THE TRIAL OF SOCRATES. ETHICAL AND LEGAL ISSUES

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Abstract: *In contemporary researches on Ethics, the study subject of this discipline seems to be simple and is considered as being a sociological, given fact. From this perspective, the subject of Ethics is provided by the external experience, the observation of the social world and of the rules of conduct, including the ones pertaining to certain professional fields, which are actually followed or just proclaimed verbally, as well as by the internal experience, our own sense regarding the idea of good and acceptance of the moral rules. However, this way of perceiving things has an important shortcoming: it cannot explain an ethical conduct which is defining for the human being, the heroic conduct.*

There are people with strong characters who, in the name of some ethical ideals, make choices that do not pursue personal interests. On the contrary, the choices can prejudice them greatly and even putting their own lives in danger. We are talking about choices that are not conditioned internally or externally, neither socially or by personal emotions, but are ethical imperatives that refer to unconditional and unrelated values, to the definite and absolute.

Our present endeavor seeks to highlight how the manifestation of the Unconditional occurs in the case of exemplary ethical personality of antiquity and how the Unconditional reveals itself as being a divine imperative, a metaphysical principle.

Keywords: *Socrates, Dupréel, ethical, metaphysical, unconditional, ethical idealism*

The principle of the contemporary researcher in the field of ethics, formulated as such by a famous, contemporary historian of the

moral systems, Eugène Dupréel[1], is that the moral order should be studied as a social act, under a double impression. On the one hand, the moral order appears as a very strong feature of societies and of the consciences, never under the threat of abolition and deeply embedded in the nature of things. On the other hand, all the high moral and spiritual values always appear to us as being founded on a set of complex conditions and circumstances, on the state of the soul which, paradoxically, are not absolutely imposed, but rather always seem to be threatened. The moral excellence is fragile and does not inspire us the idea to follow it. All in all, that which seems to be morally perfect is actually, most often, a precarious "something".

The same Dupréel very fortunately compares morality with a tree growing in the desert[2]. Its roots run deep and it is very well protected by thorns against herbivores, but on its dusty branches one can seldom see, as if it were nature's rare gift, a shining flower which, however, cannot be relied upon. The sturdiness or the roots and scarcity of flowers – these are the two impressions that are stirred within us, when regarding morality as a whole.

Staying within the lines of Dupréel's suggestive comparison, of morality as a "natural" trait of peoples with a tree in the desert, we shall try and go even further. Namely, to regard the flowers in a privileged manner, in contrast with the rest and with vivid colors, from a perspective other than that of the botanist in awe of their beauty. We could equate the flowers, pure and rare, with as many contact points of morality, as a sum of physical facts, to the metaphysical. Namely, the holiness, the absolute independence of the will to external conditions, the heroic conduct, up to self-sacrifice, the genius of the human being that dedicates his life to knowledge, - all these three flowers, i.e. the moral excellences, and maybe others as well, refer to the Unconditional, that Unconditional which, in Jasper's opinion, is the Transcendence, the All-knowing one, that is the same

[1] Eugène Dupréel, *Traité de Morale*, Presses Universitaire de Bruxelles, vol. I, Brussels, 1967, p. V.
[2] E. Dupreel, *op. cit.*, p. VII.

with God[3]. Eugène Dupréel calls this determination of the Unconditional "ethical idealism"[4].

Socrates, for example, when faced with death, respects the moral norms not because it would benefit him; on the contrary, he is capable of self-sacrifice, considering the rules of the city as sacred, and the respect for them should be unconditional, i.e. metaphysical. In mid modernity, Imm. Kant divided the ethical systems – using as criterion the answer to the question: where do norms come from, God or men? – into autonomous and theonomic ethics. The theonomic ethics, which claim that rules come from God (gods), refer to a theological metaphysics, and the autonomous ones, which claim that the rules derive from human reasoning, actually practice a metaphysic hypostatis of reason, Kant's categorical imperative being valid not only for humans, but "for every rational being, in general".

Socrates is a fulfilled ethicist. From a certain point of view, it would be inappropriate to talk about the ethical teachings of Socrates, since he repeatedly stated about himself that he knows nothing, and therefore has nothing to teach others[5]. The Socratic approach is a well-known one. Socrates engages, seemingly at random, with people of the most varied types and entertained himself with them with an utter urbanity and tolerance of familiar things, i.e. about those things that interlocutors, by their everyday use, considered them to be real, existent, known and true. Socrates examined the definition given by others, from every perspective, and by giving ingenious and varied examples showed that the very same definition contained within it exactly the opposite of what it stated. Therefore, his interlocutors were compelled to draw logical conclusions which contradicted their initial point of view, which was the very essence of the Socratic irony.

In this manner, Socrates explicitly argued that he knows nothing, therefore he does not teach anyone anything. Implicitly, things are exactly the opposite. Socrates taught his contemporaries a

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[3] Karl Jaspers, *Texte filosofice*, Political Publishing House, Bucharest, 1986, p. 115 and the following.

[4] E. Dupreel, *op. cit*., p. 15.

[5] G. W. F. Hegel, *Prelegeri de Istorie a Filosofiei*, vol. I, Academy Publishing House, Bucharest, 1963, p. 378.

great deal of things, as he did with the entire, subsequent European civilization. Namely, he taught the people the ability to lie, to seek out counter-examples for any given example, he taught them to comprehend, via induction, more general concepts that go beyond and integrate the general contradictions. "Socrates was the first to establish theoretically what others, before him, have used practically, i.e. the inductive reasoning"[6].

The same is true in terms of ethical issues. Some Platonic dialogues from his youth clearly address such a problem. In them, Socrates thoroughly examines ideas such as: Wisdom (in *the Charmides*), which is depicted as being the general science of good and also contained the other virtues as well, like the gender contains species. Then: Piety or devotion to the gods (in *the Euthyphron*). Then: Justice for the people (in *the Republic*) and finally, Courage in battle (in *Laches*). So, in regard to Plato, when exposing Socrates' ethical standpoint, one can speak of so-called "ethical" dialogues, which actually contain a certain issue in a given case.

On the other hand, the most important thing in Socrates' case is not only his implicit ethical teachings, but even his life, seen in terms of the explicit relation of his acts with his ethical idealism. For it is definitely ethical idealism what Plato talks writes about in his *Apology of Socrates*. And, according to Emil Cioran, Socrates is "the first thinker who sparked a debate about his own theme and who posed as a legal case"[7].

As we know, in the spring of 399 B.C., Socrates, who was 70 years old at the time, was brought before the Athenian court of the five hundred, to be judged. There were no professional accusers at that time, with the status of magistrates, to enforce the law and represent the interests of the state in a trial, as the modern-day prosecutors. At that time, any member of the city could have been prosecutor, denouncer or sycophant, provided he could support his claims. In order to prevent and deter the abuses of denunciation as well as the denunciation used as a political chicanery, if the

[6] Athanase Joja, *Istoria gândirii antice*, vol. I, Bucharest, ESE, 1980, p. 179.
[7] E. M. Cioran, *La tentation d'exister,* Paris, Gallimard, 1956, p. 98.

conviction was not voted by at least 20% of the judges, if so the prosecution could not substantiate its claims significantly, then the denouncers were punished with quite a considerable fine and they also had their right to be accusers revoked. On the other hand, in order to encourage the public to oversee that the law is enforced, if the conviction was clear and the defendant was punished with a fine or the confiscation of his property, the denouncers were rewarded with a certain amount of the fine or said property.

The procedure was carefully regulated by the law[8]. The plaintiff had to submit their claim in writing, to one of the archons, usually to the basileus archon, in the presence of the defendant and two other witnesses. Both the plaintiff and the defendants swore an oath, that they shall provide evidence to substantiate their claims, namely that they will disavow the accusations in question. The judgment itself was opened by reading the depositions of the prosecution and defense. Afterwards, in the debates to follow, the defendant could directly interrogate his accusers. The criminal trial has two stages. In a first phase, the court, after hearing both the prosecution as well as the defense, decided via vote if the imputable criminal act indeed existed or not, i.e. perforated chips were used for conviction and whole ones for an acquittal. If it was the latter, the trial ended there. If a conviction was ruled, the trial was resumed in a second phase, after a brief recess; in this part, the type of the punishment and, depending on the case, the amount of the punitive measure were decided. In principle, there were three punitive measures in criminal cases: a fine, exile or the capital punishment. Unlike other ancient civilizations, who only applied torture or the death penalty, the Greek civilization was much more humane; it acknowledged a certain dosing of the punishment, depending on the gravity of the act and, at least when free people were concerned, torture was not an option. Even the type of execution, via poisoning, offered the possibility of a dignified death, without suffering terrible pains or being exposed to ridicule, as

[8] See Platon, *Opere,* vol. I, ESE, Bucharest, 1974, p. 11 et seq. Also see Doru Cosma, *Socrate, Bruno, Galilei în fața Jusjtiției,* Sport-Turism Publishing House, Bucharest, 1982. Also see George Bălan, *Procesul lui Socrate,* Albatros Publishing House, Bucharest, 1993.

was the case with the crucifixion, practiced by the Romans. Moreover, the defendant could have pled guilty, which offered him the opportunity to suggest his own punishment. He then was presented with the opportunity to convince the judges to render him a more lenient sentence, such as exile instead of the death penalty, a fine instead of exile, or a smaller fine instead of a more considerable one.

Socrates' accusers were Meletios and Lykon, a poet and an orator, both mediocre and obscure, with no renown in the city. But they had the backing of Anytos, the wealthy owner of several workshops, a person with political influence, whom Socrates had once admonished publicly because he educated his son to only lead a mercantile life, therefore an individual whom we can state accused Socrates out of personal spite[9]. In this case, the plaintiffs were not interested in the possessions that might have been confiscated from Socrates, for it was known that he was a poor man, but rather revenge was the motive of their denunciation.

The charges were concocted in such a fashion so that Socrates could not prove them false with clear evidence but, on the contrary, to produce a certain ambiguity in the public's mind. The first accusation: Socrates does not recognize the Athenian gods. A charge of impiety could have made a strong impression on the city, especially since philosophers had a bad reputation in this field, in the minds of the Athenian citizens, since the cases of two other thinkers, Anaxagos and Protagoras were still fresh in their memory; they had been tried earlier on the same grounds, lack of piety to the gods, found guilty and sentenced to exile. And most importantly, Socrates himself believed in gods, actually in a single omnipotent God[10]; he spoke of God in the singular and with a definite article, but he was also frequently overheard in the city mocking the anthropomorphic divine figures, "with common pursuits and scandalous biographies"[11]. The second accusation was the Socrates introduced

[9] Bertrand Russell, *Istoria filosofiei occidentale*, vol. I, Humanitas Publishing House, Bucharest, 2005, p. 102.
[10] Emilian Vasilescu, *Istoria religiilor*, BOR Publishing House, Bucharest, 1982, p. 276.
[11] Platon, *Opere*, vol. I, *op. cit*., p. 10.

new gods. In truth, it was the famous *daimon*, which Socrates claimed to have had, which was as a voice of his conscience that prevented him from doing certain things; *daimon* who acted as an inner prohibitive entity. In this case as well, the crowd, instigated by the accuser's vile imagination, can easily make a dangerous confusion, i.e. to believe that Socrates' personal demon is actually a new divinity, illicitly introduced in the Athenian Pantheon. The third accusation, serious in its own nature as well stated that Socrates corrupts the youth. There were indeed young people fascinated by the personality of this teacher who, unlike the Sophists, did not require any form of payment for his teachings, and they followed him with pleasure, asking themselves questions in turn, in order to place their interlocutors in difficulty. In reality, Socrates talks in a friendly manner, with sympathy, to the young people willing to better themselves, trying to get together at the meaning behind wisdom (as, for example, in the *Charmides* dialogue), but with the powerful ones of the day, full of the sufficiency of their success and convinced that they are all-knowing, he is of a relentless irony. They hardly recognize their defeat in such battles of the mind and will never forgive Socrates for it, a reason strong enough to determine them to vote for his conviction.

2. The Platonic dialogue *Socrates' Defense* is structured in three parts[12]. The first part consists of the actual defense. First of all, Socrates denies the calumnies that have been going around about him, for quite some time, after which he gives direct response to the indictment. On the allegation of his negative influence on the youth, an opinion which could not be demonstrated, Socrates combats it by showing the lack of seriousness of the charge, i.e. asking some questions that made the accuser, Meletos, to sound ridiculous in his responses. Regarding the charge of *asebia*, of lack of devotion to the gods and the introduction of new deities, Socrates defends himself by saying that he cannot be accuse of atheism since, at the same time, he is being accused of believing in newer deities as well. On the contrary, Socrates demonstrates that he is a profoundly religious

[12] *Ibidem*, p. 12.

person since, all his life, from twenty up to seventy years, he has done nothing else but honor the commands of the God, which actually explains his everyday practice.

It was known that in his youth, somewhere around the age of twenty, Socrates had consulted Apollo's Oracle from Delphi, through which the God told him that he, Socrates, is the wisest of men[13]. This put him in a serious mess. If Socrates would have believed unconditionally and without doubts that he was the wisest of men, he would have risked becoming presumptuous and, at a certain point, meeting someone else, smarter than him. The issue was also relative from another point of view as well, since wisdom cannot be measured precisely, with a trans-subjective standard. On the other hand, if he would not had taken into consideration what the oracle had told him and would not have thought about him to be wise, that would have meant him disregarding the word of the God himself, and only then proving a lack of devotion to the gods. Since that point on, till the end of his life, Socrates did nothing else; he abandoned even his lucrative and promising profession of being a sculptor, settling for little, but constantly seeking out a person wiser than he was. He sat all day in the public market, talking to people of all positions, about subjects of the most varied of natures, asking simple yet insightful questions, which ultimately lead to the discovery of an obvious lack of wisdom in his interlocutors. It was in this manner that he unjustly acquired the reputation of being disrespectful to the gods and corrupting the youth. At the same time, he managed to stir in some people a deadly enmity towards himself, but he unwaveringly followed the destiny set before him by the God. There it found him, on duty, in the agora, at seventy years old, his trial and sentencing to death.

The second part of *Socrates' Defense* actually coincides with the second part of the trial. After the first part it was voted, with a majority of only thirty votes, that Socrates was found guilty. Of 502 judges, 221 voted for acquittal, and 281voted for a conviction. After a

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[13] Diogenes Laertios, *Vieţile şi doctrinele filosofilor*, Academic Publishing House, Bucharest, 1963, p. 167.

recess, the second part of the hearing followed, which was to establish the nature of the punishment. The prosecution asked for the maximum penalty, the death sentence. Some rich friends, with Crito among them (Plato's uncle) wanted to stand bail for Socrates and pay a huge fine for him, of 30 mines, the equivalent of about 13 kg of gold in our terms, today. Socrates is given the floor, so that he also may suggest the nature of his punishment. All stood in stupefaction when Socrates requested as punishment that he be fed in the Prytaneum for the rest of his life.

In ancient Athens, the Prytaneum was a public building located in the immediate vicinity of the public square, named agora; the highest ranking magistrates of the state were hosted here, the Prytaneans, throughout the duration of their one year tenure; the sacred fire was kept here, the one which never went out, a symbol of the eternal continuity of the city; here is where the keys to the rooms where the treasure was stored were kept, along with the seal of the state. The most important guests were also accommodated here, foreign kings or ambassadors of friendly states. This was also the place where the highest possible distinction was given, "the feeding in the Prytaneum", conferred to citizens with extraordinarily important merits to the city's life, for example the winners of the Olympic Games or victorious generals returning from war[14].

Therefore, at the trial, Socrates proposed as punishment for himself no more, no less than he "be fed in the Prytaneum" for the rest of his life! This was Socrates had asked, a man famous in the ancient world for his wisdom, character, modesty, the simplicity of his lifestyle and the sense of proportion he possessed, features characteristic to him. The punishment that Socrates proposed for himself, that of him being awarded the greatest honors, struck the crowd as a lightning bolt; it came off as a huge and reckless act of defiance addressed to the Court of the five hundred, who immediately voted for his condemnation to death. It is interesting that the number of votes sentencing him to death is eighty votes higher than the number of votes for him being guilty as a principle, in

[14] Ovidiu Drimba, *Istoria culturii şi civilizaţiei*, vol. 1, ESE, Bucharest, 1985, p. 570.

the first phase of the trial. In other words, a number of eighty judges that had initially voted in the first phase of the trial for Socrates' innocence, had changed their minds after Socrates defied the court and voted, in the second phase, for his death sentence. That says a lot about the ability of a court, even with an immense number of jurors, of over five hundred, to maintain the objectivity and impersonal nature of the act of justice, but it also says a lot about Socrates' suicidal act, to finally claim what was rightfully his.

The third part of *Socrates' Defense* is no longer spoken before the court. Immediately after the sentence, the meeting was adjourned and Socrates talked to a few friends and disciples, as well as with those who voted in his favor, until the archons were still busy giving the necessary provisions for his transportation to prison. Socrates consoles them, telling them not to be sad, as long as we do not know whether death is a good or a bad thing.

Towards the end of Plato's *Apology*, Socrates reveals himself in all his ethical grandeur. He tells his disciples that we must not fear death, but injustice, that we need not run from death, but from vileness. Death comes anyway and it is not up to our will to get rid of it; death catches up primarily with the older and slower ones. However, even if it is up to our will, vileness is more difficult to get rid of than death, for "vileness runs faster than death"[15]. The temptation of vileness haunts us for the rest of our lives and it catches up even with the most swift and fierce people. Vileness should be an enemy more feared than death, because death kills the body swiftly, whilst vileness kills the soul slowly, throughout one's entire life. He, Socrates, departs this world unjustly condemned, but the judges who voted for his death sentencing Truth will condemn them, as some who are guilty of being vile and unlawful[16].

Finally, one could raise the question to what extent does the Platonic dialogue respect the historical reality of Socrates' trial or, in other words, to what extent do we have here ideas that actually pertain to Socrates and if not Plato also wrote down his own ideas,

[15] Platon, *Opere*, vol. I, *op. cit*, p. 41.
[16] *Ibidem*.

different from those of Socrates. This problem seems, on the one hand, insoluble, because it would be inappropriate to divide the dialogues according to this criterion: what pertains to Socrates goes here and what pertains to Plato there, or to what extent is a literary character created by Plato. On the other hand, we don't actually have a real, but a pseudo-problem, because the ethical essence enunciated by the character of Socrates is what matters here.

As we all know, immediately after the death of Socrates, Plato left Athens, living for a while in the city of Megara, because of this unjust conviction, but also out of fear that the Athenians might take revenge on the ones close to Socrates. However, very soon after, the hostility against the friends of Socrates ceased, and Plato could return back home. Moreover, shortly after, the Athenians deeply regretted this conviction, which was obviously unjust, after which the mob furiously tuned against the aggressors and punished them. According to tradition, Meletos was sentenced to death and Anytos and Lycon to exile[17]. These are the circumstances in which Plato wrote *Socrates' Defense*, three years after the events[18]. The trial of Socrates was still significantly present in the memory of the Athenians, and Plato could not have written a substantially different *Defense* than that Socrates uttered before the court.

3. Socrates' ethical position, as presented by Plato, is most easily noticed from the *Criton* dialogue which, together with *Socrates' Defense*, constitutes two consecutive moments of the same subject, the trial, conviction and execution of Socrates.

The action from the dialogue takes place three days before the execution. Criton, a close friend of Socrates, manages to get into the prison and tries to convince Socrates to escape. Criton was even willing to spend an enormous amount of money, to bribe the jailors and sycophants, so that the escape goes smoothly, and the escapee was to live in exile, in another city. The only one opposed to this was Socrates himself. One can notice here two types of discourse: Criton's *pathetic* discourse which is opposed by Socrates' *ethical* discourse. The

[17] Diogenes Laertios, *op. cit*., p. 168.
[18] Platon, *Opere*, vol. I, *op. cit*., p. 11.

architecture of the Socratic discourse consists of an assertion of principles (*arhé*)[19], which indicate the metaphysical origination of the Socratic ethics.

The first principle enunciated by Socrates refers to the opposition between "the opinion of the many", an undifferentiated (doxa) opinion and easily changeable, which shows the lack of a self-conscious morality, but also represents a customary tradition, an unwritten law that regulates the social relations that people must take into account. Socrates puts this *doxa* in opposition with the elaborate and reflexive moral judgment of *logos*. The simple mind is tailored to accept a random way of life, without conscious and steadfast moral norms, and the conscious ethical judgment is the foundation for the way of life in conformity with the idea of good, a way of life that does not suffer immoral or unjust acts[20]. Only after this principle is admitted and established, can Criton's proposal be discussed, that of Socrates escaping from prison, a proposal which obviously fails to pass the test whether it is in accordance or not with the principle of Justice.

According to another ethical principle of Socrates, the individual owes his life to the laws of the city, and if these laws are not to his liking, he is free to leave and settle in another city. But, since he has chosen to stay, he must unconditionally submit to and have a religious type of respect for the laws. This Socratic principle stands out even more, since it had been enunciated in the period with a peaking activity of the great sophists, Protagoras (485-410 B.C.) and Gorgias (487-380 B.C.). By stating things such as "man is the measure of all things" (Protagoras), or that human knowledge is absolutely relative, if not impossible (Gorgias), the sophists were the first in history who "desecrated the law"[21], i.e. reduced it to a mere custom or convention agreed upon by the people. The consequences are important and may lead the people to render an unjust verdict where a just one was fitting and vice versa, depending on the interest of the

[19] *Ibidem*, p. 55 et seq.

[20] *Ibidem*.

[21] Ştefan Georgescu, *Filosofia dreptului*, ALL Publishing House, Bucharest, 1999, p. 17.

individual. For example, in Plato's *Republic* a sophist appears, by the name of Trasymachos, who defines the law as the tool of the one with the most power, and then Callicles from the same dialogue reaches juridical nihilism, claiming that it is in the nature of things that the strong dominate the weak, and the cunning and courageous man shall bypass the laws and shall make the law himself.

Conclusion

In the historical context in which he lived, Socrates restates the sacred respect for the law, resorting to a famous rhetorical artifice called the "prosopopeea" (personification) of laws. The laws are regarded as being persons who speak to Socrates, in the hypothesis that we wants to escape, and draw-up for him quite an indictment. "Through your act (i.e. by the attempt to escape), you, Socrates, contribute as much as is needed of you to our demise, that of the Laws, and consequently, to the demise of the City. For a City in which the Laws are not respected and where sentences no longer hold meaning, but lose their authority and effect by the mere will of individuals, that City can no longer endure and is destined to fall into ruin."[22] If the Laws found it necessary to forsake Socrates into perdition, judging that it is the right thing to do, Socrates, in turn, cannot forsake the Laws and the City, not even "as much as is up to him". The laws constitute a supreme value in relation to the individual. Even though he himself was unjustly convicted, Socrates places the eternal concept of law above its evanescent failure. We have here the moral of Socrates, as it is depicted in some Platonic dialogues, a moral in which the universal (the Law for example) has precedence over the individual (Socrates), the conceptual reality over the appearance.

[22] Plato, *Opere*, vol. I, *op. cit*., p. 70.

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