Plato's 'Crito': The Authority of Law and Philosophy (Symposium on Law, Literature, and the Humanities)

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My talk today will consist primarily of the interpretation of one of the dialogues of Plato, called the *Crito*. It will not have very much about law in it, and you may well wonder why such a lecture is being given in a law school. Let me begin by saying a word or two in response to that sensible question, as a way of framing the reading that follows.

The ostensible subject of the *Crito* is the authority of law, and it contains a famous speech, attributed by Socrates to the *Nomoi*, or laws of Athens, that makes a claim that the authority of law is absolute, that is, that no person is entitled to disobey the laws of his state for any reason whatever. This passage has been seized upon by some as a demonstration of Plato’s true view, and used either to demonstrate the deeply authoritarian and distasteful character of Plato’s philosophy, or to enlist his prestige in support of an authoritarian view of one’s own.

My thesis is that the passage does not state Plato’s view on the authority of law at all, indeed that the dialogue, despite appearances, has quite a different subject, though one still pertaining to authority, namely, To what modes of thought and speech ought we grant authority? From which should we withhold it?

This paper is a shortened version of the first chapter of a much longer work on ways of talking and thinking about authority, using a wide range of examples, including Shakespeare’s *Richard II*, a Supreme Court opinion, and the poems of Emily Dickinson. In it I argue that it is in the end not to institutions or practices that we yield authority, but to modes of thought and speech; not to the “law” as a...
I. The Crito

The Crito is one of several Platonic dialogues about Socrates' last days: chronologically it follows the Apology, which consists of Socrates' speech at his trial, and it precedes the Phaedo, in which he considers the possibility of an afterlife. Like many of the dialogues it receives its name from a person, Crito, an old friend of Socrates who visits him in prison where he lies under sentence of death. Crito urges Socrates to escape, claiming that the conviction and penalty, however legal they may be, are unjust; that escape is perfectly practicable; and that Socrates therefore has a duty—to his friends, his family, and perhaps himself—to do it. Justice itself requires him to escape.

Socrates responds to these claims in many ways, but most famously in a passage in which he asks Crito to imagine what the laws (Nomoi) and the common state of the city (to koinon tes poleos) might say to him about the justice of his proposed escape. They would say, Socrates tells him, that it would be unjust for him to escape against their commands, even if the sentence against him is unjust, for he owes them an absolute duty of obedience. There are several reasons for this. First, the laws are like his parents, for they regulated the marriage of his actual parents and his own conception, and they shaped his education too; he therefore owes them the obedience of a child to a parent, or a slave to a master. Second, by continuing to live in Athens, when he could have left at any time, he has implicitly agreed to obey all its laws and decisions. His only legitimate way out would be to persuade the laws and the city that they are wrong, which he has tried but failed to do. He is therefore obliged to obey the judgment of the law and suffer death, even if the verdict compelling him to do so is unjust.

1. PLATO, Apology [hereinafter Apology], in FIVE DIALOGUES 23, 23 (G.M.A. Grube trans., 1981); PLATO, Crito [hereinafter Crito], in FIVE DIALOGUES, supra, at 45, 45; PLATO, Phaedo [hereinafter Phaedo], in FIVE DIALOGUES, supra, at 93, 93.

In analyzing the Crito, I sometimes make my own translation from the Greek, in which case the extract is set off by quotation marks or in block paragraphs, and sometimes paraphrase roughly, in which case there are no quotation marks. The editors of the Review have kindly provided citations to the Georges Maximilien Antoine Grube translation, as a reference for those who cannot read from the Greek, and also Stephanus paragraph numbers, in parentheses, for reference to other translations of the original.

2. See Crito, supra note 1, at 45-46 (lines 43a-44a).
3. See id. at 46-48 (lines 44a-46a).
4. See id. at 48-56 (lines 46b-54a).
5. See id. at 53 (lines 53b-c).
6. See id. at 55-56 (lines 50c-54d).
This summary of the speech of the *Nomoi* is imperfect, to say the least, but for present purposes it will do, for it suggests that this set of arguments, at least when stated in such a bald and unelaborated form, is very weak indeed. Why, for example, does it follow from the fact that Socrates has stayed in Athens that he has agreed to obey its laws and decrees, even when they are unjust? Why should we not read his actual conduct—particularly as it is summarized for us in the *Apology*—rather as agreeing to do what he can, at every stage and in every way, to advance the cause of justice? And why should this not mean correcting the city when it is wrong, including by disobedience when that is appropriate? For, as familiar Socratic doctrine tells us, the city can have no genuine interest in acting unjustly. Why, indeed, should an agreement to do, or suffer, something that is unjust be given any weight at all? And to turn to the even more problematic argument: for what reasons should we construe the relation between citizen and city as being like that of child and parent, or slave and master? Even if we do take this step, why should these relations carry with them an obligation to do or suffer injustice?

Of course these questions might have answers, perhaps very good ones; no small part of western political philosophy has been devoted to trying to work them out. But as the speech of the *Nomoi* is actually written, especially in its first version, it responds to virtually none of the questions we have about it, but consists instead of a series of conclusory declarations, with very little argument to support them and mostly, though not entirely, of low quality. We should not be misled by our familiarity with more recent and persuasive versions of these positions into misreading the way they are stated here.

The argument of the *Nomoi* is still more problematic when considered in light of the rest of Socrates' career, during which he has repeatedly argued that to live and act well is the supreme goal of life, and that "well" means, among other things, "justly." The speech he imagines the *Nomoi* making, and which he invokes as authoritative, seems inconsistent with virtually everything else he has said and done, including in the *Apology*, where he boasts of his refusal to follow certain official orders and asserts an absolute commitment to leading the philosophic life. He says to the jury, for example, that he would not

7. In speaking of "Socrates" here and throughout, I do not mean the historical person but the character created in this and the other Platonic dialogues, especially the early ones. See, e.g., *supra* note 1 (identifying three Socratic dialogues of the early period). I assume that one of Plato's goals is the definition of this complex person, or persona, and therefore that it is right to read these dialogues against each other.

8. See *Apology*, *supra* note 1, at 36-37 (lines 32b-c).
accept an acquittal that was conditioned on his giving up philosophy, but would persist in this course of life against their command. The only constraint he recognizes in the Apology is that of his own daimonion, the spiritual force that, he says, always tells him when he is considering doing something that he ought not do.

Various stratagems have been devised to reconcile the Crito with the rest of what the Platonic Socrates has said and done: for example, that the command he described himself in the Apology as disobeying (to arrest Leon of Salamis) was itself not really law, but lawless; or that the Nomoi speak only presumptively, and thus recognize a host of unarticulated exceptions; or that the jury hasn't the power to make an acquittal conditional, and that therefore his resolve, expressed in the Apology, to continue the philosophic life in violation of such conditions can be disregarded as merely hypothetical; or that the obligation “to do what the laws command or to persuade them otherwise” can be satisfied if one tries in good faith to persuade them, even if one fails; or, perhaps more sensibly than the others, that there is a crucial Socratic difference between doing and suffering injustice. But these attempted reconciliations are dubious at best, both because the inconsistency with the rest of what the Platonic Socrates says simply will not go away, no matter how much we wish it to, and because the arguments of the Nomoi, as I shall try to show, are on the merits weak and conclusory. Although they happen to persuade Crito, I think that one cannot really imagine them persuading any critically acute mind of the position they

9. See id. at 34 (lines 29c-d).
10. See id. at 36, 42-43 (lines 31d, 40a-b).
11. See PLATO'S EUTHYPHRO, APOLOGY OF SOCRATES, AND CRITO 173 (John Burnet ed., 1924) (the order of the Thirty to arrest Leon of Salamis no law at all); see also Terence H. Irwin, Socratic Inquiry and Politics, 96 ETHICS 400 (1986) (reviewing RICHARD KRAUT, SOCRATES AND THE STATE (1984)) (the claims of the Nomoi only presumptive); THOMAS C. BRICKHOUSE AND NICHOLAS D. SMITH, SOCRATES ON TRIAL 143-47 (1989) (hypothetical character of his vow to continue to philosophize against a conditional verdict); RICHARD KRAUT, SOCRATES AND THE STATE 65-73 (1984) (“persuade” as “try to persuade”); A.D. WOOLZLEY, LAW AND OBEDIENCE: THE ARGUMENTS OF PLATO'S CRITO 30-31, 32, 44 (1979) (the permissibility of disobedience if punishment is accepted; “try to persuade”; and the hypothetical character of the vow in Apology); GERASIMOS X. SANTAS, SOCRATES PHILOSOPHY IN PLATO'S EARLY DIALOGUES 45-51, 53 (1979) (distinction between “other things equal” and “all things considered” cases; Apology and Crito involve different issues—the first conscientious disobedience, the other secret evasion); R.E. ALLEN, SOCRATES AND LEGAL OBLIGATION 109 (1980) (distinction between doing and suffering wrong).

On the distinction between doing and suffering injustice: while it is true that Socrates in the Crito suffers injustice, and that this is, as he says in the Gorgias, far less serious than doing it, the Nomoi themselves make no such distinction. They quite clearly say that the obligation is to do (poiein) whatever they command. See Crito, supra note 1, at 53-56 (lines 50c-54d); PLATO, GORGIAS 38-39, 46, 56-57 (Terence Irwin trans., 1979) [hereinafter GORGIAS] (lines 469b, 479b, 483a).
advance, namely, that the Athenian citizen has an absolute obligation to obey the laws even when they are unjust.

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Many of the difficulties we have in reading the *Crito* are due, I think, to a certain mistake commonly made not only in the reading of Plato but in the reading of other philosophic texts too, namely, to think that one can extract from a text a particular key passage—in this case the speech of the *Nomoi*—and read it as though it stood alone, as a set of arguments that could be abstracted from their context and assessed independently, rather than as a part of a larger text, with its own shape and rhythm and texture. At a more general level the mistake is to assume that the meaning of the text as a whole is propositional in kind, that is, that it can be reduced to a set of claims each of which can be independently tested for its truth or adequacy. May it not be that at least the *Crito*, and perhaps other Platonic dialogues, and indeed perhaps other texts we think of as philosophic as well, have a meaning of a richer and more problematic kind, one that cannot be reduced to the propositional? May it even be that our modern aspiration to produce philosophic texts that can be reduced to such forms is itself misguided, likely to fail, and perhaps itself an evasion of philosophic responsibility?

I want to ask: What happens, especially to its argument about the authority of law, if we read the *Crito* in a different way, as a composition of which we assume that all of the parts have a place and meaning, no one of which can be elevated above the others except in the terms, and on the grounds, that the text itself affords? To take one example, the dialogue begins with Crito’s visit to Socrates in jail, early in the morning, and with talk about a dream Socrates has just had. Can we not take this part of the text seriously, asking what it means, and not assume that it is just window-dressing, or “setting the stage,” or otherwise marginal or irrelevant to the matter at hand? We might even prepare ourselves to conclude, if the text so persuaded us, that this scene is more central to the text than the speech of the *Nomoi* itself.

The hope is that we may find a way to respect the text as it is

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12. For an example of an approach to Plato of this kind, see *Gorgias*, supra note 11 (Irwin’s notes).


14. See *Crito*, supra note 1, at 45-47 (lines 43a-44b).
composed, attending to its form, its methods, its various parts and their relations, and to discover the kind of coherence and meaning it then proves to have. We could put it, perhaps, that our object is to read this "philosophic" text not as a string of propositions but as "literature," that is, with an eye to possibilities of meaning richer and more complex than the propositional; but we would do this in part in the hope of being instructed in the falseness of the way we habitually distinguish between these two forms of thought and expression. It may be that great philosophy is literary in many of its deepest commitments, great literature philosophic, and that what is called for is a way of reading both that attempts to recognize their full dimensions of meaning.

A. Anxiety and Repose

We can begin with the opening scene: Crito has come, very early in the morning, to the cell of Socrates, whose wholly understandable question to him is the first line of the dialogue: "Why have you come at this time of the day, Crito—is it not still very early?" The first part of Socrates' question—"Why have you come?"—will receive an an-

15. Another way to put this would be to suggest that for Plato at least "philosophy" does not mean the creation of an intellectual system, supported by arguments—although that is how he has often been read—but rather an activity of mind that he at once exhibits in his dialogues and stimulates in his reader. After all, in his Seventh Letter he said that his real philosophy is not to be found in his writings but in his teaching, in the living engagement of mind with mind. PLATO, Epistle VII, in PLATO'S EPISTLES 215, 237, 241 (Glen R. Morrow trans., 1962) (lines 341c-d, 344c-d). One might read his writing, then, as attempting to replicate in the relation with the reader the dialectical activity that in its fullest form exists only in living conversation. In the terms suggested by the Phaedrus, where Socrates attacks writing, it may be Plato's object to create a text that, unlike most, does not simply say the same thing always, but shifts its meaning as it is more deeply understood. PLATO, PHAEDRUS 158 (R. Hackforth trans., 1952) (lines 275d-e). This is possible because its meaning is not propositional in character but performative, residing in the activity in which it engages the reader.

For my development of this line of argument with respect to Plato's Gorgias, see JAMES BOYD WHITE, WHEN WORDS LOSE THEIR MEANING: CONSTITUTIONS AND RECONSTITUTIONS OF LANGUAGE, CHARACTER, AND COMMUNITY 93-113 (1984). For a similar argument with respect to Wittgenstein and Kierkegaard, see JAMES CONANT, ON COMPARING WITTGENSTEIN AND KIERKEGAARD (forthcoming). For a general approach to the relation between philosophy and literature, see generally MARTHA C. NUSBAUM, LOVE'S KNOWLEDGE: ESSAYS ON PHILOSOPHY AND LITERATURE (1990). On the other hand, it would hardly do simply to say that "philosophy" should be regarded as a kind of "literature," without more. Both of those terms require definition, at its best performative, in the text that says such a thing.

To put it the other way and say that literature is, or can be, philosophic is not to say that its experience can be translated into a set of propositions and arguments on philosophic themes. The point rather is that the activities and practices of literature can be seen to be of general and not merely particular value as they instruct us about the conditions upon which life must be led, the nature and limits of language, the capacities of our minds, and so forth.
swer a few paragraphs later, when Crito says that he is coming to bring the “bad news” that the sacred ship, during whose voyage to Delos Socrates cannot be put to death, will arrive that very day. For the present, however, Socrates focuses upon the other and apparently more trivial question, about what time it is. When he is told that it is indeed very early, just first light, he expresses surprise that Crito was able to get into the jail at such an hour. Crito responds that he was allowed in because, through his earlier visits, he has come to know the jailer and, besides that, because he has done him a favor of some unspecified sort. Crito reveals that he has been sitting there quietly some time, beside the sleeping Socrates. When Socrates asks why he did not wake him, Crito says: “I did not wish you to be in such grief and wakefulness [as I am].”

The dialogue thus has its origins in Crito’s complex response to hearing the news about the ship. He cannot bear to carry it alone but needs to communicate it to Socrates, no doubt in the hopes that somehow this will make it tolerable. This is in fact the unstated answer to the second part of Socrates’ question, namely, “Why did you come so early?” That Crito comes at all, is to tell the news; that he comes so early, rather than waiting till a more usual hour, manifests an anxiety or need, an incapacity to bear the news alone; this is in fact a rather appealing quality in him, attesting as it does to the depth and sincerity of his feeling for his friend.

But when he comes into the presence of Socrates, Crito does not wake him after all, in part no doubt out of a sense of consideration for him, lying peacefully asleep, but in part perhaps also because he discovers that merely to be in Socrates’ presence gives him much of what he needs. For, he says, he has been sitting for some time beside him, full of wonder to perceive “how sweetly you sleep,” and, as often before, “I have thought you happy in your character (tropos), and especially so in the present circumstance, [when I see] how easily and gently you bear it.”

The issue thus presented by the opening of the text is the contrast between anxiety and repose, sleeplessness and sleeping, between the capacity to bear this apparent misfortune gently and the incapacity to rest once one has received the evil news. I think that this contrast is in fact the central topic to which the rest of the dialogue is addressed, and that to it the “obligation to obey the laws” is something of a sidelight.

Two important points about the character of Crito emerge in this

16. See Crito, supra note 1, at 45-46 (lines 43a-d).
17. See id. at 46 (line 43b).
brief opening. First, as we have seen, Crito is shown to be a friend of Socrates, and in two ways: he both needs to be with him in his distress, and can let him sleep. There are thus in Crito qualities both of dependence and kindness, and they will play their roles in the dialogue as a whole. Second, when Socrates expresses surprise that the jailer let him in, Crito says: “He is accustomed to me, I have come so often, and besides he has received a benefit from me.” Here we learn that Crito is the kind of person who can establish a friendly relationship with a jailer; this in turn suggests an element in him of human warmth, or perhaps just a general agreeableness. Moreover, the “benefit” of which Crito speaks—whether by this is meant a bribe or present, or some past act of generosity—has converted this acquaintance into a relation of positive reciprocity. This was the archaic form of public community among the Greeks (and among others too) and it gave rise to the dominant conception of justice as doing good to one’s friends and harm to one’s enemies. It is this understanding of justice, deep in the culture, that Plato is most at pains to undermine in the Republic and elsewhere; an understanding closely tied to the aggressive egotism of the heroic and classical worlds alike, which Plato wishes to replace with another vision of what is good for human beings, individually and collectively. It is thus here hinted, what later becomes apparent, both that Crito is a highly competent member of his culture, at home in his world and able to manage its relations with skill, and that the conception of human relations, and of justice, to which he instinctively resorts is that of reciprocity in the service of the self and of one’s friends.

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To Crito’s comment about the ease with which he is facing death Socrates responds by saying that at his age it would be inappropriate (“discordant”) to be vexed at such a thing. “But there are others,”

18. See id. at 45 (line 43a).
19. For further discussion of this point, see generally ARTHUR W.H. ADKINS, MERIT AND RESPONSIBILITY: A STUDY IN GREEK VALUES (1960); MARY WHITLOCK BLUNDELL, HELPING FRIENDS AND HARMING ENEMIES 26-59 (1989); K.J. DOVER, GREEK POPULAR MORALITY IN THE TIME OF PLATO AND ARISTOTLE 180-84 (1974). Socrates of course questions this “ordinary Greek” morality.
Crito says, "whom age does not release from such vexation." "That is true," says Socrates; "but tell me, why did you come, and so early?"21

Here we have the first of a series of breaks or interruptions in the comfortable back and forth of question and answer between friends, an awkwardness of communication that will in fact be a major subject of the text. Here Crito suggests a point—it will be the main point of the dialogue in the end—that Socrates responds to age and death differently from other people, but Socrates turns away from it to something else, to his original question: "Why did you come?"

This repetition of the opening line marks not only its importance, which should be plain enough, but also the importance of the material that appears between its two occurrences—demonstrating Crito's emotional dependence, cultural competence, and fundamental kindness—for it invites the reader to ask why the dialogue does not begin here instead of with an apparent digression. This way of drawing attention to what seems at first unnecessary is a trope that will recur in the famous speech of the Nomoi, which goes on for several pages after the point at which it might naturally be said to conclude, namely, the point of Crito's first acquiescence in the conclusion it is urging.22 The text thus begins and ends with material that may seem otiose, but which I think is by this very fact marked as having a special significance; part of its meaning, indeed, lies in its apparent gratuitousness.

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Crito's response to the question why he has come is to say that he is bringing news—"bad news, not bad to you I suppose, but to me and all your friends bad and burdensome; and to me I think a heavier burden than to all the others."23 This sentence at once expresses Crito's own distress and predicts that Socrates will feel differently. It thus renders explicit the tension from which the dialogue as a whole proceeds, the difference in feeling between the two men. And from what Crito says here we can see that Socrates' later response is not a surprise but a coherent manifestation of his known character.

To the news about the ship from Delos, when Crito gives it, Socrates responds rather oddly, not by the direct expression of any feelings he may have about the meaning of this event, but by saying that he doubts Crito's prediction that the ship will arrive that day. He explains that this is based upon a dream that he has just had, in which a

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21. See Crito, supra note 1, at 46 (lines 43b-c).
22. See id. at 52-56 (lines 50a-54e).
23. See id. at 46 (line 43c).
woman clad in white appeared to him and said: "O Socrates, on the third day you may fertile Phthia reach."

*Crito*: A strange dream, Socrates.

*Socrates*: Yet clear in meaning, or so it seems to me.

*Crito*: Too much so, I fear. But Socrates . . . [Here Crito launches into a lengthy and formal speech of persuasion, to be discussed below].

What is the meaning of this dream, and, equally important, what is the meaning of the brief colloquy about it? At the most obvious level, the dream is read by Socrates as a prophecy that his death will happen in three days, not two. But what is the emotional significance of this fact, in this dream? The Greek reader would know that the words of the woman are a slightly modified quotation from a speech of Achilles in Book 9 of the *Iliad*, made when he is planning to quit the battle and go home to Phthia: "If the wind is fair," he says, "on the third day I may fertile Phthia reach." In the poem this is a moment of great poignancy, for it suddenly shows us how close is the homeland from which these warriors have been away so long, and which has seemed like another world; and it expresses a longing for home, and for peace, in the greatest and most violent warrior of them all.

As this dream defines it, then, the death that Socrates foresees is not an evil but a homecoming, a return to peace from the struggles of life. This is why he sleeps so soundly, why he is so calm in response to the anxiety of Crito. This is its bright meaning to him, which it will be the function of the rest of the dialogue to elaborate and make plain against the view of Crito that the imminence of the death is "bad news."

When, at the end of the passage, Socrates says that the meaning of the dream is clear, he in effect invites Crito to pursue with him the nature of that meaning, and with it the meaning of his impending death. But Crito fails to respond to this clue, and instead rushes headlong into his speech of persuasion. This is the second rupture in the flow of their talk.

24. See id. at 46 (lines 44a-b).
25. See id. at 46-47 (lines 44b-c).
27. See *Crito*, supra note 1, at 46 (line 44b). Earlier it was Socrates who refused to follow up a line begun by Crito, who had remarked on Socrates' distinctive attitude towards his own death. See *id.* at 46 (line 43c). Now Socrates seeks to pursue this very question; why then did he not do so earlier? Perhaps the reason is that the dream provides a better context for thinking about this issue, for the dream is a direct expression of Socrates' own feeling rather than a comparison with others. We might read the text, indeed, as suggesting that Socrates brings up the dream deliberately, in order to present this issue in a more satisfactory way than Crito did.
II. Crito's Argument

Crito's long speech, which follows next, has the earmarks of a prepared argument, like a lawyer's case. He begins with his thesis: "Still, even at this late date, be persuaded by me and save yourself." Then he gives his reasons.

A. Reputation

First, he says, if you die I shall suffer not one but two disasters, for "in addition to the loss of such a friend as I shall never find again," I shall appear, to those who do not know us well, as one who had resources sufficient to save you but did not care enough to do it, and "what [reputation] could be more shameful than to seem to care more for money than for friends?" In his response Socrates wholly disregards the first point and seizes upon the second, correcting his old friend and student on the most familiar of grounds: Why, he asks, should we care about the opinion of those who do not know the truth? People of judgment will see these things correctly.

Crito: But the present circumstances themselves show that the many are able to inflict not the least of evils, but nearly the greatest, if someone is falsely accused before them.

Socrates: Would that they were able to inflict the greatest evils, Crito, for then they would have the power to do the greatest good as well, and this would be good for them. But they do not; for they cannot make a man sensible or foolish, but act upon him without thought or care.

Socrates here seems to speak from a distance, out of an amused yet sadly reflective state, with no apparent sense that he is involved in an emergency. His reference at the end to the "greatest good" is at once a

28. See id. at 47 (line 44b).
29. See id. at 47 (lines 44b-c).
30. See id. at 47 (line 44d). In making this point Crito expressly identifies those "who do not know" or the "many"—whose opinions followers of Socrates have long known they need not respect—with the jurymen of Athens, who have just condemned Socrates to death and done so unjustly. See id. What may seem in other contexts to be an abstract point about the "one who knows" and "the many who do not" is thus here given significance of another kind, for here the many have real power. The issue is no longer "mere knowledge," as Crito might put it, but "life and death."

Both speakers seem here to urge inconsistent attitudes: Crito that the verdict of the jurors be disregarded, but on the grounds of reputation, which grants authority to "the many"; Socrates that only the opinion of the one who knows matters, but that the verdict of the many, even though unjust, should be honored. This unmarked but real tension gives the text much of its life and energy.

31. See id.
refusal to accept Crito's sense of crisis and an invitation (his second) to explore their differences of attitude. He tries to engage his friend in conversation, with the apparent aim of leading him to a position from which the impending death can be seen, if not as a good at least not as a serious evil; but Crito will have none of it. He refuses this invitation too, and rushes on to the rest of his case: "That is all true, Socrates, but answer me this . . . ." This is the third break in the conversation, another mark of its failure to get going.

When one reads this text in this way, with an eye to all of its parts and not merely to what seem to be its central speeches, it is full of difficulty and uncertainty, arising not least from the unsuccessful efforts of the two friends to engage on a common question in a common way. "How will Socrates respond to this man?" is the question we are invited to ask, and to which the rest of the text, including the speech of the Nomoi, is a response.

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Notice that so far Socrates has made no response whatever to Crito's first claim, that he will lose an irreplaceable friend. How are we to read this silence: as suggesting that this is a trivial loss? That Socrates has no response to make to such a claim? If true, this would be a terrible deficiency of feeling and indeed of character in him. The question raised here and left unanswered is a thread waiting to be pulled that threatens to unravel the entire text—indeed more than this text, the premises of dialectic and the philosophic life itself—by demonstrating the lack of a simple element of humanity. It is one thing to greet one's own death with equanimity, quite another to dismiss the feelings of bereavement that those who love you will naturally have. Is this whole dimension of life—awareness of the feelings of others, acknowledgement of grief and loss, caring for another—simply, missing from the ideal life that Plato offers us here and elsewhere? Crito's unanswered claim is a nagging question, defining a tension that will run to the very end of the text and prove at last, I think, to be an essential part of its subject.

B. Competing Modes of Thought and Argument

The next piece of Crito's long argument is rather endearingly inconsistent with what he has just said about the damage he fears that his reputation may suffer if Socrates refuses to escape: It is to tell Socrates

32. See id. at 47 (line 44e).
to have no fear on his behalf, or that of their other friends, that if he escapes they will be accused by sycophants (roughly: informers) and forced to pay huge sums of money or suffer penalties beyond even that. "If you fear any thing of this sort, dismiss your fears; for we are right (dikaioi), I think, to run this risk in an attempt to save you, or if necessary an even greater one." The inconsistency is plain: Only a moment ago Crito was asking Socrates to escape on the grounds that his, Crito's, reputation might suffer; now he says that Socrates should pay no heed to the possibility of a much more dramatic kind of suffering on his part.

What unites the two arguments, as any lawyer could see at once, is that they support the same position. But one argument enacts a kind of timorousness for which Socrates gently reproaches him—why fear the opinion of the many?—the other a kind of bravery and generosity of spirit, springing from his sense of loyalty and friendship, from the same place indeed as his sense of grief, and one can only admire it. In this frame of mind Crito has no concern at all for the many or what they might do to him. The split between these two impulses is an instance of what Socrates elsewhere calls being divided against oneself, and which he says is just the condition from which dialectic and the philosophic life may release us.

In the speech that follows, Crito first disposes of the practicalities, explaining how easy the escape will be—there is plenty of money, the sycophants can be bought, Socrates can live with friends abroad, etc.—then makes his major claim: that it is not just (oude dikaion) for Socrates to allow himself to die. This argument, as Crito knows, is one that Socrates cannot let pass, for he has given much of his life to establishing the ethical centrality of justice and to giving it a meaning of his own. In raising the topic of justice, then, Crito is acting as a good student of Socrates, though perhaps there is an element of comedy here too, for the claim Crito makes—that justice requires Socrates to evade lawful punishment—is on its face bizarre or paradoxical. And

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33. See id. at 47 (lines 44e-45a). It is significant that Crito calls his own planned conduct dikaios ("right" or "just") for in doing so—as in later calling Socrates' refusal to escape oude dikaios—strikes a theme that enables their talk to begin (though it will end on rather a different note).

34. Compare id. at 47 (line 44c) (escape premised on damage to Crito's reputation) with id. at 47 (lines 44e-45a) (disregard Crito's suffering loss of property, fines, and other punishments).

35. Gorgias, supra note 11, at 55-56 (line 482b).

36. See Crito, supra note 1, at 47-48 (lines 45a-c).

37. Maybe this element too is meant as imitative of Socrates, who often argued for positions felt by his interlocutors to be impossibly paradoxical, for example, that it was "better" to suffer injustice than to do it. See Gorgias, supra note 11, at 45-54 (lines 475a-480a).
the particular conception of justice that he invokes is exactly the one that Socrates has been trying most to repudiate and transform, namely, to do good to your friends and harm to your enemies. For Crito says that in refusing to escape Socrates will be doing to himself exactly what his enemies most wish to do to him, which is to bring about his death, while he will also be abandoning not only his friends but his sons, to whom he owes a duty of care and education. He sums up his claim by invoking the standard language of value of his day and saying: “what a good and brave (agathos and andreios) man would choose, this you should choose, since all your life you have claimed to care for virtue (arete).” Do not, he says, let us languish under the opprobrium or shame of having failed through cowardice of some sort (anandreia), you to escape, we to assist you.88

Crito’s argument is cast in the language of value characteristic of the world of Athens in which Socrates found himself, and indeed the earlier stages of that world as well. In terms that are deeply familiar, it embodies a kind of aggressive egotism, regulated by the principle of reciprocity, for it invokes both a conception of justice as retaliation—like the one that dominates the world of Aeschylus’ Oresteia89—and a related conception of positive reciprocity, which underlies the practices of hospitality that were so central to the ancient world.40 But as a statement of Socrates’ idea of justice, or as an argument meant to appeal to him, Crito’s argument is hopeless. Almost nothing could be worse.41

Crito closes his speech with a claim of emergency, an exhortation to act immediately or lose the chance forever;42 this is a pitch of the sort that one might find in the close of a lawyer’s jury argument, or perhaps in a demagogue’s speech to a crowd, a move made by a mind that is trying to overbear another. Its inappropriateness to the relation between Crito and Socrates could not be more marked.

In his distress, Crito has forgotten all he has presumably learned from Socrates about the opinion of the many, about the character of

38. See Crito, supra note 1, at 48 (lines 45c-e).
40. For a brief account of ancient hospitality and its role in the Odyssey, see James Boyd White, The Odyssey, 8 Raritan 103-16 (Fall 1988).
41. Almost nothing could be worse, except to claim that justice itself has no meaning or value, as Thrasymachus and Callicles do, as represented by Plato respectively in the Republic and the Gorgias. See Gorgias, supra note 11, at 65-66, 69-70 (lines 491c, 495c-d); 2 Plato, The Republic, Book 1, in The Dialogues of Plato, supra note 20, at 174-94 (lines 336b-352d). For more sympathetic treatment of these sophists, and the sophistic movement in general, see Eric A. Havelock, The Liberal Temper in Greek Politics (1957); G.B. Kerferd, The Sophistic Movement (1981).
42. See Crito, supra note 1, at 48 (line 46a).
justice, and, what is of at least equal importance, about the kind of attitude and relation that is proper to a serious discussion between those who seek the truth, that is, to philosophic conversation. In his definition of justice as helping your friends and hurting your enemies, in his concern for reputation, and in the kind of manipulative relation he tries to establish with his audience, this old friend of Socrates has collapsed from whatever education he may earlier have attained to the very position that Socrates has spent his life trying to refute and change. A depressing event for a teacher, to say the least, to see your friend and student utterly fail to recall what you thought he had learned, and this precisely at the moment when it most matters, when the question of justice is presented as real, and calls for action.

Socrates responds to Crito with great delicacy and accuracy. He of course refuses to reply to this speech with one like it—nothing could be less Socratic—and simply disregards for the moment the arguments and thesis it advances, focusing instead upon Crito’s own emotional and intellectual condition: “Your eagerness is a fine thing,” he says, “if it should prove to be rightly based; but if not, its very intensity makes it so much the worse.” As for the merits:

All my life I have obeyed, of all things available to me, only the reasoned argument (logos) that proves best to me as I think it out. I cannot now toss out the reasoned arguments (logous) of an earlier time just because this [my death sentence] has come upon me, but to me they continue to seem nearly the same as they did. I honor and respect them just as before. Unless we should find that we have something better than them now, understand that I will not agree with you.

And how are we best to determine whether we do have something better than our old arguments? Socrates suggests that they begin with the question Crito raised before about opinion, namely, “Whether it is right to grant credence to some opinions and not to others.”

The function of this brief speech is to transform the discourse, and the kind of community established by Crito’s sincere yet overbearing and argumentative appeal, into another form, that of dialectic, in which two minds pursue a question together, seeking not to dominate each other but to discover the truth of it. This speech in fact begins to

43. I base this assumption about their prior relationship partly on what we, and the original audience, can be assumed to know about their friendship and partly on the way in which Socrates later uses arguments that he explicitly assumes to be familiar to Crito.
44. Notice the connection here between persuasion (reasoned arguments) and obedience.
45. See Crito, supra note 1, at 48 (lines 46b-c).
46. See id. at 49 (line 46e).
restore Crito to himself: it reduces the sense of urgency by dissipating it as irrelevant, and creates a sense of security in the very way the familiar and apparently detached investigation proceeds. In this sense it is a performance before our eyes of the way in which the philosophic life can lead one to disregard what others consider disasters.

C. A New Start

Socrates next offers Crito what might be called a short course in Socratics, reminding him of what he already knows. The discussion is too long to summarize here in any detail, but one can say that its form is that of question and answer, apparently meant not to explore new ground but to recall what has been established many times before, especially that we should attend to and respect the opinion not of the "ignorant many" but of the "one who knows." This is true of the body, with respect to which we follow the advice of the doctor and the trainer: how much more true must it necessarily be of that nobler part of us that is improved by justice and damaged by injustice? As for the claim that the many have the power to kill us, we answer that our aim is not merely "to live but to live well," which, as we know, means "to live justly." And we are to live justly always, not sometimes to do justice and sometimes not. To act unjustly is evil (kakon) and shameful (aischron), in every case and every way, even when we act this way in response to injustice being inflicted on us.

All this is of course not to define justice but only to assert its importance. But when Socrates accepts Crito's implicit challenge and agrees that if it is just for him to escape he will try it, otherwise not, he commits himself to the question, what justice is.

On this subject Socrates begins with the puzzling claim that to act unjustly is the same thing as to act badly towards (kakós poiein) another. This is puzzling because there is a deep ambiguity here: how do we determine whether we are acting "badly"? If by consulting the person upon whom we act, then Socrates is defining injustice as the equivalent of injury, with injury in turn defined as "doing to someone something they don't like or want." But this would be to define injustice and injury, and necessarily justice too, in terms of human will and

47. See id. at 49-52 (lines 47a-50a).
48. See id. at 50 (line 48b). In Greek this phrase normally has much less by way of moral connotation than it does in English; it might better be translated as "flourish" or "succeed." To say that to live "well" is to live "justly" is thus far more contestable in Greek than English.
49. See id. at 51-52 (lines 49b-e).
50. See id. at 51 (line 49a).
preference. This would be unimaginably inconsistent both with Socrates' usual insistence that we cannot trust our culturally determined instincts and with his position that a kind of restraint or self-control is central to the ethical life.\textsuperscript{51} It would entail an abdication of judgment precisely on those matters on which Socrates thinks it is most essential that we learn to judge rightly, namely, what counts as a true injury or true benefit. Yet if "badly" is to be determined not by the person we affect but by us in this very conversation, through dialectic, then the word is not very different, after all, from "unjustly": it marks an as yet unreached moral judgment. Thus we cannot say that the argument is much advanced by Socrates' definition; instead its function seems to be to introduce this very ambiguity concerning the proper role of the human will or preference in determining the meaning of justice—an ambiguity that will recur in the speech of the \textit{Nomoi}.

Socrates takes Crito (and us) through two further very brief steps before he presents the famous speech of the \textit{Nomoi}: first, he asks whether we ought not keep our agreements if they are just. Upon receiving from Crito an affirmative answer to that, he asks: "If we go away [into exile], without persuading the city, shall we not be injuring (\textit{kakós poiein}) others, and those whom we least should injure?" And in doing this "shall we be adhering to our just agreements or not?" To this Crito responds that he does not understand what Socrates means.\textsuperscript{52} This is hardly surprising. After all, the second issue, about "just agreements," is a wholly new topic and contains deep ambiguities. Must the act agreed to be done itself be "just," or is it enough that the conditions under which the agreement is made are fair ones? In either form the argument is at best incomplete. And the ambiguity about the meaning of \textit{kakós poiein} discussed above—whether we see it from the point of view of the putatively injured, in which case it would be a revolution in Socrates' thinking, or see it from the point of view of "true harm," in which case it is nearly a tautology—is still with us and still also confusing. This means that, despite what he will seem to say, Socrates introduces the speech of the \textit{Nomoi} not just to explicate what he has already said with adequate clearness, but to do something else.

\section*{III. The Speech of the Nomoi}

In turning—at last—to this speech, it is important to recall what we

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\begin{itemize}
\item \textsuperscript{51} Socrates elsewhere speaks repeatedly in favor of the kind of restraint and control required to train horses or athletes, or to educate children, and as a model for mature life as well. See, e.g., \textit{Gorgias}, supra note 11, at 85-86 (line 507a).
\item \textsuperscript{52} See \textit{Crito}, supra note 1, at 52 (lines 49e-50a).
\end{itemize}
are perhaps too likely to forget: that Socrates is here speaking not to the world at large but to Crito, and not about the general issue of the obligation to obey the law in any political state whatever, but about the propriety of his own contemplated escape. Crito has exhibited many things: an anxiety for himself, an impending sense of loss, tender concern for Socrates, a willing bravery to run great risks and to spend great sums, a collapse into the ordinary Greek morality of his day, and an amenability to Socrates’ way of argument that has enabled him, for the moment at least, to be restored to some portion of his earlier attitudes and to his earlier relation with Socrates. He is a kind and brave man, concerned with what is right, but of limited intellectual power and thus unable to maintain a philosophic position with clarity and firmness.

The subject that has actually been established by the narrative and by the conversation is the gap between the anxiety of Crito and the repose of Socrates in the face of the latter’s impending death. The topic of justice, normally one of Socrates’ favorites, has been introduced not by him but by Crito, as a ground of argument meant both to justify his own willingness to run risks on behalf of Socrates and to attack Socrates’ unwillingness to escape. The question before them is stated as one of justice because Crito has put it that way, not because Socrates has done so; Socrates has for the moment accepted this definition of the issue, and the related claim that if it is just for him to escape he will do so. But in what follows he will try to turn the dialogue to its true subject and to bring Crito to see at the end what he could not at the beginning, the ground upon which his own repose in the face of death actually rests.

As I suggested earlier, the form in which the question of justice arises is on the face of it odd, indeed slightly comic: Crito is arguing not that injustice permits Socrates to escape, a position defensible on many grounds, but that justice affirmatively requires him to escape, a far stronger and less likely case—so little likely, on the face of it, as to be itself a kind of paradox, perhaps in unconscious imitation of the famous Socratic paradoxes. Socrates treats it solemnly, as a serious claim; but it is significant that he is about to address it not in his own voice, but that of the Nomoi.

The Nomoi in fact make not one speech but four (preceded by an introduction): at the end of the first, which is, in my view at least, wholly inadequate by any measure, almost a parody of bad argument, Crito announces that he is persuaded by it.\(^{53}\) This response defines by
performance part of the problem that Socrates faces throughout, namely, Crito's limited intellectual capacity and consequent pliability in the face of any argument whatever. When Socrates then goes on to say more, this movement is not prompted by Crito's disagreement, as is usual in dialectic, but has another origin, the desire to move Crito from one set of understandings, from one way of talking, to another. What we see in the second stage of the speech, and even more in the third and fourth, is a gradual rewriting of it to bring Crito, and the reader, away from the false issue raised by the first stage of the speech to the true question at the center of the dialogue.

A. Prelude

When Crito tells him that he does not understand what he has said about "injuring those he ought least to injure" and "violating his just agreements," Socrates says:

If as we were about to run away from here (or however our escape should be called) the laws and the common state of the city might come and stand before us and say: Tell me, Socrates, what are you intending to do? By this deed which you undertake, do you intend anything other than to destroy the laws—that is, us—and the whole city too, so far as you are able? Or does it seem to you that the city can continue to exist, and not be overturned, in which legal judgments (dikai), once made, have no strength, but are rendered powerless at the hands of private parties, and so destroyed?  

Notice that in this brief argument the Nomoi assume that all acts of disobedience to the laws are morally the same, and all a kind of injury to them. They employ a non-Socratic definition of "injury" or "destruction," for they assert as unquestioned their own view of what is harmful and what is not, including their right to carry on in their own career of assumed injustice. They build, that is, on the version of kakós poiein that means "to do something to someone that he does not like" rather than "to do someone an injustice." One could well imagine Socrates in another context responding that if the laws or other actions of the city are unjust, the city is not injured but helped by disobedience. This is in fact the kind of correction that human beings and human institutions often need, for an example of which one need look no farther than Socrates' own behavior, described in the Apology, when he

54. See id. at 52 (lines 50a-b). It is important to notice that Socrates speaks not of what the Nomoi "did say" or "do say," nor even, for the most part what they "would say," but of what they "might say." He uses, that is, the optative mood, and this is a way of marking the speech as hypothetical, tentative, or imagined.
refused the order of the Thirty to arrest Leon of Salamis. It fits with what else we know of Plato's Socrates that he would believe that no one has the right to compel another to do what is unjust.

The Nomoi here speak of submission to the judgments of a court, and of the law that requires such submission, rather than of obedience to the laws more generally. This could be important, because a much stronger case can be made that judicial judgments ought not to be disturbed, at least if they have been reached in a fair way, than that positive laws requiring unjust action ought to be obeyed. In the former case one would argue that the person has had a chance to explain to the court why it should decide his way, and has failed. He must be bound by it, notwithstanding his disagreement with the outcome, or judicial judgments will have almost no weight: after all, the loser almost always thinks the judgment bad, and there would be no way to determine the rightness of his claim except by another proceeding, which would in the usual case be just as liable to error as the first one was. But all of this is of no avail to the case actually made by the Nomoi, for they will soon make plain that they are speaking of the duty to obey every law of the city, not just the one respecting the finality of judgments.

Moreover, the argument that one is bound by fair procedures even when a particular result is wrong, so familiar to us as almost to amount to second nature, rests on a kind of skepticism that it would be surprising to see either Socrates or Plato affirm. At least in its modern form, the argument claims that we are bound by the determinations of others largely because no one can really know the truth, or know what justice requires. To put it another way, this argument defines justice itself not substantively, in terms of ends or relations, but in terms of procedures and arrangements. On this view, whatever the properly elected legislature or properly informed judge or jury do is by definition just, not in the sense that we must agree with it but in the sense that we must grant it authority, at least until it passes all bounds of acceptability. But, as I say, the Nomoi do not in fact develop this argument, and, equally important, the moral skepticism on which it rests is deeply inconsistent with the main thrust of Socrates' work here and elsewhere, which is that it is our deepest duty to discover the just and

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55. See Apology, supra note 1, at 36-37 (lines 32b-c).
56. It is true that here Socrates is asked to suffer rather than to do injustice, as a positive command might require. This is plainly the lesser evil, but it is still an evil; moreover, there is nothing in the speech to suggest that it does not apply to affirmative conduct and much, including the repeated use of the verb "to make" or "to do" (poiein), to suggest that it does.
57. See Crito, supra note 1, at 52 (line 50b).
Socrates himself does function out of a skepticism of a kind, his sense that we do not yet know what justice is. But his usual procedure for living with ignorance is not acquiescence in the judgments reached by the city—which is, after all, nothing but the opinion of the many “who do not know”—but dialectic, the heart of which is that the two parties to the conversation disown all loyalties except to each other and to the discovery of truth. Our ignorance is a ground not for refusing to make judgments about justice but for the imperative that we try to discover what it is and follow its commands; if the goal of moral knowledge eludes us, as perhaps it eludes both Socrates and Plato, we shall still have spent our lives in a way worthy of human beings. What is called for, then, as Socrates makes plain by performance in the *Apology*, is not simple obedience to the city but a kind of intellectual and ethical engagement with it.  

**B. The First Version of the Nomoi’s Speech**

About these opening remarks of the *Nomoi*, Socrates asks:

> What shall we say, Crito, to these things and others like them? Someone—and especially a rhetorician at a law-suit—might have a great deal to say, especially on behalf of that law (*nomos*) now being destroyed [by us], which establishes that legal judgments once reached shall be authoritative. Or shall we say against the *Nomoi*: The city has treated us unjustly and reached its judgment wrongly?

To this Crito agrees.  

This is the point at which Socrates presents the first full version of the speech of the *Nomoi*. The passage reads like this:

> O Socrates, is this [i.e., that our injustice entitles you to act against us] what is agreed between you and us, or [is our agreement rather] to stick by whatever judgments the city reaches?—If we wondered at what they said, perhaps they might go on—Do not be amazed at what is said, Socrates, but answer us, especially since you habitually employ question and answer yourself. Come now, what accusation

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58. *See Apology*, *supra* note 1, at 24-44 (lines 17a-42a).
59. *See Crito*, *supra* note 1, at 52 (lines 50b-c). In suggesting that they might say to the city that it “has acted unjustly towards us,” Socrates invokes the conception of justice that Crito has earlier articulated, namely, that it is right to repay injustice with injustice and at least in this way to “harm one’s enemies.” But Socrates will later reject this view of justice, as he has earlier done; his use of it here can then be read as meeting Crito on his own ground, by rendering explicit objections he might himself have.

This line of argument also assumes that Socrates’ escape would be “unjust” on the grounds that it would “harm” the city, which is the very question at issue.
have you to make against us and the city that you undertake to destroy us? Is it not true, first off, that we brought you into existence and that it was through us that your father took your mother and begot you? Tell us, have you any complaint to make about those of us [i.e., the laws] who regulate marriage, that all is not well with us?—I have no complaint, I would say.—But do you have any complaint against those laws concerning the nourishment and education of a child once he is born, in which you yourself were brought up? Or did those of us appointed to govern such things not provide well when we ordered your father to educate you in music and gymnastics?—You did well, I would say.—Well then. Since you were brought into existence and nourished and educated by us, can you possibly claim that you were not ours, both our child and slave, you and also your ancestors? And if this is so, do you think that you stand on an equal footing with us with respect to justice, so that whatever we might undertake to do to you, you think it right for you to do such things back to us? For surely justice is not equal between you and your father, or your master if you have one, so that, whatever you might suffer, this you do back to them: being slandered you do no slander, being hit you do not hit back, and so forth. Shall you then be on an equal footing with the laws and the city with respect to justice, so that if we should undertake to destroy you, thinking it just, you might undertake so far as you are able to destroy us, the laws and the whole country? And do you say that in doing these things you would be acting justly, you who have cared so much about the truth of virtue? Or are you so wise that you forget that the country is more to be honored than your mother and father and all your ancestors, and more holy and sacred and of greater importance, both among the gods and many right-minded people? And do you forget that it is more necessary to honor, and yield to, and serve the country when it maltreats you than your father, and either to persuade it [otherwise] or to do what it commands, and to suffer, if it should order you to suffer something, bearing yourself peacefully, whether it is to be struck, or bound, or if it should lead you into war, possibly to be wounded or killed, that these things are to be done, and justice is to be found here? Do you forget that one is not to withdraw or run away or leave one's position, but in war and in the courts and everywhere else one is to do what the city and the country should command, or persuade it which way justice lies? And that while it is a sacrilege to use force against either one's father or one's mother, a still greater sacrilege it is to use force against the coun-

60. The Nomoi here assume that Socrates' imagined response—"My conduct is justified by your injustice"—is a version of the conception of justice that Crito invoked, namely, "hurting your enemies," and has no higher claim. The verdict made the city the enemy, hence retaliation is justified; such is the argument that the Nomoi here answer.
try?—What shall we say to this, Crito? Do the laws speak the truth or not?—The truth, it seems to me, says Crito.81

This speech, though expanding on the opening remarks discussed above, still does not, in its present form at least, withstand critical examination. It assumes throughout that to disobey the laws is to injure them and the city, when it may well be argued that to disobey an unjust law is to do the city, and the laws themselves, a service. Indeed in such a case obedience itself may be an injury. And in drawing an analogy to the duties owed by children to parents, and slaves to masters, the speech assumes that the obligation of obedience in those cases is both absolute and just, when in fact here too it might be that to disobey an unjust order is to serve, to obey to injure, and, more generally, that the obligation, whatever it is, should be conditioned on many exceptions, based on other standards of justice. And upon what does the domestic obligation rest in the first place? Not consent, for one does not choose a parent or a master, and obviously either might be vicious. The speech assumes that the duty to obey is self-evident, and thus works as an unreasoned appeal to the culture, to the way things are, of exactly the sort that Socrates' interlocutors often make and that he is normally at pains to expose as both intellectually and ethically inadequate.82

At the center of the argument of the Nomoi is the implicit claim that the city is like a person and that you are for it or against it in all things; whether you “help” or “hurt” is to be measured not by any external understanding of what justice requires, but by the city’s will or preference. The city is either your friend or your enemy, and this in all respects; if the former, the Nomoi implicitly argue, as our help to you in the past demonstrates to be the case, you must help us; this means that you must do whatever we want, however unjust it may be to you or to others, for if you do not you will be hurting us. This is an implied invocation of the sense of justice as “helping your friends and hurting your enemies,” which Crito has affirmed and Socrates always resists. The speech as a whole is thus as far from Socrates' own views,

61. See Crito, supra note 1, at 53 (line 51c).

62. Notice that to concede that one has no complaint to make about certain laws—those relating to marriage or education—is no argument at all on the question whether one is obliged to obey a particular law that is unjust.

Part of this text’s puzzle is that Crito and the Nomoi, imagined by Socrates as speaking against Crito, are both representatives of the culture to be refuted by Socrates. Crito and the Nomoi agree on more than they differ, and it is with this area of agreement that Socrates will mainly concern himself, refuting both at once. But it will not look much like refutation, for in transforming the speech of the Nomoi into another mode, Socrates will not so much defeat Crito as instruct him.
and methods of thought, as one could well imagine; exactly the sort of jumble of unreasoned analogies and conclusory assertions, reaffir-
mations of cultural assumptions, of which it is his habit to make mincemeat.  

Why then is this argument here? It is, I believe, a performance by Socrates of the sort of argument that Crito’s own earlier argument seemed to invite, a way, that is, of meeting Crito on his own terms. You will remember Crito’s set speech, full of arguments why Socrates should escape; it was a kind of lawyer’s speech, invoking the common sense of morality and justice, and this is a response in kind. (Socrates as much as tells us so when he speaks of what “a rhetorician might say”; and he speaks throughout not in his own voice but that of the Nomoi, who are dogmatic and authoritarian in manner.) This speech actually mirrors the speech it is responding to, both in its underlying conception of justice as helping friends and hurting enemies, and in its conception of “harm” or “injury” described above. It would not persuade you or me, or perhaps anyone else, but it persuades Crito. It is a way of speaking to Crito in his own terms and at his intellectual level. As his acquiescence suggests, it “works”; yet in another sense its evident defects call for further treatment. It is here not as a serious statement of Socrates’ own views—quite the opposite—but as a text that catches Crito’s modes of thought and argument, so that they may be changed. It is not meant to stand as it is, but to be rewritten, transformed into something else, and in such a way as to carry Crito with it; and this process of rewriting is the center of life in this text.

C. Rewriting (I): The Citizen’s Agreement

How do the rewritings of this speech work the transformations to which I allude, and where exactly do they bring Crito and the reader at the end?

In its next version—the second—the speech of the Nomoi develops the idea that there is an agreement between Socrates and the laws,

63. I speak here of the speech as it is composed in the text. Of course one could say a great deal about the bearing of status and contract upon the obligation to obey the law, and these topics are deep in our own thought on these matters. But the Nomoi say virtually nothing beyond the assertion of their conclusions, which is a large part of Plato’s point in composing the speech as he does.

64. See supra notes 28-43 and accompanying text (describing Crito’s attempt to persuade Socrates to escape).

65. See Crito, supra note 1, at 52 (lines 50b-c).
which obliges him to obey them. In the form in which we have already seen it this argument is wholly conclusory, for who is to say that an agreement exists or what its terms are? And to judge by Socrates' remarks in the Apology, his own conception of the agreement he has in fact made, with himself if not with the city, is that he should continue to lead the philosophic and dialectical life he there describes, wherever it takes him and whatever should happen to him. And even if we assume that an agreement to obey all the laws was made, explicitly or by conduct, why should any respect at all be accorded an agreement that purports to require one to do or to suffer something unjust?

What the Nomoi now say gives some content to the idea of agreement: since the laws permit any adult to leave the city at any time, taking their goods with them,

whoever of you remains, observing the manner in which we decide cases and manage the rest of the city, we say he has already agreed with us by this conduct to do whatever we might command. And one who does not obey, we say acts unjustly in three ways, that he disobeys us who are his parents, that he disobeys those who nourished him, and that having agreed to obey us he neither obeys nor persuades us [that we are wrong] . . . We give him two alternatives, either to persuade us [that we are wrong] or to do [what we order], of which he does neither.

This is a much more interesting and persuasive version of the argument, resting as it does not upon the authority of an ipse dixit but on the conduct of the citizen who has chosen to remain. But as an interpretation of this conduct it remains conclusory: why should one, simply by remaining, be held to have agreed to obey all the laws of the city, including the unjust ones? The relative importance of the city compared to parents and friends, referred to earlier, would only make more important the obligation to keep whatever agreement one did make, not in any way define its terms. And, more simply, why does past acquiescence commit one to future obedience? If the claim rests on simple consent, one should be able to withdraw it whenever one wants. The theory of the Nomoi would oblige anyone who did not leave the city to obey any imaginable law, say one prohibiting public speech or requiring one to carry out genocidal murders. And on what basis does this supposed agreement really rest? It is not as though the citizen

66. See Apology, supra note 1, at 37 (lines 33a-b).
67. See Crito, supra note 1, at 54 (lines 51e-52a).
68. There is also perhaps the qualification that the city must think that what it is doing is just. But this would apply to almost all laws, perhaps all laws, for as Plato has shown us more than once, it is virtually impossible for a person to admit that what he is doing is truly unjust.
has in practical fact the sorts of options the argument supposes, for all kinds of forces may keep a person in an Athens of which one deeply disapproves. This kind of argument has a vulgar twentieth-century version, expressed in the bumper stickers that say: "America: Love It or Leave It."

There is perhaps a qualification implicit in the remark that one has to do what the city orders "or persuade it," meaning persuade it that it is wrong. This has been read as meaning that one need only try to persuade the city of its error, but such a construction is both (in my view) linguistically incorrect as a matter of Greek and philosophically out of tune with the whole thrust of the speech. In fact it destroys the whole case that the Nomoi are making, for it would always be an out that one had argued seriously and honestly for the justice of one's conduct; besides, in this case Socrates himself has tried to do exactly that and should, under this reasoning, be free of the very obligation that the Nomoi are claiming he is bound by.

One might more plausibly modify the "persuasion" qualification by arguing that a city that failed to allow for regular processes of persuasion would not be entitled to obedience, for it would have violated a central term of the agreement itself. But this would not work to excuse Socrates' escape, for Athens has provided just such a process. And in any event there can be little support for reading such a qualification into this language, for it would really be just a sophisticated version of the claim that the Nomoi have already rejected, namely, that Socrates is not obliged to suffer the penalty because the city has imposed it unjustly. The very idea that the obligation to obey is dependent upon the justice of the conduct of the city, whether "justice" is defined substantively or procedurally, is antithetical to the main thrust of the Nomoi's argument. If taken seriously it would wholly undermine their claims, for it would invite us to ask what should be taken as the proper conditions of the obligation to obey the law, which might include a great many things: full participation as an equal in the making of laws, a fair distribution of resources and opportunities for political ac-

69. For the best statement of the argument that I am resisting, see KRAUT, supra note 11, at 65-73. It is true that the present tense "may express an action begun, attempted, or intended," HERBERT WEIR SMYTH, GREEK GRAMMAR § 1878 (rev. ed. 1956), but I think it does so only when the context requires it, and whether that is so is the question in issue here. As Smyth puts it, "The idea of attempt or intention is an inference from the context and lies in the present only so far as the present does not denote completion." Id. For Kraut's contrary view, see KRAUT, supra note 11, at 72-73.

70. This is true of course only if one's conduct is indeed just; but the whole argument assumes that. The subject of argument here is the duty to obey laws and decrees that are clearly unjust.
tion, adequate procedures for speaking to the legislature or the judiciary, and so on. This is a line of thought natural to us in the twentieth century, and it can carry one very far in limiting the obligation to obey the law; but it is not how Socrates represents the Nomoi as thinking, nor indeed how he thinks himself.  

One more point about the repeated remark that the citizen is to do what the Nomoi command or to persuade them that they are wrong: the same word that in its active and transitive form is usually translated as “persuade” (peithein), in its middle or passive form means “obey” (peithesthai).  

There is no etymological connection between the two English words, and they would normally be thought of as having different complements: “persuade” and “agree” (or “yield,” or simply “be persuaded”); “obey” and “command.” This point is especially important in legal thought, where it has long been customary to think of a rule of law as a “command,” and of what it demands of its audience as “obedience.” But the Greek term suggests that there is a deep connection between persuasion and obedience: that there is no obedience without persuasion of some kind, if only a threat, and no persuasion without something like obedience, or submission. Peithein might then best be translated as “to subject to verbal and intellectual force,” peithesthai as “to yield to verbal and intellectual force.” What this suggests about authority is that it is always created in part by those who are subject to it, that it is never total, and that it is present whenever we recognize the force of an argument or text. When the Nomoi say that Socrates has agreed “to obey us” but in fact neither “obeys” nor “persuades,” all three verbs are from the same root, and the argument thus has a kind of punning or tautological form, which has the effect of eliminating the possibilities for education and commu-

71. As I suggested above, it would be in principle possible to distinguish between two kinds of injustice and to say that injustice in the particular result is no ground for disobedience of the laws in general, but that injustice in the process by which laws are made or applied is such a ground. This would appeal to those who want to distinguish between an unjust system and unjust results and to say that allegiance to an essentially just system requires toleration of results that seem unjust, either because they are inevitable in an imperfect world or because the judgment as to whether they are truly just can never be confidently made. In this sense whatever the reasonably fair system does is as “just” as anything human can be. But this line of argument is not, I think, present in the speech of the Nomoi; and if it were it would remain very far from the position normally advanced by Socrates. The argument of the Nomoi requires the citizen (at least of a state that permitted him to depart) to comply with all its laws, however unjust they might be, including laws requiring him to commit affirmative injustice. Crito may be swung over to such a position by this speech, but that should not be said either of Socrates or of the reader.

72. See A GREEK-ENGLISH LEXICON 1353 (Henry G. Liddell & Robert Scott eds., 1968). For an explanation of the active, middle, and passive forms of verbs in Greek grammar, see SMYTH, supra note 69, §§ 1703-1758, at 389-98.
nity otherwise suggested by the idea of persuasion. The view of the Nomoi all boils down to a conflict of wills: either you must obey us or we you.

D. Rewriting (II): Socrates’ Own Agreement

In its third version, the speech of the Nomoi undergoes a further transformation, in which it sheds at once the highly generalized sorts of arguments described above and many of the difficulties that they present. For the speech now moves from an argument based on the kind of agreement that any citizen makes with his city, by remaining there when the city permits him to depart, to the agreement that Socrates himself has made, not with any city, but with Athens.

For Socrates, the Nomoi might say, more than any other Athenian has made such an agreement by his conduct. He has lived at Athens more exclusively than almost anyone else, never going out of the city to see the sights, “nor ever for any other reasons, except on military duty,” nor has he taken voyages as other men do, nor shown any interest in the laws of other cities.73

Still more: in this very lawsuit, it was possible for you to propose the penalty of exile, if you had wished, and then you could have done with the consent of the city what you now undertake to do against its will. [At trial] you preened yourself on the fact that you were not troubled if it were to become necessary for you to die, but chose, as you put it, death over exile. Now you are not ashamed (aischunesthai) of these words, nor do you have regard for us, the laws, whom you undertake to destroy, but you do what the most wretched slave might do, trying to run away against your undertaking and agreements, by which you agreed to live as a citizen under us. But answer us this straight off, whether we speak the truth when we say that you have agreed, not in words but in your conduct, to live as a citizen subject to us, or not.74

When the question is put to him, Crito once more says that he agrees with the Nomoi.75 But what he assents to here is vastly different from the earlier formulations, for now the ground of the argument is the agreement Socrates himself has allegedly made with the city to which he has devoted much of his life. The question is no longer abstract or theoretical but particular; it is not about the meaning of residence in the city as a general matter, but about the meaning of Socra-

73. See Crito, supra note 1, at 54 (lines 52b-c).
74. See id. at 54 (lines 52c-d).
75. See id. at 55 (line 52d).
tes' own life, which might be—indeed it is suggested here it is—different in significant respects from the meaning of that of others. This is not abstract or legalistic talk—from these predicates, these conclusions—but highly personal.

The speech really asks Socrates a question: "Isn't this the meaning of what you have done, and agreed to?" In doing so it necessarily concedes that on this point Socrates himself is the ultimate witness. In framing this part of the speech, Socrates thus shifts his subject from the forfeitures that his conduct has arguably entailed to what its meaning is, both to him and to his audience. This is the ground upon which he will ultimately rest his case that his impending death is not the "bad news" that Crito sees it to be but an event that can be accepted with repose, even satisfaction, not only by Socrates himself but by his friends.

An even more particular ground for the duty not to escape is suggested by the closing reference to Socrates' behavior in this very proceeding, where his own choice of a proposed penalty in effect made it impossible for the city to order his exile. For under the procedures of Athenian law, the jury could not set its own penalty but had to choose between the two proposed by the parties: by Socrates' accuser, death; by Socrates, at first the "penalty" of a lifetime of free dinners, in recognition of his services to the city, then, upon prompting, a small fine. By failing to ask for exile, the argument would run, Socrates has waived his right to it, and in this sense has agreed to his punishment. He cannot now take against the city's will what he might have had with its acquiescence; or, to put it slightly differently, the city should at least be given the chance to offer him, through the channels of the law, what he now claims the right to take on his own. This argument is a specification of the earlier ones—by remaining you agreed; you must submit or persuade—but with radically different force, for it is now grounded in a particular act, a strategic choice, to which he is being held. To speak of it as a species of agreement hardly stretches things at all. If the thrust of Socrates' own position were legalistic, it could perhaps rest on this waiver, without more.

But his position is not legalistic. What matters to Socrates far more than the "waiver" he might be said to have made is the meaning of that gesture as part of the meaning of his life as a whole. He thus brings us back to the reasons why he did not ask for exile in the first place, which for him are still in force and render irrelevant the whole conversation in which Crito has involved him when he claimed that it

76. See id. at 54 (line 52c).
would be unjust for him not to try to escape.

E. Rewriting (III): The Meaning of This Life, This Death

In the final version of the speech, the Nomoi first sum up the argument from agreement (making plain that they are referring to Socrates' particular undertakings rather than to a general obligation of citizenship), then go on to argue in terms that remind us of Crito's initial concern with the opinions of others: they say that if Socrates obeys them (or is persuaded by them), he will "not make himself ridiculous" in his escape from the city, as he otherwise will. This theme is an odd one, for in its explicit form it is a direct appeal to the opinions not of the "one who knows" but of the many, an appeal in fact of just the sort that Socrates has rejected earlier in this dialogue and earlier in his life as well. But, as we shall soon see, this speech works at the same time in another way, to address the question Socrates has been pursuing from the beginning, namely, how to explain to Crito—how to get him to see and feel—that what Crito now regards as a dreadful event is in fact not one, that the coming death is not to be deplored or feared but accepted as a fitting end to Socrates' life.

This is what the Nomoi say: If you escape, Socrates, "what good shall you do yourself or your friends? Your friends are likely to become exiles themselves, and deprived of the city and all their goods." And as for you,

if you go to a well-run neighboring state, Thebes or Megara, for both are well-governed, . . . you will come as an enemy to their constitution; those who care for their own cities will be suspicious of you, considering you a destroyer of laws; and this will confirm the judges here in the rightness of their verdict, for whoever destroys the laws may very likely corrupt the young and unthinking (which was the offense of which Socrates was convicted). Yet if you avoid well-regulated cities and orderly men,

will you have a life worth living? Shall you approach these men and speak shamelessly to them—saying what? Making the arguments you have given here, that justice and virtue are of the greatest value to human beings, and so are the established customs and the laws? Do you not think that the whole Socratic enterprise will then seem incoherent?

If you go to Thessaly, where Crito has his friends, and which is the most disorderly place of all, perhaps you will enjoy hearing pleasant

77. See id. at 55-56 (lines 52d-54d).
tales of your ridiculous escape from prison, dressed in disguise. And
where will your arguments about justice and virtue be then? 

And as for your children, the Nomoi go on, will you raise them in
such barbarity? Or leave them to be raised by friends in Athens? But
that of course you can do also if you die.

So be persuaded by (or obey) us, Socrates, who are your nurses, and
do not put children, or staying alive, or anything else, before justice,
so that when you get to the lower world you have all these things to
say in your own defense to the rulers of that place. It is plain that if
you do these things it will not be better or more just or more sacred
for you here, or for those who belong to you, nor will it be better for
you when you get there. As things are, you will depart [for Hades], if
you should do so, as one treated unjustly not by the laws but by men.
But if you should escape, shamefully repaying injustice with injustice
and wrong with wrong, breaking your agreements with us, and doing
harm to those whom you should least hurt—you yourself and your
friends and your country and us—we shall treat you harshly while
you live, and our brothers, who rule in Hades, will not receive you
benignly, knowing that you tried to destroy us, so far as you could do
so. So let not Crito, rather than us, persuade you what to do.

The point of this last rewriting is to demonstrate to Crito not why
escape would be “unjust” in the sense Crito supposes, but why it is
that Socrates does not and cannot want the life that escape would give
him. The claim in the end is a simple one, and the same now as it was
when he spoke in the Apology, namely, that for him to die now, in this
effort to speak the truth to the city, is a fitting end for him—not so
comfortable, and perhaps not so fitting, as to be maintained by the city
at their expense for life, in recognition of his services, but fitting none-
theless. Socrates cannot wish to escape; and, in this conversation
equally important, his friends cannot properly wish it for him either.
Perhaps, indeed, once they recognize that this is the way things are for
him, they may come to feel the same essential repose that he does.

What the Nomoi say about his past does not establish that he has
entered into an agreement, in character like a legal contract, that
obliges him to stay in the city against his will, but that he has estab-
lished a relationship with the city that it would be an abandonment of
self to abandon now. For he has not merely resided in Athens, as the
Nomoi say; he has made his relationship with Athens a central concern
of his life. He has tried to establish a dialectical relationship with the

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78. See id. at 55 (lines 53a-e).
79. See id. at 55-56 (lines 53e-54a).
80. See id. at 56 (lines 54b-d).
81. See Apology, supra note 1, at 39-44 (lines 35e-42a).
city—insofar as one can have such a relationship with a city—in which he seeks to say the truth, to refute and to be refuted, and this perhaps is demonstrated nowhere so clearly as in the Apology, where he argues for his acquittal, but in terms that make it impossible for the jury to grant it without granting at the same time the truth and value of the goal to which he has directed his life.  

IV. A FITTING END

Why is this a fitting end? Not because it is of itself a good thing to suffer unjustly at the hands of Athens; but because this end, unlike escape, does not require Socrates to give up the major purpose of his life. Indeed, it is a way of fulfilling a major part of that purpose, which is to establish the value of thinking and talking about what we ought to be and do collectively, as a polity, and not merely as individuals: to establish, that is, the legitimacy of discourse about the nature of the just community. His success in doing this is in fact the foundation of our own political thinking ever since, which depends upon our being able to imagine ourselves not merely as individuals who happen to be found together, our interests in temporary conflict or harmony, like rats in the maze of life, but as a larger polity, as a city or nation or society that has a moral life and career of its own of which we can ask the question, Is it just?

There are now, as there have always been, currents of opinion that wish to deny the value and coherence of that question, and the legitimacy of the discourse based upon it. Yet this question is what has enabled us to think about ourselves as we have in the West, from Plato through Cicero and Aquinas and Machiavelli to the present time. If all were reducible to the individual (or to the family), to a calculation of individual costs and benefits, it would be impossible to talk, as Socrates did and as we have ever since, of a city or nation as having a character and moral life, which could be analyzed and judged by comparison to an ideal. Socrates' death expresses his commitment to that possibility; to turn away would be to deny it. If he escaped to Megara or Thessaly, he could pursue questions of justice, if at all, merely as a theoretical matter, without the engagement with the actual that can make the pursuit real. For in his life Socrates has constituted Athens as an idealized dialogic partner, a moral actor with a career of its own, for whom justice can be as central a concern as it is for an individual. It is this fictive creation partly of his own making that he would die rather than

82. See id. at 22-44 (lines 17a-42a).
deny; especially when the death, like this one, would do so much to make this fiction real.

Athens is his city: both the actual polis and, equally important, the vision of what it could become if it were to define itself by a concern for justice, if it were to ask the question Socrates taught individuals to ask; namely, how are we to lead our lives in a just way and mean it. This is what he cannot leave without abandoning himself. To walk away would not be to break an agreement to which he is held against his will but a commitment to a sense of himself and the possibilities of human life to which he has devoted his existence; it would indeed "injure those whom he ought least to injure," as the Nomoi claimed, but in a very different sense from theirs. To abandon his commitment to this conversation with this partner would be to destroy the meaning of his life.

Socrates thus dies in order to establish the value and coherence and meaning of a certain sort of conversation, in which we still participate and from which we still benefit. This is what he wants Crito to see. But it is not admiration for the Athens that actually exists, or for "the many" that run it, that motivates him. He is profoundly separated, in attitude and value, from those who dominate his culture. In speaking to Crito, for example, he said that between those who think as he does—that one should never act unjustly—and those who think otherwise, there is such a difference that there can be no common deliberation but only mutual contempt. And his perpetually reiterated scorn for "the many," who do not think and do not know, as opposed to the few who do, expresses much the same feeling. In the Apology he acknowledges this sense of distance, explaining why he has never been politically active by saying that it would certainly have led to his death. The Apology can in fact be read as a kind of heroic attempt to do the impossible, to represent his life in ways that made it acceptable to the public, when in fact nearly everything he says seems likely to infuriate the jury all the more. It is not surprising that the vote goes against him, especially in a proceeding guided by standards so vague as to amount to a kind of ostracism; it is surprising instead, as Socrates said, that so many voted for him.

It would be a great mistake, then, to think of Socrates as operating out of a comfortable view of his city and its people. He is their most severe and troubling critic. Yet it has been a central part of his life's

83. See Crito, supra note 1, at 56 (line 54c).
84. See id. at 50-51 (lines 48c-d).
85. See Apology, supra note 1, at 36 (lines 31e-32a).
86. See id. at 39 (line 36a).
work to turn them in a certain direction, towards thinking of justice as their ultimate collective concern, and, though he is never optimistic about the prospect, it is the imagined possibility that he might succeed upon which he will not turn his back. He starts a certain kind of conversation with his city and will not give it up. This is not a conversation that can be translated to another city, another world; his engagement is with this particular city, just as it is with this particular Crito.

V. The Authority of Performance

What, then, according to this text is entitled to respect and authority? For, at least on the reading I have suggested, the laws are not, or not to absolute authority of the sort that the Nomoi claim for them. Beyond that we can say rather little about the kind of authority Plato or Socrates regards them as having, and subject to what exceptions, for that question is not the one pursued here. In this dialogue, despite appearances, no very clear position is taken with respect to the authority of law.

But this is not to say that there are no claims to authority made here. In a sense any text makes a claim to authority, in that it makes a claim to attention and thus asserts the value of its own arguments and processes of thought, and this one is no exception. When we ask what kind of claims this one makes, we find that some of them are quite explicit. Socrates says early on, for example, that he will not now give up the “reasoned arguments” (logous) that have proved best in the past just because he faces imminent death, unless of course they are now shown to be defective.87 This is to invoke the authority of reason itself, and in two ways: the old arguments are entitled to respect because they are reasoned; but it is also true that he will now abandon them if he is persuaded that better reasons call for that. What one is properly to obey is reason, he seems necessarily to be saying, but this of course only suggests the question that his own performance must answer: “What is a good reason, and thus entitled to obedience?” That of which one is properly persuaded, he impliedly says, thus uniting the two meanings—persuade and obey—of the Greek verb peitho, and suggesting that here, as throughout the Socratic corpus, it is the process of philosophy itself, or what he usually calls dialectic, that is ultimately authoritative.

This is hardly a surprise, for elsewhere in the dialogues Socrates repeatedly tells us that he puts the authority of dialectic first, as the

87. See Crito, supra note 1, at 48-49 (lines 46b-e).
only thing we can, in our ignorance of the truth, rely upon. In the Gorgias, for example, he defines dialectic, opposing it to rhetoric, this way: in the dialectical conversation, unlike the rhetorical one, there are only the two parties to the process; they proceed by question and answer, not by making speeches; each promises to tell the truth as he sees it; each, knowing that his own knowledge is defective, actively seeks refutation from the other; and each, for the moment, is loyal only to that relation, calling in no others as witnesses, asking what they think, but calling only on the other party to the dialectic as his witness.\(^8\) Each speaker is to accept as authority, for the moment at least, only the relation so established with another and the activity it makes possible, the conversation itself, in the course of which, as Socrates practices it, our language, the very material of our thought and the ground of our connection to others, is broken down and remade.\(^9\) A dialectic that sought to establish the superior authority of the laws, or of anything external to itself, would be a contradiction in terms. On this view, the true authority invoked here, that of dialectic, would be directly opposed to the one purportedly invoked, that of the laws of Athens.

But this view of dialectic will not work here, for in his relations both with Athens and with Crito Socrates modifies what he usually means by “dialectic”: because Athens is a constructed entity, with whom question and answer are impossible, and because Crito is simply not up to the demands of that kind of conversation and of life. With Athens it is a dialectic of a career, the performance of a way of life, which reaches its clearest and most challenging expression in the Apology, where for once the fictive construction of Athens has something like a real and momentarily united form in the jury, whom Socrates can address as a surrogate for the city as a whole.\(^90\) The essential thing is for Socrates to state as truly as possible what he has done and why, and to shift to the city the responsibility for dealing with it. He will seek not to please the jurors but to refute them, yet he will do this out of a recognition of the incompleteness of his own knowledge. To ask for exile in that context would be to destroy his commitment to speak the truth in this relationship, upon which the meaning and coherence of his life depends; to seize exile now would do the same, only even more markedly so.

With respect to Crito—who is in some respects also a surrogate for

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88. See Gorgias, supra note 11, at 15, 42 (lines 448e, 471e).
90. See generally Apology, supra note 1.
the city more generally—Socrates cannot engage in dialectic in the usual sense, for Crito is not up to it. Socrates is therefore not so much refutational as anagogic, leading Crito as it were by the hand from one position to another. He seeks not to mortify or humiliate, not in this sense to "hurt" dialectically and beneficially, and thus to correct, as he describes dialectic doing in the Gorgias and elsewhere, but to instruct in a softer way. He demonstrates the kind of friendship it is possible for Socrates to have with Crito, and thus addresses a central difficulty with the Socratic corpus, namely, what kind of relationship the dialectician can establish with one who is not himself fully capable of dialectic. This is itself a performance of kindness, and it respects the kindness of another; this enactment of kindness, reciprocal to Crito's own, works in the end as a response to the first claim that Crito made, which, as you remember, was not that it is unjust for Socrates to refuse to escape, but that it would mean for him, Crito, the loss of such a friend as he should never find again.91

Socrates made no response to that claim when it was made and has still not given it a formal answer. But, on the reading of the dialogue that I have suggested, everything that follows, every question and speech, is meant as a response to it, both as an acknowledgment of the reality of Crito's sense of loss and as an attempt, in an act of friendship, to reduce that pain by bringing Crito to see the meaning of the event in different terms through education. What we see here is kindness responding to kindness, respect for what is worthy of respect in a person of limited capacity, and the exercise of an art at once intellectual and social, whose function is to teach by transforming his interlocutor's perceptions and understandings of the truth. Thus it is that the text has the form it does, leading Crito from one position to another: respecting his sense that he will lose a friend he loves and bringing him in the end to see that the continued existence of that friend, as the person he loves, is now impossible. He is not to grieve for Socrates, nor even for himself, at this verdict and its consequences, for it is not the verdict that deprives him of his friend but that friend's character, which is what he loves in him.

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So what then is actually invoked as authority here? Not the laws; not the reasons for obeying the laws, for that topic is dropped when the argument is in a most unsatisfactory state indeed and transformed into another one; not even dialectic in its pure form; but another sort of

91. See Crito, supra note 1, at 47 (line 44b).
conversation, another sort of philosophy, created by another sort of
text, the *Crito* itself, defining its own idea of reason, its own way of
being with language and with people.

What is this kind of reason? To start with the negative, the dialogue
obviously rejects the mode of discourse offered by the *Nomoi* in their
first speech, which is abstract, propositional, conclusory, and unreas-
ioned in character—as authoritarian in performance as it is in its mes-
sage—just as it rejects the methods of Crito's first speech too. These
two speeches make a pair that capture the contemporary state of Athe-
nian discourse, Crito invoking the "ordinary Greek" conception of jus-
tice (helping your friends and hurting your enemies), the *Nomoi* mar-
shalling another set of appeals that would also seem compelling in
"ordinary Greek," based upon one's self-evident duty to one's city. In
this way these two speeches define the kinds of argument that it would
be second-nature for an educated Athenian to make. And by kinds of
argument I mean not only the particular positions taken but the way
they are explained and justified, the reasons offered as persuasive, in-
cluding the tone of voice, the attitude towards one's audience and to-
wards countering arguments, in short, the whole intellectual and ethi-
cal performance of the text. Imagine trying to engage the *Nomoi* in
philosophic conversation, and I think you will see the impossibility of
which I speak, and perhaps something as well of Socrates' difficulty in
addressing Crito himself.

The dialogue works with these two voices in different ways, using
one—that of the *Nomoi*—to answer the other, then rewriting it to
make a very different case indeed. The mode of thought performed in
the dialogue as a whole is thus dramatic and literary, in contrast to
Crito and the *Nomoi* alike, both of whom seek to argue from the top
down, from general principle to particular conclusion, in a standard
rationalist way. The kind of reason for which authority is claimed in

92. Owing partly to its small size, partly to its inherent susceptibility to civil war, the polis
was perceptibly fragile, and this perhaps gave a kind of self-evidence to the duty not to impair
its capacity to survive as a functioning unit, even at the cost of doing or suffering injustice.
Think of the practice of ostracism, by which a person would be exiled by a special vote (of
which it was apparently never claimed that it was just), or the way in which Thucydides
presents as treasonable Alcibiades' claims to have a right to retaliate against the city that
harmed him. See 2 *Thucydides* Book IV (Benjamin Jowett trans., 2d ed. 1903).

I am grateful to Arthur W.H. Adkins for this point. He has also suggested in correspon-
dence that one purpose of the *Crito* may have been to defend Socrates against the charge that he
was responsible, as Alcibiades' teacher and lover, for this conduct and its justification. One can
read the speech of the *Nomoi* as responding directly to the claims of Alcibiades, in *Thucydides*
VI.92.2. On civil war, see especially Thucydides' account of the civil war in Corcyra—his image
of the chaos with which every city was in principle threatened—and recall that Athens itself
was torn by internal war more than once during the last years of Socrates' life.
the dialogue as a whole is thus very different in quality: its idea is not to make arguments good for all time, in all contexts and languages, but to carry on a conversation that is appropriate to this relation, with this person—or city—and this language, under these conditions of ignorance and uncertainty. This is true at once of Socrates’ conversation with Crito and of Plato’s with us, his readers. Both place at their center not abstract propositions of fact or value but the enactment of character and relations; both make the difficulty of thought and speech itself a central issue; both insist upon the primacy of the related questions, “What kind of person should I be?” and “What kind of city should Athens be?”

The movement is corrective, from the authoritarian and the propositional to the authoritative and enacted. The life of the text is in this movement, in its transformations of one way of thinking and being into another, like music. In a sense the ultimate ground of this dialogue is narrative, for it all depends upon one’s acquiescence in Socrates’ claim that this is a fitting end to such a life. Its ultimate value, like the value of Socrates’ own career, lies not in any theoretical scheme or system but in the kind of life it invites and makes possible.93

In its relation to us as readers the text is challenging, for it presents us with a real puzzle: a set of pieces that do not fit together, though we may try again and again to force them, until we see it not as an intellectual structure but as a piece of social and political action. It offers us no firm place to stand, certainly not in the first speech of the Nomoi, but a difficulty, in the working out of which we must assert our own mind against the incompleteness and defectiveness, not of the text as a whole, but of certain arguments within it.

The effect of this dialogue, like many, is not to offer the reader a system, a structure of propositions, but to disturb and upset him in a certain way, to leave him in a kind of radical distress—even while leading Crito to greater repose. For what is the right attitude, after all, to take towards laws that require us to suffer what is unjust? That require us to do it? Can we fashion arguments, better than those of the Nomoi, out of their materials of status and agreement? In a sense, Socrates is refuting a version of himself when he refutes Crito’s claim that justice requires escape, for this is just the sort of paradoxical thing he likes to urge, and he certainly thinks that the claims of justice are

93. Indeed it puts into question whether any conversation that is as abstracted from experience and particularity as that proposed by the Nomoi (and readily pursued by philosophers ever since), say, on the question whether “the citizen has a duty to obey the law” and if so “whether that duty is absolute or qualified,” could meet the standards of thought and discourse established by the Crito.
paramount—or are they, when the law requires its opposite?\textsuperscript{94}

Such tensions are not a peculiarity but a standard feature of the Platonic dialogues. Think of Socrates’ perpetual insistence upon proceeding by question and answer, for example, rather than by long speeches, a principle violated as often as followed; or his apparent assumption that the questions he asks, say, about the nature of justice or courage, can be satisfactorily answered in their own terms, which is countered by his repeated resort to myth and fable as ways of talking; or his claim that he “knows nothing,” contradicted constantly by his certainty on many questions, substantive as well as procedural; or his obvious love for poetry, against his rejection of it; or his respect for inspiration, answered by his insistence on reason; or, of special relevance to the \textit{Crito}, his claim for the exclusive authority of dialectic and philosophy, answered by his repeated engagement in traditional religious and civic observances; or, again of relevance here, his unremitting contempt for “the many,” who rule Athens and dominate its culture, and his equally unremitting loyalty to, and love for, his city.

Despite what is sometimes claimed for the \textit{Crito}, this kind of writing grants authority to no proposition, to no institution—not even to dialectic—but to the life of thought and imagination enacted here by which the questions of rightness and wrongness, authority and no authority, are addressed. It does not precipitate out into system or doctrine but is always a fresh demand upon the particular moment, the particular mind.

The dialogue at once stimulates and frustrates the reader’s own desire for an authority external to himself. We want Plato (or Socrates) to tell us what authority the law has, and a part of us wants this to be very great indeed; but he will not do that and offers us instead contradictory and paradoxical movements of the mind, with respect to which we can locate ourselves only by becoming active, affirming and rejecting the various claims from our own point of view; as we do this, we find our affirmations and rejections are themselves subject to challenge. Instead of an authority out there in the world—the law—and instead of an intellectual authority, a mode of reasoning that will proceed ineluctably from general principles to general conclusions, this

\textsuperscript{94} Compare here the \textit{Euthyphro}, where Socrates’ interlocutor similarly engages his attention by claiming that what he is doing—prosecuting his father for causing the death of a slave—is just and holy, even though unpopular, a classic Socratic position. \textit{See PLATO, Euthyphro, in Five Dialogues, supra note 1, at 5, 7-8 (lines 4a-e). In the Euthydemus, the effort is to distinguish Socrates from others who are similar to him in a different respect, namely, the teachers of eristic argument, who succeed in confusing their auditors, but by logical tricks rather than dialectic. See THOMAS H. CHANCE, PLATO’S EUTHYDEMUS: ANALYSIS OF WHAT IS AND IS NOT PHILOSOPHY 13-21 (1992).}
text offers us a mode of thought that is inherently inconclusive and puzzling, and thus transfers the problem to us. Like Crito, we look for arguments that will constrain like iron bands; we are naturally susceptible to voices like those of the Nomoi, telling us how things are; it is the great art of this dialogue both to bring these aspects of the reader to life and to challenge them. The ultimate meaning of this text lies in the way it constitutes its reader: more deeply puzzled, more fully alert, more wholly alone.

This text offers us the experience of incoherence partly resolved, then, but resolved only by our seeing that our own desires for certainty in argument, for authority in the laws—or in reason, or in persuasion—are self-misleading; that we cannot rest upon schemes or formulae, either in life or in reading, but must accept the responsibility of living, which is ultimately one of establishing a narrative, a character, a set of relations with others, which have the kinds of coherence and meaning it is given us to have, replete with tension and uncertainty. This is what Plato means by philosophy.