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Disciplinary Note

COVENANT ORDERS

Nicholas Aroney

Professor of Constitutional Law, The University of Queensland

Professor Nigel Biggar has written a wonderful theology brief on the topic of Order. My comments are in the nature of supplementary thoughts that build upon the admirable theological foundation he has constructed.

Towards the end of his paper, Professor Biggar discusses the circumstances in which rebellion to tyrannical government might be justified. He draws attention to the principle of the Lutheran Magdeburg Confession of 1550, that such resistance, if warranted, should only be undertaken under the authority of the 'lesser magistrates'. Helmut Thielicke, writing almost four centuries later, said that rebellion is only justified when the rebels have an alternative government ready-to-hand. The point is that resistance to unjust order may be morally justified in some circumstances, but it must avoid giving rise to sheer, anarchical disorder.

The thought I would like to develop concerns these lesser magistrates. Who are they, why do they exist and what do they imply?

The lesser magistrate is a concept that has been very important in Protestant, and especially Reformed and Calvinist, political theology. [1] As Nigel points out, it has its roots in Thomas Aquinas, [2] and in other medieval writers, such as John of Salisbury. [3] It conveys the idea that there are multiple orders of government in a well-ordered society, organised in something of a hierarchy, but not an absolute hierarchy, precisely because the lower magistrates have an inherent authority to engage in lawful resistance to their tyrannical superiors.

The basis for the lawfulness of this resistance is, in part, as Nigel notes, the proposition that the hierarchy is not absolute but always relative to the ultimate authority of God. As servants of God (Rm 13), the lower of magistrates have as much responsibility to maintain justice as do their superiors.

The fullest account of the social order implied by this way of thinking was articulated by the Reformed jurist, Johannes Althusius, in his early 17th century treatise, the *Politica Methodice Digesta*. [4] Althusius argued that human social order should be understood as consisting of many distinct orders of government, each of them playing their proper role, some of them private and others public, but all of them essential. The most basic he said was the family and the household, which he described like an organism which gives sustenance to its members. Beyond the family there was a second, third and fourth type of government, each supplying to the community as a whole things essential to its well-being.

The second order of government was that of the *collegia*, by which Althusius meant the sorts of organisations which artisans and merchants of many different kinds will develop in order to govern themselves and relate to the other organs of society.

The third was the village, and beyond that the town and ultimately the city, which provide the immediate social and political contexts in which the families and *collegia* live their lives and go about their business.

Althusius understood the civil order to extend, in principle, beyond the city, to a body called the province, and ultimately to the universal association of the commonwealth, a term which he used, strikingly, to designate what existed of the Holy Roman Empire of his day.

The relations of these orders of civil government were regulated, according to Althusius, by a fundamental law, under which the powers and immunities possessed by each order of government were constitutionally regulated.

The fourth order, according to Althusius, was the church, a body which itself was reticulated into particular levels of government, corresponding to those of the civil order. According to Althusius's reformed polity, the ecclesiastical order consisted of a graded system of courts, established at congregational, presbyterial, and successively more general levels.

What such an outlook would mean for our own time and place, I have endeavoured to sketch out in some of my work. [5] It seems to me that, whatever one's ecclesiology – be it congregational, presbyterian, episcopalian, orthodox or catholic – something like this many-ordered conception of human sociality is a fundamental principle of Christian political theology.

End Notes

- [1] See, generally, John Witte, *The Reformation of Rights: Law, Religion, and Human Rights in Early Modern Calvinism* (Cambridge University Press, 2007).
- [2] I seek to explain this aspect of Aquinas's thought in Nicholas Aroney, 'Subsidiarity, Federalism and the Best Constitution: Thomas Aquinas on City, Province and Empire' (2007) 26 *Law and Philosophy* 161.
- [3] John of Salisbury, *Policraticus*, tr Cary J Nederman (Cambridge University Press, 1990).
- [4] Johannes Althusius, *Politica: An Abridged Translation [Politica methodice digesta atque exemplis sacris & profanes illustrata]*, tr Frederick Carney (Liberty Fund, 1995 [3rd ed, 1614]).
- [5] Eg, Nicholas Aroney, 'The Federal Condition: Towards a Normative Theory' (2016) 61(1) *American Journal of Jurisprudence* 1-19.

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