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## **“We Must Obey God Rather Than Men”: Lutheran Resistance Against Pope and Emperor in the Reformation Era**

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### **Abstract**

*The Bible commands people of faith both to “obey God rather than men” and to “honor the authorities” who serve as vice-regents of God. The perennial question facing jurists and theologians over the centuries is how to balance these two biblical commands when human authorities defy God’s law, violated God’s people’s rights, and/or become tyrants. This chapter first rehearses Martin Luther’s original teachings after 1517 on resisting the spiritual tyranny of the papacy and the church’s canon law. It then works through the arguments of the 1550 Magdeburg Confession on resisting the spiritual tyranny of the Holy Roman Emperor.*

**Keywords:** obedience, resistance, spiritual tyranny, political tyranny, Martin Luther, pope, emperor, Magdeburg Confession, canon law, imperial law

### **Introduction**

Early modern Lutherans struck a middle way between Anabaptist pacifists and Calvinist revolutionaries. The Lutheran Reformation began as a powerful resistance movement – indeed a revolution<sup>2</sup> -- against the papacy and the Catholic Church’s canon law and sacramental system. In his writings in the late 1510s and early 1520s, Martin Luther railed against the pope as a “spiritual tyrant” -- indeed the “anti-Christ,” “the whore of Babylon,” a “werewolf” who stalked the Vineyard of God to the peril of innocent Christians. Through false doctrines and abusive laws, Luther charged, the pope and his

<sup>1</sup> This chapter draws in part from my *The Reformation of Rights: Law, Religion, and Human Rights in Early Modern Calvinism* (Cambridge: Cambridge University Press, 2007) [hereafter RR]; and *Law and Protestantism: The Legal Teachings of the Lutheran Reformation* (Cambridge: Cambridge University Press, 2002) [hereafter LP]. For Luther’s writings referenced herein, see *D. Martin Luthers Werke: Kritische Gesamtausgabe*, repr. ed., 78 vols. (Weimar: Böhlau, 1883-1987) [hereafter WA]; *Luther’s Works*, Jaroslav Pelikan and Helmut T. Lehmann, trans. and eds. (Philadelphia: Fortress Press, 1955-1968) [hereafter LW].

<sup>2</sup> Steven Ozment, *Protestants: The Birth of a Revolution* (New York/London: Doubleday, 1993); Harold J. Berman, *Law and Revolution II: The Impact of the Protestant Reformations on the Western Legal Tradition* (Cambridge, MA: Harvard University Press, 2006).

clerical retinue have destroyed the freedom of the Christian Gospel, tyrannized the Christian conscience, and stolen the German people blind. Luther then called on various lower magistrates – the princes, nobles, dukes, and cities of Germany – to stand up and throw off this spiritual tyrant for the sake of the freedom of the Gospel. “We must obey God, rather than men,” Luther insisted, quoting Acts 5:29.<sup>3</sup>

It was one thing, however, for a conscientious Christian to resist and reject the tyranny of the pope and other clergy. It was quite another thing to resist and reject the tyranny of the emperor and other magistrates. After all, one of Jesus’s most famous statements had been to “render to [the Emperor] Caesar the things that are Caesar’s, and to God the things that are God’s.”<sup>4</sup> St. Paul had elaborated: “Let every person be subject to the governing authorities. For there is no authority except from God, and those that exist have been instituted by God. Therefore he who resists the authorities resists what God has appointed, and those who resist will come into judgment. For rulers are not a terror to good conduct, but bad.... Therefore one must be subject, not only to avoid God’s wrath, but for the sake of conscience.”<sup>5</sup> St. Peter was even more pointed: “Be subject for the Lord’s sake to every human institution, whether it be to the emperors as supreme, or to governors as sent by him to punish those who do wrong and to praise those who do right.... Live as free men, yet without using your freedom as a pretext for evil; but live as servants of God. Honor all men. Love the brotherhood. Fear God. Honor the emperor.”<sup>6</sup> “Honor your father and mother” and by extension all other authorities, the Bible stated repeatedly, “so that your days may be long in the land which the Lord your God has given you.”<sup>7</sup> All this seemed rather firm and clear biblical authority that a conscientious Christian should respect and obey the political authorities, and suffer patiently and prayerfully if the authorities abused their office or even worse became tyrants.

Initially, these biblical passages gave Luther ample pause about resisting, let alone rebelling against, political magistrates. In his famous reply to the emperor at the Diet of Worms (1521), Luther defended his attack on the papacy by saying that “it is neither safe nor right to go against conscience,” so long as one’s “conscience is captive to the Word of God.”<sup>8</sup> But two years later, when he addressed the question *Temporal Authority: To What Extent it Should be Obeyed* (1523) by conscientious Christians, he argued only vaguely that in this earthly life, all subjects must obey the political authorities in matters “of body and property” but not in spiritual matters, and should “thank God” if they are considered “worthy to suffer for the sake of the divine word.”<sup>9</sup> Luther became even more reticent about political disobedience after the ample chaos and bloodshed born of the Knights Rebellion of 1524 and the Peasant’s Revolt of 1525

<sup>3</sup> See sources in LP, 53-65.

<sup>4</sup> Matthew 22:21; Mark 12:17; Luke 20:25. I have used the Revised Standard Version throughout.

<sup>5</sup> Romans 13:1-5.

<sup>6</sup> 1 Peter 2:13-17.

<sup>7</sup> Exodus 20:12; Leviticus 19:5; Deuteronomy 5:16; Matthew 15:4; Mark 7:10; Ephesians 6:1-2. Luther set out these passages and others in LW 45:86-87, 110-12.

<sup>8</sup> WA 7:838.

<sup>9</sup> LW 45:111-12. See also *ibid.* 86-87, 110-11.

and 1526. Both his Small and Large Catechisms of 1529 called the faithful to honor and obey parental, political, and spiritual authorities alike.

In the 1530s and 1540s, as Catholic political persecution of the new Protestant movement escalated, Luther and his followers gradually came to support more forms of political resistance – including organized rebellion by lower magistrates and estates; individual civil disobedience of ungodly laws; individual and group petitions and grievances against injustice; emigration from hostile territories; and the personal right to self-defense against “atrocious injury” and threat by any criminals, including political brigands.<sup>10</sup> Several Lutheran theologians and jurists refined and deepened this Lutheran resistance theory -- including such leading lights as Philip Melanchthon, Martin Bucer, Johannes Bugenhagen, Gregory Brück, Andreas Osiander, Lazarus Spengler, Johann Oldendorp, Johannes Eisermann, and others.<sup>11</sup> The strongest and most systematic Lutheran resistance theories along these lines were set out in scores of pamphlets issued by Lutheran cities and regions that had come under siege by imperial forces bent on reestablishing Catholicism in the Empire and extirpating Protestantism root and branch. Of these pamphlets, the 1550 Magdeburg Confession offered the fullest and most radical Lutheran teachings on resistance to political tyranny, and it remained the strongest such statement for Lutheran lands for centuries thereafter. None of these Lutheran tracts, however, advocated violent revolution or regicide on the order of later sixteenth-century Calvinists, let alone the religious and secular democratic revolutionaries of the eighteenth and nineteenth centuries, the anti-colonist, anti-fascist, and anti-communist forces of modern times, or the radical populist movements of our own day.

This chapter first rehearses Luther’s original teaching on resisting the spiritual tyranny of the papacy and the church’s canon law. It then works through the arguments of the Magdeburg Confession on resisting the spiritual tyranny of the emperor.

### **Martin Luther on Resisting the Pope and Canon Law**

On December 10, 1520, before a group of his students and colleagues at the University of Wittenberg, Martin Luther burned the books of the canon law and of the sacramental theology that supported it. Consigned to the flames were Gratian’s *Decretum* (ca. 1140) and four books of later papal laws. Also included were the popular confessional book *Summa angelica* (1486) and the papal bull that threatened Luther’s excommunication. Luther’s colleagues Johann Agricola and Philip Melanchthon who had organized the event had also hoped to burn the works of Thomas Aquinas and

<sup>10</sup> See, e.g., LW 47:6 WA 39/2:60. See further texts and analysis in Cynthia Grant Schoenberger, “Luther and the Justifiability of Resistance to Legitimate Authority,” *Journal of the History of Ideas* 40 (1970): 3-20.

<sup>11</sup> Robert von Friedeberg, *Self-Defense and Religious Strife in Early Modern Europe: England and Germany, 1530-1680* (London: Routledge, 2017); Heinz Scheible, *Das Widerstandsrecht als Problem der deutsche Protestanten 1523-1546* (Gütersloh: Chr. Kaiser, 1969); Eike Wolgast, *Die Religionsfrage als Problem des Widerstandsrechts im 16. Jahrhundert* (Heidelberg: Carl Winter, 1980); Quentin Skinner, *Foundations of Modern Political Thought* (Cambridge: Cambridge University Press, 1978), 2:195-206.

John Duns Scotus, two of the greatest theologians of the medieval Church. But they could not find anyone in Wittenberg who would donate their copies for the fire. They selected instead some works by Luther's antagonists, Johann Eck and Jerome Emser. Luther later wrote of his canonical bonfire: "I am more pleased with this than any other action in my life."<sup>12</sup>

If there were a single event that signaled Luther's permanent break with Rome, this was the event.<sup>13</sup> Three years before, on October 31, 1517, Luther had posted and published his *Ninety-Five Theses*, attacking the Church's crass commercialization of salvation through the selling of indulgences. In several publications in the next few months, Luther had questioned with increasing stridency the biblical integrity of the Church's theology of salvation and the sacraments.<sup>14</sup> On October 8-9, 1518, Luther had answered a summons to appear in Augsburg before the Pope's representative, Cardinal Cajetan, but had refused to recant his views. On November 28, 1518, Luther had appealed directly to the Pope, insisting upon his rights, as a professor of theology, to an open hearing of his views at a general church council.<sup>15</sup> On July 4-14, 1519, with no such church council forthcoming, Luther had engaged in a sensational public debate at the University of Leipzig with Johann Eck over fundamental questions of ecclesiastical authority—a debate that revealed the increasing radicality of Luther's theological doctrines of justification by faith, the primacy of the Bible, the nature of the Church, and the priesthood of all believers.<sup>16</sup> On June 15, 1520, Pope Leo X had issued *Exsurge, Domine*, the bull that condemned the teachings of that "wild boar" Martin Luther as "heretical," "scandalous," "offensive," "seductive," and "repugnant to Catholic truth."<sup>17</sup> The bull had given Luther sixty days after receipt to repent, recant, and return to the Catholic fold. December 10, 1520 was the sixtieth day. On that day, Luther had his bonfire, burning his last bridge with Rome.

**From Law to Gospel.** Luther defended his iconoclasm in a whole torrent of writings in the early 1520s. First, Luther argued, the canon law fostered and featured papal tyranny. The canonists treated the pope not only as "lord of the world," but also as "the vicar of Christ," a veritable "demigod."<sup>18</sup> The pope thus enjoyed unbridled powers of legislation, adjudication, and administration that no one in Christendom—not even an ecumenical council—could effectively review, rejoin, or resist. Neither the pope nor his delegates were obliged to abide by Scripture, tradition, or conciliar decree. Instead, they had power "to break up, change, or eliminate" rules of law as they saw fit. They passed laws and cast judgments for all of Christendom, yet they neither subjected themselves

<sup>12</sup> LW 48:192; see also LW 48:186-187; Heinrich Böhmer, "Luther und der 10. Dezember 1520," *Luther-Jahrbuch* 2/3 (1920/1): 7-53.

<sup>13</sup> See generally Scott H. Hendrix, *Luther and the Papacy: Stages in a Reformation Conflict* (Philadelphia: Fortress Press, 1981).

<sup>14</sup> LW 31:35-70, 77-252; LW 35:3-113; LW 39:3-22; LW 42:95-115; LW 44:3-14, 15-114.

<sup>15</sup> LW 31:253-292.

<sup>16</sup> LW 31:307-326.

<sup>17</sup> Carl Mirbt, ed., *Quellen zur Geschichte des Papsttums und des römischen Katholizismus*, 2d ed. (Tübingen/Leipzig: Paul Siebeck, 1901), 183-185.

<sup>18</sup> LW 31:341-342. See also LW 44:136.

to law nor submitted to the judgments of others.<sup>19</sup> Luther found particularly arbitrary the power of the pope and his delegates to grant equitable dispensations from vows, oaths, contracts, and other canonical strictures that worked injustice in particular cases. “These days,” Luther grumbled, “canon law is not what is written in the books of law, but whatever the pope and his flatterers want. Your cause may be thoroughly established in canon law, but the pope always has his chamber of the heart in the matter, and all law, and with it the world, has to be guided by that.” The very powers of dispensation that had made the medieval canon law the “mother of equity,” Luther charged, had made the pope the father of tyranny.<sup>20</sup>

Second, Luther charged, the canon law was abusive and self-serving. The canonists over the centuries had spun a thick tangle of special benefits, privileges, exemptions, and immunities that elevated the clergy above the laity, and inoculated them from legal accountability to local magistrates. Local clergy, Luther charged, used these prerogatives to amass huge holdings of tax exempt property, supported by ample foundations and endowments, and controlled by parishes, cathedrals, monasteries, guilds, chantries, and other church institutions. These ecclesiastical units, in turn, used their properties to foster luxurious clerical livings and to engage in lucrative lending practices. To Luther’s mind, these were flagrant violations of the canon laws of poverty and usury that had served to “suck Germany dry.”<sup>21</sup> When parties challenged these practices, local clergy used their privileges of forum to remove their cases to local church courts. Local church courts, in turn, used the false threats of the interdict and the ban to usurp the jurisdiction of the secular courts and to apply the canon law to subjects and persons far beyond their spiritual ken.<sup>22</sup>

Third, Luther charged, the Church’s canon law was an instrument of greed and exploitation. To support its luxury and bureaucracy, the Church imposed heavy annates, tithes, and other religious taxes on the German people. The Church invented all manner of relics, obits, ceremonies, altars, and pilgrimages to fleece the people of their charity. It reserved and sold German benefices and other lucrative church offices only to the highest bidder--often a foreigner with enough money to pay the “reservation fees” to receive his office, but without the pastoral or administrative skills needed to discharge it effectively. The Church even sold salvation and purgation through its penitential works and indulgences.<sup>23</sup> “[T]oday nothing comes from Rome but a fair of spiritual wares which are bought and sold openly and shamelessly,” Luther wrote: “indulgences, parishes, monasteries, bishoprics, deaconries, benefices, and everything else that that was originally founded for the service of God throughout the world. As a result, not only is all the money and wealth of the world drawn and driven to Rome, but the parishes, bishoprics, and prelacies are pulled to pieces and laid waste. Consequently, the people are neglected, and the word of God and God’s name and honor perish and faith is

<sup>19</sup> LW 31:383-395; LW 36:336-343; LW 44:86-89, 136-138, 141-144, 152-157, 164-168, 203.

<sup>20</sup> LW 44:202-203. See also LW 44:151-157; LW 36:79-80.

<sup>21</sup> LW 44:141. See also LW 44:95-96, 155-156, 163-164, 191-192, 213, 237-239; LW 45: 295-308.

<sup>22</sup> LW 44:130-133, 160-161, 181-182; LW 45:58-61.

<sup>23</sup> LW 44:141-144, 155-157, 169-172, 181; LW 31:175-177, 233; LW 45:109.

destroyed.”<sup>24</sup> This is “bare-faced robbery, deceit, and tyranny of hell’s portals.”<sup>25</sup>

Fourth and most fundamentally, Luther argued, the canon law was devoid of authority. In Luther's view, God vested his legal authority in the prince, not the pope. The prince and other civil magistrates were for Luther God's vice-regents called to appropriate and apply God's law in governing human society. The pope and all clerics, by contrast, were called to preach the Word, to administer the sacraments, to admonish the sinful, and to guide human consciences. This was the true meaning of “the power of the keys” described by Matthew 16:18-19.<sup>26</sup> By promulgating and enforcing canon law, the pope and his bishops had usurped the prince's authority and “obscured the gospel, faith, grace, and true divine service.” “Neither pope nor bishop nor any other [clerical] man has the right to impose a single syllable of law upon a Christian....”<sup>27</sup>

Moreover, in Luther's view, the canon law opposed both the teaching and the authority of the Bible. The Bible, as Luther understood it, teaches that (1) each person stands in direct relation to God when confessing his or her sin and receiving God's grace; (2) is justified not by works but solely by faith in God's grace; and (3) is commanded to lead life in all its aspects in accordance with the Bible. By conferring on clerics the authority to dispense God's grace and to intercede for the souls of the laity, the canon law intruded upon the Christian's personal relation with God. It made clerics indispensable mediators between God and humanity, falsely according to them a greater sanctity and greater accessibility to God. By defining an hierarchy of meritorious works, the canon law sanctioned a salvation by works, not by faith and elevated spiritual acts and vocations and deprecated those of the earthly life. By governing every step of the Christian walk with human rules and regulations, the canon law “tyrannized the Christian's conscience,” “Judaized Christianity,” and “destroyed the spiritual love and freedom of the Gospel.”<sup>28</sup>

**From Church to State.** On the strength of these criticisms, Luther in the early 1520s urged that all legal authority be removed from the church to the state, from the clergy to the magistracy. The church is a community of faith and love, he insisted, not a corporation of law and politics. The consciences of its members are to be guided by Scripture and the Spirit, not governed by legal traditions and clerical injunctions. All its members are priests and stand equal before God; they are not divided into a higher clergy and a lower laity. The church holds the power of the Word, and is called to serve society, not to rule it. The state holds the power of the sword, and is called to rule society, by force if necessary, to maintain public order, peace, and justice, and to facilitate the growth of the church and the moral improvement of civil society.

<sup>24</sup> LW 44:88-89.

<sup>25</sup> LW 44:156.

<sup>26</sup> LW 44:83-96, 127-130; LW 45:106-109, 118-126. See also his earlier exposition, *Luther: Lectures on Romans* [1516], W.H. Pauck trans. and ed. (Philadelphia: Fortress Press, 1961), 358-366, and his later exposition in LW 40:321-377.

<sup>27</sup> LW 36:23-24, 55, 70-72, 96.

<sup>28</sup> LW 31:345-354.

Having truncated the authority of the pope and the canon law, Luther exalted the power of the prince and the civil law. On the one hand, Luther believed, the prince and other magistrates were God's vice-regents 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.<sup>29</sup> "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."<sup>30</sup>

The magistrate and his retinue not only represented God's authority and majesty. 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.<sup>31</sup> 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."<sup>32</sup>

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.<sup>33</sup> This was the essence of the *Obrigkeits*, the *ordo politicus* -- the political authorities and their retinues that comprised the early modern 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. He was to deter his subjects from abusing themselves through drunkenness, sumptuousness, prostitution, gambling, and other vices. 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 preaching and sacramental life of the local church without trespassing on the

<sup>29</sup> LW 2:139ff.; LW 13:44ff.; LW 44:92ff.; LW 45:85ff.; LW 46:237ff.

<sup>30</sup> WA 30/2:554.

<sup>31</sup> LW 17:171.

<sup>32</sup> WA 19:626. See also WA 6:267; LW 45:113; LW 46:95ff.

<sup>33</sup> WA 30/1:152ff.; LW 13:58ff.; LW 44:81-99.

ecclesiastical office, let alone that of the invisible church of the heavenly kingdom.<sup>34</sup>

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 and Lutheran political theory until modern times.<sup>35</sup> 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, moral crimes, 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.<sup>36</sup>

But Luther did not spell out his preferred form of state government. He 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 millennium 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.<sup>37</sup> Such writings 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 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.

In the same vein, Luther did not work out a systematic theory of resistance, rebellion, revolt, and all-out revolution against political authorities that had become tyrannical. He remained stymied in part by the numerous biblical texts that counseled political obedience. He was also restrained by his own exalted view of the political magistrate as the august vice-regent of God in earthly life and the loving father of the community called to care for all his political children. And the reality was that, after his

<sup>34</sup> LW 45:83-84, 104-113 and sources in LP 105-14.

<sup>35</sup> See, e.g., the recent reflections by Marie A. Failinger and Ronald W. Duty, eds., *Lutheran Theology and Secular Law: The Work of the Modern State* (London: Routledge, 2018); Wolfgang Huber, *Kirche und Öffentlichkeit*, 2d ed. (Munich: Chr. Kaiser, 1991).

<sup>36</sup> See, e.g., Lisbet Christoffersen, Kjell Å. Modéer, and Svend Andersen, eds., *Law and Religion in the 21<sup>st</sup> Century: Nordic Perspectives* (Copenhagen: Djøf Publishers, 2010).

<sup>37</sup> For convenient excerpts of his political writings, see Hermann W. Beyer, *Luther und das Recht*, repr. ed. (Paderborn: Salzwasser-Verlag GmbH, 2013) and J.M. Porter, ed., *Luther -- Selected Political Writings* (Philadelphia: Fortress Press, 1974). See further LP; Virpi Mäkinen, ed., *Lutheran Reformation and the Law* (Leiden: Brill, 2006); Mathias Schmoeckel, *Das Recht der Reformation* (Tübingen: Mohr Siebeck, 2014).



narrow escape from the Diet of Worms in 1521, he was largely protected by his political patrons, and did not face personally the dire consequences of his theory of political obedience.

### **The Magdeburg Confession on Resisting the Emperor and Imperial Law**

Shortly after Luther's death in 1546, his followers in the German city of Magdeburg did face these dire consequences. It drove them to distill the biblical basics of Lutheran theories of political obedience, and to strengthen the case for political disobedience against imperial laws that intruded on religious freedom.<sup>38</sup> The leaders of the small Saxon city of Magdeburg had drafted this Confession in response to the order of the Holy Roman Emperor Charles V to impose by civil law the uniform Catholic doctrines and liturgies being crafted by the Council of Trent, and to stamp out the "raging Lutheran heresy" that had "infected" the Empire for three decades.<sup>39</sup> Those Lutheran polities that did not accept this new imperial law, called the Augsburg Interim, peaceably would face military conquest and destruction. Several Lutheran polities and leaders had already capitulated. The city of Magdeburg would not. Imperial forces put the city under siege. The Magdeburg leadership stood firm, and began to write boldly in defense of their actions.

The 1550 Magdeburg Confession was the most important of a hundred plus pamphlets in defense of their stand. The Confession recited the essential Lutheran doctrines that the ministers held contrary to those new Catholic establishment laws. The Confession then rehearsed the arguments to justify their refusal to obey the new imperial laws, and to resist their implementation -- with force of arms if necessary. Its main conclusion was set out in the preamble:

If the high authority does not refrain from unjustly and forcibly persecuting not only the lives of their subjects but even more their rights under divine and natural law, and if the high authority does not desist from eradicating true doctrine and true worship of God, then the lower magistracy is required by God's divine command to attempt, together with their subjects, to stand up to such superiors as far as possible. The current persecution which we are suffering at the hands of our superiors is primarily persecution by which they attempt to

<sup>38</sup> *Confessio et apologia pastorum & reliquorum ministrorum Ecclesiae Magdeburgensis* (Magdeburg, 1550) [hereafter MC]. David M. Whitford kindly furnished me with a working translation of this document, which I have adapted herein based on review of the original text. See further David M. Whitford, *Tyranny and Resistance: The Magdeburg Confession and the Lutheran Tradition* (St. Louis, MO: Concordia Press, 2001). For another translation, which I have not seen, see *The Magdeburg Confession 13<sup>th</sup> of April 1550 A.D.*, trans. Matthew Colvin, introduction by George Grant (North Charleston, SC: CreateSpace, 2012).

<sup>39</sup> "The Interim, or Declaration of Religion of His Imperial Majesty Charles V," in *Tracts and Treaties in Defense of the Reformed Faith*, trans. Henry Beveridge, ed. T.F. Torrance, 3 vols. (Grand Rapids: Eerdmans, 1958), 3:190.

suppress the true Christian religion and the true worship of God and to reestablish the Pope's lies and abominable idolatry. Thus the Council [of Magdeburg] and each and every Christian authority is obliged to protect themselves and their people against this.<sup>40</sup>

The Magdeburg Confession first countered the many biblical texts that called the faithful Christians to honor, respect, and obey the emperor and other political authorities for the sake of conscience and the Gospel. Yes, we must honor the authorities "so that our days may be long," the Confession argued. But if our days are being cut short, then we should not honor those authorities who shorten them. Yes, political authorities were "appointed by God to do good." But if they are not doing good, then they could not have been appointed by God. Yes, the magistrate is not "a terror to good conduct but to bad." But if he becomes a terror to good conduct, then he must be a bad magistrate. Yes, we must "render to Caesar the things that are Caesar's, and to God the things that are God's." But if Caesar wants or takes what is God's, then we must withhold or retrieve it for God's sake. Yes, "he who resists the authorities resists God." But if the authorities resist God, then surely we must avenge God's honor. Yes, "vengeance is mine," says the Lord. But "we are his instruments" for good, and "God punishes in such a way that those who execute the punishment are not doing wrong but are carrying out God's will and command."<sup>41</sup>

God has ordained the "three main estates" of church, state, and family to keep order and peace in this sinful world so that the Gospel can flourish and each person can pursue his or her God-given calling, the Confession argued, citing sundry biblical texts. None of these authorities may get "mixed up with one another," or intrude on each other's created mandate. None may abandon, betray, or exceed their God-given office. And most importantly, none may violate the sovereignty of God. All authorities thus rule conditionally. If any authorities "seek the extermination of religion and decent morals, and persecute true religion and decent living, then they dispose of their own honor, and they can no longer be considered to be authorities or parents either before God or within the conscience of their subjects. They become an ordinance of the devil instead of God, an ordinance which everyone can and ought to resist with a good conscience, each in accordance with his calling."<sup>42</sup>

The calling to resist abusive political authorities lies first and foremost with lower magistrates. The Bible makes clear that God instituted multiple authorities, not just one. The Bible speaks of "the powers that be," not just one power, of the multiple "authorities that rule," not just a single authority. All political authorities are equipped with the power of the sword to do good and to punish evil. That power must be exercised internally within the government as well as externally within the community. When an inferior magistrate does evil, a fellow or superior magistrate must correct or remove him. When

<sup>40</sup> MC, A1v.

<sup>41</sup> MC, G3r-H1r; K1r-K3r, L2r-M1r.

<sup>42</sup> MC, G3r, G4v, L1r.

a superior magistrate does evil, his fellow or inferior magistrates must, in turn, correct and control him, albeit always within the limits of the honor and respect that the higher magistrate deserves. If the higher magistrate commits only a minor or personal offense, lower magistrates should admonish him privately and gently. But if he unjustly endangers the “life and limb,” “wife and child,” and “local liberties of the people,” the lower magistrates “may make use of their rights to defend themselves” and their subjects. Even worse, if the higher magistrate commits a premeditated attack on “the highest and most essential rights of the people” -- indeed, if he attacks “our Lord himself, the author of these rights” -- then even the “insignificant and weakest regents” must rise up against him. If necessary, those lower magistrates must call upon “every pious and reasonable Christian” to join them in the resistance, armed not only with the sword but also with the Word’s assurance that “God is on our side.”<sup>43</sup>

The Magdeburg Confession did not spell out systematically the “local liberties of the people,” or “the highest and most essential rights of the people” that could trigger these steps of escalating resistance and revolt. It did make clear that the “procedural rights” of the people had been abridged: “Divine, natural, and secular laws” alike recognize that criminals have a right to a public hearing and their day in court. But we have been “accused only on hearsay evidence,” and have not had a chance to “face our accusers.” Just because other Lutheran towns have capitulated, does not mean that we good citizens of Magdeburg should lose “our rights by default.” “Our case must be judged in accordance with proper justice.”<sup>44</sup>

But the Confession’s main concern was that the emperor was violating the people’s “essential rights” of religion. Those violations merited a more forceful response. We “seek nothing else but the freedom to remain and be left in the true recognized religion of the holy and only redeeming Gospel.” We act peaceably. We educate our children to be good and useful citizens. We pray daily for our rulers. We pay our taxes and tributes. We register our properties. We “desire no one’s land and people and covet no one’s worth and goods.” “Your Imperial Majesty allows both Jews and heathens to follow their religion, and do not force them from their religions to the Papacy.” But “we are not even allowed to have the same freedom of religion that is granted to non-Christians” Instead, the Emperor seeks “to reintroduce the Pope’s idolatry, to suppress or exterminate the pure doctrine of the Holy Gospel ... in violation not only of divine law but also of written civil law.”<sup>45</sup>

In these circumstances, the Bible requires “a lesser God-fearing magistracy and all those over whom it has been set to give protection against such unjust force and maintain true doctrine and worship, and preserve body and life, soul and honor.” Those lower magistrates who fail to discharge their duty are ignoring the admonition of Proverbs 24:10-12: “Rescue those who are being taken away to death; hold back those who are stumbling to the slaughter.” Others must come to help, too, lest they ignore the

<sup>43</sup> MC, J4r-K1r, K2R-L1r, M1r-M2r, P2r-P3r,

<sup>44</sup> MC, H2r, K4r..

<sup>45</sup> MC, H4r-J2r, K1r.

lesson of Judges 5:23 where God is said to have cursed a people “because they did not come to the help of the Lord, to the help of the Lord against the mighty.” It was God who “ordained force,” and he expects it to be used to “advance and defend His word, true divine worship, and appropriate reverence for God.”<sup>46</sup>

Not only the Bible, but history makes it abundantly clear that resisting tyrants who tread on the religious rights of their people is not only a right but a duty of the faithful. Biblical history is full of examples: Jonathan and David resisted King Saul, as did Saul’s own servants when he became tyrannical. The leaders of Zebulun and Naphtali defied Jabin, the Canaanite King. Elias, Jehu, and Naboth refused to obey King Ahab. Asa deposed his own tyrannical mother, Queen Maacah. Daniel disobeyed King Darius. The Maccabees attacked the Romans. The Confession returned to these examples again and again as illustrations of a person’s duties in the face of tyranny. Roman history, too, is full of examples. Think of Ambrosius refusing Justine, Moritz resisting Maximinus, Ambrose admonishing Theodosius, Laurentius refusing the orders of Decius, and more.<sup>47</sup> Even the pagan Roman ruler Trajan handed his deputy a sword with the words: “In so far as I command what is right wield this sword against my foes; but if I do the opposite, then wield it against me.”<sup>48</sup>

These and other examples from religious and secular history, the Confession continued, underscored the “universal” and “natural” validity of the “law of legitimate self-defense.”<sup>49</sup> Defense of oneself and of third parties against attack, using force and violence when necessary, was a familiar legal doctrine of the European *ius commune*. When a person is unjustly attacked by another, the victim has the right to defend himself, to resist – passively, by running away, or actively, by staying to fight with proportionate force. Other parties, particularly relatives, guardians, or caretakers of the victim, also have the right to intervene to help the victim – again passively by assisting escape, or actively by repelling the assailant with force.

When a magistrate exceeds his authority, the Confession argued by analogy, he forfeits his office and becomes simply like any private person. If he uses force to implement his excessive authority, his victims and third parties may resist him passively or actively, just as if he were any other criminal brigand. Furthermore, if the higher magistrate giving the orders has exceeded his authority, then all lower magistrates, ministers, and military folks implementing his orders have also exceeded their authority. They are accomplices in the crime of the former higher magistrate now private citizen. And they are all themselves now merely private citizens engaged in criminal actions. Both the victim and third parties have the right of passive or active resistance against these assailants, too.

The Confession drew from this law of self-defense several lessons for how to

<sup>46</sup> MC, K1r, L3r, P2v.

<sup>47</sup> MC, J3r, L1r-L4r, M4r-N1r, O3r-O4r.

<sup>48</sup> MC, M4r.

<sup>49</sup> MC, K1r, N.

respond to the emperor and his political allies who now sought to coerce the Lutherans to return to Catholicism. First, all those who aided and acted for this tyrant were themselves accomplices to his crime of tyranny, and they were all guilty before God. This included all lower magistrates who implemented his orders. It also included soldiers and allies who marched for the tyrant, citizens and subjects who paid taxes in support of the tyrant, even subjects who knowingly prayed for the success of the tyrant.<sup>50</sup> Second, all those called to care for others must assist their dependents to resist tyrannical attacks. Lower magistrates, judges, and police must protect the local citizens. Pastors, elders, and sextons must protect their local congregants. Fathers, mothers, and masters must protect their children, servants, and wards. Teachers and tutors must protect the students in their schools. If any of these dependents were attacked on the street by a simple criminal their caretakers would have to intervene. Failure to do so would render them an accomplice to the criminal attack. Tyrants are simple criminals, the Confession argued, and innocent victims must thus be defended against them. Those who fail in their defense become criminals themselves. “God will judge guilty not only those who themselves commit unjust killing, but also those who have not helped to protect and save, according to their ability.”<sup>51</sup>

Third, invoking the Lutheran doctrine of the priesthood of all believers, the Confession argued with escalating rhetoric that “all pious Christians should concern themselves with this common emergency and take it as much to heart and treat it as seriously as if it concerned each person individually.” All Christians are called to be priests to their peers, Good Samaritans to strangers in peril. All Christians are thus responsible to intervene when a victim is assailed by a common criminal, or when a community is ravaged by a criminal tyrant. This becomes doubly imperative when the victim of this criminal attack is ultimately Christ himself, whose people and preaching are being unjustly assailed. “As much as you do it for them, you do it to me,” Christ had said.<sup>52</sup>

The Confession stopped short of arguing that each and every Christian member of the community could and should seek the violent overthrow of tyrants. That was a recipe for anarchy, and the Magdeburg ministers worked hard to counter such an insurrectionary conclusion. A more structured response was called for – with the higher magistrates passing instructions down the hierarchy of lower magistrates and ultimately down to the local caretakers on the best means and measures of response. A private individual’s first reflex should be prayer and patience, then passive disobedience of false authorities and advice to others on how to disobey, then petitions for help from the lower authorities and insistence on the vindication of essential rights that have been violated. Only after exhausting peaceable remedies and receiving orders from a legitimate lower authority to join a just war or rebellion was a private person entitled to violent disobedience. But once so entitled, he or she could and should fight with all due alacrity. None of this was a violation of the individual Christian’s duties to God and

<sup>50</sup> MC, N4r-O1r, P3r-P4r.

<sup>51</sup> MC, P1r, P2r-P4r.

<sup>52</sup> MC N3r-N4r, P1r, P4r.

conscience: “The laws and liberties of our German Empire are such that Christians may use them in [good] conscience, just like they make use of other secular rules that are not against God. Indeed, if Christians do not make use of them, they will lose out to their own eternal shame before the world and to the harm of their successors.”<sup>53</sup>

The Magdeburg Confession was a forceful distillation and extension of earlier Lutheran teachings on resistance to political tyranny, as well an impressive reconstruction of biblical, patristic, and medieval prototypes.<sup>54</sup> The Confession was also an impressive political achievement, for it eventually turned popular opinion against the Emperor and the military enforcement of the Augsburg Interim. After a year of laying siege to the city of Magdeburg, the emperor’s military ally, Duke Maurice of Saxony, ultimately switched back to the Lutheran side, and the threatened conquest of Magdeburg turned into a stalemate. This, in turn, led to the gradual collapse of other imperial military campaigns against other Lutheran towns and abandonment of the emperor’s program to enforce the Augsburg Interim law throughout the Empire. Ultimately the Emperor accepted the Peace of Augsburg (1555) that allowed each polity in Germany to have its own religious confession, whether Catholic or Lutheran, under the principle of *cuius regio, eius religio*.<sup>55</sup>

The 1550 Magdeburg Confession’s three main lines of arguments for resistance against political tyranny – from the Bible, from history, and from the law of self-defense – provided a sturdy template on which later Protestants built their arguments about rights, resistance, rebellion, revolution, and regicide. In the 1550s and 1560s, John Ponet, John Knox, Christopher Goodman and other English and Scottish Calvinist exiles who had fled to the Continent to escape the persecution of Mary Tudor and Mary Guise added further arguments from popular sovereignty, private regicide, and inalienable rights. In the 1560s and 1570s, French and Swiss jurists like Pierre Viret, Theodore Beza, Hugo Donnellus, Lambert Daneau, and François Hotman added further arguments from covenant theology, classical republicanism, and constitutional history.<sup>56</sup> And all these arguments and more came to ever more radical political expression and application in the hands of later Dutch, English, American, and French revolutionaries.<sup>57</sup>

Early modern Lutherans in Germany and Scandinavia, however, rarely pressed their resistance theories to such radical revolutionary conclusions.<sup>58</sup> For all the clever

<sup>53</sup> MC, G1r, H2r-J3r, 04r.

<sup>54</sup> See summary in J.H. Burns, ed., *The Cambridge History of Political Thought, 1450-1700*, ed. J.H. Burns (Cambridge: Cambridge University Press, 1991), 159-245.

<sup>55</sup> In Sidney Z. Ehler and John B. Morrall, eds., *Church and State Through the Centuries: A Collection of Historic Documents with Commentaries* (Westminster, MD: Newman Press, 1954), 164-73.

<sup>56</sup> See detailed sources and discussion in RR. But cf. caveats in Cornel Zwielerlein, “The Importance of ‘Confessio’ in Magdebourg (1550) for Calvinism: A Historiographical Myth,” *Bibliothèque d’Humanisme et Renaissance* LXVIII (2005): 27-46.

<sup>57</sup> See, e.g., David M. Whitford, “John Adams, John Ponet, and a Lutheran Influence on the American Revolution,” *Lutheran Quarterly* 15 (2001): 143-57.

<sup>58</sup> See, e.g., Kjell Å Modéer and Helle Vogt, eds., *Law and the Christian Tradition in Scandinavia: The Writings of the Great Nordic Jurists* (London: Routledge, 2021); Mathias Schmoeckel and John Witte, Jr., *Great Christian Jurists in German History* (Tübingen: Mohr Siebeck, 2020).

biblical casuistry illustrated by the Magdeburg Confession, it was hard for *sola Scriptura* Christians to ignore the repeated biblical commands to honor, respect, and obey the political authorities and to bear persecution with patience, prayer, and perseverance. And outside of the Magdeburg Confession, it was hard for faithful Lutherans to find much traction for resistance theories in the foundational creeds, confessions, and catechisms of the Lutheran Reformation era. It was not until modern times, when faced with the dire and destructive waves of monarchism, fascism, nationalism, and Nazism, that the Lutheran tradition reconsidered and reconstructed these original Lutheran teachings. Brave reformers like Dieterich Bonhoeffer, Martin Niemöller, Eugen Bolz, and others returned to earlier Lutheran endorsements of resistance, most importantly the Magdeburg Confession, to work out a sturdy new Christian logic of organized political resistance, self-defense, and just warfare against tyranny.