

## Calvin revisited: Acknowledgement and challenge *re* Church and State

### ABSTRACT

This article is in honour of John Calvin on his 500<sup>th</sup> birthday commemoration. It is about Calvin's views on the relationship between church and state. The relationship is viewed in the light of the history of the relationship between church and state since the time of Constantine. It is also viewed in the light of canon law developments in the Roman Catholic Church since the time of Pope Gregory VII (1015-1085). These two factors played an important role in the views of Calvin. Most probably it also helps us to understand the question whether Calvin had a theocratic view of the relationship between church and state. It also gives us insight in Calvin's ecclesiology. A unique contribution of Calvin was the fact that he argued that both the spiritual and worldly kingdom fall under the requirements of the Word of God.

### 1. CALVIN REVISITED?

John Calvin's 500<sup>th</sup> anniversary is taking place this year. He was born in Noyon (France) on the 10<sup>th</sup> of July 1509 and died in Geneva on 27 May 1564. Many negative perceptions about Calvin exist in our time and many questions about his legacy are asked (Reeling Brouwer, 2009, 11). On the other hand it can also not be denied that through his writings and viewpoints Calvin profoundly influenced the Western world. Specifically his ideas about church and state and his influence on his followers in this regard, steered at least the Western world, in the direction of *freedom* and *democracy*. Many well researched books and articles about the relationship between church and state in the thinking of John Calvin has been published throughout the years. The question can therefore indeed be asked why is it necessary to revisit Calvin on church and state. This paper would like to develop a few arguments in favour of such an endeavour. Arguments such as:

- the applicability of Calvin's and his followers' view on the task of the state in our time;
- Calvin and the role of freedom of religion during the last decades of the Twentieth and the first decade of the Twenty First centuries.
- Calvin's idea of a Christian commonwealth and the pluralities in religion and society in our time.
- A last argument in favour of revisiting Calvin on church and state is a new emphasis on and evaluation of the historical context in which Calvin developed his views.

### 2. THE HISTORICAL AND ECCLESIOLOGICAL CONTEXT

Two contexts are of importance in the light of the theme and goals of this paper – a historical context and an ecclesiological context

#### 2.1 The Historical Context of Church and State

In 312 Emperor Constantine was converted to Christianity (Van der Wiel, 2006, 34) and in 380 Trinitarian Christianity became the official religion of the Roman Empire. This ultimately fused

Roman and Christian laws and beliefs - it had a big influence on the relationship between church and state. The Roman Empire was seen as the universal body of Christ on earth embracing all persons and things. The emperor was viewed as both pope and king reigning supreme in both spiritual and temporal matters (Van der Wiel,2006,35). Roman law was seen as the pristine instrument/outcome of natural law and Christian morality. This new relationship between Empire and Christianity not only allowed the church to fundamentally influence Roman law with some of its most basic teachings but also brought about that those teachings were enforced throughout much of the Empire (Van der Wiel,2006,35), often brutally, against heretics like the Arians, the Apollonarians and the Manichaens. In the Codex Justiniani and the great synthetic texts of Roman law, that have survived, like the *Codex Theodosianus* (438), the *Corpus Iuris Civiles* (529 – 534) Christian teachings on the Trinity, the sacraments, holy days, the Sabbath, sexual ethics, charity, education etc. were copiously defined and regulated at law. The law of the Empire also granted all kinds of immunities, exemptions and subsidies for Christian ministers, missionaries and monastics which were very favourable for them and helped to extend the church's reach to the farthest corners of the Empire (Witte,2008,7-8).

While the legal establishment of Christianity helped its expansion and canonical preservation for later centuries at the same time it also subordinated the church to imperial rule. Christianity was now the new cult of Rome presided over by the emperor. Christian clergy were in effect the pontiffs of the Christian imperial cult and ultimately subordinate to imperial authority. Church property was the new public property subject to both its protection and control. The emperors and their delegates convoked many church councils and synods, disciplined and removed the high clergy; administered many of the church's parishes, monasteries, and charities and legally controlled the acquisition, maintenance, and disposition of much church property.

Already in the fourth century there were church fathers like Ambrosius (339-397) and Augustine (354-430) and Popes like Gelasius (492-496) and Gregory the Great (c540-604) who were of opinion that the Church had a supremacy above the state. With reference to Luke 22:38 – the two swords - they insisted on the two powers, a worldly and a spiritual power, that governed autonomously and independent from each other over the affairs of Christianity. The spiritual power was however more dominant because eventually all kings will be answerable to God (Witte, 2008,8-9;Van der Wiel,2006,35-38).

The Roman imperial understanding of the relationship between church and state was however largely continued in the West after the fall of Rome to various Germanic tribes in the fifth century. Before their conversion many of the pagan Germanic rulers were seen as divine, being both the cult and military leaders of their people. After their conversion to Christianity they lost their divinity but continued as sacral rulers of the Christian churches in their territories. Christianity was an important source for their authority in their effort to extend their rule over the plurality of peoples under their regime. Christian clergy not only supported the Germanic Christian kings in their suppression of pagan tribal religion but many of them also saw leaders like the Frankish Emperor Charlemagne (r. 768-814) and the Anglo-Saxon King Alfred as their spiritual leaders. The Christian Germanic rulers from their side supported the clergy in their struggle against heresy, gave them military protection, political patronage and material support just like the Roman emperors before them. Feudal lords in these Germanic domains patronized the church by donating lands and properties for the use of the church in exchange for the power to appoint and control priests, abbots and abbesses who used and controlled the properties (Witte,2008,9).

## **2.2 The Ecclesiological Context**

A second very important context to take note of, if we want to understand John Calvin on the

relationship between church and state, is the so called Papal Revolution (Berman,1983(1999),94-113) also called the Gregorian Reform of the twelfth century, also called the twelfth century renaissance (Van der Wiele,2006,91). This reform, built on the conflict over lay investiture, helped Pope Gregory VII and his successors to throw off their civil rulers and establish the Roman Catholic Church as an autonomous legal and political corporation in the Western Christendom – the law of the church and together with that also the law of the Western World was deeply transformed (Behrman,1983(1999),115). It is also claimed that the Papal Revolution gave birth to the first example of the modern Western State which was paradoxically the church itself (Berman,1983(1999),113). From the twelfth to the fifteenth centuries the Roman Catholic Church claimed and acquired a vast new jurisdiction “to speak law” (*Jus dicere*). The Church claimed and acquired *personal jurisdiction* over clerics, pilgrims, students, the poor, heretics, Jews and Muslims. It claimed and acquired *subject matter jurisdiction* over doctrine and liturgy, ecclesiastical property, polity, and patronage, sex, marriage and family life; education, charity and inheritance, oral promises, oaths, and various contracts; and all manner of moral, ideological, and sexual crimes. It also claimed and acquired *temporal jurisdiction* over subjects and persons that also fell within the concurrent jurisdiction of one or more civil authorities (Witte, Introduction,10. In: Witte& Alexander (eds),2008,1-33).

Four main arguments were put forward by medieval writers to support these jurisdictional claims. *Firstly* it was seen as a mere extension of the Church’s traditional authority to administer the sacraments. By the fifteenth century the doctrine on the seven sacraments controlled the canon law of the Church. The sacrament of marriage carried the Church’s jurisdiction over sex, marriage and family life. The sacrament of penance was the cornerstone of the Church’s jurisdiction over crimes and delicts and indirectly the jurisdiction over contracts, oaths, charity, and inheritance. Together with the sacrament of extreme unction, penance also supported the jurisdiction over charity and poor relief, and a vast network of church-based guilds, foundations, hospitals and other institutions that served the *personae miserabiles* of society. The sacrament of ordination formed the cornerstone for the canon law of corporate rights and duties of clergy and monastics. The sacraments of baptism and confirmation formed the foundation for the canon laws of the natural rights and duties of Christian believers.

The *second* argument for the expanded jurisdiction of the Church was Christ’s delegation to Peter of the keys to the kingdom of heaven (Matthew 16:19). This entailed the key of knowledge to discern God’s word and will and the key of power to implement and enforce God’s word and will throughout the church. Through apostolic succession, the pope and his clergy inherited these keys to define doctrine and to discipline the contemporary Church. These keys conferred a legal power on the Pope and his clergy to make and enforce canon laws. The argument of the keys supported the church’s claim to subject matter jurisdiction over core spiritual matters while the key of knowledge gave the clergy access to the mysteries of divine revelation which could be communicated to believers through canon law. The argument of the keys could also be extended since the most mundane of human affairs ultimately have spiritual and moral dimensions – disputes about boundary lines relates to the commandment of one’s love for you neighbour; failure to pay taxes or feudal duty was a breach of the spiritual duty to honour those in authority.

The *third* argument was that the Church’s canon law was the true source of equity – “*the mother of exceptions*,” “*the epitome of the law of love*,” and “*the mother of justice*” as it was also called. As *the mother of exceptions* canon law was presented as flexible, reasonable, and fair; capable of bending the rigor of a rule in a particular case through dispensations and injunctions, or by punctiliously insisting on the letter of an agreement through orders of a specific performance or reformation of documents. As *the epitome of love* canon law took special care of

the disadvantaged in society – the poor, widows, orphans, handicapped, abused wives, neglected children maltreated servants etc. Canon law provided them with the opportunity to press claims in church courts, to testify against their superiors without their permission. Canon law also gave them the standing to gain succour and shelter from abuse and want, and to pursue pious and protected careers in the cloisters. As *the mother of justice* canon law provided a method whereby the individual believer could be reconciled to God, the neighbour, and the self at once. This was one of the reasons why Church courts were so popular in medieval times – they could treat both the legality and the morality of a case (Witte,2008,11-12; Schmoeckel,2008,143).

The *fourth* argument in favour of the Church's claim to jurisdictional independence was a reworking of the traditional "two swords" theory to prove the claim that the Church's jurisdiction was superior to that of secular authorities. In the arguments during the high Middle Ages it was said that the two swords theory taught that the pope was the vicar of Christ on earth in whom Christ vested the plenitude of His authority. The two swords – a temporal and a spiritual sword - symbolizing the plenitude of authority was metaphorically handed by Christ to the highest being in the human world - the Pope, the vicar of Christ. The pope and the lower clergy wielded the spiritual sword in part by establishing canon law rules for the whole of Christendom. They were however too holy to wield the temporal sword. Therefore they delegated it to the authorities below the spiritual realm – emperors, kings, dukes and their civil retainers who held their swords *of* and *for* the church. The civil magistrates had to promulgate and enforce law in a manner consistent with canon law. Under the two swords theory civil law was inferior to canon law; civil jurisdiction was subordinate to ecclesiastical jurisdiction; the state answered to the church (Witte,2008,12). Van der Wiele is of opinion that with the papacy of Innocent III this form of theocracy reached its highest level. The pope was the independent leader of the church and his authority applied not only to the spiritual but also to worldly matters (Van der Wiele,2006,95).

In the light of the four arguments the Roman Catholic Church developed a sweeping legislation, jurisdiction and a vast network of ecclesiastical officials who presided over the Church's executive and administrative functions. The Church registered its citizens through baptism, taxed them through tithes, conscripted them through crusades, educated them through schools and nurtured them through cloisters, monasteries, chantries, foundations and guilds.

From the twelve century onward the canonists began to systemize the vast new body of laws first in collections like the *Decretum Gratiani* (c 1140); the *Liber sextus* (1298); the *Clementines* (1311-1312); the *Extravagantes* a few years later and eventually in the sixteenth century (1580) in the *Corpus Iuris Canonici* (Helmholz, 2008, 78-79).

In scholarly writings about the new legal system the language and concepts of rights became increasingly common. Especially the canonists worked out a whole complex of what we now call rights, freedoms, powers, immunities, protections and capacities of different groups and persons. "Most important were the rights that protected the "freedom of the church" (*libertas ecclesiae*) from the intrusions and control of secular authorities." (Witte, 2008,14). They claimed the right for the church and the clergy to make its own laws, to have their own courts, to define the church's doctrines and liturgies, to elect and remove their own clergy. The exemption of church properties from civil taxation and takings were stipulated as well as the right of the clergy to control and use church property without interference or hindrance from secular authorities, The immunity of clergy from civil prosecution, military service and the compulsion to testify, were guaranteed as well as the rights of church entities like parishes, monasteries, charities, and guilds to form and dissolve, to accept and reject members and to establish order and discipline. Canon law also defined the rights of church councils and synods to participate in the election and discipline of bishops, abbots, and other clergy as well as the rights of the lower clergy over and against their superiors. The rights of laity to worship, evangelize, maintain religious symbols,

participate in the sacraments, travel on religious pilgrimages and educate their children were also defined. Canon law also defined the rights of the poor, widows, and the needy to seek solace, succour and sanctuary within the church as well as the rights of husbands and wives, parents and children, masters and servants. With regard to the freedom of the church Canon law even defined the rights that Orthodox Christians, Jews, Muslims and heretics had in the Western Christendom (Witte,2008,14-15).

These two contexts, the historical and the ecclesiological, amongst others, formed the background against which the Reformation took place from 1517 onward and against which John Calvin wrote about church and state.

### 3. CALVIN ON CHURCH AND STATE

#### 3.1 Calvin on the State

(a) In the first edition of the Institutes (1536) Calvin wrote “There is a twofold government in man: one aspect is spiritual, whereby the conscience is instructed in piety and in reverencing God; the second is political whereby man is educated for the duties of humanity and civil life that must be maintained among men. These are usually called the “spiritual” and the “temporal” jurisdictions (not improper terms) by which is meant that the former sort of government pertains to the life of the soul while the latter has to do with the concerns of present life ----- . The one we may call the spiritual kingdom, the other the political kingdom. ----- . There are in man, so to speak, two worlds, over which different kings and different laws have authority” (Institusie,1536,524). In these formulations one can hear Martin Luther’s teaching on the two kingdoms and also Augustine’s teaching on the City of God in contrast to the city of man (Greenawalt,2008,116-117).

(b) In his later years, given the pastoral and political responsibilities that he had in Geneva, Calvin began to think in more integrated and institutional terms about religious liberty and consequently also about the relationship between the state and the church. He, nevertheless, continued to write about the religious and political liberties of the individual. In the Institutes 1559, 3.19.1-8 he wrote: “I freely admit that there is no kind of government more salutary than one in which liberty is properly exercised with becoming moderation and properly constituted on a durable basis (see also Serm Gen 39:11; Serm 1 Sam 8, 17; Comm Harm. Law Deut 15:1-11; 17:14-18; 24:7; Serm Deut 16:18-19;18:14-18; Institutes(1543), 20.7, references quoted from Witte,2007,57). He also began to write about subjective “rights” of individuals in addition to their “liberties” or “freedoms”. The phrases “the common rights of mankind”, “natural rights” “Rights of a common nature” or the “equal rights and liberties” are also found in his later writings (cf Comm. Gen 4:13; Comm Harm Law Numb.353;5-10, 18-22, Deut 5:19; Comm Ps 7:6-8; Lect Jer. 22:103, 22:13-14; Lect Ezek. 8:17; Comm I Cor.7:37. References found in Witte,2007,57). With regard to these rights he spoke of the “rights of Christian liberty,” the “rights of citizenship” in the Kingdom of God or in heavenly Jerusalem; the “right of adoption” that Christians enjoy; “the right to inhabit” “the right to dwell in” and “the right to claim the territory” He referred to “Paul’s right of Roman citizenship”, “property rights”, the “right to land” “the right to enjoy and use what one possesses”; the “right to recover”, the “right to have lost or stolen property restored; the “right to compensation” for work; the “right to sell”, “to bequeath”, the right to “inherit” property, particularly in accordance with the “natural rights of primogeniture”. We also find in his works references to “the right to bury”, “marital or conjugal rights”, the “sacred”, “natural” and “common” rights of parents over their children; the “right” and “authority” of a father to “name his child”, “to raise the child” and to set the child up in marriage. He spoke of the

“sacred right of hospitality” of the sojourner, the “right of asylum” or of “sanctuary” for those in flight, the “right of redemption” during the year of Jubilee, as well as of the “natural rights” and “just rights” of the poor, the needy, the orphans and the widows (see Witte,2008,57-58, see also footnotes 59 – 65 for references to where all the above can be found in the writings of Calvin). It is clear that all of the above already shows a very significant and clear development in the thinking of Calvin towards rights and rules and eventually more pronounced statements on the relationship between church and state.

(c) In his later writings law and order became the categories that he used to define the functions and interrelationships of moral, political and ecclesiastical laws and structures within both the heavenly and earthly kingdoms. In the 1559 edition of the *Institutes* Calvin in effect superimposed his own variant of the two swords theory of the Roman Catholic Church on the Lutheran two kingdoms theory – for Calvin it was God who governed both the earthly as well as the heavenly kingdom through His moral law. This meant that the church had a legal role in the governance of the earthly kingdom and the state a moral role in the governance of the heavenly kingdom. Obedience to church officials and church law was a spiritual and a moral duty just as obedience to political officials and political laws was a civic and spiritual duty (*Institutes*,1559,20.4.1-4; Witte,200858).

(d) By 1559 The moral law was for Calvin moral commandments engraved on the conscience of humankind, repeated in Scripture and summarized in the Decalogue (*Institutes*,1559,2.8.1). It is the norms created and communicated by God for the governance of humanity, for the right ordering of individual and social lives. The Decalogue is the fullest expression of this moral law (*Institutes*,1559,2.7.1;2.8.1;4.20.15).

The moral law has three uses in the governing of humankind (Witte,2008,59) – *theologically*, *civily and educationally* (*Institutes*,1559,7.6-2.7.12). *Theologically* it is used by God to condemn all persons in their conscience and compel them to seek God’s liberating grace – moral law warns, informs, convicts and condemns every man of his own unrighteousness (Witte,2007,59-60). *Civily* it imposes on sinners a civil righteousness, it compels them to obey the basic duties of the moral law – to fear God, to rest on the Sabbath, to avoid blasphemy, idolatry, and profanity, to obey authorities, to respect their neighbour’s person, property, and relationships, to remain sexually continent, to speak truthfully of themselves and their neighbours (*Institutes*,1559,4.20.3). *Educationally* it educates believers to the means and measures of sanctification and spiritual development.

Moral law not only teaches civil righteousness but also spiritual righteousness. It coerces Christians against violence and violations, cultivates charity and love, punishes harmful acts of murder, theft and fornication, prohibits evil thoughts of hatred, covetousness and lust. Such habits of spiritual righteousness are not restricted to the kingdom of heaven alone. They are to imbue all aspects of the life of the believer – spiritual and temporal, ecclesiastical and political, private and public. “Calvin stressed that Christians must take their faith and conscience directly into the political, public and, and external life of the earthly kingdom, “as ambassadors and stewards of the treasure of salvation, of the covenant of God ---- of the secrets of God.” By doing so they not only allow God’s glory and image to shine in the earthly kingdom, but they also induce its sinful citizens to seek God’s grace.” (Calvin, Sermon Deut. 5:4-7, 22; *Institutes* , 1559, 2.7.12; 2.8.6; 2.8.51; 3.3.9; 3.6.1; 3.17.5-6; Comm. I Peter 1:14. In: Witte, 2007,61).

This expanded theory of the uses of the moral law of human conscience laid important groundwork for the expansion of political liberty and civil rights. Where Calvin earlier argued that God imposed various duties on the political office and that these duties also “constitute”

the political liberties of their subjects in the earthly kingdom he now argued that God imposes various duties not just on political officials but on all persons in the earthly kingdom. These include the moral duties set out in the Decalogue to respect the person, property, reputation and relationships of their neighbours. It would be only a short step from this theory of political and civil duties to a theory of subjective civil rights and political freedoms (Witte,2007,61).

(e) The view that God's moral law governs both the heavenly and the earthly kingdom had far reaching implications for both church and state. Both were now seen as legal entities each with its own forms of organization and order, its own norms of discipline and rule. Each called to play a distinct role in the enforcement of Godly government and discipline in the community (Witte,2007,63).

The state is vested, by God, with the temporal power of the sword. The magistrate is the vice-regent of God and must rule with written positive laws rooted in tradition and morality and guided by equity and justice. The citizens have the duty to obey the magistrate up to the limits of Christian conscience (Institutes, 1559, 4.20.3,4,5,6). As to the form of government Calvin stood for aristocracy or a mixture of aristocracy and democracy where a number of people exercise government." so that they may help one another, teach one another; and if one asserts himself unfairly there may be a number of censors and masters to restrain his wilfulness." (Institutes,1559, 4.20.8). The purpose of political government is in essence to help God achieve the civil use of moral law i.e. to cultivate civil restraint and civil righteousness in all persons, if necessary through the coercive power of the sword (Institutes,1559,4.20.10). It is the task of civil government " ---- to prevent idolatry, sacrilege against God's name, blasphemies against his truth, and other public offences against religion from arising and spreading among people; it prevents the public peace from being disturbed; it provides that each man may keep his property safe and sound; that men may carry on blameless intercourse amongst themselves ; that honesty and modesty may be preserved among men. In short, it provides that a public manifestation of religion may exist among Christians, and that humanity may be maintained among men." (Institutes,1559,4.20.3). In order to achieve this Calvin writes " ---- I now commit to civil government the duty of rightly establishing religion, ---- "(Institutes,1559,4.20.3). Calvin pleads for a civil administration who will prevent the true religion which is contained in God's law from being openly and with public sacrilege violated and defiled with impunity."(Institution,1559,4.20.3).

(f) Regarding the magistrate's civil jurisdiction of religious and moral matters Calvin also argued for safeguards. *Firstly*, magistrates were " --- not allowed to make laws according to their own decision concerning religion and the worship of God (Institutes,1559,4.20.3). "They were only to enforce God's law on religion and worship, especially as it was set forth in the First Table of the Decalogue and interpreted by the church. This principle stood in marked contrast to both Lutherans and Anglicans who at that time vested in the magistrate the power to promulgate all manner of civil laws respecting religious worship, liturgies, prayers, and other cultic activities. Calvin countenanced no such legal religious establishment."(Witte,2007,65). *Secondly* Christian subjects had the right to resist magistrates who prescribed religious and moral duties which directly contravened the Bible, particularly the First Table of the Decalogue (Witte,2007,65-66; apart from all the references given in footnote 84 and 86 see also Institutes,1559.4.20.32). *Thirdly* magistrates were not to trespass or abridge in any way the God-given rights and liberties of their subjects. As protectors appointed by God's ordinance they may not "dishonestly betray the freedom of the people." (Institutes,1559,4.20.31). As a *fourth* safeguard Calvin argued that magistrates must always enforce God's law equitably. Magistrates must seek to adjust their punishments to the capacities of each subject and the dangers of that person's crime

(Witte,2007,67). While Calvin explains this viewpoint in a lecture on Isaiah 42:90 he also says in the same lecture "But those who boldly and obstinately resist ---- must be broken and crushed. (Witte,2007,67). Once again he grants the civil authority very strong powers in the enforcement of God's law.

### 3.2 Calvin on the Church

(a) From his view on the earthly and the heavenly kingdom Calvin argued that while God had vested the coercive power of the sword in the state, the spiritual power of the Word was vested in the Church. Jesus Christ as the Head of the church and the Word of God was very important in the thinking of Calvin. He begins chapter three of the fourth book, paragraph 1 of the Institutes with the words: "Now we must speak about the order through which the Lord wants his church to be managed". He continues in chapter four, paragraph one "Until now we dealt with the order of church government, as this was handed down to us from God's pure Word and about the ministries, as they were established by Christ."9Institutes,1559,4.4.1). In Chapter 10 paragraph 6 of book four he denies the church the right "--to set up independent constitutions to bind consciences"(Institutes 1559, 4.10.6). In the same chapter he writes "I only approve those human constitutions which are founded on God's authority drawn from Scripture and, therefore wholly divine." (Institutes,1559,4.10.30) In the very first article of the Ordonnances Ecclésiastiques we read: "therefore it seemed good for us to bring the spiritual leadership into good order again as our Lord explained and laid down in his Word and which He wants us to obey"( Ordonnances Ecclésiastiques 1561, article 1).

It is the task of the church to preach the Gospel, administer the sacraments, teach the young, gather the saints, care for the needy and communicate God's Word and will throughout the world. "The church is to be a beacon of light and truth, a bastion of ministry and mission. Just as pious Christians must take their faith into the world to reflect God's image and glory, so the church must take its ministry into the world to project God's message and majesty for all persons to behold" (Witte,2007,71; Institutes,1559,4.1.1-17). God has established the Church with a distinct and independent polity. It has a multiple offices of minister, teachers/doctors, elders and deacons (Institutes,1559,4.1; Ordonnances Ecclesiastiques,1561,articles 2-68). The ministers preach the Word and administer the sacraments. The doctors catechize the young and educate the parishioners, the elders maintain discipline and order and adjudicate disputes. The deacons control the church finances and coordinate the churches care for the poor and the needy. (Institutes1559, 4.3; Ordonnances Ecclesiastiques,1561,articles 56-68). The church officials are elected to their offices by fellow communicant members of the congregation (Institutes,1559,4.3.13-15; Ordonnances Ecclésiastiques,1561,articles 10 and 12). Each office bearer is subject to the limitations of his own office just as later on the assemblies of reformed churches would be limited by the functions they had to perform as well as by the supervision of fellow officers. Each official had to participate in periodic congregational meetings where fellow members could assess their performance and debate matters of doctrine and discipline ( Ordonnances Ecclésiastiques,1561,articles 31-38; Witte,2007,71).

(b) The church holds three forms of legal authority given to it by God. Firstly *doctrinal authority* to lay down articles of faith and to explain them. This included the power to put forward its own confessions, creeds, catechisms and other official documents of Christian faith and to expound them freely from the pulpit and in teaching. Secondly the church holds *legislative authority* to promulgate for itself a well ordered constitution, that ensures proper order and organization, safety and security in the church's administration of its affairs and proper decency and becoming dignity in the church's worship, liturgy and ritual. "When churches are deprived of ----- the

laws that conduce these things their very sinews disintegrate, and they are wholly deformed and scattered. Paul's injunction that 'all things must be done decently and in good order can be met only if order itself and decorum are established through the addition of observances that form the bond of union.' Thirdly and very important is that the church also has *jurisdictional power*, the power to set up courts, to enforce law that help to maintain discipline and prevent scandals among its members. The jurisdictional power of the church is rooted in the power of the keys. It must remain wholly spiritual, founded upon God's authority, drawn from Scripture and therefore wholly divine. The sanctions at it's disposal are admonition, instruction and in severe cases banning and excommunication – "with civil and criminal penalties left for the magistrate to consider and deliver". The administration of church discipline must always be moderate and mild and not left to the decision of one man but to a lawful assembly - ideally a consistory court, with proper procedures and proper deference to the rule of the law. (Institutes,1559, 4.1.5; 4.8.1; 4.10.5, 30; 4.10.27-32; 4.11.1, 4.11.1-6; 4.12.1-4, 8-11). In a 1560 amendment to the ecclesiastical ordinances which Calvin endorsed it is written "The matters and cases which come most commonly before the consistories are cases of idolatry and other kinds of superstition, disrespect towards God, heresy, defiance of father and mother, or of the magistrate, sedition, mutiny, assault, adultery, fornication, larceny, avarice, abduction, rape, fraud, perjury, false witness, tavern going, gambling, disorderly feasting, and other scandalous vices: and because the magistrate usually does not favour such gatherings, the consistory will use the ordinary reprimands, namely, brotherly admonition, as sharp and as vehement as the case demands, suspension from the Lord's supper, deprivation of the Lord's Supper for a stated period of time; and persistent offenders will be publicly named, so that people will know who they are." (Witte,2007,72-73). Studies of Genevan life during Calvin's tenure show that the Geneva Consistory played an increasingly active role in the maintenance of spiritual and moral discipline in the city. The Consistory co-operated closely with the Geneva Small Council and served, effectively, as a grand jury and a preliminary hearings court for a variety of spiritual and moral offences. The Consistory helped to enforce the laws governing not only blasphemy, heresy, sacrilege, and other spiritual lapses but also marriage, divorce and child care, education, charity and poor relief (Witte,2008,73). For Calvin it was no problem to impose upon Christian believers both civil and ecclesiastical discipline. Multiple forms and purposes were inherent in God's moral law and punishment by the state did not preclude discipline by the state – there was no such thing as double jeopardy.(Witte, 2008,74).

(c) With this expansion of the law and order of the visible church Witte is of opinion that Calvin resurrected a good deal of the traditional Roman Catholic Canon law. He restored to the Church consistory courts "and a good deal of the traditional authority ----" that he himself " --- "and other early Protestants had so hotly criticized three decades before." (Witte,2008,72).

(d) At the same time Calvin also contracted much of the exercise of individual spiritual liberty in the church. It is very interesting that Calvin in the end did not make so much of the freedom of the Christian person as Luther did. He maintained the liberty of conscience from the condemnation of the moral law and from superstitious human traditions – the innumerable human traditions of the Romanists that ensnare miserable souls and bind the conscience which Christ has set free.(Institutes,1559, 4.10.1-2). However in his later years he argued that the Christians must freely bind themselves to the church's "well-ordered constitution" and comprehensive code of spiritual discipline. They must "gladly" submit to the mandated forms and habits of worship, ritual, and liturgy so that the church's decorum, discipline, and dignity will not be compromised (Institutes,1559, 4.10.27-31). Christians who would not submit to the church's strictures were

free to leave – the so called “right of emigration” provided in the 1555 Religious Peace of Augsburg (Witte,2008,74; see also Institutes,1559,4.10.31-32) However the lack of communicant status in Geneva brought about various civil deprivations.

(e) In his later years Calvin however expanded the religious liberty of the church – its rights and power (Witte,2008,75 see the references in footnote 122). He strongly argued for a measure of ecclesiastical autonomy, a separation of church and state. “A distinction should always be observed between these two clearly distinct areas of responsibility, the civil and the ecclesiastical” (Institute,1559,4.11.3-16; 4.20.1-4). The church has no authority to punish crime, to remedy civil wrongs, to collect taxes, to make war, or to meddle in the internal affairs of the state. The state, in turn, has no authority to preach the Word, to administer the sacraments, to enforce spiritual discipline, to collect tithes, to interfere with church property, to appoint or remove clergy, to obstruct bans or excommunications, or to meddle in the internal affairs of a congregation. When church officials operate as members of civil society, they must submit to the civil and criminal law of the state; they cannot claim civil immunities, tax exemptions, or privileges of forum. When state officials operate as members of the church, they must submit to the constitution and discipline of the church; they cannot insist on royal prerogatives or sovereign immunities. To permit any such interference or immunity between church and state, said Calvin, would unwisely mingle these two [institutions] which have a completely different nature (Institutes,1559, 4.11.3-16; 4.20.1-4; Witte, 2008,75).

#### 4. CALVIN REVISITED – ACKNOWLEDGEMENT AND CHALLENGE

##### 4.1 Acknowledgement

(a) One of the great contributions of Calvin as a reformer was the emphasis that he placed on the Triune God – Father, Son, and Holy Spirit – and the primacy of the Word of God as a source for the government of the Church. It has happened many times in history that the church has forgotten this and had to pay dearly for its neglect (Jonker,1965).

(b) Calvin contemplated a unitary Christian society under God’s sovereignty and law in which both the church and the state functioned under the Word of God.

(c) Calvin appropriated many of the cardinal insights of history. He realized that for the church to maintain its liberty, it had to organize itself into an independent legal and political entity. It had to wield its own “sword”, maintain its own “power” and he effectively worked this out in his ecclesiology. The ecclesiology of Calvin is one of his lasting legacies.

(d) Calvin anticipated a number of modern concepts of separation, accommodation and cooperation as was seen above.

##### 4.2 Challenges

(a) It remains a challenge for the church and Christians to witness to and call for all three the implementations of the moral law. Perhaps the best way to do this is by promoting the biblical truth of the Kingdom of God. Taking into account the plurality of institutions and societies, the plurality of directions in our society and the plurality of contexts which we experience every day. The theology of the kingdom of God gives us a framework with which we can approach society of our day (See Hiemstra, J, 2005, Church, State and the Kingdom of God, an Overview. REC Focus, 3,28).

(b) Calvin worked with the idea of a unitary Christian society in which church and state were

coordinated powers. Both church and state are ordained by God to help achieve a Godly order and discipline in the community, a successful realization of all three uses of the moral law. In this endeavour he saw it as the task of the state to establish (Institusie,1536,528) to cherish and protect the outward worship of God, to defend sound doctrine of piety and the position of the church and a public manifestation of religion. The civil authorities could even use coercive power if necessary to attain these goals.”(Institutes,1559, The question can indeed be asked why Calvin took this point of view and why do we find the same kind of approach in the Dutch Confession of Faith (1564) article 36, the Lutheran Churches at the peace accord of Augsburg (1555) *Cuius regio illius religio* (Berkhof,1975,160-161)and in the Anglican Church in the Acts of the Reformation Parliament (1534) and the Thirty Nine Articles, 21,36,37) (Green,1896, 138,291,298). Perhaps the answer can be found in the historical context of the power and task of the state into which the reformation was born (Van der Zwaag,1999,25-33). Historically from the time of Constantine the very close relationship between church and state brought about that the state had a very strong say in the matters of the church-state. Apparently neither Calvin nor his fellow reformers could or wanted to separate themselves from this view. For them, acknowledging the authority and functions of the state in the affairs of the church was the Reformation’s answer to the monopoly that the Roman Catholic Church claimed in its canonical codes since the times of Gregory VII. Calvin went far to acknowledge and separate the two powers of the spiritual and the worldly kingdoms, but given the restraints of his time could not succeed. At the same time it must be acknowledged that in his theology Calvin did ground laying work to point out that the two kingdoms, the spiritual and the worldly were not separate from each other but both were from God (Institutes,1559,4.20.1&2). Because of this view Calvin, clearly in accordance with the history of the relationship between church and state and other reform movements in Europe, saw it as the task of civil rulers to cherish and protect the outwardly religion as well as to protect the sound doctrine of piety and the state of the church. In the light of this argument it is doubtful whether Calvin can be seen as a sponsor of a form of theocracy where the church prescribes to the state (Höpfel,1982,184). For him both the church and the state had to obey the moral law of God. Our challenge today is to define the existence and task of church and state as two separate entities within the kingdom of God that are both called to obey the Word of God.

(c) Another challenge for us today is to define the nature and function of both church and state in a way that will take into account viewpoints on a secular society, the neutrality of the state and the pluralities in our societies.

(d) Given the tremendous emphasis on human rights and freedom of religion in our day, which is to a large extent a heritage that comes from the Reformation and specifically from John Calvin, it is not only a heritage from the Enlightenment. Christian churches have the right and obligation to appropriate their religious rights and freedoms. In order to do this churches need to assert their faith identity in their legal and political structures.

(d) It is a challenge for Christian churches to assert the Headship of Christ over the church, to really be a theocratic institution which is a witness to the Triune God and as an institution which is governed by Him. The Church cannot be seen as just another democratic institution among many others.

(e) John Witte argues “By the end of his life, however, these disciplinary codes resurrected a good deal of the traditional Catholic canon law and restored to the church consistory courts a good deal of the traditional authority that Calvin and other early Protestants had so hotly

criticized three decades before" (Witte, 2007, 72). This statement confronts us with the challenge whether the ecclesiology of Calvin was a mere replay of the traditional canon law view of the Church or did John Calvin succeed in really writing a new ecclesiology in line with the theology of the Reformation?

#### Bibliography

- Berman, Harold J, 1974, *The interaction of law and religion*. Abingdon Press, Nashville.
- Berman, Harold J, 1983(1999), *Law and revolution: the formation of the western legal tradition*. Cambridge, MA: Harvard University Press.
- Berkhof H, De Jong, Otto, 1975, *Geschiedenis der kerk*. Nijkerk: Uitgeverij g.f. Callenbach b.v.
- Calvyn, Johannes, 1536, *Institusie van die Christelike godsdienst*. (vertaal deur H W Simpson, *Pu vir CHO*). Potchefstroom: Calvyn Jubileumboekefonds.
- Calvyn, J, 1541, *Ordonnances Ecclésiastiques*. In Pont A, 1981, *Die historiese agtergronde van ons kerklike reg*. Pretoria: Haum
- Calvin, J, 1559, *Institutes of the Christian religion*. In: *the library of Christian classics, volume xxi*. Edited by John t. McNeill, translated by Ford Lewis Battles. Philadelphia: Westminster Press
- Coertzen, P, 2004, "Decently and in order" A theological reflection on the order for, and the order in, the church. Peeters, Leuven.
- De Kruijf, Gerrit, 2009, *Theocratie en vreemdelingschap*. In: Brouwer, R R, De Leede, B, Spronk, K (red). 2009, *Het Calvinistich ongemak. Calvijn als erflater en provocator van het Nederlandse Protestantisme*. Kok: Kampen
- Greenawalt, Kent, 2008, *Conscientious objection, civil disobedience*. In: Witte, John jr & Alexander, Frank S (editors), 2008, *Christianity and law: an introduction*. Cambridge (UK): Cambridge University Press, New York: Cambridge University Press.
- Helmholz, R H, 2008, *Western canon law*. In: Witte, John jr & Alexander, Frank S (editors), 2008, *Christianity and law: an introduction*. Cambridge (UK): Cambridge University Press, New York: Cambridge University Press.
- Hiemstra, John I, 2005, *Church, state and the kingdom of god, an overview*. *Rec focus*, 3, 28.
- Höpfel, H, 1982, *The Christian polity of John Calvin*. Cambridge: Cambridge University Press.
- Jonker, W D, 1965, *Om die regering van Christus in sy kerk*. Pretoria: Unisa mededelings.
- Reeling Brouwer, Rinse, 2009, *Ter inleiding*. In: Brouwer, R R, De Leede, B, Spronk, K (red). 2009, *Het Calvinistich ongemak. Calvijn als erflater en provocator van het Nederlandse Protestantisme*. Kok: Kampen
- Schmoeckel, Mathias, 2008, *Procedure, proof, and evidence*. In: Witte, John jr & Alexander, Frank S (editors), 2008, *Christianity and law: an introduction*. Cambridge (UK): Cambridge University Press, New York: Cambridge University Press.
- Smit, D J. 2009, 'Iets dat diepgaander is dan verpligting en gehoorzaamheid' in: Reeling Brouwer, R, De Leede, B, Spronk, K (red). 2009, *Het Calvinistich ongemak. Calvijn als erflater en provocator van het Nederlandse Protestantisme*. Kok: Kampen
- Tyrrel Green, E, 1896, *The thirty-nine articles and the age of the reformation. An historical and doctrinal exposition in the light of contemporary documents*. Wells Gardner, London: Darton & Co
- Van der Wiel, C 2006. *Geschiedenis van het kerkelijk recht*. Leuven: Peeters.
- Van der Zwaag, 1999, *Onverkort of gekortwiek? Artikel 36 van de Nederlandse Geloofsbelijdenis en de spanning tussen overheid en religie. Een systematisch-historische interpretatie van een 'omstreden' geloofsartikel*. Heerenveen: Uitgeverij Groen.
- Witte, John jr, 2007, *The reformation of rights. Law, religion, and human rights in early modern Calvinism*. New York: Cambridge University Press, Cambridge (UK): Cambridge University Press.
- Witte, John jr & Alexander, Frank S (editors), 2008, *Christianity and law: an introduction*. Cambridge (UK): Cambridge University Press, New York: Cambridge University Press.

**KEY WORDS**

History church and state  
Papal revolution twelfth century  
Gregorian reform  
Church and state  
Moral law  
Theocracy

**TREFWOORDE**

Geskeidenis kerk en staat  
Pouslike revolusie twaalfde eeu  
Gregoriaanse hervorming  
Kerk en staat  
Morele wet  
Teokrasie

Prof P Coertzen  
Fakulteit Teologie  
Universiteit van Stellenbosch  
Privaatsak X1  
MATIELAND 7602  
Tel. (021) 887 2619  
Sel: 082 337 7951  
E-pos: [pc@sun.ac.za](mailto:pc@sun.ac.za)