

## **Rights, Resistance, and Revolution in the Western Tradition: Early Protestant Foundations**

John Witte, Jr.<sup>1</sup>

### **Abstract**

*This Article analyzes the development of rights talk in the pre-Enlightenment Protestant tradition, especially as formulated by the sixteenth-century Calvinist theologian and jurist, Theodore Beza. Responding to the horrific persecution born of the St. Bartholomew's Day Massacre of 1572, Beza mobilized classical, Catholic, and Protestant sources alike to develop a coherent Calvinist theory of rights, resistance, and revolution against tyrants. This Article details Beza's arguments, places his work in its historical and intellectual context, and highlights the innovations Beza contributed to the intersection of legal, political, and theological teachings. It concludes by showing how Beza's theory of subjective rights and resistance to tyranny helped to plot the course of modern democratic and constitutional theory.*

**Keywords:** Theodore Beza; Calvin; Calvinism; Human Rights; Tyranny; Resistance; Subjective Rights; St. Bartholomew's Day Massacre; Decalogue; Protestantism; Covenant; Contract Theory

Over the past three decades, a veritable cottage industry of important new scholarship has emerged dedicated to the history of rights talk in the Western tradition prior to the Enlightenment.<sup>2</sup> We now know a great deal more about classical Roman

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<sup>1</sup> Jonas Robitscher Professor of Law and Director of the Center for the Study of Law and Religion at Emory University. This article draws in part from my *The Reformation of Rights: Law, Religion, and Human Rights in Early Modern Calvinism* (Cambridge/New York: Cambridge University Press, 2007) and the excerpts are used herein with permission [references hereafter to this text are noted as "RR"].

<sup>2</sup> See sources in my *God's Joust, God's Justice: Law and Religion in the Western Tradition* (Grand Rapids, Mich., 2006), chap. 1.

understandings of rights (*iura*), liberties (*libertates*), capacities (*facultates*), powers (*potestates*), and related concepts, and their elaboration by medieval and early modern civilians.<sup>3</sup> We can now pore over an intricate latticework of arguments about individual and group rights and liberties developed by medieval Catholic canonists and moralists, and the ample expansion of this medieval handiwork by neo-scholastic writers in early modern Spain and Portugal.<sup>4</sup> We now know a good deal more about classical republican theories of liberty developed in Greece and Rome, and their transformative influence on early modern common lawyers and political revolutionaries on both sides of the Atlantic.<sup>5</sup> We now know, in brief, that the West knew ample “liberty before liberalism,”<sup>6</sup> and had many fundamental rights in place before there were modern democratic revolutions fought in their name.

In this essay, I focus on the development of rights talk in the pre-Enlightenment Protestant tradition. More particularly, I show how early modern Protestants, especially followers of Genevan reformer John Calvin (1509-1564), developed a theory of fundamental rights as part and product of a broader constitutional theory of resistance and military revolt against tyranny. With unlimited space, I would document how various Calvinist groups from 1550 to 1650 helped to define and defend each and every one of the rights that would later appear in the American Bill of Rights and other eighteenth-century instruments, and how these Calvinists condoned armed revolution to vindicate these fundamental rights when they were chronically and pervasively breached by a tyrant. In this short essay, I focus on the early development of these Calvinist ideas during the sixteenth-century French wars of religion, and then sketch out briefly the channels of later influence of these ideas within and beyond the Protestant tradition.

Some parts of the story of this essay will be familiar to various specialists. Constitutional historians have long known that these early modern French resistance theories were important counterweights to the political absolutism of Jean Bodin and his followers, and important prototypes to the more famous revolutionary theories of the

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<sup>3</sup> See sources and discussion in Charles A. Donahue, “*Ius* in the Subjective Sense in Roman Law: Reflections on Villey and Tierney,” in *A Ennio Cortese*, ed. D. Maffei, 2 vols. (Rome, 2001), 1:506-535; Max Kaser, *Ius Gentium* (Cologne, 1993); id., *Ausgewählte Schriften*, 2 vols. (Naples, 1976-1977); Tony Honoré, *Ulpian: Pioneer of Human Rights*, 2d ed. (Oxford, 2002).

<sup>4</sup> Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law, and Church Law, 1150-1625* (Grand Rapids, 1997); A.S. Brett, *Liberty, Right, and Nature: Individual Rights in Later Scholastic Thought* (Cambridge/New York, 1997); R. W. Davis, ed., *The Origins of Modern Freedom in the West* (Stanford, 1995); Richard Tuck, *Natural Rights Theories: Their Origins and Development* (Cambridge/New York, 1979); Michel Villey, *La formation de la pensée juridique moderne* (Paris, 1968); id., *Le droit et les droits de l'homme* (Paris, 1983); id., *Leçons d'histoire de la philosophie du droit*, new ed. (Paris, 1977).

<sup>5</sup> C. Wirszubski, *Libertas as a Political Idea at Rome During the Late Republic and Early Principate* (Cambridge, 1950); Eric Nelson, *The Greek Tradition in Republican Thought* (2004); Annabel Brett and James Tully, eds., *Rethinking the Foundations of Modern Political Thought* (Cambridge, 2006).

<sup>6</sup> Quentin Skinner, *Liberty Before Liberalism* (Cambridge, 1998).

French Revolution.<sup>7</sup> Political theorists and historians have often looked to the work of sixteenth-century French, Dutch, and Scottish “monarchomachs” for the first signs of democratic revolution in the early modern West.<sup>8</sup> Church historians have sometimes focused on the powerful political implications of early Calvinist theories of covenant.<sup>9</sup> And Calvinist specialists of various sorts have long known about – and sometimes decried -- the growing radicalism of Calvinist resistance theorists from the 1550-1800.<sup>10</sup> But, to date, these specialty discourses have remained largely isolated from each other, have usually overdrawn the distinction between Calvinist and other Protestant traditions of resistance, and have largely ignored the theories of fundamental rights and social contract developed by these early modern Calvinist writers.

### **The St. Bartholomew’s Day Massacre**

In the early morning of August 24, 1572, armed soldiers acting on royal orders, broke into the Paris bedroom of French Calvinist leader, Admiral Gaspard de Coligny, and stabbed him to death. The soldiers heaved his corpse from the window into the courtyard below where a mob was gathering. The mobsters slashed and mutilated the corpse further and then began dragging it, now bereft of head, hands, and genitals, through the streets of Paris. Church bells pealed from the monastery of St. Germain l’Auxerrois signaling the start to a pogrom. On cue, soldiers and a growing mob of Catholic supporters began to break into the homes and shops of Calvinists, slaughtering them and pillaging their goods with growing abandon. Waves of popular violence and savagery broke out in the following weeks not only in Paris but also in several other French cities and towns. Within two months, thousands of French Calvinists had been slaughtered – up to 100,000 according to contemporaries. Untold thousands more were exiled from France or coerced into re-communion with Rome.<sup>11</sup>

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<sup>7</sup> See esp. sources and discussion in Mack P. Holt, *The French Wars of Religion, 1562-1629*, 2d ed. (Cambridge, 2005); Dale van Kley, *The Religious Origins of the French Revolution: From Calvin to the Civil Constitution, 1560-1791* (New Haven, 1996).

<sup>8</sup> See, e.g., Michael Walzer, *The Revolution of the Saints: A Study in the Origins of Radical Politics* (Cambridge, Mass., 1965); G.P. Gooch, *English Democratic Ideas in the 17<sup>th</sup> Century*, 2d ed. (New York, 1959); Julian H. Franklin, *Constitutionalism and Resistance in the Sixteenth Century: Three Treatises by Hotman, Beza, and Mornay* (New York, 1969); John W. Sap, *Paving the Way for Revolution: Calvinism and the Struggle for a Democratic Constitutional State* (Amsterdam, 2001).

<sup>9</sup> David A. Weir, *The Origins of Federal Theology in Sixteenth-Century Reformation Thought* (Oxford/New York, 1990); Robert M. Kingdon and Robert D. Linder, *Calvin and Calvinism: Sources of Democracy?* (Lexington, Mass., 1970); J.W. Gough, *The Social Contract: A Critical Study of its Development*, 2d ed. (Oxford, 1957).

<sup>10</sup> See detailed sources and discussion in RR, Introduction.

<sup>11</sup> On Coligny’s murder, see Donald R. Kelley, *François Hotman: A Revolutionary’s Ideal* (Princeton, 1973), 213ff.; Scott M. Manetsch, *Theodore Beza and the Quest for Peace in France, 1572-1598* (Leiden, 2000), 30ff. On the full massacre, see Barbara Diefendorf, *Beneath the Cross: Catholics and Huguenots*

This genocide, known as the St. Bartholomew's Day Massacre, was a defining moment in the Calvinist tradition. The massacre permanently broke the wave of rapid Calvinist expansion into France and forced Calvinist leaders to rethink their strategies of mission. More importantly, the massacre demanded a fundamental rethinking of Calvinist theories of law, religion, and politics. Calvin's own teachings on point, developed since 1536,<sup>12</sup> assumed that each local community would have a single faith. How could Calvinists countenance religious pluralism and demand toleration for themselves as a religious minority? Calvin assumed that church and state would cooperate in the governance of a local godly polity. What if church and state came into collision, or even worse into collusion against Calvinists? Calvin assumed that Christian subjects should obey political authorities up to the limits of Christian conscience, and bear persecution with penitence, patience, and prayer in hopes that a better magistrate would come. What if the persecution escalated to outright pogrom? Were prayer, flight, and martyrdom the only options for conscientious Christians? Was there no place for resistance and revolt, even revolution and regicide in extreme cases? These challenges faced Calvinists, among others, throughout the 1540s to 1560s. They became stark life-and-death issues after 1572.

In response, French Calvinist leaders onward unleashed a massive wave of writings that ultimately transformed Calvinist theories of law and religion, authority and liberty, rights and resistance. A pivotal figure in this transformation was Theodore Beza (1519-1605), Calvin's protégé and chosen successor in Geneva.<sup>13</sup> A French-trained classicist, theologian, and jurist, Beza was the first rector of the Genevan Academy when it opened in 1559. He also served as the Academy's leading professor of theology and published numerous theological and political tracts until his retirement four decades later.<sup>14</sup> After Calvin's death in 1564, Beza also stood at Calvin's pulpit, sat in his consistory seat, and assumed his role as leading legal advisor and diplomat for Geneva. He served as a military chaplain and marched with the French Calvinist troops during their many wars with Catholic forces. He was the leading light of the French Calvinist movement until the seventeenth century, and his work remained in print in multiple translations for another century thereafter. Beza, of course, did not work alone. He drew on 50 years of Lutheran thought, and 1500 years of Catholic and patristic lore.

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*in Sixteenth-Century Paris* (New York/Oxford, 1991); Janine Garrison-Estèbe, *Tocsin pour un Massacre, la saison des Saint-Barthélemy* (Paris, 1968).

<sup>12</sup> See detailed sources and discussion in RR, chap. 1.

<sup>13</sup> On Beza, see Manetsch, *Theodore Beza*; Paul Geisendorf, *Théodore de Bèze* (Geneva, 1967); Eugène Choisy, *L'État chrétien calviniste à Genève au temps de Théodore de Bèze* (Geneva, 1902); Henry Martin Baird, *Theodore Beza: The Counselor of the French Reformation, 1519-1605* (New York, 1899).

<sup>14</sup> Beza's major works are in his *Tractationum Theologicarum*, 3 vols., 2d ed. (Geneva, 1582). Missing from this collection is his important but controversial political work which was published anonymous in 1574 and in modern critical edition as *Du Droit des Magistrats*, ed. Robert M. Kingdon (Geneva, 1970), and in translation as *Concerning the Rights of Rulers Over Their Subjects and the Duties of Subjects Toward Their Rulers*, trans. Henri-Louis Gonin (Cape Town/Pretoria, 1956) [hereafter Beza, *Rights*].

He also drew insights from a number of contemporary Calvinists.<sup>15</sup> But given his stature as Calvin's successor and Geneva's leader, Beza's views were decisive for the development of a new Calvinist theory and practice of rights, resistance, and revolution.

### **The Magdeburg Confession**

Ironically, Beza found his "signal example"<sup>16</sup> of how to deal with tyranny and resistance not so much in the work of early Calvinists as in the work of later Lutherans -- particularly the Lutheran jurists and theologians who had drafted the Magdeburg Confession of 1550. The Magdeburg Confession was a major distillation of the most advanced Lutheran resistance theories of the day.<sup>17</sup> The leaders of the small Saxon city of Magdeburg had drafted this Confession in response to the order of the Holy Roman Emperor to impose by civil law the uniform Catholic doctrines and liturgies being crafted by the Council of Trent, and to stamp out the "raging Lutheran heresy" that had "infected" the Holy Roman Empire for three decades.<sup>18</sup> Those Lutheran polities that did not accept this new imperial law peaceably would face military conquest and destruction. Several Lutheran polities and leaders had already capitulated. The city of Magdeburg would not. Imperial forces put the city under siege. The Magdeburg leadership stood firm, and began to write boldly in defense of their actions.

The 1550 Magdeburg Confession was the most important of a hundred plus pamphlets in defense of their stand. The Confession recited the essential Lutheran doctrines that the ministers held contrary to those new Catholic establishment laws. The Confession then rehearsed the arguments to justify their refusal to obey the new imperial laws, and to resist their implementation -- with force of arms if necessary. Its main conclusion was set out in the preamble:

If the high authority does not refrain from unjustly and forcibly persecuting not only the lives of their subjects but even more their rights under divine and natural law, and if the high authority does not desist from eradicating true doctrine and true worship of God, then the lower magistracy is required by God's divine command to attempt, together with their subjects, to stand up to such superiors as far as

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<sup>15</sup> See detailed sources in Christoph Strohm, *Ethik im frühen Calvinismus* (Berlin/New York, 1996).

<sup>16</sup> Beza, TT 1:92; see further Robert M. Kingdon, "The First Expression of Theodore Beza's Political Ideas," *Archiv für Reformationgeschichte* 46 (1955): 88, 90-93.

<sup>17</sup> *Confessio et apologia pastorum & reliquorum ministrorum Ecclesiae Magdeburgensis* (Magdeburg, 1550) [hereafter MC]. David M. Whitford kindly furnished me with a working translation of this document, which I have adapted herein based on review of the original text. See further David M. Whitford, *Tyranny and Resistance: The Magdeburg Confession and the Lutheran Tradition* (St. Louis, MO, 2001).

<sup>18</sup> "The Interim, or Declaration of Religion of His Imperial Majesty Charles V," in *Tracts and Treaties in Defense of the Reformed Faith*, trans. Henry Beveridge, ed. T.F. Torrance, 3 vols. (Grand Rapids, 1958), 3:190.

possible. The current persecution which we are suffering at the hands of our superiors is primarily persecution by which they attempt to suppress the true Christian religion and the true worship of God and to reestablish the Pope's lies and abominable idolatry. Thus the Council [of Magdeburg] and each and every Christian authority is obliged to protect themselves and their people against this.<sup>19</sup>

In one sense, the Magdeburg Confession simply echoed Martin Luther's loud calls for resistance that had revolutionized Western Christendom three decades before. In his writings in the late 1510s and early 1520s, Luther had again and again railed against the pope as a "spiritual tyrant," indeed the "anti-Christ," "the whore of Babylon," a "werewolf" who stalked the Vineyard of God to the peril of innocent Christians. Through false doctrines and abusive laws, Luther had charged, the pope and his clerical retinue had destroyed the freedom of the Christian Gospel, tyrannized the Christian conscience, and stolen the German people blind. Luther had then called on various lower magistrates – the princes, nobles, dukes, and cities of Germany – to stand up and throw off this spiritual tyrant for the sake of the freedom of the Gospel.<sup>20</sup>

It was one thing, however, for a Christian to resist and reject the tyranny of the pope and other clergy. After all, the pope had, according to Luther, usurped the God-given authority of the Christian magistrate and invaded the God-given freedom of the Christian conscience. It was quite another thing to resist and reject the tyranny of the emperor and other magistrates. After all, one of Christ's most famous statements had been to "render to [the Emperor] Caesar the things that are Caesar's, and to God the things that are God's."<sup>21</sup> St. Paul had elaborated: "Let every person be subject to the governing authorities. For there is no authority except from God, and those that exist have been instituted by God. Therefore he who resists the authorities resists what God has appointed, and those who resist will come into judgment. For rulers are not a terror to good conduct, but bad.... Therefore one must be subject, not only to avoid God's wrath, but for the sake of conscience."<sup>22</sup> St. Peter was even more pointed: "Be subject for the Lord's sake to every human institution, whether it be to the emperors as supreme, or to governors as sent by him to punish those who do wrong and to praise those who do right.... Live as free men, yet without using your freedom as a pretext for evil; but live as servants of God. Honor all men. Love the brotherhood. Fear God. Honor the emperor."<sup>23</sup> "Honor your father and mother" and by extension all other authorities, the Bible stated repeatedly, "so that your days may be long in the land which

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<sup>19</sup> MC, A1v.

<sup>20</sup> See sources in my *Law and Protestantism: The Legal Teachings of the Lutheran Reformation* (Cambridge, 2002), 53-65.

<sup>21</sup> Matthew 22:21; Mark 12:17; Luke 20:25. I have used the Revised Standard Version throughout.

<sup>22</sup> Romans 13:1-5.

<sup>23</sup> 1 Peter 2:13-17.

the Lord your God has given you.”<sup>24</sup> All this seemed rather firm and clear biblical authority that a conscientious Christian should respect and obey the authorities, and suffer patiently and prayerfully if the authorities abused their office or became tyrants.

The Magdeburg Confession countered these biblical texts with a barrage of arguments drawn from the Bible, history, and law that called for resistance to political tyranny. Biblical arguments dominated the Confession. Yes, we must honor the authorities “so that our days may be long,” the Confession argued. But if our days are being cut short, then we should not honor those authorities who shorten them. Yes, political authorities were “appointed by God to do good.” But if they are not doing good, then they could not have been appointed by God. Yes, the magistrate is not “a terror to good conduct but to bad.” But if he becomes a terror to good conduct, then he must be a bad magistrate. Yes, we must “render to Caesar the things that are Caesar’s, and to God the things that are God’s.” But if Caesar wants or takes what is God’s, then we must withhold or retrieve it for God’s sake. Yes, “he who resists the authorities resists God.” But if the authorities resist God, then surely we must avenge God’s honor. Yes, “vengeance is mine,” says the Lord. But “we are his instruments” for good, and “God punishes in such a way that those who execute the punishment are not doing wrong but are carrying out God’s will and command.”<sup>25</sup>

God ordained the “three main estates” of church, state, and family to keep order and peace in this sinful world so that the Gospel can flourish and each person can pursue his or her God-given calling, the Confession argued, citing sundry biblical texts. None of these authorities may get “mixed up with one another,” or intrude on each other’s created mandate. None may abandon, betray, or exceed their God-given office. And most importantly, none may violate the sovereignty of God. All authorities thus rule conditionally. If any authorities “seek the extermination of religion and decent morals, and persecute true religion and decent living, then they dispose of their own honor, and they can no longer be considered to be authorities or parents either before God or within the conscience of their subjects. They become an ordinance of the devil instead of God, an ordinance which everyone can and ought to resist with a good conscience, each in accordance with his calling.”<sup>26</sup>

The calling to resist abusive political authorities lies first and foremost with lower magistrates. The Bible makes clear that God instituted multiple authorities, not just one. The Bible speaks of “the powers that be,” not just one power, of the multiple “authorities that rule,” not just a single authority. All political authorities are equipped with the power of the sword to do good and to punish evil. That power must be exercised internally within the government as well as externally within the community. When an inferior magistrate does evil, a fellow or superior magistrate must correct or remove him. When

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<sup>24</sup> Exodus 20:12; Leviticus 19:5; Deuteronomy 5:16; Matthew 15:4; Mark 7:10; Ephesians 6:1-2.

<sup>25</sup> MC, G3r-H1r; K1r-K3r, L2r-M1r.

<sup>26</sup> MC, G3r, G4v, L1r.

a superior magistrate does evil, his fellow or inferior magistrates must, in turn, correct and control him, albeit always within the limits of the honor and respect that the higher magistrate deserves. If the higher magistrate commits only a minor or personal offense, lower magistrates should admonish him privately and gently. But if he unjustly endangers the “life and limb,” “wife and child,” and “local liberties of the people,” the lower magistrates “may make use of their rights to defend themselves” and their subjects. Even worse, if the higher magistrate commits a premeditated attack on “the highest and most essential rights of the people” -- indeed, if he attacks “our Lord himself, the author of these rights” -- then even the “insignificant and weakest regents” must rise up against him. If necessary, those lower magistrates must call upon “every pious and reasonable Christian” to join them in the resistance, armed not only with the sword but also with the Word’s assurance that “God is on our side.”<sup>27</sup>

The Magdeburg Confession did not spell out systematically the “local liberties of the people,” or “the highest and most essential rights of the people” that could trigger these steps of escalating resistance and revolt. It did make clear that the “procedural rights” of the people had been abridged: “Divine, natural, and secular laws” alike recognize that criminals have a right to a public hearing and their day in court. But we have been “accused only on hearsay evidence,” and have not had a chance to “face our accusers.” Just because other Lutheran towns have capitulated, does not mean that we good citizens of Magdeburg should lose “our rights by default.” “Our case must be judged in accordance with proper justice.”<sup>28</sup>

But the Confession’s main concern was that the emperor was violating the people’s “essential rights” of religion. Those violations merited a more forceful response. We “seek nothing else but the freedom to remain and be left in the true recognized religion of the holy and only redeeming Gospel.” We act peaceably. We educate our children to be good and useful citizens. We pray daily for our rulers. We pay our taxes and tributes. We register our properties. We “desire no one’s land and people and covet no one’s worth and goods.” “Your Imperial Majesty allows both Jews and heathens to follow their religion, and do not force them from their religions to the Papacy.” But “we are not even allowed to have the same freedom of religion that is granted to non-Christians” Instead, the Emperor seeks “to reintroduce the Pope’s idolatry, to suppress or exterminate the pure doctrine of the Holy Gospel ... in violation not only of divine law but also of written civil law.”<sup>29</sup>

In these circumstances, the Bible requires “a lesser God-fearing magistracy and all those over whom it has been set to give protection against such unjust force and maintain true doctrine and worship, and preserve body and life, soul and honor.” Those lower magistrates who fail to discharge their duty are ignoring the admonition of

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<sup>27</sup> MC, J4r-K1r, K2R-L1r, M1r-M2r, P2r-P3r,

<sup>28</sup> MC, H2r, K4r..

<sup>29</sup> MC, H4r-J2r, K1r.



Proverbs 24:10-12: “Rescue those who are being taken away to death; hold back those who are stumbling to the slaughter.” Others must come to help, too, lest they ignore the lesson of Judges 5:23 where God is said to have cursed a people “because they did not come to the help of the Lord, to the help of the Lord against the mighty.” It was God who “ordained force,” and he expects it to be used to “advance and defend His word, true divine worship, and appropriate reverence for God.”<sup>30</sup>

Not only the Bible, but history makes it abundantly clear that resisting tyrants who tread on the religious rights of their people is not only a right but a duty of the faithful. Biblical history is full of examples: Jonathan and David resisted King Saul, as did Saul’s own servants when he became tyrannical. The leaders of Zebulun and Naphtali defied Jabin, the Canaanite King. Elias, Jehu, and Naboth refused to obey King Ahab. Asa deposed his own tyrannical mother, Queen Maacah. Daniel disobeyed King Darius. The Maccabees attacked the Romans. The Confession returned to these examples again and again as illustrations of a person’s duties in the face of tyranny. Roman history, too, is full of examples. Think of Ambrosius refusing Justine, Moritz resisting Maximinus, Ambrose admonishing Theodosius, Laurentius refusing the orders of Decius, and more.<sup>31</sup> Even the pagan Roman ruler Trajan handed his deputy a sword with the words: “In so far as I command what is right wield this sword against my foes; but if I do the opposite, then wield it against me.”<sup>32</sup>

These and other examples from religious and secular history, the Confession continued, underscored the “universal” and “natural” validity of the “law of legitimate self-defense.”<sup>33</sup> Defense of oneself and of third parties against attack, using force and violence when necessary, was a familiar legal doctrine of the European *ius commune*. When a person is unjustly attacked by another, the victim has the right to defend himself, to resist – passively, by running away, or actively, by staying to fight with proportionate force. Other parties, particularly relatives, guardians, or caretakers of the victim, also have the right to intervene to help the victim – again passively by assisting escape, or actively by repelling the assailant with force.

When a magistrate exceeds his authority, the Confession argued by analogy, he forfeits his office and becomes simply like any private person. If he uses force to implement his excessive authority, his victims and third parties may resist him passively or actively, just as if he were any other criminal thug. Furthermore, if the higher magistrate giving the orders has exceeded his authority, then all lower magistrates, ministers, and military folks implementing his orders have also exceeded their authority. They are accomplices in the crime of the former higher magistrate now private citizen. And they are all themselves now merely private citizens engaged in criminal actions.

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<sup>30</sup> MC, K1r, L3r, P2v.

<sup>31</sup> MC, J3r, L1r-L4r, M4r-N1r, O3r-O4r.

<sup>32</sup> MC, M4r.

<sup>33</sup> MC, K1r, N.

Both the victim and third parties have the right of passive or active resistance against these assailants, too.

The Confession drew from this law of self-defense several lessons for how to respond to the emperor and his political allies who now sought to coerce the Lutherans to return to Catholicism. First, all those who aided and acted for this tyrant were themselves accomplices to his crime of tyranny, and they were all guilty before God. This included all lower magistrates who implemented his orders. It also included soldiers and allies who marched for the tyrant, citizens and subjects who paid taxes in support of the tyrant, even subjects who knowingly prayed for the success of the tyrant.<sup>34</sup> Second, all those called to care for others must assist their dependents to resist tyrannical attacks. Lower magistrates, judges, and police must protect the local citizens. Pastors, elders, and sextons must protect their local congregants. Fathers, mothers, and masters must protect their children, servants, and wards. Teachers and tutors must protect the students in their schools. If any of these dependents were attacked on the street by a simple criminal their caretakers would have to intervene. Failure to do so would render them an accomplice to the criminal attack. Tyrants are simple criminals, the Confession argued, and innocent victims must thus be defended against them. Those who fail in their defense become criminals themselves. “God will judge guilty not only those who themselves commit unjust killing, but also those who have not helped to protect and save, according to their ability.”<sup>35</sup>

Third, invoking the Lutheran doctrine of the priesthood of all believers, the Confession argued with escalating rhetoric that “all pious Christians should concern themselves with this common emergency and take it as much to heart and treat it as seriously as if it concerned each person individually.” All Christians are called to be priests to their peers, Good Samaritans to strangers in peril. All Christians are thus responsible to intervene when a victim is assailed by a common criminal, or when a community is ravaged by a criminal tyrant. This becomes doubly imperative when the victim of this criminal attack is ultimately Christ himself, whose people and preaching are being unjustly assailed. “As much as you do it for them, you do it to me,” Christ had said.<sup>36</sup>

The Confession stopped short of arguing that each and every Christian member of the community could and should seek the violent overthrow of tyrants. That was a recipe for anarchy, and the Magdeburg ministers worked hard to counter such an insurrectionary conclusion. A more structured response was called for – with the higher magistrates passing instructions down the hierarchy of lower magistrates and ultimately down to the local caretakers on the best means and measures of response. A private individual’s first reflex should be prayer and patience, then passive disobedience of

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<sup>34</sup> MC, N4r-O1r, P3r-P4r.

<sup>35</sup> MC, P1r, P2r-P4r.

<sup>36</sup> MC N3r-N4r, P1r, P4r.

false authorities and advice to others on how to disobey, then petitions for help from the lower authorities and insistence on the vindication of essential rights that have been violated. Only after exhausting peaceable remedies and receiving orders from a legitimate lower authority to join a just war or rebellion was a private person entitled to violent disobedience. But once so entitled, he or she could and should fight with all due alacrity. None of this was a violation of the individual Christian's duties to God and conscience: "The laws and liberties of our German Empire are such that Christians may use them in [good] conscience, just like they make use of other secular rules that are not against God. Indeed, if Christians do not make use of them, they will lose out to their own eternal shame before the world and to the harm of their successors."<sup>37</sup>

The Magdeburg Confession was an impressive intellectual achievement, for it skillfully distilled and extended the most radical Lutheran teachings on resistance to political tyranny.<sup>38</sup> It was also an impressive political achievement, for it eventually turned popular opinion against the Emperor and his new religious establishment law. After a year of laying siege to Magdeburg, the emperor's military ally, Duke Maurice of Saxony, ultimately switched back to the Lutheran side, and the threatened conquest of Magdeburg turned into a stalemate. This, in turn, led to the gradual collapse of other imperial military campaigns against the Lutherans and abandonment of the emperor's program to enforce his Catholic establishment law throughout the Empire. Ultimately the Emperor accepted the Peace of Augsburg (1555) that allowed each polity in Germany to have its own religious confession, whether Catholic or Lutheran, under the constitutional principle of *cuius regio, eius religio* ("whosever region, his religion").<sup>39</sup>

### **Theodore Beza on Rights, Resistance, and Revolution**

The 1550 Magdeburg Confession's three main lines of arguments – from the Bible, from history, and from the law of self-defense – became commonplace in Calvinist arguments about rights, resistance, and revolt. In the 1550s and 1560s, John Ponet, John Knox, Christopher Goodman and other English and Scottish Calvinist exiles who had fled to the Continent to escape the persecution of Mary Tudor and Mary Guise added further arguments from popular sovereignty, private regicide, and inalienable rights. Swiss and French jurists, Pierre Viret, Hugo Donnellus, Lambert Daneau, and François Hotman added further arguments from covenant theology, classical republicanism, and constitutional history.<sup>40</sup>

Theodore Beza integrated these arguments and others, most decisively in his

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<sup>37</sup> MC, G1r, H2r-J3r, O4r.

<sup>38</sup> Heinz Scheible, *Das Widerstandsrecht als Problem der deutsche Protestanten 1523-1546* (Gütersloh, 1969); Eike Wolgast, *Die Religionsfrage als Problem des Widerstandsrechts im 16. Jahrhundert* (Heidelberg, 1980); Quentin Skinner, *The Foundations of Modern Political Thought*, 2 vols. (Cambridge, 1978), 2:195-206.

<sup>39</sup> In Sidney Z. Ehler and John B. Morrall, eds., *Church and State Through the Centuries: A Collection of Historic Documents with Commentaries* (Newman, MD, 1954), 164-73.

<sup>40</sup> See sources and discussion in RR, chap. 2.

1574 tract, *Concerning the Rights of Rulers Over Their Subjects and the Duty of Subjects Toward Their Rulers*. The title of this tract was ironic and strategic. Beza's real topics were the *duties of rulers* and the *rights of their subjects*. But to announce this on the book's cover would only guarantee its instant censure and rebuke. It proved hard enough to get the book published. The Genevan authorities would not approve its publication for fear of royal reprisal, and ultimately the book was published anonymously in Heidelberg, which lay beyond the reach of the French monarchy. The same circumspection marked the book's contents. Much of it was an understated lawyer's brief, chock full of recitations of precedent and careful distinctions and answers to anticipated counterclaims. These judiciously placed digressions cleverly broke up the book's main argument that quietly but cogently countenanced active resistance to tyranny in the context of outlining a revolutionary understanding of constitutional authority and liberty.

Beza did include some of the familiar arguments from the Bible, history, and law that the Magdeburg Confession of 1550 had crafted – so much so that later library catalogers sometimes treated his *Rights of Rulers* as a new edition of the Magdeburg tract.<sup>41</sup> But while the Magdeburg Confession centered its legal argument on a theory of self-defense, Beza centered his legal argument on a theory of political covenant. His argument in a nutshell was a Christian social and government contract theory.

The political government of each community, Beza argued, was formed by a three-way “covenant”<sup>42</sup> between God, the rulers, and the people. By this covenant, God agreed to protect and bless the rulers and the people in return for their proper obedience to the laws of God and nature, particularly the Decalogue. The rulers agreed to honor these higher laws and protect the people's essential rights, particularly those rights anchored in the Decalogue. The people agreed to exercise God's political will for the community by electing and petitioning their rulers and by honoring and obeying them so long as the rulers honored God's law and protected the people's rights. If the people violated the terms of this political covenant and became criminals, the magistrate could properly prosecute and punish them – and sentence them to death in extreme cases. If the rulers, in turn, violated the terms of the political covenant and became tyrants, they could be properly resisted and removed from office – and sentenced to death in extreme cases. The power to resist and remove tyrants, however, lay not directly with the people, but with their representatives, the lower magistrates, who were constitutionally called to organize and direct the people in orderly resistance to tyrants -- in all out warfare and revolution if needed.

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<sup>41</sup> But cf. Cornel Zwielerin, “The Importance of 'Confessio' in Magdebourg (1550) for Calvinism: A Historiographical Myth,” *Bibliothèque d'Humanisme et Renaissance* LXVIII (2005): 27 who disputes the influence of the Magdeburg Confession on Beza.

<sup>42</sup> Beza, *Rights*, 35, 37, 64, 65, 81, 85. Here and elsewhere Beza used the terms “covenant,” “contract,” “compact,” and “constitution” variously and interchangeably.

Beza sought to balance divine and popular sovereignty. While the powers that be are ordained by God, they are elected by the people, who as God's image bearers on earth act on God's behalf and exercise God's sovereignty in choosing or consenting to these rulers. For Beza, the people's right to vote for or consent to their rulers was essential to the legitimacy of the political regime. Throughout history, and throughout our world today, he argued, magistrates are put into their offices by the election or consent of the people. To prove his point, Beza embarked on a twenty page tour, part fact and part fiction, of ancient Israel, Greece, and Rome, of the history of Frankish tribes and French dynasties, and of sundry modern polities from Spain to Poland, Italy to England to show that the people either elect or consent to their political rulers.<sup>43</sup> This was only a miniature version of the book-length historical argument for popular election or approbation of rulers that Beza's fellow reformer François Hotman had just developed in his learned book, *Franco-Gallia* (1573).<sup>44</sup> Even with hereditary monarchs and emperors, Beza argued echoing Hotman, the people are still required to give their consent to these appointments to office and to consent to the laws they make for their regimes. "[T]he histories of ancient times recorded by profane writers establish -- and indeed Nature herself seems to proclaim this with a loud voice -- that rulers receive their authority ... by the free and lawful consent of the people." This consent is signaled in the oath that rulers swear before the people on assuming their political office. Beza called this oath-swearing ceremony the "liturgy" of the political covenant, an echo of the covenant-swearing ceremonies featured in the coronations of the ancient kings of Israel reported in the Hebrew Bible.<sup>45</sup>

The political covenant establishes not just a single ruler but multiple rulers who serve, in part, to check and balance each other. "[S]ince the origin of the world," Beza wrote, "there has never been a king – even if you were to select the very best – who did not in some measure abuse his authority. It must indeed be conceded, as the philosophers enlightened by natural reason alone have also recognized, that monarchical rule brings ruin and destruction upon the people rather than protection and welfare unless it is curbed by certain reins." Beza mused in passing that it might be better to have no monarch at all, since "God was from the beginning the sole monarch." But he focused his analysis on the "certain reins" that checked and balanced a monarch's proclivities to abuse and tyranny. Beza called for a "mixed constitution" that balanced monarchical power with the aristocratic and democratic power of the lower magistrates.<sup>46</sup> Beza had just defended this "mixed constitutional" theory of government in a furious debate with Thomas Erastus, who was pressing for a considerably more expansive view of the monarch's role within both church and state.<sup>47</sup> Beza wanted

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<sup>43</sup> Beza, *Rights*, 41-64.

<sup>44</sup> Excerpted in François Hotman, "Francogallia," in Franklin, ed., *Constitutionalism and Resistance in the Sixteenth Century*, 55-70.

<sup>45</sup> Beza, *Rights*, 31, 34.

<sup>46</sup> Beza, *Rights*, 49.

<sup>47</sup> See esp. Theodore Beza, *Tractatus pius et moderatus de vera excommunicatione & christiano Presbyterio* (Geneva, 1590), written already in 1569.

nothing to do with this "Erastian" form of government. Not only must the church have its own government separate from the state, he argued, but the monarch in the state must be buffered by an array of lower magistrates.

Beza distinguished two main kinds of lower magistrates who, together, provided a buttress against tyranny and a buffer "between the supreme magistrate and the people." One group of magistrates were the aristocratic "officials of the kingdom" -- judges, governors, dukes, counts, barons, squires, and other officials with discrete "public duties and tasks" of administration and adjudication. All these lower magistrates derived their authority from the office of the supreme magistrate, though not from the supreme magistrate himself. Like the supreme magistrate, each swore a political oath that bound them to "the protection and defense of the kingdom, each in accordance with his own office." A second group of magistrates were the democratic representatives of the people, who gathered in periodic popular assemblies of the estates or who sat in provincial or national parliaments. They represented the interests of the people, "gave their consent" to the laws on the people's behalf, and stood up for the people's rights in times of crisis or tyranny. Both the aristocratic and democratic lower magistrates were called to help maintain the "rule of law" and "constitutional order" within the community, said Beza. Each was to protect "strenuously the good laws to whose defense they personally have sworn, each in accordance with the station he has obtained in the constitution of the community, and in general all should strive to prevent the laws and conditions upon which that constitution rests from being undermined by any violence from without or from within." And again, it is just "according to all law, divine and human, that by reason of the oath taken by them [that they] ensure the observance of the laws."<sup>48</sup>

The three-way political covenant imposed "mutual obligations" on God, the rulers, and the people. First, Beza argued, the political covenant bound all political rulers to abide "by the law of God and the law of nature." This was the principal way by which God participated in the political covenant and "may truly be recognized among his subjects."<sup>49</sup> The Decalogue was the best source and summary of the law of God and nature, said Beza, following Protestant commonplaces. Its two tables set the constitutional foundation of the commonwealth, and outlawed all "impious or unjust" laws. "Impious laws" were those that violated the First Table commandments against false gods, graven images, blasphemy, or Sabbath breaking. "Unjust laws" were those that violated the Second Table commandments that required honor of parents, and prohibited killing, stealing, adultery, perjury, and coveting.<sup>50</sup> The Decalogue was not the only form of higher law that ground and bound the magistrate. Beza called magistrates to adhere to "natural law" and a broader "sense of natural justice" and "natural equity" as well. "[C]ommon principles of nature still linger in man after the fall," Beza insisted,

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<sup>48</sup> Beza, *Rights*, 38-43, 74.

<sup>49</sup> Beza, *Rights*, 28, 82.

<sup>50</sup> Beza, *Rights*, 25.

“however corrupt” men might be. “This is so firmly established and enduring that nothing which is openly opposed and repugnant to them should be regarded as just and valid between men.” It is thus eminently appropriate, said Beza, to rummage through the histories of classical Greece and pre-Christian Rome, and the customs of the Germanic tribes and feudal lords in search of evidence of natural law principles in action that could not be trespassed. In his *Rights of Rulers*, Beza mentioned only a few such historical examples of natural law violations, such as mandatory ritual slaughter of children or the self-mutilation of the bodies of male citizens.<sup>51</sup> In earlier tracts on polygamy and marriage, he listed many other such violations – infanticide, incest, sodomy, concubinage, prostitution, and the improper marriages of children, of eunuchs, or of the mentally handicapped. No positive laws could command or countenance such open violations of the laws of nature and the laws of God.<sup>52</sup>

Second, in addition to requiring obedience of the laws of God and nature, the political covenant required political rulers to protect and promote the “rights and liberties” and “privileges and freedoms” of their subjects. “The people were not created for the sake of the rulers, but the rulers for the sake of the people,” Beza proclaimed famously.<sup>53</sup> And, in order to protect the people, rulers were required to protect and respect their basic rights. Beza looked again to the Decalogue as a convenient source and summary of the most basic rights of persons. A person’s First Table duties toward God were the foundation for his basic religious rights – freedom for proper religious worship, speech, and Sabbath observance, and freedom from laws that coerced him to worship false gods, to maintain graven images, to swear false oaths, or to break the Sabbath. A person’s Second Table duties toward neighbors were the foundation for his basic rights to life (freedom from killing), to property (freedom from stealing), to marital integrity (freedom from adultery and coveting), to reputation and fair process (freedom from false testimony), and to household integrity and privacy (freedom from coveting).<sup>54</sup>

Beza also looked beyond the Decalogue – to “natural law,” “common decency,” “natural equity,” and the *ius gentium* -- to fill out the list of natural rights of the people that the political covenant should protect. Beza focused especially on the natural rights that he considered to be of paramount importance to the health and happiness of the commonwealth. Foremost among these were the “natural religious rights” of all people. These Beza spelled out in several strong passages scattered throughout his *Rights of Rulers* and amplified in some of his other writings. Among religious rights, Beza emphasized “*liberty of conscience*,” the right of a person to freedom from coercion into an unwanted form of faith, and freedom to change one’s faith after being persuaded.

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<sup>51</sup> Beza, *Rights*, 64-65.

<sup>52</sup> See esp. Theodore Beza, *Lex Dei moralis, ceremonialis et politica* (Geneva, 1577) and further Beza texts translated in John Witte, Jr. and Robert M. Kingdon, *Sex, Marriage and Family in John Calvin’s Geneva*, 3 vols. (Grand Rapids, Mich., 2005- ).

<sup>53</sup> Beza, *Rights*, 30, 44.

<sup>54</sup> Beza, *Rights*, 27-29, 66, 68, 74, 80, 83-85.

He included “*freedom of mission*,” the right to spread the Gospel not by the sword, but “by the influence of the Spirit of God alone,” “by teaching, conviction, and exhortation.” He spoke of the “*free exercise of religion*,” by which he meant principally the right of Christians to “join in pious gatherings, there to hear the word of God and have communion of the sacraments as Christ ordained it should be done in the church.” He alluded to the “*freedom of government*” of the church, the corporate right of each congregation and religious community to govern itself without state interference. He mentioned the “*freedom to educate*,” which he elaborated elsewhere as the right of parents and guardians to bring up their children in their own form of faith, in the home, school, and church. Finally, he noted the “*freedom to emigrate*,” the right of persons to move to another place where their religious rights would be more readily respected. Catholics and Lutherans enjoyed this right under the Peace of Augsburg (1555). Calvinists did not. Beza thus devoted a number of pages to the argument that Calvinists, too, should have freedom to emigrate peaceably from hostile polities.<sup>55</sup> These arguments ultimately helped to influence the emigration provisions for Calvinists that found their way into the Edict of Nantes (1598) and eventually the Peace of Westphalia (1648).<sup>56</sup>

In addition to religious rights, Beza also took special note of each private person’s rights to free speech and political petition: (1) the right of private parties to “rebuke the magistrate for the injustice committed in violation of the laws;” (2) the right of private persons to “lodge complaints with the supreme magistrate concerning the injustice of an inferior;” and (3) the right of private persons to petition lower magistrates about other “affairs touching the constitution of the kingdom.” To criticize, petition, or sue a magistrate for his political failings was not to be discourteous, let alone disobedient, Beza insisted. The magistrate “suffers no injustice if he is constrained to do his duty.” After all, the political office has been “entrusted to him under specified conditions,” and there is no one better to discern a breach of condition than the people for whose benefit and protection the political covenant was created.<sup>57</sup>

In describing his doctrine of the political covenant, Beza also reflected an unusual solicitude for “freedom of contract” -- the right of private parties to enter contracts, pacts, and agreements concerning marriage, commerce, banking, labor, property, and other transactions. Both here and in his earlier books on marriage and in his opinions on the Genevan consistory bench, Beza spelled out some of the rules of valid contract formation, reformation, and dissolution, the requirements of capacity and fitness to enter contracts, the limitations on contracts that involved usury, exploitation, price-gouging, sharp dealing, or unconscionable conditions.<sup>58</sup>

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<sup>55</sup> Beza, *Rights*, 28-29, 84-86. See also TT 2:120-21.

<sup>56</sup> On these developments, see Manetsch, *Theodore Beza*, 308-36.

<sup>57</sup> Beza, *Rights*, 28-29, 72-77, 81.

<sup>58</sup> See Theodore Beza, *De repudiis et divortiis* (Geneva, 1569); Choisy, *L'État chrétien*, 442-44.



Beza used his expertise on marital and other private contracts to underscore, by analogy, some of the main features of political covenants and the proper grounds for their formation and dissolution. Both private contracts and political covenants that include terms that violate the basic laws of God and nature are null and void, and must be formally annulled, he argued. To enter into a private marital contract, for example, both parties must abide by biblical and natural laws that define marriage as a heterosexual monogamous union entered into presumptively for life and in hopes of the blessing of children. Marital contracts that stipulate unnatural or unconscionable conditions to the contrary, such as permitting each spouse to commit adultery, agreeing to marry while already being married to another, or conspiring together to abort or smother unwanted children, violate these basic conditions of what a marriage is. Such contracts must be involuntarily, annulled even if the putative marriage has been consummated and yielded children.<sup>59</sup>

Political covenants are comparable, Beza argued. Like private contracts, political covenants must accord with the basic laws of God and nature for the political office, and must be free from unconscionable or unnatural conditions. Thus a ruler's demands, for example, that his subjects "abjure the true faith for the sake of saving their lives," or "kill their parents or children," or engage in similar open violations of divine and natural law, can never be countenanced. Even if the rulers and people had voluntarily entered a political covenant on such terms, parties would not and could not be held to them. In private law, we annul or dissolve such unconscionable contracts without much issue in order to protect innocent parties from exploitation. In public law, we should do the same, said Beza. "[E]ven if a people, knowingly and of its own free will, has consented to something that in itself is manifestly irreligious and against natural law, such an obligation is null and void." It would be "so utterly unjust and manifestly sinful" to maintain such political covenants that "everyone not entirely destitute of human insight realizes that it cannot be exacted or performed by anyone with a good conscience."<sup>60</sup>

Also like private contracts, political covenants must be entered into voluntarily and not through force, fear, or fraud. By definition, therefore, magistrates who come to power by conquest, usurpation, or through fraudulent means are presumptively not legitimate authorities. Even if the people have entered into a purported political covenant under such circumstances, the covenant is voidable and the political magistrate is vulnerable to dismissal as a tyrant. Just as an innocent spouse who is coerced or tricked into marriage may choose to continue the marriage or sue for annulment after the wedding, so an innocent people who have been coerced or tricked into obedience may accept this magistrate or annul their relationship with him. "[I]f anyone strives to seize or has already usurped an unjust tyranny over others ... then shall private citizens before all else approach their legitimate magistrates in order" to remove him. But if the legitimate authority "connives" or "refuses to perform his duty

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<sup>59</sup> Beza, *De repudiis et divortiis*, 207-372.

<sup>60</sup> Beza, *Rights*, 44-45, 64-65.

then let each private citizen bestir himself with all his power to defend the lawful constitution of his country to whom after God he owes his entire existence.” Even private “tyrannicide” is warranted as a last resort to remove such a usurping tyrant, Beza allowed.<sup>61</sup>

Again, like private contracts of marriage, political covenants that were freely and properly entered into might eventually end through divorce for cause. In a marriage, where one party spiritually and physically deserts the other or betrays the essence of the marriage by committing adultery or desertion, or inflicting mortal abuse on the other, the innocent party may sue for divorce. Similarly in a political community, Beza continued, where the magistrate deserts his people or betrays the fundamentals of his political office by becoming a tyrant, the people may properly seek to divorce him.<sup>62</sup>

But just as the dissolution of a private marriage contract through annulment or divorce requires orderly procedures, so does the dissolution of a public political covenant. Disgruntled spouses may not simply walk away from their marriages, and declare themselves divorced or their marriage annulled. By reason of its consecration by the church and registration by the state, the marriage contract has become a public institution. It transcends the interests of the couple themselves, and implicates the interests of the whole community. The disgruntled spouse must thus file complaints before the appropriate authorities, seek those authorities’ intervention and protection if they are being abused, and request a public judgment that the marriage has ended by annulment or divorce, that the guilty spouse must be punished, and that the innocent spouse has been liberated. Until such a public judgment has been rendered, the parties are bound by their marital contract, which they had accepted “for better or for worse.”<sup>63</sup>

If these complex procedures are due for the dissolution of a private marital contract, Beza argued, surely one can see that they are doubly necessary for the dissolution of the public political covenant. For the political covenant involves far more parties, and the risks of dissolving it improperly are far higher. It can certainly not be left to random private persons to make and execute judgments whether the political covenant is null and void because it had been invalidly entered. Nor can it be left to private persons to judge whether a once-valid political covenant is now broken by reason of the magistrate’s tyranny. These are constitutional judgments, not individual judgments. They are to be made only by properly constituted and authorized lower magistrates. And unless and until the lower magistrates make these judgments, individual members of the community are bound by the political covenant.

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<sup>61</sup> Beza, *Rights*, 33-34. Beza qualified this position in his later *Sermons sur l’histoire de la passion et sepulture de nostre Seigneur Jesus Christ, descrite par les quatre Evangelistes* (Geneva, 1592), 282, 491, 501, where he denounced all private assassinations. See Robert M. Kingdon, “Beza’s Political Ideas as Expressed in His Sermons on the Passion” (unpublished manuscript in author’s possession).

<sup>62</sup> Beza, *De repudiis et divortiis*, 299-313.

<sup>63</sup> See sources in Witte and Kingdon, *Sex, Marriage, and Family*, vols. 1, 3.

Beza returned to this argument by analogy again and again in an effort to tamp down the agitation for popular insurrection and anarchy that was breaking out anew in French Calvinist communities after the St. Bartholomew's Day Massacre. "If we must so far abide by private contracts, pacts, agreements, and understandings that we suffer damage rather than break our word, how much more should private citizens be on their guard lest they in any way refuse to honor an obligation entered into by a solemn and public agreement?" "[I]t is not becoming that men in private station should inquire over-curiously even concerning doubtful matters beyond their comprehension or station in life."<sup>64</sup>

This did not mean that private citizens had to practice martyrdom in the face of tyranny. They could and should still fully and freely exercise their rights under the political covenant. Exercising their religious rights, they could still worship and teach the true God, ignoring a magistrate's orders to the contrary. They could disregard laws that violated the laws of God and the Christian conscience. Or they could move away if the magistrate persisted. Exercising their free speech rights, they could still sue the magistrate for his failures and petition the lower magistrates to protect them and their rights. "When the supreme ruler has become a tyrant, he must be deemed by his own perjury to have freed the people from their oath, and not contrariwise, when the people justly asserts its rights against him."<sup>65</sup> But unless and until the lower magistrates have acted to restrain a tyrant in accordance with the terms of the political covenant, private citizens are not allowed to take the law into their own hands. "[N]o private citizen is entitled on his own private authority to oppose the tyrant with violence against violence," said Beza. All such private retaliation and revenge leads to "endless disorders," yielding "a thousand tyrants" in place of the one who was removed. Instead, private persons must petition the lower magistrates who are charged with protection of the political covenant. If those lower magistrates fail to intervene, private citizens must either leave or suffer patiently and prayerfully.<sup>66</sup>

Like the Magdeburg ministers, Beza set out a hierarchy of political abuses escalating to tyranny to which the lower magistrates must respond. In cases of modest abuses by the higher magistrate, such as excessive taxes that pay for the magistrate's "wasteful or avaricious vices," or immoral behavior that betrays the majesty of his office, Beza left it largely to the "aristocratic" lower magistrates to offer the offender private admonition and reproof with no political or popular consequences. In cases of more serious violations of the "divine, natural, and constitutional rights" of the people, however, he called on both aristocratic and democratic magistrates to challenge him by "all lawful means available" and coerce him to return to his duties.<sup>67</sup>

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<sup>64</sup> Beza, *Rights*, 27, 31, 38.

<sup>65</sup> Beza, *Rights*, 27-28, 76.

<sup>66</sup> Beza, *Rights*, 27, 36-38, 72-74.

<sup>67</sup> Beza, *Rights*, 64-65, 72-80.

The most obvious cases of tyranny for Beza were the magistrate's open and persistent violations of the First and Second Tables of the Decalogue. These were at once violations of the magistrate's duties to obey the laws of God and to protect the people's rights. "Once the free exercise of the true religion has been granted" in a community in accordance with the First Table of the Decalogue, Beza wrote, "the ruler is so much more bound to have it observed [that] if he acts otherwise, I declare that he is practicing manifest tyranny, and [his subjects] will be all the more free to oppose him. For we are bound to set greater store and value in the salvation of our souls and the freedom of our conscience than in any other matters, however desirable."<sup>68</sup> The same is true when the magistrate betrays parents, families, and households or the rights to life, property, reputation, and procedure, guaranteed by the Second Table. This occurs where a magistrate "plunders his territory," "savagely slays the parents of his subjects, ravishes their wives and daughters, pillages their houses and possessions, and finally murders them as the fancy takes him," "without self-control," "against law and reason" and in "wanton breach of their sworn promises."<sup>69</sup> If this belligerent and tyrannical conduct persists, and "peaceable remedies" are unavailing, the lower magistrates must "at once unanimously insist on an assembly of the Estates and meanwhile as far as they can and may to defend and protect themselves against undisguised tyranny." This democratic body must, in turn, protect the people by organizing the resistance to the tyrant, and exercising their "right to procure support from abroad, especially from the allies and friends of the kingdom." "They are certainly bound even by means of armed force if they can, to protect against manifest tyranny the safety of those who have been entrusted to their care and honor." Indeed, they must fight with all due "ferocity and determination," knowing that they are now acting on God's behalf and authority, and protecting God's covenant, God's people, and God's laws and rights.<sup>70</sup>

### Summary and Conclusions

Beza's *Rights of Rulers* was something of a patchwork quilt, sewn together from slender strands of argument scattered over all manner of classical, patristic, Catholic, and Protestant sources. Beza was trained as a classicist and a humanist, and he knew his sources and how to read them and to deploy them rhetorically. His main argument -- that there was a covenant, compact, or contract that bound together the people, rulers, and God -- built in part on ancient Hebrew and classical Stoic ideas that were echoed by several medieval Catholic writers, especially Marsilius of Padua and Nicholas of Cusa. Calvin himself had tinkered with the political implications of the doctrine of covenant, as had Ulrich Zwingli, Martin Bucer, Heinrich Bullinger, Peter Martyr Vermigli, Pierre Viret, John Knox, Christopher Goodman, and others. Beza's argument that the people had to elect and consent to their rulers also had several ancient and medieval antecedents that propounded what Walter Ullmann famously

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<sup>68</sup> Beza, *Rights*, 27-29, 83-85.

<sup>69</sup> Beza, *Rights*, 66, 68, 74, 80.

<sup>70</sup> Beza, *Rights*, 27, 41, 72.

called the “ascending theory of sovereignty.”<sup>71</sup> This idea was newly championed in Beza’s day by John Ponet, John Knox, François Hotman, and others who saw popular election or approbation of political rulers as an ancient birthright of all citizens and a natural expression of a person serving as God’s image bearer on earth. Beza’s insistence that the Decalogue provided a template for defining both the duties of the ruler and the rights of the people was adumbrated especially by the Cambridge don Christopher Goodman as well as by several earlier Lutheran jurists, notably Johannes Oldendorp. Beza’s distinction between the active popular resistance (even tyrannicide) that foreign usurping tyrants deserved and the orderly constitutional resistance that legitimate magistrates demanded even when they became tyrants built on civil law commonplaces, particularly as developed by medieval writers like John of Salisbury and Bartolus de Saxoferrato. And Beza’s argument that lower aristocratic and lower democratic magistrates were conjoined by a “mixed constitution” and worked together to coordinate constitutional resistance to higher magistrates who became tyrannical had already been signaled by Calvin as well as by fellow reformers Pierre Viret and Peter Vermigli.<sup>72</sup>

Beza’s genius was to sow all these strands of argument together into a more coherent political theory. The Magdeburg Confession of 1550 had marshaled thirty years of scattered Lutheran lore into a memorable manifesto on political resistance that ultimately saved Lutheranism for the city and eventually for a good bit of the Holy Roman Empire. Beza’s *Rights of Rulers* of 1574 drew together forty years of Calvinist reflections on the rights of resistance into a powerful new construction of the nature of political authority and personal liberty. To be sure, Beza did not develop a full blown constitutional theory – with a detailed doctrine of separation of powers and checks and balances or with a lengthy bill of rights. He never worked out in detail the balance of monarchy, aristocracy, and democracy that would fit his “golden mean” -- though he eschewed the tendency of some later sixteenth-century Huguenots to embrace pro-monarchical and anti-resistance theories when a Calvinist ruler happened to sit on the throne.<sup>73</sup> Also to be sure, Beza did not offer a full blown covenantal theory of law, politics, and society that worked out in detail the origin, nature, and purpose of sovereignty and authority, rights and liberties, dignity and equality, and more. But his *Rights of Rulers* helped permanently turn the Calvinist tradition in that direction, and most Calvinist political writers on both sides of the Atlantic remained on this new course in the next two centuries.

A major innovation was Beza’s use of the marriage covenant as a prototype for

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<sup>71</sup> Walter Ullmann, *Medieval Political Thought*, rev. ed. (Harmondsworth, 1975); id., *Principles of Government and Politics in the Middle Ages*, 3d ed. (London, 1974).

<sup>72</sup> For good overviews, see J.H. Burns, ed., *The Cambridge History of Political Thought, 1450-1700*, ed. J.H. Burns (Cambridge, 1991), 159-245; Oscar Jászi and John D. Lewis, *Against the Tyrant: The Tradition and Theory of Tyrannicide* (Glencoe, Ill. 1957), Skinner, *Foundations*, 2:189-349.

<sup>73</sup> See Michael Wolfe, *The Conversion of Henry IV: Politics, Power, and Religious Beliefs in Early Modern France* (Cambridge, Mass., 1993), 31ff.; Manetsch, *Theodore Beza*, 135ff.

the political covenant. Of course, the notion that the marital household was the historical and ontological foundation of the polis was an ancient teaching, most famously developed by Aristotle in his *Politics* and *Ethics*. Other Greeks and Roman Stoics had called marriage “the foundation of the republic” and “the private font of public virtue.” The Church Fathers and medieval scholastics had called marital and familial love “the seedbed of the city,” “the force that welds society together.” Other early Protestants had called the household a “little church,” a “little state,” a “little seminary,” a “little commonwealth.”<sup>74</sup> Calvin had made his own contributions to these teachings by calling marriage “the fountainhead of life,” “the holiest kind of company in all the world,” “the principal and most sacred ... of all the offices pertaining to human society.” “God reigns in a little household, even one in dire poverty, when the husband and the wife dedicate themselves to their duties to each other. Here there is a holiness greater and nearer the kingdom of God than there is even in a cloister.”<sup>75</sup> Beza repeated many of these formulations in his critical writings on marriage.

What was new in Beza’s 1574 *Rights of Rulers*, at least in the early Protestant world, was his argument that the marital covenant was not only the ontological foundation but also the methodological prototype of the political contract. Like marital covenants sworn between a husband and a wife before God, Beza argued, political covenants were solemn agreements sworn by rulers and the people before God. Like marital contracts, political covenants required full and free consent by all parties, and the capacity and freedom of all to enter into these covenants. Like marital covenants, political covenants had many of their basic terms preset by God and nature, including the requirement that both the rulers and the people respect the laws of God and the laws of nature, the rights and liberties of citizens, and the faith and order of the commonwealth. Like marital covenants, political covenants could be annulled when these conditions for formation were violated, or one party to the covenant could seek a divorce if the other party breached the faith or violated a fundamental condition of their association. But, like marital covenants, political covenants could not be dissolved randomly by just anyone and certainly not by popular rebellion. Because these covenants were public commitments involving all manner of parties, past, present and future, they had to be resolved by formal and public procedures and mechanisms which the parties had to agree to in advance in forming their political covenant. This emphasis on the methodological symmetry and synergy between marriage and state-making, and between divorce and political transition, would become a standard feature of Calvinist political theory in the seventeenth and eighteenth centuries – figuring perhaps most famously in the evolving social and political contract theory of John Locke in his *Two Treatises of Government*.<sup>76</sup> Similarly, this emphasis on the symmetries between marital

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<sup>74</sup> For sources, see my *God’s Joust, God’s Justice*, 295-385.

<sup>75</sup> See my *From Sacrament to Contract: Marriage, Religion, and Law in the Western Tradition* (Louisville, Ky., 1997), 74-129.

<sup>76</sup> See John Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge, 1960), I.9, 47, 98, II.77-83.

and political formation and dissolution would become a common feature of early modern Protestant marital theory – used by Robert Filmer and others to advocate the natural rule of the husband over his wife, and used by John Milton and others to advocate divorce for cause with a right to remarriage thereafter.<sup>77</sup>

A second major innovation was Beza's reformulation of Calvin's theories of political authority and political liberty into a theory of subjective rights. Calvin had insisted that authority and liberty were "constituted together." He had made the rights of political subjects largely a *consequence* of good government. If the magistrate ruled properly, in accordance with the will of God, the rights of the people would be maintained. If the magistrate exceeded his authority, the people were to suffer his tyrannical outrages with Christian dignity and patience, and in humble recognition that God might be scourging them for their sins.<sup>78</sup> Beza continued to insist that authority and liberty were "constituted together," and he continued to insist that popular resistance and insurrection were no solutions to political tyranny. But Beza made the rights of political subjects not a *consequence* but a *condition* of good government. "The people are not made for rulers, but rulers for the people," he wrote. If the magistrate rules properly, the people must obey him. But if the magistrate exceeds his authority, the people, through their representatives, have not only the right but also the duty of conscience to resist such tyranny. No magistrate should be suffered who has fundamentally breached the covenant he had sworn to God and his people. To suffer such a tyrant would insult God who had called all rulers to represent his divine being and authority on earth and to strive for divine justice and equity for all of God's people.

The issue that remained for Beza was how to ground his doctrine of subjective rights, and how to decide which of the rights were so inalienable and inviolable that if breached triggered the right to resistance. Here Beza cleverly reworked Calvin's main arguments, taking his cues from Calvin's own late-life tinkering with the doctrine of subjective rights.<sup>79</sup> The first and most important right, Beza reasoned, had to be the rights of "liberty of conscience" and "free exercise of religion." Persons are, after all, first and foremost the subjects of the Creator God and called to honor and worship God above all else. If the magistrate -- created by this same God and a representative of God's authority on earth -- breaches these religious rights, then nothing can be sacred and secure any longer. What is essential to the protection of the liberty of conscience and free exercise of the people's religion, Beza continued catechetically? The ability to live in full conformity with the law of God. What is the law of God? First and foremost the Decalogue, which set out the various duties of right living that a conscientious Christian needs to discharge in effective exercise of the faith. What do these Commandments entail? The rights to worship God, to obey the Sabbath, to avoid foreign idols and false oaths in accordance with the First Table of the Decalogue, and

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<sup>77</sup> *From Sacrament to Contract*, 165-193.

<sup>78</sup> RR, chap. 1.

<sup>79</sup> See sources in RR, chap. 1.

the rights to marriage, parentage, and a household, and to life, property, and reputation protected by the Second Table. Is the Decalogue the only divine law that governs and guides us? No, the natural law that God has written on the hearts of all people teaches other rights that are essential to the protection of a person and a people. Beza touched on several of these broader rights: freedom of religious mission and education, freedom of church government and emigration, freedoms of speech, assembly, and petition, and freedom of contract most pointedly. Beza did not ground these rights adequately, nor did he make clear which of them was so fundamental that their breach could trigger organized resistance. But he put in place a fundamental rights calculus that later Calvinists would refine and expand.

Beza's core theory of a political covenant with fundamental rights that could not be breached with impunity became a standard argument for Western revolutionaries thereafter. In France, the most famous expansion of this argument came in the 1579 tract, *Vindiciae, Contra Tyrannos: Or Concerning the Legitimate Power of the Prince Over the People, and of the People Over the Prince*, which even the eighteenth-century Jacobins would later cite with reverence.<sup>80</sup> In Scotland, the most powerful exposition of Beza's ideas was George Buchanan's *Dialogue Concerning the Rights of the Crown and the People of Scotland* (1579/1601), which would become an anchor text for later Scottish Enlightenment theories of "common sense."<sup>81</sup> In the Netherlands, Beza's ideas were axiomatic for the powerful Calvinist logic of revolution against Spanish tyranny, that was set out in more than 10,000 pamphlets and sermons published from 1570-1610, and all manner of learned tracts that poured forth from major Dutch universities in the next two centuries.<sup>82</sup> The Dutch revolutionary writers were soon outdone by the 22,000 plus Calvinist tracts published in England from 1640-1660 in defense of the Puritan revolution against the tyrannical King Charles and the ultimate execution of this tyrant by public beheading in 1649.<sup>83</sup> And, eventually, this Christian covenantal theory of society and the state would be transmuted into increasingly secularized forms in the social and political contract arguments of the English, French, and American Enlightenments, most notably by such cradle Calvinists who later went their own way -- John Locke, Jean Jacques Rousseau, and John Adams.

Napoleon Bonaparte once quipped: "I would rather face ten thousand Italians

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<sup>80</sup> van Kley, *The Religious Origins of the French Revolution*.

<sup>81</sup> See sources in RR, chap. 3, 5.

<sup>82</sup> See Willem P.C. Knuttel, *Catalogus van de pamflettenverzameling berustende in de Koninkje Bibliothek*, 9 vols. (The Hague, 1889-1920); E.H. Kossman and A. Mellink, eds., *Texts Concerning the Revolt of the Netherlands* (Cambridge, 1974), Martin van Gelderen, *The Political Thought of the Dutch Revolt, 1555-1590* (Cambridge, 1992); E.H. Kossman, *Political Thought in the Dutch Republic: Three Studies* (Amsterdam, 2000).

<sup>83</sup> See *Catalogue of the Thomason Tracts in the British Museum* (London, 1906); Don M. Wolfe, ed., *Leveller Manifestoes of the Puritan Revolution* (New York, 1944); A.S.P. Woodhouse, *Puritanism and Liberty Being the Army Debates (1647-9)*, 2d ed. (Chicago, 1951); William Haller, *Tracts in the Puritan Revolution, 1638-1647*, 3 vols. (New York, 1934).



coming from mass, than one thousand Presbyterians rising from their knees.” There’s more to this than Napoleon’s notorious anti-papalism and French snobbery against Italians. He was also signaling the real danger of the fierce righteous warrior who was a Calvinist. Calvinists did not start out as fierce warriors, and their founder John Calvin was notoriously averse to sponsoring offensive or defensive wars or bloodshed, save in narrow circumstances. Calvin’s successors were not nearly so reticent, especially as they faced pogroms, inquisitions, and genocides that were killing their coreligionists by the tens of thousands. Within a decade of Calvin’s death in 1564, his followers had gone from turning cheeks to swinging swords in support of their righteous cases. Calvin’s followers continued his trademark penchant for due process, orderly decisionmaking, and constitutional structures in deciding on the justice of their military cause and on the methods for executing it. But once Calvinists decided on war, and rose from their knees after seeking God’s blessing, woe to their enemies!