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### **Review of Günther Haas, *The Concept of Equity in Calvin's Ethics* (1997)**

John Witte, Jr.

#### **Abstract**

*This article offers an appreciative review of a new title on Calvin's theory of equity developed in conversation with Greek, Roman, and humanist tracts on legal interpretation*

**Keywords:** John Calvin, Günther Haas, equity, morality, medieval canon law, Aristotle

The main contention of this volume is that "equity is the theme of central importance in Calvin's social ethic" (p. 2, 123). Equity for Calvin is distilled in the Golden Rule, which commands us to render to others their due. "What is due" is adumbrated in conscience and elaborated in Scripture. At minimum, we must not kill, steal, perjure, covet, or commit adultery with our neighbor -- in violation of the Second Table of the Decalogue and of the criminal laws of the state. More fully, we should offer Christian love, charity, and compassion to our neighbor -- in imitation of Christ and in conformity with the counsels of the Spirit and the canons of the church.

This distinction between what Calvin variously calls a "civil" or "external" morality and a "spiritual" or "internal" morality (see, e.g., Institutes 1559, 2.7.10; Serm. Deut. 5:18, 21:15-17; 22:25-30) is well known. This distinction is rooted in and reflective of other dialectics which Calvin discusses at great length -- (1) the anthropological tensions between the sinner and the saint, the flesh and the spirit; (2) the ontological divisions between the earthly kingdom and the heavenly kingdom, the fallen realm and the redeemed realm; the (3) the separation of powers between the state and the church, the magistracy and the consistory. The author seems to know these and analogous distinctions in Calvin's thought, though he recounts them very briskly and briefly.

The author's main and novel contention is that Calvin's distinction between these two types of morality is also based on two modes of interpreting the moral norms of conscience and the Bible. Literal interpretation of these norms yields a civil morality that is common to all persons. It achieves the "civil use" of the law. It sets the minimal ethical standards for a society to survive. Equitable interpretation of these norms

yields the spiritual morality that is becoming of Christians. It achieves the "pedagogical use" of the law. It sets a higher Christian ethical standard for the flourishing of a true communion of saints.

Calvin draws this distinction especially in his multiple writings on the Decalogue. Literal interpretation of the Second Table commands us to forgo harmful acts of homicide, theft, and adultery. Equitable interpretation counsels us against evil thoughts of hatred, gluttony, and lust. Literal interpretation views the Second Table of the Decalogue in isolation. Equitable interpretation would always read Second Table duties to one's neighbor in light of First Table duties to God. Other writers, such as Walter Kähler, Josef Bohatec, Harro Höpfl, and John Hesselink have touched on this thesis about Calvin's interpretive methodology; no one has put it so firmly and fully.

Professor Haas also goes beyond convention in arguing that Calvin derives this equitable methodology from his reading of Greek, Roman, and humanist tracts on legal interpretation -- and he summarizes the concepts of equity in everyone from Aristotle to ALCIATUS (Calvin's teacher) to make his point. These earlier writers sometimes used "equity" loosely, as a synonym for justice and natural law. Calvin repeated this loose usage several times -- and Haas properly criticizes him for occasional inconsistencies. But these earlier writers also used equity in a more specific legal sense: Equity demands that judges interpret the letter of each law in light of its spirit, and that they apply rules of law with clemency and moderation so that their literal application does not work injustice in a specific case.

According to Haas, traditional legal theories of equity were restricted to judicial interpretations of positive laws. Calvin converted and integrated them into a more general ethical theory of a Christian's interpretation of moral laws. Every Christian must interpret the moral law in this equitable manner when relating to his or her neighbor -- doubly so, if the Christian is exercising the church's power of the Word or the state's power of the sword. In Haas's summary: "It is equity, defined by the Golden Rule of Matt. 7:12, that serves as the rule for implementing love in human social life. This understanding of equity is the guide for the practice of justice in giving each his or her own due, and it is the rule whereby one avoids doing harm to another that one would not want done to oneself.... [E]quity forgoes personal rights to provide help for the poor and unworthy. As a form of *mitigatio juris*, equity becomes an important virtue in the Christian life. It is manifested not only in the benign interpretation and amelioration of the law, but also, even more directly imitative of Christ, in the renunciation of one's own rights for the needy" (pp. 123-124). Calvin's equitable method of interpreting and applying the moral law was "singular" and "unique," the author claims. And it lays the foundation for "a distinctively Reformational Christian ethic" and a "legitimate alternative, other than Thomism, to the modernist ethical project" (p. 3).

Although short (only 75 pp. on Calvin), this is an important volume that adds measurably to our understanding of Calvin's social ethics. It is tersely written, well-reasoned, and carefully documented. Professor Haas has a solid command of

Calvin's formal writings, and what he has presented is learned and cogent. Particularly the novel argument that Calvin used his legal training to inform his method of social ethics is very provocative.

Professor Haas has not yet proved his main case, however. While equity is clearly important to Calvin, it is not clear that it is the central theme of his social ethics. Proof of this would require a closer sifting of Calvin's letters, consilia, pamphlets, consistory opinions, and other occasional writings -- where many of his formal principles of social ethics are often dramatically tested, tempered, and tailored. For example, in Calvin's writings on law, liberty, and marriage, the concept of equity is an important theme, but not nearly so important as concepts of covenant, creation, natural law, moderation, scandal, and the like (see J. Witte, *From Sacrament to Contract* (1997), 74-129). Moreover, these and other writings suggest to me that on social, legal, and political questions, Calvin must be read more genetically than systematically. His views of many such subjects changed radically in the course of his career in Strasbourg and Geneva, and as he shifted from the pulpit to the consistory bench, from the lectern to the letter desk, from juridical reflections to pastoral duties. His views on these subjects are not easily synthesized, and certainly cannot all be integrated within the principle of equity.

Second, it is also not clear that Calvin's views on equity were so unique. Haas spends some 30 pages summarizing Greek, Roman, medieval, and Lutheran concepts of equity. But this section of the book is both derivative and incomplete, and it leads the author to exaggerate Calvin's innovations. For example, Haas makes no mention of the Lutheran jurist, Johann Oldendorp (c. 1480-1567) who, with Philip Melancthon, developed a refined Christian theory of equity very much along the same lines as that of Calvin, and in far greater theological and legal detail (see, e.g., J. Oldendorp, *Opera Omnia* (1559; repr. ed. 1968); H.J. Berman, *Faith and Order: The Reconciliation of Law and Religion* (1983), 141-185).

Moreover, Haas makes little mention of Catholic canon law, which was the prevailing law of Geneva until 1532. Calvin knew canon law quite well, and his views on equity bore a striking resemblance to the views of the canonists. Medieval canonists referred to the canon law as "the mother of exceptions," "the epitome of the law of love," and "the mother of justice" (c. 13, X. 1, 29; c. 16, C. XXV, q. 1). As "the mother of exceptions," canon law was flexible, reasonable, and fair, capable either of bending the rigor of a rule in an individual case through dispensations and injunctions, or punctiliously insisting on the letter of an agreement through orders of specific performance or reformation of documents. As the "epitome of love," canon law afforded special care for the disadvantaged -- widows, orphans, the poor, the handicapped, abused wives, neglected children, maltreated servants, and the like. It provided them with standing to press claims in church courts, competence to testify against their superiors without permission, methods to gain succor and shelter from abuse and want, opportunities to pursue pious and protected careers in the cloister. As the "mother of justice," canon law provided a method whereby the individual believer could reconcile himself or herself at once to God and to neighbor. This was

the essence of canonical equity, and one of the reasons why litigants were drawn to church courts over civil courts. Church courts treated both the legality and the morality of the conflicts before them. Their remedies enabled litigants to become "righteous" and "just" not only in their relationships with opposing parties and the rest of the community, but also in their relationship to God. [See, e.g., E. Wohlhaupter, *Aequitas canonica. Eine Studie aus dem kanonischen Recht* (1931); N. Horn, *Aequitas in den Lehren des Baldus* (1968)]. There was ultimately little distinction between this expression and institutionalization of equity, and that which Calvin and his followers put in place in the Geneva consistory.

To bring to light these antecedent and analogous expression of equity is neither to wax pedantic about legal subtleties nor to be pejorative of Calvin's contributions to the history of equity, or Haas' analysis of them. It is rather to suggest at the level of social, political, and legal thought, early modern Catholic, Lutheran, and Calvinist views were often complementary, even when their theological views were sometimes at bitter war. Greater knowledge of this historical confluence of Christian social opinion would certainly edify our modern discussions of both Christian ecumenism and Christian activism.

John Witte, Jr.  
Atlanta, Georgia, USA