GENE FENDT

PAGAN POLITICS, WAR, AND THE CONSTRUCTION OF *NOMOI*

"If ever we should invoke the aid of God, it's now"

 *Laws* X (893b)

In Greek, the word *nomos* has wide variety of denotations; most frequently in philosophical contexts it is translated as *law* or *convention*, and in such contexts its opposite is *physis*, nature. Aristotle uses it this way in *NE* 1094b17 when he points out that there is some debate about whether justice and the fine are natural or only *nomoi*. But *nomos* is also a kind of *song*, generally accompanied by the kithara, though whether that instrument is a requirement is not clear. Euripides's Hecuba uses the word after she discovers that her youngest son, Polydorus, supposedly safe with the family's guest-friend, Polymestor, has been washed up by the waves. Her words there might be translated "now begin the newly learned melody of revenge" (685). It is no surprise, then, that Liddell and Scott have as the first meaning of *nomographos* "an author of laws," and as the second "a composer."[[1]](#endnote-1) Plato's dialogue, *Nomoi--Laws*, not only plays upon the triple meaning of the word—law, convention, song—through several books, but must be read as a musical composition, a kind of composition in which the silences are as important as the sounds, a kind of composition in which we must not just follow the argument in words, but must be able to hear the argument in the silences as well.

*Laws* is a composition for three instruments of quite diverse, indeed, seemingly inimical music. The three old men—from Athens, Sparta, and Crete, have not only grown up, but have spent their lives under the customs, laws, and music of their respective states, and their respective states have been at war through 27 years of Socrates's life.[[2]](#endnote-2) In the course of their sixty or more years these men were likely to have killed each others brothers, sons, cousins. We will not mention what they may have done to women and children. They are on their way back to the cave of origins, the dark place from which the laws of Crete, and in another way they themselves, took their lives. They are still above ground, still walking in the warmth of the sun, and they seem to have agreed that violent attacks (629a) and resentment (634d) are inappropriate for them due to their age and their earnest interest in understanding the purpose of *nomoi*. Both Megillus the Spartan and Klinias the Cretan confess to a kind of attunement to Athens (642), and it seems that the ripeness of their age, the common interest and journey to the legendary cave, and the attunement to each others dialects and mutually beneficial deeds (699) in the years before the terrible war are the condition for putting these three in the situation where the composition of a trio for three voices is both possible and, to some degree, necessary: for they must share the road back to the mythical cave.

The first lines of the dialogue both introduce the problem of the composition of *nomoi* and let us hear how unlikely it is that these three voices will ever be able to harmonize. "God or some man, stranger, to whom is it you credit your laws?" "God, stranger, a god, most justly…" (624a). Though they agree that god is the giver of laws, the Cretans claim Zeus, the Lacedaemonians claim Apollo, and the Athenians might well claim the goddess as their city's founder, and their law's guarantee of validity. So this verbal agreement is no agreement, and these men are, most truly, strangers to each other.[[3]](#endnote-3) Their gods, their constituting *nomoi*, make them strangers, and insofar as they maintain the literal piety of their youth they must remain so. Fortunately, the Cretan laws allow that old men may bring questions of the laws before men of their own age for discussion (634e), so the journey to the cave and temple of Zeus will not be shadowed by impiety or offense—or the even greater impiety of human creatures incapable of speaking together.[[4]](#endnote-4) The Athenian Stranger praises this law, and its requirement that the youth shall proclaim with one voice that all of the laws are fine, and that the young must turn a deaf ear to anyone who says otherwise. It sounds as if this Athenian might have conscientiously voted against Socrates, who dared to publicly question Delphic Apollo's announcement that he was the wisest of all. Perhaps there is some music the young ought not hear. Or perhaps it is just that they ought not to be allowed to play it. Or, finally, perhaps the Athenian is being prudent—he begins by praising the laws of the island for one of their few philosophical excellences: not allowing the fires of youth to burn too brightly.

The problem Plato sounds from the first lines of this dialogue might be put in Jean-François Lyotard's term:[[5]](#endnote-5) it is the problem of the differend. According to Lyotard

a differend would be a case of conflict between (at least) two parties that cannot be equitably resolved for lack of a rule of judgment applicable to both arguments. One side's legitimacy does not imply the other's lack of legitimacy. However, applying a single rule of judgment to both in order to settle their differend as though it were merely a litigation would wrong (at least) one of them (xi).

Since the rule of judgment in any case is the law of the city and since these cities, symbolized by their different gods, have different systems of judgment, the cities and citizens seem to be differends to each other. Further, since

damages result from an injury which is inflicted upon the rules of a genre of discourse which is reparable according to those rules, [but] a wrong results from the fact that the rules of the genre of discourse by which one judges are not those of the judged genre or genres of discourse (xi),

the disagreement between the three parties threatens immeasurable wrong to each. What threatens from the first words of the dialogue, then, is precisely the brutal war these three have managed—till now—to survive.

According to Klinias, the purpose of all the Cretan customs is to aim at victory in war, for life is a ceaseless warfare of city against city, and peace is nothing more than a name (625e-626a). If, as Lyotard says, "a universal rule of judgment between heterogeneous genres of discourse is lacking in general" (xi), then it seems Klinias is correct, and peace is just the name of the differend waiting to be discovered. Perhaps the differend is hiding under the opening word of the dialogue—God. Plato's composition begins by sounding the *nomos* of the differend, but unlike Lyotard Plato does not take this opening melody as the primitive truth about regimes of phrase—musical, linguistic, cultural or legal. Instead, the dialogue itself, like a piece of music, attempts to find a harmonious interplay for instruments which seem entirely heterogeneous, and have, in fact, over a quarter century of practice at the mutual and incommensurable wrong that goes by the name of the Peloponnesian war. As the first question and response indicate, Plato's dialogue raises the question of whether politics is theological or anthropological, and perhaps we can hear, in the silence about the Athenian stranger's god, a question about whether or not politics can be pagan, much less about whether or not "the multiplicity of justices" which seems to be definitive of paganism[[6]](#endnote-6) is a necessity for any justice at all, or indeed, is even possible. That these three men, at the end of Book Three, agree to form a city together in speech is a sign that Plato thinks that pagan politics—a politics in which "the different language games … are incommunicable to each other"[[7]](#endnote-7) is not necessary. That the task of forming a city is framed (702b, 702d) by the Athenian first calling both his interlocutors by name is an indication that Plato, at least, thinks it possible for us not to be strangers to each other, as we must be under the (non)rule of the differend.[[8]](#endnote-8) For Lyotard, the heterogeneity of the differend "makes consensus impossible" (D 55f); for Plato our multi-cultural differences can be constructed into a symphony.

How Plato makes a chorus of the differend:

The meaning of superiority

The Athenian stranger points out to Klinias that if the rule of the differend is the truth about politics, and the Cretan solution is to bend all his practices to winning in this war with other states—(the majority of which stupidly think they are not always at war, 625e), an opinion with which the Spartan agrees (626c)—then this attitude ought to be adopted not only by every city-state, but also each village in the state against every other, each man towards every woman, and each individual against himself (626c,d). This war of oneself against oneself, this differend within oneself, we may recognize in Lyotard's consistent reference to and study of the sublime, particularly in his (pseudo-)Kantian understanding of that feeling.[[9]](#endnote-9) For according to Kant the feeling of the sublime is engendered by the defeat of one of our powers by another of our powers. Kleinias is tempted to call the stranger divine (626d) just because he sees so clearly and immediately the sublime implication of the Cretan understanding. It appears from Kleinias's reaction that he believes most men are as unaware in their personal lives as statesmen are in politics of the ceaseless nature of war. He praises the Athenian for so astutely recognizing this fact.

The Athenian then turns the argument around—"given that each one of us is superior to himself or inferior to himself, should we also assert that a house and a village and a city all have this same thing within them?" (626e-627a) Now this question might be the first sticking point for a post-modern pagan—or for a multi-culturalist who thinks that a word like 'superior' smells phallocentric—but it should not be, for all that is necessary to prove one is *kreitton* is that one win the war. That is, the Athenian's reversal might seem to beg the question about whether there is a rule of judgment which unites the differends under which one can justly be judged superior without wronging the other, but the claim of superiority here is not necessarily moral.[[10]](#endnote-10) If it were a moral claim, that *would* indicate that a rule of judgment exists between the two regimes—they are not really differends as post-modern paganism presumes. Lyotard, as well as his supporters and critics, are aware of the difficulty the Spartan and Cretan present to a viable paganism: "justice becomes a matter of convention, of the dominance of the strongest voice."[[11]](#endnote-11) This is indeed what paganism—or strong multiculturalism—must end up in, as I will show shortly. What is surprising about Kleinias, however, is not that he describes the outcome of the politics of difference in the manner of a *realpolitikal* pagan, but that he admits that it is possible for a city and a human being to be inferior to itself:

You're correct in asking this. Now such a situation certainly does exist, and not the least in cities. For in those where the better men are victors over the majority, and the worse, the city would correctly be said to be superior to itself.... But the opposite would hold where opposite things happen (627a).

Kleinias seems to think that the wrong side can win. It is a strange melody for a realpolitician to hum.

The admission is noticed, but set aside, by the Athenian: "Let's set aside the question whether the worse can ever somehow be superior to the better (that would require a longer discussion)" (627b). This admission (not the admission of division and defeat within the self) is the one the post-modern pagan could not make, for this statement requires that *there is* a method of comparison and a rule for judgment—other than power—which the differing sides share. Here is where the argument against post-modern pagan politics must begin—I must ask the post-modern pagan if she thinks the wrong side can win. Let her consider that I, a Cretan, and my friend Megillus, a Spartan, ask this question not out of idle curiousity, but with intent. Let us say we wish everyone to be able to join in our dialogue and we two agree that the superior can sometimes be defeated. Knowing this and hoping to avoid it whenever possible, our custom is to aim everything we do at victory in war; we are sure she sees our point. We are willing to demonstrate it upon her body; we have more armored divisions than the Pope, and we have the final solution to all of her quibbles.

We may now rejoin the dialogue already in progress.

\*[[12]](#endnote-12)

The Athenian sets aside the admission of Kleinias that the worse can somehow be superior to the better. He seems to wonder if it is true. Let us pause to consider the conditions for the possibility of this statement that the worse can somehow be superior to the better. In order to "be superior" the two (or more) parties must be heterogeneous (else they would not be two) and they must share some quality. The Bikini Islanders (or the Athenians, or the Croats) and the US government (or the Spartans, or the Bosnian Serbs) have differing regimes; they disagree on the use of (let us say) a piece of land. The two parties necessarily share one quality—military power—the question is brought to the test, and the superior wins: the one that is superior in power. In the world where E=mc2 the question of power can always be asked—it is always applicable to both parties—and it always has an answer, and that the answer is not as clear as that simple equation is unfortunate, for that unclarity has tempted many a statesman to try the experiment *in vivo*. The Athenian, if he is doubting the truth Kleinias admits, may be thinking that the superior power is always better—that's just what superior power means. In other words there is no distinction at all between justice and power. Realpolitik. That's a perspective. Revel in it.[[13]](#endnote-13) This perspective can prove itself—and it means to. One of the gods in ancient days was Ares, notice of his demise appears to have been premature.

I do not think that is the Athenian's perspective; it is clearly not Plato's. The Athenian's question about whether the superior can be defeated is reiterated in a comment to Megillus somewhat later. At 638a the Spartan responds to a critique of his city's proscription of drinking parties with "we do put all these peoples to flight when we take up arms." The Athenian replies that victory or defeat in battle should be set down as a controversial rather than a clear criterion for whether practices are noble or not. But then, if victory does not decide the superior, and there is a difference in practice, laws, or music, how can the three parties come to an agreement, or at least a solution to the difficulty, which divides them? The Athenian recognizes that the way Megillus has been educated does provide one solution when he compares the poetry of Tyrtaeus—an Athenian become Spartan—and Theognis—an Athenian he calls Cretan (629a-630c). It turns out there that the courage Tyrtaeus praises, which is willing "to look on death and staying near assail the foe" (629e), is "fourth in number and in claim to honor" (630c). It solves the problem—and all will agree that it solves the problem, or will be made part of the (final) solution—but it is not the best way.[[14]](#endnote-14) It seems to me that the Athenian considers the idea of superiority to be systematically ambiguous, and Book One of *Laws* lays out the ambiguity systematically.

The three better suggestions for resolution of the differend had been given immediately after putting aside the question of whether the worse could ever be superior. The Athenian had pointed out that if there is a disagreement between family members there would be three possible results, and he presents them in apparently inverse order:[[15]](#endnote-15)

Which would be better: the one who destroyed the wicked among them and set the better to ruling themselves, or the one who made the worthy men rule and allowed the worse to live while making them willing to be ruled? But I suppose we should also mention the judge who is third in respect to virtue—if there should be such a judge—one capable of taking over a single divided family and destroying no one, but rather reconciling them by laying down laws for the rest of time and thus securing their friendship for one another (627e-628a).

We see now that the fourth possible result is that one side destroys the other (without considering any moral judgment), and rules himself: the realpolitikal solution. If (1) wicked and good are merely culturally relative, or if (2) there is no moral judgment to be made about these four methods of resolving the differend, or if (3) there is no other meaning to superiority than superiority in power, then the fourth way of resolution is the final (and only) solution to political difficulties for it may be applied everywhere: space-time is the field ruled by the equation E=mc2: Ares makes all subject to himself, and Cretan education (rightly) is an education in the methods of application of the will to power.

Any one of those three premisses is sufficient to reduce justice to power, and the human world to the domain of Ares. These three premisses are mutually implicative; if one of them is true, so are the other two: If wicked and good are merely culturally relative, then there can be no moral judgment about the four methods of resolution, and then the only resolution is the solution of applied power.

Each of the four possible solutions to the problem of political difference (which in fact exists between the three parties of the dialogue) can be figured by a virtue. Megillus's solution, and his praise for Tyrtaeus, are a recognition of the soldier's courage—he kills the enemy. The third best solution can be figured by the executioner's justice—he kills the unjust; the second best by the teacher's "moderate habit of soul (*sophron psychis hexis*)"—which convices the worse to be ruled by the better; and the "judge and lawgiver" who is "better by far" should be figured by the "practical wisdom (*phronesis, nous*)" of God (cf. 631c8-10) who reconciles all. And since the three parties already confess to at least two different gods, what I mean by God must be figured by the nameless one: a God who harmonizes the gods.[[16]](#endnote-16) God is, indeed, already at work in the dialogue even though he is not named or recognized, *for all three parties agree that the last way is the best*. The chorus of these differends is the practical proof for the existence of God in the world.

Perhaps I am a little too quick. It is clear to Kleinias that the last solution is by far the best. Megillus says nothing. In this silence the recalcitrance of post-modern paganism may be heard, for Kleinias agrees that moral comparisons are possible when he admits that the last solution is best. Megillus does not sing this tune. He is tempted into the conversation only when the Athenian suggests that they re-examine the laws in order to show how they are really after virtue as a whole, not just the smallest part of it, the courage of the soldier (633a) with which Megillus is so enthralled. Megillus wants Kleinias to be tested, but since the first question is about courage he answers on his own behalf. He then is brought up short when asked if courage includes the power to resist pleasure, and whether any of his citiy's practices train this "right hand side" of courage. The problem of paganism is figured precisely in this scene. Like Megillus, the post-modern pagan *must* value courage; if not the courage to kill the other when the differend approaches, then the courage to be killed by the other—at which time the differend also disappears. As well, the pagan must have the courage Megillus has to defend her practices in dialogue—or else the differend disappears. The differend must appear in something: music, laws, conventions, language. A differend that never appears *is* not: a theoretical construction with no occurences: an empty set.[[17]](#endnote-17) The pagan gods are such a set. As soon as Megillus or the postmodern pagan speaks, there is a principle we share: logos;[[18]](#endnote-18) and as soon as we realize that we share language we may ask "which of the four ways of resolving the differend is better?"

This argument against paganism is *ad hominem*. It must be, for questions of faith are always personal. So, do we agree that of the four ways one is significantly better than the others? If we do agree, then we have a practical proof that God exists, and a composition of *nomoi* is possible. If we do not agree, then there is, waiting in the wings, a final solution. Have courage, pagans. Answer; and accept one baptism, or the other.

The systematic relations of superiority in the virtues

Now it is clear that understanding between the supposed differends is possible—it has even begun, for we understand that one of the ways of resolving the differend is far superior. In the common understanding we may be strangers to one another, but philosophy shows that the differend *is not.*[[19]](#endnote-19) In closing we may begin to explore the systematic relationships of superiority. The pagan, and Megillus, value something—courage—and valuing it, they know a meaning of superior that is different from power. The Spartans lost the battle at Thermopolae; Megillus still considers them superior. Power, it turns out, is the fifth remove from the God: for courage has, on occasion, been defeated by sheer power. This defeat of courage, this victory of the worse, is, in another sense, not the defeat of courage. Whether the Spartans were more courageous than the Persians is not decided by the outcome of the battle, for it is not decided by the equations of physics: courage is superior to the questions and answers of physics and this superiority cannot be lost *in physics*. This superiority answers only in another court; we must shift paradigms, and one paradigm is superior to the other. In its superiority courage is not even brought into question by the outcome of the battle; Megillus knows this, and the long haired Persian knows it too.

Similarly, we may consider the four solutions to political difference offered by the Athenian. Megillus admits, in the comparison between Tyrtaeus and Hesiod that the man who is trustworthy in *civil* war is better than the man with the simple courage to deal and take blows against an enemy. The mercenary, who can be bought by silver or gold, may be courageous in the simple sense Megillus and Tyrtaeus have in mind, but only the presence of the second virtue—justice, at least the justice of keeping contracts—makes him trustworthy. Justice is superior to simple courage, and if, in the middle of the battle, the mercenaries change sides and defeat their original employers, that defeat does not prove the superiority of courage over justice. The superiority of justice to courage can (again) not be decided by physics, nor can it be decided by the court of courage. Neither justice nor courage enter into the equations of power which define the natural world and the outcome of war. The question of the superiority of justice can only be raised by a mind, in language, and the answer cannot be seen on a battlefield, but only in a mind. Philosophy does such conceptual analyses; philosophers sometimes resort to talk of war compared to civil war in order to make the invisible superiority of justice visible to creatures which can only learn by experience. Experience is less gentle. In this analogous way the superiority of justice can be seen by every mind, for the answer is as clear as this question: if a family were divided would it be better for one side to kill the other, or for the better side to kill those who will not agree with them? The post-modern pagan will answer that the question cannot be decided without wronging one side; the Athenian stranger asks further whether it would not be better by far for them all to be reconciled and none of them destroyed? Whoever does not see that this is the far better answer is revealed to be fighting on the worse side. But who, here, has admitted that? Even that worse side requires, at least, the trustworthiness necessary in civil war *besides* the courage to smite the enemy. That is, it requires courage to be subject to justice, lest, at the sight of this argument (that the better answer is for all to be reconciled) some pagans, like mercenaries, turn to question the purpose of their battle, and its worth, and fail to go through with the war in which we are presently engaged.

Insofar as this argument and analogy work, they prove the prudence of the teacher is superior to both the courage of the soldier and the justice of the executioner, for the argument has led some of the worse—those among us who believed only in power or courage—to willingly follow the better. This better one is clearly not the teacher in his own person, but the wisdom and power of God who announces the forgiveness of sins and the resurrection of the dead, and to whose wisdom the teacher's prudence is inferior.[[20]](#endnote-20) We see in the light of the wisdom of God, and what we see is in fact the wisdom of God: that it is best for all to be reconciled. By this light and under its direction, the problem of the differend can be resolved, and it is by believing in this wisdom that anyone may rightly be said to have prudence, work justice, or exhibit courage.[[21]](#endnote-21) In fact, so far as we see by the light of wisdom we are already living under the rule of wisdom, rather than merely the rule of law, which is a kind of rule of the stronger.[[22]](#endnote-22) Whoever agrees that the best solution is the reconciliation of all believes in the God not named by any of the interlocutors.

We are not yet wise enough to always live in this light, and so *nomos* continues to be what the Athenian stranger says music is: a necessary preparation and recreation for our own imperfection (653cd, 880e). Plato does not, however, like Derrida and some others,[[23]](#endnote-23) think that law requires a founding violence. It is strange to hear so many post-modernists speak of the relation between law and violence with such *a priori* certainty.[[24]](#endnote-24) In any case, Plato disagrees, and his construction of *Nomoi* proves that he disagrees *and* is an instance of the other of founding violence: an example of founding harmony. In the course of books I-III, the seeming differends between the old men who have been raised under such different regimes comes to a tuneful resolution. They agree to found a city together. Plato seems to present us with the option that whoever is not willing to suffer under a will to truth will suffer under a will to power. It seems this is a law of human nature: that nature which can see, make, and respect laws—or not. The old men who have suffered a quarter century and more of brutal war are willing to investigate the founding of *nomoi* and are now united in their journey to the cave of the god. Between the threat of force and the heavenly vision of the best solution they agree to form a city together. The construction which follows (the remainder of *Laws*), then—in which every law has its prelude—is not an ideal city *tout court*, but an harmonic resolution for three such opening phrases as these old men are. Every construction of *nomoi* must be such a particular symphony constructed *from* the actual historically conditioned materially particular regimes presently sounding, but constructed *under* the wisdom which recognizes the divine resolution and *with* a will that single heartedly aims to achieve it. This is the truth that Plato's composition of *Nomoi* enacts. These are the three conditions for the possibility of a construction of *nomoi*. God has already done—and is doing—his part; history has done its. Now each individual must suffer her own conversion to wisdom, or *we* will not be able to encompass the best resolution. We can, then, agree with Lyotard that "a rule of judgment in general is lacking" without being forced to agree with the pagan politician who claims that no *nomos* is possible connecting diverse regimes of phrase except one founded by violence. Plato's dialogue shows that politics, like music, is an art which requires genius: to create a symphony out of already actually given, seemingly inharmonious phrases. It is only children raised in a democracy, as the Athenian says (701a-c) who think that politics can be successful under lesser leaders.

We can, then, agree that wisdom, like music, is lawful, but exceeds legality, as the divine goods exceed the human ones yet bring them along with it (631cd) and are necessary for them to be good at all (661c); i.e., we can say that wisdom—as genius—gives the rule to art, without itself being unruly. The rest of this article must, therefore, be written in music, as the next two books of *Laws* discuss it: Human beings must be trained in joy,[[25]](#endnote-25) and for this the gods have given us the muses for our daily re-creation: *Seid umschlungen, Millionen. / Diesen Kuß der ganzen Welt!* Ares is the least member of this chorus, the *nomos* of humanity is not his to compose.

1. I presume that *nomos* might as well, conceptually, have the feel of a musical, cultural or empirical schematism or paradigm by which we, in the first instance, are enabled to get a grasp on the gamut of *physis* and then use, bend, learn from or anathematize the nomothetically constructed tones, cultural acts, things. See 892b, where the Athenian argues that nature is itself a production of art and reason, so that opinion, reflection, thought, art, and law, are, in a way, prior to nature; nature is structured by them, that structuring is nomothetic. [↑](#endnote-ref-1)
2. Indeed, like the Serbs, Croats, and Muslims in Bosnia, the cities these three men belong to have a long and ugly history together—extending back to mythological times; cf. Thomas Pangle, *The Laws of Plato*, translated with notes and and interpretive essay, New York: Basic Books (1979), 380. The Athenian stranger is, of course, not Socrates—or may not be—but Plato too was personally familiar with the war. [↑](#endnote-ref-2)
3. As frequently in Platonic composition, the problem of theological disagreement repeats itself in another key in Book Ten, where the Athenian suggests that certain crimes could only be committed by men who disbelieve in the gods, or believe they have no care for mankind, or that they can be won over by sacrifices (885b). The three decide there to attempt to persuade the impious as "the best prelude to all the laws" (887c). According to the Athenian "the gods are what these people first assert to exist by art (*techne*)—not by nature but by certain legal conventions (*ou phusei alla tisi nomois*), and these differ from one place to another, depending on how each group agreed among themselves when they laid down their laws" (889e). These premodern pagans, he goes on, believe that "the way of life that is correct according to nature is, in truth, to live dominating the rest and not to be a slave to others according to legal convention" (890a). [↑](#endnote-ref-3)
4. In that silence let us remember Callicles at the end of *Gorgias*—Plato's only tragic dialogue—and Iago, at the end of *Othello*. [↑](#endnote-ref-4)
5. Jean–François Lyotard, *The Differend: Phrases in Dispute*, (hereafter noted in text as D) translated by Georges van den Abbeele, Minneapolis: University of Minnesota Press (1988). [↑](#endnote-ref-5)
6. Cf. Honi Fern Haber, "Lyotard and the Problems of Pagan Politics," *Philosophy Today* (Summer 1995): 142. [↑](#endnote-ref-6)
7. Jean François Lyotard, *Just Gaming*, trans. Wlad Godzich, Minneapolis: University of Minnesota Press (1985): 58. [↑](#endnote-ref-7)
8. When Kleinias approves the sentiment of investigating the laws to find out what is true in them (634d) the Athenian uses his name for the first time, as Strauss points out (Leo Strauss, *The Argument and the Action of Plato's Laws*, Chicago: University Press (1975), 10). The end of Book Three is the first time he speaks to *both* by name, and his naming of both frames the project Kleinias advances. [↑](#endnote-ref-8)
9. Cf., e.g., D 179, *Lessons on the Analytic of the Sublime* (translated by Elizabeth Rottenberg, Stanford: University Press, 1994)*,* Haber 144, 149f. That Lyotard gets Kant wrong, and wishes to forget that in the experience of the sublime it is the moral faculty which overcomes the faculty of imagination is, I think, correct. See Claude Piche, "The Philosopher-artist: a note on Lyotard's reading of Kant," *Research in Phenomenology* 22 (Fall, 1993): 152-160; Michael Drolet, "The Wild and the Sublime: Lyotard's Post-modern Politics," *Political Studies* 42/2 (June 1994):259-273. [↑](#endnote-ref-9)
10. Cf Pangle 514n18, Emil Benveniste, *Indo-European Language and Society*, London: Faber and Faber (1973): 357-367. [↑](#endnote-ref-10)
11. Haber 146. See also James P. Clarke, "A Kantian Theory of Political Judgment: Arendt and Lyotard," *Philosophy Today* 38/2: 135-148. [↑](#endnote-ref-11)
12. O Freunde, nicht diese Töne! / Sondern laßt uns angenehmere anstimmen und freudenvollere! (Beethoven, Ninth Symphony, opening of the Chorale; this music is part of the argument.) [↑](#endnote-ref-12)
13. This is a dare to Ms. Haber who says"Lyotard is not yet able as I think Deleuze is, and Rorty at least claims to be, to take the leap of faith required to bring about the paradigm change from the tradition that worries about essentialisms to paganism that revels in Nietzschean perspectivism" 146. I am not sure Professor Rorty even imagines what the leap involves. [↑](#endnote-ref-13)
14. Lyotard seems to think that the final solution is not a solution: that the differend can still appear. But it can only fail of being the solution by failing to be rigorous enough. Kant imagines it perfectly in the opening scene of *Perpetual Peace*, where he suggests that the title phrase may only be true in a graveyard. Lyotard avoids this issue—the disappearance of the differend under rigorous conditions—by use of the passive voice. *The Differend* opens with this case:

You are informed that human beings endowed with language were placed in a situation such that none of them is now able to tell about it. Most of them disappeared then, and the survivors rarely speak about it. When they do speak about it, their testimony bears only upon a minute part of this situation. How can you know that the situation itself existed? That it is not the fruit of your informant's imagination? Either the situation did not exist as such. Or else it did exist, in which case your informant's testimony is false because either he or she should have disappeared, or else because he or she should remain silent, or else because, if he or she does speak, he or she can bear witness only to the particular experience he had, it remaining to be established whether this experience was a component of the situation in question (3).

What Lyotard's passive voice confesses is that the differend must be revealed—and it cannot be. Johannes Climacus wrote the book on this problem: *Philosophical Fragments*. [↑](#endnote-ref-14)
15. Leo Strauss thinks the best option is in the middle, since the new laws do not limit the right to rule to the good (5). But the new laws "secure their friendship" and the only secure friendship is one united in the good. Pangle, even more surprisingly, calls the third option the worst of the three (384), and does so because the second judge "establishes a regime like that of *Republic*." This begs the question of whether or not the city established in Republic is the best city, which question Glaucon raises, thinking Socrates had a better sity in mind (543d). It seems that neither of them notice that the Athenian thinks this last task at least Titanic, and it is only this last kind of judge who could bring harmony to the city of the pagan gods. When the Athenian later presents the same question applied to a city instead of a family, he only allows of two answers: "the destruction of some and the victory of others, or friendship as well as peace brought about through reconciliation" (628b). These are clearly options one and three from the first list, and the option that is *Republic* has dropped out. Kleinias reaffirms his choice: "Everyone would prefer the latter" (628c). If the gods are indeed eternal, as Ares gives every indication of being, the third and most difficult option is the only viable one.

It will perhaps make this note clearer if I confess that *Republic* does not seem to me to be, as it is for Strauss and Pangle among others, an outline of an ideal state. Rather, with the help of a wise soul, Glaucon prescribes the kind of regime that can cure him of his Glaucusity (611d). An ideal medicine for his disease--yes; an ideal state--no. [↑](#endnote-ref-15)
16. I suggest that the teacher's prudence be the figure for the second best solution because getting "the worthy men to rule and making the worse willing to be ruled" is just what Socrates manages to do with those rambunctious and opinionated young men of *Republic*. I suggest that God must be the figure for the last solution because the Athenian seems to doubt whether such a judge really exists, and in the case of the real political dispute between Kleinias, Megillus, and the Athenian, the judge and lawgiver must make possible both the forgiveness of sins and the resurrection of the dead in order to carry out the project to "destroy no one" and "reconcile them" in their present historical situation.

When those without proper awe force the return of the theological question in Book 10, Kleinias and the Athenian agree to attempt to persuade them rather than destroy them (890d), and Megillus, long silent, voices agreement that this is the best (*arista*) solution (891b). It is because the prelude we are presently exploring (books 1-3) fails for those licentious youths that book 10's physico-theology is necessary. Since they have not been able *to hear* this earlier prelude about the order of virtue, we must provide them with a *visible* prelude in the order of the heavens. [↑](#endnote-ref-16)
17. A recent article by Peter Sedgewick and Alessandra Tanesini, "Lyotard and Kripke: Essentialisms in Dispute," *American Philosophical Quarterly* 32: 3 (July, 1995), concludes that the existence of differends has not been established. Johannes Climacus showed that such a differend *could not* be established (see note 14)—whatever could have given me this idea I do not know. [↑](#endnote-ref-17)
18. See my related article "Libidinal economy and the life of logos," *Philosophy and Literature* 18 (Fall, 1994): 320-325. [↑](#endnote-ref-18)
19. Actually philosophy cannot show this, for philosophy does not demonstrate, or at least has not here demonstrated, the universal proposition that there is no differend. An *ad hominem* argument is not a universal demonstration. This is the way to understand Aristotle's argument for the principle of non-contradiction in *Metaphysics* 3.4. "We can demonstrate *negatively* that this view is impossible, if our opponent will only say something" (1006a12). Callicles and Iago demonstrate to everyone who has ears which can distinguish kinds of silence. [↑](#endnote-ref-19)
20. Given that these families have been at war for over a quarter century, resurrection of the dead and forgiveness of sins are a requirement for the best solution, in which no one is killed and all are reconciled. [↑](#endnote-ref-20)
21. On the cosmic implications of this idea see *Laws* 10, and Gabriela R. Carone "Teleology and Evil in *Laws* 10, *Review of Metaphysics*, 48:2 (Dec 94): 275-298. [↑](#endnote-ref-21)
22. Cf. Strauss, who says that in legislation the higher (wisdom) is subject to the lower (justice), pages 9, 47. He also claims that the divine goods are not sufficient condition for the human goods (13). His argument seems to be a non sequitur unless we assume—as he seems to—that the Stranger's Athens is the depository of the divine virtues. [↑](#endnote-ref-22)
23. See Jacques Derrida, "Force of Law: The Mystical Foundation of Authority," *Cordozo Law Review* 11 (1990), and the following discussion in Volume 13, number 4 (December 1991), "On the Necessity of Violence for any Possibility of Justice." [↑](#endnote-ref-23)
24. With particular application to the problem of the canon in contemporary academia, Amy Gutman notes the a priorism and connection to violence of "deconstructioniam" in her introduction to Charles Taylor's *Multi-culturalism and 'The Politics of Recognition',* Princeton: University Press (1992): 18-20. [↑](#endnote-ref-24)
25. Early in Book 2 the Athenian rhymes chorus (*chorous*) with joy (*charas*). He then asks "so then the educated should be set down as the one sufficiently trained in *charas*?" (654b)

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