Reframing Catholic and Islamic Political Theologies: the Human Good as a Basis for Public Civility

by

Richard S. Park

A dissertation presented for the degree of Doctor of Philosophy
to the Faculty of Theology and Religion in the University of Oxford

Oriel College
Hilary Term 2014

Word count: 99,888

Reframing Catholic and Islamic Political Theologies:
the Human Good as a Basis for Public Civility

TABLE OF CONTENTS

Abstracts **2**

Thesis Outline **10**

Acknowledgements **15**

Chapter One
Religious Plurality, Political Theory, and Public Civility **16**

Chapter Two
Secularity, Modernity, and Multiculturalism **62**

Chapter Three
The Common Good, the Human Good, and Catholic Social Thought **111**

Chapter Four
The Human Good in Islamic Political Theology **172**

Chapter Five
Public Civility, the Human Good, and Moral Cosmopolitanism **236**

Bibliography **297**

Figure 3.1
Natural law *vis-à-vis* Islamic law **154**

Reframing Catholic and Islamic Political Theologies:
the Human Good as a Basis for Public Civility

Richard Park
Oriel College
Doctor of Philosophy
Trinity Term 2013

Abstract

With the rise of religious plurality and the global public resurgence of religion, deep social unrest and even fatal violence have resulted in a compelling need for plural societies to construct a framework of 'public civility'. Recently, secularist frameworks such as multiculturalism and legal pluralism have been put forward. Yet, insofar as these approaches are considered non-moral, they are relativistic, and thereby lack the resources needed to ground a universal public civility. Also, approaches to building a 'just society' within both Catholic social thought and Islamic jurisprudence have been made specifically on the basis of 'the common good'. The problem with these approaches is that the so-called 'common good' is internally defined such that the 'good' is ineluctably uncommon. A more promising basis on which to construct a universal framework of public civility I argue is found in the classical notion of 'the human good'.

The argument proceeds in three main stages: (1) a critical assessment of ideological and sociological forces which have resulted in the fragmentation of modern society and the decline of public life; (2) a delineation of 'the human good' on the basis of which I construct a framework of public civility between Catholic and Islamic traditions; and (3) an illustration of the proposed framework in Mindanao, Philippines which represents one of the longest standing internal conflicts in history.

The main contention is that Catholic and Islamic political theologies enhance the construction of public civility when reframed in terms of 'the human good' in contrast to 'the common good'. In support of this thesis, I explore the Catholic doctrine of the *imago*

dei and the Islamic notion of *fiṭra* as prospective conceptual counterparts to the idea of 'the human good'. I conclude by analyzing the cosmopolitan scope of a framework of public civility as based on 'the human good'.

Reframing Catholic and Islamic Political Theologies:
the Human Good as a Basis for Public Civility

Richard Park
Oriel College
Doctor of Philosophy
Trinity Term 2013

Extended Abstract

With the rise of religious plurality and religion's global public resurgence, pervasive social unrest and rampant violence have yielded a clear need for constructing a framework of civility which befits and motivates a common public life. Prerequisite to the task of commending a conceptually valid and practically viable framework in late modernity is both a critique of the ideas that have helped to shape the modern outlook and a critical appreciation of the social and cultural contexts in which the late modern world is situated. The overarching aim of this project is to consider ways of constructing in liberal democratic societies a framework of what I call 'public civility', especially between Christian and Muslim communities. I offer an illustration of an application of this framework in Mindanao, Philippines.

By 'public civility' I mean the attitudes, affirmations, and actions consonant with a just and peaceable common public life. The deeply fragmentizing effects that modernity has had on plural societies tend to exacerbate situations of religious conflict. In order to counteract such fragmentation in the context of religiously divided societies, it is important to examine the relevant political theologies of the religious groups in question. Given, then, the social, political, legal, and theological aspects pertinent to constructing a framework of public civility, the methodology that I employ is multidisciplinary, involving (*inter alia*): sociological theories of modernity and multiculturalism; a political science perspective on religion and violence; philosophical analyses of legal pluralism and moral relativism; and an exploration of Christian and Islamic political theologies.

I begin in Chapter One by exploring the issues that surround the central problem of this study: namely, the ideological commitments and sociological constraints which condition the prospect of constructing a common public life in late modern societies. In this discussion, I also draw on recent evidence from political scientists who work specifically in the area of religious violence to highlight the deep need for constructing a framework of public civility, especially among Muslim and Christian communities. Then, I move to expound my notion of public civility, both by outlining the conceptual and social histories surrounding its central idea and by juxtaposing it with its etymological cousins (e.g., 'civilized', 'civilization', 'city', 'civil society', etc.). Here, I develop my notion of public civility in contrast to the notion of 'personal' civility as studied notably by the social historian Norbert Elias. Next, I consider and critique the constraints on public civility which emerge from what I call the 'tradition' of modern secularism, especially in view of its privatizing effects on religion. Central to this critique are a political theoretical analysis of the notion of human freedom and an investigation of modernist conceptions of the role of the state. This introductory chapter lays out various aspects of modernism and secularism which make an impact on the construction of public civility in divided societies, aspects of which I consider further in Chapter Two.

I begin Chapter Two with a comment about the methodology used in this chapter which differs significantly from the previous and subsequent chapters. To construct a practically viable framework of public civility, it is important not only to critique the ideological forces of modern secularism (*history of ideas*), but also to examine critically the social conditions of secular modernity (*sociology of knowledge*). I follow up this discussion with a treatment of both secularization theory and the historical rise of the public and private spheres of modern life. I situate this treatment both within the sociological theories of thinkers such as Zygmunt Bauman, Peter Berger, Jürgen Habermas,

and Richard Sennett; and within the literature on secularization theory from José Casanova, Charles Taylor, among others. In doing so, I consider several major social shifts which influence interreligious public civility, namely: the decline of public life; the distortions of the public and private spheres; and the rise of what I term 'the professional sphere'. I contend that such transformations have deeply detrimental effects on the forging of public civility in any given modern society, let alone one marked by religious plurality. What is needed, therefore, is a corrective understanding of public life and of the public sphere as well as a recovery of the classical idea of 'the human good'. Before unpacking in detail this notion of the human good in Chapter Three, I turn to consider two recent, secularist approaches to framing public civility: multiculturalism and legal pluralism. Given their allegedly non-moral and relativistic character, such frameworks, while useful in some ways, are ultimately inadequate to ground public civility in the religiously divided societies of late modernity.

In Chapter Three, I turn my focus toward the prospect of constructing a framework of public civility within Catholic social thought. I begin by discussing the possibility of constructing such a framework on a basis prevalent in Catholic thought: that of 'the common good'. Here, I engage critically with natural law theorists such as Joseph Boyle, John Finnis, Germain Grisez, and Robert George as well as Catholic political philosophers such as David Hollenbach and Alasdair MacIntyre – all who favour this approach. Arguing that such an approach is either conceptually underdetermined or ultimately relativistic, I commend the classical notion of the human good as a universal and more promising basis of grounding a framework of public civility. I unpack this notion of the human good in terms of three essential attributes – relationality, purposiveness, and rationality – and explore its implications for a common public life in plural societies. Then, in dialogue with Catholic legal scholars such as Zachary Calo, Paolo Carozza, and Christopher McCrudden,

I distinguish the notion of the human good from the related notions of human nature, human dignity, and human rights. I also explore Catholic theological resources, as found especially in the Catholic Social Teaching of the Second Vatican Council, in order to construct a Catholic political theology based on the notion of the human good. More specifically, I examine the Catholic doctrine of the *imago dei* which functions as a conceptual counterpart to my notion of the human good, and which serves as a Catholic basis of a universal framework of public civility. In the final section, I respond to a critique of natural law theory given by Michael Walzer (among others) – that there is no common human nature on which universal moral truths can be grounded – in view of its potential charge against my account of the human good.

In Chapter Four, I seek to construct an Islamic equivalent of a political theology based on the notion of the human good. I begin by considering this prospect first within the area of Islamic jurisprudence. Here, I discuss issues such as the contextualizability of *sharīʿa* (Islamic law) in accommodating itself to the conditions of modernity, the tools of *ijtihād* (independent reasoning) and legal flexibility, and the meaning and function of *maṣlaḥa* as 'the common good'. In this discussion, I engage with contemporary Muslim scholars from so-called reformist streams (e.g., Abdullahi Ahmed An-Naʿim, Tariq Ramadan, Abdulaziz Sachedina, *et al*.) as well as more traditionalist ones (e.g., Ṭāhā Jābir Fayyāḍ ʿAlwānī, Yūsuf al-Qaraḍāwī, *et al*.). I conclude this section by suggesting that, even with the various juristic methods and tools found within Islamic jurisprudence, there has yet to be secured an adequate Islamic basis for constructing public civility. For this reason, I turn to an exploration of the notion of *fiṭra* (original human disposition) which I argue represents an Islamic counterpart to my notion of the human good, and which serves as a more promising basis for constructing public civility than what is found in Islamic jurisprudence. Here, in making a case for a rather universalistic understanding of *fiṭra* – as

opposed to the idea that the meaning of *fiṭra* is limited to Muslims – I engage with scholars from the classical period of Islam (*ca*. 10th-14th centuries) such as Ibn Sīnā (d. 1037) and Ibn Taymiyya (d. 1328) as well as with other thinkers from the first century of Islam such as the second Caliph 'Umar Ibn al-Khaṭṭāb (d. 644) and Abū Hurayra (d. 678). Following this discussion, I consider the issue of whether the notions of *imago dei*, *fiṭra*, and the human good exhibit the kind of conceptual resonance among one another that I propose. I argue in favour of such conceptual resonance, in light of: (1) the more 'optimistic' gloss of the *imago dei*, especially as conceived in post-Vatican II Catholic social thought, over against the characteristically more pessimistic view thereof within Protestant Christian traditions; and (2) the (rationalist) *Muʿtazilī* theological tradition of Islam, which strongly lends to a teleological account of human personhood, over against the revelationist *Ashʿarī* tradition. Finally, I construct an Islamic political theology of public civility which builds especially on An-Naʿim's idea of 'secularism as mediation' and Sachedina's 'inclusive political theology', and which is grounded on the notion of *fiṭra*.

The final chapter (Chapter Five) consists of two main parts. In the first part, I offer an illustration of my framework of public civility as applied to the context of Mindanao. Here, I focus especially on the Christian-Muslim interface over the course of four decades from 1968 to 2008 which represents one of the country's most conflictual and politically charged eras. It was also during this time that a plethora of civil society organizations and interreligious dialogue forums were initiated. From the findings of my fieldwork (which took place in January of 2011 and from November to December of 2012), I draw two main conclusions: (1) that pluralistic political theologies play a pivotal and positive role in the construction of public civility; and (2) that interreligious dialogue, especially when based (implicitly or explicitly) on the idea of the human good, represents a promising route for peacebuilding and civility construction in religiously conflictual societies. In the second

part of the chapter, by way of applying my theory beyond this study, I discuss the cosmopolitan implications of my framework of public civility, as based specifically on the universal notion of the human good. Here, I engage with anti-cosmopolitan thinkers such as Michael Walzer, David Miller, Anthony Smith, and Craig Calhoun, as I defend a view which I call 'moral cosmopolitanism'. Following this discussion, I explore resources within Christian and Islamic theological traditions which commend this cosmopolitan outlook. Finally, I underscore the importance of the virtue of gratitude and its unique role in constructing public civility in plural societies.

To recapitulate, given the modernistic distortions of certain key ideas in political theory and the sociological shifts of late modernity, secularist frameworks of public civility such as multiculturalism and legal pluralism have been considered and found inadequate. By contrast, the moral-religious traditions of Islam and Christianity provide resources within their respective theological ethics to construct a more promising framework. Accordingly, the overarching aim of this project is two-fold: (1) to argue that, in grounding a framework of public civility, Catholic and Islamic political theologies are conceptually better suited when reframed on the basis of the human good over against that of the common good; and (2) to show that a crucial moral implication of this framework is that a global scope of moral responsibility is philosophically justified. In brief, my aim is to show how the notion of the human good serves not only as a promising basis for constructing public civility in late modern liberal democratic societies, but also as a justification for what I call 'moral cosmopolitanism' – a view which holds that a global scope of moral responsibility is inherent to a framework of public civility which is based on the universal notion of the human good.

THESIS OUTLINE

Chapter One

Religious Plurality, Political Theory, and Public Civility

(§1.1) Introduction

- (§1.1.1) Scope of research and thesis question
- (§1.1.2) Chapter objectives

(§1.2) Two kinds of civility

- (§1.2.1) A brief history of 'civil society'
- (§1.2.2) Defining 'public civility'
- (§1.2.3) Public civility, liberal societies, and moral traditions
- (§1.2.4) Summary and transition

(§1.3) Public civility and the 'tradition' of secularism

- (§1.3.1) Privatization as secularization; privatization as secularism
- (§1.3.2) Background: the private, the public, and the political

(§1.4) Public civility and a 'critique of modernism'

- (§1.4.1) Modernism and human freedom
  - (§1.4.1.1) Modern liberalism and negative freedom
  - (§1.4.1.2) Objections to negative freedom
  - (§1.4.1.3) Communitarianism and positive freedom
  - (§1.4.1.4) The objection from totalitarianism
- (§1.4.2) Modernism and the role of the state
  - (§1.4.2.1) Transforming the 'political' self
  - (§1.4.2.2) Constructing a plural polity without human identity
  - (§1.4.2.3) Reconnecting ethics and politics
  - (§1.4.2.4) Secularism as a political tradition
- (§1.4.3) Summary: the role of the state and human freedom

(§1.5) Conclusion and transition

Chapter Two

Secularity, Modernity, and Multiculturalism

(§2.1) Introduction

(§2.1.1) Terms and method

(§2.1.2) Summary and transition

(§2.2) The public and private spheres of modernity

(§2.2.1) A brief history of the spheres of life

(§2.2.2) The rise of the modern public sphere and the decline of public life

(§2.2.2.1) Modern public attire and speech

(§2.2.2.2) The modern world of work

(§2.2.2.3) Modern social space

(§2.2.2.4) The scene of modern politics

(§2.2.3) Summary and transition

(§2.3) The distortions of the public and private spheres

(§2.3.1) Modernity's mutual colonization

(§2.3.2) Modernity's reversal, inversion, and creation

(§2.3.2.1) The rise of 'ordinary life'

(§2.3.2.2) The spread of 'individualized freedom'

(§2.3.2.3) The birth of the 'professional sphere'

(§2.3.3) Summary: the paradoxical need of plurality for public civility

(§2.3.4) Transition: responses to a fragmentizing modernity

(§2.4) Secularist frameworks of public civility?

(§2.4.1) The prospect of multiculturalism

(§2.4.1.1) The problems of multiculturalism

(§2.4.2) The prospect of legal pluralism

(§2.4.2.1) Legal pluralism or 'one law for all'?

(§2.4.2.2) Problems with legal pluralism

(§2.5) Conclusion and transition

Chapter Three

The Common Good, the Human Good, and Catholic Social Thought

(§3.1) Introduction

(§3.2) Public civility based on 'the common good'?

(§3.2.1) Catholic natural law theory and the common good tradition

(§3.2.1.1) New natural law theorists and the common good

(§3.2.1.2) David Hollenbach's 'pluralistic ensemble of goods'

(§3.2.1.3) Alasdair MacIntyre's associative common good

(§3.2.2) Summary and transition

(§3.3) A case for the human good: a historical introduction

(§3.3.1) Human rights and human nature *vis-à-vis* the human good

(§3.3.2) The human good as a basis for universal morality and public civility

(§3.3.3) The human good defined

(§3.3.3.1) Inherent moral relationality

(§3.3.3.2) Intrinsic purposiveness

(§3.3.3.3) Innate rationality

(§3.3.3.4) Summary and qualifications

(§3.3.4) Further explanations on the designation 'the human good'

(§3.3.5) Summary and transition

(§3.4) Catholic Social Teaching: *imago dei* as the human good

(§3.4.1) *Pacem in Terris*: human rights and the human good

(§3.4.2) *Gaudium et Spes*: human dignity and the *imago dei*

(§3.4.3) Human dignity *vis-à-vis* the human good

(§3.4.4) A response to a critique of natural law

(§3.5) Conclusion and transition

Chapter Four

The Human Good in Islamic Political Theology

(§4.1) Introduction

(§4.1.1) Public civility and the 'secular imperative'

(§4.2) The prospect of public civility within Islamic jurisprudence

(§4.2.1) Islamic legal theory and the contextualizability of *sharīʿa*

(§4.2.2) Legal flexibility and *ijtihād* as 'independent reasoning'

(§4.2.3) The prospect of *maṣlaḥa* as 'the common good'

(§4.2.4) Summary and transition

(§4.3) An Islamic conception of the human good

(§4.3.1) *Fiṭra* as the human good

(§4.3.2) *Fiṭra*: flourishing as a Muslim human?

(§4.3.3) Comments on conceptual resonance

(§4.3.4) Summary and transition

(§4.4) Public civility and Islamic political theology

(§4.4.1) Islamic political theology in the liberal state

(§4.4.2) The political-theological 'framework' of Abdullahi Ahmed An-Naʿim

(§4.4.2.1) A separation of the spheres of authority

(§4.4.2.2) Implications and critique

(§4.4.3) The 'inclusive political theology' of Abdulaziz Sachedina

(§4.4.3.1) The juridical closure of pluralistic Islamic political theology

(§4.4.3.2) The need for a recovery of teleological Islamic ethics

(§4.4.4) A comment on Islamic political theology and Islamism

(§4.4.5) Revisiting the role of *sharīʿa*

(§4.5) Conclusion and transition

Chapter Five

Public Civility, the Human Good, and Moral Cosmopolitanism

(§5.1) Introduction

(§5.2) A historical sketch of a special study: Mindanao, Philippines

(§5.2.1) Early historical background: 1200s-1960s

(§5.2.2) Peace agreements – attempts and failures: 1970s-1990s

(§5.2.3) Politics, peacebuilding, and civil society: 2000s-2008

(§5.2.4) Summary and transition

(§5.3) The Mindanaoan struggle: applying the framework of public civility

(§5.3.1) The question of legitimate Muslim representation

(§5.3.2) Political theology and interreligious engagement in Mindanao

(§5.3.3) Findings from interviews conducted from November to December 2012

(§5.3.4) Conclusions and commentary

(§5.3.5) Summary and transition

(§5.4) The human good and the scope of public civility

(§5.4.1) Moral cosmopolitanism defined

(§5.4.2) Moral cosmopolitanism defended

(§5.4.2.1) Cosmopolitanism *vis-à-vis* 'nation-ness'

(§5.4.2.2) Objections to cosmopolitanism considered

(§5.4.3) Theological justifications for moral cosmopolitanism

(§5.4.3.1) Muslim reflections on cosmopolitanism

(§5.4.3.2) Christian reflections on cosmopolitanism

(§5.4.4) Summary and transition

(§5.4.5) Gratitude as the ground of global friendships: an insight from Mindanao

(§5.5) Final remarks

*** * ***

ACKNOWLEDGMENTS

The gratitude one has for the benefits one receives can be difficult to put into words. While recognising this difficulty and risking some (possibly obvious) omissions, I would like to acknowledge the help that I have received in constructing this 'framework of public civility'. First and foremost, I thank my parents, Brian and Soo, who have taught me, more through life than with words, the virtues of a disciplined mind, a joyful spirit, and a God-fearing disposition. Without their constant love and unyielding prayers, I would not be where I am today. They have sacrificed much; they have shown even more.

The intellectual and moral courage of Os Guinness (DPhil, Oxon) and David Horner (DPhil, Oxon) – who themselves are incidentally of Oriel College, Oxford – have helped me to see what true mentors look like. Their strength of character, their care for this world, and their conviction of the one to come are virtues I could only hope to emulate.

For various aspects of this (rather) multidisciplinary work, I thank especially: in the fields of political theory and political science, Monica Duffy Toft (Oxford's Blavatnik School of Government); for my appreciation of social theory and modernity critique, Os Guinness; in matters involving legal theory as well as Catholic social thought, Paul Yowell (Oriel College, Oxford); and within Islamic legal and political thought, the scholars at the Center for Muslim-Christian Studies, Oxford, including but not only Shabbir Akhtar, Ida Glaser, and Martin Whittingham. Whether through extensive feedback, probing inquisitiveness, or collegial encouragement, these distinguished thinkers have contributed greatly to my academic journey here at Oxford, being willing to travel with me – perhaps at points even uncomfortably – outside their academic homes. I am sure that I have learned from them much more than I now can see, and probably more than I will ever know.

I also offer my thanks to 'The Thursday Theologians' – Max Baker-Hytch, James Crocker, Geoff Dargan, Jon Knoche, and Luke Martin – for having contributed to my work and adding to my life in more ways than I could count (not to mention for forgiving my absence on far too many occasions when I was feverishly working away!). I hope that in the years to come I might make up for lost time.

Sojourners who have enriched my soul and enlarged my outlook include: Max and Michelle Baker-Hytch, Jonathan and Tricia Brant, Britton and Michelle Brooks, Harry and Minerva Edwards, Pete and Angela Howard, Kurt and Michaela Jaros, Thomas Oh, Ryan and Jen Pemberton, Bobby and Clare Ryu, and our many financial partners whose anonymity bespeaks their generosity. Likewise, what I share with Nazirudin Mohd Nasir, along with his wife Azrifah, is, like any genuine friendship, truly invaluable.

My sisters, Gina and Jennifer, and sister-in-law, Jean, will never know how thankful I am for them simply because they will characteristically deny all of the undeserved kindnesses they have shown me. My parents-in-law, Young and Helen, have been a constant source of inspiration through their fervent prayers and encouraging smiles, making the doctoral experience incalculably more efficient and enjoyable.

Of course, I am deeply indebted for the always-wise and never-tiring supervision of Dr Mark D. Chapman; I meant every word in my email message dated 28 August 2013: 'I certainly have learned so much from you – not only with regard to the academic side of the DPhil, but also the kind of character that I, as a junior academic, wish also one day to have. Without question, I couldn't have hoped for a better supervisor.'

Finally and most deeply, I thank my wife, Christine, who, from her selfless soul and immeasurable heart, gave up almost everything that was so dear to her to allow me this opportunity to flourish, fail, and finally find myself standing on this side of the *viva* with my head high, heart humbled, and hand held. From early morning prayers to midnight feasts, you will always be my 'line in the sand', my 'queen', my 'everything'.

Chapter One

Religious Plurality, Political Theory, and Public Civility

(§1.1) Introduction

With the rise of religious plurality and the global public resurgence of religion,[1] there is within plural democratic societies a compelling need for constructing a framework for a common public life marked by what I call 'public civility'.[2] By 'public civility' (which I characterize further below) I mean: the discernible attitudes and actions, found among members in divergent communities, which contribute not only to the peaceful maintenance of a just society, but also to the robust sustenance of civic friendships. And these friendships, I contend, are made both necessary and possible in virtue of certain essential attributes which inhere in all human persons. Attempts to construct a theoretical framework of public civility – whether by way of secularist approaches (e.g., multiculturalism, legal pluralism; cf. Chapter Two) or within religious traditions (especially Roman Catholicism and Islam; cf. Chapters Three and Four) – have been made on the basis of 'the common good'. I contend, however, that such a basis, while useful in some respects, is ultimately inadequate to provide the resources needed for constructing public civility in plural societies; and that instead approaches to grounding public civility, especially within Catholic and Islamic political theologies, are offered more promisingly when reframed on the basis of 'the human good'.

---

[1] For a recent and extensive study on the relationship between contemporary forms of resurgent religion and the public spheres of constitutional democracies, see Monica Toft, Daniel Philpott, and Timothy Shah, *God's Century: Resurgent Religion and Global Politics* (New York: W.W. Norton, 2011).

[2] My encounter of the term 'public civility' comes in a recent work by a scholar of Islam who, in the introduction to his edited volume on 'Shariʿa Politics', argues that the 'adjustment of the shariʿa . . . to the widespread aspiration for public civility . . . is very much a work in progress'. See Robert Hefner, 'Introduction', in *Shariʿa Politics: Islamic Law and Society in the Modern World*, ed. Robert Hefner (Bloomington: Indiana University Press, 2011), p. 5. My development of the term predates this encounter.

Contrary to the mantra of secularization theory,[3] religion is on the rise in an increasingly public way.[4] Furthermore, given the trends of modern globalization, religious pluralization within societies is becoming arguably the dominant modern social condition.[5] In commending a conceptually valid and empirically viable framework, then, I suggest as a prerequisite to the task a critique of the ideas that have helped to shape the modern world as well as a critical appreciation of the social and cultural contexts in which the late modern world is situated. This chapter and the next comprise these respective critiques. Chapters Three, Four, and Five put forward a positive case of a framework of public civility based on what I find to be the indispensible notion of 'the human good'.

The political scientist Timothy Shah notes that, while in the past a variety of religious traditions including Christianity have been complicit in acts of deep incivility and even fatal violence, in the present century 'Islamist extremism and terrorism pose one of the gravest threats to peace, security, and freedom'.[6] Referencing the Global Terrorism Database, the political scientists Monica Duffy Toft, Daniel Philpott, and Shah show how between 1998 and 2004, Muslim terrorist groups 'have accounted for the overwhelming majority of attacks' – specifically, 98 percent of them involved 'Islamic ideas as a motivation for violence';[7] and, as Toft points out elsewhere, out of 42 religious civil wars

[3] Articulations of classical secularization theory can be found in works such as: Karl Marx, 'Preface to the Critique of Hegel's Philosophy of Right', in *Karl Marx and Friedrich Engels*, ed. Joseph O'Malley (Moscow: Foreign Languages Publishing House, 1962 [1859]); Émile Durkheim, *The Division of Labour in Society*, ed. Lewis Coser, trans. W. D. Halls (Basingstoke: MacMillan, 1984 [1893]); Max Weber, *General Economic History*, trans. Frank Knight (New York: Greenberg, 1927), Ch. 29 'The Rational State' and Ch. 30, 'The Evolution of the Capitalistic Spirit'; Auguste Comte, *System of Positive Polity* (London: Longmans, Green and Co., 1876 [1851-1854]). For recent literature on secularization, see the next note and section §1.3 below.
[4] Some notable critiques of classical secularization theory include: José Casanova, *Public Religions in the Modern World* (Chicago: University of Chicago Press, 1994); Gilles Kepel, *The Revenge of God* (Cambridge: Polity, 1994 [1991]); Peter Berger, ed. *The Desecularization of the World: Resurgent Religion and World Politics* (Grand Rapids: Eerdmans, 1999).
[5] For more on this point, see Peter Berger, *The Heretical Imperative* (New York: Doubleday, 1979); Peter Berger, 'Pluralism, Protestantization, and the Voluntary Principle', in *Democracy and the New Religious Pluralism*, ed. Thomas Banchoff (Oxford: Oxford University Press, 2007).
[6] Timothy Shah, *Religious Freedom: Why Now? Defending an Embattled Human Right*, ed. Matthew Franck (Princeton: Witherspoon Institute, 2012), p. 55.
[7] Toft, Philpott, and Shah, *God's Century*, pp. 127-28.

between 1940 and 2000, 34 cases have one or both parties claiming the religion of Islam.[8] One place where such fatal incivility exists is in the religiously plural and conflict-ridden region of the southern Philippines.

The overarching aim of this project is to examine various ways of constructing a framework of public civility, especially among Christian and Muslim communities, using Mindanao, Philippines as an illustration. In the Republic of the Philippines, Mindanao makes up one of the three major island groups, alongside those of Luzon and Visayas. Within the Philippine archipelago, Mindanao contains the largest Muslim population whose origins date back to the thirteenth century.[9] Since the arrival of the Spanish colonizers in the sixteenth century and to the present time, there has been continual and often fatal conflict between Muslims and Catholics, making it the second oldest internal religious conflict in recorded history next to the Sudan.[10]

While, for purposes of illustration, I could have chosen other places of long-standing conflict such as the Middle East, the Indian sub-continent, or the Republic of the Sudan, I find that Mindanao makes for a particularly illustrative example. Most importantly, the Mindanaoan struggle highlights certain issues within social, political, and legal theories that are central to my main argument: that the basis presupposed by various secularist and religious frameworks – namely, 'the common good' – is inadequate to ground public civility across divergent communities. Additionally, given my experience in, connections to, and knowledge of the southern Philippines, I have chosen to illustrate my proposed theory there. I reserve for Chapter Five an extensive historical sketch of the conflict in Mindanao as well as a discussion of my findings from the interviews I conducted there between November and December of 2012.

---

[8] Monica Toft, 'Getting Religion? The Puzzling Case of Islam and Civil War', *International Security* 31, no. 4 (2007): 97-131, p. 113.
[9] Syed Serajul Islam, 'Islamic Independence Movements', *Asian Survey* 38, no. 5 (1998): 441-56, p. 444.
[10] Salvatore Schiavo-Campo and Mary Judd, *The Mindanao Conflict in the Philippines* (Washington, DC: The World Bank, 2005), p. 1.

(§1.1.1) Scope of research and thesis question

The example of Mindanao illustrates the need to address a set of questions which challenge the construction of public civility in any similarly situated plural society, questions such as the following: Given the religiously driven nature of the conflict, what practicable conceptual basis might there be to ground peaceful coexistence and social solidarity? Rising above social separatism and moving beyond peacebuilding, how might there be constructed a public civility, especially across Muslim and Catholic traditions? Is full independence (which is favoured by many Muslim groups) the most promising route toward constructing such civility? Is 'the common good' approach (taken up within Catholic social thought) the most viable basis on which to construct such a framework? Or is there some other conceptual basis on which to construct public civility across divergent and often antagonistic communities?

The issues attending religious/cultural plurality and hostility have been studied by thinkers throughout history. Arguably, analysis of this problem reaches as far back as Aristotle.[11] Contemporary scholars of political theory such as Robert Audi, John Rawls, and Nicholas Wolterstorff have weighed in.[12] In sociology, social theorists such as Zygmunt Bauman and Jürgen Habermas as well as the multiculturalists Will Kymlicka, Tariq Modood, and Bhikhu Parekh have made notable contributions.[13] In legal theory, Ayelet Shachar, Rudolph Peters, and Jeremy Waldron have offered insightful views on the matter along with the comments particularly on Islamic law which come from scholars

[11] Cf. Aristotle, *Politics*, trans. Benjamin Jowett (New York: Dover, 2000 [ca. 350 B.C.]), Bk. 7, esp. Ch. 8
[12] John Rawls, *Political Liberalism*, expanded ed. (New York: Columbia University Press, 2005 [1993]); Robert Audi and Nicholas Wolterstorff, *Religion in the Public Square* (London: Rowman and Littlefield, 1997).
[13] Zygmunt Bauman, *In Search of Politics* (Cambridge: Polity, 1999); Jürgen Habermas, *The Structural Transformation of the Public Sphere* (Cambridge: Polity, 1989); Jürgen Habermas, *Between Naturalism and Religion*, trans. Ciaran Cronin (Cambridge: Polity, 2008); Will Kymlicka, *Multicultural Citizenship* (Oxford: Clarendon Press, 1995); Will Kymlicka, *Politics in the Vernacular* (Oxford: Oxford University Press, 2001); Tariq Modood, *Multiculturalism: A Civic Idea* (Cambridge: Polity, 2007); Bhikhu Parekh, *Rethinking Multiculturalism: Cultural Diversity and Political Theory*, 2nd ed. (Basingstoke: Palgrave Macmillan, 2006).

such as Wael Hallaq, Mohammad Hashim Kamali, and Sami Zubaida.[14] In the course of this dissertation, I build on the work of these scholars, among others, as I lay out my case for public civility across Muslim and Christian (specifically Roman Catholic) traditions.

The objective of this work is not to seek a legal solution to the problem of pluralism, although aspects of legal theory are considered; nor is it to offer a specifically political solution to the problem; rather, the challenge of public civility involves the human problem of living together across divergent traditions, given especially the conditions and constraints of late modernity. As Habermas argues, even within the context of political society alone, a *modus vivendi* is not sufficient for 'solidarity among citizens': rather, the prospect of civil 'coexistence within a democratic system must also be founded on convictions', including religious ones.[15]

Recently, in various academic disciplines there has been a resurgence in considerations of religious convictions and the actors who hold them. Notable works include those of political theorists such as Daniel Philpott, Timothy Shah, Monica Toft, and Thomas Banchoff as well as of historians and sociologists of religion such as Scott Appleby, José Casanova, Robert Wuthnow, and John Paul Lederach.[16] Accordingly, the deeply religious character of the Mindanaoan conflict serves to illustrate the importance of

---

[14] Ayelet Shachar, *Multicultural Jurisdictions* (Cambridge: Cambridge University Press, 2001); Ayelet Shachar, 'State, Religion, and Family', in *Shari'a in the West*, ed. Rex Ahdar and Nicholas Aroney (Oxford: Oxford University Press, 2010); Rudolph Peters, *Crime and Punishment in Islamic Law* (Cambridge: Cambridge University Press, 2005); Jeremy Waldron, 'One Law for All? The Logic of Cultural Accommodation', *Washington and Lee Law Review* 59, no. 1 (2002): 3-34; Wael Hallaq, *Sharīʿa: Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009); Mohammad Hashim Kamali, *Shariʿah Law: An Introduction* (Oxford: Oneworld, 2008); Sami Zubaida, *Law and Power in the Islamic World* (London: I. B. Tauris, 2003).

[15] Habermas, *Naturalism and Religion*, p. 3.

[16] Toft, Philpott, and Shah, *God's Century*; Thomas Banchoff and Robert Wuthnow, eds., *Religion and the Global Politics of Human Rights* (Oxford: Oxford University Press, 2011); Casanova, *Public Religions*; José Casanova, 'The Return of Religion to the Public Sphere: A Global Perspective' (paper presented at the conference, Blackfriars Hall, Oxford University, (2011); John Lederach, *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, D.C.: United States Institute of Peace Press, 1997); John Lederach, *The Moral Imagination: The Art and Soul of Building Peace* (Oxford: Oxford University Press, 2005); R. Scott Appleby, 'Building Sustainable Peace: The Roles of Local and Transnational Religious Actors', in *Religious Pluralism, Globalization, and World Politics*, ed. Thomas Banchoff (New York: Oxford University Press, 2008).

considering the political theologies of the communities who are involved in the peacebuilding efforts. This theological dimension of analysis is but one (albeit crucial) aspect of the fuller notion of public civility. In the next section (§1.2), I explore in detail the concept of civility in order to set foundations for the rest of this study.

(§1.1.2) Chapter objectives

In this chapter, I examine various ideological forces of modernity which undermine the construction of public civility in plural societies. To this end, I proceed as follows: First, I explore the features and functions of what I call 'public civility', and point out the need for a moral dimension of social analysis when constructing a framework of public civility (§1.2). Then, I discuss the impact of what I call the 'tradition' of secularism, and consider the ways that it conditions and constrains the construction of public civility in societies comprised specifically of diverse religious communities (§1.3). Finally, I discuss two political theoretical issues that crucially bear on the prospect of constructing public civility, namely, the notions of human freedom and of the role of the state (§1.4). Essential to this last discussion is a consideration of the modernist distortions of freedom and of the political state, distortions which stem from the 'tradition' of secularism. Immediately below, I delineate the significance of 'public civility', and consider its implications for religiously diverse and conflictual societies.

(§1.2) Two kinds of civility

The idea of civility may be parsed in two distinct ways. First, civility in the context of 'civil society' has been analyzed by social and political theorists in the following way. In modern liberal democratic societies, with an expanding political statism on the one hand and a fragmentary relativism of the private sphere on the other, there is a crucial need for

what Habermas calls a 'mediating structure', which acts as a 'go-between linking state and society'.[17] Similarly, Peter Berger speaks of civil society as the 'mediating structures . . . of family, church, voluntary association, neighbourhood, and subculture' which help to balance the impersonal 'megastructures' of the public sphere (e.g., the state, business corporations, etc.) with the 'underinstitutionalized' realm of the private sphere as increasingly characterized by the autonomous self.[18] As Antonio Gramsci puts it, 'between the economic structure and the state with its legislation and coercion stands civil society'.[19]

Martin Shaw augments these characterizations of civil society by highlighting the recent global dimension that has emerged:

> Civil society comprises formal organisations of a representative kind (e.g., parties, churches, trade unions . . .); formal organisations of a functional kind (e.g., schools, universities and mass media); and more informal social and political networks, ranging from local voluntary groups and ad hoc activists to nationally or internationally coordinated social movements.[20]

According to Charles Taylor, '[w]e can speak of civil society wherever the ensemble of associations can significantly determine or inflect the course of state policy'.[21] The Philippines sociologist Cynthia Bautista analyzes civil society in terms of the activity which binds together members of society in a conceptual structure that is separate and distinct from the market and the state[22] – an analysis shared by other social and political

[17] Habermas, *Structural Transformation*, pp. 175-80.
[18] Peter Berger, *Facing up to Modernity* (New York: Basic Books, 1977), pp. 170-73.
[19] Antonio Gramsci, *Selections from the Prison Notebooks*, ed. Quintin Hoare and Geoffrey Nowell-Smith (London: Lawrence and Wishart, 1971), p. 208.
[20] Martin Shaw, 'Civil Society and Global Politics', *Millennium: Journal of International Studies* 23, no. 3 (1994): 647-67, p. 648.
[21] Charles Taylor, 'Modes of Civil Society', *Public Culture* 3, no. 1 (1990): 95-118, p. 98. Similarly, Walzer writes: 'The words "civil society" names the space of uncoerced human association and also the set of relational networks – formed for the sake of family, faith, interest, and ideology – that fills this space.' See Michael Walzer, 'The Idea of Civil Society', in *Community Works: The Revival of Civil Society in America*, ed. E. J. Dionne (Washington, D.C.: Brookings Institution Press, 1998), pp. 123-24.
[22] Cynthia Bautista, 'Democratic Consolidation and the Challenge of Poverty in the Philippines', in *Asian New Democracies*, ed. Michael Hsiao (Taipei: Taiwan Foundation for Democracy, 2006), p. 91.

theorists whose specific focus is Southeast Asia.[23] In brief, civil society is distinct from and helps to mediate between the spheres of statecraft and private life.

A second way that civility may be understood has to do with 'the other' or 'the stranger' in society.[24] To distinguish between these two kinds of civility, I characterize the first (above) as having to do with the 'vertical dimensions of civility' – in view of the mediatory role it plays between the state and the self – whereas the second (below) has to do with what I call the 'horizontal dimension of civility'.[25]

This horizontal dimension of civility is captured well in these words from Bauman:

> The main point about civility is the ability to interact with strangers without holding their strangeness against them and without pressing them to surrender it or to renounce some or all the traits that have made them strangers in the first place.[26]

For Bauman, horizontal civility enables individuals in society to treat their fellow members with respect and dignity, regardless or perhaps precisely because of their differences, whether racial, religious, cultural, or otherwise. Similarly, Richard Sennett argues that in late modern society, there are experiential 'jolts' which are 'necessary to a human being to give him a sense of tentativeness about his own beliefs', a tentativeness 'which every civilized person must have'.[27] Thus, horizontal civility helps both to diminish strangeness, and to build mutual respect and social cohesion.

---

[23] Sidney Silliman and Lela Noble, *Organizing for Democracy: Ngos, Civil Society, and the Philippine State* (Honolulu: University of Hawai'i Press, 1998), p. 13.

[24] Within the continental philosophical tradition, a key thinker of the philosophy of 'the other' is Emmanuel Lévinas whose works in this area include: Emmanuel Lévinas, *Totality and Infinity: An Essay on Exteriority*, trans. Alphonso Lingis (Pittsburgh: Duquesne University Press, 2007 [1961]); Emmanuel Lévinas, *Otherwise Than Being* (The Hague: Nijhoff, 1981 [1974]). In my analysis of 'the other' or 'the stranger' in society (especially in Chapter Two), I limit myself to conceptions found in the works of thinkers such as Bauman, Habermas, and Sennett (see below). The rationale for this delimitation is that what matters in my analysis and critique is not the philosophical conception of 'the other' in society, but the impact that the lived-experience of 'the other' has on the construction of public civility.

[25] Lederach employs the notions of '*horizontal*' and '*vertical capacities*' which I later discovered as similar to my notions here. See Lederach, *Moral Imagination*, pp. 79-80.

[26] Zygmunt Bauman, *Liquid Modernity* (Cambridge: Polity, 2000), pp. 104-05.

[27] Richard Sennett, *The Fall of Public Man* (London: Penguin, 2002 [1976]), pp. 295-96.

In sum, vertical civility has mainly to do with social institutions that perform primarily a mediatory role for the sake of influencing state policies; and horizontal civility concerns the plurality of divergent groups within a given society, and the attendant activity of preventing or at least minimizing the alienating effects of 'social *anomie*'[28] in a fragmented and fluid 'liquid modernity'.[29] Ernest Gellner's succinct definition of 'Civil Society' as 'institutional and ideological pluralism'[30] brings out well both the vertical and horizontal dimensions of civility, respectively. Yet, aside from the etymological commonality between vertical civil society and horizontal civility, what conjoins these two distinct ideas? That is, how are the contemporary understandings of horizontal civility related to historical development of vertical 'civil society'?

(§1.2.1) A brief history of 'civil society'

In the classical period, 'civil society' was the political city-state, and 'civility' (for Plato and Aristotle at least) simply described virtuous citizenship within the *polis*.[31] Into the Medieval period as well, 'civil society' was synonymous with the political realm.[32] Even in early modern period, 'civil society' was 'political society':[33] whether construed in terms of Hobbes' 'commonwealth'[34] or Rousseau's '*la société polie* [the polite society]',[35] civil society was basically identical to the political state. It is since the Enlightenment, especially post-Hegel, that civil society came to be understood as 'a defence against

[28] Berger, *Facing Modernity*, pp. 170-73.
[29] Bauman, *Liquid Modernity*, pp. 6 ff.
[30] Ernest Gellner, *Conditions of Liberty* (London: Penguin, 1996), p. 3.
[31] Cf. Plato, *The Republic*, ed. Ivor Richards (Cambridge: Cambridge University Press, 1966 [ca. 360 B.C.]), esp. Bks. 1 and 5; and Aristotle, *Politics*, esp. Bk. 1, Ch. 1 and Bk. 2, Ch. 5; see John Ehrenberg, *Civil Society: The Critical History of an Idea* (New York: New York University Press, 1999), Ch. 1, 'Civil Society and the Classical Heritage'.
[32] Ehrenberg, *Civil Society*, p. xi.
[33] Michael Edwards, *Civil Society* (Cambridge: Polity, 2004), p. 6.
[34] Thomas Hobbes, *Leviathan*, ed. Michael Oakeshott (Oxford: Blackwell, 1948 [1651]), Part 2, Ch. 17.
[35] Jean Jacques Rousseau, *The Social Contract and Discourses*, trans. G. D. H. Cole (1762), Bk. 1, Ch. 8.

unwarranted intrusions by the state on newly realized individual rights and freedoms, organized through the medium of voluntary associations'[36] – i.e., vertical civil society.

In the Enlightenment discourse on civil society, an important historical question arose as to whether civil society includes the realm of economic activity.[37] For Karl Marx (d. 1883), since a common economic life was the essence and end goal of civil society, it was within the 'political economy' that the 'the anatomy of civil society' was to be sought.[38] Such a view is unsurprising, given Marx's famous aphorism: 'The first historical act is . . . the production of the material life itself.'[39] Similarly for Immanuel Kant (d. 1804), a common economic life had quite literally a civilizing effect: 'The commercial spirit cannot co-exist with war, and sooner or later it takes possession of every nation.'[40] In the same vein, Montesquieu's (d. 1755) notion of *le doux commerce* ('the gentle trade') connects intimately economic activity with civil society: 'The natural effect of commerce is to lead to peace.'[41] Accordingly, economic activity, which demanded civil social interaction, was a central, if not defining, feature of civil society. On this basis, it is clear to see how civility and civil society are historically and conceptually linked.

Drawing on thinkers from Aristotle to Montesquieu, Adam Ferguson (d. 1816) also locates civil society within the sphere of the market economy.[42] (Indeed, Ferguson's *An Essay on the History of Civil Society* was motivated evidently by the emergence of the

[36] Edwards, *Civil Society*, p. 6; cf. Georg Wilhelm Friedrich Hegel, *Elements of the Philosophy of Right*, ed. Allen Wood, trans. H. B. Nisbet (Cambridge: Cambridge University Press, 1991 [1821]), esp. Pt. 3, Ch. 2, Sec. 182-95.
[37] Interestingly, in his *Politics*, Aristotle discusses the existence of two *agoras* – the 'upper' agora for leisure and the other for 'the necessities of trade'. See Aristotle, *Politics*, Bk. 7, Ch. 12.
[38] Marx, 'Hegel's Philosophy of Right', p. 362.
[39] Karl Marx and Friedrich Engels, *The German Ideology*, trans. S. W. Ryazanskaya (London: Lawrence and Wishart, 1965 [1846]), p. 39.
[40] Immanuel Kant, *Perpetual Peace: A Philosophical Essay*, ed. Mary Campbell Smith (London: George Allen and Unwin, 1903), First Supplement, p. 157.
[41] Baron de Montesquieu, *The Spirit of Laws*, ed. J. V. Prichard, trans. Thomas Nugent (London: G. Bell and Sons, 1914 [1752]), Bk. 20, Ch. 2, 'Of the Spirit of Commerce'.
[42] Adam Ferguson, *An Essay on the History of Civil Society*, ed. Fania Oz-Salzberger (Cambridge: Cambridge University Press, 1995 [1782]).

market economy in Great Britain.)[43] Ferguson writes that, since 'the care of subsistence is the principal spring of human actions, [civility is needed in] every department of public business [lest] man . . . be classed with the mere brutes'.[44] Civility, which is necessary for economic exchange, was understood to be the backbone for a civilized common life. Accordingly, then, Hegel's (d. 1831) characterization of *bürgerliche Gesellschaft* ('civil society') was novel in that it included not only this economic dimension, but also religious and educational associations (though Hegel himself favoured the state's ultimate domination of society *tout court*).[45]

Over time, discussion about civil society began focusing primarily on the latter (associational groups), even at times to the exclusion of the former (economic dimension) as seen in the work of Gramsci.[46] More recently, political and social theorists such as Christopher Lasch and Michael Walzer have argued against the idea of locating economics within civil society in view of the expanding global dimension of market capitalism.[47] Similarly, Jean Cohen and Andrew Arato contend that 'only a concept of civil society differentiated from the economy . . . can become the center of a critical social and political theory in market economies'.[48] With the separation of economic activity from civil society and the rise of market capitalism, 'civility' has been removed from 'civil society': for face-to-face interaction, which initially produced the need for civility, became increasingly less necessary.[49]

Given an increasingly public economic life – wherein the economy has moved from its traditional location in the private household to the public sphere – civility between

[43] See Fania Oz-Salzberger, 'Introduction', in *Adam Ferguson's an Essay on the History of Civil Society* (Cambridge: Cambridge University Press, 1995), esp. pp. xv-xvi.
[44] Ferguson, *Civil Society*, Pt. 1, Sec. 6, 'Of Moral Sentiment'.
[45] Hegel, *Philosophy of Right*, see esp. Pt. 3, Ch. 2, Sections 182-95.
[46] Gramsci, *Prison Notebooks*, p. 208.
[47] Christopher Lasch, *The Revolt of the Elites and the Betrayal of Democracy* (London: W.W. Norton, 1996); Walzer, 'Idea of Civil Society'.
[48] Jean Cohen and Andrew Arato, *Civil Society and Political Theory* (Cambridge: MIT Press, 1992), p. viii.
[49] I return to this point at length in Chapter Two, especially in §2.2.2.2, 'The modern world of work'.

members of society arguably has become a need made even more crucial in view of its absence in modernity. And the construction of public civility would function both to prevent an expanding political state (vertical civility) and to provide the geographic and metaphorical space within which to conduct civil social interaction (horizontal civility), including economic exchange. The following statement from political theorist Michael Edwards is a helpful summary of civil society since the classical period:

> Civil society has been a point of reference of philosophers since antiquity in their struggle to understand: the nature of the good society, the rights and responsibilities of citizens, the practice of politics and government, and, most especially, how to live together peacefully by reconciling our individual autonomy with our collective aspirations, balancing freedom and its boundaries, and marrying pluralism with conformity so that complex societies can function with both efficiency and justice.[50]

While Edward's characterization of the goal of civil society is helpful, his conception of civil society does not go far enough. Specifically, while the aims of balancing 'individual autonomy with collectivity' (liberty with equality) and 'pluralism with conformity' (multiculturality with solidarity) are important for any society marked by civility, in deeply conflictual societies even striking these balances is not sufficient to the task of peacebuilding, let alone that of constructing public civility. What is missing are a robust recovery and an articulation of universal human teleology which could serve as the basis for a framework of just peace and public civility.

(§1.2.2) Defining 'public civility'

In addition to 'vertical' and 'horizontal', there is another kind of civility, which one might call 'personal civility', as distinct from but connected to my notion of 'public civility'. In his landmark work *The Civilizing Process*, Norbert Elias shows how throughout Medieval and Renaissance Europe the notion of *civilité* had to do mainly with

[50] Edwards, *Civil Society*, p. 6.

'*curtois* [courtly] society' whereby *gentilhomme* (gentlemen) both made and made up *Kultur* and *Zivilisation*.[51] In essence, the mark of 'civilized' society was its artistic, intellectual, and religious achievements (in Germany) as well as its political, economic, and social progress (in England and France). Anything less than such 'civility' was considered *naïveté* or barbarity, or both. Civility, in other words, consisted mainly in the manners and monuments of the knights, kings, and 'courtly society' of high *Kultur*. While visible and therefore 'public' in one sense, this kind of civility I call 'personal civility' given that its origin laid largely in the high 'culture' of refined dining and demeanour, not in the robust civic engagement of plural societies.

The importance of personal civility can be illustrated particularly poignantly in the sixteenth-century work of Desiderius Erasmus, *De Civilitate Morum Puerilium* (a manual for 'good manners for children').[52] Philippe Ariès describes the historical context within which Erasmus' text and early modern personal civility are set:[53]

> The word 'civil' was roughly synonymous with our modern word 'social'. The word 'civility' would thus correspond to what we call 'good manners'. . . . Civility was the practical knowledge . . . necessary to have in order to live in society . . . : [It is] what colloquially might be called etiquette[, i.e.,] the older name of 'courtesy'.

This personal civility was not only reinforced in practice, but also codified in what Ariès calls 'manuals of civility or manuals of etiquette' which ranged over three broad categories: 'treatises on courtesy, rules of morality and arts of love'. Such manuals were meant for and read by not only school children being trained to assimilate into the 'civility' of adult life, but also by those adults who were 'insufficiently versed in the courtesies and proprieties' appropriate to social life.

---

[51] See Norbert Elias, *The Civilizing Process*, ed. Eric Dunning (et al.), Rev. ed. (Oxford: Blackwell, 2000 [1939]), Pt. 2, Ch. 1, 'The History of the Concept of *Civilité*'.
[52] Desiderius Erasmus, *A Lytell Booke of Good Maners for Chyldren* [De Civilitate Morum Puerilium], trans. Robert Whittington (London: Wynkyn de Worde, 1536 [1530]); cf. Elias, *Civilizing Process*, p. 47.
[53] The quotations in this paragraph are from Philippe Ariès, *Centuries of Childhood* (Penguin Books: Harmondsworth, 1979), pp. 368-71.

This personal civility is related to but distinct from public civility. They are related in that they share a common etymology with words like 'civilized', 'civilization', and 'city', an etymology whose Indo-European root refers to 'members of the household'.[54] Thus, personal as well as public civilities concern the manners to which one adheres when engaging with 'members of the household', whether of the literal private *oikos* or the larger metaphorical public *polis*. Public civility, in this way, marks the manners and mode of interaction between members of a *polis*. As Aristotle writes, a balance between personal 'liberty' and communal 'equality' marks the essence of democracy.[55] Accordingly, Stephen Carter writes: 'To be civilized is to understand that we live in society as in a household, and that within that [civic] household . . . our relationships . . . are governed by standards of behaviour that limit our freedom.' For Carter, civility is the practice of living with the tension between individual liberty and communal equality. Public civility, in short, characterizes the attitudes and actions of living a common life in a plural society, a life which conduces to just peace and social harmony. In this way, personal and public civility can be seen as related.

There is, however, a marked difference between personal and public civility. Here, it is important to note the meaning of the term 'politeness' and its connection to the *polis*. 'Politeness' shares its etymological root with the terms like 'polity', 'politics', and 'policy'. As Elias notes, the French term *civilisé* was used by 'courtly people', as nearly synonymous with *cultivé*, *poli*, and *policé*, in order to 'designate . . . the specific quality of their behaviour'.[56] I suggest this private politeness, like personal civility, must be reconnected with the original 'public politeness' which characterizes a life properly lived in the *polis*. That is, what demands the *civilitas* (civility) of the person in the *politica*

[54] Except where indicated otherwise, the quotations in this paragraph are from Stephen Carter, *Civility: Manners, Morals, and the Etiquette of Democracy* (New York: Basic Books, 1998), p. 15.
[55] Aristotle, *Politics*, Bk. 4, Ch. 4.
[56] Elias, *Civilizing Process*, p. 34.

(polity) is her status as a member of a civic household: accordingly, the activity befitting citizens of the polity is the construction of a public – not merely private – civility. Moreover, I contend (especially in Chapter Five, section §5.4) that public civility is not strictly limited to the political realm of the nation-state; rather, it has to do with the attitudes and actions that human persons *qua* human persons ought to have toward one another, thereby rendering the scope of public civility as ultimately no less than global.

A final contrasting notion may help illustrate the significance of the idea of public civility: that of 'peacebuilding'. Lederach articulates what he sees as the fundamental question which concerns the task of peacebuilding: '*How do we transcend the cycles of violence that bewitch our human community while still living in them*?'[57] Similarly, Appleby notes the significant, if not indispensible, role to be played in peacebuilding by religious actors who are committed to 'the resolution of conflict', and whose '*ultimate goal*' is '*reconciliation or peaceful coexistence*'.[58] Drawing on yet in tension with these ideas, I characterize public civility as going beyond 'peaceful coexistence' and 'reconciliation': it involves the active and continual construction of a common public life in plural society, a construction based on a recognition of the universal 'human good' in the religious/social 'other'. Consequently, in order to ground a framework of public civility between specifically Catholic and Muslim communities, I turn in Chapters Three and Four to consider resources within their respective theological traditions that resonate with the idea of 'the human good'.

To note, in a later work, Appleby and Lederach describe the activity of peacebuilding in a way similar to that of public civility: 'The practices of peacebuilding

[57] Lederach, *Moral Imagination*, p. 5 (emphasis original).
[58] R. Scott Appleby, *The Ambivalence of the Sacred: Religion, Violence, and Reconciliation* (Oxford: Rowman and Littlefield, 2000), p. 13 (emphasis original).

that help bring about this desired state of affairs [*viz*., "justpeace"][59] must become routinized in the society'.[60] According to this view, peacebuilding is not merely a 'cessation of violence' but a participative activity in which members of society continually engage for the sake of constructing 'justpeace'. It is also worth noting that Appleby construes peace largely in terms of 'civility': 'A workable peace is not the absence of conflict but the conditions of structural civility that obtain when a society has developed culturally appropriate and effective ways of adjudicating and resolving conflict nonviolently.'[61] It seems that, for Appleby, efforts and strategies regarding peacebuilding go beyond non-violence to a sort of structural emergence of social civility.

In light of this discussion, it might be suggested that the term 'public civility' is conceptually no different from the term 'peacebuilding' which is used more widely in the current academic literature. However, I submit that there is yet at least one significant, if not irreducible, difference between these concepts, a difference which underscores the central contention of this thesis – that, rather than framing Islamic and Catholic political theologies on the basis of 'the common good', the construction of public civility is more promising when these traditions are reframed on the basis of the human good. This crucial difference can be seen especially when considering a model proposed recently by Appleby and Lederach.[62] These scholars characterize their idea of 'strategic peacebuilding' as: 'an approach to reducing violence, resolving conflict and building peace that is marked by a heightened awareness of and skillful adaptation to the complex and shifting material, geopolitical, economic, and cultural realities of our increasingly globalized and

[59] John Lederach, 'Justpeace: The Challenge of the 21st Century', in *People Building Peace* (Utrech: European Centre for Conflict Prevention, 1999), p. 36.
[60] R. Scott Appleby and John Lederach, 'Strategic Peacebuilding: An Overview', in *Strategies of Peace: Transforming Conflict in a Violent World*, ed. Daniel Philpott and Gerard Powers (Oxford: Oxford University Press, 2010), p. 24. I note that Lederach uses the terms 'vertical' and 'horizontal interdependence' in much the same way I use the them with respect to civility. See Lederach, 'Justpeace', pp. 29-30.
[61] Appleby, *Ambivalence of Sacred*, p. 18.
[62] The quotations in this paragraph are from Appleby and Lederach, 'Strategic Peacebuilding', pp. 22-23.

interdependent world'. For Appleby and Lederach, peacebuilding involves a set of activities from a myriad of actors and institutions throughout various social sectors on multiple levels of engagements. But, for Appleby and Lederach, these activities of peacebuilding count as such only insofar as they are 'conducive to the common good'. While my account of public civility overlaps significantly with this conception of peacebuilding, the former differs from the latter with regard to the ground on which the respective efforts are made. That is, while for Appleby and Lederach the ground is 'the common good', I argue that approaches based on this ground are inadequate to provide the resources needed for a universal framework of public civility in plural societies. Instead, I argue, most directly in Chapter Three, that the idea of the common good is subject to either an inescapable relativism at best or a conceptual incoherence at worst; and that the idea of 'the human good' offers a more universal and thereby promising basis for public civility.

(§1.2.3) Public civility, liberal societies, and moral traditions

Before summarizing this section, it is important to make several qualifications regarding the notion of public civility. First, public civility requires more than merely democracy. The political theorist Fareed Zakaria poses this insightful question:[63] 'What if democracy produces an Islamic theocracy?', for it is technically possible that the *demos* may freely favour such a political structure. After all, democracy (in its contemporary form at least) concerns essentially the freedom of the expression of the will of the people to elect officials who in turn enact and enforce this will. So what is to preclude such leaders from imposing an order of unfreedom, *viz*., a theocratic Islamic rule? As Zakaria points out, it is 'liberty [which has] led to democracy, and not the other way around'. Democracy, then, does not preclude the possibility of unfreedom. For this reason, it must be stipulated

[63] The quotations in this paragraph are from Fareed Zakaria, *The Future of Freedom: Illiberal Democracy at Home and Abroad* (New York: Norton, 2004), p. 17.

that the kind of political order with which I am concerned is one which characterizes liberal democratic societies. Without this sort of liberal democratic *ethos*, public civility is neither a possibility nor an ideal: for both authoritarian regimes, under which public civility is impossible, and anarchic societies, in which public civility is no ideal, would render public civility completely irrelevant.[64]

A second qualification worth reiterating is that public civility requires more than a well-functioning vertical civil society. For constructing public civility on the sole basis of 'associational life', as some like Edwards suggest,[65] suffers the problem of grounding the moral normativity of public civility. As Edwards himself points out, 'associations' such as the Italian mafia or al-Qaeda should not count as part of civil society. Consequently, when constructing civility one must consider, Edwards continues, a society's 'normative goals' – obvious candidates of which are 'love', 'compassion', and 'solidarity'. But what Edwards does not, indeed strictly speaking cannot, offer are the grounds for the normativity of these 'normative goals' since a model based on associational civil society provides no such theoretical grounds. Morally normative civility requires the underpinning of a specifically moral tradition.[66] Islam and Christianity, which are more than but no less than moral traditions, do possess the conceptual resources needed to ground the evaluative (i.e., moral) capacities of a normative public civility. (It may be true that nonreligious traditions, of which Enlightenment liberalism is a paragon example,[67] also possess resources to ground

[64] For a succinct yet incisive critique against the putative undesirability (i.e., imperialistic character) of liberal democratic political structures, see Jean Bethke Elshtain, 'Religion, the Enlightenment, and a Common Good', in *Religion, the Enlightenment, and the New Global Order*, ed. John Owen and J. Judd Owen (New York: Columbia University Press, 2010), pp. 69-71.

[65] See, e.g., Edwards, *Civil Society*, Ch. 3, 'Civil Society as the Good Society', esp. pp. 40-49. The quotations in this paragraph are from Edwards, *Civil Society*, pp. 72 and 112.

[66] MacIntyre famously and succinctly defines 'tradition' as 'an historically extended, socially embodied argument' in Alasdair MacIntyre, *After Virtue: A Study in Moral Theory*, 3rd ed. (Notre Dame: University of Notre Dame Press, 2007 [1981]), p. 222.

[67] For more on liberalism as a 'tradition', see Alasdair MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame: University of Notre Dame Press, 1988), esp. Chs. 13-17. I recognize that 'liberalism' does not refer to a monolithic thesis; along with Kenny, I note that 'liberalism is a contestable, fluid and complex ideational terrain', exhibiting multiple theoretical forms. See Michael Kenny, *The Politics of Identity* (Oxford: Polity,

normativity; however, given an arguably inherent moral relativism,[68] they do so more tenuously, as I argue in section §1.3.)

Nevertheless, constructing public civility in plural societies gives way to its share of problems when the communities based on such moral traditions collide. Paradoxically, precisely those traditions which provide the resources needed for justifying morally normative public civility – i.e., moral traditions – often become the breeding grounds for deep and sometimes fatal incivility. There remains, then, a need to articulate some fundamental, trans-traditional basis of public civility.

(§1.2.4) Summary and transition

Securing a firm and fundamental basis for constructing a common life marked by public civility is a necessary though not entirely novel goal. From the ancient Greek thinkers to modern European philosophers to contemporary scholars of civil society, various explorations have been made. Since the classical period, efforts to secure a just, peaceful, and civil society were based predominantly on 'the common good' approach, an approach I find problematic, as noted above and discussed extensively in Chapter Three. As for the more recent considerations of 'civil society', they seem to suffer the problem of grounding moral normativity. A different approach is needed – one which is rooted in classical Aristotelian ethics and politics, and which finds resonance also within the religious traditions of Catholicism and Islam, as I argue in Chapters Three and Four, respectively.

2004), p. ix. Yet, I concur with Wolterstorff that there is a marked resemblance among those who make up a 'family of liberal positions'. See Nicholas Wolterstorff, 'The Role of Religion in Decision and Discussion of Political Issues', in *Religion in the Public Square*, ed. Audi and Wolterstorff, p. 74. For a list of such scholars, see Daniel Philpott, *Just and Unjust Peace: An Ethic of Political Reconciliation* (New York: Oxford University Press, 2012), p. 307, n. 11.

[68] See MacIntyre, *Whose Justice?*, pp. 352-53; cf. Graham Long, *Relativism and the Foundations of Liberalism* (Exeter: Imprint Academic, 2004), p. 14, n. 2.

In what follows, I consider the task of constructing public civility *vis-à-vis* another major 'tradition' which has become increasingly relevant within the context of late modernity: modern secularism. It is, as I argue, a *bona fide* tradition, entailing ideological commitments that constrain the construction of public civility in plural societies. I take up this critique in the remainder of this chapter.

(§1.3) Public civility and the 'tradition' of secularism

If public civility is to be constructed between Muslim and Christian communities, the ideological tradition of modern secularism, which cuts across both of these traditions,[69] must also be addressed. Secularism influences the construction of public civility insofar as it makes an impact on the modern condition more generally. That is, since the condition of modern public life is so deeply marked by 'radical secularity',[70] to ignore the impact of secularism as an ideological force is to fail to do justice to the task of constructing public civility.

During the last three decades of the twentieth century, secularization theory had been contested heavily. Anthony Wallace[71] and Peter Berger[72] were among the earlier architects of the theory whose long time critics include David Martin[73] and Andrew Greeley.[74] During this period, the range of scholarship included: proponents (e.g., Steve Bruce, Bryan Wilson),[75] revisionists (e.g., Jeffrey Hadden, Thomas Luckmann),[76] and

[69] As Appleby puts it, the secular and the religious are 'intimate, overlapping, and mutually transformative'. See Appleby, *Ambivalence of Sacred*, p. 4.
[70] Charles Taylor, 'Modernity and the Rise of the Public Sphere', in *The Tanner Lectures on Human Values*, ed. Grethe Peterson (Salt Lake City: University of Utah Press, 1993), pp. 235 ff.
[71] Anthony Wallace, *Religion: An Anthropological View* (New York: Random House, 1966).
[72] Peter Berger, *The Social Reality of Religion* (Harmondsworth: Penguin, 1973).
[73] David Martin, 'Towards Eliminating the Concept of Secularization', in *Penguin Survey of the Social Sciences* ed. Julius Gould (Harmondsworth: Penguin, 1965); David Martin, *A General Theory of Secularization* (New York: Harper and Row, 1978).
[74] Andrew Greeley, *Unsecular Man: The Persistence of Religion* (New York: Schocken, 1972).
[75] Roy Wallis and Steve Bruce, 'Secularization: The Orthodox Model', in *Religion and Secularization*, ed. Steve Bruce (Oxford: Oxford University Press, 1992); Bryan Wilson, 'Secularization: The Inherited Model', in *The Sacred in a Secular Age*, ed. Philip Hammond (Berkeley: University of California Press, 1985).

antagonists (e.g., William Bainbridge, Rodney Stark).[77] Near the turn of the century there was, as Martin observes, a shift in 'the paradigm of secularization' such that 'what had previously been accepted without demur [was] dismissed by many as "sociological myth"'.[78] Nevertheless, into the twenty-first century there remains a similar range of proponents (e.g., Steve Bruce, Pippa Norris, Ronald Inglehart),[79] revisionists (e.g., Robert Bellah, José Casanova),[80] and antagonists (e.g., Peter Berger, Grace Davie).[81]

Late in his career, the famed sociologist Peter Berger underwent a nearly complete change of mind regarding secularization theory.[82] Berger maintains that 'the assumption that we live in a secularized world is false'; 'the whole body of literature . . . labeled "secularization theory" is essentially mistaken'; 'this view has been empirically falsified'.[83] That said, Berger notes that the new model of 'desecularization' must take into account the marked exception of the 'globalized elite culture', the 'faculty club culture', 'an international intelligentsia'.[84] This sort of academic secularism brings with it certain modernistic conceptions of particular issues – crucially for our purposes, the notions of human freedom and of the role of the state – which bear negatively on the prospect of constructing public civility. Here, it is important to recall that, as the social anthropologist

---

[76] Jeffrey Hadden, 'Desacralizing Secularization Theory', in *Secularization and Fundamentalism Reconsidered*, ed. Jeffrey Hadden and Anson Shupe (New York: Paragon House, 1989); Thomas Luckmann, *The Invisible Religion* (New York: Macmillan, 1967).

[77] Rodney Stark and William Bainbridge, *The Future of Religion* (Berkeley: University of California Press, 1985).

[78] David Martin, *On Secularization: Towards a Revised General Theory* (Aldershot: Ashgate, 2005), p. 22.

[79] Steve Bruce, *God Is Dead: Secularization in the West* (Oxford: Blackwell, 2002); Steve Bruce, *Fundamentalism* (Cambridge: Polity Press, 2008); Pippa Norris and Ronald Inglehart, *Sacred and Secular: Religion and Politics Worldwide* (Cambridge Cambridge University Press, 2004).

[80] Robert Bellah, 'Confronting Modernity', in *Varieties of Secularism in a Secular Age*, ed. Michael Warner, Jonathan VanAntwerpen, and Craig Calhoun (Cambridge: Harvard University Press, 2010); José Casanova, 'A Secular Age: Dawn or Twilight?', in *Varieties of Secularism*, ed. VanAntwerpen Warner, and Calhoun.

[81] Peter Berger, *Between Relativism and Fundamentalism* (Grand Rapids: Eerdmans, 2010); Peter Berger, Grace Davie, and Effie Fokas, *Religious America, Secular Europe?* (Aldershot: Ashgate, 2008).

[82] The turning point for Berger seems to have come with the publication of Peter Berger, 'Secularism in Retreat', *The National Interest* 46 (1996/1997): 3-12.

[83] Peter Berger, 'The Desecularization of the World: A Global Overview', in *Desecularization of World*, ed. Peter Berger, p. 2; Berger, 'Pluralism', p. 20.

[84] See Berger, 'Desecularization of World', p. 10; Peter Berger, 'The Cultural Dynamics of Globalization', in *Many Globalizations: Cultural Diversity in the Contemporary World*, ed. Peter Berger and Samuel Huntington (Oxford: Oxford University Press, 2002), pp. 4ff; and Peter Berger, 'Faith and Development', *Society* 46, no. 1 (2009): 69-75, p. 70, respectively.

Talal Asad observes, '[s]ecularism builds on a particular conception of the world [central to which is the insistence that] religious practice and belief be confined to a space where they cannot threaten political stability'.[85] It is this ideology of modern secularism, which functions as a tradition, to which I now turn.

(§1.3.1) Privatization as secularization; privatization as secularism

With the onset of the novel (and, as I argue in Chapter Two, distorted) character of the modern public and private spheres of life, one could see that the ideological and social shifts of modernity have led to a 'sentimentalized, subjectivized, and privatized' view of religion.[86] As one sociologist notes, the privatization of religion is part of the more 'general privatization of individual life' found in modernity wherein the private sphere is characterized as 'the life-space that is not directly touched by institutional control'.[87] In other words, privatization of religion is owed in large part to the 'high degree of functional differentiation of social structure' in modern society.[88] In brief, in modernity religion in many ways is reduced, functionally at least, to private meaningfulness.

Berger observes that this privatization 'represents a severe rupture' in the traditional task of religion which once involved 'the establishment of an integrated set of definitions of reality' serving as 'a common universe of meaning'.[89] Similarly, Casanova writes, 'If before, it was the religious realm which appeared to be the all encompassing reality within which the secular realm founds its proper place, now the secular sphere will

[85] Talal Asad, *Formations of the Secular: Christianity, Islam, Modernity* (Stanford: Stanford University Press, 2003), p. 191.
[86] Casanova, *Public Religions*, p. 64.
[87] Thomas Luckmann, 'The Privatization of Religion and Morality', in *Detraditionalization: Critical Reflections on Authority and Identity*, ed. Paul Heelas, Scott Lash, and Paul Morris (Oxford: Blackwell, 1996), p. 73.
[88] Luckmann, 'Privatization of Religion', p. 73. See also, Thomas Luckmann, 'Shrinking Transcendence, Expanding Religion?', *Sociological Analysis* 50, no. 2 (1990): 127-38, see esp. pp. 137-38.
[89] Peter Berger, *A Sacred Canopy* (New York: Doubleday, 1967), p. 134.

be the all-encompassing reality, to which the religious sphere will have to adapt.'[90] For my purposes, the privatization of religion is a key, if not the main, upshot of modern secularization. As David Martin observes, in view of religion's 'declining social significance for public rhetoric, legitimation, debate and policy',[91] the expression of religious convictions in public life has been increasingly ruled out.

Yet privatization *qua* secularization is only (the sociological) half of the picture: privatization must also be understood *qua* secularism, an ideology which has been put forward by thinkers such as Robert Audi and John Rawls. For example, while Audi allows for deliberation over certain political matters to derive from religious convictions, a necessary condition for the expression of such convictions in the political arena is that it is supported with 'secular reason'.[92] Roughly, religious convictions must be given a 'secular reason' in order to count as valid political reasoning.

Also, in constructing a political theory of justice in view of 'the fact of pluralism', Rawls seeks an 'overlapping consensus' among 'reasonable comprehensive doctrines' that converge on issues of 'constitutional essentials and matters of basic justice'.[93] Central to this project is Rawls' proposal of 'public reason', according to which 'comprehensive doctrines of truth [are to be] replaced by an idea of the politically reasonable', which in turn are addressed to 'citizens as citizens'.[94] Given this goal, public reason is incompatible with 'the zeal to embody the whole truth in politics'. In short, political matters must be 'expressed in terms of the political values of public reason' instead of those found in 'comprehensive doctrines'.

---

[90] Casanova, *Public Religions*, p. 15.
[91] David Martin, *The Future of Christianity: Reflections on Violence and Democracy, Religion and Secularisation* (Farnham: Ashgate, 2011), p. 121.
[92] Robert Audi, 'Liberal Democracy and the Place of Religion in Politics', in *Religion in the Public Square*, ed. Audi and Wolterstorff, pp. 25-26.
[93] Rawls, *Political Liberalism*, pp. xix-xx.
[94] The quotations of Rawls in the remainder of this paragraph and the next are from John Rawls, 'The Idea of Public Reason Revisited', *The University of Chicago Law Review* 64, no. 3 (1997): 765-807, pp. 766-67, 795, 799, and 807.

To note, Rawls' 'public reason' is (slightly) less stringent compared to Audi's 'secular reason' in that Rawls recognizes that the approach of secular reason itself subscribes to a comprehensive doctrine of a kind, namely, a 'comprehensive nonreligious doctrine'. Nevertheless, by insisting that only 'the politically reasonable' be addressed 'to citizens as citizens', the problem arises as to who or by what criterion one decides what is 'politically reasonable'. For Rawls, the solution is political liberalism itself, which he contends is 'liberal', 'self-standing', and non-comprehensive. Yet MacIntyre demonstrates otherwise: liberalism itself is a tradition possessing its own standards of (Enlightenment) rationality and of (radically individualistic) justice.[95] As Thomas Nagel reminds, there is 'no view from nowhere'.[96]

It must also be noted that Rawls offers a '*proviso*' – an allowance of religious reasoning in political matters under specific conditions. Rawls suggests that it would be just ('fair') to bring into political deliberation convictions that arise from religious or nonreligious comprehensive doctrine, 'provided that, in due course, we give properly public reasons to support the principles and policies our comprehensive doctrine is said to support'.[97] That is, reasoning offered in political debate and decision-making must be translatable into public reason. (One must wonder whether Rawls' account at this point differs much from Audi's above.)[98] This allowance notwithstanding, the restriction of political speech is only one aspect of the tradition of modern secularism which bears negatively on the prospect of constructing public civility.

[95] MacIntyre, *Whose Justice?*, see esp. Ch. 17, 'Liberalism Transformed into a Tradition' and Ch. 18, 'The Rationality of Traditions'.
[96] Thomas Nagel, *The View from Nowhere* (Oxford: Oxford University Press, 1986).
[97] Rawls, 'Public Reason Revisited', p. 776.
[98] For an extensive critique of Rawls' view (along with that of Habermas') see Nigel Biggar, 'Not Translation, but Conversation: Theology in Public Debate About Euthanasia', in *Religious Voices in Public Places*, ed. Nigel Biggar and Linda Hogan (Oxford: Oxford University Press, 2009). Also, Wolterstorff insightfully points out that any position on the question of what counts as publicly accessible speech presupposes particular criteria of acceptability. See Wolterstorff, 'Role of Religion', pp. 74-75.

Before continuing my critique of the tradition of secularism, I offer, by way of background, an analysis of what it means for any human act (e.g., political speech acts, the exercise of religion, the pursuit of life plans, etc.) to be considered public or private. In doing so, I lay the foundations for a critique of modernism needed to evaluate properly the (il)legitimacy of the tradition of modern secularism and its effect on a common public life.

(§1.3.2) Background: the private, the public, and the political

What does it mean for religion to be private or public? What is it for any social phenomenon (hereafter: 'SP') to be private or public? Drawing on the insights of the political theorist Jeff Weintraub,[99] I submit that there are several important distinctions and sets of criteria which help clarify issues surrounding these questions.

Weintraub notes two important sets of distinctions regarding 'private' and 'public'. The first kind involves the criterion of 'visibility' whereby an SP might be 'hidden or withdrawn' – i.e., private – or 'open, revealed, or accessible' – i.e., public. The second distinction has to do with the 'collectivity criterion' whereby what is private 'pertains only to an individual' and what is public 'affects the interests of a collectivity of individuals'.[100] Thus, consider some SP – call it SP1 – that is private in the first sense (hidden from view): it follows that SP1 may still count as public in the second sense (affecting a collectivity). Weintraub gives the example of performing an electoral vote: while voting may be done in private away from the public's eye, it is an act which can and does affect the collective public. Alternatively, SP2 may be private in the second sense (affecting an individual) yet

[99] The quotations in the next two paragraphs are from Jeff Weintraub, 'The Theory and Politics of Public/Private Distinction', in *Public and Private in Thought and Practice*, ed. Krisnan Kumar and Jeff Weintraub (Chicago: University of Chicago Press, 1997), pp. 4-6.

[100] Taylor draws a similar distinction between two senses of 'public'. 'Public' in one sense refers to that which 'affects the whole community ("public affairs")' or the management thereof '("public authority")'; this sense falls under Weintraub's 'collectivity' criterion. A second use of 'public' has to do with 'publicity [*qua*] a matter of access ("this park is open to the public") or appearance ("the news has been made public")'; this sense aligns with the 'visibility' criterion. See Taylor, 'Modernity and Public Sphere', p. 250.

public in the first sense (visible to others). An individual's religious beliefs and practices may serve as an example: while such beliefs and practices may pertain to an individual, it often is and arguably should be visible to others, say, in the form of religious garb (notwithstanding French *laïcité*, a brief discussion of which is found in the next chapter).

A crucial implication of these distinctions is that, contrary to the mistaken idea that only the 'public' aspects of human life constitute matters which are properly 'political', as Weintraub writes, 'there is no necessary connection between the notions of "public" and "political"'. By keeping these distinctions clear one could see how the affairs of the private domain can involve the political – and some of these affairs involve religion. Thus, to exclude religion from the political realm (i.e., to privatize religion) is to restrict unjustifiably public expressions of religion – a restriction which is not only unjust but also endangering. As Berger, Toft, Philpott, and Shah show, such privatization of religion has counterproductive consequences with regard to peacebuilding and civility construction.[101]

Privatization of religion, then, is the result of not only the sociological shifts in modernity, but also of the ideological forces of secularism; furthermore, such privatization is antithetical to the construction of public civility. In the next section, then, I offer a critique of modernist notions of human freedom, a critique whose central argument demands allowance of the free and public exercise of religion.

(§1.4) Public civility and a 'critique of modernism'[102]

In what follows, I analyze the impact that certain crucial ideological commitments of modern secularism have on the construction of public civility. This analysis requires a

[101] See Berger, *Relativism and Fundamentalism*, 'Introduction'; and Toft, Philpott, and Shah, *God's Century*, Ch. 3, 'The Rise of Politically Assertive Religion'.

[102] In the introduction to the next chapter, I explain further the term 'critique of modernism'. For now, suffice it to say that it is a critical analysis of particular concepts – in this case, human freedom and political structures – which arguably have undergone distortions due to a modernist political ideology. In Chapter Two (§2.1.1, 'Terms and method'), I differentiate this term from a similar one – 'modernity criticism' – which focuses more on the lived realities of individuals in modernity.

substantial treatment of aspects of political theory. I argue that in order to understand properly the impact that modern 'radical secularity' has on the task of public civility, what is needed is a critique of modernism, especially with regard to the notions of human freedom and of the role of the state.

(§1.4.1) Modernism and human freedom

In analyzing the issue of privatized religion, it is helpful to understand what it means for human persons to be free to express religious beliefs in public life; and in order to analyze this matter, it is necessary to consider the more fundamental question of what human freedom is.[103] In the following, I consider two major ways of understanding human freedom: 'negative freedom' as connected to modern political liberalism; and 'positive freedom' as characteristic of the communitarian tradition. I then evaluate these respective views along with modernist transformations of the concept of freedom and their concomitant impact on public civility.

Since at least the time of the Enlightenment, there have been two main conceptions of human freedom. Broadly considered, on the one hand, the 'social contract'[104] theory of Rousseau serves as a foundation for what has been called the 'civic republican tradition'[105] which emphasizes positive freedom; on the other hand, John Locke's 'natural rights'[106] view has served as basis for modern political liberalism with an emphasis on negative freedom.[107] In brief, while the republican tradition construes political life along with its

[103] Ian Carter points out that 'liberty' and 'freedom' cannot be 'translated into other European languages, which contain only the one term, of either Latin or Germanic origin (e.g. liberté, Freiheit), where English contains both'. See Ian Carter, 'Positive and Negative Liberty', *The Stanford Encyclopedia of Philosophy* Fall 2010 Edition, http://stanford.io/18Dkvtt, accessed on 28 October 2010. I use interchangeably the terms 'freedom' and 'liberty'.
[104] Rousseau, *Social Contract*.
[105] Cf. Dana Villa, *Public Freedom* (Princeton: Princeton University Press, 2008), pp. 2-3.
[106] John Locke, *Two Treatises of Government*, ed. C. B. Macpherson (Cambridge: Cambridge University Press, 1980 [1690]).
[107] To note, there is relatively recent literature on Lockean political thought which suggests a less strictly negative view of liberty whereby the rights of humanity 'are always dependent upon prior duties to God

attendant political freedoms as a natural extension of 'the good life', a Lockean view takes them as necessary to withstand political corruption.[108] In considering how certain ideological commitments of modernism have distorted the notion of human freedom, then, it is important to distinguish between positive and negative freedom.

In his classic 'Two Concepts of Liberty',[109] Isaiah Berlin articulates a distinction between positive and negative liberty. According to Berlin, negative liberty is interested in the question: 'What is the area within which the subject . . . is or should be left to do or be what he is able to do or be, without interference by other persons?' By contrast, positive liberty is concerned with: 'What, or who, is the source of control or interference that can determine someone to do or be, this rather than that?' To note, Berlin's distinction has been challenged perhaps most notably by Gerald MacCallum who argues that both senses of freedom are really two different ways of understanding the 'one and same triadic relation' whereby: freedom obtains where 'some agent *x*' is free from 'some constraint *y*' in order to 'do or become something *z*'.[110] *Pace* MacCallum, I contend that under his conception of freedom, a crucial question remains: What is one free to 'do or become'? For, even under MacCallum's combined view of negative-*cum*-positive freedom, it seems that a non-arbitrary answer to this question cannot be given: that is, without an objective *telos* to positive freedom, and given the range of viable 'life plans' to which negative freedom can apply, there results multiple and incompatible forms of human 'freedom'.

---

entailed in the human beings', and thereby more in line with positive freedom. See Roger Ruston, *Human Rights and the Image of God* (London: SCM, 2004), p. 251. See also Jeremy Waldron, *God, Locke, and Equality: Christian Foundations in Locke's Political Thought* (Cambridge: Cambridge University Press, 2002), esp. Ch. 3, 'Species and the Shape of Equality'; and Brian Tierney, 'Historical Roots of Modern Rights', in *Rethinking Rights*, ed. Bruce Frohnen and Kenneth Grasso (Columbia: University of Missouri Press, 2009). Cf. Locke, *Two Treatises of Government*, Bk. 2, Sec. 6; Bk. 1, Sec. 86 and 87; Bk. 2, Sec. 26.

[108] For a helpful discussion of this point, see J. Budziszewski, *Written on the Heart: The Case for Natural Law* (Downers Grove: InterVarsity Press, 1997), pp. 108-13.

[109] The quotations of Berlin in this paragraph are from Isaiah Berlin, *Four Essays on Liberty* (Oxford: Oxford University Press, 1969 [1958]), pp. 121-22.

[110] Gerald MacCallum, 'Negative and Positive Freedom', in *Freedom: A Philosophical Anthology*, ed. Ian Carter, Matthew Kramer, and Hillel Steiner (Oxford: Blackwell, 2007), pp. 70-78, esp. pp. 70, 71; originally published as Gerald MacCallum, 'Negative and Positive Freedom', *Philosophical Review* 76 (1967): 312-34.

While negative freedom is a necessary aspect of *bona fide* human freedom, it alone does not provide a full account of human freedom. What is needed is a robust view of human freedom grounded in the classical view of human persons which in turn requires a recovery of the notion of 'the human good' or *telos*. In what follows, I consider the merits and shortcomings of negative freedom. Then, building on the works of Taylor and MacIntyre (among others), who provide grounds for a view of positive human freedom, I conclude that aspects of both views of freedom are necessary to capture the notion of 'the human good'. Furthermore, I argue that this notion of 'the human good' (the essential attributes of which I unpack in Chapter Three), which is foundational to the construction of public civility, transcends the traditions of Islam and Christianity, and thereby grounds a framework of universal public civility between them.

(§1.4.1.1) Modern liberalism and negative freedom

Negative freedom – i.e., 'freedom as choice [which] depends upon freedom from interference'[111] – forms the basis of liberalism's modernist conceptions of freedom. Grounded in the idea of individual choice, it can be summarized as: the individual's freedom to choose whatever she wills, free from interference, so long as her freedom does not impinge on that of others. It is modern in that its articulation comes from Enlightenment thinkers, explicitly in Locke and Hobbes.[112] And it is liberal in that it purports to protect the liberties of individuals: Hobbes writes, 'No liberty can be inferred of the will, desire, or inclination, but the liberty of the man; which consisteth in this, that

[111] Villa, *Public Freedom*, p. 2.
[112] Locke, *Two Treatises of Government*; Hobbes, *Leviathan*. Though with differences (Hobbes favouring a 'sovereign absolute', Locke 'limited power'), both thinkers argue that the primary function of government is to secure individual freedom.

he finds no stop in doing what he has the will, desire, or inclination to do.'[113] Such is negative liberty. Since Hobbes and Locke, and continuing on notably in the writings of Jeremy Bentham and John Stuart Mill, recent proponents of modern liberalism include Friedrich Hayek, John Rawls, and though with many differences Robert Nozick.[114] In the following, I raise three objections against negative freedom: (1) its alleged value-free status; (2) its rejection of human teleology; and (3) its presumption of human autonomy. I take each in turn before moving on to consider the positive freedom of communitarianism.

(§1.4.1.2) Objections to negative freedom

Alleged value-free status. According to a negative view of freedom, non-interference is the *condicio sine qua non* of human freedom. That is, a necessary condition of freedom is that freedom is value-free: there can be no value given one-for-all about the ends of human life.[115] Yet the question begs: Does not such a condition itself presuppose a certain 'value'? That is, does not this requirement – neutrality with respect to value – presuppose a particular understanding of human nature which in turn attaches a certain value to a particular view of human flourishing – *viz*., flourishing *qua* pursuing one's own 'freely' chosen ends? If so, why should one suppose that non-interference is the *telos* of human freedom and of flourishing? On pain of self-referential incoherence, then, there is

[113] Hobbes, *Leviathan*, Pt. 2, Ch. 21. Similarly, Locke argues that freedom for humans is the 'freedom to order their actions, and dispose of their possessions and persons as they think fit . . . without asking leave, or depending on the will of any other man'. See Locke, *Two Treatises of Government*, Bk. 2, Ch. 2, Sec. 4, p. 8.
[114] Jeremy Bentham, 'A Manual of Political Economy', in *The Works of Jeremy Bentham*, ed. John Bowring (Edinburgh: Tait, 1843); John Stuart Mill, *On Liberty*, ed. Stefan Collini (Cambridge: Cambridge University Press, 1989 [1859]); Friedrich Hayek, *Law, Legislation and Liberty, Vol. 2: The Mirage of Social Justice* (London: Routledge, 1976); John Rawls, *A Theory of Justice*, Rev. ed. (Cambridge: Harvard University Press, 1999 [1971]); Rawls, *Political Liberalism*; Robert Nozick, *Anarchy, State and Utopia* (Oxford: Blackwell, 1974).
[115] Hence, Mill's famous dictum: 'The only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it'. See Mill, *On Liberty*, p. 16.

no *bona fide* value-free view of human freedom.[116] As one political philosopher writes, '[b]ecause the negative view of liberty concentrates on freedom from external constraints, it does not specify [explicitly] any ends or purposes that the individual should be free to pursue',[117] though it cannot help but do so implicitly. Furthermore, on this account of freedom, there always are conflicting incompatible views of 'the good', yielding a situation which is inimical to any nonrelativistic framework of public civility.

Rejection of human teleology. If, however, there are standards by which to adjudicate the acts which count as authentic instances of human freedom, a question remains: Which standards? Taylor elucidates two crucial issues related to this question: first, the purposive character of human life; and secondly, the way in which the goals of human freedom come in degrees of significance.[118] Regarding the first, Taylor writes, 'Freedom is important to us because we are purposive beings'. Freedom, in other words, is a function of human purposiveness: freedom is construed always against a backdrop understanding of 'what is significant for human life'. Put differently, the notion of a 'good human life' is coherent only if there is some objectively human way of being. It follows, then, that the aims of freedom must be in accordance with objective human flourishing. That is, for freedom to be genuine, it must presuppose a view of objective human flourishing according to which there can be adjudication between 'good' and 'bad' human aims – a view that negative freedom cannot afford. And without this objective view of human purposiveness, there can be no coherent basis for genuine human freedom.

Furthermore, aims of human freedom come in degrees. That is, as Taylor observes, human acts are construed always against an implicit understanding that certain aims and

[116] In other words, all views of freedom are value-laden; or, as MacIntyre puts it, 'tradition-constituted'. See MacIntyre, *Whose Justice?*, pp. 349-70.
[117] Maureen Ramsay, *What's Wrong with Liberalism? A Radical Critique of Liberal Philosophy* (London: Leicester University Press, 1997), p. 39.
[118] The quotations in this paragraph and the next are from Charles Taylor, 'What's Wrong with Negative Liberty', in *The Idea of Freedom: Essays in Honour of Isaiah Berlin*, ed. Alan Ryan (Oxford: Oxford University Press, 1991 [1979]), pp. 182-83.

activities 'are more significant than others'. There is, in other words, no freedom *qua* 'absence of external obstacles *tout court*'; rather, 'there are discriminations to be made' whereby certain restrictions to freedom 'are more serious than others'. Otherwise, a view of purely negative freedom would make equal all claims to 'freedom' when clearly they are not all equal. For surely, Taylor writes, 'Restricting the expression of people's religious and ethical conviction is more significant than restricting their movement around uninhabited parts of the country; and both are more significant than the trivia of traffic control.' Not all human aims are equal. There are certain aims that accord with human life and are thereby intrinsically more valuable for freedom, and ones that do not and are not. Taylor describes this idea in terms of 'human purposiveness'.[119] And without this classical view of human teleology what remains is modernity's '*privatized* individuality' with its myriad of human aims, which according to Bauman, 'means, essentially, *unfreedom*'.[120] Thus, unless there is an objective end for which humans are free, 'freedom' is not freedom at all: and a view of negative freedom rejects the needed objective teleology.

Presumption of autonomy. It is not too much to say that a view of strictly negative freedom prizes the self as sovereign. For Bentham, 'There is no-one who knows what is for your interest so well as yourself'.[121] Mill concurs:

> The popular dictum, that people understand their own business and their own interests better . . . than the government does . . . [this] maxim holds true throughout the greatest part of the business of life, and wherever it is true one ought to condemn every kind of government intervention that conflicts with it.[122]

Elsewhere, Mill argues that in any area of one's life which 'concerns himself', one's 'independence is . . . absolute'; in areas concerning 'his own body and mind, the individual

[119] This notion is similar to the idea of the 'directedness' or 'inclination' of human life of which MacIntyre writes in MacIntyre, *After Virtue*, p. 148; MacIntyre, *Whose Justice?*, pp. 173-74.
[120] See Bauman, *Search of Politics*, p. 63 (emphasis original).
[121] Bentham, 'Political Economy', Ch. 1, Intro.
[122] John Stuart Mill, *The Principles of Political Economy* (London: Longmans, Green and Dyer, 1990 [1869]), p. 924.

is sovereign.'[123] More recently, Rawls has argued for the importance of individual autonomy in public life, contending that the only legitimate conceptions of 'the good' are 'conceptions as one's own good'.[124] Autonomy and self-arbitration are the hallmark of negative freedom. This modernist view of individual autonomy is radically different from the classical understanding of human teleology described above. And this shift is indicative of an outlook which has detrimental effects for constructing public civility as discussed in my summary immediately below.

In sum, as one sociologist notes, under a classical understanding, 'true liberty meant freedom to do the good and was almost equivalent to virtue'.[125] That is, freedom was understood as excelling according to one's nature. This understanding is nearly completely reversed under a Hobbesian modernist construal whereby '[r]ight consisteth in liberty to do, or to forbeare' as one pleases.[126] Roger Ruston comments, taking Hobbes as a paragon proponent of modernist negative liberty, 'the word "right" has been completely cut adrift from objective justice',[127] and in this way, Hobbes is 'an exception in early modern political thought', i.e., a departure from his premodern precursors.

This modernist view of negative freedom did not emerge cheaply. As Taylor points out, it came with an 'anti-metaphysical, materialist' outlook characteristic of modernity.[128] Exactly how this outlook became a predominant one is a complex issue: while not simply a matter of intellectual articulation leading to wider social acceptance, neither was this transformation merely a matter of a change in social practices and thought. There is a dialectical interplay between the ideational and social forces of modernity, a process

[123] Mill, *On Liberty*, p. 13.
[124] Rawls, *Theory of Justice*, pp. 31 ff.
[125] Robert Bellah, *The Broken Covenant* (New York: Seabury, 1975), p. xii.
[126] Hobbes, *Leviathan*, Pt. 1, Ch. 14.
[127] Ruston, *Human Rights*, p. 102.
[128] Taylor, 'Negative Liberty', pp. 178-79.

whose outcome Taylor encapsulates in the term 'social imaginaries'.[129] At any rate, one of the most significant forces in bringing about this transformation is the modernist conviction that human freedom is essentially self-directed: negative freedom. Accordingly, even as a proponent of the negative view Berlin concedes that, '[e]very plea for civil liberties and individual rights' derives from an 'individualistic . . . conception of man'.[130] A modernist view of negative freedom, then, is incompatible with an objective teleology of human persons which I argue is crucial for establishing the basis for public civility: 'the human good'.

(§1.4.1.3) Communitarianism and positive freedom

By contrast, positive freedom may be understood as being grounded in a Rousseauian 'social contract' whereby free citizens of a state, in order to avoid a constant 'state of war', are 'compelled' to rise above individual interests in favour of the 'general will' of a given community; by and only by such a process, could citizens be free, even if they are 'forced to be free'.[131] The cost of this paradoxical coercion is counted as being worth the dividend of 'freedom'. This sort of communitarian view reaches back further than Rousseau to the works of Aristotle;[132] hence the 'civic republican tradition'.[133] It is civic in its presumption, as Aristotle argues, that 'man is by nature a political animal',[134] and that he is most free when involved in the civic affairs of the *polis*. And it is republican insofar as it insists in 'active citizenship'[135] in *res publica*. In this tradition, community is

[129] See Charles Taylor, *Sources of the Self: The Making of the Modern Identity* (Cambridge: Cambridge University Press, 1989), Ch. 12, 'A Digression on Historical Explanation'; and Taylor, 'Modernity and Public Sphere', pp. 243 ff. See also Charles Taylor, *Modern Social Imaginaries* (Durham: Duke University Press, 2004), pp. 20 ff and 118 ff.
[130] Berlin, *Essays on Liberty*, p. 175.
[131] See Rousseau, *Social Contract*, Bk. 1, Ch. 4; Bk. 1, Chs. 7 ff; and Bk. 1, Ch. 7, respectively.
[132] Aristotle, *Politics*, esp. Bk. 1, Chs. 1-4; Bk. 2, Chs. 1-5; Aristotle, *Nicomachean Ethics*, ed. Lesley Brown, trans. David Ross (Oxford: Clarendon Press, 2009 [ca. 350 B.C.]), esp. Bk. 5.
[133] Villa, *Public Freedom*, pp. 2-3.
[134] Aristotle, *Politics*, Bk. 1, Ch. 2.
[135] Villa, *Public Freedom*, p. 2.

hierarchically prior to the individual,[136] a priority to which members of the republic are committed allegedly naturally.

This political communitarianism goes by many other names (e.g., 'positive libertarianism', 'classical republicanism', and 'contractarianism'),[137] and has been articulated in the works of thinkers such as Kant and Hegel, continuing on (though with significant differences) in Marx and T. H. Green.[138] More recent theorists in this tradition include Michael Sandel, Charles Taylor, and Dana Villa.[139] Green's view of positive freedom captures well its central notion:

> [W]hen we . . . speak of freedom, . . . [w]e do not mean merely freedom from restraint or compulsion. . . . [Rather], we mean a positive power or capacity of doing or enjoying something worth doing or enjoying, and that, too, something that we do or enjoy in common with others. We mean by it the power which each man exercises through the help and security given by his fellow men and which he, in turn, helps to secure for them.[140]

Positive freedom is a freedom for being some 'one' or doing some 'thing', the pursuits of which obtain best within and for the sake of community.

(§1.4.1.4) The objection from totalitarianism

Among the objections to the communitarian tradition and its view of human freedom, there is one which I find, if true, fatal to the communitarian project *tout court*: namely, that it falls prey to 'the slippery slope of totalitarianism'.[141] As Berlin contends, to hold to a purely positive freedom is 'to ignore the actual wishes of men or societies, to

---

[136] For Durkheim, this is a logical priority as well; see Durkheim, *Division of Labour*, pp. 203 ff.
[137] See Ramsay, *What's Wrong with Liberalism?*, p. 58; Adam Swift, *Political Philosophy* (Cambridge: Polity, 2001), pp. 64 ff; MacIntyre, *After Virtue*, p. x; respectively.
[138] Immanuel Kant, *Theory and Practice*, ed. Hans Reiss, trans. H. B. Nisbet, Kant: Political Writings (Cambridge: Cambridge University Press, 1970 [1793]); Hegel, *Philosophy of Right*; Karl Marx, *Contribution to a Critique of Hegel's Philosophy of Right*, ed. Karl Marx and Frederick Engels, Selected Works (New York: International Publishers, 1968 [1843]); Thomas Green, *Lectures on the Principles of Political Obligation and Other Writings*, ed. Paul Harris and John Morrow (Cambridge: Cambridge University Press, 1986 [1895]), see esp. 'Lecture on Liberal Legislation and Freedom of Contract'.
[139] Michael Sandel, *Liberalism and the Limits of Justice*, 2nd ed. (Cambridge: Cambridge University Press, 1998 [1982]); Taylor, *Sources of Self*; Taylor, 'Negative Liberty'; Villa, *Public Freedom*.
[140] Green, *Principles of Political Obligation*, p. 199.
[141] Swift, *Political Philosophy*, pp. 77-78.

bully, oppress, torture in the name, and on behalf, of their "real" selves'.[142] The communitarian pursuit of equality, in other words, undercuts the security of individual freedom: and this totalitarianism is logically entailed by the monism of positive freedom – or so goes the objection.[143] Is this so?

In response to the charge of totalitarianism, Adam Swift offers a modified version of communitarianism which he suggests rebuffs the 'slippery slope' objection.[144] According to Swift, since 'different ways to live are rational for different people', it is reasonable to take the role of the state as that of helping 'its members towards freedom not by getting them all to live the same way, but by doing what it can to help them to live in ways which are rational for them'. This view, Swift maintains, is consistent with the communitarian idea that there is 'a limited core of things it is rational for all people to do and not to do'. The state, therefore, may 'make us do and not do *those* in the name of our own freedom'. That is, in the name of 'freedom' the state may interfere with the pursuits of individuals that are considered not 'rational'. Swift concludes that this modified communitarianism would not fall prey to Berlin's charge of totalitarianism.

Swift's nuanced argument, though laudable, suffers a crucial flaw captured in these questions: Who or what determines this 'limited core of things' that ought and ought not be done? What makes certain acts rational or irrational? After all, there are, as MacIntyre argues, multiple modes of rationalities which are at crucial points incommensurable.[145] So, against which standards would competing claims of freedom be adjudicated? I contend that without the idea of 'the human good' there would be no legitimate framework of adjudication for intercommunal disagreement. Thus, if a modernist communitarianism

[142] Berlin, *Essays on Liberty*, p. 180.
[143] See Berlin, *Essays on Liberty*, pp. 178-86.
[144] The quotations in this paragraph are from Swift, *Political Philosophy*, pp. 84 and 77-78, respectively (emphasis original).
[145] For extensive treatment of the idea of human 'rationalities' (*vis-à-vis* one alleged universal Enlightenment rationality), see MacIntyre, *Whose Justice?* MacIntyre contends that these conflicting rationalities preclude the very possibility of rational determination precisely at the points of incommensurability.

escapes the tag of being an all-encompassing totalitarianism, it does so only too successfully in that it invites an unbounded view of human freedom which affords no non-arbitrary adjudicative parameters.

The point of this section is to show how, given the problem of incommensurability, a communitarian view of strict positive freedom is inadequate to ground human freedom. This inadequacy results from the modernistic privileging of individual autonomy because of which there emerge multiple and conflicting views on what 'positive' freedom is for.

This discussion, then, brings me to the second half of my critique of modernism which has to do with the role of the political state. I contend that the particularly modernist views of the state, like those of human freedom, occlude the construction of public civility.

(§1.4.2) Modernism and the role of the state

Michael Walzer argues that, under a modernist liberalism, 'the good life' is simply that activity which 'is pursued by individuals', a pursuit over which the state 'presides', but in which it does 'participate'.[146] Similarly, MacIntyre writes, under modernist liberal theory, '[g]overnment and law are, or ought to be, neutral between rival conceptions of the good life'.[147] Elsewhere, MacIntyre points to the shift in the role of the state as going from promoting 'the good life' to mainly providing benefits and preventing harms without any regard to a 'specific conception of *the* human good'.[148] Wolterstorff has labelled recently these two understandings of the role of the state as 'perfectionist' and 'protectionist', respectively.[149] Modern politics, in short, has become a matter of social pragmatic utility at the expense of teleological human flourishing. As another legal and political theorist puts it, politics has become '*nomocratic*, concerned with rules and rights, rather than *teleocratic*,

[146] Michael Walzer, 'The Communitarian Critique of Liberalism', *Political Theory* 17 (1990): 6-23, p. 16.
[147] MacIntyre, *After Virtue*, p. 195.
[148] MacIntyre, *Whose Justice?*, pp. 210-11.
[149] Nicholas Wolterstorff, 'Introduction', in *Understanding Liberal Democracy*, ed. Terence Cuneo and Nicholas Wolterstorff (Oxford: Oxford University Press, 2012), p. 1.

which would be concerned with a set of common goods and purposes'.[150] Anticipating Walzer and MacIntyre (among others), Durkheim argued that modernity's 'negative solidarity' is insufficient to stave off the social *anomie* of modernity.[151]

Consequently, what is needed for *bona fide* social solidarity – a crucial aspect of public civility – is an articulation of the human *telos* which transcends tradition, and which offers conceptual resources and motivations for intercommunal engagement. Yet this articulation is stultified by a modernist view of the state which admits of no universal conception of the human self. In the following, I discuss several key considerations with regard to the role of the state that bear on the task of constructing public civility. Then, I return briefly to a discussion of the tradition of secularism before summarizing this section and chapter.

(§1.4.2.1) Transforming the 'political' self

'If men never disagreed about the ends of life there would be no need for studies in "Social or Political Theory"', Berlin observes, for such studies only 'spring from, and thrive on, discord'.[152] Yet a diversity of conceptions of the 'ends of life' have marked human society since at least the time of the ancient Greeks, as evidenced in the writings of Aristotle,[153] and presumably even before. The individualizing effects of modernity has exacerbated the problem of diversity: for the atomism, which marks the political culture of modern democratic societies, has helped to create a so-called 'political' self who is, if ironically, a 'free' individual untethered to the *polis*.[154]

The resultant and reigning 'public philosophy' of modernity is, Sandel writes, one according to which government 'should provide a framework of rights that respects

[150] Raymond Plant, *Politics, Theology and History* (Cambridge: Cambridge University Press, 2001), pp. 5-6.
[151] Durkheim, *Division of Labour*, pp. 72-77.
[152] Berlin, *Essays on Liberty*, p. 166.
[153] Cf. Aristotle, *Ethics*, Bk. 5, Ch. 7; Aristotle, *Politics*, Bk. 6, Chs. 1-4.
[154] For more on political atomism, see Taylor, *Sources of Self*, pp. 194 ff.

persons as free and independent selves, capable of choosing their own values and ends'.[155] This outlook is captured in what Crawford Macpherson calls 'possessive individualism'[156] whereby political rights, or more recently, 'civil liberties',[157] trump the human good. What is clear is that articulation, let alone recognition, of the fundamental human identity ('the human good') is conspicuously absent in the discourse of modern liberal political theory.

(§1.4.2.2) Constructing a plural polity without human identity

The political theorist Chandran Kukathas argues – *contra* Will Kymlicka's view of the nation-state as the primary giver of identity[158] – that the state is 'no more than a transitory political settlement whose virtue is that it secures civility' among divergent groups in society.[159] That is, since individuals in plural polities have multiple identities, the primary function of the nation-state is ensuring 'civility' (arguably of a weaker form than what I describe above) – not providing identity. Similarly, the theologian Rowan Williams, building on the work of Ayelet Shachar,[160] commends a 'transformative accommodation' according to which various social groups are given a common public space to compete for identities and to influence members of other groups, forging an 'interactive pluralism'.[161]

Commenting on this view, the theologian Mark Chapman points out that Williams' interactive pluralism is premised on two main factors: (1) the need for 'negotiating space for . . . religious communities to organise themselves according to their own sets of

[155] Michael Sandel, *Democracy's Discontent: America in Search of a Public Philosophy* (Cambridge: Harvard University Press, 1996), p. 4.
[156] Crawford Macpherson, *The Political Theory of Possessive Individualism* (Toronto: University of Toronto Press, 1962).
[157] See especially Friedrich Hayek, *Law, Legislation and Liberty, Vol. 3: The Political Order of a Free People* (London: Routledge, 1979), pp. 14 ff.
[158] Cf. Will Kymlicka, *Liberalism, Community and Culture* (Oxford: Clarendon Press, 1989); Kymlicka, *Multicultural Citizenship*.
[159] Chandran Kukathas, *The Liberal Archipelago: A Theory of Diversity and Freedom* (Oxford: Oxford University Press, 2003), p. 15.
[160] Shachar, *Multicultural Jurisdictions*.
[161] Rowan Williams, 'Civil and Religious Law in England: A Religious Perspective', (2008), http://bit.ly/RWCivRelLaw, accessed on 2 March 2011.

principles'; and (2) 'the need to protect individual freedom and human rights'. In brief, communal equality and individual liberty make necessary a diminished role of the political state. In this way, Chapman continues, 'the pluralist state negotiates space for all religious groups to participate in the political process without losing their public identity'. This is one way of countering the expanding secularism of the nation-state.[162] In sum, as Chapman writes elsewhere: 'The role of the state is to prevent the universal claims of any community, to prevent the right of any group to define the common good.'[163]

In addition to his construal of Williams' 'interactive pluralism', Chapman's proposal of a 'pluralist democracy' as well as his worry about a relativized 'common good' offer compelling points to consider in constructing a plural polity amenable to the construction of public civility. I would add, however, that in order to ground a viable framework of public civility what needs recapturing is a further dimension: namely, an account of the attributes of personhood which are essential and common to all human persons, irrespective of political status.

(§1.4.2.3) Reconnecting ethics and politics

Predicated largely by a move toward Romanticism – succinctly characterized by Taylor as the conviction that the 'purposes and capacities' of human persons are ones which 'we discover within ourselves'[164] – the modern self came to be understood as needing to be 'awakened' in order to discover its true identity. Consequently, there has emerged in modernity, as Taylor puts it, an 'independent morality', i.e., a non-theistic ethics, that was previously unavailable. As MacIntyre puts it, there has been a shift away from the 'conception of society as community united in a shared vision of the good for

[162] See Mark Chapman, *Doing God: Religion and Public Policy* (London: Darton, Longman & Todd, 2008), Ch. 6, 'Islam, the Archbishop, and the Future', quotations from pp. 100 and 111.
[163] Mark Chapman, *Blair's Britain: A Christian Critique* (London: Darton, Longman & Todd, 2005), pp. 93 and 95.
[164] The quotations of Taylor in this paragraph are from Taylor, *Sources of Self*, p. 315.

man' to the view of society as 'an arena in which individuals seek to secure what is useful or agreeable to them'; accordingly, modern society lacks the capacity to acknowledge, let alone articulate, 'the good [as] prior to and independent of any summing of individual interests'.[165] The good is whatever the self decides. Similarly, from a historical-sociological perspective, as David Martin writes, there has been a shift away from the classical and medieval languages of 'duty and obligation' to the modern ideas of 'happiness, utility, freedom and self-fulfilment'.[166] Put simply, in late modernity individual subjective fulfilment has come to eclipse objective human flourishing: whereas once the good was defined by an objective view of the self; it is now decided by the subjective self.

Consequently, public morality is reduced largely to social agreements on rule-following. Accordingly, characteristic of modern moral reasoning is Rawls' view that 'virtue' can only mean the 'dispositions and propensities regulated by . . . a desire to act from the corresponding moral principles'.[167] Such a view of morality is starkly different from the classical view that a whole-life orientation toward human excellence is the proper aim of the moral life, an orientation which presupposes not Rawlsian 'virtue', but classical excellences or 'virtues'.[168] Yet, without an objective view of moral human teleology, such rule-based moralities are an unsurprising substitute for public morality: if one cannot tell another how it is to be good (virtue ethics), at least they might agree on what counts as 'good' interaction (utilitarianism). Without some objective human *telos* articulated and acknowledged, then, any liberal political structure is bound to fall short of providing the needed resources for public civility. As the social theorist Os Guinness puts it, the modern vision of the liberal state 'has no commitment to virtue of any kind at the center of its free

[165] MacIntyre, *After Virtue*, pp. 236 and 233, respectively.
[166] Martin, *On Secularization*, p. 88.
[167] Rawls, *Theory of Justice*, p. 192.
[168] See MacIntyre, *After Virtue*, Ch. 16, 'From Virtues to Virtue and After Virtue'.

society'[169] – and, I contend, it cannot have one without an account of objective human teleology. A truly just politics requires a truly human ethics.

In sum, only with a recovery of a classical understanding of the fundamental human identity, along with its moral nature, can there be the resources needed to both envision and engender a public civility that is adequate to bridge the divergent traditions of Islam and Christianity. The upshot of this modernist transformation of the political self is summarized well by MacIntyre: 'In a world of secular rationality religion could no longer provide . . . a shared background and foundation for moral discourse and action'. And what religion is no longer allowed to do, moral philosophy is no longer able to do since it rejects what MacIntyre describes as the 'teleological view of human nature, [i.e.,] any view of man as having an essence which defines his true end'. This is why, the Enlightenment project, in its pursuit of founding a basis of public morality, 'had to fail'.[170]

(§1.4.2.4) Secularism as a political tradition

My critique of modernist views of the role of the state reaches back to and draws on Aristotle who argued that in some city-states '[t]here has arisen a false idea of freedom which is contradictory to the true interests of the state': namely, the idea that 'what is just is equal; and that equality is the supremacy of the popular will; and that freedom means doing what a man likes'.[171] Aristotle's own critique of negative freedom picks out a fundamental problem with modern secular political life as well: namely, the totalizing and distorted view of human freedom as 'freedom from'. For Aristotle, this view of human freedom produces democracies in which 'every one lives as he pleases, or in the words of Euripides, "according to his fancy." But this is all wrong'.

[169] Os Guinness, *The Case for Civility: And Why Our Future Depends on It* (New York: HarperCollins, 2008), p. 125.
[170] MacIntyre, *After Virtue*, pp. 50-54.
[171] The quotations in this paragraph are from Aristotle, *Politics*, Bk. 5, Ch. 9, see also Bk. 6, Chs. 2-4.

What Guinness refers to, specifically in the context of religious freedom as the 'expanding statism'[172] of modernity Bauman describes more generally. Bauman observes that modernization, particularly with its push toward a monological uniformity, had brought about an allegedly omnicompetent state whereby all social institutions are to be 'state-established, state-endowed or state-licensed'.[173] Similarly, Asad writes, 'Because the modern nation-state seeks to regulate all aspects of the individual life – even the most intimate, such as birth and death – no one . . . can avoid encountering its ambitious powers'; consequently, 'all social activity requires the consent of the law, and therefore of the nation-state'.[174] Asad goes on to note that modern political order has a secularized, i.e., non-theistic, 'ethics', and adheres to a tradition whose fundamental tenets include 'representative democracy, citizenship, law and order, civil liberties'. Secularism itself, in other words, has developed into a political tradition, which one Muslim scholar poignantly refers to as 'secular liberal agnosticism'.[175]

In this way, it is clear that classical secularization theory was, as Casanova puts it, more a result of the 'Enlightenment critique of religion' than of empirical findings.[176] The 'political programs' of modern secularism, Casanova continues, are largely the result of a 'self-fulfilling prophecy' – what Shmuel Eisenstadt calls Enlightenment's 'homogenic and hegemonic visions of modernity'.[177] Similarly, Jeffrey Hadden argues that modernity has not 'desacralized', as predicted and prescribed; instead, secularization theory itself, having

[172] Guinness, *Case for Civility*, p. 116.
[173] Zygmunt Bauman, *Globalization: The Human Consequences* (Cambridge: Polity, 1998), pp. 30-31. For more on modernity's tendency toward uniformity or 'conformism', see also Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1958), pp. 38-43. Earlier still, Durkheim expressed concern over the expanding bureaucratic state. See Durkheim, *Division of Labour*, pp. 165-71. Durkheim's insightful critique of (at least) this point holds, even if made from the perspective of what Taylor might call 'acultural' models of analysis. See Taylor, 'Modernity and Public Sphere', pp. 205-20.
[174] The quotations of Asad in this paragraph are from Asad, *Formations of Secular*, pp. 199 and 255.
[175] Abdulaziz Sachedina, *Islam and the Challenge of Human Rights* (Oxford: Oxford University Press, 2009), p. 157.
[176] The quotations of Casanova in this paragraph are from Casanova, *Public Religions*, p. 30.
[177] Shmuel Eisenstadt, 'Multiple Modernities in an Age of Globalization', *The Canadian Journal of Sociology* 24, no. 2 (1999): 283-95, p. 292.

become 'sacralized', reflects 'ideological preference rather than systematic theory'.[178] Modernity, in Berger's words, sits 'comfortably compatible with religion'.[179] How comfortably it sits may be disputed. (A discussion of this matter comprises much of the next chapter.) At any rate, what can be seen is that, in its ideologies regarding human freedom and the role of the state, the political structures construed and constructed under the tenets of secular modernism have become confined to the nearly all-encompassing tradition of modern secularism.

(§1.4.3) Summary: the role of the state and human freedom

As commentary on the conditions prerequisite to constructing public civility and as a summary of modernist conceptions of the role of the state, I offer MacIntyre's succinct statement on the need for a classical recovery of 'the human good':

> Liberal political societies are characteristically committed to denying any place for a determinate conception of the human good in their public discourse. . . . [Accordingly], government is to be neutral as between rival conceptions of the human good, yet in fact what liberalism promotes is the kind of institutional order that is inimical to the construction and sustaining of the types of communal relationships required for the best kind of human life.[180]

While I agree with MacIntyre's diagnosis – that modern secularized political liberalism tends to preclude recognition and pursuit of the human good – I differ with him in terms of the prognosis. Whereas MacIntyre suggests the need for particular 'types of communal relationships' which would promote the 'best human life', I contend that what is needed more fundamentally for constructing intercommunal public civility is an articulation and an acknowledgement of the essential attributes of the human good; and that if the state is

[178] Jeffrey Hadden, 'Toward Desacralizing Secularization Theory', *Social Forces* 65 (1987): 587-611, p. 588; and Hadden, 'Desacralizing', p. 587, respectively.
[179] Berger, *Relativism and Fundamentalism*, p. 3.
[180] MacIntyre, *After Virtue*, pp. xiv-xv.

to play a role in this enterprise at all, it should be in promoting robust recognition of these attributes.

With regard to human freedom, if there is no articulation of the objective human good on the basis of which human persons structure their lives, then both positive and negative freedom would become unintelligible. That is, negative freedom would be ultimately unnecessary since in principle there could be no intrinsically valuable purposes worth pursuing; and positive freedom would not be possible since there could be no way to construe any 'way of being' that would count as human flourishing.

(§1.5) Conclusion and transition

In this chapter, I argue that secular modernity has yielded: fundamental conceptual transformations of human freedom and of the role of the political state; a transmutation of the political self as a possessor of anarchic 'rights'; and a loss of a coherent view of human teleology. These distortions and transformations bear negatively on the prospect of constructing public civility in plural societies, especially ones such as Mindanao which are comprised of deeply divergent religious communities. In view of such ideological shifts, what is needed is a recovery of the classical notion of the human good over against these modernist conceptions.

Building on this premise, in the next chapter, I consider another dimension which is crucial to the prospect of constructing public civility: namely, the modern public sphere. Since the task of public civility, like all human endeavours, are necessarily embedded within a given social-cultural context, the prospect of constructing public civility must be considered against the backdrop of the profoundly secular public sphere. Given, on the one hand modernist misconceptions of both human freedom and the role of the state (Chapter One), and on the other hand the social-cultural context of late modernity as marked by

radical individuality and secularity (Chapter Two), any attempt to construct a framework of public civility requires both a critique of modernism, as given above, and a concomitant modernity criticism, to which I now turn.

Chapter Two
Secularity, Modernity, and Multiculturalism

(§2.1) Introduction

In analyzing the modern world, especially in the context of religiously plural societies, what is important is not only a critical examination of the ideas which have given expression to the ideologies of modernism – a history of ideas (Chapter One). A social history is also needed in order to consider the lived contexts against the background of which such concepts have been articulated and understood – a 'sociology of knowledge'. To this end, in this chapter I suggest a reprisal and a remediation of several key social realities characteristic of late modernity, namely: (1) the decline of public life; (2) the distortions of the public and private spheres; and (3) the rise of what I call the modern 'professional sphere'. These social realities crucially influence the viability of constructing public civility in the late modern world. This task makes up the first major part of this chapter.

In the second part, I consider the prospects of two distinct but related attempts of framing a common public life as responses to the social fragmentation of late modernity: multiculturalism and legal pluralism. I contend that given their purportedly non-moral and relativistic character, such frameworks, while useful in some respects, are ultimately inadequate to ground public civility in religiously divided societies. What is needed is a more universal basis for constructing such a framework, a basis which can be found in the idea of the human good, which I discuss extensively in Chapter Three.

Before laying out my critique in the first part of this chapter, I explain the meanings of various terms related to the methodology of sociology of knowledge.

(§2.1.1) Terms and method

In his work on the notion of 'critique', the intellectual historian Reinhart Koselleck shows its connection to the Greek term '*krisis*' which denotes a violent rupture of the *polis*: in the classical world, to critique was to offer a corrective to a crisis.[181] Through the modern period, the 'critical' project was taken up by Enlightenment thinkers, such as Friedrich Schiller, Pierre Bayle, and Immanuel Kant, who criticized the Christian religion and its tendency toward absolutist forms of government, doing so within the alleged final court of arbitration: human reason.[182] While used by such thinkers to characterize the 'error' or 'burden' of religious authority,[183] more recently the term 'critique' has been adopted by so-called 'modernity critics' for expressly different purposes: to critique secular modernity.[184] Following these scholars, I use 'critique' and 'criticism' when considering the impact of secularity on late modern society.

While, historically, 'critical theory' has been characterized by its suspicion of religious metaphysics and epistemology,[185] it has been pointed out that within secular critiques themselves there are ideological commitments which unjustifiably privilege the secular critic.[186] Hans-Georg Gadamer writes famously, 'There is one prejudice of the Enlightenment that defines its essence: the fundamental prejudice of the Enlightenment is the prejudice against prejudice itself';[187] yet such 'enlightened' prejudice, of course, is no less a prejudice. For my purposes, then, I use 'modernity criticism' to refer specifically to a critical reprisal of the social contexts which have hosted a modern secular outlook.

---

[181] See Reinhart Koselleck, *Critique and Crisis: Enlightenment and the Pathogenesis of Modern Society* (Oxford: Berg, 1988), p. 103, n. 15.
[182] See Koselleck, *Critique and Crisis*, Ch. 8, 'The Process of Criticism'.
[183] See Wendy Brown, 'Introduction', in *Is Critique Secular?*, ed. Talal Asad (Berkeley: Townsend Center for the Humanities, 2009), esp. pp. 10-13.
[184] See, e.g., the edited volume Talal Asad, ed. *Is Critique Secular?*
[185] Saba Mahmood, 'Religious Reason and Secular Affect: An Incommensurable Divide?', in *Is Critique Secular?*, ed. Asad, p. 91.
[186] Michael Warner, 'Uncritical Reading', in *Polemic: Critical or Uncritical*, ed. Jane Gallop (New York: Routledge, 2004).
[187] Hans-Georg Gadamer, *Truth and Method*, trans. Joel Weinsheimer and Donald Marshall, 2nd ed. (London: Continuum, 2004 [1960]), pp. 272-73.

In the previous chapter, I used the term 'critique of modernism' when analyzing the ideological forces of secular modernism; whereas in this chapter I use 'modernity criticism' when evaluating the sociological context of secular modernity. Put differently, a critique of modernism offers an analysis based primarily on a *history of philosophy* under which perspective the ideological commitments of modernism are in focus; by contrast, modernity criticism, under a *sociology of knowledge* perspective, emphasizes the social contexts in which modern forms of life are situated. I suggest the construction of a framework of public civility involves a methodology that considers both *history of philosophy* ('intellectual history') and *sociology of knowledge* ('social history').[188] To note further, I use 'modernity critique' and 'critique of modernity' when considering more broadly the impact of secular modernity, and thereby intend to include both the sociological and ideological forces thereof.

Norbert Elias offers a similar view of analyzing social change, especially with regard to modern 'civil' society.[189] Elias argues that history does not unfold as a result of the '"rationally" planned' projects of individual thinkers; yet neither is social change 'irrational'. Rather, a given social reality typically results from a multiplicity of the 'plans and actions of people' which 'give rise to changes and patterns that no individual has planned or created': and 'from this interdependence . . . arises an order sui generis'. Thus, the 'social order' of modernity is a result of the 'interweaving [of] human impulses and strivings [which] underli[e] the civilizing process'. In short, Elias argues that the modern social order which is marked by 'civility', i.e., personal civility (as described in Chapter

[188] This distinction can be found also in Peter Berger, Brigitte Berger, and Hansfried Kellner, *The Homeless Mind* (Harmondsworth: Penguin, 1974), pp. 18 ff; Berger, *Facing Modernity*, pp. 28-30; MacIntyre, *Whose Justice?*, Ch. 20, 'Contested Justices, Contested Rationalities'; Owen Chadwick, *The Secularization of the European Mind* (Cambridge: Cambridge University Press, 1990 [1975]), pp. 14-15. Similarly, while not using the term, Taylor also comments on the importance of the methodology of sociology of knowledge in analyzing social change. See Taylor, *Sources of Self*, Ch. 12, 'A Digression on Historical Explanation'.
[189] The quotations in this paragraph are from Elias, *Civilizing Process*, pp. 365-67.

One), is a reflection of the attendant social '*habitus*' which is produced through a series of specific but mostly unplanned historical changes.

Drawing on these insights, in my modernity criticism which follows I consider the social realities of late modern life as they make a crucial impact on the task of public civility. In doing so, I explore what I find to be some of the most significant social transformations in modernity which constrain the prospect of constructing public civility between divergent religious communities, especially those of Christianity and Islam. In offering this critique, I build on the works of social theorists such as Philippe Ariès, Zygmunt Bauman, Peter Berger, Jürgen Habermas, and Richard Sennett.[190] This critique is premised on an insightful summative statement about the methodology of sociology of knowledge from Berger and Luckmann:

> The sociology of knowledge must concern itself with whatever passes for 'knowledge' in a society. . . . Insofar as all human 'knowledge' is developed, transmitted and maintained in social situations, the sociology of knowledge must seek to understand the processes by which this is done in such a way that a taken-for-granted 'reality' congeals for the man in the street. In [sum], we contend that *the sociology of knowledge is concerned with the analysis of the social construction of reality*.[191]

A sociology of knowledge is concerned primarily with the way in which ordinary persons experience and engender certain forms of life. And the form of life that I am interested in considering and critiquing in the first part of this chapter is one which conforms to (and in some ways confirms) the social reality of secular modernity.

[190] I draw heavily from: Bauman, *Globalization*; Bauman, *Search of Politics*; Bauman, *Liquid Modernity*; Peter Berger and Thomas Luckmann, *The Social Construction of Reality: A Treatise in the Sociology of Knowledge* (London: Allen Lane, 1967); Berger, *Social Reality of Religion*; Berger, Berger, and Kellner, *Homeless Mind*; Berger, *Facing Modernity*; Chadwick, *Secularization*; Habermas, *Structural Transformation*; MacIntyre, *After Virtue*; Sennett, *Public Man*.
[191] Berger and Luckmann, *Social Construction*, p. 3 (emphasis original).

The social theorists Armando Salvatore and Dale Eickelman offer this helpful commentary in applying a sociology of knowledge perspective specifically to modern Muslim contexts:[192]

> It is important to incorporate historical and contextual accounts of ideas [which always involve both the] notions and practices of public life and social exchange in the Muslim majority world and elsewhere. . . . Ideas of the public are historically embedded and have strong links with culturally shared senses of self and community. [In other words, t]hey are situated at the strategic intersection of practice and discourse.

More specifically, in much of the contemporary Muslim world, the different modern forms of political authority shape Muslims' ideas of the public sphere as they promote what Salvatore and Eickelman describe as a 'secular outlook of citizenship'. For this reason, an assessment of both 'practice and discourse' – i.e., both modernity criticism and a critique of modernism – is needed for a robust treatment of the impact of secular modernity in contemporary plural societies. Having considered in Chapter One various aspects of 'discourse' (the modernist distortion of freedom, the role of the state, and public civility), what follows is a critique of the social 'practices' of late modernity.

(§2.1.2) Summary and transition

In sum, from a sociology of knowledge perspective, Charles Taylor suggests that the transition from the premodern to the modern public sphere came about 'not through people conceiving new ideas and then acting on them', but largely by way of 'new social forms . . . partly constituted by . . . new background understandings and a new social imaginary'.[193] A 'social imaginary', as he writes elsewhere, is the set of 'socially shared ways in which social spaces are imagined'.[194] Accordingly, as Taylor continues, while 'the

[192] The quotations in this paragraph are from Armando Salvatore and Dale Eickelman, *Public Islam and the Common Good* (Leiden: Brill, 2006), p. xvi.
[193] Taylor, 'Modernity and Public Sphere', p. 243.
[194] Charles Taylor, 'Modes of Secularism', in *Secularism and Its Critics*, ed. Rajeev Bhargava (Oxford: Oxford University Press, 1999), pp. 38-39.

seventeenth-century theories of the state of nature and social contract probably had a part', the social context – specifically the public sphere and public life – also must be considered in critical analysis of modern public life.[195]

Furthermore, as Taylor observes, in premodern societies, 'law', whether natural, metaphysical, religious, or otherwise transcendent, founded social order.[196] By contrast, a 'radical secularity' marks the modern public order – i.e., an order 'constituted by nothing outside of the common action' carried on by its this-worldly members. In other words, excluded from modern society is a 'framework [of] some action-transcendent dimension'. For this reason, a reprisal and a remediation of the 'radical secularity' of the modern public sphere is crucial for the construction of public civility.

For this reason, I turn now to a consideration of the social history in which the secular modern public sphere has emerged. In what follows, I explore certain major sociological forces which have helped to produce the modern public sphere and a concomitant decline of public life, and which consequently have beset the task of public civility in late modern plural society.

(§2.2) The public and private spheres of modernity

In this section, I outline several crucial features of the social 'life-world'[197] of secular modernity specifically by tracing the sociological shifts within the public sphere from premodernity to late modernity. I thereby consider several major transformations which constrain the task of constructing interreligious public civility, namely: (1) the decline of public life; (2) the distortions of the public and private spheres; and (3) the rise of what I call the 'professional sphere'. The implications of such transformations have

[195] Taylor, 'Modernity and Public Sphere', p. 243.
[196] The quotations in this paragraph are from Taylor, 'Modernity and Public Sphere', pp. 234-38.
[197] This term was used extensively by the early sociologist of knowledge Schütz when analyzing the 'prescientific reality' which the 'normal adult simply takes for granted'. See Alfred Schütz, *The Structures of the Life-World*, ed. Thomas Luckmann (Evanston: Northwestern University Press, 1973), p. 3.

deeply detrimental effects on the forging of public civility in religious plural societies. What is needed, I conclude, is a corrective outlook on public life and the public sphere, an outlook which aligns with and requires a recovery of the notion of 'the human good'.

(§2.2.1) A brief history of the spheres of life

Habermas observes that in the classical world the public life of the *polis* consisted in continuous interaction among citizens which took place in 'the market place (the *agora*)', 'in discussion (*lexis*)', and 'in common action (*praxis*)', examples of the last being 'war or competition in athletic games'.[198] Such was the classical public sphere of freedom, equality, and virtues. By contrast, the private sphere consisted in activities such as slave labour, domestic duties, birth, and death which were 'attached to the house'. So, it was mainly in the public sphere that civility was a necessary and ongoing practice. Moving, however, to the public sphere of early modernity, the coffee houses, *salons*, and 'table societies' became the main sites of public life, providing spaces in which individuals gathered to discuss political matters.

Arguably, then, in order to understand the decline of public life in late modernity, it is important to consider: (1) what the modern public sphere is; (2) how it is uniquely modern; and (3) the transformations which the private and public spheres have undergone since early modernity and antiquity. In the next section (§2.2.2), I explore at length the third of these points. In what follows immediately, I turn to consider the idea of 'the public', and consider the ways in which the modern public sphere is 'modern'.

With respect to the public sphere, Taylor observes that what is 'public' is what is 'of common concern' or perhaps 'what is commonly recognized as of common concern'; accordingly, the public sphere 'pertains to the instruments or institutions . . . by which the

[198] The quotations in this paragraph are from Habermas, *Structural Transformation*, pp. 3-4 and 27-31.

society comes together as a body and acts'.[199] More technically, Shmuel Eisenstadt sees the public sphere as that which is 'located *between* the official and the private spheres',[200] a description similar to characterization of 'vertical civil society' given in Chapter One. Building on Eisenstadt's characterization, Salvatore and Eickelman contend that in the public sphere a 'shared anticipation' sets the 'condition of possibility' for social interaction, and that this shared anticipation includes not only face-to-face interaction, but also new media such as mass communication.[201] What makes the public sphere uniquely modern, then, is this particular dimension of sociality – sociality at a distance and across time – an aspect studied by many notable social theorists.[202]

Commenting further on what makes a public sphere modern, Taylor points to two of its novel features: (1) its connection to print culture; and (2) its extrapolitical nature.[203] First, Taylor argues, crucial to the emergence of the modern public sphere was the impact of print culture: that is, the newspapers, magazines, political journals, and other print media that gave rise to a collective consciousness because of which public debates became important and possible.[204] A second way in which the modern public sphere was novel is that, while debates over public affairs in the Greek *polis* were carried on 'at a symposium [and] in the agora, and then of course in the ekklesia where the thing is finally decided' – by contrast, the public sphere of modernity is 'essentially extrapolitical'. That is, whereas in the *polis*, the persons deliberating in the *agora* were also those who decided in the *ekklesia*, in the modern public sphere, these constituencies are separate and distinct. So,

[199] Taylor, 'Modes of Civil Society', p. 108.
[200] Shmuel Eisenstadt, 'Concluding Remarks: Public Sphere, Civil Society, and Political Dynamics in Islamic Societies', in *The Public Sphere in Muslim Societies*, ed. Miriam Hoexter, Shmuel Eisenstadt, and Nehemia Levtzion (Albany: State University of New York Press, 2002), p. 140 (emphasis original).
[201] Salvatore and Eickelman, *Public Islam*, pp. 16-17.
[202] See, e.g., Ariès, *Centuries*, pp. 381-86; Anthony Giddens, *Central Problems in Social Theory* (London: MacMillan Press, 1979), pp. 201-06; Benedict Anderson, *Imagined Communities*, Rev ed. (London: Verso, 1991 [1983]), Ch. 3, 'The Origins of National Consciousness'.
[203] The quotations in this paragraph are from Taylor, 'Modernity and Public Sphere', pp. 225-27, 231-32, 231-34, and 233, respectively. Chadwick also comments on the influence of 'the press' with regard to the secularizing effect it had on the public sphere. See Chadwick, *Secularization*, Ch. 2, 'On Liberalism'.
[204] Here Taylor draws on Habermas, *Structural Transformation*.

while the modern public sphere might 'enable the society to come to a common mind', it does so by providing 'a discourse of reason outside power'. In short, public discourse became distinct and distanced from political deliberation.

By contrast, in classical Greece, between the private sphere of the *oikos* and the public sphere of the *ecclesia* stood the *agora*.[205] Aristotle himself describes this *agora* whose location, while below the 'common tables of the magistrates' and the 'buildings appropriated to religious worship', was above the sphere of the *oikos*.[206] Arts, crafts, trades, and leisure were practiced in the freeman's *agora*, thus providing a place of 'communication' between the *oikos* and the *polis*. In this way, the *agora* maintained a mediatory role between the political and private spheres of life. Since the classical period, however, a shift in sociality has led to a nearly complete disappearance of the *agora*, a shift arguably brought on by distortions of the public and private spheres. In what follows, I trace these transformations, building on the insights of scholars such as Ariès, Bauman, Berger, Habermas, and most especially Sennett.

(§2.2.2) The rise of the modern public sphere and the decline of public life

In the late middle ages there emerged an understanding and use of land according to which 'lordly [*publicus*] manorial authority' reigned largely unchallenged: that is, insofar as kingship and lordship came to be 'publicly represented', the public sphere was constituted mainly by political rule and action.[207] Put differently, the political began to subsume the public, leaving largely only the activities of 'production and reproduction' for the private sphere.[208] Over time, even leisure activities, such as festivals, dance, and theatre, which were once public began to retreat from 'public places', moving 'into the

[205] See Bauman, *Search of Politics*, pp. 87-100.
[206] Aristotle, *Politics*, Bk. 7, Ch. 12; see also Bk. 6, Ch. 4; and Aristotle, *Ethics*, Bk. 5, Ch. 5, 1133a2-5.
[207] Habermas, *Structural Transformation*, pp. 5-7.
[208] Taylor, *Sources of Self*, pp. 211 ff.

rooms of the palace', i.e., courtly society.[209] The private sphere, thereby, became the place for biological life and physical survival; the rest of life, while in a sense 'public', was hidden within the remit of the new 'political'. Accordingly, the terms 'public' and 'private' came to take on a more modern usage conceived in terms of 'geography'[210] (cf. Weintraub's visibility criterion) rather than in terms of the political collective. Thus was the scene of the English public modern sphere.

A similar social history can be traced in France. The early modern '*le public*' was understood initially in terms of 'the body politic',[211] suggesting a strong connection between the public and the political. Soon thereafter, against a backdrop of ever increasing Parisian diversity, *le public* had come to be used to refer to the 'realm of acquaintances and strangers' created by modern urbanization; thus, the paradigmatic French cosmopolitan was 'the perfect public man' – i.e., one who was able to move about 'comfortably in diversity' and for whom the 'focus of public life [was] the capital city'.[212] As in England, the French *le public* became a matter of geography rather than one of political significance.

So, through the course of modernity, social life in the geographical public became largely a matter of performance among strangers[213] – except that now such strangers, unlike the civic friends of a *polis*,[214] remained strangers. Moreover, the modern public individual chose never to express herself, that is, her true self; indeed, she could not do so, given that she was meant to be a malleable cosmopolitan. Such secret sociality became the principle of modern social interaction.[215] Thus, the decline of public civility can be traced both in the distortion of the terms used to describe it and its attendant social practices.

---

[209] Habermas, *Structural Transformation*, pp. 9-10.
[210] Sennett, *Public Man*, p. 16.
[211] Habermas, *Structural Transformation*, p. 26.
[212] Sennett, *Public Man*, p. 17.
[213] Sennett, *Public Man*, pp. 23 ff; Habermas, *Structural Transformation*, pp. 31 ff.
[214] Here I have in mind Aristotle's stress on the central virtue of 'concord' or 'political friendship' essential for the health of a *polis* along with his characterization of a friend as 'another self'. See Aristotle, *Ethics*, Bk. 9, Chs. 6, 5, and 3, respectively.
[215] See Sennett, *Public Man*, esp. Ch. 9, 'The Public Men of the 19th Century'.

In summing up his social history of the public and private spheres, Sennett writes: while in the private sphere of family and friendships man '*realized* his nature', in the modern public sphere 'man *made* himself'.[216] That is, in relegating real life to the private sphere, in public man became an actor. This social schizophrenia had developed in response to the unique sociality of modernity: as modern man encountered the normative 'claims of civility' of the public sphere, he 'made' himself into a public personality, and banished his 'rights of nature' (i.e., his true self) to the private sphere.

In the following, I trace the various social shifts which took place with the emergence of the modern public sphere, the implications of which constrain and thereby make all the more important the task of constructing public civility. Specifically in the next four sections, I draw on MacIntyre, Hannah Arendt, and other modernity critics as well as on aspects of Sennett's analysis of the rise of the modern public sphere in terms of its impact on the 'fall of public man'.[217] Sennett insightfully and illustratively articulates an analogy between the changes in the world of performative arts and those in wider society. Here, I focus on four major shifts brought on by modernity which are particularly helpful in elucidating the origins of the decline of public life: (1) the attire and speech of modernity; (2) the modern world of work; (3) the modern conception of social space; and (4) the shift in modern politics.

(§2.2.2.1) Modern public attire and speech

The loss of physical public squares (e.g., the Greek *agora*, the Roman forum, Bernini's *Piazza Obliqua*) reflects and reinforces a loss of the hierarchy of social groups which, like the public square, was once physically visible.[218] What resulted was a modern 'milieu of strangers' brought on mainly by the social 'uncertainty' of dealing with the

[216] The quotations in this paragraph are from Sennett, *Public Man*, pp. 18-19 (emphasis original).
[217] Sennett, *Public Man*.
[218] The quotations in this paragraph and the next are from Sennett, *Public Man*, pp. 64-72 and 73-87.

unknown individual. This ‘uncertainty’ created a ‘problem of audience’ illustratable in the changes of modern attire. Even into the early modern period, there was a ready association between one’s attire and one’s social class, affording an ease of identification. Indeed, attempts to out-dress or out-speak one’s social status would amount to a breach of statutory law. By contrast, the paradigmatic modern attire was ‘neutral’, ‘homogenous’, ‘unremarkable’, ‘drab’ garb. The ‘egalitarian logic’ of modern dress can be seen in two related places: (1) the social reality of an ‘anonymous’ public culture; and (2) the theatrical world wherein the human body was mainly, if not merely, treated as a mannequin to be decorated, adorned, literally made up. Thus, whereas in early modernity one might have good assurances of the status of the person with whom one was interacting, steadily this confidence gave way.

Also, the public forms of speaking had shifted from early to late modernity as reflected ‘on stage’. Whereas once the verbal back-and-forth between actor and audience in opera and theatre houses was common and commonly bold, eventually this relation weakened into a form of increasingly passive entertainment. This shift, Sennett observes, reflects a change in the use of language from ‘sign’ to ‘symbol’. That is, before the modern turn, words had been used as signs in order to ‘make a strong, effective, above all self-contained, emotional statement’; as symbols, words came to stand for something else such that, both in the public sphere and on the public stage, modern speech and attire became ‘a cover over the real individual hidden within’ – that is, a symbol. Thus, with the decline of a use of direct language and the rise of an ‘egalitarian’ dress, individuals in modernity were able to keep secret their social positions, and keep hidden their real selves, thereby diminishing the prospect of a common public life.

(§2.2.2.2) The modern world of work

With the onset of the modern market economy, multiple 'estrangements' have taken place which also have stultified a common public life. First, there was what Marx described as the alienation between labourer and the product of the labourer.[219] Secondly, there emerged a separation, also critiqued by Marx, between the 'use value' and the 'exchange value' of goods, a separation which induced a 'commodity fetishism' whereby goods came to be valued strictly for their 'exchange value' – not for their utility or intrinsic worth.[220] Lastly, there arose a distanciation between producer and consumer, which engendered a kind of silent shopping, a passive participation in the marketplace.[221] These three estrangements, especially the third, contributed to the spread of what Berger, following Durkheim, calls 'social anomie', i.e., a loss of a sense of shared social order – a condition pervasive in late modern society.[222]

The concomitant passivity and silence of the modern public sphere can be illustrated particularly poignantly in the shops of nineteenth-century Paris.[223] Merchandise was sold increasingly on 'fixed' price, and less on the basis of 'open' pricing, signifying a disappearance of the roles played by negotiation and trust in economic exchange – dimensions which could only be built on rapport and reputation over time. Instead, goods were purchased not 'as a result of continuous interaction' with sellers, but after 'a period of passive, silent, focused attention' on the part on the consumer. Reflected in and partly

[219] See Karl Marx and Friedrich Engels, *Capital: A Critique of Political Economy*, trans. Samuel Moore and Edward Aveling (New York: Modern Library, 1906 [1867]), esp. Pt. 4, Ch. 14, 'Division of Labour and Manufacture'.
[220] Marx and Engels, *Capital*, pp. 82-85. For a helpful introduction to Marx's critique of 'use value', see Arendt, *Human Condition*, Ch. 4, Sec. 22, 'The Exchange Market'.
[221] Sennett, *Public Man*, Ch. 7, 'The Impact of Industrial Capitalism on Public Life', esp. pp. 141-49.
[222] Berger, *Facing Modernity*, pp. 171-73; cf. Durkheim, *Division of Labour*, pp. 72-77. Such anonymity has been critiqued by others such as Weber and Simmel in their respective analyses of the rationalized market with its reduction of human sociality to economic exchange. See Max Weber, *The Protestant Ethic and the Spirit of Capitalism*, ed. Anthony Giddens, trans. Talcott Parsons (London: Routledge, 1992 [1930]); Georg Simmel, *The Sociology of Georg Simmel*, trans. Kurt H. Wolff (Glencoe: Free Press, 1950). For a helpful discussion of these analyses, see Harvie Ferguson, *Phenomenological Sociology: Insight and Experience in Modern Society* (London: Sage, 2006), pp. 167-71.
[223] The quotations in this paragraph are from Sennett, *Public Man*, pp. 148 ff.

reinforced by this silent shopping, deeper forms of social interaction were relegated increasingly to the private sphere, ironically making the public sphere a place of passivity and individuality.

This estrangement takes place not only on the consumer side, but also within production. MacIntyre writes, 'One of the key moments in the creation of modernity occurs when production moves outside the household'.[224] Whereas in antiquity and premodernity the goods of *oikonomia* (the economy) were once produced by and for the sake of *koinonia* (the household); in modernity the production of goods became mainly a result of externalized labour. This modern separation of means and ends in economic production is an instance of what Weber more generally describes as 'instrumental rationality'.[225] Furthermore, as MacIntyre observes, social activities of various sorts ('arts, sciences, and games') also have been 'removed to the margins of social and cultural life' such that only a few individuals performed these activities, while the majority remained 'spectators or consumers'. Goods (and services) of many sorts have become externalized and commoditized, creating further distance among individuals in the public sphere.

Estrangement and externalization are not the only conditions which beset and reflect a shift in the modern world of work. As one sociologist observes, the modern world suffers a confused divide between 'public' work and 'private' religion: owing to a modern (and false) dichotomy between 'the "masculine" world of work' and 'the "feminine" spheres of nurturing domesticity', ethics and religion had been domesticated to the private sphere.[226] The main reason for the domestication of religion, as another sociologist concurs,

---

[224] Except where indicated otherwise, the quotations in this paragraph are from MacIntyre, *After Virtue*, pp. 227-29.

[225] See Weber, *Protestant Ethic*, esp. pp. 75-78; and Max Weber, *The Theory of Social and Economic Organization*, trans. A. M. Henderson and Talcott Parsons (New York: Free Press, 1964), esp. pp. 337-39. Berger makes a similar observation, pointing to the '*separability of means and ends*' of modern labour in Berger, Berger, and Kellner, *Homeless Mind*, pp. 36-39. For an insightful critique of instrumental rationality, see Arendt, *Human Condition*, Ch. 4, Sec. 21, 'Instrumentality and *Homo Faber*'.

[226] Robert Bellah, *Habits of the Heart* (Berkeley: University of California Press, 1996 [1985]), pp. 43-46.

is that: whereas 'masculine work' moved outside the private realm, 'religion, like moral virtue, became so sentimentalized, subjectivized, and privatized' that it lost both its 'public power' and its 'intersubjective public relevance'.[227]

Silenced consumption, capitalized production, and privatized religion have resulted from and in turn reinforced the modern decline of public life. MacIntyre's mantra against this modern condition is that 'goods are not private property': for societies to function properly, 'the good [which] is neither mine peculiarly nor yours peculiarly' must be socially 'shared'.[228] And yet, Berger observes, in late modern society, as there is no shared 'good', so no legitimately 'good' contribution can be made in public life; consequently, over the terrain of late modernity there remains hardly any 'shared' let alone 'sacred' canopy[229] – indeed, as I argue above, the former is unlikely because the latter is unwelcomed.

(§2.2.2.3) Modern social space

The decline of public life and the concomitant need and possibility of constructing public civility can be seen also in the 'death' of public space, as reflected especially in the architectural scheme of modern cities.[230] Here emerges a dual-paradox. First, there is what Sennett describes as the 'paradox of isolation in the midst of visibility' which is exemplified in rarely used, and so designed, 'open' spaces of modern 'public' grounds (for example, the often unused benches found between large buildings). Such visible but asocial spaces no longer, indeed, were never meant to, function as a site for interaction. A second paradox can be found within modern work places: the more open that the space is

[227] Casanova, *Public Religions*, p. 64.
[228] MacIntyre, *After Virtue*, p. 229.
[229] See Berger, Berger, and Kellner, *Homeless Mind*, 'Excursus: On the Obsolescence of the Concept of Honour'; and Berger, *A Sacred Canopy*.
[230] The quotations in this paragraph are from Sennett, *Public Man*, pp. 12-16; see also Bauman, *Liquid Modernity*, pp. 96-97.

(i.e., less walls, less cubicles), the less sociability there is, for the barriers that would otherwise protect conversations have been removed; conversely, the more that the spaces are closed up, the more sociability there is. Hence, there emerged a paradox parallel to Sennett's above which I call the 'paradox of sociability in hiding'.

As one social theorist observes, 'Consumers often share physical spaces . . . such as concerts, exhibition halls, tourist resorts . . . shopping malls and cafeterias, without having any actual social interaction.'[231] Another scholar similarly writes of the 'non-places' of modern society – i.e., spaces which are 'devoid . . . of identity, relations and history[, e.g.,] airports, motorways, anonymous hotel rooms . . . Never before in the history of the world have non-places occupied so much space'.[232] Shared 'public' space like modern 'public' life became increasingly less available, making difficult the construction of a common public life within a given locale.

(§2.2.2.4) The scene of modern politics

Finally, the emerging scene of modern politics poignantly reflects and reinforces the decline of public life. Private citizens, who increasingly began to rely on 'professional politicians' to do their job, largely vacated the modern political sphere.[233] Sennett illustrates this point insightfully in the following way. The late modern political scene is comprised of two types of individuals: (1) actors who, having skilfully crafted a public personality, become political 'professionals', 'skilled performers'; and (2) the spectator who, being 'more comfortable as a witness to someone else's expression than as an active conveyor of expression himself', passively observes and readily obeys the actors. Sennett

[231] Liisa Uusitalo, 'Consumption in Postmodernity', in *The Active Consumer*, ed. Marina Bianchi (London: Routledge, 1998), p. 221.
[232] Georges Benko, 'Introduction: Modernity, Postmodernity and Social Sciences', in *Space and Social Theory: Interpreting Modernity and Postmodernity*, ed. Georges Benko and Ulf Strohmayer (Oxford: Blackwell, 1997).
[233] Bellah, *Habits*, Ch. 8, 'Citizenship', esp. pp. 203-08.

analogizes as follows: on stage as on the political platform, the minimal interaction between performer and audience creates a cast of 'public performers' on the one hand and a host of passive participants, silent spectators, and visible voyeurs on the other.[234] Accordingly, when considering a politician's character, what matters is not the credibility of his character but the performance of his personality. For this reason, like the stage performer, the politician is better off moving attention away from the text (e.g., specific public policies) and onto himself (i.e., his rhetoric and charisma), for so far as citizens are 'moved by him', he has paved the way to do largely as he pleases – a point made also by Bauman.[235]

Furthermore, this shift in politics was consistent with the experience of the 'public' commoner, i.e., the private citizen. The 'silence [of] the social class', Sennett writes, was particularly conspicuous in modern society's meeting places (e.g., pubs, taverns, *cafés*) where individuals could be found 'massed together, relaxing, drinking, reading' yet 'divided by invisible walls'.[236] Ironically, then, a modern individual would 'escap[e] from the family parlor' by seeking 'privacy' in 'public' where he was 'shielded by his right to be left alone'. Though 'paralyzed from a sociable point of view', the modern individual found comfort in what might be called a public privacy. Thus, the modern public sphere became the place where 'public behaviour was a matter of observation', not of interaction. Accordingly, every modern form of life has its own legitimacy – every person was meant

[234] Sennett, *Public Man*, pp. 195 and 211-12.
[235] See Sennett, *Public Man*, pp. 219-21; see also pp. 161-76 and 193-94. For more on this point, see Bauman, *Search of Politics*, Ch. 2, 'In Search of Agency', esp. pp. 64-72. To note, Sennett's analogy here is anticipated in an analysis from Arendt who, in commenting on the politics of the classical world, observes the following: 'The theatre is the political art par excellence; only there is the political sphere of human life transposed into art.' What explains this connection, Arendt continues, is that '[a]ction . . . is never possible in isolation; to be isolated is to be deprived of the capacity to act'. In other words, political action, like dramatic acting, is both others-oriented and effective only 'in constant contact with the web of the acts and words of the other men'. See Arendt, *Human Condition*, Ch. 4, Sec. 25 and 26, quotations from p. 188.
[236] The quotations in this paragraph are from Sennett, *Public Man*, pp. 214-18, 25-27, and 99-106, respectively.

to be left alone, and perhaps watched. Hence, the modern private individual began to live in public (geographical) space without engaging in the public (ideological) sphere.

(§2.2.3) Summary and transition

The decline of public life in modernity has resulted from and reinforced the following social realities: the egalitarianization of speech and dress; the externalization of labour as well as 'arts, sciences, and games' along with their concomitant estrangements; the emergence of 'non-places' and a disappearance of public interaction; the demise of shared goods and a rise in secularity; and the creation of public personalities and attendant loss of a veritable politics in the public sphere. In other words, the individualizing ethos that attends religious privatization resulted from and reinforced in many ways these fundamental shifts in speech, dress, work, use of space, sociality, and politics. The rise of a silent, secular public sphere and the concomitant fall of public life should be, then, unsurprising.

Central to the critique of modernity given by Sennett (though a secularist himself) is his contention that the general tenor of sociality in modernity has undergone a shift from religious to secular.[237] In the premodern, largely religious world, public leaders spoke against and modelled lives contrary to the moral decay of their times, doing so by, among other things, pointing to and drawing on a divine realm which was accessible by and comprehensible to others. By contrast, for 'leaders' in 'modern secular culture', only 'the immediate is real'. Accordingly, when so-called 'private' citizens are spoken to by allegedly 'public' politicians, what results is the passivity of the republic in deference (or perhaps indifference) to the politician's rhetoric. For, after all, in a purely secularized world, there can be no legitimate political heroes.

[237] The quotations in this paragraph are from Sennett, *Public Man*, pp. 224-37.

In sum, as Ferguson noted nearly two centuries ago: 'To the ancient Greek . . . the individual was nothing, and the public every thing. To the modern . . . the individual is every thing, and the public nothing.'[238] The decline of public life, giving way to pursuits of individualized 'life plans', has resulted in a loss of social solidarity and public civility. Exacerbating this decline is what I call the 'mutual colonization' of the public and private spheres, a discussion to which I now turn.

(§2.3) The distortions of the public and private spheres

As described above, in the classical world there were particular functions deemed proper to different spheres of life. To the private *oikos* belonged economic production and biological reproduction; to the *polis* belonged deliberations and decisions about the city-state; and to public sphere of the *agora* belonged discussion (*lexis*) and common action (*praxis*). And a good citizen would find himself engaged, indirectly at least, in all spheres of life. By contrast, in modernity, with the public having been subsumed almost entirely by the political, there has resulted what I call a mutual colonization – a colonization of the public by the private and a parallel one of the private by the public. In what follows, I consider this dual-colonization and its negative impact on the prospect of public civility, an impact evidenced in the following related social phenomena to which I return below: the rise of 'ordinary life'; the spread of individualized 'freedom'; and the birth of what I call the modern 'professional sphere'.

(§2.3.1) Modernity's mutual colonization

The colonization of the public by the private[239] takes place as private issues are made political, a phenomenon which can be illustrated particularly well in the increasing loss of moral language and the performative impossibility of verbal offence-giving. Below

[238] Ferguson, *Civil Society*, p. 57.
[239] For an early use of this phrase, see Jürgen Habermas, *The Theory of Communicative Action*, trans. Thomas McCarthy, 3rd ed., vol. 2 (Boston: Beacon Press, 1987), pp. 325 ff.

I describe some of the causes and effects of this colonization, and consider their implications for the task of public civility. I then consider the converse where the private is colonized by the public.

Bauman describes how individuals in modern society share their most intimate emotions and actions in public, and thereby make private matters 'public issues'.[240] There has been in modernity a 'curious reversal' whereby the private sphere, once marked by its 'secrecy', has been 'redefined' as having 'the right to publicity'. The public sphere, accordingly, becomes largely an 'agglomeration of private troubles, worries and problems'. As private matters receive a 'stamp of public acceptability' by mass media, they move into public consciousness. Consequently, as Sandel complains, modern public discourse lacks 'a political agenda that addresses the moral dimension of public questions'; this modern scenario obtains, Sandel continues, since the political collective has become 'increasingly preoccupied with the scandalous, the sensational, and the confessional as purveyed by tabloids, talk shows, and . . . [other] mainstream media'.[241] In these ways, the public is colonized by the private.

The first way this colonization can be seen is in a shift in language. Sennett illustrates this shift by considering the term 'seduction' which has been replaced by the term 'affair', a replacement by which sexuality has come to be construed in radically individualistic rather than social terms.[242] Whereas parents once were considered to be complicit in the act of rearing a would-be adulterator, the act now is redefined as strictly between two consenting adult selves. An 'affair' is merely an act 'among freer spirits', whereas 'seduction' had to do with immoral social behaviour. This example is illustrative of how the 'affairs' of private life distort a proper understanding of public life, doing so by

[240] Except where indicated otherwise, the quotations in this paragraph are from Bauman, *Search of Politics*, pp. 3 and 64-65.
[241] Sandel, *Liberalism and Justice*, p. 217.
[242] The quotations in this paragraph are from Sennett, *Public Man*, pp. 5-12.

deconstructing collective moral language with individualized iterations. In this way, a framework of interreligious public civility, which must provide space for the moral dimensions of religious traditions, is largely undermined.

The colonization of the public by the private may be illustrated in a second particularly telling way: in the loss of the possibility of giving offence. At first blush this loss may appear conducive rather than counterproductive to the project of constructing public civility, since offence seems antithetical to civility. But it bears repeating that public civility is not merely about personal etiquette or even social equanimity: public civility is concerned with deep, honest, moral engagement among members of divergent traditions whose affirmations, attitudes, and actions may offend, even if only initially, those who do not inhabit the same community, and presumably even those who do. Thus, giving and taking offence is entirely possible, even somewhat expected, within the realm of public civility; but not so in a 'public' sphere which has been colonized by the private; for in this sphere, there is no shared framework of meaning and morality. Thus, within the colonized public sphere, insult loses its power to offend because morality and meaning are understood to differ drastically from one individual to another.

There is a second reason that insult no longer offends: namely, as Sennett puts it, 'private character' has been replaced by 'public personality'.[243] Consequent to this replacement, the 'stranger' who could encounter only the 'personality' of another could never truly offend, nor in turn be offended by, the other's real self. This social and psychological distance keeps the self safely away from, and unable to give, verbal attacks since such attacks could never hit an invisible target. Ironically, the private self emerged onto the public scene only to diminish the possibility of a common public life.

[243] Sennett, *Public Man*, p. 101.

These two social realities (the demise of moral language and the impossibility of offence-giving) reflect and reinforce a secularization of the public sphere which has resulted in part by way of a colonization of the public by the private. Such a society is at once distanciated and 'intimate'[244] – i.e., both unengaged and privately colonized – and exemplifies a secularized public sphere which stultifies the construction of public civility. In brief, in late modern society, authentic moral engagement, which is a necessary condition of public civility, is made nearly performatively impossible.

Going further, there is not only a colonization of the public by the private, but also a colonization of the private by the public, an incisive analysis of which is found in Ariès' groundbreaking *Centuries of Childhood*.[245] Ariès notes that, prior to the emergence of the coffee houses and public houses of the modern era, it was the 'big house' (the home) which was the site for nearly all of the activities of life, from business transactions to friendships. Functionally, Ariès observes, there were 'no frontiers between professional and private life': so, for example, 'a lawyer's clients were also his friends and both were his debtors'. Nearly all of life was lived under one roof; members of the family, including household servants, would eat, sleep, dance, work, and receive visitors in the same room – a 'perpetual community of life'.

Gradually, however, the private sphere began 'to hold society at a distance'. This social reality can be seen even within the modern house wherein rooms, now separated by corridors, allowed individuals to enter and exit the house without ever having to encounter one another. Over time, ironically, the public sphere, which was held 'at a distance', came to dominate the private matters of the household. Most notably, the functions of education and economic exchange, which traditionally belonged to the family, had been taken up by the public school and the market economy. The family, thus, became constricted to what

[244] See Sennett, *Public Man*, Pt. 4, 'The Intimate Society'.
[245] Except where indicated otherwise, the quotations in this paragraph and the next are from Ariès, *Centuries*, pp. 381-86.

Habermas describes as 'pure "personal"' roles, such as child-bearing and -rearing.[246] Missing, then, in the modern private sphere (*koinonia*), in contrast to the classical world, is economic production (*oikonomia*); moreover, robust social interaction, which once belonged to the *agora*, had been relocated to public houses which were 'divided by invisible walls', as noted above. The resultant situation is a colonization of the private by the public; thus, completing modernity's mutual colonization. (In section §2.3.2.1 below, I describe further the latter colonization as it relates to the rise of modern 'ordinary life'.)

In summarizing this point, it is instructive to consider Bauman's remark about how the modern renegotiation of the public and private spheres had resulted in an entire 'redefinition of the public space' itself.[247] The public sphere is no longer the place where matters concerning the collective are deliberated and decided in the public's eye and with public consent; rather, it has become 'a scene on which private dramas are staged, put on public display', thereby constricting the 'private sphere' to a 'super-private existence'.

This modern secular condition constrains the prospect of a common public life marked by public civility. Therefore, a robust modernity critique as well as a recovery of the classical notion of 'the human good' are needed in order to underscore the essential attributes shared by all human persons – a critique and a recovery which militate against the tendency of individualized selves' pursuing merely personal interests. It is on these bases that a framework of public civility can and must be constructed.

(§2.3.2) Modernity's reversal, inversion, and creation

The distortions of the public and private spheres can be seen in areas other than their mutual colonization: namely, (1) in what Taylor calls 'the affirmation of ordinary

[246] Habermas, *Structural Transformation*, p. 159.
[247] The quotations in this paragraph are from Bauman, *Liquid Modernity*, pp. 69-70.

life';[248] (2) in the spread of 'individualized freedom'; and (3) in the birth of the 'professional sphere'. I refer respectively to these sociological phenomena as modernity's reversal, inversion, and creation of a pseudo-common public life. In the next three sections, I consider: the reversing effects that 'ordinary life' has on public civility; the way in which the notion of freedom has been inverted with respect to its original meaning; and the creation of an allegedly neutral and secular 'professional sphere'.

(§2.3.2.1) The rise of 'ordinary life'

According to Sennett, 'the dead public life and perverted community life which afflicts [*sic*]' the modern world are 'something of an anomaly.'[249] One way of understanding the anomalous nature of this modern phenomenon is found in what Taylor calls 'the affirmation of ordinary life'.[250] Commenting on the social 'infrastructure' of Athenian life, Taylor, like others above, observes a separation between 'ordinary life' and 'the good life' whereby the former consisted essentially in 'labour' and 'family life' (i.e., 'production and reproduction') and the latter in 'contemplation and participation as a citizen in the polity'. In modernity, however, this distinction has collapsed into a singular 'affirmation of the ordinary life', reducing nearly all of life to the mere 'making of things needed for life'.

Similarly, Arendt observes an unprecedented 'reversal of the hierarchical order between the *vita contemplativa* and the *vita activa*' characteristic of modern life whereby scientific pragmatism (*vita activa*) is prioritized over against theoretical contemplation (*vita contemplativa*): that is, there has been a 'shift' from asking the questions 'of "what"

[248] See Taylor, *Sources of Self*, Pt. 3, 'The Affirmation of Ordinary Life'.
[249] Sennett, *Public Man*, p. 312.
[250] Except where indicated otherwise, the quotations in this paragraph are from Taylor, *Sources of Self*, pp. 211-12; cf. Aristotle, *Politics*, Bk. 1, Pt. 2.

or "why" something is' to those 'of "how" it came into being' and whether it works.[251] As one moral philosopher notes, the modern scientific outlook, as characteristically unconcerned with ethics, aesthetics, and metaphysics, exhibits a form of knowledge according to which 'nothing in the world or in our experience of it provides grounds for belief in objective values': there exist only 'motions of material objects'.[252] Put simply, modernity tends to favour pragmatics over against metaphysics.

Taylor summarizes: 'productivity and creativity [became] the highest ideals and even the idols of the modern age'.[253] More concretely, modernity's affirmation of ordinary life prizes scientific progress, and thereby encourages mere 'self-fulfilment', and discourages acknowledgement, let alone affirmation, of metaphysical and moral truths. In other words, secular modernity consists largely in a 'society of self-fulfillers' where an 'increasing thinness' of affiliational ties makes individuals' 'identification with the political community' an incoherent enterprise. Scientific and economic progress, not political participation, are the marks of a successful ordinary life in modern 'instrumental society', a society where 'the officially endorsed norms' of life are those of 'utility only'.

The upshot of this modern subjectivist view of sociality is that ironically 'nothing would count as fulfillment in a world in which literally nothing was important but self-fulfillment'.[254] Accordingly, I contend that without an objective ontology of the human person and a concomitant articulation of the human good there could be no such 'fulfillment', let alone social flourishing and public civility. For the idea of fulfilment is coherent only within the context of some good or end (*telos*) according to which a human person could be said to be fulfilled. Human flourishing, in other words, is logically dependent on there being an objective human ontology. Yet, as Bauman (a secularist)

[251] Arendt, *Human Condition*, pp. 289-95, 299, and 296, respectively.
[252] John Haldane, *Practical Philosophy: Ethics, Society and Culture* (Exeter: Imprint Academic, 2009), pp. 42-43.
[253] The quotations in this paragraph are from Taylor, *Sources of Self*, pp. 502-08.
[254] Taylor, *Sources of Self*, p. 507.

observes, with modernity's 'end of totalities' – totalities which once gave meaning to human life – the 'human "identity"' has transmuted 'from a "given" into a "task"'[255] whereby individuals define themselves. In Gellner's words, 'A modern conception of freedom includes the requirement that identities be chosen rather than ascribed'.[256] In short, secular modernity induces an individualistic instrumentalization, or what Berger describes as 'technological rationality';[257] and the mentality of modern radical individuality destroys what MacIntyre refers to as a 'framework' within which 'metaphysical questions could be asked and answered',[258] and public civility constructed.

Here Arendt's notion of 'the rise of the social'[259] is particularly instructive. Arendt observes that in modern era there has been an 'emergence of the social realm' which 'found its political form in the nation-state': that is, the modern 'social realm' began increasingly to overtake, by way of a 'nation-wide administration of housekeeping', the affairs which once belonged to the private realm (e.g., education, healthcare, finances); and in doing so it became the primary if not principal functionary in the modern 'public' realm. Modern 'political economy', in other words, would have been in the classical world 'a contradiction in terms'. Furthermore, Arendt continues, in antiquity the public sphere was 'the world of the common' as lived outside of 'the privacy of "one's own" (*idion*)'. Accordingly, a public life was by definition the only one that was not 'idiotic'. What has been lost in the modern world, then, is a sense of the pejorative character of 'the privative trait of privacy' – i.e., 'a state of being deprived of something' – which was understood by all citizens in the classical world. The modern individual, in enjoying her private life, fails to recognize the 'deprivation' she suffers, as she relishes in her 'modern individualism'.

[255] Bauman, *Liquid Modernity*, pp. 31 and 134.
[256] Gellner, *Conditions of Liberty*, p. 9.
[257] Berger, Berger, and Kellner, *Homeless Mind*, pp. 133-34.
[258] Alasdair MacIntyre, *Secularization and Moral Change* (London: Oxford University Press, 1967), pp. 29-30 and 14-15, respectively.
[259] See Arendt, *Human Condition*, Ch. 2, 'The Public and the Private Realm', esp. Sec. 6, 'The Rise of the Social'. The quotations in this paragraph are from Arendt, *Human Condition*, pp. 28-33 and 38.

One can see how modern, individual, private life, now lived in the visible but not collective public realm, has been deprived of true civic freedom: there are hardly any more collective matters over which to deliberate and decide, as there are only individual private affairs which comprise 'ordinary life'. Thus, the living of 'ordinary life' takes priority over contemplation of matters moral, metaphysical, or otherwise collectively meaningful. In modernity, rather than a politics of issues, a 'politics of identity'[260] is better suited.

In sum, secular modern sociality may be understood as disparate pursuits of substantively divergent forms of life – pursuits based on instrumental rationality and sought at the expense of any acknowledgment, let alone articulation, of the human good. Accordingly, modern collective life is marked by individual and group identities, rather than common interests communicated and negotiated within a given society. In Bauman's words, modern sociality is reduced to the politics of identity which in turn amounts to the 'strategic precept of adult normality': namely, '"do not talk to strangers"'.[261] Secular modernity, in other words, is characteristically individualistic, making both 'the good life' of a common politics and the construction of public civility performatively nearly impossible. This performative difficulty can be seen also in the lived experience of modern individuals who strive for and possess a kind of (false) human 'freedom'.

(§2.3.2.2) The spread of 'individualized freedom'

Bauman describes the 'liquid modern' world as being comprised of 'freely choosing individuals' who themselves are an 'infinite collection of possibilities'.[262] I

[260] For a useful introduction to this literature (from a scholar who happens to argue in favour of it, in a particularly Rawlsian form), see Kenny, *Politics of Identity*. To note, the problem that I see with Kenny's overall proposal to redeem the theory of 'identity politics' is his reliance on multiculturalist theory (see esp. Ch. 4, 'Civil Society and the Morality of Association') – a critique of which I offer in the second part of this chapter, beginning at section §2.4.
[261] Bauman, *Liquid Modernity*, pp. 104-09.
[262] Bauman, *Liquid Modernity*, pp. 61 and 63.

submit that a world marked by this so-called 'freedom' is less secure and thereby less genuinely free than what on the surface may seem to be the case.

Modern individuals *qua* consumers of goods and of entire life plans are faced with a myriad of options from which to choose, and in principle cannot err; ironically, however, neither can they choose with confidence since they remain in 'perpetual uncertainty' about the options foregone, and thereby gone forever.[263] As the historian John Seel puts it, since the modern self is wholly 'indeterminate', it follows that 'any self is possible'; and this social phenomenon is not necessarily positive since 'the process of self-creation is never finished'.[264] Modern human 'identity', in other words, extinguishes any good at which human life can be aimed, and thereby excludes the possibility of a life lived toward that which is entailed by its nature, that is, the human good.

So, this 'exhilarating quality [of modern] liberation', which characterizes the modern self, functions also as a 'terror of chaos'.[265] In other words, the unbounded freedom found in modern sociality suffers a peculiar uncertainty on account of its being detached from a conception of the universal human good. Insofar as it is argued that there is no longer an objective way of being human, so there is no objective standard by which to measure the success or norms of human sociality. The end ought to clarify the means; yet without an objective human good acknowledged or articulated, the prospect of a flourishing human sociality, let alone the construction of public civility, is undermined. What remains is what Bauman describes as:

> an aggregate of free yet lonely individuals, free to act yet having no say in the setting in which they act, no inkling of the purpose to which their freedom to act may be put, and above all no interest in seeking to it that others are also free to act and in talking to them about the uses of everybody's freedom.[266]

[263] I draw this insight from Marina Bianchi, *The Active Consumer* (London: Routledge, 1998), quotation from p. 6.
[264] John Seel, 'Reading the Post-Modern Self', in *The Question of Identity*, ed. James Davison Hunter (Charlottesville: University of Virginia Press, 1998), pp. 39-40.
[265] Berger, *Facing Modernity*, p. 109.
[266] The quotations which follow in this paragraph are from Bauman, *Search of Politics*, pp. 166-67.

The 'atomizing consequences of personal liberty', Bauman continues, is in large part a result of 'free' selves who aim at a kind of fulfilment which is really 'unfreedom'. Ironically, then, the modernist spread of individualized 'freedoms' came at the expense of security and liberty for society as a whole. In short, there remains in the late modern world 'freedom' without a republic, 'society' without community, 'fulfilment' without flourishing, 'publicity' without civility. And, I contend, much of this state of affairs is owed to there being a 'human' without a good.

This last point is picked up by Berger who suggests that the modern individual 'is thrown back upon himself, on his own subjectivity' – a fact which reflects modernity's 'built-in identity crisis' which in turn conduces 'considerable nervousness'.[267] This existential 'nervousness' is a function of unbounded 'freedom', and is something Bauman describes as *Unsicherheit* – social 'uncertainty, insecurity and unsafety'.[268] In brief, modern individual freedom is exactly opposed to the classical conception of liberty: in the ancient *polis* only those who had secured the fortunes for cosmic and civic contemplation were considered free; whereas in modern society it is all those who have liberated themselves from the shackles of politics and piety that are alleged to be 'free'. A more promising way forward would be to garner the fruits of Enlightenment political theory (equality for all) while also grounding the human person in the roots of ancient teleology (a nature-bounded freedom).

In sum, the modern affirmation of ordinary life, along with the spread of individualized 'freedom', greatly challenges the task of public civility in the secular public sphere. Before turning in the second part of this chapter to various responses to this challenge (responses which I find ultimately inadequate), I consider a final way in which

[267] Berger, Berger, and Kellner, *Homeless Mind*, pp. 85-86 and 66-75, respectively.
[268] Bauman, *Globalization*, pp. 116-17; Bauman, *Search of Politics*, p. 5.

the modern distortions of the public and private spheres constrain the task of public civility: namely, through the creation of what I call the modern 'professional sphere'.

(§2.3.2.3) The birth of the 'professional sphere'

A fragmentary sociality, resulting from the sociological forces of modernity as described above, has brought about a chasm between the private sphere of meaningfulness and the public sphere of strangeness. In this chasm, I submit, has emerged what I call the modern 'professional sphere' which can be characterized as: the ideological and geographical space wherein individuals are expected to adhere to often unspoken yet powerful codes of conduct which, in globalized modernity, tend to encourage a conformism to an allegedly neutral, secular existence.[269]

The ethos and logic of this secular conformism are reflected in and can be illustrated by recent legal rulings. In the 2010 case of *Eweida* v. *British Airways*,[270] the English Court of Appeals decided against a Christian woman, who at her workplace wore a necklace with a crucifix, on the grounds that such was not a 'mandatory requirement' of her faith tradition, and that the policy set up by the employing company prohibited public expressions of religion.[271] Similarly, since 2004 French courts have made it illegal for public school students to wear 'any clothing that clearly indicated a pupil's religious affiliation'.[272] Rulings like these illustrate the ways in which the professionalized nature of modern public life disinvites religious expression and thereby encourages conformity to an

[269] The analysis which follows is illustrated in recent legal cases that demonstrate the rise of the professional sphere. I note that Arendt offers a parallel though distinct analysis with respect to her notion of 'the rise of the social' within the context of modern market economy, as discussed above. See Arendt, *Human Condition*, esp. Ch. 5, Sec. 30, 'The Labor Movement'.
[270] *Eweida* v. *British Airways plc* [2010] EWCA Civ 80 [2010] IRLR 322, CA.
[271] As of 15 January 2013, the European Court of Human Rights has overturned this verdict and decided in favour of Nadia Eweida; for the official judgment, see: http://bit.ly/EwECHR. My point still stands, however: that the secularizing ethos of the professional sphere is pervasive in late modern society.
[272] For an illuminating social history of religious attire in French public life, see John Bowen, *Why the French Don't Like Headscarves: Islam, the State, and Public Space* (Princeton: Princeton University Press, 2007), quotation from p. 1.

alleged neutrality of modern public conduct. This alleged neutrality of the secular professional sphere enforces not only a detachment of personal beliefs and expressions from public life, but even mandates actions incompatible with such beliefs. For instance, in 2006 the Boston Catholic Charities in the US were ordered by a court to provide adoption services to homosexual couples, a practice prohibited by Catholic ecclesiastical injunction.[273] As a result, the charity had planned to take up a lawsuit against the State of Massachusetts, only deciding later to relinquish the right to provide this service *tout court*.

The modern professional sphere is neither purely private nor strictly public. On the one hand, one's personal (typically religious) beliefs are excluded from the professional sphere precisely because they are considered to be 'private'. On the other hand, the professional sphere does not rise to the level of a legitimate public sphere since its affairs are not exactly political in that, though they affect the collective, they lie, strictly speaking, outside of political power (e.g., employment services, educational environments, non-government organizations). Thus, members of this precarious professional sphere, having to adhere to codes and conduct suitable for denuded personalities, are expected to conform to a religiously neutral and secularized existence.

To note, there are counter-instances of the secularization of the professional sphere. For example, the Grand Chamber of the European Court of Human Rights reversed a decision of one of its lower courts in the case of *Lautsi* v. *Italy*, allowing the display of religious symbols (the crucifix in this case) in public school classrooms.[274] Also, there are countries (e.g., Afghanistan, Palestine, Saudi Arabia) wherein wearing and displaying religious garb and symbols in public space is not only allowed, but legally mandated.[275] In

[273] For background and an insightful analysis of this incident, see Colleen Theresa Rutledge, 'Caught in the Crossfire: How Catholic Charities of Boston Was Victim to the Clash between Gay Rights and Religious Freedom', *Duke Journal of Gender Law and Policy* 15, no. 1 (2008): 297-314.
[274] For an overview of this decision, see Paolo Ronchi, 'Crucifixes, Margin of Appreciation and Consensus: The Grand Chamber Ruling in Lautsi V Italy', *Ecclesiastical Law Journal* 13 (2011): pp 287-97.
[275] Robyn Ryle, *Questioning Gender: A Sociological Exploration* (Thousand Oaks: Pine Forge Press, 2011).

considering these situations, however, one must keep in mind the following: (1) that these counter-instances show how contested the issue is; and (2) that countries as those named above tend to exhibit a more general, thorough-going 'counter-secularization',[276] and thereby would fall outside of the ambit of liberal democratic societies, in the context of which this study of public civility is being considered (as discussed in Chapter One).

In sum, the social conformism of the professional sphere in secular modernity tends to set the standards of acceptability for modern public life. Sennett's characterization of the 'peculiar sectarianism of secular society' captures well my concern regarding the professional sphere.[277] That is, modern 'secular society', in lacking both a transcendent moral order and an objective human teleology, is left without a common vision of natural, social, and human reality. Accordingly, the only 'social principle' that remains for ordering a collective life in this segmented secular scene is, as Sennett puts it, an empathic sharing of feelings – 'the sharing of impulse rather than the pursuit of common activity'. In this way, secular modernity, in distorting the public sphere and in giving way to a professional sphere premised on secular neutrality, induces enclaves of estrangement that lack the resources needed for public civility. Thus, Sennett's 'tools of culture' – i.e., a shared vision for a common life – are largely destroyed, inducing in late modernity a safe, if sterile, secularized professional sphere. Unless and until a vision of the human good is recovered, the task of public civility remains an illusory pursuit.

(§2.3.3) Summary: the paradoxical need of plurality for public civility

The three major shifts of secular modernity that I discuss above – the decline of public life, the distortions of the private and public spheres, and the rise of the professional sphere – bear negatively on the prospect of public civility. Modern society has been

[276] See Berger, 'Desecularization of World'.
[277] The quotations which follow in this paragraph are from Sennett, *Public Man*, pp. 310-12, 326, and 324-36.

compartmentalized largely into a purely private sphere, a depoliticized public sphere, and a secularized professional sphere. One way in which a robust common public life in late modernity may be constructed, however, is paradoxically through the presence of plurality. A final insight from Sennett may help to explain this paradox.

Until the modern period, the private sphere was a site where individuals could 'check the public' by limiting its reach into their 'natural rights'; conversely, the public sphere was also 'a corrective to the private realm [where] natural man was an animal' prone to 'incivility'.[278] Accordingly, the potential dangers were two-fold: (1) a gain in private freedom that would come at the expense of public civility; and (2) a loss in 'civility' – the activity which 'protects people from each other and yet allows them to enjoy each other's company' – that would imperil a common public life. For this reason, Sennett points to the deep need to destroy the 'city of ghettoes' such that people would live in 'the larger world', a world where the 'jolts' of a common life come only in the 'face-to-face relationships' of 'unfamiliar terrain'. In other words, in late modernity a common public life and the construction of public civility are most likely to occur, given paradoxically a context of robust 'face-to-face' religious and cultural plurality.

In modernizing and globalizing societies, the prospect of constructing public civility depends not on there being a uniform way of life as demanded in the professional sphere, but on the presence of and a continual engagement among divergent communities found in plural societies. Whereas the sociologist Edward Shils observes that the virtue of civility encourages 'the collaboration of persons of diverse and often inimical dispositions',[279] I add that task of public civility requires that such diversity be present,

[278] The quotations in this paragraph are from Sennett, *Public Man*, pp. 89-91 and 295-96.
[279] Edward Shils, *The Virtue of Civility: Selected Essays on Liberalism, Tradition, and Civil Society*, ed. Steven Grosby (Indianapolis: Liberty Fund, 1997), p. 351.

respected, and rightly resourced.[280] In this regard, historians and political scientists have shown recently how plurality, specifically religious plurality, has contributed to the construction of peace and to democratization around the world.[281] Contrary, then, to both ideological prescription discussed in Chapter One, and to the sociological codes of the professional sphere discussed above, I contend that a plurality of moral traditions, and their attendant 'jolts' of civility, not only renders the task of public civility more necessary, but also the prospect thereof more viable.

(§2.3.4) Transition: responses to a fragmentizing modernity

In brief, a common life marked by public civility is the needed corrective to the secularizing and fragmentizing character of modernity. As Bauman puts it, the 'task of coping with . . . strangers' – i.e., 'that constitutive feature of urban life' – requires that the 'habits of civility' be formed so as to militate against those spaces of collective life which are becoming increasingly 'public but non-civil'.[282] And responses to this fragmented, uncivil public sphere have come from various ideological standpoints: some religious, other secularist. Before turning to such responses given within Catholic and Islamic political theologies, in what follows, I examine the secularist frameworks of multiculturalism and legal pluralism as respective attempts to ground public civility. I argue that, insofar as such frameworks presuppose purportedly non-moral and thereby relativistic bases, they are inadequate to the task of constructing public civility.

[280] In section §2.4 below and in Chapter Three, I return to a discussion of just which points of diversity ought to be resourced.
[281] See, e.g., Appleby, 'Building Sustainable Peace'; and Toft, Philpott, and Shah, *God's Century*, Ch. 4, 'Religion and Global Democratization'.
[282] Bauman, *Liquid Modernity*, pp. 101-02.

(§2.4) Secularist frameworks of public civility?

One Muslim scholar observes that, in various plural societies in which Muslim communities are a constitutive part, Muslim citizens are increasingly situating themselves in 'ethnicized enclaves of parallel societies' which in turn 'carry great potential for conflict'.[283] In this section, my objective is to evaluate various theories of multiculturalism and legal pluralism as prospective models for constructing public civility in multireligious societies. I contend that at bottom a framework other than these arguably secularist[284] approaches must be sought in order to construct public civility.

(§2.4.1) The prospect of multiculturalism

The prominent multiculturalist Bhikhu Parekh writes:[285] 'Almost all societies today are multicultural and likely to remain so for the foreseeable future'; and since in such societies there must be made provision for both cultural difference and social equality, Parekh commends the framework of multiculturalism. This framework is neither 'a political doctrine with a programmatic content' nor 'a philosophical theory of man'; but 'a perspective on human life'. In the following, I consider various theories of multiculturalism, including Parekh's, as prospects of framing public civility.

Parekh characterizes his framework as a 'body of beliefs and practices' by which members of multicultural society both could 'understand themselves and the world' and 'organize their individual and collective lives'. From the 'multicultural perspective', Parekh continues, no 'doctrine or ideology can represent the full truth of human life'; rather, this perspective is 'dialogically constituted', and presumes certain fundamental 'preconditions' which include 'basic ethical norms, participatory public spaces, equal

[283] Bassam Tibi, *Islamism and Islam* (New Haven: Yale University Press, 2012), p. 203.
[284] I denote these approaches as 'secularist' in order to highlight their reliance on strictly non-religious, non-moral bases.
[285] The quotations in this paragraph and the next are from Parekh, *Rethinking Multiculturalism*, pp. 336, 2, 338, 340, 341, 236-37, and 343, respectively.

rights'. Accordingly, multiculturalism, it is argued, 'privileges no particular cultural perspective'. In recognizing that multicultural societies often fail to 'foster an enthusiastic commitment' to the political community, Parekh seeks a framework which would engender a 'vibrant cultural life, and a sense of social solidarity'. This framework would conduce a society which is 'not static and ghettoized, but interactive and dynamic' – one which presupposes 'a robust form of social, economic, and political democracy' to underpin it. These are the main features of Parekh's multiculturalism.

To be sure, the conditions and aims of Parekh's multiculturalism seem generally uncontroversial so far as they go. Important questions arise, however: On what basis might such a society become 'interactive and dynamic' rather than 'static and ghettoized', let alone conflictual? In virtue of what feature/s of the culturally divergent communities would 'social solidarity' emerge? If 'no particular cultural perspective' is to be privileged, could there be any universal morality to ground Parekh's 'basic ethical norms'? Could there be, in other words, a secularist framework of public civility? In the next section, I return to these and related questions in my critique of Parekh's and others' multiculturalist theories.

Another theory of multiculturalism is proposed by Will Kymlicka. Kymlicka insightfully points out that Rawlsian 'state neutrality' – which itself privileges a particular 'cultural perspective', namely, political liberalism – is ultimately an incoherent notion since liberal states inevitably make particular judgments on multiple and various cultural issues (e.g., languages spoken, holidays sanctioned, etc.).[286] In doing so, the so-called 'liberal' state 'unavoidably promotes certain cultural identities, and thereby disadvantages others'; for this reason, Kymlicka maintains that it is imperative that all 'ethnocultural

[286] See Kymlicka, *Multicultural Citizenship*, esp. Ch. 5, 'Justice and Minority Groups'; Kymlicka, *Politics in Vernacular*, esp. Ch. 2, 'Liberal Culturalism: An Emerging Consensus?'. For Rawls' view of the state as neutral with respect to 'conceptions of the good', see Rawls, *Political Liberalism*, esp. 'Introduction'.

groups' be protected against majoritarian hegemony; and that multiculturalism provides such protective legislative resources.[287]

Another multiculturalist, Tariq Modood, seeks to expand Kymlicka's argument about cultural minority rights to include the rights of specifically religious minorities. Modood points to the conceptual overlap that exists among the domains of religion, culture, and states, noting that not only are cultures typically 'centred around religion', but also that states themselves are often 'multi-religious'.[288] Consequently, Modood argues, and to me convincingly so, that there is no reason not to extend Kymlicka's justification of cultural group rights to religious commmunities; and that to the extent that it does not, it is an unjust framework. So, if Kymlicka's multiculturalism suffers an antireligious bias (or exhibits a non-religious character at least), does Modood provide a workable solution?

Modood's argument above forms a part of his larger multiculturalist project.[289] Similar to Parekh, for Modood, multiculturalism is essentially about the social activity of negotiating differences among divergent expressions of 'groupness', a negotiation whose goal is the 'remaking of public identities' on the basis of certain rules of social engagement. Central to the aim of such rules is the creation of a polity which is not only liberal, but also 'pluralist and multilogical' – a polity which would mitigate the dangers of monological ideology. This multicultural requirement of plurality and multivocality would serve two vital functions. First, it would offer to minority groups 'an emotional identity with the whole' so as to 'counterbalance' the strong 'emotional loyalties' often found in 'ethnic and religious communities', and thereby prevent a fragmentation of society 'into narrow, selfish communalisms'. Secondly and conversely, the presence of 'strong community identities' would serve as 'an effective check against monocultural statism'. Put briefly,

[287] Kymlicka, *Multicultural Citizenship*, p. 108; and Kymlicka, *Politics in Vernacular*, pp. 48-49, respectively.
[288] See Modood, *Multiculturalism*, pp. 23-30, with quotations from 27-28.
[289] The quotations in this paragraph are from Modood, *Multiculturalism*, pp. 37, 43, 140, and 75-78, respectively.

Modood's model of multiculturalism seeks to offset both ethnic-religious communalisms and monological statism. Thus, allegedly, in ways that the Enlightenment liberal nation-state could not do, the multicultural 'plural state' would stave off the equal and opposite dangers of religious radicalization and secularist statism.

The literature on multiculturalism has provided significant theoretical contributions to the task of constructing just and flourishing plural societies in late modernity. However, I contend that these leading theories of multiculturalism are fundamentally inadequate to the further task of constructing public civility. Below I offer four reasons to support this contention.

(§2.4.1.1) The problems of multiculturalism

The first fundamental flaw in Parekh's and Modood's models of multiculturalism is that, while they purport to present frameworks which are non-comprehensive and non-moral, they in fact are not so. Parekh writes, 'From the multicultural perspective the good society does not commit itself to a particular political doctrine or vision of the good life', for 'no political doctrine or ideology can represent the full truth of human life'; likewise, Modood claims to offer a 'non-totalistic' multiculturalist perspective.[290] The problem here is two-fold. First, the frameworks put forth are ineluctably totalistic insofar as they seek to close off any 'ethical and philosophical underpinnings' (cf. Modood): that is, any *de jure* non-ethical or non-philosophical framework is itself *de facto* ethically and philosophically totalistic. Secondly, in seeking to avoid what Modood calls 'moral evaluation', such frameworks end up making evaluations which are necessarily moral in form, if not also in function – namely, evaluations which suggest morality remain outside of the framework of

[290] The quotations in this paragraph are from Parekh, *Rethinking Multiculturalism*, pp. 340 and 338, respectively; and Modood, *Multiculturalism*, pp. 7 and 66, respectively.

constructing 'the good society'. Thus, on pain of self-referential incoherence, such proposals of multiculturalism are (at best) misinformed.

A second and related problem is that the moral dimension of social analysis, which putatively is excluded from these frameworks, is precisely what is needed for a more realistic and pragmatic framework of public civility. That is, whereas Modood contends that 'recognition and respect of identities and beliefs' are possible without 'moral evaluation' about them,[291] I would argue that with regard to the task of public civility the soundness of this contention would depend on the kind of identities and beliefs in question. For surely there are morally repugnant identities (e.g., violent religious fundamentalist's) and reprehensible beliefs (e.g., racism) which should be neither respected nor recognized in any society, no matter how multicultural. Yet only the moral dimension of social analysis, that is, the 'moral evaluation' which Modood seeks to deny, provides the conceptual resources needed to make this case.

A third problem with multiculturalism is its 'identitarian' bent.[292] If, as Modood complains, liberalism dismisses group identities for the sake of the full 'legal equality of citizens', then Modood's multiculturalism involves the opposite danger of promoting an 'identitarian politics' which it purports to deny. For by arguing that groupness is 'sociologically real', Modood ends up essentializing group identities – which is precisely what he finds wrong with liberalism. That said, Modood also suggests that identities are 'hybridic and fluid', that 'groupness' is but another 'human product'. But if this is so, then Modood's multiculturalism would lack the moral resources needed to ground the universal 'social solidarity' that it seeks to promote: for without an objective set of moral values, one's social solidarity is another's totalitarianism. (The moral ontology needed, as I argue extensively in Chapter Three, can be found in the notion of the human good.) Therefore,

[291] Modood, *Multiculturalism*, pp. 66.
[292] The quotations in this paragraph are from Modood, *Multiculturalism*, pp. 69, 90-91, 94, and 93, respectively.

multiculturalism's group identitarianism keeps it from its putative goals of preventing an identity politics.

My fourth and last objection to the project of multiculturalism has to do with its inherent relativism of moral values. For this point I build on Taylor's widely cited essay on multiculturalism.[293] Taylor argues that a 'politics of recognition' became central to the arguments put forth by proponents of multiculturalism. Given the decline of 'hierarchical society', as Taylor explains, what has come to matter crucially is an inner 'authenticity' in virtue of which an individual comes to forge her unique 'identity'. Concomitantly, a 'politics of difference' has come to dominate the scene of multicultural democratic societies, a politics which demands the recognition of 'the unique identity of this individual or group'. Simultaneously if ironically, a 'politics of dignity', exploited by multiculturalists, also began to emerge, promoting the idea that all cultures are equal. Multiculturalists seemed to have the best of two worlds: difference and equality. Pointing out the error of the 'politics of dignity' within multiculturalist theory, Taylor argues that 'it makes no more sense to demand' that a given culture be judged as 'great' or 'equal' than it does 'to demand that we find the earth round or flat'. Taylor's point is that whether one culture is as valuable as another is not a demand that could be made coherently, for a judgment of value is, short of cultural relativism, a judgment about a fact, namely, its moral status. Thus, to condone, say, genocide is morally unjustifiable; conversely, to condemn certain morally impermissible 'forms of life' is justified, indeed in some cases obligatory. In brief, both the 'politics of difference', which multiculturalists celebrate, and the 'politics of dignity', which multiculturalists misapply, undermine the 'politics of recognition' which multiculturalists most fundamentally seek. So the combination 'difference' and 'dignity' is as vacuous as it is powerful: for if a politics of dignity

[293] The quotations in this paragraph are from Charles Taylor, 'The Politics of Recognition', in *Multiculturalism: Examining the Politics of Recognition*, ed. Amy Gutmann (Princeton: Princeton University Press, 1994), pp. 28-37, 37-44, 68-69, and 71.

demands universal respect, a politics of difference ensures it cannot be given. Hence, the relativistic roots of multiculturalism have borne its fruits.

To summarize, I agree along with multiculturalists that human persons are born into and live in communities which consist of, among other things, their religious and other cultural identities. However, I find the multiculturalist project wanting both in its tendency toward identitarian politics, which leads to a fragmentary sociality, and its lack of a moral dimension of social analysis, which do not obtain under strictly secularist frameworks. In order to construct a framework of public civility what is needed is a universal and morally objective basis which is found in the notion of the human good – the essential attributes of humanity shared by every member of any given human community.

In the next and final section, I consider the prospect of a different but related basis on which some scholars have sought to construct a framework of public civility: legal pluralism. I argue that the relation between multiculturalism and legal pluralism is one of entailment wherein the latter is entailed by the former; and that to the extent of this entailment and in other respects, legal pluralism too is an untenable framework for grounding public civility.

(§2.4.2) The prospect of legal pluralism

In many places the legal structures of liberal democratic societies make it possible for various minority cultural/religious practices to be given exemptions on the basis of the doctrine of 'reasonable accommodation'.[294] Indeed, the models of multiculturalism considered above logically entail some form of legal pluralism since, in order to privilege 'no particular cultural perspective' (cf. Parekh), exemptions would demand pluralism. In this section, I consider the prospect of legal pluralism and its implications for the

[294] For a useful introduction to this subject and recent case studies, see Lucy Vickers, *Religious Freedom, Religious Discrimination and the Workplace* (Oxford: Hart, 2008), Ch. 6, 'Religious Interests in the Workplace: Comparative Perspectives'.

construction of public civility.[295] I begin by evaluating the merits of the doctrine of 'reasonable accommodation'; offer a critique of it; and conclude by suggesting a more promising basis for public civility in societies comprised of multiple legal schemes.

In his now classic 'What is Legal Pluralism?', John Griffiths suggests that a theory of legal pluralism rests on the fact that 'within any given field, law of various provenances may be operative', and that 'legal pluralism is a concomitant of social pluralism'.[296] Others like Brian Tamanaha, however, argue against legal pluralism, contending that it cannot in principle 'locate an agreed definition of "law"' since a logical implication of legal pluralism is that necessarily any 'proffered definition of law' would count as 'legitimate'.[297] Building on Tamanaha's critique and engaging heavily with Waldron's essay, 'One Law for All? The Logic of Cultural Accommodation',[298] I argue below: that, since law reflects (however well or poor) a society's moral values, having a legal system which is predominantly singular in character rather than legal pluralism would be more beneficial to the task of constructing public civility; and that, *contra* Griffiths, legal pluralism is not a 'concomitant' of social pluralism, but plausibly a detriment to it.

(§2.4.2.1) Legal pluralism or 'one law for all'?

Waldron considers the question of whether a 'one law for all' model is just and operable under the constraints of plural modern societies:[299] that is, whether plural liberal democratic societies require a kind of legal structure characterized by a thorough-going and singular 'rule of law'. Waldron writes, 'Our belief in the rule of law commits us to the

[295] For a helpful introduction to the subject of legal pluralism, considered especially within the context of interfaith relations, see Uriel Simonsohn, *A Common Justice: The Legal Allegiances of Christians and Jews under Early Islam* (Philadelphia: University of Pennsylvania Press, 2011), esp. pp. 10-14.
[296] John Griffiths, 'What Is Legal Pluralism?', *Journal of Legal Pluralism* 24 (1986): 1-55, p. 38.
[297] Brian Tamanaha, 'The Folly of the "Social Scientific" Concept of Legal Pluralism', *Journal of Law and Society* 20, no. 2 (1993): 192-217, pp. 192 and 202.
[298] Waldron, 'One Law?'.
[299] The quotations in this paragraph and the next are from Waldron, 'One Law?', pp. 3, 4, and 11-12.

principle that the law should be the same for everyone: one law for all and no exceptions.' For '[i]t would be quite repugnant if there were one law for the rich and another for the poor, one law for black[s] . . . and another for whites.' Yet, for societies comprised of 'different cultures' and a 'variety of religions and belief systems', can, or better should, there be one law for all?

A common counterproposal is the model of 'individualized justice' which takes into account especially the religious/cultural significance that a given act would have for the individual actor, and for those to whom the individual is related in such an act – e.g., a Sikh carrying a *kirpan*, a priest distributing wine (to underage individuals) in religious ceremony, and the like. The problem with this counterproposal, Waldron suggests, is that, while it may be argued that 'cultural exemptions promote cultural diversity' – a value which arguably 'we should treasure' – there arise difficult questions about the limits of such exemptions:

> [Are we to] treasure the fact that in our multicultural society there are many responses to spousal adultery, not just one? Some people get upset and go to marriage counseling or ask for a divorce. Others drown their children. Others still set fire to the offending spouse or bludgeon her to death. Do we really want to say that all of this is part of a rich mosaic of diversity that we should treasure and that our multicultural society would be the poorer if some of these more diverse responses were eliminated?

Clearly not; so, then, what makes one case, and not another, fall under the remit of 'reasonable accommodation'?

The sociologist Grace Davie asks these pertinent and penetrating questions which gesture toward an answer:

> Why is it that modern Western societies embrace some aspects of pluralism but not others? Why are we so ready to welcome the [others'] culture, cuisine and artefacts . . . , regarding these as enriching, but we are not ready to welcome their legal systems? Why, in other words, are some aspects of multi-culturalism considered more positive than others?[300]

[300] Grace Davie, 'Law, Sociology and Religion: An Awkward Threesome', *Oxford Journal of Law and Religion* 1, no. 1 (2012): 235-47, p. 247.

I suggest the reason that legal pluralism is considered generally less acceptable as compared to other forms of pluralism (e.g., social, cultural, culinary) is that the former ranges over some of the most fundamental questions that concern human existence, namely, those of justice and morality. Accordingly, while a particular ethnic cuisine may be a welcomed novelty, a pluralistic legal structure would reflect in principle, if not in fact, a kind of moral relativity: for a society's law functions as a legal expression of its public morality.[301] Legal systems, therefore, which reflect (whether well or poorly) the moral values of society, matter greatly and gravely to human persons. But the problem remains: In plural democratic societies, there are multiple and incompatible moral norms found among divergent communities – so what, if anything, can or should be done?

In his opposition to legal pluralism, Waldron argues also against the libertarian view according to which one civil liberty trumps another, a view which Waldron finds among theorists such as Brian Barry and Ronald Dworkin.[302] Waldron observes that 'there might be something particularly significant about *cultural* resistance [to state law]', given the fact that there are within a given culture or religion certain 'positive regulations' which occasionally depart from 'state law'.[303] In other words, the 'civil liberties' of a cultural/religious group arguably ought to weigh more than generic civil liberties in view of the pre-existing legal codes found within the former and not the latter. What Waldron

[301] For more on this point, see Robert George, *Making Men Moral: Civil Liberties and Public Morality* (Oxford: Clarendon Press, 1993), esp. 'Introduction' and Ch. 1, 'Social Cohesion and the Legal Enforcement of Morals'. George argues (*inter alia*) that laws which are based on ethics are beneficial and necessary for the proper functioning of society, for only such laws help to: (1) prevent 'self corruption' which leads to indulgence in immoral conduct; (2) deter immoral examples that others might emulate; (3) preserve society's 'moral ecology'; and (4) inform its members about what is 'morally right and wrong'.
[302] See Waldron, 'One Law?', p. 15. Cf. Brian Barry, *Culture and Equality: An Egalitarian Critique of Multiculturalism* (Cambridge: Polity Press, 2001), pp. 48-49; Ronald Dworkin, *Taking Rights Seriously* (Cambridge: Harvard University Press, 1978).
[303] Waldron, 'One Law?', p. 15 (emphasis original).

suggests seems right: the right to religious freedom, for example, does and ought to carry more existential weight than civil liberties such as Dworkin's 'right' to pornography.[304]

So, Waldron contends that, while there are reasons to maintain largely a 'one law for all' approach, there is also some motivation to invoke simultaneously the legal procedure of 'cultural accommodation' for minority groups.[305] Waldron's justification for such exemptions derives from his conviction that a given state law may have a 'special kind of impact on one's life, which it will not necessarily have on the lives of others'. That is, since adherence to a religious tradition typically entails commitment to a particular way of life that is consonant with its respective legal scheme, and given the existential weight that such a scheme places on its adherents, occasional exemptions from state law may be warranted for such religionists. And what distinguishes such exemptions from those claimed 'as a matter of . . . personal conscience' is that those individuals who claim the latter are not 'under any burden comparable to' that faced by those who claim the former.

Here, the characterization of the right to religious freedom given by the scholar of human rights and UN Special Rapporteur Heiner Bielefeldt is particularly instructive. The European Court of Human Rights stated that in order for a conviction to qualify as a 'belief' which is deserving of legal protection it must display a certain threshold of 'cogency, seriousness, cohesion and importance'.[306] Drawing on this view, Bielefeldt characterizes the associated human right as that which involves 'belief-related convictions' and conviction-based 'normative practices'.[307] Construed within these parameters, the doctrine of reasonable accommodation might be seen to escape the relativism of legal pluralism while maintaining the equality of minority groups.

---

[304] See Ronald Dworkin, 'Is There a Right to Pornography?', *Oxford Journal of Legal Studies* 1, no. 2 (1981): 177-212, esp. pp. 194 ff.
[305] The quotations in this paragraph are from Waldron, 'One Law?', p. 24.
[306] *Campbell and Cosans* v. *The United Kingdom*, App. Nos. 7511/76, 7743/76, Eur. Ct. H.R., at 13 (1982); quoted in Heiner Bielefeldt, 'Misperceptions of Freedom of Religion or Belief', *Human Rights Quarterly* 35, no. 1 (2013): 33-68, p. 39.
[307] Bielefeldt, 'Misperceptions of Freedom', pp. 50 and 59.

(§2.4.2.2) Problems with legal pluralism

Yet, as Waldron observes, in most constitutional democratic societies there remains predominantly one law. Indeed, there are many cases in which allowing for a particular cultural regulatory scheme goes against state law, cases which are not and should not be given exemption. For example, in the US case *People v. Dong Lu Chen*,[308] Chen was accused of murdering his wife for having had an adulterous relationship. A defence was mounted based on the defendant's cultural background according to which such reactions to infidelity are acceptable. The court decided in favour of Chen, maintaining that he was 'driven to violence by traditional Chinese values about adultery', and therefore was given the lightest possible sentence for homicide according to New York state law. This is a case, Waldron argues, in which the means of cultural accommodation was abused and which highlights the need for 'one law for all' – an argument with which I agree.

I note here that a 'one law for all' approach does not necessarily entail the idea that any one piece of legislation must be determined in exactly one or another way and by some or other moral fact about the matter. Rather, there is room, and indeed need, for the virtue of 'juridical prudence'[309] which at times may require a priority of legal flexibility over strict uniformity, e.g., in cases of traffic laws and similar statutory matters. (Indeed, as I note in Chapter Four, within both Catholic and Islamic legal traditions, there are practices which make use of precisely this idea of legal flexibility – referred to as *determinatio* and *ijtihād*, respectively. See section §4.2.2.) The overall point being made is simply that, with regard to the construction of public civility a predominantly 'one law for

[308] People v. Dong Lu Chen, No. 87-7774 (N.Y. Sup. Ct. Dec. 2, 1998); cited in Waldron, 'One Law?', p. 28.
[309] This term is taken from Lemmons who characterizes it as 'the virtue that guides the formulation of sound public policy and law as well as just judicial adjudication'. See R. Mary Hayden Lemmons, 'Juridical Prudence and the Toleration of Evil', *University of St. Thomas Law Journal* 4, no. 1 (2006): 25-46, p. 25.

all' approach is more promising than legal pluralism. For the latter reflects and reinforces not only a relativized 'moral ecology',[310] but also a moral relativity about legal schemes.

For these reasons, while the practice of reasonable accommodation may be useful and at points necessary in adjudicating contentious matters in plural democratic societies, a thorough-going legal pluralism would work to detract from the construction of public civility. That said, even the use of reasonable accommodation has its share of challenges. Most fundamentally, were reasonable accommodation to be granted, there remains the task of judging which cases would qualify for it – i.e., the task of judging the cases in which tensions between state law and 'cultural laws' are such that they warrant the practice of reasonable accommodation.[311]

For Waldron, central to the accomplishment of this task is a kind of robust and continuous social engagement wherein 'members of society must *talk to one another* and evaluate [a given] proposal', doing their best to 'understand what may seem (initially at least) like incommensurable as well as incompatible points of view'. That is, in a plural society the effort to create an environment in which law reflects morality involves an ongoing public conversation over contentious matters, a conversation which, Waldron suggests, must be both critical and charitable in order to be most effective.

One must wonder, however, whether the doctrine of reasonable accommodation, even if undergirded by such robust, charitable, and continuous public deliberation, would suffice as a framework of public civility. Will the 'inter-cultural deliberation' that Waldron seeks succeed in overcoming the 'barriers of cultural comprehensibility' when deciding the legitimacy of legal exemptions? Arguing elsewhere and more recently, Waldron again suggests that judging the reasonableness of the accommodations made for minority groups 'is a matter for the people of the broader society (citizens, legislators, judges, etc)' finally

[310] See fn. 301 above; cf. George, *Making Men Moral*.
[311] Except where indicated otherwise, the quotations in this paragraph and the next two are from Waldron, 'One Law?', pp. 29 and 32-33 (emphases original).

to decide; such individuals must 'make that decision the best way they can, using whatever criteria of justice seem true or right to them'.[312] But surely, the idea of 'whatever criteria of justice' seem right to a particular society at a given time opens the way for social catastrophes, ones such as have marred, at given times, the darker side of human history. Rather, I suggest, there must be found some fixed basis on which to determine what is just for a given matter, a basis which does not fall prey to a relativism[313] that is subject to the flow of time and flux of social preferences. This non-relativistic basis of 'inter-cultural deliberation' can be found in the notion of the human good, an explication to which I turn in the next chapter (especially in section §3.3, 'A case for the human good').

(§2.5) Conclusion and transition

I contend, then, *contra* Griffiths, that if legal pluralism is a 'concomitant' of anything, it is of multiculturalism, not 'social pluralism'. For insofar as multiculturalism seeks to 'privileg[e] no particular cultural perspective',[314] and given that all cultures exemplify some legal structure or other, in any given plural polity a multiculturalist framework would entail some system of legal pluralism. Thus, while social pluralism[315] may be inevitable and indeed paradoxically beneficial in constructing public civility, as I argue above in section §2.3.3, legal pluralism is neither.

---

[312] Jeremy Waldron, 'Questions About the Reasonable Accommodation of Minorities', in *Shari'a in the West*, ed. Ahdar and Aroney, p. 111.

[313] The problem with relativism is stated well by W. V. O. Quine who, in commenting on 'cultural relativism' in particular, critiqued relativism in general: '[The relativist] cannot proclaim . . . relativism without rising above it, and he cannot rise above it without giving it up.' See Willard Quine, 'On Empirically Equivalent Systems of the World', *Erkenntnis* 9, no. 3 (1975): 313-28, p. 328. In other words, relativism is self-referentially incoherent at best and self-defeating at worst.

[314] Parekh, *Rethinking Multiculturalism*, p. 340.

[315] What I have in mind regarding 'social pluralism' is a concept parallel to Tibi's 'civic pluralism' which he characterizes as 'the criterion for determining what is democratic and what is not', a pluralism which 'cannot be reconciled with the religionization of politics'. Tibi, *Islamism and Islam*, p. 116. One difference, however, is that my notion is not concerned with the realm of politics *per se*, but with public life more broadly construed. A second major difference is that social pluralism seeks a public civility as its goal, and not just 'a political culture of pluralism and tolerance for reasonable disagreement' (p. 121).

In sum, in constructing public civility in the deeply fragmented culture of modern plural societies, what is needed is not the relativistic and allegedly morally neutral frameworks of multiculturalism or legal pluralism. Rather, the notion of 'the human good' provides a more conceptually and pragmatically compelling basis. It is to a discussion of this notion and its relevance in Catholic social thought that I now turn.

Chapter Three
The Common Good, the Human Good, and Catholic Social Thought

(§3.1) Introduction

In light of the critique of several key ideological forces of modernism (Chapter One) as well as of a number of major sociological shifts in modernity (Chapter Two) – forces and shifts which work to undermine a common public life – in this chapter I turn to the constructive task of grounding a framework of public civility, specifically within the context of Catholic social thought.

In the second part of the previous chapter, I discussed various problems with constructing such a framework within the non-moral and relativistic approaches of multiculturalism and legal pluralism. In this chapter, I turn to consider the prospect of securing a basis within Catholic social thought, starting with an examination of the often taken 'common good' approach. Engaging with several prominent Catholic moral thinkers and natural law theorists, I argue that such an approach is ultimately either relativistic and thereby not sufficiently universal, or otherwise conceptually inadequate to ground public civility. For this reason, I explore the notion of 'the human good', along with its constitutive features, to commend it as a universal and more promising basis of public civility. Then, in examining several documents from the Second Vatican Council, I explore the Catholic conception of the *imago dei* (image of God) which I commend as a conceptual counterpart to my idea of the human good. Finally, I conclude with a response to potential objections to my account of the human good.

This chapter represents a construction of a universal framework of public civility based on the notion of 'the human good' with reference to key conceptual resources in Catholic social thought. (In the next chapter, I construct a framework of public civility

within the realm of Islamic political theology by drawing specifically on the resources of Islamic theological ethics.)

(§3.2) Public civility based on 'the common good'?

The prospect of constructing public civility on the basis of multiculturalism or legal pluralism has another, possibly even more fundamental, problem than what has been discussed previously. This problem has to do with an underlying presupposition: namely, that 'the common good' is allegedly some point about which divergent communities could agree, and on the basis of which they could form a common public civil life. Bhikhu Parekh, an ardent proponent of multiculturalism, comments on the connection between the 'multicultural perspective' and the idea of 'the common good':

> The dialogically constituted multicultural society has a strong notion of the common good, consisting in respect for a consensually grounded civil authority and basic rights, maintenance of justice, institutional and moral preconditions of deliberative democracy, a vibrant and plural composite culture and an expansive sense of community.[316]

The notion of the common good has a conceptual history which reaches back to at least the works of Aristotle.[317] In what follows, I evaluate the prospect of constructing public civility on the basis of the common good, considering especially approaches within Catholic social thought. (Early in the next chapter, I turn to an Islamic counterpart of the notion of the common good – *maṣlaḥa* – to evaluate its merits there.) I contend that, given its relativistic character, the common good approach is ultimately inadequate to provide a basis for public civility in plural societies.

[316] Parekh, *Rethinking Multiculturalism*, p. 341.
[317] Cf. Aristotle, *Ethics*, Bk. 1, Ch. 3. For a useful historical study of this point, see Michael Smith, *Human Dignity and the Common Good in the Aristotelian-Thomistic Tradition* (Lewiston: Mellen University Press, 1995), esp. Ch. 3, 'Common Advantage and Common Good'.

(§3.2.1) Catholic natural law theory and the common good tradition

The common good tradition, as articulated within Catholic moral theology, has its theoretical roots in Aristotle, and has been inflected and informed largely by Aquinas.[318] In what follows, by way of introduction to the idea of 'the common good', I outline a sketch of the role that it plays in Aristotle's and Aquinas' ethical and political theories, beginning with 'the Philosopher'.

For Aristotle, the notion of the common good derives from his view that individual parts (citizens) are explained naturally and necessarily by the whole (*polis*): insofar as citizens live and work toward 'the common good' (or 'the common advantage')[319] of the *polis*, they participate in the good life, and thereby experience *eudaimonia* or happiness.[320] Commenting on the connection between Aristotle's ethics and politics, the natural law theorist J. Budziszewski suggests that, since human persons live in a 'web of mutuality' (of 'families, friendships, firms, neighborhoods, and religious organizations'), a peaceful and prosperous *polis* – an 'association of associations' – must be founded on justice which is the crowning ethical virtue.[321] The idea of 'the common good' is essential to Aristotelian political and ethical theory since, as Budziszewski continues, it 'pertains to [the] partnership of a good life', and is attainable only through citizens' mutual contribution to the good of the *polis*.[322]

In line with this view, the (new) natural law theorist Germain Grisez characterizes Aristotelian *eudaimonia* as 'integral human fulfillment': 'In voluntarily acting for human goods [i.e., in identifying basic 'reasons for action'] and avoiding what is opposed to them,

[318] For helpful discussions on the similarities and differences between Aristotle's and Aquinas' conceptions of 'the common good', see Budziszewski, *Written on Heart*, pp. 194-95; David Hollenbach, *The Common Good and Christian Ethics* (Cambridge: Cambridge University Press, 2002), esp. Ch. 1, 'The Eclipse of the Public'; and Mary Keys, *Aquinas, Aristotle, and the Promise of the Common Good* (Cambridge: Cambridge University Press, 2006).
[319] Aristotle, *Politics*, Bk. 3, Chs. 6-7 and 12.
[320] See Aristotle, *Politics*, Bk. 3, esp. Chs. 1 and 9.
[321] This quotation and the next are from Budziszewski, *Written on Heart*, pp. 16-18 and 33. Aristotle writes, '[i]n justice every virtue is summed up' in Aristotle, *Ethics*, Bk. 5, Ch. 1, 1129b26 ff.
[322] Cf. Aristotle, *Ethics*, Bk. 1, Ch. 3; and Aristotle, *Politics*, Bk. 3, Ch. 3, 13; Bk. 3, Ch. 8; etc.

one ought to choose and [to will] only those possibilities whose willing is compatible with . . . integral human fulfillment.'[323] By doing so and only by doing so, human persons aim at 'happiness' or integral human fulfilment. More recently, Grisez has emphasized the need to consider the context of community within which *eudaimonia* is attained: human agents should always seek to make 'contribution to integral communal well-being and flourishing'.[324] And this communal fulfilment, argues another natural law theorist John Finnis, results only through an achievement of 'the common good' which he defines as: 'the whole ensemble of material and other conditions, including forms of collaboration, that tend to favor, facilitate, and foster the realization by each individual [in the community] of his or her personal development'.[325]

Aquinas offers a gloss of 'the common good' that is similar to Aristotle's,[326] although one which is at once arguably both more 'earthly' and more 'eternal'. For Aquinas, the common good not only serves as 'the end of [human] law', and is thereby more earthly;[327] but also, in its being oriented by 'natural law', it functions to order the 'community of the universe',[328] and is thereby more eternal. As one of his recent interpreters puts it, Aquinas sought to secure a 'political foundation' on the basis of 'natural law' which is given by the 'divine Giver' – a foundation which, in view of 'the universal polity on the order of nature', serves to ground the 'edifice [of the] "cosmopolis"'.[329] In short, for Aquinas, 'human law', which is just insofar as it derives

[323] Germain Grisez, *Christian Moral Principles*, vol. 1, The Way of the Lord Jesus (Chicago: Franciscan Herald Press, 1983), p. 184.
[324] Germain Grisez, 'The True Ultimate End of Human Beings: The Kingdom, Not God Alone', *Theological Studies* 69, no. 1 (2008): 38-61, p. 57.
[325] John Finnis, *Natural Law and Natural Rights*, 2nd ed. (Oxford: Oxford University Press, 2011), p. 147.
[326] Cf. Thomas Aquinas, *Summa Theologica*, trans. Fathers of the English Dominican Province (Charlottesville: InteLex Corporation, 1993 [1265-1274]), I-II, Q. 19, Art. 10; Q. 61, Art. 5; Q. 66, Art. 4, etc. Much of my understanding of Thomistic political and ethical theories is drawn from Keys, *Aquinas*.
[327] Aquinas, *Summa Theologica*, I-II, Q. 96, Art. 1.
[328] Aquinas, *Summa Theologica*, I-II, Q. 91, Art. 1-2.
[329] Keys, *Aquinas*, p. 101.

from natural law, is 'nothing else than an ordinance of reason for the common good'.[330] Thus, human law, deriving from natural law, is 'ordained to the common good'.[331] The common good is the goal of human law.

If natural law relates to the common good in this way within politics, what role does it play with respect to Aquinas' ethics? Aquinas answers: Humans *qua* rational beings act 'for an end', doing so 'under the aspect of good' – a fact which accords with the 'first principle of practical reason', *viz*., '"good is that which all things seek after"'.[332] In other words, human persons, when acting rationally, naturally seek (to do) the good. Accordingly, Aquinas claims, '[t]o the natural law belongs everything to which a man is inclined according to his nature'; and this inclination toward moral virtues, for Aquinas (unlike for Aristotle),[333] is 'natural to man inchoatively', even if not 'perfectly' so.[334] So, human persons can be said to function properly (that is, naturally) when their lives are aimed at their natural (that is, nature's) good. The connection, then, between his ethics and the notion of 'the common good' is encapsulated in Aquinas' contention: that 'any good or evil done to the member of a society redounds on the whole society'.[335] Under Thomistic ethical theory, simply put, one must consider what Mary Keys refers to as 'the natural social impact of human action',[336] and in doing so one would account for the ways in which all human action bears, whether for good or evil, on 'the common good'.

Similarly and more recently, the Catholic moral philosopher Jacques Maritain suggests that political society 'lives on the devotion of the human persons and their gift of

[330] See Aquinas, *Summa Theologica*, I-II, Q. 90, Art. 4.
[331] Aquinas, *Summa Theologica*, I-II, Q. 96, Art. 3.
[332] These quotations and the ones which immediately follow are from Aquinas, *Summa Theologica*, I-II, Q. 94, Art. 2 and 3.
[333] My understanding of Aquinas and Aristotle on this point is informed largely by Keys, *Aquinas*, pp. 101-04. Cf. Aristotle, *Ethics*, Bk. 2, Ch. 1; and Aristotle, *Politics*, Bk. 1, Ch. 2.
[334] Aquinas, *Summa Theologica*, I-II, Q. 63, Art. 1.
[335] Aquinas, *Summa Theologica*, I-II, Q. 21, Art. 3.
[336] Keys, *Aquinas*, p. 128.

themselves' to the larger collective.[337] This '*Political Society*', Maritain continues, is 'a concretely and wholly human reality, tending to a concretely and wholly human good – the common good'. The common good, for Maritain, 'is not only a collection of public commodities and services' such as a sound fiscal policy, a viable military, and the like; rather, the common good involves also:

> the sociological integration of all the civic conscience, political virtues and sense of law and freedom, of all the activity, material prosperity and spiritual riches, of unconsciously operating hereditary wisdom, of moral rectitude, justice, friendship, happiness, virtue and heroism in the individual lives of the members of the body politic.[338]

All such aspects of the common good, Maritain argues, are unrealizable without the excellences found in the practice and participation of the individuals of a given collective whose good is held in common. This view comports well with later Vatican II teaching which states: 'the common good [is] the sum of those conditions of social life which allow social groups and their individual members relatively thorough and ready access to their own fulfillment'.[339]

In sum, 'the common good' may be construed as an instrumental political good which conduces integral human/communal fulfillment; or as a 'collection of public commodities and services' combined with 'justice, friendship, happiness, virtue'; or as the 'ensemble of material and other conditions [which] favor, facilitate, and foster' aspects of the aforementioned. However construed, the common good is essentially that to which all members of the community contribute and in which they all participate, doing so for the sake of human and communal flourishing. On this theoretical ground many Catholic moral and political thinkers seek to construct a framework for a just society, one within which public civility presumably could be constructed. But does this approach offer such

[337] The quotations in this paragraph are from Jacques Maritain, *Man and the State* (Chicago: University of Chicago Press, 1951), pp. 10-12 (emphasis original).
[338] Maritain, *Man and State*, pp. 11-12.
[339] 'Pastoral Constitution on the Church in the Modern World', http://bit.ly/VatIIGS, accessed on 23 August 2012, no. 26. *Gaudium et Spes,* promulgated by Pope Paul VI on 7 December 1965.

resources? In what follows, I consider several prominent political, legal, and moral theorists, including John Finnis, Robert George, David Hollenbach, and Alasdair MacIntyre, who answer affirmatively.

(§3.2.1.1) New natural law theorists and the common good

Having considered the fount of natural law theory within Catholic moral theology, I turn now to contemporary articulations of 'the common good' approach and their relation to natural law, beginning with those offered by the so-called 'new natural law theorists'.

For Finnis, 'To say that a community has a common good is simply to say that [the] communication and co-operation[, which constitute 'every community', have] a point which the members more or less concur in understanding, valuing, and pursuing.'[340] In other words, the good ('point') of any common life ('community') is its common good. Finnis distinguishes between two types of common goods: one which pertains to human associations such as friendship, marriage, and religious groups, and which is 'basic' in nature; another which pertains to political communities, and which is 'inherently instrumental'. It is the second of these which Finnis characterizes (as noted above) as the 'ensemble' of conditions that 'favor, facilitate, and foster the realization' of human and communal flourishing. And it is the second of these common goods which, if any, is relevant to the task of public civility.[341]

A question arises here: Using Finnis' terms, how ought the 'personal development' of the members of a given polity, or the 'intelligible point' of the political community, be

[340] The quotations in this paragraph are from John Finnis, 'Is Natural Law Theory Compatible with Limited Government?', in *Natural Law, Liberalism, and Morality*, ed. Robert George (Oxford: Oxford University Press, 1996), pp. 1-4.
[341] For more on Finnis' view on the 'political common good', see John Finnis, 'Public Good: The Specifically Political Common Good in Aquinas', in *Natural Law and Moral Inquiry*, ed. Robert George (Washington, D.C.: Georgetown University Press, 1998).

determined?[342] Or, as Finnis asks, 'How does a critical political theory go about identifying . . . the various types of intelligible point or common good [of a political] human community?' He answers, in natural-law fashion: 'It can do so only by going back to first principles. And the first principles of all deliberation, choice, and action are the basic *reasons for action*.' Such 'reasons for action' are motivated by and made 'reasonable' in view of the 'basic human goods', which orient a well-lived human life: that is, the goods of 'knowledge', 'skilful performance', 'bodily life', 'friendship', 'marriage', 'inner integrity', and 'harmony' with the ultimate source of reality.[343] Thus, to the extent that a political community's 'common good' is aimed at fulfilling these human goods, it is a 'just' society – or so Finnis contends.

The relation between Finnis' approach to the common good and natural law theory (whether classical or new, the difference between which I discuss below) is particularly instructive. Among other things, natural law theory's view of human teleology, which undergirds the project of constructing a just society, rightly highlights the importance of recognizing the various inherent goods necessary for human flourishing. Part of the problem, however, as I argue further below and also in Chapter Four, is that the goods which are considered essential to human flourishing as conceived by the Catholic natural law tradition may be (and in fact are) different from those of another tradition – for my purposes most significantly of those of Islam. For this reason, the prospect of grounding a framework of public civility on the basis of the common good appears unpromising.

Even in a most recent characterization of the common good given by Finnis, this problem of relativity still remains. In the introduction to his collection of essays entitled *Human Rights and Common Good*, Finnis writes, 'The common good of a political community . . . includes the upholding of the rights of all its member against threats of

[342] The quotations in this paragraph are from Finnis, 'Natural Law Theory', p. 4 (emphasis original).
[343] Elsewhere Finnis gives a similar list of 'the basic forms of human good': life, knowledge, play, aesthetic experience, friendship, practical reasonableness, and religion. See Finnis, *Natural Law*, pp. 85-90.

injustice from inside and outside the community.'[344] And as to which rights are to be considered the ones worth protecting, Finnis suggests those which accord with human flourishing, those which serve to fulfill the basic human goods (e.g., life, knowledge, friendship, and so forth). Here, two problems arise. First, as noted immediately above, if the 'basic goods' that are picked out by natural law differ (as indeed they do) from those, say, of Islamic law, then the 'common' good is only nominally common. Secondly, in constructing a framework of public civility, I am interested in what grounds the alleged basic human goods – that is, what it is that makes these 'goods' inherent goods at all – and not only the functional role they play with respect to undergirding certain rights. It is an account of these matters that Finnis' theory of the common good does not offer.

To note, other notable new natural law theorists such as Grisez and Joseph Boyle at one point offered an articulation of the idea of the common good according to which the 'very notion of a *common* good or of a *public* interest suggests . . . a contrasting category of good which are *individual* or *private*', stating that in the political realm, 'the common good includes goods which the political society as such can *effectively* pursue'.[345] While there is in the first part of this statement hardly anything with which to disagree, it also seems trivially true; the second part of the statement, however, while delineating a possible role for the common good – *viz*., that of a procedural mechanism for ordering political life – fails to offer any substantive content of what the common good is. (It is also worth noting that Grisez and Boyle rescind their view in a later work.)[346]

[344] John Finnis, 'Introduction', in *Human Rights and the Common Good*, ed. John Finnis (Oxford: Oxford University Press, 2011), p. 1.
[345] Germain Grisez and Joseph Boyle, *Life and Death with Liberty and Justice* (Notre Dame: University of Notre Dame Press, 1979), pp. 36-37 (emphasis original).
[346] See Germain Grisez, Joseph Boyle, and John Finnis, 'Practical Principles, Moral Truth, and Ultimate Ends', *American Journal of Jurisprudence* 32 (1987): 99-151, p. 150.

The articulation of the notion of the common good given by new natural law theorist Robert George seems most promising with respect to clarifying its meaning.[347] For George, the common good consists in the idea that the 'interests and well-being' of a given population of a political community are 'just as important as the interests and well-being of everybody else'.[348] This characterization resembles quite closely that of (another of) Finnis' which George quotes favourably:

> a set of conditions which enables the members of a community to attain for themselves reasonable objectives, or to realize reasonably for themselves the value(s), for the sake of which they have reason to collaborate with each other . . . in a community.[349]

The objection I have regarding this articulation of the common good (as I have with the ones that follow) is captured in the phrases 'to attain for themselves reasonable objectives' and 'to realize reasonably for themselves the value(s) . . .': that is, the notion of the common good is ultimately relativistic and thereby inadequate to serve as a basis for a universal framework of public civility. For one group's 'reasonable objectives' may well be unreasonable to another; and insofar as these objectives are sought by and 'for [the members of the community] themselves', there inevitably would be 'goods' in conflict, and not in common.[350]

[347] See Robert George, *In Defense of Natural Law* (Oxford: Clarendon, 1999), esp. pp. 127-36.
[348] George, *Natural Law*, p. 131.
[349] Finnis, *Natural Law*, p. 155; cited in George, *Natural Law*, p. 133.
[350] Lest one suppose that I am making too much of the relativity of the phrase 'for themselves', I note how George, elsewhere commenting on Finnis' definition above, writes: 'Under the natural law account . . . , it is important not only that basic human goods be realized, but that people, and peoples, realize these goods *for themselves*, that is, as fruits of their own deliberation, judgment, choice and action'. See George, *Natural Law*, p. 239 (emphasis original).

(§3.2.1.2) David Hollenbach's 'pluralistic ensemble of goods'

The Catholic moral philosopher David Hollenbach also argues that the idea of the common good is essential to the ordering of a just polity, and furthermore that it is fundamental to the enterprise of Christian ethics.[351]

Hollenbach observes that the common good serves to underpin the ethical and political theory of Aristotle according to whom: 'For even if the end is the same for a single man and for a state, . . . though it is worth while to attain the end merely for one man, it is finer and more godlike to attain it for a nation or for city-states.'[352] Commenting on this statement, Hollenbach suggests that, for Aristotle, 'the common good of the community should have primacy in setting direction for the lives of individuals, for it is a higher good than the particular goods of private persons'.[353] The good life of an individual is found in the pursuit of not only the individual's own good, but the good of the community of which the individual is an integral part. Hollenbach goes on to observe that Aquinas, in building on Aristotle, identifies the common good with no less than God himself, holding that 'the supreme good, namely [God], is the [ultimate] common good, since the good of all things depends on [God]'.[354] For Aquinas, since any good that exists derives from God (i.e., is an aspect of God's eternal law), the common good toward which all human persons are inclined is a function of their being intrinsically related to the good – i.e., God – who is the supreme common good. Thus, the good of any human person is common to all human persons insofar as all are naturally and ineluctably attracted to God who is the ground of all good.

---

[351] Hollenbach, *Common Good*.
[352] Aristotle, *Ethics*, Bk. 1, Ch. 3.
[353] Hollenbach, *Common Good*, p. 3.
[354] Thomas Aquinas, *Summa Contra Gentiles*, ed. Anton Pegis, 2 vols., vol. 2, Basic Writings of Saint Thomas Aquinas (New York: Random House, 1945), p. 27. In addition to Hollenbach's reading, my understanding of Aquinas' view on this point is informed largely by Michael Baur, 'Law and Natural Law', in *The Oxford Handbook of Aquinas*, ed. Brian Davies and Eleonore Stump (Oxford: Oxford University Press, 2012); and Keys, *Aquinas*, esp. pp. 118-24.

To note, there are points in Hollenbach's treatment, especially in his critique of 'liberalism's tolerance', that I find helpful for the construction of public civility.[355] Hollenbach notes that the danger of modern political liberalism is that, under its view, a 'maximally tolerant society' would amount to one with 'a minimum of human interaction' – since according to a 'liberal tolerance', 'the best way to be fully tolerant of others would be never to speak and never to do anything that actually affects other people'. Such a fragmented sociality, the historical sociology of which I discuss in the previous chapter, is detrimental for the prospect of a just society marked by public civility.

Consequently, Hollenbach recommends a deep 'mutual respect', involving a 'social give-and-take', which is characteristic of a kind of interaction that 'enhance[s] the good of all', the result of which he calls the 'social good'. I agree that there are indeed some social 'goods' which human interaction requires and promotes, goods such as civic respect, the promotion of civic virtues, and the like. The problem arises, however, when it comes to grounding 'the social good'. Whereas, as I argue below, social goods are grounded in the human good, Hollenbach commends 'the common good'. What, then, is the common good which purportedly grounds the goods of society?

According to Hollenbach, the common good is most simply the 'good of a person . . . embedded in the good of the community'. Expanding on this definition, he writes, the common good both fulfills 'needs that individuals cannot fulfill on their own', and realizes 'values that can only be attained in our life together'. If the common good is understood in these terms, there seems to be no reason to deny its import: for the social institutions that humans share in common furnish more than what any individual could achieve on her own; a life of solitude could not achieve the good which comes only with community. But the question remains: What is it that makes these 'social goods' good at

[355] Except where indicated otherwise, the quotations in the remainder of this section are from Hollenbach, *Common Good*, pp. 69-70, 70, 77, 79, 133, 169, 159, 220, 243, 135-36, and 12, respectively.

all? That is, what is the theoretical ground of 'social goods'? Here is where I see Hollenbach's conceptual confusion, a critique to which I now turn.

Hollenbach characterizes the common good as 'an ensemble of diverse goods [which] include[s] the good achieved in family relationships, in voluntary associations, in political activity, in economic life, in the church, etc.'. Yet he further notes that 'none of these aspects' is itself 'the whole common good', for the latter will 'always remain imperfect and fragile'. But, what, then, makes Hollenbach's view any different from what he describes as the 'individualistic alternative to the common good' – i.e., Rawls' 'overlapping consensus' – an alternative which he explicitly challenges?[356] The problem worsens when Hollenbach suggests that in the 'globalized world' there is a need to search for 'an overlapping set of communities and the overlapping goods [which such communities] make possible'; these overlapping goods, Hollenbach continues, finally comprise 'the common good' which is a 'pluralistic ensemble of goods'. But a set of such overlapping goods, given their pluralistic character, form a mere aggregate of goods not unlike a Rawlsian overlapping consensus, and is thereby insufficient as a framework for social-political public civility.

Furthermore, it would seem that nothing in principle could keep such an 'ensemble of goods' from transmuting into an ensemble of evil: one community's good may be another's evil. One way in which Hollenbach seems to counter this potential charge is by suggesting that the common good is specifically 'an ensemble of goods that embody the good of communion, love, and solidarity' (cf. Edwards' triad of 'compassion', 'love', and 'solidarity').[357] But, is not Hollenbach's suggestion but one registry of 'goods' among others? If so, why prefer his and not another's?

[356] Cf. Rawls, *Political Liberalism*, pp. 109-10.
[357] Edwards, *Civil Society*, p. 112.

And this is the fundamental problem that I see with the common good approach as a framework for public civility: that the 'good' of the 'common' is not truly common. Furthermore, Hollenbach contends that founding a political community on the basis of the common good entails a commitment to the idea that individuals as citizens 'participate actively in defining and pursuing the good they share in common'. But the 'good' putatively shared 'in common' is precisely the problem at hand since the 'good' is differently and sometimes incompatibly defined.

(§3.2.1.3) Alasdair MacIntyre's associative common good

MacIntyre is another proponent of the common good tradition. MacIntyre argues that there is a deeply 'fragmented ethics' present in modern society which is owed largely to the 'compartmentalization' of political philosophy from contemporary politics; and that unless and until the idea of the common good is articulated and maintained within political philosophy and its central role fulfilled within politics, there can be no just society,[358] let alone one marked by public civility. What, then, according to MacIntyre, is the concept and role of the common good in political theory?

MacIntyre offers a characterization of the common good as: 'the ends of a variety of very different types of human association' (such as family, schools, and professional and voluntary groups) – ends which are common to all their respective members.[359] Under this characterization, MacIntyre distinguishes between several types of common goods. First, there is one which is 'no more than the summing of the goods' of the individuals in a given activity (e.g., finances gained from an 'investment club'). Call this 'the aggregate view' of the common good. A second type results in 'the good of association' which

[358] See Alasdair MacIntyre, 'Politics, Philosophy and the Common Good', in *The Macintyre Reader*, ed. Kelvin Knight (Notre Dame: University of Notre Dame, 1998), pp. 235-39.
[359] Except where indicated otherwise, the quotations in this paragraph and the next two are from MacIntyre, 'Politics', pp. 239-43 and 248 (emphases original).

cannot be had 'antecedently to and independently of' the individuals who comprise such association (e.g., the good of 'string quartets' and of a group of 'research scientists'). This type of common good is 'other than and beyond' that which is achievable in practices done by individuals alone. Call this 'the associative view'. MacIntyre sees the aggregate view as irrelevant with respect to constructing a common political-ethical framework; and espouses the associative view. (Incidentally, this latter view is similar to a characterization of the common good offered by John Haldane for whom the common good is found in 'a form of group activity through which bonds of community are strengthened and by which goods may be secured for members of society that logically could not be available for them as individuals'.)[360] How, then, if at all, does the associative common good provide a basis of a shared ethics for a common public life?

MacIntyre's argument runs as follows. In order to achieve excellence in the multifarious activities of one's life, one needs the requisite virtues to offer a proper response to this most fundamental question: '[W]hat place should the goods of each of the practices in which I am engaged have in my life?' Inextricably connected to this question is the communal dimension which is a constitutive feature of any given political community where there are 'others together with whom [one] is engaged in the activities of practices', a fact because of which a further question arises: '[W]hat place should the goods of each of the practices in which *we* are engaged have in *our* common life?' It is on this basis that MacIntyre argues for the need of 'a conception of the common good' in the realm of politics.

MacIntyre continues by warning against an 'individualist and minimalist conception of the common good' according to which the state is nothing more than a mechanism by which to secure a 'social order within which individuals may pursue their

[360] John Haldane, *Faithful Reason: Essays Catholic and Philosophical* (London: Routledge, 2004), p. 141.

own particular ends'. This sort of political proceduralism could not have, MacIntyre contends, 'a reasonable expectation of surviving, let alone flourishing'. On the contrary, MacIntyre suggests the need for a 'practical rationality' which allows and impels members of a community to say to themselves: 'I must learn what my good is in different types of situation [*sic*] and I can only achieve that through interaction with others in which I learn from those others and they from me.' This more robust form of political engagement provides the resources needed to ground the indispensible role of 'communal and individual deliberation' concerning the community's 'shared and common good'. I find this feature of political society (like Hollenbach's 'mutual respect' above) to be a necessary and beneficial dimension of constructing public civility. What I question, however, is whether the conditions needed for such a feature is obtainable only or even most plausibly on the basis of the common good; for MacIntyre's proposal of the common good secured by way of 'deliberative participation' seems still to suffer the fate of relativism, as I explain immediately below.

While I agree that there might be a 'common good' that gives order to associations such as a musical quartet or group of scientists – a good whose realization is possible only insofar as its members collectively and properly engage in the relevant activity – such is not the case for political societies. The reason that the associative view of the common good may be coherent within the context of some human associations while not for a plural political community is elucidated by the characterization of the *polis* given by Budziszewski above: an 'association of associations'.[361] As the political theologian Joshua Hordern suggests, in 'internally diverse political societies' it is right to speak of communities' pursuing 'not only their common good but also that of their neighbours'.[362]

[361] Budziszewski, *Written on Heart*, p. 16.
[362] Joshua Hordern, *Political Affections: Civic Participation and Moral Theology* (Oxford: Oxford University Press, 2013), p. 1. To note, later in this work (see esp. Ch. 4, 'Affection and Locality'), Hordern suggests there are at some points mutually overlapping common goods with respect to divergent communities.

Thus, rather than there being some singular 'common good', in plural societies the alleged 'common good' is multiply and differently conceived and pursued. In other words, because a given plural society is comprised of an association of people from particular and divergent viewpoints, traditions, and worldviews – in a word, 'associations' – such a pluralistic collective in principle does not have a singular shared good. There are conflicting and often incompatible conceptions of the good such that the idea of a common good, given its vulnerability to moral relativism, is neither existentially practicable nor conceptually coherent as a basis for public civility.

Thus, MacIntyre's conception of the common good falls prey to the same relativist objection I pose above: namely, that given the underdetermination of the common good, the 'good' which is purportedly 'common' to the members of a given political community may (under some views) promote 'evil' and (under the same views) demote 'good'. To note, MacIntyre argues that a flourishing political community is one in which there remains the constant 'possibility . . . of learning from each other about the nature of their common good.[363] But if the constant 'learning from each other' about the common good is a constitutive, indeed advantageous, feature of a flourishing political community, it may be asked, when, if ever, is the common good fixed and found? In requiring a sort of ongoing Habermasian 'complementary learning process',[364] does not the securing of a common good fall prey to a moral relativism, and as such undercut any objective sense of the term 'good' which is purportedly common to all?

Given the underdetermination of the idea of 'the common good', there must be found some other theoretical basis on which to ground a transcultural public civility. What is needed is a recovery and a reassertion of the fundamental features of humanity which

[363] MacIntyre, 'Politics', p. 250.
[364] Jürgen Habermas, 'Religion in the Public Sphere', in *Between Naturalism and Religion* (Cambridge: Polity, 2008), p. 119.

are fixed (by its *telos*), and thereby free of the perils of relativism. It seems that MacIntyre himself might agree with this point when he writes:

> [W]hen philosophers come to evaluate those norms and those conceptions [which constitute the common good], they confront the task of evaluating them as norms for which it is claimed that it would be right and best for all human beings to live by them and as adequate conceptions of the human good, and not of the Greek, or the Indian, or the Chinese good. [That is, they are asking essentially the questions:] What are *the* norms appropriate for human beings as such? What is *the* human good?[365]

It is to a transcultural understanding of the human good to which I turn below.

(§3.2.2) Summary and transition

In his insightful transdisciplinary work,[366] the legal and political theorist Raymond Plant sheds light on what he sees as the vacuity of the notion of 'the common good', offering two main characterizations of it. First, there is what I would term 'the substantive view': 'a set of substantive goods and values which people are supposed to hold in common'. Regarding this view, Plant makes the same point I do with respect to MacIntyre's proposal: namely, that 'the degree to which such an idea has salience in a pluralistic society where people may differ quite fundamentally over their conceptions of the good' appears irresolvable in principle. Secondly, there is what I would call 'the procedural view': 'a framework within which people with different conceptions of the good are able to get along [with] mutual recognition and respect for differences'. As for this view, Plant's critique is similar to the one I have given throughout the above sections: namely, that there is no reason why individuals or groups would not question the validity and fairness of any given 'framework [of] recognition and respect' since one community's framework may be another's tyranny. Likewise, Plant suggests that in this sort of political proceduralism, it is political power – and not the public – which will inevitably, if tragically, decide on what is 'just'. On these grounds, Plant argues against the common

[365] MacIntyre, 'Politics', pp. 246-47 (emphases original). See also, MacIntyre, *After Virtue*, pp. xiv-xv.
[366] The quotations in this paragraph are from Plant, *Politics, Theology, History*, pp. 119 and 358. For a similar discussion of these themes, see also pp. 211-18 in the same work.

good approach in political theory as inadequate to establishing a framework of what he calls a 'common moral world', what I term 'public civility'.

Returning to Aquinas, if '[human] law . . . is ordained to the common good', and specifically the 'common good of peace and justice',[367] I would ask, Whose justice? And which peace? For while, for example, on a Catholic moral theological perspective, the 'common good of peace and justice' is grounded ultimately on natural law, on an Islamic perspective, as I show in the next chapter and more briefly below (in section §3.3.4), 'the common good' (or *maṣlaḥa*) would arguably be based on the 'purposes of Islamic law' (*maqāṣid al-sharīʿa*). So, for whose common and for which good is 'law' ordained? And which law? To be sure, there are many 'common goods' (plural) – such as 'medical, social, and educational' services, 'magnificent state funerals', 'monuments to our greatest leaders', public transportation services, and the like;[368] but to suggest there is a singular 'common good' (or even 'the human common good')[369] would be to insist on a particular comprehensive moral doctrine for political life, which in a liberal plural society, is not, and in principle cannot, be shared by others.

To summarize, in his essay 'The Common Good: Catholicism, Pluralism, and Secular Society', the Catholic theologian John Langan, while arguing for the central role of the common good in political and ethical theory,[370] concludes by suggesting that what is needed to secure peaceful coexistence among divergent religious communities is: 'finding within the religious tradition itself considerations that lead to the recognition of a common humanity in all the groups of a religious mixed society'.[371] Similarly, I contend that a more

[367] Aquinas, *Summa Theologica*, I-II, Q. 96, Art. 3.
[368] Keys, *Aquinas*, p. 126.
[369] Aquinas, *Summa Theologica*, II-II, Q. 59, Art. 1. The problem with 'the human common good' is that, among other things, the human law which is 'ordained to the common good' is one whereby 'heretics . . . be not only excommunicated but even put to death'. See Aquinas, *Summa Theologica*, II-II, Q. 11, Art. 3.
[370] John Langan, 'The Common Good: Catholicism, Pluralism, and Secular Society', in *Building a Better Bridge: Muslims, Christians and the Common Good*, ed. Michael Ipgrave (Washington, D.C.: Georgetown University Press, 2008), p. 82.
[371] Langan, 'Common Good', p. 89.

plausible basis of constructing public civility across religious traditions is found not in the elusive, relativistic, and socially constructed 'common good', but in the idea of a universally common human good,[372] an idea to which I now turn.

(§3.3) A case for the human good: a historical introduction

The term 'the human good' is related to Aristotle's idea of *eudaimonia* – the happiness, flourishing, well-being which obtains in human persons whose lives are aimed at this 'chief good'.[373] For Aristotle, 'politics' is the science that investigates the human good within the context of the *polis* – a science which 'uses the rest of the sciences [e.g., strategy, economics, rhetoric]' in order to conclude on what 'the end [of] the human good' is.[374] In what follows, I specify three features of human personhood that I suggest comprise essentially the human good: relationality, purposiveness, and rationality. One major contention that I put forward in this discussion is that a recovery of a semi-Aristotelian understanding of human teleology is crucial to constructing a framework of public civility; but that, because Aristotle (along with many Aristotelians since) grounds his theory of ethics on the basis of human action, his view of the human good does not adequately elucidate the essential human attributes needed for such a framework. More explicitly, in constructing a framework of public civility, what is needed is not simply a theory of human action, but a consideration of the essential attributes of human personhood on which such a theory of action is grounded.

[372] I adopt this phraseology from Biggar whose terms 'the common human good' and 'the universal human good' are the first (and only) instance of them I have encountered. See Nigel Biggar, 'The Value of Limited Loyalty: Christianity, the Nation, and Territorial Boundaries', in *Christian Political Ethics*, ed. John Coleman (Princeton: Princeton University Press, 2008), pp. 93 and 98.
[373] Aristotle, *Ethics*, Bk. 1, Chs. 2 ff. For a helpful background on the notion of 'the human good' as articulated in Aristotle, see Richard Kraut, *Aristotle on the Human Good* (Princeton: Princeton University Press, 1989), esp. Ch. 4, 'The Hierarchy of Ends'.
[374] Aristotle, *Ethics*, Bk. 1, Ch. 2-3.

According to Aristotle, the end of politics is not governance merely for the protection of human life, but for the promotion of the good life: 'A state exists for the sake of a good life, and not for the sake of life only', for 'a state is not a community of living beings only, but a community of equals, aiming at the best life possible'.[375] And while Aristotle suggests that 'happiness is the highest good', he also recognizes that 'different men seek after happiness in different ways'. The concomitant diversity of pursuits of happiness results in 'different modes of life and forms of government'. Given the multiplicity of conceptions of 'the good life' and of 'justice', then, the notion of the universal human good, and more specifically its constitutive attributes, offers resources on the basis of which to construct a framework of public civility in plural societies.

MacIntyre, as a recent interpreter of Aristotle, argues that to perform a just act one must possess the requisite virtue of 'practical rationality' by which one could judge an act's just-ness, as discussed in the previous section. However, MacIntyre continues, the idea of practical rationality is 'at odds with our characteristically modern ways of envisaging a rational agent' who, for example, for sheer lack of desire may decide to flout some obligation or other.[376] Similarly, Haldane contends that, under a post-Humean modern 'practical rationality', moral considerations drop out altogether: for by collapsing the is-ought distinction Hume allegedly disjoins facts (the way things are) from norms (the way they should be).[377] (Whether Hume's distinction indeed renders moral normativity as underdetermined by facts about human nature is discussed in the next section.) *Contra* Hume and drawing on Aristotle, Haldane argues that there must be some highest point of reference, an 'unqualifiedly good', against which acts can be judged justly – what Taylor calls the '"supreme good" (*teleiaon agathon*)'.[378] Haldane further argues that this

[375] The quotations in this paragraph are from Aristotle, *Politics*, Bk. 3, Chs. 9, 7, and 8, respectively.
[376] MacIntyre, *Whose Justice?*, pp. 139 ff.
[377] The quotations of Haldane in this paragraph are from Haldane, *Practical Philosophy*, pp. 47-48.
[378] Taylor, *Sources of Self*, p. 66. Cf. Aristotle, *Ethics*, Bk. 1, Chs. 2 ff.

'unqualified good' depends fundamentally on what a human being is (its moral ontology) and what human life is for (its teleology). Therefore, knowing the good that one ought to do depends on the kind of being one is: morality depends on metaphysics. As MacIntyre, drawing on Aristotle, puts it: 'Human beings, like the members of all others species, have a specific nature; and that nature is such that they have certain aims and goals, such that they move by nature towards a specific *telos*.'[379]

Yet, in traversing from early to late modernity there has been a monumental loss of an objective view of human teleology. As Taylor writes, the conceptual background of 'mythology, metaphysics, or theology', which once functioned as an 'established order of references', has been transmuted into a set of 'personal visions' and 'individual intuitions'.[380] All viewpoints have become radically 'indexed' and 'particularized' owing to what Taylor calls the 'modern inward turn'.[381] Consequently, in the post-Enlightenment world, morality has come to concern itself only 'with what we ought to *do*' rather than with 'what is valuable in itself', only 'with what it is right to do rather than with what it is good to be'. Yet, Taylor argues, an 'ineradicable' feature of the human condition is the priority of the good over the right – and for one simple reason: the right that one is supposed to do depends on the good for which one exists.

For these reasons, it would be useful to recover the teleological character of human personhood – i.e., the human good (the *telos* for which human persons exist) – to undergird a theory of what human persons ought to do (i.e., a theory of moral action). Such teleology features crucially in constructing a universal framework of public civility. To this end, I consider next, in juxtaposition with the notion of the human good, the related but distinct notions of human rights and human nature.

---

[379] MacIntyre, *After Virtue*, p. 148; cf. Aristotle, *Politics*, Bk. 1, Ch. 1, 1252a3.
[380] Taylor, *Sources of Self*, p. 491.
[381] See Taylor, *Sources of Self*, Pt. 2, 'Inwardness', esp. Chs. 7-11. This notion of the 'modern inward turn' can be found also in Taylor, 'Politics of Recognition', pp. 28-30. The quotations which follow in this paragraph are from Taylor, *Sources of Self*, pp. 79, 84, and 44, respectively.

(§3.3.1) Human rights and human nature *vis-à-vis* the human good

The idea of universal human equality features crucially in my account of the human good; and one way of grounding universal equality can be found in the discourse of human rights, as articulated notably in the Universal Declaration of Human Rights (1948).[382] Since the UN Declaration, the widespread use of terms such as 'civil liberties' and 'political rights' [383] highlight the significance that the associated and arguably underlying value of freedom has for human persons: freedom makes claims of rights intelligible. And discourse about human freedom and rights arguably requires an essentialist view of human nature and thereby of the human good. As the nihilist philosopher Gianni Vattimo writes, 'Equality will always be a metaphysical thesis . . . because of its claim to capture a human essence given once for all'.[384] (For precisely this reason, Vattimo, as a 'nihilist', rejects this 'essentialistic standpoint'.)

It is important to note that human rights are not equivalent to political rights. Since human rights are given in 'a state of nature', as one social anthropologist puts it, these 'inalienable' rights do not depend on political conditions.[385] In other words, human rights ought to be understood as being grounded, not in citizenship, but in human nature. But, then, a crucial question arises: Which rights are properly human? I contend that they are the ones which conduce to the attaining of the human good, an attainment which results from flourishing according to human nature. This contention can be buttressed by rephrasing the question as follows: What are human rights for? For, if there were no universal human nature or human good, then every individual human could decide

[382] For more on this discussion, see Micheline Ishay, *The History of Human Rights* (Berkeley: University of California Press, 2008), esp. Ch. 1, 'Early Ethical Contributions to Human Rights'.
[383] On the difference between liberties and rights, see the work of the legal scholar Judith Thompson who characterizes 'liberties' as specific kinds of 'rights', or more precisely, as 'clusters of rights': Judith Thomson, *The Realm of Rights* (Cambridge: Harvard University Press, 1990), p. 56.
[384] See Gianni Vattimo, *Nihilism and Emancipation: Ethics, Politics, and Law* (New York: Columbia University Press, 2004), pp. 98-99.
[385] Asad, *Formations of Secular*, p. 129.

'rightfully' what rights are and what they are for. But surely, such a view is not only existentially impracticable, but also goes against any attempts to delineate a set of equal rights to which all human persons are entitled (and obligations to which they are bound). So, as I argue further below, human rights are for living a properly flourishing human life, and this life is grounded in and governed by the human good of rationality, relationality, and purposiveness.

Before offering a more detailed characterization of these attributes, it is necessary to consider further the idea of human nature. Bhikhu Parekh observes: 'The term human nature refers to those . . . universal capacities, desires and dispositions . . . that all human beings share by virtue of belonging to a common species.'[386] For this reason, Parekh continues, 'If we encountered a "human being" who was six inches or six meters tall, immortal, . . . spoke a refined language at birth, . . . [and never] faced a temptation throughout his or her life', then plausibly 'we would feel profoundly disoriented in their presence and would consider that person either an aberrant member of our species or, more likely, that of another'. Simply put, that human persons have an essential nature seems beyond dispute. Indeed, it is this fundamental fact on which the bulk of the natural law tradition theorizes.

(To note, there are significant concerns about the natural law tradition which have been discussed by historians such as Richard Tuck and James Tully who argue, among other things, that natural law theory has been adopted by a diverse and arguably mutually incompatible set of political arrangements; this performative, if not conceptual, inconsistency problematizes natural law's supposed uniform set of moral deliverances, one which led to no less than the tragedy of civil wars.[387] Also, under natural law theory, there

[386] The quotations in this paragraph are from Parekh, *Rethinking Multiculturalism*, pp. 115, 117, 119, 122, and 124.
[387] On the subject of civil wars, see Richard Tuck, *Natural Rights Theories: Their Origin and Development* (Cambridge: Cambridge University Press, 1979), pp. 77-81. The compatibility between 'natural law' and a

is the problem concerning the criteria by which to determine rights as properly human, a problem in political theory recognised by Tuck as an intractable one ever since the late Middle Ages.[388] My project of constructing a framework of public civility is in part a response to these two problems of natural law theory – *viz*., the legitimacy of criteria for determining human rights and the moral underdetermination of natural law. That said, there is at least, Fergus Kerr observes, a 'common core' to 'natural law theories': 'that in some sense or other the basic principles or morals and legislation are objective, accessible to reason and based on human nature'.[389])

For purposes of clarifying the difference between the idea of human nature on which the natural law tradition is based and my notion of the human good, it would be instructive to compare classical natural law theory with what has been dubbed (by one of its critic)[390] as 'new natural law theory'.[391]

When new natural law theorists refer to 'the first principle of practical reason'[392] as the foundation of a natural law account of morality, they suggest (at least) the following: that there are irreducible and non-instrumental 'basic human goods' (e.g., knowledge, religion, health, etc.) for which a given moral action may be done; that the course of action which leads to such goods is picked out non-inferentially by 'practical reason', and done so for the sake of human flourishing; and that, because they are so picked out, they are 'basic' human goods. For example, if asked why one is endeavouring to stay physically fit, and one responds by saying, 'in order to ensure my health', then one is giving an

---

divergent set of politics is (one of) the overarching arguments of this monograph. See also James Tully, *A Discourse on Property* (Cambridge: Cambridge University Press, 1980).

[388] Tuck, *Natural Rights*, pp. 5-7.

[389] Fergus Kerr, *After Aquinas: Versions of Thomism* (Oxford: Blackwell, 2002), p. 98.

[390] Russell Hittinger, *A Critique of the New Natural Law Theory* (Notre Dame: University of Notre Dame Press, 1987), p. 5.

[391] Whether it is 'new natural law' or the classical version which is the more faithful reading of Aquinas is a disputed matter. For a helpful introduction to this controversy (by one who favours the 'new' perspective), see George, *Natural Law*, Ch. 2, 'Recent Criticisms of Natural Law Theory'.

[392] Germain Grisez, 'The First Principle of Practical Reason: A Commentary on the Summa Theologiae', *94* 2, no. Natural Law Forum (1965): 168-201. For a helpful overview of new natural law theory, see George, *Natural Law*, esp. Pt. 1, 'Theoretical Issues'.

irreducible and non-instrumental reason for performing such activity, an activity which accords with human flourishing.

My account of the human good differs from new natural law, then, in that the former does not concern the principles or proscriptions of moral action *per se*, but that which grounds the morality of human action: namely, the essential attributes of the human good. In this way, my account aligns itself closer to the classical natural law theory, a theory for which philosophical anthropology (human nature) plays a more foundational role in its articulation.

But classical natural law theory, argue new natural law theorists like Grisez, Boyle, and Finnis, is inadequate since, as they maintain, the 'principles of morality cannot be theoretical truths of metaphysics and/or philosophical anthropology',[393] lest there be any 'illicit inference from facts to norms'.[394] Consequently, rather than grounding universal morality on human nature, new natural law theorists seek to ground it in 'practical reason', an analysis of which is given by Martin Rhonheimer:

> The objects of human action are the intelligible goods picked out and directed to by practical reason's first principles. These goods when realized by freely chosen actions . . . make up the flourishing of human beings and their communities. . . . [K]nowledge of the goods comes before knowledge of our nature as such.[395]

Whereas classical natural law predicates universal morality on the basis of human nature, new natural law theory locates the source and motivation for morality in 'practical reason' – in the capacity of human reason to reflect on actions appropriate to human flourishing.

Contrary to claims of new natural law theorists, David Oderberg contends that there is no 'illicit inference' made at all since classical 'natural law theory sees normativity

[393] Grisez, Boyle, and Finnis, 'Practical Principles', p. 102.
[394] Finnis, *Natural Law*, p. 33.
[395] Martin Rhonheimer, *Natural Law and Practical Reason* (New York: Fordham University Press, 2000), p. 6.

as built into the very fabric of reality', of which human nature is a part.[396] Or, as Henry Veatch puts it, 'the very "is" of human nature has . . . an "ought" built into it'.[397] Put bluntly, moral norms can be inferred from facts about (human) nature. For this reason, for Oderberg, there is no advantage in new natural law when it grounds '*reasons for action*' on practical reason: for facts also function as 'reasons for saying certain things, for putting forward certain arguments, for drawing certain conclusions, for holding certain beliefs, and so on'.[398] Accordingly, certain facts about human nature may demand particular moral actions, and not others (e.g., respecting other people's right to choose or un-choose their religion based on the fact of humans' being free-willed persons). Here, Oderberg is arguing undoubtedly, though not explicitly, against new natural law theorists who hold that 'morality is about *reasons for action*': Oderberg maintains, reasons function no differently in moral theory than facts do: they both give an account ('*explanation* and *justification*') for a given moral action.[399]

This anthropological 'essentialism' provides, Oderberg continues, 'a secure foundation for [classical] natural law theory' which maintains 'not simply that everything has an essence, but that these essences are real and knowable'.[400] For these reasons and the others I present in section §3.3.3 below, I maintain that metaphysical anthropology, in the end, has the resources for grounding a universal morality applicable to and accessible by all human persons. In this way, my account of the human good aligns with the classical natural law approach to universal morality. However, it must be noted that my account departs from classical natural law in that I specify further those essential attributes

[396] David Oderberg, 'The Metaphysical Foundations of Natural Law', in *Natural Moral Law*, ed. Holger Zaborowski (Washington, D.C.: Catholic University of America Press, 2010), p. 45.
[397] Henry Veatch, 'Natural Law and the "Is"–"Ought" Question', *Catholic Lawyer* 26 (1981): 251-65, p. 258.
[398] The quotations which follow in this paragraph are from David S. Oderberg, *Moral Theory: A Non-Consequentialist Approach* (Oxford: Blackwell Publishers, 2000), pp. 12-13.
[399] Philippa Foot famously also argued that normativity is connected to facts in an 'internal' way such that it is not the case that just any fact could be claimed in favour of a particular moral norm. See Philippa Foot, 'Moral Beliefs', in *Virtues and Vices*, ed. Philippa Foot (Oxford: Oxford, 2002 [1958-1959]).
[400] Oderberg, 'Metaphysical Foundations', p. 60.

(relationality, purposiveness, and rationality) on the basis of which intercommunal public civility can be constructed. At any rate, my purpose is not to settle the debate between classical and new natural law theories of morality, but to suggest how my account of the human good differs from both natural law's 'human nature' and new natural law's 'practical reason'.

To note, there appears to be a third way to characterize natural law theory which incorporates both versions. As John Mahoney writes, 'for man to act according to his nature' just is for him to act 'as a rational being, and that to act unreasonably would for him be to act unnaturally'.[401] In other words, classical natural law theory goes beyond but no less encompasses the new theory. In Mahoney's words, 'man's nature includes reason but is more than reason' since it involves other 'elements of givenness' such as the 'volitional, emotional, corporeal, and social aspects of his humanity'. Following Mahoney, my account of the human good also presupposes an essence to human persons such that there are definitive ends toward which human life is directed, ends which set the criteria for human flourishing: namely, relationality, purposiveness, and rationality. And insofar as these ends are protected, promoted, and pursued, human persons can flourish and human societies can engender public civility.

(§3.3.2) The human good as a basis for universal morality and public civility

I turn now toward the more constructive part of this chapter which involves providing answers to these questions: What are the essential attributes of the human good? In what ways do they help to construct public civility? To this end, it is helpful to consider a final and prior matter: the very possibility of grounding a universal morality. For, if, as I argue below, human persons are intrinsically relational, then the principles of morality

[401] The quotations in this paragraph are from John Mahoney, *The Making of Moral Theology: A Study of the Roman Catholic Tradition* (Oxford: Clarendon Press, 1987), pp. 110-11.

which govern their interaction would comprise an essential dimension of public civility. Also, if, as I demonstrate, human persons are inherently purposive, then conflicts which result from divergent purposes would require a framework to adjudicate between them. Lastly, if human persons are innately rational, then it is the case that both these moral principles and the criteria of adjudication can be known (approximately at least) by human persons, even if not completely agreed upon. And all of these claims depend on there being some universal morality in light of which relationality, purposiveness, and rationality are made coherent. In this section, I delineate a universal morality, based on the essential attributes of the human good, which escapes the problems characteristically found in modern moral theories: namely, those having to do with subjectivism, relativism, the priority of right over good, and loss of human *telos*.

Since the time of what Edmund Husserl calls the 'mathematisation of nature'[402] (what I describe as the 'scientization of knowledge')[403] modern theories of morality have found minimal or no conceptual space for teleology. As Haldane puts it, the classical world was underpinned by a 'normativity of nature' which the modern world lacks.[404] In response to this shift, Alan Gewirth proposes a monograph-length naturalistic account of universal morality on the basis of 'the nature of human action'[405] which I consider below.

Since morality entails agency, Gewirth argues that, if there is to be any universal morality at all, it must be based on the normativity that is entailed by human action, and that such normativity is grounded on the twin ideas of human 'freedom' and 'well-being'. The rationale of Gewirth's moral theory runs as follows. Insofar as talk of rights is

[402] See Edmund Husserl, *The Crisis of European Sciences and Transcendental Phenomenology*, trans. David Carr (Evanston: Northwestern University Press, 1970 [1913]), Appendix II: 'Idealisation and the Science of Reality: the Mathematisation of Nature'.
[403] Richard Park, 'Fragmented Knowledge Structures: Secularization as Scientization', *The Heythrop Journal* 54, no. 4 (2013): 563-73.
[404] Haldane, *Practical Philosophy*, pp. 38-40.
[405] The quotations of Gewirth in the next two paragraphs are from Alan Gewirth, *Reason and Morality* (Chicago: University of Chicago Press, 1978), pp. x, 64, 48, and 135, respectively (emphasis original).

coherent within the context of human action, they must consist in these two ideas: (1) 'the right to freedom . . . so that one's behavior is controlled by one's own unforced choice'; and (2) 'the right to well-being . . . so that one has the general abilities and conditions required for maintaining and obtaining what one regards as good'. Gewirth universalizes these conditions by arguing that anyone who claims these rights on the grounds that one is a 'prospective agent' with purposes to fulfil must also respect the rights to 'freedom and well-being' in all other prospective agents. Thus, freedom and well-being form the basis of Gewirth's 'normative moral principle' which he contends provides the grounding for universal human rights, or what he calls 'generic rights'.

Gewirth's characterization of universal morality based on human action is similar to my account based on the human good, but differs in one fundamental way: whereas Gewirth seeks to ground a universal principle of morality on the normativity of human action, I contend that it is more fitting to consider the essential attributes of humanity on the basis of which such normative human action could be grounded. In other words, the problem I see is that Gewirth fails to provide an account of what it is that makes 'freedom and well-being' the *sine qua non* of universal morality, except for his reference to the purposive 'prospective agency' of human persons, an exception which only highlights Gewirth's preference for agency over against attributes. I argue that any account of universal morality that lacks a consideration of the essential features of human personhood – which grounds such morality – is poorer for it, and is thereby less adequate to serve as a basis for public civility.

Similarly and more recently, James Griffin grounds his account of universal human rights on what he calls 'normative agency' – i.e., the 'capacity to choose and . . . pursue

our conception of a worthwhile life'.[406] Nicholas Wolterstorff objects to Griffin's account, much like I do against Gewirth's, by questioning the grounding for the alleged human 'autonomy' which purportedly guarantees universal rights.[407] Again, though this time with regard to Islamic ethics, Steffen Stelzer maintains that there are 'two minimal assumptions' that must be made: (1) 'that ethics is a science'; and (2) 'that the object of this science is human action'.[408] What is missing from these accounts is the ontological grounding for universal morality, a grounding which can be located in the human good.

The fundamental way, then, that accounts of universal morality based on human action differ from my own account is that mine is grounded on the basis of human attributes instead of action. In this way, I depart also, as mentioned above, from Aristotle himself whose account of political ethics is based centrally on happiness and human action. According to Aristotle: 'If there is an end for all that we do, this will be the good achievable by action'; and, 'happiness . . . is the end of action.'[409] Applying his ethics to the political realm, for Aristotle, 'politics [is] the highest of all goods achievable by action'. Thus, while making reference to the rational 'soul' of human persons,[410] Aristotle ultimately grounds his ethics on the kinds of human actions that allegedly conduce to happiness: hence, my aim to recover a 'semi'-Aristotelian view of human *telos*.

In sum, the accounts considered above fail to provide an ontological basis for a purported universal morality. What is needed for a universal morality, which is necessary

---

[406] See James Griffin, *On Human Rights* (Oxford: Oxford University Press, 2008), quotations from pp. 149 and 45, respectively.
[407] See Wolterstorff, 'Grounding Rights', pp. 207-11. The way in which my account of the human good differs from Wolterstorff's thesis is that, whereas Wolterstorff exploits generally the idea of human 'worth', the grounding that I identify (the human good) specifies the essential attributes in virtue of which human persons have the worth they do *qua* human persons. For example, Wolterstorff writes, 'On account of possessing certain properties, standing in certain relationships, performing certain actions, each of us has a certain worth.' See Nicholas Wolterstorff, *Justice: Rights and Wrongs* (Princeton: Princeton University Press, 2008), p. 36. I provide an account of that in which these 'properties' (essential attributes) consist.
[408] See Steffen Stelzer, 'Ethics', in *The Cambridge Companion to Classical Islamic Theology*, ed. Tim Winter (Cambridge: Cambridge University Press, 2008), p. 161.
[409] Aristotle, *Ethics*, Bk. 1, Chs. 4 and 7.
[410] Aristotle, *Ethics*, Bk. 1, Ch. 13.

but not necessarily sufficient for public civility, is a more fundamental basis found in the idea of the human good. The tripartite basis of relationality, purposiveness, and rationality is, I argue, what makes the construction of public civility in plural societies both possible and necessary. In the next section, I unpack the notion of the human good in terms of its essential attributes to consider its resourcefulness for the task of public civility.

(§3.3.3) The human good defined

As discussed in Chapter Two, while the 'task of coping with . . . strangers' requires the 'habits of civility', in late modernity such habits are being increasingly practiced in spaces that are 'public but non-civil'.[411] In order both to strip away the strangeness of 'strangers' and to undo the incivility of public life, what is needed is a recovery and a reassertion of the essential attributes of the human good, attributes which all human persons share in common. Put differently, the construction of a framework of public civility among divergent human communities requires a universal basis which consists in human relationality, purposiveness, and rationality. In what follows, I delineate each of these essential human attributes and their implications for the task of public civility, beginning with relationality.

(§3.3.3.1) Inherent moral relationality

For my discussion on the attribute of relationality, I build heavily on the insights of Arendt and Taylor[412] as well as others. Arendt observes, '[t]he whole factual world of human affairs depends for its reality and its continued existence upon the presence of

[411] Bauman, *Liquid Modernity*, pp. 101-02.
[412] See especially, Arendt, *Human Condition*; Charles Taylor, *Human Agency and Language: Philosophical Papers 1* (Cambridge: Cambridge University Press, 1985); Taylor, *Sources of Self*; and Taylor, 'Politics of Recognition'.

others who have seen and heard and will remember' this social reality.[413] For Arendt, to be human is to be relational: i.e., to participate in social reality. Thus, in the classical world, according to Arendt, 'to die is the same as "to cease to be among men" . . . no living creature can endure it for any length of time'. For this reason, Aristotle wrote with little controversy that 'man is by nature a political animal'.[414]

For Arendt, fundamental to humanity's relational nature is the tripartite activity of speech, action, and thought (cf. Finnis' 'communication and co-operation' above): speech is essential since humans 'experience meaningfulness only because they can talk with and make sense to each other and to themselves'; and connected to speech are both action, of which speech is but one form, and thought, which is expressible by speech. These three capacities make up 'the human condition'. Yet, in order for speech, action, and thought to become 'worldly things' – features of social reality – they must undergo a dual-process: first, as Arendt puts it, they must be 'seen, heard, and remembered' by others – that is, they must be held in common; then, they are 'reified . . . into things'. The end result is that they become human artefacts – e.g., 'sayings of poetry, the written page . . . paintings or sculpture'. In sum, for activities to count as human, they must be iterated in the presence of others. This analysis of human activity helps to illuminate the inherently relational character of human lives.

But not only is it human activity (action, thought, and speech) which underscores humanity's inherent relationality; the very act of human self-understanding does so as well. As Taylor writes, all of human life is 'dialogical': a 'crucial feature of human life is its fundamentally *dialogical* character', a feature elucidated by the fact that 'we define our identity always in dialogue with, sometimes in struggle against, . . . our significant others'. In other words, human persons learn various '"languages" of art, of gesture, of love'

[413] Except where indicated otherwise, the quotations in this paragraph and the next are from Arendt, *Human Condition*, pp. 95, 20, 3-4, and 94-96, respectively.
[414] Aristotle, *Politics*, Bk. 1, Ch. 2.

always through 'exchanges with others'. Taylor suggests that this 'crucial feature of the human condition' goes against the grain of the 'overwhelmingly monological bent of mainstream modern philosophy'[415] – a tendency which prompted my ideological and sociological critiques in Chapters One and Two. For even the autonomous self, birthed in Enlightenment individuality, is a self with a history and thereby a dialogical identity.

Elsewhere, Taylor suggests similarly that the 'monological' character of the Enlightenment's 'epistemological tradition' has privileged a view of knowledge as centred around 'the critical individual' – a view which is 'catastrophically wrong'.[416] Again elsewhere, Taylor gainsays this modernistic epistemology:

> Because of the very nature of the human condition – that we can only define ourselves in exchange with others, those who bring us up, and those whose society we come to see as constitutive of our identity – our self-understanding always places us among others.[417]

The inherently 'dialogical' character of human life is one that Taylor captures well.

Further to this inherent relationality is the ineradicable moral dimension of human life: for not only are principles of morality needed for the well-ordering of society, and thereby for public civility; but conversely, inherent relationality points to the need for principles of morality. As Taylor argues,[418] what makes sense of the fact of moral values itself is 'that there are human beings in the world, with a certain form of life', who exhibit 'certain patterns of caring'. Put differently, the very form of human life presupposes a moral function. 'How else', Taylor asks, is one to 'determine what is real or objective' other than by seeing the kinds of features that 'our best account of things has to invoke?' That is, if the form of life which human persons inhabit intrinsically involves 'patterns of caring', it would seem most reasonable to suppose that morality is essential to relationality.

---

[415] Taylor, 'Politics of Recognition', pp. 32-33 (emphasis original).
[416] Taylor, *Human Agency*, p. 259.
[417] Taylor, 'Modernity and Public Sphere', p. 256.
[418] Taylor, *Sources of Self*, p. 68.

Taylor refers to this mode of argumentation as 'reasoning in transitions', one which seeks to demonstrate not 'that some position is correct absolutely', but that 'some position is superior to some other'.[419] Drawing on Taylor's insight, the sociologist Christian Smith, in his recent monograph *What is a Person?*, offers a similar analysis of the moral-relational character of human ontology by way of 'retroduction – that is, identifying what *has* to be . . . in order to account for what we have warranted reasons to believe really *is*.'[420] In short, there are, as Taylor writes, 'moral intuitions which are uncommonly deep, powerful, and universal';[421] and these intuitions point to the essentially moral character of human relationality.

To summarize, the inherently relational nature of human lives presupposes an ineradicable moral dimension. Drawing on Rousseau and Hegel and invoking Donne and Hobbes, the social historian Owen Chadwick writes: '*No man is an island* – man is a moral being because he is a social being': for one's life as 'mere individual is solitary poor nasty brutish and short, only in his group can he be free, and thinking, and civilized.'[422] And this moral-relational dimension to human life needs recapturing for the task of public civility.

(§3.3.3.2) Intrinsic purposiveness

It is not enough, however, to say that human lives are inherently relational, or even also that they are thereby inextricably moral. These fundamental attributes merely point out the fact that human persons necessarily interact, and do so on some or other principle/s of morality. In constructing a framework of public civility, what needs highlighting in addition to the moral-relational character of human life is the fact that human persons are essentially purposive beings, and deserve to be treated as such.

[419] Taylor, *Sources of Self*, p. 72.
[420] Christian Smith, *What Is a Person?: Rethinking Humanity, Social Life, and the Moral Good from the Person Up* (Chicago: University of Chicago Press, 2010), p. 113 (emphasis original).
[421] Taylor, *Sources of Self*, p. 4.
[422] Chadwick, *Secularization*, pp. 30-31.

One way to elucidate the intrinsic purposive quality of human lives is by considering the significance of freedom in human sociality:[423] freedom would be neither necessary nor useful, were there no purposes worth pursuing. First, without objective human purposes worth fulfilling, freedom would be unnecessary, for freedom is 'important to us [only] because we are purposive beings', as Taylor reminds.[424] That is, without an intrinsic purposiveness, there would be no point to one's freedom, making it unnecessary. Also, freedom would be, strictly speaking, useless without human purposiveness. As Taylor argues elsewhere, under the 'standard Enlightenment view human life seems a matter merely of desire-fulfillment', for such a view necessarily lacks what he calls 'strong evaluation' – i.e., the basis on which to judge goals as 'intrinsically *worth* fulfilling', goals which 'mak[e] life significant'.[425] Thus, without an intrinsic purposiveness, 'strong evaluation' would be a vacuous notion, for there would be no goals for which moral judgment would be required, making freedom literally useless. But, because certain, and not other, human purposes are valuable, freedom matters: and insofar as freedom matters to human persons, one could see the intrinsic quality of the attribute of purposiveness.

A question, then, arises: Which purposes are intrinsically worthwhile, inherently human? To answer this question, I return to a consideration of the relationship between freedom and rights.

As I argue above and more extensively in Chapters One and Two, talk of rights make sense only within a context of freedom. One can only exercise a right which one is free to exercise. Recently, modernist conceptions of negative freedom tend to suggest a priority of rights over freedom: that is, freedom exists to provide the space in which one can exercise one's self-determined (i.e., 'freely' chosen) ends.[426] To the contrary, I suggest

[423] The following discussion builds on the argument in section §1.4.1.2, 'Objections to negative freedom'.
[424] Taylor, 'Negative Liberty', pp. 182-83.
[425] Taylor, *Sources of Self*, pp. 382-83 (emphasis original).
[426] See, e.g., Dworkin, *Taking Rights Seriously*, 'Appendix: A Reply to Critics'.

'freedom' construed in these terms is not freedom at all, but, literally speaking, anarchy. For, if the 'right' to determine one's own ends encounters no moral boundaries, what results necessarily is both an anarchic situation of conflicts over 'rights' as well as an emptying of the notion of a right *qua* right. In this way, 'rights' become an avenue for license, not for liberty. As Adam Ferguson puts it, 'a right to do wrong . . . is an abuse of language, and a contradiction in terms'.[427]

Contrary to a modernist view, freedom is logically prior to rights: that is, freedom is that for which rights exist. And what is freedom? To be humanly free is to flourish as a human person, to realize the human good. Or, as one Muslim scholar puts it, 'freedom is to act as one's true nature demands'[428] – a view similar to which is articulated also by the noted (secularist) political theorist Joseph Raz.[429] Thus, freedom is not unbounded ('freedom' as autonomy);[430] rather it is defined by a thing's nature. It is because a human person possesses a given teleology toward which she strives that freedom and rights are necessary, desirable, and coherent at all. Or, from a sociological point of view: 'The purpose-endowed center of personal existence has a natural narrative quest [which reflects] the telos of personhood', for there is 'a questlike character to every human life well lived'.[431] And it is this 'questlike' quality of human life which is presupposed by the attribute of intrinsic purposiveness, an attribute which must be respected in every human person in order for public civility to be constructed.

In explicating his teleological ethic, Oderberg asks, 'What is human life for?', and offers this answer:

---

[427] Ferguson, *Civil Society*, pp. 64-65. I agree with Ferguson insofar as he means that it is morally impermissible to commit a moral wrong. Arguably, however, there is a legal right which offers protection for one to commit an act that is considered morally wrong (by others). For this distinction between legal and moral rights, I am thankful to Dr Paul Yowell, Fellow of Law at Oriel College, Oxford.
[428] Yasien Mohamed, *Fitrah: The Islamic Concept of Human Nature* (London: Ta-Ha, 1996), p. 19.
[429] See Joseph Raz, *The Morality of Freedom* (Oxford: Oxford University Press, 1988 [1986]), esp. Ch. 12, 'Personal Well-Being'.
[430] I critique further this view of freedom in section §2.3.2.2, 'The spread of "individualized freedom"'.
[431] Smith, *What Is a Person?*, pp. 80 and 367.

> [L]ife is for pursuing the goals that objectively fulfil us as human beings. . . . [Humans are] *built* for fulfilment, equipped with the capacities necessary for the achievement of those goals that are the objectives of a distinctively human life.[432]

In sum, the good of human persons determines the kinds of purposes, pursued in freedom, that are appropriate to human life – and the intrinsic quality of human purposiveness explains why humans pursue freedom at all. In other words, human freedom, which presupposes an intrinsic purposiveness and an objective human teleology more generally, demonstrates that without the essential attribute of human purposiveness, there would be no purpose to human freedom – and surely, there is.

(§3.3.3.3) Innate rationality

In addition to the attributes of relationality and purposiveness, there is a third attribute of human personhood which must be considered as essential – one which is so fundamental to what it means to be a human person that it risks being left unstated: namely, rationality. One can readily understand the temptation to leave out this essential attribute, especially by those whose primary concern is rational enquiry, i.e., professional academics. That is, if human persons were not essentially rational, there could be no way to see anything as being necessarily true, rendering performatively impossible any line of academic scholarship. So it is understandable that the innately rational nature of human persons would be assumed simply as a given fact. Nevertheless, for purposes of completeness and to point out the connection between it and the other essential attributes, I explore this attribute as well.

That rationality is innate, universal, and unique to human persons has been understood and expressed since the intellectual traditions of antiquity. Where Aristotle distinguishes humans from other animals in view of the former's use of 'art and

[432] Oderberg, *Moral Theory*, p. 140 (emphasis original).

reasoning',[433] the Roman orator Cicero suggests, 'Reason, which alone raises us above the level of the beasts, is certainly common to us all'.[434] These comments are echoed in the religious traditions of Christianity and Islam with which this study is most directly concerned, and a discussion to which I now turn.

Within the Christian tradition, the innate rationality of human persons is affirmed. The early Christian thinker Boethius (d. 524),[435] in commenting on the nature and person of Jesus Christ, characterizes a 'person' as essentially 'the individual substance of a rational nature'.[436] For Boethius, rationality individuates the human person. Further along the tradition, rationality is connected intricately with another essential attribute of the human good: moral relationality. Aquinas, for example, echoing Boethius, argues as follows:[437] '[E]very individual of the rational nature is called a "person"'; and this 'rational nature' found in human persons inheres in the fact of being made in the image of God. Given, then, the relationality found among the divine persons of the triune God, by analogy human persons, who are made *imago dei*, also possess a 'relational nature' like the one found in God. Inherent relationality and innate rationality are inextricably linked in and essential to the human person.

There is also within the Islamic tradition, at least within certain branches of Sunnism (especially those of the *Muʿtazilī* strand),[438] an intricate connection between humanity's relationality and rationality. As the Muslim scholar Abdulaziz Sachedina argues, in Islamic ethics there is an 'emphasis on a substantial role for human reason to

[433] Aristotle, 'Metaphysics', in *Aristotle's Metaphysics*, ed. Joe Sachs (Santa Fe: Green Lion Press, 1999 [ca. 350 B.C.]), Bk. 1, Ch. 1.
[434] Marcus Tullius Cicero, 'On the Laws', in *The Political Works of Marcus Tullius Cicero* (London: Edmund Spettigue, 1841-42 [ca. 52 B.C.]), Bk. 1, Ch. 10.
[435] For a helpful study of the connection between classical Greco-Roman thought and the philosophy of Boethius and other Christian thinkers, see Henry Chadwick, *Boethius: The Consolations of Music, Logic, Theology and Philosophy* (Oxford: Clarendon Press, 1981), Ch. 1, 'Romans and Goths'.
[436] Anicius Manlius Severinus Boethius, 'A Treatise against Eutyches and Nestorius', in *The Theological Tractates* (Cambridge: Harvard University Press, 1997 [ca. A.D. 499]), Ch. 3, p. 85.
[437] The quotations of Aquinas in this paragraph are from Aquinas, *Summa Theologica*, I-I, Q. 29, Art. 3, 4.
[438] I discuss at length the significance of (and my preference for) the *Muʿtazilī* theological tradition in Chapter Four, sections §§4.4.3.1 - 4.4.3.2.

discern moral truth' which is premised on a 'thesis about the teleological understanding of nature',[439] including human nature. That is, there is an intrinsic connection between rationality and moral relationality owing to an Islamic view of human teleology. Sachedina explains further: since 'ethical necessity is an action that is rationally required', there must be certain knowable 'moral norms' which follow from human nature. This view represents, Sachedina contends, an 'Islamic theory of natural law'.

In these ways, the attribute of innate rationality, which makes up an essential part of the human good, is entailed by the other essential attributes, an entailment which can be seen to have resonances within both the Christian and Islamic theological traditions.

(§3.3.3.4) Summary and qualifications

In brief, human nature (ontology) which exhibits a particular human good (teleology) consists in the essential attributes of relationality, purposiveness, and rationality which are to be recovered, recognized, and respected for the sake of constructing a framework of public civility.

Here, it is worth pointing out, even if briefly, the debate over essentialism/anti-essentialism, a debate which is especially pervasive within the social sciences, and one which bears on a universal framework of public civility. Anti-essentialism militates against the view that there is some objective human nature in virtue of which human flourishing obtains, and because of which the idea of the human good can be seen to entail a universal *telos*. For instance, Harrison White argues: 'A person [is] a compound of identities. . . . Identities are the basis from which persons are constructed.'[440] Similarly, Stephan Fuchs holds that, since individuals 'are not essences . . . but result from relations and constructions', it follows that 'personhood is an acquired characteristic, not a constant

[439] The quotations in this paragraph are from Sachedina, *Islam and Human Rights*, pp. 86 and 89.
[440] Harrison White, *Identity and Control*, 2nd ed. (Princeton: Princeton University Press, 2008), p. 197.

truth about human nature'.[441] I do not offer a critique of these accounts of philosophical anthropology *in toto*,[442] but pause only to point out the fact that such views fall prey to a self-referential incoherence: Under these anti-essentialist views, one would have to presume that these putatively non-essentially formed human authors are writing to non-essentially formed human readers who, on pain of inconsistency, would be non-essentially rational. Indeed, nor are they 'essentially' anything else. Consequently, nothing which these authors write could necessarily be expected to be comprehended, let alone agreed with by such non-rational readers. If postmodernism ushered in the death of the author,[443] anti-essentialism has killed the reader.

On the contrary, I contend that human persons have essences, and that essential to human personhood are the attributes of relationality, purposiveness, and rationality. Without an innate rationality, there could be no expectation to making any sense of academic discourse about the task of public civility, or any other line of scholarship at all; without an inherent moral relationality, human persons would need not, nor could at all, construct public civility; and without an intrinsic human purposiveness, the task of constructing public civility would become meaningless, for coercion, or any other illegitimate means of establishing social order, would suffice.

It is also worth pointing out here that, despite my emphasis on the sameness of human persons, I recognize along with Parekh that there are deep differences among human persons who are necessarily 'culturally embedded' beings.[444] Indeed, as Lederach suggests, '[p]ublic acknowledgement [of difference] . . . is the sine qua non' of

[441] Stephan Fuchs, *Against Essentialism* (Cambridge: Harvard University Press, 2001), pp. 6 and 16.
[442] For an incisive and extensive critique of these works, see Smith, *What Is a Person?*, Ch. 4, 'Network Structuralism's Missing Persons'.
[443] Roland Barthes, 'The Death of the Author', in *Image-Music-Text*, ed. Stephen Heath (London: Fontana, 1977 [1968]).
[444] See Parekh, *Rethinking Multiculturalism*, Ch. 4, 'Conceptualizing Human Beings', esp. pp. 118-23.

peacebuilding,[445] and thereby also of public civility. Yet, what I would like to emphasize is the fact that what unites human persons is greater than what separates them: and what unites them is the human good in which they all share, and which could serve as a universal basis for public civility. Moreover, differences among cultures are themselves only recognizable within a context of sameness. That is, the sameness found among human persons, of which allegedly drastic differences are a part, is only confirmed by the very fact of difference. Differences, in other words, are not only made coherent within a context of sameness; sameness is a necessary condition of difference.[446] One ethicist writes, 'We . . . ought to teach each other to perceive that . . . the stranger, and even the enemy, is more like us than s/he is unlike us in morally significant respects.'[447]

A final qualification is in order. There will always be instances of abuses and aberrations, malfunction and dysfunction of the human good. Particularly helpful here is Taylor's idea of '*universal human potential*': that is, the idea that there is some 'capacity that all humans share' that inheres even in those 'who through some circumstance that has befallen them are incapable of realizing their potential in the normal way – handicapped people, or those in a coma, for instance'.[448] That is, in cases of aberrations or dysfunction, the second-order capacity to be fully human obtains even in cases where the human good suffers imperfection at the first-order level – which to some degree is always the case. Drawing on Aquinas, Wolterstorff observes similarly:

> [I]n this world of ours, things are often malformed [and] do not work according to their nature. This is true of human beings with respect to [*inter alia*] their desires and inclinations; often those are disordered, malformed, unnatural. [Accordingly,] the good of

[445] Lederach, *Moral Imagination*, p. 143.
[446] This idea is similar to a point made by O'Donovan who, in commenting on the relation between decision-making and human freedom, writes: 'Decision depends upon existing limits and imposes new ones. Limit is the very material with which freedom works.' See Oliver O'Donovan, *Resurrection and Moral Order*, 2nd ed. (Grand Rapids: Eerdmans, 1994), p. 108. Difference, like decisions, presupposes the 'limit' of sameness.
[447] Diana Fritz Cates, *Choosing to Feel: Virtue, Friendship, and Compassion for Friends* (Notre Dame: University of Notre Dame Press, 1997), p. 204.
[448] Taylor, 'Politics of Recognition', pp. 41-42.

> an entity is whatever it desires when functioning properly, whatever it naturally [and not whimsically] desires.[449]

In summarizing these sections, I juxtapose my notion of the human good with Jean Porter's classical natural law view of the 'teleological conception of human nature'.[450] Among other things, Porter emphasizes most fundamentally the 'goal-directed character' intrinsic to living creatures, an intrinsic goal-directedness which is naturally and necessarily aimed at and oriented by a creature's *telos*. Thus, for Porter, 'what it means to be a human being' has essentially to do with 'what it means to do well as a human being' – in a word, 'human flourishing'. On my account, for specifically human 'living creatures', the human good is expressible in terms of relationality, purposiveness, and rationality: so human nature can be specified more fundamentally in terms of these attributes. In this way, Porter's conception of human nature leans more heavily toward human agency whereas my view depends more centrally on human attributes. Nevertheless, the essential attributes of the human good map remarkably closely to the features found in Porter's characterization of human nature (which I shorthand as): relationality, reproduction, and rationality.[451] Accordingly, Porter's construal of 'reproduction', on my account, would be analyzed more fundamentally in terms of the attribute of purposiveness; and where Porter employs the term 'fundamental inclinations of the human person' I speak of the 'essential attributes of the human good'.[452]

---

[449] Wolterstorff, *Justice*, p. 40; cf. Aquinas, *Summa Theologica*, I-II, Q. 94, Art. 2.
[450] The quotations in this paragraph are from Jean Porter, *Nature as Reason: A Thomistic Theory of the Natural Law* (Grand Rapids: Eerdmans, 2005), pp. 82, 87, and 117-18.
[451] See Porter, *Nature as Reason*, pp. 119-22.
[452] To reiterate, I am interested in the ontological grounds on which public civility can be constructed rather than the functional human capacities thereof (cf. Porter's 'fundamental inclinations').

(§3.3.4) Further explanations on the designation 'the human good'

The main motivation for constructing a framework of public civility on the basis of the human good is to identify universal human attributes which are shared by every human person of any given community, and in virtue of which human persons from divergent communities can and must engage and respect one another. For this reason, I have sought to characterize what I consider to be the essential attributes of human persons *qua* human persons. To clarify further, consider again Finnis' 'basic forms of human good'[453] alongside the fundamental goals of Islamic law as articulated originally by the famed medieval jurist Muḥammad al-Ghazālī (d. 1111).[454] (I return to a fuller discussion of various aspects of Islamic law in Chapter Four.) As shown in Figure 3.1 below, in addition to the remarkable overlap between these two characterizations of the goods/goals of life/law, what I am interested in is that in virtue of which it is the case that these are goods and goals at all. It is because human persons are essentially rational, relational, and purposive beings that these goods/goals can be seen as basic/fundamental. This depiction may help to clarify my contention:

Figure 3.1: Natural law* vis-à-vis *Islamic law

Basic goods (natural law)	Essential human attributes	Fundamental goals (Islamic law)
Life	*Purposiveness*	*Life*
Religion		*Religion*
Knowledge	*Rationality*	*Reason*
Practical reasonableness		
Play	*Relationality*	*Property*
Friendship		*Progeny*
Aesthetic experience		

[453] See Finnis, *Natural Law*, pp. 85-90.
[454] See Abū Ḥāmid al-Ghazālī, *Al-Mustasfâ Min 'Ilm Al-Usûl* vol. 1 (Baghdad: Muthanna, 1970), pp. 286-87; cited in Tariq Ramadan, *Radical Reform: Islamic Ethics and Liberation* (Oxford: Oxford University Press, 2009), p. 62.

To explicate, take for example the Islamic goals of *property* and *progeny* along with the natural law goods of aesthetic *experience*, *friendship*, and *play*: what makes these goals and goods basic and important is the essential relationality of human persons. Similarly, the fact that the goods/goals of *life* and *religion* in either tradition are considered intrinsically valuable can be explained with reference to the intrinsic purposiveness of human lives. Correlatively, the inherent values associated with *knowledge*, *practical reasonableness*, and *reason* derive from the essentially rational nature of human persons.

To be sure, there may be overlap. For example, that *progeny* is considered a basic goal worth securing derives not only from the fact that humans are essentially relational, but also that they are inherently purposive. Or take the example of *religion* which implicates all three attributes: because humans are purposive, religion is considered a basic goal worth pursuing; the exercise of one's religion is performatively impossible without the essential attribute of rationality; and religion, for both Christianity and Islam at least, is inherently a relational good. But the point remains: human persons have a given *telos* (good) such that certain human attributes are essential to them.

I note also that, while these attributes are considered to be essential (necessary), they are not necessarily sufficient to account for human personhood. One might claim that human persons are essentially embodied beings, or essentially morally depraved, or essentially reactive, or otherwise. I would not deny such claims (nor necessarily affirm them). Rather, I am interested in arguing for attributes which are common, basic, and essential to all human persons, and which help to ground a framework of public civility, especially between Catholic and Islamic communities. Accordingly, I would contend that other 'capacities' which allegedly 'constitute human personhood' – e.g., 'emotional experience', 'language use', 'interpersonal love', and so forth (as argued by an eminent

sociologist)[455] – can be analyzed more fundamentally in terms of the three essential attributes of the human good. For example, the fact that all human persons are, even if sometimes only potentially, capable of 'language use' can be analyzed further in terms of the essential attribute of rationality. Similarly, the capacity to experience 'interpersonal love' can be explained more fundamentally in terms of relationality; and the same goes for 'emotional experience'. In short, while rationality, relationality, and purposiveness may not be sufficient to account for human personhood, they are no less necessary.[456]

Alternatively, others may contend that the attributes I suggest are not even necessary (essential). They might point out, for example, that a person in a coma still counts as human, even if she lacks the attribute of, say, purposiveness or rationality. This is to miss the point, however. My claim is not that every human person (now or ever) embodies fully these essential attributes. Rather, my claim is that, insofar as a human person is considered to be flourishing (functioning properly), she does so by exercising well the essential human attributes. Similarly, my claim is not weakened by instances of deficiency or malfunction. For my contention is that a human person, regardless of her current existential status, is always in possession of a second-order potential to realize the essential human attributes that may not be operational at the first-order level, as I argue further in the previous section.

Finally, I note that my reliance on a semi-Aristotelian idea of human *telos* is motivated in part by the fact that it has been largely lost within much of the contemporary

[455] See Smith, *What Is a Person?*, Ch. 1, 'The Emergence of Personhood', esp. pp. 42-59.

[456] An example of another arguably essential attribute of human personhood is affectivity. Whether this attribute could be analyzed in terms of one (or some) of the other attributes is disputed. Some (like Grisez, *et al*.) might argue that affectivity is connected with rationality. (See Grisez, Boyle, and Finnis, 'Practical Principles', esp. pp. 104-05.) Whereas others might contend that affectivity is better understood as derivative of relationality by suggesting that human affections are coherent only within a context of human relations. Others still may want to argue that affectivity is an irreducible and essential human attribute. Whether affectivity is an attribute of its own or one analyzable in terms of another more fundamental attribute does not bear on my account, since I do not claim that the list of attributes which I have delineated is exhaustive.

literature in ethics as well as in social science. And precisely this idea of the human good is what needs recapturing in order to ground a universal framework of public civility.[457]

(§3.3.5) Summary and transition

The essential human attributes of relationality, purposiveness, and rationality which comprise the human good are those attributes in virtue of which human persons participate in society, and in the realization of which persons and societies function properly. This teleology accounts for what makes human persons the kind of entity that they are, and thereby provides the needed resources to ground a universal framework of public civility across divergent communities.

In the remainder of this chapter, I turn to consider resources in Christian theology, most specifically Catholic social thought since Vatican II, which provide a conceptual counterpart to the notion of the human good. (The overarching aim of the next chapter is to do the same within Islamic theological ethics.) In doing so, my goal is to contend that there are significant and central conceptual themes within the respective traditions of Roman Catholicism and Islam which resonate with the idea of the human good, and which provide resources needed to construct a common framework of public civility in plural societies.

(§3.4) Catholic Social Teaching: *imago dei* as the human good

In the following, to consider a Catholic counterpart to the idea of the human good, I explore the resources of Catholic moral theology, as found specifically in the Catholic

[457] This 'loss' has been prescribed as beneficial for the well-ordering of society by thinkers like Rawls, and critiqued and countered by others like MacIntyre and Sandel. See Rawls, *Theory of Justice*; MacIntyre, *After Virtue*; Sandel, *Liberalism and Justice*. A classic work on the need for a recovery of *telos* is MacIntyre's *After Virtue*, one on which my account of the human good builds, but with which nevertheless it differs in (at least) two significant ways: (1) my account specifies three essential attributes in which the human good consists whereas MacIntyre focuses instead on the importance of practices, virtues, and tradition in constructing just communities; and (2) I do not affirm the inescapability of traditions in a way that MacIntyre's account arguably does – rather, my account, at points explicitly, maintains the need for a universal morality as necessary for the task of public civility.

Social Teaching (CST) of the Second Vatican Council. I argue that the Catholic conceptions of both human rights and human dignity, as grounded on the doctrine of the *imago dei*, approximate an idea which is essentially similar to the notion of the human good. I proceed by considering two major statements promulgated at Vatican II which reflect this approximation: *Pacem in Terris* (1963) and *Gaudium et Spes* (1965).[458]

Before beginning my treatment of a Catholic construal of the human good, I clarify, even if briefly, what I do not mean. I do not have in mind the 'human goodness' which Karl Rahner's 'anonymous Christian' is supposed to exhibit, nor the 'good pagan' who are, it is argued, (soteriologically) no different from saved Catholics.[459] Rather, I am interested in locating a concept in Catholic theology that resonates with the essential human attributes captured in the notion of the human good. I am interested, in other words, in the human good – not the 'good human'.

(§3.4.1) *Pacem in Terris*: human rights and the human good

Catholic thinkers such as Zachary Calo, David Hollenbach, and Michael Hornsby-Smith offer helpful commentary on various Vatican II documents which bear on the construction of public civility. In this section, I draw heavily on their commentary and on the documents themselves as I consider the resonance between the resources in Catholic social thought and my notion of the human good.

Calo observes that in many places around the world ('Eastern Europe and Latin America, Africa and the Philippines'), the Catholic church has emerged as 'a vital

[458] 'Establishing Universal Peace in Truth, Justice, Charity and Liberty', http://bit.ly/VatIIPT, accessed on 2 July 2012. *Pacem in Terris*, promulgated by Pope John XXIII on 11 May 1963 (abbreviated as *PT*); and *Gaudium et Spes* (abbreviated as *GS*). Citations of these documents are made in-text with an abbreviation of the document title followed by the section/s referenced or, in cases where the document is referenced in the immediate context, with only the section/s referenced: e.g., '*PT*, nos. 1-3'; 'no. 1-3'.

[459] Karl Rahner, 'Membership of the Church', in *Theological Investigations* (London: Darton, Longman & Todd, 1963). For a helpful introduction to Rahner's theology, see Ethna Regan, *Theology and the Boundary Discourse of Human Rights* (Washington D.C.: Georgetown University Press, 2010), pp. 71-89.

institutional advocate for progressive social change, promoting a broad vision of political, economic, and cultural rights'.[460] Hollenbach echoes: 'During the last century and a half, the Roman Catholic church has moved from strong opposition to [rights] . . . to [become] one of the leading institutional advocates for human rights on the world stage today.'[461] Initially, however, such was not the case. Historical events such as the French Revolution, the decline of papal states, and the rise of socialism, had influenced the Roman Catholic Church's 'contempt for the politics of modernity',[462] a politics premised on universal human rights. One of the clearest expressions of this antagonism is found in Pius IX's Syllabus of Errors (1864) which represents what Calo calls a 'comprehensive and unqualified condemnation of the basic tenets of modernity'.[463]

But, since (at least)[464] Vatican II, Hornsby-Smith observes, 'No longer was Catholicism to be *in opposition to* the world but rather in *critical dialogue with* it.'[465] Beginning most notably with *Pacem in Terris*, there emerged an acceptance of human rights discourse as based on the dignity of the human person who is created *imago dei*:[466]

> Any well-regulated and productive association of men in society demands the acceptance of one fundamental principle: that each individual man is truly a person [with] a nature . . . endowed with intelligence and free will. As such he has rights and duties, . . . universal and inviolable, and therefore . . . inalienable (*PT*, no. 9).

[460] Zachary Calo, 'Catholic Social Thought, Political Liberalism, and the Idea of Human Rights', *Journal of Christian Legal Thought* 1, no. 2 (2011): 1-13, p. 2.
[461] David Hollenbach, 'A Communitarian Reconstruction of Human Rights', in *Catholicism and Liberalism*, ed. R. Bruce Douglass and David Hollenbach (Cambridge: Cambridge University Press, 1994), p. 127.
[462] Calo, 'Catholic Social Thought', p. 3.
[463] Calo, 'Catholic Social Thought', p. 3. For a helpful overview of this history, see Brian Tierney, 'Religious Rights: An Historical Perspective', in *Religious Human Rights in Global Perspective*, ed. John Witte and Johan David Van der Vyver (The Hague: Martinus Nijhoff, 1996).
[464] Calo observes that, as early as Pope Leo XIII's *Rerum Novarum* (1891), the Catholic church had begun already to 'appropriat[e] modern rights language'. See Calo, 'Catholic Social Thought', p. 8.
[465] Michael Hornsby-Smith, *An Introduction to Catholic Social Thought* (Cambridge: Cambridge University Press, 2006), p. 33 (emphasis original).
[466] Hornsby-Smith, *Catholic Social Thought*, p. 70.

These fundamental rights and duties are grounded in the idea of 'personal' and 'natural dignity' (cf. nos. 10, 14, 20, etc.; and 44, 48, 81, etc.).[467] Indeed, 'those rights . . . derive directly from his dignity as a human person' (no. 145). In this way, as Hollenbach writes, the 'theological warrant' for an optimistic view of 'common moral ground' between Christians and non-Christians is premised on the idea that one and the same God has created 'the whole of humanity', and that thereby 'all human beings share a common origin and destiny'.[468] In short, the idea of innate human dignity, grounded on the doctrine of the *imago dei*, provides a basis for the Catholic conception for universal morality, a basis which in turn grounds universal human rights.

It is important to point out that attendant to this language of rights was a discourse of duties whereby 'in conferring the one [rights]', CST also 'imposes the other [duties]'.[469] In this way, the Catholic notion of human rights aligns with an Aristotelian view of human flourishing, and thereby stands opposed to modernist conceptions of 'freedom', as discussed above. Nevertheless, there emerges a worry: Which rights and duties are proper to and necessary for human dignity? *Pacem in Terris* states that 'it is not possible to give a general ruling' on all such rights and duties nor 'on the most suitable form of government' (no. 67), given 'how difficult it is to understand clearly the relation between the objective requirements of justice and concrete situations' (no. 154). Notwithstanding this limitation, the document goes on to commend for such judgments a 'human standard' – one '[based] on truth, tempered by justice, motivated by mutual love, and holding fast to [freedom]' (no. 149). It is against this 'human standard' that acts, whether individual or political, are judged to be proper instances of rights and duties.

---

[467] This use of 'dignity' in CST is (obviously) different from, indeed contrary to, that in Pope Leo XIII's encyclical *Quod Apostolici Muneris* (1878) where he writes of 'various orders . . . differing in dignity, rights, and power' – a statement which bespeaks the social hierarchy of the Catholic Church at the time. Cf. Michael Rosen, *Dignity: Its History and Meaning* (Cambridge: Harvard University Press, 2012), p. 48.
[468] Hollenbach, *Common Good*, p. 149.
[469] Calo, 'Catholic Social Thought', p. 8. Cf. *PT*, no. 28; see also nos. 30-33.

Aside from the 'human standard', there is in *Pacem in Terris* another criterion against which rights and duties must be considered: the common good. That is, all human persons make 'their own specific contributions to the general welfare', and for this reason 'must harmonize their own interests with the needs of others'; and given the varying interests within a community, 'the sole reason for the existence of civil authorities' is to secure the common good (nos. 53-54 and 55-56). In brief, laws and legislatures, policies and parliaments exist to serve the common good. But, as discussed at length above, the common good is elusive insofar as it is arbitrary: one's good may be another's evil. Thus, the common good as a basis for interreligious public civility remains unpromising.

Yet, in *Pacem in Terris*, the idea of the human good seems to be recognized at least implicitly despite frequent employment of the term 'the common good'. For example, 'the common good' is limited to and based on 'the inviolable rights of the human person' (nos. 60-61); also, when discussing 'relations between states', the document holds that 'a clash of interests among States' ought to be settled 'in a truly human way' (no. 93); and, most plainly, 'the common good . . . cannot be determined without reference to the human person' (no. 139). Similarly, as put by Finnis, 'nowhere [is] a collective welfare determinable apart from the individual rights which define, shape, and constitute the common good, the public interest'.[470] (While Finnis focuses on rights, I ground rights more fundamentally in the human good, as discussed above.) In this way, resources within Catholic social thought, especially with respect to the idea of human rights as grounded in *imago dei*, have resonances with my idea of the human good, and serve as a promising basis for public civility from a Catholic perspective.

In the next section, I consider another notion pervasive in CST – human dignity – which also exhibits conceptual resonance with the idea of the human good, and which does

[470] John Finnis, 'Human Rights and Their Enforcement', in *Human Rights and Common Good*, ed. Finnis, p. 34.

so perhaps even more strongly than the idea of human rights. To this end, I examine another CST document, *Gaudium et Spes*, in which the notion of human dignity, again grounded on the doctrine of the *imago dei*, is explicated at some length. I begin, however, with a brief history of the term 'dignity' as it relates to CST.

(§3.4.2) *Gaudium et Spes*: human dignity and the *imago dei*

The term 'dignity' was used by ancient Greek and Roman thinkers to denote not only a distinction between human and non-human animals, but also a sense of 'elevated status' among (non-equal) human persons.[471] Then, in the Middle Ages, the Latin term '*dignitas*' was used when referring, not yet to universal human equality but, to the 'distinction of high office'.[472] Yet, as Talal Asad observes, 'Christianity does have a notion of universal spiritual worth (as, for that matter, does Islam)', despite the tragically 'great social and political inequality' found throughout its history[473] – a notion which Asad does not name, though can be found in the *imago dei*.

Finally, a significant use of 'dignity' that approaches the contemporary one is found in the work of Immanuel Kant: 'In the kingdom of ends, everything has either a *price* or a *dignity*. What has a price can be replaced by . . . its *equivalent*; what . . . is raised above all price and therefore admits of no equivalent has a dignity.'[474] In virtue of its 'dignity', Kant continues, every human person is to be treated 'always . . . *as an end*'. What affords humans their dignity, for Kant, is that capacity for 'universal practical reason' which is essential to human agency, a capacity which consists in '*the will of every rational being as a will giving universal law* [i.e., autonomy]'. Briefly stated, human dignity is

[471] Rosen, *Dignity*, pp. 11-19.
[472] Talal Asad, 'Free Speech, Blasphemy, and Secular Criticism', in *Is Critique Secular?*, ed. Asad, p. 22.
[473] Asad, 'Free Speech', p. 22.
[474] The quotations in this paragraph are from Immanuel Kant, *Groundwork of the Metaphysics of Morals*, ed. Mary Gregor, trans. Christine Korsgaard (Cambridge: Cambridge University Press, 1998 [1785]), pp. 42 [4:434-36], 37 [4:429], and 39 [4:431] (emphasis original).

grounded on autonomous moral reasoning: 'humanity insofar as it is capable of morality, is that which alone has dignity'.

However, the political theorist Michael Rosen argues that, since in the name of dignity courts often override individual autonomy, there can be an abuse of dignity.[475] Rosen illustrates with a recent case of dwarf-throwing outlawed by a French court on the basis that such was 'a violation of human dignity' despite the dwarf's willingness to participate in such activity. In the name of 'dignity' the courts overruled individual rights. Thus, Rosen concludes, dignity has an unfortunate 'absolutist resonance' with a potential of undercutting the individual's right to autonomy. The problem with Rosen's view is its reliance on a subjectivist view of autonomy, a critique of which I give above. Instead, human freedom ought to be construed not as autonomy *tout court*, but as that which is in accordance with the human good. For, if freedom is simply autonomy, then an arguably irresolvable problem arises: How can conflicting claims to 'rights' be adjudicated?

Rather than equating autonomy with freedom and freedom with negative rights, Catholic legal scholars such as Martin Shupack argue for (and convincingly in my view) the priority of positive over negative rights. Shupack contends: 'Rights to be free from economic deprivation take precedence over some traditional autonomy rights. For example, rights [of one] to private property [ought to be] subordinated to the right [of others to] subsistence with dignity.'[476] In other words, the positive 'right of subsistence' of those in need override the negative 'right to private property' of the less needy. In this way, a Catholic anti-modernist view of human dignity gestures at a registry on which rights can be prioritized. For, as Calo puts it, universal human rights, which are given an 'anthropological' defence 'from reflection on human nature', derive from human dignity: that is, rights do not exist 'so that people might pursue their own private goals'; rather,

[475] See Rosen, *Dignity*, pp. 63-70 and 125 ff.
[476] Martin Shupack, 'The Churches and Human Rights: Catholic and Protestant Human Rights Views as Reflected in Church Statements', *Harvard Human Rights Journal* 6 (1993): 127-57, pp. 132-33.

they exist so that human persons 'might move towards truth, faith, and the proper ends of life'.[477] These 'ends', as suggested in *Gaudium et Spes*, involve: 'bodily concerns' (no. 14), the 'intellectual nature of the human person' (no. 15), 'fidelity to conscience' (no. 16), 'freedom . . . [for] what is good' (no. 17), 'communion with God' (no. 18). In sum, goods that promote biological, intellectual, moral, and spiritual flourishing are properly human ones, all of which are grounded in the 'dignity of man' (no. 14).

To connect, then, this Catholic view of human dignity and of the *imago dei* to my notion of the human good, it would be helpful to consider the first section of *Gaudium et Spes*.[478] Here, in answer to the question, 'What is man?', the document draws on a biblical passage (Genesis 1:27) which 'teaches that man was created "to the image of God"', and that on this basis humanity is 'capable of knowing and loving his Creator'. But, it continues, 'God did not create man as a solitary, for . . . "male and female he created them"'; consequently, 'by his innermost nature man is a social being, and unless he relates himself to others he can neither live nor develop his potential'. A view of inherent human relationality is markedly present; this is one way that the Catholic idea of human dignity can be seen as having conceptual resonance with my notion of the human good. Furthermore, intrinsic human purposiveness is underscored: '[Man] was appointed by [God] as master of all earthly creatures that he might subdue them and use them to God's glory'. Accordingly, as inherently relational beings (made to know and love God) and endowed with intrinsic purpose (called to tend to creation for God's glory), human persons can not only pursue goods appropriate to human life, but indeed they must do so if they are to flourish according to their nature of being made in God's image. As Ethna Regan

[477] Calo, 'Catholic Social Thought', p. 10.
[478] Except where indicated otherwise, the quotations in this paragraph are from *GS*, no. 12.

observes, the 'central motif' in *Gaudium et Spes* is the 'human person as *Imago Dei*' – a view of the human person which 'implies [a particular] ethical ontology'.[479]

In sum, in CST, the ideas of human rights and human dignity, especially as grounded in the doctrine of the *imago dei*, exhibit conceptual resonances with the idea of the human good. As Ruston writes, '[t]he Catholic view . . . presupposes . . . a philosophical-theological account of the human being as a person endowed with reason [rationality] and free will [purposiveness], intelligible only in a social milieu [relationality].'[480]

(§3.4.3) Human dignity *vis-à-vis* the human good

To be sure, there are differences between my account of the human good and the Catholic conception of human dignity, ones which I highlight by considering a recent exchange between two prominent Catholic legal scholars, Paolo Carozza and Christopher McCrudden. In what follows, I consider their debate over the question of whether the concept of human dignity is sufficiently robust to ground human rights.[481]

Where McCrudden is pessimistic about the prospect, Carozza seeks to allay any worries.[482] Carozza argues that, in virtue of its status as an 'extra-legal and supra-positive value', human dignity serves as a 'mediator between local context and universal norms', and thereby provides resources by which to adjudicate among claims which would

[479] Regan, *Theology and Discourse*, pp. 32 and 70.
[480] Ruston, *Human Rights*, p. 11. Finnis offers a similar synopsis of human 'identity' which he defines as: a 'complete, non-fungible distinctness', possessing certain 'truly intelligible goods' (rationality) which are attained insofar as one 'deliberately intends' their attainment (purposiveness) whilst not only realizing that 'I matter', but also recognizing that 'others matter' (relationality), and that therefore 'it is one's duties to other persons to respect and promote their good'. See John Finnis, *Human Rights and the Common Good*, vol. 3, Collected Essays (Oxford: Oxford University Press, 2011), pp. 6-7. Again, however, my account differs from Finnis', however, in that while he seeks to provide 'the ontological foundation' of human rights, I am interested in that of the human personhood – i.e., the human good in which such rights are grounded.
[481] See Christopher McCrudden, 'Human Dignity and Judicial Interpretation of Human Rights', *European Journal of International Law* 19, no. 4 (2008): 655-724; Paolo Carozza, 'Human Dignity and Judicial Interpretation of Human Rights: A Reply', *European Journal of International Law* 19, no. 5 (2008): 931-44.
[482] The quotations in this paragraph and the next two are from Carozza, 'Human Dignity', pp. 939 and 943-44.

otherwise amount to an irresolvable 'conflict between incommensurable values'. In other words, legal recourse to human rights norms is justified because there is in the idea of human dignity some 'meaningfully intelligible commonality' of value in virtue of which such norms possess their 'supra-positive authority'. Were it otherwise, Carozza continues, 'the transnational circulation of human rights norms in adjudication' would be no different from an 'arbitrary or idiosyncratic preference of a judge for some norm over some other one'. That is, without human dignity, human rights discourse is ineluctably relativistic.

How, then, does my account of the human good differ from that of Carozza's view of human dignity? To answer this question, it may help to consider a further one: What is it about the notion of human dignity – construed differently by divergent communities – that allows it to escape the perils of relativism? For Carozza, the answer amounts to this: a society's commitment to '*dia-logos*', i.e., 'a sharing of reason with one another [about] the meaning of human flourishing [and of] the common good'. Precisely here is where my account differs: as argued above, 'the common good' remains either conceptually vacuous or unhelpfully vague without there being some fuller conception of the good of the human person to ground it.

Yet, cognizant of the potential perils of relativism, Carozza stipulates further: 'Transnational dialogue [about the common good] . . . is a provocation to reflect more deeply, collectively, and comparatively on the breadth of human experience and the fulfilment of elemental human needs and desires.' Here, Carozza appreciates the importance of the role played by human teleology: but, in order truly to escape relativism, such dialogue about human 'needs and desires' would need to be construed in terms of a more fundamental and fixed basis than what is provided by the 'transnational' reflections thereof, for even such reflections are subject to the relativity of persons, places, and times,

as argued above. What is needed, instead, is the universal basis of the human good, expressible in terms of relationality, purposiveness, and rationality.[483]

(§3.4.4) A response to a critique of natural law

An objection often raised against natural law theory is worth considering here with respect to its potential charge against my account of the human good. Michael Walzer argues that 'human or natural [rights] do not follow from our common humanity; they follow from shared conceptions of social goods; they are local and particular in character'.[484] Similarly, William Galston argues that 'value pluralism' characterizes 'the actual structure of the normative universe': that is, the universe of moral values is pluralistically constituted by an 'ensemble of goods' differently and often conflictingly conceived by individual human persons.[485] Further still, there is a sort of multiculturalist objection which challenges the idea of there being a universal human nature. Amartya Sen writes, 'Muslims, like all other people in the world, have many different pursuits, and not all of their priorities and values need be placed within their singular identity of being Muslim'; for human identities, Sen continues, range over categories which include, but are not limited to, 'citizenship, residence, geographic origin, gender, class, politics, profession'.[486] As Walzer writes elsewhere, human persons are 'divided selves' with a variety of 'interests', 'identities', and 'ideals'.[487]

While each of these writers puts forward theses at slight variance from the others, the main thrusts of these objections are largely the same: that human persons cannot be

[483] Here, it is worth noting the promising approach taken by the ethicist Jean Bethke Elshtain who explicates a view of 'not just a common good of particular polities but an international common good'; however, this view too is based ultimately on 'an anthropology of intrinsic human dignity'. See Elshtain, 'Religion, Enlightenment', pp. 69-70.
[484] Michael Walzer, *Spheres of Justice* (New York: Basic Book, 1983), p. xv.
[485] William Galston, *Liberal Pluralism* (Cambridge: Cambridge University Press, 2002), pp. 30 and 66.
[486] Amartya Sen, *Identity and Violence: The Illusion of Destiny* (London: Allen Lane, 2006), pp. 14 and 5, respectively.
[487] See Michael Walzer, *Thick and Thin: Moral Argument at Home and Abroad* (Notre Dame: University of Notre Dame Press, 1994), Ch. 5, 'The Divided Self'.

conceived in essentialist terms, and that therefore the ideas of 'the good' and of justice are necessarily differently and sometimes conflictingly conceived across individual/communal boundaries. In what follows, I focus primarily on Walzer's works as they represent a more direct attack against natural law theory, an attack which, if successful, would also undermine the project of public civility.

Walzer famously suggests that there are 'thick', local, particular moralities (plural) and a 'thin' universal morality (singular); and that the 'thick' moral terms in a given community do not go beyond it so as to merit synonymous readings in other communities.[488] Since there exists 'no neutral . . . moral language', Walzer continues, any attempt to adjudicate on public matters must be carried out 'in terms of one or another thick morality'. In other words, since the 'principles and rules' of morality are 'reiterated in different times and places', the terms by which one community articulates such rules and principles can be only locally apprehended and applied. Thus, conceptions of justice and of the good do not reach across communal boundaries to make up some elusive universal morality. So argues Walzer.

On the contrary, I suggest *pace* Walzer that there is a basis which can ground a universal morality on which a framework of public civility can be constructed: the human good. I submit several reasons why I believe that Walzer's account, along with others such as Galston's and Sen's, is wrong. First, Walzer's account seems to collapse ineluctably into ethical relativism. Walzer argues:[489]

> Justice is a human construction [and] the principles of justice are themselves pluralistic in form; [consequently,] social goods ought to be distributed for different reasons, in accordance with different procedures, . . . [and] all these differences derive from different understandings of the social goods themselves.

[488] The quotations in this paragraph are from Walzer, *Thick and Thin*, pp. 9, 11, and 17.
[489] The quotations in the remainder of this section are from Walzer, *Spheres of Justice*, pp. 5-6, 312, and 4, respectively.

This ensemble of differences is, for Walzer, 'the inevitable product of historical and cultural particularism'. Since there is no '*good* simply', as Walzer contends, it is necessarily the case that '[j]ustice is relative to social meaning'. On Walzer's own terms, if justice is in fact nothing but a human construction and if there is no goodness as such, then an ethical relativism across cultures is entailed necessarily. For who is to say that the account of justice given in one 'sphere' is or is not sound in another? So, if each human community has an exclusive right to adjudge what is just or unjust, how does ethical relativism not follow? And, if it does, the conception of 'justice' that one community has is not justice, but merely pragmatic social efficiency.

Secondly, on Walzer's account, there seems to emerge a problem having to do with the 'size' of spheres. For, if each sphere is, as Walzer argues, a product of 'particularism', what would keep the spheres themselves from subdividing into smaller spheres whereby each sub-sphere would be its own particularism? Put differently, how small could one human community be, and still count as its own 'sphere of justice'? Can there be a community of one? If so, would there not follow an ethical relativism among individuals? Alternatively, *contra* Walzer, could there not emerge, at least in principle, a global sphere wherein a single understanding of justice would supervene? Walzer is silent on both counts.

Thirdly and lastly, in proposing his 'value pluralism' thesis, Walzer himself seems committed implicitly, if ironically, to a universal account of morality. According to Walzer, justice is humanly constructed, localized, and relative to communities. However, this view is itself a meta-ethical theory about justice – namely, that every form of justice is constructed and confined to cultures: a universal truth claim. Put differently, Walzer's claim that there is no 'list of basic goods' for which 'the philosopher' is always in search is itself a claim about the list: Walzer ostensibly has found and formulated *en toto* this list. Furthermore, at one point Walzer writes explicitly in favour of the idea that a universal

justice prevails in the realm of politics.[490] Accordingly, by maintaining a universality of scope with regard to political values such as equal citizenship, prohibition of coercion, and the importance of persuasion, Walzer insists on a universal standard of justice which he in turn presumes is shared by his readers, many of whom would undoubtedly occupy 'spheres' other than Walzer's own. Yet precisely this universality is what Walzer impugns. Apparently, the alleged barriers to establishing a universal view of justice across communal boundaries do not apply to Walzer.[491]

(§3.5) Conclusion and transition

In this chapter I have argued three main points: (1) that the common good approach of the Catholic theological tradition is either relativistic or otherwise inadequate to ground a universal framework of public civility; (2) that the universality of the human good, constituted by moral relationality, purposiveness, and rationality, offers a more promising basis for such a framework; and (3) that the resources of Catholic Social Teaching, especially when considering the doctrine of the *imago dei*, offer a conceptual counterpart to my notion of the human good.

Having considered resonances in Catholic social thought with the notion of the human good, in the next chapter I move to consider such resonances within the resources of Islamic theological ethics. In doing so, my goal is to construct an Islamic political theology that is consonant with the human good and amenable to the construction of public civility. I begin in the next chapter by considering whether the resources of Islamic jurisprudence provide the grounding for such a framework. I contend that they do not, and

[490] See Walzer, *Spheres of Justice*, esp. Ch. 12, 'Political Power'.
[491] Joseph Carens makes a similar charge against Walzer's argument for closed borders, an argument which involves a 'claim about what is right and wrong for *any* state not just our own or one that shares our basic values' Joseph Carens, 'Aliens and Citizens: The Case for Open Borders', *The Review of Politics* 49, no. 2 (1987): 251-73, p. 269.

accordingly turn to the realm of Islamic theological ethics wherein the notion of *fiṭra* or 'original human disposition' provides such a counterpart.

Chapter Four
The Human Good in Islamic Political Theology

(§4.1) Introduction

The aim of this chapter is to construct an Islamic political theology which is amenable to the construction of public civility within plural societies. The overarching argument is that, while important and integral to the centuries-old tradition of Islam, the resources of Islamic jurisprudence on their own are inadequate to ground public civility; and that instead the realm of Islamic theological ethics – as expressed specifically in the *Muʿtazilī* tradition – serves as a more promising avenue for this task. The Islamic notion of *fiṭra*, or original human disposition, which is central to the rationalist *Muʿtazilī* tradition of ethics undergirds its markedly teleological outlook. (This kind of outlook resembles in important ways that of Catholic social thought.) Accordingly, my objective in this chapter is two-fold: (1) to show the conceptual resonance that *fiṭra* has with my idea of the human good (and by implication also with the Catholic doctrine of the *image dei*); and (2) to construct an Islamic political theology on this basis.

In order to meet these objectives, I proceed as follows: first, I consider certain key concepts within Islamic jurisprudence and their respective potential for grounding public civility in plural societies (§4.2); secondly, I explore, as an alternative to the resources of Islamic jurisprudence, the conceptual fecundity found in the Islamic notion of *fiṭra* along with its conceptual resonance with my idea of the human good (§4.3); lastly, I construct an Islamic political theology based on the notion of *fiṭra*, paying particular attention to the differences between two dominant theological-ethical strands in Islam (*Ashʿarī* and *Muʿtazilī*) as they bear on the task of constructing public civility (§4.4). I then conclude with a discussion on the role of Islamic law (*sharīʿa*) in plural societies, highlighting its original ethical inflection (*akhlāq*) over against its later legalistic trajectory (*aḥkām*).

It is worth noting at the outset an important distinction between Islam and Islamism made by Bassam Tibi.[492] Tibi observes that, for most Muslims, Islam is not a political enterprise *per se*, but a 'cultural system that determines their worldview and way of life'. By contrast, Islamists, whose vision is 'din-wa-dawla (unity of religion and state)', seek the 'remaking of the existing political order in pursuit of the Islamic shari'a state'. In this chapter, my aim is to consider the resources of Islamic theological ethics, as distinct from Islamist political ideology, in constructing a framework of public civility in plural societies. To note further, my concern is not with the compatibility between Islam and democracy about which much has been written.[493] Rather, it is about seeking a basis for public civility, between Muslim and non-Muslim communities in a given plural society – one which motivates a common public life among its members. In light of this point, before commencing the investigation, I begin with a comment about the need for a 'secular imperative' in liberal democratic plural societies.

(§4.1.1) Public civility and the 'secular imperative'

Both non-Muslim scholars of Islam and Muslim scholars themselves have suggested that the political values of 'the Enlightenment and Modernity' – e.g., religious tolerance, universal citizenship, and gender equality[494] – have problematized the experiences of Muslim communities in public life. For, as one Muslim thinker puts it, 'at the heart of . . . [Enlightenment-style] constitutional democratic governance' is the 'requirement to abide by religious and metaphysical neutrality'.[495] Muslim scholars have

[492] The quotations in this paragraph are from Tibi, *Islamism and Islam*, pp. 37, 31, and 39, respectively.
[493] See, e.g., John Esposito and John Voll, *Islam and Democracy* (Oxford: Oxford University Press, 1996); Khaled Abou El Fadl, *Islam and the Challenge of Democracy* (Princeton: Princeton University Press, 2004); John Donohue and John Esposito, eds., *Islam in Transition: Muslim Perspectives*, 2nd ed. (Oxford: Oxford University Press, 2007). For a recent and extensive list of related resources, see Nader Hashemi, *Islam, Secularism, and Liberal Democracy* (New York: Oxford University Press, 2009), p. 187, n. 46.
[494] Andrew March, 'Sources of Moral Obligation to Non-Muslims in the "Jurisprudence of Muslim Minorities" (Fiqh Al-Aqalliyyat) Discourse', *Islamic Law and Society* 16, no. 1 (2009): 34-94, pp. 36-38.
[495] Sachedina, *Islam and Human Rights*, p. 188.

responded to this requirement of 'neutrality' in diverse ways. While some have sought to establish Islamic law (*sharīʿa*) through the vehicle of an Islamic state,[496] others, tending toward social-political withdrawal, seek merely to 'restrict the interference of the state' in the lives of Muslim citizens.[497] In either case, what is sought is not some allegedly neutral political structure to which Islamic law (*sharīʿa*) must conform, but a social space in which Muslims can live out their lives in authenticity and freedom.[498]

When considering the viability of various political structures in late modernity, it is important to note that there is no political given, i.e., no universally neutral political structure. As Nagel points out, every political 'arrangement has to be justified by comparison with every other real possibility'.[499] While I have described at length the negative impact that secularism (Chapter One) and secularization (Chapter Two) have on the prospect of constructing public civility, there is an important sense in which the political order of a given plural society ought to remain 'secular' with respect to religious traditions. There is, in other words, a need for what I call the 'secular imperative' which befits democratic plural societies.

The theologian Nigel Biggar offers a helpful characterization of the idea of a 'secular' polity. Biggar notes that 'secular' can be used in the 'Augustinian sense of

---

[496] E.g., Muḥammad Saʿīd Ramaḍān Būṭī, *The Jurisprudence of the Prophetic Biography*, ed. Anas al-Rifāʿī, trans. Nancy Roberts (Damascus: Dar al-Fikr, 2001); Ḥasan al-Bannāʾ, *Treaties on the Ranks of the Righteous and the Devoted* [Mudhakkarat al-daʿwa waʾl-daʿiyya] (Cairo: Dar Al-Shihab, ca. 1951). A translation of the latter work was read in Richard Mitchell, *The Society of the Muslim Brothers* (New York: Oxford University Press, 1993).

[497] Muhammad Qasim Zaman, 'The ʿulama of Contemporary Islam and Their Conceptions of the Common Good', in *Public Islam and the Common Good*, ed. Armando Salvatore and Dale Eickelman (Leiden: Brill, 2006), p. 142.

[498] There is an interesting account of a 'civil Islam' found in Robert Hefner, *Civil Islam: Muslims and Democratization in Indonesia* (Princeton: Princeton University Press, 2000). However, Hefner's specific interest here is 'to examine the relationship of Islam to democratization', concluding that (*inter alia*) 'the key to democracy's possibility is not singular but multiple', and that there is no 'one-size-fits-all democracy' (see pp. 6 and 215-16). While Hefner offers useful statistical findings on civil society and democratization, important theoretical discussions on Islamic law, and the like, his aim differs from mine in that I seek to construct a framework of public civility within the site of social interaction more generally, and not within that of the political *per se*.

[499] Thomas Nagel, *Equality and Partiality* (Oxford: Oxford University Press, 1991), p. 100.

"plural," [and] not in the sense of "religion-free"'.[500] (This understanding of 'secular' is clearly different from that of classical secularization theorists such as Marx, Durkheim, and Weber (whose works are mentioned in Chapter One) who contend that over the course of time and because of human progress, the influence of religion would inevitably diminish and disappear: accordingly, modern society would find itself, whether of necessity or eventuality, void of religion and thereby thoroughly 'secular'.)[501] Augustine uses the term 'secular' to refer to the *saeculum* – i.e., the time prior to the *eschaton* – when the city of God and the city of man 'are entangled together in this world [*saeculum*]' until the final judgment at the *eschaton*.[502] As Robert Markus comments, Augustine's 'secular' was used to designate 'that intermediate and temporary realm in which human affairs unfold before the end'.[503] In this sense, the secular is not the same as the profane – the latter referring to that which is antithetical to religion, and the former to temporality.[504] To confuse one with the other would be to commit a category mistake: for the religious and the secular comingle. It is this fact that Biggar conveys when using 'secular' to describe plural social-political co-existence. And it is in this sense that I suggest the need for a 'secular imperative' in plural democratic societies.

It is important to note that this sort of secularity is needed not for its own sake. As Heiner Bielefeldt observes, the reason that a state ought to remain 'secular' is to serve the

[500] Nigel Biggar, *Behaving in Public: How to Do Christian Ethics* (Cambridge: Eerdmans, 2011), p. 46.
[501] Ironically, in Durkheim's terminology, since the 'secular' just is the 'profane', the 'profane' seems to lose all significance given, under his view, the deeply 'sacred' nature of human sociality. See Émile Durkheim, *The Elementary Forms of the Religious Life*, trans. Karen Fields (New York: Free Press, 1995 [1912]), esp. pp. 33-39 and 321-29. For an insightful critique of Durkheim's sacred-profane distinction, see Ferguson, *Phenomenological Sociology*, pp. 176-80.
[502] See Augustine, *The City of God*, ed. Philip Schaff, trans. Marcus Dods (Edinburgh: T & T Clark, 1886 [ca. A.D. 416-422]), Bk. 16, Ch. 26, quotation from Bk. 1, Ch. 35. Cf. Robert Markus, *Christianity and the Secular* (Notre Dame: University of Notre Dame Press, 2006), pp. 4-6; and Philip Gorski and Ateş Altınordu, 'After Secularization?', *Annual Review of Sociology* 34 (2008): 55-85, p. 60.
[503] Markus, *Christianity and the Secular*, p. 73.
[504] Robert Markus, *Saeculum: History and Society in the Theology of St Augustine*, Rev ed. (Cambridge: Cambridge University Press, 1988 [1970]), pp. 13-14, 122, and 134.

greater civic purposes of 'equality' and 'non-discrimination'.[505] Here, Bielefeldt distinguishes 'political secularism', which would protect the right of religious liberty while maintaining civic equality, from 'doctrinal secularism', according to which a state would endorse a strict privatization of religion. In other words, political secularism (or the idea of the secular imperative) supports a religiously plural polity in which authentic public religious expression is not only allowed but encouraged.

There are other reasons to seek such 'secular' (plural) polities, one of which is articulated by a scholar of Islam, and another by a Muslim scholar. The Islamicist Paul Heck points out that in liberal democratic polities a people's 'conscience is always informed by a set of beliefs', religious ones included; and such beliefs are not, indeed must not be, dismissed when voting or otherwise voicing political commitments. After all, democracy, Heck writes, does not 'demand moral neutrality': it is 'rule by the people . . . not relativism'.[506] Similarly, the Muslim scholar Abdolkarim Soroush contends that 'any purely [doctrinally] secular government would be undemocratic' since it would not reflect the will of the *demos* who regularly, naturally, and rightfully seek to express their religious convictions within the political realm.[507] In sum, the 'secular imperative' is needed for the sake of both religious and democratic authenticity, which in turn are needed for the construction of public civility.[508]

---

[505] See Heiner Bielefeldt, 'Freedom of Religion or Belief – a Human Right under Pressure', *Oxford Journal of Law and Religion* 1, no. 1 (2012): 15-35, pp. 23-26 and 32-34. A similar distinction between 'ideological secularism' and 'moderate secularism' is made in Modood, *Multiculturalism*, pp. 72-73.

[506] Paul Heck, *Common Ground: Islam, Christianity, and Religious Pluralism* (Washington, D.C.: Georgetown University Press, 2009), p. 146.

[507] Abdolkarim Soroush, *Reason, Freedom, and Democracy in Islam*, ed. Mahmoud Sadri and Ahmad Sadri (New York: Oxford University Press, 2000), p. 126.

[508] To note, while the secular imperative is necessary for public civility within the political realm, such is arguably not the case within the realm of law. As I argue in Chapter Two, taking 'secular' to mean 'pluralistic', a legal pluralism would be performatively antagonistic to the construction of public civility. In plural societies, whereas pluralistically structured polities are necessary to allow for the free participation of religious (and non-religious) citizens in public life; a pluralism of law would hamper the sense of unity among society's members since law is a reflection of public morality (cf. section §2.4.2.2). Thus, both to stave off moral relativism and to construct public civility, it is important to avoid a secular imperative of law. This is not to say that law should be 'secular' in the sense of nonreligious. For, as some scholars argue, such a thing as 'secular [i.e., nonreligious] law' does not even exist in view of 'the always mutually involved ways

Olivier Roy notes that, with the 'sanctification of the state' the Christian tradition was largely able to 'legitimate the autonomy of the political sphere' – Roy goes on to ask, however, whether within Islamic political thought there are resources for a similar two-tiered view of society.[509] That is, are Islamic religious ideals amenable to being integrated into the world of plural modernity? Arguably, from even rather 'liberal' views, it is suggested that, while Islam may comport with a separation of religion and politics, it does not permit a separation of religion and law.[510] More conservatively, in the words of Ḥasan al-Bannāʾ: '[P]olitics is part of religion . . . Caesar and what belongs to Caesar is for God Almighty alone.'[511] Accordingly, a recent interpreter of Bannāʾ writes, 'To impose upon Islam the Christian separation of loyalties is to deny it its essential meaning and very existence.'[512] Clearly, the encounter of Islam with secular modernity is of crucial importance in constructing a framework of public civility.

In the next section, I consider the possibility of locating a basis of public civility specifically within the resources of Islamic jurisprudence, arguing that, in view of its internalizing legalistic tendency, such a broad basis of public civility would need to be found elsewhere: namely, in the theological-ethical resources of Islamic thought.

(§4.2) The prospect of public civility within Islamic jurisprudence

Within the context of Islamic jurisprudence, if there is to be found a basis of public civility, it arguably would have to be rooted most fundamentally in the *Qurʾān*, and

---

of law and religion'. See, e.g., the collection of essays in Winnifred Sullivan, Robert Yelle, and Mateo Taussig-Rubbo, eds., *After Secular Law* (Stanford: Stanford University Press, 2011), quotation from p. 3. What I am contending is that, for the task of public civility, the body of law in liberal democratic societies ought to remain predominantly uniform rather than pluralistic.

[509] Olivier Roy, *Secularism Confronts Islam*, trans. George Holoch (New York: Columbia University Press, 2007), pp. 40 and 57.

[510] See Mehdi Bazargan, 'Religion and Liberty', in *Liberal Islam*, ed. Charles Kurzman (Oxford: Oxford University Press, 1998), esp. pp. 77-81.

[511] al-Bannāʾ, *Treaties on Ranks*; quoted in Mitchell, *Muslim Brothers*, p. 244.

[512] Mitchell, *Muslim Brothers*, p. 244.

especially its view of religious diversity.[513] In answer to the question, 'Does Islam . . . advocate religious pluralism and can it "accept" a religiously diverse society and state?',[514] Sajjad Rizvi observes that, while some scholars answer positively,[515] he remains unconvinced by their respective attempts to provide a Quranic basis of pluralism and civility. Rizvi notes that the fact of religious diversity 'demands [merely] recognition and not [necessarily] advocation', thereby distinguishing between 'a *de facto* plurality (religious diversity) and a *de jure* pluralism (religious pluralism)'. So, Rizvi suggests, while the Islamic corpus accepts plurality as a fact about humanity, an outright pluralism is not necessarily supported in the *Qurʾān*, or at least 'contemporary Islamic thought' has not shown it to be so.[516]

Contra Rizvi, scholars such as Abdulaziz Sachedina hold that the *Qurʾān* does permit, indeed promote, a view of religious pluralism, suggesting that scripture is consonant with, and even offers theological grounds for, a 'civic pluralism'.[517] Likewise, others such as Abdullahi Ahmed An-Naʿim, Mohammad Fadel, and Khaled Abou El Fadl argue that there are historic and Quranic resources that would motivate Muslims not only to live peaceably within modern democratic societies, but also to engage in the common life thereof.[518] Slightly more reservedly, Bhikhu Parekh suggests that, under certain

[513] See Ahmad Atif Ahmad, *Structural Interrelations of Theory and Practice in Islamic Law* (Leiden: Brill, 2006), pp. 33-34.
[514] Sajjad Rizvi, 'A Primordial E Pluribus Unum? Exegeses on Q. 2:213 and Contemporary Muslim Discourses on Religious Pluralism', *Journal of Qur'anic Studies* 6, no. 1 (2004): 21-42, p. 21.
[515] William Chittick, *Imaginal Worlds: Ibn Al-ʿarabī and the Problem of Religious Diversity* (Albany: State University of New York Press, 1994); Farid Esack, *Qurʾān, Liberation and Pluralism* (Oxford: Oneworld, 1997); Abdulaziz Sachedina, *The Islamic Roots of Democratic Pluralism* (New York: Oxford University Press, 2001).
[516] Rizvi, 'E Pluribus Unum?', pp. 23 and 27.
[517] Abdulaziz Sachedina, *The Qur'an on Religious Pluralism* (Washington, D.C.: Georgetown University, 1996).
[518] Abdullahi Ahmed An-Naʿim, *Islam and the Secular State* (Cambridge: Harvard University Press, 2008); Mohammad Fadel, 'The True, the Good and the Reasonable: The Theological and Ethical Roots of Public Reason in Islamic Law', *Canadian Journal of Law and Jurisprudence* 21, no. 1 (2008): 5-69; Khaled Abou El Fadl, 'Islamic Law and Muslim Minorities', *Islamic Law and Society* 1, no. 2 (1994): 141-87.

characterizations, Islam could be considered compatible with civic pluralism.[519] Following Parekh, I contend that the prospect of an Islamic basis of public civility depends on the kind of Islam in question. In what follows, I explore, then, various 'Islams' along with key concepts in Islamic jurisprudence which are relevant to the question of public civility in plural societies: namely, those of *uṣūl al-fiqh*, *sharīʿa*, *ijtihād*, and *maṣlaḥa*. I take each idea in turn, introducing important terminology and issues where relevant.

(§4.2.1) Islamic legal theory and the contextualizability of *sharīʿa*

After the death of the Prophet Muḥammad and over the course of subsequent generations, there emerged multiple and competing understandings of Islamic law (*sharīʿa*),[520] understandings situated within the larger framework of Islamic legal theory (*uṣūl al-fiqh*). For *Sunnī* Muslim communities, interpretations of *sharīʿa* had come to be based (initially) on the decisions of the four rightly guided caliphs (*Khulafāʾ Rāshidūn*) who assumed the role of Islamic leadership after the Prophet's death. Within the *Shīʿi* tradition, devotion to the ways of 'Alī (the Prophet's nearest of kin) was considered essential to understanding the content of *sharīʿa*. In time, in an attempt to overcome the variety of interpretations, different schools of law (*madhāhib*) had codified *sharīʿa* within different legal frameworks (*fiqh*).[521] The four major schools in the *Sunnī* (majoritarian) tradition are (in order of chronological development): *Ḥanafī*, *Mālikī*, *Shāfiʿī*, and *Ḥanbalī*.[522] (To note, I limit my discussion mainly to the *Sunnī* tradition for two reasons:

[519] Bhikhu Parekh, *A New Politics of Identity* (Basingstoke: Palgrave Macmillan, 2008), Ch. 6, 'European Liberalism and the "Muslim Question"', esp. pp. 117-29.
[520] It is worth pointing out here, as Zubaida notes, that 'law' in Islam is not the same as 'law in the modern sense', as the former but not (typically) the latter would include regulations on 'diet and food taboos', 'pilgrimage', 'ritual washing', etc. See Zubaida, *Law and Power*, pp. 10 ff.
[521] See Wael Hallaq, *The Origins and Evolution of Islamic Law* (Cambridge: Cambridge University Press, 2005), Ch. 7, 'The Formation of Legal Schools'.
[522] These schools are named after their founders: Abū Ḥanīfa (d. 767), Mālik Ibn Anas (d. 795), al-Shāfiʿī (d. 820), and Ibn Ḥanbal (d. 855), respectively. For a comparative study of the four schools of law, see Wael Hallaq, *Authority, Continuity, and Change in Islamic Law* (Cambridge: Cambridge University Press, 2001).

first, it makes up nearly ninety percent of the Muslim population in the world today;[523] and secondly, the *Sunnī madhāhib* (specifically *Shāfiʿī*) make up nearly all of the Muslim population in Mindanao.[524]) Within Sunnism, it is generally accepted that there are four main sources of jurisprudence, two textual and two 'extra-textual': (1) the *Qurʾān* which represents the divine revelation given to Muḥammad; (2) the *Sunna*, reports of the sayings of or about the Prophet; (3) *ijmāʿ*, consensus among either or both the *ʿumma* (community) and/or *ʿulamāʾ* (religious authorities); and (4) *qiyās* (analogical legal reasoning) which involves various interpretative tools in determining the 'correct' opinion of a given legal matter.[525] Whenever judgments based on the first three sources were inconclusive, jurists (in some schools)[526] applied the principles of the fourth, *qiyās*.[527]

While for many traditionalist Muslim scholars *sharīʿa* is unalterable given its divine origin,[528] more 'reformist' Muslim scholars tend to point to its interpretation and application as being context-dependent. For example, Tariq Ramadan holds that, while *sharīʿa* expresses 'the universal principles of Islam', it is more fundamentally about 'faithfulness to the divine will', a faithfulness which requires 'active and creative' reasoning in order to establish the norms for a given social-historical context. In other words, *sharīʿa* is a 'framework' which helps to 'actualiz[e]' the Islamic 'universal principles' within 'human history'. Ramadan's rationale for the contextual character of *sharīʿa* is that 'the corpus of the *Sharia* is [itself] a human construction', a result of jurisprudence: so the normativity and applicability of *sharīʿa* is context-dependent. Summarizing his view, Ramadan suggests that a Muslim's attempt to discern what

[523] Tibi, *Islamism and Islam*, p. 204.
[524] Thomas McKenna, *Rulers and Rebels: Everyday Politics and Armed Separatism in the Southern Philippines* (Berkeley: University of California Press, 1998), p. 249.
[525] Ahmad, *Islamic Law*, pp. 33-34. For an extended treatment of other 'extra-textual' sources of Islamic law, see also Ch. 6, 'Extra-Textual Sources of the Law' in the same work.
[526] For example, the *Ḥanafī* school, but not the *Shāfiʿī*, approves the use of *qiyās*. See Hallaq, *Authority, Continuity, and Change*, pp. 46 and 66.
[527] Wael Hallaq, 'On the Authoritativeness of Sunni Consensus', *International Journal of Middle East Studies* 18, no. 1 (1986): 427-54, p. 427.
[528] For more on this point, see Tibi, *Islamism and Islam*, Ch. 6, 'Islamism and Law', esp. p. 166.

'faithfulness' requires in a given situation involves both 'a study of the Texts' (*Qurʾān* and *Sunna*) as well as a 'deep understanding of the context' (*ijmāʿ* and *qiyās*). For this reason, Ramadan distinguishes the '"way to the source"' that is *sharīʿa* from 'the Source' who is God: whereas the latter 'declares the absolute and the universal', *sharīʿa* must be considered 'in time, in change, in imperfection, immersed in the reality of humankind'.[529]

Similarly, An-Naʿim notes that while *sharīʿa* is the 'whole Duty of Mankind [involving] all aspects of public and private law',[530] elsewhere he highlights the contextualizability of *sharīʿa*, suggesting that interpretation of it is necessarily 'a historically-conditioned *human* interpretation'.[531] Again elsewhere, he writes: 'There is nothing to prevent the formation of a fresh consensus around new interpretative techniques or innovative interpretations of the Qurʾan and Sunna, which would become part of Shariʿa'.[532] Social-historical context can and often does demand a fresh reading of *sharīʿa*.

Of course, not all scholars are sympathetic to the idea of contextualizability. Historically, for example, in Mindanao as well as in many Muslim majority countries,[533] certain ritualistic aspects (*ʿibādāt*) of *sharīʿa* were allowed to persist, but only by being relegated to the private sphere.[534] Whereas, by and large, those aspects of *sharīʿa* which deal with civic norms (*muʿāmalāt*) – with occasional exceptions made for family and personal law – were replaced by Western constitutional regulations.[535] This proposal may seem *prima facie* a promising way of enhancing the prospect of public civility between

---

[529] See Tariq Ramadan, *Western Muslims* (Oxford: Oxford University Press, 2004), pp. 32 and 37-38; see also Tariq Ramadan, *Islam, the West and the Challenges of Modernity* (Leicester: Islamic Foundation, 2001), pp. 34 ff.
[530] Abdullahi Ahmed An-Naʿim, *Towards an Islamic Reformation* (Syracuse: Syracuse University Press, 1990), p. 11.
[531] See Abdullahi Ahmed An-Naʿim, 'Islamic Foundations of Religious Human Rights', in *Religious Human Rights in Global Perspective*, ed. John Witte and Johan van der Vyver (The Hague: Kluwer, 1996), esp. pp. 337 and 353 (emphasis original).
[532] An-Naʿim, *Islam and Secular State*, p. 13.
[533] Cf. Michael Mastura, 'Legal Pluralism in the Philippines', *Law and Society Review* 28, no. 3 (1994): 462-75.
[534] Zubaida, *Law and Power*, Ch. 4, 'The Age of Reform'.
[535] Others such as Kamali refer to this distinction between *ʿibādāt* and *muʿāmalāt* as 'religious obligations' and 'civil transactions' in Kamali, *Shariʿah Law*, see pp. 17 ff; see also Tibi, *Islamism and Islam*, p. 160.

Muslims and non-Muslims. For by granting significant measures of religious expression for Muslims without thereby condoning a wholesale '*shariʿa* politics',[536] a given political order might maintain the secular imperative. Yet such an arrangement has delegitimizing effects on authentic public life for Muslims who, then, are confined to a delimited adherence to *sharīʿa*. This is not to mention the fatal effects that have resulted from this political arrangement in the form of the modern day Islamist movements which have yielded violent reactions to it.[537]

Here, it is important to discuss how interpretation of *sharīʿa* is formulated necessarily within the framework of 'Islamic legal theory' (or *uṣūl al-fiqh*)[538] – the juristic methodology developed in an effort to establish 'the rulings decreed by God'.[539] As one scholar writes, 'God's commandment' (*sharīʿa*) is one thing; non-'sacral' jurisprudence (*fiqh*) another.[540] This distinction between divine law and legal jurisprudence underscores the deeply constructive character of Islamic law. On this basis, any interpretation of *sharīʿa* can be seen to be necessarily a product of Islamic jurisprudence, a fact which renders *sharīʿa* as contextualized to some extent or another, along some criteria or other.[541]

Nevertheless, given either the contextualizability of *sharīʿa* or even more conservatively the constructed character of *fiqh*, formal implementation of *sharīʿa* would necessitate a legal pluralism which would not only jeopardize the secular imperative, but also gravely diminish the prospect of a common public life. At the end of the next section I discuss further the problems with legal pluralism. Next, however, I consider another major

[536] Hefner, 'Shariʿa Politics'.
[537] See, e.g., Asma Afsaruddin, 'The "Islamic State": Genealogy, Facts, and Myths', *Journal of Church and State* 48, no. 1 (2006): 153-73; Fu'ād Zakarīyā, *Myth and Reality in the Contemporary Islamist Movement*, trans. Ibrahim M. Abu-Rabiʿ (London: Pluto Press, 2005); Hefner, 'Shariʿa Politics', pp. 20-23.
[538] Joseph Lowry, *Early Islamic Legal Theory* (Leiden: Brill, 2007), p. 1.
[539] Wael Hallaq, 'Was the Gate of Ijtihad Closed?', *International Journal of Middle East Studies* 16, no. 1 (1984): 3-41, p. 4.
[540] Tibi, *Islamism and Islam*.
[541] In sections §4.4.3.1 and §4.4.5, I return to a further discussion of the contextualized nature of *sharīʿa* as I argue for the need to recover an ethics-based view of Islamic law in contrast to the overly juristic view of traditionalist scholars, the latter of which tends to seek an implementation of *sharīʿa* within state law.

resource within Islamic jurisprudence which some scholars might suggest as useful for securing an Islamic basis of public civility.

(§4.2.2) Legal flexibility and *ijtihād* as 'independent reasoning'

The practice of *ijtihād*, which may appear to some as a promising basis for public civility,[542] may be characterized as: 'effort expended by the jurist to master and apply the principles and rules of [legal theory] for the purpose of discovering God's law'.[543] (Interestingly, the notion of *ijtihād* is similar to the notion of *epikeia* which was developed within Greek philosophy, and later adopted within the Catholic tradition under the idea of '*determinatio*'. As Mahoney writes: '[T]he Aristotelian concept of *epicheia* [found in] the ethical system in Aquinas contains a strong element of the need to adapt the application of general moral commands and laws to the infinite variety of contingent circumstances.')[544] More literally, *ijtihād* can be characterized as the 'exertion of mental energy', or more loosely as 'independent reasoning',[545] and is used in determining a legal opinion within a context different from one in which the original textual sources of Islamic law (*Qurʾān* and *ḥadīth*) were given. Put simply, the practice of *ijtihād* is 'juridical reasoning' about *sharīʿa* – a characterization in view of which An-Naʿim suggests that 'any understanding of Shariʿa is always the product of *ijtihad*'. [546] Of course, not all scholars would agree with this view, as *ijtihād* represents a methodology in Islamic legal thought that is under significant contestation, a crucial aspect of which I describe immediately below.

[542] Scholars who argue for a promising basis of Muslim civic engagement on the basis of an extensive use of *ijtihād* include, e.g.: Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, Rev. ed. (Cambridge: Islamic Texts Society, 1991); Abdullah Saeed, 'Trends in Contemporary Islam: A Preliminary Attempt at a Classification', *The Muslim World* 97, no. 3 (2007): 395-404; Mashood Baderin, *International Human Rights and Islamic Law* (Oxford: Oxford University Press, 2003).
[543] Hallaq, 'Gate of Ijtihad', p. 3.
[544] Mahoney, *Moral Theology*, p. 241.
[545] Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon Press, 1964), p. 211.
[546] See An-Naʿim, *Islam and Secular State*, pp. 12-13.

On the one hand, there are scholars who argue that in the early part of Islamic legal history there had been a 'closing of the gate of *ijtihād*', and that *sharīʿa* is now a matter of taking as given what is found in the textual sources.[547] If this position holds, as Joseph Schacht contends, then 'all future [legal reasoning would] have to be confined to doctrine as it had been laid down once and for all' – that is, it would necessitate *taqlīd* or 'the unquestioning acceptance of the doctrines of established schools and authorities' prior to the closing of the gate (*ca*. ninth century).[548] Thus, it would seem that, in societies which are majoritarian *Sunnī* (such as in Mindanao) wherein *taqlīd* is thought to be favoured, the prospects of public civility would be less promising since the practice of *ijtihād* would be invalidated.

On the other hand, for many if not most Muslims scholars, including those in the *Sunnī* tradition, the gate of *ijtihād* is considered not to have been closed. Rather, the practices of *ijtihād* are, as Wael Hallaq argues, 'universally recognized by jurists to be the sacred purpose of *uṣūl al-fiqh* [legal theory]'.[549] Similarly, Mohammad Hashim Kamali suggests that the practice of *ijtihād*, which is used to harmonize 'revelation and reason', is 'the most important source of Islamic law next to the *Qur'an* and the *Sunnah*'.[550] Writing elsewhere, Kamali explains, 'Justice is the supreme goal and objective in Islam'; accordingly, any 'rules of fiqh', which are 'now deemed as unjust', can no longer be considered to 'belong to the *Sharīʿah*', and thereby should 'be revised through *ijtihād*'.[551] Consequently, scholars may want to argue that there are significant resources within Islamic jurisprudence for a basis of public civility given the practice of *ijtihād*.[552] But even with the resources of *ijtihād*, there remain points of plausibly irresolvable tension between

[547] See Hallaq, 'Gate of Ijtihad', p. 3.
[548] Schacht, *Islamic Law*, pp. 70-71.
[549] See Hallaq, 'Gate of Ijtihad', pp. 4-5 and 8-9.
[550] Kamali, *Islamic Jurisprudence*, p. 468.
[551] Kamali, *Shariʿah Law*, pp. 31-32.
[552] See, e.g., Saeed, 'Trends in Islam', p. 401.

Islamic law and the social-political norms of liberal democratic societies, a discussion to which I now turn.

The scholar of Islamic law Rudolph Peters delineates various crucial aspects of Islamic law that may undermine the prospects of public civility in plural societies. As examples of intractable tension between 'the Shari'a criminal law' and certain international 'human rights standards', Peters points to issues such as 'inhuman punishment', the principle of equality 'before the law', 'freedom of religion and freedom of expression', and the right of children 'not to be subject to the death penalty'.[553]

Similarly, the legal theorist Erich Kolig contends that the 'laws, norms, values, practices, and customary conventions' of liberal societies stand 'in direct conflict' with those of Muslim societies, even 'to the point of total incompatibility'. Whether or not the incompatibility is 'total', unquestionably there are, as Kolig notes more carefully, significant 'contradictions at many levels' and 'a noticeable degree of incompatibility' between *sharī'a* and non-Muslim legal systems. At bottom, Kolig concludes, should certain central aspects of *sharī'a* be implemented into the legal structures of liberal societies, such societies 'would be in danger of negotiating away [certain] fundamental liberties' such as 'exercising religious choice', 'freedom of expression', and the like.[554]

The scholar of Islamic jurisprudence Denis MacEoin similarly points out that, since *sharī'a* encompasses a 'full range of human behaviour', there inevitably would be significant challenges to certain modern liberal rights, unless special legal status were given to communities which would place them 'above the law to which we are all bound'. *Sharī'a* legal codes range 'from criminal matters . . . to worship . . . to business affairs . . . to dietary regulations . . . to international law'. Given this 'full range' to which *sharī'a*

[553] See Peters, *Crime and Punishment*, Ch. 5, 'Islamic Criminal Law Today', esp. pp. 174-81, quotation from p. 175.
[554] Erich Kolig, 'To Shari'aticize or Not to Shari'aticize: Islamic and Secular Law in Liberal Democratic Society', in *Shari'a in the West*, ed. Ahdar and Aroney, pp. 269-70.

applies, a 'dichotomous legal system' would create obvious and intractable points of tension in plural societies. In the United Kingdom (about which MacEoin is concerned directly) as well as in other plural societies (such as Mindanao), legal pluralism would result in irresolvable legal quagmires. Consider an example from within family law:

> Marriage in itself invites rulings on whether the bride may be underage or not; whether the husband may have sex with his wife even if she is underage; whether a husband may marry more than one wife; . . . and whether the bride's consent is needed in what is regarded as a civil contract between her male guardian . . . and the groom.[555]

Thus, with respect to both criminal law and personal and family law, the problems of legal pluralism here illustrated would undermine gravely the task of constructing public civility.

I make a final point about legal pluralism by returning to Peters, specifically his observation about the recent implementation of Islamic criminal law in Muslim majority countries. The implementation of *sharīʿa* criminal law has risen markedly throughout the world since the 1970s; and in many cases the regimes that have reintroduced such law claim to be 'returning to the legal system' that existed before European imperialism had replaced much of *sharīʿa*. Yet, Peters observes, while this attempt to return to a 'pre-colonial past' might be achieved *de jure* if done by 'referring the judges to the classical work on *fiqh*', the return is sought *de facto* by way of state legislation, yielding an irony:

> The result . . . is that something new is created, a form of criminal law consisting of Islamic substantive rules in a Western garb and embedded in a Western-type adjective law, with Western-type courts and Western institutions such as the state prosecutor.'

Thus, implementation of *sharīʿa* within the legal structures of liberal democratic societies is not only an impediment to the task of public civility, but also a legislative expression of an inauthentic Muslim society. Moreover, as Peters reminds, the body of Islamic criminal law codes represents what a Muslim society typically would 'regard as its core values',

[555] Denis MacEoin, *Sharia Law or 'One Law for All'?* , ed. David Green (London: Civitas, 2009), pp. 39, 73, 39-40, and 41, respectively.

and as such, are considered weightier than those of personal and family law.[556] For this reason, the formal legalization of such criminal codes would make the legal pluralism that would result from such legalization even more problematic. The question remains, then: What resources, if any, might provide an Islamic basis of public civility?

(§4.2.3) The prospect of *maṣlaḥa* as 'the common good'

Within Islamic jurisprudence there is a notion of 'the common good', captured in the term '*maṣlaḥa*', which has been used in attempts to construct public civility.[557] However, as I argue below, there are problems with attempts to ground a framework of public civility on this basis, problems which in many ways mirror those considered in the previous chapter with respect to the Catholic 'common good' tradition. In this section, I discuss the notion of *maṣlaḥa* in order to consider its (in)adequacy in grounding public civility, arguing that it fails to serve as a universal basis since it necessarily pertains only to Muslim communities.

The term *maṣlaḥa* means literally 'a source or cause of well-being and good', and is translated often as 'public interest' or 'social good'.[558] While *maṣlaḥa* may be understood as 'the common good', it is more precisely 'a legal criterion' by which the common good is meant to be realized.[559] The following comments about the history of the idea and the use of *maṣlaḥa* as a juristic practice may help both to illuminate its meaning further and to elucidate the problems that I see it posing with respect to its serving as a basis for a universal framework of public civility.

[556] Peters, *Crime and Punishment*, pp. 147-48 and 1, respectively.
[557] For a recent study of *maṣlaḥa* serving as such a basis, see Nathan Brown, 'Egypt: Cacophony and Consensus', in *Shariʿa Politics*, ed. Hefner.
[558] Felicitas Opwis, *Maṣlaḥa and the Purpose of the Law: Islamic Discourse on Legal Change from the 4th/10th to 8th/14th Century* (Leiden: Brill, 2010), pp. 1 and 4.
[559] Zaman, 'Ulama and Common Good', pp. 131-32.

The juristic practice of *maṣlaḥa* can be traced to the eighth century with a first mention of it found in *Mālikī* jurisprudence in the tenth century.[560] Essentially related to *maṣlaḥa* is the notion of *maqāṣid al-sharīʿa* – the objectives of Islamic law – developed by the prominent al-Ghazālī (d. 1111) who writes: 'What we mean by *maslahah* is preserving the objective of the Law that consists in five ordered things: religion, life, reason, progeny, and property.'[561] For al-Ghazālī, *maṣlaḥa* is fundamentally about preserving the *maqāṣid*, i.e., the goals of *sharīʿa*. Similarly, al-Shāṭibī (d. 1388) contends that a jurist is expected to consider *maṣlaḥa* ('common interest') in order to secure the *maqāṣid*.[562] In short, in an effort to maintain the *maqāṣid* through historical change by applying them to modernizing contexts, various schools of jurisprudence began to understand *maṣlaḥa* as one of the key juristic tools by which to address accompanying (and inevitable) legal change.[563] In other words, *maṣlaḥa* became a juristic tool by which to implement and ensure the goals of Islamic law, that is, the *maqāṣid*.

Here the key problem arises in trying to construct a framework of public civility on the basis of *maṣlaḥa*: the so-called 'common good' or *maṣlaḥa* is informed necessarily by the *maqāṣid*. Thus, even if *maṣlaḥa* is taken into account when securing the *maqāṣid* (cf. Shāṭibī), still the *maqāṣid* is given for the good of a Muslim *qua* Muslim (cf. al-Ghazālī). As Muhammad Qasim Zaman puts it, 'the good in *maṣlaḥa* [is] defined by *sharīʿa*' (or, more exactly, *maqāṣid al-sharīʿa*); so, while 'the *sharīʿa*'s good is meant for the people', and in this sense might be said to be concerned with 'the common good' (*maṣlaḥa*), 'it is not the people who determine [the good of *maṣlaḥa*]', but the *maqāṣid* that do so. Put simply, the *maqāṣid* ground and govern *maṣlaḥa*. As Zaman continues, '[t]he importance of the common good in . . . the *sharīʿa* is recognized and indeed stressed, but any such idea

[560] See Opwis, *Maṣlaḥa*, pp. 1-4 and 9.
[561] al-Ghazālī, *Al-Mustasfâ Min 'Ilm Al-Usûl* 1, pp. 286-87; quoted in Ramadan, *Radical Reform*, p. 62 with Arabic annotations suppressed.
[562] Kamali, *Shariʿah Law*, pp. 32-33.
[563] Opwis, *Maṣlaḥa*, pp. 2 ff.

only holds inasmuch as it is grounded in the *sharīʿa*' (or again, more exactly, the *maqāṣid al-sharīʿa*).[564] It seems, then, that the same problem which challenges the Catholic view of the common good – *viz*., the relativistic character of the 'good' that is only putatively 'common' – besets the Islamic conception of *maṣlaḥa* as well. As one scholar of Islam writes, 'the shariʿa may be functionalized for uncivil ends'.[565]

Many Muslim scholars such as Kamali and Mashood Baderin, however, maintain the viability of the common good approach, pointing to the contextualizability of the *maqāṣid*, especially in light of the resources of *maṣlaḥa* and *ijtihād*. Kamali recommends the resources of *ijtihād* to bridge 'the gap between the Shari'ah and modern conditions of society' in order to ensure the aims of Islamic law (*maqāṣid*).[566] Baderin takes an even stronger view, arguing that *maṣlaḥa* concerns not only the 'welfare of the Muslim community', but also the protection of 'the rights and welfare of individuals' *qua* human individuals.[567] Other Muslim scholars such as the famed Yūsuf al-Qaraḍāwī and his disciple Ṭāhā Jābir Fayyāḍ ʿAlwānī consider the *maqāṣid* to be a suitable 'framework of argumentation'[568] or a 'framework of reference'[569] (respectively) within which Muslims could pursue 'the common good'. In short, it is argued that given the scope and flexibility of *maṣlaḥa*, the *maqāṣid* do not preclude but rather promote the common good as a basis of constructing public civility across divergent communities.

However, the problem with such attempts to construe the *maqāṣid* as an ever-adaptable framework can be seen when one considers the fact that the contextualizability of the *maqāṣid* does not imply their being contentless. That is, while *maṣlaḥa* and *ijtihād*

[564] Zaman, 'Ulama and Common Good', p. 139.
[565] Hefner, 'Shariʿa Politics', p. 22.
[566] Kamali, *Islamic Jurisprudence*, p. 5.
[567] Baderin, *Human Rights and Islamic Law*, p. 43.
[568] Yūsuf al-Qaraḍāwī, *On the Jurisprudence of Muslim Minorities* [Fi fiqh al-aqalliyyat al-muslima] (Cairo: Dar al-Shuruq, 2001); cited in Andrew March, 'Theocrats Living under Secular Law', *Journal of Political Philosophy* 19, no. 1 (2011): 28-51, p. 37, n. 25, quotations from p. 43.
[569] Ṭāhā Jābir Fayyāḍ ʿAlwānī, *Towards a Fiqh for Minorities*, Rev. ed. (London: International Institute of Islamic Thought, 2010).

are useful in determining how and which aspects of *sharīʿa* are to be implemented, such resources do not empty the *maqāṣid* of their specific content. Put positively, the *maqāṣid* set the parameters of *maṣlaḥa*, making *maṣlaḥa* mainly about human and communal flourishing as construed from a specifically Muslim perspective. Thus, though it is argued that the purpose of *sharīʿa* is to attain 'the well-being (*maṣlaḥa*) of humanity', *maṣlaḥa* is ultimately 'synonymous with God's purpose in revealing His law':[570] that is, a Muslim God (Allāh) revealing Islamic law (*sharīʿa*) to Muslim believers (*ʿumma*).

For these reasons, an Islamic 'common good' approach (*maṣlaḥa*) is an unpromising basis on which to construct public civility in plural societies. As one Muslim scholar writes, the first thing to be said about the *maqāṣid* is that 'it is the responsibility of an organized collectivity, state, or government to protect these five . . . principles'.[571] Yet, for plural societies, such a political arrangement would be neither democratically liberal nor subject to the secular imperative. What is needed is a basis which does not depend for its viability on one particular religious tradition, but a basis which has resonances within the respective theological traditions of the communities involved in the construction of public civility.

As a final comment, it is instructive to note that many scholars of Islam have suggested that Islam emerged in large part 'to embrace mankind in a truly universal *umma* [community]', one which would 'supersed[e] all sectarian splits and tribal particularisms', especially those of Christianity and Judaism: as such, it is argued, Islam could be considered the true 'carrier of the common good'.[572] Yet, to be sure, many Catholic

[570] Opwis, *Maṣlaḥa*, pp. 1-4.
[571] Tariq Ramadan, 'Islamic Views of the Collective', in *Building a Better Bridge*, ed. Ipgrave, p. 76.
[572] See Armando Salvatore, 'Tradition and Modernity within the Islamic Civilization and the West', in *Islam and Modernity: Key Issues and Debates*, ed. Muhammad Khalid Masud, Armando Salvatore, and Martin van Bruinessen (Edinburgh: Edinburgh University Press, 2009), esp. pp.18-26, quotations from pp. 18-19.

scholars would claim as much.[573] Further still, surprisingly though perhaps not indefensibly, one Islamicist claims that, given the separation of church and state in the West, 'it is secularism that articulates the common good'.[574] In short, it is plain to see that a central problem for plural polities is the presence of 'competing visions of the public good'.[575] Furthermore, this problem results not only from the fact of religious plurality, but also from the presence of the 'tradition' of modern secularism, as discussed in Chapters One and Two. The solution, I submit, involves a recovery and a reassertion of the notion of the human good as well as an articulation and an acknowledgement of this notion within the respective traditions of a given plural society.

In sum, attempts to ground public civility on the basis of 'the common good' are subject to either: on the one hand, a relativism whereby the 'good' is defined insularly, and is thereby not truly 'common' as in the case of *maṣlaḥa*; or, on the other hand, a conceptual incoherence owing to the fact that there are multiple and conflicting 'common goods' within the 'association of associations' found in plural polities, as argued in Chapter Three. To note, the common good approach bears a further flaw. Mark Chapman writes, 'The obvious problem with common good language is this: where a majority defines the common good, the minority can easily lose its voice.'[576] And precisely this problem is faced by Muslim communities in non-Muslim majority societies (such as in Mindanao), and conversely by non-Muslims in Muslim majority contexts. A universal and thereby more promising basis for intercommunal public civility is found in the notion of the human good, the essential attributes of which inhere in everyone regardless of one's

[573] Consider, for example, the words of Hollenbach who writes about the Catholic Church: 'we might learn something from the largest NGO on the globe today that has also been the principal bearer of the common good tradition'. See Hollenbach, *Common Good*, p. 242.
[574] Patricia Crone, *Medieval Islamic Political Thought* (Edinburgh: Edinburgh University Press, 2004), p. 395.
[575] An-Naʿim, *Islam and Secular State*, p. 5.
[576] Chapman, *Blair's Britain*, p. 64.

tradition. In the next major section, I consider the conceptual resonances between this notion of the human good and the Islamic notion of *fiṭra* or 'original human disposition'.

(§4.2.4) Summary and transition

In the preceding sections, I have considered the question of whether there is in the resources of Islamic jurisprudence a promising basis on which to construct a framework of public civility between divergent communities. In doing so, I discussed the notions of Islamic legal theory (*uṣūl al-fiqh*) and Islamic law (*sharīʿa*) along with the juristic tools of *ijtihād* (independent legal reasoning) and *maṣlaḥa* (the common good). I argued that unless some other basis could be found, then what remains is an inadequate framework of public civility. I concluded the discussion by alluding to an alternative basis found in the more universal notion of 'the human good'.

The inadequacy notwithstanding, I note, along with Kamali, that 'the invaluable contribution of the great '*ulamā*' of the past to the legal and intellectual heritage of Islam is undeniable and never to be taken lightly'.[577] The points that I am making, however, are: (1) that an Islamic basis for constructing public civility is more promisingly located within the dimension of *sharīʿa* that deals specifically with morality – *akhlāq* – which 'comprises in its scope not only law [*fiqh*], but also theology and moral teaching';[578] and (2) that this dimension provides the resources needed for public civility, especially when considering the Islamic counterpart to the notion of the human good: *fiṭra*.

The purpose of the next section, then, is to consider whether the Islamic notion of *fiṭra* could serve as a conceptual counterpart to the idea of the human good. Here, I examine the essential attributes of the human good (relationality, purposiveness, and rationality) within the context of the Islamic scriptural corpus (especially the *Qurʾān*). My

[577] Kamali, *Shariʿah Law*, p. 16.
[578] Kamali, *Shariʿah Law*, p. 16 and 41.

contention is a modest one: namely, that within classical and contemporary Islamic scholarship there is a way of reading the Islamic corpus that resonates with the notion of the human good. Then, in section §4.4, I build on this material, and consider resources in Islamic theological ethics, as found especially within the *Muʿtazilī* tradition, in order to construct an Islamic political theology of public civility based on the notion of *fiṭra*.

(§4.3) An Islamic conception of the human good

To note, what follows is a reading of the Islamic tradition of *fiṭra* which goes against the grain of mainstream understandings of this notion. However, motivated by the project of constructing public civility in plural societies, I intend to show that this alternative reading is to be preferred, and is one which finds resonances within many of the works of both contemporary reformist Muslim thinkers and classical Muslim scholars. It is also worth noting, along with the Islamicist Frank Griffel, that 'the existing secondary literature on *fiṭra* [is] not very extensive',[579] and that, aside from its use by one Muslim reformist scholar, namely, Abdulaziz Sachedina,[580] to my knowledge the notion of *fiṭra* has not been used to frame a pluralistic Islamic political theology; rather, as noted above, approaches to constructing an Islamic political theology in plural societies are framed predominantly on the basis of *maṣlaḥa* ('the common good').

Having discussed the conceptual resonance between the notions of the human good and of *imago dei* in Chapter Three, I below argue that the notion of *fiṭra* (original human disposition) serves as a promising Islamic counterpart to the human good, and thereby as a basis for public civility. In section §4.3.1 ('*Fiṭra* as the human good'), I build on several

[579] Frank Griffel, 'Al-Ghazālī's Use of "Original Human Disposition" (Fiṭra) and Its Background', *The Muslim World* 102, no. 1 (2012): 1-32, p. 3.
[580] Much of Sachedina's work on *fiṭra* with respect to Islamic political theology can be found especially in: Sachedina, *Qur'an on Pluralism*; Abdulaziz Sachedina, 'The Qur'ān and Other Religions', in *The Cambridge Companion to the Qur'ān*, ed. Jane Dammen McAuliffe (Cambridge: Cambridge University Press, 2006); and Sachedina, *Islam and Human Rights*.

Muslim scholars and various Quranic passages to make this case. Then, in section §4.3.2 ('*Fiṭra*: flourishing as a Muslim human?'), I respond to potential objections which hold that *fiṭra* does not comport with the view of universal human flourishing that I present, but connotes the idea of flourishing specifically as a Muslim – that is, that *fiṭra* is inextricably tied to what it means to be a 'good Muslim'. Here, I engage with both contemporary and classical thinkers on either side of the issue. Then, in section §4.3.3 ('Comments on conceptual resonance'), I close this discussion with some crucial remarks about the possibility of there being any conceptual resonance at all between the notions of the human good and *fiṭra* (and, by implication, that of *imago dei*).

The aim of these sections, then, is to set the theoretical groundwork for constructing an Islamic political theology amenable to public civility in plural societies. This latter task makes up the content of the next major section (§4.4) where I employ the basis of *fiṭra* in constructing this ethics-based political theology.

(§4.3.1) *Fiṭra* as the human good

The *Qurʾān* recognizes the reality of diverse communities in which humanity is situated: 'If your Lord had pleased, He would have made all people a single community, but they continue to have their differences' (11:118; cf. 5:48).[581] Yet, there are also passages which indicate the commonalities that all human persons share in virtue of their humanity.[582] For example, *sūra* 91:7-10 speaks of a morality common to every human person in virtue of each having a soul created by God; 7:172 suggests a common spirituality in which all human persons participate, having descended as 'Children of Adam' with the same 'Lord'; and passages such as 3:104-115 and 9:71 describe a common

[581] Except where indicated otherwise, quotations of the *Qurʾān* are from *The Qurʾan*, trans. M. A. S. Abdel Haleem (Oxford: Oxford University Press, 2004).
[582] The discussion of the Quranic passages which follows draws heavily on Mohamed Fathi Osman, 'The Children of Adam', (1997), accessed on 15 January 2012, esp. pp. 12 ff.

human rationality. In brief, there are many Quranic passages that point to the moral, spiritual, and rational attributes that are common and intrinsic to all human persons.

Furthermore, the *Qurʾān* emphasizes the dignity of human persons in passages such as 17:70 which teach, as Mohamed Fathi Osman puts it, that every human being has a 'spiritual compass', and thus is 'granted dignity by God'.[583] Osman goes even further to contend that the very grounding of human rights may be given a Quranic basis[584] – a contention shared by other Muslim scholars.[585] At any rate, this idea of a God-given universal human dignity with its attendant rights can be captured in the term '*fiṭra*'.[586]

There are recent and various explorations of the theme of *fiṭra*. For example, in contrasting it to conceptions of the human person from the perspective of modern psychology, Yasien Mohamed examines the notion of *fiṭra*, characterizing it as 'the deep, common spiritual essence of man'.[587] Habib Ali al-Jifri offers an account of *fiṭra* as 'innate human nature', but connects it further with the notion of *khalīfa* or humanity's role as 'God's viceregent on earth'.[588] My account of *fiṭra* differs fundamentally from Jifri's in that while he aims to locate essential human identity in human agency (*qua* 'God's viceregent'), I focus on what it means for a human person to flourish *qua* human person – not in terms of a divinely given function that a human person is supposed to perform. So, while Jifri's description of *fiṭra* highlights an important aspect of the human good (purposiveness), it does not provide a holistic characterization of the human person. Furthermore, Jifri's account of *fiṭra* would arguably be limited to a specifically Islamic conception of human flourishing – one which involves a specifically Muslim

[583] Osman, 'The Children of Adam', pp. 60-63.
[584] Mohamed Fathi Osman, 'Human Rights in Islam', (2012), accessed on 15 January 2012, pp. 4 ff.
[585] See, e.g., An-Naʿim, 'Islamic Foundations'; Sachedina, *Islam and Human Rights*.
[586] Mohamed notes that *fiṭra* 'linguistically means an inborn natural disposition' in Mohamed, *Fitrah*, p. 15.
[587] See Mohamed, *Fitrah*, p. 15.
[588] See Habib Ali al-Jifri, 'Loving God and Loving Neighbour', in *A Common Word: Muslims and Christians on Loving God and Neighbor*, ed. Miroslav Volf, Ghazi bin Muhammad, and Melissa Yarrington (Grand Rapids: W.B. Eerdmans, 2010), pp. 80-81.

understanding of the purpose of human life – as opposed to one which has greater conceptual resonance within other traditions.

Abdulaziz Sachedina is another Muslim scholar who gives an account of *fiṭra* which resonates strongly with my notion of the human good. In his *Islam and the Challenge of Human Rights*, Sachedina offers an extensive treatment of Islamic theological ethics in an attempt to provide an Islamic grounding for human rights.[589] His stated goal is 'to reach a consensus about human agency [as] linked to human dignity', the latter of which represents 'a special mark of humanness that is entitled to inalienable human rights'. For Sachedina, 'human agency' is crucial to giving an account of human rights since the fundamental call for all Muslims is 'to create a just public order'. Sachedina notes further, however, that human agency is insufficient to ground human rights, and needs to be combined with 'human dignity' which he sees as the defining feature of humanity. For universal human rights derive ultimately, not from human persons' capacity for action (human agency), but from the dignity which makes such action (and interaction) possible. And, for Sachedina, the Islamic conception of human dignity is captured in the term '*fiṭra*'.

There are central features of this characterization of *fiṭra* which resonate with my idea of the human good. For example, with respect to the attribute of rationality, Sachedina argues that humans possess a 'universal moral worth' in view of the 'intuitive reason' inherent in *fiṭra*. That is, as discussed also in Chapter Three, intrinsic to one's *fiṭra* is 'a substantial role for human reason to discern moral truth'; and this connection between *fiṭra* and rational morality is premised on a 'teleological understanding' of human nature. Furthermore, regarding the attribute of relationality, human persons in virtue of their *fiṭra* are understood to be 'essentially social', having an 'existential sacredness' as 'beings in

[589] The quotations of Sachedina in this paragraph and the next are from Sachedina, *Islam and Human Rights*, pp. 97, 48, 86, 29, and 60, respectively.

God's image'. Sachedina's characterization of *fiṭra* illustrates well, then, the connection between *fiṭra* and the attributes of rationality and relationality found in the human good.

With respect to *fiṭra* and purposiveness, the connection here may be illustrated within the context of religious freedom in Islam.[590] To note, there are many Muslim scholars (and Islamic states) that seek to limit seriously the exercise of religious freedom, doing so largely by condemning dissent and criminalizing it as a form of apostasy.[591] However, scholars such as Abdullah Saeed argue that such 'uses and abuses' of so-called 'apostasy laws', as derived from classical Islamic law (*fiqh*), depart from long-standing fundamental Quranic principles which promote 'tolerance and freedom of religion'.[592] Kamali, too, points out that apostasy does not even fall within 'the purview of *ḥudūd* [i.e., prescribed punishment]' since the *Qurʾān* 'specifies no punishment' for such an act.[593] Furthermore, based on various Quranic passages (17:15, 6:104, 18:29, 29:46, etc.), elsewhere Saeed argues that religion is to be understood as 'a human good', and as such, it cannot be coerced; humans have been created with 'intellect and free will' (rationality and

[590] This is a large and controversial matter, one which I do not intend to address at length here. I have written on it more extensively in Richard S. Park, 'Whose Common? Which Good?: Adjudicating between a Clash of Conscience', *Colloquia Journal* (under review). For a thorough-going treatment of this issue that favours a robust view of religious freedom in Islam, see Abdullah Saeed and Hassan Saeed, *Freedom of Religion, Apostasy and Islam* (Aldershot: Ashgate, 2004), esp. Pt. 1. For a counter-perspective, see Crone, *Islamic Political Thought*, Ch. 21, 'Muslims and Non-Muslims'. Despite Crone's generally contrarian stance on this matter, she also notes that '[t]he modernist interpretation of [*sūra* 2:256] may have longer roots than usually assumed'. Crone observes: *Sūra* 2:256 ('There is no compulsion in religion') was taken initially as an injunction in virtue of which *dhimmī*s (those – typically Jews and Christians – who were granted protected people's status) were left free to exercise their religion, but also one which did not prohibit the warfare (*jihād*) that would result in their becoming *dhimmī*s in the first place. This understanding gradually shifted when by the eleventh century Muslim scholars, in distinguishing between 'the spiritual level' of religion and that of 'its morality, its law and its war', held that even if external conformance to Islam was demanded of Arab pagans, 'inner conviction (*iʿtiqād*)' could not be coerced. Going further, the famed *Sunnī* theologian Fakhr al-Dīn al-Rāzī (d. 1209) argued for the view of non-compulsion of non-Muslims on the basis that coercion would undercut moral responsibility (*taklīf*). Hence, Crone concludes, 'By this complicated route the verse came to be read in what a modern reader takes to be its prima facie meaning.' The quotations in this note are from Crone, *Islamic Political Thought*, pp. 382, n. 101, 373, 378, 380, 381, and 382.

[591] See Abdullah Saeed, 'Ambiguities of Apostasy and the Repression of Muslim Dissent', *The Review of Faith and International Affairs* 9, no. 2 (2011): 31-38.

[592] Quotations from Saeed, 'Ambiguities of Apostasy', p. 37.

[593] Kamali, *Shariʿah Law*, p. 191.

purposiveness), and should be free to abandon religion, if they choose to do so.[594] Religion, if it is chosen, is to be chosen freely – an argument developed also by Kamali.[595] In this way, religious freedom, grounded on a notion of *fiṭra*, can be seen to presuppose the essential human attribute of purposiveness.

In sum, an Islamic view of human dignity captured in the term '*fiṭra*', expressible in terms of rationality, relationality, and purposiveness, provides a promising counterpart to the notion of the human good. As Sachedina puts it, the idea of *fiṭra* signifies the 'natural, native, innate, original . . . property with which humans are created by God' – the very 'humanness of humanity'.[596] In this way, *fiṭra* accounts for the human capacity to discern the universal 'moral law' along with the attendant obligation to fulfil the fundamental Muslim call: 'to create a just public order'. In short, humanity's rationality ('intuitive reason'), which exists for the sake of relationality ('a just public order'), both of which presuppose and respect human purposiveness ('a human good'), is captured and undergirded by the Islamic notion of *fiṭra*.[597]

(§4.3.2) *Fiṭra*: flourishing as a Muslim human?

To be sure, there are other arguably more mainstream ways of understanding the meaning of *fiṭra*. In this section, I first consider a more traditionalist understanding of *fiṭra* which seems to be in tension with the one I present above. By building on several notable

[594] Abdullah Saeed, 'An Islamic Case for Religious Freedom', in *Religious Freedom: Defending an Embattled Human Right*, ed. Timothy Shah and Matthew Franck (Princeton: Witherspoon Institute, 2012), pp. 41-43. For more on this point, see Saeed and Saeed, *Freedom of Religion*, pp. 72 ff.
[595] See Mohammad Hashim Kamali, *The Dignity of Man: An Islamic Perspective* (Cambridge: Islamic Texts Society, 2002), pp. 86 ff.
[596] The quotations in this paragraph are from Sachedina, *Islam and Human Rights*, pp. 93-95, 48, and 58, respectively.
[597] It must be noted that the notion of *fiṭra* also involves the idea that anyone who consults her conscience 'would recognize that God is one'; for this reason, Muslims often refer to their faith as *din al-fiṭra* or 'natural religiousness'. See Feisal Abdul Rauf, *What's Right with Islam* (San Francisco: HarperCollins 2005), p. 16. The reason that I do not include this aspect of *fiṭra* is that what is being sought in constructing a framework of public civility are the resources within the traditions of Islam and Christianity which focus on interhuman relations, not human-divine ones. At any rate, the Christian tradition too has ways of understanding the *imago dei* which, like this aspect of the notion of *fiṭra*, involve the idea of a natural inclination to know and worship God (as noted in section §3.4.2, '*Gaudium et Spes*: human dignity and the imago dei').

classical and contemporary Muslim scholars, I suggest a way to hold to my admittedly more idiosyncratic gloss of the term – one which, nevertheless, lies within the purview of classical Islamic thought. In qualifying, then, the traditional view, I contend that the notion of *fiṭra* may offer an Islamic basis for intercommunal public civility, a basis that is resonant with the notions of the human good and *imago dei*.

The so-called '*fiṭra* tradition' – i.e., the *ḥadīth* within the context of which the idea of *fiṭra* is most often discussed – originates from this saying of the Prophet reported by his companion Abū Hurayra (d. 678): 'Every child is born with the *fiṭra*; it is his parents who make him a Jew or a Christian or Majūs [i.e., Zoroastrian]'.[598] According to this tradition, 'all members of humankind are born as [Muslim] believers', and it is 'only the education they get from their immediate environment [which] leads them astray' to other faiths.[599] Within the context of this *ḥadīth*, the idea of *fiṭra* is connected often to certain Quranic passages that deal with the creation of humanity:

> So [Prophet] as a man of pure faith, stand firm and true in your devotion to the religion. This is the natural disposition [*fiṭra*] God instilled in mankind – there is no altering God's creation – and this is the right religion, though most people do not realize it (30:30).
>
> [W]hen your Lord took out the offspring from the loins of the Children of Adam and made them bear witness about themselves, He said, 'Am I not your Lord?' and they replied, 'Yes, we bear witness' (7:172).

In the first passage, *fiṭra* forms what one Muslim scholar describes as the 'Islamic conception of humanity' according to which Muslims are called to 'devotion to [Islam]'.[600] Similarly, as another scholar puts it, *fiṭra* is the 'natural human disposition' which points to

[598] Ibn Qayyim al-Jawziyya, *Wrong Concepts About Predetermination and Causality* [Shifā' al-'alīl fī masā'il al-qaḍā' wa-al-qadar wa-al-ḥikma wa-al-ta'līl], ed. al-Ḥalabī (Cairo: al-Maṭba'a al-Ḥusayniyya al-Miṣriyya, 1994 [1323]), p. 607; quoted in Livnat Holtzman, 'Human Choice, Divine Guidance and the Fiṭra Tradition', in *Ibn Taymiyya and His Times*, ed. Yossef Rapoport and Shahab Ahmed (Oxford: Oxford University Press, 2010), p. 166. See Bukhari and Muslim, vol. 6, Bk. 60, *ḥadīth* no. 298.
[599] Holtzman, 'Fiṭra Tradition', p. 167.
[600] Ramadan, *Western Muslims*, p. 16 and p. 230, n. 16.

'humanity's inborn knowledge' of religious reality.[601] Here, it appears that *fiṭra* is connected intricately with the religion of Islam. And so much the same is true regarding the second passage about which Livnat Holtzman writes: 'Although the term *fiṭra* is not explicitly used, this verse [7:172] suggests that the monotheistic faith [of Islam] is the primordial state of humankind.'[602] More specifically, the innate constitution of humanity (*fiṭra*) is such that each person ('the Children of Adam') is created to recognize that Allāh is 'Lord'. In both passages, then, it seems that the idea of *fiṭra* is tied inescapably to the identity of human persons as Muslim believers.

But is this the only possible or even most appropriate reading of '*fiṭra*' as found in the *ḥadīth* and Quranic passages? In order to answer this question, it is helpful to consider another Islamic notion – *viz*., 'right guidance and going astray' (*al-hudā wa-al-ḍalāl*)[603] – the phraseology of which appears in various Quranic passages (e.g., 2:26, 6:125, 20:123, 34:50, etc.).[604] This notion of *al-hudā wa-al-ḍalāl* lies at the heart of debates over divine predetermination and human free will. The second caliph 'Umar Ibn al-Khaṭṭāb (d. 644) who favours the predetermination view holds that passages such as 7:172 (referenced above) suggest at the time of the creation of humanity God predetermined the fate of all of the offspring of Adam, designating some for Paradise and the others for Hell.[605] Likewise, the noted Ḥanbalī scholar Abū Yaʿlā (d. 1066) argues that human obedience results from God's having placed in believers the right faith, and that disobedience results from the apostasy that is predeterministically created in those who disobey.[606] Abū Hurayra (the reporter of the *ḥadīth* in question, as noted above) also indicates his preference for the

[601] Umar Faruq Abd-Allah, 'Theological Dimensions of Islamic Law', in *The Cambridge Companion to Classical Islamic Theology*, ed. Tim Winter (Cambridge: Cambridge University Press, 2008), pp. 248-51.
[602] Holtzman, 'Fiṭra Tradition', p. 167.
[603] See Holtzman, 'Fiṭra Tradition', p. 165.
[604] For example, '. . . He makes many go astray and leads many to the right path . . .' (cf. 2:26).
[605] See Holtzman, 'Fiṭra Tradition', p. 171.
[606] See Abū Ya'lā, *Kitāb Al-Mu'Tamad Fī Uṣūl Al-Dīn*, ed. Wadi Z. Haddad (Beirut: Dār al-Mashriq, 1974), p. 133; cf. Holtzman, 'Fiṭra Tradition', pp. 172-73.

determinist view when, commenting on *sūra* 30:30, he writes: 'There is no changing God's creation with which He created all the children of Adam, that is, apostasy and faith, recognition [of 'the existence of God'] and denial.'[607] The point is that if God is the one who guides and leads astray, then the nature of *fiṭra* is delimited by its original disposition of either being rightly guided or going astray, leaving no room for human choice.

By contrast, other scholars such as Ibn Sīnā (d. 1037) and Ibn Taymiyya (d. 1328) argue that human free will does play a role, indeed an indispensible one, with respect to 'right guidance and going astray', and that one's exercise of free will crucially depends on one's possessing a *fiṭra*. In what follows, I consider the thought of Ibn Sīnā and Ibn Taymiyya (among others) in explicating a way of understanding *fiṭra* that comports with a more universalistic view than does the determinist understanding offered by Abū Hurayra, 'Umar, and Abū Yaʿlā.

To begin, it should be noted that certain theological problems arise under the determinist understanding of *fiṭra*, that is, when construed as essentially equivalent to 'Islam'. For one, as Griffel points out, it would be difficult to say which 'religion' an anachronistic 'Muslim' would embrace, if her *fiṭra* were supposed to be 'Islamic'.[608] For before Islam came onto the world scene, on the assumption that *fiṭra* is innately 'Islamic', how could anyone properly be called a Muslim? To be sure, a solution to this problem has been put forward which exploits the notion of *ḥanīf* or 'a way of being created'. In *sūra* 6:75-79, Abraham is called a '*ḥanīfan musliman*', i.e., one whose *ḥanīf* is submitted to Allāh. Thus, the argument goes, monotheists who lived before the inception of the religion of Islam could be said to have been guided rightly by *fiṭra* in virtue of their being created as a true believer. But, this response seems to result in a further problem: If *fiṭra* were sufficient to guide, why, then, would there have been need for the *Qurʾān* as revelation?

[607] al-Jawziyya, *Predetermination and Causality*, p. 634; quoted in Holtzman, 'Fiṭra Tradition', p. 175.
[608] Much of what follows on Ibn Sīnā, al-Ghazālī, and Ibn Taymiyya is drawn heavily from Griffel, 'Al-Ghazālī's Use of Fiṭra'. The quotations in this paragraph are from p. 4.

The answer that Ibn Sīnā gives to this question is that, while one's *fiṭra* helps one to understand 'grammar [for] speech and metric rules [for] poetry', when it comes to cognitively more demanding 'analytical thinking' ('*rawiyya'*) as well as to moral judgments, one's *fiṭra* must be 'assisted by God Exalted'.[609] That said, elsewhere Ibn Sīnā contends that *fiṭra* delivers knowledge that is common to all humanity, calling such deliverances 'commonly accepted judgments [*al-mashhūrāt*]'[610] – a view which comports with the universalistic conception of *fiṭra* that I present above.[611]

Another classical Muslim thinker whose ideas support a non-determinist view of *fiṭra* is Ibn Taymiyya. In keeping with a traditionalist understanding of the *ḥadīth* in question, Ibn Taymiyya concedes that a child of non-Muslim parents follows in the religious way of his parents since he 'must have someone who educates him'.[612] But, as he writes in his 'The Dispute about the *Fiṭra*', over time 'the human being has the ability to accept the faith that God has ordered . . . , and to abandon unbelief'.[613] Thus, in an effort to argue against divine predetermination, Ibn Taymiyya concludes that *fiṭra* does not close off the future exercise of free will.

What, then, does he do with the passage in 30:30 which declares that 'the natural disposition [*fiṭra*]' can suffer 'no altering'? Here, Ibn Taymiyya distinguishes between God's 'normative will', expressed in terms of absolute 'commands and prohibitions', from God's 'creative will', which humans *qua* 'created beings' may choose to disobey.[614] In arguing that the passage in question involves the latter, Ibn Taymiyya contends that *fiṭra*,

---

[609] Ibn Sīnā, *The Book of Salvation* [al-Najāt min al-gharq fī baḥr al-ḍalālāt], ed. M. T. Dānishpazhūh (Tehran: Intishārāt-i Dānishgāh-i Tihrān, 1985 [1364]), Ch. 9, Secs. 4-8; quoted in Griffel, 'Al-Ghazālī's Use of Fiṭra', p. 14.
[610] Ibn Sīnā, *Pointers and Reminders* [al-Ishārāt wa-al-tanbīhāt], ed. Ibn Muḥammad Ṭūsī (Tehran: Daftar Nashr al-Kitāb, 1983), pp. 58-59; quoted in Griffel, 'Al-Ghazālī's Use of Fiṭra', p. 24.
[611] Other 'Jurist-philosophers' such as al-Shāṭibī as well as Ibn Tufayl (d. 1185) make a similar point about common rationality. See Muhammad Khalid Masud, 'The Scope of Pluralism in Islamic Moral Traditions', in *Islamic Political Ethics*, ed. Sohail Hashmi (Princeton: Princeton University Press, 2002), p. 137.
[612] al-Jawziyya, *Predetermination and Causality*, 634; quoted in Holtzman, 'Fiṭra Tradition', p. 173.
[613] Ibn Taymiyya, 'The Dispute About the Fiṭra', in *Majmū'at Al-Rasā'il Al-Kubrā*, ed. Rashīd Riḍā (Cairo: Maktabat wa-Maṭba'at, 1966 [1385-1386]), pp. 333-49; quoted in Holtzman, 'Fiṭra Tradition', p. 177.
[614] Cf. Holtzman, 'Fiṭra Tradition', p. 178.

while innately Muslim and potentially other (Jew or Christian or Zoroastrian), is ultimately re-convertible to an Islamic nature. In support of this view, the famed Ibn Kathīr (d. 1373), in explicating the relevant *ḥadīth* in light of *sūra* 7:172, also argues that the creation of the offspring of Adam is not a once and for all event, but one which takes place 'a generation after a generation'[615] such that the eternal destiny of each human creature is not predetermined, but dependent on human obedience based on the free will inherent in *fiṭra*.

In sum, if one holds to the Taymiyya-Kathīr view,[616] one could argue that a given person's *fiṭra*, while non-Islamic at birth, possesses a second-order capacity to take on an Islamic nature. Conversely, by implication, given human choice and the religious 'flexibility' of *fiṭra*, one also could argue that a *fiṭra* which is Islamic at birth could take on a non-Islamic one later in life. Indeed, precisely this conclusion is drawn by Holtzman who suggests that Ibn Taymiyya's 'emphasis on the human ability to affect change' demonstrates the capacity of *fiṭra* to 'journey from unbelief to faith and vice versa'.[617] In this way, the notion of *fiṭra* can be seen to exhibit significant conceptual latitude with which the notions of the human good and *imago dei* overlap. Thus, while, as Holtzman writes, Ibn Taymiyya's view 'stands in contrast to the way the *fiṭra* tradition was interpreted by the early generations', it remains an important way of construing this tradition, one that is compatible with that of other classical mainstream Muslim thinkers.

Much more would need to be said before a case could be made to maintain that an Islamic political theology grounded on the basis of *fiṭra* provides the resources for constructing public civility. I return to such a discussion about this connection between *fiṭra* and Islamic political theology in section §4.4 below. For now, I would like to offer some further crucial comments with respect to the idea of conceptual resonance between the notions of the human good and of *fiṭra*, and by implication that of *imago dei*.

[615] Ibn Kathīr, *Tafsīr al-Qur'ān al-Karīm*, 2:264; quoted in Holtzman, 'Fiṭra Tradition', p. 185, n. 25.
[616] There are other classical scholars who hold to this more universal view; cf. Mohamed, *Fitrah*, pp. 41-44.
[617] The quotations in this paragraph are from Holtzman, 'Fiṭra Tradition', p. 182.

(§4.3.3) Comments on conceptual resonance

Here I consider more directly the matter of conceptual resonance which is captured well in this question from Joseph Boyle: 'Why should it be impossible that the same proposition or prescription can be expressed in different languages or arrived at with very different starting points and presuppositions?'[618] Indeed, Boyle argues, conceptual latitude is not impossible. Many propositions, even if expressed in different languages, carry the essentially similar meaning. Consider, for example, mathematical or logical propositions or simple ones as the following: eggplants are a kind of thing different from elephants.

The legal theorist Raymond Plant offers a helpful observation on this matter:[619] 'Words and networks of words are undoubtedly learned in specific contexts . . . , but this does not, of itself, entail that the subsequent use of words has to be tied in an internal way to these contexts'. Thus, moral terms along with their meanings can be articulated and apprehended across traditions. For from within 'different narrative contexts', Plant continues, there can emerge 'a common set of values' upon which there could be constructed 'a moral framework' that extends beyond the 'boundaries of particular narratives'. Accordingly, the terms '*fiṭra*' and '*imago dei*', though originating in different contexts, can and as I have shown do share significant conceptual overlap with the idea of the human good, and thus with each other. Such notions provide the conceptual foundation for constructing a framework of public civility which yield, as Bernard Häring puts it, in a different but related context, 'similar results within different vocabularies'.[620]

[618] Joseph Boyle, 'Natural Law and International Ethics', in *Traditions of International Ethics*, ed. Terry Nardin and David Mapel (Cambridge: Cambridge University Press, 1992), p. 7.
[619] The following two quotations are from Plant, *Politics, Theology, History*, pp. 357-58.
[620] Bernard Häring, 'Dynamism and Continuity in a Personalistic Approach to Natural Law', in *Norm and Context in Christian Ethics*, ed. Gene Outka and Paul Ramsey (New York: Charles Scribner's Sons, 1968), p. 216.

That it is possible to have agreement over the idea of the human good without a common vocabulary is an insight that I draw from Maritain's view on human rights.[621] While an Islamic conception of the human good might be justified by way of the *Qurʾān*, a Catholic one might so be justified given the resources of the doctrine of the *imago dei*. (There are parallel examples of this idea of differing yet resonant conceptualizations of ideas within the Christian and Islamic traditions, particularly as they draw on Aristotelian thought. In addition to the notions of *determinatio*, *ijtihād*, and *epikeia* discussed above in section §4.2.2, consider also Noah Feldman's treatment of the idea of freedom of conscience.)[622] What is crucial with respect to the idea of the human good as a basis for public civility is not identifying some singular justification or vocabulary of it; rather, its fecundity derives from the resonances it has within divergent traditions.

Furthermore, as is widely known, there are significant influences of Aristotelian thought on Islamic and Christian theological ethics, as seen notably in Ibn Rushd (d. 1198) and Aquinas (d. 1278).[623] Moreover, a particularly telling example of such conceptual resonance can be seen in the comparison between the fundamental Muslim duty – 'order what is right, forbid what is wrong' – and the 'first precept of [natural] law' – 'good is to be done and pursued, and evil is to be avoided'.[624] While the Islamic version is a commandment and the Christian one a precept, that they serve as the foundations for moral theorizing within the respective traditions is worth noting. These examples suggest that conceptual resonance regarding human teleology between Christian and Islamic traditions, which draw on Greek philosophy, may justifiably be expected.

---

[621] See Maritain, *Man and State*, esp. pp. 76-80. Interestingly, Maritain goes on to offer a 'philosophical foundation' for human rights specifically by way of 'Natural Law theory', even after acknowledging the necessary inflection inherent to such justifications.
[622] Noah Feldman, 'The Intellectual Origins of the Establishment Clause', *New York University Law Review* 77 (2002): 346-428, p. 356, n. 38.
[623] For an introduction to this discussion, see Majid Fakhry, 'Averroes, Aquinas, and the Rediscovery of Aristotle in Western Europe', (Washington, D.C.: Georgetown University, 1997), (accessed on 9 May 2011).
[624] See *sūra* 3:110; and Aquinas, *Summa Theologica*, I-II, Q. 94, Art. 2, respectively.

To note, there may be concerns as to whether the notions of *fiṭra* and *imago dei* are substantially disparate so as not to warrant an essentially similar gloss. Thus might go the argument: The notion of *fiṭra* comports with a generally positive view of the human condition – that what is needed for a flourishing human life is mainly legal guidance;[625] whereas, the notion of *imago dei*, especially when considered under the Augustinian view of original sin – whereby humans are marred by the deeply deleterious effects of sin[626] – would tend toward a more negative view. More concretely, one might argue that the universalistic conception of *fiṭra* that I put forward does not cohere well with the 'deterministic doctrines' of the majoritarian (*Ashʿarī*) theological traditions in Islam;[627] furthermore, conversely, within at least a Protestant Christian theological tradition, a rather pessimistic view of *imago dei* would not resemble the more positive understanding of the human good found in the idea of *fiṭra*.

There are several comments I offer which should allay such concerns. First, as I argue further in section §4.4, there are compelling reasons to reject *Ashʿarī* theology in favour of the *Muʿtazilī* tradition, the latter of which conceives of human persons as robustly moral, rational, free-willed beings. The *Muʿtazilī* theological tradition would be amenable to a more universalistic understanding of *fiṭra*, and thereby more conducive to the construction of public civility in plural societies. Secondly, while the Protestant Christian conception of the doctrine of the *imago dei* may tend toward more pessimistic views of the human condition, a more Roman Catholic conception, with which my project is concerned, is generally optimistic. Catholic Social Teaching are, if anything, 'optimistic statements about humanity',[628] offering a view of the human person which comports well

[625] Precisely this line of reasoning is taken up in Mohamed, *Fitrah*, pp. 25-32.
[626] See Dominic Keech, *The Anti-Pelagian Christology of Augustine of Hippo* (Oxford: Oxford University Press, 2012), Ch. 3, 'A Divine Humanity in Sin's Likeness'.
[627] Cf. Holtzman, 'Fiṭra Tradition', p. 167.
[628] Regan, *Theology and Discourse*, p. 33.

with the attributes of the human good.[629] To note, from the earliest centuries of the Christian theological tradition, there have been thinkers such as Lactantius (d. 320 AD) whose commentary on the idea of the *imago dei* resembles quite closely that given by many Muslim scholars on the idea of *fiṭra*, as considered above; Lactantius writes:

> So much for what is due to God. Now I shall say what is due to man – though whatever you grant to man, you also grant to God, since man is the likeness of God. . . . The greatest bond between people is their humanity; . . . If we all spring from the one man whom God made, then we are certainly linked by blood.[630]

For these reasons, I maintain that certain key themes within the traditions of Islam and Christianity, namely *fiṭra* and *imago dei*, exhibit deep conceptual resonances with the notion of the human good, and thereby represent promising grounds on which to construct public civility in plural societies. My account of the human good is not unlike Ethna Regan's 'situated universalism' regarding human rights – one which 'places emphasis on universalism without denying that the formulation and explication of that universalism are always situated somewhere'.[631] That is, though situated and articulated differently within the traditions of Christianity and Islam, the notion of the human good coheres with and draws on the ideas found within these traditions: namely, the *imago dei* and *fiṭra*.[632]

To note finally, the peace studies pioneer John Galtung considers two factors as indispensible to the construction of peace in conflictual societies: (1) a belief that '*there is . . . God in everybody*'; and (2) an attitude toward 'diversity as a source of mutual

[629] For more on Catholicism's 'optimistic' view of humanity's 'inchoate' tendency toward moral virtue, especially as found in the thought of Aquinas, see Keys, *Aquinas*, pp. 103-10.
[630] Lactantius, *Divine Institutes* [Divinae Institutiones], ed. Anthony Bowen and Peter Garnsey (Liverpool: Liverpool University Press, 2003 [ca. A.D. 304]), Bk. 6, Sec. 10, pp. 349-50.
[631] Regan, *Theology and Discourse*, p. 11.
[632] For those concerned with the language of 'God's image' within Islamic theology, it may be helpful to consider the words of one Muslim scholar who writes, 'it is inconceivable that the soul engendered by the spirit of Allāh, breathed into existence by the Divine and destined to return to the Divine, inheres no trace of the mark of the Divine'. See Mohamed, *Fitrah*, p. 62. Or, as Sachedina puts it more bluntly, humans are 'beings in God's image'. See Sachedina, *Islam and Human Rights*, p. 60.

enrichment'.[633] Strikingly, these conditions resonate respectively with: (1) the *imago dei*; and (2) certain passages in the *Qurʾān* according to which the diversity of human cultures, like that of 'the heavens and earth' (cf. 30:22), was created not only 'as a sign of divine creative beauty', but also 'for the sake of mutual recognition' (cf. 49:13). Thus, even from the perspective of a secularist scholar, the theological concepts of *imago dei* and *fiṭra* appear as promising candidates for the task of grounding public civility.

(§4.3.4) Summary and transition

What is presented above is an investigation into the grounds for a universal moral framework which protects and promotes a common life marked by public civility in plural societies, a framework which may help to overcome the inadequacies of the commonly taken 'common good'/'*maṣlaḥa*' approach. As argued above and in Chapter Three, a promising basis for grounding such a framework is found in the notion of the human good which consists in the essential attributes of rationality, relationality, and purposiveness; and these attributes have resonance with key notions in Catholic and Islamic theologies.

I turn now to the task of articulating an Islamic political theology which is grounded crucially on the notion of *fiṭra*, and which is amenable to a framework of public civility. In what follows, I construct an Islamic political theology by drawing on the resources of Islamic theological ethics rather than on those of Islamic jurisprudence, having considered above the shortcomings of the latter. By way of introduction to this discussion, I analyze more generally the notion of political theology and the crucial role it plays in plural societies.

[633] Johan Galtung, 'Introduction: Peace by Peaceful Conflict Transformation', in *Handbook of Peace and Conflict Studies*, ed. Charles Webel and Johan Galtung (London: Routledge, 2007), p. 24 (emphasis original).

(§4.4) Public civility and Islamic political theology

The theologians William Cavanaugh and Peter Scott offer this characterization of 'political theology':

> Theology is broadly understood as discourse about God, and human persons as they relate to God. The political is broadly understood as the use of structural power to organize a society. . . . Political theology is, then, the analysis and criticism of political arrangements . . . from the perspective of differing interpretations of God's ways with the world.[634]

Following Cavanaugh and Scott, I use the term 'political theology' to refer to those aspects of theology which bear on questions of politics: e.g., Should the adherents of a given theological/religious community engage the political? What is the relationship between religion and politics? How, if at all, do and ought the ethical dimensions of a given theological tradition bear on social-political order? Put roughly, political theology concerns the theology of politics.[635]

In the following sections, I consider specifically Islamic political theology with respect to the construction of public civility. Though it is not, as noted above, within the realm of politics *per se* that public civility is to be constructed, because especially in Islam the former is so crucial a dimension for the latter, I examine its political theology.[636] One

---

[634] William Cavanaugh and Peter Scott, 'Introduction', in *The Blackwell Companion to Political Theology*, ed. Peter Scott and William Cavanaugh (Malden: Blackwell, 2004), p. 1.

[635] Hent de Vries distinguishes 'the political (*le politique*)' from 'politics (*la politique*)' whereby the former term denotes 'its very concept and its conceptual analogues, such as sovereignty, democracy, etc.', and the latter refers to its 'juridical, administrative or policy-oriented, national, and international aspects'. See Hent de Vries, 'Introduction', in *Political Theologies: Public Religions in a Post-Secular World*, ed. Hent de Vries and Lawrence Sullivan (New York: Fordham University Press, 2006), p. 1. While this distinction is useful and while I focus primarily on theological considerations of 'the political', I use the terms generally interchangeably, employing predominantly 'politics' to stand for either concept.

[636] Given my aim of grounding public civility, one might suggest Islamic 'public' theology as a more suitable term. Indeed, in another context, Sachedina uses 'public theology' in discussing the relevance of Islamic theology to social issues. See Sachedina, *Islam and Human Rights*, pp. 119, 146, etc. But, overall he prefers 'political theology', distinguishing his work from that of Max Stackhouse who, Sachedina writes, 'speaks of "public theology" to argue about the importance of theology for public discourse' (p. 25). Sachedina instead insists on 'political rather than public theology', since it is in the realm of politics where 'the implementation of religious ideas for a just public order' is to be carried out (p. 25), an implementation that is crucial for fulfilling the fundamental Muslim call. Stackhouse, by contrast, characterizes his project as 'public theology': (1) 'because that which we as Christians believe we have to offer the world for its salvation is not esoteric, privileged, irrational, or inaccessible; and (2) 'such a theology [which] will give guidance to the structures

Islamicist writes: 'Islam had its own political theology in that, on the one hand, (almost) all its rulers sought the legitimization of their power in religion, and, on the other hand, God is held to be the main source of legislation and power.'[637] Similarly, the classical jurist al-Māwardī (d. 1058) suggests, 'The Imamate [religious/political leadership] is prescribed to succeed prophethood as a means of [both] protecting religion and managing the affairs of this world.'[638] A theology of politics is unquestionably an integral part of the Islamic intellectual tradition.

Immediately below, building on, yet in critical tension with, the works of reformist Muslim scholars such An-Naʿim, Sachedina, and Tibi, I seek to commend an Islamic political theology that is conducive to, indeed crucial for, the construction of public civility. In this discussion, I draw on a central contention that is shared among these and other Muslim scholars: that there is a deep need to a return to the 'original Islamic vision' which seeks to prioritize ethics (*akhlāq*) over law (*aḥkām*). Such an Islamic political theology, I contend, would offer a promising framework for intercommunal (i.e., Muslim/non-Muslim) public civility in plural societies.

(§4.4.1) Islamic political theology in the liberal state

The political theorist and Islamicist Andrew March argues that the most important feature of any framework for Muslim/non-Muslim engagement in liberal polities is the exclusion of any reasoning based on 'a universal conception of the self or of the good'.[639]

---

and policies of public life [is] ethical in nature'. See Max Stackhouse, *Public Theology and Political Economy* (Grand Rapids: Eerdmans, 1987), p. xi. At bottom, the two terms come very close in meaning (especially on account of Stackhouse's second point); however, in keeping with the term used by a Muslim scholar on whose thought I construct much of my own account (cf. Sachedina), and to underscore the point which occasioned this clarification – that Islamic political thought is crucial for the task of public civility – I use 'political theology'.

[637] Massimo Campanini, 'Alfarabi and the Foundation of Political Theology in Islam', in *Islam, the State, and Political Authority*, ed. Asma Afsaruddin (Basingstoke: Palgrave Macmillan, 2011).

[638] Abu'l-Hasan al-Mawardi, *The Laws of Islamic Governance* [Al-Ahkam al-Sultaniyyah], ed. Assadullah ad-Dhaaki Yate (London: Ta-Ha, 1996), p. 10.

[639] The quotations in this paragraph are from March, 'Theocrats', p. 48.

Consequently, he commends the *maqāṣid al-sharīʿa* (the purposes of Islamic law) as a promising 'framework of argumentation', a framework which allegedly provides a 'consensus on the most important social and political interests [that *sharīʿa*] must protect' while simultaneously allowing room for 'deep disagreement'. As discussed at length above, the two fundamental problems I see with this approach are: (1) that a framework based on the *maqāṣid* is necessarily informed by an Islamic jurisprudence that at many substantive points are incompatible with the legal systems of a liberal democratic society; and (2) without any 'prior consensus on the self', there can be no non-relativistic basis on which to adjudicate contentious matters within a liberal society; hence, the need for the notion of the human good. In what follows, I outline the features of an Islamic political theology based on the idea of the human good (*fiṭra*), a theology which resists the alleged neutrality of 'secular law', and which accommodates an Islamic vision of the political realm.

(§4.4.2) The political-theological 'framework' of Abdullahi Ahmed An-Naʿim

An-Naʿim offers a robust Islamic political theology (without using the term), basing his analysis on the Islamic corpus as well as on the historical-social reality found especially at the time of the Prophet Muḥammad.[640] The core of An-Naʿim's political theology consists in the dual-contention that: (1) the early history of Islam permits, indeed prescribes, a separation of the religious and political spheres of authority; and (2) any authentically Islamic political theology must presuppose a 'secular state'. In the following sections, I unpack An-Naʿim's ideas, highlight several implications of his proposal, and offer an appreciative critique of both. I begin with a brief historical sketch of the early political history of Islam which suggests a separation of the spheres of religious and political authority.

[640] Though his other works are consulted, much of what follows is a critical engagement with what he describes as 'the culmination of my life's work', a 'final statement' of his position, namely, An-Naʿim, *Islam and Secular State*, with quotation from p. vii.

(§4.4.2.1) A separation of the spheres of authority

In the early history of Islam – during Umayyad rule (*ca*. 661-750) and the 'Abbāsid monarchies (*ca*. 750-850) – Muslim rulers began to see themselves as not only successors of the Prophet, but indeed as 'Deputies of God' or caliphs (Ar. *khalīfa*), thereby enmeshing religion and political rulership: the caliphate became the 'link with cosmic order'.[641] During this period, alongside caliphate rule, a nascent yet robust juridical enterprising began to take up the role of establishing the principles of Islamic law. In this sense, Islamic legal theory (*uṣūl al-fiqh*) could be said to have begun as early as the first century of Islam during which time an initial substantive articulation of it was given by the famed jurist Shāfiʿī (d. 820).[642] Over time and through the classical period (the tenth to the fourteenth centuries), the so-called 'three circles' of religion, state, and society – initially a 'perfect identity' – began to pull apart: more exactly, as Patricia Crone contends, while state and religion no longer overlapped, society was 'still organized on a religious basis'.[643] In short, 'nomocracy' has long been the standard Islamic polity.[644]

Other scholars are quick to point out, however, that even the overlap between religion and politics was not originally meant to be so complete; that even though Islam was 'embodied in a political organization almost from the start',[645] the original Islamic vision (in Mecca) was such that politics and religion were not enmeshed. That is, in the Meccan period – the time at which the very idea of *sharīʿa* was revealed to the Prophet (cf. *sūra* 45:18) – a normative political structure did not feature at all.[646] Moreover, in the time following the Prophet's Medinan polity ('the classical caliphate'), there was, as Tibi writes, a 'separation between siyasa (state administration or politics) and shari'a (divine

[641] See Antony Black, *The History of Islamic Political Thought*, 2nd ed. (Edinburgh: Edinburgh University Press, 2011 [2001]), Ch. 2, 'The Idea of Monarchy' and 'Conclusion', quotations from pp. 18 and 21.
[642] Ahmad, *Islamic Law*, p. 27.
[643] Crone, *Islamic Political Thought*, pp. 396-98.
[644] Nazih Ayubi, *Political Islam* (London: Routledge, 1991).
[645] Crone, *Islamic Political Thought*, p. 13.
[646] I discuss this point further in section §4.4.5 below. See also, Kamali, *Shariʿah Law*, pp. 2-7.

guidance)',[647] what Schacht calls 'a double administration'.[648] Thus, despite the fact that, as Crone contends, 'there was no religious community separate from the political organized',[649] the so-called 'complete fusion of the religious and the political' did not exist in Mecca as part of the original vision of Islam nor throughout most of the classical and medieval periods after the Medinan polity. Consequently, as Salvatore and Eickelman write, the 'modern fundamentalist cry [of] "religion and state"' does not fit the history of Islam.[650] Going even further, other scholars such as An-Naʿim and Sachedina provide arguments according to which the original Islamic vision, found especially in the earlier Meccan passages of scripture, presents a normative separation of religion and politics. Such arguments make Crone's claim about the political embodiment of Islam being found 'almost from the start' just that: almost. I turn now to consider further these arguments.[651]

In his recent work, An-Naʿim argues for the need of a 'secular state' which he maintains accommodates, indeed best ensures, an authentic Muslim way of life.[652] According to An-Naʿim, when Islam and the state are enmeshed, Muslims are subject to the 'coercive enforcement' of the state. This subjugation inevitably 'promotes hypocrisy (*nifaq*)' which, of course, is 'categorically and repeatedly condemned by the Qurʾan'. An-Naʿim suggests that only a religiously plural ('secular') state guarantees the possibility of Islam's being practiced as it should be: freely. So, a 'secular state' is necessary for Islam.

---

[647] Tibi, *Islamism and Islam*, p. 160.
[648] Schacht, *Islamic Law*, pp. 54-55.
[649] The quotations in this sentence are from Crone, *Islamic Political Thought*, p. 15.
[650] Salvatore and Eickelman, *Public Islam*, p. xvi. While in the *Shīʿi* tradition religious and political authorities were intricately connected ('both being vested in the person of the Imam'), within Sunnism there is in principle no such connection. See Jonathan Berkey, *The Formation of Islam* (Cambridge: Cambridge University Press, 2003), p. 125.
[651] I realize that the force of this claim is given relatively greater weight insofar as one argues against the Islamic doctrine of abrogation (*naskh*) according to which later Medinan passages of the *Qurʾān* are taken as superseding or abrogating the earlier Meccan ones. (For more on this subject, see David Marshall, *God, Muhammad and the Unbelievers: A Qurʾanic Study* (Surrey: Curzon, 1999), Afterward 1.) However, for considerations of space, aside from my comments in section §4.4.5, I refer readers to the concise yet potent argument for non-abrogation given in David Bukay, 'Peace or Jihad? Abrogation in Islam', *Middle East Quarterly* 14, no. 4 (2007): 3-11.
[652] The quotations of An-Naʿim in this paragraph and the next are from An-Naʿim, *Islam and Secular State*, pp. vii and 4-5.

Here, An-Naʿim notes an important distinction between Islam-and-state and religion-and-politics. A failure to separate the former (Islam-and-state) would be to contravene certain fundamental tenets of Islam, e.g., the exercise of free worship, complete submission to Allāh, etc.; whereas to separate the latter (religion-and-politics) is neither beneficial to democratic society nor even possible on the basis of the internal logic of Islam. An-Naʿim's rationale runs as follows. The state, as a 'web of organs, institutions, and processes', is meant to implement the deliverances of a given society's political processes; whereas politics, construed as the activity of political actors vying for their 'competing visions of the public good', makes up the very 'process of making choices among competing policy options'. Thus, while it is arguably necessary and beneficial that Islam (or perhaps Muslims) engage in politics, it ought to remain separate from the state.

Related to this separation is the need for the secular imperative. Since a theocratic 'Islamic state' would not allow in principle for freely held religious beliefs, there is a need for the secular imperative, or what An-Naʿim calls 'secularism as mediation'.[653] Accordingly, a religiously plural state would provide the needed public 'space' in which religious communities could draw on their respective traditions – conditional on the use of 'civic reason'[654] – to engage and persuade other communities in forging a common public life. For, An-Naʿim argues, a primary role of the state is to provide a 'framework for negotiating ethical differences among citizens'. And only a functionally secular state could grant this kind of political equality among its divergent communities.

Furthermore, not only is a secular state necessary for Islam, but the internal logic of Islam itself makes an 'Islamic state' impossible. An-Naʿim recognizes that the principles

[653] The quotations in this paragraph are from An-Naʿim, *Islam and Secular State*, pp. 137, 36-44, and 276, respectively.
[654] To note, by 'civic reason' An-Naʿim means 'the sort of reasoning that most citizens can accept or reject' (p. 7), reasoning which is conceptually wider than Rawls' 'public reason', even given the '*proviso'* of the latter, since the former does not necessarily entail a translation process. (On 'public reason', see Rawls, *Political Liberalism*, esp. Lec. VI; on Rawls' 'proviso', see Rawls, 'Public Reason Revisited', p. 776.)

of the secular imperative, or 'religious neutrality', are incompatible with many Islamist movements which seek the establishment of the so-called Islamic state.[655] Consequently, in response to the claim that a secular state cuts off the 'rights' of those who seek Islamic theocracy, An-Naʿim writes plainly: 'The claim of some Muslims to [a right] to enforce Shariʿa through state institutions must be forcefully blocked because it constitutes an immediate repudiation of the right of all citizens to believe in Islam or another religion or opinion.' That is, for Islam (or any religion) to flourish it must be adhered to freely – and an 'Islamic state' by its very nature would eliminate the needed freedom, yielding an un-Quranic hypocrisy. Thus, An-Naʿim contends that, given its 'essentially religious nature', *sharīʿa* cannot undergo political implementation lest it be consigned to 'the secular political authority' of the state, yielding both an untenable political theory and an inauthentic Islamic polity. Furthermore, historically considered, *sharīʿa* would not have been enforced by the state 'because the state lacked the authority' to enact it, an authority that laid with the religious scholars (*ʿulamāʾ*). Thus, while Islamists see the 'state' of Medina as the ideal Islamic polity, An-Naʿim argues that '[u]nless there is another prophet (and Muslims do not accept that possibility), that first polity of state cannot be replicated anywhere'. Simply put, 'the state has always been a political, not religious, institution'. Therefore, a secular state is not only theologically normative in Islamic political thought ('because no other human being can enjoy the Prophet's combination of religious and political authority'), but it is also the predominant historical reality.

[655] The quotations in this paragraph are from An-Naʿim, *Islam and Secular State*, pp. 279, 291, 16-20, 284-85, and 52-53, respectively.

(§4.4.2.2) Implications and critique

There are three important implications of An-Naʿim's work which I find relevant for constructing an Islamic political theology of public civility. I spell these out before turning to a more general and appreciative critique.

The first implication which can be drawn is that neither 'secularism as mediation' nor the separation of the religious and political spheres entails a strict 'doctrinal' secularism as described above.[656] Rather, paradoxically, as An-Naʿim argues, religion requires (political) secularism in order to 'mediate relations among different communities' who share a common space. In this way, An-Naʿim constructs an Islamic political theology that not only accommodates but positively requires religion's crucial if careful involvement in the political. A second implication is that the conceptual justification of 'secularism as mediation' need not be agreed upon by divergent traditions for its validity. Different religious and nonreligious traditions may ground differently their respective justifications for a secular state; indeed, it is precisely because they would ground them thusly that 'secularism as mediation' is necessary. A third and final implication I note is that, as An-Naʿim himself writes, his political-theological 'framework does not preclude the application of some principles of Shariʿa through state institutions', provided that: (1) it is 'supported by civic reasons'; (2) it is 'subject to constitutional and human rights safeguards'; and (3) it 'does not violate the rights of others'.

This last point brings me to an appreciative critique of An-Naʿim's overall project and its implications. To begin, I consider his two main contentions as important and sound: (1) that the political history of Islam attests to a separation of the religious and political spheres; and (2) that the functional secularity of the state is both necessary and beneficial for liberal democratic societies. As to the three implications delineated immediately above,

[656] The quotations in this paragraph are from An-Naʿim, *Islam and Secular State*, pp. 276 and 290.

I offer empirical evidence in favour of the first, a critical comment on the second, and a set of crucial questions regarding the third.

First, I agree that separation of Islam and the state does not entail doctrinal secularism, and also affirm that the separated spheres of politics and religion stand to benefit mutually from one another. Indeed, there is a critical distance between the activities of religion and politics which must carefully be maintained in order for public civility to flourish. Toft, Philpott, and Shah, in their recent work *God's Century: Resurgent Religion and Global Politics*, which spans mainly the second half of the twentieth century, investigate hundreds of cases of religious terrorism on the one hand and several dozen cases of democratization on the other – cases in which religion played a prominent (either problematic or positive) role.[657] In summary of their findings, the political scientists observe how in the cases where religion had a positive effect with regard to democratization and a negative one with regard to terrorism there were both: (1) a critical distance maintained between religious-political 'integration' and 'isolation'; and (2) a carefully articulated political theology which delineated this proper distance. Thus, in cases of religious violence, a political theology of 'integration' must be avoided:[658]

> [R]eligious actors who seek integration . . . are the chief cause of religious terrorism. . . . [I]f a religious actor that is *not* privileged by the state holds a political theology that runs counter to the interests of the state, then that religious actor will likely seek a change in the status quo. If the political theology of that actor supports the use of violence, the state is likely to face a higher risk of religious terrorism.

Conversely, in cases of religion and democratization, a political theology of 'isolation' is unworkable:

> Religious actors are far more likely to be prodemocratic when they enjoy some [but not complete] institutional independence from the state . . . , and when they have a democratic

[657] Toft, Philpott, and Shah, *God's Century*. For the discussion on civil wars, see Ch. 5, 'The "Glocal" Dimensions of Religious Terrorism'; on democratization, see Ch. 4, 'Religion and Global Democratization'.
[658] The quotations in this paragraph from Toft, Philpott, and Shah, *God's Century*, pp. 132, 109, and 50, respectively (emphasis original).

> political theology. Where religious actors lack either or both of these qualities – one institutional and the other ideological – they are likely to fall well short of prodemocratic activities.

In sum, for the sake of both procuring democratic freedom and deterring religious terrorism, neither a secular suppression of religion (isolation) nor a religious-political regime (integration) is beneficial: and the political theologies of the religious communities largely help to determine the relevant outcome. In this way, recent evidence from political science corroborates An-Naʿim's Islamic political theology.[659]

As to the second implication of An-Naʿim's proposal – that different traditions ground differently their justifications for a secular state – this argument runs parallel to my account of the human good with respect to the notions of *imago dei* and *fiṭra*, a lengthier discussion of which I present above in §4.3.3, 'Comments on conceptual resonance'. The advantage, however, in grounding a political theology on the basis of the human good over against An-Naʿim's proposal is that the former provides more specific content (i.e., the essential human attributes) to help adjudicate on contentious matters among divergent communities. That is, by considering the common humanity shared by members of various communities, there is a large and robust set of resources common to all human traditions from which to draw in constructing public civility.

Thirdly, An-Naʿim suggests that, provided certain conditions of constitutionality, citizenship, and equality, his 'framework' does not in principle disbar the application of at least 'some' principles of *sharīʿa* through state institutions. Aside from giving these three rather general preconditions, however, An-Naʿim is conspicuously silent. Questions naturally arise: Which aspect of the principles of *sharīʿa* would be allowed? And by what criteria would decisions about this allowance be made? Even given these three criteria,

[659] An-Naʿim makes similar points, taking India, Turkey, and Indonesia as case study examples, in An-Naʿim, *Islam and Secular State*, Chs. 4-6.

there can, for example, just as easily be 'shari'atized' constitutions[660] as there can be differing Islamic views on the 'equality' between, say, men and women and between Muslims and non-Muslims.[661] Moreover, as discussed above in dialogue with Kolig, MacEoin, and Peters, substantive elements of criminal and family law in *sharīʿa* do not comport with the legal systems which befit liberal democratic societies.[662] For this reason, a more promising way forward is to ground an Islamic political theology on the basis of *fiṭra* – a notion located in the ethical dimensions of *sharīʿa*. (I discuss further this approach in dialogue with Sachedina in section §4.4.3 below and again in §4.4.5, 'Revisiting the role of *sharīʿa*'.)

By way of a final comment on An-Naʿim's work, I note the following: In realizing that his own view – a political theology which proscribes the convergence of Islam and the state – is not prevalent, let alone popular, among the majority of contemporary Muslim scholars, An-Naʿim suggests that this fact 'does not by itself mean that it is wrong'.[663] Indeed, An-Naʿim continues, 'the deep crisis Muslims . . . are experiencing regarding the relationship of Islam to the state . . . indicates the need for a fresh reading' of Islamic political thought, a crisis which calls for radical 'Islamic reform'. In other words, an originally more authentic, i.e., Meccan, and historically more faithful, i.e., pluralistic, Islamic political theology is needed in order to navigate the terrain of plural democratic societies in which public civility is to be constructed.

[660] See Noah Feldman, *The Fall and Rise of the Islamic State* (Princeton: Princeton University Press, 2008), Part 3, 'The Rise of the New Islamic State'.
[661] Hefner, 'Shariʿa Politics', pp. 23-27.
[662] MacEoin, *Sharia Law*.
[663] The quotations in this paragraph are from An-Naʿim, *Islam and Secular State*, pp. 55 and 277.

(§4.4.3) The 'inclusive political theology'[664] of Abdulaziz Sachedina

Sachedina is another Muslim scholar who recognizes the need and argues for a radical recovery of a more pluralist Islamic 'political theology (*al-kalām al-siyāsī*)':[665]

> The most critical challenge facing the traditional leadership [*ʿulamāʾ*] is to search for an inclusive political theology that no longer discriminates by faith to determine an individual's rights and duties. . . . [For this challenge to be met, a] major shift has to occur from a juridical to a theological-ontological status of human personhood.

Sachedina's main contention is that, in order for Muslim communities to articulate a pluralistic Islamic political theology, what needs recovering is the original ethical Quranic vision which acknowledges the universal and equal dignity of human persons *qua* human persons; and that prerequisite to this recovery is a radical re-evaluation of the juridical tradition which has eclipsed this more fundamental moral Islamic vision. In the sections which follow, by building on Sachedina's work (*inter alia*), I consider several crucial ideas essential to overcoming what Sachedina refers to as 'the restrictive provisions of the Islamic juridical heritage': that is, the ways in which the juridical tradition has in some ways undermined the prospect of a pluralistic political theology. Central to this discussion are considerations of: (1) the historical displacement of the more rationalist *Muʿtazilī* theological ethics by the revelationist *Ashʿarī* tradition; and (2) the subsequent need for a recovery of a robust view of human teleology in Islamic ethics. This reprisal of 'Muslim theological ethics' is needed in order to articulate a pluralistic political theology which in turn is needed for the task of public civility.

---

[664] While I build on Sachedina's idea of an 'inclusive political theology', I do not agree that 'exclusionary theology', which makes 'exclusive religious truth' claims, stands in diametric opposition to it. See Sachedina, *Islam and Human Rights*, p. 186. That is, a pluralistic political theology (the term I prefer) does not entail a relativism about religious truth: political pluralism is one thing; religious pluralism another. Furthermore, as I discuss further in Chapter Five (section §5.5, 'Final Remarks'), I maintain that political tolerance and absolute religious truth are not mutually exclusive, but indeed presuppose and require one another. For an insightful argument for theological (and not necessarily soteriological) 'exclusivism' made from a Christian perspective, see Nicholas Wood, *Confessing Christ in a Plural World* (Oxford: Whitley Publications, 2002), pp. 28 ff; and Nicholas Wood, *Faiths and Faithfulness: Pluralism, Dialogue and Mission in the Work of Kenneth Cragg and Lesslie Newbigin* (Bletchley: Paternoster, 2009), esp. pp. 53-58 and 198-203.

[665] The quotations in this paragraph from Sachedina, *Islam and Human Rights*, pp. 23, 43, and 52.

(§4.4.3.1) The juridical closure of pluralistic Islamic political theology

In this section, I discuss some key differences between *Muʿtazilī* and *Ashʿarī* theological ethics in order to commend the former as a way of constructing an Islamic political theology that is conducive to public civility. To this end, I begin with a treatment of the historical backdrop against which *Ashʿarī* theology came to replace the *Muʿtazilī* one.

The development of the *Muʿtazilī* and *Ashʿarī* traditions grew out of the debate over the question of free will and predestination, a debate which originated in the Umayyad period. This debate, one scholar writes, 'stirred more emotions and political controversy among the believers' than any other doctrine aside from that of the Imamate, i.e., the succession of rulership following the death of Muḥammad.[666] The controversy had to do with those Jabarites who used the doctrine of predestination (*jabr*) to justify their existing political rulership over against the Qadarites[667] who opposed both the former's predestinarian doctrine as well as their claim to caliphate legitimacy. A simple yet potent argument was used by the Qadarites: Whereas the Jabarites, given their predestinarian bent, grounded justice in revelation (*Qurʾān*), the Qadarites argued that the notion of justice is something that people would have known before Quranic revelation was given. Hence, *contra* Jabarite theology, human knowledge and choice had fulfilled a more robust role with regard to determining the requirements of justice than what revelation on its own can determine, and must continue to do so.[668]

---

[666] See Majid Khadduri, *The Islamic Conception of Justice* (Baltimore: Johns Hopkins University Press, 1984), pp. 23-34 with quotations from pp. 23.

[667] In Arabic '*qadar*' refers to human free will.

[668] An earlier version of this controversy between the 'Traditionalists (*Ahl al-Ḥadīth*)' and 'Rationalists (*Ahl al-Raʾy*)' had taken place over the question about the role of 'personal reasoning' regarding *fiqh* (*ca*. seventh century). See Kamali, *Shariʿah Law*, pp. 247-48. It is worth noting here the key roles played by the traditionalist Ibn Ḥanbal (d. 855), who vigorously championed the 'Partisans of Sunna (ahl al-Sunna)' or Sunnism – nomenclature which highlights its revelationist bent – as well as his successor al-Ashʿarī (d. 935) in *Ashʿarī* theology's takeover. See Khadduri, *Islamic Justice*, pp. 53-58, quotation from p. 54.

Over time, where Jabarite predestinarianism was taken up in *Ashʿarī* theology, Qadarite views continued in the tradition of *Muʿtazilī* theology. Here, Sachedina offers a helpful characterization of these subsequent traditions which explains well their key differences with regard to Islamic theological ethics.[669] Sachedina notes that, whereas *Ashʿarī* theology denies human reason 'any ability to understand the [morality] of an act' apart from divine revelation, according to the *Muʿtazilī* tradition reason is 'God's gift to humanity to develop their moral consciousness'. This latter view of human reason, Sachedina contends, better supports the justice of God:

> God's justice requires God to guide humanity to attain the goal for which it was created, namely, to establish justice on earth . . . [Accordingly, h]umanity's endowment with innate moral cognition and volition to carry out intimations is part of God's justice.

Thus, in providing 'a common foundation upon which to construct a universal morality' that can be 'shared cross-culturally', *Muʿtazilī* theologians constructed a 'natural theology' based on a rational-moral 'human nature' (*fiṭra*), a basis in virtue of which Muslims are expected and enabled to 'institute the good and prevent the evil' (*ḥisbah*). Yet the majoritarian *Ashʿarī* theology has tended to close off the prospect of this pluralistic political theology. As Sachedina observes, prior to 'the inherited juridical rulings [of] the classical age' with its attendant *Ashʿarī* theology stands an earlier history whose 'creative and fertile ground' allowed for political pluralism. It is in view of this historical displacement – what I call 'the juridical closure of pluralistic Islamic political theology' – that Sachedina argues for the need to recover a specifically teleological (i.e., *fiṭra*-based) Islamic ethics; and such a mode of ethical reasoning is found in the *Muʿtazilī* tradition within which Sachedina constructs his political theology, grounding it on the basis of *fiṭra*.

[669] The quotations in this paragraph are from Sachedina, *Islam and Human Rights*, pp. 59-60 and 129-31.

It is worth noting here a controversy, parallel to the *Muʿtazilī-Ashʿarī* one, which erupted during the classical period between Islamic philosophy ('*falsafa*-rationalism'),[670] which prioritized human reason, and *fiqh* jurisprudence ('*shariʿa* reasoning'),[671] which represented the revelationist tradition. This controversy resulted in scholars on either side with noted thinkers such as Ibn Rushd (d. 1198) and Ibn Khaldūn (d. 1406) favouring the former, and the majority of *Sunnī* scholars pursuing '*shariʿa* reasoning'. Thus, the long history of *Sunnī* juridical enterprising ensued.

Sachedina observes with a reserved hope that, although currently forming a minority tradition in Islamic thought, the *Muʿtazilī* view has resurfaced among many respected *Sunnī* Muslim jurists such as Fahmī Jadʿān and Naṣr Hāmid Abū Zayd.[672] Other scholars also have pointed to similar signs of change in this regard.[673] Such hopeful signs are promising for the construction of an Islamic political theology of public civility.

Before moving to consider several keys issues relevant to the recovery of a more teleological Islamic ethics and concomitantly of a pluralist Islamic political theology, I note several points that lend support to Sachedina's project. First, there was a considerably long period between the compilation of the *Qurʾān* and the establishment of Islamic jurisprudence (*fiqh*), making *fiqh* both chronologically and logically secondary to the ethical admonitions found in the *Qurʾān*. Hallaq observes that the time at which Islamic law contained 'all its major components' is *circa* AD 950,[674] or at most about a century earlier according to Schacht's view.[675] This fact suggests *sharīʿa* would have been based

[670] See Bassam Tibi, 'John Kelsay and "Sharia Reasoning" in Just War in Islam', *Journal of Church and State* 53, no. 1 (2011): 4-26, pp. 15-16.
[671] John Kelsay, *Arguing the Just War in Islam* (Cambridge: Harvard University Press, 2007).
[672] Sachedina, *Islam and Human Rights*, p. 61.
[673] Hefner observes that Muslim majority countries have begun to move toward the 'ethicalization' or 'citizenization' of *sharīʿa* in Hefner, 'Shariʿa Politics', p. 45; see also Khaled Abou El Fadl, *Speaking in God's Name: Islamic Law, Authority and Women* (Oxford: One World, 2001).
[674] Wael Hallaq, 'Introduction', in *The Formation of Islamic Law*, ed. Wael Hallaq (Aldershot: Ashgate Variorum, 2003), pp. xix-xx.
[675] Joseph Schacht, *The Origins of Muhammadan Jurisprudence* (Oxford: Clarendon Press, 1950). See discussion in section §4.4.2.1.

more on the moral principles found in the *Qurʾān* rather than the juridical enterprising thereof. Secondly, it is mistaken to think, as many Muslim jurists do, that there exists a uniform history of Islamic legal thought.[676] The non-monolithic character of Islamic jurisprudence is evidenced by not only the emergence of (initially at least) hundreds of schools of law (*madhāhib*),[677] but also the fact that even the *Sunna* itself was a product of the competing and often conflicting views of the companions of the Prophet.[678] Thirdly, against a view that sacralizes Islamic jurisprudence, it must be recalled that Islamic legal theories were formed against the backdrop of a set of 'particular worldly and social reality',[679] as reflected in the presence of different *madhāhib* and the attendant social contexts against which respective legal judgements were made. Moreover, throughout the medieval period there were many influences on the *madhāhib* from neighbouring models of law and justice.[680] Lastly, in addition to the diversity of legal opinions among the *madhāhib* is the fact that Muslim laypersons also applied law codes in various ways.[681] In sum, it is important to underscore the ethical dimensions of *sharīʿa* that are undercut by a *fiqh* jurisprudence which itself is less integrated and purely 'Islamic' than jurists tend to concede – and this eclipse of the more malleable *Muʿtazilī* ethics by an *Ashʿarī* revelationism has worked to close off a more promising pluralistic political theology.

In sum, the reestablishment of a *Muʿtazilī* theological ethics, which stands over against the non-monolithic legal enterprising tradition of *Ashʿarī* theology, would help to recover not only the original Islamic vision of a just public order, but also an Islamic political theology amenable to public civility. And essential to this task, as Sachedina puts

[676] See Kamali, *Shariʿah Law*, Ch. 5, 'Disagreement (ikhtilāf) and Pluralism in Sharīʿah'.
[677] Kamali, *Shariʿah Law*, Ch. 4, 'The Leading Schools of Law (madhāhib)', esp. pp. 68-70.
[678] Ahmad, *Islamic Law*, p. 43.
[679] Wael Hallaq, *A History of Islamic Legal Theories* (New York: Cambridge University Press, 1997), p. 162.
[680] Berkey, *Formation of Islam*, Ch. 22, 'Modes of Justice'. See also Patricia Crone, *Roman, Provincial, and Islamic Law* (Cambridge: Cambridge University Press, 1987).
[681] Ahmad, *Islamic Law*, pp. 157-58.

it, are an articulation and an acknowledgement of humanity's capacity 'of recognizing a moral good', a capacity rooted in the 'innate nature' or *fiṭra* of humanity.[682]

(§4.4.3.2) The need for a recovery of teleological Islamic ethics

Explaining further the importance of the role of human reason, Sachedina notes that, under 'Ash'arite theological voluntarism' (what Jonathan Berkey calls 'Islamic fideism'),[683] an act is deemed good or evil simply because 'God so wills'.[684] Accordingly, *Ashʿarī* theologians had, as Griffel writes, a 'serious problem' with the idea that there is a universal *fiṭra* since their 'occasionalist ontology' would tend to deny the existence of 'unrealized potentialities'.[685] In other words, under *Ashʿarī* theology, reflection on human nature is 'insufficient for ethics' since allegedly there is no 'natural system of ethics';[686] whereas a *Muʿtazilī* theological ethics, in allowing for a 'substantial role for human reason to discern moral truth', underscores and presupposes a 'teleological understanding of nature'.[687] In short, under the *Muʿtazilī* view, human moral reasoning, in addition to its making use of divine revelation, is guided by and grounded in human teleology. As the Muslim scholar Sohail Hashmi puts it, the truth of God's laws as presented in the *Qurʾān* is 'accessible through human contemplation of nature', including human nature.[688]

Moreover, as Sachedina points out, alongside Islam's 'all-encompassing ambitions' tied to its universal message, there was a functional secularity that accommodated the 'religious pluralism and multicultural social reality' of its early history.[689] I contend that essential to re-establishing such functional secularity are a recovery and a reassertion of

[682] See Sachedina, *Islam and Human Rights*, p. 50.
[683] Berkey, *Formation of Islam*, p. 148.
[684] Sachedina, *Islam and Human Rights*, pp. 42 and 44.
[685] Griffel, 'Al-Ghazālī's Use of Fiṭra', p. 8.
[686] Sachedina, *Islam and Human Rights*, pp. 74-75 and 78-79.
[687] Sachedina, *Islam and Human Rights*, pp. 86, 244, and 246.
[688] Sohail Hashmi, 'Islamic Ethics and International Society', in *Islamic Political Ethics*, ed. Hashmi, p. 154.
[689] Except where indicated otherwise, the quotations in this paragraph are from Sachedina, *Islam and Human Rights*, pp. 166, 172, 81, 79-80, 167, and 14-15, respectively.

the human good in Islamic political theology; or Sachedina puts it: '[The original] Islamic political theology . . . had laid the doctrinal groundwork for the Muslim community to work toward reaching a consensus about the need for peaceful and just relationships with other faith communities on the basis of a common humanity'. Yet, given the current predominance of *Ashʿarī* theology, two ideological obstacles lay in the way for such a recovery. First, *Ashʿarī* theological voluntarism has eclipsed a *Muʿtazilī* understanding of divine justice, undermining a view of universal morality needed for public civility. Secondly, the two Islamic forms of guidance (God-human [*ʿibādāt*] and interhuman [*muʿāmalāt*]) – which rely on a distinction of certain aspects of Islamic law (*akhlāq* or ethics) from others (*aḥkām* or legal regulations) – have collapsed into a conflated one-*sharīʿa*-for-all. This conflation not only worked to enmesh religion and politics, but also to undermine the 'tolerance-generating principle' found in the *Qurʾān* (cf. 109:6 and 2:256) that would engender a more pluralistic political theology. In brief, a major problem in contemporary *Sunnī* scholarship is that the Quranic emphasis on the human capacity 'to respond to the moral challenge to create a just polity' has been 'overshadowed by the post-Qur'anic emphasis on collective identity under the political authority of the caliph' – an overshadowing which has played itself out in disastrous ways most notably in modern day Islamist movements.[690] As Frank Vogel puts it, contemporary traditionalist Muslim scholars have come to favour 'literalism over moral substance'.[691] The solution, then, for Sachedina, is 'to go to the foundational sources of Islamic doctrines in the Qur'an . . . to demonstrate . . . that it shares the universal language of morality and human agency'.

Thus, Sachedina's 'Islamic notion of natural law'[692] serves to provide Muslim jurists with a 'teleological justification' to improve on the 'classical solutions to

[690] Cf. Afsaruddin, '"Islamic State"'; Zakarīyā, *Contemporary Islamist Movement*; Hefner, 'Shariʿa Politics', pp. 20-23.
[691] Frank Vogel, *Islamic Law and Legal System* (Leiden: Brill, 2000), p. 53.
[692] The quotations in this paragraph are from Sachedina, *Islam and Human Rights*, pp. 69 and 87.

interhuman and international relations'. In other words, given a specifically teleological conception of the human person, captured in the notion of *fiṭra*, there can be constructed an Islamic political theology with the resources needed to ground a common moral and discursive universe. Yet, in order for this radical recovery to take place, Muslim scholars must, as Sachedina puts it, 'engage Islamic theology rather than Islamic law', as the former provides the basis for a teleological view of the human person. More specifically, I contend, and argue further in section §4.4.5, that *akhlāq* or the ethical dimensions of *sharīʿa* is the appropriate site on which to construct an Islamic theology of public civility.

I note two important qualifications in closing this section: the first having to do (again) with a distinction between common good and human good; the second with that between human good and human rights. First, Sachedina's overall goal is to ground an Islamic basis specifically for human rights, doing so on the basis of the inherent purposiveness and the fundamentally moral-rational character of *fiṭra* – a conception of *fiṭra* which resembles quite closely the idea of the human good. However, unlike my account of the human good, Sachedina points to 'the common good' as the basis to ground this 'Islamic [moral] universalism'.[693] Yet the same kinds of problems that beset the common good approach more generally would then confront Sachedina's proposal as well; and to this extent I would depart from Sachedina. (That said, there are numerous instances where Sachedina leans in the direction of 'the human good', especially where he refers to: 'the moral worth of all humans as humans'; 'the respect . . . owed to all humans as humans'; etc.)[694] The second way in which our projects differ is that, while universal

[693] See, e.g., Sachedina, *Islam and Human Rights*, pp. 72, 79, 80, 82, 87, etc., quotation from p. 87. Elsewhere, Sachedina suggests 'the common good' and 'the collective good' as a basis for a just public order. See Abdulaziz Sachedina, 'Reason and Revelation in Islamic Political Ethics', in *Religion, the Enlightenment, and the New Global Order*, ed. John Owen and J. Judd Owen, esp. pp. 205-09. To note, it seems that in this essay Sachedina moves away from an 'inclusive political theology' to a 'religious politics' – a move which I contend is both unfortunate and inevitable, if one, who is arguing from a particular religious perspective, violates the secular imperative.

[694] See, e.g., Sachedina, *Islam and Human Rights*, pp. 18, 43, 61, 92, etc., quotations from pp. 38 and 57. Indeed, it is precisely on this basis that Sachedina grounds his conception of *fiṭra*: see pp. 38 ff.

morality features essentially as part of the basis of public civility in both of our accounts, unlike Sachedina I do not commend such an account of morality for the sake of grounding human rights *per se*. Rather, the human good, which grounds human rights, is the end for which my study is aimed; and the human good, which is more fundamental than human rights, serves as a trans-traditional basis for intercommunal public civility.

(§4.4.4) A comment on Islamic political theology and Islamism

It must be noted that modern day Islamists such as Ḥasan al-Bannāʾ and Sayyid Quṭb also have suggested that 'the solution' to the problems of modernity is, as one recent interpreter puts it, 'to look back, before the development of the "religious sciences" in which the scholars [*ʿulamāʾ*] specialized, straight to the great and inspiring source: the Qurʾan itself'.[695] Troublingly, then, this Islamist argument seems similar, in form at least, to the political theology that I commend above. Indeed, Sachedina himself notes how extensively Quṭb used the notion of *fiṭra* in his political theology.[696] The problem with the Islamist project, however, has to do neither with their desire to return to the original Islamic vision nor their reliance on the notion of *fiṭra*. Rather, the problem has to do with: (1) their conceiving of the political state and the universal message of Islam as necessarily intertwined;[697] and (2) their call to 'tatbiq al-shariʾa', or the implementation of *sharīʿa*, as a totalistic 'governing law'.[698] (This is not to mention the obvious key difference seen in Islamists' approval and appropriation of violence within its ideology.[699])

Consequently, as Feldman notes, when Islamists call for a restoration of *sharīʿa*, it does not do so in accordance with the 'classical Islamic legal system under the guidance of the scholars [*ʿulamāʾ*]', but under the aegis of the legal codes of the modern state. And

[695] Feldman, *Fall and Rise*, p. 108.
[696] Sachedina, *Islam and Human Rights*, pp. 93 ff.
[697] See Ayubi, *Political Islam*.
[698] Tibi, *Islamism and Islam*, p. 158.
[699] See Bassam Tibi, 'War and Peace in Islam', in *Islamic Political Ethics*, ed. Hashmi.

such a call, Feldman points out, yields an innovative (if inauthentic) 'set of Islamized constitutional arrangements'.[700] The political theorist and Muslim scholar Nazih Ayubi summarizes succinctly:

> The juridic theory of the Islamic state, trying as it did to incorporate the State into the shariʿa, was based on fiction (since there is very little in the Quran and Sunna about politics and the State). The theory of the 'Islamic state' is little more than an elaborate fiqh presented as though it were pure shariʿa.[701]

To illustrate this point, consider the words of Yūsuf al-Qaraḍāwī (one of Sunnism's 'most important and influential' thinkers):[702] '[When] Western crusader colonialism invaded the abode of Islam [it] changed its way of life[, and] shariʾa receded to a personal law. . . . The Islamic solution aims to restore the shariʾa.'[703] Tibi counters this proposal by suggesting that, while law has 'always been central to Islamic thought', it also has 'always had diverse meanings' which depended on historical circumstance.[704] Thus, even under a traditionalist conception of *sharīʿa*, it was meant always 'as morality, not law'. After all, the central concern of *sharīʿa* has always been 'to enjoin the good and forbid the evil' (*ḥisbah*). Accordingly, the modern day Islamist project of the 'shariʾatization of politics' is, Tibi continues, a recently 'invented tradition' which results from the admixture of the modern nation-state and a mistaken view of the role of *sharīʿa* in the political realm. For this reason, Tibi, like the scholars above,[705] argues for the need of a 'reformed shariʾa' that would be 'restricted to ethics'.

---

[700] See Feldman, *Fall and Rise*, pp. 105-17, quotations from pp. 110 and 111.
[701] See Ayubi, *Political Islam*, p. 13.
[702] David Warren and Christine Gilmore, 'Rethinking Neo-Salafism through an Emerging Fiqh of Citizenship', *New Middle Eastern Studies* 2 (2012), p. 3.
[703] Yūsuf al-Qaraḍāwī, *Al-Hall Al-Islami* vol. 2 (Beirut: Mu'assasat al-Risalah, 1980), pp. 82-83; quoted in Tibi, *Islamism and Islam*, p. 159.
[704] The quotations which follow in this paragraph are from Tibi, *Islamism and Islam*, pp. 158, 173, 167, 160-61, and 175, respectively.
[705] Hashmi also speaks of 'the need for Muslims to disentangle Islamic ethics form medieval Islamic law (*shariʿa*) . . . and to elaborate new principles of shariʿa . . . by treating the Qurʾan as a complete ethical system' in Hashmi, 'Islamic Ethics', p. 148.

As discussed above, many scholars like Crone disagree, arguing that since at least the medieval period, Muslims did not see religion as 'above politics', but as a 'prescription for [its] regulation', fusing the religious and the political, 'truth and power'.[706] But, as the early twentieth-century Muslim scholar 'Ali 'Abd al-Raziq (d. 1966) argued famously, even if truth and power comingled to an extent, Muḥammad's rule in Medina was not ultimately a 'leadership of kings' but a 'leadership of the Message', and that 'there is much distance' between religious and political leadership in Islam.[707] Drawing on a myriad of Quranic passages and *ḥadīth*, al-Raziq goes on to contend that the Prophet was commissioned by God, not to establish a theocratic state, but to deliver a moral message from God to humanity. Even Crone takes note of the 'absence of the state' in the Umayyad and 'Abbāsid eras as well as the observations of famed scholars such as al-Ghazālī (d. 1111) and al-Rāzī (d. 1209) who held to a distinction between 'secular government and society', between state and *ʿumma*.[708] As one scholar summarizes, despite the lack of any Quranic 'blueprint for political administration', jurists through the classical period 'became quite concerned with the minutiae of political conduct', even though the *Qurʾān* is concerned fundamentally with 'broad moral guidelines', not 'specific legal rulings'.[709] It is against this long historical backdrop of juridical enterprising that I commend the recovery of the original Islamic vision of social-political pluralism.

[706] Crone, *Islamic Political Thought*, pp. 11 and 16.
[707] 'Ali 'Abd al-Raziq, 'Message Not Government, Religion Not State', in *Liberal Islam*, ed. Kurzman ([1925]), pp. 30-31. This piece originally comes from his monograph *Islam and the Basis of Government*, Bk. 2, Pt. 3.
[708] See Crone, *Islamic Political Thought*, pp. 44-53 and 246-49.
[709] Afsaruddin, '"Islamic State"', pp. 163-64. It is worth pointing out here that 85 out of a total of 114 *sūra*s of the *Qurʾān* were given in Mecca, and that only approximately 350 out of over 6,200 verses have to do with legal rulings as such, making the latter 'decidedly peripheral to [the] dogma and moral teachings' of the *Qurʾān*. See Kamali, *Shariʿah Law*, pp. 3-4.

(§4.4.5) Revisiting the role of *sharīʿa*

What, then, is the proper role of *sharīʿa* in religiously plural and liberal societies? Building on Hallaq, Kamali, Tibi, Zubaida, and others, I conclude this chapter by returning to a discussion with which I began: the secular imperative and the role of *sharīʿa*. In the first part of this chapter, I discussed the problems of legal pluralism with regard to constructing public civility, especially in view of the arguably irresolvable tension between Islamic law and liberal democratic norms. Even if this tension were resolved, however, there would remain several important points to be considered with regard to the role of *sharīʿa*, points which would challenge the idea of instituting *sharīʿa* law codes within the legal-political structures of liberal democratic societies.

First, there is conceptual ambiguity about what *sharīʿa* is. While taken as 'God's law', *sharīʿa*, being based on 'exegesis, interpretations, analogies, [etc.]', has been 'transmitted and developed through human agency', as Zubaida points out;[710] hence the succinct yet instructive characterization of *sharīʿa* as 'a non-state, community-based, bottom-up jural system' given by Hallaq.[711] As such, *sharīʿa* has come to take on divergent forms, being expressed in diverse and often conflicting sets of regulations. Accordingly, *sharīʿa*, while 'sacred', is conceptually suffused, and thereby in principle unable to serve as state law in a given liberal democratic society.

Secondly, when it comes to the task of constructing public civility, what is in view are the ethical dimensions (*akhlāq*) of *sharīʿa* rather than its legalistic injunctions (*aḥkām*). Emerging initially within the arguably less mainstream, philosophical tradition of Islamic thought, the notion of *akhlāq* eventually became a part of common juristic practice during the classical period when it was recognized as 'a system of Islamic ethics proper'.[712] Given that *sharīʿa* is concerned fundamentally about the morality of Muslims' lives, situating an

[710] See Zubaida, *Law and Power*, p. 10.
[711] Hallaq, *Sharīʿa*, p. 549.
[712] Masud, 'Scope of Pluralism', pp. 137 ff.

Islamic political theology of public civility within this context (*akhlāq*) is not only acceptable, but most appropriate. After all, *sharīʿa* is, as Tibi reminds, 'a morality of conduct . . . not a legal system'.[713] Similarly, Fazlur Rahman famously argued that, the *Qurʾān* itself, from which *sharīʿa* is derived, is 'a work of moral admonition through and through'; and that 'in order to bring out the Qurʾān's message as a unity, one must start with [its] theology and ethics . . . and only then approach the realm of law'.[714] Islamic theological ethics, in other words, both informs the meaning and determines the applications of Islamic law. Thus, while the *aḥkām* of *sharīʿa* is 'law' in the sense of providing normative moral guidance for Muslims to live out authentically Islamic lives, it is suitable neither to the making of legislation in plural democratic societies nor to the construction of public civility. Rather, the prior dimensions of *akhlāq*, grounded on the notion of *fiṭra*, as discussed above, provide a more promising and appropriate basis for a framework of public civility.

Lastly, the term '*sharīʿa*' (which literally means 'a way to the watering place') appears only once in the *Qurʾān* (*sūra* 45:18)[715] in the context of which it had more to do with belief in Allāh and ethical obedience than with what Kamali describes as the 'overly legalistic tendency' of classical Islamic law.[716] This contention about the moral character of *sharīʿa* is buttressed by two facts regarding the Quranic passage itself cited above: (1) that this verse was given during the Meccan period at which time no form of Islamic law or governance had been featured in the *Qurʾān*, as discussed above;[717] and (2) that in this verse the term '*sharīʿa*' is used in contradistinction with *ḥawā* or the 'whimsical desire' of the idolaters in Mecca, a fact which underscores the fundamentally moral, not legalistic,

[713] Tibi, *Islamism and Islam*, p. 169.
[714] Fazlur Rahman, 'Law and Ethics in Islam', in *Ethics in Islam*, ed. Richard Hovannisian (Malibu: Undena, 1985), pp. 8 and 11.
[715] This passage reads: 'Now We have set you [Muhammad] on a clear religious path [*sharīʿa*], so follow it. Do not follow the desires [*ḥawā*] *of* those who lack [true] knowledge'.
[716] Kamali, *Shariʿah Law*, p. 1.
[717] See sections §§4.4.2.1-4.4.2.2; and Kamali, *Shariʿah Law*, pp. 3-4.

nature of *sharīʿa*.[718] In other words, Muslims were called to follow the moral *sharīʿa* specifically in order to avoid disobedience and idolatry. This view fits well with the words of the Prophet himself who stated clearly his markedly moral mission: 'I have been sent to accomplish the virtues of morality.'[719]

In view of the foregoing discussions, I contend that, since *sharīʿa* is most fundamentally about a 'morality of conduct', the *akhlāq* dimensions of *sharīʿa* – i.e., Islamic theological ethics – are the most appropriate resources with which to construct an Islamic political theology amenable to public civility. For this reason, a recovery of the original ethical Islamic vision is needed, a vision which relies on the *Muʿtazilī* view of justice,[720] and which is grounded on the Islamic notion of *fiṭra*.

On a final note, there have been recent developments in various Muslim majority countries to implement what is known as '*sharīʿa*-oriented policy' (*siyāsa al-sharīʿa*)[721] as part of their legal-political framework. One might argue that this way of implementing *sharīʿa* – as qualified through the use of legal tools such as *ijtihād* (independent reasoning), *maqāṣid* (purposes of the law), and the like[722] – may, even in its juridical manifestation (*fiqh*), be amenable to the construction of public civility. The worry in pursuing this more legalistic route, however, is that it would resemble, if not degenerate into, an Islamist

[718] For more on these points, see Kamali, *Shariʿah Law*, pp. 2-4.
[719] See Tabrizi, *Mishkāt*, vol. 3, *ḥadīth* no. 5097; cited in Kamali, *Shariʿah Law*, p. 48.
[720] Interestingly, there is within recent Catholic moral theology a similar attempt to recover a more teleological approach to ethics over against the 'traditional moral teachings of the manuals' of 'Scholastic moral theology', as typified in the work of Servais Pinckaers. See John Berkman and Craig Titus, eds., *The Pinckaers Reader: Renewing Thomistic Moral Theology* (Washington, D.C.: Catholic University of America Press, 2005), p. 236. In the words of a recent interpreter, against both 'manualists' and 'proportionalists' – who 'uphold the view that the moral life is primarily about what one is "obligated," "permitted," or "forbidden"' to do – Pinckaers rather seeks to recover the importance of 'the nature and telos of the human person' in Catholic moral thought. See John Berkman, 'Introduction', in *The Pinckaers Reader* (Washington, D.C.: Catholic University of America Press, 2005), p. xv. (I note also that it is interesting to compare the overlap between the moral categories of the manualists/proportionalist – 'obligated', 'permitted', 'forbidden' – with the Islamic jurisprudential 'scale of values' (*aḥkām*) according to which moral acts are judged to be: 'obligatory' (*wājib*), 'recommended' (*mandūb*), 'permissible' (*mubāh*), 'reprehensible' (*makrūh*), or 'forbidden' (*ḥarām*). Cf. Kamali, *Shariʿah Law*, p. 18.)
[721] Kamali, *Shariʿah Law*, Ch. 11, 'Beyond the Sharīʿah: An Analysis of Sharīʿah-oriented Policy'.
[722] Cf. Kamali's recent proposal in Kamali, *Shariʿah Law*, Chs. 6-8.

'shari'atized state'[723] insofar as it seeks to implement the principles of *sharīʿa* into the legal-political structure of the state. And this worry is not merely academic. An example of the danger of this 'shariʾatization' of the state can be seen in Malaysia where '*fatwā*-making' recently has become bureaucratized into the remit of the state; such etatization has resulted not only in a semi-state-controlled Islam, but also a calcification of Islamic law.[724] Or consider Saudi Arabia where 'governance in accordance with the shari'a' (*siyāsa al-sharīʿa*) means that *sharīʿa* just is the state constitution; and that its citizens, though 'increasingly active', are not able to 'craft their own unique understanding of the good' – a minimum condition for a liberal democratic society.[725] For these reasons, in constructing public civility in plural societies I suggest not *sharīʿa*-oriented policy (*siyāsa al-sharīʿa*), but an Islamic political theology (*al-kalām al-siyāsī*) based on an 'ethicalized' *sharīʿa*,[726] i.e., one which is premised on the relationality, purposiveness, and rationality inherent in the notion of *fiṭra*, and which stands opposed to the 'scholastic fanaticism'[727] that looms large over the long legal history of Sunnism. As Hashmi observes, 'One of the central dimensions of the current controversy concerning the shariʿa that is raging in the Muslim world – although it is not often phrased in this manner – is the need for a comprehensive Qurʾanic ethics as a precursor to the reform of law.'[728]

(§4.5) Conclusion and transition

In this chapter, I had three main objectives: (1) to argue that the prospect of locating a basis for a framework of public civility with the resources of Islamic

[723] Tibi, *Islamism and Islam*, p. 40.
[724] See Kamali, *Shariʿah Law*, pp. 174-77.
[725] Hefner, 'Shariʿa Politics', pp. 28-29.
[726] I adopt this term from Hefner, 'Shariʿa Politics', pp. 32-34, 40, 45, etc.
[727] 'Abd al-Wahhāb Abū Sulaymān, *Al-Fikr al-Uṣūli* (Jiddah: Dār al-Shurūq: 1984 [1404]); cited in Kamali, *Shariʿah Law*, p. 73.
[728] Sohail Hashmi, 'Interpreting the Islamic Ethics of War and Peace', in *Islamic Political Ethics*, ed. Hashmi, p. 196.

jurisprudence is ultimately unpromising given (*inter alia*) the specifically Muslim purposes of Islamic law (*maqāṣid al-sharīʿa*); (2) to contend that an Islamic counterpart to the notion of the human good, as a basis for public civility, can be found in the idea of *fiṭra*; and (3) to construct an Islamic political theology on the basis of *fiṭra*, which in turn is based on the resources of *Muʿtazilī* teleological ethics. In doing so, I have commended: the historical precedence and Quranic justification for the secular imperative, a pluralistic Islamic political theology based on the moral-rational nature of *fiṭra*, and an ethics-oriented view of *sharīʿa*.

The overarching contention in this chapter and the previous is that the approaches to grounding public civility found within both Catholic and Islamic political theologies – *viz*., the common good/*maṣlaḥa* – must be reframed on the basis of the human good; and that fundamental to this reframing are the notions of *imago dei* and *fiṭra*, respectively.

The next (and final) chapter is comprised of two main subjects. In the first part, I discuss the findings from my interviews in Mindanao as I explore the ways in which my critique of modernity (Chapters One and Two) and my constructions of Catholic and Islamic political theologies (Chapters Three and Four) bear on the particularities of this multireligious society. Then, in the second part, I consider a crucial implication of my framework of public civility as based specifically on the human good: namely, that the scope of moral responsibility is no less than global. In doing so, I develop and defend my notion of 'moral cosmopolitanism', and discuss it within the context of Christian and Islamic theological traditions.

Chapter Five
Public Civility, the Human Good, and Moral Cosmopolitanism

(§5.1) Introduction

This final chapter is comprised of two main subjects: (1) an application of the framework of public civility within the specific context of Mindanao, Philippines; and (2) a consideration of the cosmopolitan scope of my framework of public civility as based on the universal notion of the human good. In the first part, I offer a historical sketch of the Mindanaoan struggle; and also discuss the content from the interviews that I conducted with key religious and political leaders who have been involved in the Mindanao peace process specifically from 1968 to 2008. (The rationale for this forty-year time span will become evident in section §5.2.) This discussion represents a worked illustration of the various critiques and concepts presented in this dissertation thus far within a particular geographical region.

The second part of this chapter concerns a crucial moral implication of my framework of public civility as based specifically on the idea of the human good: namely, that the scope of responsibility entailed by my account of public civility is no less than global. In this way, I both test my theory within a particular geographical context, and extend my framework along a cosmopolitan dimension. Accordingly, I also offer a defence of what I call 'moral cosmopolitanism', and explore the resources within both Christian and Islamic theological traditions which commend this view.

I conclude this chapter with a consideration of the virtue of gratitude as a unique and crucial dimension of the construction of public civility in plural societies, and offer some final remarks about the project as a whole.

(§5.2) A historical sketch of a special study: Mindanao, Philippines

The span of forty years from 1968 to 2008 comprises the time period of my study. The geographic region I consider is the Autonomous Region of Muslim Mindanao (ARMM) as situated within the larger Catholic-majority context of Mindanao and of the Philippines more broadly which was (and still is) nearly ninety percent Roman Catholic.[729] In this forty-year period, conflict between Muslim communities and the Armed Forces of the Philippines resulted in over 160,000 deaths and two million displaced persons.[730] During this time, the ARMM consisted of approximately four million people within a total Philippines population of eighty-eight million;[731] and Muslims, while accounting for only approximately five percent of the total Philippines population, comprised an overwhelming majority in the ARMM. In what follows, I offer a historical sketch of the major events which mark significant attempts (and failures) of peacebuilding and civility construction in Mindanao.

(§5.2.1) Early historical background: 1200s-1960s

By the end of the thirteenth century, early Muslim settlements were established in the Philippines, beginning in the southernmost islands of Sulu.[732] Through the course of the next few hundred years, much of the Islands served as a trade post for Muslim merchants from India and the Middle East.[733] In 1565 – during the reign of Philip II (after whom the country has since been named) – the Spanish led by Legazpi conquered and colonized the northern, central, and southern parts of the Philippines (i.e., Luzon, Visayas,

[729] 'International Religious Freedom Report 2010 – Philippines', ed. U.S. State Department (Washington, D.C.: Bureau of Democracy, Human Rights, and Labor), http://1.usa.gov/12jCPVC (accessed on 11 July 2012).
[730] 'The Philippines: Religious Conflict Resolution on Mindanao', in *Case Studies* (Washington, D.C.: Berkley Center for Religion, Peace, and World Affairs, 2011), (accessed on 19 March 2012), pp. 1 and 9.
[731] 'Population and Annual Growth Rates: Autonomous Region in Muslim Mindanao: 1995, 2000 and 2007 – Appendix D', (National Statistics Office, 2010), http://bit.ly/CensusGovPh (accessed on 29 February 2012).
[732] Carmen Abubakar, 'The Advent and Growth of Islam in the Philippines', in *Islam in Southeast Asia*, ed. K. S. Nathan and Mohammad Hashim Kamali (Singapore: Institute of Southeast Asian Studies, 2005), p. 48.
[733] Jan Stark, 'Muslims in the Philippines', *Journal of Muslim Minority Affairs* 23, no. 1 (2003): 195-209.

and Mindanao regions, respectively), leaving only the Sulu islands under Muslim dominance.[734] In 1898, the Spanish-American War resulted in US-control over the whole of the Islands.[735] In the next year, the Bates Treaty, which allowed for local Muslim governance, was signed in Sulu; however, in 1902 it was rescinded, thereby bringing all 'Moro'[736] (Muslim) provinces under the control of the colonial government based in Manila which was monitored closely by the US.[737]

Throughout the early 1900s, on the basis of a number of legislative acts, the colonial government re-appropriated a majority of the Mindanaoan islands, privatizing them for use by business corporations and non-Muslim Filipinos from Luzon. By 1946 when the Philippines gained its independence from the US, the southern Philippines was comprised of three major communities – Catholics, Muslims, and *Lumad*s (or indigenous people communities). By the 1960s with the further migration of Catholic Filipinos from the northern and central Philippines, the Muslims and *Lumad*s had become minority communities throughout the south, though in several provinces Muslim communities still comprised a majority of the population.

In addition to land appropriation, other Muslim grievances, such as those concerning the abolition of Muslim systems of trade and the breakdown of Islamic social structure more generally, had contributed to animosity and resentment which eventually erupted in the Jabidah Massacre of 1968. Under the direction of the Armed Forces of the Philippines (AFP), Muslims in Mindanao had been forced to engender sentiments of annexation by the Philippines in their co-religionists in nearby northern Malaysia. The

[734] Stark, 'Muslims in Philippines', p. 198; Abubakar, 'Islam in Philippines', p. 49.
[735] Though Spain never had control over the Sulu islands, they were implicated in the Spanish defeat. See Islam, 'Independence Movements', esp. pp. 444-46.
[736] The term 'moro', used by the Spaniards to identify Muslim Filipinos, was later adopted by local Muslims, and is not considered derogatory. See Schiavo-Campo and Judd, *Mindanao Conflict*, p. 1, n. 3. Strictly speaking, not all Muslims are Moros since 'Muslim' carries a religious denotation while 'Moro' concerns political identity. See Miriam Ferrer, 'The Case of the Autonomous Region in Muslim Mindanao', *Ethnic and Racial Studies* 35, no. 12 (2011): 1-19, p. 14, n. 3. I use the terms interchangeably in accordance with the standard practice in the literature.
[737] Islam, 'Independence Movements', p. 445.

Massacre resulted when the Mindanaoan Muslims refused to follow AFP orders after which the former were executed for their alleged mutiny. Immediately following this fatal incident, the Muslims Independence Movement (MIM) emerged with its expressed goal of full political independence.[738]

For some scholars, what contributes most to the ongoing conflict in Mindanao are essentially a 'clash of interests in land' and Muslim 'identity issues [of being] *de facto* second class'.[739] For example, in pointing to Chairman Nur Misuari, the founder of the Moro National Liberation Front (MNLF), Syed Serajul Islam contends that Misuari's refusal to cooperate with President Marcos' efforts to create a single Filipino nation was based on the rationale that such efforts would compromise the Muslim identity.[740] In slight disagreement, the Muslim scholar and activist Wan Kadir Che Man contends that efforts to secure a peaceful agreement between Manila and Mindanao failed because of the former's inability to 'redress the social-economic imbalances resulting from long neglect and discrimination against the Muslims': the Muslim concern is primarily economic.[741]

In addition to what follows immediately below, in section §5.3 I return to a fuller consideration of the causes of and prospective solutions to the Mindanaoan struggle where I discuss my findings from the interviews conducted from November to December of 2012.

(§5.2.2) Peace agreements – attempts and failures: 1970s-1990s

On 23 December 1976, the first major peace agreement – the Tripoli Agreement – was mediated by the Organisation of the Islamic Conference (OIC), and signed by the

[738] Islam, 'Independence Movements', p. 448, n. 15; Lela Noble, 'The Moro National Liberation Front in the Philippines', *Pacific Affairs* 49, no. 3 (1976): 405-24, p. 405.
[739] Schiavo-Campo and Judd, *Mindanao Conflict*, p. 2.
[740] Syed Serajul Islam, 'Ethno-Communal Conflict in the Philippines', in *Ethnic Conflict and Secessionism*, ed. Rajat Ganguly and Ian Macduff (London: Sage, 2003), p. 213.
[741] Wan Kadir Che Man, *Muslim Separatism* (Singapore: Oxford University Press, 1990), p. 151. This analysis is shared by the political columnist and activist T. J. S. George in Thayil Jacob Sony George, *Revolt in Mindanao* (Kuala Lumpur: Oxford University Press, 1980).

National Philippine Government and MNLF represented by Misuari. The overall aim of the Agreement was 'a just and peaceful political solution to the problem of the Muslims in the South of the Philippines'.[742] The Agreement's main points of resolution included: (1) an autonomous region for the Muslim communities in Mindanao; (2) the autonomous region's being given certain rights which included the establishment of Muslim Courts based on *sharīʿa* (Islamic law), Islamic schools and universities, and an Islamic financial system; and (3) a cease-fire 'immediately after the signature of this agreement'.[743] To be sure, much would remain under the jurisdiction of the national government such as mineral resources and 'a reasonable percentage' of the revenues from 'the mines and minerals'; also, it was made explicit that, though being granted a measure of autonomy, the region in question would remain a part of the 'sovereignty and territorial integrity of the Republic of the Philippines'. Yet, while later concessions such as the 1977 Code of Muslim Personal Laws offered even further autonomy, hostility continued to mount, especially from groups seeking full independence.[744]

Like others above, the political scientist Astrid Tuminez argues that the principal source of the conflict is the matter of land.[745] In 1989, soon after the People Power movement, which resulted in the ousting of Ferdinand Marcos and the installation of Corazon Aquino, the Aquino government established the Autonomous Region in Muslim Mindanao (ARMM) in keeping with the 1976 Tripoli Agreement. However, after a plebiscite vote, among the original thirteen provinces which were enumerated as part of the ARMM, nine of the provinces, being far more Catholic in number by then than in 1976,

[742] 'Agreement between the Government of the Republic of the Philippines and the Moro National Liberation Front with the Participation of the Quadripartite Ministerial Commission Members of the Islamic Conference and the Secretary General of the Organization of the Islamic Conference', Tripoli, 23 December 1976.
[743] 1976 Tripoli Agreement.
[744] Mastura, 'Legal Pluralism'.
[745] The quotations in this paragraph are from Astrid Tuminez, 'This Land Is Our Land: Moro Ancestral Domain and Its Implications for Peace and Development in the Southern Philippines', *School of Advanced International Studies Review* 27, no. 2 (2007): 77-91, pp. 78 and 86-88.

had chosen to opt out of the ARMM. Consequently, Tuminez suggests, 'Land ownership [remains] at the root of the conflict [and] is a key for long-lasting peace in the region.' For Tuminez, only with an implementation of an ancestral land agreement will it be possible 'to advance towards long-term peace and development'. The solution, however, is more complicated than what Tuminez suggests. As the international relations scholar Shamsuddin Taya points out, for any prospect of peacebuilding in Mindanao one must consider the tribal and ethnic groups (the *Lumad*s) without whose involvement further bloodshed is arguably inevitable,[746] as evidenced in the past.[747]

The unresolved conflict persisted under President Ramos even after the hopeful 1996 Peace Agreement which is 'largely viewed as a failure' for its ineffectiveness to secure long term peace in the ARMM.[748] By this time the breakaway and the (then) comparatively more militant group – the Moro Islamic Liberation Front (MILF; founded in 1984 by Hashim Salamat)[749] – gained greater membership and momentum. MILF were adamantly opposed to any negotiations that did not result in both full independence and the creation of an Islamic state. (This is an interesting fact given that, as I discuss below in section §5.3.1, MILF have become the principal negotiating partners with the Philippine government.) Until the late 1990s, both MNLF and MILF, which consisted respectively of some 15,000 and 12,000 soldiers, while a demographic minority, contributed to deep social unrest as they continued to seek full independence.

[746] Shamsuddin Taya, 'The Politicization of Ethnic Sentiments in the Southern Philippines: The Case of the Bangsamoro', *Journal of Muslim Minority Affairs* 30, no. 1 (2010): 19-34.
[747] Cf. Steven Rood, *Forging Sustainable Peace in Mindanao: The Role of Civil Society* (Washington, D.C.: East-West Center, 2005), p. 4; Hannah Neumann, 'Identity-Building and Democracy in the Philippines', *Journal of Current Southeast Asian Affairs* 29, no. 3 (2010): 61-90, p. 5.
[748] Ayesah Uy Abubakar, 'The Philippines: Challenges to Peacebuilding', in *Islam and Violent Separatism*, ed. Ashok Swain (London: Kegal Paul, 2007), p. 37.
[749] Zachary Abuza, *Militant Islam in Southeast Asia* (Boulder: Lynne Rienner, 2003), p. 40.

(§5.2.3) Politics, peacebuilding, and civil society: 2000s-2008

On 30 April 2000, President Joseph Estrada declared an 'all-out-war' against MILF which responded in turn with an 'all-out war [against] the Philippines government' – this war was marked by intermittent though unsuccessful peace talks over the course of the next eight years.[750] Late in 2000, a much more radicalized Islamic group in Mindanao, the Abu Sayyaf ('the Bearer of the Sword'; founded in 1990), stultified the prospects of peace with its terrorist actions which even MNLF and MILF decried. By the mid-2000s, hundreds of thousands of war deaths, widespread poverty, and over half a million displaced persons set the grim background of Mindanao.[751]

On 14 October 2008, in an eight-to-seven vote, the Supreme Court of the Philippines declared that the Memorandum of Agreement on the Ancestral Domain (MOA-AD) – an initiative which would honour all ancestral land claims by the Muslim communities – was contrary to the state Constitution.[752] The MOA-AD would have put into effect the terms of the 2001 Tripoli Agreement of Peace which was a document detailing the stipulations of the original 1976 Tripoli Agreement. The Memorandum was viewed generally favourably by the *Bangsamoro*[753] (i.e., the Muslim communities of Mindanao). The two most significant resolutions included in the MOA-AD were: (1) an establishment of a 'Bangsamoro Homeland' which would have extended the geographic region of the Moros; and (2) an establishment of the Bangsamoro Juridical Entity (BJE) which would have had 'authority and jurisdiction over the Ancestral Domain and

[750] Timothy Williams, 'The Moa-Ad Debacle – an Analysis of Individuals' Voices, Provincial Propaganda and National Disinterest', *Journal of Current Southeast Asian Affairs* 29, no. 1 (2009): 121-44, p. 122.
[751] See Islam, 'Ethno-Communal Conflict', p. 221, n. 1. On the specifically economic aspects, see Susan Russell and Rey Ty, 'Conflict Transformation Efforts in the Southern Philippines', in *Conflict Resolution and Peace Education*, ed. Candice Carter (Basingstoke: Palgrave Macmillan, 2010).
[752] Neumann, 'Democracy in Philippines', p. 64, n. 4.
[753] The term 'Bangsamoro' combines the Malay word '*bangsa*', which means 'nation', with the term '*moro*', yielding a gloss of 'the Muslim nation'. See Albert Harris, 'Peace Processes under Conditions of Uncertain Sovereignty', *International Negotiation* 12, no. 2 (2007): 175-205, p. 190.

Ancestral lands'.[754] Though not granting full independence, the MOA-AD was viewed favourably by MILF, especially given its comportment with Islamic law. Nevertheless, it had failed, as it was ruled 'unconstitutional'; and largely as a result of this procedure and outcome, the prospect of peace in Mindanao had become an increasingly political matter.

Yet not all are convinced of the prospect of a political solution to the conflict. Some scholars give greater weight to civil society actors, such as the Bishops-Ulama Conference (BUC; founded in 1996) which is comprised of Catholic, Protestant, and Muslim religious leaders engaged in interreligious peace talks and collaborative efforts.[755] Here, it is worth noting the divergent modes of conflict resolution efforts in Mindanao. The legal approach of Muslim communities, based on traditional Islamic law, is highly relational, localized, and largely subordinate to *sharīʿa*, whereas the Government of the Philippines (GPH) favours a positive law approach.[756] Thus, for example, while the GPH opposed the MOA-AD in view of its (un)constitutionality, Muslim communities who favoured it argued on the strictly moral basis that 'past injustice [i.e., the prior conquest of ancestral lands] must be corrected'.[757] Given these divergent methods of conflict resolution, some scholars suggest the need to draw on third party mediation, one without which peace and political reform would be impossible.[758] In the words of one analyst:

> There have emerged two culturally separate societies existing under the same roof of national statehood but adhering to two widely differing notions of belief, culture and loyalty[: namely,] Christian traditions shared by the majority of Filipinos [and] the Moro historical tradition [which] stems from the traditional Malay sultanates.[759]

It is sensible to conclude, among other things, that any prospect of peacebuilding would need to involve religious actors and their political theologies.

---

[754] Terms of Reference of the 'Memorandum of Agreement on the Ancestral Domain'; sec. 2, para. 6.
[755] Williams, 'Moa-Ad Debacle', pp. 137-41.
[756] Mastura, 'Legal Pluralism', pp. 467-68.
[757] Williams, 'Moa-Ad Debacle', p. 134.
[758] Temario Rivera, 'The Crisis of Philippine Democracy', in *Asian New Democracies*, ed. Hsin-Huang Michael Hsiao (Taipei: Taiwan Foundation for Democracy, 2006), p. 32.
[759] Stark, 'Muslims in Philippines', pp. 198-99.

(§5.2.4) Summary and transition

The forty-year time span that begins with the Jabidah Massacre of 1968 and ends with the MOA-AD debacle in 2008 represents one of the most politically-charged and hostile periods in Mindanao's history. It was also during this time that a plethora of civil society organizations was founded, and also when a number of significant national and international peace talks took place. Moreover, throughout this period, the issues that I discussed in the previous chapters – such as those relating to legal pluralism, social separatism, the decline of public life, and the role of *sharīʿa* – became especially pertinent to the prospect of constructing public civility in Mindanao.

In his analysis of the sources and nature of the Mindanaoan struggle, the Philippines expert Steven Rood concludes that the drive toward 'Muslim separatism' represents 'the main challenge to peace and development'.[760] As Rood suggests and I concur and argue below, what is needed for peace is not separatism but deep interreligious civility. The Muslim scholars K. S. Nathan and Mohammad Hashim Kamali have said plainly: 'The most dangerous trouble spot in Muslim Southeast Asia continues to be Mindanao, the Philippines.'[761]

(§5.3) The Mindanaoan struggle: applying the framework of public civility

In the following sections, in order to consider an application of my framework of public civility, I draw on various relevant academic literature, key arguments from previous chapters, and the findings from my fieldwork in Mindanao. From my fieldwork interviews I draw two broad conclusions. The first is that those who were most effective in contributing to the successes of peace process were neither political actors nor grassroots groups *per se*, but civil society organizations whose work was focussed most specifically

[760] Rood, *Forging Sustainable Peace*, p. 7.
[761] K. S. Nathan and Mohammad Hashim Kamali, 'Addressing the Challenge of Political Islam in Southeast Asia', in *Islam in Southeast Asia*, ed. Nathan and Kamali, p. 340.

on ‘interreligious dialogue’ and ‘peace education’. This is not to say that the political leaders and community organizers had no positive impact: without the official apparatus, no formal peace agreements would ever been have put forth; and without local efforts, there would have been no support for such agreements. However, what kept political actors responsive and community organizers active was the persistent and particular work of interreligious dialogue forums.[762] The second major conclusion I draw is that the prospect of constructing public civility in religiously divided societies such as Mindanao depends crucially on the political theologies of the communities involved.

The overarching aim in the following discussion is twofold: (1) to illustrate the way in which the notion of the human good may serve as a basis both to ground theoretically the work of interreligious dialogue, and to create practically spaces for a common public life; and (2) to demonstrate the crucial role fulfilled by political theology in constructing public civility. In order to situate my fieldwork interviews, I make a final comment on the history of the Mindanaoan struggle with particular regard to the issue of Muslim representation in official peace negotiations.

(§5.3.1) The question of legitimate Muslim representation

Since the 1968 Jabidah Massacre and until the 2000 ‘all-out-war’, a number of hopeful yet ultimately unsuccessful peace negotiations had taken place between the GPH and MNLF. Owing eventually to seemingly insurmountable barriers to resolution with MNLF, in 2002 the GPH replaced MNLF with MILF as the main negotiating partner in resolving the Mindanao problem.

The question of legitimate representation of the Muslim communities is illustrative of the history of the peace process itself, a question complicated by several factors. First,

[762] This observation is corroborated by the peacebuilding theorist John Paul Lederach who notes more generally that the ‘mid-level’ actors of peacebuilding are most often the key to constructing an enduring and just peace. See Lederach, *Building Peace*, Ch. 5, ‘Structure: Lenses for the Big Picture’, esp. pp. 46-51.

there is the *Lumad* community (indigenous peoples group) who have felt that their concerns have been underrepresented or not represented at all because of which many violent reactions have resulted.[763] Secondly, throughout the negotiations, the 'aboveground' MILF representatives have been working with an 'underground ulama' who are considered by some scholars as seeking to engender separatist sentiments.[764] Thirdly, there is the historical tension between the relatively recently introduced group of Muslims religious scholars (i.e., *ʿulamāʾ*, or *ustadzes* as they are called in Mindanao) and the *datus* who represent long-standing local Islamic authorities. According to the *datus*, the *ʿulamāʾ* were unduly influenced by the Islamist movements in the Middle East. This intrareligious struggle has exacerbated the matter of representational legitimacy. At any rate, over the course of four decades the *ʿulamāʾ*, initially represented by MNLF and then by MILF, have become the official negotiators as recognized by the GPH.

Given the inclusion of the *ʿulamāʾ*, there has been in Mindanao, as one Muslim scholar observes, 'a greater emphasis on Islamic rather than nationalist identity',[765] which underscores the fundamentally religious nature of the Mindanaoan struggle. This point is confirmed by one of my interviewees (Albert Alejo) who points out plainly that the 'I' (for 'Islamic') in MILF indicates that their struggle is unmistakably religious.[766] Thus, if the work of constructing public civility is to succeed in Mindanao, one must arguably consider two crucial factors: the political theology of Muslim communities; and the interreligious work between Muslim communities and their neighbours.

It is a discussion of these and related themes to which I now turn as I summarize the findings from my interviews. I note that this discussion is limited in nature, given the

[763] See Taya, 'Politicization of Ethnic Sentiments'.
[764] Much of my discussion in this paragraph draws McKenna, *Rulers and Rebels*, Ch. 9, 'Unarmed Struggle', quotations from 213 and 232.
[765] Muhammad Qasim Zaman, *The Ulama in Contemporary Islam: Custodians of Change* (Princeton: Princeton University Press, 2002), p. 174.
[766] Fr. Albert E. Alejo, in-person interview, Zamboanga City, 25 November 2012.

specific context of Mindanao from which it is drawn; but it is one which, nevertheless, may have relevance to similarly situated societies marked by religious divisiveness.

(§5.3.2) Political theology and interreligious engagement in Mindanao

The Catholic theologian and Philippines expert Rocco Viviano suggests that an enduring peace in Mindanao crucially depends on the '*theological engagement* and *religious experience*' which constitute what he calls a 'dialogue of common action'.[767] Or, as I put it, the roles of political theology and interreligious engagement are indispensible for public civility. Similarly, the interreligious relations scholar Michael Barnes contends that crucial to reconciliation in religiously divided societies in general is the need to 'negotiate the common space' of a given locale.[768] Accordingly, in Mindanao, one particularly problematic, if not fatal, point of contention in negotiating such common space has to do with the role of *sharīʿa*.

The crucial issue of *sharīʿa* in the Mindanao peace process is evident in view of the failure of the four major peace proposals (the 1976 Tripoli Agreement, the 1989 Organic Act, the 1996 Peace Agreement, and the 2008 MOA-AD) since the Jabidah Massacre.[769] Every attempt to implement various aspects of *sharīʿa* in these agreements has failed: the political theology of the Muslim communities is unquestionably a most fundamental matter. Yet, notwithstanding the grave concerns regarding the implementation of legal pluralism, some scholars commend certain legal resources (e.g., *ijtihād*, *maṣlaḥa*, etc.) by

[767] See Rocco Viviano, 'Christian-Muslim Relations in the Philippines: Between Conflict, Reconciliation and Dialogue', in *Christian Responses to Islam: Muslim-Christian Relations in the Modern World*, ed. Anthony O'Mahony and Emma Loosley (Manchester: Manchester University Press, 2008), pp. 133-38 (emphasis original). Similarly, within a more academic context, I find helpful Higton's idea of 'an ongoing *shared life* of dialoguing' in Mike Higton, 'Scriptural Reasoning', *Conversations in Religion and Theology* 7, no. 2 (2009): 129-33, p. 132.

[768] See Michael Barnes, *Theology and the Dialogue of Religions* (Cambridge: Cambridge University Press, 2002), pp. 230-54.

[769] The Tripoli Agreement states that 'the Muslims shall have the right to set up their own Courts which implement the Islamic Shari'ah laws'; the Organic Act made provision for a 'Shari'ah Appellate Court'; the 1996 Peace Agreement states, 'The Regional Legislative Assembly . . . shall establish Shari'ah Courts'; and the MOA-AD makes allowance for the 'Bangsamoro Juridical Entity (BJE)' to be based on *sharīʿa*.

which to contextualize *sharīʿa* in an effort to make it compatible with existing constitutional laws found in democratic liberal societies, as discussed in Chapter Four. However, since the majority of the Muslim communities in Mindanao follow mainly the *Shāfiʿī* school of law[770] – which makes minimal allowances for legal flexibility[771] – *sharīʿa* remains for these communities 'the ticklish issue' (put rather euphemistically).[772] Given that Muslims in Mindanao favour the idea of instituting *sharīʿa* to a large if not complete extent, how, then, might public civility be constructed?

Partly in an effort to consider this question and also to learn more generally about the peace process in Mindanao, I was put in touch with Carolyn O. Arguillas, the editor-in-chief of a major news organization (MindaNews) based in Davao City, Mindanao.[773] Through Arguillas, I was connected to eight prominent leaders from both Muslim and Catholic communities who have been actively involved in the peace process over the past several decades. I conducted lengthy structured interviews with these individuals who are widely regarded as key contributors to the peace process. In what follows, I discuss my findings from the interviews, drawing out content specific to the political theologies and interreligious efforts in Mindanao.[774]

(§5.3.3) Findings from interviews conducted from November to December 2012

Since the Jabidah Massacre, there has been within Catholic communities a concerted effort to think and work toward an enduring and just peace. Angel Calvo is one Catholic bishop who has worked as a peace advocate in Mindanao for over four

[770] McKenna, *Rulers and Rebels*, p. 249.
[771] See Hallaq, *Authority, Continuity, and Change*, pp. 7-14.
[772] This description is given by MILF Peace Panel Chairperson, Mr. Mohagher Iqbal. Cf. MILF Peace Panel Chairperson Mohagher Iqbal, Skype interview, Manila, 5 December 2012.
[773] The introduction was made through a colleague of mine in Oxford (a D.Phil. candidate from Mindanao).
[774] The collection of the information from these interviews are in compliance with the research ethics guidelines and regulations of the University of Oxford (CUREC Form 1A). Signed consent forms from all in-person interviewees and an electronic consent message for the one interview conducted via video conference are made available upon request.

decades.[775] Drawing on his experience, Calvo suggests that dialogue is never the end goal, for dialogue for 'mutual enrichment', while 'attractive' in itself, 'is still too narrow'. Rather, dialogue must be thought of as a means to a 'common commitment to the sacred peace' among individuals as well as within the 'contexts of community, nature, and the cosmos'. Accordingly, dialogue must not be merely 'theological', but must engage 'social, political, and economic realities and conditions'. Such 'dialogical education' is the goal of his organization, Peace Advocates Zamboanga (PAZ; founded in 1994). One of the main projects of PAZ is the Interreligious Solidarity Movement for Peace which hosts the annual Mindanao Week of Peace (which I observed). For Calvo, peace is achieved through working in solidarity specifically over issues of 'poverty, socio-economic discrimination, marginalization'. Notwithstanding his emphasis of the 'on-the-ground realities', Calvo offers a theoretical basis of his work: namely, the twin 'common ground' of universal 'belief in God' and of universal peace that is 'the will of God'. It is on this basis that 'Interreligious Solidarity' could count as a 'Movement for Peace'.

For Calvo, to build peace is to 'walk with', 'feel the insecurity of', and 'build something with' the other. So, peacebuilding is about both 'keeping one's identity' and holding 'that the other also has a truth' crucial for 'the future of humanity'. Thus, the truth (that 'the other' holds) may be a threat to one's power, especially for those in political leadership. Consequently, Calvo suggests that activists in civil society, who do not suffer the same 'institutional risks' as politicians, have been the more effective actors of the 'real work' of peace. While political 'symbols are needed' to remind local communities of the achievements of peace, symbols alone 'cannot solve the crisis'.

[775] Father Angel C. Calvo, CMF, immigrated to become the first Catholic bishop assigned to the diocese of Zamboanga, Mindanao where he has helped to found several interreligious initiatives, including the highly successful Peace Advocates Zamboanga (PAZ). The quotations and discussion which follow in this paragraph and the next are drawn from Fr. Angel C. Calvo, in-person interview, Zamboanga City, 26 November 2012.

Another organization that has had immense impact is the Silsilah Dialogue Movement founded by Sebastiano D'Ambra.[776] Having arrived in Mindanao in 1977, D'Ambra eventually became a key negotiator in the 1996 Peace Agreement. D'Ambra notes that a major, though often overlooked, obstacle to peace are 'cultural factors'. For example, especially within the Muslim communities, what has stalled the prospects of peace is a long history of '*rido*', defined by Amado Picardal (a colleague of D'Ambra) as 'the cycle of violence or vendetta killings between feuding families and clans'.[777] A second example of such cultural obstacles to peace has to do with the norms of governance in Mindanao which have tended to favour local tribal customs over against a system of national democracy, as discussed above. A third example is the emergence of Overseas Filipino Workers (approximately eleven to twelve million individuals), owing to whose absence a myriad of families have become divided. D'Ambra refers to this phenomenon as a kind of 'secularization' which tears apart traditional family structures: children raised without the emotional and psychological support often in their adult lives participate in political leadership with corrupt characters that lead to a corrupt politics. For this reason, at Silsilah 'formation is critical'.

For nearly thirty years Silsilah has had dialogue forums in over eighteen major cities in the Philippines with thousands of participants. Regarding its success, D'Ambra points to the basis of his approach: the term 'Silsilah' comes from the *Sūfī* Muslim tradition, referring to a 'link' between God and humanity; D'Ambra adopted the term, and applied it horizontally to highlight the 'link which binds humanity'. Yet, for D'Ambra, Silsilah is not merely a 'social strategy'; rather, it is primarily about dialogue which 'starts

[776] Father Sebastiano D'Ambra, PIME, is founder of the Silsilah Dialogue Movement (established in 1984), which is arguably the most successful interreligious dialogue effort in Mindanao. D'Ambra has served as a key negotiator in the 1996 Peace Agreement between GPH and MNLF. The quotations and discussion which follow in this paragraph and the next are drawn from Fr. Sebastiano D'Ambra, in-person interview, Zamboanga City, 27 November 2012.
[777] Amado Picardal, 'Christian-Muslim Dialogue in Mindanao', *Asian Christian Review* 2, no. 2 (2008): 54-72, p. 60.

from God and brings people back to God'. Here, D'Ambra, in commenting on the idea of the human good, suggests it is already a part of the group's approach: since dialogue is always needed in view of 'the human condition', '[d]ialogue would exist even if there [were] no Muslim-Christian conflict'. That is, while a 'culture of dialogue', grounded in a 'linked' humanity, is 'the path to peace', this culture of dialogue is necessary also in times of peace because of humanity's potential for corruption.

In addition to horizontal dialogue, the social anthropologist Albert Alejo points to the importance of the 'vertical [dimension of] peace communication' which connects politics with the people.[778] Alejo believes that one main reason that official negotiations have not brought about an enduring peace has to do with a failure to involve 'communities and peace constituencies'. To be sure, Alejo recognizes the need to balance the 'confidentiality of peace talks' with the 'confidence of the communities': 'too many cooks spoil the broth', he quipped. At the same time, '[We cannot] leave behind those who have to ratify' the peace process – and far too 'little is being done' in this area of vertical 'peace communication'.[779] That said, Alejo does not dismiss the importance of interreligious dialogue. Indeed, when asked about whether an Aristotelian notion of 'the human good' might help to bridge the distance between religious communities, Alejo responded: 'There have been attempts ['even at our university', *viz*., Ateneo de Zamboanga University] to provide some meta-platform; for example, by way of Lévinas' idea of the commonality of humanity, or Habermasian ideal speech situation, *et cetera*.' Alejo went on to point out the importance of discussions about 'common humanity' within the context of interreligious dialogue: 'There is a lot of room [to discuss this idea] for practitioners who are into action[,

[778] Father Albert E. Alejo, SJ, received his Ph.D. in social anthropology from School of Oriental and African Studies (SOAS) at the University of London. Alejo has been actively involved with the peace process in Mindanao over the past thirty years at national, civil society, and grassroots levels. The quotations and discussion which follow in this paragraph and the next are drawn from Alejo, 25 November 2012.

[779] In an article he wrote for the inaugural edition of *Our Mindanao*, Alejo outlines twenty-five points to consider in effecting vertical peace communication. Albert Alejo, 'Let the People Understand', *Our Mindanao* 1, no. 1 (2010): 15-19.

and] who want to reflect before heading back into the field. This [forum] is a very good place for this [idea].'

For Alejo, the Moro struggle, however, is not exclusively religious. To say either that the history of conflict is simply a matter of religion or that it is not truly religious at all – 'both are reductionistic'. The struggle is 'not just religious: it is political and economic [and concerns] the loss of land. The combination was fatal.' For Muslims, Alejo said, the issue is essentially two-pronged: (1) 'political' insofar as there is a need to recognize 'identity' and 'self-governance'; and (2) 'land related'. That said, Alejo also noted that the struggle is becoming increasingly religious. For, while MNLF negotiated the 1996 Peace Agreement which 'was more secular' in tone, in the 2008 MOA-AD MILF had in mind a 'religious basis' for 'an Islamic State'. It is worth noting also that, throughout the history of conflict, both Christians and Muslims forged armed groups in the name of religion.[780] Furthermore, as noted above, a crucial point of contention throughout the history of the negotiations has concerned the implementation of a religious *sharīʿa*. Alejo concluded by saying that if there is any 'meta-thinking' to be done in constructing a framework of peace, then respective religious communities must 'discover from within [their] own resources the capacity, not just to draw boundaries, but to build bridges'.

This view of religion's role in the construction of peace is shared by Archbishop Fernando Capalla, co-founder of the Bishops-Ulama Conference.[781] The BUC was established in 1996 as a government mandate 'to help in the implementation of the peace process'. As Capalla points out, the efforts and aim of the BUC were 'to be guided by Islamic and Christian values' for which reason it is comprised of Catholic bishops, Muslim

[780] Picardal, 'Christian-Muslim', pp. 55-56.
[781] Retired Archbishop Fernando R. Capalla, D.D., is co-convenor/founder of the Bishops-Ulama Conference (BUC) which began as a government mandate to implement key measures of the 1996 Peace Agreement. BUC consists of twenty-four Catholic bishops, twenty-four Muslim *ʿulamāʾ*/*ustadzes*, and eighteen Protestant pastors. The quotations and discussion which follow in this paragraph and the next are drawn from Archbishop Fernando R. Capalla, in-person interview, Davao City, 28 November 2012.

ʿulamāʾ, and Protestant pastors. Since its beginnings, the BUC have introduced a series of seminars focused on teaching the values of 'peace and development' from within respective religious scriptures – an idea that Capalla adopted from Calvo's PAZ group. Capalla confessed that, when beginning to work in the area of interreligious dialogue, he thought peace was simply a matter of having in place 'the right kind of politics'. Now he believes that one of 'the main obstacles to peace is ignorance' about the relationship between faith and peace. Capalla says that, most people have been educated to consider peace in terms of the Greek idea of '*eirene'* – 'the absence of war' – or of the Roman idea of '*pax'* – 'peace accord on paper'. Instead, 'As Christians, what we need to do is look at peace from the Hebrew culture [where] *shalom* means wholeness, harmony, integrity in individuals and community.' Also, in Islam, the term for peace ('*salaam*') is that from which the term 'Islam' derives. Capalla also emphasized the need to establish 'deep friendships' which is the most effective basis for 'real dialogue': 'We had to rid [the sentiments found in] slogans such as: "A good Moro is a dead Moro" and "You could never trust a Christian."' Capalla recalls one afternoon, during a meeting with all the leaders present, when he suggested that, rather than holding the seminar indoors, they might head down to the beach to continue the conversation there. According to Capalla, this one afternoon did more for the work at BUC than many months previous combined: friendship is indispensible to interreligious peace.[782]

In outlining what he sees as the three key factors to achieving peace through interreligious dialogue, Capalla suggests the following. First, more than the need 'to be experts in conflict resolution', an 'openness to friendship' is essential to interreligious engagement: for when 'we first build the root of friendship, then we could discuss all the possibilities of peacebuilding [in a context of] trust and patience'. Secondly, 'we need

[782] For more on this point, see Lederach, *Moral Imagination*, Ch. 11, 'On Serendipity: the Gift of Accidental Sagacity'.

community support', that is, civil society organizations 'on the ground' that can support the work of religious leaders. Thirdly, 'we need funds': not only 'human resources [but] material resources'. In concluding our conversation and commenting on the idea of the human good, Capalla mentioned how 'the idea of the human person is the basic philosophy of Pope John Paul II' for whom, Capalla says, 'to dialogue is to be human'. (Here Capalla seems to have in mind the following: '[T]here is a *moral logic* which is built into human life and which makes possible dialogue between individuals and peoples. . . . The universal moral law written on the human heart is precisely that kind of "grammar" which is needed [for an enduring peace].')[783] After all, 'we have a common origin and destiny'; and as Christians 'we believe we are created in [God's] image' with a particular shared nature. Capalla suggests that ultimately there is 'no other way to solve human problems except through respectful and patient dialogue' by human persons on the basis of commonality.

In addition to the work of interreligious dialogue groups is the indispensible[784] work being done by international non-governmental organizations (NGOs) such as Catholic Relief Services (CRS), the Mindanao branch of which is led by Myla Leguro.[785] Like the BUC, the programs of CRS began as an initiative mandated by the 1996 Peace Agreement 'to bring together Muslims, Christians, and indigenous people'. The holistic approach taken up by CRS consists in five dimensions: (1) interfaith dialogue; (2) peace education; (3) grassroots efforts; (4) structural transformation; and (5) personal relationships. First, interfaith dialogue represents 'a safe space where diverse communities could come together [to] understand the roots of the struggle', to 'listen to the experiences

[783] See 'The Fiftieth General Assembly of the United Nations Organization', http://bit.ly/JPII50UN, accessed on 22 July 2013, no. 3. *Apostolic Journey of His Holiness John Paul II to the United States of America*, promulgated by Pope Paul II on 5 October 1995.
[784] Cf. Lederach, *Building Peace*, Chs. 4 and 5; Lederach, *Moral Imagination*, Ch. 8.
[785] With a graduate degree from the Kroc Institute for International Peace Studies at Notre Dame University and two decades of work at Catholic Relief Services, Myla Leguro founded and continues to advise two major peace organizations: Mindanao Peacebuilding Institute and Grassroots Peace Learning Center. The quotations and discussion which follow in this paragraph and the next two are drawn from Myla Leguro, in-person interview, Davao City, 28 November 2012.

of the supposed "enemy"', and to 'teach and enhance capacities for conflict resolution'. Dialogue, in other words, is 'dreaming for the communities in collaboration'; more concretely, it is 'used as a problem-solving process [for] analyzing the conflict, exploring perspectives and positions, and envisioning a [common] future'. Secondly (and in consonance with Alejo's idea of vertical peace communication), CRS 'helps schools to implement [the] government mandate to integrate peace education into the curriculum'. Thirdly, at the grassroots level, 'we work with communities which have declared themselves as "zones of peace" – safe communities which were previously war zones'. Fourthly, CRS is keen on structural transformation, as it 'actively negotiate[s] with both government forces [and Muslim] armed groups to respect [said] zones of peace'. For example, CRS is involved in implementing 'peace and conflict mapping processes' for various *Barangay* (i.e., villages) in their official development plans. In this way, in an effort to give a voice to the 'vulnerable and marginalized', CRS helps to integrate a 'peacebuilding lens' through which local councils could decide on such plans. Fifthly, critical to building and maintaining a lasting peace is the development of personal relationships both within the private sphere and across civil society organizations. In sum, the 'conflict transformation paradigm' of CRS, which involves these 'personal, relational, structural, cultural, and spiritual dimensions', is used in 'workshops and dialogues processes' with an eye to address the more 'systemic issues' of peace and conflict.

On a final note, Leguro points out that, with respect to the 'basis for Muslim-Christian engagement', when CRS began its work in Mindanao its 'theory of change' was based on the idea of a 'dialogue of commonality', much like that of the BUC. However, 'inequality, political participation, land issues' required, Leguro insisted, a dialogical 'maturity' that comes only with a 'dialogue of difference'. That is, for example, only after Christian groups have had an 'internal dialogue' about the need to understand Muslims'

desire for self-governance would there emerge a 'maturity to accept' differences, and possibly to act generously; and this maturity 'to take in the contentious issues' can only come by way of a 'dialogue of difference'. For CRS, 'We need to be exclusive to be inclusive. Be exclusive first within each group [to] prepare that group to actually deeply practice solidarity with other groups.' Without this 'internal dialogue', Leguro asks, 'how can we move forward' on contentious issues? (Or, as Alejo put it, we need 'intrafaith [discussions] in the service of interfaith dialogue'.)

The robust 'conflict transformation paradigm' of CRS offers a successful and time-tested approach to peacebuilding in Mindanao. This recent shift from a dialogue of commonality to one of difference, however, has been critiqued, as Leguro notes, by many groups who consider this move as 'regressive'. While I agree with Leguro who commends 'internal dialogue' for the sake of 'interreligious maturity', I would argue that such intragroup dialogue is coherent only insofar as it is considered within the intergroup dimension. For interreligious dialogue – the goal of Leguro's 'internal dialogue' – presupposes a common humanity, which makes intergroup communication possible, and without which 'internal dialogue' would be unnecessary. Thus, not only is intergroup dialogue the 'goal of intragroup dialogue', as Leguro suggests; the former also grounds the latter. The human good, then, makes both possible and necessary not only 'internal', but also interreligious, dialogue.

Others who find the idea of the human good attractive, particularly as applied to dialogue among religious leaders, are Amina Rasul and Moner Bajunaid whom I interviewed concurrently at the Philippine Center for Islam and Democracy (PCID) which is located at the University of Philippines, Diliman in Manila.[786] It is unsurprising, given

[786] With graduate degrees from Al-Azhar University and International Islamic University, Moner Bajunaid is professor of Islamic studies and director of the Center for Peace Studies at Mindanao State University where he once served as Chancellor. Amina Rasul, previously a Philippine Government cabinet member and currently a member of the Brookings Institution Task Force on US Foreign Policy Towards the Islamic

their academic background and bent (Rasul's postgraduate work at Harvard; Bajunaid's degrees from Al-Azhar), that they would find this idea appealing. The outlook at PCID, however, is not simply academic. Rasul and Bajunaid, along with their staff, have been active in conducting 'programmes and activities [to] explain to our [Muslim] people the meaning of democratic processes which involve human rights issues, governance, peace and development', and the like. Also, they are involved directly with the *ʿulamāʾ* through two major organizations: (1) the National Ulama Conference of the Philippines (NUCP) which 'is really a federation of [some] hundred and sixty member organizations'; and (2) the women's sector of *ʿulamāʾ* known as '*aleemat*' represented by the group '*Noorus Salam*' ('Light of Peace'). 'Furthermore, we have been involved in the early stages of the negotiations of MILF with the government.'

The goal of PCID is 'to advocate peace and democratic principles along Islamic lines' since, as Bajunaid suggests, 'education is the key' for peacebuilding and development. Bajunaid insists that Islam and democracy are indeed compatible (as the name of Center suggests) since, given the principle of *shūrā* (consultation), the ideals of Islam, like those of democracy, promote 'governance, participation, liberties'. That said, both Bajunaid and Rasul recognize the rather difficult issue regarding *sharīʿa*. Yet, for Bajunaid, '*sharīʿa* belongs to the Muslims, and only the Muslims can decide [to] what extent [and how] it should be implemented, [since] after all it is applicable only to the Muslims, not [to] other people.' But surely, the issue of *sharīʿa*, as described by Bajunaid, poses significant if not insurmountable challenges to a liberal democratic society like Mindanao. For, if *sharīʿa* is 'only for Muslims' and yet non-Muslims share the same space where *sharīʿa* is upheld, then inevitably there would be conflicts over legal issues. (In fact,

---

Countries, serves as the Lead Convener of the Philippine Center for Islam and Democracy. She has earned a graduate degree from the John F. Kennedy School of Government at Harvard University. The quotations and discussion which follow in this paragraph and the next two are from Prof. Moner Bajunaid, in-person interview, Manila, 3 December 2012; and Amina Rasul, in-person interview, Manila, 3 December 2012.

as it currently stands, the minimum needed for provinces in Mindanao to opt into the proposed *Bangsamoro* ('Muslim nation') is only a ten-percent Muslim population.) In this way, a legal pluralism, as discussed at length in Chapters Two and Four, would pose intractable, if not irresolvable, problems, stultifying democratic processes.

As an alternative solution, Bajunaid suggests the idea of *maṣlaḥa* ('common good'):

> There can be a *maṣlaḥa* which is universal, [and one which is] particular to a people. [Thus,] *maṣlaḥa* may be [used] to determine the aspects of *sharīʿa* which apply to particular people, and those which apply to all. [That said,] wherever you go, there are human rights, consensus, consultation, education: in short, universal values and concerns. ['In looking back, we now can'] say that this is the *maṣlaḥa*, the general welfare for humanity.

To note, Bajunaid's distinction between *maṣlaḥa*-as-the-common-good-of-Muslims and *maṣlaḥa*-as-the-general-welfare-of-humanity confirms what I argue in Chapter Four:[787] that is, with respect to the first type, *maṣlaḥa* is common only to Muslim communities since it originates in and is shaped from a specifically Islamic perspective. With regard to the second type of *maṣlaḥa*, it too fails to secure a truly universal common ground given its contingent character: for, on its own terms, it is historically accidental that 'human rights, consensus, consultation, education' are part of it. For this reason, it is subject to a relativism of values, making this allegedly 'universalistic' *maṣlaḥa* in fact context-dependent and thereby inadequate to frame public civility. Indeed, when asked what grounds the universal values of the second type of *maṣlaḥa*, Bajunaid conceded that it is 'based on the *Qurʾān* and *ḥadīth*'. Thus, as I have argued, what is needed is an Islamic political theology that is grounded on the notion of the universal human good, rather than a 'common good' which is in fact not common.

Finally, from my interview with Mohagher Iqbal, the MILF Peace Panel Chairperson and principal negotiator for Muslim communities, it is clear that *sharīʿa* plays

[787] The distinction that Bajunaid seems to have in mind here is that between *maqāṣid al-sharīʿa* ('the aims and purposes of the Lawgiver') and *maqāṣid al-mukallaf* ('the human goals and purposes'), respectively. See Kamali, *Shariʿah Law*, p. 134.

a crucial role in the Mindanao peace process.[788] For Iqbal, religion is strictly speaking not an explicit factor in the peace process – 'it's not a part of the agenda of the two groups'. Yet he concedes that, insofar as 'Islam is part of the communities which MILF represents', there are religious aspects to be considered. In agreement with Bajunaid, Iqbal says that '*sharīʿa* is internal to Muslims and not to Christian and IPs'; at the same time, it remains 'the ticklish issue'. That is, given 'the supremacy of the Supreme Court' of the Philippines as well as the Muslim conviction that '*sharīʿa* is supreme', there are 'two immovable things'. Iqbal suggests that what may be needed, for the sake of peace, is a temporary 'constructive ambiguity' to allow both parties to discuss details at a later time.

In view of this comment, I asked him about his view of peace to which he responded:

> Peace is . . . not just the absence of war or conflict between people. ['Peace'] transcends people. . . . [There must be] peace within oneself, one's family, one's community, the whole population in Mindanao. [It is] not just forgiving and forgetting – it has to do with justice. Peace with justice is the ultimate meaning of peace.

Yet throughout the history of Mindanao, Iqbal continues, peace has been lacking as 'religion has divided people':

> When wars broke out [in Mindanao], hundreds of thousands of people have died. As for MILF, our guidelines [for] Muslim and Christian communities are very clear: all people of religion think their religion is right; Islam fully respects the religion of other people [since there is] no compulsion in religion; [and we consider] Christians [the] most fortunate friends of Muslims.

(Here Iqbal seems to be alluding to *sūra*s 2:256 which states, 'There is no compulsion in religion', and 5:82 according to which Muslims 'are sure to find that the closest in affection . . . are those who say, "We are Christians"'.) Further to this comment, Iqbal

[788] Mohagher Iqbal is the official representative of the Muslim communities for peace talks with the Government of the Philippines (GPH) which, until recently, was represented by peace panel chair Marvic Leonen. The quotations and discussion which follow in this paragraph and the next are from Iqbal, 5 December 2012.

suggests that ‘there is only one God who has created all persons – so there is no reason to quarrel over religion’. Concluding his thoughts, Iqbal observes: ‘Islam promotes respect. [It is] on the basis of mutual respect that we could live together in a peaceful society.’ For Iqbal, religion is a resource for peace insofar as it encourages mutual respect. Iqbal’s political theology, experience, and role as the chief Muslim negotiator are highly instructive for the prospect of peace and public civility in Mindanao. His point about the need to draw out from divergent religious traditions a deep mutual respect for a common public life underscores the importance and advantage of constructing public civility on the basis of the universal notion of the human good.

What Iqbal refers to as ‘the ticklish issue’ (i.e., the role of *sharīʿa*) is, I maintain, the most crucial one about which Muslim and Catholic communities in Mindanao will need to dialogue before an enduring peace and public civility could be constructed. And the political theologies of Catholic and Muslim communities play an indispensible role in determining the role of ‘the ticklish issue’.

(§5.3.4) Conclusions and commentary

The key findings from my interviews are twofold: (1) that over the course of the four decades of deep civil unrest and war, interreligious dialogue and engagement have played a pivotal and positive role in the peace process, especially when grounded on the basis of the human good, as the success of the Silsilah movement (*inter alia*) demonstrates well; and (2) that the political theology of Muslim communities continues to pose a challenge for resolving the peace process and thereby for constructing public civility.

With respect to the first point, Lederach notes (as Calvo, D’Ambra, Bajunaid, and Rasul would agree) that the work on interreligious engagement and peacebuilding is done typically and most effectively by the ‘middle sector’ (e.g., the academy, civil society,

religious groups, and the like).[789] With respect to the second point, Tibi observes that Muslim communities in liberal democratic societies are faced with 'two competing legal traditions: legislative democratic law versus interpretative authoritarian law'; and that, despite recent developments (i.e., distortions) in '*democratizing* the shariʿa,[790] throughout Islamic history, in the absence of a Muslim ruler, *sharīʿa* was not 'endowed with any legal institution'.[791] And, according to the secular imperative (cf. section §4.1.1), in liberal democratic societies the absence of a Muslim ruler is what must be the case. Moreover, the legal pluralism that results in a state-backed *sharīʿa* society is unpromising with regard to the task of public civility, for it would render impossible the establishment of a unified body of law.

Yet to note, since the 1970s the GPH has adopted various forms of legal exemptions for Muslim communities in Mindanao.[792] The legal scholar Michael Mastura (who, immediately following the Tripoli Agreement (1976), participated in drafting the Code of Muslim Personal Laws (1977)), notes that only those aspects of *sharīʿa* which were 'fundamentally personal' were codified into the legal system (i.e., those 'relating to personal status, marriage and divorce', etc.). The central criteria used for the legalization of these codes were the *maqāṣid al-sharīʿa* (the purposes of Islamic law).[793] This procedural requirement shows how central a role the *maqāṣid* play for Muslim scholars in Mindanao when arbitrating what they consider to be authentic Islamic law. But such proposals not only suffer the pitfalls of legal pluralism, as argued in Chapter Four, but also have worked to undermine the prospect of past peace agreements, as discussed above.

---

[789] Lederach, *Moral Imagination*, Ch. 8, 'On Space: Life in the Web', esp. pp. 78-80; Lederach, *Building Peace*, Ch. 4, 'Structure: Lenses for the Big Picture', esp. pp. 41-43.
[790] See Feldman, *Fall and Rise*, pp. 12 and 121.
[791] The quotations of Tibi in this paragraph are from Tibi, *Islamism and Islam*, pp. 169-71.
[792] The following is a list of some examples: (1) Section 13 of Act No. 787 (1903); (2) The Civil Code (1950); (3) The Barangay Justice Law (1978); and (4) The Family Code of the Philippines (1987). These examples are drawn largely from Mastura, 'Legal Pluralism', pp. 474-75. The quotations in this paragraph are from pp. 463, 468-69, 469-70, and 472 of the same work.
[793] At any points of interpretative conflict, the predominant *Shāfiʿī* school took precedence.

(§5.3.5) Summary and transition

The first part of this chapter comprises an illustration of my framework of public civility as applied to the context of Mindanao: where interreligious dialogue based on the notion of the human good and the political theology of the Muslim communities about the role of *sharīʿa* fulfil crucial roles with respect to the construction of public civility.

I now turn to consider whether this framework, as based specifically on the idea of the human good, could justifiably be applied elsewhere. I consequently move from the particular case to the general principles under discussion. In what follows, I argue not only that such an application may be justified, but also that no less than a global application of this framework is morally required. In other words, I consider the limits of a framework of public civility as based specifically on the idea of the human good.

(§5.4) The human good and the scope of public civility

In this section, my overarching contention is that a framework based on the notion of the human good both justifies and demands a global scope of public civility. That is, given that every human person possesses an essential anthropology marked by rationality, relationality, and purposiveness, not only is a cosmopolitan outlook justified: it is morally obligatory. I make the argument in three main stages: first, by specifying the kind of cosmopolitanism that I have in mind, namely, 'moral cosmopolitanism'; secondly, by offering philosophical and prudential reasons for accepting a moral cosmopolitan stance and subsequently by responding to critiques of cosmopolitan theory; and lastly, by considering theological justifications of moral cosmopolitanism specifically within the Christian (Roman Catholic) and Muslim traditions.

(§5.4.1) Moral cosmopolitanism defined

Recent academic literature on cosmopolitanism can be found in the works of political and social theorists such as Charles Beitz who, building on Rawls' theory of justice, argues that the essential human capacities, which consist in the right to effect justice and to 'pursue a conception of the good', necessitate a cosmopolitan stance.[794] By contrast, Walzer, who takes the view that the limits of justice are bounded by historical, cultural, and geographic contingencies, argues otherwise.[795] Joseph Carens, who applies the discussion of universal morality and global justice specifically to questions of immigration and citizenship, makes a cosmopolitan case for 'open borders'.[796]

These discussions are parallel to earlier ones among thinkers such as Kant who, in presupposing the sovereignty of nation-states, argued that the most just (because the most practically peaceable) form of governance is one wherein an international set of republican constitutional states work to ensure cosmopolitan and perpetual peace.[797] In opposition, Henry Sidgwick (d. 1900) argued that the 'interests' which bind 'a common nationality' must be placed over against the 'cosmopolitan ideal' which 'allows too little for . . . patriotic sentiments'.[798] More recently, proponents of cosmopolitanism such as Charles Jones and Thomas Pogge,[799] along with detractors such as David Miller and Onora

[794] See Charles Beitz, *Political Theory and International Relations*, 2nd ed. (Princeton: Princeton University Press, 1999 [1979]), esp. Pt. 3, Ch. 1, 'Social Cooperation, Boundaries, and the Basis of Justice'; Charles Beitz, 'Cosmopolitan Ideals and National Sentiment', *The Journal of Philosophy* 80, no. 10 (1983): 591-600, quotation from p. 595.
[795] See Walzer, *Spheres of Justice*, esp. Ch. 2, 'Membership'.
[796] See Carens, 'Aliens and Citizens'.
[797] See Kant, *Perpetual Peace*, esp. Sec. 1, Ch. 5 and Sec. 2, Ch. 1. Whether Kant promotes a political cosmopolitanism is a contested matter, as noted by editor of this edition of Kant's essay, Mary Smith. See Kant, *Perpetual Peace*, Sec. 2, Ch. 2; note on p. 129. That Kant appealed to a legal cosmopolitanism to ground the moral obligation of granting hospitality to foreigners, however, seems clear. See Sec. 2, Ch. 3.
[798] Henry Sidgwick, *The Elements of Politics* (London: Macmillan, 1891), quotation from pp. 295-96.
[799] Charles Jones, *Global Justice: Defending Cosmopolitanism* (Oxford: Oxford University Press, 1999); Charles Jones, 'Global Liberalism: Political or Comprehensive?', *University of Toronto Law Journal* 54, no. 2 (2004): 227-48; Thomas Pogge, 'Priorities of Global Justice', in *Global Justice*, ed. Thomas Pogge (Oxford: Blackwell, 2001); Thomas Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms* (Cambridge: Polity Press, 2002).

O'Neill,[800] have weighed in. Martha Nussbaum's essay on cosmopolitanism, which spawned criticisms from notable contemporary thinkers such as Amartya Sen and Kwame Anthony Appiah,[801] has made a significant contribution to the debate as well.

The cosmopolitanism that I propose is similar to but significantly different from ones put forward by other contemporary theorists: I call it 'moral cosmopolitanism'.[802] It is different from most other formulations of cosmopolitanism in at least two main ways: first, unlike many other theories of cosmopolitanism,[803] it is not connected in any necessary way to political liberalism; and secondly, it is not necessarily a form of political cosmopolitanism, i.e., a theory of political governance.[804]

I note also that I refrain from engaging with the 'social scientific' cosmopolitanisms offered by thinkers such as Ulrich Beck, Jürgen Habermas, and others in the Frankfurt school of thought.[805] For, unlike these scholars, I am concerned with the specifically moral implications of cosmopolitan theory, and not strictly (i.e., merely) with the phenomenological 'sense' of a cosmopolitan modernity. In other words, moral cosmopolitanism is a proposal about the obligations that human persons of one polity have toward those of another, irrespective of the political memberships of either; it is about the

[800] David Miller, *On Nationality* (Oxford: Oxford University Press, 1997); Onora O'Neill, *Bounds of Justice* (Cambridge: Cambridge University Press, 2000); Onora O'Neill, 'Bounded and Cosmopolitan Justice', *Review of International Studies* 26, no. 5 (2000): 45-60. This last reference has served as my main introduction to the literature, aside from that of Nussbaum's cited immediately below; see p. 45, n. 4.
[801] Martha Nussbaum and Joshua Cohen, eds., *For Love of Country* (Boston: Beacon Press, 1996).
[802] This term appears in O'Neill's essay, but is one which I developed prior to my coming across it. See O'Neill, 'Bounded and Cosmopolitan', p. 45.
[803] See, e.g., Beitz, 'Cosmopolitan Ideals'; Jones, 'Global Liberalism'; Pogge, *World Poverty*; Yael Tamir, *Liberal Nationalism* (Princeton: Princeton University Press, 1993).
[804] See, e.g., Robert George, 'Natural Law and International Order', in *In Defense of Natural Law*, ed. Robert George (Oxford: Clarendon, 1999); Hollenbach, *Common Good*.
[805] See Ulrich Beck, *The Cosmopolitan Vision* (Cambridge: Polity, 2006), esp. Ch. 1, 'The Global Sense, Sense of Boundarylessness'; Jürgen Habermas, *The Postnational Constellation: Political Essays*, trans. Max Pensky (MIT Press: Cambridge, 2001); and Jürgen Habermas, *The Inclusion of the Other: Studies in Political Theory*, ed. Ciaran Cronin and Pable De Greiff (Cambridge: MIT Press, 1998), Ch. 1, 'A Genealogical Analysis of the Cognitive Content of Morality'.

extent of moral care that humans ought to have toward one another *qua* 'citizens of the world' (to borrow a term from the early cosmopolitanist Diogenes of Sinope).[806]

(§5.4.2) Moral cosmopolitanism defended

The first reason that moral cosmopolitanism should be accepted is that, like all other associations and identities, nationalities too are humanly constructed, and therefore have a morally ambivalent status. While it is true, as Sen and others point out, that individuals and groups always will possess and find themselves beholden to a set of 'plural affiliations' of 'multiple identities',[807] these loyalties and identities are historically contingent, and thereby strictly considered inessential to humanness. By contrast, moral cosmopolitanism maintains that human persons owe a moral obligation of public civility to all other human persons throughout the world in virtue of their instantiating (whether actually or potentially) the human good of relationality, purposiveness, and rationality.

To make this point further, consider Walzer's view which stands in opposition to moral cosmopolitanism.[808] Walzer contends that, given the 'communities of character', each of which has a unique set of moral terms articulated against a background of particular 'social meanings', what is needed is 'protected spaces of many different sorts matched to the needs of the different tribes': i.e., an ensemble of 'parochialisms'. Walzer's thesis (discussed at some length also in Chapter Three) is based on the idea that the most 'crucial commonality of the human race is particularism': that is, 'we participate, all of us, in thick cultures that are our own'. To the contrary, I contend that Walzer's own 'thick' conception of communal morality makes problematic the identitarian thesis of theorists

[806] Quoted in Diogenes Laërtius, *The Lives and Opinions of Eminent Philosophers*, trans. Charles Yonge (London: H. G. Bohn, 1853), pp. 240-41.
[807] Amartya Sen, 'Global Justice', in *Global Public Goods*, ed. Inge Kaul, Isabelle Grunberg, and Marc Stern (New York: Oxford University Press, 1999), p. 121. See also O'Neill, *Bounds of Justice*, esp. Ch. 9, 'Identities, Boundaries and States'.
[808] See Walzer, *Thick and Thin*, Ch. 4, 'Justice and Tribalism: Minimal Morality in International Politics', quotations from pp. 78, 82, and 83.

(like Walzer himself) who suggest identities are multiple and overlapping. For, if identities overlap, then determining which 'community of character' and which set of 'social meanings' pertain to a given individual would be a difficult, if not impossible, task to perform: So, how would thinkers like Walzer, who favour a hybridic view of identities, begin to suggest a way in which to demarcate these alleged islands of identities, these 'communities of character'? There does not seem to be an answer forthcoming.

Related to this point, Nussbaum also comments on the historically contingent and thereby ultimately morally ambivalent character of national identities, offering the following example for consideration.[809] On a non-cosmopolitan view, those who immigrate from, say, China to the US would be considered as 'fellows', whereas those who remain in their country of origin would be considered as 'foreigners'. Nussbaum asks: 'What is it about the national boundary that magically converts people toward whom we are both incurious and indifferent [foreigners] into people to whom we have duties of mutual respect [fellows]?' Arguably, there is nothing magical (nor non-magical, presumably) that would justify such a non-cosmopolitan outlook.

To note, for Nussbaum as for myself, cosmopolitanism does not necessitate that an individual must give proportionally equal moral care for all human persons. One may justifiably 'give one's own sphere a special degree of concern' – after all, the politics of a common life 'will be poorly done' if everyone 'thinks herself equally responsible for all'. In this way, moral cosmopolitanism is compatible with the idea of having 'particular loves' for family, religious/ethnic communities, or even country. Rather, more central to the issue regarding the legitimacy of moral cosmopolitanism has to do with the 'respect [that] should be accorded to humanity as such', those 'basic features of human personhood that . . . transcend national boundaries'. Thus, moral cosmopolitanism, while not requiring

[809] The quotations in this paragraph and the next are from Martha Nussbaum, 'Patriotism and Cosmopolitanism', in *Love of Country*, ed. Nussbaum and Cohen, pp. 14, 13, 9, 15, and 6, respectively.

proportionally equal moral responsibility, entails the idea that universal respect and global concern ought to motivate individuals to attend to deep human needs which may demand utter unconcern for national boundaries and identities.

A second reason that moral cosmopolitanism should be adopted is that it comports with an intuition about universal moral obligation articulated since antiquity, an intuition which ought to be considered even more compelling since the onset of modern globalization. An early use of the term 'cosmopolitan' is found in the fourth century BC when Diogenes the Cynic (of Sinope; d. 323 BC), in answer to the question about where he is from, stated that he is a '*kosmopolitēs*' – a 'citizen of the world' – suggesting that, as one scholar writes, 'he took the universal concerns of humankind to be more important and binding than local concerns'.[810] Likewise, the ancient Greek historian Plutarch of Chaironea, commenting on the work of Zeno the Stoic (of Citium; d. 262 BC), writes:

> Indeed, the much-admired 'Republic' [of Zeno] is all directed towards this one summary point: that we ought not to dwell in cities or in districts, dividing ourselves up into local systems of justice, but instead come to think of all human beings as fellow citizens of the . . . single cosmos, . . . ruled in common by a common law.[811]

Relating these ancient views to the point at hand – that moral cosmopolitanism coheres with the long-held intuition of universal moral obligation – consider the insight of Arendt who, drawing on the classical tradition, points out that:

> The *polis*, properly speaking, is not the city-state in its physical location; it is the organization of the people as it arises out of acting and speaking together, and its true space lies between people living together for this purpose, no matter where they happen to be.[812]

The non-physical 'space' of human interaction is the *polis*. From this classical perspective, and given the increase of instant mass communication and of the concomitant globally-

[810] Stan van Hooft, *Cosmopolitanism: A Philosophy for Global Ethics* (Stocksfield: Acumen, 2009), p. 15.
[811] Plutarch, *On the Fortune and Virtue of Alexander the Great* [*De Alexandri Fortuna aut Virtute*], 329ab; quoted in Tad Brennan, *The Stoic Life* (Oxford: Oxford University Press, 2005), p. 162.
[812] Arendt, *Human Condition*, p. 198.

wide shared 'spaces' of 'acting and speaking' that characterize contemporary society, a moral cosmopolitanism is *a fortiori* more relevant, i.e., more possible and more necessary. The increasingly global dimension of human relationality demands moral cosmopolitanism.

This discussion brings me to a third reason that moral cosmopolitanism ought to be adopted: namely, that with awareness comes moral responsibility, and that the gravely morally unjust situations around the world make a moral cosmopolitan stance obligatory. Nussbaum illustrates:[813] Awareness of the thousands of orphans dying from malnutrition in China 'opens possibilities for action as a world citizen', possibilities which include 'financial support for Human Rights Watch', advocacy for 'the welfare of children and women' in the form of 'thinking and writing', and so forth. Nussbaum continues, even if 'the nation-state is the fundamental political unit', this fact ought not keep one from recognizing 'to what an astonishing degree the luck of being born in a particular country influences life chances'. To this point, Nussbaum considers life expectancy in places like Sweden (78.2 years) and Sierra Leone (39.0 years), and concludes: 'This is not just, and we had better think about it. Not just think, do.' To consider another example, owing to instant information, there is a growing global awareness of deep poverty in certain places of the world; awareness of this fact, along with the existence of excess resources in other places and the increasing efficiency of transferring such resources, demands a cosmopolitan stance which maintains that they be so transferred.

In addition to philosophical reasons, there are significant prudential considerations that may motivate one to adopt moral cosmopolitanism, considerations which can be found in the literature of peace studies and political sociology. José Casanova contends that, 'under the modern condition of globalization', the good of society is increasingly being defined in 'global, universal, human terms' because of which 'the public sphere of modern

[813] See Nussbaum, 'Reply', in *Love of Country*, ed. Nussbaum and Cohen, p. 135.

civil societies cannot have national or state boundaries'.[814] Furthermore, Lederach observes that, in highly conflictual situations, the identities of actors – whether of 'ethnicity, religion, or geographic/regional affiliation, or a mix of these' – play an indispensible role in the escalation/deflation of conflicts: therefore, these claims to identity, Lederach argues, are not and cannot be confined to the nation-state.[815] Similarly, the international security scholar Mary Kaldor suggests that the 'new wars' of late modernity are in essence struggles between 'exclusivism and cosmopolitanism', between identitarianism and 'civility'.[816] In short, in globalized societies consisting of communities of plural identities, resolutions to conflicts are not served well, let alone conceivable, in terms strictly confined to the nation-state.

Another prudential reason that moral cosmopolitanism ought to be adopted is that it balances well the moral obligations one has to both local loyalties and global care, obligations that consist in an only apparent contradiction. Indeed early cosmopolitan thought brooked no such contradiction. For example, Cicero (d. 43 BC) maintained both a global outlook and a local priority as he wrote in his *De Officiis* (On Duties) and *De Legibus* (On the Law), which I quote respectively:

> [The] common bonds [of society] will be best conserved, if kindness be shown to each individual in proportion to the closeness of his relationship [– a hierarchy according to which] country would come first, and parents . . . ; next come children and the whole family . . . ; finally, our kinsmen, with whom . . . our lot is one. . . . [Nevertheless,] to debar foreigners from enjoying the advantages of the city is altogether inhuman.[817]

> [T]he first common possession of human beings and God is reason. . . . [S]ince right reason is Law, we must believe that people have Law [and 'Justice'] also in common with the Gods. [Thus,] those who share these are to be regarded as members of the same commonwealth.[818]

[814] Casanova, *Public Religions*, p. 229.
[815] Lederach, *Building Peace*, pp. 12-13.
[816] Mary Kaldor, *New and Old Wars*, 2nd ed. (Cambridge: Polity, 2006), p. 11.
[817] Marcus Tullius Cicero, *On Duties* [De Officiis], trans. Walter Miller, Loeb ed. (Cambridge: Harvard University Press, 1913 [ca. 44 B.C.]), Bk. 1, Ch. 50; Bk. 1, Ch. 17; Bk. 3, Ch. 11; respectively.
[818] Cicero, 'On the Laws', Bk. 1, Ch. 7.

For Cicero, while 'law' applies universally to all human communities, in no way does it preclude a politics of a local common life, a politics which is most pragmatically carried out by persons' caring for those nearer in proximity and relation; conversely, moral priority to local commitments does not preclude care of humanity.

'But', Nussbaum reminds, 'the primary reason a cosmopolitan should have for [prioritizing the local] is not that the local is better per se, but rather that this is the only sensible way to do good'.[819] In other words, global moral action is (often best) secured by means of moral action taking place in local contexts. Thus, a global outlook does not preclude local loyalties – on the contrary, it encourages them. That said, a commitment to local moral action does not forestall the global responsibility that individuals have. For it may be that precisely one's scope of moral responsibility involves relations that are distant in proximity. Consider, for example, an Overseas Filipino Worker living in Dubai, who has obligations to help financially her relatives in Mindanao: such obligations may rightfully override concerns for those physically nearer; conversely, an international student from Kenya studying in England may spend, for obvious and morally fitting reasons, more time volunteering at local homeless charities than assisting similar ones in her homeland. And either one of these individuals may spend the majority of her time or money to contribute to the US campaign for the adoption of orphans in Ethiopia, though she is distant from the situation both in terms of relation and proximity. To this point, as Appiah writes, '[e]ach person you know about and can affect is someone to whom you have responsibilities'; and 'to say this is just to affirm the very idea of morality'.[820] I emphasize the point that the 'very idea of morality' includes not only those whom one knows, but also those whom one knows about.

[819] See Nussbaum, 'Reply', in *Love of Country*, ed. Nussbaum and Cohen, pp. 135-36.
[820] Kwame Anthony Appiah, *Cosmopolitanism: Ethics in a World of Strangers* (London: Penguin, 2007), p. xi.

In line with this view, Salvatore and Eickelman contend that the notion of 'moral agency' is broader than that of 'citizenship'; and that therefore, in the context of 'modern, complex societies', the term 'localities' ought not (indeed cannot) be considered 'local in a geographical sense'.[821] For one's social world, while including geographical space, is not limited to it. Experiences from the places one has visited, the ways in which such experiences have formed one, a consideration of the needs of a given locale relative to the resources available and transferrable from other locales, and other morally significant factors must be considered – and such consideration is encouraged, indeed required, by moral cosmopolitanism. As Lederach puts it, 'the moral imagination has a capacity . . . to understand that the welfare of my community is directly related to the welfare of your community' – and it is this capacity 'to create connection between the local and the public'[822] that a view of moral cosmopolitanism seeks to encourage.

In his essay 'Public Religions Revisited', Casanova observes that for the first time in history there are in place the conditions needed for a truly global public square, especially when considering the role that can and must be played by religious communities in the global public sphere:[823]

> What constitutes the . . . novel aspect of the present global condition is . . . the fact that all world religions can be reconstituted for the first time truly as de-territorialized global imagined communities, detached from the civilizational settings in which they have been traditionally embedded.

Thus, moral cosmopolitanism is not only morally required, but also increasingly practicable. For these prudential considerations, along with the philosophical reasons discussed above, I contend that moral cosmopolitanism ought to be adopted.

---

[821] Salvatore and Eickelman, *Public Islam*, p. 17.
[822] Lederach, *Moral Imagination*, p. 62.
[823] José Casanova, 'Public Religions Revisited', in *Religion: Beyond a Concept*, ed. Hent de Vries (New York: Fordham University Press, 2008), p. 116.

(§5.4.2.1) Cosmopolitanism *vis-à-vis* 'nation-ness'

In the following, I consider various critiques of cosmopolitan theory. Before proceeding, I discuss an important characterization of the nation-state given famously by Benedict Anderson.[824] For this discussion, the sociology of knowledge perspective offers important and insightful considerations with respect to the analysis of the moral status of nation-states. Immediately following this discussion, I engage critically with the works of several notable anti-cosmopolitan proponents of nationalism.

Anderson, in his now classic *Imagined Communities*, characterizes 'nations' as 'cultural artefacts of a particular kind [whose] creation [was] the distillation of a complex "crossing" of discrete historical forces'. These 'artefacts' are reified such that they produce 'profound emotional legitimacy', making 'nation-ness . . . inseparable from political consciousness'. In short, a nation is 'an imagined political community' – 'inventions' for which people are 'ready to die'. Nations and nationalism arose, Anderson continues, through the course of modernity[825] as a function primarily of neither 'Liberalism, nor Enlightenment', but of print capitalism, 'national print-languages', and the territorialization of language.[826] While the 'ideological criticisms of . . . *anciens régimes* [articulated in] the Enlightenment' had their respective impact, the sociological forces of the commercialization of print and shared languages most significantly helped to bring about the 'imagined community' that is the modern nation-state. Thus, for Anderson, the 'concretization' of nations, which carries so much emotive and identitarian force, owes itself to 'peculiar imagining of history and power'. In sum, the 'well-known arbitrariness

[824] The quotations in the next paragraph are from Anderson, *Imagined Communities*, pp. 4, 135, 5-6, and 141, respectively.
[825] A social history of nations with an earlier origin is given in Shils, *Virtue of Civility*, see Ch. 6, 'Nation, Nationality, Nationalism and Civil Society', esp. pp. 192-94.
[826] Another scholar who emphasizes the role of linguistic forces in the rise of nationalism is Eric Hobsbawm, *Nations and Nationalism since 1780* (Cambridge: Cambridge University Press, 1990).

of frontiers' that defines national borders has resulted from the sociological forces concomitant to the rise of modernity.

(§5.4.2.2) Objections to cosmopolitanism considered

By contrast, David Miller mounts a thesis in favour of nationalism on the basis of the following three propositions:[827] (1) 'that nations really exist, i.e. they are not purely fictitious entities' – they are 'an essential part of our identity'; (2) that '[t]he duties we owe to our fellow-nationals are . . . more extensive than the duties we owe to human beings as such', and in this way national boundaries function as 'contour lines in the ethical landscape'; and (3) 'that people who form a national community in a particular territory have a good claim to political self-determination'. I examine Miller's view immediately below, considering each proposition in turn.

Regarding the first claim – that nations 'really exist', that national identities are 'essential' – Miller suggests the following. If, in response 'to the question "Who are you?"', one were to answer, '"I am Swedish" or "I am Italian"', one would not be saying something 'irrelevant or bizarre'. One would not be, notes Miller, like 'someone who claims without good evidence that she is the illegitimate grandchild of Tsar Nicholas II'; rather, one's claim may be said to 'properly be part of someone's identity'. The problem with Miller's position, however, is its reliance on a false dichotomy: namely, that one must construe national identity either as 'essential' or as historically accidental and thereby 'bizarre'. *Pace* Miller, I ask, why must one assume that a historically contingent (i.e., non-essential) claim to national identity is bizarre? Rather than being seen as making an unjustified claim to being the granddaughter of Tsar Nicholas II, one could be taken as

[827] The quotations in this paragraph and the next are from Miller, *On Nationality*, pp. 10-11.

making a *bona fide* claim to a particular nationality, while understanding that this claim does not immediately yield any particular moral status.

As to Miller's second claim – that 'we owe to our fellow-nationals' obligations which are different from and 'more extensive than' those owed to other 'human beings as such' – there is some merit here. To take a simple example, it seems initially plausible to hold that one's obligations to those with whom one shares the same political space require of the one certain moral duties over against those owed to members of another polity. But there are (at least) two underlying problems with this position. First, precisely which obligations are owed? Miller concedes that, 'if asked to be . . . specific about the *content* of [national] responsibilities, it would be hard to elicit any determinate general answer'.[828] Miller resorts to Anderson's 'imagined community', suggesting the kinds of moral obligations appropriate to a given nation is a function of the 'artefact of the public culture of that nation' – a stance which is bound inescapably to suffer the fate of moral relativism since,[829] as Miller himself writes, this 'public culture' will be 'reshaped over time'.

The second issue I have with this claim of Miller's is that it merely states the problem, and does not solve it. For, I ask, what is it that makes political states, as characteristically demarcated by national boundaries, such that they are morally insuperable and self-contained spheres of justice? In other words, in virtue of what moral fact(s) are national borders the 'contour lines in the ethical landscape'? While Miller helpfully lays out principles such as the reciprocity of rights and obligations, the obligations of citizenship, and the like,[830] he says nothing about why these, and not other, principles and obligations carry their putative moral weight – nothing, that is, except to

[828] Miller, *On Nationality*, pp. 68-70.
[829] I have examined the problems of relativism in depth in sections §§2.4.2.2, 3.2.1, and 4.2.3.
[830] See Miller, *On Nationality*, pp. 71-73.

point to the 'common ethos [that] takes the form of a public culture'.[831] But this is merely to state the problem – not to solve it.

Lastly, regarding the proposition that a national community has an irreducible right to political self-determination, Miller again smuggles in, in his conception of nations, an inherently political dimension to the idea of nationality such that the claim he makes becomes circular. That is, Miller suggests that nations 'refer to a community of people with an aspiration to be politically self-determining'.[832] The question, however, is, Why should one think that nations have the right to political self-determination? In virtue of what fact does a group of individuals, characteristically located in a given geographical space, possess such a right? Indeed, Miller himself admits to the 'circularity' of his characterization, though without letting it deter his project.[833] In short, in view of a false dichotomy in proposition (1), a morally unjustified national-centrism in proposition (2), and a circularity of argument in proposition (3), I find Miller's proposal for nationalism and against cosmopolitanism unconvincing, indeed unsuccessful.

Anthony Smith is another notable scholar of nationalism. In arguing against cosmopolitanism, Smith points to a 'modernist fallacy' which presumes that 'nations are essentially recent constructs', that 'ethnic communities, or *ethnies*' are 'neither natural nor given'. Against this view, Smith contends that the 'images, identities, cultures' of *ethnies* are ineradicable facts about the human condition, a contention which, if true, would undermine 'any vision of a cosmopolitan global order'.[834] Indeed, Smith is convinced, as he notes elsewhere, that nationalism 'provides the sole vision and rationale of political solidarity' in the modern world.[835]

---

[831] Miller, *On Nationality*, p. 74.
[832] Miller, *On Nationality*, p. 19.
[833] See Miller, *On Nationality*, p. 12.
[834] Anthony Smith, *Nations and Nationalism in a Global Era* (Cambridge: Polity, 1995), pp. 29 and 24, respectively.
[835] Anthony Smith, *National Identity* (Reno: University of Nevada Press, 1991), p. 176.

In response to Smith, I defer to Mary Kaldor who points out that on Smith's view there is deep conceptual difficulty in securing a basis for the universal 'civic values' that Smith suggests go beyond all 'ethnic' ones.[836] As Kaldor writes, if there is anything to be said about the 'main implication of globalization', it is that 'territorial sovereignty is no longer viable'[837] – a point which Smith refuses to recognize, but presumably would need to do so, if he is to maintain consistently his view of universal 'civic values'.

I consider lastly a third scholar who argues in favour of nationalism: Craig Calhoun.[838] Calhoun observes that the modern 'cosmopolitan ideal of being a citizen of the world' did not arise in opposition to nationalism: rather, modern 'cosmopolitan elites measured their enlightenment by contrast to the rural people around them'. Geography and urbanization, more than ideological struggle, had given rise to the modern 'cosmopolitan'. I agree generally with Calhoun's historical account of the rise of the 'modern cosmopolitan', a similar account of which I give in Chapter Two (see section §2.2.2).

It is Calhoun's anti-cosmopolitanist thesis with which I take issue. Writing more recently, Calhoun contends that, while theories of cosmopolitanism, 'grounded in the abstract universality of individual human persons, may provide insights' (such as the theoretical basis for civic equality and for universal human rights), such theories of cosmopolitanism are ultimately 'unsound'.[839] The main reason for their unsoundness, Calhoun argues, is that they are blind 'toward the sociological conditions for cosmopolitanism itself and toward the reasons why national, ethnic, and other groups remain important to most of the world's people'. To this end, Calhoun makes two contentions: (1) that cosmopolitanism is a 'tradition' which arose out of the conditions of

[836] Kaldor here cites Smith, *Nations and Nationalism*; in Kaldor, *New and Old Wars*, p. 207, n. 30.
[837] Kaldor, *New and Old Wars*, p. 91.
[838] The quotations in this paragraph are from Craig Calhoun, *Nationalism* (Minneapolis: University of Minnesota Press, 1997), p. 89.
[839] Craig Calhoun, *Nations Matter: Culture, History, and the Cosmopolitan Dream* (Abingdon: Routledge, 2007), p. 24.

modernity;[840] and (2) that cosmopolitan theory discounts group identity and the benefits thereof that matter to people.

There are several problems that I see with Calhoun's critique of cosmopolitanism. The first is that by calling a theory a 'tradition' does not *per se* make its premises invalid and conclusion unsound. Secondly, if cosmopolitan theory seeks specifically to ground universal moral equality (as mine does), then its being 'abstract' should not count against it; indeed, arguably its 'abstractness' works in its favour since (at least my version of) cosmopolitanism is about universal public civility – an 'abstract' thesis. Thirdly, the claim that group identity is vitally important for many people around the world is not anything against which cosmopolitan theory militates. On the contrary, my account of moral cosmopolitanism, though respecting, indeed resourcing theologically, the deep and meaningful differences among human communities, seeks merely to motivate an appreciation of the human good and its implications for moral responsibility. In doing so, my goal is not to undercut the meaningfulness of the identities people receive from communities, but to underscore the moral obligations that exist across them.

In sum, there are good reasons to hold that national identities derive from contingent and strictly speaking accidental features of history, and are thereby inessential to human personhood and ambivalent with respect to the scope of moral responsibility, even if they are, rightly, significant for people's sense of belonging. Thus, my view of moral cosmopolitanism, while not ruling out the significance of political communities and various attendant duties, places an emphasis on the increasingly global scope of moral responsibility that human persons have toward one another *qua* human persons.

[840] Calhoun, *Nations Matter*, pp. 17-23.

(§5.4.3) Theological justifications for moral cosmopolitanism

In the next two sections, I move to consider whether there are resources within Islamic and Christian scholarship that support the view of moral cosmopolitanism. Building on both historical and contemporary thinkers within both traditions, I draw out various theological and historical reflections that align with and justify a cosmopolitan outlook, beginning with Islam.

(§5.4.3.1) Muslim reflections on cosmopolitanism

There is within Islamic traditions the possibility and possibly even necessity of a moral cosmopolitanism, especially when considering: (1) the role that *sharīʿa* plays with respect to Muslims' relationship to geographical boundaries; and (2) the relationship that Muslims are to have with non-Muslims in view of their common humanity.

In the following, drawing on Muslim scholars such as Khaled Abou El Fadl, Sohail Hashmi, and Tariq Ramadan whose works build on classical Islamic thinkers such as Fakhr al-Dīn al-Rāzī, I examine the Islamic theological resources which align with the view of moral cosmopolitanism. It must be noted at the outset that an Islamic moral cosmopolitanism is different from what Tibi describes as the 'activist revolutionary internationalism' which characterizes the recent 'Islamist religionization of politics'.[841] Rather, I contend that it is possible to be a (non-Islamist) Muslim who maintains moral cosmopolitanism. In this way, *contra* the Islamist Ayatollah Khomeini, who considers the nation-state a 'product of the deficient human [i.e., European imperialist] mind',[842] an

[841] Tibi, *Islamism and Islam*, pp. 34 and 40. Or, what Hashmi calls 'the Islamic cosmopolitan'; see Hashmi, 'Islamic Ethics', p. 157; Tibi, *Islamism and Islam*, p. 42. As important as his observation about internationalism is, I think Tibi offers a false dichotomy between the 'secular system of sovereign nation-states' and the 'internationalism of political Islam' (with preference for the former); see pp. 45-49. As I argue below, an Islamic moral cosmopolitanism can be maintained even within a system of nation-states.
[842] Quoted in Hashmi, 'Islamic Ethics', p. 158.

Islamic moral cosmopolitanism merely maintains that the scope of public civility is necessarily global, irrespective of the status of political boundaries.

Sohail Hashmi lays down a convincing case for an Islamic cosmopolitanism by considering the (in)significance of 'political boundaries' in the face of 'moral communities'.[843] Since its early history the Islamic tradition has been marked by a tension between tribal loyalties and a commitment to the universal *ʿumma*. Consequently, in order to counteract the human tendency toward 'partial loyalties' along with 'the resulting drive to erect boundaries', the *Qurʾān*, Hashmi contends, emphasizes the primacy of the *ʿumma*, assigning to local loyalties 'a derivative, functional value in Islamic ethics'. In other words, geographical-political boundaries were meant to serve as a means of, not an obstacle to, realizing Islam's 'universalistic moral vision' of a just public order. Thus, for Hashmi, a crucial question is: If Muslims find themselves in places outside of *dār al-Islām* ('house of Islam'), can the requirements of Islam (i.e., adherence to *sharīʿa*) still be fulfilled? Considered more broadly: What is the relationship between Islam and territory?

Here an important point about the distinction between *dār al-Islām* and *dār al-ḥarb* ('house of war') must be noted. For all of the major schools of *Sunnī* jurisprudence (except the *Ḥanafī*), the distinction between the 'houses' was not primarily about two types of geographical territories, but about 'houses' of order versus 'lawlessness'.[844] And since *dār al-Islām* was not 'principally a territorial concept', fulfilment of the requirements of *sharīʿa* was not confined to geography.[845] Abou El Fadl corroborates, 'The majority of Muslim juristic schools . . . held that the *Shari'ah's* jurisdiction is universal', and thereby

[843] The quotations in this paragraph are from Sohail Hashmi, 'Political Boundaries and Moral Communities: Islamic Perspectives', in *States, Nations, and Borders: The Ethics of Making Boundaries*, ed. Allen Buchanan and Margaret Moore (Cambridge: Cambridge University Press, 2003), pp. 181-82 and 186.
[844] Hashmi, 'Islamic Ethics', p. 159.
[845] Hashmi, 'Political Boundaries', pp. 197-98.

not tied to a geographical *dār al-Islām*.[846] It is for this reason that, throughout much of Islamic history, safe migration across political boundaries – i.e., *amān* – for both Muslims and non-Muslims remained a predominant reality.

In summarizing his view of an Islamic cosmopolitanism, Hashmi concludes:[847]

> Human beings establish social boundaries . . . some of which have their place. . . . [So, while] religion has to acknowledge and serve both the physical as well as the metaphysical needs of human beings[,] . . . [ultimately t]he Qur'an emphasizes the common ontology of human beings as the creation of God[,] human beings [who] are all essentially the same in their common origin, condition, and fate.

For this reason, as Hashmi puts it, there is in 'Islamic ethics' a priority 'on tearing down boundaries rather than erecting them'. To be sure, there is, Hashmi writes, a 'truly meaningful criterion' which maintains differences among humans: 'that of *taqwa*[–] the sense of being constantly aware of God's presence in one's life'. That is, if there is any Islamic boundary, it is that between those who are religiously and ethically earnest and those who are not. Nevertheless, at the least, there is an Islamic moral cosmopolitanism sufficient to motivate a global public civility between Muslims and '*ahl al-kitab* (peoples of the Book)', i.e., Jews and Christians who, as monotheists, believe in one and the same God.[848] To note, scholars such as M. Raquibuz Zaman show how, under the millet (Ar. *milla*) system of the Ottoman Empire, even non-monotheists such as Buddhists and Hindus were given 'protected minorities' (*dhimmī*s) status[849] – a practice which extends an Islamic cosmopolitanism much further. In short, Hashmi's Islamic moral cosmopolitanism, based on the 'common ontology' of human persons, i.e., *fiṭra*, demotes (without dismissing) the role of national boundaries in favour of a global public civility.

---

[846] Khaled Abou El Fadl, 'The Unbounded Law of God and Territorial Boundaries', in *States, Nations, and Borders*, ed. Buchanan and Moore, p. 222.
[847] Except where indicated otherwise, the quotations in this paragraph are from Hashmi, 'Political Boundaries', p. 206.
[848] Sulayman Nyang, 'Religion and the Maintenance of Boundaries', in *Islamic Political Ethics*, ed. Hashmi, p. 109.
[849] M. Raquibuz Zaman, 'Islamic Perspectives on Territorial Boundaries and Autonomy', in *Islamic Political Ethics*, ed. Hashmi, p. 90.

Though questioning to some extent Hashmi's cosmopolitan bent, Abou El Fadl also offers considerations from Islamic ethics that can be shown to buttress moral cosmopolitanism.[850] He begins: 'If God's morality is expressed through a set of laws, the question becomes: Does God's law need a political community and a plot of land in which it has jurisdiction and sovereignty?' In view of the 'territorial insularity' that existed in Medina, Abou El Fadl argues that 'the tendency to insist on a *dār* that belongs to Islam made sense': for presumably a Muslim could not fulfil the requirements of *sharīʿa* without an 'Islamic sovereign'.[851] Furthermore, the need for a '*Shari'ah*-based society' is evidenced by the fact that the *Qurʾān*'s 'mandate to live according [*sharīʿa*]' was given not to individuals, but to the collective *ʿumma*; consequently, a political entity would be essential to fulfilling this mandate. So Abou El Fadl argues.

To the contrary, I contend that Abou El Fadl misses two significant points, aspects of which are discussed also in the previous chapter, namely: (1) that, since *sharīʿa* is not 'law' in any modern sense, it does not necessarily require a 'political community' and 'a plot of land' in order to be 'expressed', much less fulfilled;[852] and (2) that any attempt to connect Islam's universalist ethic with a particular polity would be based on the mistaken idea that the Medinan polity serves as a normative guide to Islamic political theory.[853] As discussed at the end of the previous chapter, *sharīʿa* is primarily an ethical framework, and not one which befits, let alone necessitates, legal-political implementation.[854]

[850] Except where indicated otherwise, the quotations in this paragraph are from Fadl, 'Unbounded Law', p. 214.
[851] Fadl, 'Islamic Law', p. 181.
[852] Indeed, one may argue, as I do in Chapter Four, that a proper understanding of *sharīʿa* does not allow, on the basis of its own internal logic, for its being instituted in the political-legal structure of the modern nation-state, lest it fall prey to an un-Islamic innovation.
[853] For more on this point, see section §4.4.4, 'A comment on Islamic political theology and Islamism'.
[854] See section §4.4.5, 'Revisiting the role of *sharīʿa*'.

Indeed, Abou El Fadl himself notes that 'Muslim jurists did not demand that all Muslims reside only in territory governed by *Shari'ah*'.[855] As he points out, the famed *Shāfiʿī* scholar al-Māwardī (d. 1058) suggests, 'If [a Muslim] is able to manifest [his] religion in one of the unbelievers' countries, this country becomes a part of *dār al-Islām*',[856] making migration (*hijra*) out of *dār al-ḥarb* to *dār al-Islām* unnecessary. Thus, since the requirements of *sharīʿa* 'accompany a Muslim wherever he/she may go', and since political boundaries are not necessary for 'discharging the obligations of the *Shari'ah*', Abou El Fadl concedes: 'this would seem to lend support to the conclusion that moral communities are more essential to the Islamic message than territorial boundaries'. Abou El Fadl concludes with this passage from the *Qurʾān* – 'O humankind! We created you from a man and woman and made you into nations and tribes so that you may come to know each other' (*sūra* 49:13) – on which he comments in this rather cosmopolitan tone:

> [P]olitical boundaries threaten to transform the moral communities of Islam to [*sic*] political entities, and to transform the universality and transcendentalism of the Islamic message into a closed determined and parochial reality. . . . Put differently, Muslims run the risk of numbing the moral and universal voice of *Shari'ah* and replacing it with a set of territorially specific legal adjudications and rules.

Put more generally, as one Islamicist writes, in Islam '[p]olitics is to be guided by ethics but is not the place where beliefs are fulfilled. The idea of a religious state is [not only] politically ineffective, but [also] theologically flawed'.[857] Patricia Crone observes similarly that through the medieval period Muslim jurists increasingly held that 'socio-political and moral borders had ceased to coincide', making political sovereignty 'dispensable'.[858] These theological and historical reasons, along with those discussed above, justify and motivate an Islamic moral cosmopolitanism.

---

[855] Except where indicated otherwise, the quotations in this paragraph are from Fadl, 'Unbounded Law', pp. 218, 222, 255, and 226.
[856] Abū Zakarīyāʾ al-Nawawī, *Al-Majmūʿ Sharḥ Al-Muhadhdhab*, vol. 19 (Beirut: Dār al-Fikr, 2000 [1421]), pp. 262-63; quoted in Fadl, 'Islamic Law', p. 150.
[857] Heck, *Common Ground*, p. 147.
[858] Crone, *Islamic Political Thought*, pp. 361-62.

Furthermore, it is important to point out that the terms '*dār al-Islām*' and '*dār al-ḥarb*' never appear in the Islamic scriptural corpus. Rather, as Tariq Ramadan observes, 'they constituted a human attempt [by which] to provide the Muslim community with a geopolitical scheme that seemed appropriate to the reality of the time' of the classical scholars, a reality which since has 'completely changed'.[859] Given the contemporary reality of a globalized world, a more appropriate 'scheme' may be found in what the late Faysal al-Mawlawi (d. 2011) termed '*dār al-daʿwa*' or 'abode of invitation of God'[860] – essentially a global public square of interreligious proselytism based on persuasion. Far earlier, the famed medieval theologian Fakhr al-Dīn al-Rāzī (d. 1209) similarly articulated this idea of *dār al-daʿwa*.[861] Arguably, such a scheme aligns more closely also to the original Islamic vision of the Prophet in Mecca and to the practice of the first Muslims living there, where they engaged in a politics of persuasion, not of coercion.[862]

Building on Mawlawi's conclusion that 'the whole world is a *dar al-dawa*', Ramadan writes:

> It seems difficult, when we are experiencing a worldwide process of globalization, to continue to refer to the notion of *dar* . . . rather than considering the whole world as our dwelling. Our world is now . . . *an open world*.[863]

Thus, the notion of *dār al-daʿwa*, which is a more fitting view of the contemporary relationship between Muslims to non-Muslims than those of the medieval 'houses', also motivates an Islamic view of moral cosmopolitanism.

Finally, there are Muslim scholars such as Zaman who, in arguing for a thorough-going cosmopolitanism, suggest national boundaries are 'anathema to Islam'.[864] Less

[859] Ramadan, *Western Muslims*, p. 69.
[860] Faysal Al-Mawlawi, *Al-Usus Al-Shariyya Lil-Alaquat Bayna Al-Muslimin Wa-Ghayr Al-Muslimin* (Paris: UOIF, 1987), p. 104; quoted in Ramadan, *Western Muslims*, p. 72.
[861] Fakhr al-Dīn al-Rāzī, *The Great Commentary* [al-Tafsīr al-kabīr] (Cairo: al-Matba'ah al Bahiyyah al-Misriyyah, 1938); cited in ʿAlwānī, *Fiqh for Minorities*, p. 29.
[862] For more on this point, see my discussion in Chapter Four, section §4.4.2.1 and §4.4.5 as well as Ramadan, *Western Muslims*, pp. 72 ff.
[863] Ramadan, *Western Muslims*, p. 75 (emphasis original).

extreme but equally insistent is the claim made by the historian of Islamic political thought Antony Black who writes, 'The idea that "nationality" . . . can or should be the basis of civic identity . . . was completely alien to Islam.'[865] From a textual perspective, Osman notes, 'The Quran says that the earth in its totality is created for all people who can move through it freely (e.g., 2:22, 273, 4:94, 97, 99-101, 17:70, 29:36, 67:15).'[866] And the famed twentieth-century scholar Muhammad Iqbal writes, 'the growth of territorial nationalism . . . has tended rather to kill the broad human element', a tendency which is 'quite otherwise in Islam' with its view on the 'unity of human origin'.[867]

Clearly, there are significant theological resources that motivate an Islamic cosmopolitanism, resources which concern the way Muslims relate to both physical boundaries and to non-Muslims who share a common humanity or *fiṭra*.

(§5.4.3.2) Christian reflections on cosmopolitanism

In an effort to articulate a Christian view of cosmopolitanism, I consider works from both historical and contemporary Christian thinkers along with (given the focus of this project) relevant aspects of Catholic social thought. I contend that a Christian moral cosmopolitanism can be found, especially when considering the notions of property and the *imago dei* in Christian moral theology.

An important discussion about the ethics of geographical boundaries emerged during the period of European exploration. For example, Francisco de Vitoria (d. 1546), in expounding on the 'commonwealth of humanity' and 'the right of natural partnership and communication', provided a vocabulary and a conceptual framework that connotes a Christian view of cosmopolitanism, which in turn is connected to a longer tradition of

[864] Zaman, 'Territorial Boundaries', pp. 87-88.
[865] Black, *Islamic Political Thought*, p. 342.
[866] Osman, 'The Children of Adam', p. 20.
[867] Muhammad Iqbal, *The Reconstruction of Religious Thought in Islam* (Lahore: Sh. Muhammad Ashraf, 1968), p. 141.

cosmopolitan Christian thought.[868] Drawing on Aquinas as well as Suárez (d. 1617), the theologian Anthony Pagden writes: 'Contrary to the image that it has acquired since the Enlightenment, the medieval [and I would argue even earlier] Christian world-view was generally cosmopolitan.'[869] To be sure, during earlier centuries of the crusades of Christendom, there had been abuses (indeed gravely unjust ones) whereby the principle of 'prescription' was exploited to justify a 're'-conquest of lands then occupied by the Ottoman Empire.[870] Such abuses notwithstanding, the principles of cosmopolitanism had long been in place in the Christian tradition, principles to which I now turn.

A Christian theological basis of moral cosmopolitanism can be founded on the notions of 'natural dominion' (*dominium naturale*) and *imago dei* as articulated by Aquinas.[871] Arguing from Genesis 1:26 – '"Let us make man in our image, after our likeness. And let them have dominion over the fish of the sea"' [this reference ends with 'etc.'] – Aquinas writes: '[T]his natural dominion of man over other creatures, which is competent to man in respect of his reason wherein God's image resides, is shown forth in man's creation'. In other words, humanity is given a 'natural dominion' over all of creation in virtue of being created specially in God's image. This dominion, 'according to the natural law', is one wherein 'all things are common property' for all of humanity.

Regarding this view of 'common property', it is instructive to note that this discussion comes in the context of Question 66, 'Of Theft and Robbery', in Aquinas' *Summa Theologica*, and more specifically in Article 7, 'Whether it is lawful to steal through stress of need?'. Here, Aquinas argues that the needs of the poor to subsist take

[868] For more on this point, see Anthony Pagden and Jeremy Lawrance, eds., *Vitoria: Political Writings* (Cambridge: Cambridge University Press, 1991), 3.4, 'On Civil Power' and 3.1, 'On the American Indians'.
[869] Anthony Pagden, 'The Christian Tradition', in *States, Nations, and Borders*, ed. Buchanan and Moore, p. 105.
[870] Pagden, 'The Christian Tradition', pp. 114-17.
[871] See Aquinas, *Summa Theologica*, quotations which follow are from II-II, Q.66, Art. 1-2 and 7. My discussion of Aquinas on this point draws heavily on Ruston, *Human Rights*, pp. 40-51; and Tuck, *Natural Rights*, pp. 17-24.

priority over the right of others to private property: 'Things which are of human right [*iuris humani*: human law] cannot derogate from natural right or Divine right.' That is, one's 'human right' to private property (i.e., one's 'appropriation of things') in principle may not 'preclude the fact that man's needs have to be remedied by means of these very things' (i.e., another's 'natural right'). In other words, natural right is prior to human right. Therefore, 'it is lawful for a man to succor his own need by means of another's property' for which reason Aquinas concludes that such an act is not 'properly speaking theft or robbery'. Thus, while the right to private property is legitimate with respect to its 'use', this right is subject to the prior principle that every earthly thing is ultimately 'common' to all persons with respect to its 'nature'.[872] As Brian Tierney sums up, on the Catholic canonist view: 'Property could and should be private and common at the same time; private in the sense that ownership and administration belonged to the individuals, common in the sense that worldly goods had to be shared with others in time of need.'[873]

Aquinas' view resonates with the earlier cosmopolitan view of St. John Chrysostom (d. 407), who contends that 'not to share one's possessions' is 'theft'.[874] Citing the (non-canonical) Jewish scripture Ben Sira 4:1 – 'Deprive not the poor of his living' – Chrysostom argues that if a rich man 'spends more on himself than his need requires', he is guilty of depriving what rightfully belongs to the poor. And, for Chrysostom, the rich ought to 'show mercy' to the needy, not owing to any 'virtue' in or 'misfortune' of the latter, but because '[n]eed alone is this poor man's worthiness'.

[872] For Aquinas, things 'as regards their nature' are 'not subject to the power of man, but only to the power of God'; in this sense, every human person has a right to all of nature. Yet, 'as regards their use', every human person has 'a natural dominion over external things' in virtue of which he may own property. See Aquinas, *Summa Theologica*, II-II, Q.66, Art. 1. To note, the principle on which Aquinas draws – *viz*., 'the imperfect is always for the sake of the perfect' – or perhaps an unfortunate misapplication thereof, was used also to justify human slavery. See Tuck, *Natural Rights*, p. 19; cf. Aquinas, *Summa Theologica*, I-II, Q.94, Art. 5.
[873] Brian Tierney, *The Idea of Natural Rights* (Grand Rapids: Eerdmans, 2001 [1997]), pp. 72-73.
[874] Except where indicated otherwise, the quotations in this paragraph are from John Chrysostom, *On Wealth and Poverty*, trans. Catharine Roth (Crestwood: St. Vladimir's Seminary Press, 1984 [ca. A.D. 388]), pp. 49-55.

Similarly, on my view, what motivates the Christian principle of common ownership is a cosmopolitanist conception of the human good grounded on the idea of the *imago dei*.[875]

Such cosmopolitan tones also resonate with aspects of Catholic social thought. For example, *Populorum Progressio* (1967) states: 'No one may appropriate surplus goods solely for his own private use when others lack the bare necessities of life'.[876] Richard Miller, commentating on CST, observes: 'Echoing the view of Aquinas, Paul VI suggests that the needs of humanity outweigh the rights of dominion when these two claims conflict'.[877] More recently, US Catholic bishops have maintained that, given the 'unity of the human family, the interdependence of peoples and the need for solidarity across national and regional boundaries', this principle must be kept firmly in mind: 'The people of far-off lands are not abstract problems, but sisters and brothers. We are called to protect their lives, to preserve their dignity and to defend their rights.'[878] As Miller again comments, in cases of devastating human rights violations and dire human needs, 'the cosmopolitan demands of Christianity outweigh the protections normally granted to political autonomy'. In sum, as Miller puts it, the Christian cosmopolitan tradition, which 'asserts the metaphysical over the geographical', maintains that national boundaries have 'provisional and qualified value', in much the same way as I have argued above regarding the priorities of global moral responsibility.

There are other instances in CST where a cosmopolitan call is clear: 'The fact that he is a citizen of a particular State does not deprive him of membership in the human

[875] For more on how the *imago dei* functions in Thomistic political theology, see Ruston, *Human Rights*, pp. 209-15. Interestingly, from an Islamic perspective Hashmi argues for the need of a global view of distributive justice whereby the entire *'umma*, and not the nation-state, ought to serve as the context within which an Islamic 'cosmopolitan' economic ethics can be articulated. See Hashmi, 'Islamic Ethics', pp. 166-67. With respect to 'international justice' more generally, see Elshtain's case for a 'Christian universalism', as based on the notion of '*caritas*', in Elshtain, 'Religion, Enlightenment', pp. 67-69.
[876] 'On the Development of Peoples', http://bit.ly/VatIIPP, accessed on 13 March 2013, no. 23. *Populorum Progressio*, promulgated by Pope Paul VI on 26 March 1967.
[877] The quotations of Miller in this paragraph are from Richard Miller, 'Christian Attitudes Towards Boundaries: Metaphysical and Geographical', in *Christian Political Ethics*, ed. Coleman, pp. 76, 85, and 86.
[878] U.S. Catholic Conference International Policy Committee, 'American Responsibilities in a Changing World', *Origins* 22 (1992): 337-41, pp. 339 and 341.

family, nor of citizenship in that universal society, the common, world-wide fellowship of men' (*PT*, no. 25; cf. no. 7). Indeed, *Pacem in Terris* is rife with language about 'the entire human family' (no. 97), 'the whole human family' (no. 117), 'the world community' (no. 140), and 'the universal family of mankind' (no. 145). And, as with the Quranic passages considered above, the Catholic view of the universal family of humanity also is based on the accounts of human creation found in its Scriptures, *viz*., Genesis 1 and 2. Regarding these passages, the Catholic ethicist Lisa Cahill offers an insightful observation which bears on the cosmopolitan dimension of public civility:

> Upon seeing the woman, the man exclaims, 'This at last is bone of my bones and flesh of my flesh' (Gen 2:23).
>
> Usually the 'one flesh' unity of the first couple is interpreted as the sexual and reproductive unity of the sexes. . . . However, . . . it is interesting to reflect on the fact that at this point in the story the woman and man are the *only* two people that exist. It is the woman's *humanity* that is most significant to Adam, not her gender. . . . Thus I propose that we see the 'one flesh' unity of the first two people as the fundamental form of *human* relationship . . . In other words, co-humanity should be more important to human identity and relationship than any bonds or differences based on family, tribe, race, ethnicity, religion, or national belonging.[879]

In short, based on the doctrine of the *imago dei*, a Christian moral cosmopolitanism motivates no less than a global scope of public civility. Similarly, Miller writes:

> Individuals need recognizable practices and traditions according to which they interpret themselves and the world around them, and communities serve [this] important role. . . . But for Christians, human life is marked by [a] temptation to privilege local loyalties and loves. Hence the need for a critical principle [of 'religious criticism' whereby one] scrutinizes local customs from the perspective of transcendence.[880]

Alejo comments in much the same vein:

> Every time we initiate a person into our community, [we] build . . . by drawing a boundary: 'you're in, they're out'. [So] should [there] be no boundaries, . . . no walls? No, we need walls because we need security; but let there be windows on the walls. We need fences; but let there be gates and times for opening the gates . . . and let there be bridges [across] our boundaries. . . . Every religion which is worth its name should have resource[s] for giving

[879] Lisa Cahill, 'A Theology for Peacebuilding' (paper presented at the Catholic Peacebuilding Network conference, University of Notre Dame, (2008), p. 7 (emphasis original).
[880] Miller, 'Christian Attitudes', pp. 79-80.

> identity and meaning to community, but [also resources for] developing spaces broader than [its] own narrow identities.[881]

In sum, a Christian cosmopolitanism, like an Islamic one, seeks to balance particularity and universality. As Miller puts it, a Christian is one who both affirms 'the importance of location', and maintains that 'Christianity requires an . . . unconditional love of others', irrespective of affiliation.[882] For this reason, Miller contends that, against boundaries which 'asks us to privilege local solidarities', a Christian '*agape*, exemplified by Jesus's teaching and example, is altruistic and cosmopolitan'. And given the distinction between absolute and relative goods in Christian moral cosmology, Miller concludes that 'God, the eternal, unchanging good is the only object of unqualified loyalty', consigning a 'relative status' to geographical boundaries. After all, God is, as Aquinas writes, 'the governor and ruler of the whole universe'.[883]

(§5.4.4) Summary and transition

My aim in the above sections is rather minimal: to point out some of the historical precedence and theological support for moral cosmopolitanism within both Christian and Muslim traditions. Thus, the discussion therein lays down resources which may motivate an 'internal dialogue' (cf. Leguro) about the scope of public civility among theological leaders and laypersons within their respective religious traditions, especially in view of the arguments for moral cosmopolitanism put forth above.

I summarize the above sections by illustrating the importance of a cosmopolitan framework of public civility, drawing on my interview with Leguro. When asked whether she thought the conflictual situation in Mindanao could be helped by a view of global public civility, Leguro responded: 'The wider view of humanity is still very difficult. What

[881] Alejo, 25 November 2012.
[882] The quotations of Miller in this paragraph are from Miller, 'Christian Attitudes', pp. 69 and 70-71.
[883] Aquinas, *Summa Theologica*, I-II, Q. 21, Art. 4.

I have learned is that people are not able to move forward if the basic issues of survival are not addressed.'[884] Here, Leguro points to the *Lumad*s as an example of a community who feel their rights have not been represented in the peace process, whose 'identity and livelihood are being threatened', such that a 'wider view of humanity' is yet foreclosed. That said, Leguro adds that the careful balance that CRS is trying to achieve has to do with 'respecting distinct identities [while] working toward solidarity', and that this 'spirit of solidarity can extend beyond Mindanao, beyond Philippines'. This 'spirit' is exemplified, Leguro observes, in the *Lumad*s' solidarity with other indigenous peoples (IPs) from nations beyond the Philippines.

I would add that a cosmopolitan view of public civility would help other people groups, and not only IPs, to see the plight of the *Lumad*s as the plight of a neighbour, albeit an admittedly distant one for some groups. In this way, the *Lumad*s or any group facing grave injustice would not only be right to see their struggle as involving the whole of humanity, but would stand to benefit from seeing it so. In other words, a moral cosmopolitanism, grounded in an acknowledgement of the human good inherent in all persons, would motivate a sense of global interconnectedness that results not only in greater solidarity across human communities, but also in the alleviation of grave suffering found in any one community.

In addition to this intergeographical dimension, in the next (and penultimate) section I consider the importance of the intergenerational dimension of public civility, a dimension which both requires and motivates the cultivation of the virtue of gratitude. These two dimensions – the intergeographical and the intergenerational – are central to the development of what I call 'global friendships'.[885]

[884] Leguro, 28 November 2012.
[885] The subject of 'friendship' is a large, complex, and important one; and my use of the term here represents an admittedly idiosyncratic gloss. For example, a simple but most important point in Cates' study of the Aristotelian-Thomistic ideal of friendship is that there is a categorical difference between 'friends' on the

(§5.4.5) Gratitude as the ground of global friendships: an insight from Mindanao

I bring this chapter to a close by commenting on the importance of the virtue of gratitude to the task of developing global friendships, a virtue whose cultivation can be motivated by considering the intergenerational connectedness of humanity. To illustrate this final point, I build on the insights of the social anthropologist whom I interviewed in Mindanao: Albert Alejo. Before doing so, however, I comment briefly on two crucial notions with which I commenced this study in Chapter One: namely, justice and peace.

In an essay on reconciliation, Nigel Biggar seeks to address 'the tension between the moral demands of justice and the political requirements of peace' in post-civil conflictual settings,[886] settings which in some important respects resemble the situation in Mindanao – particularly in view of the latter's long history of nearly, though never fully, successful attempts at the cessation of violence.[887] Biggar's thesis is that, given that 'the ultimate goal of justice' is 'to make peace', justice in post-civil conflict situations ought to be thought 'primarily in terms, not of retribution, but of the vindication of victims'; for by prioritizing (logically at least) the vindication of victims over against the punishment of perpetrators – e.g., 'by repairing damage, protecting victims, and reforming criminals' –

---

one hand and 'strangers' (and 'enemies') on the other. See Cates, *Choosing to Feel*, Chs. 10 and 11, esp. pp. 204-06 and 230-35. By contrast, my use of 'friendship' would include those 'strangers' who are further off in both distance and time. That said, given the phrase from the seventeenth-century theologian Jeremy Taylor – 'Christian charity is friendship to all the world' – perhaps my use, at least in certain theological circles, is less idiosyncratic than suspected. See Jeremy Taylor, *A Discourse of the Nature, Offices, and Measures of Friendship* (London: Printed for R. Royston, 1657). (This quotation of Taylor and my understanding thereof comes from Liz Carmichael, *Friendship: Interpreting Christian Love* (London: T & T Clark, 2004), pp. 136-46.) At any rate, my point in using 'friendship' (rather than some other more neutral term) is to underscore the relational affinity that every human person ought to and do share with one another, precisely in view of the human good which inheres in all.

[886] The quotations in this paragraph are from Nigel Biggar, 'Peace and Justice: A Limited Reconciliation', *Ethical Theory and Moral Practice* 5, no. 2 (2002): 167-79, pp. 168 and 178. Biggar illustrates his argument in the contexts of South Africa and Northern Ireland.

[887] It is important to point out that, while the argument which follows applies most specifically to contexts marked by continuing conflict, whether any given earthly context is ever completely conflict-free ('post-conflict') is a matter of degree. At any rate, I would contend that the cultivation of the virtue of gratitude is a crucial and highly beneficial practice in any plural context, but especially in ones marked by a history of conflict among divergent communities.

such *modus operandi*, Biggar contends, would attend to 'the politics of making peace' and simultaneously meet 'the moral demands of justice'.

I find Biggar's conception of the relation between peace and justice convincing and useful with respect to post- (or nearly post-) conflict situations: in order for society to reach a sustainable and enduring level of peace (and *a fortiori* public civility), there must obtain a justice which prioritizes and protects the victims of such conflicts. Additionally, however, I find that another crucial, indeed arguably essential, dimension to constructing a 'justpeace' and public civility in such settings is the virtue of gratitude. To illustrate this point, I draw again on the experience of the Mindanaoan *Lumad*s.

As Alejo observes, lands which once belonged to the IPs in Mindanao now have been developed into industrialized cities.[888] 'Do we give them back?', Alejo asks. 'The indigenous people are not claiming that.' Instead, Alejo notes, the *Lumad*s seek a 'collective recognition of gratitude'. (One expression of such collective gratitude, Alejo suggests, might come in the form of scholarship funds for the *Lumad*s.) Many at this point may want to insist on the importance of the arguably more crucial dimensions of reconciliation: political apology and forgiveness.[889] But, as Alejo observes, while apology may be in order, it often can be damaging: that is, while apology recognizes the injustice done, it also implicitly perpetuates the insult. For this reason, Alejo argues, what the settlers in Mindanao need to recognize is the generosity of the *Lumad*s whose land the latter allowed the former to develop. So, rather than a culture of apology and indebtedness, Alejo suggests, 'Let's instead develop a culture of gratitude.'

Thus, both Muslim and Catholic communities (and others after them) could contribute to the task of public civility by offering a public recognition of gratitude toward the work and gifts (largely of land) of the earlier communities in Mindanao. In this way,

[888] The quotations in this paragraph and the next are from Alejo, 25 November 2012.
[889] Such a case made with philosophical precision and substantive case studies is found in Philpott, *Just and Unjust Peace*, pp. 54-62, 181-91, 198-206, and Ch. 12, 'Forgiveness'.

then, public civility and the virtue of gratitude are related: public recognition of the history of a given conflictual context can motivate the cultivation of gratitude, which in turn helps to construct public civility across divergent communities. In other words, there is an undeniably crucial intergenerational dimension to public civility.

To connect this intergenerational dimension of public civility to the intergeographical dimension of moral cosmopolitanism, I draw again on Alejo's observation about the Mindanaoan conflict, this time as it specifically concerns a long view of the history of Christian-Muslim relations. As discussed above, by the thirteenth century, Muslims merchants had settled throughout most of Mindanao; then in the sixteenth century, Spanish Catholics had conquered nearly all of the Philippines including Mindanao; finally, in the late twentieth century, under the aegis of various legislative acts, many Catholic Filipinos from Luzon claimed and settled in Mindanaoan lands. What, now, ought to be done about the land? Alejo insightfully points out that the argument currently used by Muslims – that the Catholic settlers should give back the land – is double-edged in that it could have been used in eight-century Spain by Catholics whose land was taken during the Muslim conquest. Furthermore, both the Catholics and Muslims are beholden to the *Lumad*s who had settled there long before either group came along.

I submit that the solution to the problem does not involve counting as far back as the historical record goes. Rather, from a cosmopolitan (intergeographical) and historically deep (intergenerational) perspective, the cultivation of the virtue of gratitude can serve to construct a robust local public civility in the here and now: that is, a moral cosmopolitan view, grounded on the idea of the human good, helps to engender, and indeed morally demands, a cultivation of gratitude-based friendships within the context of which public

civility could be constructed.[890] Thus, the intergenerational and intergeographical dimensions of public civility, captured in and motivated by a moral cosmopolitan outlook, requires and reinforces the cultivation of the virtue of gratitude.

(§5.5) Final remarks

The overarching aim of this study has been to construct a framework of public civility in view of both the ideological forces of modernism (Chapter One) and the fragmenting nature of modern life (Chapter Two), doing so with special reference to Catholic and Islamic theological traditions (Chapters Three and Four). To this end, in Chapter One, I have discussed the significance of and need for public civility, and argued against both strictly negative and positive views of human freedom which hinder its construction. Then, in Chapter Two, I analyzed various constraints on public life, highlighting the secularizing tendency of the modern professional sphere, and pointing out the inadequacy of secularist frameworks of public civility found in the leading theories of multiculturalism and legal pluralism. Next, in Chapters Three and Four, I argued for the need to reframe Catholic and Islamic political theologies on the basis of the human good over against the common good, in view of the theoretical shortcomings of the latter. Finally, in this chapter, I have sought to: (1) illustrate an application of my framework of public civility in the religiously divided region of Mindanao, Philippines; (2) consider the extent of the moral implications of this framework as based specifically on the idea of the human good; and (3) commend the plausibility of moral cosmopolitanism within both Catholic and Islamic theological traditions.

To conclude this study, I offer two brief comments on the task of constructing public civility in plural societies, and close with a final remark.

[890] For more on the importance of friendship in peacebuilding and public civility, see Capalla, 28 November 2012; Lederach, *Moral Imagination*, Ch. 11, 'On Serendipity: the Gift of Accidental Sagacity'.

First, the task of public civility is possible given the essential attributes of the human good. In his work on civility, the legal scholar and social critic Stephen Carter observes that 'behavior and conversation . . . remain our only tools for distinguishing ourselves from other animals. And distinguishing ourselves from other animals – or . . . displaying our humanity – is what civility is all about.'[891] That is, civility, which marks humans off from other animals, is possible given the humanness of humanity. But this civility is not merely 'personal', as discussed in Chapter One. As Os Guinness puts it, 'Genuine civility is more than decorous public manners, or squeamishness about differences . . . It is a style of public discourse shaped by respect for the humanity and dignity of individuals'.[892] Civility in public life, I would add, involves not only this discursive respect for the human good, but a whole-life commitment to it as well. In short, public civility depends on a recovery of the human good and an articulation of its implications for a common life in plural societies.

Secondly, the task of public civility is necessary given the essential attributes of the human good. Jacques Maritain suggests that, contrary to the tenets of moral relativism, tolerance of others and the pursuit of truth are complements of one another, rather than opposing forces:

> There is a [true] tolerance only when a man is firmly and absolutely convinced of a truth, . . . and when he at the same time recognizes the right of those who deny this truth to exist, . . . not because they are free from truth but because they seek truth in their own way [and] because he respects in them human nature and human dignity [which] make them potentially capable of attaining the truth he loves.[893]

In other words, tolerance of others, especially of their indomitable dignity, is not an impediment to the attaining of truth, but precisely what ensures its possibility. For, given that all human persons seek truth, each in their own way, it is necessary that tolerance be

[891] Carter, *Civility*, p. 19.
[892] Guinness, *Case for Civility*, p. 151.
[893] Jacques Maritain, 'Truth and Human Fellowship', in *On the Use of Philosophy: Three Essays* (Princeton: Princeton University Press, 1961), p. 24.

shown in order for truth to be pursued and discovered. Put differently, the rationality of the human mind, the purposiveness with which humans pursue the truth, and the inherent relationality which respects the first and recognizes the second – these essential attributes of the human good require that tolerance be shown, if truth is to be known.

Given, then, the multiple and competing pursuits of truth in plural societies, it has been my aim to consider, for specifically Catholic and Muslim communities, the theological resources available to ground a framework of public civility. Raymond Plant, in the conclusion of his thorough-going work on political theory and theology, considers the challenge that remains for plural societies.[894] Given the 'particular narratives' of divergent traditions, Plant writes, there does not appear to be any 'metaphysical assurance' that a 'common moral word [*sic*]' should be possible; yet 'equally, there is no metaphysical reason why it should not'. Accordingly, Plant continues, 'We should . . . not give up on the possibility of securing such a common word [*sic*] [in the hope of] creat[ing] a space for the idea of common projects and common interests'. And crucial to the task of constructing this 'common world of value' – a cosmopolitan framework of public civility – is, for Plant, not only 'dialogue and deliberation', but also a recognition (and I would add a reassertion) of 'the idea of humanity and the common interest of humanity which can still arise out of our loyalty and location within narrative communities'. This task is accomplished, Plant suggests, by 'entering through dialogue into a wider witness to the nature of humanity'.

And the 'nature of humanity', captured in the Christian doctrine of the *imago dei* and the Islamic idea of *fiṭra*, which I articulate in terms of the human good, is what grounds public civility in plural societies.

* * *

[894] The quotations in this paragraph are from Plant, *Politics, Theology, History*, p. 358.

BIBLIOGRAPHY

Abd-Allah, Umar Faruq. 'Theological Dimensions of Islamic Law.' In *The Cambridge Companion to Classical Islamic Theology*, edited by Tim Winter. Cambridge: Cambridge University Press, 2008.

Abubakar, Ayesah Uy. 'The Philippines: Challenges to Peacebuilding.' In *Islam and Violent Separatism*, edited by Ashok Swain. London: Kegal Paul, 2007.

Abubakar, Carmen. 'The Advent and Growth of Islam in the Philippines.' In *Islam in Southeast Asia*, edited by K. S. Nathan and Mohammad Hashim Kamali. Singapore: Institute of Southeast Asian Studies, 2005.

Abuza, Zachary. *Militant Islam in Southeast Asia*. Boulder: Lynne Rienner, 2003.

Afsaruddin, Asma. 'The "Islamic State": Genealogy, Facts, and Myths.' *Journal of Church and State* 48, no. 1 (2006): 153-73.

Ahmad, Ahmad Atif. *Structural Interrelations of Theory and Practice in Islamic Law*. Leiden: Brill, 2006.

al-Bannāʾ, Ḥasan. *Treaties on the Ranks of the Righteous and the Devoted* [Mudhakkarat al-daʿwa waʾl-daʿiyya]. Cairo: Dar Al-Shihab, ca. 1951.

al-Ghazālī, Abū Ḥāmid. *Al-Mustasfâ Min 'Ilm Al-Usûl* Vol. 1, Baghdad: Muthanna, 1970.

al-Jawziyya, Ibn Qayyim. *Wrong Concepts About Predetermination and Causality* [Shifā' al-'alīl fī masā'il al-qaḍā' wa-al-qadar wa-al-ḥikma wa-al-ta'līl]. edited by al-Ḥalabī Cairo: al-Maṭba'a al-Ḥusayniyya al-Miṣriyya, 1994. 1323.

al-Jifri, Habib Ali. 'Loving God and Loving Neighbour.' In *A Common Word: Muslims and Christians on Loving God and Neighbor*, edited by Miroslav Volf, Ghazi bin Muhammad and Melissa Yarrington. Grand Rapids: W.B. Eerdmans, 2010.

al-Mawardi, Abu'l-Hasan. *The Laws of Islamic Governance* [Al-Ahkam al-Sultaniyyah]. edited by Assadullah ad-Dhaaki Yate London: Ta-Ha, 1996.

Al-Mawlawi, Faysal. *Al-Usus Al-Shariyya Lil-Alaquat Bayna Al-Muslimin Wa-Ghayr Al-Muslimin*. Paris: UOIF, 1987.

al-Nawawī, Abū Zakarīyāʾ. *Al-Majmūʿ Sharḥ Al-Muhadhdhab*. Vol. 19, Beirut: Dār al-Fikr, 2000. 1421.

al-Qaraḍāwī, Yūsuf. *Al-Hall Al-Islami* Vol. 2, Beirut: Mu'assasat al-Risalah, 1980.

al-Qaraḍāwī, Yūsuf. *On the Jurisprudence of Muslim Minorities* [Fi fiqh al-aqalliyyat al-muslima]. Cairo: Dar al-Shuruq, 2001.

al-Rāzī, Fakhr al-Dīn. *The Great Commentary* [al-Tafsīr al-kabīr]. Cairo: al-Matba'ah al Bahiyyah al-Misriyyah, 1938.

al-Raziq, 'Ali 'Abd. 'Message Not Government, Religion Not State.' Translated by Joseph Massad. In *Liberal Islam*, edited by Kurzman.

Alejo, Albert. 'Let the People Understand.' *Our Mindanao* 1, no. 1 (2010): 15-19.

Alejo, Fr. Albert E., in-person interview, 25 November 2012.

ʿAlwānī, Ṭāhā Jābir Fayyāḍ. *Towards a Fiqh for Minorities*. Rev. ed. London: International Institute of Islamic Thought, 2010.

An-Naʿim, Abdullahi Ahmed. *Islam and the Secular State*. Cambridge: Harvard University Press, 2008.

An-Naʿim, Abdullahi Ahmed. 'Islamic Foundations of Religious Human Rights.' In *Religious Human Rights in Global Perspective*, edited by John Witte and Johan van der Vyver. The Hague: Kluwer, 1996.

An-Naʿim, Abdullahi Ahmed. *Towards an Islamic Reformation*. Syracuse: Syracuse University Press, 1990.

Anderson, Benedict. *Imagined Communities*. Rev ed. London: Verso, 1991. 1983.

Appiah, Kwame Anthony. *Cosmopolitanism: Ethics in a World of Strangers*. London: Penguin, 2007.
Appleby, R. Scott. *The Ambivalence of the Sacred: Religion, Violence, and Reconciliation*. Oxford: Rowman and Littlefield, 2000.
Appleby, R. Scott. 'Building Sustainable Peace: The Roles of Local and Transnational Religious Actors.' In *Religious Pluralism, Globalization, and World Politics*, edited by Thomas Banchoff. New York: Oxford University Press, 2008.
Appleby, R. Scott, and Lederach, John. 'Strategic Peacebuilding: An Overview.' In *Strategies of Peace: Transforming Conflict in a Violent World*, edited by Daniel Philpott and Gerard Powers. Oxford: Oxford University Press, 2010.
Aquinas, Thomas. *Summa Contra Gentiles*. Basic Writings of Saint Thomas Aquinas. edited by Anton Pegis2 vols. Vol. 2, New York: Random House, 1945.
Aquinas, Thomas. *Summa Theologica*. Translated by Fathers of the English Dominican Province. Charlottesville: InteLex Corporation, 1993. 1265-1274.
Arendt, Hannah. *The Human Condition*. Chicago: University of Chicago Press, 1958.
Ariès, Philippe. *Centuries of Childhood*. Penguin Books: Harmondsworth, 1979.
Aristotle. 'Metaphysics.' Translated by Joe Sachs. In *Aristotle's Metaphysics*, edited by Joe Sachs. Santa Fe: Green Lion Press, 1999.
Aristotle. *Nicomachean Ethics*. Translated by David Ross. edited by Lesley Brown Oxford: Clarendon Press, 2009. ca. 350 B.C.
Aristotle. *Politics*. Translated by Benjamin Jowett. New York: Dover, 2000. ca. 350 B.C.
Asad, Talal. *Formations of the Secular: Christianity, Islam, Modernity*. Stanford: Stanford University Press, 2003.
Asad, Talal. 'Free Speech, Blasphemy, and Secular Criticism.' In *Is Critique Secular?*, edited by Asad.
Asad, Talal, ed. *Is Critique Secular?*
Audi, Robert. 'Liberal Democracy and the Place of Religion in Politics.' In *Religion in the Public Square*, edited by Audi and Wolterstorff.
Audi, Robert, and Wolterstorff, Nicholas. *Religion in the Public Square*. London: Rowman and Littlefield, 1997.
Augustine. *The City of God*. Translated by Marcus Dods. edited by Philip Schaff Edinburgh: T & T Clark, 1886. ca. A.D. 416-422.
Ayubi, Nazih. *Political Islam*. London: Routledge, 1991.
Baderin, Mashood. *International Human Rights and Islamic Law*. Oxford: Oxford University Press, 2003.
Bajunaid, Prof. Moner, in-person interview, 3 December 2012.
Banchoff, Thomas, and Wuthnow, Robert, eds. *Religion and the Global Politics of Human Rights*. Oxford: Oxford University Press, 2011.
Barnes, Michael. *Theology and the Dialogue of Religions*. Cambridge: Cambridge University Press, 2002.
Barry, Brian. *Culture and Equality: An Egalitarian Critique of Multiculturalism*. Cambridge: Polity Press, 2001.
Barthes, Roland. 'The Death of the Author.' Translated by Stephen Heath. In *Image-Music-Text*, edited by Stephen Heath. 142-48. London: Fontana, 1977.
Bauman, Zygmunt. *Globalization: The Human Consequences*. Cambridge: Polity, 1998.
Bauman, Zygmunt. *In Search of Politics*. Cambridge: Polity, 1999.
Bauman, Zygmunt. *Liquid Modernity*. Cambridge: Polity, 2000.
Baur, Michael. 'Law and Natural Law.' In *The Oxford Handbook of Aquinas*, edited by Brian Davies and Eleonore Stump. Oxford: Oxford University Press, 2012.

Bautista, Cynthia. 'Democratic Consolidation and the Challenge of Poverty in the Philippines.' In *Asian New Democracies*, edited by Michael Hsiao. Taipei: Taiwan Foundation for Democracy, 2006.
Bazargan, Mehdi. 'Religion and Liberty.' In *Liberal Islam*, edited by Charles Kurzman. Oxford: Oxford University Press, 1998.
Beck, Ulrich. *The Cosmopolitan Vision*. Cambridge: Polity, 2006.
Beitz, Charles. 'Cosmopolitan Ideals and National Sentiment.' *The Journal of Philosophy* 80, no. 10 (1983): 591-600.
Beitz, Charles. *Political Theory and International Relations*. 2nd ed. Princeton: Princeton University Press, 1999. 1979.
Bellah, Robert. *The Broken Covenant*. New York: Seabury, 1975.
Bellah, Robert. 'Confronting Modernity.' In *Varieties of Secularism in a Secular Age*, edited by Michael Warner, Jonathan VanAntwerpen and Craig Calhoun. Cambridge: Harvard University Press, 2010.
Bellah, Robert. *Habits of the Heart*. Berkeley: University of California Press, 1996. 1985.
Benko, Georges. 'Introduction: Modernity, Postmodernity and Social Sciences.' In *Space and Social Theory: Interpreting Modernity and Postmodernity*, edited by Georges Benko and Ulf Strohmayer. Oxford: Blackwell, 1997.
Bentham, Jeremy. 'A Manual of Political Economy.' In *The Works of Jeremy Bentham*, edited by John Bowring. Edinburgh: Tait, 1843.
Berger, Peter. *Between Relativism and Fundamentalism*. Grand Rapids: Eerdmans, 2010.
Berger, Peter. 'The Cultural Dynamics of Globalization.' In *Many Globalizations: Cultural Diversity in the Contemporary World*, edited by Peter Berger and Samuel Huntington. Oxford: Oxford University Press, 2002.
Berger, Peter. 'The Desecularization of the World: A Global Overview.' In *Desecularization of World*, edited by Peter Berger.
Berger, Peter, ed. *The Desecularization of the World: Resurgent Religion and World Politics* Grand Rapids: Eerdmans, 1999.
Berger, Peter. *Facing up to Modernity*. New York: Basic Books, 1977.
Berger, Peter. 'Faith and Development.' *Society* 46, no. 1 (2009): 69-75.
Berger, Peter. *The Heretical Imperative*. New York: Doubleday, 1979.
Berger, Peter. 'Pluralism, Protestantization, and the Voluntary Principle.' In *Democracy and the New Religious Pluralism*, edited by Thomas Banchoff. Oxford: Oxford University Press, 2007.
Berger, Peter. *A Sacred Canopy*. New York: Doubleday, 1967.
Berger, Peter. 'Secularism in Retreat.' *The National Interest* 46 (1996/1997): 3-12.
Berger, Peter. *The Social Reality of Religion*. Harmondsworth: Penguin, 1973.
Berger, Peter, Berger, Brigitte, and Kellner, Hansfried. *The Homeless Mind*. Harmondsworth: Penguin, 1974.
Berger, Peter, Davie, Grace, and Fokas, Effie. *Religious America, Secular Europe?* Aldershot: Ashgate, 2008.
Berger, Peter, and Luckmann, Thomas. *The Social Construction of Reality: A Treatise in the Sociology of Knowledge*. London: Allen Lane, 1967.
Berkey, Jonathan. *The Formation of Islam*. Cambridge: Cambridge University Press, 2003.
Berkman, John. 'Introduction.' In *The Pinckaers Reader*. Washington, D.C.: Catholic University of America Press, 2005.
Berkman, John, and Titus, Craig, eds. *The Pinckaers Reader: Renewing Thomistic Moral Theology*. edited by Servais Pinckaers. Washington, D.C.: Catholic University of America Press, 2005.
Berlin, Isaiah. *Four Essays on Liberty*. Oxford: Oxford University Press, 1969. 1958.

Bianchi, Marina. *The Active Consumer*. London: Routledge, 1998.
Bielefeldt, Heiner. 'Freedom of Religion or Belief – a Human Right under Pressure.' *Oxford Journal of Law and Religion* 1, no. 1 (2012): 15-35.
Bielefeldt, Heiner. 'Misperceptions of Freedom of Religion or Belief.' *Human Rights Quarterly* 35, no. 1 (2013): 33-68.
Biggar, Nigel. *Behaving in Public: How to Do Christian Ethics*. Cambridge: Eerdmans, 2011.
Biggar, Nigel. 'Not Translation, but Conversation: Theology in Public Debate About Euthanasia.' In *Religious Voices in Public Places*, edited by Nigel Biggar and Linda Hogan. Oxford: Oxford University Press, 2009.
Biggar, Nigel. 'Peace and Justice: A Limited Reconciliation.' *Ethical Theory and Moral Practice* 5, no. 2 (2002): 167-79.
Biggar, Nigel. 'The Value of Limited Loyalty: Christianity, the Nation, and Territorial Boundaries.' In *Christian Political Ethics*, edited by John Coleman. Princeton: Princeton University Press, 2008.
Black, Antony. *The History of Islamic Political Thought*. 2nd ed. Edinburgh: Edinburgh University Press, 2011. 2001.
Boethius, Anicius Manlius Severinus. 'A Treatise against Eutyches and Nestorius.' Translated by Hugh Fraser Stewart and Edward Kennard Rand. In *The Theological Tractates*. Cambridge: Harvard University Press, 1997.
Bowen, John. *Why the French Don't Like Headscarves: Islam, the State, and Public Space*. Princeton: Princeton University Press, 2007.
Boyle, Joseph. 'Natural Law and International Ethics.' In *Traditions of International Ethics*, edited by Terry Nardin and David Mapel. Cambridge: Cambridge University Press, 1992.
Brennan, Tad. *The Stoic Life*. Oxford: Oxford University Press, 2005.
Brown, Nathan. 'Egypt: Cacophony and Consensus.' In *Shariʿa Politics*, edited by Hefner.
Brown, Wendy. 'Introduction.' In *Is Critique Secular?*, edited by Talal Asad. Berkeley: Townsend Center for the Humanities, 2009.
Bruce, Steve. *Fundamentalism*. Cambridge: Polity Press, 2008.
Bruce, Steve. *God Is Dead: Secularization in the West*. Oxford: Blackwell, 2002.
Budziszewski, J. *Written on the Heart: The Case for Natural Law*. Downers Grove: InterVarsity Press, 1997.
Bukay, David. 'Peace or Jihad? Abrogation in Islam.' *Middle East Quarterly* 14, no. 4 (2007): 3-11.
Būṭī, Muḥammad Saʿīd Ramaḍān. *The Jurisprudence of the Prophetic Biography*. Translated by Nancy Roberts. edited by Anas al-Rifāʿī Damascus: Dar al-Fikr, 2001.
Cahill, Lisa. 'A Theology for Peacebuilding.' In *Catholic Peacebuilding Network*. University of Notre Dame, 2008.
Calhoun, Craig. *Nationalism*. Minneapolis: University of Minnesota Press, 1997.
Calhoun, Craig. *Nations Matter: Culture, History, and the Cosmopolitan Dream*. Abingdon: Routledge, 2007.
Calo, Zachary. 'Catholic Social Thought, Political Liberalism, and the Idea of Human Rights.' *Journal of Christian Legal Thought* 1, no. 2 (2011): 1-13.
Calvo, Fr. Angel C., in-person interview, 26 November 2012.
Campanini, Massimo. 'Alfarabi and the Foundation of Political Theology in Islam.' In *Islam, the State, and Political Authority*, edited by Asma Afsaruddin. Basingstoke: Palgrave Macmillan, 2011.
Capalla, Archbishop Fernando R., in-person interview, 28 November 2012.

Carens, Joseph. 'Aliens and Citizens: The Case for Open Borders.' *The Review of Politics* 49, no. 2 (1987): 251-73.
Carmichael, Liz. *Friendship: Interpreting Christian Love*. London: T & T Clark, 2004.
Carozza, Paolo. 'Human Dignity and Judicial Interpretation of Human Rights: A Reply.' *European Journal of International Law* 19, no. 5 (2008): 931-44.
Carter, Ian. 'Positive and Negative Liberty.' In Edward Zalta, *The Stanford Encyclopedia of Philosophy* Fall 2010 Edition. http://stanford.io/18Dkvtt.
Carter, Stephen. *Civility: Manners, Morals, and the Etiquette of Democracy*. New York: Basic Books, 1998.
Casanova, José. *Public Religions in the Modern World*. Chicago: University of Chicago Press, 1994.
Casanova, José. 'Public Religions Revisited.' In *Religion: Beyond a Concept*, edited by Hent de Vries. New York: Fordham University Press, 2008.
Casanova, José. 'The Return of Religion to the Public Sphere: A Global Perspective.' Blackfriars Hall, Oxford University, 2011.
Casanova, José. 'A Secular Age: Dawn or Twilight?'. In *Varieties of Secularism*, edited by VanAntwerpen Warner, and Calhoun.
Cates, Diana Fritz. *Choosing to Feel: Virtue, Friendship, and Compassion for Friends*. Notre Dame: University of Notre Dame Press, 1997.
Cavanaugh, William, and Scott, Peter. 'Introduction.' In *The Blackwell Companion to Political Theology*, edited by Peter Scott and William Cavanaugh. Malden: Blackwell, 2004.
Chadwick, Henry. *Boethius: The Consolations of Music, Logic, Theology and Philosophy*. Oxford: Clarendon Press, 1981.
Chadwick, Owen. *The Secularization of the European Mind*. Cambridge: Cambridge University Press, 1990. 1975.
Chapman, Mark. *Blair's Britain: A Christian Critique*. London: Darton, Longman & Todd, 2005.
Chapman, Mark. *Doing God: Religion and Public Policy*. London: Darton, Longman & Todd, 2008.
Chittick, William. *Imaginal Worlds: Ibn Al-ʿarabī and the Problem of Religious Diversity*. Albany: State University of New York Press, 1994.
Chrysostom, John. *On Wealth and Poverty*. Translated by Catharine Roth. Crestwood: St. Vladimir's Seminary Press, 1984. ca. A.D. 388.
Cicero, Marcus Tullius. *On Duties* [De Officiis]. Translated by Walter Miller. Loeb ed. Cambridge: Harvard University Press, 1913. ca. 44 B.C.
Cicero, Marcus Tullius. 'On the Laws.' Translated by Francis Barham. In *The Political Works of Marcus Tullius Cicero*. London: Edmund Spettigue, 1841-42.
Cohen, Jean, and Arato, Andrew. *Civil Society and Political Theory*. Cambridge: MIT Press, 1992.
Committee, U.S. Catholic Conference International Policy. 'American Responsibilities in a Changing World.' *Origins* 22 (1992): 337-41.
Comte, Auguste. *System of Positive Polity*. London: Longmans, Green and Co., 1876. 1851-1854.
Crone, Patricia. *Medieval Islamic Political Thought*. Edinburgh: Edinburgh University Press, 2004.
Crone, Patricia. *Roman, Provincial, and Islamic Law*. Cambridge: Cambridge University Press, 1987.
D'Ambra, Fr. Sebastiano, in-person interview, 27 November 2012.

Davie, Grace. 'Law, Sociology and Religion: An Awkward Threesome.' *Oxford Journal of Law and Religion* 1, no. 1 (2012): 235-47.
Donohue, John, and Esposito, John, eds. *Islam in Transition: Muslim Perspectives*. 2nd ed. Oxford: Oxford University Press, 2007.
Durkheim, Émile. *The Division of Labour in Society*. Translated by W. D. Halls. edited by Lewis Coser Basingstoke: MacMillan, 1984. 1893.
Durkheim, Émile. *The Elementary Forms of the Religious Life*. Translated by Karen Fields. New York: Free Press, 1995. 1912.
Dworkin, Ronald. 'Is There a Right to Pornography?'. *Oxford Journal of Legal Studies* 1, no. 2 (1981): 177-212.
Dworkin, Ronald. *Taking Rights Seriously*. Cambridge: Harvard University Press, 1978.
Edwards, Michael. *Civil Society*. Cambridge: Polity, 2004.
Ehrenberg, John. *Civil Society: The Critical History of an Idea*. New York: New York University Press, 1999.
Eisenstadt, Shmuel. 'Concluding Remarks: Public Sphere, Civil Society, and Political Dynamics in Islamic Societies.' In *The Public Sphere in Muslim Societies*, edited by Miriam Hoexter, Shmuel Eisenstadt and Nehemia Levtzion. Albany: State University of New York Press, 2002.
Eisenstadt, Shmuel. 'Multiple Modernities in an Age of Globalization.' *The Canadian Journal of Sociology* 24, no. 2 (1999): 283-95.
Elias, Norbert. *The Civilizing Process*. edited by Eric Dunning (et al.). Rev. ed. Oxford: Blackwell, 2000. 1939.
Elshtain, Jean Bethke. 'Religion, the Enlightenment, and a Common Good.' In *Religion, the Enlightenment, and the New Global Order*, edited by John Owen and J. Judd Owen. New York: Columbia University Press, 2010.
Erasmus, Desiderius. *A Lytell Booke of Good Maners for Chyldren* [De Civilitate Morum Puerilium]. Translated by Robert Whittington. London: Wynkyn de Worde, 1536. 1530.
Esack, Farid. *Qurʾān, Liberation and Pluralism*. Oxford: Oneworld, 1997.
Esposito, John, and Voll, John. *Islam and Democracy*. Oxford: Oxford University Press, 1996.
'Establishing Universal Peace in Truth, Justice, Charity and Liberty.' In Libreria Editrice Vaticana. http://bit.ly/VatIIPT.
Fadel, Mohammad. 'The True, the Good and the Reasonable: The Theological and Ethical Roots of Public Reason in Islamic Law.' *Canadian Journal of Law and Jurisprudence* 21, no. 1 (2008): 5-69.
Fadl, Khaled Abou El. *Islam and the Challenge of Democracy*. Princeton: Princeton University Press, 2004.
Fadl, Khaled Abou El. 'Islamic Law and Muslim Minorities.' *Islamic Law and Society* 1, no. 2 (1994): 141-87.
Fadl, Khaled Abou El. *Speaking in God's Name: Islamic Law, Authority and Women*. Oxford: One World, 2001.
Fadl, Khaled Abou El. 'The Unbounded Law of God and Territorial Boundaries.' In *States, Nations, and Borders*, edited by Buchanan and Moore.
Fakhry, Majid. 'Averroes, Aquinas, and the Rediscovery of Aristotle in Western Europe,' In occasional paper series, (1997).
Feldman, Noah. *The Fall and Rise of the Islamic State*. Princeton: Princeton University Press, 2008.
Feldman, Noah. 'The Intellectual Origins of the Establishment Clause.' *New York University Law Review* 77 (2002): 346-428.

Ferguson, Adam. *An Essay on the History of Civil Society*. edited by Fania Oz-Salzberger Cambridge: Cambridge University Press, 1995. 1782.
Ferguson, Harvie. *Phenomenological Sociology: Insight and Experience in Modern Society*. London: Sage, 2006.
Ferrer, Miriam. 'The Case of the Autonomous Region in Muslim Mindanao.' *Ethnic and Racial Studies* 35, no. 12 (2011): 1-19.
'The Fiftieth General Assembly of the United Nations Organization.' In Libreria Editrice Vaticana. http://bit.ly/JPII50UN.
Finnis, John. *Human Rights and the Common Good*. Collected Essays. Vol. 3, Oxford: Oxford University Press, 2011.
Finnis, John. 'Human Rights and Their Enforcement.' In *Human Rights and Common Good*, edited by Finnis.
Finnis, John. 'Introduction.' In *Human Rights and the Common Good*, edited by John Finnis. Oxford: Oxford University Press, 2011.
Finnis, John. 'Is Natural Law Theory Compatible with Limited Government?'. In *Natural Law, Liberalism, and Morality*, edited by Robert George. Oxford: Oxford University Press, 1996.
Finnis, John. *Natural Law and Natural Rights*. 2nd ed. Oxford: Oxford University Press, 2011.
Finnis, John. 'Public Good: The Specifically Political Common Good in Aquinas.' In *Natural Law and Moral Inquiry*, edited by Robert George. Washington, D.C.: Georgetown University Press, 1998.
Foot, Philippa. 'Moral Beliefs.' In *Virtues and Vices*, edited by Philippa Foot. Oxford: Oxford, 2002.
Fuchs, Stephan. *Against Essentialism*. Cambridge: Harvard University Press, 2001.
Gadamer, Hans-Georg. *Truth and Method*. Translated by Joel Weinsheimer and Donald Marshall. 2nd ed. London: Continuum, 2004. 1960.
Galston, William. *Liberal Pluralism*. Cambridge: Cambridge University Press, 2002.
Galtung, Johan. 'Introduction: Peace by Peaceful Conflict Transformation.' In *Handbook of Peace and Conflict Studies*, edited by Charles Webel and Johan Galtung. London: Routledge, 2007.
Gellner, Ernest. *Conditions of Liberty*. London: Penguin, 1996.
George, Robert. *In Defense of Natural Law*. Oxford: Clarendon, 1999.
George, Robert. *Making Men Moral: Civil Liberties and Public Morality*. Oxford: Clarendon Press, 1993.
George, Robert. 'Natural Law and International Order.' In *In Defense of Natural Law*, edited by Robert George. Oxford: Clarendon, 1999.
George, Thayil Jacob Sony. *Revolt in Mindanao*. Kuala Lumpur: Oxford University Press, 1980.
Gewirth, Alan. *Reason and Morality*. Chicago: University of Chicago Press, 1978.
Giddens, Anthony. *Central Problems in Social Theory*. London: MacMillan Press, 1979.
Gorski, Philip, and Altınordu, Ateş. 'After Secularization?'. *Annual Review of Sociology* 34 (2008): 55-85.
Gramsci, Antonio. *Selections from the Prison Notebooks*. edited by Quintin Hoare and Geoffrey Nowell-Smith London: Lawrence and Wishart, 1971.
Greeley, Andrew. *Unsecular Man: The Persistence of Religion*. New York: Schocken, 1972.
Green, Thomas. *Lectures on the Principles of Political Obligation and Other Writings*. edited by Paul Harris and John Morrow Cambridge: Cambridge University Press, 1986. 1895.

Griffel, Frank. ‘Al-Ghazālī’s Use of “Original Human Disposition” (Fiṭra) and Its Background.’ *The Muslim World* 102, no. 1 (2012): 1-32.
Griffin, James. *On Human Rights*. Oxford: Oxford University Press, 2008.
Griffiths, John. ‘What Is Legal Pluralism?’. *Journal of Legal Pluralism* 24 (1986): 1-55.
Grisez, Germain. *Christian Moral Principles*. The Way of the Lord Jesus. Vol. 1, Chicago: Franciscan Herald Press, 1983.
Grisez, Germain. ‘The First Principle of Practical Reason: A Commentary on the Summa Theologiae.’ *94* 2, no. Natural Law Forum (1965): 168-201.
Grisez, Germain. ‘The True Ultimate End of Human Beings: The Kingdom, Not God Alone.’ *Theological Studies* 69, no. 1 (2008): 38-61.
Grisez, Germain, and Boyle, Joseph. *Life and Death with Liberty and Justice*. Notre Dame: University of Notre Dame Press, 1979.
Grisez, Germain, Boyle, Joseph, and Finnis, John. ‘Practical Principles, Moral Truth, and Ultimate Ends.’ *American Journal of Jurisprudence* 32 (1987): 99-151.
Guinness, Os. *The Case for Civility: And Why Our Future Depends on It*. New York: HarperCollins, 2008.
Habermas, Jürgen. *Between Naturalism and Religion*. Translated by Ciaran Cronin. Cambridge: Polity, 2008.
Habermas, Jürgen. *The Inclusion of the Other: Studies in Political Theory*. edited by Ciaran Cronin and Pable De Greiff Cambridge: MIT Press, 1998.
Habermas, Jürgen. *The Postnational Constellation: Political Essays*. Translated by Max Pensky. MIT Press: Cambridge, 2001.
Habermas, Jürgen. ‘Religion in the Public Sphere.’ In *Between Naturalism and Religion*. Cambridge: Polity, 2008.
Habermas, Jürgen. *The Structural Transformation of the Public Sphere*. Cambridge: Polity, 1989.
Habermas, Jürgen. *The Theory of Communicative Action*. Translated by Thomas McCarthy. 3rd ed. Vol. 2, Boston: Beacon Press, 1987.
Hadden, Jeffrey. ‘Desacralizing Secularization Theory.’ In *Secularization and Fundamentalism Reconsidered*, edited by Jeffrey Hadden and Anson Shupe. New York: Paragon House, 1989.
Hadden, Jeffrey. ‘Toward Desacralizing Secularization Theory.’ *Social Forces* 65 (1987): 587-611.
Haldane, John. *Faithful Reason: Essays Catholic and Philosophical*. London: Routledge, 2004.
Haldane, John. *Practical Philosophy: Ethics, Society and Culture*. Exeter: Imprint Academic, 2009.
Hallaq, Wael. *Authority, Continuity, and Change in Islamic Law*. Cambridge: Cambridge University Press, 2001.
Hallaq, Wael. *A History of Islamic Legal Theories*. New York: Cambridge University Press, 1997.
Hallaq, Wael. ‘Introduction.’ In *The Formation of Islamic Law*, edited by Wael Hallaq. Aldershot: Ashgate Variorum, 2003.
Hallaq, Wael. ‘On the Authoritativeness of Sunni Consensus.’ *International Journal of Middle East Studies* 18, no. 1 (1986): 427-54.
Hallaq, Wael. *The Origins and Evolution of Islamic Law*. Cambridge: Cambridge University Press, 2005.
Hallaq, Wael. *Sharīʿa: Theory, Practice, Transformations*. Cambridge: Cambridge University Press, 2009.

Hallaq, Wael. 'Was the Gate of Ijtihad Closed?'. *International Journal of Middle East Studies* 16, no. 1 (1984): 3-41.
Häring, Bernard. 'Dynamism and Continuity in a Personalistic Approach to Natural Law.' In *Norm and Context in Christian Ethics*, edited by Gene Outka and Paul Ramsey. New York: Charles Scribner's Sons, 1968.
Harris, Albert. 'Peace Processes under Conditions of Uncertain Sovereignty.' *International Negotiation* 12, no. 2 (2007): 175-205.
Hashemi, Nader. *Islam, Secularism, and Liberal Democracy*. New York: Oxford University Press, 2009.
Hashmi, Sohail. 'Interpreting the Islamic Ethics of War and Peace.' In *Islamic Political Ethics*, edited by Hashmi.
Hashmi, Sohail. 'Islamic Ethics and International Society.' In *Islamic Political Ethics*, edited by Hashmi.
Hashmi, Sohail. 'Political Boundaries and Moral Communities: Islamic Perspectives.' In *States, Nations, and Borders: The Ethics of Making Boundaries*, edited by Allen Buchanan and Margaret Moore. Cambridge: Cambridge University Press, 2003.
Hayek, Friedrich. *Law, Legislation and Liberty, Vol. 2: The Mirage of Social Justice*. London: Routledge, 1976.
Hayek, Friedrich. *Law, Legislation and Liberty, Vol. 3: The Political Order of a Free People*. London: Routledge, 1979.
Heck, Paul. *Common Ground: Islam, Christianity, and Religious Pluralism*. Washington, D.C.: Georgetown University Press, 2009.
Hefner, Robert. *Civil Islam: Muslims and Democratization in Indonesia*. Princeton: Princeton University Press, 2000.
Hefner, Robert. 'Introduction.' In *Shariʿa Politics: Islamic Law and Society in the Modern World*, edited by Robert Hefner. Bloomington: Indiana University Press, 2011.
Hegel, Georg Wilhelm Friedrich. *Elements of the Philosophy of Right*. Translated by H. B. Nisbet. edited by Allen Wood Cambridge: Cambridge University Press, 1991. 1821.
Higton, Mike. 'Scriptural Reasoning.' *Conversations in Religion and Theology* 7, no. 2 (2009): 129-33.
Hittinger, Russell. *A Critique of the New Natural Law Theory*. Notre Dame: University of Notre Dame Press, 1987.
Hobbes, Thomas. *Leviathan*. edited by Michael Oakeshott Oxford: Blackwell, 1948. 1651.
Hobsbawm, Eric. *Nations and Nationalism since 1780*. Cambridge: Cambridge University Press, 1990.
Hollenbach, David. *The Common Good and Christian Ethics*. Cambridge: Cambridge University Press, 2002.
Hollenbach, David. 'A Communitarian Reconstruction of Human Rights.' In *Catholicism and Liberalism*, edited by R. Bruce Douglass and David Hollenbach. Cambridge: Cambridge University Press, 1994.
Holtzman, Livnat. 'Human Choice, Divine Guidance and the Fiṭra Tradition.' In *Ibn Taymiyya and His Times*, edited by Yossef Rapoport and Shahab Ahmed. Oxford: Oxford University Press, 2010.
Hooft, Stan van. *Cosmopolitanism: A Philosophy for Global Ethics*. Stocksfield: Acumen, 2009.
Hordern, Joshua. *Political Affections: Civic Participation and Moral Theology*. Oxford: Oxford University Press, 2013.
Hornsby-Smith, Michael. *An Introduction to Catholic Social Thought*. Cambridge: Cambridge University Press, 2006.

Husserl, Edmund. *The Crisis of European Sciences and Transcendental Phenomenology*. Translated by David Carr. Evanston: Northwestern University Press, 1970. 1913.
'International Religious Freedom Report 2010 – Philippines.' edited by U.S. State Department. Washington, D.C.: Bureau of Democracy, Human Rights, and Labor.
Iqbal, MILF Peace Panel Chairperson Mohagher, Skype interview, 5 December 2012.
Iqbal, Muhammad. *The Reconstruction of Religious Thought in Islam*. Lahore: Sh. Muhammad Ashraf, 1968.
Ishay, Micheline. *The History of Human Rights*. Berkeley: University of California Press, 2008.
Islam, Syed Serajul. 'Ethno-Communal Conflict in the Philippines.' In *Ethnic Conflict and Secessionism*, edited by Rajat Ganguly and Ian Macduff. London: Sage, 2003.
Islam, Syed Serajul. 'Islamic Independence Movements.' *Asian Survey* 38, no. 5 (1998): 441-56.
Jones, Charles. *Global Justice: Defending Cosmopolitanism*. Oxford: Oxford University Press, 1999.
Jones, Charles. 'Global Liberalism: Political or Comprehensive?'. *University of Toronto Law Journal* 54, no. 2 (2004): 227-48.
Kaldor, Mary. *New and Old Wars*. 2nd ed. Cambridge: Polity, 2006.
Kamali, Mohammad Hashim. *The Dignity of Man: An Islamic Perspective*. Cambridge: Islamic Texts Society, 2002.
Kamali, Mohammad Hashim. *Principles of Islamic Jurisprudence*. Rev. ed. Cambridge: Islamic Texts Society, 1991.
Kamali, Mohammad Hashim. *Shariʿah Law: An Introduction*. Oxford: Oneworld, 2008.
Kant, Immanuel. *Groundwork of the Metaphysics of Morals*. Translated by Christine Korsgaard. edited by Mary Gregor Cambridge: Cambridge University Press, 1998. 1785.
Kant, Immanuel. *Perpetual Peace: A Philosophical Essay*. edited by Mary Campbell Smith London: George Allen and Unwin, 1903.
Kant, Immanuel. *Theory and Practice*. Translated by H. B. Nisbet. Kant: Political Writings. edited by Hans Reiss Cambridge: Cambridge University Press, 1970. 1793.
Keech, Dominic. *The Anti-Pelagian Christology of Augustine of Hippo*. Oxford: Oxford University Press, 2012.
Kelsay, John. *Arguing the Just War in Islam*. Cambridge: Harvard University Press, 2007.
Kenny, Michael. *The Politics of Identity*. Oxford: Polity, 2004.
Kepel, Gilles. *The Revenge of God*. Cambridge: Polity, 1994. 1991.
Kerr, Fergus. *After Aquinas: Versions of Thomism*. Oxford: Blackwell, 2002.
Keys, Mary. *Aquinas, Aristotle, and the Promise of the Common Good*. Cambridge: Cambridge University Press, 2006.
Khadduri, Majid. *The Islamic Conception of Justice*. Baltimore: Johns Hopkins University Press, 1984.
Kolig, Erich. 'To Shari'aticize or Not to Shari'aticize: Islamic and Secular Law in Liberal Democratic Society.' In *Shari'a in the West*, edited by Ahdar and Aroney.
Koselleck, Reinhart. *Critique and Crisis: Enlightenment and the Pathogenesis of Modern Society*. Oxford: Berg, 1988.
Kraut, Richard. *Aristotle on the Human Good*. Princeton: Princeton University Press, 1989.
Kukathas, Chandran. *The Liberal Archipelago: A Theory of Diversity and Freedom*. Oxford: Oxford University Press, 2003.
Kymlicka, Will. *Liberalism, Community and Culture*. Oxford: Clarendon Press, 1989.
Kymlicka, Will. *Multicultural Citizenship*. Oxford: Clarendon Press, 1995.

Kymlicka, Will. *Politics in the Vernacular*. Oxford: Oxford University Press, 2001.
Lactantius. *Divine Institutes* [Divinae Institutiones]. edited by Anthony Bowen and Peter Garnsey Liverpool: Liverpool University Press, 2003. ca. A.D. 304.
Laërtius, Diogenes. *The Lives and Opinions of Eminent Philosophers*. Translated by Charles Yonge. London: H. G. Bohn, 1853.
Langan, John. 'The Common Good: Catholicism, Pluralism, and Secular Society.' In *Building a Better Bridge: Muslims, Christians and the Common Good*, edited by Michael Ipgrave. Washington, D.C.: Georgetown University Press, 2008.
Lasch, Christopher. *The Revolt of the Elites and the Betrayal of Democracy*. London: W.W. Norton, 1996.
Lederach, John. *Building Peace: Sustainable Reconciliation in Divided Societies*. Washington, D.C.: United States Institute of Peace Press, 1997.
Lederach, John. 'Justpeace: The Challenge of the 21st Century.' In *People Building Peace*. Utrech: European Centre for Conflict Prevention, 1999.
Lederach, John. *The Moral Imagination: The Art and Soul of Building Peace*. Oxford: Oxford University Press, 2005.
Leguro, Myla, in-person interview, 28 November 2012.
Lemmons, R. Mary Hayden. 'Juridical Prudence and the Toleration of Evil.' *University of St. Thomas Law Journal* 4, no. 1 (2006): 25-46.
Lévinas, Emmanuel. *Otherwise Than Being*. The Hague: Nijhoff, 1981. 1974.
Lévinas, Emmanuel. *Totality and Infinity: An Essay on Exteriority*. Translated by Alphonso Lingis. Pittsburgh: Duquesne University Press, 2007. 1961.
Locke, John. *Two Treatises of Government*. edited by C. B. Macpherson Cambridge: Cambridge University Press, 1980. 1690.
Long, Graham. *Relativism and the Foundations of Liberalism*. Exeter: Imprint Academic, 2004.
Lowry, Joseph. *Early Islamic Legal Theory*. Leiden: Brill, 2007.
Luckmann, Thomas. *The Invisible Religion*. New York: Macmillan, 1967.
Luckmann, Thomas. 'The Privatization of Religion and Morality.' In *Detraditionalization: Critical Reflections on Authority and Identity*, edited by Paul Heelas, Scott Lash and Paul Morris. Oxford: Blackwell, 1996.
Luckmann, Thomas. 'Shrinking Transcendence, Expanding Religion?'. *Sociological Analysis* 50, no. 2 (1990): 127-38.
MacCallum, Gerald. 'Negative and Positive Freedom.' *Philosophical Review* 76 (1967): 312-34.
MacCallum, Gerald. 'Negative and Positive Freedom.' In *Freedom: A Philosophical Anthology*, edited by Ian Carter, Matthew Kramer and Hillel Steiner. Oxford: Blackwell, 2007.
MacEoin, Denis. *Sharia Law or 'One Law for All'?* edited by David Green London: Civitas, 2009.
MacIntyre, Alasdair. *After Virtue: A Study in Moral Theory*. 3rd ed. Notre Dame: University of Notre Dame Press, 2007. 1981.
MacIntyre, Alasdair. 'Politics, Philosophy and the Common Good.' In *The Macintyre Reader*, edited by Kelvin Knight. Notre Dame: University of Notre Dame, 1998.
MacIntyre, Alasdair. *Secularization and Moral Change*. London: Oxford University Press, 1967.
MacIntyre, Alasdair. *Whose Justice? Which Rationality?* Notre Dame: University of Notre Dame Press, 1988.
Macpherson, Crawford. *The Political Theory of Possessive Individualism*. Toronto: University of Toronto Press, 1962.

Mahmood, Saba. 'Religious Reason and Secular Affect: An Incommensurable Divide?'. In *Is Critique Secular?*, edited by Asad.
Mahoney, John. *The Making of Moral Theology: A Study of the Roman Catholic Tradition*. Oxford: Clarendon Press, 1987.
Man, Wan Kadir Che. *Muslim Separatism*. Singapore: Oxford University Press, 1990.
March, Andrew. 'Sources of Moral Obligation to Non-Muslims in the "Jurisprudence of Muslim Minorities" (Fiqh Al-Aqalliyyat) Discourse.' *Islamic Law and Society* 16, no. 1 (2009): 34-94.
March, Andrew. 'Theocrats Living under Secular Law.' *Journal of Political Philosophy* 19, no. 1 (2011): 28-51.
Maritain, Jacques. *Man and the State*. Chicago: University of Chicago Press, 1951.
Maritain, Jacques. 'Truth and Human Fellowship.' In *On the Use of Philosophy: Three Essays*. Princeton: Princeton University Press, 1961.
Markus, Robert. *Christianity and the Secular*. Notre Dame: University of Notre Dame Press, 2006.
Markus, Robert. *Saeculum: History and Society in the Theology of St Augustine*. Rev ed. Cambridge: Cambridge University Press, 1988. 1970.
Marshall, David. *God, Muhammad and the Unbelievers: A Qur'anic Study*. Surrey: Curzon, 1999.
Martin, David. *The Future of Christianity: Reflections on Violence and Democracy, Religion and Secularisation*. Farnham: Ashgate, 2011.
Martin, David. *A General Theory of Secularization*. New York: Harper and Row, 1978.
Martin, David. *On Secularization: Towards a Revised General Theory*. Aldershot: Ashgate, 2005.
Martin, David. 'Towards Eliminating the Concept of Secularization.' In *Penguin Survey of the Social Sciences* edited by Julius Gould. Harmondsworth: Penguin, 1965.
Marx, Karl. *Contribution to a Critique of Hegel's Philosophy of Right*. Selected Works. edited by Karl Marx and Frederick Engels New York: International Publishers, 1968. 1843.
Marx, Karl. 'Preface to the Critique of Hegel's Philosophy of Right.' Translated by Annette Jolin and Joseph O'Malley. In *Karl Marx and Friedrich Engels*, edited by Joseph O'Malley. Moscow: Foreign Languages Publishing House, 1962.
Marx, Karl, and Engels, Friedrich. *Capital: A Critique of Political Economy*. Translated by Samuel Moore and Edward Aveling. New York: Modern Library, 1906. 1867.
Marx, Karl, and Engels, Friedrich. *The German Ideology*. Translated by S. W. Ryazanskaya. London: Lawrence and Wishart, 1965. 1846.
Mastura, Michael. 'Legal Pluralism in the Philippines.' *Law and Society Review* 28, no. 3 (1994): 462-75.
Masud, Muhammad Khalid. 'The Scope of Pluralism in Islamic Moral Traditions.' In *Islamic Political Ethics*, edited by Sohail Hashmi. Princeton: Princeton University Press, 2002.
McCrudden, Christopher. 'Human Dignity and Judicial Interpretation of Human Rights.' *European Journal of International Law* 19, no. 4 (2008): 655-724.
McKenna, Thomas. *Rulers and Rebels: Everyday Politics and Armed Separatism in the Southern Philippines*. Berkeley: University of California Press, 1998.
Mill, John Stuart. *On Liberty*. edited by Stefan Collini Cambridge: Cambridge University Press, 1989. 1859.
Mill, John Stuart. *The Principles of Political Economy*. London: Longmans, Green and Dyer, 1990. 1869.
Miller, David. *On Nationality*. Oxford: Oxford University Press, 1997.

Miller, Richard. 'Christian Attitudes Towards Boundaries: Metaphysical and Geographical.' In *Christian Political Ethics*, edited by Coleman.
Mitchell, Richard. *The Society of the Muslim Brothers*. New York: Oxford University Press, 1993.
Modood, Tariq. *Multiculturalism: A Civic Idea*. Cambridge: Polity, 2007.
Mohamed, Yasien. *Fitrah: The Islamic Concept of Human Nature*. London: Ta-Ha, 1996.
Montesquieu, Baron de. *The Spirit of Laws*. Translated by Thomas Nugent. edited by J. V. Prichard London: G. Bell and Sons, 1914. 1752.
Nagel, Thomas. *Equality and Partiality*. Oxford: Oxford University Press, 1991.
Nagel, Thomas. *The View from Nowhere*. Oxford: Oxford University Press, 1986.
Nathan, K. S., and Kamali, Mohammad Hashim. 'Addressing the Challenge of Political Islam in Southeast Asia.' In *Islam in Southeast Asia*, edited by Nathan and Kamali.
Neumann, Hannah. 'Identity-Building and Democracy in the Philippines.' *Journal of Current Southeast Asian Affairs* 29, no. 3 (2010): 61-90.
Noble, Lela. 'The Moro National Liberation Front in the Philippines.' *Pacific Affairs* 49, no. 3 (1976): 405-24.
Norris, Pippa, and Inglehart, Ronald. *Sacred and Secular: Religion and Politics Worldwide*. Cambridge Cambridge University Press, 2004.
Nozick, Robert. *Anarchy, State and Utopia*. Oxford: Blackwell, 1974.
Nussbaum, Martha. 'Patriotism and Cosmopolitanism.' In *Love of Country*, edited by Nussbaum and Cohen.
Nussbaum, Martha, and Cohen, Joshua, eds. *For Love of Country*. Boston: Beacon Press, 1996.
Nyang, Sulayman. 'Religion and the Maintenance of Boundaries.' In *Islamic Political Ethics*, edited by Hashmi.
O'Donovan, Oliver. *Resurrection and Moral Order*. 2nd ed. Grand Rapids: Eerdmans, 1994.
O'Neill, Onora. 'Bounded and Cosmopolitan Justice.' *Review of International Studies* 26, no. 5 (2000): 45-60.
O'Neill, Onora. *Bounds of Justice*. Cambridge: Cambridge University Press, 2000.
Oderberg, David. 'The Metaphysical Foundations of Natural Law.' In *Natural Moral Law*, edited by Holger Zaborowski. Washington, D.C.: Catholic University of America Press, 2010.
Oderberg, David S. *Moral Theory: A Non-Consequentialist Approach*. Oxford: Blackwell Publishers, 2000.
'On the Development of Peoples.' In Libreria Editrice Vaticana. http://bit.ly/VatIIPP.
Opwis, Felicitas. *Maṣlaḥa and the Purpose of the Law: Islamic Discourse on Legal Change from the 4th/10th to 8th/14th Century*. Leiden: Brill, 2010.
Osman, Mohamed Fathi. 'The Children of Adam.' In Georgetown University, (1997).
Osman, Mohamed Fathi. 'Human Rights in Islam.' In Center for Muslim-Jewish Engagement, (2012).
Oz-Salzberger, Fania. 'Introduction.' In *Adam Ferguson's an Essay on the History of Civil Society*. Cambridge: Cambridge University Press, 1995.
Pagden, Anthony. 'The Christian Tradition.' In *States, Nations, and Borders*, edited by Buchanan and Moore.
Pagden, Anthony, and Lawrance, Jeremy, eds. *Vitoria: Political Writings*. Cambridge: Cambridge University Press, 1991.
Parekh, Bhikhu. *A New Politics of Identity*. Basingstoke: Palgrave Macmillan, 2008.
Parekh, Bhikhu. *Rethinking Multiculturalism: Cultural Diversity and Political Theory*. 2nd ed. Basingstoke: Palgrave Macmillan, 2006.

Park, Richard. 'Fragmented Knowledge Structures: Secularization as Scientization.' *The Heythrop Journal* 54, no. 4 (2013): 563-73.
'Pastoral Constitution on the Church in the Modern World.' In Libreria Editrice Vaticana. http://bit.ly/VatIIGS.
Peters, Rudolph. *Crime and Punishment in Islamic Law*. Cambridge: Cambridge University Press, 2005.
'The Philippines: Religious Conflict Resolution on Mindanao.' In *Case Studies*. Washington, D.C.: Berkley Center for Religion, Peace, and World Affairs, 2011.
Philpott, Daniel. *Just and Unjust Peace: An Ethic of Political Reconciliation*. New York: Oxford University Press, 2012.
Picardal, Amado. 'Christian-Muslim Dialogue in Mindanao.' *Asian Christian Review* 2, no. 2 (2008): 54-72.
Plant, Raymond. *Politics, Theology and History*. Cambridge: Cambridge University Press, 2001.
Plato. *The Republic*. edited by Ivor Richards Cambridge: Cambridge University Press, 1966. ca. 360 B.C.
Pogge, Thomas. 'Priorities of Global Justice.' In *Global Justice*, edited by Thomas Pogge. Oxford: Blackwell, 2001.
Pogge, Thomas. *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms*. Cambridge: Polity Press, 2002.
'Population and Annual Growth Rates: Autonomous Region in Muslim Mindanao: 1995, 2000 and 2007 – Appendix D.' National Statistics Office, http://bit.ly/CensusGovPh.
Porter, Jean. *Nature as Reason: A Thomistic Theory of the Natural Law*. Grand Rapids: Eerdmans, 2005.
Quine, Willard. 'On Empirically Equivalent Systems of the World.' *Erkenntnis* 9, no. 3 (1975): 313-28.
The Qurʾan. Translated by M. A. S. Abdel Haleem. Oxford: Oxford University Press, 2004.
Rahman, Fazlur. 'Law and Ethics in Islam.' In *Richard Hovannisian*, edited by Ethics in Islam. Malibu: Undena, 1985.
Rahner, Karl. 'Membership of the Church.' In *Theological Investigations*. London: Darton, Longman & Todd, 1963.
Ramadan, Tariq. *Islam, the West and the Challenges of Modernity*. Leicester: Islamic Foundation, 2001.
Ramadan, Tariq. 'Islamic Views of the Collective.' In *Building a Better Bridge*, edited by Ipgrave.
Ramadan, Tariq. *Radical Reform: Islamic Ethics and Liberation*. Oxford: Oxford University Press, 2009.
Ramadan, Tariq. *Western Muslims*. Oxford: Oxford University Press, 2004.
Ramsay, Maureen. *What's Wrong with Liberalism? A Radical Critique of Liberal Philosophy*. London: Leicester University Press, 1997.
Rasul, Amina, in-person interview, 3 December 2012.
Rauf, Feisal Abdul. *What's Right with Islam*. San Francisco: HarperCollins 2005.
Rawls, John. 'The Idea of Public Reason Revisited.' *The University of Chicago Law Review* 64, no. 3 (1997): 765-807.
Rawls, John. *Political Liberalism*. expanded ed. New York: Columbia University Press, 2005. 1993.
Rawls, John. *A Theory of Justice*. Rev. ed. Cambridge: Harvard University Press, 1999. 1971.

Raz, Joseph. *The Morality of Freedom*. Oxford: Oxford University Press, 1988. 1986.
Regan, Ethna. *Theology and the Boundary Discourse of Human Rights*. Washington D.C.: Georgetown University Press, 2010.
Rhonheimer, Martin. *Natural Law and Practical Reason*. New York: Fordham University Press, 2000.
Rivera, Temario. 'The Crisis of Philippine Democracy.' In *Asian New Democracies*, edited by Hsin-Huang Michael Hsiao. Taipei: Taiwan Foundation for Democracy, 2006.
Rizvi, Sajjad. 'A Primordial E Pluribus Unum? Exegeses on Q. 2:213 and Contemporary Muslim Discourses on Religious Pluralism.' *Journal of Qur'anic Studies* 6, no. 1 (2004): 21-42.
Ronchi, Paolo. 'Crucifixes, Margin of Appreciation and Consensus: The Grand Chamber Ruling in Lautsi V Italy.' *Ecclesiastical Law Journal* 13 (2011): pp 287-97.
Rood, Steven. *Forging Sustainable Peace in Mindanao: The Role of Civil Society*. Washington, D.C.: East-West Center, 2005.
Rosen, Michael. *Dignity: Its History and Meaning*. Cambridge: Harvard University Press, 2012.
Rousseau, Jean Jacques. *The Social Contract and Discourses*. Translated by G. D. H. Cole. 1762.
Roy, Olivier. *Secularism Confronts Islam*. Translated by George Holoch. New York: Columbia University Press, 2007.
Russell, Susan, and Ty, Rey. 'Conflict Transformation Efforts in the Southern Philippines.' In *Conflict Resolution and Peace Education*, edited by Candice Carter. Basingstoke: Palgrave Macmillan, 2010.
Ruston, Roger. *Human Rights and the Image of God*. London: SCM, 2004.
Rutledge, Colleen Theresa. 'Caught in the Crossfire: How Catholic Charities of Boston Was Victim to the Clash between Gay Rights and Religious Freedom.' *Duke Journal of Gender Law and Policy* 15, no. 1 (2008): 297-314.
Ryle, Robyn. *Questioning Gender: A Sociological Exploration*. Thousand Oaks: Pine Forge Press, 2011.
Sachedina, Abdulaziz. *Islam and the Challenge of Human Rights*. Oxford: Oxford University Press, 2009.
Sachedina, Abdulaziz. *The Islamic Roots of Democratic Pluralism*. New York: Oxford University Press, 2001.
Sachedina, Abdulaziz. *The Qur'an on Religious Pluralism*. Washington, D.C.: Georgetown University, 1996.
Sachedina, Abdulaziz. 'The Qur'ān and Other Religions.' In *The Cambridge Companion to the Qur'ān*, edited by Jane Dammen McAuliffe. Cambridge: Cambridge University Press, 2006.
Sachedina, Abdulaziz. 'Reason and Revelation in Islamic Political Ethics.' In *Religion, the Enlightenment, and the New Global Order*, edited by John Owen and J. Judd Owen.
Saeed, Abdullah. 'Ambiguities of Apostasy and the Repression of Muslim Dissent.' *The Review of Faith and International Affairs* 9, no. 2 (2011): 31-38.
Saeed, Abdullah. 'An Islamic Case for Religious Freedom.' In *Religious Freedom: Defending an Embattled Human Right*, edited by Timothy Shah and Matthew Franck. Princeton: Witherspoon Institute, 2012.
Saeed, Abdullah. 'Trends in Contemporary Islam: A Preliminary Attempt at a Classification.' *The Muslim World* 97, no. 3 (2007): 395-404.
Saeed, Abdullah, and Saeed, Hassan. *Freedom of Religion, Apostasy and Islam*. Aldershot: Ashgate, 2004.

Salvatore, Armando. 'Tradition and Modernity within the Islamic Civilization and the West.' In *Islam and Modernity: Key Issues and Debates*, edited by Muhammad Khalid Masud, Armando Salvatore and Martin van Bruinessen. Edinburgh: Edinburgh University Press, 2009.
Salvatore, Armando, and Eickelman, Dale. *Public Islam and the Common Good*. Leiden: Brill, 2006.
Sandel, Michael. *Democracy's Discontent: America in Search of a Public Philosophy*. Cambridge: Harvard University Press, 1996.
Sandel, Michael. *Liberalism and the Limits of Justice*. 2nd ed. Cambridge: Cambridge University Press, 1998. 1982.
Schacht, Joseph. *An Introduction to Islamic Law*. Oxford: Clarendon Press, 1964.
Schacht, Joseph. *The Origins of Muhammadan Jurisprudence*. Oxford: Clarendon Press, 1950.
Schiavo-Campo, Salvatore, and Judd, Mary. *The Mindanao Conflict in the Philippines*. Washington, DC: The World Bank, 2005.
Schütz, Alfred. *The Structures of the Life-World*. edited by Thomas Luckmann Evanston: Northwestern University Press, 1973.
Seel, John. 'Reading the Post-Modern Self.' In *The Question of Identity*, edited by James Davison Hunter. Charlottesville: University of Virginia Press, 1998.
Sen, Amartya. 'Global Justice.' In *Global Public Goods*, edited by Inge Kaul, Isabelle Grunberg and Marc Stern. New York: Oxford University Press, 1999.
Sen, Amartya. *Identity and Violence: The Illusion of Destiny*. London: Allen Lane, 2006.
Sennett, Richard. *The Fall of Public Man*. London: Penguin, 2002. 1976.
Shachar, Ayelet. *Multicultural Jurisdictions*. Cambridge: Cambridge University Press, 2001.
Shachar, Ayelet. 'State, Religion, and Family.' In *Shari'a in the West*, edited by Rex Ahdar and Nicholas Aroney. Oxford: Oxford University Press, 2010.
Shah, Timothy. *Religious Freedom: Why Now? Defending an Embattled Human Right*. edited by Matthew Franck Princeton: Witherspoon Institute, 2012.
Shaw, Martin. 'Civil Society and Global Politics.' *Millennium: Journal of International Studies* 23, no. 3 (1994): 647-67.
Shils, Edward. *The Virtue of Civility: Selected Essays on Liberalism, Tradition, and Civil Society*. edited by Steven Grosby Indianapolis: Liberty Fund, 1997.
Shupack, Martin. 'The Churches and Human Rights: Catholic and Protestant Human Rights Views as Reflected in Church Statements.' *Harvard Human Rights Journal* 6 (1993): 127-57.
Sidgwick, Henry. *The Elements of Politics*. London: Macmillan, 1891.
Silliman, Sidney, and Noble, Lela. *Organizing for Democracy: Ngos, Civil Society, and the Philippine State*. Honolulu: University of Hawai'i Press, 1998.
Simmel, Georg. *The Sociology of Georg Simmel*. Translated by Kurt H. Wolff. Glencoe: Free Press, 1950.
Simonsohn, Uriel. *A Common Justice: The Legal Allegiances of Christians and Jews under Early Islam*. Philadelphia: University of Pennsylvania Press, 2011.
Sīnā, Ibn. *The Book of Salvation* [al-Najāt min al-gharq fī baḥr al-ḍalālāt]. edited by M. T. Dānishpazhūh Tehran: Intishārāt-i Dānishgāh-i Tihrān, 1985. 1364.
Sīnā, Ibn. *Pointers and Reminders* [al-Ishārāt wa-al-tanbīhāt]. edited by Ibn Muḥammad Ṭūsī Tehran: Daftar Nashr al-Kitāb, 1983.
Smith, Anthony. *National Identity*. Reno: University of Nevada Press, 1991.
Smith, Anthony. *Nations and Nationalism in a Global Era*. Cambridge: Polity, 1995.

Smith, Christian. *What Is a Person?: Rethinking Humanity, Social Life, and the Moral Good from the Person Up*. Chicago: University of Chicago Press, 2010.
Smith, Michael. *Human Dignity and the Common Good in the Aristotelian-Thomistic Tradition*. Lewiston: Mellen University Press, 1995.
Soroush, Abdolkarim. *Reason, Freedom, and Democracy in Islam*. edited by Mahmoud Sadri and Ahmad Sadri New York: Oxford University Press, 2000.
Stackhouse, Max. *Public Theology and Political Economy*. Grand Rapids: Eerdmans, 1987.
Stark, Jan. 'Muslims in the Philippines.' *Journal of Muslim Minority Affairs* 23, no. 1 (2003/04/01 2003): 195-209.
Stark, Rodney, and Bainbridge, William. *The Future of Religion*. Berkeley: University of California Press, 1985.
Stelzer, Steffen. 'Ethics.' In *The Cambridge Companion to Classical Islamic Theology*, edited by Tim Winter. Cambridge: Cambridge University Press, 2008.
Sullivan, Winnifred, Yelle, Robert, and Taussig-Rubbo, Mateo, eds. *After Secular Law*. Stanford: Stanford University Press, 2011.
Swift, Adam. *Political Philosophy*. Cambridge: Polity, 2001.
Tamanaha, Brian. 'The Folly of the "Social Scientific" Concept of Legal Pluralism.' *Journal of Law and Society* 20, no. 2 (1993): 192-217.
Tamir, Yael. *Liberal Nationalism*. Princeton: Princeton University Press, 1993.
Taya, Shamsuddin. 'The Politicization of Ethnic Sentiments in the Southern Philippines: The Case of the Bangsamoro.' *Journal of Muslim Minority Affairs* 30, no. 1 (2010): 19-34.
Taylor, Charles. 'Modes of Secularism.' In *Secularism and Its Critics*, edited by Rajeev Bhargava. Oxford: Oxford University Press, 1999.
Taylor, Charles. *Human Agency and Language: Philosophical Papers 1*. Cambridge: Cambridge University Press, 1985.
Taylor, Charles. *Modern Social Imaginaries*. Durham: Duke University Press, 2004.
Taylor, Charles. 'Modernity and the Rise of the Public Sphere.' In *The Tanner Lectures on Human Values*, edited by Grethe Peterson. Salt Lake City: University of Utah Press, 1993.
Taylor, Charles. 'Modes of Civil Society.' *Public Culture* 3, no. 1 (October 1, 1990 1990): 95-118.
Taylor, Charles. 'The Politics of Recognition.' In *Multiculturalism: Examining the Politics of Recognition*, edited by Amy Gutmann. Princeton: Princeton University Press, 1994.
Taylor, Charles. *Sources of the Self: The Making of the Modern Identity*. Cambridge: Cambridge University Press, 1989.
Taylor, Charles. 'What's Wrong with Negative Liberty.' In *The Idea of Freedom: Essays in Honour of Isaiah Berlin*, edited by Alan Ryan. Oxford: Oxford University Press, 1991.
Taylor, Jeremy. *A Discourse of the Nature, Offices, and Measures of Friendship*. London: Printed for R. Royston, 1657.
Taymiyya, Ibn. 'The Dispute About the Fiṭra.' In *Majmū'at Al-Rasā'il Al-Kubrā*, edited by Rashīd Riḍā. Cairo: Maktabat wa-Maṭba'at, 1966.
Thomson, Judith. *The Realm of Rights*. Cambridge: Harvard University Press, 1990.
Tibi, Bassam. *Islamism and Islam*. New Haven: Yale University Press, 2012.
Tibi, Bassam. 'John Kelsay and "Sharia Reasoning" in Just War in Islam.' *Journal of Church and State* 53, no. 1 (2011): 4-26.
Tibi, Bassam. 'War and Peace in Islam.' In *Islamic Political Ethics*, edited by Hashmi.

Tierney, Brian. 'Historical Roots of Modern Rights.' In *Rethinking Rights*, edited by Bruce Frohnen and Kenneth Grasso. Columbia: University of Missouri Press, 2009.
Tierney, Brian. *The Idea of Natural Rights*. Grand Rapids: Eerdmans, 2001. 1997.
Tierney, Brian. 'Religious Rights: An Historical Perspective.' In *Religious Human Rights in Global Perspective*, edited by John Witte and Johan David Van der Vyver. The Hague: Martinus Nijhoff, 1996.
Toft, Monica. 'Getting Religion? The Puzzling Case of Islam and Civil War.' *International Security* 31, no. 4 (2007): 97-131.
Toft, Monica, Philpott, Daniel, and Shah, Timothy. *God's Century: Resurgent Religion and Global Politics*. New York: W.W. Norton, 2011.
Tuck, Richard. *Natural Rights Theories: Their Origin and Development*. Cambridge: Cambridge University Press, 1979.
Tully, James. *A Discourse on Property*. Cambridge: Cambridge University Press, 1980.
Tuminez, Astrid. 'This Land Is Our Land: Moro Ancestral Domain and Its Implications for Peace and Development in the Southern Philippines.' *School of Advanced International Studies Review* 27, no. 2 (2007): 77-91.
Uusitalo, Liisa. 'Consumption in Postmodernity.' In *The Active Consumer*, edited by Marina Bianchi. London: Routledge, 1998.
Vattimo, Gianni. *Nihilism and Emancipation: Ethics, Politics, and Law*. New York: Columbia University Press, 2004.
Veatch, Henry. 'Natural Law and the "Is"–"Ought" Question.' *Catholic Lawyer* 26 (1981): 251-65.
Vickers, Lucy. *Religious Freedom, Religious Discrimination and the Workplace*. Oxford: Hart, 2008.
Villa, Dana. *Public Freedom*. Princeton: Princeton University Press, 2008.
Viviano, Rocco. 'Christian-Muslim Relations in the Philippines: Between Conflict, Reconciliation and Dialogue.' In *Christian Responses to Islam: Muslim-Christian Relations in the Modern World*, edited by Anthony O'Mahony and Emma Loosley. Manchester: Manchester University Press, 2008.
Vogel, Frank. *Islamic Law and Legal System*. Leiden: Brill, 2000.
Vries, Hent de. 'Introduction.' In *Political Theologies: Public Religions in a Post-Secular World*, edited by Hent de Vries and Lawrence Sullivan. New York: Fordham University Press, 2006.
Waldron, Jeremy. *God, Locke, and Equality: Christian Foundations in Locke's Political Thought*. Cambridge: Cambridge University Press, 2002.
Waldron, Jeremy. 'One Law for All? The Logic of Cultural Accommodation.' *Washington and Lee Law Review* 59, no. 1 (2002): 3-34.
Waldron, Jeremy. 'Questions About the Reasonable Accommodation of Minorities.' In *Shari'a in the West*, edited by Ahdar and Aroney.
Wallace, Anthony. *Religion: An Anthropological View*. New York: Random House, 1966.
Wallis, Roy, and Bruce, Steve. 'Secularization: The Orthodox Model.' In *Religion and Secularization*, edited by Steve Bruce. Oxford: Oxford University Press, 1992.
Walzer, Michael. 'The Communitarian Critique of Liberalism.' *Political Theory* 17 (1990): 6-23.
Walzer, Michael. 'The Idea of Civil Society.' In *Community Works: The Revival of Civil Society in America*, edited by E. J. Dionne. Washington, D.C.: Brookings Institution Press, 1998.
Walzer, Michael. *Spheres of Justice*. New York: Basic Book, 1983.
Walzer, Michael. *Thick and Thin: Moral Argument at Home and Abroad*. Notre Dame: University of Notre Dame Press, 1994.

Warner, Michael. 'Uncritical Reading.' In *Polemic: Critical or Uncritical*, edited by Jane Gallop. New York: Routledge, 2004.
Warren, David, and Gilmore, Christine. 'Rethinking Neo-Salafism through an Emerging Fiqh of Citizenship.' *New Middle Eastern Studies* 2 (2012).
Weber, Max. *General Economic History*. Translated by Frank Knight. New York: Greenberg, 1927.
Weber, Max. *The Protestant Ethic and the Spirit of Capitalism*. Translated by Talcott Parsons. edited by Anthony Giddens London: Routledge, 1992. 1930.
Weber, Max. *The Theory of Social and Economic Organization*. Translated by A. M. Henderson and Talcott Parsons. New York: Free Press, 1964.
Weintraub, Jeff. 'The Theory and Politics of Public/Private Distinction.' In *Public and Private in Thought and Practice*, edited by Krisnan Kumar and Jeff Weintraub. Chicago: University of Chicago Press, 1997.
White, Harrison. *Identity and Control*. 2nd ed. Princeton: Princeton University Press, 2008.
Williams, Rowan. 'Civil and Religious Law in England: A Religious Perspective.' In The Archbishop of Canterbury, (2008). http://bit.ly/RWCivRelLaw.
Williams, Timothy. 'The Moa-Ad Debacle – an Analysis of Individuals' Voices, Provincial Propaganda and National Disinterest.' *Journal of Current Southeast Asian Affairs* 29, no. 1 (2009): 121-44.
Wilson, Bryan. 'Secularization: The Inherited Model.' In *The Sacred in a Secular Age*, edited by Philip Hammond. Berkeley: University of California Press, 1985.
Wolterstorff, Nicholas. 'Grounding the Rights We Have as Human Persons.' In *Understanding Liberal Democracy*, edited by Terence Cuneo and Nicholas Wolterstorff. Oxford: Oxford University Press, 2012.
Wolterstorff, Nicholas. 'Introduction.' In *Understanding Liberal Democracy*, edited by Terence Cuneo and Nicholas Wolterstorff. Oxford: Oxford University Press, 2012.
Wolterstorff, Nicholas. *Justice: Rights and Wrongs*. Princeton: Princeton University Press, 2008.
Wolterstorff, Nicholas. 'The Role of Religion in Decision and Discussion of Political Issues.' In *Religion in the Public Square*, edited by Audi and Wolterstorff.
Wood, Nicholas. *Confessing Christ in a Plural World*. Oxford: Whitley Publications, 2002.
Wood, Nicholas. *Faiths and Faithfulness: Pluralism, Dialogue and Mission in the Work of Kenneth Cragg and Lesslie Newbigin*. Bletchley: Paternoster, 2009.
Ya'lā, Abū. *Kitāb Al-Mu'Tamad Fī Uṣūl Al-Dīn*. edited by Wadi Z. Haddad Beirut: Dār al-Mashriq, 1974.
Zakaria, Fareed. *The Future of Freedom: Illiberal Democracy at Home and Abroad*. New York: Norton, 2004.
Zakarīyā, Fu'ād. *Myth and Reality in the Contemporary Islamist Movement*. Translated by Ibrahim M. Abu-Rabiʿ. London: Pluto Press, 2005.
Zaman, M. Raquibuz. 'Islamic Perspectives on Territorial Boundaries and Autonomy.' In *Islamic Political Ethics*, edited by Hashmi.
Zaman, Muhammad Qasim. *The Ulama in Contemporary Islam: Custodians of Change*. Princeton: Princeton University Press, 2002.
Zaman, Muhammad Qasim. 'The ʿulama of Contemporary Islam and Their Conceptions of the Common Good.' In *Public Islam and the Common Good*, edited by Armando Salvatore and Dale Eickelman. Leiden: Brill, 2006.
Zubaida, Sami. *Law and Power in the Islamic World*. London: I. B. Tauris, 2003.