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## "Thou Shalt Not Kill"--The First Commandment of the Just War Tradition

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## Chapter 19

# THE SIXTH COMMANDMENT

EXODUS 20:13

YOU SHALL NOT MURDER.

DEUTERONOMY 5:17

YOU SHALL NOT MURDER.

# “Thou Shalt Not Kill”— The First Commandment of the Just War Tradition

*Gary M. Simpson*

“Thou shalt not kill” is the first commandment of the “just war tradition.”<sup>1</sup> This assertion, at first glance, seems shockingly unwarranted. After all, war is without exception about killing, even a war that is justifiably undertaken and prosecuted using “just war tradition” criteria. War either violates God’s commandment or falls outside the commandment’s purview. In his Large Catechism, Martin

1. I follow Terence Fretheim’s argument regarding “kill” as the most adequate translation of the commandment (*Exodus* [IBC; Louisville, KY: John Knox, 1991], 232–33). For brief primers on the basics of just war theory, see James Turner Johnson, “Just War,” in *The Westminster Dictionary of Christian Ethics*, ed. J. Childress and J. Macquarrie (Philadelphia: Westminster, 1986), 328–29; and A. F. Holmes, “Just-War Theory,” in *New Dictionary of Christian Ethics and Pastoral Theology*, ed. D. Atkinson et al. (Downers Grove, IL: InterVarsity, 1995), 521–23. For thorough standard accounts of the just war tradition, see Paul Ramsey, *The Just War* (New York: Charles Scribner’s Sons, 1968); Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 1977); James Turner Johnson, *Just War Tradition and the Restraint of War: A Moral and Historical Inquiry* (Princeton, NJ: Princeton University Press, 1981). For my own description and analysis of the just war tradition and its criteria, see “Puckering Up for Postmodern Kissing: Civil Society and the Lutheran Entwinement of Just Peace/Just War,” *Journal of Lutheran Ethics* 2, no. 11 (November 2002), n.p.; and “Congregational Strategies for Invigorating Lutheranism’s Just Peacemaking Tradition,” *Journal of Lutheran Ethics* 3, no. 7 (July 2003), n.p., <http://www.elca.org/scriptlib/dcs/jle/search.asp>.

Luther takes the latter position: "Therefore neither God nor the government is included in this commandment, nor is their right to take human life abrogated."<sup>2</sup>

Contrary to popular opinion, the just war tradition takes God's "not kill" command as its basic presupposition. It is founded upon a strong underlying presumption against war and thus is fundamentally grounded in restraint. Luther even encodes this presumption in the title of his 1527 treatise *Whether Soldiers, Too, Can Be Saved*.<sup>3</sup> When made explicit, this presumption paradoxically strengthens Luther's insight that God exempts government from this commandment's prohibition.

Luther provides a fine case study for establishing God's "not kill" command as the warrant for the just war tradition's presumption against war. The reach of the command, moreover, includes just peacemaking. My argument will treat, in order, the following four issues: (1) Luther's argument for excluding political authority from the commandment's purview, (2) Luther's proscription against the political authority's prosecution of holy war crusade, (3) the just war tradition's opposition to "war realism" traditions, and (4) the commandment's requirement of just peacemaking.

## GOD'S "NOT KILL" COMMAND AND THE OFFICE OF POLITICAL AUTHORITY

During its first three centuries, the church addressed ever more forthrightly the question of whether war can be justified in view of God's "not kill" command.<sup>4</sup> Church fathers treated the question of war within the social contexts of their times and in light of both the teachings of Jesus and the Ten Commandments, with the former receiving the bulk of attention. Athanasius's treatment of war in *To Amun* is a good example:

2. Robert Kolb and Timothy Wengert, ed., *The Book of Concord: The Confessions of the Evangelical Lutheran Church* (Minneapolis: Fortress, 2000), 410.

3. In *LW* 46. The United States Conference of Catholic Bishops has rightly noted that the just war tradition entails a "strong presumption against the use of force"; see *The Harvest of Justice Is Sown in Peace* (United States Conference of Catholic Bishops, 1993), <http://www.usccb.org/sdwp/harvest.htm>.

4. I cannot here enter into the debate regarding what has become something like "the standard account." In this account, Jesus was a pacifist and so was the church of the first three centuries. Then came the Constantinian compromise of the just war. The progressive slide away from pacifism continued into the era of holy war crusade. Roland Bainton is the most noteworthy proponent of this account (see *Christian Attitudes toward War and Peace* [New York: Abingdon, 1960]), which has taken hold not only within the peace church traditions but also within the mainstreams of the just war tradition. James Turner Johnson has undertaken an extensive study and concluded, "The problem is that this [now standard] account of early Christian history is both dead wrong and misleading in its depiction of the historical evidence" (*The Quest for Peace* [Princeton, NJ: Princeton University Press, 1987], 9). Johnson finds rudimentary just war arguments and attitudes at least 150 years prior to Constantine, thus forestalling a "convenient scapegoat like Constantine to [be the] blame for the alleged loss of moral purity in the Church's attitude to war and the military" (15).

One is not supposed to kill, but killing the enemy in battle is both lawful and praiseworthy. . . . Thus, at one particular time, and under one set of circumstances, an act is not permitted, but when the time and conditions are right, it is both allowed and condoned.<sup>5</sup>

Both Augustine and Aquinas broach the question of justifiable war in their treatments on God's "not kill" command.<sup>6</sup>

Luther moves beyond Athanasius's vague reference to the right "time and conditions" by using arguments drawn principally from Augustine, whom Thomas Aquinas and Calvin also follow. Augustine claims that God's "not kill" command "allows certain exceptions" because God can indeed authorize killing.<sup>7</sup> Aquinas puts it succinctly: "God has sovereign authority over life and death."<sup>8</sup> God's authority, then, authorizes political authority to put criminals to death and to wage war at God's bidding.

Luther's critical theology of political authority emerges over the full course of his life. Many, though not all, of its basic features are already in place in his well-known treatise of 1523, *Temporal Authority: To What Extent It Should Be Obeyed* (LW 45:81–129).<sup>9</sup> Luther addresses particular questions put to him by John the Steadfast, his soon-to-be prince. Now that he had become an ardent defender of the evangelical cause, John inquired of Luther whether he would be able to exercise the full range of powers of the princely office with a good Christian conscience. John was concerned specifically about the power of "the sword," the coercive power of last resort that belongs in an exceptional way to political authority.<sup>10</sup> Some Anabaptist sectarians were perturbing John with certain Bible passages like "do not resist an evildoer" (Matt 5:39), "never avenge yourselves . . . vengeance is mine" (Rom 12:19), and "do not repay evil for evil" (1 Pet 3:9). Such texts, claimed the Anabaptists, preclude all true Christians, including those occupying the office of prince, from exercising "the sword," either in a criminal court

5. *Patrologia Graeca*, Migne, 26.1173 (cited in Louis Swift, *The Early Fathers on War and Military Service*, ed. Thomas Halton [Message of the Fathers of the Church 19; Wilmington, DE: Michael Glazier, 1983], 95). Hans von Campenhausen cites this passage along with Ambrose's agreement with Cicero's praise of soldiers' bravery to indicate a "change in view" in early Christian thinking on war (*Tradition and Life in the Church* [Philadelphia: Fortress, 1968], 168).

6. One notable place where Augustine treats the relationship between God's "not kill" command and justifiable war is in *The City of God* 1.21. Aquinas's treatment of just war can be found in *The Commandments of God: Conferences on the Two Precepts of Charity and the Ten Commandments* (London: Burns Oates & Washbourne, 1937), 57–58, and in *Summa Theologiae* 2a2ae.64.3–4. It is now common for contemporary theologians to raise the question of just war when treating the Ten Commandments.

7. Augustine, *The City of God* 1.21. For an excellent overview of the relevant issues in Augustine, Aquinas, and Calvin, see Lisa Sowle Cahill, *Love Your Enemies: Discipleship, Pacifism, and Just War Theory* (Minneapolis: Fortress, 1994), 55–118.

8. Aquinas, *Summa Theologiae* 2a2ae.64.6.

9. For my account of Luther's critical theology of political authority, see "Toward a Lutheran 'Delight in the Law of the Lord': Church and State in the Context of Civil Society," in *Church and State: Lutheran Perspectives*, ed. John Stumme and Robert Tuttle (Minneapolis: Fortress, 2003), 20–50.

10. "The sword" was that synecdochal figure of speech commonly used in Luther's day to refer to political authority's coercive power.

proceeding in order to keep the peace or analogously in a justifiable war. Luther, like Augustine, draws the analogy between criminal peacekeeping and just war peacekeeping.

Luther also had to counter the normative medieval interpretation of passages like those from the Sermon on the Mount. According to that interpretation, a prince could bear “the sword” and remain a Christian in good conscience because these teachings applied only to those who were specifically dedicated to “Christian perfection,” namely, members of a monastic order or the sacerdotal priesthood. Accordingly, princes need not be held accountable to such high “counsels of perfection,” since they, being lay, remained “common” Christians. Luther roundly rejected such scholastic, interpretive “wantonness and caprice.” Among Christians there exists no external “class” distinction between the perfect and the common based on status markers like “outwardly male or female, prince or peasant, monk or layman” (*LW* 45:88). Here Luther’s doctrine of vocation comes into play. Passages such as those from the Sermon on the Mount “apply to everyone alike” (*LW* 45:88).

A second historical factor situates Luther’s reflections. In his earlier 1520 treatise *To the Christian Nobility of the German Nation*, Luther appealed to the Christian nobility to take the reform of the church into their own hands, since the German bishops had not. Luther noted that the political authority of rulers was not delegated to them hierarchically from the church and its bishops, as the dominant heritage of papal political theology held. His provocative assessment of political authority left many wondering whether, by so emancipating political authority from the church, he had ascribed unlimited, totalitarian powers to political authority. Could princes, with legitimate authority, command as God’s will “whatever they please”? And correspondingly, were their subjects “bound to obey their rulers in everything” as they would obey God’s will (*LW* 45:83)? Luther addresses this question in part two of *Temporal Authority*. He stakes out the extent and limits of political authority and its power of the sword (*LW* 45:104). According to Luther, political authority has no authorization to coerce faith. In this way, the subtitle of his treatise is telling: *To What Extent It Should Be Obeyed*. In part three, Luther offers his own practical advice concerning the exercise of the prince’s office in a Christian manner. His remarks bear the stamp of a political layperson’s imagination, as he himself acknowledges.

Luther begins part one by citing Rom 13:1–2 and 1 Pet 2:13–14. These texts authenticate the constitution of political authority’s obligation of “the sword” as “a godly estate” (*LW* 45:87) and thereby testify that God is the primary agent behind “the law of this temporal sword” (*LW* 45:86).<sup>11</sup> Luther argues that Gen

11. Here Luther follows Augustine in, e.g., *Reply to Faustus the Manichean*, ed. Philip Schaff (The Nicene and Post-Nicene Fathers 4 [first series]; Buffalo: Christian Literature, 1887), 22.71–76 (pp. 299–302). Aquinas also follows Augustine here (*Summa Theologiae* 2a2ae.40.1). In reference to the Ten Commandments, Luther bases political authority on the commandment “Honor thy father and thy mother.” For an exposition of Luther on this point, see my “Toward a Lutheran ‘Delight in the Law of the Lord,’” 26–29.

4:14–15 and 9:5–6 strengthen the first two texts by emphasizing that the law of the political sword has “existed from the beginning of the world,” after the fall. Luther interprets, for example, Gen 9:5 in light of the Decalogue’s “not kill” command and Gen 9:6 in relation to God’s establishment of political authority with its power of “the sword” (*LW* 2:139–41). God has found ways to inscribe this law into the human community from the beginning of time, even though, he notes, communities have also found ways to have this divine work of the sword “not carried out.” The *lex talionis* of Exod 21:23–25, along with verse 14, certifies that Moses “confirmed” this inscribed-from-the-beginning law of the political sword. Matthew 26:52 and Luke 3:14 also provide confirmation. Luther’s conclusion: “Hence, it is certain and clear enough that it is God’s will that the temporal sword and law be used for the punishment of the wicked and the protection of the upright” (*LW* 45:87). First Peter 2:14 (*LW* 45:86) and Rom 13:3 (*LW* 45:91) provide warrant for preventing wickedness and promoting uprightness, the twofold criterion of God’s will for the range and exercise of political authority, including the power of “the sword.”

Luther argues that, because of humanity’s condition, God constitutes the full horizon of the first use of the law in general and political authority with its coercive sword. Humanity is composed of both righteous Christians and the unrighteous. Righteous Christians hear and trust the voice of Christ; thus the Holy Spirit works through their agency, directing the righteous to do right *and* bear wrong. By the Spirit, therefore, righteous Christians “do of their own accord much more than all laws and teachings can demand, just as Paul says in 1 Timothy 1[:9], ‘The law is not laid down for the just but for the lawless’” (*LW* 45:89). Throughout Luther’s career, 1 Tim 1:9 remained a hermeneutically significant text.<sup>12</sup> Accordingly, God constitutes the law not with the righteous Christians in view.

Luther was always keen to recognize that many baptized Christians are so in name only and thus waste the Holy Spirit’s agency for conducting their lives in love of neighbor. “Christians are few and far between (as the saying is)” (*LW* 45:91). Luther numbers such false Christians among the unrighteous. The unrighteous, readily in the majority by Luther’s calculus, live without the Spirit of Christ as the core agent of their lives and thus “need the law to instruct, constrain, and compel them to do good” (*LW* 45:89).<sup>13</sup> Luther remains a wide-eyed realist about sin and evil. He equally remains a wide-eyed realist about the triune God’s creational resolve to contest against sin and evil for the sake of creation!

For this reason God has provided [the unrighteous] a different government beyond the Christian estate and kingdom of God. He has subjected them

12. See Gerhard Ebeling, *Word and Faith* (Philadelphia: Fortress, 1963), 73–74.

13. Luther invariably knows that because the old Adam always clings to this life, he is describing the Christian “to the extent that he is a Christian” (*LW* 26:134). See also Luther’s reflections on baptism and holy communion in the Large Catechism (Kolb and Wengert, *The Book of Concord*, 456–80). In *Temporal Authority*, Luther also takes up the second (theological or spiritual) use of the law, whereby the Holy Spirit convicts of sin and drives to Christ. But the spiritual use of the law is not our primary concern in this inquiry.

to the sword so that, even though they would like to, they are unable to practice their wickedness, and if they do practice it they cannot do so without fear or with success and impunity. (*LW* 45:90)

This is the sword that serves as remedy for sin (*remedium peccati*). In *Whether Soldiers Too Can Be Saved*, Luther enlarges the sword's purview to include a justified war.

For the very fact that the sword has been instituted by God to punish the evil, protect the good, and preserve peace (Rom. 13:1–4; 1 Pet. 2:13–14) is powerful and sufficient proof that war and killing along with all the things that accompany wartime and martial law have been instituted by God. (*LW* 46:95)

Luther's realism about sin and evil leads him to reflect on possible relationships of power wherein the "wolves, lions, [and] eagles" among us (*LW* 45:92)—the hoarders and inhibitors of God's temporal, creational banquet—would simply "devour" the "sheep" (*LW* 45:91)—the most vulnerable among us and, indeed, all of us in our vulnerabilities. If such a lax situation persists, temporal life and flourishing would eventually be "reduced to chaos" (*LW* 45:91). Always mindful of oppressive and violent wickedness, the triune God constitutes two modes of governing the world, each with its own integrity with regard to divine purpose and power: "the spiritual, by which the Holy Spirit produces Christians and righteous people under Christ; and the temporal, which restrains the un-Christian and wicked so that—no thanks to them—they are obliged to keep still and to maintain an outward peace" (*LW* 45:91). Here Luther employs his comprehensive, remarkably enduring, and fruitful distinction between law and gospel with its accompanying distinction between the triune God's two ways of ruling the world, often referred to as Luther's two-kingdoms teaching.<sup>14</sup>

Following Augustine, Luther notes that even the sword is a temporal work of love.

[W]hen I think of a soldier fulfilling his office by punishing the wicked, killing the wicked, and creating so much misery, it seems an un-Christian work completely contrary to Christian love. But when I think of how it protects the good and keeps and preserves wife and child, house and farm, property, and honor and peace, then I see how precious and godly this work is; and I observe that it amputates a leg or a hand, so that the whole body may not perish. . . . What men write about war, saying that it is a great plague, is all true. But they should also consider how great the plague is that war prevents. (*LW* 46:96)<sup>15</sup>

14. For a noteworthy, comprehensive American interpretation of Luther's teaching of two kingdoms and two regiments, see William H. Lazareth, *Christians in Society: Luther, the Bible, and Social Ethics* (Minneapolis: Fortress, 2001).

15. See Augustine, "Letter 189 to Boniface," in *Saint Augustine: Letters*, vol. 4 (165–203), trans. W. Parsons (The Fathers of the Church 30; New York: Fathers of the Church, 1951), 269.

Luther's view of the integrity of political authority under God critically distinguishes his theological reflection from both the papal theology of his time and the sectarian account of political authority. Given the divinely constituted integrity of both governments, "it is out of the question" that Christians should attempt to govern the whole world or even a single country by the kind of noncoercive, free, and freeing spiritual governance of the gospel (*LW* 45:91, 93, 107–8). For this reason, there exists a special Christian vocation that "carefully distinguish[es] between these two governments. Both must be permitted to remain; the one to produce righteousness, the other to bring about external peace and prevent evil deeds. Neither one is sufficient in the world without the other" (*LW* 45:92).

Readied with this two-kingdoms hermeneutic, Luther turns to the significance of Jesus' Sermon on the Mount. Christians are to have no recourse to the law or to political authority's sword in two types of circumstances: "among themselves" (*LW* 45:92, 94) and "by and for themselves" (*LW* 45:94). First, within their community Christians are not to seek recourse in the law or in the sword of political authority. Second, Christians have no need for the sword if what is at stake is only their own well-being (*LW* 45:95). The second circumstance flows from another basic distinction in Luther's construal of the relationship of Christians to the sword: the distinction between self and neighbor.<sup>16</sup>

Since a true Christian lives and labors on earth not for himself alone but for his neighbor, he does by the very nature of his spirit even what he himself has no need of, but is needful and useful to his neighbor. Because the sword is most beneficial and necessary for the whole world in order to preserve peace, punish sin, and restrain the wicked, the Christian submits most willingly to the rule of the sword, pays his taxes, honors those in authority, serves, helps, and does all he can to assist governing authority, that it may continue to function and be held in honor and fear. Although he has no need of these things for himself—to him they are not essential—nevertheless, he concerns himself about what is serviceable and of benefit to others, as Paul teaches in Ephesians 5. (*LW* 45:94)

Luther views political authority itself as wholly an office "on behalf of others" (*LW* 46:122). A prince who corrupts his office by exercising political authority in order "to rejoice in his [own] power and wealth and honor, . . . [t]hat kind of prince would start a war over an empty nut and think nothing but satisfying his own will" (*ibid.*).

Luther argues that these three sets of distinctions—between the triune God's two ways of ruling, between church and world, and between self and neighbor—

16. Indeed, this distinction is ubiquitous in Luther's theological and ethical reflection (see, e.g., *LW* 45:95–96, 101, 103). Besides Scripture, Augustine is Luther's tutor on the distinction between for self and for other (see Augustine, "Letter 47 to Publicola," in *Saint Augustine: Letters*, vol. 1 [1–82], trans. W. Parsons [The Fathers of the Church 12; New York: Fathers of the Church, 1951], 230). Likewise, Ambrose is Augustine's tutor here (see "On the Duties of the Clergy" 3.3.23, in *St. Ambrose: Select Works and Letters*, ed. Philip Schaff and Henry Wace [Nicene and Post-Nicene Fathers 10 (second series); New York: Christian Literature, 1896], 71). It is Ambrose, in fact, who bequeaths to Augustine the distinction between just and unjust war (see Ambrose, *On the Duties of the Clergy* 1.35.176–77).

bring “into harmony” the two sets of biblical texts that on the surface appear contradictory.<sup>17</sup> On the one hand, Christians do not resist evil with the sword either among themselves or for their own survival or gain. On the other hand, Christians are “under obligation to serve and assist the sword by whatever means [they] can, with body, goods, honor, and soul” in order to resist evil when oppressors afflict others. “For [the sword] is something which you do not need, but which is very beneficial and essential for the whole world and for your neighbor”; indeed, “[t]he world cannot and dare not dispense with it” (*LW* 45:95). By so serving and assisting even the sword, “in what concerns the person or property of others,” argues Luther, “you govern yourself according to love and tolerate no injustice toward your neighbor” (*LW* 45:96).

Christians participate in the whole panoply of the civil use of the law and, more narrowly, in the office of political authority, including its coercive and restraining sword, because these exist as God’s own “work and creation” (*LW* 45:99). They are God’s “masks” (*larvae dei*) for creating and sustaining the temporal life of the world (*LW* 45:96–100). “For the hand that wields this sword and kills with it is not man’s hand, but God’s; and it is not man but God who hangs, tortures, beheads, kills, and fights. All these are God’s work and judgment” (*LW* 46:96). By serving and assisting the office of political authority with its sword, Christians participate in God’s creative agency. It is often with this sense of ardent participation in God’s creative agency that Luther commends “obedience” in reference to temporal authority. Furthermore, because God constitutes political authority, including the sword, “for the neighbors’ good,” such authority extends into the great variety of offices that “arrest, prosecute, execute, and destroy the wicked and [that] protect, acquit, defend, and save the good” (*LW* 45:103). Finally, because divinely constituted political authority exists to serve the neighbors’ good, Christians can even “use their office like anybody else would his trade, as a means of livelihood” (*LW* 45:103).

We have concentrated so far on how Luther addresses the first two of the four classic questions posed within the general framework of the just war tradition, the pacifism question and the authority question, about which John the Steadfast sought Luther’s advice. Luther’s response is typical of the just war tradition in general. It shares with the pacifist tradition a first principle or command: the strong presumption against violence and war and the quest for peace. In James Turner Johnson’s words,

The difference—and it is a crucial one—between Christian just war theory and Christian pacifism . . . resides in which *second* principle is added to the common attitude of opposition to war and violence. For Christian pacifists this principle comes in the form of separation. . . . For Christian theorists

17. One might compare and contrast Luther’s three distinctions with the following four strategic distinctions cited: higher and lower standards of conduct, for oneself and for others, inner and outer disposition, and private and public actions (James F. Childress, “Moral Discourse about War in the Early Church,” in *Peace, Politics, and the People of God*, ed. Paul Peachey [Philadelphia: Fortress, 1986], 126–31).

of just war . . . the second principle was that Christians might responsibly take part in securing the temporal goods represented by the state.<sup>18</sup>

We have seen that Luther exempts political authority from the purview of God's "not kill" command when the pacifism and authority questions are under discussion. We will see below, however, that Luther will reintroduce God's "not kill" command when the inquiry shifts to the cause question.

## POLITICAL AUTHORITY AND HOLY WAR CRUSADE

In part two of *Temporal Authority*, Luther addresses the question of the "limits" of political authority. Luther's analysis of these limits broaches issues often examined under the cause question within the just war tradition. Luther probes whether political authority with its sword rightly extends into the area of eternal life and salvation, into the area of "the soul" (*LW* 45:105). Does the triune God constitute political authority in such a way that political authority may "coerce the people with their laws and commandments into believing this or that"?

The triune God constitutes political authority with "no power over souls," argues Luther, because "in matters which concern the salvation of souls nothing but God's Word shall be taught and accepted" (*LW* 45:106). Moreover, God does not endow political authority as such with competencies for God's Word (*LW* 45:106–7). Matthew 16:18 and John 10:27 are decisive in this regard. Appropriate competencies are crucial. A court of law, for example, must have competencies in areas about which it renders judgment. "But the thoughts and inclinations of the soul can be known to no one but God. Therefore, it is futile and impossible to command or compel anyone by force to believe this or that. The matter must be approached in a different way. Force will not accomplish it" (*LW* 45:107). In fact, it is counterproductive. "For faith is a free act, to which no one can be forced. Indeed, it is a work of God in the spirit, not something which outward authority should compel or create. Hence arises the common saying, found also in Augustine, 'No one can or ought to be forced to believe'" (*LW* 45:108). God constitutes political authority with competencies, including "the sword," delimited to the second table of the Decalogue, but not with competencies, and thus not with authority regarding the conscience, that have their moorings in the first commandment.<sup>19</sup> He argues for this limit on political authority by exposing the words of Paul (Rom 13:3, 7), Peter (1 Pet 2:13), Jesus (Matt

18. Johnson, *Quest for Peace*, 52.

19. In his lecture on Gen 9:6, Luther again specifies the Decalogue's second table as the sphere of political authority's competence (*LW* 2:141). At certain historical junctures, Luther appears to situate the competencies of political authority, including the sword, not only with reference to the second table but also with reference to the second and third commandments as he numbers them. Because the commandment "Thou shalt not take the name of the Lord thy God in vain" pertains to behaviors of the tongue, Luther at times thinks that political authority has God-given competencies and thus responsibilities even in this area. The rationale for this position had been worked out in

22:21), David (Ps 115:16), and Moses (Gen 1:26) and finds this biblical consensus poignantly consummated in the *clausula Petri* (Acts 5:29)—“we must obey God rather than any human authority” (LW 45:110–11).

Luther extends this argument in *On War against the Turk* (1529). There he insists that no war against the Turk can be fought as a holy war, “as though our people were an army of Christians against the Turks, who were enemies of Christ. This is absolutely contrary to Christ’s doctrine and name” (LW 46:165, 168). It would be “idolatry and blasphemy. . . . Think of all the heartbreak and misery that have been caused by the *cruciata* [the Crusades], by the indulgences [granted to crusaders by Pope Urban II], and by crusade taxes” (LW 46:186). Already in 1518,<sup>20</sup> Luther had opposed war with the Turk “most of all” because it was being urged by the papacy as a holy war crusade.<sup>21</sup>

If there is to be a war fought with the Turks, it would have to be fought as a justifiable war. First, such a war would have to be fought under the auspices of the emperor and princes, not under those of the pope, the bishops, and the church. Second, such a war could be fought only to protect the empire from an expansionist war (LW 46:170, 185). While he did not doubt that the Turks wanted to initiate an expansionist war,<sup>22</sup> Luther was suspicious that past Holy Roman emperors and princes had desired “to go to war for [reasons] such as the winning of great honor, glory, and wealth, the extension of territory, or wrath and revenge and other such reasons” (LW 46:185). Any imminent war with the Turks had to be fought “with repentance” (LW 46:171).

## THE CAUSE QUESTION AND WAR REALISM

Luther indirectly takes up the just cause question by grounding the office of political authority in God’s love and justice. The office of prince is an office of service.

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1524 and again in the later 1530s under the very different circumstances of the question of armed military resistance to the emperor. See W. D. J. Cargill Thompson, *The Political Thought of Martin Luther*, ed. Philip Broadhead (Brighton, Sussex: Harvester Press, Totowa, NJ: Barnes & Noble Books, 1984), 155–62; and idem, *Studies in the Reformation: Luther to Hooker*, ed. C. W. Dugmore (London: Athlone, 1980), 31–32. This rationale also accompanies his 1543 advice that the political authorities have the duty to discipline and even forcefully expel the Jewish population from Christian territories, since these Jews verbally and willfully deny the divinity of Christ (see LW 47:262–65; Martin Bertram’s helpful introduction to this treatise [pp. 123–36]; and Heiko Oberman, *The Roots of Anti-Semitism: In the Age of Renaissance and Reformation* [Philadelphia: Fortress, 1984]). The error and evil of Luther’s appraisal in these matters remains beyond dispute! See, e.g., *Luther, Lutheranism, and the Jews*, ed. J. Halperin and A. Sovik (Geneva: Department of Studies, Lutheran World Federation, 1984), 5–32; “Declaration of the Evangelical Lutheran Church in America to the Jewish Community,” Evangelical Lutheran Church in America, Department for Ecumenical Affairs, <http://www.elca.org/ea/Interfaith/jewish/declaration.html>.

20. See Luther, *Explanations of the Ninety-five Theses* (1518), in LW 31:92.

21. For contemporary arguments against holy war crusades, see John R. Stumme, “A Lutheran Tradition on Church and State,” in *Church and State: Lutheran Perspectives*, ed. John Stumme and Robert Tuttle (Minneapolis: Fortress, 2003), 64–68.

22. LW 46:170. Luther’s information on the Turks came especially from Ulrich von Hutten’s *Exhortation to the German Princes* (1518).

“[I]nstead of thinking, ‘The land and people belong to me, I will do what best pleases me,’ he thinks rather, ‘I belong to the land and the people, I shall do what is useful and good for them’” (*LW* 45:120). The fundamental criterion of the political authority’s office of service is justice. When considering the content of justice, Luther regularly turns to the second table of the Decalogue. He also notes that the Scriptures frequently discuss and explicate second-table issues, often far beyond the precise formulations that the Decalogue itself offers. Further, both the Decalogue and Scripture’s elaborations of the Decalogue’s template of moral justice are instances of natural law reasoning. Luther argues—most often on the basis of Scripture itself—that the natural law of justice precedes and, therefore, grounds both the Decalogue as recorded in Scripture and scriptural explications of the Decalogue’s template of moral topics.<sup>23</sup> For this reason, he regularly appeals to the natural law of justice, often as inscribed in the Decalogue or the golden rule or the second great commandment, as the crucial criterion for the functioning, positive law of a political region.

In his *Commentary on Psalm 82* (1530), which reads like an essay on the virtuous prince, Luther takes up the issue of justice, which lies at the heart of the just war tradition’s cause question. He notes that second only to the princely vocation to secure the free opportunity for the church to teach God’s Word is the princely vocation “to help the poor, the orphans, and the widows to justice and to further their cause. But, again, who can tell all the virtues that follow from this one? For this virtue includes all the works of righteousness” (*LW* 13:53).

In a word, after the Gospel or the ministry, there is on earth no better jewel, no greater treasure, nor richer alms, no fairer endowment, no finer possession than a ruler who makes and preserves just laws. Such men are rightly called gods [in this psalm]. . . . [God] would have them full of great, innumerable, unspeakable good works, so that they may be partakers of His divine majesty and help Him to do divine and superhuman works. (*LW* 13:54–55)

Even though Luther knows that the cause question in relation to war is “a far-reaching question” (*LW* 45:124), he directly addresses it in *Whether Soldiers Too Can Be Saved*. Political authority must meet a high bar.

No war is just, even if it is a war between equals, unless one has such a good reason for fighting and such a good conscience that he can say, “My neighbor compels and forces me to fight, though I would rather avoid it.” In that case, it can be called not only war, but lawful self-defense, for we must distinguish between wars that someone begins because that is what he wants to do and does before anyone else attacks him, and those wars that are provoked when an attack is made by someone else. The first kind can be called wars of desire; the second, wars of necessity. The first kind is of the devil;

23. Luther’s most extensive single discussion of the relation of natural law and Scripture is in *How Christians Should Regard Moses* (1525). For a helpful review of Luther’s view of natural law, see Lazareth, *Christians in Society*, 141–59.

God does not give good fortune to the man who wages that kind of war.  
The second kind are human disasters; God help them! (*LW* 46:121)<sup>24</sup>

Luther often warns “warmongers” by citing Ps 68:30: “He scatters the peoples who delight in war” (*LW* 46:118).

Regarding the cause question, the bar of “necessity” rather than “desire” places the just war tradition in opposition to the traditions of “war realism.” Precise definitions of “war realism” are hard to pin down.<sup>25</sup> There is in war realism an aspirational core: war is a calculated instrument exercised to fulfill some national destiny. The just war tradition originates precisely in Cicero’s opposition to the escalating war realism of his own native empire.<sup>26</sup> An instructive example is Germany in the nineteenth and twentieth centuries. Prussia had brought about Germanic unification under Otto von Bismarck in 1871; its goal was to expand its leadership and to enlarge unification by encompassing other European nations under Prussian hegemony. This Prussian spirit had been articulated already in the early nineteenth century by Georg Hegel, who had argued that in world history every ethnic people had a vocation to actualize and solidify itself by becoming a state, and states were by necessity maintained by force. Further, each state had a vocation to actualize its capacities to its furthest extent and thereby to expand its influence and powers most fully. In this way, the course of world history manifested itself as a constant struggle for hegemony. The most excellent nation would rule lesser nations for their own good. War was, therefore, the natural order toward achieving a nation’s God-given vocation to lead.<sup>27</sup>

Often people who claim and desire to live according to the just war tradition are actually operating within war realism. They unknowingly—though at times

24. Luther borrows this distinction between wars of desire and wars of necessity from Augustine (see “Letter 189 to Boniface,” in *Saint Augustine: Letters*, vol. 4, 269). To my knowledge, Luther confines wars of necessity to a defensive criterion only. Two other widely accepted just cause criteria are recovery of property and punishment (see Leroy Walters, “The Simple Structure of the ‘Just-War’ Theory,” in *Peace, Politics, and the People of God*, ed. Paul Peachey [Philadelphia: Fortress, 1986], 139).

25. See Duane Cady, *From Warism to Pacifism: A Moral Continuum* (Philadelphia: Temple University Press, 1989), 21–23. Two other overviews of war realism can be found in Terry Nardin, “War and Peace, Philosophy of,” in *Routledge Encyclopedia of Philosophy*, ed. E. Craig, 1<sup>st</sup> ed. (London and New York: Routledge, 1998), 9:684–91; and Sara Ruddick, “War and Peace,” in *Encyclopedia of Ethics*, ed. L. C. Becker and C. B. Becker, 2<sup>nd</sup> ed. (New York: Routledge, 2001), 3:1782–89. See also Michael Howard, “The Causes of War,” in *A Peace Reader: Essential Readings on War, Justice, Nonviolence, and World Order*, ed. J. Fahey and R. Armstrong (New York: Paulist, 1987), 7–8.

26. See M. Tullius Cicero, *De officiis* (LCL; Cambridge, MA: Harvard University Press, 1961), 1.11–13 (pp. 13–15).

27. Hegel’s war realism was taken up by other leading public thinkers of nineteenth-century Germany, including Leopold von Ranke, Heinrich von Treitschke, Max Weber, and others associated with the “Prussian School of History.” See John Moses’s instructive analysis of Prussian war realism in “Bonhoeffer’s Germany: The Political Context,” in *The Cambridge Companion to Dietrich Bonhoeffer*, ed. John W. de Gruchy (Cambridge: Cambridge University Press, 1999), 3–10. For Hegel’s own analysis, see *Philosophy of Right*, trans. T. M. Knox (Great Books of the Western World 46; Chicago: Encyclopedia Britannica, 1952), par. 259–360.

knowingly and thereby maliciously—transfer the assumptions of war realism to the just war tradition.<sup>28</sup> James Turner Johnson captures this well:

In Western civilization the general term of the tradition that has grown up to justify and limit war is “just war theory.” This term, however, is an imprecise one—ambiguous because of the variety of contexts out of which the just war idea has arisen, because of the metamorphosis of the concept of just war over time; because of the existence at any one time of *numerous* theories; because of the imprecision of language, especially in equivalence of terms between different languages; and, not least, because of the expectations of many persons today regarding war, expectations that are transferred to the just war idea.<sup>29</sup>

This transference has become a far too common occurrence since 9/11 and, therefore, merits a special vigilance.

In his *Treatise on Good Works* (1520), Luther attends to the cause question by combining Peter’s clause (Acts 5:29) with God’s “not kill” command:

But if, as often happens, the temporal power and authorities, or whatever they call themselves, would compel a subject to do something contrary to the command of God, or hinder him from doing what God commands, obedience ends and the obligation ceases. . . . [It is] as if a prince desired to go to war, and his cause was clearly unrighteous; we should neither follow nor help such a prince, because God had commanded us not to kill our neighbor or do him a wrong. . . . In such cases we should indeed give up our property and honor, our life and limb, so that God’s commandments remain. (*LW* 44:100)

When the cause question is under deliberation, Luther readily reintroduces God’s “not kill” command!

We have seen how Luther takes up the pacifism question, the authority question, and the cause question. Like the broader just war tradition, he holds a strong presumption against war grounded in God’s “not kill” command, though often stated only tacitly. From the perspective of the authority question, only government retains an exemption from the commandment, because political authority is God’s preferential earthly agent for enforcing the commandment. God’s “not kill” command emerges again, however, when the cause question is addressed.

Although Luther does not address the question of proportionality of means in the prosecution of war and says nothing much beyond his counsel to show mercy to the vanquished, he does address the conduct question in view of the “not kill” command in his *Treatise on Good Works* (1520). The “precious and lofty work” of this commandment is “meekness” with respect not only to our family and friends but especially to our enemies. “The temporal authorities [defend]

28. See Gary M. Simpson, “‘By the Dawn’s Early Light’: The Flag, the Interrogative, and the Whence and Whither of Normative Patriotism,” *Word and World* 23 (2003): 272–83.

29. Johnson, *Just War Tradition and the Restraint of War*, xxi.

with the sword; the rest of us, by reproof and rebuke. But it is [to be done] with pity for those who have earned the punishment" (*LW* 44:103). Here Luther specifically invokes the positive form of God's "not kill" command.

### THE COMMAND'S POSITIVE FORM AND JUST PEACEMAKING

Both Luther and Calvin discern a twofold dimension within the succinct yet comprehensive "not kill" command. First, "not kill" is a synecdoche that excludes all violence whatsoever toward other humans.<sup>30</sup> Second, and especially germane to our purpose, is Calvin's thesis:

[I]n negative precepts, as they are called, the opposite affirmation is also to be understood; else it would not be by any means consistent, that a person would satisfy God's Law by merely abstaining from doing injury to others. . . . Nay, natural common sense demands more than that we should abstain from wrong-doing. And, not to say more on this point, it will plainly appear from the summary of the Second Table, that God not only forbids us to be murderers, but also prescribes that every one should study faithfully to defend the life of his neighbor, and practically to declare that it is dear to him; for in that summary no mere negative phrase is used, but the words expressly set forth that our neighbors are to be loved. It is unquestionable, then, that of those whom God there commands to be loved, He here commends the[ir] lives to our care.<sup>31</sup>

Luther employs this same twofold hermeneutic when he composes the catechetical meaning of the commandment in his Small Catechism: "We are to fear and love God, so that we neither endanger nor harm the lives of our neighbors, but instead help and support them in all of life's needs."<sup>32</sup> Here we are interested particularly in the affirmative injunction introduced by the adversative conjunction ("but").

Luther elaborates in his Large Catechism aimed at instructing parents and pastors. The force of the negative form is that "God wants to have everyone defended, delivered, and protected from the wickedness and violence of others, and he has placed this commandment as a wall, fortress, and refuge around our neighbors, so that no one may do them bodily harm or injury." Now the force of the tacit affirmative arises:

[T]his commandment is violated not only when we do evil, but also when we have the opportunity to do good to our neighbors and to prevent, protect, and save them from suffering bodily harm or injury, but fail to do so. If you send a naked person away when you could clothe him, you have let

30. See John Calvin, *Commentaries on the Four Last Books of Moses Arranged in the Form of a Harmony*, trans. Charles W. Bingham (Grand Rapids: Eerdmans, 1950), 3:20.

31. *Ibid.*, 20–21.

32. Kolb and Wengert, *The Book of Concord*, 352.

him freeze to death. If you see anyone who is suffering from hunger and do not feed her, you have let her starve. Likewise, if you see anyone who is condemned to death or in similar peril and do not save him although you have means and ways to do so, you have killed him. It will be of no help for you to use the excuse that you did not assist their deaths by word or deed, for you have withheld your love from them and robbed them of the kindness by means of which their lives might have been saved.

Therefore God rightly calls all persons murderers who do not offer counsel or assistance to those in need and peril of body and life. He will pass a most terrible sentence upon them at the Last Day, as Christ himself declares. [Matt 25:42–43]<sup>33</sup>

The negative form of the commandment places a protective *boundary* around our physical life. The tacit affirmative sets in motion a life-generating *bonding-and-bridging* into the physical life of neighbors. More recently, Walter Harrelson notes the “sweeping generality” of this commandment, “surprising in its scope.”<sup>34</sup> No wonder Karl Barth, borrowing Albert Schweitzer’s phrase, interprets the area marked out by God’s “not kill” command primarily under the rubric of “respect [reverence] for life,” the implicit, sweeping affirmative, and only secondarily under the rubric of “protection of life,” which corresponds to the negative form of the command.<sup>35</sup> Terence Fretheim observes that the negative form of much of the Decalogue is “pertinent” in that the commandments “focus on the outer limits of conduct rather than specific behaviors. . . . Yet the commands implicitly commend their positive side. . . . There is a certain comprehensiveness in their ties to a considerable range of life experience.”<sup>36</sup>

Our analysis of Luther’s exposition of law and political authority so far has focused on the restraining dynamic of God’s civil use of law (*remedium peccati*) and, correspondingly, on the political authority’s sword exercised within the just war tradition. But, as Luther emphasizes the affirmative implied in God’s “not kill” command, so he also underscores the positive life-generating side of the law’s civil use. This includes yet extends far beyond the sphere of political authority to comprise family, labor, and what today has emerged as civil society.<sup>37</sup> Luther occasionally recommends “a loaf of bread” as an additional, even alternative, synecdoche for political authority. “It would therefore be fitting if the coat of arms of every upright prince were emblazoned with a loaf of bread instead of a

33. *Ibid.*, 412.

34. Walter Harrelson, *The Ten Commandments and Human Rights*, rev. ed. (Macon, GA: Mercer University Press, 1997), 89.

35. Karl Barth, *Church Dogmatics III/4*, trans. A. T. MacKay et al. (Edinburgh: T. & T. Clark, 1957), 324–97.

36. Fretheim, *Exodus*, 221.

37. For my own exposition of civil society as an emerging divine arena for the life-generating side of the law’s civil use, see “Toward a Lutheran ‘Delight in the Law of the Lord!’”; *idem*, *Critical Social Theory: Prophetic Reason, Civil Society, and Christian Imagination* (Minneapolis: Fortress, 2002). See also Gustav Wingren’s trenchant admonition against those who would reduce Luther’s notion of the civil use of the law to merely “an association with politics,” which Luther himself sometimes did (*Creation and Law* [Philadelphia: Muhlenberg, 1961], 153).

lion.<sup>38</sup> Luther forthrightly acknowledges other fundamental, socially generative powers of political authority besides “the sword,” without, of course, ever excluding the sword’s restraining power. He considers these more socially generative aspects of the political use of the law when the context is more “civically” situated. We could call this side of Luther’s legacy “civic Lutheranism.”<sup>39</sup>

The twofold comprehensiveness of the Ten Commandments entails a host of “possible legitimate extensions.”<sup>40</sup> The Scriptures themselves are replete with such extensions, and “[t]his gives the people of God in every age an innerbiblical warrant to expand on them.”<sup>41</sup> A key characteristic for such extension, regarding not only the boundary character of the negative form but also the bonding-and-bridging character of the tacit affirmative form, is the distinctive and thoroughgoing entwinement of biblical law and narrative.<sup>42</sup> That the commandments are placed within narrative

means that the law is not viewed as eternally given in a certain form; it is not immutable, never to be changed in its form or content. The laws are time-bound. The law is always intersecting with life as it is, filled with contingency and change, with complexity and ambiguity. It moves with the times, taking human experience and insight into account, while remaining constant in its objective: the best life for as many as possible. This constantly changing life of the people of God means that ever new laws are needed: New occasions teach new duties.<sup>43</sup>

The just war tradition’s strong presumption against war entails one such new duty, and the tacit positive form of the command, intertwined as it is with biblical narrative, strengthens the warrant for it.

38. Fourth Petition of the Lord’s Prayer in the Large Catechism (Kolb and Wengert, *The Book of Concord*, 450–51).

39. The complexion of civic Lutheranism diverges from that of “civic Calvinism.” See Heinz Schilling, *Civic Calvinism* (Kirkville, MO: Sixteenth Century Journal, 1991). A sampling of Luther’s civically situated treatises includes *The Estate of Marriage* (1522) (*LW* 45:17–49); *Ordinance of a Common Chest* (1523) (*LW* 45:169–94); *Trade and Usury* (1524) (*LW* 45:245–310); and *A Sermon on Keeping Children in School* (1530) (*LW* 46:213–58). Carter Lindberg especially has highlighted the socially generative aspect of Luther’s view of political authority against the reductionistic interpretations by Ernst Troeltsch and Reinhold Niebuhr, which have dominated and skewed the hermeneutical imaginations of many interpreters of Luther, particularly in North America. See Lindberg, *Beyond Charity: Reformation Initiatives for the Poor* (Minneapolis: Fortress, 1993), 95–127, 161–69. Cahill includes, though rather briefly, the socially generative side of Luther’s interpretation of political authority (see *Love Your Enemies*, 106–7).

40. Fretheim, *Exodus*, 232.

41. *Ibid.*, 222 (emphasis Fretheim’s).

42. While Fretheim articulates no less than ten implications of this entwinement (see *Exodus*, 201–7), I will focus only on one.

43. *Ibid.*, 206. Luther’s dialectical exposition in *How Christians Should Regard Moses* moves in a similar vein, though he appeals to natural law reasoning more forthrightly than does Fretheim (*LW* 35:161–74). I have a general agreement with Fretheim’s view, though I remain unconvinced of his formulation “the best life for as many as possible,” which seems too tilted toward a Bentham-like utilitarianism. For a brief overview of utilitarianism and its problems and possibilities, see R. M. Hare, “Utilitarianism,” in *The Westminster Dictionary of Christian Ethics*, ed. J. F. Childress and J. Macquarrie (Philadelphia: Westminster, 1986), 640–43.

Plainly, the just war tradition's strong presumption against war entails an equally strong, affirmative presumption for life, for just *peacemaking*. The *peacekeeping*, which a just war aims to accomplish, must exist within a comprehensive environment of just *peacemaking*. Indeed, just *peacemaking* is the tacit presupposition for *peacekeeping*. Here the brilliance of the affirmative form of God's "not kill" command glistens.

The varieties of the pacifist tradition have practiced expertise in just *peacemaking*. "Pacifism is a complex and subtle range of value positions on morality, peace, and war, not the stereotyped extreme of conventional wisdom. The varieties of pacifism have emerged within a just-warist value tradition, to some degree building on and extending that tradition."<sup>44</sup> Those within the just war tradition must remember that pacifism has two sides: the "critical" side and the "positive" side. The critical side is "no war, no violence, no sword, by anyone under any circumstances." The positive side of pacifism is "work tirelessly, vigorously, and endlessly for the establishment of peace according to just criteria." On the one hand, the just war tradition cannot adopt the critical side of pacifism. This has most often been the primary, even only, topic of conversation between the just war tradition and the variety of pacifist traditions. On the other hand, the just war tradition has every reason in the world to be allied with the historic pacifist traditions—represented, for example, by the Mennonites and the Quakers—as they have developed the positive side of just *peacemaking*. There is much to learn and accomplish,<sup>45</sup> for as the psalmist declares, "justice and peace will kiss each other" (Ps 85:10).

44. Robert Phillips and Duane Cady, *Humanitarian Intervention: Just War vs. Pacifism* (Lanham, MD: Rowman & Littlefield, 1996), 32–33. For other expositions of the varieties of pacifism, see John Howard Yoder, *Nevertheless: The Varieties and Shortcomings of Religious Pacifism* (Scottsdale, PA: Herald, 1992); and Edward LeRoy Long Jr., *War and Conscience in America* (Philadelphia: Westminster, 1968).

45. For the term "just *peacemaking*" and for a good introduction to this ecumenical approach, see Glen Stassen, *Just Peacemaking: Ten Practices for Abolishing War* (Cleveland: Pilgrim, 1998); and Jeffrey Gros and John Rempel, ed., *The Fragmentation of the Church and Its Unity in Peacemaking* (Grand Rapids: Eerdmans, 2001). For my own suggestions regarding this just *peacemaking* alliance between the just war tradition and pacifism, see "Congregational Strategies for Invigorating Lutheranism's Just Peacemaking Tradition."