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Book Reviews



David Lloyd Dusenbury, *Platonic Legislations: An Essay on Legal Critique in Ancient Greece*. Cham, Switzerland: Springer (Springer Briefs in Philosophy), 2017. Pp xxiii + 116. ISBN 978-3-319-59843-7.

This very short book is published in a series which aims to provide 'concise summaries of cutting-edge research'. Its main thesis is that, in a number of dialogues from the *Apology* to the *Laws*, Plato engages in a 'critique of law'. The point here is not simply that Plato is critical of existing systems of law but, rather, that he points to weaknesses which are implicit in the very nature of law itself. These imply that all codes of law must be more or less defective. On Dusenbury's reading Plato deals with this point in the *Laws* by arguing that if any state governed by law is to survive it must allow for the 'supplementation, emendation and abrogation of its laws' (p. 1). So the 'hypothetical law-states' he describes in the *Republic* and the *Laws* provide for a 'non-democratic "flux" of law'.

In arguing these points Dusenbury discusses three groups of dialogues. The first comprises the trial dialogues, particularly the *Apology* and *Crito*. Dusenbury interprets these as pointing to an inevitable 'divergence' of law and justice. On his reading Socrates' behaviour at the time of the trial of the generals after Arginusae and in the affair of Leon of Salamis shows that his commitment to justice has obliged him to act illegally (i.e. in contravention of Athenian law) in the past. His assertion, in the *Apology*, that he could not obey an instruction to desist from philosophising shows that he is willing to break the law in future. Thus Platonic reflection on law takes its departure from the 'melancholy axiom' that under any regime a resolute insistence on justice is 'suicidal' (p. 48).

The second group of dialogues comprises the *Gorgias* and *Republic*. Dusenbury's treatment of the former is particularly interesting. He sees it as embodying two quite distinct critiques of law. The first is that of Callicles, who believes that it is natural for the strongest to rule, and advocates what

Dusenbury calls the 'law of violence'. Callicles opposes this to the force of law which is a device by which the weak seek to restrain the strong. Plato, of course, rejects the Calliclean view, which he sees as leading to a 'flux of lawlessness'. But he also puts into Socrates' mouth a very different critique of the force of law as that is manifested in existing states. These are governed by the kind of rhetoric which seeks what pleases rather than what is true. Taking part in the politics of these states involves assimilating oneself to the multitude and thus denying one's own nature. The same goes for despotic states where survival requires one to adopt the attitudes of the tyrant. Engaging in the politics of either kind of state involves a form of self-contradiction. This is contrasted with what Dusenbury calls the 'pure force of law' which requires resistance to pleasure and pain. That can be established only by a legislator who is 'self-superior'. The *Republic*, on Dusenbury's interpretation depicts a community governed in this way. Unlike existing states, with their divisions between rich and poor, it is a genuine city because its legal code is designed to create unity. But it could be established only by a legislator who could start from a clean sheet. Since this never occurs in practice, the law code envisaged in the *Republic* is 'inscribed' for an impossible city.

On Dusenbury's account, the third group of dialogues, the *Statesman* and the *Laws*, reveals an even more radical critique of law. As he sees it, the *Statesman* presents 'an a priori critique of any conceivable law code or law-state' (p. 84). The basis of this critique is that we do not live in the kind of stable world envisaged in the myth of Cronos: human affairs are in a constant state of flux. But laws are, by their very nature, general. They claim to apply at all times and all places within the law-state's territory. They thus cannot deal adequately with the particular circumstances of every individual case. Plato concedes that human beings cannot do without law but, at the same time, 'he exposes and derides, not the chaotic re-codification of democratic laws ... but the constitutive inflexibility and mechanistic iterability of law'. So even rational legislation reflects 'a formal divergence of law from justice' (p. 86).

Dusenbury sees the *Laws* as embodying Plato's own response to this critique, but, unfortunately, his treatment of that dialogue is extremely brief. The main thrust of his argument is that, as Plato sees it, any actual system of law must be imperfect. He therefore envisages mechanisms by which later generations can supplement and emend the provisions established by the original lawgiver. In doing so they will not be subverting the law code, but rather ensuring its preservation. Plato thus envisages what Dusenbury calls 'a positive flux of law'. 'Platonic legislation, like philosophy is endless'.

The suggestion that Plato engages in a critique of law undoubtedly offers a fresh and potentially illuminating approach to Plato's political and legal