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THE BEST GOVERNMENT BASED ON CICERO'S DE RE PUBLICA AND
DE LEGIBUS

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In Cicero's *De re publica* and *De legibus*, Cicero established that nature would determine an ideal state but given human nature, this ideal cannot be achieved. I will discuss what kind of political organization Cicero proposes as best suited to human nature, what ways it departs from the ideal and what it preserves.

Keywords: natural law, human nature, government, reason

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BACKGROUND

Marcus Tullius Cicero was a Roman statesman during the 1st century BC. He was learned in law, oratory, and philosophy, and had a successful career as a lawyer and orator. He was born in year 106 to a wealthy family in the Roman equestrian order. Although he had a successful career as a lawyer and orator, he considered his political career to be his highest priority. Cicero was a *novus homo*, meaning he would be the first in his family to achieve a distinguishing office in the political sphere. He moved along the *cursus honorum*, the expected pathway for politicians, and served as a consul, the highest political office of the Roman Republic, in 63.

The Roman Republic had undergone much civil unrest and war during Cicero's lifetime and would continue to go through much civil unrest and war after his death in 43. Cicero was a strong supporter of the constitution and had urged for a reform that would return the Republic back to, in his opinion, its golden age by strictly adhering to the constitution. He was a member of the Optimates, a conservative political faction that wanted to preserve the authority of the Senate and limit the power of the assemblies belonging to the people. The Optimates' main political opponent were the Populares, a political faction that favored the cause of the people; one of the leading figures for the Populares faction was Julius Caesar. Cicero had declined Caesar's invitation to join a secret alliance, which would later become the First Triumvirate, because he thought it undermined the Republic. After becoming consul, he had hoped for more opportunities to continue working in the political sphere but was not successful in moving up the *cursus honorum* again due to the changing political climate that was then favoring the Populares faction.

Cicero often turned to philosophy during difficult times in his life. He was a well educated man and studied the philosophy of the ancient Greeks. He read much of the works available to him and wrote many philosophical works himself. He was knowledgeable of Plato's *Republic* and *Laws*, as they are clearly the influences of his own *De re publica* (written circa 54-51) and *De legibus* (begun circa 52). Both these works were written during times in which he was not politically active but ones that saw the Republic undergo much political unrest.

Both works are written in dialogue form. *De re publica*'s leading speaker is Scipio Aemilianus, a politician and general who died in 129, before Cicero was born. *De re publica* traces the history of Rome from its beginning to Scipio's day and through the development of the Roman constitution, along with the types of government that were established in the Roman past. *De legibus*'s leading speaker is Cicero himself, but he is referred to as Marcus in the dialogue. In this work, Marcus is in conversation with his brother Quintus and their mutual friend Atticus. The three discuss civil laws and Cicero puts forward his beliefs on natural law and laws that would best suit the state in *De re publica*. Neither books survive in complete form but the sections that are extant have been studied many times for their theories on politics. In both dialogues, Cicero has established that nature would determine an ideal

state but given human nature, this ideal cannot be achieved. In this paper, I will discuss what kind of political organization Cicero proposes as best suited to human nature, what ways it departs from the ideal and what it preserves.

THE CELESTIAL REALM

Nature determines the ideal state and as such Cicero begins *De re publica* with an investigation into the cosmos. Scipio is hosting a gathering that will last three days with friends and family on his estate. The first to arrive is his nephew, Tubero, who arrives before the other guests. Taking advantage of his early arrival, he asks Scipio about a celestial phenomenon in which two suns were observed recently. Scipio dismisses the question as being irrelevant and says that Socrates himself was not interested in natural phenomenon that was beyond human understanding. Tubero disagrees saying that Plato's writings about Socrates clearly shows how Socrates is just as interested in the natural world as he is in human affairs. Scipio suggests that, through his dialogues, Plato has created this image of Socrates. This particular part of the dialogue shows how Cicero was influenced by Plato's works and how he will also connect the celestial realm to the human one.¹

This debate about the relevance of the natural world to human affairs continues. As more guests arrive, the topic of discussion is questioned again for its relevance by Laelius, who inquires if they have attained perfect knowledge of their own home and State to consider discussing the heavens. Philus asserts that discussing the heavens is just as relevant because humans and the gods together share the universe as a home. Laelius consents to continuing the conversation and Philus attempts an explanation for Tubero's question about the recent celestial phenomenon, however, some text is missing so the full discussion about the phenomenon is incomplete. Philus relates that, during a previous report of a similar phenomenon, he had been present when the consul, C. Sulpicius Galus had used an orrery to demonstrate how an eclipse occurs. The text picks up with Scipio giving an account of how astronomy has been used by political leaders, such as Galus, to relieve fear in their soldiers. Tubero is quick to point out how Scipio's opinion has changed since now there is an established relevance for the study of the heavens in relation to the human realm. This is the most ostensible connection that can be made to demonstrate to an audience who may share the same view as Laelius that celestial matters are relevant; Cicero has shown how astronomy, a science of the natural world, can influence humans in a direct way. A return to more important matters in the human realm, especially that of the public state, is begged for by Laelius.

Laelius suggests the topic should shift to the practical duties of a public man, knowledge that will make citizens more useful to the State, and a form of government that would be best. Scipio agrees to lead the discussion on which form of government he considers best. To understand what government is best, the *res publica* must be clearly defined. Scipio begins by defining *res publica* as the *res populi*, the property of a people.

¹ Atkins (2013) 51.

Est igitur, inquit Africanus, res publica res populi, populus autem non omnis hominum coetus quoquo modo congregatus, sed coetus multitudinis iuris consensu et utilitatis communione sociatus.
(*Rep.* 1.39)

Well, then, a commonwealth is the property of a people. But a people is not any collection of human beings brought together in any sort of way, but an assemblage of people in large numbers associated in an agreement with respect to justice and a partnership for the common good.²

Scipio also clearly defines what makes up a people, it is a gathering of humans joined together (*sociatus*) by an agreement about justice (*iuris consensu*) and by commonality of advantage (*utilitatis communione*).³ Every state must be governed by some deliberative body (*consilium*) to exist for a long time; the deliberative body must always be connected to the original reason that brought the people together as a state. Scipio states that there are three types of governments defined by the deliberative body. The deliberative body can be assigned to one person, select individuals, or taken up by the entire population. When one person governs everything, that person is called a king and his state a monarchy (*regnum*). When a select group governs, the state is ruled by an aristocracy (*optimatum*). When the governing power is in the hands of the people, it is called a democracy (*popularis*).

Each government type can be stable and continue to exist under certain conditions. If the deliberative body maintains the original bond that brought the people together as a state, these government types are tolerable. Each government has certain qualities that make them attractive; the monarchy's best aspect is the affection (*caritas*) of a king for his people, the aristocracy's is their wisdom (*consilium*), and the democracy's is their freedom (*libertas*).⁴ However, each government has certain faults that leads it down a slippery path (*iter*) to a depraved form that is a close neighbor. These governments can easily change (*convertuntur*) into a depraved form; a monarchy can turn into a tyranny, an aristocracy into an oligarchy, and democracy into mob rule.⁵ Governments can also change from one type to another. When a monarchy degenerates into a tyranny and a great group of men overthrow it, the government would become an aristocracy; if the people themselves overthrow the tyranny, the government would become a democracy.⁶ Scipio describes the changes from the proper states to the degenerate forms as periodical revolutions (*orbes*) that are almost circular (*circumitus*).⁷

The vocabulary used to describe the changes in state have an astronomical aspect to them. Robert Gallagher gives an analysis of the relation between the astronomical imagery provided by Philus and the political theory given by Scipio.⁸ Scipio's description of the change from the three states to their corresponding degenerate forms or to another type of government echoes that of Philus when he was describing the mechanism of the orrery. The orrery demonstrates the motion (*motus*) of the sun and planets, and a single revolution

² Cicero. (1928). *On the Republic*. Translated by Clinton W. Keyes.

³ Atkins (2013) 130.

⁴ *Rep.* 1.55.

⁵ *Rep.* 1.69.

⁶ *Rep.* 1.65.

⁷ *Rep.* 1.45.

⁸ Gallagher (2001).

(*conversio*) of the orrery reproduces the courses (*cursus*) of the celestial bodies. Within governments, there is a motion towards an unstable form, then a motion that re-establishes the stability required for a state to exist. The movement of the states resembles the movements of the planets. Through use of this metaphor, Scipio is making the celestial realm relevant to the discussion of human matters.

THE BEST GOVERNMENT

There is a return to the primary purpose of the discussion, which is to determine the best government. There are three types of government, monarchy, aristocracy, and democracy, in their proper forms. None of these governments, in Scipio's opinion, is best, but pressed by Laelius to choose one out of the three, he picks the monarchy.

He compares a king to a father and then to Jupiter. The way a father cares for his children is the same way a king should care for his people, with affection (*caritas*). This affection is what makes the monarchy most attractive; when a king rules with affection, he is putting the people's common interests above his own. Scipio continues advancing the importance of affection in a monarchy with Jupiter, who is both a king and a father. With Jupiter as his example, Scipio is able to securely attach the *caritas* of a father to a monarch, and thus establishes the importance of *caritas* in a monarchy. Scipio also says that Jupiter turns (*converteret*) Olympus with a nod; this is a reminder that there is a connection between the heavens and human affairs, which will become more apparent in the Dream of Scipio in the final book of *De re publica*. Scipio has demonstrated that *caritas* is the best aspect of the monarchy; for a monarchy to have a long lasting government, he must exhibit *caritas* for his people to maintain the bond that brought them together.

Scipio continues to explore the idea of a monarchy as the best government. He suggests that the teachers of educated men, or philosophers, be sought for answers because they have recognized that the whole world is ruled by a mind, *senserunt omnem hunc mundum mente*.⁹ The text breaks off and there are a couple of pages missing. Based on Scipio's use of the word *mens* as a governing agent though, there are two theories for why Scipio picks the monarchy as the best government. The first theory would be a deeper investigation into the cosmos and the second would be a step towards reason as a governing agent.

1. THE SUN BY ANY OTHER NAME

Scipio's investigation into the cosmos returns in the sixth book of the *De re publica* in the Dream of Scipio. While sleeping, Scipio is visited by his adopted grandfather Scipio Africanus, a prior general and consul of the Roman Republic. Africanus leads Scipio into the heavens and shows him the celestial spheres that make up the universe. Scipio sees Rome and is distracted by it, but Africanus recalls his attention by directing his gaze away from Rome and towards the sun. The sun holds special importance in its role within the universe, which is made especially clear from the names that Africanus gives to the sun.

⁹ *Rep.* 1.56.

He first calls the sun a god (*summus ipse deus*). By referring to the sun as a god, he is alluding to Stoic philosophy. The Stoic God is “a principle of order and activity, and yet immanent within the body of the cosmos”.¹⁰ Africanus’s description of the sun has small details that are reminiscent of the definitive properties of the Stoic God.

Deinde subter mediam fere regionem sol obtinet, dux et princeps et moderator luminum reliquorum, mens mundi et temperatio, tanta magnitudine, ut cuncta sua luce lustret et compleat (Rep. 6.17).

Below it and almost midway of the distance is the sun, the lord, chief, and ruler of the other lights, the mind and guiding principle of the universe, of such magnitude that he reveals and fills all things with his light.¹¹

The image that Africanus has presented demonstrates some Stoic influence. Describing the sun as *temperatio*, or a balanced order, is representative of the Stoic’s God, who is the source of all order and activity. This God is the one who artfully designs the cosmos according to reason.¹² Another similarity is the manner in which the sun fills and completes all things with its light. The Stoic God is immanent, meaning that he is physically interwoven with the cosmos and is present in everything. The trace of Stoic teaching is small but does shed light on how Cicero, through both Scipio and Africanus as his mouthpiece, uses natural philosophy to further his own political philosophy about government types. These small details point to Scipio turning to philosophers, as he said in the first book, to learn more about the rule of one deliberative body. He uses their philosophy regarding the natural world to push his argument for a monarchy as the best government.

As Scipio, in his dream, is observing the movement of the spheres, he hears an agreeable sound. This sound is produced by the movement of the spheres in their orbits. Africanus explains:

Hic est, inquit, ille, qui intervallis disiunctus imparibus, sed tamen pro rata parte ratione distinctis impulsu et motu ipsorum orbium efficitur et acuta cum gravibus temperans varios aequabiliter concentus efficit; nec enim silentio tanti motus incitari possunt (Rep. 6.18).

“That [sound] is produced,” [Africanus] replied, “by the onward rush and motion of the spheres themselves; the intervals between them, though unequal, being exactly arranged in a fixed proportion, by an agreeable blending of high and low tones various harmonies are produced; for such mighty motions cannot be carried on so swiftly in silence¹³

The universe is arranged in such a way that the motion of the spheres creates an agreeable sound.¹⁴ The dream demonstrates that harmony is possible when an order has been arranged in the best way and points to one guiding principle being able to arrange the cosmos in such a harmonious way. When this dream is applied to government types, the monarchy would be identified as the one that imitates this ideal order. The monarchy’s resemblance to the ideal order of the universe is apparent in the role of the king.

¹⁰ Adamson (2015) 67.

¹¹ Cicero. (1928). *On the Republic*. Translated by Clinton W. Keyes.

¹² Adamson (2015) 67.

¹³ Cicero. (1928). *On the Republic*. Translated by Clinton W. Keyes.

¹⁴ Harmony and music plato

A single deliberative body, the sun, rules the universe just as the king governs his people. Jed Atkins compares the perfect rationality of the cosmos to an ideal political order.¹⁵ The perfect balance in the universe is based on the spheres revolutions being calculated according to reason. He gives the sun many names, *dux*, *princeps*, and *moderator*, all of which attributes to the sun an absolute power to rule. The sun, as the leader of the heavens, exercises this power to rule over the universe and this is the same power that belongs to the king. Out of the three government types that Scipio has detailed, only the monarchy has the same absolute power to rule as the sun within the universe. The universe is ruled according to reason and nothing can be more perfect so it follows that the monarchy, the government which exemplifies this same power, would be the best government.

Scipio describes the sun as the mind (*mens*) of the universe (*mundus*) which recalls the *mundum mente* from the first book right before the missing text. It can be suggested that within the missing pages of Book I, Scipio probably relates that the universe is ruled by a single mind according to Stoic philosophy, especially after stating that they should listen to philosophers on these matters. The reappearance of the words in such a similar context shows how Scipio will use the mind as a governing agent in the celestial realm to support why he considers the monarchy to be the best government.

2. THE RULE OF REASON

Reason as a guiding principle is the second argument for why a monarchy would be the best government. Scipio compares the rule of reason to that of a king governing his kingdom. After the missing text in Book I, Scipio is discussing how reason rules the mind. Although it is unknown what the missing text may have included, it ends with Laelius asking Scipio to return to matters closer at hand and a less abstract argument for why a monarchy would be the best government.¹⁶ The less abstract argument Scipio proceeds with is reason within the human mind.

To make the argument for monarchy more related to human affairs, Scipio turns to the human mind, in particular to Laelius's mind. Scipio asks Laelius if he allows anger to rule his mind, and when Laelius denies allowing anger to rule, Scipio approves:

Ergo Archytas iracundiam videlicet dissidentem a ratione seditionem quandam animi vere ducebat, atque eam consilio sedari volebat; adde avaritiam, adde imperii, adde gloriae cupiditatem, adde libidines;¹⁷ et illud vides, si in animis hominum regale imperium sit, unius fore dominatum, consilii scilicet (ea est enim animi pars optima), consilio autem dominante nullum esse libidinibus, nullum irae, nullum temeritati locum. (Rep. 1.60)

Then Archytas clearly regarded anger, when it disagreed with calm judgment, as a sort of rebellion within the mind, which he desired should be put down by reason.¹⁷ Take as further examples avarice, greed for power and glory, and the passions; you see, if there is any kingly power in the minds of men, it must be the domination of a single element, and this is reason (for that is the best part of the mind), and, if reason holds dominion, there is no room for the passions, for anger, for rash action.¹⁸

¹⁵ Atkins (2015) 68.

¹⁶ Zetzel's edition places a fragment here.

¹⁷ Archytas

¹⁸ Cicero. (1928). *On the Republic*. Translated by Clinton W. Keyes.

Reason within the human mind is the governing principle that rules the irrational parts of the human soul. When anger disagrees with reason (*ratio*), there is a rebellion (*seditio*) that must be put to rest (*sedo*) by sound judgement (*consilium*). The terminology employed by Scipio has political emphasis and makes a clear connection between the role of reason in the human mind and the role of the king in his kingdom.¹⁹ The irrational parts of the soul must submit to the rule of reason, just as the people should submit to the rule of a king. Sound judgement is the kingly power (*regale imperium*) in the human mind. By using the terms *regale imperium* to describe sound judgement, Scipio is explicitly emphasizing that a king has *imperium*. The king's *imperium* is his "executive power to rule over things [...]; the king, possessed of wisdom and justice, has the absolute authority and ability to issue commands".²⁰ The monarchy should be ruled by a king who is the embodiment of reason ruling. With a just king, who follows reason as a guiding principle, the monarchy would be the best government. The second argument that Scipio gives for considering a monarchy to be the best government is based on reason ruling the human mind.

In both arguments for monarchy, reason has a prominent role. In the cosmos, the sun rules according to reason; in the human mind, reason rules the irrational parts of the soul. Within each argument, when the rule of reason is followed a stable state can be achieved. The universe is so perfectly arranged, it produces a harmonious sound. Reason rules so dominantly within the mind that there is no room for the passions to disrupt it. Furthermore, reason is the foundation for a stable government that can exist for a long time. The rule of reason and its ability to maintain a stable state is a model for human government. Humans should imitate the rule of reason in order to bring about an eternally stable government.

There is a limit, however, to the rule of reason because of the nature of the human mind. This second argument for monarchy as the best government moves away from the celestial realm to the human one by employing reason in the human mind. The spheres follow their courses and do not refuse to follow the sun's rule while the irrational parts of the human soul rebel against reason and disrupts any stability that reason might promote. Humans are not able to perfectly imitate the rule of reason present in the universe because of the irrational parts of the soul. A monarchy would be an ideal government, if it did not have to accommodate for humans. In the cosmos, one leader governs with perfect rationality to create a harmonious balance but in human governments, a single leader would not be able to rule in the same manner because he does not have perfect rationality. The irrational parts of the human soul contribute to the weaknesses in the deliberative body of each government and so a monarchy is liable to degenerate into a tyranny. The contrast between reason's ability to rule with absolute power in the universe and in the human mind demonstrates why a monarchy would not be the best government possible for humans. The limitations on the rule of reason is explored further in how reason operates within the human mind in the following section.

After understanding the limitations placed on reason in the human mind, an ideal government for humans can be determined. To adjust for human nature, another form of government must be considered. As Scipio has been insisting, there is a fourth form of

¹⁹ Atkins (2013) 70.

²⁰ Hammer (2012) 50.

government that he considers best, the mixed constitution. This government is a well-regulated mixture of the three simple government types and preserves the best aspect of each while minimizing its weaknesses. The balance of good and bad qualities in each government type correlates to the virtues and vices in human nature. In the next section, reason within the human mind and its connection to government types will be explored.

HUMAN NATURE

While nature governed by reason determines an ideal state, it is human nature that determines ideal state for humans. Human nature is understood as the characteristics that is common to all humans. Through examining characteristics that are similar and different between men and the gods, and men and other animals, it is possible to determine the nature of man. In *De legibus*, Marcus leads a discussion on natural law that includes an inquiry into the nature of man. Exploring these characteristics make it possible to examine why a mixed constitution is the best government for humans.

The same thread that makes the celestial realm relevant in *De re publica* continues in *De legibus*. The point that Philus makes in the first book to justify the discussion of celestial matters is repeated by Marcus: the gods and humans share the universe and therefore they are members of the same state. The purpose of this reference to the gods and the universe is not to reintroduce the cosmos as a model for a monarchy in *De legibus*, but to establish an additional connection between the gods and humans. Marcus, unlike Philus, does not discuss the universe in terms of the planets and their revolutions but redirects the discussion to the members of the universe. The gods and humans do not share only the universe but each has a share in reason.

Animal hoc providum, sagax, multiplex, acutum, memor, plenum rationis et consilii, quem vocamus hominem, praeclara quadam condicione generatum esse a supremo deo; solum est enim ex tot animantium generibus atque naturis particeps rationis et cogitationis, cum cetera sint omnia expertia (Leg. 1.22).

That animal which we call man, endowed with foresight and quick intelligence, complex, keen, possessing memory, full of reason and prudence, has been given a certain distinguished status by the supreme God who created him; for he is the only one among so many different kinds and varieties of living beings who has a share in reason and thought, while all the rest are deprived of it.²¹

As James Zetzel notes, this emphasis on the sharing of reason between the gods and men is based on Stoic philosophy.²² Cicero continues to rely heavily on Stoic doctrines to explain his political philosophy. This particular doctrine is used by Marcus to explain that reason was gifted to the human mind by the gods.²³ Although reason is given by the gods, it departs from the gods' perfect rationality when it is introduced in the human mind. This departure is based on the origin of mankind. At some point during the revolutions of the heavens, the seeds of the human race were sown and the gods gave them the gift of souls.²⁴ Because man has a divine and immortal soul that has its origin from the gods, nature gives to man a mind that is

²¹ Cicero. (1928). *On the Laws* Translated by Clinton W. Keyes.

²² Zetzel (1999) 113.

²³ God is physical and pervades all things, therefore the Stoics are willing to call him nature.

²⁴ *Leg.* 1.24.

capable of reason and learning.²⁵ Marcus makes it clear that the rationality that belongs to humans is different from the gods' perfect rationality. Humans possess an incomplete intelligence that must be developed and strengthened, this is one of the limitations that is placed on human rationality. Once this incomplete intelligence has been developed, humans are able to form the principles of right living which allows them to come together in a state by an agreement about justice.

Out of the three forms of government, a monarchy is most liable to degenerate because of the weaknesses of the human mind. A monarchy is dependent on one man, whose rationality is not perfect and must be developed. If reason within a king's mind does not develop according to nature, his monarchy cannot exist in a stable condition. Within an aristocracy and a democracy, the deliberative power is shared among a group of men and so if one man does not develop his reason according to nature, it can be balanced out by other men. The two other government types are not as liable to degenerate due to the limitations placed on one man's reason. They are liable to degenerate due to other characteristics that make up human nature.

Humans out of all animals are the only ones who have a share in reason. Non-human animals have not been given the abundance of gifts that men have received. Marcus points out that some animals have been created for human use, some for enjoyment, and some for food.²⁶

solum hominem erexit et ad caeli quasi cognationis domiciliique pristini conspectum excitavit; tum speciem ita formavit oris, ut in ea penitus reconditos mores effingeret; nam et oculi nimis arguti, quem ad modum animo affecti simus, loquuntur, et is, qui appellatur vultus, qui nullo in animante esse praeter hominem potest, indicat mores [...] omitto opportunitates habilitatesque reliqui corporis, moderationem vocis, orationis vim, quae conciliatrix est humanae maxime societatis (Leg. 1.26-27).

[Nature] has made man alone erect, and has challenged him to look up toward heaven, as being, so to speak, akin to him, and his first home. In addition, she has so formed his features as to portray therein the character that lies hidden deep within him; for not only do the eyes declare with exceeding clearness the innermost feelings of our hearts, but also the countenance, as we Romans call it, which can be found in no living thing save man, reveals the character. [...] I will pass over the special faculties and aptitudes of the other parts of the body, such as the varying tones of the voice and the power of speech, which is the most effective promoter of human intercourse.²⁷

While non-human animals face the earth to graze, humans are the only ones who stand upright looking up at the sky. Humans also have eyes that express what the mind feels, facial features that convey emotions, and speech that allows humans to interact with each other. These specific examples do not only demonstrate differences between the bodies of humans and other animals, but also show that the human body is suitable for the use of reason. By looking up at the sky, the soul within is recalling its origin. The eyes, face, and speech shows the activity of reason. While the body that nature has given man is suitable for human nature, it is still mortal and prone to degenerate like the bodies of other animals. This mortal body

²⁵ The other parts that make up humans are mortal and prone to degenerate; these other parts contribute to the differences between the gods and men but.

²⁶ *Leg.* 1.25.

²⁷ Cicero. (1928). *On the Laws*. Translated by Clinton W. Keyes.

keeps man securely attached to the earthly world, while allowing him to study the cosmos and develop his reason.

Reason is the common characteristic shared by man and the gods, but not between man and other animals. Returning to *De re publica*, Scipio explains that even to wild animals there is nothing sweeter than liberty, *libertate ne feris quidem quicquam esse dulcius* (*Rep.* 1.55). Humans and non-human animals have a share in wanting liberty.²⁸ Liberty is necessary for the people who have come together to form a state because each individual must feel like he has some deliberative power in the common interests. There must be a balance in how much liberty the people have. If the people do not have enough liberty, then the state is a monarchy or an aristocracy, or its degenerative forms, a tyranny or an oligarchy. If the people have too much liberty, the state degenerates into mob rule. A balance of liberty between the deliberative party and the people is crucial to establishing a stable government and the mixed constitution is where this delicate balance is found.

By examining the characteristics that humans share with the gods and other animals, the nature of man can be better discerned. The characteristics that have been examined meets the two conditions that bring people together in a *res publica*. Reason, when properly developed, forms the principles of right living and make it possible for people to come to an agreement on justice. Liberty allows people to exercise their right to deliberate over their common interests. Both of these characteristics define the nature of humans and demonstrate why humans cannot establish the ideal state seen in the cosmos in which the deliberative body is one man. Humans must form a government that allows for the development of reason in humans and gives the members of the state a sense of liberty. The purpose for studying the cosmos is to imitate the balance seen in the revolutions of the planets and apply it to a government that suits human nature.

THE DEVELOPMENT OF REASON

The development of reason in accordance to nature provides a standard of justice that is necessary for a stable mixed constitution to exist. The development of reason is detailed in the first book of *De legibus*. Marcus begins by discussing how the incomplete knowledge that all men have is developed to form particular knowledge. All men have the capacity to learn but the particulars of knowledge may differ because of the difficult process that the mind has to undertake. The mental process for learning is a confusing step that makes forming knowledge that corresponds to nature difficult but when it does correspond to nature, it forms the basis for right living and justice.

Reason starts in the human mind as an incomplete intelligence which, as Margaret Graver would describe it, is a natural endowment that equips humans in some way to form the concepts out of which justice is built.²⁹ This incomplete intelligence faces challenges in its pursuit to form the principles for right living because objects that promote right living can be confused with objects that do not. Marcus list examples of objects that men seek, even though they do not truly promote the principles of right living.

²⁸ *Rep.* 1.55.

²⁹ Graver (2012).

nam et voluptate capiuntur omnes, quae etsi est inlecebra turpitudinis, tamen habet quiddam simile naturalis boni; levitate est enim et suavitate delectans; sic ab errore mentis tamquam salutare aliquid adsciscitur; similique [...] dolor in maximis malis ducitur cum sua asperitate, tum quod naturae interitus videtur sequi; propterque honestatis et gloriae similitudinem beati, qui honorati sunt, videntur, miseri autem, qui sunt inglorii (Leg. 1.31-32).

For pleasure also attracts all men; and even though it is an enticement to vice, yet it has some likeness to what is naturally good. For it delights us by its lightness and agreeableness; and for this reason, by an error of thought, it is embraced as something wholesome. It is through a similar misconception that [...] we look upon pain as one of the greatest of evils, not only because of its cruelty, but also because it seems to lead to the destruction of nature. In the same way, on account of the similarity between moral worth and renown, those who are publicly honoured are considered happy, while those who do not attain fame are thought miserable.³⁰

Marcus's first example is pleasure, which attracts men because of its lightness and agreeableness. On the other end of the spectrum is pain, which men avoid because of its cruelty. Men are happy when they are publicly honored and miserable when they do not attain fame. Marcus attributes men seeking the former and avoiding the latter in each case to an error in thought (*ab errore mentis*). This mental error mistakes fame, which is a moral renown, for moral worth due to a similarity (*similis*) between the two. Graver extends this mental error to the other examples that Marcus gives. Pleasure and pain, honor and disrepute are closely related to a proper object that would be more appropriate to seek or avoid. Pleasure is mistaken for the proper object of health; pain for the proper object of bodily harm; honor for moral excellence; and disgrace for moral turpitude. Pleasure has a similarity to what is good by nature, just as pain is perceived as an evil because it accompanies bodily harm. Nature favors the pursuit of health and the avoidance of bodily harm but because the human mind is not fully developed, it fails to recognize that health and pleasure are different objects, and that bodily harm and pain are different objects. This process of sorting experiences is difficult for the immature human mind but with more experience and guidance, the human mind will be able to make a distinction and pursue the proper object.³¹

Although the path for learning the principles of right living is difficult, it is necessary to develop reason according to nature. Developing the principles for right living is not promised to be successful and is another limitation placed on the rule of reason. To have reason as a governing principle reason must be perfect and complete, but men are not given perfect and fully developed reason. The spark, or incomplete intelligence, nature gives to man can be put out by the corruption of bad habits so that contrary vices arise and become established. When the men in the deliberative body are unable to sort out the appropriate objects that should be pursued to develop reason, the simple government types change into their degenerate forms. Unlike the three simple government types, the mixed constitution accommodates for the development of reason in the human mind and encourages men to develop principles of right living.

All men have reason, in the form of incomplete intelligence, endowed by the gods and strengthened by nature. Although the particulars of knowledge gained from learning is different among men, there is still similarity among the knowledge gained. It is apparent

³⁰ Cicero. (1928). *On the Laws*. Translated by Clinton W. Keyes.

³¹ Graver (2012).

across all nations that men consider courtesy, kindness, and gratitude to be good qualities in people, while people who are haughty, wicked, cruel, and ungrateful are disliked. The quality of sameness among different particulars of knowledge proves that reason is strengthened by nature. When the judgements of men correspond to nature, justice can be acquired for the people. By laying the foundation of the principles for right living in nature, Marcus is establishing that justice comes from reason developed in agreement with nature.

The development of reason in accordance with nature is defined as law in both dialogues. In *De re publica*, true law is right reason in agreement with nature, *est quidem vera lex recta ratio naturae congruens* (*Rep.* 3.33); in *De legibus*, law is the highest reason, implanted in nature, *lex est ratio summa insita in natura* (*Leg* 1.18). Law is defined in terms of reason in connection to nature. Marcus continues by connecting both right reason and law to justice.

quibus enim ratio natura data est, isdem etiam recta ratio data est, ergo et lex, quae est recta ratio in iubendo et vetando; si lex, ius quoque; et omnibus ratio; ius igitur datum est omnibus (*Leg.* 1.33).

For those creatures who have received the gift of reason from Nature have also received right reason, and therefore they have also received the gift of Law, which is right reason applied to command and prohibition. And if they have received Law, they have received Justice also. Now all men have received reason; therefore all men have received Justice.³²

Justice can only be acquired by all the members of a state when reason has been developed. All men are capable of right reason, so all men are given the gift of law that direct right living. Here, law does not refer to conventional laws instituted by states, but to natural law. The purpose of conventional laws is to ensure the safety of citizens, the preservation of state, and the peace and happiness of the people.³³ Conventional laws typically only apply to one government, while natural law is universal and eternal. Because natural law is right reason in commands and prohibitions it directs men to live in a way that promotes justice and the common interests of every member of the state. By developing reason according to nature, men are able to establish a state based on natural law. Following natural law allows a *res publica* to meet the conditions necessary to exist for a long time, and the mixed constitution meets these conditions.

THE STATESMAN

The statesman (*rector rei publicae*) plays an important role in guiding the development of the mixed constitution. The duties of the statesman is to guide and protect the common interests of the people and to do that the statesmen must be experienced in both the management of great affairs (*rerum magnarum tractatio*) and have knowledge of other arts (*usus illarum artium*).³⁴ The statesman is an ambiguous figure because of the missing text in the *De re publica*. It has been established, however, that the statesman is not one individual but a group of men. The statesmen do not fill an office such as that of a king, but hold a role. As Marquez notes, what is “monarchical in the constitution is less any particular office [...]

³² Cicero. (1928). *On the Laws*. Translated by Clinton W. Keyes.

³³ *Leg.* 2.11.

³⁴ *Rep.* 3.5.

than the presence of people capable of charismatic, just and prudent action”.³⁵ The statesmen are a group of men who have political experience, knowledge and genuine concern for the stability of the state.

The balance and practiced movements of the cosmos should be studied by the statesman. The cosmos provides a model of an ideal state that humans are unable to replicate. As Xavier Marquez explains, the sun’s role in regulating the movements in the cosmos is given to the statesmen in political communities; the statesman must learn to recognize the “community’s departures from its proper movement and restore it to rational, regular movement”.³⁶ Through studying the ideal state determined by nature, the statesman learns about the balance that exists within the universe and recognizes that this balance is what should be imitated from the celestial realm. The statesmen is charged with studying the patterns and balance in the natural world to guide the mixed constitution.

The most important duty for the statesman is to understand the nature of man. He must first understand himself and continually work to improve himself, then encourage others to do the same.

Huic scilicet, Africanus, uni paene (nam in hoc fere uno sunt cetera), ut numquam a se ipso instituendo contemplandoque discedat, ut ad imitationem sui vocet alios, ut sese splendore animi et vitae suae sicut speculum praebeat civibus (Rep. 2.69).

Of course he should be given almost no other duties than this one (for it comprises most of the others)—of improving and examining himself continually, urging others to imitate him, and furnishing in himself, as it were, a mirror to his fellow-citizens by reason of the supreme excellence of his life and character.

The statesman must actively pursue virtue and encourage his fellow citizens to live a virtuous life. By choosing virtue, the statesman is following right reason according to nature to form the principles for right living because virtue is nothing else than nature perfected and developed to its highest point (*est autem virtus nihil aliud nisi perfecta et ad summum perducta natura*).³⁷ By developing his virtue, he is developing his reason according to nature. He also takes it upon himself to promote the right principles of right living by encouraging his fellow citizens to pursue virtue. The statesman is aware of the irrational parts of the human mind and promotes virtue to limit the irrational parts from establishing vice. The statesman is mindful of the limits placed on human rationality and works to guide the development of the mixed constitution.

MIXED CONSTITUTION

The mixed constitution is a well-regulated mixture of the three simple government types and preserves the best aspect of each while minimizing its weaknesses. The three simple governments, monarchy, aristocracy, and democracy, each have faults based on the nature of the deliberative party that lead them on a path to their degenerate forms. The mixed constitution balances out the shortcomings present in one simple government with the strong

³⁵ Marquez (2011) 414.

³⁶ Marquez (2011).

³⁷ *Leg.* 1.25.

point of another. By creating a balance among the best and worst characteristics of each government, the mixed constitution is not liable to degenerate. The mixed constitution is stable against the periodic changes that governments encounter because it also accommodates for the nature of humans.

The monarchy takes up a large portion of Scipio's discussion because he identifies it as the ideal state. The arguments to support the monarchy are much longer than the arguments for the other two simple governments, but the arguments against the monarchy are just as lengthy. The monarchy finds its support as an ideal government in the celestial realm and in the human mind because both have one ruler in regards to a deliberative body. But as it has been shown, the monarchy is not an ideal government for men because one man holds all the deliberative powers. If the *res publica* is the *res populi*, then this government type is not a true state because the people do not have any deliberative powers. Every law instituted depends on the rationality of one man. If this ruler does not put the common interests of the people above his own or institutes unjust laws, he is a tyrant and his government is a tyranny. While the weakness of this government is that the deliberative body consists of one man, its strong point is the affection (*caritas*) of a good king, which encourages the people to accept the absolute power of one king.

The aristocracy should be made up of a selective group of men who are best. Best originally referred to men who excelled in wisdom and virtue, and acted as the guide (*consilium*) who had authority (*auctoritas*) but as the aristocracy degenerates, best refers to men who hold extreme wealth and power. The aristocracy's weak points are intermediate to the other two simple governments. It shares the same weak point as the monarchy in regards to deliberative power, because only a few select men have a say in the common interests, the people do not participate in the deliberative powers so the state does not truly fulfill the necessary conditions to be a *res publica*. Unlike the monarchy, however, there is no affection associated with the deliberative party to improve the appearance of unequal liberty among the members of the state.

The democracy perhaps best fits the definition of a *res publica* as a *res populi*. The state is truly the property and concern of the people. The deliberative power belongs to all members of the state. This state has no single man or group of men who hold all the powers, so it allows for the people to have liberty (*libertas*). But the definition of liberty is the cause of much contention. On one hand, if liberty is not equal among all men, it is not true liberty. On the other hand, if everyone has an equal share in liberty, there is no distinction among men regarding moral worth. Liberty must be balanced among the members of the state in such a way that all feel like they have enough liberty. If there is too much liberty among men, the government is liable to degenerate into mob rule. The weaknesses in each government can be summarized as follows:

Sed et in regnis nimis expertes sunt ceteri communis iuris et consilii, et in optimatum dominatu vix particeps libertatis potest esse multitudo, cum omni consilio communi ac potestate careat, et cum omnia per populum geruntur quamvis iustum atque moderatum, tamen ipsa aequabilitas est iniqua, cum habet nullos gradus dignitatis. (Rep. 1.43)

But in monarchies, no one else has sufficient access to shared justice or deliberative capacity; and in the rule of an aristocracy the people have hardly any share in liberty, since they lack any role in deliberation in common interests and power; and when everything is done by the people itself, no

matter how just and moderate it may be, that very equality is itself inequitable, in that it recognizes no degrees of status.³⁸

The weaknesses in these governments are balanced by the strong points of the other governments to form a mixed constitution. The mixed constitution takes from the monarchy the affection (*caritas*) and the power (*imperium*) of the king and preserves it in the magistrates. From the aristocracy it takes authority (*auctoritas*) and wisdom (*consilium*) and preserves it in the senate. From the democracy it takes liberty (*libertas*) and ensures that there is enough for all people. By blending these characteristics, the weaknesses of the simple governments are balanced. Liberty balances the power of the magistrates, so that there is a check against an abuse of power on the magistrates' parts. If the magistrates do not follow reason, the people are able to select new members to the deliberative body. *Auctoritas*, as James Zetzel notes, is "particularly associated with the Roman senate" and "connotes strong influence and the right to command respect for one's views".³⁹ By assigning authority to the senate and assigning power to the magistrates, the senate has no legal right to rule, only the ability to guide. Wisdom puts a limit on the people's desire for liberty, so that the people do not have an excess of liberty. Affection maintains its role in encouraging the people to adore the magistrates and the senate. The mixed constitution is not prone to degenerating because the power of magistracy, the wisdom of the senate, and the liberty of the people are firmly set up.

The mixed constitution is made up of the best parts of the simple government so that it will last in a stable condition for a long time. The mixed constitution meets the conditions necessary to be recognized as a *res publica*. Because it provides liberty and deliberative powers to all members of the state, it fulfills the *res populi* condition. It also maintains the agreement about justice and the common interests which brought the people together in to form a government.

CONCLUSION

Cicero, through Scipio as his mouthpiece, discusses two ideal states. Nature determines an ideal state which is governed according to perfect rationality. The best government for humans accommodates the nature of men. The government for men should be able to imitate the balance that is achieved by perfect rationality, as seen in the celestial realm and the rule of reason in the human mind. To understand why men cannot maintain the ideal state as a government, the nature of humans is investigated. It was determined that the nature of man is based on reason which must be developed, and this development is difficult and not always successful. The mixed constitution accommodates for the development of reason in the human mind by having statesmen who encourage right living according to virtue. The mixed constitution then preserves the best aspects of the three simple governments to balance out the weaknesses of each to create the best government for men.

³⁸ Cicero. (1928). *On the Republican*. Translated by Clinton W. Keyes.

³⁹ Zetzel (1999) xxxix.

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