

EVANGELICALS AND CATHOLICS TOGETHER ON LAW: THE LORD OF HEAVEN AND EARTH

A JOINT STATEMENT BY EVANGELICAL AND CATHOLIC LEGAL SCHOLARS

Over the last eight years, the evangelical and Catholic legal scholars listed below have met on several occasions to learn from each other and to consider the similarities and differences in our views of law. We were initially inspired by the Evangelicals and Catholics Together (ECT). Two of the ECT leaders, Richard John Neuhaus and Chuck Colson, encouraged us in our work and were members of our project until their recent deaths. We first met at Notre Dame University with leading church historians from our communities who traced our history of conflict (mostly) and cooperation (more recently). In much of that conflict, law has been used as a weapon by our communities against one another. Then we met at Pepperdine University with some of our leading philosophers and theologians and explored our overlapping and conflicting ideas about law. Thereafter, we met for drafting sessions at Villanova University and in New Orleans. Patrick Brennan and William Brewbaker prepared a draft document, which was edited many times in light of the comments of the participants. The collaboration has yielded, not only the document below, but many significant friendships among those in our two communities.

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We are Evangelical and Catholic lawyers and legal scholars who have been inspired by the “Evangelicals and Catholics Together” project (ECT) and its contributions to the unity and mission of the one church of Jesus Christ. Building upon that project, without being a formal part of it, we wish to speak from and to our respective communities about law, politics, and government. We speak from the conviction that law’s place and role in society are shaped by enduring truths — truths that transcend the differences among cultures and traditions — about God, about the world, about the human person, and about what the entire human family is called by its divine creator and redeemer to be.

JESUS CHRIST IS LORD

We begin our statement with the initial affirmation of the first ECT statement:

“Jesus Christ is Lord. This is the first and final affirmation that Christians make about all of reality.”

Although confession of Jesus’ lordship has always been at the center of the Christian faith, we recognize that the significance of this basic Christian profession may easily be misunderstood by Christians and non-Christians alike. We begin, therefore, by affirming in unequivocal terms that the lordship of Jesus Christ over all of creation places substantial limits on what earthly rulers can rightly do. Jesus’ lordship over the human family is a cause for hope and thanksgiving because we believe in the deity of Jesus Christ — that is that Jesus and God the Father are one, (John 10:30) and that “God is love” (1 John 4:16).

Jesus’ lordship of love provides a model and standard for all earthly rulers. This world’s rulers regularly “lord it over” those they rule (Matt. 10:25), aggrandizing themselves at the expense of those whom they should be serving. Jesus, on the other hand, is “the exact representation of [the] being” of God (Heb. 1:3), who has revealed himself as love. He is not the “thief who comes to kill and destroy” but rather the “good shepherd [who] lays down his life for the sheep” (John 10:11). The Great Commandment he left us is that we should love one another as he has loved us (Jn. 13:34). He exempted no one — certainly not rulers — from this commandment. Shortly before he was crucified, he washed his disciples feet, and said, “I have given you a model to follow” (Jn. 13:15), a model of humble service (Matt. 10:26).

We acknowledge with sadness that Christians have too often forgotten or ignored this model and yielded to the temptation to attempt to convert spiritual standing into worldly power and authority and have also distorted Christian teaching to justify ungodly political positions and social actions. To be sure, Jesus’ claims on his creation are absolute, but, as he said, his kingdom is “not of this world” (John 18:36). During Jesus’ earthly life, some urged him to assume the role of an earthly governor, which he refused to do (Luke 12:12-14; John 18:36). It is Jesus, not we, who establishes the terms of

his rule, and he has revealed himself as the One whose kingdom will be established primarily through changed hearts (Luke 6:43), through love of neighbor and of God (Matthew 22:38-40; Luke 17:20-21), and through suffering and weakness and divine vindication (1 Cor. 1:26-31; Phil. 2:5-11), rather than through the exercise of worldly power. The implications of our confession that Jesus is Lord are explored below, but we begin by underscoring our belief that the lordship of Jesus does not mean that the church is divinely authorized to impose, should desire to impose, or is capable of imposing the reign of Christ through force, arms, law, politics, or government.

Accordingly, we believe that the confession that Jesus is Lord should be welcomed as a guard against tyranny. It has often served in this way in the past, as in the cases of the resistance to Nazi totalitarianism embodied in the German Confessing Church's 1933 Barmen Declaration, the resistance to racist officials and policies by many churches in the American civil rights movement, and the resistance to Communist rule in Poland by the Catholic Church. This confession is a reminder that any human ruler remains a mortal and sinful human being who is subject to the divine rule and accountable to God. It places limits on human law and human lawgivers. Similarly, and as elaborated below, to confess that Jesus is Lord is to affirm that different human actors have different spheres of authority and jurisdiction, even as all serve under the Lordship of the one Christ. It is to affirm that Jesus alone is Lord of every person's conscience—meaning that no merely human ruler or authority, even one claiming to rule in God's name, can replace Jesus as the one to whom each of us must ultimately answer. Jesus' lordship likewise calls into question what has been called the "tyranny of relativism," which attempts to elevate human autonomy at the expense of truth. We affirm in unqualified terms that the human person enjoys inviolable and inalienable dignity in virtue of being created in the image and likeness of God (Gen. 1:26).

CREATION

"In the beginning God created the heavens and the earth" (Gen. 1:1). Christians over the centuries have understood these words to mean, first, that God chose to create the world; it is not inevitable that the world

should exist or that it should exist in the particular form we know. Moreover, this world and the human beings who inhabit it are not merely the result of impersonal forces, but were chosen and willed by God in his eternal economy of love and declared by Him to be "very good indeed" (Gen. 1:8).

In this world—the particular world God has actually made and which we inhabit—human beings have been assigned meaningful roles to play in the development and execution of human law. The human vocation includes the respectful and loving rule over God's creation that Scripture

calls dominion, without which neither humans nor the created order can flourish. There is no escaping the mark that human agency leaves on the world. At times, the idea of dominion has been misused as a pretext for the callous disregard of God's creation, but because human beings live in God's world and in his presence and under his law, we are not autonomous in our lawmaking, judging, or execution of laws. God has spoken: He has "told [us] what is good" (Micah 6:8), in the Bible, in the person of his Son, and in the gift of

conscience. He has given us faculties to discern the divine ordering in the world. Law is thus not merely a means of social control to be manipulated by those in power to achieve their ends. Making, interpreting, and executing law consistent with divine ordering is a high calling, not a power-grab or arbitrary assertion.

God has made a world which is richly and pervasively diverse. Faithfully making, interpreting, judging, and executing laws for the sake of the common good requires not only knowledge of right and wrong, but also a wise understanding of creation, development, cultures, institutions, and the manifold potentiality of human persons. The presence of a divinely given moral order does not imply that diversity among laws and legal systems is always something to be regretted. Law appropriately responds to the characteristics and needs of the cultures in which it emerges. It does, however, entail limits and goals that are to be wisely and prudently discerned by those in authority, ordinarily in consultation with those whom they serve.

FALL, REDEMPTION, AND CONSUMMATION

Though created good, the world fell into sin through Adam's disobedience (Gen. 3:1-20; Rom. 5:18). As the

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consequence of and punishment due to the original sin of human disobedience to the divine command, disorder displaced harmony, and this disorder, which is part of universal human history, is not merely external to the human person (Gen. 3:17, 19; Rom. 8:21). In the words of the Second Vatican Ecumenical Council (1965), "What Revelation makes known to us is confirmed by our own experience. For when man looks into his own heart he finds that he is drawn toward what is wrong and sunk in many evils which cannot come from his good creator" (GS 13.1).

With the fall came human alienation from God, from family, from neighbor and from the rest of creation (Gen. 3). Christians have disagreed over whether government would have been a feature of human life had Adam remained unfallen, but the fundamental disorientation in the human heart brought about by original sin clearly generates a need for law and government to restrain evil by force and admonition. Without the restraining and coordinating work of law, societies disintegrate as the powerful prey upon the weak. Nevertheless, while just laws and good government are great blessings, they are by no means a sufficient remedy for human evil. They are provisional institutions that preserve peace and order pending the final realization of Christ's victory over sin and the "principalities and powers" (Eph. 6:12).

Just laws and good government cannot finally bring about ultimate stability and peace. As Christ's death and resurrection make clear, the alienation from God, family, neighbor, and creation that are the consequence of human rebellion against God are ultimately beyond the capacity of human institutions to remedy. Nations rise and fall, prosper and decay, unable ultimately to secure their own futures in the face of unforeseen circumstances, external enemies, or internal decrepitude. The disorientation brought about by sin equally besets those who frame laws, pass judgment, and administer the affairs of state, and history teaches that governments that do not respect these limitations quickly become oppressive.

Even so, the fall did not finally frustrate or end God's plan for his creation. The good Creator did not leave his creatures to the just deserts of their fallen state. Instead, by giving his only Son as a sacrifice for sin, God sought to reconcile humanity to himself: "For God so loved the

world, that he gave his only Son, that whoever believes in him should not perish but have eternal life. For God did not send his Son into the world to condemn the world, but in order that the world might be saved through him" (John 3:16-17). And, just as God did not leave his creatures to their just deserts, he likewise did not abandon his Son but resurrected him from the dead and "exalted Him to the highest place and gave Him the name that is above every Name" (Phil. 2:9).

Jesus began his earthly ministry by proclaiming the inauguration of God's kingdom, the new covenant, which set aside the Mosaic covenant and Israel's theocracy (Luke 22:20; Gal. 3:19, 23-25; Heb. 8:13), in favor of a kingdom in which there is neither "Jew nor Greek, . . . slave nor free, . . . male [nor] female." (Gal. 3:28). Although Christ called himself king and will assert his power as the final judge of all at the last judgment (Matt. 25:31sq), he insisted that his kingdom was not "of this world," the present form of which will eventually pass away (John 18:36; 1 Cor. 7:29-31). Although Christ declared at his ascension that he had been given all authority in heaven and on earth (Matt. 28:17), the apostles taught that, until its final consummation at Christ's return, the Kingdom of God would be spread not by force of arms but through "the foolishness of preaching" (1 Cor. 1:21), and that Christians would have no final home in this world (Phil. 3:20; Heb. 11:10, 14-16; 13:14).

While our respective traditions affirm the fundamental gospel narrative of creation, fall, redemption, and consummation as set forth above, we differ in significant respects in our understanding of these events and their significance for law and human government. In its understanding of creation, Reformation thought has tended to emphasize God's revelation of Himself and His will in Christ and in Holy Scripture and the importance of the human response to God's Word. Catholics have emphasized humans' participation in the divine wisdom, their sharing in virtue of their created intelligence in the divine and providential ordering. In its understanding of the consequences of the Fall, Reformation thought has more strongly emphasized the loss of human moral freedom and capacity for moral discernment, which has, in general, fostered a more negative and restrained understanding of the aspirations of the political order, and a greater sense of the indispensability of Scripture

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for moral deliberation (2 Timothy 3:16-17). Catholics, on the other hand, have emphasized the sufficiency of grace to restore fallen human nature (2 Cor. 12:9), and this in turn has fostered a more ambitious assessment of the proper ends of political order. Catholics' aspirations in terms of the political order have also been shaped by the sacred tradition in which they hold Scripture to be authoritatively interpreted by the Church.

These tensions have led Western Christian legal and political theorists to offer a number of differing accounts of the appropriate aspirations of human rule in a fallen world. One reaction, associated with the radical Reformation (e.g., the Anabaptists), has been to regard legal and political institutions as pervasively flawed — instantiations of rule by demonic principalities and powers, participation in which should generally be of little interest to Christian believers. Another reaction, associated chiefly with the magisterial Reformation (e.g., Lutherans and Calvinists), has been slightly more positive. In this view, human political structures and human laws are a mixed blessing. On one hand, political stability facilitates the preaching of the gospel and allows human beings to live their lives in peace. Participation in such rule is not sinful but is a worthy human calling. Nevertheless, intractable human sinfulness counsels the construction of institutional frameworks intended to reduce the power of governments and of individual rulers within those governments. In the same vein, the so-called “Two Kingdoms” view has emphasized the provisional role of human law and government in the era between Christ’s resurrection and the final consummation of his rule. There are, as Jesus taught, two kingdoms in the world between the present and his return— Caesar’s and God’s. The secular state is a provisional institution incapable of producing the full healing and justice that the world requires. Forgetting this fact puts us in danger of trying to usher in a false utopia in the name of Christ.

Finally, the Catholic and much of the Calvinist tradition have tended to be somewhat more hopeful about the capacity of Christians to construct and affect political and legal structures for the better, assuming that the redemption won by Christ in his cross and resurrection was intended to affect not only individual salvation but also cultural and social deliverance from sin, and that it is exactly the mission of the church to pursue this redemption in both its individual and its cultural dimensions.

It is fair to say, however, that in each of these reactions— Anabaptist, Lutheran, Calvinist, Catholic—there is both a “now” and a “not yet” dimension; there is a firm hope that the death, resurrection, and reign of Christ will affect political structures here and

now, coupled with a realization that justice in our lives together will only be fully and finally realized when the two kingdoms are merged in the personal reign of Christ in the last day. In the radical Reformation, the “now” dimension is represented in the new political society embodied in the church. In the magisterial Reformation, the “now” dimension is reflected in the church and also, to some degree, in political structures that provide a context of relative peace and justice. In Christian circles that are more hopeful about the prospects of making Christ’s victory efficacious in this world prior to His return, the “now” dimension is instantiated not only in the church as a separate political society, but in the human political society at large. It follows that the “not yet” dimension in the worldly power structures looms largest in the radical Reformation and plays a significant role in the political theory of the magisterial Reformation. Even among those who are more hopeful about the abilities of government, however, there remains a recognition that the job cannot be completed through human agency alone, but will require the deliverance of Christ, the Desire of the Nations.

AUTHORITY: SOCIAL AND POLITICAL

There is, then, no uniform Christian account of the appropriate aspirations of political authority. With few exceptions, however, Christians have been united in affirming that human political authority is, at least after the Fall, a blessing. Governmental authority is both ordained by God (Romans 13:1-4) and established for the benefit of humanity for the purpose of “punish[ing] those who do wrong and . . . commend[ing] those who do right” (1 Pet. 2:14). As a result, humans’ ruling and being ruled by other humans is not, in and of itself, an evil. Over the centuries, though, Christian reflection on ruling authority has again and again echoed St. Augustine’s teaching that Christ is the “founder and ruler” of the only true and lasting commonwealth, which is the City of God in heaven (Civ. Dei, 2.21). Earthly rule in the present age is thus provisional and temporary and, because it is undertaken by fallen human beings, bound to be a mixed blessing. The biblical message is unmistakable that the distinguishing mark of ruling authority is that it is like Christ himself, the servant of all. “You know that those who are recognized as rulers over the Gentiles lord it over them, and their great ones make their authority over them felt. But it shall not be so among you. Rather, whoever wishes to be great among you will be your servant; whoever wishes to be first among you will be the slave of all” (Mk 10:42-44. See also Mt. 20:24-28, Lk 22:24-27). In the socio-political order, ruling authority should be expressed in acts of service (Mt. 20:28).

The biblical message is less revealing on the question of the specific forms the sociopolitical order is to take, and Christian reflection on this question has been varied, fruitful, and responsive to changing conditions. An important point of agreement has been that, in any rightly ordered society, there are plural authorities operating in different spheres, and that these other authorities must be respected by those in political authority. The first question concerning the form of the social order has been the deference owed by political rulers to the church--reflected in the rights of the churches to govern themselves and the respect of freedom of conscience in spiritual matters. While both the church and individual conscience stand as limits on the aspirations of the political authority, in our own day the rights of the church have not been recognized as readily as those of individual conscience.

Other limitations on the governing authority are marriage and the family. Christians understand marriage and the family to be natural social forms that the state neither invents nor reinvents, though it may recognize and regulate them in appropriate ways. Other social forms, too, are acknowledged by Christians as operating as limits on the governing authority. Whereas central strands of the liberal political tradition pit the lone individual against the governing power, Christians have generally agreed that, in addition to the church and the family, other groups and associations, sometimes referred to as mediating institutions, such as unions, nongovernmental civic associations, sodalities, universities, guilds, and such, are to be respected by the state and not absorbed by it. If it is correct to say that these institutions "mediate," it would be misleading to imagine that they are somehow secondary, or merely instrumentally useful for checking the power of the state. Christians anticipate that a just state will respect and foster a healthy pluralism of social forms with a right to exist and operate (assuming they exhibit worthy moral purposes), for these institutions are where men, women, and children are formed and flourish.

Evangelicals and Catholics part ways to some extent when it comes to giving an account of the role of the state in a society composed of plural societies. In Catholic social thought, the commitment to pluralism is expressed through the concepts of subsidiarity, solidarity, and the common good. The doctrine of subsidiarity bears more than a superficial resemblance to the Reformed doctrine of "sphere sovereignty," according to which social spheres enjoy substantial autonomy, not by concession of the state, but by divine right. Subsidiarity and sphere sovereignty are alike in teaching that when aid is to be shared among societies or spheres, it is to be shared in a way that respects their autonomy and authority over their own common lives. For example, the work of struggling families is not to be outsourced entirely to

the state or even the Church, but is instead to be assisted and built up by them. Nevertheless, the concepts are in tension to some degree.

In some theories in which the term "subsidiarity" occurs (for example, in discussions of American or European federalism), subsidiarity often operates as a policy of devolution, counseling that social activities are to be performed at the lowest or most local level at which they can be successfully performed. As developed in Catholic social thought, however, the principle of subsidiarity is not a policy at all. Rather, it is the principle that social functions should be performed at their proper levels, that is, at the level to which they have been assigned by creation, divine decree, or authoritative human judgment. Clarified but not created in the face of growing state monopolies, the principle of subsidiarity teaches that the work of the family, for example, is ordinarily to occur there, not because of its smallness but instead because that is where by nature and divine design it properly belongs. Closely related to subsidiarity is the principle of solidarity. Although often, and correctly, associated with the teachings of Pope John Paul II, this principle is a reformulation and modern application of earlier theories of the human person's sociality. In fact, subsidiarity is itself the principle of respecting and, where necessary assisting, the societies or communities in which the human person's natural sociality is worked out and built up through solidarity with others. In other words, what subsidiarity respects and protects is the solidarity that is the end and condition of human communities. Solidarity, for its part, is not a weak or superficial bonding among persons. What earlier political theory referred to as friendship can surely be an aspect of solidarity, but solidarity is never just one kind of relationship. Solidarity is the multitude of relations that hold a particular society or community together, and foster the common good of its members.

What Catholic social thought affirms in these respects is often summed up under the principle of the priority of the common good. Societies, such as the family, the Church, and even the political community offer their participants common goods, goods that are not obtainable in diaspora. To participate in a family is to enjoy a good that is lost, and cannot be distributed, if the family is divided. What gives the common good its priority is its being good for all the members. No one flourishes alone, and, equally, no one flourishes in just one society, even political society. The human person's natural sociality properly works itself out in myriad societies, each of which confers a common good on its participants. In the context of a healthy pluralism of the sort we affirm, each society will aim at its own

common good, while also referring its united action to the common goods of other societies.

Every society, because it cannot spontaneously and unanimously identify action toward its common good, will require the exercise of authority. In the Catholic account, authority coordinates common action. As we have already affirmed, all ruling authority is from God (Rom. 13:1). The aim and limit of such authority always is the common good, whether it be of the Church, the family, other societies, or political societies.

Although we affirm together that life in communities of various sorts is an essential aspect of what it means to be human, and that, as a result, political ontology extends beyond the categories of “individuals” and “the state,” many Evangelicals have been hesitant to accord the state a significant directive role in achieving the political community’s common good and have been concerned that the idea of solidarity is too easily pressed into the service of ideologies that are fundamentally antithetical to pluralism. Three distinctive features of Reformation thought that undergird this Evangelical hesitancy are (i) the conceptual priority given to God’s purposes over our shared human nature, and the corresponding emphasis on the immediate and direct dependence of the individual on God and, consequently, on obedience to God’s commands, (ii) a robust doctrine of sin that emphasizes fallen humanity’s lack of substantial moral freedom and integrity, and (iii) an emphasis on the church as the primary locus of renewal. These starting points have led Evangelicals to question whether, after the Fall, the presumed harmonies of purpose and function implicit in some accounts of subsidiarity and solidarity can be reconciled with the realities of human conflicts. Similarly, the reality of political life after the Fall has led Evangelicals to question the desirability of the state’s assuming the role of directing (through force if necessary) the people toward a robust conception of the common good, which, in any particular case is likely to reflect the false gods of the community (or those in charge of it). Evangelicals have thus, for the most part, preferred to speak in terms of civil society rather than political community and to favor a role for the state that is more juridical and facilitative than directive. To describe a government as “juridical” and “facilitative,” however, does not imply that it should be indecisive or weak in the face of injustice.

JUSTICE

The Lord reveals himself as the One who loves justice (Ps. 33:5; 37:28), and enjoins those who belong to him to seek justice (Is. 1:17), to establish justice (Amos 5:15), to do justice (Micah 6:8), and to cry out against injustice (Prov 31:8-9; Is. 58:6). On one occasion, Jesus

exclaims, “[W]ill not God bring about justice for his chosen ones, who cry out to him day and night? Will he keep putting them off? I tell you, he will see that they get justice, and quickly” (Luke 18: 7-8). Although the Bible has much to say about what justice entails, it does not offer a conceptual account of justice, and no single conceptual account of justice holds sway among Christians today. Nevertheless, we affirm that justice is not merely a human construct—that, in the end, justice is done when God’s will is fulfilled, and injustice done when it is not. Moreover, the God who loves justice is always present and will be the ultimate Judge of the justice done by individuals and communities. Human justice is therefore never autonomous; the rulers and judges of this world—indeed, all human beings— will render account before the judgment seat of Christ (2 Cor. 5:10). Human beings must seek justice. Although the basic standards of justice are “written on [our] hearts” (Rom. 2:15), we are prone to “suppress the truth” (Rom. 1:18). Unless we are seeking justice, those of us who may benefit from unjust arrangements will be tempted to “call evil good and good evil” (Is. 5:20). Like those to whom Isaiah spoke, we must “cease to do evil” and “learn to do good” (Is. 1:16-17), having our minds transformed in order that we may discern God’s will (Rom. 12:2).

Human beings must establish justice. A just society requires accessible processes for their grievances (Amos 5:15, 24). It requires just laws (Is. 10:1-2), and judges who will apply those laws impartially (Deut. 16:18-20; Micah 7:3; Is. 59:4).

Human beings must do justice. Although biblical injunctions to “do justice” are frequently implicitly addressed to community leaders in a position to mete out justice, justice is not solely the obligation of those in political authority (Micah 6:8). Everyone is expected to do justice in his dealings with others. Justice is the responsibility of the community and not merely the government. Well-functioning institutions are thus necessary but not sufficient conditions for justice, which remains, at its core, a matter of human action and not merely a function of impersonal institutional design, as though a set of just “structures” could be implemented with the result that justice would then be forever established.

It is no accident that concern for the poor and the vulnerable has figured prominently in Christian accounts of justice, both in the Bible and elsewhere. Indeed, after the Fall, the human condition is to be poor and vulnerable, in need of liberation from sin and death, and, at the same time, incapable of effecting that liberation. Jesus’s response to our spiritual poverty is to guide our response to the poverty of others: “For you

know the grace of our Lord Jesus Christ, that though he was rich, yet for your sakes he became poor, so that you through his poverty might become rich" (2 Cor. 8:9). In the same vein, Christians who administer justice must do so in awareness of the mercy they have received in Christ. At a minimum, this has meant exercising one's vocation in a spirit of humility and mercy. In addition, the Scriptures identify the most materially vulnerable of society — the poor, the widow, the orphan, and the alien—as special objects of God's love. In Jesus' inaugural sermon, quoting Isaiah, he identified himself as having come "to preach good news to the poor, to proclaim freedom for the prisoners and . . . to release the oppressed" (Luke 4:17-21 quoting Is 61:1-2).

No statement of this sort would be complete without acknowledging that claims of justice are frequently, and especially so in the contemporary world, stated in terms of *rights*. Christians have reflected on the themes of human and group rights for close to a millennium, if not longer, and in many different idioms. These reflections have mined deep questions in theology and philosophy, and often involved deep disagreement. Today, human rights are the lingua franca of international moral discourse that is at bottom a debate about the demands of justice. Shorn of theoretical complexity and nuance, declarations of human, and sometimes of group, rights have resounded around the globe since the promulgation of the International Declaration of Human Rights in 1948 and its many successor declarations. These important declarations and the ensuing deliberations about their significance have not ushered in a world of justice. Indeed, great evils have been done in the name of human rights. There is reason to believe, however, that increased dedication to the cause of human rights has contributed to securing, frequently through law, the conditions of justice for more of the world's people.

While Evangelicals and Catholics are dedicated to doing justice to and for all peoples and individuals, they divide, in various ways, on the question whether it is useful or even accurate to raise and answer questions of justice in terms of rights. The Catholic Church has tended more and more to teach in the terms of human and group rights, and most Catholic theorists and activists are in accord with this teaching, though with some dissent. The Evangelical embrace of rights remains

ambivalent, however. Although Reformation thought has played an important part in the development of rights discourse, and although increasing numbers of Evangelicals use the language of human rights, and even contribute to the work of non-governmental human rights groups, many Evangelicals (like some Catholics) remain concerned that proliferation of rights talk may undermine human dignity and political discourse.

Regardless of the scope and strength of our individual commitments to the use of the language of human rights, we affirm that justice requires respect for the equal dignity of every person, for human life from conception until natural death, for the integrity of marriage and the family, for freedom of conscience, for the liberty of the Church, for freedom of expression and assembly, for freedom to associate and organize, and for the freedom of mediating institutions. We do not suggest that these

requirements exhaust the demands of justice, only that they are necessary. We also agree that these requirements of justice will be satisfied in different ways in different circumstances. Frequently, though not always, they will demand implementation through law.

LAW

Law, our principal concern in this statement, is the primary medium through which political authorities exercise their God-given and God-directed jurisdiction, the aim of which is justice. The most influential single Christian account of law remains that classical Christian account relating human law to natural law, as articulated by St Thomas Aquinas and others. This account continues to enjoy wide and growing, though not unqualified, support across adherents of a number of Christian traditions. It recognizes the role of the political authority as legislator and respects, as well, the place of customary law, the *ius gentium*, and the laws of particular religious communities, such as the Canon Law.

St. Thomas famously defined law as an ordinance of reason, for the common good, made by those who have authoritative care for the community, and promulgated. In defiance, then, of modern positivist theories of law, the traditional natural law account teaches that law is not a mere command but is — again — an ordinance of reason, shaped by the requirements of the common good, not just the ruler's pleasure or preference. These requirements are requirements of justice. Also in

We affirm together that human law must aspire to the qualities specified in the traditional definition: it should be an act of reason in conformity with God's moral law, as written on the human heart and revealed in the Bible (Romans 2:14-16).

defiance of the positivist account, Aquinas's definition does not make coercion an essential part of law, though it certainly anticipates that it will sometimes be necessary and justified. The traditional account thus understands law to be essentially an appeal to reason and goodness, with coercion, like punishment, coming into play only when that appeal has failed to succeed.

Finally, it is also most common to understand the project of human lawmaking as one of specifying or giving determinate content to higher law, usually known as the natural law. The natural law, in turn, is traditionally understood to be a divine law instilled in the human mind, by God, ordering the human person to do and pursue the good and to avoid evil. On the traditional understanding, therefore, the project of making human law is understood to be made possible by, and in turn measured by, a higher law that is truly divine though naturally held and known. In this light, it is especially appropriate to refer to the dignity of human law and, thus, of judgments reached in conformity with it. The tradition emphasizes the indispensability of the lawmakers' and judges' possessing and exercising the prudence appropriate to their role.

Especially during the twentieth century, many Protestants have resisted natural law theory on the ground that human corruption in the wake of the Fall affects both the human capacity and inclination to discern and apply moral truth. However, many of the early leaders of the Lutheran and Calvinist branches of the Reformation affirmed natural law, holding that, although diminished, human moral capacities remain sufficiently intact that the basic precepts of right and wrong continued to be known, at least with respect to the limited judgments that are the province of civil authorities. Even so, it is fair to say that the Reformation tradition has been more reticent about natural law than Catholics have. Some of the reasons for this hesitancy include the frequent historical failures of real-world rulers to recognize and/or implement natural law precepts, the danger of cloaking the cultural norms through which natural law is inevitably mediated with divine authority, and the challenge that some of Jesus' teachings appear to pose to conventional understandings of morality.

With this background in mind, we affirm together that human law must aspire to the qualities specified in the traditional definition: it should be an act of reason in conformity with God's moral law, as written on the human heart and revealed in the Bible (Romans 2:14-16). Its contents should be shaped by and serve the common good. We affirm, further, that the vast bulk of human law is the result of human determination or specification, not a direct implementation of the natural or revealed

law. Law's essential connection to reason requires that officials make legal and legislative judgments that are lawful from the perspective of God's law, in service of the community and not for selfish gain, and that they employ prudence informed by understanding of the operations of laws and legal processes and the factual context in which their judgments will operate and due diligence. While law unavoidably has a role in helping men and women to live morally worthy lives, it would exceed law's competence to try to require every virtue or prohibit every vice. Human law's effectiveness depends on its being suited to the particular community for whom it is promulgated.

We acknowledge with regret that laws and legal judgments regularly fail to meet these expectations, and never meet them completely. As lawyers, law teachers, and legal scholars, we aspire to teach and write and serve to the end that such judgments may be improved and the cause of justice served and God glorified.

CONCLUSION

We offer this statement, in hopes that it will encourage discourse within and among our communities, and that it will generate discussion within the broader Christian world and beyond. Ultimately, we hope that this document might influence law for good and make ours a more just world.

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