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# The origins of licence : excessive freedom in ancient political philosophy

René De Nicolay

► **To cite this version:**

René De Nicolay. The origins of licence : excessive freedom in ancient political philosophy. Philosophy. Université Paris sciences et lettres; Princeton University, 2022. English. NNT : 2022UPSLE023 . tel-04506672

**HAL Id: tel-04506672**

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**THÈSE DE DOCTORAT**  
DE L'UNIVERSITÉ PSL

Préparée à l'École Normale Supérieure  
Dans le cadre d'une cotutelle avec Princeton University

**Le thème de la liberté excessive dans la philosophie  
politique ancienne (Platon, Aristote, Cicéron)**

The Origins of Licence: Excessive Freedom  
in Ancient Political Philosophy

Soutenue par

**René de NICOLAY**

Le 9 mai 2022

Ecole doctorale n° 540

**Ecole doctorale Lettres, Arts,  
Sciences Humaines et  
Sociales**

Spécialité

**UMR 8230 – Centre Jean Pépin  
Philologie et philosophie de  
l'Antiquité à la Renaissance**

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**THÈSE DE DOCTORAT**  
DE L'UNIVERSITÉ PSL



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## Abstract

The present dissertation studies the criticisms levelled by Plato, Aristotle and Cicero against the relationship to political freedom that, in their views, characterizes the democratic societies of their times. The three philosophers have in common an ethical conception of politics, in which the city's primary purpose is to inculcate virtue in the citizens. Their historical situations are also similar, as all three of them lived at times when made their demands loudly heard. For Plato, Aristotle and Cicero, such political movements make it impossible for the city to accomplish its task, insofar as they advocate the maximal extension of popular and individual freedom.

The dissertation aims first at recovering the arguments put forward by Plato, Aristotle and Cicero against the democrats' wrong-headed desire for freedom. This requires examining the conceptions of freedom that these philosophers themselves endorse. The thesis therefore aims at understanding the criteria by which Plato, Aristotle and Cicero distinguished between just and unjust forms of political freedom. These criteria are all part of the ethical conception of freedom that unites these three philosophers, but they vary between them. For Plato in the *Republic*, for example, democratic freedom is excessive insofar as it gives free rein to "non-necessary" desires, incapable of satisfying human beings as virtue would. For the same Plato, in the *Laws*, political freedom is excessive when it is based on an unreasonable claim to self-rule, which makes democratic citizens reluctant to submit to any form of authority. For Aristotle, democrats are wrong to believe that power should be distributed on any other basis than political virtue; in particular, that the possession of a free legal status (as opposed to a slavery) gives one a title to rule. For Cicero, finally, political liberty has an important place in the mixed regime he defends, insofar as the power of the people and the rights of individuals are a guarantee of good government; it becomes excessive when the political elite decides to grant the people more liberty than the mixed regime requires, thus pushing the citizens to demand ever more independence from magistrates and laws.

Next to this work of analytical clarification, the dissertation's second task is to recover the diagnosis Plato, Aristotle and Cicero made of the misguided love of freedom that, in their eyes, characterizes democratic claims. If the democrats' mistakes are to be dispelled, their genesis must first be uncovered. This requires grasping the way in which the political conditions of the

democratic regime influence the soul of the citizens, giving rise to an irrational attachment to freedom. In the *Gorgias*, Plato attacks the democratic regime and Athenian imperialism, which flatter the people and renounce to educate them. In the *Republic*, Plato shows how democracy, while initially offering freedom to its citizens as a *means* to satisfy their desires, ends up making them consider freedom as an overriding *end* in itself. The *Laws* blames a musical revolution for filling the citizens' souls with arrogance, to the point of believing that they can govern themselves in everything. Aristotle sees in the pride of the democratic citizens for their free status the cause of their fetishism of political freedom. Cicero, finally, holds the elite responsible for the permissiveness he captures using the term *licentia*: the people make excessive demands for freedom only because the elite has set a deleterious example by taking or granting unwarranted permissions.

Ultimately, the dissertation wishes to offer a genealogy of our concept of licence, ending by showing how Cicero captured, with the term *licentia*, Platonic and Aristotelian reflections on democracy's tendency to cherish freedom excessively. Even if we disagree with these philosophers' opposition to democracy, we should understand it to gain analytical insight into a crucial political concept.

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## Acknowledgments

To be honest, I had not expected that writing acknowledgments would be the most difficult part of the dissertation. Like most dissertation writers, I had long looked forward to expressing my warmest thanks to all those who helped and supported me over the many years (seven, on the maximalist and, I think, most truthful count) of the project's gestation. I remember thinking of ways to best communicate my gratitude, making mental notes that did amount to something. I find myself very destitute now – thoughts and memories and feelings flow, which my poor English cannot catch up with. For each of the people whose image comes to my mind, I wish I had the talent to write a portrait, both colorful and true-to-life – but rest assured, the means simply fail me. As my first acknowledgment, I want to thank readers in advance for their indulgence.

I wish all graduate students could be blessed with such supervisors as Melissa Lane. Her scholarship informs every single page of this work (mistakes, of course, are my own). But Melissa has been a teacher of more than ancient political theory for me, important though that subject is. She has been a model of generosity – with her time, her advice, and her encouragements. Something that particularly impresses me with Melissa is that, while being one of the world's leading experts on ancient political theory, she is always open to believe that her students are on to something new – she even encourages them to think so. When I first came to Princeton, during the luxuriant summer of 2015, I had a sense that I would flourish there; this foreboding gave way to certainty when I saw how lucky I was to have Melissa as a supervisor. I have realized my good fortune ever more as the years went on; and I know that, especially if I get one day to supervise students, my gratitude will only grow from now on.

Dimitri El Murr accepted to co-supervise the dissertation as early as the Fall of 2017, and his energetic encouragements have been of invaluable support since then. I hope Plato had something of Dimitri; it would make it easier for me to feel a Platonist. Dimitri showed me what it could mean to be one: to show genuine care of other souls, in a spirit of frank and cheerful friendship; to take *ἐπιστήμη* very seriously, but *φιλία* just as well. His work and written comments have considerably improved the present work; not the least because of the trust he has the skill to build between himself and his students.

To the two other members of my committee I owe equally unpayable debts. I vividly remember the first meeting of Yelena Baraz's Senecan Tragedy seminar, in the Spring of 2016: how welcome I felt, how much I learnt, and how nice the atmosphere in the room was. Yelena encouraged me to keep working on Cicero when I came back to Princeton in September 2017, and her support has been key. Her expertise on Latin philology and linguistics has been a life-jacket on many an occasion; but her advice has extended to all parts of the dissertation and made the whole, as far as I can judge, much better. All along the doctorate, I have been fortunate to be able to rely on Hendrik Lorenz's knowledge, of Aristotle and ancient philosophy in general. The reading course I did with him on *De Anima* I regard as a highlight of my Princeton years; his work on ancient psychology has been the safest of guides in that bushy field.

It was a privilege to be part of both the Classics Department and the Program in Classical Philosophy. In East Pyne I took classes I simply loved, with Andrew Feldherr, Andrew Ford, Brooke Holmes, André Laks and Christian Wildberg; in Marx Hall I spent very enjoyable Tuesday nights pouring over Aristotle under the guidance of John Cooper, Benjamin Morison and Hendrik Lorenz. The Program in Classical Philosophy also funded the January pan-American workshops and, together with the Seeger Center for Hellenic Studies, glorious summer seminars in Greece. Benjamin Morison very generously improved whatever dissertation material I submitted to him.

I was fortunate to teach for Andrew Ford and Jed. W. Atkins, from both of whom I also received very helpful feedback on the dissertation. Visiting professors expanded my horizon: Katja Vogt taught me Aristotle's ethics, Sara Magrin Plotinus' psychology, and André Laks too many things to list them. The rigor of his work, especially on the *Laws*, has been both a help and a model. As a fellow at the Collegio Superiore of the University of Bologna, in the summer of 2018, I benefitted from the very generous advice of Giovanni Giorgini. Since July 2021, I have enjoyed eye-opening conversations with Benjamin Straumann in Zurich.

The feeling of being welcomed that overwhelmed me in the summer of 2015 has left an indelible mark on my stay in Princeton till the end. Classicist members of the Program in Ancient Philosophy, especially Emily Hulme and Tom Davies, have been treasures of kindness before becoming good friends (Jeremy Reid also deserves a mention here). I would like to express my gratitude to many other members of the Program: especially to Joseph Moore, Daniel Kranzelbinder,

Gabe Shapiro, Claudia Yau, Bridget Brasher, Winton Scott, Adele Watkins and Christen Zimecki. It has been a blessing to meet Ian Walling, not only because of our common interests, but also for what I learnt from him in terms of openness, patience, and courage. With Jiani Fan I had exchanges for which I will not thank her enough.

In Classics I was fortunate to be in the cohort of Tyler Archer, Malina Buturovic, Sarah Johnson, the aforesaid Winton Scott, Ian Silva and Elliot Wilson – those who know them will realize what a treat it was. It is also in Classics that I found my crew: Luuk de Boer, Teddy Fassberg and Marco Santini, united by our status of European (willing) exiles, and our cult for Di Panza – who deserves an acknowledgment after all. Marco was patient enough to share an apartment with me for two years, going so far as to teach me two of his most well-guarded secrets, the Italian tongue and the recipe of broccoli rabe *orecchiette* (though I think Marco's mother is the real target of my gratitude here). When Marco had enough, the incredible Nick Churik took his spot – here again, a treat.

The friends I made in Princeton are too many to be named: I would still like to convey my heartfelt gratitude to C. J. Amour, Francesco Cannizzaro, Reece Edmends, Thomas Ferreira, Djair Dias Filho, Maggie Kurkoski, Sherry Lee, Matt McDonald, Davide Napoli, Chase Padusniak, Emerson Saalovara, Guillaume Sauv e, Bryson Sewell and Julian Weidemann.

Other people have helped me during my time in Princeton, each in their own way: I would like to mention Peter and Amy Bernstein, Fr. Bryan Page, Fr. Gabe Zeis, Dr. Jon Geller, and the late Simi Bakshi.

Even at a distance, my friends in France have provided me with unflinching support. Armand de Durfort and Charles de Robien know, I think, how much I owe them; my dissertation-writing friends Octave Boczkowski, Benjamin Carantino, Jacopo Domenicucci, Augustin Gridel, Gr goire Lefftz, Delphine Meunier, Nathana l Mion and Charles Serfaty were always there for me – I hope that, sometimes, they felt I was there for them too. Fellow Platonists, especially Marion Krafft and Anthony Bonnemaision, I was delighted to meet along the way. It is Paris that gave me the chance to know Gheorghe Paşcal u, whose role as friend and, often, as mentor has been invaluable.

Paris is also where I started my studies. I was fortunate to be taught Latin and Greek by Emmanu le Blanc and Jo lle Bertrand; to be introduced to ancient philosophy by Paul Demont and

Carlos Lévy, and to Roman political thought by the late Jean-Louis Ferrary. It would pain me if my scholarship were unworthy of these exceptional teachers.

I am somewhat aware that having a family member writing a dissertation for almost seven years must be a burden – I want to thank my parents and siblings for bearing (it) with me. Each in their own way, my brother and my sisters have offered me invaluable support. My brother showed me the way, writing at the age of six (it must have been around 2008) a "thèse" on the *Iliad* (it has still not received the scholarly attention it deserves – and I keep wondering where he got the word and the idea from). To my sisters I owe more than I will ever be able to express. To the living among them, I hope to show my gratitude both today and in the future; to the dead I would like to dedicate this work.

*In memoriam*  
Irène de Nicolay (1985-2007)  
*sororis optimae*  
*sine qua non*

## Introduction

### I – Question and Answers

#### 1) A Pressing Question

Freedom is an ambivalent motto – few days pass without reminding us of this sobering truth. Among the many landslides that agitate our world, two at least have recently revealed freedom's potential to be misused. On the one hand, freedom-slogans are a cornerstone in the rhetoric of those who deny that the current pandemic should impose changes in our ability to move, to socialize, to (literally) breathe. On the other, those who revolt against the pervasive threat of sexual abuse – or its reality – draw attention to the role some forms of post-war "sexual liberation" played in facilitating abuse.<sup>1</sup> Examples of both phenomena abound.

As far as opposition to COVID regulations is concerned, freedom takes pride of place in its legitimizing discourse. The three countries in which I have lived in the past three years (the United States, France, and Switzerland) all provide testimonies. Take this senior citizen from Texas, attending a rodeo organized without masks or social distancing in July 2020, in blatant violation of the governor's orders: "I am an American, and I deem that I must be able to do whatever I want. I pay my taxes, I live freely and I want to be free."<sup>2</sup> Around the same time, demonstrations against COVID-related restrictions started in France. On Bastille Day, demonstrators could be seen brandishing banners printed with Article 1 of the 1789 Declaration of the Rights of Man and of the Citizen: "Human beings are born and remain free and equal in rights."<sup>3</sup> In November 2021, a colleague of mine at the University of Zurich received from demonstrators – who called themselves "freedom messengers" (*Freiheitsboten*) – an anti-restriction leaflet which argued that "a healthy, tolerant and enlightened society needs no measures, acts of repressions, nor indirect coercion. We would like ALL to still be allowed to decide over their lives in self-determination, equality of rights, and

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<sup>1</sup> To be sure, all kinds of sexual abuse existed well before sexual liberation.

<sup>2</sup> Article available at [https://www.lemonde.fr/international/article/2020/07/09/aux-etats-unis-le-nombre-de-cas-de-covid-19-explose\\_6045665\\_3210.html](https://www.lemonde.fr/international/article/2020/07/09/aux-etats-unis-le-nombre-de-cas-de-covid-19-explose_6045665_3210.html). I translate the French version of the quote.

<sup>3</sup> <https://www.ouest-france.fr/sante/virus/coronavirus/pass-sanitaire/entretien-covid-19-nos-libertes-sont-elles-menacees-par-les-mesures-pour-freiner-le-virus-562ed836-e585-11eb-b328-3bb388b4cb1f>

freedom."<sup>4</sup> The transition from lofty ideals to specific claims was under-argued; but freedom slogans apparently had a powerful psychological and rhetorical force.

Over the very same months, France witnessed a series of revelations amounting to accusations of sexual abuse against prominent members of the Parisian *intelligentsia*. Two women in particular, born in the early 70s, drew a link between the crimes they testified against and the post-68 intellectual climate they grew up in.

In January 2020, Vanessa Springora published *Le consentement* ("Consent"). The book narrated the abusive relationship she had, at age 14, with an influential writer, older than her by some thirty-five years. Springora's mother knew of the relationship and chose to connive. Springora accounts for her mother's behavior in terms of a May 68 slogan: "She had just turned 18 in 68, had to free herself, first from an excessively tight education, then from the control of an unlivable husband she had married too young (...). "It is forbidden to forbid" (*il est interdit d'interdire*) must have remained a mantra for her. No one easily escapes the spirit of the age. In that context, my mother ended up accepting the presence of G. in our lives."<sup>5</sup> Later on, Springora mentions G.'s arguments in favor of sex with adolescents: "G.'s thesis was that the sexual initiation of young people by a mature person was a good turn society should encourage. Such practice, actually widespread in Antiquity, would amount to a recognition of the liberty of choice and of desire which teenagers were entitled to."<sup>6</sup> Liberty, presented as a legacy of Classical times, was to be forced on young people.

A year after Springora's book, Camille Kouchner published *La familia grande*. Inspired by *Le consentement*, Kouchner decided to reveal her own story of abuse. She had been raised by her mother and step-father, two Parisian professors of constitutional law, co-authors of an influential *Dictionnaire des oeuvres politiques* in 1989. Her step-father abused her brother for years. Kouchner's mother did not know at the time, but chose to stand by her husband when the accusations (which she accepted) came to light.

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<sup>4</sup> "Eine gesunde, tolerante und aufgeklärte Gesellschaft benötigt keine Massnahmen, Repressionen und keinen indirekten Zwang. Wir möchten, dass ALLE weiterhin selbstbestimmt, gleichberechtigt und frei über ihr Leben entscheiden dürfen." An online version can be found at: <https://freiheitsboten-stadt-zuerich.ch/files/586266006621c04a0dda77d2cc708573.pdf>. The leaflet was part of a campaign against a new "COVID law," which was finally approved by 60.98% of the Swiss voters.

<sup>5</sup> Springora 2020, 41.

<sup>6</sup> *Ibid.*, 108.

A major theme of Kouchner's book is the injunction to be free that her mother repeatedly gave to her children – being free meaning having sexual experiences no later than 11.<sup>7</sup> Other authority figures repeated the same message. Aged 10, Kouchner was told by her grand-mother: "Study, but do not forget to seduce (...). Men must be at your feet. Freedom, freedom!"<sup>8</sup>

These commandments were justified with the same slogan Springora's mother used: "It is forbidden to forbid."<sup>9</sup> The motto took the place of more elaborate teachings: "Everything was said, nothing was explained."<sup>10</sup> The freedom card was a trump played to avoid discussion. When Kouchner's mother earned a prestigious appointment at the French Ministry of Culture, she went into a depression which she thought she would heal by drinking. To her daughter's worries she answered: "there is no way we are going to discuss this. It is my freedom."<sup>11</sup>

Kouchner's mother and step-father were intellectuals, and Kouchner traces their attitude back to the philosophical "spirit of the age." "In unison, you forced this tenet on us: Foucault and punishment. Never denounce, never condemn in a society that expects only punishment. Be able to evolve, be flexible and hope for rehabilitation. Mistrust law."<sup>12</sup> Kouchner goes on to cite the articles of the Penal Code that condemn the acts her step-father perpetrated on her brother: the law was on her and her brother's side, but its authority had been broken.

Springora, too, sees the intellectual climate of the 70s as an important context for the abuse she suffered from. On May 23th 1977, her abuser G. initiated a petition demanding a reform of the Penal Code, after three men were condemned for having had sexual relationships with adolescents of 13 and 14 years.<sup>13</sup> The open letter was signed by major intellectual figures: next to Foucault's name stood those of Louis Althusser, Roland Barthes, Simone de Beauvoir, Gilles Deleuze, Jacques Derrida and others.

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<sup>7</sup> Kouchner 2021, 29.

<sup>8</sup> *Ibid.*, 67.

<sup>9</sup> *Ibid.*, 27. To lay my cards on the table: I am claiming that at least some interpretations of the 68 motto were a convenient pretext for abuse. Springora and Kouchner call on their readers to realize this, and I think it is an urgent task. By contrast, interpretations of "il est interdit d'interdire" are still voiced that designate as the motto's most dangerous consequence the restoration of authoritarian order after anarchy (see Alain Badiou's comments on *Republic* 8, accessible at <https://www.franceculture.fr/emissions/les-chemins-de-la-philosophie/livre-viii-ix-rip-la-democratie>: De Gaulle is there depicted as the real-life quasi-equivalent of Plato's tyrant).

<sup>10</sup> *Ibid.*, 72.

<sup>11</sup> *Ibid.*, 78.

<sup>12</sup> *Ibid.*, 128.

<sup>13</sup> The text can still be accessed at: [https://www.lemonde.fr/archives/article/1977/05/23/un-appel-pour-la-revision-du-code-penal-a-propos-des-relations-mineurs-adultes\\_2873736\\_1819218.html](https://www.lemonde.fr/archives/article/1977/05/23/un-appel-pour-la-revision-du-code-penal-a-propos-des-relations-mineurs-adultes_2873736_1819218.html)



Freedom can sometimes be used to justify the most harmful behaviors.<sup>14</sup> It can also legitimize the opposite courses of action. Intellectuals as well as politicians have argued that, far from undermining freedom, COVID regulations actually guarantee it by ensuring that the citizens' basic rights (including the right to live) are respected.<sup>15</sup> Psychologists, jurists and legal philosophers also consider that protecting adolescents from abusive relationships does not limit, but rather protects their freedom of choice.<sup>16</sup> The meaning of freedom is as contested as ever.

## 2) A Long-Standing Debate

Misuses of freedom have concerned political thinkers for centuries. One of the most famous expressions of this concern is Milton's sonnet (No. XII of *Areopagitica*), "On the Detraction which followed upon My Writing Certain Treatises," published in 1644. Milton targets readers of his 1643-1644 divorce tracts, whom he accuses of having misinterpreted his arguments:

I did but prompt the age to quit their clogs  
By the known rules of ancient liberty,  
When straight a barbarous noise environs me  
Of owls and cuckoos, asses, apes and dogs:

As when those hinds that were transform'd to frogs  
Rail'd at Latona's twin-born progeny  
Which after held the sun and moon in fee.  
But this is got by casting pearl to hogs,

That bawl for freedom in their senseless mood,  
And still revolt when truth would set them free.  
Licence they mean when they cry liberty;

For who loves that, must first be wise and good.  
But from that mark how far they rove we see,

---

<sup>14</sup> Let it be clear that I am not putting opposition to COVID regulations and sexual abuse on the same footing.

<sup>15</sup> See, for the case of France, *Le Bris 2020*; for Germany, a bi-partisan open letter: <https://www.faz.net/aktuell/politik/inland/corona-impfpflicht-von-soeder-und-winfried-kretschmann-gefordert-17647078.html>; for Switzerland: <https://www.nzz.ch/meinung/freiheit-und-freiheitliche-verfassung-in-zeiten-der-pandemie-ld.1654374?reduced=true>

<sup>16</sup> <https://www.psychologytoday.com/us/blog/surviving-your-childs-adolescence/201801/adolescence-and-freedom-choice>. Del Campo and Fávero 2020.

For all this waste of wealth and loss of blood.

Milton had tried to recover the Old Testament's teachings on divorce (the "rules of ancient liberty"), but he was appalled when he heard of the uses to which some of his writings had been put.<sup>17</sup> He firmly believed his views were those of the true Church, for which Latona stands in the sonnet; but he was also deeply aware of truth's capacity to be misused, as the New Testament image of "casting pearl to hogs" makes clear.<sup>18</sup> He concluded that only the "wise and good" could enjoy freedom.

Milton did not invent the opposition of liberty and licence; in his days it belonged to the standard categories of political analysis. Authors such as Machiavelli,<sup>19</sup> Erasmus,<sup>20</sup> Philip and Algernon Sidney,<sup>21</sup> Nedham,<sup>22</sup> Hobbes,<sup>23</sup> and later Locke,<sup>24</sup> Montesquieu,<sup>25</sup> or the Encyclopedists<sup>26</sup> used it for the essential purpose of delineating the forms of freedom they deemed worth pursuing from those that were either unjust or harmful for the commonwealth. The need for a distinction stemmed from the superficial similarity between liberty and licence. If the one was mistaken for the other, the political community could be the victim of a fatal illusion. Henry Brooke, an influential Irish man of letters, could thus write in 1760:

The Resemblance is so perfect as to deceive the very Elect. But in the Universe...  
no two Things can differ more essentially from Each-other. Yet She, also, is called  
LIBERTY by herself and her Adherents; but in Heaven She is called Lust, and by  
the Discerning upon the Earth She is called LICENTIOUSNESS.<sup>27</sup>

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<sup>17</sup> Henry 1951; Wittreich 1987, 140; Gimelli Martin 2010, 86.

<sup>18</sup> Maresca 1961.

<sup>19</sup> Machiavelli, *The Prince*, ch. 9, and *Discorsi*, I.2.

<sup>20</sup> Erasmus, *Institutio principis christiani*, 3.14.

<sup>21</sup> The pair of concepts played an important role in Philip Sidney's political thought (Worden 1996, 230), who was probably influenced by Machiavelli's (see most recently Petrina 2009, 16-17). His great-nephew used it at the beginning of his *Discourses on Government* (chapter 1, section 2) to demarcate legitimate political freedom from the wrongful rejection of divine laws.

<sup>22</sup> Nedham calls liberty the protection offered by just laws, in contrast to the "License to do what you list" (1656, 5-6, but see also 185).

<sup>23</sup> Hobbes famously ascribed to Classical education his contemporaries' confusion about the true nature of liberty, which was not to be identified with "licentious controlling the actions of their sovereigns" (1996, 143).

<sup>24</sup> Locke gave pride of place to the opposition between liberty and licence in his *Second Treatise*, §6 (2003, 270).

<sup>25</sup> Montesquieu applied the distinction to the Roman Republic, his paramount political example (*Esprit des Lois*, part VIII, ch. 12).

<sup>26</sup> The Encyclopédie has an entry on licence, written by E.-F. Mallet, who defines it as "relâchement que l'on se permet contre les lois des mœurs ou des Arts."

<sup>27</sup> *Liberty and Common-Sense, To the People of Ireland, Greeting*, 1760, 5 (capitals original).

Brooke's purpose was to warn his countrymen against alluring catchwords. This required a neat separation between liberty and licentiousness; misconceptions about freedom needed to be dispelled.

Brooke's approach to that issue was wholly neo-Republican, in fact neo-Harringtonian: he defined liberty as "the Latitude of a voluntary Conduct informed by Reason, and limited by Duty," which "preserveth to every Man his Rights, Properties, and Privileges." Licentiousness, by contrast, was the product of "dark and stormy Passions obscur[ing] the Light of Reason," a form of "corruption" that led to "absolute Tyranny."

Brooke's argument was supported by a Sallustean reading of the last centuries of the Roman Republic: he saw the influx of riches following the conquest of the East as the source of a "Depravity... which no political Balsam [could] Cure."<sup>28</sup> Moral corruption drove both parts of the Roman people, the nobles and the people, to strive for domination. Leaders of the two factions pretended to fight for freedom, but their intentions were less pure: their slogans invoking liberty were mere tools to establish their licentious rule.<sup>29</sup> Brooke's worry was that such a history could happen again, if his fellow Irishmen mistook the cunning of licentious men for a sincere defense of liberty. It thus became crucial to teach them to pierce through the appearances, and be clear-headed about the two notions.

Brooke's concerns left their mark on the American Founders, for whom the distinction between liberty and licence was a condition of rigorous political thinking. Licentiousness could be, as for Richard Price, a flaw of rulers, if they overstepped the legal boundaries of their office; but more often the term was used of those among the people who were "disdainful of authority."<sup>30</sup> Licentiousness, seen as the defiance more than the abuse of power, was put on a par with tyranny as an arch-enemy of good government. As to the application of the term to specific conducts, it remained a matter of heated debate. It could be "applied both loosely and effectively to just about any event, movement, or person someone wanted to criticize."<sup>31</sup> Thus, both Revolutionaries and loyalists used it to cast suspicion on their opponents' political projects.

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<sup>28</sup> *Ibid.*, 12-13. On the prominence of the Sallustean historical paradigm of corruption since Guicciardini and Machiavelli, see Pocock 1989, 89-90.

<sup>29</sup> Cf. Sall. *Iug.* 41.5; *Cat.* 38.3; *Hist.* 1.12M and 3.34.22M.

<sup>30</sup> Reid 1988, 34-35.

<sup>31</sup> *Ibid.*, 32-33.

The age of Revolution resounded with the distinction between liberty and licence. Thinkers such as Samuel Johnson,<sup>32</sup> Mary Wollstonecraft,<sup>33</sup> and Kant<sup>34</sup> insisted that legitimate freedom must have bounds in order not to degenerate into licence. State leaders as widely different as Catherine II of Russia, George III of England,<sup>35</sup> or Saint-Just in France,<sup>36</sup> all distinguished their promotion of freedom from an encouragement to unruliness. Their arguments, like Milton's and Brooke's, most often invokes a moral psychology opposing reason and passions, with unmistakable ancient roots.

### 3) Analytical Clarification and Pathogenesis: Plato, Aristotle and Cicero

Dispelling misconceptions about freedom is thus both a pressing and an age-old concern. This necessary, but also ambitious task requires two things: first, to draw a conceptual distinction between liberty and licence, i.e. to delineate the boundaries of legitimate vs. illegitimate freedom; second, to inquire into the causes that make the one be mistaken for the other. The first is an enterprise in analytical clarification; the second, a work of pathogenesis. The present dissertation argues that three ancient authors, working in what I will show to be a continuous tradition – Plato, Aristotle and Cicero – engaged in both, to cure their audiences from misunderstandings regarding freedom and its excess. Let me say a few words about both enterprises.

#### a) Analytical Clarification and Contemporary Philosophical Tools

The present work begins by clarifying the distinctions Plato, Aristotle and Cicero drew between just and unjust forms of political freedom. To fulfil that goal, it primarily uses concepts we know these authors to have employed; but it does not refrain from resorting to later, even contemporary concepts for heuristic purposes. This is subject to one condition, as Quentin Skinner has insisted: it must be possible to think that the author whose views are studied would have been

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<sup>32</sup> Rees 2010, 84-89.

<sup>33</sup> Wollstonecraft 1995, 111.

<sup>34</sup> Kant's concept of innate right of freedom was meant to be immune from a confusion with "lawless freedom" (see *Metaphysics of Morals*, §42, 6:307), a concept he applied analogically to interstate relations (*Towards Perpetual Peace*, 8:354-356).

<sup>35</sup> Greene 2017, 86.

<sup>36</sup> Saint-Just 1828, 401.

able to frame his own statements in the terms used to illuminate them.<sup>37</sup> This is a requirement for engaging in the *history* of philosophy. It is always tempting to ask, as Richard Rorty once put it, how a "re-educated Aristotle" would have answered *our* philosophical problems.<sup>38</sup> This is tempting because it is interesting; but that is not the kind of enterprise the present dissertation engages in. History of philosophy, though far from devoid of philosophical value, is distinct from Rorty's philosophical re-education. The point was eloquently made in 1990, when two French specialists of ancient philosophy, Pierre Aubenque and Jacques Brunschwig, debated the respective roles of history of philosophy, and philosophy proper.<sup>39</sup> Aubenque argued that an ancient philosophical text should be approached *philosophically*, i.e. not by aiming at the "right" meaning (historically), but at the most philosophically rich – while historically plausible – interpretation. Neoplatonic interpretations of the *Parmenides*, for instance, might go beyond what Plato had in mind when writing the text; but given their philosophical interest, and the impossibility of ruling out whether Plato would in fact have endorsed them, they are *good* readings of the dialogue. In Aubenque's view, there is continuity between a philosophical text and its interpretations across history: both aim at producing rich philosophical content.

In response, Brunschwig defended the distinct nature of the history of philosophy. The general sense of his intervention was to show that the history of philosophy had a better claim to falsifiability (and hence to scientific status) than philosophy itself. Contrary to Aubenque, he insisted that some readings of Plato or Aristotle could be convincingly shown to be "right," others "wrong." But this did not imply that readings inspired by later concepts were not helpful. On the contrary, getting the view of ancient philosophers "right" often required the use of later concepts for heuristic purposes. Brunschwig insisted on a "contrastive" use (for the sake of showing what the ancient view was *not*); but he also admitted the more general value of modern philosophical concepts. As he put it:

To try these various slippers [modern philosophical views] on Aristotle's foot is not to try installing a screen door on a submarine; even if they do not fit his

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<sup>37</sup> Skinner 1969, 28-29. On the irreducible value of the notion of authorial intention in the history of political thought, see also Pocock 1985, 5, and Dunn 1996, 23-24. This proviso is precisely the one Strauss 1952, 26-27 rejected. But Skinner 2002, 159 admits that one can, for instance, ascribe to Milton the concept of "originality" (as a criterion of esthetic value) even if the word cannot be found in his corpus.

<sup>38</sup> Rorty 1984,

<sup>39</sup> The debate is reproduced in Cassin 1992, 17-66.

incomparable foot more than the glass slipper fitted Cinderella's, they remain slippers, in principle made to be adjusted to feet.<sup>40</sup>

A lot, of course, hinges on this "in principle." The principle has to be put to Skinner's test, to ascertain whether a modern view can, or cannot, be helpful in ascertaining Aristotle's meaning. Brunschwig provided a useful tool to decide on this point, by insisting that philosophy was not only done in large systems, but also in smaller-scale chunks. A distinction, an argument, a concept, can be studied on their own terms – Brunschwig thought – provided they are detachable from their author's system.<sup>41</sup> The present work follows Brunschwig's method: modern or contemporary concepts will only be used heuristically when the "detachability" proviso obtains. I have refrained from using concepts that were not sufficiently detachable from their own context, historical and intellectual, for us to think that they could have been made palatable to ancient authors.<sup>42</sup> But when they pass this test, contemporary theories of freedoms, such as those of John Rawls, Ronald Dworkin, Philip Pettit or Joseph Raz, will be used to shed light on ancient statements.<sup>43</sup>

## b) Pathogenesis: A Task for Political Psychology

Contemporary philosophy will also be useful for this dissertation's second task: uncovering our philosophers' diagnoses of common misconceptions of freedom (the pathogenesis). I will here

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<sup>40</sup> Cassin 1992, 65.

<sup>41</sup> *Ibid.*, 49. For Brunschwig, the detachability was applying to the ancient systems – but the point can be extended to modern theories as well.

<sup>42</sup> To take an example: chapter 3 makes use of the Rawlsian notion that freedom is primarily a concern of institutions, whose role it is to enable individuals to pursue their vision of the good. I am not ascribing to Plato this idea whole-cloth, as it is firmly embedded in Rawls' philosophical context and his own system (the *Theory of Justice*); but I consider the idea that freedom is primarily a goal of the regime, not of the individual (or only subsequently), as being sufficiently detachable to ascribe it to Plato's depiction of democracy. This does not violate Skinner's strictures in "Meaning and Understanding:" to apply Skinner's own method to his piece, I take it that his point is to argue against the "mythology of prolepsis," of which Popper for instance made himself guilty by ascribing to Plato a defense of totalitarianism. Totalitarianism is too firmly embedded in the political and intellectual context of the twentieth-century to be translated in terms Plato could have understood; the Rawlsian distinction I alluded to above is not. This somewhat bridges the gap between two forms of history of philosophy Rorty 1984 distinguished, the "rational reconstruction" and the "historical reconstruction." A lot hinges on our criterion for translatability; but I think common sense can decide over each case.

<sup>43</sup> I should make clear what I mean here by "heuristic" and "shed light:" as Skinner 2002, 50-51 helpfully argues, the historian of political thought has (at least) two tasks, that of "identifying and describing the beliefs to be explained" and that of "explaining or commenting on them." My recourse to later concepts is meant to contribute to the second task. But the boundary is porous: "commenting" on an ancient view, for instance by contrasting it to a contemporary one, participates in a kind of "describing."

rely on the notion of "pathologies of freedom" developed by the German critical theorist Axel Honneth.<sup>44</sup> Pathologies of freedom are, for Honneth, the main kind of social pathologies, which he defines as "any social development that significantly impairs the ability to take part rationally in important forms of social cooperation."<sup>45</sup> Pathologies of freedom are a peculiarly democratic disease: liberal democracies, Honneth argues, create in their citizens a tendency to insist on doing what they want, not in order to realize a valuable purpose, but simply because they have a right to do so. In a sense, this is not the regime's fault: democracies defend their citizens' rights to act as they please within certain boundaries, and they have many good reasons to do so;<sup>46</sup> but their vocal focus on the protection of entrenched rights comes with a potentially harmful psychological effect: it tends to make the citizens forget the point of their freedom. Honneth undertakes to diagnose this social disease and, thereby, to lay the ground for a therapy.<sup>47</sup>

Honneth places his enterprise under the aegis of Hegel, but he also acknowledges his debt to Plato, especially to his portrait of democracy in book 8 of the *Republic*.<sup>48</sup> Like Plato, Honneth is interested in the psychology of democratic citizens. His political theory, which is for the most part a theory of democracy, is presented as steeped in moral psychology (the study of the interplay between human motivation and moral norms).<sup>49</sup> Honneth's theory of recognition is importantly based on psychological research, most prominently on Winnicott's conception of human development.<sup>50</sup> The various pathologies Honneth diagnoses in democratic societies are flaws that develop at the psychological level.<sup>51</sup>

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<sup>44</sup> The notion, put forward in Honneth 2000, was elaborated on in Honneth 2010 and 2014.

<sup>45</sup> Honneth 2014, 86.

<sup>46</sup> Honneth argues that legal freedom gives us a space to explore and develop our personalities, which I take to be a very good reason; but one can think of many other justifications. Raz, for instance, argues that non-coercion enables us to make autonomous choices, and that autonomy is valuable in so far as it enables us to act for valuable reasons (Raz 1986, 412; his view is helpfully elucidated by Waldron 1989, 1027-1028). Waldron derives the value of autonomy from that of "personal integrity" (1981, 34). Dworkin 2002, 129-130, admits a plurality of rationales: "lives led under conditions of liberty are for just that reason more valuable lives, because more autonomous or more authentic, or lives of greater dignity, or better lives in some other way." Later on (270) he privileges the value of "ethical integrity," which one realizes when one "lives out of the conviction that his life, in its central features, is an appropriate one, that no other life he might live would be a plainly better response to the parameters of his ethical situation rightly judged."

<sup>47</sup> Honneth 2010, 42-47, on the "therapeutical" effect of his theory. See also Honneth 2007, 41.

<sup>48</sup> Honneth 2014, 92 n. 47. On Hegel's diagnosis of freedom pathologies, see in particular Honneth 1992 and 2010.

<sup>49</sup> Genel and Deranty 2021, 142.

<sup>50</sup> Honneth 1992, 95-107.

<sup>51</sup> Genel and Deranty 2021, 14 argue that Honneth's early theory of recognition is based on "psychology, psychoanalysis (...) and psychodynamics of work," but deny (p. 42) that his later political philosophy relies on the same data. Indeed, there is no trace of Winnicott in *Freedom's Right*; but psychology in a broader sense, i.e. the study of individuals' non-

This kind of psychological critique of democracy, however, has been contested. Jacques Rancière, in particular, is suspicious of any depiction of democracy as "the regime in which the individuals of modern mass society satisfy their unlimited desires."<sup>52</sup> Under this caricature lurks the hackneyed theme of all economic and political elites, that the people are unfit to rule.<sup>53</sup> Since Plato, the elite's claim has been covered with an intellectual veneer – and Rancière singles out *Republic* 8 as the main scene of the Platonic crime.<sup>54</sup> Both Plato and the elites he stands for distinguish between liberty and licence, in a way that equates the latter with the rule of excessive appetites: they are thus guilty of "psychologizing" politics.<sup>55</sup> If there is a psychological diagnosis to conduct, it is that of the elite's "hatred for democracy" (the title of Rancière's book), not of the people's love of freedom.

In June 2009, a debate took place in Frankfurt between Rancière and Honneth, shedding light on the value of psychology for political analysis.<sup>56</sup> Much of the discussion turned on the weight of the "given" in political theory.<sup>57</sup> Rancière attacked Honneth's "psychological-anthropological model," on the grounds that it blinds us to politics' nature as a space of subjectivation, one in which individuals shake off the burden of their externally assigned identities.<sup>58</sup> At times, however, Rancière expressed a more limited critique. In his view, Honneth narrows his philosophical scope too much when he adopts Winnicott's model of mother-child relationships as the basis of his theory of recognition; instead of psychology (in the sense of psychoanalysis), Rancière would prefer a larger conception of human behavior, including the findings of literature and art.<sup>59</sup>

Honneth is ready to take this broader picture of human life on board.<sup>60</sup> Where disagreement remains is on the very notion of social pathology. Rancière rejects it, because he denies that politics should aim, in whole or in part, at promoting a healthy relationship to oneself.<sup>61</sup> To speak of

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fully rational beliefs and desires, is still very much present, as they themselves recognize p. 43. Honneth at 92 keeps describing his conception of recognition in "psychic" (*psychischen*) or even "psychological" (*psychologisch*) terms.

<sup>52</sup> Rancière 2005, 7.

<sup>53</sup> *Ibid.*, 79-106.

<sup>54</sup> *Ibid.*, 37-47. At 46 Rancière also mentions the *Gorgias* and the *Laws*. Rancière also targets Plato's defense of ἀρχή in Rancière 1983, 33-79; and Rancière 1995, 100-102;

<sup>55</sup> Rancière 2005, 98 on the critique of the appetitive citizen; Rancière 1995, 103-104 on psychologization (next to sociologization); 142 on Plato's characterization of democracy ("l'idée que la démocratie est un régime de vie collective exprimant un caractère.")

<sup>56</sup> It is reproduced, with an introduction and further essays, in Genel and Deranty 2021.

<sup>57</sup> *Ibid.*, 26 and 41.

<sup>58</sup> *Ibid.*, 70. For Rancière, even the roles of "learner" and "teacher" belong to the logic of police, as he shows in Rancière 1987.

<sup>59</sup> *Ibid.*, 65-66.

<sup>60</sup> *Ibid.*, 100.

<sup>61</sup> *Ibid.*, 102.



pathology at all evokes the logic, not of politics, but of "police," in the Foucauldian sense of an assignation of ranks and roles on the basis of a pre-existing, "natural" order.<sup>62</sup> Honneth is aware of the risk of "over-psychologizing" politics, but refuses to throw overboard the idea that human beings have a psychology that shapes their perception of the political order, and motivates their claims to justice.<sup>63</sup> As he puts it:

Even if I am wary of using the phrase, because it has today quite flat and shallow connotations, the theory we both wish for needs a political psychology, one that would dare to make statements about the motivations and the dynamics of collective action.<sup>64</sup>

Rancière demurred, and the dialogue came to a close.

The present dissertation firmly takes up the task of contributing to political psychology, in particular to the study of freedom pathologies. It has of course predecessors, especially in the Frankfurt school of which Honneth is the heir. In 1941, psychologist Erich Fromm published *Fear of Freedom*, in which he diagnosed modern man's tendency to abdicate his freedom and identify with the community. Fromm argued that growing individualism in the West since the end of the Middle Ages gave human beings unlimited options, while severing the ties they formerly had with reassuring institutions such as the family, the church, and the political community. The result was permanent anxiety, which many tried to alleviate by communing with powerful social forces – a tendency that led to totalitarianism.<sup>65</sup> Four years later, in 1945, Theodor W. Adorno and his team started their investigation of the "authoritarian personality," which resulted in a landmark publication in 1950. Influenced by Fromm, Adorno tried to further unearth the causes of the fascist allergy to a free society. One of them he found, paradoxically, in democracy's own cult of freedom:

In an era in which "rugged individualism" actually has resulted in far-reaching social control, all the ideals concomitant with an uncritical individualistic concept of liberty may simply serve to play into the hands of the most powerful groups.<sup>66</sup>

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<sup>62</sup> *Ibid.*, 110. On "police" see Rancière 1995, 52; 2005, 54.

<sup>63</sup> *Ibid.*, 107.

<sup>64</sup> Genel and Deranty 2021, 113.

<sup>65</sup> Fromm 1941, 178-207.

<sup>66</sup> Adorno and *al.* 1950, 713.

The general aim of this dissertation is to make our concept of liberty less "uncritical:" not only by better understanding ancient arguments separating liberty from licence (the analytical clarification), but also by raising awareness about non-rational processes through which human beings – especially democratic citizens – tend to develop an excessive attachment to freedom (the pathogenesis).<sup>67</sup> To Rancière's quibbles it offers two replies. First, it accepts without too much unease that human beings have a psychology, in particular that their political behavior is shaped by the structure of their souls – broadly conceived so as to include cognitive apparatus, desires and feelings. This, I take it, is a "given" which no amount of postmodern skepticism will erase. Second, it alleviates Rancière's worry as to the narrowness of Honneth's "psychological-anthropological" model, by broadening the scope of what counts as human psychology. Honneth himself voices misgivings about political psychology as it is usually conducted: without naming names, he finds the field's output "flat and shallow." Psychology is dominated, since 1899 at least, by the Freudian paradigm – even Freud's critics take their point of departure from him. Both Rancière and Honneth agree that this framework is limited. But as political theorist Jon Elster has argued, political psychology is a much more flexible discipline.<sup>68</sup> It can do without paradigms and supposedly total theories *à la* Freud or Winnicott, and offer instead what Elster calls a "catalogue of mechanisms:"

Mechanism: This is the key word (...). In my view, progress in the social sciences does not lie in the construction of general theories such as historical materialism, Parsonian sociology, or the theory of economic equilibrium. The aim of such theories – to establish general and invariable propositions – is and will always remain an illusory dream. Despite a widespread belief to the contrary, the alternative to nomological thinking is not a merely descriptive or narrative ideographic method. Between these two extremes there is place and need for the study of mechanisms. I do not propose a formal definition, but shall only provide

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<sup>67</sup> This does not imply that I am endorsing my authors' diagnoses. Rather, I try to make the best possible case for them, so that they can raise our critical awareness. This can be done in various ways, as Blau 2021, 360 argues: history of political thought, especially genealogy, can "question authority, question existing answers, ask new questions, or offer new answers." I leave it to the reader to decide which of these specific tasks the philosophers here studied can be used to fulfil.

<sup>68</sup> Elster 1993, 33-34 adopts a standard conception of psychology as the study of the cognitive and desiderative apparatus of human beings, i.e. beliefs and motivations, although he admits that different authors elaborate this basic structure differently (Tocqueville, for instance, worked with "interests," "passions," "propensities," and "social norms," as Elster argues pp. 142-143).

an informal pointer: A mechanism is a specific causal pattern than can be recognized after the event but rarely foreseen.<sup>69</sup>

Elster's primary inspiration for his concept of "mechanism" is Tocqueville's *Democracy in America*. Elster shows Tocqueville's general theory of democracy to be often confused, if not outright inconsistent: "in his writings, the details are of greater interest than the whole, the reasoning is more compelling than the conclusions, and the partial mechanisms more robust than the general theories."<sup>70</sup> Tocqueville had a much keener eye for "small facts" than a systematic mind, as French sociologist Raymond Boudon also argued.<sup>71</sup> If one understands Tocqueville to be primarily interested in mechanisms, the contradictions of his theory become much less damaging: a democratic mechanism is only a tendency that the regime causes its citizens to harbor, and individuals as well as groups can perfectly well host contradictory tendencies.<sup>72</sup>

Tocqueville, however, made the work of his interpreters difficult: he did not always flag his explanations of mechanisms, as if doing so would have obscured what he took to be his main project, to offer a general theory of democracy. But his "quasi-descriptive arguments (...) are so lucid, profound, and surprising in their logical structure that any other author would have trumpeted them from the rooftops. One is tempted to think that he knew very well what he was doing, but that the historian's or the aristocrat's arrogance led him to hide the scaffolding that supports the narrative."<sup>73</sup> Elster therefore engages in a "reconstructive" analysis of Tocqueville's political psychology: starting from textual evidence, and faithful to the spirit of Tocqueville's project, he recovers the logical cogency of the "mechanisms" that can be gleaned throughout his writings.<sup>74</sup> The result is a political psychology of democracy.

Elster's notion of "mechanism" is not tied to modern or contemporary political theory. He himself applies it to ancient political phenomena, complementing Paul Veyne's account of euergetism in *Bread and Circuses* (1976) with an analysis of the psychological mechanisms underlying the practice.<sup>75</sup> The "pathogenetic" part of the present dissertation similarly makes use of

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<sup>69</sup> Elster 1993, 2-3.

<sup>70</sup> *Ibid.*, 101.

<sup>71</sup> Boudon 2005, 69-73.

<sup>72</sup> Elster 1993, 119.

<sup>73</sup> Elster 1993, 106-107.

<sup>74</sup> *Ibid.*, 140.

<sup>75</sup> *Ibid.*, 55-56.

Elster's concept of mechanism to illuminate ancient philosophers' criticisms of excessive freedom. An understudied current of the political theories of Plato, Aristotle and Cicero, it argues, consists precisely in tracing back the democrats' freedom claims to disorders or mistakes that are, ultimately, of a psychological nature. They diagnose several mechanisms by which human psychology, when put in a democratic environment, leads to the formulation of wrong-headed claims to freedom. Like Elster's and Boudon's Tocqueville, however, the philosophers studied in this dissertation do not always flag their accounts of such mechanisms, however. But these can and should be recovered from their writings – an important task, since such mechanisms form a key part of these ancient philosophical engagements with democratic claims to freedom;<sup>76</sup> and since, as I will argue, their applicability extends to our times.

### c) The Respective Weights of Analytical Clarification and Pathogenesis

Of our two tasks (the search for analytical clarifications and the quest for pathogenesis), the first is logically prior to the second. Before investigating what can have caused a given disease, one must know what the disease itself consists in. However, most of this dissertation will be devoted to recovering our philosophers' views of the (patho)genesis of democratic licence. What primarily interests Plato, Aristotle and Cicero in the phenomenon of excessive freedom is its origins. Politics, for them, is the locus of moral education: politics aims at bringing citizens as close as possible to virtue. The desire for excessive freedom runs directly counter to this goal: it stems from, and reinforces, a bad moral disposition in the citizenry. Inculcating virtue in the citizens thus requires fighting off the human drive towards excessive freedom. It involves understanding which political situations create or encourage this drive.<sup>77</sup>

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<sup>76</sup> Skinner 1969, 7 warns against the "mythology of doctrines," which ascribes to an author a consistent and worked-out theory on the basis of "some scattered or quite incidental remarks." The "mechanisms" I study in Plato, Aristotle and Cicero are based on much more textual evidence, and are much more closely related to their general project of democracy critique, than "scattered or incidental remarks." The proof, however, can only be in the pudding. On Plato's political theory as "a searching consideration of the possibilities raised by some democratic ideals and institutions," see Monoson 2013, 3.

<sup>77</sup> This may sound very close to the standard moralistic, conservative condemnation of freedom: before obtaining freedom, you need to have a (morally) valuable purpose which you want to be free from constraints. I hope to show that my reading of Plato, Aristotle and Cicero goes beyond that critique. Of course, they do endorse it, but this is not the part of their thought that interests me. Rather, I want to show that they target specific forms of democratic attachment to freedom, different forms of what I call, in chapter 3, "freedom fetishism." They are not only concerned that people will

This will cast light on a rather neglected aspect of licence. The early modern authors who made use of the pair of concepts were much more interested in the consequences than in the causes of licence.<sup>78</sup> For them licence or licentiousness was a bane because it spelled the doom of political liberty, not primarily because it was a moral flaw. Going back to the origins of the notion of excessive freedom reveals another but no less important side of it. For Plato, Aristotle and Cicero, excessive freedom both arose from and further reinforced a morally vicious disposition in which non-rational or irrational drives dominate the citizens' reasons. Identifying the precise, often contextual causes of this disorder in the soul is therefore key to their political project of moral education. To be sure, the consequences of excessive freedom are also part of their concerns. Like early modern authors, they see licence as a boon for would-be tyrants and try to warn their readers against this danger. I will address this part of their theories too. Nevertheless, the dissertation tries to shift our focus from consequences to causes. Such estrangement, after all, is a fruit of the history of ideas: by showing that concepts were put in the past to different uses than our own, it reveals to us the contingent nature of our categories. It thus offers a sound invitation to "do our own thinking for ourselves."<sup>79</sup>

Often, however, the distinction between causes and consequences will be hard to maintain: for it is a tenet of our authors that the institutional arrangements that embody excessive freedom further foster (and serve to rationalize) the cultivation of wrong dispositions in and by the citizens. They thus reinforce themselves, functioning both as causes and as consequences. The dissertation intends to bring clarity on this point too, not only by pointing to this self-reinforcing process, but also by distinguishing both conceptually and contextually the institutional levels at which it operates. We will see our authors locating it either in permissive laws, which allow behaviors that ultimately harm the political community, or in the lax enforcement of good laws, or even in the impunity given to those who flout the laws. Understanding our authors' arguments on this point will often require us to delve into the institutional realities of their times. This means that our inquiry will be contextual; which brings us to the question of which tools to use to carry it out.

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put their freedom to bad uses; they are also worried that people will forego asking about the uses and purposes of freedom, satisfying themselves with the possibilities it affords.

<sup>78</sup> See for instance Nedham 1656, 185: "The Eighth Rule, is, that which more especially relates unto the People themselves in point of behaviour, viz. That being once possessed of Liberty, they ought to use it with moderation, lest it turn to licentiousness; which, as it is a Tyranny it self, so in the end it usually occasions the corruption and conversion of a Free State, into Monarchical Tyranny."

<sup>79</sup> Skinner 1969, 52-53, and 2009, 325. This Skinnerian motto is lucidly elucidated and problematized in Lane 2012.

## II – Methods

### 1) Philosophy and the History of Political Thought

The two enterprises I have just sketched, the recovery of analytical clarifications and pathogeneses, belong to history of philosophy: they aim at recovering *arguments*. But, one might say, these arguments were put forward by ancient authors, separated from us by more than two thousand years. How much of their writings can we hope to understand? How much can we hope to glean from them? The present and the following sections are meant to answer these two questions. I argue both that the views studied in this work need to be firmly placed in their context; and that, once this is done, they can yield insight for our own philosophical thinking.

First, then, the contextual caveat. As John Dunn, John Pocock and Quentin Skinner have argued, political texts of the past can be interpreted at two levels: they can be seen both as theoretical statements, meant to have universal truth-value; and as political interventions targeting specific events, actors or ideas their authors had in mind. In Skinner's influential terminology, to recover the first is to grasp the text's *meaning*; to identify the latter is to arrive at an *understanding* of the text's "point."<sup>80</sup> Skinner stressed the contextual nature of the second enterprise: to understand what Machiavelli had in mind when he said that a prince should know "how not to be virtuous," one has to be aware of the importance of Ciceronian calls to virtue in 16<sup>th</sup> century mirrors-of-princes.<sup>81</sup> But Skinner also showed that knowledge of context is necessary for ascertaining the *meaning* of a past political text. The very sense of the words it uses is determined by the linguistic and social context.<sup>82</sup> Other social conventions are relevant: as John Dunn noted, familiarity with Greek culture is required to spot irony in a Socratic statement; awareness of Locke's religious background is necessary to uncover the "unstated premises" of his theories.<sup>83</sup>

For our purposes, this means that the study of Plato's, Aristotle's and Cicero's views of excessive political freedom must be steeped in knowledge of their political contexts. Since our two

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<sup>80</sup> Skinner 1969.

<sup>81</sup> *Ibid.*, 46.

<sup>82</sup> Skinner 2002, 86-87. See also Pocock 2004.

<sup>83</sup> Dunn 1968, 94.

tasks (recovering their analytical clarifications and pathogeneses of licence) belong to history of philosophy, this dissertation is primarily an investigation of the Skinnerian meaning of their texts. I will also try, however, to "understand" them: not for historical knowledge's sake, but because I take this to be philosophically relevant. What I mean is this: it is quite easy, as Rancière does, to dismiss Plato's rejection of democratic licence as self-interested elitism. The opposition between liberty and licence is so common, and in a sense so outworn, that we have grown suspicious of it; we are tempted to see criticisms of democratic licence as projections of elitist views onto events, not as apt responses to real problems. To overcome that first reaction, it is important to see the "point" of the texts studied here. To take two examples: when Plato, in the *Gorgias*, indicts democracy for the hedonism it breeds in its citizens; or when Cicero, in *De Re Publica*, depicts the people as always prone to unleash its dormant violence, their sweeping statements give us pause, because we know of the many counter-examples that come to mind. Political culture in 16<sup>th</sup> Geneva was not particularly marked by brazen hedonism; nor is there any reason to think that direct popular rule *must* unleash mob violence (take the history of any other Swiss canton). Once, however, we realize that the *Gorgias* attacks a democracy that is based on imperial exploitation; and that Rome in the 60s and 50s B. C. E. witnessed a unique upsurge in political violence, we can narrow down the scope of Plato's and Cicero's statements. Even if couched in general terms, their pronouncements in fact target precise events, and should be seen as replies to them and their causes. Collingwood's principle, that "you cannot tell whether a proposition is "true" or "false" until you know what question it was intended to answer," applies in that sense to a political text's meaning just as well as to its understanding.<sup>84</sup>

History will therefore be involved at these two levels, meaning *and* understanding; but the ultimate goal, to repeat, is to contribute to the history of philosophy. Which leads to a second question: why should we care for the views on democracy of three dead philosophers, especially as these were suspiciously critical? Can we really hope that such study will help us in our own predicament? Why do history of philosophy, and not philosophy proper?

## 2) The History of Political Philosophy and Its Value

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<sup>84</sup> Collingwood 1939, 38.

The main benefit to be derived from our inquiry is to make us more critical of our own concepts of liberty and licence (Adorno's plea), in at least two ways. First, we must uncover their history, in order to be aware of what past events have put into them. Second, we must realize that our concepts are just one possible way of thinking about liberty and licence, and refresh our pool of ideas through contact with ancient thinkers.

Engaging in the first enterprise assumes that ideas and concepts formulated to solve problems at some point in the past have a long shadow, provided they are transmitted by some kind of tradition. If this condition obtains, then the study of these ideas and concepts, of the problems they were meant to address, and of the experiences they were meant to capture becomes necessary to understand the arguments that subsequently built up on them. As Reinhart Koselleck has shown, concepts meant to capture political phenomena incorporate the historical context of their formation.<sup>85</sup> Thus, the notion of licence used in medieval, modern and contemporary political theory bears the mark of its Greek and Roman origins. The meaning of the concept has of course changed over time; but to understand these changes and their results, we need to know their point of departure. Even if we are only interested in the current usage of the word "licence," we cannot avoid going into history. Societies can look back to their past to distinguish themselves from it, but the first step in that direction is to conceptualize the tradition.<sup>86</sup>

For our purposes, the path has been blazed by Kurt Raaflaub's landmark study, *The Discovery of Freedom* (German edition 1984, English 2004), which approaches the history of the Greek concept of freedom using Koselleck's methodological tools.<sup>87</sup> Raaflaub combines the two philological approaches theorized by Koselleck, the semasiological (focused on individual terms) and the onomasiological (drawing a terminological map of a given field). A more recent history of freedom which, though not mentioning Koselleck, perfectly illustrates the value of his approach, is Tyler Stovall's *White Freedom. The Racial History of an Idea* (2021). Stovall shows how, in the West and the world it came to dominate, the concept of freedom was shaped by ideas of race and experiences of racial domination, to the point that the enjoyment of freedom, even after the abolition of slavery,

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<sup>85</sup> Koselleck 1967; Koselleck 2004, 73-91. Koselleck 2006, 358 includes emotions among the connotations a term has been loaded with by history.

<sup>86</sup> Pocock 1971, 235; Rüsén 1983, 72-75.

<sup>87</sup> Raaflaub 2004, 8 provides a very helpful methodological summary.



was seen as reserved to white people. In revealing the "dark sides" of freedom, Stovall engages in a *Begriffsgeschichte* with liberating potential.<sup>88</sup>

The second project, to refresh our conceptual store with an influx of ancient views, is most closely associated with Quentin Skinner. As Melissa Lane has shown, even the early Skinner saw the "fruits" of intellectual history as consisting importantly in recovering "buried intellectual treasures."<sup>89</sup> The later Skinner was even readier to accept the philosophical relevance of the history of political ideas. To him, tracing the history of a concept like that of the State reveals that it does not admit of a universally accepted definition: it tracks the many various uses to which the word has been put, stressing their diversity rather than unity.<sup>90</sup> As Nietzsche and Foucault insisted, "only that which has no history is definable."<sup>91</sup> The present work decidedly engages in this kind of project. It foregoes formulating a universally valid definition of licence as opposed to liberty; instead, it tells a "historical narrative of battles to impose interpretations" of these terms.<sup>92</sup> But the goal remains that of enriching our pool of ideas to think about liberty today.

Because the present dissertation sets itself a Koselleckian and a Skinnerian agenda, it is a genealogical study.<sup>93</sup> The concept of genealogy, however, has its own history, which must be clarified to avoid misunderstandings. The sense Nietzsche, and later Foucault gave to the term clears the corresponding enterprise from accusations of undue reverence for the past. Going back to ancient articulations of a concept of excessive freedom does not involve celebrating some kind of *Ur-*formulation, from which all subsequent elaborations could only degenerate. This would be chasing after the "chimaera of the origin," a fantasy of conceptual purity that Foucault himself, after Marc Bloch, did much to dispel.<sup>94</sup> "Origins" in my title is not *Ursprung* but *Herkunft*: it motivates not a quest for a pristine Grail, but a Nietzschean genealogical hunt. As Foucault put it: "The genealogist needs history to ward off the chimaera of the origin, a bit like the good philosopher needs the doctor to ward off the shade of the soul."<sup>95</sup> In tracing the ancient origins of the theory of licence, I do not

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<sup>88</sup> Stovall 2021, 1.

<sup>89</sup> Skinner 2002, 126.

<sup>90</sup> Lane 2012.

<sup>91</sup> *Genealogy of Morals* 2:13.

<sup>92</sup> Lane 2012, 80.

<sup>93</sup> The compatibility between Koselleck's, Skinner's and Pocock's methodologies is most helpfully defended in Richter 2003.

<sup>94</sup> Bloch 2007 [1949], 53-57; Foucault 1971, 139. See on this point Chartier 1993, 167-186.

<sup>95</sup> Foucault 1971, 150.

intend to glorify them; on the contrary, I wish to lay them bare in all their crudeness. It is precisely because Plato's spell can be so enticing that genealogy is needed to put us on our guard when his picture of democracy distorts realities of his days, or even possibilities that were realized only later (including today). We have fortunately moved beyond his views on slavery, which inform so much of his political thinking. We are keenly aware of the problems involved by his critique of democracy; and the same applies to Aristotle and Cicero.<sup>96</sup> A genealogical eye will offset the aura with which these thinkers are often surrounded.

I say this, essentially, as a statement of interest.<sup>97</sup> My decision to study Plato, Aristotle and Cicero has of course been shaped by contingent factors – among other things, I was fortunate to be taught Greek, Latin and ancient philosophy by exceptional teachers, and this has to do with the authority the Classics enjoy in France and the United States. At the same time, one important reason why I chose to study these philosophers' arguments about excessive freedom, as I hope and happen to believe, is that they seemed, and still seem to me to have an extraordinary intellectual potential. A great part of their value resides precisely in their foreignness: their authoritarian perfectionism, which (I hope) no one would share today, gives them a perspective on freedom that is both philosophical and radically different from ours.<sup>98</sup> Our way of thinking about liberty and its excesses may well have been *influenced* by Classical views (as Koselleck would insist); but the temporal and intellectual distance between the two sets of concepts makes the study of the ancient ones refreshingly instructive.

Irreverent genealogy, *à la* Nietzsche and Foucault, is a sobering drug. The questions it presses on us (which political struggles made it useful to put forward a concept of excessive freedom? Useful

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<sup>96</sup> Here again, the crucial question is that of detachability. If the whole project of democratic critique undertaken by Plato, Aristotle and Cicero is flawed, then there might be nothing we can recover from it. On the other hand, we can disagree with fundamental premises of theirs, while recognizing that some of the observations and analyses that these premises led them to make are detachable, and potentially applicable to our situation.

<sup>97</sup> I allow myself this personal note, because it matters for how the following chapters will be received.

<sup>98</sup> Skinner 2002, 126: "The alien character of the beliefs we uncover constitutes their 'relevance'. Reflecting on such alternative possibilities, we provide ourselves with one of the best means of preventing our current moral and political theories from degenerating too easily into uncritically accepted ideologies." As Skinner's work on Republican theory shows (see especially Skinner 1998), gaining a critical perspective on our moral and political theories can include critiquing them in the light of ancient ideas. Just as Roman and neo-Roman thinking about political slavery and freedom is currently developed into a newly articulated neo-Republican model (see here Pettit 1997 and 2012, among others), the ancients' foreign thinking about freedom and its excesses can help solve current issues, such as Honneth's "freedom pathologies."

to whom?) have shaped the following chapters.<sup>99</sup> Ultimately, however, I do not want to stop there. Following Skinner, I hope to recover some nuggets for thinking about freedom today. Even if we do not subscribe to any expressed, or even unstated belief of Plato, Aristotle and Cicero, there are important insights we can gain from them.<sup>100</sup> One, on which this dissertation focuses, is that freedom's spell is as enticing as Plato's. Because it is often used as a catchword, freedom breeds unreflective adherence to its promises of unrestrained fulfilment of our goals. As Honneth insists, by focusing too much on obtaining freedom for ourselves (rather than on what we should do with it), we run the risk of maximizing it without a purpose, at the expense of other important values.

This dissertation is intended as a partial remedy to this pathology. From the point of view of political theory, its argument can be formulated simply: if we end up embracing freedom as a political ideal, as I think we should, we must do it with reflection and qualification. We should specify what we want to be free from, and why we think such freedom is valuable.<sup>101</sup> In the words of ideology-theorist Michael Freeden, we should know how we want to "de-contest" political freedom: the concept is abstract, in the sense that it can be fleshed out in many different ways; it needs specification to become concrete. For Freeden, the purpose of ideology is precisely to do that work of fleshing out, or specification. To take national examples: linking freedom with equality and fraternity (as in the French motto: "Liberté, égalité, fraternité") is not the same as putting it on a par with unity and law (as in the German "Einigkeit und Recht und Freiheit," where freedom comes third); nor is it equivalent to combining it with order (as in Colombia's "Libertad y orden"), or with God and Fatherland (the "Dios, Patria y Libertad" of the Dominican Republic). Freedom will remain abstract for us unless we are ready to argue for our way of de-contesting it: we should know, that is, how we want to flesh out the content of our freedom, what other values we want it to serve, or be compatible with.<sup>102</sup> This will enrich our moral life, in so far as it will deepen the reasons for which we defend and use our political freedom. But it will also protect us against certain rhetorical appropriations of that value. Without these specifications, freedom is an all-purpose slogan whose force can beguile us into enterprises that might ultimately harm us.

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<sup>99</sup> These questions are both Foucault's (see his 1971) and Koselleck's (see Koselleck 1967, 88: "Wer gebraucht in welcher Lage mit welcher Absicht einen Begriff?").

<sup>100</sup> For comparison, Dunn 1990 has shown that we might not share the religious beliefs of John Locke, on which his entire political philosophy is based: but we can learn from him the importance of trust in politics. To gain such an outlook, we do not need to accept all the way through the specific arguments by which he supported it.

<sup>101</sup> I endorse here the classic triadic analysis of MacCallum 1967. See also Taylor 1979.

<sup>102</sup> Freeden 1996, 85.

Thus, this dissertation embraces both the foreignness and the relevance of ancient theories of licence, starting with Plato. It does so confidently, because Plato's theory of excessive liberty reveals his own commitment to the contingency *and* the comparability of possible conceptions of freedom. Melissa Lane has recently insisted that Plato's *Republic* and *Laws* present a genealogy of democratic ideas of freedom: the democracy of *Republic* 8, the Athenian regime of *Laws* 3 both see an excessive attachment to liberty take shape among their citizens in a way that eschews determinism.<sup>103</sup> According to Dimitri El Murr, Plato here takes up a Thrasymachean enterprise, "to unmask received opinions about values, by offering a genealogical analysis of their institution as values."<sup>104</sup> Thus, contrary to Foucault's assertion, Plato is not "the great anti-genealogist:" Foucault both exaggerates the importance of recollection and downplays the possibility, for Plato, of other forms of cognition than essential knowledge.<sup>105</sup> Plato never posits a Form of freedom.<sup>106</sup> What Plato offers in *Republic* 8 is not essential knowledge, but genetic accounts riven with contingencies.<sup>107</sup>

This contingency, however, is not absolute: the narratives mobilize "recurrent social and psychological tendencies."<sup>108</sup> In fact, Plato's psychology, while not being the final word on the matter, is sufficiently careful and potent to apply beyond the ambit of his dialogues: there is, as Myles Burnyeat put it, a "truth of tripartition."<sup>109</sup> Yet the paradigm of political psychology Plato instituted had a long shadow; the present dissertation argues that it extended to Aristotle and Cicero.

### 3) Why Plato, Aristotle and Cicero?

The reason for taking Plato, Aristotle and Cicero together in our analysis of excessive freedom in ancient philosophy is that these three authors shared a common *language* about freedom and its misconceptions, a language originally crafted by Plato himself. "Language" here is

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<sup>103</sup> Lane 2021.

<sup>104</sup> El Murr 2019, 356.

<sup>105</sup> Foucault 1971, 146.

<sup>106</sup> Even if one could, maybe, construct one in the terms of the *Sophist* (as the other of constraint?).

<sup>107</sup> Lane 2018.

<sup>108</sup> Lane 2021.

<sup>109</sup> Burnyeat 2006. Cf. Elster 1993, 191 on Tocqueville: "In approaching social institutions and social change, he drew on a relatively small number of well-defined psychological mechanisms. These, rather than his hyperbolic and often inconsistent explanatory claims, constitute the reason for reading and rereading him today." Podoksik 2010, 234 argues that there is only one concept of liberty (non-constraint) because this concept is based, not on social forms, but on a "pre-social" drive, "the instinct of the aversion to being impeded in our desired actions by some external power." The concept of "pain" would be another example.

intended as a conscious and explicit reference to the work of John Pocock, who made it a central concept of his method. A language for Pocock is "a linguistic device for selecting certain information, composed of facts and the normative consequences which these facts are supposed to entail."<sup>110</sup> Like a Kuhnian scientific paradigm, but with less exclusionary power, a political language is a tool of legitimation, prescribing the kind of questions that it is permissible to ask, and the kind of answers they might receive.<sup>111</sup> A language for Pocock is close to Saussurean *langue*, as opposed to *parole*, the concrete utterance made by a speaker. For Pocock, however, languages are not (like Saussure's *langues*) vernacular dialects, but rather "idioms, rhetorics, ways of talking about politics, distinguishable language games."<sup>112</sup> Pocock's prime examples of languages are those which he spent his career studying: those of the English "ancient constitution," of classical Republicanism, or of the commercial society.<sup>113</sup> What is essential for our purposes is that, although Pocock insists that a political author must operate within a language to make a statement, he recognizes that often a thinker will combine several of them to craft his own.<sup>114</sup> As Pocock puts it, "political discourse is typically polyglot, the speech of Plato's cave or the Confusion of Tongues."<sup>115</sup> Even if Pocock sometimes talks of "languages" for such compounded idioms, it will serve us well to reserve for them the term of "discourses," which Pocock specifically uses for that purpose.<sup>116</sup>

Pocock's stress on the typical multilingualism of political discourse is key to understand our authors' conceptions of freedom and of the mistakes made about it. One of the contentions of this dissertation is that the discourse Plato, Aristotle and Cicero held on liberty and licence was crafted (by Plato) out of two matrix-languages.<sup>117</sup> The first is the language of the slave society, ever present both in Greece and in Rome. It is a structure of authority in so far as it not only takes slavery for granted, and thus justifies it to some extent, but also considers falling into slavery as the worst evil for free people. In Athens and at Rome, the abhorrence of free individuals for slavery took a

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<sup>110</sup> Pocock 1981, 963.

<sup>111</sup> Pocock 1971, 15.

<sup>112</sup> Pocock 1987, 21.

<sup>113</sup> Pocock's book-length studies of these languages are synthesized respectively in Pocock 1960, Pocock 1965, and Pocock 1981.

<sup>114</sup> Pocock 1962, 202. See also Pocock 1981, 972: "if we retain the concept "paradigm" at all, we must modify it to allow for the possibility that a single community, and indeed a single author, may respond to a number of simultaneously active paradigms, overlapping and interacting, consonant and dissonant, requiring the actor to choose, but permitting him to combine, compare and criticize."

<sup>115</sup> Pocock 1987a, 21.

<sup>116</sup> On the distinction between discourse and language, see Pocock 1981.

<sup>117</sup> I borrow the notion of matrix language from Pocock 1987b, 31.

particularly pointed shape, in so far as it both justified and motivated democratic discourse and action. The second relevant matrix-language is that of virtue, defined as the rule of reason in the soul and the political community; it is proper to the philosophical schools that trace their origin back to Plato. "Matrix" here must be somewhat qualified, because this language is not something Plato inherits: although he builds on archaic Greek wisdom, Plato gives to the notion of virtue as the rule of reason a definitely new shape.<sup>118</sup> This second matrix-language is prior to the Platonic language of excessive freedom only in so far as Plato traces behaviors of excessive freedom back to a violation of reason's claim to rule in the city and the soul.<sup>119</sup>

Plato, as well as Aristotle and Cicero after him, shares his society's assumption that human beings reject slavery for themselves, but hold at the same time that subjection to reason and virtue is a good.<sup>120</sup> They thus come to distinguish between forms of slavery: some are genuinely bad, like slavery to vice and worthless rulers; some are in fact acceptable, like slavery to good laws and wise office-holders.<sup>121</sup> The latter situation is actually welcome in so far as it makes one be ruled by external reason, even though ideally one should be ruled by one's own, internal reason.<sup>122</sup> Out of these two Pocockian languages, Plato puts forward his own discourse on excessive freedom. Excessive freedom for him occurs when the conventional rejection of slavery leads people, through social conditioning in democratic regimes, to reject just, or even minimally legitimate rule. On his analysis (inherited by Aristotle and Cicero), people living in democracies develop an allergic aversion towards any form of subjection that remotely resembles slavery. This causes them to crave for freedom unreflectively, at the cost of harming both the political community and themselves.

Out of the two matrix-languages of freedom vs. slavery, on the one hand, and of virtue as the rule of reason, on the other, Plato crafted a new Pocockian discourse that presented excessive freedom as a disorder of moral psychology that translates into aversion to political rule. In contrast

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<sup>118</sup> On archaic Greek ideas about virtue as *σωφροσύνη* see Snell 2009, 158.

<sup>119</sup> This argument for the priority of the one language over the other is supported by the conventional chronology of Plato's dialogues. According to this dating, Plato dealt first with the problem of defining virtue (already in the *Apology*), while the theme of excessive freedom appeared only later (the *Gorgias* would be his first engagement with it). The fact that Plato never defines virtue as freedom (on this point see Burnyeat 1996 and Lane 2018a) points in the same direction: Plato is not primarily interested in providing a new conception of freedom, but on getting the meaning of "virtue" right. Whatever the amount of credibility we want to give to the Seventh Letter, it is noteworthy that 'Plato' there judges political regimes (Athens, Syracuse) primarily with the criterion of virtue (justice in particular).

<sup>120</sup> On Plato see Lane 2018a, 705; on Aristotle see Schofield 1990; and on Cicero see Ferrary 1982, 781-786.

<sup>121</sup> As Cebes puts it in the *Phaedo* (62d3-e7), it is foolish for a slave to run away from a master wiser than oneself (Socrates seems to concur). Socrates actually commits to this view in *Rep.* 590c1-5, discussed in Lane 2018a, 709; see below ch. 3.

<sup>122</sup> *Rep.* 590c1-591a3.

to previous attacks against democratic freedom, which saw it primarily as a slap in the face of social hierarchies, Plato's opposition to excessive liberty was philosophical. The distinction I am drawing between social and philosophical critique rests on the assumption that philosophical texts are characterized by a higher level of argumentative rigor than other texts, which makes it possible to derive from them insights of more wide-ranging application.<sup>123</sup> The "social" discourse that preceded Plato's engagement with excessive freedom was rich, as Kurt Raaflaub and others have shown;<sup>124</sup> but it fell far short of Plato's wide-ranging philosophical claims. In particular, it was bound up with ideological assumptions about the moral effects of social and legal status: the poor and the slaves were seen as unworthy of freedom in virtue of their status. Plato rejected the idea that status, be it socioeconomic or legal, determined whether or not one could claim freedom for oneself. He replaced both criteria with virtue or, if virtue was out of reach, with obedience to just rule. By harnessing freedom to a moral, not social or legal scale of values, Plato gave a new meaning to its possible excesses: freedom was not excessive when lowly people or slaves enjoyed it, as some Athenian aristocrats had argued before him, but when anyone acted on a misguided rejection of virtue and its claim to rule.<sup>125</sup>

This is a paradigmatic example of what Pocock calls linguistic or verbal innovation:

We may define the verbal innovation as one which suggests, and according to its power imposes, some change in the rules or conventions of political language: it may propose an alteration in value signs, a treatment of that which was bad as now good, or vice versa; or it may propose to remove the discussion of a term or problem from the language context, in which it has been conventionally discussed, into some other context itself known but not hitherto considered appropriate to this discussion.<sup>126</sup>

With Plato, excessive freedom was integrated into a discourse that ascribed paramount authority to virtue, and thus legitimized subjection to it; slavery, but to just rule, was not worthy of rejection

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<sup>123</sup> This assumption is itself based on acquaintance with these texts, and on exposure to the fruitfulness of the scholarly approach that interprets them as making primarily philosophical arguments. See on this point Pocock 1962, and Pocock 1985, 28.

<sup>124</sup> See in particular Raaflaub 1983; and more recently Caire 2016; Simonton 2017; Lenfant 2017.

<sup>125</sup> On early thematizations of licence as ἀκολασία, especially in the Pseudo-Xenophon, see Raaflaub 1983. On such acts of ideological "reharnessing," see Freedman 1996, 209.

<sup>126</sup> Pocock 1987, 34. On this point at least, Pocock's method agrees with that of Skinner, and with Koselleck's analysis of *Gegenbegriffe* and conceptual innovation. Skinner 2002, 175-187 admits the similarities between his and Koselleck's interests in conceptual change.

anymore; and a high social standing was not enough to entitle one to freedom. Licence was willful rejection of even minimally virtuous rule, where virtuous rule was defined as the rule of reason, not of the socially well-off. Because Plato's linguistic innovation amounted to replacing a social paradigm with a new one, it was a "paradigmatic revolution."<sup>127</sup>

Subsequent thinkers working within the same two frameworks, a slave society and a philosophical conception of virtue, were expected to say something of Plato's attempt to articulate them. Aristotle and Cicero, I argue, found themselves in this predicament. Both took themselves to live at times when radical democratic movements extended their rejection of slavery to a desire to abolish, or minimize, any form of rule – including, and most problematically, the rule of virtue. This they took to be based on a misguided belief about freedom and its principled opposition to rule. As the following chapters make clear, Aristotle and Cicero shared Plato's discourse on excessive freedom as a flaw of moral psychology that manifests itself in aversion to rule. They differed from him in privileging other causal paths to account for it. Thus, compared to Plato, Aristotle emphasizes more strongly the role of ideology, while Cicero insists on the logic of exemplarity.<sup>128</sup> But as I will argue, both took themselves to be developing insights of Plato's, which they gleaned especially from his depiction of democratic freedom in *Republic* 8.

Aristotle and Cicero composed variations on Plato's theme in another respect as well: they saw excessive freedom as bringing about different political consequences than those he had foreseen. To be fair, Plato himself showed the way: in the *Republic*, he argues that democracy's fetishism of freedom leads to tyranny; but in the *Laws*, he sees it as resulting in lasting anarchy and *anomie*. Aristotle in the *Politics* studied the various forms of stasis that the democrats' wrong conception of freedom, if implemented, tends to bring about; and Cicero included the *Republic* story into his theory of the non-nomological nature of constitutional changes.

These are differences, but they do not shatter the common bedrock on which they are based. The framework is identical, the authority structure remains the same: freedom is still taken to be naturally desired, slavery something shunned, but the pursuit of freedom and the avoidance of slavery are ranked below the rule of virtue, within both the soul and the city, in the hierarchy of values. The fact that Aristotle and Cicero were able to compose variations on Plato's theme is a sign

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<sup>127</sup> On this notion see Pocock 1985, 276-277.

<sup>128</sup> Plato himself tells different stories about the birth of excessive freedom in the four dialogues studied in this dissertation.



of the existence of a common discourse in Pocock's sense.<sup>129</sup> Their interventions are twists by which they adopt and reshape Plato's language of excessive freedom: they reveal the perlocutionary force of Plato's speech acts.<sup>130</sup> Because Aristotle and Cicero inherited Plato's two matrix-languages, the idiom of licence he crafted out of them, and his opposition to radical democracy, it makes sense to see them as trying to formulate, in a common discourse, their own responses to a problem they saw themselves as sharing with him.<sup>131</sup> This language is far from disappearing between Aristotle and Cicero, and after Cicero himself: but the radical changes in political conditions that occurred both after Aristotle's death and after Cicero's demise took away much of the problem's urgency.<sup>132</sup> Democratic movements had received a fatal blow, and responses to them were not so necessary anymore.

### III – Summary

#### 1) Methodological Précis

The present dissertation engages in history of philosophy. It aims primarily at recovering the (Skinnerian) meaning of Plato's, Aristotle's and Cicero's statements about excessive freedom. To do so, it puts their views on the topic within the wider frame of their philosophies. It also uses, occasionally and with caution, later philosophical tools for heuristic purposes. What it constantly does is to employ a historical approach, which places their texts in their linguistic and social contexts. The social context consists in the cultural and political environment in which they were written. Their linguistic context is recovered by attending to the semasiological and onomasiological

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<sup>129</sup> Pocock 1981, 971: "if it is to be a language at all, it must permit of the exchange of complex, non-identical and even contradictory statements."

<sup>130</sup> Pocock 1985, 18.

<sup>131</sup> Thus Plato, Aristotle and Cicero fulfil the two criteria put forward by Pocock to "assert a continuity of debate, extending across generations and centuries" (Pocock 2004, 542): they speak in a common language, and there is a connection (i.e. a chain of transmission) between their speech acts. The latter's point is obvious from Aristotle's and Cicero's own references to Plato's *Republic* and *Laws*. The exact extent of Aristotle's influence on Cicero is still a matter of debate, but recent scholarship tends to emphasize, rather than to downplay it; see on this point ch. 5. Because they meet these two conditions, the views of Plato, Aristotle and Cicero on excessive freedom fulfil Skinner's requirements to be considered in a *longue durée* history of political thought – as he himself does with mediaeval and Early modern Republicanism.

<sup>132</sup> See here ch. 6.

division of the field, with Koselleck and Raaflaub; and, with Pocock, to the matrix-languages in which Plato, Aristotle and Cicero articulated their discourse on excessive freedom.

The dissertation engages only secondarily in Skinnerian understanding, when it serves to delineate the intended target of our philosophers' statements. The statements in question are two-fold: they consist in Plato's, Aristotle's and Cicero's distinctions between liberty and licence, together with the arguments they give for it; and in their diagnoses of the causes by which democratic citizens mistake the one for the other.

Writing this chapter of the history of philosophy is not devoid of philosophical value. Studying the genealogy of our concepts of liberty and licence yields two philosophical fruits: first, we get a better sense of the emotional, social and institutional connotations with which history has loaded them (Koselleck); second, we enrich our pool of ideas about liberty and its excesses (Skinner).

Taking seriously the views of Plato, Aristotle and Cicero on excessive freedom requires this combination of philosophical, historical and philological approaches. I take it that the field of Classics, for all its flaws, is a good place to learn how to ply these tools, and then put them to work.

This methodological précis is, in a sense, a justification of the present work. Studies devoted to ancient philosophers' views of freedom, sometimes even of excessive freedom, already exist. While building on such pioneering works, this dissertation goes further, however. Its approach is new: no study of the ancient philosophical discourse on licence *as such* has, to my knowledge, ever been written.<sup>133</sup> This dissertation envisages the works it studies as variations on a common theme. It does so by drawing links between the different parts of my corpus, stressing both the continuities and the changes. It thus aims at gleaning from Antiquity as many theorizations of excessive freedom as possible, at bringing out their singularity, to equip us with forgotten tools to think about our predicament.

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<sup>133</sup> Of course, studies of Plato's, Aristotle's and Cicero's conceptions of freedom abound, and will be duly engaged with below. Since licence is only excessive freedom, has not everything been said in these already existing works? Focusing a dissertation on licence brings two additional insights. First, at the level of analytical clarification: the existence of an ancient discourse of licence reminds us that freedom can be seen as a matter of *measure* (as in the *Laws*, or in Cicero): just freedom is delimited by its unjust version. But the most important insight we gain is at the pathogenetic level: focusing on licence in Plato, Aristotle and Cicero reveals how, in the eyes of these philosophers, democratic societies harbor and foster a collective and individual desire for a freedom that is fundamentally unjust. Works on their conceptions of freedom very rarely touch on their diagnoses of what is, in their view, a disease of democracy.

I have of course benefitted from previous works, both historical and philosophical. Historical studies of ἐλευθερία (Raaflaub 1984) and *libertas* (Wirszubski 1950, Arena 2012) have been instrumental; but though these accounts mention Plato's, Aristotle's and Cicero's views, they do not primarily approach them with the lenses of history of philosophy, as they have been defined above. Scholars of ancient philosophy, by contrast, have looked at these thinkers' theories of freedom: each of the following chapters starts by situating itself vis-à-vis them, explaining where it makes a new contribution. The accounts I most explicitly engage with are recent: Ivan Jordović's 2019 study of the *Gorgias*; Cinzia Arruzza's 2018 book on tyranny in Plato's *Republic*; Melissa Lane's and André Laks' ongoing work on the normative theory of *Laws*, and Létitia Mouze's account of teatrocracy; the investigation of Aristotle's views on freedom by David Keyt and Fred D. Miller; and current approaches to Cicero inspired by neo-Republican theory, such as Arena's 2007 piece on *libertas* and virtue in *De Re Publica*. Most of these works adopt a contextual approach, but the present dissertation goes even more firmly in that direction. It strongly embeds its analysis of the ancient discourse of excessive freedom in the political contexts in which it was formulated.

## 2) Summary of Chapters

The following chapters go through our philosophers' views of excessive freedom. They start with Plato, looking at four different dialogues in which he articulates his discourse on the topic. The sequence follows the traditional chronology (*Gorgias*, *Menexenus*, *Republic* and *Laws*): although the reading of each dialogue is not dependent on any developmentalist assumption, I will suggest a story of growing specification and interest on Plato's part. The chapters on Aristotle and Cicero both start by arguing for taking their views of excessive freedom together with Plato's as parts of a continuous tradition; they also attend to shifts, of nature or emphasis, between these authors and their Platonic sources.

Chapter 1 argues that Plato's *Gorgias* lays bare the hedonistic roots of the Athenian desire for freedom. By moving from Gorgias to Polus and finally Callicles, Socrates goes through various configurations which the fascination for freedom can take; as the conversation deepens, it becomes clearer and clearer that what parades as desire for freedom is in fact lust for power, and for a very specific kind of power: the capacity to act as a lustful tyrant. Athenian democracy is shown to both

foster the citizens' hedonism (through such means as empire, or public shows), and to promise them the capacity to satisfy their desires maximally. Citizens come to understand the freedom promised by democracy as precisely that capacity of unlimited appetitive enjoyment. A motto initially advocating liberation from tyranny turns into a cover – if not a breeding ground – for tyrannical desires. Freedom thus understood radically undercuts what is, for Socrates, the city's paramount task: educating the citizens to virtue, including moderation.

Chapter 2 connects with chapter 1 by tracing rhetoric's peculiar role in creating, in the Athenians, the desire for a harmful kind of freedom. It finds the *Menexenus* to target two rhetorical tricks, in particular, by which epideictic oratory attaches the Athenian to a wrong-headed version of freedom. First, epideictic rhetoric makes the citizens see ἐλευθερία as a trademark of Athens, something that sets them apart from other Greeks and other human beings in general. Freedom thus becomes part of the self-definition of the Athenians, who therefore attach their pride to it. This has the effect of numbing their critical faculties, making them reluctant to step back and reflect on the real value of freedom. Second, epideictic rhetoric makes ἐλευθερία the basis of a superficial political consensus, intended to mend the city's civic wounds by uniting the citizenry around a vague slogan. Ἐλευθερία's polysemy, ranging from aristocratic "liberality" to democratic "freedom," makes it a pliable tool to gather around it factions otherwise opposed. This second trick, like the first, makes ἐλευθερία an object of pride for democratically-minded citizens: it sews the golden linings of aristocratic liberality onto the democratic cloak. The result of both strategies is to attach the Athenians' θυμός to ἐλευθερία, at the cost of knocking out their critical faculties.

Chapter 3, the fulcrum of this dissertation, engages with Plato's depiction of the democratic city in *Republic* 8. It argues that Plato divides his portrait into two phases: in the first (557a2-558c5), democratic citizens value freedom as a means for the satisfaction of their appetites; in the second (562a7-566d3), they take freedom to be desirable in itself. Plato thus diagnoses the birth of what I call "freedom fetishism" in a democratic city that bears striking similarities with Athens. The chapter follows the two-fold structure of Plato's account of democracy. It first describes and explains what Melissa Lane has called the "shadow-play" of democratic authority: in the first phase of Socrates' democracy, the political institutions are meant to enforce collective norms but they consistently fail to do so. To account for this striking phenomenon, I follow a principle advanced by Socrates at 544d6-e2: I turn to the individual psychology of the citizens who make up the regime. Finding that

their souls are dominated by non-necessary desires, I offer explanations linking such psychological make-up with the shadow-play of political coercion. These explanations are three: the inner logic of the revolution that establishes democracy in Socrates' story; the short-sightedness which, in Plato's eyes, characterizes souls dominated by non-necessary desires; and the (instrumentally) rational interest that citizens bent on satisfying their non-necessary desires have in minimizing political coercion. All these explanations make it understandable that the citizens of Socrates' first-stage democracy pursue freedom as a means to maximize their appetitive satisfaction. What sets the second-stage off is the birth, in the citizens' soul, of a desire for freedom as an end in itself – not as a means anymore. I account for this shift in terms of habituation (citizens used to value freedom as a means come with time to cherish it as an end, in the same way as the desire for money is born in the human soul) and political rhetoric (Socrates' democracy is marked by the use of freedom as an all-purpose motto, in ways which my analysis of the *Menexenus* illuminates). Paradoxically, it is the birth of this desire for freedom itself, beyond its possible uses, that creates a climate of political turmoil leading to the establishment of tyranny. The chapter ends by going through the insights we can derive from Plato's scenario of democratic decline, in terms of political theory, ancient history, and contemporary politics.

Chapter 4 concludes the study of Plato's engagement with excessive freedom, by focusing on the *Laws*. Plato's last dialogue contains his first explicit theorization of a distinction between just and unjust liberty, a distinction he articulates in terms of measure and excess. The first part of the chapter argues that the only form of liberty that is presented in the *Laws* as having intrinsic value is self-control – what I propose to call ἐλευθερία<sub>1</sub>. Self-control (or ἐλευθερία<sub>1</sub>) consists in having the non-rational parts of a soul or a political community aligned with the commands of reason. In order to instantiate that first form of ἐλευθερία, a political community needs a measure of liberty in a different, more ordinary sense of the word: a measure of control by the citizens over political decisions. This institutional freedom I call ἐλευθερία<sub>2</sub>. A city cannot be self-controlled (ἐλευθερία<sub>1</sub>) unless its citizens have some say in political events (ἐλευθερία<sub>2</sub>): this is required to force rulers to act for the common good, and to render the citizens obedient to what they perceive as beneficial rule. Ἐλευθερία<sub>2</sub> is thus instrumental for the city's self-control, which is part of its specific good. But ἐλευθερία<sub>2</sub> can also go too far, when the citizens' power makes impossible the rule of office-holders and laws. This is shown with particular clarity in Plato's account of Athenian history: the

maximization of ἐλευθερία<sub>2</sub> in the city led to the disappearance of the self-control it used to possess. Plato surprisingly blames a musical revolution for initiating that shift. The second part of the chapter retraces Plato's explanations for this transition: it links the new kind of music he sees as having appeared at some point in Athens' history with the citizens' overreaching claim to rule themselves, without laws and office-holders. It shows how Plato traces this change back to specific phenomena of moral psychology he accounts for elsewhere in the *Laws*: the inebriating power of music, which awakens in the citizens' souls an ingrained desire to rule themselves (cause 1); the logic of shame, which enables authoritative but subversive musicians to undermine the citizens' reverence for their traditional rulers (cause 2); the power of δόξα, which explains how rebellious lyrics can convince the audience to do away with the authorities they used to recognize (cause 3); and, finally, the citizens' translation of their pleasant musical experience into a new conception of the good life (cause 4). Throughout, the chapter measures Plato's conception of freedom and its excesses in the *Laws* up against the *Republic*, qualifiedly endorsing the by-now standard view of a growing acceptance, on his part, of a measure of rule by ordinary citizens.

Chapter 4 concludes the first part of the dissertation, devoted to Plato's perspectives on excessive freedom. Rather than offering a preliminary conclusion telling the story of Plato's progressive theorization of the notion, I include in each chapter (after the first) some remarks about its relation to the previous ones. They help us see, I hope, both the continuities and the changes in Plato's discourse of excessive freedom.

Chapter 5 turns to Aristotle, following the same bi-partite structure as chapter 4. I start by recovering Aristotle's conception of freedom, in order to understand the place he ascribes to freedom in his picture of just political rule. To count as free, for Aristotle, is to have one's end in oneself – to be αὐτοῦ ἕνεκα. Individuals who are able to reach the human end (by contrast to natural slaves) should be treated as such by their political community: they should be given a say in political decision-making, both as a recognition of their capacity for virtuous deliberation, and to give them an opportunity to exercise and reinforce that virtue. This, for Aristotle, is the proper conception of freedom, which a city should endorse and implement. Any conception of freedom that departs from it is erroneous and harmful, since it is not tied to virtue, the ultimate goal of politics. Among these mistaken conceptions, the most common and most dangerous, in Aristotle's eyes, is the one advanced by the democrats. Aristotle renders and attacks it in multiple passages, but it is in *Politics*

6.2 that he engages most closely with it. He there lays out the democratic reasoning, the premises of which are mentioned elsewhere in the *Politics* and the *Ethics*. The second part of the chapter focuses on these premises, and on the reasoning that the democrats base on them. It argues that the democratic flaw Aristotle criticizes is what I call "status fetishism:" the belief that the possession of a free legal status entitles one to both political liberty (maximal participation of the citizens in political affairs, including majoritarianism) and personal freedom (the "freedom to act as one likes"). I investigate Aristotle's explanations for this democratic view, showing how his diagnosis differs from Plato's: Aristotle takes seriously the democratic conception as a wrong *belief*, the product of a reasoning which, though based on wrong premises, contains a grain of truth. Unlike Plato, he does not (or at least not primarily) trace the democratic love of freedom back to an excessive non-rational *desire*. The chapter ends with a study of the consequences that, in Aristotle's view, accrue to political communities in which the democratic conception of freedom is endorsed by a majority, or even a section of the citizenry: pervasive stasis, which undermines the educative function of law.

The sixth and final chapter of the dissertation turns to Cicero. Cicero has many claims to be the end point of our study: one of them is that he is the first to use *licentia* to articulate a theoretical discourse on excessive freedom. *Libertas*, when maintained within certain bounds, is for Cicero a legitimate political value: since he favors a balanced constitution, in which popular participation (*libertas populi*) and citizens' rights (*libertas civium*) play an important role in selecting competent office-holders and checking their powers, Cicero makes room for *libertas* in his picture of the best regime. The first part of the chapter will delineate that room. When the people, however, start voicing claims to freedom over and beyond the boundaries required by the balanced regime, what they are after is *licentia*. This Cicero shows throughout his corpus, especially in *De Re Publica* 1.65-68, a passage that translates Plato's *Republic* 8.562c8-563e1. As Plato and Aristotle, Cicero is deeply interested in the causal processes that give birth to such claims. Chapter 6 argues that the concept of *licentia* captures three causal factors Cicero sees as instrumental: the role of institutional and moral authorities in giving excessive freedom (as I will argue, *licentia* means primarily "permissiveness"); the habituation to vice that such permissiveness makes possible; and the logic of "reverse exemplarity" by which the laxity of authority figures spreads throughout the body politic.

Chapter 6 ends by giving reasons for stopping our investigation at Cicero. It is followed by a conclusion that steps back from our authors' views, engages with the ideological dimensions of their arguments, and suggests intellectual fruits we can still derive from them.



At least since W. Robert Connor's groundbreaking article, historians have debated the Athenians' true stance towards tyranny.<sup>1</sup> To be sure, their public discourse cast the tyrant as the polar opposite of democracy, an anti-model serving the useful purpose of uniting against a common enemy a citizenry otherwise rife with tensions.<sup>2</sup> But public deprecation does not rule out private admiration. In fact, Connor following Strauss thought the Athenians endorsed the opinion that 'tyranny is bad for the city but good for the tyrant, for the tyrannical life is the most enjoyable and desirable way of life.'<sup>3</sup> Connor identified this lurking lust for tyranny in various sources across Athenian literature, from Solon to Aristophanes through the tragedians. The tyrant may well have concentrated odium in Athenian public discourse, he nonetheless elicited powerful desires in the citizens' inner recesses, because of the almost unlimited capacity he enjoyed to act as he pleased. Men brought up in a democracy that prized individual freedom to a greater degree than any other city were bound to feel drawn to the tyrant's maximal realization of that ideal.<sup>4</sup>

Connor's view has not gone unchallenged, however. Kurt Raaflaub concluded his survey of the evidence by stating that 'to most [Athenians], thinking in their capacity as citizens, the notion of tyranny must have been predominantly bleak, abhorrent, and negative.'<sup>5</sup> Tyranny meant servitude for the overwhelming majority, who therefore detested it out of personal interest and public spirit. More recently, Jakub Filonik has argued that the tyrant's freedom to act as he pleases was never put forward as an ideal in Attic oratory, which gives the true tenor of the Athenians' mindset: on the contrary, the orators stressed that equal laws were the condition of public freedom.<sup>6</sup>

But these discordant voices can actually be brought in unison with Connor's. Raaflaub tempers his denial that Athenians publicly approved of tyranny by admitting that their attitude may have been ambivalent: 'personally and privately, the average Athenian might have thought of tyrants admiringly and with envy: what a life they had!'<sup>7</sup> As to Filonik's privileging of oratory over the rest of

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<sup>1</sup> Connor 1977.

<sup>2</sup> Lanza 1977; Giorgini 1993; Seaford 2003; Raaflaub 2003; Mitchell 2006, 381; Arruzza 2018.

<sup>3</sup> Connor 1977, 98, quoting Strauss 1948, 20.

<sup>4</sup> On individual freedom in Athens see Wallace 1996 and 2007; and more recently Collette-Dučić 2018.

<sup>5</sup> Raaflaub 2003, 74.

<sup>6</sup> Filonik 2019, 4-5.

<sup>7</sup> Raaflaub 2003, 74. The question then comes down to two narrower ones: whether Athenian public ideology was sincere in its deprecation of the tyrant; and if so, whether it was effective in shaping the citizens' psychology. To put it in modern terms: was Robespierre sincere when he vented his odium against kings (he seems to have been)? Was he successful in

our evidence, it appears questionable at best when one reflects on the constraints of the genre: orators could of course not advocate tyrannical freedom in a public forum, for doing so would have made it easy on their opponents to express outrage, either heartfelt or feigned.<sup>8</sup> Public discourse has its rules: there are things that simply cannot be openly confessed without major costs. Plato was acutely aware of these constraints, which form one of the guiding threads of his *Gorgias*.

Readers usually remember Callicles' forceful outburst against the ideological dominance of the weak: by uniting their voices to praise the behaviors that serve them and blame their opposites, the weak manage to dampen the strong individuals' ambitions.<sup>9</sup> The dominance of the weak explains why no orator advocates tyrant-like behavior on the forensic stage: his popular audience, who wields ultimate power, stands to lose too much if strong individuals are given free rein; any suspicion they might hold that the orator leans towards tyranny would spell his doom. On top of this quite basic form of censorship, popular ideology has another, deeper effect: by being internalized, it creates split personalities like Polus, who admit that tyranny is desirable while recognizing it as unjust and, after much argument, ultimately bad.<sup>10</sup> As Christina Tarnopolsky argues, one of Socrates' major aims in the *Gorgias* is precisely to expose the chasm between the public norms internalized by his interlocutors and their exaltation of omnipotence, whether it is for them the rhetorician or the tyrant who possesses it.<sup>11</sup> Even Callicles, who thinks he is immune to the bite of shame, ends up recoiling from a kind of hedonism that shatters his self-image, which he formed by internalizing common values.<sup>12</sup> Each of Socrates' interlocutors ends up realizing that he cannot hold on to public values he identifies with while cultivating anti-social tendencies towards unlimited self-assertion.

Framing the dialogue in this way could make us think, however, that the public norms of Athenian democracy acted only to oppose the individuals' desire for tyranny, never to second it. At this point it is helpful to distinguish between implicit and explicit norms: a regime may very well implicitly encourage behaviors it explicitly or officially condemns. Democracy in the *Gorgias*, I intend to show, is a case at hand: despite its official rejection of tyranny, it instils in the citizens a

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giving precedence, within the soul of the citizens, to this kind of public spirit over private concerns (a much more difficult question, which Rousseau had previously thought about deeply)? Plato in the *Gorgias* tackles both questions, giving them a qualifiedly negative answer, as I will try to show.

<sup>8</sup> See the caveats of Moravetz 2000, 144, and Liddel 2007, 17-18.

<sup>9</sup> 482c4-484c3.

<sup>10</sup> 474d7-8.

<sup>11</sup> Tarnopolsky 2010, 56-88.

<sup>12</sup> 494<sup>e</sup>7-8 and 499b4-8. On Callicles' inner contradictions see Woolf 2000; Ranger 2012.

desire for unlimited power. Like the tyrant, individual Athenians desire to obtain the power to live a life of luxury without limits, disguising this lust of theirs under the noble name of freedom.

The text that best shows how Athenian ideology can have that effect is Pericles' Funeral Oration, as Thucydides has transmitted to us. Pericles praises Athens for giving its citizens three kinds of capacities to live lives of pleasure: democratic liberty, material plenty, and personal skills. Pericles dangles in front of his audience the prospect of a self-sufficient life of pleasure, made possible by a combination of these means. Gorgias, Polus and Callicles evince three ways of falling for that fantasy.

In tracing the desires of Socrates' interlocutors back to their historical, democratic context, my approach is indebted to Ivan Jordović, who has recently seen Polus and Callicles as the products of Athens' 'ideology of freedom.'<sup>13</sup> Jordović argues that Athens' combined valorization of freedom (ἐλευθερία, both political and personal) *and* empire (ἀρχή) engendered men like Polus and Callicles, who pursued absolute freedom through absolute power. Jordović is primarily interested in mapping Socrates' interlocutors onto successive generations in Athenian history: as Gorgias echoes Pericles' rhetoric of freedom through empire, Polus represents the generation educated under and by Pericles, with Callicles standing for the spoilt children of democracy, young men of Alcibiades' ilk.<sup>14</sup> For Jordović, the character flaw Plato wants to highlight in Socrates' conversation partners is their way of '[thinking] only in categories of power,' a mindset they owe to democracy.<sup>15</sup> Jordović's focus causes him to neglect other strands of the dialogue, such as the hedonistic bent of Athenian political culture, which manifests itself in Callicles and in the Athenian citizenry at large.

The present chapter intends to complement Jordović's approach through a philosophical analysis of three related themes of the *Gorgias*: the characters' lust for power; their hedonism; and their avowed love of freedom.<sup>16</sup> Jordović concentrates on the first theme, while the second has traditionally been the focus of philosophers writing on the *Gorgias*. This chapter builds on these

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<sup>13</sup> Jordović 2009, 57; Jordović 2018, 189.

<sup>14</sup> Jordović 2019, 21-85. Jordović 2008, 25 seems to retreat somewhat from that position, in so far as it takes the 'generation gap' around which the *Gorgias* is built to be a literary device.

<sup>15</sup> Jordović 2019, 17.

<sup>16</sup> Hedonism, in the sense I use in this chapter, is the valuation as the highest good of the sensory pleasures provided by the satisfaction of appetites. Rudebusch 1992, 56-57, convincingly argues that Socrates' (and Callicles') notion of pleasure in the *Gorgias* goes beyond the bodily (in the sense of the *Republic's* threefold objects of ἐπιθυμία, food, drink and sex), so as to include for instance artistic enjoyment. Callicles also evinces a desire for honor: but this too can be subsumed under hedonism, as long as Callicles pursues honor for the pleasure it gives, like *Republic* 8's democratic man (for this interpretation of the democratic man see Scott 2000 and Schofield 2006).

approaches and connects them to the way in which freedom features in the characters' moral conceptions.

My argument is that, according to Socrates, Athenian democracy instils in its citizens two related ideas: first, that appetitive pleasure is the good; second, that means of maximizing it are desirable. Since appetites are limitless and, most often than not, conflict with those of others, Athenian democracy sets its citizens on a quest for an unlimited power they would use for criminal purposes: for tyranny, in other words.<sup>17</sup> This quest is made superficially compatible with the city's talk of freedom, which thus lends its noble appearance to harmful moral conceptions. The city claims to leave its citizens (formally) free of pursuing their good pleasure, thus reinforcing their already existing hedonism; it also promises them the (material and technical) means to satisfy their appetites, presenting this procurement in terms of freedom. The desire for the tyrannical life, both in terms of luxury and power, has democratic roots.

By reinforcing the citizens' hedonistic tendencies, Athens' freedom ideology harms them in two respects. First, hedonistic satisfaction is a zero-sum game: Athenians are bound to strive for their own enjoyment at the cost of that of others. They thus become inimical to basic conditions of social life. Second, the quest for hedonistic satisfaction and the power necessary to obtain it makes the Athenians restive to political education.

The three themes I focus on, hedonism, desire for tyrannical power, and love of freedom, are conceptually distinct.<sup>18</sup> As the dialogue progresses, however, Socrates' interlocutors reveal how tight the links between these three notions can be. Gorgias strives for a power that comes close to domination, pays lip-service to democratic freedom, but gives no clear sign of hedonism. Polus primarily craves for tyrannical power, under the name of freedom: he claims to be after the vague ability to 'do whatever he likes,' but what he means by this soon appears to be the tyrant's power to satisfy his luxurious appetites. His quest for such power emulates the Athenian lust for unlimited pleasure.<sup>19</sup>

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<sup>17</sup> As I will show below, the quest for unlimited power can have other sources than hedonism: but hedonism surely sets it off.

<sup>18</sup> One can even conceive of an individual striving for omnipotence for itself, enjoying the possession of power more than any of its uses (see the example of Stalin below, n. 53).

<sup>19</sup> Polus wants to rule unaccountably and alone: this demarcates him from the timocratic man of *Republic* 8, ruled not by his appetites (ἐπιθυμία) by a desire for honor, who submits to the orders of office-holders (549a3: he is ἀρχόντων σφόδρα ὑπήκοος). Polus is probably ruled, therefore, by his ἐπιθυμία: this is in line with his admiration for the tyrant.

The connection between hedonism, desire for tyrannical power, and freedom is even stronger in Callicles. Callicles is an Athenian, and the links that exist in his soul between these three items tell something about the regime he lives in. Callicles' freedom consists in possessing the means to obtain limitless appetitive enjoyment. Freedom for him is what makes possible a life of luxury (τρυφή), the one the tyrant lives; it requires lack of self-restraint (ἀκολασία); more broadly, it demands cultivating those personal skills that enable the individual to satisfy her appetites by dominating others: such is Callicles' picture of the free person (ἐλευθερία). It is intrinsically inimical to any form of power-sharing, and thus to social life in general.<sup>20</sup>

All three characters show how Athenian democracy offers its visitors and citizens various ways in which they can cover their desire for tyrannical power by casting it in terms of freedom, a widely recognized value. The present chapter is therefore devoted to Plato's diagnosis of the pathologies of Athenian freedom in the *Gorgias*. 'Pathology' is here meant both as an allusion to Thucydides' famous analysis of stasis as a disease, the first symptom of which is the hypocrisy of public discourse;<sup>21</sup> as a reference to Axel Honneth's concept of 'social pathology' as 'any social development that significantly impairs the ability to take part rationally in important forms of social cooperation';<sup>22</sup> and as a medical metaphor faithful to the dialogue's insistence on considering political craft as analogous to medicine.<sup>23</sup>

Interpreting the dialogue's use of the language of freedom is difficult, because the occurrences are sparse. Words of the family of ἐλευθερία come up in only three passages. Words related to ἐξουσία, another key term in Athenian democratic culture, are slightly more present, with four occurrences. But the movement of the dialogue as a whole justifies starting here our investigation of excessive freedom in Plato. The *Gorgias* shows how Socrates' interlocutors develop, through contact with Athenian democracy, an attachment to the power of satisfying their appetites without bounds that is fueled by the regime's hedonistic environment; and how this attachment to power parades as freedom.

Since the interlocutors are rhetoricians or politicians, i.e. men who are, by profession so to speak, interested in power, the theme of power takes precedence over that of freedom. In this sense,

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<sup>20</sup> Callicles rejects all forms of rule (ἀρχή, 491<sup>e</sup>5-6).

<sup>21</sup> Thu. 3.82-83. On Thucydides' pathology of stasis see Price 2001, 39-67; Desclos 2003.

<sup>22</sup> Honneth 2014, 86.

<sup>23</sup> On the presence of a medical approach in the *Gorgias*, see Plastirou-Valkanou 1998; Levin 2014; and Walling 2021.

the topic of freedom is slightly orthogonal to the dialogue's main arch. But it takes more and more importance as the text progresses: not only does the term, or related ones, appear with greater frequency and importance; its connection with democracy and the hedonism on which it is based manifests itself more and more clearly. Ultimately, the Athenian talk of freedom is diagnosed as excessive in the *Gorgias* because it covers up two wrongheaded moral attitudes: a desire for tyrannical power for its own sake (especially noticeable in Polus); and anti-social hedonism (more prominent in Callicles). Polus and Callicles (and Gorgias to a certain extent) claim to be attracted by unlimited power, leaving that notion underdefined: upon closer look, what they lust for is the tyrant's power to enjoy a life of luxury.<sup>24</sup> This pursuit of theirs harms them by making them restive to political education.

The chapter is divided into three parts: the first inspects the illusory fascination with tyrannical power that affects each of Socrates' interlocutors, and its relation to freedom and hedonism. The second examines why Socrates thinks his interlocutors' desire for tyrannical power is based on an illusion doomed to harm them and their fellow citizens. The third part attends to the greatest damage that lust for tyrannical power combined with hedonism have in store, both for Socrates' conversation partners and for the Athenians: their reluctance and inability to receive a political education towards virtue, especially justice.

## I – Freedom, Power and the Good

Each of Socrates' three interlocutors in the *Gorgias* evinces a desire for the maximum amount of power he can get.<sup>25</sup> Gorgias contends that his desire is compatible with equal freedom for all, but his conversation with Socrates reveals this to be a sham. Polus' valorization of power for its

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<sup>24</sup> When Polus and Callicles claim to want the power to 'do everything they want,' they disguise under this all-encompassing formula something much more definite: the power to satisfy their appetites. Polus and Callicles do not strive for the power, for instance, to arrive at philosophical truth for its own sake; or to obtain honor by winning in athletic competitions, or by being the best warrior on the battle-field. They want the power to live the tyrants' life of luxury. Power, and freedom, mean for them the capacity to obtain appetitive satisfaction without bounds. The present chapter gathers and analyzes the hints Polus and Callicles (Gorgias to a certain extent) give that this is what drives their actions.

<sup>25</sup> This is not a theme of the *Gorgias* only. Thrasymachus in the *Republic* evinces the same desire (on this point see lastly Wedgwood 2017). Chapter 3 will show that democratic citizens in *Republic* 8 also come to value means of appetitive satisfaction in themselves.

own sake leads him to consider tyrannical power as a great human good and, therefore, to emulate the tyrant. He thus appropriates a democratic slogan associated with freedom ('acting as one likes') and pushes it to the extreme.<sup>26</sup> As for Callicles, he sees the strength revealed by despotic power as an important part of the human good, in addition to the unrestrained satisfaction of his hedonistic drives. His demanding notion of freedom encompasses both. This first part of the chapter intends to highlight the commonalities between the three men's lust for power, while paying attention to differences of emphasis between their moral conceptions; to link this lust of theirs to their respective conceptions of freedom, and to democratic slogans; to analyze its various causes; and to relate it to their more or less latent hedonism.

### 1) Gorgias: Is Rhetoric Compatible with Equal Freedom for All?

Asked by Socrates to specify the nature of his craft, Gorgias answers by giving its object: rhetoric is about speeches, but only about those that deal with the 'greatest and best of human concerns.'<sup>27</sup> The superlative language is immediately picked up by Socrates, who goes on to stage an imaginary contest between various craftsmen for the title of provider of the greatest human good.<sup>28</sup> Gorgias' answer was surely meant as an advertisement: nothing could better attract young people than to promise them the possession of the most powerful technique of all.<sup>29</sup> In order not to lose face, the rhetorician must prove that the good he delivers is actually more valuable than anything other craftsmen can provide. This he does upon Socrates' request:

Socrates – Tell us what is this greatest good for humans, that of which you are the artisan?

Gorgias – What is, Socrates, in truth the greatest good, the cause at the same time of freedom (ἐλευθερία) for men themselves, and of rule (ἀρχή) over others in the city for the individual.

Socrates – What do you mean?

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<sup>26</sup> On this slogan see Filonik 2019 and Jordović 2019, 58-62.

<sup>27</sup> 449<sup>e</sup>1 and 451d7-8.

<sup>28</sup> 452a1-452d4.

<sup>29</sup> See also Gorgias, *Encomium of Helen*, 8-14. The role of advertisement in Gorgias' claims is stressed by Kahn 1983, 80-83, and Walling (2021, ch. 3).

Gorgias – I mean being able to persuade by means of speeches, both jurors in court, councilors in the council, assembly-men in the assembly and in every other gathering, whatever political gathering there are.<sup>30</sup>

Gorgias' claim needs some parsing. Interpreters have seen in it either a democratic manifesto or the betrayal of tyrannical tendencies. Eric Havelock gives a good example of the first reading: for him, Gorgias deserves a place among the Greek 'liberals' because he values above all public freedom and rule by consent, both being ensured by rhetoric.<sup>31</sup> Havelock thus vindicates Gorgias' compatibility thesis: rhetoric allows for both the freedom of all and the rule of some eminent individuals, in virtue of the consent it secures. Terry Irwin's translation takes the opposite stance. He sees both freedom and rule as promised by Gorgias to the individual.<sup>32</sup> On Irwin's reading, Gorgias is offering rhetoric as a means for the individual to acquire both freedom from the domination of others and rule over them. The rhetorician teaches how to acquire unaccountable power: he makes proto-tyrants of his students.<sup>33</sup>

The major problem of Irwin's interpretation is that it disregards the distinction between the level of the city and that of the individual, as John Cooper has noted. If we pay attention to this difference, we can understand Gorgias as saying that 'oratory gives freedom to populations in cities, and, to the orator himself, it gives the power to exercise leadership and rule over others in his city,' both being seen as good.<sup>34</sup> Cooper's interpretation, like Havelock's, reads Gorgias as defending the compatibility of collective freedom and individual power: rhetoric gives those who wield it a kind of power that preserves the people's liberty. The use of the language of rule (*ἀρχή*) goes in the same direction, as it tends in Attic prose to be used for constitutional, limited office, rather than unaccountable power.<sup>35</sup> Gorgias is thus advocating the use of rhetoric to guarantee rule by consent; Havelock was on the right track.

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<sup>30</sup> 452d5-e4. All translations in this chapter are mine, unless otherwise mentioned.

<sup>31</sup> Havelock 1957, 248.

<sup>32</sup> Irwin 1979, 19: 'it is in reality the greatest good, Socrates, and is responsible for freedom for a man himself, and at the same time for rule over others in his own city.'

<sup>33</sup> 471a4-d2 shows that the term rule (*ἀρχή*) can be applied to the tyrant.

<sup>34</sup> Cooper 1999, 33 n. 5.

<sup>35</sup> Lane 2022.



This is only one half of the picture, however. For Gorgias gives us reasons to think that he values the exercise of rule, and power in general, much more than the securing of freedom for all.<sup>36</sup> First, in the passage quoted he identifies the highest good not with freedom nor with rule, but with their common cause, rhetoric. This is startling, and should caution us to be on the look-out for his true conception of the highest good (assuming he has a consistent one). As we will see, Socrates' interlocutors all evince a tendency to value means more than ends: after all, they have spent their life going after the means to satisfy their ends, especially rhetoric; it is all too understandable that they would develop an overriding attachment to them. Gorgias' designation of rhetoric as the highest good might be more than a slip of tongue or a charlatan's patter: the mastery of rhetoric has been the goal of all his efforts, and this lifelong endeavor has left its trace in his psychology.

We learn more about Gorgias' conception of the highest good immediately after the passage quoted. In a telling sentence, he betrays his own fascination for power:

And indeed, with this capacity (ἐν ταύτῃ τῇ δυνάμει) you will make the doctor your slave (δοῦλον), and the school-teacher your slave too; the money-maker you mentioned will appear to be making money for someone else, namely for you, who is able to speak and to persuade the crowds, not for himself.<sup>37</sup>

The rhetorician dominates those he persuades, or those he persuades his democratic audience to enslave: as slavery is the very opposite of freedom, the compatibility between the exercise of rhetoric and freedom for all shatters into pieces. This receives confirmation from Gorgias' own prose: the *Encomium of Helen* calls speech a 'mighty master' (δυναστής μέγας), who exerts on its audience a form of coercion equivalent to physical violence.<sup>38</sup> The relationship between persuader and persuaded is assimilated to that between master and slave. Nothing could be farther from the democratic promise of equal freedom.

This may, of course, just be the language of advertisement. To invite young Athenians to come study with him, Gorgias can do no better (he thinks) than dangling before them the prospect

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<sup>36</sup> I take it that this is also Cooper's view (ibid.): 'the former of these [freedom for all] is the 'good' Gorgias puts forward as provided to those on whom the art is exercised, while the latter counts also, not unreasonably, in his eyes as a further element (perhaps the most important one) in making the art prestigious and enviable.'

<sup>37</sup> 452<sup>e</sup> 4-8.

<sup>38</sup> On the materialistic underpinnings of this notion see Ford 2002, 176.

of mastering all other craftsmen. Twice in the text, Gorgias signals how much he values the all-powerfulness rhetoric can offer. Socrates craftily leads him on:

Socrates – I have long wondered what is the capacity (δύναμις) of rhetoric. When I look into it, it appears to me at least to have some kind of divine power, so important it is.  
Gorgias – If you knew all about it, Socrates, you'd say, so to speak, that it has under it (ὑφ' αὐτῆ) and encompasses absolutely all of the other crafts.<sup>39</sup>

Gorgias goes on to tell a story that has occurred several times: when his brother Herodicus, who is a physician, visited his patients and did not manage to have them drink, eat or submit to an operation according to his prescriptions, Gorgias was able to get them to do so by the mere power of words. Gorgias' anecdote has to be put in the perspective of the general fifth-century fascination with crafts or expertises (τέχναι), of which Sophocles' Ode to Man is for us the most eloquent (and ambivalent) formulation.<sup>40</sup> Crafts such as medicine, but also money-making, house-buildings and others mentioned by Gorgias were already fascinating for the powers they gave to those who mastered them. Pericles' Funeral Oration praised Athens for its cultivation of these crafts: being an imperial hub, it attracted the wisdom of the whole Greek world.<sup>41</sup> To say of rhetoric that it topped all of these τέχναι was to channel in its favor the aura of all the burgeoning expertises of the age. Gorgias' words express his fascination for the power given by his all-encompassing craft and communicates it to his audience. Domination is implicitly presented to the potential or actual students as a good to strive for. Gorgias might well think one can arrive at omnipotence in a way that respects the consent, or freedom, of others; what he encourages his students to obtain is domination.

Gorgias betrays himself a second time a bit later in the conversation. He consistently uses an agonistic language to talk about his own craft: first by calling it a 'contest' (ἀγωνία), and then by likening it to boxing (πυκτεύειν).<sup>42</sup> In the case of boxing, the intention of those who learn it is clear:

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<sup>39</sup> 456a4-8. Here, Gorgias makes rhetoric, as a τέχνη, he master of the other crafts; but in light of 452<sup>e</sup>4-8, we should interpret this to mean that the rhetorician, as a person, lords it over other individuals. I thank Marion Krafft for discussion on this point.

<sup>40</sup> See in particular *Ant.* 365-376 (compare Polus' encomium of τέχνη in 448c4-9). On the prestige of τέχναι in fifth-century Athens, see most recently Hulme Kozey 2019, 29-39.

<sup>41</sup> *Thu.* 2.38.1 and 2.40.1.

<sup>42</sup> *Ἀγωνία*: 456c8, 456d1, 457b5. *Πυκτεύειν*: 456d2.

they want to 'be stronger than both their friends and their enemies.'<sup>43</sup> Gorgias may well stress that possessing such superiority is no reason to 'beat up or wound or kill one's friends,' yet he implies that would-be boxers strive for superiority no matter over whom. On any reading of Gorgias' utterance, someone who trains enough and becomes stronger than all of his enemies will keep training, as long as he remains inferior to one of his friends. Of course, this makes sense in matters of sport: the thrill of it comes in part from our desire to prove our worth, and the Greeks were familiar enough with ἀγῶνες to know this.<sup>44</sup> But Gorgias implies that the mastery of rhetoric is a better way than sport to fulfil this desire for superiority. Since he also suggests that this is a reason to study with him, he confirms and comforts his students' latent desire for superiority in and of itself.

This does not mean that Gorgias encourages his students to make a bad use of what he teaches them. That is the other point of the boxing analogy: just as it is the pupil, not his boxing instructor who is to blame if he uses his newly acquired technique to attack an innocent, the rhetorician is not responsible for the potential misuses of the craft by his students. He instructs them on the condition that they use his teachings in accordance with justice.<sup>45</sup> But Gorgias' lectures on justice must have been very limited; otherwise the possibility that his students would put rhetoric to unjust purposes would not have occurred to him, nor to them. Socrates readily spots and exploits this weakness in Gorgias' position.<sup>46</sup>

This leaves us with two conclusions. First, Gorgias' advertisement and teaching practice are focused on dangling before the students the prospects of domination through rhetoric. Gorgias thinks the power he offers is compatible with freedom but the two actually lie in tension, even in his own words. His use of the slavery metaphor and the boxing simile shows that what he offers are tools for domination, which is enough to contradict his compatibility thesis. Second, placing rhetoric at the top of educational practices, as Gorgias proposes to do, makes it prey to a major criticism:

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<sup>43</sup> 456d3-4. Whether or not we read ὥστε as indicating intention and not sheer result, the aim of athletic training remains that of being superior to all other competitors, friends and foes alike. Irwin translates: 'so as to beat friends and enemies alike.' Similarly Zeyl: 'so as to make himself be superior to his friends as well as to his enemies.'

<sup>44</sup> See Aristotle, *Rh.* 2.2, 1370b32-34: καὶ τὸ νικᾶν ἡδύ, οὐ μόνον τοῖς φιλονίκοις ἀλλὰ πᾶσιν· φαντασία γὰρ ὑπεροχῆς γίγνεται, οὗ πάντες ἔχουσιν ἐπιθυμίαν ἢ ἡρέμα ἢ μάλα. Interestingly, Socrates suspects Gorgias of being driven by φιλονικία (457d4).

<sup>45</sup> 456<sup>e</sup>2-457a4.

<sup>46</sup> 460c7-e2. I have been convinced by Cooper 1999 that Gorgias' admission that he teaches justice does not commit him to saying that he makes his students just. Rather, it is Socrates' verbal argument at 460a5-460c6, to the effect that knowledge of justice makes one just, that sets the trap into which he falls. The upshot for our purposes is that Gorgias cannot claim that he ensures that his students will use their rhetorical abilities for just purposes.

rhetoric, if left to its own devices, does not have the means to impart to its students an acquaintance with justice sufficient to guarantee that it will not be misused.<sup>47</sup> Without philosophy, rhetoric cannot shape the soul of its students so as to make them just. This leaves one question open: why students in possession of rhetorical tools would be tempted to act unjustly in the first place. The *Republic* has its myth of Gyges, but the *Gorgias* provides its own answer to that question: as we will see, it argues that Athenian democracy's latent hedonism is to blame.<sup>48</sup>

Gorgias' claim that rhetoric is compatible with democratic freedom has been shown for what it is: an advertising trick. Gorgias wishes to allure students by promising them omnipotence, but in a way outwardly in line with democratic conventions. Soon, however, it appears that the power he sees rhetoric as giving aims at the subjection of others. Another of his boasts, that his teaching effectively promotes the city's norms of justice, is disproved as well. Gorgias cannot say that rhetoric preserves equal freedom, since it aims at domination. He cannot save himself by saying that the domination he offers will be rightly used, for he does not have the means to deliver on that promise. Rhetoric and the all-powerfulness it gives thus combine to form Gorgias' highest good. His advertising, which glorifies both, and his teaching practice, unable to inculcate justice, conspire to produce men like Polus, overwhelmed by the desire to use rhetoric to secure domination, and blind to considerations of justice. Like Gorgias, Polus covers up his ambition under the name of freedom.

## 2) Polus: Under the Guise of Freedom, Power as a Good

I follow Ivan Jordović in seeing Polus as the paradigmatic student of Gorgias.<sup>49</sup> His teacher's implicit fascination for domination becomes explicit in him. This is, I argue, the driving force of his character. As opposed to Callicles, there is no strong trace of hedonism in him; it is the radiance of power itself that seduces him above all else. Polus evinces an (almost unashamed) lust for power, not so much for the benefits it provides, but for its aura, which it gets from its being the object of the desires of others. Gorgias pursued power within the bounds of conventions by paying lip-service to the ideal of equal freedom; Polus goes further, pursuing the pleasure of being envied for overstepping the conventions. Despite his best efforts, however, he remains a man of convention:

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<sup>47</sup> See Kamtekar 2005, 337 on Gorgias' disregard for the question of ends.

<sup>48</sup> The Gyges tale uses the same ἐξουσία language as the *Gorgias*; see e.g. 360b6-7.

<sup>49</sup> See the arguments of Jordović 2019, 52-54.

the desire of others is his benchmark, and he casts his quest for power in terms associated with the freedom the Athenian regime promises to its citizens. Democracy pretends to offer its citizens the formal freedom (ἐξουσία) to pursue their good pleasure; Polus thinks that everyone in Athens desires that freedom, but also seeks to complement it with material means. In that, Polus shows to be influenced by Periclean rhetoric.

Imitating the citizens of Periclean Athens, Polus is after the pleasure of monopolizing power, both as formal freedom and material means; and of being seen in this prominent position. Let us now see how the text unmasks Polus' psychology.

As a good scion of democracy, Polus is predisposed to appreciate unrestrained formal freedom.<sup>50</sup> He is outraged at the possibility that Socrates would not allow him to speak as much as he wants.<sup>51</sup> Socrates immediately reassures him: it would be terrible if Polus were deprived of freedom of speech (ἐξουσία τοῦ λέγειν), which Athenian democracy practices most generously of all Greek cities. But like every democratic city, Athens did put limits on that freedom.<sup>52</sup> Polus wishes for himself freedom (ἐξουσία): not a limited but a complete version of it. As the other occurrence of the term in the dialogue shows, however, only tyrants and monarchs possess that unlimited freedom.<sup>53</sup> By taking the democratic principle of freedom of speech to its extreme, Polus comes to emulate the regime's arch-enemy.

But democracy is not Polus' only teacher. Gorgias has also imprinted in him a lust for the power of domination provided by rhetoric. When Socrates argues that rhetoricians have actually very little power because they do not ply a craft, merely a knack, Polus' outburst expresses petulant incredulity:

Don't they possess the greatest power (μέγιστον δύνανται) in their cities? (...) Don't they, like tyrants, kill whomever they want (ὄν ἄν βούλωνται), deprive of their fortune and banish from the cities whomever they see fit (ὄν ἄν δοκῆ αὐτοῖς)?<sup>54</sup>

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<sup>50</sup> Jordović assumes that Polus is a democrat, but this requires some argument. In fact, we know that Polus grew up in Acragas (DK 82 B 2, cf. Nails 2002, 252), where democracy was lively and the freedom of speech necessary for the development of rhetoric quite important (see Robinson 2011, 92-95).

<sup>51</sup> 461d8-9: Τί δέ; οὐκ ἐξέσται μοι λέγειν ὅποσα ἄν βούλωμαι;

<sup>52</sup> See Momigliano 1971, 419-430; Saxonhouse 2010, 85-99.

<sup>53</sup> 525d4-5. It is Socrates who uses the substantive ἐξουσία in 461e2, but he is only picking up on Polus' use of the verb ἐξεῖναι. See also Soph. *Ant.* 506-507: ἀλλ' ἢ τυραννίς πολλὰ τ' ἄλλ' εὐδαιμονεῖ / καῖξεστιν αὐτῇ δρᾶν λέγειν θ' ἃ βούλεται.

<sup>54</sup> 466b4-5 and 466bu-c2.

Two things should be noted here. First, Polus is not content with formal freedom, ἐξουσία in its legal sense. Tyrants do not have legal freedom to kill, steal and ban: they primarily have the material power to do so. Polus' desire for power in all its aspects, formal and material, reveals itself under the democratic varnish. He pursues rhetoric as a substitute for the tyrant's real power, which he lacks.

Second, Polus' outburst lays bare his love for power itself: he obviously considers the rhetorician's unique position to be a good; he himself confesses as much. Twice in the text, Socrates makes him come out and say that the power to act as one likes is a good.<sup>55</sup> I take this to be crucial for understanding Polus' psychology. Polus is *not* saying that he envies the tyrant for the pleasures he derives from his luxurious life.<sup>56</sup> What he repeatedly stresses as the tyrant's privilege is his power; power and the enjoyment it makes possible are conceptually distinct.

Of course, Polus would not look down on putting his tyrannical power to use and enjoy himself: he clearly envies the way of life the tyrant leads. In fact, the limitless nature of Polus' desire for power and the criminal uses to which he would put it reveal traces of hedonism: appetitive enjoyment is intrinsically unbounded and anti-social, in ways that the desire for honor, for instance, is not.<sup>57</sup> After all, Polus has grown up in Sicily and lives in Athens, two hotbeds of luxury: this has surely shaped his desire for tyrannical power. But what fascinates him primarily is power itself.<sup>58</sup> There are many things that Socrates considers as only conditionally valuable that Polus pursues for their own sake, such as wealth and health: there is nothing surprising in Polus' desire for power itself.<sup>59</sup>

Polus thus appears to draw peculiar lessons from the democratic teachings he was brought up with, and two in particular. First, he misreads the freedom of speech guaranteed by Athenian democracy, by forgetting that a crucial reason why such a right is valuable is that it enables fruitful

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<sup>55</sup> 466b7-8 and 468d7-e2. Glaucon in the *Republic* attributes this equation of δύναμις with εὐδαιμονία to many (364a6-7).

<sup>56</sup> Compare Stephen Kotkin's analysis of Stalin's affairs: 'whatever pleasures Stalin occasionally took, he was married to Soviet state power. A widower twice over, he spent his time seeking succor not in the female body but in military technology and in cadres' (Kotkin 2017, 525). Cf. also Kershaw 1998, xxvii: 'Power was Hitler's aphrodisiac.'

<sup>57</sup> Wilberding 2009.

<sup>58</sup> The point has been stressed by Doyle 2007, 34. One could object to this reading in the following terms: 'Polus takes it for granted that the satisfaction of our desires, whatever they are, is good for us; since this is our good, we necessarily use the power we have to satisfy those desires; since power is, therefore, always followed by satisfaction, it is unconditionally good.' I think both Polus' wording and his behavior go against such interpretation. His wording stresses the goodness of power itself, even without its being put to use. His behavior, first and foremost his envy of the tyrant's rule, gives us good reasons to think that he is obsessed with possessing power for its own sake. Ordinary psychology makes that notion very palatable: we often come to value as goods things that are only conditionally so but that we have been pursuing for long (getting a job, earning money), and we do derive some satisfaction from reaching them.

<sup>59</sup> Penner 1991, 191.

dialogue. He thus illustrates the problem identified by Axel Honneth in the democratic tendency to focus on individual legal rights: these rights are meant to free the individual from all kind of ‘communicative demands,’ in order to let her explore her own personality. But individuals need dialogue, and intersubjective recognition, to complete this exploration and settle for worthy life-goals.<sup>60</sup> By insisting on his freedom to talk as long as he wants, Polus renders impossible a fruitful exchange with Socrates. Polus has detached democratic freedom from its ultimate purpose. This is in line with his valuation of means before ends.

Second, Polus’ vocabulary reveals that what he is after under the name of freedom is actually power. Instead of using words related to *ἐλευθερία*, he consistently opts for words of the family of *ἐξουσία*. The etymology of *ἐξείμι* is not wholly clear, but the verb generally denotes the idea of having the room to do something.<sup>61</sup> Crucially for our purposes, the lexical field of *ἐξουσία* was often used in Athens to refer to the liberties enjoyed by the citizens, either as a matter of law or of political custom.<sup>62</sup> In this sense, it has been taken to come close to our ‘rights.’<sup>63</sup> But *ἐξουσία* could also refer to the material or technical means at one’s disposal.<sup>64</sup> Polus’ conversation with Socrates shows that what he really strives for is the latter. The tyrant does not, or not only, enjoy a negative, legally entrenched right to kill, rob or ban: his *ἐξουσία* is a real, material opportunity to do these things on the mere condition that he wants to. He has the resources, the wealth, the guards necessary to act on his desire. As Socrates and Polus agree a bit later on, to be a tyrant one needs to be free from all the physical constraints that might impede the assertion of one’s will, such as the resistance of others.<sup>65</sup> The noun *ἐξουσία* is useful for Polus to disguise his desire for the tyrant’s material power under the appearance of the democratic term for (equal) right: after all, even if Athenian public discourse gives it primarily a formal, legal sense, it can be used for both.

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<sup>60</sup> Honneth 2010, 36; Honneth 2014, 73-86.

<sup>61</sup> See Chantraine 1999 s.v. and s.v. *ἐξ*. More recent treatments of *ἐξουσία* follow Chantraine: see Collette-Dučić 2018.

<sup>62</sup> *Ἐξουσία* as rights: see e.g. Isaeus *Menecl.* 24 and 45, *Hagnia* 14 and 23; *Dem. Andr.* 63, *Arist.* 60, *Lacr.* 4. *Ἐξουσία* as freedom permitted by custom: the most famous example is *Thu.* 7.69.2, where Nicias reminds his soldiers of the *ἀνεπιτάκτου πάσιν ἐς τὴν δίκαιαν ἐξουσίας* Athens gives them. But see also *Isoc. Antid.* 164; *Lys. Apologia* 17; *Plat. Crit.* 51d2.

<sup>63</sup> Solomon 1967; Miller 1997, 102: ‘The term *exousia* is closely associated with freedom, and denotes the unobstructed ability to perform a particular action’ (see also 104: ‘the essential meaning of ‘liberty’ (*exousia*) is that it is open to the agent to act.’); Miller 2009, 304.

<sup>64</sup> See e.g. *Thu.* 1.38.5, 1.123.1, 3.45.4, 6.31.5; *Eur. Frg.* 362 N.; *Isoc. Dem.* 6; *Xen. Cyr.* 3.3.27; and, especially, *Rep.* 466a1, where *ἐξὸν* is used for a physical possibility in explicit contradistinction with legal allowance.

<sup>65</sup> 469d1-470a6.

Polus' play on ἐξουσία is probably not his own invention. Democratic ideology, as captured by Pericles' Funeral Oration, set store on the city's capacity to provide the citizens with material plenty, on top of formal freedom. Pericles' praise of Athenian democracy insisted on the material affluence that enabled each citizen to 'take as many shapes as possible.'<sup>66</sup> Thus, Athenian democracy promised its citizens not only the negative, legal opportunity to lead the good life (which it did), but also the material means to do so. This required maintaining the empire (ἀρχή); and Polus repeatedly expresses his fascination with ἀρχή.<sup>67</sup> Pericles identified Athens' empire with her power (δύναμις) to shower her citizens with material goods, to the point that it made sense to ask them to become lovers (ἐρασταί) of that very power if they wanted to go on enjoying all these real, material opportunities.<sup>68</sup> Periclean ideology is responsible for instilling in Polus a desire to enjoy not only a free room for maneuver, but also the real capacity to satisfy his appetites. Socrates sees right through this logic: calling a spade a spade, he comes in the course of the dialogue to use δύναμις (power) to designate what Polus tries to cover under the ambivalence of ἐξουσία.<sup>69</sup>

After his first exchanges with Socrates, Polus' profile is quite clear. He takes Athenian democracy to give the individual free rein to assert himself, in two ways: first, by giving him formal rights that he can exploit in a selfish and narrow-minded way, such as freedom of speech; second, by adding to these rights the positive, material means to satisfy his appetites. What Polus is really after is power under these two aspects. Fortunately for him, rhetoric gives him both: it thrives in the Athenian public arena, where freedom of speech is guaranteed; and it acts as a substitute for abundant material means.

Socrates tries to undo Polus' fascination for power through a neat argument: humans act in order to get what they want, and this is always their own good.<sup>70</sup> Whatever turns out not to be a good for them cannot be the object of their wanting. In other words, humans cannot claim that they do what they want when they do what turns out to harm them.<sup>71</sup> Socrates is trying to alert Polus to the possibility that an all-powerful individual might err and do what seems good to her while being actually harmful. Since this power would not be a good, and Polus has admitted that the power to

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<sup>66</sup> 2.41.1. The empire is depicted as a cornucopia at 2.38.

<sup>67</sup> Pericles refers to Athens' empire using ἀρχή at 2.36.2. On Polus' fascination with ἀρχή see 471a5, 471b2, 471b3, 471c2, 471c4.

<sup>68</sup> Thu. 2.43.1. For a compelling interpretation of this metaphor, see Monoson 2000, 64-87.

<sup>69</sup> 469d2-3.

<sup>70</sup> 468b7-8.

<sup>71</sup> Penner 1991; Kamtekar 2017, 81-89.



do what one wants is a good, he must also admit that the power to act as one sees fit is not the power to do what one wants.

Instead of acknowledging the force of Socrates' rejoinder, Polus falls back to what he thinks is Socrates' true state of mind:

As if you would not welcome the freedom (ἐξέσθαι) to act in your city as you see fit, rather than not, and would not feel envy (ζήλοισ) when you see someone either killing, or robbing, or abducting whomever he sees fit.<sup>72</sup>

For Polus, it is a blunt fact that everyone desires the tyrant's real power to act on his whims (his complete ἐξουσία). His mention of envy (ζήλος) is telling: he would deem himself happy if he reached the same power, even without necessarily putting it to use.<sup>73</sup> Socrates may well reply that an unjust tyrant is not enviable, since vice is the worst evil for a man; for Polus the attraction of the tyrannical way of life is too obvious to be denied. The arch-tyrant is Archelaus of Macedon, who did not hesitate to throw into a pit his younger brother, the legitimate heir to the throne, in order to make room for himself. Born from a slave-woman, Archelaus managed to escape servitude and obtain rule, which is repeatedly mentioned as his prize (ἀρχή).<sup>74</sup> It is Archelaus' rule, more than what he does with it, that Polus fetishizes.

Polus is not alone in his admiration of the Macedonian tyrant: a faithful ally of the Athenians in the Peloponnesian War, Archelaus attracted their respect, even their sympathy.<sup>75</sup> Capitalizing on this, Polus can ironically sum up his portrait of the man:

Now then, since this man has done the greatest injustice of all Macedonians, he is the most miserable of them all, not the most fortunate, and there are probably some Athenians, starting with you, who would rather be any other Macedonian than Archelaus.<sup>76</sup>

By citing the other Athenians as witnesses, Polus is resorting to a democratic form of justification. Instead of replying to Socrates' two arguments (the potential harmfulness of being able

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<sup>72</sup> 468<sup>e</sup>6-9.

<sup>73</sup> On the use of ζήλος and cognates by Polus see Jordović 2019, 74-75.

<sup>74</sup> 471a5, 471b2, 471b3, 471c2, 471c4.

<sup>75</sup> Jordović 2019, 54-56.

<sup>76</sup> 471c6-d2.

to act as one sees fit, and the paramount harmfulness of vice), Polus merely takes the opinion of ordinary people as his touchstone.<sup>77</sup> Here again the influence of democracy makes itself felt: the very fact that the majority of Athenians envy the tyrant proves, for Polus, that his position is enviable. Their opinion is reinforced by the example of their leaders: statesmen of the current generation like Nicias, Aristocrates and Pericles the Younger are known to wish tyranny for themselves.<sup>78</sup> Mimetic desire generates a pervasive quest for the tyrant's power. Socrates explicitly takes distance from that democratic reasoning: he is not familiar with voting procedures, and neither the example of statesmen nor the concurrent opinions of the Athenians are more authoritative for him than truth itself.<sup>79</sup> But Polus is too attached to conventional values to follow suit. He considers that 'being envied' (ζηλωτὸς ὢν) and 'being judged happy by one's fellow citizens and strangers' (εὐδαιμονιζόμενος ὑπὸ τῶν πολιτῶν καὶ τῶν ἄλλων ξένων) is an important part of the good of tyrannical power.<sup>80</sup> Once again, the appetitive enjoyment the tyrant is capable of recedes into the background: the prestige of power and the fame it gives take pride of place.<sup>81</sup>

Unshaken in his appraisal of the tyrant's power, Polus denies the value of anything that would curtail it. Being caught and brought to trial, for instance, would clearly be a harm for the tyrant: the best he can do is to escape chastisement forever and 'spend his life ruling in his city, doing whatever he wants (ποιῶν ὅτι ἂν βούληται).'<sup>82</sup> The badness of seeing one's power restrained and the physical pains of punishment outdo any other consideration, including the sobering effect of justice.<sup>83</sup> Here too, Socrates spots in Polus a form of conventionalism: instead of refuting him, Polus is trying to scare Socrates by picturing to him the horrible sufferings of the rack, just as nurses scare children with monsters.<sup>84</sup>

But Polus' conventionalism is not lost on Socrates. By getting him to admit, quite conventionally, that doing injustice is more shameful than suffering it, Socrates traps him into self-contradiction.<sup>85</sup> Socrates resolves shamefulness into its two components, harmfulness and

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<sup>77</sup> 471<sup>e</sup>2-472a1.

<sup>78</sup> 472a5-b3.

<sup>79</sup> 473<sup>e</sup>6-474a1.

<sup>80</sup> 473c7-d2.

<sup>81</sup> Cf. Doyle 2006, 91.

<sup>82</sup> 473c6-7.

<sup>83</sup> 473b12-473d2.

<sup>84</sup> See Dodds 1959 *ad loc.* on the use of μορμολύττομαι: 'Μορμολύκη or Μορμώ was a bogey-woman invoked by mothers and nurses to frighten naughty children.' *Crito* 46c3 uses the same verb with the same connotation.

<sup>85</sup> 474c7-8.

unpleasantness, before demonstrating that since doing injustice is not more unpleasant than suffering it, it must owe its greater shamefulness to its greater harmfulness.

Having obtained Polus' agreement on this, he can dismiss the second bone of contention between them: since injustice harms the soul, being freed from it by punishment is salutary. Socrates' argument develops the previous one: undergoing just punishment is not shameful but honorable, and since it is more painful than getting off scot-free, it must owe its greater honorableness to its being more beneficial.<sup>86</sup>

Just as self-advertisement was the key to Gorgias' claims, Polus' are best understood as the products of convention.<sup>87</sup> From the democratic regimes he has lived in, he inherits a high sense of the freedom of speech he considers to be his due, an appreciation for material affluence, and a spontaneous deference to the opinions of the majority. A student of Gorgias, he has obviously been shaped by his master's promise of omnipotence. The result of these combined influences is his veneration for tyrannical power: he takes it to be a good in itself.<sup>88</sup> Under the guise of democratic catchwords referring to freedom (ἐξουσία, 'acting as one likes'), Polus is actually after domination through rhetoric, and would put this power to criminal uses. Callicles shares this disposition and takes it farther, with his characteristic sincerity.

### 3) Callicles: Freedom as Self-Sufficiency for Appetitive Purposes

Callicles is often seen as Socrates' real *alter ego* in the *Gorgias*.<sup>89</sup> Of all the characters of the dialogue, Callicles is the only one of whom Attic prosopography can find no trace.<sup>90</sup> E. R. Dodds' influential interpretation saw in him Plato's way of coming to grips with what he would have become had he not met Socrates.<sup>91</sup> This attractive hypothesis can be pushed further: Callicles stands for the gifted Athenian young man, and what his good nature becomes under the influence of the Athenian people. Tendencies that come to light in his personality should therefore be traced back to Athenian collective psychology.

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<sup>86</sup> 477a2-4.

<sup>87</sup> Kahn 1983, 94.

<sup>88</sup> 468d7-e2.

<sup>89</sup> Kamtekar 2005; Doyle 2006; Barney 2017.

<sup>90</sup> Nails 2001, 75-77.

<sup>91</sup> Dodds 1959, 12-15

Of all the strands of his colorful personality, it is Callicles' hedonism that has received the most attention from philosophers.<sup>92</sup> Recently, however, Ivan Jordović has given another picture of Callicles, as of a man obsessed with power for its own sake.<sup>93</sup> In the present section, I offer an analysis of the various forces that make up his psychological portrait, by attending closely to his use of the vocabulary of freedom.<sup>94</sup>

This investigation reveals two things. First, like Gorgias and especially Polus, Callicles has within him a boundless fascination for power and strength. Surely, Callicles values satisfaction itself; but like Gorgias and Polus, he also evinces a tendency to value means for themselves, measuring a man's worth by his sheer strength.<sup>95</sup> Callicles' conception of the highest good therefore features two components: what I will call 'first-order' pleasures, coming from sources as different as bodily gratification or good reputation; and the 'second-order' pleasure of possessing the means to obtain first-order pleasures. Interpreters usually see a rift in his psychology between his valuation of bodily pleasures and his pursuit of honor;<sup>96</sup> I would rather distinguish between his valuation of first-order pleasures (the enjoyment of honor being one of them) and his satisfaction at having the means to procure them.<sup>97</sup> Freedom (ἐλευθερία) is a convenient phrase for him to capture his conception of happiness, as it guarantees him both first- and second-order pleasures.<sup>98</sup>

Second, Callicles insists more than Gorgias and Polus on the centrality of personal skills for the enjoyment of freedom. Socrates' previous two interlocutors did make rhetoric a key element for freedom: Gorgias claimed that it ensured both freedom and rule; and Polus compared the capacities

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<sup>92</sup> See in particular Berman 1991; Rudebusch 1992.

<sup>93</sup> Jordović 2009 and 2019, 120-130.

<sup>94</sup> I am not claiming that Callicles' has a thought-out and coherent moral conception; in this I agree with Klosko 1984, Woolf 2000, and Barney 2017. What I am interested in is not the inchoate *theory* Socrates pushes him to formulate, but his *psychology*. To be sure, his psychology is rife with contradictions, as Socrates reveals: despite his quest for self-sufficiency, Callicles makes himself the slave of the people (481e1-4). But we can at least identify various traits, or tendencies, that he harbors in his soul, even if they come into conflict with each other.

<sup>95</sup> Buzzetti 2005, 37: 'Callicles seems to be mesmerized by the gains of tyrants, to the point, at least, that he is able neither to explain why or how 'having more' is good, nor can he even abide Socrates's attempt to educate his inarticulate fascination.'

<sup>96</sup> Woolf 2000; Buzzetti 2005.

<sup>97</sup> The democratic man of Plato's *Republic* gets pleasure from the honor he derives from his political activity (561d2-3 with Scott 2000, 26 and Schofield 2006, 234). Since Callicles endorses a quite extreme form of hedonism, it seems more economical to count his lust for honor as an appetite, rather than to see him as a thumetic individual in the *Republic's* sense (for this interpretation see Hobbs 2000, 137-161; Newell 2000, 9-39). I therefore agree with Wilburn 2015, 20.

<sup>98</sup> Both first- and second-order satisfactions are forms of pleasure, which means that hedonism is indeed a key to understand Callicles' character; but this hedonism of his must be conceived of as broad enough to encompass second-order pleasures. Whereas Polus seeks power in order to be seen possessing it, Callicles strives for it even if he is to escape public notice: the exhilarating effects of feeling his own power (or freedom, as he also calls it) satisfy him sufficiently.

given by rhetoric to those the tyrant enjoys. But Polus' use of the vocabulary of freedom put more insistence on democratic legal freedom and tyrannical material means, than on the power given by rhetorical skills themselves. Callicles shifts the emphasis: in his quest for self-sufficiency, he gives paramount value to the skills that enable him to get complete power by relying on himself only.

We can see this double picture emerge gradually from Callicles conversation with Socrates.

## 1° Freedom, Nature, and Skills

Callicles' first long tirade (482c4-486d1) gives us important hints about his conception of freedom. He sees it as being directly curtailed by law: the law in vigor in cities is a contrivance of the weak (οἱ ἀσθενεῖς) that goes against nature, making 'slaves' of those who submit to it.<sup>99</sup> Callicles is here reviving the original meaning of freedom: linguists have shown that the etymological root of ἐλευθερία expresses the idea of unimpeded growth.<sup>100</sup> The slavery that ordinary law imposes on the best is directly opposed to it. Callicles sees conventional law as hindering the full expression of human nature; at least, of the nature of the best individuals.<sup>101</sup> He immediately reveals the anti-democratic, anti-social bent of his conception of freedom.

But this leaves rather underdetermined the Calliclean conception of nature, and of what it means to be among the 'best.' What are the natural attributes that should be given free rein by the excellent man? Callicles provides Socrates with a few indications: the desire to do philosophy is worthy of a free status, as long as one practices philosophy while young (ἐλευθέριον, 485b4; ἐλεύθερον, 485c5); but to philosophize at Socrates' age is slavish (δουλοπρεπές, 485b7) and illiberal (ἀνελεύθερον, 485c6). The problem for the inveterate philosopher is that he is incapable of 'uttering anything free, big and considerable (ἐλεύθερον δὲ καὶ μέγα καὶ ἰκανόν).'<sup>102</sup> As Terry Irwin argues, Callicles shows himself here to be valuing all the practices that 'enable him both to translate his aspirations into practical aims and to carry out his aims.'<sup>103</sup> Philosophy will come in handy for a young man when he

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<sup>99</sup> 483b2 (ἀνδραπόδου) and 483<sup>e</sup>4-484a2.

<sup>100</sup> Benveniste 1969, 323; Muller 1997, 49. See Michelini 1978, for another example of overlap between Greek political and botanic vocabulary.

<sup>101</sup> Ranger 2012, 275.

<sup>102</sup> 485<sup>e</sup>1-2.

<sup>103</sup> Irwin 1995, 103.

goes into politics, an arena where he will be able to satisfy his 'big' desires; rhetoric of course will also be useful.<sup>104</sup>

Ἐλευθερία consists here in the set of skills which the 'liberal' man possesses. Callicles endorses the aristocratic conception of ἔλευθερία, focused on personal traits thought to befit a free status.<sup>105</sup> Callicles' freedom amounts to the means, in terms of personal qualities and skills, that allow an individual to satisfy his drives on the biggest possible scale.<sup>106</sup> Whereas Polus primarily connected freedom with democratic liberties and material means, Callicles links it first and foremost to personal, especially technical, skills.

## 2° Personal Skills as the Key to Self-Sufficiency

The picture is broadened in what comes next. We soon learn that Callicles' ideal man is he who has the power 'to realize whatever he thinks of.'<sup>107</sup> What gives a man his worth is his unlimited power. True, Callicles still stresses the prime contribution that personal skills make to that ideal; but his formulation reveals a wider conception.<sup>108</sup> He values personal skills, it seems, importantly *because* they would guarantee him the possession of all the other means he needs: his broad and indeterminate formulation ('whatever,' denoted by the subjunctive relative clause with ἄν) surely encompasses material means (like wealth) and instruments of inter-personal domination (like persuasion). Callicles' ideal thus appears to be one of absolute self-sufficiency, the object of a long-standing quest among the Greeks.

The Greek obsession with self-sufficiency goes back at least to Hesiod;<sup>109</sup> but Athenian democracy gave the idea a peculiar twist. As Kurt Raaflaub has shown, Pericles integrated self-sufficiency into the Athenian concept of freedom (ἐλευθερία): empire (ἀρχή) was supposed to make Athens absolutely free by fulfilling all its economic and political needs.<sup>110</sup> Pericles made it clear that being self-sufficient was one of Athens' greatest claims to fame.<sup>111</sup> Yet for Pericles, Athens' self-

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<sup>104</sup> 484c4-d7; 485d3-e2; 486a1-3.

<sup>105</sup> On this conception see Raaflaub 1983; Lane 2018.

<sup>106</sup> One source of satisfaction is fame (484d2; 485d3-6; 486c8-d1); but the subsequent discussion of Callicles' hedonism will reveal that it is only, for him, one among several.

<sup>107</sup> 491b2-3; ἱκανοὶ ὄντες ἂν ἄν νοήσωσιν ἐπιτελεῖν.

<sup>108</sup> Force through cunning (φρόνησις): 490a1-7 and 491b2-3. Courage: 491b3 (ἄνδρείοι).

<sup>109</sup> Millett 1984; Canevaro 2015. Cf. Callimachus' *Hymn to Zeus*, 87 (of Ptolemy II): ἐσπέριος κείνός γε τελεῖ τὰ κεν ἦρι νοήσῃ.

<sup>110</sup> Raaflaub 1984, 59-60; Jordović 2019, 47.

<sup>111</sup> Thu. 2.36.3.

sufficiency was importantly grounded in the skills of its citizens, especially in their capacity to deliberate before acting, and then to act with boldness.<sup>112</sup> Pericles also stressed, as we saw, how Athens imparted its citizens an open kind of φιλοσοφία, uniting the discoveries of all the crafts of the age. Callicles' fascination for self-sufficiency, obtained through cultivating personal and technical skills, seems to be a legacy of Pericles' propaganda.

Plato was well aware of the importance of self-sufficiency for Pericles. In the *Menexenus*, Socrates makes self-sufficiency a defining mark of Periclean politics.<sup>113</sup> Yet for Socrates, as Louis-André Dorion has amply shown, neither individuals nor cities can reach self-sufficiency.<sup>114</sup> The quest for self-sufficiency is based on an illusion. It is especially so in the case of Callicles: his limitless hedonism makes him strive for all the means necessary to satisfy his occurrent desires. He thinks he can achieve such self-sufficiency through the cultivation of new-fangled skills (his version of philosophy, rhetoric), coupled with more traditional virtues like cunning and courage. But Socrates has an easy task showing that these would barely be sufficient: power will remain vested in the Athenian people, who will keep dictating their will to him.<sup>115</sup> Callicles' blindness to this reality is made even more blatant when his self-professed aversion to democratic ideology comes to complete light.

### 3° An Additional Component: Ideological Resistance

Just after Callicles has revealed his dream for the power 'to realize whatever he thinks of,' Socrates introduces a discordant note. Callicles' ideal is the man who has the means to realize whatever he feels a desire for. By focusing on the power to realize his plans, not on their worth, Callicles flouts a piece of common wisdom reflected in ordinary language: it is good to be master of oneself (ἐγκρατῆ ἑαυτοῦ, 491d7) and to rule over (ἄρχοντα, 491<sup>e</sup>1) one's desires or appetites (ἐπιθυμῖαι). As he makes clear a bit later, Socrates endorses this popular conception because he thinks some appetites are good, some bad.<sup>116</sup> Ruling oneself amounts to being able not to satisfy one's bad appetites. For Callicles, this is a proof of the unnaturalness of popular beliefs: as he does not

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<sup>112</sup> Thu. 2.40.3.

<sup>113</sup> *Menex.* 247e6-248a-4.

<sup>114</sup> Dorion 2013, 429-448.

<sup>115</sup> 481e1-4.

<sup>116</sup> 495a1-2.

distinguish between the pleasant and the good, he identifies with his appetites and cannot fathom the very notion of self-mastery.<sup>117</sup>

Callicles' statement gives us two important clues. First, like Polus before him, Callicles proves here to be a product of democracy. Polus refused to forego his ἐξουσία to speak as he wanted and submit to 'communicative demands;' Callicles similarly refuses to justify any of his desires. We will have to look later on for the causes of this disposition: as Socrates' case testifies, it is not necessary for human beings to identify with their appetites indiscriminately.

Second, Callicles' outburst reveals the subsidiary importance that 'first-order' pleasures have for him.<sup>118</sup> In his attack against Socrates' notion of self-mastery, Callicles appears to be more upset by the very idea of being under any form of rule, than by the prospect of seeing determinate appetites unfulfilled.<sup>119</sup> Enjoying the unimpeded power to fulfill his needs seems to be more important to him than the first-order pleasure he derives from satisfaction.

Nonetheless, the kind of power Callicles is after remains defined by his orientation towards limitless hedonism. It is because Callicles refuses to reject any of his occurrent first-order desires, that he also rejects the very idea of a constraint imposed on him. Callicles is characterized, in fact, by a total rejection of constraint. He sees slavery as the worst evil for a man: 'how could a man be happy when he serves anyone?'<sup>120</sup> Slavery, for Callicles, includes rule (ἀρχή).<sup>121</sup> When Socrates introduces the idea of self-rule (ἀρχεῖν ἑαυτοῦ), Callicles rejects it as another form of slavery: the discourse on self-rule, he claims, is nothing but a product of democratic ideology, which praises the behaviors that serve the multitude and dampens the desires of the most excellent natures.<sup>122</sup> These ideological tools enable the weak to curtail (κολλάζειν) the strong and capable.<sup>123</sup> Callicles rejects any

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<sup>117</sup> 495a2-6.

<sup>118</sup> Kamtekar 2005, 335: 'He is, after all, not as deeply committed to hedonism as to his view that the superior should have more of whatever is good (an ordering of commitments that is made psychologically plausible by the likelihood that he would have had to defend the latter but probably not the former against democratic challenges).'

<sup>119</sup> I share here the interpretation of Hobbs 2000, 145-146: 'He is attracted to hedonism precisely because he feels that it is fine and magnificent to be able to do whatever one wants: it is this *power* which is the mark of the brave new man.' See also Barney 2017: 'Callicles' philosophical enthusiasm is not, it seems, for pleasure itself but for the intensity, self-assertion and extravagance that accompany its pursuit on a grand scale: he endorses hedonism so as to repudiate the restraints of temperance, rather than the other way around.'

<sup>120</sup> 491<sup>e</sup>5-6.

<sup>121</sup> Identification of ἀρχεσθαι and δουλοῦσθαι: 491d10-e6. Importantly, this shows that Callicles would not accept to be under a ruler expert in providing him with appetitive enjoyment: this shows, I think, that second-order pleasures take precedence in his soul over first-order ones. This distinguishes him, once again, from the timocratic man of *Republic* 8, who obeys office-holders (549a3).

<sup>122</sup> 492a3-b1.

<sup>123</sup> 491<sup>e</sup>9.



form of rule, because he sees rule as meant to restrain the satisfaction of the first-order desires from which he takes his orientation.<sup>124</sup>

As Ian Walling has stressed, the notion of 'curtailing' (*κόλασις*) is mostly used in the *Gorgias* to denote legal punishment: in those cases, it designates a form of constraint that is imposed on the individual *from outside*.<sup>125</sup> But Callicles has a powerful theory of internalization, which explains how *κόλασις* can also refer to something the individual does to himself. He therefore uses the substantive *ἀκολασία*, with its privative *ἀ-*, to denote lack of self-restraint: in that he is in line with contemporary Athenian usage.<sup>126</sup>

*Ἀκολασία* complements Callicles' conception of freedom. It is not enough to have the personal skills to satisfy one's desires on a grand scale: one also needs the willpower to do so. One must therefore resist democratic, egalitarian ideology and its insidious tendency to be internalized. But *ἀκολασία* does not only complement Callicles' conception of freedom: it is part and parcel of it. Since Callicles takes self-rule to be slavery, and since freedom is the opposite of slavery, the absence of self-rule, i.e. *ἀκολασία*, must be part of his concept of freedom. This is in line, again, with Callicles' Athenian context: *ἀκολασία* was seen by various Athenian authors as an attitude into which democratic freedom was frequently perverted.<sup>127</sup>

So far, we have seen Callicles' conception of freedom to have two components: the personal skills of the 'liberal' man, which provide instruments of domination and, presumably, material means; and ideological resistance. Both ensure that one's desires are given a free rein, indiscriminately. Both display, on the surface at least, a strong aristocratic, anti-democratic component.

#### 4° Callicles' Conception of 'Excellence and Flourishing'

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<sup>124</sup> This means that, when Polus and Callicles claim to want the power to 'do everything they want,' they disguise under this all-encompassing formula something much more definite: the power to satisfy appetites. Polus and Callicles do not strive for the power, for instance, to arrive at philosophical truth for its own sake; or to obtain honor by winning in athletic competitions. They want the power to live the tyrants' life of luxury. Power, and freedom, mean for them the capacity to obtain appetitive satisfaction without bounds.

<sup>125</sup> Walling (2021), ch. 3.

<sup>126</sup> In Athenian parlance, someone is *ἀκόλαστος* when he has resisted, or will always resist, social constraints to moderate himself (Ar. *EE* 1230a38-1230b4); for Callicles, it is primarily a matter of resisting this social constraint as it tends to be internalized.

<sup>127</sup> Hdt. 3.81.7; Ps.-Xen. 1.5; 1.10; Thu. 6.89.5; Isoc. *Areop.* 20; *Panath.* 131

We can now come to the crisp formulation Callicles offers for his conception of the good:

Τρυφή και ἀκολασία και ἐλευθερία, ἐὰν ἐπικουρίαν ἔχη, τοῦτ' ἐστὶν ἀρετὴ τε  
καὶ εὐδαιμονία.<sup>128</sup>

Luxury, absence of restraint and freedom, if it manages to defend itself,  
this is excellence and flourishing.

Let us parse this compact formulation.

- Luxury (τρυφή) amounts, primarily, to the satisfaction of bodily appetites. But it also provides some sort of fame: as Callicles thinks all men desire to satisfy their bodily appetites, living a life of luxury gives one the admiration of others, and thus a form of good repute (as the case of Archelaus testifies). Luxury would therefore give Callicles two kinds of first-order pleasures: the joys of the feast, primarily; but also the delights of fame.
- To be maximized, luxury must be protected against curtailments (from oneself or others): hence the need for ἀκολασία. Given, however, the last part of the sentence (the mention of ἐπικουρία, which I will comment on shortly), it is more likely that ἀκολασία designates here lack of self-restraint, i.e. resistance to the ideological influence of the weak.
- To live a life of luxury one needs, besides ἀκολασία, the capacity to sustain the corresponding life-style: this is, I take it, the role of ἐλευθερία. The only time Callicles has mentioned ἐλευθερία before was during his discussion of philosophy. Philosophy was described as a 'free practice,' worthy of a free man, in so far as it enables him to obtain political success. I argue, therefore, that ἐλευθερία in the third slot of the tricolon refers primarily to the personal skills to which Callicles seems so attached, which constitute his picture of 'the liberal man.'
- Whereas ἀκολασία designates resistance to ideological constraints one tends to internalize, ἐλευθερία seems to refer primarily to the skills that allow one's nature to

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<sup>128</sup> 492c4-6.

go unimpeded. But this set of skills, to recall, procures to the 'liberal' man other means as well: essentially inter-personal domination and material goods.

- Callicles' conception of freedom, focused on the qualities of the 'liberal man,' has a strong aristocratic flavor. The paradox is that, in traditional aristocratic discourse, ἀκολασία was seen as antithetical to true ἐλευθερία.<sup>129</sup> Callicles seems here to be much closer to democratic ideology, as seen by its opponents, than he would probably admit. His conception of freedom is a direct product of Athenian democracy's latent hedonism.
- Beyond its *sensus strictus* (as set of liberal skills), ἐλευθερία for Callicles must have a larger sense. First, it must encompass ἀκολασία, as ἀκολασία amounts to resisting a certain form of enslavement (492a3-b1). Second, it must include resistance to any form of rule (491d10-e6). Ἐλευθερία *lato sensu* is thus a convenient term for Callicles to capture his complete picture of the excellent man: someone who has the skills necessary to satisfy his appetites, inner independence from democratic ideology, and the capacity to resist any externally imposed rule. It designates self-sufficiency and independence, or the total absence of constraints.
- To be perfect, such independence has to be protected over time against attacks: this is the role of ἐπικουρία.<sup>130</sup>

Before Socrates embarks on a lengthy argument to shake up his interlocutor's confident self-identification with his appetites, Callicles' position is therefore clear. His ideal includes the satisfaction of first-order appetites (for bodily pleasures, primarily, and secondarily for honor), as well as the enjoyment of the capacity to do so on a permanent basis, which requires ἀκολασία (against self-restraint), ἐλευθερία (as 'liberal' self-sufficiency, guaranteed primarily by personal skills, and more broadly resistance to any kind of rule) and ἐπικουρία (to sustain ἐλευθερία over time).<sup>131</sup>

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<sup>129</sup> Raaflaub 1983, n. 48.

<sup>130</sup> Translators render variously 492c5 (ἐὰν ἐπικουρίαν ἔχη): 'if it is well supplied,' (Irwin), 'if available in good supply' (Zeyl), 'if the means of supply are available' (Kerferd 1974, 50-51). But the word primarily means 'defense against attacks': Callicles is here including the capacity to defend one's status in his conception of the highest good. At 486b6, Callicles already made capacity of self-defense part of the apparatus of the strong man. Cf. *Rep.* 344c5-7: Οὕτως, ὦ Σώκρατες, καὶ ἰσχυρότερον καὶ ἐλευθεριώτερον καὶ δεσποτικώτερον ἀδικία δικαιοσύνης ἐστὶν ἱκανῶς γιγνομένη. Canto-Sperber 1992 offers a better translation: 'si la facilité de la vie, le dérèglement, la liberté de faire ce qu'on veut, demeurent dans l'impunité, ils font la vertu et le bonheur!'

<sup>131</sup> Cf. Caire 2016, 316, who interprets Callicles as saying that 'le bien suprême [est] l'exercice du pouvoir.'

What Callicles is after is enduring self-sufficiency for appetitive purposes: he is, in this respect, an heir of Pericles. Self-sufficiency would give him the first-order pleasures of τρυφή, and the second-order pleasures of being a strong man, capable of satisfying all his first-order desires at will. It would give him both εὐδαιμονία and ἀρετή.

This means that Callicles' conception of flourishing and freedom is intrinsically anti-social. Freedom is for him the ability to satisfy one's desires for luxury without limits, i.e. without being hindered by material or inter-personal constraints, but also by the appeals to moderation coming from the many. Callicles' ἐλευθερία is the capacity to assert oneself in a zero-sum game: to obtain personal satisfaction at the cost of that of others. This is because the kinds of enjoyment Callicles primarily orients himself towards (the first-order pleasures of τρυφή) involve such a zero-sum game. To feast as often as he wants, Callicles must deprive others of the material means to do the same, persuade them to serve him, and resist their call to self-restraint. Hedonism is thus responsible for Callicles' adversarial, anti-social notion of freedom.<sup>132</sup>

492c4-6: a summary

Component	Meaning	Type of pleasure
τρυφή	Luxury	First-order
ἀκολασία	Lack of self-restraint	Second-order
ἐλευθερία	Freedom ( <i>stricto sensu</i> : personal skills / <i>lato sensu</i> : personal skills, ἀκολασία, and resistance to rule)	Second-order
ἐπικουρία	Self-defense	Second-order

<sup>132</sup> By contrast, a person who consistently acts on her desire for honor will seek the approbation of her fellows, at least to a certain extent, and behave to that same extent in a way that attracts their praise (see Wilberding 2009). To recall an example already adduced n. 18: the timocratic man of *Republic* 8 is ruled not by his appetites (ἐπιθυμία) by a desire for honor, which does not prevent him from submitting to the orders of office-holders (549a3: he is ἀρχόντων σφόδρα ὑπήκοος). But honor is only one among many sources of pleasure for Callicles. The upshot, for our purposes, is that Callicles' ideal of limitless enjoyment and anti-social behavior owes more to Athenian hedonistic culture than to a concern for honor.

## 5° Callicles, Polus, Gorgias: A Difference of Emphasis

Compared to Polus', Callicles' conception of freedom is different in emphasis only. Polus too valued skills, rhetoric first and foremost, as the paramount way to be able to 'act as one likes.' He compared rhetoric to tyranny, which he saw as enjoying all the means one needs to satisfy one's desires. His desire for these all-encompassing means could well parade under the guise of formal freedom: the pretense was easily unmasked. Callicles, for his part, emphasizes the 'skill' component of power; but skill he sees as purveyor of other means as well. And like Gorgias and Polus, Callicles is driven by a fascination for power and its maximization.<sup>133</sup>

Like Polus, Callicles is ambivalent regarding ἐξουσία: the only time he uses a word of that family (ἐξόν, at 492b5), he gives it a sense that encompasses both freedom from interference (close to the 'formal' meaning) and material capacity. Crucially, he adds that excellent natures are able to obtain that ἐξουσία for themselves.<sup>134</sup> He thus confirms that personal qualities are, for him, the surest way to get to self-sufficiency.

Callicles thus shares some of Polus', but also Gorgias' ambivalence about the relationship between freedom and power. Gorgias pretended the two were compatible, before revealing their possible conflict and his preference for the latter. Polus disguised his envy for the tyrant's complete power by using the democratic language of ἐξουσία, with its connotations of formal freedom. Callicles remains ambivalent about ἐξουσία. But his use of ἐλευθερία is less ambivalent, and more openly anti-democratic. Ἐλευθερία (*lato sensu*) designates for him all the means that enable the individual to satisfy his appetites without limit. These include personal skills (which come with material tools and instruments of inter-personal domination), as well as resistance to democratic ideology. Callicles' concept of freedom is unashamedly positive or real, including all the means necessary for the maximal satisfaction of his first-order appetites, at the explicit cost of flouting democratic norms and rule.

## 6° Callicles and Democratic Freedom

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<sup>133</sup> At 514a1-3, Socrates diagnoses in Callicles a lust for power for its own sake.

<sup>134</sup> 492b2-3: αὐτοὺς τῇ φύσει ἰκανοὺς ἐκπορίσασθαι ἀρχὴν τινα ἢ τυραννίδα ἢ δυναστείαν.

Callicles is a particularly good case of Athenian freedom-pathology. He lives in the environment of Athenian hedonistic culture, which reinforces the natural human tendency to pleasure-seeking. It is from this natural and cultural hedonism that Callicles derives his first-order life-goals. Given his orientation towards appetitive pleasure, the Athenian ideology of freedom has three major effects on him.

First, the democratic tendency to free individuals from 'communicative constraints' reinforces his unreflective stance towards his various desires and, therefore, his hedonism. Second, the material plenty promised and offered by Periclean policy comforts the same hedonistic tendencies. Third, the virtues and skills that are both symbols of Athens imperialism and defining traits of aristocratic 'liberality' (cunning, boldness, rhetoric, 'philosophy') make him value and pursue the unlimited power of obtaining first-order pleasures. These three components conspire to give him a conception of freedom as the capacity to satisfy his appetites without discrimination nor limit.

This is a harmful conception of freedom, for two reasons. It sets Callicles at odds with all his fellow citizens, as the pursuit of boundless hedonistic satisfaction is a zero-sum game. But it also constitutes an obstacle to political education: someone who is intent on attaining perfect independence will recoil from submitting to political rule, especially if rule is meant to prune some of his first-order appetites.

This is a particularly democratic phenomenon, we should note. People being, for Plato, by nature hedonists, a regime that guarantees them political and personal freedom will give their pleasure-seeking free rein. Imperialism, a process fueled by the popular demand for material plenty, will have the same effect. The skills and virtues cultivated in a democracy will be those that enable to please the people, or to obtain the appetitive satisfaction they seek, but before them. None of these three processes unfolds in Sparta, for instance: legal freedoms are much more restricted there; material plenty is limited as well; and the skills that are valued are rather those that ensure external than personal independence: military ability first and foremost. Sparta is present in the *Gorgias*: when Socrates blames Pericles for turning the Athenians towards hedonism even more than they were, Callicles blames him for repeating what he has heard from Athenian Laconizers.<sup>135</sup> If hedonism

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<sup>135</sup> 515e8-9.

does not rule in Sparta as it does in Athens, then the different form and importance freedom takes on there, by contrast to Athens, can easily be explained.

Why, then, does Callicles desire freedom as the highest good? The simplest explanation is that Callicles is a hedonist: he therefore sees life as a competition for mutually exclusive appetitive satisfactions. Either one is enslaved by the many, or one manages to make them yield to one's desires. Callicles therefore lusts for the power to resist being enslaved by others (the 'weak,' any form of ἀρχή), and for the personal qualities that would allow him to obtain dominate others ('liberal' traits). Callicles' hedonism, therefore, gives him a conception of freedom that is fundamentally anti-social, anti-ἀρχή, and domineering. Paradoxically, this conception bears democratic traits: democracy is a breeding ground for the ethical basis of this world-view, hedonism; it promises its citizens material goods and skills that are bound to be used, in a hedonistic context, for the domination of others. As to Callicles' rejection of public norms, law and ἀρχή, it echoes his and Polus' insistence on enjoying full ἐξουσία, by escaping communicative constraints, the judicial system, and the power of office-holders. But it is not before the *Republic* that Plato can draw an explicit link between hedonism, democracy, and the rejection of both law and rule, as I will show in chapter 3.

Callicles illustrates the results of the combination of Athens' hedonism with its ideology of freedom: Athenians tend to put their freedom to use for narrowly egoistic, hedonistic purposes. This logic is a major theme of the *Gorgias*, to which we now turn.

## II – The Illusions of Tyrannical Power

### 1) Power and Its Use: The Problem with ἐξουσία

Gorgias is attracted by domination through rhetoric; Polus and Callicles desire for themselves the tyrant's capacity to satisfy their appetites without limits. The main problem with the fascination of Socrates' interlocutors for domination (or tyranny) is that the power to satisfy one's appetites without bound is not a good in itself: on the contrary, it tends to damage the soul of the individual who has it, by giving free rein to his naturally ingrained, sometimes culturally reinforced hedonism. Plato insists on this idea by interspersing in his text occurrences of ἐξουσία and its

cognates, until Socrates takes it up as an important concept towards the end of the dialogue. Let us briefly go over these occurrences, most of which have already been adduced, in order to draw lessons from their recurrence.

Polus is outraged at the thought that Socrates would not give him the freedom (ἐξέσται, 461d8) to speak as long as he wants. He cannot believe either that Socrates would not want the tyrant's freedom to do whatever he likes (ἐξεῖναι, 468<sup>e</sup>6 and 469c5). Callicles praises the tyrant, and people in power in general, because 'they have the freedom (ἐξόν) to enjoy good things without anyone (or anything, μηδενός) standing in the way' (492b5-6). By covering their tyrannical ambitions under the guise of ἐξουσία, Polus and Callicles show the dark side of this important Athenian value. Because of its place in democratic ideology and in Athens' imperialistic propaganda, ἐξουσία has ingrained within them the desire to possess the widest range of freedom: not only formal means but also real, material ones. What Polus and Callicles are after under the name of ἐξουσία is the real opportunity to satisfy their first-order desires, in which appetites take pride of place.

Both Polus and Callicles see rhetoric as a provider of such power; in this they imitate Gorgias. Rhetoric offers the rare prospect of self-sufficiency: once one has mastered it, the complete array of the means necessary to satisfy one's desires becomes available. Polus and Callicles might well be products of the democratic city and its ideology; but through the procurement of personal skills, they want to be able to rely on themselves only.

According to Socrates, this quest of theirs is founded on a major mistake; they do not realize that ἐξουσία tends to corrupt whoever enjoys it. The final section of the *Gorgias*, the judgment myth, is meant to highlight this: former dynasts, like the Great King, have their soul marred with the scars left by their many vices, which were developed 'by the freedom they had (ὑπὸ ἐξουσίας), their luxury (τρυφῆς), their excesses and the lack of temperance (ἀκρατίας) of their actions.'<sup>136</sup> Being coupled here with the luxury of potent people (δυνάσται), ἐξουσία must include material means. In fact, ἐξουσία was often used in other fifth- and fourth-century texts to convey the notion of unlimited means, including material ones. The same texts depicted such extensive power as an irresistible temptation, bound to lead to abuses.<sup>137</sup> Socrates shares the same view: ἐξουσία dizzies those who enjoy it, to the point that 'they commit the greatest and most impious wrongs.'<sup>138</sup>

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<sup>136</sup> 525a3-5.

<sup>137</sup> Thu. 3.45.4; Eur. frg. 362 N.; Isoc. *Plat.* 37, *Nic.* 45, *Peace* 103-104, *Areop.* 20 and *Panath.* 131, *Phil.* 146; Xen. *Hier.* 5.2.6.

<sup>138</sup> 525d5.



Polus and Callicles, however, do not realize that ἐξουσία would spell the doom of their own soul, as it would not be able to resist its temptations.<sup>139</sup> True, Socrates admits that some outstanding men can resist these allurements:

Nothing prevents there being good men even among those who have power, but they really deserve admiration; for it is difficult, Callicles, and deserving of great praise, to live justly when one has come to possess great power to be unjust (ἐν μεγάλῃ ἐξουσίᾳ τοῦ ἀδικεῖν γενόμενον).<sup>140</sup>

These rare birds include Aristides, who managed to lead his city and the empire towards moderation.<sup>141</sup> But Polus and Callicles have given Socrates ample testimony that they would use their ἐξουσία for the worse: to indulge indiscriminately in all sorts of appetites (491e8-492a3), even if it meant killing and robing whomever they saw fit (468e6-9).

As the case of Aristides shows, this is not a necessary fact: only people who have been badly educated succumb to the enticements of ἐξουσία.<sup>142</sup> That bad education is itself a major theme of the *Gorgias*. Through the example of Athenian democracy, the dialogue shows us the precise causal path by which people acquire the dispositions that make them prone to yield to the temptations of power.

This is especially noticeable in Callicles. Despite assurances to the contrary, Callicles is influenced by Athenian democracy. He derives from it his desire to obtain boundless appetitive enjoyment. His inclusion of τρυφή and ἀκολασία in his picture of the highest good testifies to the hedonistic side of his moral conception, which he owes in part to the regime he grew up in. The boundlessness of the two types of desires that characterize him (first-order appetites, and second-order desire for the complete capacity to satisfy the former) is no coincidence: both bear the mark of Athens' policy of self-sufficiency for appetitive purposes.<sup>143</sup> Callicles takes up this collective ideal, but only to adopt it at his own, individual level.

But Athens' quest for self-sufficiency is only a consequence of its hedonism: the former is a means for the satisfaction of the latter. The root of Callicles' moral mistake is therefore to be found in the hedonistic bent of Athenian culture.

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<sup>139</sup> The 'challenge of affluence' is the topic of Offner 2006.

<sup>140</sup> 526a2-5.

<sup>141</sup> Solomon 1967, 194-195; Jordović 2009, 59 n. 24.

<sup>142</sup> Irwin 1979, 246.

<sup>143</sup> To repeat: one can desire omnipotence without being driven by hedonistic concerns; but in the case of men brought up in Athenian democracy, the desire for omnipotence stems from a desire for limitless appetitive enjoyment.

## 2) Why Athenian Freedom Tends to be Misused: The Hedonistic Political Culture of Athenian Democracy

Polus and Callicles defend their lust for power in terms associated with Athenian democracy: they long for the capacity to act as they please (466b4-c2, 467b5) and for freedom (492c5).<sup>144</sup> They also give Socrates and the reader ample reason to think that they would use that freedom to indulge their occurrent appetites without regard for the norms of civic justice. But the dialogue also shows that they are not alone in this. Athenian citizens at large have excessive appetites for reasons elucidated in the last twenty-five Stephanus pages of the text. To satisfy them, the Athenians need to escape the constraint (κόλασις) of the law: a life of unrestrained appetitive enjoyment (ἀκολασία) comes at that cost. Callicles associates ἀκολασία with freedom; the last part of the *Gorgias* gives us reasons to suspect that his fellow-citizens share this conception.

Appetites come under the scrutiny of Socrates in the course of his conversation with Callicles. Socrates' question whether Callicles admits the necessity of ruling one's appetites and the latter's denial serve to highlight his interlocutor's identification with all of them without distinction. This is a moral mistake, as it sets the individual on a false life course; it is also a political danger. Part of Socrates' preoccupation with tracing the origins of Callicles' hedonism, I suggest, comes from his belief that appetitive men have a greater tendency towards injustice and immoderation than other people.<sup>145</sup> The nature of the psychic drives that rule them, namely excessive appetites, is such that their satisfaction requires flouting the good of others in the greatest degree: the goods and life of others can be taken without scruples, as long as it procures appetitive satisfaction. Polus' obsession with killing and robbing, Callicles' total disregard for the flourishing of others testify to this. It is their hedonism that makes them want to misuse their freedom in such ways: in the terms of the *Republic*, men dominated by reason or spirit would have a less zero-sum conception of politics. If the same hedonism is present in the Athenians at large, the dialogue gives reason to suspect that their

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<sup>144</sup> The first slogan was often used in anti-democratic polemic (see Romilly 1975, ch. 2; Morawetz 2000; Jordović 2018; Filonik 2019).

<sup>145</sup> This is, of course, a major theme of *Republic* 8 (see Hellwig 1980). But it also features in the *Gorgias*. Appetites are compared to a leaky jar at 493a1-d3: their intrinsically limitless nature turns those who are dominated by them against all others.

understanding and practice of freedom is less honorable than the city's public discourse makes believe.

Socrates' pathogenetic enterprise is important in another respect: tracking the origins of Athenian hedonism is necessary to cure it. As Socrates thinks human beings should be primarily concerned with acting justly, he must ward off influences that dissuade them to do so. To thwart these influences, he must first discover them. After all, politics is a τέχνη and includes as such knowledge of the causes of political happenings (465a2-5). Socrates applies this program in the last section of the *Gorgias*. He advances four causes of the Athenians' excessive appetites: democracy, imperialism, popular entertainment and the corrupting effects of pseudo-educators (rhetoricians and sophists). The goal of the present section is to analyze each of these causes in turn, by retracing the mechanisms through which they act, and by looking for a possible order of priority among them.

#### a) Democracy as the Breeding Ground of Hedonism

The greatest harm for which Athenian democracy is responsible, according to Socrates, is that it prevents the psychological education of its citizens: instead of inciting politicians to educate the masses, it gives the former incentives to pander to the latter's appetitive preferences.<sup>146</sup> To understand why democracy does this, we must first get clear about the psychological make-up of its members.

For Socrates people are appetitive by default: the tale of the children and the pastry-chef tells us as much. The rhetorician, Socrates avers, is like a pastry-chef in front of a group of children: what he has to offer is much more appealing to them than the stern purgatives prescribed by his competitor, the doctor.<sup>147</sup> Crucially, Socrates gives no indication that he takes the rhetorician's superior ability to persuade to be peculiar to democracy: he rather assumes that men are by nature prone to hedonism, i.e. to identifying their own good with pleasure.<sup>148</sup> The special harm democracy is responsible for is that, by giving ultimate power to the people, it forces most politicians to adapt

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<sup>146</sup> On the Athenian context of this idea see Ober 2001.

<sup>147</sup> 464d3-e2.

<sup>148</sup> Moss 2007, 245, who also gives parallels in the *Protagoras*, the *Republic* and the *Laws* for the Platonic belief that hedonism is people's default moral position. See also Ar. *EN* 1109a16-18.

themselves to the people's appetitive outlook. Politicians are thus compelled to reinforce, and not to modify, the citizens' psychological make-up.

There are exceptions: Aristides as we have seen is excluded from Socrates' wide-ranging condemnation of Athenian fifth-century figures. Only those who, unlike him, seek personal gain above all are prone to flatter the people's tastes, in order to be granted the widest room for maneuver.<sup>149</sup> But this category includes men admired each by different sections of the Athenian citizenry: Themistocles and his rival Miltiades, Cimon and his rival Pericles.<sup>150</sup> This cross-party indictment comes close to a sweeping condemnation of the regime: since, like all men, political leaders are themselves hedonists by default, they look for the greatest power to satisfy their appetites; and the people provides it to them, as long as it receives what it craves for. Politicians thus have a strong incentive to pander to the people's desires. Instead of pruning these appetites, politicians reinforce them. Thus Pericles, by yielding to the people's desire for money in the form of public wages (μισθοί), made them even more greedy (φιλάργυροι) than they were before.<sup>151</sup> Socrates thinks he should have taken away the people's ἀκολασία; but Pericles preferred to make it more enduring and more exacting.<sup>152</sup>

In Athens, this process has taken a particular shape: to give the people more of what it craved, political leaders have embarked on an endless quest for more power abroad. The Athenian empire (ἀρχή) is a direct product of democracy.

## b) Empire: Democratic Flattery by Other Means

Answering Callicles' admiration for the great deeds (ἔργα) of the leading figures of fifth-century Athens, Socrates denies that they did any good to the people. They were their servants (διακόνους, 517b2-3), but not in the sense that they rendered them any real service: they only feasted them (518e2-3), just like the pastry-chefs whom Socrates contrasted to the doctors earlier on. Socrates is clear about the nature of this 'feast:' it amounted to the building of 'ships, walls,

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<sup>149</sup> 510<sup>e</sup>4-8. This includes Callicles.

<sup>150</sup> 503c1-d3. On the historical basis of these accusations see Jordović 2009; on Cimon in particular see Davidson 1998, 148-150.

<sup>151</sup> 515<sup>e</sup>2-7.

<sup>152</sup> 504<sup>e</sup>2-3.

dockyards, and the like.<sup>153</sup> These are nothing but the instruments of Athens' imperialism: ships and walls, although built by Themistocles as means of defense, were the source of Athens' safety and power in the years between the Persian and the Peloponnesian Wars; at the beginning of the latter, they formed the pivot of Pericles' strategy.<sup>154</sup> These implements appeal so much to the people's appetites that their construction is the exclusive domain of the rhetorician: as Gorgias reminds Socrates at the beginning of the conversation, it is Themistocles and Pericles, not the relevant craftsmen, who built the walls and the yards.<sup>155</sup> Rhetoricians, as the masters of flattery they are, are the best equipped to convince the people to undertake these works, meant to provide the people with goods aplenty to satisfy their appetites. This provides the best illustration of the democratic mechanism we looked at in the previous section: to comfort and widen their power, Themistocles and Pericles have secured for themselves an enduring popularity among the people by giving them, through the empire, new ways to satisfy their appetites.

This leaves the exact causal chain between empire and appetitive enjoyment rather obscure. One link is the empire's role in Athenian public finances. Socrates mentions tributes (φόρων, 519a3) as the product of empire. Although μισθοί could probably have been paid without contributions from subject cities, these certainly made public payments easier for the Athenian budget.<sup>156</sup> Historically, we also know that the Athenians appreciated their empire for the diversity and profusion of goods that flow into the Piraeus because of Athens' control of the Aegean.<sup>157</sup> Socrates' use of the feast a metaphor may be an allusion to this.

But an even more direct link is the empire's role in facilitating Athenian festivals. As Peter Wilson writes, 'fifth-century Athenian festival culture had been buoyed up on the wealth of the empire.'<sup>158</sup> Through musical and dramatic performances, the empire has reinforced the Athenians' hedonistic bent.

### c) Corrupting Spectacles

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<sup>153</sup> 517c2-4.

<sup>154</sup> Ps.-Xen. *Ath. Pol.* 2.14-16; see Jordović 2019, 44-46.

<sup>155</sup> 455d8-e3.

<sup>156</sup> Bleicken 1994, 337.

<sup>157</sup> Thu. 2.38.2; Ps.-Xen. *Ath. Pol.* 2.7.

<sup>158</sup> Wilson 2003, 12; see also 95.

When Socrates tries to hammer home the distinction between expertises that aim at the good of their object and flattering knacks that merely aim at pleasure, he takes artistic practices as his primary examples.<sup>159</sup> Flute-playing (501e1), cithara-playing (501e5), all performances involving a chorus, dithyrambs (501e8-9) and tragedy (502b1), are included in the second category. All these genres share the flattering bent of rhetoric: in fact, once deprived of melody and rhythm, they exhibit only lyrics, which are a form of rhetoric.<sup>160</sup> By putting them in the same category as rhetoric, Socrates implies that these artistic practices direct the three means at their disposal (lyrics, melody and rhythm) towards the pleasure of the audience. This is in line with Socrates' picture of democracy in the dialogue, and for a good reason: in Athens artists who performed at public festivals were judged by panels of citizens democratically appointed by lot to represent the whole citizenry.<sup>161</sup> Instead of using their art to elevate the souls of their audience, democratic artists perform what their hearers want to hear.<sup>162</sup> They thus contribute to infantilize the Athenians by depriving them of a political education. Nor are they alone in this; Athenian democracy turns out to be a hotbed for charlatans of knowledge.

#### d) Pseudo-teachers

At the dramatic date of the *Gorgias*, the Athenian intellectual scene is dominated by two fairly recent groups: rhetoricians, and sophists.<sup>163</sup> The first are the explicit object of the dialogue; the second make a more discreet but no less crucial appearance.

Socrates' main criticism of rhetoricians is that, by aiming merely at gratifying their audience, they refrain from even trying to persuade them of what, despite being *a priori* unpleasant, is actually beneficial. Given the appetitive nature of most people, reinforced by democratic institutions and culture, rhetoricians can only succeed by appealing to people's appetites. Calicles, for instance, is

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<sup>159</sup> I have been convinced by Hulme Kozey 2019 that aiming at the good is not necessary for something to qualify as a τέχνη, but that following a rational method is.

<sup>160</sup> 502c5-d8. Flute-playing (αὐλητική) was the main mode of accompaniment for what we call 'lyric' poetry (see LeVen 2014, 8-9).

<sup>161</sup> Ford 2002, 277-278; Wilson 2003, 98-102.

<sup>162</sup> 502b1-8.

<sup>163</sup> The birth of rhetoric at Athens is traditionally associated with Gorgias' 427 embassy (Cole 1991; Enos 1992); and the sophistic shock came with Protagoras in 450 (Morrison 1941). Sophists and rhetoricians are both linked and distinguished at 465c3-7 and 520a6-8; on their pairing in the dialogue see Gentzler 1995, 18.

bound to take his cue from the whims of a people he despises, like a frenzied lover.<sup>164</sup> Given the state of the rhetorical art, until a philosophical rhetoric is developed orators cannot succeed in persuading the people to follow the most beneficial course of action.

On top of this practical impossibility, it turns out that the overwhelming majority of rhetoricians simply do not want to speak the truth. They have at their disposal a powerful tool, are probably appetitive themselves, and use this ἐξουσία of theirs to commit a blatant injustice: to exploit the political stage for their exclusive benefit. Socrates makes this point via a rhetorical question:

What about the rhetoric directed to the Athenian people, and to the other peoples composed of free men? What will we take it to be? Do the rhetoricians seem to you to speak always with what is best in mind, aiming at making the citizens better through their own speeches? Or do they also approach the citizens with a view to gratifying them, disregarding the common interest in favor of their own (ἐνεκα τοῦ ἰδίου τοῦ αὐτῶν ὀλιγωροῦντες τοῦ κοινοῦ), dealing with them as with children, trying only to gratify them, not caring a fig about improving or corrupting the people through their words?<sup>165</sup>

Callicles' answer makes room for exceptions: there are some politicians who at least try to speak the truth. After all, Socrates himself recognizes that outstanding figures such as Aristides managed to stay cool-headed and just even in positions of power. But Socrates and Callicles agree that such individuals are rare.<sup>166</sup> As a result, the public forum is used to maintain the people in their infantile state, instead of educating them about their own good.

These shady dealings receive ideological support from new-fangled theories. Callicles' conception of law and politics is blunt: in democracies at least, the weaklings unite to dictate laws that serve them, at the cost of curtailing the freedom of the worthiest individuals. The law is thus seen as the contrivance of the many in their own interest and to the detriment of the best; for the latter, freedom can only be gotten by disobeying the law. For the strong men Callicles emulates, obeying such law would mean renouncing not only the satisfaction of their drives but also their very greatness, as it consists in being strong enough to satisfy their appetites without restraint. Thus, Callicles' heroes have every reason for wanting to escape the law's sanctions. Sanctions, physical or

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<sup>164</sup> 481c5-482a2.

<sup>165</sup> 502d10-503a1.

<sup>166</sup> 503b1-9.

social, are a form of discipline (κόλασις); escape from them is lack of discipline (ἀκολασία), which Callicles includes in his notion of freedom (ἐλευθερία).<sup>167</sup> We know that other contemporary intellectuals, Antiphon for instance, located freedom in the escape from the law.<sup>168</sup> Such theories could give a powerful intellectual warrant to the people's quest for ἀκολασία.

Conceptions such as Callicles' rule out that the appetitive men who endorse them would use their political eminence to educate the people. Given their psychological make-up, they have an interest in maximizing the satisfaction of their own appetites, and this by definition goes against the law made by the weak for the purpose of curtailing the capacities of the strong.<sup>169</sup> Strong men like Callicles' models thus have no interest at all in upholding the law when it threatens them with punishment.

This vacuum of political educators could be filled by philosophers, but democracy makes their task hard. Democracy's insistence on the paramount value of freedom makes society atomistic: as the champion of freedom of speech (ἐξουσία τοῦ λέγειν), Polus threatens to leave if he is not allowed to speak as long as he wants. Socrates draws the logical conclusion: if Polus gets his way, then Socrates can insist on his own freedom to go away (ἐξέσται μοι ἀπιέναι καὶ μὴ ἀκούειν σου, 461<sup>e</sup> 4-462a6) in return. Democracy thus undermines the very possibility of a philosophical exchange.

The way the Athenian regime is set up does suggest that there is a grain of truth to Callicles' political theory: the demos forces politicians to tell them what they want to hear; they manage to have them build an empire that serves them well (they think); they are regularly filled with the many pleasures of music and poetry.<sup>170</sup> Their appetitive nature is thus comforted. No one wakes them up from their hedonistic slumber: rhetoricians do not want to, and sophists deny that this is worthwhile. Philosophers meet with reluctance when they try to engage their audience's most deeply entrenched beliefs. The result is clear: neither the rhetoricians nor their audience are committed to benefitting their souls by acting justly. Far from that, they identify freedom with the escape from the sobering effects of just punishment.

Athenian culture thus explains why characters like Polus and Callicles would want to put freedom and power to anti-social uses. The three kinds of power we saw them strive for have

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<sup>167</sup> 492c4-6.

<sup>168</sup> Antiphon, DK 44 B, frg. A Col. 4; see Havelock 1957, 275.

<sup>169</sup> 483<sup>e</sup> 1-484c3.

<sup>170</sup> The idea that democracy was actually well-run, in so far as it gave the people what it wanted, was in the air around the dramatical date of the *Gorgias*: see Ps. Xen. *Ath. Pol.*, 1.1.



equivalents at the level of the city. Democratic freedom, material means, personal skills are available in large supply in Periclean Athens: they all reinforce people's naturally appetitive tendencies. It is thus no wonder that Polus and Callicles both desire the tyrant's power to satisfy his appetites. What distinguishes them from the people is only a matter of priority: rhetoricians or politicians like Gorgias, Polus and Callicles seem to devote much of their time and energy to obtain power, while the Athenians are focused on appetitive satisfaction itself. Both groups seem to be content with this hellish division of labor; they thus forego the greatest benefit that they could derive from politics: the improvement of their souls.

### III – What Athenian Democracy Does to the Soul

According to the *Gorgias*, democracy nurtures in its members two psychological drives: a lust for power parading as love of freedom, blatant in Gorgias, Polus and Callicles, and a pervasive hedonism noticeable in Callicles, but also in the citizenry at large. On account of both, Athenian politicians and citizens are vehemently averse to receiving a political education in Socrates' sense. They are stuck in immature states, be it childhood or adolescence; they are incapable of receiving the pruning, formative benefits of politics.

#### 1) Hedonism, Lust for Power, and Immaturity

In Socrates' account, both hedonism and the desire for tyrannical power conspire to maintain Athenian citizens and their leaders in states of immaturity.

Let us start with hedonism. As Socrates thinks it dominates the soul of his fellow-citizens, he repeatedly insists on the childishness in which they are stuck. Early in his conversation with Polus he compares them with children who fall for the tricks of a crafty cook, instead of listening to their doctor.<sup>171</sup> Nothing in the comparison suggests that only citizens of democratic regimes have this disposition; but democracy surely reinforces it. Democracy, Socrates thinks, makes its citizens fiercer in their hedonism than they could be, as Pericles' thirty-year-long leadership attests: 'he

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<sup>171</sup> 464d3-e2.

received them calmer (παραλαβών ήμερώτερα) and rendered them wilder (ἀγριώτερα) than he had received them.<sup>172</sup> By strengthening people's natural hedonism through the four channels we discussed, Athenian democracy has turned its citizens into spoilt children, reluctant to give up on the satisfaction of any of their appetites.

But lust for despotic power is also an impediment to political education. This is especially visible in Callicles. Unlike the Athenian demos, he is not depicted in the dialogue as a child, but as a restive young man. He blames Socrates for not practicing a rhetoric that would give him the means to 'say something probable, convincing, or to give a fresh (νεανικόν) advice on behalf of someone else.'<sup>173</sup> By using the adjective νεανικός, Callicles hints at the nature of his model, the young man (νεανίας). Callicles in the same breath accuses Socrates of acting like a child.<sup>174</sup> Because he sees himself as a young but grown-up man, and Socrates as a child, Callicles can pretend to educate his interlocutor.

The nature of Callicles' accusation against Socrates becomes clearer when compared to the passage's subtext, Euripides' *Antiope*. The contrast between the boy and the young man is strikingly absent from the play's ἀγών. In the play, Zethus (whose part Callicles takes up in the *Gorgias*, as Andrea Nightingale has shown) exhorts his brother Amphion to leave his 'woman-like' (γυναικομίμω) appearance and to act boldly like a man (νεανικόν).<sup>175</sup> Here, the adjective νεανικός is contrasted not with childish attitudes, as in the *Gorgias*, but with effeminate behavior, which gives it a more positive valence in the Greek context. For the meaning of νεανικός depends on what it is contrasted with: when used to oppose a male to a female character, it highlights activity and impetus, traits associated with men in Greek culture; when used as opposed to adjectives denoting childishness, it takes on a touch of fierceness. The term's axiological force is thus ambivalent.<sup>176</sup> Socrates chooses to activate the latter overtones: in his rendering, Callicles' ideal strong man is he who strikes and robs and banishes and kills whomever he wants, like a violent young man.<sup>177</sup>

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<sup>172</sup> 516b1-2.

<sup>173</sup> 486a1-2.

<sup>174</sup> 485<sup>e</sup>7-486a1.

<sup>175</sup> Frg. 185 N.

<sup>176</sup> As L. B. Carter puts it, νεανικός 'has a slightly ambiguous quality, denoting on the one hand youthful high spirits and vigor, the qualities which Zethus thinks Amphion lacks, and on the other a note of insolence, vehemence, and forcefulness, a quality not necessarily in accord with aristocratic σωφροσύνη, but necessary to survival in democratic debates' (Carter 1986, 165).

<sup>177</sup> 508c8-d3: εἰμι δὲ ἐπὶ τῷ βουλομένῳ ὥσπερ οἱ ἄτιμοι τοῦ ἐθέλοντος, ἄντε τύπτειν βούληται, τὸ νεανικόν δὴ τοῦτο τὸ τοῦ σοῦ λόγου, ἐπὶ κόρρης, ἔάντε χρήματα ἀφαιρῆσθαι, ἔάντε ἐκβάλλειν ἐκ τῆς πόλεως, ἔάντε, τὸ ἔσχατον, ἀποκτείναι.

Socrates goes on to show that the νεανίας cannot be taken as a model: in part because of his violence, he has not reached the maturity that would make him worthy of acting on the political stage. Callicles accuses Socrates of acting like a child; Socrates replies by casting Callicles in the role of the impish, immature youth.<sup>178</sup> Socrates' last words are directed to Callicles like a protreptic: taking up one of his favorite themes, he exhorts his interlocutor not to go into politics before practicing virtue for a sufficient time; doing otherwise would be 'acting like a hot-headed youth' (νεανιεύεσθαι, 527d6-7).

The Athenians are children, and Callicles is stuck in youth. The cause of this is to be found in their reluctance to submit to a political education. Hedonism and lust for power conspire in inciting them to avoid the sanction (κόλασις) of the justice system. The judge's function is precisely to check individuals' anti-social behavior and remove the injustice that drives it.<sup>179</sup> But orators try and, in most cases, manage to escape that sanction: like the tyrant, they forego a rare opportunity to be cured from their injustice, in order to enjoy the widest possible scope for action.<sup>180</sup> The paramount value they give to what they take to be freedom directly prevents them from growing up, morally speaking.

Not content with the harm they inflict on themselves, rhetoricians infect their audience with it. Their interest lies in getting the people to act as they desire; this implies not reforming the people's lack of discipline (ἀκολασία, 504<sup>e</sup>2), since the people would balk at any attempt from them to do so. Yet ἀκολασία means the unrestrained domination of appetites in the soul, and runs directly against individual excellence (ἀρέτη).<sup>181</sup> The people are thus maintained by orators in their state of childish lack of discipline.

## 2) Ἀκολασία as the Negation of Politics

Ἀκολασία, as we saw, is part of Callicles' conception of freedom. It amounts to the absence of any curtailment of the appetites, especially coming from the internalization of democratic

<sup>178</sup> A sign of Callicles' increasing aggressiveness is that he starts by comparing Socrates to a youth (νεανιεύεσθαι, 482c3) before assimilating him to a child. On the issue of childishness in the confrontation between Socrates and Callicles, see Nightingale 1995, 90. The issue of immaturity is also present in Socrates' exchange with Polus; see e.g. 463<sup>e</sup>1-2 and 470c4-8.

<sup>179</sup> 478a4-5; 527b7. On the judge's role in curtailing the freedom of those he punishes, see 470a5-6.

<sup>180</sup> 478<sup>e</sup>6-a3.

<sup>181</sup> 507a5-7.

ideology. By claiming that the law imposes slavery on those who submit to it (491<sup>e</sup>5-6. 483b2, 483<sup>e</sup>4-484a2, 491<sup>e</sup>5-6), by linking ἀκολασία to ἐλευθερία (492c4-6), Callicles channels the positive connotations of democratic freedom in favor of his personal ideal of lack of discipline. The political doctrines he endorses comfort him in this enterprise: by seeing law as the scheme of petty individuals, it justifies disobedience. If the audience of these doctrines is wide enough, they can generate in the Athenian citizenry a general disregard for law, thus deepening their moral immaturity.<sup>182</sup>

Polus desires to act as he wants, although he is forced to recognize that it is unjust, hence bad; Callicles denies this latter point and affirms his right to be free from the coercive power of law. Together, Polus and Callicles appropriate a slogan and a catchword of Athenian democracy ('acting as one likes; freedom) to cast a positive light on their anti-social behaviors.<sup>183</sup>

Socrates' response to their strategy is remarkable. He points up that their attitudes cannot appropriate the positive connotations of freedom, because these attitudes are not befitting of free persons. Rhetoric, being a flattering knack, shares with the other items of that category features that make it slavish, unworthy of free men: because it is crafty and deceiving (κακοῦργός τε καὶ ἀπατηλή), it resembles the practices of slaves. By association with such practices, it is vile and illiberal (ἀγεννῆς καὶ ἀνελεύθερος).<sup>184</sup>

Socrates is doing what C.S. Lewis has called 'the moralization of status-words:' throughout history, moral worth has often been attached to social statuses. But Socrates is not here giving the warrant of moral philosophy to social conventions.<sup>185</sup> Rather, he selects within the attitudes conventionally attached to statuses those to which he is able to give normative grounding.

First, Socrates is not (at least not without restrictions) endorsing the conventional social division between free people and slaves. He alludes in several places to the slaves' worthiness as an object of the political craft, which aims at teaching individuals virtue, the highest human good.<sup>186</sup> He gives no indication that he considers slaves to be unfit for virtue. Second, he clearly does not think

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<sup>182</sup> We have many indications that sophistic doctrines had a wide audience: see e.g. Thu. 3.38.7.

<sup>183</sup> On this point, see in general Jordović 2019.

<sup>184</sup> 465b3-4; see also 518a1-3: διὸ δὴ καὶ ταύτας μὲν δουλοπρεπεῖς τε καὶ διακονικὰς καὶ ἀνελευθέρους εἶναι περὶ σώματος πραγματεῖαν.

<sup>185</sup> This shows that his move is different from the strategy of the Athenian elite of his days, who tried to reserve the positive connotations of freedom for their own way of life (see Raaflaub 1983).

<sup>186</sup> 515d8; 515a7.

that people who possess freedom by the chance of birth have thereby acquired an intrinsic value that sets them apart from the rest: they rather have to prove their worth by acting justly.

In other words, Socrates moralizes status-words because he considers obsequiousness as intrinsically bad, honest interpersonal dealings as intrinsically valuable (after all, deception is a form of injustice and the opposite of frankness; and frankness is a condition of friendship, which is a good<sup>187</sup>); and since he sees the status of slavery as conducive to obsequiousness, and a free status as at least enabling frankness, he is able to hook moral values onto these statuses. Honesty is what makes freedom valuable; Polus and Callicles may enjoy freedom as a status, they may strive to amass means of acting as they please, but the fact that they would not make an honest use of those makes their quest worthless. Intent of maximizing freedom, conceived as a room for maneuver to act on one's whims, they renounce the only kind of freedom that is truly (because morally) valuable: the one that attaches to the virtues of frankness and honesty.

It is time to pull together the different threads of the dialogue. Socrates' three interlocutors display a fascination for power. As the dialogue progresses, it becomes clear that the power they strive for is the one that would enable them, even notionally, to satisfy their appetitive drives without bounds. In this way, they prove to be direct products of Periclean Athens: of its insistence on democratic liberty, of its imperialism, of its fascination for the skills imparted by rhetoricians and sophists; but also of the hedonism to the service of which it puts these different means. Periclean ideology covers up the procurement of these means under the name of freedom. It culminates in the glorification of self-sufficiency for hedonistic purposes, particularly apparent in Callicles, latent in Polus, and dimly felt in Gorgias.

In Pericles' Funeral Oration, self-sufficiency is obtained by the city as a whole, who then puts at the citizens' disposal the formal, material and technical means to satisfy their desires. Callicles, Polus and Gorgias pass over the level of the city and strive for individual self-sufficiency. They use democratic slogans ('acting as one pleases') and catchwords (ἐξουσία, ἐλευθερία) to disguise their quest for the power to dominate others, but the tyrannical underpinnings of their enterprises are not long to show through.

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<sup>187</sup> On frankness as a condition of friendship see 486<sup>e</sup>6-487<sup>e</sup>7; deception is opposed to it, as 487<sup>e</sup>5-6 and 499b9-c6 show. On friendship as a good, see 507<sup>e</sup>5-6, with the comments of Woolf 2000, 10-11.

These tyrannical desires are the product of democracy. The regime sets itself the task of providing its citizens with the means (formal, material, technical) to pursue their good pleasure, which it takes as its orientation.<sup>188</sup> It thus reinforces their hedonism, while alluring them with the prospect of unlimited capacities to satisfy it. Only the tyrant realizes this ideal fully.

The hedonism present in Socrates' interlocutors, and in the Athenians at large, makes them desire a kind of freedom that they would use to harm others and their own soul. The quest for pleasure being a zero-sum game, they end up dreaming of the liberty to obtain satisfaction at the cost of that of others.

This explains why they would reject any form of education to justice: this would curtail the freedom they cherish, and limit their appetitive satisfaction. The Athenians' psychological make-up, legitimized by sophistic doctrines, makes them see law as a direct obstacle to freedom and pleasure. It thus shatters the very foundations of social life.

Plato in the *Gorgias* does not rule out the possibility that democratic freedom could be less harmful. But since people are by default hedonists, a regime that gives them ultimate power will reflect and reinforce that bent. Politicians who have been 'educated' in such an environment will seek power, like any politician, and develop an attachment to it: but power will mean for them the capacity to satisfy the anti-social hedonism they take up from their surrounding culture. It will make them totally inimical to any form of political education.

Democratic freedom is dangerous, in the *Gorgias*, because it is a freedom given to pursue democratic, i.e. hedonistic desires. It both reinforces that hedonism and creates a lust for crypto-tyrannical power. Both are obstacles to political education. Democracy crowns its misdeed by disguising it under the noble name of freedom. In doing so, it is not entirely dishonest: democracy means power and freedom for the people; given that the people, for Socrates, are hedonists, democracy means freedom and power to pursue appetitive satisfactions. Polus and Callicles embrace this collective ideal, but at their own, individual level. Raaflaub thought the Athenians, 'thinking in their capacity as citizens,' abhorred the life of the tyrant, as inimical to collective freedom: Plato in the *Gorgias* shows how little an Athenian like Callicles thinks 'in his capacity as citizen.'

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<sup>188</sup> Thu. 2.38.1: καὶ μὴν καὶ τῶν πόνων πλείστας ἀναπαύλας τῇ γνώμῃ ἐπορισάμεθα, ἀγῶσι μὲν γε καὶ θυσίαις διετησίαις νομίζοντες, ἰδίαις δὲ κατασκευαῖς εὐπρεπέσιν, ὧν καθ' ἡμέραν ἢ τέρψις τὸ λυπηρὸν ἐκπλήσσει.

The two dialogues I analyze next take up the legacy of the *Gorgias*. The *Menexenus* looks at other uses of ἐλευθερία as a rhetorical sham. The *Republic* traces the Athenian love of freedom to its hedonistic basis; it explains why it is fundamentally an-archic; and it follows its transformation into a love for independence as good in itself, which dissolves the political community.

Funeral orations (ἐπιτάφιοι λόγοι) defined Athens. They were an Athenian specificity with democratic traits, being delivered in front of a public monument (δημόσιον σῆμα) that put the city's war dead on an equal footing.<sup>1</sup> This egalitarian setting made ἐπιτάφιοι λόγοι an appropriate occasion to define what was common to all those present, both living and dead: the city itself. Speakers were keen on stressing what set Athens apart from the rest of the world, especially from the groups against which the dead had fought, Greeks or non-Greeks.<sup>2</sup> By dwelling on the city's collective struggles in the defense of common values, the orators could make their fellow citizens forget the episodes of strife (στάσις) that had torn the city apart.<sup>3</sup> When they did mention civil war, they paradoxically used it to cement the city's cohesion: the moderation purportedly displayed by both oligarchs and democrats in 403, for instance, was put forward as a shining proof of Athenian virtue.<sup>4</sup> Past struggles and present ideals were thus mobilized for this 'exercise in collective self-definition,' the closest equivalent of which is for us Lincoln's Gettysburg Address.<sup>5</sup>

The argument of the present chapter is that Plato's *Menexenus* engages with two essential traits of funeral orations Athenian-style: first, their insistence on values that distinguish the city from all other political entities, thus crystallizing civic pride; second, their focus on formulas around which the whole citizenry can commune and, thereby, forget the bitter hatred always looming in the background of Athenian politics.<sup>6</sup> In the *Menexenus*, the one value that paradigmatically fulfils both of these roles is freedom (ἐλευθερία). In the speech Socrates reports, ἐλευθερία is made the hallmark of Athens, of its inner life as well as of its international interventions; it is also painted in colors that fit it to be endorsed by all political factions, aristocrats and democrats alike. Socrates'

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<sup>1</sup> Public burial of the dead existed in other Greek cities, including non-democratic ones, but with key differences with the Athenian practice: patronymics were preserved in Megara, while at Thespis athletic victories of elite citizens were inscribed on stone (Low 2003). The egalitarian traits that public burials present in other cities can reveal Athenian influence (*ibid.*, 108). The same goes for Thasos (Fournier and Hamon 2007). In any case, the delivery of a *speech* in front of the δημόσιον σῆμα is attested for no other city than Athens.

<sup>2</sup> For these two ways in which funeral orations defined Athens see Loraux's landmark study (1981a, esp. 1-14), and more recently Todd 2008, 150-151, and Debnar 2018.

<sup>3</sup> Loraux 1997, 23-24; Shear 2013, 533.

<sup>4</sup> Pownall 2004, 43-44.

<sup>5</sup> Salkever 1993, 133. On the influence of Athenian funeral orations on Lincoln and his entourage, see Wills 1992, esp. 19-62.

<sup>6</sup> On στάσις as an endemic phenomenon in Greek political culture, see Gehrke 1985, 328-339.



speech in the *Menexenus* shows how deftly epideictic rhetoric uses freedom to foster civic pride and civic unity.<sup>7</sup>

But this strategy comes at a cost. Beyond unmasking the roles ἐλευθερία plays in Socrates' sleights of hand, the present chapter studies the effect these tricks are bound to have on his democratic audience. It argues, first, that by listening to speeches such as Socrates', the Athenians come to attach their pride to freedom: the way ἐλευθερία is used to boost their patriotism makes them prone to maximize and export that value on every occasion, even at the service of unjust enterprises.<sup>8</sup> Because freedom is presented as the core of Athenian identity, any limit imposed on it is felt by the citizens as an unbearable wound. Second, I argue that the use of ἐλευθερία as a unifying slogan turns it into an all-purpose, consensual motto: in order for all Athenians to gather around ἐλευθερία, the term must have a content that is broad or indeterminate enough to include both democratic and aristocratic overtones. To fulfil that goal, epideictic orators must lend the aura of elite values to this core democratic motto; democratic freedom takes on the noble touches of aristocratic liberality.<sup>9</sup> From a Platonic perspective, the downside of this rhetorical strategy is twofold: by ennobling democratic ἐλευθερία, orators boost the demos' devotion to it; they also make its meaning obscure. Democrats come to believe that democratic freedom is a virtue, like aristocratic liberality. They are more likely to want to cultivate and maximize it: if it is truly a virtue, it cannot harm. The numbing of their critical faculties removes the last fence that could protect them against this wrong-headed persuasion: cool-headed reflection about the real value of ἐλευθερία.

To be clear: neither the two rhetorical strategies I analyze nor their effects on the audience are thematized, even described, by Socrates. But strong textual evidence suggests that ἐλευθερία in his speech does play the two roles I identify, and that these bring about, in the minds of the speech's internal readers, the psychological states I analyze.

The chapter fits in the arch of this dissertation by linking back to the *Gorgias* and looking forward to the *Republic*. The most obvious connection between *Menexenus* and *Gorgias* is their

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<sup>7</sup> My approach to the whole dialogue is therefore intertextual, in the vein of Nightingale 1995, 3-5 and Zelcer 2018. One point I want to be clear on is the literary tool I see Plato as using in the *Menexenus*. In the dialogue, Plato pushes the rhetorical tropes of funeral oration to a point where, while keeping some appeal, they appear as what they are, namely deceitful tricks. The *Menexenus* is, on that view, more a pastiche than a parody. I borrow the distinction from Petitjean 1984 (esp. 9: 'le pastiche fait du style qu'il imite un objet qu'il donne à voir,' by contrast to parody, which deforms the hypotext). Henderson 1975, 29 and Tsitsiridis 1998, 88-89 are reluctant to use the term 'parody,' but without explaining why, nor giving any alternative.

<sup>8</sup> I use 'pride' here to capture the feeling Socrates is filled with when hearing funeral orations, described at 235b3-c4.

<sup>9</sup> On these two meanings of ἐλευθερία in Athenian political debates see Raaflaub 1983.

common topic, rhetoric: interpreters have come to see, rightly to my mind, the former as a 'case-study' of the latter's propositions.<sup>10</sup> The *Menexenus* shows, with a concrete example, how rhetoric functions as a flattering knack. The dialogue reveals how epideictic rhetoric makes the Athenians proud of their inner and external freedom: how they come to believe that possessing, defending and expanding freedom guarantees their flourishing, even their blessedness. Freedom is thought to be a panacea, and to make otiose the political virtue Socrates claims to practice in the *Gorgias*. For our purposes, however, the two dialogues present an importance difference: the *Menexenus* centers its critique of rhetoric around the notion of civic pride, whereas the *Gorgias* focused on the orator's servitude to the people's appetites. True, the *Gorgias* showed, with Callicles especially, how freedom could be a matter of pride: Callicles thought it shameful to serve anyone and glorified the life of unlimited freedom from social constraints. But the roots of the democratic conception and love of freedom were firmly located in hedonism. The *Menexenus* complements that picture by showing how pride can, by itself and without reference to hedonism, fuel the Athenians' commitment to freedom. In the *Republic's* terms, the two causal processes this chapter identifies and studies combine to turn ἐλευθερία into an object of thumetic attachment. In the *Republic*, we will see how both appetitive and thumetic drives play out in the freedom-craze Socrates diagnoses in the democratic city.

An internal reading of the dialogue would be enough to lay bare the two rhetorical strategies I focus on here. But the chapter goes beyond such an internal reading, by taking a deliberately intertextual approach. It takes Athenian war rhetoric, especially of the kind practiced by Pericles, as a background necessary to understand Plato's 'point,' to use Skinnerian terminology. The text clearly invites us to do so, as it stands in the shadow of Pericles. Since they have equivalents in actual Athenian rhetoric, the two effects of Socrates' rhetoric I identify and study are probably not confined to the dialogue's internal readers: they affect real-life Athenian citizens.

The *Menexenus* strongly invites us to read it intertextually. The text opens with a conversation between Socrates and Menexenus, a young man interested in politics and eager to hone his rhetorical skills. On his friend's request, Socrates recites a speech he has just learnt from the woman who taught him rhetoric, Aspasia, Pericles' ill-famed life-partner. The importance given

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<sup>10</sup> See, in particular, Kerch 2008.

to Aspasia is one of the most fascinating aspects of Plato's dialogue.<sup>11</sup> As in the *Symposium*, Socrates claims here to be inspired by the wisdom of an alien woman, a fact that has led some interpreters to identify Aspasia and Diotima.<sup>12</sup> But the kinds of teaching Socrates derives from both women are crucially different.<sup>13</sup> Diotima leads a captivated Socrates, via a dialectical exchange, on a path towards the Good; Aspasia beats Socrates up into rote-memorizing the speech she composed in haste for the next burial ceremony.<sup>14</sup> Socrates is convinced by Diotima's teaching and spreads her good word; to Aspasia's speech he remains as aloof as to his first display of eloquence in the *Phaedrus*. Both speeches, after all, are delivered upon the insistent request of a young interlocutor.<sup>15</sup> We know that other Socratics, like Aeschines of Sphettus, did present Aspasia as Socrates' teacher: I read the *Menexenus* as part of Plato's critical engagement with this representation of his teacher.<sup>16</sup>

Socrates' distance towards Aspasia's rhetoric seems to come, for an essential part, from its tralatitious nature. A good deal of her text, Socrates reveals, stems from the funeral oration she had previously written for Pericles. Interpreters generally assume that Socrates refers here to the speech Pericles delivered in 430, the one Thucydides claims to report in the second book of his work.<sup>17</sup> We know from Plutarch (*Per.* 28.4), however, that the Athenian general delivered his first ἐπιτάφιος λόγος in 439, after his successful expedition against Samos. Nothing in the *Menexenus* rules out that Socrates has the 439 speech in mind.

The fact that Socrates ascribes to Aspasia 'the funeral oration Pericles delivered (τὸν ἐπιτάφιον λόγον ὃν Περικλῆς εἶπεν)' (235b5), with the definite article τὸν, can be interpreted in two ways: either it implies that Pericles, at the dialogue's purported dramatic date, had only pronounced one ἐπιτάφιος λόγος, which must then be the 439 one; or the definite article refers to the speech most closely associated with Pericles, his most famous one, delivered in the first year of Athens' engagement in the Peloponnesian War and one year before his own death. In any case, Socrates is clear that Aspasia's method relies on collage: the speech she made Socrates learn was partly improvised, partly 'glued together' (συγκολλῶσα, 236b6) from left-overs of the oration she composed

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<sup>11</sup> On the many issues involved by Aspasia's role in the *Menexenus*, see in particular Clavaud 1980, 83-106; Glenn 1997; Loraux 2001; Long 2003; Kerch 2008; Petre 2009; Zelcer 2018. On Aspasia, her reputation and her biographical tradition, see Henry 1995.

<sup>12</sup> D'Angour 2019.

<sup>13</sup> I agree here with David Sansone's 2019 BMCR review of D'Angour's work.

<sup>14</sup> 236a8-c1.

<sup>15</sup> *Symp.* 212b1-4; *Menex.* 236c11-d3; *Phaedr.* 242b7-d6.

<sup>16</sup> Loraux 2001; Paşcalău 2013.

<sup>17</sup> See for instance Monoson 1998.

for Pericles. Improvisation and rehash: Aspasia is presented as basking in common places and repetitions. The speech Socrates reports in the *Menexenus* must be quite close to Pericles' 430 funeral oration, if both are the products of the same method.

If this is right, then Pericles is, in the *Menexenus*, downgraded to the rank of rhetorical puppet. Given the scathing indictment he suffers in the *Gorgias*, this should not surprise us. In the *Gorgias* he is depicted, as any Athenian statesman, as saying what the people want to hear; in the *Menexenus*, as repeating Aspasia's notes. These prompts themselves, as the whole dialogue indicates, are meant to flatter, even to seduce, the audience. The picture that emerges is that of a Pericles learning from Aspasia the art of seduction. An intriguing passage of Xenophon's *Memorabilia* actually describes Pericles as the supreme seducer: he uses incantations (ἐπωδαί) and drugs (φίλτρα) – other names for rhetorical praise (ἔπαινοι) – in order to make the city love (φιλεῖν) him.<sup>18</sup> In the *Menexenus*, too, rhetoric is compared to magic.<sup>19</sup> Yet erotic magic was seen in Athens as the special domain of prostitutes and courtesans.<sup>20</sup> Xenophon's Socrates, for instance, mentions ἐπωδαί and φίλτρα as the courtesans' weapons.<sup>21</sup> In the *Menexenus* itself, Socrates (repeating Aspasia's words) associates the capacity for praise (ἔπαινοι) with the ability to be a good matchmaker: the funeral oration the dialogue reports aims, in part, at wooing rhetorical themes for others to compose odes (ὠδαί) glorifying Athens.<sup>22</sup> Nothing suggests that these perceptions were particular to Xenophon and Plato: they seem to have pervaded Athenian discourse. This implies that the connection between Pericles' capacity for seduction and Aspasia's teaching was commonly made. The *Menexenus* continues the *Gorgias*' attack against Athens' leading democratic statesman.

By presenting Aspasia's text as the rehash of hackneyed themes, the *Menexenus* underlines one further effect of her rhetoric: its tendency to create an enduring orthodoxy, based on the image of a self-same Athens.<sup>23</sup> The dialogue's lack of a clear dramatic date confirms that it intends to highlight this defining trait of Athenian ἐπιτάφιοι λόγοι.<sup>24</sup> Socrates and Aspasia are alive, which implies that the conversation with Menexenus happens before 399; since Athens is still at war, it must even predate 404. The events remembered by Socrates, however, extend up to the King's Peace,

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<sup>18</sup> Xen. *Mem.* 2.6.8-13.

<sup>19</sup> *Menex.* 235a2.

<sup>20</sup> Dickie 2000.

<sup>21</sup> 3.11.16. I owe this point to Petre 2009.

<sup>22</sup> 239c4-6.

<sup>23</sup> Monoson 1998, 505.

<sup>24</sup> On the construction of an eternal Athens in funeral orations see Loraux

in 386. This gross inconsistency is meant, I argue, to point up the intemporality of Athenian funeral rhetoric. The city has always been the same, Socrates claims: this is because the Athenians are autochthonous and have never changed. The continuity of their lineage explains their political stability; Aspasia's speech thereby *naturalizes* the Athenian πολιτεία.<sup>25</sup> Instead of appearing as the contingent result of an eventful history, the Athenians' commitment to ἐλευθερία, both at home and abroad, is made an essential part of their nature. This contributes both to the inscription of freedom at the core of Athenian self-identity, and to its transformation into an aristocratic value based on lineage. Ultimately, it harms the Athenians by hindering their reflective and distanced engagement with the real value of ἐλευθερία.<sup>26</sup>

I thus propose to read Plato's *Menexenus* intertextually. Given that the text stands in the shadow of Pericles, I take the statesman's rhetoric and the best evidence of it we have, Thucydides' rendering of it, as the proper background against which the dialogue's point can best be seen. Of course, my case would be stronger if I could demonstrate that Plato had read Thucydides, both his version of Pericles' speech and his eulogy for the late statesman. The question of Plato's knowledge of Thucydides is a notoriously vexed one, but some kind of consensus has been reached by interpreters. This view, to which I subscribe, is that it is heuristically fruitful to read the *Menexenus* with Thucydides in mind.<sup>27</sup> This strategy is all the more convincing, of course, the more reasons we have to believe Plato had read Thucydides' work; or, at least, that he knew Pericles' 430 speech from another source. But reasons for thinking that he did know Thucydides' work have accumulated over the last century. Max Pohlenz did the most to track parallels between Plato's and Thucydides' works; some of them are close enough to shift the burden of proof onto those who reject the relationship.<sup>28</sup> Even those who refuse to pass definitive judgment, like Gomme and Rutherford, admit the likelihood of Plato's having read Thucydides.<sup>29</sup> Recently, Fulcran Teisserenc has adduced more

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<sup>25</sup> Autochthony: 237b2-c3. Political continuity: 238c6-d1.

<sup>26</sup> Farrar 2013, 35 argues that Plato, in opposition to Thucydides, rejects 'historical context as the framework for interpretive continuity.' I agree with Farrar that, for Plato, 'the good for man is not relative to any particular context' (ibid.). But the fact that his normative theory is context-independent does not mean that he is blind to genealogy.

<sup>27</sup> See in particular Kahn 1963; Yunis 1996, 138-139; Long 2003; Zolzer 2018.

<sup>28</sup> Pohlenz 1913, 249-252: his three master cards are παράδειγμα (Thu. 2.37.1 and Rep. 561<sup>e</sup>6), εὐτραπέλιος τε καὶ χαριεντισμοῦ ἐμπίμπλονται (Rep. 563b1-2) vs. εὐτραπέλως καὶ μετὰ χαρίτων (Thu. 2.41.1), and σωφροσύνην δὲ ἀνανδρίαν καλοῦντες (Rep. 560d4) vs. σῶφρον τοῦ ἀνδρὸς πρόσχημα (Thu. 3.82.4), a parallel also spotted by Barker 1960, 290 n. 2 (first edition 1917). These parallels failed to convince Schwartz 1919, 152 n. 1: I agree that the meaning of παράδειγμα changes between Thucydides and the *Republic*, but Pohlenz offers a reasoning to explain it, which Schwartz does not acknowledge. Hence I agree with Luschnat 1971, 1281 in thinking that Pohlenz's arguments await refutation.

<sup>29</sup> Gomme 1962, 128; Rutherford 1995, 66-67.

parallels between Plato's and Thucydides' works, while Franco Trivigno has spotted close verbal echoes between Pericles' Funeral Oration and the *Menexenus*.<sup>30</sup> I myself find it hard to believe that an author whom Xenophon assumed all readers of his *Hellenika* would know so well that he could follow up directly on his work, without so much as mentioning him, could have been wholly unknown to Plato, who was a fellow Socratic and, very probably, an attentive reader of Xenophon.<sup>31</sup> Isocrates too, with whom Plato was in constant conversation, seems to have known his Thucydides well.<sup>32</sup> We should also bear in mind that Dionysus of Halicarnassus took it for granted that Plato had the Thucydidean speech in mind.<sup>33</sup>

Even if Plato did not know Thucydides, however, he could still know Pericles' 430 speech from another source. Paula Debnar has argued, convincingly I think, that catchwords, images and phrases Thucydides puts into Pericles' mouth probably featured in the statesman's original speech, as they come up in other passages of Attic literature in association with Pericles.<sup>34</sup> If Pericles' speech was transmitted orally, Plato may well have heard it, in part or in its entirety.<sup>35</sup> The strategy of reading the *Menexenus* intertextually is not confined to a comparison with Thucydides' text: intertextuality also encompasses literary engagement with non-written discourse, as Nigel Nicholson has recently insisted.<sup>36</sup> But Thucydides' text, if it faces up to the historian's promise of reporting the words that 'it would have been most appropriate [for the speakers] to pronounce' (τὰ δέοντα μάλιστα εἰπεῖν), is a helpful guide to get a sense of Pericles' war rhetoric.<sup>37</sup>

It is now time to deliver on the promises I have made so far: to show how the *Menexenus* lays bare the rhetorical processes by which ἐλευθερία is located at the core of Athenian identity, and turned into a vague notion combining democratic with aristocratic traits. In doing so, I will make

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<sup>30</sup> Teisserenc 2014, 110; Trivigno 2009, 34 (on the use of 'Peloponnesians') and 37 (on Plato's and Pericles' Thucydides' agreement on the doxastic nature of Athenian elections).

<sup>31</sup> On Plato's knowledge of Xenophon, see Danzig 2003. The *Hellenika* were probably published late in Xenophon's career, possibly after his death; but the first two books were composed much closer to the events (see on this point David Thomas' introduction to Strassler 2010, xxxiv). I thank Michael Flower for written conversation on this point.

<sup>32</sup> Luschnat 1971, 1276-1280; Hornblower 1995, 52.

<sup>33</sup> *Dem.* 23:54-56.

<sup>34</sup> Debnar 2018, 20 n. 7.

<sup>35</sup> Todd 2008, 154. See also Hornblower 2010, 333, nn. 27 and 28.

<sup>36</sup> Nicholson 2013, 9-12.

<sup>37</sup> In interpreting Thu. 1.22.1, I accept Loraux 2011's word of caution: Thucydides builds a 'monument,' especially to Pericles, and cannot be taken as a 'document.' I have been convinced, however, by Porciani 2007 and Schütrumpf 2011, that what Thucydides claims for his speeches his objective likelihood.

constant reference to the dialogue's intertext, and draw conclusions about the effect Socrates' freedom-rhetoric has on the Athenian audience, both internal and external to the dialogue.

## I – Freedom as Athens' Trademark

One of the purposes of Athenian funeral orations was to give their audience a vivid image of the city's greatness. This involved comparing it favorably to other political entities: as Isocrates noted, there is no better way to praise a city than to contrast it positively to others.<sup>38</sup> Double enunciation was the rule in Athenian funeral orations, as the praise they lavished on the city was directed both to its citizens and to foreigners.

Thucydides informs us that funeral orations were delivered to an audience that included foreigners.<sup>39</sup> This inclusiveness was not disinterested, of course. It enabled Athens, a city always tempted by hegemonic ambitions, to be praised in front of the Greek world. 'Under the democratic mask of openness, one can easily see the desire to impress foreigners, allies and friends, real or potential opponents.'<sup>40</sup> Like the dramatic stage, the δημόσιον σῆμα was an important vehicle for Athens' outward propaganda.<sup>41</sup>

But funeral orations also served to convince the Athenians themselves that they deserved to rule over other Greeks.<sup>42</sup> To do so, the speaker had to magnify the city to the utmost: for the audience, the effect must have been exhilarating. This is at least the state in which funeral orations put Socrates, as he tells us at the beginning of the *Menexenus*: 'foreigners always follow me and hear the speech with me; in front of them, I immediately become more solemn (ἐγὼ σεμνότερος ἐν τῷ παραχρήμα γίγνομαι).'<sup>43</sup> The adjective σεμνός is deliberately ambiguous, as commentators have noted.<sup>44</sup> Its range of meaning goes from the usually positive 'majestic, august' to the downright

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<sup>38</sup> *Panath.* 39-40.

<sup>39</sup> *Thu.* 2.34.4: ξυνεκφέρει δὲ ὁ βουλόμενος καὶ ἀστῶν καὶ ξένων.

<sup>40</sup> Loraux 1981, 80. All translations from Loraux are my own.

<sup>41</sup> A sense of the Athenians' concern with their international reputation can be gathered from Cleon's legal attack on Aristophanes, for having mocked the empire in his *Babylonians* (Bauman 1990, 53).

<sup>42</sup> Debnar 2018, 3.

<sup>43</sup> 235b3-5. All translations from the Greek are mine.

<sup>44</sup> De Vries 1945; Loraux 1981, 324-326; Long 2003, 53; Helmer 2016, 23. Pericles was known for his σεμνότης (*Plut. Per.* 5.4; chapter 5 opens up with Plutarch's description of Pericles' rhetorical poses): on this point, and its connection to Aspasia, see Loraux 2001, 38.

negative ‘pompous.’ Whatever the exact meaning Socrates here gives to the term, it shows that strong feelings of pride filled the Athenians when listening to a funeral oration.

In accordance with Isocrates’ principle, nothing could better produce that effect on the Athenians than a comparison with other leading Greek powers. The ideal candidate for this role was Sparta: it was against the foil of the Dorian city, with its monarchic, aristocratic and oligarchic traits, that the peculiar nature of the Athenian regime could most vividly appear.<sup>45</sup> In the speech he delivers to Menexenus, Socrates shows his awareness of this rhetorical strategy. Behind the contrast he establishes between Athens and Greek cities in general, traces of the traditional rivalry with Sparta make themselves felt.

The first part of Socrates’ oration follows the genre’s traditional pattern, by dealing in turn with the Athenians’ lineage, birth, and education.<sup>46</sup> These features, he says, explain the specificity of Athens’ πολιτεία. In part because of their equal advance in the crafts taught them by the gods, but primarily because of their equal birth, the Athenians have set up a regime that is unique in the Greek world. Some call it a democracy, others an aristocracy; what matters is that it foregoes the political servitude that mars other cities:

For the other cities are made of men of all origins, unequal, so that their regimes (πολιτεῖαι) are also unequal: tyrannies, or oligarchies. Some dwelling there consider others as their slaves; some see the rest of the city as their masters; but we and our kin, being all born as brothers, we do not accept to be slaves nor masters of each other, but our equal birth in the realm of nature (ισογονία ἢ κατὰ φύσιν) forces us to seek equality in the realm of law (ισονομίαν κατὰ νόμον), and to yield to each other because of nothing else but our judgment about virtue and wisdom (ἀρετῆς δόξῃ καὶ φρονήσεως).<sup>47</sup>

The passage is dense, and it is not certain that its logic is perfectly rigorous, as we shall see. What is important for now is to stress its claim to Athenian exceptionalism. Slightly earlier, Socrates has evoked the common place of Athenian autochthony: the Athenians are the only people who have not come from elsewhere to populate the land they are now occupying.<sup>48</sup> They are born from the

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<sup>45</sup> Loraux 1981a, 95; Debnar 2018. On exceptionalism in Pericles’ Funeral Oration, see Stauffer and Collins 1999, 96.

<sup>46</sup> On this pattern see Blass 1887, 439; Pohlenz 1913, 270-271; Kennedy 1963, 157-158; Pernot 2015, 35.

<sup>47</sup> 238<sup>e</sup>-239a5.

<sup>48</sup> 237b2-c3.



Attic soil, and this common origin is supposed to endow them with roughly equal abilities.<sup>49</sup> All other cities are composed of people of mixed origins, with one group being naturally superior to the other and monopolizing power on that basis: the case of Sparta, with its division between Equals (ὄμοιοι), Messenian *perioikoi* and Helots immediately springs to mind.<sup>50</sup> In contrast to Spartan inequality, the Athenians refuse to consider each other as masters or slaves. There are no relationships of domination in the city: its citizens are all free. The next passage dwells on this exceptional situation:

Hence [i.e. because of political liberty, itself based on equal nature], being brought up in absolute freedom (ἐν πάσῃ ἐλευθερίᾳ τεθραμμένοι), the fathers of these men and ours, and these men themselves, nobly born, showed forth many noble deeds to all men, both in private and in public, thinking that they ought to fight against Greeks for the freedom of the Greeks, and against Barbarians for all Greeks.<sup>51</sup>

Because the Athenians are the only Greeks to be naturally equal, they are unique in living in a state of complete political freedom. This specificity of theirs puts them in the best position to export freedom abroad; it even gives them the responsibility to do so: they must fight against Greeks and Barbarians alike, to prevent the enslavement of any Greek population.<sup>52</sup>

This apparently logical sequence should give us pause. What is the exact relationship between Athens' interior freedom and its commitment to the external liberty of the Greeks?<sup>53</sup> Conceptually, there is no necessary connection between the two: many democratic countries stand aloof from international engagement, in ancient Greece as nowadays. But the *Menexenus* suggests three routes that the transition might take in Athens' case.

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<sup>49</sup> As Loraux 1981b, 120 saw, Athenian democracy is here made to derive from equality of birth; but it may well be that the Athenian stress on autochthony was a product, rather than a cause, of democracy.

<sup>50</sup> Tsitsiridis 1998, 233. In Plato's days it was generally believed that *perioikoi* and Helots were 'the descendants of the once free Messenians' (Luraghi 2008, 66 for *perioikoi*, and 137 for Helots and the quotation). In the *Laws*, 777c1-7, Plato himself connects helotry with Messenian ethnicity.

<sup>51</sup> 239a5-b3.

<sup>52</sup> This claim dates back to the aftermath of the Persian Wars at least, when the democratic nature of the Athenian regime was seen as the cause of its military successes (Hdt. 5.78 makes this point about post-Cleisthenian Athens in general; see further Raaflaub 2004, 59-60, and Loraux 1981a, 72-73).

<sup>53</sup> Pohlenz 1913, 274 asks the question without suggesting answers.

There is, first, the idea that the Athenians are best suited to spread freedom outwards because freedom has become their second nature. The language of τροφή (ἐν πάσῃ ἐλευθερίᾳ τεθραμμένοι) suggests a notion of accretion: what is absorbed by τροφή becomes part of one's nature.<sup>54</sup> Second, the Athenians' upbringing in a culture of ἐλευθερία has endowed them with the valor conventionally attached to a liberal (ἐλεύθερος, ἐλευθέριος) education in the Greek context.<sup>55</sup> The Athenians thus have the ethical resources to fight for freedom. Third, ἐλευθερία has become a matter of pride for the Athenians: because they have grown into a natural sensitivity to freedom and have acquired the valor necessary to fight for it, they would hurt their self-respect if they recoiled from defending it whenever and wherever they could. Their attachment to freedom compels them to spread it without fail.<sup>56</sup> Similar statements, significantly, can be found in other Athenian funeral orations.<sup>57</sup>

This form of interior compulsion comes out clearly from Socrates' account of Athens' international engagements. This part of the speech amounts to 'a portrait of Athens as a philanthropic city that fights for the freedom of the Greeks against barbarian aggression.'<sup>58</sup> The record of Athenian military effort in favor of freedom is eloquent: it starts with Argos, threatened by a Theban invasion during mythical times (239b5), and culminates in the defense of the entire Greek world in the course of the Persian Wars (239d1-241e5). The treatment of the Persian Wars is particularly remarkable: the Spartans are first mentioned for their late arrival at Marathon (240c7-8); Salamis and Artemisium are singly ascribed to Athens (241a1-c3); Plataea is said to be the joint victory of Athens and Sparta, but in a way that gives the impression that the battle was Sparta's first involvement in the war, and that no other Greek city took part in it (241c4-6).<sup>59</sup> The section ends with the Athenians finally driving the Persians off the Aegean at Eurymedon, four score years before the dialogue's dramatic date (241d1-e5). The defense of freedom is indeed presented as an Athenian specificity.

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<sup>54</sup> On τροφή in the *Menexenus*, and in Plato in general, see Helmer 2018; on the meaning of τροφή in Greek see the classic article of Demont 1978.

<sup>55</sup> Loraux 1981a, 199 n. 125; Millender 2002; Debnaar 2018, 13.

<sup>56</sup> Pohlenz 1913, 289. For a similar argument, basing the Greeks' fight for external freedom on their inner political liberty, see Xen. *Anab.* 3.2.13.

<sup>57</sup> See in particular Lys. 2.33 and 2.41.

<sup>58</sup> Trivigno 2009, 38; see also Henderson 1975, 30, and Todd 2008, 154-155, on the similarities between Lysias and Plato on this point.

<sup>59</sup> See Tsitsiridis 1998 *ad loc.*

In Socrates' narrative of these purported wars of liberation, the Persians are repeatedly associated with servitude: δουλεία and cognates are used five times to describe their intentions and actions. The Athenians, by contrast, are praised for being 'the fathers of freedom for all Greeks living on the continent.'<sup>60</sup> The image is noteworthy, as it makes the current generation's unflinching dedication to freedom a matter of filial piety. As Socrates puts it in the last section of his speech, the Athenians of 386 should never 'desert their ancestors' station.'<sup>61</sup> They would prove to be the degenerate sons of illustrious fathers should they fail to surpass those who begat them.<sup>62</sup> Fifth-century Athenians were for the Greeks 'the defenders of freedom' (τῆς ἐλευθερίας ἐπικούρους, 244c7-d1): their fourth-century descendants cannot take pride in their fathers' glorious deeds if they do not emulate them, since 'for a man who takes himself to be something, there is nothing more shameful than to lend himself to be praised not because of what he does, but because of the reputation of his ancestors' (247b3-4). An Athenian thus loses his pride, even his identity, if he misses an occasion to defend or export freedom. This is his task, while the Spartans after 404, like the Persians before them, have chosen a diametrically opposed one (σφέτερον ἔργον, 244d1): the enslavement of the Greeks. By contrast, the Athenians' ἔργον is to defend and spread freedom unflinchingly; only so can they be true to their fathers' glory.

The idea that inherited glory is no reason for boasting seems to be one Socrates and Plato could have themselves endorsed: this part of the speech could therefore be seen as a true paraenesis, not a pastiche. Does that mean the Athenian fight for freedom abroad is also endorsed by Plato? I think not: the Athenian commitment to freedom is soon depicted as blind and hypocritical. The use of ἐλευθερία in Socrates' subsequent narrative reveals the hollow nature of the slogan, employed to justify all kinds of enterprises, even the most unjust. It is in the name of freedom, says Socrates, that Athens intervened in Beotia in 457 (242a6-c2): but under the pretense of fighting for the liberty of the Beotians, Athens seems to forget what drove her then, her concern for her own safety and hegemony.<sup>63</sup> The hollowness of the catchword appears even more blatantly in a later episode. The Sicilian expedition is said to have been undertaken 'for the freedom of the Leontinians' (243a2). In

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<sup>60</sup> 240d7-e3. Cf. Rosenstock 1994, 335 on this passage: 'throughout the Persian Wars what motivated the Athenians was their dedication to liberty.' The 'continent' here is mainland Greece: later on (245b5) it will designate Asia, thus casting the Spartan betrayal of Ionian Greeks as the cancellation of Athens' effort during the Persian Wars.

<sup>61</sup> 246b4-5. Desertion was legally actionable in Athens; on this point see Christ 2006, 119 with further bibliography.

<sup>62</sup> 247a2-4. The same logic appears in Thucydides' version of the speech, 2.36.3, as Stauffer and Collins 1999, 96 point out.

<sup>63</sup> Clavaud 1980, 132-133.

this case again ‘the highest of motives is ascribed to Athens; no hint here of Athens’ imperialistic designs.’<sup>64</sup> The former liberator is here obviously bent on subjecting other Greek cities; but the use of ἐλευθερία as a slogan embroiders this nasty reality.<sup>65</sup>

Even if Socrates does not admit it, these hegemonic enterprises came to an end with the disaster of 404. Disgusted by the envy that fueled the Greeks’ support of Sparta in the Peloponnesian War, Athens decided to renounce foreign interventions forever: the Greeks were left free to enslave each other (244c5). Soon, however, the Athenians realized that in maintaining this attitude they abjured their very identity: because they ‘have too much pity and care for the weaker party’ (244e3-4), they could not help but ‘help the Greeks and free them from slavery’ (βοηθήσασα ἀπελύσατο δουλείας). The Athenians intervened once again in the Greeks’ affairs, making them ‘free until they enslaved themselves again’ (ἐλευθέρους εἶναι μέχρι οὗ πάλιν αὐτοὶ αὐτοὺς κατεδουλώσαντο, 245a3-4). As Max Pohlenz noted, Plato is here diagnosing a particular pathology of freedom, which the German scholar aptly called ‘Eleutheritis:’ the Athenian simply cannot help but defend freedom, even contrary to all reasonable expectation.<sup>66</sup> The Athenians swore never to play the champions of Greek freedom again; but as soon as they had made this pledge, they acted against their best judgment and succumbed to their pathological love of freedom (244e4-5).

This irrational love of the Athenians’ is more directed towards freedom as a catchword than towards any corresponding reality: this comes out sufficiently clearly in the insincere narrative of the Boeotian and Sicilian expeditions. The power of the catchword is hammered home by the last part of Socrates’ historical review, which deals with Athens’ surprising military engagement on behalf of the freedom of the Persians.

The theme of Athens’ paradoxical closeness to Persia is introduced at the very beginning of the oration’s historical section. In morphing from liberators to enslavers, the Athenians have had a model in the Persian kings. Cyrus started by liberating the Persians, but it was not long before he ‘enslaved them to his own pretension.’<sup>67</sup> His successors pursued his imperialistic project by subjecting Asia, Egypt, and Europe to their rule (239d4-240c5). The trajectory of Athens’ troops since 480 is the exact reverse of the Persians’ successive campaigns: after defeating the Persian army and

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<sup>64</sup> Henderson 1975, 41.

<sup>65</sup> On the use of freedom in imperialistic propaganda, especially in the fourth-century, see Raaflaub 2004, 168-172.

<sup>66</sup> Pohlenz 1913, 289: ‘zu stark war [Athen’s] Mitleid mit den Schwachen, zu tief saß ihr die Eleutheritis im Blute: sie mußte wieder befreien, und wenn die Hülfesuchenden auch die hellenischen Todfeinde waren.’

<sup>67</sup> 239d7-e1.

fleet in their own country, the Athenians moved to Asia (Eurymedon, 241d8-e1), then to Cyprus and Egypt (248e1-5). The Athenians came closer to the Persians, in all senses of the word: geographically of course, but also by taking after their imperialism.<sup>68</sup>

The confusion of Socrates' account reaches its highest peak when the slogan of freedom is used to justify Athens' siding with Persia against Sparta during the Corinthian War (395-387). Athens' naval victories are praised for having 'liberated the Great King and driven the Spartans off the sea' (βασιλέα ἐλευθερώσαντες καὶ ἐκβαλοντες ἐκ τῆς θαλάττης Λακεδαιμονίου, 246a2-3). The Spartans take the place of the Persians as the targets of Athens' naval campaigns; and the Great King is judged worthy of that liberty which Socrates earlier reserved to the Greeks only (239b1-2). This is not the least of the contradictions that jar in Socrates' speech: he had previously condemned all the occasions in which Greeks were sacrificed to Persian interests. In particular, he had blamed Athens' allies in the Corinthian War for being ready to give up Ionian Greeks to the King during the peace negotiations of Sardis in 392 (245c2-d2). In Socrates' account, only Athens' ingrained 'free character' (τὸ ἐλεύθερον) had prevented such misprision, as the Athenian liberal character includes a 'natural hatred of the Barbarians' (245d1). Naturally, Socrates deftly glosses over the conclusion of the War, the peace of Antalcidas, on the terms of which Athens agreed to deliver up the Ionian Greeks to the King.<sup>69</sup>

At the end of this survey, we can see how the *Menexenus* vindicates Kurt Raaflaub's claim about the place of ἐλευθερία in classical Greek propaganda: since the time of the Peloponnesian War, 'the concept of freedom was freely usable in every way one wished.'<sup>70</sup> The rhetorical freedom with which Socrates handles the slogan is surely excessive: in a perfectly un-Socratic vein, he covers up unjust imperialistic enterprises with the positive overtones of ἐλευθερία, a value that makes Athenians proud. Pride appears in the dialogue as the trap through which hearers of epideictic speeches fall into self-oblivion: forgetting where they really stand (οὐ γῆς εἰμι, says Socrates at 235c4 - a striking expression to indict imperialism), Athenians come to believe that the qualities that are

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<sup>68</sup> This point has been noted by commentators, who do not mention, however, the parallelism between the routes taken by the Persian and the Athenian armies. See in particular Coventry 1989, 9 (Cyrus' career shows that 'freedom for some may mean slavery for others, and Athens has already, at 239b1-3, been proclaimed the champion of liberty'); Trivigno 2009, 38 (on the eloquent silence Socrates keeps on the Athenian empire: 'to acknowledge that Athens was an empire would confound the Persian War model, by casting the heroic liberators as enslavers'); Helmer 2016, 33 ('Athènes occupe donc désormais vis-à-vis des Perses — et peut-être des autres Grecs — la place qui était auparavant celle des Perses. Sa politique est une politique de la peur, comme celle de son ennemi auquel elle ressemble fort.').

<sup>69</sup> Isocrates (4.175) gives evidence that some Athenians thought the Persian King vouched for the freedom of the Greeks.

<sup>70</sup> Raaflaub 2004, 181.

praised, which they possess as members of the people being lauded, qualify them for the utmost degree of virtue and, hence, of blessedness.<sup>71</sup> Socrates says as much when he describes the effect funeral orations have on him: they make him believe he has become 'greater, nobler and more beautiful' (235b2), to the point that he dwells on the Islands of the Blessed (235c5), the place of repose promised to Eleusinian initiates in Athenian religion, and to the virtuous in Plato's *Gorgias*.<sup>72</sup>

This is the effect such speeches have on their hearers. But what impact do they have on the notion of freedom itself? It is hardly left unscathed. Under the pen of the orators Socrates is mimicking, freedom becomes both a reference and a mantra. It functions as a reference by being constantly appealed to: as the cause of Athenian greatness, a praiseworthy virtue in itself (239a5-b3), and a political goal that legitimizes all sorts of enterprises (242a6-c2, 243a2, 246a2-3). By hearing freedom mentioned so reverently and evoked as an ultimate value, the Athenian hearers are invited to adopt it as an unquestionable ideal. They do not even have to do so consciously: the nagging repetition of the word is intended to lodge it deep in their souls, as a mantra. Socrates tells Menexenus how, after hearing a funeral oration, he feels that 'the speech keeps ringing, the sound creeping from the speaker into [his] ears' (235c1-2).<sup>73</sup> In this booming noise, Socrates surely hears echoes of ἐλευθερία, which (with its cognates) comes up twelve times in his own speech.<sup>74</sup> Socrates compares the effect of such speeches with magical incantation: yet we know that repetition was one of the main tropes used by Greek magic chants.<sup>75</sup>

In Socrates' speech, the concept of freedom becomes a reference, while the word itself turns into a mantra. Both impress themselves deep in the audience's mind. This effect is multiplied by the word's capacity to take on and absorb positive overtones coming from the most various quarters.

## II – An Ambiguous Motto to Foster Unity

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<sup>71</sup> Martano 1980, 1427-1431.

<sup>72</sup> See on this point Rosenstock 1994, 342 and *Grg.* 523b1 and 526c5. Carter 1991, 223 links this aspect of the funeral oration with the immortality promised by rituals.

<sup>73</sup> For a general discussion of this passage, see Tulli 2011 (298 for the role of repetition in creating the trance Socrates recalls). The verb βουβέω occurs at *Crito* 54d4, in a way that indicates Socrates' distance vis-à-vis the speech of the Laws (I follow here Harte 1999, 118-119).

<sup>74</sup> Δουλεία and the words of its family come up nine times.

<sup>75</sup> See Romilly 1975, 16-17.

## 1) Ἐλευθερία, Democratic and Aristocratic

Socrates presents ἔλευθερία as Athens' hallmark throughout the *Menexenus*. The repetition of the word gives hearers a sense of distinction, even of superiority, over other Greeks; this is supposed to make them proud. But this rhetorical strategy leaves the exact meaning of the word unclear. What sense of ἔλευθερία makes its ascription to the Athenian national character so flattering? I argue that Socrates deliberately trades here on an ambiguity: the meaning of ἔλευθερία in his speech wavers between two poles: an aristocratic sense ('liberality') and a democratic one ('freedom of participation for all'). By avoiding to make the word's meaning more precise, Socrates fulfils one of the crucial purposes of funeral orations: to unite a divided citizenry around vague but consensual slogans.<sup>76</sup>

The unity of the city is one of the principal concerns of funeral orations. Nicole Loraux has shown how both the setting and the content of such speeches aimed at 'cancelling all determinations, individual or familial, economic and social, which could keep dividing the Athenians even in the grave.'<sup>77</sup> The main rift that needed to be mended was the one that ran between mass and elite, i.e. between their different understandings of Athens, of its past and its mission. The very genre of funeral oration tried to bridge this gap, as it adapted aristocratic forms of mourning to honor all dead, elite and non-elite alike. By fusing aristocratic culture and democratic principles, funeral orations aimed at creating the image of 'an aristocratic democracy,' in which all sections of the citizenry could commune.<sup>78</sup>

Socrates' speech strives for the same effect, and ἔλευθερία is pivotal in his strategy to bring it about. The passage in which ἔλευθερία plays such a crucial role has already been quoted above, but it bears repeating. After dwelling on the hackneyed themes of autochthony and natural equality, Socrates draws the political conclusions of this peculiar origin of the Athenian people:

We and our kin, being all born as brothers, we hold each other to be neither masters nor slaves (οὐκ ἀξιοῦμεν δοῦλοι οὐδὲ δεσπότες ἀλλήλων εἶναι), but our equal birth in the realm of nature forces us to seek equality in the realm of law (ἰσονομίαν

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<sup>76</sup> On the consensual nature of epideictic rhetoric in general, see Perelman and Olbrechts-Tyteca 1969, 48.

<sup>77</sup> Loraux 1981a, 23.

<sup>78</sup> Ibid., 11. Care 2016, 143 notes that Pericles calls the Athenians ἄνδρες ἄριστοι at 2.46.1. See also Carter 1991, 224: like rituals, the purpose of epideictic rhetoric is 'to address the mystery, the contraries of life, by helping tis participants discover harmony therein, an awareness of both oppositions and unity that logic cannot offer.'

κατὰ νόμον), and to yield to each other because of nothing else but our judgment about virtue and wisdom (ἀρετῆς δόξη καὶ φρονήσεως). Hence, being brought up in absolute freedom (ἐν πάσῃ ἐλευθερίᾳ τεθραμμένοι), the fathers of these men and ours, and these men themselves, nobly born (καλῶς φύντες), showed forth many noble deeds to all men, both in private and in public, thinking that they ought to fight against Greeks for the freedom of the Greeks (ὑπὲρ τῆς ἐλευθερίας ὑπὲρ Ἑλλήνων), and against Barbarians for all Greeks.<sup>79</sup>

This passage admirably fulfils the funeral oration's unifying purpose. Democrats are welcome to read their own politics into it: *ἰσονομία* invokes a crucial democratic principle, the citizens' equality in their power to frame norms;<sup>80</sup> elections are said to free the people from servitude, while acknowledging the need for political authority;<sup>81</sup> the stress on absolute freedom taps into a by then common trope of democratic propaganda.<sup>82</sup> No Athenian is a slave, the passage seems to say, because none receives orders from someone he has not had the ability to appoint:

We still have kings: but whereas they used to owe their position to birth, they are now elected. The multitude is in control of most of the city's affairs; they entrust offices and power to those who seem best to them on each occasion.

βασιλῆς μὲν γὰρ αἰεὶ ἡμῖν εἰσιν: οὗτοι δὲ τοτὲ μὲν ἐκ γένους, τοτὲ δὲ αἰρετοί: ἐγκρατές δὲ τῆς πόλεως τὰ πολλὰ τὸ πλῆθος, τὰς δὲ ἀρχὰς δίδωσι καὶ κράτος τοῖς αἰεὶ δόξασιν ἀρίστοις εἶναι.<sup>83</sup>

The political power to administer the city and appoint office-holders, equally distributed among the citizens, is the prime reference of the 'complete freedom' (πάσα ἐλευθερία) Socrates describes as characteristically Athenian. But other democratic overtones can be glimpsed. Elsewhere in Plato's corpus, *πάσα ἐλευθερία* denotes a state of absolute freedom which includes the private realm.<sup>84</sup> When Pericles in his own funeral oration describes the Athenians as governing themselves 'freely'

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<sup>79</sup> 239a1-239b3.

<sup>80</sup> On *ἰσονομία* as the equal division of the power to frame laws see Vlastos 1953 and Ostwald 1969, 96ff.

<sup>81</sup> On elections as an expression of the people's freedom, especially in fourth-century debates, see Lane 2016. Shorey 1910 showed that the mention of 'appointed kings' at 238d2-3 referred to elected office-holders in general.

<sup>82</sup> Raaflaub 2004, 187-190.

<sup>83</sup> 238d2-5.

<sup>84</sup> *Rep.* 562d9, 563c9-10, 572d10-e1; *Laws* 699<sup>e</sup>3. See on this point Henderson 1975, 34. Friedländer 1964, 224 insightfully notes: 'in the *Laws* (III 698A *et seq.*) it is said expressly, as if to contradict the popular thesis of the *Menexenus*, that it was not complete freedom from any kind of authority which brought victory to the Athenians. On the contrary, reverence ruled and the people were servants of the laws. This produced 'friendship' within and power without. Only later were the people introduced to 'complete freedom,' to the detriment of the state as a whole.'



(ἐλευθερώς), he includes their mutual toleration regarding each other's private conduct.<sup>85</sup> Socrates' utterance allows a democratic hearer to extend the meaning of *πάσα ἐλευθερία* to this aspect too. After all, *πάσα ἐλευθερία* primarily means *absolute* freedom.

But the slogan equally lends itself to an aristocratic interpretation. Elite circles had, by the time of the Peloponnesian War, put forward a conception of freedom that offered an alternative to the democratic understanding of the term.<sup>86</sup> Aristocratic *ἐλευθερία* was presented as the sum of those traits that were characteristic of free people: it included the enjoyment of leisure, the good education it allowed, and all the features diametrically opposed to the slave's moral traits, conventionally seen as base. Plato was well acquainted with this meaning of the word, as many passages of his corpus attest.<sup>87</sup> In the *Menexenus* itself, Socrates closely associates *ἐλευθερία* with nobility: he ascribes Athens' rejection of the King's peace at Sardis in 392 to 'the city's noble and free character' (τό γε τῆς πόλεως γενναῖον καὶ ἐλεύθερον, 245c6-7).

This meaning of *ἐλευθερία* can certainly be read into our passage. Interpreted this way, the text would make perfect sense: because no one in Athens is forced by political institutions to adopt a fawning attitude, the regime allows the citizens to cultivate the virtues of character that befit free people, first among which are courage and generosity.<sup>88</sup> This would explain well the Athenians' commitment to defend their fellow Greeks against each other and the Barbarian.

Thus, Socrates' deft use of *ἐλευθερία* in this crucial passage perfectly fulfils the ideological function of the funeral oration. As Loraux puts it, 'if the most general property of an ideological discourse is to *dissimulate* [her italics] a society's internal divisions, without any doubt the funeral oration truly functions towards Athenian citizens as an ideology.'<sup>89</sup> Nothing better dissimulates these tensions than an ambiguous slogan. Interpreters have long noted the funeral orations' reliance on 'stock topics' or 'formulaic' phrases, a tendency accentuated in the *Menexenus*.<sup>90</sup> Yet as ideology-theorist Michael Freeden argues, 'ideologies frequently adopt deliberately indeterminate statements, often because a political decision is to be avoided for whatever reason, or because a

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<sup>85</sup> Thu. 2.37.2.

<sup>86</sup> Raaflaub 1983.

<sup>87</sup> *Prot.* 312a7-b4, *Grg.* 485c3-d1, *Phaed.* 115a1, *Soph.* 253c6-9, and esp. *Theaet.* 175d7-e3: ὁ μὲν τῷ ὄντι ἐν ἐλευθερίᾳ τε καὶ σχολῇ τετραμμένον, ὃν δὴ φιλόσοφον καλεῖς, ᾧ ἀνεμέσητον εὐθύθει δοκεῖν καὶ οὐδενὶ εἶναι ὅταν εἰς δουρικὰ ἐμπέση διακονήματα.

<sup>88</sup> This is, after all, a tenet of neo-Republican theory: see Pettit 1997, 268, and Skinner 1998, 95-96.

<sup>89</sup> Loraux 1981a, 335-336.

<sup>90</sup> Coventry 1989, 7; Trivigno 2009, 33.

message is designed to appeal to a pluralist body of consumers.<sup>91</sup> Socrates' use of *ἐλευθερία* in our passage illustrates the latter case particularly well.

A synoptic view of the dialogue confirms this interpretation. At its inception, Socrates stresses the variety of tropes epideictic orators use to achieve their goal: they 'praise the city in every possible way' (τὴν πόλιν ἐγκωμιάζοντες κατὰ πάντας τρόπους, 235a3-4). As Loraux noted, the *ἐπιτάφιος λόγος* bases itself on an aristocratic aretology, communicating to the living and dead the aura of the elite warrior. No wonder Socrates feels 'greater, more noble and beautiful' (*μείζων καὶ γενναίωτερος καὶ καλλίων*, 235b2) upon hearing this kind of praise.<sup>92</sup> He has, after all, good reasons to grow into 'a markedly noble mood' (*γενναίως πάνυ διατίθεμαι*, 235a7): funeral orations such as his are definitely bent on ennobling the Athenians. In what is perhaps the *Menexenus*' most famous passage, Socrates maintains ambiguity on the denomination of the Athenian regime: 'some call it a democracy, others whatever it pleases them to call it, but it is in truth an aristocracy with the people's approval' (*μετ' εὐδοξίας πλήθους ἀριστοκρατία*, 238d1-3). As Lucinda Coventry remarks, with this formula 'Plato gives a particularly striking illustration of a tendency to praise the existing constitution on all possible grounds, however uneasily these may sit together.'<sup>93</sup>

Charles Kahn argued that the phrase proved that the author of the speech '[had] chosen just those features of the Athenian constitution which point, or can be twisted a bit in order to point, in the direction of Plato's own political aspirations.'<sup>94</sup> Kahn was intent on demonstrating the absence of any parodic intention in the *Menexenus*, but Socrates' qualification of the regime is more characteristic of a pastiche. As Gregory Vlastos pointed out, Socrates never explains how the opinion (or approval, *εὐδοξία*) of the Athenian crowd, so vilified in the *Gorgias*, could reliably put the best people in command.<sup>95</sup> The absence of any explanation should not surprise us, however: Socrates has no interest in rigorous political theory here. He stands to lose too much by dispelling ambiguity. His convenient formula, deftly synthesizing the nature of the Athenian regime, enables him to win over all sections of his audience.

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<sup>91</sup> Freeden 1996, 77.

<sup>92</sup> Note the aristocratic connotations of these adjectives.

<sup>93</sup> Coventry 1989, 11. See also p. 9: 'credit is being claimed for Athens not only where it is not due, but on grounds which are at least very different, if not inconsistent. The praise of Athens reflects admiration both for virtues such as justice and generosity, and for power.'

<sup>94</sup> Kahn 1963, 226.

<sup>95</sup> Vlastos 1973, 200-201. It is not before the *Laws* that Plato comes to the view that 'even bad people are relatively good at judging virtue in others' (Reid 2021, 15).

Brian Marrin has recently offered a compelling reading of the clause, stressing the way in which it uses two contradictory conceptions of equality. On the one hand, Socrates claims that all Athenians, being born equal, have equal abilities and equal status: from that point of view, their *ισονομία* amounts to arithmetic equality. On the other, the holding of elections enables the best to be appointed leaders of the community: this avowal that citizens are endowed with distinct capacities goes in the direction of geometric equality. This ‘inconsistent presentation (...) is intended to rhetorically present an image of the Athenian *politeia* that would appeal to both democratic and oligarchic factions, providing a paradigm of reconciliation for the still divided city.’ Thus, Socrates ‘reconciles the quarreling elements within the city by presenting a vision of Athens more beautiful than the reality while remaining close enough to reality that it is not implausible or resented.’<sup>96</sup> But as we saw, equality is not the only value that is made to sit between democratic and aristocratic conceptions: liberty receives exactly the same treatment.

This uneasy marriage of aristocratic and democratic political values is strengthened by a peculiar appeal to the past: according to Socrates, the nature of the Athenian regime has never changed, remaining ‘an aristocracy’ all along (238c6-d1).<sup>97</sup> Solon, Pisistratus, Cleisthenes vs. Isagoras, Ephialtes vs. the Areopagus, Pericles vs. Thucydides, the Thirty vs. the Piraeus, to name just a few: all the bitter, often bloody conflicts that have punctuated Athens’ political history are forgotten to build ‘an image of unity,’ ‘a manifestation of concord.’<sup>98</sup> Comparing Socrates’ speech to other funeral orations, Frances Pownall concludes that all of them fabricate ‘sanitized versions of the past presented (...) as a means of promoting democratic ideology,’ thus realizing their intention ‘not to strike a discordant note with their audience and risk losing its good will.’<sup>99</sup>

## 2) The Athenian Context of Ambiguity over *ἐλευθερία*

Neither strictly democratic nor whole-heartedly aristocratic, Socrates’ vague notion of freedom perfectly fulfils his consensual purpose. He obviously masters the craft of double-entendre;

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<sup>96</sup> Marrin 2018, 92 and 109.

<sup>97</sup> See Loraux, 1981a, 3 on the funeral oration’s picture of an Athens ‘beyond time.’ Cf. also Rosenstock 1994, 338: ‘the Funeral Oration focuses on the interlocking bonds which tie together past, present, and future generations into a single community. As Debnar 2018, 7-8 notes, Thucydides (1.18.1) thought Sparta’s regime had not changed for four hundred years: Socrates’ refusal to acknowledge any change in the Athenian constitution may be a retort to such conceptions.

<sup>98</sup> Loraux 1981a, 142.

<sup>99</sup> Pownall 2004, 48 and 38 resp.

he had, after all, a quite good teacher in it. Aspasia taught him the speech he recites, just as she was behind Pericles' past rhetorical successes. The same ambiguity that underpins the use of ἐλευθερία in Socrates' speech can be found in Pericles' own Funeral Oration, judging from the version Thucydides transmitted to us.

Throughout his speech, Pericles endeavors to lend aristocratic credentials to the (by then) well-established democratic regime he praises. By appropriating the Spartan virtues of obedience and military courage in favor of the Athenian demos, Pericles nullifies the disparaging critiques levelled against democracy by the Laconizers, as Paula Debnar convincingly argues.<sup>100</sup> These Athenian admirers of Sparta mostly hailed from aristocratic circles, and Pericles' speech is intent on defeating them on their own field. Nicole Loraux stressed how consistently Pericles attributes to the whole Athenian people the natural virtues claimed by aristocrats as their privilege.<sup>101</sup> Neither Debnar nor Loraux, however, highlights Pericles' use of the language of freedom, though it perfectly illustrates their theses.

When Pericles praises the Athenian regime for its freedom, the language he uses is most ambiguous:

It is freely (ἐλευθέρως) that we manage common matters, and that we refrain from prying into each other's daily activities, without bearing ill will to our neighbor, if he acts on his good pleasure, nor inflicting grievances that, though not harmful, still are painful when they are perceived.<sup>102</sup>

This passage has perplexed commentators for centuries, and their struggle to pin down the exact meaning of ἐλευθέρως is a tribute to Pericles' command of amphibology. Some, like Gomme, see in the phrase a denial that democracy in Athens leads to tyranny of the majority: good mores ensure that freedom also extends to the individual's private choices.<sup>103</sup> Others, such as Hornblower, interpret Pericles as saying that 'the Athenians behave in an open and generous way,' like well-bred aristocrats.<sup>104</sup> Edmond Lévy's lexical study of ἐλευθερία explains why the term can be interpreted in

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<sup>100</sup> Debnar 2018. On Athenian laconophilia, see Ollier 1933.

<sup>101</sup> Loraux 1981a, 153. At 180, Loraux adds about the *Menexenus*: 'Platon entend au contraire y révéler l'inanité des prétentions aristocratiques d'un régime qui, tout au plus, est pour lui un fâcheux mixte.'

<sup>102</sup> Thu. 2.37.2.

<sup>103</sup> Gomme 1956, 111. Connor 1984, 68 concurs, by reading Pericles as 'develo[ping] an image of a society that sustains individual freedom.' See also Ober 2000, 34.

<sup>104</sup> Hornblower 1991, 301.

such various ways: especially in Thucydides' work, ἐλευθερία is a most pliable term, in sharp contrast to αὐτονομία, which is a quasi-legal notion.<sup>105</sup> The adverb ἐλευθέρως in Pericles' speech reveals the rhetorical potency of words of that family: democrats can read into it their aspiration, to rid the political community of tyranny and enjoy private freedom; elite members of the audience will be sensitive to Pericles' praise of liberality.<sup>106</sup> Pericles maintains a fine ambiguity: 'entende qui voudra,' as Loraux put it.<sup>107</sup>

I argue that Socrates' praise of 'complete freedom' (πᾶσα ἐλευθερία) in the *Menexenus* trades on the same ambiguity. Like Pericles, Socrates stitches aristocratic linings onto a democratic value. He puts an aristocratic claim (liberal education makes one virtuous) at the service of a democratic ideal (the maximization of political and personal freedom). He thus endears the very notion of 'complete freedom' to his democratic audience, covering it up under an appearance of aristocratic valor. He thus emulates a historically attested democratic strategy and lays it bare: as Kurt Raaflaub has shown, democratic politicians in the course of the fifth century gradually appropriated the aristocratic conception of freedom; this went hand-in-hand with a naturalization of the Athenian conception of ἐλευθερία.<sup>108</sup> Both processes are highlighted in Socrates' speech.

### 3) Plato on the Harms of Rhetorical Ambiguity

Pericles' use of freedom in the Funeral Oration is masterfully ambiguous. Plato in the *Menexenus*, I argue, is supremely aware of this, as his own display of amphibology testifies. Yet for Plato, the ambiguity of rhetorical speech is one of its major dangers. As Stephen Salkever argues, the *Menexenus* as a whole is concerned with 'the ever-present possibility of linguistic ambiguity.'<sup>109</sup> Set speeches are just like the writings criticized at the end of the *Phaedrus*: they do not provide their

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<sup>105</sup> Lévy 1983.

<sup>106</sup> Raaflaub 2004, 229, commenting on this passage: 'democracy is freedom because it is the form of government appropriate for a freeman and because the democratic citizen *is* a free man and behaves accordingly in both his private and his political capacity.'

<sup>107</sup> Loraux 1981a, 185-190. Loraux applies these formulas to Pericles' combining the aristocratic principle of election to the democratic one of equal participation, but they fit no less Pericles' masterful use of ἐλευθερία; on this point see also Marrin 2018, 97. Perelman and Olbrechts-Tyteca 1969, 52- stress that epideictic rhetoric aims not at challenging the audience's values, only at 'increas[ing] the intensity of adherence' to them.

<sup>108</sup> For an analysis of the tendency of democratic politicians to appropriate the aristocratic conception of freedom, see Raaflaub 2004, 246.

<sup>109</sup> Salkever 1993, 135.

audience with the means to pin down the meaning of the words they use.<sup>110</sup> Only dialectical conversation can clarify the meaning of words, as Socrates insists in his conversation with Gorgias in the eponymous dialogue.<sup>111</sup> In other dialogues, Socrates puts this idea into practice, addressing dead writers directly, as if to call them back from the underworld in order to converse with them. Simonides in *Republic* 1, Tyrtaeus in *Laws* 1, are thus asked to clarify the meaning of some lines of theirs, adduced by Socrates' interlocutors as pieces of political wisdom.<sup>112</sup> Of course, they cannot answer themselves: it is Polemarchus who replies in the name of Simonides, and in the *Laws* the Athenian Stranger puts words into Tyrtaeus' mouth. Dead words, by themselves, cannot answer their audience's questions as to their exact meaning; in that respect, rhetoric and poetry are on a par.<sup>113</sup> Rhetorical and poetical texts always lend themselves to multiple, if not infinite, interpretations.

As Andrea Nightingale argues, one of the aims of Plato's political theory is precisely 'to minimize, if not eliminate, multiple interpretations.'<sup>114</sup> Interpretation, in the *Cratylus*, is presented as a deceptive activity, which takes after its patron-god, Hermes.<sup>115</sup> Interpretation aims at ascertaining what an author has in mind: his *διανοία*, as the *Ion* puts it; yet only knowledge of the subject matter reliably enables an interpreter to fulfil that task.<sup>116</sup> The audience of Socrates' and Pericles' funeral orations surely lack, in Plato's eyes, the knowledge required to get clear on the meaning of the words they hear. They read into them what they already believe: instead of being challenged, their opinions receive reinforcement; instead of progressing towards knowledge, they wallow in *δόξα*. Freedom thus cements an uneasy truce between Athenian factions, at the cost of dampening the citizens' minds.<sup>117</sup>

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<sup>110</sup> *Phdr.* 275c5-d2. Duffy 1983, 87 suggests that epideictic oratory, being the most written of all rhetorical genres, falls within the ambit of Plato's critique of writing. After all, the *Phaedrus* deals mostly with this genre.

<sup>111</sup> *Grg.* 453c1-4. The Platonic contrast between writing and dialectic is most clearly worked out by Lane 2013 (see esp. 944).

<sup>112</sup> *Rep.* 332c6-8; *Laws* 629b7-d5.

<sup>113</sup> *Phdr.* 275d4-9. On the equation of poetic lyrics and rhetoric, cf. *Grg.* 502c5-d8.

<sup>114</sup> Nightingale 2013, 255. This is also, I take it, part of the argument of Derrida 1972.

<sup>115</sup> *Crat.* 407<sup>e</sup>3-408a5. On Hermes as a figure of communicative ambiguity, see in general Kahn 1978.

<sup>116</sup> *Ion* 530b5-c6 and 538b5-6. On this point, and its role in Plato's rejection of hermeneutics, see Most 1986.

<sup>117</sup> Rhetorical ambiguity was a real political danger in Athens. Caire 2016, 273-275, notes that the Thirty traded on the ambiguous notion of 'ancestral constitution' to establish their autocracy. If Plato was aware of this, the *Menexenus* might serve as a caution to fourth-century democrats: by practicing an ambiguous form of political discourse, they open the door to oligarchic uses of the same strategy.

The *Menexenus* shows the specific harm of rhetorical ambiguity in the case of freedom. By making it the core of Athenian identity, the essential part of the citizens' nature, Socrates obfuscates the contingent path by which freedom has become a political value for them; the specific experiences (fight against the Persians, against tyranny, against aristocratic domination) that taught them the worth of ἐλευθερία. By remaining ambivalent about its meaning (aristocratic or democratic?), Socrates makes his audience believe that political or personal freedom, as democracy understands it, is as much a virtue as aristocratic liberality. These two effects muddy the Athenians' conception of freedom, and makes them prey to the manipulations of ill-willed politicians. The *Republic* will show, with a concrete model, how harmful this kind of manipulation can be.

The ambiguity surrounding ἐλευθερία is bad enough if it is a consistent result of political eloquence. It gets even worse if writers touching on civic rhetoric, or public affairs in general, contribute to it. Thucydides is certainly in this case. In his obituary of Pericles, the historian uses the exact same adverb Pericles himself employed to describe Athenian political culture:

Basing his power on his authority, his judgment and his manifest incorruptibility, he restrained the multitude freely (ἐλευθέρως), and was not more led by them than he led them himself, on account of the fact that he never said anything to please them, as he did not try to acquire means from forbidden sources, but was able, on the basis of his reputation, to speak up to them, even to provoke their anger.<sup>118</sup>

This convoluted period is 'one of the most controversial sentences in Thucydides' work:' as Ivan Jordović suggests, 'the historian intentionally formulated [it] ambiguously so as to draw attention to the paradoxical relation between the rhetor and the people,' which he sees as a relation of mutual control.<sup>119</sup> On Jordović's interpretation, Thucydides is praising Pericles for a rare achievement: by not fawning on the people, the Athenian statesman was both free and liberal, acting as a free man should. But the people he led were free too, and treated accordingly: unlike slaves, they were not checked by blunt orders or blows, but by words they could accept or reject. Echoes of Gorgias' compatibility thesis make themselves heard here: according to Thucydides, Pericles and the

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<sup>118</sup> Thu. 2.65.8.

<sup>119</sup> Jordović 2019, 31-32, with further bibliography.

Athenians were at the same time politically free and acting in ways that befitted their free status. They partook of both democratic freedom and aristocratic liberality.

Plato of course thought otherwise: as the *Gorgias* shows, political orators in a democracy regime are necessarily submissive to the sovereign people.<sup>120</sup> Since Pericles was such an orator, he was not free; nor could he act liberally: like any rhetorician, he was compelled to ply an ‘illiberal’ (ἀνελεύθερος), fawning craft.<sup>121</sup> Pericles was free neither in the basic, legal sense that was the basis of democracy’s claim to be a regime of liberty (he was practically enslaved); nor in the aristocratic one (he did not act in a way that befitted a person of free status).<sup>122</sup> As to the people, they were the victims of the statesman’s ambition: by establishing public wages (μισθοφορία), he turned them into ‘cowards, babblers and misers’ (δειλοὺς καὶ λάλους καὶ φιλαργύρους, *Grg.* 515e5-7); his rhetoric only made things worse, thus proving its deeply illiberal nature.<sup>123</sup> The beautiful picture painted by Thucydides with the brush of ἐλευθερία, adorning the statesman and the people with the colors of democratic freedom and aristocratic liberality, is a mere trompe-l’oeil.<sup>124</sup>

Thus, I argue that Plato’s *Menexenus*, by highlighting the crucial role of ambiguity in epideictic rhetoric and ἐλευθερία’s place in that strategy, addresses the deliberate lack of clarity that prevents Athenian public discourse from progressing towards truth. Ambiguity mars both epideictic rhetoric and historiography; the *Menexenus* is thus part of Plato’s critical engagement with these two fields.<sup>125</sup>

Stepping back from these philological questions, we should now draw conclusions about Socrates’ ambiguous use of ἐλευθερία in the *Menexenus*. As at the end of this chapter’s first part, we must ask what effect his rhetorical trick has on the Athenians’ relationship to freedom. The answer is simple: just as Thucydides’ Pericles adorns democratic freedom with the noble traits of aristocratic liberality, Socrates induces the democrats in his audience into believing that the freedom they cherish is not only a political (democratic) value, but also a form of (aristocratic) virtue. Dyed in these refined colors, democracy’s cloak is made more alluring than ever. Ἐλευθερία was already a

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<sup>120</sup> *Grg.* 481c5-482a2. For a reading of the *Gorgias* and the *Menexenus* as Plato’s rectification of Thucydides’ praise of Pericles, see Yunis 1996, 136-171.

<sup>121</sup> *Grg.* 465b3-4; see also 518a1-3. On why rhetoric is servile, see chapter 1, III-2.

<sup>122</sup> On the analytical links between free status and liberality, see Lane 2018.

<sup>123</sup> *Grg.* 503b6-d3.

<sup>124</sup> For an analogy between writing and painting, see *Phdr.* 275d4-e5.

<sup>125</sup> On Plato and epideictic rhetoric, see Duffy 1983 and Carter 1991; on Plato’s critical relationship to historiography, see Weil 1960 and Lane 2018.



reference and a mantra; it now becomes an epitome of the most various political aspirations. Possible tensions, or contradictions, between the two conceptions of freedom, the aristocratic and the democratic, are erased. Their boundaries are blurred: the result is a vague, undetermined, nebulous but appealing concept of freedom. The strategy used to create a thumetic attachment to ἐλευθερία hinders any analysis of the notion, both contextually and conceptually. Turned into a virtue, ἐλευθερία can be cherished and maximized without restrictions.

Final conclusions can now be drawn. The role played by ἐλευθερία in Plato's *Menexenus* reveals how the notion of freedom, as it is used in epideictic rhetoric, can harm the Athenians' souls in two domains: their feelings of honor (the *Republic's* θυμός) and their rational faculties (the *Republic's* λόγος). First, funeral orations base the Athenians' pride on their possession of freedom. This directly harms the citizens' moral psychology: instead of channeling their efforts towards reaching true virtue, they rest content with the belief that the freedom they possess as Athenians makes them praiseworthy. Socrates produces his effect both by painting the Athenians as the only true proprietors of ἐλευθερία (as we saw in the first part), but also by lending aristocratic overtones to the word (the topic of our second part). But epideictic rhetoric also attacks the citizens' λογός. In order to unite the Athenians around ἐλευθερία, Socrates needs to keep the meaning of the notion vague enough to attract both democrats and aristocrats. The Athenians' notion of freedom becomes confused, difficult to analyze. This goes hand-in-hand with its naturalization: instead of being presented, as in modern accounts (Raaflaub's, especially), as the contingent result of a long history, the Athenian commitment to freedom is depicted as flowing from their ethnicity. The Athenians are praised for displaying, throughout their history, an unflinching energy for the preservation of freedom, both at home and in the Greek world. Socrates' rhetoric thus makes the preservation of 'complete freedom' a matter of filial piety, and masks the ruthlessness of Athenian imperialism.<sup>126</sup>

All these rhetorical tropes multiply the Athenian demos' fondness for freedom, while leaving the exact meaning of the word unclear. Freedom becomes a catchword, the source of a pride sweeter than honey, but as numbing for the critical faculties as pure wine. In the *Republic*, where democracy booms with the buzzing of drones and wine is generously poured, freedom will fully reveal its

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<sup>126</sup> Modern parallels abound, as the 1619 has recently reminded us.

dangerous potential. Democratic citizens' thumetic attachment to the notion and word of ἐλευθερία, revealed in the *Menexenus*, will play a crucial role in that story.

### Chapter Three – The Genesis of Freedom Fetishism in the *Republic*

As we saw in the previous two chapters, Plato's *Gorgias* and *Menexenus* engage with the Athenian love of freedom. This theme cannot be said, however, to be the focus of the two texts: hedonism and lust for tyrannical power take center stage in the former, while the boost patriotic pride receives from epideictic rhetoric is the overall concern of the latter. Plato's *Republic*, by contrast, addresses the Athenian love of freedom head-on. To be sure, the dialogue as a whole weaves an infinite number of threads, and democracy's excessive love of freedom is only one of them; but it figures so prominently in the text that it can be counted among the reasons 'why Plato wrote' the *Republic*.<sup>127</sup> Like a symphonic theme, excessive freedom is introduced early in the dialogue before receiving full treatment later, in books 8 and 9.<sup>128</sup> Book 8 in particular contains an in-depth analysis of the psychological forces driving the birth, life and ultimate collapse of democratic regimes like Athens, and the love of freedom plays a prominent part in this story. The aim of the present chapter is to spell out this role. This will require constant reference to the overall arc of the *Republic*, but also to analyses conducted in the *Gorgias* and the *Menexenus*. Plato certainly breaks new ground in the *Republic*, but the ideas he puts forward build on arguments he develops in these two dialogues.

The question why democracy as depicted in *Republic* 8 ends up falling down has attracted renewed interest in the last few years. Brenner Fissel has argued that despite Socrates' words to the contrary, excessive freedom is not to blame for democracy's fall: the regime rather crumbles because of an alliance between a demagogue and the people, meant to strengthen the demos by dispossessing the wealthy, but triggering upheavals that precipitate the establishment of tyranny.<sup>129</sup> On Fissel's view, what Plato indicts in his story of democratic decline is not the citizens' 'abstract, impudent desire to be the masters of their own lives' but, much more simply, their greed.<sup>130</sup> More

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<sup>127</sup> Allen 2010, 50 argues that writings meant to make justice and its benefits vivid are legitimate on the *Republic's* own terms; yet the depiction of imperfect regimes is clearly undertaken to make the superiority of the just city and justice in general more manifest (*Rep.* 445a5-c2). Plato's vivid description of the genesis of the democratic man was deemed by Adam (*ad* 559d-562a) to be 'one of the most royal (*sic*) and magnificent pieces of writing in the whole range of literature, whether ancient or modern; I will try to show that the depiction of the democratic city is a match for it.

<sup>128</sup> Freedom makes important appearances in books 1 (Thrasymachus' notion that the freest attitude is tyranny at 344c5-7) and 2 (the ring of Gyges is a thought-experiment about what full individual freedom would amount to, 359c1-3). For an analysis of freedom in the *Republic*, see most recently Lane 2018.

<sup>129</sup> Socrates explicitly ascribes the fall of democracy to its excessive love of freedom at 562c4-6.

<sup>130</sup> Fissel 2011.

recently still, Cinzia Arruzza has offered a new interpretation of books 8 and 9 of the *Republic*, retracing the causal path that leads to the birth of the tyrant and the setting-up of his regime. According to Arruzza, democracy for Plato is the mother of the tyrant on two counts: first, the regime has inculcated in him its own desire for absolute freedom, which has thus passed from the collective to the individual level; second, democracy has taught the tyrant to value freedom as the satisfaction of his appetites, whatever they were, a notion he puts to use in his frenzied quest for pleasure.<sup>131</sup> For Arruzza, democratic citizens and their degenerate brother, the tyrant, are primarily driven by what Socrates calls 'non-necessary desires:' these excessive cravings for food, drink and sex dominate the souls both of the citizens of democracy citizens and of the tyrant; they are just much more powerful, and utterly hostile to rudimentary public order, in the soul of the latter.<sup>132</sup>

The present chapter builds on these accounts, while offering a new analysis of Plato's story of democratic decline in *Republic* 8. Its argument is that the psychological make-up of the citizens of the democratic city undergoes a significant shift, clearly marked in the text, which divides the life of the democratic city into two stages. In the first, the citizens value freedom as a means, an institutional device meant to maximize the satisfaction of their desires; in the second, they pursue it as an end: they have developed an appetite for freedom itself. The topic of the chapter, thus, is the psychology of the citizens who people the democratic city described in book 8, and not the psychology of the individual man who is the analogue of that city.<sup>133</sup> Following Fissel, the chapter assesses the exact contribution made to the regime's fall by the various psychological drives present in the soul of the democratic citizens; it differs from Fissel by adopting a dynamic approach that allows for the growth of a desire for freedom itself, on top of pre-existing non-necessary desires, during the life of the democracy. In line with Arruzza, the chapter's dynamic perspective is alive to the process of internalization by which collective ideals trickle down to the souls of individual citizens; it pursues this intuition one step further by ascribing to the citizens of second-stage democracy a desire for freedom that mimics the regime's quest of self-determination.<sup>134</sup>

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<sup>131</sup> Arruzza 2018, 130-133.

<sup>132</sup> *Ibid.*, 171.

<sup>133</sup> On this crucial distinction, see Blössner 1997 and Ferrari 1998. I have been convinced, by Ferrari especially, that contrary to earlier assumptions (see Williams 2006 [1973]), Plato gives us no reason to think that democratic citizens have the psychology of the democratic man depicted at 559d1-561e8. The democratic city *as a whole* is analogous to the democratic man; as we shall see below, the psychology of its citizens is simply dominated by their non-necessary appetites.

<sup>134</sup> The importance of internalization in *Republic* 8 has been stressed by Lear 1999.

By dividing Plato's account of the democratic city into two stages, the chapter is not breaking absolutely new ground. Nearly fifty years ago, Olaf Gigon drew attention to the two-fold structure around which Plato's account of every regime described in book 8 is organized: each of them stems from forces that have crept and developed under the previous regime (what Gigon called the 'Werden' phase of the future polity), until they have become potent enough to get the upper-hand and establish a constitution to their liking (the 'Wesen' of which Plato then describes).<sup>135</sup> To apply Gigon's classification to the case that interests us here: democracy's 'Werden' occurs under the oligarchy; the description of its 'Wesen' occupies a large section of book 8 (557a2-558c5), in which Plato describes the various features of the democratic *πολιτεία*; then follows an account of how tyranny comes to be (its 'Werden' – 562a7-566d3). In what follows I adopt Gigon's insight and terminology: what I call the first stage of the democratic city corresponds to its 'Wesen' phase; its second stage is the 'Werden' of tyranny.

The idea that the transition from the 'Wesen' of a regime to the 'Werden' of the next is due to a shift in the citizens' psychology is not radically novel either. In the case of the two other regimes described in book 8, timocracy and oligarchy, the transition from the 'Wesen' of one to the 'Werden' of the next is marked by the appearance of new psychological drives: greed brings timocracy to its fall, while the birth of a class of idlers intent on satisfying their non-necessary desires spells the doom of oligarchy.<sup>136</sup> The chapter's contribution lies in the identification of the inner drive behind the transition from democracy to tyranny: I argue that this new psychological force is the love of freedom as an end in itself.

Before I expound my argument, the reader might want to know why it matters. Getting clear on the role played by love of freedom in the fall of book 8's democratic regime is crucial for at least three reasons.

First, such an analysis gives us insight into Plato's conception of democracy in the *Republic*. As we shall see, the starting assumptions and inner workings of democracy are directly responsible for the birth of tyranny. Democratic aspirations and democratic institutions conspire to bring the regime down. Understanding the exact process by which they do so teaches us something, therefore, about democracy itself (or, rather, about Plato's view of its essence). In other words, since Plato's

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<sup>135</sup> Gigon 1972, 82.

<sup>136</sup> See on the first Gigon's own analysis, and on the second Sikkenga 2002.

democracy collapses because it is democracy, we learn something about its nature by seeing it fall, and knowing why it does.<sup>137</sup> Democracy has a form (εἶδος, 544d6), and we gain insight into it by seeing the regime in action.<sup>138</sup> Let us call this the ideational result of the inquiry.

Second, studying Plato's account of the birth and consequences of democracy's attachment to freedom sheds light on his engagement with Greek political history. For, as Kurt Raaflaub has shown, the Athenian love of freedom did have a history, despite patriotic rhetoric's best efforts to naturalize it.<sup>139</sup> On Raaflaub's account, the Athenians came to cherish individual freedom partly by internalizing the city's fierce defense of its external independence, but also by adopting the aristocratic ideal of a life diametrically opposed to the existence of the slave. Freedom was the antithesis of subjection, to the Persians as well as to any master, and to that extent it was obviously desirable. But this might not be the only story to tell about how the Athenians came to love freedom. A problem with Raaflaub's account is that the historical causes he advances for the Athenian attachment to individual freedom also played out in the case of other Greek cities, Sparta first and foremost. The Spartans too cherished their independence and loathed slavish behavior; but as Raaflaub himself notices, they did not have the same understanding of individual freedom as the Athenians. What the life of a free man meant was understood differently in the two cities.<sup>140</sup> In Athens, a free man was supposed not to be too constrained by political norms (laws and commands): despite some Athenian voices assuring that obedience to law and office-holders 'was not to be confused with a form of subordination unworthy of free men,' the majority of Athenians looked on such obedience with some degree of suspicion; as Raaflaub puts it, 'a rigid *nomos*, such as that accepted by Sparta, was incompatible with the Athenian commitment to a free way of life.'<sup>141</sup> What the Spartans deemed not unbecoming to free men, even constitutive of 'liberality,' the Athenians rejected as slavish, and this has to be explained.

This difference between the two peoples' relation to freedom is related to a second: as Demaratus' words to Xerxes in Herodotus show, the Spartans were not reluctant to subordinate

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<sup>137</sup> I thank Benjamin Morison for discussion of this point.

<sup>138</sup> Cf. Socrates' desire in the *Timaeus* to see Kallipolis' guardians in action so that they can 'show off their distinctive physical qualities' (19b4-c1, Zeyl translation). On book 8 as an attempt to get clear on the nature of the vices associated with each regime, see Hellwig 1980.

<sup>139</sup> The naturalization of the Athenian love of freedom in epideictic rhetoric is studied in chapter 2.

<sup>140</sup> As Lane 2019 (esp. 125-127) demonstrates, Xenophon was well aware of this difference: *Lac.* 8.1-2 especially stresses the opposite understandings of the relation between free status and obedience to office-holders in the two cities.

<sup>141</sup> Raaflaub 2004, 233-234.

individual freedom to public law, in a way that the Athenians found abhorrent.<sup>142</sup> Even though the Athenians might have seen a Spartan-like rigid law as slavish, they could still have adopted it because of their higher respect for law than for freedom; but this was not the case, and this too requires an explanation. We thus have to explain both why the Athenians saw individual freedom as in tension with rule, and why they tended to value the first over the second. Since the causes Raaflaub advances for Athens' love of freedom also apply to Sparta, they cannot explain these two differences between them.

And this is where Plato intervenes.<sup>143</sup> He is not engaged, of course, in history as Raaflaub practices it, not even as Herodotus or Thucydides did; but he nonetheless offers a narrative account, retracing the genesis of the attachment to individual freedom that, for him, typically marks democratic cities.<sup>144</sup> Plato is not narrating past events, but providing an 'explanatory scenario' meant to apply to events past and future, thus offering a *κτῆμα ἐς αἰεί* that competes with Thucydides' history.<sup>145</sup> In the case of democracy, his scenario explains how a regime based on a given psychological make-up (the domination of non-necessary appetites in the citizens' souls) would subject citizens to a low level of political coercion (*ἀρχή, νόμος*) compared to other cities, and would generate an attachment to freedom as an end in itself. Yet these are the two respects in which Raaflaub notes the Athenian difference from Sparta. Raaflaub does not explain where this double difference comes from, but Plato suggests an answer (he will suggest another one in the *Laws*, as we shall see in the next chapter). Let us call this the genealogical value of our inquiry.<sup>146</sup>

Finally, and most importantly, Plato's story about democracy in *Republic* 8 might tell us something about our own regimes. Citizens brought up in modern democratic countries are taught to cherish freedom, for reasons usually given in civics or history lessons. American children learn that the right to freedom is, according to the Declaration of Independence, inalienable and God-

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<sup>142</sup> Ibid.

<sup>143</sup> Lane 2018b, 711 shows how Plato in *Republic* 8 highlights the antagonism democratic citizens see between free status and obedience to rule (of law and office-holders). The present paper offers a genetic explanation of this perception.

<sup>144</sup> I use 'typically' in the sense of Weber 1904, as Plato in book 8 chooses to isolate certain traits he takes to have the greatest power to explain his object, namely the attitude and evolution of democratic cities (on the application of the notion of type to *Republic* 8, see Vrestka 1953). This is not to say that Weberian tools are the only ones to be useful for an analysis of book 8: Plato's focus on collective psychology strongly recalls Montesquieu's notion of 'principle' (see Rétat 1982), for instance.

<sup>145</sup> Lane 2018a. As his constant use of the verb *μέλλω* suggests, Socrates admits that Kallipolis might be realized in the very distant future (explicitly at 49c8-d5): the same goes for the degenerating regimes that take their departure from it.

<sup>146</sup> That Plato had an interest in genealogy, in a way that bears important similarities with Nietzsche, Foucault and Skinner's works, is made clear in Lane 2021.

given; their French counterparts see the name of freedom inscribed on the pediment of each and every town hall, and learn in school about the historical experiences that shaped their country's commitment to that ideal. But freedom can also be somewhat detached from these specific reasons and situated experiences, and become an all-purpose justificatory tool. A recent example will give a sense of the phenomenon. As these lines are being written, the world has been plagued for nearly two years by a pandemic that has cost more than four million lives throughout the world, and made innumerable casualties of various other kinds. Whatever one thinks of the right way of handling this unprecedented challenge, one cannot but notice how readily the name of freedom is brandished to oppose restrictions, as the examples adduced in the introduction testify. Citizens who support restrictions might equally retort that catching and spreading a virus significantly impacts the freedom of others (and, very probably, one's own). The ideological and rhetorical appeal of freedom is so strong that it is used to legitimate all sorts of claims. The *Gorgias* and the *Menexenus* have already testified to Plato's awareness of the spell freedom casts on citizens of a democracy, and shown him trying to explain its origins. We are now about to see how Plato can account for it using the powerful psychological tools he puts forward in the *Republic*. These tools, I take it, are not specific to the Greek context;<sup>147</sup> an investigation of democracy's fraught relationship with the love of freedom, if it is based on them, should enable us to approach the sometimes-irrational attachment citizens of our regimes can develop. This will be, I hope, the main practical outcome of the chapter.

## I – Stage 1 Democracy: Non-Necessary Desires and Shadow Political Coercion

To account for the evolution of the democratic regime Plato depicts in book 8 of the *Republic*, we must first get clear on its nature (Gigon's 'Wesen'). This nature is two-fold: at the surface, a very peculiar kind of political dealings, marked by what I propose to call, after Melissa Lane, 'shadow' political coercion;<sup>148</sup> at bottom, a collective psychology marked by the predominance of non-necessary appetites in the citizens' souls. Given Socrates' principle that regimes come from 'the characters (ἡθῶν) of those who inhabit the cities' (544d6-e2), the basis (the citizens' psychology)

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<sup>147</sup> On the relevance of Plato's tripartition of the soul see Burnyeat 2006.

<sup>148</sup> Lane 2018a, 103.



must explain the surface (shadow political coercion).<sup>149</sup> After describing these two layers, I will offer three explanations linking the first (the surface) to the second (the basis).

#### 1) The Surface: Shadow Political Coercion

The first stage of democracy's life is marked by a constitutive weakness in the use of four standard means by which political coercion was commonly exercised in Greek cities: law, orders from office-holders, decrees, and judicial decisions. The efficacy of each of them is said to be drastically undermined, so that their use amounts to mere 'shadow play,' to borrow Melissa Lane's phrase. Here is how Socrates depicts such a situation:

Because there is no necessity to rule (ἄρχειν) in such a city, even if one is competent to rule; nor of being ruled (ἄρχεσθαι), if you don't want to; nor to make war alongside the rest of the city, nor to make peace when the rest of the city concludes it, provided you don't desire (ἐπιθυμῆς) peace; because even if some law (νόμος) prevents you from holding office or being a judge, you can nonetheless hold office and judge, if you fancy; isn't this way of life divine and sweet, at first (ἐν τῷ παραυτίκα)?<sup>150</sup>

How about this: isn't the mildness (πραότης) of some convicted criminals exquisite? Or haven't you seen, when in such a regime men have been condemned to death or exile, that they remain nonetheless and wander about in public, going round like revenants without anyone caring or even seeing them?<sup>151</sup>

Democracy's entire shadow play is succinctly described in these few lines. Laws defining eligibility for serving as office-holder or judge are openly disregarded. Office-holders and judges themselves lack the authority to carry out their decisions: citizens can disobey the orders of the first, since they are allowed not to be ruled (ἄρχεσθαι); criminals convicted by the second are permitted to flout their rulings blatantly. The weakness of office-holders is such that the whole regime can be said to be 'without rulers' (ἄναρχος, 558c4). As to decrees, such as decisions to go to war or to make peace, they fail to coerce those who do not want to abide by them.

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<sup>149</sup> This is called since Williams 2006 [1973] the 'preponderance-principle.'

<sup>150</sup> 557<sup>e</sup> 2-558a2.

<sup>151</sup> 558a4-8. Following Adam ad loc. and Romilly 1979, 110 n. 2, I take the genitive ἐνίων τῶν δικασθέντων to be subjective. Quandt ad loc. suggests that the participle's grammatical subject is δίκη, as in *Crito* 50b8.

One could think that such a democracy, just like the tyrant Socrates depicts later in books 8 and 9, ‘would not last a week.’<sup>152</sup> At the end of the first passage quoted, Socrates actually alludes to the temporary nature of the situation he describes (ἐν τῷ παραυτίκα), thus confirming that this first stage of democracy will not last forever. But even if the regime Socrates sketches is fleeting, its very peculiar institutional and political culture should be taken seriously, since many of its features bear some resemblance with what we know of classical Athens. After all, Adimantus thrice admits that Socrates’ picture reminds him of what he sees every day.<sup>153</sup> A brief survey of the evidence should convince us that Socrates’ first stage democracy is not too gross a caricature.

The Athenian law restricting the holding of offices to the first three property classes was still applied in the time of Pericles, but in the fourth century it became dead letter. It was never formally abolished, though, and thus provides a good example of the disregard for laws that Socrates condemns in his typical democracy.<sup>154</sup> More broadly, the Athenians’ relationship to law seems to have been ambiguous: certainly not as uncritical and submissive as the Spartans’ attitude to it could be, if we take Demaratus’ words in Herodotus as an expression of his countrymen’s frame of mind.<sup>155</sup> The oath sworn by Athenian ephebes upon starting military service differs significantly from the Spartan identification with law: they pledged to obey ‘the established laws and those which [the Athenians] may prudently (ἐμφορόνως) establish for themselves in the future:’ by implication, they did not swear to obey the laws that might not fit their vague criterion of ‘prudence.’<sup>156</sup> This form of critical distance towards the law appears in Pericles’ Funeral Oration as well: replying to opponents of democracy, who claim that the regime is incompatible with lawfulness, the statesman tellingly retorts that the Athenians ‘obey the laws, and especially (μάλιστα) those which exist to serve those who have been wronged, and the unwritten ones that bring a shame every one admits.’<sup>157</sup> The Athenians claimed, it seems, to gauge by their own lights the exact level of obedience they thought was due to their different laws.<sup>158</sup>

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<sup>152</sup> Annas 1981, 304.

<sup>153</sup> 558a9, 558c7, 563d2-3.

<sup>154</sup> Hansen 1991, 107-108.

<sup>155</sup> Millender 2002.

<sup>156</sup> Siewert 1977, 103; Harris 2006, 57-59.

<sup>157</sup> Thu. 2.37.3. As Strauss 1978, 152 notes, the Funeral Oration opens at 2.35.1 with a critique of the city’s law.

<sup>158</sup> The *Crito* can be taken as the expression of Plato’s (and his Socrates’) own distance towards the laws of Athens: I follow here the interpretation of Harte 1999. On the Athenians’ reluctance to use coercion by law, see Christ 2006, 10 and 63.

This Athenian critical distance towards the law was not lost on the Spartan king Archidamus, who contrasted it with Spartan law-abidingness: as Thucydides has him say, ‘we [the Spartans] deliberate well because we have not been educated so smartly as to despise the laws.’<sup>159</sup> Archidamus appears to be hinting here at the exceptional intellectual development that took place in Athens in the fifth-century, and at its impact on the education of the youth.<sup>160</sup> Fifth-century literature, in fact, abounds in reflections on the counter-natural yoke that the law imposes on human beings. Among the sophists, Antiphon pitted the law against natural freedom, obviously taking the defense of the latter against the former;<sup>161</sup> a figure like Hippias could say, in Plato’s rendering, that ‘the law, being tyrant of men, often constrains us against nature.’<sup>162</sup> These sophistic reflections found an echo in tragedy, especially in Euripides:<sup>163</sup> his *Hecuba*, for instance, denies that anyone is free, as those who are not enslaved by money or fortune are constrained ‘by the multitude, or the trials established by laws.’<sup>164</sup> The decisions of democratic assemblies or courts could be seen, on the Athenian stage, as limitations of individual freedom. This fifth-century climate did not necessarily improve in the fourth: as we saw, the law regulating eligibility to office-holding fell into abeyance at that time; according to contemporary perceptions, the protracted process by which laws were committed to writing between 410 and 399 did much to undermine their authority.<sup>165</sup>

The same intellectual environment could explain the comparatively low regard for the orders of office-holders that marked Athens off from other Greek cities.<sup>166</sup> But the main explanation for it lies in democracy itself: even more than other Greeks, the Athenians devised political institutions to avoid the concentration of power.<sup>167</sup> Collegiality and accountability were systematized to prevent arbitrary behavior.<sup>168</sup> Offices were also made more impersonal, to prevent

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<sup>159</sup> Thu. 1.84.3.

<sup>160</sup> Lane 2019, 128. Gomme 1945, 250 notes the echoes between Archidamus’ point and Cleon’s at 3.37.3-5. If Archidamus is not explicitly targeting the sophists, Cleon is, and the similarity between their speeches make it likely that Archidamus is alluding to them.

<sup>161</sup> Antiphon, DK 44 B, frg. A Col. 4.

<sup>162</sup> *Prot.* 337d2-3. Νόμος is here part of the well-known νόμος-φύσις antithesis: but like the Antiphon passage, it targets the law as an indispensable, if unfortunate, feature of city-life.

<sup>163</sup> Griffith 1995 denies that Aeschylus’ *Oresteia*’s primary topic is democracy, but rather the *polis*; but he admits (p. 108) that this might not apply to Euripides.

<sup>164</sup> *Hec.* 864-867. Socrates seems to take Euripides as favorising tyranny (τυραννίδος ὑμνητής) at 568a8-b8.

<sup>165</sup> See the sources quoted by Romilly 1971, 207-208.

<sup>166</sup> Romilly 1975, 88. Lane 2019, 123 stresses how quickly Pericles passes over obedience to office-holders at Thu. 2.37.3.

<sup>167</sup> The tendency towards separation and control of powers was widespread in Greece since the 7th century at least (see Welwei 1983, 60; Stahl 1987, 141; Stein-Hölkeskamp 1989, 94-104), but it took a particularly pointed shape in democratic Athens.

<sup>168</sup> Bleicken 1994, 145-155.

elite or charismatic holders from using them in their own interest: offices that used to be restricted to the top property-classes were progressively opened to all, and the use of the lot prevented most office-holders from basing their power on personal legitimacy.<sup>169</sup>

In Socrates' eyes, all these devices have a major drawback: they sever the exercise of office (*ἀρχή*) from the principle of competence. His first-stage democracy shares with Athens the use of lottery to fill 'most offices' (557a4-5). By distributing most *ἀρχαί* at random, the regime flouts a principle laid out in book 4 (397e4-9), that everyone in a just city should ply only one craft, and master it. Democracy 'tramples afoot' such a principle (558b1-c1), allowing whoever wants to rule to do so and whoever does not to shirk his duty, 'even if he is competent to rule' (557e2). This leads to the violation of another principle, expounded this time in book 1, that office and rule should be used for the sake of the ruled: in first-stage democracy, those who are not fit to benefit their fellow-citizens are permitted to hold office, while those who have the competence to serve prefer to hide away. On top of that, first-stage democracy disregards its own laws concerning fitness for office (557e6-8), as we saw. Thus first-stage democracy violates both the 'higher-order' principle that rule should benefit the ruled, and a 'first-order principle' that rule should at least conform to law.<sup>170</sup>

In this respect too, the echoes from Athens are striking. Even if an Athenian had been selected by lot to serve as councilor or archon, there remained the possibility for him to escape duty: historians agree that there was no legal coercive means to force one to serve.<sup>171</sup> There may have been social pressure to accept one's nomination, but that was all.<sup>172</sup> The shirker became a comic stock-figure: Aristophanes' *Peasants* (*γέωργοί*) are ready to pay a thousand drachmas or hire a sycophant to avoid serving as archon (frg. 1 and frg. 100). Office-holding was apparently not valued much by the average Athenian. After all, over centuries the democracy had divided *ἀρχαί* so as to minimize the room for maneuver each of their individual holders would have.<sup>173</sup> In many respects, as Ulrich Kahrstedt noted, an office-holder was no different from a private citizen: he was liable to the same kind of legal prosecutions, for instance.<sup>174</sup> For Plato, the relative weakness of office-holders in

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<sup>169</sup> Ober 1989, 76-77.

<sup>170</sup> Lane 2018a, esp. 85.

<sup>171</sup> Hansen 1991, 233; Bleicken 1994, 226.

<sup>172</sup> Liddel 2007, 234.

<sup>173</sup> Bleicken 1994, 37: 'Die Demokratie ist vor allem durch die Auflösung derjenigen Macht bestimmt, die seit der Adelszeit die Stadt gelenkt hatte, die der Beamten.'

<sup>174</sup> Kahrstedt 1936, 121. In other respects, the Athenian office-holder was different from private individuals: he could wear a crown, and attacks against him were more severely punished (see Bleicken 1994, 229).

democracies is paradoxically the feature that makes them the most livable among imperfect regimes: as he puts it in the *Statesman*, the magistracies of democratic cities are structurally divided and weak, which prevents the subjection of the city to the whims of a few (303a2-b5).

All this is not to say, of course, that Athenian office-holders had no power: they could for instance impose fines (below fifty drachmas) on anyone who prevented them from carrying out their office.<sup>175</sup> But there does seem to have been in democratic Athens a potent strand of suspicion against possible misuses of offices: Athenian drama reflected this climate, often putting figures of authority in the bad role, as Jacqueline de Romilly noted.<sup>176</sup> The institutional devices chosen to prevent the misuse of office (the holding of accounts, the distribution and division of offices) showed that checking the magistrates' power was thought to be the first bulwark of democracy.

Next in Socrates' list of the flaws that mar authority in democratic regimes are decrees. Decisions to go to war or to make peace were, in Athens, a matter of decrees.<sup>177</sup> But citizens did not necessarily abide by the city's decisions: a decree of 357/356 forbids Athenians to serve as mercenaries against Eretria, an ally of Athens (IG II<sup>2</sup> 125.9-14), proving that the practice of enlisting against one's own city was common.<sup>178</sup> A passage of Demosthenes reveals the inefficacy of such measures: the Assembly may well pass many similar decrees, but if it fails to implement them they come to nothing.<sup>179</sup> Shirking one's military duty was not uncommon either: as Matthew Christ has shown, the Athenians were able to calculate the cost and benefits of serving in the army, and to base their decision on this calculation; if they found that the costs and risks outweighed the expected benefits, they tended to evade military service. In case they were drafted as conscripts, they still had at their disposal a wide array of techniques to shirk their duty.<sup>180</sup> Here again, the picture should not be exaggerated: institutions such as scrutiny (*δοκιμασία*) and legal charges (*γραφὴ λιποταξίου* and *γραφὴ ἀστρατείας*) existed to punish deserters. But the possibility of dodging was common knowledge. It thus formed part of the political culture, as reflected in Aristophanic comedy: interpreters have long linked Socrates' barb at those who conduct their own foreign policy in opposition to the city with characters such as Dikaeopolis in the *Acharnians* or Trygaeus in the

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<sup>175</sup> Sinclair 1988, 69.

<sup>176</sup> Romilly 1975, 82: 'ni dans Ajax ni dans Antigone les représentants de l'autorité n'ont très bonne mine.'

<sup>177</sup> This was so even before the formalization of the decree vs. law distinction in 403 (see Hansen 1991, 172).

<sup>178</sup> Liddel 2007, 122.

<sup>179</sup> Dem. 3.14.

<sup>180</sup> Christ 2006, 48-49 (cost vs. benefits calculus) and 53-59 (strategies to dodge military service).

*Peace*, who choose to put an end to the Peloponnesian War for themselves, despite the city's contrary orders.<sup>181</sup> Institutions may well have been in place to prevent such endeavors from spreading, but they were part of the Athenian self-understanding: Dikaepolis and Trygaeus must have represented what many audience members wished for themselves.

Last in Socrates' list is democracy's disregard for the decisions of its own courts, which he captures under the name of *πραότης* (softness, or mildness). There was definitely a culture of *πραότης* in democratic Athens.<sup>182</sup> The frequency with which Demosthenes has to argue that sometimes this mildness does harm (...) indicates that in general the Athenians prided themselves on it as part of their democratic life-style.<sup>183</sup> Pity (*ἐλέος*) seems to have been honored as a goddess in Athens, receiving an altar on the agora at the end of the Peloponnesian War.<sup>184</sup> And while historians may well caution us against taking Socrates' depiction on trust, there does seem to have been a tendency among Athenian judges to lean systematically towards leniency.<sup>185</sup> Socrates' own case testifies to the room for maneuver Athenian political culture left to convicts: as Crito insists, Socrates can very well turn his death sentence into exile if he wants.<sup>186</sup> This would not amount, it is true, to a complete cancellation of the sentence; but other sources attest that past decisions could very be practically erased. In his speech against Timocrates, Demosthenes stresses that the Athenian customary mildness should not extend to convicted criminals, a step Timocrates' law would actually be taking.<sup>187</sup> Past decisions could also be cancelled not by a law, but by the lack of thoroughness with which they were applied. Andocides had been forbidden to take part in religious rites, but still did; Theomnestus was supposed never to speak in public again, but continued to do so.<sup>188</sup> In the first speech *Against Aphobus*, Demosthenes informs us that people whose goods had been confiscated were tacitly permitted to keep some of them.<sup>189</sup> As Jacqueline de Romilly puts it, 'Plato (...) is only

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<sup>181</sup> Shorey 1930, *ad* 557e.

<sup>182</sup> See for instance Lys. 6.34; Dem. 22.51 and 14.153; Aristotle, *Ath. Pol.* 22.4.

<sup>183</sup> Hall 1996, 74 n. 3. See also Romilly 1979, 100.

<sup>184</sup> Thompson 1952.

<sup>185</sup> For the note of caution, see Liddell 2007, 147-148; but Liddell seems here to take Lycurgus' sternness as representative of the Athenian political ethos in general. On the contrary, it could be seen as reacting against a general climate of leniency.

<sup>186</sup> *Crit.* 44<sup>e</sup>1-45c4.

<sup>187</sup> Dem. 24.69-73.

<sup>188</sup> See Lys. 6 and 10-11. Nails 2012, 13 takes the allusion to target the convicts of 415.

<sup>189</sup> Dem. 27.65.

pushing to the limit what seems to have been very frequent, if not for such grave condemnations [as sentences to death or exile], at least for common misdemeanors.<sup>190</sup>

The consequence of all this shadow-play, in Socrates' account, is clear: democracy is characterized by a striking feature, 'the freedom (ἐξουσία) to act as one wishes (...). Where there is such freedom, it is clear that everyone can set up the private way of life (ιδίαν κατασκευὴν τοῦ αὐτοῦ βίου) that pleases (ἀρέσκει) him' (557b5-10). Disregard for law, decrees, orders from office-holders and court decisions at first give the appearance of allowing individuals to be free from coercion.<sup>191</sup> It should be immediately added, however, that the notion that democracy's shadow-play gives its citizens the freedom to act as they please can only be comparative: a regime where people are allowed to act *absolutely* as they please would not last even a minute, as it would immediately be plagued by crime. What makes Socrates' first-stage democracy remarkable is that, of all regimes described in books 8 and 9, it allows the *maximum* range of personal freedom to its citizens.<sup>192</sup> The same applies to Athens: the personal freedom the regime was proud to give its citizens never appeared so clearly than in contrast to other cities, especially Sparta; with such cities in the background, Athens seemed to give its citizens full freedom, whereas it of course continued to enforce some laws.<sup>193</sup> Athenian rhetoric made much of this contrast, as we saw in chapter 2. Pericles' Funeral Oration, which constantly uses Sparta as a foil, praises the Athenians' remarkable spirit of mutual toleration, while at the same time stressing their respect for the laws that ensure the bare conditions of living together.<sup>194</sup> Personal freedom was not total, but it was reduced to such a minimum that it seemed to be.

This impression was reinforced by the limitation of personal, as opposed to legal, coercion in Athens. As Aristotle noticed, it is coercion exercised by a person, more than impersonal law, that human beings tend to find cumbersome. His remarks are worth quoting in full:

The law has coercive force (ἀναγκαστικὴν δύναμιν), being a statement coming from some practical wisdom and intellect (τινος φρονήσεως καὶ νοῦ). People hate (ἐχθαίρουσι) when their impulses are opposed by men, even if such men do so

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<sup>190</sup> Romilly 1979, 114 (my translation).

<sup>191</sup> This feature of the democracy has been duly noticed by interpreters for its similarities with contemporary realities or ideals; see Saxonhouse 1996, 109-110; also Rancière 2004, 78-79.

<sup>192</sup> Cf. 563c4-5: ὅσῳ ἐλευθερώτερά ἐστιν ἐνταῦθα ἢ ἐν ἄλλῃ.

<sup>193</sup> Modern parallels can be found: see Abdel-Razak Sattouf's description of French society in comparison to his native Syria ('chacun il peut faire tout qu'est-ce qu'il veut, ici !') in Sattouf 2014, 9.

<sup>194</sup> Thu. 2.37.3. For the use of Sparta as foil see Romilly 1979, 99; Debnar 2018.

rightly; but the law is not burdensome when it prescribes what is fitting (ὁ δὲ νόμος οὐκ ἔστιν ἐπαχθῆς τάττων τὸ ἐπιεικέες). Only in Sparta, or in a few other cities, does the legislator seem to have taken care of education and private conducts (τροφῆς τε καὶ ἐπιτηδεύματων); in most other cities, no one cares about these, and every one lives as he wishes.<sup>195</sup>

Aristotle is here arguing in favor of legislation on education as it exists in Sparta; but his words also attest to the loathsomeness that personal rule evoked in Greek political culture. Obeying impersonal laws ensuring the basic conditions of communal life was much less grievous than obeying orders from office-holders, even if these were meant to pursue the same goal. The fact that the Athenians, as M. Hansen puts it, were ‘much less frequently under the control of state officials’ than the Spartans, contributed a lot to their perception that their city gave them the maximum amount of freedom that was possible.<sup>196</sup> Nicias’ words to his troops before their last stand in Sicily proves the point: he exhorts them to fight remembering ‘the freedom (ἐξουσία) each of them had [in Athens] to live a life without being ordered (ἀνεπιτάκτου).<sup>197</sup> In his rhetorical portrait of Athens, Nicias simply does away with coercion through orders (ἐπιτάγματα).<sup>198</sup>

Yet the Athenians, on some occasions at least, had to submit to ἐπιτάγματα, especially those that concerned military or political conduct.<sup>199</sup> Athenians democratic discourse made a clear difference between norms regulating the public behavior of citizens and those that could only apply to their private lives. ‘The Athenians distinguished between a public sphere, where every citizen took a part, and a private sphere, in which every citizen was entitled to live as he pleased, as long as he obeyed the laws and did not wrong his fellow citizens.’<sup>200</sup> Demosthenes thus differentiates between laws on public conduct, which must not brook disobedience, and those that address the citizens’ private behavior, which he says must breathe mildness (πραότης).<sup>201</sup> The citizens’ private lives were only subject to control to the extent that they fell under the jurisdiction of laws preserving

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<sup>195</sup> *NE* 1180a21-28.

<sup>196</sup> Hansen 1991, 242.

<sup>197</sup> *Thu.* 7.69.2.

<sup>198</sup> In the fourth-century, Demosthenes (19.185) echoes Nicias’ words by saying that the efficacy of ἐπιτάγματα is what gives non-democratic regimes an edge in their fight against Athens.

<sup>199</sup> *Thu.* 8.11.1. Later authors used ἐπίταγμα for the legal orders the democracy imposed on its citizens: e.g. Aesch. 1.3.

<sup>200</sup> Hansen 1991, 62.

<sup>201</sup> *Dem.* 24.192. See Liddell 2007, 211-212.



popular sovereignty.<sup>202</sup> These laws, after all, expressed the collective will of the people, and not the personal order of a particular office-holder.

The main outcome of this political culture was the great range of freedom the Athenians enjoyed in their private lives. Aristotle's notion that the Athenians lived as they wished is for the most part confirmed by David Cohen's study of the enforcement of morals in the democratic city: 'Athenians who concerned themselves with such matters appear to have conceived of the notion of a protected private sphere as one of the constitutive characteristics of a democratic society (...). Viewing Athenian criminal legislation on sexual matters as a whole, the extant evidence strikingly testifies to its relative paucity.'<sup>203</sup> 'Relative paucity' is key here: of course, the Athenians regulated sexual behavior such as prostitution, but mainly for reasons to do with their conception of fitness for office and public participation; in other words, to protect their conception of popular sovereignty.

Thus, Socrates' picture of first-stage democracy, with its shadow political coercion and the great range of personal freedom it gives the citizens, bears important similarities with classical Athens. Socrates' depiction exaggerates traits that were present in Athens; but it contains a grain of truth. We should therefore take its nature and its fate seriously. To understand how this regime morphs into second-stage democracy, we must now look at what lies at its bottom, namely the psychology of its citizens.

## 2) The Basis: The Psychological Make-Up of Democratic Citizens

For Socrates, the defining features of a given regime stem from the psychology of its citizens.<sup>204</sup> He gives us many clues, in the course of book 8, about the psychological make-up of democracy's citizens.

First, we learn that the democratic population is composed of individuals who were already present in the oligarchic city. Democracy is established when a revolution, led by the poorest section

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<sup>202</sup> Aesch. 3.78 mentions Demosthenes violation of private norms only to intimate that a man so averse to domestic laws will surely flout public ones. Hansen 1991, 102, gives a list of public interventions into the citizens' private lives in matters that were thought to affect the civic body.

<sup>203</sup> Cohen 1991, 220-222.

<sup>204</sup> 544d6-e2; cf. 435d9-436a3.

of the population living in the oligarchic city, manages to overthrow the ruling class. As Socrates tells us, democracy is founded when ‘the poor, after their victory, kill some of their opponents, banish some others, and grant to the rest of them an equal share in the constitution and the offices’ (557a2-5). Even if some among the former oligarchs are allowed to stay, they surely will not make up the majority of the population. The majority will rather be made of the ‘poor’ who were oppressed under the oligarchy: in fact, Socrates has told us that in the oligarchic city, all but the rulers were poor (552d9-11).

Now Socrates also tells us what the psychology of these poor individuals is. They belong to what he calls ‘drones’ (κεφῆνες, 552c2-d2). What are drones? A drone is defined at 559c8-d11 as an individual ruled (ἀρχόμενον) by his non-necessary desires. The nature of these non-necessary desires is somewhat controversial. They are defined at 559a3-c1 as appetites (ἐπιθυμῖαι) for things that do not benefit but rather harm our soul and body, and which can be removed by training.<sup>205</sup> Their being called ἐπιθυμῖαι militates for ascribing them to the third part of the soul, which Socrates has earlier called τὸ ἐπιθυμητικόν (439d8). As this part of the soul primarily hosts desires ‘for the pleasures relative to nurture, procreation, and all those which are akin to them’ (436a10-b2), good candidates seem to be the taste for sweets or the thirst for alcohol. Socrates himself gives examples from Greek culture earlier in the text: Syracusan table luxury, Sicilian gastronomy, Corinthian courtesans and Athenian pastries are objects of non-necessary appetites.<sup>206</sup>

The poor who form the overwhelming majority of the population living under the oligarchy are only one kind of drones, namely the stingless ones he calls ‘beggars’ (πτωχοί); others are endowed with stings, a metaphor for the crimes they are ready to commit to enrich themselves and their followers, the ‘beggars.’<sup>207</sup> Both are the products of oligarchy: the regime’s lack of concern for education has let some individuals be ruled by their non-necessary desires, and thus become immoderate consumers, i.e. drones; the oligarchs have subsequently encouraged the drones’ addiction to non-necessary pleasures, as it enabled them to buy the latter’s property and lend to them at interest. The drones are thus the pure products of the regime they are to overthrow.

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<sup>205</sup> The two conditions are jointly necessary (and sufficient) for a desire to qualify as non-necessary. For desires for eating meat can be removed by training, but count as necessary since they improve, for Socrates, our ability to work.

<sup>206</sup> 404d1-9.

<sup>207</sup> 552c6-552d2. On the metaphor of drones, wasps and bees in Athenian political imagery, see Allen 2003.

To sum up: the population of the oligarchic city is made of two groups, the ruling class and the drones; the drones themselves are divided into two species, the ones with stings and the ones without, the latter also called 'beggars.' These *πτωχοί* are said by Socrates to constitute 'almost all' of the population of the oligarchic city. As the revolution that overthrows the oligarchy is undertaken by drones (with and without stings), the regime they establish after their victory must reflect their psychology, dominated by non-necessary desires.<sup>208</sup> (This does not prevent them from sometimes acting on other desires, such as necessary appetites: nothing rules out that they work every now and then to earn their living in lawful ways, or that they sometimes drink water; the contrary would be absurd.)<sup>209</sup> We must now understand how their particular psychological make-up, dominated by non-necessary appetites, explains the features of first-stage democracy we have gone through above.

### 3) The Explanations

In the present section, I wish to offer three original explanations that allow our *explanans* (the psychology of democratic citizens) to account for our *explanandum* (shadow political coercion and relative freedom to act as one pleases). These three causes are mutually compatible, but play

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<sup>208</sup> This means that democracy as a whole is primarily driven by non-necessary desires. If the analogy between city and soul is to be maintained, the democratic man must also be dominated by non-necessary desires; but this has been challenged by Johnstone 2013. Johnstone's interpretation, I think, relies on circular reasoning; he bases his claim that the democratic man is 'anarchic' on the 'anarchy' Socrates explicitly ascribes to the democratic city at 558c2-3 and 562e2-4 (see p. 140 n. 3 of his paper), and interprets the city's anarchy as meaning that there is no psychological force ruling it. Yet the psychological make-up of its individual citizens leaves no doubt about that. Johnstone's best argument is Socrates' famous description of the various desires the democratic man acts on, which include desire for philosophy and politics (561c6-d8). But these can perfectly be hosted by the appetitive part of the soul, and count as 'quasi-appetitive', to borrow Dominic Scott's felicitous phrase. To the democratic man, 'desires for victory or discovery feel just as they would if they were desires for a drink' (Scott 2000, 26). M. Schofield adopts a similar view: 'So long as desire is focused on pleasure, as in the case of someone who does a bit of philosophy because it's enjoyable (rather than because he wants to learn the truth about something), it will count as a function of the *epithumêtikon*' (Schofield 2006, 234). Johnstone's rejection of the idea that desire for philosophy or political prominence cannot be appetitive rests on a mistaken notion that, in the *Republic*, an object determines the nature of the desire for it (in other words, philosophy on this view can only be desired by the rational part of the soul, and political power, by spirit). This notion is mistaken, because book 4's argument for the partition of the soul requires that rational and appetitive desires can sometimes be for the same object (πρὸς τὸ αὐτό, 437a1). And Plato gives us a perfectly good example of someone who does philosophy just for pleasure: Cephalus enjoys talking with Socrates because of αἱ περὶ τούτων λόγους ἐπιθυμῶμαι τε καὶ ἡδοναί (328d4-5). I am very grateful to Benjamin Morison for discussion on this point. See more recently the arguments of Arruzza 2018, 139 n. 1, for the view that the democratic man is ruled by non-necessary desires.

<sup>209</sup> At 558e2-3, Socrates describes necessary desires as drives 'it is necessary for our nature' to have. And at 564e6, he says that everyone in the democratic city makes money.

out in chronological order. 'Chronological' here is meant in two senses. First, the three causes apply only to democracy's first stage; the shift in the citizens' psychological make-up that brings about the second stage creates a new situation, where they do not apply. Second, they unfold one after the other: the first plays out before and shortly after the revolution that sets up democracy; the second applies to the first days of the regime; the third comes into play later on, with longer-range effects.

Let me give a snapshot of these three causes, before delving deeper into their elucidation. The first has to do with the participatory logic of the democratic revolution: it explains how pre-revolutionary promises had, once democracy was established, to be fulfilled and bring about democracy's characteristic shadow-play. The second is related to what I call 'anti-coercion short-sightedness': the allergic aversion to political constraint that, for Plato, characterizes human beings in general, and people dominated by their non-necessary appetites in particular – a theme that, in its original form or in variations, pervades both his corpus and contemporary Athenian discourse.<sup>210</sup> The short-sightedness I see Socrates as ascribing to first-stage democratic citizens is striking, and it is likely that they would come to temper it in the course of their political history. I therefore advance a third explanation for democratic shadow-play, using game-theoretical models to account for its persistence in the long run. These models show that democratic citizens intent on maximizing their appetitive satisfaction in the long term will choose not to enforce strictly the rule of laws and office-holders.

All three explanations account for why citizens whose souls are dominated by non-necessary desires will take a regime of shadow-play, or freedom, as the best means to obtain satisfaction. First-stage democracy is characterized by this conception of freedom as *means*; only in the second stage is it cherished as a *end*.

#### a) Mustering Popular Support for the Democratic Revolution

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<sup>210</sup> I use 'allergic' here in the sense of reflex, immediate and violent response, most often than not contrary to one's best interest. As I argue in part II, this reaction has roots in the appetitive parts of the democratic citizens' souls; but since appetite dominates in their souls, it enlists spirit (*θυμός*) in its rejection of coercion.

Socrates' democratic city has a history. It evolves from a previous regime, oligarchy, and is established when a violent uprising of the people carries the day (557a2-5). Socrates' mention of the democratic revolution gives us insight into the nature of the regime to which it gives birth.

In order to start the rebellion, it must have been necessary for the 'active' drones, the ones endowed with stings, to muster the widest possible popular basis. The best way to do so was to promise to their supporters, the stingless drones, that the new regime would be a land of plenty for all, in which everyone would be able to satisfy their non-necessary desires: everyone, except the ultra-minority of the ruling oligarchs, had an interest in setting up such a regime. The same logic accounts, I submit, for the attribution of citizenship and offices on an equal basis (557a3-5); it also explains the disregard for any regulation that used to restrict magistracies to certain categories of the people in the previous regime (557e4-558a1).<sup>211</sup>

By dangling in front of the poor the pleasant prospect of having full political rights and of holding office, the active drones were sure to win their support for a revolution. The poor could use these offices to advance their interests, or simply take pleasure in receiving and exercising them. Any plan to limit citizenship and office-holding to certain categories of people (the cleverest, the members of such-and-such families, those who possess even a very low fortune) would have diminished popular support for the revolution. Once the revolution had succeeded, the promised regime had to be established, barring no-one from full-fledged political participation. The first cause of democratic shadow-play, at least of some of its features (open access to magistracies, sortition, right to vote, and probably the limited power of office-holders) thus lies in the logic of the democratic revolution.

Here again, similarities with Greek political practice are illuminating. As Hans-Joachim Gehrke has shown, Greek factions were 'very often making efforts to widen their basis of recruitment.'<sup>212</sup> These efforts included commitments to shape the ensuing regime so as to satisfy those whose support had been instrumental in establishing it. A good Athenian example is provided by the Cleisthenian revolution, in 508/7. As Josiah Ober has insisted, the demos played the crucial part in repelling Isagoras' Sparta-backed coup; but Cleisthenes very likely made some promises to the people even before things came to a head. The *Constitution of Athens* has him 'propose to hand

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<sup>211</sup> On my view, since even in first-stage democracy such laws are flouted, it is likely that they are remnants of oligarchic legislation.

<sup>212</sup> Gehrke 1985, 243.

over' (*ἀποδιδούς*) the *politeia* to the people, which guaranteed him the support of a large section of the population.<sup>213</sup> After the Spartan withdrawal, he had to deliver on those promises. As Ober puts it, 'the reform package [pushed through after the ousting of Isagoras and the Spartans] might best be thought of simply as prerevolutionary promises reviewed and reinterpreted in the new light of postrevolutionary social realities.'<sup>214</sup> I argue that the *στάσις* that brings Socrates' oligarchy to its fall obeys the same logic. Under the oligarchy, the drones were bound to perceive a possible democratic shadow-play as enabling them to fulfil their non-necessary desires much more than the current political structure. They therefore favored freedom as a means towards greater appetitive satisfaction.

#### b) Anti-Coercion Short-Sightedness

The second and third explanations I suggest are connected with the first. There is a psychological condition necessary for drones to desire democratic shadow-play: they must see it as providing them with greater appetitive satisfaction. In this section I investigate one underlying cause of this perception, which I call 'anti-coercion short-sightedness.' I see this cause as playing out in the early days of Socrates' first-stage democracy. In the next section, I will offer another explanation for the citizens' perception that shadow-play brings non-necessary appetitive satisfaction, one that is not limited to the regime's first days.

Plato thinks human beings, especially when they are ruled by their non-necessary appetites, see political coercion as burdensome. They do so at least 'at first sight.' In his view, most people lack the far-sightedness required to recognize the usefulness of political coercion; especially when they are focused on advancing their appetitive satisfaction. As a result, people in general and drones in particular strive to minimize political constraints. Let me explain in more details.

As Cinzia Arruzza has emphasized, Plato's picture of the democratic people repeatedly insists on its short-sightedness, if not severe myopia.<sup>215</sup> The ship of the state metaphor is the

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<sup>213</sup> *Ath. Pol.* 20.1 (Rhodes' translation).

<sup>214</sup> Ober 2007, 96. See also Simonton 2016, 23 (with further bibliography): 'Without some signal by a member of the elite to set it in motion, the uprising would never have taken place, but the content of the "reform bill" offered by Cleisthenes was determined in large part by the power of the demos.'

<sup>215</sup> Arruzza 2018, 122-123; see also Fissel 2010, 218.

paradigmatic expression of this idea.<sup>216</sup> Two other Platonic dialogues, however, develop this theme: the *Protagoras* analyzes the perspectival mistake that leads most people to prefer sub-optimal but short-term benefits to optimal but long-term ones; and the *Gorgias* depicts the people as children, easily lured by the culinary flatteries of a pastry-chef, to the detriment of their long-term well-being.<sup>217</sup> In the *Protagoras* and the *Gorgias*, it is people dominated by sensual pleasure who fall prey to such illusions. The picture is broadened in the *Phaedrus*, which mentions a form of short-sighted aversion to political coercion that every human being hosts. As Socrates explains, people in general resent all kinds of compulsion as burdensome.<sup>218</sup> Political coercion, being a form of compulsion, is thus bound to irk people's sensibility. The following picture emerges: for Plato, human beings in general are reluctant to submit to political coercion (the *Phaedrus* view); this applies especially to citizens dominated by their non-necessary desires, who are the objects of Socrates' analyses both in the *Protagoras* and the *Gorgias*. This can easily be explained: for Plato, the appetitive part of the soul is particularly prey to appearances.<sup>219</sup>

Crucially for our purposes, the *Republic's* city-soul analogy confirms that picture. The democratic man has no long-term life-plan, because he lacks a worked-out conception of his own good; since he only acts on his occurrent desires he is, to borrow Harry Frankfurt's formulation, a wanton.<sup>220</sup> Whereas the oligarchic man organizes his whole life so as to make maximal financial profit, his democratic counterpart lacks such a precise aim; he cannot reason out the means to reach optimally a precise goal that he does not have. The city-soul analogy requires that there be an equivalent to this individual flaw at the civic level: democratic citizens' anti-coercion short-sightedness is a good candidate. Both individual wantonness and collective short-sightedness result in ἀναρχία.<sup>221</sup>

Why is democracy so short-sighted, and so averse to political coercion? Appetite's cognitive deficiencies cannot be the only reason: the oligarchic man and the rulers of the oligarchic regime

<sup>216</sup> The metaphor is to be found at 488a7-489a6.

<sup>217</sup> *Prot.* 356a1-e4; *Grg.* 464d3-e2.

<sup>218</sup> *Phaedr.* 240c4-5: τό γε ἀναγκαῖον αὐτῷ βαρὺ παντὶ περὶ πάντων λέγεται. Cf. too *Rep.* 359c5-6: everyone strives to have more, and the law (νομός) constrains (βίβη) this desire.

<sup>219</sup> Penner 1971; Lorenz 2006, 65-66.

<sup>220</sup> Frankfurt 1971, 11. For this view of the democratic man see Price 1995, 63, and Cooper 1999. One good piece of evidence in its favor is the absence, in the case of the democratic man, of a rational life-plan as the one described for the oligarchic soul at 553d1-4. I thank Rachel Barney for discussion on this point.

<sup>221</sup> 558c2; 560e2-5.

are also acting on an appetitive desire, after all – the 'necessary' appetite for money.<sup>222</sup> But there are crucial differences between oligarchy and democracy here. Someone intent on making money will be less short-sighted, and less averse to political coercion, than someone whose main goal is to satisfy his occurrent fancies. Money-making demands a good deal of planning: it requires buying and selling at the right moment; making careful loans and investments; and a general awareness that time is money. It is also less averse to political coercion, because it needs public order to thrive: it is much easier to feel that public order thwarts the satisfaction of one's non-necessary desires, than to believe that it hinders one's enterprises in money-making.

How plausible is the strong short-sightedness Socrates ascribes to his democratic citizens? All we have to assume is that they are more sensitive to the pain of paying their taxes, for instance, than to the potential benefits of forcing others to pay theirs. If this sounds implausible, Plato's picture of the people in the *Gorgias* should serve as a reminder: children unable to foresee that eating too much pastry will make them sick are quite short-sighted; and it is to *them* that the citizens of Athenian are compared. The *Gorgias*' children condemn a doctor who can not only benefit their health as a good in itself, but even maximize their appetitive satisfaction in the long run. In the same way, Socrates' first-stage citizens do not see that the rule of law and office-holders could serve not only their good, Platonically defined, but even their appetitive enjoyment. They would only need to put the coercive apparatus to the service of their appetites; their short-sightedness prevents them from doing so.

An additional indication that the short-sightedness Socrates ascribes to his first-stage citizens is not implausibly strong is that he himself alludes to its limited nature: the regime's clemency (πρᾶξις) towards convicts extends to some of them only (hence the restrictive ἐνίων at 558a4). The risk involved in letting loose a serial killer, for instance, would probably be palatable and vivid enough to democratic citizens, despite their short-sightedness; they will therefore reject it. Anti-coercion short-sightedness can bring about the shadow-play Socrates describes, without being so crude as to let murderers roam freely.

Even if Socrates' picture were exaggerated, however, I still think that it targets an important feature of democracy, and of politics in general. It takes some amount of long-term reasoning to recognize that one would benefit from a strict enforcement of tax regulations. At first sight, paying

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<sup>222</sup> 551e2 and 553c5. See on this point Ferrari 1998, 72.



one's taxes is more painful than being deprived of the benefits of public services: the first brings immediate pain, the second harms only at a distance. Such short-sightedness can even be reinforced by experience: the citizens of a modern democratic country, for instance, may well think that a strict enforcement of tax laws is not necessary: their country has survived budget deficit for decades, and might well continue to do so.<sup>223</sup>

Political theorist David Runciman has identified this democratic tendency to take problems lightly as a 'confidence trap': 'democracies are not good at recognizing crisis situations: all the surface noise of democratic politics makes them insensitive to genuine turning points,' especially because they think they have history on their side and know that democracy has successfully responded to past crises.<sup>224</sup> Runciman identifies Tocqueville as the first to diagnose democracy's 'lack [of] a sense of perspective' as a product of excessive confidence.<sup>225</sup> Previous thinkers, like Plato, had attributed it to the people's incapacity to 'control their appetites,' 'control their passions,' 'control their craven instincts.'<sup>226</sup>

Runciman's description of Plato's view fits *Republic* 8 quite well. Socrates there explicitly alludes to democracy's short-sightedness, at the end of his description of the regime's characteristic shadow-play: its striking political arrangements make life there 'sweet, at first sight' (ἡδέϊα [...] ἐν τῷ παραυτίκῳ, 558a2). Plato would locate the basis of this short-sightedness neither in a long experience of democracy's successes, nor in a belief in its being history's ineluctable target: he rather thinks that human beings are by nature short-sighted, especially when they are ruled by their non-necessary desires.

Plato originated the notion of non-necessary desires; but the idea that people dominated by pleasure are short-sighted in political matters has Athenian parallels. Famously, Cleon in Thucydides' Mytilenian debate blames the Athenians' ἀκολασία for preventing them from having a consistent policy.<sup>227</sup> As to the notion that political coercion is felt as burdensome, it too was known

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<sup>223</sup> Aristotle's comments on the Spartan tax system is a good illustration, this time from ancient Greece (*Pol.* 2.9 1271b10-19): 'Matters relating to public funds are also badly organized by the Spartiates. For they are compelled to fight major wars, yet the public treasury is empty, and taxes are not properly paid; for, as most of the land belongs to the Spartiates, they do not scrutinize one another's tax payments. Thus the result the legislator has produced is the opposite of beneficial: he has made his city-state poor and the private individuals into lovers of money' (Reeve's translation).

<sup>224</sup> Runciman 2013, 29.

<sup>225</sup> *Ibid.*, 293. But see Elster 1993, 178-179, for another interpretation, stressing Tocqueville's view that individual psychology in general 'lacks a strategic dimension.'

<sup>226</sup> *Ibid.*, 8.

<sup>227</sup> *Thu.* 3.37.3.

to Athenian thinkers. According to Pseudo-Xenophon, it was a law of political psychology ‘that the ruler must be hated by the ruled’ (μισεῖσθαι μὲν ἀνάγκη τὸν ἄρχοντα ὑπὸ τοῦ ἀρχομένου).<sup>228</sup> We saw Aristotle echo this idea above, when opposing the rigor of Sparta's educational legislation to the laxity of most other Greek cities; Xenophon offers other important variations on this notion.<sup>229</sup> Pseudo-Xenophon's law has particular relevance in Socrates' first-stage democracy. A circumstance that must fuel its citizens' distaste for rule is the association, in their mind, of political coercion with the former, detested and violently overthrown regime. In the oligarchy, the rulers were the object of a powerful hatred (μισοῦντες, 555d9) on the part of the poor whom they had dispossessed.<sup>230</sup> This hatred was understandable: the oligarchic regime meant for the drones the inability to satisfy their non-necessary desires; they were for instance forced to march in expeditions decided by the rulers, presumably against their will (556c6-e2). Rulers were seen as oppressors, and the drones have probably kept their suspicion against them even after they established democracy.<sup>231</sup> One reason to think so lies in the behavior of office-holders themselves: in book 4 Glaucon has reminded Socrates that, even though citizens of democracies are reluctant to consider office-holders as their masters, the office-holders themselves, not hiding their disparagement of the people, do not hesitate to call them ‘slaves’ (463b4).<sup>232</sup> The people's reflex, to limit as much as they can an authority usually exercised with such contempt, becomes immediately more understandable.<sup>233</sup>

Democratic short-sightedness, in the reasonably plausible way in which Socrates ascribes it to his first-stage citizens, explains why the regime flouts Melissa Lane's ‘first-order principle,’ that

<sup>228</sup> *Constitution of the Athenians* 1.14. Cf. Thu. 2.64.5.

<sup>229</sup> Lane 2019.

<sup>230</sup> The text says only that drones with stings hate oligarchs, but the subjection and frustration of all drones is reason enough to also attribute this hatred to stingless ones.

<sup>231</sup> Here again a modern parallel suggests itself: the golden age of European anarchism coincided with the control over the political apparatus by a liberal, capitalistic bourgeoisie (this was at least the justification given by anarchists for their political proposals: see Marshall 2008, 233 - on Stirner -, 242 - on Proudhon -, and 265 - on Bakunin).

<sup>232</sup> Lane 2018b, 710, analyzes how Greek political vocabulary took slavery as a synecdoche for rule in general, be it that of office-holders or of laws: ‘Rule – by which I mean both the command of the rulers and the obedience of the ruled – must always involve subjection and obedience. Slavery is naked rule. It is enforced obedience of a ruled to a ruler. And so in a slave society it could stand for the pared down relationship of rule in its bare essence.’ At 463a8-9, Glaucon has distinguished democratic cities, where the people insist on calling office-holders with that very name (ἄρχοντας), and non-democratic ones, where the people admits that they are under the domination of ‘masters’ (δεσπότας). Since the fact that office-holders, even in democratic cities, call the citizens ‘slaves,’ seems to be a matter of public knowledge (as Socrates' conversation with Glaucon attests), the mismatch between the democratic people's appellation of their office-holders, one the one hand, and the office-holders appellation of the people, on the other, testifies to a popular attempt at checking the hubristic tendencies of office-holders.

<sup>233</sup> Hence, probably, Thrasymachus' notion that all rulers, even democratic ones, are δεσποταί (343b3). For him, everyone in fact strives to enslave all others (344b5-c1).

officeholders should 'ensure that people are not given free rein simply to satisfy their appetites.'<sup>234</sup> As Lane demonstrates, this principle is less and less applied as Socrates goes down the line of regimes in book 8, and this makes good sense: a timocratic ruler attaches his pride to the political order; a rich oligarchic citizen intent on making money needs it to prosper; but a democratic citizen ruled by non-necessary desires sees it, most of the time, as thwarting his occurrent fancies. It is only with time that one realizes the necessity of some degree of rule: the anarchy that follows the overthrow of oligarchy is sweet and pleasant 'at first sight' (ἐν τῷ παραυτίκῳ) only. With this phrase, Socrates explicitly points to the short-sightedness of its citizens, unable to foresee the deleterious long-term effects of the anarchy they have created.

To sum up: to citizens dominated by their non-necessary desires, political coercion *appears* as thwarting appetitive satisfaction. Freedom, defined as the limitation of the rule of law and officeholder, conversely *appears* as the best way to maximize satisfaction.

### c) Why Socrates' Democracy Does not Learn From Experience: A Game-Theoretical Model

Short-sightedness explains why democratic citizens would desire to minimize political coercion. But the 'first sight' by which citizens reject political coercion is unlikely to last long: it exists 'at first' only. In the present section, I offer another causal route that links non-necessary desires and shadow-play, without being limited to the short term. I propose a game-theoretical model relying on the idea that non-necessary desires, being extremely diverse and unpredictable, make the minimization of coercion rational to a certain extent.

This explanation is fully compatible with the previous one, despite an apparent tension between them. In the preceding section, I argued that Socrates depicts the democratic people as short-sighted; but game-theoretical logics, one might say, reveal their worth in the long term: how can a short-sighted people embrace them? This apparent tension can be resolved, I think, in at least four ways. First, the game-theoretical explanation I offer here can play out later in time than the second: one can imagine that the people's short-sightedness only lasts a while, before giving way to longer-term reasonings. Alternatively, one might think that the people's short-sightedness remains,

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<sup>234</sup> Lane 2018a, 85.

and point to three ways in which it is compatible with the model I propose: the model does not need to be consciously endorsed to function; short-sighted and far-sighted reasonings can be held by different sections of the citizenry; if the same citizens hold both, they are only displaying a form of contradiction that behavioral economics has amply documented for real-life individuals. Let me first explain the model I propose, before showing how it is compatible with my second explanation.

In first-stage democracy, as we saw, there is 'no compulsion (*ἀνάγκη*) to be ruled, if you don't want to, nor to make war alongside the rest of city, nor to make peace when the rest of the city concludes it, if you don't desire peace (*ἐὰν μὴ ἐπιθυμῆς εἰρήνης*)' (557e1-4). This is, to recall, democracy's characteristic 'shadow-play.' I showed in the previous two sections how the logic of revolution and democracy's short-sighted aversion to rule accounted for this situation, at least 'at first.' With the passage of time, however, it is likely that some citizens would realize that they need their fellow-citizens to obey political coercion in order to satisfy their own non-necessary desires. To build on one of Socrates' examples: if a majority of democratic citizens wishes to go to war against Syracuse because they crave its pastries, that majority will want to enlist the whole city's population into the expedition, and force everyone to 'make war alongside the rest of the city.'<sup>235</sup> Thus, a quite simple reasoning on the part of democracy's citizens yields a conclusion opposed to the shadow-play Socrates depicts. Why, then, does shadow-play persist?

Here again, insight from political science helps us. As David Runciman puts it: 'democracies find it harder than autocracies to commit to war; there are too many competing interests that have to be aligned first.'<sup>236</sup> In the case of Socrates' first-stage democracy it is not interests but passions, the various non-necessary desires that the citizens host in their souls, that are too difficult to align. The extremely variegated nature of non-necessary appetites explains the absence of majoritarianism, as a short thought-experiment reveals. If the majority of the city goes to war against Sicily because they crave Syracusan pastries, they would surely prefer to enlist the minority to help them satisfy their desire; but if two years later another expedition is voted, this time against Messina, by a majority of men fond of Messinian eels, then those who voted for the first expedition against Syracuse (because they loved its pastries) and not for the second against Messina (because they have no taste for eels) will be compelled to go to war, and potentially to die, for something they do not care about. And

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<sup>235</sup> Socrates lists non-necessary appetitive goods at 404d1-9.

<sup>236</sup> Runciman 2013, 306.

that would be a disastrous result for them.<sup>237</sup> Hence democracy's rejection of majoritarian wars. The democratic rule would even, it seems, tolerate free-riding: if your spirit (*θυμός*) is weak and do not feel up to go to war, but you would like to reap the benefits of the expedition, it seems that you will be allowed to.<sup>238</sup> In the long run, and from the point of view of appetitive satisfaction, all citizens will benefit from such laxity: it protects them against being forced to go to war, and maybe die, for something they do not desire. Non-necessary desires function, like Dworkin's rights, as "trumps."<sup>239</sup>

This explanation gains further plausibility if one compares it to the situation at Athens. Athenian public rhetoric denied that democracy, with its rule of the people, amounted to tyranny of the majority: hence Pericles' mention of mutual toleration right after his words on majority rule.<sup>240</sup> One crucial condition for this absence of majoritarianism was the population's lack of uniformity in their sociological and psychological profile. Had there been a coherent majority with neat contours and definite interests, the risk of majoritarianism would have been much stronger.<sup>241</sup> The third explanation I put forward links democracy's absence of majoritarianism, at least in the case of war, to the variegated nature of the appetites of its citizens.

So far I have focused on the case of war, because it illustrates the logic I have in mind particularly well. But the same model, in fact, applies to political coercion in general. The situation of citizens ruled by non-necessary desires bears, *mutatis mutandis*, important analogies with Rawls' original position; the crucial difference being that, in Socrates' first-stage democracy, the object of ignorance is not so much one's own social position and conception of the good, but those of the majority. In a city where the citizens harbor and act on an infinite variety of desires, it is rational for each individual to want to rule out majoritarianism: if it were permissible for a majority to use the political apparatus to satisfy a particular desire they happen to share, then each individual citizen would run the risk of always (or consistently) being in the minority. The individuals of Socrates' first-stage democracy cannot know in advance what desires the majority of their fellow-citizens will have. Their situation is therefore not even one of risk, something to which human beings are already

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<sup>237</sup> Socrates mentions the quality of Sicilian food in general at 404d1-2; the Athenians' fondness for Messinian eels is studied by Davidson 1997, 8.

<sup>238</sup> On Athenian awareness of free riding see Christ 2006, 34.

<sup>239</sup> Dworkin 1978, xi: "individual rights are political trumps held by individuals. Individuals have rights when, for some reason, a collective goal is not a sufficient justification for denying them what they wish, as individuals, to have or to do, or not a sufficient justification for imposing some loss or injury upon them." See also Dworkin 1984.

<sup>240</sup> Thu. 2.37.2, with Gomme 1956, 110-111.

<sup>241</sup> Bleicken 1994, 502; Ober 2007, 7 and 2008, 181-182; Nippel 2016, 19-20.

averse; it is one of uncertainty, which people shy away from even more.<sup>242</sup> It thus resembles Rawls' original position, which is characterized by 'great uncertainty.'<sup>243</sup> Under these conditions, it makes sense for them to rule out majoritarianism, and in general the use of political coercion for the pursuit of specific appetites.<sup>244</sup> They can only agree on using political tools to maximize universal *means* of appetitive satisfaction: freedom, and money. That they put a premium on the pursuit on the first, rather than the second, can be sufficiently explained by their visceral rejection of oligarchy.

If this model functions, I still have to show how it can underpin a democracy whose citizens I presented, following Socrates, as heavily short-sighted. As I said, I see four ways of reconciling the third explanation with the second.

First, the contradiction can be avoided by locating these two explanations at different points in time. It can well be the case that Socrates first-stage citizens are short-sighted in their moment of post-revolutionary euphoria, but that they gain political experience and insight over time.

Second, Socrates' democratic citizens need not consciously endorse the model. Its logic explains why democratic shadow-play, especially by ruling out majoritarianism, has the best chances of giving them the greatest appetitive satisfaction in the long-run; but that does not mean that they have deliberately framed it for that purpose. As political theorist Jon Elster puts it, we should not 'assume without argument that the benefits of incidental constraints [such as the interdiction of majoritarianism] always tend to explain them.'<sup>245</sup> Shadow-play and the interdiction of majoritarianism may have been consciously endorsed when the first and the second explanations played out; it is possible that the third cause only 'incidentally' reinforces and stabilizes the resulting state of affair. To quote Elster again: 'in some cases, the effects of incidental constraints explain the maintenance of institutions that were originally introduced for quite different reasons.'<sup>246</sup>

Plato is familiar with similar unintentional logics. When, in book 2 of the *Republic*, Glaucon lays out the arguments of those who claim that justice is nothing but the good of another, he refers

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<sup>242</sup> On risk-aversion, see the overview in Eeckhoudt, Gollier and Schlesinger, 2005, 3-26. The idea that human beings are so averse to uncertainty that they prefer risk to it is traditionally associated with Knight 1921 and Ellsberg 1961. I would like to thank Charles Serfaty for most useful discussion on this point and others in this section.

<sup>243</sup> On uncertainty as definitory of Rawls' original position see Rawls 1971, §26.

<sup>244</sup> Of course, Rawls' well-ordered society still uses majority rule under, restricted to certain areas (ibid., §53). Either Socrates' first-stage democrats ban it altogether, or they use it much less than other cities: the text does not really enable us to decide. But even if coercion is only minimally used, this fact will give the impression of extensive freedom Socrates wants to communicate.

<sup>245</sup> Elster 2008, 5. See also the critique of functionalism in Elster 1993, 58-60.

<sup>246</sup> Ibid., 90.

to a related model. For the opponents of justice Glaucon cites, the majority of people think they have more to lose from a state of nature than they can gain from it, although they would gladly welcome the means to prevail over others in such a state (358e2-359a7). This is a clear example, within the *Republic*, of aversion to uncertainty. Yet Glaucon and his sources are not claiming that every democratic citizen consciously makes such a reasoning: only that an equilibrium based on the rule of equal law has been reached over time, without people having necessarily thought about it.<sup>247</sup> Thus, the third explanation I suggest is compatible with the second: it does not require the citizens to have thought it through; it functions even if the citizenry is, by and large, short-sighted.

Thirdly, short-sighted and far-sighted reasonings can be both present in the city, but be held by different individuals.<sup>248</sup> If a short-sighted aversion to coercion is pervasive in the democratic city, then it makes sense for far-sighted individual to use political constraints less than in any other city. To take an example: if citizens are generally reluctant to go to war, refraining from military enterprises is the safer course of action, since these might end in disaster if the troops are unmotivated and unruly (the oligarchs had to make that experience at their cost, 556e1-2). As Matthew Simonton puts it: 'The Greek state had little to no monopoly on violence and could not hope to discipline the armed forces through pure repression, and so military relations were largely voluntaristic.'<sup>249</sup> Even if a war is supported by the majority, a discontented minority is sufficient to call for caution. Another example can be taken from fiscal policy. An individual can foresee that, due to the short-sightedness of a significant part of the population (not necessarily the majority), taxes will not be levied in a quantity sufficient to get public services going. If she were to pay her contribution, she would pay without benefitting: she, and the majority who thinks like her, will therefore refrain. Practically, such reasonings amount to an abolition of majority rule: the will of the majority is unable to go through. Strict enforcement of the rule is likely to meet with such resistance that it is not worth trying.<sup>250</sup> Laxity creates in this case a culture of disobedience, which leads to shadow-play: the latter is created by short-sightedness, but far-sighted citizens maintain it.

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<sup>247</sup> Glaucon's sources are analyzed in Horkey 2021. Callicles' genealogy of law in the *Gorgias* offers another parallel: nowhere does he say that the people have deliberately framed the laws in order to check the strong men; in fact, he claims exclusivity in having the courage and insight to reveal this ideologically-suppressed reasoning (483b4-484b1).

<sup>248</sup> I am indebted to Grégoire Lefftz for discussion on this point.

<sup>249</sup> Simonton 2016, 237. See also Christ 2006, 50: 'What one man viewed as reasonable grounds for launching a campaign, another might regard as trivial ones.'

<sup>250</sup> Christ 2006, 209: While the city could have controlled bad citizenship more than it did through aggressive and coercive action, the cost would have been high for the individual and perhaps for the city too because rigidity on its part might have led to more rather than less citizen resistance to civic obligations.

Fourthly and lastly, we can well conceive of a synchronic combination of short-sightedness and game-theoretical calculation. Economists describe as 'hyperbolic discounting' what the Greeks knew from Homer: Ulysses was aware that, when hearing the Sirens sing, he would not abide by his purpose, that of remaining on his ship; he had to be bound to be forced to stick to his considered will. I can both welcome a constraint (my credit card is set not to function when I buy cigarettes, because I have decided it is bad for my health) and not accept it on the spur of the moment (I want the limitation on my credit card to start only tomorrow).<sup>251</sup> Socrates' democratic citizens can be both shortsightedly averse to political coercion, and farsightedly happy with the long-term arrangements that minimize it: both ways of seeing things come to the same result, after all. Research on hyperbolic discounting and other 'time-inconsistent preferences' shows that most people think, at the same time, in the short- and long-term: this often creates contradictions, which is not even the case between our second and third explanations.<sup>252</sup>

Thus, Socrates' first-stage democracy and its characteristic shadow-play can last a certain time: game-theoretical models explain why citizens would be satisfied with it in the long run. A regime of freedom, seen as the interdiction or minimization of majoritarianism, would provide them with the greatest appetitive satisfaction in the long term. Note that this gives first-stage democracy a remarkable profile: by allowing citizens to pursue any kind of way of life they might choose, without fear that the majority might impose theirs, it offers a diversity that entitles it to be 'the most beautiful of regimes' (557c4), comparable to the colorful cloak the Athenians offered to their patron-goddess every four years.<sup>253</sup>

Here again, freedom appears as a *means* of appetitive satisfaction. What brings first-stage democracy to its end is not the realization that its shadow-play is suboptimal. What causes the regime to change is a shift in the citizens' psychological profile; this very shift, ultimately, spells the doom of democracy *tout court*.

The three explanations I have provided explain, I hope, the remarkable shadow-play of political coercion that characterizes Socrates' first-stage democracy. By allowing individuals to

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<sup>251</sup> From the vast literature on hyperbolic discounting, see in particular Laibson 1997, and Elster 2008.

<sup>252</sup> See Elster 1993, 133-134 on the possibility of holding contradictory beliefs or attitudes, with the proviso that 'even contradictions must have a structure to be intelligible.'

<sup>253</sup> Rosenstock 1994; Villacèque 2010.



disregard the orders of lawfully appointed office-holders, the decrees of the assembly, the decisions of the courts, and the laws regulating access to office, Socrates' first-stage democracy has one merit: it makes tyranny of the majority impossible. Such a tyranny would require means of political coercion that are lacking in the first stage of the regime. But tyranny of the majority does come about in Socrates' democracy: it makes up what I call its second stage, a way-station towards the establishment of tyranny full-stop.<sup>254</sup> This second step is characterized by the birth of a love for freedom itself in the citizens' souls, which is instrumental in the setting-up of tyranny.

## II – Second-Stage Democracy: Liberty Fetishism and the Road to Serfdom

I will now show how the psychological make-up of democracy's citizens changes from the first to the second stage of the regime, and how this change is a milestone in the path to tyranny. The pivot of this evolution is the birth, in the citizens' souls, of a desire for the maximization of freedom in the city, even against the satisfaction of their basic non-necessary desires. I will call this desire for the maximization of freedom 'the love of freedom in itself,' or 'freedom fetishism.' As I claim that such a desire counts as a non-necessary desire, but is importantly different from the ones we have already seen (such as appetites for fancy food or drink), I will distinguish between 'first-order non-necessary desires' (such as the ones just mentioned) and the 'second-order non-necessary desire' for freedom itself. This part of the chapter is divided into two sections: first, I will explain how freedom fetishism comes about; second, I will spell out the role it plays in the birth of tyranny.

### 1) Freedom Fetishism

Second-stage democracy is marked by the birth of a desire for the maximization of freedom in the city, even against the citizens' satisfaction of their first-order non-necessary appetites. Socrates introduces the idea that freedom is 'fully extended' (ἐπὶ πᾶν τὸ τῆς ἐλευθερίας ἰέναι) at 562e1, but the main textual evidence for this phenomenon lies at 563b5-d2. Socrates has just described to

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<sup>254</sup> I owe this formulation to Melissa Lane.

Adeimantus how the democratic city has gotten drunk with the unmixed wine of freedom, a passage we will come to shortly. In the midst of his description of this wild revelry, he says:

Socrates – But the height of the freedom of the crowd to which this city comes, is when the people who have been bought (οἱ ἐωνημένοι), male and female, are not at all less free than those who have bought them. The same equality of treatment (ἰσονομία), the same freedom comes about in women's relation to men, and in men's relation to women, as we almost forgot to say.

Adeimantus – Shall we not, to quote Aeschylus, 'say whatever comes to our mouth'?

Socrates – And the fact that the beasts (θηρῶν) subject (ὑπὸ) to men are so much freer there than in another city, no one will believe it if he does not witness it. Female dogs are literally as in the saying, just like their mistresses; horses and donkeys, accustomed (εἰθισμένοι) to go with much freedom and dignity (πάνυ ἐλευθέρως καὶ σεμνῶς), bump into whomever they meet on the roads, if he does not give way; and all other beasts are full of freedom in the same way.

Adeimantus – It is my nightmare that you are telling: when I walk into the countryside, I often have this experience.

Socrates here focuses on three features of the democratic city that he finds much more striking, and blameworthy, than we do. First is the fact that freedom extends to slaves; second, that it is granted to women; third, that it is even given animals. In the three cases, the grant of freedom reverses conventional relationships of subjection. Slaves were obviously subject to their masters, in Athens as everywhere in the Greek world; if we believe Aristotle, they were used as 'living tools.'<sup>255</sup> Socrates also mentions equal freedom in the relationship between men and women: nothing warrants limiting this equality to married couples, and it might well extend to courtesans and prostitutes, who were also in a structural relationship of subjection. Aristophanes in the *Wasps* has Xanthias tell of his surprise when a prostitute, refusing to carry out this sexual fantasy, accuses him of tyranny.<sup>256</sup> As to beasts of burden, and animals in general, they were also supposed to serve their masters: here they are said to be 'subject to men' (ὑπὸ τοῖς ἀνθρώποις); the saying Socrates quotes refers to relationships between servants and masters, thus equating beasts with the former.<sup>257</sup>

Now here is my argument: if the citizens of this stage of the democracy were still intent on maximizing the satisfaction of their non-necessary desires for food, drink and sex, they would use

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<sup>255</sup> *Pol.* 1253b27-32.

<sup>256</sup> *Ar. Vesp.* 493-502, with the comments of Davidson 1997, 278.

<sup>257</sup> See Adam *ad loc.*: the meaning is ὅποια δέσποινα, τῶν αὐτῶν καὶ ἡ θεραπευτικῶν.

their slaves, their animals, their wives and other women to serve this purpose. They would direct them to minister to their various pleasures.<sup>258</sup> Since they do not, their psychological make-up must have changed.<sup>259</sup> A comparison with Athens will be helpful at this point. Joshua Ober argues that the Athenians never expressed the commitment to fully equal freedom which Socrates describes, precisely because it would have run against the satisfaction of their interests.<sup>260</sup> As we shall see, this does not rule out that the Athenians hosted aspirations and desires that could go in such direction.<sup>261</sup> The citizens of Socrates' second-stage democracy, in any case, harbor such a desire, a new psychological drive that explains their refraining from exploiting others: the love of freedom itself.

Socrates actually prefaces his description of the birth of tyranny with comments on democracy's love of freedom (562b7-c3):

Socrates – Isn't it the case that the insatiability of what democracy defines as good destroys the regime?

Adeimantus – But what do you say it defines as good?

Socrates – Freedom, I said. In such a city, I suppose, you would hear it said that freedom is the finest thing it has (ὡς ἔχει τε κάλλιστον), and that on account of this, whoever is naturally free (φύσει ἐλεύθερος) can only live there.

Adeimantus – It is said indeed, and people make much of this notion.

ΣΩ. - Ἄρ' οὖν καὶ ὁ δημοκρατία ὀρίζεται ἀγαθόν, ἢ τούτου ἀπληστία καὶ ταύτην καταλύει;

ἌΔ. - Λέγεις δ' αὐτὴν τί ὀρίζεσθαι;

ΣΩ. - Τὴν ἐλευθερίαν, εἶπον. τοῦτο γάρ που ἐν δημοκρατουμένη πόλει ἀκούσαις ἂν ὡς ἔχει τε κάλλιστον καὶ διὰ ταῦτα ἐν μόνῃ ταύτῃ ἄξιον οἰκεῖν ὅστις φύσει ἐλεύθερος.

<sup>258</sup> Blössner 1997, 276: 'Die Herrschaft der nichtnotwendigen Triebe müsste eher Konsumfredigkeit und Verschwendungssucht steigern als das Streben nach Freiheit.' Also Quandt ad loc.: 'The gratuitous extension of equality and its praise to every aspect of life, even where its application would be unclear (ἰδίᾳ), is characteristic of the rising obsession with "freedom."'

<sup>259</sup> The freedom granted to slaves in Athens could receive another explanation, as the ones offered by Ps.-Xen. (*Constitution of the Athenians*, 1.11): first, slaves looked so much like free men that allowing the first to be subject to arbitrary violence would be a danger for citizens themselves (on similar appearance see Bleicken 1994, 59; for an example of the risk for free people see Dem. 47.61, and Aesch. *Tim.* 1.16 for laws protecting slaves against ὕβρις; the Greek standard was that slaves should stoop when walking, cf. Theog. 535); second, protecting slaves against arbitrary punishment from anyone prevented a form of blackmailing that would have been detrimental to their master (see on this point the helpful comments of Ober 1998, 11, and 2015, 111). It is striking that Plato uses neither of these two explanations.

<sup>260</sup> Ober 2008, 259: 'Athenians remained ideologically unwilling to place their slaves' interest in personal freedom, dignity, and equal treatment in the scales of justice, despite the fact that freedom, dignity, and equality were highly valued by citizens. That unwillingness was, perhaps, motivated by a recognition that, if given proper weight, the interests of slaves in freedom would outweigh the property interests of slave owners.'

<sup>261</sup> Demosthenes (9.3), for instance, affirms that slaves enjoy freedom of speech (παρρησία) in Athens – although this must be understood relatively (to the situation of slaves in other cities).

ἌΔ. - Λέγεται γὰρ δὴ, ἔφη, καὶ πολὺ τοῦτο τὸ ῥῆμα.

This passage attests that democracy hosts a love for freedom, which is defined as good. The interpretation of these lines is made difficult, however, by two facts. First, the translation of 562b12-c2 is disputed. Grube-Reeve translate: 'surely you'd hear a democratic city say that this is the finest thing it has, so that as a result it is the only city worth living in for someone who is by nature free,' supplying a grammatical subject for ἔχει. Shorey has: 'you may hear it said that this [liberty] is best managed in a democratic city, and for this reason that is the only city in which a man of free spirit will care to live,' taking ἔχει κάλλιστον as equivalent to κάλλιστόν ἐστι. Shorey's translation has the advantage of making better sense of the logical connection between the two halves of the sentence: if it is in the democracy that freedom is best cultivated, then the person of free spirit can only choose to live there. The difficulty lies, I think, in the grammar: the equivalent of κάλλιστόν ἐστι would be ἔχει κάλλιστα, not κάλλιστον. This is why I adopted the Grube-Reeve rendering in my own translation.

Second, even if the passage testifies to the existence of a love of freedom as a good in the democratic city, it might be taken to challenge my account. For Socrates does not say that this love only affects second-stage democracy. I think the objection is well-taken, but that it can be answered. There are several reasons why first-stage democracy would consider freedom as a good. The first has to do with the psychology of its citizens. It makes sense for someone who is ruled by her non-necessary desires to say that what she enjoys in life is 'doing whatever she likes.' The phrase is a convenient place-holder for the many occurrent desires that might crop up in the future; and it includes the pleasure of foreseeing that one will not meet constraints to the satisfaction of one's desires. For there is obvious pleasure in enjoying one's own power to act as one pleases. We are planning beings, and the mere prospect of a future constraint is painful to us:<sup>262</sup> to quote the *Phaedrus* once again, every compulsion is felt to be burdensome; even a future one must be.<sup>263</sup> Citizens of first-stage democracy might very well answer, when asked about what they like most:

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<sup>262</sup> The 'planning' in question is minimal: it concerns even short-sighted individuals.

<sup>263</sup> This was well understood by Jane Austen, who has Elizabeth Bennet say of Darcy, who is making plans to leave Kent: 'if not able to please himself in the arrangement, he has at least great pleasure in the power of choice. I do not know anybody who seems more to enjoy the power of doing what he likes than Mr. Darcy.' To which Colonel Fitzwilliam replies: 'he likes to have his own way very well. But so we all do.'

'being able to do what I like.' Such wording would include first-order non-necessary pleasures and some kind of higher-order pleasure, that of not anticipating any compulsion.<sup>264</sup> I argued in chapter 1 that Callicles' description of ἐλευθερία as εὐδαιμονία relied on a similar logic: ἐλευθερία guaranteed him both first-order pleasures, and the second-order pleasure of being unconstrained.

The second reason why first-stage democratic citizens would call their good 'freedom' is, so to speak, genetic. Just as the democratic man talks of 'liberation' (ἐλευθέρωσιν, 561a4) to describe his newly acquired freedom to satisfy his non-necessary desires, because such desires were repressed by a father who himself 'enslaved' his own (554a7), the majority of the early-stage democracy, who are ruled by their non-necessary appetites, can also celebrate their new opportunity to satisfy these under the name of liberty. The oligarchy gave them only a taste of the freedom to satisfy their non-necessary desires, but it prevented this freedom from becoming total.<sup>265</sup> Politically, it makes sense to capture their new state as one of freedom, and to cherish it under that name.

The third reason democracy would consider freedom as a good is institutional. Note that Socrates is not explicitly saying that the citizens value freedom as a good, but that the city does. This fits in with what we know of Athenian democracy: the regime's own ideal was freedom, for the citizens to participate and live their lives as they pleased.<sup>266</sup> And it makes very good sense for first-stage democracy to make freedom its main aim. The city is not likely to adopt 'the maximization of non-necessary appetitive satisfaction' as its own good: first, appetitive satisfaction is the job of the citizens, whereas the city is only there to create the conditions for it.<sup>267</sup> Second, the city after all hosts various psychological types, including at least oligarchs, probably honor-seekers and philosophers as well: these are explicitly allowed to satisfy their desires, which are not non-necessary.<sup>268</sup> The regime's aim goes beyond maximizing non-necessary appetitive enjoyment: it gives freedom to live as they wish to all its citizens. This notion is somewhat reminiscent of John Rawls' distinction

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<sup>264</sup> This idea is developed in Republican thought. As Skinner 1998, 84 shows, the possibility of someone coercing me is a form of psychological coercion. See also Elster 2008, 282: 'Tocqueville remarked that the French had to be kept loosely bound to prevent them from rebelling against the tightness of their chains. When people are constrained from doing what they would not have wanted to do if they were freed to do it, they may develop a desire for it.' In other words, the feeling of being constrained is in itself a constraint.

<sup>265</sup> Note the introduction of terms linked to freedom at 555c3 (ἐξείναι) and 556a5-6 (τὰ αὐτοῦ ὅπη τις βούλεται τρέπειν).

<sup>266</sup> Hansen 1991, 74.

<sup>267</sup> I thank Rachel Barney for suggesting this idea to me.

<sup>268</sup> At 557b5-10, Socrates mentions how everyone in the city is allowed to set up the 'way of life' (κατασκευήν) that pleases him: given that the term is also used for regimes, or constitutions at 557d3 (κατασκευάζειν), Plato indicates that some of those who live in the democratic city can behave in a way that fits other regimes more.

between liberty, a matter of institutions, and the pursuit of one's conception of the good, which is the task of the individual. Rawls insists that 'liberty is a certain structure of *institutions* [my emphasis], a certain system of public rules defining rights and duties:' it is the goal of the polity, not necessarily of the individual.<sup>269</sup>

In Socrates' democracy, equal liberty seems to be more a matter of efficiency than of justice as it is in Rawls: given the variegated nature of the citizens' desires, the city is more efficient in giving them the means to satisfy them, than in assisting them directly in this pursuit. It might actually be a dangerous encouragement to lawlessness to adopt 'the satisfaction of non-necessary desires' as the city's goals, as there are among this class appetites that directly thwart the basic conditions of communal living, as Socrates makes clear a little later (571b4-c1). Thus, I propose that in first-stage democracy, it is primarily the city that defines freedom as good, which is, after all, what Socrates is exactly saying; it is only later, in the second stage, that citizens internalize this ideal, which thus passes from the collective to the individual level, as Cinzia Arruzza noted.<sup>270</sup> Here again, chapter 1 provides important background: Polus and Callicles recognizably adopt, at their own individual level, ideals that Pericles praised as the city's agenda.

Following Arruzza, I believe democracy undergoes a shift when its citizens adopt the city's commitment to freedom as their own ideal. In the first stage, freedom was the institutional means through which the citizens could satisfy their various desires: I argue that they have progressively developed an attachment to this means itself, turning it into an end. This does not mean, however, that their conception of freedom is not still 'freedom to satisfy one's first-order non-necessary appetites.'<sup>271</sup> It is just that the citizens of second-stage democracy are ready to sacrifice the satisfaction of their first-order non-necessary desires in order to enjoy watching the maximal implementation of freedom in the city. The citizens thus come to fetishize something that thwarts the satisfaction of the appetites that used to rule them. I argue that such fetishism has its roots in two phenomena: habituation, and rhetoric.

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<sup>269</sup> Rawls 1999 [1971], 177. Cf. Strauss 1978, 104.

<sup>270</sup> Arruzza 2018, 130-131. See also Strauss 1978, 193.

<sup>271</sup> The oligarch values money for its own sake; but a currency that could not be used to satisfy his other desires would probably not attract his attention. Therefore, although the oligarch values money not as a means but as an end, his conception of money is still 'whatever enables me to purchase goods that satisfy desires.' Cf. Eva in Joseph Losey's eponymous film – when asked what she likes most in the world, she answers: 'money. To buy records.'

## a) Habituation and Attachment to Freedom

Plato has room in his psychology for the formation of attachments to things that were previously pursued as means only. This is actually the only way to account for the existence of a ‘money-loving’ part of the soul. Money is not a natural thing; babies are born with a desire for food and drink, but not with a desire for money. Plato must have known, from Herodotus, that some societies did without money.<sup>272</sup> But people who grow up in a society where money exists come to associate the satisfaction of their basic desires with the acquisition of the means to satisfy them, namely money. They end up taking pleasure in the acquisition of this means itself. As Hendrik Lorenz puts it, ‘given suitable habituation and acculturation in the context of a life lived in human society, the appetitive part tends to become attached to money in such a way as to form desires for it which in each case are based on, or consist in, some kind of appreciation of it as a direct source of pleasure.’<sup>273</sup> The same process, I argue, unfolds in the case of freedom.<sup>274</sup>

The malleability of the appetitive part of the soul Lorenz describes is key, I argue, to understand the shift in the life of the democratic city. The citizens used to live in a regime where freedom was perceived as maximizing appetitive satisfaction: it realized pre-revolutionary promises of enjoyment; was in line with the citizens’ rejection of rule as oppressive; and even guaranteed, in cases like war, the optimization of utility. With time, the citizens have come to value freedom in itself, just like people come to take pleasure in money itself.<sup>275</sup> And this, once again, agrees with what we know about Athenian democracy. It was not uncommon to speak of an ‘appetite for freedom,’ as Demosthenes did.<sup>276</sup> It was not uncommon either to explain the people’s attachment to freedom by its long habit of enjoying it: Thucydides expresses some kind of admiration for the political skill with which Peisander and Theramenes managed in 411 to get the people to ‘put an end to liberty’ (ἐλευθερίας παύσαι), as this people had for a century been free from tyrants, and a ruler of others for

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<sup>272</sup> See Schrieffl 2013, 174-175, quoting Hdt 1.94 and *Laws* 679b. Homeric epics are marked by ‘marginality of trade and absence of money’ (Seaford 2004, 26-33).

<sup>273</sup> Lorenz 2006, 47.

<sup>274</sup> As Rachel Barney suggested to me, Plato resorts to the same psychological explanation when, in the *Symposium*, he has Socrates argue that, while men originally desire the Good forever, they settle for immortality in itself, which is only a means for the unlimited enjoyment of the Good (*Symp.* 206e8-a2).

<sup>275</sup> A further similarity is that, like money, freedom is valued for being an all-purpose means.

<sup>276</sup> Dem. 15.20 talks of τῶν ἐλευθερίας ἐπιθυμούντων. See also Lys. 13.2 and Xen. *Cyr.* 3.19.

half that time.<sup>277</sup> To the same Theramenes, Critias in Xenophon's *Hellenica* advances the people's long habit of freedom, and its resulting hatred for oligarchy, as arguments for harsh rigor in the conduct of the new regime.<sup>278</sup> The Athenians' habit of enjoying freedom has attached their souls to it. The idea that freedom had intrinsic value was well known to the Athenians, as Kurt Raaflaub has shown.<sup>279</sup> Democritus could thus say that liberty in democracy was more valuable than all the riches of an oligarch.<sup>280</sup>

Josiah Ober has argued that 'habits associated with the practice of democracy' ended up producing, in the minds and attitudes of the Athenians, 'a 'liberalizing' tendency to extend immunities beyond the boundary of the citizen body,' even if this tendency was not 'the conscious or stated intention of the Athenian democratic regime.'<sup>281</sup> Ober links the Athenians' relative openness towards metics, women and slaves to their general concern for preventing hubristic behavior; Plato is simply offering another connection, while keeping to the same logic.

## b) The Dizzying Slogan of Freedom

There might be more than habituation, however, to explain the freedom fetishism of the people. Adeimantus alludes to the fact that freedom 'is much talked about' in the democratic city (πολὸν τοῦτο τὸ ῥῆμα, 562c3). The *Menexenus* gave a powerful illustration of this: it showed how freedom was rhetorically used both as a reference and a mantra, making even Socrates dizzy. Socrates' depiction of second-stage democracy in the *Republic* alludes to the same phenomenon. He blames a certain category of political activists, whom he calls 'leaders' (προσταπτούντων 562d1, προστάτης 565d4, προεστός 564d8), for serving to the people 'the unmixed wine of freedom (562d2). Who can these leaders be? Once again Plato's psychological classification fuses with Athenian political vocabulary. These 'leaders' are drones with stings, a species that already existed in the oligarchic city (552d1). Dominated by their non-necessary desires, they differ from stingless drones by their readiness and ability to use all means, including criminal ones, to obtain satisfaction. In the oligarchy, they managed to bring down the regime by fomenting a revolution: but in a democratic

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<sup>277</sup> Thu. 8.68.4.

<sup>278</sup> Xen. *Hell.* 2.3.24.

<sup>279</sup> Raaflaub 2004, 188-189, quoting Hdt. 7.135 and Xen. *Hell.* 4.1.35.

<sup>280</sup> DK B 251.

<sup>281</sup> Ober 2000, 30-31.



city they enjoy even more possibilities. Socrates makes the contrast between their situations in the two regimes explicit:

There [in the oligarchy], because they are deprived of honor and barred from office, they lack training and become feeble. But in democracy, this is what somehow dominates the city, except a few exceptions. And the fiercest among them speaks and acts while the rest come and sit near the tribune, making a booming noise. They do not tolerate another man speaking, so that everything in this regime ends up being managed by such men, except for a few exceptions' (564d6-e2).

The political vocabulary is significant here. Socrates does not say that the 'leader' is an office-holder.<sup>282</sup> He is above all characterized by his rhetorical ability (he speaks) and political activism (he swarms).<sup>283</sup> 'Sting' (κέντρον) could be used in Athenian imagery to describe rhetorical power, as Eupolis did in the *Demes* to give a sense of Pericles' eloquence.<sup>284</sup> A leader can be both a prominent orator and a political activist without holding any office: Cleon for instance was the leading politician in Athens from the death of Pericles in 429 to his own election as a general in 420. Cleon is in fact the paragon of a new generation of political figures who exercised influence by rhetoric and self-proclaimed goodwill for the people, rather than by holding office.<sup>285</sup> The 'few exceptions' to the political domination of the *προστατής* which Socrates alludes to are probably office-holders, or people who are at the same time *προσταταί* and office-holders, like Pericles.<sup>286</sup> Socrates does not rule out that *προσταταί* can be office-holders: but given the regime's wariness towards *ἀρχή*, even in its first stage, it is unlikely that they would be eager to hold office.

The contrast between *προσταταί* and office-holders is neatly drawn by Socrates at the beginning of the transition towards tyranny. The *προσταταί* fuel the people's valuation of freedom

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<sup>282</sup> This is noted by Ober 1998, 246.

<sup>283</sup> He uses fully the *ἐξουσία* to act and speak as he pleases that is characteristic of democracy throughout (557b4-6); see on this point Rebentisch 2009, 16.

<sup>284</sup> Fr. 102 K.-A. See on this point Azoulay 2014, 43.

<sup>285</sup> On this new political figure see Connor 1971, 99-139; Allen 2006, 195-208. *Λέγειν καὶ πράττειν* was the typical phrase used in the 4th century to describe the activity of rhetors: see Aesch. 3.49. For the topos of goodwill towards the people, see [Xen.] *Constitution of the Athenians* 1.7. Pope 1988, 295-296, compares the Athenian *προστατής* with the Ethiopian *jalubai*, an informal leader whose power resides in rhetoric, and who serves as a facilitator of decision-making, a role he would not be able to play so well were he an official magistrate.

<sup>286</sup> He is said to have the *prostasia tou dêmou* by Thucydides in 2.65.11, at a time when he was also *stratêgos*.

for its own sake.<sup>287</sup> They bring them to refuse ever to obey their office-holders: ‘when, I think, a democratic city, athirst for freedom, happens to have bad cup-bearers as its leaders, and when it gets drunk with unmixed freedom more than it should, it chastises office-holders, if they are not very mild (πάνυ πραῖοι) and do not provide them with a strong measure of freedom, accusing them of being brutal and oligarchs’ (562c8-d4). First-stage democracy was already ἄναρχος, as we saw. The general aversion towards ἀρχή that the second explanation tried to account for seems to have turned now into an allergic reaction against anything that even remotely evokes rule.<sup>288</sup>

Three passages prove that this allergic loathing has turned manic. First, office-holders are insulted as ‘brutes and oligarchs’ unless they are ‘very mild’ (πάνυ πραῖοι) and ‘provide the people with a strong measure of freedom’ (562d3-4). The sentence captures how much traits present in the first stage have gotten out of hand in the second. As we saw above, the treatment of convicts already instantiated ‘mildness’ (πραότης, 557e2) in the first stage, and there also seemed to be a general aversion towards rule and rulers, in association with the rejection of oligarchy.<sup>289</sup> The three causes detailed above explained why this had to be the case in a city where the majority was ruled by non-necessary appetites: shadow-play seemed (at first sight) or was thought (by far-sighted citizens) to maximize the satisfaction of their appetites. But Socrates' description of the treatment of previously dominated sections of the population (women, slaves, beasts) has revealed that a new desire has now taken over the souls of the citizens: an appetite for freedom itself. Citizens now take mildness and freedom as values they want to maximize. Short-sightedness cannot be the cause of their refusal to dominate those they previously oppressed: it is obvious enough that their newly acquired respect for these people's freedom reduces the satisfaction of their first-order non-necessary appetites. The only explanation is a shift in their psychology.

What the second stage has in common with the first, however, is the weight of appearances. For Plato, the appetitive part is by nature prey to appearances.<sup>290</sup> People whose soul is dominated by ἐπιθυμία will therefore be sensitive to the way things look. The first stage instantiated this fact

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<sup>287</sup> The responsibility of the *προσταται* for the people's drunkenness is rightly stressed by Fissel 2011, 226. Fissel does not note, however, that Socrates' description matches the Ship of the State metaphor, where the sailors are said to make the people drunk (488c5).

<sup>288</sup> Kenneth Quandt *ad loc.* notices that it is the people who plays the role of office-holders by chastising them: the reversal of roles is complete.

<sup>289</sup> Lane 2018b, 712: ‘To call the holders of properly installed officials ‘oligarchs’ is to undermine the very basis of constitutional rule.’

<sup>290</sup> Penner 1971; Lorenz 2006, 65-66.

already, but the second illustrates it further. The soul of each citizens becomes ‘so sensitive (ἀπαλήν)’ that ‘they get indignant and cannot tolerate it (ἀγανακτεῖν καὶ μὴ ἀνέχεσθαι) if any man applies to himself the very least degree of slavery’ (563d5-7).<sup>291</sup> The mere appearance of a behavior that evokes rule becomes unbearable. The importance of seeming is stressed by a third passage, showing how the love of freedom has crept into private houses: old people adopt the relaxed way of life of the young, ‘in order not to seem odious (ἀηδεῖς) and despotic (δеспοτικοί)’ (563b1-2). They refrain from giving advice or correction to the young, even when this might be in the long-term interest of the latter: the mere evocation of hierarchy and authority would trigger allergic reactions.<sup>292</sup> The laws, which must have been partially obeyed in first-stage democracy, are carried away by this general aversion to authority: ‘people end up not caring at all about the laws, whether written or unwritten, in order that no-one may be their master in anyway.’<sup>293</sup> Personal rule is so detested that it tarnishes impersonal authority.<sup>294</sup> This is not short-sightedness, as it was in the first stage: the citizens are not mistaken about the best means to satisfy their first-order appetites; they rather have an overriding second-order desire for freedom. But their sensitivity to appearances of coercion and freedom shows that there is continuity between the two stages.

Freedom is now seen as directly opposed to political coercion, whatever its form. Political coercion can only be understood to amount to slavery, as the passage just quoted testifies. This perception adds another psychological layer to the picture: obeying the laws or commands of office-holders is now seen as shameful, as it assimilates the free man to the slave. The free man is supposed not to be ruled at all; only slaves endure rule: ‘people insult as willing slaves (ἐθελοδούλους) those who obey the office-holders’ (562d6-7).<sup>295</sup> Once again, Plato’s psychology in the *Republic* has the means to explain this phenomenon: spirit (θυμός) follows the ruling part of the soul (here, non-necessary desires, including the love of freedom) and aligns with its pronouncements; it considers shameful what the ruling part of the soul rejects.<sup>296</sup> We have already seen adumbrations of this idea in the *Gorgias* and the *Menexenus*: Calicles considered it shameful to be the slave of anyone, which

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<sup>291</sup> Giving a middle sense to the προσφέρηται, with Adam *ad loc.* and Grube-Reeve. It should be noted, however, that Cicero (*Rep.* 1.67) gives to the verb a passive meaning (*adhibeatur*).

<sup>292</sup> See also 569b8-c4, speaking of καπνὸν δουλείας.

<sup>293</sup> 563d7-e1. The laws regarding fitness for office were disregarded in the first stage, but not all laws, if the analogy between city and individual is to hold: for the democratic individual is one who refrains from acting on his lawless desires (572d2). The mention of laws ‘written or unwritten’ is strongly reminiscent (and critical) of *Thu.* 2.37.3.

<sup>294</sup> Cf. Lane 2018b, on slavery as the synecdoche of rule.

<sup>295</sup> Lane 2019, 127 notes the parallel with *Xen. Lac.* 8.2 and *Mem.* 3.5.16.

<sup>296</sup> Arruzza 2018, 197-198.

implied for him a rejection of any form of rule (491d10-e6); and Socrates' speech in the *Menexenus* made absolute freedom an object of pride (239a5-b3). Such ideas were widespread in Athens, as the *Anonymus Iamblichi* attests: his whole argument is meant to reject a common assumption that obeying the laws is a sign of weakness.<sup>297</sup> In a city that makes liberty a matter of pride, it is no wonder to see donkeys and dogs make a 'pompous' (σεμνῶς) display of their newly acquired freedom (563c7).

To sum up: I argue that the citizens of second-stage democracy develop, under the influence of their *προσταταί*, a visceral suspicion towards *ἀρχή* that goes well beyond the short-sighted wariness they displayed in the first-stage.<sup>298</sup> The mere semblance of rule now unchains negative passions. The fragile equilibrium of the first stage, where first-order non-necessary desires held sway in the citizens' souls, gives way to a new situation: it is the second-order desire for freedom itself that has gotten the upper-hand. The attachment to freedom must have developed gradually, and may have started during the first stage: but what surely marks the beginning of the second is its new supremacy in the soul of the majority. This becomes clearer, I think, when we dwell on the image of drunkenness which starts Socrates' description of the second stage.

The love of wine is a non-necessary appetite, as I argue the desire for freedom is. It can be indulged without danger when wine is mixed with water, which I propose to interpret as first-order non-necessary appetites, or even remnants of necessary appetites (water is, after all, absolutely necessary for humans to survive). It is the pursuit of these first-order non-necessary appetites and, sometimes, of necessary ones, that guides the behavior of citizens in first-stage democracy: it explains the maintenance of a certain form of order, based on traditional hierarchies (we would say: forms of oppression). Wine stands for the love of freedom: the ancient Greeks, after all, were well-aware of the intoxicating powers of freedom. As Plutarch tells us in the *Life of Lysander*, the comic poet Theopompus, a contemporary of Plato, 'compared the Spartans to tavern-women, for they gave the Greeks a taste of the pleasant drink of freedom, before mixing it with vinegar' in the years following the Peloponnesian War.<sup>299</sup> As Sara Forsdyke has shown, public drunkenness of the kind Plato describes was, with the levelling or inversion of traditional hierarchies, the permission to break the law, and the 'licence to abuse the rich,' a feature of Greek and more largely ancient rites of

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<sup>297</sup> An. Iamb. 6.1: τὸ δὲ τῶν νόμων ὑπακούειν δειλίαν.

<sup>298</sup> Lane 2018b, 712 felicitously talks of the 'nullification of the authority of rule.'

<sup>299</sup> Plut. *Lys.* 13.5. On Plato's association of democracy with wine and drunkenness, see Noël 2002 and Pradeau 2004. Isocrates 8.13 regrets that the Athenians 'think that drunk men are more favourable to the people than those who are sober.'

reversal.<sup>300</sup> Gheorghe Pașcalău has also noted the associations of both wine and honey with Bacchic cult, which gives the mass hysteria described by Socrates its cultural context.<sup>301</sup>

The image of wine captures well the manic aspect the love of freedom takes on in Socrates' second-stage democracy. Athenian political culture was far from unfamiliar with such episodes of hysteria: a scene of Aristophanes' *Wasps* describes how, even in 422, the Athenians were madly seeing tyranny everywhere. To quote Bdelycleon:

How you see tyranny and conspirators everywhere, as soon as anyone voices a criticism large or small! I hadn't even heard of the word being used for at least fifty years, but nowadays it's cheaper than sardines. Look how it's bandied about in the marketplace. If someone buys perch but doesn't want sprats, the sprat seller next door pipes right up and says, 'This guy buys fish like a would-be tyrant.' And if he asks for a free onion to spice his sardines a bit, the vegetable lady gives him the fish eye and says, 'Say, are you asking for an onion because you want to be tyrant? Or maybe you think Athens grows spices as her tribute to you?'<sup>302</sup>

To which Xanthias makes the reply we quoted above, about his recent misfortunes with a prostitute. The context of these remarks is key: as Jeffrey Henderson has shown, Bdelycleon and Xanthias are here alluding to a recent rhetorical strategy of the 'new politicians,' to attack their aristocratic opponents as would-be tyrants.<sup>303</sup> Under the influence of such men, Philocleon and his peers come to 'detest all things aristocratic,' wealth included.<sup>304</sup>

The analogies with Plato's demagogic orator are blatant. If the city-soul analogy is to hold, there must be an equivalent at the civic stage of the rhetorical re-description that corrupters use to instill lawless desires in the democratic man's soul. They manage to make their prey believe that 'lawlessness (*παράνομία*) is the utmost freedom' (572e1-2). Now the Greeks knew how pliable mottos were in the hands of politicians: in his famous account of rhetorical re-description in the course of endemic *στάσις*, Thucydides mentions how the 'leaders' in every city (οἱ γὰρ ἐν ταῖς πόλεσι προστάντες) managed to disguise their enterprises under 'fair names' (μετὰ ὀνόματος εὐπρεποῦς) taking their cues from 'whatever was their temporary good pleasure' (ἐς δὲ τὸ ἑκατέροις που αἰεὶ

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<sup>300</sup> Forsdyke 2005, 78-82.

<sup>301</sup> Pașcalău 2013, 234-235.

<sup>302</sup> *Ar. Vesp.* 488-499 (Henderson transl.).

<sup>303</sup> Lintott 1982, 130, argues that this may be the hallmark of Cleon's rhetoric.

<sup>304</sup> Henderson 2003, 163-165 (the quote is from 165).

ἡδονὴν ἔχον, 3.82.8).<sup>305</sup> I suggest that the *προσταταί* of Socrates' second-stage democracy, like Aristophanes' and Thucydides', use the fair name of freedom to instill in the citizens a rejection of all form of rule.<sup>306</sup> Once the citizens of second-stage democracy host a powerful love for the maximization of freedom, which fuels an allergic rejection of everything that even appears to oppose it, they become pliable tools for the demagogue's ambition. The parallel with the fate of Socrates' democratic man is complete.

In Socrates' second-stage democracy the catchword of freedom is readily usable to unchain the fiercest political violence, as in ancient Greek civil warfare.<sup>307</sup> As we saw, Philocleon and his crew are so taken by Cleon's rhetoric that they come to hate wealth, which they associate with aristocrats.<sup>308</sup> But freedom fetishism can also have the opposite result: as Plutarch informs us, Megarian demagogues once gave the people 'the unmixed wine of freedom' to drink (Plutarch is quoting Plato); the inebriated people forced the wealthy to give away their fortunes for the continuous feasting of the *demos*.<sup>309</sup> The same story occurs in Socrates second-stage democracy, and puts an end to it.

## 2) Freedom Fetishism, Greed, and the Road to Serfdom

The democratic man turns into a tyrant because of the irruption of lawless desires (*ἐπιθυμῖαι παράνομοι* at 571b3-5 and 572d3, *ἄνομοι* at 572b5) in his soul.<sup>310</sup> The city-soul analogy requires that the democratic city crumbles because of similarly lawless strivings. I argue that these are two related desires: first, the desire to assert the people's freedom for itself, which we have already seen motivate

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<sup>305</sup> Euripides' *Electra*, where a similar phenomenon is analyzed, attests that this was a real concern at the time of the Peloponnesian War; see on this point Konstan 1985.

<sup>306</sup> The *προστατής* thus appears to be a skillfull rhetorician: he may owe his skills to sophists of the kind of Thrasymachus, who engages in rhetorical re-description himself, to turn justice into naiveté (348c5-12). In any case, the Thucydidean passage further confirms the thesis of Connor 1971 and Allen 2006: the 'leaders' described owe their prominence to their deft manipulation of slogans, i.e. to their rhetorical abilities.

<sup>307</sup> Gehrke 1985, 252.

<sup>308</sup> *Ar. Vesp.* 575.

<sup>309</sup> *Plut. Mor.* 295c11-d9. Forsdyke 2005, 84: 'the events recorded by Plutarch reflect the escalation of the symbolic inversions and licence of festival revelry into real riot and protest.'

<sup>310</sup> Pace Janke 1965, 258-259, *παράνομος* here must mean 'contrary to law,' not only 'widersittlich:' 571b6 is clear that such desires are normally checked by laws.

a contempt for all law (563d7-e1); second, the desire to despoil the wealthy, an enterprise which contravenes the most basic laws.

The city-soul analogy calls for such an identification. Just like corrupters take hold of the future tyrannical man by instilling manic love (ἔρωσ) in his soul, on top of other lawless desires, the demagogue creates in the people a love of freedom which leads to the establishment of tyranny.<sup>311</sup> The association of the love of freedom with ἔρωσ should not surprise us. A close contemporary and pupil of Plato, the author of the Eighth Letter (354d1-5), made the connection without feeling the need to argue for it.<sup>312</sup> But it has good textual basis, in so far as ἔρωσ and drunkenness are closely associated at 573c9, and it was with freedom that the democratic city got drunk.

ἔρωσ, however, is not the only lawless desire that characterizes the tyrant. He is also prone to robbery, because his non-necessary appetites have grown enormous (573d7-11). These are enough to push him to steal his father's money; but ἔρωσ adds force to this drive. We see a similar process occur at the level of the democratic people: a combination of intense non-necessary desires and love (for freedom) sets off a campaign for the spoliation of the rich. This section aims at retracing and explaining this process.

Both desires, for confiscating wealthy people's property and for freedom, can be seen as lawless (παράνομοι) in the Athenian context: the interdiction to confiscate and redistribute property without criminal offense was entrenched in the oath jurors swore upon taking office;<sup>313</sup> and the people's desire to assert its freedom at all costs led to the most blatant violation of the law in the Arginusae trial.<sup>314</sup> In Socrates' second-stage democracy, both desires play out to fuel a political campaign against the wealthy, seen as obstacles to people's satisfaction both of their first-order non-necessary desires, and of their second-order love of freedom.

#### a) Socrates' Political Sociology

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<sup>311</sup> 572d8-573a2. Both ἔρωσ and other non-necessary desires lead the inchoate tyrant to steal his parents' wealth, 574a6-10.

<sup>312</sup> Note, in particular, ἀμέτρῳ ἐλευθερίας χρώμενοι ἔρωτι. On the context of the Eighth letter see Attack 2020.

<sup>313</sup> Ober 1989, 182; Liddel 2007, 261.

<sup>314</sup> Xen. *Hell.* 1.7.12 (see on this point Filonik 2019, 14). Despite the 403 reform, in the fourth century the people could still be thought to be able to act as they pleased: see And. 2.20 and Dem. 59.88. Wedgwood 2017, 57, also identifies the tyrant's desire for power as 'lawless': if we apply the analogy, the lawless desires that lurk in the democratic citizens' soul must be a related kind of desire, for freedom as liberation from magisterial and legal constraints.

The demagogues' campaign launches the ultimate phase of democracy's transition to tyranny. It is schemed by drones with stings, and acclaimed by their stingless followers (564b9-c5). It targets the small group of 'the richest.'<sup>315</sup> But it crucially requires the participation of another segment of the population, whom Socrates calls 'the third kind' (τρίτον γένος, 565a1).

The identity of this third group is somewhat unclear, both in terms of their sociological and psychological profile. Most of what we know comes from Socrates' way of introducing them: they are 'all those who work with their hands (αὐτουργοί) and are not busybodies. Their property is not very big; yet they form the largest and most powerful (κυριώτατον) group in democracy, whenever they assemble' (565a1-3). This gives us important hints about the identity of this third group: as their qualification as αὐτουργοί indicates, they belong to a working class that includes all those who 'support themselves by their labour.'<sup>316</sup> Craftsmen, shop-keepers and farmers would thus belong to this third group: but if Socrates' picture is supposed to bear some relationship to Greek realities, farmers must make up the overwhelming majority of the group.

And this sheds light on the psychological profile of the τρίτον γένος. When Socrates describes how freedom fetishism takes hold of democracy, he does not limit it to the town: he extends it to the whole πόλις (562c8). People living or working in the countryside can very well be affected by it. In fact, Adeimantus interrupts his interlocutor's description of the free behavior of beasts to marvel at its trueness to nature: 'when I walk into the countryside (εἰς ἀγρόν), I often have this experience.' (563d1-2). The key term here is 'into' (εἰς), the meaning of which is importantly different from 'toward' (πρός).<sup>317</sup> By using the first and not the second, Adeimantus includes the countryside in Socrates' description: it too is affected by freedom fetishism. After all, some Athenian farmers lodged

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<sup>315</sup> These can be either oligarchs who have not been banished (557a2-5), or drones who have developed with time an attachment to necessary pleasures, like democratic men who have reached with age a more moderate character, giving an important part of their concern to necessary, chrematistic desires (561a6-b6; cf. κατεκοσμήθη 560a7, κοσμίαν δαπάνην 560d4-5, and κοσμιώτατοι at 564<sup>e</sup>6). Cephalus would be an excellent example of this latter psychological profile: he lives in a democratic city, but he is a χρηματιστής (330b2) who values money not for itself but for its usefulness (κατὰ τὴν χρείαν, 330d6). In a paper delivered at the 2021 meeting of the Society for Classical Studies (ms. on file with the author), Lane argues that each of the individual types described in book 8 originate in a democratic city. Among other pieces of evidence, 557c1 is clear that the democratic city gives birth to 'all types (παντοδαποί) of people.' The democratic city of book 8 itself can thus very well engender a psychological type as the one just described.

<sup>316</sup> Jones 1957, 12.

<sup>317</sup> Morison 2002, 31 with n. 122.



in town;<sup>318</sup> and urban culture penetrated into the country much more than we tend to think.<sup>319</sup> The upshot is that farmers too can host a love of freedom for itself in their souls.

The third information we get about the τρίτον γένος is that this group does not like to assemble, i.e. to gather for assembly meetings. This is immediately qualified by Socrates: ‘they don’t participate often, unless they get a share of honey’ (565a4-5). The reference to honey here continues the political metaphor Socrates has used since the last days of oligarchy: men are likened to drones (idlers) or bees (producers). In the case of second-stage democracy, the ‘richest’ seem to have taken the role of bees, the kind praised by Hesiod as hard-working: they are specifically described as amassing honey.<sup>320</sup> By contrast, the ‘drones’ are as ancient apiculture knew them: not working but stealing the honey of others. How does the third kind fit in this taxonomy? They seem to be some sort of intermediate species, like wasps or bumblebees. They could also be a group of bees: bees can act like drones and steal the honey of others (a practice called ‘robbing’). Socrates’ ‘third kind’ can correspond to that kind of bees, which was known in Antiquity.<sup>321</sup> If this is the case, they are bees who act like drones.

All this suggests that the psychological profile of the τρίτον γένος is not widely different from that of the drones. After all, Socrates in book 4 has divided every city into two, not three groups: the rich and the poor.<sup>322</sup> Members of the τρίτον γένος earn their living, but that does not mean that they enjoy doing so, like oligarchic men do; Aristophanes’ farmers don’t, for instance.<sup>323</sup> Like the drones, from which they seem to come (the quasi-totality of the oligarchic city’s population were drones, Socrates told us at 552d9-11; the third kind is unlikely to be composed of the ancient rulers), they must have been ruled by first-order non-necessary desires in the first days of democracy. This would fit neatly with Aristophanes’ picture of the common people, whose ideal, to quote Victor Ehrenberg, was ‘for the most part the peaceful and care-free enjoyment of simple pleasures, of food and drink and love.’<sup>324</sup> But like the drones, the αὐτουργοί have come to host within their souls a love for freedom

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<sup>318</sup> Ehrenberg 1951, 61 (quoting Ar. *Vesp.* 712); Hansen 1991, 127; Jones 2004, 60.

<sup>319</sup> Jones 2004, 190.

<sup>320</sup> They are said at 564e9 to accumulate honey. See Hesiod *Theog.* 594-603 and *WD* 302-307.

<sup>321</sup> Klek and Armbruster 1919, 13.

<sup>322</sup> 422e6-a1.

<sup>323</sup> See Jones 2004, 55 for the ‘abhorrence but grudging acknowledgement of the necessity of manual work’ among Athenian farmers. But members of the τρίτον γένος can also have a moderate desire for work, and value most of all the non-necessary pleasures of the feast; this seems to be Socrates’ picture of craftsmen and farmers at 420e1-421b3.

<sup>324</sup> Ehrenberg 1951, 80.

itself: we saw that this new passion touched the whole territory of the democratic city. These two types of desires help explain how the third kind is used by drones to spoliage the wealthy.<sup>325</sup>

## b) The Campaign's First Step: The Interests of the Third Kind

The third kind can very well participate in the assembly, as long as it expects some material benefit from it, sufficient to defray the costs of their leaving their work. We have enough evidence from Athenian literature to know that farmers, who formed the overwhelming majority of the people, could sometimes constitute the majority of the assembly too.<sup>326</sup> The topos of farmers' lack of political engagement was more a projection of aristocratic ideals than a reality.<sup>327</sup> As to urban low-middle-class citizens, they must have filled the courts: as Robert Sinclair concluded from his survey of evidence, 'there is good reason to believe that at most times the predominant element in the courts was urban and more particularly the old and the poor.'<sup>328</sup> The political campaign Socrates represents the *προστατής* as launching actually evokes judicial proceedings: 'the third kind gets a share of honey, insofar as the leaders are able, robbing the wealthy of their fortune and distributing it to the people, while keeping the greater share for themselves' (565a6-8). Jochen Bleicken thought the allusion transparent: honey here stands for the *δικαστικός μισθός*, the wage introduced by Pericles for jurors, which is here funded by depriving the well-off of their wealth.<sup>329</sup> This bears some likeness to the truth, as fines and confiscations imposed by juries played a significant part in the financing of public wages.<sup>330</sup> The Athenian people, despite 'never ma[king] any move to deprive the rich as class of their wealth,' shared the assumption that the rich's wealth should serve the public interest:

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<sup>325</sup> Eur. *Suppl.* 238-245 offers a tripartition of the people very much like Plato's: he distinguishes between the rich, the idlers (who have stings, 242), and the middle class, 'who saves cities.' Plato would here be engaging with Euripides, first by refining the genre of idlers and, second, by showing how the middle class participates in the city's fall. The text however is suspect; see Collard 1975, 171-172, for a defense of the received text.

<sup>326</sup> See Ar. *Plut.* 388-408; Xen. *Mem.* 3.7.6. According to Morris 2005, 15, between 10% and 25% of the population of Attica lived in Athens. On rural participation in the assembly see Ober 1989, 137: 'On the whole, many more working than leisure-class citizens would be in attendance. Perhaps the rural population was underrepresented at some meetings, but significant rural underrepresentation cannot be demonstrated to have been the norm and need not be assumed a priori.'

<sup>327</sup> Carter 1985, 76-98; Demont 1990, 163.

<sup>328</sup> Sinclair 1988, 194.

<sup>329</sup> Bleicken 1994, 337.

<sup>330</sup> Mossé 1962, 283, quoting Ps.-Xen. 1.16, Ar. *Cav.* 1358, and Lys. 27.1; Ober 1989, 143 adds 20.15. See also Donlan 1980, 174; Sinclair 1988, 133 and Nippel 2016, 56.

liturgies, taxes, fines were tacitly understood as means of redistribution.<sup>331</sup> Institutions such as ἀντίδοσις ‘submitted the rich to a popular scrutiny of the uses of their wealth (...). Riches were acceptable if they were openly held, and utilized for the public good.’<sup>332</sup> This is key, I argue, to understand the role Socrates ascribes to the τρίτον γένος.

The τρίτον γένος can accept the spoliation of the wealthy for three reasons, all compatible with their psychological profile. They are, we said, hedonists, driven both by first-order non-necessary and by the second-order love of freedom. They could not, therefore, accept a campaign against the rich launched by ἄρχοντες and advertised as an instance of ἀρχή: we have all reasons to think that they too host within their soul the allergic rejection of rule Socrates ascribes to the whole polis. They too are fond of freedom, and they understand ἀρχή as the imposition of slavery. But the leaders’ attack on the wealthy has nothing to shock them. It is not undertaken by office-holders, after all, but by προσταταί.

Second, this campaign does not reduce but increases the people’s overall satisfaction of their first-order non-necessary desires, as it takes away wealth that was only being hoarded and not used, in order to give to the rest of the population more means to enjoy themselves. It is thus no violation of freedom conceived as the ability for the greatest number to satisfy their non-necessary desires. In fact, the men who corrupt the democratic man use rhetorical re-description to brand any ‘moderation in expenditure’ (κοσμίαν δαπάνην) as ‘illiberality’ (ἀνελευθερίαν, 560d4-5): if the analogy is to hold, the majority of the people is led by demagogues to see the rich’s economy as contrary to a free attitude.

Finally, the spoliation campaign of the τρίτον γένος does not expose them to any serious risk of majoritarianism. To be sure, a political community where the majority can always expropriate the minority to satisfy their occurrent fancy would be chaotic: not only would the citizens lack the minimal stability needed to plan their lives; they would also sometimes risk starving. But the τρίτον γένος is protected against being one day the victims of such a state of affairs. As we just saw, the τρίτον γένος is not expropriating the rich to satisfy an occurrent fancy of theirs, but to convert the wealthy’s reserves into appetitive enjoyment. A regime where expropriation is limited to such cases would not be utterly chaotic.

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<sup>331</sup> Ober 1989, 198-199. Fisher 2003, 191-193 argues that this was particularly so during the Peloponnesian War, but also after.

<sup>332</sup> Liddel 2007, 272 and 281. See also Christ 2006, 189.

Thus, the first step of the demagogues' campaign is a success: they can get a majority of the people to vote to despoil the wealthy. But it is only the second step that allows the craftiest among them to establish his power.

### c) The Campaign's Second Step: Political Resistance and Mass Hysteria

Athens' demos, as we saw, considered the fortunes of the wealthy as ultimately subject to their control. But this view was not necessarily shared by the well-off themselves. Demosthenes' private enemy Meidias, for instance, refused to pay taxes for the mere sake of showering the people with allowances.<sup>333</sup> The wealthy of Socrates' second-stage democracy adopt a similar attitude:

Those who are being deprived of their wealth are compelled to defend themselves, I trust, engaging in politics as much as they can (...). A charge is brought against them by the others, pretending that they conspire against the people and that they are oligarchs (ὀλιγαρχικοί), even if they do not desire to start a revolution (...). At the end, therefore, when they see the people - not acting willingly but in ignorance, and under the deception of calumniators - undertake to wrong them, then whether they want it or not they truly become oligarchs; not willingly, but that is another evil that the drone has put into them using his sting.<sup>334</sup>

By engaging in politics, the wealthy commit a deadly mistake: their reaction redoubles the people's opposition to them; hence 'high treason charges, trials and fights' between the two camps (565c6-7). The demagogue pretends to be under threat and asks for a bodyguard: tyranny is established.

The pivot of this gradual development of civil strife is the perception that the wealthy become oligarchs. The adjective 'ὀλιγαρχικός' can both mean 'oligarchic ruler' and 'partisan of an oligarchic regime'.<sup>335</sup> In the passage just quoted, it seems better to adopt the second rendering, as the wealthy are not exercising any real ἀρχή over the people. By their political resistance, however, they strive to impose on the people a form of coercion motivated by a 'necessary' appetite of theirs,

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<sup>333</sup> Dem. 21.203.

<sup>334</sup> 565b2-c4.

<sup>335</sup> For the first meaning see 551<sup>e</sup>1; for the second see LSJ s.v. 2. On rhetorical accusations of oligarchic tendencies in fourth-century Athens, see Caire 2016, 62-66, who concludes: 'oligarchikos n'est plus nécessairement un partisan déclaré de l'oligarchie ; « l'oligarque », c'est tout simplement l'adversaire.'

their desire for keeping their property. The people, who conceives of freedom as the possibility to satisfy non-necessary desires, cannot tolerate this: both their first-order non-necessary desires and their second-order love of freedom revolt against this prospect.

Two additional reasons for the people's outrage suggest themselves. First, as a class the wealthy are interested in making money (*χρηματιζομένων*, 564<sup>e</sup>6). Like oligarchs, then, they have an interest in order: their lives are probably orderly (they are *κοσμιώτατοι* in the city, 564<sup>e</sup>6), and they would welcome a more orderly regime. Both the people's allergic reaction against order and their fear of a regime of public order, which would presumably do away with the shadow-play of political coercion, motivates their violent opposition to the wealthy's actions.<sup>336</sup> The name 'oligarch' is significant here: there would be *ἀρχή* in such a regime, and the mere evocation of this notion is enough to trigger political violence.

Second, by resisting the will of the majority, the wealthy prevent the people from acting as they like; as the Athenian people did in the Arginusae trial, the demos of Socrates second-stage democracy can be scandalized not to be able to do whatever it wants, which is their conception of freedom. Given their attachment to that value, the resistance they meet is bound to unleash violent reactions.

The idea that the rich are seen as limiting the people's freedom, thus triggering mass hysteria against them, is confirmed both by later passages of the text and by contemporary Athenian realities. In the first days of tyranny, Socrates tells us, the new ruler advertises for himself by reminding the people of how he 'freed (*ἠλευθέρωσε*) them from debts' (566e2). This ties in with Greek practice, where the abolition of debts often gave the tyrant popular support.<sup>337</sup> When people finally wake up and try to shatter their newly-imposed yoke, they in turn remind the tyrant that they followed his lead 'in order to be freed (*ἐλευθερωθείη*) from the wealthy and the so-called fine people (*καλῶν καγαθῶν*)' (569a3-5), and not to be subdued. This is of course too late, but it attests to the role of the catchword of freedom in the fall of democracy.

In classical Athens too, the rich could be seen as would-be oligarchs. If we believe Pseudo-Xenophon, the demos of Athens saw the wealth of the rich as a threat to their own rule: the people want above all 'to be free and to rule' (*ἐλευθερος εἶναι καὶ ἄρχειν*, 1.8) and knows that 'if the rich and

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<sup>336</sup> I thank Ian Walling for discussion on this point.

<sup>337</sup> Cecchet 2018.

the worthy people are strong, the rule (ἀρχή) of the demos of Athens will be short-lived' (1.14). They therefore subject the rich to various liturgies 'to have money for themselves, and to impoverish the rich' (1.13). Note that, whereas in Plato it is only when the rich start to agitate that they are called oligarchs, here Pseudo-Xenophon ascribes to the people an even more suspicious outlook: by the very fact that they are wealthy, the rich threaten the rule of the people and represent an alternative regime.<sup>338</sup> Freedom is seen as menaced by the fortune of the well-off.<sup>339</sup> This perception was probably reinforced in Athens by the notion that hired labour was a form of quasi-slavery: serving a patron was a form of subjection that a free Athenian citizen only embraced with reluctance.<sup>340</sup>

Demagogic agitation against the wealthy could thus tap into powerful psychological resources: the mass murder of the wealthy at Argos in 370, their so-called 'clubbing' (σκυταλισμός), had no other cause than the demagogues' agitation against the 'men of means and good repute,' if we follow Diodorus Siculus' account.<sup>341</sup> The political organization of the wealthy to prevent such violence from turning against them was also a widespread phenomenon.<sup>342</sup>

In Socrates' second-stage democracy, the political campaign of the demagogue against the wealthy has thus struck two chords in the citizens' souls. Their first-order non-necessary desires would be served if the wealth of the rich was redistributed; their second-order love of freedom requires that all political resistance be crushed, and (if a logic similar to Pseudo-Xenophon is at play) that the rich be deprived of their fortune. Thus, even if Fissel is right to stress that the strategy of the προσταταί starts by using the greed of the people, including the τρίτον γένος, he is wrong to see it as the exclusive, or even the decisive, cause for the establishment of tyranny.<sup>343</sup> The love of freedom, which Socrates explicitly indicts as the cause of democracy's fall (562b7-8), plays the key role in motivating the people to follow its so-called leaders: wealthy citizens who hoard their fortune are seen as limiting the people's liberty by this very attitude; their political reaction makes things worse,

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<sup>338</sup> Caire 2020, 43-46, notes the echoes between Plato's depiction and Pseudo-Xenophon, but recognizes that they do not amount to a proof of direct influence.

<sup>339</sup> The same ends up happening in Socrates' second-stage democracy (any rich man is seen as 'hating the people,' μισόδημος at 566c3), but this prejudice seems to be a result, not a cause, of the demagogue's political campaign. See also Isoc. 15.318.

<sup>340</sup> See Xen. Mem. 2.8.4, with the comments of Jones 1957, 11.

<sup>341</sup> 15.57-58.

<sup>342</sup> Robinson 2011, 152; Christ 2006, 164. See also Robinson 2000 for an account of Syracuse in the last years of the fifth-century that closely resembles Socrates' scenario.

<sup>343</sup> Fissel 2011, 230.

by revealing their rejection of democracy's shadow-play of political order. Freedom fetishism has thus enabled demagogues to embark the people on a campaign that destroys their liberty.

As Jonny Thakkar has recently put it, 'the precise mechanism whereby democracy collapses into tyranny remains tenuous – the claim seems to be that class conflict grows no less in democracy than in oligarchy, thanks to general permissiveness, but is more dangerous in the former since the poor are empowered to confiscate the wealth of the rich.'<sup>344</sup> The present chapter has aimed at making this mechanism more precise: the people's allergic rejection of anything that resembles rule (*ἀρχή*) has been used by political demagogues, who manage not to appear as rulers themselves, but to brand the wealthy as would-be rulers, in order to unleash the people's allergic rejection of rule against them. We can now go back to the three intended outcomes of the chapter, in order to see how this thesis bears on them.

### III – Conclusion: Implications

#### 1) The Ideational Result

Why does the democracy Socrates sketches in book 8 fall? He himself hints at an answer twice in the text: 'an insatiable desire (*ἀπληστία*) for freedom, and a disregard for everything else, overthrows this regime and makes it in need of a tyrant' (562c4-6); 'the same disease (*νόσημα*) that came to be in oligarchy and destroyed it also comes to be [in democracy, namely drones], greater and stronger because of the opportunity it has (*ἐκ τῆς ἐξουσίας*) and enslaves the democracy' (563e6-9). Interpreters usually explain these passages away, to focus on greed, class conflict, or demagogic lust for power as explanations for the fall of book 8's democracy.<sup>345</sup> But Socrates is as clear as he can be: the desire for freedom itself brings the regime down. To be sure, the second passage focuses on only one result of this love of freedom: the wide room for maneuver the demagogue enjoys, which he uses to get his ways. But this leeway itself comes from an excessive love of freedom: it is because the *προστατής* is no office-holder (*ἄρχων*) that he can wield such power; it is because he brands his

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<sup>344</sup> Thakkar 2018, 200, n. 63.

<sup>345</sup> See both Fissel and Thakkar, *ibid.* For the demagogue's lust for power as ultimately decisive see Rebentisch 2009, 17.

political opponents as would-be rulers that he can unleash popular hatred against them. The 'freedom' (ἐξουσία) he enjoys is not a pure vacuum:<sup>346</sup> it consists in the psychological strings he can pull to direct the citizens in the way he wants.

So, why does democracy fall? Because it craves freedom without measure, i.e. unreflectively. As we saw in the *Menexenus*, freedom in a democracy like Athens becomes a catchword used to justify all sorts of enterprises, sure to gather popular support around it. Is this a necessary course? Adeimantus suggests as much: when Socrates sketches the causal path by which tyranny is established, his interlocutor affirms that this process is 'an absolute necessity' (566a5). But Socrates' own language has been more cautious all along, sprinkled with qualifications (οἶμαι, εἰκότως, που, optatives). Book 8 is concerned with a sublunary world of constant change, a material that does not lend itself to perfect necessity; hence, it seems, the Muses' playfulness in telling their story.<sup>347</sup> The scenarios the book gives are possible stories, which might well occur in other times and places, and whose ultimate motor is the psychology of parts of the soul.<sup>348</sup> This allows us to deny what Adeimantus affirms: there is no absolute necessity in the story Socrates tells; at the same time, given democracy's initial psychological basis, the regime lies under a constant threat of verging into tyranny.

What defines democracy is the love of freedom: as means in the first phase, as an end in the second. Freedom can be desired as a means in the first stage, if it consistently and reliably gives people what they want, namely the maximization of their appetitive enjoyment: yet we saw in part I of this chapter that and how it does so. People's satisfaction with a regime of freedom is likely to develop in their souls an attachment to that value as an end in itself, for the reasons we also detailed: habituation, and rhetoric. This attachment ultimately brings the regime to its end. There is no necessity to the process, just a likelihood that carries conviction, as in any good scenario. But this

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<sup>346</sup> Solomon 1967, 193. The demagogue's ἐξουσία is in fact his political prominence (564d6-e2), and the various traits of the city (psychological profile, sociological composition, development out of oligarchy) on which it is established.

<sup>347</sup> Janke 1965, 251-253; Gaiser 1974, 49-50.

<sup>348</sup> The conception that *Republic* 8 was a *summa* of Greek history was first developed by Malden 1891. Lane 2018a, 83 argues that by contrast to Thucydides, who focused on the past, Plato's intention is to describe future political scenarios, thus laying the ground of what may be called 'behavioral science.' On psychology as the driving force of history in Plato see Bury 1951, 87: 'if philosophers like Hegel and Collingwood maintain that 'All history is the history of thought,' a Platonist might contend that this view is akin but inferior to that of Plato for whom 'all history is the history of soul.' It is so because the material of History, whether human actions or natural events, all ultimately proceed from the activity of Soul.'



plausibility is high enough to challenge another powerful account of the Greek love of freedom: the story the Athenians themselves told, and that we have kept re-telling after them.

## 2) The Historical Result

We saw in the introduction that the landmark study of Greek freedom, Kurt Raaflaub's book, to which this dissertation is immensely indebted, fails to explain two aspects of the Athenian love of freedom: its tension with the rule of law and office-holders, and its greater strength than the Athenian commitment to these. That Socrates' scenario bears some relationship to Athens is, I think, undeniable: references to Athenian realities are interspersed throughout the text, and Adeimantus three times affirms the resemblance between Socrates' portrait and his own city.<sup>349</sup> Athens is, after all, a democracy, and Socrates in this section of book 8 intends to give the εἶδος (544d6) of the regime. How does his scenario shed light on what Raaflaub leaves obscure?

If Athens is true to the democratic type of *Republic* 8, then we can make progress in our understanding of its history and political culture.<sup>350</sup> Our account has tried to explain both the tension between the democratic conception of freedom and political coercion (the rule of law, decrees, courts, and office-holders) and the democratic preference for the first, in case such tension existed. The three explanations we have put forward to understand the shadow-play of political coercion in first-stage democracy are meant to link the psychological profile of the citizens to their political culture and institutions. They thus ground shallow political coercion in the psychology of the citizens. This psychological bent does not rule out the use of complementary tools: to understand the citizens' psychology fully we resorted to a genetic approach, seeing democracy as a product of oligarchy and tracking the various scars left on the souls of the citizens by the former regime; to retrace the causal path between individual psychology and institutions, we also drew on game-

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<sup>349</sup> 558a9, 558c7, 563d2-3. Note too the resemblance between 329b1 (προπηλακίσεις τοῦ γήρωτος), 425b-15, both describing Athens, and 563a7-b2. The mention of ὄναρ at 563d2 should make us cautious, however: at *Charm.* 173a8 the same expression is used, with an allusion to Hom. *Od.* 19.562ff. (dreams come through two doors, one of horn, the other of ivory). If the allusion is implicit in the *Republic* passage, Adeimantus would take his dream to have come through the door of horn; but Socrates might suggest that Adeimantus' dream passed through the other one. Any dream, after all, involves taking likenesses for realities (476c1-5): Adeimantus might be making just that mistake.

<sup>350</sup> The 'if' is crucial here: I am interested here in shedding light on Plato's account of what he takes to be democracy's excessive love of freedom, not in arguing for it.

theoretical models, as in our third explanation of democracy's shadow-play. Taken together, these tools aimed at showing how a regime of which most citizens share a given psychological profile (the domination in their souls of non-necessary desires) would be characterized by a tension between freedom and political coercion. This was, to recall, the first *explanandum* left out by Raaflaub.

But these explanations also offer some light on the second *explanandum*: why democratic citizens would value freedom more than the strict enforcement of rule. First-stage democracy already experiences a valuation of freedom over and above rigid political coercion. Non-necessary hedonism, here again, appears as the ultimate cause of a striking part of democracy's political culture. But this tendency is greatly reinforced by the birth of a love of freedom that marks the second-stage, which we ascribed to factors such as habituation and the transformation of freedom into a rhetorical topos.

It is now time to answer the crucial question: how much does this scenario apply to Athens? As I tried to show all along this chapter, numerous notions Socrates uses to paint his picture of democracy are corroborated by Athenian texts. The three explanations for first-stage democracy's set-up were put forward in part because of their palatability in a classical Greek context: the history of Greek revolutionary movements offered examples of the first explanation; and wariness towards law and office-holders was seen to be a major topic of Greek tragedy; game-theoretical models reinforcing shadow-play were paralleled with texts from Greek oratory. The main two factors by which freedom fetishism develops were in part taken from Athenian realities: habituation to freedom is chosen by Thucydides and Xenophon as a crucial characteristic of the Athenian people; 'new politicians' and their rhetorical use of freedom were the direct targets of Aristophanes.

How about non-necessary hedonism, the ultimate cause of the various processes we have retraced? As Socrates sketches it in book 8, democracy can only come about out of the non-necessary hedonism of its members. As in the *Gorgias*, Plato seems to assume that democracy is in league with hedonism. But there is between the two dialogues an important difference: as we saw, the *Gorgias* assumes that most people are by default hedonists; democracy is thus the default political regime (even if exceptions exist: Sparta for instance). The *Republic*, and book 8 in particular, does not share this assumption. This, in fact, ties democracy and hedonism more closely together: of all psychological types, only non-necessary hedonism can give birth to democracy; democracy can only be based on such a psychological profile.

But the *Gorgias* still established a particularly tight connection between democracy and hedonism. It listed and analyzed several causes for the particular strength of Athenian hedonism, which all had to do with its democratic regime: democratic institutions themselves, which reinforce the hedonism that engendered them; empire, art, and the corrupting influence of pseudo-educators. People are all hedonists, it seemed to say; but their hedonism is most unleashed under a democratic regime. In the *Republic*, hedonism seems to be less of a default position: it has particular causes, which must be unearthed. The cause the *Republic* adduces is in fact very precise: the capitalistic logic of oligarchy leads it to disregard the education of its youth, while encouraging them to consume immoderately. Oligarchy thus breeds a hedonistic youth, who ends up establishing a regime to their own liking. This oft-neglected aspect of the history of Socrates' democracy confirms that Plato is, in important respects, a critical theorist.<sup>351</sup> But it sheds no particular light on the Athenian case, as nothing comparable seems to have happened in the history of the city.

Or maybe it has, and Plato is even more a critical theorist than we tend to think. As we saw, the *Gorgias* explicitly indicted imperialism and its poisoned fruits for the Athenians' widespread and compulsive hedonism. The capitalistic logic that yields hedonism and democracy in book 8 may well have a parallel in Athenian imperialism. Just as the waiving of sumptuary laws in Socrates' oligarchy (555c1-5) is welcome to both capitalists and consumers, the empire was a source of profit for rich and poor alike: after 404, the rebuilding of the lost ἀρχή was one of the few themes that united both classes, as Barry Strauss has shown.<sup>352</sup> The empire brought with it funds for spectacles, and made Athens a hub for new educational ideas: it fueled both hedonism and critical distance towards political coercion. Plato has moved from an indictment of imperialistic capitalism to a critique of oligarchic capitalism. How can we explain the shift? Why does Socrates not even mention empire?

In some respects, he does: by stressing democracy's variegated appearance (πεποικιλμένη at 557c6, ποικίλη at 558c5), and especially by comparing democracy to a 'bazaar' (παντοπώλιον, 557d8), he seems to allude to the various goods that flow into the Piraeus. The desires that dominate the souls of the citizens are fancies of people whose basic needs have been met: they are, after all, non-necessary, and the examples Socrates gives of what can satisfy them are goods that only commerce or conquest could bring to Athens.<sup>353</sup> As I hope to show elsewhere, the empire also makes itself felt

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<sup>351</sup> Besides Thakkar 2018, the critical bent of Plato's theorist has been highlighted by Walling 2021.

<sup>352</sup> Strauss 1986, 50 and 177.

<sup>353</sup> 404d1-9.

when Socrates describes the birth of tyranny: the process by which a *προστατής* gathers support by claiming to fight for freedom before turning rogue has striking parallels with the way Athens', and later Sparta's international behaviors were narrated and condemned in Greek oratory and historiography.

This might, in fact, give us a clue as to Socrates' relative silence about the empire: there were only two cities known to have had an empire in historical times, and Athens to a much greater extent and duration than Sparta. There were plenty of non-imperialistic democracies in the Greek world, as the work of Eric Robinson has shown. Empire was too atypical to feature in the *εἶδος* of the regime. It only gave a particularly pointed shape to democratic hedonism; hence its discreet presence in the background of Socrates' account, focused on processes typical enough to yield a 'possession for all time.' We must now see how our times can benefit from the scenario he sketches.

### 3) The Practical Result

The challenge for democracy in its first phase is to remain content with valuing freedom as a conditional means only, on the grounds that any idolization of it would make it a hypnotizing mantra. This requires offsetting the two main causes of fetishism: habituation, which can be cancelled by provoking the citizens into thinking out reasons why they value freedom; and the rhetorical misuse of freedom, which can be limited by making hearers aware of its dangers. From that point of view, Socrates' tale is cautionary: tyranny after all is worse for him than democracy; democracy at least allows for inquiry into political regimes (557d4-9). Plato's critique of democracy might be a way for him to indicate where the tyrannical danger lies, and how to fight against it.<sup>354</sup> What can *we* do with it?

Plato's predicament resembles ours, insofar as our democracies fall prey to the 'pathology of juridical freedom' diagnosed by Axel Honneth: our liberal democracies are based on entrenched legal rights, which are a necessary precondition for individuals to explore their personalities without undue pressure from the outside. One type of pressure that individual rights repel is the need for

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<sup>354</sup> For the notion that Plato's critique of Athenian democracy is 'internal,' see Monoson 2000; Mattéi 2001; Mara 2008; Saxonhouse 2009; Nails 2012.

individuals to justify their personality: without such fences, individuals would simply be swallowed by conformism. But liberal democracies' insistence on these rights comes with risks. Because these rights are, as Hegel insisted, abstract and universal, their use as single justificatory tools impoverishes public discourse, which is deprived of an exchange of reasons based on personal situations. 'Instead of individual needs, we assert only universal interests.'<sup>355</sup> We have already seen in the *Gorgias* Polus instantiate this danger: by taking refuge under the Athenian custom of free speech (ἐξουσία τοῦ λέγειν, παρρησία), Polus shielded himself against giving reasons for his preference for rhetoric and tyranny; yet a dialectical conversation is precisely the context where one benefits from revealing and sharing one's reasons for action. The *Republic's* first-stage democracy, too, risks being a breeding ground for Poluses: it gives every individual the freedom (ἐξουσία) to act and speak as he pleases (557b4-6). This right is abstract and individual, unrelated to the value of what is being said: a perfect shield for all those who resist giving justifications for their preferences; and for potential tyrants.<sup>356</sup>

But Honneth also diagnoses a second, 'even stronger' pathology of juridical freedom.<sup>357</sup> liberal democratic regimes, by claiming that their main role is to uphold abstract individual rights, make their citizens believe that acting on these rights is a worthy life-goal in itself. 'The means of freedom [turn] into an ideal of life.'<sup>358</sup> Individuals learn not to give reasons to themselves for the choices they make, or rather fail to make. Honneth's main example of this attitude is Dwight Wilmerding, the anti-hero of Benjamin Kunkel's *Indecision*. But he also cites a piece by Juliane Rebentisch on the democracy and the democratic soul in *Republic* 8. Rebentisch argues that democracy as sketched in book 8 fosters weakness of will in its citizens, as it encourages them to make all possible use of their liberty without requiring that they think through reasons for doing so. A weakness of Rebentisch's piece is that it meshes, in characteristic fashion, the level of the democratic man and that of the democratic city, making the wantonness of the first a result of the political culture of the second. In fact, both the democratic citizens and the democratic man are ruled by their non-necessary desires; but nothing warrants the assumption that democratic citizens

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<sup>355</sup> Honneth 2014, 90. See also Honneth 2010, 36.

<sup>356</sup> Rebentisch 2009, 16.

<sup>357</sup> *Ibid.*, 92.

<sup>358</sup> *Ibid.*, 88.

all look like the democratic man.<sup>359</sup> This chapter has argued that both Honneth and Rebenich are right to look for ‘pathologies of freedom’ in the democracy section of book 8, but that the democratic city offers the best instantiation of such a concept. By paying due attention to factors such as wariness towards rule, habituation to freedom, rhetorical strategies and political sociology, one can show why the citizens of Socrates’ democracy come to turn freedom ‘from a means into an ideal of life.’

We can now go back to the example we took in the introduction. There is something to be said, I argue, for applying the four factors just mentioned to our present situation. My aim here is, with all due caution, to offer tools to decipher the present crisis of our democracies. Wariness towards rule can explain why some people are reluctant to see a strict enforcement of lockdown measures: the policeman is less than ever a popular figure, and many welcome the opportunity not to wear a mask in a few unwatched places, even if they might themselves be impacted by the same freedom enjoyed by others. Habituation to freedom is a helpful notion to analyze the shock felt by many citizens when they witness the come-back of strong, and sometimes intrusive, forms of political coercion. As to rhetorical strategies, newspapers and political rallies resound with them: different and sometimes opposite camps appeal to freedom to gather momentum for their proposals or criticisms. Fortunately, there *is* critical reflection going on about the degree of coercion that the pandemic legitimizes, but it has a hard time keeping pace with these rhetorical tricks. Political sociology in the way Socrates practices it in book 8 can help us answer the claims of different sections of the population: the desires and aspirations of the young are not those of middle-aged or elderly citizens, and this makes them differently sensitive to the aforementioned rhetorical uses of the concept of freedom.

Thucydides showed how the beautiful picture painted by Pericles, of a democracy harmoniously combining freedom and liberality, popular rule and diversity, cracked under the strain of plague to collapse into *ἀνομία* (2.53). Plato gives us a rigorous philosophical theory to understand, but also to prevent such a disintegration. The future will say whether Plato’s account of democracy in book 8 of the *Republic*, and the interpretation here given of it, have faced up to Thucydides’ challenge.

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<sup>359</sup> Williams 2006, 113 blames Plato for not making the distinction but there is no hint that Socrates takes people in the democratic city to be internally variegated.

*Introduction*

1) Freedom in the *Republic* and the *Laws*

What the *Republic* has to say about democratic freedom is essentially negative: by the end of book 8, it appears that a regime that gives all its citizens an equal freedom to act as they please runs a high risk of turning, via freedom fetishism, into the utmost tyranny. True, elsewhere in the *Republic* freedom takes on positive overtones: ἐλευθερία in these cases refers to a disposition that corresponds to our 'liberality.'<sup>1</sup> But as Melissa Lane has shown, these connotations are the ones classical Athenian convention attached to a free status and attitudes thought to befit it.<sup>2</sup> In this respect the *Republic* is not innovating: Plato does not articulate there a new concept of freedom akin to Berlin's 'positive liberty.'<sup>3</sup>

The situation in the *Laws* is importantly different. There freedom is not, as in the *Republic*, just one of the threads that make up the tightly knit cloak of the work; if not the warp, it is the weft of the regime sketched in it.<sup>4</sup> A good regime gives a measure of freedom to its citizens, in ways which the present chapter aims at specifying. The *Laws* thus constitutes Plato's first, and late, explicit recognition of political freedom as a value.

Concretely, the treatment of freedom in the *Laws* differs from that of the *Republic* in two respects. First, the critique of excessive democratic freedom is complemented by the adoption of a *certain kind* of liberty as one of the targets a good regime should aim at.<sup>5</sup> Freedom (ἐλευθερία) features, next to friendship (φιλία) and political wisdom (φρόνησις), among the explicit targets of the

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<sup>1</sup> In fact, this role is assumed most of the time by the adjective ἐλεύθερος (395c5, 431c2, 499a3, 567a5). 329c7 is the only passage where ἐλευθερία comes close to this meaning; even there, however, it is more naturally rendered as freedom from subjection (in this case, to ἔρωσ as a master).

<sup>2</sup> Lane 2018b.

<sup>3</sup> On positive vs. negative freedom see Berlin 1969. Burnyeat 1996 and Lane 2023 argue against the view that Plato developed an account of positive freedom in Berlin's sense.

<sup>4</sup> I use the terms in the sense *Pol.* 282e11-283a1: the weft (κρόκη) is the softer part of the woven thing, the warp (στήμων) is the harder one.

<sup>5</sup> I follow Laks 2023 and Lane 2023 in distinguishing the ultimate aim of the legislator of the *Laws*, namely virtue, from the three targets that he aims at in order to reach his aim.

legislator.<sup>6</sup> This worthy form of freedom, however, is different from the excessive realization of it said in book 3 to have characterized late fifth-century Athenian democracy. Freedom in the *Laws* is thus presented as taking two possible forms: a worthy political goal, and a danger threatening to undermine the community. This double perspective contrasts with what I have called above the ‘essentially negative’ lesson of the *Republic*.

Second, the worthy kind of freedom the *Laws* embraces is not merely Plato’s version of what befits a statutorily free person. Plato in the *Laws* does use ἐλεύθερος in the latter sense, in most occurrences of the word; but he also adumbrates a moral psychology that links personal freedom with the rule of reason over non-rational soul-parts.<sup>7</sup> In the *Laws*, a behavior can be said to be ἐλεύθερος for two possible reasons: either because it is characteristic of a free person (the conventional sense), or because it expresses the domination of reason over non-rational drives in the person’s soul (the psychological sense). The fact that, in the *Laws*, an action that meets one criterion generally meets the other makes these criteria almost coextensive: a person of free status, Plato thinks, should have her soul so organized that reason rules within it, and a person whose soul is in such a state acts as a free person should.<sup>8</sup> This gives Plato’s uses of ἐλευθερία and cognates in the *Laws* a horizon of congruence. It makes it difficult, also, to ascertain which of the two descriptions he has in mind when calling an attitude or a person ἐλεύθερος. It remains that the *Laws* gives us more reasons than the *Republic* for thinking that Plato had something like Berlin’s ‘positive liberty’ in mind. Importantly, this conception of liberty also applies to political communities: freedom as rational self-control obtains in a polity insofar as its citizens agree to abide by the wisdom expressed in the laws and the orders of their office-holders. The first part of the present chapter is devoted to shedding light on these issues, by pinning down (as far as can be done) Plato’s notion of freedom in the *Laws*.

## 2) The Meaning(s) of ἐλευθερία in the *Laws*

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<sup>6</sup> 693b3-4; 693c1-4; 693c7-8; 693d8-e1.

<sup>7</sup> I stress that he only *adumbrates* such a theory: as Laks (2007 and 2023) argues, in line with Burnyeat 1996 and Lane 2018b, an elaborate conception of positive freedom as the domination of reason over non-rational soul-parts is never explicitly articulated in the *Laws*. But key ideas of the *Laws* are conveyed only implicitly: see for instance Laks’ distinction between form and content of the law in Laks 2005.

<sup>8</sup> 635c3-d8 is the best instance of this overlap: people who are enslaved to pleasure (but not to fear) have souls that are not entirely free (ἐλευθέραν); they therefore do not deserve to be called liberal (ἐλευθέριοι) ‘without qualification’ (ἀπλῶς). Sauv  Meyer 2015, 139 *ad loc.* notes that ἐλεύθερος here has three connotations: non-subjection, liberality, and ‘self-possession or self-control.’



The chapter's first part argues that the freedom which, according to the *Laws*, is excessively instantiated in radical democratic regimes is not the same as the one the good legislator should aim at. In fact, it argues that 'freedom' does not mean exactly the same thing in these two contexts. The freedom that is included among the targets of the legislator (which I shall call  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_1$ ) is a matter of willingness to be ruled by wisdom — that is, in the political realm, by wise office-holders and laws; it can never be excessive. The freedom that *can* become excessive ( $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_2$ ) is a matter of a subject (an individual or a group) exercising control over what they do, in as much as this is controllable by political decisions.  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_1$  is a precise situation to aim at, like a geometrical point;  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_2$  exists on a continuum, like a geometrical line. These two kinds of freedom are thus distinct. But they are also linked in crucial respects: one is conceptual, the other instrumental.

#### $\alpha$ — $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_1$ and $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_2$ : A Conceptual Relationship

The conceptual relation is that both  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_1$  and  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_2$  are forms of self-rule.<sup>9</sup>  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_1$  is psychological self-rule, insofar as it consists in the domination of reason, which of all soul-parts is most entitled to represent the individual, over non-rational soul-parts. It applies analogically at the level of the city.  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_2$  consists in citizens exercising some control over political affairs. Thus, both kinds of  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha$  can be described as forms of self-control, or self-rule; hence the use of the same word to express them both.

Aristotelian terms can help us pin down the conceptual relationship between  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_1$  and  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_2$ . They are not synonymous in the sense of *Categories* 1: the same account ( $\lambda\acute{o}\gamma\omicron\varsigma$ ) does not apply to them both, because they do not fall under the same genus (one is psychological, the other political; the meaning of 'self,' but also probably of 'rule,' is not the same in each case). They are not homonymous either, since they share more than a name: in both cases, the term  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha$  does refer to the same thing, i.e. the self's capacity to determine the action it takes part in. Neither are they paronyms, since the one is not derived from the other. I therefore suggest that their relation is best seen as analogical, in the sense of *Metaphysics*  $\Gamma.2$ :  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_1$  and  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_2$  refer to the same state, self-rule. This idea was not lost on ancient Platonic commentators: the author of the pseudo-Platonic

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<sup>9</sup> On the importance of self-rule in the *Laws*, see Wilburn 2012.

*Definitions* defined τὸ ἐλεύθερον as τὸ ἄρχον αὐτοῦ.<sup>10</sup> The first part of this chapter argues that the *Laws* gives ample basis for this overlapping gloss, which applies to the two kinds of freedom I distinguish, though in different ways.

It may sound strange to define freedom as self-control, and not as independence from another. But the two notions are closely related. Self-control as ἐλευθερία<sub>1</sub>, Plato argues, is independence from the other within yourself, the non-rational: only intellect is meant to be entirely free and ruling (875c6-d2). Self-control as ἐλευθερία<sub>2</sub> gives the citizens the capacity to control, at least as a group and at least in part, the fate of their political community (694a6-7): it gives them a measure of independence from their rulers. The legislator of Magnesia can promise to future citizens: 'the city we are about to found will give you self-rule; it will ensure that *your* true *self*, reason, *rules* within you and the city (ἐλευθερία<sub>1</sub>); it will also make sure that you *yourself* participates in *ruling* over the city (ἐλευθερία<sub>2</sub>).' Both ἐλευθερία<sub>1</sub> and ἐλευθερία<sub>2</sub> promise self-rule: though ἐλευθερία<sub>1</sub> lays the emphasis more on the 'self' component of that idea, ἐλευθερία<sub>2</sub> more on the 'individuality' one.

### β — 'Ελευθερία<sub>1</sub> and ἐλευθερία<sub>2</sub>: An Instrumental Relationship

The causal link between ἐλευθερία<sub>1</sub> and ἐλευθερία<sub>2</sub> goes as follows: as *Laws* 3 argues, in non-ideal human societies a moderate measure of ἐλευθερία<sub>2</sub> is necessary to generate political wisdom in the rulers, and in the people a willingness to be ruled by their wise rulers (ἐλευθερία<sub>1</sub>). This moderate measure of ἐλευθερία<sub>2</sub> consists in giving the citizens a certain amount of control over decisions affecting them, in a way compatible with the exercise of wise rule. 'Ελευθερία<sub>2</sub> becomes excessive when the citizens' power to decide over their lives is so great that it undermines the rule of political wisdom.

### 3) Plato's Conceptual Intervention in Athenian Freedom-Discourse

To pull together the different threads introduced up to now: the first part of this chapter argues that ἐλευθερία in the *Laws* appears under two guises, willingness to be ruled by reasonable

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<sup>10</sup> *Def.* 415a3 (cf. 412d1, defining ἐλευθερία as αὐτοκράτεια). On the early Academic origin of the work see Ingenkamp 1967, 106-7 (where Ingenkamp also notes that in the *Definitions*, the topic of freedom is subordinated to that of liberality).

authority ( $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_1$ ), and control exercised by the citizens over political happenings ( $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_2$ ).  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_1$  and  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_2$  are analogical, in so far as both are related to self-rule. This allows them to be two forms in which freedom, but also the associated value of 'liberality,' can be instantiated. The concrete realization of freedom and liberalty they amount to, however, remains different (psychological self-mastery vs. political participation).

Ultimately, this chapter argues that this analogy (the relation to self-rule), this commonality in connotations (freedom *and* liberalty) as well as this difference in realization (psychological self-mastery vs. popular participation) between  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_1$  and  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_2$  allow Plato to make two crucial interventions in Athenian freedom-discourse. They amount, not to a rhetorical re-description (Plato is not denying that what the Athenians take to be freedom has a claim to that name), but to what I want to call a conceptual exploration: Plato wants his audience to envisage different forms and realizations freedom can take, to weigh their respective merits, and to order them. Amia Srinivasan has recently made the case for rhetorical re-description as a prime tool for 'world-making:' Plato's practice of conceptual exploration has no less potential in creating a political community, Magnesia or some other.<sup>11</sup>

What are exactly the two interventions I see Plato as making? First, I suggest that the analogy, common connotations and different realizations of  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_1$  and  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_2$  enable him to put forward his own version of the widely cherished value of 'liberalty:' Plato shows how true liberalty requires subjection to reason, by contrast to both the aristocrats' insistence on requirements such as wealth, leisure, social and cultural graces; and to the democrats' exclusive focus on political participation as antithetical to slavery.<sup>12</sup>

Second, Plato gives political self-determination ( $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_2$ ) an instrumental and secondary value in comparison to the acceptance of rule by reason ( $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_1$ ). Having a say in public decision-making does contribute to creating a 'liberal' form of self-rule, but it is only valuable to that extent. For that reason, it has to be compatible with willingness to be ruled by reasonable authority ( $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_1$ ). This requires it to be moderate, not excessive. Of the two forms of freedom, it is  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_1$  only that has intrinsic value, like  $\varphi\rho\acute{\omicron}\nu\eta\sigma\iota\varsigma$  and  $\varphi\iota\lambda\acute{\iota}\alpha$ .  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_1$  is never excessive;  $\acute{\epsilon}\lambda\epsilon\upsilon\theta\epsilon\rho\acute{\iota}\alpha_2$  can be, if it undermines the exercise of reasonable authority; it is moderate and valuable

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<sup>11</sup> Srinivasan 2019.

<sup>12</sup> On these two elements of Athenian 'liberalty' see Raaflaub 1983.

to the extent that it is conducive to it. It thus has to be carefully measured out, in order to enable, not to hinder, reasonable rule.

This leads to the second intended outcome of the present chapter. Whereas its first part is definitional, aiming at ascertaining the meaning(s) of ἐλευθερία in the *Laws*, its second part is genetic. It analyzes Plato's account of how freedom became excessive in the one historical example he gives us, that of ancient Athens.

#### 4) Plato's New Account of the Birth of Excessive Freedom

Whether or not the first part of the chapter is entirely successful in distinguishing two meanings of freedom, it is a fact that for Plato in the *Laws*, freedom becomes excessive when it ceases to be compatible with rule.<sup>13</sup> This idea is most prominently put forward in book 3's narrative of the birth of excessive freedom in Athens. From a situation of popular willingness to be ruled, combining popular participation with effective and virtuous rule, Athens degenerated into a state of anarchy, in the sense that no ἀρχή, no meaningful rule, could be exercised anymore.

The portrait Plato paints of archaic Athens takes up key fourth-, fifth- and even sixth-century ideas about Solonian democracy: Lysias, Isocrates, Aeschylus and Solon himself provide the background, I suggest, of Plato's picture of a mutual reinforcement of ἐλευθερία<sub>1</sub> and ἐλευθερία<sub>2</sub>. Plato's interest in history, especially his city's past, is a noted feature of the *Laws*; it contributes to explaining his revalorization of freedom in his last dialogue.<sup>14</sup> But it also sets up a contrast between a valuable past and the disastrous situation that followed. Specific causes led the Athenians to refuse to be ruled by wise office-holders and laws, choosing instead to decide everything for themselves; this marked the transition from a situation of measured liberty to a state of excessive freedom. Ἐλευθερία<sub>2</sub> was stretched to a point where it could not be compatible with, nor conducive to, ἐλευθερία<sub>1</sub>.

The genetic account provides a background, I suggest, to Plato's conceptual exploration of ἐλευθερία. The degenerative process he describes in book 3 explains the Athenians' wrong-headed conception of freedom, which Plato has to broaden through conceptual exploration. In this

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<sup>13</sup> 698a9-b2; Lane 2023.

<sup>14</sup> On Plato's use of history in the *Laws* see Gill 1979; Gaiser 1992; Lisi 2000.

conception, self-rule is seen exclusively as complete control, by the people and the individual, of the political and social events affecting them; Plato replaces it with a fuller understanding of what ἐλευθερία involves. Here again, a parallel with rhetorical re-description suggests itself: rhetorical re-description intends to show that the common way to describe a given practice is not the only one available; it has no necessary truth-value, being most often than not the fruit of historical contingency.<sup>15</sup> Genealogical inquiry, unearthing as it does the deep but contingent roots of our common conceptions, goes hand-in-hand with conceptual exploration.<sup>16</sup> Plato's genealogical account of the birth of Athenian excessive freedom, as a reality and a notion, invites the (Athenian) reader to interrogate the conception of freedom she has inherited from her political community.

In the course of his narrative, Plato gives us important hints about the causes of this degenerative process. The second part of the present chapter is devoted to an elucidation of their identity, number, and workings. These causes are all related, insofar as they contributed to giving each Athenian citizen the belief that he could govern himself without need of laws and office-holders, thus making freedom incompatible with inter-personal rule and, hence, excessive. They explain how a desire to maximize ἐλευθερία<sub>2</sub> took the place of ἐλευθερία<sub>1</sub> in the citizens' souls.

As it happens, *Laws* 3 blames a musical revolution for filling every Athenian citizen with the belief that he was wise enough to rule over himself. The pretense to be wise, an intellectual and moral flaw Socrates spent his life combatting, comes back in the *Laws* as the worst of political evils.

## I – The Definitional Account: The Meaning(s) of ἐλευθερία in the *Laws*

The first part of this chapter starts from a survey of the different meanings of ἐλευθερία in the *Laws* (section 1), before arguing that Plato's intervention consists mainly in drawing attention to the relationship between two of them, psychological self-control and political auto-determination (section 2). In the last section (3), I explain how his intervention amounts to a conceptual exploration of ἐλευθερία, and how the picture of freedom it yields differs from the one we find in the *Republic*.

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<sup>15</sup> Srinivasan 2019, 143.

<sup>16</sup> Skinner 1998, 116-117; Lane 2023 masterfully shows the genealogical side of Plato's 'scenarios' of political theory.

## 1) The polysemy of ἐλευθερία in the *Laws*

Freedom plays a central role in the *Laws*, and yet interpreters admit that the concept is ‘underdiscussed.’<sup>17</sup> None of the three interlocutors of the dialogue (the Athenian Stranger, Clinias the Cretan and his Lacedemonian friend Megillus) takes care to give a definition of it. Freedom is at one point identified (but not thematized, nor defined) as the opposite of subjection; at another, it is equated with self-control (τὸ σωφρονεῖν).<sup>18</sup> Given the wide range of its usages, it is helpful to follow André Laks in mapping them out.<sup>19</sup> Only after doing so will it be possible to find a possible underlying sense of ἐλευθερία in the *Laws*.<sup>20</sup>

Laks identifies four meanings of ἐλευθερία and cognates at play in the *Laws*. The first one, which he calls ‘focal,’ is that of personal non-subjection: a person is free in that sense if she is not enslaved (status freedom). This usage is overwhelmingly dominant in the *Laws*, if only because of the legal regulations applying differently to persons of free and servile status.<sup>21</sup> For Laks, the morally-laden use of ἐλεύθερος is part of this first meaning: as we saw in our first chapter, it was common practice in Athens to use the word to refer to a behavior thought to be appropriate to free people, or ‘liberal.’ This usage of ἐλεύθερος abounds in the *Laws*;<sup>22</sup> but the adjective ἐλευθέριος specializes in that particular meaning.<sup>23</sup>

Two other senses of ἐλευθερία are connected to its focal meaning: a citizen’s (or a people’s) control over political matters (political freedom), and a community’s independence vis-à-vis foreign powers (external freedom).<sup>24</sup> Laks reserves a fourth category for the meaning that comes closest to Berlin’s positive liberty: ἐλευθερία is sometimes used in the *Laws* to designate a person’s non-subjection to what is worse in her, namely the non-rational drives of her soul (psychological

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<sup>17</sup> See for instance Annas 2019, 70.

<sup>18</sup> Resp. at 875c7-d2 and 693c1-4.

<sup>19</sup> Laks 2023.

<sup>20</sup> I thus follow Langacker’s ‘network model’ as used by Rademaker 2005.

<sup>21</sup> 669c5, 777b6, 796d5, 807d7, 816<sup>e</sup>8, 832d2, 838d7, 841d2, 845b4, 848a2, 857d1, 865d3, 866d5, 867c5, 868c2, 869d5-6, 872b4, 874c2, 879a2-3, 881c2, 881d8, 882a, 882b2, 909c2, 914a5, 914c1, 919<sup>e</sup>2, 927d6, 930d4, 932d2, 934d3, 936b1, 937a5, 949c6, 954<sup>e</sup>7, 955a5.

<sup>22</sup> 635d5 (the person who is not enslaved to pleasure cannot be called free nor ‘liberal’), 795e3, 808a2, 808e4, 817e5, 819b1, 842d2. See also 741e3 (ἀνελευθέρων) and 914c1 (ἀνελεύθερος).

<sup>23</sup> 635d5, 669c7, 823e6.

<sup>24</sup> Control over political matters: 693<sup>e</sup>5, 697c8, 701b3-5. Independence vis-à-vis foreign powers: 687a7, 694a5.

freedom).<sup>25</sup> The language of freedom is in fact used more than once to describe the relation of soul-parts to each other: a person can be said to be 'free from shame,' and intellect is described at one point as being 'by nature free.'<sup>26</sup> The fourth meaning of freedom fits into this psychological use of ἐλευθερία: a person is free and 'liberal' if the part of her soul that is *most* expressive of what she is (reason, for Plato) is not impeded by the other parts, or drives, of which her soul is composed. The idea that the individual is mostly her reason is here implicit, just as in the phrase 'to be stronger (κρείττων) than oneself,' on which the interlocutors dwell at length in book 1.<sup>27</sup>

The four meanings just enumerated have an obvious underlying basis, the core sense of non-subjection: a legally free person is not subject to another (status freedom); citizens who have control over political matters are not subject to political domination (political freedom); an independent city is not the subject of another (external freedom); a part of soul that is free is not subject to the power of another, and a soul as a whole is free if its rational part is not subject to non-rational ones (psychological freedom).

Now Plato in the *Laws* does not always tell us what kind of subjection an entity (a soul, a soul-part, a person, a community) said to be free is free from. This makes many uses of the word in need of specification. Crucial for our purposes are two of these uses: in the notion that a well-ordered city should be free, and in the idea that citizens of such a city should have some amount of freedom. As I will try to show, freedom has a different meaning in these two contexts: in the first, it consists in the willingness to be ruled by wisdom, in order not to be subject to whatever or whoever is unfit to rule (ἐλευθερία<sub>1</sub>); in the second, it consists in popular control over political decisions, in order to make political decisions track the citizens' expressed desires (ἐλευθερία<sub>2</sub>). The two are related, but with a crucial difference: whereas the first form of freedom can never be excessive, the second very well can. Both are forms of self-rule, but whereas the first has intrinsic value, the second has mere instrumental value, and does so only in its measured version. As forms of self-rule, i.e. of rule by the self over its own actions, however, they are co-extensive with non-subjection, or independence from another: they are alternative descriptions of the same state of affairs.

## 2) The *Laws*' Two Freedoms

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<sup>25</sup> 635c3-d8.

<sup>26</sup> 699c6, 875d1-2.

<sup>27</sup> See esp. 627b1-8.

a) Ἐλευθερία: self-rule as willingness to be ruled by wisdom

α – Ἐλευθερία and σωφροσύνη

Ἐλευθερία<sub>1</sub>, makes a surreptitious appearance in the *Laws*. In the course of book 3, the Athenian Stranger obtains the agreement of his two interlocutors, Clinias and Megillus, on the three targets a good legislator must aim at. The trio of values is introduced at 693b3-4 in the following way: ‘a city should be free (ἐλευθέραν), wise (ἔμφορνα), and friend to itself (ἑαυτῆ φιλῆν).’ Immediately after, however, the same idea receives a different formulation: the terms of the triad turn into ‘self-control’ (τὸ σωφρονεῖν), political wisdom (φρόνησιν) and friendship (φιλίαν).<sup>28</sup> In the subsequent iteration of the idea, voiced by Clinias in a clarificatory question, freedom finds its place again; the Athenian Stranger follows suit, answering Clinias’ demand in the same terms (freedom, friendship, political wisdom).<sup>29</sup> It remains that in the mind of the Athenian, self-control (τὸ σωφρονεῖν) is *equivalent* to freedom (ἐλευθερία).<sup>30</sup> And this is not an isolated case: in fact, the very first occurrence of ἐλευθερία in the dialogue is linked to self-control: a person who is enslaved to pleasure has a soul that is not wholly free.<sup>31</sup> In book 8, the law is said to enslave the appetites that tend to enslave the souls of men.<sup>32</sup> This psychological conception implies that a soul, by its very nature, is distinct from its drives to pleasure or appetites: it can be enslaved to them only because it is alien to them, in an important respect at least.

The *Laws*’ moral psychology specifies this respect. Virtue is identified with self-control (ἄρχειν αὐτοῦ), and self-control is in turn defined as the domination of reasoning (λογισμός) over

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<sup>28</sup> 693c2-3.

<sup>29</sup> 693c7-8 and 693d8-e1.

<sup>30</sup> Young 2018 sees the link between the two, but interprets it in an instrumental sense: self-control is necessary to avoid external subjection. I take it that the homology would not be one if the relation was only of that kind. England *ad loc.* (followed by Schöpsdau) denies that τὸ σωφρονεῖν is meant to take the place of ἐλευθερία: he sees τὸ σωφρονεῖν as one of the goals of the city mentioned in books 1 and 2, here taken as an example ‘of different ways of putting the same thing.’ Thus, he rejects taking τὸ σωφρονεῖν as ‘being substituted for ἐλευθερία, because it does not admit of excess.’ This is precisely the view I defend: the mention of φρόνησις and φιλία at c2 makes it natural to see τὸ σωφρονεῖν as occupying the third place of the triad; and the fact that moderation does not admit of excess is one of the key reasons for distinguishing two forms of ἐλευθερία in the *Laws*. See on this point Laks 2007, 136-139.

<sup>31</sup> 635c3-d8. Pangle 1988, 389-390 notes that this is the first appearance of the notion.

<sup>32</sup> 838d3-6.



non-rational, 'senseless' (ἄφρονε) drives, namely the quest for pleasure and the avoidance of pain.<sup>33</sup> The very fact that ἄρχειν αὐτοῦ consists in the rule of λογισμός over non-rational drives (not the other way around) means that the former has a much better claim to *be* the self than the latter. If self-control gives freedom to the individual, it appears to be because it ensures that the part of her soul that is most essential to her is in command.

As the Athenian Stranger informs his interlocutors, that notion of self-control extends to the level of the city:

What experiences pain and pleasure in the soul is the same as the people (δῆμος) or multitude (πλήθος) in the city. Thus, whenever the soul opposes science, opinions or reasons, which are by nature entitled to rule (φύσει ἀρχικοῖς), this is what I call folly (ἄνοια); the same applies to a city, whenever the multitude does not obey (μὴ πείθεται) its rulers and its laws.<sup>34</sup>

A city can be said to have self-control in the same way as an individual can. For a city, self-control means following the orders of its office-holders and laws. This implies that office-holders and laws are the city's reason and, as such, most essential to its identity. Now, it is precisely self-control (τὸ σωφρονεῖν) which the Athenian gives as an equivalent to a city's ἐλευθερία at 693c2-3. If this is meant to be significant, then freedom for a political community consists in the people obeying reason as expressed in the orders of office-holders and laws. I take this to be the content of ἐλευθερία. This conclusion makes sense of the Athenian's assertion that the three legislative targets (freedom, wisdom and friendship) are in fact one and the same: the people's obedience to reason presupposes and furthers the rule of that reason; it fosters civic friendship.<sup>35</sup>

In the *Laws'* version of the city-soul analogy (the passage just quoted), the people are supposed to obey laws and office-holders in virtue of the latter's 'natural' claim to rule. But what

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<sup>33</sup> Virtue as self-control: 635c3-d8 and 644b6-7. Self-control as the domination of reasoning over pleasure and pain: 645b1-2. I take it that λογισμός is also meant to control the two intermediary powers mentioned at 645c9-d1, fear and confidence.

<sup>34</sup> 689b1-5. The parallel between this city-soul analogy and the one of the *Republic* is noted and commented on by Saunders 1962.

<sup>35</sup> 693c1-5. For the idea that the three targets are co-extensive see Schofield 2013, 290. Sheffield 2017, 99-100, argues that friendship supports freedom, which she sees as individual control over personal and political life: citizens bound by civic friendship encourage each other in leading free and independent lives. I do not share her definition of freedom in the *Laws*, at least as part of the three targets; but I take on board her suggestion that friendship is a capacity to value the virtues and good features of others for their own sake. As such, it has a connection to what I call ἐλευθερία: willingness to be ruled requires the recognition and valorization of virtue in others.

does ‘obedience’ mean here? This question matters, because answering it sheds light on the kind of obedience in which σωφρονεῖν, and thus ἐλευθερία, consists. The verb πείθεσθαι is etymologically linked to persuasion (πείθω), which it was a Greek convention to oppose to violence (βία).<sup>36</sup> On that picture, a people obeys its rulers (both office-holders and laws) by being persuaded to follow their lead. But in the case of the soul, the *Laws* gives two different pictures of the way in which non-rational parts can obey the dictates of reason, which amount to two conceptions of σωφρονεῖν, or σωφροσύνη: non-rational soul-parts can either be subdued, reason finding the means to translate its commands in a form which suppresses them; or they can be shaped in such a way as to follow spontaneously reason’s commands.<sup>37</sup> These two possibilities correspond to two kinds of education an individual can receive: most cities can only inculcate in their citizens the first kind of self-control; only in Magnesia will education be directed towards the achievement of the second form of self-control.

The two paths act at the level of non-rational affects. Plato thinks that σωφροσύνη has one further condition, which concerns the rational level: it requires right belief, or rather the absence of wrong belief as to who is entitled to rule. In order to be willing to be ruled by reason, I should not only have my feelings of pleasure and pain shaped in the right way, either via shame or ingrained alignment; I should also be free from wrong beliefs about authority and rule. Plato makes that point clear in a passage of book 6:

The whole human crowd lives in lack of self-control (τοῦ σωφρονεῖν ἐνδεής ὡν ζῆ) either because of ignorance (δι’ ἀμαθίαν) or because of lack of moderation (δι’ ἀκράτειαν) or because of both.<sup>38</sup>

The first obstacle to self-control, ἀμαθία, affects the individual’s cognitive level; the second, ἀκράτεια, involves excessive pleasures and pains. To enjoy self-control, an individual must avoid both defects: she must be immune against wrong-headed beliefs about what reason commands; she must also have feelings of pleasure and pain aligned with true beliefs.<sup>39</sup>

<sup>36</sup> See, in the *Laws* itself, 711c4 and 718b2.

<sup>37</sup> On this distinction see Stalley 1983, 55; Bobonich 2002, 290, and Bobonich 2013; Kamtekar 2010, 142. Creller 2010 does not discuss it. Annas 2019, 154, argues for taking σωφροσύνη as self-restraint and the capacity to cooperate with others: this is certainly true of many usages of it in the *Laws*, but it cannot apply to the city.

<sup>38</sup> 734b4-6.

<sup>39</sup> Schöpsdau 1993, 286-287 *ad loc.* notes that, in context, the ἀμαθία consists in being mistaken in calculating pleasure and pain; but it remains that Plato separates the two levels, the cognitive and the affective. The calculation of pleasures

To understand what ἐλευθερία consists in, we must briefly go over the three requirements for σωφροσύνη in the *Laws*, since ἐλευθερία is identified with σωφροσύνη. Only after that brief inquiry will we be in a position to see what kind of obedience ἐλευθερία involves. In what follows, I deal with the two ways to fight against ἀκράτεια, namely shame (section β) and the shaping of pleasure and pain (section γ); I finally show how Magnesia protects its citizens against ἀμαθία (section δ).

β – Σωφροσύνη and αἰδώς

Self-control (σωφροσύνη) in the *Laws* first appears as the constantly required subjection of appetites that are by nature restive.<sup>40</sup> As Elizabeth Belfiore has noted, self-control is introduced in the dialogue as the capacity to achieve the victory of the better elements of the soul over the worse, in what is described as an everlasting fight.<sup>41</sup> The Athenian Stranger likens the human being to a puppet drawn by two kinds of strings: the golden cord of reason, and the iron chain of the quest for pleasure and the avoidance of pain.<sup>42</sup> Nothing warrants the hope that this iron chain could ever lose its grip on the individual. On this view, the best an individual can achieve is what Aristotle will later call ἐγκρατεία, the domination of reason over non-rational drives that keep calling for vicious action.

The legislator has various tools at his disposal to inculcate this kind of self-control in the citizens and, thus, in the city at large. The most efficient one, which the good legislator is said to 'honor with the most reverence' (ἐν τιμῇ μεγίστῃ σέβει, 647a9), is introduced just after the puppet metaphor. It consists in inspiring in the citizens awe, or shame (αἰδώς or αἰσχύνῃ, used interchangeably in the *Laws*). Shame is first defined as the 'fear of having a bad reputation' (646e10-11); slightly afterwards, during a discussion of military behavior, the Athenian Stranger defines shame as the 'fear to incur dishonor in the eyes of one's friend' (φίλων φόβος αἰσχύνῃς πέρι κακῆς, 647b7). It receives later on still different accounts: at 656a2-3, men are said to experience it 'in front

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and pains is an extensive field, which surely includes political matters (for instance, it includes being convinced that the virtuous life is the most pleasant, as 664b3-c2 argues).

<sup>40</sup> See esp. 647d3-7: σώφρων δὲ ἄρα τελέως ἔσται μὴ πολλαῖς ἡδοναῖς καὶ ἐπιθυμίαις προτρεπούσαις ἀναισχυντεῖν καὶ ἀδικεῖν διαμεμαχημένος καὶ νενικηκώς μετὰ λόγου καὶ ἔργου καὶ τέχνης ἐν τε παιδιαῖς καὶ ἐν σπουδαῖς, ἀλλ' ἀπαθῆς ὢν πάντων τῶν τοιούτων; 'Can a man then become perfect in moderation if he has not fought triumphantly against the many pleasures and desires that try to seduce him into shamelessness and injustice, using the help of speech, deed, and art, in games and in serious pursuits?' (Pangle translation).

<sup>41</sup> Belfiore 1986, 428, citing 626<sup>e</sup>2-6, 634a6-6, 647c7-d8.

<sup>42</sup> 644<sup>e</sup>7-645b1.

of those they consider to be wise' (ἐναντίον ἄλλων οὐς οἴονται φρονεῖν); at 701a8-b1, shamelessness is said to consist in 'not fearing the opinion of one's better' (τὸ τὴν τοῦ βελτίονος δόξαν μὴ φοβεῖσθαι).

These four descriptions can be brought into unison, provided the instance before whom one feels shame is ascertained. The latter two descriptions give that role to one's superiors in virtue, especially wisdom (understood *de dicto*, cf. οἴονται at 656a3), but the first gives it to anyone, while the second reserves this place to one's friends. The first description, 'fear of a bad reputation' can serve as a preliminary sketch but is of limited value: as Plato knew, Socrates did not feel shame before just anyone, but only before those he recognized as authorities.<sup>43</sup> How does this fit with the second description, the one mentioning friends? I suggest that friends on a battlefield can very well be considered by a potential deserter as his superiors in virtue. Provided they do not themselves take flight, they display the virtue of military courage: fleeing from them would expose the deserter to a bad reputation in front of individuals of manifestly superior virtue. It seems, then, that shame in the *Laws* consists in the fear of incurring bad reputation in the eyes of those one recognizes as one's superiors in virtue.

Shame so understood ensures self-control, because it mediates between one's reason and one's non-rational desires.<sup>44</sup> Provided a person is free from ἀμαθία, she can recognize the superior virtue of others, and draw the conclusion that she should let herself be ruled by them.<sup>45</sup> But her non-rational drives can pull in another direction and make her disregard the right judgment of her reason.<sup>46</sup> Shame's role is precisely to ensure that this conflict does not occur. Since shame is a kind of fear, and fear is an expectation of pain (πρὸ λύπης ἐλπίς, 644c10-d1), a person tempted to disobey those she recognizes as wiser than herself will anticipate pain, something that her appetitive part can recognize as bad and try to avoid.<sup>47</sup>

Thus, shame in the *Laws* is a natural ally of one's reason, like θυμός in the *Republic*.<sup>48</sup> It aligns one's non-rational drives with reason's judgment as to whose advice or command one should

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<sup>43</sup> See the discussion in Cairns 1993, 379-380.

<sup>44</sup> The link between shame and self-control is noted, though not elaborated on, by Cairns 1993, 374.

<sup>45</sup> This may seem to us a strictly ancient notion, alien to our attachment to autonomy; but Plato gives no sign of valuing autonomy over doing what is best; and a contemporary philosophy of authority, Joseph Raz', is based on this very idea (see in particular Raz 1986, 38-70).

<sup>46</sup> This possibility is recognized at 689b4-c1. I would like to thank Jiseob Yoon for discussing this point with me.

<sup>47</sup> That appetite is sensitive to expectations has nothing surprising; common sense suggests it (thirst for a particular drink relies on the expectation that it would be pleasant), and Plato explicitly endorses this view in the *Philebus* (32b9-c2).

<sup>48</sup> On the relationship between αἰδώς and θυμός, see esp. Cairns 1993, 383-392, and Sauvé Meyer 2015, 183.

follow.<sup>49</sup> It may be that someone endowed with a perfect reason (someone who has gone through the whole philosophical curriculum of *Republic VII*, for example) would have no superior in virtue, and thus no feelings of shame; but even such a person would not be a god, and Plato is well aware that one can feel shame before a god, or any internalized superior, including one's idealized self-image.<sup>50</sup>

Shame is reason's ally, but it is still distinct from it.<sup>51</sup> It requires a prior rational judgment that some person is more virtuous than oneself, and that such a person should be obeyed (fighting against *ἀμαθία* ensures that such judgment is made). In the example the Athenian takes to illustrate the workings of shame, the symposium, it is the traditional figure of the symposium-leader who plays this role of recognized superior.<sup>52</sup> He is appointed (by the party, or some other authority) on the basis of his acknowledged virtues, especially two: his wisdom about how to preserve a friendly spirit among the banqueters, and his courage in chiding those who throw the gathering into disorder.<sup>53</sup> He can only shame the party into obedience if these superior virtues are recognized. Plato in the *Laws* thinks that, fortunately, 'even bad people are relatively good at judging virtue in others.'<sup>54</sup> Therefore, shame will in general operate for the good, aligning people's psychology with their (in most cases well-founded) judgment that someone is more virtuous than themselves and therefore worthy of being obeyed. Shame makes people willing to be ruled by those they recognize as their superiors and who, most of the time, are actually so. Of course, people's judgment about the virtue of others can be mistaken: in such cases, shame would make the individual willing to be ruled, but not by persons of superior virtue.

For our purposes, the upshot of this discussion is that the first kind of *σωφροσύνη* thematized in the *Laws* is the capacity to subject one's appetites to reason (either one's own or, via one's judgment about the virtue of others, the advice or commands of those others). Shame is a helpful tool to ensure such self-control: in most cases, it is based on a true judgment regarding the virtue of

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<sup>49</sup> Renaut 2014, 322-323; Pfefferkorn 2020.

<sup>50</sup> Cairns 1993, 379-380.

<sup>51</sup> Bartels 2017, 89 n. 54 and 95 identifies both, on the basis of her reading of 644c9-d3 and 647a8-b1, but these two passages do not warrant the identification: the second simply marks out, from the genre of fits of fear and confidence mentioned in the first, a specific kind of fear, namely shame, as a tool for the legislator.

<sup>52</sup> 640a3-6.

<sup>53</sup> 640c1-d2.

<sup>54</sup> Reid 2021, 15, citing 950bc.

others, which invites one to follow the dictates of those one has judged to be superiors. Shame ensures that one's appetites do not run against this judgment and against these authorities' dictates.

#### γ – Σωφροσύνη and Magnesian Education

In order to inculcate σωφροσύνη in an individual, a second approach is possible. The educational program sketched for Magnesia is never explicitly linked with self-control, but it is meant to make the citizens virtuous altogether, which must include the inculcation of σωφροσύνη, one of the four virtues mentioned in the dialogue.<sup>55</sup> Through diverse channels (play, music, dance), Magnesian institutions are meant to shape the citizens' feelings of pleasure and pain so as to make them follow as spontaneously as possible the dictates of reason. Book 2 is devoted to an exposition of this educational program, whereas book 1 focusses on the kind of self-control described above.<sup>56</sup> One passage seems to indicate that Plato favors book 2's method over that of book 1 (in other words, Aristotelian σωφροσύνη over Aristotelian ἐγκρατεία).<sup>57</sup> But even if the education sketched in book 2 is successful, the first kind of self-control will always remain a helpful tool for the legislator: the Athenian Stranger thinks that the virtuous habits inculcated by Magnesian education will necessarily slacken at some point in the citizens' lives.<sup>58</sup> Appetites are always on the brink of going wild, and shame is a useful railing to put them back on the right track.

#### δ – Σωφροσύνη as Absence of Ignorance (ἀμαθία)

The last requirement for Magnesians to reach σωφροσύνη is that they must not be impaired by ignorance, or wrong belief (ἀμαθία). If someone has a sense of shame, or feelings of pleasure and pain that are correctly shaped, she might still lack self-control if she wrongly believes, for instance, that a gathering can unfold well without a ruler (a principle defended at 640a3-6); or if she has a wrong-headed conception of virtue. Atheists, for instance, lack σωφροσύνη (909a6-7): some of them

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<sup>55</sup> On education as aiming at the whole of virtue, see in partic. 653a5-c4.

<sup>56</sup> Stalley 1983, 55.

<sup>57</sup> 627d11-628a5, with the comments of Bobonich 2013, 28. Aristotle alludes to the similarity between the two dispositions at *NE* 1151b30-35.

<sup>58</sup> 653c7-9. See on this point Wilburn 2013, 77-78.

do have excessive feelings of pleasure and pain, but others are simply led astray by wrong beliefs (886a6-e2; 908b4-c6).

A study of how Magnesian education protects the citizens against wrong beliefs, especially about who should rule, would amount to a complete survey of the *Laws*. Three features can be taken as representative of this educational program: dance, general education, and legislative preludes.

As Rachana Kamtekar has shown, the dance practices of Magnesia are not only meant to shape the citizens' feelings of pleasure and pain in an orderly way: Plato believes that the pleasure taken in good order will at some point give rise to a *belief* that order is in itself good.<sup>59</sup> The citizens' ability to recognize and value order will protect them against thinking that disorderly individuals should be listened to; it frees them against political ἀμαθία.

Magnesians will cultivate their reason more directly through a program of general education. Mathematics will play a key role in that program: although not all Magnesians will carry it very far, all of them will learn the basics of arithmetic and geometry, which it would be shameful for free people not to know (818a4-7). Familiarity with such reasonings will prepare the Magnesians for higher theoretical truths, including about political affairs.<sup>60</sup>

Higher truths about political affairs, however, will mostly be conveyed in legislative preludes. André Laks has made sufficiently clear, throughout his work on the *Laws*, that we should not overemphasize the philosophical tenor of the preludes: they only 'come close' to philosophizing (857d2).<sup>61</sup> But some are closer to philosophy than others: the prelude of the law against atheism, which takes up most of book 10, is replete with highly theoretical arguments. Most of the other preludes are more akin to 'exhortation and persuasion' (παραμυθίας δὲ καὶ πειθοῦς, 720a1): but all of them instill true beliefs about the world, especially politics, in the citizens' souls. They thus contribute to the citizens' willingness to be ruled by office-holder and laws that enforce those true beliefs.

A last feature of Magnesia that guards the citizens against wrong belief, especially about who should rule in the city, are its procedures for the appointment and control of magistrates. Because the people have a say in designating their office-holders, and because they know that those in power will have to give an account at the end of their term, the citizens can more readily accept the political

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<sup>59</sup> Kamtekar 2010, 147, commenting on 654a.

<sup>60</sup> 818c3-d3; Annas 2010, 79.

<sup>61</sup> Laks 2023.

order. Their willingness to be ruled is enhanced by their (true) belief that Magnesian office-holders are institutionally constrained to act for the good of the ruled.<sup>62</sup>

This concludes our general presentation of *ἐλευθερία*, which the Athenian Stranger has equated with *σωφροσύνη*. As *σωφροσύνη*'s equivalent, *ἐλευθερία* consists in the willingness to be ruled by reason. This sets requirements at the level of feelings of pleasure and pain, which must either be subdued by shame (if they are restive), or be made spontaneously obedient through an ambitious educational curriculum. It also requires protecting the citizens' rational capacities against wrong beliefs, especially as to who should rule in the city. Provided the citizens successfully respond, at these two levels, to the education Magnesia imparts them, they can reach individual *σωφροσύνη* and *ἐλευθερία*.

*Σωφροσύνη* is equivalent to freedom insofar as it liberates the individual from the tyranny of non-rational pleasures and pains, a theme which occasions the first mention of freedom in the *Laws*.<sup>63</sup> This presupposes that the individual is identified to her reason. At the level of the city, *σωφροσύνη* makes citizens willing to be ruled by political wisdom (*φρόνησις*); this again implies that wisdom is the true tenor of the city's identity.

To the extent that *σωφροσύνη* promotes the rule of political wisdom, it is instrumentally good. But it is also intrinsically so: it implies that the individual has correct beliefs about the world, especially about whose rule she should follow; it aligns her soul's non-rational drives with such beliefs, thus preventing cognitive dissonance, which Plato takes to be an intrinsic ethical deficiency.<sup>64</sup>

Because of its instrumental and intrinsic goodness, *ἐλευθερία*, or *σωφροσύνη* is a worthy target of the legislator's effort: it furthers the rule of political wisdom (*φρόνησις*), bolsters civic friendship (*φιλία*), while possessing a value of its own.<sup>65</sup> As such, it can never become excessive: in an individual or a community, there cannot be too much willingness to be ruled by reason. This contrasts sharply with *ἐλευθερία*.

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<sup>62</sup> Lane 2023.

<sup>63</sup> This conception may seem outlandish; for a worked-out defense see Stalley 1998. More recently, Pettit 2001 has defended the view that human freedom ultimately consists in a person's discursive control over her actions, understood as encompassing rational control over non-rational drives (see esp. p. 90).

<sup>64</sup> Bobonich 2013, 28-29.

<sup>65</sup> It is presumably the essential instrumental relationship between on the one hand *ἐλευθερία*, and on the other *φρόνησις* and *φιλία* which warrants the Athenian's taking them as co-extensive at 693c1-4.



b) Ἐλευθερία<sub>2</sub>: self-rule as control over political life

Whereas ἔλευθερία<sub>1</sub> is said to be equivalent to σωφροσύνη, to presuppose and to reinforce the rule of φρόνησις and civic φιλία, ἔλευθερία<sub>2</sub> is introduced in the dialogue in another constitutive context: it appears as one extreme of a continuum, the other end of which is the ‘monarchic’ or ‘despotic’ principle (τὸ μοναρχικόν, 693e5; τὸ δεσποτικόν, 697c8).<sup>66</sup> The more the monarchic principle is applied, the more power is concentrated in the hands of a few; the more ἔλευθερία<sub>2</sub> is realized, the more citizens get a share in political decisions.

At this point, it is crucial to distinguish between the extremes of this continuum and the three targets of the legislator: just as there can be monarchy or despotism without political wisdom, there can very well be ἔλευθερία<sub>2</sub> without ἔλευθερία<sub>1</sub>, popular control over political events without willingness to be ruled by reason. In fact, as Glenn Morrow noted, the Athenian Stranger in a passage we will analyze closely ‘uses ἔλευθερία to denote one of the two political extremes to be avoided.’<sup>67</sup> Ἐλευθερία<sub>2</sub>, when fully realized, is excessive; ἔλευθερία<sub>1</sub> can never be. The antonym of ἔλευθερία<sub>1</sub> is lack of moderation, or ‘folly’ (ἀνοία, 689b3); the antonym of ἔλευθερία<sub>2</sub> is not a psychological or moral state, but a specific repartition of power (its hyper-concentration, in the form of monarchy, 693e5; 697c8; 701e1). Nothing rules out that such hyper-concentration of power could, if used wisely, foster willingness to be ruled in the citizenry; but it does not necessitate it either. The two sets of consideration are different: on the one hand, we have intrinsically valuable political goals (ἔλευθερία<sub>1</sub>, wisdom, and civic friendship); on the other, instrumental questions of power distribution (ἔλευθερία<sub>2</sub> vs. monarchy).

Compared to ἔλευθερία<sub>1</sub>, ἔλευθερία<sub>2</sub> is closer to Athenian, and more largely Greek, conventions. Ἐλευθερία in the *Laws* has the focal meaning of ‘non-subjection:’ intellect (νοῦς) for instance is said to be ‘free’ (ἐλεύθερος) to the extent that it is not subject (ὑπήκοος) to anything else (875c7); citizens in Magnesia will be ‘free from each other’ (ἐλεύθεροί ἀπ’ ἀλλήλων, 832d2) insofar as they will not be subject to the will of someone else. The examples the Athenian gives to illustrate

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<sup>66</sup> The notion of continuum was introduced by Stalley 1983, 78; it has been recently taken up and developed by Reid 2021 and Sauvé Meyer 2021.

<sup>67</sup> Morrow 1960, 562. n. 39 refers the quote to ἔλευθερίασαι at 701e; but a much more striking example is the use of ἔλευθερία to denote ‘excessive, absolute freedom’ at 701a7. Hence my leaving out ‘almost’ from the beginning of the citation from Morrow.

the nature of the continuum between ἐλευθερία<sub>2</sub> and the monarchic principle, towards the end of book 3, show what kind of non-subjection ἐλευθερία<sub>2</sub> concretely amounts to. It consists in the people having means to weigh in on political life, so as to have it reflect their expressed interests, to a meaningful extent at least.<sup>68</sup> Thus, in Persia under Cyrus, members of the people were invited to shape political decisions by contributing to public deliberation (694b1-6): they were free to the extent that political rulings reflected their will. In Athens, the ‘progress of an excessively free way of life (τὴν τοῦ ἐλευθέρου λίσαν ἐπίδοσιν βίου, 700a8) coincided with the citizens’ more and more pronounced assertion of their will: because they pretended to be wise enough to rule themselves, they abjured all obedience to office-holders and laws (701a5-b3). It is only when this tendency came to completion that the Athenians enjoyed ‘complete freedom, i.e. from all kinds of rule’ (παντελής καὶ ἀπὸ πασῶν ἀρχῶν ἐλευθερία, 698a10-b1). Full freedom, a state in which each citizen asserts his own will without deferring to that of another, characterizes an atomistic society where interpersonal authority is done away with. This abolishes ἐλευθερία<sub>1</sub> in the city: the citizens are not willing anymore to be ruled by reason. They might think that it is rational for them to rule themselves without obeying the laws and the commands of their office-holders; but this violates the ‘no-ἀμαθία’ requirement of σωφροσύνη.

As Melissa Lane argues, Plato's picture of radically democratic Athens is good evidence that ‘all-complete freedom is not a value in itself.’<sup>69</sup> It is also evidence, I suggest, that in at least of its meanings, ἐλευθερία cannot be embraced by the legislator as a worthy ideal: at 701a7, the substantive alone, without pejorative or maximizing epithet, is used to denote complete, i.e. excessive freedom. That *kind* of ἐλευθερία cannot be part of the legislator's target. Whereas a certain kind of freedom (ἐλευθερία<sub>1</sub>) is valuable even if it is maximally realized, ἐλευθερία<sub>2</sub> is acceptable only when it is made compossible with rule; it ceases to be when it turns into the abolition of all rule, or anarchy, an evil the Athenian Stranger thinks should be uprooted from human existence (942c8-d2). For him, it is a principle of politics that every human gathering should have a ruler (ἄρχων, 640a3-6), endowed with the intellectual and character virtues necessary to guide the activity he is overseeing.<sup>70</sup>

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<sup>68</sup> Thus, I agree with Reid 2021, that the monarchic principle is a matter of the citizens submitting to the judgment of another, while the principle of freedom is realized to the extent that citizens decide for themselves.

<sup>69</sup> Lane 2023.

<sup>70</sup> Landauer 2022.

Because of its constitutive tension with inter-personal rule, ἐλευθερία<sub>2</sub> is valuable only in what Plato calls its measured form, i.e. when it ‘includes a measure of rule by others’ (τῆς μέτρον ἐχούσης ἀρχῆς ὑφ’ ἑτέρων, 698b1-2). Plato in the *Laws* thinks that citizens should ‘respect legitimate hierarchies’ and ‘defer to the judgment of others when appropriate,’ insofar as these others have the epistemic and moral authority to make better judgments.<sup>71</sup> But he also thinks that leaving the citizens free to make certain decisions, or at least to contribute to their making, is politically healthy. Let us look at his reason for thinking so.

The fact that decisions affecting social life reflect to a certain extent the citizens’ expressed will is, for Plato, conducive to the achievement of the three constitutional targets (political wisdom, civic friendship and freedom as willingness to be ruled). It contributes to political wisdom, as all citizens are entitled to pool their ideas together to enlighten public deliberation (as in the case of Cyrus’ Persia, 694b6). It ensures civic friendship as, by mitigating the despotic principle, it protects the citizens from sheer enslavement: as the Athenian Stranger puts, there can be no friendship between masters and slaves (757a1). Finally, a measure of ἐλευθερία<sub>2</sub> generates willingness to be ruled, as ‘only that kind of constitutional order, which gives legal underpinning to the citizens’ trust that their rulers are concerned with a common structure of freedom to achieve the good of each, rather than with exploiting the legal structure to achieve their own good alone, can produce and sustain civic freedom.’<sup>72</sup>

Ἐλευθερία<sub>2</sub>, provided it does not go so far as to abolish inter-personal rule altogether, contributes to bringing about φρόνησις, φιλία, and ἐλευθερία<sub>1</sub>. Institutional mechanisms that implement ἐλευθερία<sub>2</sub>, by ensuring that the expressed will of the people is taken into consideration in the shaping of political life, are a healthy political feature. Magnesia will incorporate such institutions: elections and assembly-meetings will give the citizens an occasion to weigh in on political decisions.<sup>73</sup> Elections in particular will express the citizens’ recognition that some members of the community are more virtuous than themselves: if the citizens are free from ἀμαθία, and if their feelings of pleasure and pain are in order or checked by shame, this judgment will generate in them a willingness to be ruled by their true better. Ἐλευθερία<sub>2</sub> will thus produce ἐλευθερία<sub>1</sub>.

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<sup>71</sup> Reid 2021, 3.

<sup>72</sup> Lane 2023.

<sup>73</sup> See on this point Piérart 1974, 105-107; Michels 2004; Reid 2021, 15; Laks 2023.

This shows how, under certain conditions (i.e. if it does not go as far as abolishing rule by others), ἐλευθερία<sub>2</sub> tends to produce ἐλευθερία<sub>1</sub>. 'Ελευθερία<sub>2</sub> is neither a necessary, nor a sufficient condition for ἐλευθερία<sub>1</sub>: a wise autocrat can have the citizens' approval; extreme ἐλευθερία<sub>2</sub> is incompatible with willingness to be ruled by true reason. It nonetheless tends to bring it about.

I hope to have shown what ἐλευθερία<sub>2</sub> consists in for Plato in the *Laws*, and how it relates to ἐλευθερία<sub>1</sub>. We can now weave together the different threads introduced so far, to shed light on Plato's intervention in Athenian freedom-discourse.

### 3) The *Laws*' Conceptual Exploration of ἐλευθερία and its Relation to the *Republic*

#### a) Plato's Conceptual Exploration of ἐλευθερία

The legislator of the *Laws* faces a difficult task: one of the most helpful tools at his disposal for reaching the three legislative targets is a form of popular participation that, if dosed incautiously, will actually undermine them. The task is made ever more difficult by the homonymy (in our, not Aristotle's sense) of ἐλευθερία: it can refer either to ἐλευθερία<sub>1</sub>, self-control as the willingness to be ruled by reason, or to ἐλευθερία<sub>2</sub>, the ability to weigh in on the shaping of political life. Both are instances of self-rule, which the pseudo-Platonic author of the *Definitions* gave as the essence τὸ ἐλεύθερον: ἐλευθερία<sub>1</sub> is self-rule to the extent that it frees the individual from subjection to the alien forces of pleasure and pain, and allows her to be ruled by what most furthers her interest, right reason; ἐλευθερία<sub>2</sub> is self-rule too, as it frees the citizens from seeing political matters affecting them being entirely settled by others, be it an elite or an individual. Both forms of freedom are also 'liberal,' a value that the Athenian citizenry at large prized highly.

Of the two forms of freedom, however, the first has a better claim to being called 'liberal' than the second; this is, at least, one of the points I see Plato as making through his conceptual exploration of ἐλευθερία in the *Laws*. By linking ἐλευθερία to σωφροσύνη, and by glossing σωφροσύνη as willingness to be ruled by reason (either one's own or someone else's), Plato suggests that the 'liberal' individual will sometimes have to accept being ruled by someone else. If the notion of 'liberality' was derived from the opposition between free and servile status, Plato indicates that 'liberality' should not be seen as excluding positions of subjection: far from that, it requires accepting

inter-personal rule whenever someone else's reason happens to be superior to one's own. Plato thus rectifies a common perception about 'liberality.'<sup>74</sup>

And this has direct political implications. Plato's conceptual exploration shows that popular participation is not all there is to freedom; in fact, popular participation can run against 'liberality.' The Athenian common perception was that a person who had a say in political decisions was different from the slave, who had no such power whatsoever; weighing in on political affairs was thus seen as a mark of free status. But an excessive focus on political participation can be misguided: Plato shows, by the polysemy of ἐλευθερία, that political participation is not a sufficient condition for reaching 'liberality.' Someone who has a title to political participation can push that claim too far, and refuse to obey the reasonable authority of her superior. By showing that ἐλευθερία<sub>2</sub> exists on a continuum, while ἐλευθερία<sub>1</sub> does not, Plato indicates that ἐλευθερία<sub>1</sub> should be the target of all those who want to show themselves 'liberal:' it should be the rule with which ἐλευθερία<sub>2</sub> should be measured.

The message of Plato's conceptual and terminological work on ἐλευθερία in the *Laws* would thus be: 'if you want it to be the case that *you* rule in the political realm, make sure you do so while recognizing that reason should rule over the city, and over yourself.'<sup>75</sup> Only so will the city be free (because it will follow reason, expressed in its laws and the commands of its office-holders) and liberal (because it will instantiate self-control, a paradigmatically 'liberal' quality): only so will it display ἐλευθερία<sub>1</sub> and, hence, the full array of ἐλευθερία. I argue that the very polysemy of ἐλευθερία in the *Laws* is meant to invite the reader, especially if he comes from a democratic regime, to embrace Plato's demanding conception of freedom, instead of focusing exclusively on popular participation. Hence, I suggest, the more 'positive' conception of freedom Plato presents in the *Laws*, compared to the *Republic*.

b) Three Advantages of Magnesia over Kallipolis: Political Freedom, Personal Self-Control, and Civic Friendship

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<sup>74</sup> Raafflaub 1983, 520-521.

<sup>75</sup> Cf. Bobonich 2002, 448: "Self-governance is valuable for the individual only if it is self-governance in accordance with the right principles."

Compared to the *Republic*, the *Laws*' theory of freedom makes three crucial moves: it abolishes inter-personal slavery for the citizens; it recognizes the capacity of ordinary individuals to have self-control (σωφροσύνη), fostering that disposition in its legislation; it finally permits civic friendship (φιλία) between rulers and ruled. The *Laws*' theory of ἐλευθερία, as I have reconstructed it, plays a pivotal role in these three respects.

#### α – Freedom and σωφροσύνη in the *Republic* and the *Laws*

Towards the end of *Republic* 9, Socrates establishes a hierarchy between three types of men, which he probably inherits from Hesiod (*Work and Days*, 293-297). According to that ranking, the best is he who can be ruled by his own reason; second comes the man who listens to the reason of his better; worst of all is to be stubbornly unwise. The citizens of Kallipolis will be in the first situation if they are philosophers; all others will be in the second.<sup>76</sup> The city's institutions are there to make sure that ordinary citizens are ruled by the philosophers' reason, in order for their interest to be best served. Socrates both illustrates and justifies this idea by taking the education of children as an analogy (590e2-591a3): 'children are not permitted to be free (μὴ ἐὰν ἐλευθέρους εἶναι) until we have established within them a constitution, just as in the city, and have set up, caring for their best interest, a guardian similar to ours to rule within them; only then do we let them go free (ἐλεύθερον ἀφίεμεν).' The possession of reason is a pre-requisite for the enjoyment of freedom; as Socrates puts it immediately before, people without the rational capacity to rule themselves should be the 'slaves' (δούλον, 590c8) of the philosophers. The producers of Kallipolis, therefore, are considered to be the slaves of the guardians, even if they consent to the latter's rule. They cannot either partake in individual σωφροσύνη; the city as a whole can, not the producers individually, who are after all dominated by their ἐπιθυμία.<sup>77</sup>

The situation in the *Laws* is importantly different. In Magnesia, people who have less virtue and rationality than their rulers do not have to be slaves: they can share in both freedom and liberality. To do so, they need to have just enough rationality to recognize that others are more virtuous than themselves; draw the conclusion that they should be ruled by the more virtuous; and

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<sup>76</sup> On this passage see El Murr 2017, 95.

<sup>77</sup> 427e9-10; 442c9. See on this point Lear 1998. Kahn 2004 adduces *Rep.* 430c as indicating that producers have individual temperance; but 431c9-d2 is clear that they do not, since they need philosophers to check their desires.

have their non-rational soul-parts aligned with such a conclusion. Plato is hopeful as to the first requirement, as Christopher Bobonich and Jeremy Reid have insisted.<sup>78</sup> Magnesian educational and legislative institutions, as we saw, protect the citizens against ἀμαθία. But Plato is also confident that the citizens of Magnesia can fulfil the second requirement: to live without ἀκράτεια. The city is able to free the citizens from that flaw by developing their sense of shame, or by correctly shaping their feelings of pleasure and pain. The city thus fights against the two possible sources of lack of self-control, ἀμαθία and ἀκράτεια.

The fight against ignorance is particularly important, as it explains the connection between legislative preludes and freedom. In two passages, legislative preludes are compared to the explanations a doctor gives to his free patients, meant to make the sick more docile (720d1-e2; 857b9-e8). Slaves, by contrast, are treated without any account being given to them. Why are explanations appropriate to free persons only? As I have argued above, preludes are a key weapon to fight against the citizens' ἀμαθία. Since repelling ἀμαθία from one's soul is a condition for σωφροσύνη, preludes enhance the citizens' self-control: they increase their willingness to be ruled by just laws. I have also argued that willingness to be ruled by reason is a form of freedom (ἐλευθερία). This explains, I suggest, why preludes are part of treating the citizens as free people: they waive one possible obstacle to the citizens' willingness to be ruled by reason.

Another weapon against ignorance is institutional: the system of elections and accountability makes the citizens more prone to be ruled, as they can trust that those in power act for the common good; it also increases the likelihood that the citizens are right to be so willing. In other words, it furthers the citizens' willingness to be ruled by office-holders who are actually superiorly virtuous. In this way, ἐλευθερία<sub>2</sub> enhances ἐλευθερία<sub>1</sub>.

The different treatment ἐλευθερία receives in the *Laws* explains another difference with the *Republic*: Magnesia's institutions and legislative practices make it possible for the citizens to partake in individual σωφροσύνη. By contrast to the *Republic*, σωφροσύνη in the *Laws* is several times ascribed to individuals who are not philosophers.<sup>79</sup> Here again, Bobonich's thesis that Plato has more regard for the rational capacities of non-philosophers in the *Laws* than in the *Republic* seems to hold. Bobonich's arguments about the citizens' capacity for epistemic and ethical virtue would explain

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<sup>78</sup> Bobonich 2002, 10; Reid 2021, 15.

<sup>79</sup> 679e4; 696b10; 802e10. The meaning of the word here seems different from the one it has at 710a3-b1, where it designates natural moderation.

why Plato, in the *Laws*, grants the citizens non-subjection to their rulers and its pre-requisite, individual self-control.

### β – Civic Friendship in the *Republic* and the *Laws*

The *Laws*' grant of ἐλευθερία<sub>1</sub> and ἐλευθερία<sub>2</sub> to the citizens explains the place it gives to civic friendship. As Melissa Lane has noted, moderate popular participation ensures that rulers track the citizens' interest, thus bringing about civic friendship; it also prevents office-holders from seeing the people as their enemies. Dimitri El Murr adds that smooth participation makes the citizens share social and political activities with their rulers, another condition for civic friendship.<sup>80</sup>

This link between freedom and friendship should not surprise us, if we keep the *Republic* in mind. Civic friendship (φιλία) in the *Laws* comes close to the *Republic*'s ὁμονοία, i.e. consensus about who should rule in the city; and the *Republic* calls such consensus σωφροσύνη in one instance (432a7). But the *Republic*'s ὁμονοία and the *Laws*' φιλία differ in two respects, which have to do with the *Laws*' new valorization of freedom. In the *Republic*, the producers consented to be ruled out of appetitive concerns; the citizens of Magnesia, by contrast, are endowed with sufficient cognitive capacities to judge the virtue of others on more general and objective grounds.<sup>81</sup> They also have the ethical capacity to abide by this judgment of theirs. This, as we saw, makes it legitimate to give them a measure of popular participation.

Second, in Kallipolis friendship (φιλία) did not exist between producers and guardians, but only among guardians.<sup>82</sup> In both the *Republic* and the *Laws*, consensus is presented as a good thing, insofar as it fills the soul with true belief; but the true belief Magnesians endorse seems to rely on a better, more general grasp of virtue than that of Kallipolis' citizens; this, I suggest, enables them to be related to each other, rulers included, by bonds of friendship for virtue's sake.<sup>83</sup>

By participating in political decision-making, the citizens of Magnesia foster civic friendship: they make their political judgments, in elections first and foremost, on the basis of their appreciation of the candidates' virtues; they encourage their rulers to use their offices for the common good,

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<sup>80</sup> El Murr 2014, 24.

<sup>81</sup> Bobonich 2002, 199-200; Sheffield 2017, 99-100.

<sup>82</sup> El Murr 2014, 23.

<sup>83</sup> On the value of consensus and true belief see Kamtekar 2004. On the *Laws*' theory of virtue friendship see El Murr 2014.



reinforcing the perception that these rulers deserve their position, and mitigating the antagonism that lies dormant in every form of inter-personal rule. This enables the people of Magnesia to be friends with their rulers, in a way the producers of Kallipolis were not.

Our conceptual account of ἐλευθερία in the *Laws* yields the following picture. Provided they are sufficiently educated, Magnesians know how to recognize and appreciate virtue in others: they are free from ἀμαθία. Their education also makes them capable of abiding by their best judgment to that effect: they are free from ἀκράτεια. These two conditions give them individual ἐλευθερία. The Magnesians are thus able to exercise reliably their capacity of political participation, which amounts to individual and collective ἐλευθερία<sub>2</sub>. This, in turn, contributes to the achievement of the city's three targets: φρόνησις (rule by the virtuous), φιλία (political consensus), and collective ἐλευθερία. As it turns out, ἐλευθερία<sub>2</sub> is a necessary condition for the durable achievement of ἐλευθερία. Human rulers need to be checked by a measure of popular participation: the risk is otherwise too high that they would rule in their own interest. The city cannot be durably self-controlled (ἐλευθερία<sub>1</sub>) without popular participation (ἐλευθερία<sub>2</sub>).

Even though these various forms ἐλευθερία have self-control as their core, they reveal the term's polysemy. I have argued that this was deliberate on Plato's part: I see him as inviting the Athenians to embrace the whole of ἐλευθερία – not only ἐλευθερία<sub>2</sub> narrowly conceived, the one radical democrats exclusively cling to, but also a key condition for it to be legitimately exercised (individual ἐλευθερία<sub>1</sub>), as well as one of its most valuable consequences (collective ἐλευθερία<sub>1</sub>, co-extensive with civic φιλία). At the same time, Plato warns legislators concerned about the city's self-control (collective ἐλευθερία<sub>1</sub>) that it cannot do without popular participation (ἐλευθερία<sub>2</sub>), at least in the long run; but this, in turn, requires the individual self-control (ἐλευθερία<sub>1</sub>) of citizens.

Here ends the definitional part of this chapter. I hope to have shown that, despite its polysemy, ἐλευθερία in the *Laws* comes in at least two varieties. Is that a flaw of my account? Can we ascribe to Plato the use of ἐλευθερία in two different specifications, even though he does not explicitly flag this polysemy?

I think not: Plato in the *Laws* is well aware that identical terms confuse political discourse. His most detailed discussion of this problem occurs in book 6, when the three interlocutors deal with the different forms of equality a political community can instantiate. Two are singled out: the

nobler and truer one, the geometrical, which distributes political power on the basis of virtue; and the baser one, the arithmetical, which gives an equal vote to each and every man. These two forms of equality are called both 'homonymous' (ὁμωνύμοιιν, 757b2) and paronymous (παρωνυμοίισί, 757d6). There is no reason to take these terms in their Aristotelian senses: Aristotelian homonymy means sharing a name only (while geometric and arithmetic equalities share more, being both forms of equality); and Aristotelian paronymy implies derivation, which is absent here. Would Aristotelian synonymy fit the bill? It is at least not clear that both forms of equality have an equal claim, in Plato's eyes, to be instantiations of precisely that, equality: at 757b6, the geometrical type is said to be truer than the arithmetical (in fact, it is 'the truest,' ἀληθεστάτην); Aristotelian synonymy by contrast applies to species of the same genus, and none can be more a species of its genus than the other.<sup>84</sup> The relationship Plato draws between the two forms of equality is more complex, if less precise, than the Aristotelian categories allows: they share a name, but one is 'deviating from the sense' of the truer other, as LSJ convincingly glosses παρωνυμοίισί at 757d6.

Another case of polysemy that matters politically is friendship: most people do not see, the Athenian Stranger laments, that friendship comes in quite different varieties; they mistake the baser forms for the truer, which is a common endeavor in virtue.<sup>85</sup>

Equality, friendship and liberty, I suggest, are all objects of conceptual exploration in the *Laws*. Plato shows how a value people (especially democrats) are attached to can take a wide variety of forms, some which they have not envisaged so far, before suggesting a ranking. In all three cases, he also takes it that the non-intrinsically good forms (ἐλευθερία, arithmetic equality), or the utterly bad ones (pleasure-driven friendship) are not eradicable, and should be given a place in the institutional structure of the regime.<sup>86</sup>

Thus, for Plato in the *Laws*, freedom is not to be realized so extensively as to abolish all rule. A measure of deference to authority is required to permit inter-personal rule, which Plato takes to be necessary to all human communities. Political actors (legislators, office-holders) must therefore guard against any form of freedom that goes beyond this measure. The *Laws*, especially in book 3, gives them the intellectual tools to prevent this change for the worse from happening. The change

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<sup>84</sup> *Cat.* 3a33-39 (of substances).

<sup>85</sup> 757b1-3: δυοῖν γὰρ ἰσοτήτοιιν οὔσαιιν, ὁμωνύμοιιν μέν, ἔργω δὲ εἰς πολλὰ σχεδὸν ἐναντίαιν.

<sup>86</sup> 757d5-758a2; 837d7. On 'true friendship' see *Lys.* 214d7. On friendship in the *Laws* see El Murr 2014.

occurs when the citizens lose their self-control (σωφροσύνη, or ἐλευθερία<sub>1</sub>), on account of both a frenzy of pleasure (ἀκράτεια) and ignorance (ἀμαθία). Let us see how this happens.

## II – The Genetic Account: From the Willingness to be Ruled to the Pretense to Self-Rule

The second part of the present chapter proceeds in two steps. It starts by laying out the good situation Plato takes to have prevailed in archaic Athens, when a measure of popular participation (ἐλευθερία<sub>2</sub>) went hand-in-hand with willingness to be ruled (ἐλευθερία<sub>1</sub>) (section 1). It then puts forward four explanations for the rupture of this happy state of affairs (section 2): they account for the disappearance of individual and collective self-control (ἐλευθερία<sub>1</sub>) in the Athenian citizens, leading to an excessive assertion of their claim to participation (ἐλευθερία<sub>2</sub>).

### 1) The Initial Situation: Archaic Athens

#### a) Moderate Freedom (ἐλευθερία<sub>2</sub>) and Athens' Reaching of the Legislative Targets

Towards the end of book 3, the Athenian Stranger expounds the institutional foundations that, if implemented, would bring about the three legislative targets. Two kinds of ways to distribute rule are considered: monarchy, the extreme form of which consists in a single ruler confiscating power; and democracy, which gives freedom as political control to the citizens. The monarchic (or despotic) principle and its democratic counterpart, which is associated with freedom (what I called ἐλευθερία<sub>2</sub> above), exist in extreme or moderate versions; but when they are more or less equally instantiated, they moderate each other and permit the realization of the three legislative targets. As the Athenian Stranger puts it:

There are two mothers, so to speak, of regimes, from which one would be right to say that all others are born. It would be right to call the one monarchy, the other democracy, and to say that the one has its extreme version in the Persian people, the other among us; almost all other regimes, as I said, are combined in various

ways out of these two. We must, as is necessary, partake in these two, if there must be freedom and civic friendship with political wisdom.<sup>87</sup>

The Athenian then goes on to explain how the mutual moderation of freedom and monarchy under Cyrus gave way to a progressive assertion of despotism. He provides the causes of that evolution: the king's son, Cambyses, was badly educated and acquired a tyrannical character; his successor Darius tried to set things aright and to restore Persia's greatness, but he made the same mistake as Cyrus, neglecting the upbringing of his own son Xerxes. After dealing with Persia, the Athenian Stranger comes to narrate the history of his own city:

After that, we must now go through what happened to the Attic regime, and show that complete freedom, from all kind of rule (ἡ παντελής καὶ ἀπὸ πασῶν ἀρχῶν ἐλευθερία), is worse, and not just slightly, than freedom which has a measure of rule by others.<sup>88</sup>

As the Stranger goes on to narrate, Athens up to the battle of Salamis exemplified the mutual moderation of (popular) freedom and (inter-personal) rule which he thinks is necessary to reach the three legislative targets. Athens may have leaned slightly towards freedom, which is said to be the regime's main characteristic; but this freedom was compatible with the rule of office-holders and laws.

How was this balance obtained? The indications the Athenian gives us about the regime are sparse but illuminating:

When the Persians attacked the Greeks, or rather all who live in Europe, the ancient regime (πολιτεία παλαιά) was in place; offices (ἀρχαί) were filled from the four property-classes, and there was some kind of master (δεσπότης), shame, by which we consented to live enslaved to the laws of that time.<sup>89</sup>

Plato is here clearly tapping into the resources of fourth century political discourse, with its idealization of the 'ancient constitution,' said to have ensured civic harmony and good rule before

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<sup>87</sup> 693d2-e1.

<sup>88</sup> 698a9-b2.

<sup>89</sup> 698b4-6.

the reforms of Ephialtes and Pericles.<sup>90</sup> The notion that, in the olden days, offices were filled on the basis of a ranking of fortunes was part of that picture.<sup>91</sup> The mention of four classes, in particular, was bound to recall the reforms of Solon, with whom they were closely associated.<sup>92</sup> It is difficult to ascertain which exact reforms Plato believed Solon to have implemented; at least modern historians agree that he introduced election to fill offices, as opposed to a previous system of aristocratic cooptation.<sup>93</sup> The *Constitution of Athens* (8.1) depicts Solon as introducing lottery from an elected short-list for the filling of offices (κλήρωσις ἐκ προκρίτων), with rules regarding which property classes could provide candidates. It is quite likely that Plato would have associated Solon with a similar mode of filling offices: he was at least aware of the claims that the ancestral constitution of Athens was based on elections,<sup>94</sup> and when he takes up the four property classes for Magnesia, he uses them essentially to regulate elections.<sup>95</sup> Election, thus, would seem to be the element of democracy, or freedom, with which the Athenian regime tempered the exercise of rule.

A later passage, however, might seem to run against this interpretation:

Under the ancient laws, my friends, the people (ὁ δῆμος) were not sovereign (κύριος) over any matter, but they were in some sense willing slaves to the laws.<sup>96</sup>

By denying that the people were sovereign in archaic Athens, isn't the Athenian excluding popular participation from his depiction? I think not. His denial amounts to saying that the Athenian people in those days did not overrule the laws, by contrast to what the people did in the days of radical democracy.<sup>97</sup> It was part of the discourse on the ancient constitution to contrast the fathers' law-abidingness with late fifth-century unlawfulness.<sup>98</sup> In the Athenian Stranger's picture,

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<sup>90</sup> On this notion see in particular Fuks 1953; Cecchin 1969; Finley 1971; Atack 2010.

<sup>91</sup> Mossé 1987, 199-200; Poddighe 1997, 55 (with n. 41).

<sup>92</sup> Morgan 2015, 144; Piérart 2019, 59.

<sup>93</sup> There is agreement on this point, although some historians think that election was the only mode of selection established by Solon (Ober 1989, 64; Bleicken 1994, 18; O'Neil 1995, 19; Wallace 1997, 19; Hansen 1999, 52; Harris 2006, 301; Raaflaub 2006, 423), while others (Rhodes 2006, 254; Van Wees 2006, 378) favor lottery from an elected short-list (κλήρωσις ἐκ προκρίτων).

<sup>94</sup> *Menex.* 238c2-d2, stressing the continuity between archaic and later Athens.

<sup>95</sup> See esp. 756b7-e8, a passage elucidated by Reid 2020, 576-577. On the use of elections in Magnesia and its democratic nature, see Pradeau 2004 and Laks 2023.

<sup>96</sup> 700a3-5.

<sup>97</sup> Plato's picture resonates with historiographical accounts: see in particulars Xen. *Hell.* 1.7.12 on the people's disobedience to their own laws, under the pretext of freedom.

<sup>98</sup> See for instance Aristotle, *Pol.* 1292a2-37 with 1292b41-1293a10.

the people can very well have had a say in political events (by voting decrees, by electing office-holders and holding them accountable) without ever going beyond the dictates of the law.<sup>99</sup> The law was still sovereign, not the people.

If pre-490 Athens practiced elections, then the mention of shame in the second half of the passage becomes clearer. Shame, we recall, is defined in the *Laws* as the fear of incurring a bad reputation in the eyes of one's better. Elections are meant precisely to select the most competent citizens for the exercise of offices. Successful candidates are officially recognized as superiors in virtue to their fellow citizens: they become an instance in the eyes of which the citizens fear for their reputation. Once the citizens have passed, through elections, their judgment as to whose authority they should follow, shame is there to ensure that their entire psychology, included their non-rational drives, is aligned with such judgment. If some citizens happened to host unruly appetites, these would be checked by the citizens' desire to avoid the shameful gaze of their elected superiors. And since the office-holders are there to enforce the law, anyone tempted to violate the law would be prevented from doing so by the fear of being blamed by the office-holders. Office-holders appear to be the fulcrum of the political order: they inspire reverence for their orders, but also for the laws which they are meant to enforce.

The shame that ruled over pre-Salamis Athens can also have originated from another source, however. In the course of his description of the Persian invasion of 480, the Athenian explains what held the people together when the times tried their souls:

What fostered mutual friendship among them was fear, both the fear which was occasioned then [the Athenians' fear for their safety], and the one that stemmed from the former laws (ὁ τε ἐκ τῶν νόμων τῶν ἔμπροσθεν γεγονώς), which they acquired by being slaves to the ancient laws (δουλεύοντες τοῖς πρόσθεν νόμοις), and which we often called shame in our previous conversation; we said that in order to become good, one had to be enslaved to it, whereas the coward is free from it (ἦς ὁ δειλὸς ἐλεύθερος), and fearless.<sup>100</sup>

This rich passage contains at least two ideas that are important for us. First, it reminds us of the limited value of freedom for the Athenian: not all kinds of freedom are politically valuable, in the

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<sup>99</sup> Cf. Morrow 1960, of Magnesia: 'The demos is to be sovereign in certain matters, but it is not to rule.' I would rather say that the people should have a say, without being sovereign.

<sup>100</sup> 699c1-6.

same way as there are forms of slavery that are, for him, actually welcome. Subjecting or enslaving one's appetites to shame is good, whereas freeing them from this apparent constraint is morally harmful. Second, the laws themselves appear here as the source of shame.<sup>101</sup> The Athenian seems to say that the people's habit of obeying them has created a pervasive reverence for them. An ancient law seems august, as the Athenian himself recognizes later on, in the course of book 7:

When someone is brought up under some laws, and these remain unchanged for a long time thanks to divine chance, to the point that no one remembers or knows from hearsay that things used to be different than they are, then the whole soul dreads and fears (σέβεται καὶ φοβείται) to change anything from what is established.<sup>102</sup>

Something no one has cared to change is, in a sense, something everyone has accepted so far: it is natural to see it as authoritative, since it has received the consensus of many generations. As bearers of authority, the laws can thus inspire shame in the individual. As Douglas Cairns has shown, shame for Plato can be felt vis-à-vis any figure one has internalized: the Laws of the *Crito*, for instance, try to shame Socrates into respecting them.<sup>103</sup>

Thus, the Athenians of archaic times were appropriately subject to shame coming from two sources: the recognized superiority of office-holders, and the time-revered authority of the laws. The Athenian citizens correctly ascribed wisdom to these two kinds of rulers; and shame ensured that their non-rational soul-parts were aligned with this judgment of theirs. This delicate dosage allowed archaic Athens to come very close to realizing the three legislative targets. It enabled the rule of wisdom in the city, i.e. the wisdom of the laws and that of office-holders, elected on the basis of their superior virtue. It also generated willingness to be ruled by such wisdom (ἐλευθερία): ἀμαθία was excluded, thanks to correct reverence for the laws and to the electoral system, which made it a matter of common knowledge that the rulers were virtuous; ἀκράτεια was offset by shame, which ensured 'some sort of willing subjection to the laws' (700a4-5; cf. 699c3-4).<sup>104</sup> As to civic friendship,

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<sup>101</sup> This was noted by Schöspdau 1986, 114.

<sup>102</sup> 798a8-b4.

<sup>103</sup> Cairns 1993, 390-391; *Crit.* 52c8.

<sup>104</sup> Mouze 2005, 380. I take it that the τρόπον τινά of 700a4 applies to ἔκων: as 700c6-7 reveals, the people's respect for the authority of laws and office-holders was not absolutely perfect in archaic Athens, hence the irreducible need for physical coercion (see on this point Gastaldi 2005). Non-rational drives were aligned with rational judgment to an extent only (the power of shame): this is was the measure of the τρόπος τις.

shame helped to foster it, together with the military threats that loomed over Athens (699c1-4).<sup>105</sup> A combination of institutional mechanisms (elections, sparse recourse to legislation) and education (the inculcation of shame) allowed Athens, before and during the Persian Wars, to instantiate the three legislative targets to a remarkable degree.

## b) Plato and the Athenian Discourse on Ancient Shame

The importance of shame in Plato's account of archaic Athens bears stressing, because its disappearance will mark the transition from measured to excessive freedom in the city. Plato is here engaging with a long Athenian tradition: the notion that archaic Athens was held together by shame was an established trope of the discourse on the ancient constitution. Lysias' Funeral Oration uses it when dwelling on the virtues of those who defeated the Persians:

They proved to be men of valor, not sparing with their lives, not holding life dearer than virtue, but feeling more shame before their laws than fear for the enemy's threat (μᾶλλον τοὺς παρ' αὐτοῖς νόμους αἰσχυνόμενοι ἢ τὸν πρὸς τοὺς πολεμίους κίνδυνον φοβούμενοι).<sup>106</sup>

In Isocrates' *Panegyricus*, the ancestors' shame is seen as the welcome product of the ancient laws on education:

They did not imitate each other's acts of boldness (τὰς θρασύτητας τὰς ἀλλήλων), nor did they train themselves to act daringly (οὐδὲ τὰς τόλμας τὰς αὐτῶν ἤσκουν), but they dreaded more the prospect of incurring a bad reputation among their fellow citizens, than death on the battlefield for the city's sake; they were more ashamed of the city's misdemeanors than we are of our own private ones. The cause of all this was that they strove to have precise and fair laws, not so much about private contracts than about everyday life.<sup>107</sup>

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<sup>105</sup> On the role of fear in generating civic friendship see Rowe 2007, Farrar 2013, and Schofield 2013. Their stress on the fear of the Persians should not go so far as to deny the importance of shame, on which the Athenian lays so much stress in his narrative.

<sup>106</sup> Lysias 2.25.

<sup>107</sup> Isoc. 4.77.



We find in both texts a historical claim similar to the *Laws*' account of archaic Athens: shame is described as ruling the city, guiding the citizens towards public-spirited behavior. Isocrates in the *Areopagiticus* adds an element to this picture: he makes the eponymous council, the Areopagus, the institutional fulcrum of the ancient constitution. Its rule protected Athens against the excessive freedom which he sees as marring the city he lives in:

Our ancestors did not have many people to oversee their education, just to be let free to act as they wished once they had become men, no: it was in their bloom that they were overseen with the greatest care, more than in their childhood. For our ancestors cared so much for self-control (σωφροσύνην) that they established a council on the Areopagus to oversee good order (εὐκοσμίαις). It was impossible to be a member of that council unless one had lived honorably and given proof, in the course of one's life, of great virtue and self-control.<sup>108</sup>

We find here striking parallels with the situation described in the *Laws*: the notion that freedom in archaic Athens was not total; that self-control (σωφροσύνη) reigned in the city and the souls of individual citizens; and that office-holders were the recognized superiors of the ruled. These similarities are easily understood when one bears in mind dates of composition: the *Areopagiticus* was written around 355, while the last event alluded to in the *Laws* occurred in 356.<sup>109</sup>

But the idea that the shame inspired by the Areopagus used to rule Athens goes farther back in time than the 350's. The whole Platonic account of archaic Athens contains notable echoes of Aeschylus' depiction of the role of the Areopagus in the *Eumenides*. The institution of the council is there meant to strike a balance between two extremes, anarchy (ἀναρχτον βίον, 526; ἀναρχον, 696) and despotism (δεσποτούμενον, 527 and 696).<sup>110</sup> The council is chosen from among the citizens: it is filled with the best of them (τὰ βέλτατα, 487), picked by Athena herself.<sup>111</sup> The Areopagus is meant to inspire in the citizens not only the fear of chastisement, but also reverence (σέβας, 690 and 700) and

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<sup>108</sup> Isoc. 7.37 (with the comments of Caire 2016, 283-284).

<sup>109</sup> For the date of the *Areopagiticus* see the introduction by Mathieu in the 1942 Budé text; for the datation of the *Laws*, see Stalley 1983, 2-4.

<sup>110</sup> As Judet de la Combe 2001, 311 notes, however, 'anarchy' here means primarily power-vacuum, rather than excessive freedom.

<sup>111</sup> Griffith 1995, 97-98, n. 120 rightly notes that this makes it more aristocratic than democratic: the opposite of 'despotism' seems to be not so much democracy or election, but non-arbitrary decision by a group of wise elders. I have benefitted on this point from the discussion in Laffon 2018.

αἰδώς (αἰδοῖον, 705).<sup>112</sup> The fact that, as Glenn Morrow and Marcel Piérart have noted, the pre-Ephialtes role of the Areopagus was on Plato's mind when he wrote the *Laws* (especially in his conception of Magnesia's guardians of the laws) might explain his engagement with Aeschylus on that point.<sup>113</sup>

Still further back in time, the notion that the Athenian regime should strike a middle term between too much and too little popular room for maneuver is a central feature of Solon's poetry, as we have it:

The people would best follow their leaders, if they were neither let loose too much (λίην ἀνεθείς) nor treated with violence (βιαιζόμενος); for satiety generates excess, when great happiness accrues to men whose mind is not right.<sup>114</sup>

A measure of freedom ensures wise rule in the elite and willingness to be ruled in the people: it is tempting to see Plato writing *Laws* 3 with this Solonian text in mind.

We can sum up here Plato's picture of archaic Athens. Before Salamis, a balance between too much and too little popular freedom ensured wise and effective rule, popular willingness to comply with it, and a spirit of civic friendship. The crucial role of shame, stressed repeatedly by the Athenian Stranger, signals that the Athenians then recognized their office-holders and the more or less personified laws as their betters, i.e. as superior in virtue (presumably both epistemic and ethical). The Athenians were self-controlled, because they rightly identified their elected office-holders and their time-revered laws as wise, and thus worthy of being obeyed (against ἀμαθία); and because their non-rational soul-parts did not rebel against this idea (against ἀκράτεια). A new state of affairs came about when self-control (σωφροσύνη) disappeared from the Athenians' souls.

## 2) From Measured to Excessive Freedom: The Athenian Stranger's Narrative

### a) The Birth of Theatrocracy: The Text

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<sup>112</sup> Schaps 1993, 513, writes that 'at no point from beginning to end does [Aeschylus] mention any possibility that the Areopagus might have any powers other than those of a murder court.' This may be true, if these judicial powers are understood broadly, so as to include the awe the Areopagus inspires in the Athenians.

<sup>113</sup> Morrow 1960, 211-215; Piérart 1974, 157.

<sup>114</sup> Frg. 6 West.

After concluding his portrait of the well-balanced regime of archaic Athens, the Athenian Stranger gives a new illustration of his principle that any excess towards monarchy (viz. despotism) or democracy (viz. freedom) moves a community away from the three legislative targets.<sup>115</sup> Persia ruined its initial balance when its kings became despots; Athens destroyed its ancient equilibrium by ‘cherishing freedom more than it should have’ (τὸ ἐλεύθερον ἀγαπήσασα μειζόνως ἢ ἔδει, 693e5-6). As the Stranger informs us, this heightened love of freedom came from a revolution in musical forms. The text that lays out the steps of this evolution is long, but crucial for the purpose of this chapter. Let us therefore quote it in its entirety:

Athenian Stranger – Under the rule of the ancient laws, my friends, our people was not sovereign over any matter, but was somehow voluntarily enslaved to the laws.

Megillus – Which laws are you talking about?

Athenian Stranger – First, the laws regulating the music of that time (we need to go over the progress of excessive freedom from the beginning). For our music was then divided into some of its genres, i.e. some of its forms. There was a genre of song for prayers to gods, and they were called hymns. Opposed to that one, there was another genre of song, for which people would have used the name of dirge, most of all. Another genre was the paeon, and another, the birth of Dionysus, I think, called the dithyramb. They called nomos by this very name, as being another song. And they called them in addition ‘for the lyre.’ These and other genres being arranged in this way, it was not allowed to misuse one form of song for composing in another genre. And the authority that was sovereign to know (τὸ δὲ κύριον τούτων γινῶναι) and pass judgment over these things, as well as to chastise the transgressor, was not the hiss or some ignorant shouts from the audience, as it is nowadays, nor the praise rendered by applause, but the ones who had occupied themselves with matters of education (τοῖς μὲν γερονόσι περὶ παιδείουσι) would listen in silence until the end of the piece, while children, pedagogues and the mass of the crowd would be admonished and brought back to order by the rod. Under this arrangement, the mass of the citizens consented to be ruled and not to dare to judge by their shouts. But afterwards, as time went by, there came a group of poets who led unmusical unlawfulness (ἄρχοντες μὲν τῆς ἀμούσου παρανομίας). They were poets by nature, but ignorant about what is just and lawful in music. Frenzied and possessed too much by pleasure (βακχεύοντες καὶ μᾶλλον τοῦ δέοντος κατεχόμενοι ὑφ’ ἡδονῆς), they mixed dirges with hymns, paeans with dithyrambs, imitating the flute-song with the lyre, and confusing everything. Unwittingly, they calumniated music by their ignorance, claiming that it has no standard of rectitude at all, but that it is best judged by the pleasure of those who enjoy it, whether they are morally good or

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<sup>115</sup> The principle itself is enunciated at 693d2-e1.

bad (εἴτε βελτίων εἴτε χείρων ἂν εἴη τις). Composing such mixed pieces, and adding statements in the same spirit (τοιαῦτα δὴ ποιούντες ποιήματα, λόγους τε ἐπιλέγοντες τοιούτους), they instilled unlawfulness regarding music in the crowd, making them believe they were capable of judging. Henceforth the audiences, who used to be silent, started to make noise, in the pretense that they understood what is beautiful and what is not in matters of music: and instead of an aristocracy in music, a detestable theatrocracy came about. For if this had just been the birth of a democracy of free men in music, that would not have been very damaging. But in reality, music gave rise to everyone's belief to be wise in everything, which is unlawfulness (παρανομία). Freedom followed (συνεφέσπετο δὲ ἐλευθερία). For they were fearless, believing that they were knowledgeable, and this fearlessness produced shamelessness. For not to fear the opinion of one's better out of self-confidence, this itself is more or less base shamelessness, caused by some kind of excessively audacious freedom.

Megillus – What you say is most true.

Athenian Stranger – On the footsteps of such freedom, the freedom consisting in refusing to be slave to office-holders would come about, and following this one, the freedom of escaping from the submission to one's father, mother and elders and from their upbraiding, and for those who near the end, the attempt not to be subject to the laws, and on top of that, already at the end, a carelessness for oaths, trusts and the gods.<sup>116</sup>

In this rather extraordinary passage, Plato puts his interpretation of Attic history in the service of his philosophical project: the political history of Athens is relevant to the *Laws*' purpose, because it presents a way in which a balance of monarchy and democracy, of despotism and freedom, was realized in the past, and then destroyed. Plato's interest in history, quite prominent on his later dialogues, participates in explaining both his revalorization of popular participation and freedom, which were part of the ancient constitution, and his account of democracy's degeneration into excessive freedom.<sup>117</sup> This yields a theoretical outcome relevant for the dialogue's project, but nothing prevents readers from also drawing practical lessons from the Athenian case.<sup>118</sup> In fact, a passage at the end of the *Laws* recommends scrutinizing the laws and customs of other cities to

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<sup>116</sup> 700a3-701c2.

<sup>117</sup> On Plato's increased interest in Athens' past see Gill 1979, 160; Gaiser 1992.

<sup>118</sup> Farrar 2013 argues that the decline of Persia and Athens shows them to be unfit to count as political models. But Kallipolis does end up decaying, and still counts as a political paradigm. Schöpsdau 1994, 507, ad 700a3-701c4, draws attention to the use of optative at 701b6, which he takes as 'a warning addressed to future legislators.'

enrich and better understand Magnesia's legislation.<sup>119</sup> The Athenian example might serve as a useful counter-model, particularly as a case-study of political psychology.<sup>120</sup>

Plato's approach to political theory in the *Laws* is thus informed by history.<sup>121</sup> This does not mean, however, that he is bound by the canons of historiography as it had developed by the time the *Laws* were composed. Although his account of the degeneration of Athenian democracy does not include blatant distortions, it is not primarily aimed at an exact rendering of what happened: the philosophical framework in which the text is inserted guides his rendering and interpretation of events.<sup>122</sup> Philosophy is not even the only form that shapes the historical material available to Plato: the passage is clearly informed by his sympathy for aristocratic traditions and by his various misgivings about democratic culture. To uncover the passage's philosophical nuggets, it will serve us well to mark out the traces left by these more or less latent tendencies. On the side of aristocratic preferences, two elements are significant: the Homeric undertext and the use of the symposium as a political metaphor. As to anti-democratic traits, the nature of the new kind of music described, as well as its theatrical setting, will be worth dwelling on briefly.

## b) The Birth of Theatrocracy: The Context

### α – Homer on Obedience

There was a line from the *Iliad* which Socrates, according to Xenophon's *Memorabilia*, was accused of quoting very often.<sup>123</sup> It is the one in which Odysseus upbraids the Achaeans for not listening to the orders of their betters: 'good sir, sit still, and listen to the words of others, who are

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<sup>119</sup> 951a5-c3.

<sup>120</sup> On the psychological bent of Plato's practice of history see in general Bury 1951; for the *Laws* specifically see Weil 1959, 49.

<sup>121</sup> Lisi 2000.

<sup>122</sup> On Plato's historical accuracy in the *Laws*, Morrow 1960, 72: 'Our survey has failed to show any important instances in which Plato has distorted facts in the interests of theory.' But Plato can, without distorting, organize his material in ways which suit his philosophical purpose, by omitting some elements and stressing others. For instance, as Brunt 1993, 271 notes, 'Plato did not acknowledge the great stability of Athenian democracy, which from the time of Cleisthenes' reforms was never overthrown from within, except briefly in 411.' At 694a1, the Athenian indicates that the city he knows (*vũv*) is marred by excessive freedom even more than the theatrocracy described in book 3: the restoration of 403 is eloquently passed over.

<sup>123</sup> 1.2.58-59: note that Xenophon does not deny that Socrates quoted the passage; he only finds fault with the way Socrates' accuser interprets Socrates' interpretation of it (for a brief discussion, see Yamagata 2012, 140-141). For the Homeric passage as an expression of early aristocratic political theory see O'Neil 1995, 7 and Fouchard 1997, 90.

better (φέρτεροι) than yourself.<sup>124</sup> In the *Iliad*, Odysseus adds force to his exhortation by hitting with his scepter (σκήπτρω, 2.199) the recalcitrant who go on shouting, as do the heralds in the *Laws*' theatrocracy passage.<sup>125</sup>

But Odysseus' authoritative words are not the only Homeric passage dealing with obedience Socrates is said to have quoted. In the *Republic*, Socrates warmly recommends a line that encourages subordinates to listen to their superiors: 'the Achaeans marched, breathing their spirit in silence, fearing their leaders.'<sup>126</sup> Passages like this one, Socrates thinks, breed σωφροσύνη in the citizens' souls; by contrast, words like the insults Achilles directs to Agamemnon, the army's top ἄρχων, only produce an unhealthy kind of pleasure.<sup>127</sup> Passages like these were taken as authoritative by aristocratic thinkers, and our passage from *Laws* 3 clearly inserts itself in this tradition.<sup>128</sup>

## β – The Symposium: Aristocratic or Democratic?

One site for the recitation of such verses was the symposium: the *Republic*, after all, stages one, and the party discusses them at length; Plato's *Symposium* itself abounds in Homeric quotations.<sup>129</sup> The *Laws*' theatrocracy passage is suffused with allusions to drinking bouts: poets are described as being possessed by Bacchic frenzy (βακχεύοντες, 700d5); they are said to mix (κεραυνύντες, 700d6) genres, as water and wine are mixed at a symposium.

By the time Plato wrote the *Laws*, habits of wine-drinking had long been taken as a synecdoche for πολιτεία: Critias, Plato's uncle, had favorably compared the Spartan way of drinking to its Ionian counterpart, for the political virtues he took it to foster.<sup>130</sup> Critias saw Spartan communal drinking as orderly, creating a sense of friendship (φιλοφροσύνη) and self-control (σωφροσύνη) among

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<sup>124</sup> *ll.* 2.200-201.

<sup>125</sup> The use of the rod or scepter to hold the people in check was a feature of aristocratic regimes in the archaic period: see for instance Aristotle, *Pol.* 1311a23-30.

<sup>126</sup> 389e8-9. The line, which does not appear in our text of the *Iliad*, combines elements we find at 3.8 and 4.431. For the textual problem see Adam *ad loc.*, with further bibliography.

<sup>127</sup> 389e11-390a4. See in general on this point Lake 2018.

<sup>128</sup> Cf. Theophrastus' oligarchic man (26.2), who only knows one line from Homer (2.204): οὐκ ἀγαθὸν πολυκοιρανίη, εἰς κοίρανος ἔστω (on this point see Simonton 2017, 114 n. 27).

<sup>129</sup> 22, on the count of Yamagata 2012, 131.

<sup>130</sup> On this synecdoche see Levine 1985 (on Theognis), and Bultrighini 1999, 100 (with n. 238, on Chrysogonus of Athens). As Strauss 1959, 31 argues, Plato is aware of this trope, since he uses the discussion of wine in *Laws* 1 as an epitome of political theory (I owe this reference to Katie Ebner-Landy). See also Bartels 2017, 111.

the participants; Ionian feasts, by contrast, let wine flow too abundantly, thus causing an excessive loosening of tongues.<sup>131</sup>

In the *Laws*, Plato ascribes to the well-ordered symposium the exact two aims his uncle associated with the Spartan practice, φιλοφροσύνη (640b8) and σωφροσύνη (647d3).<sup>132</sup> These two aims are also undermined by the musical revolution of our passage. Because of the claim to competence which wine causes the audience to make, familial and political ties end up being severed, while self-restraint vanishes. These traits characterize full-blown democracy, according to the Athenian Stranger (δημοκρατία, 701a3). In fact, Athenians critics of democracy were wont to associate democracy with excessive drinking: the free and open speech on which democracy was based was seen as a mark of drunkenness.<sup>133</sup>

#### γ – New Music

The aristocratic symposium's image of orderliness was reinforced by its role in the display of elite musical culture. As Andrew Ford shows, the archaic feast was conceived as a manifestation of order (κόσμος), where songs were supposed to reflect a quiet beauty primarily conceived in ethical terms.<sup>134</sup> But musical competence was not only *displayed* at symposia: it was also developed there, banquets providing a space for the criticism of performances.<sup>135</sup> Just like musical compositions, audience responses were supposed to preserve the good order of the banquet. Thus, the symposium and its musical practices were conceived and defended by their elite members as a ritual of order. Competence in μουσική could thus legitimize claims to political prominence, a link that Pseudo-Xenophon, an anti-democratic critic, explicitly made.<sup>136</sup>

The democratization of music at Athens was felt by conservative thinkers to shatter this order. As Timothy Power puts it, in the course of the fifth century 'the aesthetically and ethically restrained receptive disposition of elites gave way increasingly to the more sensational reactions of the demotic audience, reactions that were emotionally keyed to the musicians' more visually and

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<sup>131</sup> DK 88B6 (17 for φιλοφροσύνη, 22 for σωφροσύνη), with the comments of Pownall 2008, 350.

<sup>132</sup> See on this point Iannucci 2002, 131-133.

<sup>133</sup> Excessive drinking as leading to freedom of speech: Xen. *Lac. Pol.* 5.6 and *Cyr.* 1.10 (in general, see Pradeau 2004). Hence the association of drunkenness with demagogues, Aristop. *Cav.* 103 and Isoc. 8.13. See on this point Noël 2002.

<sup>134</sup> Ford 2002, 35-39.

<sup>135</sup> Ford 2002, 25.

<sup>136</sup> *Ath. Pol.* 2.18. See on this point Ober 1998, 46, and Caire 2016, 170-173.

musically sensational performances.’ Power lends credibility to the Platonic account of archaic Athens: early fifth-century vases depicting performances do represent the audience as listening quietly.<sup>137</sup> One of the main evolutions that made musical performances more emotionally exciting was the increased popularity of the double-pipes (αὐλοί). The speed allowed by the instrument, its larger range of tones and of volume compared to the more aristocratic kithara gave it a ‘versatility’ (ποικιλία) very much enjoyed by popular audiences.<sup>138</sup> It also associated the instrument with Dionysiac cults and Bacchic frenzy, whereas the kithara remained Apollo’s preserve.<sup>139</sup>

Because of its technical potentialities, the aulos was used for harmonic experiments of various kinds, including the mixing of modes that were previously kept distinct.<sup>140</sup> Beyond the aulos’ material resources, the social position of its players was also conducive to experimentation: as opposed to other theater professionals (poets, actors, chorus trainers), aulos-players were not specialized in any genre, and could thus bridge generic gaps.<sup>141</sup> Some of them, like Phrynis of Mytilene, actually tried their hands at other genres, such as those that involved the more conservative kithara.<sup>142</sup> The search for variety affected this latter instrument too when strings were added to it, reaching the number of eleven with Timotheus of Miletus.<sup>143</sup>

Timotheus was the main representative of the new aesthetic of blending, the so-called ‘New Music.’<sup>144</sup> The extent to which the movement was unified is still a matter of debate, but some common trends can be safely identified. Some of New Music’s favored techniques were the shifting of modes (μέλος ἐπιεκκλασμένος), the breaking of correspondence between syllable and note, the use of periphrases based on accumulations of images. All these means ‘conspire[d] to create a dizzying effect of giddiness, if not outright hysteria.’<sup>145</sup> But Timotheus went further than these destabilizing techniques: he also did mix genres. His citharodic nome *The Persians*, for instance, incorporates and mingles comic, tragic and dithyrambic elements.<sup>146</sup>

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<sup>137</sup> Power 2010, 112 (including the quote). On the vase, the audience is represented as listening calmly, their mouths shut.

<sup>138</sup> Csapo 2004, 211 and 218.

<sup>139</sup> Dodds 1951, 97 n. 95 and 273.

<sup>140</sup> LeVen 2014, 82.

<sup>141</sup> Csapo 2004, 211.

<sup>142</sup> Wallace 2003, 85.

<sup>143</sup> Barker 1995, 49.

<sup>144</sup> On Timotheus’ aesthetics of blending see Budelmann and LeVen 2014.

<sup>145</sup> Csapo 2004, 222-228 (228 for the quote).

<sup>146</sup> LeVen 2014, 218.



The *Persians* gave a powerful expression to New Music's aesthetics of diversity or ποικιλία, a term Plato strongly associates with democracy.<sup>147</sup> Conservative critics stressed New Music's inclusiveness, which deliberately flouted traditional separations; hence the use of compounds in πολυ- to characterize its style.<sup>148</sup> An inclusive music that made the aristocratic elite's generic knowledge utterly useless was bound to incur the reproach of 'vulgarity', as it did in Aristoxenus.<sup>149</sup> It also caused nostalgic conservatives to project onto the past a picture of clear-cut genres, 'an ideal construct rather than historical reality.'<sup>150</sup>

Plato's rejection of the mixing of genres might reflect this aristocratic prejudice: in the theatocracy passage (700c5), 'the ones who had occupied themselves with matters of education' (τοῖς μὲν γεγονόσι περὶ παιδείουσι) must be aristocrats, since they have had the leisure to receive a musical education. But Plato's conservative stance may also give expression to a profoundly civic vision of musical performances, where the city's festivals would call the tune. Plato may have wanted to return to the ancient subordination of music to other ends, be they religious or more strictly political. Many Greek poetic forms were in fact born from cultic practices, even though festivals were always an occasion to cross genres. If Plato was aware of early fifth-century realities, he must also have known that judges were appointed by democratic procedures, combining election and lottery.<sup>151</sup> In his mind, then, democratic appointment did not displace aristocratic authority: here again, ἐλευθερία<sub>2</sub> was compatible with ἐλευθερία. The democratic city's control over the judgment of pieces was not antithetical to aristocratic authority.

For Plato, in fact, music always was a continuation of politics by other means. Books 2 to 4 of the *Republic* give ample testimony to this belief. In book 4 especially, Socrates quotes Damon to aver: 'forms of music never change without affecting the most important political laws' (424c4-6). In the *Laws*, the musical education sketched for Magnesia is entirely subordinated to the regime's purpose, the inculcation of virtue in the citizens.<sup>152</sup> The people are meant to be shaped by a music defined by knowledgeable experts whose authority they recognize, not to rule over it directly as they do when they gather in the theater.

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<sup>147</sup> See for instance Aristoxenus frg. 26 da Rios. On ποικιλία and democracy in Plato, see Villacèque 2010.

<sup>148</sup> Csapo 2004, 229.

<sup>149</sup> Frg. 28 da Rios, on New Music as πάνδημος μουσική.

<sup>150</sup> Rotstein 2012, 100.

<sup>151</sup> Wilson 2007, 99.

<sup>152</sup> Mouze 2005, 289-301.

The very word ‘theatrocracy’ reveals the extent of Plato’s ‘problems with theater.’<sup>153</sup> Theater represents for him the mob’s control over poetry and music. One of the issues he has with it is its very physical setting: the Athenian theater of Dionysus gathered up to 15 000 citizens, which for Plato allowed mass psychology to play out, forcing everyone, performers included, to align with the majority.<sup>154</sup> Yet this majority, as the *Gorgias* argues, reacts only to the most sensational tricks.<sup>155</sup> Hence the appetitive bent of theatrical genres, to use the terms of *Republic* 10.<sup>156</sup> The theater is, for Plato, the site of rowdy popular pleasure: for him, every kind of popular literary and musical criticism will be based on the assumption that the man on the street’s pleasure is a correct criterion for judging works of art. The *Laws*’ regulations on theatrical competitions implement a totally different model, whereby the judgment of a correctly educated and elderly elite is admitted by the whole community as authoritative.<sup>157</sup>

New Music, described by Aristoxenus as ‘popular’ (πᾶνδημος), appeals precisely to emotions everyone can feel. It was seen by its critics as privileging the theater as a venue to more intimate and less popular settings.<sup>158</sup> This gave the New Musicians’ performances an air of public statement, and to the audience’s favorable response the character of a semi-official endorsement. In the fourth-century at least, the popular assembly (ἐκκλησία) regularly met in the theater, which thus crossed our modern boundary between political and cultural sites.<sup>159</sup> More generally, given public control over festivals at Athens (as in the rest of the Greek world), any performance of New Music took on perlocutionary force as an ‘enactment of new social facts.’<sup>160</sup>

These elements of context make, I hope, the background and the stakes of the teatrocracy passage more palatable. They are primarily meant, however, to isolate the passage’s inner logic.

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<sup>153</sup> Ford 2002, 282.

<sup>154</sup> 492b6-c9. On the capacity of the late fifth-century theater of Dionysus see Moretti 2000, 295.

<sup>155</sup> 501e1-502b1; 502c5-d8.

<sup>156</sup> 606d1-7. Nietzsche’s criticism of Wagner for having established ‘Theatrokratie’ (in *The Case of Wagner*) is here strikingly echoing Plato’s concerns (see on this point Menke 2010, 17).

<sup>157</sup> Bartels 2012; Folch 2013.

<sup>158</sup> Csapo 2004, 207 n. 2; Barker 2010, 71-72.

<sup>159</sup> Yunis 1996, 187, with n. 23.

<sup>160</sup> Folch 2015, 61.

Interpreters often invoke them in their commentaries of the text; but mentioning them does not amount to a complete elucidation of the passage.<sup>161</sup> The exact causal path by which the archaic equilibrium of freedom and rule is destroyed by this musical revolution remains far from clear. In the last section of this second part of the chapter, I suggest four (compatible) explanations to account for this radical change. The first is presented as the main one, but it is made more likely by the addition of the three others.

### 3) From Measured to Excessive Freedom: The Causes

Previous attempts at explaining the birth of teatrocracy have shed light on the passage, but they still leave obscure crucial aspects of it. The most detailed causal analysis of the text, offered by L titia Mouze in her 2005 book, elucidates it by invoking two factors: first, the revolutionary musicians ruined all notion of competence by erecting pleasure, which is common to all, as the ultimate criterion of musical judgment; second, the disregard in which musical laws fell soon affected all other laws, as musical laws were seen as the model of political, ethical and social laws.<sup>162</sup> Though illuminating, Mouze’s account leaves an essential element of the text unexplained: how can citizens who were ruled by shame, described as their ‘master’ (δεσπότης, 698b5), have suddenly come to ‘disregard the opinion of their better’ (701a8-b1)? How did they lose their willingness to be ruled ( λευθερία), which used to be secured by shame? Why didn’t shame prevent the citizens from applauding the new musicians, whose compositions were frowned upon by the recognized elite?

A passage from book 2 highlights why this phenomenon needs explanation. People who have received a correct education but experience a guilty musical pleasure ‘are ashamed of moving their limbs in front of those they consider as wise, and of singing as well, which would give the impression that they think it seriously beautiful.’<sup>163</sup> Musical pleasure is not supposed to overcome

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<sup>161</sup> Stalley 1983, 127; Mouze 2005, 388: ‘L’Ath nien n’explique pas le processus par lequel cette libert  que s’accordent les po tes entra ne la libert  en mati re de jugement.’

<sup>162</sup> Mouze 2005, 388-389. Mouze does not spell out how the second explanation works, but it might go through the historical and etymological association between musical and political νόμοι. On the historical side is the Greek belief that archaic laws were sung before being written (Ps.-Ar. *Prob.* 19.28); at the linguistic level, νόμος can mean both a specific genre of citharoidic composition, and a legal order. Plato is well aware of this linguistic fact, alluding to it at 722d6-e1 and 799<sup>e</sup>10-12.

<sup>163</sup> 656a1-5. Key to the understanding of this text is the use of ἀσχύνεσθαι + infinitive, which as opposed to the participial construction, implies that the grammatical subject does not do what is described in the infinitive (LSJ s.v. II-c).

shame. Why did it happen in the case of the Athenians? In what follows, I suggest four explanations. They are compatible, but also complementary: causes 2, 3 and 4 help explain why cause 1 had such a dramatic effect.

These causal accounts all contribute to explaining how the Athenians lost their *σωφροσύνη*, or willingness to be ruled by right reason (*ἐλευθερία*). They show how the Athenians came to believe that they were wise enough to rule themselves, without having to obey the laws and the orders of their office-holders; a belief which, for Plato, is a mark of lack of self-control. As we saw above, lack of self-control can come about in three ways: from excessive feelings of pleasure and pain (*ἀκράτεια*); from ignorance (*ἀμαθία*); or from both.<sup>164</sup> The birth of teatrocracy involves both *ἀκράτεια* and *ἀμαθία*. The first cause involves *ἀκράτεια*, but it also gives rise to a false belief (*ἀμαθία*).<sup>165</sup> The three others act at the level of *ἀμαθία* only. The first cause is necessary to explain how the citizens lost their shame before the traditional elite; the three others explain how, once this shame was lifted, the citizens went on to assert themselves in all areas of life.

#### a) Cause 1: Pleasure, Egoism, and the Claim to Self-Rule

One of the most striking features of the *Laws* is its lengthy digression on wine-drinking, which takes up a good part of books 1 and 2. Interpreters have often wondered about its usefulness.<sup>166</sup> For our purposes, though, it is fundamental: in investigating the powers of wine, the three interlocutors focus on its capacity to remove shame from the individual soul. The Athenian Stranger describes this effect of wine in the following terms:

Wine causes the man who drinks it to be immediately more cheerful than he was before, and the more he tastes of it, the more he is filled with good hopes and a belief that he is powerful (*δυνάμεως εἰς δόξαν*). Thus, at the end, such a man is filled with complete frank speech (*πάσης παρρησίας*), freedom (*ἐλευθερίας*), and total fearlessness, as he believes to be wise.<sup>167</sup>

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<sup>164</sup> 734b4-6.

<sup>165</sup> As Wilburn 2012 convincingly shows, lack of self-control in the *Laws* does not amount to weakness of will, in the sense that it does not require rational capacities to be deactivated.

<sup>166</sup> See in particular Taki 2003.

<sup>167</sup> 649a9-b4.

As a symposium goes on,

Everyone is exalted, lighter than himself, and full of joy; filled with frank speech (παρρησίας) and not caring to listen (ἀνηκουστίας) to those near him, he thinks (ἀξιότι) he has become fit to rule himself and others.<sup>168</sup>

This link between wine and the pretense to know is firmly established in Plato's mind: in the *Cratylus*, he has Socrates say that wine (οἶνος) makes one believe to have wisdom (οἴεσθαι νοῦν ἔχειν), when one doesn't (οὐκ ἔχοντας).<sup>169</sup> Since shame is based on the judgment that someone is wiser than oneself, drunkenness leads, via the pretense to be wise, to shamelessness.<sup>170</sup>

But wine is not the only drug to have that effect. At 647d4-7, the Athenian mentions 'many pleasures and desires that invite to shamelessness.'<sup>171</sup> Just after the first passage quoted above, he gives a list of psychological states that expel shame from one's soul: 'anger, love, insolence, ignorance, cupidity, cowardice', adding situations in which one enjoys 'wealth, beauty, strength, and all those things which make us drunk with pleasure and thus drive us out of our mind' (649d3-7). All these contexts boost our feelings of pleasure and thus, like wine, annul the force of shame within us.<sup>172</sup> They therefore undermine our willingness to be ruled by reason (ἐλευθερία): they do so by giving rise within us to a wrong-headed belief that we are wise enough to rule ourselves.

I argue that the strong pleasures induced by New Music have an effect similar to that of wine and other intense emotions.<sup>173</sup> The *Republic* already mentioned that new musical forms are always enticing.<sup>174</sup> The *Laws* adds that every new invention is welcomed with pleasure, although music is singled out as a remarkable example of this fact.<sup>175</sup>

But the music described in the theatrocracy passage has more direct ways to inspire intense pleasure than its newness. Plato has the theoretical means to explain how mixing genres would

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<sup>168</sup> 671b3-6.

<sup>169</sup> 406c3-6. Plato engages with an ancient tradition, in which wine makes one speak truly (see Rösler 1995). He both takes it up and rectifies it: wine does reveal the content of a person's soul (his inability to control himself); but it also fills the drinker with a false belief (the pretense to be wise).

<sup>170</sup> Presumably, the pretense to be wise excludes that one recognizes others as wiser than oneself: otherwise Plato would not make ἀνηκουστία and the desire to rule others a defining mark of such pretense.

<sup>171</sup> Schöpsdau 1986, 103.

<sup>172</sup> Frede 2010, 119.

<sup>173</sup> Pangle 1988, 408, already mentioned 'the intoxicating enchantment of musical poetry and drama,' without elaborating on this observation.

<sup>174</sup> *Rep.* 424b2-c2.

<sup>175</sup> *Laws* 657b2-b8 and 797b8-c3.

cause particularly strong fits of pleasure. Later in the dialogue, he alludes to a practice of New Music he calls heterophony, which consists in the dissonance between the notes played on the lyre and those sung by the interpreter (812d4).<sup>176</sup> We know, especially from the Pseudo-Aristotelian *Problems*, that heterophony was resolved into harmony.<sup>177</sup> Yet the resolution of disorder into order creates, according to the *Philebus*, violent fits of pleasure, causing those who experience it to shout, like the audience of our text.<sup>178</sup> Granted, Plato does not mention heterophony in the teatrocracy passage: he only describes the new musicians as ‘confusing everything’ (πάντα εἰς πάντα συνάγοντες, 700d8-e1). But it does not seem far-fetched to imagine the musicians described as resolving this disorder into some kind of harmony: they could not totally alienate their audience, after all. What we know for sure is that the poets managed to transmit to the audience the pleasure by which they were themselves ‘possessed’ (κατεχόμενοι, 700d6). Their music acted as wine, or any cause of intense enjoyment: it ‘freed’ the citizens from the despotism of shame.<sup>179</sup>

In the passage, such musical performances trigger a chain-reaction of unlawfulness: the citizens first become convinced that they can judge music well, i.e. be their own rulers as far as music is concerned — just as drinkers at an unruly symposium come to think they can rule themselves and stop listening to others, including those they formerly recognized as their better. The Athenians subsequently go on to assert themselves in all other social contexts. The analogy with wine reveals, however, that there is an explanatory gap to fill here: once the festivals ended, why didn’t the audience experience hangover? The fact that the intense pleasure we feel when listening to great music elates us and makes us overconfident does not imply that, after the hearing, we feel secure enough to dismiss the opinion of all the authorities we recognize. Plato does not explain, at least within the passage, how the suppression of shame in one occasion leads to its disappearance in all others.<sup>180</sup>

Elsewhere in the *Laws*, however, Plato provides us with the means to understand that process. In book 2, the Athenian Stranger has introduced a basic human desire ‘for things to happen according to the dictate (ἐπίταξι) of our own soul’ (687c5-6). This idea, that humans think they are

<sup>176</sup> See on this point Barker 1995.

<sup>177</sup> *Prob.* 19.39 (with the comments of Wersinger 2001, 73).

<sup>178</sup> *Phil.* 47a3-9 (cf. *Rep.* 586b7-c5). On this point Delcomminette 2006, 466 with n. 32. Moutsopoulos 1961, 288, noted that the audience’s shouts indicated a frenzy of pleasure.

<sup>179</sup> On being freed from shame see 699c6; on shame as δεισπότης, see 698b5.

<sup>180</sup> In the terms of Elster 1993, 183-185, there is a ‘spillover effect’ that needs to be causally accounted for.

able to give orders and to rule over themselves and others, is elaborated on later, in the general prelude to Magnesian legislation:

The greatest cause of all evils for most human beings is naturally ingrained in the soul. No one devises a way to escape it, out of indulgence towards himself. This is what is meant when people say that ‘everyone is by nature a friend to himself’ and that ‘it is right that things must be so.’ In reality, however, the cause of all mistakes always is the excessive affection one has for oneself (τὴν σφόδρα ἑαυτοῦ φιλίαν). For the one who loves is blind about the object of his love, so that he judges falsely matters of justice, goodness and beauty, thinking that he should value more what is his own than the truth. But he who wants to become a great man must not cherish himself or his own, but justice, whether it is done by himself or by another. It is from this mistake that everyone happens to mistake their ignorance for wisdom (τὴν ἀμαθίαν τὴν παρ’ αὐτῷ δοκεῖν σοφίαν εἶναι): from whence, knowing nothing, so to speak, we think we know everything, refusing to entrust to other what we do not know how to do; yet, acting on our own, we are forced to fail. This is why every man should flee from excessive love of himself and look for his better, without being ashamed of doing so.<sup>181</sup>

Human beings have an ingrained desire to listen to themselves only: they take what they think and wish to have greater value than what anyone else could tell them.<sup>182</sup> This, I suggest, explains why occasional shamelessness became general in the case of Athens. The festivals kindled in the audience the desire for self-assertion which lay dormant in their souls. Once awakened, this inborn desire went on to satisfy itself in all domains of social life.

This effect was compounded by the fact that any small violation of social norms creates, for Plato, a habit of unlawfulness. The idea is already present in *Republic 4*: the disregard for musical traditions allows unlawfulness to ‘creep in unnoticed’ (λανθάνει παραδυσόμενη, 424d2-3). Altering characters and activities, it affects contracts and agreements before undermining the laws themselves. A similar idea appears in the *Laws*: ‘if humans are accustomed to break the law in small but frequent ways, the written laws end up being undermined’ (788b6-c1). This self-reinforcing tendency of law-breaking surely plays a role in our passage, without however making the invocation of excessive self-love unnecessary: the teatrocracy passage deals with disregard for personal

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<sup>181</sup> 731d7-732b4.

<sup>182</sup> Cf. Diotima’s critique of Aristophanes in the *Symposium* (205d10-206a4): human beings in fact desire the good, not what is their own as such. The fostering of friendship in Magnesia is meant to draw citizens away from the overvaluation of their own, in favor of an impersonal love of the fine (see Sheffield 2017, commenting on 859d-859a).

authorities spreading in rash succession, which involves the suppression of shame and the denial of that others can have authority over oneself; the two texts just quoted pertain to impersonal laws, whether written or unwritten, and their gradual effect on character habituation: the kind of norms disregarded are different; shame and unwillingness to be ruled do not play a role in the second set of texts.

This, I hope, is an economical explanation of Athens' passage from a measured to an excessive form of freedom. Self-rule, the content of ἐλευθερία, is given a basis in moral psychology: it is the content of our ingrained desire to listen to ourselves only, a desire which is inflamed by exposure to intense pleasure. Excessive freedom, like excessive self-love, rejects the subjection to someone superior in virtue: it is 'excessively bold' (λίαν ἀποτετολμημένης, 700b2-3). Shame, which used to rule over the Athenians' souls, is now seen by them as an unnecessary constraint, since it is based on the recognition of hierarchies that are not acknowledged anymore: the Athenians end up being 'free' from it (699c6). Ἀκράτεια has given rise to ἀμαθία, thus ridding the Athenians of their self-control. They are not willing to be ruled by wisdom anymore: they start asserting their ἐλευθερία in a way incompatible with ἐλευθερία.

## b) Cause 2: The Public Role of Poets

An additional explanation for the birth of theatrocracy, fully compatible with the first and reinforcing it, involves seeing the poets as figures of authority. If this is right (as there are reasons to think), then shame in the Athenian case would have been undermined *from within*, so to speak. This is a situation we know from common experience: when someone is overwhelmed by their respect for an authority figure and cares very much about that person's opinion, to the point that they do not dare to express their own judgment (think of a very shy student), one efficient way to cause them to express their opinion is for the authority figure herself to invite the shy person to do so.<sup>183</sup> Shame,

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<sup>183</sup> This should be distinguished from the paradox identified by Watzlawick 1978, 200 in the injunction to disobey. If I disobey because I have been ordered to do so, I act against the injunction: there is indeed a paradox here. But the injunction to disobey can move me to disobey the orders of other authorities; this is the case I envisage here. The poets order to disobey; and the audience starts disobeying the elite's orders. One cannot rule out that, once a habit of disobeying has set in in the citizens' souls, they would be able to look down on the New Musicians and their philosophy of life.



the fear of incurring a bad reputation in the eyes of the model person, motivates the shy individual to judge with independence, since the model person herself has asked her to do so.<sup>184</sup>

Reasons for thinking that this is at play in the theatrocracy passage are both textual and contextual. The text, first, introduces the new musicians as ἄρχοντες τῆς ἀμούσου παρανομίας (700d3). This is variously rendered by translators. Some, such as Des Places and Pangle, take ἄρχοντες as referring to some sort of rule or command.<sup>185</sup> Others, like Saunders and Brisson-Pradeau, translate ἄρχοντες with words indicating beginning.<sup>186</sup> The genitival construction tends to favor the second rendering, but the two range of meanings of ἄρχω are obviously related: beginning is leading, and being a leader is being a ruler.<sup>187</sup> Even if the second meaning of ἄρχω predominates in the passage, echoes of the first are likely to be heard by a Greek audience.

Contextual considerations add weight to this hypothesis. From archaic times on, the poet was recognized as a figure of authority with semi-public status. In our text, public heralds assume the role of wielding the rod (ῥάβδος) to keep the audience quiet; but a tradition reflected in Pindar links ῥαψωδός to ῥάβδος, as rhapsodes were given a rod to perform, like speakers in the public assembly.<sup>188</sup> The notion that poets had a civic function was maintained in the Classical period: the Athenians, for instance, took it for granted that the role of public performances was to educate the citizens.<sup>189</sup> Athenian institutions reflected this belief: the exact process by which poets were selected to perform at public festivals is a matter of debate, but we know that the eponymous archon played a key role in it.<sup>190</sup> The poets selected could legitimately be seen by the audience as having received some kind of official endorsement. Short of being ἄρχοντες themselves, they were still appointed by an ἄρχων.

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<sup>184</sup> Plato seems to know of such situations: in the *Republic*, the drones who corrupt the budding democrat use their influence to suppress the young man's shame. By re-describing it as 'stupidity' (ἡλιθιότητα), they 'drive it out of his mind' (560d3-4). The only missing piece to supply is that the drones act as figures of authority: this does not seem too costly.

<sup>185</sup> Des Places: 'L'autorité en matière de délits contre la musique passa à des compositeurs qui avaient sans doute le tempérament créateur mais ne savaient rien de la justice et des droits de la Muse.' Pangle: 'the poets became rulers and held sway over unmusical lawlessness.'

<sup>186</sup> Saunders: 'composers arose who started to set a fashion of breaking the rules.' Brisson-Pradeau: 'apparent des compositeurs qui commencèrent à violer les règles dans le domaine des Muses.'

<sup>187</sup> LSJ s.v. A-II-1. A similar link exists in Latin, as Cicero noted: praetors, of which consuls were a species, are so called because they go first (*praeire*), *Leg.* 3.8 (see also Varro *Ling. Lat.* 5.80). Similar associations exist in Hebrew: see the lexical field of the אָרַח root.

<sup>188</sup> Pindar, *Isthmean* 4, 38. See on this point Burkert 1987.

<sup>189</sup> Ford 2002, 200; Folch 2015, 10-12. The most characteristic expression of the idea is Aristophanes, *Ran.* 1009-1013.

<sup>190</sup> This applies at least to the Dionysia, the main dramatic festival; Pickard-Cambridge 1973, 84; Croally 2005, 62; Harris 2020, 31.

The poets' role as civic educators gave them an aura which filled their audience with reverential awe. Socrates himself admits in the *Republic* that he has felt αἰδώς for Homer since childhood (595b9-c1). But even a maverick, non-conformist poet could inspire a sense of shame in a listener, provided he seduces the rest of his audience. Shame, we recall, is the fear of incurring a bad reputation in the eyes of those one takes to be superior to oneself. In a democracy like ancient Athens, the majority of the audience can well be seen as authoritative.<sup>191</sup> If the majority of the audience is enthused by the New Musicians, citizens with a strong sense of shame who still respect the traditional elite can have that respect shaken by the judgment of the crowd.

How does this idea concretely apply to our passage? I suggest that the authority possessed by poets, or by the audience's majority, can create in some citizens a conflict of loyalty. Even when intoxicated by musical pleasure, some citizens may still feel reverence for the judgment of the traditional elite; but if they sense that poets appointed by the city, or a majority among the audience, invites them to disregard the judgment of this elite, the prospect of disagreeing with the former will fill them with a shame that undermines the one they feel for the latter's opinion.<sup>192</sup>

To sum up: because new musicians and their fans (if numerous) can be seen as endowed with some form of authority, they weaken the shame the rest of the audience feels for the opinions of the traditional elite. This mechanism reinforces the first cause mentioned above, but it plays out at a different level. Whereas the first cause weakens shame in the citizens, the second reorients the remnants of shame the citizens may harbor in their souls, from the traditional elite to the New Musicians and the majority of the audience. It acts at the level of ἀμαθία, not ἀκράτεια. The same goes for the third explanation.

c) Cause 3: Which λόγοι?

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<sup>191</sup> Barker, 'Fourth seminar: Laws 669b5-670a6 and 700a7-701c4,' in *Music in Plato's Laws. Seventh Annual Seminar in Ancient Greek Music* (2010), pp. 31-131, p. 79. Available at <https://ionio.gr/en/news/1389/>. Last Accessed on June 30<sup>th</sup> 2021.

<sup>192</sup> It could be objected that a traditional elite is unlikely to appoint revolutionary poets. Two things can be said in reply. First, we have historical examples of traditional elites giving some kind of endorsement to artistic revolutions: for instance, emperor Franz Joseph and his government supported the *Secession's* exhibit in Vienna in 1898, in the face of vehement opposition (Schorske 1980, 236-242; see an anonymous engraving accessible at [https://austria-forum.org/af/Bilder\\_und\\_Videos/Historische\\_Bilder\\_IMAGNO/Klimt%2C\\_Gustav/0011825](https://austria-forum.org/af/Bilder_und_Videos/Historische_Bilder_IMAGNO/Klimt%2C_Gustav/0011825)). Second, the traditional elite of the theatrocracy passage can have appointed the New Poets because they possessed qualities prized by the elite (they are 'poetic by nature,' and have some knowledge of musical forms, since they know how to mix them); but their production took a form, and had an effect, that the elite could not foresee. For an interpretation along these lines see Rancière 2007, 75.

For Plato, even a firm belief in the superiority of an institution or a group can be undermined by repeated exposure to adverse opinions. This is the moral of the tale of *Republic* 7.537e9-539a3: an adopted son discovers that the parents who educated him are not his biological ones; under the shock and the disappointment, he yields to flatterers who tell him that all he has been taught is worthless, especially compared to a life of pleasure.<sup>193</sup> Our passage can be turned into a similar narrative. The intense pleasure of music has temporarily abolished shame in the citizens' souls; it has fueled their self-love, which has become strong enough to assert itself in other fields; this was made easier by the poet's exhortation to the citizens, calling them to judge everything by their own lights. Now, unlawful opinions are permitted to creep in the citizens' minds and undermine their willingness to submit to the judgment of the traditionally educated elite. Like the second cause, the third acts not at the level of ἀκράτεια, but of ἀμαθία: it affects directly the citizens' beliefs, without going through heightened feelings of pleasure and pain. I argue that the λόγοι of New Music convince the citizens to take themselves, and not the traditional elite, as judges in all matters.

The theatrocracy passage refers to the λόγοι the poets added (ἐπιλέγοντες, 700<sup>e</sup>4-5) to their music. This mention faces us with a translation problem. Two options present themselves: λόγοι can either be lyrics ('paroles,' Brisson-Pradeau; 'dialogue,' Allen; England *ad loc.*), or aesthetic manifestos, whether written or oral ('arguments,' Pangle; 'propaganda,' Saunders).<sup>194</sup> Klaus Schöpsdau sees in the use of the verb ἐπιλέγειν an argument in favor of the second option: in Greek, ἐπιλέγειν is never used to describe the relation of lyrics to music.<sup>195</sup> A point Schöpsdau does not note, but which supports his view, is that ἐπιλέγειν characterizes an addition that is subsequent in time; lyrics of course do not come after the tune. On this picture, the musicians' λόγοι are then manifestos, either delivered in conversations or published in writing. The *Republic* knows of such λόγοι: Socrates is ready to re-admit the poets he has just banished, provided their fans plead for them in prose λόγοι (607d4-10).<sup>196</sup> As to written texts, they are especially conducive to the pretense to be wise, according to the *Phaedrus*.<sup>197</sup> This would make them good candidates to play a role in our text. Aesthetic

<sup>193</sup> Bonnemaison 2021 offers a very illuminating analysis of the passage.

<sup>194</sup> Allen 2000, 276.

<sup>195</sup> Schöpsdau 1994 *ad loc.*

<sup>196</sup> Cf. 380a9, where λόγος is used of an interpretation of iambic lines from a tragedy.

<sup>197</sup> 275b2.

manifestos arguing that pleasure is the only criterion of musical judgment would directly weaken the citizens' respect for their elite, whose judgment is based on more rational criteria.

This interpretation, though, faces two difficulties. The first is that we have no evidence that New Musicians ever produced manifestos outside the ambit of their songs. The only manifesto we have is what Timotheus offered in the lyrics of his *Persians*.<sup>198</sup> In her study of the poem, Pauline LeVen shows that its lyrics combine 'self-defense and critical attack:' they argue that 'poetry is meant for anybody, that is, for anybody who has an ear for good music.'<sup>199</sup> The echoes of Plato's description are noteworthy. A further reason to read λόγοι as manifestos-in-lyrics is that the practice of using poems to defend aesthetic conceptions was not peculiar to New Music: Aristophanes, clearly not a sympathizer of the movement, tells the audience of his *Frogs* that they have all the tools they need to judge his work.<sup>200</sup> If there was some kind of competition to win the audience's favor by flattering them in this way, Plato might be allowed to speak of a marked historical tendency.

The second possible objection to Schöpsdau's view is that Plato sometimes uses λόγος to refer to lyrics, or to any linguistic component of poetry.<sup>201</sup> At *Laws* 2.669c3-e4, the Athenian Stranger mentions a poetic practice he condemns, which consists in alternating 'bare words' (λόγους ψιλούς, 669c7), i.e. metrical lines devoid of musical accompaniment, with moments of music without words. The language he uses there, focusing on mixture and confusion, is strongly reminiscent of his description of New Music in our passage.<sup>202</sup> Such 'bare words' can be said to be 'added' (cf. ἐπιλέγοντες) to the purely musical compositions, since they come at a different time. Thus, the λόγοι of 700<sup>e</sup>4-5 could refer to poetic lines delivered without musical accompaniment, and not to manifestos separate from the work itself.<sup>203</sup>

We have very few examples of texts with such a structure.<sup>204</sup> But there is one kind of well-preserved poetic form which alternated musical passages mixing genres (though never without

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<sup>198</sup> LeVen 2014, 89-90.

<sup>199</sup> *Ibid.*, 96.

<sup>200</sup> See on this point Ford 2002, 188.

<sup>201</sup> *Grg.* 502c6; *Rep.* 402a2; *Laws* 699<sup>e</sup>3.

<sup>202</sup> Ἐμπλέκοντες καὶ συγχυκῶντες, 669d3 (the similarity is noted by Schöpsdau 1994, 328 *ad loc.* and Kowalzig 2013, 187).

<sup>203</sup> Which means that ποιήματα would mean 'musical compositions', as England 1921, 410 *ad loc.* thought. See *Plat. Prot.* 326a6-b2 for the use of ποιητής in this sense.

<sup>204</sup> See Bélis 1998; Csapo 2004, 213.

words) and lines spoken without music: tragedy.<sup>205</sup> The word λόγος was actually used to talk about spoken, especially iambic, lines, as opposed to choral odes.<sup>206</sup> The λόγοι of 700<sup>e</sup>4-5 can thus be understood as iambic lines of tragedies.<sup>207</sup> True, it is the poets and not their characters who are described as ‘saying’ (ἐπιλέγοντες) those lines: but Plato, in the *Laws* as elsewhere, does not refrain from ascribing to the poets the words of their characters.<sup>208</sup>

If this is on the right track, our passage would be alluding to dialogic lines of tragedies that invite to shamelessness, or that make pleasure the ultimate criterion of judgment. If one scans through the extant tragic corpus, such lines are not hard to find. Darius’ ghost in Aeschylus’ *Persians* invites the old men of the chorus to ‘give pleasure to their soul every day;’ the guard in Sophocles’ *Antigone* denies that anything can be compared to pleasure; a character from Euripides’ *Temenos* argues that audacity (τολμά) ensures success.<sup>209</sup> Even a character we tend to sympathize with, Sophocles’ *Antigone*, might not have received Plato’s approval. Creon depicts her as a model of audacity (449), anarchy (672), boldness (853); the chorus blames her for acting with αὐτόγνωτος ὀργά, ‘self-willed disposition’ (875). As to judging everything by pleasure, audiences might learn it from Darius’ ghost, who invites the old men of Aeschylus’ *Persians* to ‘give pleasure to their soul every day;’ the guard in Sophocles’ *Antigone* denies that anything can be compared to pleasure.<sup>210</sup> An audience who would take such advice seriously would naturally start judging works of art according to the pleasure they give.

It may seem too naïve *to us* to blame a poetic work because of lines spoken by one of its characters. But in the *Republic* Socrates does condemn Aeschylus’ *Niobe* for the accusations which

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<sup>205</sup> Jackson 2019, 147-152, rejects the view that fourth-century choral parts were ever devoid of lyrics. Weiss 2018, 53, insists on the fact that the mixing of genres, although developed by Euripides under the influence of New Music, was always part of tragedy.

<sup>206</sup> *Ar. Poet.* 4.1449a15-18.

<sup>207</sup> The idea that the new musicians described in our passage could be tragedians has been first suggested to me by Sean Gurd, whom I would like to thank. In favor of this hypothesis are two arguments: 1<sup>o</sup> the chronology: προῖόντος τοῦ χρόνου at 700d3 is unlikely to refer to 60 years, as would be necessary if Timotheus and his contemporaries were alluded to, since the same phrase at 698e6-7 is used for a three-years interval; 2<sup>o</sup> tragedy was always a mixture of genres (as Weiss, cited two notes above, convincingly shows), and Euripides was seen as the great practitioner of blending (Murray 2013, 309, citing Aristop. *Ran.* 1298). Against it are parallels with the way Plato describes New Musicians in other dialogues, especially at *Grg.* 501e8-502a8. Ultimately, it might be misguided to look for a temporally and individually identifiable target of Plato’s polemical description: he might paint ‘new musicians’ with the same broad brush he uses to depict ‘atheists’ in *Laws* 10 (for the question whether the atheistic doctrine attacked in book 10 is ascribable to a single author or not, see Mayhew 2008, 76, and Laks 2023).

<sup>208</sup> 719c7. He does the same in the *Republic*: see e.g. 568a8-b4. On this point see Laks 2004.

<sup>209</sup> Aesch. *Pers.* 840-2; Soph. *Ant.* 1170-1 (see also 1165-7); Eur. *Temenos* frg. 745 Nauck.

<sup>210</sup> Eur. *Temenos* frg. 745 Nauck; Aesch. *Pers.* 840-2; Soph. *Ant.* 1170-1 (see also 1165-7).

the eponymous character levels against the gods.<sup>211</sup> Socrates is aware that one can give more or less elaborate interpretations to poetic works, such as ὑπόνοιαι; but he is worried that young people, those who are the most in need of education, will not be able to distinguish what should be taken at face value from what should not.<sup>212</sup> His interpretive assumptions are shared by others: in the *Frogs*, for instance, Aeschylus accuses Euripides of having taught sailors to answer their rulers back, which must have to do with a line spoken by a character of his.<sup>213</sup> Plato's mode of interpretation is clearly not our own, but it is not idiosyncratic either. It is made more intelligible by the cultural fact, stressed by Myles Burnyeat, that Athenian citizens were also actors on the stage: they did put themselves in the position of the characters they impersonated.<sup>214</sup>

#### d) Cause 4: From Aesthetical to Political Expertise

One last consideration will help us understand Plato's account of the birth of teatrocracy. As we have seen, artists as different as Aristophanes and Timotheus told their audience that they possessed the means to judge works of art competently. In our passage from the *Laws*, the audience ends up being convinced of this, but does not stop there: the citizens go on to extend their claim to the moral and political field. As Marcus Folch puts it,

The crowd's purported σοφία is not limited to poetic qualities; it also claims to encompass the determination of moral excellence, for the democratic audience regards itself as possessing a kind of philosophical understanding of the nature of goodness and vice (τό τε καλὸν καὶ μῆ) in themselves and as manifest in music. Principles of aesthetic judgment in the theater are shown ultimately to be indistinguishable from those of moral and political deliberation.<sup>215</sup>

Folch spots the transition from one domain (music) to the other (ethics and politics), but without providing an explanation. Yet Plato in the *Laws* gives us the means to account for such a move, with his theory of an audience's response to music.

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<sup>211</sup> 383b1-8.

<sup>212</sup> 378d3-1.

<sup>213</sup> *Ran.* 1071.

<sup>214</sup> Burnyeat 1999, 257-269.

<sup>215</sup> Folch 2013, 565.

In book 2 of the *Laws*, the Athenian Stranger delves into the ways in which the pleasures of song and dance affects our souls. As he puts it, ‘we rejoice (χαίρομεν) when we think we are doing well (εὖ πράττειν), and whenever we rejoice (ὁπότεν χαίρωμεν), we think we are doing well’ (657c5-6). ‘Rejoicing’ in the *Laws* is equivalent to ‘feeling pleasure,’ while ‘doing well’ designates the ultimate good of human life, εὐδαιμονία.<sup>216</sup> The Athenian Stranger goes on to give an example of ‘rejoicing:’ the experience of enjoying a guilty musical pleasure. Speaking about unlawful music, he avers: ‘surely it is necessary (ἀνάγκη) that one who rejoices (τὸν χαίροντα) in things becomes like (ὁμοιοῦσθαι) the things he rejoices in (χαίρη), even when he is ashamed (αἰσχύνηται) to praise them.’<sup>217</sup> This seems to apply fairly well to our Athenian audience. But besides shaping character, musical enjoyment has another, more direct effect: as 657c5-6 indicates, every fit of enjoyment affects our rational soul-part by creating in it a belief that we are experiencing something not only pleasurable, but good, something that brings us closer to the end of human life (cf. εὖ πράττειν).<sup>218</sup>

This translation of pleasure into an ethical belief partly explains, I suggest, why the Athenian audience converted their newly acquired opinion to be musical experts into a claim to self-rule. The strong and repeated pleasures provided by New Music have convinced them that the psychological state they were in was not only pleasurable, but ethically good. Yet this psychological state lacked shame, and included a refusal to defer to any authority. These features were, through pleasure, made morally and politically acceptable. They could thus be extended to the whole domain of social life. Like our first explanation, this last involves both the level of excessive pleasure (ἀκράτεια) and the ignorance (ἄμαθια) into which it translates. It does not make the first explanation superfluous, precisely because the experience of guilty pleasure is not supposed to lift shame in the soul of a well-educated citizen (656a1-5).

#### e) The Relationship Between the Four Accounts

The four explanations provided here (involving respectively inebriation through pleasure, the authoritative role of the poets or the audience, the content of λόγοι and the translation of

<sup>216</sup> On the equivalence between χαίρειν and ἡδεσθαι, see for instance 659d5 and 897a2. On εὖ πράττειν, Sauv  Meyer 2015 *ad loc.*, 242.

<sup>217</sup> 656b4-6.

<sup>218</sup> See on this point the illuminating comments of Sauv  Meyer 2015 *ad loc.*, 242.

aesthetic enjoyment into ethical commitment) have, I hope, shed light on the intricate and elusive text that depicts the birth of teatrocracy. These explanations are not only compatible, but complementary. The first has the most textual support; it is also necessary, since only it can explain the shift from an initial situation where the citizens feel shame before the traditionally educated elite, to one where they disregard that elite's judgment. The three others by themselves would not suffice: if the judgment of the traditional elite still fills the citizens with awe, then the poets' authority, their hedonistic λόγοι, and the audience's guilty musical pleasure, are not enough to convince the people to judge music and political affairs by their own light. The effects of these three causes would be offset by the citizens' intact reverence for the elite's opinion.

The first explanation, however, suffers from an explanatory gap: it does not tell us how citizens could bridge the gap between their musical pleasure and the other areas of life. This is where the three other causes intervene: they help bridge this gap, by showing how the pretense to be wise could be reinforced and expanded by wrong beliefs about authority.

This chapter was intended as a comprehensive treatment of Plato's notion of excessive freedom in the *Laws*. This involved grasping the meaning(s) of freedom, and the ways in which it could be said to be excessive. Part I tried to carry out this conceptual task by looking at the most significant uses of ἐλευθερία and cognates in the *Laws*, on the basis of a complete survey of these occurrences. Part II consisted in a close reading of 700a3-701c2, the Athenian Stranger's description of the birth of teatrocracy at Athens. It located explanatory gaps in the text, and proceeded to fill in them by offering four hypotheses, both mutually compatible and mutually reinforcing.

An important outcome of the chapter, I hope, is the link it draws between excessive freedom and moral psychology. In the *Republic*, this link existed at the level of non-necessary appetites: the democratic citizens strove for freedom to maximize the satisfaction of their non-necessary appetites, before making freedom itself the object of their appetitive desire. The link is different in the *Laws*. The desire for excessive freedom is traced back to a claim to wisdom and self-rule, which is itself reduced to two psychological drives: the inebriating effects of pleasure (and other powerful emotions), and the excessive self-love ingrained in every human being. I suggested above that the



first of these drives merely activates the second, which thus appears as the most fundamental. It is, after all, called ‘the greatest cause of all evils for most human beings’ (731d7).

Interpreters sometimes ask what place Socrates could occupy in the city of the *Laws*.<sup>219</sup> In the dialogue, at least, his voice can be distinctly heard in the indictment of the human, but especially Athenian, claim to wisdom, self-rule, and excessive freedom.<sup>220</sup>

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<sup>219</sup> See in particular Rowe 2001.

<sup>220</sup> *Apol.* 21d4-5; *Meno* 86d3-8 (here the desire for absolute freedom is ascribed to Meno, who does not come from a democratic city (on Pharsalus in the classical period see Robinson 2011, 61-62); *Alc.* 122a4-8. The indictment of excessive self-love occurs in the general preamble to the laws, in which Laks 2022 detects important Socratic echoes.

*Introduction*

1) Aristotle and the Democratic Fetishism of Free Status

Ancient Greece was a slave society.<sup>1</sup> Evidence abounds from throughout the Greek world, but the Athenian case is the most documented. A recent survey concludes that '[Athens] *douloi* were obviously slaves, their numbers were more than 25 percent of the population, and slavery had a profound effect on Athens's economy, social structure, political system, and culture.'<sup>2</sup> Among these cultural effects was slavery's role in the self-conception of the Athenians. As all other free-born Greeks, the Athenians saw themselves as the receiving end of the institution of slavery; as a democratic polity, they were particularly proud of their commitment to individual and collective non-enslavement.<sup>3</sup> Everywhere in the Greek world, slavery was seen as a miserable condition for individuals and communities to fall into; but Athens especially prided itself on preserving for its citizens the "day of freedom" so dearly prized by Homeric characters.<sup>4</sup> As we saw in chapter 2, Plato's *Menexenus* is eloquent testimony to the centrality of ἐλευθερία in the Athenians' self-definition: Socrates' speech presents Athens' commitment to freedom as distinguishing the city from all others; his freedom-rhetoric unites the citizenry around a set of values ranging from the enjoyment of free status to the cultivation of liberality.

This, I suggest, is the context in which Aristotle's engagement with democratic freedom should be placed. In the present chapter, I argue that Aristotle is concerned with the mistaken political claims that the democrats' (especially the Athenians') attachment to their free status leads them to make. In essence, Aristotle thinks that overly valuing one's free status and limiting one's political claims to translating that status in political terms is no basis for a sound civic life: enjoying statutory freedom gives one no overriding claim to political power; and to reject anything that smacks of slavery makes one forego crucial conditions of a healthy political life. I thus argue that the

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<sup>1</sup> Brunt 1993, 343.

<sup>2</sup> Hunt 2018, 85.

<sup>3</sup> Raaflaub 2004, 86.

<sup>4</sup> *Il.* 6.455, 16.831 and 20.193.

flaw Aristotle diagnoses in the democratic conception of freedom is an excessive attachment to their free status, what I propose to call 'status fetishism.'

Aristotle articulates his criticism against democratic status fetishism in a text this chapter centers around, *Politics* 6.1-2. That passage is also the focus of the most influential interpretation of Aristotle's critique of democratic freedom to-date, which David Keyt and Fred D. Miller have put forward in a series of studies to which I am indebted.<sup>5</sup> One blind spot of their account, however, is the relationship *Pol.* 6.1-2 entertains with Aristotle's presentation of democratic claims throughout the *Politics* and the *Ethics*. In particular, what Aristotle describes in *Politics* 6.1-2 as the democratic understanding of *freedom* is elsewhere presented as the democratic conception of *equality*, or *justice*.<sup>6</sup> These two presentations can be brought into unison, I suggest, if we see the democratic conception of freedom, as rendered in *Pol.* 6.1-2, as the reflection of a wider democratic theory of equal and just entitlement, in which status fetishism plays a key role.

Understanding this requires delving into what Malcolm Schofield has called the 'political' and the 'sociological' projects of the *Politics*.<sup>7</sup> Among the many tasks Aristotle sets himself in this massive work is that of analyzing the various conceptions of just entitlement put forward by different civic groups (the people, the rich, the noble, the virtuous), and the claims to political power they make on those bases. This is what Schofield's calls the *Politics*' 'political' project. But since these conceptions and claims are linked to the contributions these groups see themselves as making to civic life, the 'political' project needs to be complemented by a second, 'sociological' analysis, resolving the city into its constituent parts.

For the conflict between these different constituent groups to be settled, however, a third and final layer must be added. To decide between their different claims Aristotle must first ascertain the goals of civic life, and then measure these civic groups' contributions in terms of their usefulness towards reaching them. These goals are two: existence (the city's life, τὸ ζῆν) and flourishing (the city's good life, τὸ εὖ ζῆν). Ultimately, Aristotle believes that the group that makes the greatest contribution towards the city's flourishing — the virtuous — are the most entitled to rule. This is what Schofield views as the *Politics*' 'rational model.'

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<sup>5</sup> Keyt 1991; 1993; 1999; 2018a; 2018b; Keyt and Miller 2021.

<sup>6</sup> See in particular *NE* 1131a25-29 and *Pol.* 1310a25-36.

<sup>7</sup> Schofield 1999.

The present chapter combines Schofield's three approaches. The first two are used to spell out and explicate the conception of justice Aristotle ascribes to his ideal-typical democrats; the third reveals the yardstick Aristotle uses to criticize it. The chapter also shows how, at both levels, Aristotle's critically engages with Plato's theory of freedom. This is meant to illuminate both his and his teacher's conceptions of democratic freedom.

## 2) Aristotle and Plato on Democratic Freedom and Its Excesses

I argue that Aristotle's 'rational' model is indebted to Plato's *Laws*, while going further than the *Laws'* late recognition of freedom as a worthy political goal. As to Aristotle's 'political' and 'sociological' models, they build on both the *Republic* and the *Laws*, but with one crucial difference: by contrast to his teacher, Aristotle explains the democratic claim to freedom as originating in a belief, rather than in excessive desires. The two shifts are connected: they both stem from a recognition that the people's claim to freedom is, to a certain extent, rational.

### 1° Aristotle's Wholehearted Endorsement of Political Freedom

To start with the 'positive' level: Aristotle goes much further than Plato in making freedom a constitutive condition of political life. The *Laws* already recognized that, in appropriate but far from exceptional circumstances, ordinary citizens possess the cognitive capacities to participate in deliberation and rule: they do not have to be their rulers' 'slaves,' as in the *Republic*. Aristotle's presence in the background of the *Laws* was detected long ago by Glenn Morrow and Richard Bodéüs, and Mitzi Lee has recently stressed Aristotle's debt to his teacher's last work.<sup>8</sup> Aristotle's familiarity with the *Laws* (as Lee sees it), or even his participation in their composition (if we follow Morrow and Bodéüs) explain the striking echoes of Plato's last work we hear in the *Politics*.

On freedom, a topic left out of Lee's account, the filiation is unmistakable: Aristotle wholeheartedly endorses freedom as a political goal, including it in his very definition of political rule. But Aristotle, of course, is not only his teacher's pupil: he develops his own philosophical reasons for adopting freedom as a political goal. The first part of the present chapter, devoted to

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<sup>8</sup> Morrow 1960; Bodéüs 1985; Lee 2021.

working out Aristotle's endorsement of political freedom, intends to make apparent both his debt and his originality vis-à-vis Plato. It will also put us in a position to understand Aristotle's critique of democracy's excessive attachment to freedom.

## 2° Commonality of Background, Shift of Explanatory Focus: Aristotle and Plato on Democracy's Excessive Love of Freedom

At that 'negative' level too, we see Aristotle coming to grips with Plato. He does so because he occupies the same ground as his teacher: they both respond to what they see as a radical democratic overvaluation of freedom, historically instantiated – in their views – in Athens between the late fifth and the mid-fourth centuries. Where Aristotle disagrees with Plato is on the appropriate causal diagnosis to make for democracy's overattachment to freedom. In the *Republic*, democracy's excessive love of freedom was traced back to the appetitive power of the soul, specifically to its non-necessary subpart. In the *Laws*, a frenzy of pleasure kicked off the transition from moderate to excessive freedom, even though that process was amplified by additional causes operating at the cognitive level (*ἀμαθία*). One of these additional causes was excessive self-love: it filled the soul of each individual with the wrongheaded belief that she could rule herself without listening to others. Aristotle goes even further than Plato in the 'cognitive' direction, stressing the intellectual rather than appetitive component of democracy's love of freedom. The democrats' mistake is ascribed to a wrong *belief*, that their free status entitles them to rule themselves.

Commonality of contextual background, but shift of explanatory focus: a brief development of these two points will make clear why a comparison of Plato's and Aristotle's criticisms of democracy's excessive love of freedom is illuminating. It will justify, in other words, including Aristotle in the purview of the present work.

### α – One and the Same Target: Late Fifth-Century Athenian Democracy

On the topic of excessive freedom, a comparison between Plato and Aristotle is both possible and legitimate, because the two thinkers respond to the same context. This might seem strange, as Plato and Aristotle knew quite different kinds of democracy: many of Plato's dialogues (the *Republic*,

in particular) are set in the last years of the fifth-century, in a regime conventionally described as 'radical;' Aristotle lived in post-403 Athens, when the people's rule had been tamed by rigid constitutional checks.<sup>9</sup> In fact, a closer analysis of Aristotle's relationship to his historical context reveals that his picture of democracy does not differ much from his teacher's.

Even though Plato witnessed democracy in various guises, he gives no sign of having valued one above the other. Between the conventional dates of his life (424/3 up to 348/7), he experienced the triumphant regime that held sway over the Aegean until 411, the re-establishment of a more moderate 'ancestral constitution' in 403 and, from 354/3 on, the cautious hegemony of Eubulus.<sup>10</sup> But we would be hard-pressed to find in his writings any endorsement of one of these instantiations of democracy. True, the *Seventh Letter* expresses some appreciation for the regime instated in 403; but whatever goodwill Plato felt towards the new state of affairs was soon exhausted when his teacher and model Socrates was killed.<sup>11</sup> In the *Laws*, the only Athenian democracy Plato deems valuable is set in archaic times: after the Persian Wars it is said to have morphed into a lawless regime.<sup>12</sup> Any notion that Plato, at the end of his life, was more appreciative of the democracy he lived in rests on a misreading of the *Laws* and the *Statesman*.<sup>13</sup>

We might expect the situation to be have been different with Aristotle. After all, Plato's student was deeply interested in making taxonomies of the various types of democracy: he had the tools to distinguish between the different forms that regime could take, to rank them according to their worth, and to apply these categories to specific stages of Athenian history.<sup>14</sup> As head of the Lyceum, he initiated a research program on the constitutional history of some 158 cities (the only extant result of this ambitious enterprise is the *Constitution of Athens*).<sup>15</sup> Time, wealth of evidence and critical distance might have allowed Aristotle to draw a more fine-grained judgment than his teacher about Athens' relationship to political freedom.

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<sup>9</sup> On the necessary caution with which the epithet should be used, see Brun and Lafargue 2007.

<sup>10</sup> For the dates see Nails 2002, 247 (Brisson and Goulet 2012, 630, suggest 428/7 as date of birth). Plato's life in context is studied by Capizzi 1984.

<sup>11</sup> *Ep.* 7. 326b1-d1. I remain agnostic on the question of authenticity; in any case, the author of the letter knew Plato's life well (Cooper 1997, 1635; Atack 2019, 617), which does not mean that he was one of his students (Burnyeat and Frede 2015, 122).

<sup>12</sup> *Laws* 700a3-701c2.

<sup>13</sup> Rowe 2001; Samaras 2002, 182.

<sup>14</sup> See *Pol.* 4.4, 4.6, and 6.4.

<sup>15</sup> D.L. 5.27; the program is alluded to in *NE* 1181b17.

This is not what we find.<sup>16</sup> Aristotle, like Plato, makes excessive love of freedom an essential feature of democracy, at Athens and elsewhere; democracies only vary according to how much they fall victim of that illusion.<sup>17</sup> Although Aristotle's reasons for making excessive freedom a defining component of democracy are different from his teacher's, he is on this point a Platonist. As Keyt and Miller write, 'Aristotle, just like Plato, is a severe critic of [democratic] freedom, and his description of it tracks Plato's sardonic sketch of Greek democracy in the *Republic*.'<sup>18</sup> In fact, Aristotle owes his picture of democracy more to Plato than to an investigation of the past or the present.

Regarding the past, the 158 πολιτεῖαι Aristotle had his school compose were, as far as we can judge from the *Constitution of Athens*, organized to fit theoretical categories elaborated in the *Politics*, most of which was written before them. Wilamowitz was the first to see this, before his ideas were developed in France by Raymond Weil, and in America by James Day and Mortimer Chambers.<sup>19</sup> Weil's work, which focused on the *Politics*, concluded that Aristotle had indeed gathered a large amount of historical data to write his political treatises, but that classification mattered more to him than historical accuracy for its own sake.<sup>20</sup> Day and Chambers identified in the Aristotelian history of the Attic constitution the exact degenerative pattern, from the best to the worst democracy, that Aristotle lays out in several passages of the *Politics*. His testimony was no more to be accepted on trust than his account of Presocratic philosophy in *Metaphysics Alpha*.<sup>21</sup> Not that Aristotle suppressed or forged evidence; but he had his own agenda in mind when writing the *Constitution of Athens*, or having it written. More skepticism was heaped in 1973 when Joseph Dolezal published his dissertation on Aristotle and democracy, arguing that the philosopher had seen Athenian history through the narrow lens of his Theramenian preferences.<sup>22</sup>

These various criticisms have recently been challenged, it should be noted, by Elisabetta Poddighe: on her view Aristotle, or his student, did consult a wide array of sources, and never

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<sup>16</sup> Brun and Lafargue 2016, 45.

<sup>17</sup> A democracy true to type is a regime that takes democratic features to their extremes (1298b14 and 1318a5-6).

<sup>18</sup> Keyt 2018, 160.

<sup>19</sup> Wilamowitz 1893, 308-381; Weil 1960; Day and Chambers 1962.

<sup>20</sup> Weil 1960, 357 (cf. Wilamowitz 1893, 370).

<sup>21</sup> Day and Chambers 1962, viii. On Aristotle's history of Greek philosophy in *Met. A* see Barney 2012; Cooper 2012. Cherniss 1944 remains a seminal landmark.

<sup>22</sup> Dolezal 1973. *Ath. Pol.* 28.5 praises Theramenes for his ability to contribute to the city's political life whatever the regime, as long as it did not break the law. On Aristotle's appreciation for Theramenes see Berti 1997, 70; Frank and Monoson 2009 convincingly argue that the author of the *Ath. Pol.* is conscious of the controversial and interpretive nature of his portrait of Theramenes.

falsified what he found there. But even Poddighe admits that the theoretical categories of the *Politics*, developed before the *Constitution of Athens*, functioned as a straightjacket for the organization of the evidence in that latter work.<sup>23</sup>

As to Aristotle's relationship to contemporary Athenian democracy, we also have reasons to believe it was essentially informed by Plato's views. In the *Constitution of Athens*, written presumably between 329 and 324, we find a portrait of late fourth-century Athens that closely matches the *Politics*' picture of the ultimate, i.e. most radically popular democracy.<sup>24</sup> Yet this picture itself, as Weil noted, owes much to Plato's description of late fifth-century Athens.<sup>25</sup> In particular, a consistent feature of Aristotle's image of radical democracy is the role it gives to demagogues. In this too, Aristotle proves to be influenced by his teacher: as Renate Zoepffel and Melissa Lane have shown, Aristotle uses the word 'demagogue' in its pejorative sense, which Plato was the first to attach to it, and not as his contemporaries used it.<sup>26</sup> In general, scholars who have scrutinized the applicability of Aristotle's picture of radical democracy to the regime he lived in have come to negative conclusions: contrary to what Aristotle asserts, at the time of writing the *Politics* and the *Constitution of Athens* decrees did not supersede laws; democracy was not a regime that worked in the interest of the poor only; new magistracies and key reforms, like the financial measures of Eubulus and Lycurgus, gave a tenor to the regime that escaped Aristotle's notice.<sup>27</sup>

As to the ability to 'live as one wishes,' which is for Aristotle defintory of democracy, it has much more to do with Pericles' Funeral Oration (430), or even with Plato's picture of democracy in the *Republic* (ca. 392-380), than with the ideology, or the actual situation, of the 330s.<sup>28</sup>

Aristotle's image of popular participation and individual liberty in Athenian democracy is therefore skewed; it fits the past more than the present; Plato's representation rather than contemporary realities. Yet Aristotle's criticism of democratic freedom pivots around these two interrelated notions: extensive popular participation and maximal private independence. Both feature in his critical analysis of democratic freedom in *Politics* 6.1-2, which thus bears Platonic

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<sup>23</sup> Poddighe 2014.

<sup>24</sup> For the date see Weil 1960, 115. Compare *Ath. Pol.* 41.2 and *Pol.* 4.4, 1292a4-12. Rosler 2005, 256-257, adduces positive comments made by Aristotle about democracy throughout the *Politics*, but they do not diminish his disapproval of the Athenian democracy of his days.

<sup>25</sup> Weil 1960, 182-183. Lintott 1992 arrives at similar conclusions.

<sup>26</sup> Zoepffel 1974; Lane 2012.

<sup>27</sup> Mulgan 1991; Strauss 1991; Eucken 1995.

<sup>28</sup> Mulgan 1977, 79-80. For the dating of the *Republic* see Nails 1995, 116-117.



marks. But if Aristotle inspects the same political symptoms as Plato, his diagnosis is remarkably different.

### β – A Different Diagnosis: Democratic Beliefs Instead of Democratic Desires

Although Plato and Aristotle examine the same political disease, radical democracy's wrong relationship to freedom, they do not offer the same account of it. In Aristotle's view, the democrats' fight for political freedom is not merely fueled by non-necessary appetites, as it is in the *Republic*; neither is it, as in the *Laws*, the expression of a radically arrogant desire for self-rule, awakened by a fit of pleasure-frenzy: it is a consistent, if flawed, political view.

For Aristotle, the democrats' wrong relationship is a matter of *belief*. Because the democrats enjoy a free status and pride themselves on it, they take themselves to be entitled to translate this free status into political terms, and to do away with everything that smacks of slavery, legitimate rule included. Aristotle spends much time in the *Politics* explaining why this belief is wrong; but he strikingly admits, at the same time, that it is only *partly* so. It contains, he says, a grain of truth; it is rational up to a certain extent. As he puts it in *Politics* 3.9, democrats (like oligarchs) 'say something just up to a certain point, and believe for that reason that they have stated the whole of justice.'<sup>29</sup> The democrats' misconception of freedom and its political value is primarily presented as a *belief* about justice (cf. νομίζειν).

This does not rule out, of course, that this belief comes, at least in part, from non-rational sources; but it is presented, by the democrats and by Aristotle, as a claim to truth, which must be understood and debunked in order to be treated. Here again, the analogy with *Metaphysics Alpha* suggests itself: neither of the philosophers whose view are reported were utterly wrong, Aristotle writes; they only saw part of the truth.<sup>30</sup>

Aristotle's critical engagement with democratic freedom, therefore, has both to understand the democrats' claim, and to reveal its logical flaws. It will be our task, in the second part of the chapter, to show how Aristotle manages to do both.

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<sup>29</sup> 1280a21-22: διὰ τὸ λέγειν μέχρι τινὸς ἑκατέρους δίκαιόν τι νομίζουσι δίκαιον λέγειν ἀπλῶς.

<sup>30</sup> See for instance 986a13-15.

### 3° The Consequences of a Grain of Truth

Aristotle's departure from Plato's analysis of excessive freedom has one further implication. As we just saw, Aristotle ascribes democracy's excessive love of freedom to a partial but not entirely wrong belief. This means that the democrats actually have a point, which the city has to take into account if it wants to be stable, as Aristotle thinks it should.

This notion further distances Aristotle from Plato. Non-necessary appetites could be held in check in Kallipolis (they actually were, in the producers' souls); in Magnesia, fits of intense pleasure could be avoided, and excessive self-love suppressed. But in an Aristotelian regime, be it ideal or non-ideal, people who only have a free status to ground their political claims on will never refrain from voicing them. In a qualified sense, they will actually be *right* to do so.

Politically, this means that the democratic claim to political power based on statutory freedom must be satisfactorily addressed by lawgivers, if they want the city to be stable. Yet Aristotle gives them reasons to strive for stability, having essentially to do with the educative function of law. The third part of the present chapter goes over Aristotle's reasons, and shows how legislators can satisfy the democrats' claim to political freedom without too much cost for the political community.

The democrats' claim, after all, is only *partially* right: satisfying it too much would create an unjust distribution of power; it would also alienate the other constituent parts of the city, especially the rich. An example of that process was provided by Plato in *Republic* 8: the democratic people, lusting for a boundless assertion of their freedom, ended up provoking the rich into an oligarchic reaction, thus precipitating the birth of tyranny. Aristotle also gives legislators the tools to bar against this kind of degeneration. He shows how the democrats' claim can be moderately answered, without leading to an oligarchic backlash. Despite the scenarios Plato presents in the *Republic* and the *Laws*, anarchy is not a fatal disease of democracy.

Following the three dimensions in which Aristotle, while building on Plato's engagement with democratic freedom, importantly differs from his teacher, the present chapter proceeds in three steps. It starts with the role of freedom in the *Politics*' 'rational' project: it explicates Aristotle's account of good and legitimate rule (one that respects the freedom of the ruled) and situates it vis-

à-vis Plato. Once we are clear on Aristotle's vision of legitimate freedom, we can move on to his criticism of the democratic conception of liberty, which he sees as inherently flawed. This second part of the chapter is based on a close reading of *Pol.* 6.2 (1317a40-b17) which departs from the most influential interpretation of these lines, that provided by Keyt and Miller. Finally, the chapter studies what consequences, according to Aristotle, accrue to political communities where this democratic misconception is harbored; it there engages with the growing scholarly attention devoted to Aristotle's notion of civil strife (στάσις), revealing here again Aristotle's nuanced engagement with Plato's democratic scenarios.

## I – Aristotle's Endorsement of Political Freedom: The Positive Account

### 1) Freedom in Aristotle

The value Aristotle ascribes to political freedom can only be understood in light of his general conception of freedom, which two sets of texts from his writings lay out. The present section intends to interpret them, and to see how they can be combined.

#### a) Being Free is To Have Intrinsic Value

In the first set of texts in which Aristotle thematizes freedom, we find him equating it with intrinsic, as opposed to merely instrumental value. This idea appears as early as the *Protrepticus*:

The same goes for thoughts: those are free which are to be chosen for themselves (δι' αὐτὰς αἰρεταί), whereas those which resemble slavish thoughts [are undertaken] for the sake of something else.<sup>31</sup>

A thought is free when it has intrinsic value (it is δι' αὐτὴν αἰρετός). Aristotle's formulation does not exclude that a thought could have both intrinsic and instrumental value; but it implies that thoughts

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<sup>31</sup> Frg. 25 Düring: Πάλιν δὲ τῶν διανοήσεων ἐλεύθεραι μὲν ἦσαν ὅσαι δι' αὐτὰς αἰρεταί, δούλαις δ' εἰκυῖαι αἱ δι' ἄλλα τὴν γνῶσιν ἴσπερ εἰδουσαι.†

which have only instrumental value lack 'freedom.' As so often in Greek, the range of meanings of ἐλεύθερος here goes from non-enslavement (free thoughts do not serve further thoughts) to liberality (free thoughts are those free people should engage in).

The *Rhetoric* defines freedom similarly: 'it belongs to a free person not to live for (πρὸς) someone else.'<sup>32</sup> Of course, a free person can (in fact, should) sometimes act for others: for instance, a citizen should act for the preservation of the regime he lives in (πρὸς τὴν πολιτείαν, 1335a35). But this is a means to his *own* end, namely political virtue. The slave, by contrast, has no prospect of reaching human virtue; he should therefore (Aristotle thinks) be subordinated to human beings who can. Because the slave cannot reach the only end that has intrinsic value for human beings, virtue, he can only be used by others to reach their own. We will come back to this notorious argument shortly.

It is in the *Metaphysics* that Aristotle gives us most details about his conception of freedom as intrinsic value. He introduces the 'first science' which the work lays out as follows:

It is clear that we do not seek it for some other use, but just as we call free the man who exists for his own sake (αὐτοῦ ἕνεκα) and not for someone else, we call this science the only free one; for it is the only one that is pursued for its own sake.<sup>33</sup>

Metaphysics is a free science, because it is engaged in for its own sake. Aristotle is clear that he sees it as the *only* science that fits that description. Other sciences, like mathematics or physics, do not enable those who engage in them directly to reach the highest human good, wisdom (σοφία), which consists in the contemplation of the worthiest beings; they rather serve the attainment of higher, metaphysical truths.<sup>34</sup> Similarly, a free man is he who has intrinsic value: he can sometimes be bound to act for someone else, like his family, his friends or his fellow citizens, but this contributes to his own end, virtue. His capacity to reach virtue, the only end that has intrinsic value for human beings,

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<sup>32</sup> *Rhet.* 1367a33: ἐλευθέρου γὰρ τὸ μὴ πρὸς ἄλλον ζῆν. Cf. *NE* 1124b31-1125b1 and *Pol.* 1254a11-13.

<sup>33</sup> *Met.* 982b24-26: δῆλον οὖν ὡς δι' οὐδεμίαν αὐτὴν ζητούμεν χρεῖαν ἑτέραν, ἀλλ' ὡσπερ ἄνθρωπος, φαμέν, ἐλεύθερος ὁ αὐτοῦ ἕνεκα καὶ μὴ ἄλλου ὄν, οὕτω καὶ αὐτὴν ὡς μόνην οὖσαν ἐλευθέραν τῶν ἐπιστημῶν· μόνη γὰρ αὕτη αὐτῆς ἕνεκὲν ἐστίν. I take it that φαμέν here refers to common Greek parlance: Aristotle is unearthing the concept of freedom that underlies the common usage of ἐλεύθερος; this enables him, subsequently, to apply the adjective to metaphysics, since it fulfils the concept's conditions.

<sup>34</sup> On σοφία see *NE* 6.7; on the difference between metaphysics, mathematics and physics for Aristotle see Modrak 1989. Aristotle's criteria for counting as a proper object of contemplation are laid out at *NE* 1139a6-8; on this point see Oksenberg Rorty, 1978.

means that he cannot be turned into an instrument for other ends.<sup>35</sup> This is what distinguishes him from the slave.

## b) Being Free is Being Able to Think

The second set of texts where Aristotle develops his conception of freedom is book 1 of the *Politics*. In the course of his argument for the naturalness of slavery, Aristotle defines what it takes, in his view, to count as a free person:

Whatever is capable of foresight by thought is naturally ruling and acting as a master, whereas whatever is capable of toiling with its body is naturally ruled and a slave.<sup>36</sup>

Later passages indicate that those who are ‘naturally ruling’ are those who are naturally free.<sup>37</sup> The adverb (‘naturally,’ translating the substantive φύσει in Greek) is key here, because some are free by status without being naturally so. For our current purposes, the upshot is that, in Aristotle’s view, one must have cognitive capacities (thought, διάνοια), especially deliberative ones (foresight, προορᾶν), in order to count as a free person.

## c) Cognitive Abilities and Intrinsic Value

What is the relationship between the conception of freedom I just introduced, which predicates personal freedom on the possession of cognitive capacities, especially foresight, and the previous one, which identified being free with having intrinsic value?

The most probable link resides in the notion that the exercise of thought, both in deliberation and in the more demanding task of contemplation, is fundamental to the human

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<sup>35</sup> Riesbeck 2016, 78.

<sup>36</sup> *Pol.* 1252a31-34: τὸ μὲν γὰρ δυνάμενον τῇ διανοίᾳ προορᾶν ἄρχον φύσει καὶ δεσπότην φύσει, τὸ δὲ δυνάμενον τῷ σώματι πονεῖν ἀρχόμενον καὶ φύσει δοῦλον. The distinction probably goes back to Plato’s *Statesman* (259c10-d4) on which see El Murr 2019.

<sup>37</sup> *Pol.* 1254b27-31; 1254b39-a2.

good.<sup>38</sup> It is the human task, or function (ἔργον), to exercise reason (λόγος).<sup>39</sup> Reason comes in two varieties, practical and theoretical (*NE* 1139a27); its theoretical exercise is more fundamental to the human good than its practical use, but Aristotle thinks that both exercises of thought, the practical and the theoretical, have intrinsic value for human being. Both are constitutive of the human end, virtue, which has both a practical and a theoretical component.<sup>40</sup> Since virtue is the only thing that has intrinsic value for human beings, and since only activities that have intrinsic value are free, then human virtue, and the cognitive activities it consists in, are the only free activities human beings can engage in.<sup>41</sup> Thus, only a person who is capable of engaging in thought can act freely, and be a free person.<sup>42</sup>

Now, if the human end essentially involves the exercise of thought, both practical and theoretical, then human beings have an interest in exercising, and developing, their thinking capacities.<sup>43</sup> Situations in which human beings who are fit for thinking are denied the opportunity to exercise and develop their thought are thus unjust.<sup>44</sup>

And this explains Aristotle's valuation of political freedom. If one is by nature free, then whatever political rule one is subject to must respect one's freedom.<sup>45</sup> According to Aristotle's first set of definitions of freedom, this implies that a naturally free person must be subject to a kind of rule that takes the citizens' end as having intrinsic value. According to his second definition, this means that political rule must enable, not hinder, the development of human rationality. Let us see now how these requirements can be met at the civic level.

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<sup>38</sup> Cooper 1987, 211: 'The best and happiest life for a human being is a life successfully and effectively led in recognition of the permanent value to a human being of the use of perfected human reason in all its aspects and functions.' See also Irwin 1990. The idea that practical thought prepares and develops the ability to engage in contemplation is put forward at *NE* 1178b5-6 and 1145a6-9; see on this point Cooper 2010, 261 and Inamura 2015, 106-142.

<sup>39</sup> *NE* 1097b22-1098a18, on which see Barney 2008.

<sup>40</sup> Cooper 1987; 2010.

<sup>41</sup> *Met.* 1075a18-22. Kalimtzis 2000, 38, takes the passage to mean that freedom is necessary to bring order in one's soul: I rather see it as ascribing to free persons the activities that are truly necessary, because they are ultimate ends. Kalimtzis' interpretation, however, fits other Aristotelian passages: according to *Pol.* 1326b30-32, for instance, a truly free way of life requires the exercise of the virtue of liberality, ἐλευθεριότης, which slaves are prevented from exercising and developing, as Trott 2013, 19 argues.

<sup>42</sup> Bodéüs 1991, 24; Trott 2013, 118.

<sup>43</sup> Mayhew 1997, 23-24.

<sup>44</sup> Nichols 1991, 33-34; Pellegrin 2017, 194; Keyt and Miller 2021, commenting on *NE* 1160b27-29 and *Pol.* 1337a1-3.

<sup>45</sup> Aristotle thinks political rule is natural, because indispensable for the fulfilment of human nature (*Pol.* 1253a2-3). But he also thinks that, by definition, political rule applies to free men, in contradistinction to mastery (δεσποτεία), which applies to slaves (*Pol.* 1255b18).

## 2) Political Freedom in Aristotle

Political rule must take account of the freedom of the ruled in the two respects just mentioned: it must be at the service of the end that has intrinsic value for human beings, i.e. virtue; it must both recognize and develop their deliberative capacities.<sup>46</sup>

### a) Rule in the Interest of the Ruled

For Aristotle, political rule is, by definition, rule over free people.<sup>47</sup> The only way to rule over free people is to apply rule in their interests. As he puts it in book 8 of the *Politics*:

There is rule in the ruler's interest, and rule in the interest of the ruled, as we said before. The first is despotic, the second applies to free persons.<sup>48</sup>

Treating the ruled as free persons means ruling in their interest. Yet the interest of the ruled is their happiness.<sup>49</sup> Since happiness resides primarily in the exercise of virtue, both practical and contemplative, the aim of political rule is to foster the citizens' virtue. It does so through legislation, which has a pedagogical function: law educates the citizens to virtue.<sup>50</sup> But it can also do this by having the citizens participate in the tasks that define a citizen: deliberating and judging.<sup>51</sup>

### b) Rule by All?

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<sup>46</sup> In the present chapter, I use 'rule' to translate ἀρχή whenever Aristotle resorts to the term to designate the general hierarchical structure of politics (for instance in the opposition between rulers and ruled), which is (at least notionally) oriented towards the good of the ruled; I use 'office' when Aristotle refers to a specific, constitutionally defined role. Finally, I use 'power' to translate κράτος, and more broadly to refer to an agent's (or a group's) capacity to dictate their will to others.

<sup>47</sup> *Pol.* 1255b20.

<sup>48</sup> *Pol.* 1333a3-6 (cf. *Pol.* 1278b32 and 1279a17-21). On this point see Mathie 1987, 60, and Weber 2015, 154.

<sup>49</sup> Morrison 2013; Pellegrin 2017, 204. For Weber 2015, 203, Aristotle insists on political willingness from the citizens because it is a sign of good government, i.e. of rule in the interest of the ruled.

<sup>50</sup> This is the argument of *NE* 10.10 (esp. 1180a14-30). Hitz 2012 argues that only laws on education, especially musical education, foster the citizens' virtue; but the thrust of *NE* 10.10 suggests that laws in general habituate the citizens to virtuous action.

<sup>51</sup> *Pol.* 1275b18-21.

For Aristotle political rule is also, by definition, rule over equals.<sup>52</sup> People who pass the test to count as naturally free are *prima facie* sufficiently equal in their deliberative capacities to be entitled to rule and hold office, either collectively or by turn.<sup>53</sup> When deliberative capacities are equal, it is a matter of justice that all participate in the political functions that call for deliberation.<sup>54</sup> Citizens who are denied access to these functions are treated like slaves, which is unjust; they are deprived of a good, the opportunity to exercise virtue in the political field.<sup>55</sup> But they are also prevented from *developing* their virtue: political participation enhances one's understanding of civic affairs, thus contributing to the acquisition of practical wisdom.<sup>56</sup>

Entitlement to political participation, however, comes in degrees. Aristotle recognizes that, if an individual of outstanding virtue were to appear in the political community and outweigh the deliberative capacities of all others, then the regime would have to become a monarchy.<sup>57</sup> As long as the rule of such a monarch would be exercised in the interest of the citizens, the latter would still be treated as free people, i.e. as human beings who are entitled to live in a regime that fosters their capacity to reach and exercise virtue.<sup>58</sup> The multitude of the citizens are entitled to rule collectively (by engaging in deliberating and judging) only to the extent that they do so better than any other group or individual.<sup>59</sup> In the same way, ordinary citizens are entitled to hold office only if they do so better than others.

Thus, political rule for Aristotle is compatible with different degrees of citizen participation: holding office or deliberating in the assembly or courts helps develop one's practical wisdom, but political life has other ways of fostering the citizens' virtue, which remain even if the citizens do not

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<sup>52</sup> *Pol.* 1255b20.

<sup>53</sup> *Pol.* 1261a30-34.

<sup>54</sup> *Pol.* 1325b7-8; 1332b16-29. The injustice is both done to the city (since it is deprived of capable deliberators) and, presumably, to the deliberators themselves (who miss the opportunity to exercise a political function that is both an honor and, more importantly, an occasion to develop their practical thinking; see on this point Riesbeck 2016, 155).

<sup>55</sup> 1274a17-18; 1295b19-22.

<sup>56</sup> *Pol.* 1280a31-34: the good life requires living according to one's deliberative choice, which is presumably developed and exercised by political participation; see on this point Riesbeck 2016, 176 (also Nichols 1991, 121, and Long 1996, 791). Schofield 1999, 92 convincingly draws attention to 1277a14-16 to make a similar point: 'only rulers can attain completeness of virtue, since only they have the opportunity of exercising practical wisdom, or at any rate of exercising it in its most important sphere, for the good of the whole community.'

<sup>57</sup> *Pol.* 1325b10-12. The rule of such a monarch would either render citizens' participation unnecessary (because his sole rule would be more efficient in teaching them virtue than their own involvement in government), or be compatible with some degree of participation, for instance by lower-order officials as in Plato's *Statesman*.

<sup>58</sup> Mulgan 1970, 98; Accatino 1986, 45.

<sup>59</sup> This is the upshot of the argument at *Pol.* 3.11, as elucidated by Lane 2013. Lane notes (p. 251) that Aristotle there uses ἀρχεῖν, a term which he tends to reserve for office-holders, because the role he ascribes to the people is connected to office-holders: it consists in electing and judging them.



rule or hold office.<sup>60</sup> Treating citizens as free people does not involve giving over the reins of the city to them without distinction.

Similarly, ruling in the interest of the ruled does not mean that the citizens should be free to act as they like: the interest of the ruled (the attainment of virtue, first and foremost) in fact requires a strong measure of political coercion. For Aristotle, human beings never leave the state in which they have to be educated by law.<sup>61</sup> People who are fit for freedom must be under the supervision of the law to reach their own good; paradoxically, it is slaves who can be left free from the law, since they cannot reach the human end anyway.<sup>62</sup>

### 3) Aristotle and Plato on the Positive Value of Freedom

Aristotle's endorsement of political freedom bears obvious connections to Plato's *Laws*. The *Laws* recognizes that people of free status should receive a different political treatment from slaves: in the analogy with medicine the dialogue uses in book 4, the doctor is said to 'teach' his free patients (διδάσκει, 720d6), to 'give [them] an account' (λόγον δίδωσιν, 720c3-5) of their disease and of the treatment he prescribes them. Aristotle knows this text well and alludes to it in the last chapter of the *Nicomachean Ethics*:

Some think that legislators must call [the citizens] to virtue and exhort them to act for the sake of the noble, believing that those who have been decently habituated beforehand will listen; by contrast, legislators should inflict chastisements and penalties onto those who disobey and whose nature is bad; they should even banish those who are incurable. For the decent person, since he lives towards what is noble, will be persuaded by reason and obey it (τῷ λόγῳ πειθαρχήσειν), while the vile man, since he desires pleasure, is chastised by pain, like a beast of burden.<sup>63</sup>

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<sup>60</sup> See for instance Duvall and Dotson 1998, who argue that civic friendship is the primary way in which political life contributes to virtue and happiness.

<sup>61</sup> *NE* 1180a1-4.

<sup>62</sup> *Met.* 1075a17-23.

<sup>63</sup> *NE* 1180a5-12: διόπερ οἶονται τινες τοὺς νομοθετοῦντας δεῖν μὲν παρακαλεῖν ἐπὶ τὴν ἀρετὴν καὶ προτρέπεσθαι τοῦ καλοῦ χάριν, ὡς ἐπακουσομένων τῶν ἐπεικῶ τοῖς ἔθεσι προηγημένων, ἀπειθοῦσι δὲ καὶ ἀφουεστέροις οὖσι κολάσεις τε καὶ τιμωρίας ἐπιτιθέναι, τοὺς δ' ἀνιάτους ὅλως ἐξορίζειν. τὸν μὲν γὰρ ἐπεικὴ πρὸς τὸ καλὸν ζῶντα τῷ λόγῳ πειθαρχήσειν, τὸν δὲ φαῦλον ἡδονῆς ὀρεγόμενον λύπη κολάζεσθαι ὥσπερ ὑποζύγιον.

In Aristotle's rendering, the *Laws* argues that properly educated citizens should be trusted to respond to reason (λόγος). Aristotle does not link this idea to the notion of freedom, as Plato did; but Aristotle's conception of freedom, especially in connection to natural slavery, does associate freedom and the capacity to reason. Free people, for Aristotle, are those who have enough cognitive capacities to deliberate sufficiently well to direct their own lives. Possessing these cognitive capacities enables the same people to also engage in political deliberation, and gives them a title to be treated in a way that fosters their virtue.

This Aristotelian theory of political freedom bears two important differences with Plato. First, Aristotle includes freedom among the defining conditions of politics; second, he gives a more powerful argument than his teacher in favor of popular participation.

The *Laws* already counted freedom among the three targets a legislator should aim at. As I argued in the previous chapter, freedom was presented as a target in the *Laws* insofar as it was equated with self-control (σωφροσύνη). By contrast, Aristotle does not consider freedom to be a *target* of politics: it is rather a constitutive condition of it. Plato knew of such constitutive conditions: as Melissa Lane has amply demonstrated, rule properly understood is always, for him, rule in the interest of the ruled. But Plato did not include freedom among the constitutive conditions of politics. In the same way, Plato did admit (in the *Laws*' medical analogy) that free people are entitled to have their reason cultivated; but he did not *theorize* the relationship between freedom and the cultivation of virtue.

Aristotle does both: he defines freedom as the possession of intrinsic value, which enables him to translate 'rule in the interest of the ruled' into 'rule that respects the freedom of the ruled;' and he makes deliberative capacity the necessary condition for freedom, thus explaining why free people can (and should) cultivate their deliberative virtue. Plato in the *Laws* engaged in a conceptual exploration of ἐλευθερία; Aristotle's concept of freedom in the *Ethics* and *Politics* is more clearly delineated.<sup>64</sup>

The second difference between Aristotle's and Plato's notions of political freedom concerns the kind of virtue they see free people as capable of cultivating. For Plato, fostering the citizens'

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<sup>64</sup> Aristotle may well have benefitted, however, from the *Laws*' conceptual exploration of ἐλευθερία: the version of freedom he defends bears traits that fit the aristocratic ideal of 'liberality.' It is made of activities that are engaged in for their own sake, of the kind an aristocrat would practice (think of the exercise of φρόνησις). On the aristocratic overtones of Aristotelian freedom see Keyt and Miller 2021, 129-133.

reason means fighting against their ignorance (*ἀμαθία*), thus developing their self-control (*σωφροσύνη*). As chapter 4 tried to show, legislative prelates fulfil that role by filling the citizens' souls with true beliefs. For Aristotle, however, politics cultivate the citizens' reason for the sake of bringing them closer to practical wisdom (*φρόνησις*), the virtue of deliberation.<sup>65</sup> Deliberation is exercised in action (*NE* 1143a6-18), whereas ignorance can be reduced even if the citizens remain politically passive. Aristotle's theory of freedom thus yields a more powerful argument for popular participation than Plato's *Laws*.

This concludes our survey of Aristotle's positive (i.e. appreciative) view of freedom, especially in its political instantiation. Free activities are those that have intrinsic value; free persons are those who are fit to engage in such activities. The exercise of thought, both theoretical and practical, is the paradigmatic free activity. Individuals who can exercise thought should therefore be considered to be capable of engaging in activities that have intrinsic value, and thus to have intrinsic value themselves. If rule is necessary (as Aristotle thinks it is), it must be directed to their interest, i.e. enable them to exercise and develop their virtue. One essential way to do so is to involve them in political deliberation. But free people do not possess an overriding claim to political participation: a superlatively virtuous individual would bring ordinary citizens closer to virtue than they would themselves by participating. Freedom does not mean either that the citizens should be free from coercion: on the contrary, legislative constraints are necessary for them to reach their intrinsically valuable end, namely virtue. It is on these two counts that democrats, according to Aristotle, are typically mistaken.

## II – The Democrats' Mistakes About Freedom

Now that we know the extent of Aristotle's endorsement of political freedom, we are in a position to understand his criticism of the democratic valorization of liberty: we have the yardstick with which Aristotle measures the democrats' excess. As I mentioned above, this excess comes not from a wayward desire, but from a mistaken reasoning. Aristotle ascribes to Greek democrats a two-

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<sup>65</sup> For both Plato (in the *Laws*) and Aristotle, of course, politics also fosters character virtue in the citizens.

steps argument.<sup>66</sup> The first step (the premise) is that people of free status, or free birth, possess what it takes to rule, both over the political community and over themselves. The second step (the reasoning proper) translates this assumed capacity to rule into two claims: one to political participation through majority rule, the other to maximal freedom from constraint. In this second part of the chapter, I first lay out Aristotle's rendering of the democrats' premise, before analyzing the reasoning he attributes to them.

## 1) The Democratic Premise

### a) The Democratic Conception of Distributive Justice

Just like Aristotle himself, but in ways that are importantly different, the democrats targeted in the *Ethics* and *Politics* link freedom with personal worth. They ground their political claims on their free status, as Aristotle tells us in the *Nicomachean Ethics*:

Everyone agrees that justice in distribution must occur on the basis of some worth (κατ' ἄξιαν τινά), but people don't all call 'worth' the same thing: the democrats identify it with freedom, the supporters of oligarchy with wealth, some with nobility, and the supporters of aristocracy, with virtue.<sup>67</sup>

Democrats have no wealth, but they have personal freedom; oligarchs have personal freedom and wealth.<sup>68</sup> Each group understandably formulates the strongest claims they can on the basis of their comparative advantage. Citizens who have no other ground for claiming political power than their free status put it forward as the decisive criterion for participation. As Esther Rogan puts it: 'by contrast to the citizens who, on top of freedom, also possess other qualities – such as wealth, virtue, education, or claims to nobility – democrats have nothing but freedom, which leads them to make an excessive use of it.'<sup>69</sup> This use is 'excessive' because freedom, for Aristotle, cannot be adequate

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<sup>66</sup> The mistake Aristotle imputes to democrats seems to concern *all* of them, not only the members of the radical democracies of *Pol.* 4.4, 4.6, and 6.4. The flawed democratic reasoning vitiates the very essence of democracy.

<sup>67</sup> *NE* 1131a25-29.

<sup>68</sup> Freedom is here the criterion of worth, not citizenship itself, as Weed 2007 writes.

<sup>69</sup> Rogan 2018, 196 (my translation). See also Modrak 2018, 252: 'Each class makes a claim on power based on its own characteristics; the many, who are free and poor, make a claim based on the equal distribution of power; the rich, who are also few and often from well-established families, base their claim to an unequal distribution of power relative to their wealth.'

ground for claiming political power: free status alone does not qualify one to rule; it can be usurped by individuals who are not naturally free;<sup>70</sup> and it is no guarantee of competence, which is the main criterion for distributing political power – a point I will deal with in details below (section c).<sup>71</sup>

Thus, democrats are wrong to judge that all those who are free by status should receive the same amount of political goods.<sup>72</sup> Yet the regime they favor is founded on this idea.<sup>73</sup> To quote Esther Rogan again, ‘the democratic conception affirms that all citizens, because they share a common quality, freedom, must receive an identical share of power and honor, in the name of that freedom which they make the absolute criterion of worth or merit.’<sup>74</sup>

## b) How Can a Free Status Justify Claims to Political Power?

We know what demand the democrats formulate: they claim that political power should be distributed on the basis of free status. In order to understand the democrats’ conception of freedom fully, we need to get clear on the links they draw between legal status and political entitlement. How concretely do democrats derive their claim to political power from their free status? I suggest two explanations.

### 1° Status Fetishism in Aristotle's *Politics*

The first explanation involves a version of Aristotle’s own theory of natural slavery. My argument at this point requires a preliminary elucidation of the methodology Aristotle employs in this notorious part of the *Politics*. As Victor Goldschmidt noted long ago, Aristotle does not explicitly rely there on a method he often practices elsewhere, the so-called ‘endoxic method.’<sup>75</sup> The endoxic method is a philosophical approach that addresses problems by accounting for the grain of truth that lies in ‘reputable opinions’ (ἐνδοξία).<sup>76</sup> Aristotle nowhere mentions these ‘reputable opinions’ in

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<sup>70</sup> Cf. *Pol.* 1325b10-12 and 1254b33-34.

<sup>71</sup> *Pol.* 1281b23-25, on which see Muller 1993, 186.

<sup>72</sup> *Pol.* 1280a16-25.

<sup>73</sup> *Pol.* 1301a28-31.

<sup>74</sup> Rogan 2018, 93 (my translation).

<sup>75</sup> Goldschmidt 1973.

<sup>76</sup> Aristotle spells out his conception of ἐνδοξία at *Top.* 100b21-3, on which see Brunschwig 1967, 113-114, and Reinhardt 2015.

his argument about slavery. But this *argumentum e silentio* is not particularly cogent. As Malcolm Schofield remarks, ‘no doubt some elements in the justification articulate ideas other Greeks would readily have shared (e.g. the notion of the psychological inferiority of the natural slave).’<sup>77</sup> Aristotle can well have adopted an endoxic approach without flagging it: as he indicates in the *Nicomachean Ethics*, the endoxic method should be used as much as possible in philosophy.<sup>78</sup> In the case of slavery, an idea which ‘other Greeks would readily have shared’ was the moral inferiority of the slaves and the superiority of their masters.<sup>79</sup> As we saw in Plato’s *Gorgias*, Greek conventions attached moral connotations to legal statuses: the slave was expected to act in a servile way, the free person in a liberal manner. The step from status to nature was easy to make: it was all too convenient for a Greek person of free birth to ascribe these expected moral attitudes to natural qualities or vices; it freed him from the need to prove his superior worth. Aristotle knew of such opinions: in book 1 of the *Politics*, he mentions the common view that slaves tend to be morally unworthy, free people morally good, because of a difference in their birth.<sup>80</sup>

But the notion of virtue, or moral quality (resp. vice) need not even enter the democratic picture. Seeing that some human beings, the slaves, were used as instruments by their masters, could have caused any Greek to think, more or less consciously, that masters ‘naturally’ possessed intrinsic value: a process similar to the naturalization of status studied by Sharon Block for eighteenth-century America.<sup>81</sup> A Greek of free birth holding such belief would then be led to think (once again, more or less consciously) that since his person had intrinsic value, he was entitled to make his voice heard in political decision-making. This, however, requires democrats to toy with the idea of intrinsic value, which is quite a lot to demand from them: few among them, after all, will have done philosophy.

More likely, Aristotle’s democrats think that not having a say in the city’s politics would be tantamount to being treated like slaves, which would *ex hypothesi* be unjust. To quote Malcolm Schofield again: ‘someone who thinks that being free-born entitles him to as big a share in the constitution as anyone else, however wealthy, is not staking his claim either on prospective ability

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<sup>77</sup> Schofield 1990, 6.

<sup>78</sup> *NE* 1145b1-7.

<sup>79</sup> Dover 1974, 114-116.

<sup>80</sup> *Pol.* 1255a33-b3.

<sup>81</sup> Block 2018. Nichols 1991, 127, suggests a similar explanation.

or past performance, but on status.<sup>82</sup> On this reading, the democrats' claim would be based, not on the notion of virtue, but on what I propose to call 'status fetishism.'<sup>83</sup> An individual victim of this illusion would reason as follows: 'since I am defined and recognized as a person of free status, I am entitled to be treated as such in the political arena also. This implies that I should have political power equal to that of any other person of free status: free status does not admit of degrees; and power imbalances put the weaker party in the situation of the slave, whose will is realized conditionally upon matching the will of the stronger party (the master).'<sup>84</sup> Understood in this way, the democrats' claim is a translation of their free status in the political field.<sup>85</sup>

## 2° The Democrats' Nobility

The first explanation I suggest is compatible with a second. The *Politics* passage where Aristotle mentions the idea that free people are of good birth, by contrast to slaves, testifies to a connection between free status and nobility in classical Greek culture. This connection matters especially to democrats: Aristotle compares their claim to political equality with that of the nobles,

since they are close to each other: for people of better birth are more citizens than those of low birth, and nobility is honored by everyone in their own community. Also, it is reasonable that better people come from better people, for nobility is excellence of birth.<sup>86</sup>

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<sup>82</sup> Schofield 1996, 850.

<sup>83</sup> True, *Pol.* 1291b5-6 says that 'everyone lay claim to virtue.' In other words, no one denies their own competence. But this does not mean that, when using their free status to ground their claim to political power, democrats presume that they are the most capable to rule.

<sup>84</sup> I say more below (section II-2-a) on why power imbalances create a situation akin to slavery.

<sup>85</sup> Aristotle's critique of this illusion would thus come close to the warning Frank (2004, 102) sees him as issuing to free people: a free status is not the ultimate entitlement for political participation. In Frank's interpretation (also developed in Frank 2005), it is virtuous civic *activity* that entitles one to participate, which means that one can *become* a legitimate citizen by participating. Although I share Frank's insistence on virtue as the source of political entitlement, I disagree with her denial that, for Aristotle, some people are barred from exercising that virtue for reasons other than political – such as the cognitive deficiencies he ascribes to natural slaves.

<sup>86</sup> 1283a34-36. With most translators and commentators (Barnes, Pellegrin, Aubonnet, Simpson), I read ἐγγύς ἀλλήλων as referring to the similarity of the claims, not to the mutual sympathy of the two social groups. On nobility as excellence of birth, see also Περὶ εὐγενείας, frg. R3 92 and R2 85 Ross.

Free people and nobles are ‘close to each other,’ because their claims to political participation rely on the same idea: free or noble birth entitles one to a share of political power, since it is related to excellence. Let us see how.

In Greek city-states, citizenship was primarily a matter of birth, i.e. lineage.<sup>87</sup> This explains the Aristotelian notion that ‘people of better birth are more citizens’ than others. It also creates a link between citizenship and nobility. In Athens, the aristocratic ideology of noble birth had been appropriated by the democracy, especially through the myth of autochthony: all Athenian citizens were noble, since they could trace their lineage to the Attic soil.<sup>88</sup> Aristotle was well aware of this idea: in the *Rhetoric*, he takes autochthony as the prime example of nobility.<sup>89</sup> Since every Athenian could claim ancient lineage, he could also claim what the nobles had traditionally considered to be their privilege: moral excellence and its consequence, political prominence.<sup>90</sup> Since archaic times, good birth had been used to legitimize claims to political power; but once all Athenians of free birth, on the basis of the autochthony myth, could conceive of themselves as well-born, they could also adopt the traditional pretensions of the nobles and claim power.<sup>91</sup> A further step in this direction was made when, after the Persian Wars, the valor thought to have been demonstrated by each and every citizen was ascribed to a common origin.<sup>92</sup> This gave rise to what J. Ober takes to constitute the first tenet of Athenian democratic ideology: ‘a belief in the autochthonous nature of the Athenians, their innate intellectual superiority vis-à-vis all other peoples, and the necessity of maintaining the exclusivity of the citizenry.’<sup>93</sup> Aristotle’s democrats are probably modelled after the Athenians here, and claim political excellence on the basis of their good birth.<sup>94</sup>

Here again, however, we need not involve the notion of virtue or excellence in the democratic picture. Free Athenians could also claim political power as something *owed* to their noble origin. Aristotle seems to be aware of this possibility: he recognizes that ‘nobility is honored (τίμιος) by everyone in their own community’ (1283a35). For Aristotle himself, good birth is

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<sup>87</sup> Walter 1993. Blok 2017 documents this for Athens.

<sup>88</sup> Fouchar 1997, 184-185; Loraux 2000, 34. The *Menexenus* gives a clear expression of this idea (238e1-239a5).

<sup>89</sup> 1360b30-31.

<sup>90</sup> Raaflaub 2004, 245-246.

<sup>91</sup> Caire 2016, 166-170.

<sup>92</sup> Poddighe 2014, 306-313.

<sup>93</sup> Ober 1996, 149.

<sup>94</sup> Schwartzberg 2016, 736.



honorable only if it is paired with virtue;<sup>95</sup> but democrats need not share this view, and can see it as normal that noble people such as themselves should receive political power.<sup>96</sup> This gives us a second explanation for the democrats' claim to political power: birth fetishism, so to speak, on top of status fetishism.

Of the two explanations, free status seems to have more weight than good birth. It is freedom, i.e. free status, that Aristotelian democrats put forward as a source of worth or merit ( $\alpha\lambda\iota\alpha$ ); good birth is a rationale they adduce to bolster their claim. The rationale would be dangerous if good birth admitted of degrees: well-born aristocrats would then be entitled to claim power. Aristotelian democrats explicitly reject the 'geometric' distribution of power this would lead to. They can only accept good birth as a criterion if it does not come in degrees; but in that case, it yields the same conclusion as an insistence on free status as the ultimate title for receiving political power. A sufficiently good birth may be required to be granted free status; but once one has passed that threshold, one is a citizen to a degree equal to any other. This must be the case if Aristotelian defend, as they do, an arithmetic distribution of power.

### c) Why Free Status Cannot Ground Claims to Political Power

I have adduced evidence to suggest that Aristotle sees the democrats' claim to power as coming from two related sources: their free status, and their good birth. Aristotle links both free status and good birth to virtue, i.e. moral and political excellence; but the democrats need not. Free status or good birth could also be seen to ground political claims in and of themselves. I have also argued that the democrats set more store by free status than good birth. In what follows, therefore, I focus on the wrongness of the democrats' insistence on the political importance of free status.

Democrats stake out their participation in communal decision-making on the basis of their free status. Yet for Aristotle, possessing free status does not sufficiently justify political participation. Aristotle recognizes two criteria for the distribution of political roles.<sup>97</sup> The first and weightier one is

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<sup>95</sup> *NE* 1124a25 and 1124b21-23. The justification for the idea that a virtuous person should receive honor if he is also well-born seems to be that good birth, like wealth, gives opportunity to exercise virtue on a grander scale (see on this point Cooper 1985).

<sup>96</sup> 1283a34-36 indicates that good birth comes in degree; since it is the basis of citizenship, citizenship itself must also come in degrees. But people of equally free birth (e.g. Athenians who have no foreign ancestors) are equally entitled to political power, and this is what matters to the democrats.

<sup>97</sup> I follow here Keyt 1991.

virtue: the more one has the personal virtues to exercise an office well, the more reasons one has to receive it. The second is contribution: office is not only a tool to be used virtuously, but also an external good, since it is a form of honor; it can therefore serve to reward individuals or groups who make a worthy contribution to the city.<sup>98</sup> But free status fits neither of these two criteria. To see why, we need to delve briefly into Aristotle's conception of distributive justice.

In the *Nicomachean Ethics*, Aristotle distinguishes between universal justice, which he defines as 'complete excellence in relation to another person,' and special justice, the virtue whose corresponding vice is graspingness (*πλεονεξία*).<sup>99</sup> Special justice is further divided into distributive justice, rectificatory justice, and justice in exchange.<sup>100</sup> Aristotle defines distributive justice as 'the one involved in the distribution of honor, or wealth, or the other goods that are divisible among the members of the political community.'<sup>101</sup> On this picture, the city is conceived as producing a certain amount of goods of different kinds, most prominently honor and wealth, which are to be distributed among the citizens. As Aristotle explains a few lines below, distributive justice implies at least four terms, two shares and two individuals to receive them.<sup>102</sup> Distributive justice consists in making shares of the goods produced by the city (esp. honor and wealth) and giving them to its members. For the distribution to be just, the ratio between the worth of the two shares, on the one hand, and the ratio between the worth of the two recipients, on the other, must be equal.<sup>103</sup> Distributive justice, therefore, always works with the concept of worth (*ἀξία*) in order to assess both the value of the goods to be distributed, and the value of the would-be recipients.<sup>104</sup> The problem at heart of distributive justice is that people, according to Aristotle, have different conceptions of *ἀξία*, as we saw above:

Everyone agrees that justice in distribution must occur on the basis of some worth (*κατ' ἀξίαν τινά*), but people don't all call 'worth' the same thing: the democrats

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<sup>98</sup> Miller 1996, 112: 'Aristotle gives every indication that he regards the contribution argument schema as formally valid.' See also Accatino 1986, 46-49.

<sup>99</sup> *NE* 1129b25-27 (on universal justice) and *NE* 1129a32-3 (distinction between universal and special justice).

<sup>100</sup> *NE* 1130b30-1131a1 (distributive and rectificatory justice) and *NE* 1132b21-23 (justice in exchange). On Aristotle's concept of justice see Salomon 1937; Hamburger 1951; Trude 1955; Von Leyden 1985; Kraut 2004, 98-177.

<sup>101</sup> *NE* 1130b31-32.

<sup>102</sup> *NE* 1131a15-18.

<sup>103</sup> *NE* 1131a20-24.

<sup>104</sup> *NE* 1131a24-25.

identify it with freedom, the supporters of oligarchy with wealth, some with nobility, and the supporters of aristocracy, with virtue.<sup>105</sup>

All parties share the same *concept* of distributive justice, but they hold different *conceptions* of it.<sup>106</sup> In oligarchies, one's ἀξία is entirely determined by one's fortune, while in democracy ἀξία is conceived as originating from, and consisting in, one's free status.<sup>107</sup> Consistently with these conceptions of distributive justice, oligarchy resorts to geometric equality to divide wealth and honor (each citizen receives a share of these goods proportionate to his wealth), while democracy applies a strict arithmetical equality (every person of free status receives an equal amount of wealth and honor; free status does not come in degrees).<sup>108</sup>

Aristotle criticizes both the oligarchic and the democratic conceptions of distributive justice, on account of their mistaken understanding of ἀξία.<sup>109</sup> For Aristotle, one's ἀξία should be measured primarily by the contribution one makes to the end of the political community, namely the good life.<sup>110</sup> Since the good life, for a city as well as for an individual, amounts to the virtuous life, those who contribute the most are those who bring the greatest share of virtue to their community.<sup>111</sup> Aristotle is quite explicit on this point:

The political community exists for the sake of fine actions, and not for the sake of living together. That is why those who contribute the most to such a community have a larger share in the city than those who are equal or superior to them in terms of freedom and lineage, but inferior to them in terms of political virtue, or than those who are superior to them in terms of wealth, but inferior in terms of virtue.<sup>112</sup>

Those who have the greatest claim to contribute to the city's ethical life are the virtuous: 'with regard to the good life, education and virtue would lay the most just claim to rule; not wealth or free status or good birth.'<sup>113</sup>

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<sup>105</sup> *NE* 1131a25-29.

<sup>106</sup> The Rawlsian terminology is helpfully used by Keyt 1991.

<sup>107</sup> *Pol.* 1280a16-25.

<sup>108</sup> On geometric vs. arithmetic equality in the *Politics* see Modrak 2018, 246

<sup>109</sup> *Pol.* 1280a13-16.

<sup>110</sup> *Pol.* 1280a25-32.

<sup>111</sup> *Pol.* 1323b29-31. See also 1288a33: 'the best city is necessarily the one administered by the best people.'

<sup>112</sup> *Pol.* 1280b39-1281a8. See also the flute analogy at 1281b30-32.

<sup>113</sup> *Pol.* 1283a24-26.

This does not mean, however, that rich or free people of inferior virtue should receive no political goods at all. In particular, the rich seem to keep a quite powerful claim, independently of their hypothetic virtue. For since mere life (τὸ ζῆν) is required in order to be able to enjoy the good life, and since the rich make an essential contribution to the existence of the city by providing it with financial resources, they are in a way right to ask for a retribution of their superior participation to the city's existence.<sup>114</sup> Free people, too, are recognized the partial justice of their claim. Aristotle gives them credit in *Politics* 3.12:

It is with some reason that the noble, the free and the rich are in dispute for honor. For there must be free people, and people paying taxes, since the city could not be made only of poor people, nor of slaves. But if there is a need for those categories, it is evident that there is also a need for justice and political virtue, since without them the city could not be administered.<sup>115</sup>

The rich contribute to the city by paying taxes. They also contribute, as a later passage indicates, by gifting the city with their reputed greater trustworthiness.<sup>116</sup> As to people of free birth, they contribute to the city by providing it with a free population; and as we noted above, they can also claim to contribute the quality of their lineage.

The free citizens' claims, however, are weak: they cannot ground their demand for political power. First, they fail to provide a metrics of ἀξία independent from virtue. For Aristotle, a contribution in terms of free population is only valuable if the free population in question fosters the city's virtue.<sup>117</sup> Aristotle thinks it actually does, in terms of deliberation and civic friendship. As he famously argues in *Politics* 3.11, free people have a claim to deliberative virtue provided they are not too vicious. Free people are also essential to the city's good life because they engage in civic friendship, a mutual concern for their fellow citizens' virtue that is crucial for the city to flourish.<sup>118</sup>

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<sup>114</sup> *Pol.* 1280a25-31. In Athens as in most Greek cities, the rich were, with the metics, the only category to pay direct taxes (Ober 2014, 507-509).

<sup>115</sup> *Pol.* 1283a16-22.

<sup>116</sup> *Pol.* 1283a31-33.

<sup>117</sup> The free population's claim cannot be based on the notion that they make a crucial contribution to the city's material life: slaves make a far greater one, since they can be as technically skilled than free persons (*Pol.* 1327b27-29; see on this point Heath 2008, 246-247).

<sup>118</sup> *Pol.* 1280a40-b5; I follow Cooper 1990 and 2010 in identifying the concern for others' morality that Aristotle mentions in this passage with what he calls, at *NE* 1167b2-3, φιλία πολιτική. Annas 1990 denies this, on the grounds that φιλία, for Aristotle, cannot be stretched so far as to extent to all of one's fellow-citizens. But Annas herself admits that Aristotle's advantage-friendship can be had with many people (p. 248). She does not comment on *NE* 1167a22-b16, where Aristotle

Aristotle recognizes that the multitude can claim political goods on these two grounds (deliberative ability and the capacity to engage in civic friendship); but this amounts to basing their claim on their virtue.<sup>119</sup> Free status and free birth, in themselves, are no adequate ground to claim political power.

Second, political power cannot be seen only as a good to be distributed to recompense one's contribution to the city, as the democrats do: it is not only a backward-looking reward, but also (and primarily) a forward-looking instrument. It is, to be sure, a political good that can be used as a reward: it belongs to the genus of honor (τιμή), one of the most important external goods for Aristotle.<sup>120</sup> Honor is a good because it is a token of one's worth, hence pleasurable.<sup>121</sup> But political power is primarily an instrument to advance the community's good: offices (ἀρχαί) for Aristotle are needed in each and every community to organize the activity of its various members toward their common good;<sup>122</sup> they are best given to those of superior virtue, who can direct these activities most competently.<sup>123</sup> Even if people of free status make a valuable contribution to the city by fostering civic friendship, or the rich by paying taxes, offices should not be thought of as appropriate rewards for them.<sup>124</sup> If these groups want honor in compensation for their contribution, other forms of recognition (τιμαί) exist in the Greek city.<sup>125</sup> Giving ἀρχή as a reward for those who have made a valuable contribution to the city but are unfit for office would dangerously undermine the city's ability to reach its good.<sup>126</sup>

Unfortunately, it will often be difficult to avoid giving ἀρχή as a τιμή. Civic strife (στάσις) always looms in the background of Aristotle's *Politics*, and its threat makes itself felt heavily in this

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equates φίλια πολιτική with ὁμόνοια, which requires mutual knowledge but not familiarity. For a defense of Cooper along different lines see Pellegrin 2017, 179-183.

<sup>119</sup> *Contra* Bates 2003, 149, for whom the city rewards the free people because without them it could simply not exist. What would not exist would be the city as a moral community: the free people can only be rewarded for their contribution to such a community, as Pellegrin 2017, 235 argues.

<sup>120</sup> *NE* 1123b20-21 and *Pol.* 1281a31. In *NE* 1163b4-6, Aristotle defines honor as 'a prize for one's virtue or act of beneficence.' He adds: 'the person who does not contribute to the common good receives no honor; for what is common is given to the person who benefits the city, and honor is something common.' On office as a conventional honor in Greek culture, and the reflection of this notion in Aristotle's *Politics*, see Mulgan 1977, 80; Schofield 1996; Roberts 2000, 365.

<sup>121</sup> *NE* 1095b26-28 and 1170a25-b8, on which see Rogers 1993, 359-360, and Sokolowski 2014.

<sup>122</sup> *Pol.* 1254a28-33.

<sup>123</sup> *Pol.* 1254a24-28.

<sup>124</sup> The case of deliberative ability is different: it grounds the people's claim to deliberative power, though not as a reward, but as a forward-looking distribution of a political instrument. Cf. Garver 2011, 90: 'even if the best should rule, ruling is not a reward for being good.'

<sup>125</sup> In *Rhet.* 1361a34--37, Aristotle gives the following list: 'sacrifices, monuments in poetry or prose, gifts of honor, sanctuaries, front seats, tombs, images, public meals, the barbaric honors such as prostration and getting out of the way, and gifts held to be honorific in each community.' Conspicuous in their absence are ἀρχαί.

<sup>126</sup> Mathie 1987, 65: 'Aristotle does not name office as one of the goods to be divided according to distributive justice.'

matter. The virtuous cannot monopolize political offices, for ‘when the same people always rule, the rest must necessarily be deprived of honors.’<sup>127</sup> And when people (especially rich citizens, according to Aristotle) think they do not receive their due share of honor, they engage in civic strife.<sup>128</sup> Ἀρχή will therefore have to be given, sometimes at least, to people who have made a contribution to civic life (financially, in the case of the wealthy; in terms of a free population, for the poor) even when they are unfit for office. As it happens, Aristotle thinks that rich people tend to be better educated; they also tend to be fit for office.<sup>129</sup> As to free but poor people, they can be competent deliberators and judges in the conditions specified in *Politics* 3.11. This does not mean, however, that Aristotle admits the justness of the claims made by rich or free individuals *as they formulate them*.

The conclusion, for our purposes, is that the democrats’ claims to political participation are weaker than they think. A free status, in and of itself, is no guarantee of virtue, either with a view to deliberation or civic friendship.<sup>130</sup> Neither is good birth.<sup>131</sup> Ἀρχή in Aristotle’s extended sense (including magistracies and the roles of deliberator and juror) should not be seen primarily as a reward for past contributions, but as a forward-looking instrument to further the city’s good. Aristotle’s democrats are thus wrong to claim political power on these bases. Once we see the democratic premise as false, we can better understand why the reasoning they derive from it is also flawed.

## 2) The Democratic Reasoning

The passage where Aristotle most directly engages with the democratic conception of freedom is *Politics* 6.2. He there intends to give ‘the principles’ (ἀξιώματα) of democracy.<sup>132</sup> He does so in a long passage which is worth quoting in full:

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<sup>127</sup> *Pol.* 1281a31-32.

<sup>128</sup> *Pol.* 1266b38-1267a1. Aristotle explains in *Pol.* 1318b16-17 that the poor people of free birth are more interested by material gain than by honor. See on this point Wheeler 1951, 162.

<sup>129</sup> *Pol.* 1293b34.

<sup>130</sup> Schofield 1990 argues that this is the critical result of Aristotle’s theory of natural slavery: not all those who are free by status ‘deserve’ such freedom; they need to prove that they have the required intellectual capacities. See also Bodéüs 1996, 36-39.

<sup>131</sup> *Pol.* 1255b1-3 and 1271a20. On this point see Schütrumpf 1980, 176.

<sup>132</sup> *Pol.* 1317a39.

The underlying principle of the democratic regime is freedom. For this is what people often say, that only in this regime do people share in freedom; for every democracy, they say, aims at freedom. But freedom has two components: the first is to be ruled and to rule in turn. For democratic justice is arithmetic, and not according to worth; and since this is justice, it is necessary that the multitude should be decisive, and that whatever they see fit is implemented and taken to be just. For they say that each of the citizens should have the same share. It therefore happens that in democracies, the poor are more decisive than the rich; for they are more numerous, and what is decisive is what the majority decides. This is the first element of freedom, which all democrats posit as the defining mark of the regime. The second element is to live as one wishes. For they say that this is the result of freedom, since it is the slave who does not live as he wishes. This is, then, the second defining mark of democracy. From there came the desire not to be ruled, especially to be ruled by no one; and if not, at least to be ruled in turn. This is how this second element contributes to freedom on the basis of equality.<sup>133</sup>

This passage, our key text to understand Aristotle's criticism of democratic freedom, is echoed in three other places in the corpus, which testify to its centrality while adding to the picture. In *Politics* 5.9, Aristotle analyses how regimes that are careless about the education of the young cause their own downfall. After dealing with the oligarchic version of that mistake, he moves to its democratic counterpart:

In the democracies that seem to be most democratic, the contrary of what is beneficial has been established; and the cause of this is that people define freedom badly. For there are two things by which democracy seems to be defined: that the majority is decisive, and freedom. For equality seems to be justice, and equality means that what the people decide is decisive. And freedom is to do whatever one wants; so that each one in such democracies lives as he wants, 'to his own liking' as Euripides says. But this is vile: for one should not think that living for the regime is slavery, but rather salvation.<sup>134</sup>

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<sup>133</sup> *Pol.* 1317a40-1317b16: ὑπόθεσις μὲν οὖν τῆς δημοκρατικῆς πολιτείας ἐλευθερία (τοῦτο γὰρ λέγειν εἰώθασιν, ὡς ἐν μόνῃ τῇ πολιτείᾳ ταύτῃ μετέχοντας ἐλευθερίας: τοῦτου γὰρ στοχάζεσθαι φασι πάσαν δημοκρατίαν) ἐλευθερίας δὲ ἐν μὲν τὸ ἐν μέρει ἄρχεσθαι καὶ ἄρχειν. καὶ γὰρ τὸ δίκαιον τὸ δημοτικὸν τὸ ἴσον ἔχειν ἐστὶ κατὰ ἀριθμὸν ἀλλὰ μὴ κατ' ἀξίαν, τοῦτου δ' ὄντος τοῦ δικαίου τὸ πλῆθος ἀναγκαῖον εἶναι κύριον, καὶ ὃ τι ἂν δόξῃ τοῖς πλείοσι, τοῦτ' εἶναι τέλος καὶ τοῦτ' εἶναι τὸ δίκαιον: φασι γὰρ δεῖν ἴσον ἔχειν ἕκαστον τῶν πολιτῶν: ὥστε ἐν ταῖς δημοκρατίαις συμβαίνει κυριωτέρους εἶναι τοὺς ἀπόρους τῶν εὐπόρων: πλείους γὰρ εἰσι, κύριον δὲ τὸ τοῖς πλείοσι δόξαν. ἐν μὲν οὖν τῆς ἐλευθερίας σημεῖον τοῦτο, ὃν τίθενται πάντες οἱ δημοτικοὶ τῆς πολιτείας ὄρον: ἐν δὲ τὸ ζῆν ὡς βούλεται τις. τοῦτο γὰρ τῆς ἐλευθερίας ἔργον εἶναι φασι, εἴπερ τοῦ δουλεύοντος τὸ ζῆν μὴ ὡς βούλεται. τῆς μὲν οὖν δημοκρατίας ὄρος οὗτος δεύτερος: ἐντεῦθεν δ' ἐλήλυθε τὸ μὴ ἄρχεσθαι, μάλιστα μὲν ὑπὸ μηθενός, εἰ δὲ μὴ, κατὰ μέρος, καὶ συμβάλλεται ταύτῃ πρὸς τὴν ἐλευθερίαν τὴν κατὰ τὸ ἴσον.

<sup>134</sup> 1310a25-36.

We find here the two elements into which the 6.2 passage analyzed freedom. The crucial difference is that, in the 5.9 text, only the second element is linked with freedom: majority rule, the first element of freedom in 6.2, is paired in 5.9 with equality. We will have to account for this fact in our interpretation of 6.2.

The second echo of 6.2 is to be found in *Nicomachean Ethics* 8.12. Aristotle lists the forms of friendship that correspond to different political regimes and different forms of family life. He establishes an analogy between democracy and households that are loosely organized:

Democracy is to be found in houses with no masters (for there, all are on an equal footing), and in those in which the ruler is weak, and everyone has complete freedom (ἐξουσία).<sup>135</sup>

Here the two elements of democracy reappear: arithmetic equality, which is linked to the absence of subjection; and private freedom. Here again, the first component of 6.2 is put in terms of equality.

The last echo of *Pol.* 6.2 makes itself heard in the *Rhetoric*. Just as *Pol.* 6.2 made freedom the ‘underlying principle’ (ὑπόθεσις) of democracy, what the regime ‘aims at’ (στοχάζεσθαι), *Rhetoric* 1.8 gives freedom as the ‘end’ (τέλος) of democracy.<sup>136</sup> But there are various ways in which a person or a regime can relate to an end: they may want to produce it, or to honor it.<sup>137</sup> We therefore have to make clear democracy’s relationship to freedom. To do so, let us take the two components of democratic freedom in turn, as they are listed in 6.2. Particular attention will be given to the ways in which democrats derive their two claims from their general premise, that having free status is in itself valuable.

#### a) Democratic Freedom as Equal Participation

The first element of democratic freedom, according to *Politics* 6.2, is the equal participation of each and every citizen in ἀρχή (in Aristotle's extended sense, which includes deliberation and judgment). Citizens share offices: no one is more of an office-holder, or for a longer time, than any

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<sup>135</sup> 1161a6-9.

<sup>136</sup> *Rhet.* 1366a4.

<sup>137</sup> On this distinction see Pettit 1989; McNaughton and Rawling 1992. Aristotle would seem to endorse the distinction: courage does not require one to cause wars in order to maximize one's opportunities to prove one's virtue (*NE* 1177b9-12).



other. But they also weigh equally in matters of vote, be it deliberation or judgment. Elsewhere in the *Politics*, Aristotle indicates that he takes the latter form of popular participation (deliberating and judging) to be more decisive than the first (the holding of office): he praises Solon for having given the people the power to elect office-holders (which is a form of deliberation) and to judge them (by holding them to account). Without these powers, says Aristotle, 'the people would be enslaved and hostile.'<sup>138</sup>

Why is popular participation essential to democratic freedom? Aristotle, as we saw, defines slavery in terms of 'living for another.'<sup>139</sup> If the people had no say in political decision-making, they would 'live for another:' there would be no reason to think that their interests would be furthered by the rulers. Unless these are of such outstanding virtue that they deserve to rule unaccountably, the people have a claim to take their fate into their own hands. Nothing ensures that there existed, in Solonian Athens, such reliable rulers. In order to have their freedom respected, the people needed to have a say in decision-making.

This is at least what Aristotle, it seems, would say on the people's behalf. But the democrats themselves might see it differently. They could take the absence of political control *as such* to be akin to slavery. In fact, I argue that this is the most plausible interpretation of the first component of freedom in *Politics* 6.2. In the master-slave relationship, the slave is defined by his absence of control; the master is he who has all control. As Aristotle himself knows, even when a master acts in his slave's interest, he does so only 'by accident.' It is the master's will, ultimately, that is realized; his slave's interest is advanced only if it happens to coincide with his own.<sup>140</sup> In the political field, therefore, any power imbalance would put the stronger party in a position that evokes mastery: the will of that stronger party would have a greater chance of being realized than that of the other members of the community. For that reason, and because free status does not come in degrees, treating citizens as free persons means letting their will be equally decisive.<sup>141</sup> As a whole, the people are free when, like in Solonian Athens, they elect office-holders and holds them accountable; but as individuals, members of the people are free when each of them is as far from slavery in the political

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<sup>138</sup> *Pol.* 1274a15-21, on which see Lane 2013 and 2016.

<sup>139</sup> *Rhet.* 1367a33 and *Met.* 982b24-26.

<sup>140</sup> *Pol.* 1278b35-36.

<sup>141</sup> Aristotle's democrats thus embrace what Dworkin (2002, 185-187) calls a 'detached' as opposed to a 'dependent' defence of political equality: they see it as valuable in itself, above and beyond its consequences.

field as he is in the legal domain: when each of them enjoys as much decisional power as any other free person.<sup>142</sup>

The interpretation of the first component of democratic freedom I am suggesting has two advantages. First, it fits the *NE* 8.12 passage cited above: when all are ‘on an equal footing’, there is no master, since every citizen has maximal political control, i.e. as much as any other free person.<sup>143</sup> Second, it takes seriously Aristotle’s insistence on the fact that, for democrats, free status is the essential criterion for distributing power.<sup>144</sup> The basis of the first component of democratic freedom is therefore the need to honor free status by giving political power to those who have it: it is democratic status fetishism.<sup>145</sup>

My view has one important rival: the picture defended by David Keyt and Fred Miller in a series of articles. For Keyt and Miller, political equality is instrumental to the maximization of personal freedom, the second component of the democratic conception of freedom.<sup>146</sup> In their view, the democrats’ only motivation is to ‘live as they wish,’ i.e. the second component of freedom; by giving equal power to all citizens, democracy ensures that this desire is maximally fulfilled in the city.

This interpretation, however, is based on a reading of *Pol.* 1317a40-1317b16 that cannot be sustained. It involves seeing the second component of democratic freedom as the only origin of the first. Keyt and Miller translate *συμβάλλεται* at *Pol.* 1317b16 as ‘gives rise to,’ but the verb rather means ‘to contribute.’<sup>147</sup> As Richard Mulgan rightly notes, freedom is the ‘underlying principle’ of democracy not only because it is the outcome democracy aims at producing (in the second component): it also serves as the criterion used for distributing political power (in the first component).<sup>148</sup> To put it differently, democracy does not only maximize freedom; it also honors it by satisfying the claims made on the basis of free status.<sup>149</sup>

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<sup>142</sup> Lintott 2018, 170: this probably rules out property qualifications, and implies the use of the lot.

<sup>143</sup> See also 1291b34-37.

<sup>144</sup> *NE* 1131a25-29; *Pol.* 1280a23-25, 1294a19-21, 1301a30-31. Cf. Skultety 2019, 40.

<sup>145</sup> Strauss 1978, 35: ‘That democracy did not allow the claim to freedom of man as man but of freeman as freeman.’ But Strauss is wrong, in my view, to add: ‘and in the last analysis of men who are by nature freemen.’

<sup>146</sup> Keyt and Miller 2021, 127. See also Keyt 2018, 230. Keyt and Miller’s view is shared by other interpreters: Modrak 2018, 253; Knoll 2009, 90.

<sup>147</sup> Keyt and Miller 2021, 126. This is also how Lindsay 1992, 746, reads the passage.

<sup>148</sup> Mulgan 1970, 96; also Bodéüs 1996, 74. I take Keyt 1991, 244 to defend a similar view.

<sup>149</sup> Walsh 1997, 501, sees the first component of freedom as originating in the democrats’ claim to deliberative virtue (‘a man who shares in rule is recognized as self-possessed; he is allowed to share in deliberation and decision’). This assumes

## b) Democratic Freedom as Private Independence

### 1° Private Independence and Reduction of Interpersonal Rule

The second component of freedom in *Politics* 6.2 and *NE* 8.12, and its only expression in 5.9, is the large personal room for maneuver citizens enjoy. In modern terms, this seems to amount to freedom as non-interference; but Aristotle gives us reasons to think democrats value it as a form of non-domination, or independence. It is the mark of a slave, they say, not to live as he wishes (1317b13). But again, a slave's interests can be *de facto* advanced by his master: the slave can be granted what he wishes, only not *qua* what he wishes; if he obtains it, it is only *qua* what the master wishes.<sup>150</sup> The slave is he whose fate is determined by another; individual democrats want to have their fate determined by no one else than themselves.

The democrats' desire for independence takes the form of a rejection of interpersonal rule. The first thing to notice here is that democrats do not want to do away with laws, but only to abolish, or minimize, the amount of interpersonal rule they are subject to. Why doesn't their desire to 'live as they wish' translate into antinomian tendencies? Aristotle gives an explanation at *NE* 10.10: the law's impersonal rule is not resented when it prescribes what is fitting, whereas even the just and rational order of an office-holder triggers feelings of hatred in the ruled. As Aristotle puts it:

The law has coercive force (*ἀναγκαστικὴν δύναμιν*), being a statement coming from some practical wisdom and intellect (*τινος φρονήσεως καὶ νοῦ*). People hate (*ἐχθαίρουσι*) when their impulses are opposed by men, even if such men do so rightly; but the law is not burdensome when it prescribes what is fitting (*ὁ δὲ νόμος οὐκ ἔστιν ἐπαχθῆς τάττων τὸ ἐπιεικές*). Only in Sparta, or in a few other cities, does the legislator seem to have taken care of education and private conducts (*τροφῆς τε καὶ ἐπιτηδευμάτων*); in most other cities, no one cares about these, and every one lives as he wishes.<sup>151</sup>

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that the democrats link free status or birth with virtue: but as we saw, they can also claim political power as something owed to them because of their status or birth.

<sup>150</sup> *Pol.* 1278b35-36. Aristotle there talks about natural slavery and natural mastery, i.e. in normative terms; but the same applies to actual legal conditions. Podoksik 2010, 224 misses Aristotle's point when stating that "it is quite obvious from [this passage] that the condition of not being a slave indicated the absence of constraints on living one's life as one wishes."

<sup>151</sup> 1180a21-28.

As we shall see below, interpersonal rule is resented because, in the eyes of most people, it smacks of slavery. Sparta constitutes an exception, either because interpersonal rule there is not felt to be burdensome, or because people's concern for civic education overrides their qualms about interpersonal commands. In general, however, human beings resent interpersonal rule, as opposed to the impersonal order of the law.

This psychological fact explains why the democrats of the 6.2 passage want to abolish, not the rule of law, but the rule of office-holders. Ideally, they would want to abolish rule by office-holders, to maximize their own self-determination; but they are faced with the inevitability of political organization, which for Aristotle is a fact of nature.<sup>152</sup> Democrats can only *minimize* the amount of interpersonal coercion imposed on them: they do so by taking turns in ruling, according to the 6.2 passage; but they also achieve this by making rulers 'weak,' according to the *NE* 8.12 text.

This second point often goes unnoticed. Jonathan Barnes, for instance, wondered why in the 6.2 passage Aristotle does not mention the possibility that the democrats would call for a minimal State, i.e. a minimization of magisterial power.<sup>153</sup> Richard Sorabji responded that rule by turn is more efficient to protect freedom as non-interference than a minimal State: a minimal State cannot protect me against my neighbor's spoiling my view by building a wind turbine in his garden.<sup>154</sup> We might add a neo-Republican argument: a minimal State cannot protect individuals from domination in the same way as rule by turn does. For if A threatens B (without even actually interfering with B) because A holds office and B does not, or A is just physically stronger than B, B can threaten to retaliate when she will hold office and enjoy the support of State apparatus. If Aristotle's democrats are intent on reducing domination, as I argue they are, it makes sense for them to call for rule by turn, i.e. not to deprive themselves entirely of the safety provided by rule by turn.

This does not mean, however, that the democrats do not also call for the minimization of interpersonal rule. In fact, our *NE* 8.12 passage shows that Aristotle does associate democracy with minimal magisterial powers. This is consistent with what he has to say about the little importance democracies give to the education of the young: they think it should not be a concern of the state,

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<sup>152</sup> Keyt 1993; Keyt 2018a, 230; Keyt 2018b, 162.

<sup>153</sup> Barnes 1990.

<sup>154</sup> Sorabji 1990.

but leave it to the family; the Spartans see much better into the matter, since they entrust this crucial task to the state.<sup>155</sup> So, against Barnes, Aristotle's democrats do call for a restriction of magisterial power, at least in comparison to Sparta. But, with Sorabji, they probably recognize the necessity for at least some offices to exist, and be exercised in turn, to prevent non-domination. The supervision of education, however, does not count in their eyes as one of these necessary offices.

## 2° The Sources of the Desire for Private Independence

Thus, Aristotle's democrats want both 'weak rulers' and rule by turn. What is still unclear is the origin of the democrats' desire to 'live as they wish.' The first component of freedom originated, I argued, in the democrats' conception of justice, i.e. ultimately in their status fetishism; we still have to see how the second component also derives from it. In what follows, I suggest that the derivation happens via spirit (*θυμός*), although the two other species of desire Aristotle recognizes (rational wish and appetite) might also play a part in the democrats' second claim.<sup>156</sup>

### α – Spirit

The democrats' desire for private independence is directly linked to spirit (*θυμός*). As Aristotle puts it,

A ruling and free disposition comes to all from this capacity: for spirit is desirous of ruling, and refuses any form of subjection.<sup>157</sup>

*Θυμός* is primarily a desire for honor. As such, a person's spirit naturally chafes at the idea that someone else rules over her: first, because rule or office is a form of honor, as we saw (*Pol.* 1281a31); second, because being denied to rule over oneself amounts to being denied the deliberative capacity to do so, which is demeaning. Democrats, who think they possess the worth (*ἄξια*) that entitles them

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<sup>155</sup> *NE* 1180a23-30.

<sup>156</sup> On these three species of desire see *NE* 1111b1; *An.* 414b2.

<sup>157</sup> *Pol.* 1328a6-7: καὶ τὸ ἄρχον δὲ καὶ τὸ ἐλεύθερον ἀπὸ τῆς δυνάμεως ταύτης ὑπάρχει πᾶσιν· ἀρχικὸν γὰρ καὶ ἀήττητον ὁ θυμός.

to rule over the political community, must also think they are entitled to rule themselves. Status fetishism translates into a claim to private independence.

Θυμός is helped in its rejection of interpersonal rule by common Greek perceptions about rule, which equate it with a form of slavery. As Aristotle informs us, many people believe that political rule is akin to rule over slaves; they think that a ruler has to behave like slave masters do, with harshness and anger.<sup>158</sup> In fact, Aristotle alludes to such a conception in *Politics* 6.2 itself: from the fact that slaves are not allowed to live as they wish, democrats conclude that all forms of rule should be abolished, as if they were all similar to slavery.<sup>159</sup> Such a reaction is typical of θυμός: Aristotle tells us in *NE* 7.6 that spirit is prey to appearances; it is inflamed at the mere sight of something that looks like a slight, an act which casts us in a position of subjection.<sup>160</sup>

Spirit is thus the best candidate for being the missing link between status fetishism and the claim to private independence. Because θυμός is victim of appearances, it interprets interpersonal rule as unbearable subjection. This applies to human beings in general, but especially to democrats, who see their free status as the core of their identity. Given the role of free status in the democrats' self-conception, the democrats' θυμός cannot brook political hierarchies. Aristotle thus shares the worries expressed in Plato's *Menexenus* about democratic – especially Athenian – thumetic attachment to freedom.

But the other two forms of human desire Aristotle recognizes, βούλησις and ἐπιθυμία, provide the democrats with other motivations for rejecting interpersonal rule.

β – Appetite

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<sup>158</sup> *Pol.* 1335a27-28 and *NE* 1126a36-b2. See Keyt and Miller 2021, 127: 'Greek democrats regard the interference of others, particularly that of political officials, as akin to slavery.' Aristotle thinks subjection is shameful, but only for the virtuous who knows how to rule himself (for instance the magnanimous person at *NE* 1124b30, or the man of equal temper in *EE* 1131b7-13).

<sup>159</sup> Salkever 1990, 226: 'since slaves live not as they please, free people must live exactly in the opposite manner.' Lintott 2018, 171-172 spots here a paralogism: 'it is a fact that, if one is a slave (P), one does not live as one likes (Q). It does not necessarily follow from this that Q implies P: that, if one does not live as one likes, one is a slave.' Keyt 1999, 199, does not explain why the democrat 'thinks it slavish to be ruled by another.'

<sup>160</sup> *NE* 1149a29-34, explained by Saenz 2018. In non-democratic states, like Sparta, citizens are presumably immune against this thumetic illusion: they may for instance identify so much with the community's goals that they consider obeying to their office-holders as a form of 'acting as one wants.'

The desire for private independence can be fueled by appetite (ἐπιθυμία). Appetite makes us want to satisfy our bodily desires maximally, even at the cost of flouting the social norms that office-holders are meant to enforce; and to do so *securely*, without being dependent on anyone else.<sup>161</sup> Appetite therefore motivates us to minimize the interpersonal coercion we face, and to wish for a status that securely protects us against it: it creates in us a desire for non-domination.

#### γ – Rational Wish

The desire for private independence can finally be rational, i.e. based on the apprehension of non-domination as good. Democrats can share the Aristotelian tenet that whatever is constrained (βία) is contrary to nature, and desire non-domination as excluding constraint, even of a psychological kind.<sup>162</sup> Aristotle is aware that some take any imposition of force to be unjust.<sup>163</sup> After all, he himself admits that happiness is an unimpeded activity.<sup>164</sup>

These reasons apply especially well to interpersonal rule: in and of itself, the law has no power to constrain; it is not an imposition of force. Democrats have therefore a *prima facie* reason to make private independence from interpersonal rule a condition of happiness. This could explain the psychological fact described in *NE* 10.10.

But the democrats' allergy to magisterial commands can also result from another piece of reasoning: democrats can think that in terms of knowledge of the particulars, no one is in a better situation than themselves to make decisions about their own lives. Whereas the law prescribes only what is general, having a claim to truth on that level, office-holders are charged with applying it to

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<sup>161</sup> For Aristotle, 'the many' are driven by their appetites (*NE* 1096b15-16 and 1179b4-20). As Lindsay 1992, 752 notes, Aristotle by comparing 'living as one likes' with the Cyclopes' condition reveals the anti-political, or anti-social, nature of this desire. At *Pol.* 1319b30-32, he indicates that 'a disorderly way of life is more pleasant to the many than moderation.' On independence in pursuing appetitive pleasures see *Rhet.* 1360b15 (happiness is defined as ὁ βίος ὁ μετὰ ἀσφαλείας ἡδιστος). Cf. also *Pol.* 1267a10-12: Aristotle there acknowledges that some people desire pleasures that do not require anyone else's cooperation. On the naturally excessive nature of appetite see *Pol.* 1257b41-1258b5, with the comments of Balot 2001, 34-35. Mulgan 1991 argues that the democrats' desire for freedom ultimately comes from their excessive appetites, without considering the role of θυμός and βούλησις.

<sup>162</sup> *Cael.* 300a23, on which see Keyt 1993, 138.

<sup>163</sup> *Pol.* 1253b22 (of slavery): διόπερ οὐδὲ δίκαιον· βίαιον γάρ.

<sup>164</sup> *NE* 1153b9-11, *Pol.* 1295a35-37. See Muller 1993.

particular cases.<sup>165</sup> This can be felt to be unjust, especially if democrats take their free status as proof of their well-functioning deliberative capacities.<sup>166</sup>

From these three psychological sources, then, democrats desire the minimization of interpersonal rule. I take *θυμός* to provide the best explanation of the second component of their conception of freedom: Aristotelian texts link *θυμός* more directly to the claim to private independence than any other soul-power. Appetite does motivate such a claim, because it seeks unimpeded and secure enjoyment, but the link is more distant; rational wish can also play a role, but only if one ascribes to the democrats relatively elaborate reasonings. Of the three types of human desire Aristotle recognizes, *θυμός* is most closely related to status fetishism; giving it pride of place is consistent with, even required by Aristotle's insistence on the role of status fetishism in democratic claims.<sup>167</sup>

*Θυμός*, possibly supplemented by other desires, motivates the democrats to claim private independence. They thus want to make offices 'weak' and to hold them in turn: they limit offices to what is strictly necessary to protect themselves against domination; but they reject magisterial control over the citizens' private lives *à la* Sparta.

This puts us in a position to understand why, in Aristotle's view, the second component of freedom 'contributes' (*συμβάλλεται*) to the first: the desire to avoid domination motivates democrats to seek equal power in the assembly and the courts. Against Keyt and Miller, I do not take this contribution to be 'a rationale,' in the sense that the first component would lack one: status fetishism already grounds (if mistakenly) the first component of democratic freedom.<sup>168</sup> *Συμβάλλεται* rather means that the second component adds a consideration in favor of the first. This consideration, I argue, is that the power to deliberate and judge (which makes up the first component of democratic freedom) can be a form of *interpersonal* rule: Greek assemblies often deliberated on particular cases, voting decrees to settle them; Greek jurors adjudicated inter-individual disputes. For Aristotle, deliberating and judging are actually forms of office-holding.<sup>169</sup> To minimize the amount of

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<sup>165</sup> *NE* 1180a18-23. On this passage see Yack 1993, 99.

<sup>166</sup> Lindsay 1992, 750: 'because the democrats do not wish self-destruction, they must presume that at least a majority of the freeborn is of sufficient capacity freely to choose the rational course.'

<sup>167</sup> Lindsay 1992, 750: 'for the democrat, the standard by which cities will be guided and judged is the protection and maintenance of the license to which the freeborn are entitled.'

<sup>168</sup> Keyt 2018a, 163; 2018b, 229.

<sup>169</sup> *Pol.* 1275a32.



interpersonal rule they face, Greek democrats also want to exercise deliberative and judicial power themselves.

This concludes our analysis of the democratic reasoning in *Politics* 6.2. I have tried to shed light on the two sub-reasonings in which it is divided, by both tracing their unfolding and locating their ultimate psychological sources. To do so I have used evidence from other passages (*Pol.* 5.9, *NE* 8.12, *Rhet.* 1.5), which sometimes confirm the picture we get from 6.2, sometimes add to it. The upshot is that democrats derive their two claims to freedom (to popular participation and private independence) from their status fetishism. We can now turn to Aristotle's reasons for criticizing the democratic conception of freedom.

### 3) The Flaws in the Democratic Reasoning

For Aristotle, both parts of the democratic conception of freedom are flawed. Let us take his reasons in turn.

#### a) The Flaws in the Democratic Conception of Equal Participation

Democrats believe that each citizen should have an equal share in rule, be it as office-holder, deliberator or juror. This is wrong, for two reasons.

First, it flouts distributive justice. As we saw above, what should dictate the distribution of political roles is competence, primarily; the democrats disregard the competence principle by giving everyone an equal share in ruling.<sup>170</sup> As Aristotle says in *Politics* 7.3,

For people who are similar, what is fair and just is to rule in turn; for there lies equality and similarity (...). But if there exists someone superior both in virtue and in the capacity to do the best actions, it is fair and just to obey him.<sup>171</sup>

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<sup>170</sup> Bodéüs 1996, 31; Pellegrin 2017, 259.

<sup>171</sup> *Pol.* 1325b7-12.

When there are experts in a given political field, it is good that offices be reserved for them, Aristotle thinks.<sup>172</sup> The democratic insistence on sharing office goes against this principle. More generally, it undermines the very notion of office: for an office is defined, beyond the capacity to give orders, as a power to deliberate and judge.<sup>173</sup> For Aristotle, it is precisely the magistrate's function to apply the law to particular cases.<sup>174</sup> If each citizen can always claim to have a say in any given decision, office-holders are prevented from fulfilling this role of theirs.

This is exactly what happens in what Aristotle calls the last, i.e. worst, kind of democracy: when the people are composed mostly of urban craftsmen, they can participate in the assembly on a daily basis, and tend to intervene in every political matter. They are actually invited to do so by demagogues, who know how to sway them. Demagogues invite the people to judge the magistrates' individual decisions after the fact: 'those who accuse office-holders say that the people must judge, and the people is all too glad to step in; so that they abolish all offices.'<sup>175</sup> Offices are abolished, because office-holders have no room for maneuver to make individual judgments; the people always judges in appeal. This causes other damages for the political community: by inviting the people to intervene into the smallest political matters, the demagogues accustom them to participate on a constant basis. They thus weaken the rule of law, and reinforce the rule of decrees.<sup>176</sup> This portrait seems to have had some historical basis, at least for Athens.<sup>177</sup>

A second and related problem in the democratic conception of equal participation is that it leads to majoritarianism. Aristotle explicitly alludes to this in *Politics* 6.2: 'whatever [the multitude] sees fit is implemented and taken to be just.' This second problem is related to the first, because majoritarianism occurs especially in democracies ruled by decrees, i.e. where demagogues have turned the people into a despotic mob.<sup>178</sup> Yet majority rule is, for Aristotle, a bad criterion of justice: a political majority can be supremely wrong; this is often manifest in democracies, when the poor

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<sup>172</sup> *Pol.* 1298a27-28.

<sup>173</sup> *Pol.* 1299a25-26.

<sup>174</sup> *Pol.* 1292a32-33.

<sup>175</sup> *Pol.* 1292a28-30.

<sup>176</sup> *Pol.* 1292a23-25. See on this point Lindsay 1992, 757. On the problematic nature of the rule of decrees for Aristotle, see Johnson 1990, 132-135; Yack 1993, 205; Pellegrin 2017, 202.

<sup>177</sup> Hoekstra 2016, 47, on the Arginusae trial: 'This episode has frequently been seen to illustrate the descent of direct democracy into (or its ultimate identity with) mob rule. But it can instead be read as a potent expression of the democratic conviction that the *demos* must be able to direct and judge even the most powerful officials as it wishes, while not being itself hemmed in by laws or officials.' See also Poddighe 2014.

<sup>178</sup> *Pol.* 1292a15-21.

majority decides to dispossess the rich.<sup>179</sup> In these cases, the first component of freedom leads to violating the second, as Plato in *Republic* 8 was well aware. To quote Kostas Kalimtzis: ‘freedom that operates through the coercive weight of numbers, even though it proclaims itself to be a supreme end, actually reduces everyone involved to a means, and hence undermines the very concept of freedom.’<sup>180</sup> Aristotle describes this process in terms of democracy morphing into its polar opposite, tyranny.<sup>181</sup>

In two respects, then, the first component of freedom goes against justice: against distributive justice, i.e. a distribution of political power based on competence and constitutional roles; and against general justice, in its natural or legal form, via majoritarianism.

## b) The Flaws in the Democratic Conception of Private Independence

The second component of freedom, ‘living as one wishes,’ also poses two problems. First, it goes against the very purpose of politics, education towards virtue; second, it undermines democracy itself.

As Aristotle argues in *Nicomachean Ethics* 10.10, the purpose of politics is to use civic institutions (laws, especially but not only laws on education) to inculcate virtuous habits in the citizens.<sup>182</sup> This is why being subject to civic institutions ‘is not slavery but salvation,’ as Aristotle puts it in *Politics* 5.9.<sup>183</sup> It is good to be constrained by law and office-holders, because when left to their own devices, individuals tend to act badly: ‘being dependent, and not being able to act as one pleases, is beneficial; for the capacity to act as one pleases is not capable of protecting us from what is vile in every human being.’<sup>184</sup> Aristotle assumes that most people will use their freedom for bad purposes: after all, he starts the *Nicomachean Ethics* by pointing out that most people take pleasure as the ultimate end, which is wrong.<sup>185</sup> This mistake is particularly widespread in democracies: the

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<sup>179</sup> *Pol.* 1281a14-17; *Pol.* 1318a24-26.

<sup>180</sup> Kalimtzis 2000, 96.

<sup>181</sup> *Pol.* 1274a5-6 and 1313b40-41.

<sup>182</sup> For an analysis of this chapter as the pivot of Aristotle’s ethical-political philosophy, see Vander Waerdt 1991.

<sup>183</sup> *Pol.* 1310a36.

<sup>184</sup> *Pol.* 1318b38-1319a1: τὸ γὰρ ἐπανακρέμασθαι, καὶ μὴ πᾶν ἐξεῖναι ποιεῖν ὅ τι ἂν δόξῃ, συμφέρον ἐστίν· ἢ γὰρ ἐξουσία τοῦ πράττειν ὅ τι ἂν ἐθέλῃ τις οὐ δύναται φυλάττειν τὸ ἐν ἐκάστῳ τῶν ἀνθρώπων φαῦλον. See on this point Rosler 2005, 161.

<sup>185</sup> *NE* 1096b15-16 and 1179b4-20.

extended freedom democratic citizens enjoy tends to make them ‘relaxed and soft’;<sup>186</sup> the ideal of liberality can easily turn into a pretext for softness.<sup>187</sup>

This is why civic institutions should regulate not only the education of the young, but also the private life of adults, contrary to what the democrats believe.<sup>188</sup> Given the psychological fact mentioned in *NE* 10.10 (the human loathing for coercion coming from individuals), rules of education will be more easily obeyed if they are backed up by the law.<sup>189</sup> The city therefore needs extensive and authoritative laws about private conducts, applied by specific office-holders.

Public regulations of the citizens' private lives have one further benefit: they 'save' democracy by enabling it to maintain itself.<sup>190</sup> Citizens do not belong to themselves: as citizens, their function is to serve the city's good, and they must be educated to fulfil that task.<sup>191</sup> Democracy foregoes this, by refusing to intervene in the citizens' private lives.

It also encourages citizens not to care for the common good. By making 'living as one likes' its ideal, democracy turns its citizens into disengaged individuals, focused on the pursuit of their private pleasure.<sup>192</sup> Politics is up for grabs; demagogues and would-be tyrants avail themselves of that opportunity.

Our explication of Aristotle's grounds for rejecting the democratic conception of freedom confirms Bernard Yack's conclusion: democrats fail to recognize the value of certain 'enabling constraints' provided by civic institutions.<sup>193</sup> Giving power to the most competent, or to duly appointed office-holders; subjecting one's private life to the regulations of office-holders applying laws on good conduct: these are limits on the citizens' freedom in appearance only; in truth, they advance the citizens' well-being by putting the civic apparatus in the service of the common good.<sup>194</sup>

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<sup>186</sup> *Pol.* 1290a28-29; democratic regimes are ἀνειμένας καὶ μαλακάς.

<sup>187</sup> 1265a33-34, where τὸ ἐλευθερίως ζῆν leads to τὸ τρυφᾶν.

<sup>188</sup> *NE* 1180a24-26; *Pol.* 1271b4-5. Swanson 1992, 207: 'Privacy is not a right to do as one pleases but an opportunity to do as one ought.'

<sup>189</sup> Yack 1993, 249.

<sup>190</sup> Mulgan 1977, 99-100; Mulgan 1991.

<sup>191</sup> *Pol.* 1337a27-29.

<sup>192</sup> Nichols 1991, 105; Kalimtzis 2000, 93.

<sup>193</sup> Yack 1993, 206-208.

<sup>194</sup> 'Common good' here should be broadly understood: as Ober 1996, 161-188 argues, Aristotelian political communities are importantly meant to provide for their citizens' material needs; their virtue is not the only goal of politics. But for Aristotle, ultimately, material well-being is only valuable as a precondition for the maximal exercise of virtue; on this point see Cooper 1985 and Hijri 2021.

At the end of *Politics* 5.9, Aristotle denies that not being able to ‘live as one likes,’ in the sense democrats give to the idea, amounts to slavery. By implication, it is no restriction on freedom either.<sup>195</sup>

The last danger that mistakes about freedom have in store for democracy is, as we just saw, that they constitute a threat to its survival. An important part of the *Politics*, especially books 5 and 6, is devoted to an analysis of stasis, or civic strife. This strand of Aristotle’s thinking has recently been the object of increased attention.<sup>196</sup> We can now see how the democrats’ misunderstandings of freedom harm the political community by fostering stasis. But before that, it will serve us well to realize the originality of Aristotle’s diagnosis of the democratic mistake. This will put us in a better position to understand the measures he suggests to ward off democratic stasis.

#### 4) Taking a Step Back: Aristotle and Plato on the Origins of the Democratic Misconception of Freedom

I have argued above (section II-2) that Aristotle’s target in *Politics* 6.2 is a democratic *reasoning*, based on the (false) premise of status fetishism. Desire surely plays a role, especially θυμός, as it provides democrats with the ultimate motivation for translating free status into political non-subjection. But Aristotle takes seriously the democrats’ claim as a political belief. This, I shall argue, derives from his use of the endoxic method in the *Ethics* and *Politics*, and distinguishes his approach to excessive freedom from Plato’s.

The endoxic method was introduced above; it consists in starting philosophical inquiry into a field by looking at what people believe: either all people, or most of them, or the wisest among them.<sup>197</sup> In the *Politics*, Aristotle uses the endoxic method to disentangle what he calls ‘a puzzle and

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<sup>195</sup> Keyt 2018a, 167-171 argues that Aristotle does advance, in several passages of the *Ethics* and *Politics*, a positive conception of freedom (see also Keyt and Miller 2021). The passages Keyt adduces (*Pol.* 1254b6-9, 133b5-11, and 1342a18-22) at best adumbrate such a theory, which comes very close to conventional Greek ideas about the life of a person of free status (on which see Lane 2018). But Keyt’s formulation of this theory does fit the passages he gives; it is therefore worth quoting: ‘A polis will be civically free in the aristocratic sense, then, to the extent that its institutions remove the impediments to a life devoted to politics and philosophy for each and every citizen and allow for equal political participation by equally virtuous citizens where the impediments that need to be removed are unfavorable political institutions, lack of moral and intellectual education, and insufficient material resources’ (at 171).

<sup>196</sup> Rogan 2018; Skultety 2019.

<sup>197</sup> *Top.* 100b21-22.

a problem of political philosophy: the question of how office (in the extended sense, including deliberating and judging) should be distributed among the citizens.<sup>198</sup>

Aristotle tackles and ultimately solves the problem in the course of book 3: starting from the claims to rule put forward by people of free status, by the rich, the nobles and the virtuous, he concludes that virtue, either individual or collective, should serve as the primary criterion for distributing ἀρχή.<sup>199</sup> The democrats' claim is implicitly presented as an ἔνδοξον: an opinion that (in Athens at least) is endorsed by the majority, and which contains a grain of truth. As Aristotle indicates in *Pol.* 3.9 (1280a21-22), democrats do grasp a part of justice; but they mistakenly think that they have understood it in its entirety. Curing the democrats' mistake requires, first, to analyze step-by-step the reasoning in which it consists; second, it involves laying out the truth of the matter, i.e. the reasons why free status is no adequate ground to claim office. In the preceding two sections, I have tried to show how Aristotle manages to do both.

I would now like to concentrate on the difference between his approach and Plato's. In his theory of excessive freedom, Plato certainly makes room for beliefs: the democratic citizens of *Republic* 8 think that freedom is a good in itself, and subjection intrinsically bad. Their rational part holds beliefs, even if these ultimately come from the rule of appetite in their souls. The radical democrats of *Laws* 3 are also filled with a belief: they think that they are able to rule themselves. But this belief is only activated by a fit of excessive pleasure. This yields important consequences for the way in which democracy's mistakes about freedom can be cured. In the *Republic* and the *Laws*, the prime remedy is a reform of appetite: the producers of Kallipolis have their appetites shaped in such a way that they do not desire more freedom; the citizens of archaic Athens or Magnesia are not exposed to excessively intense fits of pleasure, or only after a protracted process of education.

The *Laws*, it should be said, is closer to Aristotle's approach than the *Republic*. Even if Plato's narrative of the birth of teatrocracy gives pride of place to excessive pleasure, it still gives causal power to mistaken beliefs (ἀμαθία). Correspondingly, Magnesian education intervenes at the cognitive level to guard the citizens against wrong opinions: this is, I argued, one of the roles of the preludes. The most elaborate among them, which prefaces the law against atheism in book 10, takes seriously the unbelievers' claims and debunks them methodically. But that is still different from

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<sup>198</sup> *Pol.* 1282b22.

<sup>199</sup> The sequence of argument in *Pol.* 3 is very clearly rendered by Wolff 1988.

Aristotle's endoxic method: Plato would not be ready to admit that the atheists' views have a grain of truth. Even though the *Laws* is more charitable than the *Republic* in its recognition of ordinary citizens' cognitive capacities, it does not go so far as to presume that common beliefs are a sound starting point for philosophical inquiry.

Aristotle does, and this has implications for the political recommendations that can be derived from his *Ethics* and *Politics*. Because the democrats' claim contains a grain of truth, it is bound to be voiced every now and then in actual political communities; but because its debunking requires a good deal of philosophizing (as the *Ethics* and *Politics* amply demonstrate), it seems overly optimistic to hope that most democrats will be moved by it.

And yet the democratic misconception of freedom poses a double threat to political communities: first, it hinders the rule of virtue in the city, as the arithmetic distribution of office it leads to does not respect differences in deliberative capacities, and the desire for private independence it includes makes citizens restive to political education. But the democratic claim to freedom also has a more insidious effect: by destabilizing actual regimes, especially democracies and oligarchies, it prevents the laws from inculcating virtue into the citizens. Aristotle is deeply aware of this risk, which his theory of civic strife (*στάσις*) addresses; it is to this part of the *Politics* that we now turn. A guiding question will be whether the remedies Aristotle proposes act at the cognitive level, confronting the democratic conception of freedom head-on, or whether they resort to other, non-argumentative means.

### III – Excessive Freedom, Resentment, and Political Unrest

#### 1) The Problem with Stasis

For Aristotle, stasis poses a double problem to political communities. When regimes are well-ordered, i.e. when they serve the common good, it is obviously bad for them to be replaced by worst ones. But even when they are flawed, Aristotle thinks that they should strive to persist. A regime that lasts manages to habituate its citizens to its laws, which tend to promote even a minimal version of the common good. As Bernard Yack puts it, 'the laws established by oligarchies and

democracies will inevitably promote character-forming habits, even if they are not designed to do so. These habits will not necessarily be the best to establish the dispositions of virtuous individuals; they will, nevertheless, promote them to some extent, for every regime wants its citizens to be moderate, lawful, and courageous in at least some circumstances.<sup>200</sup> By contrast, a short-lived regime is unable to fulfil this minimal educative function.<sup>201</sup> Another reason to aim at regime stability is that flawed but enduring regimes enable individuals to pursue the good life for themselves, thanks to the order they provide.<sup>202</sup> Thus, regime change should in general be avoided, and *Politics* 5-6 is importantly devoted to helping political actors in this task. It does so, in part, by analyzing how the democratic conception of freedom leads to stasis. In order to understand this process, we must first get clear on the general causes of civic strife for Aristotle.

## 2) The Causes of Stasis

Aristotle gives a threefold analysis of the origins of stasis. Any stasis, he thinks, is caused by factors playing out at three levels: the disposition ( $\tau\acute{o}$   $\pi\omega\varsigma$   $\xi\chi\epsilon\iota\nu$ ) of the revolutionaries, i.e. their quest for justice; their desire for certain objects for or about which (Aristotle uses both  $\epsilon\nu\epsilon\chi\epsilon\nu$  and  $\pi\epsilon\rho\iota$ ) they engage in strife, i.e. material gain and honor, which they think a more just distribution would give them; and the concrete facts which trigger ( $\delta\theta\epsilon\nu$ ) their revolutionary activities.<sup>203</sup> The combination of these three factors forms what Arlene Saxonhouse has aptly called Aristotle's 'psychology of resentment:' the interplay of moral psychology and theory of justice which accounts for violent uprisings.<sup>204</sup>

The exact relationship between these three levels is still a matter of debate.<sup>205</sup> But four points are crucial for our purposes. The first is that Aristotle gives pride of place, in his analysis, to the

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<sup>200</sup> Yack 1993, 106.

<sup>201</sup> *Pol.* 1269a14-24. See on this point Bodéüs 1982 and Curren 2000, 115.

<sup>202</sup> Mulgan 1977, 130; Rowe 1977, 172.

<sup>203</sup> *Pol.* 1302a20-37.

<sup>204</sup> Saxonhouse 2015.

<sup>205</sup> Kalimtzis 2000 (esp. 131: 'stasis aims at gain and power, not justice') argues that the revolutionaries' psychology is primarily driven by their desire for gain and honor; Pellegrin 2017, 369-373, that revolutionaries do not desire gain and honor as such, but only to restore an equilibrium they see as violated; Weed 2007, 129, denies that the belief in justice is the 'ultimate cause' of factional strife, giving this role to envy and vanity; but he admits that envy and vanity are both inseparable from one's conception of justice: they activate it when the agent's interest is concerned. I see no reason to give priority, either to the desire for wealth and honor, or to the quest for justice. I agree with Skultety 2008 in distinguishing the democrats' (or oligarch's) overvaluation of gain and honor, on the one hand, and their flawed



revolutionaries' disposition, i.e. their quest for distributive justice.<sup>206</sup> No individual or group starts a stasis without believing that they have justice on their side.<sup>207</sup> At the same time (and this is the second point), no one would start a stasis without seeking special benefits for their group, in terms of either material gain or honor.<sup>208</sup> Third, the desire for material gain and honor is not equally shared across different social groups: the wealthy want both, whereas the poor tend to be satisfied when they receive material gains. Fourth, a quest for justice and a desire for wealth or honor are not enough to set off stasis, as Kostas Kalimtzis rightly notes: revolutionaries must also see current institutions as the cause of the unjust distribution of these goods.<sup>209</sup> These points help us understand the specific ways in which the democratic conception of freedom causes stasis.

### 3) Democratic Stasis and Excessive Freedom

#### a) Why Take the People's Claims Seriously?

As *Politics* 6.2 attests, democrats favor an arithmetically equal distribution of power. I interpreted the passage as meaning that democrats insist on the need for a distribution of power that treats citizens as free persons, by giving each of them an equal say in decision-making. Democrats believe that free status is the only criterion to be considered when distributing political

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conception of justice, on the other. Skultety argues that Aristotle's democrats exemplify both: they value gain too much, and have a flawed conception of justice. To sever the link between these two elements even more sharply than Skultety does, I would add that we can well imagine an individual who shares the democratic view of justice without overvaluing either gain or honor, because she endorses Aristotle's notion of virtue (think of Martha Nussbaum). Such an individual would want gain or honor for herself, but without taking them to be ends in themselves. O'Connor 1988, 422, denies this possibility, arguing that injustice for Aristotle can only come from 'overvaluing the external goods of money and honor' and locating happiness in their enjoyment. His main evidence is Aristotle's criticism of Phaleas in *Politics* 2; but Rogan 2018, 31-62 shows how Aristotle's account of stasis in this book differs from the one we find in *Pol.* 5-6. This does not rule out, of course, that in most cases stasis will in fact be started by people who overvalue wealth and honor. See also Skultety 2019, 38-53.

<sup>206</sup> Mulgan 1977, 121; Polansky 1991; Rogan 2018, 214-215. The key passages are *Pol.* 1302a22-24 (cf. *μάλιστα*), 1310a25-28 and 1301b35-39; *NE* 1163b5-12.

<sup>207</sup> Thus, stasis is based on a belief about justice. This does not mean, however, that the motivating force of stasis is a rational desire (*βούλησις*): it can be thumetic like anger, which is aroused at the sight of inappropriate condescension (*An.* 403a29-403b1). On anger as a source of stasis see Weed 2007, 183-184.

<sup>208</sup> Garver 2011, 156. This means that revolutionaries do not act for reasons that have to do with justice only; they are not, for instance, like the 'person of *nemesis*' studied by Curzer 1995. They are more like Aristotle's envious person, as analyzed by Weed 2007, 110-113. See also 119 on *Rhet.* 1387b26: 'envy is the one disposition that ignores qualitative distinctions that might account for different shares of wealth and honor.'

<sup>209</sup> Kalimtzis 2000, 39.

power.<sup>210</sup> This was both, we recall, the democrats' conception of equality, and the first component of their conception of liberty.

Lawgivers and statesmen should take this conception into account, for problems arise if they do not. In fact, when a multitude think they are equally worthy of ruling as the most virtuous, but are denied access to political functions, they launch revolutionary action.<sup>211</sup> But the people can also start agitating for another reason: not because they deem themselves politically competent, but because they see power as a just reward for the contribution they make to the city by providing it with a free population.<sup>212</sup> Whatever the precise grounds of the people's claim to power, Aristotle thinks that they cannot be consistently denied access to political office without causing trouble.<sup>213</sup> The democrats' claims need to be satisfied if only for the sake of political stability.<sup>214</sup>

As to the second component of democratic freedom, the desire to live as one wishes, it too needs to be satisfied to a certain extent. An excessively harsh legislation on private conducts brings about the contrary of its aim: citizens start hiding from the law to enjoy their private pleasures, creating a counter-culture of luxury and disobedience.<sup>215</sup> Presumably, it also motivates democrats to overthrow the regime in order to enjoy greater personal freedom.

## b) How to Satisfy the People's Claims

On these two counts, then, the democrats' claims should be taken into account by the legislator. Aristotle thinks he should do so, not by convincing the democrats that they are wrong, but by accommodating their claims in a way that is not too costly for the city's common good.

As far as the second component of freedom is concerned, legislators should make sure that oversight of private life is confined to matters that are strictly necessary to foster civic virtue. To borrow terms from Pericles' Funeral Oration, citizens should be pressured into obeying the law, both written and unwritten; but safe from prying eyes and angry looks when they enjoy innocent

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<sup>210</sup> *NE* 1131a25-29; *Pol.* 1280a23-25, 1294a19-21, 1301a30-31.

<sup>211</sup> *Pol.* 1306b27-30.

<sup>212</sup> *Pol.* 1263a11-15; those who feel that they contribute more than they receive grow indignant at the political order. See Skultety 2019, 67.

<sup>213</sup> *Pol.* 1264b6-10 and 1268a23-25.

<sup>214</sup> Schütrumpf 1980, 170-171: 'Die Freien müssen also am Staat beteiligt werden, aber nicht weil Aristoteles in Freiheit eine qualitative Grundlage für Ansprüche auf politische Macht gesehen hätte, sondern weil von diesem Personenkreis politische Unzufriedenheit drohte.'

<sup>215</sup> 1270b33-35.

pleasures.<sup>216</sup> This will be more easily done if the legislator, contrary to Lycurgus, does not make military success the regime's end: this is the flaw that gives Spartan education its excessively harsh character.<sup>217</sup>

As to the first component of freedom, popular participation, Aristotle thinks there are ways to implement it at a minor cost for the city. The lawgiver can for instance make use of geometric equality to fill some offices, and of arithmetic equality for others.<sup>218</sup> This will create a form of mixed constitution, with some oligarchic or aristocratic components, and some democratic elements.<sup>219</sup> Aristotle gives several historical examples of such a scheme. The ephorate at Sparta satisfied the political claims of the people by giving them representatives taken from their own ranks.<sup>220</sup> In Athens, Solon's solution was to give the people a share in elections and the holding of accounts.<sup>221</sup> This satisfied the multitude's desire for honor without harming the political community, as the people are collectively competent in these matters, provided they are not 'excessively slavish.'<sup>222</sup>

Thus, Aristotle thinks that the democrats' claim can be satisfied in the limits of what the common good requires: there is a significant amount of overlap between the two. His writings give us reasons to doubt, however, that the democrats will limit their first claim to the Solonian (or Theopompean, in the case of the ephorate) solutions he envisages.<sup>223</sup>

### c) Can the People's Claims to Participation be Satisfied?

Human beings, Aristotle thinks, desire wealth, power and glory infinitely: there is no reason to think that spirit and appetite, the democrats' two main motivating forces, will brook being denied entire satisfaction.<sup>224</sup> No institutional solution would seem to suffice: educational work must rather be done to shape men's habits and eradicate from their soul the infinite desire for wealth and

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<sup>216</sup> Thu. 2.37.2.

<sup>217</sup> Pol.1333b5-35. On Aristotle's criticism of the Spartan aim see Schofield 2021.

<sup>218</sup> Pol. 1302a2-5.

<sup>219</sup> Pol. 4.9 is entirely devoted to giving examples of such a mixture. Yack 1993, 235 suggests that one merit of the mixed regime is to give public approval to different kinds of equality, making them more acceptable to the citizenry at large.

<sup>220</sup> Pol. 1270b17-19.

<sup>221</sup> On Aristotle's judgment of Solon see Gehrke 2006.

<sup>222</sup> Pol. 1281b25-37 (on Solon); 1318b21-26 (on elections and the holding of accounts as satisfying the multitude's desire for honor); 1282a15-16 (on the need for the people not to be too slavish).

<sup>223</sup> Skultety 2019, 58: 'democrats and oligarchs... will also be disgruntled in even well-run *poleis*.'

<sup>224</sup> Pol. 1323a36-38. See also Pol. 1258a1-2: wealth and power are means to live, and the desire to live is boundless.

honor.<sup>225</sup> At such moments, Aristotle comes very close to Plato's advice for treating the democratic disease. But he still innovates, by complementing Plato's insistence on the necessity to educate desire with a sociological remedy: middle class persons have moderate desires, and a city where they form the majority will be less threatened by stasis. In fact, a regime where the middle-class rules will be 'stasis-free' (ἀστασίαστος).<sup>226</sup>

This evidence, in turn, is contradicted by still other passages, where Aristotle gives us reasons to hope that mixed constitutions can be stable.<sup>227</sup> Even flawed regimes like oligarchy and democracy can last, as long as they treat well those who are disfavored by the prevailing conception of justice.<sup>228</sup> Especially, free but poor individuals can be assuaged by an oligarchic or mixed regime if they are not deprived of material gain. The many are primarily interested in material gain: they care for it more than for honor.<sup>229</sup> If democrats are defined by their insistence on claiming power and private independence, then Aristotle seems to think that all free but poor individuals are not necessarily democrats. This, I suggest, is important to understand his proposed measures against democratic stasis: Aristotle seems to think that the people are not as committed to status fetishism and the two claims detailed in 6.2 as 'militant' democrats.

Even if the people are not die-hard democrats, however, they are likely candidates for democratic propaganda: the prospect of majority rule and private independence should appeal to them, as it enhances their opportunities for appetitive enjoyment. It therefore becomes crucial for the good legislator to deprive the democrats of the common people's support. He should avoid making public offices opportunities for enrichment: the people will then lose a reason to covet them.<sup>230</sup> This means, for instance, that public wages (μισθοί) should be in general be avoided.<sup>231</sup> Most people (Aristotle thinks) desire political power to acquire means to enjoy themselves: if offices are

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<sup>225</sup> See the criticism of Phaleas of Chalcedon's constitution at 1266b29-37. Curren 2000, 118-120, provides a helpful commentary of these lines. See also Balot 2001.

<sup>226</sup> *Pol.* 1296a7-9. See on this point Rogan 2018, 275, and Skultety 2019, 78.

<sup>227</sup> Weed 2007, 145-166.

<sup>228</sup> *Pol.* 1308a3-11.

<sup>229</sup> *Pol.* 1318b16-17: οἱ γὰρ πολλοὶ μᾶλλον ὀρέγονται τοῦ κέρδους ἢ τῆς τιμῆς.

<sup>230</sup> *Pol.* 1302a40-b2 and 1308b33-1309a9. At 1318b35-1319a1, Aristotle suggests that 'the people are more easily inflamed by the oligarchs gaining too much, especially with the appearance of impropriety than by the people receiving too little' (Weed 2007, 162).

<sup>231</sup> *Pol.* 1293a6;1320a25-32. Μισθοί can be used to compensate for the oligarchic features of a regime and bring it closer to πολιτεία (1294a37-41).

seen as an occasion for service rather than personal benefit, the democrats' claim will lose a great part of its appeal in the people's eyes.<sup>232</sup>

Alternatively, material gains can be reserved for the offices which the people exercise competently, like that of juror; but this solution is not to be preferred. It nourishes and increases the people's desire for material gain.<sup>233</sup>

Some among the people, however, might not limit their desires to wealth only; they might also care for honor as such. These would be particularly sensitive to the democrats' propaganda: democratic sympathizers, if not partisans. Here again, institutional means are available to satisfy their claim without too much cost for civic life. Such individuals can be assuaged by a distribution of power that gives them *formally* an equal share, either individually (as in the 6.2 passage), or as a group (as in Solonian Athens). As long as people have the *right* to participate, Aristotle thinks, they do not necessarily want to *exercise* it: they are happy to let the most competent hold office, and pursue their own business.<sup>234</sup>

Such formal recognition goes a long way towards satisfying status fetishism. If people are happy with the rulers' conduct, feelings of civic friendship will then grow and make the power imbalance in terms of *exercised* office more acceptable.<sup>235</sup> Nonetheless, it remains advisable to reserve to the people the exercise of certain magistracies, as long as they are not too decisive. These offices will help further in quenching the people's desire for honor, especially if their terms are long.<sup>236</sup>

Thus, there do exist institutional ways to satisfy the people's desire for equal power: Aristotle thinks that the people will mostly rest content if they have *access* to political offices, as long as *exercising* them is not an occasion for enrichment. Aristotle's treatment against democratic stasis consists primarily, therefore, in an institutional fulfilment of the democratic claims, in a way that does not harm the common good (or not too much, as when insignificant offices are entrusted to members of the people). An education of desire reminiscent of Plato is also welcome, but democracy's very reluctance to regulate its citizens' private lives makes it difficult to resort to. As to

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<sup>232</sup> *Pol.* 1333b16-21.

<sup>233</sup> *Pol.* 1309a22-26 and 1320a25-32.

<sup>234</sup> *Pol.* 1308b38-1309a9.

<sup>235</sup> Pellegrin 2017, 180-181.

<sup>236</sup> *Pol.* 1308b10-16. Sikkenga 2011, 51-52 argues that, by giving power to the people, the oligarchy will be forced to take their interests into account and thus become more stable.

a theoretical debunking of the democrats' claims, Aristotle does not seem to envisage it. It is essentially via institutional means that democratic stasis can be expelled from the city. Here again, Aristotle seems to be close to the *Laws*: Plato in book 6 argued that a measure of arithmetic equality was necessary to satisfy popular claims.<sup>237</sup> He thought, however, that this was sub-optimal, compared to the rule of the virtuous; but Aristotle thinks that popular participation, in the cases of deliberation and judging at least, *is* optimal.

Thus, Aristotle thinks that the claims of the democrats and the poor citizens can be sufficiently satisfied through institutional means. This is not the case with oligarchic stasis: for Aristotle, the claims of the wealthy can never be satisfied. As he puts it, 'the people are happy when they have an equal share; but the rich, when the regime gives them superiority, seek to insult others and to have more than them.'<sup>238</sup> After all, the rich have become accustomed to affluence, which is a perfect breeding ground for vice.<sup>239</sup> Rich people tend to develop two of the vices that characteristically bring about stasis: envy, which makes any violation of one's conception of equality unbearable, and vanity, which causes an agent to deem himself entitled to more than others.<sup>240</sup> This is why 'regimes are much more destroyed by the covetousness of the rich than by the poor's.'<sup>241</sup> When in power, democrats should therefore be particularly cautious against oligarchic stasis. They should beware lest their own conception of freedom pushes the wealthy to take revolutionary action.

#### 4) Oligarchic Stasis and Excessive Freedom

Among flawed regime, Aristotle gives his preference to democracy over oligarchy. Both have flawed ends (wealth for oligarchy, freedom misunderstood for democracy); both amount to the domination of a class over another (the rich for oligarchy, the poor for democracy); but democracy,

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<sup>237</sup> 756e9-758a2.

<sup>238</sup> *Pol.* 1307a18-20: μάλλον αγαπῶσιν ἴσον ἔχοντες, οἱ δ' ἐν ταῖς εὐπορίαις, ἂν ἡ πολιτεία διδῶ τὴν ὑπεροχὴν, ὑβρίζειν ζητοῦσι καὶ πλεονεκτεῖν.

<sup>239</sup> *NE* 1095b21-22; *Rhet.* 1369a13-4; *Pol.* 1295b16-23. See also *Prot.* 4: τίκτει γὰρ, ὡς φησιν ἡ παροιμία, κόρος μὲν ὕβριν, ἀπαιδευσία δὲ μετ' ἐξουσίας ἄνοιαν. On the hubristic tendencies of the rich in the *Politics* see Rogan 2018, 90.

<sup>240</sup> On envy see *Rhet.* 1388a11-16. On the rich's vanity, see *NE* 1124a31-b5 and *Rhet.* 1390b31-1391a1; see on these points Weed 2007, 109-122. Despite Weed's claim p. 129, Aristotle does not say at 1295b22-25 that the people are always envious (and never vain), the rich always vain (and never envious): his comments applies only to the thought experiment he is conducting.

<sup>241</sup> *Pol.* 1297a11-13: αἱ γὰρ πλεονεξίαι τῶν πλουσίων ἀπολλύασι μάλλον τὴν πολιτείαν ἢ αἱ τοῦ δήμου. See on this point Yack 1993, 237; Saxonhouse 2015, 194; and Rogan 2018, 99.

because of its 'weak' rulers, is less efficient than oligarchy in doing evil.<sup>242</sup> It is also more stable: it gives more power to the middle class, whose desires are moderate; and it avoids the inner strife that mars oligarchic cliques.<sup>243</sup> Since stability is crucial for imperfect regimes to fulfil their educative function, democracy's advantage in that respect gives it an edge over oligarchy.<sup>244</sup> It matters, therefore, to protect democracy against oligarchic coups. Throughout the *Politics*, but especially in books 5 and 6, Aristotle studies the causes that push oligarchs to revolt, in order to counteract them. They are directly related to the two components of the democratic conception of freedom he lists in 6.2.

#### a) Oligarchic Stasis and Popular Participation

The wealthy first find fault with the democrats' favored distribution of power. Because they are unequal in one respect, they think they should be treated with favor in all others, politics included.<sup>245</sup> The superiority they claim consists in wealth, of course; the rich deem it right to receive some reward for the financial contributions they make to the city.<sup>246</sup> But they also claim superiority in education, since they tend to be better educated.<sup>247</sup>

The democratic repartition of power is especially outrageous for the rich if popular office-holders use their function to humiliate them, for instance by imposing high fines on them, or by dispossessing them.<sup>248</sup> This last possibility can occur on a massive scale through majoritarianism. When the people undertake to equalize properties, the 'fine people' (*χαρλεντες*) organize and foment revolutions, as was the case in *Republic* 8.<sup>249</sup> The rich even do so pre-emptively.<sup>250</sup> Yet majoritarianism is a direct product of majority rule, the first component of democratic freedom.

An additional cause of expropriation is the political activity of demagogues. Majority rule gives them an opportunity to enrich themselves, to attach the people to their persons, and to get rid

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<sup>242</sup> Mulgan 1977 reads this idea into *Pol.* 1290a22-29, with some plausibility. The point is reminiscent of Plato's *Statesman* (303a2-b5).

<sup>243</sup> *Pol.* 1296a13-16 and 1302a8-13 respectively. See on this point Rogan 2018, 279-280, and Skultety 2019, 67.

<sup>244</sup> Rogan 2018, 294.

<sup>245</sup> *Pol.* 1301a28-32 and 1303b6-7.

<sup>246</sup> *Pol.* 1283a17-19.

<sup>247</sup> *Pol.* 1293b34-40.

<sup>248</sup> *Pol.* 1309a16 and 1302b5-10.

<sup>249</sup> *Pol.* 1267a39-41.

<sup>250</sup> *Pol.* 1302b21-24. See Weed 2007, 180.

of political opponents.<sup>251</sup> Aristotle adduces many historical examples of such a political move.<sup>252</sup> But demagogues owe their power in part to the democratic conception of freedom: by calling for constant and limitless involvement of the people in decision-making, the first component of democratic freedom gives demagogues the opportunity to develop the rhetorical skills necessary to sway the crowds.<sup>253</sup>

## b) Oligarchic Stasis and Anarchy

The second component of democratic freedom is also conducive to oligarchic stasis. Aristotle notes that ‘in democracies, the wealthy despise the lack of order and the anarchy’ which characterize the regime.<sup>254</sup> By weakening offices, the desire to ‘live as one likes’ directly leads to discontent on the part of the rich. Aristotle does not specify why the wealthy are so averse to disorder: presumably, they need order to thrive economically. It may also be that the tidy habitus to which they owe their social position has made them allergic to disorder.

But the democratic understanding of freedom, by promoting ‘living as one likes’ as an ideal, also ‘disposes the people to a leadership that promises them whatever they seem to want, whether it promotes their long-term preservation or not.’<sup>255</sup> Such an ideal helps justifying massive expropriations: the wealthy’s fortunes, once redistributed to the many, would give them more means to ‘live as they like.’ The second component of freedom thus participates in turning the first into a factor of instability.<sup>256</sup>

## c) How to Avoid Oligarchic Stasis

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<sup>251</sup> *Pol.* 1304b20-25, 1305a3-7, and 1320a4-6. The portrait is here strikingly Platonic (cf. *Rep.* 565a4-d2). See on this point Zoepffel 1974, 72. Like Plato, Aristotle thinks a democratic people lacks the argumentative means to guard against tyranny (1281a15-22).

<sup>252</sup> Weed 2007, 172-173.

<sup>253</sup> Skultety 2019, 72, also notes that the first conception of freedom, by calling for constant popular involvement, leads to the creation of a ‘mob’ that is unpredictable and liable to be used by demagogues.

<sup>254</sup> *Pol.* 1302b27-29.

<sup>255</sup> Skultety 2019, 177.

<sup>256</sup> Lindsay 1992, 755.



Now, there are ways to pre-empt oligarchic stasis. Just as an oligarchy can last if it treats the people well, a democracy can endure if it does not alienate the rich.<sup>257</sup> As far as distribution of power and majoritarianism are concerned, Aristotle is well aware of the institutional tools at the legislator's disposal. Some magistracies, especially those that bring honor without being too important, can be given or even reserved to the wealthy.<sup>258</sup> They will satisfy them more if their terms are long.<sup>259</sup> Entrenchment clauses can forbid the redistribution of property, be it in the form of expropriation or useless liturgies.<sup>260</sup> Here again, we see Aristotle privileging institutional means to prevent the democratic conception of freedom from endangering the city's stability.

And here again, we see him welcoming, if possible, public regulation of private behavior. Aristotle thinks disorderly ways of life should be checked by a special magistracy.<sup>261</sup> Democracies which want to avoid the rich's contempt can choose to inculcate in their citizens an orderly spirit: this might not be democratic at first sight, but it actually makes democracy longer-lasting.<sup>262</sup>

An additional advantage of public intervention in education and private behavior is that it will also enable democracy to control the wealthy's ways of life. It can thereby prevent them from developing habits that are inimical to the regime. Aristotle deplors the fact that, in his own days, oligarchic cliques swear to harm the people in whatever way they can.<sup>263</sup> If a democracy can assuage the wealthy's contempt by inculcating orderly habits into its democratically-minded citizens, it can also educate the rich to value social justice, generosity and moderation.

To fight against the instability which democracy's misguided relationship to freedom has in store, Plato's and Aristotle's favored measures can be presented somewhat schematically: on a spectrum that goes from educational solutions (the shaping of desire, the control of exposure to pleasure) to institutional ones, Aristotle rather falls on the institutional divide, the *Republic* on the educational side, and the *Laws* somewhere in between (though probably closer to the *Republic*). This seems to lend itself to a developmental interpretation: on that picture, Aristotle develops the *Laws'* insight that, given the irrepressible popular claim to participation, a measure of arithmetic equality

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<sup>257</sup> *Pol.* 1308a3-11.

<sup>258</sup> A modern equivalent would be the practice of appointing wealthy businessmen or -women as ambassadors.

<sup>259</sup> *Pol.* 1308b10-16.

<sup>260</sup> These two measures are recommended resp. at *Pol.* 1309a27-32 and 1309a14-20. See also 1320a17-22.

<sup>261</sup> *Pol.* 1308b20-24.

<sup>262</sup> *Pol.* 1310a19-22.

<sup>263</sup> *Pol.* 1310a8-12.

is unavoidable; he tries to limit it to the cases in which the people's involvement is beneficial, rather than harmful, for quality of deliberation and rule in general.

A possible objection against that view would be that Aristotle foregoes one important tool Plato uses in the *Laws* to fight against false ἐλευθερία: the reduction of ἀμαθία. But that objection can be met: *Politics* 8 is dedicated to civic education, including the education of the citizens' mind.<sup>264</sup> Aristotle does not mention fighting against ἀμαθία as a tool to prevent stasis, presumably because the education of the mind he envisions in *Politics* 8 requires a clean slate, not the pre-existing material that a city in prey to stasis has to offer.

### *Conclusion*

#### 1) Plato and Aristotle on Freedom and its Excesses

The chapter started by stressing Aristotle's debt to Plato's conceptualization of democratic freedom. Its last part explained what risks the democrats' conception of freedom has in store for the stability of democracy itself. Aristotle links the democratic misunderstanding of freedom to stasis via majoritarianism, demagoguery and anarchy: *Republic* 8 makes its presence felt in the background. But this should not blind us to the contrast between Aristotle's and Plato's stances on democratic freedom. I argued in chapter 3 that *Republic* 8 diagnoses the birth of freedom fetishism in the democratic city. Aristotle is concerned with a different kind of fetishism, which I have proposed to call 'status fetishism.' Status fetishism is more firmly located at the level of belief than freedom fetishism. It has to be taken seriously as a piece of political reasoning; to be fully eradicated, it needs the elaborate theory of distributive justice Aristotle lays out in the *Ethics* and *Politics*. Since it is unlikely that democrats will be moved by that theory, Aristotle also envisions institutional measures to satisfy their claims without too much harm for the common good. A reform of desire is welcome, but more difficult to undertake than institutional adjustments.

The *Laws* paved the way for Aristotle's insistence on the cognitive nature of the democratic flaw. Plato's last dialogue emphasized the role of ἀκράτεια in the transition from moderate to

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<sup>264</sup> *Pol.* 1339a7-10.

excessive freedom, but it also made room for causes unfolding at the level of ἀμαθία. Aristotle pursues that line further, by approaching the democrats' claim as a *misconception* of freedom, rather than an excessive desire for it. From the *Laws*, Aristotle also inherits the recognition of freedom as a political value: but whereas the *Laws* makes freedom (as self-control) a target of legislation, Aristotle makes it a constitutive condition of just politics.

The *Laws* also recognized that ordinary citizens have the cognitive capacities to understand political truths, at least in part, and thus to have a say in decision-making; this gave them a claim to freedom, conceived as popular participation. Their rational capacities were the object of the lawgiver's care, as the use of legislative precludes testified. Aristotle unites these two aspects: free people are those who are capable of deliberative virtue; they are entitled to receive, through political participation, the opportunity to exercise and deepen that virtue. It is the democrats' mistake to think that free status, and not deliberative ability, ground claims to freedom.

## 2) Status Fetishism in Athens and Beyond

Aristotle's main criticism against the democratic conception of freedom is that it takes the possession of a free status (which, in most cases, requires a good birth) as the only legitimate source of worth (ἀξία). Political power, they think, should be equally distributed among those who enjoy such a status. Such people should be as far away from subjection in the political field as they are from slavery at the legal level. This involves giving them a say in political decision-making, as much as to any other free person. People of free status should therefore be given political power on an arithmetically equal basis.

But status fetishism also plays a role in the second component of freedom. Interpersonal rule should be minimized, because it hurts the free citizens' self-conception. It is seen as demeaning, as evoking a slavery against which Greek people of free status define themselves. This is unbearable for the democrats' θυμός.

True, slavery was seen as bad and shameful in the whole Greek world, not only in democracies like Athens; but democratic citizens were particularly attached to their status, as it was

the only ground on which they could base their claims to political participation.<sup>265</sup> In a slave society, free status was the strongest of identity markers for those who had neither wealth, nor particularly high lineage, nor cultural capital to define themselves.<sup>266</sup>

For Aristotle, free but poor citizens have nothing but their free status to make demands for recognition. On that basis only can they lay claim to political worth. They thus turn status into a thing of intrinsic value, and use it as the foundation of their politics. Equal participation and private independence are meant to reflect free status in the political arena.

Aristotle's project in rebuking democratic status fetishism is akin to Honneth's diagnosis of the 'pathologies of juridical freedom.' In the mind of Aristotle's democrats, a juridical category (free status) is turned into the ultimate *political* value. This mistake unfolds in ways that remind us of the two ills addressed by Honneth. Honneth diagnoses in democratic citizens, first, a tendency to hide under the shield of one's right to think and live as one likes, instead of justifying one's views and attitudes; and, second, an attachment to personal freedom as good in itself. The errors of Aristotle's democrats are different but related. Aristotle's democrats subject civic deliberation to arithmetic equality: instead of aiming at maximizing the quality of its output, they turn it into an extension of personal freedom in the political arena. Deliberation is not seen as primarily an exchange of reasons, but as the expression of the citizens' pre-existing freedom. Democrats also insist on enjoying maximal private independence, because they see it as the opposite of a slavery they abhor, and against which they define themselves. Translating the juridical category of free status into political terms becomes the single aim of the democrats' public efforts. In Aristotle's eyes, such status fetishism blinds democrats to a truer criterion of value, virtue. In ours, it also reveals the problematic origins of some of the Greeks' democratic ideas, in the master-slave relationship.

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<sup>265</sup> Rogan 2018, 93. Rancière 1995, 25-28 gives a radically democratic reading of Aristotle's conception of the people's ἀξία: they are the 'partless,' those who have no other claim to power than their freedom. But he misses the dark side of this democratic claim, at least in Aristotle's times: the democrats' insistence on free status reveals their hyper-valuation of it, an identity move based on the existence of a slave population.

<sup>266</sup> Ober 1991, 124.

## Chapter Six – Liberty and Licence in Cicero

### *Introduction*

#### 1) A Shrine to *Libertas* – or *Licentia*?

On March 12th 58 B. C. E., the tribune of the plebs Publius Clodius had the Roman people vote to banish anyone had executed a Roman citizen without popular trial.<sup>1</sup> Cicero was clearly targeted. In the evening of December 5th 63, he had ordered the execution of Catilina's accomplices; instead of granting them a popular trial, as required by the *lex Sempronia* of 121, he acted on a simple vote of the Senate.<sup>2</sup> The tribute assembly, where each citizen had an equal vote, approved Clodius' bill. Cicero had anticipated the result by a few hours and betaken himself to southern Italy, where he embarked on a boat to Greece. A few weeks later, Clodius had a second law voted, this time mentioning Cicero explicitly. The man whom the Senate had hailed as 'savior of the fatherland' (*pater patriae*) after his management of the Catilinarian crisis was now an outcast.

Clodius advertised his success as a victory for freedom: the citizens' right to be judged by the people in capital cases (*provocatio ad populum*) was seen, in Roman political culture, as a crucial component of liberty (*libertas*).<sup>3</sup> Clodius' second law (the *lex de exsilio Ciceronis*) specified that Cicero's house, as that of previous Romans accused of aspiring to kingship, had to be torn down; in its place, a shrine would be erected to honor the goddess *Libertas*, whose statue would adorn the sanctuary.<sup>4</sup>

Clodius' proposal was highly symbolic. He was the first tribune of the plebs to dedicate a sanctuary, thus claiming religious power for his office.<sup>5</sup> His shrine was meant to take its place within a long tradition, which included such sites as the *Atrium Libertatis* and the temple of *Jupiter Libertas*.<sup>6</sup> The temple of *Jupiter Libertas* included a statue of the goddess, a feature Clodius' shrine imitated.

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<sup>1</sup> Tatum 1999, 157-158 for the date and the narrative.

<sup>2</sup> For those events and their legal background see Grimal 1984.

<sup>3</sup> Arena 2012, 50-51.

<sup>4</sup> Clark 2007, 209-212.

<sup>5</sup> Tatum 1999, 162.

<sup>6</sup> See Arena 2012, 34-35, on the two buildings and their possible dates of construction.

In the course of the works, Clodius had one further monument demolished: the portico erected in 101 to celebrate the victory of Quintus Lutatius Catulus over the Cimbri. Catulus' portico had itself taken the place of a previous building: the house of Marcus Fulvius Flaccus, a prominent supporter of Caius Gracchus, who had also been executed by simple senatorial decree.<sup>7</sup> Catulus had been a staunch supporter of senatorial rule: in 100, he participated in the Senate-led opposition against the *populares* leaders Saturninus and Glaucia, which resulted in their assassination.<sup>8</sup> His homonymous son shared his political leanings: in 77, Catulus junior was entrusted by the Senate with the repression of an anti-senatorial uprising headed by his co-consul of 78, the Marianist Marcus Aemilius Lepidus.<sup>9</sup> This over-determined architectural and historical subtext was the battlefield on which a 'war of *exempla*' – to borrow Matthew Roller's felicitous phrase – was bitterly fought between Cicero and Clodius.<sup>10</sup>

On September 4th 57, after fifteen months of painful exile, Cicero was allowed to see Rome again. On August 4th, the centuriate assembly (which gave an advantage to wealthier citizens) had voted his return: Clodius had become a nuisance for the *triumviri* (Pompey, Caesar and Crassus) as well as the Senate, and Cicero's come-back would strike a heavy blow against him.<sup>11</sup> But Cicero had his own agenda: he was after the full restoration of his rights, dignity, and property. The most symbolic issue was his house. A whole set of legal questions made it difficult to destroy the shrine Clodius had erected, and Cicero had to plead his case before the college of pontiffs on September 29th 57. The priests referred the matter to the Senate, which ordered the shrine to be torn down. A tribune of the plebs opposed his veto, but he withdrew it after a night of reflection – of heavy pressure from the Senate and Pompey. On October 2nd, workers started attacking Clodius' shrine of *Libertas* with their pickaxes.

The speech Cicero delivered before the pontiffs wove base polemic with high politics, even political theory. The statue Clodius had installed in the shrine, Cicero claims, was modelled after a Greek courtesan from Tanagra.<sup>12</sup> Clodius' brother, Appius Claudius, had stolen the statue from the woman's grave during a trip to Greece in 61.<sup>13</sup> It was a fitting choice after all, Cicero mockingly argues,

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<sup>7</sup> Roller 2018, 260-264.

<sup>8</sup> Cic. *Rab. perd.* 21 and *Phil.* 8.15.

<sup>9</sup> Liv. *Per.* 90; Plut. *Pomp.* 16.

<sup>10</sup> Roller 2018, 264.

<sup>11</sup> Will 1991 offers a useful analysis of the shifting power equilibrium in 58-56.

<sup>12</sup> *Dom.* 110-111.

<sup>13</sup> Wuilleumier 1952, 151 n. 2; Roller 2018, 257-258.

as the deity Clodius intended to honor was not noble *Libertas* but *Licentia*, its debauched counterpart:

You erected a statue of *Libertas* more to satisfy your impudence than to feign sanctimoniousness (...). In the blood, almost the bones of a citizen most deserving of the state, you placed a symbol not of public liberty, but of licence.<sup>14</sup>

As Kristina Milnor has shown, Cicero here opposes two visions of womanhood, contrasting the luxurious Greek prostitute with the stern Roman *matrona*.<sup>15</sup> But the opposition had clear constitutional overtones: elsewhere in his corpus, Cicero sees the lack of moderation shown by the Greeks, both in their institutions and their political morality, as the true cause of their demise; these two flaws he blames as marks of *licentia*.<sup>16</sup> In *De Domo Sua* itself, Cicero castigates Clodius for creating a sham cult to *Libertas*, whereas he actually expelled liberty from the city:

What goddess is this? She must be good, since she has been consecrated by you. He says: 'this is *Libertas*.' You placed her, then, in my house, when you had banished her from the entire city? You! when you prevented your colleagues from being free (*liberos*), despite the highest power that are vested in them; when access to the temple of Castor was denied to anyone; when this most illustrious man [Lucullus, *cos.* 73], born from a most noble family, who had been granted the greatest gifts by the people, a pontiff and former consul, endowed with extraordinary goodness and moderation – I can't wonder enough how you can sustain his look – was trampled afoot by your supporters, upon an order you gave in the presence of the Roman people; when you banished me without trial, after carrying tyrannical bills of attainder; when the first man in the universe [Pompey] was shut in his house; when you occupied the forum with armed mobs of rabble: you put up a symbol of *Libertas* in my house, a house which served as testimony of your most cruel domination, and of the terrible slavery of the Roman people? *Libertas* had to oust from his house the man without whom the whole city would have fallen into the power of slaves?<sup>17</sup>

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<sup>14</sup> *Dom.* 131: *Libertatis signum posuisti magis ad ludibrium impudentiae quam ad simulationem religionis. (...) tu in civis optime de re publica meriti cruore ac paene ossibus simulacrum non libertatis publicae, sed licentiae conlocasti.* Throughout the chapter, translations are my own.

<sup>15</sup> Milnor 2005, 72-76.

<sup>16</sup> *Flacc.* 16; *Rep.* 4.4.

<sup>17</sup> *Dom.* 110-111: *At quae dea est? Bonam esse oportet, quoniam quidem est abs te dedicata. 'Libertas,' inquit, 'est.' Tu igitur domi meae conlocasti, quam ex urbe tota sustulisti? Tu cum conlegas tuos summa potestate praeditos negares liberos esse, cum in templum Castoris aditus esset apertus nemini, cum hunc clarissimum virum, summo genere natum, summis populi beneficiis usum, pontificem et consularem et singulari bonitate et modestia praeditum, quem satis mirari quibus oculis aspicere audeas non queo, audiente populo Romano a pedisequis conculcari iuberes, cum indemnatum <me> exturbares privilegiis tyrannicis inrogatis, cum principem orbis terrae virum inclusum domi contineres, cum forum armatis catervis*

The passage constructs Clodius as an enemy of *libertas* in all possible ways. It opens with a reference to the *Bona Dea* scandal, a sacrilege Clodius had committed in early December 62, when he sneaked into a women-only ritual to conduct a love affair. It then moves to Clodius' disregard for magisterial authority: his fellow tribunes of the plebs were denied the exercise of their *potestas*. It continues with the claustration of leaders presented as exceptionally virtuous, Lucullus and Pompey; it laments the restriction of legitimate popular participation, when Clodius' armed gangs ruled over the forum; and it culminates in a reference to the presence of slaves among both Catilina's and Clodius' supporters. Clearly, two visions of *libertas* were battling it out. Cicero's version was made of a rejection of political immorality, a defense of magisterial leadership, a commitment to legitimate forms of popular participation, and an attachment to the traditional social order (here, slavery). All of these elements were subject to frontal, sometimes violent contestation in Cicero's days.

By the time Cicero spoke before the pontiffs, the meaning of *libertas* had long been debated; one man's *libertas* was another's *licentia*. Out of a core meaning of non-slavery, *libertas* had been identified with the most various, sometimes opposed political arrangements. As Valentina Arena has shown, by Cicero's days two main traditions had emerged: in one (the *popularis* line), *libertas* was conceived as requiring direct and maximal popular involvement; in the other (the so-called *optimas* interpretation), *libertas* was protected by a balanced constitution, in which the people's participation was limited in favor of senatorial deliberation and magisterial rule.<sup>18</sup> Cicero firmly espoused the latter conception. But, as I will try to show in the present chapter, he also thought that the institutional arrangements favored by the *optimates* had to be sustained by the required political morality, i.e. a set of ethical attitudes directed towards the service of the commonwealth. Claims to freedom that violated both Rome's institutional balance and the morality needed to uphold it were re-branded by Cicero as claims to *licentia*.

The interpretation of *libertas* can thus be seen as the dividing line of Roman politics in the last century of the Republic. *Libertas* was a notion all political actors referred to; but its contested meaning made them wary of possible misuses by their opponents. Hence frequent recourse to the

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*perditorum hominum possideres, Libertatis simulacrum in ea domo conlocabas, quae domus erat ipsa indicium crudelissimi tui dominatus et miserrimae populi Romani servitutis? Eumne potissimum Libertas domo sua debuit pellere, qui nisi fuisset in servorum potestatem civitas tota venisset?*

<sup>18</sup> Arena 2012.



rhetorical figure of παραδιαστολή (*distinctio* in Latin), or rhetorical re-description – a social fact Sallust's Cato famously remarked on.<sup>19</sup> Sallust singles out the years after 70 as the era in which the confusion of political discourse reached its peak:

Whoever troubled the Republic with fair names – some doing as if they defended the people's rights, others striving to maximize the senate's authority – were pretending to act for the common good, whereas they in fact fought for their own power.<sup>20</sup>

The idea comes up again in the *Jugurthine War*: after the fall of Carthage and Corinth in 146 B. C. E., the nobles *and* the people strove for the maximal room for maneuver to satisfy their arbitrary desires, using honorable slogans to cover up their base ambitions:

The nobility started to turn the honor due to them (*dignitatem*) into a means of arbitrary satisfaction (*libidinem*), and the people did the same with liberty (*libertatem*); both directed, dragged, robbed everything for themselves.<sup>21</sup>

Here Sallust, whose politics were opposed to Cicero's, shows himself to be as suspicious as his *optimas* adversary vis-à-vis popular claims to freedom. But other characters in his work cast doubt on the sincerity of Cicero's fellow *optimates* when they claim to defend the *libertas populi Romani*: Caius Memmius (*tr. pl.* 111) in the *Jugurtha*, Caius Licinius Macer (*tr. pl.* 73) in the fragmentary *Histories* build their rhetoric against such accusations.<sup>22</sup>

Just as Sallust, Cicero was very aware of *libertas'* potential for rhetorical re-description, as the passage from *De Domo Sua* testifies. The Catilinarian conspiracy, the most defining event of his career, was itself a contest over *libertas*. Catilina claimed to fight for the people's *libertas* against the domination of the aristocracy; Cicero in his Catilinarian speeches presented himself as the city's bulwark against the tyranny of one man.<sup>23</sup> As the present chapter shows, a major axis of Cicero's

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<sup>19</sup> *Cat.* 52.11: *vera vocabula rerum amisimus. Distinctio* was treated in the *Rhetorica ad Herennium*: see 3.6.

<sup>20</sup> *Cat.* 38.3: *quicumque rem publicam agitavere honestis nominibus, alii sicuti populi iura defenderent, pars quo senatus auctoritas maxima foret, bonum publicum simulantes pro sua quisque potentia certabant.* Cf. *Hist.* 1.12M: *pauci potentes, quorum in gratiam plerique concesserant, sub honesto patrum aut plebis nomine dominationes adfectabant.*

<sup>21</sup> *Iug.* 41.5: *Namque coepere nobilitas dignitatem, populus libertatem in libidinem vertere, sibi quisque ducere trahere rapere.* See on this point Robb 2010, 168.

<sup>22</sup> Memmius: *Iug.* 31.23. Lepidus: *Hist.* 1.55.10M. Macer: 3.34.22M (mocking the *optimates* as *vindices libertatis*).

<sup>23</sup> *Sall. Cat.* 20.6: *ceterum mihi in dies magis animus accenditur, cum considero, quae condicio uitae futura sit, nisi nosmet ipsi uindicamus in libertatem.* *Cic. Cat.* 2.14: *et erunt, qui illum, si hoc fecerit, non improbum, sed miserum, me non*

political theory is his attempt at imposing a definitive distinction between legitimate and excessive liberty. This he does by carving out a space for *libertas* in the commonwealth, both at the institutional and the ethical levels. Any form of freedom that goes beyond the institutional and ethical requirements Cicero thinks necessary to create and maintain a just state is, to him, *licentia*. This idea is articulated in the most extensive way in *De Re Publica*, but with ramifications throughout the Ciceronian corpus.<sup>24</sup> To escape the shifting ground of rhetorical re-description, Cicero resorts to the tools of political theory; and as the title of his main political treatise indicates, this means for him going back to Plato.

## 2) Cicero's Recourse to the Platonic Tradition

### a) A 'thoroughly familiar' bit of Platonic philosophy – in context

#### $\alpha$ – Cicero as *homo Platonicus*

Cicero was, by his own admission, a Platonist. He called himself 'a companion of Plato' (*Platonis comes*), at least in political matters, and was seen by his contemporaries as a 'Platonic man.'<sup>25</sup> He publicly identified with the Platonic tradition, which in his eyes also included Aristotle and, to some extent, the Stoics.<sup>26</sup> Cicero's main political treatise, *De Re Publica*, bears a title that sufficiently indicates that it follows a Platonic model – *res publica* translating the Greek *πολιτεία*. The work, composed between 54 and 51 B. C. E., puts forward a model for an equitable and stable state, grounded on the justice of its institutions and the virtue of its citizens.<sup>27</sup> The arguments of book 3 (the debate on justice), the story told in book 6 (the dream of Scipio, echoing the *Republic's* myth

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*diligentissimum consulem, sed crudelissimum tyrannum existimari velint! Cat. 2.19: alterum genus est eorum, qui quamquam premuntur aere alieno, dominationem tamen expectant, rerum potiri volunt, honores, quos quieta re publica desperant, perturbata se consequi posse arbitrantur. Cat. 4.16: quis est enim, cui non haec templa, aspectus urbis, possessio libertatis, lux denique haec ipsa et [hoc] commune patriae solum cum sit carum, tum vero dulce atque iucundum?*

<sup>24</sup> *Rep.* 1.23; 1.65-68.

<sup>25</sup> Pliny, *N.H.*, *praef.* 22. His brother Quintus calls him *homo Platonicus* (*Comm. pet.* 46); he himself calls Plato 'our god' (*deus noster*, *Att.* 4.16.3). For a bibliographical review of Cicero's Platonism see Gildenhard 2013, 225-227.

<sup>26</sup> Aristotle and the Peripatos: *Mur.* 63 and *Off.* 1.2 (in his Tusculan house, Cicero had two libraries, respectively called Academy and Lyceum; see on this point Schmidt 1899, 34-35). Stoa: *Leg.* 1.37 and *Fin* 3.3.

<sup>27</sup> We know that the work was started in October 54 (*Ad Quint.* 2.12.1 and 3.5.1-2), and published shortly before May 51 (*Ad Fam.* 8.1.4).

of Er) both confirm the filiation. But the work also contains explicit criticisms of Plato, on more than one point.

As a Roman, Cicero condemned the community of wives and goods defended in *Republic* 5, in the name of the virtues of decency and justice, which he saw as paradigmatically Roman.<sup>28</sup> He also criticized Plato's decision to engage in ideal political theory in the *Republic*, as opposed to the non-ideal and historically grounded form of inquiry which he himself chose to practice. Cicero presented Rome as the empirical realization of the best regime; good political theory was to start by reflecting on Rome's history and political balance.<sup>29</sup>

Another source of critical distance was Cicero's commitment to the New Academy, a school founded by Plato's distant successor Arcesilaus of Pitane in 268/7, and later illustrated by Carneades of Cyrene.<sup>30</sup> Its last scholar, Philo of Larissa, was the most formative figure in Cicero's philosophical education.<sup>31</sup> The New Academy's characteristic practice was to 'speak against every thesis' (*contra omnia dicere*), especially by arguing the two sides of any given question (*disputatio in utramque partem*).<sup>32</sup> The school could well claim that such dialectic followed in Socrates', or even Plato's footsteps; but tensions with Plato's philosophy were bound to appear.<sup>33</sup>

Tensions were never as glaring as in 155 B.C.E., when Carneades delivered at Rome, over two subsequent days, two scandal-arousing lectures, the one arguing that acting justly was rational for both individuals and states, the second that it was utter foolishness. Cicero knew this episode extremely well: he put it at the center of *De Re Publica*, the third book of which is our main source on the question. Cicero stages there a heated debate between Lucius Furius Philus, who reluctantly attacks justice for argument's sake, and Caius Laelius Sapiens, who offers in return an eloquent

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<sup>28</sup> *Rep.* 4.5 (I adopt the numeration of Bréguet 1976); Büchner 1984b, 179-180, casts doubt on the inclusion of Lact. *epit.* 33.1-5 as transmitting the content of a passage from book 5 of *De Re Publica*, but admits that the book must have contained a critique of Socrates' arrangements in *Republic* 5 (in his 1984a commentary, Büchner places Lactantius' testimony at 4.5). Nicgorski 1991, 235, aptly calls 'loving quarrel' Scipio's and Laelius' engagement with Socrates' proposal on this point.

<sup>29</sup> See especially *De Rep.* 2.22, with the comments of Goldenhard 2013, 240-241. The nature of, and reasons for, Cicero's non-ideal political theory are compellingly elucidated in Atkins 2013.

<sup>30</sup> Cicero could well stress the Platonic filiation of the New Academy: his two commitments stood in some tension, as Burkert 1965 shows. On this question see also Steinmetz 1989.

<sup>31</sup> On Philo see Brittain 2001.

<sup>32</sup> On the Academic credentials of the two phrases see Lévy 1992, 320-323. The importance of *disputatio in utramque partem* for Cicero's rhetorical practice is stressed by Aubert-Baillet 2014.

<sup>33</sup> Arcesilaus claimed to revert to Socrates (*De Or.* 3.67; *Acad.* 1.44; *De Fin.* 2.2). Cicero thinks *disputatio in utramque partem* is Socratic, and ends with one's expressing a preference (*Att.* 2.2.3). On the New Academy's claim that Plato practiced antilogy see *Prolegomena to Plato's Philosophy* 10.16, discussed by Bénatouil 2019, 187 n. 19.

defense of natural law. Cicero makes clear that, for him, the cause of justice carried the day. On this point at least, he was ready to tip the scales of Carneades' equipoise and to commit to one of the two sides of the alternative; the one, precisely, that Plato had himself taken.<sup>34</sup> Critical distance, in the form of *disputatio in utramque partem*, did not forbid Cicero to take a stance and endorse a Platonic view.

One Platonic analysis Cicero whole-heartedly endorsed is the one the present chapter centers around: Plato's depiction of the birth of excessive freedom in *Republic* 8, which Cicero translates at *Rep.* 1.65-68.<sup>35</sup> This passage constitutes Cicero's most extensive engagement with *licentia*. The length and carefulness of Cicero's rendering are significant: he took the passage to be extremely relevant to the purpose of *De Re Publica*. In fact, his characters themselves allude to the importance of the passage: when Scipio Aemilianus, the dialogue's main interlocutor, starts offering a Latin version of it, his friend Laelius admits that it is 'thoroughly familiar' (*notissima*) to him. Cicero may have known that Aemilianus and Laelius were well-versed in Plato; after all, he has Laelius taunt his friend for his love of the Athenian.<sup>36</sup> But as so often with Cicero, we should see the dialogue's dramatic situation as reflecting concerns that agitated its author. Many elements of Plato's description of freedom fetishism, in fact, had acquired vivid relevance in the years preceding the writing of *De Re Publica*.

### β – A Democracy with Roman Traits

Plato's description, we recall, culminates in the citizens' allergic rejection of any form of magisterial rule.<sup>37</sup> Cicero, a former consul, insists in *De Re Publica* on *imperium*'s role in directing the commonwealth, in analogy with divine government of the universe and reason's rule in the soul.<sup>38</sup> Yet *imperium* had been trampled afoot in recent Roman history. Under Caesar's consulship in 59, Vatinius, one of the tribunes of the plebs, was entrusted by the *triumviri* with the presentation of an

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<sup>34</sup> Cicero endorses Laelius' defense of justice in several places of his corpus: see *De Fin.* 2.59; *Att.* 7.2.4 and 10.4.4. This indicates that book 3 of *De Rep.* is more a *disputatio in utramque partem* in Antiochus' sense, aiming at coming as close as possible to the truth, than a destructive *disputatio contra omnia* (Lévy 1992, 319-324). Laelius introduces the debate in those terms in 3.8; *De Off.* 2.8 offers a similar case.

<sup>35</sup> The passage translates Plato, *Rep.* 562c8-563e1. Scholars who have studied the passage as a translation (Poncelet 1947; Boehm 1984; Gregory 1991) have not engaged with its content, which the present chapter intends to do.

<sup>36</sup> *Rep.* 4.4.

<sup>37</sup> 563d5-7, with προσφέρηται rendered by Cicero with a passive (*Rep.* 1.67, *adhibeatur*).

<sup>38</sup> *Rep.* 1.60-62.

agrarian bill meant to provide land for Pompey's veterans. When the bill came before the *comitia tributa*, Caesar's co-consul Bibulus tried to use legal means (*intercessio* and *obnuntiatio*) to hinder the vote and, before that, the speech Caesar was to deliver in support of it. When it became clear that Caesar would not yield, Bibulus interrupted him and started haranguing the people himself, this time contrary to law.<sup>39</sup> He was ousted from the platform, covered with manure, and the *fasces* which represented his magisterial *imperium* were shattered to pieces.<sup>40</sup> Tribunes of the plebs who supported him were beaten up, despite their sacrosanctity.

Throwing manure on an *imperium*-holder became a favorite of Clodian political activism.<sup>41</sup> An alternative was stoning.<sup>42</sup> But the shattering of *fasces* had even stronger symbolic power. Apart from 59, it occurred in 67, 58, and 57.<sup>43</sup> As historian Martin Jehne puts it: 'the *fasces* stood for the official authority of Roman magistrates and they were deeply respected by the Romans even in times of conflict. Consequently, there are only a few acts of breaking *fasces* recorded, and all of them carry the message that the people refused to acknowledge the consular authority any longer.'<sup>44</sup> The law Bibulus had tried to prevent had obvious support among the people: they would not allow Caesar's *optimas* colleague to disregard their will so blatantly. The times when Scipio Nasica, an *optimas* consul in 138, could command silence at a rally by claiming that he knew better than the people what they truly wanted, were clearly over.<sup>45</sup> Magistrates were now suspected of using their office to lord it over the people: *populares* politicians warned the citizens against believing that a magistrate was less of a master for being elected – by electing nobles, the people made themselves into willing slaves, they claimed.<sup>46</sup>

The decades preceding *De Re Publica* thus witnessed violent debates between those who upheld the prerogatives of magisterial *imperium* and the supporters of direct popular rule. Cicero's correspondence shows well enough which side he took: he praised Bibulus as a hero.<sup>47</sup> In Plato, however, office-holding is not the only kind of rule to be neglected: the courts' judgments are also

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<sup>39</sup> Morstein-Marx 2021, 137.

<sup>40</sup> Dio 38.6.3; Plut. *Cat. Min.* 32.4 and *Pomp.* 48.2.

<sup>41</sup> Dio 38.30.2 (against Gabinius in 58); Cic. *Dom.* 12-14 (Metellus in September 57).

<sup>42</sup> As in the case of consul Metellus on September 5th 57, *Dom.* 11.

<sup>43</sup> 67: Plut. *Pomp.* 25.9; Dio 36.39.3. 58: Cic. *Pis.* 28; *Red. ad Pop.* 14. 57: *Red. Sen.* 7.

<sup>44</sup> Jehne 2011, 117. See also Nippel 1995, 14 and 32; Courrier 2014, 501-503.

<sup>45</sup> Val. Max. 3.7.3.

<sup>46</sup> Sall. *Hist.* 3.34.6M (Macer's speech, 73 B. C. E.): *nunc dominos destinatis*. Cf. Plat. *Rep.* 562d6-7.

<sup>47</sup> *Att.* 2.15.2; 2.16.2; 2.19.2.

disregarded.<sup>48</sup> Here again, Cicero could find parallels in the Roman situation. In late 58, Clodius presented a bill granting pardon to men convicted for violence (*de vi*); Cicero saw it as a typically demagogic move, meant to garner support for Clodius in his bid for the consulship.<sup>49</sup>

Another striking element of Plato's depiction of freedom fetishism is its insistence on the fading boundary between free people and slaves.<sup>50</sup> Cicero, in his anti-*popularis* polemics, singles out the political participation of slaves as a sign that men like Catilina and Clodius strive to overthrow the traditional order. In his speeches against Catilina, Cicero presents the conspirator as the head of an army of slaves.<sup>51</sup> In fact, on December 5th 63, the consul had to face a popular demonstration demanding the liberation of the conspirators – and it included slaves.<sup>52</sup> As to Clodius, his political basis was made of the *collegia*, associations of religious, professional or local nature that he contributed to politicize.<sup>53</sup> Slaves did play an important role in the *collegia*: some even went to become their *magistri* (presidents).<sup>54</sup> If he wanted to count on the *collegia*, Clodius needed to appeal to slaves; hence a project he had in late 53, to propose a bill to free a good number of them.<sup>55</sup> Clodius' strategy was quite successful: the participation of slaves can be detected at key moments of *popularis* agitation under his leadership.<sup>56</sup> True, Cicero tends to exaggerate this fact, and to call 'slaves' people who had been recently manumitted; but the period of Clodius' leadership coincided with the greatest involvement of slaves in Roman political life.<sup>57</sup>

One explanation for Cicero's rhetorical strategy, identifying recent freedmen with slaves, is that Clodius' legislation drastically increased the number of manumissions: his *lex frumentaria* of 58 created free distribution of grain, and since only free people could benefit from the law, many slave-owners freed their slaves so that they could receive their part of the dole.<sup>58</sup> This was bound to recall, in Cicero's mind, the equalization of conditions between slaves and free people Plato vividly depicts

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<sup>48</sup> 558a4-8.

<sup>49</sup> *Sest.* 66. See on this point Will 1991, 79, and Kaster 2006, 264.

<sup>50</sup> 563b5-7.

<sup>51</sup> *Cat.* 1.28; 3.8; 4.4 and 4.13.

<sup>52</sup> *Sall. Cat.* 50.

<sup>53</sup> On Clodius' use of *collegia* see Courier 2014, 524-528.

<sup>54</sup> Will 1991, 42-43.

<sup>55</sup> *Cic. Mil.* 87-89; Tatum 1999, 193.

<sup>56</sup> Vanderbroek 1987, 91.

<sup>57</sup> Flambard 1977, 123.

<sup>58</sup> Will 1991, 72.

in the *Republic*. Yet it was especially freedmen, as Luciano Perelli has shown, who were sensitive to the *popularis* discourse on *libertas*.<sup>59</sup>

Thus, *popularis* politics was not only focused on institutional change: it aimed at modifying Rome's social structure. It had a strong economic component: besides corn law, agrarian laws such as Vatinius' were meant to provide land for the poor, be they veterans or members of the urban plebs.<sup>60</sup> Others went even further: Catilina, for instance, had planned to abolish debts and redistribute property on a massive scale, just like Plato's tyrannical man and former demagogue.<sup>61</sup> His coup was supposed to happen during the Saturnalia, a festival in which social roles were inverted, as in Plato's passage.<sup>62</sup> In general, economic independence was seen by the plebeians as part of their *libertas*. The measures of L. Marcius Censorinus (mint master in 88) and Marcus Gratidianus (*praet.* 85 and 84) against plebeian indebtedment were extremely popular, both magistrates receiving cults as heroes of *libertas*.<sup>63</sup> Cicero, in general, thought protection of property was one of the paradigmatic functions of a state.<sup>64</sup> He ascribed to Clodius specific plans to redistribute property: he saw in them a characteristic mark of *licentia*.<sup>65</sup>

*Popularis* measures of this kind stumbled upon resistance from the Senate's majority. Traditional institutions (the tribunate of the plebs, auspices or voting assemblies) became the tools of the two political tendencies, *populares* and *optimates*.<sup>66</sup> This resulted in a stalemate that both groups tried to overcome by violent means.<sup>67</sup> From 57 on, both Clodian *populares* and senatorial *optimates*, led by Sestius and Milo, two staunch supporters of Cicero, were engaged in a gang war that extended up to Clodius' death in 52. The civil strife Plato depicts at the end of democracy's second-stage (565b2-c4) could serve as a useful interpretive grid for Roman events.

#### γ – Cicero's Recourse to Plato's Political Theory

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<sup>59</sup> Perelli 1982, 235.

<sup>60</sup> Morstein-Marx 2021, 122-123.

<sup>61</sup> Sall. *Cat.* 21.2; Cic. *Cat.* 2.18; cf. Plat. *Rep.* 566e2.

<sup>62</sup> Cic. *Cat.* 3.17.

<sup>63</sup> Courier 2014, 582-595.

<sup>64</sup> *Off.* 2.73.

<sup>65</sup> *Mil.* 78.

<sup>66</sup> A process Meier 1966 described as 'Extensivierung' of the Roman institutions. Meier's thesis had been adopted and developed by Vanderbroek 1987.

<sup>67</sup> On the surge in political violence in the Late Republic see Lintott 1968 and Nippel 1995.

Intellectual *and* contextual reasons thus invited Cicero to use *Republic* 8 to approach the heated struggles over *libertas* and *licentia* his contemporaries were engaged in. This is enough, I suggest, to justify including Cicero in our investigation of excessive freedom in ancient philosophy. Plato was the first to conceptualize the notion philosophically, in the *Republic* and the *Laws* especially; yet these two dialogues form the background of much of Cicero's political theory.<sup>68</sup> As Walter Nicgorski and Jed Atkins have convincingly argued, *Republic* 8-9 and the *Laws* are behind Cicero's insistence on the irresistibly irrational nature of politics and, hence, behind his decision to engage in non-ideal theory.<sup>69</sup> Yet in Cicero's eyes, political irrationality manifests itself nowhere more prominently than in the people's immoderate craving for freedom.

A major difference separates Cicero's and Plato's theorization of excessive freedom, however. In Plato, ἐλευθερία can bear, when used alone, a negative sense: in the *Gorgias* and the *Laws*, ἐλευθερία without an adjective actually means 'absolute freedom.'<sup>70</sup> By contrast *libertas*, used on its own, never displays a negative meaning in Cicero. This has to do, I suggest, with a contextual difference, more precisely a difference in political regimes. Ἐλευθερία was the core value of Athenian democracy: in Plato's eyes, it shared the flaws of the regime it was most closely associated with.<sup>71</sup> *Libertas*, however, was a notion all Romans, Cicero included, communed in. Despite their very different interpretations of what it concretely meant, they agreed that Rome's constitution had to include a measure of popular participation, and to protect citizens' rights – two markers of *libertas*. *Libertas* was therefore, for Cicero much more than ἐλευθερία could be for Plato, a positively laden term.<sup>72</sup>

Hence, I argue, Cicero's insistence on using a contrastive term to refer to illegitimate freedom – *licentia*. Cicero was not the first to use the word, of course; it had a long history, to which this chapter will refer. But Cicero turned the word into a concept of political theory, delineating its

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<sup>68</sup> Cicero refers to the *Laws* in many passages of his corpus: see especially *Leg.* 1.15 and 2.14-17.

<sup>69</sup> Nicgorski 1991, 242; Atkins 2013.

<sup>70</sup> *Grg.* 492c5; *Laws* 701a7.

<sup>71</sup> See *Rep.* 562b7-c3.

<sup>72</sup> Raaflaub 1984 explains the diverging conceptualizations and valorizations of Rome and Athens by referring to two different historical paths: freedom became a value in Athens in the Persian Wars, and was thus adopted as an ideal by the whole city; in Rome, *libertas* came to prominence as a plebeian motto in the conflict of orders and was, therefore, never endorsed by the aristocracy. But other elements of Raaflaub's account make it compatible with my own: he recognizes that liberty at Athens became associated with democracy late in the fifth century (p. 564), which explains Plato's perception of it. As for Cicero, he should be seen as an heir of the conflict of orders and, therefore, of the "old plebeian" defense of *libertas*. I would simply add, with Hölkeskamp 1987, that the whole Roman nobility was, in a sense, the heir of that conflict after it ended.



boundaries carefully. Under his pen, *licentia* took on precise connotations: as the second part of this chapter intends to show, the word laid stress on the political community's responsibility in letting (or not) illegitimate freedom take roots and spread among the citizens. It was thus closely linked to Cicero's theory of political engagement. Cicero's *licentia* was a specific form of excessive freedom: it amounted to permissiveness, an attitude by which political authority undermines itself by failing to act. Plato provided Cicero with tools to think about it; but *licentia* was more than a translation of Platonic (unbounded) ἐλευθερία. Cicero did not fit Roman events into Platonic categories; he rather loaded Plato's notion of excessive freedom with Roman realities and perceptions.<sup>73</sup>

## b) Cicero's Lyceum

Cicero could resort, in fact, to other sources than Plato for a philosophical articulation of excessive freedom. Some of the passages where he engages most directly with the popular desire for freedom also bear an unmistakably Aristotelian mark. *De Re Publica* as a whole is presented by Cicero as composed under the influence of Peripatetic philosophy, especially Aristotle and Theophrastus.<sup>74</sup> Particular passages give evidence of Cicero's use of Peripatetic texts. In the course of book 1, for instance, Scipio reviews the arguments advanced in defense of the three canonical 'simple' regimes (democracy, monarchy, and aristocracy) by their respective supporters. The democrats' argument is replete with Greek notions, especially reminiscent of Aristotelian analyses: Hildebrecht Hommel noted long ago that Scipio's mention of government by popular decrees strongly echoes *Politics* 4.4.<sup>75</sup> I would add that the argument Scipio, in the name of the democrats, advances in favor of political liberty bears striking resemblances with *Politics* 6.2: freedom is presented as the greatest good, hence something to be maximized, which can only be done if it is equally distributed.<sup>76</sup>

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<sup>73</sup> My interpretation of Cicero's shaping of *licentia* is indebted to the methodology of Koselleck 1967.

<sup>74</sup> *Div.* 2.3-4. See on this point Nicgorski 2013, 43.

<sup>75</sup> Hommel 1955. See also Pöschl 1936; Arena 2012, 118-119.

<sup>76</sup> *Rep.* 1.47: *libertas...qua quidem certe nihil potest esse dulcius et quae, si aequa non est, ne libertas quidem est.* Frede 1987 denies any influence of the *Politics'* doctrine of freedom on *Rep.*, on the grounds that Cicero does not make political virtue a necessary condition for political participation. But Cicero's view of *consilium* (in the senate, the magistrates and the people) as the condition for wise deliberation comes very close to Aristotle's insistence that deliberative capacity grounds political participation; and Aristotle himself, like Cicero, often admits that popular participation, even when not conducive to best deliberation, should not be done away with, at least for stability's sake (see e.g. 1268a23-25).

The question of Cicero's knowledge of Aristotle's *Politics* remains a bone of contention. His description of the work corresponds to the text we have, as Pierre Pellegrin noticed, and this is reason enough to assume that he had had access to it, or at least to a good summary.<sup>77</sup> Aristotle's esoteric works, to which the *Politics* belong, were available to Cicero, to the point that he could advertise his perusal of them in his own dialogues.<sup>78</sup> Even if this was part of a literary fiction, the fiction needed to be credible. We should not forget, also, that Aristotelian political thought was contained in other texts than the *Politics*, which Cicero can have known and used: Paul Moraux gathered many indications that Aristotle's exoteric dialogue *On Justice*, for instance, stands behind much of his political theory.<sup>79</sup>

On the other hand, comparisons between Aristotelian works Cicero claims to have used and his rendering of their content sometimes cast doubt on the directness of his knowledge: the existence of an intermediary appears more likely in such cases.<sup>80</sup> Cicero's knowledge of later Peripatetics is undoubtable: his correspondence proves that he went out of his way to read their works, especially Dicaearchus' political treatises.<sup>81</sup> Aristotle's influence on Cicero's political thinking, therefore, could also have been mediated by authors of whose works he had firsthand knowledge: especially Theophrastus and Dicaearchus.<sup>82</sup>

### c) Hellenistic Excessive Freedom?

Aristotelian discussions of excessive freedom are thus likely to have left their mark on Cicero. Of course, political philosophy was also practiced in the more than 200 years intervening between Aristotle's death in 321 from Cicero's first published work (*De Inventione*, 88/87).<sup>83</sup> Hellenistic philosophy had a political component, our knowledge of which has made immense

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<sup>77</sup> Pellegrin 1987.

<sup>78</sup> *Fin.* 3.10, Cicero visits Cato's library to borrow from him *commentarii Aristotelii* (see also 5.12). In *Top.* 1-3, he stages a conversation with Trebatius around Aristotle's *Topics*, stressing how Aristotle's works, although available, are little known even to philosophers (on this passage see Baraz 2012, 159-162). This does not mean that the Aristotelian work is the basis of Cicero's text; but it is enough to show that Aristotle was for Cicero an available source.

<sup>79</sup> Moraux 1957. Aristotle's dialogue is mentioned in *De Rep.* 3.12. Frede 1987 argues in favor of Cicero's knowledge of Aristotle's *Πολιτικός*.

<sup>80</sup> See for instance Fortenbaugh 1987 and 2005.

<sup>81</sup> *Att.* 2.2.1 and 13.32.2. On Cicero's knowledge of Dicaearchus see Müller 1987; McConnell 2014, 115-160.

<sup>82</sup> Görler 1987.

<sup>83</sup> On the date of *De Inv.* see Achard 1993.

progress in the past thirty years. No one would claim today, as Hegel did, that Hellenistic philosophy was apolitical.<sup>84</sup> Crucial for our purposes is the elaborate theory of freedom developed by the Stoics.<sup>85</sup> It exerted a strong influence on Cicero, who includes it in his *Paradoxa Stoicorum*, a work he composed in 46 B.C.E.<sup>86</sup>

The Stoic theory of freedom will play a role in this chapter; but its importance for an understanding of Cicero's conception of freedom and its excesses should not be exaggerated, especially in comparison to the Platonic and Aristotelian influences. Two reasons should caution us against overestimating it: the first is conceptual, the second contextual. From a conceptual point of view, the Stoic notion of freedom as rational self-control made the term applicable to only one individual: the sage, whom the Stoics thought to be as rare as the phoenix of Ethiopia.<sup>87</sup> All other talk of freedom, for the Stoics, was based on a misunderstanding of the term. Plato and Aristotle also thought that the radical democrats' understanding of freedom was partial, or flawed; but they did not hesitate to engage with it on its own terms. They were ready to grant that the democrats did talk about freedom, albeit an unsound variety of it. The Stoics could not make that move. As Marcus Antonius, a leading character in Cicero's *De Oratore*, ironizes, a Roman orator committed to Stoicism cannot talk of popular liberty from foreign or aristocratic domination, since one can always enjoy rational self-control in such situations.<sup>88</sup> Cicero himself prefaces his discussion of the Stoic theory of freedom in the *Paradoxa Stoicorum* by specifying that it only has currency in learned circles.<sup>89</sup>

This conceptual reason is related to a contextual one. Plato, Aristotle and Cicero all lived at times where freedom (ἐλευθερία, *libertas*) was an essential part of the political culture. The meaning the term had for them was therefore dictated, at least in part, by its role in political ideology, be it democratic or Republican.<sup>90</sup> At Rome, political *libertas* could be understood in various ways, as

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<sup>84</sup> Laks and Schofield 1995 best represents this movement. On Stoic political philosophy see Erskine 1990; Schofield 1991; Vogt 2008; on its Epicurean counterpart see Silvestre 1995; Benferat 2005; Robitzsch 2017. On Hellenistic political philosophy in general see Long 2018.

<sup>85</sup> Vogt 2021.

<sup>86</sup> *Parad.* 33-41. The work was composed in early 46, between Cato's death (of which Cicero is not aware, *Parad.* 1) in April and the end of the winter (*Parad.* 5).

<sup>87</sup> Alexander, *De Fato* 196.24-197.3. Cicero endorses the idea that there has not been, even among the most virtuous Romans, a sage in the Stoic sense (*Off.* 3.16).

<sup>88</sup> *De Or.* 225-226.

<sup>89</sup> *Parad.* 33: *quorum ego auctoritate non uterer, si mihi apud aliquos agrestes haec habenda esset oratio; cum vero apud prudentissimos loquar, quibus haec inaudita non sint, cur ego simulem me, si quid in his studiis operae posuerim, perdidisse?*

<sup>90</sup> Schofield 2021, 37 makes the case for Cicero.

Valentina Arena reminds us: the *popularis* interpretation insisted that power should ultimately rest within the people, and it is importantly against such a tradition that Cicero wrote *De Re Publica*.<sup>91</sup>

Cicero's stance on popular participation will have to be investigated in details below; but it is clear that the tendency of his political dialogues is to argue for its limitation. *De Re Publica* is explicitly set in the context of *popularis* agitation: its dramatic date is 129 B.C.E., in the midst of a heated controversy over the application of Tiberius Gracchus' agrarian law.<sup>92</sup> Tiberius' *rogatio agraria* was passed in January 133, after he had successfully encouraged the people to depose his lawfully elected colleague Octavius, who opposed the bill – an unheard-of measure that tipped the scale of the Roman political equilibrium. The extent to which the popular assembly should have a say in political affairs is thus a key concern of *De Re Publica*. As to *De Legibus*, its most extensive discussion of freedom occurs in the course of a treatment of *leges tabellariae*, laws on secret ballot, which had been defended by the *populares* as the bulwark of liberty since the first of them, the *lex Gabinia* of 139 B.C.E.<sup>93</sup>

Seen in this context, Cicero had much more to say about popular freedom than the Stoics; in this regard, he was much closer to Plato and Aristotle than to the Stoics. I do not wish to claim, of course, that ἐλευθερία ceased to be a political value in the Hellenistic period. But among its various meanings, the emphasis shifted, from popular participation to either independence from external rule, or freedom of speech.<sup>94</sup> The causes of that shift are to be found both in the fraught international context, as well as in a socio-political trend towards a new equilibrium, where the elite effectively monopolized power in exchange for their acts of public benefaction.<sup>95</sup> Even Athenian honorific decrees of the early third century do not praise prominent statesman for their defense of the *people's* freedom: what matters is the *city's* independence from external rulers.<sup>96</sup> The question of democratic freedom could not have the same urgency, even the same meaning, for the Stoics as it had for Plato, Aristotle and Cicero.

### 3) One *Libertas* in One Corpus?

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<sup>91</sup> Arena 2012.

<sup>92</sup> *Rep.* 1.14 and 31-32, with Büchner 1984 *ad loc.*

<sup>93</sup> *Leg.* 3.34-39. On *leges tabellariae* and *libertas* see Brunt 1988, 313-314; Yakobson 1995; Marshall 1997; Hall 1998.

<sup>94</sup> Dmitriev 2011, 112-142; Cartledge 2016, 231-246; Gray 2018.

<sup>95</sup> Quass 1993.

<sup>96</sup> Lehmann 1997, 16.

This contextual fact entails an important methodological point. Marcus Antonius' irony reveals Cicero's acute awareness of the fact that different statements, different languages, are appropriate for different audiences. In the *Paradoxa Stoicorum*, Cicero uses *libertas* in the Stoic sense; but he could not do so in his forensic speeches: this would have been a gross violation of *decorum*, the cardinal rhetorical virtue.<sup>97</sup> When speaking to the people, Cicero thinks, one should stick to a language that is intelligible to them.<sup>98</sup> We should keep this context- and genre-sensitivity in mind when interpreting texts from various quarters of the Ciceronian work.

At the same time, I have no intention to cut Cicero's corpus into *disiecta membra*. Recent scholarship has shed more and more light on its unity: there is striking agreement between Cicero's pronouncements in his philosophical works, on the one hand, and the statements contained in his speeches and his correspondence, on the other.<sup>99</sup> For our purposes, this means that Cicero's comments about *libertas* in the speeches, the correspondence, the rhetorical works (and the philosophical treatises that are not directly political) are not meaningless: they tell us something about his conception of freedom as a whole, and about his criticism of possible excesses.

Malcolm Schofield has recently insisted that Cicero is sometimes, in spite of a tenacious prejudice, a rigorously conceptual and syllogistic thinker; but that he also works from notions and assumptions he inherits from his political culture.<sup>100</sup> The meaning of *libertas* in the political dialogues or treatises can only be illuminated by reference to this culture.<sup>101</sup> The speeches and the correspondence acquire thereby a particular status: they come from Cicero's mind, and thus bear *some* relationship of content with the philosophical works; at the same time, they are closer to the ordinary language of the political culture in which their author lived. We are therefore entitled to use them to shed light on Cicero's political theory; but the statements they contain will have to be interpreted with due attention to their environment: to questions of genre, of historical context, and of Cicero's personal strategies.

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<sup>97</sup> On *decorum* as a rhetorical virtue see *De Or.* 1.132; *Or.* 70-71.

<sup>98</sup> Gildenhard 2013, 261 talks of Cicero's 'commitment to common sense and demotic reach.'

<sup>99</sup> See in particular Stem 2006 and Gildenhard 2011 (for the speeches); McConnell 2014 and Aubert-Baillet 2021 (for the correspondence). Michel 1960 was a pioneer of this approach.

<sup>100</sup> Schofield 2021, esp. 36-37.

<sup>101</sup> This applies especially to a work like *De Re Publica*, whose fragmentary nature is bound to give us the impression of non-systematicity and lack of argumentative rigor.

Thus, one task of this chapter will be to make sense of the positively-laden mentions of political *libertas* in Cicero's corpus. They abound in the speeches, in formulations that lie in tension, *prima facie* at least, with some of Cicero's theoretical statements. But I hope to show that these tensions can be, if not totally released, at least mitigated. Our analysis of Cicero's positive view of *libertas* will enable us to reach a better understanding of his criticism of excessive freedom, which will occupy the second and main part of this chapter. As in our study of the *Laws* and of Aristotle's political works, it is against a positive backdrop that Cicero's engagement with *licentia*, freedom gone wrong, will be made intelligible.

#### 4) The Birth of *Licentia*

The second part of this chapter is devoted to an analysis of the word and concept Cicero uses to talk about excessive freedom: *licentia*. Although much attention has been given to the Roman notion of *libertas*, few scholars have turned their eye to the role *licentia* plays in the debates of the Late Republic, and no study has been entirely devoted to its analysis.<sup>102</sup> Two facts can, I think, account for this lack of interest. The first has to do with the study of *libertas*, the other with scholarly assumptions about Cicero.

##### a) *Licentia* in the Shadow of *Libertas*

*Licentia* is most often used by Cicero to denote the grant of an excessive freedom to an individual or a group. But the very notion of excessive freedom does not fit well within the common view of Roman *libertas*. Understanding *licentia* requires moving from that common view to a notion of freedom that is different from it in three respects: focus, structure, and philosophical basis.

The debate on the meaning and extent of Roman *libertas* has focused on its origin in the master-slave dichotomy, and on its political translation in terms of legal status. This is already noticeable in the first book-length study of *libertas*, written by Chaim Wirszubski in 1950, which

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<sup>102</sup> Scholars writing on *libertas* often mention *licentia*, but only in passing (Momigliano 1971, 519-520; Brunt 1988, 320-321; Mouritsen 2001, 10-11; Arena 2012, 167 n. 420). None of them has paid attention to its political importance. Klösel 1967, 129-133 has illuminating comments on *licentia* but doesn't provide a thorough analysis of the term. He also overlooks the importance of permissiveness in Cicero's thought.

concentrated on *libertas populi Romani* as the people's freedom from domination by a king or a faction.<sup>103</sup> It also constitutes the basis of Peter Brunt's analysis of the uses of *libertas* in the Republic, however alive Brunt may have been to the different ways in which that dichotomy was used in Roman political debates.<sup>104</sup> Since then, this understanding of *libertas* has become dominant,<sup>105</sup> finding a remarkable echo in contemporary conceptions of freedom as non-domination, i.e. as non-subjection to an arbitrary will, in the work of Quentin Skinner and Philip Pettit.<sup>106</sup> Valentina Arena has recently given to this tradition its capstone in her study of Roman *libertas*.<sup>107</sup>

In order to understand the concept of *licentia*, its use in Roman political discourse in general and in Cicero in particular, we need to step back from that view in three respects: focus, structure, and spirit. Our focus must shift, because primary and secondary sources concentrate on the people's struggle to secure its own freedom from domination by the kings, the patricians, the *nobiles*: *libertas* in that tradition is seen as an ideal, not as a potential threat.<sup>108</sup> The same applies to neo-Republican theory: if liberty is defined in a way that makes it a value political institutions have to maximize, it is hard to see how it can become excessive. Yet *licentia* for Cicero means nothing but freedom become dangerous; and Cicero's approval of political *libertas* is very much constrained. We must therefore adopt a point of view that allows us to understand how freedom, including freedom of the people, could be seen with mistrusting eyes.

We must also conceive of freedom as having a structure that is different from non-domination, and revert to a more common understanding of it as non-interference.<sup>109</sup> This is because *licentia* most often implies, for Cicero and other Roman writers, the enjoyment of a particular freedom which should, and therefore could, be curtailed by the authority that has power over it: the beneficiary of *licentia* is not securely protected against a cancellation or restriction of that particular liberty, whereas liberty as non-domination requires such a protection.<sup>110</sup> To be clear, I am not suggesting that *licentia* is a legal status, formally granted by an authority. The range of its uses goes

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<sup>103</sup> Wirszubski 1950, 4 and *passim*.

<sup>104</sup> Brunt 1988. Brunt stresses the wide variety of uses of *libertas* in the Republic and the different meaning it received according to the different political ideals of our sources (see especially 321).

<sup>105</sup> Hellegouarc'h 1957, 542-564; Klösel 1967; Bleicken 1972; Raaflaub 1984.

<sup>106</sup> See in particular Skinner 1998; Pettit 1998 and 2012. The three studies quote Wirszubski as their main reference on Roman *libertas* (Skinner 1998, 22, 37 *et passim*; Pettit 1998, 32; Pettit 2012, 2).

<sup>107</sup> Arena 2012, 6.

<sup>108</sup> See on this point Cogitore 2011. On the associations between *libertas* and the plebs see also Wiseman 2008, 84-139.

<sup>109</sup> For other arguments pushing in that direction see Kapust 2004; Maddox 2002; Walker 2006; Podoksik 2010.

<sup>110</sup> On this point see Pettit 2012, 83.

well beyond legal matters (the same for *libertas*, after all). What I am saying is precisely that it is wrong to see *licentia* as a legal protection on the model of neo-Republican liberty. As the study of the word's meaning reveals, *licentia* always stems from a normative (but not necessarily legal) authority, whether it is given explicitly or only implicitly.<sup>111</sup> In all non-metaphorical uses of the word, this normative authority can always revisit or cancel the existing permission. We must therefore revert to a broader, if somewhat underdetermined, concept of freedom, distinct from the neo-Republican concept of entrenched liberty.<sup>112</sup>

Finally, we must admit that talk of freedom in the Late Republic could be grounded in a philosophical basis different from that of neo-Republican political theory: in Cicero at least, political freedom is never unqualifiedly endorsed as one of the ideals politics should bring about.<sup>113</sup> Cicero's civic ideals owe much more than currently acknowledged to a theory of natural law which makes virtue the foremost aim of political activity.<sup>114</sup> Many of us might find this notion repellent, but it needs to be taken into account in any impartial interpretation of Cicero's political thought.<sup>115</sup>

## b) *Licentia*: A Moral-cum-Political Category

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<sup>111</sup> As I show in Nicolay 2021, this normative authority can be legal (a court), moral (the *mos maiorum*), literary (Cicero as orator), philosophical (a particular Hellenistic school) or even metaphysical (nature). On literary *licentia* see the conceptual background provided in Varro *Ling.* 9.6: individual way of speaking, including the poet's greater freedom, is in the power of the people.

<sup>112</sup> On the underdeterminacy of the Roman concept of freedom see Ando 2010, 190.

<sup>113</sup> My understanding of the place of *libertas* among Cicero's political ideals is informed by Lepore 1954, 303-400 (although I don't agree with Lepore's thesis that Cicero came at the end of his life to understand *libertas* as one's ability to promote the freedom of the Republic, which rests on a very controversial interpretation of *Off.* 1.70); Dermience 1957 (stressing the philosophical, i.e. Platonic and Stoic overtones of Cicero's understanding of freedom as domination of reason over passion); Kohns 1977 (especially on the measure of political participation that Cicero deems prudent to grant to the people); Christes 1987 (esp. p. 170 on Scipio's preference for monarchy among 'unmixed' regimes, despite its lack of *libertas*); Cowan 2008 (which emphasizes the rhetorical use of *libertas* Cicero makes in the *Philippics* in order to persuade the people that his only goal is to free them of the servitude imposed on them by Caesar); and, finally, Kennedy 2014, with whose main thesis (Cicero's ideal in *De re publica* is a form of *concordia* that recognizes the different worth of society's different groups, and in *De legibus* 'justice and natural law,' 496; in neither treatise is *libertas* whole-heartedly endorsed as an ideal) I find myself in agreement. The very phrase 'natural law,' although central to Cicero's political writings, never occurs in Arena 2012. On its centrality in Cicero see Girardet 1983, 136.

<sup>114</sup> One the centrality of natural law in Cicero's political theory, see the recent contributions of Atkins 2013 and 2016; and Straumann 2016.

<sup>115</sup> To the extent in which the present paper advocates for taking some distance from neo-Republican political theory in order to interpret Roman political debates, it falls in with a recent trend started by Ando 2010 (see also Clarke 2014).



This brings us to the second cause of the scholarly neglect of *licentia* in Cicero's political thought: the long-standing skepticism vis-à-vis Cicero's use of moral terms in his political theory. Going back at least to Hegel,<sup>116</sup> modern scholars have criticized Cicero's oversimplification of the situation faced by his generation.<sup>117</sup> The underlying assumption seems to be that Cicero's outbursts against his opponents were nothing but expressions of his subjective opinion. While this reading of Cicero has not gone unchallenged in the past,<sup>118</sup> recent contributions have stressed how deeply Cicero's moral discourse is embedded in the wider frame of his philosophical and rhetorical thinking.<sup>119</sup> In particular, it is closely tied to his political theory: as he puts it at the beginning of book 5 of *De Re Publica*, quoting Ennius:

On ancient usages the Roman state rests, and on its men.

*Moribus antiquis res stat Romana virisque.*<sup>120</sup>

For Cicero, moral attitudes are absolutely necessary, next to laws and political institutions, to create and maintain a just state.<sup>121</sup> Freedom turns excessive not only when it oversteps political limits to popular participation, or legal protections for the citizens' basic rights; it also turns into *licentia* when it violates the ethical requirements necessary to sustain a just state.

In the second part of this chapter, I show how the notion of *licentia* unites Cicero's political and moral theory to provide a coherent and powerful analysis of contemporary political developments. *Licentia* is a concept Cicero needs in order to explain how a Republican polity, although master of its destiny, can abdicate its responsibilities and give way to behaviors that directly threaten its survival. When a polity decides to grant individuals or groups a *libertas* that goes

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<sup>116</sup> The most thorough survey of historians' and philosophers' judgment on Cicero is to be found in Habicht 1990, 105-119. Habicht makes clear that he shares Hegel's and other's view on Cicero's lack of political acumen.

<sup>117</sup> See the famous judgement of Syme 1939, 144-145; Meier 1966, 91 n. 164; Gruen 1974, 498-499; Brunt 1988, 89; Wood 1992, 177 and 204; Fuhrmann 1989, 290. Edwards 1993 takes Cicero as a prominent example of the Roman obsession with immorality, ascribing to this tendency his constant recourse to invective (see esp. 10-11 and 25-26). Somewhat more recently, C. Steel has explained Cicero's use of moral categories by his inability to provide solutions for the structural problems of the Republic (Steel 2001, 113-161, and 197 for a judgment of Cicero's moral mindset).

<sup>118</sup> See Michel 1960, 537-651; Mitchell 1984; Lévy 1992, 495-536.

<sup>119</sup> Connolly 2007; Baraz 2012; Atkins 2013; Zarecki 2014. Kaster 2005 shows that keen political intuitions on communal life underlie Roman moral categories: to uncover them, one has to start by unravelling their meaning(s). The approach followed in this paper is greatly influenced by and indebted to Kaster's.

<sup>120</sup> *Rep.* 5.1 (frg. 156 Skutsch).

<sup>121</sup> *Rep.* 1.3; 1.69; 2.7; 2.27; 4.3; 5.6; 6.16.

beyond measure (whether that limit is institutional or ethical), it actually encourages wrongful behaviors and undermines itself. Cicero's uses of *licentia* reveals his interest in two channels through which the permissiveness of a political community makes it liable to fall. The first is based on the logic of exemplarity so important in Roman society: just like a good example provokes emulation, a bad one gives everyone a pretext to imitate it, and spreads. I propose to call this phenomenon 'reversed exemplarity.' The second channel through which *licentia* harms the commonwealth comes from a fact of human psychology: vice, when it is not punished, seeps in and takes roots in the soul of the individual, goading him towards more and more wrongdoing.<sup>122</sup> In these two ways, any excessive grant of *libertas* undermines the general moral tenor of the Roman community.

Thus, *licentia* only takes place when an individual or a group receives more freedom than they should. To understand what *licentia* consists in for Cicero, we must start by delimiting the domain in which he thinks freedom should be given to a people and its individual members.

## I – The Political Value of *Libertas* in Cicero

In what follows, I offer a synthesis of Cicero's appreciative view of freedom, as it can be recovered primarily from his political treatises (*De Re Publica*, *De Legibus*, *De Officiis*), but also from other parts of his corpus. In a nutshell, I take Cicero to recognize three different justifications for granting the people a measure of *libertas*:

- 1) *Libertas* improves political decision-making.
- 2) *Libertas* gives each member of the people a legitimate standing.
- 3) *Libertas* is the object of an incompressible desire, which needs to be satisfied for the sake of the commonwealth's stability.

Let us take these three bases in turn.<sup>123</sup>

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<sup>122</sup> Apart from its political significance, *licentia* plays an important role in Cicero's rhetoric and poetics. This would require a separate treatment, which I plan to do elsewhere. I will focus here on the political aspects of *licentia*.

<sup>123</sup> I take it that the fact that being deprived of liberty amounts to slavery, an idea that pervades Cicero's corpus, is not in itself (for him), a justification for granting freedom to individuals: not least because Cicero puts forward, in *Rep.* 3.38, a theory of just slavery.

## 1) *Libertas* as Conducive to Good Political Decisions<sup>124</sup>

In an influential 1977 article, Hans Peter Kohns helpfully distinguished between two kinds of *libertas* in *De Re Publica*: *libertas populi*, which refers to a form of popular participation that gives the people a decisive voice; and *libertas civium*, which encompasses all the laws that protect the citizens against mistreatment.<sup>125</sup> Both *libertas populi* and *libertas civium*, as I show in this section, are thought by Cicero to improve the quality of political decision-making.

### a) *Libertas populi*

*Libertas populi*, or the people's power to make their voice heard in decision-making, is a fundamental feature of the Roman constitution. Cicero recognizes, in the *Pro Plancio*, that voting rights are a key component of the people's *libertas*.<sup>126</sup> He gives a rationale for them in *De Re Publica*. Romulus' wisdom, Scipio avers, is to be credited for seeing that elective monarchy is the best way to have virtue rule in the commonwealth: Spartan-style hereditary monarchy, by contrast, is intrinsically flawed.<sup>127</sup> The same logic applies to the election of magistrates: the Roman consuls, Scipio informs us, were created as the direct successors of the kings, and they are also elected by the people.<sup>128</sup>

The people can only select the most virtuous to kingship or office, however, if they are endowed with enough discernment to identify who they are; and Scipio knows that some deny this. In book 1 of *De Re Publica*, he reports aristocratic arguments to the effect that the people are characterized by their 'ignorance about virtue' (*ignoratio virtutis*): instead of picking the most

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<sup>124</sup> I use 'good' *lato sensu*, to mean both 'just' and 'beneficial.' Cicero's definition of *res publica* at 1.39 shows that, for him, a good political decision works for the mutual advantage of the citizens, within the boundaries of justice. On this point see Straumann 2022.

<sup>125</sup> Kohns 1977. *Libertas populi* requires not only that the people have a say, but that their power counter-balances that of the king, or the magistrates, and of the aristocrats (*De Rep.* 2.42-43). This bipartition corresponds to Roman realities: 'The legal rights that Romans most explicitly and commonly subsumed under the title of freedom are of two types: immunity from arbitrary coercion and punishment by magistrates, and some degree of participation in political power' (Brunt 1988, 297)

<sup>126</sup> *Planc.* 11.

<sup>127</sup> *De Rep.* 2.24. The topic of elective monarchy is introduced at 1.50 (in the reconstruction of Christes 1987 and 1997).

<sup>128</sup> *De Rep.* 2.56.

competent, they settle on the wealthiest citizens to hold offices. Wealth, however, is no guarantee of political virtue.<sup>129</sup> But does Scipio share the view of these aristocrats? His comments about Roman monarchy in book 2 indicate with enough clarity that he does not. He takes the people to have had, under the kings, a very reliable capacity of discernment.<sup>130</sup> And there are reasons to believe that Cicero himself had a rather positive view of the people's capacity of discernment: in the speeches, he considers the *populus* to be naturally on the side of the 'best citizens' (*Sest.* 108); in the political treatises, he trusts that all human beings have in them the same tendency towards virtue and reason (*Rep.* 1.41; *Leg.* 1.26-30 and 3.25; *Off.* 1.147); in the rhetorical works, finally, he takes the people to be very competent judges of an orator's art (*De Or.* 3.195; *Brutus* 185).<sup>131</sup> This seems to put him in the same camp as Scipio regarding the people's capacity to judge political matters.<sup>132</sup>

At the same time, Scipio is far from believing that the people are always right. In fact, he argues in book 3 that there are reasons to curtail popular participation: if, for example, the people are seized by a fit of collective frenzy, their *res publica*, just like the *res privata* of a mad person, should be taken away from them without them having a say in its management.<sup>133</sup> One case of such frenzy is when the people disregard the normative conditions on which the existence of the *res publica* is predicated: if they violate the basic conditions of justice, such as the rules protecting private property, they overstep the limits of legitimate *libertas* and fall into its negative counterpart, *licentia*.<sup>134</sup> This is bound to happen in 'simple,' i.e. unmixed, democratic regimes, whereas the balanced regime is meant to guard against such risk.<sup>135</sup>

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<sup>129</sup> *Rep.* 1.51-52.

<sup>130</sup> *Rep.* 2.24. The people are thus capable of entrusting power to wise kings, such as Numa (2.25 or Servius Tullius (2.38). Cf. also the people's capacity to understand the complex phenomenon of an eclipse, *Rep.* 1.23.

<sup>131</sup> On this last point see Atkins 2018, 120.

<sup>132</sup> I would add that Cicero takes the *Menexenus* to be non-ironical (*Or.* 151; *Tusc.* 5.36): Socrates' appreciative description of the Athenian regime as 'an aristocracy with the people's approval' (μετ' εὐδοξίας πλῆθους ἀριστοκρατία, 238d1-3) would have been an argument for him to favor such a regime. The *Laws* (950bc) too is confident that, as Reid (2021, 15) puts it, 'even bad people are relatively good at judging virtue in others.'

<sup>133</sup> *Rep.* 3.45. Schofield 2021, 51: the legal metaphor at the heart of the definition of *res publica* at 1.39 only goes so far as to give the people the means to make sure that their property is administered in their interest. As he puts it later on (p. 52): 'Cicero was no democrat. He was far from believing that the power of the *populus* over its *res* should be unlimited, or that there should be no constraints on popular liberty. But he is clear that it should have some such power, and that consequently a degree of political liberty is essential to a true *res publica*.' Wirszubski 1950, 14 and Leber 2018, 163 make similar points.

<sup>134</sup> The idea that a people is bound by a *consensus* around basic conditions of justice is put forward in the definition of a *res publica* and a *populus* at 1.39.

<sup>135</sup> *Rep.* 3.20: *si vero populus plurimum potest omniaque eius arbitrio reguntur, dicitur illa libertas, est vero licentia. Sed cum alius alium timet et homo hominem et ordo ordinem, tum quia sibi nemo confidit, quasi pactio fit inter populum et potentis; ex quo existit id quod Scipio laudabat coniunctum civitatis genus.* 'But if the people have the upper hand and everything

Evidence from the speeches confirms that Cicero's view is close to Scipio's: the people are reliable judges of virtue, but only under some circumstances. As Cicero argues in his most theoretical speech, *Pro Sestio* (delivered in February or March 56 B.C.E.), popular election of the magistrates is a reliable way to have virtue rule in the commonwealth. The magistrates' election maximizes the chance of having competent people holding office; it also opens to them the doors of the Senate, which is the main organ of public deliberation (*consilium*).<sup>136</sup> A system of elections thus makes it more likely that virtue steers the commonwealth, both in the magistrates and in the Senate. But legal constraints need to be in place in order to maximize the quality of the people's deliberation. For *libertas* of participation not to turn into *licentia*, the people must deliberate and vote in an orderly fashion, which in Rome means under the supervision of a magistrate and, in some cases, according to property qualifications. This, Cicero thinks, increases the chance of the people voting according to reason and basic justice. Cicero makes the case most clearly in a speech from 59 B.C.E., the *Pro Flacco*:

Our ancestors, those extremely wise and scrupulous men, decided that public meetings should have no legal force; they decided that whatever the *plebs* desired to decree or the *populus* to enact should be approved or rejected after the public meeting was adjourned, after the people had been allotted to their divisions and distinguished by tribes and centuries according to their order, wealth-class, and age, after the supporters [of the law] had been heard, and its content had been promulgated and made known for many days. But the city-states of Greece are entirely managed by unrestrained, seated assemblies. Thus, to say nothing of the Greece of today, which was cast down and ruined long ago through its own decisions, that Greece of antiquity, which once flourished in strength, imperial

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is done at their will, this is called liberty but is in fact licence. But when people fear each other, when man fears man and class fears class, then because no one has enough confidence in himself, some kind of pact is struck between the people and the powerful; from which arises the composed regime that Scipio praised.' All translations in this chapter are mine, unless otherwise specified.

<sup>136</sup> *Sest.* 137: *qui cum regum potestatem non tulissent, ita magistratus annuos creaverunt ut consilium senatus rei publicae praeponerent sempiternum, deligerentur autem in id consilium ab universo populo aditusque in illum summum ordinem omnium civium industriae ac virtuti pateret. senatum rei publicae custodem, praesidem, propugnatorem conlocaverunt; huius ordinis auctoritate uti magistratus et quasi ministros gravissimi consili esse voluerunt.* '[Our ancestors...] because they had not been able to endure the power of kings—created the annual magistracies with this aim in view: the magistrates would ever set the senate's policy in authority over the commonwealth, but the members of that body would be chosen from the people as a whole, with access to that highest category of the citizenry open to the manly exertions of all. They put the senate in place as the commonwealth's guardian, bulwark, and defender; they intended that the magistrates rely upon the senate's authority and be the ministers, as it were, of its most weighty wisdom.' I borrow the translation from Kaster 2006. As Arena (2012, 61) notes, Cicero in *De Legibus* 3.27 accepts the *lex Clodia de censoria notione* of 58: an ex-magistrate, since he has been elected, should not be banned from the Senate by a simple decision of the censors.

power, and fame, was laid low by this one evil, the unrestrained freedom and license of its assemblies (*libertate immoderata ac licentia contionum*). When men inexperienced in all affairs, ignorant novices, had taken their seats in a theater, then they would undertake useless wars, set subversive men in charge of the state, and expel their most patriotic citizens from the city.<sup>137</sup>

In this text, it is the presiding magistrate's role to apply the procedural laws that maximize the rationality of the people's vote: he puts an end to possible rowdy public meetings and distributes the people in legally defined groups (especially centuries, which are organized along property criteria).<sup>138</sup> He is the only one who has the right of initiative; he makes sure the text of the bill is known enough in advance, and that reasons for it are heard in a calm and peaceful manner.<sup>139</sup> All these measures are supposed to cool down the people's irrationality.<sup>140</sup>

Apart from magisterial intervention, there existed at Rome other means of constraining popular vote: this was for Cicero one of the Senate's paradigmatic roles. Cicero thinks that the people's power (*potestas*) should be made compatible with the Senate's authority (*auctoritas*): the Senate, being an assembly of wise men, is the most competent instance to steer the commonwealth.<sup>141</sup> For Cicero, the Senate has various means at its disposal to influence popular vote: it can first push a tribune of the *plebs* to veto a bill, as was often done in actual Roman practice.<sup>142</sup> In

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<sup>137</sup> *Flac.* 15-16: *Nullam enim illi nostri sapientissimi et sanctissimi viri vim contionis esse voluerunt; quae scisceret plebes aut quae populus iuberet, submota contione, distributis partibus, tributim et centuriatim discriptis ordinibus, classibus, aetatibus, auditis auctoribus, re multos dies promulgata et cognita iuberi vetarique voluerunt. Graecorum autem totae res publicae sedentis contionis temeritate administrantur. Itaque ut hanc Graeciam quae iam diu suis consiliis percussa et adflcta est omittam, illa vetus quae quondam opibus, imperio, gloria floruit hoc uno malo concidit, libertate immoderata ac licentia contionum. Cum in theatro imperiti homines rerum omnium rudes ignarique consederant, tum bella inutilia suscipiebant, tum seditiosos homines rei publicae praeficiebant, tum optime meritos civis e civitate eiciebant.* I borrow the translation from Morstein-Marx 2004, 35-36. See also *Pro Sestio* 126.

<sup>138</sup> At *Red in Sen.* 27, Cicero also argues that *comitia centuriata*, because of their census-qualification, are *maxime iusta*.

<sup>139</sup> Morstein-Marx 2004, 35. See also Guérin 2011, 229. Inaction on the part of the magistrates leads directly to violation of basic law: this happened, for instance, when Clodius got free rein from the consuls to put to the vote a *privilegium* exiling Cicero (*Sest.* 65).

<sup>140</sup> In *Leg.* 3.27, Cicero also mentions *auspicia* as a way to prevent the people from acting on 'a fit of unjust passion' (*impetum iniustum*).

<sup>141</sup> See especially *Leg.* 3.28: *Nam ita se res habet, ut si senatus dominus sit publici consilii, quodque is creverit defendant omnes, et si ordines reliqui principis ordinis consilio rem publicam gubernari velint, possit ex temperatione iuris, cum potestas in populo, auctoritas in senatu sit, teneri ille moderatus et concors civitatis status.* 'The situation is such, that if the Senate is master of public deliberation, if all defend what the Senate has decided, and if the other orders want the state to be governed by the deliberation of the first order, it is possible that, from this balance of rights (when the people has power, the Senate authority), the regime can be maintained in moderation and concord.' Cicero similarly defends a combination of popular *libertas* and senatorial *auctoritas* in the speeches: see in particular *Phil.* 3.8; 3.37; 5.34; 5.53; 10.23. In the correspondence, he presents himself as the defender of the Senate's *auctoritas*: see e.g. *Att.* 1.16.1; 1.18.3. See on this point Leber 2018, 167.

<sup>142</sup> *Leg.* 3.24; see Thommen 1989, 216-223; Mouritsen 2001, 66.

*De Legibus*, Cicero also proposes that the people willingly reveal their vote to members of the senatorial order, assuming that shame would push the citizens to please the elite.<sup>143</sup> In this way, Cicero thinks, the people will keep their *libertas* without harm for the political community.<sup>144</sup>

Thus, the Roman balanced constitution, with the power it gives to magistrates, the Senate and the people, maximizes the quality of political decision-making, both in terms of justice and collective benefit. Under this equilibrium, the people's *libertas* of participation does, as it is argued in *De Re Publica*, contribute to valuable decisions. Giving such liberty to the people therefore belongs to political justice, or *aequabilitas*.<sup>145</sup>

## b) *Libertas civium*

The other aspect of *libertas* which, for Cicero, contributes to good political outcomes is *libertas civium*, the set of rights (or *iura libertatis*) that protect the citizens against mistreatment. Jed Atkins has recently insisted that, for Cicero, a strict enforcement of these rights goes a long way towards reducing arbitrary rule.<sup>146</sup> In *De Re Publica*, Scipio defends two of these rights in particular: the tribunes' right to veto any other magistrate's action (*intercessio*), and the citizens' right to appeal to the popular assembly against a verdict of capital punishment or a heavy fine (*provocatio ad populum*).<sup>147</sup> But *libertas civium* seems to be broader than these two *iura*, and to encompass all measures that protect the citizens against physical violence.<sup>148</sup>

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<sup>143</sup> *Leg.* 3.38. This proposal was recognized by Nicolet 1970 as influenced by Plato's *Laws*. Cicero refers to this system as *species libertatis*, 'a display of liberty,' at 3.39. Arena 2012, 58-59 interprets the phrase in the sense of a mere sham, while Schofield 2021, 92 notes that the non-secret *tabella* is also described by Cicero in the same passage as *quasi vindicem libertatis* ('a symbolic guarantee of true liberty' in his translation).

<sup>144</sup> *Leg.* 3.25. One might ask why Cicero does not support a system of senatorial co-optation. But in order to be competent judges of virtue in others, the senators must presumably be selected on the basis of their own virtue; and a system of open election by the people best ensures that this is the case.

<sup>145</sup> *Rep.* 1.69. I follow here Schofield 2021, 46 in his interpretation of *aequabilitas* as 'the proper exercise in each case of the different roles appropriately played by [the] different orders or constituencies' of the commonwealth.

<sup>146</sup> Atkins 2018. Atkins does not deny that *libertas populi*, or a measure of political participation, is endorsed by Cicero: after all, the right to vote (*ius suffragii*) was part of the Roman *iura libertatis*, as he notes p. 762-763.

<sup>147</sup> *Rep.* 2.62-63. On *provocatio* see also 2.53 and 3.44.

<sup>148</sup> *Rep.* 2.46: Brutus upheld *libertas civium* when he led the revolt against Tarquinius, because of the tyrant's rape of Lucretia. Clarke 2014 convincingly argues that Roman *libertas* was primarily conceived as a guarantee against physical violence.

What is Cicero's justification for this bundle of rights? I argue that two can be recovered from his corpus. The first is his general aversion to violence (*vis*); the second is based on a form of rule utilitarianism.

The opposition between violence (*vis*) and the rule of law (*ius*) is a cornerstone of Cicero's political thinking. It is one of the themes that span the entirety of his corpus, from the prologue of *De Inventione* (88/87) to the *Philippics* (44-43), through the *Pro C. Rabirio* (63) and the *Pro Sestio* (56).<sup>149</sup> In the speeches as in the correspondence, Cicero shows himself extremely wary of political violence, even for the sake of steering the commonwealth in the direction he deems appropriate: the intrinsic badness of violence, as well as its tendency to spread and multiply, are enough reasons to refrain from such a course of action.<sup>150</sup> Yet if violence is bad, both intrinsically and in its consequences, then entrenched rights that protect the citizens against it are legitimate. This gives a first Ciceronian justification for *iura libertatis*.

For Cicero, however, *iura libertatis* are not to be enforced unqualifiedly: they are liable to interpretation. Cicero thus endorses an institution first heard of in 121 B. C., the *senatus consultum ultimum*, the purpose of which was to waive the right to *provocatio* in cases of emergency.<sup>151</sup> Another senatorial practice, the declaration of a citizen as public enemy (*hostis publicus*), was meant to have the same effect, and was also approved by Cicero.<sup>152</sup> Cicero even went as far as to defend the view that a Roman citizen automatically lost his citizenship if he behaved like an enemy of the state: a senatorial decree was not necessary, he thought, to deprive that citizen of the benefit of *provocatio*.<sup>153</sup> It was on that basis that Cicero, as consul, executed Catilina's accomplices on December 5<sup>th</sup> 63. For Cicero, therefore, a *ius libertatis* as defined by laws on *provocatio* was not absolutely entrenched: a deliberate decision of the Senate and its interpretation by a higher magistrate could deprive of it a person who, according to written law, was indeed a citizen.

Cicero's political theory reflects his ambivalence on the question of *provocatio*. In book 3 of *De Legibus*, he does subject magisterial judgments to *provocatio ad populum*; but he also gives the senate ultimate authority over the commonwealth, and makes 'the people's safety' (*salus populi*) the

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<sup>149</sup> *De Inv.* 1.2; *Rab. Perd.* 13; *Sest.* 90-92; *Phil.* 1.21. See also *De Off.* 2.24 and 3.27.

<sup>150</sup> Among the speeches, see in particular *De Domo Sua* 95-96; *Pro Sestio* 128. In his letter to Lentulus Spinther (*Fam.* 1.9, December 54), Cicero uses the authority of Plato (citing *Crito* 51c and *Ep.* 5.322ab) to argue his point.

<sup>151</sup> *Cat.* 1.4; *Rab.* 20-22; *Pis.* 14; *Mil.* 70; *Phil.* 2.18. Cicero's defense of the *senatus consultum ultimum* is helpfully synthesized by Mitchell 1971.

<sup>152</sup> *Pis.* 35; *Phil.* 3.14.

<sup>153</sup> Straumann 2016, 99.



supreme norm to guide the consuls' actions.<sup>154</sup> In the regime sketched in *De Legibus*, it seems, Catilina's accomplices would not have benefitted from *provocatio ad populum*.

Cicero thus admits that the *iura libertatis* defined in written law need interpretation. But he also thinks that, by and large, the commonwealth would suffer from their absence. It is one thing to let an assembly of wise men, or the consuls, interpret a legal right in times of crisis; quite another, to abolish it altogether. When *provocatio* was indeed abolished, as under the brief rule of the *decemviri* (450-449 B.C.E.), the consequences were dire for the political community: the ten men in charge of legislating 'ruled the people capriciously (*libidinose*), harshly (*acerbe*), and greedily (*avare*).'<sup>155</sup> As a general rule, *provocatio ad populum* has the merit of not letting single individuals make dramatic decisions in ordinary circumstances.<sup>156</sup>

The same logic seems to apply, in Cicero's mind, to other *iura libertatis*. Tribunician *intercessio*, the tribunes of the plebs' right to veto any other magistrate's action, can of course bring harm to the commonwealth, as when it thwarts legislative processes that Cicero deems beneficial: but its existence has, by and large, proved a useful safeguard against political rashness.<sup>157</sup> Being a cautionary measure, the tribunician power of *intercessio* has brought more good than its absence would have caused.<sup>158</sup> As Cicero puts it in *De Legibus*, 'it is unjust to enumerate only the flaws, to select only the vices of something when you rail against it, and to leave out the benefits it brings.'<sup>159</sup> Positive *iura libertatis*, modulo their interpretation in extreme circumstances by the Senate or a higher magistrate, as a rule conduce to the commonwealth's good.

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<sup>154</sup> *Leg.* 3.6 and 3.11 (on *provocatio*), 3.10 (on the senate's ultimate authority), 3.8 (*salus populi suprema lex esto*). Cf. *Dom.* 33: *hoc esse denique liberae civitatis ut nihil de capite civis aut de bonis sine iudicio senatus, aut populi, aut eorum qui de quaqua re constituti iudices sint, detrahi posse*.

<sup>155</sup> *Rep.* 2.63. See on this point Atkins 2018, 767, from whom I borrow the translation.

<sup>156</sup> *Leg agr.* 2.33-34. Arena 2012, 51: 'the right to *provocatio* was not applied in cases where a citizen was subjected to a fair trial or was in the wrong, because its purpose was to deter those in power from arbitrarily punishing Roman citizens.'

<sup>157</sup> *Sest.* 78; *Vat.* 18. Cicero defends *auspicia* and *obnuntiatio* in the same way: see *Vat.* 14 and *Leg.* 3.27. This shows, I submit, that Cicero's defense of *provocatio* and *intercessio* is not based on the notion that they are part of the natural right described in book 1 of *De Legibus*; they are rather an approximation of it in less-than-ideal circumstances. Cf. Straumann 2016, 180: 'Cicero's solution to the limits of reason is itself of an entirely rational nature: right reason demands that the limits of reason be handled by entrenching a balanced constitution.' See also Straumann 2022: 'If epistemic dignity is lacking because there is not—at least not as of yet, the possibility of progress is acknowledged—sufficient insight, rational access and clarity, then we move into the realm of different rules, namely statutes (*leges*).'

<sup>158</sup> Paulson 2014, 319: 'The positive impact of the institution – which helps ensure “the senatorial order is not subject to envy, and the common people make no desperate struggles for their rights” (*De legibus* 3.10.25) – outweighs the negative impact of any individual tribune.'

<sup>159</sup> *Leg.* 3.23: *est iniqua in omni re accusanda praetermissis bonis malorum enumeratio vitiorumque selectio*.

Thus, both *libertas populi* and *libertas civium* promote just and beneficial decisions in the Roman state: the people, under certain constraints, are reliable judges of the virtue of others and of the value of legislative proposals (*libertas populi*); in most circumstances, it is good that magistrates are prevented from inflicting, on their own initiative, heavy penalties on citizens (*libertas civium*). But both *libertas populi* and *libertas civium* also contribute to a healthy civic life in another way: by creating a political climate in which citizens are respected.

## 2) *Libertas* and the Citizens' Standing

Cicero sees *libertas* as a way of showing proper respect to the citizens. Both *libertas populi* and *libertas civium* create a political climate in which citizens are protected against two intrinsic evils: haughtiness (*superbia*) on the part of the rulers, and fear (*timor*) of mistreatment.

*Libertas populi* as well as *libertas civium* contribute to limiting haughty behavior in the Roman community. In *De Re Publica*, Scipio presents the lower class' right to vote as a guarantee against *superbia*.<sup>160</sup> In *De Legibus*, a *ius libertatis* such as tribunician *intercessio* is defended for a similar reason: without it, consular power was 'bound to seem to the people to be too haughty and too violent' (*superbius populo et violentius videri necesse erat*).<sup>161</sup> But what is exactly the problem with *superbia*? As Yelena Baraz has shown, *superbia* consists in thinking oneself entitled to more than one actually is.<sup>162</sup> In the political realm, what looks *superbum* to the people is a distribution of power that gives an excessive prerogative to an individual or a group: to the rich (hence the need for universal suffrage), or to the consuls (hence the need for *intercessio*). By contrast, a power that is exercised justly, i.e. for the benefit of the ruled, is not felt to be *superbus*.<sup>163</sup> Given Cicero's belief that *libertas populi* and *libertas civium* both help make sure that power is exercised in the citizens' interest, he probably sees their implementation as curtailing political *superbia*. Any power that is

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<sup>160</sup> *Rep.* 2.40: *multitudo...neque excluderetur suffragiis, ne superbum esset, nec valeret nimis, ne esset periculosum.*

<sup>161</sup> *Leg.* 3.17.

<sup>162</sup> Baraz 2008, 380-382. See also Baraz 2020, 56: 'It is not simply the fact of superiority that lies at the basis of *superbia*; rather, it is the disconnect between the individual's desired perception of his worth by the evaluating community and the actual perception of his stature by those who do not validate his claim that results in a desire to escape what he is by stepping over a boundary.'

<sup>163</sup> *Rep.* 1.58 (to compare with 1.64).

free from these two constraints is bound to be felt as *superbus*. It is then not only unjust; it also involves a haughtiness that is demeaning for the citizens.<sup>164</sup>

This interpretation is confirmed by a passage of *De Officiis*, where Cicero gives a philosophical foundation to the human desire for freedom. Towards the beginning of book 1, Cicero lists the four basic desires that form the starting points of the four cardinal virtues. After dealing with our impulses to socialize and to acquire knowledge, Cicero introduces the source of the third virtue:

Some kind of desire for preeminence, which leads a mind that has been shaped well by nature to refuse to obey anyone, except someone who is advising them, teaching them, or giving them orders for their own benefit, justly, and lawfully.<sup>165</sup>

Humans only accept to be ruled when they think they are ruled in their own interest; it is in fact a virtue for them to reject any rule that does not benefit them.<sup>166</sup> *Superbia*, or any excessive claim to power, should therefore be fought against.

In his commentary on the passage, Andrew Dyck remarks that Cicero identifies there not one but two forms of the human desire for freedom: *appetitus principatus*, a potentially irrational appetite for supremacy against which, a few months only after Caesar's demise, Cicero has much to say; and the form which that desire takes in a mind that has been 'shaped well by nature,' coming to acknowledge the cases in which obedience is legitimate.<sup>167</sup> The irrational appetite will interest us shortly; what matters for now is to stress that, for Cicero, it is actually a virtue to reflect that obedience is owed only to those who deserve it. Citizens are not only *entitled* to shake off the yoke of *superbia*; they *should* exert themselves to do so.

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<sup>164</sup> Cicero is aware of the blow that *superbia* inflicts on the citizens' self-respect. See for instance *Verr.* 2.1.123: *Superbia vero quae fuerit quis ignorat? quem ad modum iste tenuissimum quemque contempserit, despexerit, liberum esse numquam duxerit?* 'Who ignores what his haughtiness was? how he despised, looked down upon all citizens of small means, how he never considered them to be free people?' See also *Att.* 15.15.3, with the comments on Baraz 2020, 50; and *Phil.* 3.9 (Baraz 2020, 69). On haughtiness as bad in itself in Roman political culture, because it undermines the citizens' *dignitas*, see Jehne 2000.

<sup>165</sup> *Off.* 1.13: *appetitus quaedam principatus, ut nemini parere animus bene informatus a natura velit nisi praecipienti aut docenti aut utilitatis causa iuste et legitime imperanti.*

<sup>166</sup> We know that Cicero's theory of the four sources of virtue comes from the Stoic philosopher Panaetius, whose work *Περὶ τοῦ καθήκοντος* he uses as a basis for his own treatise (on Panaetius as a source for *De Officiis* see Lefèvre 2001). Panaetius, a Platonizing Stoic, will probably have inherited this notion of a desire for preeminence from Plato's *θυμός*, which is itself a desire to assert our social status (Burnyeat 2006). On Panaetius' Platonism see *Stoic. Hist.* col. 61.2–3; cf. *Cic. Fin.* 4.79 and *Tusc.* 1.79.

<sup>167</sup> Dyck 2001, 94–95. On Cicero's rejection of *cupiditas principatus* in *De Officiis* see Atkins 1990, 279; Long 1995; Goldenhard 2013, 267; Schofield 2021, 166–170.

Avoiding *superbia* is also part, in fact, of the rulers' virtue. Political *libertas* forces them to treat their fellow citizens with respect, and thus to adopt a virtuous attitude to rule:

Among free peoples and in conditions of equality before the law, one should practice easiness of temper and 'loftiness of spirit,' as they call it. If we happen to be angry at those who approach us in an importune manner or who make shameless demands on us, we should not fall into fruitless and hateful harshness (*in morositatem inutilem et odiosam*). Softness and clemency are praiseworthy, provided severity is employed for the sake of the commonwealth, since no political community can be administered without it. But every punishment and chastisement must be free from insult and look not only to the benefit of he who punishes or upbraids another, but also to that of the commonwealth.<sup>168</sup>

Cicero embeds his argument in favor of clemency in his discussion of *magnitudo animi*, the virtue which a well-educated *appetitio principatus* gives rise to. Instead of haughty harshness, virtuous rulers will instantiate respectful 'loftiness of spirit' (*altitudo animi*). *Superbia* is therefore doubly disqualified as a political attitude. Citizens should reject the existence of any excessive power in the political community; rulers should avoid treating the citizens with unnecessary harshness. *Libertas populi* and *libertas civium* are thus grounded in Cicero's conception of virtue.

The second evil that *libertas* does away with is fear. A power that is not accountable to the people, or not limited by citizens' right, is always capable of turning against the ruled. Scipio makes that point clear in his narrative of Roman constitutional history. Even though the kings were elected, he says, their power was so exorbitant that the people could always fear that they would one day turn into tyrants.<sup>169</sup> Presumably, being in a state of constant fear is intrinsically harmful.<sup>170</sup>

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<sup>168</sup> *De Off.* 1.88: *in liberis vero populis et in iuris aequabilitate exercenda etiam est facilitas et altitudo animi quae dicitur, ne si irascamur aut intempestive accedentibus aut impudenter rogantibus in morositatem inutilem et odiosam incidamus et tamen ita probanda est mansuetudo atque clementia, ut adhibeatur rei publicae causa severitas, sine qua administrari civitas non potest. omnis autem et animadversio et castigatio contumelia vacare debet neque ad eius, qui punitur aliquem aut verbis castigat, sed ad rei publicae utilitatem referri.* On this passage see Schofield 2021, 38.

<sup>169</sup> *De Rep.* 2.50: *Inperti etiam populo potestatis aliquid, ut et Lycurgus et Romulus, non satiaris eum libertate, sed incenderit cupiditate libertatis, cum tantum modo potestatem gustandi feceris; ille quidem semper inpendebit timor, ne rex, quod plerumque evenit, existat iniustus. Est igitur fragilis ea fortuna populi quae posita est in unius, ut dixi antea, voluntate vel moribus.* 'Grant some power to the people too, as Lycurgus and Romulus did, and you won't satiate their desire for liberty, but inflame it, as you will only give them a taste of it; for the fear that the king becomes unjust, which has often happened, will hang over their heads. The happiness of a people is therefore fragile, when it is placed in the will or the character of a single individual, as I have already mentioned.'

<sup>170</sup> Cf. *Att.* 11.20.1: *sed et alia timenda sunt ab aliisque et ab hoc ipso quae dantur, ut a domino, rursus in eiusdem sunt potestate.*

Thus, *libertas* in its two forms (*libertas populi* and *libertas civium*) creates a healthy political culture, rid of haughtiness and fear. Cicero's last political fight, the *Philippics*, testifies to his commitment to free the Roman people from both: Mark Antony's rule would be both haughty (*superbam*) and cruel (*crudelem*).<sup>171</sup> By doing away with him, Roman citizens would be freed from feelings of humiliation and unsafety, which are intrinsically bad. But they would also act in accordance with virtue, in the sense of *De Officiis*. As Romans, the members of Cicero's audience have enough political capacity to claim a share of power: to let their conduct be dictated by a debauched drunkard like Mark Antony is disgraceful.<sup>172</sup> Not only does it violate *De Officiis'* third virtue, *magnitudo animi*, given that the people would obey an unjust and illegitimate ruler; it also contravenes the virtue of decency (*decorum*), as it would be blatantly inappropriate.<sup>173</sup> Overthrowing Mark Antony would thus be an act of political virtue.<sup>174</sup>

Cicero's rejection of *superbia* and *timor* resonates with contemporary concerns. Recent neo-Republican theory has stressed the importance of reducing both haughtiness and fear in the political community. To quote Philip Pettit,

The terrible evil brought about by domination, over and beyond the evil of restricting choice, and inducing a distinctive uncertainty, is that it deprives a person of the ability to command attention and respect and so of his or her standing among persons.

For Pettit, enjoying 'standing among persons' consists in being recognized as 'a voice worth hearing and an ear worth addressing.'<sup>175</sup> Popular participation (Ciceronian *libertas populi*) recognizes the standing among persons of any ordinary citizen: the *superbia* involved in disregarding their voice is

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<sup>171</sup> *Phil.* 3.34. Cf. 3.29: *etiamne huius impuri latronis feremus taeterrimum crudelissimumque dominatum?* At *Phil.* 8.12, Cicero sees Mark Antony's domination as a direct source of fear, and hence misery, for the Roman people: servitude is bad since 'even if the master is not interfering with you, it is still a misery that he could, if he wanted to' (*etiamsi non sit molestus dominus, tamen est miserrimum posse, si velit*).

<sup>172</sup> Cicero recognizes that 'every servitude is unfortunate' (*Phil.* 3.5; 10.19). But he distinguishes from this *miseria* the *dedecus* or *foeditas* that would accrue to the Roman people if they forgot that they have enough virtue to rule, and let themselves be ruled by Mark Antony's vices (see for instance *Phil.* 3.5: *Cum autem est omnis servitus misera, tum vero intolerabile est servire impuro, impudico, effeminato, numquam ne in metu quidem sobrio*. Also 3.35: *Libidinosus, petulantibus, impuris, impudicis, aleatoribus, ebriis servire, ea summa miseria est summo dedecore coniuncta*). In Cicero's account, the Roman people is endowed with such political virtue that it is the only one that should never be enslaved (*Phil.* 6.19 and 10.20). For a rhetorical analysis of *libertas* in the *Philippics* see Cowan 2008 and Leber 2018.

<sup>173</sup> I use *decorum* here in the both of the senses of *De Officiis*: as the general appearance of virtue (1.93), and the special virtue of *verecundia*, defined at 1.141 as 'what concerns the appearance and dignity of a free person.'

<sup>174</sup> *Phil.* 10.20.

<sup>175</sup> Pettit 2002, 350-351.

avoided. Under the Roman system, every citizen is entitled to participate in shaping political decisions (even if votes are weighted according to wealth, which for Cicero follows a valid rationale).<sup>176</sup> But *libertas civium* also contributes to preventing *superbia*. Positive rights such as *provocatio* or *intercessio* force the magistrates to pay a minimum of respect to their fellow citizens: they cannot harm them physically, or inflict heavy punishment on them on their own authority. In this way, *iura libertatis* are key to the citizens' dignity (*dignitas*).<sup>177</sup>

Pettit also mentions the removal of 'uncertainty' as a benefit of Republican freedom. *Libertas populi*, when it gives the people a right to participate on a regular basis to decide important matters, reduces the possibility of the magistrates' turning against the people.<sup>178</sup> *Libertas civium* also protects the citizens against the fear of mistreatment.<sup>179</sup> Pettit does not include protection against fear among the sources of 'standing among persons,' but it does not seem too far-fetched to do so: we think it a matter of dignity for someone not to live in the fear of being physically assaulted, or even simply unjustly interfered with.

Like Pettit, Cicero makes respect for other citizens' basic liberties a matter of political, and, more largely, human virtue.<sup>180</sup> As we saw, *De Officiis* grounds the citizens' liberty in a theory of virtue: *magnitudo animi* consists in refusing to be ruled by leaders who overstep their just power, i.e. who act with *superbia*. The fear of being unjustly treated is inappropriate (contrary to *decorum*) for the Roman people, since they should participate in decision-making and make their voice heard. Ridding the political community of *superbia* and *timor* is thus a matter of justice and virtue.

Expelling haughtiness and fear from the political community induces a further advantage: it furthers the stability of the commonwealth.

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<sup>176</sup> *Rep.* 2.40: those to whom it matters most that the commonwealth be well ruled should have more say in decision-making.

<sup>177</sup> A connection between *iura libertatis* and *dignitas* is made at *Verr.* 2.5.143: *Retineri enim putatis oportere iura libertatis non modo hic ubi tribuni plebis sunt, ubi ceteri magistratus, ubi forum plenum iudiciorum, ubi senatus auctoritas, ubi existimatio populi Romani et frequentia, sed ubicumque terrarum et gentium violatum ius civium Romanorum sit, statutis id pertinere ad communem causam libertatis et dignitatis.*

<sup>178</sup> *Rep.* 2.43, Scipio makes clear that freedom consists not only in electing one's king, but in having the power to prevent him from acting as a master (cf. 2.50). This, presumably, means actual, regular participation in deciding important matters.

<sup>179</sup> Clarke 2014, 232-233 draws a link between *libertas* as protection against violence and Judith Shklar's 'liberalism of fear.'

<sup>180</sup> Pettit 2012, 228; Pettit 2015, 80.

### 3) *Libertas* and Political Stability

Cicero recognizes that human beings have a natural and pre-rational desire for liberty. *De Officiis* mentions this desire, as we saw, but it already draws Cicero's attention in *De Re Publica* and *De Legibus*. In *De Re Publica*, Scipio reports the democrats' argument that 'there is nothing as sweet (*dulcius*) as freedom, even for wild beasts; but all who serve a king or an elite lack it.'<sup>181</sup> The use of the adjective *dulce* is noteworthy here: first, because Cicero associates it with *libertas* in many other passages of his corpus; second, because it is line with the non-rational nature of the drive he describes.<sup>182</sup> After all, wild beasts are not rational: a desire they share with human beings cannot be.<sup>183</sup> Instead of being guided by reason they are driven by pleasure, or what is sweet (*dulce*).<sup>184</sup>

In human beings, this natural appetite for freedom implies a desire to live without a master: it cannot brook a monarchic regime where the king, though just, rules without popular participation, without citizens' rights, or both.<sup>185</sup> If the people does not enjoy that minimum of *libertas*, they necessarily engage in civil strife.<sup>186</sup> There seems to be a Stoic background to this idea: Epictetus, in his chapter *On Freedom* (*Diss.* 4.1), indicates that wild beasts and humans desire freedom, and that no one is free who *can* be thwarted.<sup>187</sup> Cicero's Stoic source would thus provide a philosophical basis for a core Roman Republican idea.<sup>188</sup>

This natural desire for freedom can take two forms. It can remain within the bounds of reason, when it motivates campaigning for a measure of popular participation and *iura libertatis*: we saw above that Cicero took both to further the general good.<sup>189</sup> But it can also go beyond that

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<sup>181</sup> *Rep.* 1.54.

<sup>182</sup> See *Verr.* 2.5.163; *Cat.* 4.16; *Phil.* 2.114.

<sup>183</sup> In *Leg. agr.* (2.9), Cicero endorses the idea that wild beasts desire liberty before all else: *Quid tam populare quam libertas? quam non solum ab hominibus verum etiam a bestiis expeti atque omnibus rebus anteponi videtis.*

<sup>184</sup> There seems to be a Stoic source for this idea: Epictetus, in his discourse *On Freedom* (4.1), similarly talks about wild beasts' natural desire for freedom.

<sup>185</sup> *Rep.* 2.43: *Desunt omnino ei populo multa qui sub rege est in primisque libertas, quae non in eo est ut iusto utamur domino, sed ut nullo.*

<sup>186</sup> *Rep.* 4.5.

<sup>187</sup> *Diss.* 4.1.56. Epictetus does not elaborate on this idea: one can imagine either a psychological reasoning (someone who is under the domination of another, even if not interfered with, experiences the constraint of fear and uncertainty - as Skinner 1998, 84 shows, the possibility of someone coercing me is, in itself, a form of coercion) or an analytical one (when I stand under the domination of another, I do not do what I want, but only what my master wants: I get to do what I want only by accident).

<sup>188</sup> On the Roman idea that *libertas* involves being *sui iuris*, see Arena 2012, 14-44. Cicero's allusions to the Stoic idea of freedom (*Parad.* 33-34; *Off.* 1.70) show close similarity with Epictetus' formulation (see esp. 4.1.1): both define freedom as the capacity to live as one wishes.

<sup>189</sup> Cf. *Rep.* 2.54: magistracies *sine provocatione* were forbidden *concordiae causa*.

measure, as *De Legibus* makes clear. In book 3, Cicero stages a debate between his brother Quintus and himself over the tribunician right of *intercessio*. Quintus thinks the tribunes' powers should go back to what they were under Sulla, when their *intercessio* was limited to matters of private law; on the contrary, his brother Marcus argues that their power, in the form it has had before Sulla and after Pompey's reforms in 70 B.C.E., helps check the people's otherwise unrestrained desire for freedom.<sup>190</sup> It is precisely because the people's desire for freedom can be excessive that compromises such as the institution of tribunician power are necessary. Tribunician power in its pre-Sullanian and post-Pompeian form satisfies the people's thirst for freedom; thereby it makes the people consent to being ruled by the elite.<sup>191</sup> At the same time, it is conducive to good decision-making, as I argued above: stability and justice overlap.

Our investigation of the three Ciceronian justifications for political freedom sheds light, I hope, on Scipio's judgment in *De Re Publica*:

It seems good that there be, in a commonwealth, a superior and kingly element, something apportioned and ascribed to the authority of the leaders, and some matters reserved to the judgment and the will of the multitude. Such a constitution displays, first, some kind of just distribution (*aequabilitatem quandam*), of which free people cannot be deprived too long; and, secondly, stability, because the constitutions we have previously gone through easily change into their opposite vice, when a king becomes a despot (*dominus*), an elite becomes a faction, a people becomes a disordered crowd.<sup>192</sup>

*Libertas populi* and *libertas civium* belong to a just distribution of power, because they conduce to good decision-making in the commonwealth. By preventing the rulers from acting unjustly, they also rid the political community of *superbia* and *timor*: the people are protected from being subject to a despot or a faction. In such a system, free-born individuals have no reason anymore to revolt: they can accept the rule of a kingly element and of an elite in a stable manner. Their natural desire for freedom and non-domination is satisfied.

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<sup>190</sup> *Leg.* 3.23 (the connection with *libertas* is made clear at 3.25).

<sup>191</sup> *Leg.* 3.24; see also *Rep.* 2.55.

<sup>192</sup> *Rep.* 1.69; *placet enim esse quiddam in re publica praestans et regale, esse aliud auctoritati principum inpartitum ac tributum, esse quasdam res servatas iudicio voluntatique multitudinis. haec constitutio primum habet aequabilitatem quandam, qua carere diutius vix possunt liberi, deinde firmitudinem, quod et illa prima facile in contraria vitia convertuntur, ut exsistat ex rege dominus, ex optimatibus factio, ex populo turba et confusio.*



Cicero thus endorses popular liberty, but under constraints, a point Malcolm Schofield has recently emphasized.<sup>193</sup> *Libertas*, of the people as a whole and of individual citizens, is for Cicero subject to limits. *Libertas populi* is legitimate only to the extent that brings about just and beneficial outcomes, be it in election or legislation; *libertas civium* is restricted to what is necessary to protect citizens against unjust violence. Both are essentially means to avoid unjust rule, rather than legal guarantees for the citizens to live as they wish. In fact, enforcing *libertas populi* and *libertas civium* is not enough for the commonwealth to have a proper relationship to freedom. The citizens' room for maneuver is further constrained by two considerations: legal and moral duties.

First, there are rights beyond *iura libertatis* that citizens have to respect (think of private property, or civil law in general). Each time a citizen violates such rights, he acts with excessive freedom.

Second, citizens are required to adopt ethical attitudes that sustain a just commonwealth. Cicero thinks that this is both necessary for the maintenance of the *res publica* (it is instrumentally good), and part of the state's mission in moral education (it teach citizens virtue, which is intrinsically good).<sup>194</sup>

This means that liberty can become excessive, not only when it goes beyond the purpose of *libertas populi* (good outcomes) and *libertas civium* (protection against magisterial violence), but also when it violates citizens' rights, and the ethical attitudes the state is entitled to enforce.<sup>195</sup> *Licentia* threatens to overstep the boundaries of legitimate *libertas* in these four respects. In fact, given that people naturally strive for freedom, they are bound to be attracted by any prospect of enlarging it: they have a natural tendency towards excessive freedom. In the second part of this chapter, I offer an analysis of Cicero's term and concept for excessive freedom – *licentia* – paying due attention to its institutional, legal, and ethical manifestations.

## II – *Licentia*: Cicero on the Suicide of Political Communities

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<sup>193</sup> Schofield 2021, 52.

<sup>194</sup> *De Re Publica* 4 and 5 in general are meant to show which ethical attitudes are required by the just *res publica* (see esp. 4.3 and 5.1); *De Legibus* insists that moral education is a function of the state (*Leg.* 1.58).

<sup>195</sup> Of course, the four conditions can obtain in the same action: a popular vote (under the guise of *libertas populi*) can expropriate a citizen (violating his rights) without due process (against *iura libertatis*) and out of violence and greed (against political morality). Cicero would probably see his exile as a good instance of such an overlap.

The aim of the second part of this chapter is to offer an analysis of an understudied concept of Cicero's political writings: *licentia*. *Licentia* can be defined as a freedom given to an individual or a group when this freedom, for whatever reasons (institutional, legal, or ethical), should not be given. In this sense, it is only the negative counterpart of *libertas* in its proper boundaries, as they have been retraced in the first part of this chapter. In this second part, I both show how Cicero sees *licentia* as occurring whenever these boundaries are overstepped, and analyze the self-reinforcing effects he thinks excessive freedom has on the political community. Especially, I focus on the key role *licentia* plays in his account of the decay of the Roman Republic. *Licentia* enables Cicero to show that the responsibility for the fall of the Republic bears primarily on those who fail to enforce the norms necessary to sustain it. Each time legitimate authorities grant more than liberty than they should – to individuals or groups – they undermine the political and moral foundations of the community. *Licentia*, I argue, forms the pivot of Cicero's political psychology of the Republic's collapse.

I have studied elsewhere the etymology and meaning of *licentia*.<sup>196</sup> In this chapter, I briefly summarize my findings, before focusing on how Cicero uses the notion to describe a crucial mechanism at play in the weakening of social norms at Rome, which I call the logic of permissiveness.<sup>197</sup>

### 1) *Licentia* as Permissiveness: Some Linguistic Elements

The substantive *licentia* derives from the verb *licere*. The primary meaning of *licere*, according to the two standard Latin etymological dictionaries, is that of 'to be available for a price, to be offered for sale.'<sup>198</sup> From this meaning of *licere* derives the sense of 'being permitted,' which for Ernout-Meillet was soon understood as a separate verb by Latin speakers. Cicero provides us with two clear definitions of this meaning of *licere*: *id enim licere dicimus, quod cuique conceditur* (*Tusc.* 5.55); *licere id dicimus quod legibus, quod more maiorum institutisque conceditur* (*Phil.* 13.14). The use

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<sup>196</sup> Nicolay 2021.

<sup>197</sup> I use here 'social norms' to capture what J. Hölkeskamp calls 'socially-morally binding standards' (Hölkeskamp 2010, 18); these standards lay more stress on compliance with communal expectations than our notion of morality does, but they are still based on a claim to ethical correctness.

<sup>198</sup> Ernout-Meillet 2001<sup>4</sup>, 357; *Thesaurus Linguae Latinae* (TLL) s.v. I-A-1; De Vaan 2008, 340.

of *concedere* resonates with *licere*'s sense of 'to be offered for a price:' since the primary meaning of *concedere* is 'to withdraw, to give way to, to yield,' *licere* seems to be understood by Cicero as implying that the laws and the *mos maiorum* have authority over individuals, and that *they* make it the case that the latter enjoy some room for maneuver.<sup>199</sup> It seems essential to *licere* that it comes from a normative authority: what Cicero says about *licere* would not make sense if the verb had the meaning of 'being possible,' a meaning he himself contrasts with the primary sense of *licere* immediately after the two passages I just quoted.

A freedom to act granted by an authority is that we call a permission.<sup>200</sup> But as legal philosopher Joseph Raz has remarked, permissions come in two forms: they are either explicitly granted, or only implicitly, when it is the case that no existing norm forbids a particular behavior. Raz admits that 'permission' in its ordinary sense refers to the explicit kind, but he shows that the term can also be applied to tacit permissions.<sup>201</sup> This distinction helps us formulate a first, working definition of *licere*: an act *licet* when something or someone, who has authority over the domain the act belongs to, gives an individual or group the possibility to perform it, either explicitly or by not forbidding it. This implies that the authority does not recognize an act as unlawful, which does not necessarily mean that it explicitly recognizes it as lawful, but that it gives to the behavior permitted a presumption of lawfulness.<sup>202</sup>

Now, to *licentia*. *Licentia* derives from *licere* through the adjective *licens*, meaning essentially 'to whom much, too much, is permitted.' This *licens* would be the adjectival use of the present participle of *licere*, also spelled *licens*, the meaning of which would be 'who receives a permission.'<sup>203</sup> However, neither Ernout-Meillet nor the *TLL* explain how *licens* and *licentia* acquired the pejorative meaning they suggest. An investigation of the first occurrences of *licentia* in Latin literature, in Plautus and Terence, reveals that *licentia* carried two close but distinguishable meanings. The first is that of 'permission,' the second that of 'permissiveness,' or a general tendency to enjoy

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<sup>199</sup> Oxford Latin Dictionary, s.v. *concedere*, 421.

<sup>200</sup> Stolpe 2010, 100. The authority, which by definition has competence over a domain, can revisit the permissions it has given in the sense of having the power to change the norms if they must be.

<sup>201</sup> Raz 1979, 65-67.

<sup>202</sup> Therefore, not every *licet* implies an explicit recognition of lawfulness; but every *licet*, at least in its non-derivative sense, implies that an act or behavior is not against the law (cf. Servius' definition, *Ad Aeneidem* 6.400: *licet: fas est*). This being said, the overwhelming majority of the occurrences of *licet* in the *TLL* that designate a permission can more likely be construed as explicit permissions than as implicit ones (for instance, all the uses of *licet* we find in Roman laws).

<sup>203</sup> Ernout-Meillet 2001<sup>4</sup> and *TLL* s.v. *liceo*, 7.2.1368.60.

permission.<sup>204</sup> The first is closer to *licere* and *licens*, and hence likely to be primitive; the second is derivative, and exploits a characteristic of substantives ending in *-antia* and *-entia*, a suffix which gives a general or absolute meaning to terms that initially refer to single occurrences.<sup>205</sup>

Both the *TLL* and the *Oxford Latin Dictionary* confirm that *licentia* ends up displaying in classical Latin two principal meanings, the neutral one of 'permission,' and the pejorative one of 'absolute permission,' in which the authority demonstrates 'permissiveness,' bringing about a state where individuals are able to act as they like. English offers an analogous case: the word 'permissiveness,' which possesses a strong pejorative overtone, is derived from a verb devoid of such a connotation ('to permit'), like *licentia* from *licere*. But the suffix '-ive,' 'implying a permanent or habitual quality or tendency,' gives the adjective 'permissive' its negative connotation.<sup>206</sup>

Cicero's own writings confirm the existence of these two meanings.<sup>207</sup> A third, additional one demarcates itself: it combines the first sense of 'permission' with the pejorative connotation of the second ('permissiveness'), to refer to a single permission wrongly given.<sup>208</sup> For an elucidation of Cicero's analysis of the decline of the Republic, the second and third meanings of *licentia* are key. In order to provide an explanation for the weakening of public norms in his time, Cicero puts *licentia* to use both in its meaning of a permission given to individuals to act as they wish, and of a permission to do wrong. Essential to both cases is that permission is given by an authority figure who has the opportunity to grant it or not. This is why I advocated in the introduction that we shift from a neo-Republican understanding of freedom as non-domination to a more common understanding of it as non-interference. For it belongs to the definition of *licentia*, which is a kind of freedom, that the authority granting it, either by explicit or by implicit permission, could have done otherwise: it is an allowance, not an entrenched liberty.

Out of the three meanings of *licentia*, two are crucial to Cicero's account of the fall of the Republic: the second (permission to act as one pleases), and the third (permission to do wrong). Both correspond, for Cicero, to extremely harmful attitudes: by failing to uphold the norms it is supposed to enforce (i.e. the proper boundaries of liberty), the authority granting *licentia*

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<sup>204</sup> For the first see Plaut. *Trin.* 1034; for the second, Ter. *Haut.* 483.

<sup>205</sup> Malkiel 1945, 43-54.

<sup>206</sup> See the 1989 edition of the *Oxford English Dictionary*, s.v. *-ive*.

<sup>207</sup> For a gathering of all occurrences, I refer to Nicolay 2021, section I-B.

<sup>208</sup> A fourth could also be distinguished: that of debauchery, attested already in Lucilius (*Sat.* 30.1048 Marx). But it does not figure prominently in the Republican corpus.

dramatically weakens them. For if an authority gives up on enforcing such norms, or, worse, if it encourages individuals to adopt excessively free behaviors, the effect on the rest of the citizenry will prove devastating: instead of lending its prestige to legitimate norms, this authority figure will radically weaken them, and allow the behaviors it condones to spread throughout the citizenry, in virtue of the law of imitation. It will also comfort vicious individuals in their dispositions, rendering them more likely to reoffend. Throughout his work, Cicero devotes a very careful attention to these effects.

## 2) *Licentia* and the Mechanisms of Permissiveness

For Cicero, *licentia* has two main consequences on the political community. First, it establishes a precedent which subsequent wrongdoers will use to claim a right to do wrong. Second, it reinforces the vicious dispositions of the wrongdoer, making him a greater threat to the community. Since the second effect will have a role to play in some cases of the first, and can be explained more briefly, it will be useful to handle it first.

### a) *Licentia* and *Consuetudo*

For Cicero, any display of *licentia* runs the risk of creating in the wrongdoer a bad habit. Yet a crucial function of the state is to inculcate virtue into its citizens.<sup>209</sup> The state directly contradicts its mission when it allows criminals to persist in their wrongdoing and lets them acquire a bad *consuetudo*. This link between *licentia* and *consuetudo* appears throughout the Ciceronian corpus.<sup>210</sup> It is given a proper logic in the *Verrines*, when Cicero explains how the many failures of the political community to clamp down on Verres' previous crimes have comforted him in his dispositions: *o consuetudo peccandi, quantam habes iucunditatem improbis et audacibus, cum poena afuit et licentia consecuta est*, 'o habit of doing wrong, what pleasure you give to wicked and violent men, when punishment was absent and permissiveness has ensued!' (*Verr.* 2.3.176). Verres has neglected the rights of both Sicilian and Roman citizens: among other things, he has appropriated their property

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<sup>209</sup> *Rep.* 4.3 Bréguet; *Leg.* 1.58. At Rome law was seen as an instrument for the regulation of private behavior: see Bleicken 1975, 169-170.

<sup>210</sup> *Flac.* 20; *Rep.* 3.41; *Pro Tullio* 8. Cf. also *Caes.*, *BCiv.* 3.110.2.3.

and denied them due process.<sup>211</sup> He has, in other words, granted *licentia* to himself and his henchmen – a *licentia* consisting in a permission to violate both the property rights and *iura libertatis* of others.<sup>212</sup> It was the court's responsibility to punish him; by failing to act, it has itself displayed *licentia*.

The court's permissiveness has harmed Verres' soul. Cicero uses his example to detail the sequence by which *licentia* habituates a wrongdoer into vice. The sequence starts when vice makes an individual (Verres, in this case) perform a misdeed. For some reason, the political community does not strike back (*poena afruit*). This refusal to punish is then understood by the wrongdoer as a (tacit) permission to continue along this path (*licentia consecuta est*), thereby giving birth to a vicious habit (*consuetudo peccandi*).<sup>213</sup> This phenomenon is thus easy to account for. We will see later how it contributes to some key instances of the other detrimental effect of *licentia*, to which we now turn: the way in which it sets dangerous precedents.

## b) *Licentia* and Reversed Exemplarity

As a process of collective psychology, the social mechanism I am about to describe must be placed in the wider frame of Roman cultural history. Historians have made clear that the cardinal points of common Roman morality were an inheritance of the nobility's code of behavior. It was this aristocratic morality that was transmitted to the Roman people as a whole and set the norms of proper public conduct.<sup>214</sup> What concretely did this morality consist in? The *nobiles* honored the values which constituted the basis for the legitimization of their power: hence their 'ethos of excellence' focused on the display of the greatest *virtus*, on the one hand,<sup>215</sup> and on the other their declared devotion to the Republic.<sup>216</sup> Apart from its particular content, this aristocratic morality was

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<sup>211</sup> *Libertas*: 2.1.7; 2.1.13; 2.2.79; 2.4.146; 2.5.143; 2.5.163.

<sup>212</sup> 2.3.29; 2.3.32; 2.3.77; 2.3.106; 2.3.129; 2.3.147; 2.3.210.

<sup>213</sup> It is not clear whether *licentia* creates the *consuetudo*, or simply reinforces it by permitting the wrongdoer to go scot-free. A passage that follows closely seems to go in favor of the second interpretation. At 2.3.177 Cicero observes: *ita serpit illud insitum in natura malum consuetudine peccandi libera, finem ut audaciae statuere ipse non possit*. The Loeb translation renders the point nicely: 'The opportunity for habitual misconduct has developed his natural viciousness, until he has become incapable of setting bounds to his own impudence.' *Licentia* may not have created the *consuetudo*, but reinforces it by making it harmless for the wrongdoer.

<sup>214</sup> On this transmission see Eder 1990, 12-32.

<sup>215</sup> On this point see Hölkeskamp 1987, 204-240.

<sup>216</sup> Hölkeskamp 1987, 204-240; Hölkeskamp 2010, 89; Flaig 1995; Morstein-Marx 2004, 204-240.

characterized by a specific mode of enforcement. As a group, the *nobilitas* exercised peer-pressure on its individual members to make them abide by these *mores*, developing a collective ethos that shamed those who broke it.<sup>217</sup> This way of enforcing morality was transmitted to the rest of Roman society. At Rome, approval by the onlookers played a key role in defining what counted as correct behavior.<sup>218</sup> The Roman 'culture of shame' was certainly exacting, but it seems to have been recognized by all as a set of moral principles that promoted the welfare of the Republic in a satisfying manner (hence its wide acceptance).<sup>219</sup> Important parts of this collective ethic finally found a philosophical legitimization in Cicero's moral works.<sup>220</sup>

It is precisely this cultural background that made *licentia* so problematic and, by contrast, intransigence toward any breach of institutional, legal or moral rules so necessary. If one could get the impression that some behaviors, although apparently blameworthy, were condoned by the community or the persons representing it, a very powerful obstacle toward adopting them was removed, namely the disapproval of the community's leading men.<sup>221</sup>

In particular, wrongful attitudes exhibited by these men themselves were thought to dramatically lower the standards of society as a whole: both because these individuals, as current or former magistrates, were supposed to enjoy the support of some large part of the people, and because their conspicuous position made them into an example that could be used as a pretext for imitation. Every allowance given by a person or a body endowed with authority to an excessively free behavior, i.e. every display of *licentia*, was doomed to weaken in everyone's mind the force of the principles that were being violated – be they institutional, legal or ethical. The next step was a general adoption of these blameworthy, but not blamed behaviors. The paramount importance of exemplary behavior in Roman political culture has been stressed in recent work, especially by

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<sup>217</sup> Earl 1967, 35.

<sup>218</sup> Bartsch-Zimmer 2006, 117-137.

<sup>219</sup> For this qualification see Hölkeskamp 1987, 217.

<sup>220</sup> Book 4 of Cicero's *De re publica* is entirely devoted to the praise of Roman communal norms such as *verecundia* and *decus*. In *Off.* 1.98-99, *decorum* (the value corresponding to *πρέπον*, one of Panaetius' four *ἀφορμαί*) is defined as what receives the approval of one's peers. This element very probably comes from Panaetius himself, but Cicero gives to it a particular prominence in his writings (see Dyck 1996, 257-258).

<sup>221</sup> Even when *licentia* is taken by an individual or group, it brings about the same deleterious effects: the *licens* in that case claims to have authority, and if they are allowed to enjoy their *licentia* the whole community is likely to take it as an invitation to do the same. This is the case, for instance, at *Caes. B. Gall.* 7.52.3,4 and *B. Afr.* 85.8.4 (the soldiery assumes that the authorities will condone their act of taking *licentia*: they anticipate, so to speak, a permission).

Matthew Roller and Rebecca Langlands; I propose to see *licentia*'s second consequence as a form of *reversed exemplarity*.<sup>222</sup>

Concern for the spreading of bad examples pervades Roman moral thinking, but it is in Cicero that we find it receiving its fullest expression.<sup>223</sup> Cicero knows what an important role *exempla*, i.e. virtuous action of prominent individuals, play in shaping the behavior of his fellow citizens: being a new man, he based part of his *persona* on the respect of the examples set by previous generations.<sup>224</sup> But Cicero also knows that the mechanism through which good *exempla* are emulated can work the other way around. He thematizes that phenomenon under the name of *licentia*.

Cicero's concern with *licentia* is already prominent in some of his early speeches. Its first attestation is in the *Pro Tullio*, delivered in 72 or 71.<sup>225</sup> The whole purpose of courts, says the orator, is to put an end to the 'bad habits and excessive freedom of men' (*hominum malam consuetudinem nimiamque licentiam*) by passing an authoritative judgment against crime (*Pro Tullio* 8). An excessively permissive court will do nothing but encourage criminal behavior, for 'is there any difference between magistrates defending a crime, and them giving power and full freedom to criminal activity?,' *an quicquam interest utrum magistratus peccato defensionem constituent an peccandi potestatem licentiamque permittant?* (*Pro Tullio* 40). Permissiveness reinforces habituation into vice (*malam consuetudinem*) – in this case, it encourages illegal action.

Cicero's awareness of the damaging effects of *licentia* is even more prominent in the *Verrines*, published one year or so after the *Pro Tullio*. The *Verrines* are a general denunciation of the rogues among the senatorial class, and Cicero scatters them with remarks on how to reinstate legal and moral order.<sup>226</sup> That is why he exhorts the judges to show the greatest severity: otherwise, he tells them, 'look what an infinite license to steal money you will give to all men!' (*iudices, videte, quam*

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<sup>222</sup> Roller 2018, 95 uses 'negative exemplarity' to describe an example that serves as a repellent; but he does not theorize the notion. Langlands 2018, 14 and 277, uses 'negative exemplarity' in the same sense. Reversed exemplarity is different from Roller's and Langland's negative exemplarity: it refers to an imitative behavior that, in the eyes of other actors, spreads illicit attitudes.

<sup>223</sup> See e.g. Plaut. *Trin.* 1028-1050 (with the comments of Blösel 2000, 29-32); Ter. *Ad.* 414-418; Hor. *Epist.* 2.1.145-151; Vell. Pat. 2.3.3-4; Sen. *Ep.* 97.10. See also the analysis of the institution and transmission of *mos* put forward by Varro in Macrob. *Sat.* 3.8.9 and Servius *Ad Aeneidem* 7.601.

<sup>224</sup> For an exposition of a role of *exempla* as models in Cicero's time and for Cicero himself, see Van der Blom 2010, 12-25. For the role of authority in Roman society in Cicero's times, with particular regard to oratory, see May 1988 (esp. 6-11) and more recently Guérin 2011, 219-294.

<sup>225</sup> I use here Clark's 1911 OCT. For the date and context of the speech Crawford 1984, 47-49.

<sup>226</sup> See Van der Blom 2010, 75-6. For more on the logic of *licentia* in the *Verrines*, see 2.3.205-206.



*infinitam sitis hominibus licentiam pecuniarum eripiendarum daturi*, Verr. 2.3.220). The court should realize, Cicero says in substance, that they are setting a precedent that might be taken as a pretext by potential criminals.

We must wait thirteen years to see Cicero make renewed use of the logic of *licentia* in such a consistent way. His target is not Verres but his new personal enemy, Clodius. In *De Domo Sua*, as we saw, Cicero exhorts the pontiffs to annul the confiscatory measures Clodius had the *comitia tributa* vote on April 25<sup>th</sup> 58.<sup>227</sup> Cicero's appeal to severity is based on the logic used against Tullius' enemy Fabius and Verres. If tribunes of the plebs are allowed to propose bills against all procedural rules, the tribunate will soon become an instrument for greedy individuals:

*Date hanc tribuno plebis licentiam et intuemini paulisper animis iuventutem et eos maxime qui imminere iam cupiditate uidentur in tribuniciam potestatem; collegia, medius fidius, tribunorum plebis tota reperientur, hoc iure firmato, quae coeant de hominum locupletissimorum bonis, praeda praesertim populari et spe largitionis oblata.*<sup>228</sup>

Give this permission to the tribune of the plebs and look after that at the youth, in particular those who seem to distinguish themselves already by their avidity for the tribunician power: I assure you that, once this right has been established, entire colleges of tribunes will be found that will associate themselves to seize the property of the rich, especially if they make their booty popular by holding the prospect of a distribution.

Tribunician powers were a key component of Roman *libertas*, both *libertas populi* and *libertas civium*; but their use was subject to limits – in this case, the respect of procedural rights. By inviting the people to vote in violation of the law, Clodius went beyond the purpose of *libertas populi*, violated *iura libertatis* as well as property rights, while encouraging greed. Condoning such a behavior would instantiate *licentia* in its institutional, legal and moral forms.

In other speeches from the fifties, such as the *Pro Sestio* and the *Pro Milone*, Cicero's justification of the use of violence against Clodius is based on the same logic: any weak reaction from

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<sup>227</sup> See the introduction to the Budé edition, p. 12-13 and 22.

<sup>228</sup> *Dom.* 47.

the forces of order will be used as a pretext for further criminal or unethical behavior, not only by Clodius, but by all of those of his ilk – and Cicero calls this phenomenon *licentia* (*Sest.* 134; *Mil.* 84).

Cicero is so convinced of the force of this logic that he does not recoil from using it for his own rhetorical purposes. The orator is ready to employ, in favor of his former *tiro* Caelius, the argument he blamed as intolerable in the mouth of Hortensius. It is *licentia* he uses to describe the process at play:

*Verum si quis est qui etiam meretriciis amoribus interdictum iuuentuti putet, est ille quidem ualde seuerus – negare non possum – sed abhorret non modo ab huius saeculi licentia uerum etiam a maiorum consuetudine atque concessis. Quando enim hoc non factitum est, quando reprehensum, quando non permissum, quando denique fuit ut quod licet, non liceret?*<sup>229</sup>

But if there is anyone to think that mercenary love should be forbidden to the youth, this person is certainly very serious (I cannot deny that), but out of tune not only with the permissiveness of our times, but even with the habits and indulgence of our ancestors. For when was it not practiced, when was it not permitted, when was the time when what is allowed now was not?

*Licentia* is here used in a strictly moral sense. True, Caelius has had an infamous relationship with Clodia, the seductive patrician woman, but she is an enchantress, and boys will be boys; it would be a waste of time and energy to start clamping down on all such behavior. *Licentia* is here explicitly acknowledged as an allowance to do wrong. But since it is in line with the *concessa* granted by the *mos maiorum*, since Caelius lives in a depraved society, there is something to be said in favor of applying to him the same standards that were and are implicitly used for others. Behaviors such as his do not prevent young and promising individuals to participate in politics in a worthy way – though they certainly do not help.

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<sup>229</sup> *Cael.* 48. I use here the text of Austin 1960<sup>3</sup>. Cicero defends indulgence at other places of his corpus, most notably in *Mur.* 58-68. Cicero there argues for forgiveness and indulgence provided they do not violate *officium* (65). The argument is similar in *pro Caelio*: just before the passage quoted, Cicero shows that giving some freedom to young men, provided they do not commit adultery, is permissible: like Prince Hal, they will change once they come to age (42-43). From both passages, we can conclude that Cicero allows toleration of non-virtuous behaviors provided they do not prevent individuals from fulfilling the *officia* of a Roman citizen. As Stem 2006, 221 notes, an important part of these *officia* is to do whatever will maintain the Republic. In most cases of *licentia*, however, toleration will precipitate its ruin.

We have seen thus far that Cicero's speeches demonstrate his awareness of the inner logic of permissiveness. What proves that Cicero identifies there a key cause of the weakening of social standards is that he puts this very logic at the center of his political theory.

### c) *Licentia* and the Fall of the Balanced Regime

#### α – From Popular *Libertas* to *Licentia*

A major thread of Cicero's political philosophy, especially in *De Re Publica* and *De Legibus*, is the balance it tries to strike between popular *libertas* and the implementation of aristocratic *consilium* by magisterial *imperium*.<sup>230</sup> Cicero acknowledges the existence of a thirst for liberty in every human being, but he also exalts *imperium* guided by *consilium* as the realization of natural order.<sup>231</sup> The challenge that the balanced constitution successfully takes up is to combine these two principles in a stable manner. As we saw in the first part of this chapter, this involves giving the people enough say in political decision and enough guarantee against mistreatment. But this fragile equilibrium is destroyed when the people strives to tweak it in their own advantage – especially when they act against the law and the ethical principles necessary for the state to survive.<sup>232</sup> When the people extends their claim to liberty that far, it is *licentia* they are after.

When pushed to the extreme, the popular desire for freedom culminates in a claim to absolute power. For Cicero, popular sovereignty is nothing but *licentia: si populus plurimum potest, omniaque eius arbitrio geruntur, dicitur illa libertas, est vero licentia*, 'if it is the people who prevails, and everything is handled at their whim, this is called liberty, but it is in fact permissiveness' (*Rep.* 3.20 Bréguet).<sup>233</sup> This line is spoken by Philus, whom Cicero presents as taking up Carneades' argument against the existence of a natural law, to prove that every constitutional arrangement is a means to further the interests of a particular class.<sup>234</sup> The people's institutional sovereignty, in this view, is a means to the redistribution of property and to the unleashing of greed – behaviors Cicero

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<sup>230</sup> This point has been demonstrated by Ferrary 1982. See also Kohns 1977 and more recently Atkins 2013, 213. Cicero sometimes identifies as an aristocrat in the Greek sense: see e.g. *Att.* 2.3.4.

<sup>231</sup> *Rep.* 1.60; 1.65; *Leg.* 1.23.

<sup>232</sup> Of course, the rulers also can go beyond the proper limit of their power: this is the whole topic of the *Philippics*, and of *De Officiis* to a certain extent. Cicero is far from blind to this possibility.

<sup>233</sup> Bleicken 1975, 288-289 (see also 410), sees in the passage Cicero's rejection of popular sovereignty.

<sup>234</sup> On the sources of the Philus' speech in book 3 see Ferrary 1977, as well as Hahn 1999.

thinks are both illegal and immoral. Yet Philus' perspective is probably shared by Scipio, as it recalls Scipio's own opinion in book 1 about an unmixed democratic constitution: the absolute power of the Athenian assembly has given full license (*licentia*) to the mob to act as they please, to let out their fury (*furor*), and to bring about the ruin (*pestis*) of the city.<sup>235</sup> Popular freedom, when it is not checked by *imperium* and *consilium*, necessarily leads to the people granting themselves all liberty to do wrong.

Thus, Cicero in *De Re Publica* shows concern for situation in which the people enjoy complete liberty: unchecked by senatorial *consilium* and magisterial *imperium*, they have free rein to rule in their exclusive and narrow interest, violating both laws and ethical principles. But as any case of *licentia*, such an excessive liberty must be given by an authority. In the case of Athens, the people gave it to themselves; but in the Roman balanced regime, the people can only have excessive freedom if the other institutions allow them to have it. In particular, Cicero is concerned about permissions unduly granted to the people by the *principes*: through their own example and their flattering behavior, prominent individuals incite the citizenry to value their freedom more than anything else, legal and moral standards included.<sup>236</sup> Cicero insists on this possibility in the longest quotation from Plato that can be found in his corpus, in book 1 of *De Re Publica*. In his translation of his source text, *licentia* plays a pivotal role.

Plato's depiction of the mechanisms of *παράνομία* manifestly shapes Cicero's understanding of the process of *licentia*, but that question receives a new treatment under his pen. *Licentia* in this passage does not translate any Greek term.<sup>237</sup> I argue that Cicero's use of it in his translation shows that he reads into Plato the two logics he captures with *licentia* throughout his corpus: habituation into vice and reversed exemplarity.<sup>238</sup> Let us imitate Scipio and quote the passage in its entirety:

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<sup>235</sup> *Rep.* 1.44: *iam Atheniensium populi potestatem omnium rerum ipsi, ne alios requiramus, ad furorem multitudinis licentiamque conversam pesti...*

<sup>236</sup> Kennedy 2014, 492-3: "Liberty, for Cicero, must coexist with recognition of the *dignitas* of the 'best men' and the *auctoritas* of the senate (...). Liberty isolated from *dignitas* and *auctoritas* is licence."

<sup>237</sup> Ἐξουσία occurs at 563e8, but not at the place corresponding to the occurrence of *infinita licentia* in the Latin text. Moreover, it does not belong to the essence of ἐξουσία that it is given (explicitly or implicitly) by an authority, whereas it is, as we have seen, an essential feature of *licere/licentia*.

<sup>238</sup> The behavior of the *mali magistri* in the passage comes close to Caesar's political strategy, as described by Yavetz 1965, 105: 'César se rendit sympathique à la foule justement parce qu'il sut se départir de cette *gravitas* qui était exigée d'un haut personnage, et c'est pourquoi les *boni* qualifièrent sa conduite, dans laquelle ils ne voyaient que basse flatterie, de *levitas popularis*. Si nous définissons la *gravitas* comme une qualité personnelle qui permet à un chef politique d'adopter une position intransigeante afin d'atteindre un but impopulaire, nous pouvons dire, par opposition, que la *levitas* caractérise un homme qui *incommodo rei publicae gratiam sibi conciliet*.' In the prologue of book 6 of *De Re Publica* (6.2), Cicero has strictly warned the *principes* against abandoning *gravitas* for the sake of

*'Cum enim, inquit, inexplebiles populi fauces exaruerunt libertatis siti malisque usus ille ministris non modice temperatam sed nimis meracam libertatem sitiens hausit, tum magistratus et principes, nisi ualde lenes et remissi sint et large sibi libertatem ministrent, insequitur, insimulat, arguit, praepotentes reges tyrannos uocat (...).'* Ergo illa sequuntur: 'eos qui pareant principibus agitari ab eo populo et seruos uoluntarios appellari; eos autem qui in magistratu priuatorum similes esse uelint eosque priuatos qui efficiant ne quid inter priuatum et magistratum differat, ferunt laudibus et mactant honoribus, ut necesse sit in eius modi re publica plena libertatis esse omnia, ut et priuata domus omnis uacet dominatione et hoc malum usque ad bestias perueniat, denique ut pater filium metuat, filius patrem neclegat, absit omnis pudor, ut plane liberi sint, nihil intersit ciuis sit an peregrinus, magister ut discipulos metuat et iis blandiatur spernantque discipuli magistros, adulescentes ut senum sibi pondus adsumant, senes autem ad ludum adulescentium descendant, ne sint iis odiosi et graues; ex quo fit ut etiam serui se liberius gerant, uxores eodem iure sint quo uiri, <quin> in tanta libertate canes etiam et equi, aselli denique libere [sint] sic incurrant ut iis de uia decedendum sit. Ergo ex hac infinita, inquit, licentia haec summa cogitur, ut ita fastidiosae mollesque mentes euadant ciuium ut, si minima uis adhibeatur imperi, irascantur et perferre nequeant; ex quo leges quoque incipiunt neclegere, ut plane sine ullo domino sint.'

Scipio – 'When,' he [Plato] says, 'the insatiable throats of the people are parched with thirst for liberty, and through the aid of evil ministers have drained in their thirst a pure draught of liberty instead of a moderate mixture, then unless the magistrates and the leaders are very mild and lenient and serve up liberty to them generously, the people persecute, attack, and accuse them, calling them excessively powerful kings or tyrants.' What follows is this: 'Those who obey the leaders are attacked by the people and called willing slaves; but they shower with praise and give exorbitant honors to magistrates who act like private citizens and private citizens who act as if there were no difference between private citizens and magistrates. In such a commonwealth everything is inevitably filled with liberty: private homes have no master, and this evil extends even to animals; ultimately fathers fear their sons, sons neglect their fathers, all sense of shame is lost, and they are utterly free. There is no difference between citizen and foreigner, the teacher fears his pupils and fawns on them, pupils scorn their teachers, the young take on the gravity of old men, while old men are reduced to children's games, so as not to be hateful or tiresome. Slaves behave with too much freedom, women have the same rights as their husbands, and even dogs and horses and asses go about so freely in this atmosphere of liberty that people have to get out of their way in the streets. The final outcome of this extreme permission,' he says, 'is that the minds of citizens become so delicate and sensitive that if the least authority is brought to bear on them they are angered

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flattering the people.

and unable to endure it; the result is that they begin to ignore the laws as well, so that they are utterly without any master.<sup>239</sup>

Scipio reproduces that passage in the larger framework of his treatment of regime changes. He rejects the idea of a linear and fixed succession of constitutional types, in favor of open possibilities of transition from one to another.<sup>240</sup> Just before the quotation from Plato, Scipio brings up the scenario that a popular revolution takes place against a just king or wise aristocrats (*Rep.* 1.65). This means that, in the situation Scipio describes, the people have already rejected the principles of *imperium* and *consilium*, in favor of a boundless assertion of their liberty, understood as satisfaction of their passions without interference. This tendency is reinforced by political leaders without scruples (*mali ministri*).<sup>241</sup> By flattering the people, by proclaiming that freedom from the laws and the magistrates is the only political goal that should be pursued, they comfort them in the belief that they ought not to be forbidden anything. Various segments of the population (young people, women, slaves) take this exaltation of personal liberty as a pretext to assert themselves over and against the legal and ethical norms of proper behavior.<sup>242</sup>

This situation receives a name of its own at the end of the passage: "absolute permissiveness" (*infinita licentia*).<sup>243</sup> Yet it does not conclude the process, but adds an ultimate consequence to it: the complete collapse of the political community. The mere principle of coercion (*vis imperii*) is now rejected as oppressive, for two reasons. First, once the political authorities have relaxed the norms they used to enforce (*imperium* and *consilium*) in favor of giving the people some freedom to do wrong (*licentia*), the logic of precedent incites the people to ask for more of the same. Second, the logic of *consuetudo* plays a crucial role: the people become accustomed to be free from any law and

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<sup>239</sup> The translation is taken from Zetzel 1999.

<sup>240</sup> For the support that Scipio/Cicero finds in Aristotelian political theory for this analysis, as opposed to Plato's and Polybius's schemas, see Atkins 2013, 80-119.

<sup>241</sup> These magistrates are not *legum ministri* (*Clu.* 146) nor a 'law that speaks' (*Leg.* 3.2) – I thank Benjamin Straumann for this formulation.

<sup>242</sup> Contrary to the statement of Perelli 1990, 31, it seems possible to see, in this degeneration from *libertas* to *licentia*, the same process at work than in the passage from monarchy to tyranny, and from aristocracy to oligarchy. Instead of acting for the common good, the rulers (here, the individuals forming the people) only care about their individual liberty, to the detriment of all.

<sup>243</sup> At 1.68, the use of *nimia licentia* shows that Scipio uses *licentia* in its sense of 'permission:' if it only designated the end-result of the process ('permissiveness,' or general laxity), it could not be *nimia*.

command, as well as to enjoy the uncoerced satisfaction of their desires; they end up being unable to bear any imposition of *imperium* any more.

At the end of the process, there is no political community left, but a collection of atomistic individuals asserting themselves. And as Scipio continues, following Plato, the risk is high that the individuals sell themselves to the highest bidder, to the one who offers them the largest satisfaction of their appetites, and throw themselves into servitude. The deleterious domination of personal desires leads directly to tyranny.<sup>244</sup>

### β – *Licentia* and the Exemplarity of *Principes*

Cicero thinks that, to avoid the outcome he depicts at *Rep.* 1.68, the ruling class must demonstrate its commitment to the institutional, legal and ethical standards derived from natural law. Cicero ascribes this task to two kinds of political actors: the *princeps rei publicae*, and the Senate.

According to *De Re Publica*, the *princeps rei publicae* will provide himself as an example to the admiration and imitation of his fellow citizens.<sup>245</sup> He will also direct the attention of public opinion to blameworthy behaviors.<sup>246</sup> But here again, the prominence of a leading man can act in the reverse way. Tiberius Gracchus' neglect for justice towards his fellow citizens, the allies and the provinces, says Laelius in book 3, risked setting a detestable example for other magistrates:

*Asia Ti. Gracchus, perseveravit in civibus, sociorum nominisque Latini iura neclexit  
ae foedera. Quae si consuetudo ac licentia manare coeperit latius imperiumque  
nostrum ad uim a iure traduxerit, ut qui adhuc voluntate nobis oboediunt, terrore  
teneantur, etsi nobis qui id aetatis sumus euigilatum fere est, tamen de posteris  
nostris et de illa immortalitate rei publicae sollicitor, quae poterat esse perpetua, si  
patriis uiueretur institutis et moribus.*<sup>247</sup>

Tiberius Gracchus had the same attitude towards his fellow citizens as he had in Asia,<sup>248</sup> and he made light of the rights our allies and the Latins acquired by

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<sup>244</sup> Cicero does not shy away from applying the process Plato describes in *Rep.* 8 and 9 to his Roman situation: see in particular *Att.* 10.9.6 (May 49).

<sup>245</sup> *Rep.* 2.69. See already *Leg. Man.* 14: *non potest exercitum is continere imperator, qui se ipse non continet.*

<sup>246</sup> *Rep.* 5.6 Bréguet. This role of the *princeps* has been the object of a vast literature, which includes Heinze 1924; Zetzl 2001; and more recently Atkins 2013, 73-79. Here as elsewhere, Cicero actually dreams of a return of the Senate's former position of "collective authority as guardian of the Roman system of values and norms" (Hölkeskamp 2010, 29).

<sup>247</sup> *Rep.* 3.41 Bréguet.

<sup>248</sup> The text is not without difficulty, and the interpretation is controversial. I follow here the convincing arguments of

treaties. If this habit and this excessive freedom should begin to spread, and if the basis of our rule moves from right to might, so that those who up to now have obeyed our will, would only be checked by fear, then even in spite of the efforts of our generation, I fear for the persistence of our state, which could be immortal, if we kept following the institutions and customs of our fathers.

Tiberius Gracchus favored the Roman people first in the distribution of Attalus' legacy, and then by giving them undue advantage over the Latin and allied peoples in the implementation of his agrarian legislation.<sup>249</sup> He thus breached both *iura* and *patrii mores*. Whether the *licentia* he enjoyed was granted by the Senate's temporary inaction, or by himself as tribune of the plebs, it runs the risk of spreading (*manare*) among his followers. In fact, as we have seen, any manifestation of *licentia* is doomed to spread.

The topic of the Senate's exemplarity receives more prominence in *De Legibus*, where Cicero stresses the need for absolute moral perfection among its members: *is ordo vitio vacato, ceteris specimen esto*, 'let this order be free from vice, and be a model for the rest of the citizens.'<sup>250</sup> But this project stumbles over the poor moral condition of these very *principes*. If current magistrates or former office-holders, endowed with authority as such, overlook the fact that their prominence puts them under the gaze of the Roman people and choose instead to gratify their desire for personal happiness at any cost, nothing can be more detrimental to the moral climate of the Republic.<sup>251</sup> Hence the story Cicero tells his two interlocutors in *De Legibus*: if a prominent senator (Lucullus, as it happens) allows himself to indulge in a morally blameworthy behavior, the *licentia* he displays on such an occasion is likely to be imitated by the rest of the people.

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Büchner 1984a, 328.

<sup>249</sup> As Stockton 1979, 43 argues, Laelius must be referring to the dealings of the agrarian commission, of which Tiberius was a member.

<sup>250</sup> *Leg.* 3.10.

<sup>251</sup> See the analysis of *mutatio morum* in Wallace-Hadrill 1997, 9: "The transformation which concerns the Romans is that of *mores*. Though *mores* may be, to a Roman, nature not culture, they are subject to change. Emulation is the mechanism through which the *maiores* have transmitted their practices to the present, and it is the mechanism through which *mores* are corrupted. The leading men, *principes*, bear the heavy responsibility of setting a model to society: look back and you will see, 'that the state always had the character of its leading men, and that whatever transformation of manners (*mutatio morum*) emerged among its leaders, the same followed in the people (Cic. *Leg.* 3.31).' Just a few men who enjoy the benefit of social respect, *honore et gloria amplificati*, have the power to corrupt or correct the manners of the state."



*Ut enim cupiditatibus principum et uitii infici solet tota ciuitas, sic emendari et corrigi continentia. Vir magnus et nobis omnibus amicus L. Lucullus ferebatur quasi commodissime respondisset, cum esset obiecta magnificentia uillae Tusculanae, duo se habere uicinos, superiorem equitem Romanum, inferiorem libertinum: quorum cum essent magnificae uillae, concedi sibi oportere quod iis qui inferioris ordinis essent liceret. Non uides, Luculle, a te id ipsum natum ut illi cuperent? Quibus, id si tu non faceres, non liceret.*<sup>252</sup>

Just as the entire state is likely to be infected by the desires and the faults of the leaders, so it is improved and corrected by their discipline. Lucius Lucullus was a great man and a friend to all of us. There is a story that when he was criticized for the grandeur of his villa at Tusculum, he replied with great amiability that he had two neighbors: on one side a Roman knight, on the other a freedman, and that since they had grand villas, he ought to be allowed what was permitted to men of lower standing. But Lucullus, don't you see that you are yourself the source of their desire, that if you did not behave this way they would not be permitted to either?

Lucullus thought he could use his neighbors' attitude as an excuse for indulging in the same pleasures as them; but Cicero is able to readily retort that, as a *princeps civitatis*, it is he, Lucullus, who sets the example of what is allowed or not.<sup>253</sup>

#### γ – Caesar's *Licentia*

When Cicero's project of restoration founders on the civil war, the logic of *licentia* is used to account for the disaster. In a letter to Atticus dated from March 18<sup>th</sup> 49, Cicero bemoans the logic that drives Pompey into the abyss.<sup>254</sup> Pompey, Cicero writes to his friends, keeps asking himself the wrong question: *Sulla potuit, ego non potero?*<sup>255</sup> Sulla set a precedent, and Pompey can claim the right to do what Sulla did. We know from Suetonius that Caesar thought the precedents set by Sulla were meant to be superseded (*Iul.* 77). The mechanism Cicero puts his finger on here is what historians have described as the collapse of the Roman nobility's collective discipline.<sup>256</sup> Individuals who strove for glory outside the traditional boundaries of aristocratic competition challenged and weakened

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<sup>252</sup> *Leg.* 3.30.

<sup>253</sup> The same example is invoked at *Off.* 1.140, to make the point that the leaders' vices are also more likely to be imitated than their virtues. I would like to thank Jed Atkins for discussion on this point.

<sup>254</sup> *Att.* 9.10.2. On the date see the Budé edition, p. 269.

<sup>255</sup> On this point see the comments of Adcock 1959, 63.

<sup>256</sup> Meier 1966 *passim*, esp. 301-306; Hölkeskamp 1987, 277.

the authority of the rest of the *nobilitas* by the contempt they showed for the rules those peers tried to enforce on them.<sup>257</sup>

Besides being a slap in the face of the *nobilitas*' moral authority, such unrestrained ambition set a precedent for newcomers. In a letter to P. Servilius Rufus, dated from December 46, Cicero recalls the pessimistic predictions he made in 51 about the looming civil war, justifying them by a general observation: *quod exemplo fit id etiam iure fieri putant, sed aliquid atque adeo multa addunt et adferunt de suo*, 'people think that what is supported by a precedent is done rightly, but they also add and bring something of their own, even a lot' (*Fam.* 4.3.1). As Matthew Roller has shown, competition was a crucial part of Roman exemplary culture: 'social actors, as imitators attuned to the glory and prestige of prior performances, inevitably strive to be judged not just as matching, but as surpassing, those prior performances in their chosen arena.'<sup>258</sup> This could work for the good, or the detriment of the political community; Caesar and Pompey were perfect examples of reversed exemplarity.

Yet the logic of reversed exemplarity can only play out because of the apathy of the commonwealth; Caesar achieved a position of absolute power thanks to the Romans' passivity. Their refusal to check his ambition gave him *licentia* to get his way. This argument is explicitly made in Cicero's last philosophical writing, *De Officiis*. There Cicero looks back to the criminal permissiveness exhibited by his fellow citizens toward the Caesarian threat. They ultimately paid for it with their freedom, but Marseilles, one of Rome's oldest allies, suffered almost total destruction:

*Multa praeterea commemorarem nefaria in socios, si hoc uno quidquam sol uidisset indignius. Iure igitur plectimur. Nisi enim multorum impunita scelera tulissemus, numquam ad unum tanta peruenisset licentia, a quo quidem rei familiaris ad paucos, cupiditatum ad multos improbos uenit hereditas.*<sup>259</sup>

I would recall many other misdeeds committed against our allies, if the sun had seen anything more shameful than that one. We therefore deserve our punishment. For if we had not tolerated the crimes of many to be left unpunished, no such permission would have been granted to one man, whose fortune few

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<sup>257</sup> True glory, obtained within the bounds of communal norms, is a major theme in *De Officiis* (1.65-68). Imperial authors would later give prominence to *exempla* in which a prominent individual prioritizes the good of the commonwealth over his personal glory. See in particular Feldherr 1998, 105-109; Langlands 2018, 292-293; Roller 2018, 183-187.

<sup>258</sup> Roller 2018, 9. See also Langlands 2018, 93-95 on *aemulatio*.

<sup>259</sup> *Off.* 2.28.

men, it is true, have inherited, but of whose appetites many wicked people have been made heirs.

Cicero gives here, in short, the complete cycle of *licentia*: after crimes have been committed, permissiveness from the community gives free rein and even stirs up the personal ambition of the wrongdoer, who in turn are taken as models by numerous others.<sup>260</sup> The logics of both *consuetudo* and precedent seem to be at play here. They are specifically directed against Mark Antony, Cicero's target. Cicero would have certainly thought that the proscriptions of the *triumviri* were a result of a long-standing apathy of the political community. But this, of course, is a history he could not write.

Before concluding, we should note that concern with *licentia* is not an idiosyncrasy of Cicero. It may lend support to Cicero's argument that Sallust was aware of a similar process. Caesar's speech at the end of the *Catilina* shows an awareness of exactly the same logic of permissiveness, with the irony that Cicero himself is there the *licens*, to whom too much (the execution of the conspirators without popular trial) risks being allowed. Instead of being put to the service of *optimas* policy, the logic of *licentia* receives an anti-senatorial bent. One of Caesar's main arguments is that the execution of the conspirators will set a disastrous example as well as encourage violence and contempt for law throughout the body politic:

*Alia aliis licentia est, patres conscripti. Qui demissi in obscuro vitam habent, si quid iracundia deliquere, pauci sciunt, fama atque fortuna eorum pares sunt; qui magno imperio praediti in excelso aetatem agunt, eorum facta cuncti mortales novere. ita in maxuma fortuna minuma licentia est; neque studere neque odisse, sed minime irasci decet; quae apud alios iracundia dicitur, ea in imperio superbia atque crudelitas appellatur.*<sup>261</sup>

Different people are allowed different things (*alia aliis licentia est*), senators. If those who lead their life in obscurity make some mistake out of anger, few people notice, and their reputation and fate do not change. But the actions of those who live their lives at the top, who are entrusted with important offices, these are known by all mortals. That is why those who enjoy the greatest fortune receive the least permission (*minuma licentia*): for them it is fitting neither to favor nor to hate, and least of all to get angry. For what is called anger among others, is called arrogance and cruelty in those in command.

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<sup>260</sup> Cf. *Att.* 7.5.3: *sero enim resistimus ei quem per annos decem aluimus contra nos.*

<sup>261</sup> *Cat.* 51.12-13. I use the text of Ramsey 2007.

The right to do wrong is narrower for those in power than for common people. So far, Cicero could agree. But the particular example Caesar chooses is noteworthy: it makes the magistrates, and not the people, the paradigmatic group in which *licentia* tends to spread. To be sure, Cicero blamed magistrates for originating and benefitting from *licentia*; but his concern with permissiveness was importantly fueled by his fear of a *popular* tyrant. Caesar, by contrast, singles out magistrates as the best candidates for tyranny:

*Omnia mala exempla ex rebus bonis orta sunt. Sed ubi imperium ad ignaros eius aut minus bonos peruenit, nouum illud exemplum ab dignis et idoneis ad indignos et non idoneos transfertur. Lacedaemonii deuictis Atheniensibus triginta uiros imposuere, qui rem publicam eorum tractarent. Ii primo coepere pessimum quemque et omnibus inuisum indemnatum necare: ea populus laetari et merito dicere fieri. Post ubi paulatim licentia crevit, iuxta bonos et malos libidinose interficere, ceteros metu terrere: ita ciuitas seruitute oppressa stultae laetitiae grauis poenas dedit.*<sup>262</sup>

All bad examples have started from good measures. When power has come to people who do not know how to handle it, or to people who are less virtuous, this new example is transferred from people who were right in acting this way to people who are not. After the defeat of the Athenians, the Spartans imposed on them their own men to administer the city. These men started right away to put to death, without a trial, the most worthless citizens, those everyone hated. People were happy about this, and said it was rightly done. But when they took greater liberties (*licentia crevit*), they killed both good and bad people out of greed, and terrorized the rest. So that the citizenry, reduced to slavery, paid a very high price for their stupid satisfaction.

Sallust, I take it, is here out-Platonizing Cicero. The episode of Athenian history he has Caesar recall was one both Cicero and Sallust knew Plato to have commented on.<sup>263</sup> In Caesar's rendering, once the Thirty had received from Sparta the liberty to execute sycophants and used it with the people's approval, they thought they could go further (*licentia crevit*) and permitted themselves to kill whomever they wanted. The logic of *licentia* remains the same as in Cicero: but tyranny here does not come from the people – rather from those in power. That Sallust, writing in 42/41, might be

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<sup>262</sup> *Cat.* 51.27-31.

<sup>263</sup> Ramsey 2007, 64 suggests Sallust knew Plato's Seventh Letter, which contains a similar description of the Thirty's rule (324c2-325a7); Cicero knew the letter very well (McConnell 2014, 62-114).

thinking of the fate of the Roman people is very possible.<sup>264</sup> The growth of *licentia* culminated in the proscriptions of 43, to which Cicero himself fell victim.<sup>265</sup>

### Conclusion

Cicero's account of liberty and licence is firmly embedded in his theory of the balanced regime; hence, as I argued in the introduction, his reliance on *licentia* to designate excessive freedom. The people's *libertas* is to be promoted, but only insofar as it leads to good political outcomes, rids the commonwealth of haughtiness and fear, and satisfies the human thirst for freedom in a way compatible with wise deliberation (*consilium*) and efficient magisterial power (*imperium*). Whenever *libertas* goes beyond the achievement of these goals, especially to violate legal and ethical norms, it turns excessive and becomes *licentia*. *Licentia* is thus, by definition, excessive. But its self-reinforcing tendency constitutes a further problem. Once it has taken place, *licentia* creates a bad habit and a precedent. The balanced regime's fragile equilibrium experiences not only a one-time blow, but a rapidly spreading infection.

This, in turn, is not only a political problem: for Cicero it is also an ethical one. Weakening the balanced regime is bad because of the political consequences that ensue; but it is primarily a mark of vice. For Cicero, political communities are dear to the gods, and their preservation is a commandment of natural law.<sup>266</sup> Their maintenance is an act of human virtue.<sup>267</sup> And virtue is for Cicero the essential part of the human good.<sup>268</sup> *Licentia*, therefore, is not only a political problem: it is a morally flawed attitude.

This distinguishes Cicero's Republicanism from his more recent epigones. Historically, it is undeniable that Cicero's conceptual framework was taken up by neo-Roman political theories, from the early modern period to our own days; but neo-Republican theories come in different varieties,

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<sup>264</sup> Syme 1964, 128 for the date.

<sup>265</sup> In Arena's convincing reading of the passage, Caesar argues that 'when a breach is made in the rule of law, liberty will depend on the *virtus*, the moral qualities, of the leaders, and individual citizens will find themselves subject to the discretionary powers of their ruler.' If this is indeed Sallust's message, it bears strikingly ironical echoes of Cicero's own political theory (*Rep.* 1.44).

<sup>266</sup> *Rep.* 1.12 and 6.13; *Off.* 1.57-58 and 3.90.

<sup>267</sup> Schofield 2021, 175-176.

<sup>268</sup> *Rep.* 3.33; *Off.* 3.11.

more or less close to Cicero's own view. Harrington's commitment to the mixed constitution as a means of ensuring that natural law is respected, for one, comes very close to Cicero's position.<sup>269</sup> By contrast, natural law does not play any role in contemporary neo-Republican theory. Philip Pettit does make personal respect for the citizens' basic liberties a part of human virtue.<sup>270</sup> He also makes *civic* virtue, the disposition to preserve Republican institutions, a necessary condition for making a regime of equal liberty stable.<sup>271</sup> But the preservation of Republican institutions is not, for all that, made part of human virtue.<sup>272</sup> This demarcates Cicero's Republicanism from its contemporary heirs: for Cicero, cultivation of civic virtue both serves the purpose of maintaining political communities, the preservation of which is commanded by divine reason, and constitutes human excellence.

This gives double ground to Cicero's call for political engagement. In order both to sustain the Republic and to reach their own excellence, the *principes* must not let the people believe that they condone behaviors that violate natural law – its institutional guarantee (the balanced regime), its legal manifestations (such as property rights) or its ethical components (like temperance). Hence Cicero's constant appeals to political commitment. Cicero himself has struggled against the temptation of retiring and indulging in the pleasures of a peaceful and contemplative life.<sup>273</sup> Succumbing to such a temptation would have been tantamount to stopping to care for the Republic, i.e. to an attitude of *licentia*.<sup>274</sup>

Cicero knows very well that the pleasures of private life exert a strong attraction on the Roman establishment, which is why he often turns to the Roman youth to kindle a regeneration of the Republic.<sup>275</sup> It is, indeed, a re-generation, because the principles Cicero wants the *iuvenes* to uphold are nothing but the norms that have proven their worth over the history of the Republic: the communal *ethos* of the *nobilitas*, in its institutional, legal and moral components. For Cicero, the recourse to political theory and the analysis of political behavior are simply a way (although the only

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<sup>269</sup> Cromartie 1998.

<sup>270</sup> Pettit 2015, 80.

<sup>271</sup> Pettit 2012, 228.

<sup>272</sup> See especially Weithmann 2004; also Lovett and Whitfield 2016.

<sup>273</sup> On Cicero's attraction for, but ultimate rejection of, a life of *otium*, see especially Baraz 2012, 44-96. For an interpretation of his well-known motto *cum dignitate otium* as advocating a balance between the allowance for the enjoyment of peaceful life by the greatest number and its protection by a few prominent men, see Boyancé 1948; Wirszubski 1954; Takahata 1999.

<sup>274</sup> Already in the *Verrines* (2.3.3), Cicero rejects *otium* unduly taken as *licentia*.

<sup>275</sup> See his well-known attacks against *piscinarii* (*Att.* 1.19.6; 1.20.3), and his rancor toward the Pompeians in May 49: *hi sunt qui, nisi me civitate expulissent, obtinere se non putaverunt posse licentiam cupiditatum suarum* (*Att.* 10.4.1). For the message delivered in the *Pro Sestio* to the young generation, see Achard 1993.

proper one) back to the wisdom that the *maiores* unreflectively possessed.<sup>276</sup> But the idea that good example could uphold the overall standards of the political community and improve the chances of its survival could also serve the instauration of a new regime: one that, though presented under the guise of *res publica restituta*, would place the image of a single individual at the top of the symbolical hierarchy.<sup>277</sup>

The story of *licentia* does not end with Cicero. Imperial authors such as Horace, Livy, Seneca and Tacitus made abundant use of the word, in senses that are various and rich. The notion of permissiveness remained firmly attached to it, first and foremost for etymological reasons – though reasons of space must reserve investigation of this point for another occasion. Contextual changes, by contrast, deprived the term of some of the key connotations it had under Cicero's pen. In particular, the term lost its embeddedness in the theory of the balanced regime and in the *optimas* response to *popularis* politics. Although known to some Romans under imperial rule, *De Re Publica*'s defense of the balanced constitution lost much of its relevance for them.<sup>278</sup> The popular desire for freedom, too, receded into the background.<sup>279</sup> After decades of polemics around the meaning of *libertas*, the plebs seems to have grown tired of the use of *libertas* as a pretext by different factions.<sup>280</sup> Ancient writers and modern historians agree that the people, aided by the military pressure of Octavian's (viz. Augustus') army, traded a form of freedom against a better material situation.<sup>281</sup>

This change of political context makes Cicero a good place to end our inquiry into excessive freedom in ancient political philosophy. By adapting to a Roman framework Platonic and Aristotelian notions, tied as they were to their Athenian context, Cicero both preserved and

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<sup>276</sup> On philosophy as a way of re-establishing and reinforcing *mos maiorum*, see Baraz 2012, 3: 'What [Cicero] is attempting is much more than a comprehensive presentation of Greek philosophical knowledge to a Roman audience. It is an integration of that knowledge with *exempla* drawn from Roman history and tradition and the values that he believes lie behind them.'

<sup>277</sup> On this point see Bleicken 1975, 387. Exemplarity is a key theme of Augustean propaganda, cf. *Res Gestae* 8: *legibus nouis me auctore latis multa exempla maiorum exolescentia iam ex nostro saeculo reduxi et ipse multarum rerum exempla imitanda posteris tradidi*. One of Seneca's aims in *De Clementia* will be to remind Nero of his role as a moral authority that sets the standard for his subjects (see esp. 1.8.1-3).

<sup>278</sup> On the influence of *De Re Publica* in the Roman Empire see Bréguet 1980, 163-164.

<sup>279</sup> See Seneca's critique against Brutus at *Ben.* 2.20: *aut regis nomen extimuit, cum optimus ciuitatis status sub rege iusto sit, aut ibi sperauit libertatem futuram, ubi tam magnum praemium erat et imperandi et seruiendi, aut existimauit ciuitatem in priorem formam posse reuocari amissis pristinis moribus futuramque ibi aequalitatem ciuilibus iuris et staturas suo loco leges, ubi uiderat tot milia hominum pugnantis, non an seruirent, sed utri*.

<sup>280</sup> Perelli 1982, 226-227.

<sup>281</sup> *Sen. Clem.* 1.1.8: *obversatur oculis laetissima forma rei publicae, cui ad summam libertatem nihil deest nisi pereundi licentia*. See on this point Vanderbroek 1987; Will 1991; Jakobson 1999. Courrier 2014, though revisionist on many other points, shares the traditional view for the most part (see pp. 735-736).

enriched a long-standing reflection on freedom and its excesses. Crucial for us is that, in doing so, Cicero intended to shape a tradition. The main passage where he deals with excessive freedom, *Rep.* 1.65-68, is interesting not only because it is a translation-cum-adaptation of a Greek original, already rich in itself; but also because it turns Plato's depiction of excessive freedom in *Republic* 8 into a *locus classicus* – a point I hinted at in the introduction. Just after Scipio has started his rendering of the Platonic passage, he breaks off and turns to his best friend Laelius: 'I guess you know this text (*puto enim tibi haec esse nota*). To which Laelius replies: 'In fact, I know it full well (*vero mihi... notissima*, 1.66). Cicero thereby constructs Plato's *Republic*, on the topic of excessive freedom, as the ultimate classic. But by projecting this status into the past, he both amplifies and disguises his move. He pretends not to be the only one to take *Republic* 8 as authoritative; Scipio and Laelius already did so before him.

This has both contextual and theoretical implications. Since *De Re Publica* is set in the aftermath of Tiberius Gracchus' tribunate, democracy's tendency to foster excessive freedom is presented as a lively issue in 129. But given *De Re Publica*'s own context of writing, it is Clodius and his *popularis* politics that is most immediately targeted. The use of the present in 1.65-68, however, gives it broader relevance: it is also meant to apply to future demagogues.<sup>282</sup> Plato's analysis, as appropriated and translated by Cicero, is turned into a universally valid grid for interpreting political events.

But Cicero does not only *apply* Plato's insight; he loads it with new, Roman connotations. Cicero reads into the Platonic passage the logics of habituation into vice and reversed exemplarity that *licentia* captures elsewhere in his corpus; he also uses the term to insist on the community's ultimate responsibility in its own permissiveness. When *De Re Publica* was lost, together with its intricate defense of the balanced regime, it is these shades of *licentia* (permissiveness, habituation into vice, reversed exemplarity) that the surviving Ciceronian texts kept transmitting. In the West, excessive freedom presented itself with these Ciceronian traits.<sup>283</sup> *Licentia*'s relationship to the balanced regime receded into the background, if it was not entirely lost.

The tradition Cicero attempted to build was thus deprived of some of its currency soon after him: his theory of *licentia* was importantly meant as a response to what he perceived as a democratic

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<sup>282</sup> Cicero uses Plato's *Republic* 8 to analyze Caesar's rise to dictatorship at *Att.* 10.9.6.

<sup>283</sup> I am here thinking especially of the speeches (among which the *Verrines* took pride of place), the correspondence, and some of the political works: on the reception of *Leg.* see Dyck 2004, 30-42; on *Off.* see Dyck, 1996, 39-49.



threat to the balanced regime, and both were things of the past by 42 at the latest. After that date, Cicero was not singled out anymore, with Plato and Aristotle, as member of a tradition deeply concerned with democratic excessive freedom.<sup>284</sup>

Each of these three authors, though using *ἐλευθερία* and *libertas* in his own way, was responding to a democratic tendency he saw as hindering the capacity of political communities to reach the human good. Their engagement with the excessive freedom they thought democracy to foster could still be unearthed from those of their texts that survived; but absent democratic politics, there was no motivation for trying to understand what they could have meant.

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<sup>284</sup> One had to wait until the Early Modern period, with its antiquarianism and its renewed interest in the balanced regime, to see Cicero's *De Re Publica* being given the status of a classic of political theory. Collections of fragments blossomed: Estienne 1538; Sigonius 1559; Patricius 1561. I thank Benjamin Straumann for discussion on this point.

## Conclusion

### 1) Unity and Diversity of a Discourse

I have argued in the preceding chapters that Plato, Aristotle and Cicero articulated, each in their own way, a discourse on excessive freedom. I would make my case stronger if I could give this discourse a crisp formulation; let me try.

Because Plato, Aristotle and Cicero adopted a conception of virtue as the rule of reason, both in the soul and in the city, and because they saw themselves as living in societies where democratic movements equated the rule of reason with unbearable slavery, they tried to show, either that slavery to reason is desirable – as Plato does in the *Republic* and, qualifiedly, the *Laws* –, or that obedience to reason is not slavery but salvation – a thesis Aristotle defends in the *Politics* –, or that institutions can enable reason to rule, without giving to the citizens the impression that they are political enslaved– as Cicero argues in *De Re Publica*.

It is noticeable that the resulting picture is one of growing consideration for the people's hatred of slavery. Plato's Kallipolis enslaves the producers to the philosophers' reason; Magnesia sets up the laws as masters of both office-holders and citizens, while granting to the people enough political freedom for the specter of inter-personal slavery to be cast out of the city (for free people, of course). Aristotle admits that slavery is evil for naturally free people, and condemns any regime that does not take account of the claims they are entitled make on the basis of their capacity for virtue. When, to the democrats' critique, Aristotle replies that "living for the regime is not slavery, but salvation," he makes it clear that he would *not* defend a regime that puts free people in a state of political servitude (unlike Plato's *Republic*). But Aristotle still aims to correct the democratic conception of freedom and slavery: being led by one's regime towards virtue, even if it means being constrained in one's private life, and having less say in political affairs than one might like, brings the citizens closer to their flourishing than unrestrained popular participation, and unrestricted private independence. Cicero, as the heir of the Roman balance between rule by the elite and service of the people, knows all too well how ordinary citizens chafe against any concentration of power they deem excessive. He is also aware that *libertas populi* and *libertas civium* do contribute to the justice and stability of the regime.

What Plato, Aristotle and Cicero insisted on debunking was the democrats' claim to freedom understood as the maximal extension of both direct popular rule (abolishing or making meaningless the power of office-holders) and personal liberty (the freedom to "live as one wishes"). They did so by tracing back the democrats' demand to excessive desires (such as the non-necessary appetites of Plato's *Republic*, or self-love in the *Laws*), to wrong beliefs (as the overvaluation of free status that characterizes Aristotle's democrats), or to processes of collective psychology (as Cicero analyzes the birth and spread of *licentia*). All of them accounted for the democratic mistake in terms of political psychology, or the interplay between the powers of the soul and political events. But it seems to me that Plato's writings demonstrate a growing interest for a psychological account of political phenomena: the *Republic*, with its tripartition that the *Gorgias* and *Menexenus* lack, offers an explicit theory of the nature of democratic desire. The shift from freedom embraced as means to freedom pursued as an end, however, is explained by reference to psychological phenomena (habituation, and the power of rhetoric) that are not explicitly linked to tripartition, or to psychological arguments offered elsewhere in the dialogue. In the *Laws*, by contrast, the shift from moderate to immoderate freedom can – as I hope to have shown – be accounted for using other passages of the work that present explicit theories: of pleasure, self-love, shame, or aesthetic enjoyment.

After Plato, interest in political psychology seems to fade. Aristotle still requires of the statesman that he "know the things of the soul" (1102a18-19), but what interests him primarily in the democratic commitment to freedom is the wrong belief in which it is expressed. I argued that this belief can be traced back to psychological drives, especially θυμός; but a reduction of this kind is clearly not at the top of Aristotle's agenda. The same can be said of Cicero: even while he (at least at times) embraces a Platonic partition of the soul, the processes *licentia* is used to capture are not tied, in any precise way, to a theory of the soul. Permissiveness, habituation, reversed exemplarity belong to folk psychology, not to a psychological theory.

Bearing these important differences in mind, it can still be said that Plato, Aristotle and Cicero held a common discourse on excessive freedom. Pocockean languages and discourses do allow a plurality of concrete utterances to be voiced; but those who speak them sometimes tend to hide this potential for plurality, and to deliberately insist on the discourse's unity. Cicero is a good example here: he framed his own pronouncements on excessive freedom as a translation of Plato's, even though the two were quite different for both theoretical and contextual reasons. Cicero

presented *Rep.* 1.65-68 as having the same meaning and targets as *Rep.* 562c8-563e1; his *licentia*, as a faithful rendition Plato's (excessive) ἐλευθερία. The manifold possibilities of the discourse of excessive freedom were thus hidden from view, in order to shape a golden, hence rigid tradition.

Cicero's move was instrumental in creating that tradition; but we cannot fully endorse it. In Skinner's terms, Plato's *Republic* and Cicero's *De Re Publica* had both different "meanings" and different "points." These two kinds of difference do not shatter the coherence of the (Pocockean) *discourse* of excessive freedom; but they need to be kept in mind, in order not to flatten the diversity allowed by it. We find here a good illustration of Pocock's remark, that "the history of political theory must consist in large and significant measure of actors doing things that historians of political theory insist that they should not do."<sup>1</sup> What we should do is to notice Cicero's move, and to see it as the deliberate construction of a tradition.

## 2) Seeing their Points

Something else our authors did not do, was to strive to understand the democrats' point. They had a partial take on contemporary events; their fear of the "living as one likes" conception of freedom was somewhat blind to its own context. As Myles Burnyeat noted:

The freedom that ancient democrats pursue is not that of not being subservient to the state, but that of not being subservient to each other. When they say that freedom is being able to live as one likes, the only content they give to that idea is the contrast with the condition of slaves who have to do what they are told all day every day.<sup>2</sup>

Burnyeat did see the democrats' "point:" no to be bossed around by another human being, with all the anxieties and harms that this involves. Were Plato's, Aristotle's and Cicero's fears based on an illusion?

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<sup>1</sup> Pocock 2004, 540.

<sup>2</sup> Burnyeat 1996.

Not entirely, I think. The democrats themselves might have been blind to something else: the psychological effects of their own ideal. As Melissa Lane has shown, political rule cannot do without inter-personal orders: obeying "the state" often involves obeying "each other." Plato, Aristotle and Cicero were concerned that the democrats' commitment to political freedom would undermine this irreducible component of politics. They were worried, in Honneth's words, about pathologies of democratic freedom.

### 3) Is the Discourse of Excessive Freedom Audible Today?

Alienation and domination die hard. Many struggles remain to be fought: against racial, patriarchal, or economic forms of exploitations, to name just a few. These struggles will, and should, be fought in the name of freedom. But there are two things we should be clear-headed about: the meaning and extent of the freedom we want; the harms of unclarity and fetishism. Ancient political thought, because of its foreignness, offers valuable resources to dispel both kinds of confusion. The concept of subjective rights, so central to our moral and political thinking, does not feature prominently in the ancient discourse;<sup>3</sup> yet Honneth's diagnosis of freedom pathologies focuses on the psychological effects of liberal rights. Ancient political philosophy reveals other psychological "mechanisms" (to speak with Elster) by which a legitimate commitment to freedom can turn harmful. The examples I adduced in the introduction (allergic opposition to any form of COVID regulation; condoning sexual abuse in the name of "liberation") should convince us that confused freedom talk can harm. The ancient discourse of excessive freedom, if correctly interpreted, can help dispel the confusion; to our freedom pathologies it can provide a sobering antidote.

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<sup>3</sup> Attempts to see rights in ancient Athens (Ober 2000), Aristotle's political theory (Miller 1995), Rome and Roman political theory (Straumann and Edelstein 2022) involve a lot of reconstruction, which shows at least that subjective rights were not central to ancient political language.

La thèse part d'un constat : bien que les sociétés démocratiques fassent de la liberté politique leur pierre angulaire, la définition et l'étendue de la notion font débat. Ces deux dernières années ont vu de telles disputes prendre un tour particulièrement polémique. La crise du COVID-19 et les restrictions qu'elle a entraînées ont, par réaction, suscité des mouvements contestant les mesures sanitaires – tels le port du masque et l'obligation vaccinale – au nom de la liberté. Par ailleurs, une vague de dénonciation d'abus sexuels a ciblé les soi-disant justifications que de tels agissements avaient pu trouver dans le mouvement libertaire des années 1960 et 1970. Ces deux exemples mettent en exergue la nécessité d'une réflexion conceptuelle sur la nature et l'étendue de la liberté : à défaut, le concept devient un slogan capable d'offrir un vernis de légitimité à des entreprises injustes, à des degrés de gravité divers. Il est donc important, même urgent, d'offrir des critères nets permettant de distinguer les formes légitimes et illégitimes de liberté politique ; distinction que l'on rend souvent par l'opposition entre liberté et licence.

Cette opposition fait partie de notre vocabulaire politique, essentiellement parce qu'elle a pour elle une longue histoire. Les auteurs qui ont fondé la pensée politique moderne l'ont placée au cœur de leurs théories : on la trouve ainsi articulée par Machiavel, Érasme, Milton et Hobbes ; plus tard chez Montesquieu, les Encyclopédistes, Kant et Saint-Just. Chaque auteur donne un sens propre à cette opposition ; mais chez la plupart d'entre eux s'entend l'écho de la psychologie morale ancienne dont ils étaient familiers. La liberté est alors présentée comme un mode de rapport entre individus qui est conforme à la raison, alors que la licence est le produit d'attitudes irrationnelles, ou passionnelles. Une telle conceptualisation n'est nulle part plus claire qu'à sa source : chez Platon, Aristote et Cicéron, qui articulent leur critique de la licence à leur psychologie morale et politique.

La thèse se propose dès lors d'étudier la distinction entre formes justes et injustes de liberté politique, telle qu'elle est conceptualisée par ces trois auteurs. Elle restitue les arguments qu'ils mettent en avant pour mettre en garde leurs contemporains contre le désir déplacé que certains individus, ou certaines collectivités, nourrissent pour des formes illégitimes de liberté. Les arguments de ces philosophes sont de deux types. D'une part, ils offrent des critères de définition qui permettent de classer tel comportement comme une manifestation de liberté juste, ou injuste. D'autre part, ils retracent la genèse de l'attachement de leurs contemporains aux formes injustes de

liberté. Restituer les premiers arguments constitue une tâche de clarification analytique ; comprendre les seconds est une étude de pathogenèse, et le premier pas vers une thérapeutique.

La thèse adopte une méthode philosophique pour traiter les deux questions : elle le fait en présupposant que les arguments de Platon, Aristote et Cicéron se présentent comme rationnels et donc, en droit, compréhensibles pour des lecteurs de plus de vingt siècles postérieurs. Cela implique que des outils philosophiques élaborés après l'Antiquité puissent éclairer le sens des arguments antiques ; autrement dit, que des approches contemporaines puissent être utilisées de façon heuristique. Mais la thèse est également une entreprise d'histoire de la philosophie : elle n'utilise des outils conceptuels récents qu'autant qu'elle peut montrer que les auteurs étudiés auraient pu eux-mêmes s'y reconnaître.

Ces outils modernes ou contemporains sont de deux types. La clarification conceptuelle est aidée par le remarquable développement, ces dernières décennies, de théories analytiques de la liberté politique, sous la plume par exemple de John Rawls, Ronald Dworkin, ou Philip Pettit. L'étude pathogénétique bénéficie du développement d'un autre champ philosophique, celui de la psychologie politique, illustré notamment par Axel Honneth et Jon Elster. La thèse reprend à Honneth sa notion de « pathologie de la liberté », entendue comme une « évolution sociale qui conduit à une détérioration notable des facultés rationnelles permettant de participer aux formes décisives de la coopération sociale ». Honneth insiste en particulier sur les formes démocratiques d'une telle pathologie : à faire de la liberté sa valeur suprême, la démocratie tend à faire croire à ses citoyens que la jouissance de la liberté abstraite est un but en soi. À Jon Elster, la thèse emprunte l'idée que la psychologie politique a pour but, non de formuler des théories exhaustives de l'action politique, mais d'identifier des « mécanismes », soit des enchaînements causaux, qui motivent les individus à agir de telle ou telle manière. La thèse affirme que Platon, Aristote et Cicéron ciblent des pathologies de la liberté démocratique chez leurs contemporains athéniens ou romains ; et qu'ils tentent d'isoler les mécanismes qui ont donné naissance à de telles pathologies.

La thèse met à profit ces outils récents pour mener à bien les deux missions qu'elle se fixe, la clarification analytique et l'étude pathogénétique. Elle ne se consacre toutefois pas à ces deux tâches à part égale. La clarification analytique est première, selon la *ratio essendi* comme la *ratio cognoscendi* ; mais la thèse montre que les trois auteurs étudiés s'engagent plus explicitement dans l'étude pathogénétique que dans la clarification conceptuelle. On trouve tout au plus chez eux des

*éléments* de définition de la liberté, dans sa forme légitime ou illégitime ; en revanche, les analyses étiologiques abondent dans leurs corpus respectifs. La raison de cette disproportion réside dans le fait suivant : la politique est essentiellement, pour ces auteurs, le lieu de l'éducation des citoyens à la vertu ; l'amour déplacé que ces citoyens nourrissent pour la licence contrevient directement à ce but. Il convient dès lors de traiter un tel désir, ce qui commence par une analyse de ses causes. Une étude pathogénétique est donc la mission première que se fixent Platon, Aristote et Cicéron lorsqu'ils articulent leur discours sur la licence.

Cette étude est nécessairement inscrite dans un contexte historique particulier, que la thèse prend en compte. Une telle prise en compte ne limite pas, pour autant, les leçons qu'un lecteur contemporain peut tirer de notre étude. Lorsque nos trois philosophes ciblent des mécanismes causaux particuliers (songeons, chez Platon, à la condamnation du théâtre), ils donnent une portée précise à leur critique de la licence : celle-ci ne saurait dès lors apparaître comme l'expression d'un vague préjugé anti-démocratique ; elle s'avère plutôt être une fine analyse de l'effet qu'ont des traits démocratiques précis sur l'âme des citoyens. Par ailleurs, une telle critique s'articule toujours, chez nos trois auteurs, à une théorie de l'âme et de la politique, qui a prétention à l'universalité. La considération du contexte n'empêche donc pas d'admettre comme possible que les arguments formulés par Platon, Aristote et Cicéron aient une portée universelle.

La thèse ne postule pas cependant une telle universalité. Elle n'est pas fondée sur la prémisse que les écrits de Platon, d'Aristote et de Cicéron sont l'alpha et l'oméga de la pensée politique. Elle entend bien sûr restituer les arguments de ces trois philosophes d'une façon qui en fasse des théories intéressantes, c'est-à-dire qu'elle applique autant que faire se peut le principe de charité interprétative ; mais elle ne postule pas que tous leurs arguments soient ultimement justifiables. Même s'ils n'étaient pas parfaitement fondés en raison, cependant, notre entreprise ne serait pas vaine pour autant : ces arguments anciens ont au moins la capacité de nous renseigner sur l'histoire de nos propres concepts, et de nous faire réfléchir sur notre propre paradigme politique moderne, fondé sur des notions de droits, de consentement et de souveraineté populaire qui n'ont pas d'équivalents directs dans la pensée ancienne. Le premier de ces deux fruits correspond à la *Begriffsgeschichte* associée au nom de Reinhart Koselleck ; le second, à la méthode généalogique pratiquée par Michel Foucault et Quentin Skinner. Les deux approches servent notre réflexion contemporaine, dans la mesure où elles contribuent aux entreprises de clarification et de



pathogénèse que nous pourrions vouloir mener sur nos propres concepts : la première propose des critères de distinction possibles entre liberté et licence, historiquement avancés par des auteurs majeurs ; la seconde nous révèle que notre propre attachement à la liberté n'a pas été partagé par tous les philosophes de la tradition.

La thèse entend précisément mettre au jour une tradition alternative à celle de la pensée politique moderne. Cette tradition est entendue comme un discours, au sens que John Pocock a donné à ce terme : un ensemble articulé de notions normatives, à mi-chemin entre le système et le jeu de langage. En l'espèce, le discours sur la licence que formulent Platon, Aristote et Cicéron est fondé sur deux séries de concepts : la première est héritée de la place cruciale de l'esclavage dans les sociétés antiques ; la seconde a pour centre la notion de vertu. Pour nos trois auteurs, les sociétés démocratiques poussent le rejet de l'esclavage jusqu'à désirer la liberté au point de se priver du minimum de hiérarchie et de coercition politique qui leur permettrait de progresser vers la vertu. Telle est l'erreur fondamentale que Platon, Aristote et Cicéron entendent combattre, à Athènes ou Rome. De là l'unité de leur discours, toutefois déployé de façons différentes entre les textes : à la fois entre les divers lieux du corpus platonicien, et chez les deux auteurs postérieurs que la thèse étudie. Le changement des conditions politiques, notamment le coup fatal porté à la démocratie à la mort d'Aristote et de Cicéron, fit perdre à ce discours l'essentiel de sa pertinence. Ce fait historique justifie d'arrêter à Cicéron l'analyse du discours antique sur la licence.

Pour mener à bien son analyse, la thèse adopte une approche chronologique. Pour Platon, elle suit la chronologie traditionnelle des dialogues, étudiant successivement le *Gorgias*, le *Ménéxène*, la *République* et les *Lois*. Hormis la séquence *République – Lois*, elle essaie toutefois de ne pas trop faire fond sur la chronologie ; elle analyse chaque dialogue pour lui-même, tout en dressant des comparaisons entre chacun d'entre eux. Aristote et Cicéron sont pris comme des successeurs de Platon, puisqu'ils répondent explicitement à son discours sur la licence et aux arguments qu'il avance à ce sujet. La thèse restitue leur propre articulation du discours sur la licence, tout en les situant par rapport à Platon. En ce sens, la thèse se veut avant tout une étude du discours platonicien sur les formes illégitimes de liberté, et de sa postérité dans la pensée politique ancienne jusqu'à Cicéron.

Le premier chapitre étudie le discours platonicien sur la liberté et ses excès dans le *Gorgias*, que la chronologie traditionnelle place au début de la production de Platon. Il est fondé sur une analyse de la progression dramatique du dialogue : le motif de la liberté figure dans les interventions de Gorgias, de Polos et de Calliclès, mais ses formes évoluent au fil des interlocuteurs. Une analyse des différents personnages avec lesquels Socrate échange permet de révéler l'un des axes majeurs du dialogue : Platon montre comment, derrière le discours athénien qui fait l'éloge de la liberté démocratique, égale pour tous et conforme à la loi, percent des désirs individuels de pouvoir tyrannique, foncièrement inégal et anémique.

Le discours démocratique se lit de façon condensée dans l'Oraison funèbre que Périclès prononce chez Thucydide (2.35-46) – Périclès étant pris dans le *Gorgias*, à plusieurs reprises, comme le politicien démocratique par excellence. Dans son Oraison funèbre, le stratège loue, devant ses concitoyens, les opportunités de plaisir que la démocratie athénienne leur offre : le régime leur procure à la fois des moyens légaux, matériels et culturels de vivre une vie de plaisir ininterrompu. Une telle valorisation des moyens de jouissance individuelle se retrouve chez les interlocuteurs de Socrate, à des degrés divers ; sauf qu'elle prend chez eux une forme anémique, au sens où Gorgias, Polos et Calliclès manifestent le désir de maximiser leurs opportunités de jouissance au détriment de celles des autres. Leur souhait de posséder l'ensemble des moyens de satisfaire leur hédonisme – lui-même plus ou moins explicite – leur fait désirer pour eux-mêmes le sort du tyran. Le discours démocratique de Périclès se traduit donc, au niveau des interlocuteurs de Socrate, en des visées tyranniques ; ses belles apparences servent de prétexte à des désirs qui sapent non seulement la tâche éducative de la cité, mais même la simple coexistence entre citoyens.

La pente qui mène de la liberté démocratique au pouvoir tyrannique se remarque dès les interventions de Gorgias. Le rhéteur prétend offrir à ses élèves le moyen de gouverner autrui sans nuire à sa liberté (425d5-e4) ; mais en comparant le pouvoir de la rhétorique à un outil d'asservissement (452e4-8), ou à un instrument de combat (456d2-4), il avoue à son insu promettre à ses clients la domination sur autrui. Or il dispose d'un public : s'il le renforce dans ses dispositions crypto-tyranniques, il ne les crée pas.

Son disciple Polos manifeste des aspirations tyranniques encore plus nettes que lui : le pouvoir que possède le tyran pour satisfaire ses désirs fascine le jeune homme. Cependant c'est moins la satisfaction hédoniste qui l'attire, que l'omnipotence en elle-même ; deux fois, Polos

affirme que le pouvoir est un bien en soi (477b7-8 et 468d7-e2). Cette valorisation du pouvoir entretient là encore des liens étroits avec le discours démocratique athénien. Bien qu'Agrigentin, Polos est sensible à deux éléments du discours athénien : d'une part, la promesse que le régime fait à chacun de ses membres de le laisser libre d'agir à sa guise, promesse garantie par les lois et les mœurs de la cité (par exemple, la possibilité de parler comme chacun l'entend, en 461d8-9) ; d'autre part, l'idée que la cité donne à ses membres les moyens matériels de réaliser leurs désirs comme ils le souhaitent (d'où l'admiration de Polos pour les possibilités illimitées du tyran, en 466b4-5 et 466b11-c2). Les deux types de moyens sont saisis, chez Polos comme ailleurs dans le discours politique athénien, par le terme d'ἐξουσία, qui recouvre à la fois des aspects légaux et matériels (461d8-9 ; 468e6 ; 469c5).

Polos met ainsi au jour deux pathologies de la liberté athénienne : en insistant pour dicter ses règles sur la conduite de son dialogue avec Socrate, il montre comment les garanties offertes par la démocratie peuvent mener les individus à un individualisme puéril, qui sape l'échange de raisons ; en clamant son admiration pour les moyens matériels illimités du tyran, il révèle le tort qu'une démocratie qui promet à ses citoyens l'abondance fait à leurs âmes – surtout si, comme Athènes, elle est un grand empire. Polos refuse de se justifier auprès de Socrate (468e6-9), préférant se ranger derrière ce qu'il présente comme l'avis de tous les Athéniens (471c6-d2) : la tyrannie, avec les moyens – juridiques mais surtout matériels – qu'elle donne au tyran de satisfaire ses moindres désirs, est le plus grand bien qu'un être humain puisse souhaiter. Polos n'est pas Athénien, mais son conventionnalisme aligne ses désirs sur ceux des Athéniens (473c7-d2). Il manifeste par là un nouveau trait démocratique : la tendance à se justifier en citant l'avis de la majorité – une tendance que condamne fermement Socrate (473<sup>e</sup>6-474a1). Polos est fondamentalement un élève : celui du peuple athénien, de son attachement à l'ἐξουσία légale et matérielle ; celui de Gorgias, et de ses promesses de domination.

Calliclès se démarque de Polos précisément par son rejet auto-proclamé du conventionnalisme ; la convention est pour lui l'instrument qu'emploient les natures faibles pour asservir les natures fortes (485e1-2). Comme Polos, toutefois, Calliclès se montre désireux de posséder l'ensemble des moyens de satisfaire sa quête de plaisir. Une différence subsiste entre les deux personnages, cependant : alors que Polos se révélait plus intéressé par la possession d'une telle toute-puissance que par son usage hédoniste, Calliclès affirme franchement la valeur ultime du

plaisir ; la conscience de sa toute-puissance n'est pour lui qu'un plaisir de plus. Le chapitre propose ainsi une distinction, dans l'hédonisme de Calliclès, entre plaisirs de premier ordre (plaisirs du corps, essentiellement), et plaisirs de second ordre, dérivés de la conscience de posséder les moyens d'obtenir des plaisirs de premier ordre (par exemple, le plaisir d'être conscient de sa force). Parmi ces plaisirs de second ordre, l'un est particulièrement prisé par Calliclès : celui de se savoir libre du joug que les faibles tentent de lui imposer (492a3-b1). Toute forme de gouvernement interpersonnel, affirme Calliclès, équivaut à l'esclavage (491d10-e6) ; le gouvernement d'autrui ne peut être que nuisible à celui qui y est assujéti. La liberté consiste donc à asservir, afin de ne pas être asservi.

Calliclès se démarque également de Polos en insistant sur un autre type de moyens de satisfaire ses désirs : la possession de vertus personnelles. De telles vertus – en particulier la sagesse pratique, une dose modérée de philosophie, et du courage – se rattachent également au discours péricléen, dans la mesure où elles visent le même but que lui : l'autarcie, synonyme pour Périclès de liberté. Elles sont censées procurer à leur détenteur les moyens que Polos désirait, à savoir les opportunités légales et les richesses matérielles d'obtenir le plaisir. Elles font ainsi de lui un individu pleinement libre, et libéral (485b4 et 485c5). Elles lui permettent notamment de se libérer du joug intérieur que l'idéologie des faibles tente de lui faire intérioriser : elles lui font prôner ouvertement l'ἀκολασία, le rejet de la modération inculquée par les sanctions (sociales ou physiques) que le peuple cherche à imposer aux forts (491e9).

Ces éléments expliquent la conception callicléenne de la liberté, énoncée dans ce qui est, pour notre propos, le passage clé du dialogue (492c4-6) : pour Calliclès, le bonheur et la vertu résident dans l'obtention de plaisirs de premier ordre (la τρυφή), dans l'absence de restrictions extérieures ou intérieures (l'ἀκολασία), enfin dans la libéralité (l'ἐλευθερία), conçue comme possession des vertus personnelles qui assurent à l'individu l'ensemble des moyens d'obtenir des plaisirs de premier ordre, procurant en sus un intense plaisir de second ordre – la conscience de sa toute-puissance. Le chapitre propose toutefois qu'outre son sens de libéralité, ἐλευθερία désigne ici, en un sens plus large, l'ensemble des moyens par lesquels Calliclès entend satisfaire ses désirs (y compris, par exemple, l'ἀκολασία), soit la parfaite autarcie. Pour Calliclès, l'ἐλευθερία au sens large désigne l'autosuffisance pour des fins hédonistes : il apparaît bien ici comme un élève de Périclès. Mais alors que Périclès pensait que la liberté pouvait être égale entre les citoyens, Calliclès tire du

discours du stratège des conclusions moins iréniques : si la liberté consiste à posséder les moyens d'obtenir un plaisir illimité, alors elle est fondamentalement opposée à celle d'autrui.

Les pathologies de la liberté athénienne apparaissent donc en plein jour chez Calliclès. Comme Polos, mais plus explicitement, il s'estime dédouané de l'obligation de justifier ses désirs ; comme Polos, mais de façon plus franche, il fait l'éloge de l'abondance et du luxe (la τρυφή) ; comme Gorgias et Polos, mais sans vergogne, il conçoit la liberté comme la possession des techniques et vertus qu'ont en commun l'Athènes impériale et une certaine culture aristocratique : la sagesse, la « philosophie », l'audace qui permettent d'asservir autrui pour ne pas être asservi soi-même. Paradoxalement, le discours démocratique auquel Périclès a donné sa plus dense expression produit, en Calliclès, un tyran en puissance.

Une fois passées en revue les conceptions de la liberté des trois interlocuteurs de Socrate, le chapitre propose de tirer des conclusions sur les pathologies de la liberté athénienne. Les interlocuteurs de Socrate, obnubilés par leur recherche de pouvoir dans un but hédoniste, ne voient pas que la liberté qu'ils désirent expose leurs âmes à des tentations trop fortes pour elles (525a3-5 ; 525d5-526a5) ; inversement, que la contrainte politique n'est pas un mal en soi. Les êtres humains, dans le *Gorgias*, sont décrits comme spontanément hédonistes, en quête de plaisir au détriment d'autrui et d'eux-mêmes (464d3-e2) ; une telle tendance est renforcée dans un régime où c'est l'homme du commun qui gouverne (515e2-7), surtout si ce régime se donne, par l'empire, les moyens d'accroître ses appétits (517c2-4). Le peuple qui gouverne la démocratie se satisfait d'une culture politique et artistique qui le conforte dans son hédonisme : la musique (501e1-5), le théâtre (502b1), la rhétorique (502d10-503a1) et la sophistique dont Calliclès se fait l'écho (483e1-484c3) n'éduquent pas le peuple, mais le maintiennent plutôt dans son état d'enfance.

Un tel hédonisme, naturel et culturel, conduit l'individu à mésuser de la liberté qui lui est offerte : une mesure de contrainte politique serait nécessaire pour réfréner ses désirs et le conduire à la modération, c'est-à-dire pour pratiquer une saine *κόλασις* (478a4-5 ; 527b7) ; mais les institutions et la culture politique athénienne rendent impossible l'emploi de tels moyens. Les Athéniens sont contraints à l'immaturation : ils sont soit des enfants, comme la plupart d'entre eux (464d3-e2), soit, comme Calliclès, de jeunes hommes fougueux mais rétifs à la sagesse (486a1-2 ; 527d6-7), convaincus que toute coercition politique nuirait à leur liberté, à laquelle ils tiennent résolument (492c4-5). Socrate tente de montrer que de tels désirs, soutenus par de telles croyances, rendent l'individu non

pas libre mais dépourvu de libéralité, puisqu'ils le contraignent à flatter le peuple souverain (465b3-4 et 518a1-3). Face au discours démocratique athénien, qui joint à la défense de la liberté populaire et individuelle la reprise de certains modèles aristocratiques, Socrate esquisse le portrait de l'attitude vraiment digne d'un homme libre, faite de rapports honnêtes (486e6-487e7), visant l'amélioration mutuelle.

Le deuxième chapitre est consacré au *Ménéxène*, que la chronologie traditionnelle place peu après le *Gorgias*, prolongeant par l'exemple la théorie de la rhétorique comme flatterie. Le *Ménéxène* voit Socrate prononcer, sur les instances du jeune personnage éponyme, un discours qu'il présente comme composé par Aspasia – la compagne de Périclès – en l'honneur des Athéniens morts au combat dans l'année. Le discours en question est donc un éloge funèbre, genre que les travaux de Nicole Loraux ont grandement éclairé pour nous. Le chapitre s'inspire de ces travaux, étudiant les tours oratoires par lesquels le discours manipule l'ἐλευθερία pour satisfaire son auditoire fictif de façon superficielle – c'est-à-dire sans lui apporter de réel bienfait, mais avec grand profit pour la popularité de l'orateur censé le prononcer devant le peuple.

Le chapitre se concentre sur deux de ces tours : d'une part, l'ἐλευθερία est présentée par Aspasia comme la marque de fabrique d'Athènes, au sens où, de toutes les cités, Athènes serait la seule à laquelle cette valeur, pourtant partagée par l'ensemble des Grecs, serait consubstantielle. Le discours d'Aspasia inscrit la liberté dans la nature des Athéniens, tant sur le plan intérieur qu'extérieur. Sur le plan intérieur, Athènes apparaît comme la seule cité fondée sur le respect maximal de la liberté politique de ses citoyens (239a5-b3) ; sur le plan extérieur, la cité est dite incapable de ne pas se battre pour la défense de la liberté des Grecs (245a3-4 ; 245d1). Son dévouement à la cause de la liberté des Grecs, en particulier leur indépendance à l'égard du Barbare perse (244c7-d1), la rend supérieure à sa grande rivale spartiate (240c7-8). La singularisation d'Athènes que mène Aspasia, qui plus est à destination d'un public nombreux et partiellement composé d'étrangers, attache l'orgueil des citoyens à l'ἐλευθερία : leur amour de la liberté (extérieure comme intérieure) est mis en avant comme un élément de leur identité civique, les mettant au-dessus des autres Grecs. Platon émaille son texte de marqueurs destinés à rendre un tel procédé suspect dans l'esprit du lecteur : la moindre intervention impérialiste d'Athènes est couverte du

noble prétexte de la défense de la liberté, de façon parfois grossière (242a6-c2). Athènes finit par apparaître comme un double paradoxal de la puissance asservissante, la Perse (246a2-3).

D'autre part (c'est le second tour rhétorique qu'étudie le chapitre), le discours d'Aspasie utilise l'ἐλευθερία pour cimenter le corps civique, laminé par des tensions profondes, autour d'un mot d'ordre consensuel. Nicole Loraux a montré comment le renforcement, même factice, de l'unité civique constituait l'un des buts premiers des oraisons funèbres : la mise en scène d'un tel discours, tout comme ses lieux communs, visait notamment à parer la démocratie des couleurs de l'aristocratie traditionnelle. L'oraison funèbre du *Ménéxène* n'est pas en reste : l'ἐλευθερία est présentée d'une façon telle que démocrates comme aristocrates peuvent y reconnaître leur propre acception du terme (239a1-239b3). Le coût d'une telle manipulation est de rendre le concept parfaitement flou : en cumulant les connotations aristocratiques de libéralité et les aspects démocratiques de souveraineté populaire, l'ἐλευθερία perd les contours nets qui seuls lui permettraient de devenir un objet de pensée politique rigoureuse. Elle est également présentée comme une vertu proche de la noblesse (246c6-7), qui comme telle doit être maximisée : les potentiels excès de la liberté politique sont ainsi occultés. Socrate est clair quant aux effets de tels discours : à les entendre, il se trouve lui-même très noble (235a7).

Par l'exemple plus que par une conceptualisation explicite, le *Ménéxène* démontre ainsi les effets politiques délétères de l'emploi rhétorique de l'ἐλευθερία dans la démocratie athénienne. Parce qu'elle est présentée comme un marqueur d'identité, ἐλευθερία devient l'objet de la fierté des Athéniens ; parce qu'elle est donnée comme justification ultime du régime intérieur d'Athènes et de ses entreprises militaires, elle apparaît comme une valeur incontestée, à réaliser toujours plus au dehors comme au-dedans ; parce qu'elle est parée des atours de la libéralité aristocratique, elle prend les allures de la vertu ; enfin, parce qu'elle devient un slogan flou plutôt qu'un concept clair, elle émousse les capacités critiques des Athéniens. Leur fierté les pousse dorénavant à la maximiser ; leur raison est devenue trop faible pour s'opposer à ce danger. L'attachement de la fierté athénienne à l'ἐλευθερία, le maintien du terme dans un flou délibéré, l'empêchent de devenir l'objet d'une réflexion critique. Le discours d'Aspasie révèle ainsi l'un des défauts majeurs que la rhétorique revêt pour Platon : échappant à l'échange des questions et des réponses, tout comme à l'obligation de définir les termes qu'elle emploie, la rhétorique empêche ses auditeurs d'acquérir des idées claires

et de progresser dans la connaissance – en l'espèce, celle des fins de la vie politique, et des pièges qu'il convient d'éviter pour y parvenir.

Si le *Ménéxène* a tendance à être délaissé par la critique, il ajoute donc bien des éléments au discours platonicien sur la liberté excessive. À la racine du désir athénien de liberté, le *Gorgias* trouvait l'ἐπιθυμία et l'attrait des plaisirs corporels ; le *Ménéxène* montre le rôle que jouent les sentiments de fierté et d'honneur – ce que la *République* appelle θυμός – dans l'amour de la démocratie athénienne pour l'ἐλευθερία. Socrate admet précisément que les oraisons funèbres le mettent dans un état de grande solennité et fierté (235b3-5). Le *Gorgias* ciblait les promesses péricléennes de jouissance, de fête perpétuelle, transmises pour nous par Thucydide ; le *Ménéxène* montre les dangers d'un autre aspect de la rhétorique de Périclès : sa mise au pinacle d'Athènes, notamment pour sa défense de la liberté des Grecs (Thu. 2.36), ainsi que son usage ambigu de la notion d'ἐλευθερία (Thu. 2.37.2). Le discours que prononce Socrate est l'œuvre d'Aspasie, également l'autrice des oraisons funèbres de Périclès selon le même Socrate (235b5 et 236b6) ; autant de raisons de croire que Platon nous invite à lire, derrière les tours de passe-passe de sa propre oraison funèbre, un portrait à charge de celle que, selon Thucydide, Périclès prononça en 430. La thèse rappelle que Platon a pu connaître le discours prononcé en 430 par Périclès *via* un mode oral de transmission ; mais elle reprend également le dossier philologique de la connaissance que Platon pouvait avoir de Thucydide, proposant de nouveaux arguments en faveur d'une réception platonicienne de l'œuvre de l'historien.

Interprété sous cet angle, le *Ménéxène* comporte une critique non seulement de Périclès, mais également de Thucydide : l'historien lui-même a repris à Périclès son usage ambigu d'ἐλευθερία – précisément pour faire de la prééminence politique du stratège un acte pleinement démocratique, et pleinement aristocratique à la fois (Thu. 2.65.8). Selon Thucydide, Périclès et le peuple athénien étaient mutuellement indépendants, ne coopérant l'un avec l'autre que volontairement ; ils parvenaient par là à une relation libérale, et noble. Platon conteste ce portrait : dans le *Gorgias*, il a montré que Périclès n'a pu qu'être l'esclave du peuple athénien ; les flatteries auxquelles il était contraint étaient non pas libérales, mais serviles.

Le chapitre propose donc, dans l'esprit de la méthode d'interprétation de Quentin Skinner, d'analyser le *Ménéxène* à deux, voire trois niveaux : le premier, interne, est celui des propositions théoriques (la critique de la construction d'une identité singulière par la mise en exergue d'une



valeur politique comme la liberté ; la condamnation de l'ambiguïté sur l'intention et l'extension d'une telle notion) ; les deux autres, intertextuels, sont polémiques (en l'espèce, la critique de Périclès et de son historien Thucydide). Aux deux niveaux se lit un nouveau chapitre du discours platonicien sur la liberté excessive : la mise en lumière des dommages que la rhétorique patriotique, en manipulant la notion de liberté, cause dans l'âme des citoyens.

Le troisième chapitre, consacré à la théorie platonicienne de la liberté excessive dans la *République*, constitue le noyau de la thèse. Les occurrences du thème de la liberté dans le *Gorgias* et le *Ménéxène* révélaient certes l'intérêt que lui portait Platon ; mais c'est la *République* qui voit le philosophe thématiser la notion explicitement, au livre 8 de son ouvrage. Cette thématisation entretient toutefois des rapports nombreux avec le *Gorgias* et le *Ménéxène* : on trouve au livre 8 de la *République*, comme dans le *Gorgias*, l'idée que la liberté démocratique est avant tout une liberté d'accumuler les plaisirs ; et comme dans le *Ménéxène*, on observe la manipulation rhétorique de la notion, jusqu'à ce qu'elle devienne un objet de fierté déplacée. L'articulation conceptuelle de ces thèmes est toutefois plus structurée dans la *République* que dans les deux autres dialogues, que la chronologie traditionnelle considère comme antérieurs.

L'articulation conceptuelle en question prend la forme suivante : Platon montre, dans sa description de la cité démocratique (en particulier 557a2-558c5 et 562a7-566d3), que le rapport des citoyens à la liberté y prend successivement deux formes différentes. Dans la première phase de la démocratie (557a2-558c5), les citoyens valorisent la liberté politique comme un *moyen*, un outil pour maximiser ce que Platon appelle « désirs non-nécessaires » (559a3-c1), désirs excessifs de nourriture, de boisson, et de plaisirs sexuels. Dans la seconde phase de la démocratie (562a7-566d3), en revanche, les citoyens démocratiques désirent la liberté pour elle-même, au point de parfois renoncer à leurs anciens désirs non-nécessaires au profit d'une réalisation maximale de la liberté dans la cité. Platon montre, au livre 8 de la *République*, comment des citoyens qui valorisent initialement la liberté politique comme un moyen finissent par en faire une fin en soi. En plus de bâtir leur régime sur une illusion, ils sapent l'ordre politique au point de précipiter la naissance de la tyrannie.

En analysant les processus – de nature essentiellement psychologique – par lesquels la démocratie du livre 8 de la *République* dégénère en tyrannie, le chapitre entend faire la lumière sur

trois points. Le premier est l'essence même de la démocratie aux yeux de Platon, son εἶδος (544d6) : la démocratie, pour le philosophe, tombe *parce ce qu'elle* est une démocratie, et l'étude de sa chute renseigne sur sa nature. Le deuxième est historique : bien que Platon n'ait pas pour but de faire de l'histoire en *République* 8, son analyse du devenir de la démocratie (derrière les traits de laquelle on reconnaît, à certains indices, sa cité natale) permet de proposer une lecture platonicienne du rapport particulier qu'Athènes entretint avec la liberté politique. Une telle lecture fait de l'hédonisme (au sens d'une quête de plaisirs non-nécessaires) le terreau fondamental de la démocratie : sur cette base, des citoyens ne peuvent que désirer la liberté comme un moyen de maximiser leur satisfaction, notamment en réduisant à la portion congrue la coercition qu'exercent les lois et les gouvernants ; ils seront ensuite conduits à faire primer la liberté sur toute autre considération. La théorie platonicienne de la démocratie, au livre 8 de la *République*, peut ainsi être vue comme une analyse de la spécificité du rapport qu'Athènes entretient avec la liberté politique, notamment en comparaison de Sparte. Troisièmement, le chapitre entend offrir une théorie philosophique de la liberté excessive : il propose d'enrichir l'analyse, par Axel Honneth, des « pathologies de la liberté », en puisant aux processus que décrit Platon.

Le chapitre commence par analyser la première phase de la démocratie du livre 8 (557a2-558c5). Il montre comment le régime décrit par Socrate se caractérise par une forme superficielle de coercition politique : les lois (557e2-558a2), les ordres des magistrats (558c4), les sentences des tribunaux (558a4-8) ne sont pas respectées. Ces traits offrent une ressemblance frappante avec Athènes, comme un examen des sources littéraires, historiques et épigraphiques le montre. Ils démarquent le régime décrit par Socrate de tous les autres : un tel régime offre à ses citoyens une remarquable « liberté d'agir à leur guise » (557b5). Ce trait frappant doit être expliqué, et le chapitre propose trois facteurs pour en rendre compte. Ces trois facteurs se rattachent ultimement au profil psychologique des citoyens, à savoir la domination, dans leurs âmes, des désirs non-nécessaires (559c8-d11).

Le premier consiste dans la logique de l'action collective qui préside à la révolution qui instaure la démocratie (557a2-5) : pour mobiliser le plus large soutien populaire, les meneurs de la révolution ont dû promettre une liberté égale mais très large à leurs partisans éventuels. Le deuxième facteur explicatif consiste dans ce qui, pour Platon, constitue un trait de toute âme dominée par les désirs non-nécessaires, à savoir sa courte vue et son rejet épidermique de la

contrainte (488a7-489a6) : ce trait empêche le peuple démocratique de reconnaître l'utilité de mesures pénibles à court terme. La troisième cause réside dans un calcul rationnel : compte tenu de la variété infinie des désirs non-nécessaires, des individus qui cherchent à maximiser la satisfaction de tels désirs dans une cité commune auront tout intérêt à limiter la coercition que les institutions publiques peuvent exercer, de peur de voir la majorité leur imposer des entreprises qui ne leur apporteraient aucun bénéfice. Le chapitre met ici à profit des analyses modernes du choix rationnel, dont la notion rawlsienne de voile d'ignorance. La première partie du chapitre conclut en défendant la compatibilité de ces trois explications du rôle de la liberté dans la première phase de la démocratie du livre 8 de la *République*.

La seconde partie du chapitre est consacrée à la deuxième phase de la démocratie décrite par Socrate (562a7-566d3). Elle commence par justifier le découpage du portrait politique en deux parties distinctes : en 563b5-d2, Socrate décrit une frénésie de liberté qui s'empare de la population démocratique. Cette vague renverse les hiérarchies traditionnelles : esclaves, femmes, animaux sont dorénavant autorisés, même encouragés à prendre leur liberté. Une telle extension de la liberté se fait au détriment de la satisfaction des désirs non-nécessaires des citoyens mâles, que les hiérarchies traditionnelles visaient précisément à servir. Un changement s'est donc produit dans la psychologie de ces citoyens : ils font plus grand cas de la maximisation de la liberté dans la cité que de l'emploi utilitaire qu'ils en faisaient auparavant. Ce changement doit être expliqué.

L'explication, ainsi que le chapitre le propose, réside dans l'intériorisation des buts que se fixait la cité dans la première phase de son existence. La cité visait à donner à ses citoyens la liberté de satisfaire leurs désirs non-nécessaires ; le plaisir leur revenait, mais c'était à la cité de leur en procurer les moyens. Platon est conscient du processus par lequel les buts d'une cité tendent à déteindre sur les individus, qui les intériorisent : il montre comment le phénomène se produit dans la démocratie du livre 8. Deux rouages psychologiques sont mis à contribution dans sa démonstration : d'abord, la force de l'habitude, qui informe les désirs de la partie appétitive de l'âme (le chapitre fait le lien avec les plaisirs de second ordre que poursuivait Calliclès dans le *Gorgias*) ; ensuite l'usage rhétorique que des démagogues font du slogan de liberté pour assurer leur domination (562c3 ; une telle explication se situe dans la droite ligne du *Ménéxène*). Les deux facteurs contribuent à « l'ivresse de liberté » (562d2) que décrit Socrate. Cette ivresse conduit les

citoyens de la démocratie à rejeter avec force la moindre apparence de coercition (562c8-d4). Ultimement, elle amène la mise en place du régime tyrannique.

La deuxième partie du chapitre conclut par l'analyse du processus par lequel la tyrannie naît de la démocratie, et de son rapport dévoyé à la liberté politique. Ce processus met certes en jeu l'avidité de la majorité de la population, désireuse d'accaparer la fortune des plus riches pour satisfaire leurs désirs non-nécessaires (565a6-8) ; mais il repose surtout sur la frénésie de violence déchaînée par la résistance de cette classe aisée, qu'un démagogue parvient à faire passer pour une forme de coercition politique (565b2-c4). La violence du peuple attire celle des plus fortunés ; le démagogue feint d'être menacé, obtient des gardes du corps et finit par établir sa tyrannie (566b4-7).

Le chapitre termine en répondant aux trois attentes qu'il a posées dans l'introduction. Il montre comment l'analyse de vie de la cité démocratique, au livre 8 de la *République*, renseigne à la fois sur l'idée que Platon se fait de la nature d'un tel régime, sur sa vision de l'histoire d'Athènes, et sur son diagnostic d'une tendance humaine à désirer excessivement la liberté. Du point de vue de la classification politique, la démocratie apparaît au terme du livre 8 comme un régime défini par son amour de la liberté, désirée d'abord comme un moyen, puis comme une fin. C'est cet amour qui la fait tomber lorsqu'il prend le pas sur tous les autres buts – une évolution présentée non pas comme nécessaire, mais comme difficile à éviter. Du point de vue historique, Platon permet de comprendre à la fois la tension, dans la vie politique d'Athènes, entre liberté et coercition politique (une tension bien moins présente à Sparte), et la préférence qu'Athènes donne à la première, au détriment de la seconde (à l'inverse de Sparte, là encore). L'explication réside dans le déploiement de l'hédonisme des citoyens : les désirs non-nécessaires qui les dominent les conduisent d'abord à réduire la coercition politique à la portion congrue, de façon à maximiser leur plaisir ; puis à ériger la liberté en valeur absolue. Enfin, Platon nous renseigne sur des formes de « pathologie de la liberté » démocratique tirée de son expérience d'Athénien : l'habitude de vivre dans un régime de liberté, ainsi que l'instrumentalisation rhétorique de la notion, conduisent les citoyens de la démocratie à désirer son extension sans discernement, au point de la laisser s'abolir dans la tyrannie.

En retraçant les processus politiques et psychologiques par lesquels les citoyens de la démocratie du livre 8 de la *République* en viennent à ériger la liberté en valeur absolue, le chapitre

entend ainsi contribuer à l'intelligence de la pensée platonicienne, mais aussi à notre propre vigilance quant aux abus auxquels la notion de liberté politique peut se prêter.

La partie proprement platonicienne de la thèse se termine au chapitre 4, consacré aux *Lois*. Les *Lois* voient Platon joindre, à la critique radicale de la liberté démocratique menée dans la *République*, l'idée qu'un bon régime doit aussi comprendre une dose de liberté (693b3-4 ; 693c1-4 ; 693c7-8 ; 693d8-e1). Le chapitre vise à préciser les contours qu'une telle liberté doit prendre. Il commence par analyser les sens d'ἐλευθερία dans les *Lois*, afin de déterminer sous quelle forme la liberté politique contribue à la vertu d'un régime et de ses citoyens. Il analyse ensuite le récit platonicien de la transformation d'Athènes, d'un régime de liberté juste à un régime de liberté excessive, avancé à la fin du livre 3. Le chapitre comporte ainsi deux parties : l'une se consacre à la conception positive de la liberté dans les *Lois*, l'autre à l'analyse de la genèse de la liberté excessive dans les cités démocratiques qu'offre le dialogue. Les deux parties se déploient en référence constante à la *République*.

La première partie du chapitre est analytique, dans la mesure où elle propose une définition de la liberté (ἐλευθερία) dans les *Lois*. En partant d'un relevé lexical exhaustif, elle conclut que la notion possède un sens focal (l'absence de servitude), dont dérivent deux sens-clés pour la structure du dialogue.

Le premier (que le chapitre appelle ἐλευθερία<sub>1</sub>) désigne le consentement d'un individu ou d'une cité à être gouvernés par la sagesse : elle est donc coextensive à la vertu de tempérance (σωφρονεῖν, 693c1-4). Platon peut lier tempérance et liberté en exploitant le sens aristocratique d'ἐλευθερία, proche de notre « libéralité » – un sens déjà traditionnel au moment de la rédaction des *Lois*, et préalablement analysé aux chapitres 1 et 2. Mais pour cerner précisément le contenu que les *Lois* donnent à une telle libéralité, le chapitre étudie les formes que prend la tempérance (σωφροσύνη) dans le dialogue. Il propose que la tempérance requière deux conditions : au niveau rationnel, une compréhension de la nécessité d'un gouvernement de la sagesse ; au niveau non-rationnel, un alignement des affects de l'âme sur une telle compréhension (734b4-6). Le chapitre propose que les préludes des *Lois* veillent à ce que la première condition soit remplie, alors que la seconde peut être obtenue à la fois par l'inculcation de la honte (αἰδώς, 646ee10-11 et 656a2-3), et par un cursus d'éducation des affects, notamment musical (627d11-628a5).

Le second sens dérivé (ἐλευθερία<sub>2</sub>) désigne la capacité qu'ont un individu ou une cité de déterminer, par l'expression de leur volonté, les événements qui leur adviennent. Alors qu'ἐλευθερία<sub>1</sub> se rapproche des connotations aristocratiques d'ἐλευθερία, ἐλευθερία<sub>2</sub> correspond à un principe démocratique. Dans les *Lois*, ce dernier est explicitement opposé au principe monarchique, celui de la concentration du pouvoir (693e5 et 697c8). L'Étranger d'Athènes offre deux exemples de réalisation d'une telle liberté : une forme modérée quand, sous Cyrus, les Perses eurent la capacité de peser sur les décisions politiques en exprimant leur avis (694b1-6) ; dans l'Athènes décadente, où la liberté prit un tour excessif en devenant contraire au gouvernement par autrui, en l'occurrence celui des magistrats élus et des lois (701a5-b3). Une telle liberté, lorsqu'elle est réalisée à fond, est nuisible à la communauté politique, à l'inverse de l'ἐλευθερία<sub>1</sub> (701a7) ; elle n'est valable que si elle est compatible avec une mesure de gouvernement par autrui (698b1-2).

Ἐλευθερία<sub>1</sub> et ἐλευθερία<sub>2</sub> sont donc distinguées dans les *Lois* : l'ἐλευθερία<sub>1</sub> est une situation précise, comme un point géométrique ; l'ἐλευθερία<sub>2</sub> existe quant à elle sur un continuum, telle une ligne géométrique. Mais les deux formes de liberté (ἐλευθερία<sub>1</sub> et ἐλευθερία<sub>2</sub>) sont liées, de façon à la fois conceptuelle et génétique.

Le lien conceptuel réside dans le fait que toutes deux peuvent être décrites comme des formes d'auto-détermination : un individu ou une cité caractérisés par l'ἐλευθερία<sub>1</sub> se gouvernent vraiment eux-mêmes, puisqu'ils prennent leur direction de la raison, de toutes leurs parties constituantes la plus légitime à revendiquer *être* ce qu'ils sont ; de même un individu qui jouit d'ἐλευθερία<sub>2</sub> dans sa cité se gouverne-t-il lui-même, dans la mesure où les ordres qui lui sont imposés reflètent sa propre décision. Un tel lien conceptuel a pour lui l'autorité de la tradition platonicienne, puisqu'il figure dans les *Définitions* du pseudo-Platon (415a3 et 412d1).

Le lien génétique, quant à lui, consiste dans le rôle qu'une mesure correcte d'ἐλευθερία<sub>2</sub> joue dans la naissance de l'ἐλευθερία<sub>1</sub> dans la cité. Si les citoyens exercent une mesure de contrôle sur les décisions politiques, essentiellement *via* l'élection de leurs gouvernants, ils empêcheront ces derniers de développer des formes trop graves de déraison ; le constat qu'en feront les citoyens les conduira à accepter un tel gouvernement, relativement sage. Il les fera ainsi consentir à être gouvernés par la sagesse : ils démontreront alors une mesure d'ἐλευθερία<sub>1</sub>.

La thématization et l'articulation de ces deux formes d'ἐλευθερία permettent à Platon d'effectuer deux interventions dans le discours politique athénien. La première est d'inviter ses

lecteurs – surtout s'ils sont baignés de culture politique démocratique – à prendre en compte toutes les connotations d'ἐλευθερία, et non seulement l'une ou l'autre : la notion démocratique de participation (ἐλευθερία<sub>2</sub>) n'est pas la seule à pouvoir revendiquer le beau nom de liberté ; la notion plus aristocratique de tempérance (ἐλευθερία<sub>1</sub>) n'en a pas moins. Elle en a même davantage, et c'est là la seconde intervention de Platon : les *Lois* font d'ἐλευθερία<sub>1</sub> un but en soi, l'une des trois cibles du législateur, avec la sagesse et l'amitié civique ; ἐλευθερία<sub>2</sub> n'a quant à elle de valeur qu'instrumentale, et encore lorsqu'elle prend une forme modérée. C'est une telle vue synoptique de l'ἐλευθερία, ainsi qu'une telle hiérarchisation de ses différentes formes, que la dégénérescence d'Athènes est venue troubler.

Avant d'en venir à la genèse de la liberté excessive dans les *Lois*, le chapitre mesure la distance entre le dernier dialogue de Platon et la *République*. Il insiste sur deux avantages que l'inclusion de la liberté parmi les buts (ἐλευθερία<sub>1</sub>) ou les outils (ἐλευθερία<sub>2</sub>) du législateur offre à la communauté politique. Le premier réside dans l'exclusion de relations de servitude entre citoyens : dans la cité de la *République*, les producteurs restaient les esclaves (590c8) des gardiens, faute de pouvoir se gouverner eux-mêmes ; ils étaient également privés de tempérance individuelle, ayant besoin des gardiens pour modérer leurs désirs (427e9-10 ; 442c9). Les Magnètes, en revanche, peuvent avoir un statut libre et participer à la prise de décision (ἐλευθερία<sub>2</sub>) ; ils se voient également reconnus la possession individuelle de la vertu de tempérance (ἐλευθερία<sub>1</sub> : 679e4 ; 696b10 ; 802e10). Le second avantage est lié au premier : parce que les Magnètes jouissent de liberté politique, rendue compatible avec le gouvernement des magistrats et des lois grâce à leur tempérance individuelle, ils entretiennent avec leurs gouvernants des relations d'amitié civique (φιλία) plus étroites encore que celles qui unissaient les producteurs et les gardiens de Kallipolis.

De tels avantages, une cité où l'ἐλευθερία<sub>2</sub> dépasse la mesure nécessaire à la genèse de l'ἐλευθερία<sub>1</sub>, en est privée. Platon illustre ce fait en prenant le cas de sa propre cité : à la fin du livre 3, il montre comment Athènes est passée d'un régime de liberté politique mesurée, où la participation des citoyens les faisait consentir à être gouvernés par la sagesse des lois et des magistrats (698b4-6), à un régime où la liberté fut perçue comme requérant l'abolition d'un tel gouvernement par autrui (698a9-b2). La clé de l'équilibre qui prévalait dans l'Athènes archaïque était la honte (αἰδώς, 700a3-5), définie comme « crainte de l'opinion d'un supérieur » (701a8-b1) : les magistrats ayant été reconnus comme premiers personnages de la cité lors de leur élection, les citoyens en qui régnait

l'αἰδώς craignaient de leur désobéir et d'encourir leur blâme. Puisque ces magistrats avaient pour mission de faire appliquer les lois, les citoyens étaient également conduits à respecter ces dernières (699c1-8). Platon participe ici à un discours politique particulièrement développé à la moitié du IV<sup>ème</sup> siècle : celui qui louait l'Athènes ancienne pour sa modération (σωφροσύνη), rendue possible par une culture de l'αἰδώς (Lysias 2.25 ; Isocrate 4.77 et 7.37) – bien que des linéaments de ce discours remontent à Eschyle (*Eum.* 690-705) et Solon (frg. 6 West).

Platon donne non seulement le point de départ et d'arrivée de ce processus de déclin, mais fournit également les moyens de comprendre son advenue et, éventuellement, d'éviter sa répétition. L'Étranger d'Athènes en rend responsable une génération de poètes, apparue vers la fin du V<sup>ème</sup> siècle. Selon son récit, leurs productions musicales auraient fait disparaître de l'âme des citoyens la crainte (αἰδώς) qui les retenait auparavant de désobéir à leurs supérieurs. Le récit extrêmement détaillé de l'Étranger (700a3-701c2) est l'objet d'une étude approfondie dans la deuxième partie du chapitre.

Celle-ci commence par rappeler les liens qu'entretient ce récit avec une longue tradition politique : celle, homérique, qui commande l'obéissance aux supérieurs (*Il.* 2.200-201 ; cf. Xénophon, *Mem.* 1.2.58-59) ; celle, aristocratique, du banquet modéré, opposé aux soi-disant débordements de l'ivresse démocratique (comme chez Critias, DK 88B6) ; le rejet des innovations musicales que Platon partage avec Aristophane ; enfin la critique proprement platonicienne du théâtre et de la frénésie populaire qu'il engendrerait.

La deuxième partie poursuit en proposant d'identifier, dans le récit de l'Étranger, la conjonction de quatre causes à l'œuvre. Chacune participe à lever, dans l'âme des Athéniens, la chape de la honte qu'ils ressentaient jusqu'alors envers le blâme possible de leurs magistrats, ainsi que des lois que ces-mêmes magistrats étaient chargés d'appliquer. La première cause commence par affecter les Athéniens au niveau non-rationnel, avant de donner naissance à une opinion fautive ; les trois suivantes renforcent la fausseté des opinions qui entravent l'âme des citoyens.

La première cause convoque la théorie du plaisir articulée dans les *Lois*. Au livre 2, l'Étranger a montré que des plaisirs intenses tendent à donner à l'individu qui les ressent une confiance excessive en lui-même, qui le libère de tout sentiment de honte en le convaincant qu'il est lui-même suffisamment sage pour se gouverner (649a9-b4 ; 671b3-6). La musique composée par la nouvelle génération d'artistes incriminée par l'Étranger pratique un mélange des genres qui, selon le *Philèbe*,



procure des plaisirs extrêmement intenses (*Phil.* 47a3-9). De tels plaisirs libèrent l'individu de la honte, non seulement au moment-même où il les ressent, mais durablement : ils réveillent en effet la tendance innée qu'ont les êtres humains à vouloir se gouverner eux-mêmes (687c5-6 ; 731d7-732b4). Ici, une modification des affects des Athéniens, au niveau non-rationnel, donne naissance à l'opinion erronée qu'ils peuvent se gouverner eux-mêmes, méprisant le regard de leurs magistrats légitimes. Cette modification rompt l'équilibre politique qui prévalait jusqu'alors : les citoyens décident de se gouverner eux-mêmes (ἐλευθερία<sub>2</sub>) en rejetant le gouvernement de leurs magistrats et des lois (constituant de l'ἐλευθερία<sub>1</sub>).

Une telle opinion fautive se voit renforcée par d'autres facteurs. La deuxième cause à l'œuvre dans le passage réside dans l'autorité même des nouveaux compositeurs : étant nommés par les magistrats, ils sont détenteurs d'une autorité officielle ; ils ont un rôle de quasi-magistrats (700d3). Si leur musique paraît contraire aux critères traditionnels, les citoyens peuvent certes craindre le jugement des magistrats ; mais cette peur sera amoindrie par l'autorité dont les nouveaux musiciens sont eux-mêmes revêtus.

La troisième cause concerne les λόγοι composés par les nouveaux musiciens (700e4-5). Le chapitre propose d'y voir, ou bien des manifestes esthétiques (un genre dont aucun exemple antique ne nous est parvenu, cependant), ou bien plutôt des paroles qui suivent les parties musicales. Platon connaît de telles compositions, comme il l'indique en 669c3-e4. Le chapitre propose de voir dans le genre tragique tout entier un exemple d'une telle pratique : une tragédie, en effet, fait alterner parties chantées et non-chantées. Une telle interprétation permet de voir, dans les λόγοι incriminés, des répliques de tragédie qui invitent à la désobéissance, abondantes dans la tragédie attique (Eschyle, *Les Perses* 840-2 ; Sophocle, *Antigone* 449, 672, 853, 1165-1171 ; cf. Aristophane, *Les Grenouilles* 1071).

La quatrième et dernière cause convoque un processus psychologique décrit au livre 2 des *Lois* : selon l'Étranger, tout plaisir musical ressenti par un auditeur est transformé par lui en opinion éthique, à savoir que ce qu'il ressent est non seulement plaisant mais bon (657c5-6). Or les Athéniens, à l'écoute de la nouvelle musique, ressentent un plaisir musical sans honte vis-à-vis de leurs magistrats : ils en viennent donc à l'idée qu'il est éthiquement correct de ne pas ressentir une telle honte.

La seconde partie du chapitre conclut en précisant la relation qui prévaut entre les quatre causes proposées pour expliquer la genèse de la liberté excessive en *Lois* 3, à savoir le réveil de la tendance humaine à vouloir se gouverner soi-même, dû à l'ébriété musicale, le rôle quasi-officiel des nouveaux musiciens, le contenu de leurs λόγοι et la traduction de leur plaisir musical en opinion éthique et politique. Ces quatre explications sont non seulement compatibles, mais complémentaires. La première est nécessaire, dans la mesure où elle seule explique que la foule n'ait plus craint le jugement des magistrats ; les trois autres expliquent pourquoi la foule a étendu sa prétention à se gouverner elle-même, du domaine musical vers celui de l'éthique et de la politique.

Le chapitre conclut l'analyse du discours platonicien de la liberté excessive. En reconnaissant une valeur en soi à la liberté conçue comme libéralité, et à la liberté conçue comme participation politique une valeur instrumentale, Platon montre une appréciation de l'ἐλευθερία plus grande que celle qu'on trouve dans les dialogues antérieurs. Une telle évolution est en soi remarquable, et annonce les développements du discours platonicien chez Aristote.

Le chapitre 5 étudie précisément cette réception aristotélicienne. Il note à la fois une continuité et un écart par rapport à Platon. Comme son maître, Aristote estime erroné l'attachement de la démocratie à la liberté, conçue à la fois comme participation politique et comme indépendance privée ; il emprunte cette image de la démocratie à la conception que Platon – comme d'autres – se fait des dernières années du V<sup>ème</sup> siècle. L'écart entre Aristote et Platon, sur le point qui intéresse le chapitre, se situe quant à lui au niveau du diagnostic que chacun d'eux pose sur les sources d'un tel attachement erroné. Platon situe ces sources essentiellement dans la partie non-rationnelle de l'âme : l'ἐπιθυμία dans le *Gorgias* et la *République*, une instance proche du θυμός dans le *Ménéxène*, le plaisir dans les *Lois*. Ces motivations non-rationnelles sont certes traduites au niveau doxique, où elles se voient renforcées par d'autres opinions (par exemple, les λόγοι des nouveaux musiciens en *Lois* 3) ; mais l'intérêt de Platon se porte surtout sur les soubassements non-rationnels du désir excessif de liberté. Aristote n'omet pas de telles motivations, comme le chapitre le montre ; mais il accorde plus d'attention à l'articulation des raisonnements auxquels elles donnent naissance. Chez Aristote, cette combinaison de facteurs non-rationnels et rationnels prend une forme originale, dont on trouve tout au plus des linéaments chez Platon. Pour le Stagirite, les démocrates ont tort de fétichiser leur statut d'hommes libres, c'est-à-dire non-esclaves ; ils commettent l'erreur de croire

que le rejet de l'esclavage constitue le seul but politique légitime. Ils en viennent donc à exiger, par opposition à la situation de l'esclave, le maximum de participation aux décisions, sur un pied d'égalité avec les autres hommes libres, ainsi qu'un domaine maximal d'indépendance privée. Ils nuisent en cela à la tâche ultime de la cité, qui est de conduire ses citoyens à la vertu.

La thèse aristotélicienne se dégage essentiellement du chapitre 6.2 de la *Politique*. Ce texte, cependant, requiert pour être compris d'être inscrit dans la conception générale qu'Aristote se fait de la liberté politique ainsi que d'une notion étroitement liée, celle de justice. Le chapitre commence donc par exposer la conception aristotélicienne de la liberté, avant de passer à une analyse détaillée de *Pol.* 6.2. Il conclut en explicitant les conséquences qui, selon Aristote, découlent de la conception erronée que les démocrates se font de la liberté : dans une cité démocratique comme oligarchique, une telle conception engendre une instabilité qui empêche la cité de mener à bien sa fonction d'éducation à la vertu.

La première partie du chapitre expose la conception aristotélicienne de la liberté. Elle propose d'unifier les deux éléments de définition qu'Aristote donne de la notion : d'une part, est libre une activité ou une personne qui n'a pas de fin en-dehors d'elle-même (*Protreptique*, frg. 25 Düring ; *Rhet.* 1367a33 ; *Met.* 982b24-26) ; d'autre part, est libre une personne qui a des capacités de délibération suffisantes pour ne pas recevoir toutes ses directives d'autrui (*Pol.* 1252a31-34). Le chapitre propose la thèse suivante : l'exercice des facultés intellectuelles qui président à la délibération participe de la fin humaine (l'εὐδαιμονία) ; un individu qui possède lesdites facultés est donc capable d'atteindre la fin humaine : il est, en droit du moins, libre.

Selon Aristote, un tel individu doit être traité d'une façon particulière dans le domaine politique. Le gouvernement doit d'abord s'exercer dans son intérêt (*Pol.* 1333a3-6) ; il doit ensuite impliquer les individus libres (*Pol.* 1261a30-34). Là encore, le chapitre propose de lier ces deux éléments : l'intérêt des individus libres réside, en grande partie, dans l'apprentissage et l'exercice de la vertu ; or la participation politique permet l'un comme l'autre. La participation n'est toutefois pas un dû : s'il existait un individu tellement supérieur aux autres en matière de vertu que ses décisions bénéficieraient à ses concitoyens plus que toutes celles qu'ils pourraient prendre eux-mêmes, il serait juste qu'un tel individu exerçât seul le pouvoir (*Pol.* 1325b10-12). La participation politique est donc conditionnée à la qualité de la délibération ; le but de la politique reste la bonne décision, c'est-à-

dire une décision qui promeut l'intérêt des citoyens, à commencer par leur vertu. C'est à ces deux égards que les démocrates, selon Aristote, se trompent gravement.

La deuxième partie du chapitre étudie précisément l'analyse à laquelle Aristote soumet la conception démocratique de la liberté. Cette conception est composée d'une prémisse (les individus qui jouissent d'un statut libre doivent pouvoir se gouverner eux-mêmes) et du raisonnement fondé sur elle (la possession d'un statut libre légitime à la fois la participation à la prise de décision politique et l'indépendance privée). Ces deux éléments font chacun l'objet d'un traitement spécifique au sein du chapitre.

La prémisse du raisonnement démocratique est exposée surtout dans *l'Éthique à Nicomaque* (1131a25-29). Différents groupes d'individus (les riches, les nobles, les vertueux) mettent en avant différents critères pour la distribution du pouvoir ; les démocrates estiment pour leur part qu'un homme de statut libre doit pouvoir se gouverner lui-même. La restitution aristotélicienne de la revendication des démocrates souffre d'une ambiguïté, dans la mesure où c'est tantôt leur statut libre (comme dans le passage de *l'Éthique à Nicomaque*), tantôt leur naissance autochtone (comme en *Pol.* 1283a34-36) qu'Aristote met à la base de leur raisonnement. La tension peut être résolue si la naissance noble n'est vue que comme une raison additionnelle que les démocrates avancent pour réclamer le pouvoir ; elle ne peut être la principale, puisqu'Aristote fait plutôt du statut libre le fondement du raisonnement démocratique. La qualité de naissance admettant par ailleurs des degrés, elle ne saurait justifier une distribution démocratique du pouvoir ; si elle se voyait donner trop d'importance, c'est une aristocratie qu'elle légitimerait.

En vertu de leur statut libre, les démocrates revendiquent plutôt une distribution égalitaire (ou arithmétique) du pouvoir politique. Ils commettent en cela, aux yeux d'Aristote, une erreur fondamentale : ils ne voient pas que seule la capacité de bien délibérer constitue un critère juste de distribution du pouvoir politique (*Pol.* 1283a16-22). Ce pouvoir n'est pas un bénéfice à partager, mais essentiellement un outil à mettre au service de la cité.

La prémisse démocratique donne naissance à deux revendications précises, exposées en *Politique* 6.2 : les démocrates réclament à la fois une répartition arithmétique du pouvoir politique et une marge de manœuvre maximale dans leur vie privée. Ce passage, mis en parallèle avec d'autres textes du corpus aristotélicien (*Pol.* 5.9, 1310a25-36 ; *EN* 8.2, 1161a6-9 ; *Rhet.* 1.8, 1366a4), se prête à une interprétation différente de celle qu'il reçoit traditionnellement. Au lieu de voir dans la composante

institutionnelle une simple conséquence du désir de liberté privée, le chapitre propose de relier les deux propositions au rejet de l'esclavage et de tout ce qui l'évoque, même superficiellement : les démocrates veulent jouir d'une situation aussi éloignée que possible de celle de l'esclave, sur le plan politique comme privé.

Sur le plan institutionnel, les démocrates réclament le maximum de pouvoir pour les individus libres : puisque le statut libre est, selon eux, le critère d'une juste répartition du poids politique, et qu'aucun individu n'a de statut plus libre qu'un autre, une distribution arithmétique du pouvoir s'impose pour que cette donnée légale soit respectée sur le plan politique. Ceci implique à la fois un vote égal pour chacun dans l'assemblée populaire, et une réduction à l'extrême du pouvoir des magistrats, individus libres détenteurs d'un pouvoir supérieur. Une telle structure institutionnelle traduit le statut libre des démocrates en une égalité de pouvoir politique : en démocratie, aucun individu n'a un statut analogue à celui d'un esclave par rapport à son maître, c'est-à-dire une capacité moindre de peser dans la prise de décision.

Sur le plan de la vie privée, les démocrates manifestent le même attachement à leur statut que sur le plan institutionnel : ce dernier implique à leurs yeux qu'ils jouissent d'une marge de manœuvre maximale, à l'opposé de la contrainte permanente dans laquelle vit l'esclave. Ceci conduit les démocrates à limiter autant que possible le pouvoir des magistrats (*EN 1180a21-28*), capables d'appliquer la loi à la régulation des comportements privés. Les démocrates font en cela une erreur, qui consiste à assimiler la soumission aux ordres des magistrats à une forme d'esclavage : le chapitre propose de voir là une illusion typique du *θυμός*, qui tend à rejeter tout gouvernement par autrui comme indigne d'hommes libres (*Pol. 1328a6-7 ; EN 1149a29-34*). C'est bien le *θυμός* qui semble motiver le rejet démocratique des restrictions à la vie privée, même si d'autres types de désir (*ἐπιθυμία* comme *βούλησις*) contribuent à cette tendance.

Chacune de ces deux revendications est illégitime, autant qu'est fausse la prémisse sur laquelle elles sont fondées. Aristote n'est pas favorable à une distribution arithmétique du pouvoir politique, qui tend vers la tyrannie de la majorité ; il appelle plutôt de ses vœux une répartition proportionnelle à la capacité de délibération (*Pol. 1325b7-12*). Il s'oppose également à la minimisation du rôle des magistrats, qui les empêche d'appliquer la loi aux cas particuliers, ce qui est pourtant leur raison d'être (*Pol. 1292a32-33*). La quête d'une indépendance privée maximale est

également erronée à ses yeux : elle contrevient au but même de la politique : l'inculcation d'habitudes vertueuses dans l'âme des citoyens (*EN* 10.10).

La conception démocratique de la liberté fait obstacle à ce but à un autre égard, sur lequel la troisième partie du chapitre se concentre : quel que soit le régime, les démocrates causent des troubles qui mènent à la sédition (*στάσις*). Or pour Aristote, la cité a besoin de stabilité pour mener à bien sa fonction d'éducation (*Pol.* 1269a14-24). Les régimes non-démocratiques sont renversés quand les citoyens de la frange démocratique agitent pour parvenir à leur fin : en rejetant toute distribution du pouvoir autre qu'égalitaire (*Pol.* 1306b27-30), ainsi que toute régulation trop sévère des comportements privés (*Pol.* 1270b33-35), les démocrates ne sauraient s'accommoder de régimes oligarchiques ou aristocratiques, qu'ils cherchent alors à renverser. En démocratie, par ailleurs, les défauts de la conception démocratique de la liberté génèrent un ressentiment des plus riches, qui mène le régime à sa perte : les riches refusent à la fois la distribution égalitaire du pouvoir (*Pol.* 1301a28-32 and 1303b6-7) et ce qu'ils perçoivent comme le désordre propre à la vie privée des citoyens démocratiques (*Pol.* 1302b27-29). Aristote donne aux législateurs et hommes d'État des solutions pour prendre en compte la conception démocratique de la liberté sans qu'elle nuise trop à la cité, ni n'amène de réaction oligarchique ; d'une façon, en somme, qui maintienne la pérennité du régime et de ses lois.

Le chapitre conclut en plaçant le discours aristotélicien sur la liberté excessive dans la perspective de la *République* et des *Lois*. Comme la *République*, Aristote diagnostique un fétichisme démocratique : mais son objet n'est plus la liberté comme valeur abstraite (comme en *République* 8) ; il s'agit plutôt du statut libre qui distingue tout citoyen du groupe des esclaves. Comme les *Lois* détaillant les sources d'*ἀναρτία*, Aristote insiste sur la composante cognitive de l'erreur des démocrates ; mais il la traite avant tout comme un *raisonnement* erroné. Il est plus juste, dans son cas, de parler de la critique d'une *fausse conception* de la liberté, que d'un désir excessif pour elle.

Philosophiquement, l'analyse de cette fausse conception ajoute deux éléments au tableau antique des pathologies de la liberté. Les démocrates d'Aristote commettent d'abord l'erreur de voir dans le pouvoir politique l'expression d'une valeur préexistante (le statut libre), et non un instrument au service d'un but (la bonne délibération, ou la vertu) ; ils y ajoutent un attachement excessif à leur statut juridique, puisqu'ils font du respect de leur différence d'avec les esclaves le

point cardinal de leur comportement. Dans les deux cas, les démocrates ont le tort de subordonner la vertu à leur liberté, pensée fondamentalement en termes légaux.

La thèse s'achève en examinant le devenir du discours platonicien sur la liberté excessive dans le monde romain, essentiellement chez Cicéron. Plusieurs considérations invitent à inclure Cicéron dans le champ de l'étude. D'une part, l'Arpinate se présente comme un élève de Platon, en particulier dans le domaine de la philosophie politique ; d'autre part, il place sous l'égide de l'Athénien sa lutte contre le mouvement *popularis* qui, comme le mouvement démocratique radical condamné par Platon et Aristote, fait de la liberté politique le fer de lance de son discours. C'est à cette occasion que Cicéron forge le concept de *licentia*, ancêtre de notre licence.

*Licentia* est un concept qui traverse la vie et le corpus de Cicéron, comme l'intense débat *de domo sua* le montre (*Dom.* 110-111 et 131). En 57 av. J.-C., Cicéron de retour d'exil tente de faire détruire le sanctuaire de *Libertas* que son adversaire Clodius avait fait ériger sur le site de sa maison : le discours révèle combien sont flous les contours de la notion de *libertas*, ainsi que ses différences avec *licentia*, son pendant négatif. Cicéron consacre une partie importante de sa production théorique à préciser ces différences, en délimitant l'espace d'une liberté politique légitime.

Il a recours, pour ce faire, à la philosophie platonicienne. Bien que les *Lois* soient mises à profit et dans le *De Re Publica* et dans le *De Legibus*, c'est bien la *République* qui offre le plus de ressources à Cicéron. Le texte où sa notion de *licentia* s'articule de la façon la plus riche figure au livre premier du *De Re Publica* (1.65-68) ; il s'agit de la traduction d'un passage-clé du livre 8 de la *République* de Platon (*Rep.* 562c8-563e1), dans lequel Cicéron peut reconnaître – c'est l'une des hypothèses du chapitre – des traits essentiels de la réalité romaine de son temps. La médiation aristotélicienne est aussi importante : le chapitre propose d'entendre des échos de *Politique* 6.2 dans le portrait que le *De Re Publica* donne de la démocratie radicale (1.47). Les théories hellénistiques de la liberté (essentiellement celle des Stoïciens) laissent certes leur marque chez Cicéron (par exemple en *Parad.* 33-41), mais l'Arpinate critique surtout leur incapacité à s'appliquer à la réalité politique dans laquelle vivent les non-sages (*De Or.* 1.225-226).

Une différence majeure sépare toutefois la tradition grecque et celle, romaine, dont Cicéron hérite : à Rome, *libertas* (au sens d'un ensemble de droits politiques et civils légitimes) est une valeur partagée par l'ensemble des bords politiques, y compris celui des *optimates* dont Cicéron

est proche ; à Athènes, en revanche, l'ἐλευθερία est surtout associée à la démocratie radicale. Cette différence explique pourquoi, chez Platon, ἐλευθερία peut revêtir un sens péjoratif comportant la notion d'excès (par exemple : *Grg.* 492c5 ; *Lois* 701a7) ; et pourquoi, par contraste, Cicéron a besoin d'un terme et d'un concept spécifiques pour désigner la liberté excessive.

*Licentia* a jusqu'ici peu retenu l'attention des commentateurs, éclipsée qu'elle était par l'aura de *libertas* – et ce jusque dans la philosophie néo-républicaine contemporaine (défendue notamment par Quentin Skinner et Philip Pettit). Un autre facteur qui explique cette négligence est le fait que *licentia* soit, dans la philosophie cicéronienne, un concept à la fois légal, politique et éthique, désignant dans son sens le plus courant toute permission donnée par une autorité à un comportement illégitime qu'elle aurait le pouvoir d'interdire. Cicéron se sert de ce concept pour montrer comment une communauté politique nuit à sa propre pérennité en acceptant des comportements qui la minent. Il se concentre, dans l'analyse d'un tel phénomène, sur deux processus de psychologie politique : le premier est la mauvaise habitude dans laquelle une telle acceptation laisse son bénéficiaire s'installer ; la seconde est la logique de l'exemplarité inversée, par laquelle un comportement que l'autorité publique ne condamne pas est pris comme modèle. Le chapitre commence par préciser en quoi consistent de tels comportements et, par contraste, ceux qui relèvent d'un exercice de liberté légitime (*libertas*) ; il poursuit en restituant l'analyse que fournit Cicéron de la genèse et du déploiement de la licence.

La première partie du chapitre précise les contours qui circonscrivent, aux yeux de Cicéron, la liberté politique légitime. Cicéron reconnaît trois raisons d'accorder au peuple une mesure de *libertas*. D'une part, l'institutionnalisation de la *libertas* augmente les chances que des décisions justes soient prises dans la communauté politique : en tant que liberté de participation (*libertas populi*), elle donne le pouvoir aux meilleurs par le biais de l'élection (*Sest.* 137 ; *Rep.* 1.50 ; 2.24 ; 2.42-43) ; en tant qu'ensemble de droits fondamentaux (*libertas civium*), elle empêche ou minimise les exactions des gouvernants (*Rep.* 2.46 ; 2.62-63 ; *Leg.* 3.23), ainsi que le règne de la violence en général (*Dom.* 95-96 ; *Sest.* 128). De ce point de vue, la *libertas* est un garde-fou contre l'arbitraire, c'est-à-dire contre des décisions injustifiées de la part des magistrats.

En minimisant les actions arbitraires des gouvernants, la *libertas* assure également aux citoyens une dignité minimale – c'est là sa deuxième justification. Précisément, la *libertas* protège les citoyens contre l'arrogance (*superbia*) qui irait de pair avec un pouvoir indu des magistrats (*Rep.*



2.40 ; *Leg.* 3.17 ; *Off.* 1.13). Elle les soustrait également à la peur (*timor*) de mauvais traitements de leur part (*Rep.* 2.50 ; *Ad Att.* 11.20.1). Les citoyens se voient épargnés le mépris et la crainte : ils peuvent vivre la tête haute, c'est-à-dire avec dignité.

Enfin, la reconnaissance d'une mesure de *libertas* au peuple satisfait aux yeux de Cicéron un irréfragable besoin humain, même animal (*Leg. Agr.* 2.9 ; *Rep.* 1.54). Elle assure ainsi la communauté politique contre les troubles auxquels une absence de *libertas* l'exposerait. L'idée, qui semble avoir une source stoïcienne (Épictète, *Diss.* 4.1.56), permet à Cicéron d'accepter des exutoires institutionnels au désir animal de liberté, comme le pouvoir tribunicien, dont l'absence déchaînerait les passions populaires (*Leg.* 3.23-24).

C'est dans la mesure seulement où ces trois raisons la justifient que la *libertas*, pour Cicéron, a sa place dans l'équilibre qui constitue un bon régime politique. Au-delà de cette mesure, la liberté devient illégitime : elle se fait *licentia*. Pour Cicéron, une communauté politique est toujours en droit de maintenir la liberté politique dans ses justes bornes ; quand elle omet de le faire alors qu'elle en a le pouvoir, elle crée une très nuisible situation de permissivité.

Le chapitre propose précisément de rendre *licentia* par le terme français de « permissivité ». Une analyse philologique de *licentia* révèle sa dérivation du verbe *licere*, qui indique toujours une permission, donnée par une autorité compétente. Les définitions que Cicéron donne du verbe confirment que la notion de permission restait constitutive du concept de *licentia* à son époque (*Tusc.* 5.55 ; *Phil.* 13.14). Dans ses traités de théorie politique tout comme dans le reste de son corpus, Cicéron accorde une grande partie de son attention aux processus délétères que déclenche le geste permissif d'une autorité. Lorsque celle-ci autorise un comportement qui ne devrait pas l'être, elle accorde une liberté excessive (*licentia*). Elle produit ainsi deux effets chez ceux qui en bénéficient. D'une part, elle les conforte dans leur mauvaise disposition, créant chez eux une habitude mauvaise ; d'autre part, elle donne à d'autres un prétexte pour demander ou bien la même permission, ou bien d'autres plus étendues encore.

L'effet d'habitude néfaste est une constante du corpus cicéronien : on le trouve dès les *Verrines* (2.3.176), jusqu'au *De Re Publica* (3.41), en passant par le *Pro Flacco* (20). L'idée en est simple : une autorité qui accorde à un individu ou un groupe une permission indue le laisse s'installer dans son vice, rend une récidive plus probable, et une correction plus difficile.

L'effet d'imitation, ou d'exemplarité inversée, joue un rôle encore plus important dans le corpus de Cicéron. Il mobilise la logique de l'exemplarité, si prégnante dans la culture romaine : mais au lieu d'entraîner l'imitation des bons comportements, la permissivité en laquelle *licentia* consiste déclenche la diffusion d'attitudes illégitimes. En ne les condamnant pas, l'autorité laisse présumer à ceux qui y sont soumis que de tels comportements ont une part de légitimité ; une fois que la limite du possible a été repoussée, elle peut bien l'être plus loin encore (*Tull.* 8 et 40 ; *Verr.* 2.3.220 ; *Dom.* 47).

Cicéron met à profit son identification des deux processus dans son analyse des menaces qui pèsent sur le régime de Rome, et sur tout régime de liberté mesurée. Si le désir inextinguible de liberté se voit donner plus de satisfaction qu'il n'est juste, alors il menace la pérennité de la communauté politique : les comportements illégitimes permis deviendront des habitudes, et le peuple en viendra à réclamer toujours plus de liberté, au-delà des bornes de la justice. Le chapitre suggère que Cicéron lit, dans le passage platonicien qu'il traduit (*Rep.* 562c8-563e1, en *De Re Publica* 1.65-68), les deux processus qu'il identifie ailleurs sous le nom de *licentia*. Dans sa traduction du passage, le peuple pris d'une ivresse de liberté finit par rejeter toute forme de coercition, à la fois par habitude d'être laissé sans contrainte, et en vertu de la logique d'exemplarité inversée.

Aux yeux de Cicéron, n'importe quelle composante du régime mixte peut être à l'origine de la *licentia*, peuple y compris (*De Rep.* 3.20). Mais l'exemplarité étant particulièrement la responsabilité de la classe dirigeante, c'est vers celle-ci que Cicéron dirige particulièrement son attention et ses exhortations. Dans son analyse théorique, la *licentia* est surtout l'apanage des *principes* (*Rep.* 3.41 ; *Leg.* 3.30). Dans son commentaire des événements politiques de son temps, c'est également par la tête que la communauté politique pourrit : Sulla (*Ad Att.* 9.10.2), César et Marc-Antoine (*Off.* 2.28) sont, par leur permissivité, les fossoyeurs de la République.

La conclusion du chapitre explique pourquoi Cicéron notre étude s'arrête à Cicéron. La notion de *licentia* a une longue postérité, qui commence avec des auteurs comme Horace, Tite-Live, Sénèque et Tacite ; mais la fin de la République ainsi que celle, concomitante, du mouvement démocratique par lequel son dernier siècle avait été agité, ôtent son urgence à la réflexion sur les formes excessives de liberté. Le discours platonicien sur ce thème, intimement lié à un contexte démocratique, perd de sa pertinence. Cicéron apparaît bien comme le dernier terme de son élaboration antique. En traduisant une partie du livre 8 de la *République*, Cicéron a donné naissance

à une tradition, faite de référence à un classique (la pensée politique platonicienne, en particulier la *République*) et d'adaptation à différents contextes (chez Cicéron, la culture politique romaine). L'élaboration cicéronienne du discours platonicien charge la notion de liberté excessive, devenue *licentia*, de connotations bien précises : celles qu'implique la notion de permissivité, en particulier l'habitude au vice et l'exemplarité inversée. Cicéron clôt l'articulation ancienne du discours platonicien sur la liberté excessive, en même temps qu'il érige les textes qui le constituent en classiques pérennes.

En conclusion, la thèse s'interroge sur la cohérence du discours ancien sur la liberté excessive. Elle observe une continuité, à savoir le fil conducteur que représente la pensée platonicienne, visible chez Aristote et Cicéron. Le discours ancien sur la liberté excessive a bien une cohérence, qui réside dans une thèse formulée en premier par Platon : la politique a pour fin le gouvernement de la vertu, que le désir humain de liberté menace. Platon dans ses dialogues, Aristote et Cicéron dans leurs propres écrits articulent et développent cette thèse sur des modes divers, mais toujours sur la base d'un même fondement théorique et contextuel.

La thèse constate aussi, cependant, des différences notables entre les auteurs qu'elle étudie. En conclusion, elle souligne l'intérêt plus vif de Platon pour une approche psychologique du rapport de la démocratie à la liberté, qui culmine dans la psychologie politique élaborée de la *République* et des *Lois*. La thèse observe également une prise en compte croissante de l'aspiration démocratique à la liberté, à l'intérieur du corpus platonicien et dans sa postérité : une évolution se dessine nettement du *Gorgias* à Cicéron et, à l'intérieur de la thèse, au fil des chapitres.

Ce dernier constat amène naturellement une dernière question : les auteurs de notre corpus ont-ils gagné en modération, ou en réalisme ? Une réponse positive implique de prendre parti, et de voir dans l'aspiration à la liberté une constante inéluctable, même légitime, de la réalité politique. Un point qui doit nous inviter à offrir une telle réponse est le constat que les aspirations démocratiques critiquées par Platon, Aristote et Cicéron avaient une autre base que les désirs irrationnels, ou les opinions erronées, que ces auteurs leur prêtaient : ces aspirations reposaient sur un désir justifié, celui de préférer le gouvernement de soi à une soumission à autrui – que ce dernier manifeste, ou non, des preuves de supériorité évidentes. La diversité des situations particulières, la valeur intrinsèque de l'auto-détermination, le besoin psychologique de sécurité et d'estime de soi : autant de raisons qui militent en faveur d'une reconnaissance de la liberté politique, reconnaissance

à laquelle la pensée comme la pratique politique ont tendu à parvenir (avec certes, bien des soubresauts et des retours en arrière). Il serait illusoire, cependant, de ne voir dans les critiques de nos auteurs que de négligentes caricatures. Ces auteurs nous font voir que, derrière l'aspiration à la liberté politique, peuvent se cacher plus que de nobles et légitimes motivations : un tel désir peut aussi être l'expression de « pathologies de la liberté », dont ils fournissent un catalogue et une analyse toujours profitable.

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La thèse étudie les critiques formulées par Platon, Aristote et Cicéron à l'encontre du rapport à la liberté politique qui, selon eux, caractérise les sociétés démocratiques de leur temps. Les trois philosophes ont en commun une conception éthique de la politique, selon laquelle la cité a pour fin première de conduire les hommes à la vertu. Leurs situations historiques sont également similaires, puisque tous trois vivent à des époques où des mouvements démocratiques ou populaires formulent des demandes fortes. Pour Platon, Aristote comme Cicéron, ces mouvements politiques rendent impossible l'accomplissement de la tâche de la cité, dans la mesure où ils prônent l'extension maximale de la liberté populaire et individuelle.

La thèse vise d'abord à restituer les arguments avancés par Platon, Aristote et Cicéron contre le désir de liberté des démocrates. Ceci implique d'examiner la conception de la liberté que se font ces philosophes eux-mêmes. La thèse vise donc à comprendre les critères par lesquels Platon, Aristote et Cicéron distinguent formes juste et injuste de liberté politique. Ces critères s'inscrivent tous dans la conception éthique de la liberté qui rassemble ces trois philosophes, mais ils varient chez chacun d'entre eux. Pour Platon dans la *République*, par exemple, la liberté démocratique est excessive dans la mesure où elle donne libre cours à des désirs "non-nécessaires," incapables de satisfaire l'être humain comme la vertu saurait le faire. Pour le même Platon, dans les *Lois*, la liberté politique est excessive lorsqu'elle est fondée sur une prétention déraisonnable à se gouverner soi-même, qui rend les citoyens démocratiques rétifs à toute forme d'autorité. Pour Aristote, les démocrates ont tort de croire que le pouvoir doit être distribué sur une autre base que la vertu politique ; en particulier, que la possession d'un statut légal libre (par opposition au statut servile) donne un titre à gouverner. Pour Cicéron, enfin, la liberté politique a toute sa place dans le régime mixte qu'il défend ; elle devient excessive lorsque l'élite politique décide d'accorder au peuple plus de liberté que le régime mixte n'en requiert, poussant les citoyens à réclamer toujours davantage d'indépendance à l'égard des magistrats et des lois.

La thèse entend ensuite retracer le diagnostic posé par Platon, Aristote et Cicéron sur l'amour dévoyé de la liberté qui caractérise les revendications démocratiques. Si l'erreur des démocrates doit être dissipée, il faut saisir la façon dont les conditions politiques de la démocratie font naître dans l'âme des citoyens un attachement irrationnel pour la liberté. Dans le *Gorgias*, Platon met en cause le régime démocratique et l'impérialisme athénien, qui flattent le peuple en renonçant à l'éduquer. Dans la *République*, il montre comment la démocratie, alors qu'elle offre initialement à ses citoyens des moyens de satisfaire leurs désirs, finit par leur faire considérer la liberté comme une fin en soi et une priorité. Les Lois accusent une révolution musicale d'avoir empli l'âme des citoyens d'arrogance, au point de croire qu'ils pouvaient se gouverner eux-mêmes en tout. Aristote voit dans la fierté des citoyens démocratiques pour leur statut libre la cause de leur fétichisme de la liberté politique. Cicéron, enfin, juge l'élite responsable de la permissivité qu'il saisit par le terme de *licentia* : le peuple ne formule des demandes excessives de liberté que parce que l'élite a montré l'exemple, en prenant ou en octroyant des permissions injustifiées.

*In fine*, la thèse propose une généalogie de notre concept de licence, montrant comment Cicéron saisit, par le terme de *licentia*, des réflexions platoniciennes et aristotéliennes sur la tendance démocratique à chérir la liberté outre-mesure. Même si nous trouvons à redire aux critiques de la démocratie offertes par ces philosophes, leur étude nous offre des outils analytiques pour comprendre un concept politique fondamental.

## MOTS CLÉS

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Liberté - Licence - Démocratie  
Platon - Aristote - Cicéron

The present dissertation studies the criticisms levelled by Plato, Aristotle and Cicero against the relationship to political freedom that, in their views, characterizes the democratic societies of their times. The three philosophers have in common an ethical conception of politics, in which the city's primary purpose is to inculcate virtue in the citizens. Their historical situations are also similar, as all three of them lived at times when made their demands loudly heard. For Plato, Aristotle and Cicero, such political movements make it impossible for the city to accomplish its task, insofar as they advocate the maximal extension of popular and individual freedom.

The dissertation aims first at recovering the arguments put forward by Plato, Aristotle and Cicero against the democrats' wrong-headed desire for freedom. This requires examining the conceptions of freedom that these philosophers themselves endorse. The thesis therefore aims at understanding the criteria by which Plato, Aristotle and Cicero distinguished between just and unjust forms of political freedom. These criteria are all part of the ethical conception of freedom that unites these three philosophers, but they vary between them. For Plato in the *Republic*, for example, democratic freedom is excessive insofar as it gives free rein to "non-necessary" desires, incapable of satisfying human beings as virtue would. For the same Plato, in the *Laws*, political freedom is excessive when it is based on an unreasonable claim to self-rule, which makes democratic citizens reluctant to submit to any form of authority. For Aristotle, democrats are wrong to believe that power should be distributed on any other basis than political virtue; in particular, that the possession of a free legal status (as opposed to a slavery) gives one a title to rule. For Cicero, finally, political liberty has an important place in the mixed regime he defends, insofar as the power of the people and the rights of individuals are a guarantee of good government; it becomes excessive when the political elite decides to grant the people more liberty than the mixed regime requires, thus pushing the citizens to demand ever more independence from magistrates and laws.

Next to this work of analytical clarification, the dissertation's second task is to recover the diagnosis Plato, Aristotle and Cicero made of the misguided love of freedom that, in their eyes, characterizes democratic claims. If the democrats' mistakes are to be dispelled, their genesis must first be uncovered. This requires grasping the way in which the political conditions of the democratic regime influence the soul of the citizens, giving rise to an irrational attachment to freedom. In the *Gorgias*, Plato attacks the democratic regime and Athenian imperialism, which flatter the people and renounce to educate them. In the *Republic*, Plato shows how democracy, while initially offering freedom to its citizens as a means to satisfy their desires, ends up making them consider freedom as an overriding end in itself. The *Laws* blames a musical revolution for filling the citizens' souls with arrogance, to the point of believing that they can govern themselves in everything. Aristotle sees in the pride of the democratic citizens for their free status the cause of their fetishism of political freedom. Cicero, finally, holds the elite responsible for the permissiveness he captures using the term *licentia*: the people make excessive demands for freedom only because the elite has set a deleterious example by taking or granting unwarranted permissions.

Ultimately, the dissertation wishes to offer a genealogy of our concept of licence, ending by showing how Cicero captured, with the term *licentia*, Platonic and Aristotelian reflections on democracy's tendency to cherish freedom excessively. Even if we disagree with these philosophers' opposition to democracy, we should understand it to gain analytical insight into a crucial political concept. by taking or granting unwarranted permissions.

## KEYWORDS

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