Cicero on Natural Law and the Laws of the State

This paper treats the relationship between natural law and Cicero’s code of laws, as presented in Cicero’s work *On Laws*. In response to recent interpretations, it argues that Cicero’s code is not identical with natural law. Instead, his laws participate imperfectly in the commands and prohibitions of natural law. Just as Cicero uses a Stoic conception of natural law, so he uses a specifically Stoic view of participation in natural law. His laws share imperfectly in the guiding power of natural law by prescribing intermediate duties as a means to the attainment of virtue. Overall, Cicero’s code of laws prefigures modern written constitutions in the attempt to found the basic laws of a state on an unchanging moral norm.

A problem that has always confronted natural law theory is the relationship between natural law and human laws. Cicero’s work *On Laws* (*De legibus*), which may be regarded as the foundation of European natural law theory, puts this problem in sharp relief. In this work, Cicero attempts to frame the best code of laws by using a conception of natural law. To the surprise of Cicero’s interlocutor in the text, as well as the modern reader, Cicero’s laws coincide very largely with the ancestral laws of the Roman state. What, then, is the connection between natural law and Cicero’s code of laws? Does Cicero abandon natural law when he comes to framing the laws of a state?

Previous scholars have offered a range of interpretations, which may be divided into three main kinds. First, it has traditionally been thought that Cicero takes a Platonic view of his code of laws as an imitation or approximation of
natural law.\(^1\) A second, related interpretation is that Cicero regards his laws as an embodiment or actualization of natural law.\(^2\) In recent decades, a third interpretation has become prominent. This is the view, first proposed by Klaus Girardet, that Cicero regards his laws as identical with natural law.\(^3\) According to Girardet, what makes Cicero’s laws natural is that they emanate from the nature of wise individuals, in particular Cicero and Roman ancestors. Proposing a variation of the third main view, Paul Vander Waerdt has suggested that Cicero uses a redefinition of natural law as prescribing the sort of imperfect duties contained in his law code.\(^4\) Very little explanation has been offered in support of the first two views. By contrast, Girardet and his followers have argued for their position in detail.

This paper responds to the recent debate by arguing for two basic points: first, Cicero observes a strict distinction between natural law and his own code of law; and second, just as Cicero adopts a Stoic view of natural law, so he uses Stoic theory to forge a connection between natural law and his code of laws. The paper defends, therefore, the traditional dichotomy between natural law and Cicero’s code of laws. At the same time, it suggests that Cicero ties his laws to natural law by using the Stoic distinction between perfect and imperfect duties. Perfect duties are commanded by natural law; imperfect duties are the means by which humans progress toward perfect duties. Cicero takes special care, in my view, to draw a clear contrast between natural law and any human code of laws, including his laws. This contrast is explicit and emphatic. On the other hand, the Stoic distinction between imperfect and perfect duties is submerged. Although it does not appear explicitly in the text, there is enough evidence to indicate that it serves as an underlying explanation for Cicero’s insistent claim that natural law must be a norm and source for human laws.

The paper has two parts, corresponding to Cicero’s own treatment. Cicero offers a philosophical analysis of natural law and human moral development in the first book of On Laws, then makes a transition to his laws at the beginning

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of the second book, followed by a detailed presentation of his law code in the remainder of Book 2 and in Book 3 (where the extant text ends). In the first part of this paper, I shall consider how the philosophical doctrine prepares the ground for Cicero’s formulation of his law code. In Book 1, as I try to show, Cicero not only sets up natural law as a norm for human laws, but also views it as a force that inheres in all humans as a guide toward the goal of perfect rationality, or virtue. To show how natural law acts as a guide, I shall supplement Cicero’s exposition with a brief account of the Stoic theory of human moral progress. In my view, the Stoics held that law guides humans by stating its commands incompletely as demands for imperfect duties.

The second part of the paper attempts to show how Cicero connects his laws with natural law both theoretically, in the transitional beginning of the second book, and practically, in the design of his law code. I conclude that Cicero models his laws on the precepts used by the Stoics to state imperfect duties. He uses Roman laws as a way of filling in the content of these duties. As preliminary and incomplete instructions for becoming virtuous, Cicero’s laws are in agreement with natural law, but are not themselves natural law. Cicero is in this way a precursor of modern attempts to base written constitutions on moral principles.

Before I turn to Cicero’s argument, a brief terminological note is in order. In strict Stoic usage, what I have called “natural law” is “law” simply. The Stoics defined “law” (Greek nomos, Latin lex) as a natural condition that exists both in the nature of the world as a whole (or “common” nature) and in wise human beings. Other philosophers used the expression “law of nature” (nomos tēs physēs, lex naturae) to refer to natural law. In strict Stoic terminology, the addition “of nature” is redundant. In the extant text of On Laws, Cicero does not use the expanded locution lex naturae, although he comes close to it when he sums up the Stoic goal of life as “to follow nature and live as though by its law (lex).” For the rest, Cicero uses the term “law” just by itself to designate “law of nature.” In other works, especially On Duties, Cicero uses the expanded version “law of nature” (lex naturae) to make clear that he is referring to the Stoic conception. The reason that he uses only the simple word “law” in his Laws is that the entire discussion is dominated by the Stoic definition of “law.” Cicero sets it out at the very beginning of his argument, then reiterates it at various points in his text.

5. 1.56: naturam sequi et eius quasi lege vivere. See further below, note 38.
6. On Duties 1.102, 3.27, 3.30–31, and 3.69. Cicero also uses lex naturae in a Stoic sense at Republic 1.27 (where he adds the term “common,” communi), and in a sense that is compatible with Stoicism at On Ends 5.47 (naturae legem et modum). At Tusculan Disputations 1.30, he identifies the “agreement of all nations” (consensio omnium gentium) as lex naturae; and at Tusculan Disputations 5.38 he extends the “law of nature” to all animals. Both of these usages are related to Roman law: while the first corresponds to a conception of ius gentium, the second corresponds to a conception of ius naturale (Justinian Digest 1.1).
In the *Laws*, Cicero also uses a related expression, *ius naturae*. Since *ius* has two distinct senses in the *Laws*, “law” and “what is just,” *ius naturae* may be translated as either “law of nature” (“natural law”) or “justice of nature” (“natural justice”). In either case, the expression refers to the same state of affairs; for natural law is a condition of natural justice. The extant text of *On Laws* contains three occurrences, or near-occurrences, of the expression.7

Although, then, Cicero uses the expression “natural law” (or “law of nature”) very sparingly in *On Laws*, his entire argument is based on a conception of natural law. The many explicit references to nature underscore this conception.

I. NATURAL LAW AND HUMAN NATURE

The first issue, then, is whether or not Cicero proposes “law,” or natural law, as an independently existing norm for human laws and, in particular, his own code of laws. As I see it, Cicero sets up natural law as a norm for human laws throughout the philosophical discussion of Book 1, then reiterates his position prior to formulating his code in Book 2. He begins his argument with a bipartite definition of “law” as a perfectly rational force that operates both in nature as a whole and in a wise person. The remainder of the book follows on this definition by showing how nature guides humans to a condition of perfect rationality.

Cicero deftly points to the existence of natural law, though without identifying it, in the preamble to his argument. He introduces the dialogue with a conversation in which his brother Quintus and his best friend Atticus gradually focus on a new project for Cicero. When Cicero scornfully dismisses the idea of treating petty issues of Roman civil law, Atticus suggests that Cicero should emulate Plato by following up his work *On the Republic* (*De republica*) with a discussion of laws. Cicero eagerly takes up the suggestion and broadens the inquiry further. The task of formulating the best laws, he proposes, will require an examination of the whole field of ethics (1.16):

Consider that in no other type of discussion is morality (*honesta*) revealed (more): what has been given to a human being by nature, what power of excellence is contained in the human mind, what is the function for whose cultivation and production we have been born and brought into the light, what joins humans, and what is the natural community among them. For by unfolding these things, the source of laws and *ius* (*fons legum et iuris*) can be discovered.8

7. The three uses are at 1.40 (*natura<e> iure aliquo*), 3.3 (where Cicero defines “law” as “a just condition of nature,” *ius condicionemque naturae*), and 3.49 (see below, note 84).
8. 1.16: *nam sic habetote, nullo in genere disputandi honesta magis patefieri, quid sit homini a natura tributum, quantum vim rerum optimarum mens humana contineat, cuius munus colendi efficiendique causa nati et in lucem editi simus, quae sit coniunctio hominum, quae naturalis societas inter ipsos. His enim explicatis, fons legum et iuris inveniri potest.* The manuscripts have *honesta patefieri*; H adds *magis* in the margin. Most editors change *honesta*; Vahlen 1883: 17, for example,
Atticus rightly comments that this will take Cicero into the innermost depths of philosophy. Cicero here divides the field of ethics (designated by the term *honesta*, corresponding to Greek *kala*, “morally good”) into roughly five topics: the gifts of nature to humans; the power of the human mind; the function of humans; the association of humans with each other; and the natural community of humans. The study of these topics promises to reveal the “source of laws and *ius*” (*fons legum et iuris*). Cicero just previously used the term *ius* with reference to Roman civil law (*ius civile*) and law as a whole (*universum ius*). He also used the term *leges* (corresponding to Greek *nomoi*) to refer to the laws of a state. Combining these uses, Cicero joins *ius* and *leges* into a compound expression that is intended to cover the whole territory of “law.”

In the table of contents that follows (1.18), Cicero sums up this part of his project by saying that “the nature of *ius* must be unfolded and it must be sought for in the nature of the human being.” In the light of his previous usage, *ius* still has the meaning of “law.” Cicero now promises to look for the distinguishing feature of law (its “nature”) by investigating the natural endowments and function of a human being. To this philosophical project, Cicero adds two others: he will consider the laws by which states should be governed; and he will deal with actually established laws, including Roman civil law. The philosophical project occupies the remainder of Book 1; the other two topics will be treated jointly in Books 2 and 3.

After announcing his topics, Cicero plunges immediately into his argument. The argument of Book 1 consists of two parts: a short, preliminary section in which Cicero first cites the Stoic definition of law, then derives from it the aim of investigating “nature” as the source of justice (*ius*, 1.18–20); and a detailed account of human moral development, covering the five topics that were previously announced and culminating in the depiction of the wise person (1.21–63). Although Cicero broadens his discussion to include Platonic and Aristotelian conceptions of human nature, the whole discussion is anchored in the Stoic conception of law.

This entire investigation, we expect, will reveal the “source” of laws or, put in another way, the “nature of law (*ius*).” We might be tempted, on the other hand, to proposes *posse ita*. I follow Kenter 1972: 75 in reading *honesta magis patefieri*. Büchner 1973: 30 keeps *honesta* without *magis*, but emends to *nullo* (*alio*). Powell 2006: 165, followed by Dyck 2004: 100–101, proposes *honestior a patefieri*. There is no need to change *honesta*; the term sums up the whole of ethics, as divided into the five topics that are mentioned.

9. As shown by Broggini 1959, the conjunction of *ius* and *lex* is a well-attested feature of Roman legal language, leaving its mark also in literary texts. Broggini suggests that, in the combined legal formula, *ius* designates what is produced by *lex*; but the evidence does not seem sufficient to support this distinction. Broggini also points out (p. 29) that the formula is sometimes reduced to *ius* simply. Cicero’s use of the combined expression (at 1.16 and 17) reflects the formal legal usage, as does his reduction of the combination to *ius* simply (at 1.17). Following the Stoics, he subsequently (at 1.19) makes a clear distinction between *lex* and *ius*. Cicero also uses the combined expression at 1.35 (*leges et iura*), 1.56 (*civilis iuris et legum*), and 3.42 (*iuris ac legibus*); in each case, he appears to be using the combined expression in the customary legal sense.
assume that Cicero reveals the source of laws and their nature as soon as he cites
the Stoic definition of law. For, as he points out right away, the law that exists
in nature is the source and standard (regula) of “what is just” (ius, 1.19). The
definition, it seems, puts in full view the “source” that Cicero merely hinted at
in the preamble. Still, the definition is hardly sufficient for knowing how to derive
a code of laws from its source or measure it by reference to its source. We need
to know more about the source. In particular, we need to know how natural law
guides the moral development of humans. Only then will we be in a position to
know how human laws can guide humans. The definition of law thus serves as
a starting point of investigation. By setting out two aspects of law, the perfect
rationality of nature and the perfect rationality of the wise person, it sets us on
the path of investigating how the perfect rationality of nature guides imperfect
humans to the goal of perfect rationality.

Cicero accomplishes the first part of his argument very quickly. He presents
the Stoic definition of law as follows (1.18–19):

So then, highly learned men decided to begin with law (lex), I am inclined
to think rightly, if indeed, as these same men define it, law (lex) is
supreme reason implanted in nature (ratio summa insita in natura), which
commands what must be done and prohibits the contrary. The same reason
is law when it is
firmly established in the mind of a human being. For
this reason, they think that law is intelligence (prudentia), having the
force (vis) of commanding right action (recte facere) and forbidding
wrongdoing (delinquere).\footnote{Igitur doctissimis viris proficisci placuit a lege, haud scio an recte, si modo, ut idem definiunt, lex est ratio summa, insita in natura, quae iubet ea quae facienda sunt, prohibetque contraria. Eadem ratio, cum est in hominis mente confirmata et (per)fecta, lex est. Itaque arbitrantur prudentiam esse legem, cuius ea vis sit, ut recte facere iubeat, utet delinquere.}

Although Cicero does not name the Stoics, it is clear that he is following them
closely.\footnote{By not identifying the “learned men” as Stoics, he suggests that the conception, even if not
the words, belongs to a wider range of philosophers. Later (see note 51), he goes on to fit Stoic
ethics within a Platonic-Aristotelian tradition. Just as Cicero regarded the Stoic goal of life as a
verbal variation on a Platonic-Aristotelian view, so he seems to have viewed the Stoic use of the
term “law” as a verbal idiosyncrasy that covers a common doctrine. In his book On Ends (4.11–12),
Cicero not only points out that Zeno agreed with this predecessors that the world is “governed
by a divine mind and nature,” but also assigns the idea of a “true, supreme law,” which is identical
with the rationality of god, to the entire Platonic-Aristotelian tradition. Among modern scholars,
Morrow 1948: 29, 1960: 565, suggests that Plato laid the foundations of the Stoic theory of law,
without the use of the term. Although Plato does not explicitly use the term “law” to refer to the
order of nature, his definition of law as the “distribution of intelligence” (tou nou dianomé, Laws
714a) readily lends itself to the interpretation that he anticipated the Stoic view of law. I agree with
Striker 1987 that the Stoic conception of law is an innovation that differs fundamentally from Plato’s
and Aristotle’s attempts to ground justice in nature.}
(prostaktikos) what must be done and prohibiting (apagoreutikos) what must not be done.” Law is also said to be “the reason of nature commanding what must be done and prohibiting what must not be done,” or simply “the reason of nature” (naturae ratio). The type of action that law commands is a “right action” (kathothēma, translated by Cicero as recte facere); and what it prohibits is “wrongdoing” (hamartēma, translated as delinquere). Following the Stoics, Cicero distinguishes two fields of operation: nature as a whole, or what the Stoics called “common nature,” and the mind of a wise person. While differing in extension, law is the same in nature as a whole and in the wise person.

After an etymological explanation, Cicero draws a conclusion (1.19):

If this is said rightly, as it usually seems to me, the starting point of what is just (iuris exordium) must be traced to law (lex); for it is a force of nature (naturae vis); it is the mind and reason of someone intelligent (prudentis); it is the standard (regula) by which what is just (ius) and unjust (iniuria) are measured.

Cicero now sums up his bipartite definition by calling law both a “force of nature” (naturae vis) and “the mind and reason of someone intelligent.” He also adds a third feature: law is the standard (or “norm,” “measuring stick,” regula) of what is just (ius) and unjust (iniuria). It follows that law is the starting point of what is just (ius). Cicero now distinguishes for the first time between lex and ius: law (lex) is the standard of what is just (ius), hence the origin of what is just (ius). He owes this distinction to the Stoic Chrysippus, who described law (nomos) as “the standard (kanon) of what is just (dikaia) and what is unjust (adika).” Ius is a translation of dikaia, as iniuria is a translation of adika.

After contrasting “law,” as defined, with the ordinary meaning of “law” as a written statute, Cicero reiterates his conclusion:

Let us take the starting point of determining what is just (ius) from that supreme law which was born all ages before any law was written or any state was established at all.

16. Quod si ita recte dicitur at mihi quidem plerumque videri solet, a lege ducendum est iuris exordium. Ea est enim naturae vis, ea mens ratiqoe prudentis, ea iuris atque iniuriae regula.
17. SVF 3.314: κανόνα...δικαίων καὶ ἀδίκων.
18. Cicero likewise appears to use ius to translate Chrysippus’ term dikaion at On Duties 3.42. The virtue of justice is something else again: it is rendered by iustitia, Greek dikaiosyne; see Cicero Laws 1.48.
19. 1.19: Constituendi vero iuris ab illa summa lege capianus exordium, quae saeculis omnibus ante nata est quam scripta lex illa aut quam omnino civitas constituita. The second use of the term lex
The awkward locution “all ages before” is intended to show that there is no time when law did not exist. The “supreme law” is the law that has always existed in nature. Next, Cicero draws a further conclusion. He asks (1.20):

Do you wish, then, to look for the origin (ortum) of what is just (ius) at its source? When it is discovered, there will be no doubt to what [standard] we shall refer what we seek.  

What they are seeking is the best laws of a state. When his interlocutors say “yes,” Cicero restates the source and standard of justice:

I will seek the root (stirpem) of what is just (ius) in nature, under whose guidance all our account must be unfolded by us.  

Cicero now simplifies his previous conclusion, that justice must be traced to the law that exists in nature, by saying that it must be traced to nature, simply. This conclusion follows directly from the claim that law is a “force of nature.” We find a similar appeal to nature in Chrysippus’ writings: “It is not possible to discover another beginning (archê) or creation (genesis) of justice (dikaiosynê) than Zeus and common nature.”  

Like Chrysippus, Cicero proposes to look to the nature of the world as the source of everything just. According to the Stoics, the supreme rationality of the world is identical with law (also called “common law”), nature (also called “common nature”), and god (Zeus). The only difference lies in the function that is viewed as belonging to this rational force: law is reason viewed as a commanding and prohibiting force; nature is reason viewed as a creative force, and god is reason viewed as ruler of the world. Viewed as a (the) “force of nature,” law is the force that orders the creative processes of nature by its commands and prohibitions. Conspicuously, Cicero omits god from his initial definition of “law.” He will make up this lack in his reiteration of the Stoic definition of law at the beginning of his second book. There, he defines law as the “mind of god who compels or
forbids all things by reason” (2.8) and as the “right reason of supreme Jupiter, having the function of commanding and prohibiting” (2.10). The reason he omits god from his initial definition is that he is primarily concerned in Book 1 with the function of law as a force of nature.

In the first part of his argument, then, Cicero shifts the focus of attention to nature. This is not, however, an abandonment of natural law. Rather, Cicero uses the Stoic conception of law to direct the ensuing investigation to nature as a force that guides humans to the perfection of law. Nature is not some entity prior to natural law, as Girardet has proposed. Instead, it is the same rational force as natural law.

Having shown that the source of justice lies in nature, Cicero begins his account of human nature with a multi-step argument that unites humans with god in a single, cosmic state governed by law. The first premise is that “all nature is governed by the force, nature, reason, power, mind, sanctity (numen), or some other word that I might use to use to make my meaning clearer, of the immortal gods” (1.21). What follows is an identifiably Stoic argument. The argument is, in brief: humans and god have reason in common, hence they have right reason, hence law, hence justice (ius) in common, with the consequence that humans are joined with god in a single world state (1.23).

We are immediately surprised to find out that humans share with god not only reason, but also right reason, law, and justice. Clearly, not all humans practice right reason, law, and justice; only the wise do. Yet Cicero now extends right reason, law, and justice to all humans as something that all have in common with god. Just in case we have any doubt about his meaning, he offers the same logical progression from reason to right reason, law, and justice a little later, this time with the explicit claim that “all” humans have been given reason, hence “all” have been given justice (ius) (1.33). How can this be? Some scholars have suggested that there is a doctrinal difference between the early and later Stoics on this issue, as shown by early Stoic testimonies claiming that only the wise share in a community with god. In the view of Vander Waerdt, Cicero uses a revised conception of law in such a way as to include all humans in a community with god.

There is, however, no reason to suppose that Cicero is here departing from the early Stoics. An easy way out of the difficulty is to suppose that all humans have

25. Girardet 1983: 34 n. 52 briefly dismisses this possibility. There are no grounds, it seems to me, for Girardet’s suggestion 1983: 56 that the definition of law as naturae vis “weist . . . über sich selbst hinaus auf die Natur als möglichen Ursprung des Rechtes hin.”

26. Vander Waerdt 1994: 4873–78. Schofield: 1991: 67–70 argues that Cicero follows the early Stoics at Laws 1.23 in admitting only wise persons to true citizenship in the community of humans and god. Granted that Cicero admits only wise persons as “true citizens” in the cosmic state (see Laws 1.61), this is not what Cicero says at Laws 1.23 and 1.33. In these passages, he places all humans under the government of the law that administers the cosmic state. All humans, it appears, are members of the cosmic state, even if not “true citizens.”
been given right reason, law, and justice as a goal. This answer, however, does not go very far. We want to know how this goal operates in the case of each human being. Cicero provides a partial answer. He tells us, in the first place, that all humans are endowed equally by nature with the capacity to learn. Although the rational faculty that is common to all humans “differs in its opinions, it is equal in the capacity to learn.” Further, Cicero sets out the path by which nature guides humans, all by itself, from birth to the final goal of perfect rationality, or virtue. Nature provides us with sense perceptions that lead to the formation of initial conceptions that are the same for all humans. These conceptions are obscure, shadowy outlines that serve as the basis of fully revealed knowledge. Nature leads us from these conceptions to the pinnacle of rationality: “Without anyone teaching, starting with the kinds that it knows on the basis of a first, inchoate conception, [nature] itself by itself strengthens reason and perfects it” (1.27). Operating in humans from birth, the common nature of humans thus guides all humans toward the goal of virtue, even though all humans will also deviate from its path until they have actually attained the goal.

As part of universal nature, the common nature of humans acts with perfect rationality. It operates as a perfectly rational force in the way that it impels humans from the initial capacity for virtue to the full realization of this capacity. Even though individual humans respond only imperfectly to this guidance, nature itself acts with perfect rationality. It follows that all humans possess right reason, law, and justice as a guiding force, even though they may be far from the goal to which they are being led.

This doctrine is, in my view, common to early and later Stoics. Two testimonies about Chrysippus offer some support for this interpretation. Chrysippus extends the guidance of law to all humans in the same excerpt in which he refers to law as the “standard” (kanôn) of what is unjust and unjust. He is quoted as writing in his book On Law:

[Law] ought to be in charge of what is morally good and bad, and a ruler and guide (hêgëmonê), and in this respect [it ought] to be a standard of what is just and unjust, and, for all naturally political animals, [it ought] to command what must be done and prohibit what must not be done.

27. 1.30: ratio ... certe est communis, doctrina differens, discendi facultate par.
28. 1. 26–27, 1.30, 1.44, and 1.59.
29. At 1.59, Cicero identifies the guiding force as “wisdom.” The Stoics insisted that the human impulse toward virtue is unswerving and that any corruption comes from outside; see SVF 1.179 (Zeno), 1.566 (Cleanthes), and 3.228. In an apparent attempt to fashion a position that may be viewed as common to Plato and the Stoics, Cicero modifies the Stoic position by accommodating something of the allurements of pleasure.
30. SVF 3.314, including: τῶν φύσεωι πολιτικῶι γίνων προστατικῶι μὲν ὦν ποιητέον, ἀπαγορευτικῶι δὲ ὦν οὐ ποιητέον. Although the excerpt is presented as a direct quotation coming from the beginning of Chrysippus’ book On Law, the loose grammatical form suggests that it is a summary, put together out of key phrases from Chrysippus’ account.
In a groundbreaking correction of Aristotle’s famous dictum, Chrysippus gathers all humans into a single community of “naturally political animals,” governed by the commands and prohibitions of natural law.31 Although Chrysippus speaks about what “ought to be,” he appears to envision natural law not simply as a finally attained goal, but as a force that “ought to” guide even imperfect humans as they stumble along the path to virtue. In addition, Chrysippus’ definition of human “impulse” indicates that this guidance exists in each human being as a psychological force. In his book *On Law*, he is also said to have written: “The impulse (hormê) of a human being is reason (logos) commanding (prostaktikos) him to act.”32 As a “commanding” force, reason acts as “law.” Chrysippus’ definition of human impulse thus appears to be an abbreviated definition of law. Both “reason” and “law” are seen as fully rational. This makes sense insofar as Chrysippus is referring to the common nature of human beings: it operates fully rationally in the impulse it gives to humans. Law, it appears, exists in all humans as a natural impulse, even though individual humans may resist this impulse. Paradoxically, common nature and individual nature are in conflict with each other; the aim is to harmonize them in a condition of perfect rationality.

Although Cicero sets out a cognitive path to virtue, he does not tell us how law guides the actions of human beings by its commands and prohibitions. Intent on subsuming the Stoics in a single philosophical tradition that he traces to Plato, he barely touches on the Stoics’ unique and elaborate theory of moral progress. The fine distinctions made by the Stoics are, however, relevant to the relationship of human laws to natural law. I shall therefore briefly review them, together with a foray into a text of Plutarch.

The key term of the Stoic theory of moral action is *kathêkon*, “appropriate action,” translated by Cicero as *officium*, “duty.” The Stoics divided appropriate actions, or duties, into two kinds: perfectly appropriate actions, called “right actions” (*katorthômata*); and “appropriate actions” simply, or (more precisely) “intermediate appropriate actions (*mesa kathêkonta*, *media officia*).33 Appropriate actions aim, in general, at obtaining so-called “advantages,” such as life itself, sound limbs, health, wealth, esteem. At times, however, it is appropriate to go for a disadvantage. For example, it may be appropriate to maim oneself or throw away one’s possessions.34 On the Stoic view, advantages are not truly good, although they are “in accordance with nature” (*kata phusin*). The only thing that is good is virtue or the actions that flow from it; this is perfectly in accordance with nature. What distinguishes intermediate from perfectly appropriate actions is that...

32. Plutarch *On the Contradictions of the Stoics* 1037f (SVF 3.175): καὶ μὴν ἡ ὁρµὴ... τοῦ ἀνθρώπου λόγος ἐστι προστακτικὸς κατὰ τοῦ ποιεῖν. Plutarch adds that negative impulse (*φρονεῖ*) is “reason that prohibits”; but it is not clear whether this is his own addition or an excerpt from Chrysippus.
33. SVF 3.494, 498, 499.
34. SVF 3.496.
the latter are performed in a virtuous manner, arising as they do from the perfectly rational condition of virtue.

Humans proceed to the goal of virtue by learning to perform intermediate appropriate actions in an ever-more selective manner until, in the end, their selection is perfectly consistent. At this final stage, humans have attained the condition of virtue and their actions are now perfectly appropriate. It follows that wise persons perform the same types of actions as the non-wise. The wise, too, perform intermediate appropriate actions, which are thus said to be “common” to the wise and the non-wise. The difference is that the wise person performs intermediate appropriate actions in a way that is precisely appropriate. Whereas an intermediate appropriate action is “reasonable” (eulogon, probabile), a perfectly appropriate action, or “right action,” is perfectly rational. Cicero appears to explain the term “reasonable” by saying that “reason (ratio) demands” that one should do “something” of the class of intermediate appropriate actions.

Cicero briefly mentions the Stoic theory of advantages in his Laws (1.55), as being a terminological innovation rather than a substantive difference from the Platonic and Aristotelian view of these so-called advantages as “goods.” He also touches on the Stoic view of moral progress by citing Antipater’s definition of the goal of life as “omitting nothing, as far as lies within oneself, to obtain the things that nature demands” so as to live “by virtue as though by law.” This, he says, is to live by nature “as though by its law.” In Antipater’s definition, what nature demands are so-called advantages. By pursuing them in a virtuous way, a person fulfills the commands of law.

As we have seen, law commands “right action.” This is a perfectly appropriate action, emanating from a condition of perfect rationality. The wise person necessarily obeys the commands of law, for he (or she) cannot help but do what is perfectly appropriate. But how can the commands of law have any effect on imperfect human beings? Imperfect humans cannot perform perfectly appropriate actions, for they are not virtuous. They cannot, therefore, obey the commands of law or refrain from doing what law prohibits. As Cicero points out in his explanation of Stoic law in his Republic (3.33), law “does not issue commands or prohibitions to the good in vain, nor does it move the wicked by its commands or prohibitions.” How, then, can law guide imperfect humans?

38. 1.56. See SVF Antipater 3.57; also Striker 1986: 187–94. Cicero states the Platonic-Aristotelian version as: ex natura vivere ... id est vita modica et apta virtute perfundi, which I translate as “to live in accordance with nature, that is, to enjoy a life of moderate means, based on virtue.” See further Dyck 2004: 218–19.
39. See above, note 15.
It has been suggested by Phillip Mitsis that Stoic law prescribes not only right actions, but also intermediate appropriate actions.\footnote{Mitsis 1994: 4830–34 argues that this is the theory of law proposed by the early Stoics.} An alternative suggestion, made by Paul Vander Waerdt, is that Cicero followed his teacher Antiochus in revising the Stoic definition of law so that law prescribes intermediate appropriate actions rather than right actions. On the latter view, the prescriptions of law are no longer thought to issue from a condition of perfect rationality, but are thought to issue from the rationality of humans in general.\footnote{Vander Waerdt 1994: 4872.} A problem for both views is that Cicero, together with numerous other sources on Stoicism, consistently defines law as a perfectly rational force that commands perfectly appropriate actions. This evidence is complicated, on the other hand, by a number of testimonies that suggest that law has something to do with intermediate duties. Cicero cites Chrysippus as holding that law is “a sort of guide of life and teacher of appropriate actions (officia).”\footnote{On the Nature of the Gods 1.40: quasi dux vitae et magistra officiorum. See n.30.} This looks like an expansion of the excerpt (cited above) from Chrysippus’ On Law. Did Chrysippus, then, view law as a teacher of intermediate duties? In his presentation of Stoic law in the Republic (3.33), Cicero defines true law as “right reason” that “calls to duty (officium) by commanding, and deters from wrongdoing by prohibiting.”\footnote{The full definition is: Est quidem vera lex recta ratio naturae congruens, diffusa in omnes, constans, sempiterna, quae vocet ad officium iubendo, vetando a fraude deterreat. (“True law is reason corresponding to nature, extending to all, constant, everlasting, which calls to duty by commanding and averts from wrongdoing by prohibiting.”)} Does right reason, then, summon a person to perform intermediate duties?\footnote{Vander Waerdt 1989: 33, 253 cites this text in support of his position that Cicero views law as prescribing intermediate duties.}

In a rather thorny text, Plutarch confronts head-on the question of whether Stoic law prescribes intermediate duties. Plutarch’s aim is to convict the Stoics of contradicting themselves. The Stoics, he writes, hold “that a right action (katorthôma) is a command (prostagma) of law, and an error (hamartêma) a prohibition (apagoreuma) of law, with the consequence that law prohibits many things to the wicked, but commands nothing since they cannot act rightly.” Plutarch then faults the Stoics for an inconsistency: since the wicked cannot refrain from erring, law does not issue any prohibitions to them, just as (on the Stoic view) it does not issue any commands to them. He adds that the Stoics “themselves” say that “those who prohibit say (legein) one thing, but prohibit something else and command something else.” For example, a person who says “do not steal” (µὴ κλέψης) says this very thing “do not steal,” but issues the prohibition “not to steal” (µὴ κλέπτειν). It follows, Plutarch writes, that law “prohibits nothing to the wicked if it does not command.”\footnote{Plutarch On the Contradictions of the Stoics 1037c–d (partly at SVF 3.520–21). There is no need to supplement the text before µὴ κλέπτειν. The conclusion is: οὐδὲν οὖν ἀπαγορεύει τὸς φαύλοις ὁ νόμος, εἰ μὴ ἔχει προστάξει.}
Although Plutarch’s account is very abbreviated, it gives a glimpse of how the Stoics might have answered the charge of inconsistency. Part of their position consists in drawing a distinction between “saying” (legein) and “commanding” or “prohibiting.” Plutarch does not tell us how this distinction works out. It seems, however, that the Stoics are intent on translating the commands and prohibitions of law into meanings, or so-called lekta. According to the Stoics, lekta (literally “what is said”) are incorporeal entities that underlie the impressions to which a rational being gives or denies assent. In Plutarch’s text, the meaning or lekton that corresponds to the prohibition not to steal is: “do not steal.” A wise person, we may suppose, fully understands the lekton “do not steal.” The non-wise person, on the other hand, fails to understand this lekton. We may put the difference in this way: whether it issues a prohibition or a command, law “says” what it prohibits or commands to the wise person, but fails to say this to the non-wise. In other words, law conveys the meaning of its prohibitions and commands to the wise person, but fails to convey its meaning to the non-wise. Law, therefore, issues neither prohibitions nor commands to the non-wise.

What, then, about the alleged contradiction? Did the Stoics claim that “law prohibits many things to the wicked”? What they should have said to avoid inconsistency is that the non-wise perform many actions that law prohibits; in fact, law prohibits everything that the non-wise do. It seems to me entirely possible that Plutarch or his source garbled what the Stoics did indeed say. It is easy to confuse the two distinct claims that law both issues no prohibitions to the non-wise and prohibits the many things that they do.

Plutarch’s next objection throws more light on what is said when law issues a command or prohibition. Plutarch accuses the Stoics of contradicting themselves by claiming that law gives commands only for correct actions, but in fact allowing law to give commands for intermediate actions. According to Plutarch, the Stoics say that the doctor “commands (prostattei) the student to cut and burn with omission (kata paraleipsin) [of the demand] to do so at the right time and in a measured way.” Similarly, the musician gives the command to play the lyre and to sing while omitting to say that this should be done in a harmonious way. That is why, according to the Stoics, the experts inflict punishment when the action is not done correctly. Plutarch continues: “Therefore, when a wise person gives a command to a servant to say or do something and punishes him when he does not do it at the right time or in the way he should, it is clear that he commands a right action (katorthôma), not an intermediate action.” Plutarch then objects: “But if wise persons command intermediate ac-

46. For a brief explanation of lekta, see SVF 2.166.
47. The rhetorical figure of paraleipsis (“ellipsis”) consists of saying that one will omit certain things; by naming what one will omit, however, the speaker states everything he wants to, while leaving the audience to imagine more than is said (see Demetrius On Style 263). What Stoic paraleipsis has in common with this figure is that more is implied than what is said.
tions to the wicked, what prevents the commands of law from being of this kind?”

Again, Plutarch’s argument is very compressed. Some scholars have transposed the text to read: “it is clear that he commands an intermediate action, not a correct action.”

48 This change facilitates the transition to the objection that follows, but at the cost of ruining the sense of the argument. The point is that, just as an expert craftsman commands right action even though he does not say so explicitly when commanding the action, so a wise person commands right action, even though he does not say explicitly that the action must be done correctly. The command to act correctly, though not stated explicitly, is implied, as shown by the punishment. If we strip away the implication and attend only to the words that are spoken, what is ordered is an intermediate action. By insisting on the implication, the Stoics defend their view that law does not command intermediate actions; like the wise person, it commands only right actions. Plutarch ignores the implication in order to accuse the Stoics of the inconsistency of having a wise person, and therefore also law, command an intermediate action. The transition is somewhat abrupt, but tolerable. What confuses the issue is that, like the wise person, law states its commands to the non-wise in an incomplete way.

If we consider, then, what is “said” by the wise person, we need to draw a distinction between the full meaning or lekton corresponding to his command and the incomplete meaning or lekton that he puts into words. Just as the wise person says one thing explicitly to the non-wise but implies something more, so law says one thing explicitly to the non-wise but implies something more. What law says explicitly to the non-wise is: “do an action” (or “don’t do an action”). What it implies is the command to do so correctly (or the prohibition not to act incorrectly).

49 Law necessarily commands right action (and prohibits wrong action) even when it addresses the non-wise; but when it addresses the non-wise, it states its commands and prohibitions incompletely.

If this is right, law prescribes intermediate duties only as part of a command for virtuous action. Imperfect humans cannot obey the commands of law, but they can nonetheless be guided by law by obeying part of its commands—that is, the part that demands an intermediate action. In the case of imperfect humans, this is all that law “says” to them, even though there is a hidden implication. What accounts for this incompleteness? Earlier, we drew a distinction between the common possession of right reason, law, and justice by all humans, and the particular state of progress of individual humans. While law operates in all humans as a force that commands right action, the non-wise understand these commands only imperfectly. One might say that they do not understood them at all; yet even though the full message is not understood, there is something of it that is understood. The incomplete statements of law reflect the obscurity (as Cicero

49. Stobaeus (SVF 3.501) cites theft as an example of an incorrect action (hamartiema).
describes them) of initial conceptions. The incomplete rationality of a non-wise person does not recognize the commands of law sufficiently to allow them to be stated in complete form. The force of law within each person is not thereby curtailed; for although its commands and prohibitions are stated incompletely, they are implicitly complete.

At each stage of a person’s life, then, law exists within each person as a force that guides each person by its commands and prohibitions. Cicero includes this guiding function in his explanation of Stoic law at Republic 3.33. True law “calls to duty” by commanding perfect duties, just as it “deters from wrongdoing” by prohibiting it. Prior to the attainment of the goal, however, the commands of law are understood only partially as a demand for intermediate duties. We might be tempted to say that law “commands” intermediate duties; but this would be inaccurate. Instead, law demands intermediate appropriate actions as part of its commands. Similarly, we might be tempted to say that law “calls to” intermediate duties; but again this would be inaccurate. Laws calls to perfect duties by demanding intermediate duties as a step toward the goal. Cicero seems to be at pains to state this doctrine correctly by saying that reason demands “something” of intermediate duties.50 “Something” consists of actions that are common to the wise and the non-wise; but this “something” is only part of what reason demands. This theory, it appears, is common to early and later Stoics; and there is no reason to suppose that Antiochus changed it.

Let us now return to Cicero’s Laws. After citing the Stoic argument for the community of humans and god, Cicero goes on to absorb Stoic ethics within a Platonic-Aristotelian tradition.51 Focusing on nature, he states that “we cannot separate a good law from a bad law by anything other than the norm of nature (naturae norma, 1.44).”52 This formulation applies equally to Plato and the Stoics. From time to time, however, he reminds the reader that his entire argument is based on his initial definition of law, which is Stoic. Thus he recalls that law, defined as “perfect reason in commanding and prohibiting,” determines what is just (ius, 1.42). He also draws a direct connection between the Stoic view of law and his own project of framing the best code of laws. When his brother Quintus ventures the opinion that Cicero will give “laws of life and teachings (doctrina)” to both peoples and individuals, Cicero responds: “Since law (lex) ought to correct vices and commend virtues, let teachings for life be drawn from

50. See above, note 37.
51. Cicero claims at Laws 1.37–39 and 1.53–56, as elsewhere, that the Stoics introduced no substantive changes into the Platonic and Aristotelian views of the goal of life, but only changed the terminology. Cicero has taken this interpretation from his teacher Antiochus, who in turn follows leaders of the skeptical Academy. Arcesilaus and Carneades are both named as endorsing this interpretation. See further On Ends 3.41, 4.56–60 and 78–79, and 5.22 and 74; and Academica 1.17–18 and 2.15–16.
52. 1.44: Atqui nos legem bonam a mala nulla alia nisi naturae norma dividere possimus. Cicero here uses norma as a synonym for regula.
Cicero here suggests that natural law is a source for the moral instructions that he will provide in his laws.

Finally, Cicero returns to the Stoic conception of law in his portrayal of the wise person at the end of Book 1. In a carefully constructed peroration, Cicero depicts the height of wisdom as the recognition of oneself as a citizen of a worldwide community (1.61):

> When [the mind] . . . takes hold, as it were, of the very governor and ruler of the universe and recognizes oneself not as a member of a people in some bounded place, surrounded by walls, but as a citizen of the whole world as though of a single city, in this greatness of things and in this contemplation and knowledge of nature, how it will know itself!

Although Cicero does not use the term “law,” he ends his analysis of human moral development, just as he began, with the Stoic conception of law as a force that joins humans and god in a single community. Having reached the goal of moral progress, the wise person recognizes with full clarity that he is a citizen of the world-state. Equipped with this understanding, he recognizes the commands and prohibitions of law in such a way as to heed them fully.

Cicero concludes that the wise person will take an active part in the political community. For this purpose, he will use not only dialectic but also rhetoric. Rhetoric will equip him with the political type of discourse needed to rule a people and set up laws, along with non-political types of moral discourse, including “persuasive precepts” (1.62):

> When [the mind] recognizes that one is born for political community, it will realize that it needs to use not only subtle argument but also continuous, widely flowing speech by which to rule peoples, establish laws, rebuke the wicked, protect the good, praise distinguished men, issue persuasive precepts (praecepta) to one’s own citizens for their well-being and praise, console the afflicted, and hand down with everlasting memorials the deeds and policies of the brave and wise, together with the disgrace of the wicked.

Plato, Aristotle, and the Stoics were agreed in general, though in widely divergent ways, that the wise person should participate in politics and frame laws. While Aristotle gave special prominence to rhetoric, the Stoics, too, required rhetorical ability along with dialectical skill. The Stoics also concerned themselves with

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53. 1.58: Sed profecto ita se res habet, ut quoniam uitiorum emendatricem legem esse oportet commendatricemque virtutum, ab ea vivendi doctrina ducatur.
54. SVF 3.314.
55. SVF 3.611 and 616.
56. SVF 1.75 (Zeno), 1.482 (Cleanthes), 2.48, and 2.297 (Chrysippus). Cicero took a very dim view of Stoic rhetoric (On Ends 4.7).
the laws of states, although, as Cicero will tell us later (3.13–14), it was not until the second century BCE that the Stoic took a practical interest in government. The Stoics of all periods paid special attention to “precepts” (Greek paraenesis), advice concerning imperfect duties. We will return to the topic of precepts later. For now, we may note that the wise person gives both laws and precepts, along with other kinds of moral guidance.

In this passage, Cicero carefully sets up the wise man for the task of framing laws. It is a little disconcerting, therefore, that Atticus responds to Cicero’s message by asking (1.62): This is an impressive praise of wisdom; but what is it for? Cicero replies: first, the source from which our undertaking flows must be correspondingly great; and, second, I can’t help but declare my enthusiasm for philosophy, which has made me the person I am, “whoever I am” (1.63). Cicero deflects the possible identification of himself with a wise person. This may be taken as a rhetorical stance; but there may also be an acknowledgment that Cicero, or any other human being, is a long way from the moral goal proposed by the philosophers.

In sum, what the argument of Book 1 reveals about the “nature of law (ius)” is that natural law not only inheres in the world as a whole and in the wise person, but also guides each human being to the goal of perfect rationality. Supplementing Cicero’s account from other sources, we may fill out some details about this guidance. Natural law commands fully virtuous action, but states its commands incompletely in the case of imperfect humans. What it tells them is to perform appropriate actions, with the implication that they should do so virtuously. Responding to the commands of natural law, imperfect humans understand them only in part. Overall, natural law is the source and norm of human legislation. How the two kinds of law are related remains to be seen.

II. CICERO’S LAWS AND NATURAL LAW

In the second book of his Laws, Cicero turns to the task of connecting his code of laws with natural law. Prior to constructing his law code, he offers a transitional section (2.1-14) that contains two clear requirements: all so-called human “laws” must be compatible with natural law; and his code of laws must be permanent. According to a problematic passage, moreover, some human laws share with natural law the force of calling humans to virtue. On the basis of the first two requirements, Cicero excludes unjust laws from deserving the name of “law,” and he excludes temporary laws, designed to suit particular circumstances, from his law code. Embarking on its construction, Cicero prefixes his law code with references to natural law. The specific laws that make up his code, however, seem to have little to do with natural law. Does he, nonetheless, view his laws as having something of the guiding force of natural law?
In the transitional section, Cicero continues to cite the Stoic definition of law as the norm and source of human laws. It is difficult to see, however, how anything of the power of Stoic law can be transmitted to human laws. Stoic law is a mental state of perfect rationality, which tells the wise individual precisely what to do or not to do on each occasion, whereas written laws are not a mental state nor can they tell individuals how to act correctly on each occasion. On the Stoic view, all human legislation is excluded from being "law." Whatever the prescriptions of written law, they are inevitably deficient.57 It is not surprising, therefore, that scholars have seen a turn to Platonism in Cicero’s second book.58 On this view, human laws receive the name of "law" by reference to a model which they approximate. Indeed, Cicero's method of first setting out a definition of law, then applying the definition to human laws, resembles the Platonic project of identifying what a thing truly is, then measuring the particulars of human experience by this norm. Platonic participation, it appears, provides an explanation of how Cicero's code of laws can be called "law" (though in a derived sense) and how it can be right (even though imperfectly).

Building on the previous analysis of imperfect and perfect duties, I shall attempt to show that Cicero draws on Stoic theory to establish a link between Stoic natural law and his code of laws. Even though he uses a Platonic framework, he fills out this framework with a Stoic view of participation. The Stoic doctrine that human legislation is not "law" and that all of its prescriptions are necessarily defective does not prevent human legislation from being "law" in the loose sense of sharing imperfectly in the power of natural law. Using the Stoic distinction between intermediate and perfectly appropriate actions, Cicero turns to Roman political practice to formulate a code of laws that prescribes intermediate actions as a means to achieving the goal of virtue. Derived from the imperfect practical wisdom of the Roman ancestors and tested by his own practical and theoretical insights, his code is an approximation to the sort of instructions by which natural law guides humans to the goal of virtue.

Along with reiterating the Stoic definition of law at the beginning of Book 2, Cicero prepares the reader for the link with human laws by emphasizing the priority of natural law. Focusing on the divinity of natural law (as previously noted), he describes the mind of god as "primary and ultimate law" (principem legem ... et ultimam, 2.8). A little later, Cicero refers to it as "true and primary law" (lex vera atque princeps, 2.10). He again calls it "supreme" (summa, 2.11), as he already did at 1.19. "Primary" (princeps) connotes priority both in time and

57. The Stoics reportedly said that all human legislation is wrong (SVF 3.324; cf. 3.327 and 328, and n. 62 below).
in authority. Foremost, the law that exists in nature as the mind of god is also ultimate or final. Supremely authoritative, it is “true law.”

In the midst of these assertions, there is a puzzling passage. Pressed by his brother Quintus to explain the “celestial law” once again before going on to the “laws of a people” (populares leges, 2.9), Cicero obliges as follows:

Ever since we were children, Quintus, we learned to call “if someone summons another to court” and (other commands) of this type “laws” (leges). But (sed vero) one must understand that this and other commands and prohibitions of a people have the power of calling toward right actions and calling away from wrongdoing (vim habere ad recte facta vocandi et a peccatis avocandi). This power is not only older than the age of peoples and states, but is coeval with the god who preserves and rules heaven and earth.

Cicero cites the first law from the Twelve Tables, which requires an accused person to appear in court. We are accustomed, Cicero notes, to call it and similar legislation “laws” (leges). The truth, however, is that these “commands and prohibitions” of a people have the power of “calling toward right actions and calling away from wrongdoing” (ad recte facta vocandi et a peccatis avocandi). This power has existed for all time. Cicero goes on to illustrate its commands by Horatius’ courageous stand at the bridge, and its prohibitions by the rape of Lucretia. In place of written laws,

There was reason, proceeding from the nature of things, impelling toward right action and calling away from wrongdoing (ad recte faciendum impellens et a delicto avocans), which does not begin to be law at the very time when it is written, but when it arose; it arose, moreover, at the same time as the mind of god. Therefore, true and primary law is the right reason of supreme Jupiter, applied to commanding and prohibiting.

“Proceeding from the nature of things,” the rationality of true law is coeval with nature. After redescribing its power as that “of impelling toward right action and calling away from wrongdoing” (ad recte faciendum impellens et a delicto avocans), Cicero concludes with the definition of law as the perfect rationality of god insofar as it commands and prohibits.

59. Girardet 1983: 70–71, 75 regards the terms “primary,” “ultimate,” and “true” as metaphorical.

60. 2.9: A parvis enim, Quinte, didicimus: Si in ius vocat, atque a[lia] eius modi leges [alias] nominare. Sed vero intelligi sic aportet, et hoc et alia iussa ac vetta populum vim habere ad recte facta vocandi et a peccatis avocandi, quae vis non modo senior est quam aetas populi et civitatis, sed aequalis illius caelestis atque terras tuentis e regentis dei.

61. 2.10: Erat enim ratio, profecta a rerum natura, et ad recte faciendum impellens et a delicto avocans, quae non tum demique incipit lex esse quom scripta est, sed tum quom orta est. Orta autem est simul cum mente divina. Quam ob rem lex vera atque princeps apta ad iubendum et ad vetandum ratio est recta summiorovis.
The reader is likely to be surprised by Cicero’s answer to his brother. What we expect on the basis of everything that has preceded is another affirmation of the difference between true law and human legislation. Instead, Cicero assigns a common power to the two kinds of law, even though he also draws a distinction. His argument now takes a new turn by assigning the name “law,” even though not in the true, primary sense, to human laws that have the power of calling humans to virtue. This turn has led some scholars to insert the negative “non” into Cicero’s text, so as to read: “But . . . this and other commands and prohibitions of a people do not have the power of calling toward right actions and calling away from wrongdoing.” This emendation preserves consistency, not only with the rest of Cicero’s text but also within the passage itself. For here, as elsewhere, Cicero draws a clear distinction between “law,” now called “true law,” as a perfectly rational force that exists in nature and written legislation. The fact that the text of *On Laws* contains many lacunas, one of them at the beginning of this very passage, lends credence to the insertion of a negative. Is there, nonetheless, a way of extending the power of calling to virtue to human legislation? Girardet and others have cited the received text as evidence that some human laws, in particular Cicero’s code of laws, are themselves natural law, on the ground that they have the same power as the unwritten rationality of nature.

Is there, then, some way of keeping the received text? One way in which Cicero differs from what he says elsewhere in *On Laws* is that he now describes the power of “law” in the true sense as the power of “calling” or “impelling” humans toward right action and “calling away” from wrongdoing. Cicero uses the term “call” in a similar way in his definition of “true law” in the *Republic* (3.33). As I have argued, natural law is both a condition of perfect rationality and a force that impels humans to this goal. If the received text is correct, I suggest, Cicero now assigns to human laws the power to guide humans without also attributing to them the perfect rationality of natural law. While sharing the power to call humans to virtue, human laws thus share imperfectly in the power of natural law. Cicero reminds us of the perfect rationality of natural law at the end of his argument. He reaffirms in this way the difference between natural law and human laws after extending the guiding power of natural law to human laws.

I suggested earlier that natural law guides imperfect humans by stating its commands incompletely. If this is right, we may suppose that human legislation shares, though imperfectly, in the power of natural law to call humans to virtue by stating part of its commands. Although legislative prescriptions lack the implication that goes with the incomplete statements of natural law, it is possible

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62. One may add that at *Academica* 2.136 Cicero writes that the Stoics denied, simply, that the Twelve Tables are “laws.”

63. So Turnebus, in Creuzer and Moser 1824: 177.


65. See above, note 43.
for them to coincide with the explicit demands of natural law for intermediate
duties. In this way, human laws may be said to call humans to virtue, even though
they do not themselves constitute a standard of virtue. Just as they are derived
from natural law as their source and norm, so their power to call to virtue is a
derivative power and the name of “law” is used in a derived sense.

It seems possible, then, to accept the received text while preserving consis-
tency, even though it is equally possible that the original text contained a negative.
Stoic theory offers a way of using the norm of natural law to differentiate between
good and bad human legislation: a human law is called “law” in a loose sense,
as well as “good” in a loose sense, if it shares with natural law, even though
imperfectly, the power of calling persons to virtue. Stoic terminology offers no
obstacle to this view. The Stoics themselves were quite prepared to resort to loose
usage when it suited them. Chrysippus already condoned the use of terms in a
loose sense, provided there was no confusion. In the second and first centuries
B.C.E., Stoics made a habit of applying moral terms, which apply strictly only
to the wise, to persons who are good only in the ordinary sense of performing
intermediate duties.

The next section of argument sets up the requirement for permanence. Cicero
prepares this requirement at length, then barely mentions it. He leads up to it by
drawing a contrast between “law,” as defined by the Stoics, and the diversity and
mutability of laws established by humans:

Therefore, just as the divine mind is the supreme law, so [it exists] when,
in the case of a human being, [reason] is perfected in the mind of a wise
person. Those [decrees], however, that have been formulated for peoples
variously and [adapted] to the occasion (varie et ad tempus) hold the
name of “laws” more by favor than in reality (favore magis quam re).

In Book 1, Cicero had opposed “law” to written legislation in general. Now, he
opposes it specifically to written legislation that differs across time or states and is
mutable. The description “variously and [adapted] to the occasion” covers both
legislation that varies from one political community to another and legislation
that keeps changing within a community in response to changing circumstances.

By contrast, Cicero’s laws are intended to be lasting, as he will tell us shortly.
At a later stage, he will also claim for them the universality of applying to “all
good, stable peoples” (2.35).

66. SVF 3.137; cf. 3.698.
67. At On Duties 2.35, Cicero cites Panaetius as his authority for using terms in the ordinary
sense; cf. On Duties 3.15–16.
68. 2.11: Ergo ut illa divina mens summa lex est, item quom in homine est perfecta in mente
sapientis. Quae sunt autem varie et ad tempus descriptae populis, favore magis quam re legum
nomen tenent. Most editors mark a lacuna after perfecta; something like ratio needs to be supplied,
although Cicero may have written the text somewhat carelessly as it stands.
69. Ad tempus corresponds to Greek πρὸς χρόνον.
Cicero’s initial contrast thus sets up an opening for his own code of law. The discussion that follows, however, is not directed against the ever-changing variety of human legislation. Instead, Cicero is concerned to deny the name of “law” to harmful and unjust laws. He offers two dialectical arguments in support of the claim that law is something praiseworthy—a term that the Stoics applied only to what is morally good. The first is based on an historical account of how laws came to be named. The first lawgivers, Cicero explains, had a conception of “law” as an enactment that would bring about security, virtue, and happiness; and they promised to write decrees of this kind, which they called “laws” (2.11). It follows that enactments that are harmful and unjust are anything but “laws.” Cicero adds that the term “law” (lex) “contains the force (vim) and sense (sententiam) of selecting what is truly just (iusti et veri legendi).” This etymology looks back to Cicero’s first presentation of the Stoic definition in Book 1 (§ 19), where he connected the Latin term lex with legere, “select.” The second argument rests on the popular assumption that law is something “very good.” It follows that pernicious legislation is not “law” any more than harmful medical prescriptions are “precepts of doctors.”

Both of these arguments rest on the ordinary conception of “law” as something that is conducive to happiness. Cicero explained these conceptions in Book 1 as the initial, obscure basis for full knowledge. The Stoics followed the Epicureans in calling them “initial conceptions” (prolepseis). On the Stoic view, the initial conception of law is replaced by the definition of law as a perfectly rational condition. Cicero fills in this final step abruptly by citing the Stoic definition one last time (2.13):

Therefore law (lex) is the distinction between what is just and what is unjust, conforming to (expressa ad) that most ancient nature which is the beginning of all things, to which the laws (leges) of humans are directed (ad quam . . . diriguntur) as they punish the wicked while defending and protecting the good.

Echoing Chrysippus’ definition of law as “a standard of what is just (dikaia) and unjust (adika),” Cicero now defines law as the distinction between what is just (iusta) and what is unjust (iniusta). This focus on justice agrees with the argument that has just preceded. “Conforming to . . . nature” (expressa ad . . . naturam) is a variant for “implanted in nature” (insita in natura), as used in

70. SVF 3.29 and 37.
71. Philo tells a similar story about the origin of laws, while adding that human laws vary from one state to another (SVF 3.323). He regards these diverse laws as additions to natural law. On his view, there are just two kinds of law: the law of nature, and the variable laws of humans.
72. 2.13: Ergo est lex iustorum iniustorumque distinctio, ad illam antiquissimam et rerum omnium principem expressa naturam, ad quam leges hominum diriguntur, quae supplicio improbos adficiunt, defendunt ac tuentur bonos.
73. For Chrysippus’ formulation, see above, note 17.
Book 1 (§ 18).74 What conforms to nature is the distinction between what is just and unjust.

Cicero now joins the Stoic definition with the claim that human laws “are directed” (diriguntur), that is, “set straight,” by reference to natural law.75 Cicero had demanded in Book 1 that human laws must be judged by the norm of nature. Now, he restates this demand by attaching it directly to the definition of law. Human laws are called “laws” in a loose sense if they are framed by reference to the standard of law. Similarly, humans are divided into “good” and “wicked” in a loose sense insofar as they are protected or punished by human laws.

After stating the definition, Cicero once again denies the name of “law” to unjust laws. Rounding out his argument, he now associates mutability with unjust legislation by citing examples of statutes that were revoked very quickly. By contrast, Cicero asserts, natural law cannot “be eliminated or rescinded.” This is the signal for Quintus to remind Cicero, once again, of his project of framing the best laws for a state. Quintus asks his brother: “So you will, of course, propose laws (leges) of the sort that will never be rescinded”?76 Cicero defers to his two friends: “Certainly, if they are accepted by both of you.” After this, he turns to the task of formulating his law code.

Cicero dispatches very rapidly the job of transferring the power of permanence from natural law to his laws. He is so casual, in fact, that one might question whether he is serious.77 There is indeed a joke, which would not escape Roman lawyers. It was customary to frame laws by adding the proviso that they must not be rescinded (“abrogated”).78 The proviso meant nothing, as laws were continually repealed. Quintus alludes to the uselessness of the formula. Cicero turns the joke around by smoothly deflecting onto Quintus and Atticus the job that Quintus would impose on him.

Behind the banter, however, there is a serious purpose. Plato provides a precedent, for he demanded in his Laws that, after a period of trial, his law code should be immune from change.79 Cicero himself had argued in his Republic that states should be organized so as to last forever.80 It follows that the laws

74. In his explanation of Stoic law in the Republic (3.33), Cicero used the phrase naturae congruens, “corresponding to nature,” in the same sense; see above, note 43.
75. The antecedent of ad quam is grammatically ambiguous: it could be “law,” “distinction,” or “nature.” Since the three conceptions coincide, the sense is unaffected by this ambiguity.
76. 2.14: Eas tu igitur leges rogabis videlicet quae numquam abrogentur?
77. Bill 1928: 245–46 notes the rapidity with which Cicero moves from ideal law to his laws. He suggests that although Cicero gives the impression of joking with Atticus and Quintus, he may be serious about viewing them as Stoic sages or Platonic philosophers. Girardet 1983: 81–82 rightly takes Cicero to be serious.
80. Republic 3.34. Cicero here draws a parallel between the destruction of a state and the destruction of the world; both should last forever. The parallel is inspired by Plato’s distinction (at Timaeus 41a–b) between the Form of living animal, which is everlasting, and the created world which lasts by the will of god.
that are written to uphold the best type of government should be lasting. In his *Laws*, Cicero aims to compose just such a body of law. Conceived as a written constitution, it is designed, in particular, to fit the type of government that the Romans had evolved in the past. As Cicero points out, he is setting out general legal principles under which particular cases can be subsumed. As a practicing Roman lawyer, Cicero is very much aware that many laws are framed to suit the occasion; declarations of war, the appointment of commanders, and agrarian legislation are some examples. In the *Laws*, he indicates that these cases must be decided by reference to a lasting body of constitutional law. Temporary laws, it appears, are called laws “by favor” in the attenuated sense that they are derived from lasting, generally valid “laws” that are in turn derived from the one true “law.”

It has been suggested that the requirement for permanence provides further evidence that Cicero’s code is itself a system of natural law. There is the fundamental difference, however, that while natural law is necessarily everlasting, Cicero’s code is a created body of laws that is intended to be simply lasting. In contrast with the everlasting existence of natural law, Cicero’s laws have a contingent durability.

So far, then, Cicero has said very little about the guiding power of human laws. Even if we accept the received text, Cicero has offered no details about this guiding power. There remains one last body of evidence, the law code itself. Severely truncated, the extant text of Cicero’s *Laws* contains two kinds of law: laws of religion, and laws of magistrates. Emulating Plato, Cicero prefaces each kind with a short preamble that is intended to persuade the citizens (2.14). In his preamble to the laws of religion, he argues that it is both true and useful to believe that the world is governed by the gods, or the rational power of nature (2.15-16). This is a clear reference to natural law. When Cicero comes to formulate particular laws, however, he does not cite any requirement of natural law except as part of his first law, which demands that the gods must be approached with piety and without riches (2.19).

When he has finished setting out his laws of religion, Quintus states the obvious. Commending Cicero for completing a major body of legislation very briefly, he observes: but this is not much different from the laws of Numa and our own customs (2.23). Quintus’ astonishment reflects the puzzlement of the reader. Cicero replies by reminding Quintus that it is necessary to fit laws to the Roman constitution, which was previously shown to be best in his *Republic*. Cicero points out that even if any of his laws have never existed in the Roman state, they have nonetheless existed, more or less, as customs.

83. Girardet 1983: 83 regards the requirement for permanence as proof that Cicero’s code is itself a system of natural law. Following Girardet, Dyck 2004: 279–80 accepts the requirement for permanence as the “clearest indicator” that Cicero conceived of his laws as natural law.
Similarly, when Cicero comes to frame the laws of magistrates, he offers a preamble that refers to the law of nature. Defining “law” as “a just condition of nature” (*ius condicionemque naturae*), he explains that nothing is so suited to it as command (*imperium*, 3.3). This is shown by the obedience of the world to god and the governance of human life by the “supreme law.” At the same time, Cicero signals a difference between natural law and his laws. Proposing to turn to what is “closer and better known to us” (*citeriora et notiora nobis*, 3.4), he points out that supreme authority in the state was originally vested in kings, but since “we are giving laws to free peoples,” as exemplified by the constitution previously shown to be best, the supreme authority in the state will be magistrates. Although Cicero does not say so, we may assume that the authority that rules the world is royal, as shown by the kingship of Jupiter. Instead of modeling his laws on this natural kind of governance, Cicero proposes a mixed kind of government.

The laws on magistrates contain some further links with natural law. Again, Cicero begins by transferring a requirement of natural law to the civic community: commands must be just and citizens must obey them (3.6). Subsequently, Cicero adds a requirement for virtue to two laws: wars must be just and waged justly (3.9); and senators must be free from vice (3.10, 28-29). Two more laws admit of being viewed as deductions from natural law: the safety of the people must be the supreme law for consuls (3.8); and allies must be spared (3.9). The vast majority of laws, however, appear remote from natural law. When he has finished, Quintus echoes his previous reaction to the laws of religion: you did this very briefly, but this is just like the laws of our state, even though you added a little of your own (3.12). Again, Cicero reminds Quintus of the need to fit laws to the Roman ancestral constitution, which was previously shown to be best.

Cicero’s law code, then, presents a striking discontinuity with natural law. Even though he refers to natural law as a goal, Cicero looks to the Roman constitution as a framework to which he must fit his laws and takes the bulk of his laws from Roman political experience. It looks as though he is now exchanging one type of measuring stick for another. Using Aristotelian language, Cicero signals a flight from philosophical theory to Roman experience by saying that he will turn to what is “nearer and better known to us.” Indeed, the requirements of the Roman constitution appear to trump the requirements of natural law at the most basic level of civic organization, the laws concerning magistrates.

Cicero carefully prepared this step at the beginning of his work. After declaring his intention to follow up his work on the best constitution (his *Republic*) by writing on the best laws, he makes clear that he intends to fit his laws to the ancestral Roman constitution (1.20). From the beginning, he joined this practical project to the philosophical project of revealing the source of human laws. When Cicero turns, then, to the Roman constitution after a lengthy discussion of natural law, the jolt felt by Cicero’s readers is softened by his previously announced purpose, as Cicero indeed reminds his brother. Cicero, moreover, has clearly made an effort to attach his law code to a conception of natural law, even if
it does appear to hang by a thread. Is there a way of reconciling this double orientation: a philosophical concern for natural law, and a practical leap to the Roman constitution?

In the first place, it can be argued that there is no incompatibility between the two approaches. In the *Republic* (3.33), Cicero cited the Stoic definition of law in an argument designed to show that the Roman constitution is just by nature, not by convention. The extant text provides no details of how the definition fits into the argument. Cicero’s overall position, however, is clear: the Roman constitution is naturally just. In the *Laws*, Cicero takes the additional step of selecting laws that fit this constitution and testing them by the standard of natural law. He confirms in this way the justice of the Roman constitution. He refers to this procedure in a corrupt text at the end of the extant work: “We must reflect and speak about *iure naturae* by ourselves, but . . . about the law of the Roman people (*iure populi Romani*) we must attend to what has been left behind and passed on.”

As Cicero announced in his table of contents in Book 1 (§ 18), he will investigate the nature of law, consider by what laws states should be governed, and examine the established laws of states, including Roman laws. He focuses on the first task in the first book, then uses the results of this investigation to accomplish the second and third tasks in the remainder of his work. In the cited text, he indicates how the three tasks are related to each other: by reflecting on natural law by oneself and taking established laws as given, one learns how to discover the laws by which states should be governed.

Cicero provides one example of how particular Roman laws stand up to the test of natural law. Reiterating that nature is the standard of law (*norma legis*), Cicero points out that some of the laws of burial in the Twelve Tables are “in accordance with nature” (*secundum naturam*); others are in accordance with custom (2.61).

Atticus expresses delight that “our laws are adapted to nature” (*nostra iura ad nature*).
naturam accommodari) thanks to the “wisdom of our ancestors” (2.62). Cicero subsumes the intent of these Roman laws under his law that “expenditure and mourning for [deceased relatives] shall be limited” (2.22). As Cicero shows, to be “in accordance with nature” is not the same as to be “nature.” The latter, which is none other than natural law, is the norm by which human legislation is judged to be “in accordance with nature.” According to Stoic theory, this norm is perfectly in accordance with nature. Cicero’s laws are “in accordance with nature” because they are in agreement with this norm.

There is a further continuity with the Stoic doctrine of law. The bulk of Cicero’s law code demands the sort of actions that the Stoics called intermediate duties. Like Stoic intermediate duties, these actions are intended to lead to the attainment of virtue. As argued in the first part of this paper, natural law commands only perfectly appropriate actions, although it may state its commands in an incomplete form as a demand for intermediate duties, together with the implication that they must be performed virtuously. The Stoics also held that intermediate duties as such, considered as morally neutral actions, are prescribed by so-called “precepts” (praecepta, corresponding to Greek paraenesis, “advice”).

To what extent, then, do Cicero’s laws resemble Stoic precepts? To answer this question, we need to turn briefly to a Stoic debate on the usefulness of precepts.

As Seneca tells us, there was a disagreement among the early Stoics as to whether precepts given to a certain category of people (subsumed under a certain persona), such as a son, a father, or a slave-owner, are useful. Ariston, a heterodox Stoic of the time of Zeno, argued that precepts of this kind are of slight value. What is most useful, he held, are philosophical doctrines; for these give guidance for the whole of life, not just a part of it. As a result of learning these doctrines (dogmata, Latin decreta), a person will know how to deal with each part of life, thus giving precepts to himself on what should be done on each occasion. Cleanthes was more favorable to precepts: he maintained that precepts are useful, though weak unless they “flow from” doctrines. Seneca takes the side of Cleanthes. He argues that precepts can assist our natural impulse toward virtue; without them, we must rely on nature alone, and it can be sluggish or corrupted. Precepts, however, are not sufficient. They must be joined to doctrines. Doctrines provide a measuring stick (regula), by which one can judge whether what one does

87. Cicero correlates praecepta with intermediate duties at On Duties 1.7; see Kidd 1971: 156. See also SVF 3.519.
88. Epistles 94 and 95. Seneca equates praecepta with paraenesis at 95.1. At the most general level at which intermediates are directed at preferred indifferents such as health, wealth, and so on, intermediates apply to all humans. Presumably, Seneca considers precepts for such universal intermediates to form part of philosophical doctrines (decreta). For discussion of these letters, see Kidd 1978, Mitsis 1993: 294–304, 1994: 4845–50, and Inwood 1999: 113–19.
89. Epistle 94.2–3.
90. Epistle 94.4; cf. 95.12 and 44–46.
92. Epistle 95.34–41; cf. 59.
is right. They provide a fixed standard of judgment (*inflexibile iudicium*). Just as sailors must direct their course toward a star, so we must direct our life toward a goal, and this is shown by doctrines. By way of example, Seneca demands that precepts on how to worship the gods must be accompanied by doctrines about the nature of god, that precepts on how to treat other humans must be guided by an understanding of the community of mankind, and that precepts concerning material things must be preceded by an understanding of their value.

In the course of his discussion, Seneca raises the objection that laws are nothing but “precepts with threats” (*minis mixta praecepta*). He responds to this view by saying that threats make all the difference: laws compel, whereas precepts make a plea. He also points out that laws deter from crime, whereas precepts encourage the performance of an appropriate action. Seneca allows, however, that laws have something in common with precepts. Laws too, he says, can produce good habits, especially if they have preambles that are designed to persuade. On this point, Seneca disagrees with the Stoic Posidonius, who held that Plato should not have added preambles to his laws, since laws should simply command.

Just as Seneca demands in the case of precepts, Cicero prefaces his laws with doctrines. He sets out the doctrines at length in his first book, then summarizes them in a short preamble to each body of laws, as well as pointing to them in a few places in his code. This procedure agrees roughly with Plato’s use of preambles. It also corresponds, more precisely, to the Stoic method of attaching precepts to doctrines. As Cleanthes demanded, precepts must “flow” from doctrines. As the source of precepts, doctrines indicate what a particular kind of person, such as a son or father, should do. Although the actions demanded by precepts are insufficient for virtue, precepts can guide a person toward virtue by reinforcing the guidance of nature. Similarly, laws that are derived from doctrines about natural law can guide a citizen to virtue by reinforcing one’s natural impulses. Seneca backs up religious and social precepts with the same kind of doctrines that Cicero uses to back up his laws. Cicero, it appears, has put the Stoic doctrine of precepts to his own purpose by formulating laws on the model of Stoic precepts.

This is not to say that Cicero thought of his laws as precepts. Like Seneca, he is well aware of the difference that threats make. As Seneca suggests, Cicero views his laws as a form of compulsion, mitigated by the use of persuasive preambles. He adds preambles, he writes, so as not “to compel everything by force and threats” (2.14). By contrast with the compulsion of laws, precepts are pieces of advice, to be weighed by each individual by reference to the goal of life; and the only
penalty for failing to heed sound advice is the inner unease that comes from acting in a way contrary to nature. Precepts, moreover, admit of exceptions. Laws do not admit of exceptions, although Cicero builds in some flexibility by demanding that the commands of magistrates must be just and, in general, by relating all laws to the goal of virtue.

Seneca does not tell us who, if anyone, ever endorsed the view that laws are “precepts mixed with threats.” Nor is there any clear evidence that any Stoic ever regarded written laws as a suitable means for prescribing intermediate duties. There is, however, some evidence that some Stoics were moving, at least, in this direction. As noted previously, Cicero mentions in his Laws (3.13-14) that a change occurred around the beginning of the second century B.C.E.: whereas the early Stoics offered only a theoretical discussion of politics, the Stoics Diogenes of Babylon and Panaetius gave attention to practical matters of government.99 In his work On Duties, which draws heavily on Panaetius, Cicero ascribes to both Diogenes and Hecaton, a student of Panaetius, the position that one should do nothing contrary to the laws of the state.100 These Stoics, it appears, viewed written laws as a moral guide, even though one that lacks the perfection of natural law. It is possible that they took the step of recognizing written laws as a means of prescribing intermediate duties. It is also possible that Cicero derived such a view from his teacher Antiochus, to whom he is clearly indebted in Book 1 of On Laws. There is no reason, on the other hand, why Cicero could not have adapted Stoic theory himself in such a way as to model his law code on the Stoic distinction between intermediate and perfect duties.

Cicero’s laws, then, have something in common with precepts. Like them, they are derived from doctrines about the goal of life and they aim to guide persons to virtue. Both laws and precepts have lasting validity as general rules, although there is the difference that precepts admit of exceptions. Laws are not the same as precepts, but they may be viewed as supplementing the numerous kinds of precepts given to groups of people by demanding conduct that is appropriate to citizens. In describing the tasks of the wise person, Cicero distinguished the activity of establishing laws from giving persuasive precepts (1.62). He preserves

99. SVF 3.611. For the political concerns of the Stoics, see Erskine 1990: 64–74, and Annas 1993: 302–11. Whereas Annas holds that the Stoics were fundamentally apolitical, Erskine emphasizes their involvement in politics from an early period. I am inclined to think that some early Stoics, such as Persaeus and Sphaerus (both of whom wrote books on the Spartan constitution), were interested in linking up the laws of a state with the goal of virtue and that Stoics of the second century strengthened this trend by offering a more positive evaluation of the laws of a state.

100. Diogenes argued that it is “not wrong (turpe)” for a person to obey only the law of the state on disclosure when selling a product; there is no need to disclose flaws when this is not mandated by law (On Duties 3.51–53 and 91). He was opposed by Antipater, who held that one must also take into consideration the principles of natural law, which require that one should seek the welfare of all. Cicero takes the side of Antipater. As Annas 1989: 158–60, and 1993: 309–10 points out, Diogenes does not repudiate the norm of natural law. Hecaton held that it is the function of a wise person to pursue private wealth “without doing anything against the customs, laws, institutions” of one’s country (On Duties 3.63; cf. 3.89–91).
this distinction, I suggest, while demanding that all rules of conduct, whether
prescribed by law or precept, must be designed by reference to the goal of perfect rationality.

Did Cicero, then, view his code of laws as issuing from a wise person? Cicero,
as we saw, deflects any claim to wisdom on his part at the end of Book 1. In what
follows, it seems to me, he blocks the assumption that his laws issue from a
condition of perfect rationality by turning to the ancestral constitution. As Atticus
puts it, this constitution arose from the “wisdom of the Roman ancestors” (2.62).
This wisdom falls short of the perfect rationality envisioned at the end of Book 1. It
is a practical, collective wisdom resulting, after a long period of experimentation,
in the best constitution there has ever been. Cicero adds himself to the string
of ancestors by suggesting some further modifications to the constitution in his
Laws. As he states explicitly in On Duties (3.13-17), the ancestral wisdom is an
imperfect wisdom, consisting in progress along the path of intermediate duties. In the Laws, Cicero tells us that this wisdom resulted in laws that are “in accordance
with nature.” We are left to assume that he claims only an obscure, even if superior,
grasp of natural law for himself and the Roman ancestors. What matters, though, is
that this understanding is good enough to result in a code of laws that participates
as much as is practically possible in the directives of natural law.

In conclusion, Cicero viewed his laws as sharing in the guiding power of
natural law by prescribing intermediate duties. His laws are not the same as
natural law. The actions that they prescribe can only be part of the perfectly virtuous actions that are commanded by natural law. Cicero turned to the Roman constitution, along with the imperfect wisdom of the Roman ancestors, as a means
of filling in these intermediate duties. By testing his laws against natural law, as
best as he understands it, he hoped to produce a body of constitutional law that
would be permanently valid.

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