2. SOCRATES ON OBEDIENCE AND DISOBEDIENCE TO THE LAW

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ABSTRACT. Considerable scholarship over the last dozen years has greatly increased our understanding of Apology and Crito. However, the knottiest problem between these dialogues—the frequently noted apparent contradiction between Apology 29c-30c and Crito 51b-c, between Socrates’ pledge to disobey a court order to give up philosophy and his argument that legal authority absolutely obligates a citizen to obedience—is far from being resolved. In the end I argue that this contradiction is unresolved, despite numerous ingenious attempts to eliminate it, because it is rooted in deep inconsistencies in Socrates’ principles and character. In the course of reaching a conclusion that most scholars have striven to avoid I review and dispute the major strategies on resolving the contradiction: that it is only apparent, because one of the views is not (unqualifiedly) Socrates’ or a sophisticated analysis of the rhetorical purposes of the dialogues eliminates any contradiction.

SECTION I

The last decade has seen considerable scholarly work on Plato’s Apology and Crito. The major focus of concern among contemporary commentators has been the frequently alleged contradiction between Crito 51b-c and Apology 29c-30c. In these two passages, Socrates seems to say entirely incompatible things about a citizen’s obligation to obey the law, whether statutory or in the form of a direct command from legitimate authority. In Crito (51b-c), Socrates proclaims the duty of obeying law in unequivocal and minimally qualified terms: “Both in war and in the law courts and everywhere else you must do whatever your city and your country command, or else persuade them in accordance with universal justice . . .”1 In the Apology (29c-30c), Socrates seems to endorse the right of political disobedience:

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Suppose that . . . you said to me, Socrates, on this occasion we shall disregard Anytus and acquit you, but only on one condition, that you give up spending your time on this quest and stop philosophizing. If we catch you going on in the same way, you shall be put to death . . .

You can please yourself whether you listen to Anytus or not, and whether you acquit me or not. You know that I am not going to alter my conduct, not even if I have to die a hundred deaths.

Thus, in Apology, Socrates asserts: (1) I shall not give up philosophy, even if the law commands me to do so. But in Crito, Socrates asserts or implies: (2) Every citizen, including myself, should obey every command of the law. From these two claims, and the assumptions that Socrates will do as he says in (1) and that he will do as he should, as stipulated in (2), it follows that: (3) Socrates will give up philosophy and Socrates will not give up philosophy if the law commands him to give up philosophy.

This contradiction has elicited three types of response from commentators:

A. The contradiction between (1) and (2) is real and not merely apparent: Socrates holds contradictory views.

B. The contradiction between (1) and (2) is merely verbal or apparent; that is, Socrates is not really contradicting himself in asserting (1) and (2), because he has in mind a qualification of either (1) or (2) [usually, (2) is supposed to be qualified]. This limits the applicability of (1) to one set of cases, and the applicability of (2) to a wholly different set of cases, so that (1) and (2) never both apply to the same situation.

C. Both (A) and (B) agree that Apology and Crito are intended as literal and sincere expressions of the views of Plato and/or Socrates; both agree that Socrates proposes (1) and (2) as true. But this ignores the different audiences Socrates addresses and the different purposes he has in addressing them. A proper understanding of the rhetorical purposes of the dialogues dissolves (3).

In this article I shall at least touch upon all the attempts known to me at resolving (3) in the last decade (1970-1979). There have been at least seventeen such efforts that have found their way into the literature, and a review of their points of dispute and consensus is instructive in
assessing the extent to which scholarship may have progressed in resolving one of the more puzzling problems of continuing interest in the Platonic corpus. After all, the grounds for supposing that persons have a moral obligation, and not merely a prudential interest, to obey the law is a matter of some moment. And if Socrates, as portrayed by Plato, has a coherent view on this matter, we should expect that it would also be a provocative and profound one. But whether Socrates' views on obedience and disobedience to the law are even coherent is the first obstacle to surmount.

The seminal attempt to dissolve the contradiction at hand by demonstrating that Socrates does not hold the views expressed by "the laws" in Crito is Gary Young's essay, "Socrates and Obedience." Young's essay is distinguished by a careful and thorough review of the arguments of "the laws" against escape from their domain and for obedience to law. But the main burden of his argument is to show that Socrates "misrepresents" his real views about obedience to the law in Crito; that because of the different audiences and purposes in Apology and Crito, it must not be supposed that the views of the laws are necessarily Socrates' views.

The explanation of this misrepresentation is to be found in a careful examination of precisely who Crito is. Young assembles an abundance of textual evidence from the Crito to show that Crito, Socrates' oldest and perhaps closest friend, is not himself particularly capable of comprehending philosophical argument. Indeed, Crito is "one of many" whose arguments to Socrates to escape are "random" based on superficial considerations, and largely irrelevant to Socrates' concerns. Young does not go as far as some commentators (e.g., Allen, 1972) in stigmatizing Crito's arguments at all, and he does regard Crito as "not merely" one of the many, for he is also a friend to Socrates and capable of being brought to appreciate the deeper philosophical and moral concerns that convince Socrates not to escape from prison. Thus, Young construes the statement of Socratic principles and the arguments of the laws as not intended to articulate either Socrates' personal position or a general theory of political obligation, but rather directed toward persuading Crito of the rightness of Socrates' choice and reconciling him to Socrates' death.

A similar line of argument is pursued by Ann Congleton. Congleton takes to task those authors (Martin, 1970; Wade, 1971; Woozley, 1971) who in her view, ignore the "dialogical form" and purposes of Plato's writings and read them as if they were treatises. And she goes further than Young in finding fault with Crito, alleging to find in him tendencies to corruption and lawlessness. Because Crito has apparently bribed the prison guard to allow him in to see Socrates, because he shows great familiarity with the use and availability of sycophants, and because of his uncritical associations with the disreputable revelers of Thessaly, Congleton
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thinks there are serious flaws in Crito's character. Consequently, she sees Socrates as concerned less with reconciling Crito to his, Socrates', imminent demise than with carrying out his lifelong sacred mission of attempting the improvement of a fellow Athenian's soul, and thus Crito is "a case study of Socrates at work in the service of the god." (p.438) In Crito's case, this means leading him to appreciate the importance of law and respect for its dominance in society. Socrates himself does not regard the law with the inflated grandeur the laws in Crito reflect. On the contrary, Socrates believes the obligation to obey the commands of the law can be overridden whenever reason determines that some other course would be more just. Congleton holds this is Socrates' view on the basis of passages quoted from Republic and especially Statesman; not on the basis of anything Socrates says in either Apology or Crito. She accounts for this lack of candor in the latter dialogue on the basis of what is comprehensible to Crito: he cannot possibly understand a "higher lawlessness" (i.e., action directed by reason), until he overcomes his own "lower lawlessness" (i.e., disregard for or indifference to man-made laws). "The problem of the dialogue," Congleton asserts, "is not whether Socrates should go beyond the law to something higher, but whether Crito can get up to the notion of law from something lower." (p. 435)

Congleton's suggestion that Socrates does not really believe (2), but rather believes it possible to justify moral disobedience to the law begins to move her out of the third category of commentators above (C) who try to dissolve the apparent contradiction between Apology 29c-30c and Crito 51b-c and into the second category of commentators (B) who allege a hidden qualification to the injunction always to obey the law. But before considering this and numerous other such qualifications to (2), some assessment of Young's and Congleton's interpretations of Crito is in order. Both Young and Congleton offer important insights for reading Crito. It is essential in understanding Socratic dialectic to know something about the person with whom Socrates is conversing, and the circumstances under which conversation occurs. And yet both Young's and Congleton's analyses are ultimately unsatisfying in resolving (3) or adequately conveying Socrates' views on obedience and disobedience to the law.

A difficulty in Congleton's argument, not shared by Young's, is her heavy reliance upon one of the latest Platonic dialogues, Statesman, to demonstrate that in Crito Socrates believes in a "higher lawlessness." The textual evidence in Crito for this supposition, as Young is well aware, is non-existent. And even in Apology, there is little to support Congleton's view. It is more plausible to believe that such a doctrine is far more a refinement of the later Plato than the Socrates of Apology and Crito.
Both Young and Congleton require us to postulate a degree of disingenuousness on Socrates' part that is not only disturbing in itself, but virtually unprecedented in the Socratic dialogues. We are all familiar with Socratic irony, with occasions when Socrates speaks facetiously, sarcastically, mysteriously. But for Socrates to so "disguise" his real views or "misrepresent" them on such an important occasion as that presented in Crito goes well beyond Socratic irony into the realm of deception. And even if we suppose, with Young and Congleton, that this deception is motivated by a desire for the improvement of Crito's soul, or tailored to enable a friend with limited philosophical comprehension to accept Socrates' decision not to flee jail but rather die, we are very little assured that Socrates displays the character for which he is so celebrated.²

Moreover, the Young-Congleton thesis requires us to see Socrates engaged in a form of rhetoric that he was reputed to disdain. Even if we accept Allen's distinction between "philosophic rhetoric" and "forensic rhetoric," a distinction that turns on the difference between simple persuasion for the sake of winning a debate and persuasion through truth, we are no further ahead. For according to the Young-Congleton thesis, it is not truth that Socrates is chiefly concerned to seek so much as it is the salvation of Crito's soul or his reconciliation to Socrates' death. And for this task we are to suppose Socrates engaged in an activity that in Gorgias he castigates as capable only of dealing in belief and never knowledge.

Perhaps the least satisfactory aspect of the Young-Congleton thesis, however, is that it simply does not offer us a persuasive account of what Socrates can be expected to be concerned with at this very late date in his life. It is not plausible that in this penultimate conversation of his life, Socrates (or Plato's depiction of Socrates) be limited to a demonstration of the dynamics of friendship, or, more presumptuously, a final attempt to enlighten Crito. Rather, we are entitled to expect that Socrates will undertake the more general and crucial task of offering a moral justification of his decision not to escape captivity and accept what he himself regards as an unjust sentence of death. Socrates, being the person he is and aspires to be, must make this sort of crucial choice on the basis of principle, preferably not purely private principles, but rather principles with generalizable validity. And it is precisely this, in straightforward non-ironic discourse, Socrates promises at Crito 46b-c:

I cannot abandon the principles I used to hold in the past simply because this accident has happened to me; they seem to be much as they were, and I respect and regard the same principles now as before. So unless we can find better principles on this occasion, you can be quite sure that I will
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not agree with you . . .

And, in fact, Socrates proceeds from this point on to reject Crito's principles (appeal to popular opinion, etc.) and articulate his own (the wrongness of injuring another, the rightness of keeping promises) and to consider how these (correct) principles apply to his own case.

There may well be other themes in Crito, themes involving friendship, persuasion, reconciliation, education, etc., and it is important to a full and adequate understanding of Crito to understand how Plato's genius can interweave these. It is no less important, however, to retain perspective and see Crito as centrally concerned with the quintessential Socratic question: does this particular thing have the essential properties that make it a thing of a certain sort? In the case at hand the question is: Would Socrates escaping from prison be a just act: "... [W]e must consider whether it is right [dikaios] for me to try to get away without an official discharge"? (48b) Or would the act of Socrates escaping from prison have the properties of an unjust act? That Socrates' concern is moral, and on a different moral level from Crito's concern, is further demonstrated by the questions Socrates poses even before introducing the laws to make the case against escape: "If we leave this place without first persuading the state to let us go, are we or are we not doing an injury, and doing it in a quarter where it is least justifiable? Are we or are we not abiding by our just [dikaion] agreements?" (49e-50a) In answering these questions we should also expect that a good bit of what Socrates says has implications beyond settling the specific issue of whether he should escape from prison. It is in the generalizable principles and the implications of specific arguments for Socrates' obedience to an unjust decision that most commentators have found at least the fundamentals of a theory of political obligation.

In considering the much larger body of literature in the past decade that seeks to resolve the contradiction in (3) by finding in Socrates' views a qualification of (1) and (2), it will be useful to lay out a basic version of the principles and arguments in Crito on which Socrates justifies his decision to die. There is a good bit of dispute about the intent and nature and interrelations of the arguments (less about the underlying principles), and any hope of resolving (3) turns in large part on understanding these arguments.

SECTION II

Socrates begins the case for not fleeing the Athenian prison with a statement of principles that have, presumably, been justified and agreed to by Crito at some time prior to this dialogue. Socrates maintains that "one must never
willingly do wrong," not even in retaliation for wrong done
to one, for "to do wrong is in every sense bad and dishonor­
able for the person who does it" (49a-b). This much is fam­
iliar and unsurprising to students of Socratic philosophy.

But Socrates goes on to clarify his position by holding to
the unproven assertion that "there is no difference between
injuring people and wronging them" (49c). And from all this
Socrates derives the first fundamental principle (call it
P₁) which underlies subsequent argument: "One ought not
return a wrong or an injury to any person whatever the prov­
oocation" (49c-d). A corollary to this first principle is
put forth as P₂: "One ought to fulfill all of one's
agreements, provided they are just" (49e). Then, of course,
we get the statement of the issue as conceived by Socrates
and quoted above, but worth repeating here: "If we leave
this place without first persuading the state to let us go,
are we or are we not doing an injury, and doing it in a
quarter where it is least justifiable? Are we or are we not
abiding by our just agreements?" (49e-50a).4

The dialogue to this point is a model of lucidity and
straightforwardness. Crito has come, early in the morning,
to Socrates' death cell, and in a highly agitated fashion
pleads with Socrates to flee. He appeals to considerations
of friendship, family obligations, public reputation, and
the like. Socrates patiently listens, and offers some mild
criticism of Crito's arguments, which chiefly takes the form
of reminding Crito of how he and his ilk would do well to
disdain the opinions of the many in favor of the views of a
knowledgeable elite. With the statement of Socratic prin­
ciples and Socrates' way of framing the issue, we are led to
expect an equally straightforward argument from Socrates on
what would be the just thing to do. We might expect Soc­
rates to argue that:

1. escape would injure the state;
2. injuring the state by violating its laws is an
   especially severe and unwarranted injury;
3. persons are harmed when the state is injured;
4. escape would violate some agreement Socrates
   had made with the state;
5. this agreement was a just one.

All of which would lead to the conclusion that Socrates
ought to abide by even this unjust decree that he be put to
death. But, in fact, in what follows only the first of
these propositions is directly argued. And even here it
cannot be said that this view is unequivocally Socrates',
for Plato has resorted to the device of allowing the burden
of proof for why Socrates ought not flee prison to fall upon
a highly rhetorical, hyperbolic speech made by "the laws."
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To be sure, at the end of the dialogue, Socrates appears to be in full agreement with the sentiments of the laws, but again, there can be no certainty that this is not but another instance of Socratic irony.

Thus the problem of the Crito, for interpreters and commentators, centers on understanding the speech of the laws, which in five Stephanus pages is full of obscurities, ambiguities, incomplete thoughts and a wealth of highly suggestive if abbreviated and rhetorical questions. In surveying some of the numerous analyses of this speech in what follows, I shall be concerned to assess attempts at resolving the contradiction between Apology (29c-30c) and Crito (511b-c), and explanations of Socrates' convictions on obedience and disobedience to the law generally, according to these criteria:

1. Does the analysis offer an interpretation of Socrates' views that is consistent with what we can reasonably conclude to be Socratic philosophy in other early Platonic dialogues?

2. Is the analysis consonant with what Socrates presents as the relevant issues at Crito 49e-50a?

3. Is the analysis internally consistent and coherent?

4. Is the analysis true to the text, so far as this can be determined?

With respect to the specific considerations put forth by the laws in favor of Socrates obeying the court decision to die, there are radically different readings. On the one hand, there are those commentators who seek to separate as clearly as possible these contradictions into distinct arguments. On the other hand, there are commentators who labor to see the unity and interconnections of what the laws say. The first strategy is best represented by Young (1974) and Martin (1970); the second by Dyson (1978) and Driesbach (1978). Among all parties there is a wide disparity of views about the use, meaning and significance of what the laws say.

The questions and pronouncements of the laws can be sorted out into an argument from injury, an argument from agreement, and an argument from piety (sometimes, misleadingly, called an argument from gratitude). At Crito 50a-b, the laws say this: "Now, Socrates, what are you proposing to do? Can you deny that by this act you are contemplating [escape] you intend, so far as you have the power, to destroy us, the laws, and the whole state as well? Do you imagine that a city can continue to exist and not be turned upside down, if the legal judgments which are pronounced in
it have no force but are nullified and destroyed by private persons?"  

Clearly the laws are here urging upon Socrates the view that a decision to disobey them will do injury to the state, and as much injury as Socrates has the power to do. It is not specifically asserted, but implied, that disobedience to law renders law ineffective, and without an effective rule of law, the state will suffer great harm, potentially to the point of destruction. If the state ceases to exist, then presumably persons will be injured. This would violate Socrates' own basic principle of never doing injury to persons (P1). Thus specifically Socrates escaping from prison, and more generally, any violation of law, is unjust. This we will call, following the lead of many others, an argument from injury.

The argument from agreement is more difficult to extract from the text. Crito has seized upon Socrates' suggestion that perhaps Socrates would be justified in escaping from prison and doing an injury to the laws because "the state wronged me by passing a faulty judgment at my trial." (50c) But the laws will have none of this reasoning. They reply: "Was there provision for this in the agreement between you and us, Socrates? Or did you undertake to abide by whatever judgments the state pronounced?" (50c) What the laws have in mind here by an "agreement," however, is not developed until 51c-53a, and in these passages, the nature of the alleged agreement between citizen and state is given several different formulations:

... if any one of you stands his ground when he can see how we administer justice and the rest of our public organization, we hold that by doing so he has in fact undertaken to do anything that we tell him. And we maintain that anyone who disobeys is guilty of doing wrong ... because, after promising obedience, he is neither obeying us nor persuading us to change our decision if we are at fault in any way. (51e)

You have definitely chosen us, and undertaken to observe us in all your activities as citizen, and as the crowning proof that you are satisfied with our city, you have begotten children in it. (52c)

You are behaving like the lowest type of menial, trying to run away in spite of the contracts and undertakings by which you agreed to live as a member of our state ... Are we or are we not speaking the truth when we say that you have undertaken, in deed if not in word, to live your life as a citizen in obedience to us? (52c-d)

The kind of agreement the laws envision seems to have
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several important features. In the first place, the agree­
ment is what later philosophers have come to call one of
"tacit consent." A citizen's obligation to obey the law
derives at least in part, from his or her failure to object
to its operation, and his or her own continued emjoyment of
the benefits of living in a law governed state that provides
such goods as education. It is what we do, and don't do,
how we live and where, more than any explicit contract that
creates obligations of obedience (Cf. Vlastos, 1974). The
laws allow that a citizen must now come to this agreement by
compulsion or fraud and must have sufficient time to decide
(52e).

But it would be anachronistic to see Socrates here sug­
gest much of what later "Social Contract" theorists sug­
gested. Socrates has no conception of mutual obligations or
contract between equals. Far from it, the citizen is so
vastly inferior in significance, privileges and rights, to
the state that at one point, the laws compare the relation­
ship to that between master and slave. The laws allow only
three choices to the citizen who finds him/herself at odds
with their rule: obey, persuade the laws to change, or emi­
grate to another state. Given these claims, and the fact
that Socrates has not chosen to emigrate from Athens or been
successful in persuading that state not to sentence him to
death, plus P2, it follows that Socrates ought to do as the
state has decreed and drink hemlock. It also follows, of
course, that every citizen on every occasion when in con­
flict with the laws and unable to persuade them otherwise
and having in the past not chosen exile, ought to do whatev­
er commanded.

It is the aspect of an individual's vast inferiority to
the state that gives rise to a reading of Crito that finds
in this the basis for a third distinct argument against Soc­
rates escaping from jail and for an absolute obligation to
obey the law. The core of the argument from piety consists
of a metaphor pressed very hard by the laws: the metaphor
of state as parent, and more, master of the citizen con­
ceived as child and slave. The point of the metaphor is, of
course, to give emphasis to the vastly different statuses of
citizen and state.

Then since you have been born and brought up and
educated, can you deny, in the first place, that
you were our child and slave, both you and your
ancestors? And if this is so, do you imagine that
what is right for us is equally right for you, and
that whatever we do, you are justified in retal­i­
at ing? You did not have equality of rights with
your father, or your employer—supposing that you
had one—to enable you to retaliate . . . Are you
so wise as to have forgotten that compared with
your mother and father and all the rest of your
ancestors your country is something far more
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precious, more venerable, more sacred, and held in
greater honor both among gods and among all rea­sonable men . . . Both in war and in the law courts
and everywhere else you must do whatever your city
and your country command, or else persuade them in
accordance with universal justice, but violence is
a sin even against your parents, and it is a far
greater sin against your country (50e-51c).

Insofar as there is argument here and not merely meta­
phor and analogy, it goes something like this: Socrates
owes much to the laws, for they make possible his birth,
nurturing and education. So dependent are Socrates and all
others upon the continued operation of the laws that it must
be recognized that the state and its interests are of far
greater significance than any one citizen. There is no
equality of rights between the laws and Socrates, and what­ever
the laws from their superior vantage point determine
should be done ought to be acceded to by individual citiz­
en. This includes determining that it would be in the best
interests of the state to kill an individual citizen. Re­sistance to such a decision or rebellion against it consti­tutes the grave sin of impiety, which we learn from Euthry­phro is a variety of injustice. Therefore, Socrates has no
right to escape from jail in defiance of the decision of the
laws, and doing so would be wrong. Moreover, any defiance
of one's superior is wrong.

SECTION III

The explicit conclusion or apparent implication of each
of these arguments is both that Socrates ought not escape
from prison and that a citizen has an absolute obligation to
do as the laws command. It is this latter, of course, that
contradicts both Socrates' actions, recounted in Apology, of
refusing to obey the direct order of the Thirty Tyrants to
go out and arrest Leon of Salamis, and his pledge, to the
jurors, that if released on the condition that he give up
philosophy, he will disobey. One way to resolve this con­
flict is by showing that Socrates is not really committed to
doing obeidience to law in Apology. Driessbach, for instance,
maintains that it might be the case that Socrates will not
obey the command of the Thirty Tyrants because they consti­tute an illegitimate regime and their commands are not legal
(1978, p. 184). Thus, to disobey their orders is not to
obey the laws. The difficulty with this, however, is
that it is not at all why Socrates says he is disobeying
their commands. He does not complain that the Thirty are an
illegal government as he complains, for instance, that the
mass trial of the ten (sic) Arginusae commanders was "illeg­al" (paranomos) and "unconstitutional" (para tous nomous)
Rather, he says that they were seeking "to implicate as many
people as possible in their wickedness" (32c) and that his
sole concern was "that it mattered all the world to me that
I should do nothing wrong or wicked" (adikaion or anhosion) (32d). Moreover, precisely what Socrates does in the face of this command to arrest Leon is very much at odds with what in Crito the laws say is incumbent upon a citizen in conflict with them. He goes home. He does not go with the four others to arrest Leon, but then neither does he attempt to persuade the tyrants that their order is unjust nor does he flee Athens.6

The other way to resolve the contradiction between Apology and Crito by qualifying Socrates' professions in Apology is to look further at what is going on in Socrates' pledge to disobey a command to give up philosophy. Driesbach again maintains that "what Socrates is there discussing, and refusing, is not a legal command that he quit philosophizing, but rather a deal that the jury might offer him, that they would acquit him provided he gave up philosophy" (Driesbach, p. 184). If this is the correct interpretation of Apology 29c-d, its compatibility with Crito is evident. Socrates would here be rejecting an offer that would place him in an impossible dilemma: to abide by the terms of the offer would require that he disobey the god who commands he do philosophy, and to violate the terms of the offer would require that he disobey the law.

But the text does not support the view that Socrates is imagining being offered a conditional discharge that he is free to accept or reject. Woozley has argued, convincingly, that "We must not blur the distinction between a court offering an accused man a conditional discharge on the one hand, and a court discharging an accused man conditionally on the other. In the first case, the discharge is not made, unless and until the court offer is accepted; in the second case the discharge is made, but it holds good only for so long as the man meets the condition" (pp. 303-304). The relevant passage in Apology clearly depicts a situation in which the court discharges Socrates conditionally: "Socrates, on this occasion we shall disregard Anytus and acquit you, but only on one condition, that you give up spending your time on this quest and stop philosophizing" (29c, emphasis added). There is here no offer of a conditional discharge that Socrates considers and refuses; there is discharge with the stipulation that Socrates considers and refuses; there is discharge with the stipulation that Socrates give up philosophy that is being contemplated. And this situation is not one that Socrates has the opportunity to refuse. If granted by the laws, he is landed in that, for him, most terrible dilemma of having to disobey either God or the laws. And he leaves no doubt what his choice would be: "Gentlemen, I am your very grateful and devoted servant, but I owe a greater obedience to God than to you, and so long as I draw breath and have my faculties, I shall never stop practicing philosophy and exhorting you and elucidating the truth for everyone I meet" (20c). Thus, there is no easy reconciliation of Socrates' actions and profes-
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sions in Apology with the arguments of the laws, at least not via finding a plausible interpretation of the relevant passages in Apology compatible with Crito.

SECTION IV

Far and away the most extensive scholarly effort to render consistent Socrates' views on obedience and disobedience to the law focuses upon interpretations of the arguments of the laws in Crito. As already noted, these arguments are sufficiently incomplete, ambiguous and open-ended to allow for wide latitude in explication. Even so, however, not all constructions are equally plausible, and I shall, in what follows, rely upon the earlier mentioned four criteria in assessing various analyses.

There are two broad strategies that have been utilized to rescue Socrates from inconsistency in this matter. The first is to find in Socrates' views a qualification to the seemingly exceptionless dictum of the laws that a citizen is always and everywhere absolutely obligated to obey its commands. Woozley (1971), Allen (1972) and Wenz (1973) have each, in his own distinctive fashion, devised an argument to this end. A second strategy (perhaps really only a variation on the first) is to find in Socrates' professions a sufficient basis for ranking and resolving conflicting obligations. Variations of this strategy are pursued by a wide variety of scholars, including Wade (1971), Bertram (1971), Mulgan (1972), Vlastos (1974), Congleton (1974), Dybikowski (1974) and Dyson (1978).

Woozley's argument is especially ingenious. He holds that the laws in Crito accord to each citizen a right to attempt to persuade them to change their commands whenever the citizen regards their rule as unjust. In Woozley's view it is the doctrine of Crito that all disobedience to lawful commands does violence and injury to the law—"with the single exception of attempting to convince the state that it is wrong in the law or command concerned" (p. 307). Socrates' pledge to disobey a command to give up philosophy is a vow to disobey a command of the law (should such a command be issued). However, it is the one sort of disobedience countenanced by the laws in Crito, for it consists in doing precisely that which constitutes attempting to persuade the laws to change their ways. To be sure, this is a form of civil disobedience, but not a dishonorable form: "as long as the protestor stays within reach of the law, no harm is done to it, and it does not suffer any disrepute" (p. 308). Thus, it is not the doctrine of Crito that the law must always and no matter what be obeyed, and there is no conflict with Apology.

An argument similar to Woozley's in some respects is advanced by Peter Wenz. Wenz disagrees with Woozley that
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the laws accord a right to attempt persuasion, and he does not think that Woozley's argument altogether solves the conflict between Apology and Crito because it leaves Socrates' refusal to participate in the arrest of Leon of Salamis still in conflict with the doctrine of the laws. But Wenz does not believe either that we should take the laws at their word, or at least not their literal word. Rather, he thinks that the form of reasoning advanced by the laws is like "a judicial decision." It is like a judicial decision in that it is concerned to reach a specific decision (should Socrates escape?) by appeal to a general principle (never disobey the law) which is augmented by appeal to consequences (destroying the state) and ethical principles (P₁, P₂). Pursuing this line, Wenz concludes that what the laws really mean is "One ought never to disobey the law when such disobedience might reasonably be construed to destroy the laws of the state" (p. 113).

The reconciliation of Apology and Crito is then effected by holding that this view is not in conflict with either Socrates' actions or professions in Apology. Whether refusing to arrest Leon or vowing to continue philosophizing, Socrates disobeys the laws, but not in such a way that it "might reasonably be construed to destroy the laws of the state." No injury is done the laws because Socrates' defiance is open and public and most essentially he leaves the "location and duration" of his body and material possessions in the control of the state. "And clearly no individual threatens the laws with destruction who places the location and duration of his body and material possessions at the disposal of the state" (p. 113).

Woozley's argument turns on attributing to the laws the position that a citizen in conflict with them has a right to attempt to dissuade the laws from enforcing their commands. Young maintains that this view has some plausibility when read into the arguments from agreement and piety, but by no stretch of the imagination can one find any such right accorded to citizens in the course of the argument from injury (p. 26, footnote). I think even this, however, is too limited a view of what the laws are advocating. It seems to me there is very little reason to think the laws accord any rights to citizens, least of all a right to oppose the determinations of the laws. The most that is granted is the privilege of attempting to persuade the laws, "in accordance with universal justice," to change their commands. But the important point is that this is a gift the laws make to a citizen, and as such, one they have right to withhold. Attempting to persuade the laws then, is not a right--not even a contingent and forfeitable right--and to withhold or deny it at any time is well within the prerogatives of the laws.

This interpretation, admittedly, cannot be strictly supported by appeal to textual terminology. Rather, it is necessary to appeal to the tone and spirit of the arguments.

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given by the laws, especially the arguments from agreement and piety. The whole thrust of those arguments, and the master/slave, parent/child metaphors underpinning them, is to insist upon the vastly superior position of the laws vis a vis citizens. So much "more precious, more venerable, more sacred" is the state than even parents, that the citizen has no claims against the state based on his or her rights. Persuasion may be attempted, but only so long as the state permits and tolerates it. The proper attitude of a citizen to the state is reverence, and the proper behavior is deference. The same kind of consideration, the same appeal to the tone and spirit of the laws' pronouncements, can be appealed to in disputing Wenz's claim that all they really insist upon is that any disobedience to their commands not be such that it "might reasonably be construed to destroy the laws of the state." The laws give every indication of (if little argument for) thinking that their very disobedience as such is destructive. They evince anything but an attitude of tolerance and long-suffering in their relation with even the most upright citizens, Socrates among them.

This point leads back to a careful consideration of precisely what harm the laws envision being done to them by Socrates escaping from prison, a point of considerable dispute (cf. Martin, 1970). In the first place, the argument from injury might be read as turning on a straightforward causal claim, viz., that if Socrates escapes from prison, the consequences will be increased cynicism and disrespect for the law, increased lawbreaking, and ultimately, the actual destruction of the rule of law in Athens. The argument from injury can be read this way, but then the argument will seem an especially crude, extravagant, and unpersuasive one. That the actual harm done Athens by Socrates accepting and following Crito's recommendation will be anywhere this severe, notwithstanding Socrates' stature and influence, is more than plausible. The ruling powers in Athens are not so defenseless that they cannot survive such a challenge. Indeed, as Socrates himself is well aware, it would not difficult to turn his escape into a powerful propaganda point to the detriment of Socrates' reputation (Crito, 53b ff).

A second interpretation of the argument from injury construes the argument as essentially appealing to a matter of principle. It is not the actual consequences of Socrates escaping from prison that are objected to, but rather the potential consequences that could follow if all citizens similarly situated as Socrates, viz., at odds with judicial and legal rulings, were to act as Socrates is urged to act, viz., in defiance of these orders. Everyone's always acting on the principle that he/she will defy the law when in disagreement would have disastrous consequences and result in the destruction of the state. And any principle whose universal application would have such harmful effects is a (morally) mistaken principle.
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This is a version of the argument from injury that is surely less vulnerable than that just considered. Its reasoning from principle and the application of principles is a sort that philosophers at least since Kant have found very powerful. If it has a weakness, the weakness lies in the formulation of the precise principle that Socrates could be considered to be acting upon. Is it correct (or fair) to specify Socrates' principle of action, should he choose to escape, as being: "Any citizen on any occasion when in disagreement with the laws may act disobediently"? This is surely far too broad and open-ended. There are, after all, special considerations in Socrates' case, not the least of which is that he was unjustly tried and wrongly condemned—not merely in his own view or the view of his friends, but as conceded by the laws themselves (Crito, 50c, 54b-c). This itself constitutes a powerful component of a countervailing principle that might seek to justify Socrates' escape. In Crito, of course, Socrates is notably disinclined to make such an argument for escape, preferring to let the laws articulate the case against escape and disobedience.

A third possible way of understanding the nature of harm envisioned by the laws is to read them as making a conceptual claim. On this view there is a necessary connection between disobeying the law and injuring the law. This occurs because it is supposed that the essence of law lies in authority and authority requires "unquestioning recognition by those who are asked to obey; neither coercion nor persuasion is needed." And in Wade's view, there is a conceptual tie between obedience and the law, or rather, between disobedience and the destruction of authority, because "Whatever erodes authority is destructive of political society" (p. 317).

This is a traditionally, classically conservative view, and though it may be no more persuasive or sound than the earlier versions of the argument from injury, there is much to be said for supposing that this is the most accurate rendering of the views put forth by the laws. It certainly captures the authoritarian spirit of their claims and contains the basis for the intense indignation they display in the face of Socrates even contemplating escape. It makes the connections between arguments from injury, agreement and piety much closer and consistent, for the same spirit of superiority and privilege then permeates the self-aggrandizing claims of the laws in each argument.

This rather long digression brings us back to consideration of Wenz's claim (and apparently Woozley's as well) that all the laws really prohibit is injury that can "reasonably be construed to destroy the laws." It is worth noting that on the third analysis of what the argument from injury intends the claim that any disobedience is injurious is easiest to maintain. But on either of the other analyses
it can be argued that disobedience will also do irremediable injury to the laws. Let us take the least favorable interpretation of the argument, the causal, consequentialist analysis, and see how this might work.

What is at issue is whether defiance of the law in which the disobedient does not flee, and in which the lawbreaker is motivated by a desire to preserve his or her own moral integrity, can reasonably be construed as destructive of a legal order. Woozley holds that such disobedience does not bring the laws into "disrepute," and Wenz, who calls this "moral civil disobedience" and distinguishes it from "political civil disobedience" says that when the disobedient leaves the location and duration of him or herself and possessions at the disposal of the state, the state suffers no harm. But is this so?

The experience of those authorities who have, in relatively recent times, had to deal with the likes of Thoreau, Gandhi, and Martin Luther King, Jr., would seem to argue that very considerable damage had been done their rule by a type of civil disobedience in which the perpetrators did not flee punishment. There is such a marked contrast between the principled behavior of certain individuals and the repressive character of the laws that it does not take a highly refined sense of justice or astuteness to discern the better character. And instances like this, e.g., Thoreau's refusal to pay taxes to a government actively waging an imperialistic war and maintaining slavery, it is precisely the laws that come into disrepute. The fact that those who violate segregation laws (King) or salt laws (Gandhi) or tax laws (Thoreau) do so openly and publicly without fleeing punishment, but rather making themselves available for a kind of legal martyrdom, only enhances their power to the detriment of the laws to which they are in opposition. Colonial rule in India collapsed at least in part due to the openly illegal opposition of many thousands of persons who, in Wenz's odd phrase, left "the location and duration of their bodies and material possessions at the disposal of the state." And if this does not constitute injury to the reigning laws and state, what possibly can be meant by doing injury?

It may be objected, with some justification, that these are instances of "political" civil disobedience more than "moral" civil disobedience, instances expressly designed to challenge the laws more than to preserve moral integrity. What truth there is here, however, is misleading on the point at issue. In the first place, Thoreau's refusal to pay his poll tax was, on his own account, motivated by a desire not to be complicit in the oppression of others. But more importantly, it is simply not true, as Wenz maintains, that "all the state needs to preserve its laws" is "control over the location and duration of both body and material possessions" (p. 113). Nor is it the case that
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Socrates is at all likely to share this view. Far more essential to the maintenance of political authority is a belief in that authority's legitimacy, or at least a willingness to acquiesce to its exercise of power. But such a belief or acquiescence on the part of a citizenry does not derive from the monopolization of coercive force by political authorities. And Socrates, as was customary in his age, believed in a close religious-moral-political unity for the well-ordered state. Given his treatment of the likes of Callicles and Thrasymachus, we cannot expect that he would concur with Wenz in his assessment of what the laws require to maintain their rule. The laws may on occasion need to resort to force, but the possession of that power is not what gives them legitimacy nor in the final analysis allows them to retain legitimacy (Cf. Allen, pp. 564-565).

Section V

R.E. Allen is one of the scholars who believes it a mistake to separate the views of the laws into distinct arguments. In particular, he thinks considerations of injury and agreement, plus principles $P_1$ and $P_2$ work together to form "a concatenated argument which rests on the primacy of justice" (p. 563). Fundamental to the argument are those principles of justice: that one ought never do wrong, even in retaliation ($P_1$), and that just agreements ought to be kept ($P_2$). It is these principles above all else that must be kept in mind when considering the charge by the laws that for Socrates to escape would be for him to destroy the laws and the state: "To escape is to destroy the law which enjoins that judgments judicially rendered are authoritative" (p. 563). The fact that the court's verdict against Socrates is mistaken makes no difference, for Socrates' agreement with the laws extends to abiding by their decisions even in such cases.

The main thrust of this argument lies with the injury that is alleged to be done, not with the violation of an agreement. And the nature of the injury, in Allen's view, is what I earlier characterized as "conceptual." That is, the injury done the state is not calculated in causal or utilitarian terms. Indeed, Allen argues that on terms such as this, Socrates' escape would benefit the state, by relieving the state of the odium attached to executing Socrates, salving the conscience of the judges, deterring the grief of family and friends, etc. Allen's explanation of the injury suffered by the state parallels Wade's view perfectly:

To escape is to act in breach of the sentence of execution. That sentence was rendered according to law, and as legal, owes its authority precisely to that source. To deny the authority of a given sentence so rendered is to deny the authority of
any sentence so rendered; but this is to deny au-

thority to the law itself, since it is to deny

authority to its application. Since the appli-
cation of law is essential to the existence of law,
to act in breach of a given application is--by so

much--destructive of law (p. 564).

All of this is to say that the real force of law is

that a citizen is morally obligated to obey. But if we say

the law imposes upon one a moral obligation to obedience,
what should we say on those occasions when the law commands

an immoral action? Shouldn't we say then that we are moral-

ly obligated to do what we are morally obligated not to do?

In Allen's view, however, it is just this conclusion

that the premises of the argument forbid: P1 requires that

one never do injustice, and this means not doing an injus-
tice when commanded to do so by the laws. P2 requires the

keeping of just agreements, and this means that "a binding

agreement cannot require the doing of injustice."

Given that citizenship implies agreement, the do-
ing of injustice at the behest of law is no part
of its terms, and a law or decree that enjoins
injustice is in some strict sense ultra vires. Since
injury arises only from breach of authority and
since authority extends only so far as agree-
ment binds, to disobey a law or decree that en-
joins the doing of injustice is not to injure the
law. The Crito's claim that positive law imposes
a moral obligation to obedience, in short, is true
only under a restriction--a restriction inherent
in the premises by which the argument proceeds (p.
565).

Thus in Socrates' view, there are occasions when we
should disobey the law: those occasions as with Leon and
the possible offer of a conditional discharge, in which
obeying the law would be unjust. Even so, however, Socrates
believes that disobeying the law (even unjust law) warrants
punishment, and for the reason that the very existence of a
legal system is threatened by disobedience, there can be no
adequate moral justification for resisting the imposition of
that punishment upon oneself by the law. Thus in Apology,
Socrates must accept his sentence despite its injustice.

One further distinction may help make this conclusion
more palatable, and that is the supposed difference between
doing injustice and suffering injustice. As is well-known,
Socrates is a vigorous and long-standing proponent of the
view that "it is better to suffer injustice than to do it." The
relevance of the distinction here is that in Crito, as
distinct from Apology, the laws impose upon Socrates an
obligation to merely suffer injustice. The Thirty Tyrants
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and the jurors, should the latter decree a conditional discharge, can both be viewed as requiring of Socrates that he do wrong. But the laws in Apology merely require Socrates accept having wrong done to him, and the difference here is sufficiently substantial to preclude any inconsistency in Socrates' actions or professions. In sum, Allen believes the principles and argument of the Crito adequate to establish both Socrates' willingness to disobey the law in Apology, and willingness to suffer the injustice decreed by the laws in Crito.

Allen's analysis is a sophisticated and plausible one. It seems clear that the laws' claims and Socrates' principles can be read so as to yield the conclusion that political authority obligates one to obedience only to the degree one has agreed to obey and one's agreement holds only insofar as the agreement is just. Such a use can be made of Socrates' principles, and then the question becomes: Is this the use Socrates (or Plato) intended? Because of the already oft mentioned ambiguities and obscurities of Crito, and because of Socrates' penchant for irony, it seems impossible to say with any certainty either that Socrates/Plato did or did not intend this interpretation of the principles and arguments at issue. Nonetheless, I am inclined to think that Allen's analysis does not capture the correct view of the matter. Each of three major claims or distinctions in Allen's analysis is vulnerable. First there is the premise that "injury [to the law] arises only from breach of authority." Next is the premise that "authority extends only so far as agreement binds" (which is qualified by "a binding agreement cannot require the doing of injustice"). Finally, there is the very great weight in Allen's argument placed upon a distinction between suffering and doing injustice.

We have already seen that precisely what the laws suppose causes them injury, and what kind of injury they fear, is both ambiguous and controversial. But the problem is not that the laws draw the line on the sources of injury they fear too close, but rather that it is drawn so as to encompass a great deal, and no doubt a great deal too much. This is to say, at the very least, that Allen stands on extremely shaky ground in suggesting that "injury arises only from breach of authority." The laws themselves give us no reason for thinking this their view, Socrates gives no reason for thinking it his, and finally, it is obviously in error. There are any number of ways in which the rule of law may be undermined short of being defied, among them (legal) advocacy of disobedience, cynical obedience, evasion of the spirit of law coupled with observance of its literal meaning, etc. It is even conceivable (although unlikely to be appreciated by the laws in Crito) that the laws will suffer their worst injury by being strictly obeyed. Vlastos reminds us of an awful occasion during the Peloponnesian War when the Athenian Assembly ordered that all the adult males in the rebel-
The claim that legal authority is obligatory only to the extent that it is agreed to, and that that agreement is binding only so far as it is just, is of course at the heart of Allen's analysis of Crito. I have already conceded that these views are consistent with Socrates' principles; my doubt is that these are anything like what Socrates holds. My doubt has two supports. In the first place, we must recall that the type of agreement each citizen is supposed to have entered into with the state is a tacit one, an "agreement" rooted mostly in our historical and continuing dependence upon the survival of the state. It is more our inferior, dependent relation to the state that constitutes an agreement to obey its commands than a reflective and self-conscious choice that underlies obligation. As such, we are not very well situated to reject consenting to the laws, we are simply not in a position to be overly scrupulous about the terms of the agreement. But, in Socrates' view, presumably, this is as it should be: there is no pretense of equality between citizen and state. All this amounts to saying that, in the position articulated by the laws and apparently acceded to by Socrates, almost any obedience to law must be regarded as something we agree to and as something just precisely because we really cannot survive any other way (Cf. Dyson, 1978).

The second reason for supposing it is not Socrates' view that political authority obligates us to obedience only to the extent its commands are agreed to and just is that in Crito there is precious little provision made for allowing individual citizens to determine that the law is just, what was agreed to, and what is binding. Each citizen may, of course, have an opinion as to where justice lies. But the determination of what ought to be done is properly made by the laws. A dissenting individual may, as has been shown, be permitted to attempt to persuade the laws differently, or may even choose exile. But his or her obligation is determined by the laws, and, failing persuasion and rejecting exile, that is what one must do. The point is that while it may be true that a moral obligation to obedience exists only so far as the agreement to obey and the command itself is just, the decision as to whether these conditions are met is not for individuals to make, but is properly the laws' decision.

Finally, there is the alleged difference between doing and suffering injustice which is supposed to enable Socrates to break the law in Apology, because there he is expected to
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harm another or disobey God, but not to break the law in *Crito* despite its unjust command that he be executed, because here by obeying the law he does no harm, but only has harm done him. Much is made of this distinction by other commentators as well, e.g., by Bertram (1971) who calls it the difference between abetting injustice done to others and accepting injustice done to oneself. That Socrates respects and utilizes this distinction is beyond dispute. That it will carry all the weight Socrates or Allen or Bertram wish seems to me highly dubious.

The first thing to observe here is the artificiality of the situation as conceived by Socrates in utilizing the distinction between doing and suffering injustice. Socrates seems to be seeking that course of action which will free him of any taint of moral blameworthiness, which will allow him to preserve complete innocence. What is artificial about this quest is that it bears little relation to the way the world is, and even less to the situation Socrates finds himself in. For most of us most of the time and for Socrates in both *Apology* and *Crito*, the choice is simply not between the absolutely right thing to be done and the absolutely wrong thing. There is a self-serving naivete or disingenuousness in even representing moral dilemmas in such a fashion, for the fact of the matter is that it is nearly always the case that our choices are mixtures of better and worse, right and wrong, good and evil. Socrates is no exception. It is not the case that in the *Apology*, Socrates escapes all possibility of blame for refusing to cooperate in arresting Leon or vowing to violate a command to give up philosophy. After all, each of these is (or would be) against the law, and it is lawbreaking of any sort that the laws in *Crito* maintain does harm. And by obeying the command to drink hemlock and die, Socrates does not either escape doing harm. He will, after all, harm himself, and no principle of justice can dismiss such harm done to oneself as inconsequential. Moreover, by submitting to being put to death, he in effect ceases to do, or even struggle to do, what the god has commanded of him, viz., expose the pretense of knowledge to others, improve men's souls, seek truth, or in short, philosophize. The counter to this last is, of course, that Socrates is doing no harm, merely allowing harm to be done to him. I have already expressed some skepticism about the moral significance of this distinction. Now I will try to give that skepticism some substance.

It should not be difficult to regard some such principle as the following as a "collollary" principle of justice to P₁ and P₂: One ought not passively submit to injustice when one has the power to resist. (Let us call this P₃.) There is nothing in such a principle as this that would allow assigning moral blame on the genuine victims of injustice. The key is that one must have the power to resist injustice, regardless of whether that injustice is done to others or oneself. The problem for most victims of op-
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pression, exploitation and other forms of injustice is that 
they lack the means to effectively resist. This is precisely not Socrates' situation. Socrates has friends more than merely willing to help him escape, friends who are eager to do so and press him to accept their aid.

On the grounds that he must do no harm, but can suffer it, Socrates cannot convincingly argue against Crito, at least he cannot do so and remain true to principles of justice P₁, P₂, and P₃. Of course, he can argue, and no doubt convincingly, that he ought to remain in prison and be put to death rather than escaping because the latter action requires he do less harm than the former. But this is an argument that would proceed entirely independently of any alleged difference being doing and suffering injustice.¹⁶

In criticizing Socrates as well as contemporary commentators for their use of a distinction between doing and suffering injustice, I do not mean to suggest that there is no difference here, or even no moral difference. But I have argued that the moral difference with respect to the case at hand, viz., whether Socrates should passively acquiesce in an unjust death sentence, is not great enough to reconcile Socrates as acting in accord with P₁. In that case, he was situated, as temporary head of the executive, where he could use his influence to resist what he regarded as a serious injustice. Of course, he did not succeed in securing individual trials for the generals, but all P₃ requires is the attempt. There remains Socrates' seemingly inconsistent regard for the law in Crito and Apology. That contradiction with which we began long ago has not yet, I think, been successfully resolved by any of the analyses so far considered. Those scholars who have sought to solve this problem by finding in Socrates' philosophy a qualification to the claims of the laws in Crito that every citizen has an absolute and unqualified obligation to obey every command of the state have not yet, I think, shown that this strategy will work.

SECTION VI

Of the two general strategies earlier identified as utilized in resolving the contradiction between Apology and Crito, we have yet to consider the one which the greater number of contemporary commentators have opted for, viz., that Socrates presents a basis for ranking obligations such that the contradictions never need arise. There are a number of different ways in which it is suggested that Socrates does this. The fundamental notion, however, is that Socrates' principles remain constant and consistent, and what changes between Apology and Crito are the circumstances under which disobedience to law is being considered. Vlastos, for instance, traces the obligation to obey the law—whether just or not—to tacit agreement and gratitude.
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These create an enduring obligation to obey. But, Vlastos says, "this ubiquitous obligation does not expunge others which are distinct from it and on occasion might go contrary to it, so that I could only discharge one or more of these by disobeying the law" (p.530).

Vlastos, of course, does not believe Socrates says just this in either Apology or Crito. Rather, he infers this to be Socrates' view on the basis of the famous example in the Republic (33ic) concerned with whether a promise to return a lethal weapon to a friend on demand should be kept if that person is deranged when demanding the weapon. Vlastos says that this shows Socrates subscribes to the view that while some obligations are not eliminated, we still ought not discharge them because they conflict with other, often greater obligations—e.g., not to harm others. 17

Dyson is both more tentative in committing Socrates to a ranking of obligations and more explicit in suggesting what this ranking is: "Plato does not . . . frame his argument so as to make obedience to law override moral obligations from all other sources . . . [T]he proposition that obligation to the state overrides the claims of personal advantage or of obligations to friends or family is not inconsistent with the proposition that obligation to the god overrides obligation to the state" (pp. 434-435).

In Dyson's view, it is the urgency and uniqueness of Socrates' situation in Crito that accounts for the great emphasis there placed upon an obligation to obey the law. The issue in Crito, as both Dyson and Vlastos agree, is not so much whether there is generally an obligation to obey the law, but rather much more specifically whether this obligation is necessarily a greater one than to self-interest. The only ways in which escape is represented to Socrates in the dialogue is in terms of either satisfying his own self-interest (conceived conventionally and narrowly) and discharging low level obligations to friends and family. Against these kinds of argument it is enough to maintain that the interests of the state supercede. Were the issue different, as it is in Apology, so would the argument be. On whether to obey a command to give up philosophy, the choice is clear. Duty to God is more compelling even than the duty to obey the laws. Nothing Socrates says, in either Apology or Crito, is as unequivocal and non-ironic as these words to his jurors: "Gentlemen, I am your very grateful and devoted servant, but I owe a greater obedience to God than to you, and so long as I draw breath and have my faculties, I shall never stop practicing philosophy and exhorting you and elucidating the truth for everyone I meet" (20c).

Finally, we might consider Wade's view as entirely compatible on this point. Wade emphasizes Socrates' deferential attitude to his "superiors," which is of a piece with the inferiority of citizens to the laws. The obligation to
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obey "one's betters" remains constant and consistent between the dialogues: "Socrates' action in the Apology shows what the good man does when the laws expect him to harm another better than him. He disobeys. Socrates' action in the Crito shows what the good man does when he is treated unjustly but is not required to treat others unjustly. He obeys" (p. 320). (Cf. Bertram and Mulgan, who each also find in Socrates' professions a hierarchical ranking of obligations and a commitment to obey the highest external authority.)

It is clear that this is a very neat and very persuasive resolution of the apparent conflict between Socrates' willingness to disobey a command to give up philosophy in Apology and his apparent endorsement of the view that we are always obligated to obey the law. To be sure, the laws themselves do not seem particularly open to the possibility that there could be any higher obligation than to obey them, but this now can be safely regarded as rhetorical excess, and as qualified by the circumstances themselves in which they are uttered, i.e., in the context of a discussion expressly concerned with making a choice between promoting narrow self-interest or disobeying the law. Here we don't even need to rely upon the dubious distinction between doing harm and suffering harm to justify Socrates' obedience to unjust law in Crito and disobedience to unjust law in Apology. In the hierarchy of sources of obligation, the law comes after God, but before self, and because it is injustice to self that is required by the laws in Crito as compared to injustice to God in Apology, it is clear how disobedience in the one case and obedience in the other are consistent and justified.

There remains, however, one difficulty with this account of Socrates' views: it still leaves unexplained Socrates' refusal to obey the command of the tyrants to participate in the arrest of Leon. There are only two ways to resolve this persistently sticky case consistent with the view under consideration. One is to interject Socrates' commitment to P1 (do no harm) as a principle that comes between the duty to obey God and the duty to obey the law. But this is precisely what Woozley, Wenz and Allen sought to do with unsatisfactory results. The other thing to do, of course, is to regard Socrates' refusal to obey the Thirty Tyrants as not illegal. Wade, in a footnote, suggests just this when he reminds us that "the Thirty ... had seized power illegally, suspended the laws, and executed their opponents" (p. 320). I have already stated my objections to this interpretation of Socrates' attitude when considering the same suggestion made by Dreisbach. Aside from this not being at all what Socrates says, it may now be persuasive to suggest that such a view of the commands of the Thirty Tyrants would not be supported by the position advocated by the laws in Crito. Their view of a citizen's obligation to obey the law is, we can now confidently assert, a thoroughly.
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authoritarian one. And it is characteristic of authoritari­ans that they do not scruple about such niceties as how those who issue commands in the name of the law came to ac­quire their authority. That they have power and succeed in exercising it suffices to establish at least a prima facie right to do so, and a consequent duty on the part of the citizens to obey. And insofar as Socrates shares the views and attitudes of the laws—and this appears to be so for the most part—he will regard the commands of the Thirty as le­gal, however unjust they may be.

SECTION VII

It is time now to take seriously the possibility that Soc­rates' views on the obligations to obey or disobey the law are not consistent or altogether coherent. The usual rea­sons advanced for supposing this an unlikely possibility—e.g., that Socrates above all deplores insconsistency, that the time between his utterances in Apology and Crito is too short for him to fail to notice a disparity, etc—will seem the less persuasive after every attempt to make his views perfectly consistent is found wanting. It won't do, howev­er, merely to allege an inconsistency and leave the matter there; some explanation of how it arose and is otherwise rooted in Socratic philosophy is needed. In this final sec­tion, I should like to suggest something in this vein.

The conclusion of this long discussion and review of the scholarly literature of the last decade on the apparent contradiction in Socrates' views on obedience to law as it occurs in Apology and Crito is that the contradiction is real and unresolved. Of course, this does not mean that there will not in the future be suggested a reading of the dialogues which succeeds in making them consistent and which accurately depicts Socrates' commitments, or that nothing of great value has been achieved by unsuccessful attempts to resolve the contradiction. On the contrary, most of the authors considered provide enormously valuable insight into Socrates and Socratic philosophy. It remains here only to pull some of these insights together in attempting an ac­count of how Socrates could let such a significant and obvi­ous defect slip by in his convictions concerning the obliga­tions of a citizen to obey the law.

At Crito 46b, Socrates says that he will only ever follow "the best course that reason offers." But it is clear from Apology and Crito (and indeed the entire Platonic corpus in which Socrates' views are central) that "the best course that reason offers" is often equated with what au­thority commands. Moreover, there is an ambiguity as to what kind of authority it is Socrates respects. For the most part, his attitude is one of respect for and deference to those who are authorities in the sense of possessing ex­pert knowledge. Hence, his incessant attempts to test know­
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ledge claims and insistence that only the expert trainer should be listened to in preparing a boxer, only the one with expert knowledge about virtue should be listened to in deciding how best to live, and so on. In this way, Socrates urges that only those who have expert knowledge should occupy positions of influence and power. And here Socrates begins the slide from being an authority to being in authority, and the respect and deference that reason properly shows to the first seems to be carried over to the second, even when the person in authority may lack expert knowledge. As a consequence, Socrates often gives the impression of being one who supposes it is reasonable to respect and defer to persons who occupy positions of authority as it is to respect and defer to those who have expert knowledge. But while an attitude of respect and deference to superior knowledge is not merely reasonable, but reason itself, such an attitude taken to those in authority is not at all so obviously appropriate, and is surely not to be equated with following "the best course that reason offers."

But the assumption that those in authority have expert knowledge is one endemic to a widespread form of what we call authoritarianism. And authoritarianism—deference to the commands of those occupying positions of authority, willingness to defend the rights of authority, belief in the duty of obedience to authority, all this and more—is at the heart of Socrates' political philosophy. Dybikowski understands this well when he remarks on "... Socrates' unguarded respect for authority, whether legal, paternal or expert. This respect limits the independent exercise of reason because after a certain point it is no longer given a legitimate role to play" (1974, p. 535). And all those authors who concern themselves with Socrates' respect for "his betters" or see that his endorsement of the laws' view that disobedience to them necessarily does them damage recognize as well this essential Socratic authoritarianism.

This essential Socratic authoritarianism is also connected with the reification and idealization of law that Socrates gives every indication of endorsing in Crito. It is perhaps no accident, and far more than a rhetorical or dramatic device on Plato's part, that the laws in Crito are personified. For one who is inclined to believe abstract entities and ideas more real than the everyday world of experience, the casting of anything as abstract as law into the familiar and concrete will seem natural. The connection is not clear to me, and this is not the place to explore it, but there is a long history of philosophical idealism and authoritarianism being linked, and perhaps essentially so. One of its earliest expressions is to be found in Socrates' views on a citizen's obligation to obey the law; one of its strongest expressions is to be found in the mature works of Socrates' most famous follower.

But if an abiding authoritarianism were all there was
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to Socrates, there would be no contradiction in Socrates' views on obedience and disobedience to the law. All would be resolvable simply on the basis of what the highest external authority commanded. Thus in *Crito*, Socrates would obey an unjust command to die both because it was ordered by civil authority and, as importantly, because it was not opposed by divine authority. And in *Apology*, he would refuse to give up philosophy despite an order to do so by civil authority because God had commanded him above all else to practice philosophy. But still again, the sticky case of Socrates' refusal to participate in the arrest of Leon gets in the way of this resolution, for Socrates does not at all indicate that such a refusal was motivated by obedience to any external authority. Rather, the clear implication of what he says there is that he has somehow determined for himself, in the light of moral principles he believes correct, and without any reliance upon the sanction of some greater authority, that for him to participate in the persecution of an innocent man would be wrong. In the Leon case, and in principles $P_1$ and $P_2$ of *Crito*, Socrates clearly articulates positions supportable by reason and independent of a system of hierarchical authority.

This, of course, is the side of Socrates that history has most emphasized and found honorable: the man of principle, the lover of justice, the persistent seeker after truth, the undogmatic, open, courageous philosopher uncovering before superior power, willing even to die before he would abandon his principles. It is this side of Socrates that is most often equated with Socrates the teacher, the gadfly who lets no sleeping dogma lie, the man possessed of a method of inquiry both profound and unsettling. And surely there is this Socrates no less if no more than the more rigid and authoritarian Socrates who surfaces in *Crito* (and *Republic* and *Laws*), albeit obscured by the cover of the laws.

It is Socrates as a seeker after truth, as one whose views are frequently undeveloped, that we remember best and most affectionately. But this is not the only Socrates to be found in the Platonic dialogues, and it is the other, less attractive Socrates that needs as much to be grasped if only that we might better comprehend how Plato, who wrote *Gorgias*, *Meno*, and *Protagoras* is the same Plato who wrote *Republic* and *Laws*.

Finally, along with the historical "enigma of Socrates" that has so long baffled scholars, we must grapple with the historical "paradox of Socrates." Socrates is the most severe and effective critic of the practices of his day. He is more than just an effective critic of the status quo, for he promotes as well a genuinely revolutionary method, a method that with the relentless use of logic goes a long way toward sabotaging the traditional source of knowledge. As much or more than any other historical figure, Socrates is
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responsible for altering a whole culture's orientation to the sources of knowledge. For the method of reasoning, logical, eristic or elenchus that Socrates exemplified was in stark contrast to the emphasis upon memory, divine authority and tradition that had until his time largely prevailed. And yet as subversive and cataclysmic as Socrates' questions and teachings were to Western culture, he, of course, remained in many ways a man of his times. Nowhere is this better revealed than in his attitude toward external authority—religious, legal, paternal, whatever. Socrates is at once rationalistic, individualistic, disdainful of public opinion, non-conforming—or in short, the very model of an Enlightenment hero; and he is also authoritarian, other worldly, wrapped in mystery and irony: a Fifth Century B.C. Athenian. And from the one side we get a refusal to participate in the persecution of Leon; from the other a glorification of state authority even when used to condemn the innocent. Both are essential Socrates. 19

FOOTNOTES

1. All quotations from Crito and Apology are from Hugh Tredennick's translation, available in The Collected Dialogues of Plato, Hamilton and Cairns, eds. (Princeton, 1961). On those rare occasions when I have differed with Tredennick's translation, this is noted.

2. I am aware that this is a highly contentious claim about Socrates' character, and that other commentators place much greater emphasis upon the centrality of irony, myth and the assumption of guises on Socrates' part. Without entering into that debate here, I would rest the greater part of my case for how to interpret Socrates in Crito on the next two reasons given.

3. For an account of Crito that emphasizes the themes of friendship and beneficence between Crito and Socrates see Rosen (1973).

4. How Socrates makes the move from the wrongness of harming persons to the wrongness of harming the state is nowhere elucidated in Crito.

5. Here I depart from the following strictly Tredennick's translation. The word in the Greek text, doulos, that is translated by Tredennick as 'servant' is better and more literally rendered 'slave'. I have made only this alteration in this quote.

6. And neither does this philosopher so self-professedly concerned with justice, righteousness and tendance to the soul make any effort to warn Leon that the Thirty have ordered his arrest, execution and seizure of property.

7. There is a third possible strategy, mentioned by Vlastos. The suggestion is that Socrates intends no general theory of political obli-
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gation in Crito, that he is there exclusively concerned with the specific question of whether in the unique circumstances Socrates finds himself he should escape from prison. But Vlastos does not develop nor argue for this, and it is not a position that is supported by the major arguments of the laws in Crito.

8. Woozley's argument also rests on the extraordinary and unargued assumption that the right to attempt persuasion of the laws is identical to carrying on philosophy. Young (p. 26, fn) reminds us of what a peculiar view of Socratic philosophy this is.


10. On some analyses only lawbreaking that is open and public and in which the lawbreaker does not flee capture and punishment is entitled to be called "civil disobedience." See my "Two Ways of Justifying Civil Disobedience," Philosophy Research Archives, Vol. VI, 1980.

11. "It is not a man's duty, as a matter of course, to devote himself to the eradication of any, even the most enormous wrong; he may still properly have other concerns to engage him; but it is his duty, at least, to wash his hands of it, and, if he gives it no thought longer, not to give it practically his support. If I devote myself to other pursuits and contemplations, I must first see, at least, that I do not pursue them sitting on another man's shoulders." Henry David Thoreau, On Civil Disobedience, in Civil Disobedience: Theory and Practice, Hugo Bedau, ed. (New York, 1969), p. 33.

12. Perhaps the laws could not see how apparent injury done them by disobedience could really be a benefit, but Socrates surely could appreciate as much. It was Socrates, after all, who held that the apparent injury done a man when punished for wrongdoings was really a benefit.

13. And the harm done him is not even serious, in Socrates' view, for it merely consists in depriving him of life, and not of corrupting his immortal soul.

14. Indeed, the supposed difference between doing and suffering injustice is but one of a family of closely related and equally problematic distinctions, among them: acts of omission and acts of commission, the doctrine of double effect, and killing vs. letting die as the last arises in euthanasia disputes. The doctrine of double effect is criticized by almost every contemporary analysis of intention, and the supposed difference between killing and letting die is provocatively and well argued by James Rachels in a now widely anthologized article, "Active and Passive Euthanasia," that originally appeared in The New England Journal of Medicine, 292, No. 2 (Jan., 1975), pp. 78-80. That there is some distinction that can be interesting in each of the cases cited is true, but whether the difference there is makes a moral difference is problematic. And in the case at hand, whether there is a moral difference between Socrates breaking the law so as not to do harm and not breaking the law in order to avoid harm is everything.

15. A sympathetic account of Socrates' behavior during the clamor
to try the Arginusae generals en masse would see Socrates as acting in accord with P3. In that case, he was situated, as temporary head of the executive, where he could use his influence to resist what he regarded as a serious injustice. Of course, he did not succeed in securing individual trials for the generals, but all P3 requires is the attempt.

16. Whether Socrates would convincingly argue the preferability of dying to some other course of action that Crito or someone else might proffer we will never know, for the only alternatives considered in Crito are dying and escaping and fleeing to Thessaly. But how might Socrates respond to a proposal to escape and return to the marketplace to carry on philosophy as long as he could? Or to do so by going underground? Or that he at least make some protest to the injustice of his sentence rather than passively acquiescing, and even offering, through the laws, a kind of moral justification for the sentence? Arguments along any of these lines could be advanced consistently with Socrates' principles and his sacred duty to do philosophy. Either the real historical situation Socrates confronted and Plato captured in Crito, or a simple lack of moral imagination on Plato's part prevents us from doing anything more than idly, and rather pointlessly, speculating on such possibilities as these.

17. Vlastos' ground for supposing this Socrates' view, relying as it does on a passage in Book I of Republic, is preferable to Congleton's support for essentially the same supposition, if only because Vlastos finds support much "nearer" to Socrates than Congleton's invocation of the very late Platonic dialogues Statesman and Laws. However, there is some question as to whether Vlastos correctly analyzes Socrates' view of obligation as depicted in the weapons case. Dybikowski, in "Was Socrates as Reasonable as Prof. Vlastos?," The Yale Review, Winter, Vol. 64, 1975, thinks not. He points out that it could equally well be Socrates' view that certain obligations are merely conditional, and that they lapse altogether when they clash with other obligations. I see no way to resolve this conflict of interpretation, nor any need to do so. There is other and better evidence to indicate Socrates' commitment to a hierarchy of obligations, which is all the present discussion requires.

18. It has been suggested to me by Robert Kane that to the Greeks in general, and perhaps to Socrates himself, "tyrannos" is conceptually linked to illegality. Nothing a tyrant propounds can properly be called "law" because it has no communal base. A tyrant recognizes no mandate except his own will, and nothing he comes up with can be nomos. Thus again, Socrates would not be acting illegally by disobeying a tyrant's order to arrest Leon. If this is so, it is a telling criticism of my interpretation, for in that interpretation a great deal turns on how we understand (and to some extent, how Socrates himself understood) Socrates' refusal to participate in the arrest of Leon. All I have to say here is to repeat my reading of the text. And there it does not appear at all as if Socrates is seeking to excuse himself from even the hint of acting illegally in refusing to arrest Leon. He seems not at all concerned with law, but simply with following his certain knowledge that the persecution of Leon is wrong, and cooperation with that persecution wrong too. As such he is not concerned with the law.

19. This paper and I have both benefited from the numerous criti-
cisms and suggestions offered to me by J. Davidson Alexander, Kenneth Clatterbaugh, G. Stanley Kane, Robert Kane, Diane Raymond, Hugh Wilder, and Hugh Lee.

BIBLIOGRAPHY


Dybikowski, J., "Was Socrates as Reasonable as Professor Vlastos?," The Yale Review, Vol. 64 (Winter, 1975), 293-96.


Vlastos, Gregory, "Socrates on Political Obedience and Disobedience," The Yale Review (Summer, 1974), 517-34.

