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*Volume XIX Issue 3*

*Autumn 1998*

# HISTORY OF POLITICAL THOUGHT



IMPRINT ACADEMIC

*Volume XIX Issue 3*

*Autumn 1998*

## HISTORY OF POLITICAL THOUGHT

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## ARGUMENT AND AGREEMENT IN PLATO'S *CRITO*

Melissa Lane\*

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**Abstract:** It is argued that the *Crito* hinges on the relation between words and deeds. Socrates sets out a standard of agreement reached through persuasive argument or words. In this case the argument is deliberative: a general shared principle (do not do wrong) is juxtaposed to a particular minor premise (this act of escape is wrong) to reach a conclusion (do not escape). *Crito* balks at the perception of the minor premise. At this juncture the Laws of Athens are introduced, who set out a standard of agreement established instead by deeds. Both standards apply to Socrates, constituting the drama of the dialogue.

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... suppose someone arrested you, or some other philosopher, and threw you into gaol, claiming you were doing injustice when you were doing none; you know you'd have no idea what to do with yourself; you'd be dizzy, you'd gape, without a word to say; and when you came up in court, though your accuser might be a rascal not accuser, and you'd be put to death if he wanted the death penalty for you. Now how can this be wise, Socrates?

Callicles to Socrates in Plato's *Gorgias* (486a-b)<sup>1</sup>

### I

#### Introduction: On Practical Reason

The *Crito* is the sole Platonic dialogue in which Socrates engages in deliberation. I mean this in the Aristotelian sense of deliberating on what to do, which can be parsed as the exercise of bringing general principles to bear on particulars. Elsewhere Socrates' commitment to dialectic remains in the sphere of the determination of general truths in themselves. Such truths may certainly have the gravest implications for action, yet Socrates nowhere else confronts a particular problem of action in their light. Here alone is he depicted in confronting a problem of practical reason: ought he, or ought he not, to take a certain action — i.e. to escape, as urged by *Crito*, from imprisonment and impending execution.

In deliberation words are brought to bear on deeds. The central theme of the *Crito*, I shall argue, is precisely the relation between word and deed, between *logos* and *ergon*. Socrates must reconcile his words and his deeds, both those deeds which the words imply as well as those deeds which have constituted his lifelong dialectical existence in Athens. This theme of *logos* and *ergon* will also

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<sup>1</sup> Plato, *Gorgias*, trans. and notes by Terence Irwin (Oxford, 1979).

allow us to come to grips with a second tension at work in the dialogue, the relation between the speeches of Socrates *in propria persona* and his lengthy personification and impersonation of the Athenian Laws.

One must observe just how alien the context of deliberative demands is to the general stance of Socratic dialectic. In the *Theaetetus* (172d–e) Socrates disparages the time-bound arguments made by advocates in law-courts, comparing them unfavourably to the leisurely and in principle unbounded dialectical search by himself and Theaetetus to define knowledge. In the *Crito*, however, the temporal straits of deliberation are marked from the outset. Crito's coming is to announce his news that the ship's arrival signalling the permissibility of Socrates' execution will be the next day.<sup>2</sup> Such pressures for decision are alien to the dialectical practice which Socrates has loved and lived.

Notwithstanding these differences in context, dialectic still remains relevant to the exercise of deliberative judgment. This is best seen by considering Aristotle's schematization of practical reason.<sup>3</sup> Aristotle identifies the practical syllogism as the structure of deliberation. In the theoretical syllogism, two statements of truth or fact yield a truthful or factual conclusion. 'All humans are mortal; Socrates is a human; therefore Socrates is mortal.' As in this example, the second statement or 'minor premise' of a theoretical syllogism may deal with a particular instance rather than a general truth, but the conclusion is reached deductively and stands as a contemplated truth.

In the practical syllogism, however, minor premises function differently. Here is a paradigmatic case: 'Sweet things are good; this biscuit is a sweet thing; therefore [eats].' The major premise deals with a good (in this case something pleasant) which is connected for the virtuous person, Aristotle believes, with desire.<sup>4</sup> The minor premise deals with a particular, which when grasped in light of the major premise yields action.

<sup>2</sup> Socrates, however, disputes this on the basis of his prophetic dream, in which a woman has told him that the ship will not arrive for two more days.

<sup>3</sup> That there are significant differences between Aristotle and Plato on practical reason is well known. Martha Nussbaum, *The Fragility of Goodness* (Cambridge, 1986), pp. 290–340 and *passim*, highlights Plato's insistence on the commensurability of ethical goods and the invulnerability of ethical goodness in contrast to Aristotle. However, these differences do not bear on the technical account of deliberation — of asking what one ought to do, and in particular if one ought to do Act X. Plato says very little about this — this is the burden of my opening comment about the uniqueness of the deliberation which Socrates and Crito undertake — and I have found Aristotle's insights here to bear well on their predicament.

<sup>4</sup> On the relation between the major premise and the good I am indebted to David Wiggins, 'Deliberation and Practical Reason', in *Essays on Aristotle's Ethics*, ed. A. O. Rorty (Berkeley, Los Angeles and London, 1980), pp. 221–40, at pp. 229–31, although I find his construal of the minor premise in terms of the 'possible' less helpful. The case I discuss, in which deliberation evaluates whether a principle applies to a proposed action, is in my view at least as central as the case of deliberation of ends which most interests Wiggins.

The conclusions of practical reason are normatively and normally<sup>5</sup> such that deliberators, in seeing that an action is the appropriate conclusion, precisely take that action. It is also worth noting that the minor premise in most cases of practical<sup>6</sup> reason is established through some kind of informed perception.<sup>7</sup> That the biscuit is sweet is not an inference or conclusion, or at least it does not function in our conscious mental life as one; it is simply perceived by (known to) us as sweet. It follows also that the identification of the minor premise need not be separated by conscious inference from the conclusion. Identifying a step-by-step syllogistic sequence is in both cases, theoretical and practical, a logical possibility which need not and most often does not have a conscious mental incarnation. (It is prior in nature but not in us, as Aristotle would say.) To know as I do, by habit and experience, that sweet things are good, and to perceive a biscuit before me, is to give me reason immediately to eat it which in the absence of countervailing reasons will lead to just this action.

I shall contend that we see just such a structure of deliberative argument used by Socrates in the first part of the *Crito*.<sup>8</sup> He invokes the results of past dialectical conversations between himself and Crito to constitute the major premise of their deliberation — one should never do wrong, with all its corollaries. He then (as I shall interpret 49e–50a, in my view the crux of the dialogue) invites Crito to perceive the minor premise that to escape would be to do wrong. Crito however fails to admit this premise and so fails to draw the appropriate conclusion from it. It is only at this point in the dialogue, when the project of joint deliberation has foundered on the rock of Crito's obduracy,<sup>9</sup> that Socrates introduces and begins to impersonate the Laws.

The Laws make three main sets of arguments. Their opening arguments about the duties of children and slaves make vivid the idea that one should never do wrong, though in an unSocratic context (50d–51c). Their closing arguments about the absurdity and inutility of an escaped Socrates make vivid the ties which have in fact bound the dialectically arguing Socrates to Athens all the

<sup>5</sup> With the important and controversial exception constituted by cases of *akrasia*; see M.F. Burnyeat, 'Aristotle on Learning to Be Good', and David Wiggins, 'Weakness of Will, Commensurability, and the Objects of Deliberation and Desire', both in *Essays*, ed. Rorty, pp. 69–92 and 241–65 respectively.

<sup>6</sup> Similarly, to some extent, with the perception of Socrates as human; but contrast the more central case of theoretical reason in which 'all humans are mammals; all mammals are mortal; therefore all humans are mortal'.

<sup>7</sup> The role of perception in ethical action has been emphasized in print by a host of recent commentators, among them Michael Woods, 'Intuition and Perception in Aristotle's Ethics', *Oxford Studies in Ancient Philosophy*, 4 (1986), pp. 145–66. It was made vivid to me in person by David Coleman.

<sup>8</sup> In so doing I develop a remark made by the great classical scholar John Adam in the Introduction to his edition, *Plato. Crito* (Bristol, 1990; c.1888), pp. xvii–xviii.

<sup>9</sup> The text leaves nicely open whether this is due to wilful blindness or intellectual incapacity.

while (52e–54d). Holding these two strands together is the Laws' central argument which Hume called the argument from an 'original contract',<sup>10</sup> or the obligations which Socrates has incurred in the course of his life in Athens — 'agreements', as they say, made by deed (51c–52d). It is the relation between these agreements-in-action and the Socratic practice of agreement-in-argument on which the success of deliberation hinges and on which the *Crito* is built.

## II

### The Deliberative Undertaking

Crito's proposal to escape, and not Socrates' decision to remain, is what is made to run the gauntlet of argument. Socrates upon awakening shows himself to be at peace with the decision to stay in prison and meet his fate (43b–c).<sup>11</sup> It is Crito who is proposing a change in that equilibrium, and so it is incumbent on Crito to provide a convincing argument to justify escape.

The test, as Socrates summarizes, is whether they should act rightly or wrongly in effecting his escape, for 'if it appears that we shall be acting unjustly, then we have no need at all to take into account whether we shall have to

<sup>10</sup> Assuming the Laws to speak for Socrates, Hume poured scorn on this building of 'a tory consequence of passive obedience, on a whig foundation of the original contract' (emphasis original); 'Of the original contract', reprinted in *David Hume: Political Essays*, ed. Knud Haakonssen (Cambridge, 1994), pp. 186–201, at p. 201. A consent account of the social contract is also identified in the dialogue without Humean scorn by Michael Walzer, *Obligations: Essays on Disobedience, War, and Citizenship* (Cambridge, MA, 1970), p. 77, and by Alan J. Simmons in his compendious *Moral Principles and Political Obligations* (Princeton, 1979), p. 35, who focuses on tacit consent (but also examines gratitude in the dialogue, p. 160). Those who challenge the consent model of political obligation also enlist the *Crito* on their side: Milton Konvitz, 'Civil Disobedience and the Duty of Fair Play', in S. Hook, *Law and Philosophy* (New York, 1964), pp. 19–28, at p. 21, treats the *Crito* as an argument from fairness, as does George Klosko, *The Principle of Fairness and Political Obligation* (Lanham, MD, 1992).

<sup>11</sup> Remaining in prison appears to be the default position, though it is never specified whether Socrates remains because he has good reasons to do so, or because he is in some way passive or negative in regard to action altogether. (Lindsay Judson helped me to see both alternatives.) In either case some justification may be found by the reader who reflects on the *Apology*, where Socrates argues that it would be irrational to fear death, which is not known to be an evil and may even be a good (*Apology*, 29b). Later he contrasts the known evil of exile with the unknown value of death (*Apology*, 37c). Comparisons with the *Apology* have sometimes been disallowed on grounds that Socrates' implied willingness to disobey an order to stop philosophizing is at odds with his willingness in the *Crito* to submit to the laws; see Darrel D. Colson, 'Crito 51a–c: to what does Socrates owe obedience?', *Phronesis*, 34 (1989), pp. 27–55, who offers his own resolution. I argue below that such counterfactual cases of conflict miss the point of the considerations of word and deed intertwined in Socrates' actual life, and so have no difficulty in using the two texts to illuminate one another.

die if we stay here' (48d).<sup>12</sup> This decisive test of the rightness of escape must supplement proof that escape is also beneficial or advantageous, since otherwise practical deliberation would see no reason to pursue it. Enthused at the outset by the merits of his plan, Crito is more than willing to provide reasons to meet his presumptive burden, though it is not clear that he sees either the burden of proof which he bears or the distinction between the advantageous and the right. He begins grandly, by arguing that as a virtuous and manly (*agathos* and *andreios*) man, Socrates should escape and so benefit his friends and family. According to Crito the advantages of escape include: benefiting Crito by maintaining his friend; benefiting Crito by maintaining his reputation as one who values friends above money, and in general saving Crito and other friends from the shame of being thought cowardly or unmanly; not benefiting Socrates' enemies by gratifying their wish to destroy him; benefiting Socrates' sons by remaining alive to educate them. This, for Crito, is the moral path, defined as not the 'easiest' path, but 'the path a good and courageous man would choose' (45d).<sup>13</sup> His arguments blend together the advantageousness (including the disadvantages to accrue to enemies) and the morality of the plan, a blending reliant on the traditional aristocratic moral code requiring precisely that enemies should be harmed and friends helped.

Thus Crito provides materials of the proper form for his proposal to be considered. He makes a stab at showing that escape would be both advantageous and right, though he is loath to distinguish between these points. But he is reluctant actually to engage in deliberation. In one and the same breath he urges Socrates to 'consider' and 'take counsel', and then insists that 'the time for counsel is past' and that Socrates should 'have already deliberated' (46a).<sup>14</sup> Crito wishes to get the benefit of deliberation — decision — without its rigours. His impatience signals his coming weakness: he who has no respect for deliberation is unlikely to be able to stand up to its demands.

Socrates responds to Crito's urgings thus: 'We must examine . . . whether we should act in this way or not, as not only now but at all times I am the kind of man who listens only to the argument that on reflection seems best to me' (46b). Their joint examination is to consider a practical question: how should they act?

<sup>12</sup> Socrates also intimates that death is not to be feared in rejecting Crito's suggestion that the impending execution proves that the many are capable of inflicting the 'greatest evils' (45d).

<sup>13</sup> The fact that Crito and Socrates clash as to which path a 'good' man should choose, such that both draw on moral values is something which Verity Harte has emphasized in our discussions of the dialogue and in her own writing on it; see Verity Harte, 'Conflicting Values in Plato's *Crito*', *Archiv für die Geschichte der Philosophie*, forthcoming. Compare *Apology*, 28b where Socrates insists that one should look not to the risk of life or death, but 'only' to 'whether what he does is right or wrong, whether he is acting like a good or a bad man' (*Apology*, 28b).

<sup>14</sup> cf. Crito at 48d: 'I think you put that beautifully, Socrates, but see what we should do'.

The announcement of the examination gives rise to some preliminary arguments, concerned with rebutting Crito's concern with what the majority will think, and the majority's view of the evil of death. The deliberation proper is inaugurated at 48e, when Socrates states that 'the origin<sup>15</sup> of our inquiry' lies in principles to which 'we' had agreed in the past. The fundamental principle previously agreed is that one must never commit injustice, i.e. do wrong (*adikein*) willingly.<sup>16</sup> Corollaries are: that wrongdoing is harmful and shameful to the wrongdoer, not to its sufferer; that since one must never do wrong, one must not retaliate<sup>17</sup> against a wrong with a wrong; that injuring or harming people (*kakos poiein*) is no different from wrongdoing.

Now it is worth asking just when, and how, Socrates might be thought to have established such a ban on retaliation. The closest any other extant dialogue comes is not another in which Crito plays a role (those being the *Phaedo*, post-dating the *Crito* dramatically, and the *Euthydemus*) but rather the one from which my epigraph was taken, the *Gorgias*. As that quotation reminds us, this is of course a dialogue which ominously invokes the possibility of Socrates' being tried and executed by the city (cf. *Gorgias*, 521d); and it is one in which Socrates (albeit possibly ironically) claims that any dialectical agreements he is able to establish with Callicles will count as true (*Gorgias*, 487a–e).<sup>18</sup> In the *Gorgias* Socrates brings first Polus and then Callicles to agree that it is worse to do injustice than to suffer it. M.M. Mackenzie<sup>19</sup> has illuminated the structure of Socrates' strategy against Polus (*Gorgias*, 474b3 ff.): it depends on the claim that something is shameful either by bringing pain or harm; doing injustice is shameful, though not painful (for the agent); therefore it must be harmful (for him).

<sup>15</sup> I translate *archē* here as 'origin', to capture its dual meaning of 'beginning' and 'principle', in preference to Grube's 'start'.

<sup>16</sup> The single Greek word meaning 'to do wrong' (*adikein*) is etymologically closely allied with the notion of justice (*dike*). The neologism Plato coins here, '*antadikein*', would eventually become the standard Greek word for retaliation; here, however, as Raphael Woolf persuades me, the meaning of 'doing wrong' must be taken as very much alive within it. The ban is then on 'doing wrong back', resting on a prior notion of what 'doing wrong' is but not on any prior notion of what '*antadikein*' must mean.

<sup>17</sup> Although as noted above, the word *antadikein* is novel here, it picks up a notion which was fundamental to the aristocratic moral code. Concomitant to the principle of helping friends and harming enemies was the principle of returning harm for harm; this was effectively part of the very definition of morality itself. For one account of the importance and iconoclasm of Socrates' move here, see Gregory Vlastos, 'Socrates' Rejection of Retaliation', in G. Vlastos, *Socrates: Ironist and Moral Philosopher* (Cambridge, 1991), pp. 179–99.

<sup>18</sup> Vlastos makes a case for taking this seriously in 'Socrates' Disavowal of Knowledge', *Philosophical Quarterly*, 35 (1985), pp. 1–31.

<sup>19</sup> M.M. Mackenzie (now McCabe), *Plato on Punishment* (Berkeley, 1981), pp. 141–2 and 241–4.

The burden of the argument is to show that doing injustice is harmful (because shameful, but not painful) for the agent. What *counts* as doing injustice, however, is scarcely discussed. This is because the context of the argument is a discussion of *punishment*: the injustice which is contemplated is injustice of the sort which is punishable, and Socrates immediately argues that it would be worse for such an unjust agent *not* to be punished, because punishment would help to reorder his soul. The problem of specifying what counts as injustice is left aside; it is treated as common sense and assimilated to what is legally<sup>20</sup> punishable.

The *Crito*'s ban on retaliation has been criticized for its breadth and unspecificity. How can it be so evident that to do wrong to those who have wronged is bad, especially when 'to do injustice' (*adikein*) and 'to injure/harm' (*kakourgein*, *kakōs poiein*) are expressly assimilated? Surely this risks outlawing punishment altogether — and what basis can it have? If the *Gorgias*' account is in the background, however, there is reason to think that doing harm to others is, because shameful, to do harm to oneself.<sup>21</sup> Moreover, according to the *Gorgias*, punishment counts as doing good to someone and so would escape the ban on non-retaliation. It is worth noticing that Socrates, in the *Crito*, has been cast by the city as a criminal: the city is indeed 'claiming that he was doing injustice when he was doing none' — and he is accepting the death penalty for this.

Socrates, then, in the *Crito* confronts the converse side of the arguments he himself makes in the *Gorgias*. There, he argued that criminals are better off receiving punishments because it will cure them; but he had also argued that it is better to suffer injustice than to do it. Now, in the *Crito*, he is slated to suffer the injustice of the city. But whereas in the *Gorgias*, what it would be to *do* injustice was provided with content by the context of punishment — doing injustice is doing things which would and should be punishable — the central problem of the *Crito* is precisely to determine what would constitute doing injustice for Socrates, by focusing on the question of whether escape would count as injustice. The ban on retaliation, on doing wrong in return, rests on the more fundamental ban on doing wrong at all, and the question Socrates and Crito must deliberate is whether this bars escape.

To deliberate the merits of this proposal he invokes the ban on doing injustice as a major premise: one must never do injustice, equated with doing harm or

<sup>20</sup> Albeit, as Mackenzie, *Plato*, argues, in an ideal legal system.

<sup>21</sup> George Kateb (private communication) urges that injustice is bad for the soul not because it is shameful, but because it disorders the soul. This view seems to capture something profound about Socrates; nonetheless, I have found it difficult to find it explicit textual support in these Socratic dialogues. See however *Laws* (863e ff.), where the Athenian Stranger argues that the tyranny of the emotions — anger, fear, pride, etc. — constitutes injustice in the soul and may also cause injury to another; cf. Mackenzie, *Plato*, pp. 245–7.

wrong.<sup>22</sup> Despite the fact that Crito did not feature in the *Gorgias*, Socrates refers to past conversations so as to suggest that he and Crito have indeed, as befits old friends, agreed to just this principle in the past. Now Socrates urges that Crito must be very careful to ascertain whether he truly holds it, because this must be the basis of their deliberation, and 'there is no common deliberation (*koinē boulē*) between those who hold this view and those who do not' (49d). The importance of this remark cannot be overemphasized.<sup>23</sup> The very possibility of deliberating about what they should do depends on their agreeing to these extreme (in the Athenian context especially) moral claims. They are the starting points, the authors, of deliberation, and they are authoritative for those who agree to them.<sup>24</sup>

### III

#### Agreement in Argument

Crito insists that he does stick to their former opinions on these matters, and that he still agrees. Socrates then asks the next point 'beyond this' (*meta toutō*): 'when one has come to an agreement that is just with someone, should one fulfil it or cheat on it?' When Crito says, 'fulfil it', Socrates says: 'See what follows from this: if we leave here without the city's permission, are we injuring people whom we should least injure? And are we sticking to a just agreement, or not?' (49e–50a).

Now these two points by Socrates have been universally supposed<sup>25</sup> to introduce a new and unrelated theoretical claim: that one should keep just agreements or contracts. Admittedly, if this is to be a new point, it must be seen as coming out of the clear blue when the point at issue has been elaboration of the prohibition on committing injustice. Students of the dialogue have conceded this abruptness because of the magnetic allure of the Laws' speech just over the horizon, so reliant and explicit about the agreement between Socrates and the

<sup>22</sup> This draws the absolute consequence of the comparative claim that it is better (because less shameful) to suffer injustice than to do it (a move also made in the *Gorgias*, e.g. 475e).

<sup>23</sup> I must credit Verity Harte's emphasis on this phrase, which helped me to clarify my own somewhat different understanding of the centrality of deliberation to the *Crito*.

<sup>24</sup> Socrates does not say that they are authoritative *tout court*, for he is, as he always is, concerned with the establishment of agreement in dialectic or (here) practical deliberation. One could say that it is the court of the conversation which is the tribunal of his morality; but this understanding must be tempered by the productive tension between agreement in argument and agreement in action which will shortly be exhibited.

<sup>25</sup> Roslyn Weiss, *Socrates Dissatisfied* (Oxford, 1998), appeared when this essay was already in press; I regret not having been able to engage with the important and in some ways interesting arguments she makes there. Raphael Woolf, acting as commentator for Verity Harte's paper at a symposium at King's College London on 12 February 1997, made a similar argument which he prepared before having heard the version of this paper presented there.

city. Surely the abrupt introduction of 'agreement' made at 49e–50a must be setting the stage for the binding force of contractarian agreement about to be stated by the Laws.

However, up to this point in the dialogue, words for 'agreement' have referred exclusively to agreement in argument. In the context of that preceding argument, the most natural way to read the point about agreement — imagine reading the dialogue for the first time — is roughly 'we must do what we've just agreed, not merely assent to it verbally'. Translated literally: 'whether the things whatever they are that a person agrees with another person, these being just, must they do them or must they deceive [sc. that person?]'.<sup>26</sup>

In invoking the need to keep just agreements Socrates is invoking the need to turn their agreements, his and Crito's, to use as guiding principles of action. He is saying, in effect, shall we do these things we have agreed to be just or shall we deceive one another? Though they haven't yet agreed *what* to do, they can surely agree that having come to an agreement about what is just, they must act upon it and not deceive one another, as Crito is arguably doing if urging Socrates to escape unjustly. This is consistent with the deliberative structure of the dialogue identified above. The agreements which Socrates has invoked as the *archai* of their deliberation must, he now asks Crito to agree, govern their action as well.

It might be objected that Socrates and Crito have not yet in fact come to any agreements about the nature of the just at all; their dialectical agreement or 'major premise' involves only a principle of what it is unjust to do, and one which, at that, looks worryingly tautological (it is unjust to do injustice). But this is surely an agreement about the nature of justice, revealing this by identifying the impermissibility of its opposite. Moreover, it gains content from its proscription of acts (such as harming one's enemy, or seeking revenge) which would be counted as just by most other Greeks.

The objection can be made more plausible, however, by pointing out that, though arguably operating in the domain of justice, they have not yet in fact come to any agreements about what it would be just to do. How can their dialectical agreements be construed as contentful guides to action if they have featured no consideration of specific actions at all?

The answer here, I think, lies in the workings of practical reason identified above by aid of Aristotle. Socrates' invitation to Crito to perceive 'leaving here without the city's permission' as 'harming those whom we should least harm' invites him to see that the proposed action would be to harm, *therefore* to do wrong, *therefore* a premise which when conjoined with the major premise, 'never do wrong', must yield a conclusion against escape. It is in the workings

<sup>26</sup> I must acknowledge the comments and suggestions about translation of Raphael Woolf, Verity Harte, M.M. McCabe, and others present at the King's College London seminar, without burdening them with responsibility for the translation offered here.

of the question itself, the invitation to conceive the action in light of the principle and so to perceive whether or not it instantiates something the principle would ban, in which deliberation can be decisive.

The further question then, 'should we do the things we have agreed, they being just', can be read as a gloss: should we do the things we have agreed (definitionally, by negation) to be just, i.e. avoid injustice, which — as the previous question has put it to Crito to see — must preclude an unjust escape. The deliberative conclusion having been suggested, the implied agreement must now be applied to and put into action. The agreement in question is what I shall call Socratic-agreement: the agreement based on a dialectically affirmed premise, put to work in the process of deliberation.

This is the point at which Crito balks. The crucial juncture of the dialogue is the crucial juncture of the deliberation: the move from a general premise (one must never do injustice) to a minor premise (to do X is to do injustice) and so to the perceived and enacted conclusion (refraining from doing X). This point of transition from the major premise to the minor premise is the point at which Crito becomes obdurate ('I cannot answer your question, Socrates. I do not know'; 50a4–5). He is unable, or unwilling, to apply the general principles governing the deliberation to reach a practical conclusion (escape would be unjust); and this is also almost the end of Socrates' argument *in propria persona*. He is about to lend his voice to the Laws on the one hand, and to putting objections for Crito on the other, letting these two ventriloquizations battle it out.

The difficulty in understanding the role of the Laws in the dialogue, in relation to that of Socrates, begins to manifest itself here. On the one hand, the invocation of the Laws is naturally understood as Socrates' way of helping Crito to grasp the significance of the minor premise, that to escape is to act unjustly. Unless the Laws are read as bolstering and pressing the minor premise, Socrates must be seen as suddenly abandoning the deliberation which he has undertaken so earnestly and with such care. It is, indeed, possible and natural to understand the initial evocation of a question posed by 'the laws and what is common to the city' in precisely this way. As Socrates says on their behalf, they will demand:

Tell me, Socrates, what are you intending to do? Do you not by this action you are attempting intend to destroy us, the laws, and indeed the whole city, for your part?<sup>27</sup> Or do you think it possible for a city not to be destroyed if the verdicts of its courts have no force but are nullified and set at naught by private individuals? (50a8–b5)

That escape would 'destroy' the laws and the city is an entirely apt way to justify the claim that escape would do injustice, or cause harm. It is true that the de-

<sup>27</sup> I quote Grube's translation, substituting 'for your part' as a more literal rendition of *to son meros* than his 'as far as you are concerned'.

struction would be only 'for Socrates' part', and it can be much debated whether the underlying thought is of a domino effect, or expressive-symbolic, or of setting a bad example which might be followed by others. Whatever the imputed mechanism of the destruction, however, the claim that escape would (to some extent, or in some way) destroy the city is exactly the kind of claim eeded to help Crito see that the minor premise of their deliberation obtained.

Put another way, the traditional reading makes the claim about destruction necessarily proleptic of the claims about parenthood and mastery which the full-blown Laws are about to make; the injury 'to those whom we should least injure' refers to those who are more to be revered than parents and masters. But the passage and its special responsibility for the Athenian city can be better understood on my reading as looking not forward but backward: backward to the claim of Socrates in the *Apology* to be the 'gadfly' of Athens, the one whose mission it has been to question Athenian citizens in the public marketplace and to see whether their claims to knowledge, to know how to live, can be maintained. So far, then, what Socrates imagines the Laws saying fits well within, and seeks to further, the notion that escape would harm the city, the judgment which is required to complete the practical deliberation.

The crucial shift comes when Socrates begins to speak, not immediately for the laws, but for Crito, and for an unnamed orator 'on behalf of this law'. The real departure from his own voice lies not in the original evocation of the laws but in the shift to a duel between Crito's imagined objections and the responses of the only now personified Laws. Socrates asks Crito: 'Shall we say in answer, "The city wronged me, and its decision was not right." Shall we say that, or what?' (50c1–2). Crito is so eager to endorse these words put into his mouth that he swears: 'Yes, by Zeus, Socrates, that is our answer' (50c3). The next moves of the Laws impersonate now, not a thought which Socrates is offering to fill out the minor premise (as in 50a–b), but a riposte to Crito's objections and an attempt to persuade him on a different basis. They cease speaking only of harm, as explicating the minor premise would confine them to doing. Instead they begin to offer a significant challenge to the whole procedure of deliberation as the way of determining what is just. They offer, instead of an appeal to argument, an appeal to actions.

#### IV

##### Agreement in Action

The Laws mention at 50c4–6, and then expound from 50d1 ('nevertheless') a conception of an agreement which they consider themselves to have made with Socrates pre-eminently among other Athenian citizens. They begin by stating the case as it applies to 'every Athenian' (51d2). Every Athenian is given the opportunity, on reaching maturity, of leaving the city with his possessions and going to live elsewhere. No law forbids this. But 'we [the Laws] say' that anyone who chooses to stay, having become fully acquainted with the governance

of the city, 'has in fact come to an agreement with us in deed (*ergō*) to do the things we command' (51e3–4). Someone in this position who does not obey what 'we' command, 'we' consider to do injustice (*adikein*, 51e5), in disobeying his parents and educators, and in breaking his agreement.

This is the moment in which readers before and after Hume have identified a social contract doctrine in, and too often simply with, the *Crito*. It is true that the Laws are, insofar as Socrates is according them a voice of their own to reply to Crito's objections, offering just such a doctrine, though their intertwining of it with the arguments about parenthood and education complicates matters. But can this contractarian doctrine be identified with Socrates' own views, or with the dialogue as a whole? There is no simple answer to this question. To appreciate its complexities requires appreciation of the tension between Socratic agreement on the basis of *logoi* and contractarian agreement on the basis of *erga*.

The Laws invoke the familiar Greek distinction in stressing that the agreement to which they refer was made 'by deeds, not by words' (*ergō, all'ou logō*, 52d4–5). Earlier in the dialogue, Socrates had stressed that he has at all times been 'the kind of man who listens only to the argument that on reflection seems best to me' (46b4–6) — whose action is determined exclusively by *logos*. It happens that in this case the two prescriptions coincide. The rejection of escape which Socrates has determined by agreement-in-argument, is established by the Laws on the basis of agreement-by-action.

Few students of the dialogue have clearly identified the standard of agreement-in-argument which I have argued the first part of the dialogue establishes. Nevertheless, it is common for concerns about the dialogue to be raised in terms of counterfactual cases to the standard of agreement-in-action. What if, readers often ask, the Laws had commanded Socrates to do an injustice; is it always true that the contractarian argument must command obedience? These concerns are best understood, in my view, once one has noticed that Socrates does offer in the first part of the dialogue a standard of agreement independent of the Laws. Then discomfort with the dialogue can be cashed out in terms of the possibility that these two differing standards could come apart in counterfactual cases.<sup>28</sup> If the Laws had ordered Socrates to harm others (not merely to suffer harm himself) would not the standard of agreement-in-argument have dictated resistance, even though the standard of agreement-in-action might still demand obedience?

<sup>28</sup> The Laws pointedly suggest that Socrates' own standard of agreement in argument may be distorted in this instance due to the time pressure. They note that their own agreement-in-action with Socrates was reached over seventy years, 'under no pressure of time for deliberation' (52e), whereas the present agreement-in-argument is being conducted under the pressure of time. This suggests a flaw in deliberation (the pressure of time in practical circumstances) which echoes the kind of charges Socrates made against the law court advocates (see above, p. 314) and so has some sway even over him.

Three models of the relation between Socratic-agreement and SC- (social contract-) agreement may be invoked in answer to this question. I will consider each in turn, concluding with the third, which I find the most compelling. Because the first two models are straightforward opposites, an exposition of the first will largely serve to make clear the second as well.

On the first view, the right way to answer the potential civil disobedients would be to say, simply, yes: Socrates and the Laws potentially contradict one another, and this signals that there might be times when Socrates would rightly enjoin disobedience to the city's commands.<sup>29</sup> On this view, the reason Socratic-agreement and SC-agreement are contrasted in the text is precisely to enable readers to distinguish between actions which, in certain cases, Socrates might reject but the Laws require. In other words, the 'tension' of which I have spoken between these two kinds of agreement is to be construed as a potential contradiction. One might draw on the frequent trope of contrast between 'words' and 'deeds' in Greek to support this understanding. Socrates must mean to imply that the authority of *logos*, and its links to justice, trump any countervailing claims about deeds.

One difficulty with this view is that it must set as nought the considerations which the Laws adduce about Socrates in the actual (not counterfactual) case: his exemplary devotion to Athens, his remaining in the city upon acknowledgment of his maturity, his striking refusal ever to travel outside. The simple 'yes' answer must hold these to be merely interesting facts, peculiarities about Socrates which cannot bear on the decisive question of what *logos* tells him to do. A second difficulty is that the distinction between *logos* and *ergon*, while pervasive in Greek, is not always handled as a straightforward opposition.<sup>30</sup> *Logos* may be deceptive: the *Sophist* at one point depicts people who are deceived by 'the appearances in the *logoi*', as opposed to the truth represented in *erga* (*Sophist*, 234c–e); and more importantly for present purposes, *logoi* without realization in *erga* can be portrayed as 'mere words', lacking the solidity and validity conferred by deeds.

In the *Apology* Socrates introduces an account of his patriotic actions thus: 'I will provide for you powerful proofs of this (*megala tekmeria touton*), not

<sup>29</sup> This is essentially the view defended by Richard Kraut, *Socrates and the State* (Princeton, 1984), though he fixes on what he finds to be permissive in the Laws' clause 'persuade or obey'. Kraut's claims have been widely and in my judgment rightly criticized, though his scholarship and care are to be admired; see Clifford Orwin, 'Liberalising the *Crito*', and Kraut's 'Reply to Clifford Orwin's "Liberalising the *Crito*"', both in *Platonic Writings/Platonic Readings*, ed. Charles L. Griswold (New York, 1988), pp. 171–6 and 177–82 respectively.

<sup>30</sup> This point and the references to the *Sophist* and *Apology* which follow I owe to an incisive commentary on a previous draft of this paper by Tania Gergel. My present position differs from hers, as I understand it, in reading the relationship between *logos* and *ergon* as an intended tension rather than in trying to harmonize them.



words (*logous*), but that which you honour, deeds (*erga*)' (32a4). But is Socrates simply being ironic in providing *erga* as 'that which you honour'? Both parts of his comment at 32a4 find later echoes. Socrates himself concludes this part of the *Apology* by reiterating that his proofs have consisted 'not in word but in deed' (*ou logō all' ergō*) (32d1). In the *Crito*, however, the echo is in the mouth of the Laws who claim that they have powerful proofs of Socrates' agreement with them (*megala tekmeria touton*) in the form of Socrates' *erga* (deeds) (51d).

Deeds, not words, seem to be what matter to the jurors and to the Laws. Should we conclude from this, as the first model would suggest, that Socrates' commitment to words will always trump and sometimes oppose any appeal to his deeds? We could on the contrary conclude, on a second and opposite model, that Socrates is sincere in treating deeds as more important and probative than words in the *Apology* and that the Laws are therefore speaking for him too (or at least consonant with his views) in claiming the probative force of his deeds. Must we then choose between an ironic and dialectically committed Socrates for whom words trump deeds, or a sincere and politically committed Socrates for whom deeds trump words?

## V

### Words and Deeds: Socrates and the Laws

The path of reason, it seems to me, lies in a third model: the question of what is trumps cannot be settled apart from consideration of how words and deeds *bear on one another*. This is arguably the heart of the *Crito*. The dialogue shows us a Socrates who has lived his life on the basis of argument, but who has also lived that same life of argument in the context of deeds which have made and kept him a citizen of Athens. He has made agreements of both kinds which are vital to his identity, and the interaction between them cuts both ways. On the one hand, his argumentative commitments about what to do and what not to do must be translated through deliberation into action — this is the crux of 49e as interpreted above. Action must be consonant with the principles which have been adopted to guide it. On the other hand, his contractarian commitments to live in Athens as an Athenian citizen are also a test of the principles to which he claims intellectual allegiance. Should he renege on these commitments and flee to Thessaly, as the Laws remind him, his life of argument will become a laughing stock (53d–e). Words must condition deeds; deeds can also be the test of words.

It happens that on this occasion of his imprisonment the two grounds of agreement are in harmony; and the dialogue itself is stringently factual, not counterfactual, in presentation. The choice is between escape and death, and with death as the default position, it is hard to see further counterfactuals as meaningful. Nor can Socrates' actual life be meaningfully distinguished for the

purposes of deliberation from a life in which he had not been so committed to Athens as he was.

This view implies that concern about counterfactuals<sup>31</sup> in relation to the *Crito* — should he have obeyed if . . . ? would he have obeyed if . . . ? and, by extension, must *we* obey if . . . ? — may be radically misplaced. If words and deeds are to bear on one another they can do so only in conditions of full particularity. From the side of words, deeds can only be reached through what we have seen to be the particularizing process of deliberation in which a principle is brought to bear on *this* act. From the side of deeds, words are also relevant insofar as these particular deeds test the claim of the agent to assert his or her words honestly and without self-contradiction.<sup>32</sup> To ask what this interaction between Socrates' words and Socrates' deeds means for us can only lead us to the kind of self-examination in argument and in action which he displayed. It offers no clear or easy answers.<sup>33</sup>

I have suggested that the central argument of the Laws must be understood as presenting a claim which does in fact apply to Socrates, but which is not cast in the form in which he characteristically requires moral claims to be cast. It cannot be said that the Laws' argument about agreement in action is irrelevant to Socrates, and he does not deny its force. But it is not an argument or a conception of agreement which fits easily into the structure of deliberation which he has identified as his chosen way of resolving moral questions about how to act. One might speculate that the Laws' appeal to history, memory and action cannot easily fit into a deliberative structure so long as that structure is conceived as timeless and universalist. When Socrates asks 'is escape just or unjust', it too easily sounds like a question which must have a timeless and universal answer rooted in the nature of justice. This is of course untrue even of Socratic delib-

<sup>31</sup> See *inter alia* Kraut, *Socrates*; A.D. Woozley, 'Socrates on Disobeying the Law', in *The Philosophy of Socrates: A Collection of Critical Essays*, ed. G. Vlastos (London, 1972), pp. 299–318; Spiro Panagiotou, 'Justified Disobedience in the *Crito*', in *Justice, Law and Method in Plato and Aristotle*, ed. S. Panagiotou (Edmonton, 1987), pp. 35–50. On the other side, David Bostock, 'The Interpretation of Plato's *Crito*', *Phronesis*, 35 (1990), pp. 1–20 argues that various ways to try to avoid making the dialogue demand absolute obedience to all laws fail, while Daniel M. Farrell, 'Illegal Actions, Universal Maxims, and the Duty to Obey the Law: The Case for Civil Authority in the *Crito*', *Political Theory*, 6 (1978), pp. 173–89, argues that the Laws (whom he takes to speak for Socrates) in fact make good arguments for such obedience.

<sup>32</sup> *Akrasia*, of course, raises one set of problems here. Another interesting case has been raised in a metaethical context by Mark Platts: we can make sense of someone who sincerely praises another person's lifesaving efforts in the pool, only to fail herself (perhaps out of cowardice) to make the same efforts when someone else is drowning the next day. See Mark Platts, 'Moral Reality', in *Essays on Moral Realism*, ed. Geoffrey Sayre-McCord (Ithaca and London, 1988), pp. 282–300, at p. 297.

<sup>33</sup> I have learned to focus on Socrates as a unique case in part from Charles H. Kahn, 'Problems in the Argument of Plato's *Crito*', *Apeiron*, 22 (1989), pp. 29–43.

eration as presented here, which necessarily involves focusing on the particular circumstances of who, when and why. Nonetheless it does seem that the accumulated force of deeds does not easily find a home in the strictures about justice and injustice. This may be why the Laws, in confronting Crito with the demands of deeds which overwhelm him as the demands of logos did not, are also confronting Socrates in a way which we will shortly examine further.

Before turning to the end of the dialogue and the Corybants, however, something more must be said about the other arguments which the Laws make. I have focused so far on the arguments from action, or the social contract argument, believing this to be the heart of their case. This case is framed by two other sets of arguments, as noted above. I suggest that the flow of these three sets of arguments is best understood in terms of a gradual movement away from the Socratic deliberation in the context of which they are first invoked, towards a focus on the claims of deeds, and finally an evocation of the interrelationship of words and deeds.

The Laws' opening arguments flow almost seamlessly from Socrates' use of them to bolster the minor premise by considerations about harm, which I identified above as a kind of pre-history of the use of the Laws. Once launched on their duel with Crito, they first claim that Socrates should not injure (or injure back: retaliate against) the Laws and the city because they are due more gratitude and obedience than are parents or masters. These opening arguments are easily seen as rhetorically exaggerated, in that they are parasitic on the ban on any doing of injustice or retaliation to which Crito has already purportedly agreed. But they begin to move Crito towards a consideration of the context of the city and its claims and deeds, which prepares him for the argument about Socrates' deeds soon to follow.

The Laws' closing arguments, on the other hand, after the argument from actions has been made, focus on the uniqueness and particularity of Socrates' life in Athens. In light of the deeds committed and omitted by Socrates in his forsaking of all other cities for the sake of Athens, they measure the effects on his words should he choose to escape. Life in exile would be doubly ridiculous, and empty, for Socrates. It would be empty and ridiculous for Socrates the philosopher, who would not live up to the words he has always professed (e.g. that death is not to be feared); and empty and ridiculous for Socrates the citizen, who in acting on some of those words would betray the deeds which have long committed him to his city.

Too rigid a personification of the Laws risks oversimplifying their contribution to the dialogue. Socrates begins by invoking them in an attempt to bring Crito to see the minor premise of deliberation in a new light. As he moves on, flushed with the role he has assumed, he gives them their own voice, understood as a tenor of speech and a roster of concerns. In speaking for the city they speak for the claims of action, in complex tension with the claims of argument to which he has professed himself committed. The claims of deeds cannot sim-

ply be set in contradiction with those of words, nor can the two be simply or universally reconciled. After all, the relationship between deeds and words is precisely the relationship of drama, and it is only in lived drama that the bearing of words and deeds upon one another may be assessed. A life is ultimately more than the court of the conversation; those conversations are framed by and take place within a context of actions, even though for Socrates those actions can only be judged by the standard of the conversations.

## VI

### Of Exemplarity and Overdetermination

In the eyes of the Laws, Socrates is exemplary among Athenian citizens for the depth and consistency with which he has clung to Athens. He has never left the city except for military service; not only has he in fact never travelled, but no 'desire' to 'know' another city or its laws has ever seized him (52b7-8); he chose not to propose exile as the penalty at his trial although doing so could well have saved his life.

The available justification for Socrates' obedience to the laws is, as it were, overdetermined.<sup>34</sup> He has indeed done the deeds which constitute the agreements on which the Laws rely. At the same time, he has lived the life of devotion to argument. Both forms of agreement have claims on his integrity. As it happens, in this instance in which the city has sentenced him to death, the path of argument (better to suffer harm than to do it; besides death may not be an evil) coincides with the path of action (die as you have lived, a loyal Athenian).

There is, nonetheless, an important asymmetry between the two paths. It is the path of argument alone which Socrates has overtly committed himself to using as his test and standard. As he says to Crito, 'not only now but at all times I am the kind of man who listens only to the argument that on reflection seems best to me' (46b). In the past, such 'listening' has presumably taken the form of determination of beliefs: argument has served as the test for what it is reasonable for him to believe. Now, when deliberation is called for, argument serves also as the test for what it is right to do.<sup>35</sup>

Because the path of argument is the path which Socrates has always committed himself for using as his standard or guide, it is this path along which he invites Crito to consider the latter's proposal of escape. It is only when this path is blocked, as we have seen, by Crito's obduracy, that Socrates turns to an invocation of the Laws in an attempt to use the other path to bring Crito to desist. Why

<sup>34</sup> To know which grounds actually determined his original willingness to stay in prison would amount to ascertaining just what lay behind the default position; this is not something, I think, which Plato ever makes clear.

<sup>35</sup> It must be remembered, however, that many of the beliefs Socrates sought to test in argument had to do with ethics, so that the shift is not so great as might otherwise appear.

should the path appealing to actions be the second choice; is there any sense in which it is a second-best?

I believe that it is. Crito's failure to complete the deliberation with Socrates is a real failure; he has failed to understand Socrates as the latter wishes to be understood. The alternative path, although true enough in its testimony of Socrates' civic commitment, is second-best because it is not the right kind of path to determine action for the reflective person. Deeds without words may be compelling and powerful. They may enter in to the determination of our integrity and our commitments. But they are not a contribution to living the examined life as Socrates has always sought to do. The sense in which the Laws' appeal could be the appeal made by what is 'common' to all Athenians (cf. 50a) is precisely the sense in which it is uncharacteristic — though no less true — of the most uncommon Athenian of them all. The demands of deeds do not do full justice to a life which has elected the demands of words as its guiding force.

This may be the context in which to understand Socrates' final and puzzling words about Corybants.<sup>36</sup> After Crito has conceded that he has 'nothing more to say' against the Laws, Socrates makes the extraordinary comment that these (sc. the words of the Laws) have appeared to him as the Corybants appear to hear the music of their flutes, buzzing in his ears, and making him unable to hear anything else (54d). The Laws' arguments in reminding Socrates of his civic commitments seem to have blotted out his commitment to argument, at least in this moment of exertion to quiet Crito. They ring in Socrates' own ears. Crito has forced him to abandon the path of argument and take his stance, for the sake of his friend and their conversation, on the path of deeds, not words. If the deeds momentarily blot out the force of the *logos*, this is to show us a Socrates whose lifelong commitment to argument has in the shadow of death to be tempered, for reasons of friendship, by an acknowledgement of the equally lifelong force of his actions.<sup>37</sup>

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<sup>36</sup> Myles Burnyeat and Verity Harte have urged on me the importance of this passage, though my understanding of it differs from each of theirs. See now also Miller, 'The Arguments'.

<sup>37</sup> The tenor of these final remarks in particular has been inspired by encounters with Paul Cartledge, George Kateb, Alexander Nehamas, Josh Ober and Malcolm Schofield in the course of the 1997 Cambridge seminar series 'Democracy and its Critics, ancient and modern'. I owe much also to exchanges with Richard Bellamy, Myles Burnyeat, Verity Harte and Jeremy Waldron. I benefited from Raphael Woolf and Tania Gergel as commentators as well as from the other participants at the King's College London conference on the *Crito* convened by M.M. McCabe, and from participants in the 1996 Political Thought Conference at New College, Oxford, and in the 1996 Political Theory seminar of the University of Hull, where earlier versions of this paper were read. I dedicate this article to my great-uncle, Max Kargman, in celebration of his Socratic words and deeds.