

Philosophy 395: Philosophy of Law

Review: *A Few Relevant Themes in and around Sophocles' Antigone*

- The authority of law,
- Conflict between human and divine law,
- Conflict between one's role as citizen and one's role as family member/friend/etc.,
- Sovereignty as legitimacy vs. sovereignty as force,
- Justice as equality (treating like cases alike) versus justice as giving each his/her due,
- Punishment as reciprocity
- Civil disobedience (at least roughly speaking)

Some Notes on Plato's *Crito*

- Background: Socrates has been found guilty of impiety and corrupting the youth. As a result he has been sentenced to death (as we saw last week in Plato's *Apology*). However, his execution has been delayed because of religious festival. As the dialogue opens, the festival is coming to an end, and Socrates' sentence is about to be carried out.
- Burying the Dead: "For I, O Athenians! never bore any other magisterial office in the city, but have been a senator: and our Antiochean tribe happened to supply the Prytanes when you chose to condemn in a body the ten generals who had not taken off those that perished in the sea-fight, in violation of the law, as you afterward all thought. At that time I alone of the Prytanes opposed your doing anything contrary to the laws, and I voted against you; and when the orators were ready to denounce me, and to carry me before a magistrate, and you urged and cheered them on, I thought I ought rather to meet the danger with law and justice on my side, than through fear of imprisonment or death, to take part with you in your unjust designs. And this happened while the city was governed by a democracy." (from Plato's *Apology*)
- Should Socrates (try to) escape? Crito's reasoning: "There are persons who at no great cost are willing to save you and bring you out of prison; and as for the informers, you may observe that they are far from being exorbitant in their demands; a little money will satisfy them. My means, which, as I am sure, are ample, are at your service, and if you have a scruple about spending all mine, here are strangers who will give you the use of theirs; and one of them, Simmias the Theban, has brought a sum of money for this very purpose; and Cebes and many others are willing to spend their money too. I say, therefore, do not on that account hesitate about making your escape, and do not say, as you did in the court, that you will have a difficulty in knowing what to do with yourself if you escape. For men will love you in other places to which you may go, and not in Athens only; there are friends of mine in Thessaly, if you like to go to them, who will value and protect you, and no Thessalian will give you any trouble. Nor can I think that you are justified, Socrates, in betraying your own life when you might be saved; this is playing into the hands of your enemies and destroyers; and moreover I should say that you were betraying your children; for you might bring them up and educate them; instead of which you go away and leave them, and they will have to take their chance; and if they do not meet with the usual fate of orphans, there will be small thanks to you. No man should bring children into the world who is unwilling to persevere to the end in their nurture and education. But you are choosing the easier part, as I think, not the better and manlier, which would rather have become one who professes virtue in all his actions, like yourself. And, indeed, I am ashamed not only of you, but of us who are your friends, when I reflect that this entire business of yours will be attributed to our want of courage. The trial need never have come on, or might have been brought to another issue; and the end of all, which is the crowning absurdity, will seem to have been permitted by us, through cowardice and baseness, who might have saved you, as you might have saved yourself, if we had been good for anything (for there was no difficulty in escaping); and we did not see how disgraceful, Socrates, and also miserable all this will be to us as well as to you. Make your mind up then, or rather have your mind already made up, for the time of deliberation is over, and there is only one thing to be done, which must be done, if at all, this very night, and which any delay will render all but impossible; I beseech you therefore, Socrates, to be persuaded by me, and to do as I say."¹
- Socrates' primary response to Crito: The real question is "whether we shall do rightly either in escaping or in suffering others to aid in our escape and paying them in money and thanks, or whether we shall not do rightly."

¹ All quotes from the Jowett translation.

- Some interesting claims which Socrates and Crito discuss:
 - "...we are never intentionally to do wrong....we ought not to do wrong...doing wrong [is] always evil and dishonorable...."
 - "...we must injure no one at all."
 - "...doing evil to another is the same as injuring him."
- The question which leads to Crito's (virtual) exit as a partner in dialectic: "In leaving the prison against the will of the Athenians, do I wrong any?" Socrates' conversation with the law(s) or, if you like, the Law(s) goes something very roughly like this:
 - The Laws: "...are you going by an act of yours to overturn us- the laws and the whole State, as far as in you lies? Do you imagine that a State can subsist and not be overthrown, in which the decisions of law have no power, but are set aside and overthrown by individuals?"
 - Response: "...the State has injured us and given an unjust sentence."
 - The Laws: "Well, then, since you were brought into the world and nurtured and educated by us, can you deny in the first place that you are our child and slave, as your fathers were before you? And if this is true you are not on equal terms with us; nor can you think that you have a right to do to us what we are doing to you. Would you have any right to strike or revile or do any other evil to a father or to your master, if you had one, when you have been struck or reviled by him, or received some other evil at his hands?- you would not say this? And because we think right to destroy you, do you think that you have any right to destroy us in return, and your country as far as in you lies?"
 - Response: "...the laws speak truly...."
 - The Laws: "...we further proclaim and give the right to every Athenian, that if he does not like us when he has come of age and has seen the ways of the city, and made our acquaintance, he may go where he pleases and take his goods with him; and none of us laws will forbid him or interfere with him..... But he who has experience of the manner in which we order justice and administer the State, and still remains, has entered into an implied contract that he will do as we command him. And he who disobeys us is, as we maintain, thrice wrong: first, because in disobeying us he is disobeying his parents; secondly, because we are the authors of his education; thirdly, because he has made an agreement with us that he will duly obey our commands; and he neither obeys them nor convinces us that our commands are wrong...."
 - Response: Okay.
 - The Laws: "You, Socrates, are breaking the covenants and agreements which you made with us at your leisure, not in any haste or under any compulsion or deception, but having had seventy years to think of them, during which time you were at liberty to leave the city, if we were not to your mind, or if our covenants appeared to you to be unfair."
 - The Laws: Furthermore "...if you transgress and err in this sort of way, what good will you do, either to yourself or to your friends? That your friends will be driven into exile and deprived of citizenship, or will lose their property, is tolerably certain; and you yourself, if you fly to one of the neighboring cities, as, for example, Thebes or Megara, both of which are well-governed cities, will come to them as an enemy...."
- So is it possible for a just person to obey an unjust law? A few thoughts:
 - Sierra: "The laws may create a strong internal conflict with the individual's morals, and it is possible that in order to satisfy these moral desires that law(s) may have to be broken, but if the laws are broken I believe the individual is morally obligated to accept the consequences."
 - Riley: "I think it is possible for a just person to obey an unjust law. Crito and Socrates accept the premise "that neither injury nor retaliation nor warding off evil by evil is ever right." I disagree with the acceptance of this premise which is the reason why I have a different view on Socrates' overall argument.
 - Erin: "I see that in Socrates case the just man must obey the unjust law rather than stoop to bribery. But escaping prison and exiling himself outside the nation would remove his obligation to accept unjust laws."
 - Kerri: "Although Socrates did not do anything wrong except express his opinions about wisdom, it would be slighting the Athenian government by informing such a large court of their misjudgment and tainting their reputation in the eyes of the citizens."
 - Tunji: Socrates "was just because he chose to stay rather than take the more favorable route of saving himself from fear of judgment."