

Al-Hikmat: A Journal of Philosophy

Volume 38 (2018) pp. 1-9

THE DILEMMA OF UNLIMITED OBEDIENCE TO LAWS: A RECONSIDERATION OF SOCRATIC TRIAL IN THE LIGHT OF EICHMANN TRIAL

Dr Shagufta Begum

Professor & Chairperson

Department of Philosophy,

University of the Punjab, Lahore, Pakistan

E-mail: *dr.shaguftabukhari@gmail.com*

Hafiz Muhammad Hammad Mushtaq

Lecturer in Philosophy

Government Dyal Singh College, Lahore, Pakistan

PhD Scholar, Department of Philosophy,

University of the Punjab, Lahore, Pakistan

E-mail: *be_hammad@yahoo.com*

Abstract: This paper revisits the trial of Socrates which is considered to be a landmark in the history of Western Political and Legal thought. It is at the source of our various political as well as moral conceptions. On the other hand, the Eichmann Trial put an end to discrimination on the basis of race and religion despite the various legal inconsistencies in it. Much has been written covering a range of topics and multiple topics related to both these historically important and game changing trials. The present paper, however, is an effort to reinterpret various Socratic arguments presented in Plato's *Crito* related to the problem of 'citizen in obedience'. The authors have intended to accomplish this task with the help of 'the Eichmann Trial'. The attempts have been directed at highlighting the possible discrepancies in Socratic arguments in the dialogue concerning the matter at hand.

Key Words: Legal Thought, Apology, Crito, Genocide, The Parent Argument, The Benefactor Argument.

Introduction

Laws are cardinal to any functional state machinery. They not only ensure the smooth functioning of all parts of the state institutions but also make it possible for the masses to remain in harmony. Laws are the formulating principle of any nation or state. Commitment to laws makes it possible for the citizens to enjoy freedom, equality, and justice as opposed to exploitation, inequality, and injustice. Nevertheless, the nature and extent of these variables vary with the nature of the Government. The questions that arise here are whether obedience to laws should be unlimited or flexible? What is the status of the individual in relation to the state and its laws? Should the laws be considered universally applicable irrespective of the modalities involved? These questions become extremely important especially when the matter at hand is of utmost importance for the evolution of the state. Although the nature of agreement with the state can also be unconditional, it appears that conditional commitment is the real tool for the evolution of the state. Whoever examines before living necessarily meets a point where he must say 'NO' in order to materialize the results of his higher consciousness as compared to the masses for the sake of evolution and betterment of state, society, and humanity. Nevertheless, the same conditional commitment opens up the paradox of relativism which can result in chaos. To achieve a balance between the two and to diagnose rightly the point where the status-quo of the laws should be challenged is the most critical moment in the lives of nations. A comparison of Socratic and Eichmann¹ trials will elucidate the above mentioned questions.

Socratic trial that took place in 399 B.C. is a paradigmatic case for the discussion of the nature and extent of obedience to laws. At the time of this trial Socrates was seventy years of age as has been told in *Apology*.² This trial was not without a background as it was preceded by the war between Athens and Sparta that spanned over thirty years. The war ended in 404 B.C. resulting in the defeat of Athenians and the government of Thirty Tyrants. The resulting government was a pro-Spartan oligarchy and the nature of it has been discussed by Plato in his seventh letter.³ Tyrants ruled Athens for a year but the experience was devastating for the Athenians. This unhappiness was translated into the anger against those who were directly or indirectly related to the Thirty. Socrates was one such person who was affected by this unhappiness as some friends and students of Socrates were amongst the Thirty and the reaction of the masses against this indirect relationship translated in his trial. Those who were linked to Socrates included Critias⁴ and Carmedes.⁵ Even Plato himself was invited

by the Thirty to join as per the evidence of the seventh letter of Plato. Besides, Socrates was also linked to the Alcibiades who was supposed to have engineered the disastrous Sicilian expedition. So the trial seems to have taken place under a politically charged environment owing to the supposition of conspiracy, resistance, and betrayal.

Apart from this, Socrates was also responsible for challenging the prevalent religious and educational systems. One must not forget the extent of religious, privileged, and sacred status enjoyed by the texts of Homer and Hesiod in that society, the result of going against which was quite obvious. Socrates had to bear the brunt of this, despite that he continued to challenge the ultimate religious authority of his times. The rift between those who were considered wise and Socrates is exemplified with detail in *Apology*. The Socratic Method also challenged the traditional model of education which was based on myth mongering and storytelling. Against this backdrop Socrates advocated virtues such as rationality and argumentation. Hence, by the prevalent standards Socrates was involved in disrespecting and blaspheming the gods. It was on the basis of going against and questioning the national creed that Socrates was declared impious. He was rendered impious as he promoted the replacement of belief and opinion with knowledge and reason. Even the association of his accusers which included Anytus,⁶ Meletus,⁷ and Lycon⁸ depicted this loaded background.

Obedience to Laws

In the case of Socrates, it appears to be the unconditional commitment which he had with the state. The consideration of the nature of agreement which a person has with the state is applicable even if the state commits injustice or the laws become unjust according to Socrates. Even in such extreme situations, one is not allowed to go against this unconditional commitment. So, in a sense, Socrates is preaching status-quo and cowardice here and we will see in the course of this paper with the help of real historical events how destructive this type of attitude can be. Apart from the nature of the agreement with the state the argument which Socrates advances to favor the status-quo are:

- (i) The Parents Argument⁹
- (ii) The Benefactor Argument¹⁰

The Parents argument can be summed up as:

The state is citizen's parent.
Every person ought to obey the parents.

To disobey laws is to disobey parents.
Therefore, no one ought to disobey laws.

Whereas, the Benefactor argument can be summarized as:

The state is a citizen's benefactor.
Everyone ought to obey his or her benefactors.
To disobey laws is to disobey one's benefactor.
Therefore, no one ought to disobey laws.

Analysis of Socrates' position

Both these arguments carry the same type of problems. Even if our parents or benefactors have done good to us, our obligation to them can never be unlimited. For example, no matter how good parents or benefactors are they cannot expect us to violate moral or social laws. The reason being what we have to do depend not on who issues the command but on what command is issued.

Furthermore, even if someone has an obligation to obey the state, it is plausible to believe that he also has a duty to do what is just. A citizen is supposed to act in a way that is just only and to accept what is unjust at any name is never just. We cannot justify the unjust under any label or at any cost. There is a contradiction here in Socrates' attitude and his resolve to stand for justice as he is trying to achieve justice through injustice. This can be outlined in the form of following argument;

Socrates is not guilty (37-b¹¹ and *Crito* also pre-supposes this) so what the laws are doing is not just.
To not stand against the unjust is not just.
Therefore, what Socrates is doing is not just.

Towards the middle of the dialogue, Socrates turns his attention slightly to the status of agreements in qualitatively different situations. After uttering the words "Ought one to fulfill all one's agreements, provided that they are right, or break them?"¹² (49-e) But interestingly he never builds this train of thoughts afterwards. Instead of highlighting the differences, possibilities, and status of laws in situations where the laws are right and where they are not he gives a very generic argument based upon the rhetoric of right and wrong. From this argumentation of Socrates appears his passive position. It looks as if his criterion of being right and wrong wholly depends upon the side of the laws which one chooses to stand with. He does not have any horizon of being right beyond the laws. By these standards, and the words which are quoted below we can make sense of consequentialist and status-

quo maintaining criterion of right and wrong “Shall we say, Yes, I do intend to destroy the laws, because the state wronged me by passing a faulty judgment at my trial?”¹³ (50-c)

He further says:

Do you expect to have such license against your country and its laws that if we try to put you to death in the belief that it is right to do so, you on your part will try your hardest to destroy your country and us its laws in return?¹⁴ (51-a)

The contours which Socrates draws of a state in the *Crito* have no room whatsoever for the exercise of individual consciousness over and above the laws. No matter what the level of sanity is, an individual in such a Socratic political setup is supposed to be a follower only. It appears to be a setup where there is no space of particularization of laws as per the events. The laws, in such a state are universally applicable irrespective of the particular situations as they are aimed at being forceful in a manner to maintain the order at the cost of particular wrongs which they can result in. Any effort to go against the laws of the state is equivalent to destroying the whole state and the laws. In the words of Socrates:

Can you deny that by this act which you are contemplating you intend, so far as you have the power, to destroy us, the laws, and the whole state as well? Do you imagine that a city can continue to exist and not be turned upside down, if the legal judgments which are pronounced in it have no force but are nullified and destroyed by private persons?¹⁵ (50-b)

As opposed to *Crito*, Socrates offers a new revolutionary model of citizenship that is based upon rationality instead of Homeric model of passive-patriotic citizenship. This new model of citizenship, that is not consistent with what we have seen in the arguments of Socrates in *Crito* is exemplified by his saying that the ‘unexamined life is not worth living.’ Even this passive Socratic model of obedience in *Crito* is not in resonance with his views in *Apology* where personal integrity and morality are valued more than laws. The model of citizenship in *Apology* demands revolutionary changes in the prevalent culture of any society parallel to the ways of living. Contrarily, the model in *Crito* favors the status-quo.

Analysis of Socratic trial in the light of the Eichmann Trial

Apart from this internal contradiction in the dialogue if we apply the argument that Socrates is offering in *Crito* the result appears to be

disastrous. The practical example of this is the Eichmann trial which is an important historical event to make Socratic mistake clear. The Eichmann Trial also called 'trial 40/61' exemplifies how this kind of submission and obedience can lead to 'crimes against humanity', and 'genocide'.

The Eichmann Trial commenced on 11th April 1960, after which, he was kidnapped in Argentina by the Israeli Secret Service on 11th May 1960. Although this kidnapping was a violation of International law but it was Eichmann's de facto statelessness that enabled Israel to get away with it in the international community. Apart from this, the trial was against the principle of retroactivity as well as the wrongdoing, moreover, crime cannot be judged in the absence of an established law. To decide the matter, Israel invoked its own law of 1950 which was against the genocide and was based upon the 1945 Nuremberg Charter. This trial has no precedent in history owing to multiplicity of reasons. Despite the ongoing debates regarding the suspicious character of this trial right from day one, the trial provides important illuminating insights into the matters of cardinal importance to not human history but also about human survival.

As a Socratic parallel, the plea that Eichmann takes in his defense was that he was not in charge of the 'final solution'. As he was only obeying the orders of an inhuman regime, which he was supposed to, owing to the nature of his oath, so all his actions were legal according to that system of governance. If accepted, this makes it illegitimate to convict Eichmann for whatever he did, for it was the German State of that time which was to be held responsible where Eichmann was just a part of it. After all whatever he did was just the 'unconditional commitment' to the state being the 'Parent' or the 'Benefactor'. What the state expected from both Socrates and Eichmann and they obeyed can be summed up in the following words of Socrates "Both in the war and in the law courts and everywhere else you must do whatever your city and your country command..."¹⁶ (51-c)

When we look into this case, the status of the individual in an established political setup becomes clearer. The lesson it gives clearly is that the society cannot avoid destruction if it is an amalgam of completely blank robotic individuals (the ones Socrates idealizes or at least preaches to be in his trial). To evolve, society needs vigilant, proactive and brave individuals who have the ability to say 'NO' instead of little cogs in the state machinery who only act to perform the duties assigned to them. A living society needs people who can disobey laws on the basis of some principle stance so that the society may evolve.

Eichmann was not guilty from the legal point of view but was guilty from the standpoint of humanity due to the mass slaughter of Jews. On the other hand, Socrates although turned into a hero by accepting the verdict (although he believed it to be baseless) is guilty from the viewpoint of humanity as he accepted what he believed to be false. The precedent he set for the others was certainly not a healthy one. On the basis of the rule that an individual must obey the lawful orders of the superior authority only, both Eichmann and Socrates are guilty. It is noteworthy here to observe the extent of similarity between the positions taken by Socrates and Eichmann in defence of their decisions. Socratic position has already been exemplified by the use of two main arguments above. To further clarify the point, consider the following words of Socrates in the dialogue *Crito*:

I cannot abandon the principles which I used to hold in the past simply because this accident has happened to me; they seem to me to be much as they were, and I respect and regard the same principles now as before¹⁷.(46-b)

In a similar line of thought, while replying to Judge Halevi Eichmann said:

.... I already at the time realized that the solution by the use of force was something unlawful, something terrible, but to my regret, I was obliged to deal with it in the matters of transportation, because of my oath of loyalty from which I was not released.¹⁸

Interestingly, both these statements echo the faith in unconditional commitment to the state no matter what. Whatsoever this attitude of 'thoughtlessness' is a potential threat for humanity. It can help the individual momentarily but in the long run its results are devastating.

Conclusion

The above discussion shows that no state can exist if there are no laws as going against the laws leads to chaos. However, obedience can never extend unconditionally to all circumstances and for all times. Indeed the existence of citizens is tied to the laws which must not be violated under normal circumstances but we must not extend this to the unexpected as any state and legal system is not immune to corruption. In abnormal situations, going against the laws cannot be equated with impiety. In some exceptional cases, sovereign reason of the individual can qualify as the highest possible authority and it should not be surprising as human condition cannot evolve without it.

End Notes

¹ Otto Adolf Eichmann (1906-1962) was a German Lieutenant Colonel who joined the Nazi Party in 1932. He is considered to be one of the main organizers of the Holocaust. He was responsible and in charge of the transportation of Jews to extermination camps. He was captured by Mossad in 1960 from Argentina after which his famous trial was conducted. After convicting him of war crimes, he was hanged in 1962.

²Plato. *The Collected Dialogues of Plato: Including the Letters*. Edited by Edith Hamilton and Huntington Cairns. Princeton, NJ: Princeton University Press, 2009, 4.

³Plato. *The Collected Dialogues of Plato: Including the Letters*, 1575.

⁴Relative of Plato.

⁵Plato's uncle.

⁶He was a rich and socially prominent Athenian Politician.

⁷He was the representative of the poets.

⁸He represented the rhetoricians.

⁹Plato. *The Collected Dialogues of Plato: Including the Letters*, 36.

¹⁰Plato. *The Collected Dialogues of Plato: Including the Letters*, 37.

¹¹Plato. *The Collected Dialogues of Plato: Including the Letters*, 22.

¹²Plato. *The Collected Dialogues of Plato: Including the Letters*, 35.

¹³Plato. *The Collected Dialogues of Plato: Including the Letters*, 35.

¹⁴Plato. *The Collected Dialogues of Plato: Including the Letters*, 36.

¹⁵Plato. *The Collected Dialogues of Plato: Including the Letters*, 35.

¹⁶Plato. *The Collected Dialogues of Plato: Including the Letters*, 36.

¹⁷Plato. *The Collected Dialogues of Plato: Including the Letters*, 31.

¹⁸Draper, G. I. A. D. "The Eichmann Trial: A Judicial Precedent." *International Affairs* 38, no. 4 (October 1962): 4, 489.

Bibliography

- Arendt, Hannah. *Eichmann in Jerusalem: A Report on the Banality of Evil*. New York, NY, U.S.A.: Penguin Books, 2006.
- Baade, Hans W. "The Eichmann Trial: Some Legal Aspects." *Duke Law Journal*. 1961, no. 3 (1961): 400-20.
- Benhabib, Seyla. "Identity, Perspective and Narrative in Hannah Arendt's 'Eichmann in Jerusalem'." *History and Memory* 8, no. 2 (1996): 35-59.
- Draper, G. I. A. D. "The Eichmann Trial: A Judicial Precedent." *International Affairs* 38, no. 4 (October 1962): 485-493.
- Feinberg, Anat. "The Appeal of the Executive: Adolf Eichmann on the Stage." *Monatshefte* 78, no. 2 (1986): 203-14.
- Lasok, D. "The Eichmann Trial." *International and Comparative Law Quarterly* 11, no. 2 (April 1962): 355-374.
- Plato. *The Collected Dialogues of Plato: Including the Letters*. Edited by Edith Hamilton and Huntington Cairns. Princeton, NJ: Princeton University Press, 2009.