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Government of the People: *Populi* as a Genitive of Possession in Cicero's *De Re Publica*

The most famous line in Cicero's dialogue *De Re Publica* is his definition of the state. The main speaker, Scipio, says that "*res publica res populi*" or "the state is the property of the people" (Cicero 1.39). He goes on to clarify that this cannot be any organization of humans, however, but one bound by "*iuris consensu*" or "an agreement of law" and "*utilitatis communione*" or "common interest" (1.39). These terms are of significant interest both to the dialogue's interlocutors and Classicists. One especially ill-defined phrase is *res populi*. Neal Wood in *Cicero's Social and Political Theory* and Jed Atkins in *Cicero on Politics and the Limits of Reason: The Republic and Laws*, two scholars whose work I especially reference, understand *res* as public property, making the *populus* its owner (Wood 125; Atkins 131). However, this comes with problems related to Cicero's conception of the people's power over *res*. In this paper, I examine the meaning of *populi* as a genitive of possession throughout the text. After explaining major concepts and problems with scholarship on the issue, I split up uses of the genitive into two separate meanings and explore the implications of doing so on the *res publica* definition. Ultimately, I conclude that the meaning of the *populi* genitive is highly tied to *iuris consensus* and *utilitatis communio*.

Even before establishing a meaning of *res*, it is crucial to understand the function of the phrase *res populi* as a definition of *res publica*. The definition does not simply equate the two phrases, but it establishes *res populi* as a condition that a government must meet to be a *res publica* or commonwealth (a translation I use to refer specifically to what Cicero considered *res*

publicae, while I use “government” or “regime” as a more general term). In Book I, Scipio sets up a distinction between simple forms of government (monarchy, aristocracy, and democracy) and corresponding degenerate forms (tyranny, oligarchy, and ochlocracy or mob-rule), drawing on the work of previous political theorists including Plato, Aristotle, and Polybius (Zetzel 18). As the interlocutors expand on the definition of the commonwealth in Book III, they establish that degenerate forms do not qualify as *res publicae*. They argue that certain historical governments were not *res publicae* because no *res populi* existed. When describing the city Syracuse under the rule of Dionysius, Scipio argues that it was not a *res publica* because “*nihil populi.... erat*” or “nothing was of the people” (Cicero 3.31). He says the same about Athens under the Thirty Tyrants, claiming that their extensive public goods did not “*rem publicam efficiebat*” or “make a commonwealth” because “*populi res non erat*” or “the *res* was not of the people” (3.32). He uses *populi* as a predicate genitive, showing that Cicero has a clear idea of what it means to “be of the people.” Only regimes where *res* carries this relationship to the *populus*, where *res est populi*, count as *res publicae*. This has important implications for analysis of *populi* as a genitive of possession – wherever Cicero describes a simple form of government, we may assume that *res est populi*. Later in this paper, I will additionally show that *res est populi* is not only a necessary but a sufficient condition for *res publica* status.

Having established the function of the phrase *res populi*, we may now look specifically at the meaning of the word *res*, which I have left untranslated thus far. Wood and Atkins both write that *res* represents some sort of property. They each point to Cicero’s very choice to use the phrase *res publica* to describe the state instead of *civitas*, which carries that meaning more literally. *Res publica* literally means “the public thing,” which calls to the idea of the state as

property, especially in contrast to the legal phrase *res privatae* or “private things” (Wood 125-126; Atkins 131-133). Citing Schofield’s earlier work, Atkins understands this as metaphorical property, standing for shared interests of the people or other intangibles such as public wealth. In addition to this meaning, *res* also represents physical public infrastructure, as Cicero points to in the passages I previously discussed about Syracuse and Athens from Book III. Scipio describes “*arx visenda, portus..., viae latae, porticus, templa, muri*” or “the citadel to be seen, the port, the wide roads, the temples, the walls,” but he says these did not make Syracuse into a *res publica* (3.32). He says the same about Athens, directly stating that its infrastructure, described similarly to Syracuse’s, did not “*rem publicam efficiebat.*” As discussed previously, Scipio only believes that these were not *res publicae* because those things were not of the *populi*, suggesting that this public infrastructure otherwise could be. Thus, *res* likely refers to a mixture of metaphorical and physical property.

However, scholars have not developed a coherent understanding of the implication of *res* being property and its relationship to the *populi* as a possessive genitive. Both Wood and Atkins argue that Cicero presents the *populus* as the owner, in the Roman legal sense of the term, of *res* (Wood 125-126; Atkins 133). This is true to an extent; the *populus* certainly has a *ius* or right over *res* (Atkins 135-136). However, Riggsby tells that an owner in Roman law has “nearly absolute and exclusive rights over” property (Riggsby 136). Wood echoes this concept when he describes the *populus* as possessing *res*, saying that “[t]he owner can do with his property as he sees fit” (Wood 126). More explicitly, Atkins states that “citizens have a claim to manage their interests, affairs, and wealth” (Atkins 133). This contradicts Cicero’s own accounts of control over *res* under the simple forms of government. When describing problems with the three forms,

Scipio says that, under Cyrus the Great in Persia, “*mihi populi res... non maxime expetenda fuisse illa videtur, cum regetur unius nutu*” or “the property of the people does not seem to me to have been most desired, because it was ruled by the nod of one man” even though he was a just and wise king (Cicero 1.27). Here, Scipio points to one-man-rule as a problem with monarchy, and he certainly prefers the *populus* to have some power, as in his proposed mixed constitution. However, since he here discusses a monarchy which certainly qualifies as a *res publica*, even *res* over which the people have no control can still be *res populi*. This challenges Atkins’ claim, as quoted earlier. Clearly, he and Wood understood the obvious point that Cicero considers monarchies and aristocracies, where the people do not carry political control, to be *res publicae*. However, Atkins, understanding *res* as common interests and public affairs, still argues that the *populus* could manage this type of property (Atkins 133). This evidence, which does not rely on one specific meaning of *res* but rather Cicero’s language surrounding it, shows that this idea is problematic or perhaps oversimplified. A full interpretation of *res populi* must give the people some degree of ownership over the property while explaining why this does not necessitate control.

I split up Cicero’s usage of the possessive genitive *populi* into two distinct meanings, which ultimately allows for a more accurate interpretation of the *res publica* definition. The first, and far less prevalent, usage comes when Cicero describes ochlocracy in Book III. After Laelius and Scipio conclude that tyrannical and oligarchic governments are not *res publicae*, citing the absence of *res populi*, *iuris consensus*, and *utilitatis communio*, they arrive at mob-rule. Scipio identifies this form with the phrase, “*cum omnia sint populi*” or “when all things are of the people” (3.33). This clause comes as a summary of many previous, in which he says that “*per*

populum agi dicuntur,” “*esse in populi potestate omnia,*” and “*agunt, rapiunt, tenent, dissipant, quae volant*” (3.33). These respectively mean, “all things are said to be done through the people,” all things are in the power of the people, and “they drive, seize, hold, destroy what they want.” This closely matches the Roman legal understanding of ownership, as Riggsby says that “the owner has total authority to use, destroy, or ‘alienate’ ... his property” (136). This meaning of the possessive genitive to denote absolute control is supported by an earlier instance in this same conversation. While describing why Syracuse was not a *res publica* under Dionysius, Scipio says that “*unius erat populus ipse*” or “the people themselves were of one man” (Cicero 3.31). In these cases, the possessive genitive takes on a clearly negative connotation while referring to absolute power and closely linked to the legal concept of ownership.

Thus, this usage of the possessive genitive must be separate from the concept of *res populi*. As previously established, there can exist *res populi* even when a monarch alone rules the property. So, *res populi* does not describe the ability of the *populus* to control the *res*, but that is the only meaning that Scipio equates with the phrase *omnia sunt populi*. To understand the significance of this, we must further examine the *res publica* definition. Recall that the definition has two parts – the “*res publica res populi*” formulation, and the specification that a *populus* must be united by *iuris consensus* and *utilitatis communio* or agreement of law and common interest. There are two potential conceptions of these component parts. One would hold that a government must meet two conditions to qualify as a *res publica*: first, the *res populi* condition which I elaborated on earlier, and second, a *populus* united by *iuris consensus* and *utilitatis communio*. With only one meaning of the *populi* genitive, this conception is necessary. If *omnia sunt populi* did imply satisfaction of the *res populi* condition, ochlocracy could only be

disqualified as a *res publica* through the absence of *iuris consensus* and *utilitatis communio*.

However, the two meanings of *populi* allow for a different understanding, which holds that the *res populi* and *iuris consensus* conditions are essentially equivalent; each half of the definition automatically implies the other, and Cicero's elaboration on what counts as a true *populus* simply describes where *res populi* exists. Through this interpretation, any simple form of government has *res populi* and any degenerate government does not. As the discussion of ochlocracy continues, it is evident that Cicero supports this second understanding of the definition.

Before conversing on whether ochlocracies qualify as *res publicae*, Scipio prefaces that “*esse videbuntur fortasse angustiae*” or “there will perhaps seem to be difficulties” involved (Cicero 3.33). He then asks Laelius whether he can deny a *res publica* to exist “*cum populi sint omnia, quoniam quidem populi esse rem volumus rem publicam*” or “when all things are of the people, since indeed we determine that the *res populi* is the *res publica*” (Cicero 3.33). This suggests that Cicero viewed *res populi* as sufficient qualification to be a *res publica*; otherwise, Scipio would not suggest a contradiction between *omnia sunt populi* and designation as a degenerate government. Laelius definitively responds that ochlocracies are not *res publicae*. He says that they lack *iuris consensus* because the mob forces all to follow its will, and thus, there is no *populus* at all. He also claims that the mob “*est tam tyrannus iste conventus, quam si esset unus*” or “is, having been gathered, so much a tyrant as if it were one man” (3.33). This line calls back to a slightly-earlier passage, in which Scipio says, “*nihil enim populi et unius erat populus ipse. Ergo ubi tyrannus est... est null[a] re[s] public[a]*” or “indeed nothing was of the people and the people were of one man. Therefore, where there is tyranny, there is no commonwealth”

(3.31). The word “*ergo*” suggests that the second sentence follows from the previous, meaning that the reason tyranny prevents the existence of a *res publica* is that there is no *res populi*. Thus, if ochlocracy is also tyrannical, no *res populi* exists in that form. Additional evidence arises just after in Laelius’ speech when he says that the ochlocratic mob is “*taetrior*” or “loathsome” because “*populi speciem et nomen imitator*” or “it imitates the appearance and name of the people” (3.31). This is crucial for resolving Scipio’s original question: there is no *res populi* even while *omnia sunt populi* because the people who control all things are not the real *populus*, only those taking its name. Unfortunately, the text cuts off soon after, so we do not know for certain if Laelius eventually concludes that *nihil est populi* under ochlocracy. However, all available evidence simultaneously suggests separation of *res populi* from *omnia populi* and supports *res populi* as sufficient qualification for *res publica* status. This means that Cicero saw the *res populi* condition and the *iuris consensus* and *utilitatis communio* condition as essentially equivalent. Anywhere that one exists, so does the other because all simple forms of government include both, and all degenerate forms neither.

Finally, with this connection between the two halves of the *res publica* definition established, we may approach the meaning of the genitive *populi*. As discussed earlier, understanding the *populus* as having power over or the ability to rule the *res* is inherently flawed. However, there is still clearly a sense that *res* belongs to the *populus* in a *res publica*, even beyond the basic genitive meaning. Describing Rome under the decemviri, Laelius says that “*populi nulla res erat..., ut rem suam recuperaret*” or “none of the property was of the people..., so they regained it” (3.32). The word “*recuperaret*” calls on Roman legal language, referring to a lawsuit in which one takes back possession of his property (Atkins 133). So, if it does not

involve direct control, what does the people's ownership over property look like? I argue that it primarily refers to *iuris consensus* and *utilitatis communio*. Having seen that these two concepts ultimately determine whether *res est populi*, it is logical that they describe the relationship denoted by that phrase. Through this understanding, the *populus* is the original possessor of *res*, but through *iuris consensus*, they may allow others to manage it. This actually aligns with Roman law, as Riggsby writes that an "owner could retain his title to an item but transfer control over it" (143). By this paradigm, the people have ownership over *res* but not power over it. Interestingly, Cicero considers this the case even in a popular government, as Scipio describes Athens' descent into ochlocracy as the people taking "*potestatem omnium rerum*" or "power over all things" (3.28). *Iuris consensus* represents the willing transfer of power from the *populus* to the rulers, whether to a monarch, aristocrats, the populace itself, or a combination of the three in a mixed constitution, as Cicero would advocate (Zetzel 18). This resolves the contradiction between Cicero's words and Atkins' interpretation; the people do have a *ius* or right to manage the property, but they often transfer this right to others. *Utilitatis communio* is the other defining aspect of the *populi* genitive. Whoever manages the *res* must do so in the best interests of the people. In this way, *res* is not only "of" the people but also "for" the people. Under a degenerate regime, the *populus* has lost their claim to the *res*; the rulers manage it in their own interests without an agreement of law from the people, which gives the people the right to take it back. The *populi* genitive does not represent power over *res* but instead agreement on how and by whom *res* is managed, in addition to the requirement that it is managed in the people's shared interest. Since it has a *ius* or right to distribute power over the *res*, the *populus* is its true owner.

Future study of this problem must focus on narrowing down the meaning of the *populi* genitive. In this paper, I attempted to provide a framework for doing so by splitting the phrase into two distinct usages to allow for equivalency of *res populi* with *iuris consensus* and *utilitatis communio* and explaining why Cicero likely supported this idea. I then explained the overarching idea behind an understanding of *populi* based on these terms. However, to make this meaning more precise, extensive research is necessary that draws on both textual evidence and broader conceptions of ownership and power transference in Roman law and political theory.

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