



Two Kinds of Lawlessness: Plato's Crito

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TWO KINDS OF LAWLESSNESS

Plato's *Crito*

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LATO WROTE DIALOGUES. Why he wrote dialogues and not treatises cannot be explained by simply citing the view that he probably began as a poet and playwright. For while Plato's dialogue form certainly required the gifts of a dramatist in order to be so much more than the antiphonal arguments of such writers as Berkeley and Hume, the Dialogues are not pieces for actors. Rather, they are a new prose form, a form for readers, a form devised by Plato to meet the needs presented by Socrates. Socrates convinced Plato that if reason is to play a part in human decisions it must be made active in individual human beings and that the way to make it active in some particular individual is to draw that person into joint inquiry, to lead the person to become an active associate in discussion. It is partly because Socrates insisted on dialogue that he was put to death, and Plato invented his literary form to show that what made the practice of dialogue the proper expression of Socrates' beliefs about human nature and the development of virtue was also what made it, at least in fifth-century Athens, a dangerous pursuit. It seemed to Socrates and Plato a danger worth risking, because they not only believed that, as a person thinks, so that person will live, and that the union of thinking and living can be seen in the way people conduct themselves in discussion, but they also believed that if any teaching of virtue could occur, it could occur through dialogue. Socrates therefore spoke *with* particular respondents rather than making speeches *to* the world at large, and Plato turned his

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poetic and dramatic gifts to the development of a prose literary form capable of making available in a written text what Socrates in his life had tried to demonstrate about the relation of thought to action.

But although Plato wrote dialogues, philosophers studying Plato, especially in the English-speaking world, have frequently treated the Dialogues as if they were not conversations but treatises. While such an approach pays tribute to Aristotle, it misses Plato and Socrates. For, as Schleiermacher and his followers have continually said, to neglect the dialogical and dramatic elements of the Dialogues is to neglect elements necessary to the interpretation of the discussions both between Socrates and his respondents and between Plato and his hoped-for ones. The result of such neglect has been a variety of misgivings about Socrates (or Plato). It has been suggested, for example, that he/they might be guilty of such contradictions as arguing for hedonism in the *Protagoras* and against it in the *Gorgias*, or even that Socrates was really no different from the sophists he criticized.

Neglect of Plato's dialogue form has led not only to the attribution to Socrates of positions he did not hold, but also sometimes to mistaken and misleading beliefs that he is working on one aspect of a problem when he is in fact working on another. This latter sort of mistake seems to be illustrated by much of what has been said about the *Crito*.¹

Interpreters of the *Crito* have generally considered its central issue to be the question of whether it is ever morally right to break the law in the name of a higher justice, or, in other words, whether we are "morally obligated to do whatever we are legally required to do."² The dialogue has consequently been of special interest to many readers of our own times facing questions of whether violations of law in cases of civil rights or aggressive war can be justified. Many of these readers, however, have felt that Socrates' response to the question is a disappointingly superficial insistence on the necessity of obeying the law without exception.

For example, when Howard Zinn, Professor of History at Boston University, denounced B.U. President John Silber for calling in the police to break up a student protest against Marine Corps recruiting on the campus, Zinn commented as follows on the fact that Silber, a philosophy professor, had cited the *Crito* as part of the justification for calling in the police:

In the spirit of free inquiry we may ask if Socrates was not in those moments of debate with Crito, absurdly subservient to the power of the state. Should we model ourselves on Socrates (that is, on Plato, who put the words in Socrates' mouth) at his most jingoistic moment?³

What the present essay hopes to show is that this widely held interpretation of the dialogue, an interpretation accepted by both Silber and Zinn, rests on a misunderstanding of who and what the *Crito* is considering, a misunderstanding that arises from a failure to attend closely to the person with whom Socrates is speaking and to the circumstances of the conversation. Attention to these elements of the dialogue shows that the problem of the *Crito* is not so much a problem of Socrates but of Crito, not a problem of the relation of law to something higher but of the relation of law to something lower.

Let us ask, then, to whom Socrates is speaking when he says that, because it would be a violation of the law, he will not resist the injustice of his condemnation by escaping from prison. What sort of person is Crito, and what difference does this make for understanding what issue Socrates is considering in his discussion of law and what issue Plato is considering in his presentation of the conversation?

Crito is a contemporary and fellow tribesman of Socrates and such a good friend as to be not only one of those who offered to pay a fine for Socrates at his trial (*Apology* 38B) but also to be the appropriate emissary for persuading Socrates to cooperate with the plans for escape. Furthermore, he is the one whom Socrates calls upon in the *Phaedo* to see that Xanthippe and the children are taken home and finally to see that a cock is sacrificed to the god of medicine for the hemlock by which Socrates has been cured of his mortality.

But while Crito is a valued friend, he is by no means Socrates' equal in wisdom and virtue. In fact, although he himself does not recognize it and would be shocked to hear it said, Crito has tendencies to corruption. Plato shows this in the *Crito* in a variety of ways. The very beginning of the dialogue tells us that Crito has apparently gotten in to see Socrates by bribing the guard (43A). Crito gives no indication of feeling that leading the guard into corruption is at all problematic, but it is certainly something which Socrates would never do and which contrasts, for example, with the unwillingness of Socrates to tempt his judges to corruption at his trial by doing such things as using his family to play upon the judges' sympathies (*Apology* 35C).

Another detail that helps show the relation of Crito to corruption is his easy familiarity with the uses and prices of sycophants, a matter about which he exhibits no concern beyond the need to avoid clumsiness (45B). In addition, there is the association of Crito with Thessaly (45C), described by Socrates as a place of disorder and license (53D).

This characterization is underscored if we remember that at Socrates' trial Crito apparently offered after the conviction to put up bail money to

guarantee that Socrates would not flee Athens if he were allowed to stay out of prison until his execution (*Phaedo* 115D).

Thus Plato, by various means, characterizes Crito as a man with a tendency to lawlessness, even though a much more innocent kind of lawlessness than the shamelessly self-recognized “might makes right” variety of Thrasymachus and Callicles. We shall find that it is a tendency which matches the limits of Crito’s capacity to comprehend discussion with Socrates.

Crito’s speeches to Socrates urging escape make it appear that the idea has only merits. It is Socrates who raises the question of possible negative aspects (50A), and the aspect Socrates has in mind is damage to the principle of law. Crito’s reply to Socrates shows the willingness to learn which is Crito’s virtue, but it also shows that Crito lacks any sense of such a principle. For someone possessing such a sense would necessarily find a proposed violation of law at least a little problematic, whichever way the problem might eventually be decided. Crito shows his innocent lawlessness by his inability to see that there might be anything of this kind to have doubts about. He has been able to understand Socrates’ questions up to this point, but to this question of whether the escape from jail could do any harm Crito replies, “I cannot answer your question, Socrates, for I do not understand” (50A).⁴

It becomes clear from all these details that Crito is not a man who considers himself to be facing the problem of whether there is something higher than the laws of the city, a justice in whose name it would be right to violate the law. Such a problem cannot arise for a person who has no sense of lawfulness to begin with. Consequently it is not the problem of this dialogue, for Socrates is not in conversation with himself but with Crito. The problem of the dialogue is not whether Socrates should go beyond the law to something higher but whether Crito can get up to the notion of law from something lower.

Socrates, as we shall see also in the *Apology* and *Statesman*, believed that there are what I shall call a higher and a lower lawlessness, between which stands the rule of human laws, the *nomoi*, both written and unwritten, legislated and customary. The higher lawlessness is the rule of reason. It is what is meant when Socrates says in the *Republic* (425E) that one does not legislate to just men, and when the Stranger says in the *Statesman* that “the political ideal is not full authority for laws but rather full authority for a man who understands the art of kingship” (294A).⁵ Plato considered Socrates to be the wisest and most just man of his time (*Phaedo* 118A), and Plato explicitly associates Socrates with the higher

lawlessness in the *Crito* itself, for Socrates begins his reply to Crito by saying, "I am not only now but always a man who is persuaded by none of the things pertaining to me except the reason which to my reasoning seems best." (46B: *hos ego ou monon nun alla kai aei toioutos hoios ton emon medeni alloi peithesthai e toi logoi hos an moi logizomenoi beltistos phainetai.*)⁶

A far second after the higher lawlessness but second nonetheless is the rule of law. As the Stranger puts it in the *Statesman*,

The rule that none of the citizens may venture to do any act contrary to the laws, and that if any of them ventures to do such act, the penalty is to be death or the utmost rigor of punishment . . . is the justest and most desirable course as a second best when the ideal . . . has been set aside (*Statesman* 297E).

Being second does not make it very good. There are several types of government under law, but "All of these imperfect constitutions are difficult to live under" (Ibid. 302B), and the Stranger says,

Is it any wonder that under these makeshift constitutions of ours hosts of ills have arisen and more must be expected in the future? They all rest on the sandy foundation of action according to law and custom without real scientific insight [Ibid. 302A].

But unsatisfactory as human law and custom may be,

there is a further possible degradation to consider. Suppose we . . . place a magistrate in charge of this code either by election or by the fall of the lot, and make him rule according to it. Suppose then that he has no regard for the code and acts only from motives of ambition and favoritism. He embarks on a course of action contrary to law but does not act on any basis of scientific knowledge. Evil as the former state was, will not this latter one be still worse [Ibid. 300A]?

In other words, while the rule of law is vastly inferior to the higher lawlessness, it is still vastly superior to the lower lawlessness. And, as we have seen, it is the lower lawlessness which is the alternative to law for Crito, as it surely was for Athens in general in 399 B.C.

Plato not only shows us that Crito does not think about actions in terms of law, but also, as we began to see earlier, he shows us in detail the terms in which Crito does think. Crito's categories are money, reputation, and the notion of helping friends and harming enemies, a notion venerable among the Greeks and offered by Polemarchus in the *Republic* (332D) as

the very definition of how one should behave. Money is the first thing Crito turns to when faced with Socrates' trial and condemnation. His reaction to the situation is to increase the amount offered as a fine, put up bail, hire the sycophants, bribe the guard, coordinate escape plans with foreigners bringing cash (45B). Second, Crito talks about this money behavior not in terms of questions of law, but in terms of preventing a friend from being harmed by enemies (45D); and even though this was a venerable notion and even though Crito is on the side of the angel in this particular matter, it is nonetheless a language of favoritism which contrasts with the impartiality that Plato and Socrates consider to be essential to the rules either of reason or of law (*Statesman* 297B, 300A). Furthermore, Crito's efforts to buy his way out of this crisis of friends and enemies rest not only on the love for Socrates which is Crito's virtue and hope of higher virtue, but also on the desire to avoid the damage to reputation which defeat by enemies involves (45E).

It is Socrates for whom the proposed escape calls to mind questions of law, and it is this difference in the two men, this difference in the categories in terms of which they would describe what has happened and what is at issue, that shapes the dramatic situation of the *Crito* and provides the context of its "arguments."

Once it is recognized that, as far as law is concerned, the problem of the *Crito* is not the relation of law to the higher lawlessness but to the lower, it becomes possible to go further and recognize that the *Crito* is not primarily a presentation of a theory of law at all. Rather, it is primarily a part of Plato's apology for Socrates—that is, a part of Plato's picture of what Socrates' "mission to the Athenians" was and why it ended as it did. It is not an abstract inquiry into law and lawlessness. Rather it is a case study, and not simply of theories of law made explicit in other dialogues but of these theories of law in the context of other inseparable concerns of Socrates, concerns with knowledge and virtue and friendship and teaching as well as with the varieties of citizenship. Therefore, in order to understand the *Crito* we must understand what form Socrates felt his mission must take and why.

When Socrates describes his service to the god in the *Apology*, he says:

In my life I did not keep quiet, but neglecting what most men care for—money-making and property, and military offices, and public speaking, and the various offices and plots and parties that come up in the state—and thinking that I was really too equitable to engage in those activities and live, refrained from those things by which I should have been of no use to you or to myself, and devoted myself to conferring upon each citizen individually

what I regard as the greatest benefit. For I tried to persuade each of you to care for himself and his own perfection in goodness and wisdom rather than for any of his belongings, and for the state itself rather than for its interests, and to follow the same method in his care for other things [*Apology* 36B] .

From this passage and others (e.g., *Apology* 31A, 31B), we see that one of the notable things about Socrates' mission to the Athenians is that it was a mission to persons taken individually rather than "in bulk" (*epi to polu*, *Statesman* 295A). The reason for this is parallel to the Stranger's explanation in the *Statesman* of why "the political ideal is not full authority for laws but rather full authority for a man who understands the art of kingship and has kingly ability." The Stranger's explanation is:

Law can never issue an injunction binding on all which really embodies what is best for each; it cannot prescribe with perfect accuracy what is good and right for each member of the community at any one time. The differences of human personality, the variety of men's activities, and the inevitable unsettlement attending all human experience make it impossible for any art whatsoever to issue unqualified rules holding good on all questions at all times. . . . It is impossible . . . for something invariable and unqualified to deal satisfactorily with what is never uniform and constant [294A] .

In addition to feeling that his mission was to individuals, Socrates also felt that individuals progress, when they do progress, in gradual stages. This "gradualism" is expressed in the levels of the cave and the hierarchy of political types in the *Republic* and in the ladder of love in the *Symposium*.

Given these two features of Socrates' understanding of his mission—i.e., individualism and gradualism—it can be seen that the genius and importance of the *Crito* is not as a presentation of Socratic-Platonic theories of law and lawlessness, which can be found worked out more elaborately elsewhere, but as a case study of Socrates at work in the service of the god. Socrates receives Crito as he is, shows his concern by giving thought to what his friend needs and can use, and then tries to introduce him to what would be for Crito the next step forward. Thus, Socrates does not rehearse with Crito the arguments against tyranny because Crito does not need that, and he does not engage Crito in a discussion of the higher lawlessness because Crito can not yet use that. He sees that what Crito needs is to be reconfirmed in his rejection of the egalitarianism of democracy, shaken yet again from his tendency to the favoritism of helping friends and harming enemies, and introduced to the notion of law; and that is exactly what Socrates tries to do, and in that order.

Socrates begins with the familiar arguments against egalitarianism, complete with analogies involving trainers, and so on. These go easily enough, for Crito is not strongly tempted to a democratic outlook, although he is impressed by the power of the masses and needs to be shored up in his belief that one should follow the superior rather than the most numerous (44D, 46E). The issue of helping friends and harming enemies is more difficult for Crito. Socrates says that the belief that no one should be harmed is a fundamental dividing point among men, and his emphasis on the point might even seem exaggerated unless we remember that Crito is still sufficiently shaky on this matter to use the language of friends and enemies in his proposal to Socrates. We then see that, while it would be strange for Socrates to select this as a "starting point" of a discussion with, say, Diotima or Theaetetus, it is indeed such a point for Crito.

Furthermore, it is the starting point not only because it needs to be established more firmly in Crito but because with it Crito reaches the limit of his present understanding. The next point, the question of whether the escape would do any harm—i.e., the point at which the question of law is raised—is the point which brings from Crito the open but damning reply noted above: "I cannot answer your question, Socrates, for I do not understand."

What Socrates now proceeds to say about law is, as suggested earlier, important not so much for its theoretical content as for what it shows about Socrates' concern for the person with whom he is speaking. In this dialogue as in others, Socrates is eager that the inquiry be a shared one, and he says this at various points: "Let us, my good friend, investigate in common" (48E, 46D), and "Be very careful, Crito, that you do not, in agreeing to this, agree to something you do not believe" (49D), and "I am anxious to act in this matter with your approval, and not contrary to your wishes" (49A).

It is not enough, however, to wish that the inquiry be a joint one. Socrates realizes that inquiry can be shared only if both parties can understand what is being said; and this is why he always takes the trouble to consider exactly who it is with whom he is speaking, what that person's present frame of reference is, and where that person is starting from, and then tries to encourage his respondent to move one step forward from wherever he is.⁷ Socrates, as he says, always says the same things about the same things, and he tells his judges that "if any man says that he ever learned or heard anything privately from me, which all the others did not, be assured that he is lying" (*Apology* 33B). But he says these same things

to each person individually, as the true physician prescribes to each patient and the true statesman to each citizen.

Socrates' discussion of law with Crito is a brilliant example of this. Socrates is attempting as always to develop a new notion from what is already there, and so he gives a discussion of law in precisely those terms that he knows Crito can work with. This includes personifying the laws in deference to Crito's inability to deal with abstractions or anything else which goes beyond things known by experience. Crito has shown this inability by, for example, his assumption that Socrates' dream about coming on the third day to fertile Phthia (44B) means that Socrates may be thinking of going to Thessaly, where Phthia literally was (45C). He is unable to recognize that Socrates is again comparing himself to Achilles (*Iliad* IX, 363), as he did in the *Apology* (28C), to explain why he intends to stay and die, while he is at the same time showing his great difference from Achilles, for whom the decision to stay precluded his ever going home. Thus Socrates presents the laws to Crito not as an abstraction, but as a person who, like not merely a friend but indeed a parent, "ought least to be harmed"; and in addition he puts forward the law as a special kind of superior whose opinion should be followed whatever the mass of men may say. It is not a speech to tame Thrasymachus or further enlighten the Eleatic Stranger; it is a discussion for Crito.

Furthermore, in the questioning of Crito that precedes the speech of the *nomoi*, Socrates prepares the ground for the new notion. He does this by drawing Crito from a mood of agitation about particular circumstances to an attitude of steadfastness, of recognizing that the truths they have worked out together in the past are not contingent upon the moment. To fluctuate with changing events is in keeping with the tendencies to the lower lawlessness we have seen in Crito; to learn steadfastness is to learn one of the properties of law. Crito, who is so worked up that he has not been able to sleep (43B) and who has come to the prison long before visiting hours even though whatever action might be taken would not be taken until the night, shows his agitated state when he approaches Socrates not in a spirit of discussion or inquiry but of urging. In the first part of the dialogue, he does not take time to consider Socrates' words, as in the Achilles story he does not sufficiently consider, for he is trying to pressure Socrates rather than to reason about the issue. Thus, he does not examine the remarks Socrates makes, but tries to shame him and pleads with him simply to put himself in the hands of the plotters for an action Socrates knows is suited only to darkness and disguise (53D). "Listen to me and save yourself," says Crito insistently (44B), and he continues in the same

tone, “be persuaded by me and do not do otherwise” (45B), and “do as I say and don’t refuse” (46B). And as the climax of Crito’s display of his lack of both understanding and steadfastness, we hear the following excruciating piece of advice to Socrates: “Do not be troubled by what you said in court” (45B).

Socrates hears Crito out with only mild queries and then begins in earnest: “My dear Crito, your eagerness is worth a great deal, if it should prove to be rightly directed; but otherwise, the greater it is, the more hard to bear” (46B). He then begins to review with Crito the things they have agreed upon in the past, and not simply to review them but to point out to Crito that it is review. He says, “I wish to investigate in common with you, and see whether our former argument seems different to me under our present conditions or the same and whether we shall give it up or be guided by it” (46D). Or again, “I cannot, now that this has happened to us, discard the arguments I used to advance, but they seem to me much the same as ever, and I revere and honor the same ones as before” (46B). And also, “You, humanly speaking, are not involved in the necessity of dying tomorrow, and therefore present conditions would not lead your judgment astray” (47A).

Crito calms down bit by bit as Socrates recalls him to his previous agreements, and when Socrates reaches the point of asking him, “Does it still hold for us or not that it is not living, but living well which one must consider most important,” Crito at last replies, “It holds” (48B—*menei*). Socrates then moves on to ask Crito not simply whether the truth abides but whether Crito abides with it. Socrates reminds Crito of his agreement that one ought not to harm anyone, including enemies, and then asks Crito:

Do you disagree and refuse your assent to this starting point? For I have long held this belief and I hold it yet, but if you have reached any other conclusion, speak and explain it to me. If you hold (*emmenois*) to our former opinion, hear the next point [49E]

Crito responds to this stronger question and replies not just *menei*, “It holds,” as before, but *emmeno*, “I hold”, and we are again at the very point at which Socrates introduces the notion of law. In fact, Socrates makes the transition to the new point precisely by making explicit the element of law for which the exercises in steadfastness have prepared Crito. Socrates says, “Now the next thing I say, or rather ask, is this: ‘ought a man to do what he has agreed to do, provided it is right, or may he violate his agreements?’” Crito, having just reviewed his own previous agreements, replies, “He ought to do it” (49E).

It is at this point, when he has recalled Crito from regression into attitudes of concern for the opinion of the masses and from thoughts of harming enemies and when he has cultivated a sense of steadfastness in Crito, that Socrates takes Crito's old language and moves it into what is for Crito new ground. He says to Crito: "Then consider whether, if we go away from here without the consent of the state, we are doing harm to the very ones to whom we least ought to do harm, or not, and whether we are abiding by what we agreed was right, or not." Crito's reply is the one already twice noted as a milestone, "I cannot answer your question, Socrates, for I do not understand"; but we can now see that because Socrates has drawn Crito into an attitude of inquiry, the reply is not only one which marks the limits of distances already traveled but also one which faces forward. Socrates has been able to bring about this readiness to attempt to go on by being concerned for the particular character of the person at hand, concern which has allowed him to establish genuine contact with the person with whom he is speaking and thus to open up the possibility of further development, of growth in the personally held knowledge which is inseparable from more virtuous patterns of action.

Once we see that the reason why Crito—and the Athens of the fledgling post-Thirty democracy—should support the laws is that obedience to law is for them the next step forward, and once we see how Socrates understands his service to the god, we can also see Socrates' reasons for his own obedience to the law of the court. Socrates' reasons are given by the very fact that, if Socrates were to escape from jail, it would be understood by Crito and Athens not as an act of the higher lawlessness but of the lower. In other words, Crito should obey the law because to do so is better than to obey the considerations of money, reputation, and favoritism which would otherwise determine his actions. And Socrates should obey the law so that Crito will.

From this, there comes an answer to a question raised often by students of Plato—namely, why Socrates antagonizes the jury at his trial, as he seems to do, provoking them to condemnation and then to what many think was a harsher punishment than they would have voted if Socrates had been more "conciliatory." Given Socrates' mission, there was at least a triple constraint on his actions, and the factors of the constraint were inseparable. He must, of course, act rightly—i.e., in obedience to the best reasoning available to him; second, this action must be one that would tend to the improvement of his associates and city, since this was the service to which the god had called him; and third, nothing would improve his associates that was either completely unintelligible or sure to be understood as something worse or no better than what they were.

Socrates therefore felt that notions of a higher lawlessness could not be raised for Crito and Athens until they understood the notion of lawfulness, which was, after all, still quite a new idea in 399 B.C., as well as being no easier than it is now. Thus, once the "accident" of his trial had happened, it was of the utmost importance to Socrates that he be able, without compromise to himself, to act in a way that would support the rule of law at Athens. He therefore worked at his trial to see that the sentence would be one he could accept. There were several possibilities. He could have accepted total acquittal or support at the public table, but he seems to have thought that the first was not much more likely than the second. He could have accepted a fine. In fact, the fine was not simply compatible with his willingness to relinquish what was of no importance to him but was also an exquisite reminder of a bit of ironic joking by which Socrates underscored his character as an anti-sophist. Socrates remarks in the *Euthyphro* that "because of my love of men they [the Athenians] think that I not only pour myself out copiously to anyone and everyone without payment, but that I would even pay something myself, if anyone would listen to me" (*Euthyphro* 3D). Finally, he could accept a requirement to relinquish what was of more importance to him than money but of less importance than his integrity—namely, his life.

What he could not accept was a sentence that would require him to live hypocritically—for example, exile or acquittal on the condition that he abandon his service to the god. Either of these sentences would have been unacceptable and would, in fact, have forced Socrates to choose between obedience to law and to what he called the "logos"—i.e., between law and the higher lawlessness. These unacceptable sentences were, however, the most likely; and Socrates' behavior at his trial, which sometimes has even been regarded as suicidal, is an effort to prevent the jury from putting him in the position of having to violate the law and thereby act in a way which we have seen from the *Crito* would have been understood as an act of the lower lawlessness, not of the higher. In other words, it is in a sense true, as A. D. Woozley has written,⁸ that in the *Crito* Socrates urges adherence to law while in the *Apology* he indicates his willingness to violate the law under certain circumstances; but the mistaken inference that there is a contradiction between the two dialogues in Socrates' attitude toward law seems to be a result not simply of failure to attend to Socrates' words in the *Crito* itself—"I am not only now but always a man who is persuaded by none of the things pertaining to me except the reason which to my reasoning seems best"⁹—but much more basically, of failure to attend to the total dialogical setting in which Socrates speaks.

This is not to say that Socrates was unwilling to do things his fellow citizens would have to think about to understand, but only that he wanted to avoid situations they could not think about, situations that required notions more than one step beyond the level of the people confronting them. Thus, Socrates did not hesitate to refuse to cooperate with the desire of the Assembly to try the generals collectively (*Apology* 32B) and with the order of the Thirty Tyrants to arrest Leon of Salamis (*Apology* 32C), because both of these would have been cases of participating in the lower lawlessness, in the one case because the proposed trial was an abandonment of existing law in favor of passion, and in the other case because there is no law in a tyranny, as we have heard the *Statesman* explain.¹⁰

Nor should it be assumed that Socrates felt that none of his fellow citizens would have been able to understand a violation of law in obedience to something higher, even though most of the Athenians would not have understood, as we recognize from the fact that Crito would not have understood, and he represents what Socrates considered to be a better rather than a worse segment of the population. There was, in fact, at least one person who understood what Socrates was doing or we would not have this text. But people who would fully understand the possibility of a conflict between law and the higher lawlessness would also understand why Socrates, in the situations he actually confronted, acted as he did and why in the case at hand obedience to law was what the higher lawlessness also required. Socrates speaks of these people when he says to Crito that "the most reasonable men . . . will think that things were done as they really will be done" (44C). In other words, it was not necessary for Plato to write three dialogues about whether Socrates at Athens in 399 B.C. should have escaped from prison, because the advocates either of law or of the higher lawlessness would not have come to suggest such a thing. Of Socrates' friends, it was only those of Crito's level for whom the idea needed to be discussed. Or, to put it another way, the particular irony of the *Crito* is that it is Crito and his associates asking Socrates to disregard the court and run away who are the very reason why Socrates must obey the court and remain.

In his response to the inability of Crito to recognize such things as the difference between the higher and the lower lawlessness, we see what Socrates considered his mission to Athens to be, and we also come squarely to what Plato and Socrates believed to be the real tragedy of Socrates' rejection by Athens. The tragedy was not simply that, given the total situation, the most Socrates could do toward helping Crito and

Athens learn the best was to offer them the second best, nor that when Crito accused Socrates of deserting him the most Socrates could offer as a replacement for himself in the role of guiding friend was the *nomoi*. The real tragedy arose from the fact that the ladders of love and virtue are suspended from above, not supported from below. Each level is truly "understood" only by the levels above it. Those at a given level can help those below but not those above. Socrates knew he was not at the top, but he also believed he had gotten higher than anyone before. He knew enough to know, among other things, both that the rule of law is only a second best and also that it is not the worst. The tragedy was that second best would be all right if it were still on the way toward best; but with Socrates removed, the chance of Crito and Athens moving upward was placed once again in the hands of the gods alone. The chance of there being even law, to say nothing of the higher lawlessness, was reduced because even law could not be truly understood and therefore truly implemented in the absence of those who understood more than law.

The reason Plato developed the dialogue form was to preserve all the dimensions of the tragedy of Socrates, which both Plato and Socrates believed was not a tragedy for Socrates, but for Athens. Or rather, to put it more correctly, it would seem that Plato wrote the Dialogues to provide a replacement for Socrates, which is to say that the question of whether the tragedy was permanent becomes the question of how the dialogue form is received. However that may be, the central reasons for the necessity of Plato's new form were the same reasons that led Socrates to serve the god by speaking with particular respondents rather than by making speeches to the world at large. It is for these reasons that the *Crito* bears the title that it does and is written not as a treatise, but as a dialogue.

NOTES

1. Studies which do not give great attention to the dramatic or characterological aspects of the *Crito* tend to consider only the latter part of the dialogue, "the speech of the Laws," neglecting the first half of the dialogue almost entirely, presumably on the view that the first half is just window dressing and not "philosophically" significant. Some recent examples are: Rex Martin, "Socrates on Disobedience to Law," *The Review of Metaphysics*, Vol. XXIV (Sept. 1970), pp. 21-38; Francis C. Wade, S.J., "In Defense of Socrates," *The Review of Metaphysics*, Vol. XXV (Dec. 1971), pp. 311-325; and A.D. Woozley, "Socrates on Disobeying the Law," written for *The Philosophy of Socrates*, Gregory Vlastos, ed., Doubleday Anchor Books, 1971, pp. 299-318. The present essay is meant as a counterbalance to such neglect.

An essay which does direct its attention to the dramatic and characterological aspects of the *Crito* but which arrives at an interpretation quite different from the

one offered here is Frederick Rosen, "Obligation and Friendship in Plato's *Crito*, *Political Theory*, Vol. I, No. 3 (Aug. 1973), pp. 307-316, an article which unfortunately did not appear until after the present essay had been submitted in completed form.

2. A. D. Woozley, loc. cit., p. 305.

3. "Silber, B.U., and the Mannes," *The Phoenix: Boston's Weekly Newspaper*, April 12, 1972, p. 8.

4. All quotations from the *Crito* and *Apology* are taken, with some modifications by the author, from the text or translations by H. N. Fowler in the Loeb edition of Plato, Harvard University Press, 1966.

5. Quotations from the *Statesman* are taken, with some modifications by the author, from the translation by J. B. Skemp in *Plato: Collected Dialogues*, E. Hamilton and H. Cairns, eds., Random House, 1963.

6. Burnet in his *Euthyphro, Apology, and Crito*, Oxford, 1924, gives *ou nun proton* instead of *ou monon nun*.

7. E.g. *Meno* 75D.

8. Loc cit.

9. 46B, quoted previously on p. 7 above.

10. See also Burnet's introduction to the *Crito*, loc cit., p. 173.