

Lecture 19 – The State in God’s Design

Everyone must submit himself to the governing authorities, for there is no authority except that which God has established. The authorities that exist have been established by God. Consequently, he who rebels against the authority is rebelling against what God has instituted, and those who do so will bring judgment on themselves. For rulers hold no terror for those who do right, but for those who do wrong. Do you want to be free from fear of the one in authority? Then do what is right and he will commend you. For he is God’s servant to do you good. But if you do wrong, be afraid, for he does not bear the sword for nothing. He is God’s servant, an agent of wrath to bring punishment on the wrongdoer. Therefore, it is necessary to submit to the authorities, not only because of possible punishment but also because of conscience. This is also why you pay taxes, for the authorities are God’s servants, who give their full time to governing. Give everyone what you owe him: If you owe taxes, pay taxes; if revenue, then revenue; if respect, then respect; if honor, then honor. Romans 13:1-8 (NIV)

Key Terms

Two communities, citizenship, authority, separation

Objectives

- *Define and explain the place of the believer in the world.
- *Identify the source of state authority.
- *Identify characteristics of good governance.
- *List areas of government responsibility.

The State in God’s Design

I. Two Communities

A. Heavenly Jerusalem

1. Church

B. Earthly “polis” (state)

1. Political community which resides in a given territory, is organized
2. Theological framework: We live in the time between Jesus’ Session and Second Coming.
3. Present, but future

C. Institutional separation

1. In terms of authority: church/state

II. Source of civil authority

A. Authority: Rightful exercise of power

B. *Westminster Confession of Faith* (23:1) –

1. Romans 13:1
2. Daniel 4:25
3. John 19:11
4. Mark 12:17

III. Components of the Public Good

A. Law & order

1. Romans 13:1-7
2. Domestic tranquility and peace: I Timothy 2:1-2
3. Retribution
4. Remedial

B. Social justice

1. Psalms 82:1-4
2. Protective justice: Isaiah 10:1-2

- 3. Maintenance of rights of the poor
- 4. Secure rights of individuals/institutions
- C. Health & safety
 - 1. Deuteronomy 23:12; 22:8
- D. Environmental protection
 - 1. Deuteronomy 20:19; 23:6
- E. Public works
 - 1. II Kings 20:20
- F. National security & defense
- IV. Contemporary Responsibility
 - A. Constitutional government
 - 1. NT times and principles
 - 2. Today
 - 3. Public justice
 - 4. U.S. Constitution
 - B. Principled pluralism
 - 1. No endorsement of faith
 - 2. No imposition of worship
 - C. Morality, law, and politics
 - 1. Standards of public justice must be imposed on a fallen world.
- E. Civil Disobedience
 - A. *Westminster Confession of Faith*, ch. 23

It is the duty of people to pray for magistrates, to honour their persons, to pay them tribute or other dues, to obey their lawful commands, and to be subject to their authority, for conscience sake. Infidelity, or difference in religion, doth not make void the magistrates' just and legal authority, nor free the people from their due obedience to them: from which ecclesiastical persons are not exempted, much less hath the Pope any power and jurisdiction over them in their dominions, or over any of their people and, least of all, to deprive them of their dominions, or lives, if he shall judge them to be heretics, or upon any other pretence whatsoever.
 - B. Types of civil disobedience
 - 1. See Handouts, "Classnotes on Civil Disobedience" & *WCF*, "Of the Civil Magistrate"

Classnotes on Civil Disobedience

Civil disobedience has different motives and different goals dependent on the circumstances. Non-violent civil disobedience (our subject) concedes the police function to the state, which God has ordained to have a monopoly on the forcible restraint of evil. Even so, non-violent civil disobedience takes various forms which have to be judged separately. As usual, "circumstances alter cases."

1. Personal integrity

Typically defined as "noncompliance with a more or less direct legal injunction or administrative order" on the ground that compliance would be immoral (Rawls, *Theory of Justice*, 368). When the government commands what God forbids, or forbids what God commands, the Christian is bound to obey God rather than men. Exodus 1:15-22; Daniel 3:16-18; 6:10; Acts 4:18-20; 5:29.

Applies whether the state commands what ought not to be done or whether the state forbids what ought to be done. The primary issue is personal integrity before God. Some argue further that civil disobedience is right only in "cases where compliance is positive sin per se" (e.g., Dabney, *The Practical Philosophy*, 391).

2. Constitutional rights

Seeks remedy from unjust laws through the courts by a process of appeal to the highest law of the land and claims the right to peaceful, orderly protest under the First Amendment. Two prerequisites for justification:

- 1) Clear and substantial violations of justice
- 2) Other means of change tried and exhausted

First Amendment Freedoms: Religion, Speech, Press, Assembly, Petition

Fidelity to the democratic system is expressed in appealing to the nation to live up to its professed ideals, by not resorting to violence, and by bearing the consequences of illegal acts. Assumes a basically just society, with glaring exceptions.

Rosa Parks. One can submit to an unfair law with a clear conscience. Not intended as a test case, though it became that. As King wrote in *Stride toward Freedom*, “She was not ‘planted’ there by the NAACP, or any other organization; she was planted there by her personal sense of dignity and self-respect. She was anchored to that seat by the accumulated indignities of days gone by and the boundless aspirations of generations yet unborn.” Ms. Parks was vindicated by the Supreme Court, as were King and Abernathy, chief the organizers of the bus boycott.

3. Political action

“Civil disobedience” is now commonly understood to refer to “a public, nonviolent, conscientious, yet political act contrary to law, usually done with the aim of bringing about a change in the law or policies of the government” (Rawls, *Justice*, 364). Tom Wicker: “[Nonviolent] civil disobedience ... [is] designed to call attention to and dramatize the abhorrence of the thing abhorred. Civil disobedience is essentially constructive, an attempt to move the democratic process to needed action” (Feb 12, 1985).

Though widely accepted (and selectively tolerated) in American society as a legitimate form of social activism, in principle it subverts the democratic process and the rule of law. Martin Luther King, Jr., in August 1967 called for “a new drive of massive civil disobedience,” and began to organize a second march on Washington, the “Poor People’s Campaign,” from which he expected some form of democratic socialism to emerge.

Hastings Center Report (November/December 1989) featured a section on “Militant Morality: Civil Disobedience and Bioethics.” Social activists: pro-life, pro-choice, AIDS, Animal Rights. Randall Terry: social upheaval is the most effective way to bring about political change.

4. Political resistance

Tianamen Square, Beijing, China, June 1989. Downtown Leipzig, East Germany, October 1989.

Uwe Siemon-Netto, *The Fabricated Luther: The Rise and Fall of the Shirer Myth* (St. Louis: Concordia, 1995). On Monday, October 9, after the traditional “prayers for peace” in the churches, some 70,000 demonstrators marched around the center of the city. Pastor Friedrich Schorlemmer later wrote: “Those who marched in Leipzig had a good notion of what might happen. So they took each other by their hands and got started, the fear of a Chinese solution in their bellies and the security apparatus before their eyes” (25). The state security police had prepared for a massacre by planting agents provocateurs. Well-organized Christian groups were able to separate get between them and the other demonstrators” (27).

The security forces withdrew. At whose orders? That is still unclear. But this much is certain: they would not have done so had violence broken out. Without the courageous action of the Christians, civil war would have been the most likely result. As it was, tyranny retreated in the face of a few people armed only with candles and singing hymns (27).

Controversial analysis of contemporary America. “The End of Democracy? The Judicial Usurpation of Politics,” *First Things*, November 1996; “The End of Democracy? A Discussion Continued,” *First Things*, January 1997.

5. Circumstantial necessity

In our legal system, laws of trespass yield to imminent, real, and inevitable threat of death. The Model Penal Code: “the sanctity of life has a supreme place in the hierarchy of values.” This is the type of action the PCA refused to criticize in relation to abortion.

Rule of Necessity. “Courts have long recognized ‘the rule of necessity,’ which is: private individuals have the right to use property of others to save life or more valuable property. In the classic case of *Ploof v. Putnam* [1908], a boater alleged that he and his wife were caught in a tempest while sailing and tried to save themselves by mooring to a dock, but the dock owner cast them off and they were injured. The court held that these facts stated a cause of action under the rule of necessity. The rule modifies ideas of absolute ownership and recognizes a duty of sociality ...” *Morris on Torts*, 2nd ed. (Mineola, NY: Foundation, 1980), 40.

Cf. Patrick G. Senftle, “The Necessity Defense in Abortion Clinic Trespass Cases,” *St. Louis University Law Journal* 32 (1987): 523-47. Four basic elements: 1) The wrongdoer must act: voluntarily and with an objective, rather than subjective, belief in the necessity of avoiding a greater harm; 2) with a reasonable belief in the imminence of a greater harm and the unavailability of a reasonable alternative to the wrongful act; 3) to avoid a harm caused by someone or something other than the wrongdoer; and 4) to cause a harm less severe than or equal to the harm avoided.

Senftle shows how these apply in a case study, *City of St. Louis v. Klockner* (see following page). The necessity defense is subject to legislative preemption, technically *Roe v. Wade* did not do this.

By avoiding the decision [in *Roe*] whether the fetus is a human being, the Court left open the possibility for such a finding. In future cases, the Court could conceivably conclude that the fetus is a human being and a person or decide that the decision should be left to the state. Until the Court decides otherwise, an abortion clinic trespasser may raise the necessity defense on the grounds that property damage to the clinic is the lesser of two evils (531-32).

Subsequently, a precedent was set in the ruling of *State v. O'Brien*.¹

Since abortion remains a constitutionally protected right, the defense of necessity must be viewed in that context....In short, the defense of necessity asserted here cannot be utilized when the harm sought to be avoided [abortion] remains a constitutionally protected activity and the harm incurred [trespass] is in violation of the law.... In short, if necessity were a valid defense at a time when abortion is a constitutionally protected right, the result would be an endless physical and, perhaps, violent impasse.

Case Study: *City of St. Louis v. Klockner*.

In 1982 “three individuals were charged with criminal trespass upon the property of a St. Louis abortion clinic. At trial, the defendants raised the necessity defense.” Though unsuccessful, their action meets the standard criteria.

¹ Cited as 784 S.W.2d 187 (Mo.App 1989).

1) Reasonable belief: “All of the defendants had studied expert medical documentation supporting the theory that a fetus is a human life. Some had known or met women whose children had been saved by non-violent trespass action at abortion clinics. The defendants knew that abortions were scheduled on the day in question. Therefore, the defendants believed that they needed a ‘more immediate remedy’ than political activity to save the specific lives threatened by abortion that day” (534-35).

2) Imminent harm: “The defendants arrived early at the clinic to meet the women seeking abortions. The defendants first tried to persuade the women not to have abortions by offering to provide counseling and care for the mother and baby. Only after the mother decided to proceed with the abortion did the defendants perceive ‘a true emergency situation.’ They then tried to save the unborn lives by ‘blocking access to the abortion procedure rooms by sitting in the doorway.’ Under the circumstances, the trespassers believed that the harm was so imminent that their failure to act would have resulted in the destruction of lives ‘minutes after the mothers entered the abortion procedure room’” (536-37).

3) Not defendant’s fault: “The women who sought abortions on the day of the trespass arrived at the clinic of their own volition. Also, the defendants in no way caused the abortion procedure. In fact, the trespassers had made ‘every effort, political or otherwise, to avoid the taking of human lives by abortion’” (537).

4) Threatened harm outweighs illegal action: “The threshold issue in this balancing requirement is whether any harm results from an abortion. This conclusion, of course, depends upon whether abortion destroys human life” (537).

“Commentators and case law uniformly agree that saving human life out of necessity justifies the violation of property rights. A defendants’ life-saving actions are justified unless the conduct threatens other life. ‘Where the act done was necessary, or reasonably seemed to be necessary, to save life or limb or health, and did not in itself in any way endanger life, limb or health, the exculpatory effort of the necessity is too clear for argument’” 538.

Excursus: Francis Schaeffer on Civil Disobedience

Francis A. Schaeffer, *A Christian Manifesto* (Crossway, 1981). Advocates civil disobedience as a form of political resistance, even armed resistance should it come to that. Applies Samuel Rutherford’s principles (*Lex Rex*) to our situation today.

[W]hen the state commits illegitimate acts against a corporate body—such as a duly constituted state or local body, or even a church—then ... there are two levels of resistance: remonstrance (or protest) and then, if necessary, force employed in self-defense. In this respect, Rutherford cautioned that a distinction must be made between a lawless uprising and lawful resistance.

For a corporate body (a civil entity), when illegitimate state acts are perpetrated upon it, resistance should be under the protection of the duly constituted authorities: if possible, it should be under the rule of the lesser magistrates (local officials). [104, emphasis added]

However, there are crucial differences between 17th century Scotland and 20th century America so far as the political process is concerned. The forcible resistance in the name of the people is done by authorities already in place who represent the people. Under constitutional government, the will of the people is already expressed through the political process. Schaeffer has moved from resistance to revolution, and for far less cause than oppressed peoples in many parts of the globe. Still, he does at least offer two qualifications: When discussing force it is important to keep an axiom in mind: always before protest or

force is used, we must work for reconstruction. In other words, we should attempt to correct and rebuild society before we advocate tearing it down or disrupting it.

If there is a legitimate reason for the use of force, and if there is a vigilant precaution against its overreaction in practice, then at a certain point a use of force is justifiable. We should recognize, however, that overreaction can too easily become the ugly horror of sheer violence. [106]

The flaw in the Manifesto lies in not distinguishing between varieties of “civil disobedience”—biblical precedents are cited without discrimination—and neglecting the calling of the church to suffer violence for Christ’s sake rather than to defend itself by armed resistance.

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5/97

Westminster Confession of Faith

Chapter XXIII

Of the Civil Magistrate

I. God, the supreme Lord and King of all the world, has ordained civil magistrates, to be, under Him, over the people, for His own glory, and the public good: and, to this end, has armed them with the power of the sword, for the defense and encouragement of them that are good, and for the punishment of evil doers.

II. It is lawful for Christians to accept and execute the office of a magistrate, when called thereunto: in the managing whereof, as they ought especially to maintain piety, justice, and peace, according to the wholesome laws of each commonwealth; so, for that end, they may lawfully, now under the New Testament, wage war, upon just and necessary occasion.

III. Civil magistrates may not assume to themselves the administration of the Word and sacraments; or the power of the keys of the kingdom of heaven; [yet he has authority, and it is his duty, to take order that unity and peace be preserved in the Church, that the truth of God be kept pure and entire, that all blasphemies and heresies be suppressed, all corruption’s and abuses in worship and discipline prevented or reformed, and all the ordinances of God duly settled, administrated, and observed. For the better effecting whereof, he has power to call synods, to be present at them and to provide that whatsoever is transacted in them be according to the mind of God] or, in the least, interfere in matters of faith. Yet, as nursing fathers, it is the duty of civil magistrates to protect the Church of our common Lord, without giving the preference to any denomination of Christians above the rest, in such a manner that all ecclesiastical persons whatever shall enjoy the full, free, and unquestioned liberty of discharging every part of their sacred functions, without violence or danger. And, as Jesus Christ has appointed a regular government and discipline in his Church, no law of any commonwealth should interfere with, let, or hinder, the due exercise thereof, among the voluntary members of any denomination of Christians, according to their own profession and belief. It is the duty of civil magistrates to protect the person and good name of all their people, in such an effectual manner as that no person be suffered, either upon pretense of religion or of infidelity, to offer any indignity, violence, abuse, or injury to any other person whatsoever: and to take order, that all religious and ecclesiastical assemblies be held without molestation or disturbance.

IV. It is the duty of people to pray for magistrates, to honor their persons, to pay them tribute or other dues, to obey their lawful commands, and to be subject to their authority, for conscience’ sake. Infidelity, or difference in religion, does not make void the magistrates’ just and legal authority, nor free the people from their due obedience to them: from which ecclesiastical persons are not exempted, much less has the Pope any power and jurisdiction over them in their dominions, or over any of their people; and, least of all, to deprive them of their dominions, or lives, if he shall judge them to be heretics, or upon any other pretense whatsoever.