

## **Socrates: *Apology and Crito***

### I. Background:

- A. Socrates is perhaps the most influential philosopher in history, though he never wrote philosophy. He is known only through the writings of others—principally his most famous student, Plato. This raises the controversy about how much of the writings are Socrates and how much Plato. While it is widely believed that the dialogues we are reading have some historical basis, this is of no consequence to us here. We are concerned with the arguments—not the authors.
- B. Socrates (470-399 B.C.) died from drinking hemlock after being tried and sentenced to death in this manner for: “not believing in the gods the state believes in, and introducing different and new divine powers; and for corrupting the youth”.
- C. *Euthyphro*, *Apology*, *Crito* and *Phaedo* present the story of Socrates’ trial and death. *Euthyphro* is a discussion of the nature of piety set on the steps of the Athenian court house. This is of no concern to us here. *Apology* is Socrates’ defense before the Athenian court. *Crito* presents Socrates’ defense of his obligation to obey the laws of Athens rather than to escape from prison, and *Phaedo* portrays the actual death of Socrates.
- D. Background of *Crito*: Socrates could escape—it was a common practice and probably what was expected of him by the Athenian court. Crito, as a good friend, comes to Socrates with an escape plan and Socrates refuses citing an obligation to obey the laws of Athens even when they are applied unjustly.

*Crito* is unrepresentative of Plato’s characterization of Socrates in several respects. Socrates is usually portrayed (especially in Plato’s early dialogues) as being merely critical of the philosophizing of others. (E.g., see *Apology* 21d-e.) In the *Crito*, though, Socrates defends a position: the proposition that he has a moral obligation to honor his legal obligation and, ultimately, to accept the sentence of the court.

### II. Socrates’ response to Crito’s proposal shows him to be an advanced thinker for his time.

- A. Crito’s Arguments for escaping:
  1. Not escaping would harm Socrates’ friends because they would be ridiculed for lacking the courage to help him escape; their reputations will suffer.
  2. Not escaping would make it impossible for Socrates to provide for his children.
  3. Not escaping would make it impossible for Socrates to continue to teach philosophy and, so, his enemies will have won.
- B. Common misapprehension of Socrates’ replies:
  1. Some have argued that Socrates’ replies are superficial. On the view of these critics, what Socrates says in reply is, in effect, this: “These arguments of Crito are just appeals to feelings (the desire to teach philosophy, see one’s friends and family prosper, etc.) and conventional expectations, and I refuse to be moved by such considerations. I will be moved only by considerations of what is right and just.”

- a. *This* reply is superficial. Considerations about the well-being of family and friends is morally relevant and hence a consideration of what is “right and just”.
- b. But Socrates’ reply is much more sophisticated than that. Socrates is aware that his staying and accepting the sentence of the court will have undesirable effects for his family and friends. But he doesn’t think these considerations are decisive.

### C. Socrates’ replies to Crito

1. The Socratic conception of harm (*Apology* 41d): “A good man cannot be harmed either in life or in death”. Clearly ‘harm’ must be being used here in an unusual sense—at least not in the sense it is usually used in to describe human harms. For Socrates, harming a person (like harming anything else) means making him less good, less virtuous, less excellent. Thus, you harm a person by making him less just or good. (Harming a person is like harming a car—you make it exhibit the virtues of the sort of thing it is to a lesser degree.) Thus, as long as you retain your virtue, you are not harmed. This is why, for Socrates, it is better to suffer an injustice than to do one—by suffering one, you do not show yourself to be vicious (without virtue); by doing one, you do.
2. Response to Argument #1: Socrates accepts the principle that one ought not to harm ones friends. But we must remember what he means by ‘harm’. So long as Socrates does not lead his friends to commit an injustice, he is not harming them. Crito’s use of the principle, “Don’t harm one’s friends,” just comes too soon. We must first answer the question whether escape is unjust; if it is, then by allowing his friends to help him escape Socrates would be truly harming them.
3. Response to Argument #2: One benefits one’s children by making them just and virtuous. If escaping is unjust and Socrates does it, then he would show himself unfit as a teacher of virtue—he would have shown that he did not know what virtue is—and so he could not make his children just or virtuous. Again, Crito’s appeal to benefiting Socrates’ children begs the question; it assumes that there is nothing wrong with escaping—but that is just what Crito is trying to show.
4. Response to Argument #3: As above, if Socrates wants to teach philosophy, he must not show himself to be ignorant of virtue. Socrates believes that knowledge is virtue—to know the good is to do the good. If he acts wrongly, he will have shown that he has no knowledge to give to others (*Crito* 53b-d). As for who is winning. see *Apology* 39b.
5. Socrates’ view of Crito’s arguments is not that they are irrelevant but that they come too soon. We cannot apply the principles Crito alludes to until we first establish whether escape is just.

### III. Socrates’ Theory of Political Obligation

#### A. Four Arguments for Political Obligation:

1. The Returning Injury (Injustice) Argument
2. The Analogical Argument
3. The Gratitude Argument
4. The Contract Argument
5. These are not separated in Socrates’ discussion. Indeed, some of them might not even be intended. But each is suggested. Remember, our interest is in the evaluation of arguments for political obligation, not in Socratic scholarship.

## B. Returning Injury (Injustice) Argument (49b ff.)

## 1. Injustice Version of the Argument:

- (i) One ought never to return injustice for injustice.
- (ii) To escape (violate the court order) because of the injustice of the decision, would be to return injustice for injustice.

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Therefore, (iii) Socrates ought not to escape.

- a) *Criticism:* The argument is question-begging. The second premise assumes what Socrates is trying to establish.

## 2. Injury Version of the Argument: like the injustice version but with 'injustice' replaced with 'injury'.

## a) Criticisms:

## (i) In the Socratic sense of 'injury':

- (a) It is unlikely that Socrates' leaving would make the state more unjust (harm it). Indeed, the theory behind civil disobedience (which cannot be dismissed out of hand) is that selective disobedience can make the state more just. Noncompliance would at least prevent the state from committing this injustice and may serve as an example to others. By passively accepting the injustice of the court, he may actually increase the likelihood that he won't be "the last victim of injustice".

- (b) The principle is not applicable anyway because Socrates denies that he has been harmed.

## (ii) In the common sense of 'injury':

- (a) It is unlikely that Socrates' escape would weaken the rule of government. Legal systems survive a great deal of violation without being noticeably weakened.

## C. The Analogical Argument—the State as Parent:

## 1. The Argument:

- (i) The relation between a citizen and the state is like that between a child and her parents.

- (ii) One has an obligation to obey and not to do violence to one's parents.

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Therefore, (iii) one has an obligation to obey and not to do violence to the state.

## 2. Criticisms:

- a) This is a weak analogy. There are too many important ways in which the State is very unlike a parent.

- b) Socrates slips between talking about: (a) the obligation to obey one's parents and; (b) the obligation not to strike or do violence to one's parents. But surely one can accept (b) without accepting (a). Presumably, we outgrow (a) but not (b). Socrates' escaping would be a fairly obvious case of disobedience to the state; it is not so clear that it is doing violence to the state. Unless Socrates can show that escaping would do violence to the state, he must show that the relation between the citizen and the state is like that between a *minor* child and its parents. This is an even weaker analogy than that to a grown child and her parents.
- c) If harming one's parents is what is at stake (rather than mere disobedience) and 'harm' is interpreted in the Socratic sense, then it is especially unclear that escaping would harm the state.
- d) At best the duty to obey and not to harm one's parents is a *prima facie* duty. It can be overridden by other considerations. Thus, even if we granted Socrates the argument from analogy, it would only show that there is a *prima facie* obligation to obey and not harm the state. He still has to show that other moral considerations don't override this.

#### D. The Gratitude Argument

##### 1. The Argument:

- (i) The State (like a parent) has conferred benefits on its citizens through its rule of law—benefits which Socrates has voluntarily accepted.
- (ii) Disobedience is destructive of the rule of law.
- (iii) It is wrong to destroy that from which one has voluntarily accepted benefits (The Principle of Gratitude).

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Therefore, (iv) it is wrong to disobey the law.

##### 2. Criticisms:

- a) Of Premise (i): We will see that premise (i) is common to this argument and the next. I will postpone criticism of it until we look at the next argument.
- b) Of Premise (ii): It is unlikely that Socrates' escaping would have a significant adverse effect on the Athenian rule of law either in its direct effects or its indirect effects. As to direct effects, it is unlikely that any single act of disobedience would have a direct deleterious effect on the legal system. But even considering indirect effects, such as the influence on others, there is no reason to think that Socrates' escaping would harm the legal system. After all, escape was common so it is not as if he would start a rash of escaping. For reasons already discussed, his escaping might actually improve and strengthen the Athenian legal system.
- c) Of Premise (iii): The duty of gratitude is at best a *prima facie* duty. If the rest of the argument is successful, Socrates will have established a very important conclusion (that one who voluntarily accepts benefits from the state has a *prima facie* obligation to obey the laws of that state). But he will not have established the conclusion that he ought, *all things considered*, to accept his punishment.

## E. The Contract Argument:

## 1. The Argument:

(i) The State (like a parent) has conferred benefits on its citizens through its rule of law—benefits which Socrates has voluntarily accepted.

(ii) By voluntarily accepting the benefits of a legal system, one agrees (or contracts) to obey the laws

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Therefore, (iii) Socrates has agreed (or contracted) to obey the laws.

(iv) One has an obligation to keep one's agreements (to do what one has contracted to do).

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Therefore, (v) Socrates has an obligation to obey the law.

a) Interpretation: For Socrates, the contract is between the citizen and the laws of the state. Presumably laws aren't the right sort of things to have contractual relations. Perhaps states are. We can, then, interpret him as holding that the contract exists between the citizen and the state. An even more charitable interpretation would be to understand him to hold the more modern view that the contract is *between* the citizens who make up the state. For our present purposes, either of these last two interpretations will do.

## 2. Criticisms:

a) Of Premise (i): [Remember that this premise is common to the Contract Argument and the Gratitude Argument. Thus these criticisms apply, as well, to the Gratitude Argument.] We won't dispute Socrates' claim that he voluntarily accepted benefits from the rule of law in Athens. But we will dispute what he takes to be evidence for this claim.

(i) Socrates Argument for (i):

(a) If a person remains within the territory of a political system when it is possible to leave, then the person has voluntarily accepted the benefits conferred by the political system. (Athens, Love It or Leave It!)

(b) Socrates has remained within the territory of Athens when it was possible to leave.

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Therefore, (c) Socrates has voluntarily accepted the benefits conferred by Athens.

(ii) *Criticism of (a)*: More than voluntarily remaining in the territory of a government is necessary for it to be true that one voluntarily accepts benefits—at least if this is to be used as the basis of a duty to obey the government. One may remain in an area for many reasons other than to accept benefits. If one stays for other reasons, it is at best misleading (and possibly just false) to say that she has voluntarily accepted the benefits.

b) *Criticism of Premise (ii)*: Even voluntary acceptance of benefits does not constitute an agreement (or contract) to obey. [The story of Frank and the Fireworks.]

- c) *Criticism of Premise (iv)*: The obligation to keep one's promises is merely a *prima facie* obligation. Therefore, (iv) must be changed to say this. Thus, the argument only establishes Socrates' *prima facie* obligation to accept the sentence of the court. He still has to show that other considerations don't override this.
- F. *Socrates' Argument for Obedience to the Court*: Even if Socrates' arguments are correct, they show only that he has a (perhaps only *prima facie*) obligation to *obey the law*. But Socrates believes that the court of Athens has erred in sentencing him (indeed, that they have intentionally abused the law to get him). He seems to get from the conclusion that he has an obligation to obey the law to the conclusion that he has an obligation to accept the court decision by accepting the following principle: The obligation to obey the laws entails an obligation to accept the judgments of the highest court as final and binding. There are several reasons he might accept this principle:
1. The particular legal system might contain as a law the requirement that citizens accept the decisions of the highest court as final and binding.
    - a) *Criticism*: This would not be a very interesting defense since it would only apply to those legal systems that have such a rule.
  2. Socrates might hold the view that the law is whatever the highest court says it is [Legal Realism].
    - a) *Criticism*: A dubious theory of law—even the highest officials can be wrong. Furthermore, Socrates doesn't accept this view[see 54c].
  3. Perhaps the only workable *practice* is one in which citizens take the decisions of the highest courts to be final and binding—anything else leads to anarchy.
    - a) *Criticism*: This claim needs to be defended. Its initial plausibility rests on a false dichotomy: everyone always accepts the decisions of the highest court as final and binding, or everyone always does what they think is legally right without regard to the decisions of the highest court. But there are many sorts of practices we might have with regard to the decisions of the highest court. For example:
      - (i) No one ever violates court decisions.
      - (ii) Everyone violates court decisions whenever they feel like it.
      - (iii) Court decisions are to be violated only if there is clear evidence that they are unjust and wrong and it is incumbent on the violator to show this.
      - (iv) Court decisions are to be violated only if there is clear evidence that they are unjust and wrong and arrived at without regard for actual guilt and it is incumbent on the violator to show this.

Practice (ii) might well have undesirable consequences. But if people really adhered to practice (iii) or (iv), it is not at all clear that it would have bad consequences. Indeed, it seems it would have the good consequence of resisting legal abuses. Perhaps there is reason to think that practices like (iii) and (iv) would be abused. This is a complex sociological point and it needs to be supported by good empirical evidence—not conjectures.