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Abstract

This paper will address the influence of Stoicism upon Classical Roman law through the analysis of legal decisions given by Emperor Marcus Aurelius in family law and *ius libertatis*. By reading the decisions in the light of Stoic philosophy the paper will suggest that Marcus Aurelius applied the ideas of egalitarianism and freedom that characterize Stoicism to his legal decisions. In the conclusion we will highlight important aspects of Marcus Aurelius' legal style: a) the use of a flexible logic, value-based toward the Stoic idea of justice, which tends to prevail over legal formalism and literalism; b) a serious concern that legal interpretation must not produce unnatural outcomes; c) the development of principles that enabled the attainment of liberty to prevail over any other condition; and d) the notion that the excessive institutionalization and rigour of the Roman family must not oppose its natural bonds.

Keywords: Roman Law. Stoicism. Marcus Aurelius.

Introduction

Finding evidence of Greek thought in Roman law is a difficult task.[1] The idea that a specific philosophical school was decisively influential in the development of Roman law has never been agreed upon by contemporary legal historians and philosophers. In point of fact, legal historians tend to grossly disagree on this subject and generalisations are highly polemical. Given, in particular, that Roman law was a complex construct that relied on its own logic and was submitted to constant reinterpretation by jurists, there are a number of different approaches to the subject.

Nonetheless, the present work proposes to study legal decisions of last instance given by Marcus Aurelius, a self-professed follower of Stoicism. The aim here is to relate this aspect of his biography to the rationale behind his legal decisions.

The fact that no jurist can decide without moral bias is well-known but here we go even further to suggest that in many aspects Marcus Aurelius' decisions reveal that Stoicism had normative consequences for, amongst other branches of law, family law and the law of liberty. These two branches of law have been chosen for study in this paper since they involve what can be called 'proto-human rights', i.e. areas of law subject to ethical considerations.

The Imperial Rescripts

The institutional structure of the Roman Empire did not provide a clear distinction between the three branches of government, as exists in contemporary Western societies. In fact, the Emperor took in both the power of judging in the last instance and the power to legislate directly.

The Emperor, also called *princeps*, could legislate by the bestowal of imperial constitutions, *leges* which were the manifestations of his will.[2] Ulpian claimed that "what pleases the prince has the force of law",[3] meaning that law arose directly from the will and power of the Emperor. Imperial constitutions could take the form of edicts, mandates, decrees or rescripts, becoming legal sources inasmuch as they amended or contradicted existing law.

The presentation of the case *ad rescriptum principem* was possible only in the following circumstances: when the question at issue was not subject to ordinary jurisdiction; if the resolution of the dispute was doubtful, either by confusion of the existing law or by difficulty of applying it to the correct case; or in the event of a lack of applicable rules. Rescripts were, in other words, answers to particular cases, formally similar to judicial decisions of today: the facts were introduced, followed by a discussion of the rights at issue, and a decision was reached.

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[1]Cairns, John W; Du Plessis, Paul. 2010. *The Creation of the Ius Commune: from Casus to Regula* Edinburgh, Edinburgh Scholarship Online, 77.
[2]Justo, Santos. 2008. *Direito Privado Romano*, I. 4. Coimbra, Coimbra Editora, 87.
[3]"*Quod principi placuit, legis habet vigorem*" (*Digesta*, 1.4.1).

Rescripts on Liberty

In the following section of the paper we will study the imperial rescripts of Marcus Aurelius dealing with the legal status of slaves. Essential to Roman economy and recognised as a valid legal institution, slavery was justified in classical law as a legal fiction that contradicts the law of nature: "slavery is an institution of law of nations, by which one is subjected, against nature, to another's domain".[1] The slave is not qualified as an animal or commodity'. Although the immediate abolition of this social institution was never proposed, Roman Stoics treated it as essentially contrary to nature,[2] so it was morally well seen for an educated man to treat his slaves as employees.[3]

The first case to be analysed is the testament of Valerius Nepos, reported in the Digest by Marcellus. Valerius was a male Roman citizen who, at a point of his life, made a will in which he instituted heirs, left bequests, and manumitted some slaves. Thereafter Valerius himself erased the names of all the heirs, and also erased the name of only one of the previously freed slaves, leaving the rest of the legal instrument intact.

According to current law at the time the testament could only be revoked if the testator destroyed the instrument, broke the seal of witnesses, or erased the name of the instituted heirs.[4] The latter is what happened in this particular case. Applying a rigorous legal interpretation, the manumissions (the act of a slave owner freeing slaves) should also have been cancelled and all property collected by the tax authorities. In conclusion, by erasing the name of the heirs the testator invalidated the whole testament, including the manumissions.

The decision rendered by Marcus Aurelius was not, however, a syllogistic application of the existing law. Marcus Aurelius first analysed the part of the testament in which the testator had instituted heirs that were subsequently erased. At this point, he decided in favour of the Roman Treasury, giving full effect to the manifestation of the testator's will.

Since Valerio Nepos, having changed his mind, opened the testament and erased the name of the heirs, it does not seem proper, in accordance to the Constitution of my Deified Father, that the inheritance should belong to the ones that had been previously instituted.[5]

In this first point of the decision, Marcus Aurelius recognized that due to the formal inadequacy of the instrument, all the assets should become public property. It remained clear that the interests of the treasury should prevail over the patrimonial interest of the parties that had their names erased from the will.

However, it was still to be decided whether the remainder of the will – the legacies and the manumissions – should be declared valid. In compliance with

[1] *Institutiones*, 1.3.2.
[2] Arnold, Edward Vernon. 1911. *Roman Stoicism*. Cambridge, Harvard University Press, 279.
[3] Cicero, *De Officiis*, 1.13.41.
[4] *Digesta*, 28.4.3.
[5] "*Cum Valerius Nepos mutata voluntate et inciderit testamentum suum et heredum nomina induxerit, hereditas eius secundum divi patris mei constitutionem ad eos qui scripti fuerint pertinere non videtur*" (*Digesta*, 28.4.3).

the adversarial principle, Marcus Aurelius invoked the solicitor of the treasury and one of the legatees.

And to the solicitor of the treasury Marcus asked (…): "Do you think that the one who erased the name of the heirs wanted the will to be valid?" Cornelius Priscianus, representing Leo (the legatee) said: "The testator only erased the name of the heirs." Calpunius Longinus, representing the Roman treasury, replied: "a testament that does not have an heir cannot be binding." Priscianus then said, "but, besides instituting heirs, the testator had also manumitted some slaves and had left bequests".[1]

Following the same interpretation concerning the right of the heirs, the whole instrument should have been declared invalid. However, the legatee's lawyer stated that the existence of other declarations in the instrument pointed to its validity. Marcus Aurelius thus decided:

> "It seems to me that the present case admits a more human interpretation, for we understand that Nepos only wanted to invalidate what he erased." The testator also erased the name of the slave who had been manumitted. Marcus Aurelius Antoninus replied that the slave, nonetheless, should be freed; evidently ruling in favour of the cause of liberty.[2]

It is evident that Marcus Aurelius understood that the testator had the power to nullify his own unilateral acts, therefore he declared the invalidity of the previously erased inheritances under universal title. However, even this principle could not prevail over the cause of freedom, *i.e.*, once manumission was declared by will, it could not be invalidated.

A new principle of *ius libertatis* thus appeared: when in doubt, the interpretation that allows freedom must prevail over circumstances that lead to slavery or, in other words, *in dubio pro libertatis*.

The law was interpreted in a non-literalistic way on other occasions by Marcus Aurelius, who tended to favour the cause of liberty at the expense of any other value. In this sense the case of Virginius Valens stands out. Valens left a will freeing some slaves by direct manumission (without setting any condition) and others through manumission by *fideicommissum*.[3]

The manumission by *fideicommissum* was common during the Roman Empire and occurred when the slave-owner in his testament – rather than directly declaring that the slave should be freed after his death – determined the heir to be responsible for the manumission (called an 'indirect' manumission).

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[1]"*Et advocatis fisci dixit: (…) 'Videtur tibi voluisse testamentum valere, qui nomina heredum induxit?' Cornelius Priscianus advocatus Leonis dixit: 'Nomina heredum tantum induxit'. Calpurnius Longinus advocatus fisci dixit: 'Non potest ullum testamentum valere, quod heredem non habet'. Priscianus dixit: 'Manumisit quosdam et legata dedit'*" (*Digesta*, 28.4.3).

[2]"*Causa praesens admittere videtur humaniorem interpretationem, ut ea dumtaxat existimemus nepotem irrita esse voluisse, quae induxit". Nomen servi, quem liberum esse iusserat, induxit. Antoninus rescripsit liberum eum nihilominus fore: quod videlicet favore constituit libertatis*" (*Digesta*, 28.4.3).

[3]*Institutiones*, 3.11.1

However, on the event of Valens' death, none of the heirs mentioned in the testament were eligible to receive the inheritance. Again, a legalistic interpretation of the case would invalidate the whole testament, including the part regarding the manumissions of slaves by *fideicommissum*. The property would be then reverted to the treasury and put under the supervision of an administrator, who would subsequently sell the assets with all proceedings going to the treasury.

Nevertheless, the Emperor ordered *per rescripto* the freeing of slaves who had received the manumission by *fideicommissum*, thus creating the fiction of the *adictio bonorum*, in which the slave takes the place of the heir to receive his freedom *per universitatem*.[1] As stated by Gaius: "a new form of succession appears through a Constitution of the divine Marcus. Those who are released by their owners in a testament yet not accepted by the heirs should receive the property, so their liberty can be preserved".[2] Marcus Aurelius seemed to have considered freedom a fundamental value, as declared in the rescript: "the cause of liberty must be preferred over a pecuniary advantage".[3]

A similar case is analysed in the case of Trophimus. In this case, freedom was granted by *fideicommissum* in the benefit of Trophimus, a slave who administered the account book of his master. After the death of the master, however, the following questions arose: should the slave be manumitted before or after he rendered account of his previous works? And, furthermore, should the slave be required to repay any loss in the event of bad administration? The rescript is reported by Ulpian:

> If freedom was given by *fideicommissum* without the setting of conditions, and the slave is said to have worked on the administration of accounts, the divine Marcus answered by rescript that there should be no delay against his freeing, and yet an *arbiter* should be named to start the examination of the account books. These are the words of the rescript: "It seems more just that Trophimus be given his freedom, in accordance to the *fideicommissum* bestowed without the condition of rendering accounts of his previous works; and it would be inhuman to allow pecuniary questions to cause a detrimental postponement of liberty. Nevertheless, once he is freed, the praetor shall immediately name an arbiter, in the presence of which the freed man will give account of his previous administration. So he will be forced to render accounts of his work as a slave, but nothing is added concerning the obligation to pay back the deficit since what he did in slavery cannot

[1]Matos, Andityas Soares de Moura Costa. 2009. *O Estoicismo Imperial como Momento da Ideia de Justiça: Universalismo, Liberdade e Igualdade no Discurso da Stoá em Roma*. Rio de Janeiro, Lumen Juris, 310.

[2]"*Accessit novus casus successionis ex constitutione divi Marci, nam si hi qui libertatem acceperunt a domino in testamento, ex quo non aditur hereditas, velint bona sibi addici libertatium conservandarum causa, audiuntur*" (*Institutiones*, 3.9.1).

[3]"[...] *commodo pecuniario praeferendam libertatis causam*" (*Institutiones*, 3.11.1).

> be used against him after the concession of freedom. But certainly the praetor must coerce him to give back the accounts books, and also goods and money in his possession, besides giving a full explanation about everything he did as an administrator.[1]

The decisions above seem to reconcile the Stoic ethical maxim, according to which all men are substantially equal, with Roman pragmatic way of thinking and economy. For the Stoics, every individual is composed of the same substance and governed by the same ubiquitous reason; therefore, law should enable the elimination of an unnatural condition. The Stoic maxim of equality thus gains practical relevance through law in the following principle: if freedom is given under alternative conditions, the easiest one must be observed.

Papinianus reported another case in which Marcus Aurelius decided in *ius libertatis*. Faced with the constitutional prohibition of manumitting an imprisoned slave, Marcus Aurelius admitted an exception, ensuring that if "freedom is given in a testament to a slave who is in jail, his manumission must be regularly recognized".[2]

To arrive at this conclusion Marcus Aurelius applied a complex legal analogy, by comparing the jailed slave to one who is given as security for a debt. According to valid law at the time, once the price was paid the slave should be freed. To Marcus Aurelius, prison and slavery were analogical equivalents: unnatural constraints against freedom. The only conclusion for the case, thus, was that the slave should be released after serving his jail term.[3]

Marcus Aurelius seemed to understand that Roman law, which traditionally legitimized slavery, also provided interpretative elements to legitimize freedom. His Stoic guidance might have provided him with the reasons to justify equality among men, since for the Stoics all men share the same life force, a rational governing reason[4] which is part of a doctrine that justifies equality among men.

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[1]"*Si pure data sit fideicommissa libertas et is servus rationes administrasse dicatur, divus Marcus rescripsit moram libertati non esse faciendam, ex continenti tamen arbitrum dandum esse, qui computationem ineat. Verba rescripti ita se habent: 'Aequius videtur Trophimo ex causa fideicommissi praestari libertatem, quam sine condicione reddendarum rationum datam esse constat, neque humanum fuerit ob rei pecuniariae quaestionem libertati moram fieri. Qua tamen repraesentata confestim arbiter a praetore erit dandus, apud quem rationem, quam administrasse eum apparuit, ex fide reddat. Tantum igitur rationes reddere cogetur; sed an et reliqua restituere debeat, nihil adicitur, nec puto cogendum: nam de eo, quod in servitute gessit, post libertatem conveniri non potest. Corpora plane rationum et si quas res vel pecunias ex his detinet cogendus est per praetorem restituere: item de singulis instruere*." (*Digesta*, 40.5.37).

[2]"*Plane si testamento libertas data sit et eo tempore, quo aditur hereditas, tempus vinculorum solutum sit, recte manumissus intellegetur*." (*Digesta*, 49.19.33).

[3]*Digesta*, 48.19.33.

[4]Marcus Aurelius, *Meditations*, 6.5. Translated by George Long. 2002. *The Thoughts of Emperor Marcus Aurelius*. London, Benediction Classics.

In the case of Primitivus, reported by Ulpian, a slave confessed to a murder that he never committed. In addition, the slave maintained his false statement since he feared he would be returned to his former owner.[1]

When Voconius Saxa, governor of the province, cross-questioned the alleged confederates in the crime, he found that Primitivus lied about himself recklessly, fearing that his master would punish him severely. Marcus Aurelius then ordered Saxa:

> Thus you may give your ruling and dutifully order the slave's unfettering, adding the condition that he will never be returned to the ownership of his former master who, by receiving the just prize for his property, will gladly let him go.[2]
> It was also decided that the slave should not be returned to the power of his former owner, who was considered unjust and inhumane. From this rescript, Ulpian extracts a valuable new procedural rule: "(...) the governor of the province cannot restore freedom to someone who was condemned, nor revoke his own sentence when pecuniary. So what is to be done? He must write to the princeps, when the one who seemed to be a murderer is later discovered to be innocent".[3]

Bradley argues that the principle of *favor libertatis* is not a product of the enlightenment of the Antonines, being instead as old as the Twelve Tables, functioning as a "safety-valve to release the build-up of pressure in the system as a whole".[4] Yet, in our view, what used to be a mere rule of application increasingly took the shape of a directive principle, especially during the period of the Antonines, since interpreters started to apply it extensively, taking it to its farthest consequences. The idea of *favor libertatis*, under the influence of Stoicism, can be described metaphorically as a beam that could be refracted in a bundle of innovative interpretations.

A succession of rescripts stretched the legal protection of slaves under the rule that freedom must prevail over any other cause and the term "Constitution of the divine Marcus" came to be evoked by jurists who gave freedom-favourable opinions. Marcus Aurelius' rescripts were frequently used as paradigms by the Roman jurists as can be gathered from the *Digest.*[5]

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[1] *Digesta*, 48.18.1.27.

[2] "*Potes itaque decreti gratiam facere et eum per officium distrahi iubere, condicione addita, ne umquam in potestatem domini revertatur, quem pretio recepto certum habemus libenter tali servo cariturum*" (*Digesta*, 48.18.1.27).

[3] "*Sed praeses provinciae eum quem damnavit restituere non potest, cum nec pecuniariam sententiam suam revocare possit. Quid igitur? Principi eum scribere oportet, si quando ei, qui nocens videbatur, postea ratio innocentiae constitit*" (*Digesta*, 48.18.27).

[4] Bradley, Keith. 1994. *Slavery and Society at Rome.* Cambridge, Cambridge University Press, 162.

[5] See. *v.g.*, *Digesta*, 40.3.2; 40.4.5; 40.4.56; 40.5.2; 40.5.3; 40.5.30.16; 40.5.37; 40.8; 40.9.17; 40.9.30; 40.16.2.

Rescripts on Family Law

The rigid structure of the Roman family, based on the authority of the *pater familias*, went through a process of de-patriarchalisation under the influence of Stoicism, particularly concerning the status of women and children inside this institution. Decisions based on principles of individual autonomy and natural bonds counterbalanced the excessive and inequitable use of the *patria potestas*, resulting in changes to how parental power and civil liberties were exercised.[1]

According to Cicero, after the moral duty owed to the family the most significant obligation on individuals was the obligations owed to parents, who have committed most of their lives to their kin; to sons and daughters; and to other dependent relatives.[2] In the same vein Epictetus stated that family bonds are good and natural, and taught that the father must be alongside his convalescent son, a viewpoint against the old Roman aristocratic tradition of delegating this task to servants.[3] Seneca compared the duties of an Emperor to the responsibilities of a father, and admitted that even a philosopher can grieve, though moderately, the loss of beloved ones. [4]

Following this pattern of privileging natural bonds over the stagnant traditional familiar structure, rights of inheritance were granted to collateral relatives until the seventh grade,[5] which could then succeed the sons and legitimate heirs in case they were deceased or for some reason could not receive their inheritance.

Moreover, a law called *Lex Iulia de adulteriis*, introduced by Augustus, determined that sons and daughters could not be transferred by their parents, neither by selling, donation or given as security. Two centuries later, Marcianus taught that parental power must be exercised with piety and must not result in atrocious acts.[6]

The individualized study of rescripts given by Marcus Aurelius in family law provides evidence of how he followed the trend of bringing the rights of the family into closer contact with the Stoic idea of considering the ethical, and therefore normative, value of nature.

In the case of Flavia Tertula a woman requested her marriage to be considered legally valid, despite the fact that her husband was her uncle. Tertula was married to her mother's brother, her maternal uncle. In Marcus Aurelius' Rome, marriage between cognates was forbidden under these circumstances since husband and wife had only one degree of separation from

[1]Laferrière, Louis Firmin Julien. 1860. *Mémoire Concernant l'Influence du Stoicisme sur la Doctrine des Jurisconsultes Romains.* Paris: Elibron Classic Series, 69.
[2]Cicero, *De officiis*, 1.160.
[3]Reydams-Schils, Gretchen. 2005. *The Roman Stoics*: *Self, Responsibility, and Affection*. Chicago: The University of Chicago Press, 121.
[4]Reydams-Schils, Gretchen. 2005. *The Roman Stoics*: *Self, Responsibility, and Affection*. Chicago: The University of Chicago Press. 135.
[5]*Digesta*, 4.3.24.
[6]*Digesta*, 48.9.5.

the common ancestor. A merely syllogistic interpretation of the case would easily reveal the impediment to marriage.

Since the marriage was marked by *incestus iuris civilis*, which concerned Roman citizens, a legalistic interpretation would declare the marriage null and void and, consequently, invalidate acts performed by the couple. The null marriage produces no legal effects, according to Gaius.[1] Following this reasoning, children would be considered illegitimate.

Notwithstanding this, Marcus Aurelius decided innovatively, contradicting the legal practice of his time:

> We are inclined towards your cause, due to the long period of time that, unaware of the illegality, you remained married to your uncle; also because the two of you were put together by your grandmother; furthermore by the number of your children. On that account, considering the concurrence of all events, we confirm the status of your children – born inside this marriage contracted forty years ago – exactly as if they had been legitimately conceived. [2]

The first factual element brought to light by Marcus Aurelius was the unawareness of the illegality. Furthermore, he considers the long period in which they have been married. Finally, he takes into account the good-faith of the consorts, who apparently acted with no purpose of violating the law. Apparently, the long-lasting factual situation in which the couple lived did not oppose the principles of honest life. Considering the concurrence of all things into one, in this case justice played a more important role than the strictness of statutes. The decision recognised that law cannot go against the universal and natural customs of mankind.

Marcus Aurelius determined the maintenance of the legal status of sons and daughters conceived during the marriage. Privileging the harmony of social reality over apparent defects was part of Marcus Aurelius' conception of nature, as showed in his *Meditations*:

> We ought to observe also that even the things which follow after the things which are produced according to nature contain something pleasing and attractive. For instance, when bread is baked, some parts are split at the surface, and these parts which are thus open, and have a certain fashion contrary to the baker's art, are beautiful in a manner, and in a peculiar way excite the desire for eating. And again figs, when they are quite ripe, gape open; and in the ripe olives the very circumstance of their being near to rottenness adds a peculiar

[1] *Institutiones*, 1.10.12.

[2] "*Movemur et temporis diuturnitate, quo ignara iuris in matrimonio avunculi tui fuisti, et quod ab avia tua collocata es, et numero liberorum vestrorum: id circo que cum haec omnia in unum concurrunt, confirmamus statum liberorum vestrorum in eo matrimonio quaesitorum, quod ante annos quadraginta contractum est, perinde atque si legitime concepti fuissent.*" (*Digesta*, 23.2.57).

> beauty to the fruit […] so that if a man should have a feeling and deeper insight with respect to the things which are produced in the universe, there is hardly one of those which follow by way of consequence which will not seem to him to be in a manner disposed so as to give pleasure.[1]

In the case of Domitia, her ex-husband requested her guardianship after their divorce, under the allegation that she was expecting his son. Nevertheless, Domitia emphatically declared herself not to be pregnant. Rutilius Severus, her ex-husband, requested that he be given back the *manus* (marital power) over Domitia, despite their being divorced, on the grounds that his own statement would be enough to justify his right of retention over the bodies of his ex-wife and unborn child. By using this strategy Rutilius intended to restore the pre-divorce situation in which the wife was *in loco filiae, i.e.*, in the same legal condition of daughters. Marcus Aurelius thus decided:

> It seems that Rutilius Severus desires to create something new, intending to put his wife – who divorced him and declares not to be pregnant – under his guardianship. Following this train of thought, no one should be surprised if we suggest a new opinion and remedy. So, if he persists in the same request, it is mostly convenient to choose the house of a very honest woman, in which three very honest certified midwives, also chosen by you, Praetor, will get Domitia examined. If, indeed, either all or two of the midwives announce Domitia's pregnancy, she must be persuaded to be put under guardianship as if she had personally asked for it. But if she is not bearing a child, let it be known that the husband's conduct relates to his own ill-will, since it can be fairly seen that his request was intended to impose injury upon her. Thus if either all or the majority of midwives manifest that Domitia is not pregnant, there will be no grounds for conceding the required guardianship. [2]

Stoicism as a philosophical system relied on building knowledge upon correct, vivid and distinct impressions.[3] Marcus Aurelius, by commanding the forensic analysis of evidence, understands that true knowledge is based on a

[1]Marcus Aurelius, *Meditations*, 3.2. Op. cit.

[2]"*Novam rem desiderare Rutilius Severus videtur, ut uxori, quae ab eo diverterat et se non esse praegnatem profiteatur, custodem apponat, et ideo nemo mirabitur, si nos quoque novum consilium et remedium suggeramus. Igitur si perstat in eadem postulatione, commodissimum est eligi honestissimae feminae domum, in qua Domitia veniat, et ibi tres obstetrices probatae et artis et fidei, quae a te adsumptae fuerint, eam inspiciant. Et si quidem vel omnes vel duae renuntiaverint praegnatem videri, tunc persuadendum mulieri erit, ut perinde custodem admittat atque si ipsa hoc desiderasset: quod si enixa non fuerit, sciat maritus ad invidiam existimationemque suam pertinere, ut non immerito possit videri captasse hoc ad aliquam mulieris iniuriam. Si autem vel omnes vel plures non esse gravidam renuntiaverint, nulla causa custodiendi erit*" (*Digesta*, 25.4.1).

[3]Sellars, John. 2006. *Stoicism*. Berkeley, University of California Press, 64.

full understanding of the facts. By giving this decision he certainly did not betray his Stoic convictions.

Conclusion

The present work does not propose that Marcus Aurelius intended to substantially reform the law. A patriarchal family and slavery were inherent aspects of Roman society. Furthermore, Roman Stoicism cannot be considered a genuinely revolutionary set of ideas. It would be more accurate to describe Roman Stoics as arbitrators of Greek thought and ancient traditions. It is significant that many of most famous Roman Stoic philosophers occupied prominent economic and political positions, including Marcus Aurelius, Seneca, and Musonius Rufus. Even Epictetus, the freed slave who proclaimed himself the freest man in the world, late in his life became a renowned philosopher.

Paradoxically, Marcus Aurelius portrayed himself in his *Meditations as* the most loyal servant of the Republic, "a part of the whole which is governed by nature".[1]

By reading Marcus Aurelius' rescripts in the light of his philosophical adherence, we can conclude that his legal position included:

a) The use of a flexible logic, directed toward the Stoic idea of justice, which tended to prevail over legal formalism and literalism;
b) A serious concern that legal interpretation must not produce absurd or unnatural outcomes.
c) The development of principles that enabled the cause of liberty to prevail;
d) The notion that the institution of the Roman family must not be opposed to natural bonds.

Tony Honoré recently considered Stoicism as a key element in the explanation of the views of natural law held by Ulpian, a productive jurist who was born ten years before the death of Marcus Aurelius.[2] Here we take a similar position. In our view Stoicism reached its utmost practical consequences when incorporated into Roman law, and its force can still be felt in Western societies of today, inasmuch as these societies inherited much of the Roman law tradition.

[1]Marcus Aurelius, *Meditations*, 10.7. Op. cit.
[2]Honoré, Tony. 2002. *Ulpian: Pioneer of Human Rights*. Oxford, Oxford University Press, 76-94.

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