Consent and Consequences: A Conversation with the Laws

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On the eve of Socrates' execution, his friend Crito comes to him with a plan to help Socrates escape and flee to another city, in order to avoid facing his death sentence. In the course of their brief conversation,[1] Socrates enters into an imagined dialogue with the Laws of Athens themselves, in a personified form, who present the case for why he should stay and accept his penalty, based on an agreement he has made with the Laws and the City over the previous seventy years of his life.

This exchange is often read as an early form of a "social contract" theory, but as we'll see, it differs in some major respects from the way that more recent thinkers like Hobbes and Locke approach such theories. Socrates' conversation with the Laws also points us to some larger issues around what, if anything, we agree to when we participate in other kinds of communities, from churches, classrooms, and local clubs, to the online communities of Twitter and Facebook, and so on.

We can begin by reading a bit of what the Laws of Athens have to say for themselves in Plato's *Crito*, and then explore some of these implications. Following the quotations, I offer a few suggestions for discussion, but they are only suggestions, to get us thinking about how wide-ranging the implications of the argument might be. We should certainly be ready to step beyond these, to whatever other problems and connections each of us might notice and would like to examine.

Here Socrates, speaking to Crito, introduces what the personified Laws might say:

> Will not the Laws address us thus: O Socrates, has it not been admitted by us and you, that you should acquiesce in the sentence which the city has passed? [...] For what is the charge against us and the city, for which you endeavour to destroy us? Did we not first beget you? And was it not through us that your father married your mother, and begat you? Tell us, therefore, whether you blame these laws of ours concerning marriage as improper?
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> I should say I do not blame them.
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> But do you blame those laws concerning the nurture and education of children in which you were yourself instructed? Or did not the laws framed for this purpose order in a becoming manner when they commanded your father to instruct you in music and gymnastic?
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> I should say they ordered well.
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> Since then we begot and nourished and educated you, can you deny that both you and your progenitors are our offspring and servants?[2]

1 The entire dialogue spans only about 14 pages from beginning to end, making it among the shortest in Plato's corpus. The brevity of the dialogue reflects the principle that Socrates himself lays down early in it (46b-d): we've already spent years carefully examining these matters at leisure, so by the time this conversation begins, there's very little left to say.

2 *Crito* 50c-e. Throughout the paper, quotations are from the translation of Thomas Taylor (first published in 1804, and now in the public domain), with occasional modifications to update particularly outdated language.

On this basis, the Laws invite Socrates to consider:

> Wouldn't you say that it is also more necessary for a man to venerate, obey and assent to his country, when conducting itself with severity, than to his father? Likewise that he should be persuaded by it, and do what it orders? That he should quietly suffer, if it orders him to suffer? And that, if it commands him to be beaten, or confined in bonds, or sends him to battle to be wounded or slain, he should do these things, and that it is just to comply? And that he should neither decline, nor recede from, nor desert his place; but in war, in a court of justice, and everywhere, the commands of the city and his country should be obeyed; *or he should persuade his country to that which is naturally just*; but that it is not holy to offer violence either to a mother or a father, and much less to one's country?[3]

Note that in this telling, the Laws give Socrates not simply a command, but a choice: Either persuade us to change our judgement, or accept that judgement.

When Socrates and Crito agree that the Laws have given an accurate description of how things stand, the Laws continue with the core of their argument, and then apply that argument to Socrates' personal case in an especially forceful manner:

> Your present attempt against us is unjust. For we are the authors of your birth, we nourished, we educated you, imparting both to you and all the other citizens all the good in our power, at the same time proclaiming, that every Athenian who is willing has the liberty of departing wherever he pleases, with all his property, if after having explored and seen the affairs of the city, and us the Laws, we should not be constituted according to his wishes. Nor does any one of us the Laws impede or forbid any one of you from migrating into some colony, or any other place, with all his property, if we and the city do not please him. But, on the other hand, if any one of you continues to live here after he has seen the manner in which we administer justice, and govern the city in other particulars, we now say, that he in reality acknowledges to us, that he will do such things as we may command. We also say, that he who is not obedient is triply unjust, because he is disobedient to his begetters, and to those by whom he was educated; and because, having promised to be persuaded by us, he is neither persuaded, nor does he persuade us, if we do any thing improperly; though at the same time we only propose, and do not fiercely command him to do what we order, but leave to his choice one of two things, either to persuade us, or to obey our mandates; and yet he does neither of these.
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> And we say that you also, O Socrates, will be guilty of these crimes if you carry out what you intend to do; nor will you be the least, but the most guilty of all the Athenians. If, therefore, I should ask them the reason of this, they would perhaps justly reproach me by saying, that I promised to submit to all these conditions in a way far beyond the rest of the Athenians. For they would say: This, O Socrates, is a great argument with us, that both we and the city were pleasing to you; that you especially of all the Athenians would never have dwelt in it, if it had not been particularly agreeable to you. For you never left the city for any of the public spectacles except once, when you went to the Isthmian games, nor did you ever go

3 *Crito* 51b-c.

> elsewhere, except in your military expeditions.[4] You never went any other journey like other men; nor had you ever any desire of seeing any other city, or becoming acquainted with any other laws; but we and our city were sufficient for you, so exceedingly were you attached to us, and so much did you consent to be governed by our mandates. Besides, you have procreated children in this city, in consequence of being pleased with it. Further still, in this very judicial process, you might have been condemned to exile, if you had been willing, and might then have carried out with the consent of the city what you now attempt without it. Then however you carried yourself loftily, as one who would not be indignant, if it were requisite that you should die; but you preferred, as you said, death to exile. But now you are neither ashamed of those assertions, nor do you revere us the Laws, since you endeavour to destroy us. You also do that which the most vile slave would do, by endeavouring to make your escape contrary to the compacts and agreements according to which you consented to become a member of this community.[5]

There are a lot of different pieces in this last paragraph: some aspects of Socrates' life which he likely shares with many, even most, of his fellow citizens, and other aspects which are much more unique or atypical. It might be worth pausing to consider which of these are "doing the work" in the argument. In other words, how similar would someone else's life have to be, for the same conclusion to apply to another citizen? How much would it matter if someone's life were different from Socrates', in some or all of these ways?

Finally, by way of a small coda, we get some suggestion as to why Socrates leaving Athens *now*, after a capital sentence has been handed down against him, would be different from leaving at some earlier time:

> If you retire to any neighbouring city, whether Thebes or Megara (for both are governed by good laws), you will be considered, Socrates, as an enemy to their polity. And such people as have any regard for their country will look upon you as a corrupter of the laws. You will also confirm them in their good opinion of your judges, who will appear to have very properly condemned you. For he who is a corrupter of the laws will very much appear to be a corrupter of youth and of stupid men.
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> Will you then avoid these well-governed cities, and men of the most elegant manners? Supposing you should, will it still be worth while for you to live? Or, should you go to these cities, will you not blush, Socrates, to discourse about the same things as you did here, namely that virtue and justice, legal institutes, and the laws, should be objects of the greatest attention to men? And do you not think that this conduct of Socrates would be very indecorous? You must necessarily think so.
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> But perhaps, avoiding these cities, you will go to Thessaly, to the guests of Crito. For there there is the greatest disorder and intemperance. And perhaps they will willingly hear you relating how ridiculously you escaped from prison in some ridiculous disguise. [...] If you should, you will hear, Socrates, many things unworthy of you. You will however live in disgrace, and in subjection to all men.

4 The Isthmian Games were one of the great Panhellenic religious and athletic festivals, much like the (now better-known) Olympic Games. Socrates' military service was, of course, undertaken at the behest of the city.

5 *Crito* 51c—52d.

> But what will you do in Thessaly besides feasting, having come to Thessaly as to a supper? And where shall we find those discourses concerning justice, and the other virtues?[6]

Socrates finds himself persuaded by these arguments, his friend Crito has nothing more to say against them, and so he remains in the Athenian prison to await his death.

Here we see two major points of contrast between the Laws' description of Socrates' agreement here in the *Crito*, and the social contracts imagined, some two millennia later, by the likes of Thomas Hobbes and John Locke, or still more recently by John Rawls and others. First, in all of these later social contract theories, the agreement is imaginary rather than historical. Hobbes, Locke, and Rawls all invite us to imagine a world in which there were no state, no government, no laws, and then to consider, on the basis of some general account of human nature, what people would do in such circumstances: For what purposes would they enter into a political community? For safety pure and simple, in order to escape Hobbes' imagined "war of all against all"? For the preservation and accumulation of "life, liberty, and property," as Locke would have it? For something still more complicated and abstract, as the rational deliberators in Rawls' "original position" might undertake?

Whatever particular answer one might choose, the general framework is the same: imagined persons, with some imagined psychology and set of concerns (that somehow always match the psychology and concerns of the author of the text), making an imaginary entrance into an imagined society. By contrast, the Laws of Athens describe Socrates' own birth, education, and life choices over the course of the last seven decades. The "contract" or agreement comes exclusively from that actual pattern of behavior.

That brings us to a second contrast: the imagined contracts of Hobbes, Locke, and beyond all involve some specific requirements for what the state must do in order to hold up its end of the bargain: whether merely keeping us alive (per Hobbes), ensuring private property rights (per Locke), or making sure that the least well-off among us is still better off than he would be in any other set of circumstances (per Rawls). If the state fails to uphold its end of that bargain, then the deal is off. But as the Laws of Athens tell it here, there is no such abstract reciprocal obligation. Here, the deal is simply: you yourself (in a real, not imagined, life) seen how this city governs itself (whatever that looks like in real, actual, day-to-day practice), you've chosen to stay here and accept the benefits of that (whatever those happen to be), and so you're committed to accept the decrees of the City and the Laws (whatever those turn out to be).[7]

This brings us to a final set of considerations — hopefully the most interesting ones, and the ones that might lead us to a wide range of contemporary applications.

Partly under the influence of the abstract theorizing of Hobbes and Locke, Plato's *Crito* is often read as describing a moral duty or obligation: because of thus-and-such moral principles, staying in prison is the right thing for Socrates to do, and trying to escape would be the wrong

6 *Crito* 53b—54a.

7 In a footnote to his translation of the *Crito*, Thomas Taylor notes that "Wholes in the order of nature are more excellent than parts; and in consequence of this, as being more honourable, there is no reciprocity of obligation between the two." In other words, the kinds of obligations we have to the City and the Laws are not paralleled by any obligation of similar kind and degree that the City or the Laws have toward us.

thing — but either way, Socrates has a choice in the matter. But we can also think about the conversation in a more metaphysical register: something more akin to the iron inevitability of the physical law of cause and effect, rather than statutory laws like the speed limit that we might freely choose to obey or to violate. Such a reading would emphasize especially the Laws' early observations about the education and character formation that they have provided Socrates, and extending them over a lifetime: by staying in the city (or in any other community), we do in fact become different people for it. Similarly, by having certain friendships or relationships, our habits and character are shaped by those friends, and we become responsive to their expectations, judgements, and criticisms: when a friend or partner expects or demands something of me, that really does hit home in a way that the expectations or demands of a stranger would not.

We can extend this beyond individuals. Even leaving aside Mark Zuckerberg's claim that Facebook is more like a government than just a traditional company, we might ask: by continuing to use Facebook (or Twitter, or whatever else), what are we agreeing to, in the way that Socrates agrees to be subject to the Laws of Athens? Who are the jurors who are now able to hold us to account, and what will they demand of us? What is the price of membership in such a community, both in terms of specific edicts that might get handed down, and in terms of the social norms that we tacitly accept, and allow to shape our habits and character, on a daily basis?

In other words, we can set aside for a moment the issue of whether or not we think these institutions (the City, the State, the Twitter mob, the Algorithm, etc.) *should* be allowed to do various things to us, and ask instead: as a practical matter, *what power do they in fact have* over us, simply on the basis of our participation? And given those relations of power, do we want to stay, or to leave for other pastures?