

STATE AND CHURCH HOW THE REFORMATION ALTERED CHURCH INSTITUTIONS

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Motto: ‘...law is a quiet superiority, and superiority is the living law.’
(John Calvin: Institutes of the Christian religion. Ch. 20/14.)

The achievements of the Reformation, which started on 31st October 1517, are still present in the lives of the new Protestant churches. The changes are traditionally divided into two main categories: *a)* dogmatic reforms; *b)* ecclesiastical law reforms, and more specifically, institutional reforms.

I. The followers of the old and new church both agree on the following:

- a) Trinitarianism and the Nicene Creed which defines it (this is the creed approved by the council held in 325 in Nicea, capital of the province of Bythnia, which contains the formula ‘Father, Son, Holy Spirit, the complete Holy Trinity’. Possibly some parts of the Church, especially those in the territory of the western Roman Empire, disagreed on this, and they made a specific summary of their views during the Serdica Council. At the same time, however, the heresy of Macedonianism arose. So canon 1 of the Second Universal Council held in Constantinople declared that ‘the creed of three hundred and eighteen fathers gathered in Nicea in Bythnia may not be overruled; it shall remain valid, and all heresy shall be anathematized (excommunicated) by name’. Canon 5 of the same council added and declared that the fathers of the council also considered the formula used in the Church of Antiochia, ‘Father and Son and Holy Spirit, one God’, valid. No further changes have been made to this dogmatic definition, and the Third Universal Council, held in 431 in Ephesus, provided for the prevention of any changes. Canon 7 of this council reinforces that no one shall ‘present,

that is, write or compose' any other creed 'besides that defined by the sacred fathers who gathered with the Holy Spirit in the city of Nicea').¹

There will be only one exception to this rule: Anti-trinitarianism, also known as Unitarianism, which, similarly to Monophysites, holds that God is a single person, and therefore denies the divinity of Christ and the Holy Trinity.

b) The doctrine of redemption by Christ

This doctrine preserved the ancient concept of Christian theology, which holds that by his voluntary death, Christ redeemed everyone from their earthly sins, with no exception. (There are ongoing theological debates concerning the fate of the souls of those who had died before Christ, and so the redemption by Christ could not apply to them. Some explain that according to the aforementioned Nicene Creed, 'he descended into hell, and on the third day he rose again', which means that Christ descended into hell to raise the worthy, who will join the army of redeemed once Christ returns).

II. Dogmatic reform

These reforms are primarily associated with the work of Luther, although some of the achievements are attributed to Calvin, and some to both of them or even several other early reformers. The major ones are:

1) Transubstantiation or theological doctrines for Christ's sacrifice

Transubstantiation is an expression in theology referring to statements made by Christ at the Last Supper, used as a symbol of Christ's death on the cross and of the regular commemoration of this event. The meaning of Holy Communion in the Catholic faith, repeating the Last Supper, and communion in the Protestant faith are substantially different and has been the subject of debates for centuries.²

¹ BERKI, Feriz: Book of Canons. „Kánonok könyve.” Budapest 1946. pp. 67, 70, 75-76, 100; OSTROGORSKY, Georg: History of the Byzantine State. „A Bizánci állam története.” Budapest 2001. pp. 64-65, 'The victory of orthodoxy was expressed during the Second Universal Council in Constantinople (381), where the decrees of the Nicea Council were reinforced and supplemented, and the Christian Creed reached its final wording (the so called '*Symbolum niceano-constantinopolitatum*')' see also SCHREINER, Peter: Byzantium „Bizánc”, Budapest 2002. p. 32.

² CHADWICK, Owen: Reformation „A reformáció.” Budapest 1998. pp. 31-32, 60-61, 110, 220, 260, also p. 344 concerning the adoption of the doctrine of transubstantiation by the Orthodox Church; and especially p. 346: views of Patriarch Lucharis of Alexandria, later Constantinople concerning the adoption of reformer concepts; see also McGRATH, Alister E.: Calvin „Kálvin.” Budapest 1996. pp. 185-186, where Calvin says the communion is 'the visible sign of a sacred thing, or the visible form of invisible mercy.' As another important

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- a) The Catholic dogmatic concept holds real presence of Christ in the sacred bread and wine of the communion. This is what they call the sacred Eucharist. In every communion the participant theologically repeats Christ's sacrifice. (According to the latest concept, believers do not only die with Christ in communion, but also symbolically rise at the same time!) Accordingly, of all Christian religions it is only the Catholic and Orthodox faiths that still maintain the so-called single communion liturgy, in which secular believers may only take the bread, representing the body of Christ. Even the earliest heresies were opposed to this practice, for example, Cathars, Bogumils and also the Hussites (Utraquists). One of the major dogmatic and liturgical reforms of Reformation was the introduction of double communion.
- b) According to the Lutheran or Evangelical viewpoint, which is based on '*praesentia realis*', the statements of Luther and his fellow reformers, in communion Christ is present in the bread and wine '*realiter, sed non materialiter*', meaning Christ is present but not in his real material form. Theology calls this 'real presence' or '*praesentia realis*'. Luther later called this presence Consubstantiation.
- c) Calvinists, however, believe that taking bread and wine in communion represents commemoration, as in Christ's words: 'do this in my memory', of crucifixion. In this sense, Christ is not even present '*realiter*' in the elements of the communion, only symbolically, for reasons through commemoration. At the same time, there is a strong connection between communion and its symbolic meaning: '*distinctio sed separatio*'. This concept spread quickly, even more so when, in Luther's lifetime, Count Philip of Hessen urged a meeting of leading reformers in the city of Marburg. Despite lengthy debates, the other reformers failed to convince Luther, who insisted strongly on his concept of '*praesentia realis*'. As others, including his reputable colleague, Bucer, disagreed, the trend refusing '*praesentia realis*' and accepting Christ's symbolic presence started to spread not only in South Germany, but also in the Netherlands, preparing the ground for the introduction of the Calvinist belief and the Calvinist concept of communion.

novelty, in the communion debate between Lutherans and Calvinists he emphasizes that a symbol is not an empty sign, as God could not offer such. Therefore, there is a strong connection between the sign, the commemoration of the sacrifice and the meaning of the symbol. Especially as he calls the communion 'spiritual feast' (17.1.), and indicates that 'we do not embrace Christ as a person approaching from a distance, but as a person becoming one with us.'

2) The doctrine of ‘*Sola fide*’ or ‘*Salvation through Faith*’, and the concept of *predestination*

The earliest reform during the Reformation. It is known that even before 1517, at the University of Wittenberg, Martin Luther followed Paul the Apostle in teaching that Christians shall only earn salvation *Sola Fide*, through faith. No act of charity or kindness can help this; mercy can only be reached by means of faith.

Nevertheless, this concept was radically different from the concept of medieval theology. New research shows that theology at the time was most probably still following rabbinic traditions, in which good deeds were considered, if not the direct source of salvation, but a path leading to it.

John Calvin did not only accept the latter concept, but reinforced it on the basis of early scholastic traditions. The way he sees it, God decides at the time of our birth whether we shall be saved or damned – a theory similar to that of St Augustine stated in *De civitate Dei*, in which it is already decided who shall get from *civitate terraena* to the City of God or one day to perdition. This is the basis of the distinction Calvin and his followers make between visible and invisible Church. They define ‘visible Church’ as the total of all believers, whether in a specific place or in the whole world in general. ‘Invisible Church’, on the other hand, means a group of those destined, chosen, or predestined for salvation by God.³ There is no one in this world, however, who knows whether he or she only has a single ‘Christian citizenship’, or he/she is predestined to be member of both the visible and the invisible Church, that is to say, who has dual ‘citizenship’.

Christian values of piety and doing good also seem to support the latter. This concept was developed to the extreme by the *Mennonites*, mentioned elsewhere, who hold that salvation only comes through good deeds.⁴

3) The doctrine of universal priesthood, that is, questioning clericalism, bishops and the church as an institution.

Luther went back to the practices of the ancient Church, which lacked a separate clerical order. This did not only mean that every baptised Christian participated in the service, but also that frequently sacraments were given by a member of the community chosen for a single occasion. Profanely speaking, everybody was their own priest.

³ John Calvin: ‘Institutions of the Christian Religion’ (*Istitutio religionis christianae*) 1559 Geneva and 1910 Pápa. P. 4, 29, 40-41, 45 and 100 onwards; about predestination, pp. 202 onwards, especially p 216: ‘And where God’s favour (being chosen) is present, actions are not accounted for.’ For later readings see Mc.GRATH, A.E.: 1996. pp. 176-184.

⁴ CHADWICK, O.: 1998. pp. 186-188 and McGRATH, A.E: 1996. pp. 179-184

In time, this ancient practice also became associated with the idea of popular sovereignty of the Church. In 1059, the Curia in Rome re-regulated the pope election process in order to eliminate the influence of the emperor, and created a procedure that deducted the powers of the pope directly from divine intentions expressed through the people of Rome ('Vox Dei et vox populi'). Although actual election took place by delegates of the people of Rome, priests of the highest Roman Churches, the Cardinals, the successful candidate was presented to the people who had to approve him with the commonly known ceremony of 'Acclamatio'. While this construction theoretically did exclude the main secular power from the election process, at the same time it established popular sovereignty for the Church, a source of power and a means of legitimacy. Teachers of the Paris University renewed this procedure with the famous idea of 'conciliarism' at the Council of Constance.

Therefore, Luther, who was aiming at questioning the hierarchy of the church and the clergy, found items in church theology and practice which were, in his opinion, suitable for the elimination of one of the sources where the abuse of the powers of the church had come from.

Luther's teachings concerning universal priesthood were not only generally accepted, but were developed further by later reformers. Participation of the people, however, was hardly practicable because of the secular hierarchy of Feudalism. An attempt by Calvin to achieve this was the creation of a consistorium, later called presbytery, from selected secular persons called presbyters.

4) Decreasing the number of sacraments from seven to three (Baptism, Eucharist, Auricular Confession)

(The number of sacraments gradually increased during the Middle Ages and finally reached the famous number of seven: Baptism, Confession, Holy Eucharist, Confirmation, Matrimony, Holy Orders, Extreme Unction.) It is primarily due to Luther that the number of these was reduced to the abovementioned three. Catholic ecclesiastical law still insists on the seven sacraments.

It is necessary to add to the notion of the sacraments that Calvin himself said '...the sacrament is an external sign of the Lord's good will to us...' St. Augustine gives an even more concise definition: 'the sacrament is the visible sign of a sacred thing'. Therefore, the sacrament is to express the connection between a believer and God, the treaty brought to us by Christ.⁵

⁵ Calvin J.: 1910. pp. 713 onwards, also McGRATH A. E.: 1996. pp. 185-188

Calvin makes an interesting comment: old church fathers could have used the word ‘Arcanum’ (translated as sacred secret, or hidden or secret thing), but according to Calvin the sound of this would have been too simple. The word ‘sacrament’, which was used instead, is probably the most closely related to the Greek word ‘mysterium’. The comment is probably related to the fact that Calvin, following St. Augustine, taught the essence of the sacrament to be found beyond its manifestation. ‘It is not enough to know and preach it to be God’s sign, believers must really believe in it’, says Calvin.⁶

In the conscious act of decreasing the number of sacraments, the most radical step was probably that reformers denied the fact of belonging to the order of the church to be a sacrament. This makes priesthood but an office, to which persons can be appointed. (In other words, it does not have an indelible character or ‘*character indelebilis*’.) This necessarily led to taking privileges away from the church.

Protestants, however, in time substituted chrism with confirmation, a conscious and public declaration by people coming of age to keep the religion, which has never been considered a sacrament.

Confession itself, as an exercise of penance, was an institution acknowledged by Luther, but radical reformation, like Calvinism and Unitarianism rejected the secret confession. Interestingly, however, radicals approved of the confession of sins in front of a community, when such an act was inclined by a strong sense of community, ‘confession to the congregation’. Public confession of sins and asking for forgiveness had a strong educational value. Consequences were also extraordinary: the sinner was usually excluded from the Eucharist for a set period of time, and during church services he or she had to sit alone and thus was degraded for a while.

5) The concept of matrimony (not a sacrament but a contract, therefore it can be terminated)

The institution of marriage underwent a radical change as well, for according to reformers, it is not a sacrament⁷, only a contract, which can therefore be terminated. New, unified protestant marriage law, on the other hand, was only created well after the age of reformation. Maybe this is the explanation for the historical fact that marriage cases continued to be tried by – now protestant – church courts. Sentences varied, but it is worth mentioning that marriages were rarely terminated for property or other reasons, the separation regulation of earlier ecclesiastical law continued to apply instead: ‘*separatio a thoro et mensa*’, separation from the table and the bed.

⁶ Calvin J.: 1910, p. 745

⁷ CALVIN, John: 1910 pp. 743 onwards

Where Protestants did not establish their own church court for historical reasons, marriage cases could still be referred to Catholic Church courts. The arising disputes set the scene for the introduction of government arbitration in marriage cases. This created an opportunity for the establishment of state marriage law in Hungary, as indicated by the Act of Patience by Joseph II.

6) The power of keys

An old concept in theology is brought up again. Governing powers of the new church are also deduced from certain statements of Christ, who trusted the apostles with the keys to Heaven, and declared in connection with this that whatever is bound on Earth will be bound in Heaven, and whatever is undone will be undone. This is emphasized to the greatest extent in Calvin's dogma, according to which the manifestation of the mission of the church is threefold: *a) governance, b) legislation, c) arbitration*. The person who performs these functions and the extent to which these functions are assigned to them varies from Church to Church.

It is an important condition that this power goes to the whole of the Church, including all of its members and not only pastors, as a consequence of universal priesthood. As a result, Protestant Churches allow a certain degree of influence to seculars in the management of the church, which manifests itself in the participation of elected secular members, the presbyters, in the carrying out of various functions of the church.⁸

7) 'Rite vocatus'

This expression has two meanings in theology. Its strict translation is 'right calling'. In the spiritual sense it is used to describe a Christian who chooses Christianity as a consequence of a quasi divine calling, who is a believer from the soul. This divine inspiration was a commonplace '*loci communes*' in Reformation literature. Luther quoting Paul the Apostle says 'A true man can only be saved through faith'. As a man of his age, he reported hearing such a divine call himself.

⁸ CALVIN, John: 1910. pp. 746 onwards, early consistorium: CHADWICK O.: 1998. p. 64 and McGRATH A.E.: 1996. pp. 124-127. About the power of keys, see also: Szentpéteri KUN, Béla: A Magyarországi Református Egyház külső rendje. 'The external order of the Hungarian Calvinist Church' Budapest 1948. pp. 31-33; '*potestas clavium*' used in the strict sense in: BOLERATZKY, Lóránd: Evangélikus egyházjog. 'Evangelical church law' Vol. II. 1998. p. 25, according to him: 'The mission of the church power is to teach the gospel and serve sacraments; those exercising the powers of the church may not go beyond this, as it would be interfering with the authority of others.'

From this aspect John Calvin's memories of the beginning of his reinforced faith in God can be viewed as being quite special. In connection with this he uses the term '*subita conversione*', which means instant or immediate conversion or enlightenment.⁹ Some believe that this spiritual process is similar to the experiences reported by other remarkable religious personalities. The spiritual transformation experienced by Paul the Apostle during his travel to Damascus is the most frequently mentioned example.

On the other hand, after the age of Reformation '*rite vocatus*' means the undertaking of real priesthood, which takes place primarily due to internal motivation or a divine call.

8) The termination of papal jurisdiction, the issue of inheriting bishop rights

There were three solutions to the problem of bishops' jurisdiction. Historically each of these was applied:

- a) complete termination of the bishop's jurisdiction (see the Kingdom of Hungary, where a 1647 act of the parliament introduced the system of superintendents almost to order)
- b) reassignment of the bishops' jurisdiction to the main secular authority (see England and Scandinavia),
- c) reassignment of the bishop's jurisdiction to a legitimate person for a set term (this can be theoretically deduced from, and is an immediate consequence of, conciliarism in pre-Reformation church law or the principle of public authority of the church). For various historical reasons the latter solution remained in Hungary, in each of the three protestant religions. Protestant church magistrates at first were only called bishops in Transylvania, where there had been a 150-year vacancy in the Catholic bishop's seat and so no objections were raised. In the territory of historical Hungary the name was superintendent, and it was then changed to the uniform name of bishop in 1848.

⁹ McGRATH A.E.: 1996. pp. 84-85, especially interesting is the case of Zwingli, who experiences a similar 'conversion' as a result of plague in the city.

III. Changes in church law

1) *The right of Jus reformandi*.¹⁰ This is a legal concept formed in the Reformation, with different meanings in each Protestant reading, as summarised by Béla Kun Szentpétery). It is important to know that the creation of *jus reformandi* is closely connected with the termination of the papal jurisdiction in Protestant areas, therefore it is primarily the right of the main authority, in other words, it is one of the rights of the head of the state over the Church. The meaning of *jus reformandi* can be the following:

- a) the right to decide on institutional issues, choice of religion, and dogmatic issues. This rule was dominant in reaching peace among religions in Augsburg and in the implementation of the agreement. In Hungary none of the Protestant religions accepted the state's right for dogmatic changes, only exercising legal control. There was a strong opposition against this principle in 1859, when the objection against the so-called Protestant Charter was issued, saying the Churches would accept the authority of the state over the church, the '*jus circa sacra*', but not the right for dogmatic changes, the '*jus in sacrum*'.
- b) The state's right to regulate the legal standing of each religion was also considered part of the *jus reformandi*. This could also mean the right for the state to prescribe certain institutional frameworks for the Church (see legislation from 1647, which described the Linz peace agreement and required each Evangelical Church to have superintendents! The Carolina resolution provided for four superintendent's offices to be set up at both Evangelical Churches.)

It is important to mention here that some states passed legislation to prohibit passing state legislation concerning institutional or dogmatic issues. A typical example is the first amendment to the constitution of the United States of America, which contains a negative definition of religion – the *establishment clause* prohibiting the creation of a religion by the state, and the *free exercise clause* removing any legal obstacle from freely exercising religion – and incorporates the rejection of *jus reformandi* in the constitution. At the same time, it created a model for the neutral separation of State and Church. As a perfect counter-example, in England the king or queen, head of the *Ecclēsia Anglicana*, and Parliament are entitled to exercise the right of *jus reformandi*.

- c) Literature considers state rights concerning Church property another meaning of *jus reformandi*, a right which in itself might mean secularization.

¹⁰ Szentpéteri KUN Béla: 1948. pp. 145-152.

The poor in Protestant Churches in Hungary were hoping to receive state support, probably on the basis of the French example, the Nantes Edict. Therefore secularization in Hungary did not have as impressive results as in many countries in Western Europe.

2) Lutheran Churches and Episcopalism

It is a commonly accepted view in universal religious history that Martin Luther, initiator of the Reformation, basically and primarily an educated theologian, teacher of the University of Wittenberg (Saxony) was an academic, and originally, an Augustinian monk. As a consequence, the centre of his intellectual movement and reforms was a set of theological doctrines, and he only turned to the institutional problems of the Church much later and with much less enthusiasm. Also then, he was concerned with the practicalities of spiritual life, for example, issues related to everyday church services. This is the reason why the Bible was first translated into German, and several church hymns were written during the second half of his life, some of which are still used in the general practices of Protestant Churches.¹¹

As a result, though there were changes after the victory of the Lutheran Reformation in some of the most important areas, mainly in Church institutions, most of these were not initiated by Luther but took place without him, and the fact that they remained was to a large extent due to practical politics. Therefore, the Lutheran Evangelical Church appeared in many forms throughout the world, and only gained a solid foundation in Church law much later, and primarily due to subsequent theoretical justifications offered by German Protestant lawyers (theologians). Interestingly enough, as the two main Protestant churches developed simultaneously in history, for example, in Hungary, both the Lutheran (Evangelical) and the Calvinist Church institutions are still based on the 'council/presbyter' principle or system.

IV. Institutional structures of the Lutheran/Evangelical church

One of the main issues in this regard is the questioning of papal jurisdiction by declaring universal priesthood. New research into church history seems to support that initially Luther was only considering the Reformation of the church, he did not mean to deconstruct traditional church institutions stemming from the Middle Ages, only to clean them up. As a result, he did not mention these issues in detail in his first thesis, only after being threatened with legal action by the joint church and secular powers and being compared to followers of János Husz during the Leipzig debates.

¹¹ CHADWICK, O.: 1998. pp. 52-70, the role of Luther's songs is well described by a decree passed at the Council of Saxony in 1624. It says that Lutheran songs may only be sung in their original forms, without subsequent additions.

The original problem was added to this: he spoke against farewell tickets, which had been issued at the pope's order, and denying the role of these tickets in salvation dogmatically led to the questioning of the pope's power. (It must be added at this point that Luther did not question the power of the pope, he only argued that it could not be considered part of the divine law as it could not be deduced from the Bible, but he acknowledged the power of the pope as a historical fact. Recent research in Western Europe describes the power of the pope as a multi-delegated *potestas*. This view holds that Christ delegated Peter the Apostle by saying 'Petrus Tu est Petra' – 'You are Peter, and on this rock I will build my Church', and in addition, contemporary sources make reference to a letter written by Peter the Apostle to Pope Clement I, his successor in the seat of Rome, which is considered the subdelegation of the power given by Christ over the Christian church.)¹²

As a result of all the above, secular powers in the territories following Luther (German provinces, cities, England, Scandinavian kingdoms) used the opportunity to sever contacts between the Church there and Rome, and declare themselves leaders of the Churches instead of the pope. (See the Act of 1529 passed by Henry VIII, which as a first step, prohibited appeals to Rome in Church cases.) This way the secular powers, under various legal titles, inherited the powers of the universal episcopate and became leaders of the new territorial Churches. The Act of Supremacy, passed in England in 1534 is a good example: it plainly uses the term '*Ecclesia Anglicana*'.

State supremacy over the newly created Evangelical churches could theoretically take the following forms:¹³

- a) The *Episcopal system* is based on the principle that as Reformation ended the power of the pope – the pope was not only the bishop of Rome, but in Catholic ecclesiastical law he was also the holder of the universal episcopate, and one of his main titles is still 'the patriarch of the West' – his jurisdiction, and that exercised by his bishops, extended to the secular power. The holder of the main power in a country, therefore, has the right of *summus episcopus*.

¹² CANNING, Joseph: The history of medieval political thinking. „A középkori politikai gondolkodás története.” Budapest 2002. pp. 54-55. Pope Siricius called himself 'the heir of St Peter' based on this assumed letter – translated from Greek.

¹³ Szentpéteri KUN B.: 1948 pp. 16-21, later BOLERATZKY, Lóránd: Evangelical church law. "Evangélikus egyházjog." Vol. II. Budapest 1998. pp. 14-19, he highlights that although historically and initially the head of state was like a 'Notbischof', they consistently extended the authorities deriving from this standing of temporary bishop from '*potestas jurisdictionis*' to '*potestas ordinis*'.

- b) The *territorial principle* says that the state has the right to exercise the main power over all natural and legal persons on its territory (today we say the right of constitutional and legal control), which therefore also includes churches as organisations operating in the territory of the state.
- c) The *consistorial system* is based on the principle that the sovereign, even though he had been sanctified, is still a secular person, and therefore has to create a body, called *consistorium*, to exercise his main rights related to the Church, which body shall function as an advisory body to the king, an authority in managing church matters, and the highest forum for appeals in Church cases.
- d) The *Societas or community system* was used most extensively in German law. This concept visualizes the state as an entity founded to respond to the people's need to form a community under popular sovereignty, and considers the Church as one of the most important free associations. Since the state has the legal right to control all associations, this supervisory power also applies to Churches on its territory. This theory became the basis for creating the legal status for churches as public bodies in German law in the 20th century, and it was applied in Hungarian public and church law by István Ereky and his associates between the two world wars.

V. Various forms of secularisation

The legal possibility of secularisation came with the termination of papal jurisdiction. Holders of highest secular powers, sometimes acting as *summus episcopus*, soon started to reform the property status of the church. Various methods were soon developed to this end, not only concerning the forming of a legal basis, but also to use secularised church property.¹⁴

- a) English secularisation. As a special feature, primarily the property of monasteries was taken away. The king performed this task through committees acting on his behalf as head of *Ecclesia Anglicana*. Henry VIII took care to set up committees with bishops as chairmen and seculars as members. The property of those monasteries which had been declared to have low morale was taken, but the property of episcopal churches remained. This way bishops were kept in a state of uncertainty, whether their churches would be next. The king gave away or sold part of the Church property collected this way.

¹⁴ CHADWICK, O.: 1998, pp. 91 onwards

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- b) An early German example is that the cities took control of the former Church property, as Reformation was at the time only spreading in cities. On rare occasions (e.g. in Geneva) the property was auctioned. It was mainly used to maintain churches, school buildings, hospitals and charity homes from religion funds.
- c) A late German example is the Rhine valley. The Napoleonic conquest substituted secularisation on the right bank of the Rhine (German territories), where in the course of the following *mediatisation* higher episcopal and abbey property was secularised by the Empire's Assembly itself. The collected state property was then used to indemnify German *immediatus* who had been driven away from the left side of the Rhine by the French. The Empire made a promise to pay compensation for lost Church property. The German state is still paying this compensation to the German Catholic church; the sum has been revalued several times and it is still the major source of income for the Church today.

- d) The property of chivalric orders somehow also came under state control. The first examples were moderate, like in the case of Ferdinand of Aragon who declared himself the master of the three Spanish orders, and this way took the orders' property under the direct control of the king.

The case of the German chivalric order is more radical: master Hohenzollern from the order, governor during the age of Reformation declared himself Protestant and got married. He declared the property of the order his own property as prince, and later formed a secular state with the Brandenburg side of the Hohenzollern family. Several knight orders in the Baltic states had a similar fate.

On the island of Malta the Knights of St John formed a sovereign state with their master. The Napoleonic French invasion and the subsequent English rule, however, also led to the secularisation of the property of the order.

- e) Although massive church property, such as monasteries, abbeys and knight order property was rarely able to avoid secularisation, the case was different with lower level country churches. Vast amounts of property had usually not accumulated; therefore whatever they had remained even after the Reformation, under the control of the new Church as Church property, and was used to support the church building, the minister, and the operation of elementary schools. Sometimes church property did decrease here as well, but as modern age society in general became richer in Western Europe, the local nobility took up the habit of creating small funds to support the local church.

VI. Calvinist church institutions

When creating the Calvinist Church institutions, one of the major problems was the creation of jurisdiction for individual church districts, which, to a certain degree, resulted in separation from the secular powers. (This is why the idea of separation of state and church is said to go back to Calvin!) At the beginning, Calvin's major aim is said to have been the elimination of the influence of secular powers. This was achieved through the withdrawal of certain important rights from secular bodies and granting them to the church district, such as the prohibition to participate in communion in the liturgical sense and the control of church property including control of the church building and the school.

The situation was complicated, as there were several systems operating in the Protestant, German-speaking areas, and so the creation of the autonomous Geneva Church law was not a task without difficulties. Calvin had frequent disagreements with the Geneva city council. (Some say the fact that Calvin only reached the second stage of citizenship in the three-stage Geneva citizen rights scheme was due to these disagreements.)

At the same time, the creation of autonomous church districts raised the necessity of a national central council, for political protection and religious persecution issues, and the introduction of the institution of presbyters seemed to be the key to local church autonomy. Calvinist Church institutions created in various countries found different solutions to the abovementioned problems, taking into account their different historical and political backgrounds. Calvinist Church law (among others, Hungarian Calvinist Church lawyer Béla Kun Szentpétery) therefore identifies the following universal institutional patterns in Calvinist Churches:¹⁵

a) presbytery system:

The system is based on the assumption that in Calvinist doctrine each complete congregation is considered a complete Church. Wherever this concept was generally accepted, no council was called for, as activities of such a council would have violated the autonomy of the Church community. Interestingly enough, this system first started to spread in Switzerland.

¹⁵ Szentpéteri KUN B.: 1910. pp. 48-62, BOLERATZKY, L.: 1998. pp. 21-23; the constitution of Churches as public bodies: CSIZMADIA, Andor: The development of the relationship between the Hungarian State and the Churches "A magyar állam és az egyházak jogi kapcsolatainak alakulása." Budapest 1966. pp. 113-114

b) *presbytery – council system:*

This is also based on the principle that a congregation is a complete Church in itself, but for political reasons, and primarily for the protection against political powers a council with limited powers was established. According to this concept giving general powers to the Synod would lead to taking the original powers away from the presbyter.

c) *council – presbytery system:*

This is the most common form today. The main concept is that on each level of the authority of the Church (whether three or four), Church governing powers are always in the hands of mixed bodies.

The term presbyter was used in the ancient Church as well, and it meant all Church officers in general. Later, as the clerical order became more stable, the term underwent several gradual changes. Reformers used in its ancient sense. In their concept the bishop and the presbyter are the same. (Some Anglican churches still use this formula, not only in the British Isles but also in the so-called Reformed Church.) However, while the meaning of presbyter was identical with pastor in the ancient Church (the reputable German lawyer Sohm also agrees), new Protestant Churches use it to describe respected seculars elected to participate in governing the Church along with the ministers. As Szentpéteri Kun pointed out: ‘the body of presbyters exercises jurisdiction’.

VII. Recording the doctrines of Reformation in the Confessions

Early reformers were Biblical people in the sense that the basis of all reforms was the Bible. Since the translation of the New Testament by Erasmus they were not satisfied with the Vulgata text variants inherited from the Middle Ages, therefore they tried to study the remaining original Hebrew (Old Testament) and Greek (New Testament) texts. They only accepted the text of the original Bible, as translations had led to distortions of meaning, and considered no other remaining texts as authentic sources of God’s will, therefore also refused to accept the *jus divinum* created by the Catholic ecclesiastical law. In the latter case they referred to the parallel between *jus divinum = jus naturale* already found at St Thomas Aquinas.

The acceptance of the Bible as final cause led to the fact that reformers compared their reformer doctrine to the Bible. This is the sense in which the expression measured measure, *mensura mensurata*, already created in medieval ecclesiastical law, is used. This meant that the new creeds, called confessions had to correspond to the Bible, to the measured measure. On the other hand, a creed is considered to be *mensura mensurata*, as one corresponding to the

reading of the original source. Only such confessions can be accepted. (These expressions were also present in St Thomas Aquinas' dictionary, as he used them to compare divine law and secular law!)

Originally a Confession or creed was a summary German Protestant Churches were required to submit to the Empire Assembly at the order of Emperor Charles V. This document was created in 1530 and was submitted and approved in Augsburg. It is the basis of later creeds and this is why it is called the '*Augustana Confessio*'.¹⁶ (In Hungary Lutherans were called 'Augustan Evangelicals' to differentiate them from Calvinists!) The second Helvetic Creed summarized the dogma of Calvin's followers. (Hungarian Calvinists supporting this were called 'Helvetic Evangelicals'. The use of the term Evangelical in both names comes from the tradition that at the beginning, followers of the new church were universally called 'Evangelical followers' by many, the French for example). These confessions were useful because they forced the Catholic Church to define its aims and summarize its doctrines, which was undertaken by the Trident Council.

The fact that state powers in countries with multiple religions took the doctrines of the main Church into account added to the legal significance of these confessions. In order to prevent further reforms in this field, an oath was introduced for public officers and servants for these Confessions as a legal prerequisite for filling a post. (An oath had been required from public officers and other public servants previously, but it was similar to the coronation oath of kings.) Examples of the oath include the English Test Act and the Hungarian so-called Decretal oath in practice until the reign of King Joseph II. Ironically, the English oath made it mandatory to reject Catholic dogma from the Protestant point of view, while the Hungarian Decretal oath contained a dogmatically unacceptable text for Protestants.

VIII. The model of the Geneva Church constitution

The so-called Geneva Church constitution was issued in 1541, and was approved in a separate election process, as recorded in legal history.¹⁷ This fact alone was a determinant example for Protestant religions. Major novelties included the separation of spiritual and secular matters and making the principle of election a regular process for setting up the Church governing body.

¹⁶ Szentpéteri KUN B.: 1948. p. 115 CHADWICK, O.: 1998. p. 134 onwards

¹⁷ KOVÁCS, István: Constitutions on Western Europe. „Nyugat-európai alkotmányok”. Budapest 1985. p. 45

The principle of election was used with both offices: minister and presbyter. Subsequently ministers were examined and elected by other ministers, and presbyters were elected by various levels of the city council, based on the minister's recommendations. The election process of presbyters changed in a way that after one year their activities could be re-examined and their appointment extended for life.

Another important element was that although ministers were elected with the participation of other, already practicing ministers, in order to finalize their appointment the congregation had to give its consent. The activities of ministers were also regularly monitored. The city council and two members of the body of ministers formed a committee, and at least once a year examined the activities of each minister.

The evolution of the minister and presbyter election system had the advantage that the mixed body, the *consistorium* could discuss issues concerning the community, and ministers only had votes in issues related to spiritual life.¹⁸ As a result of Calvin's efforts, this body also exercised jurisdiction. Therefore, in Geneva, unlike many other reformed German cities, it was the right of the *consistorium*, later presbytery to prohibit participation in communion, which was in many other places a right exercised by external bodies, the city councils.

Decisions concerning the status and income of the minister, therefore, became the task of the *consistorium*/presbytery, a significant democratic reform. In Hungary this led to the independence of the minister from the patron, and his dependence on the presbytery representing the believers. This way ministers could stay in office longer. This was called „papmarasztás” in Hungary, when ministers were kept in the same place for years.

IX. The example of the Nantes Edict (1589)

As the Protestant movement became stronger in France the threat of a serious religious war intensified, but the wisdom of Henry IV, former king of Navarra, did justice to French Calvinism. The achievements of the Edict:¹⁹

- a) it declared freedom of religion (the principle of the Augsburg peace among religions applies: Huguenots are also good French people)
- b) full freedom of religion only applies in certain places. This was the introduction of the later widespread *articularis* locations. At such locations mutual acceptance was provided for, which meant that both the Huguenots and Catholics could exercise their religion, and build churches and schools,

¹⁸ BAJUSZ, Ferenc: The history of the Hungarian Calvinist church. "A hazai református egyház története." In.: Church law. HVGORAC Budapest 2004. pp. 263-277

¹⁹ CHADWICK, O.: 1998. pp. 156-160

- c) granting regular state support to Huguenots,
- d) granting two legal guarantees for their rights: the participation of Protestant judges in the provincial and Paris parliament, and nominating court agents to advise the royal council, who can report possible abuses,
- e) handing over royal castles on Huguenot territories to Huguenot commanders.

Consequently local Church communities were formed, with presbyters, following the Calvinist example. It was soon realised, however, that local churches were vulnerable because of the scattered distribution of *articularis* locations. In order to coordinate the whole of French Protestantism, the institution of the Protestant ‘council’ was established. The practical application of the French principle of councils brought an interesting result: church people and seculars both participated: one third of the members were ministers and two thirds were seculars, i.e. presbyters delegated by Church communities.

The Nantes Edict was limited for the first time after Henry IV died, when his widow, Mary Medici and Prime Minister Richelieu managed the country for the young King Louis XIII. As a result of strong political pressure, the ‘Nimes Edict’ of 1629 stopped the abridging of rights.²⁰ This second Edict temporarily reinstated the provisions of the Nantes Edict protecting the Huguenots. Mazarin, and later King Louis XIV himself abolished what was left of the Nantes Edict in 1689, which resulted into a massive migration of Huguenots out of France. Most of these people were not to settle in the colonies as they did later, but mainly in Prussia; some of them even reached Hungary.

This move was largely facilitated idealistically by the radicalism of French Protestantism. A group following the Calvinist doctrine, in the literature called the *monarchomachs*, was established in France. They taught that believers were obliged to resist autocracy, a doctrine that goes well beyond Calvin’s concept. Failing to do this means the denial of one’s obligation to God. (Some contemporary reports said the *monarchomachs* wanted to subdivide France into smaller provinces – like in Germany – based on religion, thus weakening the French central power in the end.)²¹

It is common knowledge in constitutional and ecclesiastical law research today that the effects of the Nantes Edict did not disappear completely even after it had been abolished. Some even believe that some of the principles of the French revolution originate from it. It seems quite certain that the following are late effects of the Nantes Edict: a) the dominant position of the theory of state

²⁰ LEVI, Anthony: Richelieu, Budapest 2001. pp. 94-117

²¹ CHADWICK, O: 1998. pp. 150-152

as a treaty and popular sovereignty in the French Enlightenment; b) transformation of the principle of election into the secular constitutional framework and its introduction by the state at churches in the so-called secular constitution for the priesthood issued in 1790, and the inclusion of this in the constitution of the constitutional monarchy in 1791.

X. A backward shift in church politics: Counter-Reformation

Historians and church historians found several reasons for the late beginning of Counter-Reformation. These include the renaissance of papal power at the beginning of the Reformation, due to which the danger threatening this power was not noticed early enough. The church was making an enormous effort converting the ‘savages’ who, as a result of Portuguese and Spanish colonization, came under European jurisdiction. They received significant support from the new and revived orders of monks. Unclear ideology could also have played a role in the late beginning of the Counter-Reformation. It seems to support the latter argument that when the Trident Council was finally convened to react to strengthening Protestantism – a step long awaited by Luther himself – it took decades to formulate the final dogmatic standpoint, the self-definition of the Catholic Church.²² This was followed by codification that led to the issuing of the Corpus Juris in 1583, and by church government reforms by Sixtus V, as a result of which the Roman nobility lost most of its influence and the management of the Church was given to the members of the Church. This concentration of powers led to a perceivable revival of the Catholic Church. After the 30-year war was over, a political opportunity arose to gradually make room for the creation of absolute power for the pope.

All this resulted into intensified Catholic re-conversion activities in the now Protestant territories, which brought significant success. The pope received a lot of support from the Catholic Habsburg dynasty and the kingdom of France. The details of this are commonly known. According to historians in Europe, the greatest success was achieved on Habsburg territory, which necessarily led to political pressure by Counter-Reformation on Hungarian Protestantism.²³

²² CHADWICK, O.: 1998, pp. 150-152

²³ CHADWICK, O.: 1998, pp. 306-310

Results:

- a) massive re-conversion to Catholicism. Main areas are France and countries ruled by the Habsburgs. Lower Austria, which had become almost exclusively protestant, was now turned Catholic again. Church historians agree that the Habsburgs were the most successful in regaining Catholic believers.
- b) the institutionalisation of a new Catholic faith, the Greek Catholic church. The previous ethnic make up of Hungary significantly changed during the Turkish occupation. There was massive immigration of Orthodox believers, Serbians and Romanians, from the Balkans to the historical territory of Hungary. As a result of intensified conflict between Poland and Russia, the number of Ruthenian groups, also Orthodox believers, increased in North-east Hungary.

Since the freedom of religion had been granted to Protestants in Hungary and Transylvania in international peace agreements and local legislation, it seemed impossible to break Protestantism in Hungary. The idea came from the Jesuits to convert the Orthodox to the Roman Catholic faith. This proved to be rather difficult, even more so, as there were a lot of dogmatic similarities between the two. As a compromise, a new and uniform faith was created, the *unitus* or *rite graece catholicos* or simply Greek Catholic. The essence is the acceptance of the power of the pope (a union with the pope, that is where the name *unitas* came from), the liturgy and canons remained, and so did the priest's right to marry and the right to terminate marriages. Later Maria Theresa organized separate bishoprics for them, for example, in Munkács, Eperjes, Nagyvárad and Balázsfalva in Transylvania.²⁴

- c) mass migrations in Europe
Massive migration of the population was an interesting effect of the Counter-Reformation; maybe this was the first time in history European state authorities had initiated such measures. As a major change in religious persecution, those who disagreed with a certain faith were expelled from a country or were forced to leave on their own account. Both Catholic powers and Protestant governments have been guilty of this.

²⁴ BERKI, Feriz: 'Orthodox canon law' Ortodox kánonjog. In: Felekezeti egyházjog. HVGORAC Budapest 2004. pp. 118-125; BETHLEN, Miklós: 'His life, a description by himself' Élete, leírása magától. In: Kemény János és Bethlen Miklós művei. Budapest 1980. pp. 872 onwards.

Usually three examples of mass migration are mentioned:

- Migration first intensified in the provinces of the German Empire, as a result of the *Reservatum ecclesiasticum*²⁵, and in the second half of the 16th century there was major migration in the population as the governor of a province changed religion.
- The second wave of mass emigration took place after the abolition of the Nantes Edict. King Louis XIV captured the city of La Rochelle, the last retreat of the Huguenots, and gave the survivors two options: they could either choose the Catholic faith or leave the country. (The siege of La Rochelle was the end of a process of almost a hundred years, which shows how French absolutism was systematically working for the unity of the state, sometimes by cruel means. La Rochelle was already in opposition during the reign of Louis XIII, and the king ordered Prime Minister Richelieu to besiege the city in 1627, as it had received military and other support from the English. La Rochelle was an important fortress of the Huguenots, Princess Rohan, mother of Lord Buckingham, lived there at the time²⁶. The city itself profited from sea trade and used its privileges granted by the Nantes Edict to participate in the trade along the Atlantic coast. This was the place of the famous islands of Ré and Oléron, where the sea code Roll de Oleron was created. Using their administrative and religious autonomy, allegedly with the support of ministers, city magistrates were working on the creation of a theocratic governing model, which was probably one of the main factors that provoked the French attack on this wealthy city. The peace agreement of 1629, which followed this long period of siege, was forced on the city by starvation and the murder of Buckingham, as a result of which the city lost the support of the English, and upheld the Huguenot privileges of the city with certain restrictions. However, the area was handed over to the intendants, which meant strict central control.)
Some of those who had escaped at the time went to the Netherlands, more of them went to Prussia by sea, a European country which welcomed Protestants in great numbers at the time. A small number of refugees went to settle in the colonies.

²⁵ CHADWICK O.: 1998. pp. 131, 301-307

²⁶ LEVY, A.: 2001. pp. 96-97, 99 The mother of Buckingham was Princess Rohan. It is an interesting historical fact that citizens who favoured the English were willing to change the city government into a sort of theocracy.

- The third migration took place when masses of English Puritans left at intervals in the middle of the 17th century as a result of the victory of the Episcopal (bishop-centred) belief. These groups first gathered in the Netherlands, and took the ships heading towards the British and Dutch colonies in America. The most famous group was the one that took the ship called the Mayflower, and during the journey they made an agreement according to Calvinist tradition with each other to form a new state once they arrive. This was later called the Mayflower Pact.

RESÜMEE

Staat und Kirche Änderungen in der Kirchenorganisation infolge der Reformation

LAJOS RÁCZ

Die Studie befaßt sich mit den Grundfragen, die traditionsgemäß durch die lutherische und durch die reformierte Kirche gestellt werden.

Im ersten Teil werden die dogmatischen Neuerungen summiert, welche für die Kirchen, die sich die Reformation zu eigen gemacht haben, als Grundkriterien galten (der universale Klerus, transsubstantiatio, sola fide usw.)

Danach wird das System der öffentlichrechtlichen Beziehungen zwischen den lutherischen Kirchen und ihren Staaten dargestellt (Durchsetzung des episkopalen, des territorialen, des consistorialen und des societas- oder gesellschaftlichen Prinzips in der Kirchengeschichte).

Zum Schluß werden die Vorstellungen von Johann Calvin über die Kirchenorganisation, beziehungsweise die tatsächliche praktische Anwendung der entstehenden Presbyterial- und der Synodalverfassung unter die Lupe genommen.