Thesis Title: Antiphon the Sophist's Critique of Law

Word count: 14 551

Candidate Number: 1039882

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Abstract:

Antiphon has often been singled out by scholars as the Sophist who gave expression to the most radical critique of law. He is often spoken of as an immoralist thinker, who recommended that people reject the established laws and pursue solely what is in their self-interest. In this thesis, the grounds for ascribing the label of immoralist to Antiphon will be assessed. I will argue that it is misguided to view Antiphon in this regard on two principal counts: his purpose in *On Truth* is to underline the inconsistencies and failings of existing legislation, and in no way to advocate for people to disregard the laws in force; in both *On Truth* and in *On Concord*, he shows an attachment to the laws, and in the second of the two works, he even advances a reason for why they should be regarded as salutary and beneficial.

Introduction

The thinkers associated with the Sophistic movement discoursed on a variety of subjects. Some like the avowed polymath Hippias are reputed to have popularised notions in astronomy and mathematics and offered instruction in music,[1] while others are reported to have written treatises on grammar and linguistics.[2] All of them are generally thought to have taught the art of rhetoric,[3] offered some kind of moral instruction (with the exception of Gorgias),[4]

[1] cf. *Protagoras* (315c; 318e)

[2] On Protagoras' interest in 'propriety of speech' (ὀρθοέπεια), see *Phaedrus* (267c).

[3] e.g. Guthrie (1969: 44); De Romilly (1988: 94)

[4] *Meno* (95c). For the claim that the other Sophists offered instruction in virtue (ἀρετή), see this (very selective) list of passages from Plato: *The Sophist* (223a3-4); *Meno* (95c8-9); *Gorgias* (520b4-9). The question as to whether virtue can be taught is expressly taken up by Socrates in the *Protagoras* and the *Meno* - in the one case, in a discussion with the first reputed Sophist, and in the other, with a disciple of the second most renowned early Sophist.

and lectured on politics.[5] In the domain of politics, many of them seem to have focussed chiefly on questions relating to the origin, nature and role of law in society. The evidence for this comes for the most part from passages in Plato; only very few extant fragments remain in which the Sophists present their own views on these subjects. The only exception is Antiphon: while still in fragmentary form, a considerable portion of his tract, *On Truth* has been preserved. His work is then the most important source to consult for anyone who wishes to attain first-hand knowledge of the tenor of Sophistic thinking on law.

In this paper, we propose to re-evaluate the purport of Antiphon's critique of law in *On Truth*. The ideas he expressed therein have often been grossly misrepresented: many have tended to regard the sharp contrast he draws between νόμος and φύσις as evidence that he was recommending that the laws be disregarded, and that our darkest and most unrefined natural tendencies be invariably given free rein. On account of the fact that Antiphon refers numerous times to advantages or to forms of conduct which are more or less advantageous to an individual, Antiphon has often been taken to be advocating for the untrammelled pursuit of self-interest. The labels of anarchist, hedonist, opportunist and generally of immoralist have frequently been applied to him, and unjustifiably so, as we shall argue. They continue to be ascribed to Antiphon today, despite the discovery of another tract of his, entitled *On Concord*, in which he praises traditional moral values such as self-control, and impugns lawlessness as the worst thing to befall mankind. The discrepancies between the tenor of these two works have led some to allege that there were two Antiphons: one radical critic of the laws whose position was hardly distinct from the most outspoken immoralists of the age, and another individual by the same name who was keen to promote civic concord and re-assert the importance of

[5] e.g. Gomperz (1901: 413)

traditional values. The fact that in Antiquity the question was never raised as to whether these two writers were the same person should make us wary of ascribing different authorship to these two works; [6] what was commonly disputed was whether Antiphon the Sophist was to be identified with Antiphon the orator, as well as with Antiphon the initiator of the oligarchic coup of 411.

The focus of this paper will be on Antiphon's critical attitude towards the law. The issue we propose to examine is whether the charge of immoralism which has so often been made against him is in any way justified. The principal text we will be referring to is his tract, *On Truth*, as it is primarily on the basis of this text that one may get the clearest sense of Antiphon's views on law; in our last section, it will be important to also take into account certain fragments from *On Concord.* As it seems highly likely that Antiphon the Sophist was also the same person as Antiphon the orator, we will also occasionally make reference to the *Tetralogies* and to some of his speeches. We will however only do so on occasion and with some tentativeness, as he is clearly not speaking in his own voice or presenting his own ideas in these works.

In Section I, we will evaluate the two principal grounds scholars have relied upon for ascribing an immoralist position to Antiphon. In Section II, we will endeavour to determine the scope of Antiphon's critique of law. To do so, we will assess whether a number of subversive views voiced by characters from diverse literary works, bear any relation to the position Antiphon adopted in his tract. In Section III, we will show how, in addition to delivering a deep critique of law, Antiphon also sought to re-establish its legitimacy on novel foundations.

[6] So Croiset (1917: 12). See Pendrick (1993) for an account of positions adopted by various ancient writers and commentators, from Hermogenes of Tarsus onwards.

I. THE CHARGE OF IMMORALISM

1. The distinction between νόμος and φύσις

Antiphon has often been identified as the Sophist who gave the earliest,[7] the longest,[8] or the clearest[9] exposition of the distinction between νόμος (which for some Sophists, designated law, for others convention, and for still others, both simultaneously) and φύσις (which for most Sophists, denoted a particular conception of human nature). This distinction was used by almost all of the Sophists in various forms and for various purposes.[10] Scholars have often distinguished between the numerous thinkers associated with the Sophistic movement according to the way in which they conceived of these two notions and of the relations between them: Protagoras and the Anonymous of Iamblichus have often been grouped together as "upholders of νόμος"[11] or "reaffirmers,"[12] who regarded νόμος as salutary for the welfare of society as a whole, while Callicles, the author of the *Sisyphus* fragment and Antiphon, have often all alike been viewed as "upholders of φύσις"[13] or "subversives,"[14] who conceived of νόμος as an arbitrary and unjustified curb on man's natural impulses. The Sophists from the first category have commonly been said to think of humans as naturally disposed (by

[7] Balla (2018: 84-85)

[8] Riesbeck (2011: 268)

[9] Dillon (1984: 132); De Romilly (1988: 179)

[10] A number of scholars have alleged that Protagoras in his 'Great Speech' in the *Protagoras* drew no clear distinction between the two notions: Bett (2002: 245); Barney (2006: 86); Balla (2018: 99, 100).

[11] See Guthrie (1971: 60-73)

[12] Barney (2006: 87)

[13] See Guthrie (1971: 101-113)

[14] Barney (2006: 87)

φύσις) to observe justice or to attach value to law-abiding behaviour, out of regard for their own welfare or that of the community they are a part of.[15] The Sophists from the second category have often been said to view man as naturally (by φύσις) pleonectic, egoistic and disposed to commit injustice against others.[16] Over the course of this paper, we will have an opportunity to assess the appropriateness of such labels to Protagoras, the Anonymous of Iamblichus, Callicles and the author of the *Sisyphus* fragment, in addition to Antiphon.

Let us begin by asking for what reasons Antiphon has been placed among the "upholders of φύσις," or so often been regarded as a "radical"[17] critic of νόμος with an anarchistic outlook.[18] Such labels have been attached to Antiphon on account of the attention paid throughout *On Truth* to the individual's interest, allegedly over and above that of the community he is a member of,[19] and also on the basis of three specific passages from his tract: 1) at (fr. 44 A, Col. I. 12-20), where it is stated that it is in the interest of an individual to "regard the laws as great"[20] in the presence of witnesses (which for some has implied that Antiphon did not imagine any scenario in which it would be to an individual's advantage to pay heed to the laws when not in the presence of others); 2) at (fr. 44 A, Col. II. 23-30), where

[15] e.g. Bett (200: 245-246; 252); De Romilly (1988: 235-236; 239-242); Woodruff (1999: 305); Caizzi (1999: 319)

[16] e.g. Guthrie (1969: 101-116); Kerferd (1981:117); Denyer (2013: 165); McKirahan (1994: 403); Broadie (2003: 87); on Thrasymachus' place in this taxonomy, see e.g. Piper (2005: 32); Barney (2006: 83).

[17] Such a view is advanced by Field (1930: 89-90); A. E. Taylor (1929: 101-102, 271, 336); Havelock (1957: 255-294); Segal (I96I: 245-396). Caizzi (1999: 328) holds that in a number of dialogues, Plato has Socrates confront the "radical criticism of *nomos*" which Antiphon ("and those like him") would have been the proponents of; the fact that Antiphon never appears in any of the dialogues is explained away as an act of *damnatio memoriae* on Plato's part (327).

[18] For one of the earliest (and most influential) proponents of this view, see Luria (1926: 343).

[19] e.g. Bett (2002: 249-250); Caizzi (1986: 301; 1999: 326).

[20] All translations from Antiphon (and line references) derive from Pendrick's edition of the fragments (2002).

Antiphon writes that most things which are just according to law are hostile to nature; 3) at (fr. 44 A, Col. IV. 1-5), where the advantages established by the laws are described as "chains" (δεσμοὶ) on nature, recalling Callicles' glorification of the individual "with sufficient force" who alone would have the capacity to break free from the bond-like laws which enslave him (cf. *Gorgias* 484a).[21] Another prominent trend in scholarship is to regard Antiphon's tract, *On Truth* as a detached, sociological inquiry into various conventional views on justice.[22] Among proponents of such a view, some[23] hold that it was his training as a rhetor[24] which led him to draw the distinction between νόμος and φύσις so precisely, but that he in no way unequivocally condemned νόμος and championed φύσις. In this subsection, we will set out the reasons for which it is untenable to follow the first line of interpretation and maintain that Antiphon drew a distinction between νόμος and φύσις for the purpose of rejecting all grounds for obeying or valuing the former in the name of the latter. We will instead argue that Antiphon distinguished between the two notions for the purpose of disinterestedly delineating the various advantages and disadvantages which accrue to an individual from obeying νόμος or following φύσις in a variety of circumstances.[25]

[21] We will be using Lamb's translation of the *Gorgias* throughout (1925).

[22] Kerferd (1956-7); Barnes (1979: 214; 1982). Bett (2002: 249) expresses doubts about the entirety of Antiphon's tract being reflective of a dispassionate outlook, though later on (254) claims that it is primarily by virtue of a common detached "social-scientific" approach that we are justified in speaking at all of a Sophistic movement.

[23] Dillon (1984: 132); cf. Balla (2018: 96-97) on the influence of the genre of 'antilogies' on *On Truth.*

[24] The question as to whether Antiphon the Sophist was the same person as Antiphon the orator (as well as other Athenians of the same name, such as the individual Thucydides speaks of as the primary initiator of the oligarchic coup in 411 (VIII. 68)) was already an unresolved question in Antiquity, and is far from meeting with scholarly consensus today. While no modern consensus has been reached, Croiset (1917: 15-191), Avery (1982, 145-158) and Luginbill (1997) *et al.* all offer persuasive arguments for regarding the Sophist as the same individual as the orator.

[25] So Ostwald (1990: 304); Riesbeck (2011: 271). See also Kerferd (1956-7: 32): "…The search for τό ξυμφέρον runs like a thread through the whole discussion."

The two terms, νόμος and φύσις did not carry a uniform meaning for the different thinkers associated with the Sophistic movement. Before explaining our reasons for thinking that Antiphon made use of the νόμος-φύσις distinction in furtherance of his reckoning of the advantages and disadvantages which arise from following νόμος or φύσις under various circumstances, it will be necessary to delineate how exactly he construed each of the two terms. Regarding νόμος (which is used alongside the term, νόμιμα and the expression, τά τῶν νομῶν), most scholars argue that in Antiphon it refers not only to written law, but also to the customs and conventions prevalent in a community.[26] To support such a claim, some point to the passage where Antiphon states that ordinances have been passed (νενομοθέτηται) regarding what the eyes must and must not see, what the ears must and must not hear, what the mind must and must not desire and so forth, and claim that the Sophist could not have had in mind actual legal statutes here but rather "moral injunctions imposed by society"[27] (fr. 44 A, Col. II. 30 - Col. III. 18). Others point to the passage where treating one's parents well despite having been treated badly by them, is seemingly given as an example of an act "hostile to nature," and allege that Antiphon must be referring here to a duty sanctioned by conventional morality, rather than one prescribed by law (fr. 44 A, Col. V. 4-8).[28] We would certainly agree that the sense of 'custom' and 'convention' was present in each of Antiphon's three terms, νόμος, νόμιμα and τά τῶν νομῶν; like all the Sophists who used the distinction between νόμος and φύσις,[29] he would have been acutely aware of the fact that laws stem from, or at least are heavily shaped by, the prevailing mores of society. Nevertheless, it is the meaning of law - and of positive law

[26] Pendrick (2002: 319); Kerferd (1956-7: 29-30); Havelock (1957: 286); Caizzi (1986: 300)

[27] Ostwald (1990: 297)

[28] Kerferd (1956-7: 29); Moulton (1972: 333, 340)

[29] See e.g. De Romilly (1988: 25)

to be precise - which appears to be dominant in his work.[30] Such an interpretation is corroborated historically - by Antiphon's day, one of the principal senses of the term, νόμος was that of statute,[31] while the neutral plural substantivized adjective, νόμιμα, had also come to bear similar connotations, that of an action or person conforming with the laws[32] - and is substantiated textually by the emphasis Antiphon lays on the injustices which ensue from involving oneself in a court case.[33]

As for the meaning of the term, φύσις[34] and its cognates, τὰ τῆς φύσεως[35] and τῶν τῇ φύσει ξυμφύτων,[36] an even greater variety of interpretations has been given.[37] Croiset[38] held that Antiphon used these terms to express the notion of physical laws of nature; Kerferd[39] maintained that Antiphon was speaking here of *human* nature; Barney[40] argued that he was

[30] cf. De Romilly (1971: 80, n. 9); Moulton (1972: 333).

[31] Ostwald (1969: 88)

[32] Ostwald (1986: 133). We have not made mention of the expression, τά τῶν νομῶν, as it seems to have been largely unattested before Antiphon.

[33] cf. fr. 44 C. This fragment will be discussed in detail in I. 2) and II. 3).

[34] Used at: fr. 44 A, Col. II. 30, Col. III. 19, Col. III. 26-27, Col. IV. 5, Col. IV. 6-7, Col. IV. 11, Col. IV. 23, Col. V. 17; fr. 44 B, Col. II. 10.

[35] Used at: fr. 44 A, Col. I. 22-23, 25-26, 31-32; fr. 44 B, Col. II. 16-18.

[36] Used at: fr. 44 A, Col. II. 10-12.

[37] Due to lack of space, we have not spoken of how these three terms have sometimes been distinguished from another by scholars. In our interpretation of the meaning of these terms, we have also not drawn any distinction between them.

[38] (1917: 4)

[39] (1956-7: 32)

[40] (2006: 83)

referring specifically to a view of human nature as pleonectic[41] and egoistic, which was analogous to that expressed by Callicles, Thrasymachus, Glaucon (*Republic* I. 338c–348d, II. 357b–362c) and particular characters in Thucydides (the Athenian delegates at Sparta, I. 75–77; the Athenian envoys at Melos, V. 84– 114); Heinimann,[42] followed by Segal[43] and Caizzi,[44] advanced that he had in mind the specifically physiological or biological aspect of man's nature; following Gagarin,[45] Riesbeck advanced that the particular expression, τὰ τῆς φύσεως designated the "basic capacities for action" which human beings have "by virtue of their innate constitution;" Barnes[46] held that it was to be construed as some form of natural inclinations (which were left unspecified by Antiphon), while de Romilly[47] claimed that it referred to "the tendencies that prompt living creatures to survive, prosper, and enjoy themselves."[48]

As Ostwald[49] and others have maintained, by Antiphon's day, the term, φύσις was most frequently applied to human beings, rather than to natural phenomena as it had previously been by the Pre-Socratic philosophers in the last decades of the 6th century and far into the 5th. If this holds true for Antiphon, we may confidently rule out Croiset's claim that he was using the

[41] Barney specifies that for all these writers that which men naturally strive to have more of (πλέον ἔχειν) is "wealth and power and the pleasures they can provide."

[42] (1945: 127-128, 138-139), cited in Pendrick (2002).

[43] (1961: 286, 311)

[44] (1999: 324)

[45] (2002: 65-72; 2007)

[46] (1979: 513)

[47] (1988: 180)

[48] Lloyd's translation (1992).

[49] (1990: 296-297; 1986: 263-266). See also Beardslee (1918: 4-5).

terms, φύσις, τὰ τῆς φύσεως and τῶν τῇ φύσει ξυμφύτων, to refer to laws of nature. One might anyway have had reservations about ascribing a 'modern-day' concept (as Croiset explicitly did)[50] to a thinker who could not have envisaged it in exactly the same manner as we do today, with our modern bias towards a mathematical formulation of natural law. As for Heinimann's view that φύσις designated man's biological demands or urges in Antiphon's tract, or Barney's that it connoted man's essentially pleonectic and selfish nature, both seem unsupported by textual evidence. In the first case, while Antiphon does make mention of various bodily organs and their respective capacities in two passages in which he refers to φύσις (fr. 44 A, Col. II. 30 - Col. III. 18; fr. 44 B, Col. II. 15 - Col. III. 12), it seems implausible that a biological conception of human nature was all that he meant by this term throughout the tract as a whole: it is hard to understand for instance how an individual could "regard" his biological capacities or functions "as great", or how doing this "in the absence of witnesses" would be an instance of "making use of justice in a way most advantageous to himself" (cf. fr. 44 A, Col. I. 12-23). In the second case, there is no passage in *On Truth* in which human nature is expressly described as pleonectic or egoistic; as we will see further on, it is a mistake to assume that because he spoke of the laws as "agreed upon" (fr. 44 A, Col. I. 23 - Col. II. 1), he necessarily would endorse the view reiterated by Glaucon or by the author of the *Sisyphus* fragment, that such an agreement was made for the purpose of impeding or restraining the natural impulse to try to "get an advantage over others".[51]

Out of all the various interpretations of Antiphon's conception of nature we have outlined, that of Riesbeck appears to be the most well-founded. He does not, like Barney,

[50] (1917: 4)

[51] This is one way in which Lamb rendered the expression, πλέον ἔχειν in his translation of the *Gorgias* (cf. 483c3).

project the views relayed by Glaucon in the *Republic* or advanced by Callicles in the *Gorgias*, or the ideas of actual Sophists, onto Antiphon. In addition, his interpretation is substantiated on at least two counts: for one, the claim that the majority of what is just according to the law is hostile to φύσις, is followed by an account of the various restrictions and injunctions which are imposed on different body parts (eyes, ears, tongue, hands, feet and mind);[52] for another, it is by reference to the exercise of bodily capacities that we all partake in (breathing in air through the mouth, taking in sounds by the ear, seeing with the eyes, walking with feet, and so forth) that Antiphon defends his statement that there is no natural distinction between Greeks and Barbarians.[53] If Riesbeck's interpretation is correct and φύσις (and τὰ τῆς φύσεως) does refer to the various capacities men possess by virtue of their physiognomy, it is hard to imagine how Antiphon could have been setting up nature as "a norm of action" or as "the ultimate good,"[54] in whose name he would have been pushing all to abandon written laws (as we saw many have held). It remains to be seen whether Antiphon used the distinction between νόμος and φύσις to advocate for the rejection of the former in some other manner.

Now that we have proposed a way of interpreting the meaning of νόμος and φύσις in Antiphon's tract, we may pass on to the question as to how he conceived of the relation between the two notions. As we mentioned above, it has often been said that, out of all the Sophists, Antiphon drew the starkest distinction between the two concepts:[55] the principal passage which is raised to corroborate such a view is (fr. 44 A, Col. II. 26-30), where "the majority of what is

[52] (fr. 44 A, Col. II. 30 - Col. III. 18)

[53] (fr. 44 B, Col. II. – III.)

[54] Kerferd (1956-7: 31)

[55] cf. n. 9

just according to law" (τὰ πολλὰ τῶν κατὰ νόμων δικαίων) is said to be "*hostile*" to "nature" (πολεμίως τῇ φύσει). Before we examine what this state of 'hostility' hinges upon or consists in exactly, it should be noted that a number of scholars have assumed that drawing such a sharp contrast between the two notions was a part of his endeavour to advocate for the primacy of φύσις over νόμος.[56] Some have even held that for any Sophist to present a clear distinction between the two notions is to show themselves as "more jaundiced in their attitudes towards *nomos*.[57] Hippias has on this account been viewed in a comparable manner to Antiphon: on the basis of the passage in the *Protagoras* (337d2-3) in which he echoes the famous (and oft-quoted)[58] phrase from Pindar[59] by stating that νόμος is a tyrant over mankind (τύραννος ὢν τῶν ἀνθρώπων) which "ordains many things by force contrary to nature"[60] (πολλὰ παρὰ τὴν φύσιν βιάζεται), many have supposed that Hippias distinguished so vividly between νόμος and φύσις for the purpose of pushing for man's emancipation from the 'tyrant-like' hold of the former.[61] Protagoras by contrast, who drew no distinction between the notions of νόμος and φύσις according to many,[62] is generally regarded as an unequivocal supporter of νόμος.

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[56] e.g. Guthrie (1969); Bett (1989); Caizzi (1986). See objections to this view by Barnes (1979; 214); De Romilly (1988: 183, 215, 258).

[57] Bett (2002: 246).

[58] cf. Herodotus (III. 38); *Gorgias* (484 b), (488 b); *Laws* (690b8), (715a1), (890a4). The Pindaric verse appears in a slightly different form in each of these texts.

[59] Frg. 169a [Snell[2]]: νόμος ὁ πάντων βασιλεὺς θνατῶν τε καὶ ἀθανάτων ἄγει δικαιῶν τὸ βιαιότατον ὑπερτάτᾳ χειρί. (Translation by Race (1997): "Law, the king of all, / of mortals and immortals, / guides them as it justifies the utmost violence / with a sovereign hand.")

[60] Taylor's translation (1976).

[61] Brancacci (2013: 28); Dusanic (2008: 45); Bett (2002: 246-247)

[62] cf. n. 10

Let us return then to the question as to what it means for anything to be "hostile to nature" for Antiphon. At (fr. 44 A, Col. IV. 30 - Col. V. 13), three examples of behaviour are given: 1) defending oneself only after having been oneself the victim of injustice; 2) treating one's parents well after having received ill-treatment at their hands; 3) tendering an oath to others and not taking one oneself.[63] Depending on how one takes the phrase, τούτων τῶν εἰρημένων πόλλ' (Col. V. 13-15), it is either multiple aspects of the three forms of behaviour mentioned[64] or many of the three forms of behaviour mentioned,[65] which are said to be "hostile to nature" (πολέμια τῇ φύσει). The reason given for why all or only some of these actions are qualified in this way, is that they involved more pain (ἀλγύνεσθαι μᾶλλον) and suffering (πάσχειν) than was "necessary"[66] and less pleasure (ἐλάττω ἥδεσθαι) than was possible (Col. V. 17-24). This statement has led a number of scholars to attach the label of 'hedonist' to Antiphon.[67] Because the three examples of behaviour in question have often been regarded as "morally highly commendable,"[68] exceeding what the laws would prescribe,[69] Antiphon has frequently been further charged with rejecting, in the name of the pursuit of pleasure, not only actions which conform to the laws, but also actions which are sanctioned by conventional morality. Yet, neither in this particular passage nor in his tract as a whole does Antiphon ever assert that on account of an act's "hostility" to nature, and thereby its involving more pain and

63 For some (e.g. Plescia (1970: 44)), such an act places an individual in a more disadvantageous position than his opponent in court.

64 So Havelock (1957: 282-283); Moulton (1972: 339).

65 So Pendrick (2002: 171, 343).

66 cf. Pendrick (2002: 343)

67 Havelock (1957: 281-282). For general views on Antiphon's alleged hedonism, cf. Caizzi (1986: 301); Barney (2006: 83).

68 Ostwald (1990: 300). See also Saunders (1977: 223).

69 Kerferd (1956-7: 29). Compare Moulton (1972: 342) who writes that all three are compatible with the "spirit of the law" if not with the "letter of the law."

suffering than pleasure, an individual should never engage in it. By calling something "hostile to nature," there is no reason to suppose that Antiphon was necessarily pushing for all to invariably adopt only forms of conduct which would in some manner conform to φύσις. In fact, Antiphon seems to have held that it is not unqualifiedly in the individual's interest to always 'follow nature': rendering obeisance[70] to the νόμοι can sometimes be more advantageous to an individual than acting in accordance with φύσις.[71]

At the beginning of his tract, Antiphon appears to hold that when an individual is in the presence of witnesses (Col. I. 17-18)), the benefits of averting shame and punishment (αἰσχύνης και ζημίας (Col. II. 7-8)) for transgressing the νόμοι, outweigh the benefits which generally stem from yielding to φύσις.[72] Such a claim should make us wary of ascribing to Antiphon the belief that all νόμοι should be rejected, and that obedience to their ordinances should be replaced by the untrammelled pursuit of pleasure, as certain scholars have assumed. Yet, as Antiphon could have regarded the act of subscribing to the laws as advantageous to the individual only insofar as it sheltered him from the *disadvantage* of being punished and shamed by other members of his community, it remains to be seen whether he believed that obeisance to the νόμοι could ever yield genuine benefits of its own.[73] To counter the idea that he did

[70] We have interpreted the phrase, "τοὺς νομούς μεγάλους ἄγοι" (Translation by Pendrick (2002): "...he would regard the laws as great") as synonymous with the idea of obeying the laws. So also Saunders (1977: 220). *Contra* Riesbeck (2011: 271).

[71] See Kerferd (1956-7: 31-32), followed by Moulton (1972: 337-338), for the view that φύσις is not only a source of advantages, but *also* of disadvantages. To support this claim, they both rely on the line, "Living and dying belong to nature; and living comes to nature from what is advantageous, dying from what is not." (τ[ὸ δὲ ζῆν [ἐ]στὶ τῆς φύσεως κ[αὶ τ]ὸ ἀποθαν[εῖ]ν· καὶ τὸ μὲν [ζ]ῆν αὐτ[ῇ] ἐστι[ν ἀ]πὸ τῶν ξυμ[φερό]ντω[ν, τὸ δὲ ἀ[ποθανεῖν ἀπὸ τ[ῶν μὴ ξυμφερόντω[ν. (fr. 44 A, Col. III. 25 - Col. IV. 1). Neither however give a detailed account of what *type* of behaviour in conformity with nature Antiphon supposedly regarded as disadvantageous to the individual.

[72] cf. (Col. I. 12-23)

[73] Reesor (1987: 212) advances that Antiphon believed it advantageous for an individual to comply with the laws in the presence of witnesses because of the honour and rewards he could expect as a result.

believe the νόμοι could be a source of genuine benefits, many have turned to the passage at (fr. 44 A, Col. IV. 1-5), where it is stated that "the advantages established by the laws are chains on nature".[74] Yet it appears that this statement actually lends support to the opposing view: it explicitly says that there *are* advantages which derive directly from νόμοι.[75] That these advantages are described as "chains on nature" does not necessarily imply that they harm rather than help and so "are not real advantages" (cf. fr. 44 A, Col. IV. 17-22).[76] Moreover, a later passage seems to lend definite support to the view that Antiphon did not dismiss the possibility that it could be genuinely beneficial for an individual to submit to the laws: at (fr. 44 A, Col. V. 25 - VI. 9), it is stated that it *would* be beneficial to obey the laws if they provided protection or lent aid (ἐπικούρησις (Col. V. 27-28)) to those who acted in morally upright ways,[77] and imposed some form of penalty (ἐλάττωσις (Col. 33)) on those who did not.[78] Even if Antiphon did not believe any such laws existed in actuality, it is noteworthy that he took pains to note the sort of benefits which properly constructed ones could yield.[79]

[74] e.g. Pendrick (2002: 335)

[75] So also Moulton (1972: 337); Saunders (1977: 222-223); Ostwald (1990: 300); Gagarin (2002: 70).

[76] So also Riesbeck (2011: 281).

[77] We agree with Ostwald *et al.* (n. 66) that the three forms of behaviour referred to at (fr. 44 A, Col. IV. 30 - Col. V. 13) all are in keeping with conventional morality. See Pendrick (2002: 340-341) for literary parallels.

[78] cf. Moulton (1972: 341).

[79] cf. Riesbeck (2011: 270): "Antiphon does believe (…) that it is at least possible for some kind of reform to render existing *nomoi* more beneficial."

2. Law and collective agreement

Antiphon has often been regarded as the first among the Sophists to have enunciated a species of a 'social contract theory.' This supposition has been made on the basis of a statement made by Antiphon in the opening lines of his tract, *On Truth,* in which the laws are said to be "imposed" (ἐπίθετα) and "agreed upon" (ὁμολογηθέντα).[80] Unlike other Sophists or characters in Plato's dialogues who gave voice to Sophistic theories, Antiphon does not explicitly assert the reason for which people agreed to place themselves under the authority of laws. He does not draw on a pseudo-historical account of man's beginnings as a beast-like or brutish being to explain the origin of laws and society like Protagoras, the Anonymous of Iamblichus or the author of the *Sisyphus* fragment.[81]

In the last of the texts referred to for instance,[82] it is alleged that at an early stage in human history, "the life of human beings was disordered (ἄτακτος) and beastly (θηριώδης), and life was ruled by force, when there was no reward for the virtuous nor any punishment for the wicked", and it was so that "justice might rule and be master over crime and violence (ὕβρις)" that mankind took the decision to set up laws.[83] Law is being portrayed here as an arbitrary convention which men agree to abide by for the sake of not suffering the sort of

[80] (fr. 44 A, Col. I. 23 - Col. II. 1)

[81] Balla (2018: 96-97); Ostwald (1990, n. 18); Bett (2002: 256, n. 43) all discuss the possibility that Antiphon did include such an account in a now lost portion of his tract. Luginbill (1997: 179) believes that such a narrative is implicit in it.

[82] Its author is identified by some as the tyrant Critias (e.g. Sextus Empiricus (*Adv. Math.* IX.54); Denyer (2013)) and by others as the tragic playwright Euripides (e.g. Aëtius (*Plac*. I.7.2); Kahn (1997: 247-262)).

[83] Translation by Kahn (1997: 247-248).

violence all are naturally prone to commit. It is taken to be a man-made invention designed to protect man from man. Its limits are however also recognised: even after the imposition of laws, people are said to continue to attempt criminal acts in private, where the law does not have jurisdiction. It seems then that in this text, man's beast-like tendencies are regarded as a deeply ingrained part of his nature.[84] As is stated in the latter part of the fragment, a second invention was needed to deter mankind from committing acts of injustice - an omniscient god who would take interest in human affairs and invariably punish wrongdoers.

Two principal tendencies may be discerned among the Sophists who construe law as a form of contract or agreement to forego one's natural instinct, and in some cases desire, to act brutishly towards others. On the one hand, there are those like Protagoras, the Anonymous of Iamblichus and the author of the *Sisyphus* fragment, who view the making of such an agreement and its preservation as vitally important and thereby of great value: it is in man's interest to enter into such an agreement since in return he will be protected from suffering violence and injustice at the hands of others. On the other hand, there are those like Hippias (Xenophon, *Memorabilia* (IV, 4, 13)) or Lycophron (Aristotle, *Politics* (III. 1280b11-13)) who use the idea that law is a product of agreement to underline the latter's artificial character,[85] or further down the spectrum, we find Callicles arguing that such an agreement is but a "conspiracy of the many

[84] Neither the Anonymous of Iamblichus nor Protagoras specifically refer to primeval human life as θηριώδης (the 'catchword' which "runs almost like an echo" whenever 5th century writers broached this subject (Guthrie 1957: 95)). The former speaks of the impossibility for men to live alone and the 'damage' (ζημία) sustained by those who live together without laws (6. 1), while the latter depicts the injustice with which men treated each other when they first came together to found communities (*Protagoras* (322b-c)).

[85] De Romilly (1988: 237-238): "Comment mieux montrer [le caractère artificiel et arbitraire des textes de lois] qu'en insistant sur l'intervention humaine qui en avait délibérément posé les bases ?"

against the naturally dominant few,"[86] which should be rejected and trampled underfoot by the 'stronger' in the name of 'natural justice.'[87]

A number of scholars disregard the more 'positive' side that the notion of law as a product of an agreement can have, and maintain that in the majority of cases, this idea was used to promote an "immoralist stance,"[88] such as that advocated for by Callicles. On account of certain similarities which are to be discerned between the wording of Antiphon's text and that of Callicles' first tirade,[89] it is often assumed that Antiphon's way of regarding the notion of agreement was in all manner comparable to that of Callicles.[90] While we would not dispute the claim that Plato intended to portray *Callicles* as an immoralist with regard to his way of conceiving of the notion of agreement (as well as of much besides), there is little evidence in the preserved fragments of *On Truth* that Antiphon derived the same implications which Callicles did from the idea that laws are the product of an agreement. Antiphon does, it is true, specify the conditions under which it would be in the interest of an individual to "regard the laws as great" and the conditions under which it would instead be in his interest to "regard nature as great"; however, nowhere does he state that it is *never* advantageous for an individual to subscribe to what the laws enjoin the members of a community to do or not to do, or that it would be right or good for individuals to give free rein to their pleonectic drive. In fact,

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[86] Barney (2006: 83)

[87] *Gorgias* (483a-484c)

[88] Barney (2006: 83)

[89] Antiphon does not only state that the laws are "agreed upon", but draws a distinction between the laws and nature, and notes that nature, by contrast, is "*not* agreed upon" (οὐχ ὁμολογηθέντα); Callicles also sharply distinguishes between νόμος and φύσις all throughout his account of the origin of laws and moral values.

[90] e.g. Mulgan (1979: 122)

nowhere does he explicitly state that man *has* such a drive, or that it constitutes an important part of his psychological make-up, in the way Callicles does;[91] but even if he had, this is no reason to think that he would have necessarily endorsed its being given free rein - the Anonymous of Iamblichus, for instance, also seems to have regarded man as essentially pleonectic, in the sense that he by nature seeks to further his interest at the expense of others. However, by no means would he have argued that no curbs should be imposed on this drive *because* it is natural: he in fact goes to great lengths to defend the value of civic order and lawfulness (εὐνομία)[92] and posits that even if an individual like Callicles' 'superman' (*Gorgias* (484a3-b1))[93] were to exist and to conduct himself in only such a way as to satisfy his pleonectic nature, he would be killed by the multitude who hold the laws in respect.[94]

Rather than endeavouring to use the notion of agreement to argue for the rejection of laws and the moral values they are based upon, Antiphon seems to have been interested in underlining the flaws and failings of the agreement of which laws are a product. Antiphon would not have subscribed to the view that by virtue of this initial agreement or compact, wrongdoing and injustice can be successfully extirpated from human society. Unlike the speaker in the *Sisyphus* fragment or the Anonymous of Iamblichus, he would not have regarded the most bestial part of man's nature as something which people were ultimately able to surmount, principally by virtue of the establishment of laws. He would not have supposed that

[91] For Gorgias, πλεονεξία seems to be the mark of all men, but 'the stronger' essentially differ from the 'weaker' in that they have the *ability* to give free rein to their pleonectic drive (cf. 492a5-b2).

[92] (7.1 – 7. 17) (Laks & Most (2016)).

[93] cf. De Romilly (1988: 241) on the Anonymous responding to Callicles' image of the 'superman.'

[94] (6.1). "Power founded upon greed" (τό τῇ πλεονεξίᾳ κρατός) is said to not be "sufficient" even for such an individual. (Translation by Laks & Most (2016)).

after a compact has been sworn by all members of a community, there is no fear of their beast-like beginnings catching up with them again. Protagoras seems to adopt a position closer to that of Antiphon, when he admits that even after mankind was granted the τέχνη of politics, and so were able to formulate and enforce laws, some select few were still unable to partake of the values of mutual respect or shame (αἰδώς) and justice (δίκη) - that is, the two god-sent principles of social organisation which in Protagoras' 'Great Speech' take the place of a man-made compact to forego aggression (*Protagoras* (322c-d)).[95] For an even closer position to that espoused by Antiphon, the passage in Euripides' *Orestes* (523-525) could be referred to, in which the character Tyndareus is made to speak of the beastliness of man (τὸ θηριῶδες) as "a continuing fact rather than as a historical phase long past."[96] In like manner, throughout his tract, Antiphon depicts a variety of situations in which an individual may continue to suffer injustice at the hands of others despite the existence of an agreement or compact, thereby underlining how such an agreement often fails to achieve that for which it was passed: the protection of man from his fellow men.[97]

In fact, at (fr. 44 A, Col. VI. 6-13), Antiphon decries the fact that "justice in accordance with the laws" (τὸ ἐκ νόμου δίκαιον) "allows the sufferer to suffer" and the "perpetrator to act". One might think at first glance that he is here simply calling the reader's attention to the fact the laws serve as inadequate deterrents from wrongdoing. However, the way in which he reiterates this statement in the lines which immediately follow seems to call for a different

[95] It is said that any such individuals will have to be "killed as a plague on the city" (322d5-6) (Translation by Taylor (1976)).

[96] O'Brien (1985: 275-276)

[97] So also Caizzi (1999: 326): "The laws are the fruit of an agreement between people, but this agreement does not produce the results they hope for, a society not controlled by violence and *force majeure*."

interpretation: by saying that the "justice in accordance with the laws fails to *prevent* the sufferer from suffering and the perpetrator from acting", he seems to be implying that one of the essential flaws inherent in the laws is that they do not have sufficient power to compel or persuade the members of a community to subscribe to the basic contents of the agreement from which they derive (i.e. to forego aggression). By the expression, τοὺς ὁμολογήσαντας (fr. 44 A, Col. II. 5-6), it is plausible then that Antiphon was not referring to "society as a whole,"[98] but rather to only those select few individuals who *do* continue to pay heed to the compact which the laws are a product of.

In other sections of his tract, Antiphon goes still further: precisely by following the laws which derive from the common agreement to forego aggression, an innocent party is said to often run the risk of suffering injustice and violence at the hands of his fellow men. The portion of the tract which is most pertinent in this regard is Fragment 44 C, which begins with the statement that "bearing true witness" against a third party is considered just. Immediately thereafter, Antiphon proceeds to show that whoever acts accordingly is not only being unjust (on the assumption that justice consists in not wronging someone else),[99] but also ends up suffering injustice himself at the hands of the person against whom he has testified. Such an individual will suffer injustice on two counts: he will be wronged through the hatred (τῷ μίσει)[100] his act of testifying will inspire in the transgressor, and he will be wronged through his having to be on guard all his life against an act of retaliation from the latter. While it far

[98] Ostwald (1990: 298)

[99] (fr. 44 C, Col. I. 12-15)

[100] (fr. 44 C, Col. II. 3). As Moulton (1972: 349) has noted, hatred is ostensibly viewed by Antiphon as an "actual injury."

from certain that Antiphon believed that all men have in them a natural instinct for vengeance, it is clear that he viewed this particular form of legal justice (bearing true testimony against a third party) all the more "socially vicious"[101] on account of the fact that it induces those who are already inclined to avenge themselves to do just that. They are in fact specifically referred to as "the sort of enemy (ἐχθρὸς τοιοῦτος) who would do any harm they could in word or deed."[102]

To conclude this section, it is invalid to hold that Antiphon drew a distinction between νόμος and φύσις in order to advocate for the primacy of the latter and to wholeheartedly reject the former. Rather it was for the purpose of dispassionately reckoning the respective benefits and disadvantages which an individual derives from following νόμος or φύσις in a variety of circumstances that he appears to have distinguished between the two notions. It is also invalid to hold that Antiphon used the idea that law is the product of an agreement for the purpose of undermining all possible reasons for paying heed to it.

[101] Saunders (1977: 224)

[102] (fr. 44 C, Col. II. 8-12)

II. THE SCOPE OF ANTIPHON'S CRITIQUE OF LAW

In her article 'Antiphon the Sophist, on Truth,'[103] Moulton argued against the claim that Antiphon is to be regarded as a radical or immoralist thinker on the grounds that his outlook on law was shared by his contemporaries, Thucydides and Euripides, and as such was part of the mainstream in Athenian literary circles of his day. Such a view is disputable for a number of reasons: firstly, using passages in Thucydides and Euripides to support the claim that Antiphon's criticism of law was not as radical as it is sometimes asserted to be is to overlook the well-documented fact that the views on law and justice which feature in their works would have borne the *influence* of Antiphon (and arguably of many other Sophists besides); secondly, it glosses over the many differences which are to be discerned between the ideas presented in Antiphon's tract, *On Truth*, and the views voiced in different portions of Thucydides and Euripides' *oeuvre*. A much more cogent argument is that advanced by de Romilly[104] among others, according to which Thucydides, Euripides (as well as Aristophanes and Plato) had their characters subscribe to views on law which frequently went beyond anything averred by Antiphon and which were themselves much more radical in character.

It is generally agreed that many of the views Thucydides has Diodotus expound in the Mytilenean Debate,[105] those Plato has Callicles declaim in the *Gorgias*, and those Euripides has Eteocles advance in the *Phoenician Women*, exemplify an immoralist stance regarding the

[103] (1972)

[104] (1971: 97-114); (1988: 194-228). See also Kahn (1997: 261-262).

[105] Portions of Cleon's speech in the Mytilenean Debate also present an interesting contrast with Antiphon's critique of law in *On Truth* (cf. especially III. 37. 3). We have decided to focus on Diodotus because the opening of Antiphon's tract has often been interpreted in a similar way to one of the most well-known passages from Diodotus' speech.

demands of νόμος.[106] A number of scholars have cast Antiphon as an 'immoralist thinker,' on the grounds that many of his views can be easily assimilated with those voiced by these various characters. In this section, we will pick out the views which are most often said to bear close a relation with Antiphon's, and we will examine whether it is in fact justified to claim that they are very much alike. By so doing, we hope to gain deeper insight into the exact scope of Antiphon's critique.

1. Antiphon and Diodotus: the natural impulse to violate law

Near the end of his speech in the Mytilenean Debate, Diodotus sets forth what he regards as the essential reason for why it would be futile to institute a law prescribing that the death penalty should be enforced against the Mytileneans: "In a word, it is a fact of human nature (ἀνθρωπείας φύσεως) - and it is very naïve of anyone to believe otherwise - that when people are really committed in their hearts to doing something they cannot be deterred by force of law (νόμων ἰσχύι) or by any other threat (ἄλλῳ τῳ δεινῷ)."[107] Caizzi[108] assumed that in making this statement, Diodotus was alleging that "violation of law is a natural instinct". A number of scholars have claimed that Antiphon vouched for a similar position at the beginning of his tract, where he states that an individual would be making use of justice in a way most advantageous to himself if in the presence of witnesses, he were to regard the laws as great,

[106] Antiphon's position in *On Truth* has also been likened to that adopted by Thrasymachus, especially in his last tirade in the *Republic*, at the point where he states that injustice is to one's own advantage (344c9). (cf. Taylor (1929); Field (1930); Broadie (2003: 87)). We unfortunately do not have space to compare their positions.

[107] Translation by Mynott (2013).

[108] (1999: 326-327)

and in the absence of witnesses, nature as great. Moulton[109] among others understood this passage to mean that there is a natural temptation for men to break the laws, and that they are only inhibited from doing so by the presence of people, who, as it is made clear a few lines down, would be the sort to bring punishment and shame down upon any transgressor.[110] But if such a temptation were really natural for Antiphon (in the same way as it allegedly was for Diodotus), then how could he hold that the presence of other people - who would have to be just as affected by such a temptation - would serve as a deterrent for violating the law?[111] Rather than pointing to any particular type of behaviour which men are naturally prone to (let alone advocating that people should give into any such impulse),[112] in this passage, Antiphon seems to be simply taking note of the conditions under which an individual would be "making use of justice in a way most advantageous to himself". It does not seem appropriate therefore to follow Moulton and ascribe to Antiphon the same position Diodotus was allegedly upholding.

If Caizzi interpreted this passage from Thucydides correctly, it would appear that Diodotus vouched for a position which was much more pessimistic than any of the extant fragments from *On Truth*. It is quite plausible that Antiphon was a pessimist in certain regards

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109 (1974: 136). See also Luria (1926: 343); Luginbill (1997: 180-182). Bett (2002: 249) argues that it is difficult to altogether do away with the idea that Antiphon might be recommending people to disregard νόμος when unobserved by others, as qualifying νόμοι as "chains on nature" is "hardly the language of dispassionate observation."

110 In support of such an interpretation, Kahn (1997: 259) points to parallels with the *Sisyphus* fragment, and Caizzi (1999: 316), Denyer (2013: 165) and Balla (2018: 93) draw on alleged similarities with Glaucon's tale of Gyges' invisibility ring (*Republic* (359c-360d)).

111 One could object to this 'objection' of ours: Antiphon could believe, for instance, that punishment for wrongdoing inspires such a great fear in people that in public they repress their natural impulse to commit unjust acts. Regardless, our main point still stands: there is no evidence in this passage that Antiphon regarded breaking the law as a natural instinct.

112 Caizzi (1999: 326) specifies that *Antiphon* is not " invit[ing] anyone who can do so with impunity to rob a passer-by as a way of providing himself with the means of satisfying his hedonistic instincts"; it should be noted that there is little evidence that Diodotus is doing so either.

- perhaps his work is marked by a certain despondency regarding the possibility that laws could ever be strong enough (cf. οὐχ ἱκανὸν ἐπικουρεῖν (fr. 44 A, Col. VI. 8-9)) to provide the genuine benefits he seems to think obeisance to them should yield;[113] yet nowhere does he match the level of pessimism Diodotus seems to be airing in this passage. Diodotus' ἀνθρωπεία φύσις is evidently much darker than the φύσις of Antiphon: it is hostile to νόμος to such a point that it cannot be restrained by it. In addition to being highly pessimistic, Thucydides clearly intended Diodotus' statement to be taken as subversive. For the term he has Diodotus use (εὐηθείας) to qualify those who would not realise that "the force of law or any other threat" is unable to deter people when they are set upon a particular course of action, is the same he will refer to in his own voice as one of the lost virtues of the Greeks in his analysis of the moral turmoil unleashed by the civil wars (τὸ εὔηθες).[114] Making mention of traditional values or virtues only to devaluate their meaning is also practiced by the character Callicles throughout the *Gorgias.*[115] Antiphon, by contrast, never does so: his purpose in this tract is not to upturn or undermine traditional morals, but as he states at (fr. 44 A, Col. II. 23-30), to simply examine the discrepancies between the demands of legal justice and the demands of nature. Of course this is not to say that Antiphon's "calculus"[116] of the advantages and disadvantages which accrue to an individual from following νόμος or φύσις in various circumstances, could not have been looked upon as subversive: as Pendrick[117] notes, "from the standpoint of traditional Greek morality, it is remarkable that the argument completely ignores the possibility of divine detection and punishment of hidden transgressions." All the same, the opening of Antiphon's

[113] cf. pp. 16-17

[114] (III. 83. 1)

[115] See for example (491d7-e3) for Callicles' refashioning of the term, self-control or temperance (σωφροσύνη).

[116] Riesbeck (2011: 271)

[117] (2002: 325). See also Dover (1974: 257-258).

tract seems considerably milder than the stance adopted by Diodotus, in that it lacks the latter's frank avowal of cynicism.

2. Antiphon and Callicles: the appeal to natural justice

In his first tirade in the *Gorgias*, Callicles starts by proclaiming that the "weak multitude" are responsible for instituting laws and for stipulating what kinds of behaviour the laws designate as just or unjust. The "weak" are said to set up laws which define as unjust precisely the sort of behaviour the "strong" would otherwise be inclined to engage in: that is, endeavouring to "get an advantage" over their "weaker" counterparts. Callicles does not solely contemn view of injustice because it is an artificial construct. What makes it truly discreditable in his eyes is that it is diametrically opposed to what "*nature* proclaims as just", which is that the "better" and the "abler" should take advantage of "the worse" and "the feebler." As evidence that natural justice (τὸ τῆς φύσεως δίκαιον)[118] consists in the rule of the stronger over the weaker, Callicles points to the way animals act towards one another[119] and to examples of despots who exercise control over entire empires. As the rule of the stronger could be taken as a definition of tyranny,[120] it is far from a coincidence that the envoys sent to Melos from what had become an unmistakably tyrannical Athens[121] rely on a similar principle of action, when they allege that "as a necessity of nature (φύσεως ἀναγκαίας), whenever anyone has the upper

[118] (484b1)

[119] In Aristophanes' *Clouds*, Phidippides also proposes that humans should take inspiration from animals in their behaviour towards one another (1421–1429).

[120] cf. De Romilly (1988: 226): "Le droit du plus fort a un nom en politique: c'est la tyrannie."

[121] Already in the Mytilenean Debate (III. 37. 2)), Cleon spoke of the tyrannical character of the Athenian empire.

hand they rule."[122] Unlike Callicles however, the Athenians do not straightforwardly assert that 'might is right,'[123] nor go so far as to exalt anyone who would have a "sufficient enough nature" to break free from *all* man-made laws (483e3-484c4) and be ever striving to satisfy his every desire (491e6-492c9).

A number of scholars have supposed that Antiphon criticised νόμος for diverging from a Calliclean model of 'natural justice.'[124] The principal reasons why such an assumption has been made are the following: 1) it has been supposed that Antiphon's characterisation of the "advantages established by the laws" as "chains on nature" is akin to Callicles' portrayal of the laws instituted by the 'weaker' as "utterly enthralling [the best and strongest amongst us]" (483e6-484a1); 2) Antiphon's description of the "advantages established by nature" as "free" has been said to recall the 'freedom' which Callicles held to be the distinguishing mark of the individual who follows the "law of nature" (κατὰ νόμον τῆς φύσεως (483e4-5));[125] 3) on the supposition[126] that one of Antiphon's main purposes in this tract was to expose the inconsistencies between various definitions of legal justice, some have held that φύσις was being advanced as the true standard or ideal of justice. However, 1) , 2) and 3) are far from fool-proof,[127] and there are in addition a number of reasons for believing that Antiphon never

[122] (105). Translation by Mynott (2013).

[123] cf. Hussey (1985: 126)

[124] e.g. Bett (1989: 162); Taylor (1929); Field (1930).

[125] cf. (491e6-8; 492c6).

[126] Balla (2018: 94); Reesor (1987); Kerferd (1956-7); Barnes (1979); Dillon (1984)

[127] As for 1), his positive appraisal of σωφροσύνη and disapprobation of ἀναρχία in *On Concord* (which will be examined in Section III)), render unconvincing the claim that he was ever a proponent of the rule of the stronger. As for 2), there are reasons to believe that Antiphon was contrasting legal justice with an ideal of his own, that of non-retaliation. We will examine this point in the next subsection.

posited *any* form of 'natural justice' whatsoever: most importantly, if the definition of φύσις we proposed above bore any relation to the truth, then it is hard to see how it could have been construed it as a source of norms. Of course, appealing to some kind of 'natural justice' and criticizing the established νόμοι for failing to model themselves on it faithfully enough, is not necessarily to adopt an immoralist stance.[128] What we hope to have demonstrated here is simply that Antiphon did *not* use anything close to the form of natural justice Callicles championed as a standard against which to expose the shortcomings or flaws of νόμος, and that on this account, it is unsound to ascribe to Antiphon the unequivocally immoralist position which Plato had his character Callicles endorse.

3. Antiphon and Eteocles: the variability of moral values

In the *Phoenician Women*, Euripides has his character Eteocles proclaim that "fairness (ὅμοιον) and equality (ἴσον) have no existence in this world beyond the name."[129] The idea expressed here seems to be that there exists no absolute standard people can appeal to in order to judge whether something is fair or equal. An extreme brand of relativism appears to be upheld then,[130] according to which nothing can be called fair or equal without qualification. It has often been averred that the Sophists, or a large number of them, were proponents of such

[128] See Barney (2006: 84-85) on Socrates' response to Callicles' appeal (cf. 508a). Or Aristotle's reference to common laws based upon nature (*Art of Rhetoric* (I. 1373b)), which he deemed Sophocles' Antigone to have been invoking.

[129] (501-502). Translation by Coleridge (1938).

[130] We have borrowed the denomination of 'extreme relativism' from Denyer (2013: 165) and Woodruff (1999: 300).

an extreme relativistic position, as regards all conventional moral values.[131] The only thinker associated with the Sophistic movement to whom it might be appropriate to attribute such a position is the anonymous author[132] of the *Dissoi Logoi*. In various parts of his treatise, he sets out to prove that there is no difference between the good and the bad, the seemly and the shameful, the just and the unjust, as one single object may be said to be either depending on which community and what circumstances one finds oneself in. Unlike Herodotus, whose work was clearly turned to for the various examples of Barbarian customs which are enumerated throughout, the lesson this writer derives from the observation that usages and norms are variable is not that tolerance is the appropriate attitude to adopt towards the ways of others.[133] Rather, the conclusion he seems to have drawn is that it is impossible to state with any degree of certainty that any one conception of justice, of goodness and so forth, is any more valid than another.

In the latter parts of *On Truth*, Antiphon notes the inconsistencies between various definitions of justice embedded in the (Athenian) legal system.[134] According to νόμος, it is just to bear true witness against a third party (fr. 44 C, Col. 1-6) and unjust to harm another from whom one has received no personal injury (fr. 44 C, Col. II, 17-21). Yet by testifying truthfully against a third party, one in fact tends to harm an individual who has done one no personal

[131] In the *Laws* (889e-890a), Plato seems to have ascribed such a position to the Sophists (as well to certain unnamed poets). Protagoras is often regarded as the most conspicuous proponent of such a view. For objections see Denyer (2013: 165-165); Woodruff (1999: 300); Moser & Kustas (1966: 111-115).

[132] Some have held that this writer was probably not an actual Sophist, but rather an instructor in oratory who took inspiration from certain common Sophistic themes (cf. Balla (2018: 96); Bett (2002: 239, 243)). In either case, the influence of Protagoras - the inventor of antilogies according to Diogenes Laertius (IX. 51) - is undeniable (cf. De Romilly (1971: 60); Versenyi (1962: 181); Woodruff (1999: 295)).

[133] See especially (III. 38).

[134] For further comments on these inconsistencies, see Reesor (1987: 208); Kerferd (1956-7: 30-31); Luginbill (1997: 180); Saunders (1977: 231-232); Barney (2006: 83-84).

wrong: if convicted, such an individual runs the risk of losing his property or even his life (cf. fr. 44 C, Col. I, 25-28). Nowhere in his tract does Antiphon rely on the existence of such inconsistencies to maintain that that no fixed standard of justice exists.[135] He does actually seem to believe that such a standard exists, but that the laws in force in his time fail to adequately model themselves on it. The ideal of justice he appears to be positing is that of non-retaliation.[136] It is in the list of examples given of types of behaviour hostile to nature that he appears to do so: the three forms of conduct enumerated are all cases of forsaking requital for some form of injustice suffered, and shortly after describing them, the laws are criticised specifically for not granting help to those who act in any of the three ways referred to, and for not imposing a penalty on those who do not. The evidence for this claim is slight, it must be conceded. If he *had* posited such an ideal however, it is interesting to note that he would have been going against a prevailing trend in Greek moral thinking of the 5th century.[137]

In sum, Antiphon's critique of law was much less subversive than that presented by either Diodotus, [138] Callicles or Eteocles. There is no reason to suppose that he wished his critique to bear the same immoral implications that at least the last two characters intended theirs to have. In our next section, we will set forth the most noteworthy reason for why Antiphon's critique should not be conflated with the views voiced by these fictional characters:

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[135] *Contra* Denyer (2013: 165)

[136] We do not regard this as the same as non-aggression - the ideal of justice attributed to Antiphon by Havelock (1957); Moulton (1972: 348) *et al.* It is hard to see what evidence there is for such a claim: while he straightforwardly asserts that judging, arbitration and adjudication are all unjust (fr. 44 C, II. 25-30), he leaves the question open as to whether testifying against another (which seems to be construed as some form of aggressive act) or "the principle of wronging no one and not being wronged oneself" is just (fr. 44 C, Col. II. 17-25).

[137] Pendrick (2002: 340). See especially Thucydides (VI. 83. 2); Democritus (B193 = Atom. D306).

[138] As we remarked above (n. 110), Diodotus never alleged that people *should* give in to such an instinct; in that sense, his critique is the least subversive of the three we have compared Antiphon's with.

unlike them, he regarded the laws as potentially salutary, and so sought to re-establish their legitimacy.

III. DEFENDING THE LAW ON NOVEL FOUNDATIONS

Greek writers from the 6th and first half of the 5th century often celebrated the act of rendering obeisance to the laws - those of one's city or those unwritten ones which were held to prevail over the Hellenic world.[139] Five of the most common reasons why obeisance to the laws was frequently viewed in this regard are the following: 1) in a number of works, the laws of one's city-state (or at the very least the precepts they drew on) were held to emanate from or to reflect the will of the gods;[140] to observe them[141] was then to be pious,[142] while disregarding them was to incur the anger of the gods and bring upon oneself or one's descendants divine punishment;[143] 2) the order of a community was often held to depend on its

[139] In Thucydides' Funeral Oration (II. 37. 3), Pericles commends the Athenians for their reverence towards both the written laws of the state *and* "those unwritten laws" (ὅσοι ἄγραφοι ὄντες) "which bring upon the transgressor of them the reprobation of the general sentiment" (αἰσχύνην ὁμολογουμένην φέρουσιν). (Translation by Jowett (1881)).

[140] For instance, granting burial to all is regarded as a law ordained by the gods (e.g. Sophocles, *Antigone* (450-457); Euripides, *Suppliants* (563)) (or alternatively as a law common to all Greeks: Euripides speaks of it as a Πανελλήνων νόμον at *Suppliants* (526-527, 671)). See De Romilly (1971: 43) on the lack of substantial difference between these two appellations.

[141] The laws which are often viewed as most deserving of obedience are those which were preserved for the longest time. Presumably this is because their very stability was regarded as a sign that they reflected what the gods wished to have ordained (e.g. Antiphon, *On the Murder of Herodes* (13); Isocrates, *Antidosis* (293-295); see Aeschylus' *Eumenides* (490-493) and *Prometheus Bound* (149), on the threat posed by the imposition of new laws or the overthrow of old established ones).

[142] In a vast number of texts, to be *just* (which is not always expressly equated with being law-abiding) is to be pious towards the gods (e.g. Simonides (33); Gorgias, *Funeral Oration*; Antiphon in his *Tetralogies* constantly couples the notion of delivering a proper sentence and displaying a proper sense of piety (e.g. 1st *Tetralogy*, 4 (δ), 12).

[143] e.g. *Antigone* (458-460, 1072-1076). While in certain texts, unjust or illicit behaviour was said to invariably call for divine reprisals (e.g. Aeschylus, *Agamemnon* (367-398, 750-781, 1562-1564); Solon (Dem. XIX. 254–56, 14-16); Theognis (I97-208)), such a perspective was far from ever being uniformly maintained by 6th and 5th century writers (e.g. in *Prometheus Bound*, Zeus is portrayed by Prometheus as a tyrant unjustifiably inflicting punishment on gods and mortals alike: 224-225, 735-738; in Sophocles' *Philoctetes*, the eponymous character and the Chorus accuse the gods of punishing the just: 446-452, 680-685); in Euripides' *Suppliants*, the justice of (all) the gods is questioned: 594-595; 610; in Euripides' *Phoenician Women*, the goddess of Justice (Δίκα) is said to not concern itself with human affairs at all (1726-7)).

members paying heed to its laws[144] and a state where utter disorder and discord (στάσις) were rampant was regarded as a nightmarish state of affairs;[145] 3) with the establishment of democracy in Athens at the end of the 6th century, written law came to be seen as the guarantor of civic freedom[146] and a bulwark against tyranny or any form of arbitrary rule;[147] 4) in the few first decades after Athens became a democracy, obedience to the established laws was commended on the grounds that the laws make all citizens equal;[148] 5) again in democratic Athens, observance of the laws (as well as of the prevailing mores) was often regarded as an individual's due to his city in exchange for the upbringing and education he had received from it.[149]

Antiphon does not simply deliver a penetrating critique of law in *On Truth*. He also endeavours to re-establish its legitimacy on the basis of new grounds, distinct from any of those referred to above. He does so primarily in another tract of his which we are yet to examine, his *On Concord*. By counterbalancing his critique of law with a defence of it, Antiphon is not unlike most other Sophists.[150] He differs from a number of them however in that he does not

[144] Solon (Dem. XIX. 254–56, 30-33); *Eumenides* (700-703); *Antigone* (672-677); Euripides, *Suppliants* (244-245; 312-313).

[145] e.g. Herodotus (VIII. 3); Solon (Dem. XIX. 254–56); *Eumenides* (858-863, 976-983); Thucydides (III. 81-84); Plato (e.g. *Republic* (470c5-470e1); *Laws* (744d), (856b); *Menexenus* (243e1-4); *Phoenician Women* (374). Democritus (B249 = Atom. D360).

[146] cf. especially Herodotus (VII. 103).

[147] cf. especially Euripides, *Suppliants* (429-437).

[148] *Phoenician Women* (535-548); Thucydides (III. 37); for a parodic version of this view, see *Menexenus* (239a3-4).

[149] cf. Simonides' saying, 'the city is the teacher of the man' (eleg. 15 Plutarch, *Should old men govern?*); Plato, *Crito* (50e2-5); *Menexenus* (238a1-3); *Protagoras* (326e2-3). Or alternatively it is the gods of the city who are portrayed as nurturing or rearing the citizens: Aeschylus, *Suppliants* (893-894).

[150] If Callicles is to be considered a Sophist (see objections by Irwin (1977: 28); De Romilly (1988: 74, 222) *et al.*), then he would have to be excluded from this list. In none of Prodicus' extant fragments does he criticise or

seem to rely on any of the arguments most frequently set forth to defend the validity of the law - such as the idea that it is necessary for humans to live communally and that such a state of affairs can only come to pass if (proper) laws are enforced, or the idea that paying heed to justice (as it is defined by law) is in the collective interest. Foremost among advocates of the first argument are Protagoras and the Anonymous of Iamblichus; for the former, the survival of mankind depends on their living in society, and living in society depends on there being "devices to ensure its cohesiveness", such as νόμοι.[151] De Romilly has argued that even Thrasymachus - who in Book I of the *Republic* was made to allege that justice is "merely supreme simplicity"[152] and that "injustice is what is profitable and advantageous to oneself"[153] - might have espoused the second argument; she suggests that a plausible way of reconciling the more subversive statements Plato ascribes to him, with fragments from his own writings where he describes justice as "the greatest good for humans"[154] (D 17) and nostalgically recalls the orderliness which prevailed in Athens in former times (D 16), is to imagine that for Thrasymachus, "justice may not be to the advantage of separate individuals, but for human beings who live as a community it may constitute a means of salvation and the greatest of blessings."[155] If Antiphon did not expressly state that the survival of mankind depends on the existence of binding laws, or draw a link between collective interest and obedience to the laws,

defend the law. While we do have a fragment from Lycophron in which he speaks of laws, it is unclear what the implications of his statement were supposed to be.

[151] Bett (2002: 256)

[152] (348c12). Translation by Lee (1974).

[153] (344c7-8). Translation by Emlyn-Jones & Preddy (2013).

[154] Translation by Laks & Most (2016).

[155] Translation of *Les Grands Sophistes dans l'Athènes de Périclès* (1988) by Lloyd (1992: 179).

we should not be deceived into thinking that he did not seek to re-establish the legitimacy of the law on other bases.

In our first section, we set forth the two main grounds used by scholars who deny that Antiphon could have been a partisan of νόμος: 1) that he uses the νόμος-φύσις distinction in such a way as to advocate for the primacy of φύσις; 2) that he portrays νόμος as the product of an artificial agreement so as to undercut all reasons for paying heed to its ordinances. We endeavoured to show that both 1) and 2) are unsupported by textual evidence. The claims he makes in fragment 44 B might at first glance cause one to have additional reservations about casting him as one of those Sophists who sought to uphold the value of legal obedience. Many have in fact interpreted this fragment as an attack on νόμος.[156] In it, he writes that by our allegiance to the νόμοι which hold good in our own community and by our unawareness of the νόμοι enforced in far-off ones, we are led to set up artificial distinctions amongst ourselves (by calling one people Greek, another Barbarian), while by nature (φύσει (Col. II, 10)) we are all alike. We would however claim that if Antiphon was attacking anything here in connexion with νόμος, it was merely the entrenched and time-honoured idea that one way in which the Greeks show themselves to be *superior* to other peoples is through their voluntary obeisance to law.[157] Rather than attacking νόμος purely for its own sake, Antiphon seems then to have been slyly denouncing the unwarranted ease with which the Greeks conceive of their superiority over others.[158] On this reading, the reservations we noted above should be dispelled.

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[156] Many claim that Antiphon attacked νόμος in this fragment in the name of an egalitarian ideal (e.g. Baldry (1965: 43-45)).

[157] In Euripides' *Orestes* (485-487), *not* obeying the law is portrayed as a 'Barbarian trait.'

[158] When he writes that "we have become barbarians to another" (πρὸς ἀλλήλους βεβαρβαρώμεθα (Col. I. 8-10)), he cannot be relying on the manifold traditional negative connotations which were attached to the label, βάρβαρος (e.g. slavish (Euripides, *Iphigenia at Aulis* (1400-1404); cruel or savage (Herodotus (IX. 79)), since he would then

1. Antiphon's attachment to the laws

A. The desire for stricter laws

Antiphon clearly attached great value to the role played by laws in society. If he had not, it is unclear why else he would have displayed concern for the fact that existing laws are not stringent enough. Before we explain this point, we should note that any Athenian who would have taken issue with the limited scope of the law in the last quarter of the 5th century would surely have been marked out by his contemporaries as an unusually resolute partisan of νόμος: it seems to have become more and more common from this time onwards to decry any restraint - even that imposed by the laws - as an impediment on one's freedom.[159] The type of laws Antiphon wished to be made more exacting are seemingly those related to punishment. For instance, at (fr. 44 A, Col. V, 30-33), he decries the fact that no penalty or loss (ἐλάττωσις) is imposed on those who do not act more morally than the laws (in accordance with the three forms of conduct referred to earlier on). A few lines down, at (fr. 44 A, Col. VI, 10-13), he writes that the existing laws "*allow*" (ἐπιτρέπει) "the perpetrator to act", presumably meaning that these last do not do enough to prevent transgressive acts. As this line is followed by a comment on how perpetrators are often able to escape punishment, it is likely that Antiphon thought that the punishment system was to blame for this state of affairs: perhaps he believed that the prospect of punishment did not inspire sufficient fear in the citizenry to make them refrain from transgressive acts, or perhaps he thought that the types of punishment which were being enforced in his day failed to morally reform perpetrators so that they would desist from

be undermining his prior claim that the Greek-Barbarian distinction is merely artificial. *Contra* Barney (2006: 82); Bett (2002: 248, n. 24, 248-249). For a more plausible interpretation of this peculiar verb, see Caizzi (1986: 294-295).

159 cf. (*Republic* (563d3-c1)). In Euripides' *Phoenician Women,* to not have freedom of speech (παρρησία) is called the lot of slave (392); in the *Gorgias*, even *self-control* is likened to a slavish state by Callicles (491e6-7).

committing acts of injustice in the future. Whatever his precise view of the purpose of punishment may have been, it seems clear that he was of the belief that some kind of stricter laws relating to the imposition of penalties and sanctions should be instituted.[160]

B. In praise of self-control

In *On Concord,* Antiphon defines the quality of being σώφρων as mastery over one's desires or appetites (ἡδοναῖς) (F 58). Unless Antiphon was employing a set expression, it appears as if he thought that ἡδοναί tend to have a strong hold on individuals: "block[ing] oneself to the immediate pleasures of one's heart" (τοῦ θύμου ταῖς παραχρῆμα ἡδοναῖς ἐμφράσσει αὐτός ἑαυτόν) is ostensibly equated with "being able to overcome and conquer oneself" (κρατεῖν τε καί νικᾶν ἠδυνήθη αὐτός ἑαυτόν). As such, σωφροσύνη for Antiphon probably designated first and foremost self-control.[161] In the process of setting out this definition of σωφροσύνη, he seems to have been responding to or perhaps even correcting the way in which others conceived of the notion: he expressly states that the label of σωφροσύνη would be "more correctly" (ὀρθότερον) ascribed to an individual who fits his own description of the term. There is ample evidence in fact that this notion - which in earlier Greek texts had been revered alongside the virtues of justice and goodness[162] - had in Antiphon's day often

[160] See Saunders (1977: 223, 229) for the view that Antiphon wished legal sanctions to be enforced in the same systematic fashion as the alleged 'automatic' sanctions of φύσις (cf. fr A, Col. II. 10-23).

[161] So Pendrick (2002: 405). As Irwin (1977: 20) notes, this was one of the conventional meanings attached to the term in Greek literature from the 5th century and earlier. As he apposes the adjective σώφρων with that of κόσμιος (fr. 59), it appears as if he conceived of the two as synonymous, like many others (e.g. Aristophanes, *Wealth* (563-564); Lysias, *or*. 21. 19).

[162] Aeschylus, *Seven Against Thebes* (610)

come to be devaluated and belittled.[163] In *On Concord* by contrast, the opposite of being σώφρων is spoken of in depreciative terms: an individual who wishes to gratify his desires[164] is said to wish "what is worse instead of what is better." It is surely a generally acknowledged point that the possession of self-control is conducive to lawfulness and obedience to authority;[165] by speaking highly of self-control then, Antiphon seems to have been indirectly commending law-abiding behaviour. Perhaps it was because he believed (the proper kind of) education to have the ability to instil self-control, and by extension a disposition to pay heed to the laws, that he described it as the greatest of all things.

2. The importance of social ties

A number of scholars have supposed that Antiphon conceived of laws as potentially beneficial or salutary for society as a whole. Luginbill[166] for instance suggested that Antiphon set store by the laws for two principal reasons: 1) it is perilous for people to try to live without them, and be in a position where no restraint is imposed upon their natural tendencies (φύσις); 2) paying heed to the laws can instil certain values in the citizenry, and help them on their way to mastering certain propensities which if unsuppressed, would pose a threat to communal life.

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[163] Plato speaks of how the fully-fledged democratic character comes to conceive of the term as cowardice (*Republic* (560d5-6)); Callicles himself asserts that it is no more than foolishness (*Gorgias* 491d7-e3).

[164] The precise term used here is not ἡδονή but θυμός. For Pendrick (2002: 406) the two are virtually interchangeable because θυμός designates "the seat of desires and passions."

[165] cf. Pendrick (2002: 413). See also *Gorgias* (504d1-4).

[166] (1997: 177). For the view that Antiphon defended the laws and lawful behaviour for the reason that the adverse can be somehow harmful to the individual, see Croiset (1917: 13). De Romilly (1988: 258) suggested the possibility that Antiphon deemed it *always* to be in the collective interest for (legal) justice to be held in respect. Others have supposed that he thought laws could be salutary as one of the roles they played was to educate the citizenry. For objections to this view, see Altheim (1926: 269).

Such an interpretation supposes that by φύσις, Antiphon was referring to ingrained appetites or desires, which as we saw in Section I, 1), is unsupported by textual evidence from *On Truth.* It is also unsubstantiated by any passage in *On Concord*: as Pendrick notes, it is a mistake to suppose that Antiphon's comments in this tract on the need to master one's desires imply that he believed that propensity to desire (and socially-threatening ones at that) is the distinguishing mark of man's nature.[167] Rather, it seems as if Antiphon attached value to law because he was of the view that social ties are enriching for an individual's life, and that these can only be formed and sustained if (supposedly good) laws are upheld and the values they draw on are respected.

In one of the first fragments we have from *On Concord*, human life is said to contain "nothing outstanding or great and impressive, but everything small, weak, short-lived, and mixed up with great pains" (fr. 51). In Antiphon's view, it appears as if the principal way in which an individual can make his life less desolate and give it meaning, is by creating bonds with other members of his community. At different points in *On Concord*, he discusses the importance of forming true friendships (fr. 65), and of sustaining old ones (fr. 64). In a similar vein, he speaks of the pain endured by a man who does not find solace in his wife's companionship (fr. 49, 8-29), and presents divorce as a hardship on account of the fact that it puts an end to one's relations with the family of one's former wife (fr. 49, 1-8). Antiphon was not the only Sophist to stress the importance of entertaining relations with others: Hippias spoke of friendship as the highest relation that can exist between individuals[168] and Protagoras

[167] (2002: 410). As he points out at numerous points, the term φύσις does not even appear in this other tract (404, 410).

[168] B17 = Xen. D 55

gave a special place to friendship in his 'Great Speech' - he relates how Zeus had Hermes bring mutual respect and justice to mankind so that they could form cities *and* bonds of friendship (322c2-5). One might well imagine that in addition to underlining the importance of friendship and companionship on an individual level, Antiphon sought to promote civil union across entire communities (ὁμόνοια):[169] the title of the tract we have been discussing in the last few lines does lend some support to such a view; in addition, it would not be entirely out of the ordinary for a Sophist to stress the value of civil concord: in a portion of an actual speech given by Thrasymachus, he decries the fact that no ὁμόνοια exists between the citizens of Athens, but only enmity and dissension (D 16).[170] Throughout this paper we have stressed how the positions taken up by the thinkers associated with the Sophistic movement on a number of issues varied greatly; it is however also important not to downplay the fact that in many cases, they were clearly taking up and responding to one another's ideas. On that account, it is quite plausible that in a now lost portion of his writings, Antiphon also underlined the value of civic concord.

At (fr. 61) Antiphon writes that there is nothing worse for mankind than ἀναρχία. The fact that the character Creon from Sophocles' *Antigone* expresses the same idea in very similar terms (ἀναρχίας δὲ μεῖζον οὐκ ἔστιν κακόν)[171] suggests that Antiphon was making a reference in his own work to a familiar *sententia* or idiom (γνώμη) of the day.[172] It is however clear that Antiphon invoked it for a very different reason than Creon: Creon construes ἀναρχία as disobedience to the laws, and regards it in a very negative light because it includes

[169] Some have advanced that an important part of Antiphon's agenda in this tract was to promote concord in the Athens of his own day (e.g. Croiset (1883)).

[170] Hippias was also reputed to have preached concord amongst Greeks at Olympia.

[171] *Antigone* (672). Lloyd-Jones (1994) translates this line thus: "But there is no worse evil than insubordination."

[172] So Pendrick (2002: 414).

insubordination to his own authority and the particular laws he had himself elected to pass.[173] Antiphon may well have understood the term in a similar way to Creon, as disobedience to the laws or lawlessness, or alternatively as "absence of rule."[174] In either case - if the citizenry do not pay heed to the laws or no actual laws are in place which hold sway over the citizenry - it would surely be extremely arduous to preserve bonds with other individuals or maintain any social cohesion of any kind within the community. That which he deemed to give value to life and make it enriching - the cultivation of social ties of all kinds (friendship, companionship with one's spouse and their family, and perhaps also wider bonds across one's entire community) - would then be virtually impracticable in a state where ἀναρχία reigned. It is presumably for this reason then that Antiphon proclaimed that ἀναρχία was the worst thing for human beings.[175]

[173] At first, Creon appeared to only be interested in defending the sanctity of the established laws of the *polis*; later on, he takes on more and more the attitude of only wishing to have his own authority respected (cf. 736-739).

[174] Pendrick (2002: 205)

[175] An interesting connexion could be drawn with Book IX of the *Republic*, in which lawlessness and friendlessness are also coupled (see especially: 571b-572b, 575a1-2, 576a4-6) (cf. Scott (2007) on the ways in which the tyrant's *erôs* makes him asocial).

Conclusion

Antiphon does not deserve the label of immoralist. He does not distinguish between νόμος and φύσις for the purpose of advocating for the rejection of the former in the name of the latter. Rather, it is for the sake of detachedly taking stock of the respective advantages and disadvantages which an individual derives from acting in accordance with one or the other, that he seems to draw such a distinction. Nor is there any reason to believe that he spoke of the laws as the product of an agreement so as to underline their artificial character, and on that account, attempt to show that they should not be heeded to. In addition, when one compares the tenor of *On Truth* with the more subversive views incorporated in a number of literary texts which were either written in his own day[176] or were meant to harken back to such a time,[177] it becomes clear that Antiphon did not intend for his critique to bear any overtly immoral implications.

Rather than promoting any practical agenda, or attempting to subvert traditional morals, Antiphon's purpose in *On Truth* seems to have been to inquire into the inconsistencies and deficiencies of existing legislation. If he is advocating for anything in this tract it is not disobedience to the laws, but rather legal reform. What he ostensibly wished to have amended above all was the rampancy of crime, and the tendency for innocent parties to be harmed as a result of acting in accordance with what the laws lay down as just. He does not, it is true, point to any way of remedying such problems; this however in no way indicates that he did not

[176] In addition to the passages in Thucydides and Euripides we referred to, the passage in Aristophanes' *Clouds* where Pheidippides uses the idea that all laws are artificial and relative to argue in support of the enforcement of a new law which is modelled on animal-like behaviour (1421-1429), could have presented an interesting contrast with Antiphon's views.

[177] The reference here is to Plato's *Gorgias*.

display deep concern for such issues or did not desire that some way of rectifying them be found.

If in *On Truth*, Antiphon was pushing for the kind of legal reform we have suggested, he would have had to have attached some value to the laws. In *On Concord*, there is further evidence that he did so: he commends the very values which are conducive to law-abiding behaviour (self-control and orderliness) and describes ἀναρχία as the worst state of affairs for human beings. The reason why Antiphon attached value to the laws seems to have been because they enable and facilitate social ties, and the cultivation of such bonds are in his view what truly enrich human life.

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Declaration of Originality of Authorship of a thesis submitted for examination in the MSt in Ancient Philosophy in the academic year 2019-2020

I, Emma Burton, affirm that my submitted thesis entitled 'Antiphon the Sophist's Critique of Law' is my own original work, except where otherwise stated, and that I have only shown drafts of it to my supervisor, Prof Scott and Prof Rood, in approximately four hours of supervision, and that I have received help in its preparation from Dr/Prof N/A.

Signed: .

Date: 12/07/2020