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CICERO AND HOBBS ON THE PERSON OF THE STATE

ABSTRACT

The importance of Thomas Hobbes's account of personation and representation can hardly be overstated. And his intellectual debt to one of his classical foes, Marcus Tullius Cicero, can hardly be ignored. This paper compares Hobbes's ideas on personhood of the state with Cicero's notion of *persona civitatis*, and attempts to describe how Hobbes reshaped Cicero's guidelines for (re)presenting legitimate authority into a prop for defending any effective authority. Hobbes absorbs Cicero's influential argument and builds on the idea of civic representation as guardianship done by role-playing, while tearing down Cicero's account's ethical foundations. In contrast to Cicero's magistrate, the social role of Hobbes's sovereign is not scripted by ethical constraints: its purpose is not to restrict license, but to present it.

KEYWORDS

Hobbes, Cicero,
person, representation,
persona civitatis,
persona, state

Introduction

Plato's *Republic* introduced the idea of the *polis* as an enlarged man (Plato 1997: 1007–1008; 368d–369b). Endowed with a single body with different parts fulfilling their particular purposes in unison, the state as a man writ large became a prominent and widely used metaphor in Middle Ages (Kantorowicz 1997). Although individuals, both ordinary and those writ large, are also bearers of particular blends of psychological traits and social roles, Marcus Tullius Cicero was the first to relate these characteristics (*personae*) to the state by expanding the Stoic framework on personhood. His influential theory of duties from *De Officiis* emphasised the most important of them all – the magistrate's duty to "bear" the person of the state (*persona civitatis*). In the Middle Ages "*persona civitatis*" was seldom used, as "*persona*" took a different turn. "*Persona*" became an important part of the theological vocabulary in the second century, with Church Father Tertullian's account of the Trinity and in the sixth century with Boethius's influential definition of a person. However, in the thirteenth

century Pope Innocent IV entrenched the idea of a collective person that has no soul – *persona ficta*.

Persona ficta became an important concept in early modern times, as a designator for an incorporated multitude. Authors like Philip Hunton and Henry Parker wrote about the people united in a single person and personhood, along with representation, was used by the Parliamentary writers in 17th century England to attack the king's prerogative (Skinner 2005: 156). In response, Thomas Hobbes resorted to Cicero's definition of a person and returned to his idea of *persona civitatis*. In this paper I aim to compare Cicero's account with Hobbes's in an effort to show how it influenced Hobbes's views on personation. I will also discuss a number of Hobbes's modifications to the Ciceronian notion of *persona* and its related concepts. These changes are a part of Hobbes's effort to reshape the classical account so that it could support his arguments in favour of absolute and unitary authority. This was no easy task since Cicero's theory was geared in the direction opposite to Hobbes's and towards the account of mixed government in which those behind *persona civitatis* have a duty to take care of public affairs (*res publica*). Cicero's notion of *persona* was, thus, a part of the wider ethical framework, situated within a complex web of conceptual relationships between the notions such as *lex naturalis*, *ius*, *civitas* and *res publica*.

The importance of Cicero's account of personhood for Hobbes is indisputable. The classical author to whom Hobbes most often refers in connection to the etymology of the word *persona* is Cicero. In *Leviathan* (1651: 80) and in *De Homine* (1978a: 83) Hobbes presents us with a quote in which Cicero is suggesting that he used to "bear" or "sustain" three persons while arguing a case: his own, his adversary's and the judge's. More importantly, as somebody who was especially concerned with the proper signification of words,¹ Hobbes is explicit about the authoritative nature of Cicero's notion of *persona*. In his reply to Bramhall, Hobbes (1682: 37) backs up his etymological analysis by citing Cicero as one of the Latin authors who is "esteem'd the most skilful in their own Language".

The connection between Hobbes's and Cicero's accounts has been recognised in recent scholarship (Skinner 1999: 20; Skinner 2018). The authors who discuss Cicero in relation to Hobbes generally point out the theatrical aspects of Cicero's use of the word *persona* (Skinner 2018: 13). For example, in his influential piece that deals with Hobbes's notion of representation, Skinner (2005: 161) argues that "Cicero's immensely influential analysis centres around the term *persona*, a mask, the mask that actors wore in the ancient theatre to indicate what roles they had assumed". Although it is, indeed, very important to note that Cicero's *persona* denotes a certain kind of role, there is also something to be said about the nature of such a role – especially if it is, as I will argue, revealing of Hobbes's use of the term and his conception of the state. Hobbes's argument employs all the important elements of Cicero's

1 On Hobbes and definitions see Stanton 2010.

account but with a radically different outcome. Hobbes takes the theoretical framework that served to constrain the rule of the sovereign and turns it upside down in an argument that supports the sovereign's absolute authority. Therefore, an account that relies on the notion of a mixed constitution and underlines a strong ethical conception of the ruler's duties becomes an argument in support of singular and absolute authority of the sovereign.

Hobbes, as I will show, separates the idea of *persona civitatis* from its ethical underpinnings. He does that by eliminating all external reference points that are required by a strong ethical conception of the duty to exercise authority in a particular way. Hobbes thus does away with the "external" notion of *res publica* by subsuming it under *civitas*, strips the distinction between *ius* and *lex* of its normative potency and reduces the requirements of *utilitas* and *salus populi* to the basic right to self-preservation. In this paper I will first give an overview of Cicero's account of personhood and *persona civitatis*. After that I will turn to examining the underlying elements of Cicero's notion of *persona civitatis* and their reconceptualization within Hobbes's argument. In its final part the focus of my argument is expanded into two opposite directions, as it deals with the two authors' notions of liberty, absolute authority and mixed government as the premises and consequences of their accounts, respectively.

Cicero on Personhood and *persona civitatis*

In *De Officiis* Cicero classifies the types of *personae* into two dichotomies.² The first type distinguishes between universal (*communis*) and individual *personae*. Cicero (1913: 109) points out that the former "aris[es] from the fact of our being all alike endowed with reason and with that superiority which lifts us above the brute", while "[t]he other character³ is the one that is assigned to individuals in particular". In other words, while the use of reason is a distinctively human trait, every particular human being's *persona* is comprised of a distinctive blend of physical and mental strengths and weaknesses (Wood 1988: 84). The universal *persona* defines us as rational human beings who are capable of "moral self-direction", while the individual one is comprised of our own personal characteristics which we "should retain [...] and not copy other people's" (Gill 1988: 174).

Cicero's (1913: 117) second dichotomy distinguishes between two additional kinds of *personae*: those "which some chance or some circumstance imposes" and those "which we assume by our own deliberate choice". This dichotomy applies to statuses and vocations and Cicero (1913: 117–124) discusses both in their variety by adducing a number of examples from literature and history. As Christopher Gill (1988: 174) suggests, "the third *persona* is [...] to be seen as

2 For an account examining Cicero's classification of *personae* as a part of the wider Stoic account of personation see De Lacy 1977. Troels Engberg-Pedersen (2001) offers a more general discussion of the place of personhood in Stoic philosophy.

3 Walter Miller translates "*persona*" as "character" in the 1913 edition of *De Officiis*.

the background against which one chooses, and the fourth *persona* is [...] to be seen as the result of one's choice (at least as far as a career is concerned)". This background is one's standing, as determined by age or legal status, while his choice of career constitutes the fourth *persona*.

This leaves us with four types of *personae*: universal, individual and the two related to standing and vocation. The feature that they all share is their relative invariability: "there is nothing so essentially proper as to maintain consistency in the performance of every act and in the conception of every plan" (Cicero 1913: 129). However, for Cicero, there is one other, and distinct *persona* – and that is the status of a magistrate. When referring to vocations, statuses and other kinds of *personae*, Cicero qualifies the noun *persona* with another noun in the genitive case. For example, when discussing the duties of a judge, Cicero (1913: 311) argues that "an upright man [...] lays aside the role of a friend [*personam amici*] when he assumes that of a judge [*personam iudicis*]"'. Here we can see that Cicero uses the genitive case of the noun 'judge' (*iudex*, *iudicis*, m.) to denote the corresponding profession or role. On the other hand, when referring to the status of a magistrate, Cicero does not use the term *persona magistratus*. This public official, unlike a judge, sustains *persona civitatis*, the person of the state (Cicero 1913: 126). Cicero seems to think that there is something fundamentally different between the two offices, if a judge cannot also be said to sustain *persona civitatis*. In his oration on behalf of Aulus Cluentius, Cicero (1856: 164; 1855: 353) explains what the difference consists in: "The ministers [*minister*, *ministri*, m.] of the law are the magistrates; the interpreters of the law are the judges; lastly, we are all servants of the laws, for the very purpose of being able to be freemen". From this it follows that, when a magistrate is exercising his powers, in contrast to a judge, he is wearing the mask of the *civitas* and not just the vocational mask of a magistrate. This is because Cicero does not consider the status of a magistrate to be a vocation. Instead, this status is primarily a duty, as its *persona* is entrusted to its bearer. Ideally, one should never *choose* to be a magistrate in the way one might choose to be a philosopher or an orator.

Another distinctive feature of magistrate's *persona* is not only that it marks a status, but also signifies a specific relationship between its bearer and the state. In *De Officiis* Cicero (1913: 127) discusses the duties of a magistrate along with the duties of "private individuals" (*privatus*, *privati*, m.) and foreigners (*peregrinus*, *peregrini*, m.). All three categories are distinguished and defined by their relationship with the state: a magistrate has a duty "to uphold its honour and dignity, to enforce the law, to dispense to all their constitutional rights"; a private individual can be considered to be a good citizen if he "labours for [...] peace and honour [...] in matters pertaining to the state"; and a foreigner has a duty "not to [...] meddle in the politics of a country not his own" (Cicero 1913: 127). However, it is only a magistrate who, while enjoying his status, sustains a *persona* other than his own and exercises his authority while wearing another mask, the mask of the *civitas*. The question then becomes, what is the exact nature of the relationship between the *civitas* and a (good) magistrate?

It is important to note, before proceeding any further, that there are two possible meanings of the term *persona civitatis*. The noun in the genitive case can be used both to describe the noun adjacent to it and to denote that the latter is a *possession* of the former. That is to say, the *persona civitatis* may be both a specific kind of *persona* and a *persona* that is a property of the *civitas*. That being said, Cicero usually uses the noun in the genitive case as a descriptor. For example, the universal *persona* is qualitatively different from the individual *persona* and it is clear that Cicero does not argue that the two *personae* belong to, or that they are a part of, a certain “universality” or “individuality”. However, the situation is much less clear, and the dilemma is much more politically significant, if we can also say, following Cicero, that the *persona* that the magistrate is sustaining is the one that belongs to the *civitas*. This, along with the fact that the role of a magistrate is marked as a status rather than a profession, would imply that the *civitas* exists as an independent corporate entity, separate and separable from its *persona*.

Neal Wood (1988: 132) seems to suggest something similar to this interpretation when he argues that, in contrast to the ancient Athenians, “Cicero and the Romans [...] begin to separate government from state conceptually, endowing both with a more ‘collective’ and abstract character”. Cicero’s idea of government, as Wood (1988: 133) notes, “comprises of those officials and administrators who are agents of the *civitas*, acting in its name, as distinct from the *civitas* itself”. In *The Dream of Scipio* (*Somnium Scipionis*), the final chapter of *De Re Publica*, Cicero (1999a: 96) defines the *civitates* as “councils and assemblages of men associated through law”.⁴ This definition corresponds with thinking about the Roman state as *senatus populusque*, since it is also based on the idea that the sovereignty rests in the people united by law. The two elements, popular and legal, are also present in Cicero’s (1999a: 18) definition of *res publica*: “the commonwealth is the concern of a people, but a people is not any group of men assembled in any way, but an assemblage of some size associated with one another through agreement on law [*iuris consensus*] and community of interest [*utilitas*]”.⁵ Therefore, Wood is right to assert that Cicero sees the *persona* of a magistrate as entrusted to him by the citizens. Comparably, in *De Officiis* Cicero (1913: 127) emphasises that the office of a magistrate “has been committed to him as a sacred trust”⁶ and, as Wood (1988: 134–136) notes, this trust (*fides*) corresponds with the Roman legal concept of *tutela* or guardianship over the citizens’ wellbeing.⁷

Wood, however, seems to neglect the fact that the duty of a tutor or a guardian is also to represent his ward. Although Skinner (2005: 162) rightly argues

4 “concilia coetusque hominum iure sociati” (Cicero 1826: 475).

5 “Est igitur, inquit Africanus, res publica res populi, populus autem non omnis hominum coetus quoquo modo congregatus, sed coetus multitudinis iuris consensu et utilitatis communione sociatus.” (Cicero 1826: 104–105)

6 “...ea fidei suae commissa” (Cicero 1913: 126).

7 For an elaborate discussion about the legal guardianship in Cicero’s times, see: Roby 2000: 92–127.

that “Cicero never employs the verb *repraesentare* in any of these contexts”, there is an underlying notion of representation in Cicero’s idea of *persona civitatis* that is more than just a foundation for the “semantic development” of a theatrical metaphor. In the second book of *De Re Publica*, Cicero (1999a: 49) explicitly describes “a virtuous king” as “good and wise and knowledgeable about the interests and the reputation of the state, almost a tutor and manager of the commonwealth [*tutor et procurator rei publicae*]; that, in fact, is the name for whoever is the guide and helmsman of the state [*rector et gubernator civitatis*]”.⁸ Calling a ruler a *tutor* is perfectly in line with Wood’s emphasis of *tutela* as a basis for the relationship between the ruler and the ruled. Furthermore, noting that Cicero is also referring to the king as a *procurator* clears any possible doubts about the ruler’s representative capacity. In *Justinian’s Digest* (III. 3. 1)⁹ a procurator is defined as: “one who transacts the business of another on a mandate from his principal”.¹⁰ Comparably, a ruler as a procurator manages public affairs (*rei publicae* or *rei populi*)¹¹ by sustaining the *persona civitatis*.

We can see now that representation is an important part of Cicero’s idea of *persona civitatis*. This sheds light in its turn on a direct connection between Hobbes’s and Cicero’s theories. In the English *Leviathan* Hobbes (1651: 175) suggests that the main aim of “trusting” somebody with “the Sovereign Power” is “the procuration of *the safety of the people*”. Furthermore, he notes that the word person is synonymous with the words “representative” and “procurator”, among others (Hobbes 1651: 81). Finally, in the Latin *Leviathan* Hobbes (1668: 80) suggests that procurator’s *persona* is a *persona repraesentativa*. However, the most important difference between the two notions of representation is in the fact that the Ciceronian magistrate procures *res publica* while the Hobbesian sovereign represents the people and procures their safety. This difference will be discussed at greater length in the second part of this paper.

In summary, there are at least three dimensions in which Hobbes’s account of the personhood of the state matches Cicero’s. Firstly, in both accounts there is a clear distinction between the abstract office of a ruler and the particular human being who occupies it. Secondly, the term *persona civitatis* signifies a relationship between the exact same three elements: the state (Hobbes’s Commonwealth or Cicero’s *civitas*), the government (Hobbes’s sovereign or

8 “bonus et sapiens et peritus utilitatis dignitatisque civilis, quasi tutor et procurator rei publicae; sic enim appelletur quicumque erit rector et gubernator civitatis” (Cicero 1826: 296).

9 I am here quoting from Alan Watson’s (1998) edition of *The Digest of Justinian*.

10 “Procurator est qui aliena negotia mandatu domini administrat” (Digest, III. 3. 1) Apart from offering a definition of a procurator, the *Digest* sets the foundation for the legal theory of incorporation. On this point, III 4. is important as it discusses one’s ability to act in the name of a corporation, Book XIV presents us with an account of persons legal liability for his representative’s actions and, finally, XLVII. 22. explicitly deals with the notion of *collegium*. However, the notion of a corporate *person* developed much later, starting with Innocent IV’s account from the thirteenth century.

11 For the discussion about the interchangeability of these terms see Wood 1988: 126.

Cicero's magistrates) and the public (Hobbes's subjects or Cicero's *populus*). Thirdly, this relationship is a vital part of both authors' formulas for political legitimisation, although the formulas themselves differ. Finally, the relationship is based on representation and the playing of *social* roles. As Gill (1988: 171) argues, Cicero's four-*personae* theory is formulated [...] from a highly social perspective; the individual is viewed in a social setting and judged by social norms." For Hobbes representation is equally contextualised within a society, although, *pace* Cicero, society itself is dependent on the existence of a sovereign state (Hobbes 1651: 62).

On the other hand, the fact that Cicero thinks of *persona civitatis* as a duty implies that there is an ethical framework that exists independently from *civitas* to which the magistrate has to conform if he wants to fulfil his duty. This external ethical framework is set up by a number of concepts that are also used by Hobbes. These include notions of *lex*, *ius*, *utilitas* and *res publica*. In contrast, Hobbes believes that there are no such ethical impediments to the sovereign's rule and that *persona civitatis* does not constrain the sovereign as its bearer. Instead, Hobbesian *persona civitatis* is a mask of unconstrained power that gives its bearer absolute authority. Coherence of Hobbes's argument thus demands fundamental reconstruction of Cicero's notion of *persona civitatis*. The Ciceronian version of the concept needs to be detached from its ethical roots and Hobbes does this in a way that is also revealing of his methodological approach. Hobbes keeps the notions of *civitas* and *res publica*, *utilitas* and *salus populi*, *lex* and *ius* and redefines them in a way that allows for an ethically independent notion of *persona civitatis*. To a large extent this frees the idea of *persona civitatis* from its ethical "baggage", leaving it only with a fundamental notion of self-preservation.

Hobbes's (Re)Interpretation of "persona" and Its Consequences

Although the frameworks of both authors' theories are comprised of matching elements, they fundamentally differ in their consequences. Hobbes formulated his theory in a way that would legitimise the sovereign having absolute authority. By contrast, Cicero offered an elaborate discussion of just and unjust ways of ruling and was also one of the most famous advocates of tyrannicide. In this section I will try to explain the relationship between the elements constitutive of Cicero's definition of *res publica* and Hobbes's account of *res publica* as *civitas*. This is especially important since, as I will demonstrate, one of the most important differences between Cicero's and Hobbes's notion of *persona* is that the first depends on the established ethical conception of a "good" or "virtuous" magistrate while the latter has no such (strong) ethical prerequisites. Contra Cicero's notion of a magistrate as someone who fulfils his duty by ruling in an ethically desirable way, Hobbesian sovereign is free to decide on all matters that concern the commonwealth, including any ethical questions. However, the omnipotence of Hobbes's sovereign has one major prerequisite and that is the singularity of the sovereign's will. This rules out the mixed constitution

as a desirable political system and corresponds with Hobbes's erasing the distinction between *res publica* and *civitas*.

As I have previously suggested, following Wood, Cicero's (1999a: 18) *res publica* consists of two foundational elements: an agreement on right (*iuris consensus*) and the notion of common interest (*utilitas*). It is an "assemblage of some size associated with one another through agreement on law [or right] and community of interest". Here it is important to note that *iuris consensus*, in fact, corresponds to *civitas*, which is, according to Cicero (1999a: 96): "[a council] and [assemblage] of men associated through law". Both *civitas* and *iuris consensus* concern "assemblages" of the people taken in its totality and both terms depend on *ius*. The second element of Cicero's definition of *res publica* is *utilitas*. *Utilitas* "covers any type of benefit, including material wealth, security, freedom, power, fame, virtue, happiness" (Asmis 2004: 578) and, according to Cicero's account from *De Inventione Rhetorica*, it comprises power and security (Wood 1988: 129).

The result of this combination is that the public is expected to judge whether the people behind the mask of *civitas* are running the popular affairs justly and in the direction of the optimal public *utilitas*. Therefore, the citizens are to take an active role in modelling their legal system and monitoring the work of the magistrates as the caretakers of *res publica*. The key criterion in deciding whether a magistrate is a good procurator of *res publica* and whether his rule can be considered legitimate is *utilitas*, i.e. his ability to run the country in a way that makes it secure and powerful. Power in *De Inventione* is defined as the extension of security or security brought to a higher level:

[T]here are some things in the republic which, so to say, refer to the person¹² of the state, – as lands, harbours, money, fleets, sailors, soldiers, allies; by all which things states preserve their safety and their liberty. There are other things also which make a thing more noble looking, and which still are less necessary; as the splendid decorating and enlarging of a city, or an extraordinary amount of wealth, or a great number of friendships and alliances. *And the effect of all these things is not merely to make states safe and free from injury, but also noble and powerful.* So that there appears to be two divisions of usefulness, – safety and power.¹³ (Cicero 1853: 376–377; the emphasis is mine)

12 It should be noted that the word "person" is a somewhat descriptive translation of the Latin word "corpus", which literally (and here more properly) means "body".

13 "Utilitas autem aut in corpore posita est aut in extraneis rebus; quarum tamen rerum multo maxima pars ad corporis commodum revertitur, ut in re publica quaedam sunt, quae, ut sic dicam, ad corpus pertinent civitatis, ut agri, portus, pecunia, classis, nautae, milites, socii, quibus rebus incolumitatem ac libertatem retinent civitates, aliae vero, quae iam quiddam magis amplum et minus necessarium conficiunt, ut urbis egregia exornatio atque amplitudo, ut quaedam excellens pecuniae magnitudo, amicitiarum ac societatum multitudo. Quibus rebus non illud solum conficitur, ut salvae et incolomes, verum etiam, ut amplae atque potentes sint civitates. Quare utilitatis duae partes videntur esse, incolumitas et potentia." (Cicero 1783: 127)

Subsequently, in *De Legibus* Cicero argues that the primary purpose of laws is in establishing security (Wood 1988: 129). The things that “contribute something grander and less necessary” are essentially the same means of maintaining basic safety and liberty. The only difference is a quantitative one, they are more abundant and their utilisation surpasses the needs of basic security. However, its being derived from security does not make the augmentation of power less of a criterion for distinguishing a legitimate ruler. In fact, Cicero seems to suggest that this is the primary reason for instituting a government. When criticising more pessimistic accounts of human nature, he notes that:

[o]thers have thought these ideas as insane as they in fact are and have said that it was not being mauled by wild animals that brought men together, but human nature itself, and that they herded together because the nature of humans shuns solitude and seeks community and society. (Cicero 1999a: 18)

In turn, this means that human beings have a more elaborate set of needs and that they strive towards living in a community in order to satisfy them. The purpose of the government cannot be simply defined as keeping its citizens safe; “the first cause” of its creation is to “promote the citizens’ shared association in a happy and honorable way of life” (Cicero 1999a: 80).

Hobbes defines *res publica* very differently from Cicero. In the Latin *Leviathan* Hobbes mainly refers to the commonwealth as *civitas* and, when offering the definition of commonwealth, he treats *civitas* and *res publica* as synonyms. Hobbes uses the coordinating conjunction “or” (*sive*) in the title of the 17th chapter of the Latin *Leviathan* (*De Civitate sive Republica*) and “and” (*et*) when arguing that the *persona* of the state is called “*Civitas et Respublica*” (Hobbes 1668: 85) or, in the English version, “COMMON-WEALTH, in latine CIVITAS” (Hobbes 1651: 87).¹⁴ That being said, Hobbes’s theory involves all the elements that we found in Cicero’s. In the Latin *Leviathan* he mentions *utilitas* as a public concept when suggesting that fortifications and war machines are “[a]rtes, quae conducunt multum ad utilitatem publicam” (Hobbes 1668: 44) – the “arts of publique use”, as translated in the English version (Hobbes 1651: 42). More importantly, Hobbes (1651: 86) discusses *utilitas communis* in chapter 17 of *Leviathan* where he suggests that human beings are different from “certain living creatures” that are considered by Aristotle as sociable (or “Politically”) creatures. One of the chief differences between human beings and those creatures is that the humans’ private good differs from the common one (Hobbes 1651: 86). In other words, Hobbes argues that the fact that all humans eventually

14 Asmis (2004: 576) quotes the passage from the first book of *De Re Publica* (1.41) in which Cicero also seems to consider *res publica* as synonymous to *civitas*. However, she notes that: “[a]lthough the two terms have the same extension, each is defined by a different aspect”. *Civitas* is, therefore, “an organization of a people” while “the definition of *res publica* views the state as a collective entity rather than an organization” (Asmis 2004: 576). Although this difference in aspects might not be of the utmost importance for Cicero, it is central for Hobbes.

desire same things does not make them sociable. Instead, this feature of human psychology makes people competitive and envious in their mutual relations, rendering any idea of the common good that surpasses the basic demands of personal safety inoperable within the Hobbesian state.

On the other hand, Cicero's notion of *utilitas* is more heterogeneous than Hobbes's. He argues that "laws were invented for the well-being of citizens, the safety of states, and the calm and happy life of humans" (Cicero 1999b: 133). There is, however, no explicit priority of safety over the other three elements. Although the Ciceronian concept of safety is not there to counter otherwise uncontrollable natural human passions, it should be noted that the safety of the people is entrusted to the persons of highest authority – to magistrates behind *persona civitatis*. In Cicero's (1999b: 159) words, "praetors, judges, or consuls" are those for whom "the safety of the people [should be] the highest law". *Salus populi*, then, is conceptually linked to sustaining *persona civitatis*. Magistrates are those who are "wearing" this *persona*, they are those who are responsible for taking care of public affairs and, ultimately, their task is to keep their fellow citizens safe. All of these elements are present in Hobbes's theory. The people escape the miseries of their natural condition by transferring their authority to the sovereign in exchange "*for their Peace and Common Defence*" (Hobbes 1651: 88). Although it is its surpassing purpose, the preservation of people's lives is not the sole purpose of a Hobbesian government. In *De Cive* Hobbes (1978b: 259) argues that:

by *safety* must be understood, not the sole preservation of life in what condition soever, but in order to its happiness. For to this end did men freely assemble themselves, and *institute* a government, that they might, as much as their humane condition would afford, live delightfully.

In this sense, Hobbes's account matches Cicero's. However, there is one significant difference. For Hobbes, being successful in "preservation of life" guarantees the legitimacy of a sovereign. And for Cicero keeping the subjects safe only has lexical priority over a sovereign's other duties: although a society cannot flourish unless its members are safe, protecting the public safety alone is not sufficient to legitimise one's rule. The difference between Hobbes's and Cicero's accounts does not flow out of any deep disagreement about the sovereign's responsibilities. For although their offices involve both of them acting behind a *persona civitatis*, unlike Hobbes's sovereign, Cicero's magistrate, for whom *salus populi* should be "the highest law", is not in the possession of absolute authority. However, describing the differing extent of responsibilities that Cicero ascribes to the magistrate and those that Hobbes attributes to the sovereign does not exhaust the discussion about the differences between the two accounts. This obvious dissimilarity is reinforced by Cicero's and Hobbes's contrasting accounts of mixed constitution and absolute sovereignty, their conceptions of liberty, *salus populi*, *res publica* and *civitas*. I will now briefly discuss each of these elements.

Absolute Authority, Mixed Constitution, and the Liberty within

The difference that makes a difference may be traced to Cicero's account of a mixed constitution. Hobbes argues that authority should be unified and entrusted to those who bear the *persona* of the state. To put it in Ciceronian terms, Hobbes's commonwealth can only be governed by a magistrate endowed with absolute authority and there can be no place for a Senate or a tribunate. The Hobbesian state does not have to be "great" or "glorious" in classical sense for its sovereign's rule to be legitimate. It does not *have* to be victorious in conquests; the sovereign does not *have* to make its citizens proud by erecting monumental buildings, having a vast merchant navy and organising triumphs, exhibiting numerous spoils of war. Such an argument is not possible since it would entail a conception of human nature similar to the classical Aristotelian account, by which human beings are primarily defined as sociable and the purpose of the state is also to nurture to their needs that are more extensive and elaborate than the preservation of peace and security alone can satisfy. By contrast, Hobbes's account of human nature entails that human beings are rational, often greedy and, most importantly, guided by their urge for self-preservation. Although this makes for havoc in the free-for-all of the state of nature, it also forces them to create the state as a "common Power to keep them all in awe" and, thus, to secure their preservation (Hobbes 1651: 62). And even if Hobbes does not grant human beings sociability, he does grant them the use of reason to find ways of self-preservation. Ultimately, the Hobbesian state is a unique consequence of human nature, not unlike the Aristotelian or the Ciceronian one.

In contrast to Cicero's, Hobbes's subjects evaluate their security individually and not in terms of *societal* security: they have a right to resist the sovereign's orders that might lead to their personal demise. Their decision is not based on evaluating the virtue of the people behind the mask of *civitas* or their proficiency in safeguarding *res publica*. Instead, it is an individual decision guided by a personal feeling of safety and in Chapter 21, Hobbes (1651: 112) discusses a number of such situations, ranging from disobeying the sovereign's order to hurt oneself to advocating the right of "men of feminine courage" to refuse to fight in a war. None of these situations entails evaluating the sovereign's fitness to rule. Cicero, however, argues that the decision about the state of *res publica* should be put in the hands of the *boni* (also known as the *optimates*), the members of Roman aristocracy (Pina Polo 2006: 75). They are the ones who are, according to Cicero, fit to decide whether a magistrate is a virtuous and just ruler, worthy of sustaining *persona civitatis*.

In this regard, Hobbes's account deviates from its Ciceronian roots. For Hobbes, there is no collective idea of common good outside the idea of state. *Res publica* is *civitas*; public affairs are equated with the state and the underlying sovereignty. The only way a subject can evaluate the performance of his sovereign is by establishing whether the sovereign's actions are violating *his* right to self-preservation. In contrast to Cicero's *boni*, the Hobbesian sovereign

alone and not the subject is the “*judge of what is necessary for the Peace and Defence of [the] Subjects*” (Hobbes 1651: 102). A Hobbesian subject cannot be the judge of means of enforcing peace; he can only be the judge of the sovereign’s efficiency in reaching the goal of keeping *him* safe. If it were otherwise, he would have (at least partial) sovereignty, which would be in conflict with the indivisibility of sovereignty, one of the main principles of Hobbes’s theory. The Hobbesian sovereign is thus an equivalent of a Ciceronian magistrate with full sovereignty. The sovereign also sustains the *persona civitatis*, but, since she is not the head of a Ciceronian republic or a mixed constitution of any sort, her prerogatives are not limited in any way.

Cicero’s view, on the other hand, can be traced back to Polybius’s accounts of Roman republic and mixed government laid out in the sixth book of his *Histories*. Polybius, reiterating the ancient Greek accounts of the factors that cause states’ decay, (Walbank 2002: 200) argues that the primary cause of the stability and imperial power of the Roman state of his day was its mixed constitution. Asmis (2005: 377) compares Polybius’s and Cicero’s accounts and argues that Cicero takes Polybius’s praise of the Roman constitution to the next level, as he “elevates the Roman constitution above the constitution of any other state as the single best constitution”. According to Asmis (2004: 570), in his account of the best form of government, Cicero had in mind a special kind of mixed constitution based on a “distinctively Roman conception of partnership”. This partnership presupposes that the responsibility for securing and advancing *res publica* is shared between different social groups and that the resulting *utilitas* should be shared between them according to their contribution (Asmis 2004: 598–599). Cicero’s *persona civitatis*, therefore, is not a mask of absolute power, although the persons behind it have a greater share in this partnership and are, therefore, more powerful than the citizens – their partners that are in front of the mask.

Hobbes (1651: 172) explicitly argues against the idea of a mixed constitution and suggests that there can be no mixed government: “all Governments, which men are bound to obey, are Simple, and Absolute”. Therefore, Hobbes (1651: 172) considers himself amongst a “few [that] perceive, that such government, is not government, but division of the Common-wealth into three Factions, and call it mixt Monarchy”. In contrast to Cicero’s account, Hobbes’s *persona civitatis* is a *persona* of absolute authority. Behind it there is the sovereign who rules with singular will. Hobbes openly criticizes Cicero’s views in Chapter 21 of *Leviathan*. This chapter deals with the idea of liberty and Hobbes argues that there are two kinds of liberty: the liberty of subjects and the liberty of sovereigns. According to Hobbes, classical authors such as Aristotle and Cicero were wrong to confuse private with public liberty and to prefer republican and democratic states to monarchies because, as they would argue, the latter are deficient in terms of liberty. Regardless of the form of government, Hobbes (1651: 110) argues, every sovereign state possesses the full scope of liberty: “Whether a Commonwealth be Monarchicall, or Popular, the Freedome is still the same”. Therefore, when we speak about the freedom of Athenians

or Romans, we think about “free Common-wealths: not that any particular men had the Libertie to resist their own Representative; but that their Representative had the Libertie to resist, or invade other people” (Hobbes 1651: 110).

Hobbes is pointing out here that there are two aspects of the liberty of a state. Both of these aspects amount to sovereignty, or, more specifically, the sovereign’s right (and ability) to impose the laws on her subjects (internal sovereignty) and to interact with other sovereigns representing their countries (external sovereignty). For Hobbes, a state can serve its purpose only if its sovereign has unlimited and effective power. Therefore, one of the main causes that “tend to the dissolution of a Common-wealth” is a sovereign being “*content with lesse Power, than to the Peace, and defence of the Common-wealth is necessarily required*” (Hobbes 1651: 167). A state’s sovereignty is also severely lacking if the sovereign authority is divided between different persons or institutions, “[f]or what is it to divide the Power of a Common-wealth, but to Dissolve it” (Hobbes 1651: 170). Division of power leads to instability and that is precisely what Hobbes has in mind when criticising Cicero’s account of the optimal form of government:

For whereas the stile of the antient Roman Common-wealth, was, *The Senate, and People of Rome*; neither Senate, nor People pretended to the whole Power; which first caused the seditions, of *Tiberius Gracchus, Caius Gracchus, Lucius Saturninus*, and others; and afterwards the warres between the Senate and the People, under *Marius* and *Sylla*; and again under *Pompey* and *Caesar*, to the Extinction of their Democracy, and the setting up of Monarchy. (Hobbes 1651: 168)

Hobbes argues that if we want to preserve the stability of a state, we should not allow any traces of popular sovereignty. This is why he defines individual liberty negatively, as liberty under a sovereign’s laws. The subjects, as bearers of such a liberty, are free to make decisions on everything that has not been regulated, or, in Hobbes’s words (1651: 113), their liberties “depend on the Silence of the Law”. The subjects should not be deceived by the classical idea that their liberty is aimed at “controlling the actions of their Sovereigns” (Hobbes 1651: 111). The Hobbesian state is clearly not a republic, or, as Hobbes refers to it, a “popular state”. Reading “Aristotle, Cicero, and other men, Greeks and Romanes” is dangerous, since it leads to confusing the “Publique” liberty that belongs to the sovereign with the subjects’ private liberties (Hobbes 1651: 110). Since legislation is a part of public liberty and Hobbes defines the subjects’ liberty negatively in relation to the laws, we can see how stark Hobbes’s differentiation between public and private liberty is. Hobbes believes that it is crucial for the safety of the subjects that sovereignty is indivisible. In contrast to the ancient Romans, who “shared amongst them the Sovereignty of Rome”, Hobbesian subjects should refrain from making claims to sovereignty because doing so leads to “the effusion of so much blood” through civil wars and falling back to the state of nature (Hobbes 1651: 110–111). In order to avoid such a situation, unlike Cicero’s citizens, Hobbes’s subjects have agreed not to exercise any sort of influence on their state’s legislation and have, by making an

Artificiall Man, which we call a Common-wealth [...] also [...] made Artificiall Chains, called *Civill Lawes*, which they themselves, by mutuall covenants, have fastned at one end, to the lips of that Man, or Assembly, to whom they have given the Sovereigne Power; and at the other end to their own Ears. (Hobbes 1651: 108–109)

The fact that Hobbes talks about slavery when discussing liberty is not a sign of novelty in Hobbes's approach. As Skinner (2004: 207) argues, quoting Cicero, slavery was commonly used as a metaphor to describe "the condition of political liberty" throughout classical sources, such as Livy's history of Rome. Cicero is no exception as he notes in *De Officiis* that preservation of liberty depends on the citizens being "prepared to act 'as slaves to the public interest' [*communi utilitati serviatur*]" (Skinner 2004: 207). Since Hobbes reconceptualises *res publica* as *civitas* and, effectively, subsumes the former under the latter, Cicero's classical underlying notion of the public interest (*utilitas*) also gets remodelled within the conceptual foundations of the Hobbesian commonwealth. As a consequence, unlike Cicero's citizens, Hobbesian subjects effectively and inevitably serve the sovereign if they protect the public good. Internalisation of *res publica* within *civitas* leaves the citizens without an external reference point for establishing whether their sovereign's rule is legitimate. The only criterion that they are left with is based on establishing whether their ruler has effective sovereignty, i.e. sufficient power to guarantee their personal safety. Since for Hobbes the difference between the state of nature and civil society amounts to the existence of a sovereign with effective monopoly of force and since the same criterion defines the Hobbesian state, a Hobbes's subject can deem the sovereign's rule illegitimate only when it is ineffective or defying its own purpose by jeopardizing his safety. In both cases, from the subject's personal perspective, the rule is illegitimate only when the ruler cannot guarantee that subject's personal safety.

Conclusion

In this paper I endeavoured to analyse the similarities and differences between Hobbes's and Cicero's accounts of personhood and, especially, their notions of the state (*civitas*) as a *persona*. It can be concluded that Hobbes's account matches Cicero's in at least three important aspects. The first is that they share an underlying idea of representation. The second is a shared thought that this notion can be best described through a theatrical metaphor of *persona* as a mask. Finally, the third aspect is based on the two authors' shared assumption about *civitas* as an entity separate from the human being who bears its mask. However, Hobbes and Cicero offer different accounts of *civitas* and they seem to construct their accounts of personhood from different perspectives. As Gill (1988: 171) argues, Cicero's develops his ideas about personhood "from a highly social perspective". This is evident since they are dependent on the concept of *decorum* that consists of a set of social standards for proper behaviour. On the

other hand, Hobbes puts state before society. Hobbesian account of personhood is much more reliant on the sovereign state because Hobbes believes that it provides a (legal) framework under which the underlying concept of representation can function. This is something that Cicero does not need, since the ethical apparatus that serves to distinguish between right and wrong, proper and improper can readily be found in natural law and justice. The notion of Cicero's *res publica* is thus ethically encumbered and means more than just living peacefully together within the scope of *civitas*. In contrast, for Hobbes, *civitas* does not need to be *res publica*, as the effectual government satisfies the basic condition for peaceful living. Finally, Cicero's account of personhood demands *decorum* as an ideal to which one should aspire and strive and presupposes having liberty to achieve it. On the other hand, for Hobbes there is nothing intrinsically valuable in assuming at least one out of many possible social roles, nor is there any rule describing the proper way of bearing such a *persona* that is outside the realm of legality. Hobbes does not care if our chosen professions fit our social standing or not, as long as what we do is legal. Something similar also applies to the bearers of *persona civitatis*, as Hobbes's sovereign, in contrast to Cicero's magistrate, is unconstrained by an external ethical account of his duties and "simply" needs to procure the safety of its subjects.

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Marko Simendić

Ciceron i Hobs o ličnosti države

Apstrakt

Teško je prenatragovati važnost ideja Tomasa Hobsa o licu, ličnosti i predstavljaju. Takođe, teško je zanemariti dug koji u ovom pogledu Hobs ima prema jednom od svojih klasičnih suparnika, Marku Tuliju Ciceronu. U ovom radu poredim Hobsove ideje o ličnosti države sa Ciceronovim pojmom *personae civitatis* i nastojim da opišem kako je Hobs oblikovao Ciceronova uputstva za predstavljanje *legitimne* vladavine u mehanizam za odbranu *bilo kakve* efektivne vladavine. Hobs apsorbuje Ciceronovu uticajnu argumentaciju i razvija njegovu ideju političkog predstavljanja kao uloge i jedne vrste starateljstva, pri čemu uklanja etičke temelje Ciceronove teorije. Za razliku od uloge Ciceronovog magistrata, društvena uloga Hobsovog suverena nije uslovljena etičkim ograničenjima: njena svrha nije da ublaži samovolju dužnosnika već da joj pruži opravdanje.

Ključne reči: Hobs, Ciceron, lice, ličnost, predstavljanje, *persona civitatis*, *persona*, država