IV JUSTICE AND LAW

The fifth century is the century of *nomos*, a concept difficult to translate, as it covers several different semantic fields. Usually *nomos* is rendered as 'law', but this is a reductive translation, since the term describes not just positive laws but also traditions, customs, and established practices. Besides, as Aristotle was to observe, the two meanings 'law' and 'tradition' are closely related: 'For the law has no power to command obedience except that of habit, which can only be given by time' (*Politics*, 1269a20). In short, *nomos* is anything which is assigned some value, any norm accepted by a group. From the late sixth century onwards, this term acquired a central place in the Greek world, becoming a privileged object of reflection for the sophists. The most significant element is its spread as a technical term for written law, particularly in Athenian democracy.[1] Prior to this, it chiefly referred to customs and traditions. Yet its growing importance is not devoid of problematic aspects. The greater economic and political stability attained through the victorious wars against the Persians led to an increase in travel, cultural exchanges, and trade, which contributed to broadening the perspectives and knowledge of the Greeks. One of the most striking observations they made concerned the wide range of laws and traditions in force in the various cities and states: *nomos* is indeed a crucial value, as the law and tradition governing the life of a community; but it is in any case relative, as it varies from city to city. The acknowledgement of the relativity of *nomos* is a central theme in fifth-century literature, as may be inferred from some famous passages by Pindar, Herodotus, and Aeschylus.[2] At first sight, the conclusions reached by these authors would appear to emphasize the capacity of *nomos* to impose itself: as a verse by Pindar states, *nomos* 'is the king of all things' (fr. 169a Snell-Mähler). Yet the ascertainment of the range of laws and traditions in existence could also lead to moral relativism and to the conclusion that there are no absolute, universal or objective values (*Dissoi logoi*, 90, 2.18 D.-K. = 40, 2.18 L.-M.).

Confronted with the problem of *nomos*, the sophists were divided: some upheld its importance, while others sharply criticized its weakness. In order to better articulate their polemic, the latter could also

[1] Ostwald 1969.
[2] De Romilly 2005: 49–66.

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rely on another key concept in Greek philosophical reflection, namely *physis*, a term which is usually translated as 'nature', although a more fitting translation for it would probably be 'reality', at least with reference to these debates. As already noted in Chapter 2, *physis* was an important term for the reflection of naturalist thinkers, from Thales to Anaxagoras, from Empedocles to Democritus: it stands for the nature of things. In the fifth century, chiefly through the contribution of medical knowledge, *physis* mostly came to be used to refer to human nature. In all cases, whether it was used to refer to humans or to all things, the term described the stable, invariable character of things or human beings. The relation between *nomos* and *physis* is probably the topic most fiercely debated by fifth-century authors:[3] it offers a conceptual scheme that can fruitfully be applied to a wide range of subjects, such as the legitimacy of slavery, the equality or inequality of human beings, and the existence of the gods (is the inequality of humans or the existence of the gods a natural fact or a cultural product?). Yet it is especially in relation to the theme of justice and the law that the sophists exploited this pair of terms in the most original way.[4]

Justice according to Protagoras

The first author to have extensively discussed justice was probably Protagoras: indeed, according to the Peripatetic Aristoxenus, 'the *Republic*...was almost entirely written in Protagoras' *Antilogies*' (80B5 D.-K. = 31R1a L.-M.). Aristoxenus is often malicious towards Plato, and his accusation of plagiarism is no doubt excessive. The fact remains that Plato was very interested in Protagoras' reflections on political problems, acknowledging their relation to ontological and epistemological theses: the aforementioned evidence from the *Theaetetus* and *Protagoras* suggests that the discussion of justice and *nomos* stemmed directly from the thesis of relativism.[5] Therefore, in order to grasp the meaning of Protagoras' analyses of justice and law, it is necessary to briefly return to the points made in Chapter 2. In the *Theaetetus*, one of the most significant consequences of the 'man-measure' thesis is the validity and legitimacy of all opinions and judgements. In the *Protagoras*, this

[3] Heinimann 1945.
[4] Hoffmann 1997.
[5] See now Gavray 2017.

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coincides with relativity and plurality of interests and use (80A22 D.-K., not in L.-M.). There are no absolute and objective values, such as truth and goodness, to guide the judgements and choices of humans (and similar considerations also apply to the issue of the gods, regarding which Protagoras stood out for his agnostic position: see Chapter 6). All these claims present some interesting theoretical perspectives, but also some serious practical problems: in the absence of any objective values or norms, the risk is that of a potential conflict of everyone against everyone else, whereby each person will pursue their own interest on the basis of what they consider to be good for them. But while this is certainly a possibility, it is not the only one. Protagoras believes that, unlike animals, human beings can reach an agreement, thereby neutralizing these destructive drives. To promote this agreement is the duty of the sophist, of the true politician, and of any good citizen: it is a matter of laying down some communal rules and values, so as to safeguard everyone's interests by promoting mutual collaboration.

This is what can be inferred from the relativism of the 'man-measure' thesis, which has significant practical consequences and lays the foundations for the Protagorean conception of justice. In the so-called 'Apology of Protagoras' in the *Theaetetus*, the sophist – who is explaining the correct meaning of the 'man-measure' thesis to Socrates – states that 'whatever seems [or: is decreed to be, *dokein*] just and fine to each city also *is* that for it, so long as it thinks [or: adopts this law, *nomizein*]' (80A21a D.-K. = 31D38 L.-M.). Consistently with what has been noted so far, justice, not unlike truth or goodness, is not an objective, absolute, or divine value, but the result of human decisions – a set of rules that humans establish together. In practice, justice consists in *nomos*, understood both as a body of written laws (the law code) and as a range of values and traditions (the moral code) on which a community is founded.

From a more strictly juridical perspective, with reference to written law, we can argue that Protagoras offers the earliest attestation of what was later to be described as 'legal positivism', which is to say the thesis that law and justice coincide: the just is what is established by law.[6] In order to provide a complete overview of Protagoras' theory, however, we must take account of a third element, which is to say what is useful. In the absence of any absolute good, what provides the

[6] Neschke-Hentske 1995: 56–9.

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foundations for – and lends legitimacy to – the law (and hence justice) is precisely the concept of what is advantageous and useful for the parties who are striking an agreement. Naturally, in this case too we cannot think of what is useful as an objective good: as people's interests vary depending on the situation, it is not something which one must conform to, but rather something to be constructed out of different points of view. It is precisely this capacity to promote an agreement based on what is useful that reveals the importance of the sophist or his pupil, the politician.[7] Their duty is to help the city establish rules and values, which will then take the concrete form of a body of laws (*nomoi*) allowing the city to prosper: 'the clever and competent orators [i.e. those who publicly discuss political matters, hence politicians and sophists] make good things seem to be just to cities instead of bad ones' (A21a D.-K. = 31D38 L.-M.).[8]

Similar conclusions are suggested by an analysis of the famous myth that Plato puts into Protagoras' mouth in the other dialogue devoted to the sophist, the *Protagoras* (80C1 D.-K. = 31D40 L.-M.). Some scholars have questioned the reliability of this testimony, arguing that it is due more to Plato's genius than Protagoras' pen. No doubt, this is a reasonable observation, because it would be too much to assume that Plato simply incorporated a long extract from an opponent's work into his own text. Yet the reasonableness of this observation does not justify the opposite – and equally radical – hypothesis that the myth is simply Plato's own invention and has nothing to do with Protagoras. This assumption, too, conflicts with Plato's way of working, since – as we have seen in relation to the 'man-measure' thesis, for instance – Plato always sets out from his opponents' theses in order to criticize them. The myth (like the speech that follows it) certainly offers some information on Protagoras' thought; to what extent, it is difficult to determine.[9]

The myth retraces the key stages in the history of humankind, starting from the well-known story of Prometheus, the beneficent daemon. When the time had come to generate mortal animals (including humans), the gods entrusted Prometheus with assigning each species

[7] See also Denyer 2013: 167.

[8] It is worth noting once more that, obviously, the laws will apply 'so long as the city thinks [or: adopts this law, *nomizein*]': as a human product, no law can claim to have absolute and everlasting validity.

[9] For an analysis of these problems, see Bonazzi 2011 and Manuwald 2013.

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qualities that would allow it to survive and prosper. Prometheus (literally, 'he who understands first, who foresees') left the task up to his brother Epimetheus ('he who understands afterwards'), but the latter forgot humans: 'while he was in perplexity, Prometheus came to check the distribution, and he saw that the other animals were suitably provided with everything, but that man was naked, unshod, uncovered, and unarmed' (*Prot.* 321c4–7). To make up for his brother's mistake, Prometheus stole fire and technical expertise from the gods, allowing humans to approach the world of the gods, learn how to speak, and master the technologies required to solve practical life problems – the provision of food, clothing, and housing. However, despite this progress, humanity risked becoming extinct, as it lacked political wisdom ('for that was in Zeus' possession' [*Prot.* 321d5–6], in a realm to which Prometheus – who was being punished for the theft – no longer had access): only this wisdom would allow humans to organize themselves into social groups and live together, so as to protect themselves from wild animals and natural dangers. Humans were trying to save themselves by coming together in cities, but 'when they gathered together, they committed injustice against one another...so that they scattered once again and were destroyed' (*Prot.* 322b7–8). Finally, fearing that the human race would meet extinction, Zeus despatched Hermes to distribute justice (*dike*) and shame (*aidos*), not in the same way as with the other forms of arts (whereby, for instance, one physician is enough for many patients), but to everyone indiscriminately: 'for cities would not exist if only a few men have a share in these things [shame and justice], as in other arts' (*Prot.* 323c8–d2). Such is Zeus's law (*nomos*).

The myth (and the long speech that follows it) helps clarify the anthropological ideas that lie at the basis of the Protagorean conception of *nomos* and justice. Even though it is articulated in three phases, the myth must not be understood in a chronological sense, as though it retraced the various stages in human civilization; rather, Protagoras' account is meant to identify and circumscribe some essential features of humankind itself: what we have is not a 'genetic' myth but a 'structural' one.[10] The state of nature in which humans find themselves living after their creation reflects an impossible situation, and may be understood as a counter-factual example to demonstrate *e contrario* that

[10] For an in-depth investigation of these topics and further bibliographical references, see Farrar 1988: 81–99; Bonazzi 2004; Balla 2018: 91–101.

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human beings are political and rational animals: they are political in the sense that they cannot live in isolation, but need one another and are forced to live together ('political' is to be understood etymologically starting from the *polis* – the city, community, and state); and they are rational because they have the means to engage with one another in order to find possible solutions.

As we have seen, these solutions are only possible through the sharing of collective values: in the myth, justice and shame are not a permanent possession of humankind, but rather predispositions that must be actualized, which is to say that they must take the concrete form of *nomos*, to ensure the development of a harmonious community.[11] In order to clarify Protagoras' position, it is worth referring again to the conceptual pair *nomos*/*physis*: for Protagoras, human *physis*, unlike that of other animals, is not a given or something invariable; rather, it can only be fully realized through *nomos*, which actualizes the specific potential of humanity – a political potential.[12] Whereas animals will always behave in the same way, humans can decide how to comport themselves: whether to plunge back into the violence of the animal world or to fashion a world of values for themselves. *Nomos* – which is to say, the development of a political society – does not stand in contrast to *physis*, but rather constitutes its 'fulfilment'[13] and ensures the existence of individuals. Moreover, *nomos* is not only what ensures survival, but also – and most importantly – the precondition for humans to fully express their potential. The individual – every individual human being – is the product of society and attains fulfilment in society: hence, his or her ultimate fulfilment depends on the existence of a well-ordered society.

Again, this explains the social function of the sophist, a master of political virtue: the sophist, just like the politician and any good citizen, exercises a fundamental function for the community, insofar as he promotes this collective awareness, thereby contributing to perfecting his community, which can and must be improved.[14] In other words, it is

[11] Moreover, we should not overlook the fact that, while Zeus is the one who bestows these two virtues on humanity, he does not concretely define what comprises them by making their content explicit: in other words, justice is not a divine revelation, but something that humans must achieve together. In this sense, the mythological framework does not conflict with the agnosticism of fragment 80B4 D.-K. (= 31D10 L.-M.).

[12] Later in the dialogue, Protagoras speaks of political virtue as human virtue (*andros arete*) *tout court* (*Prot.* 325a); on this issue see also Beresford 2013.

[13] Casertano 1971: 124.

[14] Decleva Caizzi 1999: 319.

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necessary to promote a critical reflection on the community's choices. In its ideal representation, the city emerges as a permanent educational apparatus,[15] while the law, *nomos*, ultimately coincides with what is useful for the individual and the community: respecting and favouring the *nomoi* benefits everyone because it safeguards the community. The theory developed by Protagoras thus seems capable of answering one of the main problems in political philosophy, that of obligation, of why it is necessary to obey the law.

Protagoras' theses concerning justice and humankind certainly represent some of the greatest achievements of the sophists, the importance of which emerges even more clearly when examined within the broader context of the Greek tradition. The belief that *nomos* is what distinguishes humans from animals, insofar as it allows them to transcend the world of brute force and violence by creating an order based on shared values, is not a new idea that Protagoras introduced. The very same thesis is also found in Hesiod, who – along with Homer – was the great educator-poet of the Greek world:[16]

> Perses, lay these things in your heart
> And give heed to Justice, and put violence entirely out of your mind.
> This is the law (*nomos*) that Cronus' son has established for human beings:
> That fish and beasts and winged birds
> eat one another, since Justice is not among them;
> but to human beings he has given Justice, which is the best by far.
> (Hesiod, *Works and Days*, 274–80)

The thesis found in Hesiod is essentially the same as the one later adopted by Protagoras, and the reference to this text is intended precisely to emphasize such a convergence: what is typical of human beings, and what distinguishes them from animals, is their possession of justice, which is to say their political capacity. Plato's Protagoras makes a brilliant attempt to reclaim the tradition, by highlighting the continuity between his own theses and its precepts.[17] However, this attempt does not amount to an uncritical borrowing, because Protagoras' appropriation is also a deformation, and the differences with respect to Hesiod are no less significant than the similarities. According to Hesiod, Justice is divine: it is a deity, the daughter and

[15] Pl. *Prot.* 325c5–326e5. See also Vegetti 1989: 51.
[16] See Bonazzi 2011.
[17] Sihvola 1989: 39–48.

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protégée of Zeus, who intervenes when he sees that men fail to respect her (*Works and Days*, 257, 265; *Theogony*, 901–3). All mythological imagery aside, this means that justice exists regardless of human beings; human justice is not independent of this order of divine values, but must rather conform to it. The situation radically changes with Protagoras: the innovation consists in his emphasis on the human rather than the divine, and the relative, rather than absolute, character of justice.[18] There is no place for divinity: justice is something human – it is not what brings us close to the gods but what fulfils our natural potential. Protagoras', then, is a radical humanism; and it is in the light of this humanism that the way in which he modifies Hesiod's position becomes clear. Whereas in Hesiod the present age (the Age of Iron) is characterized precisely by the flight of Justice and Shame (*Works and Days*, 190–201), in Protagoras the association of the human community, *polis*, and justice also suggests that some form of justice and shame is always to be found – as long as there are human beings. In turn, this strengthens the reasonable belief that acting in view of justice is in everyone's interests. Whereas Hesiod defines human history in terms of decadence (since it is difficult to imitate the gods), Protagoras presents it as the history of a possible progress.

The engagement with Hesiod, which constitutes the real subtext of the myth, confirms the underlying aim of Plato's presentation: to highlight the great ambition of Protagoras, who had not so much sought to engage in erudite debate with other wise men, as to present himself as an heir to the Greek *paideia*, as one of the great masters or, rather, as *the* great master of Greek culture, capable of imparting a teaching that drew upon tradition but that could also meet the needs of the new times (consider the observations already made on pp. 51–52).

That this was Protagoras' aim becomes even clearer when we consider another of the great topics discussed in fifth-century Athens: democracy. Generally speaking, Protagorean humanism was well suited to Athenian democracy, so much so that it has been argued that his theses

[18] In all likelihood, another implicit polemical aim of Protagoras' thesis is to be found in those 'unwritten and unfailing ordinances (*nomima*) of the gods, which have life, not simply today and yesterday, but for ever' (Sophocles, *Antigone*, 453–5) – on which see e.g. De Romilly 2005: 27–48. Nor can it be ruled out that, in emphasizing the importance of these unwritten laws, fifth-century authors such as Sophocles were precisely targeting positivists such as Protagoras and Pericles: see Bonazzi 2017: 112–24, in the footsteps of Ehrenberg 1957.

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provide 'a theoretical basis for participatory democracy'.[19] With its rejection of alleged absolute truths in favour of the vindication of the legitimacy of opinions, the 'man-measure' thesis – when applied to the political field – clearly serves to defend one of the cornerstones of Athenian democracy, *isegoria*, namely every citizen's right to express his ideas in the assembly. Without having to posit that Protagoras' doctrines were developed precisely for this purpose, it is possible to note that they offered some insights that were far from irrelevant to the new political phase that Athens was experiencing.

Even more significant are the implications that can be drawn from the myth of Prometheus and Epimetheus. The defence of the political dimension of human nature helps bring out the distinctiveness of the democratic system compared to other political systems: if the human being is a political animal who only achieves fulfilment in a political context, it is clear that democracy, as the government in which all citizens are allowed to take part, is the system that allows all humans to fulfil their nature (and to concretely bring attention to their needs). In other words, insofar as it fulfils this requirement, democracy represents not one form of government among others – albeit a better one – but rather the form of government par excellence, the only truly 'human' one: the government of all. This idea of democracy as government of all, as the government of the people as a whole and not just of a part of it, which is to say the popular faction (to use the Latin terminology: as the government of the *populus* rather than the *plebs*), was repeatedly exploited by Athenian democratic propaganda.[20] This emphasis on the community, moreover, is used to justify another cornerstone of democracy, arguably the most important one, namely the very close bond that

[19] Kerferd 1981a: 144. A particularly important study on this topic is Farrar 1988. In order to better evaluate Protagoras' thesis – and, more generally, those of Athenian democracy – we must distinguish between the theoretical level and that of concrete praxis. The reason for this is that Athenian democracy has often been accused of being anything but a 'democracy', given that roughly three-quarters of the population (women, slaves, and foreigners resident in Attica) were barred from political participation. These are undeniable historical facts. Yet in no way do they weaken the interest of theories such as those of Protagoras or Pericles, who promote an important elaboration of the concept of democracy, understood as the government of the community. Ideas of this sort still preserve all their importance today, regardless of the inconsistent way in which they were applied in fifth-century Athens.

[20] What proves crucial in this respect is the testimony of Thucydides, who, when discussing the democratic ideology, repeatedly adopts the same perspective as Protagoras. The most clear-cut stance is expressed in Athenagoras' speech in Book 6: 'democracy (*demos*) is the name for all, oligarchy for only a part' (Thuc. 6.39). No less important is Pericles' famous funerary speech for the fallen of the first year of war, in which democracy is described as the government not of 'the few' but of 'the many' for 'everyone' (on this climax, see Musti 1995: 3–13).

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must hold together the city's interest and the individual's, where the former is the precondition for the latter.[21] Protagoras, in other words, emerges as a democratic political thinker: he is a political thinker because he has shown that the social (or political – from *polis*) dimension is fundamental; he is democratic insofar as he suggests that political action is a collective and shared kind of action.

The new democratic political order is not imposed from above, but is immanent and structured on two levels – those of competency and excellence. As citizens, all people have a basic political competence, which some people know how to make use of more than others (the sophist here marks out a special area in which he can apply his expertise); but all this invariably takes place through a mutual engagement.[22] Presenting democracy, the form of government for the new times, as the heir and culmination of the Greek political tradition, is certainly a brilliant achievement, which legitimizes Protagoras' aspirations and ambitions. It is hardly a coincidence that the main ancient reflections on democracy were often set in relation to Protagoras' ideas.[23]

In Protagoras, therefore, we find a first, vigorous defence of *nomos*, an idea of which the fifth-century Greeks were particularly proud. Protagoras was not completely isolated, as other authors and texts associated with sophistry appear to have shared his positive evaluation of law. The text closest to Protagoras' views is arguably the so-called Anonymous of Iamblichus, an anonymous treatise quoted at length in the Neoplatonist Iamblichus' *Protrepticus*. No less interesting are some extracts from an oration, *Against Aristogeiton*, falsely attributed to Demosthenes but more likely dating from the late fifth century. Its author once again emphasizes the thesis that law and justice are what allow humans to distinguish themselves from animals, by transcending the world of violence: nature is disorderly and a source of injustice, whereas the law ensures what is right, good, and beneficial (anon. *On the Laws*, 15–20). Finally, Aristotle credits Lycophron with a 'protectionist' conception of law ('law is…the guarantor for each other of

[21] For some interesting parallels, see Thuc. 2.40.2 and 2.60.2–4 (Pericles' speech), and Hdt. 5.78.

[22] Farrar 1988: 81–7.

[23] In particular, in addition to the aforementioned passages by Thucydides, it is worth mentioning the famous comparison between the various forms of government found in Herodotus 3.80–2. Finally, it is worth recalling that the seventh section of the *Dissoi logoi* also discussed democracy and how best to safeguard it.

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what is just', 83.3 D.-K. = 38D3 L.-M.), which can probably be understood as one of the first attestations of contractualist theories (of which there is a compelling formulation in Glaucon's speech at the beginning of the second book of Plato's *Republic*): the idea that laws guarantee rights evidently implies a 'disorderly' conception of human nature. Laws are designed to protect people, which is why they must be respected: at least in this sense, the 'protectionist' and the contractualist theories converge.[24]

Unfortunately, the dearth of information about these authors makes it impossible to reconstruct in any detail the relation between them and Protagoras, whose theses certainly attracted much attention in Athens and Greece; but it is not unreasonable to hypothesize that they drew upon his work in some way. Besides, the fact that Protagoras constituted an important point of reference in the debates on such matters may also be inferred from the theses of sophists opposed to *nomos*, whose arguments – as we shall now see – appear to have had precisely the thinker of Abdera as their target.

Against *nomos*: from Gorgias to Callicles

The other great sophist, Gorgias, does not appear to have devoted any special attention to justice and other political issues. Here it is possible to register a substantial difference compared to Protagoras: whereas the latter attributed the utmost importance to the teaching of political virtue, the former apparently even went so far as to claim that he did not teach virtue at all:

> What I admire most of all in Gorgias, Socrates, is that you would never hear him promise this [*sc.* to be a teacher of virtue]. Instead he laughs at other people when he hears them make this promise. No, he thinks that one should make people clever at speaking. (82A21 D.-K. = 32D47 L.-M.)

Contrary to what might seem to be the case, however, the opposition between the two does not lie so much in that between the centrality of politics on the one hand and the lack of political involvement on the other: rhetoric, the object of Gorgias' teaching, is the political art par excellence, which teaches one how to persuade a crowd or

[24] More generally, on the possible circulation of contractualist theories in the fifth century, see Guthrie 1971: 135–47 and Kahn 1981.

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manipulate its decisions; it is the art that ensures domination (82A27 D.-K. = 32D7a–b L.-M.). Therefore, as Plato had realized in the *Gorgias*, even Gorgias' teaching is political, in its own way. The true difference lies in Gorgias' greater degree of conformism compared to Protagoras, who had sought to establish a critical relation to traditional values, rejecting some values while adopting others. Gorgias instead seems to have no interest in critically engaging with traditional beliefs, which he readily accepts (see, for example, 82B18–19 D.-K. = 32D53 L.-M.). What matters is not to call a given value system into question, but rather to find self-affirmation within such a system: this is the aim of rhetoric, and the success that it ensures is what Gorgias is concerned with.

In other words, it could be argued that Protagoras attempts to reconcile the society's reasons with those of individuals, whereas Gorgias focuses on the interests of the individual in contrast to life in society. The evidence we have does not allow us to claim that, for Gorgias, the defence of individuals also entails an openly hostile stance towards society, as was later the case with other sophists. But this contrast is at least theoretically possible, and explains why Gorgias too can be included – if only in a nuanced way – among those sophists who were critical of *nomos*, understood as the law governing the relations between citizens within a community.

Significant confirmation of this is provided by the fragment of an epitaph written to commemorate the fallen Athenians (82B5a–b and 6 D.-K. = 32D29, 30a–b, 28 L.-M.). This speech, a fine example of Gorgias' prose, is entirely played out in oppositions and contrasts, which are used to celebrate the qualities of the dead soldiers. Unsurprisingly, these qualities coincide with traditional values, such as respect for one's parents and veneration of the gods. Yet this traditionalism heightens the choice to list justice (*dikaion*) and law (*nomos*) among the negative terms: 'often preferring gentle equity to implacable justice, and often the correctness of words to the punctiliousness of law'. This is certainly a bold expression, which explains why, shortly afterwards, Gorgias makes an allusion to the 'most divine and most universal law' ('considering the most divine and most universal law to be this: both to say and to leave unsaid, and to do < and to leave undone > what is necessary when it is necessary'). However, it is evident that this religious veneer is only used to introduce a recurrent theme in Gorgias' thought, namely the importance of the opportune moment (*kairos*): the 'most divine law' is the capacity to say and do

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opportune things at the opportune moment. And this is precisely what justice and law lack, insofar as they purport to control and dominate the complex and elusive reality of human experience. The rigidity of the law is thus set in contrast to the flexibility of intelligence, which is capable of adapting its reasoning to the existing circumstances, so as to favour the best and hence most 'correct' situations.[25] This contrast between intelligence and law betrays a degree of impatience with *nomos* and was repeatedly taken up by many thinkers, as we shall see later on in this chapter and in the following one, to the point that it came to be regarded as a distinguishing feature of the sophists (see Thucydides 3.37).

A second interesting insight is provided by the *Encomium of Helen*: among the various reasons adduced in Helen's defence, we find power. If Helen has followed Paris as a result of the will of a superior being, the goddess Aphrodite, it is not right to blame Helen:

> For by nature the stronger is not prevented by the weaker, but the weaker is ruled and led by the stronger, and the stronger directs, the weaker follows. But a god is stronger than a human in force, in intelligence, and in all respects. So if the responsibility is to be ascribed to Fortune and to a god, Helen too is to be freed from ill repute.
>
> (82B11, 6 D.-K. = 32D24, 6 L.-M.)

In this case, too, the mythological scheme (the reference to the superiority of gods over humans – but let us not forget that ultimately the gods are equated with destiny) conceals a far from obvious idea, which de facto constitutes a first justification of strength as the criterion guiding human actions:

> the form still conforms to traditional patterns, but the principle is now used to justify the general law of the supremacy of the stronger, which, within the framework of the mythological example and scheme, is geared towards the acknowledgement of a truth that de facto operates in the world of human beings.[26]

Again, what we have here is an idea destined to prove highly influential in the future.

A radical redevelopment of the insights provided by Gorgias is offered by Callicles, a mysterious figure who is only known to us through Plato's *Gorgias*, where he is featured – significantly – as a friend, guest, and in a way pupil of Gorgias'. Given the silence of our

[25] Note the importance of this concept: see Chapter 3, p. 48.
[26] Isnardi Parente 1969: 172.

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sources, some scholars have doubted his very existence. However, it is more likely that Callicles was an actual Athenian nobleman who died young in the years of the Peloponnesian War, leaving little memory of himself outside his circle of acquaintances (which included Plato: many of the characters associated with Callicles as his friends, lovers, or relatives may be traced back to Plato's own milieu). For Plato this young aristocrat embodied a certain way of thinking, an unscrupulous 'philosophy of life' deeply influenced by the sophists' theses (despite Callicles' professed contempt for the sophists: see *Gorgias*, 520a), a philosophy which must have enjoyed a considerable degree of popularity in Athens in the war years.[27]

At first sight, Callicles' thesis presents itself as an all-out attack against *nomos* and as a celebration of *physis*. In particular, it consists in the distinction between two different laws: law in accordance with nature and law against nature. Whereas nature shows that strength is the only criterion of value ('nature itself reveals that it's just thing for the better man and the more capable man to have a greater share than the worse man and the less capable man', *Gorgias*, 483c–d), in the human world it is the weak who dominate by forcing the strong and best to respect laws against nature, which proclaim false values such as equality and moderation (483b–c). Evidently, the polemical reference here is to democratic *nomos*, to which Callicles opposes – with an almost religious emphasis – nature's law, prophesying the triumph of the strongest and of true justice, namely justice in accordance with nature, which stems from strength and the ability to overpower others (483e–484a).

Callicles' statements are provocative not just because of their openly anti-democratic tone, but also – and especially – because of their implications. In support of his thesis that nature regulates itself through force, Callicles adduces the examples of what occurs in cities and families (alluding to imperialist wars of conquest and to the practice of slavery), and of the behaviour of animals. This juxtaposition is far from neutral, insofar as it entails a rejection of human specificity, which the Greek tradition from Hesiod to Protagoras had stressed: the idea of the long journey of human beings, who with much difficulty emerge from the violent animal world through *nomos*, is wholly rejected as a false and tendentious account, which distorts reality out of fear of the

[27] Dodds 1959: 12–15.

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truth. The key word in Callicles' speech, his truth, is *pleonexia*, literally the drive 'to have more'; and it is this unsuppressible instinct to overpower others, this will and desire to increase one's own power, that is the hallmark of all things – of humans, of animals, and indeed of the whole universe (cf. *Gorgias*, 508a).

Callicles' claims are certainly intriguing, as is shown for instance by the fact that Friedrich Nietzsche drew upon them in some famous pages of his *Genealogy of Morals*.[28] However, it is easy to show that they are weak theses. The main difficulty lies in the conflating of the descriptive and prescriptive aspects of the concept of *nomos*, or law. To clarify the problem, we can consider the modern distinction of the term in the scientific field and in the legal one: scientific laws, which describe the behaviour of a given object (be it a lion or a planet), are one thing; the laws issued by legislators, which prescribe a certain type of action (such as the paying of taxes or the avoidance of murder), are another. In other words, to state how things are is different from stating how they should be.

Callicles' thesis ultimately boils down to an attempt to make these two aspects coincide, but it falls short of its mark. Like a scientist, he sets out from the descriptive aspect, yet, unlike the scientist, he also assigns it axiological value. Thus, it is an objective fact that reality regulates itself according to power relations, but this is not understood as something neutral, but rather as something good and just: to use Callicles' own words, there is a natural justice, and this is *pleonexia*, which is to say the law of the strongest. But herein lies the problem. The fact that reality axiologically regulates itself according to power relations means that the one who prevails is the strongest and hence the most just. But given that Callicles' world is dominated by those whom he contemptuously refers to as the mass of weaklings, it follows that the weak are actually the strong and hence the just: the democratic *nomos* of equality is therefore just and beautiful, whereas the 'strong' (that is, those regarded as strong and best by Callicles, the aristocrats) are de facto losers and weaklings.[29] In other words, establishing strength as the criterion of value implies an acceptance of reality, and not its rejection, which is what Callicles opts for when he calls for the overthrow of the tyranny of the weak. Significantly, later on in the dialogue,

[28] See Dodds 1959: 387–91.

[29] A similar reasoning, intended to show the weakness of the strong, is also to be found in the Anonymus Iamblichi (89.6 D.-K. = 40.6 L.-M.).

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Callicles, when pressed by Socrates, will soon relinquish strength as the distinctive criterion for the good and the just (489c). But, in doing so, he strips his theses of their 'realistic' foundation, showing them for what they are: a brilliant yet fruitless rhetorical exercise.[30] Rather, as we shall see in the next chapter, it is in relation to the individual (that is, to moral rather than political problems) that Callicles' ideas prove more compelling: his arguments represent more of 'a life choice, a nostalgia for Homeric times, a hope to free oneself from the bonds of egalitarian morality and law, than a genuine theoretical argument'.[31]

Thrasymachus and political realism

Even though they bear witness to an increasing discontent with democracy (something also attested by many other writings from the same period),[32] Callicles' statements do not pose any real obstacle to the theses in favour of *nomos*, which find their most prominent spokesman in Protagoras. More insidious opponents are to be found in the persons of Thrasymachus and Antiphon, two leading exponents – along with the historian Thucydides – of what in modern terms we might describe as 'political realism'.

Just as for Callicles, Plato's testimony proves both crucial and problematic for Thrasymachus. Although (unlike in Callicles' case) many other sources talk about Thrasymachus, our only source for his political thought is the first book of the *Republic*. Here the sophist is credited with different theses on justice that are difficult to reconcile: first, justice is defined as the advantage of the stronger, 'what is advantageous for the person who is stronger' (*Republic*, 338c = 85B6a D.-K. = 35D21a L.-M.; the thesis is later rephrased as respect for the laws, 340a–b), and then as 'what is good for someone else' (343c = 35D21a L.-M.). Modern scholars have poured out rivers of ink in the attempt to reconcile these theses, without ever reaching a shared solution. Without delving into this complex debate,[33] it may be noted that the ambiguities are

[30] Fussi 2006: 203–20.

[31] Vegetti 2018: 198.

[32] The most significant text, not least because of the numerous affinities it has with the sophists, is the anonymous *Constitution of the Athenians*, with regard to which I will refer to Lapini 1997 and Gray 2007; also very interesting is Xenophon, *Memorabilia*, 1.2.40–6.

[33] For a reconstruction of the different hypotheses that have been put forward (to show either the coherence or the incoherence between the two theses, and to favour one or the other), see

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at least partly resolved if we consider the fact that the first thesis refers to more specifically political issues, while the second one concerns individual choices and hence 'ethical' problems (although we should not forget that, prior to Aristotle, the distinction between ethics and politics was not explicitly theorized). Consequently, it is worth focusing here on the first thesis, while the importance of the second thesis – namely, what its polemical target is – will become clear in the next chapter, where we will be discussing happiness.

In arguing with Socrates, or rather in countering his defence of justice, Thrasymachus claims of justice that it is 'what is advantageous for the person who is stronger' (*Republic*, 338c = 85B6a D.-K. = 35D21 L.-M.), noting immediately afterwards that the stronger is to be understood in the sense of 'the established rule' (*arche*): hence, justice 'is the advantage of the stronger', that is of the established rule (*Republic*, 338d–e). This thesis has often been compared to Callicles', but this is a misleading comparison: while it is true that both of them pay much attention to strength, Thrasymachus clearly understands strength in the sense of power, and his emphasis on the theme of power allows him to avoid the conflation between the descriptive and prescriptive aspects that had proven so fatal to Callicles. Thrasymachus' thesis is merely descriptive, insofar as it does not pass any judgement but only records a fact: namely that strength and power constitute a fundamental aspect of human relations. Power is where the strength lies, and both justice and law are subordinate to it: those who are in a position of strength – that is, those who wield power – establish rules and laws, the only purpose of which is to ensure that those in a position of strength preserve their power and hence pursue their own advantage.[34]

Despite the apparent similarities, the theses of Callicles and Thrasymachus differ in some crucial respects. First of all, Thrasymachus' thesis acquires a universal value that Callicles' lacks: it can be used to describe all the political relations that govern human lives, without the need to draw any arbitrary distinctions between good and bad governments. Furthermore – and this is the most significant divergence – Thrasymachus and Callicles have two different conceptions of justice. For Callicles, justice is something real, something that objectively exists and is embedded within reality (*physis*): its

Macé 2009: 159–62 and, most recently, with further bibliography, Barney 2017, Wedgwood 2017, and El Murr 2019.

[34] Vegetti 1998: 240–7.

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purpose (a rather confused one, as we have seen) is to bring human *nomos* in line with this natural justice. For Thrasymachus, in contrast, it makes no sense to speak of natural justice: that is, to speak of justice as though it is something that exists independently of human beings. Justice is a purely human concept, which is not rooted in *physis* at all; it is a convention that regulates human relations (and does so according to power relations).

These clarifications help us to better understand the relation between Thrasymachus and Protagoras, who probably represents the polemical target of the former's thesis: Thrasymachus' realism is developed within the same framework as Protagoras' conventionalism, so much so that one could argue that the affinities between the two are greater than those between Thrasymachus and Callicles. However, the conclusions reached by Thrasymachus overturn the meaning of Protagoras' thesis, highlighting its limits and the problems that it poses. What the two sophists have in common is their starting point, positivism – a rather widespread idea in the Greek world.[35] According to this assumption, there is no justice outside law: only what the laws decree to be just is just. Yet the identification of law with justice does not guarantee the correctness of Protagoras' reasoning, since alongside law and justice, or rather behind them, there lies power; and the acknowledgement of the priority of power leads to opposite conclusions from those of Protagoras. According to the latter, as we have seen, it is the community as a whole that establishes the rules, laws, and values that promote peaceful coexistence and the pursuit of everyone's interests. According to Thrasymachus, by contrast, the idea of a harmonious and close-knit community is an illusion, since all human communities are created on the basis of power relations that govern them: society is nothing but different parts jostling for power. This entails a different evaluation of *nomos*, justice, and interests. Laws are not the result of a collective action: more crudely, they depend on the choices and interests of the group that finds itself in a dominant position. Therefore, to the extent that law is identified with the laws, it is a product of force; it represents not a shared value capable of neutralizing potential conflicts in the community, but a partisan means to legitimize a given balance of power between the members of the community. In modern terms, to

[35] Vegetti 1998: 240–2.

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borrow Marxist terminology, we might speak of justice as an ideology which offers a false view of reality, so as to justify the partisan reality of power through the screen of a universal principle.

The same considerations also apply to what is useful. For Protagoras as much as Thrasymachus, advantageousness is the motive behind all political decisions. However, given that the decisions are always made by a part of society rather than the whole, it follows that advantageousness does not concern the community as a whole, but only those who find themselves in a stronger position, and who endorse as what is just their own private interests, which is to say what is advantageous for the preservation of their own power (hence, in 343c, Thrasymachus will argue that justice is 'what is good for someone else': the good of the one who is in power, not of the one who is ruled).

On a more concretely political level, it may be noted that Thrasymachus distances himself from democracy, yet in a different way from Callicles' frontal attack. One consequence of Thrasymachus' realist, objective, and detached attitude is that it would make no sense to draw a distinction between good and bad regimes, because every form of government is simply the implementation of a power relation, which it would be pointless to criticize: democracy is no less legitimate than aristocracy or monarchy (*Republic*, 338e–339a). Upon closer inspection, however, it is easy to see that this apparent legitimation of the democratic regime actually conflicts with the assumptions of the champions of democracy. The main postulate behind the democratic theory – as may be inferred from Protagoras or Pericles – is the belief that democracy is the government of everyone, and not just of a part; and it is precisely in this universal character of democracy that its specificity and superiority lie: as the government of everyone, democracy is the only regime which can ensure everyone's good and advantage. Thrasymachus' analyses disprove these ideas: insofar as democracy is the government of a part of society, albeit the majority, it follows that it only safeguards the interests of that part and not of everyone. When Thrasymachus associates the democratic regime with the more traditional ones of aristocracy and monarchy, all he is doing is once again proving the centrality of power in human relations (since every form of government expresses a power relation), without making any concessions to the alleged merits or specificity of democratic government.

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Antiphon and the logic of the individual

While Thrasymachus brought to light the inconsistencies of positivism, even more scathing observations were put forward by Antiphon, who opposed the logic of the individual to the Protagorean logic of the community. The juxtaposition between Thrasymachus and Antiphon might seem surprising, as Antiphon is usually reckoned among the champions of *physis* – unlike Thrasymachus, whose analysis is entirely developed within a positivist and conventionalist context, which entails no reference to objective or natural values.[36] However, as we have seen in Chapter 2, this alleged opposition is actually a fallacious one: according to Antiphon, nature is neutral and does not provide any normative values. This is the truth of his work *On Truth*. The same considerations also apply to fragment 44, again from *On Truth*, which more specifically concerns human *physis*.[37] In an apparently trivial way, but actually drawing upon the anatomical research of physicians and other scientists, Antiphon sets out to systematically classify the various limbs and organs of human bodies, along with the functions associated with them (87B44A, 2.15–3.12 D.-K. = 37D38b L.-M.). The outcome is an acknowledgement of the biological equality of human beings. Yet, contrary to what one might assume, this biological equality does not have any humanitarian consequences: it is not the source of any rights, nor does it lay the foundations for political equality, against the conventions that divide people (such as the distinction between free men and slaves, or nobles and non-nobles). On the contrary, the consequences drawn from this acknowledgement entail serious problems: equality means that humans have the same needs, and this gives rise to a potentially conflictual situation, whereby all people desire the same things and each person pursues his or her own interests against those of others.

This analysis of human *physis* goes hand in hand with – and sets the ground for – that of *nomos*: the lengthy papyrus fragment that makes up

[36] This juxtaposition might seem even more surprising if we consider the fact that most scholars tend to interpret Antiphon not just as a champion of *physis* but as the first spokesman for natural justice. However, this reading is based on an erroneous reconstruction of the papyrus transmitting 87B44 D.-K. (=37D38b L.-M.), as may be inferred from the recent discovery of another part of the same papyrus: see the edition of Bastianini and Caizzi 1989 (which I follow for the column order) and the point made by Narcy 1996.

[37] In my analysis of this fragment, I am partly drawing upon Bonazzi 2020, which I refer to for further bibliographical references. Ostwald 1990 remains the most useful introduction.

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fragment 44 preserves the most in-depth analysis of the problematic relations between these two concepts. For Antiphon, *nomos*, in all of its meanings (as law, tradition, and custom), is something negative: a 'bond' that seeks to regulate what nature has left unregulated, thereby preventing individuals from fulfilling their needs or desires (87B44B, 1.22–4.8 D.-K. = 37D38a, 1.22–4.8 L.-M.). This attempt to control *physis* inevitably proves unfavourable, since it prevents us from pursuing our own advantage, which always depends on our nature, on our constitution:

> If one reasons correctly, what causes pain does not help nature more than what causes pleasures; and so what causes pain would not be more beneficial either than what pleases. For what is truly beneficial must not be harmful but helpful.
>
> (87B44B, 4.9–22 D.-K. = 37D38a, 4.9–22 L.-M.)

With Antiphon, the opposition between *physis* and *nomos* becomes explicit and clear-cut.

At this stage, however, one could raise the following objection: given the neutral character of *physis* and the potential for conflict among humans, *nomos* might be seen to have a positive value insofar as it is capable of preventing the war of all against all. A solution of this kind is implicit in the aforementioned thesis put forward by Lycophron (83.3 D.-K. = 38D3 L.-M.) and finds an eloquent formulation in the long speech that Plato puts in his brother Glaucon's mouth in the second book of the *Republic* (358e–359c). By nature, humans tend to commit acts of injustice towards one another; but, realizing that in this situation the advantages are fewer than the disadvantages, they established a corpus of laws to regulate their actions, depriving them of certain possibilities, yet ensuring security. In other words, the bonds to which we are subjected also restrain brutes and predators far worse than us.

The following section of the Antiphon passage precisely addresses objections of this sort: a careful analysis of social dynamics shows that *nomos* is often incapable of ensuring this security. Despite its coercive power, *nomos* is incapable of preventing its own violation: for example, it decrees that stealing is forbidden, but does not actually prevent everyone from stealing. This leads to a paradoxical situation, insofar as *nomos* proves doubly disadvantageous precisely for those who respect it:

> If the laws provided some help for those who submit to such situations, and loss for those who do not submit to them but who oppose them, [col. 6] it would not be useless

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to obey the laws. But as it is, it is evident that, for those who submit to such situations, a just outcome deriving from a law is not enough to provide them help. First, it permits the sufferer to suffer and the doer to do. And just as, at that time [i.e. before the crime] it did not prevent either the sufferer from suffering or the doer from doing, so too when reference is made to it for the purpose of punishment, it is not more on the side of the one who has suffered than on that of the one who has done. For it is necessary that he persuade those people who will exact punishment that he has suffered, or that he be capable of obtaining justice by deceit. But the doer too is permitted to deny the same things [col. 7]...exactly as much of a defence is available to the defendant, as the accusation that is available to the accuser, and persuasiveness is balanced for the one who has suffered and for the one who has done.

(87B44B, 5.25–7.14 D.-K. = 37D38a, 5.25–7.14 L.-M.)

Let us keep to the example of stealing. Those who accept the injunction not to steal will not steal, even in a situation in which stealing might fulfil a need (as in the case of those who are hungry and steal food). This is one disadvantage; but, what is more, respecting the law does not protect one from the possibility of being in turn robbed by those who do not respect this law. Consequently, one risks suffering an additional drawback, which adds insult to injury, considering that the law courts assign equal rights to the victim and to the guilty party, and that the outcome of a trial depends more on the capacity to persuade than on the ascertainment of the truth.

No less interesting are the analyses devoted to the practice of bearing witness in relation to the problem of justice (87B44C D.-K. = 37D38c L.-M.).[38] People usually believe that it is unjust to commit injustices against those who have not committed any injustice; and that it is just to testify to the truth in a court case. But, according to Antiphon, these two beliefs are mutually incompatible when a truthful witness leads to the sentencing of a criminal who had not done that witness any wrong. Moreover, Antiphon observes, in doing so the witness puts themself at risk, since he antagonizes someone – the criminal – who will sooner or later seek revenge. All this brings out the limits of *nomos*, which not only prevents people from fulfilling their primary needs, but is even incapable of protecting those who yield to its rule. It is as though *physis* and *nomos* are applied at two parallel levels: the level of truth and that of opinion, the level of concreteness and that of abstraction, without these levels ever really meeting. While through his or her action the witness has upheld the *nomos* of an abstract

[38] See Furley 1981.

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community, he or she has caused, and has incurred, concrete and personal damages.

Antiphon's analyses are important in several respects. First of all, it is worth noting that they constitute an eloquent example of the sophists' wide range of interests. It is generally assumed that the sophists had no interest whatsoever in the research conducted by natural philosophers and scientists, and that they only dealt with politics. Antiphon's case instead presents us with a more nuanced situation: the originality and importance of the sophists rather lies in their ability to bring together the two spheres, and to put scientific research to the service of political aims. This is a matter of method as well as content: the adoption of a detached and scientific, descriptive and non-judgemental attitude is what lends shape to the 'realistic' approach, which constitutes one of the most significant contributions offered by the sophists' political reflection.

It is crucial to take account of this 'realistic' and detached attitude if we are to fully understand Antiphon's position: the text clearly suggests that Antiphon did not wish to present his own conception of justice in opposition to conventional ones, as Callicles does in the *Gorgias*. Rather, his primary aim is to closely engage with the theories of justice that were then circulating in Athens and in the Greek world more widely. In particular, the opening lines of the fragment show that the sophist was particularly interested in addressing the positivist thesis, which had been developed in particularly compelling terms by Protagoras: the definition of justice as obedience to the laws of the community of which one is a citizen (87B44B, 1.6–11 D.-K. = 37D38a, 1.6–11 L.-M.) clearly captures the cornerstone of this thesis, namely the identification of law with justice (what is just is what the laws decree).

As we have just seen, the critique of positivism is common to many sophists. However, Antiphon is the one who best grasps the underlying crux of the matter by raising the vital question of the foundation of the law (and hence of justice): if justice is a human convention, meaning that it simply consists of the laws established by people, what authoritativeness or foundation can it have? Protagoras' answer, as we have seen, is the idea of what is useful. The authority and legitimacy of *nomos* depend on its capacity to ensure everyone's interests: this is the reason why *nomos* must be respected. Nevertheless, a concrete analysis of how society works shows the flimsiness of Protagoras' answer, which is an abstract one, insofar as he refers to a (ideal) community of citizens

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rather than to the concrete needs and interests of individuals. Often (2.26–7) the law entails coercion without offering any advantages or security. What are we to do in these cases? Antiphon pushes the positivist thesis towards a paradoxical conclusion: if the legitimacy of *nomos* depends on the advantages it provides, if the foundation of justice is its usefulness, and if in certain cases it is more useful to violate justice than it is to respect it, it follows that injustice is just – or at any rate, and more pragmatically, that one should publicly abide by the law but secretly follow nature. Antiphon's reasoning should not be interpreted as a call to go against the law; rather, it is a provocation that pushes to its extreme (and unexpected) consequences a widespread idea of justice, which had been strongly championed by Protagoras:

> Therefore justice is not to transgress against the legal institutions of whatever city one happens to be a citizen of. So a man would make use of justice in the way that would be most advantageous for himself if, in the presence of witnesses, he considered that it is the laws that are great, but, alone and without witnesses, that it is what belong to nature. For what belongs to the laws is adventitious, but what belongs to nature is necessary. And what belongs to the laws is the product of an agreement, but what belongs to nature is the product of nature, not of an agreement. [col. 2] So if someone transgresses against legal institutions without being noticed by those who agreed upon them, he escapes shame and punishment; but if they notice, he does not. But if, contravening what is possible, he does violence to anything produced by nature, the harm is no less if no man notices him, and it is not greater if all men see him. For it is not because of opinion that he is harmed, but because of the truth.
>
> (87B44B, 1.5–2.23 D.-K. = 37D38a, 1.5–2.23 L.-M.)

Certainly, Antiphon's analyses present many similarities to Thrasymachus' thesis, which they usefully integrate: while the latter had criticized the legitimacy of positivism starting from the problem of power, Antiphon reaches similar conclusions by setting out from the problem of usefulness. If anything, Antiphon's analysis is even more radical: Thrasymachus was operating on a distinctly political level, by considering the division of the city into social strata (the people vs nobles for instance). Antiphon instead appears to be interested in a more 'philosophical' analysis, which he extends down to the ultimate constituent of the city, individuals. It is here that the choice of Protagoras as a polemical target becomes clear. Whereas in his myth Protagoras had described human beings as 'not yet social' to show that his interests are eminently social (the human being is a political animal: there is no human who is not a citizen, a member of a

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group), Antiphon analyses the life of humans in society to show that his interests are individual and hence anti-social – in other words, they concern the human as an individual and not as a citizen. This explains the limits of Protagoras' defence of *nomos*: the only reality is each individual,[39] whereas the laws of the *polis*, directed as they are at an abstract citizen community, at most express an external and artificial consensus, incapable of safeguarding the natural and hence real interests of individuals.[40]

Such is the 'truth' that Antiphon reaches through an impartial analysis of reality, and it is a truth that affords few illusions as to the possibility of building a just and close-knit society. The dominant tone of his analysis suggests an acknowledgement of the difficult condition of humanity, caught between natural needs and social constrictions.[41] However, this is not to say that it is impossible to live in a satisfying way. After all, the human being has a most valuable means to make up for the limits of politics and *nomos*, a means which unfortunately he or she rarely resorts to: intelligence. As we shall see in the next chapter, it is by using one's intelligence that it is possible to find a balance both within oneself and with others.

Other enemies of *nomos*

Before wrapping up this long discussion, brief mention must be made of other testimonies which can be traced back to the sophists' debates and which record positions akin to those of Thrasymachus and Antiphon. One interesting parallel is to be found in a tragedy by Critias, the *Pirithous*:

[39] Hourcade 2001: 115.

[40] Farrar 1988: 115–18. In passing, it goes without saying that these conclusions have anti-democratic implications. Naturally, by this I do not mean to say that it is possible to infer from the surviving fragments of Antiphon's *On Truth* that he openly sided against democracy: on the contrary, what makes Antiphon's analyses so intriguing is his claim that he is not taking any stand himself, but wishes the dynamics of natural and social reality to emerge on their own. Still, it must be noted that his analyses of humans and society, his systematic emphasis on the essentially anti-social character of human beings, and hence his privileging of the needs of the individual over the collective rights of citizens constitute one of the most dangerous attacks on Athenian democracy, which was founded on the identification of the common good with the interests of individuals. The 'atomization' of common interest into many private and mutually conflicting interests amounts to the de facto impossibility of finding the kind of common good which, in the eyes of Protagoras and Pericles, was the distinguishing trait of democracy.

[41] Decleva Caizzi 1999: 327.

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An honest character is surer than the law:
For the former, no orator could ever pervert it;
While the latter, he often ruins it
By agitating it up and down with his speeches.
(88B22 D.-K. = Dram. T67 L.-M.)

Undoubtedly, this combined criticism of the law and rhetoric, which is typical of Athenian assemblies, offers additional proof of the growing dissatisfaction that, in the second half of the fifth century, many intellectuals displayed towards *nomos*, which was increasingly identified with democratic *nomos*. But it should also be noted that, in these verses, the criticism of rhetoric amounts to an attempt to distance oneself from sophistry: again, Critias emerges not so much as a sophist as a writer capable of exploiting some sophistic themes for his polemical purposes.[42]

Even more interesting is another testimony from *Sisyphus*, a satyr-play previously attributed to Critias but more likely to be the work of Euripides.[43] Some significant analogies with Antiphon may be found: *nomos* is assigned an instrumental value, as a means to safeguard communities. Yet this value is denied at the very moment in which it is posited: laws were introduced to bring an end to the bestial violence that originally marked human life; however, these laws only partially met their aim, because people continued to secretly commit injustices, thereby undermining society. Only the invention of the gods as omniscient and omnipotent controllers laid the foundations for a more stable society. Leaving aside the issue of the invention of the gods, on which we will focus in Chapter 6, the similarities with Antiphon's idea of the conventional character of *nomos* and its weakness are undoubtedly significant.[44]

What is more difficult to assess is Hippias' position, as it emerges from two testimonies from Plato's *Protagoras* (337c–e = 86C1 D.-K. = 36D17 L.-M.) and Xenophon's *Memorabilia* (4.4.5–25, only partly included by Diels among the testimonies on Hippias as 86A14 D.-K.; =36D11 L.-M.). In both passages Hippias emerges as a staunch critic of *nomos*, which is accused of imposing arbitrary distinctions

[42] See H. Patzer 1974. Critias' aims are quite clear: an unrelenting struggle against democracy, in an attempt to import into Athens the values of the oligarchic ideology of Sparta. On this, see Bultrighini 1999 and Iannucci 2002.
[43] See Chapter 6, p. 119.
[44] Ostwald 1986: 282.

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against nature (86C1 D.-K. = 36D17 L.-M.: *nomos* 'which is a tyrant over men, commits violence upon many things against nature') and of having an unstable character (*Mem.* 4.4.14: 'Laws can hardly be thought of much account, or observance of them, seeing that the very men who passed them often reject and amend them'). These are essentially similar objections to those raised by Antiphon and *Sisyphus*. According to some scholars, moreover, both Xenophon and Plato present Hippias as a resolute champion of *physis*, or even as the theorizer of the existence of a divine and/or natural justice.[45] However, it is more prudent to suspend judgement on this interpretation: with regard to Xenophon's *Memorabilia*, because the idea of a divine justice is something that is rather upheld by Socrates;[46] and with regard to Plato, because the reference to *physis* is probably to be understood in a more restricted sense, as we shall see in the next section. The testimonies we have, then, allows us to identify Hippias too as a critic of *nomos*, even though it is impossible to clearly determine what his overall stance was on the thorny problem of justice (assuming that he indeed took a stance on the matter).

The problem of equality

Another strongly debated topic was equality. Once again, the political context – the ups and downs of Athenian democracy – helps us to understand the interest in this issue: two of the catchwords of the democratic regime, those which best represented this form of government, were *isegoria* and *isonomia*, which is to say everyone's right to express themselves and everyone's equality before the law (notwithstanding the fact that 'everyone' excluded a considerable section of society[47]). Moreover, the importance of the topic is confirmed by the fact that discussions about equality extended to broader fields, touching upon social, racial, and economic questions.[48] Naturally, as in the case of justice, the topic was addressed by many different authors, and not just sophists, but the latter's contribution was often highly original

[45] Untersteiner 1954: 278–83.
[46] Decleva Caizzi 1985: 203–8, has hypothesized that Socrates' thesis specifically has Antiphon as its polemical target.
[47] See p. 73, n. 19.
[48] Guthrie 1971: 148–63.

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and raised some crucial questions. Usually, the sophists' position on this issue has been invoked in support of an 'Enlightenment' interpretation of their thought, presenting them as the first thinkers to ever emphasize the need to truly free oneself from the prejudices oppressing people's lives. The surviving testimonies, however, suggest a more restrained evaluation: certainly, many sophists must be credited with having brought some real problems up for discussion. Yet here too many of them would appear to have been driven not so much by the need to 'rouse men from dogmatic slumber', as by a desire to investigate certain problems and topics – and perhaps too by a wish to provoke the public by going against the grain.

One interesting example of the sophists' attitude to these problems is provided by Antiphon, who in *On Truth* states that 'we are all fitted similarly by nature in all regards to be both barbarians and Greeks' (87B44A, 2.10–15 D.-K. = 37D38b, 2.10–15 L.-M.). Many have been inspired by this statement to attribute egalitarian or democratic ideas to Antiphon. But the passage is open to other readings as well. The reference to barbarians is actually used to deliver a subtle polemical attack on the inconsistencies of the Greeks, who, while respecting their gods and laws, display the same prejudices of which they accuse barbarians: in doing so, Antiphon notes, 'we have become barbarians toward each other' (87B44A, 2.7–10 D.-K. = 37D38b, 2.7–10 L.-M.). Apparently, this claim does not put forward any positive view of barbarians; rather, in order to achieve the desired effect, it must imply a negative evaluation: to criticize his interlocutors' behaviour, Antiphon adopts their perspective and shows that they (be they Greeks or Athenians) behave exactly like the people they claim to despise. The reference to barbarians serves an instrumental and polemical purpose: it is used to stigmatize the incoherent conduct of the people with whom Antiphon is polemically engaging. But this polemic can hardly be taken as evidence of his role as a champion of the equality between barbarians and Greeks.[49]

A no less delicate matter is the evaluation of another two testimonies, concerning Hippias and Lycophron. In the aforementioned passage of

[49] Decleva Caizzi 1986b. Antiphon's polemic becomes even more significant if, as seems likely, the sophist and the oligarchical rhetor were one and the same person: in this case, Antiphon would have criticized slavery not on humanitarian grounds, but in order to once again highlight the limits 'of the lame egalitarianism of the democratic *polis*' (Canfora 2001: 215).

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the *Protagoras*, Hippias addresses the following words to the other characters of the dialogue:

> I consider that you all belong to the same family, household, and city – by nature (*physis*), not by law (or convention, *nomos*): for what is similar belongs by nature to the same family as what is similar, whereas law (or convention, *nomos*), which is tyrant over men, commits violence upon many things against nature.
>
> (86C1 D.-K. = 36D17 L.-M.)

Aristotle informs us that Lycophron criticized the nobility, arguing that 'the beauty of nobility is invisible, dignity exists in speech' (83.4 D.-K. = 38D4 L.-M.). As in Hippias' case, this polemic against nobility, which is depreciated as a mere name with no basis in reality, finds its starting point in the opposition between *nomos* and *physis* (of which the opposition between reality and words is a variant). Certainly, upon a first reading one gets a strong impression that both authors are defending the cause of the natural equality of human beings; moreover, this is what many authoritative scholars have argued. But perhaps it should not be ruled out that this 'bold outlook on the old principles of the "noble stock"' is aimed not at a democratic defence of the rights of all people but rather at 'replacing one kind of inequality with an inequality of an even more radical kind: what we have is the praise of the new superiority, and supremacy, of intelligence'.[50]

Gorgias and Thrasymachus are credited instead with two stances in favour of the equality of the Greeks against the barbarians: 'trophies won from the barbarians demand hymns, those from the Greeks dirges' (Gorgias in the *Funeral Oration*, 82B5b D.-K. = 32D29 L.-M.); 'Shall we, who are Greeks, be slaves to Archelaus, who is a barbarian?' (Thrasymachus in the oration *For the Larissians*, 85B2 D.-K. = 35D18 L.-M.). Yet it is almost certain that these are extemporary claims, instrumental to the political speeches of which they are part:

> The *Funeral Oration*, which he [*sc*. Gorgias] pronounced in Athens, was delivered on those men who had fallen in the wars, whom the Athenian buried at public expenses with eulogies; it is composed with extraordinary skill. For given that he wanted to rouse the Athenians against the Medes and the Persians and was arguing with the same intention as in his *Olympic Oration*, he said nothing at all about concord among the Greeks, since he was speaking to Athenians (who desired supremacy, which could only achieved by choosing a very energetic policy), but instead he praised

[50] Isnardi Parente 1977: 32–3.

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at length the trophies won from the Medes, telling them that 'trophies won from the barbarians demand hymns, those from the Greeks dirges'.

(82A1 D.-K. = 32D27 and R19 L.-M.)

As far as Thrasymachus is concerned, his pan-Hellenic plea was directed against the expansionist aims of Archelaus, a Macedonian whom it would have been an exaggeration to regard as a barbarian.[51] Finally, Alcidamas is credited with a resolute stance against slavery: 'god has set all men free; nature has made no man slave' (fr. 19). But in this case, too, we are dealing with a sentence taken from an oration (to be more precise, a school exercise): it is likely to be a catchy line, designed more to capture the public's attention than to defend the abolitionist cause.

In other words, an adequate contextualization of existing testimonies often suggests that it would be unwarranted to consider the sophists champions of human rights, by attributing to them a kind of awareness that would only be fully developed over the course of the centuries. At the same time, however, we should not go from one extreme to the other, by concluding that their reflections have no value whatsoever. Ultimately, driven by their eagerness to critically examine prejudices and commonplaces, the sophists established themselves as the first thinkers to expound theses of universal value, destined to have untold consequences: 'the struggle was destined to be long, but it had begun'.[52] And this is no small feat.

The enduring relevance of the sophists

The sophists' discussions of the controversial phenomenon of justice constitute a striking refutation of the interpretations of those scholars who were only willing to acknowledge their importance in the field of rhetoric. On the contrary, the significance of the problem of *logos* can only be fully appreciated by framing it within a practical and political context. Only at this stage can we grasp the sophistic movement in all of its complexity. Moreover, only at this stage can we measure its relevance with respect to our own world and interests. The contemporary age is marked by a loss of foundations (or, rather, by the awareness

[51] Bonazzi 2008: 66–8.
[52] Guthrie 1971: 160.

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that there are no foundations); and this problem requires a practical as well as a theoretical response. If this is the case, we are bound to acknowledge the profoundness of the sophists, who were the first to investigate such problems.

Even more relevant is the way in which the sophists tackled them: whatever the thesis upheld, or the sophist involved, what distinguishes their approach is their underlying realism – the disenchanted gaze of someone who is not searching for easy justifications. Truly, it is difficult not to agree with Nietzsche's criticism of George Grote, who defended the sophists by portraying them as perfect Victorian gentlemen. The sophists' chief merit – or limit, depending on one's point of view – is their realism:

> The sophists are no more than realists…Grote's tactics in defence of the Sophists are false: he wants to raise them to the rank of men of honor and ensigns of morality – but it was their honor not to indulge in any swindle with big words and virtues.[53]

Similar considerations, as we shall see, apply to another two topics that are still constantly debated: happiness and the gods, or religion.

[53] Nietzsche 1964: 249.

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