau, *Nomoi*, p. 452.

opposing extremes of a single spectrum.<sup>16</sup> As such, freedom and despotism are not independent variables to be combined in the right proportion in a proper constitution, like oil and vinegar in a salad dressing or length and intensity in an athletic training session. Rather, they are determinations of a single variable whose location on the spectrum may be characterized either as a measure of freedom (when contrasted with one extreme), or as a measure of despotism or servitude (when contrasted with the other extreme).

To identify what that variable is, let us turn to the examples from Persian and Athenian history that are invoked as the Constitutional Doctrine of the Mean is expounded. Since our focus is on freedom, we will begin with the Athenian examples (698a9–701c5), which are supposed to illustrate the contrast between duly measured freedom and freedom taken to excess (693e5–694a1).

### 3 Freedom and Rule

Plato introduces his discussion of Athenian history with the declaration that it will establish:

T<sub>2</sub>

Complete freedom from all rule is considerably worse than an appropriate measure of rule by others.

*Leg.* 698a10–b2

The excessive freedom of contemporary Athens is here characterized as complete freedom ‘from all rule’ (*apo pasōn archōn*), while the duly measured freedom of the ancient Athenians is characterized as ‘an appropriate measure of rule by others’ (*metron echousēs archēs hup’ heterōn*). Bury’s emendation of αἰρετῶν for ἐτέρων (b1–2) would yield ‘an appropriate measure of rule by elected [officials]’, but has no textual basis; it reflects the worry that the phrase as it stands (‘an appropriate measure of rule by others’) hardly sounds like an ascription of freedom – a problem to which we will return.

Melissa Lane has construed the freedom *apo pasōn archōn* (a10) as freedom from all *rulers* (in the sense of office holders or persons in authority).<sup>17</sup>

16 By contrast, extreme servitude and extreme despotism occupy the same end of the spectrum.

17 Lane, ‘Placing Plato’, pp. 714–5; in a similar vein, Schöpsdau *Nomoi*, translates *archōn* at 698a10 as ‘Obrigkeiten’.



However, the enumeration of excessive Athenian freedoms includes freedom from norms as well as from persons in authority:

### T<sub>3</sub>

... After that would be the freedom of refusing to submit to the magistrates (*archontes*), and the freedom next in line would be escape from service to or rebuke by father, mother, or elders. For those nearing the ultimate limit, there is the freedom of actively rejecting obedience to the laws and, at the limit itself, the freedom of disregarding all oaths and promises and anything to do with the gods – a manifestation and reenactment of the legendary Titanic nature.

*Leg.* 701b5–c4

The plural *archai* in T<sub>2</sub> (*apo pasōn archōn*) is, therefore, better construed as referring to instances of ‘rule’ in the broadest sense (whether this is rule by law or other norms, or rule by authorities).<sup>18</sup> We may conclude that T<sub>2</sub> characterizes the excessive freedom of contemporary Athens as the complete absence of rule.

We might therefore suppose that Plato here construes freedom *simpliciter* – whether excessive or deficient – as a matter of *not* being ruled, and its opposite, servitude, as a matter of being subjected to rule. On this hypothesis, the spectrum whose opposing extremes are complete despotism and complete freedom is a spectrum of ‘rule’ (*archē*). This would allow us to appreciate why, on the Constitutional Doctrine of the Mean, freedom and despotism are treated as functions of a city’s constitution (*politeia*), since a constitution specifies the forms and structure of rule (*archē*) in the city. The hypothesis would also make it easy to see that contemporary Athens, as depicted in Book 3, takes freedom to excess. But it makes it difficult to see how *ancient* Athens possesses freedom to any degree at all – which it must, since that city is credited with achieving a ‘due measure’ of freedom (693e8–694a1).

Plato no doubt expects us to suppose that the ancient Athenians submitted to all the forms of rule that, according to T<sub>3</sub>, contemporary Athenians reject. But then in what sense were those earlier Athenians *not* subject to rule? The lengthy portrait of ancient Athens (698a–699d) is of little help here, since it fails to ascribe any freedom to that city.<sup>19</sup> Indeed, the portrait is replete with

<sup>18</sup> As on the translation by Griffith.

<sup>19</sup> A point often noted. The term ‘freedom’ occurs only once in the case study (699c6) but it is to invoke a freedom that these ancient Athenians properly lacked (freedom from shame).

the language of despotism and servitude: shame was the internal 'mistress' (*despotis*, 698b5–6) of those Athenians, who lived in willing 'servitude' (*douleia*) to the laws and to the magistrates (698b5–6, c1, 699c3–5, 700a4–5).<sup>20</sup> Far from portraying those ancient Athenians as free from rule to any degree, the portrait famously characterizes them as 'willing to be ruled' (*ēthelen archesthai*, 700d1).

### 3.1 *Hypotheses about Athenian Freedom*

Klaus Schöpsdau (p. 488) has proposed that the servitude itself constitutes the freedom of the Ancient Athenians, on the grounds that an appropriate degree of freedom entails an appropriate degree of its opposite (p. 452). But even if, as I agree, a city with an appropriate degree of freedom will thereby have an appropriate degree of servitude, it does not follow that its freedom and its servitude are the same thing, or that one of them constitutes another. (Any determinate shade of grey is both black to some degree and white to some degree without black and white being the same colour.) Nor can one argue that, in the Constitutional Doctrine, freedom and servitude are two sides of the same coin. In accepting the traditional contrast between freedom and servitude, Plato is committed only to servitude and *despotism* as two sides of the same coin, not servitude and *freedom*. Servitude and freedom, as contrary opposites, must be distinct properties.

Other interpreters have proposed that the 'willingness' of the servitude in ancient Athens is what constitute that city's freedom. This hypothesis is sometimes supported by appeal to the legislative theory presented later in *Laws* Book 4, according to which legal statutes should have persuasive preambles.<sup>21</sup> On this interpretation, persuading citizens to follow the law (rather than simply giving them commands backed up penalties) is to treat them as free persons rather than as slaves. However, there is no mention of such persuasive preambles here in Book 3, which is where the freedom of the city is discussed. Moreover, the freedom we are concerned with in Book 3 is supposed to be a *product* of the legislator's practice, whereas in the prelude theory, freedom is a status to be respected by the legislation. In any case, willing compliance with rule is hardly the freedom taken to extremes in the portrait of contemporary

20 On the significance of servitude to *archons* (officials) rather than simply to laws, see Lane, 'Placing Plato', pp. 714–6.

21 Thus Stalley, 'Plato's Doctrine', pp. 155–7; Schofield, *Political Philosophy*, pp. 81–8 (cf. Schofield 'Friendship and Justice', p. 296); and A. Greene, 'Freedom and Legislation in Plato's *Laws*' (unpublished), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2439032](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2439032).

Athens, where citizens are explicitly said to be *unwilling* to submit to the authorities (*mē ethelein tois archousi douleuein*, 701b5, T3).

The same problem would arise for the hypothesis that the freedom to be promoted by the legislator is a feature of virtuous character. It is a frequent motif in Plato that the virtues of character as qualities befitting a free person, while the vices of character, in particular lack of self-control, are slavish.<sup>22</sup> Some interpreters have suggested that the rational self-mastery essential to Platonic virtue of character amounts to a psychological conception of freedom.<sup>23</sup> Freedom so construed would be a matter of internal psychological discipline, with the rational part of the soul dominating or controlling the non-rational part(s). In the *Laws*, Plato uses such expressions as *to kreittō heautou* ('self-mastery' – 626e8, 645b2) and *to nikan auton hauton* ('victory over oneself' – 626e2, 627c10) to capture this internal dynamic, which figures prominently in the analysis of virtue of Book 1.<sup>24</sup> Indeed, a soul that exhibits such internal discipline is labelled 'free' at 635c3–d8. Could this be what the freedom of the ancient Athenians amounts to, here in *Laws* 3?

We are reminded throughout the *Laws* that a legislator must cultivate virtue in the citizens.<sup>25</sup> In Books 3 and 4, the psychological self-mastery of Book 1 – now characterized as *sōphrosunē* (moderation) – is central to the conception of virtue.<sup>26</sup> Indeed, *sōphrosunē* is attributed to the city as a whole at 693b–c, and in one articulation of the legislative trio, it takes the place of freedom (693c2–3). Nonetheless, it cannot be what makes the city free, according to the Constitutional Doctrine of the Mean, for the portrait of contemporary Athens does not attribute an extreme degree of self-mastery or *sōphrosunē* to the city – either to the city as a whole, or to its inhabitants. Quite the contrary, as T3 indicates, the portrait depicts the total rejection of restraint.<sup>27</sup>

22 E.g. *Phdr.* 82c4–5; *Resp.* 391c3–6, 400b2–3, 401b4–5, 577d2–4, 598c7–d3.

23 Such a psychological conception of freedom is attributed to Plato by F.D. Miller, 'Platonic Freedom', in D. Schmidtz and C.E. Pavel (eds.), *The Oxford Handbook to Freedom* (Oxford: Oxford University Press, 2018), pp. 143–59. Laks 'Freedom, Liberty', p. 133 and Lane 'Placing Plato', p. 704 deny that Plato has such a psychological conception of freedom.

24 I discuss these expressions in S.S. Meyer, 'Self-Mastery and Self-Rule in Plato's *Laws*', in D.O. Brink, C. Shields, and S.S. Meyer (eds.), *Virtue, Happiness, Knowledge* (Oxford: Oxford University Press, 2018), pp. 97–109, at pp. 98–103 and in Plato: *Laws* 1–2: *Translated with and Introduction and Commentary* (Oxford: The Clarendon Press, 2018), pp. 85–95.

25 *Leg.* 630c–631a, 688a, 705d, 963a.

26 *Leg.* 696b–e, 709e–710b; cf. 692a–b, 694c–696a. I discuss these passages in S.S. Meyer, 'Plato's *Laws*', in G. Fine (ed.), *The Oxford Handbook to Plato*, 2nd ed. (Oxford: Oxford University Press, 2019), pp. 359–78, at pp. 367–71.

27 How then to account for *sōphrosunē* in the trio at 693c2–3? I suspect it stands in not for freedom *simpliciter*, but for a "due measure" of freedom. Laks takes the substitution to

I agree with Jeremy Reid that the freedom with which the legislator of *Laws* 3 is supposed to endow the *polis* must come in degrees.<sup>28</sup> More specifically, it must be present to some degree in ancient Athens and taken to extremes in contemporary Athens. Reid's own proposal is that, for Plato, a polity is free to the extent that the constitution 'let[s] people rule themselves in some areas' (p. 7), a kind of freedom he refers to as self-rule. The self-rule Reid has in mind is not the psychological self-mastery we considered in the previous hypothesis, but rather a person's relation to external authorities. It would be captured by such Platonic expressions as *archein autous hautōn* (627e1). On Reid's hypothesis, a polity is free to the extent that citizens get to decide for themselves what to do and think – and it is despotic to the extent that laws, officials, or other authorities dictate what citizens must do (or think). This hypothesis, however, fails to satisfy the principle that *the freedom enjoyed by ancient Athens is taken to extremes in contemporary Athens*, for the extreme freedom of contemporary Athens is characterized as 'complete freedom from all rule' in T2, and freedom from rule is not the same as ruling oneself.<sup>29</sup> Of course, those contemporary Athenians, having rejected all the forms of rule enumerated in T3, are presumably deciding and thinking for themselves. How else to explain their behaviour, given that they recognize no authority over them?<sup>30</sup> The issue we face, however, is not whether those Athenians decided and thought for themselves, but whether this is what their freedom consists in, according to Plato in *Laws* 3.

Reid's hypothesis faces the general difficulty that we find no explicit invocation of self-rule in either portrait of Athens. Nor is it invoked implicitly. The characterization of ancient Athenian servitude in T2 as 'an appropriate measure of rule by others' (*metron echousēs archēs huph' heterōn* – 698b1–2) does not imply that the corresponding notion of freedom is rule by oneself. The logical alternatives to (i) rule by others are (ii) rule by nothing, and (iii) rule by oneself. The absence of (i) does not imply the presence of (iii), rather than of (ii). Indeed, the long list of freedoms in contemporary Athens in T3 is strongly suggestive of (ii).

To avoid this problem, one might modify Reid's hypothesis to omit any reference to citizens ruling themselves, and posit instead that what Plato has in mind in *Laws* 3 is that a polity is free to the extent that its government leaves some aspect of citizens' lives unregulated. This revised hypothesis has the

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be part of the general effacement of freedom that he traces in the *Laws* (Laks 'Freedom, Liberty', p. 137). Schöpsdau denies that *sōphrosunē* is standing in for freedom in the trio at 693c2–3 (Schöpsdau, *Nomoi*, pp. 447, 450).

28 Reid, 'Mixed Constitution', pp. 2–3.

29 As Callicles famously asserts at *Grg.* 491d–e.

30 I thank Jeremy Reid for proposing this rejoinder via email (14 May 2021).

advantage of predicting correctly that freedom taken to the extreme in contemporary Athens will be complete freedom from all rule, as in T2. However, it faces the same embarrassment encountered above, in that it is hard to find anything that counts as such freedom in the portrait of ancient Athens (699d–701d). Nothing in that portrait contradicts Stalley's diagnosis that the city Plato envisages has 'a strict legal code to govern every aspect of [citizens'] lives'.<sup>31</sup> If there is an appropriate restriction on the scope of rule in ancient Athens, Plato fails conspicuously to draw it to our attention.

An alternative hypothesis about what the freedom of ancient Athens amounts to might be formulated with reference to the Spartan constitution. Sparta is included on the list at 693e6–8 of states that have achieved a 'due measure' of freedom, and even though that city is not otherwise mentioned in the exposition of the Constitutional Doctrine of the Mean, the Athenian has devoted much of the first half of Book 3 to an evaluation of the Spartan constitution.<sup>32</sup> He commends it using the language of due measure, although what he identifies as *metrion* is not freedom or despotism, but *archē* itself. In this context, *archē* may be translated 'position of rule' or 'political authority' or even 'regime'. The Spartan regime, we are told, 'achieved due measure' (*basileia ... metron echousa*, 692a7–8) because the legislator 'restrained' the scope of any one person's political authority (*metriasai tas archas*, 692c4). He did so by dividing political power (*archē*) between a pair of kings, a council of twenty-eight elders, and a set of five ephors. The moral to be drawn from the longevity of the Spartan constitution is that a legislator must not establish 'great positions of rule' (*megalas archas*, 693b2–3).<sup>33</sup>

If this restriction (*metriasai*) of political authority in the Spartan constitution is what underwrites the later inclusion of Sparta among the polities that have achieved 'due measure' (*ta metria*) of freedom and despotism (693e7–8), then we might revise our original hypothesis derived from T2 – that freedom is a matter of not being ruled – and propose instead that a polity is free to the extent that the authority of any particular ruler or office holder is restricted in size. This revised proposal coheres with the portrait of extreme freedom in contemporary Athens, since the ultimate restriction on the magnitude of political authority is its reduction to zero, and in that portrait (700a–701c) no one in Athens exercises authority over anyone else. However, the new proposal

31 Stalley, 'Plato's Doctrine', p. 155.

32 Indeed, the thesis that a city must be 'free, wise, and friend to itself' is first articulated as part of the moral to be drawn from the discussion of Sparta (693b2–6).

33 I borrow Melissa Lane's wonderful translation of this phrase (M. Lane, *Of Rule and Office: Plato's Ideas of the Political* (Princeton: Princeton University Press, forthcoming [2022]), chapter 4).

faces the same difficulty as our original hypothesis, concerning the freedom of ancient Athens, for the portrait of that city (698b–699d) fails to give any indication that individual political authority is limited in magnitude. From what we know of the constitution of Athens in the early fifth century,<sup>34</sup> we may infer that it complied with the constitutional injunction against ‘great positions of rule’ (*megalas archas*, 693b2–3); however, nothing in the portrait of that city in *Laws* 3 mentions, let alone commends, this feature of the constitution.

A more important difficulty for the new hypothesis arises if we turn to the examples from Persian history. Plato's portraits of the regimes of Cyrus and Darius are clear counterexamples to the hypothesis that one secures freedom for a polity by not allowing *megalas archas*. Each of these rulers wields supreme monarchical power, and thus violates the prohibition on *megalai archai*; yet, the Athenian maintains that there was due measure of freedom and despotism under their regimes (694a3–5). As we turn next, to consider his analysis of those regimes we will find that the freedom of a polity depends not on *limiting individual political authority*, but on introducing a *degree of equality* between ruler and ruled.

#### 4 Freedom and Equality in Persia

The discussion of Persian history opens with the claim that Persia in the time of Cyrus achieved ‘a more appropriate measure (*to metrion mallon*) of servitude (*douleia*) and freedom’ (694a3–4). The regime of Cyrus was less despotic than the extreme, we are told, because it introduced a measure of freedom to the relation between rulers and ruled:

##### T<sub>4</sub>

Since the rulers gave the subjects a share of freedom (*eleutherias ... meta-didontes*) and treated them more like equals (*kai epi to ison agontes*), soldiers were more devoted (*mallon philoi*) to their commanders, and submitted themselves to dangers without hesitation (*prothumous heautous ... pareichonto*).<sup>35</sup> Any person among them who was wise and of good

34 On that constitution, see M. Ostwald, *From Popular Sovereignty to the Sovereignty of Law: Law, Society, and Politics in Fifth-Century Athens* (Berkeley: University of California Press, 1986), Part I.

35 Bury's translation of *kai prothumous hautous ... pareichonto* (694b1) as ‘showed their devotion in times of danger’ fails to reflect the parallel use of *prothumia* at 697d8, quoted below in T<sub>6</sub> (*meta prothumias ... ethelein kinduneuein*), where it indicates eagerness to face danger as a result of *philia* to one's commander; a similar point is made in T<sub>5</sub> below,

counsel would proffer his own wisdom to the community, since the king was not jealous of his authority, but would give freedom of speech and grant standing to people capable of advising on a particular matter. They prospered on all fronts during that period – due to freedom, friendship, and community of wisdom (*nou koinōnia*).

*Leg.* 694a6–b7

We are told here that freedom granted to Persian subjects by their rulers promoted both *philia* of subjects for their rulers and wisdom in the community as a whole. In perfect illustration of the Constitutional Doctrine of the Mean, the ‘due measure’ between freedom and despotism in the reign of Cyrus endowed Persia with the trio of freedom, wisdom, and *philia*.

We are also given an important clue as to what that freedom consists in. The opening sentence of T4 indicates that it is by treating subjects ‘more like equals (*kai epi to ison agontes*)’ that ‘the rulers gave the subjects a share of freedom (*eleutherias ... metadidontes archomenois*)’ (694a6–7).<sup>36</sup> The comparative here is important. Subjects are not *put on an equal footing* with their rulers, but are *drawn closer to an equal position* (*epi to ison agontes*).<sup>37</sup> Freedom based on an equality that comes in degrees will itself admit of degree, which is exactly what we are looking for as we seek to understand the freedom at stake in the Constitutional Doctrine of the Mean. If a polity is free to the extent that subjects are ‘more equal’ to their rulers, then *freedom is a matter of mitigating inequality between ruler and ruled*.

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at 695d4–6, where the armies of Darius fight battles to expand his empire because of their goodwill (*eunoia*) towards him.

36 In *kai epi to ison agontes* (694a6–7), I take the *kai* to be epexegetic. If it is not – if in 694a6–7 equality is additional to freedom rather than freedom’s basis – then the remainder of T4, which does not mention freedom, fails to support the conclusion, drawn at the end, that lists freedom as a cause of the ensuing prosperity.

37 Many translations of *epi to ison agontes* (694a6–7) construe the phrase absolutely: ‘advanced them to a position of equality’ (Bury); ‘putting them on an equal footing’ (Griffith); ‘les mettaient sur le même pied qu’eux’ (Brisson et Pradeau) – rather than comparatively, as on Pangle’s translation, ‘drew toward equality’, and as André Laks translates in a forthcoming work (*Plato’s Eumenides: An Essay on his Laws* (Princeton University Press), chapter 5). The proposition ‘*epi*’ could mean either ‘towards’ or ‘up to’ (H.W. Smyth, *Greek Grammar*, revised by G. Messing (Harvard University Press, 1959) p. 379 at 1689.3). The ambiguity is preserved in Schöpsdau’s translation, ‘zur Gleichheit hinführten’. The participial phrase ‘*epi to ison agontes*’ states the grounds for an explicitly comparative claim – that the troops were *mallon philoi* – so we need not construe *epi to ison* as ‘up to equality’ rather ‘towards equality’ in order to make sense of Plato’s text. Indeed, the latter makes better sense.



What is the domain of the relevant equality? T4 gives two examples, first in a military context and second in the domain of public policy. Although the military example does not specify the domain of the increased equality between ruler and ruled, it implies that such equality can coexist with a hierarchical command structure. So it cannot be a matter of troops being allowed to decide for themselves what strategy and tactics to employ. The second example gives us a positive characterization of the domain of increased equality. Cyrus was not a 'jealous king' (*ou phthonerou tou basileōsontos ...*) and so was receptive to advice on policy matters from anyone with relevant expertise or experience.<sup>38</sup> He did not jealously guard his prerogative, as supreme political authority, to decide on matters as he saw fit ~~while excluding~~ others from giving input to deliberations. Rather, he solicited and welcomed advice from those who were qualified to do so. Cyrus thereby accorded a degree of *epistemic equality* to his subjects, even if the authority to make the final decision rested with him alone. This kind of increased equality obtains between leaders and subjects when the subjects are also advisors – compare the autocratic leader who wants only 'yes men' around him.

A further dimension to the equality that underwrites freedom is salient in the case study of Darius, who became emperor after the disastrous reign of Cyrus' son Cambyses:

#### T5

When [Darius] came to power, as one of the seven who seized control of the regime (*archē*), he divided it up into seven parts, of which faint vestiges remain even today. When he established laws, he thought the right way to govern was to introduce a kind of equality in common (*isotēta koinēn tina eispherōn*) and bound into the law the tribute Cyrus had promised to the Persians, thus fostering friendship and community (*philian ... kai koinōnian*) among all the Persians by supplying the Persian people with money and gifts. That's why his armies, in their devotion (*eunoia*) to him, gained him no less additional territory than Cyrus had left behind.

*Leg.* 695c8–d6

Notwithstanding the seven-fold division of the empire, Darius was no less a monarch than Cyrus, with unitary authority over the entire regime. As in the case of Cyrus, where soldiers devoted to their commanders are willing to face dangers when commanded to do so, the armies under Darius are devoted

<sup>38</sup> The accuracy of the portrait of Cyrus, which Plato is drawing from Xenophon, is doubtful. See Schöpsdau, *Nomoi*, pp. 456–60 and Schofield, 'Friendship and Justice', pp. 292–3.



to him, and willing to undertake the military campaigns that expand his empire. This *philia* between ruler and ruled obtains because Darius, like Cyrus, extended a degree of equality to his Persian subjects. In this case, however, the equality invoked is not epistemic, but material. Darius shares the spoils of war – tribute, money and gifts – with the Persian people, who reciprocate with their willingness to go to war on his behalf. Equality in this material domain is advanced when rulers share the benefits of ruling with the ruled.

We may characterize material equality between ruler and ruled as the absence (or mitigation) of exploitation.<sup>39</sup> Such equality obtains when rule is exercised (at least partly) in the interests of the ruled. Where subjects no longer expect to benefit from the burdens imposed on them by rulers, and as those burdens increase, rule becomes more exploitative, and *philia* between rulers and subjects is destroyed. Such was the sorry condition of Persia under Darius' successor, Xerxes, and under all the Persian monarchs after him, at least according to the Athenian. These later monarchs 'restricted the freedom of the people too far' and as a result 'destroyed the sense of friendship and community (*to philon ... kai to koinon*)' (697c9–d1). When that happens, he says:

#### T6

Rulers fail to take into account the interests of the subjects and the people and formulate policy solely with a view to their own power. If they see even the smallest advantage in it for themselves, they destroy cities and allied nations, burning them to the ground. Hostile and pitiless, they hate and are hated in return. In a situation where they need to call on the people to fight on their behalf, they found no communal willingness to eagerly take up arms and risk dangers.

*Leg.* 697d1–e1

In non-exploitative rule, policy is formulated (literally) 'on behalf of the ruled and the populace' (*boulē hyper archomenōn kai tou dēmou bouleuetai*, d2). This is not to say that the rulers take *only* the interests of the ruled into consideration, as on the conception of rule defended by Socrates in the *Republic* (341c–342e), on which rule benefits only the ruler, not the ruled. Nor is it to say that the interests of ruler and ruled are on absolutely equal footing, since

39 Laks too notes that the absence of exploitation is a salient feature of Persian freedom under Cyrus and Darius (Laks, *Plato's Eumenides*, chapter 5), and Stalley too concludes, apparently on the basis of the Persian examples in *Laws* 3, that one dimension of freedom in Plato is 'free[dom] from exploitation and the exercise of arbitrary power' (Stalley, 'Plato's Doctrine', pp. 155–6). Neither Laks nor Stalley, however, connect this feature to equality.

supremely wealthy monarchs like Cyrus and Darius can meet this standard. Nonetheless, it is a form of rule that allows greater equality (*epi to ison*) than in the exploitative case.

Equality in the material dimension alone, however, would not suffice for freedom. Purely custodial care like that of the good shepherd who 'rules over' his flock, or the 'rule' of physician over patient – two of Plato's favourite examples of proper rule – would meet the condition of non-exploitation.<sup>40</sup> However, only in the latter case does Plato recognize any scope for freedom (or servitude, for that matter), in the famous analogy of the free doctor treating free patients in *Laws* 4 (720a–e; cf. 875c–e).<sup>41</sup> In this style of medicine, 'the physician himself learns something from those experiencing illness' (*autos manthanei ti para tōn nosountōn*, 720d5), which he does by soliciting details about the course of the illness from those who have the relevant information: the ill person and his friends (d3–4).<sup>42</sup> It is only in cases of rule over subjects capable of *epistemic input* into the ruler's prescriptions that there is any question of freedom, or of servitude. Thus it is epistemic equality, not material equality, that the Athenian explicitly invokes in T4 when specifying the equality that gives subjects a measure of freedom. We might capture the relative priority between these two kinds of equality in the slogan that epistemic equality is the input and material equality the output.<sup>43</sup>

The consistent picture that emerges from the discussion of Persian history in *Laws* 3 is that the freedom enjoyed by polity is a function of the relative equality between ruler and ruled, where that equality has both an epistemic and a material dimension. Freedom so conceived is not, strictly speaking, contrasted with being ruled – as we originally hypothesized on the basis of T2. It is

40 *Resp.* 341c–342e, 345c–d; *Plt.* 275a–b, 293a–c.

41 This may be part of the reason why the shepherd is rejected as a model for the *politikos*; cf. *Plt.* 271e7–8.

42 Most interpretations of the medical analogy focus on the fact that the doctor shares his knowledge with the patient (e.g., C. Bobonich, 'Persuasion, Compulsion, and Freedom in Plato's *Laws*', *Classical Quarterly* 4 (1991), pp. 365–88 and *Plato's Utopia Recast* (Oxford: The Clarendon Press, 2002), pp. 97–106). However, it is clear from 720d3–5 that the information goes in both directions. For our purposes, the salient feature is the epistemic contribution from the patient to the doctor (and by analogy from the subject to the ruler). While the ruler's epistemic contribution to the subjects (via persuasive preludes) is what enables the subject's compliance to be voluntary (*hekōn*), it is the epistemic input in the other direction – from subjects to rulers – that grounds the subjects' freedom. Julia Annas' paraphrase of 720d3–5 captures the two-way flow of information (which still leaves the doctor very much in charge!): 'the doctor ... talks with [the patient] and with his friends in order to investigate the ailment from its beginning and discover its nature' (J. Annas, *Virtue and Law in Plato and Beyond* (Oxford: Oxford University Press, 2017), p. 91).

43 I thank René de Nicolay for this formula.

rather contrasted with being ruled exploitatively or paternalistically, in a manner that disregards one's epistemic or material interests. The relation between ruler and ruled is inherently an unequal one. Without some inequality there is no rule, but with that inequality comes the danger of exploitation and domination, the hallmarks of despotic rule. Rule is more despotic to the extent that it is exploitative and domineering, and less despotic to the extent that it is responsive to the epistemic and material interests of the ruled. The task of the constitution framer, therefore, is to define a structure of ruling authorities (*archai*) that reduces the inequality between ruler and ruled to a level that allows the interests of the ruled to be respected, but not so far as to do away with rule entirely.

Let us now return to the Athenian examples to see whether this conception of freedom meets our twin desiderata of being present in ancient Athens and taken to excess in contemporary Athens.

## 5 Epistemic Equality in Athens

Neither Athenian case study explicitly mentions equality. However, now that we have identified, in the Persian cases, the epistemic dimension to the equality that underwrites freedom, we are in a position to recognize a diagnosis of *excessive epistemic equality* in the scathing portrait of contemporary Athens (699e–701c). The excessive freedom in contemporary Athens, we are told, originates in what the Athenian describes as a 'democracy of free men in the domain of music' (701a3–4).<sup>44</sup> Contemporary Athenians, we are told, defer to no musical authorities: no one is recognized as having a better claim than anyone else to knowledge about what is good and bad in the domain of music. Gone is the deference of audiences to expert judges of music that the Athenian insists, however implausibly, was the norm in ancient Athens (700c–d), displaced by the 'falsehood' that there is no standard of correctness in music (*orthotēta ... ouk echoi oud' hēntinoun* – 700e2). Such epistemic anarchy in the domain of music, we are told, inevitably spills out into other domains, manifest in 'the belief that everyone is wise in all things' (*hē pantōn eis panta sophias doxa* – 701a6). As a result there is no deference to norms or expertise.<sup>45</sup>

44 On this epistemic insubordination in Athens, see also Reid, 'Mixed Constitution', p. 6.

45 Dimitri El Murr has drawn my attention to the rather different caricature of democratic Athens in *Plt.* 297e–300c, where the principle of deference to the laws ('nothing is to be wiser than the laws' – 299c5–6) is ridiculed in the case of laws formulated by majority

This caricature of contemporary Athens implies that the increased epistemic equality commended in the reign of Cyrus has important limits. The *parrhēsia* (freedom of speech) that Cyrus granted to his subjects gave epistemic standing to subjects *who had relevant knowledge or information*, while the epistemic anarchy attributed to contemporary Athens gives equal standing to expert and inexpert alike. From this perspective we can recognize that the epistemic equality enjoyed under Cyrus is informed by the principle endorsed earlier in Book 3 as the 'greatest claim (*megiston ... axiōma*)' to rule: 'that those who lack knowledge should follow, while the person with knowledge should lead and rule (*ton de phronounta ... archein*)' (690b8–c1). It is because the *parrhēsia* granted by Cyrus was limited by this principle that it provided 'community of wisdom' to the Persians (694b3–7).

On this understanding of the excessive freedom of contemporary Athens and the 'due measure' of freedom in Persia under Cyrus, what makes a polity free is a degree of epistemic equality (as manifest in practices such as *parrhēsia*). What gives 'due measure' to that freedom is deference to norms and to expertise.<sup>46</sup> May we suppose that ancient Athens is relevantly similar to Persia under Cyrus? That is, are we meant to find in the portrait of ancient Athens a version of the *parrhēsia* attributed to the Persian regime of Cyrus, along with the deference to norms and expertise that is so conspicuously lacking in the portrait of contemporary Athens? Such deference, we have noted, is emphasized in the portrait of ancient Athens.<sup>47</sup> But do we find in that portrait any version of the epistemic *equality* that, in the regime of Cyrus, is limited by that deference? While Plato's portrait of ancient Athens does not explicitly mention *parrhēsia* or public participation in deliberation, these are well-known features of Athenian democracy, ubiquitous in the ideology of fifth century Athens. For example, in a famous speech in Euripides' *Suppliants*, Theseus touts the freedom of democratic Athens in just such terms, describing

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vote rather than by expertise (298c2–e3). In *Laws* by contrast, the focus is on laws devised by expert legislators.

46 Amanda Greene rightly emphasizes the notion of deference in the portrait of ancient Athens, arguing that it, rather than any particular cognitive or affective learning, is the point of the legislative preludes (Greene, 'Freedom and Legislation').

47 The objects of deference in ancient Athens are not presented in explicitly epistemic terms; servitude is 'to the *archons* and laws' (698b8–2, 701b5). Still, the epistemic aspect to that deference is arguably implicit. For example, Schöpsdau argues that the 'community of wisdom' (*nou koinōnia*, 694b7) in Persia under Cyrus in T4 is provided by the laws in ancient Athens (Schöpsdau, *Nomoi*, p. 489), a point that can be defended with reference to the connection between *logismos* and the *koinos nomos* at 645a1–2 and the characterization of law as the 'distribution of reason' (*tēn tou nou dianomēn*) at 714a1–2.

the citizen's prerogative to offer 'counsel of value to the city' (πόλει χρηστόν τι βούλευμα, 438–9). In Thucydides' funeral oration of Pericles, we are told that any Athenian in a position to benefit the city is accorded status (*protimatai*) in public deliberation (Thuc. 2.37.1–2).<sup>48</sup> As Malcolm Schofield notes, the Athenian's description of Persia under Cyrus in T4 'sounds for all the world like the Athens celebrated by Pericles in the funeral speech'.<sup>49</sup>

The echoes, in the portrait of Cyrus, of this familiar self-conception of Athenian democracy would have been unmistakable for Plato's original Athenian audience. It would go without saying that the practices of epistemic equality attributed to Cyrus obtained in ancient Athens.<sup>50</sup> What **would** need to be said, indeed stressed, in Plato's view, is the importance of limits to such epistemic equality – hence his emphasis on the deference to norms that, in his view, gives due measure to the vaunted Athenian freedoms. On this interpretation, ancient Athens is like Persia under Cyrus: both enjoy epistemic equality **and** limit that equality by deference to norms and expertise. These regimes retain and respect the crucial *inequality* between those who know and those who do not. In contemporary Athens, by contrast, epistemic equality has no limits; everyone has equal claim to be heard.

We may display the similarities and differences between the three regimes on the following table:

48 A point reiterated in Plato's own version of that oration in the *Menexenus* (238d5–8), again with a version of the verb *timaō* (*tetimētai*, d7), which he employs in T4: '[Cyrus] would ... grant standing (*timōntos*) to people capable of advising on a particular matter' (694b3–4). In all these texts, a citizen has standing (*timē*) to give input into the conduct of public affairs to the extent that they have relevant knowledge. Such *parrhēsia* is not a matter of everyone's opinion counting equally, but of anyone getting a hearing *if they have something worthwhile to say*. On the relation between the *Menexenus* and the Periclean oration in Thucydides, see C.H. Kahn, 'Plato's Funeral Oration: the Motive of the *Menexenus*', *Classical Philology* 58 (1963), pp. 220–34.

49 Schofield, 'Friendship and Justice', p. 292.

50 Here I disagree with Malcolm Schofield, who claims that Plato's readers are expected to notice a gap between the Periclean ideology invoked in the case of Cyrus, on the one hand, and the portrait of ancient Athens, on the other. Schofield proposes that the emphasis on fear in the portrait of ancient Athens renders it an *imperfect* realization of the Periclean ideal of freedom (Schofield, 'Friendship and Justice' p. 292). My own view is that the fear invoked in the portrait of ancient Athens, especially in the form of *aidōs* (698b6, 699c1–6), embodies the deference to norms that provides due measure to the Periclean ideal.

TABLE 2 Freedom and its due measure

		Persia under Cyrus	Ancient Athens	Contemporary Athens
Freedom	Some degree of epistemic equality	Yes	Yes	Yes
Due measure	Deference to expertise/norms	Yes	Yes	No

Table 2 allows us to identify more precisely what is wrong with the proposal that, for Plato in *Laws* 3, servitude to the law is what constitutes the freedom of ancient Athens. Servitude to the laws in Ancient Athens is not what makes that city free. Rather, it is what gives 'due measure' to the city's freedom. What makes the city free, by contrast, is the degree of epistemic equality between ruler and ruled.

## 6 Freedom and Equality

This is not to say that Plato *identifies* freedom with equality in the *Laws*. Rather, freedom remains a contrastive notion for him. As on the traditional conception, freedom is contrasted with slavery (*douleia*) – not slavery in the legal sense of being owned by a master, but in an extended sense in which, in Melissa's Lane's phrase, 'slavery is a synecdoche for rule'.<sup>51</sup> One can be subject to rule without being literally a slave – as in the case of constitutional rule. Even in this extended sense, however, there is an inherent *inequality* between ruler and ruled, and hence the possibility of exploitation and domination. In this respect, being ruled is like being a slave, and so all cases of rule involve an element of unfreedom.<sup>52</sup> To the extent that a constitution mitigates the

<sup>51</sup> Lane, 'Placing Plato', pp. 710, 715.

<sup>52</sup> My own interpretation thus makes a stronger claim than Lane's. I propose that, for Plato, *douleia* is not just a particularly salient sub-class of being ruled (synecdoche), but a feature common to all cases of being ruled. I take *Leg.* 762e2–5 to support the stronger claim. This is not to say that Plato agrees with Thrasymachus, who maintains that exploitation itself, not merely the risk of exploitation, is inherent to rule (*Resp.* 343b1–344c9). Rule that achieves *to metrion* of freedom and *douleia* will not be exploitative. On Thrasymachus, see Lane, 'Placing Plato', pp. 709–10.

inequality between rulers and subjects – in particular, via institutions that give subjects a degree of epistemic equality with rulers – the rule over those subjects will be less despotic, and the *polis* will have a measure of freedom.<sup>53</sup>

53 I would like to thank Hillel Ehrenreich, Tengqin Han, and Tevye Johnson for research assistance. Earlier versions of this paper benefited from workshops at the University of Uppsala, l'École Normale Supérieure, Renmin University, Columbia University, the University of Pennsylvania, and the University of Oslo. I am grateful to the editors and to Melissa Lane and Jeremy Reid for helpful written comments.