

Chapter 4: Governing Souls

Because of his theory of ideas, Plato is generally considered an essentialist. Given that his theory of ideas is criticized in his own *Parmenides* and plays a less important role in his later works, he is also considered a weak essentialist. Nevertheless, a subtle drama in this area has long been neglected: While Platonic essentialism reaches its peak in the *Politeia*, that essentialism, at least in terms of anthropology, gradually begins to be shaken by his theory of *techne*.

As the Hymn to Hephaestus conveys the possible transformation and producibility of the subject, human nature is considered producible in *Politeia* 4.424a, where Plato considers possible ways in which virtues can be cultivated in individual souls:

τροφὴ γὰρ καὶ παιδευσὶς χρηστὴ σφζομένη φύσεις ἀγαθὰς ἐμποιεῖ,
καὶ αὖ φύσεις χρησταὶ τοιαύτης παιδείας ἀντιλαμβανόμεναι ἔτι
βελτίους τῶν προτέρων φύοντα.

Useful nurture and education, if kept up, produce good natures, and useful natures, in turn, receiving such [a good] education, grow up even better than their predecessors.

Nature is thus considered producible through a system of education (παιδευσὶς), which is useful (χρηστὴ) in the sense that appropriate education propels appropriate subjectivation of human nature. In this context, the subject is no longer conceived of purely a priori; the transformation of the soul is possible. The ideal nature Plato seeks to produce is one

capable of both self-producing and producing a just state. This nature can be produced by a just state, the majority of whose citizens are just, or by collective education. The former, as the best way imagined in the *Politeia*, presumes an already-existing *Callipolis*. In almost all concrete situations, however, as the *Nomoi* demonstrates, a political unity is forced (by strategic thinking) to choose a less ideal but appropriate way to produce a relatively good nature (cf. *Laws* 5.739a–b). It is in this context that the later Plato shifts his focus from the idealistic depiction of *Callipolis* to the development of a feasible approach to collective education: the *nomothetike*.

The production of virtuous souls, as a practice in real space, presumes a stable *nomos* that guarantees the practice's continuation. Legal order might offer a practicable avenue for an averagely governed state. Given that mere statutes and commands are incapable of making law come into being and last, three sub-*technai* of the *nomothetike* are necessary: discipline (ἐπιτήδευμα), rhetoric (ῥητορική), and the *nomos*-guard (νομοφυλακή).

4.1 Discipline

The *nomos* of a state is constituted through its inhabitants' *nomoi*. Legal order, as a kind of *nomos*, is no exception. In this context, Plato points out that to protect and maintain the legal order, useful individual souls should be produced from childhood through »δύναμιν ὅσα νόμους ἢ ἔθῃ τις ἢ ἐπιτηδεύματα καλεῖ« [*Laws* 7.793c–d; power as what one calls laws, habits, or discipline].

Inspired by the educational systems of Sparta and Egypt, in *Nomoi* 7, Plato proposes educating children through various practices of normalization. If we keep in mind that the soul is defined as »the motion that has power to move itself,« it is not difficult to discern that the ἐπιτήδευμα that propels this normalization is similar to what Foucault calls »discipline.« According to Foucault (1995), discipline is a kind of power that deploys a set of elements, such as norms, calculation of time, and the relevant distribution of practices, as well as rewards and punishments, to shape or correct the behavior of an individual »subject,« making it »more obedient as it becomes more useful« (p. 138). As Devonya N. Haris (2014) demon-

strates, the norm is a »positive« standard that »directs and sets the outer limits of acceptable behavior. It is not derived from natural law but comes instead from an attempt to make individual bodies both docile and socially useful« (p. 111). Given that the concept of the soul in the framework of the *politike* is primarily a model used to understand the motion of corporeal existence, it is inappropriate to set Foucault's disciplinary power, as a technology of the body, in opposition to Plato's craft of the soul.

Entailing a set of stable rules, games make up the main part of the normalization of *nomos* in individual souls between the ages of three and six. The aim of this normalization is to acclimate children to the specific rules that will continue to shape their behavior. In this process, punishment that sets the »border« of *nomos* is necessary for correcting their behavior (cf. Plato, *Laws* 7.793d–794c). For individuals over six years of age, education mainly takes place within the framework of two *technai*: γυμναστική (the *techne* of physical training) and μουσική (the *techne* of the Muses; cf. *Laws* 7.795d). Both are directed toward the internalization of established rules and norms within determined boundaries. During this process, any innovation in terms of rules and norms—except innovations that replace bad norms—is conceived as overstepping the border of the appropriate *nomos*: Consequently, it is considered a threat to the *nomos* of the community (cf. *Laws* 7.794c–798e). In this sense, the craft of the soul is a *techne* of governing individual mentalities, a »governmentality« that entails the disciplinary power exerted by teachers and *nomos*-guardians over individual souls. This power aims to produce individual *nomoi* that are useful for the *nomos* of the state. To ensure the stability of the latter, this governmentality also involves a set of institutions that collectively prevent individuals from overstepping the determined borders of *nomos* within their souls. Such governmentality is not a proposal that was never realized before early modern times; rather, it is a combination of the real experiences of the ancient Spartan educational system and Egyptian festival institutions. According to Plato, the Egyptians developed an efficient *techne* to cultivate and restrict the *nomos* of individual souls in a positive way (*Laws* 7.799a–b; cf. 7.798e–799a):

Τοῦ καθιερῶσαι πᾶσαν μὲν ὄρχησιν, πάντα δὲ μέλη, τάξαντας πρῶτον μὲν τὰς ἑορτάς, συλλογισαμένους εἰς τὸν ἐνιαυτὸν ἄστινας ἐν οἷς χρόνοις καὶ οἷσιν ἐκάστοις τῶν θεῶν καὶ παισὶ τούτων καὶ δαίμοσι γίγνεσθαι χρεῶν, μετὰ δὲ τοῦτο, ἐπὶ τοῖς τῶν θεῶν θύμασιν ἐκάστοις ἦν ᾧδὴν δεῖ ἐφυμνεῖσθαι, καὶ χορείαις ποίαισιν γεραίρειν τὴν τότε θυσίαν, τάξει μὲν πρῶτόν τινας, ἃ δ' ἂν ταχθῇ, Μοίραις καὶ τοῖς ἄλλοις πᾶσι θεοῖς θύσαντας κοινῇ πάντας τοὺς πολίτας, σπένδοντας καθιεροῦν ἐκάστας τὰς ᾠδὰς ἐκάστοις τῶν θεῶν καὶ τῶν ἄλλων · ἂν δὲ παρ' αὐτὰ τίς τῶν θεῶν ἄλλους ὕμνους ἢ χορείας προσάγῃ, τοὺς ἱερέας τε καὶ τὰς ἱερείας μετὰ νομοφυλάκων ἐξείργοντας ὁσίως ἐξείργειν καὶ κατὰ νόμον, τὸν δὲ ἐξειργόμενον, ἂν μὴ ἐκὼν ἐξείργηται, δίκας ἀσεβείας διὰ βίου παντὸς τῷ ἐθελήσαντι παρέχειν.

[The *techne*] of consecrating all dances and music. First, they [the Egyptians] arrange the festival by calculating for the whole year what feasts should be held on what dates and what gods, children of gods, and daemons should be honored. Second, they arrange what hymn is to be sung at each of the sacrifices and with what dances each such sacrifice is to be celebrated. These arrangements are first made by certain people, and then, after making a sacrifice to the Fates and other deities, all the citizens collectively dedicate, with a libation, each of the hymns to their respective gods and other divinities. If anyone disobeys this [arrangement] and introduces other hymns or dances for any god, the priests and priestesses, together with the *nomos*-guardians, in accordance with the sacred will and the *nomos*, expel him from the feast. If he resists expulsion, he is liable to be prosecuted for impiety for the rest of his life by anyone who wants to do it.

As mentioned in section 3.2, the ancient Greek word *nomos* also means μουσικῆς τρόπος, the mode of a *techne* of the Muses. Consecrating dances and music thus means the internalization of *nomos* in a sacred way or, in other words, normalizing the soul. Through feasts, the Egyptians facilitated individuals' acceptance of the norm developed through the calcula-

tion (συλλογίζομαι) and arrangement (τάσσω) of various elements of festival practices. By forbidding innovation in *nomoi*, priests, together with *nomos*-guardians, maintained, as surveillants, a constant constraint on the individual soul and, consequently, on the motion of the body. Here, deviation from *nomos* is punishable: To correct the wrongdoer's behavior, he must provisionally be expelled from the feast, that is, from the *nomos* of the state. If he is unwillingly expelled, he becomes akin to what Giorgio Agamben (1998) calls the *homo sacer*. As an impious man, he is outside the disciplinary system even as he, by denoting the boundaries of the *nomos*, paradoxically plays a constitutive role in it. Anyone, at any time, can prosecute him for impiety, since he has been expelled from the *nomos* of the state unwillingly. As Agamben states, »He who has been banned is not, in fact, simply set outside the [*nomos*] and made indifferent to it but rather abandoned by it, that is, exposed and threatened on the threshold in which life and [*nomos*], outside and inside, become indistinguishable. It is literally not possible to say whether the one who has been banned is outside or inside the juridical order. (This is why in Romance languages, to be ›banned‹ originally means both to be ›at the mercy of‹ and ›at one's own will, freely,‹ to be ›excluded‹ and also ›open to all, free.‹)« (pp. 28–29).

With regard to the collective cultivation of citizens' virtues—the ultimate goal of the *nomothetike*—the function of disciplinary power is limited. Disciplinary power ensures that the existing laws last, but it does not make new statutes come into being. To perfect collective education and adapt to changing circumstances, new statutes are always necessary. The reason for Plato's praise of the Egyptian *technē* lies not only in the efficient mode of the disciplinary system but also in the mode of lawmaking: While individual innovations in *nomos* were forbidden, the Egyptians placed a high value on the collective creation of *nomos*. Although new arrangements were initially made by a few people, their final promulgation required the collective practice of a democratic ceremony. Such lawmaking is based neither on abstract consensus envisioned by a single philosopher nor on the rational decisions of a few elites; rather, it is based on the citizens' obedience, produced by a process of collective persuasion. The subtlety of Egyptian lawmaking consists not in the democratic process itself but rather in the understanding of the etiology of functional statutes.

4.2 Rhetoric

The obedience of the multitude is the only source of power for any law. Existing statutes garner sufficient obedience in the form of individual habits produced by disciplinary power. A newly promulgated statute, however, lacks support from the disciplinary system and, consequently, requires obedience produced in other ways. A widespread but uninformative cliché is that obedience to laws is produced by »authority«: This statement reverses cause and effect, since a person or organization is considered authoritative not because they possess any magical quality called »authority« that makes people obey them but because many people are willing to believe or obey what they say. A command may force people to obey, but this is not because it is a command; it is because sufficient people are willing to obey it and help force others to do the same. Without sufficient obedience, a command cannot be distinguished from mere words. This is why Plato considers commands and statutes incapable of producing a good *nomos* (cf. *Republic* 4.425b). To make newly promulgated statutes function, legislators must produce initial obedience. A *techne* of obedience is thus necessary. It is worth noting in this context that the middle and passive form of the Greek verb *πείθω* (to persuade) is *πείθομαι*, which means not only »to be persuaded« but also »to obey,« while the related noun *πειθώ* means both »persuasion« and »obedience.« This implies an indistinction between the *techne* of obedience and the *techne* of persuasion.

According to Plato, useful laws should consist of both »πειθοῖ καὶ βία« [*Laws* 4.722b; persuasion and compulsion]. Compulsion is realized through punishment and threats. Persuasion can be achieved, as in the Egyptian case, through ceremony or, as Plato recommends, through a preface (*προοίμιον*), that is, a persuasive speech (cf. *Laws* 4.723a: ὁ λόγος οὗτος, ὃν πείθων εἶπεν ὁ λέγων). An effective legal order consists of »νόμος τε καὶ προοίμιον τοῦ νόμου« [*Laws* 4.722e; law and preface of law]. Legislators thus require a preface, a persuasive speech, to convince citizens to accept the arrangement as *nomos* (cf. Plato, *Laws* 4.718a–724b). As has been mentioned many times above, the *nomos* of a community is constituted through the *nomoi* in the souls of individuals. To become *nomos* that functions as legal order, statutes must first become part of the *nomos* of (most) citizens' souls.

It is notable that Plato's »preface« differs from today's legal commentaries not primarily because the former is completed before the relevant promulgation has been enacted but primarily because while the latter are accessible exclusively to legal professionals and scholars, the former should be understood by most citizens (cf. *Laws* 4.723c). The Platonic preface should also be distinguished from the preface in a modern legal code: The function of such a modern preface, as well as today's legal commentaries, is nothing other than to legitimize the compulsion produced by legal violence. Such legitimation, consisting of a set of propositions, is held within the framework of a purely normative theory. Conversely, Plato's preface is part of the *nomothetike* that, as a *techne*, is primarily part of a strategic act. In this context, the Platonic preface is an act that aims to produce real obedience in citizens' souls.

In Plato's view, the persuasive work involved in the *nomothetike* is carried out by three professionals: the rhetorician (ῥήτωρ), the musician (μελωδός), and the legislator (νομοθέτης; cf. *Laws* 4.723d). This means that the legislator (*nomothetes*), although the typical *technites* of the *nomothetike*, is not the only one. Unlike musicians, who, as Plato's account of the Egyptian *techne* demonstrates, produce obedience through disciplinary power, legislators produce obedience mainly through persuasive speech, characterized by a rational account of the related etiology of laws. In this context, the role of rhetorician may, *prima facie*, appear somewhat embarrassing, since rhetoric in general is a *techne* that produces persuasion (πείθω) by means of speech (λόγος; cf. Plato, *Gorgias* 449d–452d). Within the framework of the *nomothetike*, this work is taken by legislators, who use prefaces to persuade citizens. Why, then, does the *nomothetike* still require rhetoricians? Plato has an answer (*Laws* 2.663e):

Καλὸν μὲν ἢ ἀλήθεια [...] καὶ μόνιμον · ἔοικε μὴν οὐ ῥάδιον εἶναι πείθειν.

Truth is a noble and eternal thing; but to persuade men of it seems not easy.

The *nomothetike*, as a *techne*, is exercised in concrete situations. Through education, grasping truth through reason might be accessible to all, but it is unwise to ignore the fact that many people cannot be persuaded by rational accounts before they are educated. Ideally, most citizens will be persuaded by a rational account; if not, legislators should be bold enough to tell a lie (ψεύδεσθαι; cf. *Laws* 2.663d–e). As a *techne*, the *nomothetike* follows nothing other than its *ergon*, namely producing good *nomos*, and strategy based on concrete circumstances (*Laws* 2.664a):

ὥστε οὐδὲν ἄλλο αὐτὸν δεῖ σκοποῦντα ἀνευρίσκειν ἢ τί πείσας
μέγιστον ἀγαθὸν ἐργάσαιτο ἂν πόλιν, τούτου δὲ περὶ πᾶσαν μηχανὴν
εὐρίσκειν ὄντιν᾽ ἂν ποτε τρόπον ἢ τοιαύτη συνοικία πᾶσα περὶ τούτων
ἐν καὶ ταῦτὸν ὅτι μάλιστα φθέγγοιτ' αἰεὶ διὰ βίου παντὸς ἐν τε
ῥῶδαις καὶ μύθοις καὶ λόγοις.

Thus, he [the legislator] must consider and investigate nothing other than what persuasion would do most good to the state. For this purpose, he must think up every possible device to ensure that, as far as possible, the entire community, throughout all life, preserves the exact same voice in song, mythos, and logos.

In comparison to lawmaking, rhetoric is more specific to persuasion and does not concern itself with whether a persuasive speech is based on truth. Ideally, legislators would be able to persuade citizens by explaining the related etiology of certain statutes. Otherwise, they will need the help of rhetoricians, or they themselves must work as rhetoricians to persuade citizens to obey new statutes.

Referring to Plato's accusation of factionalist lawmaking in *Nomoi* 4.714–715, many scholars interpret his emphasis on persuasion from a purely moralistic perspective. With a preference for consensus democracy, they claim that his reason for highlighting persuasion is to avoid factionalism or class domination. This moralistic interpretation, however, is incorrect and neglects Plato's thinking on *techne*. Plato's attitude toward lawgivers, allowing them rhetoric that uses lies as instruments, shows that he does not care about consensus. Additionally, consensus is incapable

of reducing factionalism. Plato pays the attention he does to voluntary compliance with the law exclusively insofar as the power of laws is ultimately constituted by the obedience of citizens or, in other words, by the *nomoi* of individual souls. In this sense, all average people in the community are *technitai* of the *nomothetike*, along with the legislators, musicians, and rhetoricians. Producing a *nomos* is akin to producing a huge warship, which is created through the cooperation of a group of *technitai*, including not only designers and foremen but also carpenters and ordinary shipbuilders. Alongside these *technitai* of the *nomothetike*, the role of the *nomos*-guardians seems to be of the utmost importance.

4.3 The Guardians of the *Nomos* in Individual Souls

In the lecture »The Political Technology of Individuals,« held at the University of Vermont in 1982, Foucault explained his understanding of the concept of the police from the end of the sixteenth century to the end of the eighteenth century, stating that this idea refers to a set of »specific techniques by which a government in the framework of the state was able to govern people as individuals significantly useful for the world« (p. 154). This concept bears similarities to the Platonic idea that emphasizes the importance of producing a useful (χρηστή) soul in each individual. Nevertheless, Foucault sees the similarities between certain Greek ideas and the ideas marking the literature on policing as merely apparent, despite the fact that »reference to Greek cities is very current in this political literature of the beginning of the seventeenth century.« In Foucault's view, the reason for this is that »the marginalistic integration of individuals in the state's utility is not obtained in the modern state by the form of the ethical community which was characteristic of the Greek city. It is obtained in this new political rationality by a certain specific technique called then, and at this moment, the police« (p. 153). With regard to Plato's *nomos*-guardians, however, it is doubtful whether this concept of policing can truly be distinguished from the ancient Greek »πολιτική,« that is, the etymological origin of »police.«

In the Cretan state Plato designs in the *Nomoi*, the *nomos*-guardians (νομοφύλακες) are the first appointed elected officials (cf. *Laws*

6.752d–763d). The word »νομοφύλαξ« is a compound of »νόμος« (*nomos*) and »φύλαξ« (guardian/watcher). It is inappropriate to translate the term as »guardian of law« because *nomos* here primarily means »order« in the broad sense, not exclusively »legal order«; although most of the *nomos*-guardians' tasks aim to render the law functional, their direct objects are mainly the *nomoi* of individual souls, not the *nomos* of the state. In addition, although the *nomos*-guardians are to act in accordance with the laws, specific statutes invest them with significant discretion.

Nomos-guardians are individuals possessing the *techne* of combat, as every candidate must have served or be serving in the army (cf. Plato, *Laws* 6.753b). Those elected are entitled to exercise various functions. They collaborate with a diverse range of officials to address matters pertaining to education, religion, cultural events, and the censorship of the liberal arts; meanwhile, they supervise those same officials and establish appropriate penalties for wrongdoing or bring wrongdoers to court. If an illegal activity relates to arranging religious affairs in private, stopping it is also a task of the *nomos*-guardians. In cases concerning private property, the prosecution of judges, divorce disputes, and the death penalty, they serve as judges or arbitrators. They are also responsible for some economic affairs, including arranging imports and exports, enacting executive measures concerning trade, and scrutinizing registered documents related to private property. When exiles are to return to the polis, twelve *nomos*-guardians will go to the border and investigate what they did during their exile so as to determine, based on statutes, whether to grant them permission to return. In some respects, *nomos*-guardians resemble today's social workers in that they provide consulting services concerning family and clan disputes. They also allocate other types of social workers, such as babysitters for children and food delivery staff for prisoners. In complex cases, three *nomos*-guardians are even to be assigned to take care of orphans (see appendix 1: List of Functions of the *Nomos*-Guardians).

Given that, in the *Nomoi*, the function of law is highlighted, and the monarchic, as well as despotic, elements disappear from the proposed society (cf. Plato, *Laws* 4.712c), many scholars today ascribe the »rule of law« to the state Plato designs therein (cf., e. g., Cohen 1993, p. 301; Mülke 2021, p. 76). Such an ascription is both semantically and chronologically inaccurate.

The rule of law is opposed to despotism. As Foucault (2008) points out, however, it is also »opposed to something different from despotism, and this is the *Polizeistaat*, the police state. The police state is different from despotism, although concretely they overlap, or aspects of them overlap« (p. 168). According to Foucault, »the police state establishes an administrative continuum that, from the general law to the particular measure, makes the public authorities and the injunctions they give one and the same type of principle, according it one and the same type of coercive value. Despotism, then, refers any injunction made by the public authorities back to the sovereign's will and to it alone, or, rather, it makes it originate in this will« (pp. 168–69).

Putting aside the fact that today's semantic extension makes the English expression »the rule of law« rather unclear, the idea of the rule of law, in the sense of state theory, as well as the German term *Rechtsstaat*, was the product of a rising class: the European bourgeoisie. As Otto Kirchheimer (1996) demonstrates, this idea »protested against an eighteenth century, police-state concept of individual freedom that would allow the state to busy itself with the personal happiness of the individual for which, according to Kant and Feuerbach, there was no general law« (p. 245). The appointment of the Platonic *nomos*-guardians emphasizes the necessity of official power's positive intervention in individual lives; in this sense, the Cretan state is characterized by precisely the opposite of the rule of law, that is, the police-state, not the *Rechtsstaat*.

The *nomos*-guardians are characteristic of most, albeit not all, of the features Foucault (1988) discovers in studying the police theories of Louis Turquet de Mayenne and N. Delamare. In Foucault's understanding of Turquet, the »task of the police was to foster civil respect and public morality« (p. 154) so that it »branches out into all of the people's conditions, everything they do or undertake. Its fields comprise justice, finance, and the army« (p. 155). Additionally, based on Delamare's encyclopedia, Foucault summarizes the matters the police must address as follows: religion, morals, health, supplies, roads, highways, buildings, public safety, liberal arts, trade, factories, manservants, factory workers, and the poor (p. 156). Except for those predicated on modern production modes, almost all of these functions can be found in Plato's *Nomoi*.

Obviously, to distinguish the »police« from the »*nomothetike*« at the level of function is impossible. Their distinction, in Foucault's (1988) view, thus lies primarily in their different foundations: »Police« are based on a new kind of political rationality, whereas the apparently similar Greek ideas are based on an ethical community (p. 153). What does »ethical« mean in this context? It refers to something related to either ἀρετή (virtue) or ἥθος (habit). The former, as section 3.1 mentions, is the goal of the *nomothetike*, and the latter, as section 4.1 demonstrates, is not something fundamental to human behavior but an effect of disciplinary power and an instrument of the *nomothetike*. As chapter 1 shows, for the ancient Greeks, virtue was primarily a *techne*. In this sense, it was regulated by rationality. According to the later works of Plato, cultivating individual virtue, as the goal of the *nomothetike*, ultimately means cultivating individual justice—*dikaiosyne*, that is, a kind of craft of the soul or, in other words, *politike techne*. Thus, justice—*dikaiosyne*, as a *techne*, along with the *nomothetike*, must function within the framework of the strategy whose objects are both the state and the interacting citizens in the state. Given that both ἀρετή and ἥθος are elements of the *politike techne*, characterized by »political rationality,« the »ethical« is not sufficient to distinguish the eighteenth-century concept of »police« from the Greek »*politike*,« especially the *nomothetike* that the *nomos*-guardians implement.

In Delamare's theory, »the police see to living,« or, to put it another way, »life is the object of the police« (Foucault 1988). A living being distinguishes itself from non-living beings by its power to move itself: In other words, in contrast to non-living beings, which are inanimate, a living being is animate because it possesses a soul (the motion that has power to move itself). The police's true object is humanity, insofar as its true object is the behavior and motion of humans. In this sense, the police are indistinguishable from the *nomothetike*, as well as the craft of the soul. The *nomos*-guardians are *technitai* of the *nomothetike*, as they continually guard the *nomos* and watch over its boundaries. To ensure the existence of the state's *nomos*, they watch over the borders of the *nomos* in each individual soul, which is an atom of the *nomos* of the state. They help educate individual souls because souls are the origin of *nomos*. To normalize the behaviors and the souls of citizens, they punish individuals whose

souls are productive of new *nomoi* that undermine that of the state. They create the lifelong impious man whose life is outside the laws' protection but denotes the borders of *nomos* in the sense that everyone within that *nomos* can prosecute him at will. They work as judges in cases involving the death penalty, meaning that they decide whether a defendant's life is so harmful to the existence of the state's *nomos* that the very goal of justice—*dikaioσύνη* must be suspended. In short, the *nomos*-guardians watch over the borders of *nomos* and decide on states of exception.

4.4 Ineliminable Sovereignty

Although Plato's design for the Cretan state shows the principle of mixed government, monarchic elements, including the philosopher king, are, indeed, excluded. Using the analogy of a herdsman's rule over the herds, Plato claims that a monarchical system presupposes the rule of a superior being. Consequently, just as people do not put cattle in charge of cattle, a monarchical state consisting of human beings requires a divine and immortal king (cf. *Laws* 4.713c–d). Thus, based on real circumstances, in which no divine ruler exists, the Cretan state must develop a political system without a monarch and, consequently, without a sovereign who decides on states of exception. Sovereign decisions on whether legal order at the level of totality should be provisionally suspended are almost impossible in the Platonic Cretan state. Nevertheless, sovereign power remains, since the *nomos*-guardians keep watch over the boundaries of the state's *nomos*.

Sovereignty is a »borderline concept« (Schmitt 2005, p. 5) denoting a kind of paradoxical act that constitutes the borders of legal order while simultaneously crossing them. In Schmitt's theory, the key to understanding sovereignty lies in the decision of the personalized sovereign. In contrast, as Jonas Heller (2018) points out, Agamben sees sovereignty primarily as a kind of structure, constituted by the existence of »bare life,« for which centralized decisions on exceptions are not particularly important (p. 127). Agamben's (1998) »bare life« is itself a borderline concept, suggesting that there »is a limit-figure of life, a threshold in which life is both inside and outside the juridical order, and this threshold is the place of

sovereignty» (p. 27). Alongside the impious men produced by the Egyptian *technē* discussed in section 4.1, the sixth book of the *Nomoi* presents another typical figure of the »bare life«: the disgraced warden. In the Platonic Cretan state, if a warden intentionally deviates from the disciplinary order of his position, then, according to the law, his name must be posted in the marketplace as a deserter from his post, and everyone who happens to meet him is entitled to beat him without being punished for it (cf. *Laws* 6.762c). The disgraced warden is thus »exposed and threatened on the threshold in which life and law, outside and inside, become indistinguishable« (Agamben 1998, p. 28). He is outside the *nomos* of the state because everyone is entitled to beat him without punishment, but, paradoxically, he is also still inside the *nomos*, as his existence is produced by law. Meanwhile, his soul still constitutes the *nomos* of the state, while his life continues to denote the borders of the *nomos*. His soul continuously produces a space of indistinction between legality and illegality, as before him, everyone is characterized by the sovereign power that suspends laws. In this case, the indistinction between the spaces outside and inside the law features every normal citizen, as well as the abnormal one.

What is the cause of sovereignty? The answer is given in the first book of the *Nomoi*, when Clinias points out the necessity of war (1.626b):

ἀν μὴ τῷ πολέμῳ ἄρα κρατῇ τις, πάντα δὲ τὰ τῶν νικωμένων ἀγαθὰ
τῶν νικούντων γίγνεσθαι.

If we had not won the war, all good things belonging to us, the conquered, would become good things belonging to the victorious.

This makes war an indispensable instrument of the *nomothetike*, as well as of all practices that require peaceful order to ensure that the process of the practice is not destroyed. *Technē*'s strategy forces Plato to always keep in mind the real possibility of war »γὰρ πόλεμός τις βιασάμενος ἀνέτρεψε πολιτείας καὶ μετέβαλε νόμους« [*Laws* 4.709a; because losing a war may destroy the *politeia* and alter *nomos*]. *Nomos* is altered by war not primarily in the sense that the content of statute law is rewritten but rather in the sense that the structure of its production is replaced. The *nomos* of a

conquered polis is permanently shaped by the violence of its enemies, not directly produced by the souls of its citizens: In such a case, the citizens are no longer the dominant *technitai* who produce the *nomos* of their state.

Warfare is the oldest space within which sovereign power is exerted, since the oldest feature of sovereignty is, as Foucault (2003) understands, the »right to take life or let live« (p. 241), that is, the right over the threshold between life and death. Contrary to Agamben's (1998) view that »the inclusion of bare life in the political realm constitutes the original—if concealed—nucleus of sovereign power« (p. 6), original sovereignty is neither the producer of »bare life« nor the ἀρχή (origin, principle, or rule) of *nomos*. Rather, it is an instrument of the *nomothetike*. In other words, sovereignty is an instrument used to protect the order that enables the *nomothetike* to be practiced.

If the most primitive political system is democracy where hierarchical order has not yet come into being, then the most primitive form of sovereignty must be purely technical and function exclusively during defensive war. Exclusively at such a time, the protection of *nomos* suspends the goal of *nomos* and lets soldiers die. Sovereign power is exerted by the commandant who directs the soldiers' actions: The sovereignty he thus exercises is not his own product but that produced by the majority of citizens, whose power in the form of obedience is the only energy resource of the *nomothetike*. If they wish their political unity and *nomos* to survive, they have no other choice than to entitle a commandant to exert sovereign power that risks the lives of soldiers to fight the enemy. The occurrence of war does not depend upon the members of a single political unity but upon God. Humans can do nothing in the face of such events but exert their *technē*.

In Plato's late political thought, it is clearly explained that the true origin of sovereignty is the reactive combination of three factors: (1) etiological necessity governed by God; (2) chance, embodied by the prevailing circumstances, which humans must inevitably face; and (3) the *technē* that humans use to deal with the circumstances and achieve their goals.

In a primitive political unity that uses sovereign power exclusively during defensive wars, citizens' tasks of watching over borders are limited to the physical borders of the territory. Consequently, their actions

are not characterized by sovereignty. As a political unity reaches a certain scale, however, circumstances change. The *nomos* of the state may require supervision of the borders of individual *nomoi* to prevent the state's *nomos* from being corrupted from the inside. If this change is grasped by *technē*, then governmentality must come into being. »Bare life« emerges as an additional instrument of such governmentality that enhances the state's *nomos* and protects it from the inside. Sovereignty does not disappear under these circumstances but becomes normal and persistent in peacetime. This is not only because the real possibility of war is ineliminable: On one hand, *nomos*-guarding, that is, watching over the borders of individuals' *nomoi*, becomes a new form of borderline concept that reveals sovereignty, while on the other hand, the existence of »bare life« produces the indistinction of borders, as well as the suspension of the goal of the *nomothetike* in the sense that those subject to bare life, as exceptions, are no longer seen as part of the collective cultivation of virtues.

The use of sovereignty renders the Platonic *nomothetike*, along with all other possible kinds of *nomothetike*, indistinguishable from the Sophistic type. In *Nomoi* 4, Plato describes the Sophistic understanding of the *nomothetike* as follows:

- (A) *Nomos* aims neither at war nor at virtue.
- (B) *Nomos* aims at safeguarding the interests of established *politeia* so that it can rule forever and never be destroyed.
- (C) The concrete form of the *politeia* is indifferent to the *nomothetike*.
- (D) The *nomothetike* defines justice and injustice on behalf of the interests of the ruling class.

Plato denies three of these four features. Along with considering the ultimate goal of the *nomothetike* to be the collective cultivation of virtue (contradicting A), he claims that the *nomos* must serve the interests of the entire polis (contradicting D) and, consequently, protect the *politeia* that is free from essential class differentiation (contradicting C; cf. *Laws* 4.713e–715b). Nevertheless, feature (B) is not rejected, as both the *politeia* and the *nomothetike* require protection. In the practice of *politike technē*, this requirement almost necessarily leads to the use of sovereignty.

As a borderline concept, sovereignty is not primarily characterized by the suspension of law, which is merely an instrument. Rather, sovereignty is characterized by the suspension of the goals that sovereignty itself serves, resulting in an indistinction between instrument and goal. In terms of such sovereignty, the *ergon* as productive act and the *ergon* as product become one and the same, as ensuring the process of production becomes the goal of that very production.

During a defensive war, sovereignty suspends its goal in the sense that it produces dead soldiers who are no longer part of the collective cultivation of virtue. In the case of the death penalty, it even suspends one of the most important principles of justice—*dikaiosyne*: According to Plato's *Politeia*, it is never just to harm anyone, because harm produces injustice in the harmed (1.335a–e). A citizen worthy of condemnation to death, however, is conceived of as incurable (ἀνίατος; cf. *Laws* 9.854e), and since the *nomos* of the state consists of its citizens' individual *nomoi*, the existence of such an incurable soul threatens the *nomos* of the state. This is the reason and justification for the death penalty in the Platonic Cretan state. This justification is not ethical but purely technical, aiming at nothing other than protecting the order that allows the *nomothetike* to be practiced.

Although the Cretan governmentality described does not produce death, it is still characterized by the suspension of the goal of the *nomothetike* and is never free from the indistinction of borders. In the Cretan governmentality, which is mainly exerted in peacetime, sovereignty is not centralized in a single person who decides on the total state of exception: Instead, it is decentralized among many *nomos*-guardians who decide not only whether the death penalty is necessary but also whether the suspension of the *nomothetike*'s goal is necessary. Furthermore, they also have discretion (though based on law) to decide whether an individual should be subject to bare life, which is useful for the *nomothetike* in a different way from normal citizens. Both sovereignty and governmentality consist of various concrete measures; they are, as it were, two groups of instruments in a toolbox that lacks dividers, leaving no clear border between sovereign and governmental tools. Which tools are used and which combination is established ultimately depend on the reaction between God, chance, and *techne*. Different practices are derived neither from different *technai*

nor from the same *techne* practiced by different people, nor indeed from causality altered by God. Rather, they are derived from different chances, embodied in concrete circumstances in which people practice the same *techne*. For *techne*, regulated by *ergon* and strategy, there is no general rule; only specific rules apply to specific circumstances. Because governmentality is characterized by *techne*, it is impossible for it to be deprived of sovereignty, since nobody can ensure that the circumstances in which sovereignty is the most appropriate instrument will never come to be.

In terms of the *nomos*-guardians, sovereignty in the Platonic Cretan state, while not monarchic, can be conceived of as aristocratic. This does not mean, however, that democracy is necessarily free from sovereignty. Regarding the education of children, for instance, watching over the borders of *nomos* in children's souls is the business of almost every adult citizen in the Platonic Cretan state (*Laws* 7.808e):

πᾶς ὁ προστυγχάνων τῶν ἐλευθέρων ἀνδρῶν κολαζέτω τόν τε παῖδα αὐτὸν καὶ τὸν παιδαγωγὸν καὶ διδάσκαλον, ἐὰν ἑξαμαρτάνῃ τίς τι τούτων. Ἄν δ' αὖ προστυγχάνων τις μὴ κολάζῃ τῇ δίκῃ, ὄνειδει μὲν ἐνεχέσθω πρῶτον τῷ μεγίστῳ.

Any free man who meets the child should punish both the child himself and his teacher, as well as his tutor, if any of them does wrong. And if anyone who meets them fails to punish them according to justice, he shall, first of all, be liable to the deepest disgrace.

In this case, sovereignty is democratic and embodied by average individuals. In comparison to sovereignty in the face of bare life, this sovereign power is exerted more actively. In dealing with children's *nomoi*, everyone is entitled to decide on exceptions, judge whether teachers or pupils have crossed the boundaries of the appropriate *nomos*, and take appropriate measures to address the state of exception at hand. It seems that Plato attempts to mobilize the multitude, which is rational in terms of its *nomothetike*, to produce and protect the *nomos* of the state, using its sovereign decision, as well as its sovereign power, to fight against the Sophists who use teaching to corrupt the *nomoi* in young citizens' souls. Even

the most ordinary citizens are entitled to exert this sovereignty within the framework of *techne*, provided that they see the state's stable *nomos* as one of their goals and conceive of sovereignty, in specific cases, as an appropriate instrument to achieve it. This idea seems never to have been realized, since no political unity has officially established this form of multitude-practice as part of its *nomothetike*. Nevertheless, spontaneous practices in similar forms are easy to find today. Mass movements fighting against the teaching of certain ideas can be found in countries with various cultures and on both the left and right wings. Despite having different or even opposed understandings of appropriate *nomos*, all of these actively try to intervene in education systems. To use *techne*, they need not learn what *techne* is; knowing their own goals and circumstances is sufficient for them to develop strategic thinking. Plato and other ancient Greeks simply used the word »*techne*« to denote this practical combination of *ergon* and strategy.

