

## THE STRUCTURE OF THE LAWS' SPEECH IN PLATO'S *CRITO*

The argument attributed to the Laws of Athens at *Crito* 50 a ff. relies on three main propositions, firstly that disobedience to law harms persons, secondly that the relationship between citizen and state is analogous to that between child and parent, and thirdly that the citizen makes a tacit compact to obey the laws. The connection between these three is not entirely clear and I shall consider how the first proposition is related to the second, and then how the second is related to the third. Both these problems, which are important for the assessment of Plato's conclusions, appear in obscurities in the structure of the speech of the Laws. A further question is whether Plato envisages any exceptions to his apparent conclusion that the law must always be obeyed. What I would like to do here is to dispose of one commonly accepted affirmative answer, namely that Plato expressly provides that the law is to be obeyed only if its commands are morally just. As an alternative answer I shall detect yet another structural obscurity, an unacknowledged dilemma immediately preceding the speech of the Laws and reflected in the speech itself, which shows that the obligation to obey is not absolute.

Plato sees the relationship of citizen to state as analogous to that of child to parent. He also offers the basic principle that disobedience to law is harming persons. Before examining the way in which these two views are connected, let us first briefly consider what is meant by the claim that law-breaking is harming persons.

### I

The importance of this claim in Plato's argument can hardly be overestimated, for this is the route he takes from the sphere of Socratic ethics to the analysis of political obligation. The ethical principle that, since harming persons is wrongdoing, one should therefore never harm persons even in retaliation, 49 c-d, is applied to a political issue: to break the law would be to harm persons, 50 a. In order to show that Socrates ought not to break the law by escaping from prison, Plato needs to show that harm would be done and that it would be done to persons. This second requirement shapes the manner in which the ensuing argument is presented, for the 'Laws and the Commonwealth' are personified and put their case in the address which Socrates imagines them making to him.<sup>1</sup> But Plato does not here undertake any systematic analysis which might support the personification. Rather he implies its validity by a selection of personal relationships which he uses to *illustrate* the one which exists between citizen and state. The state is like a parent or a master and the citizen like a child or a slave, 50 e; the citizen makes an agreement with the state acknowledging that he will 'persuade or obey' (51 e) — and it is persons who enter into agreements with each other.

<sup>1</sup> This can hardly be the only reason; Plato elsewhere personifies without such a motive, and in *Crito* it has often been felt that the personification lends appropriate

solemnity to the claim advanced in the argument. Nevertheless it does contribute to the concept of citizenship as a personal tie.

The filial and the contractual aspects of the civil bond are persuasively developed and form the substance of the necessary characterization of that bond as personal, but nowhere does Plato explicitly avow this as his aim. Yet his assimilation of the relationship between citizen and state to a relationship between persons with the corollary that one's behaviour towards the state is subject to the same moral values as one would use in dealing with persons is on the face of it plausible at the very least. For one may readily argue that what is most valuable in life is tied up with membership of a moral community; if the legal system which supports that society is weakened, then to that degree the people who are members of the society are harmed.<sup>2</sup>

It is not sufficient, however, merely to show a worthwhile sense in which damage to the laws may be understood as harm to persons. Plato must also show how actual damage would be done by Socrates' escape, if effected, for unless actual damage would be done, it is hard to see how persons would be harmed. The account given is that the one single act of law-breaking, Socrates' escape, does harm to the state and the laws on the ground that no state can survive widespread disregard by individuals for legal decisions, and that any individual who knows this and sets a legal decision at naught is destroying the state for his part (50 a-b). This last qualification (*τὸ σὸν μέρος*, 50 b, 54 c, cf. *καθ' ὅσον δύνασθαι*, 51 a) indicates that it is not large scale damage which is envisaged. But neither is it purely a matter of principle without regard to consequences, for some real harm will have been done to the state (*κακὰ ἐργασάμενος . . . πατρίδα καὶ ἡμᾶς*, 54 c), and indeed without some real harm the connection with the basic ethical doctrine will fail.<sup>3</sup> The crucial consideration here is that in the relatively small and close-knit communities which are Plato's concern the contribution of each individual to the welfare of the whole might reasonably be regarded as having a more practical effect than in a vast, modern state. It was a well-established conviction that the prosperity of a state depends on general obedience to law on the part of the citizens,<sup>4</sup> and the claim was made that one law-breaker could have a devastating effect on the security of the whole.<sup>5</sup> Plato holds a similar position in the *Laws*, without any rhetorical exaggeration such as there is perhaps in the *Crito*: a man who skips guard duty is to be reviled as betraying the constitution for his part, *ὀνειδῆ . . . ἐχέτω τὴν πολιτείαν ὡς προδοῦς τὸ ἑαυτοῦ μέρος* (762 c); and a man who wounds another in so doing *harms* the state by rendering him in-

<sup>2</sup> cf. A. Barker, *Phronesis* 22 (1977), 13-28 especially p. 27.

<sup>3</sup> For the criticism of the argument as failing because one act of law-breaking alone will not have detrimental effect, see A. D. Woozley, in *Socrates*, ed. G. Vlastos (Macmillan, 1972), pp. 299-318. Barker, art. cit. 25-6, argues that to harm something is to impair its *ἀρετή*, this being defined in terms of its function cf. *Rep.* 353 b ff. Hence one act of disobedience, even without further consequences, prevents the laws from fulfilling their function in so far as it in itself constitutes a breach in their performance, and accordingly is harm done to them. This view, I think, does not sufficiently distinguish capacity from performance: harm will be done to the laws as regulators of

society 'if Socrates' escape would impair their capacity to do this' p. 26; but then 'the laws will have been prevented from fulfilling their function as regulators of social behaviour' p. 26. However, the concept of harm as impaired capacity becomes insignificant unless it implies that capacity for *further* action is impaired.

<sup>4</sup> e.g. Xenophon, *Mem.* 4.4.15: πόλις ἐν ᾗ μάλιστα οἱ πολῖται τοῖς νόμοις πείθονται ἐν εἰρήνῃ τε ἀριστα διαίγει καὶ ἐν πολέμῳ ἀνυπόστατος ἐστιν.

<sup>5</sup> [Andocides] 4.19. 'I believe obedience to government and laws to be security for everyone; whoever sets this at naught destroys the state's greatest protection' (*τὴν μεγίστην φυλακὴν ἀνῆρκε τῆς πόλεως*.)

capable of military service, and has to do double service himself instead, ὅσα . . . τρώσας τινὰ μὴ μόνον βλάβη τὸν παθόντα ἀλλὰ καὶ τὴν πόλιν, ποιήσας ἀδύνατον τῇ πατρίδι πρὸς πολεμίους βοηθεῖν, τοῦτον . . . ἐκτίνῃ καὶ τῇ πόλει τὴν βλάβην (878 c). This last example shows particularly clearly Plato's awareness of the actual impact of the individual contribution, and the Athens of the *Crito*, although not the Cretan city of the *Laws*, is closer to it in scale than to a modern state. Implied in these passages is a view of the prosperity of the state as a product of the individual contributions of its members who are few enough for their particular efforts to count. If obedience to the laws is significantly similar to military service (and Plato certainly implies that in some respects it is: οὐδὲ λειπτέον τὴν τάξιν, ἀλλὰ καὶ ἐν πολέμῳ καὶ ἐν δικαστηρίῳ καὶ πανταχοῦ ποιητέον ἂν κελεύῃ ἡ πόλις, 51 b–c) then Socrates' escape may be regarded as actual harm; if universalized, such behaviour would destroy the state; hence such behaviour by one individual may be called an attempt to destroy the state for his part.<sup>6</sup>

But — and this is the obscurity — in the preliminary affirmation that one must not harm persons Socrates particularly stressed that one should not do so even in retaliation (49 c–d). Now, after the *Laws* have declared that an attempt to escape execution would be an attempt to harm the state, Socrates considers a possible objection, namely that he has been wronged by the state in that he has been condemned undeservedly (50 c). The implication is that he would therefore be justified in escaping, and to counter this plea special reasons are put forward explaining why he is not entitled to retaliate in this way. But the initial insistence that harm done in retaliation is unjustifiable should be sufficient on its own to refute the objection, and the special reasons, however interesting they are, might be thought to be irrelevant.<sup>7</sup>

## II

This criticism would hold if it had already been established at this stage both that escape would harm the state and that relations with the state are personal. But in fact only the first point has been dealt with, and the personal character of the social bond is still to be developed and is in fact expounded in reply to the proposed objection. The citizen may not retaliate because of an imbalance of rights inherent in his standing *vis-à-vis* the state, which is that of a child towards

<sup>6</sup> In this account I have dealt briefly with some very complex issues and concentrated only on the one point of actual but limited harm neglected in other versions. Plato's view of the state in the *Crito* seems to be an extension of the well-known application to political change of the Hesiodic dictum 'many a little makes a mickle' (*Erga* 361). Plato warns of the cumulative effect of minor educational changes *Rep* 424 b–d, cf. *Laws* 797 a–c; Demosthenes, 19.228, says that a gradual stream of failures to put public interest before private rises to become harm to the state; Aristotle, *Pol.* 1307<sup>b</sup>30–9, compares minor breaches of a constitution to a little expense often repeated which destroys (*ἀναίρει*) wealth: 'You do not notice

the expense because it does not occur in bulk . . . The whole is not little, although it is composed of littles' (a paraphrase of Sir Ernest Barker's translation.) Similarly the state here might be conceived as a whole composed of many, but not too many, littles.

<sup>7</sup> The problematic failure to reaffirm the initial contention that one should not do wrong even in retaliation is noted by A. Gomme, *Greece & Rome* 5 (1958), 46. The rebuttal of this objection is seen as the key to Socrates' attitude by R. Segal, *Gymnasium* 28 (1971), 437–41: Socrates accepts injustice in order to maintain the authority of the laws (not apparently, because he is obliged to).

parent or of a slave towards master, and because he has tacitly agreed with the state to obey its commands. Only when these points have been dealt with at some length is the personal nature of the state apparent, so that the objection could not have been dismissed any sooner. But what is surprising and confusing is that the particular type of personal relationship in terms of which political obligation is described does not invite us to see that law-breaking is morally unjustified simply on the Socratic grounds that persons would thereby be harmed, but also because the persons concerned are specially privileged; 'it is *impious* to use force against father or mother and still more so against one's country' (51 c). As the problem has it when initially posed: 'If we leave without persuading the state, will we harm someone, and those in fact *whom we least ought?*' The extra wrong involved in harming parents is not based on the Socratic propositions hitherto established, and the source of this 'ought' is taken for granted. The hard things to show are, of course, that one should not offer harm in retaliation and that political obligation is significantly personal, and Plato may be excused for appealing without proof to a universal sentiment that harming parents is worse than harming others, especially when he thereby captures something of a man's respect for legitimate authority and of his love for his country. One would like to see different levels of argument here, with the filial analogy explaining how a citizen relates to his state and, at a more fundamental level, the concept of law-breaking as harm done to the state explaining what happens if the filial relationship is abused and thereby establishing the ultimate moral backing for obedience to law.<sup>8</sup> But the argument is in fact not so neatly structured; we learn that it is wrong to retaliate against the state not because ultimately to do so would be to harm someone, but because it would be an outrage against someone most deeply revered. We expect that what is essential to the citizen-state connection is that both are to be regarded as persons, that the crucial feature is what they have in common, whereas what in fact we are offered is a personal tie in which the essential aspect is the *different* status of the persons concerned.<sup>9</sup>

We should observe therefore that one of the ways in which Plato develops the personal nature of the civil bond is by means of a relationship in which there is an additional source of the obligation to obey. This by no means invalidates his argument, but it should make us recognize that the principle that persons are never to be harmed is not a unique ground for discounting law-breaking and that it is only one among possibly many ways which he might have chosen to establish a connection between Socratic ethics and obedience to law. The imbalance of rights inherent in a filial relationship with the state is also problematic in connection with the second basic pattern which Plato uses to refute the objection of 50 c, and also implicitly to establish the personal character of the state, namely the citizen's tacit agreement to persuade or obey. This problem is what I have called the second obscurity in the structure of Plato's argument, and it arises because

<sup>8</sup> The subordination of filial and contractual obligation to the fundamental obligation not to harm the state is developed by Woosley, *op. cit.*

<sup>9</sup> If the citizen's relationship to the state is an *instance* of a person-to-person relationship then retaliation is excluded because of the fundamental principle that

one must never do harm. If however it is *analogous* to certain person-to-person relationships which exhibit a structural imbalance with respect to rights then retaliation is excluded because of a similar imbalance. Plato seems to incorporate both views.

the two patterns appear to be quite different: a child does not make an agreement to obey its parent, nor does a citizen's agreement simply grow on him. But Plato sees a close connection between them, for he introduces the filial pattern as if it were part of the agreement. The Laws counter the objection of 50 c by answering: 'Was this our agreement, or was it not that you should abide by the decisions of the state courts? Do not be surprised . . . tell us, what charge do you bring against us that you try to destroy us? Are you not our child etc?' (50 c-d). The first step in demonstrating the nature of the agreement is to establish the parent-child pattern, and this is indeed surprising.

The precise connection which Plato sees between the two is worth considering. He is not saying that filial obligation exists whether the citizen likes it or not, and the citizen agrees to recognize that this is the case and to accept a continuation of this status henceforward in his adult life. Nor is the point of the parent analogy so much that the citizen owes a debt of *gratitude* to his native state and ought to repay his debt even to his own harm — though there is a hint of this at 51 c-d<sup>10</sup>. A child's obligation to obey its parents might be analysed as a debt of gratitude for benefits received, but a slave's obligation to obey his master cannot be so grounded. Yet Plato sees the citizen's situation as comparable to that of a slave as well as a child, and the state has a role as master as well as father. One might of course, through gratitude, adopt a status of servitude to law, but that would simply show that servile status, with an imbalance of rights, exists independently of gratitude. It is rather the case that the main stress goes on the fact that the citizen, being dependent for his birth, nature, and education on the state, *belongs* to it, being both its offspring and slave: *ἡμέτερος ἦσθα καὶ ἔκγονος καὶ δοῦλος, αὐτός τε καὶ οἱ σοὶ πρόγονοι* (50 e). Since the Laws immediately go on to conclude that Socrates has only unequal rights because of this dependence, we should take the point to be that there is a common factor of belonging in the position of child, slave, and citizen, and in all three cases dependence justifies submission, there being a quite proper imbalance of rights (cf. 50 e). This imbalance is what Plato sees to be subordinate to the agreement and the effect of this arrangement seems to be not just to indicate that the agreement is the major aspect of the political relationship, but to express the profound and unforced commitment which the citizen makes in entering into it. The overwhelming pressure on him to obey because of his agreement derives in large measure from the disparity between the parties. A compact made with a parent is a more solemn affair than one made with someone not so related, and a compact made with one's country is all the more binding because of the awesome superiority of the one party. An alien is acutely aware of his self imposed obligation to obey the laws of a state in which he takes up residence; how much more so should it be with one whose adopted land is his native land.

Now we are in a position to see the importance of the parent—state analogy

<sup>10</sup> This argument is generally believed to derive the obligation to obey from a debt of gratitude, and indeed at *Laws* 717 b-d Plato insists that children owe parents *τροφεῖα* and includes submission to their anger as part of the repayment. Yet at 690 a (cf. 917 a), one of the 'titles to rule' is the title of parents to control children, based on the superiority of the elder, and nowhere in the

*Laws* is the citizen's obligation to obey law reduced to a debt of gratitude. There is a tendency among commentators to play down the master-slave analogy in this passage: e.g. G. Vlastos, *Yale Review* 63 (1974) 517-34 on p. 520 translates *δοῦλος* (50 e), as 'servant' and omits the analogy in his discussion.

in both points of the argument where obscurity has been found. The relationship between citizen and state is so subtle and complex as to elude any simple characterization. It is like a person-to-person relationship but at the same time a special form involving filial status which carries with it extra obligations. It is like an agreement and binds as a promise binds, yet at the same time it is an agreement with additional solemnity derived from the status of the contractors. Plato moves from the Socratic principle that injustice harms the agent to establish that law-breaking harms the state, and next seeks to suggest the personal nature of the state by the use of filial and contractual obligation, but in so doing he uncovers additional, genuine aspects of the relationship which are not reducible to the basic principle but which he turns back and incorporates in his initial statement of Socrates' problem. For Socrates represents the Laws as answering two questions: 'Will we be harming those whom we least ought?' and 'Will we be abiding by our just agreement?' (50 a). It has been seen already that this 'least ought' has no foundation in the Socratic tenets affirmed as the premise of the argument. Likewise the obligation to keep one's promise is not reduced to an obligation not to harm persons, but is left unjustified as something self-evident (49 e). The intrusive presence of the agreement in the initial statement is perhaps partly to be explained by the maximum importance for Socrates of consistency to his philosophic commitment,<sup>11</sup> but above all it testifies to the inescapable priority with which the parent-state analogy endows the citizen's compact. Thus it appears that the compact is given a double role in the argument, serving both in a subordinate capacity as an aid to establishing the personal character of relations with the state, and also in a co-ordinate position, the obligation to keep one's promise being initially presented as parallel with the obligation not to harm persons. The structural obscurities of the presentation are witness to the formidable complexity of the material, and, once uncovered, to Plato's skill in suggesting so much of this within a narrow compass and a very accessible argument.

### III

The third problem with which I want to deal concerns the implications of the speech of the Laws for the responsibility of a subject who carries out the immoral orders of his government. Socrates at *Apology* 29 d is himself offered as the prime example of one prepared to obey a divine command rather than the state. Strictly speaking it is not necessary to see a principle of civil disobedience here;<sup>12</sup> but clearly it is important for the understanding of Plato's political thought to consider whether he is in the *Crito* arguing that one should not in any circumstances disobey the state. On the face of it this is what he does argue; what I

<sup>11</sup> Cf. the elaboration of Socratic heroism in the *Crito* by N. A. Greenberg, HSCPh. 70 (1965), 45–82. Greenberg argues brilliantly for the special binding force on Socrates of the commitment involved in his trial and the way he chose to conduct it. But surely Greenberg underestimates the force of the political argument in suggesting that it is shallow to explain Socrates' motives for choosing death by reference to his obedience to the laws. It is meant to be taken seriously and the influence of Socrates' commitment

to heroic values is reflected in the confusion of levels of obligation on which the compact is operative.

<sup>12</sup> None of the three possible cases of civil disobedience by Socrates in the *Apology* is certain: the Thirty may not be a lawful government (32 c–d); in the Arginousae trial Socrates stands *for* law, *μετὰ τοῦ νόμου* (32 b–c); and at 28 d – 29 d Socrates is concerned to show that he will not through fear of death abandon a post to which he has been appointed by his proper superiors *whether*

wish to do is to reject one answer which occurs frequently enough to claim the status of received opinion,<sup>13</sup> and more tentatively to offer an alternative.

Plato, it is said, is not arguing for absolute obedience to the state because he offers an explicit safeguard against obedience where that involves immorality: one is bound to keep one's agreements provided that they are just (49 e – 50 a), a just agreement being one to do only what is morally right.

This answer seems to me to be based on a misunderstanding. An agreement may be called 'just' by virtue of the moral value of what one agrees to do, or because of the conditions under which the agreement is made. The former interpretation appears to suit the first formulation: *πότερον ἢ ἄν τις ὁμολογήσῃ τῷ δίκαια ὄντα ποιητέον ἢ ἐξαπατητέον*; (49 e). Here it is most naturally the *acts* agreed to that are just. But the second formulation is less clear: *καὶ ἐμμένομεν οἷς ὡμολογήσαμεν δικαίους οὖσω ἢ οὐ*; (50 a). Here it is rather what we are to *abide by* which is just, i.e. the agreement rather than any acts which might make up the content of the agreement. The third formulation is still indecisive: 'You are breaking your agreement although you were not coerced or tricked into it or compelled to decide on the spur of the moment, but had seventy years in which to leave if we did not please you or you thought that the agreement was not just,' *εἰ μὴ ἡρέσκομεν ἡμεῖς μηδὲ δίκαιαι ἐφαίνοντο αἱ ὁμολογίαι εἶναι*, (52 e). In each case the expression used is ambiguous and could be taken either way without strain, so that we must look to the context. But the context leaves no doubt as to the proper interpretation. Since the agreement in question is a tacit one, it is crucial that its *fairness* be established, that the one party should admit that he has not been tricked or coerced by the other and that he should acknowledge that the claim to have the agreement honoured is a fair claim. Indeed, an important feature of the account of filial obligation which leads up to the agreement is to show that the unequal relationship of citizen and state is not unfair to the citizen. When the agreement is described it is stressed that there is no coercion and that before he decides the citizen can see the way the state is run, 51 d–e. Throughout the Laws' speech the fairness of the agreement itself is explored at length; it is natural therefore to understand the 'justice' of the agreement as referring to the form and circumstances of the agreement and not to the moral value of any part of its content, a matter which is not to the point in this context.

There are passages in the Attic orators and elsewhere in Plato which support the suggested interpretation. The feature of the conditions under which an agreement is made which will most obviously determine whether it is *δίκαιος* is its legality, i.e. if it is made *κατὰ τοὺς νόμους δικαίως*.<sup>14</sup> So Hypereides<sup>15</sup> argues that the vendor's failure to specify in the contract of sale debts attached to a business absolves the purchaser from the obligation of paying the debts. He accepts the basic principle that agreements are binding, but limits it to just

men or gods; he is not grading his obligations. All the jury can do is condemn him or acquit him. In either case he will continue his service to the god at whatever price (30 b–c). Nevertheless, although acquittal on condition that Socrates give up philosophy may not count as a proper directive from a duly constituted authority, Plato's phrasing suggests that a conflict of obligations and an order of priority is recognized: *ὦ ἄνδρες*

*Ἀθηναῖοι . . . πείσομαι δὲ μᾶλλον τῷ θεῷ ἢ ὑμῖν* (29 d).

<sup>13</sup> Most fully worked out by F. C. Wade, *Review of Metaphysics* 25 (1971), 311–25; cf. R. E. Allen, *Journal of Philosophy* 69 (1972), 557–67, and G. Young, *Phronesis* 19 (1974), 1–29.

<sup>14</sup> Demosthenes 44.7 The expression is used of the making of a valid adoption.

<sup>15</sup> 4.10 ff.

agreements: ὁ νόμος λέγει, ὅσα ἂν ἕτερος ἐτέρῳ ὁμολογήσῃ κύρια εἶναι· τὰ γε δίκαια, ὧ βέλτιστε· τὰ δὲ μὴ τοῦναντίον ἀπαγορεύει μὴ κύρια εἶναι. His ensuing argument is designed to show that the agreement in question is not just because of the vendor's incomplete and misleading description of the debts, which is contrary to the law forbidding falsehood in the market. He refers to similar legislation enjoining publication of the physical disabilities of slaves for sale; to legislation concerning betrothal: ἐγγύαι are not δίκαιαι if the true identity of the woman betrothed is concealed; and to wills: διαθήκαι are not δίκαιαι if made by men rendered incompetent by reason of age or sickness or insanity, or under the influence of a woman, or coerced by bonds or constraint. Now in Socrates' case the legality of the agreement is not in question, (for the agreement is tacit, and in any case a law legalizing it would itself be a party to the agreement,) but there is a similar concern with circumstances and deception and coercion. Plato's own legislation for contracts allows for agreements to be nullified on three counts – illegality of the action agreed to, coercion, and accidental non-fulfilment; the coercion is expressly qualified as unjust: ἂν . . . τῶς ὑπὸ ἀδίκου βιασθεῖς ἀνάγκης ὁμολογήσῃ.<sup>16</sup> Coercion as a ground of injustice in agreements comes up again at *Symp.* 196 c: Agathon maintains that Eros is not unjust in that he does not use force, because everyone willingly submits to his service and the laws declare that willing agreements are just: ἂ δ' ἂν ἐκῶν ἐκόντι ὁμολογήσῃ, φασὶν οἱ πόλεως βασιλῆς νόμοι δίκαια εἶναι.<sup>17</sup>

These examples of δίκαιος used of the making of an agreement rather than its content are sufficient to show that, although no doubt in the *Crito* Plato might be offering a proviso to exclude obedience to an immoral command of the state, he could readily be understood to be referring to the circumstances attending the making of the compact. The decisive factor is the context, and in this context Plato wishes to establish that Socrates has entered into an agreement which, though it is not explicit and formal, has nevertheless been freely made with eyes open and after due consideration of all the relevant facts.<sup>18</sup>

*Crito* 49 e – 50 a cannot therefore be used to reconcile the dialogue's doctrine of obedience with the principle of civil disobedience. Plato does not, however,

<sup>16</sup> *Laws* 920 d.

<sup>17</sup> Passages are collected and discussed by F. Pringsheim, *The Greek Law of Sale*, (Weimar, 1950), pp. 35 ff.; R. Maschke, *Die Willenslehre im griechischen Recht*, (Berlin, 1926) pp. 159 ff.; L. Gernet, *Droit et société dans la Grèce ancienne* (Paris, 1955), pp. 213 ff.

<sup>18</sup> Vlastos, art. cit. 525–9, believes that the words 'just agreements' imply that the Athenian legal order is just, e.g. it produces benefits, distributes them impartially, and is not oppressive. An agreement to obey such a legal order generates moral obligations because the agreement is in accordance with justice, although some particular laws and legal decisions may be unjust and therefore on balance one ought not to obey them. Such an agreement would be binding whether or not Socrates had any alternative, hence no

obligation should be derived from seeing Socrates' refusal to use his option of moving elsewhere as an expression of his preference for Athenian law to laws of other states, and this part of the argument should be cut out. Against this interpretation I would argue that, although the laws do talk of Socrates preferring *them*, this does not imply a preference and choice between *legal systems*, but a preference for one *society* among others, with attendant approval and acceptance of its laws, cf. 53 a 3–5, where approval of laws is taken as a corollary of approval of the πόλις. Further, the option of moving elsewhere is crucial if the justice of the agreement is taken in the narrower sense in which I wish to take it, for, no matter how just is the association with which one makes an agreement, the agreement is not 'fair' if one does not wish to make it but has no alternative.



frame his argument so as to make obedience to law override moral obligations derived from all other sources. Rather nothing is farther from his thoughts and he concerns himself only with the competing claims of apparent individual advantage and of obligation to the state. Accordingly he argues that escape would harm the state and is therefore ruled out. But suppose — as in another context Plato might readily suppose — that *refusal* to escape might also harm someone. In this case Socrates would be on the horns of a dilemma and would have to establish some sort of priority among his obligations, and would refer to other criteria beyond the mere fact of harm. And in effect some such theme is operative in the *Crito*, albeit in a condensed form, which is why this particular problem of responsibility can be considered as an obscurity in the structure of the argument. Socrates asks if in escaping he will be harming someone, and someone whom he 'least ought', 50 a. A dilemma is indicated here and also the priority which will resolve it. Again, Crito's attempt to persuade Socrates to escape is concerned largely with how his death would be detrimental to himself, his children, and his friends. And a considerable portion of the speech of the Laws, 53 a – 54 b, is concerned with showing that Socrates and his children would not benefit from his escape, an irrelevancy if the basic principle is that wronging the state is never in any circumstances permissible, but entirely to the point if Socrates is in a dilemma. As that passage suggests that the supposed benefits of escape are illusory, so one function of the parent-state analogy is to fill out what is meant by harming someone whom we least ought. To use force on a parent or on that super-parent the state is not only unjust but impious, 51 c. But if there is a dilemma resolved by recognition of the priority of the state's claim, it is entirely appropriate to consider whether the state has not lost ground by wronging Socrates. No, is the answer, for the citizen is bound to the state in a peculiar way, in which provision is made, and accepted by the citizen, for the state to be able to call on his obedience even to his disadvantage and even if he thinks he does not deserve to be treated as he is.

Once more the enormous contribution made to the argument by the concept of the state as parent is observable, for now it suggests the extra criteria required to supplement the basic scheme that harming persons is to be avoided. But there is no reason to suppose that Plato means any more than that parenthood gives the state priority over *the* competing claims offered and not over *any other* claim that might be raised, with a similar qualification applying to the citizen's agreement. The real merit of Plato's treatment is that it thrusts into prominence the genuine claim of the state to be taken into account in such dilemmas, and the principles which he puts forward make it clear what is at stake in this area of moral choice.<sup>19</sup> And since Socrates' choice in the *Apology* of obedience to the god rather than to the state lies entirely beyond the area characterized by a dilemma in the *Crito*, there is no contradiction. In short, the proposition that obligation to the state overrides the claims of personal advantage or of obligations to friends and family is not inconsistent with the proposition that obligation to the god overrides obligation to the state. The content of the speech of the Laws

<sup>19</sup> On the conflicting claim of city and friends see W. R. Connor, *The New Politicians of Fifth Century Athens* (Princeton, 1971), pp. 47–9, and for the legal and ethical

background in general see J. de Romilly, *La Loi dans la pensée grecque* (Paris, 1971), pp. 115–38.

is tied very closely to the particular situation of Socrates,<sup>20</sup> as is absolutely appropriate in view of the urgency of that situation, but the form may very easily be extended to accommodate obligations which take priority over obedience to the law.<sup>21</sup>

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<sup>20</sup> As L. Pearson, *Popular Ethics in Ancient Greece* (Stanford 1962), p. 202, says: 'If Crito had argued with Socrates in the manner in which (in the *Gorgias*) Socrates argues with Polus, he might have forced him into all kinds of contradictions'. The largest single assumption made by Socrates is that Athens, along with Thebes, Megara, Sparta, and Crete, has good laws and is well governed, 52 e, 53 b-c. Thus criticism of the citizen's compact on the score that there are no con-

ditions which the state has to meet in order to keep the compact in force, seems to me to be out of place. The state is in fact keeping what might, in more leisurely circumstances, be spelled out as its part of the bargain. Parts of the thorough discussion of G. Young, *op. cit.*, perhaps because of its very thoroughness, seem to me to be vulnerable in this respect.

<sup>21</sup> I am grateful for the criticism and comments of the referee consulted by the editors.