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John Courtney Murray and Reinhold Niebuhr: Natural Law and Christian Realism

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During the two decades after World War II, the cover of *Time* magazine twice featured Christian academic theologians. As you may know, framed prints of the *Time* cover paintings are now available for purchase online, and some are quite striking pieces of art. On the cover of the March 8, 1948 issue, Protestant ethicist Reinhold Niebuhr gazes sharply across a dark, cloudswept landscape with a small cross radiating light on a bleak hill in the background.¹ The picture, captioned “Man’s story is not a success story,” dramatically captures Niebuhr’s “Christian realist” vision of human beings beckoned by the ideals of Christlike love, but beset by pride and a host of other sins in the very course of pursuing those ideals in society. Twelve years later, on Dec. 12, 1960, in the wake of the election of America’s first Catholic president, the cover on “U.S. Catholics and the State” portrayed John Courtney Murray, S.J., in front of the title page of a classic sixteenth-century theological treatise by Jesuit Cardinal Robert Bellarmine.² The illustration no doubt aimed to reflect the claim in Murray’s newly-published collection of essays, *We Hold These Truths*, that America’s public philosophy necessarily rested on a set of natural-law principles nurtured and sustained to a large extent by the Catholic tradition – and that therefore Catholicism was not just compatible with the American project but essential to it.³

As their appearances on *Time*’s covers suggest, from World War II through the mid-1960s Murray and Niebuhr were America’s most prominent Christian theologians concerning the relation between religion and public life. Niebuhr inspired not only two or three generations of Protestant clergy and activists, but also many secular statesmen and thinkers who admired his hard-nosed policy and cultural analyses and some of whom even dubbed themselves “Atheists for Niebuhr.” Murray, of course, not only set forth the most prominent account of how faithful Catholics could affirm the America political system. He also laid the intellectual groundwork for the Church to embrace religious freedom as a moral ideal, and then wrote the official text marking that embrace, the Vatican II Declaration on Religious Freedom. In the upheavals beginning in the late 1960s, both tinkers fell out of fashion, dismissed by many activists and theologians as

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¹ <http://www.time.com/time/covers/0,16641,1101480308,00.html>.

² <http://www.time.com/time/covers/0,16641,1101601212,00.html> (featuring ROBERT BELLARMINE, DISPUTATIONES DE CONTROVERSIIS CHRISTIANIAE FIDEI (1576)).

³ JOHN COURTNEY MURRAY, S.J., *WE HOLD THESE TRUTHS: CATHOLIC REFLECTIONS ON THE AMERICAN PROPOSITION* (1960) (hereafter WHTT).

apologists for a corrupt American establishment and way of life. But those caricatures eventually faded, and recent years have seen a renewed recognition that Murray and Niebuhr have much to contribute to efforts to relate Christianity authentically and realistically to American public life.⁴ (Murray’s comeback among Catholic thinkers, it’s fair to say, has been much stronger than Niebuhr’s comeback among Protestants.)

Murray and Niebuhr were on cordial personal terms, and they frequently interacted on panels of public intellectuals assembled by Robert Hutchins’ Fund for the American Republic and Center for the Study of Democratic Institutions.⁵ However, each also engaged in polemics directed at the other’s writings or school of thought. Niebuhr, although more sympathetic to the Catholic Church than the vast majority of the era’s Protestant theologians,⁶ nevertheless aimed many sharp comments at the Church, calling its claims to divine authority a “heresy”⁷ and criticizing the Catholic natural-law tradition for rigidity and for elevating contingent features of pre-modern societies “into the supposedly universal standards of human reason.”⁸ Murray, in defending the universals of natural law, blasted the Christian ethicists who he called “ambiguists” – a barely veiled reference to Niebuhr and other Christian realists – for developing a theory that “sees things as so complicated that moral judgment becomes practically impossible.”⁹

The thesis of this paper, though, is that Murray and Niebuhr, natural law and Christian realism, are not as far apart as they seemed. After summarizing Murray’s and Niebuhr’s views and critiques of each other, I then suggest how the two approaches share significant features, at least once some clarifications are made in Niebuhr’s Christian realism. Differences remain between the two approaches, and I suggest what each approach contributes to the common project; and I close by briefly suggesting why that project is valuable.

I.

A.

In *We Hold These Truths*, Murray argued that the American experiment depends on affirmations and methods of natural law. The “American Proposition” rests, he argued, “on the forthright assertion of a realist epistemology. The sense of the famous

⁴ Cites.

⁵ See, e.g., ROBERT M. HUTCHINS, *TWO FACES OF FEDERALISM: AN OUTLINE OF AN ARGUMENT ABOUT PLURALISM, UNITY, AND LAW* (1961) (discussion including Murray and Niebuhr); *FOREIGN POLICY AND THE FREE SOCIETY* (1958) (paper by Murray followed by discussion including Niebuhr among others).

⁶ For example, Niebuhr was substantially more open to government aid to parochial-school students than was almost any other Protestant leader. See Thomas C. Berg, *Anti-Catholicism and Modern Church-State Relations*, 33 *LOYOLA CHI. L. REV.* 121, 146-47 (2001); Thomas C. Berg, *Church-State Relations and the Social Ethics of Reinhold Niebuhr*, 73 *NO. CAR. L. REV.* 1567, 1601, 1634-35 (1995).

⁷ Reinhold Niebuhr, *The Catholic Heresy*, in REINHOLD NIEBUHR, *ESSAYS IN APPLIED CHRISTIANITY: THE CHURCH AND THE NEW WORLD* 207, 208-11 (D.B. Robertson ed. 1959).

⁸ REINHOLD NIEBUHR, *1 THE NATURE AND DESTINY OF MAN* (hereafter ND) 281 (1941).

⁹ WHTT at 278.

phrase [from the Declaration of Independence, about self-evident truths,] is this: ‘There are truths, and we hold them, and we here lay them down as the basis and inspiration of the American project.’”¹⁰ This “body of objective truth [is] universal in its import, accessible to the reason of man, definable, defensible.”¹¹ Reviewing confusion and dissension over foreign-policy issues such as military power and foreign economic aid, Murray argued that the confusion would continue, and the policies ultimately fail, in the absence of a consensus over such a “public philosophy.”¹²

Murray summarized the basic assertions of natural-law moral theory, which can be categorized in two ways. First, natural law is a theory of “moral realism”: one that, in the words of ethicist Robin Lovin, holds that “[m]oral ideas can be true or false” and that they “make claims about what is the case, independently of our ideas about what is the case.”¹³ On this score, Murray affirmed that natural law asserts a real “nature of things,” in particular a real “nature of man as a unitary and constant concept beneath all individual differences.”¹⁴ It also asserts a “realist epistemology,” that is, “the possibility of intelligence [in most men] reaching,” or apprehending, “the real [or] the nature of things.”¹⁵

Second, natural law is a variety of ethical naturalism, under which, in Lovin’s words, “an act is right because of certain natural facts” relevant to human purpose and flourishing.¹⁶ On this score, natural-law thought asserts, in Murray’s words, “that nature is a teleological concept” in which “the ‘form’ of a thing,” its order, tells us about its proper purpose and end. In the case of humans, “there is a natural inclination in man to become what in nature and destination he is – to achieve the fullness of his own being.”¹⁷ Moreover, it asserts a “natural theology,” in which a God who is the creator of all nature “wills that the order of nature be fulfilled in all its purposes,” the purposes demonstrated in the forms and order of nature. Thus the orders and purposes of nature translate into moral principles that all humans as rational beings ought to follow, not “blindly” but because the principles are rational.¹⁸

Recapping natural-law teaching, Murray set forth distinctions between various levels of moral principles. In order of decreasing universality and increasing concreteness, there are (i) “primary” natural-law principles apparent from the basic experiences of human life (such as respect for parents); (ii) “derivative” principles that

¹⁰ WHTT at viii-ix.

¹¹ *Id.* at ix.

¹² *Id.* at 95.

¹³ ROBIN W. LOVIN, REINHOLD NIEBUHR AND CHRISTIAN REALISM 12 (1995).

¹⁴ WHTT at 327.

¹⁵ *Id.*

¹⁶ LOVIN, *supra*, at 109.

¹⁷ WHTT at 327-28.

¹⁸ *Id.* at 328.

arise out of a greater complexity of human relationships and situations; and (iii) “particular” principles that bring “fundamental moral truth” to bear “on particular human relations and on concrete social institutions” (for example, rules for settling wage disputes, as applications of the general principle “to each his due”).¹⁹ Employing distinctions like these, Murray defended natural law as the approach in modern moral theory that best took account of human variation, change, and the potential for progress while still providing firm “structural foundations” for social-political reasoning and rejecting the “doctrinaire relativism” common in modern thought.²⁰

B.

Reinhold Niebuhr subjected Catholic natural-law theories to two interrelated criticisms, which I will use to explicate briefly the key principles of his Protestant-based Christian realism.

First, Niebuhr argued that natural-law theory “gives the peculiar conditions and unique circumstances in which reason operates in a particular moment, the sanctity of universality” – as when classic Thomistic ethics, he said, turned “the contingent factors of a feudal-agrarian economy into a fixed set of socio-ethical principles.”²¹ This makes natural-law theory a quintessential “vehicle of human sin,”²² for the fundamental nature of sin, Niebuhr said, is to elevate relative aspects of life to absolute status. Human beings exist in a pervasive state of tension, always able to envision greater accomplishments and progress but also always bound to their partial, self-focused views and limited circumstances. They become “anxious” in this tension and seek to resolve it, not by accepting finitude and trusting the one God who is absolute, but by asserting absolute status for some factor such as race, nation, class, or religion – assertions that Niebuhr identified as “idolatry” – and often by subordinating the interests of others (injustice). These effects are particularly strong in social and political contexts, because in one of Niebuhr’s well known phrases, “groups are more immoral than individuals”: encounters between groups provides less opportunity than individual encounters for the interpersonal contact that can generate sympathy across differences.²³

This dynamic of sin – where pride and pretension are the fundamental sins – was what Niebuhr became best known for explicating and applying to problems of public life. For several decades, in a style reminiscent of a Biblical prophet, he laid bare the pretensions and rationalizations of fascism and communism, but also of American nationalism and individualism and of religion itself.

But if natural law becomes a “vehicle for the sinful pretensions” of overcoming finitude, it also errs, Niebuhr claimed, by allowing insufficient room for human freedom, which challenges “every standard of justice” by “setting it under higher possibilities.”²⁴

¹⁹ *Id.* at 111.

²⁰ *Id.* at 334-35.

²¹ ND I at 281.

²² *Id.*

²³ REINHOLD NIEBUHR, *MORAL MAN AND IMMORAL SOCIETY* (1932).

²⁴ *Id.*

One of his examples here was the prohibition on birth control, which “assumes that the sexual function in human life must be limited to its function in nature, that of procreation” – whereas in fact “it is the very character of human life that all animal functions are touched by freedom and released into more complex relationships.”²⁵ Obviously it is not true now (if it was then) that the anti-birth-control position says that sex in human life is solely for procreation. But Niebuhr’s argument that the birth-control prohibition gives insufficient attention to human freedom in family relationships stands independent of that point (whether or not the argument is correct).

In sum, what natural-law theory overlooks, according to Niebuhr, is “the relativizing effect of both freedom and sin upon all historical norms.”²⁶ Natural law overlooks that moral-political positions in society are commonly tainted by the self-interest of the group advancing them. This, however, emphatically does not mean that public life is merely a clash of selfish interests. Rather, human freedom itself includes a striving to reach ever higher possibilities of justice and apply them to all persons. These standards culminate in the law of *agape* – “disinterested and sacrificial” love, extended to all with no expectation of return – as set forth in the teachings of Jesus in the Gospels.²⁷

The standard of sacrificial love cannot be imported directly into social and political ethics, because the presence of finitude and sin, especially in group interactions, mean that power must be used to protect others and balance interests. Politics must seek “proximate solutions for insoluble problems.”²⁸ The ultimate standard of love, though, continues to call humans forward, to seek better approximations of it “within the conditions created by human egoism.”²⁹ For example, the political principle of “equal justice” is “the approximation of brotherhood” – of uncalculating mutual harmony – “under the conditions of sin.”³⁰ The Christian political thinker always lives and reasons in this dialectical tension between ideals and limits, love and justice, disinterestedness and self-interest, and continually recalibrates analysis to mediate between these forces. Natural-law theory, Niebuhr claimed, tries wrongly to escape that tension by identifying a host of relative standards as absolute, allowing no conduct below them but also calling for no striving above them.

Murray, from a natural-law perspective, found this vision of unavoidable tension both unnecessary and morally disabling. *We Hold These Truths* leveled an extended attack at the moral “ambiguist” position – unmistakably, Niebuhrian realism³¹ -- which

²⁵ *Id.*

²⁶ *Id.*

²⁷ ND II at 71, 69.

²⁸ CLCD at 118.

²⁹ ND II at 252.

³⁰ *Id.* at 254.

³¹ This is plain both from specific allusions, for example that the ambiguist saddles himself with an unresolvable dichotomy “between moral man and immoral society” (the title of Niebuhr’s most famous work), see WHTH at 285; and from the general context, in that Murray’s description of how the ambiguist

Murray said, places such an emphasis on paradox and imperfection that it “can direct no policies because it can specify no ends toward which policy should be directed.”³² As will be discussed, Murray agreed that concrete moral judgments often turn on contingent circumstances rather than general moral norms. But from a natural-law perspective, he regarded the more pervasive tensions that Niebuhr posited between love and power, the morality of individual relations and that of politics, as “pseudo-problems.”³³ The state has distinctive purposes and methods “predesigned in the social and political nature of man,” which are different from the purposes of individual action and which inherently include the use of power and the concern for national interest. With these fixed categories, the natural lawyer is untroubled by the Christian realist’s “theoretically false dilemmas.”³⁴

II.

Despite the conflicts between Murray and Niebuhr, natural law and Christian realism, I suggest that the two approaches are not as far apart as they seem. They can be understood to share a common project, to which each has something distinctive to contribute; and that project is valuable for bringing Christian ethics to bear on American public life.

As a prologue to these claims, consider the relationship of both of these Christian ethical approaches to the principles and institutions of America’s founding. Murray pointed out the extent to which the founding rested on natural-law assertions concerning human equality and liberty, a “body of objective truth, universal in its import, accessible to the reason of man definable, defensible.”³⁵ He made a good point. If one thinks that no such truth exists, or that humans are incapable of knowing it, one cannot understand the basis for America, a nation defined by its adherence to this political creed rather than by ethnicity, geographical origin, or any religious denominational identity.

But the foundation of America, as laid down in the Constitution, also reflected many assertions and concerns more prominent in the Christian realist tradition: concerns such as the limits of human nature, knowledge, and sympathy, and the need to structure institutions to take account of such limits. As Madison defended the distribution of powers and the checks and balances among three federal branches in *Federalist No. 51*:

[T]he great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of

approach superseded earlier, simplistic moral theories clearly recounts how Niebuhrian realism undercut the more optimistic, often pacifist moral theories of liberal Protestantism that prevailed in America into the 1930s.

³² WHTH at 292.

³³ *Id.* at 285.

³⁴ *Id.* at 286-88.

³⁵ *Id.* at ix.

the others. [A]mbition must be made to counteract ambition. . . . It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. . . . This policy of supplying, by opposite and rival interests, the defect of better motives, might be traced through the whole system of human affairs, private as well as public.

Passages such as this, which Reinhold Niebuhr frequently quoted, exemplify the founding generation's realistic attitude toward politics. The design of government in the light of human nature must not rely only on principles about ideal human nature and its possibilities, pointing toward direct implementation of the principles in law. It must also include rely on about the shortcomings of human nature, pointing toward arrangements that balance and distribute power so as to minimize the risk or magnitude of negative results: that choose the "second best" option because achievement of the ideal is too uncertain.³⁶

The founders as realists were not uniformly positive; but neither were they uniformly negative. *Federalist No. 55* argued that to prevent corruption, it would be necessary to bar congressmen from being appointed to any federal office that had been created or whose compensation had been increased during their congressional service, but not to bar them from offices that "become vacant by ordinary casualties":

[T]o suppose that [the latter appointments] would be sufficient to purchase the guardians of the people, selected by the people themselves, is to renounce every rule by which events ought to be calculated, and to substitute an indiscriminate and unbounded jealousy, with which all reasoning must be vain. . . . As there is a degree of depravity in mankind which requires a certain degree of circumspection and distrust, so there are other qualities in human nature which justify a certain portion of esteem and confidence.

As Marci Hamilton has documented, the background system of thought for many of the framers (even if they rejected many of its specific tenets) was Calvinist theology, which "brings together the paradox that man's will is corrupt by nature but also capable of doing good."³⁷ Calvin accordingly designed church governance structures that controlled the sinful assertions of any person, and the founders applied a similar strategy to the structures of constitutional government. Thus "the Framers repeatedly expressed distrust of any entity exercising power," but they also "labored with some optimism that they could fashion a scheme of government that would deter tyranny."³⁸ The

³⁶ See, e.g., REINHOLD NIEBUHR, *THE IRONY OF AMERICAN HISTORY* 96-98 (1952) (describing Madison's "Christian realism in the interpretation of human motives and desires").

³⁷ Marci A. Hamilton, *The Calvinist Paradox of Distrust and Hope at the Constitutional Convention*, in *CHRISTIAN PERSPECTIVES ON LEGAL THOUGHT* 293, 294 (Michael W. McConnell et al. eds. 2001).

³⁸ *Id.* at 293.

constitutional designers, removed a step or two from the substantive disputes in which power would most readily be abused, could with greater coolness “embrace distrust as a tool” and design structures to deter and counter such abuses ahead of time.³⁹

This two-sided view of human nature and republican government is echoed in Reinhold Niebuhr’s aphorism about democracy: “Man’s capacity for justice makes democracy possible, but man’s inclination to injustice makes democracy necessary.”⁴⁰

III.

The framers embraced both the existence of natural-law principles evident to human reason and the recognition of the stubborn human tendency to be partial and to elevate one’s own interests. If the framers were able to combine these two emphases, then perhaps the two Christian ethical approaches that respectively emphasize them may share significant common ground. The process of finding commonalities may require rethinking or qualifying features of one approach or the other.

A.

My first claim is that Reinhold Niebuhr had to be – and was – more of a natural-law theorist than he allowed. It is true that Niebuhr frequently asserted the relativity of all knowledge, even religious knowledge, in comparison to the one God. In his analysis, the relationship of God and the world, grace and nature, eternity and time, was paradoxical and thoroughly dialectical; that is, the two were in tension even if not complete opposition. “[R]edemption’ in the realm of culture and truth,” Niebuhr wrote, “is a having and not-having of the truth; and [t]he pretension of having the truth leads to a new lie. This is the paradox of grace applied to the truth. The truth, as it is contained in the Christian revelation, includes the recognition that it is neither possible for man to know the truth fully nor to avoid the error of pretending that he does.”⁴¹ But such an across-the-board claim of relativism in knowledge raises a real problem for Niebuhr, for his own theology is full of claims of truth. As the quote suggests, the very statement that it is impossible for humans to know the truth fully is a truth-statement and thus, paradoxically, relativizes itself. This objection has been made by numerous commentators on Niebuhr. As one critic, Fr. Gustave Weigel, put it, “A Catholic with gentle malice might ask Niebuhr if his transcendental principle of relativism is *absolutely* valid.”⁴²

³⁹ *Id.* at 297.

⁴⁰ REINHOLD NIEBUHR, *THE CHILDREN OF LIGHT AND THE CHILDREN OF DARKNESS: A VINDICATION OF DEMOCRACY AND A CRITIQUE OF ITS TRADITIONAL DEFENCE* xi (1944).

⁴¹ ND II at 217.

⁴² Gustave Weigel, S.J., *Authority in Theology*, in REINHOLD NIEBUHR: *HIS RELIGIOUS, SOCIAL, AND POLITICAL THOUGHT* 367, 375 (Charles W. Kegley and Robert W. Bretall eds. 1956). See also EDWARD J. CARNELL, *THE THEOLOGY OF REINHOLD NIEBUHR* 239 (rev. ed. 1960) (emphasis in original) (“The objection to the claim that we have no final truth is obvious. If *no* truth is final, then it is not final either that the relation between time and eternity is dialectical.”); KEITH J. PAVLISCHEK, *JOHN COURTNEY MURRAY AND THE DILEMMA OF RELIGIOUS TOLERATION* 206-07 (1994) (“Since a finite perspective corrupts all truth, it also corrupts the ‘truth’ that all finite truth is corrupted.”).

Moreover, Niebuhr made many other claims about perennial truth. Some of them concern God and the ultimate law of *agape* love. Many of them concern the perennial nature of human persons: that humans combine freedom and finitude, that this combination creates an existential tension and anxiety, that humans perennially seek to avoid this tension through various patterns of sin, especially sins of pride but also other sins such as sensuality.

Niebuhr tried to avoid this objection by arguing that the one truth statement that is not conditioned is the statement that “our subjective thinking can never reach the unconditioned Truth.”⁴³ This move is unconvincing because it looks to be a mere stipulation: why is this one statement exempted from conditioned status?⁴⁴ Moreover, even if it salvaged the bare claim that all truth is finite, this would still relativize the many other truth claims that Niebuhr made concerning, among other things, the recurrent dynamics of human nature: the tension between freedom and finitude, the resulting anxiety, the improper resolutions of the freedom-finitude tension, and so forth.⁴⁵

In the end one must acknowledge that Christian realism makes certain claims concerning universal, perennial truth and so cannot rule out the existence of such a set of claims. As such, Christian realism falls into the same two categories of ethical theories, identified above, as does natural law.⁴⁶ As Robin Lovin, today’s leading expert on Niebuhr, argues, Christian realism is a form of moral realism in that asserts that moral statements can be true or false; they refer to an independent reality, ultimately tied, in Niebuhr’s view, to the reality of God.⁴⁷ Niebuhr himself elsewhere said that “[i]t is important to recognize the validity of principles of justice, rationally conceived, as sources of criticism for the historical achievements of justice in living communities.”⁴⁸ As an example, he gave the prohibition on murder, whose “practical universality . . . in the moral codes of mankind is just as significant as the endless relativities which manifest themselves in the practical application of the general prohibition.”⁴⁹ Likewise, the

⁴³ ND II at 218 n.4 (quoting PAUL TILlich, INTERPRETATION OF HISTORY 169-70) (“This judgment is plainly the absolute judgment which is independent of all its forms of expression, even of the one by which it is expressed here. It is the judgment which constitutes truth as truth.”).

⁴⁴ See, e.g., Weigel, *supra*, at 375 (“The cogency of this technique is hardly shattering.”).

⁴⁵ See, e.g., CARNELL, *supra*, at 241 (“Niebuhr, indeed, cannot be consistent in his skepticism, for his dialectical theology fairly bristles with finality claims [–] *in short, the entire Christian view of man and history is final.*”) (emphasis in original).

⁴⁶ See *supra* part I-A.

⁴⁷ As Lovin points out, “realism” in this sense has a different meaning from “political realism,” where it refers rather to a caution about political ideals and a belief in the power of self-interest. LOVIN, *supra*, at 12.

⁴⁸ ND II at 254.

⁴⁹ *Id.*

“perpetual recurrence” of some general principle of human equality in numerous moral theories “reveal[s its] validity . . . as [a] transcendent principl[e] of justice.”⁵⁰

Christian realism is also a form of “ethical naturalism,” Lovin argues, in that it holds that “an act is right because of certain natural facts.”⁵¹ Although Niebuhr as already noted criticized Catholic natural-law theory for having too static and rigid a view of human nature, he shared with natural-law theory “the broad agreement that there *are* natural features of human life that are relevant to our moral choices.”⁵² For the Christian realist, ultimately, “[h]elping a stranger in distress is right because it preserves or enhances the life of the stranger, and because it involves no disproportionate risk to the well-being of the one giving the aid.”⁵³ The method of Christian realism is to begin with assertions about human nature – both our capacities for sympathy and mutuality and our tendencies to partiality and self-aggrandizement – and to use critical intelligence to arrive at moral principles that promote human flourishing in the light of those features of human nature.

Christian realism and natural-law theory may have differing emphases concerning human nature, but I do not believe that these make the two incompatible. First, Christian realism pays great attention to the sinful aspects of human nature, especially in social groups – to the pervasive and stubborn tendencies of humans to serve their own interests and ignore or impose on others. It asserts that these facts of nature must be considered in critical deliberation about political principles: legal and political arrangements must often be “proximate” or second-best solutions, as when the American founders’ recognition of the fact of self-interest led them to set up institutions that would check each other’s power. But the theory still parallels natural law in asking what political principles best comport with human nature.

Moreover, natural-law theory in its approach to political principles also takes into account the limits of human nature. A familiar example is the historic affirmation, which Murray defended at length, that some immoral acts should be decriminalized because, among other things, “men can only be coerced into a minimal amount of moral action” and enforcing a law that is widely disobeyed may “defeat even [the law’s] more modest aims [of maintaining order,] by bringing [the law] into contempt.”⁵⁴ Although historically Thomist natural-law theory has regarded government as more than just a response to human sin – a means of keeping minimal order – nevertheless the theory, as Murray reaffirms it, does regard the modest, order-maintenance function of government as important in determining its proper scope. The strategy of tailoring laws to imperfections is also evident in Murray’s famous defense of the American rules of church-state separation as “articles of peace” rather than “articles of faith.”⁵⁵ The regime

⁵⁰ *Id.*

⁵¹ LOVIN, *supra*, at 109.

⁵² *Id.* at 108 n.58 (emphasis in original).

⁵³ *Id.*

⁵⁴ WHTT at 166.

⁵⁵ WHTT at 49.

of equal religious freedom for all before the government does not rest on conceptions of the ideal, true nature of religion, such as “religion is an individual matter” or “all religions are different ways to the truth.”⁵⁶ The Religion Clauses, Murray argued, “are not invested with the sanctity that attaches to dogma, but only with the rationality that attaches to law.” Their validations are more modest and pragmatic, including “the demands of social necessity,” namely the fact (unfortunate as it may be for Murray) that many Americans do not follow Christianity.⁵⁷ The rules against censorship and religious establishment were not “made in heaven” for “an ideal society,” but were “made on earth, by the practical reason of man, for application in the conditions – by no means ‘ideal’ – of a religiously and morally divided society.”⁵⁸

Christian realism also distinctively emphasizes human freedom and self-transcendence that undercut fixed principles such as those in natural-law theory.⁵⁹ This, however, likewise does not make Christian realism irreconcilable with natural law. First, as I will discuss in a moment, natural law makes room for such freedom and contingency as well. Moreover, as I just discussed, Niebuhr did affirm certain general principles with effectively universal validity – not only statements about the features and dynamics of human nature, but also general moral principles such as equality, the prohibition of murder, and so forth. Indeed, for Niebuhr, human freedom and self-transcendence are themselves perennial qualities of human nature. It is man’s “*essential nature*,” Niebuhr wrote, that “also includes the freedom of his spirit, his transcendence over natural process and finally his self-transcendence.”⁶⁰ In the words of Paul Ramsey, “such a dynamic interpretation of the indefinite possibilities of human freedom” is as much “a conception of the nature of man” as are “more static interpretations of his essence,” and thus it “like them entail[s] a (revised) conception of the natural moral law.”⁶¹

⁵⁶ Contrast, e.g., Kathleen M. Sullivan, *Religion and Liberal Democracy*, 59 U. CHI. L. REV. 195, 200 (1992) (suggesting that religious tolerance rests not on “a neutral *modus vivendi*, but rather [on] a substantive recognition that there is more than one path to heaven and not so many as once thought to hell.”).

⁵⁷ WHTT at 76.

⁵⁸ *Id.* at 169.

⁵⁹ See *supra* notes XX-XX and accompanying text.

⁶⁰ ND I at 270 (emphasis added).

⁶¹ Paul Ramsey, *Love and Law*, in KEGLEY AND BRETALL, *supra* note XX, at 79, 83. It is also worth anticipating and answering here the objection, to be expected from a Catholic standpoint, that Niebuhr has a debased notion of “freedom” under which it’s simply the ability to do what one wants, as opposed to the ability to do what one ought. See, e.g., WHTT at XXX (distinguishing the two conceptions of freedom). When Niebuhr speaks of freedom, it is almost always a capacity that envisions *higher* possibilities and makes possible creative *advances*. See, e.g., note XX and accompanying text; ND II at 244 (“Man’s freedom over the limits of nature . . . means that no fixed limits can be placed upon either the purity or the breadth of the brotherhood for which men strive in history.”). Even though freedom can be the basis for sin, it nevertheless has a teleological feature; it is oriented toward human goods, including the ultimate norm of agape love, as a category even if not in particular instances. Thus Niebuhr’s conception of freedom is not purely proceduralist, formal, or negative.

Christian realism, like natural-law theory, makes certain universal moral claims based on what will promote human flourishing in the light of perennial features of human nature. It should recognize and embrace those foundational claims.

B.

However, one can recognize the existence of universal truths in principle and still assert that many claims to such universality are false. Niebuhr's Christian realism, as noted above, emphasized "the relativizing effect of both freedom and sin upon all historical norms."⁶² Sin – more accurately, the recognition of sin – relativizes norms because sin, as already noted, often consists in trying to resolve anxiety about our finitude by giving absolute status to specific historical norms. And the human capacity of freedom relativizes historical norms because it always holds forth and challenges us with greater possibilities of justice and brotherhood – with greater approximations of Christlike love – than are contained in any specific historical norm. Niebuhr accused natural law of denying both of these relativizing facts.

Many natural-law thinkers have argued that the method is not static and can take account of historical contingencies, human freedom, and differences in human perspectives. Murray made this argument in *We Hold These Truths*. He stated that "history cannot alter the natural law," in the sense that "[h]istory does not alter the basic structure of human nature, nor affect the substance of the elementary human experiences, nor open before man wholly new destinies."⁶³ "But," he wrote, history does change "the human reality":

It evokes situations that never happened before. It calls into being relationships that had not / existed. It involves human life in an increasing multitude of institutions of all kinds, which proliferate in response to new human needs and duties, as well as in consequences of the creative possibilities that are inexhaustibly resident in human freedom. . . . In a word, it has been abundantly proved in history that the nature of man is a historical nature. 'The nature of man is susceptible of change,' St. Thomas repeatedly states. . . . In this sense, the nature of man changes in history, for better and for worse; at the same that the fundamental structure of human nature, and the essential destinies of the human person, remain untouched and intact.⁶⁴

Phrases such as "the creative possibilities that are inexhaustibly resident in human freedom" and the "increasing multitude of institutions of all kinds" sound just like Niebuhr; likewise the statement that "it has been abundantly proved in history that the nature of man is a historical nature." Murray also protested against "caricatures of the doctrine of natural law": it does not, he said, list "particularized do's and don'ts, nicely drawn up with the aid of deductive logic alone, absolutely normative in all circumstances, ready for automatic application, whatever the factual circumstances may be." Nor does

⁶² NDI at 281.

⁶³ WHTT at 114.

⁶⁴ *Id.* at 112-13.

“its concept of an immutable human nature and an unchanging structure of human ends requir[e] it to deny the historicity of human existence and . . . the virtualities [vitalities?] of human / freedom.”⁶⁵

Murray did not place great emphasis on the other “relativizing” argument: that human institutions and truth-claims are partial in the light of the transcendence of God. Nevertheless, he employed arguments of that sort at various points, including, again, his defense of the Religion Clauses as “articles of peace” rather than “articles of faith.” The regime of equal religious freedom for all does not rest on “dogma[s]” propositions like “religion is an individual matter” or “all religions are different ways to the truth.” If it did, Murray argued, that would establish the theological perspectives underlying such propositions: individualistic Protestantism, or a kind of religious syncretism. Again, the grounds for church-state separation in America are pragmatic and and context-specific: “the demands of social necessity, the rightfulness within our own circumstances of the American manner of asserting the distinction between church and state, and the lessons of experience.”⁶⁶ The “social necessity” and particular circumstance of America, is the unfortunate fact of religious pluralism; the lessons of “experience” are that disputes over religious doctrine become less explosive when they are removed from government’s sphere, and that religion, including the Catholic faith, has proven to flourish more in America with simple freedom than with “legal privilege.”⁶⁷ As already noted, rules against censorship and religious establishment are, Murray said, not “necessarily inherent in the constitution of an ideal society,” but apply to the particular conditions and experience of America.⁶⁸

Murray further called experience “the most powerful” argument, the one “which best harmonizes with the general tone which arguments for our institutions are accustomed to adopt.”⁶⁹ The American founders “were not engaged in broaching a political theory universal in scope and application, a plan for an Ideal Republic of Truth and Virtue. They were arguing for a particular kind of Constitution, a special kind of governmental structure, a limited ensemble of concrete laws, all designed for application within a given society.”⁷⁰ Thus, even as Murray asserted the need for certain universal truths underlying the American political structure, he also allowed much of the foundation to rest on arguments of historical experience and pragmatic results.

Murray did tied this modest method of political justification to Judeo-Christian principles about the unique transcendence of God. He recounted a story that Niebuhr would appreciate:

⁶⁵ *Id.* at 295-96; see *id.* at 298 (I would not at all mind standing with [the critics], tearless, at the grave of any of the shallow and distorted theories that they mistake for the doctrine of natural law.”).

⁶⁶ *Id.* at 76.

⁶⁷ *Id.* at 72-74.

⁶⁸ *Id.* at 169.

⁶⁹ *Id.* at 77.

⁷⁰ *Id.*

If perhaps what troubles [critics] is the fact that the commitment [to church-state separation] is limited, in the sense that it is not to the truth and sanctity of a dogma but only to the rationality and goodness of a law, they might recall the story of Pompey. After the capture of Jerusalem in 63 B.C., he went to the Temple and forced his way into the Holy of Holies. To his intense astonishment he found it empty. He should not have been astonished; for the emptiness was the symbol of the absence of idolatry. It symbolized the essential truth of Judaism, that One is the Lord.⁷¹

Murray then quoted approvingly Daniel Boorstin's defense of the same modesty at the heart of American affirmations: "Far from being disappointed, we should be inspired that in an era of idolatry, when so many nations have filled their sanctuaries with ideological idols, we have had the courage to refuse to do so."⁷²

The increased appreciation of contingency and difference in moral-political judgments is a common feature of modern natural-law approaches. Jeanne Heffernan, for example, traces it in the work of modern Thomist Yves Simon, who like Niebuhr "perceives the ambiguity of action."⁷³ Simon clearly recognized one of the causes of contingency discussed above – the difficulty of applying absolute general principles to an endless variety of conditions – and wrote that because of such complexities "a practical judgment always falls short of certainty."⁷⁴ As to the other Niebuhrian argument against static norms – the argument that they frequently reflect sinful pride elevating partial truths to absolute status – Heffernan does not identify a precise parallel in Simon's work. But Simon strongly emphasized sin more generally, writing that pessimism about human moral capacities constitutes "*depth of moral intelligence*," and that optimists about human nature "are the shallow minds, the idiots of the moral order."⁷⁵ As Robin Lovin observes, Niebuhr "would no doubt be surprised to see how closely the revisions that have developed in Catholic ethics since Vatican II have paralleled his own [concern that there be] contextual flexibility."⁷⁶

On the question of how to distinguish universal principles from those contingent upon circumstances, the answers given by Murray and Niebuhr, though not identical, parallel each other. First, universal principles are likely to be general, while their specific applications are likely to vary based on circumstances. Murray spoke of a fixed, basic natural law "with changing, progressive applications."⁷⁷ While general norms are found

⁷¹ *Id.* at 77-78.

⁷² *Id.* at 78.

⁷³ Jeanne Heffernan, *Acknowledging Ambiguity and Difference in Politics: A Christian Realist Challenge to Thomists*, in *REASSESSING THE LIBERAL STATE: READING MARITAIN'S MAN AND THE STATE* 87, 96 (Timothy Fuller and John P. Hittinger eds. 2001).

⁷⁴ *Id.* at 96 (quoting YVES SIMON, *PRACTICAL KNOWLEDGE* 12 (1991)).

⁷⁵ *Id.* at 95 (quoting YVES SIMON, *FREEDOM AND COMMUNITY* 179 (1968) (emphasis in original)).

⁷⁶ LOVIN, *supra*, at 16.

⁷⁷ WHTT at 331.

in “the same old primary principles of the natural law,” in the cases of new problems that arise from changing circumstances and that “concern the particulars of morals,” the answers will be “new specifications of old principles.”⁷⁸ Likewise, Niebuhr pointed to the distinction between the universality of the general prohibition against murder and “the endless relativities which manifest themselves in the practical application of the general prohibition.”⁷⁹

Second, to make a proper identification of universal as opposed to contingent standards – and avoid giving partial perspectives an absolute status – requires a process of reflection with purposeful effort at detachment from one’s own interest. For Murray the natural lawyer, valid principles and standards were identified by right reason, which requires, in Aquinas’s words, “careful inquiries” and “much reflection.”⁸⁰ Niebuhr was far less willing to identify “reason” as the lodestar for identifying valid principles, since he thought that sin could employ the methods of reason as a cover for self-assertion. He kept a greater role for direct dependence on God, in “moments of prayerful transcendence.”⁸¹ But he nevertheless affirmed the necessary role of “critical intelligence” in analyzing moral-social problems, even for the relatively modest realist project of “arbitrat[ing] and adjust[ing] between competing interests.”⁸² He also stated that although “[i]t is not possible to remain fully conscious of the egoistic corruption in the truth, while we seek to establish and advance it in our thought and action,” nevertheless “it is possible in moments of prayerful transcendence over the sphere of interested thought and action to be conscious of the corruption.”⁸³ Again, the insights from such analysis and reflection must in principle be capable of objective validity, or else Niebuhr’s own extensive set of claims about human nature and ends, based on such reflection and intelligence, is also undercut.

C.

An emphasis on historical contingency seems to cut against fixed rules, which cannot capture all of the complexities and possibilities – including unanticipated possibilities – of a given situation. This sets up a basic tension, familiar of course to lawyers, between generally applicable rules and case-specific judgments. On this score,

⁷⁸ *Id.* at 113-14 (citing Aquinas’s distinction between the “formal” consideration of just and good things, in which “they are always and everywhere the same,” and the “material” consideration, in which what is just may change “on account of the mutability of human nature, and the diverse conditions of men and affairs according to the diversity of times and places.”)

⁷⁹ ND II at 254.

⁸⁰ WHTT at 118.

⁸¹ ND II at 217 n.4.

⁸² REINHOLD NIEBUHR, AN INTERPRETATION OF CHRISTIAN ETHICS 100 (1935).

⁸³ ND II at 217 n.4 (adding that “it is also possible to carry this insight into our interested thoughts and actions so that it creates some sense of pity and forgiveness for those who contend against our truth and oppose our action”).

Christian realism might seem again to stand against natural law. But again, the two are not necessarily incompatible.

Among Murray's primary criticisms of Niebuhrian realism was its lack of a structure of rules. He made this criticism in *We Hold These Truths* in the context of reviewing past forms of American (by which he meant Protestant) ethics. The "old" Protestant morality, Murray said, wrongly equated personal with political ethics and therefore applied the simple commands of Jesus to the different world of national and international decisionmaking. This critique Murray largely shared with Niebuhr. But Murray then turned his attack on the "new" Protestant moralist, the "ambiguist" – clearly the Niebuhrian realist who has shattered the simple illusions of the old morality but has left a moral vacuum.

Against the absolutism of the old morality, in which the contingent facts got lost under insistence on the absolute precept, the new morality moves toward a situationalism, in which the absoluteness of principle tends to get lost amid the contingencies of fact. . . . Whereas the old morality saw things as so simple that moral judgment was always easy, the new morality sees things as so complicated that moral judgment becomes practically impossible.⁸⁴

It is a caricature to say that Christian realism renders moral judgments "practically impossible"; the approach surely supplies guidance for making the "proximate" moral judgments that Niebuhr said are crucial and often our only option under conditions of sin. However, it is fair to charge that in Niebuhr's hands, Christian realism tended toward "situationalism." Niebuhr habitually analyzed individual moral-political problems by recourse to the most general of considerations, such as the law of sacrificial love and the realities of sinfulness, without the mediation of rules. He "prefer[red] to maintain a dialectical tension [between love and justice] rather than spell out any second-order principles which might follow from them."⁸⁵ This method could brilliantly reveal the dynamics at work in a situation, but it raised the risk of collapsing into pure consequentialism and utilitarian calculation – a full readiness to commit a lesser evil whenever it would prevent a greater one – as when Niebuhr refused to renounce in principle the fire-bombing of German cities near the end of World War II.⁸⁶

An absence of rules can certainly be criticized from the perspective of natural-law affirmations. A system of social-political ethics without rules fails to recognize that the unchanging nature of God is revealed in significant ways in the world. For example, "[a]n unbinding love [one not reflected in binding rules] would seem the least likely conclusion one would reach if he seriously regarded the freedom of God's love in binding Himself to the world as the model for all covenants between men."⁸⁷

⁸⁴ WHTT at 278.

⁸⁵ RICHARD HIGGINSON, *DILEMMAS: A CHRISTIAN APPROACH TO MORAL DECISION MAKING* 109 (1988).

⁸⁶ *Id.*

⁸⁷ PAUL RAMSEY, *DEEDS AND RULES IN CHRISTIAN ETHICS* 127-28 (1967).

But an absence of rules is also troublesome even under risk-minimizing or realist premises. If human beings are stubbornly partial in their moral reasoning, this strongly suggests that their decisionmaking should be constrained by nondiscretionary rules, rather than liberated for quite free-floating assessments of how general principles apply to each unique set of circumstances. “If faithfulness to the neighbor is a prime imperative, then the concepts and categories of Christian ethics ought to fit the demand. Too much talk of approximation and ambiguity hurts the cause.”⁸⁸ For example, an absolute rule against directly or intentionally attacking noncombatants might be justified as a response to “the intractable tendency of human persons to take advantage of one another.”⁸⁹ An absolute rule may not produce the optimal moral result in all cases it covers, but it may still be justified because it produces the right result in most cases and case-by-case decisionmaking is too risky. These are familiar arguments for rules even under consequentialist ethics. In Christian realist terms, such a rule can be a justified “proximate” solution,⁹⁰ one that despite its imperfection is justified given the realities of the world.

Christian realists after Niebuhr have long realized the need for a structure of rules. Niebuhr’s close colleague John Bennett developed the concept of “middle axioms”: rules that are “more concrete than a universal ethical principle and less specific than a program that includes legislation and political strategy.”⁹¹ Although such axioms may “still leave many pressing problems unsolved,” they are important because they “give both the Church and the individual Christian a sense of direction.”⁹² Likewise, Protestant ethicist Paul Ramsey offered the absolute rule of noncombatant immunity as “an extension within” Christian realism.⁹³ The rule still recognizes deadly force to protect others as a translation of Christian love into circumstances of sin; but it also channels that response, in part precisely because of the sinful tendencies in the one employing force.

With its sense of complexity and contingency, Christian realism is likely to view many of these rules as provisional, even though justified. Such rules would be provisional, first in that they do not directly embody a universal moral value but rather are constructed as a means of balancing varying fundamental values; and second, in that they would be subject to reexamination in the light of new developments. “Middle axioms,” for example, “are not binding for all time, but are provisional definitions of the type of behavior required of Christians at a given period and in given circumstances.”⁹⁴ As with the doctrine of *stare decisis* in law, a rule-based realism would try to balance flexibility and certainty, being willing to alter moral principles but presuming against

⁸⁸ Werpehowski and Crocco Introduction, at xxi.

⁸⁹ *Id.*

⁹⁰ See *supra* note XX and accompanying text.

⁹¹ JOHN C. BENNETT, CHRISTIAN ETHICS AND SOCIAL POLICY 77 (1946).

⁹² *Id.*

⁹³ Cite to THE JUST WAR.

⁹⁴ Bennett, *supra* note XX, at 77 (quotation omitted).

doing so. Once again, I see no basic incompatibility here with natural-law theory. Natural law may seem to see more universality and less contingency in moral-political statements; but these are questions of degree, and in the hands of Murray and others natural law clearly acknowledges contingency. Nor does natural law, as Murray explicated, regard the universal and the contingent as the two sole, mutually exclusive categories – nothing but eternal rules and changing prudential judgments. He describes a series of descending principles of natural law (from “primary” to “particular”), at each stage becoming more specific and thus requiring more specific knowledge and judgment to ascertain.⁹⁵ Principles in the middle of the series look similar to the middle axioms of Christian realism.

IV.

A.

If the arguments here are correct, then natural law and Christian realism actually share significant common ground and, at least with some qualifications, may profitably be combined in Christian moral analysis. Both approaches assert that moral-political principles and institutions should rest on assessments of human nature and what will promote human flourishing in the light of that nature. Both approaches affirm that there are real, objectively valid moral-political principles, grounded ultimately in the work of God the creator. Both recognize that the universally valid moral-political principles tend to be general in nature, and that more specific rules, applying the generalities to concrete situations, will vary more according to particular circumstances.

There remain many differences in emphases between natural law and Christian realism, but often these differences complement and correct each other, so that a full vision of Christian political ethics can benefit from both. Each approach can take account of human nature both in its ideal and in its fallen aspects, as Christian political thought should; but natural law will contribute more to explicating the ideal ends of human beings, and Christian realism more to exploring their fallenness and its consequences. Each can affirm both universal moral-political principles and contingent, situation-specific ones; but natural law offers more resources for identifying the universals, while Christian realism reminds us of the importance of the contingent. Natural law offers assurance that ethical-political reasoning can rest in some solid foundations, while Christian realism offers the pointed reminder that Christian life in the world is characterized by tension and thus many political solutions must be provisional and subject to adjustment. As to sources of political arguments and decisions, natural law reflects more the contributions of general human rationality, Christian realism the role of distinctive Biblical concepts like sacrificial love and original sin.

A combination of natural law and Christian realism suggests that a moral-political principle or institution is most solid when its justification rests on both the positive possibilities of human nature and on its negative tendencies. For example, the most powerful case for democracy combines, in Reinhold Niebuhr’s words, “man’s capacity for justice” with “man’s inclination to injustice.”⁹⁶ People of all sorts have both a need

⁹⁵ WHTT at 111.

⁹⁶ CLCD at xi.

and a capacity to participate in decisions about the common good through a deliberative process; they also have a tendency to aggrandize themselves that means that political power should not be concentrated. More precise features of democracy can also be justified on such dual grounds: on the positive side separation of powers enables each governmental branch (legislative, executive, judicial) to act under norms proper to its functions, and on the negative side it reduces the risk of abuse from concentrated power. Similar strategies have been used to justify other institutions and their contours: for example, a regulated capitalism as defended by Michael Novak, or monogamous marriage as defended by Paul Ramsey.⁹⁷

B.

To say that Murray and Niebuhr, natural law and Christian realism, share to some extent a common project is not to defend the value of that project. Here I will argue – only briefly – that the approach that Murray and Niebuhr is of great value in bringing Christian ethics to bear on questions of law and public life in America.

First, as I suggested in part I, the emphases of natural law and Christian realism undergird the most profound features of the American political system. As Murray reminded us, the commitment to principles of liberty, equality, and human dignity is grounded in the affirmations and methods of the natural-law tradition. One cannot understand America without understanding the contours and importance of these ideals, however frequently the nation has failed to live up to them. At the same time, the design of the American system shows an equally deep recognition of the limits of human ideals and the need to balance power and minimize risks of abuse. These themes are prominent in Christian realism, which grounds them in a biblically based view of human nature. But both Murray and Niebuhr would say that a basically sober view of human nature actually provides a firmer foundation for the pursuit of ideals than does a basically optimistic view. Robin Lovin summarizes the similar contributions that Murray and Niebuhr make in their “ecumenical approach to liberal democracy”: “The biblical faith provides the ideas about human good and moral responsibility on which the liberal democratic consensus rests. When that consensus is confused or threatened, recourse to the faith that sets its fundamental terms is a necessary part of its self-defense and self-renewal.”⁹⁸

Second, as Lovin emphasizes, the approaches of both Murray and Niebuhr are “ecumenical.” They bring their insights to bear on public life in terms that others can access and evaluate without having already adopted the premises of the Christian faith. Natural-law theory, of course, aspires to be a method by which all persons of good will can reason about ethical principles without resort to uniquely Christian revelation. Likewise, Reinhold Niebuhr was often seen, by others as well as himself, as a Christian “apologist” whose analysis led many to see, in “the world of politics and ethics[,] how Christian insights can illuminate the strange compound of altruism and egoism, of hope

⁹⁷ See [Novak cites] (defending capitalism as embracing and promoting human freedom and creativity and also limiting dangers of centralized power); Werpehowski and Crocco, *supra*, at xxii (noting Ramsey’s “argu[ment] that the human capacity for fidelity makes marriage possible, and that the human capacity for infidelity makes marriage necessary”).

⁹⁸ LOVIN, *supra*, at 193 (citing Murray’s discussion of “the American consensus” in WHTH at 79-123).

and despair, of high promise and tragic failure, which forms the very substance of human life.’⁹⁹ My own view is that Niebuhr’s Christian realism is more distinctively Christian in its categories than is natural-law theory, while also remaining thoroughly ecumenical in that its arguments do not require one to presuppose those Christian categories. But both natural law and Christian realism have this ecumenical nature, which is a valuable feature for arguments in a pluralistic society where many people do not accept Christian premises. I do not believe that there is any strict obligation to present political arguments in this ecumenical or publicly accessible fashion, let alone any constitutional obligation.¹⁰⁰ Nevertheless, in a pluralistic society, arguments that are accessible to others are more likely to be effective in political debate and lead to productive deliberation about political choices. This has only become more true as religious pluralism has increased in the four decades since John Courtney Murray and Reinhold Niebuhr spoke to the nation.

⁹⁹ Alan Richardson, *Reinhold Niebuhr as Apologist*, in KEGLEY AND BRETALL, *supra*, at 215, 222

¹⁰⁰ [Cites to Perry, Greenawalt, etc.]