Аequum ius

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От автора

28 июля 2013 г. исполнилось 50-летие Дождеву. Присущий ему к праву и юридической науке перечисленные работы, слушает его с ним профессиональные вопросы, как посоветовалось вновь и вновь, стремлением к научному рождению нашего учителя, коллегу и друга, который и дарите этим праздничным поводом суть новые темы.
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THE VIR BONUS IN CICERO’S DE OFFICIIS:
GREEK PHILOSOPHY AND ROMAN LEGAL SCIENCE*

1. Introduction
Cicero’s de officiis is a key text for the study of the Roman vir bonus’. The work, formally dedicated to the orator’s son, was actually written as a kind of manual for the good citizen, showing the appropriate behaviour in different spheres of society, and particularly in political and economic life.

The reasons why Cicero felt the need to point out to his fellow citizens the rules of conduct in public life are evident. After the Ides of March, he wanted to cast a shadow over the politics of Caesar’s party, and to represent his rival as a tyrant that was not only lawful, but also right and proper to kill, even in contrast with the family officia that tied Brutus.

Less obvious are the reasons which led him to devote much of the work—especially in the third book, the more independent from Panaetius’ model—to the issues of economic life, and therefore of private law. This choice may be understood if we consider that the work was primarily intended for that part of society that was more exposed to the charms of the democratic party, that is to those social strata that after the Social War were entering Roman public life. They moved from very different cultural contexts and were new to the traditional Roman values, largely drawn up by an élite minority—patrician at the beginning, then patrician-plebeian—who had inherited them from their maiores and reshaped them, in the light of Greek culture, from the second century BC onwards. The members of these new social classes, when not trying to climb up the cursus honorum, were inclined to reject active participation

* I am glad to dedicate this article on the vir bonus to my friend and colleague Dmitri Dozhdev, remembering his invitation to Moscow to hold a paper about bona fides.
1 A more detailed analysis of the vir bonus in Cicero’s de officiis can be found in Fiori R. Bonus vir. Politica filosofia retorica e diritto nel de officiis di Cicerone. Napoli, 2011.
R. Fiori

in political life and to concentrate on more concrete economic interests, and were therefore closer to the economic policy of Caesar. Cicero felt therefore the need to make them understand that there is no substantial difference between proper conduct in trade and political participation: in both contexts the *vir bonus* must act in compliance with his *officia*.

The form taken by Cicero's treatise is the philosophical dissertation. Even though the problems he deals with are deeply rooted in his political present, he chooses to treat them in the light of Greek philosophy — and in particular of Stoicism — in accordance with the Hellenized aristocratic culture of his time. However, in order to make his arguments comprehensible to the widest readership, and to be truly effective in portraying the *officia* as consistent with the Roman tradition, he has to consider the specificity of the Roman development of these rules of conduct, that the Roman culture expressed mainly in the form of legal science. Such an approach in his eyes is not only appropriate for the efficacy of the discussion, but also scientifically correct, as it is intended not to juxtapose two different realities, but to make clear the implicit harmony of two visions of the same reality.

2. The Greek model

Within this overall design, to represent the ideal of *vir bonus* Cicero can rely on the Stoic concept of *kalokagathia*.

This term is a compound made up of two roots — *kalos* and *agathos* — which can be found, although separately, already in Homer, and express an idea of appropriateness, adequacy and well-being — physical and behavioural at the same time — but also a social condition, since they refer to the dominant elite in opposition to the lower class of the *kakoi*.

The two dimensions — social and ethical — coexist: in my opinion, it would be a mistake to read the antithesis 'good-bad' in one sense or the other. If such an alternative is adopted, the sources appear contradictory: in

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4. As it is well known, it has been suggested that *ἀγαθός* expressed a social status deprived of ethical connotations, simply denoting men who are effective and successful fighters (*Adkins A. W.H.*
some passages *agathōs* and *kakōs* certainly denote a social condition\(^1\), but in the others they express personal capabilities alone\(^2\), even in opposition to the social status\(^3\). Behind these conceptions clearly lies the idea — undoubtedly aristocratic, but not denied by the lower classes — that, until otherwise proven, wealth and nobility are bound together with ethical virtues. In a society which bestows value on courage, wealth, and high birth, the condition of ‘positivity’ expressed by *agathōs* can only convey all these things.

The sources of the sixth century — despite contextual diversity — continue to use the two adjectives in both the social and the behavioural meanings\(^4\). The same can be said of those of the fifth century where the binomial *kalōs kai agathōs*\(^5\) appears for the first time, although the linguistic novelty does not seem to affect the meaning of the concept\(^6\).

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1 As for *εὐγενῆς* see *Hom.* II. 21, 109; Od. 4, 611; 14, 441; 16, 324; 18, 276; 21, 335. As for *κακός* cf. *Herm.* II. 14, 472; 24, 64 (Hera insults Apollon calling him ἐταῖρος of ἱκανοί); Od. 4, 64; 8, 554.  
2 As for *εὐγενῆς* see *Hom.* II. 13, 238 (referring to the warriors, in the sense of ‘strong’). As for *κακός*, Od. 10, 64, referring to the ἔταῖροι; 2, 270 and 278, with a comparison between fathers and sons; 21, 131, where Telemachos is speaking about himself.  
3 Cf. the charges of cowardice in *Herm.* II. 2, 190 e 365; 8, 153 e 164 (against Diomedes); 8, 94 (Odysseos); 17, 180 (Hektor); Od. 10, 64 (ἔταῖροι); 2, 270 and 278 (comparison between fathers and sons); 21, 131 (Telemachos).  
5 *Herod.* 1, 30, 4; 2, 143, 4 (see also 4, 91, 1: δριστόν τε καὶ κάλλιστον); *Aristoph.* fr. 205, 8 (Kassel/Austin. II. P. 124 ss.), where can be found καλοκαγαθία (but on the problem of the manuscript tradition of the fragment see *Wankel H.* Op. cit. P. 43 nt. 1). In the first case, the word can not be referred to as marking a social status (cf. also *Wankel H.* Op. cit. P. 30; *Donlan W.* Op. cit. P. 374); more difficult is the interpretation of the other texts: on those sources where a social value can be detected, see for all *Wankel H.* Op. cit. P. 35 ff.  
At the end of the fifth century, however, with the arising of democratic ideals, the *kalokagathía* becomes a feature of the good citizen, regardless of nobility by birth — perhaps being also taken as self-definition by a specific political party, the conservative moderates and this new meaning is enhanced by Socrates’ thought, which overthrows the traditional paradigm and identifies the *kalokagathós* with the ethically virtuous man, rejecting not only the weight of noble birth, but also the interrelation of social, aesthetic and moral evaluation which were characteristic of the previous culture.

Even if this new perspective does not completely cancel the traditional uses of the term in Greek culture, it is adopted by the Stoics. They use *agathón* to express both the external goods or the highest good, and the condition of those who conform themselves to the good; whereas *kalón* is used to denote both the characteristic of the highest good of being proportionate, and the human behaviour consistent with nature, that leads to the highest good.

According to this radical shift in perspective, all the positive values of the traditional Greek culture are embodied in the figure of the Stoic sage: he is the only one who is handsome (*kalós*), good (*agathós*), noble, rich and

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4. A connection whose premises are explained by Aristotle: the rich acquire the reputation of being *kaloi* *kágathoi* from their status, and therefore it is believed that the oligarchies are ruled by *kaloi* *kágathoi* (Arist. Pol. 1293b 39–42). On the passage (and on the problem) see Dover K.J. Greek popular morality in the time of Plato and Aristotle. Oxford, 1974 (reprinted with revisions, Indianapolis; Cambridge, 1994). P. 43 ff.
5. Cf. Diog. Laert. 7, 100, on which Long A.A. The Harmonics of Stoic virtue // OSAph. Suppl. 1991. Vol. 106, now reprinted in Stoic studies. Berkeley; Los Angeles, 1996, 211. See also Clem. Alex. 1, 6, 34, 1 (Potter, 336 = Stählin, II 22) = SVF III 225 (*kaloi* *kágathoi*); Phil. Alex. Spec. leg. 1 (de anim. sacrif. idon.), 246 (Mangey, II, 249) = SVF III 559 (*kaloi* *kágathoi*); Stob. Eel. 2, 7, 11s (Wachsmuth, 115) = SVF III 581 (*kalóς* *kágathós*); Clem. Alex. Strom. 6, 17, 157, 3 (Potter, 82 = Stählin, II 512) = SVF III 673 (*ágathoi*).
free. Therefore, he is not only called ‘sage’ (sophós), but also ‘good man’ (agathós anér).

3. The Roman model

The Roman culture had autonomously developed a notion of bonus as opposed to malus. It is possible that a Greek influence had been relevant already in the archaic period, but it can not be excluded that the Greek and Roman conceptions both descended from a hierarchical representation of society that was already Indo-European.

Most of the sources at our disposal refer of course to the late Republican period, when the expression vir bonus was inextricably tied to the political value of the epithets boni, optimi and optimates. We have however elements to reconstruct the value of the oldest notion.

An analysis of the uses of the adjective bonus in Latin literature shows that it is related first of all to the idea of abundance, prosperity: when applied to things, it is a term of the language of agriculture, indicating productive assets; when applied to people, it denotes the quality of perfectly fulfilling one’s function; not surprisingly, the superlative optimus is formed on opès. However, these words do not simply express the ‘wealth’ of an individual, but the capacity of an asset or of a person to be effective and fruitful, just like—in reverse—Lat. pauper (< *pau-per-os) etymologically means ‘providing little’. In other words, ‘wealth’ is seen not as a static condition, but as a dynamic dimension of well-being which testifies, to a certain extent, also the divine favour—as shown by the semantic evolution of a term like felix, etymologically ‘fruitful’, and therefore also implies an ethical judgment.

1 Stob. Ecl. 2, 7, 11s (Wachsmuth, 115) = SVF III 581.
2 On all this see Fiori R. Bonus vir. Politica filosofia retorica e diritto nel de officiis di Cicero. P. 62 ff., 84 ff., 97 ff.
4 Fiori R. Bonus vir. Politica filosofia retorica e diritto nel de officiiis di Ciceroone. P. 109 s.
5 Particularly incisive Liv. 4, 3, 16: vir fortis ac streenuus, pace belloque bonus.
From the semantic point of view, therefore, Lat. *bonus* has the same potential as Gr. *agathós* in expressing a judgement of positivity — or even of excellence in the superlative *optimus* — which is economic, social and ethical at the same time.

The terminological data, although significant, are not sufficient. We must verify, in addition to the potential of the word, that it was actually used in this plurality of meanings.

As to the evidence relating to the archaic period, the epigraphic sources do not appear to be fully decisive.

The opposition *boni-mali* is found already in the well-known Duenos vase of the seventh-sixth century, and a Faliscan inscription of the seventh century refers to a woman ‘*bona* among the *boni*’ (*duenom duena[s]*). Within the many interpretations proposed in literature¹ it seems to me that the most convincing is the one that explains the Latin usage by parallelism with, or even an influence of the Greek notion of *agathós*: it is in fact very likely that in a society like that of Etruscan Rome, characterised by a strongly Hellenized *koinē*, the Roman concept could come in contact with the Greek ideas — and perhaps influence Etr. *mlac-*⁴, a term at the basis of a family of words even more tied to Lat. and Fal. *duenos* than to Gr. *kalós*⁵.

We must acknowledge, however, that the epigraphical data have not provided, until now, a clear evidence, but only clues. More clarifying are the literary sources that deal with legal and religious issues.

First of all, in the archaic language and particularly in that of the XII Tables, the title *boni* is combined with adjectives like *validi, forctes* (perhaps an archaic form for *fortes*), *sanates*: all expressions that seem to indicate categories of *status* within the *cives* and which are related to Indo-European words pertaining to the sphere of power and wealth⁶.

² For the Duenos vase this is the interpretation by Colonna G. Duenos // SE. 1979. Vol. 47. P. 163 ff.
Moreover, evidence can be found in the most ancient theology. I’m referring, on the one hand, to the epithet of *Optimus* granted — no later than the seventh century BC — to Jupiter, beside that of *Maximus*. Since the latter refers to a condition of *maiestas*, i.e. to a position of hierarchy, it is likely that also *optimus* maintains its etymological sense, which highlights the original socio-economic meaning of the word. On the other hand, I refer to the attribution — to a deity whose name could not be pronounced — of the epithets of *Bona Dea* and *Maia*, as well as *Ops* and (perhaps) *Fauna*. The public worship of this goddess was very ancient and strictly aristocratic, and it is probably to be understood in terms of opposition between *Jupiter Optimus Maximus* and an anonymous goddess called *Bona* and *Maia*. She was in fact a sort of female ‘pendant’ of Jupiter, and her worship, according to well-known historical-religious patterns, was performed as a reversal of the ritual order of the City: in order to give room to the feminine element

1 More details in *Fiori R. La gerarchia come criterio di verità*. P. 188 ff.


7 *Cic. Har. resp. 37* places it in the royal period. Less specifically, the cult is said to be very ancient and linked to the mythical *Faunus* by *Propert. 4, 9, 21–70*; *Plut. Quaest. Rom. 20; Caes. 9, 4; Iuven. Sat. 6, 335 (ritus veteres); Arnob. Adv. nat. 1, 36; Lact. Div. Inst. 1, 22, 9; Serv. Auct. Aen. 8, 314.* I don’t see any evidence for holding the view that the cult was imported from Greece and that the name of the goddess was «eine unmittelbare Übersetzung des griechischen ἕος ἀθέος» (*Lette K. Römische Religionsgeschichte*. München, 1960. P. 228).

8 *Brouwer H.H.J. Op. cit. P. 256.* This aristocratic nature can of course be attributed only to the official cult, *pro populo*: private worship was accessible to members of any social class as well as to the males; cf. *Ibid. P. 267 ss.*
but also to control the alternative cosmos where women have preeminence. Therefore, since both the male and female apexes of the theological system receive epithets associated with the adjectives bonus and malus, and because of the strict relation between bonus-optimus and maius-maximus, we are led to ascribe the same socio-legal value to both pairs.

To all this we can add a fragment of Cato preserved by Gellius where it is recorded an archaic rule of the maiores about the criteria for judgment in the trial per legis actiones: in the absence of witnesses, if the parties are equal, boni or mali, the judge had to give credit (credere) to the one against whom the action is brought. Therefore, it seems that prior to the defendant’s release due to the absence of evidence, the judge should verify the quality of boni or mali of the parties, including the different grades within each qualification. There could be in fact be at least five cases: that both the parties were boni, but one melior; (2) that both were boni, and in that pares; (3) that one was bonus and the other malus; (4) that both were mali, but one melior; (5) that both were mali, and in that pares. It is clear that a decision of this kind, which implies declaring the parties either boni or mali, could not withhold value only between them, but had an ‘absolute’ significance. Therefore, since it is hardly probable that the judge stated the moral virtues of the parties once and for all, it is more likely that the judgement was referred instead to their social status.

As to the Middle Republic, we have some very interesting sources.

In the third century BC, the title of ‘vir optimus among the boni’ was bestowed on two members of the Scipios family: L. Cornelius Scipio (cos. 259 BC), who in his elogium is called duonoro optumo viro, and his grandson P. Cornelius Scipio Nasica (cos. 191), who received the title from the Senate in 204 BC. The reasons behind the first attribution are unclear, but there are some hints regarding the second.

The epithet was awarded to Scipio Nasica on the occasion of the reception in Rome of the cult of Mater Idaea: the Delphic oracle had suggested that

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3 Cat. fr. 206 Malcovati = Gell. 14, 2, 26: si quis quid alter ab altero peterent, si ambo pares essent, sive boni sive mali essent, quod duo res gessissent, uti testes non interessent, illi, unde petitur, ei potius credendum esse. On the text see Fiori R. La gerarchia come criterio di verità. P. 169 ff.
The vir bonus in Cicero’s de officiis

The image of Cybele should be received by *vir optimus in civitate*, so the Senate decided to grant the title ‘*optimus* among the *boni*’ to two members of the major political factions of the time — the Scipios and the gens Claudia. On the occasion, Nasica was accompanied by a woman, Claudia Quinta, referred to as ‘*bona* among the most eminent women of the city’. The overall examination of the evidence suggests that the qualifications were assigned on both social and behavioural grounds. The cult was immediately portrayed as aristocratic and opposed to the plebeian *ludi Ceriales*, in a time when the achievement of political equality induced by the *leges Liciniae Sextiae* had left serious aftermath in society and religion.

In other words, it seems that in the Middle Republic the Roman ruling class still intended to represent itself as the champion of aristocratic ethics which identified ‘excellence’ with the pursuit of behavioural virtues relevant to the entire community. And it seems that such ethics was being expressed in legal and religious forms through the bestowing of the epithets of *bonus*/*optimus* on men and of *bona* on women.

The analysis of the use of the adjective *bonus* in the Middle Republic would however be incomplete without mentioning that during the third century BC the notion of *vir bonus* most likely underwent a relevant metamorphosis in coincidence with the affirmation of the power of Rome in the Mediterranean.

In the archaic period, the majority of social and juridical relationships were limited to the narrow sphere of Roman community. They were therefore centered around the notion of *fides* — the ‘credit’ of each individual within the group, i.e. one’s concrete and specific ‘reliability’. This explains the connection, often found in Latin texts, between the term *fides* and concepts such as *honor, decus, dignitas, fama*, etc., all bound to an ethics of rank: *honestas* means the behaviour consistent with one’s *honos*, and *dignitas* the acknowledgement, by the community, of each member’s merits according to

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1 All the sources have been collected by Schmidt E. Kultübertragungen. Giessen, 1909. S. I nt. 1.
2 See my analysis in Fiori R. La gerarchia come criterio di verità. P. 197 ff.
3 See extensively Fiori R. La gerarchia come criterio di verità. P. 204 ff.
appropriateness and rank, while *decere*, *decus* and *dignus* are etymologically linked to Gr. *dóxa* 'fame' and semantically to Lat. *fama*.

However, between the fourth and third centuries BC, as Rome opened itself to the confusing and ever-changing world of markets and international trade, the most relevant relations became those among members of different communities who had no awareness of each other's 'credit'. It is then likely that the commercial practice developed — and the Roman praetor adopted — an objective and abstract parameter, derived from the Roman experience but imposed also to those foreigners who had asked for the protection offered by the *iusdictio* of the Roman praetor. This parameter was found in a different *fides*, no more concrete and individual, but fictitious and conventional, as it was applied to parties whose actual reliability could not be verified. The new *fides* was based on a behavioural paradigm that, as we could see before, was shared by the Greeks and maybe by the Etruscans (though not necessarily understood in the same terms) and coincided with the *vir bonus*. Just as *fides* transformed into 'bona fides', becoming an abstract criterion rather than personal quality, the title *bonus* changed its meaning, and instead of referring to single individuals, connoted the good citizen who follows aristocratic, i.e. traditional values. In contrast to the past, this good citizen did not necessarily belonged to *nobilitas*; relations protected by *iudicia bonae fidei* are perfectly egalitarian, and indeed their discipline is primarily intended at maintaining the balance between the parties' positions in the contract, regardless of their social status — as was the case in the archaic relations based on *fides*, e.g. clientship.

This does not mean, of course, that in this new context the social connotations of *fides* fail: we have seen that they still persist in the third-


2 However, the opposite is also possible, as well as that the novelty was driven by the jurists.


second century BC, and we know that they survive, at the end of the Republic, in the qualification boni/optimi bestowed on the principes civitatis. The concept of vir bonus becomes however more polysemic. This explains, in my opinion, the illusory ambiguity that can be found in the literary sources of the second century BC — and particularly in Plautus, Terence and Cato — where, alongside passages in which the expression is undeniably used in an ethical-behavioural sense, there are texts where the adjectives bonus and malus clearly mark the social rank.

In conclusion, it seems that the use of bonus and optimus in an aristocratic sense is not a peculiarity of the Late Republic, but is deeply rooted in the distant past of Roman culture. These adjectives express a condition of positivity — or, in the superlative form optimus, even of excellence — which involves the socio-economic position, the legal status and the behavioural duties of a person according to his rank. However, it is clear that the parallel separation of the ‘abstract’ notion of bona fides from the ‘real’ fides may cause a potential disappearance of the social value of bonus in favour of the extension of the model to all citizens.

It is within this context that Cicero’s de officiis has to be evaluated.

4. The synthesis of Cicero

Cicero’s translation of agathón with bonum has of course the effect to change the meaning of the Latin word, since it acquires a more philosophical sense. However, as it happened in Greek, the metamorphosis is not complete, and indeed in the Latin rendering the notions seem even closer to their original social meaning.

If we analyse the occurrences of the expression in the de officiis, one realizes that when Cicero draws from Greek sources, the vir bonus is identified with the sapiens. This happens not only when the source is probably earlier than Panaetius — like Diogenes of Babylon and Antipater of Tarsus — but even when it is certainly later — as in the case of Hecaton of Rhodes or

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1 We also have examples within the international relationships of Rome, where the expression καλός καὶ ἀγαθός is used with regard to populations and ambassadors: cf. Fiori R. La gerarchia come criterio di verità. P. 208 nt. 172.

2 They have been collected and discussed by Falcone G. L’attribuzione della qualifica ‘vir bonus’ nella prassi giudiziaria d’età repubblicana (a proposito di Cato, or. frg. 186 Sblend. = 206 Male.) // AUPA. 2011. Vol. 54. P. 68 ff. e 76 ff. (Plautus), 78 (Terence) and 78 ff. (Cato).

3 Cf. Plaut. Aul. 212–238; Cistell. 705; Cas. 724; Capt. 954; Curc. 610; Pers. 778; Pseud. 1145; Ter. Phorm. 115; Cat. Orat. fr. 58 Malcovati = Gell. 10, 3, 14. On all these texts see Fiori R. La gerarchia come criterio di verità. P. 209 ff. nt. 174.
Posidonius of Apamea. It is true that there have been strong disagreements over interpreting the relationship between sapiens and vir bonus, particularly in the discussions between Diogenes and Antipater — with the former focusing solely on the sage; the latter taking into account also the average but virtuous man. However, not even among Panaetius’ pupils is to be found the clear separation between the two figures that it is usual to report to him on the basis of Cicero’s de officiis. Instead, it is Cicero who programmatically lacks interest in the figure of the wise man: he refers to the sapiens only when he speaks in general of the Stoic doctrines or when he draws directly upon the Stoic sources, in that latter case opposing it to the vir bonus as an unattainable ideal, completely beyond his concern. The only cases when he seems to speak of the sapiens in proper sense is in connection with fortitudo and magnitudo, that is with those virtues that befit more to the sage than to the vir bonus, whom instead refer primarily modestia and iustitia.


2 Fiori R. Bonus vir. Politica filosofia retorica e diritto nel de officiis di Cicerone. P. 270 ff.


4 Cic. Off. 1, 114.

5 Cic. Off. 1, 46; 1, 120; 3, 13–17; 3, 45. Sometimes he uses the term in a non-philosophical sense, with reference to specific personalities: Cic. Off. 2, 46 (P. Mucius Scaevola, cos. 133 BC: cfr. 2, 47); 2, 83 (Aratus of Sycion); 3, 1 (P. Cornelius Scipio Africanus, cos. 205 BC); 3, 47 (L. Licinius Crassus and Q. Mucius Scaevola, coss. 95 BC).

6 Cic. Off. 1, 46. See also Cic. Off. 1, 65, 67 e 83.

7 Cic. Off. 1, cf. 1, 63.

8 Cic. Off. 1, 20; 1, 31 (synonym of iustus homo); 1, 41 (a contrario); 1, 46 (cf. 1, 63); 1, 48; 1, 55; 2, 33 (synonym of iustus homo); 2, 35 (where the vir bonus is opposed to the fortis and the prudens); 2, 38 (...iustitia, ex qua una virtute viri boni appellantur); 2, 39; 2, 42 (synonym of iustus homo); 3, 43; 3, 57 (in connection with iustus); 3, 61; 3, 62 (here the phrase nemo est qui hoc viri boniuisse neget; sapientis negant, ut si minoris quam potuisse vendidisset. haece igitur est illa pernicies, quod alios bonos, alios sapientes existimant does not identify sapiens and bonus vir, but
More generally, projecting an Aristotelic distinction on the Stoic definition, Cicero is sometimes careful to distinguish, within the first of the cardinal virtues, between the knowledge of the wise man, sapientia (sophia), and that of the ‘good man’, prudentia (phrōnēsis): for him, the first coincides with the divinarum et humanarum scientia, while the second with the rerum expetendarum fugiendarumque scientia. At the same time, Cicero distinguishes between the duties of the sapiens, who has a perfect knowledge and can therefore fulfill officia perfecta, and those of the vir bonus, who knows nature through a probabilis ratio and, therefore, does not live in the fullness of virtues but follows the simulacra virtutis, being able to perform only officia media.

is an answer to the critics of Carneades who wanted to separate sapientia from iustitia); 3, 64; 3, 75; 3, 76; 3, 80; 3, 81; 3, 82.


2 A similar definition of ὁσφία can be found in Aet. 1 proem. 2 (Diels, 273) = SVF II 35: θέλων τε καὶ ἀνθρωπίνων ἐπιστήμη (cfr. Sext. Adv. math. 9, 13 = SVF II 36); on φρόνησις see Stob. ecl. 2, 7, 5b (Wachsmuth, 59) = SVF III 262: ἐπιστήμη ὑπὸ ποιητέων καὶ οὐ ποιητέων καὶ οὐδὲτέρων ἢ ἐπιστήμη ἄγαθον καὶ κακὰ ποιητέων καὶ οὐδὲτέρων φύσει πολιτικοῦ χρόου.


5 Cic. Off. 1, 46.

It can not be excluded that Cicero’s assuming of the lesser model of the vir bonus as his primary concern, was induced by his adherence to the New Academy, with its skepticism and probabilism. But in my opinion, it is possible that he was also influenced by the Roman tradition of the vir bonus, that had not gone through the long metamorphosis of Greek kalokagathía and therefore retained to a greater extent its social, legal and political features. It is no coincidence that in some passages the expression retrieves an exclusively social value, indicating the most illustrious personalities of the City\(^1\) — or the upper classes, however hostile to philosophy\(^2\), as opposed to the populus\(^3\) — and only rarely seems to denote moral qualities in opposition to material wealth\(^4\).

What is certain is that the vir bonus of de officiis is neither a sage, nor a generic ‘good man’. He is instead a citizen who lives properly, in accordance with the rules of the Roman res publica, and whose life is consistent with the universal values because the civic rules are themselves drawn from the natura. Just as the Roman religion is cosmic, but entirely aimed at the preservation of the civitas, the philosophy of the de officiis deals with universal themes in order to maintain the right balance among the elements of the res publica. By translating in Roman terms the philosophy of the Greeks — that is, the ‘modern science’ of his time — Cicero restates the importance of traditional values and claims as just and scientifically correct a hierarchical vision of society where the ‘honestum’ coincides with everyone respecting their roles.

This vision may be surprising for the modern interpreter, more familiar with the ‘Kantian’ and the Illuministic idea of a common ethics necessarily shared by all human beings, or at least by the members of the same society. But in ancient cultures — and in the European culture up until the xviii century — ethics was not a general behavioural code; it varied depending on the social condition of the individuals\(^5\). This is particularly true of those Indo-European

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\(^1\) Cic. Off. 2, 57: optimi viri.

\(^2\) Cic. Off. 2, 2. The reference to the optimi viri ad Ianum medium sedentes, who have more knowledge than philosophers when dealing with pecunia (2, 87), is clearly ironic.

\(^3\) Cic. Off. 2, 27 (the rich owners oppressed by Sulla); 2, 58 (in opposition to the populus); 3, 77 (on which see Fiori R. Bonus vir. Politica filosofia retorica e diritto nel de officiis di Cicereone. P. 343 ff.; Idem. La gerarchia come principio di verità).

\(^4\) It is possible in Cic. Off. 2, 63 (bonus vir et gratus); it is definite in 2, 69 (the opposition between the vir inopis et optimus and the fortunatus et potens) and in 2, 71 (the opposition between the bonus vir pauper and the minus probatus dives).

\(^5\) On all this see Fiori R. Bonus vir. Politica filosofia retorica e diritto nel de officiis di Cicereone. P. 141 ff.
cultures that show stronger legal and religious conservatism, like India, Ireland and Rome. We know that in Indian thought, from the Vedic varṇa system was developed the idea that each member of society has their proper rules of conduct (svadharma), according to stages of life and class, and that in Ireland the ‘honour-price’ (lóg n-enech) was the measure of the entire legal sphere of the individual. In Roman law, social rank was the criterium for the evaluation of many institutes and remained essential in the most conservative spheres of law — from civil and criminal trial to private delicts, marriage, etc. As we have seen, it was only in that part of Roman law which was more affected by the new economic needs arisen from the third century BC onwards — that is, mainly contract law — that the creation of the common yardstick of bona fides allowed to abstract the duties from personal status and link them to the objective bargain.

Within this complex framework, the use of these categories in the de officiis is ambiguous. Honestas ‘ethically’ coincides with a behaviour consistent with one’s honos, but from a ‘socio-juridical’ point of view it requires the possession of high rank. In the same way, the vir bonus is ‘ethically’ the one who respects hierarchy, but in a ‘socio-juridical’ sense he is the one who belongs to the class of the boni or the optimi. The field of ‘respectability’ is extended to all good citizens, but with a different content: while the ‘respectability’ of the ruling class is expressed in receiving honors, the ‘respectability’ of the subordinates means recognizing the preeminence of the upper classes and adopting their values in everyday behaviour and in private law.

The political purpose of de officiis is thus clearly revealed: Cicero does not want to write just a book of philosophy, a purely intellectual work, but

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3 Cf. the extensive bibliography collected in Fiori R. Bonus vir. Politica filosofia retorica e diritto nel de officiis di Cicerone. P. 84 ff.
R. Fiori intends to give new appearances to the values and principles that belong to the oldest aristocratic tradition. Reconciled with the categories of philosophy—which, as mentioned above, is the science of his time—these values receive a scientific demonstration and present themselves as the only certain, true and right reality, as opposed to the uncertainty, the probabilism, and the distortion of reality propounded by Epicureism and its political expression, the party of Caesar.