

Nature and Norms Richard Bett

One central thing uniting the major Sophists – Protagoras, Gorgias, Prodicus, Hippias, Antiphon and Thrasymachus – is an interest in methods of effective public speaking and the teaching of rhetoric, and the title “Sophist” is often extended to other, lesser-known figures, some of them anonymous, on this basis. But they also had numerous theoretical interests. These were quite various, and included topics in what we would now call the natural sciences. But among the most significant is a distinction between *phusis*, “nature,” and *nomos*, “norm”;¹ almost all these thinkers – I find only one exception – drew this distinction implicitly or explicitly. They are not the only ones, or even perhaps the first, to do so. But they stand out for the manner in which they develop this distinction, laying out a number of novel views about the nature of human society and the way individuals should regard themselves in relation to it; these views seem to have a broader cultural influence, but the Sophists seem to be their core proponents. We can think of the Sophists as early social scientists,² and their treatment of the *nomos-phusis* distinction is a key aspect of this. We can perhaps go even further and see them as raising for the first time some central philosophical questions in what we would now call meta-ethics.

While it is important to clarify the specific views involved, and the differences between them,³ this chapter will also address the issue at a more general level. I aim to consider the origin of the *phusis-nomos* contrast itself, and what is distinctive about the way the Sophists exploit it. This, of course, will require some examination of non-Sophistic authors and texts.

I

Both terms go back to the earliest phase of Greek literature – *phusis* appears in Homer and *nomos* in Hesiod – but they were not originally seen as a contrasting pair. A few general points concerning their meaning and usage will be helpful background.⁴

Phusis is related to the verb *phuō*, the basic meaning of which is “grow” or “be born”; and *phusis* itself can sometimes be used in the sense “birth” or “origin.”⁵ But the perfect tense of the verb, *pephuke*, expressing the *state* that has resulted from such growth or birth, can often simply mean “be” – with a strong suggestion, however, that this “being” is due to a process in the world independent of any human intervention.⁶ And this makes sense of the more common uses of the noun *phusis*, where “nature” is usually the best one-word translation. At the beginning of the second book of his *Physics*, Aristotle says that things that exist “by nature” (*phusei*) (by contrast with artefacts) are those with their own source of motion (192b13–15); and this is complemented in his so-called

¹ On the translations of these terms, see Kerferd 1981: 111–12. On *phusis*, Beardslee 1918 is still instructive. I shall mostly use the Greek words.

² I have argued for this in Bett 2002.

³ Fuller treatments of this subject include Heinemann 1945; Guthrie 1971, ch. 4; Kerferd 1981, ch. 10; de Romilly 1992, chs. 4–6; Hofmann 1997; Bett 2002.

⁴ This is discussed in detail in Heinemann 1945, ch. 2.

⁵ An early philosophical example is Empedocles (early-to-mid 5th century BCE), LM 22D53.

⁶ Indeed, according to LSJ, *phuō* is actually related to the English “be.”

“philosophical lexicon” (*Metaphysics* Δ), where he gives as the primary meaning of *phusis* “the being of those things that have a source of motion in themselves, as themselves” (Δ.1015a14–15). Moving specifically to the human sphere, he says at the beginning of the *Politics* that “what each thing is like when its coming-into-being is completed we call the *phusis* of each thing” (1252b32–33), and on this basis he famously declares that “the human being is by nature [*phusei*] a political animal” (1253a2–3). Some reference to a process is present in all these general statements, but it is a process inherent in the things themselves, not one that we humans might have a role in shaping. And that also applies to the statement about human nature as political; we are political animals *anyway*, whatever we might try to do about it. Aristotle lives several generations later than the figures usually classified as Sophists. But the central point – the independence of *phusis* from human influence – is already explicit in Gorgias: “The things we see have not the nature we want, but the one that each happens to have” (*Helen* 15). The same point is clearly presupposed in the Hippocratic medical treatises; for example, *On the Nature [Phusios] of Human Beings* is interested in what human beings are made of and how they function, physiologically speaking, and in *On Ancient Medicine*, *phusis* frequently refers to an individual’s physical *constitution* – an unalterable state that the doctor has to take into account in devising treatments (e.g., 3, 20). *Phusis*, then, is what things are like as a result of processes in the world over which we have no control. “What things are like” can, of course, be understood in various different ways – certainly not only in terms of their *physical* constitution – and it has recently been said with some justice that “*phusis* manifests exceptional semantic stretch.”⁷ But this central point should be sufficient for our purposes.

As for *nomos*, there is somewhat more to say about its pre-Sophistic conception. *Nomos* can refer to written law, but also to customs or conventions not spelled out in any explicit prescription. However, prescriptiveness of some kind is central to the notion of *nomos*.⁸ Most generally, a *nomos* specifies something that is supposed to be done – and, in a more or less functional society, actually is done most of the time. But the source of these prescriptions is not necessarily society itself, and in the pre-Sophistic period *nomos* frequently refers to some kind of supra-human law. In Hesiod it originates from Zeus: it applies to humans, and governs how humans should administer justice, but its source is divine (*Works and Days* 274–80). Heraclitus does speak of human law, but insists that “all the human laws are fed by the one divine law” (LM 9D105). A much-cited fragment of Pindar speaks of “*nomos* king of all, mortal and immortal” (fr.169a Snell-Maehler); what exactly Pindar was talking about is highly debatable, but here *nomos* seems to be superior even to the gods. And the idea of an unwritten divine law that transcends merely

⁷ Lloyd 2018: 37. Thanks to David Wolfsdorf for pointing out to me how expansive and underspecified the question “what is this thing’s nature?” can be.

⁸ This is important in interpreting the famous statement of Democritus, “by convention [*nomôi*] sweet, by convention bitter [etc. – the list varies in different sources], in reality [*eteî*] atoms and void” (LM 27D14, 23, 24). It is “by convention” that we *call* things sweet or bitter, when in fact they are merely assemblages of atoms and void; this linguistic usage is a result of social pressure, just like the more overtly social and political *nomoi* that are the main subject of this chapter. Galen (LM 27D23b) is right that *nomos* is here contrasted with an independent reality – in this respect Democritus is fully in accord with those who employ the *nomos-phusis* distinction – but he misses the aspect of prescriptiveness. See Furley 1993: 75-8.

human edicts is central to the plot of Sophocles' *Antigone* – which is usually dated in the 440s, around the time the first Sophists were starting to be active.⁹

This understanding of *nomos* does not lend itself to a contrast with *phusis* – at least in the human realm, which is our concern here; both are thought of as unalterable by human decision or action but rather as exerting constraints on them. In order for *nomos* to be contrasted with *phusis*, it needs to be regarded as purely a product of human society. Nevertheless, some of the texts just mentioned suggest how that shift might have become possible. By distinguishing between divine law and human law, even while stressing that the former provides necessary support for the latter, Heraclitus opens the possibility that the two might diverge. And in Sophocles' *Antigone* – or rather, according to the character Antigone – this possibility becomes actual. The ruler Creon's edict, that the traitor Polyneices' body should not be buried – which Antigone ignores in favor of the divine law – is also called *nomos*, both by Creon himself and by Antigone (449, 452). If you think that there is a supra-human divine law, obviously you will think that human laws *ought* to conform to it. But if it is acknowledged that the two can diverge, that points towards a notion of *nomos* as *merely* human or *merely* social. To get there, of course, one would have to shed the notion of divine law.

I doubt we can give a full and precise account of how that happened. But two related intellectual developments appear to be instrumental in that transition, and these I address in the next section. One is a growing interest in, and awareness of, differences in the *nomoi* of different societies. The other is a proliferation of accounts of the origins and development of human civilization.¹⁰ Both come in different flavors, and neither forces one to regard *nomos* and society as purely a human construct, with *phusis*, nature, as something altogether different. But that thought becomes considerably easier in the atmosphere produced by these two intellectual trends.

II

Clear evidence for the first trend is hard to find much before the Sophistic period. Xenophanes (c. 560–465 BCE) emphasizes that different peoples each depict gods in their own image and speculates that if animals had gods, they would do the same (LM 8D13, 14). One could well imagine this being combined with broader observations about different customs in different societies. But there is no evidence of that, and Xenophanes' interest seems rather in showing the errors in conventional anthropomorphic thinking about the divine by contrast with his own conception of god. Often invoked in this connection is Hecataeus of Miletus (active around 500 BCE), who wrote a work of geography centered on the Mediterranean and the Black Sea. The fragments show that he referred to a great many cities; but how far he elaborated on the varying customs in those cities is impossible to say from the meager remains of his work.¹¹ Where we do find this kind of information (true or false) is much later, in Herodotus, generally counted as the

⁹ See especially lines 450–57: “It was not Zeus who issued this edict to me, nor did Justice, dwelling with the gods below, set up such laws for humans; nor did I think your edicts (mortal as you are) had such force as to be able to override the unwritten, unshakeable laws of the gods. They are not of today or yesterday, but live forever, and no one knows from whence they came.”

¹⁰ Both are drawn attention to in Kahn 1981, which is still essential reading on this subject. I register a few disagreements below.

¹¹ The fragments are collected in BNJ 1.

first Greek historian, and roughly contemporary with the earliest Sophist Protagoras – thus active early in the second half of the fifth century BCE. Though introduced as concerning the war between the Greeks and the Persians, much of his rambling *Histories* consists of accounts of the customs of various non-Greek peoples. A similar interest is apparent in the collection of works ascribed to Hippocrates, the earliest of which are probably from the same period. In particular, the treatise *Airs, Waters, Places* compares numerous European and Asian peoples with respect to their physical characteristics and also to their *nomoi* (14, 16, 19). A recurring interest in the diversity of *nomoi*, then, can be traced back at least to the beginning of the Sophistic period, and is very possibly older than that.

Something similar can be said about the second trend, the interest in the development of human civilization. Some have attempted to trace it well before the Sophistic period.¹² Again Xenophanes is sometimes invoked, in virtue of the following two lines: “The gods did not reveal all things to mortals from the beginning, but in time by searching they discover better” (LM 8D53). This is often read as a salute to human progress through the generations. But the point may just be that we do better by patiently searching for ourselves than by waiting for divine revelations – in which case it has nothing to do with human progress over time.¹³ Another candidate is Anaxagoras (probably 500–428 BCE), who says that there must be other worlds besides our own and in which (like here) there are humans living in cities and cultivating the earth (LM 25D13). But I see no reference here to the *development* of human institutions and expertise. Where we do find clear evidence of this is in tragedy of the mid-fifth century – which no doubt reflects broader discussions of the subject at the time. *Prometheus Bound* includes a long speech describing an original, pre-civilized “state of nature” for humans, followed by the development of many forms of expertise, among them arithmetic, writing, agriculture, and seafaring (lines 436–506). The speaker is Prometheus, who takes sole credit for all this, but the topic does not require a mythological framework.¹⁴ *Prometheus Bound* is ascribed to Aeschylus, who died in 456 BCE. But his authorship has been widely doubted,¹⁵ and the play may be a little later. Another such case is, again, Sophocles’ *Antigone*, in the famous choral ode describing the wonders of humanity (332–75), which speaks of similar technical achievements – this time due to humans themselves rather than a god – but also political ones, including *nomos* (355, 368).¹⁶ The Hippocratic corpus is relevant here, too; the treatise *On Ancient Medicine* speculates about early humanity and its gradual discovery of medicine (3).

To repeat, these kinds of accounts alone do not yet take us to a clear *phusis-nomos* distinction. A famous story in Herodotus, illustrating the diversity of *nomoi*, has the Persian king Darius asking Greeks and Indians how much money it would take for them each to adopt the burial practices of the others; the answer is that no amount would be

¹² Most extreme is Naddaf 2005, claiming to find accounts of the growth of human society in the earliest Presocratic thought; for the problems here, see Schofield 2006 and Mansfeld 1997 (on the original French version). Kahn 1981 is much more cautious, still, I think, over-optimistic.

¹³ For this reading see Leshner 1991.

¹⁴ See below on Protagoras’ use of the same device, clearly recognizing its dispensability.

¹⁵ For a brief review of the issue, see Lloyd 2010: 28–30.

¹⁶ Whether Sophocles sees this as an unalloyed positive is another question; I have discussed this in Bett forthcoming, section III.

enough (3.38). The moral is that each culture considers their own *nomoi* the best. But instead of this leading to reflections on the culturally restricted character of *nomos*, by contrast with a *phusis* over which we have no control, it instead leads Herodotus to quote Pindar's saying that "*nomos* is king of all" and to declare that making fun of religious practices sanctioned by *nomos* is insane. As we saw, Pindar's own point is obscure, and so is the precise lesson Herodotus takes from his words. However, it is clearly not that *nomos*, as distinct from *phusis*, is a product of human society; he is simply not thinking along those lines at all.¹⁷ As for the stories of early human development, we saw that some of these do not even mention *nomos*, or social and political institutions; they are instead wholly preoccupied with various forms of practical expertise (*technê*). Another example of this is the pre-historical opening of the *History* of Diodorus Siculus (1st century BCE), which is generally thought to be based on a fifth-century source or sources;¹⁸ after discussing the origin of the world, including living things, it talks of the first humans and their discovery of various *technai* (1.8). One of these is language, which of course can be used for social and political, or more generally normative, ends. But although the resulting linguistic groups are called "communities" (*sustêmata*), and though the need for safety is said to bring people into groups in the first place, that theme receives no elaboration whatever.¹⁹

To dwell on these topics, then, does not automatically bring about a contrast between *phusis* and *nomos*. Nevertheless, it is in the same loosely defined period of most of the texts just considered – early in the second half of the fifth century – that we first find a thinker to whom a *phusis-nomos* distinction is explicitly attributed. This is Archelaus, cited by several sources as a teacher of Socrates and pupil of Anaxagoras.²⁰ We do not know his dates, but these associations suggest he was active around 450 BCE or a little later. Little evidence for his thought survives, but he seems to have concerned himself primarily with physical questions, following Anaxagoras on several points. However, we are told that he was also interested in ethics – as one would certainly expect given the link with Socrates. Diogenes Laertius says that, in addition to physical topics, "he philosophized about laws [*nomôn*] and what is fine and just," and held "that the just and the shameful are not by *phusis* but by *nomos*" (LM 26D22, cf D21); the *Suda* repeats the last point.²¹ The *Refutation of all Heresies*, generally attributed to the early Christian Hippolytus,²² gives a little more detail: after some information on the origins of the cosmos, including that humans and other animals first came from and were nourished by

¹⁷ Thomas, 2000, 125 suggests that Herodotus' stress on the importance of *nomos* implies a sense of some alternative (though she does not commit herself on what this might be). This may well be correct, but does not alter the present point.

¹⁸ The source is often taken to be Democritus; see Cole 1967 (though with qualifications at 59) and valid suspicions at Kerferd 1981, 141.

¹⁹ Kerferd 1981 considers the Diodorus passage a text of "major importance" in a chapter called "The theory of society" (141). While the passage certainly has interesting links with other passages deserving this description (on which more later), he seems to me to exaggerate its social dimension.

²⁰ LM 26, section P. A valuable recent study of Archelaus on this topic is Betegh 2016.

²¹ S.v. "Archelaus," DK 60A2, not in LM.

²² Marcovich 1986, 8–17, makes the case for Hippolytus. But LM still list the author as "(Ps.-?) [i.e., Pseudo-?] Hippolytus".

mud (a detail also in Diogenes), he adds, “And the humans were separated from the others and established leaders and laws [*nomous*] and skills and cities and the rest” (1.9, LM 26D2). There is no hint here of any role for the divine in ethics or politics; a god appears in the testimonies only as a purely physical principle (LM 26D9–11), and it is humans themselves who create these various institutions. We have a clear distinction between what is natural and immune to human manipulation (including the origin of the human species itself) and what is due to human activity or decision, with ethics and politics on the latter side. While we cannot be absolutely sure that the pair of terms itself goes back to Archelaus, this is, at least in effect, the fully developed *phusis-nomos* contrast.

What inferences, if any, Archelaus may have drawn from his contrast we cannot say. A very interesting case has recently been made for Archelaus as the thinker primarily under attack in Aristophanes’ *Clouds* (first produced 423, although the version we have is revised).²³ The play casts a sharp eye at various ideas in vogue among intellectuals at the time. A major facet of this attack is that if one thinks of society’s rules as mere *nomoi* – that is, as human prescriptions not anchored in anything outside themselves – there is no reason not to ignore them if it suits one to do so; the end-point of this is that it is fine for a son to beat his father – or even his mother. Aristophanes draws attention to a potentially dangerous implication of the *nomos-phusis* contrast. But even if Archelaus is the target, that does not show that Archelaus himself endorsed this implication.

As this case shows, the *nomos-phusis* contrast is not limited to those usually called Sophists. Nor is it universally employed by those who are; I see no use of it, for example, in the surviving testimony on Gorgias.²⁴ Perhaps the absence of such a contrast supports Meno’s claim, in Plato’s *Meno* (95c), that unlike other Sophists Gorgias limited himself to teaching rhetoric and did not involve himself with ethical questions (though Plato clearly thinks this is not the whole story – more on this later). A number of scholars have questioned the traditional use of the term “Sophist,” arguing that it is too beholden to Plato’s jaundiced views, and fails to take into account both the variety of ideas held by those usually called Sophists and the many connections between these ideas and the broader intellectual culture.²⁵ What I have just said about who adopts the *phusis-nomos* distinction may seem to give further support to this. However, with the notable exception of Gorgias, it is those traditionally called Sophists who seem to go furthest in drawing out implications from the *phusis-nomos* contrast; rather than merely alluding to the contrast, they develop it. While our evidence for this is often Plato, there are other sources as well. So perhaps there is more to the notion of the Sophists as a distinct intellectual movement than its recent detractors have allowed.

We can find the *nomos-phusis* distinction in both Herodotus and the Hippocratic corpus. But the distinction is typically just mentioned and then dropped; it does not get

²³ Betegh 2013.

²⁴ I have found only three mentions of *nomos* in the remains of Gorgias: two in the Helen speech (LM 32D24, sections 7 and 16) and one in the *Funeral Oration* (LM 32D28). In none of these cases is there any hint of a contrast with *phusis*. Indeed, in the *Funeral Oration*, Gorgias dismissively contrasts human law with a higher, “most divine and most common law,” which seems to hark back to the earlier picture found in Heraclitus and in Sophocles’ *Antigone*. Of course, one would not expect a funeral speech to reflect cutting-edge philosophizing.

²⁵ See, e.g., Wallace 1998; Wallace 2015, 19-21; Tell 2011.

developed into any kind of substantive thesis. A few examples must suffice. In Herodotus, certain points about the extent of the continents (4.39, 4.45) or about where Egypt begins and ends (2.16-17) are said to be established only by *nomos*, where this indicates that it is in some way arbitrary. One might expect him to contrast this with how things really are (perhaps signaled with the term *phusis*). But regarding the continents this does not happen; Herodotus is happy to follow the *nomos* in question. In the case of Egypt, the Greeks' *nomos* is contrasted with what he calls the "correct account" (*orthos logos*); but he simply mentions the Greeks' erroneous belief and moves on.²⁶ Again, at one point in *Airs, Waters, Places*, *nomos* is juxtaposed with *phusis* (14). The Macrocephaloi (Long-Heads) are said to live up to their name. This effect was originally produced by a kind of binding process that squeezed their heads out of the natural round shape – this was *nomos*. But eventually this *nomos*-induced lengthening became the *phusis* of these people; they are now just naturally long-headed – *nomos* is no longer needed. However, the author appears not entirely convinced of this; he adds that long-headed children are not being born from these people as much as before, and explains it as a result of a weakened observation of the head-binding *nomos*. One could easily imagine this becoming the occasion for more general reflections about nature versus nurture, but that is not what happens; these brief and confusing remarks about the relative influence of *nomos* and *phusis* are all we get.²⁷

One might say that we would not expect a historian, or a medical writer, to expound on the *phusis-nomos* contrast in detail; they have other concerns. But this just confirms my point that, while the contrast itself may be widely familiar, the Sophists are distinctive in what they do with it. Their interest in it is (as we would now say) sociological or philosophical; while they exploit it in several different ways, they are concerned, broadly, with the nature of human society and, even more broadly, with the nature of value. The remainder of the chapter attempts to document this.

III

I begin with the first Sophist, Protagoras. Our evidence for Protagoras' concern with *phusis* and *nomos* consists almost entirely in the long speech given him by Plato in the *Protagoras*. Obviously we cannot tell how precisely Plato is reproducing the ideas of the historical Protagoras. But Plato himself provides evidence elsewhere (in his *Meno*) that the topic of this speech – whether virtue can be taught – was of concern to the Sophists. Besides, the ideas expressed in the speech are quite atypical within the totality of Plato's writings; and it is hard to see why he would misrepresent the thinking of someone well known and (at the time of composition) relatively recent. All this suggests that in composing this speech for Protagoras he is drawing on the writings of Protagoras himself.²⁸

Like the author of *Prometheus Bound*, Protagoras tells a story of the origins of human society featuring Prometheus. However, Protagoras offers his audience the choice

²⁶ See also 2.45, 7.103–4. For these examples I am indebted to Thomas 2000, ch. 4. Thomas argues that Herodotus is much more integrated into the new learning of his time than a traditional image of him would have allowed. The case is a strong one, but consistent, I think, with my proposed picture of the Sophists' distinctiveness.

²⁷ See also *On the Nature of Human Beings* 2, 5; *On Regimen* 4, 11.

²⁸ On the question of authenticity, see Manuwald 2013.

of a story or an argument (*logos*, 320c). The implication is that he could have conveyed the same ideas without reference to Prometheus. Since we know from a fragment of his own words that the historical Protagoras was an agnostic (LM 31D10), and since Plato's Protagoras says that a story would be "more pleasant (*chariesteron*, 320c6–7), it looks as if the mythical framework (which he eventually abandons, 324d) is for entertainment, along with a certain nod to tradition; what he is really talking about is the development of human society by humans themselves. Again we are told of the invention (or, in the mythical telling, the bestowal) of various forms of expertise (*technai*). But a crucial *technê*, on which he dwells at length, is the *technê* of politics. The first attempts at human communities failed because people did not yet have this *technê* and so could not get along; this inability to live together is remedied only once they are given "justice and shame" (*dikên ... kai aidô*, 322c7). It is stressed that, unlike other human abilities, these must be given to everyone; otherwise communities cannot survive. Thus the Athenians, in their democracy, are right to give everyone a say in general political matters; as Protagoras puts it, one must have some trace of justice (and thus the ability to make judgments and speak on it) or not be human (323c1–2). But Protagoras goes on to argue that this does not show, as Socrates had earlier suggested (319b–e), that virtue cannot be taught. On the contrary, he says: people know very well that virtue (including justice, 323e3) does not belong to them by nature (*phusei*), but by teaching and practice (323c5–6). This point is developed in some detail. The institution of punishment is cited as key evidence in its favor; but this in turn is connected with the existence of laws, *nomoi*, which are described as "findings of good and ancient lawgivers" (326d6).

The resulting picture is of some subtlety. The capacity to develop the social attitudes needed for a community to function is presented as universal among humans and hence presumably as natural. But the actual development of these attitudes requires growing up in a community and being molded by the pressures of what we could call socialization. *Nomoi* are not particularly highlighted among these pressures and, when he does mention them, Protagoras seems to have in mind *written* laws in particular (326d). But if we think of *nomos* more broadly as the norms embedded in a society's habitual practices, it seems clear that the role of *nomos* in the development of the required attitudes is absolutely central. *Nomos*, then, is required for humans to become social beings, even though this process rests on a basis of *phusis*; the account is not so different from what Aristotle says about the comparative roles of nature and habit in the development of virtue of character (*NE* 1103a23–26). Protagoras does not explicitly observe that *nomoi* may differ from one society to another. But that is obviously compatible with this account, so long as these *nomoi* play their civilizing role. It is also possible that a society might find it necessary to revise existing *nomoi*, if this was needed to improve, or to prevent a decline in, the conditions of that society; Protagoras does not have to be seen as a defender of the status quo.²⁹

Nonetheless, there is no suggestion in this account of an antipathy between *nomos* and *phusis*; on the contrary, the former builds on the latter. And to that extent it is not unreasonable to classify Protagoras as a "supporter of *nomos*" – alongside Herodotus, among others.³⁰ But there is an essential difference between the two, in that in Protagoras we find sophisticated reflection about the relation between *nomos* and *phusis* and about

²⁹ Pace Kahn 1981, 106. Kerferd 1981, 129–30, is good on this topic.

³⁰ For this view see, e.g., Guthrie 1971, 60–79; Kahn 1981, 105–7.

the contribution of each to the life of humans as social beings; as we saw, Herodotus shows nothing of the kind. This is what I meant by the Sophists' distinctive contribution concerning the *phusis-nomos* contrast.

Other Sophists took their reflections on the subject in a different direction. For them, there *was* an opposition between *phusis* and *nomos*; *nomos* imposed artificial barriers to what were conceived as naturally preferable states of affairs. Two different views along these lines are apparent from the period. One held that divisions, including comparative rankings, among people were due to *nomos* and that these divisions masked a fundamental, or natural, human equality. Another held that *nomos* restrained the natural pursuit of self-interest and that the sensible way to behave was to satisfy one's natural drives and ignore *nomos* – as long as one could get away with it. While we might see these as very different in political flavor, the first sounding traditionally leftist and the second radically anarchist, there is in fact no necessary conflict between them; and interestingly, both are to be found in the papyrus fragments of the same work, *Truth*, by the Sophist Antiphon.

On the first point, Antiphon argues that by nature (*phusis*) any of us is fitted to be either Greek or barbarian – that is, non-Greek – since we all have the same basic natural endowment of senses, hands, feet, and emotions (LM 37D38b). That we are estranged from the people of other nations is therefore a departure from nature, which Antiphon expresses by saying that “we have become barbarianized [*bebarbarômetha*] towards each other.” This trades on the connotation “barbarous” that the word *barbaros* had already acquired by the fifth century: we treat each other, and are each viewed by the other, not just as foreign but as savage or uncivilized. But since he regards this as a mistake, there is an irony in using the word with the latter implication; he is decrying it even while exploiting it.³¹ There is no explicit mention of *nomos* here, but this divergence from *phusis*, as Antiphon sees it, is easily viewed, in the context, as a product of *nomos*. Besides, immediately following the legible portion of the fragment are some very patchy remains that probably include the words “they agreed” and “laws.”³² It seems likely that Antiphon continued with an account of the origins of human society similar to those we saw earlier; if so, the juxtaposition of the natural condition of human equality with the invention of laws – these producing an outcome in which this natural equality is not respected – will surely have put the focus on *nomos* as the culprit.³³

Plato gives the Sophist Hippias a speech of similar character (*Prot.* 337c–d), and as with Protagoras in the same dialogue, it is natural to see this as acknowledging a view he actually held. Pleading with the company to settle their differences over the rules for their discussion, Hippias says that all those present are kinsmen and fellow-citizens – by *phusis*, not by *nomos*; “by nature like is akin to like, but *nomos*, being a tyrant over humans], forces many things on us against nature” (337d1–3).³⁴ It is not clear how far we

³¹ I have discussed this further in Bett 2002, 247–49.

³² Not included in LM. The full text with commentary is in Decleva Caizzi 1989. (Note, however, that Pendrick 2002 does not accept Decleva Caizzi's reconstruction of these lines.)

³³ One might object that it would be *nomos* in the sense of “custom,” not explicitly enacted laws, that would lead to this outcome. But, at least in this period, the distinction between these two types of *nomos* seems to receive very little attention.

³⁴ The word “tyrant” (*turannos*) is surely a deliberate distortion of Pindar's phrase. On the negative implications of the term *turannos* in this context, see Hoffmann 1997: 154–56.

are to take this; it is a kinship of *wise* men, and of Greeks only, albeit from different city-states. However, the notion of *nomos* as creating artificial and regrettable barriers to a naturally equal condition is common to Hippias and Antiphon.³⁵ We also know that some people prior to Aristotle argued that slavery is against nature, because he explicitly argues against this in the first book of his *Politics*; he does not name its proponents, but it is easy enough to connect it with this line of thought promoted by some Sophists. The same can perhaps be said about the suggestion in some of Euripides' plays (especially *Medea* and *Hippolytus*) that the position of women in society is not what it should be.

I return now to the other way of driving a wedge between *phusis* and *nomos*, also to be found in Antiphon (LM 37D38a). Antiphon begins by saying that justice consists in following the laws of the city of which one happens to be a member. He continues: "A person would therefore use justice most advantageously for himself if he treated the laws [*nomous*] as important when there are witnesses, but matters of nature [*ta tês phuseôs*] when left alone without witnesses." The text then expands on the advantages of following nature – that is, the dictates of one's own natural desires – and the disadvantages of treating law as more important than nature: "most of those things that are just according to law are laid down in a way that is at war with nature" and "the advantages laid down by the laws are shackles on nature, but those laid down by nature are free."³⁶ This is a very different take on the relation between *phusis* and *nomos* from what we found in Protagoras; *nomos* is an unwelcome obstacle to the expression of one's true nature.³⁷

Similar positions are rather better known from Plato. The Sophist Thrasymachus, as portrayed by Plato near the beginning of his *Republic*, agrees implicitly with Antiphon in identifying justice, in any given city, with the prevailing laws. This leads him to declare that justice is "nothing but the interest of the stronger" (338c1–2), since the faction in power will always create laws to benefit itself. It also leads him, later in the discussion, to claim that injustice is one's own interest (344c8) – it will suit those outside the ruling faction better to ignore the prevailing laws than to follow them. Thrasymachus does not use the language of *phusis* to set against this cynical view of *nomos*, but the position is otherwise close to Antiphon's. Whether all this can be attributed to the historical figure Thrasymachus is hard to say; unlike the set-piece speeches that Plato puts in the mouths of Protagoras and Hippias, Thrasymachus' position develops in the course of debate with Socrates, and we know very little about Thrasymachus independently of Plato.³⁸ However, it is clear that *Plato* thinks a dismissive attitude towards *nomos* can result only in a recommendation to ignore it in favor of narrowly

³⁵ Xenophon also attributes to Hippias a dismissive attitude towards *nomos* (*Memorabilia* 4.4.14).

³⁶ On the significance of this, see Furley 1981. Law is also referred to as a *peisma* (col.6, l.3). This may mean "rope", which would continue the theme of law as binding us against our will (so Gagarin & Woodruff 1995, Decleva Caizzi 1989). But *peisma* may also mean "confidence" (so LM – "to obey the laws").

³⁷ This interpretation has been resisted by some, but appears to me (as to Furley 1981) the clear implication of the text. See further Bett 2002: 249–50. In addition to the scholars cited there for opposing interpretations, see Gagarin 2002, chapter 3, which had not yet appeared when I was writing.

³⁸ Maguire 1971 argues that while the initial claim about justice can be connected with the real Thrasymachus, the idea that injustice is one's own interest cannot. The case is not conclusive, but neither can it be dismissed.

selfish concerns – much as Aristophanes, in the *Clouds*, seems to have sensed danger in the *phusis-nomos* distinction itself. Plato takes this line of thinking still further in the character of Callicles in his *Gorgias*. Callicles is certainly not a Sophist in the traditional sense; he is not presented as teaching rhetoric for a living, instead seeking the political life (in some unspecified form). But he takes the rejection of conventional *nomos* to an extreme, arguing instead for a “law of nature” (*nomos phuseôs*, 483e3 – a paradoxical formulation, surely intended to provoke) that dictates the pursuit of one’s own interest, including the trampling of the strong on the weak when convenient. Since he is never mentioned outside of Plato’s *Gorgias*, Callicles may not have existed; he may simply be Plato’s fiction, a nightmare vision of where Sophistic thinking and practice (embodied in the seemingly benign figure of Gorgias earlier in the dialogue) might lead. However, the example of Antiphon shows that Plato is not just inventing this position.

The anti-*nomos* position, especially in this second version, received some push-back. Some pages from the *Protrepticus* of the late Platonist Iamblichus seem to be lifted from a text of the fifth or fourth century BCE, which is responding to those who would reject *nomos*. The Anonymus Iamblichi, as this unknown author is referred to (LM 40), argues for the importance of *eunomia*, “lawfulness” (6.4, 7.1, etc.). The insistence on this, and on the inability of human beings to live together without it, has much in common with the position expounded in Protagoras’ speech. But the Anonymus is aware of views that advocate rejection of *nomos* (*anomia*), and replies, “One should not rush to grab more than one’s fair share, nor think that the power that results from grabbing more than one’s fair share is virtue, and that obeying the *nomoi* is cowardice” (6.1). Like Protagoras he does not wholly separate *nomos* from *phusis*, stating that “these [i.e., law and justice] are strongly bound in nature,” where the context makes clear that this is *human* nature (6.1);³⁹ and he makes what looks like yet another reference to Pindar’s saying “*nomos* is king of all” (6.1) – but this time at face value, as Herodotus did, not critically like Hippias. Some have attempted to identify the author as one of the known Sophists, but lack of evidence means that we simply cannot tell. What we can say is that the Anonymus provides a clear indication of the reach of Sophistic reflections on *phusis*, *nomos*, and the relations between them.

Another indication of this is a fragment of drama quoted by Sextus Empiricus (*M* 9.54, LM 43T63); the play was probably a satyr play called *Sisyphus*, though Sextus does not specify this.⁴⁰ Sextus does say that the author was Critias, a cousin of Plato’s mother – although a few of the same lines are quoted elsewhere (Aetius 1.7.2) and Euripides is given as the author. Either way, the author is not a Sophist; yet the fragment is so clearly connected with the ideas we have been discussing that it is regularly included (under the name of Critias) in collections of materials from the Sophists. The lines begin by describing an original violent state of nature that is overcome by the creation of *nomos*. However, this proved not to be enough; people followed *nomos* in public but ignored it when no one was watching. The solution to this problem was the invention by a “wise and clever man” of the idea of god. According to the story put about by this shrewd character, there never is a situation when no one is watching you; even if no humans are around, a *god* is watching you, who could punish you for any transgressions. Thus

³⁹ On this see Hoffmann 1997: 304-6.

⁴⁰ I have discussed these lines, and the scholarship surrounding them, in Bett 2002, 251–54; here I give only a bare outline.

religion is conceived as a device to instill compliance with *nomos*. This device is clearly portrayed as beneficial – respect for *nomos* is essential for the survival of society, and this ensures it – and to that extent the view expressed by the speaker seems akin to that of Protagoras and the Anonymus Iamblichi. The catch is that the fragment very explicitly presents this idea of a divine overseer as a *fiction*. And this seems to push the thought more towards the antinomian views of Antiphon, Thrasymachus and Callicles: *nomos* is imposed on us as something obligatory, but there is actually no reason to follow it except when you risk being found out. I do not think there is any solution to this conundrum; the fragment pushes in two conflicting directions, each of which we have seen in other thinkers. But since it is a speech given in a play rather than part of a philosophical treatise, the author no doubt has other aims than consistency of doctrine; with no other lines of the play surviving, we are not likely to discover what these were.

The idea of god as a backup for human authorities is not attested in any of the Sophists, though Aristotle later gave it partial endorsement (*Metaph.* Λ 1074b3–8). However, we do find a slightly different version of the idea that god is a human invention. This brings us to Prodicus, the one major Sophist I have not yet mentioned. Numerous texts present Prodicus as holding that aspects of the natural world that particularly benefit human life, as well as humans who made particularly beneficial inventions or discoveries, came to be revered as gods;⁴¹ belief in gods is thus the product of a kind of confused gratitude. On this view we could think of religion itself as a *nomos*, a set of practices and norms that are purely a product of human society; and, indeed, in this context Sextus appears to quote a sentence of Prodicus using the verb corresponding to *nomos*. Ancient humans, Prodicus says, “considered as [*enomisan*] gods everything that benefits our life” (*M* 9.18); while the verb can simply mean “think,” it often has the connotation “treat as a *nomos*.” This could, of course, easily have been combined with the idea that belief in god has socially beneficial effects; but we have no evidence of this in the testimonies on Prodicus. It is, however, tempting to suppose that Protagoras may have pursued some such line of thinking. As I mentioned earlier, Protagoras is known to have been an agnostic. And we are told that the sentence declaring his agnosticism (cited by several authors) came at the *beginning* of a book of his called *On the Gods* (Eusebius, *Praep. evang.* 14.3.7). If that was how it started, what else could the book have contained? A plausible answer is that it addressed the social functions belief in god can have, whether or not gods actually exist.

IV

I close with a few more general reflections. First, this sociological approach to religion, as we may call it, which is attested in at least one Sophist, and which the Critias fragment shows must have been circulating at the time, may be more important than has generally been realized for the growth of the cluster of views about *nomos* and its relation to *phusis* that we have examined here. We saw that the earliest references to *nomos* treated it as something divine and hence as not clearly differentiable from *phusis*. We also saw that two developments that might seem to have encouraged the drawing of this distinction – emphasis on the diversity of *nomoi* and interest in the development of human civilization – did not by themselves necessarily lead to *nomos* being set in contrast to *phusis*. What

⁴¹ See, e.g., Cicero, *Nat. d.* 1.118; Sextus *M* 9.18, 50-2. The full evidence is in Mayhew 2011, texts 70–78. I have discussed this in Bett 2013; on god, see especially 299–303.

will definitely get one to that distinction is to shift from a traditional religious conception of the gods to a focus on the *human* phenomenon of *belief* in the divine. If religion itself is a *nomos*, a human product, then laws and all the other institutions that allow society to function are hard not to regard as a human product as well; and this in turn makes one wonder which features of human existence are due not simply to the influence of society but in fact belong to our *nature*.⁴² If there is anything to this line of interpretation, then the harsh ending of Aristophanes' *Clouds* – where the divine Clouds call out Strepsiades for failing to respect them and the other gods, and he then burns down the school that has led him and his son astray – perhaps shows more insight into the heart of Sophistic thinking than it has been given credit for.

At any rate, that thinking may be seen as raising for the first time, even if not in a fully explicit way, the question of the objectivity (or otherwise) of values, as well as the question of our reasons for behaving ethically. To treat *nomos* as a product of human decision is not necessarily to conclude that values are not objective; for, as we have seen, some views of this kind nonetheless retain some link between *nomos* and *phusis*. But it does at least force the issue of the status of ethical values and the nature of their hold on us (if any); and this is still more obvious when it comes to views that portray *nomos* as in some way in conflict with *phusis*. Plato's *Republic* answers the question “why be just?” Since he features Thrasymachus in the first book, and since Glaucon's crucial challenge at the beginning of the second book is explicitly presented as a reformulation of Thrasymachus' position (358b–c), it is pretty clear that Plato has Sophistic treatments of *nomos* and *phusis* in mind as the primary target. If the question “why should I be moral?” is still important for us today, and if we can see this question as recognizably related to the *Republic*'s question, the Sophists' reflections on this topic can be regarded as having an abiding significance.

Finally, to the extent that reflections on this topic can be seen as characteristic of the Sophists – and I have tried to argue that there is some truth to this – this seems to put them sharply at odds with Socrates (despite his apparent link with Archelaus, who was our earliest evidence for the *phusis-nomos* distinction). There has been a tendency in recent years to count Socrates as part of the Sophistic movement.⁴³ But neither Plato's nor Xenophon's Socrates shows the slightest tendency to regard values as a matter of human decision; the nature of the virtues, and more generally, how one should live – the central question for Socrates – is always treated as something we need to *find out*. (A satisfactory answer may depend on something about human beings, but that too will be something that obtains independently of our decisions.) Nor, for that matter, does Socrates show any interest in the diversity of *nomoi* or in the origins of human civilization,⁴⁴ the two intellectual trends that, I suggested, pointed in the direction of a *nomos-phusis* contrast. Nietzsche's call for philosophers to “create values” (*Beyond Good and Evil* 211) would have been anathema to Socrates. But I think the Sophists would

⁴² Prodicus wrote a book called *On the Nature of Human Beings* (possibly in response to the Hippocratic work of the same title), which may have considered that question. But we know virtually nothing about what it contained; see Mayhew 2011, texts 63–65 with commentary.

⁴³ E.g., Kerferd 1981, 55-7; LM 33.

⁴⁴ The *Republic* is not a counter-example to this (even supposing we can associate this with the historical Socrates); its account of the growth of a society is an account of how society *should* develop, not how it did. I have discussed this further in Bett 2002, section IV.

have been at least to some extent on his wavelength. Moreover, since we have seen many signs that the Sophists' interest in the *nomos-phasis* contrast is continuous with the wider intellectual culture, it is Socrates and Plato, and not the Sophists, who (at least on this score) come across as the outliers – a point that Nietzsche would certainly have appreciated.⁴⁵

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⁴⁵ See, e.g., *Twilight of the Idols*, “What I Owe to the Ancients,” 2. I would like to thank the participants at the December 2019 Princeton workshop who commented on a draft of this chapter, especially Mauro Bonazzi and David Wolfsdorf. I also thank the two editors for a host of helpful written comments.

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