

CONFERENCE: THE FOUNDATION OF HUMAN RIGHTS: CATHOLIC CONTRIBUTIONS, PART I: ARTICLE: HUMANITAS IN CICERO'S MORAL PHILOSOPHY AND ITS CHRISTIAN RECEPTION

Spring, 2012

Reporter

10 Ave Maria L. Rev. 405 *

Length: 7475 words

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Introduction

I recall hearing a story about two Hopi Indians in the deserts of New Mexico, sitting miles apart from each other on opposite mesas. They were sending smoke signals to each other. The first Indian laid his blanket over the fire and sent up a smoke signal into the sky. And as he was waiting for the reply from the other Indian, suddenly a mushroom cloud from a nuclear test in the desert rose up into the sky from behind the mesa of the second Indian. The first Indian sat there staring and said, "Well, I wish I would have said that!"

When I consider that I am giving the first paper on the first panel at this conference on the Foundations of Human Rights, and then look at the names of the other speakers who will be presenting, something tells me that by tomorrow night, I will be saying to myself, "Well, I wish I would have said that!" But in any case, my colleague Maria Fedoryka has asked me to send up a smoke signal on the classical foundations of Human Rights and so I shall do so to the best of my ability.

In this Article I want to examine, all too briefly, the contribution of the Roman statesman and moral philosopher Cicero to the question of human rights. Cicero is considered to be the greatest orator and Latin prose stylist of all time. He died in 43 B.C., having been put to death by Mark Antony's assassins, as a political victim of the civil war that ensued, following the assassination of Julius Caesar in 44 B.C. ¹ He was decapitated and his right hand was cut off. ² Through his philosophical treatises, which he wrote in retirement, and especially **[*406]** through his work, *De Officiis*, *On Duties*, Cicero played a seminal role in the formation of morality and virtue in Western Europe. Cicero champions the doctrine that humanity is a brotherhood that shares a divine spark and is cared for by a divine providence. ³ He advocates an active existence characterized by the cardinal virtues of wisdom, justice, courage, and temperance. ⁴ Above all, he champions "justice" as morally obligatory to human beings and intrinsically useful.

¹ See Gian Biagio Conte, *Latin Literature: A History* 176 (Joseph B. Solodow trans., Johns Hopkins Univ. Press 1994) (1987).

² Plutarch, *Fall of the Roman Republic* 359-60 (Rex Warner trans., Penguin Books rev. ed. 1972).

³ See Cicero, *On Obligations*, Bk. I, §§11-17 (P.G. Walsh trans., Oxford Univ. Press 2000) [hereinafter *On Obligations*].

⁵ In doing so, he foreshadows and indeed lays foundations for the modern concept of "human rights." In this Article I will highlight some of the key ideas of Cicero's *On Duties*. I will also briefly discuss the reception and purification of Cicero's moral philosophy in the Christian tradition, especially with respect to his Christian emulators and admirers, St. Ambrose, and Erasmus of Rotterdam.

I. Cicero on Human Rights

To my knowledge Cicero does not use the term *ius humanum* or *iura humana*, "human rights," in his written works. What we might consider as the equivalent term for him would be *human officia*, "obligations" or "duties."⁶ These duties arise as a consequence of our shared *humanitas*, "humanity," that is, from our being *homines*, "human beings."⁷ The term *homo* addresses the question: What unites all human beings and separates us from the beasts? How are we obligated to live as human beings? For Cicero, then, it is not a question of human "rights"; it is a question of human "obligations" or "duties."⁸ To begin with, however, we should acknowledge that whatever heights Cicero attained in his moral vision for humanity, we would object to some of the ways Cicero applied his principles in the real world. For example, Cicero accepted the cultural institution of slavery, with all its harsh treatment.⁹ But as we all know, so did the [*407] founders of our own country, and the latter were concerned with a far more inhumane form of slavery.¹⁰

Moreover, we should concede that Cicero's law court orations and the recommendations for justice found there stand in significant tension with his abstract discussions of justice and virtue in his moral treatises and dialogues. Even Cicero's contemporaries accused him of excessive application of the death penalty, for instance, in connection with the Catilinarian conspiracy.¹¹ Strange to say it, but in some circles Julius Caesar may have had a greater reputation for clemency toward his enemies than did Cicero. And however elevated was Cicero's discussion of just war theory in his treatise *On Duties*, or *Obligations*, with its advocacy of merciful treatment of conquered enemies, he was ruthless in his application of these principles, when, for instance, he defended the total destruction of Carthage and Corinth, which had taken place in 146 B.C., and of Numantia in Spain in 133 B.C., on the grounds of the "cruel monstrosities" these nations had committed against Rome.¹² Corinth especially had not waged war cruelly against Rome, "which on Cicero's own admission would have been the only justification for the destruction of the city."¹³ Conceding the difficulty and complexity of the topic, I will endeavor to discuss Cicero's concept of human obligations and the Christian reception of his thought.

II. Concept of Human Obligation

⁴ See *id.* Bk. I, §§18-93.

⁵ See *id.* Bk. I, §§20-41.

⁶ See *id.* Bk. I, § 49.

⁷ See *id.* Bk. I, § 51.

⁸ See *id.* Bk. I, § 50.

⁹ See *id.* Bk. I, § 41; see also Keith Bradley, *Slavery and Society at Rome* 142 (1994); *The Oxford Classical Dictionary* 1416 (Simon Hornblower & Antony Spawforth eds., 3d ed. 1996) ("At no time was there any serious questioning of the structural role of slavery in Graeco-Roman society.").

¹⁰ See Roy L. Brooks, *Ancient Slavery Versus American Slavery: A Distinction with a Difference*, [33 U. Mem. L. Rev. 265, 267 \(2003\)](#) ("Having accepted the fundamental proposition that all humans are essentially equal, Roman law, it is argued, sought to reduce the harshness of slavery.").

¹¹ See Thomas Africa, *The Immense Majesty: A History of Rome and the Roman Empire 181-83* (1974).

¹² See *On Obligations*, *supra* note 3, Bk. I, § 35 (stating that he would not have sanctioned the destruction of Corinth, but immediately defends the decision).

¹³ P. G. Walsh, *Explanatory Notes to On Obligations*, *supra* note 3, at 133.

The title and substance of Cicero's Latin work *De Officiis*, *On Duties or Obligations*, is derived from the Greek work of the Stoic philosopher Panaetius, a work entitled in Greek: *Peri tou kathekontos*, "Concerning the appropriate," or "Concerning what is fitting."¹⁴ *Kathekon* was the regular Stoic expression to categorize ethical behavior.¹⁵ It means appropriate or fitting behavior that is directed **[*408]** towards virtue.¹⁶ When Cicero rendered this title into Latin, he employed the Latin word *officium* (duty).¹⁷ This term lacks the precise nuance of the Greek term.¹⁸ The standard English title of *De Officiis* is *On Duties*, but this seems somewhat inadequate since the word "duty" does not need to have a moral connotation.¹⁹ Therefore, Walsh in his most recent translation prefers the title, *On Obligations*.²⁰

In this work, Cicero follows Panaetius's organization by structuring the work in three books.²¹ "The first deals with honorable conduct (*honestum*), the second with what is useful (*utile*), and the third with potential conflicts of interest between the two."²² In Book I, honorable conduct is synonymous with virtue.²³ This has four subdivisions from which all obligations or duties stem, namely the four cardinal virtues expounded by Plato: wisdom, justice, courage, and temperance.²⁴ But the Stoics have expanded these concepts.²⁵ Under the first of these, the obligations that fall under wisdom are entirely concerned with the pursuit of knowledge and concern for the truth.²⁶ Cicero enthusiastically endorses the Stoic emphasis on the importance of service to the community in the pursuit of knowledge.²⁷ He makes a useful distinction between wisdom and prudence, and says that in general the life of learning should find its justification in service to the community.²⁸

The second of the cardinal virtues is justice and is expanded to embrace beneficence or generosity.²⁹ Two principles for just behavior are laid down: first, all men should observe the common good and "no person should suffer harm at the hands of another unless he is an aggressor";³⁰ second, "in all relations good faith (*fides*) is the **[*409]** foundation of justice."³¹ "Obligations towards individuals are twofold: we must refrain from directly harming them, and we should not stand idly by when wrongs are perpetrated on others."³² The roots of injustice are

¹⁴ P. G. Walsh, Introduction to *On Obligations*, *supra* note 3, at xvii.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.* at xviii.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* at xix.

³¹ *Id.*

³² *Id.*

analyzed; these are sometimes "fear, more often greed, and more often still lust for dominance and fame." ³³ "Julius Caesar is cited as a heinous example" of the latter. ³⁴ Cicero makes an early contribution to "just war" theory: "wars should be fought only "for the [sic] purpose of living peaceably without suffering injustice'; and the defeated should be spared unless they have committed monstrosities." ³⁵

Chapters 50-52 of Book I contain the following passage where Cicero discusses the nature of humanity and our consequent obligations. He says that the interest of the human community (*societas hominum*) and its coherence will best be served if our generosity is bestowed most of all on those most closely connected with us. ³⁶ He probes deeper into the fundamentals of community and human fellowship ordained by nature and writes:

First comes that which we see existing in the fellowship of the whole human race [(in universi generis humani societate)]. The bond which unites them is the combination of reason [(ratio)] and speech [(oratio)], which by teaching, learning, communicating, debating, and evaluating endears men to each other, and unites them in a kind of natural alliance. This more than anything separates us from the nature of the beasts. We often concede that animals such as horses and lions have courage, but lack justice, fairness, and goodness. This is because they lack reason and speech. ³⁷

Cicero goes on to say that "human fellowship in its broadest sense[] unites all men with each other." ³⁸

Within it the common ownership of all things which nature has brought forth for men's joint use must be preserved, in the sense that private possessions as designated by statutes and by civil law are to **[*410]** be retained as the laws themselves have ordained, while the rest is to be regarded, in the words of the Greek proverb, as "all things shared by friends." ³⁹

Or in the form of the adage, which I teach my Latin students: *amicorum communia omnia* (between friends, all is common). He says that "these possessions common to all men are, it seems, of the kind which [the poet] Ennius applies to a single instance, but which can be extended to many." ⁴⁰ He then quotes the poet:

The friendly soul who shows one lost the way, Lights, as it were, another's lamp from his. Though he has lit another's, his own still shines. ⁴¹

Cicero says that "this one example suffices to teach the lesson that what costs us nothing to give should be bestowed even on a stranger." ⁴² He quotes general maxims that have arisen out of this universal recognition of human obligations to the common good: "'Do not prevent access to running water', 'Let all who want it take fire from your fire', 'Give honest advice to one in doubt'." ⁴³ Cicero comments:

³³ Id.

³⁴ Id.

³⁵ Id. (citing *On Obligations*, supra note 3, Bk. I, § 35).

³⁶ *On Obligations*, supra note 3, Bk. I, § 50.

³⁷ Id.

³⁸ Id. Bk. I, § 51.

³⁹ Id.

⁴⁰ Id.

⁴¹ Id. (quoting Ennius from an unknown tragedy).

⁴² Id. Bk. I, §§51-52.

⁴³ Id. Bk. I, § 52.

Such gestures are useful to the recipients, and no trouble to the donor, so we should follow these precepts and always seek to contribute to the common good. Since, however, the resources of individuals are limited, whereas there is a numberless crowd of those in need of them, our generosity to one and all must be qualified by invoking that conclusion of Ennius, "his own lamp still shines." This restriction will leave us with the means to be generous to our friends.⁴⁴

Cicero's doctrine that man is superior to the lower animals because of his possession of reason and speech was an inheritance from Stoicism, which had taken it over from Aristotle.⁴⁵ His citation of the [*411] adage, "all things shared by friends," is found repeatedly in Plato⁴⁶ and Aristotle.⁴⁷

In the next section of the treatise, Cicero says that "there is more than one level of human fellowship."⁴⁸ A closer link exists between members of the same race, nation, and language than is found with the whole race.⁴⁹ Within the national group lies the closer union between members of the same city-state.⁵⁰ Closer still is the bond between relatives, and on down to the bond of family.⁵¹ Yet of all the bonds of fellowship, he says, "none is more pre-eminent or enduring than the friendship forged between good men of like character."⁵² "Every virtue attracts us towards it, and causes us to feel affection towards those in whom we observe it, but justice and generosity induce this response most of all. Nothing inspires greater affection or intimacy than decency of character which is shared."⁵³ In Book III of his treatise, Cicero aligns himself with the Stoics who define the highest good as "being in conformity with nature."⁵⁴ He writes: "What I think this means is that we must always align ourselves with virtue, and choose all else which accords with nature so long as it does not militate against virtue."⁵⁵ Moreover, Cicero firmly rejects the Epicurean doctrine that the highest good in life consists in pleasure, and that virtue is praiseworthy merely because it is productive of pleasure.⁵⁶ To this he responds: "What role will be afforded to practical wisdom? Is its function merely to seek out pleasant experiences from every quarter? How wretched the servility of that virtue would be, playing handmaid to low pleasure!"⁵⁷

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III. Reception of Cicero

There are many other beautiful and inspiring passages like these in Cicero's work, but I will now make a transition from Cicero to the reception of Cicero. St. Augustine reports in his Confessions that, at the age of nineteen, he experienced his conversion to philosophy as a result of reading Cicero's now lost work, Hortensius.⁵⁸ Prior to St.

⁴⁴ Id.

⁴⁵ Walsh, *supra* note 13, at 136.

⁴⁶ Robin Waterfield, *Notes to Plato, Phaedrus 105* (Robin Waterfield trans., Oxford Univ. Press 2002).

⁴⁷ Walsh, *supra* note 13, at 136.

⁴⁸ On Obligations, *supra* note 3, Bk. I, § 53.

⁴⁹ Id.

⁵⁰ Id.

⁵¹ Id.

⁵² Id. Bk. I, § 55.

⁵³ Id. Bk. I, § 56.

⁵⁴ See *id.* Bk. III, § 13.

⁵⁵ Id.

⁵⁶ Id. Bk. III, §§116-17.

⁵⁷ Id.

Augustine, St. Justin Martyr had said: "For whatever either lawgivers or philosophers uttered well, they elaborated by finding and contemplating some part of the Word."⁵⁹ Similarly, the Church father Clement of Alexandria claimed: "The Greek preparatory culture, therefore, with philosophy itself, is shown to have come down from God to men" ⁶⁰ St. Ambrose, Bishop of Milan, writing in the fourth century, reflects the Christian attitude toward whatever is true in paganism. He wrote a treatise on Christian ethics for the clergy entitled *De officiis ministrorum*. ⁶¹ More than 150 parallel passages are found in the comparison of his book with that of Cicero. ⁶² What attracted St. Ambrose to Cicero's work was the high ethical content. ⁶³ He agrees with Cicero that virtue is the highest good, but he of course identifies virtue with God the Son who is loving goodness itself. ⁶⁴ He modifies the Stoic teaching on the cardinal virtues and introduces charity as the Christian addition. For Ambrose, kindness, which is strictly only a part of justice, is so emphasized that he virtually transfigures justice into charity. ⁶⁵ Hagendahl writes of Ambrose's addition of charity: "Although this supreme virtue of Christianity is not, under its own name, classed among the cardinal virtues, yet, under the name of justice, it receives full recognition."⁶⁶

[*413] From St. Ambrose I shift forward to Erasmus of Rotterdam, who died in 1536. ⁶⁷ Erasmus is not yet a saint or doctor of the Church. In the year 1489, Erasmus put the following words into the mouth of one of the characters of a dialogue he wrote entitled, *Antibarbari*, "Against the Barbarians." ⁶⁸ This was Erasmus's very first book in which he endeavored to defend the value of studying pagan literature and philosophy as a preparation for theological studies, an idea that (surprisingly) encountered strong opposition in his day:

Everything in the pagan world that was valiantly done, brilliantly said, ingeniously thought, diligently transmitted, had been prepared by Christ for his society. He it was who supplied the intellect, who added the zest for inquiry, and it was through him alone that they found what they sought. ⁶⁹

In 1523 Erasmus published an edition of another work of Cicero, the *Tusculanae Quaestiones*. ⁷⁰ In the preface, he says that his frequent reading and rereading of Cicero's writings causes him to feel contempt for those educators who claim that there is nothing notable in Cicero except the splendor of his language. ⁷¹ Erasmus states that

⁵⁸ See St. Augustine, *Confessions*, Bk. III, at 134 (Edward B. Pusey trans., P. F. Collier & Son 1909).

⁵⁹ Justin Martyr, *The Second Apology of Justin*, Ch. 10, reprinted in 1 *The Ante-Nicene Fathers* 191 (Rev. Alexander Roberts & James Donaldson eds., 1885).

⁶⁰ Clement of Alexandria, *The Stromata, or Miscellanies*, Bk. I, Ch. 7, reprinted in 2 *The Ante-Nicene Fathers* 308 (Rev. Alexander Roberts et al. eds., 1885).

⁶¹ See Jed W. Atkins, *The Officia of St. Ambrose's De Officiis*, 19 *J. Early Christian Stud.* 49, 50, 50 n.4 (2011).

⁶² See Harald Hagendahl, *Latin Fathers and the Classics* 348-81 (1958).

⁶³ See *id.* at 348.

⁶⁴ See Ambrose, *De Officiis*, Bk. I, § 127 (Ivor J. Davidson ed. & trans., Oxford Univ. Press 2002).

⁶⁵ Hagendahl, *supra* note 62, at 358.

⁶⁶ *Id.*

⁶⁷ P.P.J.L. van Peteghem, *Erasmus' Last Will, the Holy Roman Empire and the Low Countries*, in *Erasmus of Rotterdam, the Man and the Scholar* 88, 88 (J. Spera Weiland & W. Th. M. Frijhoff eds., 1988).

⁶⁸ See Desiderius Erasmus, *The Antibarbarians*, reprinted in 23 *Collected Works of Erasmus* (Margaret Mann Phillips trans., Univ. of Toronto Press 1978) (c. 1520).

⁶⁹ *Id.* at 60.

⁷⁰ 11 *Collected Works of Erasmus* 94 n.2 (Alexander Dalzell trans., Univ. of Toronto Press 1994).

Cicero offers a marvelous selection from the best Greek writers on the subject of the good and happy life and that Cicero displays an abundance of sound and genuinely moral precepts.⁷² Moreover, Erasmus believed Cicero reflects profoundly on the nature of man's true happiness, which shows that he practiced what he preached.⁷³ Stylistically Cicero exhibits clarity, openness of mind, nimbleness, a flow of words, and a light touch.⁷⁴ Erasmus compares Cicero's philosophical achievement with that of Cicero's predecessors, and [*414] then with Erasmus's contemporary Christians.⁷⁵ In comparison with Cicero, the latter seem often to occupy themselves with trivialities.⁷⁶

Prior to Socrates, Erasmus says, philosophy had little contact with life.⁷⁷ It was absorbed in the contemplation of the natural world.⁷⁸ Socrates brought it down to earth and into the homes of men.⁷⁹ Plato and Aristotle attempted to introduce it to the courts of kings, legislatures, and law-courts.⁸⁰ But Cicero has succeeded in bringing philosophy practically onto the stage for he has helped philosophy speak a language of the common people, so that even a miscellaneous audience can applaud her.⁸¹ Cicero wrote when his country was in great crisis, and yet, in spite of these circumstances, the serious moral tone of his writings exposes the frivolousness of the concerns of very many Christians.⁸² Erasmus writes:

Surely we ought to be ashamed of our casual conversations and our dinner-table talk, when we see how pagans devoted to such high moral considerations even such leisure as they were allowed by the downfall of their country, not seeking an [escape] for the mind in brainless pleasures but trying to find a remedy in the most exalted precepts of philosophy.⁸³

Noteworthy is the practical orientation of Erasmus's admiration of Cicero and its aim toward the ethical life. As Stupperich has pointed out, it is not in vain that Erasmus has dedicated this edition of Cicero to the chancellor of Dusseldorf, Johannes Vlatten, a man responsible for directing the public welfare and Church-politics.⁸⁴ Erasmus was striving for a practical rather than a theoretical goal with his Christian humanism.⁸⁵

In Cicero, Erasmus encounters a pagan who spoke more like a Christian than a pagan. What Erasmus loves most in Cicero is his [*415] divine felicity in style and his very high moral tone.⁸⁶ He believed reading Cicero makes us

⁷¹ See Letter from Desiderius Erasmus to Johann von Vlatten (1523), in 10 Collected Works of Erasmus 96-98 (R.A.B. Mynors & Alexander Dalzell trans., Univ. of Toronto Press 1992).

⁷² Id.

⁷³ Id.

⁷⁴ Id.

⁷⁵ See id.

⁷⁶ See id.

⁷⁷ Id.

⁷⁸ Id.

⁷⁹ Id.

⁸⁰ Id.

⁸¹ Id.

⁸² Id.

⁸³ Id. at 97-98.

⁸⁴ Robert Stupperich, *Erasmus von Rotterdam und seine Welt* 168 (1977).

⁸⁵ Id.

⁸⁶ See Letter from Desiderius Erasmus to Johann von Vlatten, *supra* note 71, at 98.

better human beings. ⁸⁷ Erasmus challenges the young to read him and learn him by heart. ⁸⁸ And so let us do just that. As my Hopi Indian might have said in response to reading Cicero: "I wish I would have said that!"

Conclusion

To me it seems that God was preparing the ground for the doctrine of natural law and human rights by means of Cicero's moral and ethical teaching. Cicero champions the doctrine that humanity is a brotherhood that shares a divine spark and is cared for by a divine providence. We are called to an active existence characterized by the cardinal virtues of wisdom, justice, courage, and temperance. Cicero defends "justice" as morally obligatory to human beings and intrinsically useful; he consistently reprehends the philosophy that sees pleasure as the highest good. Thus, Cicero anticipates and lays foundations for the modern concept of "human rights." His doctrines were received and purified in the Christian tradition and they continue to inspire us and invite us to more careful consideration.

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⁸⁷ See *id.* at 98-99.

⁸⁸ *Id.*