SYMPATHY FOR THE DEVIL: SOCRATES AND THE ATHENIAN DEMOCRACY

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Stephen Morris’ article, Socratic Perspectives on American Constitutionalism1 offers a subtle and nuanced depiction of Socrates’s relation to the Athenian demos and the Athenian democracy. We agree with Morris that the essence of the complaint against Socrates derives from his association with Critias and other oligarchs, and we also agree that Socrates was in some sense a man of the people. In this essay, we will not comment on Socrates’s fate under modern American First Amendment doctrine, nor on the notion that political speech in America is in danger of being controlled by villainous giant corporations. Instead, we will focus our commentary on the ancient subject matter, specifically Morris’ interpretation of the Socratic and Platonic texts. Here we part company with Morris on several points. First, his article is insufficiently alert to the operation of rhetorical strategies in the Apology itself. Second, in selecting the Socrates of the Apology as his exemplar of the man as he really was, and rejecting that of the Crito, Morris gives too little weight to the settings of the two dialogues. Third, Morris collapses Socrates’s affinities for Athens qua polis, the Athenians as a people, and the Athenian democracy to an insupportable extent. Finally, we prefer Josiah Ober’s view that Socrates’s conceptualization of the many (hoi polloi) in the Apology has more in common with that found in the Crito than Morris allows.

Morris begins by noting the irony inherent in the veneration of Socrates by the American legal academy: lawyers are taught to argue on both sides of a question, to excel if necessary in making the weaker argument appear the stronger. Plato’s Socrates would dismiss this as sophistry.2 While Morris captures nicely the essence of the Socrates we find in dialogues such as Protagoras and Gorgias (where Plato sharply distinguishes the Socratic objective from sophistry and rhetoric), he disregards evidence suggesting that Socrates was widely perceived as a sophist. Aristophanes represents Socrates as the sophist par excellence in his play Clouds (produced in 423 B.C.). The play’s protagonist, Strepsiades, goes to Socrates precisely in order to learn the kind of casuistry that will allow him to argue the weaker side of a case and defeat his creditors in litigation.3 It is clear from the comedy that many, if not most, Athenians thought of Socrates as a sophist, and Socrates, in the Apology, confirms that the

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1 Stephen R. Morris, Socratic Perspectives on American Constitutionalism, 1 STAN. AGORA: J. LEGAL PERSP. 1 (2000).
2 Id. at 2.
popular perception of him is reflected in the play.\textsuperscript{4} Nor is Aristophanes the sole witness to contemporary regard of Socrates. Two generations after Socrates’s execution, the orator Aeschines refers to “Socrates the sophist,”\textsuperscript{5} which indicates the perseverance of this conception, despite Plato’s assiduous attempts to distinguish Socrates from this group.

Plato’s insistence on a radical distinction between Socrates and the Sophists is to be taken with a rather large grain of salt. Due to the accident of preservation, Plato and his student Aristotle largely inform modern perceptions of the conflict between “Socratic” philosophy and sophistry, so that modern philosophers have traditionally seen the conflict from their point(s) of view.\textsuperscript{6} Yet we are aware of the highly competitive nature of sophistry and rhetoric in classical Athens, and it is quite possible that Plato’s own attempt to distinguish Socrates and himself from the Sophists is itself a sophistic-rhetorical strategy, though deeply entrenched in the Platonic school of thought.\textsuperscript{7} To some degree, Aristotle attempts to bridge the gap between Platonic thought and sophistry-rhetoric in his Rhetoric, though he ultimately follows Plato in prioritizing Platonic philosophy. Since our sources are biased, scholars must employ great caution when analyzing Socrates and the Sophists.

To use discretion with Plato’s assertions is, of course, not to say that the Aristophanic Socrates has more to tell us about the historical Socrates than the Platonic. No serious student of the subject thinks that, or doubts that the Apology is the single best source of information on the subject. Socrates differed from the Sophists in important respects: he was unrelentingly agnostic, they claimed knowledge of many subjects; he insisted he had no knowledge to impart, they claimed that their knowledge was teachable; Socrates accepted no payment for his teachings, they demanded it; he spoke for the most part in the public marketplace, with whomever was willing to engage him, but they generally only spoke to other elites in private settings. When dealing with great thinkers, there is a tendency to see them and their thoughts in isolation, and to forget that they, albeit to a lesser extent than ordinary people, are people of their times. Popular perceptions must inform our latter-day analysis.

While we believe the Socrates of the Apology and the Socrates of the Crito are more similar than Morris suggests, we will not venture far into the scholarly debates over the dialogues’ grouping. However, Morris’ assertion that he can “evade” the issue by reading “the discrete moments in which [the entire] fiction [of Socrates] unfolds”\textsuperscript{8} is unconvincing, especially since one of his main points, about

\textsuperscript{4} See PLATO, APOLOGY, in FIVE DIALOGUES 18d–19d (George Maximilian Anthony Grube trans., 1981) (or see <http://www.perseus.tufts.edu/cgi-bin/ptext?doc=Perseus%3Atext%3A1999.01.0170> (visited May 17, 2000) for a version of the text) [hereinafter APOLOGY].

\textsuperscript{5} DEMOSTHENES, Against Timarchus, in DEMOSTHENES, ORATIONS 173 (J.H. Vince trans., 1935). While Aristophanes and Plato clearly use the word “sophist” with negative connotations, and context suggests Aeschines does so as well, the term “sophist” had broader applications. See EDWARD SCHIAPPA, THE BEGINNINGS OF RHETORICAL THEORY IN CLASSICAL GREECE 50–53 (1999).

\textsuperscript{6} See SCHIAPPA, supra note 5, at 76–82 (presenting a revised view of the entire situation, wherein “the Sophists were not fundamentally different from the people now referred to as Philosopher”). Schiappa cites the philosophical practices of Protagoras and Gorgias, but he emphasizes that he is “certainly not claiming that there are no salient differences among the figures known as Sophists, Plato, and Aristotle.” Id.


\textsuperscript{8} See Morris, supra note 1, at n.9.
Socrates *qua* democratic sympathizer, depends on the idea that the Socrates of the *Apology* is historical, while that of the *Crito* is a mere Platonic mouthpiece.

A few problems with this interpretation lie in the literary tradition itself. Most scholars of Plato believe that *Apology* and *Crito* were written very closely together in Plato’s Early or “Socratic” period (typically assigned to the 390’s B.C.). This stems from stylistic observations and Socrates’s unsuccessful pursuit of defining moral properties in each dialogue (thus they are the “aporetic” dialogues).9 Morris’ claim, then, works against the mainstream in Platonic criticism; which does not necessitate the conclusion that his view is wrong, but it suggests that one should proceed carefully in separating the two most carefully coupled dialogues in Plato’s corpus.

The *Apology* is also a polemical work. Plato’s *Apology* was not the only text of its kind in existence, but as Xenophon makes clear, many others existed by the time he composed his own Socratic *Apology*, circa 385 B.C.10 This proliferation of set pieces on the subject suggests that it was a popular exercise for students of rhetoric. The more versions there were, the more difficult it became to separate fact from fiction; Xenophon’s own *Apology* was written partially because previous authors had not clearly shown how Socrates had come to prefer death to life.11 In light of this, Albin Lesky proposes that “the image of Socrates built up here by Plato is at the same time an outspoken piece of propaganda for the life of a philosopher.”12 If the *Apology* is “propaganda,” then the whole text as a historical document must be handled gingerly.

Turning to the issue of Socrates’s attitude toward the Athenian democracy, our position is by no means dependent on the notion that the *Apology* can be dismissed as polemic or propaganda. Morris’ argument, that Socrates is sympathetic in some sense to the Athenian democracy, has two main planks. First, he argues that Socrates had a fundamentally egalitarian outlook because he was willing to speak with anyone, regardless of their station. Second, he argues that Socrates’s egalitarian outlook is also proved by his view that anyone can attain to virtue (*arete*) by taking care of his soul (*epimeleia tes psyches*). Morris concedes that Socrates is a critic of his government, but contrasts his critique with Plato’s: Socrates believes Athenians are going about governing all wrong, and Plato opposes democracy absolutely on theoretical grounds. Morris emphasizes the fact that Socrates was deeply engaged with ordinary Athenians, while Plato regarded them as not worth engaging.

Morris’ view collapses the distinction between Athens and the Athenians, on the one hand, and their system of government on the other. There is every reason to think that Socrates was fully committed to the former and unalterably opposed to the latter. Patriotism and sympathy for the system


10 See XENOPHON, APOLOGY, in 4 XENOPHON IN SEVEN VOLUMES 1 (O.J. Todd trans., 1979) (or see <http://www.perseus.tufts.edu/cgi-bin/ptext?doc=Perseus%3Atext%3A1999.01.0212> (visited May 17, 2000) for a copy of this text.).

11 *Id.* (“It is true that others have written about this, and that all of them have reproduced the loftiness of his words, . . . but they have not shown clearly that he had now come to the conclusion that for him death was more to be desired than life . . . .”).

12 See LESKY, supra note 9, at 520.
are not the same, and in Socrates they seem to have been separable to an unusual degree. In the *Apology*, Socrates tries to get Meletus to admit that one would choose to entrust one’s horse to a person skilled in horse training rather than to a person unskilled in this trade.\(^\text{13}\) The necessary corollary is that one ought to entrust a government to people with special expertise in government. Who are these people? For Socrates the answer becomes murky; it was for Plato to develop it. Clearly, most people do not have any special qualification in governing, and therefore it is a mistake to entrust the government to people chosen at random. Of course, random selection was at the heart of the Athenian system; their generals were elected, but their chief magistrates were chosen by lot.\(^\text{14}\) According to Morris, Socrates might have been able to endorse a democracy made up of many people who had met whatever criteria would make them qualified—for lack of a better term, let us call them simply the “wise.”\(^\text{15}\) There is no textual evidence that Socrates held such a view, but let us suppose for a moment that he did. In order for this “Socratic” democracy to be implemented, the one in place would of course have to be removed, at least until such time as the people were competent to participate in the management of public affairs, and replaced temporarily with a government of those who were known to be qualified. This begins to sound a good deal like the platform of the men who brought about the oligarchic revolution in 411 B.C.: they said in effect “entrust control of affairs to us now for the present crisis, and later on we will widen the franchise.”\(^\text{16}\) They proposed to use wealth as a proxy for political competence; the Socratic revolution would of course have used a different criterion having to do with the state of the soul. But who would be the judge? Who else but one expert in the soul? Even in the *Apology*, and even allowing for the benefit of hindsight from acquaintance with Plato’s later writings, the philosopher-kings are less far away than Morris would have us believe.

Why else might the *Apology* sound more democratically sympathetic than the *Crito*? One of the first principles of rhetoric is that the discourse must be tailored to the audience. We know it was not a matter of complete indifference to Socrates whether he was acquitted or convicted, if only because he hoped to prevent the jurors from doing wrong by convicting an innocent man. Imagine Socrates asking himself a question: “In what way am I a friend of the demos?” The *Apology* represents, in part, a principled answer to that question. If the Socrates of the *Apology* sounds more a friend of the people than the Socrates of the *Crito*, it is likelier because the *Apology*’s Socrates followed to some extent the principle of saying what was appropriate to the occasion than because, as Morris claims, Plato has already transformed the *Crito*’s Socrates into the Socrates-twice-removed of the later dialogues.

Morris thinks that the Socrates of the *Crito* foreshadows the Socrates of the *Republic*, an idealized Platonic Philosopher-King, primarily because the *Crito*’s Socrates seems to disdain the

\(^{13}\) See *APOLOGY*, supra note 4, at 25a–b; see also Morris, supra note 1, at 15–19.

\(^{14}\) See ARISTOTLE, THE POLITICS OF ARISTOTLE 26.2 (Ernest Barker trans., 1946) (or see <http://www.perseus.tufts.edu/cgi-bin/ptext?doc=Perseus%3Atext%3A1999.01.0058> (visited May 17, 2000) for a copy of this text) [hereinafter POLITICS] (documenting selection of archons by lot from pre-selected groups in reforms of Ephialtes).

\(^{15}\) See Morris, supra note 1, at 16 (“perhaps a society founded upon the ideal of political equality can sufficiently devote both training in the civic arts, and control over the economic means of civic life, to sustain that equality in practice.”)

\(^{16}\) See THUCYDIDES, THE PELOPONNESIAN WAR 8.67 (Richard Crawley trans., rev. T.E. Wick, 1982); POLITICS, supra note 14, at 29–32.
people (the “many”). However this appraisal is problematic. If the Apology and the Crito are accurate depictions of Socrates, then we should not exclude the possibility that Socrates simply expressed somewhat different views in the private company of his disciples than he did in his defense. Indeed, Socrates shows a propensity for adapting a line of argumentation to his interlocutors, whether topically or stylistically, in Early Dialogues such as Ion, Protagoras, and Gorgias, and this well could reflect a characteristic of the ‘historical’ Socrates.

As noted above, Morris finds a vital distinction between the Apology and the Crito in Socrates’s disdain for the “many” in the latter dialogue. Yet, as Ober has pointed out, the Apology reveals the same wariness. Two sets of the “many” exist: the one which Morris rightly identifies, in whom Socrates arguably sees the potential for philosophically responsible democracy, and the one who took to heart Aristophanes’s Clouds and other similar perceptions of Socrates and Socratic philosophy. It is this latter conception of the “many,” quite clearly present in the Apology, which Plato has Socrates criticize in the Crito. Nor is this the only moment in the Apology when Socrates attacks the “many.” He does so again in his refusal to parade his children before the jurors and make an appeal based on pity. Ober also remarks insightfully on the elitism inherent in this passage. Lost in the moment of Socrates’s speech, it is easy to overlook these backhanded barbs aimed at normal democratic practices. The distinction in attitudes between the Socrates of the Apology and the one of the Crito is not so sharp. In Morris’ framework, we might say that the Apology already exhibits the fractures that eventually lead to Plato’s vision in the Republic.

This is not to say that Socrates in these dialogues is not somehow sympathetic to democracy. We agree with Morris that while Socrates criticizes the many, he believes a reconciliation of democracy

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17 See Morris, supra note 1, at 15–23.

18 See JOSIAH OBER, POLITICAL DISSENT IN DEMOCRATIC ATHENS: INTELLECTUAL CRITICS OF POPULAR RULE 169–70 (1998) [hereinafter OBER, POLITICAL DISSENT]:

Socrates asks the jurors to learn by individual investigation that the general opinion of the mass of citizens (hoi polloi) was false. He seeks, in effect, to establish a conversational, dialectical relationship among the jurors that privileges individual knowledge and rejects the general knowledge of the many as a mass . . . Socrates brings the positive democratic marking of hoi polloi into competition with the negative critical marking of the same term. The already foreshadowed outcome of the trial (the speech act of the jury) will decide the contest in favor of the critical reading for Plato’s reader.

Id.

19 See APOLOGY, supra note 4, at 34b–35d.

20 See OBER, POLITICAL DISSENT, supra note 18, at 176:

Here, Socrates overtly sets himself up as morally superior to hoi polloi, the ordinary men who made up the jury: cowardly behavior in which you indulge is shameful for a distinguished man like me. He establishes a separate standard of dignified behavior for himself (and other virtuous men) that is far removed from the democratic notion of citizen dignity as protection against verbal or physical insult by the powerful.

Id.

21 See generally Morris, supra note 1, at 21–22 (briefly discussing the evolution of Plato’s philosophy).
with his philosophical objectives is possible. An examination of the *Gorgias* illuminates this point. There Socrates, while engaged in dialectic with Polus, asserts that he does not care if everybody is in agreement with Polus, as long as Polus himself agrees with his logically sound argument. This sounds a great deal like Morris’ interpretation of the *Crito*’s Socrates, where Socrates prefers the rectitude of the Laws over the actions of the many. Yet, the *Gorgias* is by no means an attempt on Plato’s part to subvert the democracy; rather, as Ober argues, the *Gorgias* may be Plato’s last-ditch effort to reeducate the *demos* and reconcile the democracy with his own philosophical tenets. Given the public and dramatic setting (a rhetorical exhibition), the dialogue suggests (and we think Morris would agree) that Socrates’s service to the democracy lies in his questioning and criticism of the collective wisdom of Athens. Thus, the criticism of the many and defiance of the individual is still a patriotic, albeit not a democratic practice.

Ultimately, though Morris’ specific configuration of a democratic Socrates in the *Apology* may not be wholly convincing, his broader vision is an instructive and valuable contribution to the ongoing debate about the nature of democracy, both ancient and modern. Plato’s dialogues and the accompanying literary tradition of the Socratic *Apology* demonstrate that Socrates’s trial was a pivotal moment in democratic (as well as philosophical) history, a challenge and problematization of one hundred years of Athenian democracy and the conception of the democratic citizen.

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22 This is perhaps the last of the Early Dialogues, circa 390 B.C., and was certainly written later than the *Apology* and the *Crito*.

23 See PLATO, GORGIAS 475e, 471 *passim* (Terence Irwin trans., 1979).


25 Callicles, with whom Socrates engages in *elenchus* in the last half of the dialogue, symbolizes the brazen, aristocratic, but still democratic youth of Athens; Socrates’s criticism of his arguments attempts to establish harmony between the democracy and the morality and logic of “Socratic” philosophy. Socrates’s ultimate failure redirects Plato toward the radical view of the city he eventually details in the *Republic*. See LESKY, *supra* note 9, at 520–21; OBER, POLITICAL DISSENT, *supra* note 18, at 213.


27 Similarly, the notion of self-sufficiency has been observed to be essential to Athenian democratic identity. See DAVID HALPERIN, ONE HUNDRED YEARS OF HOMOSEXUALITY 98–99 (1990).