

Philosophy Before Socrates

An Introduction with Texts
and Commentary

Second Edition

Richard D. McKirahan

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for Voula again, as always

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The *Nomos-Phusis* Debate

philosophers. Gorgias's *Praise of Helen*, which contains interesting philosophical ideas about truth and falsity, knowledge and opinion, speech and persuasion, was composed as a kind of entertainment (19.20 section 21). Part of the intention of the work is to demonstrate the power of *logos* (a self-serving thesis for a teacher of rhetoric), and the philosophically interesting material may be subordinate to this end. For all we know, Gorgias wrote *On What-Is-Not*, or *On Nature* in the same spirit. It is likewise possible that Protagoras did not really believe that a human being is the measure of all things but simply articulated that view and perhaps expanded it into a whole relativistic philosophy in order to dignify his profession and attract students. It is even possible that the Sophists who contributed to the *nomos-phusis* debate were simply staking out positions which they could use to show off their brilliance and from which they could assault the stances adopted by their rivals. It is thus possible that the Sophists were no more concerned with the truth of the philosophical positions they adopted or the soundness of the arguments they advanced than modern public relations firms need to be about the claims they make for the products they promote. And this consideration may give us qualms about designating the Sophists as philosophers.

But for all we know, they may have cared passionately for the views they expressed. If the fact that someone does philosophical work is not sufficient grounds for calling that person a philosopher and we need to know his or her attitudes and intentions as well, we must admit that we are not in a position to judge. In this matter as in many others concerning the Sophists of the fifth century, opinions will continue to vary.

In Greece and especially in Athens, the second half of the fifth century was a period of unmatched intellectual liveliness. A profusion of ideas were floated, discussed and fought over by such distinguished figures as the tragic poets Sophocles and Euripides, the comic poet Aristophanes, the historians Herodotus and Thucydides, numerous orators, the later Presocratics (above all, Democritus), the Sophists, and, of course, Socrates and his associates. The fact that in most cases these ideas were presented in public settings, from the theater, Assembly, and law courts to the great festival of Olympia, proves that the general public was exposed to and presumably understood and entered into the debate. The surviving writings give a vivid picture of the intellectual scene—the issues, the manners of treatment, and the range of solutions that were in the air.

One topic in particular was discussed frequently and in a variety of contexts: the contrasting concepts *nomos* (plural, *nomoi*), which can be translated “law,” “custom,” and “convention,” and *phusis*, “nature” and the ways of interpreting the contrast between them. These concepts themselves are interesting and complex in their own right, but more importantly, they were thought to be the keys to understanding a wide range of issues that stemmed from sources as varied as the Presocratic philosophical tradition and the practical politics of running an empire. These issues include the following: Do gods exist in nature or only by custom? Does human society exist as a result of human nature or of convention? Is morality natural or only a product of custom? Are the optimal political arrangements for a state determined by the facts of human nature alone, or should laws be introduced to provide a control on nature? Am I better off to follow the dictates of *nomos* or those of *phusis*?

There is a large and diverse body of source materials from fifth- and fourth-century writers on what is known as the *nomos-phusis* debate, some found in the philosophical writings of the Sophists, some in the works of Plato and Aristotle, and some in dramatic, historical, and political writings of the period. The present chapter will present some of this material in order to display a number of the ways in which the terms of the debate were conceived and to show both how certain issues were conceptualized and discussed in terms of these notions and how thoroughly the debate penetrated Greek intellectual life. Three passages from Plato are summarized and discussed but not translated since they are comparatively long and readily available. I have drawn materials from authors as late as Aristotle in order to make the selection as representative and useful as possible. This purpose conflicts with the title of this book, but excluding all fourth-century material would leave the picture awkwardly incomplete. Constraints of space require the passages to speak for themselves more than elsewhere in this book, but since they speak loud and clear this should not prove a serious disadvantage.

The Terms of the Debate

Nomos

There is no single English equivalent for *nomos*. It is related to the verb *nomizō* (“think,” “believe,” “practice”) and originally meant what people (or a people) believe or practice—their customs, which, especially in early times, had the force of laws. Indeed, before the existence of written law codes, a distinction between custom and law would have been hard to draw. *Nomos* has prescriptive force: it is not simply what is believed, but what is believed to be right, not just the ways of life a people practices, but what it practices as the right way of life. The word was extended to cover laws formally enacted and enforced by the state. In this usage it retains its prescriptive force: people are under an obligation to obey the laws.

A passage from Herodotus’s *Histories* illustrates some of the ways the Greeks regarded *nomos*.

- 20.1 If all humans were told to select the best *nomoi* from all that are, each people would upon consideration choose its own. . . . There is a vast amount of evidence for this fact, including the following. When Darius was king of the Persian Empire he summoned the Greeks who were at his court and asked how much money it would take for them to eat the corpses of their fathers. They responded that they would not do it for any price. Afterward Darius summoned some Indians called Kallatai, who do eat their parents, and asked in the presence of the Greeks, who understood through interpreters, for what price they would agree to cremate their dead fathers. They cried out loudly and told him to keep still. That is what people’s customs are and I think Pindar was right when he wrote that *nomos* is king of all.

(Herodotus, *Histories* 3.38 [not in DK])

This passage shows the prescriptive force of *nomos* as well as another feature frequently associated with *nomos*—variability. It was well known that *nomos*, in the sense of custom or customary beliefs or practices, differs among different peoples. Herodotus proves that the strange ways of foreign folk were a fascinating topic for the Greeks, since much of his popular *Histories* is given over to ethnographic accounts of Persians, Egyptians, Scythians, and other peoples. An earlier reference to this topic is found in Xenophanes’ brief mention of how different peoples conceive of their gods (7.6). Moreover, *nomos* in the sense of the positive written law of a state was known to all Athenians to be the product of human contrivance and capable of being created, abolished or changed by the Assembly. Thus, even for a single people *nomos* was different at different times, as the following statement of the Sophist Hippias recognizes.

- 20.2 How can anyone suppose that laws are a serious matter or believe in them, since it often happens that the very people who make them repeal them and substitute and pass others in their place?

(Xenophon, *Memorabilia* 4.4.14 [not in DK])

Phusis

Phusis, standardly translated “nature,” has several philosophical usages. Some of these have been brought out in connection with the Presocratic philosophers, the conventional name for whose writings was *Peri Phuseos* (*On Nature*). Of primary concern here is the sense of the basic nature of an individual or type of thing, in contrast to its acquired characteristics. In this way a thing’s *phusis* is its permanent or essential characteristics, or how it would be if it were not interfered with. A second relevant use is found in the phrase “by nature,” which comes close to “in reality” or “as things really or fundamentally (perhaps despite appearances) are.”

The Antithesis between *Nomos* and *Phusis*

The contrast between *nomos* as variable, impermanent, and artificial and *phusis* as necessary, universal, and permanent was a commonplace. In arguing for his thesis that “by nature all people, foreigners and Greeks alike, are naturally similar in all respects,” Antiphon offers as evidence “things that are by nature (*phusis*) necessary to all humans,” such as breathing through the mouth and nostrils, laughing when happy and crying when sad, hearing with our ears, seeing with our eyes, working with our hands and walking with our feet.¹ In the same vein, Aristophanes refers to love (and adultery!) as necessities of nature.² Things that are “by nature” are necessary; also *phusis*, in the sense of the nature of something, implies that some features of that thing are necessary, those it has by virtue of being the type of thing it is. For example, Socrates has some features by virtue of being a human. Being a human, he has human nature, the nature of a human being. As a result, he has characteristics, for example, breathing through the mouth and nostrils, which he shares with all other humans. These features are universal and permanent—they belong to all humans whenever and wherever they may live.

The nature of the contrast between *nomos* and *phusis* can be construed variously. It is related to the contrast between the prescriptive (how things ought to be) and the descriptive (how things are), though it is not the same, since some attributed a prescriptive dimension to *phusis* as well as to *nomos* (if things are such and such by nature, that is how they ought to be). Among other aspects of the *nomos*–*phusis* antithesis is the contrast between appearance (how things seem to someone) and reality (how things are in fact). Another is the opposition between the artificial or man-made and the natural. Yet another is that between the contingent or accidental, and the necessary.

In addition, the interplay of *nomos* and *phusis* was conceived in different ways. Some saw them as hostile to one another, each prescribing situations and behavior the other proscribes. Others saw them as complementing one another, *phusis* providing a range of options and *nomos* determining which of these to adopt.

1. Antiphon DK 87B44 B.

2. Aristophanes, *The Clouds* lines 1075–76 (not in DK).

Still others claimed that *nomos* is based on *phusis*, thus employing the terms of the debate while undermining the dichotomy between them. We even find the phrase “*nomos of phusis*”—“law of nature” in the sense of “what nature prescribes” as opposed to the *nomos* which humans establish.³

Finally, different writers expressed different evaluations and preferences. Some held it best to follow *nomos* because it permits us to live in civilized society; without *nomos* we would be reduced to a state of nature where life is, in the memorable words of the 17th-century philosopher Thomas Hobbes, solitary, poor, nasty, brutish, and short. Others saw *nomos* as a conspiracy of the weaker to defeat the naturally stronger, who have a natural right to rule and do what they wish. A superior person should follow the dictates of *phusis* rather than those of *nomos*. Again, the view was expressed that we should follow *nomos* when others are looking and *phusis* when they are not. And some “realists” believed that as *phusis* is necessary and inevitable, considerations of *nomos* are simply irrelevant. The rest of the chapter will show how the *nomos-phusis* debate was explored and exploited in the fifth and fourth centuries.

Champions of *Phusis*

Antiphon

“Most of the things that are just according to *nomos* are established in a way which is hostile to *phusis*.” This statement, which is emblematic of much of the *nomos-phusis* debate, occurs in the middle of a long fragment of Antiphon which brings out the contrast between *nomos* and *phusis* in several ways as he subverts the *nomoi* of a state, arguing that it is most advantageous to follow the prescriptions of *phusis* whenever we can get away with it.

- 20.3 (1) Justice is a matter of not transgressing what the *nomoi* prescribe in whatever city one is a citizen. A person would make most advantage of justice for himself if he treated the *nomoi* as important in the presence of witnesses and treated the decrees of *phusis* as important when alone and with no witnesses present. For the decrees of *nomoi* are extra additions, those of *phusis* are necessary; those of the *nomoi* are the products of agreement, not of natural growth, whereas those of *phusis* are the products of natural growth, not of agreement. (2) If those who made the agreement do not notice a person transgressing the prescriptions of *nomoi*, he is free from both disgrace and penalty but not so if they do notice him. But if, contrary to possibility, anyone violates any of the things which are innate by *phusis*, the harm is no less if no one notices and no greater if all observe. For he does not suffer harm as a result of opinion but as a result of truth.

This is the entire purpose of considering these matters—that most of the things that are just according to *nomos* are established in a way that is hostile

to *phusis*. For *nomoi* have been established for the eyes as to what they must (3) see and what they must not, and for the ears as to what they must hear and what they must not, and for the tongue as to what it must say and what it must not, and for the hands as to what they must do and what they must not, and for the feet as to where they must go and where they must not, and for the mind as to what it must desire and what it must not. Now the things from which the *nomoi* deter humans are no more in accord with or suited to *phusis* than the things which they promote.

Living and dying are matters of *phusis*, and living results for them from what is advantageous, dying from what is not advantageous. (4) But the advantages which are established by the *nomoi* are bonds on *phusis*, and those established by *phusis* are free.

And so things that cause pain, at least when thought of correctly, do not help *phusis* more than things that give pleasure. Therefore it will not be painful things that are advantageous rather than pleasant things. For things that are truly advantageous must not cause harm but benefit. Now the things that are advantageous by *phusis* are among these . . .

<But according to *nomos*, those are correct> who defend themselves after suffering (5) and are not first to do wrong, and those who do good to parents who are bad to them, and who permit others to accuse them on oath but do not themselves accuse on oath. You will find many of these cases hostile to *phusis*. They permit people to suffer more pain when less is possible and to have less pleasure when more is possible and to receive injury when it is not necessary.

(Antiphon DK 87A44 A, col. 1, 6–col. 5, 24)

Though Antiphon stops short of advocating that we all replace *nomos* with *phusis* as a standard for behavior, he maintains from a variety of viewpoints that *nomos* and what *nomos* prescribes are opposed to *phusis* and what is advantageous according to it, and he asserts that what is advantageous by *phusis* is beneficial and hence truly advantageous. The decrees of *nomos* are extra additions—products of agreement, not natural growth; those of *phusis* are necessary and products of natural growth, not agreement. Anyone who violates *nomos* will be punished only if caught, whereas anyone who violated *phusis* (which is impossible) would suffer equally whether observed or not. *Nomos* is associated with (mere) belief or opinion; *phusis* with truth or reality. Toward the end of the passage Antiphon contrasts things that are naturally advantageous with those that are advantageous by *nomos* and suggests that things that give pleasure and joy are naturally advantageous and those that cause pain and grief are naturally disadvantageous, whereas what is advantageous by *nomos* is at least as likely to cause pain as pleasure.

The passage requires some interpretation. First, a word about the nature of the necessity of *phusis*. We are told both that it is impossible to violate the decrees of *phusis* and that if we did we would suffer harm. Then *nomos* is said to make dictates contrary to *phusis*. Finally, pleasure and pain seem to be criteria respectively of what is in accordance with and what is contrary to *phusis*. When Antiphon asserts that

3. Plato, *Gorgias* 483e (not in DK).

the dictates of *phusis* cannot be violated, it may seem that he is thinking of laws of nature, like the law of gravity. If this were so, it is hard to see what role *nomos* could play. No society has as its custom or law that people must break the law of gravity!

We get further if we start from the end of the passage. There are naturally advantageous things, like life, and naturally disadvantageous things, like death. *Phusis* tells us to pursue the former and avoid the latter. If we violate these decrees of *phusis* the results will be bad for us, since we will have fewer advantageous and more disadvantageous things. Pleasure and pain are natural indicators of the advantageous and disadvantageous. Therefore *phusis* calls for a hedonistic approach to life. *Nomos*, on the other hand, is frequently contrary to *phusis*. It decrees that we shall not always (or even usually) pursue our own pleasure and avoid pain. Therefore, if we obey the dictates of *nomos* rather than those of *phusis* we are inhibited from pursuing our real advantage and will experience less pleasure and/or more pain than necessary. Violating *phusis* therefore brings its own penalties in the form of less pleasure or more pain. *Nomos*, however, works differently. Since it is artificial, penalties for transgressing its decrees do not follow inevitably. You must be caught and convicted first. Hence the cynical remark at the beginning of the fragment. Even so, if justice according to *nomos* were rendered effectively, it might still be worth one's while to obey *nomos*. The penalties for transgressing the dictates of *nomos* are typically painful. Therefore, if *nomos* were enforced perfectly, going against it could be made to bring a greater amount of pain (or a lesser amount of pleasure) than would come from following the dictates of *phusis*. That is, *nomos* could exploit the naturally advantageous and disadvantageous to the point where people would maximize their natural advantage and minimize their natural disadvantage by following *nomos*. Antiphon's reply to this thought is contained in the following passage from the same fragment.

20.4 Now if some assistance came from the *nomoi* for those who submitted to these conditions and some damage to those who do not submit but resist, (6) obedience to the *nomoi* would not be unhelpful. But as things are, it is obvious that the justice that stems from *nomos* is insufficient to aid those who submit. In the first place, it permits the one who suffers to suffer and the wrongdoer to do wrong, and it was not at the time of the wrongdoing able to prevent either the sufferer from suffering or the wrongdoer from doing wrong. And when the case is brought to trial for punishment, there is no special advantage for the one who has suffered over the wrongdoer. For he must persuade the jury that he suffered and that he is able to exact the penalty. And it is open to the wrongdoer to deny it. . . . (7) However convincing the accusation is on behalf of the accuser, the defense can be just as convincing. For victory comes through speech.⁴

(Antiphon DK 87A44 A, col. 5, 25–col. 7, 15)
(continuation of 20.3)

4. The last part of the text is uncertain.

Nomos does not prevent harm from being done but only comes into play after the fact. Even then it is no guarantee. When a case comes to court, the victim has no particular advantage over the wrongdoer, since what wins the case is not truth but persuasion.⁵

Antiphon is possibly the earliest advocate of hedonism in Greek philosophy.⁶ He distinguishes what is advantageous according to *phusis* from what is so according to *nomos*, says that what is truly (that is, presumably, according to *phusis*) advantageous is beneficial, not harmful, and seems to identify things that give joy and are pleasant with that is advantageous according to *phusis* and things that cause distress and are painful with what causes harm and is therefore, presumably, disadvantageous according to *phusis*. Things that result in death are disadvantageous and things that result in living are advantageous.

This position is not well worked out, and Antiphon's remarks raise many questions and seem open to several serious objections. However, his treatment contains features that are important in the history of moral philosophy. The move to ground the concept of advantage in *phusis* amounts to an attempt to provide a naturalistic basis for ethics, and the identification of life and death as standards for judging advantage and disadvantage has the effect of offering objective criteria for ethical judgments.

Callicles

A more satisfactory development of these ideas is found in Socrates' encounter with Callicles in Plato's *Gorgias*. In a memorable speech (482c–484c), of which the following is a summary, Callicles maintains that some are superior by *phusis*, hence better people, and that they can and should use their superiority for their own selfish advantage.

Phusis and *nomos* are in most things opposed to one another. By *phusis* everything that is worse is more shameful, but by *nomos* this is not so. By *phusis* it is both worse and more shameful to suffer injustice than to commit it, and both better and less shameful to commit injustice than to suffer it, whereas by *nomos* it is worse to suffer injustice but more shameful to commit it. Justice and injustice here are understood as characterizing respectively what is prescribed and what is forbidden by *nomos*. What *phusis* prescribes and forbids is quite different. In fact, *nomos* is a conspiracy of the weak against the strong. The majority of people are weak. They realize that they would be unable to resist the strong if everyone were free to pursue his or her own advantage, since the stronger would get a larger share. Hence the weak majority establish *nomoi* which declare it unjust and shameful to have a larger share. They are willing to settle for equal shares for

5. At this point we almost expect an advertisement for Antiphon's skills as a speech writer and Sophist. See above p. 401.

6. Unless Democritus's fragments were written earlier. See above pp. 337–38.

all, for they see that in this way they will have more than they would if the strong were allowed to pursue their own advantage. What *nomos* declares to be just and unjust is to the advantage of the weak and to the disadvantage of the strong, but by *phusis* it is just for everyone to be able to pursue his or her own advantage and consequently for the strong to have more than the weak. This is the *nomos* of *phusis*. A truly strong person will see through the sham of *nomos*, will succeed in pursuing his own natural advantage, and will become master.

Callicles subsequently explains his view more fully (488b–492c). If you are superior by *phusis*, you are better, wiser, braver and more powerful. *Phusis* calls for you to be free to pursue and enjoy your natural advantage and gratify your desires without restraint. You will not be restrained by other people or by *nomos*, or by your desires either. The successful life, the life of *aretē* and happiness, is a life spent in the unhindered satisfaction of one's desires.

Callicles' challenge to conventional *nomos*-based morality is powerful and thoroughgoing. It provoked some of Plato's most profound moral thinking (in the *Republic* as well as the *Gorgias*). For our purposes, its importance is its conception of the advantages of *phusis* and its way of seeing *nomos* as a deliberate subversion of *phusis*. All people are by nature egoists; all pursue their own advantage—even the weak pursue theirs in establishing *nomos*, since they believe that they will fare better under the restraints imposed by *nomos* than under the freedom permitted by *phusis*. The primary command of *phusis* is to pursue your own advantage by satisfying your desires. It is good to satisfy your desires, and a person who is able to satisfy them is better than one who is not. Thus Callicles' position is not merely a descriptive account of human nature and behavior but a normative account of the way people ought to behave.

Political power is also relevant, though as the discussion in the *Gorgias* goes, it is left unclear whether it is a means to the satisfaction of one's desires or is itself the object of desire. Nevertheless, the connection between desires and advantage is an important addition to the position of Antiphon and one which makes hedonism more plausible (though the egoistic view I have attributed to him does not necessarily point toward hedonism). In fact, Callicles goes on to make this connection (495a), though under pressure from Socrates he withdraws from his doctrine of extreme hedonism (499b).

Thrasymachus

Callicles is mainly concerned with contrasting what is just by *phusis* with what is just by *nomos*, to the advantage of the former. In the first book of Plato's *Republic*, Thrasymachus offers a position that is superficially similar: justice is the advantage of the stronger (338c). He illustrates this thesis by saying that the ruling (that is, stronger) power in any city enacts laws to its own advantage (338d–339a). This assertion is apparently intended as a descriptive claim about how things actually are in the world, but when Socrates points out that rulers

are fallible and sometimes make mistakes about their own interest, so that following the laws does not promote the ruler's advantage (339b–e), Thrasymachus says that a "true ruler" would never make such a mistake (340d–e). This implies that regardless of what the laws actually command, justice consists in promoting the advantage of the rulers.

In developing this position Thrasymachus later asserts that justice consists in pursuing other people's good (343c) and injustice in pursuing your own advantage (344c). Injustice is more advantageous than justice (344a). And he caps his position by placing injustice under the heading of virtue and wisdom and regarding it as honorable and strong (348e–349a).

Thrasymachus turns conventional morality on its head. The ultimate standard, as with Callicles, is one's own advantage. Both maintain the normative claim that we should pursue our advantage. But Thrasymachus differs from Callicles on a crucial matter. For Callicles, pursuing your advantage is natural justice, whereas for Thrasymachus pursuing your advantage is always unjust. So whereas Callicles recommends being just while at the same time substituting one notion of justice for another, Thrasymachus holds that there is only one notion of justice but also that justice is to be avoided, not pursued. Another difference between Thrasymachus and Callicles is that Thrasymachus drops Callicles' interpretation of one's advantage as the unrestrained fulfillment of one's desires. Thrasymachus's position is thus more general than Callicles' and it cannot be refuted just by attacking hedonism. It raises sharply the question why anyone should be just rather than unjust, that is, why we should act to the advantage of others rather than to our own. More generally, it challenges us to consider why we should care about anyone else and whether we have any social responsibilities and obligations. Moreover, since it is put generally in terms of our interests or advantage, it calls for an answer to the question what our interests and advantage really are—since like Thrasymachus's fallible rulers we too may make mistakes in thinking that something is to our advantage. In addition, analogous questions arise in the political sphere. What are the responsibilities of rulers to subjects and vice versa, and what are the corresponding rights? Also, what are appropriate standards for the relations among different states? Is it right for the stronger to prevail, as Thrasymachus asserts actually happens (343d–344c)? Or are there other considerations as well, deriving either from the nature of the state or from the rights and advantages of the individuals who compose it? Plato takes up these questions in a serious way in the remainder of the *Republic* and they have remained central topics ever since in social, moral and political philosophy.

Antiphon, Callicles, and Thrasymachus mount an impressive attack against justice and against the prescriptions of *nomos* in general. The attack is based on the claim that *phusis* calls for each of us to pursue our own interests and advantage; and where *nomos* conflicts with *phusis* (which is usually the case) and so tells us to act against our own interests and to our disadvantage, we should follow *phusis* rather than *nomos* whenever we can get away without being observed

(Antiphon), or if we are sufficiently clever to see through the sham of *nomos* and sufficiently strong to have our own way (Callicles), or if we are sensible and pursue *aretē* and happiness (Thrasymachus).

Thucydides

This way of looking at things was not confined to philosophical discussion but played an important part in the practical politics of the late fifth century, where it was used to justify imperialism and brutality. In two notable passages of his *History of the Peloponnesian War*, Thucydides presents debates in which considerations of strength and advantage are used to the exclusion of justice, mercy, and forgiveness. The first takes place in the Athenian Assembly. In 428 Mitylene, a city-state subject to Athens, had revolted along with most of the island of Lesbos. The Athenian army had put down the revolt, and the Assembly had passed a decree that the adult males of the defeated city should be put to death and the women and children enslaved. The next day there was a change of heart, so the Assembly was summoned to discuss the matter again. In the debate, which concluded with a decision to rescind the brutal decree of the previous day, Cleon spoke in favor of carrying out the decree.

- 20.5 You do not see that your empire is a tyranny, and that you have unwilling subjects who are continually plotting against you. They obey you not because of any good turns you might do them to your own detriment, and not because of any good will they might have, but only because you exceed them in strength. . . . In sum I say only this: if you follow my advice, you will do justice to the Mytileneans and promote your own interests at the same time. But if you see the matter differently, you will not win their favor; instead, you will be condemning yourselves: if they were right to rebel, you ought not to have been their rulers. But then suppose your empire is not justified: if you resolve to hold it anyway, then you must give these people an unreasonable punishment for the benefit of the empire, or else stop having an empire so that you can give charity without taking any risks.

(Thucydides 3.37.2, 40.4 [not in DK], Woodruff's translation)

In his reply, Diodotus, who spoke for the opposite side, showed no more concern for mercy and justice than Cleon, thus indicating that political advantage was indeed foremost in the Athenians' minds.

- 20.6 Our dispute, if we are sensible, will concern not their injustice to us, but our judgment as to what is best for us. Even if I proved them guilty of terrible injustice, I still would not advise the death penalty for this, unless that was to our advantage. Even if they deserved to be pardoned, I would not have you pardon them if it did not turn out to be good for the city. In my opinion, what we are discussing concerns the future more than the present. And as

for this point that Cleon insists on—that the death penalty will be to our advantage in the future, by keeping the others from rebelling—I maintain exactly the opposite view. . . . But we are not at law with them, and so have no need to speak of justice. We are in council instead, and must decide how the Mytileneans can be put to the best use for us.

(Thucydides 3.44.1–4 [not in DK], Woodruff's translation)

The second episode occurred in 416 when the Athenians attacked the island of Melos, which although originally a Spartan colony was neutral in the war. The Athenians intended to bring it into their empire. Thucydides presents a discussion between envoys of the Athenians and the Melian leaders about the Athenian ultimatum: become a subject state or suffer destruction. The Athenians begin by saying that the basic fact of the situation is the relative strength of the two sides.

- 20.7 *Athenians:* For our part, we will not make a long speech no one would believe, full of fine moral arguments—that our empire is justified because we defeated the Persians, or that we are coming against you for an injustice you have done to us. And we don't want you to think you can persuade us by saying that you did not fight on the side of the Lacedaemonians in the war, though you were their colony, or that you have done us no injustice. Instead, let's work out what we can do on the basis of what both sides truly accept: we both know that decisions about justice are made in human discussions only when both sides are under equal compulsion; but when one side is stronger, it gets as much as it can, and the weak must accept that.

(Thucydides 5.89 [not in DK], Woodruff's translation)

The Melians reply that justice is to everyone's advantage since even Athens may someday be at the mercy of others.

- 20.8 Well, then, since you put your interest in the place of justice, our view must be that it is in your interest not to subvert this rule that is good for all: that a plea of justice and fairness should do some good for a man who has fallen into danger, if he can win over his judges, even if he is not perfectly persuasive. And this rule concerns you no less than us: if you ever stumble, you might receive a terrible punishment and be an example to others.

(Thucydides 5.90 [not in DK], Woodruff's translation)

Nevertheless, the Athenians dismiss this consideration as irrelevant to the present. The subsequent dialogue demonstrates how remote considerations of justice had become.

- 20.9 *Melians:* So you would not accept a peaceful solution? We could be friends rather than enemies, and fight with neither side.

Athenians: No. Your enmity does not hurt us as much as your friendship would. That would be a sign of our weakness to those who are ruled by us; but your hatred would prove our power.

Melians: Why? Do your subjects reason so unfairly that they put us, who never had anything to do with you, in the same category as themselves, when most of them were your colonies, or else rebels whom you defeated?

Athenians: Why not? They think we have as good a justification for controlling you as we do for them; they say the independent cities survive because they are powerful, and that we do not attack them because we are afraid.

(Thucydides 5.94–97 [not in DK], Woodruff's translation)

The Melians decide to resist the Athenians and place their hopes in the gods and the Spartans. The Athenians respond to the first of these hopes that it is a requirement and law (*nomos*) of *phusis*—applying to gods as well as humans—that the strong shall rule.

- 20.10 *Athenians:* The favor of the gods should be as much on our side as yours. Neither our principles nor our actions are contrary to what men believe about the gods, or would want for themselves. Nature always compels gods (we believe) and men (we are certain) to rule over anyone they can control. We did not make this law, and we were not the first to follow it; but we will take it as we found it and leave it to posterity forever, because we know that you would do the same if you had our power, and so would anyone else. So as far as the favor of the gods is concerned, we have no reason to fear that we will do worse than you.

(Thucydides 5.105.1–3 [not in DK], Woodruff's translation)

As to the Spartans, the Athenians claim that not much help can be expected from them, since they more than most people act to their own advantage.

- 20.11 Of all the people we know, they are the ones who make it most obvious that they hold whatever pleases them to be honorable, and whatever profits them to be just.

(Thucydides 5.105.4 [not in DK], Woodruff's translation)

And to the Melian assertion that it is to the Spartans' advantage to assist Melos, the Athenians—correctly, as events prove—reply that the Spartans will not think it to their advantage to undergo such a risk. The Athenians conclude by saying that fear of disgrace (a typical moral consideration) is a foolish motive for action; the best results come from assessing the strength of the parties involved and acting accordingly.

- 20.12 Do not be distracted by a sense of honor; this destroys people all too often, when dishonor and death stand before their eyes. Many have been so overcome by the power of this seductive word, "honor," that even when they foresee the dangers to which it carries them, they are drawn by a mere word

into an action that is an irreparable disaster; and so, intentionally, they fall into a dishonor that is more shameful than mere misfortune, since it is due to their own foolishness. You must guard against this if you are to deliberate wisely, and you must not think it unseemly for you to submit to a city of such great power, which offers such reasonable conditions. . . . Remember what is usually the best course: do not give way to equals, but have the right attitude toward your superiors and use moderation toward your inferiors.

(Thucydides 5.111.3–5 [not in DK], Woodruff's translation)

The political realism espoused by the Athenian envoys was put to the test when the Melians decided to fight for their liberty rather than submit to the Athenian demands, and after an easy victory the Athenian army inflicted the terrible punishment they had threatened.

Conclusion

The champions of *phusis* are agreed on the universality of nature or of human nature and find in *phusis* a standard for determining the advantage of an individual or a community. The writers so far considered, with the possible exception of Antiphon, claim a prescriptive force for the decrees of *phusis*: we, or our community, should pursue our own natural advantage. Moreover, all humans and communities tend to be in competition with one another, so that my pursuing my advantage tends to conflict with you pursuing yours, and it is to my advantage for you not to attain yours.

If the competitive aspect of this view is set aside, the egoism which remains is in fact common ground in Greek moral thought. Even Socrates, Plato and Aristotle held that a person's chief goal is his or her own happiness. And these three philosophers also agreed with the proponents of *phusis* that not the unstable prescriptions of variable *nomos* but facts about human *phusis* are the correct basis for determining what we should do and how we should live.

Defenses of Nomos

Nevertheless, a case could be made for *nomos* as well. The following passages show some of the arguments that were used.

Critias

Critias champions *nomos* outright: without *nomos*, life would be insupportable and civilized society nonexistent; *nomos* raises human life above the beasts.

- 20.13 There was a time when human life was without order, on the level of beasts, and subject to force; when there was no reward for the good or punishment for the bad.

And then, I think, humans established
nomoi as punishers, so that justice would be the mighty ruler
 of all equally and would have violence (*hubris*) as its slave,
 and anyone who did wrong would be punished.

(Critias DK 88B25 lines 1–8)

Protagoras

The idea that humanity advanced from a primitive state to civilization was common in the fifth and fourth centuries and found expression in many writers,⁷ among them Plato, who puts into the mouth of Protagoras a “myth” of human progress⁸ which most scholars take to have a basis in Protagoras’s own thought and which makes *nomos* an important part of civilization while possibly also linking *nomos* with *phusis*.

In the beginning, says Protagoras, humans received as gifts from Prometheus technical ingenuity and fire, through which they developed speech and provided themselves with shelter, clothing and food. They lived a scattered life, without cities, because they did not have the “political art,” the skills needed for civilized life. As a result many were killed by wild beasts and there was danger that the human race would be annihilated since they could not cooperate even for defense. To prevent their destruction Zeus gave humans two further gifts: *aidōs* (a sense of shame and respect for others) and *dikē* (a sense of right and justice), which enabled them to have political order and to form bonds of friendship and union. Everyone is expected to have some share of *aidōs* and *dikē*. Without them a person cannot lead a civilized human life.

Moreover, Protagoras continues, after concluding the myth,⁹ it is to everyone’s interest that all citizens develop their moral character and so there is a continuous process of moral and social education which takes place from infancy to adulthood, with family, friends, teachers, and the institutions of the city itself all taking part. Each city establishes *nomoi* to guide the lives of its citizens in paths of *aretē* and through education and threat of punishment molds and compels the citizens to rule and be ruled in accordance with them.

For Protagoras, the moral qualities *aidōs* and *dikē* make civilized life possible for humans, and *nomoi* establish patterns of civilized life, there being many possible patterns and many different sets of *nomoi*. In interpreting Protagoras’s myth, most commentators distinguish between technical ingenuity on the one side and *aidōs* and *dikē* on the other, saying that the first is innate and part of human nature, that is, we have it by virtue of our *phusis*, whereas *aidōs* and *dikē* are not innate but supplement *phusis*. It is also possible that Protagoras intends *aidōs* and *dikē* as part of human nature and uses the device of the myth to show

7. See Guthrie (1969: 60–63, 79–84) for source material.

8. Plato, *Protagoras* 320c–323a = DK 80C1.

9. Plato, *Protagoras* 324d–326e (not in DK).

that if human nature lacked these moral qualities life as we know it would not be possible. If this latter interpretation is accepted, the *nomoi* of a community have some basis in human nature, that is, in (distinctively human) *phusis*.

The *Anonymus Iamblichi*

An even clearer defense of *nomos* by showing its basis in *phusis* occurs in a work by an unknown author extracts of which are preserved in the *Protrepticus* of the fourth-century CE author Iamblichus. This work is known as the *Anonymus Iamblichi* and is thought to date from c.400 BCE.

- 20.14 (6.1) No one should set out to maximize his own advantage or suppose that power used for one’s advantage is *aretē* and obedience to *nomoi* is cowardice. This is the most wicked thought and it results in everything diametrically opposed to what is good: evil and harm. For if humans were by *phusis* unable to live singly but yielding to necessity came together to live with one another and discovered all their life and their contrivances for living, but it is impossible for them to live with one another and to conduct their lives in the absence of *nomoi* (since that way they would suffer more damage than they would by living alone)—on account of these necessities *nomos* and justice are kings among humans, and in no way can they depart. For they are firmly bound into our *phusis*.

(*Anonymus Iamblichi* fr. 6 = DK 89, 6 vol. 2 402.21–30)

In his attack on *nomos* as a conspiracy of the weak to hold down the strong (above pages 411–12), Callicles implies that *nomos* does have important benefits for the weak, who constitute the vast majority of people. This line of thought is carried farther by the *Anonymus Iamblichi*, which denies that a Calliclean strong individual could ever gain dominance.

- 20.15 (6.2) If, then, someone were born who had from the beginning the following sort of *phusis*: invulnerable in his flesh, not subject to disease, without feelings, superhuman, and hard as steel in body and soul—perhaps one might have thought that power used for personal advantage would be sufficient for such a person, since such a person could be scot-free even if he did not subject himself to the law (*nomos*). But this person does not think correctly. (6.3) Even if there were such a person, though there could not be, he would survive by being an ally of the laws (*nomoi*) and of justice, strengthening them and using his might for them and for what assists them, but otherwise he could not last. (6.4) For it would seem that all people would become enemies of a person with such a nature (*phuntis*, related to *phusis*), and through their own observance of *nomos* and their numbers they would overcome him by craft or force and would prevail. (6.5) So it is obvious that power itself—real power—is preserved through *nomos* and justice.

(*Anonymus Iamblichi* fr. 6 = DK 89, 6, vol. 2 402.30–403.10) (continuation of 20.14)

A number of authors praise the benefits that *nomos* brings. Here too, the *Anonymus Iamblichi* states the case powerfully, contrasting *eunomia* (a condition where the *nomoi* are good and people abide by them) and *anomia* (the opposite of *eunomia*), which he seems to conceive as a condition in which each person pursues his or her own advantage in competition with others.

- 20.16 It is worthwhile to learn these facts about *eunomia* and *anomia*—how big the difference is between them, and that *eunomia* is the best thing both for the community and for the individual and *anomia* is the worst, for the greatest harm arises immediately from *anomia*. Let us begin by indicating first what results from *eunomia*.

(7.1) In the first place, trust arises from *eunomia*, and this benefits all people greatly and is one of the great goods. For as a result of it, money becomes available and so even if there is little it is sufficient, since it is in circulation, but without it not even a great deal of money would be enough. (7.2) Fortunes and misfortunes in money and life are managed most suitably for people as a result of *eunomia*. For those enjoying good fortune can use it in safety and without danger of plots, while those suffering ill fortune are aided by the fortunate through their mutual dealings and trust, which result from *eunomia*. (7.3) Through *eunomia*, moreover, the time people devote to *pragmata* [a word which can mean “government,” “public business,” or “troubles”] is idle, but that devoted to the activities of life is productive. (7.4) In *eunomia* people are free from the most unpleasant concern and engage in the most pleasant, since concern about *pragmata* is most unpleasant and concern about one’s activities is most pleasant. (7.5) Also when they go to sleep, which is a rest from troubles for people, they go to it without fear and unworried about painful matters, and when they rise from it they have other similar experiences and do not suddenly become fearful. Nor after this very pleasant change [that is, sleep] do they expect the day to bring poverty but they look forward to it without fear directing their concern without grief toward the activities of life, lightening their labors with trust and confident hopes that they will get good things as a result. For all these things *eunomia* is responsible. (7.6) And war, which is the source of the greatest evils for people, leading as it does to destruction and slavery—this too comes more to those who practice *anomia*, less to those practicing *eunomia*. (7.7) There are many other goods found in *eunomia* that assist life, and also from it comes consolation for our difficulties.

These are the evils that come from *anomia*. (7.8) In the first place, people do not have time for their activities and are engaged in the most unpleasant thing—*pragmata*, not activities—and because of mistrust and lack of mutual dealings they hoard money and do not make it available, so it becomes rare even if there is much. (7.9) Ill fortune and good fortune minister to the opposite results [from what occurs under *eunomia*]: good fortune is not safe in *anomia* but is plotted against, and bad fortune is not driven off but is strengthened through mistrust and the absence of mutual dealings. (7.10) War from outside is more frequently brought against a land, and domestic

faction comes from the same cause, and if it did not occur earlier it happens then. Also it happens that people are always involved in *pragmata* because of plots that come from one another, which force them to live constantly on guard and to make counterplots against each other. (7.11) When they are awake their thoughts are not pleasant, and when they go to sleep their receptacle [that is, sleep] is not pleasant but full of fear, and their awakening is fearful and frightening and leads a person to sudden memories of his troubles. These and all the previously mentioned evils result from *anomia*.

(7.12) Also tyranny, so great and so foul an evil, arises from nothing else but *anomia*. Some people suppose—all who do not understand correctly—that a tyrant comes from some other source and that people are deprived of their freedom without being themselves responsible but compelled by the tyrant when he has been established. But they do not consider this correctly. (7.13) For whoever thinks that a king or a tyrant arises from anything else than *anomia* and personal advantage is an idiot. For when everyone turns to evil, this is what happens then. For it is impossible for humans to live without *nomoi* and justice. (7.14) So when these two things—*nomos* and justice—are missing from the mass of the people, that is exactly when the guardianship and protection of them passes to a single person. How else could solitary rule be transferred to a single person unless the *nomos* had been driven out which benefited the mass of the people? (7.15) For this man who is going to destroy justice and abolish *nomos* which is common and advantageous to all, must be made of steel if he intends to strip these things from the mass of the people, he being one and they many. (7.16) But if he is made of flesh and is like the rest, he will not be able to accomplish this, but on the contrary if he reestablishes what is missing, he might be a solitary ruler. This is why some people fail to notice this occurring when it does.

(*Anonymus Iamblichi* fr. 7 = DK 89.7, vol. 2
403.11–404.32) (continuation of 20.15)

Other Defenses of *Nomos*

Some turned the tables on *phusis*. Instead of viewing *nomos* as variable and *phusis* as fixed, they declared that *phusis* (here in the sense of one’s natural abilities) varies with the individual, whereas *nomos* (here, typically, the positive law in force in a given community at a given time) holds uniformly for all.

- 20.17 (15) All the life of the people in cities both great and small is run by *phusis* and by *nomoi*. Of these, *phusis* is without order and private to each individual but the *nomoi* are common, in order, and the same for all. Now *phusis*, if it is wicked, often has low desires. This is why you will find people of that sort doing wrong. (16) The *nomoi*, on the other hand, desire what is just and good and advantageous, and they aim for this and when it is found, this is published as a common command, equal and similar for all, and this is *nomos*. There are many reasons why all ought to obey it, especially because every law is a discovery and gift of the gods, a decision of sensible people,

a correction of voluntary and involuntary wrongdoing, a common commitment of the city according to which all in the city ought to live. . . . (20) I will say nothing new or clever or odd, but what you all know as well as I do. If any of you wants to investigate what is the reason and what causes the Council to meet, the people to gather in the Assembly, the courts to be filled, the previous magistrates to yield their place willingly to the new ones, and all the things to take place through which the city is run and preserved, you will find the *nomoi* and the fact that everyone obeys them, since if they were abolished and everyone were given the opportunity to do whatever he wished, not only is it goodbye to the constitution, but also our life would be no different from that of wild beasts.

(pseudo-Demosthenes 25.15–16, 20 [not in DK])

- 20.18 Nothing is more hateful to a city than a tyrant, because then in the first place there are no common *nomoi*, but a single person holds power after taking the *nomos* into his own possession. And this situation is no longer equal for all. But when *nomoi* are written both the weak and the wealthy have equal justice, and when slandered the fortunate is able to make the same case as the weaker and the lesser person defeats the great man if he has justice on his side. That is freedom.

(Euripides, *Supplikes* 429–38 [not in DK])

Unwritten *Nomoi*

Even if customs and enacted laws were known to vary from place to place and from time to time in a given place, the Greeks of the Classical period did not lose consciousness of the earlier tradition that laws are god given. Early lawgivers such as Lycurgus of Sparta and Solon of Athens received greater reverence than was usually accorded to humans. Moreover, some *nomoi* were felt to be universal either in the sense that all peoples at all times actually recognize them or that they should recognize them even if they do not. These *nomoi*, sometimes called unwritten laws, were thought to have a divine origin and to take precedence over (possibly faulty) human laws. The most famous assertion of the existence and priority of these laws is made by Antigone in Sophocles' play of that name (written in 441), when she defends her action of burying her brother in defiance of King Creon's decree.

- 20.19 For me it was not Zeus who made this proclamation, nor was it Justice who dwells with the gods below who established these *nomoi* among humans. And I did not suppose that your proclamations had power enough that you, a mortal, could prevail over the gods' unwritten and secure practices [*nomima*, derived from *nomos*]. For they live not just now and yesterday, but always forever. No one knows when they appeared. I did not out of fear of the will of any man intend to pay a penalty before the gods for transgressing them.

(Sophocles, *Antigone* 450–60 [not in DK])

The concept of unwritten laws is developed and defended in a dialogue between Socrates and Hippias, as reported by Xenophon.

- 20.20 *Socrates*: Do you know of any unwritten laws, Hippias?

Hippias: Yes, the ones uniformly observed in every country.

Soc.: Could you say that humans made them?

Hip.: How could they, since they could not all have come together and they do not speak the same language?

Soc.: Then who do you suppose are the ones who made these laws?

Hip.: I think that the gods made these laws for men. For among all men the first law is to revere the gods.

Soc.: Is it not also the law everywhere to honor parents?

Hip.: Yes, that is too.

Soc.: And also that parents shall not have sexual intercourse with their children nor children with their parents?

Hip.: This does not seem to me to be a law of God.

Soc.: Why so?

Hip.: Because I notice that some transgress it.

Soc.: Yes, and they do many other things against the laws. But surely those who transgress the laws established by the gods pay a penalty which in no way can a person escape, as some, when they transgress the laws established by humans, escape punishment, either through not being noticed or by violence.

Hip.: And what penalty, Socrates, are parents and children who have intercourse with one another unable to avoid?

Soc.: The greatest, by Zeus! For what greater penalty could people incur in producing children than producing them badly?

Hip.: How, then, do these people produce children badly, since the fathers and mothers may both be good people?

Soc.: Because, by Zeus, the parents must not only be good; they must also be at their physical peak. Or do you think that those who are at their peak have seed similar to that of people who have not yet reached that condition or have passed it?

Hip.: By Zeus, it is unlikely that it is similar.

Soc.: Which is better then?

Hip.: Clearly, the seed of people at their peak.

Soc.: Therefore, the seed of those not at their peak is not sound?

Hip.: It is unlikely, by Zeus.

Soc.: In these conditions, then, they should not produce children?

Hip.: Certainly not.

Soc.: Therefore those who produce children in such circumstances produce them as they should not.

Hip.: I think so.

Soc.: What other people, then, will produce children badly if not they?

Hip.: I share your opinion on this, too.

Soc.: Again, is it not everywhere customary to repay good deeds with good deeds?

Hip.: It is customary, but this custom too is transgressed.

Soc.: Don't those who transgress it pay a penalty in being bereft of good friends and being compelled to pursue people who hate them? Or is it not true that, whereas those who benefit the people they have dealings with are good friends, those who do not do such people good deeds in return are hated for their unkindness, while they pursue such people most of all because of the great benefits of having dealings with them?

Hip.: By Zeus, Socrates, all this smacks of the gods. For I accept that laws which themselves contain punishment for those who break them, come from a better law-giver than man.

(Xenophon, *Memorabilia* 4.4.19–25 [not in DK])

Xenophon's idea of unwritten laws is not altogether clear. First, they are said to be observed in every country. Next, when it is admitted that they are not actually observed everywhere, they are said to be universally valid, that is, they ought to be observed everywhere even if they are not. With this change, we can no longer determine what laws are unwritten laws simply by finding customs that are followed by all people without exception. Socrates suggests a different criterion (reminiscent of Antiphon's assertion about the inevitability of paying a penalty for violating the dictates of nature, see 20.3), that although punishment for breaking manmade *nomoi* can sometimes be avoided, transgressions of unwritten laws are always punished. His discussion of incest and ingratitude points toward the idea that violating unwritten laws brings retribution inevitably, as a natural and automatic consequence. But it is hard to see how this analysis could be extended to cover some of Xenophon's other examples (such as honoring one's parents), let alone the Sophoclean case of burying a dead brother.

Aristotle recognizes two sorts of unwritten laws: the universal *nomoi* so far discussed, as opposed to the *nomoi* of particular states, and also the beliefs of a particular state, based on its customs and traditions, which supplement its written laws.

20.21 *Nomos* is (a) particular and (b) common. I call (a) particular the written *nomos* in accordance with which a city is administered and (b) common all the unwritten principles which appear to be agreed upon among all peoples.

(Aristotle, *Rhetoric* 1.10 1368b7–9 [not in DK])

20.22 I call *nomos* (a) particular, (b) common. (a) Particular *nomos* is that which each people establishes as applying to themselves, and this is (1) unwritten and (2) written, whereas (b) common *nomos* is that in accordance with *phusis*.

(Aristotle, *Rhetoric* 1.13 1373b4–6 [not in DK])

In the latter case Aristotle is working with two different aspects of *nomos*: *nomos* as law (written legislation) and *nomos* as custom. Moreover, in the latter passage

he equates universal laws with natural laws and in what follows cites Antigone's case as an example of a natural law. Now Sophocles did not make Antigone describe the unwritten laws as "natural," but in the context of the *nomos-phusis* debate, the association of the universal with the natural was easy and automatic.

So far, the unwritten law is superior to and nobler than written law. It is frequently called divine and is sometimes said to have been authored by the gods in contrast to mutable, fallible, and perhaps self-interested human law. However, the window it opens for arguing in court against the legal prescriptions of the state did not go unnoticed by Sophists and other rhetoricians. By Aristotle's time it was possible to see the contrast as the source of simply one more debating move.

20.23 The broadest rhetorical commonplace for forcing people to utter paradoxes is that derived from what is according to *phusis* and according to *nomos*, as Callicles is described as saying in the *Gorgias* and all the men of old believed that it happened. For they held that *phusis* and *nomos* are opposites, and justice is fine and noble according to *nomos* but not fine and noble according to *phusis*. Therefore a person speaking according to *phusis* should be answered according to *nomos*, and a person speaking according to *nomos* should be brought to (considerations of) *phusis*. Both ways it results that they utter paradoxes. They considered what is according to *phusis* to be true and what is according to *nomos* to be what the many believe.

(Aristotle, *Sophistical Refutations* 12 173a7–16 [not in DK])

Moreover, people could invoke "unwritten laws" whenever it suited their advantage. By the end of the fifth century, appeal to the concept of unwritten law, which began as a way of invoking a higher authority when human laws were evil, had fallen to a tool that might be used to defend any illegal action. That it was actually employed in that way is suggested by an Athenian decree passed at the end of the fifth century:

20.24 The magistrates must not make use of unwritten law, even in a single case . . . No law can be established for an individual person unless the same law applies to all Athenians.

(quoted in Andocides, *On the Mysteries* 87 [not in DK])

Moreover, at this time the Athenians were engaged in revising their laws and inscribing them on stone tablets and setting them up in public so that anyone could consult them who wished.¹⁰

It hardly needs saying that the unwritten "law of nature" that the strong should rule the weak, put forward by Callicles and expressed elsewhere too, was

10. The decree is quoted in Andocides, *On the Mysteries* 83–84 (not in DK). See references and discussion in MacDowell (1962: 194–99).

an ideology that would support tyranny and subvert organized life as known to the Greeks.

Conclusion

The *nomos-phusis* debate had no winners or losers. The notions of *nomos* and *phusis* were sufficiently broad and loose to leave room for many positions to be staked out, most of them with something to recommend them. In this fertile field of discussion the seeds of many philosophical problems, views, and approaches were sown. But the *nomos-phusis* debate was the common property of Classical Greece, not the private field of the philosophers. As we have seen, the contributors to the debate included playwrights, historians, and orators, and the ideas involved played an important role in practical politics and in the courts.

The debate also has a considerable philosophical legacy. The wide range of answers given to the questions it raised and the variety of approaches taken invite reflection on how to proceed with complex and interwoven issues like these. Socrates made crucial contributions in recognizing the importance of accurate and agreed upon definitions of key terms and discovering that such definitions are difficult to find and require a great deal of work in their own right.

The debate also had an important effect on Plato. Plato is our most important single source for the debate, not because he had an antiquarian interest in it, but because he believed the issues needed further treatment. He disagreed with many of the views that had been expressed but was in agreement with others. It is probably not too great an exaggeration to say that one of the most important bases for his ethical work in dialogues up to and including the *Republic* was his (and Socrates') reflections on issues raised by or implicit in the *nomos-phusis* debate.

The legacy extends much further. Many of the issues raised for the first time in the context of the debate have remained important both for philosophers and for reflective people in general. Why should I be just? Is morality artificial or natural? What is human nature? What is the origin of society? What are the bonds of society? What is the relation between obeying the law and being good? What is the nature of our obligation to obey the law, and what limits does it have? Many current theories on these topics have their earliest ancestors in the fifth- and fourth-century context of the *nomos-phusis* debate.

Appendix

Some Contemporary Texts

Introduction

Presocratic philosophy is frequently treated separately from other areas of Greek thought in the sixth and fifth century, and it is easy to take away the impression that in their own times the Presocratic philosophers had little influence on anyone aside from one another. That this impression is false can be easily shown by reference to other surviving works from this period, both poetry and prose. The purpose of this final chapter is not to collect such references and traces of influence but to present some texts that show how Presocratic thinking had effects in two very different areas of Greek thought: medicine and religion. Space considerations require the texts to speak for themselves; I will provide only a brief introduction.

The first three texts, *The Nature of Man*, *Ancient Medicine*, and *The Art*,¹ come from the collection of about sixty works known as the Hippocratic Corpus. Although associated with the name of Hippocrates (a contemporary of Socrates and the founder of a medical school on the island of Cos) the authors of the works in the collection are unknown, and they were written over a span of centuries. The works I have included are dated to the late fifth century, roughly contemporary with Empedocles, Anaxagoras, Democritus, and Philolaus. All works in the collection are on medical topics and range from practical treatises on how to set fractures to works on anatomy, the diagnosis and prognosis of sickness, methods of treatment and advice to physicians, as well as theoretical treatises, such as the three presented here.

Early medicine was not a theoretical subject; rather it was a practical art or craft. Because its purpose was to treat individual patients (diagnosing their illnesses, trying to palliate or cure them, or prescribing regimens for them that would prevent illness), it was not amenable to constructing theories at a high level of generality. On the other hand and quite possibly at least partly through the intellectual influence (or pressure) of Presocratic thought, medicine (or at least one way of doing medicine—there were other, more traditional approaches as well) came to be interested in giving rational, theory-based accounts of itself. From the fifth century, the study of medicine associated with the name Hippocrates was based on theories about the constitution and workings of the human body and the nature of sicknesses, their causes, and their cures. Like the Presocratics the Hippocratic writers reject traditional beliefs that the gods play an active role in the aspect of the world that concerns them. In addition to proposing theories on these subjects, some of

1. My translations are based on the editions of Jouanna [Jouanna [1975], [1988], [1990]], which differ in many places from the texts used in earlier translations. To my belief, the present translations of *The Nature of Man* and *The Art* are the first English translations to use Jouanna's texts.