

Calvin on Love and Litigation

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Some Christians have denied that the roles of the plaintiff or defendant in civil litigation can be taken up consistently with Christ-like love. Schleithem Confession, Art. 6. They argue that it is inconsistent with Jesus' example of suffering wrongdoing and his forbidding resistance of evil. (Mt 5:39-40) John Calvin, however, taught that though limited, "there is a right use of lawsuits, both for the plaintiff in suing and for the accused in defending himself." Institutes of Christian Religion 4.20.18 Nevertheless, he laid down what was a practically unattainable standard of love in litigation. For Christians, "a lawsuit, however just, can never be rightly prosecuted by any man, unless he treats his adversary with the same love and good will as if the business under controversy were already amicably settled and composed." He conceded that, in the natural course of things, parties litigate unjustly because they are not motivated by love but by hatred or desire for personal gain. But he argued that this did not belong to the essence of the legal process, "the thing itself." To understand law as it is essentially, Calvin taught was to understand it as holy gift of God's love for man defiled by man's lack of love in utilizing it. Thus, the evils associated with litigation can be reconciled with its legitimacy.

The rarest thing about Calvin's account of just litigation is his claim that love requires litigation as if there were no dispute: "as if the [the suit] were already amicably settled and composed." This is connected with many Christian "as ifs" in relation to love: to love one's neighbor as if one's self (Mt 12:31), to love the poor as if they were Jesus Christ (Mt 25:43), and generally, to hold the things of this world as if not holding them. (1 Cor 7:31) The Christian litigant is to approach the dispute internally, as if his rights had already been satisfied by Christ, and thus to litigate only if some further good can be obtained through public declaration of his rights. Calvin gives three examples of a Christian litigating properly : (1) when compatible with the maintenance of real love and concord with their civil opponents and where serious loss to the Christian would result, (2) beyond what is consistent with peaceful personal relations and where necessary to vindicate the public welfare, as in the case of a criminal prosecution of a man dangerous to others, and (3) beyond what is consistent with peaceful personal relations, where the legal action serves some other good alien to the action itself, as in the case of Jesus' invocation of his rights before Annas or Paul's litigation. Calvin emphasizes that the Christian's approach to litigation is concerned not only with whether the suit is outwardly just -- in terms of compatibility with just legal procedures and rights -- but internally just in being free from any desire for personal revenge or for personal maintenance of rights contrary to mutual love and peace. Thus, Calvin explains how even the most outwardly just system of laws could not be utilized justly without the grace of Jesus Christ to transform the motivations of man. The use of the most just legal system is a mechanism of injustice and impiety if it is used by those lacking inward love and thus proper respect for the divine authority of the courts. This also suggests why the wisest legal judgments, like those of Jesus and Solomon, must address not only the outward justice of claims but also expose their inward motivations.

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