

# **Cicero's Political Imperative/a reading of *On Duties***

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Ad honestatem nati sumus.<sup>1</sup>

*On Duties*, III. 35

## INTRODUCTION

### Who is Cicero? What is *On Duties*

Marcus Tullius Cicero (106-43 BC) was one of antiquity's truly great minds, one of human history's truly extraordinary men. Prosecutor, defense attorney, politician, philosopher, historian, poet, father and friend; in his political prime (63 BC) Cicero was the chief-executive of the Roman state, while in his final years (45-44 BC) he was witness to the most tumultuous period in Republican history: Julius Caesar's defeat of the Republican armies in the civil war of 49-46 BC. Caesar's victory marked the end of senatorial governance—the end of the Roman Republic, and the beginnings of the Julian-Claudian dynasty of Roman emperors.

The change was not without blood. Wartime casualties had decimated the leadership of the senatorial party. Most spectacular among the casualties was that of Cato the Younger. Cato had been both the moral center of the senatorial party and the leader of its forces in Africa. Preceded by defeats in Italy, Spain, and Greece, Africa was the Republic's *first* last stand. When victory was no longer to be hoped for, unable to face Caesar's *clementia*<sup>2</sup>, Cato chose to take his own life. His was the first in a series of stoic inspired suicides devastating to both the moral and military leadership of the Republican cause. In *On Duties* Cicero defends and even lauds the suicide.

Did Marcus Cato find himself in one predicament, and were the others who surrendered to Caesar in Africa, in another? And yet perhaps, they would have been condemned, if they had

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<sup>1</sup> We are born for virtue.

taken their lives; for their mode of life had been less austere and their characters more pliable. But Cato had been endowed by nature with an austerity beyond belief . . . it was for him to die rather than to look upon the face of a tyrant. [1.122]

Little did Cicero know what losses that act, and perhaps his own praise of it, would entail for the Republic. Cato's suicide may well have relieved his own great soul of an impossible future, but for the future leaders of the Republican resistance it set an evil precedent. Brutus, the moral leader of the assassins of Caesar, and Cassius, their military genius, would follow Cato's example. At the battle of Phillipi in October of 42 BC, despairing of a victory not yet lost, they would both commit suicide. So went the Republic's *last* last stand. With the deaths of Brutus and Cassius, the pretenses—if not the hopes—of the Republic would fall first on Pompey's son Sextus. He would be dispatched in 35 BC. For an uneasy decade Octavian and Antony would rule the empire jointly—Octavian supreme in the West, Antony lord of the East. To seal their pact Octavian offered his sister in marriage to Antony. But political convenience was no match for Cleopatra. Antony divorced Octavia; war soon followed. Antony and Cleopatra would be defeated at the sea-battle of Actium in 31 BC. Soon thereafter and finally, the Roman Republic of Cicero and Cato would give way to the *res publica restituta* of Augustus, and ultimately to the Roman Empire of Tiberius, Caligula, Claudius and Nero.

But in the autumn of 44 BC all that lay far in the unforeseeable future. Caesar's murder had not brought the return of the Republic. It merely transformed the struggle for monarchic dominance into a long and protracted contest between the de facto leader of the Caesarian party, Marc Antony, and Caesar's heir and adopted son, Octavian. Antony had thought he himself would be Caesar's heir. But blood proved thicker than water. Octavian was the son of Caesar's niece. Accepting the inheritance, he entered the fray, a surprise newcomer to the political struggle. The transformation from presumptuous unknown to co-leader of the Caesarian party was a long and treacherous road. Octavian's adoptive name—C. Julius Caesar—would take him the first part of the way<sup>3</sup>, his own political skills and several doses of Caesarian *Fortuna* would carry him to the goal. As 'Augustus' he would reign over a peaceful and united empire till his death in 14 AD.

Cicero's luck would not run so far. Six months after the assassination of Julius Caesar, Cicero stood practically alone in defense of the Republican cause. While the dictator still lived, friendship (and

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<sup>2</sup> Mercy and pardon.

indebtedness) had muted his opposition to Caesar. No such constraints would limit his hostility to Caesar's immediate successor, Marc Antony. After some vacillation, Cicero finally resolved to take up the task—to become the new Cato and give his all against odds seemingly insurmountable.<sup>4</sup> With no army at his command, no *clientela* of stalwart supporters at his back, no party following his lead, with nothing but his eloquence and the memory of Cato's example and resolve, Cicero faced Antony alone. When Caesar's heir appeared on the scene, Cicero took a gamble. Reasoning that he could 'lift up and discard' the newcomer, in the autumn and winter of 44-43 BC he recruited Octavian to the Republican cause. Both Cicero and Octavian shared a goal: to split the loyalty of Caesar's troops, depriving Antony of the base of his power—a well-trained and devoted army. Octavian would play Cicero's game, but only so long as it suited him. In the end treachery served him better. Or as the publicity machine of 'Augustus' would have it: *Pietas* proved stronger than Republican nostalgia.<sup>5</sup> In the end Octavian had his own singular goal: to avenge the murder of his great uncle, to have the heads of Brutus and Cassius, and perhaps even to have the throne of Rome for himself. At a crucial point of the struggle Octavian broke with Cicero, made peace with Antony, and regretfully (they say<sup>6</sup>) allowed Antony to have Cicero's head—Cicero, who had sworn to the Senate “that Gaius Caesar will always be such a citizen as he is today, such as we must most wish and pray for him to be.”<sup>7</sup>

In this political maelstrom came the last great products of Cicero's political and philosophical career—the philosophical treatise *On Duties* and the speeches against Antony, known collectively as the *Philippics*. Both the speeches and the treatise were begun in the autumn of 44 BC, one half year after Caesar's assassination. Together they hold our single most valuable clues to reconstructing Cicero's mature and final political and moral stance. Together they contain the logic and tactics, the rhetorical product and theoretical basis of his last great political effort. But this is only their historical value.

The crisis and fall of the Republic left Cicero in no mood for purely speculative concerns, in no mood for splitting philosophical hairs. The darkness of the times required clear moral imperatives. In contrast to Socrates, who had maintained *ad nauseam* that he “only knew that he did not know,” Cicero

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<sup>3</sup> For the political significance and varied permutations of Octavian's nomenclature, cf. Ronald Syme, *The Roman Revolution* (Oxford ; New York: Oxford University Press, 1960), p. 17-21.

<sup>4</sup> For Cicero as the new Cato, cf. *Ibid.*, p. 146.

<sup>5</sup> *Res Gestae*, 2.

<sup>6</sup> Plutarch, *Cicero* 46.

<sup>7</sup> *Philippics* V, 18.

declares: “Our point is not simply to raise difficulties, but to settle them!”<sup>8</sup> In contrast to the works of Plato and Aristotle so rife with interpretive puzzles, *On Duties* is adamantly pragmatic. Plato had asked what was the transcendent form of Goodness? For Cicero the idea is attractive but the question meaningless. Aristotle had asked whether the virtue of the man *qua* citizen was identical with that of the man *qua* man. Cicero wrote neither for the man *qua* citizen nor for the man *qua* man. Cicero wrote for the citizen *qua* leader.

Thoroughly aristocratic, *On Duties* is not directed to the common man. Thoroughly pre-Christian, it is not a manual for the individual obsessed with his own perfection or individual salvation. On the contrary, Cicero’s work is directed to the man whose circle of care extends well beyond himself, to the man of many dependents, to the man of great responsibilities. Written and read as the text-book of *noblesse oblige*, a rock of ethical instruction for men of influence and power, it was and remains a pointed guide to the ethical management of power. As such, it is unrivaled. But *On Duties* is more than just a ‘how to’ book for the nobility; for as a repository of the ‘traditional values’ of the secular West it has no competitors. By reason of the trans-historical quality not only of Cicero’s political historical struggle but also that of his political-moral ideas, *On Duties* became Cicero’s most influential work. In fact it became the most influential moral text of pre-Christian secular tradition.

History confirms this.<sup>9</sup> In late antiquity *On Duties* would serve as the blueprint of St. Ambrose’s *On the Duties of the Clergy*. While numerous manuscripts survive from the medieval period attesting to its importance, in the Renaissance, *On Duties* would be the source and departure point for that period’s most influential figures. For when John of Viterbo debates whether a ruler should aim to be ‘feared rather than loved or loved rather than feared’, and when Bruno Latini counsels that rulers who want to maintain their status ‘must actually be what they wish to seem’, their common source is Cicero’s text.<sup>10</sup> But even more significantly, at what is universally recognized as the great turning point of Western political morality, the turn from ancient idealism to modern cynicism/realism in Machiavelli’s *Prince*, Cicero’s text is the departure point. *On Duties* is the Florentine’s counter-point. Cicero had insisted that only an honorable and morally correct act could ever be truly expedient. In starkest contrast Machiavelli insisted that for ‘reasons of state’ a morally base act—an act of deception, betrayal, or oath

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<sup>8</sup> *On Duties*, III. 56.

<sup>9</sup> For a fuller exposition of the *Nachleben* of *On Duties* cf. Andrew R. Dyck, *A Commentary on Cicero, De Officiis* (Ann Arbor: University of Michigan Press, 1996), pp. 39-49 .

<sup>10</sup> *On Duties*, II. 23-26, 44.



breaking—really could be the proper and expedient choice. It is Cicero’s high standard that the Florentine aims to subvert.

But the impact of Cicero’s text did not stop there. Despite Machiavelli’s challenge, the moral authority of *On Duties* extended well into the early modern period. Well known to Locke and Hume (As ‘Tully’s Offices’), when translated into German, Cicero’s text proved deeply influential to Kant’s *Groundwork to a Metaphysic of Morals*.<sup>11</sup> From the early patristic era to the heart of the enlightenment the examples and issues of Cicero’s text will be the guideposts of Western secular moral reflection: the son who will or will not turn his father in for treason against the state; the worthless and worthy man tossed at sea after shipwreck and struggling for a single plank; the question whether happiness is to be preferred to virtue or virtue to happiness—these staples of moral reflection will win reconsideration again and again. Though Cicero himself is not the originator of all of these varied formulae, they are all gathered in his text and it is by virtue of his text that they will arrive whole into the modern era, a treasury of moral reflection.

Indeed, though I myself will not pursue this point in the present study, it could be argued that *On Duties*’ influence in the early modern period is so persistent as to allay completely the anxieties of scholars hesitant to acknowledge a genuine continuity in the flow of Western moral reflection. That is to say, against the neo-Foucaultian prophets of discontinuity, it can be argued that Cicero’s text constitutes the single most important thread uniting Western moral reflection from Plato to Marx.<sup>12</sup> For *On Duties* is the only text required, and really the only obvious candidate, to unite not only the early moderns with one another but also to bind that whole later tradition with the ideas and reflections of Socrates, Plato, Aristotle, the Cynics, the Stoics, and the Epicureans. Stated baldly, even more so than the works of Plato or Aristotle, Cicero’s text has been the axis around which Western ethical-political reflection has turned.

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<sup>11</sup> Carlos Melches Gibert, *Der Einfluss Von Christian Garves Übersetzung Ciceros "De Officiis" Auf Kants "Grundlegung Zur Metaphysik Der Sitten"* (Regensburg: S. Roderer, 1994).

<sup>12</sup> Cf. Conal Condren, *The Status and Appraisal of Classic Texts : An Essay on Political Theory, Its Inheritance, and on the History of Ideas* (Princeton, N.J.: Princeton University Press, 1985), p. 59. See following: “Now despite the antiquity. . .” Also especially pages 68-71: “There is no firm evidence that Machiavelli either saw himself as continuing or departing from the ‘medieval’ tradition of political theory . . . of *the* tradition in which major names of political theory are now habitually placed, there has been until recently only a shadowy or nonexistent awareness.” It seems Mr. Condren is not conversant enough with the pre-Christian tradition— and its reception history—to detect that it is here that we must look for the threads of unity.

And that is for good reason. Deeply historical, the work offers a three-pronged attack upon a single trans-historical question. Autopsy of a free state, *apologia pro sua vita politica*,<sup>13</sup> and letter of fatherly instruction—Cicero’s work runs on three separate tracks.<sup>14</sup> What political moral standards can the dual crisis of the collapse of senatorial leadership and the rise of Caesar’s dictatorship provide? How did Cicero’s own political behavior surpass this standard and therefore establish his leadership as indispensable to the Republic’s future? How might Cicero’s son, and by extension, how might any future civic leader best benefit society as a whole; how might such a person win true and lasting *gloria*. These are the questions Cicero faces. Formally three, in substance they are one. For they are all reducible, and *On Duties* ultimately boils them all down, to one perennial question—‘Who is a good man?’

## Scholarship on *On Duties*

The scholarly attention to *On Duties* does not match its historical importance.<sup>15</sup> The most recent exception proves the rule. The attention Andrew R. Dyck has lavished upon the work in his lengthy, full, and erudite commentary is unparalleled in the previous scholarship.<sup>16</sup> Dyck’s monumental work follows the text line by line covering textual criticism, source-criticism, style, composition, and parallels across Greek and Latin literature. It also includes historical, social, political, and philosophical interpretation and observations. In addition to the line-by-line analysis, short summative essays and outlines of content precede consideration of each of *On Duties*’ three books.

Besides Dyck no full-scale interpretation of the work exists in English. The most one encounters are articles dealing in summary fashion with the whole work or with a particular theme or portion within it. Among the former is the portion of E. M. Atkins’ contribution to the *Cambridge History of Greek and Latin Political Thought* that deals with *On Duties*. There Atkins provides a summation of the work’s main topics integrating them in the political context of the struggle with

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<sup>13</sup> A defense of his own political life

<sup>14</sup> Cf. Dyck, *A Commentary on Cicero, De Officiis*, p. 21.: “The essay operates simultaneously on several levels: as a response to earlier thinking on sociopolitical problems, as a means of addressing the mores and political problems of the day, and as a response to the need of Cicero jr. and other young Roman nobles like him for guidance in a world of shifting values.”

<sup>15</sup> Chapter one, ‘Reading *On Duties*’ deals with the causes of this neglect.

<sup>16</sup> Dyck, *A Commentary on Cicero, De Officiis*.

Antony. Atkins' earlier article "'Domina et Regina Virtutum': Justice and *Societas* in *De Officiis*" deals with the centrality of the concept of justice in *On Duties*. Finally, her edition of *On Duties* (co-edited with M. T. Griffin) provides introduction and notes to a fluid English translation. Among articles directed to the examination of a particular portion of the work are Gill's treatment of the four *personae*, Annas' handling of the dialogue between Antipater and Diogenes, and Long's treatment of Cicero's politics.<sup>17</sup> Gill's article deals with the manner in which Cicero's 'conservative' concern for norms of society and class runs against the grain of his teleological attempt to ground his strictures in "a theoretical conception of human nature at its best."<sup>18</sup> Annas' article aims to salvage the teaching of the Stoic thinkers from Cicero's supposed misunderstanding of the terms of their debate. Long's article demonstrates how Cicero's teaching on true versus false *gloria* stands as an "effort to reform Roman ideology" in the wake of the corrupting influence of Caesar's career.<sup>19</sup>

Other than works like these *On Duties* is most often simply referred to in works dealing with larger issues of Roman civilization, history, politics, or culture—an exemplary specimen is P. A. Brunt's 'Cicero's *officium* in the Civil War.'<sup>20</sup> Primarily from the witness of Cicero's letters, Brunt shows that Cicero's behavior and considerations during the civil war were in fact true to his stated philosophical and political ideals.

Other works important to my own effort consist of articles dealing with major themes in Stoic philosophy, for instance Gisela Striker's important study 'Following Nature: A study in Stoic ethics', Gerard Watson's 'The Natural Law and Stoicism', and additional articles by A. A. Long, Malcolm Schofield, Philip T. Mitsis and Joseph G. DeFilippo.<sup>21</sup> These articles have all played a major role in

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<sup>17</sup> Julia Annas, "Cicero on Stoic Moral Philosophy and Private Property," in *Philosophy Togata: Essays on Philosophy and Roman Society*, ed. Miriam Griffith and Jonathan Barnes (Oxford: Clarendon Press, 1987), E. M. Atkins, "Cicero," in *The Cambridge History of Greek and Roman Political Thought*, ed. Christopher Rowe and Malcolm Schofield (Cambridge: Cambridge University Press, 2000), C. J. Gill, "Personhood and Personality: The Four-*Personae* Theory in Cicero *De Officiis* I," *Oxford Studies in Ancient Philosophy* 6 (1988), A. A. Long, "Cicero's Politics in *De Officiis*," in *Justice and Generosity: Studies in Hellenistic Social and Political Philosophy*, ed. Andre Laks and Malcolm Schofield (Cambridge; New York: Cambridge University Press, 1995).

<sup>18</sup> Gill, "Personhood and Personality: The Four-*Personae* Theory in Cicero *De Officiis* I," p. 173.

<sup>19</sup> Long, "Cicero's Politics in *De Officiis*," p. 215.

<sup>20</sup> P. A. Brunt, "Cicero's *Officium* in the Civil War," *Journal of Roman Studies* 76 (1986).

<sup>21</sup> A. A. Long, "Stoic Philosophers on Person, Property-Ownership and Community," in *Aristotle and After*, ed. R. Sorabji (London: Bulletin of the Institute of Classical Studies, University of London, 1997), A. A. Long, "The Logical Basis of Stoic Ethics," in *Stoic Studies*, ed. A. A. Long (Berkeley: University of California Press, 1996), Joseph G. DeFilippo and Phillip T. Mitsis, "Socrates and Stoic Natural Law," in *The Socratic Movement*, ed. Paul A. Vander Waerdt (Ithaca and London: Cornell University Press, 1994), Malcolm Schofield, "Two Stoic Approaches to Justice," in *Justice and Generosity: Studies in Hellenistic Social and Political Philosophy*, ed.

helping me to assess Cicero's complex relationship to Stoicism: his dependence, independence, and transcendence of the tradition that forms the basis of *On Duties*.

In addition to these direct and indirect treatments of its Stoic elements, *On Duties* is often simply rummaged by social and political historians for this or that of its more famous quotes, or mined by historians of philosophy as witness to the lost opinions and doctrines of the Stoic school. The approach I wanted to bring to the text is a very different one, involving a task only conceivable—to my mind at least—in the wake of Dyck's commentary. For it seemed to me that Dyck's commentary cleared the ground, so to speak, for a more comprehensive vision of the text's contemporary relevance, a relevance stemming from Cicero's own deep involvement in the political struggles of his own day and the perennial nature of political, social, and ethical life across the ages. Thus, I aspired to deal with the major themes of the work as they connected with contemporary consciousness in the twenty-first century: to treat the work seriously as a major philosophical text of perennial importance giving it the type of book-length interpretive treatment usually reserved for other works in the tradition, for instance the works of Plato or Aristotle. My main purpose was to answer the question why—besides for a knowledge of a slice of the ancient world—should the work still be read in the twenty-first century, what does it have to offer to students, teachers, thinkers, and philosophers of today? My aim was to make the work comprehensible as a philosophical and political treatise on its own, independent of its value as a source of our knowledge of Hellenistic philosophy or even, to a lesser extent, of ancient Rome itself.<sup>22</sup> Its roots in Hellenistic thought and Roman culture have not been ignored; the explication of those roots has simply not operated as an end in itself. Rather my end has been to uncover what I take to be the text's perennial and therefore current value.

## **The Ciceronian (vs. the Panaetian) *On Duties***

Autopsy of a free state, apology for a political life, letter of fatherly counsel—this threefold characterization seeks to highlight *On Duties*' peculiarly Ciceronian elements. This is necessary

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Andre Laks and Malcolm Schofield (Cambridge; New York: Cambridge University Press, 1995), Gisela Striker, "Following Nature: A Study in Stoic Ethics," in *Essays on Hellenistic Epistemology and Ethics* (Cambridge and New York: Cambridge University Press, 1996), Gerard Watson, "The Natural Law and Stoicism," in *Problems in Stoicism*, ed. A. A. Long (London: Athlone Press, 1971).

<sup>22</sup> The specifics of my approach are explained in the rest of this introduction and in "Reading *On Duties*."

because the text of *On Duties* is not itself a completely original creation. Its largest, but by no means most important sections, were composed on the basis of an existing text: the *Peri Kathekontos* ('On Appropriate Action') of the Stoic philosopher Panaetius.<sup>23</sup> More than a simple translation, Cicero's product represents a robust appropriation of Panaetius's original treatise, and a lively engagement with the philosophical issues contained therein. As Cicero himself asserts, he "followed, rather than translated" Panaetius's treatise.<sup>24</sup>

Cicero's handling of the Panaetian material displays a well-articulated formal structure. Book I analyses the concept of the *honestum* (translated: what is morally correct). The analysis takes the form of an exposition of the 4 cardinal virtues of ancient ethics: prudence, courage, justice, and moderation. Though the division itself goes back at least as far as Plato's *Gorgias* and Cicero's exposition contains much that is of recognizably Stoic provenance, many of the details are distinctly Roman. Book II is even more specifically Roman. It analyzes the concept of the *utile* (translated: what is useful, advantageous, or expedient) in the context of Roman political life. In Cicero's politicized world there is nothing more useful or advantageous than attracting to oneself a political following. Drawing at points from a work now lost (*de Gloria*), Cicero describes by what sort of self-presentation—always in line with virtue—a proper political following is to be obtained. Along the way he notes and condemns many of the unscrupulous practices actually employed by politically ambitious persons yesterday, today, and tomorrow.

Book III continues this critique. It analyzes the 'apparent conflict' between the *honestum* and the *utile*, it enumerates the places in economic and political life where expediency appears to conflict with morality. Here Cicero provides what he calls a 'roof' to Panaetius's project. Because Panaetius himself had left this last portion of the enquiry incomplete, here Cicero is forced to lead rather than follow. Here is the most original portion of the work. Here Cicero elaborates his doctrine of the *vir bonus*, the man of moral character, the man tested by and proven immune to the attractions of immoral expediency and apparent advantage. Here, at the crucial moments, he contends with Panaetius's Stoic peers and successors, trusting in his own judgment to discern the properly moral direction of legal and ethical thinking of the Stoic school in his own time. In adding a 'roof' to Panaetius's philosophical treatise, in exploring the question of the conflicts between the *utile* and the *honestum*, Cicero works

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<sup>23</sup> Atkins, "Cicero," pp. 505-6, Dyck, *A Commentary on Cicero, De Officiis*, p. 17-21.

<sup>24</sup> *On Duties* I. 6. Atkins, "Cicero," p. 477.

largely from his own resources; here, though he does engage with alternative sources, as he himself maintains, he is proceeding *Marte nostro* (“fighting [his own] battle.”)<sup>25</sup>

Panaetius’s treatise contained three Books. Cicero compressed the contents of these into Books I and II of *On Duties*.<sup>26</sup> Over the course of Book III of *On Duties* Cicero logs and contests the views of Plato, numerous Stoic thinkers, and various followers of the Epicurean school. Questions concerning the relation between Panaetius’s treatise and the first two Books of *On Duties* and between the varied philosophical sources for Book III and Cicero’s final product will not concern us. These questions of source-criticism will be by and large ignored, since other better qualified scholars have addressed them admirably.<sup>27</sup> To their worthy labors I have nothing to add. My task is a very different one. It is Cicero’s pragmatic appropriation of Stoic teaching, not his abstract apprehension of it, that I wish to highlight. My aim is not to ascertain what Cicero draws from this or that Stoic philosopher. My aim is rather to uncover what Cicero has to offer a twentieth-first century reader, to uncover the ability of *On Duties* to enlighten the moral judgment of this age or people. As such my approach is primarily a textual, foremost a hermeneutical one. As such my interpretive strategy is parallel to Cicero’s own. For as Cicero read Panaetius for what he had to say to late first century Romans, so I read Cicero for what he has to say to us. My gaze is set not on what is Panaetian or Stoic in the work; rather, my gaze is set on what in that text is ultimately and specifically our own.<sup>28</sup>

This is the point of my threefold approach. In adopting this approach my point is to privilege what Quentin Skinner calls the ‘illocutionary’ aspects of Cicero’s text.<sup>29</sup> That is to say, while attending fully to what Cicero *says* in *On Duties*, I believe that even more is to be gained by asking the question ‘What was Cicero *doing* in saying it?’ i.e., what political cause is he advocating, what moral path is he prescribing as he carries forth the work of writing *On Duties*? This strategy works for *On Duties* as it works for few other philosophical-political texts. As we have been (and will be) at pains to demonstrate, Cicero’s production of *On Duties* was first and foremost a deeply political and genuinely moral effort. Only secondarily, if at all, was it a theoretical endeavor. But that does not mean the work can only be read as a historical document. Only in part do the illocutionary elements of Cicero’s text

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<sup>25</sup> *On Duties* III. 34.

<sup>26</sup> Dyck, *A Commentary on Cicero, De Officiis*, p. 28.

<sup>27</sup> Ibid, M. Pohlenz, *Antikes Führertum. Cicero De Officiis Und Das Lebensideal Des Panaitios* (Leipzig, Berlin,: Verlag und Druck von B.G. Teubner, 1934).

<sup>28</sup> For the difference between texts and works see Mark Bevir, *Logic of the History of Ideas* (Cambridge: Cambridge University Press, 1999), pp. 57-9, 74, 122.

derive from his own specific historical and moral circumstances. In greater part they are constituted by the roles Cicero himself believed he must fulfill if he was to meet the requirements of his own moral and political self-understanding, a self-understanding trans-historical in its ultimate dimensions and intent. "As Socrates splendidly declared, the nearest path to glory, a short cut so to speak, is to behave in such a way that one wishes to be thought."<sup>30</sup> Few political treatises have been so deeply connected with, yet so radically transcendent of, the life and destiny of the man who produced them. Centuries before Cicero, Socrates described the ethical life in Socratic terms as a matter of 'not abandoning one's appointed post.'<sup>31</sup> In appropriating Panaetius's text, Cicero follows this advice. The peculiarly Ciceronian elements of the text, its illocutionary elements, are generated by Cicero's dogged assumption of his own unique responsibilities. In adapting Panaetius's text to the exigencies of his political moment, Cicero enacts the roles of Republican politician, Roman social critic, and concerned father.<sup>32</sup> In the end, the sum of his performance proves greater than its parts; for his final role is that of original moral philosopher.

But alongside and (practically) inseparable from Cicero the moralist there co-exists Cicero the politician. Partisan of the senatorial party, dogged defender of the rights of private property, committed social elitist, Cicero is in many respects an archconservative. In what follows I will argue that these conservative commitments add a level of dissonance to his most enlightened moral pleadings. As I hope to show, it is the tension between Cicero the politician and Cicero the philosopher which best throws light on the perennial problems of political life: the unavoidable conflict between material interest and ethical concern, between self-preoccupation and altruistic concern for the other. It is these perennial problems that I mainly wish to uncover. In the end we will see that his core moral and political imperative—the protection of the vulnerable other—maintains its currency even down to our own times.

'Cicero's Political Imperative' aims to confirm the 'classic' status of *On Duties*—both politically, as a vehicle for the defense of the status quo (republicanism) against the threat of radical change (tyranny); and morally, as the beginning of Natural Law theory, and guidebook to the ethical pursuit of power and its humane employment. A confrontation between Cicero and Aristotle culminates

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<sup>29</sup> Quentin Skinner, "'Social Meaning' and the Explanation of Social Action," in *Meaning and Context: Quentin Skinner and His Critics*, ed. James Tully (Princeton: Princeton University Press, 1988).

<sup>30</sup> *On Duties* II. 43.

<sup>31</sup> *Apology*, 28d.

<sup>32</sup> Dyck, *A Commentary on Cicero, De Officiis*, pp. 31, 37-8.pg.

with an explication of what the political thought of Greece and Rome has to offer to the contemporary American reader: an awareness of the tension between the law of force and the law of benevolence. In relating these distant texts to our modern times, I reassert the ‘classic’ status of Cicero’s deserving but neglected text.

“Cicero’s Political Imperative” examines *On Duties*’ philosophical roots in Plato, Aristotle, and the Stoics; its ideological roots in Cicero’s own political experience; and finally, its due place in American political consciousness. In this last respect, my work follows lead of the hermeneutical theory of Hans Georg Gadamer and Paul Ricoeur. It aims to effect a ‘fusion of horizons’ (Gadamer) between Cicero’s political world and our own—a fusion that by garnering the ‘surplus of meaning’ (Ricoeur) in Cicero’s text, will open up ‘new directions of thought’ for twenty-first-century readers of Cicero’s work. This is done in five chapters.

**Reading On Duties**— Here I examine the prejudices held against Cicero as a philosopher, and explore what adjustments must be made both to our understanding of Cicero as a philosopher and to our understanding of philosophy itself, if *On Duties* is to be properly read. *On Duties* is misread when Cicero’s philosophical weak points are overstressed, or where his philosophical insights are ignored. The common slights against Cicero’s philosophical reputation are 1) that he is a mere compiler of Stoic commonplaces, 2) that he lacks originality, 3) that he is deficient in analytical ability, and 4) that he too often transacts the business of philosophy in the coin of rhetoric. These slights are discussed, qualified, or rebutted. I go on to argue that the unacknowledged strength of Cicero’s philosophizing is its basis in real political experience. This closeness to life fosters an approach to ethical reflection—an approach ‘from the inside out’— currently identified in philosophical circles as Virtue Ethics. That is to say, Cicero approaches the question ‘How should one live?’ not *via* disembodied abstract principles but *via* the notion of a virtuous person. Properly read *On Duties* sets a capstone to the moral reflections of antiquity, a gateway to the moral requirements of the post-Christian secular West.

**Cicero and Natural Law**—This chapter traces the presence and transformation, in Cicero’s work, of two key Stoic notions—that of ‘natural law’ and that of ‘a life [lived] according to nature.’ It is argued that *On Duties* offers a streamlined conception of ‘natural law’; that, de-emphasizing the cosmological, Cicero executes an anthropological turn whereby moral imperatives are based in human nature; that is to say, whereby to live ‘according to nature’ is to live morally and to live morally is simply to live as a human being. Here Cicero anticipates modern ‘natural law’ jurisprudence. For he bases standards of personal and civic morality on the dignity of human nature—both what human



nature is capable of achieving and what human nature ought not suffer. Human dignity thus becomes a platform for the conviction that some acts are in and of themselves illegal or immoral, no matter what amount of ‘positive’ support they might find in the official pronouncements of perverse or corrupt governments.

***Cicero and the Ethics of Exchange***—This chapter offers a close-reading of *On Duties* Book III, sections 50-115, that part of the work universally acknowledged as constituting Cicero’s most original and substantive philosophical effort. Here I argue for the unity of Cicero’s ethical-political vision. Three principles dominate that vision: the golden rule (do not deprive another of his property), the transparency rule (do only what you would have all men know), and the protection clause (prevent harm to innocents). These principles serve to separate the morally correct from the merely expedient in both those areas where humans most often go astray: where money or power (or both) are at stake, i.e., in economic transactions and in political life. Cicero’s three principles illuminate his handling of all the various historical and mythological exempla entertained in the book.

***Cicero’s Ideal Politician***—In this chapter I trace Cicero’s strictures regarding political life, the manner in which, over the course of the three Books of *On Duties*, he aims to construct a portrait of the ideal republican politician. This vision takes form beginning with Cicero’s account of the four virtues in Book I; it continues with his integration of these virtues with the ethical pursuit of power in Book II; and it concludes in Book III with the example of Marcus Atilius Regulus. Over the course of the work, each of the virtues is given more and more definition, a definition distinctly republican in its tint. Writing to his son, his peers, and to us, Cicero proposes a political ethic of self-abnegation and complete moral integrity—a political ethic based on a combination of the Stoic adherence to virtue as the one true internal good and the Roman patriotic adherence to the *salus reipublicae* as the ultimate external good. Regulus represents the ideal politician, deferential to the Roman Senate, dismissive of his own wellbeing, dedicated to the good of the Republic. This whole account produces a portrait the very opposite of the self-seeking politicians of Cicero’s own day, whose egotism he blames for the woes of the Republic.

***Cicero’s Political Imperative***—This final chapter attempts to merge the horizon of ancient political thought with our own. This is done by identifying two perennial styles of justice, leadership, and personal morality well exemplified throughout history, but especially well manifest amid the brutality and candor of the ancient evidence; that is, well manifest given the brutality of chattel slavery and predatory, imperialistic warfare, and the candor of Aristotle’s treatment of ‘natural slavery’ with its

questioning and apparent affirmation of the so-called ‘rights of the stronger party.’ Viewed in the light of what Cicero has to say about the ethics of vulnerability in *On Duties*, Aristotle’s doctrine of natural slavery provides a prism through which we can spy distinctive tendencies characterizing the interactions between stronger and weaker parties. To explain these views I go forward in three steps. First I review Cicero’s views on justice and the ethics of vulnerability: Cicero’s explicit view that justice demands the protection of others. Secondly, I consider Aristotle’s doctrine of natural slavery as produced in the *Politics* and echoed in Cicero’s *On the Commonwealth*.<sup>33</sup> Thirdly, I return to the texts of Cicero in order to discern the limits of Cicero’s own humanitarian vision, thereby addressing the challenge posed by E. M. Atkins in her declaration that “My own suspicion is that Cicero never faced the question of the limits of patriotic duty squarely, and that his talk of ‘*societas humani generis*’ is therefore (with certain exceptions such as his respect for the laws of warfare) little more than empty rhetoric.”<sup>34</sup>

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<sup>33</sup> *On the Commonwealth* III. 36, 37b, 37a.

<sup>34</sup> E. M. Atkins, "'Domina Et Regina Virtutum': Justice and Societas in De Officiis," *Phronesis-a Journal for Ancient Philosophy* XXXV, no. 3 (1990).

Who would dare call himself a philosopher if he had handed down no rules concerning duty? <sup>1</sup>

*On Duties*, I. 5

## READING ON DUTIES

Imagine a firm of philosophical consultants: Plato, Aristotle, Cicero & Kant. Confronted with this grouping, no one, even casually conversant with the history of philosophy, would question who was the junior partner. Among the pantheon of the three philosophical greats: Plato, Aristotle, and Kant, the name of Cicero sits ill—even in the domain of political-ethical philosophy. Accordingly, the political-ethical texts of Plato, Aristotle, and Kant garner ever increasing scholarly attention; while, after early centuries of popularity, Cicero's *On Duties* lies practically neglected.

The disparity of scholarly attention is easy to comprehend. The works of Plato, Aristotle, and Kant are rife with qualities attractive to scholars as well as students: the dialogues of Plato are deep and visionary dramatic puzzles; the treatises of Aristotle are thorny and exact masterpieces of empirical observation and abstract analysis; the works of Kant are conceptual conundrums unrivaled in audacity, complexity, and challenge. By contrast Cicero's *On Duties* is an apparently simple work: loaded with sound practical advice, but at points dogmatic, platitudinous, and even tactlessly preachy. Moreover in Cicero's treatise, anecdotes replace concepts; rhetorical flourishes replace sound argumentation. Who would place *On Duties* in the same class as the great treatises of Plato, Aristotle, and Kant?

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<sup>1</sup> Quis est enim qui nullis officii praeceptis tradendis philosophum se audeat dicere?

What follows is an attempt to counter (at least some of) the disdain that has accrued to Cicero's *On Duties*. Cicero's philosophical strength is, of course, that he has Stoic, Peripatetic, and Platonic tradition at his back; but an even greater strength of the text, I wish to argue, is that it is deeply embedded in Cicero's own political experience. For certain though it be that Cicero was no great philosopher of the likes of Plato, Aristotle, or Kant, it is even more certain that neither Kant, Aristotle, or Plato were experienced political operatives on a par with Cicero. And it is from Cicero's status as politician—a statesman arbitrating over the tradition of dialecticians—that much of the wisdom and value of *On Duties* flows.

Cicero's text, I will argue, can be classed among the giants of political-ethical reflection, provided only that a slight adjustment is made in our criterion of assessment. Let us return to our opening image: that of a philosophy consultation firm. If, rather than a consultation shop, we imagine a philosophical advice firm; if, rather than providing conceptual thrills for persons of leisure, our firm is imagined as providing sober and prudent advice to men of action, to statesmen, to leaders, to judges, to lawmakers; if pure reason really is asked to be made practical—not in the a priori fish-tank of Kantian abstraction or Platonic utopianism, but in the cut and thrust of human political and individual action, decision, and ambition—then it is Cicero, the statesman, the partisan, the Roman, who becomes the rain-maker of our imaginary firm. This by reason of the fact that Cicero's platitudes, anecdotes, and rhetorical flourishes have deep and compelling roots—roots struck deep not only in Greek and Hellenistic ethics, but also in lived experience: the lived experience of a major political player in one of civilization's most dramatic and cut-throat political moments—the fall of the Roman Republic.

The political context of Cicero's *On Duties* makes it unlike any other philosophical work in the tradition. That context accounts equally for the work's strengths and weaknesses. For the moral vision of Cicero's *On Duties* is as flawed as it is powerful. Both power and flaws have a common source: *On Duties*' uneasy mix of practice and theory, of realism and idealism, of politics and philosophy, of exhortation and analysis. Cicero internalized the fruits of Stoic and Socratic moral tradition; but

that internalization did not occur in a vacuum. Cicero's appropriation of Greek philosophical tradition occurred in the rough and tumble of deadly political struggle. To turn his own quip against him — though Cicero's mind frequented Plato's *Republic*, his nostrils were full of Romulus' cesspool.

*On Duties* is the result of this dual experience. Part pro-Republican propaganda piece, part meditation on the achievements and fruits of Greek philosophical tradition; part realistic appraisal of the sharp and corrupt practices of the politics of his own day, part idealistic summons to a higher bar of ethical and political conduct—*On Duties* holds these conflicting elements in uneasy balance. In its pages political interests clash with philosophical disinterestedness. In its pages Roman bigotry sits side by side with Stoic cosmopolitanism and Greek universalism. Compromised in its philosophical clarity by Cicero's adherence to the limited political outlook of his own class and day, the work is empowered by Cicero's creative and confident adjudication of Stoic tradition.

If *On Duties* is to be read correctly, these dual aspects of the text must be taken into account. It must be realized that the work is as much an attack on Julius Caesar (and the post-Ides Caesarian faction) as it is an attempt to elaborate a concrete theory of justice. In Cicero's politically preoccupied mind, the two inevitably blend<sup>2</sup>:

Men are led most of all to being overwhelmed by forgetfulness of justice when they slip into desiring positions of command or honor or glory. That is why we find the observation of Ennius to be widely applicable: "To kingship belongs neither sacred fellowship nor faith." For if there is any area in which it is impossible for many to be outstanding, there will generally be such competition there that it is extremely difficult to maintain a 'sacred fellowship'. The rash behavior of Gaius Caesar has recently made that clear: he overturned all the laws of gods and men for the sake of the pre-eminence that he had imagined for himself in his mistaken fancy. [I.26]

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<sup>2</sup> Long, "Cicero's Politics in *De Officiis*."

From the point of view of Cicero and the assassins, Caesar desired to elevate himself above his peers. Cicero viewed this as the epitome of political hubris, the nadir of civic degradation.

Julius Caesar's shadow casts itself even more forcefully over Book III of *On Duties*: Cicero's extended meditation on the conflict between the *utile* (beneficial or expedient) and the *honestum* (honorable or morally correct). There a reference to the dilemma posed by Caesar's assassination serves as the starting point:

What is it, then, that sometimes tends to raise a doubt and seems to need consideration? Such occasions arise, I believe, whenever there is doubt over the nature of the action one is considering. For often the occasion arises when something that is generally and customarily considered to be dishonourable is found not to be so. Let me suggest as an example something that can be more widely applied: what greater crime can there be than to kill not merely another man, but even a close friend? Surely then, anyone who kills a tyrant, although he is a close friend, has committed himself to crime? But it does not seem so to the Roman people, which deems that deed the fairest of all splendid deeds. Did the beneficial, therefore overcome honourableness? No indeed; for honourableness followed upon what benefited.<sup>3</sup>

Here the central theme of Book III—the conflict between what is expedient (*utile*) and what is morally correct (*honestum*)—is made to take on (controversial) political flesh, as Cicero notes the paradox involved in the murder of Julius Caesar. Much of Book III can be read as a defense of the assassins of Julius Caesar: negatively as an indictment of the dictator's moral character and political intentions; positively, as an exposition of the demands of republican civic membership. In Cicero's eyes, Caesar's great ambition demanded his destruction, the demands of citizenship required the death of anyone attempting to make himself king of previously free Rome. Cicero's reaction to the character and intentions of Caesar enjoys deep and wide roots. These roots accord with the dual nature of the work. On the one hand, they strike deep into the conflicts, economics, and traditions of Roman political life; on the other hand, they extend into

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<sup>3</sup> *On Duties* III. 19.

the controversies of Platonic, Stoic, and even (prospectively) Kantian philosophical and political ethics.

In what follows we will concentrate upon its philosophical roots. It is not possible to argue that Cicero is a great philosopher. Cicero himself disclaims any great claim to philosophical acumen on the opening pages of *On Duties: Nam philosophandi scientiam concedens multis*,<sup>4</sup> he says of himself.<sup>5</sup> But it is possible to argue that *On Duties* is—withstanding Cicero’s own limitations—a great philosophical text.

For while the works of Plato and Kant are great monuments of deductive elaboration, Cicero’s text represents the fruit of a sustained, perhaps lifelong, act of inductive scrutiny. That is to say, Plato asks what is the good, what is virtue, is virtue teachable, is the good attainable? Kant asks (with notorious obscurity) does pure reason have practical application; what are the *a priori* mandates of practical reason? Cicero’s questions are of a very different sort. He asks why, in point of fact, do we (persons in positions of power and authority) fail to come to the aid of those whom we ought to protect; he asks where, in political and economic life, are men wont to stray from the path of moral integrity; he asks by what means can we decide cases of moral uncertainty; he asks by what means can legal institutions more effectively conform to the demands of moral rectitude; he asks in what particular respects can the civil laws of individual states be made to conform more closely to the common and universal laws of nature? The inductive character of Cicero’s concerns enables him to transcend the role of philosopher and rise to that of social critic.

In Cicero’s *On Duties* theory and practice clash, idealism and realism blend. These fusions are elementally instructive. They are the work’s greatest strength; for in its pages the formulae and standards of abstract philosophical reflection—Socratic, Platonic, Aristotelian, and Stoic—are brought to bear upon the concrete materials of Roman ethical and political life. In the end, by activating the standard of ‘natural law’ within the context of Roman political and economic life, Cicero becomes (if we allow him his idealism) the first comprehensive social critic in the western tradition.

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<sup>4</sup> “For I grant that many others surpass my knowledge of philosophy . . . “

<sup>5</sup> *On Duties* I. 2.

Cicero's criticism of the society in which he was born occurs in the fruitful spaces between the ideal and the real, between the political and the philosophical. Here lies what is truly informative, and what is truly perennial, in Cicero's text. To read *On Duties* successfully we must be able to read between its political and philosophical lines and reach the perennial.

In general two questions then will orient our study, serving practically as bookends. The one question is to what extent, in Cicero's work, does political reality misshape philosophical ideality; to what degree does Stoic and Socratic teaching undergo violence and distortion under pressure of Cicero's political aims, his economic and senatorial commitments? The other question is to what extent, in Cicero's work, do philosophical ideas attempt to reshape political reality, to what extent and how might Cicero have overhauled Roman political reality, if philosophy really could have been king, if the views of Socratic and Stoic philosophy really could have become the principles of economic and political life? Both these questions must be heeded, if the work is to be read properly; that is to say, if the work is to be read through its dual character.

But that is not all. To read *On Duties* fruitfully, and to appropriate the text for our own age and time, we must recall the words of Leo Strauss: "Every political situation contains elements which are essential to all political situations."<sup>6</sup> By virtue of Cicero's deep involvement in the political and ethical dilemmas of his own age, these perennial / essential elements are found on nearly every page of *On Duties*. *On Duties* examines the political and ethical behaviors of concrete and imagined subjects— some historical, others mythological. Proper survey of these characters produces deep philosophical truths.

For the modern reader, the philosophical lessons of *On Duties* lie beneath the text's surface; they lie, often, beneath and beyond Cicero's own consciousness. They are truths only we can read. For the ultimate reference of the text does not end with the world of Cicero's contemporaries. Rather, that is where it begins. It ends with the

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<sup>6</sup> Leo Strauss, "Political Philosophy and History," in *What Is Political Philosophy?* (Chicago: University of Chicago Press, 1988), p. 64.



world in which we live. As Paul Ricoeur has written: “Discourse refers back to its speaker at the same time as it refers to the world. This correlation is not fortuitous, since it is ultimately the speaker who refers to the world in speaking. Discourse in action and in use refers backwards and forwards to the speaker and a world.”<sup>7</sup> *On Duties* refers to two worlds: the world of Cicero’s contemporaries —for whom the referents (Caesar, Crassus, Hortensius, Cato) are as important as the ideal structures of sense; and the world of posterity where the original, historical referents take a backseat to precepts and examples whose general applicability (i.e., pure ideational content) transcends the original Roman situation. Here the major emphasis rests on the perennial character of virtues, vices, temptations, and conflicts dramatized by means of his mythical and historical examples. Expanded in this manner, our interest in the work transcends the merely ‘historical.’ This act of transcendence is the act of appropriation.<sup>8</sup>

What follows is an attempt to pave the way for such an act, to demonstrate the adjustments that must be made to our understanding of Cicero as philosopher and of philosophy itself, if *On Duties* is to be both read and appropriated. Only then, when these adjustments have been made, will we be in a position to comprehend the virtues of Cicero’s text. To read between its political lines we must understand how to discern the philosophy beneath the rhetoric, the arguments behind the hearty and impassioned assertions, the concepts behind and within the examples. Only then will we be properly positioned to read *On Duties*. In the end our examination of Cicero’s philosophical style will feature two opposed notions of philosophy: philosophy as conceptual-hairsplitting and philosophy as a guide to virtuous living. While failing in the former, Cicero will be found to have excelled in the latter and thereby to have created in *On Duties* a moral, political, and philosophic classic equal in worth and

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<sup>7</sup> Paul Ricoeur, *Interpretation Theory: Discourse and the Surplus of Meaning* (Fort Worth Texas: The Texas Christian University Press, 1976), p. 22.

<sup>8</sup> “To appropriate is to make ‘one’s own’ what was ‘alien.’ . . . It is a dialectical trait, the principle of a struggle between the otherness that transforms all spatial and temporal distance into cultural estrangement and the ownness by which all understanding aims at the extension of self-understanding.” *ibid.*, pg. 43.

rank—if on somewhat different terms—to the great treatises of Plato, Aristotle, and Kant.

The strengths of Cicero's text have failed to win acknowledgement partly because of his own failings but mainly because he has been mishandled by his modern readers and interpreters. To understand this point it helps to have in mind both the slights held against Cicero as philosopher and the reply to these slights available to a sympathetic reader. For just as each of these slights can be connected with prejudices or practices affecting the reading, reception, and perceived status of Cicero's *On Duties*, so each of these replies paves the way for a more appropriate reception and appreciation of Cicero's great text.

Cicero's diminished philosophical reputation is a function of at least four different considerations. First, it is alleged that Cicero is a mere compiler; that the primary value of his philosophical corpus—and even of *On Duties*—is as a reservoir for the lost opinions of the Hellenistic philosophers. Second, it is alleged that Cicero himself lacks philosophical originality; that his additions to Hellenistic tradition are, at best, dilettantish efforts of no consequence, at worse, grievous distortions of Hellenistic tradition. Third, it is said that Cicero lacks genuine analytical ability: that his attempts at philosophical originality are vitiated by confusions and contradictions. Finally, it is alleged that far too often rhetorical ploys (of invective, anecdote, innuendo, or allusion) are made to do the work of dialectical synthesis and analysis—work best left to pure and untarnished concepts.

A compiler, lacking originality, deficient in analytical ability, too dependent upon rhetorical ploys—these are the slights laid at Cicero's door. Each can be connected with a deeply entrenched habit or value of the present day scholarly mind. These habits (of philologists and historians of philosophy in viewing Cicero's texts as source-material alone) and values (of philosophers and historians of philosophy in failing to assess Cicero on his own terms) have had an especially adverse effect on the reading and interpretation of *On Duties*.

Philologists and historians of philosophy are, of course, quite justified in combing Cicero's philosophical works for evidence regarding lost Hellenistic thought.

Indeed Cicero is too valuable a source not to be handled in this manner. But when this practice is combined with the view that Cicero himself has nothing to add to the traditions he embraces—particularly when the text in question is *On Duties*—a great injustice is done, an injustice rising from old habits and thoughtless prejudice.

Likewise, when contemporary philosophers impose upon Cicero their own standards of demonstration—criteria whereby there is nothing more foreign to philosophical discourse than rhetorical effects—still another injustice is perpetuated. For the dual judgment against Cicero—that he appears to lack analytical exactness and that he allows rhetoric too great a place in his philosophical discourse—are as well the result of habit and prejudice, but this time philosophical habit and philosophical prejudice. The charges betray nothing so much as a divergence of methods. They reveal the fact that Cicero’s aims and methods are far different from, and even antithetically opposed to, those favored by modern day philosophers.

The result of this confluence between philosophical prejudice and philological practice is that each of the four slights can be connected with weaknesses or strengths in recent scholarly work on *On Duties*. For this dual injustice (of either reducing Cicero to a source for Hellenistic thought or expecting him to conform his style of expression to the tastes of modern philosophers) registers itself in successes and failures of contemporary interpretations, and in scholarly disagreements, surrounding *On Duties*. To take but a few examples—based (seemingly) on the view that Cicero is a mere compiler, lacking in originality, Julia Annas (to whom we shall return in detail) finds, in Book III of the *On Duties*, little more than the misapprehended opinions of two shadowy Stoics, Diogenes of Byzantium and Antipater of Tarsus.<sup>9</sup> Elsewhere Watson and Striker have clashed on the score of Cicero’s originality as well. For, while Watson, on the other hand, is willing to accord Cicero some credit for giving the doctrine of natural law its distinctive form—“I shall try to show that for later ages the Stoics were particularly associated with natural law mainly because of one man, Cicero.”<sup>10</sup>—Striker retorts, “Given Cicero’s self-proclaimed dependence on Greek

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<sup>9</sup> Annas, "Cicero on Stoic Moral Philosophy and Private Property."

<sup>10</sup> Watson, "The Natural Law and Stoicism," pp. 217-18.

authors, this would be strange indeed.” Striker is intent on seeing Cicero as conduit always, architect never. Striker falls into the trap of assuming that Cicero has nothing to add to Hellenistic tradition simply because he is so dependent upon it. Striker’s view runs counter to Cicero’s own claim—“to follow, not translate”<sup>11</sup> the Greek source of Books I and II of *On Duties*, and completely ignores Cicero’s explicit claim to operate “*Marte nostro*”<sup>12</sup> in Book III. Though Striker’s sweeping dismissal is very much in line with scholarly practice, it is ill-suited to the version of Natural Law theory offered in *On Duties*.<sup>13</sup> To understand why is quite simple—as simple as asking would Socrates or any other Stoic sage have been gleeful to take a place among the assassins of Julius Caesar? Any interpretation of Cicero’s account of the *honestum* has to include a philosophical justification of the murder of Caesar; for this is the place where the law of nature has carried Cicero requires—a place, one imagines, few Stoics would inhabit.

Oversights and controversies of this sort follow naturally from the pitiful nature of our sources for Hellenistic thought (especially the Stoics): it is very difficult to separate Cicero’s own views from what we wished we knew about the shadowy figures of Hellenistic thought. It is very easy to run rough-shod over Cicero in our eagerness to get at Hellenistic thinkers.

Commentators are no less influenced by the third slight: that Cicero’s analyses lack conceptual precision, that his discussions abound in confusions, even that they are vitiated by open and glaring contradictions. On this score Cicero is not without fault, as A. Dyke’s recent commentary shows. Dyke excels in laying open Cicero’s most striking conceptual shortcomings, but at the same time makes due allowance for them. For Dyke appreciates that the essay was “written with speed and with the argument

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<sup>11</sup> *On Duties*, I, 6; cf. II. 60.

<sup>12</sup> *On Duties* III. 34 [=“fighting my own battle”]

<sup>13</sup> In fairness to Striker, it should be admitted that most commentators construct Cicero’s views on Natural Law from key passages in *De Republica* and *De Legibus*—works where the early Stoic influence is well manifest. But I will argue that *On Duties* presents a modified version, a version independent of the cosmological underpinnings of the orthodox Stoic version.

not seldom delineated in broad strokes.”<sup>14</sup> All the same, very few of Cicero’s major evasions escape Dyke’s careful gaze—an important instance for us will be Cicero’s conflation between consequentialist and deontological strategies in Book III.<sup>15</sup> Dyke offers a strong deterrent, if not to the view that Cicero was an original thinker, most certainly to the claim that he was an especially careful or rigorous one—at least in the *On Duties*.

Finally, other commentators connect this lack of rigor with the last and seeming most serious slight against Cicero’s philosophic credentials: the charge that, especially in *On Duties*, the business of philosophy is too often transacted in the coin of rhetoric. So it is that even as sympathetic a reader as Atkins is driven to take aim at the work’s heart of hearts, suggesting: “My own suspicion is that Cicero never faced the question of the limits of patriotic duty squarely, and that his talk of ‘*societas humani generis*’ is therefore . . . little more than empty rhetoric.”<sup>16</sup> Likewise, another sympathetic reader, Watson is moved to ask whether Cicero’s instinct for *humanitas*—the key element in Cicero’s account of Natural Law—is anything more than “a rhetorical plea?”<sup>17</sup> Commentators are wont to see Cicero’s rhetorical style of philosophizing as an obstacle to credibility; a passionate plea is not thought to carry the weight of a thoughtful and careful exposition. Such commentators fail to recognize, with Dyke, that: “. . . a rhetorical criterion has governed Cicero’s choice of approach [i.e., his selection of Panaetius, the Stoic as a source text]. He thus spares himself having to descend to argumentative subtleties.”<sup>18</sup> Failing to grant Cicero the allowances due his source, audience, and style of presentation, such critics find this fourth dereliction most damaging to Cicero’s claim to philosophical significance.

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<sup>14</sup> Dyck, *A Commentary on Cicero, De Officiis*, p. 37.

<sup>15</sup> “In spite of the Stoic cosmopolitanism for which he makes a strong case at § 28, it soon becomes clear that the *respublica* is, for Cicero, the relevant societal unit. Thus, the *utilitas reipublicae* tends to become, especially in the final portion of the Book, a criterion of conduct almost, if not quite, equal to the *honestum* itself (cf. *ad* §§ 40-42, 88, 99b, 101, 112). *Ibid.*, p. 492.

<sup>16</sup> Atkins, “‘Domina Et Regina Virtutum’: Justice and Societas in De Officiis,” p. 277.

<sup>17</sup> Watson, “The Natural Law and Stoicism,” p. 233.

<sup>18</sup> Dyck, *A Commentary on Cicero, De Officiis*.

These tendencies (excepting the last) culminate in Julia Annas' reading of (portions of) *On Duties* Book III. Discussing Cicero's employment of the controversy between the Stoic philosophers Diogenes of Babylon and Antipater of Tarsus, Annas (I believe) goes badly off track—at least in so far as her treatment is supposed to be a reading of Cicero (which perhaps it is not). Firstly, distracted by her search for the lost views of Diogenes of Babylon in particular, she ventures far from Cicero's own intended meanings. Rather, she imagines herself to have struck gold in her assertion that “in both major discussions Diogenes makes a point which is in a way linguistic; he was interested in what we now call philosophy of language and wrote extensively on logic, grammar, and linguistic matters.”<sup>19</sup> This may well be the case, but it is far from Cicero's own concerns in reproducing (or imagining) the exchange between the two Stoics. Secondly, unwilling to grant Cicero any originality or philosophical ingenuity she ends her article by stating “Cicero's solution is not a subtle one. He just restates standard Stoic orthodoxy: virtue always overrides any other kind of value. . . . If we read these passages with an eye only to the orthodoxy repeated by Antipater [and Cicero], we are left with a moral theory and little idea of how to apply it in the real world in which there are established institutions like those of buying and selling.” Annas is left not knowing “how to apply [Stoic orthodoxy] in the real world,” only because, by concentrating on the long-lost Stoics, she has elided consideration of Cicero's numerous other examples from Roman political and economic and judicial life. And finally, eager to see Cicero as a poor philosopher, and eager to see *On Duties* III. 50-57 and 90-92 not as elements of Cicero's own project but as source material for the lost and shadowy opinions of Diogenes and Antipater, Annas is quick to see these latter two as the real philosophers, and Cicero as the bungler: “Antipater is concerned throughout with our moral duties, Diogenes with our legal obligations and rights. What Cicero fails to see is that these concerns are in no way antithetical. The debate he has constructed is a spurious one, since the alleged opponents are not talking about the same thing.”<sup>20</sup> In what follows I hope to show that on this point in particular Annas

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<sup>19</sup> Annas, "Cicero on Stoic Moral Philosophy and Private Property," p. 161.

<sup>20</sup> *Ibid.*, p. 164.

has entirely misread the passages in question; for she has entirely elided the ‘natural law’ position operative throughout the debate of Book III, a point of view whereby certain acts are right (or wrong) no matter what positive law prescribes. In Book III as a whole, Cicero is on the trail of something infinitely deeper than the facile distinction (between the moral and the legal) Annas accuses him of having confounded. For what Cicero is seeking to define and articulate is not the distinction between the moral and the legal, but rather the relation between them.<sup>21</sup> As a result of this oversight she entirely misses the enduring point of this section of Book III of *On Duties*. Her misreading is, at least in part, a function of her easy acceptance of the practices and prejudices I have mentioned.

The judgments behind Annas’ (and others’) ill-treatment of Cicero’s text are so ubiquitous (and so easily understood) that such scholars are hardly to be blamed. It is more and simply the case that Cicero (and his text) needs to be rescued. But, as was said above, properly reading *On Duties* requires first responding to the four above-mentioned slights so debilitating of the common scholarly reception of that work. Then we will be in a position to examine what is valuable in Cicero’s text in a more systematic manner.

As was said above, it is unreasonable to object completely to the practice of philologists and historians of philosophy: the practice of plowing Cicero’s text for what it can tell us about Hellenistic philosophy. Cicero just is a vital source for our knowledge of these lost thinkers. One can only object to the practice of treating Cicero’s texts merely as a source for earlier thought. Neglecting the fact that there is

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<sup>21</sup> Annas fails to see that behind the dispute between the two Stoics, there lies an even bigger one: that between ‘exclusive legal positivist’, ‘inclusive legal positivist’ and ‘natural law anti-positivism’ in the philosophy of law. “Exclusive positivism denies, whereas inclusive positivism accepts, that there can be instances where determining what the law is, follows from moral considerations about that which it is there to settle. Contemporary anti-positivists, like Dworkin, claim that determining what the law is *always* requires such moral considerations about what the law should be. . . .” Andrei Marmor, "Exclusive Legal Positivism," in *Oxford Handbook of Jurisprudence and Philosophy of Law*, ed. Jules Coleman and Scott Shapiro (Oxford: Oxford University Press, 2004), p. 104. Cicero, on my reading, has both hands full with the controversy; he imagines both he and Antipater to occupy the position of anti-positivism. Annas simply ignores the controversy, but implicitly surrenders to the exclusive positivists.

much more to the text than Hellenistic philosophy, scholars fail to recognize that *On Duties* has independent value as a document of Roman political and ethical consciousness in the late Republican period.

This said, in what follows, I will contest all four of the above-mentioned slights—at least as they relate to *On Duties*. To the charge that Cicero was merely a compiler I will oppose the aggressive manner in which Cicero, in Book III of *On Duties*, contests, in his own name, the legacy of Panaetius; that is to say, in expanding the dispute between Diogenes and Antipater to encompass both a comprehensive notion of the *vir bonus* and a secular (i.e. non-cosmological) theory of the requirements of Natural Law. To the charge that Cicero lacks originality I will answer that Cicero's appropriation of Stoic teachings should be viewed as a self-sustaining edifice of intellectual achievement—an achievement embodied in his commitment to the improvement of the moral judgement, institutional and personal, of his contemporaries and posterity. (This of course is coincident with the expansion just noted.) To the charge of lack of precision I will argue that Cicero's refusal to split philosophical hairs was not a sign of intellectual incompetence; rather, it was a matter of deepest philosophical (and civic) conviction. To charge that rhetoric played too large a role in his philosophizing, I will counter that Cicero's resolve to write 'copiously' was (like the decision not to split-hairs) a function of his deepest political conviction. In the end, we will see that Cicero's proclivity for examples gives his project a distinctly modern tinge—a tinge characteristic of the movement known as Virtue Ethics.

I begin with the last two (Cicero's avoidance of logic chopping and his inclusion of rhetorical devices), since the rebuttal to the second (that Cicero has created, in Book III of *On Duties* especially, a philosophical edifice of independent value) can only be established by our wider and fuller discussion. That discussion will follow and its success will depend on that of my larger argument.

I begin with the question of rhetoric and its place or lack of place in philosophical discourse. As Philippa R. Smith has pointed out, modern philosophers



are not big on style.<sup>22</sup> The presumption of modern philosophers is that philosophical writing should be utterly lacking adornment; that concessions to the reader's pleasure, lack of erudition, or even tolerance for boredom must be strictly avoided. If the writing is not as barren as the thought is demanding, it is not philosophy. Indeed, if the writing and subject matter could appeal to anyone who is not a grad-student or professor, it cannot be philosophy.

Cicero knew this type of discourse. He called it 'dialectic' and distinguished it sharply from the type of discourse required to make an impression before the public eye.<sup>23</sup> "Their whole attention was so closely confined to the study of logic, that they never troubled themselves to acquire the free, diffusive, and variegated style which is so necessary for a public speaker."<sup>24</sup> Cicero's avoidance of 'dialectic' was reasoned and intentional. Resolved to bring the concepts of philosophical tradition to bear both upon the concrete political crises of his time and upon the behavior and thinking of his son, Cicero tickles the ears of his listeners, he fires their imaginations. Cicero insists on writing philosophy '*copiose*.'<sup>25</sup> He embellishes his treatments with memorable examples and stirring appeals to the emotions and senses of his reader. He attends at every turn to the *delectatio* of the reader. Avoidance of 'dialectic' served his civic intent, his desire to communicate himself to as many persons as possible, in order to reform and educate a broad section of readers.<sup>26</sup>

Motivated by this intensely political purpose, Cicero intentionally steers clear of merely philosophical controversies.<sup>27</sup> This too is part and parcel of his commitment to communicability. This desire to avoid what is not judged to be of practical

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<sup>22</sup> Philippa R. Smith, "'a Self-Indulgent Misuse of Leisure and Writing' How Not to Write Philosophy: Did Cicero Get It Right?," in *Cicero the Philosopher: Twelve Papers*, ed. J. G. F. Powell (Oxford: Clarendon Press, 1995), p. 302.

<sup>23</sup> *Brutus*, 31. 117-119; *De Oratore*, 32. 113-115.

<sup>24</sup> *Brutus*, 31. 119.

<sup>25</sup> Smith, "'a Self-Indulgent Misuse of Leisure and Writing' How Not to Write Philosophy: Did Cicero Get It Right?," p. 303.

<sup>26</sup> *De Legibus*, I. 62.

<sup>27</sup> This dual attitude and the weight of his preference is made clear in *On Duties*'s opening page where Cicero makes frank, thought perhaps ironic, acknowledgment of his limited philosophical ability [1.2: *nam philosophandi scientiam concedens multis*] but brooks no

importance, this suspicion of needless abstraction or hair-splitting<sup>28</sup> leads him to appeal to the senses and emotions of his reader—employing many of the devices of the orator. The mind is reached though the eyes, memory and heart. In philosophy, no less than in oratory,<sup>29</sup> rhetoric is a tool working towards persuasion. But in philosophy—in communicating and mediating the truths and insights of Socratic-Stoic tradition—instruction is added to persuasion. That is to say, the recognition of ‘the good man’ (or his opposite) is supported by the delineation of principles constitutive of his nature: Cicero’s outline of the four virtues and description of the supremacy of the *honestum* over the *utile*. Here, as in the courtroom, judgment is still concerned with defining “fraud, good faith, equity, the duties of partner to partner . . . etc.”; but here, in *On Duties*, the balance of appeal is tipped away from the emotions and towards the intellect of the reader/listener.

Cicero’s commitment to rhetoric and avoidance of logic chopping are entirely consistent with his self-conception as first and foremost a political man. Both these choices were anchored in Cicero’s own personal ethos, an ethos characterized best as the refusal to separate the demands of statecraft from those of philosophy, the refusal to bifurcate the tasks of citizen and the philosopher: “What man, hearing that the fate of his country hangs in the balance, will not leave his speculative considerations in a moment, if he is told that his attention can save it? Yes, even if he is measuring the circumference of the universe, in an instant he will put it aside.”<sup>30</sup> For Cicero the wedding of rhetoric and philosophy was neither accidental nor a matter of reflex or incompetence—it is his reaction to a nation and an ethos in crisis. Cicero’s use of rhetorical tools in presenting his ideas represents an attempt to bridge the gap between political theory and political practice. By making his philosophical ruminations

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competitor as a communicator and practical man of action [ 1.2: *quod est oratoris proprium, apte distincte ornate dicere*].

<sup>28</sup> *On Duties*, I. 19: *Alterum est vitium, quod quidam nimis magnum studium multamque operam in res obscuras atque difficiles conferunt easdemque non necessarias.* [=The second fault [of theoretical reason] is that some men bestow excessive devotion and effort upon matters that are both abstruse and difficult, and unnecessary.]

<sup>29</sup> For Cicero’s conception of the overlap between the needs of jurisprudence, philosophy, and oratory in presenting and recognizing issues of morality, cf. Cicero, *Topica*, 65-66.

<sup>30</sup> *On Duties*, I. 154

accessible to a larger body of readers than would have been reached by a more technical account, Cicero commits a political act.

But this political act has a notable philosophical consequence. By avoiding abstraction, Cicero stumbles upon what modern philosophy has recently come around to recognize as a powerful device of ethical argumentation: the deictic proof of the character of the *vir bonus*. By a deictic proof I mean one based upon pointing; a proof constructed on the basis of authoritative perception of a generalized particular (i.e. the badness of the shifty and deceiving man or the goodness of the man whose decisions are ruled by his sense of the honorable), as opposed to one based on correspondence to some abstract principle, rule, or definition. As John McDowell has expressed it: “Although the point of engaging in ethical reflection still lies in the interest in the question ‘How should one live?’, that question is necessarily approached *via* the notion of a virtuous person. The conception of right conduct is grasped, as it were, from the inside out.”<sup>31</sup> Here McDowell contrasts an Aristotelian ‘inside out’ theory of moral consciousness—where moral consciousness is based on the perception of “the virtuous person’s conception of the sort of life a human being should lead”<sup>32</sup>—with an ‘outside in’ theory—where moral consciousness is based on the following of codified system of rules.

To be sure, Cicero himself was not self-consciously aware of this methodological distinction. He stumbles into it unknowing; or rather, his own predilection for the concrete, the particular, and the anecdotal drives him naturally to participate in both sides of it. For he too begins ‘from the outside in’ with the desire for a *formula* (“a rule”). The best he can come up with (and it is quite good) is the proposition that “to deprive another of what is his for the sake of one’s own advantage is improper.”<sup>33</sup> But Cicero realizes that this formula can only be given content by exploring the question: “What is a good man?” What McDowell has identified as the procedure of Aristotle is easily recognizable as Cicero’s path as well: “the question

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<sup>31</sup> John McDowell, “Virtue and Reason,” *Monist* 62 (1979).

<sup>32</sup> *Ibid.*: p. 343.

<sup>33</sup> *On Duties*, III. 21

‘How should one live?’... is necessarily approached *via* the notion of a virtuous person.”<sup>34</sup>

This end result is a function of the same practical and civic impulse that led Cicero to reject the abstract controversies of the philosophical schools and express his own philosophical intuitions in a language not far from that of the courtroom. In the courtroom one points at one’s adversary, one directs the jury’s attention to one’s poor forlorn client. Cicero does the same in *On Duties*. “Who cannot see what this kind of concealment is like, and what sort of person practices it? Certainly not one who is open, straightforward, well-bred, just, or good; but rather a twister, mysterious, cunning, tricky, ill-intentioned, crafty, roguish, and sly,”<sup>35</sup> So Cicero speaks at the apex of his argument. Though beginning with an abstract formula, he proceeds with tangible examples of honorable and dishonorable behaviors, and ends with the example of Regulus, the paradigm of Republican virtue, integrity, and self-sacrifice—all in an attempt to inculcate, to his contemporaries and posterity, a moral outlook. Such an outlook, Cicero would agree, is based on “the virtuous person’s conception of the sort of life a human being should lead.”<sup>36</sup> In McDowell’s Aristotelian based account, this conception functions in a manner analogous to the major premise of Aristotle’s practical syllogism. Less abstractly, for Cicero at least, the moral person’s behavior is directed, in an overarching way, by a normative conception of individual (and societal) flourishing. Cicero’s numerous examples, as well as his advocacy of the murder of Julius Caesar, are meant to buttress this normative conception. In the end Cicero elaborates a deictic proof of the good man—a portrait, or series of portraits, more instructive than any mere formula or formulae could ever be.

Recognition of this dual approach invites a series of interesting questions. To what degree are the numerous examples of Book III consistent with Cicero’s original formula? Or to what degree do those examples require the assistance of other precepts from elsewhere in the text? Can the assassination of Caesar be justified on the basis of Cicero’s original principle—“to deprive another of what is his for the sake of one’s

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<sup>34</sup> McDowell, "Virtue and Reason," p. 331.

<sup>35</sup> *On Duties*, III. 57.

<sup>36</sup> McDowell, "Virtue and Reason," pp. 342-3.

own advantage is improper”? Can the principle that a slave ought be treated with respect, “like a hired man,”<sup>37</sup> be justified likewise? How can Cicero’s principle be stretched to cover both these disparate examples? What precisely is the network of principles supporting the varied examples of virtuous behavior scattered throughout the text? How will these principles match or fail to match the demands of Stoic orthodoxy? Examination of these questions must await the sequel. For the present it is sufficient to note the transition of method (from the abstract to the concrete, from a rule to instance(s)) and the questions it imposes.

A full use of rhetoric’s arsenal, an avoidance of undue abstraction, a concentration on the ‘form of life’ of the good man—all three are functions of Cicero’s rugged pragmatism: the conviction that the greatest insight is useless unless it is communicated.<sup>38</sup> Barren prose will not do, endless logic chopping will not serve. In the end the listener must be confronted with a mirror of the self. It is by peering into this mirror, it is by beholding the resplendent glory of the *vir bonus* that Cicero hopes the listener—contemporaries, son, and posterity—will come to be transformed.<sup>39</sup> So it is that Cicero takes to himself the task appropriate to his talents: the communication of the treasures of Socratic, Stoic, and Republican tradition.

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<sup>37</sup> *On Duties*, I. 41

<sup>38</sup> Cf. *On Duties* 1. 156: [. . .] eloqui copiose, modo prudenter, melius est quam vel acutissime sine eloquentia cogitare, quod cogitatio in se ipsa vertitur, eloquentia complectitur eos quibuscum communitate iuncti sumus. [= It is better to speak at length, provided one does so wisely, than to think, however penetratingly, without eloquence. For speculation turns in on itself, but eloquence embraces those to whom we are joined by social life.]

<sup>39</sup> Cf. *On Duties* 1. 15 where Cicero, indulging in a Platonic moment, directs Marcus’ attention—if possible—to the Form of the honourable: *Formam quidem ipsam, Marce fili, et tamquam faciem vides, quae si oculis cerneretur, mirabiles amores, ut ait Plato, excitaret sapientiae*. [= You are seeing, my son, the very face and form, so to speak, of the honourable; if it could be seen with the eyes, as Plato says [*Phaedrus* 250d] it would inspire an amazing love of wisdom.]

When the Stoics say that the greatest good is to live agreeably with nature, this means, in my view, the following: always to concur with virtue; and as for other things that are in accordance with nature, to choose them if they do not conflict with virtue.

*On Duties* III. 13

## CICERO AND NATURAL LAW

In the history of natural law theory Cicero's *On Duties* occupies a tenuous position. To its one side stand the elusive and sometimes queer doctrines of the early Stoics and the lapidary dicta of Cicero's own *De Republica* and *De Legibus*. To its other side stand the texts of the imperial Roman jurists (*Corpus Iuris Civilis*) and the extensive elaboration of Thomas Aquinas. Between these great monuments of natural law tradition *On Duties* has disappeared as if into oblivion. What follows is an attempt to rectify this oversight. The oversight is worth rectifying because *On Duties* offers a streamlined conception of the character of natural law, a conception both explicative of the core values of Stoic ethics and anticipatory of the natural law concerns of modern jurisprudence.

Cicero's theory serves both these purposes because the version of natural law theory found in the *On Duties* is a hybrid of ancient and modern. What is ancient is the cosmologically-based theory of natural law characteristic of the early Stoics; what is modern is the anthropologically-based theory characteristic of the middle Stoics and the sensibilities of Cicero's Roman contemporaries. The cosmological version of natural law is exhibited not only in early Stoic texts but also in Cicero's own earlier works, *De Legibus* and *De Republica*. Mitsis and De Filippo have well expressed its

character: “a hallmark of the Stoic theory is the conviction that one can derive principles of morality from laws governing the natural world. . . . that moral principles are in fact natural principles that reflect the rational order of the cosmos.” And elsewhere: “Human actions are taken to be governed by a universal moral law—a law that itself is thought to be identical with the rational order and administration of nature. A virtuous and hence happy life depends, accordingly, on an understanding of that natural order and an ability to follow its dictates.”<sup>1</sup> These references to ‘the natural world’ and the ‘rational order of the cosmos’ are typical of the early Stoic position. They are consistent with the viewpoint that a happy life is one lived somehow on the basis of an understanding of the deep rationality of the universe.

Though *On Duties* evinces unmistakably Stoic contours, such cosmological utterances are heard only faintly in the work. More strongly heard in its pages—particularly in Book III—is the echo of a modern definition of natural law: “In its strongest form, [natural law] denotes the idea that there is a body of suprapolitical principles that underwrite ‘positive law,’ meaning law laid down by courts, legislatures, or other state organs.”<sup>2</sup> In the *On Duties*, Cicero’s practical emphasis drives him to concentrate on the role to be played by natural law in legal, political, and economic relations; it leads him to concentrate on the (quotidian) content rather than the (cosmological) source of natural law. In the process he mutes, to some extent, its cosmological basis, in order to bring to the fore its anthropological content. In Cicero’s text a cosmological version of natural law theory is set to work in the concrete world of legal-moral conceptions. When Cicero goes to work ‘on his own’ the tenor reverts to the modern one, where his main occupation is to examine what should be the relation between law and morality. Cicero’s interest in the law, the functioning of law in society, and the relation of law to morality—all these add up to a version of natural law of distinctly modern character.

But this is not the whole of the story. At the heart of Stoic moral theory is the dictum that life is to be lived “in accordance with nature.” A vague expression—

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<sup>1</sup> Mitsis, “Socrates and Stoic Natural Law,” pp. 233-4.

<sup>2</sup> Richard A. Posner, *The Problems of Jurisprudence* (Cambridge, Massachusetts and London, England: Harvard University Press, 1990), pg. 5.

especially given the various cosmological or sage-centric readings of it—Cicero’s anthropological approach to the theory of natural law goes a long way toward elucidating its meaning, or at least his understanding of its meaning. Key to this clarification of meaning is Cicero’s repeated personification of nature itself. (For example: “From the beginning nature itself seems to have been thoroughly rational concerning our bodies”<sup>3</sup>) Found here and there throughout the text of *On Duties*, personification of nature is prominent in Book I, sections 11-14 (where Cicero attempts to derive the virtues from human instincts), Book I, sections 96-146 (where Cicero expounds the theory of four *personae* and the varied requirements of decorum) and Book III, sections 21-35 (where Cicero explains, applies, and elaborates upon his golden rule). The modern tenor of Cicero’s account is most disrupted, and the return to the early Stoic position most pronounced, when Cicero makes use of the personified ‘nature.’ At such points Cicero returns to the early Stoic position and displays the theoretical foundation on which his entire conception rests: the notion of a teleologically providential force ruling over the universe.

Our investigation then will fall into three parts: the first will examine the role played in *On Duties* by Stoic naturalism—the view, as Chrysippus stated it, that “reason supervenes as the craftsman of impulse”<sup>4</sup>; the second will initiate our examination of *On Duties*’ conception of life lived “in accordance with nature” by examining the role of the concept of *nature* in Cicero’s account of the four *personae*; the third will complete the examination of Cicero’s views on life “in accordance with nature” by exploring the ethical principles Cicero postulated and applied in Book III of *On Duties*. Together they will demonstrate the hybrid character of Cicero’s Stoic notion of natural law—the manner in which, by employment of both cosmological and anthropological conceptions, *On Duties* gives definition to that most key, but most vague, of Stoic formulas: the notion of a life lived “in accordance with nature.” In the end a life “in accordance with nature” will be seen to be a life in accordance with reason/nature’s way of preserving and benefiting human society (Section I); and a life

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<sup>3</sup> *On Duties* I. 126.

<sup>4</sup> Diogenes Laertius, VII. 87.



in accordance with reason/nature's way of preserving and benefiting human society will be seen as a life in accordance with rational human nature (Section II); and finally (Section III) a life in accordance with rational human nature will be seen as a life in accordance with moral law—the moral law itself being in accord with the law of nature.

## **Cicero and the limits of Stoic naturalism**

Cicero's story of natural law among the human species begins, paradoxically enough, with the behavior of animals. "From the beginning nature has assigned to every type of creature the tendency to preserve itself, its life and body, and to reject anything that seems likely to harm them, seeking and procuring everything necessary for life, such as nourishment, shelter and so on."<sup>5</sup> For the Stoics this self-servicing of all animals is a token of the providential and teleological mechanism running nature as a whole. As A. A. Long has expressed it, "the Stoics are not arguing that ethical conclusions follow directly from the proposition: 'an animal has self-protection as the object of its primary impulse.' This proposition . . . is an interim conclusion, grounded in the claim that Nature is a creative, teleological power."<sup>6</sup> The creative, teleological force of nature is what gives each animal its self-servicing instinct. It is in turn responsible for the care lavished by mammals upon their offspring. For the Stoics, as animals themselves would not be born without an instinct of self-protection, so they would not be born in a dependent state if not for an additional instinct, residing in the parent or parents, to love and care for the vulnerable offspring.<sup>7</sup> At back of all these characteristics is the teleological intent of nature.

But in the case of human beings this intent takes a special form. As Cicero describes it, again personifying nature: "The same nature, by the power of reason, unites one man to another for the fellowship both of common speech and of life,

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<sup>5</sup> *On Duties* I. 11.

<sup>6</sup> Long, "The Logical Basis of Stoic Ethics," pg. 146.

<sup>7</sup> Cf. *de Finibus*, III. 62.

creating above all a particular love for his offspring. It drives him to desire that men should meet together and congregate, and that he should join them himself.”<sup>8</sup> For Cicero and the Stoics human beings are naturally driven toward social engagement. The fruit—but not the cause—of this engagement is that each person is better able, within a social setting, to obtain “the things nature requires” for both himself and those within his circle of care.<sup>9</sup> This social situation provides the stage for the emergence of virtue, since human virtue itself is the medium by means of which nature has determined that both human individuals and human communities will flourish. This will-to-flourish *is* the law of nature—a nature later Stoicism will gloss with “God.”<sup>10</sup> In *On Duties* this will-to-flourish expresses itself in the value accorded the *societas humana*.

Cicero’s conception of the law of nature is two-fold. On the one hand it represents what is required to keep the human community together, on the other hand it represents what is required for each individual to fulfill his moral character. These two conceptions are closely related. The human being is a social animal. Therefore what perfects the individual will be an aspect of his social being, the part of his character which upholds the bond between human beings.

On this basis Cicero derives the three social virtues: justice, greatness of soul, and decorum—a gloss on what is traditionally called temperance.<sup>11</sup> (The fourth virtue, wisdom, Cicero traces to a human’s instinctive desire to learn and know the truth, the human’s instinctive abhorrence of falsehood and deception.) In the fully moral person there is a capacity for the complete sublimation of self-interest. Such a person has obtained such greatness of soul that he is willing to give his life for what is just and in the community’s interest.

In addition to man’s universally acknowledged desire to know the truth, there exists a certain instinct for primacy, whereby a personality well-developed by nature withholds obedience from anyone who fails to instruct, or advise, or

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<sup>8</sup> *On Duties* I. 12.

<sup>9</sup> *On Duties* I. 158; II. 18.

<sup>10</sup> Cf. Epictetus, *Discourses*, 24. 2-3. I owe A. A. Long for this reference.

command for the sake of the common advantage in a manner that is both legitimate and just; from this instinct [of the practical intellect] arise both greatness of soul and the contempt for human life itself (My translation).<sup>12</sup>

For Cicero, the great souled man is one who would die rather than submit to an unjust situation or commit an injustice himself. The dependence of greatness of soul upon justice is important. Cicero can well imagine a courageous criminal. The reason he speaks of greatness of soul and not simple courage is to avoid this complication. Cicero's great souled man is a lover of justice. These virtues are not separable. Decorum, on the other hand, is a milder form of justice. As Cicero says: "It is the function of justice not to do wrong to one's fellow-man; of considerateness, not to wound their feelings; and in this the essence of decorum is best seen."<sup>13</sup> Though decorum generally holds society together with bonds constituted by cultural specific practices—Cicero writes that it extends to "our standing, our walking, our sitting and our reclining, our countenances, our eyes, and the movements of our hands"<sup>14</sup>— it too is nonetheless a vestige of moral law in so far as at its base stands the universal human attribute of shame. Different societies invest different practices with the badge of shame, but no society is without the phenomenon of shame itself. In other words, whereas nature gives the human animal the generic capacity for feeling shame, it is that animal's culture and upbringing which supplies the content, that determines precisely about what shame will or will not be felt. Together these three virtues (justice, greatness of soul, and decorum) constitute the social virtues responsible for holding together the fabric of human society.

But Stoicism's attempt to derive the three social virtues from man's instinctual nature is not without its problems. In what is without doubt the most contentious leap taken by Stoic moral theory, the Stoics maintain that the life of reason naturally leads to the life of virtue. This is because, in their cosmological-teleological vision, man is

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<sup>11</sup> For a detailed account of 'how virtuous disposition were supposed to arise from primary impulses' see Striker, "Following Nature: A Study in Stoic Ethics," pp. 252-55.

<sup>12</sup> *On Duties* I. 13.

<sup>13</sup> *On Duties* I. 99. Loeb, adapted.

created for the life of virtue. Their derivation of the four virtues from man's native instincts and tendencies is meant to demonstrate the naturalness of human virtue. The main difficulty they faced was with the virtue of justice: the question how one passes from a concern for oneself (and the members of one's family circle) which is basically instinctual and unreflective, to a common concern for everyone, manifest generally in the social virtues and particularly, as Cicero states it, in the refusal ever to capitalize upon another person's ignorance or deprive him of what is his own. As Striker has it, "What the Stoics [and Cicero] needed was some argument to show that by nature altruism limits egoism to the extent that we never pursue our own advantage to the detriment of some other person."<sup>15</sup> This, it turns out, is a tall order.

Cicero's answer to this question (in so far as he can be said to have one) is that the ethically mature individual comes to realize that the integrity of the community of human persons is identical with his own interest; and that this realization is just what it means to become a well-formed mature human individual. As Cicero puts it, one realizes that "there are interests that all men have in common."<sup>16</sup> The common interest is based on a shared rationality: the recognition that "it is our nature . . . to regard other persons, whoever they are, as akin to ourselves simply in virtue of the fact that we are all human."<sup>17</sup> For Cicero, this common humanity establishes a common moral imperative not to do harm to one's fellows.<sup>18</sup> This imperative demands that one abstain from all actions that might disrupt the community of persons (*societas humana*).

The problem is that this answer is in no wise convincing to someone intent upon seeing his or her own interests as separate from the community of human persons. Faced with such a person Cicero does not have an effective rebuttal; he has no answer as to how or why the transition from personalized egoism to universal altruism *must* occur. The best he can offer is a bare 'should' based on the law of nature; that is to say, based on the teleological, providential intent of nature and the shared rationality which is its custodian. Cicero's position then boils down to, 'Both

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<sup>14</sup> *On Duties* I. 128.

<sup>15</sup> Striker, "Following Nature: A Study in Stoic Ethics," p. 258.

<sup>16</sup> *On Duties* III. 27.

<sup>17</sup> Long, "Stoic Philosophers on Person, Property-Ownership and Community," pg. 23.

human rationality and universal nature will that mankind should flourish, therefore you, the individual, should too.’ Cicero appears to have no more compelling answer than this as to why individuals should become virtuous and altruistic.

But this should not overly disappoint us; for one could reasonably wonder whether he actually should have a more capable answer to this problem? Indeed, in attempting to solve this problem, philosophers from Plato onwards seem to have wanted to establish, by argument, some otherworldly state of affairs, a world where no one was unjust, criminal, or selfish. In response to these unrealistic flights of imagination one might well respond that no argument can ever show “that by nature altruism limits egoism to the extent that we never pursue our own advantage to the detriment of some other person”—since such an argument would prove a counterfactual. In short, one might just as well demand an argument that pigs fly.

It is not nature that limits egoism in this way; it is choice. Cicero, the realist, recognizes this. He knows that, compared to the high bar of Stoic theory, the majority of mankind are errant in their moral conceptions and habits. He does not offer a solution to that problem; he knows that no such argument exists. His aim is merely to provide guidance to persons willing to purify their moral vision. He offers a clarification of moral judgment—not a solution to the weakness of moral character. He knows that we all in some small measure share the fate of Hercules’ choice: between virtue and toil on the one hand and pleasure and ease on the other. He believes that philosophy facilitates the choice of the moral life. In writing *On Duties* Cicero’s main aim is to ease the way for the recognition of virtue.

Cicero’s pragmatism thus allows him to face the problem of egoism versus altruism as a realist. His solution of the problem highlights a key tenet of Stoic naturalism: the fact that in the mature human being reason is meant to take over the job of managing and controlling impulse. Cicero (and the Stoics) believe that human nature itself leads us a good part of the way toward universal justice. The shared capacity for parental concern<sup>19</sup>, shared rationality, and shared speech<sup>20</sup> provide a

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<sup>18</sup> *On Duties* III. 27.

<sup>19</sup> *On Moral Ends*, III. 62.

<sup>20</sup> *On Duties* III

threefold basis for the surmounting of narrow egoism. These capacities form the basis of communal life and common interest; they indicate and are spurs to the fact that man is by nature a social being. As Schofield has remarked, the Stoics drew attention to “man’s propensity to form *all sorts* of association with other men.”<sup>21</sup> Mature human reason recognizes a mutuality of interests as existing between persons. These shared interests become the basis of social life and the surmounting of narrow egoism.

But true as this may be, it does not seem to take us as far as Striker would like the Stoics to go (i.e., so far as to show “that by nature altruism limits egoism to the extent that we never pursue our own advantage to the detriment of some other person”). The fact of numerous human associations does not take them this far because the fact that recognition extends to *some* does not guarantee that it will extend to *all*. The Stoics cannot guarantee that egoism never trumps altruism, because, as Cicero the realist is aware, in many cases the surmounting of egoism by mutual interest itself enjoys only a limited ambit. Consider the gang of bandits<sup>22</sup> or the persons Cicero rebukes for thinking it acceptable to do ill to others outside of their familial or civic circles.<sup>23</sup> Cicero may believe such persons to be criminal or “absurd,” but he must acknowledge that they remain human beings all the same, however flawed. There is, in the course of the development of the human psyche, no invariable trigger of universal altruism. Nevertheless, universal altruism remains the goal. It is, as it were, an ideal of reason.<sup>24</sup>

To extend recognition to all persons is the ideal, but for that very reason it is perhaps the prerogative of the Stoic sage alone. Witness Cicero’s sages struggling over a plank after a shipwreck.

‘Well, suppose there is one plank and two sailors, both of them wise men.

Would each of them grab it for himself, or would one give in to the other?’

‘One should give in to the other, that is, to the one whose life most matters for his own or the republic’s sake.’

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<sup>21</sup> Schofield, "Two Stoic Approaches to Justice," p. 176.

<sup>22</sup> *On Duties* II. 40.

<sup>23</sup> *On Duties* III. 28.

‘And what if such considerations are equal for both?’

‘There will be no contest, but one will give in to the other as if losing by lot, or by playing odds and evens.’<sup>25</sup>

Few common mortals would be capable of such calm while tossed at sea. Few obtain the selflessness of the Stoic sage. Still fewer obtain his universal compassion. But Cicero believes we all can and should at least approximate reason’s ideal. The fact that, generally speaking, we do not enjoy universal compassion requires a correction of moral outlook. Here is where Cicero invokes his ‘should’; here is where he invites his readers to embrace a higher moral standard—a standard that reason is capable of, but that human nature does not guarantee, since only choice can secure it. The end result is a version of moral voluntarism: those who will to rise to a higher level of justice and morality will do so; those who do not will remain shackled to their egoism and at a lower level of moral development.<sup>26</sup> Morality is what nature demands; but it is not a demand that is enforced unerringly. Nature does not enforce morality itself, since morality itself must be chosen. Therefore Striker’s problem admits no (realistic) answer, since the perfection of nature—itsself constitutive of virtue—is in its emergence by no means a universal phenomenon.<sup>27</sup>

### Life “in accordance with nature” and the four *personae*

Though the emergence of virtue is not a universal phenomenon, Cicero and the Stoics believe that the potential for virtue is. Its universality expresses itself in the

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<sup>24</sup> Idealized reason as the unique source of both rationality and law is the main theme of the account of natural law in *de Republica* I. 18 ff.

<sup>25</sup> *On Duties* III. 90.

<sup>26</sup> Cf. *On Duties* III. 17 for the assimilation of the common man’s moral struggle to that of the wise man. For voluntarism in later Stoicism cf. Epictetus, *Discourse* 4.9 and Long’s commentary thereto at A. A. Long, *Epictetus: A Stoic and Socratic Guide to Life* (Oxford: Clarendon Press, 2002), pp. 136-41.

<sup>27</sup> “Virtue is the same in human and god, and is found in no other species besides; and virtue is nothing else than nature perfected and taken to its highest level.” *de Legibus*, I. 25.

dictum that life is to be lived “in accordance with nature.” A vague and unclear expression, Cicero’s doctrine of the four ‘*personae*’ goes a long way toward elucidating its meaning. A *persona* is the role or character played by an actor, or given to or taken up by a person; literally it refers to the mask worn by a stage actor in order to designate his character. In Cicero’s work, the four *personae* function as a template for the being of a human being. To each of each of the four *personae* there can be assigned a corresponding sense of the word ‘nature’; each one of which elucidates a sense in which one lives “in accordance with nature.”

Cicero introduces the first *persona* with the words: “One must understand that we have been dressed, as it were, by nature for two roles: one is common, arising from the fact that we all have a share in reason and in the superiority by which we surpass the brute creatures. Everything honourable and seemly is derived from this, and from it we discover a method of finding out our duty.”<sup>28</sup> This first *persona* is identical with the character of the human being *qua* human being. Cicero follows the Stoics in tracing man’s moral character to the features of this generic ‘human being’, most specifically, to his or her rationality. That generic character consists in the possession of reason and the capacity for virtue. In an earlier passage<sup>29</sup> Cicero plotted out the relation of the four virtues (wisdom, justice, greatness of soul, and temperance) to the instinctual capacities of man’s nature *qua* man. It is this derivation that Cicero is referring to when he speaks of ‘everything honourable’ being derived from man’s rational capacity. For Cicero, the law of nature demands obedience of appetites to reason.<sup>30</sup> Reason’s full development demands that impulse submit to reason<sup>31</sup>, especially those impulses that at an early stage of development flourished unrestrained. (Think of a child’s proclivity to anger and selfishness.) With the maturation of reason a new order is inaugurated. For the Stoics, and Cicero, the life of human virtue is closely connected with the given fact that one is a human being—a

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<sup>28</sup> *On Duties* I. 107.

<sup>29</sup> *On Duties* I. 11-15.

<sup>30</sup> *On Duties* I. 102.

<sup>31</sup> *On Duties* I. 103.



human being with the capacity for reason's development to maturity. The template for this development is what Cicero understands as the first *persona*.

The second *persona* is "assigned specifically to individuals."<sup>32</sup> It consists of those character traits that differentiate a person as an individual. As Cicero imagines the moral life, individual characteristics play an important role in determining one's appropriate place in life. Cicero's account of the second *persona* has three strong points: first, the metaphor of the stage actor careful to play parts that suit his range of thespian talent<sup>32</sup>; second, the catalogue of individual characteristics and personality traits of great Roman historical figures<sup>33</sup>; third, the reference to the suicide of Marcus Cato, the younger—"since nature had assigned to Cato an extraordinary seriousness, which he had consolidated by his unfailing constancy . . . he had to die rather than look upon the face of a tyrant."<sup>34</sup> Each of these points contributes to Cicero's insistence that individual self-knowledge is key to fulfilling one's fullest human potential; that just as to follow generic reason is to become moral—since "those who share reason also share right reason"<sup>35</sup>, so to follow one's own individual character is to become oneself. The nature at stake is our own individual character—a nature no less given than generic human nature or the foibles of fate and accident.

The third *persona* consists of foibles of chance and circumstance—including, for Cicero, social status and position. Though Cicero has the least to say about these, they would seem to be of no small importance to living "in accordance with nature," if nature can be understood, as I am suggesting, as representing the teleologically providential force of the universe. In such a case those events of fate or fortune that impinge upon our existence without our control or choice will themselves represent the dispensations of teleologically provident nature. To respond to these in a virtuous way—which does not for Cicero mean an entirely pacifistic mode—will constitute an important part of life in accordance with virtue.

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<sup>32</sup> *On Duties* I. 114.

<sup>33</sup> *On Duties* I. 108-9.

<sup>34</sup> *On Duties* I. 112.

<sup>35</sup> *de Legibus*, I. 23

The fourth *persona* is the most important one for life in accordance with virtue. For it governs that “which we assume for ourselves by our own choice.”<sup>36</sup> From the text of *On Duties* it would appear that Cicero imagines this *persona* to extend no further than what we in contemporary circles would call one’s vocation or life profession: “some people apply themselves to philosophy, others to civil law, and others again to oratory, while even in the case of the virtues, different men prefer to excel in different of them”, he writes.<sup>37</sup> But Cicero’s theory of the emergence of virtue—described above as ‘voluntarism’—demands more than this. It demands a microcosmic conception of choice; that is to say, a conception of the person we become as a result of our individual moral choices. This covers more than just the selection and pursuit of a profession or of one’s pet virtue.<sup>38</sup> This concept of individual self-fashioning through choice must extend to the minutia of the moral life. Though Cicero does not speak of the fourth *persona* in this way, this conception is implicit in the very act of the work’s composition—he would not bother to address such a work to his son and contemporaries unless he viewed the choice of life as involving the minutia of the moral life.

However that may be, the key factor is that each of these various *personae* is given to the individual. An individual does not choose the limitations and potentialities of generic human nature; nor does he or she choose the individual characteristics constituting one’s unique personality; neither does one choose the various turns of fortune that elevate or depress one’s life; nor does one choose the fact that he must define himself by his own choices. Each of these roles is given to us; hoisted upon us ‘by nature herself.’ (Only the fourth is in some way uniquely our own making: the content we give to our lives by virtue of our own choices—though even these choices are to some extent ‘given’ to us in so far as they are limited, if not

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<sup>36</sup> *On Duties* I. 115.

<sup>37</sup> *On Duties* I. 115.

<sup>38</sup> Cf. Gill, "Personhood and Personality: The Four-*Personae* Theory in Cicero *De Officiis* I," pg. 176.: The function of the four *personae* theory is “to identify certain key normative reference-points in rational, moral choice, and, specifically, in a certain kind of choice, that of one’s way of life (implying not just a choice of career or *métier* but of one’s general moral objectives).”

dictated, by our surroundings, i.e., the other three *personae*.) But the emphasis in Cicero's account is on the givenness of man's role both as an individual and in society. This emphasis is articulated by means of the repeated personification of nature as the giver of the various facets of human nature.

Cicero's anthropological approach to natural law theory is nowhere in greater evidence than in his doctrine of the four *personae*. To see this, one must allow that it is possible to attach to each of the four *personae* a unique and distinctive sense of the 'nature' in accordance with which the individual lives. 1) in accordance with the nature of the species human being; 2) in accordance with his or her own character/nature as an individual member of the species; 3) in accordance with the overall nature of the universe, i.e., in accepting the dispensations of external fate and one's own sociological situation; 4) in accordance with one's own dynamic nature in so far as that is the function and result of the choices one makes in life over against and in play with the three other 'natures.'<sup>39</sup> Each of these 'natures' corresponds to one of the four *personae* in Cicero's account. Each of these natures is given by or identified with the 'nature' Cicero personifies.<sup>40</sup> Together they clarify the sense Cicero's work gives to the notion of a life "in accordance with nature" as intimately connected with human nature.

## Natural law and the standards of public virtue

Cicero's views on human-nature-based natural law culminate in Book III. There he attempts to give explicit content to the commands of natural law, proposing as a central principle of human relations his *golden rule*: "for one man to take something from another and to increase his own advantage at the cost of another's disadvantage is more contrary to nature than death, than poverty, than pain and than anything else that may happen to his body or external possessions." As Watson has

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<sup>39</sup> Cf. Watson, "The Natural Law and Stoicism," pg. 222.

<sup>40</sup> Cf. I. 97-98.

noted<sup>41</sup> this negative formula—“nothing is more contrary than . . .”—is based on a positive valuation: that of the *societas humana* and its preservation, the thing “most of all in accord with nature.”<sup>42</sup> The status of the *societas humana* is the starting point and end point of Cicero’s reflections in *On Duties*.

But the golden rule itself is not sufficient to secure the bonds of the *societas humana* from what Cicero sees to be their main threat. To appreciate the unity of the moral vision crafted in Book III, it is necessary to understand how and why the alternative form of Cicero’s golden rule appears on the scene. The alternative in question is: “What is in accordance with nature is that no one should act so as to exploit another’s ignorance.”<sup>43</sup> Textually, this corollary arises as a result of a series of case studies beginning with the case of the corn dealer during a famine at Rhodes. But conceptually it can be traced to a distinction made at the end of the discussion of justice in Book I. There Cicero writes, “There are two ways in which injustice may be done, either through force or through deceit; and deceit seems to belong to a little fox, force to a lion. Both of them seem most alien to a human being; but deceit deserves a greater hatred.”<sup>44</sup> The refinement of the golden rule appears because Cicero is most concerned to highlight a swath of erroneous public moral judgment in the area of deceitful behavior. This is where he sees a public blind spot. He generates the corollary to address it.

Cicero’s emphasis falls upon deceit because he believes that force is easily recognized as inhuman, especially, but not only, in its cruelest forms. In this regard Cicero recalls historical examples, one Roman (the razing of Corinth in 146 B.C.), the other Greek (the supposed amputation of the thumbs of the Aeginitans by the Athenians perhaps in 431 B.C.). Besides these examples, the cruelty of which he refers to as “inhuman” and “contrary to nature”, Cicero has predominately in mind, as examples of wrongful deprivation of another, Sulla’s proscriptions and Caesar’s sale of the property of the civil-war dead. Cicero expects his readers to recognize the

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<sup>41</sup> Watson, "The Natural Law and Stoicism," pg. 233.

<sup>42</sup> *On Duties* I. 21.

<sup>43</sup> *On Duties* I. 72.

<sup>44</sup> *On Duties* I. 41.

heinousness of such acts. It is with regard to the subtlety of deceit that moral instruction is required.

But it is not simply the subtlety of deceit that Cicero feels he must address. To unveil the corruption of contemporary moral standards he must address another crucial element in the anatomy of wrongdoing: the incentive supplied by the unlikelihood of detection and punishment. On this point Cicero appeals to Plato by recalling his famous example of Gyges' ring.

Whenever we deliberate we must banish any hope or idea of hiding or concealing our actions. For if we have progressed but a little in philosophy, we ought to be sufficiently persuaded that nothing should be done greedily, unjustly, licentiously or without restraint, even if we could conceal it from all gods and men. For this reason the well known story of Gyges was introduced by Plato. . . if a wise man, then were to have the same ring, he would think himself no more free to do wrong than if he did not have it.<sup>45</sup>

The example of Gyges' ring is key to Cicero's indictment of the moral standards of his contemporaries. Combined with his strictures against deceit, it encapsulates his notion of the *vir bonus* as one who will never even think to deceive another for his own advantage not even if there is no chance of detection.

Having assembled these elements, Cicero appeals to folk-consciousness for elaboration of the notion of the *vir bonus*. "Among peasants a proverb arose that is now trite with age: whenever they praise the faithfulness and goodness of anyone they say that 'he is worth for you to play odds and evens with in the dark.'"<sup>46</sup> Cicero contrasts this level of moral consciousness with that of a person who would take advantage of an ill-suspecting other without qualm or hesitation. In this conceptual contrast, Cicero creates his own Roman example to suit this person, a Roman version of Gyges' ring, by imagining an individual given the power to slip himself into the wills of deceased wealthy persons 'with the snap of a finger.' Deprivation, deceit, and lack of detection combine in this most Roman of examples.

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<sup>45</sup> *On Duties* III. 37-8.

Together these paradigms of virtue (or vice) provide Cicero with the criteria he needs to evaluate a series of moral situations drawn from recent Roman history.<sup>47</sup> Through these test cases he is able to win a contrast between the ‘wisdom of the world’ and true moral intelligence.<sup>48</sup> The former is always eager for gain even if by means of some piece of dishonesty, the latter is never so. Since there always appears to be something to be gained in following the dishonorable route, this distinction is key to evaluating that set of moral quandaries that most concerns him: cases where the beneficial seems to conflict with the honorable. By analyzing cases from recent Roman history, Cicero demonstrates that both his golden rule and deception clause are effective moral principles—principles upon which actions can be both based and judged.

The first case involves a forged will. Prominent figures have themselves been written into the will to insure their complicity in its execution. These figures suspect that the will has been forged; but their self-interest, i.e., the bit of the inheritance they stand to gain, leads them not to question it. The rightful heir is thereby disinherited. In Cicero’s terms this action is against the golden rule since the civic figures involved deprived the rightful heir of his inheritance. It is also against the deception clause since they rely on the concealment of their suspicion that the will is false: in the words of Aquillius, they pretend one thing while doing another.<sup>49</sup> And finally, in behaving this way they are supported by the unlikelihood of detection and punishment. The rightful heir is left with nothing but the name of his benefactor. The perpetrators have effected this act for the sake of monetary gain.

The next case involves Gaius Marius, the famous popular leader of the close of the second century. When his political career appeared to be at a dead end, he resorted, Cicero alleges, to libel of a great general under whom he was serving, his aim being to have that general recalled and himself to take his place. This act was against the golden rule in so far as Marius deprived Metellus of a command that was rightfully

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<sup>46</sup> *On Duties* III. 77.

<sup>47</sup> *On Duties* III. 73-88.

<sup>48</sup> *On Duties* III. 62.

<sup>49</sup> *On Duties* III. 60.

his. It involved the deception clause in so far as Marius took advantage of the trust invested in him when he was sent back to Rome as a legate. Marius “charged Metellus with prolonging the war, saying that if they would make him consul he would in a short time reduce Jugurtha, dead or alive, into the power of the Roman people.”<sup>50</sup> By bringing the war to a quick ending once he did replace his former commander, Marius was able to conceal what Cicero takes to have been the falsehood against Metellus.

The third case involves a distant relative of Cicero, a popular politician of the Sullan period. In a time of desperate instability in currency values, Gratidianus was part of a group of politicians who worked out a stabilizing settlement. The settlement was supposed to be announced corporately later that day. But after the meeting where the settlement was achieved, while the other members of the team headed home, Gratidianus headed straight for the speaker’s platform where he announced the settlement as if it were his own individual initiative, thereby securing enormous popularity among the masses to the point where altars and candles were set up in his name. In Cicero’s terms Gratidianus violated the golden rule in so far as he deprived his fellow politicians of the glory that was their due for assisting in the currency settlement. He violated the deception clause by taking advantage of his fellow politicians lack of suspicion in heading home having agreed later to announce the settlement corporately.

These last two examples, Marius and Gratidianus, are especially notable for their political dimension. Both cases involve politicians of the popular tradition—politicians who employed appeals to the popular assemblies as their main lever of power. Cicero himself never sympathized with this manner of political operation. His own allegiance was to the traditional form of senatorial aristocracy that minimized the role of the popular assemblies and stood against the machinations of demagogues. So though these examples are not without partisan tint, they still illustrate Cicero’s moral principles effectively. They all illustrate the manner in which public behavior ought to be regulated by the law of nature as embodied in the deception clause and the golden

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<sup>50</sup> *On Duties* III. 79.

rule. They also illustrate how even acts which may have escaped public censor can be detected as illegal/immoral by means of these criteria.

The next example concerns the moral perversity of the reign and political activity of Julius Caesar.<sup>51</sup> Here the text strikes the nerve of Cicero's partisan prejudice. Here Cicero's rancor reaches its highpoint. In Cicero's mind nothing better exemplifies a loss of moral sense than the behavior and later life of Julius Caesar, the dictator. Cicero's nostalgia for the lost Republic led him to see Caesar's autocracy in the darkest terms. To Cicero's mind, Caesar's dictatorship destroyed the *societas humana* (i.e., as constituted by the senatorial ruled Roman Republic). In Cicero's eyes, Caesar's status as sole-ruler at Rome rendered him a monster, since Caesar "forced a city that was not just free, but even the ruler of the nations, to be his slave."<sup>52</sup> Viewed as such the dictatorship violated the law of nature in a radical way, since, in making himself dictator for life, Caesar violated justice by depriving Cicero's peers of their rightful share in the political life of the Republic. For Cicero, Caesar is the gangrened body part threatening to infect the rest of the body with its unwholesomeness.<sup>53</sup> Gerald Watson has artfully criticized Cicero's elaboration of the golden rule by appeal to the analogy of a body and its parts. He writes:

. . . the analogy of the diseased limb appeals to common sense. But we should be very careful not to be too quick in establishing a general principle based on such an analogy. It is too easy to show that a person or group is a diseased limb in any particular society, is not filled with the spirit that animates the whole. But sometimes such an uncomfortable person or group might be the only healthy element left in society. Panaetius had, in his teaching, emphasized the importance of individual initiative. But does the general system, or the body-limb analogy, really permit such initiative? Will it tolerate an uncomfortable reformer? Was Socrates 'natural'?<sup>54</sup>

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<sup>51</sup> *On Duties* III. 82-4.

<sup>52</sup> *On Duties* III. 84.

<sup>53</sup> *On Duties* III. 22.

<sup>54</sup> Watson, "The Natural Law and Stoicism," pp. 233-4.



No less revealingly, Andrew Dyck has shown how easily, in the early theoretical portion of Book III [19b-25], Cicero's conception of the *humani generis societas* is subtly replaced by that of the *utilitas communis*; and how, over the course of the Book's subsequent examples, the *utilitas communis* in turn becomes the *republicae utilitas*.<sup>55</sup> This last shift enables Cicero to condemn Caesar unhesitatingly and with conviction, since Caesar can be blamed for destroying the republican order Cicero so cherished.

Despite their political bias, with the exception perhaps the case of Julius Caesar, the examples examined so far nevertheless lay the groundwork for Cicero's additional descriptions of the good man: "a good man is one who helps all whom he can and harms nobody, unless provoked by wrong. . . [a good man] will never venture to think—to say nothing of doing—anything that he would not dare openly to proclaim."<sup>56</sup> The first relates to the golden rule; but with a notable—and distinctly Roman—difference from the Socratic formula of never returning wrong for wrong.<sup>57</sup> The second description corresponds to the deception and secrecy clauses, and presents, as a moral heuristic, the value of transparency.

The examples also give content to the dictates of natural law. Natural law is seen to be moral law; and moral law is seen to follow the demands of public prosperity. The logic of Cicero's mandate to public virtue can be seen to harbor a circular character. Not a vicious circle but a hermeneutical one where the parts and whole can be understood only in a movement back and forth between the various principles. So too is the logic of Cicero's admonition to public virtue structured by the back and forth relation of the following propositions.

- men do the greatest good (and) harm to one another.<sup>58</sup>
- if mankind is to flourish then good must be done.
- to do good is to contribute to the *societas humana*.

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<sup>55</sup> Dyck, *A Commentary on Cicero, De Officiis*, pg. 528 and 43.

<sup>56</sup> *On Duties* III. 76-77.

<sup>57</sup> Plato, *Crito* 49c

<sup>58</sup> *On Duties* II. 17

- to contribute to the *societas humana* is to act in accordance with the *honestum*.
- to act in accordance with the *honestum* is to act in accordance with nature; to act in accordance with the *turpe* is to act contrary to nature.
- to act according to nature is to do good; to act contrary to nature is to do harm.
- men do the greatest good (and) harm to one another.

For Cicero, then, the mandate to virtue is based upon the potential of man to do harm or good to his fellows. That good to be done is the will of nature—since nature’s foremost will is the flourishing of the *societas humana*. Thus to act honorably is to act “in accordance with nature.” This is the task he puts to every citizen of a political community. One is expected to put one’s own interests, if not behind oneself, at least not so much before oneself as to compromise the interests of a fellow human being and thereby endanger the harmoniousness of community life.

Cicero places his golden rule at the heart of what preserves the harmoniousness of community life. He sees it as a law of nature. More than that, he sees the law of nature reflected and embodied in the statutes and laws of political communities generally. Its status is confirmed by its place among the laws of individual states and communities:

The same thing is established not only in nature, that is in the law of nations, but also in the laws of individual peoples, through which the political community of individual cities is maintained: one is not allowed to harm another for the sake of one’s own advantage. For the laws have as their object and desire that the bonds between citizens should be unharmed. If anyone tears them apart, they restrain him by death, exile, by chains or by fine.<sup>59</sup>

To Cicero’s mind it is only low moral consciousness that has allowed the separation of natural law (*naturae lex*) and positive statutes (*lex aut ius civile*) allowing the type of behavior criticized in his examples to proceed unopposed.<sup>60</sup> This low moral consciousness allows acts like those of Marius and Gratidianus or even Caesar to pass

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<sup>59</sup> *On Duties* III. 23.

uncensored. Cicero opposes this decline of moral standards with the reminder that “Our ancestors wanted the law of nations and the civil law to be different: everything in civil law need not be in the law of nations, but everything in the law of nations ought also to be a part of civil law.”<sup>61</sup> For Cicero the positive statutes of a country ought to reflect the law of nature (= law of nations) as embodied in the golden rule and the deception clause.

He sees Roman legal tradition as honoring these principles by means of its legal standards requiring good faith. Standards expressed in legal formulae like the following: “One must act well, as among good men, and without fraudulence; the fairer the better; in good faith.”<sup>62</sup> Such expressions stood in the tradition of Roman law as bulwarks against deception in a very large range of dealing: guardianships, business fellowships, trusts, commissions, purchases, sales, and hiring and letting. “For”, as Cicero concludes the list, “the fellowship of life consisted in these things.”<sup>63</sup> Such laws and formulae reflect the universal presence of natural law in humankind’s social-political consciousness. Such principles represent the legal expression of natural law.

From violation of these principles Cicero sees three different negative consequences: first, the threat to social order (a threat that must have seemed much more real to him in an age of collapsing Republican institutions than it can to a present day American reader); second, the external threat of losing one’s reputation as a good man; third, the internal threat of experiencing the degradation of one’s soul. Cicero writes regarding these last two:

Is there any matter so valuable or any advantage so desirable that you would abandon the name and splendour of a good man for it? What can the said benefit bring that is worth as much as what it takes away, if it removes the name of a good man and deprives one of keeping faith and of justice? What

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<sup>60</sup> *On Duties* III. 69.

<sup>61</sup> Cicero uses the ‘law of nature’ and ‘the law of nations’ interchangeably.

<sup>62</sup> *On Duties* III. 61, 70.

<sup>63</sup> *On Duties* III. 70.

difference does it make whether someone changes from a man into a beast or remains in human form while possessing the savagery of a beast?<sup>64</sup>

In Cicero's mind, the person who has lost his moral compass is no better than an animal. In allowing impulse to overwhelm reason, in allowing egoism to overwhelm benevolence he has lost everything that is the perfection of reason and humanity. Such a person has closed his ears to the voice of nature.

## Conclusion

Cicero's persistent personification of nature points to the cosmological and teleological aspects of orthodox Stoic theory; the doctrine of four *personae* and the attention given to concrete moral statutes point to its anthropological basis. The last presages modern natural law conceptions. The first two illuminate strains of early Stoicism. Chrysippus, in particular, is recorded to have said: "There is no possible or more suitable way to approach the subject of good and bad things, the virtues and happiness than from universal nature and the management of nature."<sup>65</sup> Cicero's demonstration of the foundations of the ethical life can be seen to adhere closely to this paradigm—allowing for his anthropological emphasis. Approximating Chrysippus' 'universal nature' Cicero grounds his ethical advice in examination of the nature of man. Approximating Chrysippus' emphasis on 'the management of nature' Cicero adopts the viewpoint of Stoic teleology both in the human and in the social sphere. Man is destined for virtue<sup>66</sup>; just as the human community is destined to flourish. In Platonic fashion, the level of flourishing attained by the community depends on the level of virtue obtained by its individual leaders. This in turn is a function of the degree to which leaders conform their behavior to moral criteria—based on the law of nature—like the golden rule and deception clause. To live by such

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<sup>64</sup> *On Duties* III. 82.

<sup>65</sup> Plutarch, *On Stoic self-contradictions* 1035c-d; SVF 3. 68; Long and Sedley 60 A.

<sup>66</sup> III. 35.

principles is to choose to obtain the goals of human nature. Here we must heed Long and realize that “‘human nature’ is best understood [among the Stoics] as a description of the goal which Nature has designed human beings to achieve.”<sup>67</sup> For Cicero, as for the Stoics, this goal is virtue; and the foundations of virtue rest in nature, wise, tender, and providential.

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<sup>67</sup> Long, "The Logical Basis of Stoic Ethics," pp. 141-2.

We, however, do not have the firm and lifelike figure of true law and genuine justice; we make use of shadows and sketches. I wish we would follow even those! For they are drawn from the best examples of nature and truth.

*On Duties* III.69

### CICERO AND THE ETHICS OF EXCHANGE

In Cicero's Rome few commodities were more valued than access to political office and the power that went with it. In what follows I will argue that the principles Cicero dictates for moral economic exchange—exemplified in the debate between Diogenes and Antipater—extend beyond the realm of mercantile and real estate transactions and can be applied to political goods as well, thereby explaining, on the one hand, the logic of Cicero's support for the assassination of Julius Caesar and, on the other hand, his praise of the example of Marcus Atilius Regulus. As we shall see, in Cicero's hands, the dilemma of Diogenes and Antipater reaches to the heart of moral concern: it illuminates the role played by knowledge and ignorance, by concealment and forthrightness, by ill and good intention, by self-concern and self-sacrifice across the board of moral phenomena from mercantile exchange to political leadership and responsibility.<sup>1</sup> As such Cicero's examples strike to the core of perennial moral

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<sup>1</sup> My exposition of this episode will be set over against the views of Julia Annas. In "Cicero on Stoic Moral Philosophy and Private Property" professor Annas has taken Cicero to task for misconstruing the intentions of his Stoic interlocutors, Diogenes and Antipater. For Annas, Diogenes is concerned with "people not in so far as they are akin by virtue of the shared rationality that enables humans to grasp the principles of living in agreement with nature [the position of Antipater], but in so far as they are selling and buying, activities that give rise to certain *legal obligations*." Antipater, on the other hand (she argues) is concerned with *moral duties*. Annas advances the view that by failing to give proper due to the distinction between a

concern, and are hardly reducible to a restatement of “standard Stoic orthodoxy.”<sup>2</sup> There is more to Cicero’s account than the mere primacy of virtue. On the contrary, by his examples and analysis Cicero gives depth and content to the concept of virtue itself, coming startlingly close to an exposition of the concept of a good will. In truth of fact, Cicero is not at all blind to the distinction between moral duty and legal obligation; rather, fully cognizant of the distinction, he is hard at work to elide it—to have moral duty as such be the measure of legal obligation. This insistence represents the cornerstone of the Natural Law position, as contrasted with that of legal positivism. Cicero deserves credit for establishing this position; credit denied on Annas’ reading.

## **Diogenes, Antipater and the Ethics of Exchange**

Cicero begins his exposition of the ethics of exchange with two similar examples. The first involves a corn merchant offering grain for sale amid conditions of ongoing famine and shortage of corn on the island of Rhodes; the corn merchant alone knows that the market is about to be flooded by a fleet of ships already at sail to relieve the famine. Cicero asks:

If he also knew that several more merchants had set sail from Alexandria, and had seen their boats *en route* laden with corn and heading for Rhodes, would

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*moral duty* and a *legal obligation*, Cicero “has created a non-existent conflict . . . Antipater is concerned throughout with our moral duties, Diogenes with our legal obligations and rights. What Cicero fails to see is that these concerns are in no way antithetical.” Subtle as Annas’ reading is, by assuming that legal obligations and moral duties “are in no way antithetical,” it to my judgment distorts Cicero’s intention in employing (or inventing) the argument between the two Stoics. Annas seeks to bifurcate—into moral and economic nature—what Cicero sees as one: the responsibility each person owes to his or her fellows. Failing to consider the full context of the exchange between the two Stoics, professor Annas has blunted the larger purpose served by the juxtaposition of their two standpoints: an exposition of the unitary moral character of the human being.

<sup>2</sup> Ibid., p. 172.

he tell the Rhodians? Or would he keep silent and sell his own produce at as high a price as possible?<sup>3</sup>

Cicero asks whether the grain dealer should keep silent about the oncoming ships and thereby secure an inflated price for his goods or should he inform the Rhodians of the true state of affairs thereby himself suffering a loss of his potential profit, but saving the Rhodians needless expense. The second story employs the same dynamic, but involves the seller of a house.

Suppose that a good man is selling his house because of certain faults that he knows and that others do not know, say, that it is unsanitary but thought to be salubrious, or that it is not generally known that vermin can be found in all the bedrooms, or that it is structurally unsound and crumbling, but no one except the owner knows this. My question is this: if the seller does not tell the buyers these things, but sells the house at a higher price than that at which he thought he would sell it, will he not have acted unjustly or dishonestly?<sup>4</sup>

In both examples the goods in question are being exchanged at a higher rate of return than would have been possible had the buyers been fully informed of the circumstances surrounding the goods in question. In both cases the inflated price of sale depends on the reticence of the seller with regard to those circumstances that would, if they were universally known, depress the price of the goods in question. In both cases the inflated price depends on the ignorance of the buyer(s) with regard to the same circumstances. Ignorance, reticence, and an inflated price—these are the main elements common to both examples.

Cicero's discussion invests each of these elements with an ethical dimension. The ignorance of the buyer is transformed into a general vulnerability or the other, a vulnerability that no good man would ever exploit. The reticence of the seller is transformed into a general position of power, a position from which exploitation of the other can or does not occur. The inflated price is transformed into a representation of

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<sup>3</sup> *On Duties* III. 50.



the quantum of property rightly belonging to the ignorant buyer but wrongly expropriated by the reticent seller. In both cases, the price overpaid, for the grain and the house respectively, represents an expropriation of the property (i.e., cash) of the buyers, since the seller has benefited from the conditions of ignorance and reticence, conditions extraneous to the value of the goods in themselves.

But Cicero does not let matters rest here; he makes matters even more complex, but at the same time even more true to life, by injecting an additional consideration. This is accomplished by the interjection of a telling statement into the story of the corn merchant—a statement echoed in the account of the house seller by the specification that it is “a *good* man” who is selling the house. Speaking of the corn dealer, Cicero adds: “We are imagining that he is a wise and good man; our question is about the deliberations and considerations of a man who would not conceal the facts from the Rhodians if he judged it dishonourable, but is uncertain as to whether it is dishonourable.”<sup>5</sup> This addition informs us that Cicero is as much interested in the logic whereby such reticence and profit-taking is justified as he is in the logic whereby it is condemned as immoral. This is because he understands the former—the logic of fault-free acquisitiveness—to be prevalent among Romans of his day. This attitude, as we will see, he wishes to both acknowledge and correct.

Cicero unfolds the issues beneath the examples by means of an imagined dialogue. In both examples, the respective positions, pro and con, are allotted to two famous Stoic philosophers, Diogenes of Babylon and Antipater of Tarsus. Diogenes represents reticence and profit-taking as justified; Antipater represents them as immoral.

First let us examine the position of Antipater. Antipater’s position is based on ethical principles elaborated elsewhere in the essay: that it is contrary to nature for one man to deprive another<sup>6</sup>; that no man should profit from another man’s ignorance or deception<sup>7</sup>; and ultimately that it is the job of the good man to protect and defend

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<sup>4</sup> *On Duties* III. 54.

<sup>5</sup> *On Duties* III. 50.

<sup>6</sup> *On Duties* III. 21.

<sup>7</sup> *On Duties* III. 72.

vulnerable persons<sup>8</sup>. These ethical principles themselves are based on Cicero's (and Stoicism's) assertion of the existence of a *societas humana*—a community of human persons, a community of persons united under “nature's reason itself, which is divine and human law”<sup>9</sup>. This common rule of rationality carries hefty consequences.

Therefore all men should have this one object, that the benefit of each individual and the benefit of all together should be the same [*ut eadem utilitas unius cuiusque et universorum*]. If anyone arrogates it to himself, all human intercourse will be dissolved. Furthermore, if nature prescribes that one man should want to consider the interests of another, whoever he may be, for the very reason that he is a man, it is necessary, according to the same nature, that what is beneficial to all is something common. If that is so, then we are constrained by one and the same law of nature; and if that is true, then we are certainly forbidden by the law of nature from acting violently against another person. The first claim is indeed true; therefore the last is true<sup>10</sup> (my emphasis).

The good that is common to each person, *whoever he may be, for the very reason that he is a man* is the *societas humana* first in all its various levels and incarnations: between all persons, between members of the same race, between members of the same political community<sup>11</sup>; and secondly, in all its varied benefits accorded to individuals. Each of these levels involves a tighter degree of association, but they are all based on the dominant fact that man is a rational social animal. Each of these benefits reflects a potential invested in the human person and fully realized only in the context of social life. Social life is given primary value because it is in the context of social life that each individual both fulfills her human potential and acquires life's necessities. Social life is a well of goodness from which individuals both take and receive.

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<sup>8</sup> *On Duties* I. 28.

<sup>9</sup> *ratio naturae, quae est lex divina et humana. On Duties* III. 23.

<sup>10</sup> *On Duties* III. 26-27

<sup>11</sup> *On Duties* III. 69.

Consequently, we ought in this to follow nature as our leader, to contribute to the common stock the things that benefit everyone together, and, by exchange of dutiful services, by giving and receiving expertise and effort and means, to bind fast the fellowship of men with each other.<sup>12</sup>

The unity of the *societas humana* is key to the human person's spiritual fulfillment and material satisfaction. That all share in the *societas humana* means that no one should be wrongfully deprived, by force or by deceit, of his or her apportionment of benefits. The principles of exchange put into the mouth of Antipater by Cicero echo these sentiments:

You ought to be considering the interests of men and serving human fellowship; you were born under a law, and have principles of nature which you ought to obey and to follow, to the effect that your benefit is the common benefit and conversely, the common benefit is yours. Will you conceal from men the advantages and resources that are available to them?<sup>13</sup>

Antipater's position mirrors Cicero's exactly.<sup>14</sup> Fair and open mercantile exchange is essential to upholding the *societas humana*. But more than that, as we will see, upholding standards of fair and open exchange and right political dealing are vital to the realization of one's ethical being, since they are vital to the realization of one's character as a *vir bonus*.

Opposed to this idealistic view is the counter-point of Diogenes. Diogenes' position represents a mix consisting of a proto-capitalist manifesto, a verbal quibble, and a sarcastic rebuttal of Antipater's (and Cicero's) position. In the manner of a modern capitalist, Diogenes asserts his right to make a profit as a return for his labors as a commercial agent: "I have transported this here, I have offered it for sale, and I sell it for no more than others do, perhaps even for less, when the supply is plentiful.

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<sup>12</sup> *On Duties* I. 22.

<sup>13</sup> *On Duties* III. 52.

<sup>14</sup> Schofield, "Two Stoic Approaches to Justice," p. 178.

Who is treated unjustly?”<sup>15</sup> Diogenes’ remarks show that he sees his labor—“I have transported this here”—as conveying a service to his fellow men; they also show that he is conscious of the risks that come with conveying goods onto the market—“I sell it for no more than others do, perhaps for less.” Any profit he might earn— even an opportunistically inflated one—only goes to repay the effort and the risks involved in his commercial trade.

Diogenes supports this reasonable argument with a more dubious one—a distinction between ‘concealment’ and ‘keeping quiet.’ This distinction flows over into a sarcastic rebuttal. In response to Antipater’s (above-quoted) question: “Will you conceal from men the advantages and resources available to them,” Diogenes rebuts:

‘To conceal is one thing, to keep silent another. I am not at the present moment concealing from you the nature of the gods, or the end of good things, if I am not telling you of it; yet to learn that would benefit you far more than to learn the cheap price of wheat. But it is not necessary for me to tell you everything that is beneficial for you to hear.’

‘But no!’ he [Antipater] will answer, ‘It is necessary, if indeed you remember that men are bound together in fellowship by nature.’

‘I remember,’ the other will argue, ‘But is that fellowship of the kind that nothing belongs to any one person? If that is so, then nothing can be sold at all, but must be given away.’<sup>16</sup>

Diogenes’ quibble, the supposed distinction between concealing and keeping quiet, forces Cicero to clarify his terms, thereby adding a fourth and all-important element to the examples at hand, the element of self-interest. Cicero writes: “It is not concealment to be silent about anything, but [it is concealment] when you want those in whose interest it would be to know something that you know to remain ignorant of it, so that

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<sup>15</sup> *On Duties* III. 51.

<sup>16</sup> *On Duties* III. 52-3.

you may profit.”<sup>17</sup> With this clarification, conflict of interest becomes the salient feature in both examples, a feature key to our appreciation of the moral dimension given to the other elements. The fact that the silent person has something to gain by his silence, along with the fact that that silence compromises the interest of another—these two factors invest the reticence, the ignorance, and the profit taking with a negative moral color. The profit has been made only as a result of the weakness and vulnerability of the buyer; hence it is not an honest gain.

By focusing on the interests of the moral players, Cicero connects his examples with the overall theme of Book III: the conflict between the *honestum* and the apparently *utile*. It appears to be *utile*—a matter of advantage—for the grain dealer or house seller to conceal from their buyers the relevant information that would mark the goods as overpriced. Concealment is key to the profit being made; and it is the profit to be made that competes with the more honorable motive. For this reason, Julia Annas is wrong to downplay the role of the interests of the person concealing what it is of interest for another to know—“What is in *my* interest is neither here nor there.”<sup>18</sup> For this is precisely where the *utile* enters the transaction as an opponent to the *honestum*. To deny the importance of the element of self-interest is to entirely misinterpret the gist of Book III. The self-interest of the immoral person is the key element in all the scenarios imagined by Cicero in Book III. Indeed, the importance of the concept of self-interest is made even more clear by its connection with that of craftiness (*astutia*). For, it is by means of the concept of self-interest that Cicero defines the crafty (*astutus*) person: as one who “measures all things by the yardstick of his own interest.”<sup>19</sup> And craftiness (*astutia*) is the main object of his censure in Book III, as is made clear in chapter 67: “What is my point then? That you should realize that crafty men (*astutos*) did not please our ancestors.”

But this is not the only place where Annas’ lack of attention to the role of the interest of the seller leads her to misinterpret. Her elision of the interests of the seller allows her in the end to entirely discredit Antipater’s argument—the very position

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<sup>17</sup> *On Duties* III. 57.

<sup>18</sup> Annas, “Cicero on Stoic Moral Philosophy and Private Property,” p. 161.

<sup>19</sup> *Fam.* 3. 10 8-9.

Cicero identifies with and advocates. This she does on the basis of what I have above referred to as the sarcastic rebuttal. For Annas accepts as valid—“He is clearly right”<sup>20</sup>—referring to Diogenes’ point that adoption of Antipater’s position would “exclude people’s owning anything.”<sup>21</sup> This cannot be an eventuality Cicero accepts; for it is certainly one he would never endorse.<sup>22</sup> Annas’ acceptance of Diogenes’ point squares neither with Cicero’s views on private property nor with the overall argument of Book III. In fact acceptance of that view renders Antipater’s position an unacceptable laughingstock.

A more adequate interpretation is the following. In imagining the dialogue between the two Stoics, Cicero is attempting to stake out a middle ground between two extreme positions—one for the most part imaginary; the other chillingly real. The first imagines a person who entirely neglects his own interests in favor of others. This, as Diogenes satirically imagines him, is the merchant who cannot sell anything but who must give all his wares away.<sup>23</sup> The second envisages the man who entirely neglects the interests of others in favor of his own. Taken to the extreme, this is the man who “measures all things by the yardstick of his own interest.” Between these two extremes is the morally upright man who sees after his own interest but does not trample upon the interests of others. As Cicero expresses it: “We are not to neglect benefits to ourselves and surrender them to others when we ourselves need them. Rather, each should attend to what benefits him himself, so far as may be done without injustice to another.”<sup>24</sup> For Annas to take the one extreme to stand as a refutation of the moral middle ground is, I believe, an error.

In the debate between the two Stoics, Cicero treads the fine line between absolute self-abnegation (an impossibility given the press of instinctual self-interest) and immoral self concern (the real moral danger with which he must contend). The middle ground between these two positions constitutes the realm of no little moral uncertainty—as Cicero says speaking from the context of legal liability: it is “the mark

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<sup>20</sup> Annas, "Cicero on Stoic Moral Philosophy and Private Property," p. 161.

<sup>21</sup> Ibid.

<sup>22</sup> *On Duties* II. 73.

<sup>23</sup> *On Duties* III. 53.

of a great judge to be able to decide in such cases [of purchasing, sales, and hiring, or letting], particularly when judgements are generally conflicting as to how far one man ought to accept his responsibility to another.”<sup>25</sup> The key notion here is the question of the level of responsibility one has towards another. Cicero’s imagined ethic demands a level of responsibility consonant with Aristotle’s notion of friendship—where the other person is viewed as “another self.” This is the terrain occupied by the debate between Diogenes and Antipater. Cicero employs this debate to mark out the space of morally exemplary behavior— a space coincident with Antipater’s positioning; and hardly refuted by Diogenes’ sarcastic *reductio ad absurdum*.

Beneath the sarcasm and sophistry, the deeper logic of Diogenes’ position (and of the commonsense position Cicero is attempting to correct) can however be discerned. According to that view, failure to prosecute one’s own best interests is itself *turpe*: As Cicero writes, summing up the debate between Antipater and Diogenes: “In certain doubtful cases, therefore, honourableness is thus defended on one side, while on the other they argue the case for benefit, but in such a way that it turns out not only to be honourable to do whatever seems beneficial, but even dishonourable not to do it.”<sup>26</sup> The antithesis here is an important one. On the one hand is an honourableness based on viewing the other’s interests as par with one’s own. On the other hand is a concern for benefit that sees lack of self-concern itself as immoral. Speaking in more general terms, on the one hand is the view that ‘every man is his brother’s keeper’; on the other hand is the view that ‘every man is for himself.’ This is a dichotomy of viewpoints as perennial as it is substantial.

To mark the position of concern for the other, Cicero brings forth his most powerful and controversial example, that of Quintus Scaevola.

Quintus Scaevola, the son of Publius, once asked the man from whom he was buying a farm to name a definite price, and when he did so, Scaevola said he thought it worth more than that; he added 100,000 sesterces to the price. No one denies that a good man would do that; but they do deny that a wise man

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<sup>24</sup> *On Duties* III. 42.

<sup>25</sup> *On Duties* III. 70.

<sup>26</sup> *On Duties* III. 56.

would, just as if someone had sold it at a lower price than he might have. Such things are ruinous; for their view is that the good and the wise are different. Ennius said as a result, 'The wise man would be wise in vain if he could not profit himself,' That would indeed be true if Ennius and I were in agreement as to what it might be to profit.<sup>27</sup>

Scaevola's concern for the other is equal to his concern for himself and can be demonstrated along the various perimeters we've set up (ignorance, reticence, profit-taking, and self-interest). Scaevola corrects, rather than takes advantage of, the man's ignorance of the true value of his property. In speaking up he breaks what would have been, from the viewpoint of Diogenes, an entirely unproblematic reticence. In paying a higher price than he could have, had he kept quiet, Scaevola respects the quantum of property possessed by the man by allowing it to be exchanged only at its true value; he will not himself deprive the man by reticence; he will not himself profit by the ignorance of the seller. His actions are based on a concern that treats the other as a self. This is what Cicero considers to be true 'profit.' This is the noble, but idealistic, stance Cicero advocates in *On Duties* Book III.

To highlight the alternative position, Cicero evokes, in response to the example of Scaevola, the testimony of Hecato, a student of Panaetius.

A wise man would, without acting contrary to customs, laws, and established practices, take account of his personal wealth. For we do not wish to be rich for our own sake alone, but for our children, our kinsmen, our friends, and most of all for the political community. The capacities and resources of individuals are the riches of the city. . . he would refrain from doing for the sake of his own gain only what is not permitted.<sup>28</sup>

Hecato, like Diogenes, adopts the conventionalist position that money making is compatible with whatever is not sanctioned [*quod non liceat*]. Thus, as long as nothing is done contrary to legal conventions [*nihil contra leges mores instituta facientem*], a

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<sup>27</sup> *On Duties* III. 62.



primary duty of each individual is the advancement of his or her own personal fortune. This latter position must be viewed as flagging the same notion as both Diogenes' "but since he is selling, he ought to sell at the best price" [*quoniam vendat, velle quam optime vendere*] and Ennius' "to profit oneself" [*sibi prodesse*].<sup>29</sup> Together they (that is to say, profiting oneself and doing so in the most profitable way legally possible) mark a moral obligation to self-concern, the neglect of which is in and of itself morally reprehensible. This represents the strongest reading possible for Cicero's summation of the position of Diogenes: "On the other side it is argued that it turns out not only to be honorable to do whatever seems beneficial, but even dishonorable not to do it."<sup>30</sup> The neglect of self-interest (in monetary terms, failure either to sell at the highest or buy at the lowest price possible) is cast here as something positively reprehensible. This program of self-concerned, but law-abiding, profit-taking represents the position of the "good man" who would be in doubt as to the moral status of reticence in both the instance of the corn dealer and the house seller.

Two further issues inform this position and must be garnered from the quote of Hecato. First the attitude of legal positivism expressed in the phrase "without acting contrary to customs, laws, and established practices", an attitude echoed in Diogenes' claim that "the seller ought to mention faults *as the civil law requires*."<sup>31</sup> Second is the connection made between personal wealth and the potential for beneficence, a claim to be informed by the strictures in Book I connecting beneficence with the virtue of justice.

## **Point one: Legality vs. Morality**

The legal point is the most profound and touches directly Annas' interpretation of the debate. As Annas has it: "Diogenes' position . . . focuses on doing what you are

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<sup>28</sup> *On Duties* III. 63.

<sup>29</sup> *On Duties* III. 62.

<sup>30</sup> *ex altera parte ita de utilitate dicitur ut id quod utile videatur non modo facere honestum sit sed etiam non facere turpe. On Duties* III. 56

legally obliged to . . . The seller should obey the laws of sale. Not telling someone something which they do not have a right to know has nothing in common with defrauding people.”<sup>32</sup> The key notion in Annas’ reading is that of “right” and what people do or do not have the “right to know.” Annas construes the basis of the right to know as residing in commercial law itself. She does not, or so it seems, regard commercial law as itself being grounded in something other than conventional statutes. This is precisely where her interpretation departs from Cicero’s. For as Watson has expressed it: “[Cicero believed] that the science of law should be drawn from the deepest philosophy and not, as the majority believed, from the praetor’s edict and previously the Twelve Tables.”<sup>33</sup> It is this conviction that law be responsible to and derived from philosophy that informs this central portion of Book III of *On Duties*.

Overall, in this section of Book III, Cicero is concerned with the relationship between statutory norms and public perceptions on the one hand, and the moral principles supported by natural law on the other. Hence Annas obscures Cicero’s purpose when she advances the view that (by failing to give proper due to the distinction between a *moral duty* and a *legal obligation*) Cicero “has created a non-existent conflict . . . Antipater is concerned throughout with our moral duties, Diogenes with our legal obligations and rights. What Cicero fails to see is that these concerns are in no way antithetical.”<sup>34</sup> This interpretation seems seriously flawed. Cicero is not at all blind to the distinction between moral duty and legal obligation; rather, he is hard at work in an effort to collapse the gap between the two. Cicero’s overall argument is that just as moral duty is and has been the basis of numerous Roman statutes and legal judgments, so too moral duty is and should function as the guideline of legal obligation.

This relationship between moral/philosophical standards and legal/judicial obligation is seen most clearly in what Dyck calls Cicero’s “critique of the defects of

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<sup>31</sup> *On Duties* III. 51.

<sup>32</sup> Annas, "Cicero on Stoic Moral Philosophy and Private Property," p. 165.

<sup>33</sup> Alan Watson, *Spirit of Roman Law* (Athens: University of Georgia Press, 1995), p. 198.

<sup>34</sup> Annas, "Cicero on Stoic Moral Philosophy and Private Property," p. 164-5.

positive law.”<sup>35</sup> There Cicero decries the fact that corrupt custom [*depravationem consuetudinis*] has so weakened moral perception that behavior immoral by the standards of philosophical judgment “is neither thought dishonourable nor forbidden by statute and civil law.”<sup>36</sup> This distinction between philosophical and legal judgment had been expressed most strongly in the previous chapter: “The laws and the philosophers remove craftiness in different ways: the laws, so far as they can, lay their hands upon it, philosophers [capture it with] their reason and intelligence.”<sup>37</sup> For Cicero, the ability of the mind to discern craftiness is the foundation of *aequitas*, a principle affirmed in such legal formulas as “One must act well, as among good men, and without fraudulence,”<sup>38</sup> but violated by the type of reticence and concealment dramatized in the examples of the corn dealer and house seller.

The position of Diogenes and Hecato—that one should seek the highest price possible revealing the faults of one’s item only in so far as the law itself demands [*quatenus iure civili constitutum sit*]—rests on a principle that begs a key question: what itself is the basis of law? As Annas construes him, Diogenes’ stance is entirely conventionalist: the limits of legal obligation are prescribed solely by the letter of the law itself. Such a stance leaves unsettled the question of what in itself is the ultimate basis of statutory law; on what basis can and must statutes of individual communities be judged better or worse; by what criterion are statutes to be improved and modified?

Cicero’s point over against both Diogenes and Hecato is that there exists a higher law—a law uniting all humanity, a law to which the individual statutes of individual political communities ought to conform. That higher law is the law of nature, a law expressing itself in the golden rule and deception and transparency clauses.<sup>39</sup> The validity of these principles is based in the value accorded the *societas*

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<sup>35</sup> Dyck, *A Commentary on Cicero, De Officiis*, p. 572. The reference is to Book III, 68-69.

<sup>36</sup> *On Duties* III. 69.

<sup>37</sup> *On Duties* III. 68.

<sup>38</sup> *On Duties* III. 70.

<sup>39</sup> III. 21—“for one man to take something from another to increase his own advantage at the cost of another’s disadvantage is more contrary to nature than death, than poverty, than pain . . .”; III. 72—“what is in accordance with nature is the no one should act so as to exploit another’s ignorance”; III. 77—“[a good man] will never venture to think—to say nothing of doing—anything that he would not dare openly to proclaim.”

*humana* and the value of the *societas humana* is itself grounded in the recognition of value accorded to each individual person—value accorded “for the very reason that he is a man.”<sup>40</sup> This last constitutes the humanistic basis of Cicero’s ethical vision in *On Duties*. It stands as an anticipation of the modern view that the dignity of human persons *should* inform all social-ethical standards, laws, institutions, and mores. It is thus a forerunner of Kant’s famous formula: “Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means but always at the same time as an end.”<sup>41</sup> These later views have their nucleus in Cicero’s insistence that respect be accorded to persons “simply in so far as they are human beings.” Where respect is not so accorded, there reigns a defective state of public or personal ethical consciousness. Thus a law of sale that does not recognize these values is itself a defective law.

Cicero is advocating moral and legal standards that strike to the core of what we now know as capitalist abuse. This is precisely why Cicero commends the developments in Roman law that tended to increase the protections afforded buyers.

It is indeed laid down in the part of our civil law concerning properties that when they are sold, whatever faults are known to the seller should be stated. In the Twelve Tables it was enough that one should accept responsibility for those faults that were verbally specified [by the buyer]; if the seller had denied these, he should face a double penalty. The juriconsults, however, have even established a penalty for keeping quiet. For they decided that if the seller knew about any fault in the property, unless he expressly declared it, he ought to be responsible for it.

Here Cicero records the evolution of Roman law of sale, an evolution in tune with the principles of natural law: the concern each man should show for another. In the same manner Gaius Aquilius’ promulgation of the law of *dolus malus* is viewed by Cicero as a highpoint of legal development. For by aiming to remove deception in commercial dealings, it represents the codification of a value consonant with the

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<sup>40</sup> *On Duties* III. 27.

highest moral standards of natural law, consonant, that is, with the dignity of the individual and the demand that each person look out for the interests of others.

To Cicero's mind, a system of statutes that fails to recognize this value is itself a failed system. The moral standards of natural law are what in essence makes any law legitimate. This is because: "nature is the fountain of law."<sup>42</sup> Regarding what should be the relation between nature-based law and the varied statutes of individual communities Cicero is quite explicit: "everything in the civil law need not be in the law of nations<sup>43</sup>, but everything in the law of nations ought to be part of civil law." This view represents the core of natural law theory. It is the viewpoint of Cicero and Antipater. Diogenes and Hecato, on the other hand, represent the position of legal positivism, a position whereby, in judging the legality or morality of an action, there is no higher bar than the appeal to the law itself; and law itself has no other ground than simple convention.<sup>44</sup>

In bringing together moral duty and legal obligation, Cicero does not (as Annas contends) create a non-existent conflict. Quite the opposite: he brings a conflict into existence so that that which he conceives as transient and empirical (*leges, mores, instituta*) can be transformed through contact with the eternal and transcendent (*natura, lex naturae, lex rationis*); so that the Roman civil law [*ius civile*] can be made to conform to the demands of the law of peoples [*ius gentium*]. For this reason Cicero would stand at odds to Annas' interpretation of the issues at stake in the examples of the corn merchant and house-seller. Annas writes:

A seller who proceeds on the principle of *caveat emptor* is not responding to the needs and interests of others, as it is his moral duty to do; but it is also true that he is not *wronging* anyone—where no *ius* is violated, there is no *iniuria*.<sup>45</sup>

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<sup>41</sup> Kant, *Groundwork*, 429

<sup>42</sup> *On Duties* III. 72.

<sup>43</sup> law of nations = natural law. Cf. Cicero, *On Duties*, ed. Griffin and E. M. Atkins M. T (Cambridge: Cambridge University Press, 1991), p. 126.

<sup>44</sup> For the positivism of the Roman jurists and their failure to follow Cicero, cf. Watson, *Spirit of Roman Law*, p.199.

<sup>45</sup> Annas, "Cicero on Stoic Moral Philosophy and Private Property," p. 173.

Cicero's main contention is that nature not convention should be the arbiter of legal obligations [*ius*]. The nature in question is that of Stoics like Antipater who make their stand on the ultimate value of *honestas*. This defense is attached to the orthodox position of radical Stoicism: the complete equivalence of the *utile* and the *honestum*.

The principle of 'buyer beware' (*caveat emptor*) leaves the seller free to employ the tactics of silence as advocated by Diogenes. It demands nothing from the seller but the rawest self-interest. Roman law of delict sought to limit the play of deceitful self-interest by identifying and punishing instances of *astutia*. A landmark moment in this development was the definition of *dolus malus* by Gaius Aquilius: "when one thing is pretended and another is done"—that is malicious fraud. Cicero goes even further. By advocating the example of Scaevola Pontifex, while condemning the standpoints of Diogenes, Hecato, and even his dear Ennius, Cicero demands not only the punishment of deception, but more importantly the protection of the innocent. He demands positive consideration of the interests of the other—even in the face of one's own apparent disadvantage.

## **Point two: Liberality and Criminality**

The second point to be drawn from the quote of Hecato is somewhat less profound; it addresses an apparent dissonance in Cicero's account. For on first glance, in rejecting Hecato's exhortation to personal wealth seeking, Cicero seems to have reversed himself or at least to have minimized values set forth in Books I and II. As Andrew Dyck writes: "personal wealth provides the material for benefaction and thus binds the community together . . . Elsewhere Cicero shows himself well aware of the force of this commonsense view, which his unqualified support for Scaevola's action forces him to downplay."<sup>46</sup> The inconsistency Dyck spots can to some extent be alleviated by a closer look at the strictures regarding benevolence in Book I and appreciation of the core value struck in Book III. For in both Books the question is not

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<sup>46</sup> Dyck, *A Commentary on Cicero, De Officiis*, p. 574.

*whether* wealth is to be pursued but rather *how* wealth is to be pursued (and dispensed).

This is seen most forcefully, and in a manner made poignant by the availability of Roman examples, in Book I. There, after criticizing the avarice of Marcus Crassus and noting in general terms the tendency of luxury-seeking to expand the desires, Cicero remarks “expansion of one’s personal wealth as harms no one is not, of course to be disparaged; but committing injustice must always be avoided.”<sup>47</sup> Cicero is aware of the purely egoistic ends that wealth accumulation can be made to serve. He knows as well its criminal potential: how, no less egoistically, the accumulation of wealth and even the desire to benefit “children, relatives, and friends” can lead to criminal consequences.

There are, though, many especially those greedy for renown and glory, who steal from one group the very money they lavish on another. They think they will appear beneficent towards their friends if they enrich them by any method whatsoever. But that is so far from being a duty that in fact nothing could be more opposed to duty. We should therefore see that the liberality we exercise in assisting our friends does not harm anyone. Consequently, the transference of money by Lucius Sulla and Gaius Caesar from its lawful owners to others ought not be seen as liberal; nothing is liberal if it is not also just.<sup>48</sup>

In the end Hecato’s picture of social benevolence is overly innocent. It has not taken in the factors of human egoism, its even criminal potential. Such potential is contained by Cicero’s humanity-based ethics of exchange, an ethic whereby no individual is ever reduced to being a *means* of economic profit or exploitation. Each person has their value; each person has their worth. By acknowledging that worth, Cicero refines rather than refutes Hecato’s position.

In most general terms, Cicero objects to the positivist standards implicit in the view of right and wrong advocated by both Diogenes and Hecato. He objects to those standards because they do not guarantee the level of integrity enshrined in the

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<sup>47</sup> *On Duties* I. 25.

deception clause and golden rule. He objects to them even more because they do not uphold what he takes to be the positive burden of justice: to prevent harm being done. As Dyck says: “[Cicero] wants to extend to property the precept that failing to protect another against harm is itself a form of injustice (cf. ad. 1.23)”<sup>49</sup> Hecato, Diogenes, and the house-seller, and corn merchant have lost sight of this value.

## **Beyond Stoic Orthodoxy: Regulus and the Protection Clause**

In contrasting these figures, Cicero aims to temper Roman avarice with the wisdom behind Stoic orthodoxy. That is to say, in Stoicism wealth is a “preferred indifferent” — something that, all other things being equal, ought to be pursued; but never in a manner running contrary to virtue; since virtue itself is the only ultimate, true, and unequivocal good. Cicero has internalized this view. For this reason “personal wealth ought to be pursued by means that are free from dishonourableness.”<sup>50</sup> But *On Duties* is not content with a mere prohibition against avarice. In Book III Cicero goes beyond this single vice and attempts to explicate the ultimate principles of virtue, principles whereby all sorts of doubtful cases can be settled. The principles he comes up with are the golden rule, the deception clause, and the protection clause, all three having as their foundation the value extended to the individual human person *qua* human being.

Recognition of the protection clause is essential to appreciation of Cicero’s moral accomplishment in *On Duties*; for it (the protection clause) connects with the large theme of man’s purpose on earth: to be helpful to other men<sup>51</sup> and thereby build up the *societas humana*. This theme of man’s helpfulness to man is constitutive of Cicero’s concept of virtue:

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<sup>48</sup> *On Duties* I. 43.

<sup>49</sup> Dyck, *A Commentary on Cicero, De Officiis*, p. 575.

<sup>50</sup> *On Duties* II. 87

<sup>51</sup> *On Duties* II. 11-12.



Thus there can be no doubt on this question, that it is men who inflict on their fellow-men both the greatest benefit and the greatest harm. Therefore I count it as the special property of virtue to make its own the hearts of other men and to enlist them in its [virtue's] service. . . it is the wisdom and virtue of outstanding persons, however, that inspire other men to be prompt, ready, and devoted in assisting our advancement.<sup>52</sup>

Here Cicero announces an instrumental notion of virtue: virtue's purpose is to win influence over men so that the aims of virtue can themselves be realized. The aim of virtue is the prospering of the *societas humana* and the flourishing of its individual members. In Cicero's conception the latter is achieved only by means of and in the context of the former. As such Cicero posits a common good beyond the good of the individual. The protection clause is a key element in the self-consciousness of the *vir bonus* as Cicero constructs him. The *vir bonus* is a leader of mankind who builds up the community by the quality of his leadership—a key component of this leadership being protecting the community from harm.

This key component wins expression in the climactic figure of Book III, Marcus Atilius Regulus. For Cicero, Regulus represents the self-abnegating values of Scaevola at work not in the commercial but in the political realm. The elements seen in the commercial examples (reticence, ignorance, profit-taking, and self-interest) reappear in the episode of Regulus.

Marcus Atilius Regulus, as consul for the second time, was captured by ambush in Africa. . . He was sent to the senate, having sworn that he would return to Carthage unless certain noble captives were returned to the Carthaginians. . . What, therefore did he do? Entering the senate, he revealed his instructions; then he refused to vote himself, saying that as long as he was held under oath by the enemy he was not a senator . . . he even claimed that it

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<sup>52</sup> *On Duties* II. 17. Cicero expresses himself egoistically at times here speaking of 'assisting our advancement' [*ad amplificationem nostrarum rerum*] or at 2. 20 of "enlisting men into our service" [*ad utilitates nostras allicere*]; but such language is to be read in the context of

was not beneficial to restore the captives: for they were young men and good leaders while he was worn out by age. His authority prevailed, and the captives were kept there. He himself returned to Carthage, held back by love neither of his country nor for his family and friends . . . even while he was dying through enforced wakefulness he was better off than if he had remained at home, a consular but elderly, captive, and foresworn.<sup>53</sup>

Regulus is, for Cicero, the ideal political man. Parallels can be drawn between his behavior and that of the corn merchant and house seller handled above. Just as the ideal merchant looks out for the interests of the buyer, just as if he were another self; so too the ideal politician looks out for the good of the state, just as if it were another, and dearer, self. Regulus will not deprive the state of the good that is its due any more than the moral seller will swindle an unknowing buyer. Regulus breaks his silence to inform the senate of what is in their true interest, just as the moral seller would. So too Regulus willingly suffers diminishment of his own apparent profit—“to remain in his own country, to be at home with his wife and children, to maintain his rank and standing as an ex-consul”<sup>54</sup>— surrendering it for the sake of the interest of the political community, since as a political leader his foremost value is to protect, not himself, but the political community from harm.

Like Regulus, Cicero’s *vir bonus* is a politically potent man. He has dedicated his life to building up a political following whose loyalty depends upon the recognition of virtue and good will. In Books I and II of *On Duties*, Cicero outlined the characteristics and virtues of persons in authority, the necessity that their authority be based on love (*caritas*) rather than fear (*metus*).<sup>55</sup> The possession of such authority Cicero considers to constitute true glory. He details the elements of which such glory consists: “The peak and perfection of glory lies in the following three things: if the masses love you, if they have faith in you, if they think you worthy of some honour

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Republican political institutions where power comes through election to office and election comes through personal support. On the selflessness of the true politician, cf. II. 75-6.

<sup>53</sup> *On Duties* III. 99-100.

<sup>54</sup> *On Duties* III. 99.

combined with admiration.”<sup>56</sup> In describing the qualities possessed by the man of true glory and righteous authority, Cicero revisits the virtues elaborated in Book I. Liberality—“[goodwill] secured by kind services”—is key to winning the love of the masses<sup>57</sup>; wisdom and justice are key to winning their trust<sup>58</sup>; while temperance and greatness of soul secure the admiration that leads to honour.<sup>59</sup> Cicero’s portrait of the virtuous politician is drawn in contrast to that of the venal one: the political operative who gains his support not through his virtuous character but through bribery<sup>60</sup> and flattery of the masses.<sup>61</sup> Such persons may obtain political power; they will never, in Cicero’s eyes, obtain true glory.

For Cicero, the exercise of virtue depends on power and power depends on virtue. Political potency—a faithful following—is the material by means of which virtue is realized; and virtue itself is the means whereby a political following is rightfully gained. For this reason, Cicero’s laments the eclipse of jurisprudence, government, and oratory under the reign of Caesar.<sup>62</sup> His regret signals a concern deeper than the mere political. Or rather, it signals how deep Cicero imagines the political to pervade. That is to say, for Cicero, the eclipse of the instruments and institutions of Republican government (jurisprudence, government, and oratory) represents an existential crisis, a sudden deficit in the potentialities available to Roman manhood. Just as an unscrupulous merchant upsets the proper balance of property, so an unjust regime upsets the balance of political goods. Under tyranny no one’s political or material property or life is secure, since laws have been abrogated and everyone and everything is at the mercy of the tyrant. Key is the disappearance of law—law which Cicero likens to a just ruler of high moral character.<sup>63</sup> Under a lawless tyranny, the state has been diminished. This diminishment affects every individual

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<sup>55</sup> *On Duties* II. 23-29.

<sup>56</sup> *On Duties* II. 31.

<sup>57</sup> *On Duties* II. 32

<sup>58</sup> *On Duties* II. 33.

<sup>59</sup> *On Duties* II. 36-8.

<sup>60</sup> *On Duties* II. 21.

<sup>61</sup> *On Duties* II. 55, 63.

<sup>62</sup> *On Duties* II. 65-7.

<sup>63</sup> *On Duties* II. 41-2.

citizen. Likewise, as under Caesar's dictatorship the availability of political goods and activities became curtailed, so too, in Cicero's judgment, had man, the political animal, been curtailed.

The political community receives primary value because it allows each individual both to fulfill the demands of their humanity and to acquire those things that are necessary to life. The unity of the *societas humana* is key to the human person's political fulfillment and material satisfaction. The principles of political responsibility Cicero elaborates are essential, he believes, to upholding this union—no less so than the ethical principles of mercantile exchange. But more than that, living in accord with these principles is, for Cicero, vital to the realization of one's ethical and spiritual being, is vital to the realization of one's character as a *vir bonus*. This realization occurs in both the mercantile and the political domains.

## Conclusion

Cicero's ethics of exchange demands that one never lose sight of the humanity of the person with whom the exchange is transacted. His ethics of politics demands that one never lose sight of the good of the community as embodied in the political potential of each of its members. Humanity has its own value, a value always to be regarded. This value prohibits humanity from ever being demoted to a mere *means* of economic benefit or gain. This principle applies to political goods. The *dominatio* of Julius Caesar disrupted the free exchange of political goods thereby endangering the life and vitality of the *respublica* conceived along traditional Republican lines. For Cicero, Caesar is a monster devouring the political liberties of his aristocratic peers. In making himself master of Rome, Caesar enslaved the Roman aristocracy. He made them instruments of his whim and thus reduced their human dignity as free citizens of a republic. In this way Caesar's dictatorship is no less a violation of the principle of justice *suum cuique tribuere* than were the scandalous dealings of the corn merchant and the house-seller. Just as the corn merchant and house seller take what is not theirs,

namely the monies paid in excess of the true value of the goods purchased—so too Caesar abrogated to himself honors and powers rightfully belonging to the Roman ruling class as a whole. In diminishing the possibilities for political potency Caesar disturbed the distribution of honor just as the corn merchant and house dealer upset the rightful distribution of wealth by asking too much for their goods.

The parallelism extends to the question of legality as well. For persons content with the positivism of Diogenes and Hecato, the corn dealer, the house seller, and even the man who throws his slave overboard to save his expensive horse<sup>64</sup> are all unimpeachable in their behavior. They operate within the bounds of legality so they operate beyond the reach of reproach. In the same way, from the standpoint of the legal positivist, the reign of Julius Caesar—founded on the pure law of force—required nothing more than statutory legitimization. From Cicero’s standpoint there was no possible way for it to be legitimized, since it violated the law of nature by destroying the *respublica*; just as there was no way for the behavior of the merchant and house seller to be legitimized, since their behavior threatened the *societas humana*.

One logic underlies Cicero’s hatred of Julius Caesar, his approval of Regulus, and his condemnation of the corn dealer and house seller: human persons are to be respected, protected, and not disadvantaged by force or deception. Thus the integrity of the political community is maintained. Thus each person is guaranteed his or her political and economic due. The empirical forcefulness of this principle is clear. Not everyone is able to look after him or herself; certain people (e.g., children, the aged, persons defeated in war) are completely vulnerable. Cicero’s view demands that their humanity ought to count for something: it ought never be a mere means to economic or political advancement. Cicero’s view proposes to measure virtue by the value accorded humanity in situations of weakness or vulnerability. On these terms Cicero despised Caesar’s *dominatio* and thought he should have restored the prone and vulnerable republic. On these terms, despite his limitations, Cicero ought to be judged a clear-sighted moral sage.

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<sup>64</sup> *On Duties* III. 89.



The education and habits that make a man excellent are pretty much the same as those that make him statesmanlike or kingly.

Aristotle, *Politics* 1288b 1-2

## CICERO'S IDEAL POLITICIAN

In *On Duties*, Cicero is a fully self-conscious writer addressing three different audiences. He writes first of all and directly to his son; he writes secondly for his contemporaries and peers in the context of the fight against Antony; and he writes, finally, for us—the men and women of indefinite posterity. For all three audiences he has the same message: something has gone terribly amiss in the functioning of our Republic; Stoic philosophy can reorient our political values in such a way as to make the Republic again viable, if not immediately, at least in the far away future. By injecting, into the Roman political sphere, Stoicism's insistence on the priority of virtue as the one sole good in itself, Cicero creates a portrait of the ideal politician. Cicero's portrayal of the ideal politician is both realistic and idealistic: it reflects both an idealistic appraisal of the moral capacities of the individual and a realistic account of the circumstantial challenges placed before that individual, circumstantial challenges arising from a non-ideal inner and outer environment, that is to say, from psychological and political environments both set upon undue self-gratification. For Cicero, the righteous politician must struggle both against himself and his fellows; in order to muster what is best in his fellow citizens, he must first master what is worse in himself and counter what is worse in the social sphere. Cicero registers a persistent awareness of the inner and external challenges facing the ethical politician; he employs Stoic teaching on the nature of the good as a guideline through those varied

psychological and social challenges.

At the onset of *On Duties*, Cicero explains to his son precisely why he has chosen, in his exposition of *officia*<sup>1</sup>, to follow the Stoic school, and why, from this point of view at least, he scorns the doctrine of Epicurus:

The man who defines the highest good in such a way that it has no connection with virtue, measuring it by his own advantages rather than by honourableness, cannot (if he is in agreement with himself and is not occasionally overcome by the goodness of his own nature) cultivate either friendship or justice or liberality. There can certainly be no brave man who judges that pain is the greatest evil, nor a man of restraint who defines pleasure as the greatest good.<sup>2</sup>

Friendship, justice, and liberality, endurance of pain and restraint from pleasure—these are the major motifs of Cicero’s ethical teaching in *On Duties*. As such they constitute the core of this vision both of the ethical man and of the ideal politician. This vision takes form beginning with Cicero’s account of the four virtues (wisdom, justice, greatness of soul, and decorum) in Book I; it continues with his integration of these virtues with the ethical pursuit of power in Book II; and it concludes in Book III with varied examples of the ‘apparent conflict’ between the honourable and the expedient culminating in the example of Marcus Atilius Regulus. Over the course of the work, each of the virtues is given more and more definition, a definition distinctly republican in its tint. That is to say, just as Aristotle had asserted that the virtue of a citizen would vary according to the character of the constitution he lived under<sup>3</sup>, so too Cicero constructs a portrait of the ideal human being itself consistent with that of the ideal leading citizen in a Republic. It is not possible to disconnect Cicero’s moral ideal from his political preference for republican government; the two go hand in hand. Even though Cicero viewed the Republic of his peers as dead, he will not abandon hope for republican government and virtue—either for his son or for us. Cicero’s

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<sup>1</sup> Atkins, "Cicero," p. 511.

<sup>2</sup> *On Duties* I. 5.

<sup>3</sup> *Politics* III. 1, 1275b 2-3.



commitment to republican government pervades the whole of *On Duties*. For this reason the recent threats to republican government play a large role in his conception of the virtue and vices of political life. Though the light and brilliance of Regulus' example may have the final word, the shade and darkness of the careers of Sulla, Caesar, and Crassus are of no less importance to Cicero's project.

Cicero's account of the human situation begins with the Stoic doctrine of *oikeiosis*, which he extends to its widest scope and significance.<sup>4</sup> As we instinctively strive for our own wellbeing and that of our offspring, so we *ought* to strive rationally for the wellbeing of our communities. This is because the political community, as it were, "embraces all the affections of all of us."<sup>5</sup> Cicero seems here to contend that no loved object is secure outside of the safety of the political community; thus, the political community itself should be the foremost object of our affections.

We are not born for ourselves alone, to use Plato's splendid words, but our country claims for itself one part of our birth, and our friends another. Moreover, as the Stoics believe, everything produced on earth is created for the use of mankind, and men are born for the sake of men, so that they may be able to assist one another. Consequently we ought to follow nature as our leader, to contribute to the common stock the things that benefit everyone together, and, by the exchange of dutiful services, by giving and receiving expertise and effort and means, to bind fast the fellowship of men with each other.<sup>6</sup> [My emphasis]

This 'ought' is very attractive to Cicero, for it militates against the possibility he most scorns: the possibility that someone would think he or his family could rightfully prosper either at the expense of some other individual or at the expense of the greater

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<sup>4</sup> *On Duties* I. 11 ff. For *oikeiosis* generally see S. G. Pembroke, "Oikeiosis," in *Problems in Stoicism*, ed. A. A. Long (London: The Athlone Press, 1971). And more recently Tad Brennan, *The Stoic Life: Emotions, Duties, and Fate* (Oxford: Clarendon Press, 2005).

<sup>5</sup> *On Duties* I. 57, Atkins, "Cicero," p. 508.

<sup>6</sup> *On Duties* I. 22.

community of persons.<sup>7</sup> But the conflict here is very real. If Stoic *oikeosis* demands that you care first and foremost for yourself and your offspring, then there just may arise occasions where your own wellbeing or that of one's offspring appear to conflict with the good if not of the political community most certainly of some member of the political community not so closely related to oneself. The special care with which one views oneself and one's offspring stands distinct from the not so special care with which you view others outside that smaller circle. This distinction is the bane of Cicero's account and he is constantly trying to surmount it. For, as he outlines his ethical ideal, Cicero constantly butts against the limitations of human compassion. At one point in the text this frustration becomes especially clear. Commenting on a saying of one of Terence's characters—"Nothing that is human is another's affair"—Cicero remarks almost in despair "Yet in fact we do tend to notice and feel our own good and bad fortune more than that of others, which we see as if some great distance intervenes; accordingly, we do not make the same judgments about them and about ourselves."<sup>8</sup> Cicero's account reveals this discrepancy of viewing to be the foremost political malady, since it affects our political relationships across the board. Whether it be a foreign people about to be conquered, persons in need of our generosity, or a political enemy or adversary with whom we are in contest, the inability to see the other with the same attitudes that we apply to ourselves plagues Cicero's vision of political and ethical life.

But this bane is the wellspring of Cicero's vision of the ethical politician. According to that vision, in the process of coming to define oneself, each person stakes out his own area of self-concern, beginning with himself and extending through family and friends and community to embrace—if he is a political sort of the highest type—the life of the nation. Cicero does not think that all people are cut out for political life. For Cicero, human beings are political by nature, but they are politicians by inner vocation. Political life requires special talents—in particular an inner drive for achievement and recognition—that not all men possess. It is up to each individual

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<sup>7</sup> *On Duties* III. 28.

<sup>8</sup> *On Duties* I. 30

to examine himself and determine whether he has the requisite qualities.<sup>9</sup> But even if one is not cut out for political life, each individual still has a role to play in the overall life of society. For, on the other end of the spectrum, Cicero insists that the integrity of social life is best preserved when each person attends to the sphere of his own concern, however far that may extend. “The fellowship between men and their common bonding will best be preserved if the closer someone is to you the more kindness you confer upon him.”<sup>10</sup> We all have a responsibility to care for our children and parents, our kin and our friends. But Cicero’s politician takes on an additional set of burdens. The politician for Cicero is the exceptional man, the man who has decided that his sphere of concern will extend across the entire political community and perhaps even embrace the whole of humankind. This is a very special calling, and Cicero’s account works hard to outline the challenges and responsibilities entailed by answering it.

Cicero crafts each of his four virtues to suit the station of a man dedicated to civic life. The first virtue Cicero tackles is wisdom. In speaking of wisdom, Cicero’s main concern is that the quest for knowledge never stand in the way of the duties of the active political life. Seeking knowledge is never allowed to become an end in itself. The attractions of speculative knowledge—knowledge of the stars, of the circumference of the earth, etc.—must never so involve one as to distance him from his civic duties. These duties Cicero envisions in a wide communitarian fashion; they imply participation in the mutual exchanges (of services and labor by the lower classes and beneficences and leadership from the higher) that in and of themselves justify the continuance of the political community and that give it value as a proper civic union.<sup>11</sup> Expressed in these wide terms, every individual member of the *respublica* has some measure of responsibility in ensuring its maintenance. Cicero therefore envisions a sharp separation between speculative and practical pursuits. He does not seem to imagine that a sole dedication to speculation might eventually have practical fruit. Rather, he imagines speculative investigation to be an activity conducted purely for its

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<sup>9</sup> *On Duties* I. 73, 121.

<sup>10</sup> *On Duties* I. 50.

<sup>11</sup> *On Duties* I. 22; II. 11-15.

own sake. Not content with its isolation from the world of politics, in the end Cicero even reinterprets the very content of wisdom to ensure that it bows to his communitarian priorities. “The wisdom that I declared to be foremost is the knowledge of all things human and divine; and it includes the sociability and fellowship of gods and men with each other. If, as is certain, that is something of the greatest importance, then necessarily the duty that is based upon sociability is also of the greatest importance.”<sup>12</sup> The “duty based on sociability” is justice. And Cicero views justice as the virtue that most binds men in solidarity with one another and hence as the most important of all virtues.<sup>13</sup>

Cicero’s complex discussion of justice is anchored by his assertion of the two fundamentals of justice (*fundamenta iustitiae*): “first that one should harm no one; and secondly that one serve the common advantage (*communa utilitas*).”<sup>14</sup> Cicero construes the common advantage primarily in political and economic terms. As such the common advantage is maintained thorough the preservation of *aequitas*; that is to say, it is maintained both through the protection of the just distribution of political privilege and through the protection of the rightful distribution of private property. Cicero’s own political conservatism determines his outlook as to what is just and what is proper in the distribution of political and economic capital. Just political distributions are those resulting from the violence-free and bribery-free functioning of republican political institutions, a functioning that secures the liberty of the senate and people of Rome.<sup>15</sup> Injustice in this sphere results when individual politicians employ either violence or bribery to accumulate political capital surpassing that tolerable to the institutional functioning of the Republic. Proper distribution of economic capital Cicero views as holding consistent with the accepted manners of appropriation from the commons—that is to say “by long occupation (as when men moved into some

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<sup>12</sup> *On Duties* I. 153.

<sup>13</sup> Atkins, “Domina Et Regina Virtutum!: Justice and Societas in De Officiis.”

<sup>14</sup> *On Duties* I. 31.

<sup>15</sup> Atkins, “Cicero,” p. 483, P. A. Brunt, “*Libertas* in the Republic,” in *The Fall of the Roman Republic* (New York: Oxford University Press, 1988), Chaim Wirszubski, *Libertas as a Political Idea at Rome During the Late Republic and Early Principate*, Cambridge Classical Studies (Cambridge Eng.: University Press, 1968).

empty property in the past), or by victory (when they acquire it in war) by law (*lege*), by settlement (*pactione*), by agreement (*condicione*), or by lot (*sorte*).”<sup>16</sup> Though “nothing is owned by nature”<sup>17</sup>, Cicero acknowledges these accepted modes of appropriation from the commons as socially approved and thus as worthy of protection by the institutions and laws of the state. Injustice in this sphere is most common when rightful owners are deprived of their property as a result of civil disturbance. In Cicero’s mind such disturbances run the gamut from ‘legal’ debt resettlement or agrarian reforms to heinous proscriptions carried out by the likes of Sulla and Caesar at the end of civil wars.<sup>18</sup> Such injustice is for Cicero the rot of social cohesion. His ideal politician will never indulge in such acts. He will respect private property first and foremost; he will respect the political rights and prerogatives of others; he will never—as both Sulla and Caesar did—expropriate the property of his enemies in order to benefit his followers or to enhance his own political standing. He will never compromise the mechanisms or offices of the inherited constitution.

Caesar and Crassus all used their extraordinary wealth to accumulate extraordinary power. Cicero is not so unrealistic as to think that wealth will vanish from Roman political life; he is however idealistic enough to believe that love of wealth will not so invariably dominate its proceedings as to reduce them to a continual play of venality, bribery, and expropriation. But here again he comes up against the obstacle of human egoism. On the one hand, men like Caesar and Crassus will use their wealth to wrongfully influence political affairs, and will not stop at wrongfully acquiring wealth in order to wield this level of power. On the other hand, even the less ambitious are rarely free of egoism in their generosity. Though Cicero considers that “the most important function of duty (if all else is equal) is to enrich above all the person who is most in need of riches,” he has to admit that “people generally do the opposite; for they defer above all to him from whom they expect the most, even

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<sup>16</sup> *On Duties* I. 21. For the differences between *lege*, *pactione*, *condicione*, and *sorte* cf. Dyck, *A Commentary on Cicero, De Officiis*, pp. 110-11.

<sup>17</sup> *On Duties* I. 21.

<sup>18</sup> Atkins, "Cicero," p. 509-10.

though he does not need them.”<sup>19</sup> Here again egoism interrupts proper public spirit, as in the personalized world of Roman *beneficentia*, favor is given, not to those who most need it, but to those who are most likely, at some later date, to benefit the giver in turn. True justice requires a less self-interested disposition of political and economic capital—a disposition Cicero viewed as possible but did not see as actual in the Roman Republic of his day.

In many ways Cicero’s discussion of greatness of soul revisits the issues at stake in his discussion of justice. For Cicero the good of the state must orient all one’s political action. That good is endangered when individual politicians look rather to their own aggrandizement. Cicero views this as a natural reflex of persons of high spirit: to look to their own advancement come what may. Extreme greatness of soul—a quality he accords to Julius Caesar and Marcus Crassus especially—leads one to wish for sole rule.<sup>20</sup> For Cicero, this goes against the *aequitas* consistent with a republican system of government. For this reason he contrasts the equality and reciprocity of rule shared by members of a republican ruling class (*iustitia pares*) with the violence of those who would rule as ‘tyrants’ (*vi superiores*), a violence associated with bribery and factionalism.<sup>21</sup> The key to a successful Republic is that no individual or group of individuals grows so powerful as to threaten the cooperation existing between all members of the ruling class. But when politicians throw aside their sense of republican restraint, resorting to bribery and powerful factions to unduly increase their power, they endanger the smooth functioning of republican government. The military career of Caesar is a special case in point. It leads Cicero to reappraise the place of military glory in the life both of the state itself and in the career of the ideal politician.<sup>22</sup> This reappraisal in turn affects Cicero’s portrayal of greatness of soul.

Cicero begins his reappraisal of current conceptions of greatness of soul by pointing to a well-attested fact. Romans, he insists, most often identify greatness of soul with standing brave in martial circumstances. An evaluation going back to

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<sup>19</sup> *On Duties* I. 49.

<sup>20</sup> *On Duties* I. 64.

<sup>21</sup> *On Duties* I. 64.

<sup>22</sup> Atkins, "Cicero."

Homer's portrayal of Hector, in Roman society it was most manifest by the fact that monumental sculptures most often displayed their glorified subjects in military garb.<sup>23</sup> But this identification proved to have fatal consequences in the late Republic when coupled with the great general's own egoism and attachment to his own *dignitas*. Cicero identifies this association of egoism and military command as of great danger to the state. Citing the examples of the Spartans Callicratidas (an admiral) and Cleombrotus (a general), Cicero recalls how their refusal to suffer the personal dishonor associated with declining battle cost Sparta in the one case a fleet and in the other her very empire.<sup>24</sup> Faced with the dilemma of sacrificing himself or endangering his country, the ideal politician should recall that "we must be more eager to risk our own than the common welfare."<sup>25</sup> Here Cicero limits himself to foreign examples since he does not need to remind his readers what Julius Caesar's egoism has more recently cost Rome.

But Cicero derives more from these examples than just another blow against Caesar's memory and ambition. He derives from them a larger lesson for the Roman people, a lesson derived from Stoic orthodoxy viewed as a tonic for Roman self-assertion. Rather than identifying greatness of soul and fortitude with purely military accomplishments, Cicero wishes to identify them with doing great deeds that even endanger one's outward goods.<sup>26</sup> The ability to endanger one's outward goods—including one's glory before the people—Cicero identifies with a general indifference to outward circumstances. This indifference is itself founded upon the Stoic view that moral rectitude is the only good<sup>27</sup>, a view Cicero connects both with indifference to wealth and immunity to the attractions of pleasure and the repulsions of fear.<sup>28</sup> In interjecting this Stoic conception into the mentalities of Roman political life, Cicero wishes to short-circuit what was very nearly a reflex reaction in the Roman political

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<sup>23</sup> *On Duties* I. 61. William V. Harris, War and Imperialism in Republican Rome, 327-70 B.C. (Oxford, New York: Clarendon Press ; Oxford University Press, 1979).

<sup>24</sup> *On Duties* I. 84.

<sup>25</sup> *On Duties* I. 83.

<sup>26</sup> *On Duties* I. 66.

<sup>27</sup> *On Duties* I. 66.

<sup>28</sup> *On Duties* I. 68.

psyche: the view that great toil on behalf of the state should be rewarded by great glory in the eyes of its citizens.<sup>29</sup> Cicero wishes to undermine this association because he has seen the damage that can result to the state when powerful citizens are unwilling to sacrifice what they consider to be the glory befitting their accomplishments. Even worse is when they—like Julius Caesar—indulge in honors greater than a republican system can ever tolerate.

Cicero does not in *On Duties* mention the extraordinary honors conferred by the Senate upon Julius Caesar. Perhaps they were too shameful to mention. He does, however, spotlight the one honor Romans of the ruling class were most commonly attached to: the desire for military command. “Beware also the desire for glory, as I have said. For it destroys the liberty for which men of great spirit ought to be in competition. Nor should you seek military commands. In fact sometimes these should be refused and sometimes even resigned.”<sup>30</sup> Cicero’s advice not to seek military commands must have fallen with a shock upon Roman ears. But this advice too is a lesson from the book of Caesar. Military commands are to be accepted only in circumstances where they do not upset the balance of the republican liberty—its balance of power between all the members of the ruling class.

Associated with his overall attempt to diminish the importance of military life in the Republic is a long excursus on the primary importance of the works of civilian politicians.<sup>31</sup> Easily read as a vainglorious attempt on Cicero’s part to elevate his own career, it is of course this, but it is more than this. In arguing that the achievements of war ought to be rated less highly than those of peace, Cicero is arguing for the view that the solidification of the state’s constitution needs to be cultivated and attended to no less than the extension of its borders. In his mind Romans have spent too much time at war and too little time at the work of solidifying the constitutional underpinnings of the Republic. This neglect is the main reason why Rome no longer has a Republic. That is to say, because those in power looked upon civil war as a first

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<sup>29</sup> Atkins, "Cicero," p. 482, Harris, *War and Imperialism in Republican Rome, 327-70 B.C.*, Long, "Cicero's Politics in *De Officiis*."

<sup>30</sup> *On Duties* I. 68.

<sup>31</sup> *On Duties* I. 74-78.



rather than a last option and chose the sword sooner than the toga, the republican constitution was swallowed up in Caesar's victory. What Rome most needed in the days of the conflict between Pompey and Caesar was a great peacemaker, not hawks like Metellus and Cato.<sup>32</sup> This is how I believe we should understand his insistence that constitutional achievements like founding of the Areopagus by Solon "serve the city forever,"<sup>33</sup> whereas successful wars are just incidents in the life of the city, temporary moments of glory. In line with this prioritization, Cicero views constitutional success as the precondition of military success; a flourishing state is the environment in which military glory is celebrated. He quotes Pompey as having told him "that he would have won his third triumph in vain had my service to the republic not ensured that he had somewhere to celebrate it."<sup>34</sup> The state could have survived without Pompey's victory over Mithridates; it could not have survived without Cicero's over Catiline. Likewise, Cicero seems to be implying, the state could have survived—albeit in reduced fashion—without the war against Caesar, whereas it could not and did not survive Caesar's victory.<sup>35</sup> This is the lesson Cicero wishes to instill in his Roman peers, his son, and posterity—that civil war is a dangerous game, since victory concentrates power in the hands of a single general and thus renders any Republic vulnerable to disruption. The arts of peace are far less dangerous and more vital since they observe and maintain the equality demanded by republican institutions. Cicero's excursus on the merits of civilian service is more than just an effusion of self-congratulation. It spotlights the importance to any constitutional arrangement of maintaining the balance of power within the state through negotiation and constitutional adjustments. Along with his Stoic retooling of the notion of greatness of soul, it points to a new political ethic of self-abnegation.

An additional aspect of this self-abnegation extends itself even in the domain of civilian politics. Located in what Cicero calls loftiness of spirit (*altitudo animi*)<sup>36</sup>, it represents a level of mental composure essential to the republican politician, a

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<sup>32</sup> Brunt, "Cicero's *Officium* in the Civil War."

<sup>33</sup> *On Duties* I. 75.

<sup>34</sup> *On Duties* I. 78.

<sup>35</sup> Brunt, "Cicero's *Officium* in the Civil War," p. 20.

composure manifesting itself in forbearance both of the attacks of one's political enemies and of the demands of one's political dependents. In spotlighting this virtue, especially in so far as it applies to one's political enemies, Cicero registers his awareness that the temperature of Roman political discourse and rivalry had risen much too high; that a great deal of civility had vacated the Roman political scene. In this context he points to Metellus and Africanus, politicians of an earlier generation, as a positive example of civilized political competition.<sup>37</sup> One may be in competition with other men for political office, but that does not mean that one wishes them harm or views them with ultimate hostility. The union and health of the state must trump any such political enmities. Cicero does not believe that anger can ever be of political service; indeed he does not believe it can be of any service.<sup>38</sup> One may at times have to reprove one's political opponents and use severity in doing so; but even such severity must be delivered in a politic way, in a selfless fashion with an eye to what is good for the state. "Our prayer should be that those in charge of the republic be like the laws, which are led to punish not through anger but through fairness."<sup>39</sup>

These strictures all accord with Cicero's general view of the fourth virtue, decorum. "What is seemly is that which agrees with the excellence of man just where his nature differs from that of other creatures."<sup>40</sup> Animals are not able to settle their disputes in any other way than by physical confrontation and battle. Humans on the other hand have been given speech and reason and the ability to control even their most powerful emotions. This general view of decorum is only with difficulty separated from specific decorum that Cicero identifies with moderation, temperance, and "the appearance of a gentleman."<sup>41</sup> In this specific sense, decorum displays the beauty of "order and constancy and moderation of every word and deed."<sup>42</sup> It is "doing

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<sup>36</sup> *On Duties* I. 88.

<sup>37</sup> *On Duties* I. 87.

<sup>38</sup> *On Duties* I. 89.

<sup>39</sup> *On Duties* I. 89.

<sup>40</sup> *On Duties* I. 96.

<sup>41</sup> *On Duties* I. 96.

<sup>42</sup> *On Duties* I. 98.

the right thing at the right time”<sup>43</sup> and as such too is a function of man’s rational nature. This orderliness is a social accomplishment. Its key element is respect for the judgment of other people.<sup>44</sup> But its essential element is the restraining of impulse. Not unlike the great-souled man, it is not the part of the temperate man to give into anger, fear, or lust for pleasure or wealth. Cicero extends this principle to the minutiae of personal and interpersonal life: from the manner of one’s gait, to the manner in which one participates in friendly conversation, to the size of one’s house—all these are subject to the aesthetics of moderation, self-restraint, and balance.

But Cicero’s account of decorum is more than an etiquette guide. It contains an important social and political principle: respect for the feelings of others. “There is a difference between justice and shame when reasoning about humans. The part of justice is not to harm (*violare*) a man, that of a sense of shame not to outrage (*offendere*) him. Here is seen the essence of seemliness.”<sup>45</sup> In contrasting harming (*violare*) with outraging (*offendere*) Cicero delineates a finer degree of social responsibility. It is not enough simply not to violate the persons or property of our neighbors; equally important is a vigilant concern not to offend the feelings of others, attention to how our own actions affect our neighbor’s sense of what is due and appropriate in any given situation. Preservation of the common property of decorum is almost as important to a community’s wellbeing as preservation of the private property of political and economic capital. To outrage another man’s sensibilities and feelings is only somewhat less destructive than violating his body or property; maintenance of the restraints of shame is only slightly less important to a society’s cohesion than the maintenance of the restraints of justice.

Cicero’s treatment of the four virtues marks the beginning of his portrait of the ideal political figure. Such a man will place the social before the scientific; he will strive for the realization of political and economic justice; he will stand clear of the allure of pleasure and wealth; he will be balanced and moderate in all his actions and activities. Cicero’s account of the proper way to gain a political following in Book II

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<sup>43</sup> *On Duties* I. 142.

<sup>44</sup> *On Duties* I. 99.

<sup>45</sup> *On Duties* I. 99.

coincides with his description of the four virtues in Book I. But that is not all. The discussion of Book II both reflects his own conservative political leanings and, from the perspective of these conservative convictions, cautions against what Cicero sees as the political corruptions of his day.

Both the hinge of these conservative leanings and the key to what Cicero views as corrupt political practice manifest themselves towards the end of Book II. There Cicero elaborates his conception of the causes behind man's sociability. "It may be true that nature first guided men to gather in groups; but it was in the hope of safeguarding their possessions that they sought protection in cities . . . For . . . it is the proper function of citizenship and a city to ensure for everyone a free and unworried guardianship of his possessions."<sup>46</sup> To Cicero the right of private property is sacred.<sup>47</sup> It is on this ground that he condemns both agrarian reform and debt relief as corrupt political practices. In condemning these particular means to political popularity Cicero condemns not only Julius Caesar but also the entire 'popular' tradition of political action going back to the Gracchi. In doing so, however, his partisan preference runs counter to the most idealistic pronouncements of *On Duties*. For earlier in Book I Cicero had quoted Plato to the effect that the ideal politician must be a guardian of the interests not only of the entire state but also of all of its classes and groups. The passage is worth quoting in full:

In general those who are about to take charge of public affairs should hold fast to Plato's two pieces of advice: first to fix their gaze so firmly on what is beneficial to the citizens that whatever they do, they do with that in mind, forgetful of their own advantage. Secondly, let them care for the whole body of the republic rather than protect one part and neglect the rest. The management of the republic is like a guardianship, and must be conducted in the light of what is beneficial not to the guardians, but to those who are put in their charge. By consulting the interests of some of the citizens and neglecting others, they bring upon the city the ruinous condition of unrest and strife. Consequently

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<sup>46</sup> *On Duties* II. 73, 77.

<sup>47</sup> Neal Wood, *Cicero's Social and Political Thought* (Berkeley: University of California Press, 1988). Long, "Stoic Philosophers on Person, Property-Ownership and Community."

some appear as *populares*, and others as devotees of the best men, but few as champions of everyone. That was the reason for serious strife in Athens. In our republic it has caused not merely unrest but even disastrous civil war. That is something which any serious, courageous, citizen who is worthy of pre-eminence in the republic will shun with hatred.<sup>48</sup>

Ultimately, Cicero's portrait of the ideal politician takes its major orientation from the idealism of Plato; but Cicero himself finds it circumstantially impossible, in the context of the desperately real struggles of Roman political life, to live up to that ideal. The ideal politician will empty himself of self-concern and devote his attention to fulfilling the interests of all the varied members and parts of the body politic. Easier hoped for than achieved, this aspiration stands in stark contrast to the last ninety years of Roman political struggle, from the death of Tiberius Gracchus to the assassination of Caesar. It stands as well in contrast to Cicero's behavior toward Antony.

As part and parcel of his approval of the violent suppression of these would-be tyrants, Cicero can aspire to a social-political order free of dynastic tyrants, a social-political order where conflicts are forestalled by the attention given by magistrates to the needs of all those involved. It is in this context that Cicero invokes the example of Aratus of Sicyon.<sup>49</sup> Aratus fits Cicero's ideal because he was able to settle a dispute of property occupancy not entirely unlike that which plagued the Roman Republic since the time of the Gracchi. Cicero applauds Aratus' extirpation of a tyrant, but even more so he applauds his solicitude for all the parties involved in the ensuing property dispute. He contrasts this latter solicitude with the recklessness of Tiberius Gracchus.

The political example of the Gracchi forced a rift in the political life of the Roman Republic.<sup>50</sup> On one side, the so-called optimates upheld the authority of the senate; while on the other side, the so-called populares appealed to the rights and

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<sup>48</sup> *On Duties* I. 85-86.

<sup>49</sup> *On Duties* II. 81-83.

<sup>50</sup> Jürgen von Ungern-Sternberg, "The Crisis of the Republic," in *The Cambridge Companion to the Roman Republic*, ed. Harriet I. Flower (Cambridge; New York: Cambridge University Press, 2004).

interests of the people.<sup>51</sup> This splitting of constituencies led to a divergence of political methods. This divergence in political methods thus forms the template whereby Cicero, in accord with his own conservative and senatorial preferences, distinguishes honorable from dishonorable means of attracting a political following.

Cicero begins his account of the proper way to attract a political following with a long treatment of the communal achievements of mankind.<sup>52</sup> Since the individual alone can accomplish nothing without the aid of other men and the communal life of humans makes possible every extraordinary individual achievement, Cicero advises Marcus to attend to “how we can entice and arouse other men to support what is beneficial to us.”<sup>53</sup> Based on the supposition that “things are in a bad way when what ought to be achieved through virtue is attempted by means of money”<sup>54</sup>, Cicero divides the means of achieving the support of other men into two camps: that of good will, faith, and honor; and that of fear, self-seeking expectations, and financial reward.<sup>55</sup> The former bring out the best both in the followers and in the leader; the latter appeal to their worst. As Cicero expresses it: “The peak and perfection of glory lies in the following three things: if the masses love you, if they have faith in you, if they think you worthy of some honor combined with admiration.”<sup>56</sup> These attributes are in turn related to the virtues: goodwill to beneficence or, if resources are lacking, with the reputation for beneficence<sup>57</sup>; faith with practical wisdom and/or justice, but essentially to justice<sup>58</sup>; while honor and admiration Cicero connects with the greatness of soul possessed by “those who look down with a great and lofty spirit upon prosperity and adversity alike, especially when some grand and honourable matter is before them.”<sup>59</sup> Beneficence, justice, and greatness of soul—the same virtues that qualify the ethical life in general are brought to bear, in Cicero’s account, upon political life in particular.

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<sup>51</sup> Nicola Mackie, "Popularis Ideology and Popular Politics at Rome," *Rheinisches Museum für Philologie* 135, no. 1 (1992).

<sup>52</sup> *On Duties* II. 11-17.

<sup>53</sup> *On Duties* II. 20.

<sup>54</sup> *On Duties* II. 22.

<sup>55</sup> *On Duties* II. 22.

<sup>56</sup> *On Duties* II. 31 and Long, "Cicero's Politics in *De Officiis*."

<sup>57</sup> *On Duties* II. 32.

<sup>58</sup> *On Duties* II. 33-34.

Simplifying matters, Cicero goes on another excursus on the difference between ruling on the basis of love and ruling on the basis of fear. This distinction relates to the fourth virtue, decorum, in so far as ruling by fear contradicts the harmony of leadership befitting a republican regime. A tyrant, like Julius Caesar, is feared; by contrast a rightly elected Republican figure is loved.<sup>60</sup> Tyrannical rule is an outrage to republican feeling. Hence Cicero's distinction indicates the role played by communal sensitivity in the political sphere. This breakdown of fellow-feeling Cicero relates even to Rome's external relations; for the distinction between rule by fear and rule by love allows Cicero to imagine an idealized past where "the senate was a haven and refuge of kings [and] . . . we could more truly have been entitled a protectorate than the empire of the world."<sup>61</sup> In Cicero's mind, this all came to an end with the reign of Sulla. "For when our citizens had suffered such great cruelty, there then ceased to be anything that seemed unjust toward allies."<sup>62</sup> Cicero thus establishes an inner-outer dialectic, whereby the attitudes controlling the relations between citizens determine those controlling Rome's treatment of her allies; that is to say, where Rome's own level of political consideration (or its opposite) determines her attitude toward subjugated and allied peoples.

Here as elsewhere Cicero's account is overshadowed by the trauma of the recent civil wars, the cause of which he traces to disrespect for the property of the defeated. "The seed and occasion of civil wars will be present for as long as desperate men remember and hope for that bloody spear . . . it ought to be understood that when such prizes are offered there will never be a lack of civil wars." Here Cicero elides the political causes of Rome's recent internecine strife in an effort to portray both Sulla and the leaders of the popular side as criminal and perverse. Such men are brutes whose leadership and political power rests either on the fickle will of the masses or the violent potential of the military or the hired mob. Cicero generates his portrait of the ideal politician from the material of his non-ideal counterpart, the politically villainous

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<sup>59</sup> *On Duties* II. 37.

<sup>60</sup> *On Duties* II. 23.

<sup>61</sup> *On Duties* II. 26-27.

<sup>62</sup> *On Duties* II. 27.

Caesar, leader of the mob and the disloyal military, a tyrant who ruled by fear, violence, and bribery.

Here again Cicero is deeply concerned with what he considers to be the *dishonorable* way of gaining the support of the masses: outright bribery and flattery of the lower instincts. Thus he distinguishes extravagant (*prodigi*) from liberal (*liberales*) persons.<sup>63</sup> Extravagant persons are marked as such by their expenditure directed toward the uncultured masses. Banquets, public distributions of meat, gladiatorial performances with “spectacular provision of games and of wild animals in combat”—all these are, in Cicero’s eyes, dishonorable means of attracting public approval. They are, as he says quoting a Peripatetic source, “gratifying to boys and weak women, to slaves and to those men that are most like slaves.”<sup>64</sup> These he contrasts with displays of honorable liberality: ransoming captives from bandits, assuming the debts of friends, helping to finance the marriage of daughters, giving assistance in acquiring or enlarging property.<sup>65</sup> It is not difficult to see the class bias that attaches to Cicero’s distinction between liberality and extravagance. As he himself states it: “The former is the mark of a serious and great man, the latter of those who flatter the people, as it were, using pleasures to tickle the fickle fancies of the masses.”<sup>66</sup> It is not possible to conceal Cicero’s disgust for the mob, his horror of their political might. His disapproval of acts of extravagance is mitigated only by the fact that the aedileship demands them. But beneath this allowance one can clearly sense Cicero’s abhorrence of the lack of sophistication of the Roman masses, his disgust that expenditure should be determined by the lowest common denominator of human taste and desire.

Having realistically appraised the beneficial in Book II, Cicero returns to his more idealistic perspective in Book III.<sup>67</sup> The core of this idealism is the key insistence of *On Duties*: its assertion of an absolute identity between the honorable and the beneficial, and the absolute difference between the dishonorable and the truly

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<sup>63</sup> *On Duties* II. 55.

<sup>64</sup> *On Duties* II. 57.

<sup>65</sup> *On Duties* II. 55-56.

<sup>66</sup> *On Duties* I. 63.



expedient. “But there is one rule for all cases; and I desire you to be thoroughly acquainted with it: either the thing that seems beneficial must not be dishonourable, or if it is dishonourable, it must not seem beneficial.”<sup>68</sup> Cicero’s idealistic challenge arises out of the awareness that in political life it often is the case that persons have decided that the acquisition of political office is everything; that is to say, persons have decided that the end simply does justify the means—no matter how dishonorable those means may be. This latter point comes out most clearly in his examples from the political careers of Gaius Marius and Marius Gratidianus.

As Cicero presents it, the entire career of Gaius Marius was predicated upon an act of slanderous betrayal:

Gaius Marius was far from the hope of a consulship, remaining in obscurity still in the seventh year after his praetorship, and he was looking as if he would never even stand as a consul. He was sent to Rome by his general Quintus Metellus, a fine man and citizen, whose legate he was. Then, in front of the people of Rome, he charged Metellus with prolonging the war, saying that if they would make him consul he would in a short time reduce Jugurtha, dead or alive, into the power of the Roman people. And so he was indeed made consul . . .<sup>69</sup>

Key to Cicero’s account is the emphasis placed on the fact that Marius’ political career had stalled. This stalled career can be contrasted with Cicero’s own claim to have won all the varied offices of the *cursus honorum*—the office of censor excluded—unanimously and at the earliest possible date.<sup>70</sup> For Marius there was no such shining path. Stopped short of the consulship, Marius is willing to resort to slander of his aristocratic patron in order to jumpstart his own stalled career. In slandering Metellus, Marius broke ranks, Cicero tells us, both with “faithfulness and justice.”<sup>71</sup>

Gratidianus’ fault is closely related to that of the great general Marius, insofar

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<sup>67</sup> Dyck, *A Commentary on Cicero, De Officiis*, p. 621.

<sup>68</sup> *On Duties* III. 81.

<sup>69</sup> *On Duties* III. 79.

<sup>70</sup> *On Duties* II. 59.

as in both cases the end is thought to justify the means. In Gratidianus' case, the tribunes and college of praetors had together reached a communal solution to a pressing currency crisis. Gratidianus himself was a praetor. After the settlement, it was agreed that a communal announcement would be made later in the afternoon from the rostra. "The rest departed in different directions; but Marius [Gratidianus], on leaving the tribunes' benches, made directly for the rostra; then, by himself, he published the edict that had been composed in common."<sup>72</sup> Though taking sole credit for the edict won Gratidianus great praise among the people, Cicero rightly denies him any real esteem. In Cicero's eyes, his action was no less an offence against faithfulness and justice than that of the great general, since Gratidianus denied his colleagues in the praetorship and the tribunes the credit due their communal accomplishment. Not only that, he broke faith with the rest of the legislators by reneging on the agreement to make an afternoon announcement together of their common achievement.

The fault registered in both these examples—an assault against faithfulness and justice—is indicative of Cicero's idealistic vision of republican political cooperation. In both cases there occurred a breach of the concord and cooperation that ought to determine relations between political figures in a republic. The self-centered behaviors of Marius and Gratidianus illustrate the dissonance introduced into Roman political life by the excessive competitiveness of the last century of the Republic. For as Beard and Crawford have noted, "The breakdown of stable political life was related first of all to a dramatic explosion in the traditional forms of competition and secondly to the emergence in the late Republic of new forms of competition."<sup>73</sup> The ultimate competitive showdown was that between Caesar and Pompey, for which reason the examples of Marius and Gratidianus provide the perfect backdrop for yet another of Cicero's onslaughts against Julius Caesar.

Gratidianus and Marius both judged the end to justify the means; they both thought that political advancement justified the political betrayal of their close-

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<sup>71</sup> *On Duties* III. 79.

<sup>72</sup> *On Duties* III. 80.

<sup>73</sup> Mary Beard and Michael H. Crawford, *Rome in the Late Republic* (Ithaca: Cornell University Press, 1985), p. 68.

working associates. In citing their cases, Cicero is both drawing a line back to his golden rule—“for one man to take something from another and to increase his own advantage at the cost of another’s disadvantage is more contrary to nature than death”<sup>74</sup>—and also contesting those who might believe that a small offence is justifiable if the gain to be had from it is immense enough. In adding on the example of Caesar, Cicero directs himself against those who might believe that an immense gain—being tyrant of the entire world!—might justify any offence at all, even the offence of denying the remainder of the ruling class its political prerogatives.

Why do we collect petty examples—fraudulent inheritances, trading and sales? Here you have a man who longed to be king of the Roman people and master of every nation; and he achieved it! If anyone says that such a greed is honorable, he is out of his mind: for he is approving the death of laws and liberty and counting their oppression—a foul and hateful thing—as something glorious. But if anyone admits that it is not honourable to reign in a city that has been free and ought to be so, but says that it is beneficial to the many who can do it—what reproach, or rather what abuse, can I use to tear him from so great an error?

In line with his republican and Stoic preferences, Cicero implies that the will to power is not the highest good. The highest good is not to be construed as the possession of raw and limitless power as Caesar the dictator enjoyed it. Rather combining Stoic and republican dogma the highest goods for Cicero are virtue itself and the *salus reipublicae*. Throughout his many condemnations of Caesar, Cicero remains consistent. The liberty and laws of republican governance are the highest external value; equivalent to the political community itself, they are, as we saw above, that which “embraces all the affections of all of us.” For Cicero, those affections include not only our loved ones and the things we own, but as well and most importantly our political prerogatives in a free state. Caesar claimed to be fighting for his *dignitas*.

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<sup>74</sup> *On Duties* III. 21.

Cicero countered that there was no *dignitas* where there was no *honestas*.<sup>75</sup> Cicero extended his argument to imply that there was no honor if the ancestral constitution were undermined.

The example of the triumvirs left Cicero with a strong sense that republican institutions can only flourish if individuals are willing to place the good of the state before their own personal *dignitas*. Here moral and political convictions blend, as political conservatism morphs itself into an ethical mandate.<sup>76</sup> This ethical mandate is the hinge upon which the teaching of *On Duties* turns. It is the motivation behind Cicero's handling of the most important exemplum of the work, that of Marcus Atilius Regulus.

Marcus Atilius Regulus, as consul for the second time, was captured by ambush in Africa . . . he was sent to the senate, having sworn that he would return to Carthage unless certain noble captives were returned to the Carthaginians . . . What, therefore, did he do? Entering the senate, he revealed his instructions; then he refused to vote himself, saying that as long as he was held under oath by the enemy, he was not a senator. And furthermore . . . he even claimed that it was not beneficial to restore the captives: for they were young men and good leaders while he was worn out by old age. His authority prevailed, and the captives were kept there. He himself returned to Carthage, held back by love neither for his country nor his family and friends. Moreover, he knew well that he was going to a very cruel enemy and most sophisticated torture. For all that, he thought that his oath should be kept. And so, even while he was dying through enforced wakefulness he was better off than if he had remained at home, a consular but elderly, captive, and foresworn.

For Cicero, Regulus represents the epitome of Stoic inspired Roman political virtue. Regulus' utter neglect of his own apparent wellbeing, his complete concern for the good of the Republic, his standing by his oath sworn to a lawful opponent—all these qualities recommend Regulus as the antipode to Julius Caesar and therefore as the

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<sup>75</sup> *Letters to Atticus* 7. 11. 1.

ideal politician and the rightful hero of Cicero's treatise.

To illustrate the array of virtues contained in the Regulus example, Cicero supports the tale with an imaginary dialogue. His interlocutor is un-named, but is consistent with the imagined opponent of the entirety of Book III, representing what is least ideal in the individual psyche and what the ideal politician has most to contend with in himself and in others. He is the man who judges narrow self-interest as the ultimate guide of behavior, the man who allows for the separation of what is beneficial from what is honorable, the man who sets a trap even if he does not intend to startle the game or hunt it, the man who wants ill-will to be seen as good sense.<sup>77</sup> Such a person cannot but view Regulus' behavior as an aberration since it violates his narrowly conceived canon of self-interest: "But he acted foolishly! For he not only failed to recommend that the captives be returned, but even spoke against it."<sup>78</sup> The interlocutor would here have Regulus display not the widest range of concern (*oikeiosis*) appropriate to the ideal politician but the narrower one befitting a private, self-involved individual. Cicero responds from the viewpoint of the ideal politician when he queries: "Can anything that is harmful to the republic be beneficial to any citizen?"<sup>79</sup> This reply points to just how far Cicero's ideal politician has extended his own rational self-interest: so far as to elide the individual self entirely. As a result it points to the fact that when things beneficial conflict among themselves, the benefit of the political community must always trump that of the individual; that, for the ideal politician, the good of the state will always take precedent, even to his own survival. This maturation of rationality represents for Cicero the highest stage of human development; it is the stage of development reserved for the ideal politician who is at the same time, for Cicero, the ideal human being.

Cicero's interlocutor next questions Regulus' keeping of his vow. This is done from a series of angles. First the interlocutor employs the philosophical insight that the gods harm no one. It was foolish then of Regulus to keep his vow, if he did so out of

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<sup>76</sup> *On Duties* I. 25-6.

<sup>77</sup> *On Duties* III. 36, 68, 71.

<sup>78</sup> *On Duties* III. 101.

<sup>79</sup> *On Duties* III. 101.

fear of the wrath of Jove. Typical of *On Duties* Cicero turns the matter away from theology and toward sociology. Regulus' vow—any vow to a god—has less relevance for the god than it does for the humans between whom it is transacted. It is the faith exchanged between humans not the promise made to a god that is of utmost importance, since good faith enjoys such a wide range of importance: “to guardianships, to business fellowships, to trusts, to commissions, to purchases, to sales, and to hiring or letting,” and thus forms of glue of life's fellowship.<sup>80</sup> As we shall see, Cicero's Regulus does not fear the gods; rather, he reveres the bonds of human society, even those uniting him with enemy combatants.

But Cicero's interlocutor has not yet had enough of theology. For the moment unwilling to abandon the theological perspective Cicero's interlocutor next asserts that Regulus should have chosen “the least of evils”; that is to say, he should have chosen to dishonor himself a bit (by declining to recommend any course to the senate) rather than harm himself immensely (by recommending the senate not return the hostages and thereby condemning himself to return to Carthage and be tortured). Cicero's interlocutor can here imagine no greater evil than the torture Regulus consigned himself to: “How could a wrathful Jove have harmed Regulus more than he harmed himself?”<sup>81</sup> Cicero counteracts this estimate with the philosophical notion of harm to one's soul. “If something offensive is found in bodily disfigurement, then how much deformity and foulness ought to be apparent in a spirit made dishonourable!”<sup>82</sup> In judging harm to the soul as incalculably more grievous than harm to the body Cicero follows philosophical tradition extending back to Socrates' *Apology*.<sup>83</sup> Leaving open the question of Jove's ability to punish beyond the extent of human torture, Cicero asserts the oft-repeated philosophical dogma that no external harm can surpass that which a criminal inflicts upon his own soul.

Defeated on the theological and psychological fronts, the interlocutor next moves to the social plain, asserting that Regulus ought not have been bound by an oath

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<sup>80</sup> *On Duties* III. 104, 70.

<sup>81</sup> *On Duties* III. 103.

<sup>82</sup> *On Duties* III. 105.

<sup>83</sup> *Apology* 30b-c.

to “faithless” men.<sup>84</sup> Here Cicero responds by pointing to the facts of the fetial code. Faithless as the Carthaginians may have been, they were not pirates—hateful to all and to whom no oath is due<sup>85</sup>; they were official enemies of Rome, duly sworn combatants to whom applied the laws of war including the oaths regulating treaties, temporary truces, and negotiations between warring parties. Here Cicero demonstrates the depth of his grasp of human sociability. Legal restraint and justice must rule even the most brutal and desperate of man’s activities—war.

Finally, Cicero’s interlocutor asserts “But an oath extracted through force ought not to have been authoritative.”<sup>86</sup> Cicero makes quick work of this objection, countering that it is not possible for a brave man to be bent by threats of force. Here Cicero completes the portrait of Regulus, the political-ethical superman, by vesting him with the imperturbability of the Stoic sage and denying the possibility that Regulus could have been forced to make any vow at all.

Finally Cicero returns to where he began. Remarking on the difference of moral sensibility separating Regulus’ time from his own, Cicero notes how Regulus’ regard for his oath was a virtue of the time not of the man, and asserts rather that “this one thing is worthy of marvel, that he proposed retaining the captives.” The interlocutor agrees: “Why then did he go to the senate, when he was intending specifically to dissuade them in the matter of the captives?”<sup>87</sup> Here again Cicero flirts with utilitarianism as he returns to what has become the ultimate criterion of the honorable: what was best for the country.<sup>88</sup> “It was because he thought that that was not beneficial to his country that he believed it honourable for himself to make such a proposal, and to suffer.”<sup>89</sup> Just as a mound of the beneficial cannot make the honorable, it only requires a bit of the honorable to determine the beneficial. Once again the absolute self-renunciation expected of the ideal politician stands forth as the shining virtue to be communicated to his son, his peers, and posterity.

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<sup>84</sup> *On Duties* III. 102, 106.

<sup>85</sup> *On Duties* III. 107.

<sup>86</sup> *On Duties* III. 110.

<sup>87</sup> *On Duties* III. 110.

<sup>88</sup> Dyck, *A Commentary on Cicero, De Officiis*, p. 492.

<sup>89</sup> *On Duties* III. 110.

Cicero's understanding of the challenges facing politicians was shaped inevitably by the fall of the Roman Republic, what he saw as its movement away from the pristine civic and moral virtue of Regulus. The appearance of powerful dynasts, the increased heat of political conflict, the disappearance of the public good from political sight, the recurrence of civil war and bloody proscriptions, widespread avarice, bribery and violence across the political sphere—all these crises and more stand reflected in Cicero's portrait of the ideal politician. Writing to his son, his peers, and to us, Cicero proposes a political ethic of self-abnegation and complete moral integrity—a political ethic based on a combination of the Stoic adherence to virtue as the one true internal good and the Roman patriotic adherence to the *salus reipublicae* as the ultimate external good. Cicero makes Regulus the standard bearer of this combined political outlook, a patriot to the end, who accepts his torture with an equanimity much like that of a Stoic sage. For this reason Regulus represents the ideal politician, deferential to the Roman Senate, dismissive of his own wellbeing, dedicated to the good of the Republic. The example of Regulus thus stands as the capstone of Cicero's account of the virtues, of the proper acquisition of a political following, and of the golden rule as a guideline of adjudicating the most difficult of moral cases: those where the beneficial and the honorable *appear* to conflict. His whole account produces a portrait the very opposite of the selfish politicians of his day, whose egotism he blames for the present woes of the Republic. In Cicero's mind, the political-ethical workings of Roman political life must be retooled. When considered as a whole it is not clear that his demands do not represent a full-scale retooling of human nature itself.



Do we not see that the best people  
are given the right to rule by nature  
herself, with the greatest benefit to  
the weak?

*On the Commonwealth* III. 36.

## CICERO'S POLITICAL IMPERATIVE

This final chapter aims to close the gap between ancient political consciousness and our own. It aims to construct from the texts of Cicero and Aristotle a bridge reaching to our own present American political consciousness—that is to say a bridge of self-understanding whereby *we* (global age Americans) may better comprehend the moral and political challenges of our own time and world. This effort is buoyed by the conviction that ancient political life and thought contain seeds of our own modern political positions; that, in so far as there is some consistency in human life itself, there is likewise some consistency—for better and for worse—in how individuals and political communities relate to one another, and especially in how stronger, wealthier and more powerful members of a political community relate to their weaker, poorer and more vulnerable counterparts. With this conviction in pocket, Cicero and Aristotle have been brought together in order that we can better understand each other and ourselves by considering their social environments and the moral prescriptions their works contain. For, viewed in the light of what Cicero has to say about the ethics of vulnerability in Book III of *On Duties*, Aristotle's doctrine of natural slavery provides a prism through which we can spy distinctive tendencies characterizing the interactions between stronger and weaker parties that continue into our own modern global environment.

The moral character of these interactions, I will argue, can be illuminated by ancient reflection on the so-called ‘rights of the stronger.’ Ancient reflection on this topic produced two widely differing conceptions of justice. In the words of Aristotle, “One side believes that justice is benevolence, whereas the other believes that it is precisely the rule of the most powerful that is just.”<sup>1</sup> On the one hand, the right of the stronger allows persons of extraordinary wealth, power, or foresight to exert their will upon poorer, weaker, and less intelligent persons, in the end, exploiting such persons as means to their ends. (This is Aristotle’s notorious doctrine of ‘natural slavery’ as usually construed.) The mandate of benevolence, on the other hand, demands that human beings treat weaker persons as ends in themselves, that moral persons take it upon themselves, if not completely to redress, at least to mitigate the disadvantaged position of those with whom they come into commercial and political contact. According to Cicero’s injunctions this attitude should prevail even in those cases where this counterbalancing of deficiency may appear to compromise the advantage of the moral actor in question. (This is what I take to be Cicero’s teaching in Book III of *On Duties*.)

Each of these conceptions of justice generates its own mode of leadership, modes articulated in Cicero’s insistence that there are two alternative ways for a ruler to perpetuate his authority: by fear or by love. To rule by fear is to rule as a slave-master over unwilling and hostile subjects; to rule by love is to govern like a caring father or benevolent king over willing and appreciative subjects. This distinction is reflected in Aristotle’s thought by the conviction that the best constitution will be the one that enjoys the widest level of support across the public body<sup>2</sup>; and that even the tyrant will best extend his rule by fashioning himself after the benevolent king.<sup>3</sup>

Closely associated with these conceptions of justice and leadership is a litmus test of interpersonal morality. It asks—what does one do when faced with a vulnerable person, especially, as Cicero would challenge, when availing oneself of the weakness of the other appears to serve one’s material or political advantage? The law of *human*

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<sup>1</sup> *Politics*, I. 6; 1255a 18020.

<sup>2</sup> *Politics* II. 9, 1270b 20-22 et passim.

<sup>3</sup> *Politics* V, 11, 1314a 32-1315b 10.

benevolence demands one thing; the law of *animal* force suggests another. While the law of force superintends political criminality and neglect across the ages, the law of benevolence isolates what is most valuable in the ancient tradition of paternalistic governance advocated by Plato, Aristotle, and Cicero.

To explain these views we must go forward in three steps. First we must return to Books I and III of *On Duties* to review Cicero's views on justice and the ethics of vulnerability: Cicero's explicit view that justice demands the protection of others. Secondly, we must consider Aristotle's doctrine of natural slavery as produced in the *Politics*—and echoed in the fragments of Book III of Cicero's *On the Commonwealth*<sup>4</sup>—his apparent view that certain individuals are naturally ripe for exploitation precisely because of their cognitive or physical disadvantage. Thirdly, we must return to the texts of Cicero for a closer examination of the exempla of Book III in order to discern the limits of Cicero's own humanitarian vision, thereby addressing the challenge posed by E. M. Atkins in her declaration that “My own suspicion is that Cicero never faced the question of the limits of patriotic duty squarely, and that his talk of ‘*societas humani generis*’ is therefore (with certain exceptions such as his respect for the laws of warfare) little more than empty rhetoric.”<sup>5</sup> There may well be an overly rhetorical thrust to Cicero's insistence upon the *societas humani generis*, nevertheless Cicero's rhetoric provides the basis for more ethical guidelines regarding the treatment of weaker, vulnerable, and disadvantaged persons—buyers, sellers, and politicians primarily, but as well those who Cicero rightly saw as the most vulnerable persons within Roman society: slaves. Cicero's strictures regarding these latter find place beneath the rubric of *humanitas* (humanity). By preferring *humanitas* to *res familiaris* (personal wealth) Cicero advocates the valuing of persons over things, humanity over economics—a preference not to be taken for granted even in our advanced times.

## **Cicero and the Ethics of Vulnerability**

Cicero's prescription to protect the vulnerable goes back to his discussion of

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<sup>4</sup> *On the Commonwealth* III. 36, 37b, 37a.

justice in Book I of *On Duties*—the one place in the work where he most distances himself from Plato:

We must therefore watch out in case Plato's words about philosophers prove not to be sufficient. For he said that they are immersed in the investigation of truth and that, disdaining the very things for which most men vigorously strive and even fight one another to the death, they count them as nothing. Because of that he calls them [philosophers] just. They observe one type of justice, indeed, that they should harm no one by inflicting injury, but they fall into another; for hindered by their devotion to learning, they abandon those whom they ought to protect. And so, he thinks that they should not even embark upon public life unless they are forced to do so.<sup>6</sup>

For Cicero, in order to be a just and good man, it is not enough to absent wrongdoing from one's life by adopting a position of philosophical remove. For Cicero, the ambiguity plaguing even Aristotle's conception of the best life has been vanquished<sup>7</sup>; for the contest between the contemplative and active lives, between philosophical and political effort, has been settled resoundingly in favor of the active life of political involvement:

The wisdom I declared to be foremost is the knowledge of things human and divine; and it includes the sociability and fellowship of gods and men with one another. If, as is certain, that is something of the greatest importance, then necessarily the duty that is based on sociability is also of the greatest importance. Moreover, learning about and reflecting upon nature is somewhat truncated and incomplete if it results in no action. Such action is seen most clearly in the protection of men's interests and therefore is concerned with the fellowship of the human race. For that reason this should be ranked above mere learning . . . the duties of justice must be given preference over the

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<sup>5</sup> Atkins, "'Domina Et Regina Virtutum': Justice and Societas in De Officiis," p. 117.

<sup>6</sup> *On Duties* I. 28.

<sup>7</sup> Nicomachean Ethics, X, 7-8 ; Politics VII. 1.

pursuit of knowledge and the duties imposed by that. For the former look to the benefit of mankind, and a man should hold nothing more sacred than that.<sup>8</sup>

Though Cicero considers the fundamentals of justice to consist in “first that one should harm no one” (the Platonic position), “and secondly that one serve the common advantage”<sup>9</sup>, neither of these points constitutes his distinctive contribution to the debate concerning social justice. That distinctive contribution comes in his insistence that, for persons in positions of power, the ultimate work of justice is the defense of others.

As for neglecting to defend others and deserting one’s duty, there tend to be several causes of this. For some men do not wish to incur enemies, or toil, or expense; others are hindered by indifference, laziness, inactivity or some pursuits or business of their own, to the extent that they allow the people whom they ought to protect to be abandoned. We must therefore watch out in case Plato’s words . . . [My emphasis]<sup>10</sup>

This is what I take to be the hinge of Cicero’s Roman-inspired mandate to social responsibility: his view that the mature and self-realized human being is a person responsible for the protection of others around him or her.

But who are these others one ought to protect? In the unquoted section of the second to last passage Cicero speaks of “the safety of a parent or a friend”<sup>11</sup> as a foremost motive for breaking away from one’s intellectual pursuits and assisting another. But this is not, for Cicero, the battleground of moral excellence—in so far as the man who rushed to aid a parent or a friend would hardly be thought a moral giant. True moral challenges arise with concern for persons more distant than our immediate friends and relatives. “For it is difficult to be concerned about another’s affairs . . .

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<sup>8</sup> *On Duties* I. 153-55.

<sup>9</sup> *On Duties* I. 31.

<sup>10</sup> *On Duties* I. 28.

<sup>11</sup> *On Duties* I. 54. Cf. I. 57 where Cicero places ‘fatherland’ before even “parents . . . children . . . relatives . . . and acquaintances” since “our country has on its own embraced all the affections of us all.”

[for] we do tend to notice and feel our own good and bad fortune more than that of others, which we see as if a great distance intervenes.”<sup>12</sup> The varied degrees of fellowship between men result in degrees of commitment to the good of the other, since it is not within the range of common human feeling to be as concerned about the well-being of a total stranger as one would be about the well-being of a countrymen or one’s closest kin, sibling, parent or child.<sup>13</sup> To treat the remotest stranger as one would one’s own child is beyond human capacity. Cicero knows this, but nevertheless both his valuing of *humanitas* over *res familiaris* and the examples of moral excellence catalogued in Book III run against the grain of this realistic conviction. For there he commits himself to an ethic of the defense of the vulnerable that knows no bounds other than the limits of mankind.

Now surely it is absurd to say, as some do, that they would not deprive a parent or brother of anything for their own advantage, but that there is another rationale for the rest of the citizens. Such men decree that no justice and no fellowship exist among citizens for the sake of the common benefit, an opinion that breaks up all fellowship in the city. There are others again who say that account should be taken of other citizens, but deny it in the case of foreigners; such men tear apart the common fellowship of the human race. When that is removed then kindness, liberality, goodness and justice are utterly destroyed.<sup>14</sup>

The injunction to heed the interest of others no matter how distantly related is writ large in Book III of *On Duties*. But is this pure rhetoric?

In this Book, it is to be recalled, Cicero considers himself to be addressing doubtful moral cases—ones where there is some real doubt as to how a good man (*vir bonus*) ought to conduct himself, real doubt, that is, as to just how far one should go in protecting another’s interest. It is here that Cicero feels called upon to invoke a new device of discernment in order to decide the most doubtful of cases: the use or misuse of epistemic or physical advantage. For, from the Rhodians suffering their famine, to

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<sup>12</sup> *On Duties* I. 29-30.

<sup>13</sup> *On Duties* I. 51ff.

<sup>14</sup> *On Duties* III. 28.

Regulus prepared to return to Carthage, all the major examples of Book III of *On Duties* share one common element. They all share an element of cognitive, physical, social, or political advantage that makes it possible for an offence against *humanitas* to occur (or to be avoided). The corn dealer at Rhodes *knows* that other ships are on the way; the seller of the vermin infested house *knows* that the house is neither as well built or as wholesome as it appears; Pythius the Syracusan *knows* that fishermen do not normally fish the shores of his property; Quintus Scaevola *knows* that the house for sale is worth more than its seller's asking price; Crassus and Hortensius *knew* that the supposed will of L. Minucius Basilus was not the legitimate item; Gaius Marius *knew* (or so Cicero would have us believe) that Quintus Metellus was not prolonging the war against Jugurtha; Cicero's kinsman Gratidianus *knew* that the other legislators had gone home for the morning and would not return to the forum until later in the afternoon; Gaius Fabricius *knew* that he could catch Pyrrhus unawares by means of the deserter offering to poison the enemy general; and finally, Regulus *knew* that his own life was not worth those of the youthful Carthaginian captives. In each case there is a cognitive advantage and disadvantage that the moral agent does or does not exploit to his own advantage.

Besides the cognitive component, in each of these cases there is some form of inner or outer 'property' at stake. The people of Rhodes, the potential house-buyer, and Pythius' victim Canius all have at stake a quantum of wealth that ought not to be violated by an act of unnecessary or deceit-driven expenditure. The rightful heirs of L. Minucius Basilus all have a quantum of the inheritance out of which they ought not be tricked. Metellus and the associates of Gratidianus all have their quantum of political credit of which they should not be defrauded. Likewise, according to the canons of honorable warfare, the general Pyrrhus had a quantum of military respect that ought not to have been violated by a base act of poisoning. Finally, the Roman people had a quantum of wellbeing and national security that ought not to have been compromised by Regulus' assertion of his own narrowly, but wrongly, construed self-interest. On the basis of these common and personal interests, the moral criterion by which all these cases are judged boils down to what Antipater, in Cicero's imagined dialogue

between the two Stoics, identified as “serving human fellowship” (the item so important to Cicero’s conception of justice as found in Book I). When Diogenes seeks to justify the manipulative and deceptive behavior of the corn dealer and the house-seller, Antipater exclaims:

What are you saying? You ought to be considering the interests of men and serving human fellowship; you were born under a law, and you have principles of nature you ought to obey and to follow, to the effect that your benefit is the common benefit, and conversely, the common benefit is yours. Will you conceal from men the advantages and resources available to them?<sup>15</sup>

In each of the examples of Book III, Cicero’s moral judgment is determined by some form of the principle he puts in the mouth of Antipater: that each one consider the interests of others and of the whole of society. In each case, the moral crux resides in whether or not the cognitively, physically, socially, or politically advantaged individual uses his knowledge or position of power not only to his own advantage, but to another person’s disadvantage. In each case a violation of some type occurs of Cicero’s golden rule: “[that] for one man to take something from another and increase his own advantage at the cost of another’s disadvantage is more contrary to nature than death, than poverty, than pain and than anything else that can happen to his body or external possessions.”<sup>16</sup> For, as we saw in Chapters two and three, throughout *On Duties*, Cicero’s key concern is for his imagined *societas humana*, the union of all human beings in a region of shared interest, a shared interest construed predominantly by Cicero in terms of real property and the right to retain that property, but which, as I have argued, extends beyond that narrow range.

Paradoxically, in speaking of real property and the right to retain it, Cicero fails to recognize an enslaved person’s rightful ownership of his own body and volition. And here is one point at least where we might well suspect Atkins’ claim to carry weight. But here, Cicero can be allowed, like St. Paul, to have been overawed by

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<sup>15</sup> *On Duties* III. 52.

<sup>16</sup> III. 21



the monolithic character of that ancient social practice. For, as Yavetz has noted: “In the Greek and Roman world slavery was an uncontested fact and the idea of a slaveless society was inconceivable.”<sup>17</sup> Hence, Cicero can imagine no better solution than that slaves, the most vulnerable of all persons in the ancient world, be treated as hired laborers, and that their value as human beings prohibit their being regarded as mere property. In the political and social context in which Cicero lived, these are commendable and important recommendations, recommendations that should, at least in part, prohibit our thinking that his advocacy for the *societas humana* was pure rhetoric.

Cicero himself does not explicitly connect this recommendation regarding slaves with the moral principle controlling the examples of Book III, but the two are easily so connected. For from his text we can garner the twin notions of 1) the *societas humana*, and 2) the common interest that unites it. On the basis of these ideas both Aristotle’s views regarding natural slavery and Cicero’s views regarding predatory imperialism seem to come under fire; for both natural slavery and predatory imperialism appear to contradict the humanistic idealism embedded in the notions of a united humanity and a singular interest uniting all humanity. But this conflict is merely apparent. I would like to argue that just as we (in the West) now see the common interest uniting mankind to be ‘freedom’, Cicero and Aristotle saw that common interest to be ‘security.’ It was in the name of this ‘security’ that both thinkers justified slavery and imperialism. Thus, Cicero, imagining a perfectly just Rome, could indulge in a fit of wish fulfillment: “But our nation has gained control of the entire world through defending its allies.”<sup>18</sup> For, as we shall see, outside the boundary of self-defense both thinkers looked askance at conquest and enslavement for purely acquisitive purposes.

Let us now turn to Aristotle’s doctrine of natural slavery and see if there we

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<sup>17</sup> Zvi Yavetz, *Slaves and Slavery in Ancient Rome* (New Brunswick, N.J.: Transaction Books, 1988), p. 117.

<sup>18</sup> *On the Commonwealth* 35b, Harris, *War and Imperialism in Republican Rome, 327-70 B.C.*, p. 163-254, Jerzy Linderski, "Si Vis Pacem, Para Bellum: Concepts of Defensive Imperialism," in *The Imperialism of Mid-Republican Rome*, ed. William V. Harris, *Papers and Monographs of the American Academy in Rome* (Rome: American Academy in Rome, 1984).

may extract a fuller sense of the difference between ancient and modern notions of the common interest uniting all humanity, and therefore arrive at the humanistic strain activating both Cicero and Aristotle's account of the rubrics of domination and 'natural' authority.

### **'Natural Slavery'**

Aristotle's doctrine of natural slavery rests upon two pillars. The first was a general premise, while the second was an unshakable conviction. The general premise underlying that doctrine is no less than the same premise that grounds his entire political theory—the premise that *the one who is more virtuous should rule* (“when these accounts [i.e., various arguments against slavery] are disentangled, the other arguments have neither force nor anything else to persuade us that the one who is more virtuous should not rule or be master” 1255a 19-21). This view (which is paralleled in Cicero's fragmentary remarks on natural slavery<sup>19</sup>) can be termed Aristotle's 'virtue functionalism': the view that virtue determines place; that is to say, that an individual's (or group's) proper place in the political-social hierarchy should be determined by the degree and kind of rationality and character virtue displayed by that individual (or group). The second pillar, the unshakable conviction upholding his doctrine of natural slavery, is nothing more than an empirical application of this general premise. It was the belief that Greeks enjoyed a native (but not necessarily congenital<sup>20</sup>) advantage in both moral and intellectual virtue to non-Greek peoples East and Northwest:

The nations in cold regions, particularly Europe, are full of spirit but somewhat deficient in intelligence and craft knowledge. That is precisely why they remain comparatively free, but are apolitical and incapable of ruling their neighbors. Those in Asia, on the other hand, have souls endowed with intelligence and craft knowledge, but they lack spirit. That is precisely why they are ruled and

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<sup>19</sup> “Do we not see that the best people are given the right to rule by nature herself, with the greatest benefit to the weak?” *On the Commonwealth* III. 36.

<sup>20</sup> Darrell Dobbs, "Natural Right and the Problem of Aristotle's Defense of Slavery," *The Journal of Politics* 56, no. 1 (1994): p. 74ff.

enslaved. The Greek race, however, occupies an intermediate position geographically, and so shares in both sets of characteristics. For it is both spirited and intelligent. That is precisely why it remains free, governed the best way, and capable, if it chances upon a single constitution, of ruling all the others.<sup>21</sup>

Here Aristotle registers his conviction that Greeks simply are—emotionally and technologically—more advanced than their barbarian neighbors. This sense of overall cultural superiority convinced Aristotle, Plato, and many of their peers that Greeks should rule over barbarians, and that whereas barbarians should be made slaves, whenever such an opportunity arose, fellow Greeks should not.<sup>22</sup> Virtue functionalism and a sense of cultural superiority—these are the twin pillars of Aristotle’s attempt to rationalize the practice of chattel slavery. What Aristotle sees as the natural right of foresight and character virtue to rule, and the Greek world’s widespread sense of its own cultural, spiritual, and intellectual superiority—supported, as Aristotle is well aware, by economic need<sup>23</sup>—combined to produce the concept of the ‘natural slave.’

Aristotle saw, described, and supported this social practice; but he also implicitly critiqued it. Careful consideration of Aristotle’s discussion of the notion of natural slavery will show that though he did seem to embrace this doctrine, he supplies at the same time the tools for deconstructing it.<sup>24</sup> These tools allow us to see that the concept of natural slavery is based on a set of conceptual and moral confusions—conceptual confusions Aristotle never completely untangles, and moral confusions to which he gives so little attention that the doctrine seems to have his unqualified

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<sup>21</sup> *Politics* VII. 7, 1328a 22-33.

<sup>22</sup> Aristotle *Politics* I. 8, 1256b 20-26; Plato, *Republic* 469b-c.

<sup>23</sup> *Politics* I. 4, 1253b 23-38: So a piece of property is a tool for maintaining life; property in general is the sum of such tools; a slave is a piece of animate property of a sort; and all assistants are like tools for using tools. For if each tool could perform its task on command or by anticipating instructions, and if like the statues of Daedalus or the tripods of Hephaestus . . . shuttles wove cloth themselves, and picks played the lyre, a master craftsman would not need assistants, and masters would not need slaves.

<sup>24</sup> As Yavetz has remarked: “It was apparent to Aristotle that his claim for ‘natural slavery’ was open to doubt and that it was impossible to refute the argument that servitude had been imposed on most slaves artificially, the law only legalizing the condition retrospectively.” Yavetz, *Slaves and Slavery in Ancient Rome*, p. 156.

support. The monolithic practice of ancient slavery awed Aristotle's thinking and seems to have led him into an egregious conflation. Aristotle conflates the submission realistically demanded by dominant brutal force with the subordination ideally due to superior enlightened foresight. These two states, the state of being overwhelmed by brutal force and the state of being in the presence of a person of superior foresight, Aristotle conflates into the station of the 'natural slave.'

Looked at from another angle, Aristotle's discussion of 'natural slavery' is vitiated by deep confusion. He confuses fluid grounds for the diminishment of an individual's autonomy with hard grounds for the elimination of an individual's autonomy. Elimination (of autonomy) verses diminishment (of autonomy)—these are the poles separating enslavement from 'tutelage'<sup>25</sup>; these are the poles separating the rule of the master (who uses the slave like a tool to obtain his own ends) from the rule of the householder or 'regal' rule (which, as we will see, enables the subject to live in peace and to elevate and refine his own [the subject's] ends). From this angle the error of Aristotle's account is its explicit conceit that the slave master as such, the one who had taken away another person's freedom ("Since the mark of slavery is not to live as one likes."<sup>26</sup>), could ever—except in the most extraordinary of cases—turn out to be a benefactor.

In what follows I will attempt to unravel the conceptual tangle that vitiates Aristotle's account of natural slavery. Rightful separation of its varied threads and their eventual combination with Cicero's ethical insights will allow for the proper rehabilitation of Aristotle's views—a rehabilitation from an immoral doctrine of 'natural slavery' (where the master is given a 'right' to exploit) to a moral mandate of 'natural responsibility' (where the so-called master—i.e., the one in a position of power and superior knowledge or virtue—becomes the one whose responsibility it is to elevate and protect the person formerly designated as potentially enslave-able). This latter sense of responsibility, I will argue, forms the basis on which Cicero himself

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<sup>25</sup> "For Aristotle the natural slave, one who deserves to be a slave, is a man whose intellectual and moral quality assimilates him to an animal, and who needs in his own interest to be under the perpetual tutelage of a master." Brunt, "*Libertas* in the Republic," p. 288.

<sup>26</sup> *Politics* VI. 2, 1317b 12.

justified Rome's rule over the Mediterranean basin. To Cicero's mind, the rule of Rome, when enacted by ethical and upright provincial magistrates worked ultimately for the good of its subjects and was therefore a just and natural domination.

## **Towards a Theory of Natural Subordination**

Regarding Aristotle's doctrine, there is one issue that is absolutely clear: it is on account of some sort of psychic deficiency that Aristotle considers the enslaved person to merit—if he does indeed merit—his position of absolute subordination.<sup>27</sup> To Aristotle's mind, the most talented, intellectually acute, and virtuous of free males rightfully inhabit the highest levels of authority and judgment; women “in whom the deliberative part is present but in whom it lacks authority” enjoy a more limited and relative sphere of authority—the home; while slaves, in whom the deliberative part is “entirely missing”, and children, in whom it is “underdeveloped,” are themselves best served by subordination to their free, deliberation-capable, natural superiors—the virtuous

males at the top of the hierarchy.<sup>28</sup> As Aristotle conceives things, the interest of the woman, child, slave, or domestic animal is actually served by its subjugation to and service of the virtuous master, since such a master possesses superior foresight and superior virtue in the form of justice and temperance: “a natural ruler and what is naturally ruled [unite] for the sake of survival. For if something is capable of rational foresight, it is a natural ruler and master; whereas whatever can use its body to labor is ruled and a natural slave. That is why the same thing is beneficial for both master and slave.”<sup>29</sup> Aristotle imagines the natural master and the natural slave as partners in the job of living well. Aristotle goes so far as to assert that because he shares in his master's life, “the cause of such virtue [temperance and courage] in a slave must be the master, not the one who possesses the science of teaching him his tasks [i.e., the

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<sup>27</sup> W. W. Fortenbaugh, "Aristotle on Slaves and Women," in *Articles on Aristotle 2: Ethics and Politics*, ed. M. Schofield J. Barnes, and R. Sorabji (New York: St Martin's Press, 1977).

<sup>28</sup> *Politics* I. 13, 1260a 4-17.

<sup>29</sup> *Politics* I. 2, 1252a 30-36.

overseer]”<sup>30</sup>. By submitting, even indirectly, to the guidance of one superior in foresight and virtue, the enslaved persons are themselves benefited, as the potentiality of their labor is magnified by the oversight and management of the ‘natural master’ credited with superior foresight and character virtue. For, not only is their survival assured (“for the sake of survival”), but “there is a certain mutual benefit and mutual friendship for such masters and slaves as deserve to be by nature so related.”<sup>31</sup>

From his vantage point of cultural superiority, Aristotle selects out persons deficient in the enlightenment characterizing Greek life, people who make no distinction between wife and slave<sup>32</sup> and who even perhaps, like the Cyclopes, “each lay down the law for his own wives and children.”<sup>33</sup> It is here the natural master steps in; for, it is the master who will supply ‘soul’ to such deficient beings; it is the master who will give them proper lives both by bringing them into a rightful political community—as opposed to the raw and primitive Cyclopes community—and by making them contribute to his and its own lofty ends.

Though all commentators are agreed on the role played by foresight and character virtue in Aristotle’s account (disputes arise concerning the character of the slave’s deficiency), few, if any, have explored the role played in that same account by the ability to defend oneself, itself a key mark of self-sufficiency in Aristotle’s judgment. Regarding the necessary parts of the political community, Aristotle writes:

A fifth [necessary part of the state] is the defensive warriors, which are no less necessary than the others, if the inhabitants are not to become the slaves of any aggressor. For no city-state that is naturally slavish can possibly deserve to be called a city-state at all; for a city-state is self-sufficient, whereas something that is slavish is not self-sufficient.<sup>34</sup>

Here Aristotle comes as close as one can imagine to identifying ‘natural slavishness’ with the inability to defend oneself [against aggressors]. In Aristotle’s mind, or so it

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<sup>30</sup> *Politics* I. 13, 1260b 3-4.

<sup>31</sup> *Politics* I. 6, 1255b 13-14.

<sup>32</sup> *Politics* I. 8, 1252b 5.

<sup>33</sup> 1252b 23

seems, a self-sufficient political community is one with the foresight, virtue (courage), and ingenuity (advanced weapons systems) to render itself secure from possible aggressors. Any city-state that falls short of these requirements is—in the rough and tumble ancient world—naturally slavish.

That Aristotle was not alone in connecting the inability to defend oneself properly with a slavish character, the following quote of Demosthenes shows:

To this point . . . you have made war against Phillip just as barbarians box. For when one of them is struck, he always reaches for the blow, and if someone strikes him somewhere else, his hands go there, as he neither knows nor is inclined to either block or keep his eyes on his adversary.<sup>35</sup>

Here Demosthenes concurs with Aristotle in the assertion of a general cultural superiority manifest, in this instance, in the barbarian's supposed inferior ability in the boxing ring. Especially to be noted is the fact that even here it is the barbarian's lack of foresight—his inability to block, keep his eye on his opponent, or anticipate a punch—that separates the natural slave from the natural master. (Interestingly, if we extend Aristotle's view to this passage, it is the Athenians here who are the natural slaves of Phillip of Macedon on account of their lack of foresight or defensive aggression.) That Greek notions of natural slavery were closely connected with notions of self-defense is also supported by Aristotle's appeal to, and comment upon, a proverbial saying: "*There is no leisure for slaves*, and people who are unable to face danger courageously are the slaves of their attackers."<sup>36</sup> Here too Aristotle reiterates his conviction that the inability to defend oneself—here connected with lack of spirit ("to face danger courageously")—is what characterizes the naturally slavish nation or person.

In both these examples the aggressors in question are human. But the idea of the inability to defend oneself (i.e., to fend for oneself) could, and I think should, be expanded to include natural threats such as lack of proper clothing, shelter, or

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<sup>34</sup> IV. 4, 1291a 6-10.

<sup>35</sup> Demosthenes 4.40

sufficient food. Indeed, these are the very areas where parents intervene on behalf of their children—seeing about their food, clothing, and shelter; and Aristotle seems to conceive of the slave as a sort of helpless man-child. It is thus not hard to imagine that this is likewise the domain where, at least in part, Aristotle imagines the natural master to intervene in the life of the natural slave. “Those who cannot exist without each other necessarily form a couple, as female and male do . . . and as a natural ruler and what is naturally ruled do for the sake of survival.”<sup>37</sup> When brought into a civilized community the natural slave—unable to fend for himself ‘properly’ were he left in his native state—will be better off both for his contribution to the civilization (i.e., leisure) of his master and for his participation in the more settled and stable life of a fully equipped, self-sufficient city-state. Indeed, in the unquoted portion of the ‘parts of the city’ passage cited above, it is against just such non-human aggressors that the four parts of the city-state previously mentioned as necessary (farmers, vulgar craftsmen, traders, and hired laborers) provide defense; it is they who are responsible for the community’s purely physical needs. And it is they (lowly laborers) who are closely identified with slaves in Aristotle’s account:

The best city-state will not confer citizenship on vulgar craftsmen, however; but if they too are citizens, then what we have characterized as a citizen’s virtue cannot be ascribed to everyone, or even to all free people, but only to those who are freed from necessary tasks. Those who perform necessary tasks for an individual are slaves; those who perform them for the community are vulgar craftsmen and hired laborers.<sup>38</sup>

As a community employs vulgar craftsman and hired laborers, so an individual employs slaves. What laborers and slaves supply for the city-state and individual is clear. What remains unclear is what the city-state and individual supply to the laborer and slave. One might conjecture that it is the natural slave’s specific inability to obtain

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<sup>36</sup> VII. 15, 1334a 20-21.

<sup>37</sup> I. 2, 1252a 26-31.

<sup>38</sup> III. 5, 1278a 7-12; Compare *On Duties* I. 150



for himself the things supplied to the city by its laborers; that is to say, his inability to supply for himself— except in the most rudimentary fashion—food, shelter, clothing that leads the natural master to think that the enslaved person cannot live without him. So just as the master’s inability to provide—without the slave’s assistance—these things for himself while maintaining his leisure time for scholarship and politics confirms their partnership as a natural fit, so too the enslaved person’s former inability to provide himself with even the most rudimentary of life’s necessities—that is to say, without raiding his peaceful and non-aggressive neighbors—confirms the natural fit with the supposed master.

That this is so is also suggested by the fact that these specific needs —for shelter, food, and clothing—occupy just one side, i.e., the bodily side, of Aristotle’s enumeration of the parts of the city-state as required for the good life and living well. For in the same context (IV. 4), while reaffirming his conviction that the state exists for the sake of the doing of noble actions, Aristotle resorts to his favorite analogy—that of the distinction between the body and the soul. Applying the analogy of body and soul to the parts of the city-state, Aristotle writes:

So if indeed one should regard the soul as a more important part of an animal than the body, then, in the case of city-states too, one should regard things of the following sort to be parts rather than those dealing with our necessary needs: the warriors; those who participate in administering judicial justice; and also those who deliberate, since deliberation is a task for political understanding.<sup>39</sup>

The body-soul analogy is, of course, essential to Aristotle’s conception of just who is a natural slave. “Therefore those people who are as different from others as body is from soul or beast from human, and people whose task, that is to say, the best thing to come from them, is to use their bodies are in this condition—those people are natural slaves.”<sup>40</sup> High from his vantage point of cultural superiority, Aristotle seems to imagine that there really are people who have “[no] other virtue more estimable than

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<sup>39</sup> IV. 4, 1291a 22-27.

those he has as a tool or servant”<sup>41</sup>, persons whose native courage and temperance is so limited as to depend entirely upon their master for its realization. On Aristotle’s model, it is just such persons as these to whom the master will introduce civilization, justice, temperance, and law—an idea not so far from Cicero’s own defense of Roman Imperialism. For as Bauman’s Panaetius would have it: “Of course some men were meant to be ruled and benefited from it; but this imposed a duty on rulers to consult their subjects’ welfare.”<sup>42</sup> Whether this humanistic strain is borrowed from Panaetius or not, there can be no question that just as Cicero imagined Roman rule of earlier times to have had the character of a ‘protectorate’ (*patrocinium*) rather than an empire<sup>43</sup>, so too he agreed with Aristotle in imagining that persons in authority are to play the part of the ‘soul’ for their bodily or emotionally minded subjects or slaves.<sup>44</sup> So he writes in *On the Commonwealth*:

The different types of rule and slavery must be recognized. The mind is said to rule over the body, and is also said to rule over desire; but it rules the body the way a king rules his subjects or a parent his children, while it rules desire the way a master rules his slaves, in that it subdues and controls it. The rule of kings and generals and magistrates and fathers and nations directs their citizens and allies in the same way that the mind rules bodies, while masters subdue their slaves in the same way that the best part of the mind, wisdom, subdues the flawed and weak parts of that same mind, such as desires, anger, and other disturbances.<sup>45</sup>

Cicero’s description of the types of rule is very close to Aristotle’s. But where Aristotle differentiates between the rule of a master and the rule of a king or father, Cicero introduces the more subtle distinction between the way the mind rules the body

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<sup>40</sup> I. 5, 1254b 16-19.

<sup>41</sup> I. 13, 1259b 23.

<sup>42</sup> Richard A. Bauman, *Human Rights in Ancient Rome* (London ; New York: Routledge, 2000), pg. 25.

<sup>43</sup> *On Duties* II. 27.

<sup>44</sup> Fortenbaugh, "Aristotle on Slaves and Women," pp. 135-7.

<sup>45</sup> *On the Commonwealth* III. 37a.

and the way it rules “the weak and flawed parts of the same mind.” The idea behind this distinction is less than clear, but I interpret it as follows. As certain of the mind’s movements are disruptive of the smooth flow of rational life, so certain segments of human kind are viewed as unsettling the smooth flow of peaceful, civic life. Decisive here is the difference between the way one views one’s own body (with care and consideration) and the way one views the wayward and disruptive parts of one’s mind (with hostility and the desire to subjugate them to reason). Both Aristotle and Cicero view this disruptive segment as naturally and justly deserving enslavement. Speaking of the relation between peoples, but in a way that is easily transferable to the varied impulses of the mind, Cicero puts it quite clearly: such a segment is justly enslaved “where the right to do injury is taken away from wicked people.”<sup>46</sup>

Foremost among these ends the master supplies (I am attempting to argue) is membership in a community that does not depend on pillaging and random violence in order to survive; that is to say, membership in a self-sufficient community whose warriors can be merely defensive and whose proper ends are leisure and noble action. This interpretation is supported by Aristotle’s description of the man who exists “without a city state”—for he “like the one Homer condemns is ‘clanless, lawless, and homeless.’ For someone with such a nature is at the same time eager for war, like an isolated piece in a board game.”<sup>47</sup> Here C.D.C. Reeve’s note is helpful in unpacking this final simile; Reeve suggests that Aristotle is speaking of “a piece particularly vulnerable to attack by an opponent’s pieces, and so needing constantly to fight them off.”<sup>48</sup> Though not contradicting Reeves, my own interpretation leans more toward the vision of a people that would appear to Aristotle as wild and uncivilized, the type that would be highly vulnerable to the vicissitudes of nature, a type that would live by pillage and would elevate the life of warfare to the rank of an item good for its own sake. The man without a proper community is a warlike man. To fulfill his natural needs he must constantly be on the attack. Since he has no autonomous political

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<sup>46</sup> *On the Commonwealth* III. 36.

<sup>47</sup> I. 2, 1253a 4-6.

<sup>48</sup> Aristotle, *Politics*, trans. C. D. C. Reeves (Indianapolis, Cambridge: Hackett Publishing Company, 1998), p. 4.

community, he can never know the benefits or virtues that leisure brings in its train. Such a person is naturally slavish, in Aristotle's mind: he deserves, for his own good and for the good of those he threatens, to be brought forcibly to membership in a proper, autonomous political community, one capable of self-defense and hence of leisure.<sup>49</sup>

The addition of this notion of self-defense to our concept of what communities or individuals are naturally slavish carries an additional dividend. It allows us to consider Aristotle's views on just warfare, views of paramount importance to disentangling the various threads of his conception of natural slavery and isolating the humanistic strain present in the accounts of both Aristotle and Cicero. (For, as we will see, both thinkers closely connect the issue of natural slavery with that of just warfare.) The passage begins with a critique of city-states "currently held to be best governed" and ends with a fourfold distinction concerning the practices of enslavement that is both descriptive and prescriptive, that is to say, descriptive of how practices of enslavement are carried forth and prescriptive of how they ought and ought not to be carried forth. Aristotle writes:

Those Greeks who are currently held to be best governed, and the legislators who established their constitutions, did not organize the various aspects of their constitutions to promote the best end. Nor did they organize their laws and educational system to promote all the virtues, but instead were vulgarly inclined to promote the ones held to be more useful and more conducive to acquisition . . . For most human beings are eager to rule as masters over many because it provides a ready supply of the goods of luck . . . Training in war should not be undertaken for the sake of reducing those who do not deserve it to slavery, but, first, to avoid becoming enslaved to others; second, to pursue a

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<sup>49</sup> As Bernard Williams has argued, in Aristotle's theory "the argument from above, that slavery was necessary to the type of community in which human life could best develop, was met by an argument from below, that there existed such people for whom the role [of slave] was not contrary to nature and involved no real constraint." Bernard Williams, *Shame and Necessity* (Berkeley, Los Angeles, Oxford: University of California Press, 1993), pg. 115.

position of leadership in order to benefit the ruled, not to be masters of them; and, third, to be masters of those who deserve to be slaves.”<sup>50</sup>

This passage is a piece of Aristotle’s running critique of acquisitiveness in the *Politics*. As essential as that is to understanding Aristotle’s position, for our present purposes it is the latter part of the quote that most concerns us. For, the fourfold distinction at the end of this passage allows us to imagine four different situations (or persons/relationships) informative of Aristotle’s fuller, and untangled, views on the problem of just war and slavery, and ultimately of Cicero’s view of Roman imperialism.

First we are able to imagine persons Aristotle sees as unfit for enslavement but who are enslaved nonetheless (“war . . . undertaken for the sake of reducing those who do not deserve it to slavery”). In Aristotle’s world, autonomy was most often and most completely eliminated in times of war. The victor enjoyed the absolute right of life and death. The defeated person was completely in the power of the victor; by withholding death the victor gained—as Hobbes would later argue<sup>51</sup>—the ‘right’ to dispose of the life of the defeated, i.e., to retain or sell him or her as a slave. This version of the ‘rights of victory’ endured well into the so-called age of Exploration, and has supported the rough handling of native subjects in the ‘New World’ and elsewhere. It is this version that Aristotle now challenges, since he refuses to support a version of enslavement that makes no real analysis of the fitfulness of un-fitfulness of persons to be enslaved, but which merely seizes upon the opportunity for acquisition provided by victory in war. This is a practice Aristotle cannot and does not approve of—the indifferent enslavement of military captives for the sake of acquisition. In this passage his opposition to such practices is unambiguous and emphatic.<sup>52</sup>

The next part of the passage allows us to envisage what Aristotle views as the first of three motives for a ‘just war’, namely, the motive of self-defense. It is not

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<sup>50</sup> *Politics* VII. 14, 1333b 6-10, 15-17, 37-1334a

<sup>51</sup> Thomas Hobbes, *Leviathan* XX, 10-14.

<sup>52</sup> Compare the fragment at 37b of *On the Commonwealth*: “There is a kind of unjust slavery when people who could be independent belong to someone else . . .”

difficult to imagine what sort of circumstance Aristotle has in mind when speaking of “avoid[ing] becoming enslaved to others.” In Aristotle’s time enslaving people for the sake of defense was (I am attempting to argue) much like our modern day incarceration of dangerous criminals. This is the essential point: by limiting the autonomy of a dangerous element, security is brought to the peace-loving political community. This justification of war (and possible enslavement)—for the sake of ‘national security—is for Aristotle clear and unproblematic: the aggressor must be stopped.

The second and third species of just warfare are the most interesting ones. The second allows us to envision a war waged “to pursue a position of leadership in order to benefit the ruled, not to be masters of them.” This is both Cicero’s and Aristotle’s ideal situation, a situation where the superiority and goodwill of the conqueror is so manifest that the inhabitants of the nation under attack gladly submit to the rule and leadership of their good-willed superiors. But the subordination expected in such cases is in fact something very different than making someone a slave. To make another one’s slave eliminates his or her autonomy entirely. To assert that someone is a ‘natural slave’ implies that they are in some way and for some reason undeserving of complete liberty of action. The alternative to the elimination of autonomy, as we have suggested, is its diminution. To this situation I would like to give the term ‘natural subordination.’ To assert that someone is a natural subordinate implies again that they are in some way undeserving of complete liberty; but it does not imply or justify a complete elimination of autonomy. Rather, it assumes a respectful control over some portion of their activity—their ability to do mischief to themselves or others; it diminishes the autonomy of the subject in a way that, if they knew what was best, they themselves would willingly support.

This partial surrender of autonomy—its agreed diminishment—is seen in many areas of social life; for it represents a diminishment based on the agreed and recognized superiority of one member of the partnership. And natural subordination is a part of life. But its basis is not the recognition of a sheer superiority of force; its basis is a clear recognition of the superiority of benevolent foresight. The student, the

sailor, the patient, the athlete—all these persons willing surrender some part of their autonomy to another, be that other a teacher, a captain, a doctor, or a trainer. The surrender occurs on a dual basis: first, the shared recognition of a common goal or end (knowledge, a smooth journey, health, or prowess); secondly, a shared acknowledgement that the parties in question are unequal in their ability to judge the proper means to that end; that, as a general rule, one person in the relationship is in most cases and for the most part better able than the other to point out the way to the shared goal.

But the attitude toward the shared goal need not always be strictly equivalent. In many cases, the shared goal is first and foremost the goal of the lesser party. It may not at all be the primary goal of the teacher or doctor that his patient be healed or his student learn; the doctor or teacher could just as well be primarily motivated by the fees that will come his or her way as a result of the services rendered. As such the end or goal is first and foremost the specific aim of the lesser party; it is an object of his desire, but one he cannot deliver to himself, or can only best deliver to himself by surrendering some part of his own autonomy to the other's relative control. In this relationship, the teacher or doctor may conceive of his services to the patient as a means to an end (e.g., his fee), but this conception is counterbalanced by the fact that the lesser party views the reception of those services as a means to his own ends. Of course, one would prefer to have a teacher or a doctor who was more interested in transmitting knowledge or health than in collecting his or her fee. But my point in adding this nuance is simply to illustrate that to some extent both parties must occupy the same 'universe of ends.' Neither one can feel that they are being used by the other. Both must see that the end they are moving toward is, at best, a common one, or, at least, an overlapping one. Despite the fact that their respective ends may not be completely identical, there is still enough overlap for each partner to experience the transaction of services as mutual, agreed, and willed.

This space of agreement is sufficient even to enable the possibility of friendship—a friendship which in the best of all cases will insure a just and even an overly generous exchange, as one or both parties might go 'over and above' what is

called for simply out of pure joy in the process, simply out of sheer delight in the shared activities constituting their relationship. Only their shared ‘universe of ends’ enables this friendship and concord in the midst of subordination. Thus when Aristotle maintains that it is possible for the master to be friends with the slave (*qua* man not *qua* slave)<sup>53</sup> one imagines this would be the result of the slave having come to internalize the value of the tasks set to him by his master. One easily thinks of the idealized Tiro in this context. His long association as Cicero’s scribe opened to him a horizon filled with political and literary excitements that he was never likely to have experienced apart from his association with his master. Aristotle is well aware of this phenomenon of the internalization of a goal or desire. He writes: “Even in the case of some sciences that are suitable for a free person . . . What one acts or learns for also makes a big difference. For what one does for one’s own sake, for the sake of one’s friends, or on account of virtue is not unfree, but someone who does the same thing for others would often be held to be acting like a hired laborer or a slave.”<sup>54</sup> In Aristotle’s mind the self-orientation of doing a thing for oneself, for a friend, or for the sake of virtue is key to its nobility and to one’s own status as a free person. Tiro was the exception not the rule. The general, run of the mill case of slavery is, of course, entirely different and hardly ideal. The slave is one whose autonomy has been entirely overridden. “Slavery is not to live as one likes.”<sup>55</sup> When slavery has no such set of shared ends, Aristotle is categorical: “there can be no friendship or justice towards inanimate things . . . nor yet towards a slave *qua* slave; because there is nothing common to both parties: the slave is a living tool in the same way a tool is an inanimate slave.”<sup>56</sup>

The final of the four situations is the one that is most problematic—“to be masters of those who deserve to be slaves.” This passage is problematic since it categorically confirms Aristotle’s belief both that there really are such beings as natural slaves, and that it is perfectly just to set upon and conquer such persons. “For

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<sup>53</sup> *Politics* I. 6, 1255b 12-13 and *Nicomachean Ethics* VIII. 11, 1161b 1-8.

<sup>54</sup> *Politics* VIII. 2, 1337b 17-20.

<sup>55</sup> *Politics* VI. 2, 1317b 12.

<sup>56</sup> *Nicomachean Ethics* VIII. 11, 1161b 2-5.



this science [hunting for acquisitive purposes] ought to be used not only against wild beasts but also against those human beings who are unwilling to be ruled, but naturally suited for it, as this type of warfare is naturally just.”<sup>57</sup> Our previous analysis renders this view completely understandable: the primitive conditions under which many non-Greek people lived in the ancient world led Aristotle to believe that such persons would be better off brought into a proper political community, even if they were unwillingly to join it. Here again we can point to Aristotle’s conviction of cultural superiority to support this view.

Categorized for convenience’s sake, Aristotle’s remarks on just war separate into four different strands of his conception of natural slavery, strands correlated at least in part with statements found in the fragments of *On the Commonwealth*. The four separate threads are as follows: 1) merely legal (but unjust) enslavement—as Cicero would have it “when people who could be independent belong to someone else”<sup>58</sup>; 2) defensive (but just) enslavement—as Cicero would have it “when the right to do injury is taken away from wicked people”<sup>59</sup>; 3) benevolent (and ideally consensual) subordination and leadership—as Cicero would have it “[when] the best people are given the right to rule by nature herself, with the greatest benefit to the weak”<sup>60</sup>; and 4) acquisitive (but just and ‘natural’) enslavement—a view not present in the Ciceronian materials.

Considering each of these in turn has allowed us to separate the tangled threads of Aristotle’s account and apprise ourselves of the places where Cicero’s own account parallels that of Aristotle. This in turn allows us to see that the third case really does not at all belong among the others, since it alone fails to imply the complete and involuntary subordination and suppression of another’s will. Rather it involves a partial and, most importantly, at least potentially voluntary subordination to an acknowledged beneficent superior. It implies not the extinguishing of autonomy but merely its voluntary and temporary diminishment, a diminishment leading ultimately

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<sup>57</sup> I. 8, 1256b 23-26.

<sup>58</sup> *On the Commonwealth* 37b.

<sup>59</sup> *On the Commonwealth*, 36.

<sup>60</sup> *On the Commonwealth*, 36.

to a higher fulfillment.

Generally speaking, except in the quote regarding just war, Aristotle fails to break down the notion of ‘natural slavery’ to its finer elements. Instead, Aristotle’s account is driven by an overall conviction of Greek cultural and intellectual superiority. Peering out at the unwashed, non-Greek masses, he sees persons whose lives are but little removed from those of the beasts. These, he imagines, are the proper objects of enslavement. (Give them a bath, expose them to the Gospel, set them to honest labor and their lives will be immeasurably improved.) Cultural conceit, not malice drives Aristotle’s conception. Much the same can be said for Cicero’s view. But instead of drawing its inspiration from the negative qualities of non-Roman peoples, Cicero’s conceit is motivated by the accomplishments of the Roman security apparatus—the positive achievements of Roman civilization in an uncivilized world.

Security not greed drives the twin engines of natural subordination and natural subjugation. On this ethical basis both Aristotle and Cicero offer a critique of standing practices. For both thinkers peace and justice are ensured by the rule of society’s most virtuous and enlightened persons. Such persons will be marked by the refusal to avail themselves of the weakness of others. Neither philosopher condones the exploitation of helpless persons for acquisition’s sake; neither supports the subjugation of weaker persons *qua* weaker persons. Rather, both philosophers connect rightful subjugation with a defense of peaceful society. Naturally subordinate persons will be led to contribute to a peaceful social order, just as naturally subjugated persons will be prohibited from disrupting that same order. Both natural subjugation and natural subordination involve cognitive, physical, social, or political inequalities. Such inequalities make it possible for an offence against *humanitas* to occur wherever the vulnerability of the weaker party is exploited. A prohibition of exploitation unites both Aristotle’s critique of acquisitive enslavement and Cicero’s mandate for the protection of the vulnerable.

### **The Nature of Man Reconsidered: *principatus***

To modern eyes, Aristotle's undifferentiated account is travesty based on a conceit compounded by a conflation. The conceit rests in imagining that any one person or people could be so superior to another that it would be in the interest of that other that his or her autonomy be entirely overridden, and that they be made slaves. The conflation rests in blurring the distinction between forced and willing submission—in blurring the submission realistically demanded by dominant brutal force with the deference ideally due to superior, enlightened, benevolent foresight. The resultant travesty consists in confusing the benefactor with the acquisition minded conqueror or slave master, thereby providing a serviceable apologetic for the abuse of naked power throughout the ages.

But Aristotle was not naïve; he was well aware of the demoralizing effects of slavery. In fact, slavery represents for Aristotle the very essence of demoralization. Take for instance this statement regarding the morale (or lack thereof) of citizens under a tyrant. Aristotle advises that the tyrant should “require the residents to be always in public view and to pass their time at the palace gates. For their activities will then be hard to keep secret and they will become humble-minded from always acting like slaves.”<sup>61</sup> Here Aristotle identifies lack of a private life with humble-mindedness. To be always observed, to have no room for self-reflection and the development of self-orientated intentions—this is to lead the life of a humble-minded slave.

That humble-mindedness is as much a vice uncharacteristic of free persons as it is a virtue to be desired in slaves is obvious and does not require argumentation. But let us hear it from Aristotle: “As for farmers, ideally speaking, they should be racially heterogeneous and spiritless slaves, since they would then be useful workers, unlikely to stir up change. As second best they should be non-Greek subject peoples, similar in nature to the slaves just mentioned.”<sup>62</sup> The key notion is spiritless-ness and the inability to form a united political front (“heterogeneous”), the very same notions we saw attributed above to non-Greek peoples.

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<sup>61</sup> *Politics*, V. 11, 1313b 6-8.

<sup>62</sup> *Politics* VII. 10, 1330a 25-29.

But this program of subjugating a spiritless and heterogeneous mass of persons encounters a problem. The problem arises from the fact that individuals and groups do not, generally speaking, naturally welcome subjugation. On this score let us hear first from Aristotle and then, more magnificently, from Cicero. “If nothing else, it certainly seems that the management of serfs, the proper way to live together with them, is a troublesome matter. For if they are given license, they become arrogant and claim to merit equality with those in authority, but if they live miserably, they hate and conspire.”<sup>63</sup> Here Aristotle is speaking around rather than at the notion under consideration. The Spartans have a hard time living with their helots because there is a fine line between being too nice and being too harsh—a line on the one side of which stands the demand for equality and on the other side of which stands conspiracy and violent rebellion. But from where does this demand for equality arise; from where does this tendency toward conspiracy and rebellion, if mistreatment is rampant, originate? The driving force behind both rebellion and demands for equality is a human psychological tendency well expressed by Cicero. This statement occurs in a passage where he is speaking directly about greatness of soul (the last thing you want a slave to possess even in shadow form!). The particular claim it supports, i.e., the inevitability of violence where individual dignity is abased, is addressed directly by Cicero’s re-definition of the relation between the traditional concepts of *sapientia* [wisdom] and *magnitudo animi* [greatness of soul]. Cicero writes:

In addition to man’s universally acknowledged desire to know the truth, there exists a certain instinct for primacy, whereby a personality well-developed by nature withholds obedience from anyone who fails to instruct, or advise, or—for the sake of the common advantage—command in a manner that is both legitimate and just; from this instinct [of the practical intellect] arise both greatness of soul and the contempt for human life itself.<sup>64</sup> [My translation]

Huic veri videndi cupiditati adiuncta est appetitio quaedam principatus, ut nemini parere animus bene informatus a natura velit nisi praecipienti aut

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<sup>63</sup> II. 9, 1269b 9-12

docenti aut utilitatis causa iuste et legitime imperanti; ex quo magnitudo animi  
existit humanarumque rerum contemptio.

The key notion here is that of “a personality well-developed by nature.” Cicero’s observation and the terms in which he expresses it allow an appeal to the argument of Dobbs, namely his insight that ‘natural slaves’ must somehow be seen as failures of nature/custom.<sup>65</sup> Contrary to such failures, a personality “well-developed by nature” is deeply attached to its own dignity, a dignity expressed in an unwillingness to put aside precisely the thing a slave master requires be put aside—the judgment of one’s own ends and the exercise of one’s own freedom and self-interest. This, I wish to argue, is the same factor Aristotle is contending with in his passage on the Spartan serfs. Both passages are ‘about’ the same thing, namely, the human being’s native sense of his or her own dignity. In Aristotle’s case, he is addressing the difficulty of maintaining its suppression. In Cicero’s case, speaking comfortably not of serfs or slaves but of free men, he is addressing what he sees as an elemental faculty of the human soul, a faculty equal with if not even more vital than the desire to know; that is, the will to self-assertion, the instinct of self-worth, the instinct for primacy (*principatus*). In Cicero’s description all these combine to present the portrait of a personality well developed by nature—the properly spirited individual. This properly spirited individual is the very opposite of the so-called ‘natural slave.’

Through consideration of these two passages, we have arrived, by indirect assault, at the point we were seeking: the interest that binds the human community to itself. That common interest is the mutual protection of each individual’s right to

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<sup>64</sup> *On Duties* I. 15.

<sup>65</sup> Dobbs, "Natural Right and the Problem of Aristotle's Defense of Slavery," p. 78ff. But compare Aristotle’s notorious remark (at 775a15 of *Regarding the Generation of Animals*) that “females are weaker and colder in nature, and we must look upon the female character as being a sort of natural deficiency.” This view is supported by a theory of the embryonic origins of sexual difference at *Regarding the Generation of Animals* 765b-766b. For discussion of this view cf. Marguerite Deslauriers, "Sex and Essence in Aristotle's *Metaphysics* and Biology," in *Feminist Interpretations of Aristotle*, ed. Cynthia A. Freeland (University Park, Pennsylvania: The Pennsylvania State University Press, 1998). Whether Aristotle would have advanced such a theory to account for the psychic deficiencies of natural slaves is an open question.

lawful self-assertion, his right to pursue the ends of his own positing so long as those ends do not conflict with the lawful ends of his neighbor. Accordingly, the protection of this common interest comes to stand as the hallmark of the legal and the ethical; its violation comes to represent the hallmark of what should be illegal and what is recognized by philosophy as morally reprehensible.

But here it should be objected that this manner of construing the common interest of humankind is an acutely modern one. To transpose it onto the ancient world is an anachronism denying the early modern breakthrough that presaged the American and French Revolutions, a breakthrough expressed in Kant's assertion that: "A constitution allowing *the greatest possible human freedom* in accordance with laws by which *the freedom of each is made consistent with that of others*...is at any rate a necessary idea, which must be taken as fundamental not only in first projecting a constitution but in all of its laws."<sup>66</sup> In the rough and tumble ancient world freedom was generally a precarious thing. The fact that military defeat or capture by pirates would likely lead to enslavement could not have sat lightly upon the peoples of the ancient world. Because of Rome's power and the reach of her empire it sat quite a bit more lightly on her citizens. The individual freedoms of the Roman people were made secure by Rome's own military might and proficiency, and the extended range of that proficiency as determined by the range of Rome's authority. For this reason (I argue) the common interest in Cicero's world was not individual freedom itself, but rather its prerequisite, national security. Romans, by the creation of their empire, achieved a level of security for themselves that Aristotle could only dream of. In Cicero's apologetic mind, Rome extended this level of security to her friends and allies—but at a price. This security—and the cultural, social, economic and political achievements it allowed—was among the primary goods inspiring Cicero's own fervent patriotism. It supported his view that, at its moral best, Roman power had made the ancient world a more secure place.<sup>67</sup> On this basis (*pace* Atkins) there was no limit to his

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<sup>66</sup> *Critique of Pure Reason* 316A/373B

<sup>67</sup> Atkins, "Cicero," p. 495, David Braund, "Piracy under the Principate and the Ideology of Imperial Eradication," in *War and Society in the Roman World*, ed. John Rich and Graham Shipley (London and New York: Routledge, 1993), p. 203, John Rich, "Patronage and

understanding of patriotic duty. For Cicero, the common interest of Rome was identical with the common interest of the world.<sup>68</sup> And so Roman patriotism was practically equivalent, in Cicero's mind, to support for the *societas humani generis*.

## Cicero's Political Imperative

Let us now return to Book III of Cicero's *On Duties* and examine the common interests protected in a selection of his various examples. This will in turn allow us to further assess the extent to which Atkins' challenge to Cicero strikes or misses the mark, the degree to which he has or has not thought out the implications of his principle of the *societas humani generis*.

As was seen in previous chapters, most of Cicero's examples in Book III concern economic or political capital. The grain dealer at Rhodes, the seller of the unsound house, Pythius the Syracusan— all, under some false pretense (that the famine is to continue; that the house is sound; that fishermen work the shores of the estate), threaten the financial standing of those with whom they are involved. On the other hand, Gaius Marius, Marius Gratidianus, and Julius Caesar threaten the political standing of those with whom they are involved. True to his upper class audience, Cicero is largely concerned in his examples with the 'common interests' of material wealth and political prerogative. No more than Aristotle does Cicero entertain the notion that human persons should be free (within the bounds of the law) just in so far as they are human persons. Cicero does, however, show an advance over the accepted terms of his society on two important fronts. First, in accepting the injunction—in all probability derived from Chrysippus<sup>69</sup>—that slaves are to be treated as hired laborers:

Let us remember also that justice must be maintained even towards the lowliest. The lowliest condition and fortune is that of slaves; the instruction we

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International Relations in the Roman Republic," in *Patronage in Ancient Society*, ed. Andrew Wallace-Hadrill (London and New York: Routledge, 1989).

<sup>68</sup> *On Duties* II. 26-27;

<sup>69</sup> Seneca *Ben.* 3.22.1 = SVF 3.351.

are given to treat them as if they were employees is good advice: that one should require work from them, and grant them just treatment.<sup>70</sup>

Here Cicero champions benevolence over the raw assertion of power. Here he judges a crucial social issue in accordance with the demands of the *societas humani generis*. Likewise, in deciding what should be just conduct toward slaves in moments of crisis Cicero appears to surpass the accepted norms of his time, choosing humanity (*humanitas*) over wealth (*res familiaris*).

The sixth of Hecato's books on duties is full of questions of this kind: would a man who is good fail to feed his slave household when corn was extremely dear? He argues on either side, but in the end he measures duty by what is beneficial, as he thinks, rather than by humanity. He asks whether, if some cargo must be thrown overboard at sea, one should sacrifice an expensive horse rather than a cheap little slave. Personal wealth draws us one way, humanity the other.<sup>71</sup>

Bauman, who has not read the text as closely as Dyck, asserts that in regard to this dispute "Cicero makes no comment of his own."<sup>72</sup> Dyck, however, asserts that "Cicero implies that he prefers a different approach [than Hecato]."<sup>73</sup> Here I follow Dyck. In both cases Hecato was likely to have sided with personal wealth. And though Cicero is not as explicit as one would like, I interpret the antithesis of 'what is beneficial' with 'humanity' as implying that humanity comes on the side of the honorable—even if the human being in question happens to be a slave. Still more, in distinguishing between a horse and a slave, and in questioning the ultimate value of *res familiaris* when contrasted with the honorable course (compare the example of Quintus Scaevola<sup>74</sup>), I believe that Cicero means the humane course to be chosen over the monetarily

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<sup>70</sup> *On Duties* I. 41.

<sup>71</sup> *On Duties* III. 89.

<sup>72</sup> Bauman, *Human Rights in Ancient Rome*, p. 23.

<sup>73</sup> Dyck, *A Commentary on Cicero, De Officiis*, p. 612.

<sup>74</sup> *On Duties* III. 62-3.



advantageous one, implying in turn that there is something inherently *honestum* about the preservation of a human life.

Both these measures represent a valuing of *societas humana* that is more than merely rhetorical. Both point to Cicero's conviction that, though it may appear expedient to exploit psychic, physical, or social advantage, what is truly expedient is the honorable remedying of such disadvantages. This in turn connects up with the view canvassed earlier that the law of human benevolence is itself more human than the raw assertion of power, and that the rule of love more human than the rule of fear. Captured under the umbrella term *humanitas* this framework of preferences structures the code whereby Cicero believed all rightful authority, and hence Roman rule and expansion, *should* operate.<sup>75</sup> Combined with his views on the protection of dependents, it mollifies imperialism by introducing a strain of consideration and humanity into what so often has been a merely brutal and savage endeavor.

There are definite limits to Cicero's conception of the *societas humani generis*. It is easy for us moderns to imagine a view of this concept that would prohibit both slavery and all acts of imperial aggression. Such a view, I have attempted to argue, was not within Cicero's grasp. Nevertheless, what fell within his grasp—strictures against deceit and exploitation and counsels concerning the humane treatment of slaves—did set a new standard of morality, a standard higher and more demanding than that current among members of his class or even in the mind of a Stoic philosopher like Hecato.

Cicero's examples have perennial application. They invite us to extend the values of *humanitas* to the spheres of personal, political, and international life. From the point of view of personal morality the key moral issue is the following: When faced with a vulnerable other, what does one do? Does one take advantage of their vulnerability for the sake of one's own political or economic advancement; or does one ameliorate their vulnerability by applying one's own talents and position of advantage to the advancement of the other—even at one's own pecuniary expense.

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<sup>75</sup> For the connection between the *maiestas populi Romani* and *humanitas* see Bauman, *Human Rights in Ancient Rome*.

Cicero's examples in Book III—the corn-dealer at Rhodes, the seller of the unsound house, the varied political and economic manipulators—all point to the same ethical judgment: all dictate a regard for the inner or outer 'property' of the weaker party. All point to the value of that party's humanity: that is, a valuing of the view he has of himself, and of his own self-interest in union with one's own. "You have principles of nature you ought to obey and to follow, to the effect that your own benefit is the common benefit, and conversely the common benefit is yours."<sup>76</sup>—to quote Cicero's Antipater one last time. To our modern eyes, the common interests in question are those of national security, person freedom, personal property, personal dignity, and life free of what Stuart Hampshire has termed "the great evils":

There is nothing mysterious or 'subjective' or culture bound in the great evils of human experience, re-affirmed in every age and in every written history and in every tragedy and fiction: murder and the destruction of life, imprisonment, enslavement, starvation, poverty, physical pain and torture, homelessness, friendlessness That these great evils are to be averted is the constant presupposition of moral arguments at all times and in all places . . .<sup>77</sup>

To avert these evils, to ensure security and freedom—this is the moral mandate present, as a seed, in the teachings of Aristotle and Cicero, their calls to benevolence, their strictures to persons in positions of power.

In their respective social contexts, both Aristotle and Cicero are like men swimming for their ethical lives amidst a very forceful river: both are carried inevitably by the current of an inhumane social sphere, but both as well strike steady strokes toward the ethical shore of universal human benevolence. Cicero's examples in Book III of *On Duties* show that the principle is easily expanded to the spheres of politics and economy—the very areas where narrow self-interest most naturally tends toward abuse of disadvantaged or vulnerable persons. The case made by both thinkers on behalf of domination for the sake of the good of weaker persons takes this principle

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<sup>76</sup> *On Duties* III. 52.

<sup>77</sup> Stuart Hampshire, *Innocence and Experience* (Cambridge, Massachusetts: Harvard University Press, 1989), p. 90.

into the sphere of international politics, where for us moderns it illuminates and confirms genuinely humanitarian military operations like the United Nations sanctioned invasion of Bosnia. Such actions are demanded by Cicero's mandate for the protection of the innocent. Expanded to a notion of benevolent and heroic humanism—a humanism that does not fail “to deflect injury from others, even though they could [deflect it]”<sup>78</sup> — it stands as a mandate not to be shirked.

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<sup>78</sup> *On Duties* I. 23 (adapted).

## CONCLUSION

The preceding pages have attempted to argue that Cicero's appropriation of Stoic teachings in *On Duties* should be viewed as a self-sustaining edifice of intellectual achievement, an achievement reflecting his commitment to the improvement of the moral judgment of both his contemporaries and posterity. In the process I have sought to uncover Cicero's teaching for the twenty-first century. I have argued that the most valuable lesson to be taken from the text of Cicero's *On Duties* is his mandate concerning the protection of vulnerable persons and his vision of the inherently virtuous potential of the human being. For Cicero this mandate and this potential accord with the providential character of the universe itself. They are the law of nature as uniquely gauged to the higher, rational nature of mankind. On these terms to live in accordance with human virtue is to live, as the Stoics expressed it, "in accordance with nature." Men should not behave as beasts. Our rational nature beckons us to something higher. In accordance with this higher calling human beings should prefer diplomacy to war, peace to blood, order to disorder, love to fear.

This array of preferences Cicero extends to economic, political, and social life. The seller, the buyer, the political rival, the slave—all should be treated in accordance with the highest principles of human morality. Four principles orient this higher morality: the golden rule (do not deprive another of his property), the deception clause (do not take advantage of another's ignorance) the transparency rule (do only what you would have all men know), and the protection clause (prevent harm to innocents). These four principles determine how Cicero handles and judges the examples and persons, mythological and historical, who parade through his treatise. These four principles in turn determine what Cicero views to be the guidelines for the ethical pursuit and use of power. Proposing an ethic of complete moral integrity and self-abnegation Cicero puts forth the example of Marcus Atilius Regulus as the ideal republican figure. Deferential to the Roman Senate, dismissive of his own life and comfort, dedicated to the good of the *respublica*—Regulus is the complete antipode of

the self-seeking and destructive Julius Caesar. The condemnation of Caesar and the exultation of Regulus both point again to Cicero's golden rule. As a thief steals so Caesar abrogated the political privileges of men who were rightfully his peers. As a guardian protects so Regulus saw to the political interest of the greater community even to his own apparent detriment. Both these examples point to the dignity of the individual, a dignity properly limited and expressed, in Cicero's mind, by republican institutions of cooperation and collegiality.

For Cicero, the individual who separates his own advantage from that of his neighbor or the community at large separates himself from that same community or neighbor and thereby compromises the *societas humana*. During his most idealistic moments, there is no value greater in Cicero's eyes than the unity and integrity of the *societas humana*. During his less idealistic moments the *respublica* seems to contend with the *societas humana*. This, I have argued, is a function of Cicero's own patriotism, his pride in the attainments of Roman civilization.

Though delivered rhetorically, the prescriptions and tenets of Cicero's *On Duties* amount to more than mere rhetoric. They represent the moral insights of an experienced and bloodied political operative. At points idealistic to the extreme, their idealism is tempered by Cicero's own conviction of mankind's real moral potential. More than anywhere else this moral potential manifests itself in the act of endangering oneself for the sake of the political community. Closest to his heart is the *respublica* endangered. Here his mandate of the protection of the vulnerable reaches its political apotheosis. Cicero recalled the pain of his exile, he was aware of the dangers implicit in his confrontation with Antony. He drew freely upon this account of pain and danger in order to produce a solid and enduring framework of moral tenets, examples, and counter-examples. These constitute a lasting moral legacy.

*On Duties* is a rich text. My own reading of it has been determined to some unavoidable extent by my own (liberal) political preferences. Unlike others, I have

seen very little cause to laud Cicero's economic, social, and political conservatism.<sup>1</sup>

As Long has expressed it:

On Cicero's interpretation of justice, any intervention by government in the sphere of private ownership, whether by taxation or appropriation, is as flagrantly wrong as an individual's theft of another individual's property. Radical conservatives of today would have his support. Cicero thinks that wealthy individuals have the *officium* both to assist those who are indigent and to spend money for the benefit of the state. He does nothing to suggest that government itself has an *officium* to engage in social welfare.<sup>2</sup>

This conservative side of Cicero's social philosophy deserves consideration. Indeed it is worth giving consideration generally to the manner in which Cicero's social prejudices run against the grain of his idealistic pleading on behalf of the *societas humana*, the manner in which, for instance, his inveighing against lower-class occupations<sup>3</sup> is "potentially invidious and not tending to support the *totius generis hominum conciliatio*."<sup>4</sup>

Likewise, I believe there is room to debate—from the platform of *On Duties* and the *Philippics*—Cicero's assessment of the future of the Republic and, more specifically, his construal of the meaning of the career of Julius Caesar. Was the rule of the optimate-dominated Senate an aristocracy or an oligarchy? What forces undermined support for the republican constitution? Was Caesar's subsequent dictatorship a repressive tyranny or a popular monarchy of that age's only true genius? Tyrants or monarchs? Oligarchs or aristocrats? Republic or tyranny? What is even at stake in these conflicting designations and how did they contribute to our conceptions of the 'fall' of the late Republic? On these political questions Cicero cannot be given the last word. To escape the influence of Cicero's judgment, it could be useful to

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<sup>1</sup> Hadley Arkes, "That 'Nature Herself Has Placed in Our Ears a Power of Judging': Some Reflections on the 'Naturalism' of Cicero," in *Natural Law Theory*, ed. Robert P. George (Oxford: Clarendon Press, 1992), pp. 267-9.

<sup>2</sup> Long, "Cicero's Politics in *De Officiis*," pp. 235-6.

<sup>3</sup> *On Duties* I. 150-1.

<sup>4</sup> Dyck, *A Commentary on Cicero, De Officiis*, p. 331.

compare his views with those of Aristotle, in particular Aristotle's theory of monarchy as one of the best forms of government and his keen awareness of the difference between oligarchy and aristocracy. Very often Cicero seems to have no awareness—except perhaps in some far away theoretical portion of his brain—for the difference between an oligarchy and an aristocracy. Or, at least, he seems unwilling to take a hard look at the leadership of Rome in these terms.

As it stands I have sought to recover what is perennial in Cicero's text. The overall impression I hoped to deliver is that, if western secular tradition is to have a clear understanding of its pre-capitalist moral self, then *On Duties* is required reading. As such my work has forwarded a claim regarding the proper ordering of 'Core-Curriculum' syllabi. It intends to imply that certain works, as well as certain themes, are rightly 'canonical' and cannot be excluded from general education without jeopardizing our students' apprehension of the principles and elements of political and ethical life. *On Duties* is one of those texts. The notions of natural law, universal providence, the conflict between the moral and the expedient, and the duty of leaders to protect the vulnerable in society and the world are but a few of the themes indispensable to a thinking person's conceptual array. Whether individuals accept or reject them is up to them. The task of this work has been to place them before us and thereby recover the 'classic' status of Cicero's all too neglected text.

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