

# Within Reason: The Epistemic Foundations of Catholic and Muslim Arguments for Political Liberalism

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THIS ESSAY ARGUES THAT JUDGMENTS ABOUT THE NATURE AND function of human reason play analogous (though not identical) roles in Catholic and Muslim arguments for political liberalism. Focusing on the works of John Courtney Murray and three contemporary Muslim reformers, I note three similarities. First, thinkers in both traditions argue that it is humankind's unique ability to reason about the moral law that constitutes our dignity and provides the foundation for the right to religious liberty. Second, this ability to reason is what allows us to provide the publicly accessible justifications that the liberal principle of reciprocity seems to require. Finally, all four authors argue that their attempts to reform or develop their traditions are dependent upon and required by the dictates of human reason.

## Introduction

The right to religious liberty and the tolerance of difference that this right engenders are central components of American national identity. As a result, many in the United States are perplexed by current events in the Middle East. Rising sectarian violence and the imposition of Islamic law throughout the region have made it clear that the values associated with democratic liberalism are not gaining traction in this part of the world. In response, scholars from numerous disciplines and pundits from various parts of the political spectrum have weighed in with explanations of the phenomenon. Although these explanations are remarkably diverse, one particular account seems to have captured the popular imagination, reinforced by the fact that it is supported by Western theorists and conservative Muslims alike.

Liberal democracy has failed to take root, they argue, because the religion of the populace (Islam) is exceptionally unable to accommodate the central foundations of liberal political thought. Western scholars then conclude that

“secularization” or the “privatization” of Islam is a prerequisite of liberalization.<sup>1</sup> Conversely, conservative Muslims use this thesis to defend their current political practices and challenge all attempts to foster liberal democracy in the region.<sup>2</sup> What is most interesting about these arguments is that they almost always involve implicit assumptions about the compatibility of liberalism and Christianity. Western pundits argue that Islam, unlike Christianity, is uniquely unable to provide theoretical support for certain basic liberties and rights. Conservative Muslims argue that Islam, unlike Christianity, is unwilling to limit God’s sovereignty by severing the sacred and secular orders in a separation of “religion” and “state.”<sup>3</sup>

Those who are aware of the history of Christian political thought will immediately recognize that these assumptions, at least in oversimplified form, are problematic. Christianity has a long history of close ties to political authority and Christians have been perfectly willing to deny the rights and liberties associated with liberalism in the name of religious law and order. Moreover, it is difficult to attribute the tensions between liberalism and Christianity to a distant, unenlightened past. In the primary season for the 2008 presidential election, we were vividly reminded that Christians are still struggling to make sense of the proper relationship between religion and politics in a liberal democracy.<sup>4</sup>

Although these tensions are present in both the Protestant and Catholic traditions, the history of Catholic political thought provides a particularly powerful counterpoint to the assumptions outlined above. The hierarchical teaching of the Catholic Church has a long history of explicit and extensive rejection of liberal political thought. Moreover, the fact that the Catholic “conversion” to liberalism was so relatively recent suggests that Islamic struggles with liberalism are neither exceptional nor particularly antiquated.<sup>5</sup> The present essay is part of a larger project that seeks to develop and defend this cursory insight through a more robust comparison of Catholic and Islamic arguments for political liberalism.<sup>6</sup>

Drawing on this larger comparison, I argue that judgments about the nature and function of human reason play analogous (though not identical) roles in the arguments of each tradition. More specifically, I show that these judgments shape the arguments of thinkers in both traditions in at least three ways. First, thinkers in both traditions argue that it is humankind’s unique ability to reason about the moral law that constitutes our dignity and provides the foundation for the right to religious liberty. This ability to reason is also what allows us to provide the publicly accessible justifications the liberal principle of reciprocity seems to require. Finally, both Catholic and Muslim reformers argue that their attempts to reform or develop their traditions are dependent upon and required by the dictates of human reason.

Before moving to the actual comparison, it is important to say a few words about the methodology of my larger project and, by extension, the present essay. As a project of comparative ethics that seeks to address a particular thesis about philosophical compatibility, the comparison that follows is largely theoretical. Though historical and social-scientific concerns inform the project, the comparison is first and foremost a comparison of arguments made by philosophers and theologians in each tradition.<sup>7</sup> The theoretical goals of the project also guided the selection of comparative figures. Though their degree of influence and representativeness was important, the content of their arguments carried the most weight. More specifically, I sought out thinkers who provided extensive and systematic defenses of liberal political thought within the confines of their respective religious traditions.

Within the Catholic tradition, the choice was obvious. The American Jesuit John Courtney Murray (1904–67) was arguably the most influential figure in the development of the Church's current position on these issues and his intellectual corpus represents the most systematic and extensive defense of liberalism within Catholicism to this day.<sup>8</sup> The choice of a Muslim representative was less clear. Although numerous Muslims have written about these issues, no one figure has provided a defense that is as systematic, comprehensive, or influential for Islam as Murray's for Catholicism.<sup>9</sup> As a result, I juxtapose the arguments of three contemporary Muslim reformers to represent the various ways contemporary Muslims have come at these issues. Though the larger project focuses on the works of Abdullahi Ahmed An-Na'im (1946–), it includes long forays into the thought of Khaled Abou El Fadl (1963–) and Abdualiziz Sachedina (1942–), forays that are particularly important for the issues discussed in the present study.<sup>10</sup>

The fact that all four authors currently write within an American context was not an intended consequence of my selection, but my interest in comparing authors who explicitly engage the liberal tradition surely made this result more likely. Either way, this shared context turns out to have a number of practical and theoretical advantages for the larger comparison. In the first place, it helps me avoid one of the most important criticisms of comparative projects: that the scholar's attempt to translate concepts from one language or tradition to another lends itself to oversimplified and inaccurate descriptions.<sup>11</sup> Because each of these authors is writing in English and responding to similar material within the liberal canon, all "translation" takes place within the works themselves.<sup>12</sup> More importantly, their shared experience as religious minorities in the United States allows them to both avoid and challenge traditional arguments that seek to elide liberalism with either Western colonialism (in the case of Islam) or continental secularism (in the case of Catholicism). Indeed, they all argue that the American experience reveals that liberalism need not contradict or limit public religiosity.

## Reason and Responsibility: The Foundation of Human Dignity

The right to religious liberty is arguably the most important principle of liberal political thought. This assessment arises out of a popular historical narrative that attributes the rise of liberalism to fatigue with the religious conflict of the seventeenth century. According to this narrative, liberalism was initially a pragmatic solution to the problem of stability within a pluralistic society, and this stability seemed to require the right to religious liberty. Although many have questioned the details of this narrative, most agree that liberalism (however it arose) sets itself in opposition to traditional modes of religious political thought in this regard.<sup>13</sup> Whereas traditional political theology sought to institutionalize one religious conception of the good as the sole criterion of the political order, liberalism seeks to secure individual liberty and equality by limiting this institutionalization through the constitutional norms of disestablishment and religious liberty.

Given this history, it is unsurprising that a defense of the right to religious liberty is one of the most important components of Catholic and Muslim arguments for political liberalism. Unlike their philosophical counterparts, however, these arguments ground this right in the theological foundations of Catholicism and Islam. In this section, I compare the way these arguments proceed and show that thinkers in both traditions make strikingly similar moves. To begin, all four authors defend the right to religious liberty as necessary to preserve the divinely ordained dignity of the human person. What is more striking—and particularly relevant to this essay—is that each author makes his case by linking the dignity of the human person to humankind's unique ability to reason about the moral law.

Although many writing about Islamic exceptionalism would have us believe that the right to religious liberty has always been a part of the Christian tradition, history reveals quite the opposite. Indeed, for most of its history, the hierarchical teaching of the Catholic Church explicitly denied this right on the grounds that “error has no rights.” As Gavin D’Costa reminds us, Gregory XVI, in his 1832 encyclical *Mirari Vos*, and Pius IX, in his 1864 encyclical *Quanta Cura*, condemn as “insane” the view that “the liberty of conscience and of worship is the peculiar (or inalienable) right of every man.”<sup>14</sup>

This position was not overturned until 1965, when the arguments of John Courtney Murray shaped the Second Vatican Council's declaration on religious liberty, *Dignitatis humanae*. In this document the Church made an about-face, explicitly recognizing that “the human person has a right to religious freedom” and that this right “has its foundation in the very dignity of the human person.”<sup>15</sup> Although the document provides an abbreviated defense of this argument, a closer look at Murray's own corpus provides a more robust account of how the argument proceeds.

Murray begins by arguing that human beings, created in the image of God, have been endowed with a special dignity.<sup>16</sup> He then argues that this dignity “consists formally in the person’s responsibility for himself and, what is more, the world.”<sup>17</sup> Yet, this responsibility presupposes that a human being is able to understand and freely choose the good.<sup>18</sup> Thus human dignity is ultimately tied to the unique capabilities of human reason and the consequent ability to “act by [one’s] own counsel and purpose.”<sup>19</sup> In this sense human reason and autonomy reflect the image of God and constitute human dignity.<sup>20</sup> “By nature,” Murray argues, a human being is made in the “image of God, Eternal reason,” and this nature both allows and demands humans to participate in the “freedom of God himself.”<sup>21</sup> If coerced to act against the dictates of reason, humans would be forced to forfeit their responsibility and deny that which sustains their dignity as human persons.<sup>22</sup> Thus, the demand for religious liberty has its basis in “man’s intellectual nature, in the human capacity to seek, to embrace, and to manifest by his way of life the truth to which he is ordered.”<sup>23</sup>

It is important to note that for most of his career Murray made a point of arguing that his defense of religious liberty was purely juridical and did not extend into the ecclesiastical or moral realms. This distinction allowed Murray (and the Council) to defend a civil notion of religious liberty without overturning previous teaching about individual moral and religious duties. Thus, for Murray, liberty of conscience does not entail the “rationalist theory of the out-law conscience” whereby the individual “recognizes no norms higher than its own subjective imperatives.”<sup>24</sup> Human beings are still in error when their sinful nature moves them to ignore certain moral and religious truths, and these errors are both “lamentable” and “evil.”<sup>25</sup> Yet, reason reveals that it is sometimes right to tolerate evil in the civil realm, to protect the dignity of the human person and preserve the common good. Murray even goes so far as to argue that this tolerance is right because it is an “imitation of God,” who also tolerates sinful human error.<sup>26</sup>

One of the most common ways to defend the Islamic exceptionalist thesis is to argue that Islam, unlike Christianity, is unable to make these sorts of arguments about equal human dignity and the right to religious liberty.<sup>27</sup> There is no doubt that the recent history of Islamic political thought and practice does not bode well for these values. Contemporary formulations of Shari’ah often entail the direct violation of these principles with respect to women and religious minorities. Nonetheless, a closer look at the arguments of at least three contemporary reformers reveals that arguments can and are being made to defend these rights within Islam. In the section that follows, I show that these arguments are analogous to Murray’s in a number of important ways. The right to religious liberty is defended in terms of the dignity of the human person and this dignity has its foundation in a conception of moral reason that entails responsibility.

Abdulaziz Sachedina argues that although there is no explicit mention of humans being made in God's image in the Qur'an, the narrative is preserved in traditional hadith literature.<sup>28</sup> He also notes that the Qur'an does speak of human beings having been created with a "noble nature" that commands the respect of creation.<sup>29</sup> In the Qur'anic discourse, Adam is set apart by his ability to "know the names," and the angels must bow down before him. Sachedina interprets this to mean that human beings were endowed with the "miracle of the human intellect" and that this miracle is both a "symbol" and "expression" of the abilities of the divine.<sup>30</sup> Thus Sachedina can argue that our *fitra*, or creaturely nature, is endowed with an "innate disposition" whereby we receive universal guidance about the moral law.<sup>31</sup>

As in Catholicism, this ability (and by extension the dignity of the human person) is tied to moral responsibility. Sachedina argues that the *fitra* is "connected with the very creation of man as a creature possessing personal responsibility."<sup>32</sup> Similarly, Khaled Abou El Fadl argues that religious, moral, and political responsibilities are "predicated on the notion that human beings are capable of achieving a high level of moral agency."<sup>33</sup> For these authors, this responsibility grounds the right to religious liberty. As An-Na'im argues, "The fact that knowing and upholding Shari'a is the permanent and inescapable responsibility of every Muslim means that no human being or institution should control the process."<sup>34</sup> The Qur'an affirms this conclusion when it states that there can be "no compulsion in religion" (2:256).<sup>35</sup> More importantly, the premise on which this conclusion is based, "that human beings do not truly believe where disbelief is not an option," is affirmed in more than 114 verses throughout the Qur'an.<sup>36</sup>

Unlike Murray, each Muslim author argues at some point in his corpus that the pluralism that results from religious liberty is an independent religious good for both Muslims and Islam. Like Murray, Sachedina argues that tolerating religious diversity is an act of imitating God.<sup>37</sup> Yet he and the other authors move beyond this toleration to argue that God intends pluralism for the good of humanity. Abou El Fadl reminds his readers that the Qur'an asserts: "To each of you God has prescribed a Law and a Way. If God would have willed, He would have made you a single people. But God's purpose is to test you in what He has given each of you, so strive in the pursuit of virtue."<sup>38</sup> Similarly, An-Na'im argues that "toleration of unorthodoxy and dissent is vital for the spiritual and intellectual benefit of Islam itself."<sup>39</sup> Without such freedoms, Muslims will not be able to propose and debate "fresh interpretations of the Qur'an and Sunna."<sup>40</sup>

The previous comparison reveals a number of interesting differences between Catholic and Muslim arguments for religious liberty, particularly with respect to attitudes toward religious and moral pluralism. Although these differences can and should be attributed to the historical and philosophical cli-

mate in which these authors wrote and continue to write, they are nonetheless suggestive of more substantive differences. More specifically, there seems to be disagreement about the relationship between liberal political reform and the internal reform of their respective religious traditions. We see that Sachedina, Abou El Fadl, and the early work of An-Na'im all seek to promote a liberal political order by promoting liberal reform within their tradition. Alternately, Murray (and in his most recent works, An-Na'im) argue that their traditions need not become liberal to support a liberal political order. The latter arguments rest on a fundamental distinction between the legal and moral order that does not seem to arise within the arguments of Sachedina and Abou El Fadl.<sup>41</sup>

Despite these differences, the similarities between the sets of arguments are striking. Both begin with an argument about a divinely ordained human dignity and both tie this dignity to humankind's unique ability to reason and respond to the moral law. This ability provides the foundation for moral responsibility, which in turn requires that human beings be free to live according to the lives they have chosen. Finally, all four thinkers argue that religious liberty is what God wills for humanity in the civil order, despite the unfortunate consequences it may or may not have for religious pluralism and moral error.

## Religious Reason and the Task of Public Justification

Although the right to religious liberty is a central component of liberal political thought, few, if any, liberals seek to render this right absolute. Recognizing that an absolute right to religious liberty would actually undermine the foundation of that right, liberal theorists have traditionally endorsed limitations on the right in certain contexts. Thus a crucial component of liberal political thought involves specifying when and how these limits might be set. For our purposes, the crucial question becomes: what sorts of reasons can citizens give to justify laws that limit individual liberty? More specifically, liberal theorists must determine whether religious citizens can appeal to religious reasons alone in defending these limitations.

Most contemporary liberals argue that these sorts of arguments are morally unacceptable in a liberal democracy. Although there are many thinkers who make this case in many subtle ways, the general argument goes something like this: arguments for religious liberty, popular sovereignty, and many other liberal political principles presuppose respect for the dignity of the human person as fundamentally free and equal. This respect requires that citizens adhere to the principle of reciprocity in their deliberations about coercive law. The principle of reciprocity in turn requires that citizens pursue public justification for their favored coercive laws. Because religious reasons

are (generally) inaccessible to the public at large, religious individuals must pursue and explicate nonreligious grounds for the limits they seek to place on individual liberty.

As additional background, three theoretical distinctions should be noted. First, Gerald Gaus and Christopher Eberle have argued that the line of reasoning just outlined is not a necessary component of liberal political thought. They distinguish between the general category of liberalism, which simply entails commitment to certain political principles such as liberty and equality, and a more specific form of “justificatory liberalism,” which requires that individuals pursue public justification for their favored coercive laws.<sup>42</sup> Eberle then distinguishes between two types of justificatory liberals, each of which holds different views of what it might mean to pursue “public justification” in the first place. The first hold to a “populist” conception of public justification whereby citizens must provide a rationale that is “*actually* convincing to the citizenry,” properly construed. The second hold to an “epistemic” conception that simply requires that “the rationale have some epistemic desideratum that allows acceptance or interpersonal evaluation.”<sup>43</sup>

David Little has recently proposed a related distinction between “postpolitical” and “prepolitical” conceptions of human rights or universal moral norms.<sup>44</sup> The argument for a postpolitical conception of rights holds that moral and legal norms are ultimately the result of an actual consensus within particular political communities. Because there is no universal political community, those who subscribe to this view are generally skeptical of arguments for universal rights. Prepolitical conceptions, conversely, lend themselves to universal arguments. On this account, moral norms exist independently of and prior to the political consensus of actual communities.

Justificatory liberals who embrace a “postpolitical” conception of rights generally embrace a “populist” conception of public justification. If it is the case that moral norms are ultimately the result of political consensus, justice seems to require that coercive laws be defended in terms of reasons that are also the product of that very consensus. Moreover, if we are only justified in supporting a legal norm that all citizens (properly construed) can actually accept, then the foundation of fundamental legal rights will only ever be the result or product of an actual political consensus. Yet not all justificatory liberals subscribe to these views of public justification and human rights. What is more, those who support an “epistemic” conception of public justification almost always embrace a prepolitical conception of rights. According to an epistemic conception of public justification, we are justified in supporting a legal norm if our justification is epistemically sound—if it adheres to “right reason,” for example. This is so regardless of whether this justification is actually accepted by a majority of the political community. Thus the foundation of legal rights need not be tied to the result of political consensus. Instead, the arguments for an

epistemic conception of public justification usually presuppose that these norms are prepolitical and, as a result, accessible to natural human reason.

In this section, I explore the ways my theorists have addressed these issues and conclude that all four endorse the basic premises of justificatory liberalism. This support rests on assumptions about the ability of human reason to produce a public consensus that does not violate the principle of reciprocity. That said, disagreements about the nature of this reason lead to disagreements about the nature of public justification. Murray and Sachedina embrace “epistemic” conceptions that allow for religious reasons that accord with the “right reason” of the natural law. Abou El Fadl and An-Na‘im are less optimistic about the possibility of rational agreement on these theological matters. Thus, both embrace a conception of public justification that rules out inaccessible religious reasons. Although An-Na‘im’s argument is decidedly populist, Abou El Fadl makes the case for restraint on epistemic grounds.

Because debates about public justification were largely absent from his political climate, it is difficult (if not unfair) to determine how Murray would come down on these issues. Nonetheless, it is possible to note some important connections. As Leslie Griffin and others have noted, Murray’s commitment to the use of natural law and his vigilant pursuit of a “public philosophy” is very much consistent with the commitment of justificatory liberalism to pursue public reason.<sup>45</sup> More specifically, Murray was committed to promoting a “civil” dialogue in the public sphere and argued that this civility presupposed that each citizen “should treat the other on a footing of equality.”<sup>46</sup> As a result, “what is commonly imposed by law on all our citizens must be supported . . . by a reasonable consensus of the whole community.”<sup>47</sup>

For these reasons, Murray was insistent that we conceptualize the Bill of Rights as “articles of peace” rather than “articles of faith.” In so doing, a “purely political” public unity could be achieved whereby individuals were free to disagree about foundational ethical principles.<sup>48</sup> It is important to note, however, that Murray did not believe the discussion of these religious principles should be “privatized.” Instead, these discussions were welcome in civil society, a realm that exists somewhere between the private realm of inner conscience and the public realm of the state. These religious principles could still provide the foundation for legal norms, but they had to be “mediated through ‘rational philosophy’” before they could do so.<sup>49</sup>

Yet Murray differs from contemporary justificatory liberals such as John Rawls for at least three reasons. First, Murray often argued that inescapably religious reasons were allowed—and at times required—within public political debate. He argued that natural human reason, upon which his public consensus was based, required the recognition of four basic principles: a religious conviction as to the sovereignty of God, a right conscience as to the essential demands of the moral law, a religious respect for human dignity as made in the

image of God, and a religious conviction about the unity of the human person.<sup>50</sup> Insofar as this conception of public reason required Murray to exclude atheists from participation in the public consensus, he parts from the Rawlsian framework.<sup>51</sup>

Second, the fact that he excluded atheists suggests that his conception of public justification was “epistemic” rather than “populist.” This assumption is further confirmed by Murray’s discussion of the nature of the American public consensus. In an almost explicit rejection of populist conceptions of public justification, Murray argues that the American consensus would “remain the public consensus, even if it were held, as perhaps it is held, only by a minority. . . . The validity of the consensus is radically independent of its possible status as either majority or minority opinion.”<sup>52</sup> Instead, the consensus is the epistemic “achievement of reason,” and he makes a point of arguing that it is not a matter of “whose reason” but of “right reason.”<sup>53</sup>

Finally, in endorsing an epistemic conception of public reason, Murray also commits himself to a prepolitical conception of rights. Thus he argues that the “Declaration of Independence did not hazard the conjecture, ‘This is the convergent trend of opinion among us.’” By opting for the more forceful “we hold these truths,” the drafters rightly recognized that these truths are not simply true because we hold them. Rather, we hold them precisely because they are true.<sup>54</sup>

Unlike Murray, all three Muslims discussed in this essay have engaged the works of contemporary liberal political philosophy. They are, as a result, very much aware of the “problem” of public reason. Thus it is not surprising that all three support the pursuit of public justification and turn out to be justificatory liberals in this regard. Abou El Fadl, for example, argues that the Qur’anic call for diverse peoples to “come to know one another” indicates the need for social cooperation and reciprocity in the achievement of justice.<sup>55</sup> Similarly, Sachedina argues that the fact that human beings are considered “equals in creation” provides the foundation for “civil society” and implies that moral prescriptions should not rely upon “particular spiritual beliefs.”<sup>56</sup> An-Na’im draws on the Islamic principle of *mu’awada* (reciprocity) to argue that citizens are required to treat each other with “mutual respect and empathy.”<sup>57</sup> This principle of reciprocity then requires citizens to mediate their religious arguments via the use of “public reason” that is “open and accessible to all citizens.”<sup>58</sup>

Although all three Muslims agree on the premises of justificatory liberalism, the extent to which they mirror Murray in other matters varies from theorist to theorist. Sachedina’s arguments are almost identical to Murray’s. In the first place, he is just as likely to argue that the *fitra*, or “natural law,” includes certain basic religious premises. Thus he is able to argue that the public sphere should be “founded on religious considerations” because “God alone provides the center of gravity for developing a sense of loyalty to a comprehensive po-

litical life.”<sup>59</sup> It is also evident that Sachedina, like Murray, endorses an “epistemic” conception of public justification by arguing that these justifications spring from the *fitra*, or innate capacity to exercise rational choice.<sup>60</sup> Finally, his commitment to an epistemic conception of public justification also entails a further commitment to a prepolitical conception of rights. He is able to argue that a common universal ideal arises from diverse historical experiences and that morality cannot be regarded as “arbitrary.”<sup>61</sup>

Like Murray and Sachedina, Abou El Fadl seems to endorse an “epistemic” conception of public justification and the prepolitical conception of rights that this epistemic conception entails. He is able to argue that people will be “bound to reach a greater level-of strength and justice” if they cooperate in the use of their “Divine gift of intellect” and that this intellect reveals certain natural rights that place moral limits on the liberal political order.<sup>62</sup> Nonetheless, he has written extensively about public reason and argues that the Islamic tradition sets a strong precedent for keeping all forms of religious reason out of public debate. More specifically, he argues that the internal dynamics of Islamic law affirm the principle of accessibility. He supports this conclusion with a number of examples from the history of Islamic legal practices. Of note here is the “established practice in which a jurist suspends her own convictions or jurisprudential school in order to apply a law more accessible to the litigants.” He also worries that attempts to bring in supposedly “basic” or “universal” religious principles will threaten the rights of religious minorities who may not accept those views.<sup>63</sup>

Like Rawls and Abou El Fadl, An-Na‘im argues that religious reasons alone are not sufficient for public justification. Yet the primary argument of his most recent book is that this requirement does not entail the exclusion of religious reasons from public life. He makes this case by distinguishing the realm of civil society (or politics) from the realm of jurisprudence (or the state). While religious reasons are acceptable in the realm of politics, they can only be implemented via the state if they are “mediated” by public reason. More importantly, he seems to endorse a populist conception of public reason, arguing that one should not assume that public reason has a universal preconceived content.<sup>64</sup> This also leads him to a conception of rights that is ultimately postpolitical. And because these rights are “constructed through internal discourse within and among different cultures and religious traditions,” they are only “contingently” universal.<sup>65</sup>

An-Na‘im acknowledges that “opening up what is universal for debate is dangerous” but argues that this risk is necessary if we ever hope to affirm new universals.<sup>66</sup> This argument is in many ways a Rawlsian thesis about the nature and development of practical reason. Nonetheless, An-Na‘im asserts his independence from Rawls and other liberal thinkers on one final issue. Whereas Rawlsians explicitly limit the reach of their arguments to established constitu-

tional democracies, An-Na‘im seeks to apply them to the international sphere.<sup>67</sup> He is hopeful that cross-cultural dialogue, held accountable to the dictates of public reason, can produce a substantive international consensus about basic human rights.

Comparing these arguments reveals further similarities. All seem to agree with the central premise of justificatory liberalism: that the principles of reciprocity and respect require citizens to pursue publicly accessible justifications for their favored coercive laws. At the same time, all agree that inaccessible religious reasons should not be relegated to the private sphere. Endorsing a version of a Rawlsian “proviso,” each author welcomes religious premises into the public sphere if these can eventually be “mediated” or “translated” into accessible reasons.<sup>68</sup>

There are also some significant differences among these arguments, most of which grow out of different judgments about the epistemic capability of natural human reason. What is unique about these differences, however, is that they seem to cut across the two traditions and not between them. Murray, Sachedina, and Abou El Fadl all hold to a prepolitical conception of rights that is accessible to human reason. Heavily influenced by Rawls, however, An-Na‘im is less optimistic (and indeed worried) about these sorts of strong epistemic claims. He seems to endorse a populist conception of public reason and the postpolitical conception of rights that this endorsement entails.

From the present findings alone, one might assume that Islam proves to be (more) open to populist conceptions of public reason and postpolitical conceptions of rights. While this conclusion is not altogether out of the question, a more likely interpretation may be that the differences between Murray and An-Na‘im are by-products of the historical periods in which they wrote. Arguments for postpolitical conceptions of moral truth and populist conceptions of public reason are largely the outgrowth of recent postmodern theories of human reason developed by Richard Rorty and his contemporaries.<sup>69</sup> Given Murray’s unfamiliarity with these arguments, it is difficult to know whether he would respond like An-Na‘im or simply follow Sachedina and Abou El Fadl in rejecting them out of hand.

## **Reason and Reform: The Nature of Doctrinal Development**

At this point, readers might wonder how faithful the previous arguments are to the traditions I claim they represent. Although the present comparisons might satisfy academic curiosities, they are not pragmatically useful if any of these arguments turn out to represent a radical break from the Catholic or Islamic traditions. Reformers in each tradition are equally aware of this dynamic. Although some Catholics and Muslims have tried to make the case that the prin-

ciples of liberalism were present in their traditions all along, the four authors compared in this study do not make these sorts of arguments.

Each author is very much aware of the history of his own tradition and recognizes that his argument represents some type of change, reform, or development.<sup>70</sup> Thus the ultimate success of the four authors' projects seems to turn on whether they can make the case that these arguments, though representative of change and reform, are nonetheless faithful to the core of their traditions. In this section, I show that their ability to do so is facilitated by applying their arguments about the nature of human reason to their own theological traditions.

All three of the Muslim authors compared in this study argue that Islam is presently facing an "epistemological crisis."<sup>71</sup> They attribute much of the political conflict in the Muslim world to an erroneous moral epistemology that does not allow the use of independent moral reasoning (*ijtihad*) or permit moral or doctrinal change when a principle is based upon a "clear text" of the Qur'an.<sup>72</sup> If liberalism is to have any hope of succeeding, they argue, it must be preceded by methodological reform within the tradition.<sup>73</sup> To make the case for reform, all three argue that Shari'ah principles are a product of human interpretation and do not represent direct revelation.<sup>74</sup> Moreover, they show that human reason is inescapable in theological argument, even when a supposed clear text is available.<sup>75</sup> According to Sachedina, the Prophet was and remains the only authoritative interpreter of these texts.<sup>76</sup> Thus, Muslims only have access to their own interpretation and application of the sources, with no guarantee that they represent the will of God.<sup>77</sup>

Moreover, the interpretation and application of these sources demands attention to both general principles and historical contexts. Instead of pulling single verses out of the Qur'an as "proof texts," reason demands that verses be read and applied "in light of the overall moral thrust of the Qur'anic message."<sup>78</sup> Similarly, all three authors argue that Muslims must recognize that the divine sources were revealed within a particular historical context that no longer obtains.<sup>79</sup> Given this reality, human reason demands that the interpretation of these sources and the principles of Shari'ah that arise out of this interpretation develop with history.<sup>80</sup> Thus, An-Na'im argues that "the key to an appropriate methodological response is to acknowledge the role of historical context in the 'construction' of Shari'a through the interpretation of the Qur'an and Sunna in relation to the particular circumstances of specific Muslim societies."<sup>81</sup>

The authors compared in this essay reference two important Islamic principles to defend the need for this development. First, each author mentions the importance of re-embracing the doctrine of *ijtihad* (independent moral reasoning). This doctrine holds that Muslims have a duty to struggle with the mind to discern God's law. Contemporary Muslims often argue that "the gates of *ijtihad* are closed," that individual Muslims no longer have the right or the duty

to engage in this practice, and that the present state of Islamic law is now fixed as a result.<sup>82</sup> Yet the reformers of this study all argue that the gates should be reopened and that every Muslim has both a right and a duty to pursue *ijtihad*.<sup>83</sup> As An-Na'im notes, reforming the notion of *ijtihad* in this way is not particularly problematic, given that the doctrine itself was the product of human reasoning and not direct revelation.<sup>84</sup>

An-Na'im's proposal for methodological reform also draws upon the classical Islamic doctrine of *naskh*, or abrogation. Traditionally speaking, this doctrine holds that certain clear texts of the Qur'an can be overturned if they are contradicted by an equally clear text that was revealed later in the Prophet's life.<sup>85</sup> Drawing on the work of Mahmoud Mohamed Taha, An-Na'im argues that Muslims should both adopt and adapt this doctrine to interpret problematic passages in the Qur'an. More specifically, he argues that a reversal of the doctrine (whereby the earlier verses abrogate later verses) would abrogate many of the most troubling passages in the text.<sup>86</sup> Though Abou El Fadl and Sachedina are sympathetic with his goal, they are skeptical about whether this doctrine is either legitimate or practical. More specifically, they point out that it is not always clear when verses were revealed and that many of the most important verses that support religious liberty appear in the later revelations.<sup>87</sup>

It is interesting to note that Pope Benedict XVI has managed to get himself into a great deal of trouble of late by commenting on Islamic debates about these particular issues. Although the veracity of this comment has not been verified, it seems that Benedict has recently argued that there is an important difference between Islam and Catholicism with respect to the issue of doctrinal development.<sup>88</sup> More specifically, he is said to have argued that the Islamic interpretation of Scripture as the direct word of God makes it more difficult for Muslims to use human reason to develop various interpretations and applications of the text. As a result, certain principles within the text cannot be questioned.<sup>89</sup>

Of course, his most famous reference to Islam appears in his Regensburg speech of September 2006.<sup>90</sup> Though a close read of this text reveals that the Muslim response misread or misrepresented his argument about Islam and violence, the speech does contain a number of much more complicated but equally problematic references to Islam. More specifically, Benedict seems to argue that the Catholic emphasis on natural law and human reason is more likely to bring about justice than the divine-command ethic pervasive within the Islamic tradition.

Each of these statements makes two important assumptions. The first is that Islam is incapable of doctrinal development via reason or natural law. The second is that Catholicism's emphasis on reason has made development of doctrine relatively easy in this tradition. From what was presented above, it is clear that the first assumption is at least wrong for some Muslims. I argue that the

second premise is equally problematic. That is to say, Murray's attempts to reform his tradition reveal that certain interpretations of the natural law and Church authority can be just as problematic to overcome as Qur'anic verses that represent the direct word of God.

Murray begins his argument for development by challenging the fallacy of "archaism": the doctrine that "maintains that the Church's understanding and manner of statement of her faith . . . can and ought to be halted in some stage, under denial of the possibility and legitimacy of further development."<sup>91</sup> He argues that this fallacy is based upon a false "classical" notion of human consciousness and truth. This view holds "objective truth, precisely because it is objective, to exist 'already out there now' . . . apart from history, formulated in propositions."<sup>92</sup> According to this model, the only development that can take place pertains to particular applications of principles and not the principles themselves.

Murray challenges this approach by arguing for a "historical consciousness" of truth whereby truth is possessed by particular individuals in a particular historical moment. In this model, "people can progress in the grasp and penetration of what is true" and doctrine must develop alongside the development of human reason.<sup>93</sup> Following Longergan, Murray argues that the natural law itself is "emergent," has a "growing end," and admits the "possibility of new orders."<sup>94</sup> This historical consciousness was affirmed by the Second Vatican Council when it recognized that the "common consciousness of men today considers the demand for personal, social, and political freedom to be an exigency that rises from the depths of the human person."<sup>95</sup>

Given his commitment to the authority of his tradition, Murray cannot simply argue that these teachings have overturned previous doctrine. He is not, for example, interested in arguing that Leo XIII was simply wrong when he criticized the foundations of liberalism at the end of the nineteenth century. Thus the implications of historical consciousness do not actually lead to a "change" of doctrine. Instead, they simply "develop" doctrine by "opening" a problem and a "new way for progress in the tradition." In this particular case, "progress was occasioned and made necessary by the march of mankind's political history." As a result, contemporary Church teaching remains in "perfect continuity" with the statements of Leo XIII.<sup>96</sup>

Again, the analogies between these two traditions and sets of arguments are striking. Both must challenge conceptions of their traditions as static or unchanging to defend the possibility of genuine doctrinal development. Moreover, both argue that this development is necessarily dependent upon the free use of human reason. Nonetheless, we again encounter some intriguing differences. Perhaps most obviously, Muslim authors spend far more time explaining and justifying their attempts to move beyond relatively clear scriptural texts while Murray has no trouble dismissing scripture outright. The flip side of this

difference is that Murray spends far more time explaining and justifying his attempts to move beyond relatively clear teachings of hierarchical religious authorities while An-Na‘im and others have no trouble dismissing them outright.

One aspect of the Islamic argument that does not seem to have a parallel in the Catholic tradition is the explicit endorsement of a doctrine of “abrogation.” Although Abou El Fadl and Sachedina are right to note that this mechanism is extremely vague, it is suggestive of a general mentality that can be used to support development within the tradition. Moreover, it is a mentality that seems to be largely absent from Murray’s arguments. Indeed, he explicitly argues that he is not proposing “change” of the doctrine but rather “development.”

## Conclusion

I have argued here that judgments about the nature and function of human reason play analogous (though not identical) roles in the arguments of liberal reformers in the Catholic and Islamic traditions. More specifically, I showed that these judgments shape the arguments of thinkers in both traditions in at least three ways. First, thinkers in both traditions argue that humankind’s unique ability to reason about the moral law constitutes our dignity and provides the foundation for the right to religious liberty. This ability to reason is also what allows us to provide the publicly accessible justifications the liberal principle of reciprocity seems to require. Finally, both Catholic and Muslim reformers argue that their attempts to reform or develop their traditions are dependent upon and required by the dictates of human reason.

This analysis contributes to a larger project that seeks to challenge popular assumptions about the “exceptional” incompatibility of liberalism and Islam. Yet it is my belief (or at least my hope) that this project can have broader implications as well. In the first place, the conclusions of this essay alert us to the fact that attitudes toward certain political models are often based on distinct philosophical (specifically epistemic) commitments. Thus political reform seems to at least require that we take these theoretical arguments seriously.<sup>97</sup> It is not clear whether these epistemic attitudes are a prerequisite for liberal reform, but the fact that both traditions make these arguments is important to note.

Second, I hope that these comparisons will contribute to a dialogue between members of distinct cultures and religious traditions. At the level of culture, this comparison might help Westerners better understand the political struggles taking place in the Muslim world. By comparing these struggles to those we have experienced within our own history, the language of their debates becomes less foreign, contributing to more constructive dialogue about our shared political future. In a similar fashion, these sorts of comparisons can contribute

to dialogue between Catholics and Muslims. Given the recent tensions between the Catholic Church and the Muslim world, the importance of this dialogue cannot be overestimated. Although Catholic and Muslim intellectuals have taken steps to begin this dialogue over the last few months, the present comparison could contribute to a more careful discussion.<sup>98</sup>

Finally, and most importantly in my mind, the present comparison suggests that there may be more hope for an international consensus on principles of political justice than Rawls and other political liberals are willing to admit. Although the process of building that consensus will be difficult, the present comparison preserves our hope that disagreements on fundamental matters may not in fact go all the way down. Moreover, it is my hope that the model of comparison presented in this essay will provide an avenue whereby this consensus building might begin.

## Notes

1. See, for example, Sanford Lakoff, "The Reality of Muslim Exceptionalism," *Journal of Democracy* 15, no. 4 (2004): 67; Bernard Lewis, *The Middle East: A Brief History of the Last 2,000 Years* (New York: Scribner, 1995); Samuel P. Huntington, "The Clash of Civilizations?" *Foreign Affairs* 72, no. 3 (1993): 22–50; and Myron Weiner, "Political Change: Asia, Africa, and the Middle East," in *Understanding Political Development*, ed. Myron Weiner and Samuel P. Huntington (Boston: Little, Brown, and Company, 1987).
2. These arguments usually appear in the works of conservative Muslims who seek to promote "Islamic" as opposed to "liberal" democracy. For representative examples of these arguments, see Syed Abul Ala Maudoodi, *Human Rights in Islam* (Lahore, Pakistan: Islamic Publications, 1977); Syed Abul Ala Maudoodi, *The Islamic Movement: Dynamics of Values, Power, and Change* (Leicester, U.K.: Islamic Foundation, 1984); and Sayyid Qutb, *Social Justice in Islam* (New York: Octagon Books, 1970).
3. In both cases, the primary evidence offered to support this interpretation of Christian political thought is an oversimplified reading of Matthew 22:21: "Render unto Caesar the things that are Caesar's, and unto God the things that are God's."
4. This is particularly evident in recent debates about the respective viability of Mike Huckabee and Mitt Romney as presidential candidates. Many voters were drawn to Huckabee's explicitly Christian political platform and were worried about Mitt Romney's Mormonism. In response, Romney delivered his famous "Faith in America" speech—an address that vividly portrays the difficulty of resolving a number of tensions between liberalism and religion. See Mitt Romney, "Faith in America," [www.realclearpolitics.com/articles/2007/12/faith\\_in\\_america.html](http://www.realclearpolitics.com/articles/2007/12/faith_in_america.html).
5. As I will discuss below, the hierarchical Church teaching did not embrace certain basic foundations of liberal political thought until the promulgation of *Dignitatis humanae* during the Second Vatican Council. See Second Vatican Council, "*Dignitatis humanae*: On the Right of the Person and of Communities to Social and Civil Freedom in Matters Religious," in *Vatican Council II: The Basic Sixteen Documents: Constitutions, Decrees, Declarations*, ed. Austin Flannery (Northport, N.Y.: Costello, 1996); and Michael J. Schuck, "Early Modern Roman Catholic Social Thought, 1740–1890," in *Modern Catholic Social Teaching*:

*Commentaries and Interpretations*, ed. Kenneth R. Himes (Washington, D.C.: Georgetown University Press, 2005).

6. The adjective “political” serves two purposes here. First, it distinguishes these arguments from the metaphysical or “comprehensive” arguments of figures such as Kant and Mill. Second, it distinguishes these arguments from arguments for either economic or religious liberalism. It should also be noted that a very similar project could be pursued with numerous other religious traditions. Of note here is the work of David Novak on the relationship between Jewish and liberal political thought. He argues quite persuasively that Jewish struggles with liberalism are analogous to Christian struggles, and admits that the works of the Catholic John Courtney Murray had a profound influence on his thinking about the relationship between liberal political thought and his Jewish faith. Given the principle of transitivity, one could also pursue a comparison of Judaism and Islam on these issues, and Novak himself attempts this in a recent response to the works of Khaled Abou El Fadl. For representative samples of Novak’s work on these issues, see David Novak, “John Courtney Murray, S.J.: A Jewish Appraisal,” in *John Courtney Murray and the American Civil Conversation*, ed. Robert P. Hunt and Kenneth L. Grasso (Grand Rapids: Eerdmans, 1992); “Revealed Law and Democracy,” in *Islam and the Challenge of Democracy*, ed. Joshua Cohen and Deborah Chasman (Princeton, N.J.: Princeton University Press, 2002); and *The Jewish Social Contract: An Essay in Political Theology*, New Forum Books (Princeton, N.J.: Princeton University Press, 2005).
7. The decision to describe and compare ethical thought makes my work similar to those working within the “formalist” tradition of comparative religious ethics. However, my scholarly goals are more modest than most formalist projects. I simply seek to understand the various arguments, rather than use those arguments to support a constructive theoretical project about the nature of moral discourse. More importantly, this decision should not be taken to imply a normative preference for this model of scholarship. Instead, it is simply the result of the theoretical goals of the current project. If I were interested in challenging or developing certain theses about moral practice or interreligious dialogue, I would opt for an alternative approach. My methodological commitments are unabashedly pluralist in this regard. For more on these typologies and methodological debates, see Sumner B. Twiss, “Four Paradigms in Teaching Comparative Religious Ethics,” in *Explorations in Global Ethics: Comparative Religious Ethics and Interreligious Dialogue*, ed. Sumner B. Twiss and Bruce Grelle (Boulder: Westview Press, 2000); and Sumner B. Twiss, “Comparison in Religious Ethics,” in *The Blackwell Companion to Religious Ethics*, ed. William Schweiker (Malden: Blackwell, 2005). For recent methodological innovations in the field, see Elizabeth M. Bucar, “Speaking of Motherhood: The Epideictic Rhetoric of John Paul II and Ayatollah Khomeini,” *Journal of the Society of Christian Ethics* 26, no. 2 (2006); Irene Oh, *The Rights of God: Islam, Human Rights, and Comparative Ethics* (Washington, D.C.: Georgetown University Press, 2007); and Aaron Stalnaker, *Overcoming Our Evil: Human Nature and Spiritual Exercises in Xunzi and Augustine* (Washington, D.C.: Georgetown University Press, 2006).
8. Murray devoted his entire career to issues of religious liberty and church–state relations. Although he was initially silenced by the Vatican, the persistent force of his arguments won him a place at the Second Vatican Council as the primary drafter of *Dignitatis humanae*, the Council’s profoundly influential declaration on religious freedom. Although numerous Catholics have been writing about these issues over the last forty years, Murray’s work remains foundational.
9. This is unsurprising given the relative novelty of these discussions within a tradition that lacks a central authority to streamline the debate.
10. An-Na’im rivals Murray in his comprehensive and systematic attempts to incorporate liberalism into Islam. Yet, his theoretical focus on Western arguments leads him to overlook

or at least avoid many important tensions between liberalism and Islamic theology. Insofar as this work seeks to compare theological arguments for liberalism within Catholicism and Islam, it was important to supplement his arguments with the more theocentric arguments of Abou El Fadl and Sachedina. The usefulness of this approach will become evident in the comparison that follows.

11. For a discussion of this criticism and other ways to get around it, see Aaron Stalnaker, "Comparative Religious Ethics and the Problem of Human Nature," *Journal of Religious Ethics* 33, no. 2 (2005): 177–85.
12. This is not to say that this sort of comparison does not require knowledge of the original language from which these concepts arise. Although the Muslims in this study often draw connections between Islamic and Western concepts, knowledge of the Arabic allows me to better understand their motivation for making such connections.
13. For some interesting arguments that challenge traditional narratives about the history of liberalism, see Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law, and Church Law, 1150–1625*, vol. 5, Emory University Studies in Law and Religion (Atlanta: Scholars Press, 1997).
14. Gavin D'Costa, "Other Faiths and Christian Ethics," in *Cambridge Companion to Christian Ethics*, ed. Robin Gill (Cambridge, U.K.: Cambridge University Press, 2006), 165.
15. Second Vatican Council, "*Dignitatis humanae*."
16. John Courtney Murray, "Freedom in the Age of Renewal," in *Bridging the Sacred and the Secular: Selected Writings of John Courtney Murray*, ed. J. Leon Hooper (Washington, D.C.: Georgetown University Press, 1994), 183.
17. John Courtney Murray, "Arguments for the Human Right to Religious Freedom," in *Religious Liberty: Catholic Struggles with Pluralism*, ed. J. Leon Hooper, Library of Theological Ethics (Louisville, Ky: Westminster/John Knox Press, 1993), 238.
18. John Courtney Murray, "The Problem of Religious Freedom," in *Religious Liberty: Catholic Struggles with Pluralism*, ed. J. Leon Hooper, Library of Theological Ethics (Louisville, Ky: Westminster/John Knox Press, 1993), 177.
19. Murray, "Arguments for the Human Right," 238.
20. Murray, "Freedom in the Age of Renewal," 183.
21. John Courtney Murray, "The Doctrine Lives: The Eternal Return of the Natural Law," in *We Hold These Truths: Catholic Reflections on the American Proposition* (Lanham, Md.: Rowman & Littlefield, 1960; reprint, 2005), 295; John Courtney Murray, "The Declaration on Religious Freedom," in *Bridging the Sacred and the Secular: Selected Writings of John Courtney Murray*, ed. J. Leon Hooper (Washington, D.C.: Georgetown University Press, 1994), 188.
22. John Courtney Murray, "Freedom, Authority, Community," in *Bridging the Sacred and the Secular: Selected Writings of John Courtney Murray*, ed. J. Leon Hooper (Washington, D.C.: Georgetown University Press, 1994), 213.
23. Murray, "Arguments for the Human Right to Religious Freedom," 234.
24. Murray, "The Problem of Religious Freedom," 168.
25. John Courtney Murray, "Leo XIII and Pius XII: Government and the Order of Religion," in *Religious Liberty: Catholic Struggles with Pluralism*, ed. J. Leon Hooper, Library of Theological Ethics (Louisville, Ky: Westminster/John Knox Press, 1993), 90; John Courtney Murray, "Civil Unity and Religious Integrity: The Articles of Peace," in *We Hold These Truths: Catholic Reflections on the American Proposition* (Lanham, Md.: Rowman & Littlefield, 1960; reprint, 2005), 83; Murray, "Leo XIII and Pius XII," 72.

26. *Ibid.*, 90.
27. For a systematic and well-argued response to these claims, see Oh, *Rights of God*.
28. Abdulaziz Sachedina, "Human Vicegerency: A Blessing or a Curse? The Challenge to Be God's Caliph in the Qur'an," in *Humanity before God: Contemporary Faces of Jewish, Christian, and Islamic Ethics*, ed. William Schweiker, Michael A. Johnson, and Kevin Jung (Minneapolis: Fortress Press, 2006), 34.
29. *Ibid.*, 43.
30. Khaled Abou El Fadl, *Islam and the Challenge of Democracy*, ed. Joshua Cohen and Deborah Chasman (Princeton, N.J.: Princeton University Press, 2004), 9.
31. Abdulaziz Sachedina, "Freedom of Conscience and Religion in the Qur'an," in *Human Rights and the Conflict of Cultures: Western and Islamic Perspectives on Religious Liberty*, ed. John Kelsay, David Little, and Abdulaziz Sachedina (Columbia: University of South Carolina Press, 1988), 56–57.
32. *Ibid.*, 65.
33. Khaled Abou El Fadl, *The Place of Tolerance in Islam*, ed. Joshua Cohen and Ian Lague (Boston: Beacon Press, 2002), 15.
34. Abdullahi Ahmed An-Na'im, *Islam and the Secular State: Negotiating the Future of Shari'a* (Cambridge, Mass.: Harvard University Press, 2008), 14.
35. Sachedina, "Freedom of Conscience," 66.
36. Abdullahi Ahmed An-Na'im, "The Interdependence of Religion, Secularism, and Human Rights: Prospects for Islamic Societies," *Common Knowledge* 11, no. 1 (2005): 72.
37. Abdulaziz Sachedina, *The Islamic Roots of Democratic Pluralism* (New York: Oxford University Press, 2001), 94–95.
38. Abou El Fadl, *Place of Tolerance in Islam*, 17.
39. Abdullahi Ahmed An-Na'im, *Toward an Islamic Reformation: Civil Liberties, Human Rights and International Law* (Syracuse, N.Y.: Syracuse University Press, 1990), 184.
40. An-Na'im, *Islam and the Secular State*, 13.
41. These distinctions mirror Rawls' distinctions between the right and the good or the political and the metaphysical. See, for example, John Rawls, *A Theory of Justice*, rev. ed. (Cambridge, Mass.: Belknap Press of Harvard University Press, 1999), and "Justice as Fairness: Political not Metaphysical," *Philosophy & Public Affairs* 14, no. 3 (1985): 223–51.
42. Christopher J. Eberle, *Religious Conviction in Liberal Politics* (Cambridge, U.K.: Cambridge University Press, 2002), 11; and Gerald F. Gaus, *Justificatory Liberalism: An Essay on Epistemology and Political Theory*, Oxford Political Theory (New York: Oxford University Press, 1996).
43. Eberle, *Religious Conviction in Liberal Politics*.
44. See David Little, "The Future Challenges of International Religious Liberty," (Atlanta: Center for the Study of Law and Religion, Emory University, 2007).
45. Leslie Griffin, "Good Catholics Should Be Rawlsian Liberals," *Southern California Interdisciplinary Law Journal* 5 (1997): 297–373.
46. John Courtney Murray, "Introduction: The Civilization of the Pluralist Society," in *We Hold These Truths: Catholic Reflections on the American Proposition* (Lanham, Md.: Rowman & Littlefield, 1960; repr. 2005), 31; John Courtney Murray, "The Issue of Church and State at Vatican Council II," in *Religious Liberty: Catholic Struggles with Pluralism*, ed. J. Leon Hooper, *Library of Theological Ethics* (Louisville, Ky: Westminster/John Knox Press, 1993), 211.

47. John Courtney Murray, "Should There Be a Law? The Question of Censorship," in *We Hold These Truths: Catholic Reflections on the American Proposition* (Lanham, Md.: Rowman & Littlefield, 1960; repr., 2005), 160.
48. Murray, "Civil Unity and Religious Integrity," 64, 67.
49. John Courtney Murray, "The Liberal Arts College and the Contemporary Climate of Opinion," in *Bridging the Sacred and the Secular: Selected Writings of John Courtney Murray*, ed. J. Leon Hooper (Washington, D.C.: Georgetown University Press, 1994), 146.
50. John Courtney Murray, "The Pattern for Peace and the Papal Peace Program," in *Bridging the Sacred and the Secular: Selected Writings of John Courtney Murray*, ed. J. Leon Hooper (Washington, D.C.: Georgetown University Press, 1994), 14.
51. John Courtney Murray, "The Right to Unbelief," in *Bridging the Sacred and the Secular: Selected Writings of John Courtney Murray*, ed. J. Leon Hooper (Washington, D.C.: Georgetown University Press, 1994), 233.
52. John Courtney Murray, "The Origins and Authority of the Public Consensus: A Study of the Growing End," in *We Hold These Truths: Catholic Reflections on the American Proposition* (Lanham, Md.: Rowman & Littlefield, 1960; repr., 2005), 101–2.
53. Murray, "Introduction," 28; John Courtney Murray, "Two Cases for the Public Consensus: Fact or Need," in *We Hold These Truths: Catholic Reflections on the American Proposition* (Lanham, Md.: Rowman & Littlefield, 1960; repr., 2005), 90.
54. Murray, "The Origins and Authority of the Public Consensus: A Study of the Growing End," 101–2.
55. Abou El Fadl, *Islam and the Challenge of Democracy*, 20.
56. Sachedina, *Islamic Roots of Democratic Pluralism*, 139; Sachedina, "Freedom of Conscience," 62.
57. An-Na'im, *Islam and the Secular State*, 127.
58. When this work was presented at the annual conference of the Society of Christian Ethics in January of 2008, An-Na'im was using the language of "public reason" in his unpublished manuscript. In its subsequent publication, however, "public reason" became "civic reason." This change was an intentional move to distance his own project from the project of Rawls. What is most interesting about the shift, however, is that the word "civic" suggests a conception of public justification that is more populist than epistemic. His Arabic translation of the text supports this theory in that he uses a phrase that implies "public debate" or "public discussion." *Ibid.*, 7.
59. Sachedina, "Human Vicegerency," 46.
60. Sachedina, "Freedom of Conscience," 65.
61. Sachedina, "Human Vicegerency," 43; Sachedina, *Islamic Roots of Democratic Pluralism*, 71.
62. Khaled Abou El Fadl, "Constitutionalism and the Islamic Sunni Legacy," *UCLA Journal of Islamic and Near Eastern Law* 1, no. 1 (2001–2): 31; Khaled Abou El Fadl, "Muslim Minorities and Self-Restraint in Liberal Democracies," *Loyola Law Review* 29, no. 4 (1996): 1541.
63. Khaled Abou El Fadl, "Muslims and Accessible Jurisprudence in Liberal Democracies: A Response to Edward B. Foley's Jurisprudence and Theology," *Fordham Law Review* 66 (1998): 1229–30.
64. An-Na'im, *Islam and the Secular State*.
65. Abdullahi Ahmed An-Na'im, "The Politics of Religion and Morality of Globalization," in *Religion and Global Civil Society*, ed. Mark Juergensmeyer (Oxford: Oxford University Press, 2005), 40.

66. Abdullahi Ahmed An-Na'im, "Human Rights, Religion, and the Contingency of Universalist Projects," *Occasional Papers of the Maxwell School of Citizenship and Public Affairs, Syracuse University* 2 (September 2000): 12.
67. For the details of this argument see John Rawls, *The Law of Peoples* (Cambridge, Mass.: Harvard University Press, 1999); and John Rawls, *Political Liberalism*, exp. ed., Columbia Classics in Philosophy (New York: Columbia University Press, 2005).
68. Rawls, *Political Liberalism*, 453.
69. See, for example, Richard Rorty, *Philosophy and Social Hope* (New York: Penguin Books, 1999).
70. Thus, Murray can argue that "it would be idle to deny that the doctrine of the church, as formulated in the 19th century, is somewhat ambiguous in itself, out of touch with contemporary reality and a cause of confusion among the faithful and of suspicion throughout large sectors of public opinion." Murray, "Declaration on Religious Freedom," 189.
71. Sachedina, *Islamic Roots of Democratic Pluralism*, 57.
72. An-Na'im, *Toward an Islamic Reformation*, 28–29.
73. Abdullahi Ahmed An-Na'im, "The Future of Shari'ah and the Debate in Northern Nigeria," in *Comparative Perspectives on Shari'ah in Nigeria*, ed. Philip Ostien, Jamila M. Nasir, and Franz Kogelmann (Ibadan: Spectrum Books, 2005), 353; and Sachedina, "Freedom of Conscience," 13.
74. Abou El Fadl, *Islam and the Challenge of Democracy*, 30–31; and An-Na'im, *Toward an Islamic Reformation*, 10.
75. Abdullahi Ahmed An-Na'im, "Global Citizenship and Human Rights: From Muslims in Europe to European Muslims," in *Religious Pluralism and Human Rights in Europe: Where to Draw the Line?*, ed. M. L. P. Loenen and J. E. Goldschmidt (Antwerp-Oxford: Intersentia, 2007), 12.
76. Sachedina, *Islamic Roots of Democratic Pluralism*, 16.
77. Abou El Fadl, *Place of Tolerance in Islam*, 108.
78. *Ibid.*, 14.
79. Sachedina, *Islamic Roots of Democratic Pluralism*, 50.
80. Abou El Fadl, *Place of Tolerance in Islam*, 15; Sachedina, "Freedom of Conscience," 54.
81. Abdullahi Ahmed An-Na'im, "Universality of Human Rights: An Islamic Perspective," in *Japan and International Law: Past, Present and Future. The Hague: Kluwer Law International*, ed. Nisuke Ando (The Hague: Kluwer Law International, 1999), 321.
82. For a discussion of this argument and a compelling critique, see Wael B. Hallaq, "Was the Gate of Ijtihad Closed?" *International Journal of Middle East Studies* 16, no. 1 (1984): 3–41.
83. An-Na'im, *Toward an Islamic Reformation*, 28–29; and Sachedina, *Islamic Roots of Democratic Pluralism*, 134.
84. Abdullahi Ahmed An-Na'im, "Islamic Foundations of Religious Human Rights," in *Religious Human Rights in Global Perspectives: Religious Perspectives*, ed. John Witte and Johan D. van der Vyver (Boston: Martinus Nijhoff Publishers, 1996), 345; and An-Na'im, *Islam and the Secular State*, 13.
85. For background on this doctrine and how it works in traditional Islamic law, see John Burton, *The Sources of Islamic Law: Islamic Theories of Abrogation* (Edinburgh: Edinburgh University Press, 1990); and Andrew Rippin, *Approaches to the History of Interpretation of the Qur'an* (Oxford: Oxford University Press, 1988).
86. An-Na'im, *Toward an Islamic Reformation*, 49, 179.

87. Abou El Fadl, *Place of Tolerance in Islam*, 100–101, Abdulaziz Sachedina, “Review of *Toward an Islamic Reformation: Civil Liberties, Human Rights, and International Law*, by Abdullahi Ahmed An-Na‘im,” *International Journal of Middle East Studies* 25, no. 1 (1993): 155–56.
88. In January of 2006, Father Joseph Fessio was interviewed on the Hugh Hewitt show. During that conversation, Father Fessio spoke of a summer conference attended by Pope Benedict where two Islamic scholars presented arguments about the possibility of modernization and development within the tradition. He notes in this discussion that Benedict raised questions about this possibility. For the full transcript of the original conversation, see “Fessio Interviewed” (2006), Free Republic, [www.freerepublic.com/focus/f-religion/1553225/posts](http://www.freerepublic.com/focus/f-religion/1553225/posts). For Father Fessio’s “clarification,” see Joseph Fessio, “The Pope on the Koran: A Clarification,” *The Washington Times*, January 20, 2006.
89. The full quote, as initially relayed by Father Fessio, is: “in the Islamic tradition, God has given His word to Mohammed, but it’s an eternal word. It’s not Mohammed’s word. It’s there for eternity the way it is. There’s no possibility of adapting it or interpreting it, whereas in Christianity, and Judaism, the dynamism’s completely different, that God has worked through His creatures. And so, it is not just the word of God, it’s the word of Isaiah, not just the word of God, but the word of Mark. He’s used His human creatures, and inspired them to speak His word to the world, and therefore by establishing a Church in which he gives authority to His followers to carry on the tradition and interpret it, there’s an inner logic to the Christian Bible, which permits it and requires it to be adapted and applied to new situations.” “Fessio Interviewed.”
90. For full text of the speech, see Pope XVI Benedict, “Faith, Reason and the University: Memories and Reflections,” [www.vatican.va/holy\\_father/benedict\\_xvi/speeches/2006/september/documents/hf\\_ben-xvi\\_spe\\_20060912\\_university-regensburg\\_en.html](http://www.vatican.va/holy_father/benedict_xvi/speeches/2006/september/documents/hf_ben-xvi_spe_20060912_university-regensburg_en.html).
91. Murray, “Problem of Religious Freedom,” 181. This argument, incidentally, is almost identical to the argument made by Muslims who defend the “closed gates” of *ijtihad*.
92. Murray, “Declaration on Religious Freedom,” 194.
93. *Ibid.*
94. Murray, “Origins and Authority of the Public Consensus,” 110; Murray, “The Problem of Religious Freedom,” 188–89; Murray, “Doctrine Lives,” 297.
95. Murray, “The Problem of Religious Freedom,” 138.
96. Murray, “Leo XIII and Pius XII,” 102–3.
97. That is not to say that political reform cannot itself motivate theoretical change. I am very much a Weberian on this subject. Though material practice often shapes our ideas, I believe that “very frequently the world images that have been created by ideas, like a switchman, have determined the tracks along which action has been pushed by the dynamic of interest.” See Max Weber, *The Sociology of World Religions* (1920).
98. Of note here is the recent publication of *A Common Word*. In this document, prominent Muslims respond to Benedict’s comments about Islam and emphasize the similarities between the Christian and Islamic traditions. In response, many Christians (including the hierarchy of the Catholic Church itself) have responded with their own statements that encourage and seek out dialogue between the traditions. For the original text of these statements and the various responses, see “A Common Word,” [www.acommonword.com](http://www.acommonword.com).



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