

The Stoic Conception of Law

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Abstract

The Stoics identify the law with the active principle, which is corporeal, pervades the universe, individuates each part of the world, and causes all its movements. At the same time, the law is normative for all reasoners. The very same law shapes the movements of the cosmos and governs our actions. With this reconstruction of Stoic law, I depart from existing scholarship on whether Stoic law is a set of rules. The question of whether ethics involves a set of rules is rich and fascinating. In the 1970s and 80s, the observation that ancient ethics might do without rules was part of philosophy's rediscovery of virtue ethics. This debate, however, neglects that Stoic law is a corporeal principle pervading the world. The key puzzle regarding Stoic law, I argue, is how it is possible that the very same law is a corporeal principle in the world and normative for us.

Keywords

Stoics – law – nature – Chrysippus

The Stoics identify the law with the active principle, which is corporeal, pervades the universe, individuates each part of the world, and causes all its movements. At the same time, the law is normative for all reasoners. That is, the Stoics don't draw a distinction that is characteristic of later philosophy, between the laws of physics and the laws that hold for human action. The very same law shapes the movements of the cosmos and governs our actions. The Stoics' conception of the law contributes to the age-old debate about *nomos* and *phusis*, law and nature. There is only one nature, the thought goes, and thus there is only one law. That there is only one nature means that there is

only one natural way to live. It also, and more fundamentally, means that there is only one world. The world, rather than some particular state, is where reasoners are to lead lawful lives.

The ancient debate about *nomos* and *phusis* arises from the observation that people live according to different customs.¹ We may take one custom to be right and others to be wrong; this is the dogmatism of ordinary life, where we tend to be convinced that one way of life – typically though not necessarily our own way of life – is right. Alternatively we may say that each custom is right for those who live by it; this is relativism. The Stoics defend a third option. They say that no custom is right. Rather, it is the cosmic law that counts, the law which moves the universe and is at the same time normative for us.²

With this reconstruction of Stoic law, I depart from existing scholarship. Much of the recent literature asks whether Stoic law is a set of rules. The question of whether ethics involves a set of rules is rich and fascinating. In the 1970s and 80s, the observation that ancient ethics might do without rules was part of philosophy's rediscovery of virtue ethics.³ This debate, however, neglects that Stoic law is a corporeal principle pervading the world. The key puzzle regarding Stoic law, I submit, is how it is possible that the very same law is a corporeal principle in the world and normative for us.

My paper moves from Stoic physics to Stoic ethics. I start by reconstructing the law's role in the cosmos (section 1) and its relation to divine and human perfect reasoners (section 2). Perfect reasoning comes with lawful self-movement. This is what ordinary human reasoners should strive for (section 3), even if it means that lawful action runs counter to custom (section 4).

1 The Law's Role in the Cosmos

The Roman jurist Marcian copied the opening lines of Chrysippus' *On Law*.

1 At least, this is what Herodotus' *Histories* as well as evidence about the sophists as itinerant teachers suggest. Cf. R. Barney, 'The Sophistic Movement', in M.L. Gill and P. Pellegrin (eds.), *A Companion to Ancient Philosophy* (Malden, Oxford and Carlton: Wiley-Blackwell, 2006), pp. 77–97; R. Bett, 'The Sophists and Relativism', *Phronesis* 34 (1989), pp. 139–69.

2 This stance maps onto Stoic epistemology. For the Stoics, the customary is as questionable as mere belief. As Taylor points out, while the primary sense of *nomos* is custom, a secondary sense of *ho nomizetai* is 'what is believed' (C.C.W. Taylor, 'Nomos and Phusis in Democritus and Platu', *Social Philosophy and Policy* 24 (2007), pp. 1–20, at p. 2.) On *doxa* in Stoic philosophy, cf. C. Meinwald, 'Ignorance and Opinion in Stoic Epistemology', *Phronesis* 50 (2005), pp. 215–31; K.M. Velt, *Belief and Truth: A Skeptic Reading of Plato* (New York: Oxford University Press, 2012), ch. 7.

3 Cf. J. McDowell, 'Reason and Virtue', *Monist* 62 (1979), pp. 331–50.

T1 Law is king of all things human and divine. Law must preside (*prostatên*) over what is honorable and base, as ruler and as guide (*archonta kai hêgemonâ*), and thus be the standard (*kanon*) of right and wrong, prescribing (*prostaktikon*) to animals whose nature is political what they should do, and prohibiting them from what they should not do.

LS 67R⁴

Throughout T1, Chrysippus uses *nomos* in the singular, rather than speaking of 'laws'. His treatise is called *Peri nomou* (*On law*), not *Peri nomôn* (*On laws*) or *Nomoi* (*Laws*). Here is the first premise I wish to ascribe to Chrysippus.

Unity: The law is one.

To get clear about Unity, consider a distinction between an ordinary singular notion of *nomos*, and the technical Stoic notion. As scholars routinely observe, *nomos* is often well-translated as custom or way of life. This is the ordinary way in which we can think of the grammatical singular. A *nomos* is a way in which many activities are normatively unified.

The technical Stoic use of *nomos* integrates this intuition. To appeal to the law is to appeal to the considerations that apply to right action, and to view them as normatively unified (more on this below). But the unity of the Stoic law goes beyond this. Qua physical entity, the law is one. To see how this works, consider another Stoic claim, also ascribed to Chrysippus. The law *is* god, and it is reason, and insofar as god is the active principle which administers the world by pervading it, the law is also identified with the active principle:

T2 ... the common law, which is right reason pervading everything and identical to Zeus, who is the director of the administration of existing things.

Diog. Laert. 7.87–88⁵

4 A.A. Long and D. Sedley, *The Hellenistic Philosophers* (Cambridge: Cambridge University Press, 1992). Passages are identified with the abbreviation LS followed by their alphanumeric designation in LS.

5 Cf. Cicero, *Leg.* 1.23 = SVF 3.339. In his *Hymn to Zeus*, Cleanthes says 'Most majestic of immortals, many-titled, ever omnipotent Zeus, prime mover of nature, who with your law steer all things ...' (LS 541).

According to Stoic physics, the world is constituted by the active and passive principle.⁶ The active principle is identified with god, reason, and the law (and thereby the law is identified with the active principle, god, and reason).⁷ The passive principle is identified with matter. Both principles are corporeal.⁸ The active principle – god/reason/law – pervades matter, thereby individuating parts of the cosmos as what they are: a grain of sand, a tree, a mouse, a person.⁹ Let me add two premises to my reconstruction of the Stoic account of law:

Identifications: The law is identified with the active principle, god, and reason.

Corporeality: The law is corporeal.

A brief note on the multiple identifications that are characteristic of the Stoics' approach in philosophy.¹⁰ The Stoic disciplines do not study distinct domains of reality. Rather, they all study nature, but they add layers of exploration to each other. The same thing can be studied as the active principle in (what we may call) fundamental physics, as god in theology, and as reason in the layer of physics that permits the transition to ethics. This approach also shapes Stoic theory of definition. For the Stoics, it is possible and even desirable to offer multiple non-dissensual definitions of one definiendum. That is, we should

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- 6 On Stoic physics, cf. S. Bobzien, *Freedom and Determinism* (Oxford: Oxford University Press, 1998); M. Frede, 'The Original Notion of Cause', in M. Schofield, J. Barnes and M. Burnyeat (eds.), *Doubt and Dogmatism* (Cambridge: Cambridge University Press, 1980). Reprinted, and here quoted from: M. Frede, *Essays in Ancient Philosophy* (Minnesota: Minnesota University Press, 1996), pp. 125–50; M. Frede, 'La Théologie Stoïcienne', in G. Romeyer-Dherbey and J.-B. Gourinat (eds.), *Les Stoïciens* (Paris: Vrin, 2005), pp. 213–32; S. Sauvé-Meyer, 'Chain of Causes: What is Stoic Fate?', in R. Salles (ed.), *God and the Cosmos in Stoicism* (Oxford: Oxford University Press, 2009), pp. 71–92; D. Sedley, 'The Origins of Stoic God', in D. Frede and A. Laks (eds.), *Traditions of Theology: Studies in Hellenistic Theology: Its Background and Aftermath* (Leiden: Brill, 2002), pp. 41–83; K.M. Vogt, 'Sons of the Earth: Are the Stoics Metaphysical Brutes?', *Phronesis* 54 (2009), pp. 136–54; K.M. Vogt, 'A Unified Notion of Cause', *Rhizomata* 6 (2018), pp. 65–86.
- 7 Diog. Laert. 7.134 = LS 44B; Aetius 1.7.33 = LS 46A; Diog. Laert. 7.135–6. On the corporeality of the active principle, cf. J. Cooper, 'Chrysippus on Physical Elements', in R. Salles (ed.), *God and Cosmos in Stoicism* (Oxford: Oxford University Press, 2009), pp. 93–117.
- 8 Aristocles (Eusebius, *Praep. evang.* 15.14.1) = LS 45G.
- 9 Alexander, *On mixture* 225,1–2 = LS 45H. On the discernibility of parts of the cosmos that are thus individuated, cf. T. Nawar, 'The Stoics on Identity, Identification, and Peculiar Qualities', *Proceedings of the Boston Area Colloquium in Ancient Philosophy* 33 (2017), pp. 113–59.
- 10 Cf. A. Bronowski, *The Stoics on Lekta: All There Is to Say* (Oxford: Oxford University Press, 2019) on Stoic philosophy as a system.

not seek 'the' definition of the law in Stoic philosophy. Rather, multiple definitions, including identifications, are a Stoic tool for 'articulating' dimensions of their proposals.¹¹

Qua reason, the active principle (god/law) is a kind of soul, namely the best kind of soul, reason.¹² Though reports at times simply identify god with the reason of the world, it is clear that 'reason' is used in a special sense here.¹³ God is not a reasoner who can get things wrong. Divine reason – in other words, the universe's reason – is perfect.¹⁴ On account of having a soul of this sort the universe is a complex living being. Let me add two more premises that the Stoics endorse:

Soul: The law is a soul.

Perfect Reason: The law is a soul in the state of perfect reason.

Based on this reconstruction of the law's role in the cosmos, we can make sense of Chrysippus' claim that law is king of all things human and divine. As counterintuitive as the Stoic proposal may sound, it has surprisingly close resonances with the role of king – βασιλεύς – in the era leading up to Chrysippus' lifetime and in Hellenistic times. Here is a minimal conspectus of how historians reconstruct the role of a βασιλεύς.¹⁵ (i) A βασιλεύς has no one above him. (ii) His royalty need not be tied to a nationality or a territory. (iii) A Hellenistic prince is identified with the law. He is *nomos empsuchos*, ensouled and living law.¹⁶ (iv) The term is not just used for human rulers; Zeus is the βασιλεύς of gods and humans.¹⁷

Chrysippus' proposal appeals to intuitions that his audience shares. Methodologically, this is characteristic of Stoic philosophy. Revisionist claims are presented as spelling out our preconceptions.¹⁸ If only we think it through,

11 Cf. K.M. Vogt, 'Stoic Definitions Without Forms', in P. Anstey and D. Bronstein (eds.), *Definitions and Essences* (in preparation); P. Crivelli, 'The Stoics on Definitions', in D. Charles (ed.), *Definition in Greek Philosophy* (Oxford: Oxford University Press, 2010), pp. 359–419.

12 Sext. Emp. Math. 9.75–6 = LS 44C; Calcidius 293 = LS 44E; Diog. Laert. 7.137 = LS 44F.

13 For example Cicero, *Nat. D.* 1.39 = LS 54B.

14 Cicero, *Nat. D.* 2.34.

15 I am grateful to Tal A Ish Shalom and Shenda Kuang for discussion of this role.

16 E.R. Goodenough, 'The political philosophy of Hellenistic kingship', *Yale Classical Studies* 1 (1929), pp. 55–102, at p. 55.

17 E. Bickerman, *Institutions des Séleucides* (Paris: Librairie Orientaliste Paul Geuthner, 1938), p. 11.

18 Cf. C. Brittain, 'Common Sense: Concepts, Definition and Meaning in and out of the Stoa', in B. Inwood and D. Frede (eds.), *Language and Learning: Philosophy of Language in the*

the thought goes, we realize that what initially seems alien is in agreement with premises we implicitly hold. Along the lines of (i), Stoic law has nothing above it; via its identification with Zeus, it is the highest living being. In the spirit of (ii), Stoic law is the law of the world, rather than being attached to any nationality or territory. Like a prince who is a living law (iii), Stoic law is a soul. Finally, like Zeus (iv), Stoic law governs humans *and gods*.

2 Law and Perfect Reason

Chrysippus' account of the law starts with an almost verbatim quote of the first two lines of a famous poem by Pindar (fr. 169a).¹⁹

T3 Law, the king of all,
of mortals and immortals

Like Pindar, Chrysippus says that the law is king of all things human and divine. This supplies us with a puzzle about the law's relation to divinity: how is it that god is the law and at the same time, the law is normative for god? In effect, the puzzle is of a more general nature. We need to see how any perfect reasoner, divine or human, can be the law and yet be subject to it.²⁰ That is, we need to see how the premise that law is perfect reason is compatible with the claim that perfect reason is governed by law:

Governance of Reason: Perfect reason is governed by law.

Zeus, the active principle, pervades the world.²¹ Qua corporeal constituent of the world, Zeus is spatially extended. Accordingly, Zeus has portions, located in different regions of the universe. This is one way in which the Stoics conceive of other divinities. Athena, for example, is the portion of Zeus that extends into the aether, Hera the portion that extends into the air, Poseidon the portion

Hellenistic Age (Cambridge: Cambridge University Press, 2005), pp. 164–209; K.M. Vogt, 'The Good is Benefit: On the Stoic Definition of the Good', *Proceedings of the Boston Area Colloquium in Ancient Philosophy* 14 (2008), pp. 155–74.

19 *Pindar* Volume II, Loeb Classical Library 485, *Nemean Odes. Isthmian Odes*. Fragments Pindar, Edited and translated by W.H. Race (Cambridge Mass.: Harvard University Press, 1997), pp. 400–1.

20 Cf. Stobaeus 2.102,13–16: the wise person is a ruler and at the same time she complies with rule.

21 Diog. Laert. 7.147 = 54A.

that extends into the sea, Demeter the portion that extends into the earth, and so on.²²

The active principle blends with matter.²³ It individuates all parts of the cosmos. The way in which it unifies a grain of sand, a tree, a mouse, and a person differs.²⁴ The grain of sand is unified by the active principle in the lowest way. Plants and animals have souls, and are thus unified in ways that involve what the Stoics call progressively higher tenor. Human beings have rational souls. Each human soul is a portion of the active principle with the distinctively high tenor that is characteristic of reason.

This picture makes room also for another kind of divinity, the celestial bodies. In *On the Gods* III, Chrysippus says that, while Zeus is everlasting, 'sun and moon and the rest of the gods' are subject to generation and destruction.²⁵ The stars have souls that are better than the souls of humans: rational souls in the state of *perfect* reason. They move themselves perfectly and with constancy by their reason.²⁶ This kind of movement is called self-agency, *autopraxia*.²⁷

Celestial bodies are lesser than Zeus because they are destructible. But they are not lesser than Zeus with respect to their perfect reason. They are entities in which the active principle is present in its perfect rationality. This perfect rationality is also attainable for humans: sages have perfect reason. On this account, Zeus, other divinities, and human sages are fully on par as far as the perfection of their self-movement is concerned.²⁸

Gods and sages live by the law 'by the use of reason'.²⁹ The Stoics hold that, among humans, only the sage is *nomikos*, which we can translate as able to

22 Diog. Laert. 7.147. Cf. Philodemus, *De Pietate*, cols. 4.12–6.16 and col. 10.14–18; cf. D. Obbink, 2002. "All Gods are True" in Epicurus, in D. Frede and A. Laks (eds.), *Traditions of Theology: Studies in Hellenistic Theology: Its Background and Aftermath* (Leiden: Brill, 2002), pp. 183–221; Cicero, *Nat. D.* 1.36–41.

23 Alexander, *On mixture* 216.14–218.6 = LS 48C; cf. A. Marmodoro, 'Stoic Blends', *Proceedings of the Boston Area Colloquium in Ancient Philosophy* 32 (2017), pp. 1–24.

24 Diog. Laert. 7.138–9 = LS 47O.

25 Plutarch, *On Stoic Self-Contradictions* 1052A. Cf. Stobaeus 1.213.15–21 for the report that, according to Zeno, sun, moon, and each of the stars are intelligent and practically wise and have the fieriness of designing fire (= LS 46D).

26 Cicero, *Nat. D.* 2.43.

27 Diog. Laert. 7.121 = LS 67M. Cf. J. Cooper, *Knowledge, Nature, and the Good* (Princeton: Princeton University Press, 2004), chap. 9 'Stoic Autonomy', pp. 204–44.

28 Plutarch, *Comm. not.* 1076A = LS 61J.

29 Cicero, *Nat. D.* 2.154. While the theory of *oikeiôsis* is usually not presented in this light, Obbink mentions that it 'links the individual ... with the gods in the outer reaches of the concentric circles of the cosmos' ('The Stoic Sage in the Cosmic City', in K. Ierodiakonou (ed.), *Topics in Stoic Philosophy* (Oxford: Oxford University Press, 2001), pp. 178–95, at p. 191).

follow the law. And only the sage is lawful (*nomimos*): he does what the law prescribes and is its only exegete.³⁰ Thus the sage has a distinctive political role. The sage's knowledge of the world is its exegesis, telling us how we are to act. In Chrysippus' words, the law is king (T₁). But insofar as the wise person is lawful – is guided by law and interprets it – there is a sense in which the sage too is king.³¹

The sage's relation to the law flags an important difference between the Stoics and the Aristotelian tradition. According to the latter, practical wisdom is associated with expertise in legislation.³² But the Stoic sage's lawfulness is the ability to read and interpret the world's law. This makes perfect sense: given that there is only one law, the cosmic law, and given that this law is already in existence, there is no need for lawgivers. The law that guides the sage's actions is the reasoning in her mind and yet at the same time the law of the cosmos.³³ To flag the importance of this departure from other Greek proposals, let me ascribe another premise to the Stoics:

Exegesis: The wise person is not a legislator, but instead an exegete of the law.

3 Human Action

So far, I addressed the beginning of T₁, according to which law is king of all things human and divine. The rest of T₁ precisifies the normativity of the law:

T₁ ... Law must preside (*prostatên*) over what is honorable and base, as ruler and as guide (*archonta kai hêgemonâ*), and thus be the standard (*kanon*) of right and wrong, prescribing (*prostaktikon*) to animals whose nature is political what they should do, and prohibiting them from what they should not do.

30 Stobaeus 2.102.4–9.

31 Along the same lines, sages are the only ones who strictly speaking hold public offices; only they fill these roles such as to do justice to them. Diog Laert. 7.122 = part of LS 67M; cf. Stobaeus 2.109,10–110,4 = LS 67W.

32 Cf. Aristotle, *Eth. Nic.* 1.2, 6.8, 10.9.

33 This is one way to see why, for the Stoics, physics is a virtue. Cf. K.M. Vogt, 'The Virtues and Happiness in Stoic Ethics', in C. Bobonich (ed.), *Cambridge Companion to Ancient Ethics* (Cambridge: Cambridge University Press, 2017), pp. 183–99; S. Menn, 'Physics as Virtue', *Proceedings of the Boston Area Colloquium in Ancient Philosophy* 11 (1995), pp. 1–34.

The term *kanon* was famously introduced into epistemology by Epicurus and it comes to be used equivalently with *kritêrion* in Stoic and Epicurean philosophy. Literally, it means ‘yardstick’. This speaks to the first premise I ascribed to the Stoics: the law is one. It prescribes and prohibits not qua set of laws, but as *one* tool, comparable to a yardstick. The question that T1 gives rise to, I submit, is how this works. How is it that the range of normative considerations that bear on action are unified, such as to make talk of ‘the law’ as a standard or criterion plausible?

The relevant set of considerations is the subject of extensive scholarly research on Stoic ethics. The Stoics do not work with familiar rankings between goods of the soul and external goods. Instead Stoic ethics distinguishes between value and the good.³⁴ Only one thing is good, virtue, and only one thing is bad, vice. Everything else that figures in deliberation has another kind of valence, called value (*axia*) or disvalue (*apaxia*). Life, health, wealth, having one’s limbs intact, having one’s perceptual faculties intact, and so on, are valuable. Their opposites are disvaluable: death, illness, poverty, loss of a limb, impediment to one’s perceptual faculties, and so on.³⁵

Value and disvalue are so-called preferred and dispreferred indifferents, because reason prefers and disprefers them. But it is possible to live well and be happy even if a preferred indifferent is absent or a dispreferred indifferent present, for example, if one is sick or has lost a beloved person.³⁶ Virtue consists in selecting and deselecting preferred and dispreferred indifferents correctly.³⁷

Virtue is not a further consideration; the thought is not that appeal to virtue ‘overrides’ all other concerns.³⁸ Rather, virtue is the very ability to deliberate correctly with respect to everything that pertains to an action. In effect, this means that virtuous action requires more than any set of laws could codify. It

34 Cf. M. Frede, ‘On the Stoic Conception of the Good’, in K. Ierodiakonou (ed.), *Topics in Stoic Philosophy* (Oxford: Oxford University Press, 2001), pp. 71–94; R. Barney, ‘A Puzzle in Stoic Ethics’, *Oxford Studies in Ancient Philosophy* 24 (2003), pp. 303–40; K.M. Vogt, ‘Taking the Same Things Seriously and Not Seriously’, in D.R. Gordon and D.B. Suits (eds.), *Epictetus: His Continuing Influence and Contemporary Relevance* (Rochester: RIT Press, 2014) pp. 55–75; Vogt, ‘The Virtues and Happiness in Stoic Ethics’. As in other subfields of Stoic philosophy, the Stoics have multiple names for the same thing. For example, what is of value is, also, natural. Cf. Diog. Laert. 7.87–8 on the identification of life in agreement with nature and life in agreement with the law.

35 Diog. Laert. 7.101–2 = LS 58A; Stobaeus 2.79,18–80,13 and 82,20–1 = LS 58C.

36 Diog. Laert. 7.104–5 = LS 58B.

37 Cicero, *Fin.* 3.50 (= LS 58I); cf. Vogt, ‘Taking the Same Things Seriously and Not Seriously’.

38 Chrysippus says ‘virtue quite on its own has no relevance for our living’. Plutarch, *On Stoic self-contradictions* 1039E = SVF 3.761 = LS 61Q.

requires knowledge of the world and of how one moves through it as a perfect reasoner, one might even say, like a star – a perfectly integrated part of nature. The law is one, on this account, for no lesser reason than that a complete science of the world is one. This is the knowledge that the wise person has. This knowledge works like a ‘yardstick’: as a unified body of knowledge, it tells us, in any given situation, what to do.

Human Action: The normative considerations that make up the law are unified because knowledge of the world is a system.

Earlier work on the Stoic conception of law has been invested in the question of whether Stoic law is a set of rules, or whether Stoic law is whatever perfect reasoning dictates. Call the former the Rules Interpretation and the latter the Reason Interpretation. The Rules Interpretation employs a plural conception of the law and thereby neglects the premise I call Unity: the law is one.³⁹

The Reason Interpretation comes in two flavors. According to a formal conception of reasoning, perfect reasoners are consistent, get their inferences right, and so on. Arguably, this is a bad fit for the Stoic conception of reason, which is substantive. To be reasonable is to master a certain amount of conceptual content; reason is acquired by growing up in the world and acquiring concepts. The perfect reasoner, accordingly, is not only perfect with respect to formal features of reasoning, though she is also that – someone who masters

39 The Rules Interpretation appeals to Seneca's *Letters* 94 and 95, where Seneca speaks of *decreta* and *praecepta*. However, *decreta* seem to be core teachings; *praecepta* seem to be particular bits of advice, proverbs, and instructions used in role-play style teaching (K.M. Vogt, *Law, Reason, and the Cosmic City: Political Philosophy in the Early Stoa* (New York: Oxford University Press, 2008), pp. 194–8); on highly particular instructions, cf. D. Sedley, ‘The Stoic-Platonist Debate on *Kathekonta*’, in K. Ierodiakonou (ed.), *Topics in Stoic Philosophy* (Oxford: Oxford University Press, 2001), pp. 128–52. Cf. C. Brittain, ‘Rationality, Rules and Rights’, *Apeiron* 34 (2001), pp. 247–67; B. Inwood, ‘Rules and Reasoning in Stoic Ethics’, in K. Ierodiakonou (ed.), *Topics in Stoic Philosophy* (Oxford: Oxford University Press, 2001), pp. 95–127, at p. 113. Inwood defends a view according to which the Stoics conceive of defeasible, general rules, which sages, however, can set aside. For versions of the Rules Interpretation, see I. Kidd, ‘Moral Actions and Rules in Stoicism’, in J. Rist (ed.), *The Stoics* (Berkeley: University of California Press, 1978), pp. 247–58; P. Mitsis, ‘Moral Rules and the Aims of Stoic Ethics’, *Journal of Philosophy* 83 (1986), pp. 556–58; P. Mitsis, ‘Seneca on Reason, Rules, and Moral Development’, in J. Brunschwig and M. Nussbaum (eds.), *Passions and Perceptions* (Cambridge: Cambridge University Press, 1993), pp. 285–312; P. Mitsis, ‘The Stoic Origin of Natural Rights’, in K. Ierodiakonou (ed.), *Topics in Stoic Philosophy* (Oxford: Oxford University Press, 2001), pp. 153–77; P. Mitsis and J. DeFilippo, ‘Socrates and Stoic Natural Law’, in P. Vander Waerdt (ed.), *The Socratic Movement* (Cornell: Cornell University Press, 1994), pp. 252–71.

Stoic logic and normative epistemology. But in addition, she has perfected her notions of what and how things are.⁴⁰

We can thus distinguish between the Formal and the Substantive Reason Interpretation, and flag the latter as more promising. The perfect reasoner knows, as a piece of knowledge that is integrated with comprehensive knowledge of the world, that only virtue is good. Let me add another premise to this effect.

Substantive: The law is identified with perfect reason, and perfect reasoning involves knowledge of truths relevant to leading a good life.

On the account I have offered, lawful action is the action of a perfect reasoner. The path to compliance with the law is no more and no less than the path to the perfect state of mind for which the Stoics have so many names: virtue, wisdom, knowledge, perfect reason. If we are not (yet) wise, what are we to do? We are to strive for wisdom. There is no legal code, set of customs, or advice by others that can replace our own correct thinking. For, who knows whether some presumed wise person really is wise? Our best shot is to strive for knowledge, including knowledge about the good, which must orient all normative considerations.

4 Law versus Custom

Some Stoic texts talk about the law from the point of view of physics. Others talk about the law from the point of view of ethics. We already considered both sets of evidence. In addition, there are texts that ascribe views to the Stoics which even later Stoics found outrageous, views about anthropophagy, incest, and the like. The final step in my argument is to demonstrate that Stoic views on these matters are consistent with the physical and ethical conception of the law we saw so far.

To see how this works, consider again T1 and Chrysippus' quote from Pindar's poem, 'law is king'. Prior to Chrysippus, this quote already has a venerable history. Famously, Herodotus quotes Pindar in his *Histories* (3.38.4), in a passage

⁴⁰ M. Frede, 'The Stoic Conception of Reason', in K.J. Boudouris (ed.), *Hellenistic Philosophy* (Athens: International Center for Greek Philosophy and Culture, 1994), vol. 2, pp. 50–61; M. Frede, 'Introduction', G. Striker and M. Frede (eds.), *Rationality in Greek Thought* (Oxford: Oxford University Press, 1996); Cooper, 'Stoic Autonomy'; Vogt, 'The Good is Benefit'.

that is of great interest to philosophers. Herodotus is talking about the Persian tyrant Cambyses, whom he portrays as a madman. It is proof for Cambyses' madness, the thought goes, that he did not respect other people's *nomos*. Only a madman doesn't know that *nomos* is king to everyone.⁴¹

T4 (3.38.1) ... Cambyses was quite insane; or he would never have set himself to deride religion and custom. For if it were proposed to all nations to choose which seemed best of all customs, each, after examination, would place its own first; so well is each convinced that its own are by far the best. (3.38.2) It is not therefore to be supposed that anyone, except a madman, would turn such things to ridicule. I will give this one proof among many from which it may be inferred that all men hold this belief about their customs. (3.38.3) When Darius was king, he summoned the Greeks who were with him and asked them for what price they would eat their fathers' dead bodies. They answered that there was no price for which they would do it. (3.38.4) Then Darius summoned those Indians who are called Callataie, who eat their parents, and asked them (the Greeks being present and understanding through interpreters what was said) what would make them willing to burn their fathers at death. The Indians cried aloud, that he should not speak of so horrid an act. So firmly rooted are these beliefs; and it is, I think, rightly said in Pindar's poem that custom is king of all (νόμον πάντων βασιλέα).

Today, value disagreement is often discussed in epistemic terms. Herodotus' analysis, on the contrary, does not envisage different reasons or justifications. It involves deeply felt visceral and affective responses to the burial practices of others. Each culture is horrified by the mode of burial that is 'the law' for others.

By using the phrase 'law is king', Chrysippus may well refer not only to Pindar, but also to Herodotus. A significant portion of the evidence on Stoic political theory addresses phenomena that are rather like Herodotus' case. The Stoics say that, for example, we should not make any special effort for the funerals of our parents (or indeed of anyone else), that we should eat an amputated limb if it is useful, that nothing is shameful about incest and other conventionally rejected sexual actions, and so on.⁴²

41 *Herodotus*, with an English translation by A.D. Godley, modernized by S. Ott, reviewed by J. Marincola (Cambridge Mass.: Harvard University Press, 1920).

42 Diog. Laert. 7.32–4, Diog. Laert. 7.187–89, Sext. Emp. *Pyr.* 3.245–49, Sext. Emp. *Math.* 11.189–96. Cf. P. Vander Waerdt, 'Zeno's *Republic* and the Origins of Natural Law', in

In earlier work, I called these claims the ‘disturbing theses’. They are hard to relate to the rest of the evidence. In effect, scholars of Stoic philosophy tend to keep a safe distance from the disturbing theses. If this is what the Stoics are saying, perhaps they are, to use Herodotus’ locution, ‘madmen’. Some of the abrasive effect of these claims comes from the way they are presented in the sources. Sextus Empiricus puts together a cabinet of horrors to generate suspension of judgment on whether there is an art of living. Skeptical framing aside, however, it remains the case that the Stoics argue that, if the circumstances require it, we should do X, where X is some action that, according to customary ways of living, appears unthinkable.

One can approach the relation between the disturbing theses and the cosmic law by looking more broadly at disagreement as presented in Herodotus’ *Histories*. Herodotus describes cultures as differing in respects that tend not to show up in today’s discussions of value disagreement. What do people eat? What clothes do they wear? What are the marriage customs? What kind of burial is customary? People are, in recognizable ways, presented as committed to their customary ways. And yet the differences between their ways of life are not what today ethicists would call ‘moral disagreements’.

Burial customs are a prime example in discussions of the ethical category Bernard Williams, Cora Diamond, and others call the unthinkable.⁴³ We can imagine that, for a culture that never burns their dead, burning the dead is horrific. But if we ask them what is wrong with it, they may not know what to say, beyond invoking their own customs and their affective response. The absence of argument, however, makes us no less committed to our own customs.

Stoic pronouncements on burial, incest, clothes, and so on, are a *bona fide* component of their conception of the law precisely for this reason. The Stoics view many dimensions of our ordinary lives as unsupported by normative considerations. The only law there is, the common law or cosmic law, does not support *any* of the burial customs that different cultures embrace. This is what it means that there is only one, cosmic law. Laws such as ‘burn the dead’ fail to have normative standing. Dead bodies are neither good nor valuable.⁴⁴ Accordingly, the set of considerations that make up the law as the

P. Vander Waerdt (ed.), *The Socratic Movement* (Cornell: Cornell University Press, 1994), pp. 272–308; M. Schofield, *The Stoic Idea of the City* (Cambridge: Cambridge University Press, 1991); Vogt, *Law, Reason, and the Cosmic City*.

43 B. Williams and J.J.C. Smart, *Utilitarianism: For and Against* (Cambridge: Cambridge University Press, 1973), pp. 92–3; C. Diamond, ‘The Problem of Impiety’, in D. McPherson (ed.), *Spirituality and the Good Life* (Cambridge: Cambridge University Press, 2017), pp. 29–46.

44 Death, for the Stoics, is the separation of soul from body. Cf. Nemesius 81.6–10 = LS 45D.

Stoics conceive of it cannot single out one set of burial practices as naturally right. Insofar as customs involve not only doing this or that, but viewing one's practice as right, all ordinary burial customs are wrong by the Stoics' light. The same applies to ordinary customs regarding marriage, clothing, and so on.

Only the law that Chrysippus calls 'king of all things human and divine' is genuinely and strictly speaking law. Human legislation at a given time and place does not qualify as law in this sense. Reconstructions of Stoic cosmopolitanism explore how it is that one should live in the cosmos and by its law, while also living in one's local political community.⁴⁵ For present purposes, I address only one dimension of this debate. Sextus complains that the Stoics, while holding outrageous views, themselves lead entirely customary lives. We can see how this is a plausible stance: when one's parents die, one must choose some mode of burial. Absent special circumstances, one can just as well do what others in one's community do. But one can do so without holding the view that this is the *right* way to bury the dead. In an interesting twist, Stoics and their skeptic interlocutors share a premise: one can follow customs without embracing them as right (Sext. Emp. *Pyr.* 1.23–4).⁴⁶ But if one found oneself, for example, on a ship with a dead body at risk of becoming infectious, one may have to throw it overboard. In this kind of case, the Stoics say, we shouldn't trouble ourselves by thinking that we did something wrong; for there is nothing wrong with not making much of funerals. Along these lines, let me add another premise to my reconstruction of the Stoic conception of the law.

Unthinkable: The law can require the unthinkable.

Lawful action that is contrary to custom appears extraordinary, because it strikes us as appalling. But in normative terms, it is like any other lawful action: action that is fully responsive to all normative considerations, both with respect to what is valuable and what is good.

45 Schofield, *The Stoic Idea of the City*, and Vogt, *Law, Reason, and the Cosmic City* offer book-length studies of this and related questions.

46 This dimension of skeptic philosophy is widely debated. A recent contribution is R. Bett, *How to be a Pyrrhonist: the Practice and Significance of Pyrrhonian Skepticism* (Cambridge: Cambridge University Press, 2019). K.M. Vogt, 'Scepticism and action' in R. Bett (ed.), *The Cambridge Companion to Ancient Scepticism* (Cambridge: Cambridge University Press, 2010), pp. 165–80, offers a distinction between six versions of the charge that skeptics cannot act. Stéphane Marchand's contribution in this issue focuses on the skeptics' relation to the law.

5 Conclusion

At the outset, I asked how it is possible that the very same law is a corporeal principle and normative for us. Today, this proposal may sound nonsensical. It runs counter to the distinction between a descriptive account of the world and normative claims about what we should be doing. But if the Stoics were confronted with this distinction, they would insist that it is misguided. They argue that divinity, identified with law and reason, pervades the world. In the scientific account of the world that humans are to strive for, physics, ethics, and logic are inextricably connected. To follow the law is no more and no less than to act based on comprehensive knowledge of the universe.

The Stoic conception of the law, as I presented it, starts out from the claim that qua constituent of the cosmos, and qua unified set of normative considerations, the law is one.

Unity: The law is one.

The law's role in the cosmos is determined by a cluster of identifications and their implications.

Identifications: The law is identified with the active principle, god, and reason.

Corporeality: The law is corporeal.

Soul: The law is a soul.

Perfect Reason: The law is a soul in the state of perfect reason.

The law's normative role comes to light when we ask how it is possible that perfect reason is identified with the law, and yet beings with perfect reason – Zeus, lesser gods, sages – are subject to the law.

Governance of Reason: Perfect reason is governed by law.

Insofar as there is only one law, human expertise regarding the law cannot consist in excellent legislation – we already have all the law we need. Instead, the relevant expertise must reside in exegesis.

Exegesis: The wise person is not a legislator, but instead an exegete of the law.

To be subject to the law in the best way is to set oneself in motion and act via one's perfect reasoning. This is what human beings should strive for.

Human Action: The normative considerations that make up the law are unified because knowledge of the world is a system.

Perfect reasoning is not only formally correct. It also involves knowledge.

Substantive: The law is identified with perfect reason, and perfect reasoning involves knowledge of truths relevant to leading a good life.

The implications of this approach are especially salient when the actions we should perform violate received customs. The Stoic claim that there is only one law, the cosmic law, means that at times we should do what customarily is unthinkable.

Unthinkable: The law can require the unthinkable.⁴⁷

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