Marcus Tullius Cicero, *On the Laws*, 52 B.C.E.

*Cicero (106–43 B.C.E.) was an ancient Roman politician and scholar. He valued civic engagement over the life of the mind, but at times was denied the right to participate in public affairs. It was during these times that he wrote philosophical tracts. The form that this excerpt follows is a dialogue, a technique developed by Plato in Ancient Greece. In this dialogue Marcus (Cicero) has an imaginary conversation with his brother Quintus and their friend Atticus. Cicero was a major supporter of the Roman republic, and thus an opponent of Julius Caesar and Marc Antony. He was murdered for his political views in the wake of Caesar’s assassination.*


**Book II**

4. *Marcus:* Let us, then, once more examine, before we come to the consideration of particular laws, what is the power and nature of law in general; lest, when we come to refer everything to it, we occasionally make mistakes from the employment of incorrect language, and show ourselves ignorant of the force of those terms which we ought to employ in the definition of laws.

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

*Marcus:* This, then, as it appears to me, has been the decision of the wisest philosophers—that law was neither a thing to be contrived by the genius of man, nor established by any decree of the people, but a certain eternal principle, which governs the entire universe, wisely commanding what is right and prohibiting what is wrong.
Therefore, they called that aboriginal and supreme law the mind of God, enjoining or forbidding each separate thing in accordance with reason. On which account it is that this law, which the gods have bestowed upon the human race, is so justly applauded. For it is the reason and mind of a wise Being equally able to urge us to good or to deter us from evil.

Quintus: You have, on more than one occasion, already touched on this topic. But before you come to treat of the laws of nations, I wish you would endeavor 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.

Marcus: From our childhood we have learned, my Quintus, to call such phrases as this “that a man appeals to justice, and goes to law,” and many similar expressions “law,” but, nevertheless, we should understand that these, and other similar commandments and prohibitions, have sufficient power to lead us on to virtuous actions and to call us away from vicious ones. Which power is not only far more ancient than any existence of states and people, but is coeval with God himself, who beholds and governs both heaven and earth. For it is impossible that the divine mind can exist in a state devoid of reason; and divine reason must necessarily be possessed of a power to determine what is virtuous and what is vicious. Nor, because it was nowhere 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 [i.e., Horatius] 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 Tricipitius. For, even then he had the light of reason from the nature of things, that incites to good actions and dissuades from evil ones; and which does not begin for the first time to be a law when it is drawn up in writing, but from the first moment that it exists. And this existence of moral obligation is co-eternal with that of the divine mind. Therefore, the true and supreme law, whose commands and prohibitions are equally authoritative, is the right reason of the Sovereign Jupiter.

5. Quintus: I grant you, my brother, that whatever is just is also at all times the true law; nor can this true law either be originated or abrogated by the written forms in which decrees are drawn up.

Marcus: Therefore, as that 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. But with respect to civil laws, which are drawn up in various forms, and framed to meet the occasional requirements of the people, the name of law belongs to them not so much by right as by the favor of the people. For men prove by some such arguments as the following, that every law which deserves the name of a law, ought to be morally good and laudable. It is clear, say they, that laws were originally made for the security of the people, for the preservation of states, for the peace and happiness of society; and that they who first framed enactments of that kind, 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. And then such regulations, being thus settled and sanctioned, they justly entitled Laws. From which we may reasonably conclude, that those who made unjustifiable and pernicious enactments for the people, acted in a manner contrary to their own promises
and professions, and established anything rather than laws, properly so called, since it is evident that the very signification of the word “law” comprehends the whole essence and energy of justice and equity. I would, therefore, interrogate you on this point, my Quintus, as those philosophers are in the habit of doing. If a state wants something for the want of which it is reckoned no state at all, must not that something be something good?

Quintus: A very great good.

Marcus: And if a state has no law, is it not for that reason to be reckoned no state at all?

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, which have no more right to the name of law than the mutual engagement of robbers, are we bound to call them laws? For as we cannot call the recipes of ignorant and unskillful empirics, who give poisons instead of medicines, the prescriptions of a physician, so likewise we cannot call that the true law of a people, of whatever kind it may be, if it enjoins what is injurious, let the people receive it as they will. For law is the just distinction between right and wrong, made conformable to that most ancient nature of all, the original and principal regulator of all things, by which the laws of men should be measured, whether they punish the guilty or protect and preserve the innocent.

6. Quintus: I quite understand you, and think that no law but that of justice should either be proclaimed as one or enforced as one.

Marcus: Then you regard as null and void the laws of Titius and Apuleius, because they are unjust.
Quintus: Yes; and I would say the same of the laws of Livius.

Marcus: You are right, and so much more the more, since a single vote of the senate would be sufficient to abrogate them in an instant. But that law of justice, the power of which I have explained, can never be abrogated. Certainly, if I could get you both to agree with me. But Plato, that wisest of all men, that most dignified of all philosophers, who was the first man who ever composed a treatise on a Commonwealth, and afterwards a separate one on Laws, induces me to follow his illustrious example, and to proclaim the praises of law, before I begin to recite its regulations. Such, likewise, was the practice of Zaleucus and Charondas, who wrote the laws which they gave their cities, not for the sake of study or amusement, but for the benefit of their country and their fellow-citizens. And imitating them, Plato considered that it was the property of law, to persuade in some instances, and not to compel everything by threats and violence.

Quintus: What, do you venture to cite Zaleucus, when Timaeus denies that he ever existed?

Marcus: But Theophrastus, an author, in my opinion, quite as respectable, and as may think, much more so, corroborates my statement. His fellow-citizens, too, my clients, the Locrians, commemorate him; but whether he was a real man or not, is of no great consequence to our argument; we are only speaking according to tradition.

7. Marcus: 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 Divine power; that they deserve very well of the race of mankind; and that they likewise know what sort of person every one really is; that they observe his actions, whether good or bad; that they take notice with what feelings and
with what piety he attends to his religious duties, and that they are sure to make a
difference between the good and the wicked.

Or when once our minds are confirmed in these views, it will not be difficult to
inspire them with true and useful sentiments. For what can be more true than that no man
should be so madly presumptuous as to believe that he has either reason or intelligence,
while he does not believe that the heaven and the world possess them likewise, or to think
that those things which he can scarcely comprehend by the greatest possible exertion of
his intellect, are put in motion without the agency of reason?

In truth, we can scarcely reckon him a man, whom neither the regular courses of
the stars, nor the alterations of day and night, nor the temperature of the seasons, nor the
productions that nature displays for his use and enjoyment, urge to gratitude towards
heaven.

And as those beings which are furnished with reason are incomparably superior to
those which want it, and as we cannot say, without impiety, that anything is superior to
the universal Nature, we must therefore confess that divine reason is contained within
her. And who will dispute the utility of these sentiments, when he reflects 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; and what numbers of
people 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 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: I understand you, my brother; and I am greatly pleased to find that you take a different view of the subject, and dwell upon other points of it, than those which he selects, for nothing can less resemble his opinions, than what you have just now asserted, even in this preamble. The only matter in which you seem to me to imitate him, is his style and language.

Marcus: I wish, indeed, I did, but who is, or who ever will be able to translate them, and, indeed, that is what I should do if I did not wish to be altogether original. For what difficulty is there in stating the same doctrines as he does, translated from him almost word for word?

Quintus: I entirely agree with you; for as you have just remarked, your arguments ought to be entirely your own. Begin, then, if you will do us a favor, and expound the laws of religion.

Marcus: I will explain them as well as I can; and since both the topic and the conversation is a familiar one, I shall begin by describing the laws of laws.

Quintus: What laws do you mean?

Marcus: There are certain terms in law, my Quintus, not so ancient as those in the primitive sacred laws, but still, in order to carry with them greater authority, being of a somewhat greater antiquity than the common parlance of people. These legal terms, I shall mention with as much brevity as possible; and I shall endeavor to expound the laws, not, indeed, in their whole extent, for this would be a boundless subject, but those which involve the principles, and contain the sum and substance of the rest.

Quintus: This appears a most desirable method; let us therefore hear the terms of the law.
8. *Quintus*: Such are the following: Let men approach the gods with purity; let men appear before them in the spirit of devotion; let men remove riches from their temples; whoever does otherwise shall suffer the vengeance of heaven; let no one have private gods—neither new gods nor strange gods, unless publicly acknowledged, are to be worshiped privately; let the temples which our fathers have constructed in the cities, be upheld; let the people maintain the groves in the country, and the abodes of the *Lares*; let men preserve the customs of their fathers and of their family; let the gods who have been accounted celestial be worshiped, and those likewise who have merited celestial honors by their illustrious actions, such as Hercules, Bacchus, Aesculapius, Castor, Pollux, and Quirinus. Let due honor be likewise paid to those virtues, by which man is exalted to heaven—as Intelligence, Valor, Piety, Fidelity; and let temples be consecrated to their honor—with regard to the vices, let no sacred sacrifices be paid to them.

Let men put aside all contentions of every kind on the sacred festivals, and let servants enjoy them, their toils being remitted, for therefore they were appointed at certain seasons.; let the priests duly render the public thank-offerings to heaven, with herbs and fruits, on the sacrificial days. Also, on the appointed holidays, let them offer up the cream of milk, and the sucklings; and lest the priests should commit any mistakes in these sacrifices, or the season of these sacrifices; let them carefully observe the calendar, and the revolutions of the stars; let them provide those particular victims which are most appropriate and agreeable to each particular deity.—Let the different gods have different orders of priests.—Let them all have pontiffs in common; and let each separate god have his *Flamen*. 
Let the Vestal Virgins in the city carefully keep the eternal fire of the public altar always burning; and, that this may be done both publicly and privately with all due form and ceremony; let those who are not instructed in the order of the ceremonials learn it from the public priests. Let there be two classes of these priests, one to preside over ceremonials and sacrifices, and the other to interpret the obscure predictions of the prophets and diviners, whenever the senate and the people require it. Let the public Augurs, who are the interpreters of the all-good and all-great Jupiter, likewise examine the presages and the auspices, according to the discipline of their art. Let the priests who are conversant in auguries implore prosperity for the vineyards and gardens, and pray for the general welfare of the people. Let those who give counsel in military or civic affairs attend to the auspices, and be guided by them. Let them guard against the anger of heaven, and appease it; and observe from what part of heaven the lightnings burst forth. Let them declare what lands, cities, and temples, are to be held free and consecrated. Whatever things the augur declares to be unjust, ill-omened, vicious, and accursed, let them be forsaken as prohibited and disastrous, and whoever will not obey these divine indications, let him suffer capital punishment.

9. As to alliances, peace, war, truces, and the rights of ambassadors, let the two *Fetiales* be the appropriate judges, and let them determine all questions relating to military affairs. Let them report all prodigies and portents to the Etruscans and soothsayers, if the senate orders it; and let the chiefs of Etruria explain their system. Then will they learn what deities it behooves them to propitiate, and deprecate the fury of the thunderbolt against the object of its vengeance.
Let there be no nocturnal sacrifices performed by women, except those which they offer according to custom on behalf of the people; and let none be initiated in the mysteries except by the usual forms consecrated to Ceres, according to the Grecian ceremonials.

A crime which has been committed and cannot be expiated has been an act of impiety; as to the faults which can be expiated, let the public priests expiate them.

Let men temper the public hilarity with song, and harp, and flute at the public games, as far as can be done without the games of the racecourse and the wrestling-matches, and let them unite these amusements with the honors of the gods. Let them retain whatever is best and purest in the ancient form of worship. Except the devotees of Cybele, to whom this privilege is allowed on certain days, let no one presume to levy rates for private emolument. Whoever purloins or robs any temple, or steals any property deposited in a temple, shall be accounted a parricide. The divine punishment of perjury is destruction—the human penalty is infamy. With regard to incest, let the chief priest sentence it to the extreme penalty of the law.

Let not the impious man attempt to appease the gods by gifts and offerings. Let vows be carefully performed. Wherever law is violated let its punishments be executed. Let no private person presume to consecrate his land; and let his consecration of gold, silver, and ivory, be made within the limits of moderation. Let the sacred actions of private persons be preserved for ever. Let the rights of the deities of the dead be considered sacred. Let those who have passed into the world of souls be considered as deified! but let men diminish the unnecessary expense and sorrow which is lavished on them.
10. *Atticus*: You have managed to include a great deal of law in a very small compass; but it seems to me, that this class of religious maxims does not much differ from the *Laws of Numa* and our national regulations.

*Marcus*: Do you suppose, then, that when, in my *Treatise on the Commonwealth*, Scipio appears to be arguing that our ancient Roman Commonwealth was the best of all republics, it was not indispensable that I should give laws of corresponding excellence to that best of all republics?

*Atticus*: Undoubtedly I think you should.

*Marcus*: Well, then, you may expect such laws as may embrace that most perfect kind of republic. And if any others should haply be demanded of me this day, which are not to be found, and never have existed, in our Roman Commonwealth, yet even these formed a portion of the customs of our ancestors, which at that time were maintained as religiously as the laws themselves.

**Book III.**

1. *Marcus*: I shall, therefore, imitate 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 do not like any one to be praised but their own master, still allow me to love Plato as much as I like.
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 appears to me
to have succeeded in 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 judgment respecting him; but to pursue the
subject as you began.

Marcus: Let us begin, then, with praising the law itself, with those commendations which
are both deserved and appropriate to the subject.

Atticus: That is but fair, since you did the same in the case of our ecclesiastical
jurisprudence.

Marcus: You see, then, that this is the duty of magistrates, to superintend and prescribe
all things which are just and useful, and in accordance with 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 truly said “that the magistrate is a speaking law, and the law is a silent
magistrate.” Moreover, nothing is so conformable to justice and to the condition of nature
(and when I use that expression, I wish it to be understood that I mean the law, and
nothing else) as sovereign power; without which, neither house, nor commonwealth, nor
nation, nor mankind itself, nor the entire nature of things, nor the universe itself, could
exist. For this universe is obedient to God, and land and sea are submissive to the
universe; and human life depends on the just administration of the laws of the universe;
and human life depends on the just administration of the laws of order.

2. But to come to considerations nearer home, and more familiar to us, all ancient nations
have been at one time or other under the dominion of kings. Which kind of authority was
at first conferred on the wisest and justest of 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 in succession to their descendants, and this practice remains to this day in those which are governed by kings. And even those to whom the regal domination was distasteful, did not desire to be obedient to no one, but only to be always under the authority of the same person.

For ourselves, then, as we are proposing laws for a free people, and we have already set forth in six books all our own opinions about the best kind of commonwealth, we shall on the present occasion endeavor to accommodate our laws to that constitutional government of which we have expressed our approval.

It is clear, then, that magistrates are absolutely necessary; since, without their prudence and diligence, a state cannot exist; and since it is by their regulations that the whole commonwealth is kept within the bounds of moderation. But it is not enough to prescribe them a rule of domination, unless we likewise prescribe the citizens a rule of obedience. For he who commands well, must at some time or other have obeyed; and he who obeys with modesty appears worthy of some day or other being allowed to command. It is desirable, therefore, that he who obeys should expect that some day he will come to 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 honor and love their rulers, as Charondas prescribes in his code. Our Plato likewise declares that they are of the race of the Titans, who, as they rebelled against the heavenly
deities, do in like manner oppose their magistrates. These points being granted, we will, if you please, advance to the examination of the laws themselves.

*Atticus:* I certainly do please, and the arrangement seems advisable.

3. *Marcus:* Let all authorities be just, and let them be honestly obeyed by the people with modesty and without opposition. Let the magistrate restrain the disobedient and mischievous citizen, by fine, imprisonment, and corporal chastisement; unless some equal or greater power, or the people forbid it; for there should be an appeal thereto. If the magistrate shall have decided, and inflicted a penalty, let there be a public appeal to the people respecting the penalty and fine imposed.

   With respect to the army, and the general that commands it by martial law, there should be no appeal from his authority. And whatever he who conducts the war commands, shall be absolute law, and ratified as such.

   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 those who are appointed command, and let them have tribunes. In the city, let men 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 coinage of gold, and silver, and copper. Let others judge suits and arbitrations; and let others carry the orders of the senate into execution.

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

   Let the censors take a census of the people, according to age, offspring, 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; after that let them divide them with reference to their fortunes, ages, and ranks. Let them keep a register of the families of those 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 be annual, but their offices themselves should be perpetual.

Let the judge of the law who shall decide private actions, or send them for decision to the praetor; let him be the proper guardian of civil jurisprudence. Let him have as many colleagues of equal power, as the senate think necessary, and the people allows him.

Let two magistrates be invested with sovereign authority; from their presiding, judging, and counseling, let them be called praetors, judges, or consuls. Let them have supreme authority over the army, and let them be subject to none; for the safety of the people is the supreme law; and no one should succeed to this magistracy till it has been held ten years—regulating the duration by an annual law.

When a considerable war is undertaken, or discord is likely to ensue among the citizens, let a single supreme magistrate be appointed, who shall unite in his own person the authority of both consuls, if the senate so decrees, for six months only. And when such a magistrate has been proclaimed under favorable auspices, let him be the master of the people. Let him have for a colleague, with equal powers with himself, a knight whomsoever he may choose to appoint, as judge of the law. And when such a dictator or master of the people is created the other magistrates shall be suppressed.
Let the auspices be observed by the senate, and let them authorize persons of their body to elect the consuls in the *Comitia*, according to the established ceremonials.

Let the commanders, generals, and lieutenants, leave the city whenever the senate decrees or the people orders that they shall do so. Let them properly prosecute all just wars. Let them spare our allies, and restrain themselves and their subordinates. Let them increase the glory of our country. Let them return home with honor. Let no one be made an ambassador with a view to his own interest.

Let the ten officers whom the people elect to protect them against oppression be their tribunes; and let all their prohibitions and adjudications be established, and their persons considered inviolable, so that tribunes may never be wanting to the people. Let all magistrates possess their auspices and jurisdictions, and let the senate be composed of these legitimate authorities. Let its ordinances be absolute, and let its enactments be written and ratified, unless an equal or greater authority disannul them. Let the order of the senators be free from reproach and scandal, and let them be an example of virtue to all.

In the creation of magistrates, the judgment of the accused, and the reception or rejection of laws, when suffrages are employed, let the suffrages be at once notorious to the nobles, and free to the people.

4. If any question occur out of the established jurisdiction of the magistrates, let another magistrate be appointed by the people, whose jurisdiction shall expressly extend thereto. Let the consul, the praetor, the censor, the master of the people and of the equites, and he to whom the senate has committed the election of consuls, have full liberty to treat both with the senate and the people, and endeavor to reconcile the interests of all parties. Let
the tribunes of the people likewise have free access to the senate, and advocate the
interests of the people in all their deliberations. Let a just moderation predominate in the
opinions and declarations of those who would thus act as mediators between the senate
and the people. Let a senator who does not attend the senate, either show cause of his
non-attendance, or submit to an appropriate fine. Let a senator speak in his turn, with all
moderation, and let him be thoroughly acquainted with the interests of the people.

By all means avoid violence among the people. Let the greatest authority have the
greatest weight in decisions. If any one shall disturb the public harmony, and foment
party quarrels, let him be punished as a criminal. To act the intercessor in cases of
offence should be considered the part of a good citizen. Let those who act observe the
auspices; obey the public augur, and carry into effect all proclamations, taking care that
they are exhibited in the treasury and generally known. Let the public consultations be
concentrated in one point at a time, let them instruct the people in the nature of the
question, and let all the magistrates and the people be permitted to advise on the subject.

Let them permit no monopolies, or privileges. With respect to the capital
punishment of any citizen, let it not take place, unless by the adjudication of the high
courts of justice, and the ministry of those whom the censors have placed over the
popular orders. Let no bribes be given or received, either in soliciting, discharging, or
resigning an official situation.

If any one infringe any of these laws, let him be liable to penalty. Let these
regulations be committed to the charge of the censors. Let public officers, on their
retiring from their posts, give the censors an account of their conduct, but let them not by
this means escape from legal prosecution if they have been guilty of corruption.
I have here recited the whole law; now, consider the question, and give your votes.

5. Quintus: With what conciseness, my brother, have you brought before our eyes the duties and offices of all magistrates! But your system of laws is almost that of our own commonwealth, although a little that is new has also been added by you.

Marcus: Your observation is very just, my Quintus, for this is the very system of a commonwealth which Scipio eulogizes in my treatise, and which he mainly approves—and which cannot be kept in operation but by a successive order of magistrates, such as we have described. For you may take it for granted that it is the establishment of magistrates that gives its form to a commonwealth, and it is exactly by their distribution and subordination that we must determine the nature of the constitution. Which establishment being very wisely and discretely settled by our ancestors, there is nothing, or at all events very little alteration that I think necessary in the laws.

QUESTIONS

1. What, according to Cicero, is the role of reason in guiding public life?

2. Where does religious belief enter into Cicero’s conceptions of reason?

3. What is the purpose of a magistrate in a society based on a constitutional government?

4. Why not live in a society with a king or emperor?