

**Stoic roots of early Reformational resistance theory:
a marginal note on the origins of the right to resistance
in early Reformational political thought**

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Abstract

As expressed in his *Institutes* in 1536, John Calvin's views on the right of subjects to resist the political oppression of rulers were preceded by developments in Lutheranism that sought recognition of the right to resist of tyranny. The acknowledgement of such a right to resist was kindled by Luther's and Melancthon's reading and interpretation of Cicero's views in this regard. The application of Cicero's views by the early Reformers provided them with the theoretical requirements for acknowledging the right to resist tyranny. This article adds a few marginal notes to early Reformational resistance theory and questions efforts at crediting Calvin (and Calvinism) with too much originality in this sphere.

Introduction

In his work, *Visions of politics, Volume II: Resistance virtues*, Quentin Skinner (2002:245f.) legitimately questions the perception that resistance theory should be associated with the rise of Calvinism in the latter part of the sixteenth century. Skinner critically probes Julian Franklin's belief that only during the political crisis touched off by the spread of the Reformation, did ideas of resistance first appear in their more mature form, adding that ideas of resistance initially appeared in the works of leading Calvinist-Huguenots, such as Theodore Beza, Francois Hotman and the anonymous author of the *Vidiciae, Contra Tyrannos* of 1579 (Franklin 1969:11-15, 27-29 & 39-40). Skinner also investigates Michael Walzer's observations that a Calvinist theory of revolution was the first to change the focus of political thought from the figure of the prince to that of the revolutionary, and consequently formed the basis for the new politics of revolution (cf. Walzer 1965).

Skinner concludes that although most of the leading protagonists of political resistance in the mid-sixteenth century Europe were Calvinists, they were by far not the first exponents of Protestantism to advocate these ideas. Skinner rightfully states that it remains to be investigated whether the theories espoused by the Calvinists may have originated with the Lutherans. Furthermore, Skinner believes that whether Luther was the "political conservative" that Walzer made him out to be, needs to be investigated.

A critical investigation of Skinner's observations reveals that the early Lutheran authors strongly espoused the views of the Stoics and the classic Roman-law authors in matters pertaining to politics and law. Early Lutheran political views largely integrated the Stoic notions pertaining to providence, natural law and the rational knowledge of injustice in particular, as well as the notion of the human being's natural aversion to injustice and inclination towards justice, benevolence and virtue. The early Lutherans embraced the arguments that Cicero set out in *De Re Publica*, *De Officiis* and *De Legibus* in particular, and these played a significant role in shaping early Reformational thought on tyranny, injustice and the human being's desire to pursue virtue – all matters relevant to the way in which civil rulers should conduct themselves.¹

This article largely considers the influence of Stoic political views and how these views impacted on early Lutheran political theories to the point where resistance to injustice and tyranny emerged clearly on the Lutheran political agenda.

Providence, natural law and the rational knowledge of injustice

Divine providence, the eternal law and the centrality of justice

Cicero's legal philosophy focused on the centrality of divine providence in human existence. Not only did God equip human beings with reason, but the human mind also received its illumination from providence (*DL*, 1.7.22f. (321)). Providence, as understood by Cicero, engraves the nature of an eternal

law on the human mind (*DL*, 1.5.19 (317)). The precepts of the eternal law are the highest reason fixed in the human mind (*DL*, 1.5.19 (317)). Therefore, the tenets of law and justice are contained in the nature of human beings (*DL*, 1.5.19 (317)).ⁱⁱ

Because divine providence impresses justice on the human spirit, it is not fabricated by the human mind, nor can it be eradicated by the human will. Justice precedes all human laws. They are merely expressions of justice, and therefore laws without the divine wisdom of justice are not, properly speaking, laws but oppression (cf. Plato, *Minos*, and Cicero, *DL*, bk. 2). In addition, civil rulers exercise authority as servants of justice, because justice is the very essence of political authority. The demands of justice go infinitely deeper than considerations of utility. Therefore, in his work on duties, Cicero observes that if we have learned anything at all about philosophy, it is that even if we were able to hide what we do from all the gods and from all humankind, we should nevertheless abstain from all avarice, injustice, lust and intemperance (*DO*, 3, 8).

Because the demands of justice are innate to human personhood, only the nature of human beings reflects the demands of justice, and these demands oblige human beings to act uprightly. The immediate implications flowing from Cicero's views on providence, human nature and the centrality of the demands of justice are far-reaching: the demands of justice are much more fundamental than the legal minutiae involved in a study of law because they concern the essence of the human being's jural existence as a human being. Justice expresses the acts of persons relative to other persons in accordance with a certain kind of equality determined by the moral uprightness of the actors' will to adhere to virtue. Human beings are constantly driven by the law of justice because it makes for a happy, peaceful and virtuous life, and because it encapsulates all the qualities of any good law as the genuine substance and vital principle of morality, and as impressed upon the human heart by providence. Justice is, so to speak, a beacon of light established by providence in the hearts and minds of humankind; a light shining to guide human beings and civil government towards their ultimate goal. Justice is the most basic and noble idea and all attempts at reasoning about positive laws begin here because the essence of the perfection of laws rests in justice alone, and supernatural justice begins solely with an apprehension of God.

Apart from casting Cicero's teachings on divine providence and moral laws within a Scriptural framework, Melancthon did not materially differ from the classical Ciceronian teachings on divine justice and the human being's ability to know and practise justice and the moral virtues in the earthly realm.ⁱⁱⁱ To Melancthon, the centrality of divine providence in human existence is reflected in God's having implanted certain given components of knowledge (*notitiae nobiscum nascentes*), which he calls the divine "light from above", a "natural light in the human mind," and the rays of "divine wisdom" engraved on the minds of human beings (cf. *CR*, 13:150^{iv}; *CR*, 11:920; *CR*, 21:721; *CR*, 13:642ff; *CR*, 20:695ff).

The human mind, therefore, receives its illumination from divine providence – divine wisdom illuminating human reason by pouring rays of divine wisdom into our minds.^v Melancthon believed that these *notitiae* of divine knowledge come as a divine light "from above"; they reflect rays of "divine wisdom" poured into the being of the human person and kindle the light of the "human faculty" needed for managing and governing the earthly realm.^{vi} These *notitiae* illuminating the human mind, contain valuable principles for governing civil society.^{vii} Among these *notitiae* are the truths that "men were born for civil society", that offences which harm human co-existence should be punished and that promises should be kept (*CR*, 21:117; *CR*, 21:398-400; *CR*, 11:918-919).^{viii}

The natural knowledge engraved by divine providence in the human mind is congruent with the eternal and unchanging norm of the divine mind "that God has planted in us", thereby providing the starting point for life and co-existence in the earthly realm (*CR*, 16:228).^{ix} The precepts of the eternal law of divine providence reflect the highest reason fixed in the human mind because they concern the essence of human co-existence in society: the natural components of knowledge concerning the morals that support life and law in the earthly domain (*MWA*, 3:208).

The natural knowledge that human beings possess is traceable to the divine source of illumination in the human mind. Melancthon observes emphatically:

The greatest and best things in the divine mind ... are wisdom, distinguishing honourable from shameful things, and justice, truth, kindness, clemency, and chastity. God planted seeds of these best things in human minds, when He made us after His own image. And He wished the life and behaviour of men to correspond to the standard of His own mind. He also revealed this same wisdom and doctrine of the virtues with His own voice [in the Bible] (*CR*, 11:918-919).^x

Happy and just is the civil order of a society in which the divine *notitiae* are applied and enforced:

This knowledge, divinely taught both by the light that is borne in us and by the true divine voice, is the beginning of the laws and of the political order [of the earthly kingdom]. God wishes us to obey them not only for the sake of our needs, but more, so that we may acknowledge our creator and learn from this same order that this world did not arise by chance, but that there is a creator who is wise, just, kind, truthful, and chaste and who demands similar virtues in us. We may also learn that he is an avenger who punishes violations of this order (CR, 11:918-919).^{xi}

Melanchthon's views on the "inborn nodal points of knowledge" come very close to reflecting Cicero's statement to the effect that law and justice are contained in the nature of human beings. Except for the fact that human reason cannot prove the existence of these principles of natural law (CR, 21:399-400 & CR, 13:547-555; CR, 21:116-117), these *notitiae* are elements of human nature, representative of innate human knowledge that are in the mind of God, and infused by God at the creation of humankind (see Kusakawa, 1995:94; Witte, 2002:124).^{xii}

Because of humankind's fall into sin, the human mind is not able to know the *notitiae* of natural law embedded in human nature perfectly (MWA, 4:146ff.; CR, 21:399-402).^{xiii} However, through reason, human beings are able to discern the "sparks", of divine truth, so to speak, in spite of the fact that although God infused the perfect natural knowledge of the nature of good and evil in the human mind, sin prevents human beings from apprehending or applying it without distortion (see Witte, 2002:125).

Because God demands virtuous activities from human beings, according to Melanchthon, God "wrote" the law of nature in the minds of men in order to perform those virtues which reason understands and which are necessary for civil life (CR, 16:23). Therefore, although human beings are fallible and human reason is darkened by sin, the divine law of nature enables human beings to distinguish between right and wrong and to act virtuously (cf. CR, 16:23). Because of the possibility that human beings may misunderstand the tenets of natural justice (CR, 16:24), and human fallibility in knowing the divine commands for a virtuous life, God gave His moral law in Scripture to guide our fallen nature (CR, 21:392). The principles of moral law contained in Scriptures reflect the divine law or law of God, acting as a "law of virtue" and reflecting the eternal immutable wisdom and rule of justice in God Himself (cf. CR, 21:1077; 22:201-202; 21:294-6; 387-392; CR, 1:53-57).

Because all human beings are in need of a happy, peaceful and virtuous life, the tenets of natural law, subject to God's "law of morality", are necessary to accomplish virtue and justice (CR, 22:201-202; 21:294-296; 21:387-392). Therefore, similarly to Cicero, Melanchthon maintains that the natural-law precepts contained in the Scriptures enable us to apprehend the divine will of God (CR, 22:256-7; CR, 16:70).^{xiv}

Justice and the nature of humankind

To Cicero, the impression of law in the human mind unites humans and establishes a natural fellowship among them (DL, 1.5.16).^{xv} The nature of justice is situated in the nature of humankind, and law in the form of the highest reason is fixed in the human mind (DL, 1.5.19 (317)), demanding from every person to grant to everyone his own. Therefore, the root of justice is human nature, and the human being's love for justice and right flows from human nature (DL, 1.10.28-29 (329)). Accordingly, human beings have a sense of justice (DL, 1.11.32-1.12.33 (33)), the virtues of love are the foundation of justice, and law is the product of human reason (DL, 1.11.32-1.12.33; DL, 1.15.43; DL, 2.4.8-10)).

The testimony of justice makes itself felt wherever the safety of citizens, the preservation of civil society and the tranquillity and happiness of human life demand it.^{xvi} By implication, the only law of the state to which all human beings are subject, is justice declared by reason and enlightened by divine providence. In civil society laws informed by providence rule the judges, as the magistrates rule the people.^{xvii} Because justice reflects divine reason implanted in the essence of all human beings, justice is necessarily present in every human being in whom the tiniest ray of reason shines, and the force of jural obligation reveals itself to human beings because it shines equally in all human beings.^{xviii}

Melanchthon shares Cicero's view that the impression of law in the human mind establishes a natural fellowship among us, because it enables us to distinguish between right and wrong: "... human reason, without God's Word, soon errs and falls into doubt. If God Himself had not graciously proclaimed His wisdom, men would fall still further into doubt about what God is, who He is, about what is right and wrong, what is order and what is disorder" (CR, 22:256-7; CR, 16:70). Therefore the precepts of natural law remain important in the earthly realm – natural law serves important civil,

theological and pedagogical uses (cf. *CR*, 1:706-709; *CR*, 11:66; *CR*, 21:405-6, 716-719; *LC*, (1555), 54-7, 122-8).

The law also teaches against violence and injury of others, while cultivating charity and love. The law should instruct people on virtuous conduct:

Paul says in Galatians 3[:4] that the law is a teacher in Christ, and that a child should be subject to the law, as though he were subject to teachers, until he matures in Christ ... Nevertheless, God has also subjected to this teaching all who are not in Christ or who are weak ... [for] the multitude must be instructed, ruled, and coerced in this manner even now by laws and by certain offices ... This political pedagogy, which is justice, forms morals and includes both religious rites and human civil offices. Through teaching and exercise it accustoms children [of God] to the proper worship of God, and it restrains foolish people from vices (*CR*, 1:706-8).

In Melancthon's theological-political views, the virtues of love undergird justice in civil society. Through the Decalogue, God binds men together in multiple relationships all flowing from the love demanded by divine law (*CR*, 22:610). The specific demands of love find their expression in the particular commandments contained in the Scriptures, which command obedience to the authorities, the punishment of unlawful killing and violence, and so on (cf. *CR*, 1:87ff.; *CR*, 21:294ff.; *CR*, 22:25ff.; *CR*, 16:70ff.).

Because justice constantly testifies against injustice such as threats to the safety of the citizens, efforts to upset the preservation of civil society and the undermining of the tranquillity and happiness of people in civil society, human life demands that each is given his due and that justice is maintained. It is the primary duty of magistrates to perform the duties of the law informed by providence and to rule subjects within the commonwealth wisely. Because magistrates are commanded by God to rule justly, all subjects have the duty to obey, and not to resist political authority and the laws of civil rulers which would lead to total chaos that ensues from public uprisings and sedition (*CR*, 21:223-224).^{xix} The obedience required by divine law (the Ten Commandments and the duties contained in Romans 13) prohibits defiance of civil authority, which is viewed as a defiance of God Himself that would incur His wrath (*CR*, 21:223-224).

The human being's natural aversion to injustice

Because justice is the first and primary element to enter into the construction of every human society, the theory of justice forms a part of society and human society is part of the theory of justice.^{xx} Because all law and justice can be traced back to human nature, all laws must be based on a rational principle (*DL*, 2.4.8 (379)). However, in the final analysis, law is not the product of human thought, nor is it any enactment of humans, but something eternal which rules the whole universe by its wisdom (*DL*, 2.4.8-10 (381)). Ultimately, submitting to the demands of justice means to obey divine providence because law is the primal and ultimate mind of God (*DL*, 2.4.8-10 (381)), the divine reason of providence commanding virtue (*DL*, 2.4.8ff. (381-2)). Cicero cites two examples to prove his point: it was divine providence that commanded the heroic Cocles to obey the law of bravery by burning the bridge behind him when facing the enemy (*DL*, 2.4.8-10 (383)). On the other hand, Lucius Tarquinius broke the eternal law by violating Lucretia, the daughter of Tricipitinus (*DL*, 2.4.10-11 (383)): he broke and disobeyed a law that came into existence with the divine mind, because "what is right and true does not begin or end with written statutes" (*DL*, 2.4.10-11 (383)).

Law is the distinction between things just and unjust, made in agreement with nature. According to nature, human laws should inflict punishment upon the wicked and defend the good (*DL*, 2.5.11-12 (385)). All deeds of injustice therefore, are in conflict with human nature and upset the divine order of providence infused in human being's minds. Therefore, there is a basic aversion to injustice because it is contrary to human nature.

Melancthon's theory of justice is not merely a theological matter, but also forms part of his views on society. Melancthon remarks as follows:

This knowledge [of natural law and justice], divinely taught both by the light that is born in us and by the true divine voice, is the beginning of the laws and of the political order [of the earthly realm]. God wishes us to obey them not only for the sake of our needs, but more, so that we may acknowledge our creator and learn from this same order that this world did not arise by chance, but that there is a creator who is wise, just, kind, truthful,

and chaste, and who demands similar virtues in us. We may also learn that he is an avenger who punishes violations of this order (CR, 11:918-919).^{xxi}

Knowledge of justice is an emanation from the rational nature of human beings. Not only as divine law inscribed on the human mind, also positive law should, as “rational positive laws” govern the earthly kingdom (CR, 16:230; CR, 22:611-612). The notion of “being rational” derives a particular nuance from a Reformational perspective: it means acting according to the natural law and applying practical considerations of social utility and the common good – without these requirements of “being rational”, positive law does not bind the subjects in civil society (Witte 2002:129-130).^{xxii}

Injustice is directly opposed to that which is rational and to human nature, and therefore there is a basic aversion to injustice. In the case of a civil authority acting contrary to natural law and divine law (the divine moral law), it is not binding and could be lawfully disobeyed. Thus, defiance of natural law precepts implies the unlawful conduct of magistrates beyond the authority of their office (Witte 2002:138).

Tyranny, injustice and the inclination of human nature towards justice, benevolence and virtue

To Cicero, laws were invented to ensure the safety of the citizens, the preservation of states, and the tranquillity, happiness and honour of human life (DL, 2.4.10-2.5.11 (383)). Those rulers who formulate wicked and unjust statutes break their promises and agreements (this is an implicit reference to the oaths made at the institution of rulers and their vows to govern justly) and put into effect anything but law, because by definition law inheres in that which is just and true (DL, 2.5.11-13 (383)).^{xxiii} Furthermore, by definition such a state is no state at all because it lacks law (DL, 2.5.13 (385)). Cicero explains that the “deadly pestilential statutes” which nations put into force are no better than the rules that might be passed by a band of robbers (DL, 2.5.13 (385)).^{xxiv} Such wicked and unjust laws are “ruinous regulations” and amount to deadly poison instead of being the “healing drugs” for the well-being of society (DL, 2.5.13 (385)). One such instance where law deviates from nature is where it does not inflict punishment upon the wicked and defend and protect the good, but operates to the contrary (DL, 2.5.13 (385)).

Because vows are contracts by which human beings are bound to God by calling upon God’s justice, divine providence demands the scrupulous performance of these vows (DL, 2.16.41 (423)).^{xxv} Not only are magistrates called upon to govern in accordance with their vows and agreements, they are also commanded by providence to give commands which are just, beneficial and in accordance with natural law (DL, 3.1.1. (459)). The importance of government is highlighted by Cicero’s observation that nothing is so completely in accordance with the principles of justice and the demands of nature as government because without its existence is impossible (DL, 3.1.2 (461)) – without the prudence and watchfulness of magistrates no state can exist, therefore they must be informed of the limits of their administrative authority, and citizens must know of the extent of their obligation to obey them (DL, 3.2.5 (463)).^{xxvi}

Whereas Cicero stated the conditions on moral-political, religious-political, moral-jural and religious-jural grounds for considering the injustice committed by civil rulers, Melancthon proceeds from the notion of fundamental obedience to civil government, except where the moral-political conditions do not justify it. The primary moral-political instance of justice identified by Melancthon concerns the safety of the citizens and the preservation of civil society. In his *Prelegomena to Cicero’s De Officiis* (1530), he relies upon creatures’ natural inclination to protect themselves against unjust violence (CR, 16:533-614). Analogous to Cicero’s arguments on acting in self-defence, Melancthon takes up the argument for the natural instinct common to both animals and humankind to repel violence^{xxvii} because God has implanted in their nature an “appetite for conserving themselves,” while in humans there is the same inclination to repulse unjust violence (CR, 16:573). This “natural inclination” is nothing but the testimony of God, which He has given to us to be able to discriminate between justice and injustice.^{xxviii} In essence, the reason for instituting civil institutions is to guarantee the rule of justice, whilst the office of rulers and magistrates automatically excludes any right to inflict violence on their subjects (CR, 16:574). Subjects have the natural right to resist unjust violence by ordained rulers by calling on magistrates to assist: or, if no assistance is forthcoming, by acting themselves in the manner of a person who kills thieves in self-defence (CR, 16:573). Of particular significance is the fact that the lawful power to act in self-defence in resisting unjust force or violence is both limited to the office of ordained civil rulers, and is also a power possessed in extreme instances by every individual in accordance with the right of nature to repel violence with force (CR, 16:573).^{xxix} Secondly, in a document composed by Melancthon and issued by Luther, Jonas, Melancthon, Spalatin and other theologians towards the end of October 1530^{xxx} in response to the arguments in

favour of resistance voiced by the legal advisors of Elector John, a combination of the moral-political and the religious-political arguments surface. The statement reads as follows:

We are in receipt of a memorandum from which we learn that the doctors of law have come to an agreement on the question: In what situations may one resist the government? Since this possibility has now been established by these doctors and experts in the law, and since we certainly are in the kind of situation in which, as they show, resistance to the government is permissible, and since, further, we have always taught that one should acknowledge civil laws, submit to them, and respect their authority, inasmuch as the gospel does not militate against civil laws, we cannot invalidate from Scripture the right of men to defend themselves even against the emperor in person, or anyone acting in his name. And now that the situation everywhere has become so dangerous that events may daily make it necessary for men to take immediate measures to protect themselves, not only on the basis of civil law but on the grounds of duty and distress of conscience, it is fitting for them to arm themselves and to be prepared to defend themselves against the use of force, and such may easily occur, to judge by the present pattern and course of events. For in previously teaching that resistance to governmental authorities is altogether forbidden, we were unaware that this right has been granted by the government's own laws, which we have diligently taught are to be obeyed at all times (*LW*, 47:8).

In Luther's *Warning to his poor German people* (1531), he informs the people that in the event of a war by the emperor to stamp out the Reformed religion, those wishing to take up arms and fight the emperor cannot be reproved because they will be acting in self-defence and preserving themselves against the abuses of law. Luther's major concern expressed in this treatise was the fact that their opponents' plans were "built exclusively on force" and their cause relied on "the power of the fist," against the manifest and known truth of God (cf. *LW*, 47:11 & *WA*, 30(3)276-320). Luther's response followed upon the issuance of the *Augsburg Confession* in 1530 and the unrest it engendered.^{xxxii} Alarmed by the prospect of Emperor Charles V and the princes loyal to Rome attempting to extirpate the Protestant movement by using military force, Luther issued this "warning" to his followers – no one who cared for the freedom of the gospel or the integrity of the church should in any way assist such efforts, even if the emperor himself should command it. Not only passive non-cooperation but armed resistance would be justified to repel such violence to the gospel, the church and individual believers. The doctrinal and historical importance of this polemical treatise represents a departure from Luther's earlier, more passive attitude toward the civil authorities of that time.

The moral-jural implications of the Ciceronian-Melanchthonian views on the right of resistance

No study of resistance theory in Reformational thought is legitimate without considering the religious, moral, jural and political contexts within which resistance theory manifested itself. The early German Reformation established a moral and religious platform for political and jural resistance views by developing and extending the classical Ciceronian framework of providence, moral duty and political authority subject to natural law and human reason.^{xxxii} The development of this Ciceronian-Lutheran basis for developing resistance-theory had a profound impact on later generations of Reformational thinkers.

Whereas Luther and Melanchthon advanced a limited and conservative notion of political resistance by resorting to moral-political arguments only, later generations of Reformers tended to broaden the spectrum of arguments in support of legitimately establishing a right of resistance to civil rulers. Whatever the basic arguments advanced may have been, most of these emanated from the view that justice is a cardinal virtue and that it fulfils a constitutive function for making and applying positive law.

Melanchthon's incorporation of the divine moral law into his theory of legitimate resistance that informs natural law, took the criteria for justice, moral duty and the right to a deeper level of concreteness, particularly concerning issues related to the "right" of civil authorities to demand obedience of their subjects and the "right" of subjects to disobey the laws of its civil rulers.

By introducing the precepts of the moral law and the demands of justice in considering the right of civil authorities to demand obedience, Melanchthon contributed substantially towards delineating the conditions under which civil rulers would have a right to demand obedience from their subjects. In order to have this right to demand obedience, two requirements have to be present: firstly, in terms of the moral law, subjects should have a duty to obey, and, secondly, civil rulers should perform morally upright (just) actions.^{xxxiii} Only then will civil authorities have the right to demand obedience of their subjects. The implication is that civil authorities have a right to demand obedience only if subjects have the duty to obey *and* if they perform morally upright actions in promoting truth, justice and virtue. In the absence of one of these two conditions, civil rulers lack an enforceable right to demand obedience. Subjects then have a right to disobey civil rulers if they have contravened the moral law (for example by unlawfully taking their property, ravishing their wives, and blaspheming in the name and honour of God) and provided that the subjects themselves act in a morally upright manner. Between the time of Luther's and Melanchthon's rejection of the peasant uprisings in 1525 and the threat of an attack by the emperor on their faith and the church in 1530, the finer nuances of the interplay between duties in terms of the moral law and the demands of justice had crystallised and been refined to such an extent in Lutheran thought that there could be a right of resistance. The tyrannical assault or infringement of the law and the cunning, unlawfulness and the use of violence inflicted on the material and spiritual well-being of subjects by those siding with the antichrist in Rome, therefore could indeed proceed to the point where a right to self-defence became manifest.^{xxxiv}

Regarding the first requirement, Luther and Melanchthon (and the Reformers generally) interpreted the commandment obliging one to honour one's parents widely to include obedience to all institutions having legitimate authority. The upright moral action required of civil rulers related to the classical statement of giving each person his due. However, just because a ruler may perform morally upright and just actions, this does not necessarily award him the unfettered freedom to act in a manner that disregards the rights of subjects in civil society. The rights of subjects not to have their possessions stolen, their wives ravished and their bodily integrity attacked place limits to the freedom of civil rulers. Similarly, if civil rulers do not perform morally upright and just actions, this does not, as such, give subjects a "right" to refuse to obey civil rulers under all circumstances, because these rulers may have enforceable rights to obedience in other respects.

The development of the idea of natural right had undergone a profound transformation as a result of the Lutheran acceptance of a "natural" right to resist based on a duty-oriented approach in terms of the moral law. In a wider context the demands of moral duty and moral uprightness also assisted in developing a more nuanced perspective on the moral limits of governance and the practical implications of the duties of individuals and social entities in the jural sphere.

Conclusions

The formulation of a right to resist tyrannical rulers became a powerful tool for ensuring political freedom in the course of the sixteenth and seventeenth centuries in Europe. The seventeenth century, in particular, witnessed the extended application of the right to resist oppressive political rulers in a plurality of diverse conditions under which Reformational political theorists found themselves. In this

respect the core of the right of resistance formulated by the early German Reformers opened up vast possibilities for further development and application.

However, the emphasis on the existence of such a right by later Calvinists did not deviate from the original aims of the German Reformers and their Scriptural interpretation of the Stoic commitment to the political duties of rulers and the moral aims for securing justice in society. The influence exerted by the Ciceronian-German Reformational arguments on later generations of Reformers in the development of a “right” to resist the unjust acts of rulers is manifest in the example of Samuel Rutherford’s seventeenth-century appeals to law in resisting tyranny. Rutherford firstly stresses the duty of the ruler towards his subjects. To him, all rightful authority lies in law, whether it is the authority of the king, estates, populace or church. In the king’s remotest distance from law and reason, he is a tyrant, because a tyrannical power is not from God; it is Satanic, and is no more from God that a license to sin is from God (Rutherford 1982:34(1)). Therefore, the judge also has a duty to execute judgment for the oppressed because the king has no power from God to exercise acts of tyranny without any resistance (Job 29:12-17; Jeremiah 22:15-16). To Rutherford, the office of the ruler implies governance in accordance with the precepts of God as summarised in the Decalogue. Once the ruler seriously transgresses his obligations, this is contrary to his office and therefore the ruler as a person must be resisted (Rutherford 1982:151(2)-152(1)). The king who acts contrary to his office may be resisted, the community only having to be subject to his power as royal authority in so far he acts in accordance with his office, which entails acting for the good of the people (Rutherford 1982:145(1)). Rutherford also refers to that power which is obliged to command and rule justly and religiously for the good of the subjects and as an authority over the subjects on certain conditions. When this power is abused it may be resisted (Rutherford 1982:141(2), 110(2) & 220(2)). In effect, it means that the people are only bound to the king in so far as he is a terror to evil. The fact that the people are united under the king through contractual obligations, presupposes that no such contract can come into existence outside the law of God. Secondly, Rutherford demands that subjects act uprightly in their relationship with the king. Therefore, the people should not apply their power at the instance of any kind of inappropriate behaviour on the part of the king; the people must suffer much before they may resume their power (Rutherford 1982:36(2)). Rutherford bases his argument on the principle of self-preservation: In the law of nature, God has given to every man the keeping and self-preservation of himself and of his brother (cf. Rutherford 1982:97(1)). De Grunchy (1995:79) rightfully remarked that

(i)f the struggle against tyranny was central to the development of democracy, then the French Huguenots, the Scottish Presbyterians, and the English Independents, all heirs of the Genevan Reformation, must be accounted key agents in its historical development.

However, this statement is subject to the truth that the roots of the duty-based conception of a right to resistance in the Reformed fold did not *originate* in Calvinistic thought, but had a profound influence on later generations of Calvinists.

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Endnotes

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- 1 Apart from Luther, Melanchthon in particular had much affinity for Cicero's rhetorical and philosophical abilities. In his early work *Rhetoric* of 1519, much of which was written before he came to Wittenberg, Melanchthon already focuses on law cases and disputes as topics for purposes of rhetoric (*Rhetoric*, 1519, fol. 1(b), 34-36). He lauds the art of rhetoric in Cicero's *De Officiis* (*Rhetoric*, 1519, fol. B4(a), 20-22) and Cicero's speech for Milo as juridical examples of clarity (*Rhetoric*, 1519, fol. G1(b0-g4(b)), providing students with the ideal standard for defence (*Rhetoric*, 1519, fol. F4(b)), and praises Cicero's moral values, comparing his writings with the Bible – whereas Holy Scripture is the only basis for true religion, Melanchthon turns to Cicero on moral issues. Melanchthon also lauds the exemplary standards of Cicero's writings for private and public morals (*De praefatione in officio Ciceronis* (1525), *CR*, 11: 88, 6-8): "Verum ego religionem ex divinis literis censeo hauriendam esse. De civilibus moribus malim audire Ciceronem ..." Due to the natural law inherent in all human beings, Melanchthon extensively applies the principles of Ciceronian ethics. This corresponds with St Paul's teaching that the whole of humankind is endowed with knowledge of the law (Romans 2: 14-15), and humankind having been invested with a conscience that testifies concerning that which is honest and bad: "Imo Gentes etiam habuerunt legem, hoc est noticiam naturalem de moribus discernentem honesta et turpia ... Ac Paulus erudite ratiocinatur, quod Gentes habeant legem, ac simul declarat, quid sit lex naturae; habent conscientiam accusantem et excusantem, id est, discernentem honesta et turpia, ..." (*Commentarii in epistolam Pauli ad Romanos* (1540), *CR*, 15, 577, 33-40). Melanchthon also emphasised Cicero's *De Oratore* as a guide to governing by rulers (*M.T. Ciceronis de oratore libri tres* (1541), *CR*, 16, 689, 17-23): "Nam cum oratio nascatur ex rerum cognitione, erit inops orator sine harum rerum scientia. Et cum orator maxima reipublicae consilia gubernet, opus est ei ad sapienter dicendum et iudicandum omnium illarum maximarum artium scientia. Nam existere aliquos tales rerumpublicarum gubernatores necesse est omnibus aetatibus." In his philosophical treatises, Melanchthon produced more than 22 commentaries on works by Cicero, including *Officiis*, *Laelius*, *De Oratore*, fifteen addresses, including *Pro Archia*, *Milone*, *Ligario*, *Deitaro*, *Lege Manilia*, etc. For Cicero's influence on Melanchthon's natural law views, see Bauer, 1950 & 1951.
- 2 To Cicero, human beings have a natural aversion to injustice, because human nature has a longing for liberty – a mind "well-moulded by Nature is unwilling to be subject to anybody save one who gives rules of conduct or is a teacher of truth or who, for the general good, rules according to justice and law."
- 3 Note e.g. his definition of particular justice in *CR*, 13: 539: "Iusticia particularis est virtus, suum cuique tribuens. Hanc definitionem Plato scribit a Simonide traditam esse. Et quod in textu dicitur: Est constans et perpetua voluntas. Haec verba sunt descriptio habitus, quasi dicat: Iusticia ... est firmum propositum voluntatis, ut suum cuique tribuat." Hans Engelland describes the Ciceronian concept of knowledge from which Melanchthon derived his theory of knowledge, as follows: "The synopsis of the sciences just given rests upon a common

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- fundamental assumption, upon a certain the ory of knowledge, derived from a Ciceronian concept ...” in Melanchthon, *Loci communes* (1555): xxviii.
- 4 “Copiose autem in dialecticis dicitur de normis certitudinis ... Hic tantum obiter iuniores commonefacio, ut magis considerant, qualis sit naturalis lux in intellectu, et quae sit iudicii regula, et unde sit adensionis firmitas.”
- 5 See e.g. *CR* 13: 150 where he equates the “notitiae” with principles established in the human mind: “Principia sunt noticiae nobiscum nascentes, quae sunt semina singularum artium divinitus insita nobis, ut inde artes extrauntur, quarum usus in vita necessarius est, ut noticia numerorum, ordinis, proportionem, et multarum propositionum. Quodlibet est, aut non est. Totum est maius qualibet sua parte. Deus est mens aeterna, sapiens, verax, iusta, casta, benefica, conditrix mundi, servans rerum ordinem, et puniens scelera.” Melanchthon developed his idea of knowledge from the premise of the “natural light” divinely instilled in the human mind, as “naturalis lux in intellectu”, or “lux humani inegnii”, or “lumen divinitus insitum mentibus” (see *CR*, 13: 150, 647; 21: 712).
- 6 See e.g. *CR*, 11: 920: “Et in Salomone: Pondus et statera iudicia Domini sunt. Sit igitur infixata pectoribus haec sententia, et firma ac immota assensione retineatur, leges et totum politicum ordinem spaientiam Dei esse, nobis monstratum, et res bonas esse, ac beneficia, in quibus Deus vult agnosci, se quoque iustum et veracem esse, et amare iustitiam, et horribiliter irasci iniustitiae.”
- 7 The aspects of the *notitiae nobiscum nascentes* concerning the ultimate presuppositions of action, Melanchthon called the presuppositions of action (*principia practica* of ethics), which direct the moral life and above all require distinctions between good and evil (*CR*, 13: 649; 21: 711). This “divine light in the soul” cannot be extinguished, and should be “strongly aroused and the sense of it fortified so that we recognize, assert and confirm that the practical principles are just as sure and certain as the principles of thought, or even the immutable judgments of God” (*CR*, 21: 641ff., 711f.).
- 8 See e.g. his remarks at 919: “Hae notitiae divinitus traditae cum luce quae nobiscum nascitur, tum vero etiam voce divina, sunt initia legum et ordinis politici, cui vult nos Deus, non solum necessitatis nostrae causa obedire, sed multo magis, ut agnoscamus conditorem, et in hoc ipso ordine discamus, non casu extitisse hanc naturam rerum, sed opificem esse sapientem, iustum, beneficum, veracem, castum, et similes virtutes in nobis flagitantem, et vindicem punientem huius ordinis violationem.” At 918-919 Melanchthon observes: “Summae et optimaes res in mente divina conditricis generis humani sunt, sapientia, discernens honesta et turpia, et iustitia, veritas, beneficentia, clementia, castitas. Harum optimarum rerum Deus semina in mentes humanas transfudit, cum nos ad imaginem suam conderet. Et ad normam suae mentis congruere vult hominum vitam et mores. Voces etiam sua hanc ipsam sapientiam et virtutum doctrinam patefecit.”
- 9 Even after the Fall, these *principia practica* find expression in the idea of law (*CR*, 13: 649f.; 21: 687f., 712).
- 10 Also compare *CR*, 11: 921: “Et ut numerorum scientia lumen est divinitus insitum mentibus, nec impedit, nec delet Evangelium, ita politica sapientia ex firmissimis notitiis extruitur, quae divinitus insitae sunt humanis mentibus, nec impediunt, nec delent Evangelium.”
- 11 The principles of natural law enable human beings to distinguish between just and unjust acts: “Summae et optimaes res in mente divina conditricis generis humani sunt, sapientia, discernens honesta et turpia, et iustitia, veritas, beneficentia, clementia, castitas. Harum optimarum rerum Deus semina in mentes humanas transfudit, cum nos ad imaginem suam conderet. Et ad normam suae mentis congruere vult hominum vitam et mores. Voce etiam sua hanc ipsam sapientiam et virtutem doctrinam patefecit.”
- 12 Melanchthon followed Luther in rejecting the role of the human rational abilities in the moral sphere. The divine law is the law that God has imprinted on the human mind as an “external and immutable precept of the divine spirit, a judgement against sin” proclaimed in the Word of God (*CR*, 21: 712, 686, 687).
- 13 Melanchthon defines natural law as the “natural knowledge of God and our guide in morality or judgment about good and evil, which is implanted by God in humankind like the knowledge of numbers,” a natural order, corresponding with the moral part of God’s law, summarised in the Decalogue; therefore the law of nature is the “knowledge of divine law implanted in human nature” (*CR*, 13: 649 f.; 21: 687f., 712).
- 14 Also note *CR*, 11: 919: “Ut igitur vides hanc pulcherrimam mundi figuram, coeli et elementorum positum, solis et stellarum motus, temporum vices, deinde in ipso homine

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- mentem, numeros et alias notitias mirabili arte divinitus ordinatos esse, et divina potentia conservari: sic certum est a Deo societatem hominum et vincula societatis, imperia, leges, doctrinam virtutem, iustitiae, beneficentiae, veritatis, castitatis, contractus, iudicia, poenas singulari opere ordinatas esse, et excitatos ab eo gubernatores, legum tutores ac interpretes, qui subinde hos nervos societatis et doctrinam virtutum restituerent.”
- 15 This flows from the two fundamental principles of justice – not to harm anyone, and to conserve the common interest (*DO*, 1.10.31).
- 16 Cicero in *DO*, 1.4.12, regards self-preservation as a basic inclination of human nature – nature has endowed every species of living creature with the instinct of self-preservation; “of avoiding what seems likely to cause injury to life or limb, and of precuring and providing everything needful for life ...”
- 17 To Cicero “it is the duty of the magistrate to represent the state and uphold its honour and its dignity, to enforce the law, to dispense to all their constitutional rights, and to remember that all this has been committed to him as a sacred trust”.
- 18 The fixed order in political society enables Melanchthon to use it as one of the proofs for the existence of God – only an eternal Spirit can give human beings an orderly understanding for the sake of maintaining political community.
- 19 This emphasis is reminiscent of Cicero’s call to subjects in civil society to labour for the peace and honour of the state (*DO*, 1.34.124).
- 20 Thus the duties prescribed by justice ought to have precedence: “From all this we conclude that the duties prescribed by justice must be given precedence over the pursuit of knowledge and the duties impressed by it for the former concern the welfare of our fellow-men; and nothing ought to be more sacred in men’s eyes than that” (Cicero *DO* 1.43.155). The duty of obedience to civil rulers is an outflow of the duty to do justice: “Every duty, therefore, that tends effectively to maintain and safeguard human society should be given the preference over the duty which arises from speculation and science alone.”
- 21 God’s Spirit enlightens the human mind to understand and apply the principles of natural law, see e.g. *CR*, 11: 68: “... quid de civilibus legibus divinus Spiritus decreverit; quas cum coelesti voce probari audietis, par fuerit, et cognoscere diligentius, et observare sanctius. Sese enim contemni Deus iudicabit, si civiles leges tantopere nobis commendatas violaverimus.”
- 22 This, however, does not diminish the need all human beings have for guidance through God’s Spirit – the Spirit of God renews the knowledge of natural law that became obscured in nature because the spirit of the human being became blind through sin (*CR*, 21: 140).
- 23 In *DO*, 1.7.23 Cicero takes good faith to be the foundation of justice: “The foundation of justice, moreover, is good faith – that is, truth and fidelity to promises and agreements.” For the significance of the oath, see Cicero, *DO*, 1.39.40; 3.102; 3.99-102. At 3.29.104 Cicero circumscribes an oath as follows: “But in taking an oath it is our duty to consider not what one may have to fear in case of violation but wherein its obligation lies: an oath is an assurance backed by religious sanctity; and a solemn promise given, as before God as one’s witness, is to be sacredly kept. For the question no longer concerns the wrath of the gods ... but the obligations of justice and good faith.”
- 24 For Cicero’s vehement opposition to tyranny, see *DO*, 2.7.23. The essence of his argument against tyranny is that rulers are chosen for the sake of justice (*DO*, 2.12.41). Referring to the practices of the tyrant Phalaris, Cicero uses the organic metaphor of the amputation of a limb in order to save the human body, to implicitly justify violent measures in combating tyranny: “(W)e have no ties of fellowship with a tyrant, but rather the bitterest feud; and it is not opposed to nature to rob, if one can, a person whom it is morally right to kill; - nay, all that pestilent and abominable race should be exterminated from human society”. Cicero then applies the metaphor of the amputation of a limb threatening the human being’s well-being, for as certain members are amputated, if they show signs themselves of being bloodless and virtually lifeless and thus jeopardise the health of the other parts of the body, “so those fierce and savage monsters in human form should be cut of from what may be called the common body of humanity” (*DO*, 3.7.32).
- 25 The principle that private citizens may, under certain circumstances, be relieved of their duty to obey oath-breaking rulers, is contained in Cicero’s statement to the effect that promises are not to be kept, if keeping them is to prove harmful to those to whom the oath has been made (*DO*, 1.10.32).
- 26 It should be borne in mind that, to Cicero, justice is the highest virtue (*DO*, 1.17.56), and that nothing that lacks justice can be morally right (*DO*, 1.19.62).

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- 27 *CR*, 16: 573: “Bestiae naturali inclinatione repellunt violentim, quia cuilibet naturae insita est a Deo appetitio conservandi sese: in homine autem [est inclinatio] ... ad depulsionem iniusta violentia.”
- 28 *CR*, 16: 573: “testimonia de Deo, ostendentia discrimen inter iusta et iniusta”.
- 29 “vim iniustam repellere licet vi ordinata, scilicet officio magistratus, cum eius auxilio uti potest, aut manu propria, si desit magistratus, ut si quis incidat in latrones”. He adds: “Verum est igitur dictum, vim vi repellere natura concedit”.
- 30 For the dating of this memorandum, see *BW*, 8, 289-299. Also note the comments in *LW*, 47: 8ff. This source is not taken up in the Weimar edition of Luther’s *Works*, but the date of the text is wrongly reflected as being 1531 instead of 1530.
- 31 This treatise was probably composed in October 1530 and published in 1531. It went through five editions in the same year. However, in 1525, Heinrich Bullinger in his play *Lucretia and Brutus*, had voiced clear sentiments in favour of democratic rule based on the taking of the oath by rulers and subjects (see Raath & De Freitas, 2005: 24ff.).
- 32 At least five years earlier Cicero’s account of the expulsion of Tarquinius Superbus who, when he had reached the summit of his insolence, was deprived of his rulership by the people, in his *De re Publica* (*DRP*, 2.26.47 and 27.49), had inspired Bullinger to justify the people’s right to protect themselves and their goods against tyrannical assault on their goods and the unlawful use of force. At that stage, Luther and Melancthon still voiced the traditional view that obedience on the part of subjects is an unconditional duty.
- 33 The duties of the civil rulers to maintain discipline in civil society, to keep the peace through making laws, as defined by Melancthon, were reiterated by most of the other Reformers: “Magistratus est persona, Dei ordinatione electa, ut sit custos disciplinae et pacis, certis legibus, et puriat contumaces vi corporali” (*CR*, 13: 551).
- 34 For the implications of tyranny in Bullinger’s thought and the right of resistance prior to the developments in Lutheranism from 1530, see Raath & De Freitas, 2005: 1-26, at 25.