

The Ethics of Gift

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Ethics is occupied with the question, “What should we do? And, I, as one placed in the midst of others, what should *I* do?” Yet ethics does not begin with this question. It begins rather with the question, “What has been *given* to us? What has been *given* to me—to me as one placed in the midst of others?” The theme of ethics is not primarily and immediately the actions of the human being and the norms according to which those actions are to be judged. It is not primarily and immediately the question, “What should I do?” that proceeds from the “I” who thereby stands in the nominative case, and who is determined by the law of the great, categorical imperative “Thou shalt!” The primary theme of ethics is rather, as we have indicated, the question, “What has been given to me?” and therewith the human being who stands in the dative case, *in the case of “being given,”* whose very being is a gift that comes forth from a prior abundance and fullness. “What do you have that has not been given to you?” (1 Cor 4:7). In its point of departure and deployment, ethics must first give its attention to “the categorical gift,” not a categorical imperative.¹ Its fundamental theme is life given as a gift and therewith the structure of this life,² especially its freedom.³

No one would deny that there is something that is given to the human being, or a “givenness.”⁴ Even Kant cannot avoid speaking of the givenness of the human “task.” Nevertheless, one must dispute with Kant and his followers *the manner in which* and *in what sense* human freedom is given. In his grounding of law that demands, presupposes and includes human freedom, Kant speaks of the “fact” of pure reason.⁵ Even if the self and the world present themselves to the human being as an unending task, the very task itself as such is *given*. I find that task in that I exist: I do not determine it myself. For theologians who raise the transcendental question in the Kantian sense, this givenness of the task is sufficient to justify God. Yet here the question concerning the manner in which the task is given disappears. For the sake of a plausibility that is thought to be found

in a universal requirement—one that holds for each and every person—it is acceptable (within this transcendental-philosophical perspective employed as fundamental theology) that the word of the Creator shrinks to a hieroglyph, namely, that I do not determine my task, but instead always find myself in its already having been set, as the prearrangement of my inner, “unseen self” that is joined immediately to my consciousness of existence.⁶

Thereby it is overlooked that poetics and aesthetics precede ethics, that moral life has its context in nature and history. In that sense it is solidly rooted in the earth, so that, correspondingly, ethics do not have to do with vague or airy values and norms. Over against a prescriptive overheating of ethics which has taken place since Kant, and the actualism and activism often bound up with this overheating, it is necessary to make clear the significance of the pre-ethical for the ethical, the priority of gift over task. Language, by which we perceive the world, is prior to morality—at least whenever a conception of behavior in terms of activity determines the understanding of “morality.”⁷ Consequently, aesthetics (understood as the reflection of perception of the world in an encompassing sense) together with poetics precede ethics. Every human being is planted in a certain “world of language” (the world as it is constituted by language), moves about within that world, and is antecedently and inescapably determined by it in the basic orientation of his or her thoughts, words, and deeds. It is of decisive importance, of course, in *which* “world of language” we live.⁸

Fundamental acts such as astonishment and reverence, thanksgiving, kindness and mercy belong to this linguistically formed pre-ethical reality. They are not self-sufficient, moral convictions, virtues and life-styles which may be taken for granted, but are rather created and renewed continually through the divine promise of God’s own goodness and mercy alone. If, for example, the reality of “mercy” could be taken for granted, Jesus would not have needed to invent and narrate the story of the good Samaritan, and we would not require that it again and again should be preached to us. The evidence that there really is “mercy” is abidingly mediated by a specific language.

If morality has its context in concrete, natural and historical life, then, as already indicated, the concept of “ethics” must be developed

out of a plausible conception of life. I suggest that “life” is to be regarded as fundamentally determined by “the word of giving and receiving,” of which Paul speaks in ecclesiological context (Phil 4:15)—along with the disruptions and perversions of this word. *The logic of life is giving and receiving, receiving and giving*. Conrad Ferdinand Meyer captures this logic of life in his poem, “The Roman Fountain”:

The stream of water rises, and falling fills up
 the circle of the marble bowl,
 which, veiling itself, overflows
 into the base of a second bowl.
 The second itself becomes too rich,
 and overflowing, gives to the third its flood,
 and each one at once both receives and gives,
 and both streams forth and rests.⁹

“And each one at once both receives and gives”! *Receiving*, as it follows giving and precedes taking, itself must be given particular consideration. The giving forth of that which has been received and taken is “a passing along, a handing on, a bestowal”; the Greek and Latin equivalents of this concept of “tradition” contain the verb “to give,” namely, *παραδιδόναι* and *tradere* (= *trans-dare*).

Receiving and Handing On

According to a fixed Jewish and Christian usage, as classically attested in 1 Corinthians 15:3, the pairing of the terms “receive” and “hand on” signifies the course of tradition, the process of conveying that which has been received, the handing on of the faith. At the same time—and this is my thesis—the meaning of the words may be quite properly transferred and broadened to include the history of the whole of human and non-human life—even to the nature of the genetic code and the changes that it undergoes.

Such an anthropologically fundamental, indeed ontologically fundamental, conception of “receiving” and “handing on” allows this one and the same conceptual pairing to describe the course of both natural and cultural events in the world, and at the same time their indissoluble connection with one another. If, for example, we perceive these events in the medium of the language of the primal history of the

Bible (Gen 1-11), they are neither amorphous nor anonymous. They express themselves in noteworthy connections and relations: between God and the world; between God and the living human being, who is set within the world, and nevertheless placed in a special relationship to God and to other created beings; between human being and human being within the community of fellow human beings, a community which is always connected to labor, never to be loosed from it, although it is to be distinguished from it; between human beings and their fellow creatures, which, for their part, in a chain of being, take that which has been heard and received and pass it along and report it: "One day declares it to another; and one night announces it to the next" (Ps 19:3).

In the midst of these relations—the relations of powers—the human being is granted that unique freedom and worth that constitute human existence. This freedom is first and last a common and shared freedom, and not a lonely and isolated one. That is clear from the foundation and basis of that freedom, which lies in the address of the Creator, granted without merit that has called "me and all creatures" into life. Freedom is determined by a community that encompasses all dimensions of life, including non-human fellow-creatures, which precedes and undergirds all individualization and which in the first place unreservedly grants that individualization time and place. By virtue of this freedom the human being lives beyond bare receptivity and bare spontaneity, in the interplay and conflict within community between gift and appropriation, receiving and handing on. Neither the beginning nor the end of this game lies within the hand of the human being. We remain learners. Learning, however, is neither pure construction nor pure recollection.

Communal interplay within space and in the time between reception and passing on does not take place as a communication apart from the exercise of power and does not live in anticipation of a communication of this nature.¹⁰ That others exercise power over me and that I exercise power over others is determinative of this communication: I am simultaneously "lord" and "servant."

In brief, the logic of life is that of giving and receiving, receiving and giving; in this process—one need not understand it immediately as an evolutionary process—in one way or another there is an exercise of *power*,¹¹ which takes place in a dialectic of lordship and

servanthood: in a life or death battle of everyone against everyone for acknowledgment by the other.

As we have already indicated, it is not only within the realm of human relations that the “word of giving and receiving” rules. With the due exercise of caution, it is to be recognized as valid for the non-human realm—on which matter Hans Jonas has made a remarkable proposal.¹² According to this proposal the freedom which exists in the interplay between giving and receiving may be conceived very broadly: within the “endlessly extended inexorability of the physical universe”—so conjectures Jonas—there a “principle of freedom” flashes forth, as “living substance” separates itself from the physical world. Metabolism is “the first form of freedom.” In metabolism lies at the same time the “antinomy of freedom [. . .] in its most elemental form.” With this fundamental conception of freedom as “Ariadne’s thread for the meaning of that which we call ‘life,’” Jonas gropes his way to the human being, upon whom responsibility is laid at the same time as his freedom.

The asymmetry of giving and receiving, accepting and passing along, hearing and speaking, reading and writing not only shapes life; it makes life possible in the first place. We may reflect on it by giving attention to the relationship between “authority and criticism.”¹³

I cannot empower myself to attain a critical—that is, a differentiating—perception of the world. I must be empowered to such a perception, gifted by Another, who has the power to grant it. According to the precise sense of the word, “authority” (*augere*) is the power that gives increase, that causes growth. It is the power that creates life. There can be no criticism, then, without authority. If there were nothing given in advance to criticism, it would be sterile and empty. Conversely, only that authority can function as true authority which is fruitful and empowers to criticism, that is, to a freely distinguishing, judging perception of the world, which for its part furthers growth. Bodily and spiritual parenthood is paradigmatic for such authority. There is no true authority without criticism.

The Reality of Creation as Gift

The understanding of the reality of creation as a gift, which up to this point we have addressed only under a religio-philosophical veil,

may now be openly and fully presented. Only then can we speak with sufficient grounding of an *ethics* of gift.

The understanding of the reality of creation as a gift stands in sharp contrast to a view that Martin Luther found in the late Middle Ages, and in contrast to modernity, or at the very least in contrast to the activism of modernity,¹⁴ which does not wish for anything to be given and knows only commutative justice, that is, equivalent exchange.¹⁶ In contradiction to this understanding stands the biblical and Reformational conception of a willing, open-handed, generous and incessantly giving God, “the font of good gifts, without whom nothing that exists exists, from whom we have all things.”¹⁷ This is so in such a radical way that it cannot be conceived more radically: God’s giving determines the form of his action as that of the One who, “justifies the ungodly” (Rom 4:5), and in the same way “gives life to the dead and calls into existence the things that do not exist” (Rom 4:17). God’s acting takes place absolutely, unconditionally, apart from merit—in this sense, “out of nothing” (*ex nihilo*), prior to every created thing.¹⁸ It takes place as a giving which is grounded in itself alone, an absolute, categorical giving, that finds nothing in its recipients, but establishes them in the first place. God’s categorical giving therefore takes the threefold, radical form of the *iustificatio impii*, the *resurrectio mortuorum*, and the *creatio ex nihilo*.

Creation as well as new creation is a categorical gift. The first word to the human being is a word of giving: “You may freely eat of every tree” (Gen 2:16), which in the sin of omission is misperceived and despised: the sinner is a despiser of food and nourishment—as we shall consider more closely in the following discussion. As it overcomes the sinner’s rejection of nourishment, the primal word of gift renews itself in the word of giving found in the Lord’s Supper: “Take and eat. This is my body, given for you!” (Mt 26:26; 1 Cor 11:24). Therewith there is a “buying without money, for nothing” (Isa 55:1): a gift, *gratis* (Rom 3:24). God’s gift is undeserved, absolute, and unconditional. Nor is it conditioned—not even secondarily—by the expected response of the creature and the creaturely gift in return, a matter we must clarify further.

To understand creation and new creation in this way is in no way a matter of course within the Christian tradition, which within the

conception of creation has been dominated by the schema of causality.¹⁹ Prior to Luther, creation never had been understood as a categorical gift, or at least was not spoken of in terms of “a giving” or “a gift.” Biblical language seldom employs these terms in a context of a theology of creation.²⁰ On the basis of his Reformational discovery—namely, that the word of institution of the Lord’s Supper is at its core a word of gift: “Take and eat. This is my body, given for you!”—Luther found the understanding of creation as gift that is so characteristic of him. The few, isolated points at which the language of the Bible itself speaks of creation as a gift could hardly have brought him as such to that understanding of creation which is fundamental to our inquiry. Yet they strengthened him in that which came to him in an elementary and concrete way in the Lord’s Supper. The bestowing word of the Lord’s Supper, in the two-fold form of the word of the bread and of the cup—which one should leave as a word of bestowal, and not give the name “interpretive word”²¹—is that which Luther has in his ears, before his eyes, and in his heart, when he sees and names *all* the doing of the trinitarian God as a giving that promises and a promise that gives: we shall give this theme special emphasis in what follows.

The Lord’s Supper and with it the Christian service of worship as a whole is of decisive significance for a theological ethics of gift. We therefore must present this significance more fully.

The worship service is first and last the service of God to us, his sacrifice that has taken place for us once-and-for-all, which in the Lord’s Supper is ministered, promised and communicated by the word of giving, in, with and under the bread and wine. That which was once acquired—under Pontius Pilate at the cross upon Golgotha—is ever again distributed: the body of Christ given for you, the blood of Christ shed for you—for the forgiveness of sins.²²

This service of God to us, which we are to accept, is misjudged, when—as Luther emphasizes with his sharp distinction between “sacrament” and “sacrifice”—we want to give to God, as a work, as an *actio hominis*, that which we are granted to receive and accept as his pure gift.²³ We “do not present a good work,” we do not commune *actively*—in a “co-offering” of believers, or even in a “self-consummating” of the church. Through the servants of the divine

Word, “we instead receive the promise as well as the sign and commune *passively*.”²⁴ We may not ascribe to the sacramental word of giving that which is a matter of prayer. The benefit which we are to receive and accept may not be presented to God as an offering.²⁵ The Lord’s Supper is no “sacrifice, which is brought to God.”²⁶ Instead, the condescension and the self-giving of God takes place in it for us: here he presents and communicates himself to us. *We receive* his sacrifice.²⁷ Correspondingly, faith is great in taking. Here one may say without reservation: to receive is more blessed than to give.

Whoever calls the Lord’s Supper as a whole “the Eucharist,” and understands it as such—as an act of thanksgiving—subsumes the “downward” gift and promise within the “upward” offering of praise in such a manner that the thanksgiving nullifies the gift. The pure gift is thereby practically overshadowed and, indeed, distorted by the response and the gift in return—even when these are understood pneumatologically in a trinitarian context and thus relieved of the suspicion of works righteousness. The gift of response depotentializes the gift. The latter loses its objective and encountering nature as promise: the divine giving is absorbed by human praying. Yet God’s gift and promise which come prior to the prayer of thanksgiving must not be allowed to disappear as a mere citation within prayer. The prior gift does not allow itself to be overtaken by the return gift. The promise cannot be taken up in the prayer of thanksgiving in such a way that it is merely recounted in recollection and does not cause itself to be heard afresh in the present as promise.²⁸ For this reason “sacrament” and “sacrifice” are to be distinctly and clearly distinguished, as Luther does²⁹—in the first place liturgically and, correspondingly, then also theologically and conceptually. On this point, conversation and, where necessary, debate with the Roman Catholic doctrine of the “co-offering” of believers is unavoidable.

Luther, whom we shall follow further here, shows the value of the promissory word of gift that he discovered in the Lord’s Supper not only where he transfers and broadens it in his understanding of the creation as gift and promise, but also in Christology. He understands—and this to my knowledge is not to be found in the tradition before him—Christ as *donum*. If Augustine spoke of Christ as “*sacramentum*” and “*exemplum*”—and that only in one passage and

not topically³⁰—Luther takes up this distinction and ordering, makes it into the essential feature of his two-part tract on “the Freedom of a Christian” (1520); further, in his “Brief Instruction as to What One Should Look for and Expect in the Gospels” (which serves as the opening to the *Wartburgpostil*), he puts “gift and present” in place of “*sacramentum*.”³¹

The main teaching and central point of the Gospel is that before you take Christ as an example, you receive and recognize him as a gift and present, given to you by God and belonging to you—so that, when you see or hear that he does or suffers something, you do not doubt that Christ himself with such doing and suffering is yours, upon which doing and suffering you may no less rely than if you had done it yourself, indeed, than if you were Christ himself. Behold, that is what it means to have understood the Gospel rightly, that is the abundant goodness of God, which no prophet, no apostle, no angel has ever fully expressed, which no heart can ever adequately marvel at or grasp.³²

The distinction between Christ as “*donum*” and Christ as “*exemplum*” has fundamental significance for an ethics of gift: we must therefore return to this topic and explore it more fully. First, however, the foundation of these ethics in a theology of gift must be rounded out in its fullness.

Luther brings the comprehensive significance of “giving” into prominence in two places: in the Large Catechism (1529) and before that in his “Confession” of 1528. According to the end of the explanation of the first article of the Creed (the creation article) in the Large Catechism, “giving” binds together all three articles of the faith. “For here we see how the Father has given to us himself with all creation and has abundantly provided for us in this life, apart from the fact that he has also showered us with inexpressible external blessings through his Son and the Holy Spirit.”³³ In “giving,” everything that there is to say about God is collected together.³⁴ Human morality, too, is grounded in God’s “giving,” for God gives what God demands.³⁵ Correspondingly, his exposition of the entire *Credo* ends: “we see here in the Creed how God gives himself completely to us, with all his gifts and power, to help us keep the Ten Commandments: the Father gives us all creation, Christ all his works, the Holy Spirit all his gifts.”³⁶

God gives himself to us without reservation or condition, fully and completely, with everything that he is and can do. God opens himself to us in such a way that he allows us to share in his fullness, takes us into fellowship with him, gives himself over to us entirely. The Catechism takes up that which Luther a year before—entirely from the perspective of “giving”—expresses summarily in unsurpassable pithiness:

Here are the three persons and the one God, who has given himself entirely to us all, with all that he is and has. The Father gives himself to us with heaven and earth together with all creatures, that must serve and be useful to us. But through Adam’s fall such a gift has become hidden in darkness and useless. On this account the Son thereafter also gave himself to us, granted us all his works, his suffering, his wisdom and righteousness, and reconciled us to the Father, in order that we, too, again made alive and righteous, might know and have the Father with his gifts. Because, however, such grace would not be useful to anyone where it was so secretly hidden and could not come to us, the Holy Spirit thus comes and gives himself to us entirely: that One teaches us to know that benefit of Christ which has been shown to us, helps to receive and retain it, to use it profitably, to distribute it, to increase and further it.³⁷

In this trinitarian theology of gift, or, better, theology of giving,³⁸ it is to be emphasized that the triune God not only gives—to use Robert Spaemann’s conceptual pair³⁹—“something” but as a “someone” he gives himself. In, with, and under the gift the Giver gives himself and communicates himself with his power. The gift can in no way be isolated from the Giver—that would be a reifying misunderstanding. The Formula of Concord thus rightly rejects the opinion that, “not God himself, but only the gifts of God dwell in believers.”⁴⁰ The converse is likewise valid: that the Giver may not be isolated from his gift—that would be a personalistic misunderstanding. God does not give *himself*, without giving *something*—without giving himself together with our fellow-creatures: “the Father gives us himself with [!] heaven and earth, together [!] with all creatures,” through which he addresses us; creation is speech and gift to the creature through the creature.

On the basis of the economic Trinity as an economy of giving, the question lies at hand whether then also the immanent Trinity, about which one may inquire as an entailment of the economic Trinity, might be understood as an event of giving. This suggests itself especially in view of the Johannine world of text: the Son speaks and works nothing

of himself, but only that which the Father has given him; he gives what he has received to his own, whom the Father has given him.⁴¹

In the event of giving, the Giver, the gift, the one gifted and receiving are inseparably bound together. The One giving, the giving, and that which is given cannot be distinguished and interpreted according to normal grammar as subject, predicate and object—as the sentence “God created the world” often has been understood, as for example, by Gerhard Gloege.⁴² The Giver, his giving, and that which is given, together with the addressees and recipients are bound together in the event of giving and receiving in such a way that a schematization in terms of that grammar and its corresponding ontology (substance, accidents) does not match the actual situation.⁴³ The event of giving and receiving must instead be understood as a trinitarian event of relationships, in which the Giver not only stands over against me, but also is within me, in so far as he takes up his dwelling within me as Spirit.⁴⁴

Gift and promise are to be distinguished from and related to one another. Bread and wine are given—yet comprehended and impenetrated by the *Word*: by a *definite* word, no assertion, no command, no description, but rather nothing other than a promise. A gift obviously requires a word in order to count at all as a gift, to be apprehended as a gift, to be received as a gift, to be “heard” as a gift. In his programmatic “Brief Instruction as to What One Should Look for and Expect in the Gospels,” Luther shows clearly that the “*promissio*”—the promise, the word of comfort and encouragement—belongs constitutively to the “*sacramentum*” in the new sense of “*donum*” as the concrete manner in which Christ gives himself to me. It is “the preaching of the Gospel, through which he comes to you or you are brought to him.”⁴⁵ “Thus you see: the Gospel is properly not a book of laws and commandments, that demand from us our doing, but a book of the promises of God, wherein he promises, offers and gives to us all his good gifts and benefits in Christ.”⁴⁶

The Ethics of Gift

In his morning-hymn “Wach auf, mein Herz, und singe” (“Awake, my heart, and sing”) Paul Gerhardt praises the “creator of all things,”

“the Giver of all that is good,”⁴⁷ who has kept the promise that he had given—“you shall see the sun!”⁴⁸—and has brought forth again the first morning of creation. He understands his morning song of praise—acclamation of the creation as a gift—as “an offering” and “gift,” as a counter-gift in the sense of the prayerful response: “You will to have a sacrifice from me, / here I bring my gifts: / my incense and my ram / are my prayer and song.”⁴⁹

“You will to have a sacrifice”: This contradicts Derrida’s well-known thesis that every counter-gift—especially every *expected* counter-gift—turns a gift into an exchange, and thereby retrospectively annuls it as pure gift.⁵⁰ For Paul Gerhardt, as for every Christian and theologian, the Creator, as the unconditioned and unobligated Giver, wills to have a counter-gift, the response of faith. Gerhardt would contest with all his energy the claim that this counter-gift changes the nature of the gift or annuls it. The gift calls for a counter-gift, a response, and empowers the giving of it. This orientation and expectation of the gift cannot and need not be understood as a condition attached to it: it need not be understood as its *causa finalis*. Goal-directedness is not necessarily a condition.

The question does not arise, then, *whether* every imaginable counter-gift encroaches upon the character of a pure gift as gift, or even goes so far as to destroy it. It is rather a matter of asking *which* counter-gift is commensurate and corresponds to the gift in such a way that the latter is comprehended in its essence, apprehended, acknowledged in its truth. *God’s categorical giving does not exclude the counter-gift of the creature, but rather empowers the creature to this counter-gift as its response.* We shall now develop this thesis.

The triune God is and remains prior to every creaturely being as categorical Giver—in his prevenience he distinguishes himself from the, creature. That doesn’t contradict that we, as creatures justified apart from merit, cooperate with this triune God, who gives himself entirely to us together with all living creatures, in that we give back as a sacrifice of praise and thanksgiving to him—to the Father, through the Son, in the Holy Spirit—that which we have received, and, in correspondence to the double sense of the Hebrew term “ברך,” we bless the One who has blessed us. Insofar as faith confesses God’s categorical giving, it is a response to the self-giving, promissory

Word that is prior to it and which grounds it. This response, however, is “given.” It is a counter-gift.

Luther’s provocative word concerning the “*fides creatrix divinitatis*” (“faith the creator of the deity”) is to be understood and to be accounted for in the same flow of thought: faith, *vita passiva*, in all its passivity (in that it receives the work of God and in this sense suffers) is creative: it is “the creator of the deity,” although, of course, “*non in persona sua, sed in nobis*”—not in God’s person, but in us.”⁵¹ We “make”⁵² God into God by giving him in doxology what is due him. We let God be God; we justify him. *The passivity of receiving the gift does not exclude a certain form of activity, but instead empowers and liberates us to that activity.*

In correspondence to the superabundance of the categorical gift, the praise that responds to it encompasses and penetrates the whole of life; in the Small Catechism the response to the categorical gift reads: “For all of this I owe it to God to thank and praise, serve and obey him.”⁵³ Not only the vertical *retribution* of praise to God in prayer and in faith belongs to the thankfulness of the human being, but also equally fundamentally the horizontal *distribution* to our neighbor in love. “Thus we should,” preaches Luther, “also give our goods, loan and surrender them, not to our friends alone, but also to our enemies, and not leave it at that, but also give ourselves into death for both friend and foe, and consider nothing other than how we might serve others and be useful to them with body and possessions in this life, because we know that Christ is ours and has given us all things.”⁵⁴ Luther thereby expounds Ephesians 5:1f.: “Imitate God as his beloved children, and love one another, because Christ also has loved us, and has given himself up for us as a gift and sacrifice that pleases God.”

Ephesians 5:1f. provides substantial evidence for the validity of Luther’s distinction and ordering of Christ as “*donum*” and Christ as “*exemplum*,” which we have already mentioned and to which we must now return and examine more closely. Luther writes his “Brief Instruction as to What One Should Look for and Expect in the Gospels,” which we have cited already:

If you then have Christ as the ground, and the first and primary substance of your salvation, then the second thing follows, that you take him as your

example, and thus give yourself to serve your neighbor, just as you see that [Christ] has given himself for you. Behold, faith and love then resonate with one another, God's commandment is fulfilled, the person is joyful and fearless to do and suffer all things. Consider then this: Christ as a gift nourishes your faith and makes you into a Christian. But Christ as an example performs your works. These do not make you into a Christian, but rather proceed from you, who have been made into a Christian already. In the same measure, then, that gift and example differ from one another, so much, too, faith and works differ from one another. Faith has nothing of its own, but only Christ's work and life. Works have something of your own in them, but they, too, must not belong to you, but to your neighbour."⁵⁵

This is nothing other than a judgment concerning the problem of New Testament parenthesis and the third use of the law. The distinction between Christ as "gift" and Christ as "example" presented here critically sets itself against a moralization of the gospel and of the faith created by the gospel.⁵⁶ At the same time it proves itself constructive in dealing with the question of the concrete form of the good works that proceed from faith, the form of the new obedience.

Yet the old disobedience has not fully disappeared, even with one who has been baptized—to say nothing of the non-Christian world, with which the Christian and the entire church must deal, both within themselves and around them, until the consummation of the world. An ethics of gift would thus be guilty of fanaticism, if it ignored the reality of sin as the destruction and perversion of the giving and receiving that is willed and worked by God, and likewise if it ignored the battle that conquered sin wages against the gospel.

In his overflowing goodness, the Creator gives to his creatures the space that is necessary to their existence, in that he enables communication, exchange and community, fills all in all and ungrudgingly gives himself forth in beneficent virtue. He does so with his communicative Word: with his ordering determinations and assignations, through which he establishes relationships. The human being in sin—in addition to the *malum extra peccatum*—lives in contradiction to this reality of creation as the establishment and preservation of community determined by the logic of gift. Along with other forms,⁵⁷ sin has the two forms of omission: first, the *neglect of taking* and second, the *neglect of giving*, that is, greed.

Faith is the perception and appreciation of what has been granted in taking, eating and praising. The one who believes, “tastes and sees, how good the Lord is” (Ps 34:9). Such a person has an eye for the kindness of God to humankind. Whoever does not have this, does not believe; that one sins. Sin is not in the first instance the transgression of a prohibition (*peccatum commissionis*), but rather the overlooking and ignoring of a gift and opportunity, which is given and granted (*peccatum omissionis*). The sinner is in the first instance, as already indicated, an “anti-gourmand.” In this sense the well-known rhyme of Wilhelm Busch is to be inverted. It is not, “The good—this is firmly established—is always the evil that one abandons!”⁵⁸ but rather: evil—this is firmly established—is always the good that one abandons. The “Soup-Casper” (*Suppenkaspar*, from the book of children’s stories *Der Struwwelpeter* by Heinrich Hoffmann) as an “anti-gourmand” is a figure of the *peccatum omissionis*, that literally brings him death (by the fifth day, according to the little story): “No, no my soup I will not eat!”

The other form of sin as omission is greed, the neglect of giving, the inability and unwillingness to give, to give back and to give to others. In contradiction to his appointment by God to live as an ecstatic being in a double relation—through faith to live in God, through love to live in his fellow-creatures and in this way to live in the returning and giving forth of the categorical gift⁵⁹—the human being turns in upon himself and dies in selfishness, in the tendency to an absolute self-relation. The Scripture, according to Luther’s lecture on Romans, “describes the human being as so completely turned in upon himself, that he not only twists bodily goods toward himself, but also spiritual goods and seeks himself in all things.”⁶⁰ God made the human being “upright” (Eccl 7:29), in right relation to himself; if he twists this relationship back on to himself, he makes himself “crooked” in sin as a perversion of his relationship to God.⁶¹ In such perversion and incurvation upon the self, he cuts himself off from life, which consists in receiving and giving forth and he now, in this incurvation, comes to a stop. The human being, who through the categorical gift has been appointed to a responsive giving forth in return, lands instead in a circle of endless self-conversation with himself and those like him, and in a presumptuous, prideful concern for the whole of his existence.

Sin is the breakdown, indeed, the destruction of the encompassing process of communication that consists in receiving and unreserved giving forth, for which the human being was created. Ingratitude, greed, withholding, and the unwillingness to give correspond therefore to the primal sin of unbelief. Ingratitude intensifies itself in greed, in which the human being turns away from the Creator, closes himself up within himself and likewise closes his hand to his neighbor. From this it becomes clear in what way Jesus Christ is a “*donum*,” and in what his giving of himself consists: in that event of communication, through which the world that is perverted and turned in upon itself is delivered from its being closed in upon itself and therewith again is opened to receiving, praising, and giving forth. By the power of the *communicatio idiomatum*, this takes place in the “joyous exchange” between the hardened human being and the abundantly giving and forgiving God.⁶² God frees me from the imprisonment in myself and, in an act of new creation, opens for me fresh communication with him and with my fellow-creatures in taking and giving, in receiving and giving forth.

The Battle of Conquered Sin Against the Gospel

Until his death and the consummation of the world, the human being created anew through the gospel must conduct himself in relation to the old, fallen world of self-incurvation and self-enclosed life. The Christian, in fact, no longer belongs to that world, yet has it within him and around him and must reckon with the battle of conquered sin and of all evil against the gospel. Otherwise the Christian, together with the entire church, would not need to pray constantly: “deliver us from evil;” otherwise Luther would not speak of a “joyous exchange,” the joyous exchange of divine righteousness with human sin, without in the same breath bringing into view “a conflict”⁶³ —a battle with the power of the old, fallen world.

The conflict touched upon here, between the new world and the old, fallen world—which can never be ended within an innerworldly frame—manifests itself in the painful difference between the *iustitia dei* and *iustitia civilis*, and correspondingly between the gospel and the law. The gospel is the *iustitia dei*, the fidelity and righteousness of

community and relation found in giving and taking, a righteousness that the triune God grants entirely without merit—*ex nihilo*—and guarantees into all eternity. In contrast, *iustitia civilis*, which is by all means willed by God—but worked by the law and not by the gospel—serves to maintain the world that is passing away in view of its coming fulfillment in the dynamic of giving and receiving. A theological ethics of gift insofar as it is determined by Christ as “*exemplum*” must correspond—in a relation full of conflicts—to a theory of a righteousness that is not the *iustitia dei*. This “civil,” “worldly” righteousness cannot ignore the history of the old, transitory world, a life-or-death battle of everyone against everyone for acknowledgment by the other. Nor can it cover it up in a sort of fanaticism through moral suppositions. Instead it should and must be in interrelations that are determined in the economic realm by commutative righteousness and the circulation of equivalent exchange (determined by an anonymous “third” entity) and in the political realm by force and counter-force, including the language of threat—a language in which at first hearing nothing of “the charm of gift” can be perceived. Yet this is a rule that provides for law and peace through both the threat and exercise of force. Therefore it cannot refrain from answering violence with counter-force and thus serves the gift of life. It is therefore not to be despised, but to be praised.

The distinction between *iustitia dei* and *iustitia civilis*, between gospel and law, is of fundamental significance. If it fell away, the worldly would become absolute. There would be no escaping its mono-dimensionality. Admittedly, the bodily presence of the gospel in this world may again and again allow another logic than that of economic exchange and the political spiral of force and counter-force to flash up and shed its illumination in the midst of a *iustitia civilis*—even though the church is a counter-culture only in a very paradoxical manner. Nevertheless “a city which is set on a hill cannot be hidden” (Mt 5:14); the gospel tears apart the horizon of the world which has perverted the categorical gift into greed and violence. All analogies to the gospel, however, and therewith to the categorical gift (and giving promise), which are perceived within the *iustitia civilis* as they are discovered and realized with heart, mouth, and

hands, are not to be conceived as gospel, but as law—in the sense of the *usus politicus*. Christ as “*donum*” and Christ as “*exemplum*” remain distinct within a inner-historical context—even more so, however, the *iustitia dei* and *iustitia civilis* remain distinct.

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NOTES

1. Oswald Bayer, “Kategorischer Imperativ oder kategorischer Gabe,” pp. 13-19 in *Freiheit als Antwort: Zur theologischen Ethik* (Tübingen: Mohr Siebeck, 1995). Even before this essay I have shown that there is a “surplus” inherent to the Gospel, in refutation of the view of Wilhelm Herrmann and Gerhard Ebeling, who regard the experience of the Law as the condition for understanding the Gospel. See “Die Gegenwart der Güte Gottes: Zum Verständnis von Gotteslehre und Ethik,” pp. 314-333 in *Leibliches Wort: Reformation und Neuzeit in Konflikt* (Tübingen: Mohr Siebeck, 1992) = *NZStH* 21 (1979), 253-271.

2. Albert Schweitzer, *Kultur und Ethik: Sonderausgabe mit Einschluß von “Verfall und Wiederaufbau der Kultur”* (Munich: C.H.Beck, 1960), 330: “True philosophy must proceed from the most immediate and comprehensive fact of consciousness. This fact of consciousness says: ‘I am a life that wants to live, set in the midst of life that wants to live.’”

3. Bayer, *Freiheit als Antwort*, 64-75 (“Von der Freiheit menschlichen Lebens, inmitten von Leben, das leben will”); in English Oswald Bayer, “Human Life in the Midst of Life that Loves Living, in Freedom in Response,” in *Lutheran Ethics: Sources and Controversies* (Oxford: Oxford University Press, 2007), 44-56.

4. Edmund Husserl, “Die Idee der Phänomenologie,” p. 61, in *Husserliana II* (2nd ed.; den Haag: Martinus Nijhoff, 1973): “Absolute givenness is final.”

5. KprV A 55f; 96. See *Metaphysik der Sitten*, 7:361 in *Kants Werke in 10 Bänden* (ed. Wilhelm Weischedel; Darmstadt: Wissenschaftliche Buchgesellschaft, 1968).

6. KprV A 289 (“Beschluß”).

7. Matters are different when “ethics” are not conceived primarily (or not at all) in terms of a theory of action and conduct. Bernd Wannenwetsch (in his review of *Freiheit als Antwort*) shows why “language must always be understood as an ethical phenomenon”: *ZEE* 39 (1995):231-235, especially 235 in the context of 234f.

8. With a view to the linguistic *a priori* of Christianity, in appeal to 1 Pet 4:11 (“Whoever speaks, let them speak as if it were the oracles of God.”), Hamann demands:

“The Holy Scriptures should be our dictionary, our rhetoric, that upon which all the concepts and speech of Christians are based, and out of which they consist and are composed” (Johann Georg Hamann, “Biblische Betrachtungen eines Christen,” p. 304, lines 8–10, in *Londoner Schriften: Historisch-kritische Neuedition* (ed. Oswald Bayer and Bernd Weißborn; C. H. Beck: Munich, 1993). On the manner in which human knowledge and speaking is bound to locality and its corresponding, ever-inescapable “conceptual pattern,” see Hilary Putnam, *Vernunft, Wahrheit und Geschichte* (Frankfurt/Main: Suhrkamp, 1982), p. 78. Putnam follows the late Wittgenstein.

9. Conrad Ferdinand Meyer, *Werke in zwei Bänden* (Essen: Cotta, 1981), 1:88:

Aufsteigt der Strahl, und fallend gießt
 Er voll der Marmorschale Rund,
 Die, sich verschleiernd, überfließt
 In einer zweiten Schale Grund;
 Die zweite gibt, sie wird zu reich,
 Der dritten wallend ihre Flut,
 Und jede nimmt und gibt zugleich
 Und strömt und ruht.
10. See the reflections on “the communicative form of judgment” in *Leibliches Wort*, 6–15, esp. pp. 7f.
11. On the further necessary differentiation between power, law and justice, see *Freedom in Response*, 227–238.
12. Hans Jonas, *Philosophische Untersuchungen und metaphysische Vermutungen* (Frankfurt/M.: Suhrkamp, 1992), 13f., 25.
13. On the following discussion, more extensively, see *Autorität und Kritik: Zu Hermeneutik und Wissenschaftstheorie* (Tübingen: Mohr Siebeck, 1991).
14. On which (especially in reference to Fichte and Sartre), see: *Leibliches Wort*, 23–26.
15. On the terminology of righteousness, along with the universal *iustitia legalis* (*Ethica Nicomedia* V, 1030b, 18f; cf. b 22–26), Aristotle discusses the two forms of the *iustitia particularis* (1030b), namely, the *iustitia distributiva* (1030b 31f) and the *iustitia commutativa* (1131 a). On the Latin terminology: see Thomas Aquinas, *STh* II/II q 61.
16. For a critique of this activism and its misperception of the “given” which is foundational, see Trygve Wyller, *Glaube und autonome Welt. Diskussion eines Grundproblems der neueren systematischen Theologie mit Blick auf Dietrich Bonhoeffer, Oswald Bayer und Knud Ejlert Logstrup* (TBT 91) (De Gruyter: Berlin/New York, 1998).
17. “Brunnquell[s] guter Gaben, / ohn den nichts ist, was ist, / von dem wir alles haben”: Johann Heermann, “O, Gott, du frommer [gerechter] Gott . . .” (EG 495,1). On this topic, more extensively, see Oswald Bayer, *Zugesagte Gegenwart* (Tübingen: Mohr Siebeck, 2007) 189f.
18. “Just as nature prepares and conceives in advance all that which the voice of our bodily needs might have demanded of our Creator, so has grace slaughtered and prepared for us and all we need do is follow her call in order to partake of her Supper, for the preparation of which she arose early, earlier than we were conscious of our being and our future hunger and her anticipatory love. Indeed, in order to allow us to partake of this banquet, we were awakened to life out of the bosom of the night.” (Hamann, *Londoner Schriften*, 399,37–400,6). Hamann here takes up Proverbs 9:1–6.
19. For a critique of the dominance of the schema of causality in the doctrine of creation and ontology, see *Zugesagte Gegenwart*, 114, 200, 202f.

20. Jer 31:35; Eccl 12:7 and frequently; Sir 17:4f; Acts 14:17.
21. Especially Joachim Jeremias speaks of an "interpretive word" ("Deutewort"): *Die Abendmahls Worte Jesu* (3rd. ed.; Göttingen: Vandenhoeck & Ruprecht, 1960), 81f and frequently.
22. That Luther concentrates entirely upon "the giving" in his understanding of the Lord's Supper is evident, for example, in that in the Small Catechism he expressly emphasizes the words, "given for you" and "poured out for the forgiveness of sins": *BSLK* 520,24-26; 34-36; 521,6f. BC 362, 4-6; 363, 7-10.
23. Martin Luther, *De captivitate Babylonica ecclesiae praeludium* (1520): *WA* 6,520, 33-36; *LW* 36:49.
24. *WA* 6, 521,29f; *LW* 36:49; emphasis added. It is characteristic of this passivity of receiving and suffering the work of God that it liberates us to the highest measure of activity.
25. *WA* 6, 522,27-29; *LW* 36:50.
26. *WA* 6, 523,9f.; *LW* 36:50.
27. Johann Georg Hamann, "Golgotha und Scheblimini," 3:312, 6-17 in his *Sämtliche Werke*, Josef Nadler, ed. (Wien: Herder, 1951): "The mystery of Christian blessedness does not consist in the acts of service, offerings and vows which God requires of the human being, but instead in the promises, fulfillments and sacrifices that God has done and performed for the best of the human being: not in the first and greatest commandment that he imposes, but in the highest good that he has given: not in the giving of the Law and moral doctrine, that merely touch human convictions and human actions, but instead in the execution of divine counsels through divine deeds, works, and foundations for the salvation of the entire world (emphases removed)."
28. The anamnesis of the Lord's Supper takes place before all else in the use of the words of institution, and therein especially in the promise of the two sayings of giving.
29. *WA* 6, especially 521-523; *LW* 36: 49-51.
30. *De trinitate* IV 3,5f. More closely examined: Oswald Bayer, *Promissio. Geschichte der reformatorischen Wende in Luthers Theologie* (2nd. ed.: Darmstadt: Wissenschaftliche Buchgesellschaft, 1989), 79f.
31. On this topic, extensively, see *Promissio*, 78f.
32. *WA* 10 I/1, 11,12-21; *LW* 35:119.
33. *WA* 30 I, 185,24-28 (=BSLK 650,27-32); BC 433, 24.
34. Martin Seils, "Die Sache Luthers" *LutJ* 52 (1985): 64-80: "'Giving' according to Luther is not merely a single theological category, nor merely an important one. It is the central interpretive category for God, salvation, life and the world, and therewith a foundational concept, which encompasses and determines everything." At the same time, we must certainly have a view to how and in what way "giving" is mediated, in what way it so to speak "clothes itself." This takes place in the word of address as promise.
35. *WA* 30 I, 192, 26-29 (=BSLK 661, 38-42); BC 440, 69. Cf. *WA* 30 I, 44,29,36f: "Thus the promises of God give what the commandments demand, and fulfill what the commandments say" ("On the Freedom of a Christian," 1520; *WA* 7, 24,17-19). Luther takes up Augustine's "*da quod iubes*" (give what you command) (*De spiritu et littera* XIII, 22).
36. *WA* 30 I, 192, 26-29 (=BSLK 661,38-42); BC 440, 69. Cf. *WA* 30 I, 44,29.36f.
37. Vom Abendmahl Christi. Bekenntnis, 1528; *WA* 26, 505, 38-506,7; *LW* 37:366.
38. See below, "The Ethics of Gift."
39. Robert Spaemann, *Personen. Versuche über den Unterschied zwischen "etwas" und "jemand"* (Stuttgart: Cotta, 1996; 2nd. ed. 1998).

40. BSLK 935,65; cf. 785,18. BC 497, 18; 573, 65. Anthropologically and ecclesio-logically, see 2 Cor 8:5 (“They gave themselves” in the giving of their gift.).

41. See especially John 17.

42. Gerhard Gloege, “Schöpfung IV. B. Dogmatisch,” RGG³ 5:1484-1490, divided according to “subject” (*creator*), “act” (*creatio*) and “structure” (*creatura*).

43. *Zugesagte Gegenwart* (“Schöpfung als Geschichte,” 221-231), 223f: “Das Verb.” Especially on this point it would be rewarding to take up conversation with comparable reflections of Marion. See Jean-Luc Marion, “Esquisse d’un concept phénoménologique du don,” pp. 75-94 in *Filosofia della rivelazione* (Marco M. Olivetti, ed.; Biblioteca dell’ “Archivio di filosofia” 11; Padua: Cedam, 1997); Marion, *Étant donné. Essai d’une phénoménologie de la donation* (Paris: Presses universitaires de France, 1997).

44. This trinitarian event of relationships comes to expression especially clearly in the hymn, “Dir, dir, o Höchster . . .” by Bartholomäus Crasselius (EG 328).

45. WA 10 I/1, 13,21f.; LW 35:121.

46. WA 10 I/1,13,3-6; LW 35: 120.

47. EG 446,1.

48. EG 446,3.

49. EG 446,5.

50. Jacques Derrida, *Given Time: I. Counterfeit Money* (trans. Peggy Kamuf; Chicago/London: University of Chicago Press, 1992), 12: “For there to be a gift, there must be no reciprocity, return, exchange, countergift, or debt.” “For there to be a gift, it is necessary [il faut] that the donee does not give back, amortize, reimburse, acquit himself, enter into a contract, and that he never have contracted a debt” (p. 13).

51. WA 40 I, 360,5f (on Gal 3:6; 1531); LW 26: 227.

52. WA 40 I, 360, 8; LW 26: 227. God wills nothing other than “quam ut faciam deum”; “the trusting and believing of the heart alone makes both: God and an idol” (BSLK 560, 16f.; Explanation of the first commandment in the Large Catechism).

53. BSLK 511,6-8; BC 355, 2.

54. WA 17 II, 206,15-20 (Fastpostil 1525; on Eph 5:1f).

55. WA 10/I, 12,12-13,2; LW 35: 120. See 14,7-13; LW 35: 121-22.

56. See especially WA 7, 58,33f (On the Freedom of a Christian, 1520) LW 31: 357: It is not sufficient to preach the story of Jesus Christ “*ad vitae formandae exemplum*.”

57. See Oswald Bayer, *Martin Luther’s Theology: A Contemporary Interpretation* (Grand Rapids: Eerdmans), 177-184.

58. Wilhelm Busch, “Die fromme Helene (Epilog): “Das Gute—dieser Satz steht fest—ist stets das Böse, was man läßt!”

59. See WA 7, 58, 38 (On the Freedom of a Christian, 1520; LW 31: 366-369, concluding thesis). See WA 10 I/1, 100,8-101,12 (Churchpostil, 1522; on Titus 3:4-7): All Christian doctrine, all Christian work and life is briefly, clearly, and abundantly richly comprehended “in the two matters of FAITH and LOVE, through which the human being is set between God and his neighbor as an instrument, that receives from above and gives out again from beneath and comes to be like a barrel or pipe through which the fountain of divine goods are to flow unceasingly into other people. Behold, these are the proper human beings, living in the form of God, who receive from God everything that he has, in Christ, and again verify themselves with deeds of beneficence, as if they were Gods to others; the saying of Ps 81 [82:6] belongs here: I have said, you are all Gods and children of the Most High. We are God’s children through faith. He has made us heirs of all the

divine goods. But we are Gods through love, which makes us active in beneficence to our neighbors; for the divine nature is nothing other than a pure beneficence and, as St. Paul says here, goodness and amiability, which daily, effusively pours out its goods to all creatures, as we see.”

60. WA 56,356, 5f. LW 25:345 (on Rom 8:3; 1515/16): “[Scriptura] hominem describit incurvatum in se adeo, ut non tantum corporalia, sed spiritualia bona sibi inflectat et se in omnibus quaerat.”

61. Cf. WA 1, 173,31–174,3 (on Ps 32:11; Seven Penitential Psalms, 1517): “The heart that is upright before God and not bent in upon itself or upon something else as God, is founded upon the eternal good and stands. It therefore has an abundance from which it can glory, luxuriate, be resplendent and defiant . . . But the twisted souls, curved upon themselves . . . glory in themselves and not in God.”

62. “Because Christ is God and human being in one and the same person [. . .], therefore [. . .]”: WA 7, 55,8–16; LW 31: 351. On the Freedom of a Christian, 1520.

63. WA 7, 55, 34 (On the Freedom of a Christian, 1520): “joyous exchange and conflict.”