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**The wise should rule. The hegemony of checks and balances has blinded Western civilization to other viable forms of government. The underlying intentions and principles of checks and balances are captured in Kritocracy. Only in a Kritocracy are law and virtue’s value proportional to their role in government. Word Count: 48**

Alexis de Tocqueville observed, “there is hardly any political question in the United States that sooner or later does not turn into a judicial question” (313). The same is true today, evincing a society whose leadership is too polarized and unenlightened to govern itself. In a world of forms, the best type of governance shuns bickering representatives and aggrandizing politicians and places pressing issues into the hands of enlightened jurists. A Kritocracy accomplishes this. Resistant to foolish and unvirtuous forces, Kritocracies embrace the highest Western values of wisdom, justice, and virtue.

In most forms of government, the wise already have a seat at the table. Socrates emphasized that “a presiding genius will be required in our State if the government is to last” (Plato, Class Reader, pg. 115). Laelius and Mummius agreed, viewing “a wise and virtuous aristocratic government” as ideal (Cicero, Class Reader, pg. 288). Even Cicero acknowledged politicians “who depend[] upon the caprice of the ignorant rabble cannot be numbered among the great” (Class Reader, pg. 264). Across the board, wisdom, virtue, and independence of thought for decision-makers are valued. Although Socrates’s Guardians vastly differed from Cicero’s proposals for the Consul and Senate, both advocated for a strong and wise political organ. Aristotle emphasized, “whenever the chiefs of the state deem anything honorable, the other citizens are sure to follow their example…wherefore they should rule who are able to rule best” (Class Reader, pg. 182). None dispute that wise leadership is critical for the state’s existence.

There is a similar consensus regarding the role of law, which Cicero put concisely: “Human life depends on the just administration of the laws of order” (Class Reader, pg. 259). Aristotle believed states existed for the sake of the good, whose upkeep rested primarily on the shoulders of judges. To this end, judges were “more essential to the state than the parts which minister the necessaries of life” (Aristotle, Class Reader, pg. 191). Although Socrates believed states were formed to meet needs (Plato, Class Reader, pg.67), his state officials had many responsibilities in common with Aristotle’s. A Guardian’s job could reasonably be described as “dispens[ing] justice and determin[ing] what [was] just” (Aristotle, Class Reader, pg. 191), even if the concept of justice was less democratized in The *Republic*. Furthermore, Aristotle’s principles of good government are entirely focused on law (Class Reader, pg.196-197).

Therein lies the philosophical basis for Kritocracy. Wise rulers are essential for a state, and just law is central to a state's existence. Kritocracy combines both.

Executed properly, Kritocracy offers tremendous benefits. Because “Kr[i]tocracy does not base its authority on either the popular will or legal reason…judges are free to utilize their own discretion as a basis for authority” (Ussia 23). Unshackled from “[masses which] may be just as tyrannical as a single despot” (Cicero, Class Reader, pg.281) or sycophants who kowtow to them, judges are freed from unwise and unjust demands. Such liberty has allowed for tremendous social progress. In the case of Brown V. Board, “the Court had to operate on its personal discretion, utilizing authority outside the traditional legal or popular basis” (Ussia 55). While some argue this ruling was “overemphasized…while underestimating the importance of social movements, unyielding activism, and, frankly, the National Guard in forcing desegregation on a South that would never have just allowed Ruby Bridges to walk into a schoolhouse because of a ruling on a piece of paper” (Mystal), this claim is patently untrue in a nation whose stability and governance relies on “virtue and justice and institutions and laws being the best things among men” (Plato, Class Reader, pg.46). That “piece of paper” legally legitimized an entire movement (Ibid).

The Supreme Court’s autonomy overrode the mixed feelings of the general public, allowing for a just revision of the laws.

A sole power body has its risks. As Ussia suggests, there is “the possibility of abuse that such a [consolidated] system inevitably creates.” (10). Furthermore, the ideal Kritocracy operates similarly to Polybius’s aristocracy, “administering the private and public affairs of the people with paternal solicitude” (Polybius, Class Reader, 222). Thus, without proper management, leadership could devolve as positions are passed down to corrupted generations. Abuses could surface as “greed of gain and unscrupulous money-making” (Ibid 222) and the embrace of other vices.

However, institutions, classes, and norms can counter these dangers. With an education system that trains judges in the most admirable “study and practice of the grand affairs of state, united to a literary taste and a familiarity with the liberal arts” (Cicero, Class Reader, pg.277), generational corrosion can be uprooted from the source. If a society’s rising leadership grasps the threats of anacyclosis, only the ignorant or unprincipled can further its dangers. In the US, another key counterbalance to instability already exists: Socioeconomic status. Aristotle believes “the government…[can] be stable” only with middle-class participation (Class Reader, pg. 202). Fortunately, American Judges "overwhelmingly come from wealthy backgrounds” (Neitz 140). Moreover, judicial salaries place judges in an income bracket near the upper middle class (“Judicial Compensation”).

Even if these checks fail to stop dangerous characters, the nature of the office stops them at the gates. A Guardian-like selection process serves to eliminate the unwise and unvirtuous. Although Aristotle criticizes much of the *Republic* as “impracticable” (Class Reader, Pg. 158), with Polybius noting “it [has no] exhibition of its actual working” (Class Reader, 232), cabalistic selection processes exist. The European Court of Justice appoints its judges via a secret panel of “former members of the Court of Justice and the General Court” (Article 255). This group judges prospective candidates against extensive criteria, including “professional experiences…impartiality, probity, and integrity” (“Appointments to EU”). Such a system is markedly similar to selecting Guardians by “see[ing] whether [candidates] preserve their resolution, and never, under the influence either of force or enchantment, forget or cast off their sense of duty to the State” (Plato, Class Reader, 116). Although some Western thinkers reject the viability of the *Republic* in its entirety, a close examination reveals instances of *Republic*-esque elements operating in our governments today, reinforcing the feasibility of a Kritocracy. While there will always be the necessity of an executive branch and means of creating law, true state control should lie with the judiciary.

Norms add accountability. In Somalia’s stateless nation, judges officiate most legal matters. Although they oversee hearings at the clan level and are appointed by the litigants of any given case (Notten 152), the norms they adhere to apply in a centralized Kritocracy. Notten observes that in “all societies that respect property rights, justice is the ruling principle and judges are among the most prominent individuals” (Notten 154). Thus, judges in a Kritocracy are bound to the norm of “equal justice for a[l]l-that respects the rules of society inherent in human nature” (Notten 154). An understanding of these inherent norms would already have been cultivated through a rigorous study of the grand affairs of the state.

Although most Western thinkers have been avid proponents of strong checks and balances, many of their fundamental beliefs are compatible with Kritocracy. Aristotle, Cicero, and Socrates all extol wisdom in government. Centering the state’s existence on law, they create a substantial role for the judiciary. A Kritocracy fulfills these two obligations. Wise and virtuous leaders are placed at the helm of the state. Laws and principles govern the people. Resistant to popular headwinds, judges are free to make rulings that render society more just. Brown V. Board exemplified this. While there are inherent dangers, internal protections, norms, and strong institutions can ensure leaders are cultivated to be virtuous and wise, and that those who yearn for power can be restrained before taking office. Kritocracy enshrines the highest Western values in the highest offices of the state.

Word Count: 1198

**Works Cited**

Appointments to the EU Court of Justice: Seventh Activity Report of the Article 255 Panel Published. https://www.consilium.europa.eu/en/press/press-releases/2022/07/15/appointments-to-the-eu-court-of-justice-seventh-activity-report-of-the-article-255-panel-published/. Accessed 28 Feb. 2024.

“EUR-Lex - 12008E255 - EN.” Official Journal 115 , 09/05/2008 P. 0159 - 0159;, OPOCE, https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX%3A12008E255%3AEN%3AHTML. Accessed 28 Feb. 2024.

Feb 21 and 2024. “The Legal Profession in 2024: Democracy, Salary and Hiring, General Counsels, and Legal Education.” Harvard Law School, https://hls.harvard.edu/today/the-legal-profession-in-2024-democracy-salary-and-hiring-general-counsels-and-legal-education/. Accessed 26 Feb. 2024.

Judicial Compensation | United States Courts. https://www.uscourts.gov/judges-judgeships/judicial-compensation. Accessed 28 Feb. 2024.

Kasper, Wolfgang. “Law Without Government.” Policy, vol. 22, no. 3, Spring 2006, pp. 50–54.

Kindle. https://read.amazon.com/?asin=B002XHNMJY&ref\_=dbs\_t\_r\_kcr. Accessed 26 Feb. 2024.

Manis, Jim. Democracy in America.

McNair, Kamaron. “Here’s How Much Money It Takes to Be Considered Middle Class in 20 Major U.S. Cities.” CNBC, 2 Jan. 2023, https://www.cnbc.com/2023/01/02/middle-class-income-in-major-us-cities.html.

Mystal, Elie. The Supreme Court Must Be Stopped. 1 Mar. 2024. www.thenation.com, https://www.thenation.com/article/archive/the-supreme-court-must-be-stopped/.

Neitz, Michele Benedetto. “Socioeconomic Bias in the Judiciary.” CLEVELAND STATE LAW REVIEW, vol. 61, 2013.

Orosa, Theoben Jerdan C. “Constitutional Kritarchy under the Grave Abuse Clause.” Ateneo Law Journal, vol. 49, no. 2, 2005 2004, pp. 565–615.

Runciman, David. “Why Replacing Politicians with Experts Is a Reckless Idea.” The Guardian, 1 May 2018. The Guardian, https://www.theguardian.com/news/2018/may/01/why-replacing-politicians-with-experts-is-a-reckless-idea.

van Dijk, Frans. “Judiciary in Democracy: Alignment and Disconnect.” Perceptions of the Independence of Judges in Europe: Congruence of Society and Judiciary, edited by Frans van Dijk, Springer International Publishing, 2021, pp. 93–109. Springer Link, https://doi.org/10.1007/978-3-030-63143-7\_7.

van Notten, Michael. “From Nation-State to Stateless Nation: The Somali Experience.” Africa: Rivista Trimestrale Di Studi e Documentazione Dell’Istituto Italiano per l’Africa e l’Oriente, vol. 58, no. 2, 2003, pp. 147–57.

Ussia, Alex. "The American Krytocracy: The Role of Judges Throughout American History". 2010. American University, Bachelor’s Capstone

Plato. *The Republic, Book 2*. Class Reader.

Polybius. *The Histories*. Book 6, Parts 2-18, Parts 43-57. Class Reader.

Cicero. *On Laws, Book 3*. Class Reader.

Cicero. *On Duties*. Book 2. Parts 19-29. Class Reader.

Cicero. *On the Commonwealth, Book 3*. Class Reader.

Plato. *Crito*. Class Reader.

Epicurus. *Principle Doctrines*. Class Reader