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What the Laws Demand of Socrates—and of Us.

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Introduction

This paper argues that *legal trust* is a key form of civic trust for citizens in a democracy. By legal trust, I mean citizens’ faith in their fellow citizens’ willingness and ability to collectively defend the law—enforce it against the powerful, and refrain from acting to undermine the institutional support for that collective capacity.

Legal trust is a species of a broader conception of civic trust rooted in the collective defense of public accountability. Every democracy worthy of the name is necessarily comprised of the weak masses, in that a key feature that distinguishes democracies from other forms of government such as monarchies, oligarchies, feudal societies, military dictatorships, etc., is that political authority is not limited to those with social, economic, or military power or official title. Accordingly, every democracy necessarily has a fundamental problem: how to keep those who do hold those kinds of power from disenfranchising the rest? The forms of disenfranchisement are multitudinous, including, *inter alia*, principal-agent problems by which officials break free of public control, corrupt subversion of public institutions by the wealthy, and military coups, but all arise from the disjunction between concentrated power and diffuse political authority.

The only way any democracy can preserve popular sovereignty against such dangers is to find a way to aggregate the individual-by-individual power of the masses, such that an

overweening oligarch, CEO, or general knows that she or he cannot just face down the people individually or in small groups, but must contend with the entire weight of the political community, or at least close enough to it that she or he does not have the power to stand against that resistance. Unfortunately for the *demos*, however, the powerful typically have resources to undermine such aggregation, in particular, the divide-and-conquer tools of bribery, subversion, and intimidation.

Accordingly, democracy requires, first, sufficient trustworthiness dispersed throughout the community: enough people must be committed to the project of popular sovereignty to reliably hold those who would undermine it to account (they must, that is, see the democracy as consistent with their long-term interests). In particular, they must be sufficiently willing to act on that commitment so that, if they believe the democracy can be maintained, they will be able to resist the short-term temptations that those who would undermine the democracy might lay before them.²

Second, democracy requires sufficient actual trust. A rational individual rarely tries to take on the powerful alone. In order to even get collective accountability off the ground, enough people must trust that enough other people are so committed that they take the risk of trying. In fragile democracies, the people must actively demonstrate that trust with action—a fragile democracy just is one in which the powerful aren’t sure that their attempts to seize control will be adequately resisted, so they test it, and in doing so, generate the need for active popular vigilance and resistance. In a stable democracy, this trust may be institutionalized to the point that the powerful are fairly certain of resistance and punishment, such that attempts to undermine the *demos* are off the equilibrium path.³

Thus, “civic trust”: a state of affairs in which the citizens of a democracy trust that a critical mass among them (enough people to keep the powerful in check) are both disposed to

resist attempts to undermine the state's democratic character, and capable of coming to enough of a consensus identification of such attempts to be able to carry out those dispositions. For "legal trust," I simply mean civic trust achieved through legal institutions: more-or-less generally known rules that allocate power and regulate conduct, and that are enforced through formal political institutions.

In a state characterized by legal trust, the law provides a generally known set of expectations around which the people may collectively defend threats to their democratic sovereignty. By establishing the line that officials may not cross in public law, and an authoritative mechanism for determining the applicability of that line, the law makes it possible for citizens to coordinate on sanctions for officials who threaten their sovereignty. I cannot defend that positive claim about law and democracy here, but have defended it with respect to Athens elsewhere, and there is a more general literature on the subject.⁴

But only when the members of a democratic political community recognize one another's commitment to their legal system are they able to collectively enforce the laws that hold their democracy together. Legal trustworthiness—based on trust in one's fellow citizens and thus on the expectation of reciprocal support that makes legal trustworthiness rational—can be seen as an element of democratic citizenship.⁵

This paper sketches a part of that larger account through a reading of the argument the personified Laws (I capitalize to indicate the personification) of Athens offers Socrates in Plato's *Crito*. I contend that the Laws draw on the ideas I have just sketched to give Socrates persuasive reasons not to escape the jury's verdict against him by the means that Crito has proposed, and that by reading *Crito* in the context of the Athenian legal system and its recent history at the time in which *Crito* is set, we can see the interweaving of law, trust, and citizenship in the preservation of a democracy—our own as well as Athens's.

The Argument of the Laws in *Crito*

The issue at stake in *Crito* is familiar. In *Apology*, Socrates is tried for impiety and corrupting the youth. After a spirited defense (in which, not incidentally, Socrates announced that he would refuse the jury's order to cease questioning people, if so commanded), the jury sentences him to death. As *Crito* opens, Socrates's eponymous friend appears and asks him to flee. In particular, Crito offers to procure Socrates's escape by bribery of the people who would otherwise sanction him, and complains that his (Crito's) reputation will suffer if he does not do so. Socrates, of course, refuses, and in the course of refusing, imagines the Laws appearing to remonstrate with him.

Begin with a note on scope. I focus solely on the argument of the Laws, not the arguments that Socrates offers in his own voice, for two reasons. First, my goal is to use *Crito* to draw out some claims about the duties of a citizen of a democracy as such. It is the argument of the Laws—appealing to the loyalty he owes them in virtue of his citizenship—that best expresses these ideas. By contrast, the arguments he express in his own voice primarily concern matters such as the impermissibility of returning injustice for injustice, a principle that does not depend on the injustice being returned being from a democracy to one of its citizens. The Laws offer a reason of political morality to forbid Socrates from escaping the jury's sentence; Socrates himself offers a reason of personal morality. Second, I aim to show that the argument of the Laws stands on its own merit and can generate useful insights about how citizens should relate to democratic legal systems; by contrast, much of the prior literature about the dialogue has treated the argument of the Laws as the poor stepchild to Socrates's own.⁶

The argument of the Laws revolves around two chief claims, which I will reconstruct in turn. The first I will call the *injury thesis*: Socrates, by fleeing, would injure the laws and the state

itself, even destroy them (or contribute to their destruction). The second is the *loyalty thesis*: the laws and the state are responsible for creating and raising Socrates, giving him an obligation (which he has accepted) to support rather than injure them. Together, the injury thesis and the loyalty thesis complete the argument: if Socrates would injure the laws by fleeing, and he is forbidden by an obligation of loyalty from injuring the laws, then he is forbidden from fleeing. I read those two theses to make a case for submitting to the jury's verdict independent of the rest of the dialogue.

Destroying the Laws

First, let us examine the injury thesis. Socrates imagines the Laws asking him how they can stand in the face of his escape, and supposes that the city itself will be destroyed if he does so (50a-b). Of particular concern is the worry that the decisions of the popular jury will be undermined (50b).

Philosophers have typically started with the supposition that the argument of Crito is about legal disobedience in general, and, having done so, have had quite a bit of trouble explaining the injury thesis, for it seems hard to make sense of the notion that one person's disobedience may do some appreciable harm to a legal system.⁷ In order to reconstruct it, we may begin by considering three plausible ways disobedience might injure the laws.

First, it may do so *inherently*: being obeyed might just be part of what it is to be a functioning legal system, such that any citizen's disobedience necessarily contributes to the destruction of that legal system. Second, it might do so *pedagogically*: Socrates's disobedience may persuade others that they have no moral reason to obey the law (or the jury).⁸ Third, it might do so *strategically*: Socrates's disobedience might signal other citizens that their fellows

can not be trusted to uphold the law, and thus lead them to be unwilling to invest in costly obedience to and enforcement of the law.⁹

The inherent destruction argument is weak. Some have defended versions of it—on Reginald Allen’s (1980, pp. 84-7) account, for example, to break the law is to deny its authority, and thereby to deny the authority of the legal system in general. But it seems open to Socrates to say to the Laws “I acknowledge that you have legitimate authority over me, but choose to defy that authority, in view of the overriding reasons suggested to me by Crito.” Moreover, even if disobedience entailed denial, the Laws would still be obliged to defend the move from denial to injury, lest the inherent destruction argument entail that no legal system can countenance a single anarchist in the territory. For those reasons, it seems to me that the inherent destruction argument must depend on too-strong conceptual claims about what a legal system requires. It might go through, for example, if we suppose that law must be obeyed to count as such, but the only plausible versions of such a conceptual claim will suppose only that the laws must be generally obeyed to count as a legal system, not that every individual must always obey them—and these moderate conceptual claims are not strong enough to backstop the inherent destruction argument, for that argument must pin destruction on Socrates’s disobedience, not on the hypothetical disobedience of a city full of people like Socrates.¹⁰

The pedagogical argument seems more plausible in historical context. Socrates was obviously a prominent citizen, and, on some arguments, was associated with youth in Athens who were known to have oligarchic leanings.¹¹ I have argued elsewhere that anti-democratic citizens were often thought to express disrespect for the law and the demos as a whole by their disobedience.¹² Socrates may have been suggesting that his escape would just further encourage those young proto-oligarchs, to the overall injury of the city as a whole. Still, if that were the point, we would expect the Laws to have said more—at least to have mentioned

Socrates's role as a teacher and the example he set. Certainly Plato understood Socrates's role as a teacher to be at issue; it was a key point of dispute in *Apology*. Instead, we see not one word about teaching the young to ignore the laws. Rather, at the one point in the dialogue where the Laws appeal to the prior accusation against Socrates, the argument is not that Socrates will destroy the laws by teaching the young to disobey, but that if he destroys the laws, it would be right to see him as a destroyer of the youth as well (53b-c), which gets the relationship supposed by the pedagogical argument backwards.

The strategic argument is strongest, but not as an argument for obedience to the law in general—rather, as an argument for not subverting the sentences of a lawfully constituted jury in the way in which Crito proposes. I have argued in prior work that the rule of law in Athens—and with it, the democracy, which required the legal empowerment of ordinary citizens—depended on the ability of the masses to use the jury to coordinate resistance to elite attempts to seize power (Gowder 2015, Gowder forthcoming, ch. 7.). The jury's role was vital to signal both lawbreaking and the collective willingness of the community to punish it. If Socrates undermined that function, it would embolden lawbreakers, who would be able to act without sanction, and break the trust that ordinary citizens had in the ability of the legal system to protect them from the elite.

Crito's plan would undermine the jury. He did not just propose ordinary lawbreaking, or even open defiance of the jury while taking the punishment it imposes (as Socrates threatened in *Apology*). Rather, what Crito proposed to Socrates is best described as *impunity*: spending Crito's money (44c) as well as the money of foreigners (45b) to avoid punishment. And he would do so in public—we know this, because Crito is concerned for his reputation should he not help Socrates to escape (45e-46a).

By openly buying Socrates's way out of the jury's punishment, Crito would signal to the community at large that the law and jury could be disobeyed with impunity by anyone with enough money. This, in turn, would signal that ordinary citizens could no longer rely on their coordinated action, via their legal institutions, to keep lawbreakers under control.

In particular, they couldn't rely on it to keep wealthy lawbreakers under control. But wealthy lawbreakers were precisely the live political problem which must have been on Plato's mind. The trial of Socrates was conducted in the wake of two notorious oligarchies (the Four Hundred and the Thirty Tyrants) in which the wealthy threw aside the law of the democracy in favor of arbitrary rule, and it was in part because their legal system saliently failed that the democrats were unable to trust one another to use it to protect themselves from the oligarchs (Gowder 2014a, pp. 60-3). Understood in that context, it's quite plausible for the Laws to suggest that following Crito's plan would destroy the legal system and the polis itself.

Further support for this reading comes from the particular sort of bribery at issue. Crito suggests that the money could be used to bribe their fellow Athenians, described as *συκοφάνται* (sycophants, 44e-45a) to refrain from sanctioning Socrates's friends for carrying him off. A sycophant was an aggressive litigant, believed on some accounts to use the legal system to extort money from elites—sycophants may have contributed to resentment that led to Athens's fifth-century coups.¹³ As Athenian law enforcement depended on private prosecution, Crito here is suggesting that a) those who would prosecute them for spiriting Socrates away could be bribed to desist, and b) it is particularly those who targeted the wealthy and elite who were susceptible to bribery.

Scholars in classics and philosophy have long been vexed by the problem of reconciling Socrates's willingness to disobey the jury in *Apology* and what seems like an argument for total obedience in *Crito*. Although, as a non-specialist, I cannot claim a full familiarity with the

(centuries of) exegetical literature on *Crito*, it is striking that so much of that literature takes the argument to be about lawbreaking in general, rather than about impunity.¹⁴

There's a clear difference between breaking one law or court order and getting punished for it (*Apology*) and standing up to effectively announce to the world "I can defy the law and the courts with impunity because I have rich friends," in a social context immediately following civil war between the rich and the poor and in which legal impunity is a key marker of those who threaten to democratic existing political authority (Gowder 2014a, pp. 26-31). The core argument of the *Laws* only concerns the latter. Consider the key passage in 50b: ἡ δοκεῖ σοι οἷόν τε ἔτι ἐκείνην τὴν πόλιν εἶναι καὶ μὴ ἀνατετράφθαι, ἐν ᾗ ἂν αἱ γενόμεναι δίκαι μηδὲν ἰσχύωσιν ἀλλὰ ὑπὸ ιδιωτῶν ἄκυροί τε γίνωνται καὶ διαφθείρωνται; That passage does not claim that mere legal disobedience or disobedience of the jury will overthrow the state. It claims that the state will be overthrown when decisions of the jury are made ἄκυροί—invalid, powerless—and διαφθείρωνται—destroyed. Disobeying the jury's order does not destroy the jury and render it without authority. Openly displaying one's impunity, when the jury's and the law's continued power depends on the shared belief in that power and its ability to constrain the wealthy and powerful, does destroy the jury and render it without authority.

The lesson of the *Laws*'s argument extends beyond Athens. Even more stable democratic legal systems such as those of Great Britain and the United States depend on the willingness of citizens to ultimately stand in defense of the laws against threats to them from the powerful. For example, in the United States, one account of the power of the constitutional jurisprudence of the Supreme Court is that the Court is an agent of the people at large, preventing government oppression by signaling to the public that their government has violated someone's rights, where the implicit threat underlying a ruling is that if the government does not act to correct that violation, the citizen body (through the ballot box or otherwise) will

respond accordingly.¹⁵ And this coordination mechanism only works if citizens can depend on one another to actually stand up to the government when necessary. Admittedly, the American public is not often called upon to back up the decisions of the Supreme Court, because the American record of more-or-less lawfulness is sufficiently long that the court's power goes mostly unquestioned on a day-to-day basis. In transitional circumstances, like what Afghanistan currently faces (and Athens did face), the problem is more urgent—no such record of institutional effectiveness exists.¹⁶

But the Laws have more to say. Let us turn to the loyalty thesis.

Disloyalty and Citizenship

According to the Laws, Socrates owes them a filial loyalty, for they have structured the conditions of Socrates's very existence, having married his parents and ordered his education. The Laws outright claim credit for begetting Socrates in virtue of their enabling his parents' marriage (50d).

As a first pass, that claim may seem slightly mad. After all, Socrates's parents had all the physical equipment to produce him with or without the laws, and the concept of an out-of-wedlock child was hardly unknown to the Athenians. Instead, we ought to read the two claims—about marriage and about education—together, and thus interpret the Laws's claiming of credit for begetting him not about bringing Socrates into the world as an unformed human, but for producing Socrates *as Socrates*, for making him the man and citizen he is.¹⁷

To do so requires us to enter an area of some philological controversy. Classicists agree that to be an Athenian citizen at the time, one was required to be the child of two parents, both of whom were themselves Athenian citizens. They do not agree about whether those parents had to be married.¹⁸ Yet the argument of the Laws seems to push us toward a position in that

controversy, suggesting that at the very least something important about Socrates's identity as a citizen depends on his legitimate birth.

Such an idea of citizenship seems an indispensable feature of the obligation of loyalty the Laws claim from Socrates. For the benefit that the laws have conferred on Socrates is a legal status of membership, and an identity built out of that status. As the Laws explain, this identity is important to Socrates, who has a lifelong record of deeds that express his willing and committed membership in the community (52a-c).¹⁹ Moreover, as a citizen, Socrates does not just passively benefit from the city and the laws, but participates in the collective that generates those benefits as well. For those reasons, should Socrates destroy the laws, there's a sense in which he will destroy himself in the process, by undermining the basis of the identity he co-creates with his fellow citizens.

While there is a legitimate debate about the extent to which the personified Laws are introduced to distance the argument they make from the argument that Socrates himself would make,²⁰ it is natural and appropriate for Socrates qua citizen to give voice to the Laws. For in doing so, Socrates enacts in the dialogue an important part of the role of an Athenian citizen in the real world. In the jury-room, the citizens speak for the laws, who cannot speak for themselves, and in doing so recruit the laws to defend the democracy that constitutes their citizenship.

Speaking for the City, Against the Many

Here, the reader may object that I have not addressed the following classic worry about *Crito*: at the beginning of the dialogue, it is clear that Socrates disregards the opinion of the masses (48). How then can we call upon his membership in the collective citizen body of Athens to explain why he will not act against the will of the people, expressed by the jury?

I have already given part of the answer to this problem: it is not the will of the masses that gives Socrates reason to obey the order of execution, but rather the fact that the kind of disobedience Crito contemplates threatens to destroy the city. However, for a full understanding of the argument, we must also attend to the difference between obeying the body of citizens in their capacity as the sovereign law-court and deferring to the arbitrary will of the masses.

“People” in English can mean either a bunch of individuals who happen to be in the same place, like a mob, or like an organized collective. In *Crito*, Socrates uses different terms in Greek for the mob and for the collective. Those whose opinions are to be disregarded are consistently referred to as the “many,” πολλοί. It is the πολλοί who casually put people to death (48c). By contrast, those who are to be obeyed are the Ἀθηναῖος (48c, 48e), “Athenians.” Socrates also (50a) says that he must have the permission of the city (πόλις) in order to flee, and again uses that term when he suggests that the city will be undermined by his disobedience (50b, d).²¹ It is the πόλις to which he attributes the legal ruling against him (50c).

The difference between the πολλοί who are to be disregarded and all of these other terms tracks a normatively important distinction. The city or the Athenians qua civic body are not just the masses, in their opinion-holding capacity. Rather, *Crito* uses πόλις and Ἀθηναῖος to refer to the civic body as a whole, constituted as an entity by the status of citizenship and the method of acting through the laws.

Thus Socrates imagines the laws and the city together (“οἱ νόμοι καὶ τὸ κοινόν τῆς πόλεως”) come to question him. κοινός has a sense of commonness—the quoted passage could be rendered “the laws and the commonwealth” (as does the Fowler translation). We might also translate it as a partitive genitive “the laws and the common part of the city,” which would further give the sense of the *polis* as a shared community and enterprise.²² It is that community

that has a claim to Socrates's loyalty, and is threatened by the disloyal act he contemplates. Moreover, the sovereignty of that community was carried out (at least to those moderate democrats with whom Plato and Socrates were more likely to sympathize) through law, and chiefly through the acts of the jury.²³ In that sense, a jury verdict is the purest expression of *οἱ νόμοι καὶ τὸ κοινὸν τῆς πόλεως*: the city and the law operate in unison to carry out a sovereign act.

The acts of the collective sovereign were constituted by law in two senses—first, the criteria of membership in the sovereign collective agent were given by law (hence, the marriage of Socrates's parents); second, the procedural tools through which the sovereign collective agent could act were also defined by law. For that reason, we should understand a ruling of the jury as distinct from the mere will of the masses.²⁴

This reveals a new dimension of the loyalty claim. Regarding Socrates as citizen, there's a sense in which disobeying the jury also means disobeying himself, for as he speaks for the Laws in the dialogue (and the jury-room), the laws speak for him as a member of the citizen body. This is a second, implicit, way in which Socrates has himself affirmed his obligation to submit to the jury's punishment: by participating in the civic enterprise, including standing up for the laws when needed, he has integrated himself into the project of expressing popular sovereignty through the laws. Now is not the time, the Laws tell him, to renounce that commitment.

This, finally, suggests that the Laws have two arguments. In the section of their speech on which I have focused, they direct Socrates's attention particularly to the dangers of defying the jury verdict (50b-c); this, I have suggested, is best explained with reference to its role in democratic collective action. However, later in their speech, they begin to make seemingly hyperbolic claims about how the city is worthy of higher regard than even the gods themselves

(51a-b) and switch to claims about obedience to the city more generally; such claims may seem much less overwrought when one considers Socrates's will as both constituting and constituted by the will of the *polis*. That second argument is beyond the scope of this paper, but it merits notice.

The Laws and Civic Trust

The implicit theory of citizenship in *Crito* is a relationship of collective trust. Each citizen trusts other citizens to support the legal institutions that constitute their democratic sovereignty. Moreover, *Crito* is right to understand this as a requirement of citizenship as such. As noted earlier, democracy is distinguished from other kinds of rule by the dispersal of political authority. A citizen, as one who shares in that dispersed authority, has the most salient interest in preserving it; for that reason it is fellow citizens to whom each citizen is likely to look for support in resisting attempts to undermine it. Citizens also tend to be the primary beneficiaries of democratic institutions, which both shape citizens' identities and then provide material, social and political benefits. This suggests that citizens have an obligation of reciprocity to preserve those institutions for their fellows.²⁵

Let us tease out the variety of trust and trustworthiness claims at play in *Crito*. First, Socrates is asked to be trustworthy. The Laws are vulnerable to him: he has the power to seriously undermine or destroy them with his public impunity. I take this vulnerability, and a voluntary or involuntary absence of coercion, to be essential to the notion of trust: to trust someone to P is in part to rely on them to do P of their own free will, not because one is making them do it.²⁶ In this sense, the Laws have no choice but to trust Socrates to carry out his duty to submit to the jury's verdict.

The moral force of that trust, however, comes from its role in a general network of trust among the citizen body. It is this that I call “civic trust,” manifested in this instance by legal trust. Should Socrates betray the trust the Laws invest in him, his fellow citizens will learn that they cannot trust one another to stand up for the *demos*. Crito evidently believes that the sycophants are unwilling to keep faith with the legal system, and believes that some of his fellows share his opinion (for he fears their scorn if he should prove to be too cheap to rescue Socrates). But evidently not everyone is to be supposed to know how easy the sycophants are to bribe, or else the legal system would have already collapsed with a whimper: Meletus prosecuted Socrates, and the jury convicted him, presumably under the impression that its sentence could not so casually be ignored. Thus, Socrates stands in for the sycophants, enforcing on himself the law that they could not be trusted to enforce on him.

In a paradoxical twist, the citizens of Athens were not to know that they (through their proxy, the Laws) were trusting Socrates. The nub of Socrates’s betrayal of trust would consist not in his escaping the sentence as such (the guilty go free all the time, and with the Athenian post-war amnesty for those who collaborated with the Thirty Tyrants it became a matter of official policy) but in the communicative content of that escape. Should he find a way to escape the sentence that does not reveal the flimsiness of the legal order—perhaps stealing away under cover of darkness and fleeing somewhere beyond the revenge of the *polis*—then his flight would not compromise civic trust.

In sum, *Crito* suggests that the civic body of Athens is not fully trustworthy—evidently the sycophants cannot be trusted—but that Socrates ought to be trustworthy nonetheless. Moreover, Socrates’s trustworthiness validates the trust the political community as a whole has in him, and allows it to overcome the unfortunate fact that the sycophants turn out to be not trustworthy.

Let us develop that last supposition. Imagine that in an ideally trusting *polis* a few people become untrustworthy—some hawkish sycophants are introduced into the population of doves. If everyone still trusts everyone else, the legal system will continue to function: citizens will turn to the legal system to protect themselves from *hubris* and will still defend the legal system against attempts to undermine it, because they believe that other citizens will also do so, i.e., that those others are trustworthy. Of course, such beliefs cannot be sustained against very extensive untrustworthiness in the population, but they may be sustainable in the face of isolated untrustworthiness.

It might be objected that Crito opens the dialogue with the claim that he will be shamed if he does not spring Socrates from the sentence. Does this not suggest that the corruptibility of those who would enforce the sentence is widely known, and hence that there is no general trust in the system to preserve? Maybe so, but even if the public cynically expected Socrates to be able to buy his way out of the sentence, the sentence's visible efficaciousness against him may have contributed to a favorable change in both elite and mass beliefs. Interpreted that way, the Laws are asking Socrates to perpetrate the first of his noble lies—to conceal the bribability of the sycophants from the community at large, so that the people can rebuild trust in one another and their legal system.²⁷

To see how this might work, let us reverse the polarity of our ideal world. Timur Kuran's work can help us understand how the introduction of a few doves can radically transform a broken legal system of hawks. Untrusting systems can be characterized by what Kuran (1989) calls "preference falsification": citizens prefer a functioning democracy ruled under law to what they currently have, but are unwilling to publicly signal those preferences (or seek to exercise control over the powerful), because their fellow citizens are not so signaling. Accordingly, everyone thinks that not enough people want to change their system to be able to carry it off. In

the face of this apparent (but false) absence of critical mass, each citizen remains quiescent, afraid of retaliation from acting alone.

But Kuran shows that in such an environment, a relatively small number of people can make a big difference. I will describe Kuran's insight in informal language: suppose the level of courage is heterogeneous: some people will act if only a few people can be counted on to support them; others will act only if many people are in their corner. Then, if, for whatever reason, some group of people is moved to act, their acting can embolden others who are slightly less courageous, and they in turn motivate still others who are slightly less courageous than the second group, and so on in what Kuran calls a "revolutionary bandwagon."

Mohamed Bouazizi, the man who set off the Arab Spring, is the most vivid illustration of Kuran's theory. Fed up with officials stealing his goods, he revealed his preferences by setting himself on fire. But note that Bouazizi's self-sacrifice worked by building trust: he signaled to the masses that despite what they may have previously believed, at least some people were intensely dissatisfied with the regime, and (we may imagine him speaking to the next few people to join the bandwagon), if you get a rebellion going, you may trust that there are others who are also committed to reform out there in the population.²⁸

In *Grito*, likewise, the visible effectiveness of Socrates's punishment could have contributed to what we might call a trust bandwagon. By acting as if the law had the power to bind him, it asserted to the public that their fellow citizens were in fact committed to and capable of enforcing the sentences that expressed their collective will. That in turn could have emboldened more of them to act on such a commitment, and thereby it could become a self-fulfilling prophecy.

Socrates sacrificed his life, and in doing so signaled that the legal system could bind him, thereby healing and reinforcing the collective legal trust that underlaid a genuine but ailing

commitment to collective action through the law. Mohamed Bouazizi sacrificed his, and in so communicating his outrage, signaled to his people that they could trust one another to share their hidden opposition to the regime. The kind of civic trust at play in Athens does not reside only in the legal domain.

In fact, it can manifest through legal disobedience as well as obedience. In democratic states, the argument from legal trust is not inconsistent with civil disobedience (e.g. of the sort that Socrates threatened in *Apology*).²⁹ Rather, it supports the conventional wisdom that the civil disobedient must accept the punishment for her violation. Such acceptance is an expression of the civil disobedient's vulnerability to the law. To refuse to take the punishment is to enjoy impunity, and, for that reason, to undermine a general belief in the effectiveness of law.

However, in states where the underlying laws are inadequately democratic, the ideas developed in this paper may actually supply positive reasons of political morality to engage in civil disobedience—not in defense of legal trust (because the legal system does not facilitate democratic coordination in an undemocratic state), but in pursuit of civic trust more broadly. By defying undemocratic laws and undemocratic power, the revolutionary sends signals that facilitate the development of trust among those dissatisfied with the existing regime.

Through these cases, we see that popular sovereignty depends on the interrelated patterns of trust and trustworthiness that allow citizens to rely on one another to coordinate their behavior. We further see that the *demos*, present or in waiting, sometimes calls on citizens to put themselves on the line in order to generate or maintain the civic trust that holds the whole community together.

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² Because this is true generally of democracies in the real world, we have reason to see it as part of the best conception of what democracy is, for the reasons given in Gowder (2014b).

³ In ordinary language, we use “trust” to refer both to an attitude (believing that your teenager will drive safely) and to actions consistent with that trust (handing over the car keys). Some philosophers have distinguished the two, labeling the latter “entrusting” (e.g., Harding 2009). In this paper, I mean primarily the entrusting sense: democratic citizens must actually take the risk of standing up to resist the powerful, and hence putting their wellbeing in the hands of their fellows. However, the only reason they might rationally have to do so is that they hold an attitude of trust toward their fellow citizens.

⁴ On Athens, see Gowder (2014a, 2015, forthcoming) On democratic law and coordination in general, see Hadfield & Weingast (2012, 2014).

⁵ Of course, the law has to be worth defending: in particular, only when the law is more or less democratic will coordinated defense of it preserve the democracy; only when it is more or less consistent with the interests of the masses will they be interested in so coordinating (cf. Gowder forthcoming, ch. 7, 9).

⁶ For references to scholars who view the Laws’ argument as nothing more than a “rhetorical sop” to Crito, see Ober (2000), pp. 543.

⁷ To be more specific, the Laws criticize Socrates for attempting to destroy the city and laws for his part, or, as the Harold North translation puts it, “so far as in you lies” (50a-b). It may be objected that such a formulation is consistent with denying the injury thesis as I’ve presented it, for even if Socrates happens to be unable to harm the laws, he’s still

forbidden from doing what he can in that direction, and hence there need be no actual causal relationship between Socrates's action and any harm.

To see the mistake in such an objection, imagine that the Laws are instructing Socrates to do something that bears no relationship to their destruction. To the argument "you may not destroy the laws so far as in you lies, therefore you may not eat bacon," it seems open to Socrates to respond "but eating bacon wouldn't destroy the laws so far as in me lies: it has nothing to do with the laws." To preserve the argument against such a response, the Laws would be obliged to show either that bacon eating in fact does destroy them, or at a minimum, that Socrates intends (however irrationally) to destroy them by doing so. The latter claim seems implausible in *Crito*: although the laws claim that Socrates has such an intention, they offer no argument to show he so intends except by way of an implication that he must intend the consequence of the action he contemplates (50a-b). Accordingly, we can only interpret the argument as requiring some actual causal connection, however thin, between the behavior contemplated and the dire consequences invoked, either to justify the attribution of the intent to destroy or to pin the risk of actual destruction on Socrates.

⁸ Lane (1998), pp. 323 similarly suggests that the laws might be destroyed through "a domino effect, or expressive-symbolic, or of setting a bad example which might be followed by others."

⁹ The pedagogical claim and the strategic claim may be distinguished by noting that the former supposes that Socrates is acting as a moral teacher, particularly to the elite. The latter supposes that Socrates is communicating practical (not normative) information to the community as a whole.

¹⁰ Here, the "so far as in you lies" language could stand in for something vaguely like a Kantian universalizing claim: if everyone broke the law, the legal system would be destroyed, therefore one person may not break the law. The Kantian argument and my strategic argument are not inconsistent. To the contrary, they are mutually supporting: the Kantian argument asks Socrates "what would happen to the city if everybody acted like you're contemplating?"; the strategic argument adds an account of how it might come about that everyone would so act.

¹¹ This is controversial territory. See the discussion in Irwin (1989).

¹² See the discussion with respect to the "respect topos" in Gowder (2014a), pp. 22-9.

¹³ On sycophants, see Christ (1998). On resentment, see Xen. Hel. 2.3.12.

¹⁴ For example, Woozley (1979), ch. 3 struggles to reconcile *Apology* and *Crito* based on the supposition that the behavior criticized in *Crito* is "lawbreaking" simpliciter. This leads him to a number of strained arguments, most strikingly that the "obey or persuade" command in *Crito* treats civil disobedience as persuasion rather than disobedience. Kraut (1987), pp. 122-140 argues that the lawbreaking contemplated in *Crito* is blameworthy in part because it is meant to be secret, and a person who wished to avoid destroying the city would announce his intention in public in order to mitigate its destructive risk. But *Crito*'s concern with his reputation and the obvious notoriety that

would transpire if Socrates disappeared from prison suggests that Socrates's lawbreaking would actually be quite public. Stokes (2005), p. 120 has suggested that undermining the system of adjudication bears a special relationship to the destruction of the city, but not because of the role of the courts in the maintenance of democracy—merely because the Athenians spent a lot of effort litigating.

¹⁵ For more discussion, see Gowder (2014c), Law (2009).

¹⁶ It may be objected that contemporary states differ from Athens in the existence of a specialized administrative class with primary responsibility for enforcing the laws, and that in many modern democracies, that class is understood to be politically neutral. In fact, however, politically neutral administrators are an achievement of stable states; there is reason to believe that the political power of (non-neutral) administrators has been instrumental in the consolidation of less stable states and the development of the rule of law (Greif 2008). Even in stable democracies, officials that do not control military force (like judges) and the mass of the population are interdependent: judges can only enforce their rulings if the people are willing to coordinate to punish powerful citizens (including other officials) who defy them; the people can only coordinate to hold the powerful to account in the kinds of mass societies with complex laws that have professional judicial and administrative classes if they do so based on signals sent by those classes (Gowder 2014c, Gowder forthcoming, chs. 7, 9). Accordingly, some degree of trust is required in such states as well. As the focus of this paper is on unstable democracies that need to actively deploy coordinated responses to the disobedience of the powerful (as opposed to stable democracies where, as noted in the text, the kind of disobedience that requires a coordinated response is off the equilibrium path), space does not permit a fuller discussion of these issues.

¹⁷ For more on how the laws constructed Socrates's civic identity, see Ober (2010), pp. 150-165. In *Crito*, it seems to me that the emphasis the Laws place on Socrates's education authorizes what we could anachronistically call a communitarian conception of Socrates's citizenship. By voicing the Laws, Socrates can speak from the internal point of view of a citizen of the Athenian democracy, raised and educated in that democracy and for that reason identifying with it. In doing so, Socrates can abandon the standard stance of Plato's dialogues in which he is a critic of received conceptions of the good and right. Socrates qua citizen can make the arguments of the Laws even if Socrates qua philosopher is an opponent of democracy (it may even be that Socrates would prefer, on grounds of justice, there not be a democracy, but believes that democracy nonetheless generates obligations for a citizen raised in it); from our external standpoint, it allows us to accept the argument of the laws to the extent we think democracies are morally valuable— independent of what Socrates or Plato thought—and think that Athens, as voiced by Socrates, had some useful insights on how they work.

¹⁸ On the question of whether legitimacy was necessary for citizenship, see Patterson (1990), Kamen (2013), ch. 6. Note also that the laws also shaped Socrates's citizenship by defining the status of his parents, and that permission to marry and citizenship were closely intertwined, on which see Kennedy (2014), pp. 14-20.

¹⁹ Again, none of this supposes that Socrates is a supporter of democracy. As Ober (2010, p. 165), points out, being a critic of a democracy (or democracy itself) is consistent with being a loyal citizen of that democracy. Moreover, Socrates could have felt himself obliged to protect even a bad democracy if all realistic alternatives would be even worse; in view of the blood-soaked oligarchies that in fact came shortly before his trial, this seems likely.

²⁰ As in, e.g., Weiss (1998), Harte (1999).

²¹ Socrates also uses *πατρίς*, "fatherland," or "country" for this (51a, 51c). In 51c, he gives a parallel construction with both *πατρίς* and *πόλις*. He uses a different term entirely for the class of citizens, of which Socrates (of course) is a member: *πολίτης*, though he also uses *Αθηναῖος* for that too (52a-b, 53a).

²² Matt Simonton has suggested to me that "*το κοινόν τῆς πόλεως*" could also mean the constitution.

²³ See the discussion in Gowder (2014a), pp. 40-1.

²⁴ It might be objected that in *Apology*, Socrates uses the second-person pronoun to describe those whom he resisted when he opposed the assembly's attempt to illegally try the generals; as *Apology* was an address to the jury, this seems to suggest that he viewed the angry mob who led the assembly to illegality and the jury as the same entity. However, in *Apology*, Socrates repeatedly addresses the jury as ὧ ἄνδρες Ἀθηναῖοι, that is, Athenian men, with the "men" in the vocative noun form and the "Athenian" in an adjective form. Accordingly, I read *Apology* as addressed to the jury-members as a group of individuals identified by their citizenship in an adjectival sense, rather than the jury itself as collective sovereign. Similar evidence comes from Socrates's decision after he is convicted to single out for separate address those who voted for and against him (38c-d, 39c, 39e). Moreover, he uses the plural form of the second person pronoun, ὑμεῖς, to describe the entity which killed the generals (32b). Accordingly, I would suggest that in *Apology* Socrates is addressing the jury qua people who were doing the voting, rather than qua collective sovereign whose decision is to be respected. By contrast, Socrates actually imagines the laws and the state, that is, collective entities, coming to remonstrate with him in *Crito*, and it is to the collective entities, not the masses as a bunch of individuals, that he owes an obligation.

Note further that nothing in this section is inconsistent with the notion that Socrates remained willing to defy the jury or law itself, should it order him to do something inconsistent with his duties as he understood them (i.e., to do an injustice). However, the jury did not order him to do an injustice, just to submit to one, so there could be no tension between his duty to the *polis* and his other duties.

²⁵ We may not want to say that this is a moral obligation of citizenship in every kind of state. Citizens may have no duty to preserve highly unjust political orders, even in the presence of some democratic institutions.

²⁶ On the necessary involvement of vulnerability in trust, see Pettit (1995).

²⁷ As Allen (2012, pp. 66-7) explains with reference to the more famous instance from *Republic*, a noble lie is distinguished by its ability to bring the listeners closer to what they would do if they could reach the truth. Here, the noble lie is actually directed at producing its own truth: by persuading the people to trust one another, Socrates aims to make them behave, collectively, in a trustworthy fashion by actually enforcing the laws.

²⁸ The Arab spring also reminds us that economic class cleavages, as in Athens, are not the only dimension along which the masses may find themselves in need of coordination to preserve their democracy: there may also be, e.g., military-civilian cleavages, ethnic cleavages, and the like.

²⁹ That being said, there may be cases where isolated legal disobedience may actually undermine trust in the general commitment to the rule of law, if it is carried out in a fashion that demonstrates the disobedient's disregard for the authority of his fellow citizens.