

RICHARD HOOKER: THE LAWS OF ECCLESIASTICAL POLITY REVISITED

ROWAN WILLIAMS

*Archbishop of Canterbury
Patron of the Ecclesiastical Law Society and Master of the Bench
of the Honourable Society of the Inner Temple*

The text of the Ecclesiastical Law Society's 2005 Temple Talk delivered
on 26 October 2005 at the Temple Church, Fleet Street, London

Richard Hooker's book, The Laws of Ecclesiastical Polity, is much more than a museum piece or a dissertation on how to run churches. It is a classic of doctrinal reflection, and is topically relevant. His main opponents at the time belonged to the militant Puritan wing of the English Church, and in answering them Hooker provides a still-rich line of thought. Theologically speaking, the most basic sense of law, for Hooker, is God's acceptance of the logic of a limited creation. A crucial concept is 'compatible variety', and this should be kept in mind when reading Hooker on the laws of nature, the laws of society, and the law that regulates the Church. Also of importance is the distinction between the unchangeable basics, in Church or state, and those laws that contribute to the maintenance of this or that particular society or Christian community. For Hooker, the mistake of his Puritan opponents was to think that the Bible is an exhaustive source of laws of both kinds. The Bible is neither a complete nor an incomplete law book. Law, as the form of compatible variety, is also the form in which God's 'abundance' is to be perceived and experienced. Outside the abiding truths about the sort of life God's life is and the dignity given to creatures, human intelligence and ingenuity and prudence have a wide remit. According to Hooker, the most basic rebellion is to refuse the limits that make compatible variety possible. Law assumes, then, that we do not 'begin' socially as a set of unrelated atoms, whether individuals, classes, races or interest groups. Our basic position is one of potential agents in a negotiation through which we discover our welfare, and discover something we do not know at the start. Key theological notions are creation and the Body of Christ.

You have to admit that *The Laws of Ecclesiastical Polity* is not a title calculated to attract a mass readership; and it is still rather difficult to explain just why a book with such a title is a classic of doctrinal reflection, not just a dissertation on how to run churches. As to the first, it has long been recognised that Hooker's many gifts did not include what a modern audience would regard as the popular touch; as to the second, what we have to try and grasp is that for Hooker the question of how to run churches, a matter of literal life-and-death significance in his day,

could only be rationally thought through on the most fundamental of theological principles. He is reacting, essentially, to a twofold claim by his opponents, the militant Puritan wing of the English Church in the last decades of the sixteenth century. The English state had determined that the reshaping of the Church after the breach with Rome had gone far enough, and that controversy over further reform should stop: challenging the rights of bishops or the survival of certain practices and ceremonies in public worship was not admissible. The Puritan position was, first, that the Bible specifically laid down the rules for running churches, so that it wasn't possible to treat certain matters as open to dispute or local variation, and second, that the state had no authority to decide how the Church was to be run unless it specifically subjected itself to the Bible; indeed, it would be very desirable if the entire system of Old Testament law could be enshrined in the law of the state. These are the positions that Hooker sets out to challenge; and he can challenge them effectively only by looking at the very nature of law and what that implies for our understanding of Church and Bible.

This is, of course, a dispute that has suddenly become rather contemporary again. The modern equivalent of the Puritan might appear to be the Muslim apologist who cannot see how a believer can recognise real legitimacy in a society not governed by Sharia law, interpreted in a strict and 'primitive' fashion. The question of how a believer in revealed religion can work with a state and a legal system that are not in every respect determined by revelation is a serious one, because it raises the issue of how to live under potentially conflicting authorities. I don't want to claim that Hooker solves all this (as if all that were needed to pacify the Islamist right were an infusion of Anglicanism). Yet a basic discussion of the nature of divine law and divine revelation should prompt a better resourced debate. So in what follows, I shall be trying to set out some of Hooker's central convictions about law and revelation, and arguing that what he is opposing is any picture of these things that refuses the work of interpretation or that pretends that history has come to a halt. I hope that what will emerge is a sense that it is possible in the Christian tradition, and perhaps in others too, to hold a robust doctrine of revelation, to stand firm against a particular kind of individualist liberalism in theology and politics, and still to recognise the historical forces that are at work in our reception of revealed truth and the complexities of authority in a world of necessarily changing perceptions and pressures. Perhaps I should say at once that I don't think Hooker will solve our contemporary problems about authority in the Anglican Church in any straightforward way. I doubt whether he could have entertained any idea that the moral law set out in Scripture was anything other than lastingly valid, and, despite arguments to the contrary, I can't see him easily accepting alternatives to patriarchy as the basis of human (and therefore ecclesial) government. Yet there remains something about his approach to the Church's nature and basis that may offer a few pointers for a theology of Christian belonging less obsessively anxious about the humanly policed limits of the Church than some of our current styles of thought.

Anyway, to begin at Hooker's beginning, we must ask with him what the primary character of God's action is, as we learn it from Bible and nature. And Hooker's answer is that God wills to exercise the 'abundance' of his glory—to create as many reflections as possible of his own being. But if the point of the world is the abounding plurality of such reflections, each must exist within limits, since God alone is infinite; and to say that everything exists within limits is to say that it exists according to 'law'. There is no infinite compatibility between different possibilities; if this happens, that can't. Law is one way of talking about the single line of time within which the universe unfolds, in which the fact that some things happen rather than others determines a single set of possible futures (Hooker, happily, knew nothing of the infinite number of possible universes proposed by some contemporary physicists; but his point still holds for any one actual universe).

Law, then, is bound up with the compatible variety of things in the universe. Hooker suggests that the most primitive sense of law, theologically speaking, is God's acceptance of the logic of a limited creation. In creating, God chooses to make a world of limits—that's what creation is; his purpose being to secure the greatest possible variety of imitations of his own being, a complex of realities each (in the language of classical patristic theology) 'participating', sharing, in his own being in a unique way. And it is this fundamental principle of mutual limit that shows us what the character of law will be in every context where the concept applies. 'Compatible variety' means the harmony of genuinely distinct subjects. The 'laws' of nature tell us how all material beings exist together. The laws of society propose how beings with free choice can exist together. The law that regulates the Church tells us how human beings may live in the society of God and the angels.

In such a context, we need ways of distinguishing between different sorts of law as they affect our experience. Some affect us simply as human beings: we can't fly, live without water, or see in the dark. We know how to reason about what's good and bad, possible or impossible, for us at this level; and, extending this a bit further, as Hooker does, we work by general human axioms about how we can bear short-term pain for long-term profit, about doing to others what we'd want them to do for us, respecting parents and acknowledging that 'spiritual' benefits are more real and lasting than material. All this has to do with understanding what we are in relation to the rest of the world, grasping what is distinctive about being human: we are physically limited in specific ways, and we are also so constituted that mental or spiritual reality cannot be ignored in what we say about ourselves. Hooker takes it for granted that recognition of God's existence is part of what is 'natural' to human being in this way; and so is the sense of moral responsibility, the connection between actions and rewards and punishments. This basic grasp of what we are in relation to Creator and creation would dictate human behaviour even if human beings didn't live together. But as a matter of fact we are also by nature sociable; our good can never be fully realised by any one of us living alone. So we next have

to discern how common life is to be regulated so as to allow us to do to each other the good we are capable of doing and to restrain the damage we are equally capable of doing. Our liberty to nourish material life and health needs to be secured, violence and rapacity towards others has to be restrained. And a parallel principle is at work in the 'law of nations', where Hooker alludes to the distinction between 'primary' and 'secondary' conventions. The former regulates diplomatic immunities and trade; the latter regulates conflict. No commonwealth should have the right to ignore these laws, abusing or neglecting the rights of strangers and travellers or abandoning the customs governing war. Hooker does not specify the latter, but presumably means things like the immunity of non-combatants and ambassadors, the status of treaties and so on. And finally we come to the laws of the Church, which are about living 'sociably' with God; to the degree that natural reason alone does not deliver the whole truth about God, we need God to show us what sort of God he is in order that we may know how to live harmoniously with him. The Church's law is thus 'positive' law rather than natural, but it relates just as much to what we are in our most profound being, images of God destined to become children of God through Jesus Christ.

This is, in scandalously brief outline, the argument of Hooker's first book of the *Laws*. How do these principles help him in the particular controversy in which he is entangled? The first and most important point is that he is able to distinguish clearly between, as we might put it, laws that are to be kept for their own sake, because they relate to the conservation of humanity as such, and laws that are to be kept for ordinary 'civic' good order. In the state in general, laws against theft and murder and fraud, laws that protect people from assault, exclusion and prejudice, laws that support domestic stability and so on are laws without which no common human life is imaginable. And in the Church, the common life of this 'supernatural' society requires an ethic of generosity, forgiveness, fidelity, and a practice of common prayer. Nothing can change these basics, in Church or state, because such constraints are bound up with God's purpose in creating the world and human beings within it, with a heavenly destiny. But there are then all those laws that contribute to the maintenance of this or that particular society or Christian community. These are not unchangeable, because the outward forms of governance alter with the passage of time; but this does not mean that their authority is relative at any given moment. We can't be members of a timeless universal human society. We are bound to be citizens of a specific social unit. So those laws that contribute to the good order of that social unit have an equally binding character, though they may be changed by the authority that enforces them for whatever may seem to be good pragmatic reason.

Now in Hooker's eyes, the mistake of his Puritan opponents is to think that the Bible is an exhaustive source for laws of both kinds. Every Christian presumably admits that in its definition of God's purposes for creation, the Bible sets out a 'law', an account of the limits within which humanity can properly operate, which is not open to revision. It does this, though,

in a way that is, for Hooker, clearly Christ-centred: we don't turn to the Pentateuch for a full definition of the law under which Christians must live, because the Pentateuch itself is part of the historical process of revelation, foreshadowing something greater. Only in the Incarnation of the second person of the Trinity is the full scope of human destiny revealed. But the Bible does not justify us in concluding that it is the sole source of a comprehensive positive law that will regulate for all time in the second of the two legal contexts he has defined. The Bible shows us people who are governed by the contemplation of divine wisdom without reference to Scripture; paradoxically, it displays its own limits when it relates the virtue and insight of its own characters (who never read it). 'The bounds of wisdom are large' (II.1.4); God teaches by many means, and we do no honour to God or to the Bible by imagining that all God might ever wish to say to us can be contained in one volume. We learn from nature, from spiritual inspiration, from sheer experience. And God is not glorified if we assume that we can please him only by doing exactly what Scripture specifies and no more.

We can perhaps see here how the principle of divine abundance with which Hooker begins affects his view of the Bible. Creation offers an immeasurable variety of ways of being good—that is, ways of existing so as to show God's own glory and beauty. It is absurd to think that the text of Scripture could exhaust these possibilities. Put very plainly, the Bible does not give us an alibi for the use of common sense, ordinary discretion, imagination, willingness to learn from experience and whatever else belongs to mature human reflection on behaviour. On the contrary, it commends the example of individuals who live like this. The 'sufficiency' or perfection of Scripture, argues Hooker, is a matter of its perfect capacity to do what it is meant to do. If we try to make it do more than it is meant to, we destroy its credibility; if we suggest, for example, that nothing except what is commanded in the Bible can be other than sinful, we paralyse a great deal of ordinary human life. A *reductio ad absurdum*—no order could ever be given unless backed by the Bible, and Hooker imagines theologically acute domestic servants waiting for their masters to produce a biblical warrant for ordering them to light a fire or cook a meal. But the underlying point is wholly serious. The Bible is neither a complete nor an incomplete law book. We have to break through the sterile opposition between Catholic and Puritan error, Catholics arguing that all sorts of things are obligatory under divine law that are not contained in the Bible, Puritans countering with the claim that everything not commanded in Scripture is in effect prohibited. Both extremes, by couching their question in terms of what will please God and further their salvation, miss the main thing, which is that Scripture uncovers the 'abundant' purpose of God in creation and redemption, the glory that human creatures in communion with Christ are made to manifest. Law, then, as the form of compatible variety, is also the form in which God's abundance is to be perceived and experienced. If we take the Bible to be the sort of comprehensive handbook for human behaviour that the Puritans (at least as Hooker interprets them) want it to be, we actually deny the central revelation of the Bible itself—that God

freely makes a world of finite goods and beauties so as to share his own overflowing goodness and beauty, and that he brings his work to completion in overcoming the rebelliousness of perverted human freedom by 'opening the Kingdom of Heaven' through participation in Christ. Claim everything for the Bible as lawbook and you end up claiming nothing, Hooker says; you end up trivialising creation and redemption alike.

But this means that, outside the abiding and central truths about what sort of life God's life is and what sort of dignity is given to creatures, human intelligence and ingenuity and prudence have a wide remit. There is not one divinely approved means of human government, in state or Church. Custom and convenience will settle this. Yet once it is settled, it is not for any private person or interest group to seek to change it according to their own conviction. Just as God alone is able to declare the ceremonial laws of the Old Testament no longer in force because he is their author, so with human authorities: duly constituted authority must establish changes. So in the England of the 1590s there is nothing wrong with obeying the state's ordinances for the running of the Church, and a great deal wrong with attempts to change them on the basis of what we have now seen to be a thoroughly misleading view of what the Bible is. The English state, for Hooker, is simply the political expression of the life of a local body of Christians, monarchically governed; there is a sovereign power in this realm to which the care of the Church's administration is committed. The refusal of this authority in the name of a supposed scriptural imperative for further reform of the national church's institutions of government is itself an offence against the Body of Christ. It is to elevate the judgment of a 'private' group over the common sense of a whole Christian community which has developed a theologically lawful form of government, the Elizabethan state. It is to deny that the Christian community has a history of perfectly legitimate discernment and discussion and to make the Bible a timeless absolute. But Christian salvation comes from incorporation into the life of Christ the eternal Son, who has shared his life with us through the incarnation; it is not a matter of adherence to a form of words, even inspired and inerrant words. The Bible is true but not a substitute for the living Truth which is Christ's person.

Hooker's willingness to be positive about the history of interpreting and realising the given structures revealed in Scripture does not, of course, commit him to a modern view of the Bible's historical conditionedness, nor does it make him some sort of a relativist. We live first by the laws of God's nature and ours, which are not open to negotiation because they are not about any sort of balance of power or interest, not about any dispositions of prudence or convenience; they are simply what is, the ground conditions of being. These laws are revealed in scriptural history—that is, they are presented to us as realities disclosed by a particular set of historical narratives, in which are involved a number of laws and enactments for the better realisation of the underlying truth about who and what God and creation are. The new state of affairs that has come into being through these revealing events is not a timeless sealed capsule in which no-one

learns or changes, but a corporate life with narrative and memory. Hooker does not quite put it like this, but you can see the possible argument that the unfolding of Christian potential across time becomes another witness to the pervasive theme of abundance, the unceasing discovery of new ways of reflecting God's glory in new stories of discipleship and fidelity.

It is uncomfortably true, as has been repeatedly underlined in modern scholarship, that Hooker is not a detached and angelic expositor of divine wisdom but a profoundly shrewd polemicist, for whom the very language of reasoned, patient and consensual discussion serves most effectively to deny his opponents a legitimate place in political debate. But there is an inescapable paradox in arguing about the legitimacy of argument itself: Hooker would doubtless have said that against the Puritan appeal to timeless law any argument was bound to have the kind of shape that his exhibits—a 'proscriptive' style, denying the other's right to argue. Whether he would be right (about Puritans or about the ethics of argument in general) is another matter; but he is certainly out to deny that argument is possible where there is no agreement on what might count as criteria. If the history of human discernment is being ruled out, there are things that will not be allowed to count as making arguments good or bad, valid or invalid. At the least, he is identifying a problem that has become depressingly familiar of late.

So Hooker's immediate political concerns lead him inexorably to what is in effect an appeal to the biblical doctrine of creation: God desires a variety of created goods, so that as many ways as possible will be realised for his glory to be reflected; and this means law, natural, social and ecclesial. The most basic form of rebellion is to refuse the limits that make 'compatible variety' possible, whether this is sinful denial of what is 'naturally' owed to God, self and neighbour, revolt against duly constituted authority in the realm or the attack on episcopal governance. Such rebellion suggests that it is for creatures to define the limits of compatible variety, not God; to redraw the contract of a universe. We can hear Shakespeare's Ulysses in the background on untuning the string of order, and the deep metaphysical fear that sedition aroused in Hooker's day.

This set of connections doesn't come all that naturally to us. But it may not hurt to be reminded sometimes that the whole notion of law takes for granted more of a world-view than we might have bargained for. If we approach law as simply the process of mutual contract between rational individuals, expressed through a neutral and in principle universal tribunal, we shall miss several things of cardinal importance about our human practice. Certainly law adjudicates conflicts of interest, assuming that no-one's legitimate interest is beyond scrutiny or control. But this in turn assumes that what is good for any one person or group can't be defined once and for all just in relation to that person's or group's views of the matter. No-one's good can be understood as lawfully requiring someone else to suffer or be deprived. So the notion of law, as it were, smuggles into our social practice a basic presupposition about negotiating with the other before you can presume to say definitively what is good for you. And Hooker goes

a little further by saying that this is not simply a negative matter, avoiding unnecessary conflicts between groups and persons; lawful society is also society in which each element is likely to need goods and services from the other, and the law regulates and facilitates the flow of mutual usefulness. In this respect, Hooker stands with those who, in the seventeenth century and after, assumed that lawful freedom was not simply the negative liberty of entitlement to rights but the positive liberty of being able to negotiate on your own behalf—that is, he stands closer to the common law heritage of legal thinking than to a rationalist universalism.

Law assumes, then, that we do not ‘begin’ socially as a set of unrelated atoms, whether individuals, classes, races, or interest groups. Our basic position is one of potential agents in a negotiation through which we discover our welfare, discover something we do not know at the start. As some Hegelian scholars have put it, we begin by staking a position that is inevitably mistaken, and we work through our mistakes in conversation, bargaining and self-examination. These social, civic, and, as Hooker would put it, ‘sociable’ practices are the actual means of finding out what our common humanity is; they are means of revelation, not quite in the sense that Scripture is such in Hooker’s theology, but definitely the process by which God’s purpose is clarified. That purpose, for Hooker and his contemporaries, is fully specified by what God tells us, in the history of Israel, in Jesus, and in the record of Scripture. How it is to be lived out in detail in this or that setting requires the sociable exercise of reasoning together. And since therefore one of the things we have to discover is how to live out the fact that we exist in fellowship with God and the angels and saints, the Church on earth must give a value to this sociability, to the civic virtues of reasoned argument and the common life of ordered prayer. Appeal to Scripture as a comprehensive lawbook in the Puritan sense implies that the civic and the social simply do not have the value that Scripture itself seems to give them by its doctrine of creation and of the Body of Christ. Hooker is able, in his fifth book, to make a triumphantly unexpected case for the value of church music and of responsive praying in the liturgy on the basis of the need for our whole selves to be involved in worship and for us to be of service to one another by visibly and audibly responding to each other’s words. ‘Abundance’ is yet again the issue in view: the social character of worship, including song and ritual conversation, shows that we are discovering something together, and that the full variety of what can be brought to light in God’s presence will only appear when we ‘own’ our complex physical selves and our presence to each other. Hooker is a thinker who begins from the idea that we are engaged in solidarities long before we are properly aware of ourselves as individuals. When we do start to become aware, we are liable to see things wrongly and oddly, and have to learn the truth by the long process of mutual engagement. The problem with the Puritan ideology he opposes is that it seeks to bypass the given character of solidarity, through history, custom and what might be called the process of ‘settlement’, the discernment that emerges over time in a fairly stable community. In this sense, he is someone who seems to give a kind of priority to ‘common law’ rather than any fundamental

theory of universal legal rights. As I have recently argued elsewhere, this perspective is what surfaces again in the Catholic liberalism of Lord Acton and his followers in the nineteenth and twentieth centuries, in ‘pluralists’ like John Neville Figgis—a liberalism utterly at odds with the individualist assumptions usually associated with the term. In this connection, the liberal is someone who is sceptical about centralising and universalising claims for law and political practice, and who understands the life of the state as essentially the negotiation of differences, the creation of a community of communities, to use the phrase beloved of Figgis.

It is a paradoxical route for Hooker’s influence to follow, since he is nothing if not an apologist for what seems to us a wholly monolithic state, united in religion and custom. But what I have been trying to suggest is that Hooker’s interest in ‘abundance’ and his picture of law as the condition for compatible variety in fact assume that diversity is the starting point, not a single human source of binding authority. While it is hard to imagine him in the context of a culturally and religiously diverse modern society, and while his justification of state control upon religious diversity presupposes what is now a problematically organic picture of political life, his resistance to the philosophy of timeless legal regulation through Scripture lays some of the foundation for a radically different set of conclusions. What he undoubtedly would not understand is the odd assumption of the modern secularist (much in evidence in the recent debates over the Assisted Dying Bill) that the only ‘rational’ arguments are those advanced by people who acknowledge no pre-existing solidarities or metaphysical commitments. I suspect that he would see such disputants as the heirs of the Puritans, in search of some godless equivalent for Scriptural authority—a set of timeless rules for abstract persons.

And this in turn might suggest a thought or two about our contemporary standoffs between militant Islam and militant Western rationalism. The radical Islamist, like Hooker’s opponents, takes Scripture as a text whose history of interpretation can be disregarded—in a way incomprehensible to the traditional Muslim, for whom Sharia law is not a single timeless code, but the deposit of argument and judgment. And the most effective response is not to look for another absolutism but to argue for the virtue of argument, for the ‘interactive pluralism’ of a society that recognises that it is composed of diverse cultural bodies and convictions, which need to learn their need of each other for the sake of their own flourishing. A merely rationalist universalism of law, confining diversity, religious and otherwise, to the private sphere, isolates and paralyses each community’s understanding of the good as surely as it shrinks and trivialises the cultural and religious identities of individuals, reducing personal commitments to consumer options bolted on to a basic ‘rational’ and secular identity.

Hooker’s treatise is thus a good deal more than a museum piece. It poses some very central questions about the nature and purpose of law, questions which bear on many current questions about how to manage a multi-cultural and multi-religious state without adopting an oppressive insistence

upon public secularity. Hooker was the ally of a regime which, in modern eyes, was seeking to destroy religious liberty; yet the mode of his defence was potentially a ground for making sense of certain aspects of religious diversity. What allows his system to have such an odd and counter-intuitive application is simply his most basic theological conviction: the world exists so that God may be imitated and participated as diversely as possible. So far from belief in the Incarnation of God the Son limiting the range and vitality of human difference, we now have in this doctrine a ground for discerning how diversity may be harmonised by seeing differences as distinct ways of offering the one eternal gift of God's life to each other so that each distinct subject becomes able to reflect God's life more completely. Belief in the Body of Christ gives us the means of discerning where and how diversity becomes symphonic. Of course it does not do so automatically, and there is no charter here for simple postmodern or consumerist plurality—an abundance of possible possessions surveyed by a set of monolithic, undifferentiated choosing wills. But Hooker's world is one shaped by a maker's intention; and that intention is unmistakably the diffusion of bliss in a world of history and difference, a world therefore of argument and interpretation, even, we could say, of that intellectual charity which takes trouble with the recalcitrant stranger in order to make him or her a partner in discourse.

Hooker spent some formative—if appallingly difficult—years in the atmosphere of the Inns of Court. It would be nice to think that his valuation of certain habits of thought and relationship was nurtured here—his concern for responsible interpretation, his concern for the possibilities of (in every sense) civil speech. But the fundamental motor of his thought remains his theology of Christ's Body—that society, the model of every true and functioning society, in which we are constantly learning how to receive at each other's hands and to become ourselves in God's sight, through the crosses and resurrections of 'sociable' existence. Law is the guardian of compatible variety: a bland statement at first sight, perhaps. But if that variety is ultimately the unimaginable diversity of ways in which the beauty of the face of God in Jesus Christ can be made visible—no, anything but bland.