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## Book Review

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**Book Review:**

**Randall Baldwin Clark, *The Law Most Beautiful and Best: Medical Argument and Magical Rhetoric in Plato's Laws*, Lexington Books, 2004 (pp. 178 + xiv)**

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Despite having founded much of Western ethical and political philosophy, Plato remains largely unknown to legal historians and theorists. Discussions of him within legal scholarship, often fleeting, rarely amount to more than the caricatures of elite Guardians, elusive ‘Forms’, or the Philosopher King<sup>2</sup> as a cross between Stalin and Svengali—half dictator and half mystic.<sup>3</sup> Some scholars have examined Plato’s specific critiques of rhetoric and legal process,<sup>4</sup> but his broader views on law<sup>5</sup> have been neglected. Writers on civil disobedience sometimes mention *Crito* or *Apology*, but those are briefer, earlier works, containing few of Plato’s deepest insights. Discussion of the *Statesman* is virtually non-existent among legal scholars, despite its challenges to the rule of law and to the very idea of law formulated as rules.

The *Republic* famously compares the city to the soul, whereby the soul consists of “intelligent,” “spirited” and “appetitive” elements. The people of the city divide into three corresponding classes. There can only be justice, in the city or in the individual, when those elements are harmonized.<sup>6</sup> Today, that image may appear precious or quaint. Yet it brings us

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<sup>1</sup> Professor of Law, University of London. Queen Mary. Paris (Maîtrise, 1986); Harvard (J.D. 1991); Leiden (Doctoraat 1995). Citations refer to *Plato: Complete Works* (John M. Cooper, ed. 1997),

<sup>2</sup> The term “philosopher ruler” is better than “philosopher king,” since women can qualify. See *Republic* 540c.

<sup>3</sup> Cf., e.g., Eric Heinze, “The Status of Classical Natural Law: Plato and the Parochialism of Modern Theory” (forthcoming 2007) (reviewing approaches to Plato within legal scholarship).

<sup>4</sup> See, e.g., the collection of articles on Plato’s *Gorgias* in 74 *Iowa L. Rev.* 787 (1989).

<sup>5</sup> Cf., e.g., Eric Heinze, “Epinomia: Plato and the First Theory of Law”, 20 *Ratio Juris* 97 (2007).

<sup>6</sup> *Republic* 436b – 442d.

into the heart of Plato's thought, and of his quest for a society that runs on shared habits and attitudes, as opposed to abstract and coercively imposed rules.<sup>7</sup>

The *Republic* compares the city not only to the soul, but also to the body. Plato frequently characterises the city as a whole, or elements within it, as healthy or unhealthy, in order to depict them as more or less conducive to justice. The art of the healthy body is medicine. The art of the healthy, or just, city is law. The good medicine of a just society is good law. The healthy body requires simple and limited medicine; the healthy city requires simple and limited law. The healthy body functions by itself, drawing no more resources than it requires to stay healthy. Its diseases are occasional and minor "wounds or . . . seasonal illnesses," and not the chronic disorders of those who neglect good health through sheer surfeit of food, drink, and the like. Similarly, in the healthy city, good law arises out of the shared values, habits and attitudes of individuals devoted to the common good, instead of the relentless pursuit of ever increasing individual wealth. Disputes are rare and easily remedied, and do not require volumes of legislation or endless hours in court. Socrates tells us in the *Republic* that it is "shameful" for the body "to need medical help, not for wounds or because of some seasonal illness, but because, through idleness and the life-style [of excess], one is full of gas and phlegm like a stagnant swamp, so that sophisticated . . . doctors are forced to come up with names like "flatulence" and "catarrh" to describe one's diseases."<sup>8</sup> Citizens in the corrupted city abuse law in the same way as medicines are compulsively yet haphazardly consumed by people whose illnesses result from their sheer indifference to good health. They do not use law to attain the best life for themselves or for others. Rather, they "spend their lives enacting a lot of . . . laws and then amending them,"<sup>9</sup> turning the law into that same kind of bloated "swamp," because they "always think they'll find a way to put a stop to cheating on contracts and the other things . . . not realizing that they're really just cutting off a Hydra's

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<sup>7</sup> Cf., e.g., Heinze, *supra* note 5, at Sec. II.B.

<sup>8</sup> *Republic* 405 c - d.

<sup>9</sup> *Id.* at 425c - e.

head.”<sup>10</sup> It is no exaggeration to call Plato a critic of consumerism, and of the litigious society that results from citizens pursuing purely immediate self-interest, having lost all sight of the common weal.

Randall Clark pursues the analogy between the healthy body of medicine and the healthy values of justice in the *Laws*. The *Laws* is probably Plato’s last, and certainly his longest and most difficult work on ethics, law and politics. It is thought to have remained unfinished at his death, although no treatment of such a vast and subtle range of problems would have made for easy reading. Even for experienced philosophers and classicists, the *Laws* can seem obscure. Published guides to the *Republic* are plentiful, while there are few for the *Laws*. In *The Argument and the Action of Plato’s Laws*,<sup>11</sup> Leo Strauss had offered a close, step-by-step reading, but it is hardly breezier than Plato’s own text. Richard Stalley’s excellent *Introduction to Plato’s Laws*,<sup>12</sup> perhaps anticipating an audience slightly daunted by the *Laws*, sticks to the major themes, avoiding some of the less obvious points.

Clark’s venture is more daring. He explores ancient Athenians’ obsession with health and medicine, and the prominence of concepts of physical health and healing throughout Plato’s works. Noting an age in which medical practices were still bound up with magic, Clark cites extensively from primary and secondary sources on Greek attitudes towards health, medicine and magic. Magic casts an interesting light upon the supposedly iron-fisted Western rationalism that Plato and Socrates are traditionally blamed for having launched.<sup>13</sup> As Clark shows, Plato has a distinct and easily neglected interest in magical pronouncements and incantations, i.e., in speech utterly divorced from critical reason, yet able to exercise its own compelling power. Socrates rebukes the Sophists for their seductive, manipulative use of language. Yet recall Socrates’ own verbally erotic spell over Alcibiades<sup>14</sup> and other young

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<sup>10</sup> *Id.*

<sup>11</sup> Leo Strauss, *The Argument and the Action of Plato’s Laws* (1975).

<sup>12</sup> R.F. Stalley, *An Introduction to Plato’s Laws* (1983).

<sup>13</sup> See, e.g., famously, Friedrich Nietzsche, *Götzen-Dämmerung*, in *6 Nietzsche: Kritische Studienausgabe* 67 – 73 (2<sup>nd</sup> ed. 1988).

<sup>14</sup> *Symposium* 213c – 222b.

men<sup>15</sup>, leading even to his execution for conversations purportedly having corrupted the minds of young Athenians.

The newcomer to Plato often finds the dialogues contrived, with their endless pages of “Yes, Socrates” and “Surely that must be true, Socrates.” Why should a critically-minded philosopher like Plato allow Socrates to triumph so frequently without resistance? Socrates’ younger interlocutors, it would seem, are at times assenting not out of rational scrutiny, since they are only beginning to learn that skill, but out of hypnotized awe. Socrates has worked magic on them. Plato might well have been happier if magic had been reputed to be used only for evil. That would have allowed him to condemn it outright—to become indeed the hard-nosed founder of Western rationalism—furthering his perpetual derision of deceptive speech, including his disdain for rhetoric and sophistry. Clark explains, however, that magical pronouncements are also widely believed to have beneficial, even miraculous, effects. Non-rational speech can be a force for good. It is too powerful to be ignored. The wise ruler must not banish it, but must remain vigilant about its practice.

That kind of speech—powerful yet non-rational, and even beneficial—recalls Plato’s views about poetry, myth, metaphor and rhetoric. Plato forever against their dangers, yet always displays a mastery of them. Not all individuals, on Plato’s view, have equal intelligence. Some may hear reason, but not all. Others will be swayed more by stories, or by magic, than by critical argument and debate. Despite some of their elaborate and rigorous institutions, Plato’s ideal cities are not meant to be fully rationalized, de-sacralized worlds. They regulate poetry and myth, but do not ban them. In the *Republic* and the *Laws*, words, myths, stories and incantations transmit crucial social values.

Clark might have drawn more clearly some of the links between magic on the one hand, and art and myth on the other. His thesis suggests a more general view on Plato’s part of the role of such powerful-yet-precarious forms of speech. Of course, the status of art and myth in Plato’s thought has long preoccupied scholars. Clark might, understandably, have preferred to focus on points less frequently encountered in the literature. Readers may also disagree

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<sup>15</sup> See, e.g., *Laches*, *Lysis*.

with a few of Clark's minor points. Early on, for example, he notes the failure of Kleinias, one of the *Laws's* interlocutors, to mention "that great shame is associated" with archery, which is seen as an evasion of manly, hand-to-hand combat. (p. 5) Yet, at least as presented in that example, an argument of that kind may appear speculative. Associations of shame with an activity, military or other, may be difficult to assess. One might well find a *rhetoric* of shame, which may convey the perceptions of some observers. But does it express a generally shared perception? By analogy, a rhetoric of shame might be directed towards the Hiroshima bomb or the "shock and awe" of the 2003 Iraqi invasion. Would that characterization preclude contrary ones—perhaps depictions of such attacks as displays of uncanny military ingenuity, which might even be said to express genuine admiration? I draw contemporary analogies because Clark himself—fortunately, in endnotes—draws them, seeing parallels to the first Gulf war that some readers may find tenuous. At some points, one may wonder whether Clark's own magical eloquence (which is truly remarkable) rescues him a bit too easily from murky water.

Nevertheless, problems of that kind are few and marginal, interfering little with Clark's principle arguments. The book's aims and focus remain well defined, and the central points are supported with ample evidence. Good commentaries on Plato generally consist in teasing out the themes, symbols, allusions or narrative devices through which Plato develops his ideas. Clark's study ably fulfils that task. It offers original and engaging insights both to new and to seasoned readers of Plato.