

# The Necessity of Resistance in 2009

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Hans Hillerbrand's careful historical review of *in statu confessionis*, which he has so wonderfully translated as "Stand Up and Be Counted," demonstrates that there are some good reasons for not using this language in the conflict over the Minneapolis assembly action this summer. Yet if the traditional language doesn't work in this particular instance, there are still two fundamental objections that make it impossible to accept the decision to ratify practicing homosexual clergy and same gender unions. When these two objections have been stated, I will propose a couple of ways of registering them in the life of the church.

The first objection is rooted in Scripture. The original argument for consideration of the issue by the assembly claimed the ambiguity of the biblical texts, suggesting that there were at least a couple of different ways of understanding them. The assembly action, however, did not seek out the normal solution to the problem of ambiguity, that is, clarification. Instead, it took action directly contrary to the received sense of the biblical injunctions. In so doing, it placed itself in direct opposition to the historic sense of Scripture on the issue.

The texts addressing homosexual practice have created and maintained an ecumenical consensus which has held since the early books of the Old Testament and extends across the Christian church. Expressing a taboo against sexual practices that has remained deep within traditional societies, the injunction is stated summarily in passages like the holiness code in Leviticus. But it is given particular force in the Gospels and the Epistles. Jesus radicalizes the Sixth Commandment in the Sermon on the Mount by condemning lust: "You have heard it said by the men of old, 'Do not commit adultery,' but I say unto you, anyone who looks at a woman lustfully has committed adultery already." The statement addresses male-female relationships in particular, but it extends the commandment by enjoining the lust that drives sexual sin. In its desire to possess, lust dehumanizes its object, abstracting the one sought after from all other relationships for the sake of sexual satisfaction. In Romans 1 Paul moves beyond the sexual hunting to address the grounding offense evident in homosexual behavior. The sexual relationship, which embodies the love of husband and wife and which God generally blesses with children, is taken out of that context and made an end in itself for purposes of self-gratification. This self seeking, which can take over hetero just as well as it does homosexual relationships, involves a covetousness that turns into idolatry.

By rejecting the historic, ecumenical consensus concerning homosexual practice, the churchwide assembly has placed the church in direct opposition to God's biblical Word. At the same time, by using its claim to the ambiguity of Scripture to overturn the accepted teaching of the Bible, the assembly has contradicted the constitution of the ELCA which sets the Scripture above any other authority in the church. In this way, the ELCA has substituted a human word for God's Word, breaking a defining agreement that has bound the church together. In effect, it has suspended the merger that produced what has been called the new church. Those of us who continue to uphold the constitution of the ELCA have been unchurched.

Article X of the Formula of Concord, which addresses such a circumstance, quotes Acts 5 to the effect that, confronted by the difference, believers must obey God rather than man. Thus,

people of faith in the ELCA must of necessity refuse to accept the ratification of the ordination of practicing homosexual clergy and gay unions. The ELCA churchwide assembly action has placed the issue beyond compromise. We are bound to confess and resist.

Secondly, the action of the August assembly seeks to impose a limit on the office of the keys, which involves the binding and loosing of public sin. The clear intent and purpose of the resolutions ratifying the ordination of practicing homosexuals and gay unions is to place such relationships on a par with the normative heterosexual relationships established biblically. So doing, the assembly treats homosexuality as a category to be dealt with by policy, forbidding pastors and congregations from judgment of those in the category.

In the marriage service provided in the old Service Book and Hymnal, in describing the holy estate of matrimony, the pastor states, “and though by reason of sin, many a cross is laid thereon, God does not abandon” those in marriage. This sober statement acknowledges what becomes experientially unambiguous in marriage, that it is subject to the distortions and self-destructive urges that trouble sinners. Married people can and do sin against one another sexually, even while remaining in the bonds of fidelity. For this reason, in the pastoral care of those caught in marital difficulties, pastors must be free to use the power of the keys to bind and loose—to challenge inappropriate behaviors and forgive the penitent.

The churchwide assembly action and the policies following, protecting the class of behaviors, does not make any similar realistic assessment. Instead, by prohibiting judgment, it places homosexual behavior beyond assessment, undercutting the office of the keys. Where there is no sin, there is no need for forgiveness; similarly, where there is no sin, there is no need for repentance. The assembly has effectively bound the loosing and loosed the binding.

For this reason, the assembly action must be rejected. Ordained into the office of the keys, a pastor cannot be required to ignore a particular class of sexual behaviors—homosexual any more than heterosexual—as not needing forgiveness. By the same token, a churchwide assembly does not have the authority to suspend the authority of the office of the keys to bind. Gay or straight, homosexual or heterosexual, sexual relations involve some of the most primordial aspects of the human heart. Consequently, forbidding particular forms of sexual behavior, God has at the same time in Christ Jesus established the office of the keys for ministry to sinners caught in the predicaments that beset them in self destructive, distorted longings that take many forms. The complexities of these predicaments require careful pastoral judgment. Attempts to override the distinction of law and gospel effectively suspend the pastoral reflection necessary to both. Here again, we are bound to confess and resist.

Given these two objections, how can they be carried out in the life of the church? To answer this question, we have to drop back into some of the considerations in the “Stand Up and Be Counted” argument, which Hans Hillerbrand has already examined. As it turns out, the answer to this question is not self-evident. When it has had to face situations that demand resistance, the church has worked out various theories about it.

The standard theory in American public life can be traced back to the radical reformation in the 16<sup>th</sup> century. Groups like the Mennonites, for example, or the spiritualists believed that the

institutions of public life are inherently evil. Therefore, they counseled forms of resistance that stop up the works, shutting everything down.

There are a couple of problems with this theory. For one thing, while Augustine could ask, “What are kingdoms but great robberies?” in actual fact, public institutions are generally a mixture of good and bad. Consequently, Luther could say, “Better a wise Turk than a stupid Christian,” that is, better people who really know what they are doing, even if they are pagans, than some marginally gifted pietist bent on power. So also, he could argue that even while there won’t be many princes in heaven, given their normal standard of behavior, nevertheless they can unwittingly serve as God’s instruments.

Additionally, as Gerhard Forde used to argue, the withdrawal from public life counseled by the common understanding of resistance generally conceals attempts at dominance. In fact, passive aggressives—those who withhold themselves, backing off from participation—are generally, as pastors commonly know, the most dangerous. Withdrawal hardly assures righteousness.

One of the most helpful statements in the history of Lutheran resistance goes under the title of “The Magdeburg Theory of the Lesser Magistrates.” Matthias Flacius Illyricus, one of the Lutheran reformers who developed this theory, and the Lutheran refugees gathered in the city of Magdeburg in the 1550s and early 60s argued more measured forms of resistance. They believed that, called into the vocations of public life—families, the economy and institutions such as church and state—believers serve their callings in chains of authority ranging from the greater, those responsible overall, to the lesser, that is, those who have more limited points of judgment. Put into a state of resistance, placed in circumstances where they have to stand up and be counted, in their vocations Christians are first of all accountable to a lesser magistrate, that is, a person who has some limited form of authority over them.

By this theory, then, the lesser magistrate in the vocation of church membership would be the bishop. The bishops control the congregations through the call procedure, by managing the list of pastors who can be legitimately considered by the parish. They control the clergy in the same way, originally through the candidacy procedure, following ordination by determining suitability for call and the distribution of information about candidates. In turn, the bishops direct the traffic between the churchwide, so called, and the parishes.

This suggests two forms of resistance. To begin with, as Article X of the Formula indicates, illegitimate impositions generally manifest themselves in the liturgy. So the Minneapolis assembly demands compliance at two liturgical points: the ordination of practicing homosexuals and the union of same gender couples in a claimed equivalent of marriage. Here is the point of resistance. On biblical and theological grounds, pastors and congregations called to resistance cannot submit to the ordination of practicing homosexuals and the performance of weddings for same gender couples. The judgment demanded by the office of the keys cannot be surrendered to the bishops or a churchwide assembly. Here we are bound to confess and resist.

Both WordAlone and Lutheran CORE provide models of bylaw revisions for congregations resisting the Minneapolis assembly action. The bylaws to the congregational constitution can be amended without the approval of the bishops or the synod councils. They

can be written to eliminate the candidacy of practicing gay candidates. Similarly, congregations which in their bylaws prohibit same gender liturgical unions provide invaluable assistance for pastors pressured by families intent on making them relent.

Both the Apostle Paul and the Formula of Concord, speaking of such circumstances, extend the prohibitions from the acts themselves to any form of complicity. Serving on a candidacy committee compelled to accept practicing homosexual candidates, for example, demands submission to the Minneapolis assembly. Similarly, seminary faculties have been known to use advisor-advisee relationships as well as classes to inculcate their personal views of homosexual practice. Cooperation with or support of such agendas co-opts both the candidate and the parish offering support. Again, under such circumstances, resistance can hardly be treated as optional.

The second form of resistance involves finances. There are some very good reasons for being apprehensive about this. In a voluntary organization like the church, donors provide the lifeblood of its activities. Withholding funds is an inherently scattershot form of resistance that instead of focusing on the particulars diffuses into all aspects of the church's activities. As David Preus has argued, cutting benevolence thereby undermines infrastructure that the church has to have.

The ELCA is particularly vulnerable at this point. The 1980's Commission for a New Lutheran Church, building its own social and political commitments into the new church, was especially concerned about the funding. They saw no alternative to the standard pattern in which benevolence moves through the congregations to the other so-called expressions of the church: the synods and the churchwide. But they also anticipated the downside of this system—pastors and parishes objecting to churchwide actions have an effective stranglehold. Consequently, while they were compelled to stick with the traditional system, they installed safeguards to protect against financial resistance. For example, the synods have no legitimate alternative but must pass on a designated share of their funds to the national. In a unified budget, the money that reaches the national must be divided equally in all aspects of its life, the effective and the objectionable lumped together.

These structural provisions point to a deeper problem. In actual fact, as all of us who opposed Called to Common Mission know, the ELCA has set itself up to eliminate any possibility of a loyal opposition. Long too late, the Indianapolis assembly allowed the possibility of exceptions to provide those seeking the confessional form of ordination a legitimate alternative. The bishops have virtually shut down the exception, candidates learning after the fact that even applying for the alternative has been considered grounds for disqualification.

Similarly, while churchwide advocates have made much of the "bound conscience," pastors and congregation have already learned that such assurances provide no protection for the convictions of those in opposition. There are documented instances of verbal abuse by a bishop, threats and attempts to eliminate protesting pastors and parishioners. Additionally, the provisions made for those who now disagree are clearly, for the time being, anticipating a time when those opposed will either surrender or leave. In fact, reports from Chicago indicate anxiety in the leadership that those opposed have not left already but plan to stay in the ELCA while maintaining their opposition.

Given this situation, there is no reasonable alternative to financial resistance. Scattershot and diffuse as it is, withholding benevolence is the only effective way to register protest against the ELCA Church Council and the churchwide assembly's infidelity to the Scripture, the constitution of the church, and the necessities of genuine pastoral care.

Recognizing the necessity of financial resistance, Mike Rogness has suggested a hybrid form of it that would focus it more precisely. It would be very helpful if in claiming losses due to benevolence redirecting, the ELCA identified the specifics by naming the people, the programs and the specific missions that are being cut. This would enable congregations and individuals to voluntarily support people and programs they recognize as essential.

WordAlone and Lutheran CORE have already gone to work to provide a clearing house to connect those redistributing their benevolence with people, congregations and missions in need. This is still in process, but it will help organize and focus financial resistance to maximize its positive effect while containing collateral damage.

One of the most effective agencies in Lutheran cooperation has been Lutheran World Relief, jointly funded by both the ELCA and the Lutheran Church-Missouri Synod. It has been one of the most reliable agencies in the world in assisting people in catastrophes and in development. The ELCA has already done significant damage to LWR, diverting funds to organize efforts that duplicate initiatives in which LWR has historically excelled. It now appears virtually certain that given the ELCA's ideological irresponsibility, the Missouri Synod will have to withdraw from all of its joint efforts with the ELCA, including LWR. Perhaps if it can no longer be sustained in its present form, LWR can be reconfigured so that those of us opposed to the ELCA's actions can continue to participate in it with prayers and financial support.

With this, there are many other points in the life of the church where funding is needed. The African immigrant congregations, which have been the fastest growing congregations in the ELCA and have led us in resistance, are threatened with the loss of support, as is an Arab language speaking congregation in New York.

In summary, biblically conscientious, confessional Lutherans in the ELCA are now in a situation where we have to stand up and be counted. We are bound to confess and resist. We cannot accept the churchwide assembly's dismissal of the biblical consensus on homosexual behavior or its suspension of the authority of the office of the keys. We therefore will not accept the services of practicing homosexual pastors or support the blessing of homosexual unions. Neither can we continue to indiscriminately provide funds for a church that clearly no longer has a place for us.