

## The Conditional Acquittal:

### On a Supposed Contradiction in Plato's *Apology* and *Crito*

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*(Editor's note: This essay by Ben Blanks is the winner of the North Award for the best paper in the 2012 Agora. Ben presented an earlier version of this paper at the ACTC Student Conference at Pepperdine University in Malibu, California, in March, 2011.)*

When reading the *Apology* and the *Crito* of Plato, one inevitably comes upon a seeming fundamental contradiction between the two dialogues. The *Apology* presents readers with a defiant Socrates who declares in his trial that, if acquitted on the condition that he never philosophize again, he would continue to practice philosophy in spite of the jury's order to the contrary:

. . . if you said to me in this regard: "Socrates, we do not believe Anytus now; we acquit you, but only on condition that you spend no more time on this investigation and do not practice philosophy, and if you are caught doing so you will die"; if, as I say, you were to acquit me on those terms, I would say to you: "Men of Athens, I am grateful and I am your friend, but I will obey the god rather than you, and as long as I draw breath and am able, I shall not cease to practice philosophy . . . (29c-d).<sup>1</sup>

The passage from the *Apology* seems to present a defiant argument for civil disobedience in the face of injustice. In the *Crito*, however, when given a chance to escape prison and his upcoming execution, Socrates reasons that such an action would be unjust because it would defy the laws

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<sup>1</sup>Plato, *Apology*. Trans. G. M. A. Grabe (Indianapolis: Hackett Publishing Company, 2000), 32.

of the city. Near the end of the dialogue Plato presents Socrates as speaking for a hypothetical anthropomorphized “voice of the laws”:

Is your wisdom such as not to realize that your country is to be honored more than your mother, your father, and all your ancestors, that it is more to be revered and more sacred, and that it counts for more among the gods and sensible men, that you must worship it, yield to it, and placate its anger more than your father’s? You must either persuade it or obey its orders, and endure in silence whatever it instructs you to endure, whether blows or bonds, and if it leads you into war to be wounded or killed, you must obey. To do so is right, and one must not give way or retreat or leave one’s post, but both in war and in courts everywhere else, one must obey the commands of one’s city and country, or persuade it as to the nature of justice (51b-c).<sup>2</sup>

In this passage Plato seems to present the reader with a very different Socrates from that of the *Apology*. Socrates here claims that, if one fails to get an unjust law repealed, then one must either submit to the law or leave if legally able; the passage leaves no room for the supposed civil disobedience of the *Apology*. This apparent contradiction has generated considerable scholarly debate and has produced several hypothetical problems in addition to that which lies within the texts. The primary issue essentially becomes whether Socrates would have sanctioned civil disobedience.

The answer to the question may lie in a close examination of historical events and the legal system of the time of Socrates’ trial. Some scholarly analysis, such as Brickhouse and Smith, suggests that the defiance passage in the *Apology* may not have been a true reflection of

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<sup>2</sup> Plato, *Crito*. trans. G. M. A. Grube (Indianapolis: Hackett Publishing Company, 2000), 51.

Socratic philosophy because it did not show an actual intent to openly disobey the Athenian laws of the time.<sup>3</sup> The conditional acquittal that Socrates proposes would not have been legal at the time, so Socrates was most likely being inflammatory in this instance rather than legitimately philosophical. The *Apology* passage, therefore, does not contradict the *Crito* because it probably was not meant to be taken as a legitimate threat of disobedience to the Athenian legal system. The dismissal of the *Apology* passage, however, does not mean that one can dismiss the question of civil disobedience in Socrates' philosophy. Rather, it clears the debate considerably. If the *Apology* passage is shown to have been made in defiance of an illegal court procedure, then the *Apology* passage cannot be taken as evidence of Socratic support of civil disobedience. Such evidence, coupled with the obedience to law proscribed in the *Crito*, allows the supposed contradiction between the two dialogues to be dismissed.

In order to analyze the *Apology* and the *Crito* in relation to each other, one must first make an assumption that has not been proven to any significant extent. One must assume that the Socrates character within the two dialogues is both consistent and trustworthy in espousing philosophical arguments. By accepting this assumption, one can evaluate the inconsistencies within the two Socratic dialogues as if they were a complete, consistent whole. Following such an assumption, one can examine the philosophy in the *Apology* in relation to that within the *Crito* with logical bearing.

In order to understand the seeming contradiction between the two works, one must understand the passages on which it is based. The defiance passage of the *Apology*, when interpreted literally, does indeed seem to contradict the obedience to the state espoused in the

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<sup>3</sup> Thomas C. Brickhouse and Nicholas D. Smith, *Plato's Socrates* (Oxford: Oxford University Press, 1994), 145-146.

*Crito*. In the passage, Socrates declares that, if given a choice between obeying the hypothetical court mandate and the god's orders (practicing philosophy), he would choose the latter option. This statement has been cited as evidence for Socrates' supposed support of civil disobedience against the state. A closer examination of the context of the quote, however, yields a very different conclusion. In their work *Plato's Socrates*, Thomas C. Brickhouse and Nicholas D. Smith argue that the laws of Athens would not have legally allowed for the conditional acquittal that Socrates proposes; furthermore, they suggest that Socrates would probably have known about the legality of such an action when he included the hypothetical in his defense.<sup>4</sup> If one supposes then, that Socrates understood the illegal nature of the conditional acquittal, the motivation behind this defense strategy then comes into question. If he gave the speech in the passage knowing full well of the hypothetical acquittal's illegality, then one may assume that he gave the speech as an incendiary to show his contempt for those bringing charges against him. By inflammatorily suggesting an illegal outcome to the trial, Socrates may have hoped to call into question the truthfulness of the charges against him and to indirectly suggest that his accusers were corrupt enough to hold unlawful court proceedings. If this argument were recognized as a provocation, then one can no longer argue that the passage of the *Apology* espouses civil disobedience in the face of the laws (however unjust) of the state. Rather, the passage could then be understood to represent an act of inflammatory defiance towards illegal, illegitimate court mandates.

Although qualifying the *Apology* passage seems to solve the problem inherent in the supposed contradiction between the *Apology* and the *Crito*, it brings another problem. As

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<sup>4</sup> Brickhouse and Smith, *Plato's Socrates*, 145-146.

shown by Richard Kraut in his work *Socrates and the State*, one must still consider the question of how Socrates would react to a legally binding law against philosophy<sup>5</sup>. Brickhouse and Smith argue that Socrates would not feel the need to follow such a law because it would come in conflict with the older Athenian law that barred against impiety<sup>6</sup>. However, improbable as it may seem, one must still consider whether Socrates would obey a law prohibiting the practice of philosophy if the law against impiety were repealed. His argument in the *Crito* seems to disallow for any possibility of civil disobedience in the face of an upstanding law, even if it were unjust. In the *Crito* passage, Socrates claims that, when faced with a law that one disagrees with, one has three possible responses: first, one can dispute the law and attempt to get it repealed; second, one can leave the city rather than break the law; third, one can stay in the city and be forced to obey the law. Taking this passage into consideration, one must conclude that, if faced with a law that prohibited practicing philosophy, Socrates would choose to attempt to get the law repealed. If he failed, then he would then stay in Athens and be forced to obey it. He would probably not choose to leave the city because he clearly discounts exile from Athens as an option in his choice of counter-penalties near the end of the *Apology* (37c-e)<sup>7</sup>.

If a reader ceases to classify the *Apology* passage as a statement supporting civil disobedience, then he or she is forced to accept Socrates' professed subordination to the Athens' laws. Such an acceptance, however, may come with unintended consequences. After ceding the point, one could argue that Socrates supported obedience to the state as an

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<sup>5</sup> Richard Kraut, *Socrates and the State* (Princeton: Princeton University Press, 1984), 16.

<sup>6</sup> Brickhouse and Smith, *Plato's Socrates*, 147.

<sup>7</sup> Plato, *Apology*, 39.

essential quality for the just person; he or she would be right. Nevertheless, it does not follow that Plato meant for Socrates to espouse injustice in favor of the state. One must remember that Socrates spoke of the Athenian state in the *Crito* passage, a state that, while imperfect, was, in his mind, more just and legitimate than a state based on tyranny without moral guidance. The civil obedience that he spoke of addressed not how one should respond to unjust tyranny, but how one should manage one's autonomy in the face of restrictive laws. His argument, then, would have applied more to a speeding driver in suburban America than to a resistance fighter in Nazi-controlled France. Socrates saw society's laws as a nurturing force in its citizens' lives, similar to a parent's gentle care for his or her children. To him, disobedience meant more than a disruptive affront; it meant espousing a behavior that, taken to the absolute, negated the possibility of a government's continual existence. The Socrates of the *Apology* and the *Crito* did not argue against autonomy, but against its intentionally destructive abuse in society.

#### Bibliography

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