

## On the Laws

Marcus Tullius Cicero  
53 B.C.

*Law is an eternal principle that governs the universe and is coexistent with God. The first written laws were enacted for the benefit of the people, who agreed to obey them. Laws that are corrupted, and no longer conform to nature, are not laws at all. We should recognize that the gods rule over all, observe our actions, and distinguish between the good and the wicked. This is essential for public oaths, the keeping of treaties among nations, and the good conduct of civil society. Within the state, the safety of the people is the supreme law.*

Book II  
Sections 7 – 17

Marcus—“Let us begin, then, with great Jupiter,” as I said in my translation of Aratus.

Atticus—Wherefore this exordium?

Marcus—Because we cannot do better than commence, by invoking Him and the other gods.

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Quintus—There can be no objection to this: it is but decent and proper.

Marcus—Let us, then, once more examine, before we descend to particulars, what is the essence and moral obligation of law; lest, when we come to apply it to its subordinate relations, we should not exactly understand each other for want of explanation; and lest we should be ignorant of the force of those terms which are usually employed in jurisprudence.

Quintus—This is a very necessary caution, and the proper method of seeking truth.

Marcus—This, then, as it appears to me, hath been the decision of the wisest philosophers; that law, was neither excogitated by the genius of men, nor is it any thing discovered in the progress of society; but a certain eternal principle, which governs the entire universe; wisely commanding what is right, and prohibiting what is wrong. Therefore, that aboriginal and supreme law is the Spirit of God himself; enjoining virtue, and restraining vice. For this reason it is, that this law, which the gods have bestowed on the human race, is so justly applauded. For it is the reason and mind of Wisdom, urging us to good, and deterring us from evil.

Quintus—You have already touched on this topic. But before you come to treat of civil laws, endeavour to explain the force and power of this divine and celestial law, lest the torrent of custom should overwhelm our understanding, and betray us into the vulgar method of expression.

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Marcus—From little children have we learned, my Quintus, such phrases as this, “that a man appeals to justice, and goes to law;” and a great many municipal laws have we heard mentioned; but we should not understand that such commandments and prohibitions have sufficient moral power to make us practise virtue and avoid vice.

The moral power of law, is not only far more ancient than these legal institutions of states and peoples, but it is coeval with God himself, who beholds and governs both heaven and earth. For it is impossible that the divine mind should exist without reason; and divine reason must necessarily be possessed of a power to determine what is virtuous and what is vicious.

Nor, because it was no where written, that one man should maintain the pass of a bridge against the enemy’s whole army, and that he should order the bridge behind him to be cut down, are we therefore to imagine that the valiant Cocles did not perform this great exploit, agreeably to the laws of nature and the dictates of true bravery.

Again, though in the reign of Tarquin there was no written law concerning adultery, it does not therefore follow that Sextus Tarquinius did not offend against the eternal law when he committed a rape on Lucretia, daughter of Tucipitinus. For, even then he had the light of reason deduced from the nature of things, that incites to good actions and dissuades from evil ones. And this has the force of a law, not from the time it was written, but from the first mo-

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ment it began to exist. Now, this existence of moral obligation is coeternal with that of the divine mind. Therefore the true and supreme law, whose commands and prohibitions are equally infallible, is the right reason of the Sovereign Deity.

Quintus—I grant you, my brother, that whatever is the just is always the true law; nor can this true law either be originated or abrogated by any written enactments.

Marcus—Therefore, as the Divine Mind, or reason, is the supreme law, so it exists in the mind of the sage, so far as it can be perfected in man.

With respect to civil laws, which differ in all ages and nations, the name of law belongs to them not so much by right as by the favour of the people. For every law which deserves the name of a law ought to be morally good and laudable, as we might demonstrate by the following arguments. It is clear, that laws were originally made for the security of the people, for the preservation of cities, for the peace and benefit of society.

Doubtless, the first legislators persuaded the people that they would write and publish such laws only as should conduce to the general morality and happiness, if they would receive and obey them. Such were the regulations, which being settled and sanctioned, they justly entitled Laws. From which we may reasonably conclude, that those who made unjustifiable and pernicious enactments for the people, counteracted their own promises and professions; and established

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any thing rather than laws, properly so called, since it is evident that the very signification of the word law, comprehends the essence and energy of justice and equity.

I would therefore interrogate you on this point, my Quintus, like our inquisitive philosophers. If a state wants something, wanting which it is reckoned no state, must not that something be something good? (*Quæro igitur a te Quinte, sicut illi solent,—quo si civitas careat, ob eam ipsam causam quod eo careat, pro nihilo habenda sit, id est ne numerandum in bonis?*)

Quintus—A very great good.

Marcus—Now a state which has no law, is it not for that reason to be reckoned no state?

Quintus—We must needs say so.

Marcus—We must therefore reckon law among the very best things.

Quintus—I entirely agree with you.

Marcus—If then in the majority of nations, many pernicious and mischievous enactments are made, as far removed from the law of justice we have defined as the mutual engagements of robbers, are we bound to call them laws? For as we cannot call the recipes of ignorant empirics, who give poisons instead of medicines, the prescriptions of a physician, we cannot call that the true law of the people, whatever be its name, if it enjoins what is injurious, let the people receive

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it as they will. For law is the just distinction between right and wrong, conformable to nature, the original and principal regulator of all things, by which the laws of men should be measured, whether they punish the guilty or protect the innocent.

Quintus—I quite agree with you, and think that no law but that of justice should either be proclaimed as a law or enforced as a law.

Marcus—Then you regard as nullable and voidable the laws of Titius and Apuleius, because they are unjust.

Quintus—You may say the same of the laws of Livius.

Marcus—You are right, and so much the more, since a single vote of the senate would be sufficient to abrogate them in an instant. But that law of justice, which I have explained can never be rendered obsolete or inefficacious.

Quintus—And, therefore, you require those laws of justice the more ardently, because they would be durable and permanent, and would not require those perpetual alterations which all injudicious enactments demand.

Marcus—Certainly, if I could get you both to agree with me. But Plato, that wisest philosopher, that gravest prince of literature, who first composed his Commonwealth, and afterwards his *Treatise on the Laws*, induces me to follow his illustrious example, and to proclaim the praises of law, before I begin to

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recite its regulations. Such likewise, was the practice of Galencus and Charendas, when they wrote their laws, not for literary amusement, but for the benefit of their country and their fellow-citizens. And in this conduct, they were emulated by Plato, who considered that it was the property of law, to persuade as well as compel.

Quintus—What, do you venture to cite Galencus, when Timæus denies that he ever existed?

Marcus—But Theophrastus, an author quite as respectable, and many think more so, corroborates my opinion. His fellow-citizens too, my clients, the Locrians, commemorate him; but whether he was or was not, is of no great consequence to our argument: we only speak from tradition.

Let this, therefore, be a fundamental principle in all societies, that the gods are the supreme lords and governors of all things,—that all events are directed by their influence and wisdom, and that they are loving and benevolent to mankind. They likewise know what every person really is; they observe his actions, whether good or bad; they discern whether our religious professions are sincere and heart-felt, and are sure to make a difference between good men and the wicked.

When once our minds are confirmed in these views, it will not be difficult to inspire them with true and useful sentiments,—such as this, that no man should be so madly presumptuous as to believe that he has either reason or intelligence, if he does not

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believe that the heaven and the world possess them likewise, or in other words, that there is no Supreme Mind which keeps the universe in motion. The presumption is the more excessive in man, who with his best philosophy, can hardly understand what the universe means.

In truth, we can scarcely reckon him a man, whom neither the regular courses of the stars, nor the alternations of day and night, nor the temperature of the seasons, nor the productions that nature displays for his use, do not urge to gratitude towards heaven.

As the beings furnished with reason are incomparably superior to those who want it, and we cannot say, without impiety, that any thing transcends the universal Nature, we must therefore confess that divine reason is contained within her. Who will dispute the utility of these sentiments, when he shall reflect how many cases of the greatest importance are decided by oaths; how much the sacred rites performed in making treaties tend to assure peace and tranquility; also, what numbers the fear of divine punishment has reclaimed from a vicious course of life; and how sacred the social rights must be in a society where a firm persuasion obtains of the immediate intervention of the immortal gods, both as witnesses and judges of our actions? Such is the “preamble of the law,” to use the expression of Plato.

Quintus—You are right, my brother; I am pleased to find, however, that you take an original view of the subject, and often correct the mistakes of this philosopher, for nothing can less resemble his opinions,

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than what you have just now asserted, even in this preamble. I see little conformity between you, excepting in the style, which you imitate exactly.

Marcus—I should be very glad of it, if such imitation were possible. As to his sentiments, it would be easy enough to explain them by means of paraphrases and illustrations—surely this would not be difficult to any scholar who would undertake such a task. But with regard to the thought, whatever I compose, unless it be an acknowledged quotation, I would wish it to be my own, for what merit is there in saying nearly the same thing, in nearly the same words?

Quintus—I entirely agree with you; for as you have justly remarked, your discourse ought to be your own. Begin, then, if you will do us the favour, and expound the Laws of Religion.

### Book III Sections 1 – 9

Marcus—I shall, therefore, emulate that divine man who has inspired me with such admiration, that I eulogize him perhaps oftener than is necessary.

Atticus—You mean Plato.

Marcus—The very man, my Atticus.

Atticus—Indeed you do not exaggerate your compliments, nor bestow them too frequently, for even my Epicurean friends, who lavish all their praises on Epicurus, still allow me to love Plato as much as I like.

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Marcus—They do well to grant you this indulgence, for what can be so suitable to the elegance of your taste as the writings of Plato?—who in his life and manners effected that most difficult combination of gravity and politeness.

Atticus—I am glad I interrupted you, since you have availed yourself of an opportunity of giving this splendid testimonial of your esteem; but let us pursue our subject.

Marcus—Let us begin, then, with praising our civil laws, with all the commendations they truly and appropriately deserve.

Atticus.—It is but fair, since you paid the same preliminary compliment to our ecclesiastical jurisprudence.

Marcus—You are aware, then, that the proper characteristic and duty of magistrates, is to superintend and prescribe all the just and useful regulations of the law. For as the law is set over the magistrate, even so are the magistrates set over the people. And, therefore, it may be said “that the magistrate is a speaking law, and the law a silent magistrate.”

Now it is self-evident, that nothing can be more conformable to justice and natural conscience, which to me appear perfectly congenial, than that legal authority, without which, neither house, nor commonwealth, nor nation, nor mankind itself, nor the entire nature of things in this immeasurable universe, could consist. For this universe is obedient to God,

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and land and sea are submissive to the universe; and human life depends on the just administration of the laws of order.

But to come to considerations nearer home, and more familiar to us, all ancient nations have been under the dominion of kings (*omnes antiquæ gentes regibus quondam paruerunt*). Which kind of authority was at first conferred on the wisest and justest men. And this rule mainly prevailed in our own Commonwealth, as long as the regal power lasted. Afterward, the authority of kings was handed down to their descendants, which remains to this day, in those that reign over nations. And even among those to whom the regal domination was distasteful, though they desired to disclaim their submission to the laws of a monarch, they by no means sought to be emancipated from all laws.

For ourselves, then, as we propose laws for a free people, such as we approved in that best kind of Commonwealth, concerning which we wrote our Six Books, we shall now endeavour to accommodate our laws to that constitutional government we there set forth and illustrated.

It is clear, then, that magistrates are absolutely necessary to a state, since, without their prudence and diligence, there would be nothing but confusion and anarchy. Their lawful authority is therefore to be determined in the legislation of every Commonwealth. But it is not enough to prescribe them a rule of domination, unless we likewise prescribe the citizens a rule of obedience. For in order to command

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well, we should know how to submit; and he who submits with a good grace will some time become worthy of commanding. It is desirable therefore, that he who obeys may hope that some day he will be capacitated for command, and that he who commands should bear in mind that ere long he may be called to the duty of submission.

We would not, however, limit ourselves to requiring from the citizens submission and obedience towards their magistrates; we would also enjoin them by all means to honour and love their rulers, as Charondas prescribes in his code. Our Plato likewise declares that they are of the race of the apostate Titans, exiled from heaven for their seditions, who oppose their legitimate magistrates. These points being granted, we will, with your permission, advance to the examination of the magisterial laws.

Atticus—There cannot be a better arrangement of your topics.

Marcus—I will, therefore, cite a few of the legal maxims that bear on this branch of laws. “Let all authorities be just, and let them be honestly obeyed by the people without hesitation. Let the magistrate restrain disobedience and sedition in citizens, by fine, imprisonment, and corporal chastisement. If there be an equal or greater power, and the people think the adjudication unjust, let them lawfully appeal thereto. If the magistrate shall have decided, and past sentence illegally, let there be a public appeal in a higher Court respecting the penalty and fine imposed.

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With respect to the army, and the generals that command it by martial law, there should be no appeal from their authority. For the will of the general should have the force of absolute law, at least in time of war.

As to the minor magistrates, let there be such a distribution of their legal duties, that each may more effectively superintend his own department of justice. In the army let some, as military tribunes, command those that are subject to them. In the city, let others be appointed as superintendents of the public treasury. Let some devote their attention to the prison discipline, and capital punishments. Let others supervise the public mintage of gold, and silver, and copper. Let others judge of suits and arbitrations; and let others carry the orders of the senate into execution.

Let there likewise be *Ædiles*, curators of the city, the provisions, and the public games, and let these offices be the first steps to higher promotions of honour.

Let the censors take a census of the people, according to age, race, family, and property. Let them have the inspection of the temples, the streets, the aqueducts, the rates, and the customs. Let them distribute the citizens, according to their tribes, fortunes, ages, and ranks. Let them keep a register of the equestrian and plebeian orders. Let them impose a tax on celibates. Let them guard the morals of the people. Let them permit no scandal in the senate. Let the number of such censors be two. Let their magistracy continue five years. Let the other magistrates

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be annual, but their offices themselves should be perpetual.

Let the prætor be judge of the law in private actions, with power of passing sentence—he is the proper guardian of civil jurisprudence. Let him have as many colleagues, of equal power, as the senate think necessary, and the commons allow him.

Let two magistrates be invested with sovereign authority, and be entitled prætors, judges, or consuls, in respect of presiding, judging, or counselling, according to the nature of the case. Let them have absolute authority over the army, for the safety of the people is the supreme law.

[Translated by Francis Barham]