

Kingdom Congress of Illinois

Position Paper on Hydraulic Fracturing: Civil Government Mandate

Man is made in God's image and likeness. Being made in God's likeness means man is to be in the earth in a "like manner" as God. This likeness imbues man with both the honor and responsibility of representing God, but this representation must be an accurate one. Man is to judge as God would judge, rule as God would rule, and build as God would build. Failure to do so brings the judgment "not good" and the dismantling of that which does not match the pattern. The ultimate judgment includes a transfer of stewardship to a faithful representative.

Civil Government, as an extension of man's individual authority, is an extension of the Dominion Mandate and, as such, falls under the same requirements of faithful stewardship. The Civil Government is subject to the limitations and rights conferred upon it by the Creator. It too is imbued with the honor and responsibility of representing God in its God-given realm of authority. Its representation also must be accurate or else the judgment "not good" will be passed. The dismantling of governments has been seen throughout the ages and usually includes a transfer of stewardship, sometimes even resulting in a new name for the nation.

We saw tribal government transformed into civil government as the nation of Israel became too large for Moses to manage. Up until this shift, law for the Israelites had been executed through the structure of the extended family. This familial nature was retained in the civil government set up in the wilderness. Judgment and execution of justice in many cases remained in the hands of families until it was too big of an issue for the families to manage. Moses appointed judges to handle that next level of governing and judgment (Ex. 18:13-26).

Moses appointed judges over thousands, hundreds, fifties, and tens. This however did not eliminate the familial responsibility to rule one's household. Issues were resolved at the lowest possible level of authority. The more difficult the issue, the further up the chain of command a grievance was pushed. Moses only got involved if something was too difficult for rulers of thousands to handle (Ex 18:22). When Moses appointed the judges, God sanctioned this delegation of authority by blessing it. Had it not been so, God would have intervened as He did in the case of Korah and his sons (Numbers 16:1-33).

Each person, household and tribe had authority to rule that which had been given to them by God. The judges did not need to get involved unless a boundary had been unlawfully breached. The purpose of civil government is to preserve the common good. Breaching a boundary has a negative effect on society and must be addressed so that justice is served. You could say justice is good for the "common unity" (community). Failure to honor boundaries results in a break down of society, thus the government must punish the boundary breaker or "execute wrath on him that doeth evil" (Romans 13:1-4).

Preserving the common good does not mean the government can interfere in every aspect of the individual's life. The government is limited by its God-given definition. The government must honor all of God's commands. It must preserve the rule of the individual over his own life to the fullest extent of that man's God-given authority. The government may not legitimately come in and rule over a man's household beyond its responsibility to punish the evil doer. If there is no

Kingdom Congress of Illinois

Position Paper on Hydraulic Fracturing: Civil Government Mandate

guilt, then the government must honor the man's right and responsibility to fulfill the Dominion Mandate. Liberty and the common good are ensured when government is restrained from violating these boundaries.

Since interpersonal relationships cannot always ensure the common good, the Civil Government has been assigned the duty to watch over these boundaries. The Government must protect the common good. They accomplish this by restraining boundary violators (trespassers/law breakers). They also accomplish this by upholding the cause of the righteous.

In order to apply this role of Civil Government to the topic of hydraulic fracturing (commonly referred to as fracking) we must address certain issues.

1. Who owns the land?
2. The rights intrinsic to personal property
3. The role of government in protecting the common good
 - a. pertaining to the headship of man
 - b. pertaining to contaminants
 - c. pertaining to contracts
4. The role of government in litigation
 - a. vetting the witnesses
 - b. discovery
 - c. upholding truth
5. Restraints upon the government
6. The danger of the bribe
7. The blessing of boundary keeping
 - a. brought to society by punishing the boundary breaker
 - b. brought to society when the government does not exceed its boundary

1. Who owns the land?

PS 24:1 The earth is the Lord's, and the fullness thereof; the world, and they that dwell therein.

God owns the land. As Creator, He has indisputable rights to it and everything in it. Since God owns the land, He can give it to whomever He desires (Numbers 33:51-54). In Joshua's day, the inhabitants of Canaan had been unfaithful in representing God's interest in the earth; and they received their "not good" judgment. Stewardship of the territory was transferred to the Israelites (Genesis 15:13-16). God told Joshua to divide the land and give it to the individual Israelite families. It belonged to the family forever. That land was never fully transferable. If they ever had to sell their property due to poverty, it was returned to them in the year of Jubilee (Leviticus 25:13).

Additional evidence that the land belongs to the landowner is found in the account of Naboth's Vineyard (1Kings 21). Ahab wanted Naboth's vineyard; but even as king, Ahab had no claimant right to the property. By employing deceptive and fraudulent practices, Ahab stole the land and sentenced Naboth to death by stoning. Ahab's (Civil authority's) unrighteous representation

Kingdom Congress of Illinois

Position Paper on Hydraulic Fracturing: Civil Government Mandate

resulted in God's "not good" judgment. And, just as the prophet foretold, Ahab's blood was licked up by the dogs in the same place Naboth was stoned (I Kings 22:29-38), and Jezebel was devoured by the dogs by the wall of Jezreel (II Kings 9:30-37).

Since Scripture declares that God owns the land and not the government, the landowner manages His property as God's stewards. Landowners therefore possess certain rights pertaining to their personal property.

2. The rights intrinsic to personal property.

Personal property is the portion of a man's possessions that accumulate through inheritance from the family line, the faithful execution of hard work, and the diligent application of wisdom. Through faithful labor and application of the dominion mandate, a man earns a wage that is due to him in exchange for his labors (Luke 10:7). Because God is true owner of everything, He requires 10% of a man's increase to be paid as a tithe or tax to God. God delegates the remaining 90% to man for stewardship. Man is responsible to deal with his property and labor as God would, thus faithfully representing him in the earth.

Because that which he has purchased is a representation of his very self, man has freedom to choose what he will do with that 90%. Actually he can do whatever he wants with 100% but the consequences of stealing from God (Malachi 3:8-9) are even greater than the consequences of poor management. The principle of the tithe teaches us that increase is expected (also found in the parable of the talents Mt. 25:14-30) so a wise man will take instruction from the Lord. However, until the time of judgment, the property owner is free to trade, sell, rent, contract or even neglect as he determines, although all of those choices have consequences. Not even God controls every choice or action of a man as he deals with his personal property.

The government only has the right to act when business endangers the common good, or, more clearly, when the boundaries of another are in danger of being violated. This would include one party breaking a contract, danger of contaminating another's property or person, and when violation of other laws such as murder, theft and false witness are involved.

Concerning the subject of hydraulic fracturing: the rights of the landowner include the right to contract with companies that use fracking to obtain the resources found within the boundaries of his personal property.

3. The role of government in protecting the common good

The primary role of government is to protect the common good by executing judgment upon the evil doer (Romans 13:4). Government officials are in place for the sole purpose of executing justice and judgment (1Ki 10:9). As we examine the business of fracking, we can find several good causes that might initiate government intervention.

Kingdom Congress of Illinois

Position Paper on Hydraulic Fracturing: Civil Government Mandate

a. Pertaining to the headship of man

We have established that man has headship over his private property. The government does have authority to remove a man from headship if he is found to be guilty of certain crimes that might mandate imprisonment or the death penalty. In such cases, the man's personal headship may be forfeited; but his heirs inherit the headship rights to the property (after penalties/fines are remitted from the man's assets) and thus the right to do business utilizing that property.

The government is limited to punishing the evil doer. The heirs cannot be punished unless they too are guilty. The property cannot be seized as punishment since the property ultimately belongs to God and not the government. God requires that the property remain with the heirs. Transfer of stewardship is not within the power of the civil government.

b. Pertaining to contaminants and violations of others' rights

The government has the right and responsibility to examine evidence and establish laws that prevent the contamination of a neighbor's personal property or of a group of neighbors' property. (i.e. - the borders of a city or a nation) The government's involvement is limited to that which breaches the boundaries of others. This could include biological or chemical contamination of air, water or soil, which endangers the common good (Leviticus 14:34-45), the physical use of property that does not belong to the business (Exodus 22:5), damage to the private property of others which is caused by the action or inaction during in the course of business (Deuteronomy 19:5-6).

Concerning hydraulic fracturing: The civil government is responsible to make a just determination of the contamination potential of the business of fracking. If it does not exist, then the government cannot create laws that prevent its practice.

c. Pertaining to contracts

Contracts are agreements forged between two persons or two parties that desire to work together to obtain a common goal. Contracts determine specific private property which each party voluntarily brings to the agreement, the delineated responsibilities, and the distribution of rewards. The government has minimal jurisdiction in this process unless one of the parties violates the contract (Leviticus 6:1-7). At that point, the government has the responsibility to enforce the contract and define the penalties involved in breaking the contract. Breaking contracts affects the common good. If companies or individuals could break contracts without consequence the whole economy and society of the nation would break down.

Concerning hydraulic fracturing: Fracking takes place as companies, which desire the resources found in the earth on a man's personal property, contract for right to access the

Kingdom Congress of Illinois

Position Paper on Hydraulic Fracturing: Civil Government Mandate

natural gas. If fracking companies and landowners uphold the contracts they have forged, then the government has no right to penalize either party.

4. The role of government in litigation

It is possible that, in the course of its execution of judgment and justice, the government could find cause for examination of a person's business dealings. A suspected breach might be brought to the government's attention by an individual or a business that is familiar with the persons or business operations involved.

If there is sufficient cause for further investigation, it is important that the government maintain its God-given boundaries and upholds its God-given responsibilities. Therefore an accusation may be brought before the courts by any party.

a. Vetting the witnesses

Once an accusation has been made, it is the government's responsibility to vet the witnesses who bring the accusation to the attention of the government. The government must examine the witnesses to assure that they are reputable, honest, sincere and informed. If a witness is found to be false, the government must execute judgment against the accusing party. No action should be taken without at least two reliable witnesses (Deuteronomy 19:15).

Concerning hydraulic fracturing: It is the government's responsibility to determine whether or not the party making the accusation that fracking harms private property brings a reliable charge. Although ecological activists have the right to bring a charge, the civil realm has the responsibility to ensure that all testimony is factual and that their cause is not corrupted by hidden motives such as personal or political gain.

b. Discovery

If the witnesses are found to be reliable and in agreement, then the government may continue the investigation into the alleged breach. This might include utilizing media reports (if the veracity of such reports is confirmed), other eye witnesses in addition to those who are making the accusation, calling upon experts who witness to the truth or falsehood of the accusation, inspection of the personal property involved, scientific examination, and other truth revealing methods.

Once all of the evidence is examined and all of the witnesses have been heard, the government must consider the weight of each element of the case. Whatever truth is discovered must be upheld through sanctions against actionable offenses and reimbursement for the cost of discovery at the expense of the party found to be wrong.

Kingdom Congress of Illinois

Position Paper on Hydraulic Fracturing: Civil Government Mandate

Concerning hydraulic fracturing: It appears that discovery supports the general safety of fracking. Should further discovery reveal that those who sought out civil action to block or prohibit fracking be found as false witnesses rather than just inadequately informed witnesses, civil action may be taken against the false witnesses (Deut. 19:18-19).

5. Restraints upon the government

The government is limited by the command of God as much as the individual is (Deut 17:19). The government cannot make or execute a law that breaches God's commands in spite of the perceived need.

The government is also limited by its God-given sphere of influence. The government may not take rights into its own hands that God has not defined. The government is not a definer of evil but an executor of justice as defined by God.

Concerning hydraulic fracturing: Aside from potential breaches of contract and laws against contaminants, the government has little reason to insert its authority into the business of hydraulic fracturing. In doing so, the civil realm breaches its God-ordained limits.

6. The danger of the bribe

When Moses' Father-in-Law gave him the wise counsel about appointing judges, he specified what type of person Moses should appoint. Moses was to choose able men, such as fear God, who are trustworthy and hate a bribe (Ex 18:21, ESV). Bribes subvert justice. Since justice is the primary purpose of government, taking a bribe is a grievous sin that disqualifies the civil ruler and breaches the God-established boundary that ensures the common good. (*Exodus 23:8 And you shall take no bribe, for a bribe blinds the clear-sighted and subverts the cause of those who are in the right.*)

Bribes are not always in the form of currency. They may be offered/taken in the form of promised political support and/or promised support from the media. These potential breaches should be investigated. Bribes that result in reward to false witnesses or that influence the outcome of a verdict diminish the prosperity and freedom of private parties and harm the common good.

Concerning hydraulic fracturing: Caution needs to be observed that ecological activists, media, and civil officials are not profiting in their cause by profiting one another through some version of a bribe.

7. The blessing of boundary keeping

There is great potential for blessing if boundaries are kept. In fact, all of the blessings of the covenant (Deuteronomy 28:1-13) are a result of keeping the boundaries set by God.

Kingdom Congress of Illinois

Position Paper on Hydraulic Fracturing: Civil Government Mandate

a. Blessing is brought to society by punishing the boundary breakers

Keeping the commandments includes keeping the laws to punish evildoers. One example of the blessing of punishing boundary breakers is found in God's commands concerning the punishment of murderers. (*Numbers 35:33 So ye shall not pollute the land wherein ye are: for blood it defileth the land: and the land cannot be cleansed of the blood that is shed therein, but by the blood of him that shed it.*) Executing justice brings the blessing of an unpolluted land.

b. Blessing is brought to society when the government does not exceed its boundary

Proverbs 29:2 When the righteous thrive, the people rejoice; when the wicked rule, the people groan.

Scripture makes it clear that civil government is limited. In Deuteronomy 17, the Lord instructs the Israelites concerning the limits of a king. It was so important that the king keep the law that he was required to make a copy of it to keep with him for study (Deut. 17:14-20). Violation of God's laws always brings a curse but keeping God's laws always brings blessing. Although covenant-keeping obedience applies to the individual, it equally applies to civil government.

Concerning hydraulic fracturing: There are huge blessings tied to the release of our natural resources, not only to those who are in the fracking industry but to the nation as a whole. Also, if those bringing accusation are found to be false witnesses and punished as such, there would be new motivation for truth in the media and restraint from unsubstantiated law suits. The blessing of those two scenarios alone would be significant to our nation. Also, if the government would stay within its boundaries in this case, the blessing of liberty would flow liberally to the citizens of the land.

This Position Paper was written by Karen Woolard