

Draft

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“God is Hidden in the Earthly Kingdom:” The Lutheran Two-Kingdoms Theory as Foundation of Scandinavian Secularity

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José Casanova has shown that the modern process of secularization has at least three dimensions: (1) the separation of the economic, scientific, and governmental spheres from the religious sphere of the church and the specialization of religion within its own sphere; (2) the decline of religious belief and practice in an ethnic community or political nation, often accompanied by the rise of science and technology as a more reliable guide; and (3) the privatization of religion. Casanova warns us, however, against confusing “the historical processes of *secularization proper* with the alleged and anticipated consequences which those processes were supposed to have upon religion.” The differentiation and specialization of institutional spheres of religion and non-religion do not necessarily coincide with or require the decline or privatization of religion.¹

Kim Knott and other contributors to this volume concur in this latter judgment. They show how even modern purportedly secularized Western societies retain important sacred or religious dimensions.² These religious phenomena are not only contained within the privatized sanctuaries of conscience, or the specialized settings of worship where secularization theorists would expect to find them. Religion is also present in all kinds of spaces and specialties that would seem to be hermetically and hermeneutically closed to religion – in state schools, hospitals, and prisons, in state legislatures, courts, and tribunals, in the discourses of human rights, public policy, and public health alike.³ Indeed, our public life altogether, Trygve Wyller and Rosemarie van den Breemer show, is suffused with religious values, beliefs, rituals, methods, and frameworks – sometimes hidden, sometimes syncretized, sometimes masquerading under other labels, but all vitally important to communal identity, integrity, and function.

This volume endeavors to map and measure this “hidden sacrality of the secular” in various Nordic countries, whose processes of secularization and sacralization do not fit easily into conventional secularization models. After all, this region -- long known as Europe’s leader of secular culture, social experimentation, and innovative social welfare – has until very recently maintained an established Lutheran church and a public school

¹ José Casanova, *Public Religions in the Modern World* (Chicago: University of Chicago Press, 1994), 19 and his chapter herein. See also Charles Taylor, *A Secular Age* (Cambridge, Mass: Harvard University Press, 2007), 423.

² See esp. Kim Knott, *The Location of Religion: A Spatial Analysis* (London: Equinox, 2005), and her chapter herein.

³ See the chapters herein by Johannes van der Venn, Inger Furseth, Knut Ruyter, Hannah Peeters, and Helge Årsheim.

curriculum bent on perpetuating its traditional religious and moral norms and habits.⁴ This religious substratum has provided a powerful but often forgotten foundation to the communal harmony and individual happiness of Nordic lands that have long been the envy of the world. To be sure, Scandinavia has known conflicts – between Swedes and Danes, Eastern and Western Nordic Lutherans, Catholics and Protestants, Christians and non-Christians -- that sometimes yielded violence and bloodshed in centuries past.⁵ These old tensions have been replaced with striking new tensions between established churches and religious freedom for all, between national sovereignty and European integration, between the social welfare state and global capitalism, between comfortable Nordic customs and the challenges of new immigrants, particularly Muslims who have arrived in impressive numbers and are making strong new demands. Just as they are embarking on new campaigns of separating church and state today, Nordic countries are struggling to find new spaces and places to nurture the religious resources that have been so vital to the preservation of Nordic culture.⁶

In this chapter, I would like to explore some of the Lutheran sources of traditional Nordic culture – in particular the original vision of Martin Luther (1483-1546) set out in his “two kingdoms theory.”⁷ This, I submit, was an early and innovative theory of secularization whose insights can still be useful for the modern Nordic project of discerning “the hidden sacrality of the secular.”⁸ Defying the organic medieval models of Western Christendom, Luther separated the heavenly and earthly kingdoms, the church and the state, the Gospel and the Law, the spiritual and civil uses of law, government and authority. Though God is separated from day to day life, Luther wrote, “God is still hidden in the earthly kingdom” and can be seen through various “masks,” “mists,” and “mimes.”⁹ Though the visible church is separated from the state and other institutions, religion remains pervasive in the common callings of every person to be God’s prophet, priest and king in every vocation and location of life. Luther’s two kingdoms theory is a complicated and controversial part of this thinking. But it is worth re-exploring even today – indeed especially today – as Lutheran Scandinavia faces strong new pressures of both sacralization and secularization.

Theory of Being

⁴ See the chapters herein by Eivind Smith, Rosemarie van den Breemer, and Tryvge Wyller.

⁵ See the chapters herein by Dag Thorkildsen.

⁶ See Lisbet Christoffersen, Kjell Å Moedeer, and Svend Andersen, eds., *Law and Religion in the 21st Century: Nordic Perspectives* (Copenhagen: Djøf Publishers, 2010).

⁷ This balance of the chapter is excerpted and updated from my *Law and Protestantism: The Legal Teachings of the Lutheran Reformation* (Cambridge: Cambridge University Press, 2002), which includes detailed citations to the literature. I will be using the following short-hand references to Luther’s writings: LW = *Luther’s Works*, trans. and ed Jaroslav Pelikan et al., 55 vols. (Philadelphia: Fortress Press, 1955-1968); WA = *D. Martin Luthers Werke: Kritische Gesamtausgabe*, 78 vols. (Weimar: H. Böhlau, 1883-1987); WA TR = *D. Martin Luthers Werke: Tischreden*, 7 vols. (Weimar: H. Böhlau, 1912-).

⁸ For an interesting recent book that distills the modern debates about whether the Lutheran Reformation was a movement of “secularization” or “Christianization,” see Anna Marie Johnson and John A. Maxfield, eds., *The Reformation as Christianization* (Tübingen: Mohr Siebeck, 2012).

⁹ See sources in my *God’s Joust, God’s Justice: Law and Religion in the Western Tradition* (Grand Rapids, MI: Wm. B. Eerdmans, 2005).

Luther was a master of the dialectic -- of holding two doctrinal opposites in tension and of exploring ingeniously the intellectual power of this tension. Many of his favorite dialectics were set out in the Bible and well-rehearsed in the Christian tradition-- spirit and flesh, soul and body, faith and works, heaven and hell, grace and nature, the kingdom of God versus the kingdom of Satan, the things that are God's and the things that are Caesar's, and more.¹⁰ Some of the dialectics were more distinctly Lutheran in accent --Law and Gospel, sinner and saint, servant and lord, inner man and outer man, passive justice and active justice, alien righteousness and proper righteousness, civil uses and theological uses of the law, among others.

Luther developed these dialectical doctrines separately between 1515 to 1545 -- at different paces, in varying levels of detail, and with uneven attention to how one doctrine fit with others. He and his followers eventually jostled together several doctrines under the broad umbrella of the two kingdoms theory. This theory came to describe at once: (1) the distinctions between the fallen realm and the redeemed realm, the City of Man and the City of God, the Reign of the Devil and the Reign of Christ; (2) the distinctions between the sinner and the saint, the flesh and the spirit, the inner man and the outer man; (3) the distinctions between the visible church and the invisible church, the church as governed by civil law and the church as governed by the Holy Spirit; (4) the distinctions between reason and faith, natural knowledge and spiritual knowledge; and (5) the distinctions between two kinds of righteousness, two kinds of justice, two uses of law.

When Luther and his fellow reformers used the two kingdoms terminology, they often had one or two of these distinctions primarily in mind, sometimes without clearly specifying the same. Rarely did all of these distinctions come in for a fully differentiated and systematic discussion and application. The matter was complicated even further because both Anabaptists and Calvinists of the day eventually adopted and adapted the language of the two kingdoms as well -- each with their own confessional accents and legal applications that were sometimes in sharp tension with Luther's and Lutheran views.¹¹ It is thus worth spelling out Luther's understanding of the two kingdoms in some detail, and then drawing out its implications for law, society, and politics.

First and foremost for Luther, the two-kingdoms theory was an ontology, a theory of the two-fold nature of being or reality. In his early writings, Luther often described this in the familiar Augustinian terms that he had learned in the monastery. Augustine's City of God was the perfect heavenly kingdom in the life hereafter. It was already experienced but not yet fully realized by Christians who sojourn in the City of Man, in this earthly kingdom of space and time.¹² Sometimes, Luther described this distinction in the grand terms of the Bible -- as the kingdom of God and the kingdom of Satan locked in perennial battle for the souls of humankind until the second coming of Christ

¹⁰ See Oliver O'Donovan, *The Desire of the Nations: Rediscovering the Roots of Political Theology* (Cambridge: Cambridge University Press, 1996), 82ff., 193ff.

¹¹ See Robert Friedmann, *The Theology of Anabaptism* (Scottsdale, PA: Herald Press, 1973), 38ff.; David van Drunen, *Natural Law and the Two Kingdoms: A Study in the Development of Reformed Social Thought* (Grand Rapids, MI: Wm. B. Eerdmans, 2010).

¹² LW 45:88-92, 104-108; LW 46:242-243; WA 36:385; WA 45:252ff.; WA TR 6, No. 7026.

and the ultimate overthrow of the Devil.¹³ Sometimes, Luther focused on the contrast between two classes of citizens in the world -- Christians who have accepted the lordship of Christ in the heavenly kingdom and non-Christians who submit only to the authorities of the earthly kingdom.¹⁴ These were quite different renderings of a basic ontological dualism, but they often came tumbling out together in Luther's torrential prose. For example, in a famous 1523 passage, Luther wrote:

Here we must divide the children of Adam and all mankind into two parts, the first belonging to the kingdom of God (*reych Gottis*), the second to the kingdom of the world (*reych der welt*). Those who belong to the kingdom of God are all true believers who are in Christ and under Christ, for Christ is king and lord in the kingdom of God.... [T]hese people need no worldly law or sword. If all the world were composed of real Christians, that is, right believers, there would be no need for or benefits from prince, king, lord, sword, or law. They would serve no purpose, since Christians have in their heart the Holy Spirit, who both teaches and makes them to do injustice to no one, to love everyone, and to suffer injustice and even death willingly and cheerfully at the hands of anyone....

All who are not Christians belong to the kingdom of the world and are under the law. There are few true believers, and still fewer who live a Christian life, who do not resist evil and indeed themselves do no evil. For this reason, God has provided for them a different government (*Regiment*) beyond the Christian estate (*Stand*) and kingdom of God. He subjected them 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....

God has ordained two governments: the spiritual (*geistliche*), by which the Holy Spirit produces Christians and righteous people under Christ; and the temporal (*weltliche*), which restrains the non-Christian and the wicked.¹⁵

As this quotation reveals, Luther believed that the two kingdoms (*Reiche*) were ruled by two authorities or governments (*Regimente, Stände*). In his early years, Luther viewed these two authorities primarily through his favorite binocular of the Law and the

¹³ Ibid. Luther writes: "Man's will is like an animal standing between two riders. If God is the rider, man goes and wills where God goes.... If Satan is the rider, man wills and goes where Satan goes." WA 18:635.

¹⁴ LW 21:109; LW 23:316-319; WA 36:385.

¹⁵ WA 11:249-252.

Gospel.¹⁶ The earthly kingdom was governed by Law. The heavenly kingdom was governed by Gospel. Both the Law and the Gospel were ultimately forms of God's authority and revelation. But they had to be carefully distinguished.¹⁷ The Law was an authority of the sword; it brought coercion, bondage, and restraint. The Gospel was an authority of the Word; it promised love, freedom, and charity. In this world of space and time, both these authorities ruled concurrently, and a Christian believer needed to submit to each, and to resist their conflation.

Paul says in I Timothy 1[:9], "the Law is not laid down for the righteous but for the lawless." Why is this? It is because the righteous man of his own accord does all and more than the Law demands. But the unrighteous do nothing that the Law demands; therefore, they need the Law to instruct, constrain, and compel them to do good.... In the same way a savage wild beast is bound with chains and ropes so that it cannot bite and tear as it would normally do, even though it would like to; whereas a tame and gentle animal needs no restraint, but is harmless despite the lack of chains and ropes....

If anyone attempted to rule the world by the Gospel and to abolish all earthly law and sword on the plea that all are baptized and Christian, and that, according to the Gospel, there shall be among them no law or sword -- or need for either -- ... he would be loosing the ropes and chains of the savage wild beasts and letting them bite and mangle everyone....

For this reason one must carefully distinguish between these two authorities. 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. No one can become righteous in the sight of God by means of the earthly government, without Christ's spiritual government. Christ's government does not extend over all men; rather, Christians are always a minority in the midst of non-Christians. Now where earthly government or law alone prevails, there sheer hypocrisy is inevitable, even though the commandments be God's very own. For without the Holy Spirit in the heart no one becomes truly righteous, no matter how fine the work he does. On the other hand, where the spiritual government alone prevails over land and peoples, there wickedness is given free rein and the door is open for all manner of

¹⁶ See WA 40:486.

¹⁷ See, e.g., WA TR 1, No. 590, LW 54:105-107.

rascality, for the world as a whole cannot receive or comprehend it.¹⁸

As this quotation reveals, Luther in this early period, tended to conflate (1) the theological category of Law -- the Old Testament dispensation of God that antedated the Gospel, with (2) the political category of law -- the positive laws promulgated by the magistrate. The Law of God and the law of the magistrate were both part of the government of the earthly kingdom, and Luther at first did little to distinguish them. The dangers of this early position soon became apparent. For Luther, in this early period, also tended to conflate the image of the earthly kingdom as the evil realm of the Devil with that of the earthly kingdom as the political realm of the magistrate. This double conflation led the early Luther dangerously close to intimating that not only the law of the magistrate but also the Law of God was part of the earthly kingdom of the Devil. Add Luther's repeated and bitter attacks on Mosaic law, canon law, and Roman law alike, and it was easy to see how Luther's early theory could lead an earnest follower straight into antinomianism -- into wholesale rejection of all law in favor of the freedom of the Christian Gospel.

By the late 1520s, Luther thus moved to a more nuanced view of the temporal government that governed the earthly kingdom. Luther's earlier Augustinian picture of the earthly kingdom as the fallen and formless City of Man under the reign of the Devil faded into the background. To the foreground came Luther's new picture of the earthly kingdom as the natural realm, once a brilliant and perfect creation of God, but now darkened and distorted by the fall into sin. Despite the fall, however, God in his grace had allowed the earthly kingdom to continue to exist. God had also allowed the various natural laws and natural orders to continue to operate. Luther referred many times to the natural laws of marriage and family, property and business born of God's primal command to Adam and Eve in Paradise: "Be fruitful and multiply, replenish the earth and subdue it, and have dominion over [it]."¹⁹ Luther also pointed to the natural laws on the proper worship and honor of God, on coveting and homicide, on evidence and judicial procedure adumbrated in God's primal confrontation with Cain immediately after Paradise.²⁰ For Luther, each of these natural laws, created by God, continued to govern the earthly kingdom after the fall into sin.

Not only the natural laws, but also the natural orders of creation continued to govern after the fall into sin. "God has ordained three orders or governments (*hierarchias/Regimente*)" to embody, elaborate, and enforce natural laws in the earthly kingdom, Luther wrote in 1539: "the household, the state, and the church," or the *ordo economicus*, *ordo politicus*, and *ordo ecclesiasticus* as he elsewhere put it.²¹

The first government (*Regimente*) is that of the home, from which the people come. The second is that of the "state"

¹⁸ Ibid. See also LW 9:136.

¹⁹ LW 1:69ff., quoting Gen. 1:28.

²⁰ LW 1:259ff.

²¹ WA 39:12:42. See also LW 3:217; LW 37:364ff.; LW 41:177ff. For anticipations of this doctrine in Luther's earlier writings, see F. Edward Cranz, *An Essay on the Development of Luther's Thought on Justice, Law, and Society* (Cambridge, MA: Harvard University Press, 1959), 153-178.

(*civitas*), that is, the country, the people, princes, and lords, which we call the temporal government. These [two governments] embrace everything -- children, property, money, animals, and so on. The home must produce, whereas the city must guard, protect, and defend. Then follows the third, God's own home and city, that is, the church, which must obtain people from the home and protection and defense from the state. These are the three hierarchies ordained by God, ... the three high divine governments, the three divine, natural, and temporal laws of God.²²

All three of these orders, governments, or estates, Luther insisted, represented different dimensions of God's authority and law in the earthly kingdom. All three stood equal before God and before each other in discharging their essential natural tasks. All three were needed to resist the power of sin and the Devil in the earthly kingdom. All three deserved equally the obedience of those under their authority. All three were essential to the preservation of life and law, order and obligation in the earthly kingdom. All three not only exercised the justice and wrath of God against sin, but also anticipated the more perfect life and law of the heavenly kingdom.²³ As Luther put it: "God wants the government of the earthly kingdom to be a symbol of ... the heavenly kingdom, like a mime or a mask."²⁴

This "three-estate theory" (*drei Ständelehre*) became one of Luther's signature contributions to the early differentiation of the church, state, and family spheres, which Casanova calls a first step in the "secularization process."²⁵ It provided Luther with a considerably more nuanced and positive theory of earthly law and government than some of his earlier statements had allowed. His ontological picture of the world remained a basic dualism between a lower earthly kingdom and a higher heavenly kingdom. But the earthly kingdom was now much more clearly a realm of divinely-ordained authority and law, albeit perennially distorted by sin. And the earthly kingdom was naturally subdivided into three orders of domestic, political, and ecclesiastical authority, each called to embrace and enforce God's law, and each empowered to prohibit and punish human sin.

Theory of the Person

²² WA 50:509.

²³ See LW 13:169: "These divine stations and orders have been established by God that in the world there may be a stable, orderly, and peaceful life, and that justice may be preserved.... For if God had not Himself instituted these stations and did not daily preserve them as his work, no particle of right would last even a moment.... [T]hese divine stations continue and remain throughout all kingdoms, as wide as the world and to the end of the world."

²⁴ WA 51:241.

²⁵ See Casanova, *Public Religion*. See Wilhelm Maurer, *Luthers Lehre von den drei Hierarchien und ihr mittelalterlicher Hintergrund* (Munich: Verlag der Bayerischen Akademie der Wissenschaften, 1970).

The two kingdoms theory was not only an ontology, a theory of the two-fold nature of reality. It was also an anthropology, a theory of the two-fold nature of the Christian person. All persons in Christendom, Luther argued, share equally in a doubly paradoxical nature. Each Christian is at once a saint and a sinner, righteous and reprobate, saved and lost -- *simul iustus et peccator*.²⁶ At the same time, each Christian is at once a free lord who is subject to no one, and a dutiful servant who is subject to everyone.

Every Christian "has a two-fold nature," Luther argued in expounding his famous doctrine of *simul iustus et peccator*. We are at once body and soul, flesh and spirit, sinner and saint, "outer man and inner man." These "two men in the same man contradict each other" and remain perennially at war.²⁷ On the one hand, as bodily creatures, we are born in sin and bound by sin. By our carnal natures, we are prone to lust and lasciviousness, evil and egoism, perversion and pathos of untold dimensions.²⁸ Even the best of persons, even the titans of virtue in the Bible -- Abraham, David, Peter, and Paul -- sin all the time.²⁹ In and of ourselves, we are totally depraved and deserving of eternal death. On the other hand, as spiritual creatures, we are reborn in faith, and freed from sin. By our spiritual natures, we are prone to love and charity, goodness and sacrifice, virtue and peacefulness. Even the worst of persons, even the reprobate thief nailed on the cross next to Christ's, can be saved from sin. In spite of ourselves, we are totally redeemed and assured of eternal life.³⁰

It is through faith in the Word of God, Luther argued, that a person moves from sinner to saint, from bondage to freedom. This was the essence of Luther's doctrine of justification by faith alone. No human work of any sort -- even worship, contemplation, meditation, charity, and other supposed meritorious conduct -- can make a person just and righteous before God. For sin holds the person fast, and perverts his or her every work. "One thing, and only one thing, is necessary for Christian life, righteousness, and freedom," Luther declared. "That one thing is the most holy Word of God, the Gospel of Christ."³¹ To put one's faith in this Word, to accept its gracious promise of eternal salvation, is to claim one's freedom from sin and from its attendant threat of eternal damnation. And it is to join the communion of saints that begins imperfectly in this life and continues perfectly in the life to come. But a saint by faith remains a sinner by nature, Luther insisted, and the conflict of good and evil within the same person remains until death.³²

This brought Luther to a related paradox of human nature -- that each Christian is at once a lord who is subject to no one, and a priest who is servant to everyone. On the one hand, Luther argued, "every Christian is by faith so exalted above all things that, by virtue of a spiritual power, he is [a] lord."³³ As a redeemed saint, an "inner man," a

²⁶ LW 31:344-347, 358-361. See also LW 12:328; LW 27:230ff.; LW 32:173; WA 39/1:21, 492, 552.

²⁷ LW 31:344.

²⁸ LW 31:344, 358-361; see also LW 25:120-130, 204-213.

²⁹ LW 19:47-48; LW 23:146.

³⁰ LW 31:344-354, 368-377.

³¹ LW 31:345.

³² *Luther: Lectures on Romans* (1515-1516), trans. Wilhelm Pauck (Philadelphia: Westminster Press, 1961), 120. See also LW 23:146; LW 12:328-330; LW 8:9-12.

³³ LW 31:354.

Christian is utterly free in his conscience, utterly free in his innermost being. He is like the greatest king on earth, who is above and beyond the power of everyone. No earthly authority--whether pope, prince, or parent -- can impose "a single syllable of the law" upon him.³⁴ No earthly authority can intrude upon the sanctuary of his conscience, can endanger his assurance and comfort of eternal life. This is "the splendid privilege," the "inestimable power and liberty" that every Christian enjoys.³⁵

On the other hand, Luther wrote, every Christian is a priest, who freely performs good works in service of his or her neighbor and in glorification of God.³⁶ "Christ has made it possible for us, provided we believe in him, to be not only his brethren, co-heirs, and fellow-kings, but also his fellow-priests," Luther wrote. And thus, in imitation of Christ, we freely serve our neighbors, offering instruction, charity, prayer, admonition, and sacrifice.³⁷ We abide by the law of God so far as we are able so that others may see our good work and be similarly impelled to seek God's grace. We freely discipline and drive ourselves to do as much as good as we are able, not so that we may be saved but so that others may be served. We live so far as we are able the life of the Beatitudes, the virtues of poverty, meekness, humility, mercy, and peacefulness.³⁸ "A man does not live for himself alone," Luther wrote, "he lives only for others."³⁹ The precise nature of our priestly service to others depends upon our gifts and upon the vocation in which God calls us to use them.⁴⁰ But we are all to serve freely and fully as God's priests.

Such are the paradoxes of human nature, Luther believed. We are at once sinners and saints; we are at once lords and servants. We can do nothing good; we can do nothing but good. We are utterly free; we are everywhere bound. The more a person thinks himself a saint, the more sinful in fact he becomes. The more a person thinks herself a sinner, the more saintly she in fact becomes. The more a person acts like a lord, the more he is called to be a servant. The more a person acts as a servant, the more in fact she has become a lord. This is the paradoxical nature of human life.

Luther's first distinction between the saint and the sinner tracked closely his ontological distinction between the City of God and the City of Man, the reign and realm of Christ versus that of the Devil. Sinners are earthly citizens. Saints are heavenly citizens. Every Christian is both a sinner and a saint. Every Christian is a citizen of both the earthly and the heavenly kingdoms. Earthly citizenship comes with birth. Heavenly citizenship comes through faith.

Luther's second distinction between free lord and priestly servant did not track his ontological distinctions so neatly. In one sense, this lord-priest distinction was a description only of the Christian saint, only of a person as member of the heavenly kingdom. Both lordship and priesthood after all were qualities of the Christian believer, the party who had been justified by faith, and had so become a citizen of the heavenly

³⁴ LW 36:70; see also LW 31:344-346.

³⁵ LW 31:355-358.

³⁶ LW 31:355-356; see also LW 36:112-116, 138-140; LW 40:21-23; LW 13:152; LW 39:137-224.

³⁷ LW 31:355; see also LW 36:241.

³⁸ LW 45:87.

³⁹ LW 31:364-5; see also LW 51:86-87.

⁴⁰ LW 38:188; LW 28:171-172.

kingdom. As lord, such a heavenly citizen was utterly free from the strictures and structures of the law of the earthly kingdom. As priest, he or she was utterly free to do good works for neighbors, even if such works could never fully comply with God's Law.

In another sense, however, the lord-priest distinction did track the two-kingdoms distinction. To be a lord was to be above everyone in the earthly kingdom, to be "an inner man," to "live for oneself alone," to have the assurance and luxury of being in utter community and compability with God, above the sinful din of the earthly crowd. To be a priest, however, was to be servant to everyone -- in the heavenly and the earthly kingdoms alike. It was to be an "outer man," a "person for the sake of others" -- not least those sinful non-believers of the earthly kingdom who will see in this service a reflection of and an invitation to a saintly Christian life in the heavenly kingdom. Luther's doctrine of the priesthood of all believers did not connote a priesthood *to* believers only. It connoted a priesthood *by* believers both to fellow believers in the heavenly kingdom and to non-believers in the earthly kingdom -- in imitation of Christ's priestly service on earth. As Luther put it: "The fact that we are all priests and kings means that each of us Christians may go before God and intercede for the other, asking God to give him his own faith."⁴¹ Thus a Christian believer, in discharging the services of the priesthood of believers, inevitably moved between the heavenly and the earthly kingdoms.

Theory of the Church

Luther's two-kingdoms theory also drew to itself an ecclesiology, a theory of the two-fold nature of the church. Parts of this ecclesiology we just saw foreshadowed in Luther's discussion of a Christian as a saint of the heavenly kingdom and a priest of the earthly kingdom. Other parts of this theory we saw earlier in Luther's description of the church as one of the three natural orders of the earthly kingdom, and in his gradual acceptance of the early Catholic canon law as a legitimate norm for organizing the visible church.⁴²

Luther distinguished the invisible church of the heavenly kingdom from the visible church of the earthly kingdom. For Luther, the "invisible church" was the communion of saints (*communio sanctorum*). By *communio*, Luther meant a congregation or assembly of parties who were committed to the mutual sharing of all things and experiences in this life, not least Christ himself.⁴³ By *sanctorum*, Luther meant primarily all those sinners who had accepted Christ in faith and had so become saints. To be a saint was to be in communion with other living persons who had accepted Christ in faith. It was also to be in communion with Christ and with all Christian believers who had died and had come into more perfect communion with Christ -- those "saints in heaven" described so graphically in the Bible's Revelation of St. John.⁴⁴ The communion of saints thus began imperfectly in this life and continued perfectly in the life to come. The

⁴¹ WA 10/3:108.

⁴² On this, see Witte, *Law and Protestantism*, chaps 1-4.

⁴³ WA 7:219; WA 10/2:89; WA 28:149.

⁴⁴ See esp. LW 35:389-411.

true church of the heavenly kingdom began temporally in this world of space and time, and continued eternally in the new world beyond space and time.

The invisible church was a community of faith, hope, and love, Luther argued.⁴⁵ It featured a pure spiritual fellowship, a perennial ethic of mutual sharing and caring, each party ministering to the other in accordance with his or her special gifts.⁴⁶ It was “the most divine, the most heavenly, the noblest fraternity, ... the community of holiness in which we are all brothers and sisters, so closely united that a closer relationship could not be conceived. Herein we have one baptism, one Christ, one sacrament, one food, one Gospel, one faith, one spirit, one spiritual body, with each person being a member of the other.”⁴⁷ While this spiritual church remained an aspirational ideal for the world, it could only be seen “through a glass darkly,” and only then by the keenest eyes of faith. “The church is indeed holy, but it is a sinner at the same time.”⁴⁸ In the earthly kingdom, Luther wrote, “the church is absconded, the saints are hidden.”⁴⁹ “Just as that rock [Jesus Christ], sinless, invisible and spiritual, is perceptible by faith alone so perforce the church is sinless, invisible and spiritual, perceptible by faith alone.”⁵⁰

The actual church of the earthly kingdom is only a shadow of this shining ideal, Luther argued, but dependent upon this ideal church like a shadow is dependent upon light for its being and form. The earthly church is comprised of both saints and sinners. Some are true believers, some are just imposters. Sometimes the true believers behave as saints, other times they behave as sinners. Thus God has established a visible church, as one of the orders of the earthly kingdom. God has called this church to dispense his unique “gifts” to the earthly kingdom -- the preaching of the Word, the administration of the sacraments, the discipline of the keys. All Christians, as members of the priesthood of all believers, have a general responsibility to help dispense these gifts. But from within the universal priesthood of believers, God also calls some to be the “priests” of the church -- pastors, teachers, sextons and other church officers. These “priests” of the earthly church enjoy no special status in the earthly kingdom: like the parent and like the prince, they simply have a distinctive office, neither more nor less important to God than other offices in the earthly kingdom. It was the responsibility of these priests, in tandem with the other earthly officers and orders, to see that the earthly church remained true to its office and faithful to its calling.⁵¹ This included adopting and adapting early canon law norms to structure and organize the visible church. It also included adopting and enforcing moral codes for both the officers and members of the church.

Theory of Knowledge

Luther’s two kingdoms theory also drew to itself an epistemology, a theory of two sources and forms of knowledge. In his early years, Luther often described this in his favorite language of Law and Gospel. The knowledge of the Law brought death, the

⁴⁵ WA 6:131.

⁴⁶ WA 10/3:407ff.; WA 17/2:255.

⁴⁷ WA 2:756.

⁴⁸ WA 40/1: 197.

⁴⁹ WA 18:652.

⁵⁰ WA 7:710.

⁵¹ See esp. LW 40:325-347; LW 41:3-178; LW 38:188ff.

knowledge of the Gospel brought life. The truth revealed by the Law is that we all are sinners. The truth revealed by the Gospel is that we all can be saints. To move from sinner to saint, from death to life, from the earthly kingdom to the heavenly kingdom required earnest cultivation and application of the knowledge of Christ taught in the Gospel.⁵²

In his later years, Luther also came to describe this epistemological distinction in terms of faith versus reason, of revealed knowledge versus hidden knowledge. In the heavenly kingdom, Luther argued, God reveals himself directly through the Bible and through the Christian conscience. God's Word and will are utterly clear to all those who have true faith. In the earthly kingdom, however, God is hidden, shrouded by the sin that has fallen over this kingdom. God is the "absconded God" (*deus absconditus*), whose truth and knowledge are revealed and known only through "masks" (*larvae*).

One such set of "masks," Luther argued, is a person's natural reason.⁵³ Luther wrote: "God has placed human earthly life under the dominion of natural reason which has enough ability to rule physical things. Reason and experience together teach ... how to do everything else that belongs to sustaining life here on earth. These powers have been graciously bestowed by God upon human reason. God has seen to it that even the heathen is blessed with the gift of reason to help him live his daily life."⁵⁴ Cultivation of one's natural reason, however, Luther went on, not only enable us to survive in the earthly kingdom but also to prepare ourselves for the heavenly kingdom. "The light of reason is everywhere kindled by the divine light," Luther declared. "The light of reason is a part and beginning of the true light provided it recognizes and honors him by whom it is kindled." "For wherever reason goes, there the will follows. And wherever the will goes, there love and desire follow."⁵⁵ But the devil, too, is hidden in human reason and will, and distorts the natural knowledge and truth that God has implanted. Therefore, a person must not think that by willing to do good or by reasoning to find God, he or she will be able to move from the earthly kingdom to the heavenly kingdom, to attain salvation.⁵⁶ Faith alone brings salvation. Human reason and human will are always bound by sin -- a point Luther pressed with great alacrity in his debate with Erasmus over the "bondage of the will."⁵⁷ "Reason when illuminated [by the Holy Spirit] helps faith by reflecting on something, but reason without faith isn't and can't be helpful."⁵⁸

A second set of "masks" through which the hidden God can be partly seen in the earthly kingdom are the various offices of authority in the earthly orders of household, church, and state. These offices not only rule the earthly kingdom on God's behalf, as

⁵² This is the central thesis of Luther's *Commentary on Galatians* (1535), which argument he summarized in LW 26:4-12.

⁵³ LW 1:66ff.

⁵⁴ WA 16:353, using translation in Carter Lindberg, "Christianization and Luther on the Early Profit Economy," in John and Maxfield, ed., *The Reformation as Christianization*, 49-78, at 56. See further William Lazarus, *Christians in Society: Luther, the Bible, and Social Ethics* (Minneapolis: Fortress Press, 2001).

⁵⁵ LW 52:57, 79.

⁵⁶ WA 7:73; see also WA 39:374; WA 40:42, 66.

⁵⁷ LW 33:295ff.

⁵⁸ WA TR 1, No. 71, LW 54:71.

we saw. These authorities also communicate God's truth and knowledge, God's word and will, so far as they are able.⁵⁹ "[T]he magistrate, the emperor, the king, the prince, the consul, the teacher, the preacher, the [parent] -- all these are masks [of God]," Luther argued. God wants us to "respect and to acknowledge" them as His creatures and His teachers. These authorities are competent to teach much that is needed for life in the earthly kingdom, and a rational person would do well to heed their instruction. "But when the issue is one involving religion, conscience, the fear of God, faith, and the worship of God, then we must not fear or trust any [such earthly] order or look to it for consolation or rescue, either physical or spiritual." This would "offend God," and be a "denial of His truth."⁶⁰

A third set of "masks" by which the hidden God is partly revealed is the conscientious work of Christian believers in the earthly kingdom. It is the duty of Christians of all sorts "to work the work of God in the world," Luther argued.⁶¹ As citizens of the earthly kingdom, Christians were not to withdraw ascetically from the "things of the world," abstaining from its activities and institutions as certain Anabaptists of the day taught.⁶² Rather, Christians were to participate actively in these earthly institutions and activities, to confirm their natural origin and function, and to use human will and reason, however defective, to do as much good and to attain as much understanding as possible. "God himself ordained and established this earthly realm and its distinctions," Luther wrote. "[W]e must remain and work in them so long as we are on earth."⁶³

Theory of Righteousness

Finally, the two-kingdoms theory drew to itself a soteriology, a theory of two forms of justice or righteousness and two corresponding uses of the law. We have already seen the heart of Luther's doctrine of justification by faith alone: Sinners become saints, earthly citizens become heavenly citizens only through faith in Christ, Luther insisted. No human works, however seemingly meritorious, will earn a person salvation. Luther's discussion of two forms of righteousness and two uses of the law presented another dimension of this cardinal teaching, but now with an eye to explaining how and why good works might still be useful.

Earthly righteousness, Luther taught, "the righteousness of law or of works," is a natural righteousness whose norms, though ordained by God at creation, are perceived and carried out by the reason and will of sinners. This, Luther variously called "active," "proper" "political" or "civil" righteousness. While this form of righteousness has no effect on one's citizenship in the heavenly kingdom, it does help to improve one's citizenship in the earthly kingdom. Earthly life for oneself and for all others is more livable and tolerable if a person does good, rather than evil. Heavenly righteousness, by contrast, "the righteousness of the Gospel or of faith," is a spiritual righteousness in

⁵⁹ LW 26:94-96; LW 14:114; LW 24:67.

⁶⁰ LW 26:95-96.

⁶¹ WA 31/1:437; WA 40/3:271ff.

⁶² WA 21:342ff.

⁶³ WA 32:390.

which God alone acts. By grace, God inspires faith in a person's heart, and then by grace God responds to their faith, delivering them from sin and forgiving them. Luther thus variously called this a form of "passive," "alien," or "foreign" righteousness.⁶⁴ Luther summarized:

We set forth two worlds, one of them heavenly and the other earthly. Into these we place two kinds of righteousness, which are distinct and separate from each other. The righteousness of the Law is earthly and deals with earthly things; by it we perform good works. But as the earth does not bring forth fruit unless it first has been watered and made fruitful from above ... so also by the righteousness of the Law we do nothing even when we do much; we do not fulfill the Law, even when we fulfill it. Without any merit or work of our own we must first be justified by Christian righteousness, which has nothing to do with the righteousness of the Law or with earthly and active righteousness. But this righteousness is heavenly and passive. We do not have it of ourselves; we receive it from heaven. We do not perform it; we accept it by faith, through which we ascend beyond all laws and works.⁶⁵

The corollary to this doctrine of the two forms of righteousness was the doctrine of the two uses of the law.⁶⁶ Once it is granted that salvation does not depend upon the works of the Law, the question arises: Why does God continue to maintain the Law of God and the law of the magistrate? What are, from God's point of view, its "uses" in the life of the earthly kingdom? Luther set forth two uses of the law, and touched on a third.

One use of the law, Luther argued, is to restrain people from sinful conduct by threat of punishment.⁶⁷ Luther called this the "civil" or "political" use of the law. God wants even the worst of sinners to observe the law -- to honor their parents, to avoid killing and stealing, to respect marriage vows, to testify truthfully, and the like -- so that "some measure of earthly order, concourse and concord may be preserved."⁶⁸ Sinners, not naturally inclined to observe the law, may be induced to do so by fear of punishment -- divine punishment as well as human punishment. "Stern hard civil rule is necessary in the world," Luther wrote, "lest the world be destroyed, peace vanish, and commerce and common interest be destroyed."⁶⁹ He emphasized that to maintain order it is important that there be precise legal rules, not only to deter lawbreakers but also to

⁶⁴ WA 1:293ff.; LW 5:213ff.; 12:328ff.; LW 31:297-306.

⁶⁵ LW 26:8.

⁶⁶ On the uses of the law in Luther and Lutheran thought, see detailed sources and discussions in Edward Engelbrecht, *Friends of the Law: Luther's Use of the Law for the Christian Life* (St. Louis, MO: Concordia Publishing House, 2011).

⁶⁷ Luther generally spoke of the "civil use" as the "first use of the law," and the "theological use" as the "second use of the law," though the latter was the more important to him. See WA 10:454ff.; WA 40:486ff.

⁶⁸ WA 10:454; see also WA 11:251.

⁶⁹ WA 15:302.

restrain magistrates from their natural inclination to wield their powers arbitrarily.⁷⁰ This first use of the law applied both to the Law of God and to the law of the magistrate. It induced in earthly citizens a “civil” or “political righteousness,” a justice of law.

A second use of the law is to make people conscious of their duty to give themselves completely to God while at the same time making them aware of their utter inability to fulfill that duty without divine help. Luther called this the “theological use” of the law. The law in this sense serves as a mirror in which a sinner can reflect upon his depravity and to see behind him the beckoning hand of a gracious God ready to forgive him and welcome him into the heavenly kingdom. Through the law the sinful person is induced to acknowledge his sin and to seek God's gracious forgiveness.⁷¹ Here Luther relied on St. Paul's explanation of the significance of the law -- to make persons conscious of their inherent sinfulness and to bring them to repentance.⁷² Luther sometimes put this in harsh terms: “The true office and the chief and proper use of the law is to reveal to man his sin, blindness, misery, wickedness, ignorance, hate, contempt of God, death, hell, judgment, and the well-deserved wrath of God.... When the law is being used correctly, it does nothing but reveal sin, work wrath, accuse, terrify, and reduce minds to the point of despair.”⁷³ From out of the depths of this despair, the sinner will cry to God for forgiveness and salvation. This second use of the law applied primarily to the Law of God, though the laws of a true Christian magistrate could have the same effect. It induced in persons a “passive righteousness,” a justice of faith, a recognition that one is entirely helpless in his own pursuit of heaven, and needs only have faith in God's grace to be saved.

Luther also touched lightly on a third use of the law. This use, grounded in St. Paul's discussion of the law as “our teacher to bring us unto Christ” (Galatians 3:24), became known in the Protestant world as the “educational” or “pedagogical” use of the law.⁷⁴ Law, in this sense, serves to teach the faithful, those who have already been justified by faith, the good works that please God. Luther recognized this concept without explicitly expounding a doctrine of the third use of the law. He recognized that those who are justified by faith remain sinful and in need of God's constant instruction through the law. He recognized that sermons, commentaries, and catechism lessons on the many Old Testament passages on law are directed, in no small part, to teaching the faithful the meaning of God's law.⁷⁵ He wrote cryptically early in his career of the “three-fold use of the law.”⁷⁶ Later, in his *Table Talk*, he distinguished among “written

⁷⁰ WA TR 3, No. 3911.

⁷¹ See, e.g., WA, 40:481-86.

⁷² See esp. Romans 7:7-25; Galatians 3:19-22 and discussion in WA 16:363-93.

⁷³ WA 40:481.

⁷⁴ See sources and discussion in Witte, *God's Joust, God's Justice*, 263-94.

⁷⁵ In *his Large Catechism* (1529), which he described as “a set of instructions for the daily lives of Christian believers,” Luther devoted more than fifty pages to exegesis of the Decalogue, concluding that “outside of the Ten Commandments, no work can be good or pleasing to God, however great or precious it may appear in the eyes of the world.” *Triglott Concordia: The Symbolic Books of the Ev. Lutheran Church German-Latin-English* (St. Louis, MO: Concordia Publishing House, 1921), 670-71. He included a similar exegesis in his *Treatise on Good Works* (1520), WA 6:196ff., and his *Disputations Against the Antinomians* (1539), LW 47:99ff.

⁷⁶ In his 1522 *Commentary on Galatians* 3, Luther spoke of “three-fold use of the law” (*drey wysse am brauch des gesetz*), though in this tract as well as his 1531 *Commentary on Galatians*, he focused only

law," "oral law," and "spiritual law" and then wrote, that the spiritual law "touches the heart and moves it, so that a man not only ceases to persecute, but ... desires to be better."⁷⁷ It is clear that, for Luther, law could serve not only as a harness against sin and an inducement to faith but also as a teacher of Christian virtue. But Luther never systematically expounded a third use of the law, in ways that Philipp Melanchthon, John Calvin, and many Protestant theologians and jurists did after 1535.

Implications for Theories of Law, Politics and Society

This elegant dialectical theology provided the framework for several fundamental reforms of traditional theories of society, politics, and law in the German and Scandinavian lands where Lutheran theology became influential.

Social Implications. Luther's two kingdoms theory was a rejection of traditional hierarchical theories of being, authority, and society. For centuries, the Christian West had taught that God's creation is fundamentally hierarchical in structure -- a vast chain of being emanating from God and extending down through the various kingdoms of humans, animals, plants, and physical things. In this great chain of being, each creature found its place and its purpose, and the whole creation found its natural order.⁷⁸ And in this chain of being, human society found its natural order and hierarchy. It was thus simply the nature of things that some persons and institutions were higher on this chain of being, some lower. It was the nature of things that some were closer and had more access to God, and some were further away and in need of greater mediation in their relationship with God. This was one basis for traditional arguments of the superiority of the pope to the emperor, of the clergy to the laity, of the canon law to the civil law, of the church to the state. It was also one basis for the hierarchical doctrine of purgatory and paradise depicted so graphically in Dante's *Divine Comedy* -- that vast hierarchy of purgation and sanctification that a confessed sinner slowly ascended in the afterlife in pursuit of recommitment with God.

Luther's two-kingdoms theory turned this traditional ontology onto its side. By separating the two kingdoms, Luther highlighted the radical separation between the Creator and the creation, and between God and humanity. For Luther, the fall into sin destroyed the original continuity and communion between the Creator and the creation, the tie between the heavenly kingdom and the earthly kingdom. There was no series of emanations of being from God to humanity. There was no stairway of merit from humanity to God. There was no purgatory. There was no heavenly hierarchy. God is present in the heavenly kingdom, and is revealed in the earthly kingdom primarily

on the civil and theological uses of the law. WA 10/1:449, 457. Martin Bucer, in his 1525 Latin translation of Luther's sermon, rendered Luther's German phrase as *triplex usus legis*, a Latin phrase that other reformers adopted. WA 10/1:457 n.2.

⁷⁷ *The Table Talk or Familiar Discourses of Martin Luther*, trans. W. Hazlitt (London: D. Bouge, 1848), 135-36. See also WA 38:310.

⁷⁸ See Arthur Lovejoy, *The Chain of Being: A Study of the History of an Idea* (Cambridge, MA: Harvard University Press, 1933). On the legal and ecclesiological implications of this ontology, see Brian Tierney, *Religion, Law, and the Growth of Constitutional Thought: 1150-1650* (Cambridge: Cambridge University Press, 1982), 8ff.; id., *Foundations of Conciliar Theory: The Contributions of the Medieval Canonists from Gratian to the Great Schism*, enlarged new ed. (Leiden/New York: Brill, 1998), 98ff.

through "masks." Persons are born into the earthly kingdom, and have access to the heavenly kingdom only through faith.

Luther did not deny the traditional view that the earthly kingdom retains its natural order, despite the fall into sin. There remained, in effect, a chain of being, an order of creation that gave each creature, especially each human creature and each natural institution, its proper place and purpose in this life. But, for Luther, this chain of being was horizontal, not hierarchical. Before God, all persons and all institutions in the earthly kingdom were by nature equal. Luther's earthly kingdom was a flat regime, a horizontal realm of being, with no person and no institution obstructed or mediated by any other in access to and accountability before God.

Second, and related, Luther's two-kingdoms theory turned the traditional hierarchical theory of human society onto its side. For many centuries, the Church had taught that the clergy were superior to the laity. The clergy were, to adapt Luther's language, special officers of the higher heavenly realm of grace, while the laity were simply members of the lower earthly realm of nature. As members of the higher heavenly realm, the clergy had readier access to God and God's mysteries. They thus mediated the channel of grace between the laity and God -- dispensing God's grace through the sacraments and preaching, and interceding for God's grace by hearing confessions, receiving charity, and offering prayers on behalf of the laity. In this sense, the lowliest cleric was superior to the noblest emperor. All the clergy, from the lowliest parson to the greatest pope, were exempt from earthly laws, taxes, and other duties, and foreclosed from earthly pursuits such as marriage and family life.

Luther rejected this traditional social theory. Clergy and laity were fundamentally equal before God and before all others, he argued. Luther's doctrine of the priesthood of all believers at once "laicized" the clergy and "clericized" the laity. It treated the traditional "clerical" office of preaching and teaching as just one other vocation alongside many others that a conscientious Christian could properly and freely pursue. He treated all traditional "lay" offices as forms of divine calling and priestly vocation, each providing unique opportunities for service to one's peers. Preachers and teachers of the visible church must carry their share of civic duties and pay their share of civil taxes just like everyone else. And they could and should participate in earthly activities such as marriage and family life just like everyone else.⁷⁹

Luther expanded on this natural egalitarianism with his robust understanding of the Christian "calling" (*Beruf*) or "vocation" (*vocatio*). Every "good, decent, and useful" occupation in which a Christian conscientiously engages should be treated as a Christian vocation, Luther believed. Each vocation was an equally virtuous and effective calling of God, though none was a pathway to salvation.⁸⁰ Both the carpenter and the prince, the mineworker and the judge, the housewife and the banker should accept their Christian responsibility to perform their tasks conscientiously and, so far as possible, in the service of God and others.⁸¹ Public officials, in particular, Luther

⁷⁹ See John Witte, Jr., *From Sacrament to Contract: Marriage, Religion, and Law in the Western Tradition*, 2d ed. (Louisville, KY: Westminster John Knox Press, 2011), 113-58.

⁸⁰ LW 46:93ff.

⁸¹ See detailed sources and discussion in Gustaf Wingren, *Luther on Vocation*, Carl C. Rasmussen, trans. (Philadelphia: Muhlenberg Press, 1957).

argued, have a special calling to serve the community. This calling might require them to adopt a Christian social ethic that differs from a Christian personal ethic. A Christian's duty in his direct relationship with God "as a private person, a person for himself alone," is to love his enemy and to suffer injustice and abuse from his neighbor without resistance and without revenge. As a public person, serving in such offices as the military or the judiciary, however, a Christian might well be required to resist his neighbor and to avenge injustice and abuse, even to the point of violence and bloodshed.⁸²

Luther did not press his natural egalitarianism to communitarian extremes. He saw no incompatibility between insisting on the equal status of all persons and vocations before God, and accepting the ample disparities in wealth, power, privilege, and respectability among persons and positions in daily life. Some are more blessed, some less so. Some work harder, some play more. Some enjoy goods, some spurn them. Some start with noble inheritances, some start with nothing. Some vocations require more pageantry and property than others. None of these empirical disparities, however, changes the normative reality of human equality before God.

Political Implications. Luther's two-kingdoms theory also turned the traditional hierarchical theory of spiritual and temporal authority onto its side. For centuries, the Church had taught that the pope is the vicar of Christ, in whom Christ has vested the "plenitude of his power." This power was symbolized in the "two swords" discussed in Luke 22:38 -- the spiritual and the temporal swords. Christ had handed these two swords to the highest being in the human world -- the pope, the vicar of Christ. The pope and his clerical delegates wielded the spiritual sword, in part by establishing canon law rules for the governance of all of Christendom. The pope, however, was too holy to wield the temporal sword. He thus delegated this sword to those authorities below the spiritual realm--emperors, kings, dukes, and their civil retainers. These civil magistrates were to promulgate and enforce civil laws in a manner consistent with canon law and other Church teachings. Under this two swords theory, civil law was by its nature inferior to canon law. Civil jurisdiction was subordinate to ecclesiastical jurisdiction. Political authority was subordinate to clerical authority.⁸³

Luther rejected this hierarchical view of government. For Luther, the earthly kingdom featured three natural forms and forums of government: the domestic, ecclesiastical, and political, or, in modern terms, the family, the church, and the state. These three institutions stood equal before God, and were each called directly by God to discharge complementary tasks in the earthly kingdom. The family was called to rear and nurture children, to teach and to discipline them, to cultivate and exemplify love and charity within the home and the broader community. The church was called to preach the word, to administer the sacraments, to discipline their wayward members. The state

⁸² LW 21:108-15; LW 46:93-99.

⁸³ On medieval formulations, see Otto von Guericke, *Political Theories of the Middle Age*, repr. ed., F.W. Maitland, trans. (Cambridge: Cambridge University Press, 1958), 7-21; Ewart Lewis, *Medieval Political Ideas*, 2 vols. (London: Routledge & Paul, 1954), 2:506-538 and key documents in Brian Tierney, *The Crisis of Church and State, 1050-1300* (Englewood Cliffs, NJ, 1964); Lester L. Field, *Liberty, Dominion, and the Two Swords: On the Origins of Western Political Theology* (Notre Dame: University of Notre Dame Press, 1998).

was called to protect peace, punish crime, promote the common good, and to support the church, family, and other institutions derived from them.

Not only were these three estates equal, rather than hierarchical, in authority, status, and responsibility, Luther argued. Only the state had *legal* authority -- the authority of the sword to pass and enforce positive laws for the governance of the earthly kingdom. Contrary to the two-swords theory, Luther emphasized that the church was not a law-making authority. The church had no sword. It had no jurisdiction. It had no business involving itself in the day-to-day administration of law or in the vesting of magistrates in their offices. The church's ministry and mission lay elsewhere. To be sure, each local church needed internal rules of order and discipline to govern its members and officers, and external legal structures to protect its polity and property. But it was up to the local magistrate to pass and enforce these ecclesiastical laws, in consultation and cooperation with the local clergy and theologians. And, to be sure, church officers and theologians had to be vigilant in preaching and teaching the law of God to magistrates and subjects alike, and in pronouncing prophetically against injustice, abuse, and tyranny. But formal legal authority lay with the state, not with the church.⁸⁴

Luther was more concerned with the function than with the form of the state. Luther had, at first, hoped that the emperor would endorse the Reformation, and accordingly included in his early writings some lofty panegyrics on the imperial authorities of the Holy Roman Empire of his day and of the Christian Roman Empire of a millenium before. When the emperor failed him, Luther turned at various times to the nobility, the peasantry, the city councils, and the princes, and in turn wrote favorably about each of them, and then sometimes unfavorably when they failed him.⁸⁵ Luther ultimately did not care if the rulers were Christians, let alone Lutherans, so long as they ruled fairly and left the church and its members free to do their callings. "It is not necessary for the emperor to be a saint. It is not necessary for him to be a Christian to rule. It is sufficient for the emperor to possess reason."⁸⁶

Luther's political teachings must be read in their immediate political context, however, and not used to paint Luther as a theorist of political absolutism, or elitist oligarchy, or constitutional democracy. Luther had no firm theory of the forms of political office. He did not sort out systematically the relative virtues and vices of monarchy, aristocracy, or democracy. He spent very little time on the thorny constitutional questions of the nature and purpose of executive, legislative, and judicial powers, let alone finer questions of checks and balances, judicial review, and other such questions that occupied other sixteenth-century Protestant and humanist writers.⁸⁷ These were not Luther's primary concern.

⁸⁴ LW 45:105ff.; LW 36:106ff.

⁸⁵ See variously, K. Trüdinger, *Luthers Briefe und Gutachten an weltliche Obrigkeit zur Durchführung der Reformation* (Münster: Aschendorff, 1975).

⁸⁶ WA 27:418.

⁸⁷ See Quentin Skinner, *The Foundation of Modern Political Thought*, 2 vols. (Cambridge: Cambridge University Press, 1978); John Witte, Jr., *The Reformation of Rights: Law, Religion, and Human Rights in Early Modern Calvinism* (Cambridge: Cambridge University Press, 2007), chaps. 2-5.

Luther was more concerned with the general status and function of the political office -- both before God and within the community. On the one hand, Luther believed, the magistrate was God's vice-regent in the earthly kingdom, called to elaborate and enforce God's Word and will, to reflect God's justice and judgment on earthly citizens. The magistracy was, in this sense, a "divine office," a "holy estate," a "Godly calling," within the earthly kingdom. Indeed, the magistrate was a "god" on earth, as Psalm 82:6 put it, to be obeyed as if God himself.⁸⁸ "Law and earthly government are a great gift of God to mankind," Luther wrote with ample flourish. "Earthly authority is an image, shadow, and figure of the dominion of Christ." Indeed, "a pious jurist" who served faithfully in the Christian magistrate's retinue is "a prophet, priest, angel, and savior ... in the earthly kingdom."⁸⁹

The magistrate and his retinue not only represented God's authority and majesty, however. They also exercised God's judgment and wrath against human sin. "Princes and magistrates are the bows and arrows of God," Luther wrote, equipped to hunt down God's enemies in the earthly kingdom.⁹⁰ The hand of the Christian magistrate, judge, or soldier "that wields the sword and slays is not man's hand, but God's; and it is not man, but God, who hangs, tortures, beheads, slays, and fights. All these are God's works and judgments."⁹¹

On the other hand, Luther believed, the magistrate was the "father of the community" (*Landesvater, paterpoliticus*). He was to care for his political subjects as if they were his children, and his political subjects were to "honor" him as if he were their parent.⁹² This was the essence of the *ordo politicus*, of the political authorities and their subjects that comprise "the state." Like a loving father, the magistrate was to keep the peace and to protect his subjects from threats or violations to their persons, properties, and reputations.⁹³ He was to deter his subjects from abusing themselves through drunkenness, sumptuousness, prostitution, gambling, and other vices.⁹⁴ He was to nurture and sustain his subjects through the community chest, the public almshouse, the state-run hospice. He was to educate them through the public school, the public library, the public lectern. He was to see to their spiritual needs by supporting the ministry of the locally established church, and encouraging their attendance and participation through the laws of Sabbath observance, tithing, and holy days. He was to see to their material needs by reforming inheritance and property laws to ensure more even distribution of the parents' property among all children. He was to set an example of virtue, piety, love, and charity in his own home and private life for his faithful subjects to emulate and to respect. The Christian magistrate was to complement and support the God-given responsibilities of parents and family members for their children and dependents, without intruding on the paternal office. And he was to support the

⁸⁸ See LW 2:139ff.; LW 13:44ff.; LW 44:92ff.; LW 45:85ff.; LW 46:237ff.

⁸⁹ WA 30/2:554.

⁹⁰ LW 17:171.

⁹¹ WA 19:626. See also WA 6:267; LW 45:113; LW 46:95ff.

⁹² WA 30/1:152ff.; LW 13:58ff.; LW 44:81-99.

⁹³ LW 13:44ff; LW 45:88ff., 103; LW 46:225ff.

⁹⁴ LW 44:95ff., 212ff.; LW 46:94ff.

preaching and sacramental life of the local church without trespassing on the ecclesiastical office, let alone that of the invisible church of the heavenly kingdom.⁹⁵

These twin metaphors of the Christian magistrate -- as the lofty vice-regent of God and as the loving father of the community -- described the basics of Luther's political theory. For Luther political authority was divine in origin, but earthly in operation. It expressed God's harsh judgment against sin but also his tender mercy for sinners. It communicated the Law of God but also the lore of the local community. It depended upon the church for prophetic direction but it took over from the church all jurisdiction -- governance of marriage, education, poor relief and other earthly subjects traditionally governed by the Church's canon law. Either metaphor standing alone could be a recipe for abusive tyranny or officious paternalism. But both metaphors together provided Luther and his followers with the core ingredients of a robust Christian republicanism and budding Christian welfare state.

Legal Implications. Luther's two-kingdoms theory effectively "flattened" the traditional hierarchical theories of being and order, of clergy and laity, of ecclesiastical and political authority. His earthly kingdom was a horizontal realm with each person, each order, and each official called directly by God to discharge discrete offices and vocations. What kept this earthly kingdom and its activities intact, Luther believed, was the Law of God, and its elaboration by earthly authorities and subjects.

Luther defined the Law of God as the set of norms ordained by God in the creation, written by God on the hearts of all persons, and rewritten by God on the pages of the Bible. Luther called this variously the "law of nature," "natural law," "divine law," "Godly law," "the law of the heart," "the teachings of conscience," "the inner law," among others.⁹⁶ His main point was that God's natural law set at creation continued to operate after the fall into sin, and that it provided the foundation for all positive law and public morality in the earthly kingdom. Natural law was another one of those "masks" of God in the earthly kingdom.

The natural law defined the basic obligations that a person owed to God, neighbor, and self. The clearest expression of these obligations, for Luther, was the Ten Commandments which God inscribed on two tables and gave to Moses on Mt. Sinai. The First Table of the Decalogue set out basic obligations to honor the Creator God, to respect God's name, to observe the Sabbath, to avoid idolatry and blasphemy. The Second Table set out basic obligations to respect one's neighbor -- to honor authorities, and not to kill, commit adultery, steal, bear false witness, or covet.⁹⁷ Luther believed this to be a universal statement of the natural law binding not only on the Jews

⁹⁵ LW 45:83-84, 104-113; cf. LW 36:106-117. See further discussion and sources in Witte, *Law and Protestantism*, chap. 4-7.

⁹⁶ See the collection of quotations in Hermann W. Beyer, *Luther und das Recht: Gottes Gebot, Naturrecht, Volksgesetz in Luthers Deutung* (Munich: Kaiser, 1935) and fuller sources from LW and WA in J.M. Porter, ed., *Luther - Selected Political Writings* (Philadelphia: Fortress Press, 1974). Among numerous studies, see esp. Johannes Heckel, *Lex Charitatis: A Juristic Disquisition on Law in the Theology of Martin Luther*, trans. and ed. Gottfried G. Krodel (Grand Rapids, MI: Wm. B. Eerdmans, 2010); Antii Raunio, "Divine and Natural Law in Luther and Melancthon," in Virpi Mäkinen, ed., *The Lutheran Reformation and the Law* (Leiden: Brill, 2006), 21-62.

⁹⁷ See esp. LW 44:15-114; TC 581-677.

of the Old Testament but on everyone. “The Decalogue is not the law of Moses ... but the Decalogue of the whole world, inscribed and engraved in the minds of all men from the foundation of the world.”⁹⁸ “[W]hoever knows the Ten Commandments perfectly must know all the Scriptures, so that, in all affairs and cases, he can advise, help, comfort, judge, and decide both spiritual and temporal matters, and is qualified to sit in judgment upon all doctrines, estates, spirits, laws, and whatever else is in the world.”⁹⁹ And again: “[A]lthough the Decalogue was given in a particular way and place and ceremony, ... all nations acknowledge that there are sins and iniquities.”¹⁰⁰

Knowledge of this natural law comes not only through revealed Scripture, Luther argued, but also through natural reason – another one of those “masks” by which the hidden God is partly revealed in the earthly kingdom. Luther built on St. Paul’s notion that even the heathen have a “law written in their hearts, their conscience also bearing witness” to a natural knowledge of good and evil (Rom. 2:15). Every rational person thus “feels” and “knows” the law of God, even if only obliquely. The basic teaching of the natural law “lives and shines in all human reason, and if people would only pay attention to it, what need would they have of books, teachers, or of law? For they carry with them in the recesses of the heart a living book which would tell them more than enough about what they ought to do, judge, accept, and reject.”¹⁰¹

But sinful persons do not, of their own accord, “pay attention” to the natural law written on their hearts, and rewritten in the Bible. Thus God has called upon other persons and authorities in the earthly kingdom to elaborate its basic requirements. All Christians, as priests to their peers, must communicate the natural law of God by word and by deed. Parents must teach it to their children and dependents. Preachers must preach it their congregants and catechumens. And magistrates must elaborate and enforce it through their positive laws and public policies.

The magistrate’s elaboration and enforcement of the natural law was particularly important, Luther believed, since only the magistrate held formal legal authority in the earthly kingdom. “Natural law is a practical first principle in the realm of public morality,” Luther wrote; “it forbids evil and commands good. Positive law is a decision that takes local conditions into account,” and “credibly” elaborates the general principles of the natural law into specific precepts to fit these local conditions. “The basis of natural law is God, who has created this light, but the basis of positive law is the earthly authority,” the magistrate, who represents God in this earthly kingdom.¹⁰² The magistrate must promulgate and enforce these positive laws by combining faith, reason, and tradition. He must pray to God earnestly for wisdom and instruction. He must maintain “an untrammelled reason” in judging the needs of his people and the advice of his counsellors.¹⁰³ He must consider the wisdom of the legal tradition -- particularly that of Roman law, which Luther called a form of “heathen wisdom.”¹⁰⁴ “The polity and the

⁹⁸ WA 39/1:478.

⁹⁹ TC 573.

¹⁰⁰ WA 39/1:540; see also WA 18:72; 30:192.

¹⁰¹ WA 17/2:102.

¹⁰² WA TR 3, No. 3911; see also WA 51:211.

¹⁰³ LW 45:120-126. S.

¹⁰⁴ WA 51:242; see also WA 12:243; WA 14:591, 714; WA 16:537; WA 30/2:557; WA 51:241.

economy” of the earthly kingdom, Luther wrote, “are subject to reason. Reason has first place. There [one finds] civil laws and civil justice.”¹⁰⁵

Summary and Conclusions

Luther’s two-kingdoms theory was a theory of being, of the person, of the church, of knowledge, and of righteousness all at once – or, in loftier academic language, an ontology, anthropology, ecclesiology, epistemology, and soteriology. God has ordained two kingdoms or realms in which humanity is destined to live, the earthly kingdom and the heavenly kingdom. The earthly kingdom is the realm of creation, of natural and civic life, where a person operates primarily by reason and law. The heavenly kingdom is the realm of redemption, of spiritual and eternal life, where a person operates primarily by faith and love. These two kingdoms embrace parallel forms of righteousness and justice, government and order, truth and knowledge. They interact and depend upon each other in a variety of ways. But these two kingdoms ultimately remain distinct. The earthly kingdom is distorted by sin, and governed by the Law. The heavenly kingdom is renewed by grace and guided by the Gospel. A Christian is a citizen of both kingdoms at once and invariably comes under the distinctive government of each. As a heavenly citizen, the Christian remains free in his or her conscience, called to live fully by the light of the Word of God. But as an earthly citizen, the Christian is bound by law, and called to obey the natural orders and offices of household, state, and church that God has ordained and maintained for the governance of this earthly kingdom.

Luther’s two kingdoms theory helped render the Lutheran Reformation of Germany and Scandinavia reformation, not only of theology and the church, but also of law and the state. It is worth sketching out this latter reform a bit by way of conclusion, for it helps to situate the locations of the hidden God in the earthly kingdom, to illustrate the distinctive Lutheran form of “secularization” that has been so foundational to Germany and the Nordic lands.

The Lutheran Reformation brought fundamental changes to legal and political life. Lutheran reformers pressed to radical conclusions the theological concept of the magistrate as the father of the community, called by God to enforce both tables of the Decalogue for his political children. This idea helped to trigger a massive shift in power and property from the church to the state, and ultimately introduced enduring systems of state established churches, schools, and social welfare institutions. Lutheran reformers replaced the traditional idea of marriage as a sacrament with a new idea of the marital household as a social estate to which all persons are called -- clerical and lay alike. On that basis, the reformers developed a new civil law of marriage, featuring requirements of parental consent, state registration, church consecration, and peer presence for valid marital formation as well as absolute divorce on grounds of adultery, desertion, and other faults, with subsequent rights to remarriage. Lutheran reformers replaced the traditional understanding of education as a teaching office of the church with a new understanding of the public school as a "civic seminary" for all persons to prepare for their distinctive vocations. On that basis, magistrates replaced clerics as the chief rulers of education, civil law replaced canon law as the principal law of education, and the

¹⁰⁵ WA 40:305.

general callings of all Christians replaced the special calling of the clergy as the principal goal of education.

A good deal of modern Nordic and broader Western law of marriage, education, and social welfare still bears the unmistakable marks of Lutheran Reformation theology. Today, in most Western legal systems, marriage is still viewed as both a civil and a spiritual institution, whose formation and dissolution require special legal procedures. Parents must still consent to the marriages of their minor children. Peers must still attest to the veracity of the marital oath. Pastors or political officials must still confirm the marital union, if not consecrate it. Divorce and annulment still require a special public proceeding before a tribunal, with proof of support for dependent spouses and children.

Today, in most Western legal systems, basic education remains a fundamental right of the citizen to procure and a fundamental duty of the state to provide. Literacy and learning are still considered a prerequisite for individual flourishing and communal participation. Society still places a heavy burden on those who shirk education voluntarily. The state is still considered to be the essential monitor of civil education, which task it discharges directly through its own public or common schools or indirectly through its accreditation and supervision of private schools.

Today, in most Western legal systems, care for the poor and needy remains an essential office of the state and an essential calling of the citizen. The rise of the modern Western welfare state over the past century is in no small measure a new institutional expression of the Lutheran ideal of the magistrate as the father of the community called to care for all his political children. The concurrent rise of the modern philanthropic citizen is in no small measure a modern institutional expression of Luther's ideal of the priesthood of all believers, each called to give loving service to neighbors. Sixteenth-century Lutherans and twenty-first century Westerners seem to share the assumption that the state has a role to play not only in fighting wars, punishing crime, and keeping peace, but also in providing education and welfare, fostering charity and morality, facilitating worship and piety. They also seem to share the assumption that law has not only a basic use of coercing citizens to accept a morality of duty but also a higher use of inducing citizens to pursue a morality of aspiration.

A good deal of the modern Nordic and Western struggle with law, however, is also part of the legal legacy of the Lutheran Reformation. For example the Lutheran reformers removed the church as the spiritual ruler in expression of their founding ideals of religious liberty. But they ultimately anointed the state as the new spiritual ruler in expression of their new doctrines of Christian republicanism. Ever since, Germany and other Nordic lands have been locked in a bitter legal struggle to eradicate state establishments of religion and to guarantee religious freedom for all. Similarly, Lutheran reformers removed clerics as mediators between God and the laity, in expression of St. Peter's teaching of the priesthood of all believers. But they ultimately interposed husbands between God and their wives, in expression of St. Paul's teaching of male headship within the home. The Lutheran reformers outlawed monasteries and cloisters. But these reforms also ended the vocations of many single women, placing a new premium on the vocation of marriage. Ever since, Protestant women have been locked in a bitter legal struggle to gain fundamental equality both within the marital household

and without -- a struggle that has still not ended in more conservative Protestant communities today.

Luther's legal legacy therefore should be neither unduly romanticized nor unduly condemned. Those who champion Luther as the father of liberty, equality, and fraternity might do well to remember his ample penchant for elitism, statism, and chauvinism. Those who see the reformers only as belligerent allies of repression should recognize that they were also benevolent agents of welfare. Prone as he was to dialectic reasoning, and aware as he was of the inherent virtues and vices of human achievements, Luther would likely have reached a comparable assessment.