

Ratzinger's Republic: Pope Benedict XVI on Natural Law and Church and State

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GIVEN THE PLACE natural law holds in Catholic thought, it would be a serious charge to claim that a papal encyclical rejects natural law. According to Kevin M. Doak, that is what one of the present authors, Vincent Strand, has done in an article considering Pope Benedict XVI's *Caritas in Veritate*.¹ The aim of Strand's article was to demonstrate that the encyclical's method evinces a reliance on Henri de Lubac's theology of nature and grace, inasmuch as it derives economic policy from theological revelation. This is a consequence, it was suggested, of adopting the Lubacian view that human nature is intrinsically ordered to a supernatural end. In the course of the argument, Strand briefly noted that *Caritas in Veritate* has a meager reliance on natural law, which he suggested is not atypical for Benedict, who at times is skeptical about natural-law arguments because of his sense of reason being historically conditioned.² Professor Doak thinks this is a misreading of Benedict on natural law, one which stems from Strand's faulty analysis of nature and grace.³

¹ Vincent L. Strand, S.J., "On Method, Nature, and Grace in *Caritas in Veritate*," *Nova et Vetera* (English) 15, no. 3 (2017): 835–52. Doak leveled his criticism in a paper entitled "Globalism in Natural Law Theory: Pope Benedict XVI and Paul Francis Kotaro Tanaka," delivered at the conference "Jesus of Nazareth and the Church's Tradition: The Enduring Legacy of Benedict XVI," sponsored by The Thomistic Institute and held at Georgetown University in Washington, DC, on September 15, 2018. The paper immediately precedes the present essay in this issue of *Nova et Vetera* (English): 653–668.

² Strand, "On Method, Nature, and Grace," 845, 849–50.

³ Doak, "Globalism in Natural Law Theory," 655.

Doak's criticism provides the opportunity to consider in finer relief Benedict's thinking on natural law, which, as Doak rightly points out, is an understudied area of the former Pope's theology, particularly in Anglophone scholarship.⁴ Because Benedict's references to natural law are ensconced in the wider matrix of his political thought, we need to widen our vision to consider his political theory more broadly in order to understand his view of natural law. As we do so, an unresolved tension comes into view. On the one hand, Benedict's sense of reason being historically conditioned and in need of revelation leads him to argue that Christianity alone can provide the moral values the state requires; put simply, the state needs the Church. On the other hand, Benedict favors a non-confessional, pluralistic state; indeed, he believes it belongs to the very nature of the Church to be separate from the state. Faced with these two commitments, Benedict argues that the contribution the Church is to make to the state is to supply moral values that came about in the historical ambit of Christianity, but which can—and must—be stripped of their elements derived from divine revelation and reduced to their rational kernel, which in theory is accessible to all people, independent of their religious belief. Benedict's ambiguity about natural law is situated within this fundamental tension in his political theory: his notion of reason's historical embodiment and need of faith makes him suspicious of natural-law arguments, but his commitment to a liberal political arrangement leads him to employ natural law as an apparatus by which society can secure religiously neutral moral values. Benedict does not succeed in demonstrating the compatibility of the two poles that constitute the tension, which undermines the overall coherence of his political thought.

Revisiting Nature and Grace and Natural Law

Before turning to the question of natural law, however, we must first briefly respond to Doak's criticism of Strand's analysis of nature and grace, since Doak believes this is the origin of Strand's erroneous reading of Benedict on natural law. Doak gives no evidence that Strand's main point concerning nature and grace, namely, that Benedict's theology of nature and grace is influenced by the Lubacian theory, is flawed; in fact, Doak's praising Stephen Fields's reading of Benedict's theology of grace only supports Strand's primary claim, as Fields explicitly notes that he and Strand both find the influence of de Lubac on Benedict.⁵ Moreover, it must be noted

⁴ Doak, "Globalism in Natural Law Theory," 654–55.

⁵ Doak, "Globalism in Natural Law Theory," 653–54; Stephen M. Fields, S.J., "Introduction: Benedict XVI and Conciliar Hermeneutics," *Nova et Vetera* (English) 15,

that nowhere did Strand praise the Lubacian model of nature and grace or judge its effects on the method of *Caritas in Veritate* salutary.⁶ Doak's central accusation is that Strand's portrayal of Thomism is "little more than a familiar stereotype."⁷ The stereotype we suspect Doak has in mind is one that paints the Thomist position as an extrinsicist, two-tiered model of nature and grace, in which nature is deemed complete in itself and lacking any intrinsic relation to grace.⁸ Yet Strand's comments on Thomism in the 2017 article were limited and straightforward: the position favoring the autonomy of economics from divine revelation aligns with a type of Thomism that distinguishes the natural and supernatural more sharply than they are distinguished in the Lubacian theory. Strand avoided the question of whether such a view is faithful to St. Thomas himself, and did not attribute it to all types of Thomism. Strand's treatment of contemporary Thomism also summarized Lawrence Feingold's and Steven Long's criticism of de

no. 3 (2017): 705–727, at 725. The Fields article Doak cites is Stephen M. Fields, S.J., "On Nature and Grace in *Deus Caritas Est*," *Nova et Vetera* (English) 15, no. 3 (2017): 817–33. Peter Samuel Kucer is correct to note Ratzinger's theology does not collapse the orders of nature and grace as occurs in John Milbank, but in his attempt to distinguish Ratzinger from Milbank (and provide a nature–grace foundation for Ratzinger's separation of Church and state), Kucer goes too far in claiming that for Ratzinger "nature and grace are not intrinsically in their roots united to one another"; see Kucer, *Truth and Politics: A Theological Comparison of Joseph Ratzinger and John Milbank* (Minneapolis, MN: Fortress, 2014), 224.

⁶ Strand asks whether this leads to compromising the integrity of nature and the legitimate autonomy of human sciences apart from revelation ("On Method, Nature, and Grace," 852).

⁷ Doak, "Globalism in Natural Law Theory," 653.

⁸ E.g., Gerard Loughlin writes: "Neo-Thomism had imagined a pure nature [*natura pura*] that was entirely autonomous with regard to the divine, and that had, in itself, no desire [*desiderium naturale*] for the divine, since it had no means to its attainment. This was a world in which no one had a sense of the world's mystery, of its inexplicable existence"; see "Nouvelle Théologie: A Return to Modernism?," in *Ressourcement: A Movement for Renewal in Twentieth-Century Catholic Theology*, ed. Gabriel Flynn and Paul D. Murray (Oxford: Oxford University Press, 2012), 36–50, at 45. See also Harm Goris, "Steering Clear of Charybdis: Some Directions for Avoiding 'Grace Extrinsicism' in Aquinas," *Nova et Vetera* (English) 5, no. 1 (Winter 2007): 67–80, at 69. De Lubac saw this type of extrinsicism present in neo-Scholasticism and railed against it throughout his career, judging that it was responsible for a host of maladies ranging from religious indifferentism to erroneous interpretations of Vatican II. See, e.g.: Henri de Lubac, *Theology in History*, trans. Anne Englund Nash (San Francisco: Ignatius Press, 1996), 232; de Lubac, *The Mystery of the Supernatural*, trans. Rosemary Sheed, Milestones in Catholic Theology (New York: Crossroad, 1998), xxix.

Lubac.⁹ These theologians argue that a human being receives a proportionality to the supernatural end only with grace—specifically, through the infused entitative habit of sanctifying grace, by which the creature receives a certain connaturality with an end that exceeds its natural powers. Let us go on record and say that we do not think this articulation is reducible to a “familiar stereotype,” as contemporary Thomists have successfully responded to the charge of extrinsicism by demonstrating how human nature contains an intrinsic openness to be elevated to a supernatural end.¹⁰

Doak’s primary concern, however, is not nature and grace, but natural law. According to Doak, Strand maintains that Benedict rejects natural law in *Caritas in Veritate*, moving away from his “earlier interest in Thomism” and “earlier interest in the natural law.”¹¹ This is a gross misrepresentation. Nowhere does Strand claim: (1) that Ratzinger had an “earlier interest in Thomism” (to the contrary, citing works as early as Ratzinger’s 1968 commentary on *Gaudium et Spes*, Strand contends that Ratzinger’s theology had long been characterized by a movement away from the neo-Scholasticism that predominated in Catholic theology from the late-nineteenth to the mid-twentieth century¹²); (2) that Ratzinger

⁹ Strand, “On Method, Nature, and Grace,” 847. For this criticism, see: Lawrence Feingold, *The Natural Desire to See God According to St. Thomas and His Interpreters*, 2nd ed. (Naples, FL: Sapientia Press, 2010); Steven A. Long, *Natura Pura: On the Recovery of Nature in the Doctrine of Grace* (New York: Fordham University Press, 2010).

¹⁰ Feingold and Long have done so through their explication of the doctrine of specific obediential potency (Feingold, *Natural Desire*, 112–13; Long, *Natura Pura*, 31–32). Thomas Joseph White, O.P., and Reinhard Hütter have demonstrated how the ontological structure of the human intellect with its natural and conditional desire to know God provides a point of contact for grace, which elevates this desire to an unconditional desire for the beatific vision; see: White, “Imperfect Happiness and the Final End of Man: Thomas Aquinas and the Paradigm of Nature–Grace Orthodoxy,” *The Thomist* 78, no. 2 (2014): 247–89; Hütter, *Dust Bound for Heaven: Explorations in the Theology of Thomas Aquinas* (Grand Rapids, MI: Eerdmans, 2012), 129–247.

¹¹ Doak, “Globalism in Natural Law Theory,” 653.

¹² Strand, “On Method, Nature, and Grace,” 849–50. Further evidence abounds. Describing his early intellectual formation in his 1977 *Milestones*, Ratzinger contrasts the rich experience he had reading Augustine with the difficulties he had entering the thought of Thomas Aquinas, “whose crystal-clear logic seemed to me to be too closed in on itself, too impersonal and ready-made [*fertig*].” Ratzinger attributes this distaste for Aquinas in part to the version of Thomas he was taught, “a rigid, neoscholastic Thomism” that was distant from his own questions; see *Milestones: Memoirs, 1927–1977*, trans. Erasmo Leiva-Merikakis (San Francisco: Ignatius Press, 1998), 44. Similarly, in a 2016 interview with Peter Seewald, he

had an “earlier interest in natural the law”;¹³ or (3) that *Caritas in Veritate* demonstrates Benedict’s “rejection” of the natural law.¹⁴ Strand said only that the encyclical has a “thin account of natural law,” as its method relies more heavily on divine revelation.¹⁵ Doak has done nothing to disprove that assertion. In fact, after noting that Strand’s article indicates where *Caritas in Veritate* invokes natural law, Doak concedes Strand’s claim that these points are not significantly developed.¹⁶

The main problem Doak finds in Strand’s reading is that it differs from that of German scholars, particularly Martin Rhonheimer and Manfred Spieker, who find in Benedict a vigorous proponent of natural law. Doak locates this difference in the linguistic and historical divide between Anglophone scholars and those of the *deutscher Sprachraum*.¹⁷ Both Spieker and Doak acknowledge that Ratzinger at times seems to criticize natural-law theory, but they have explanations for this. In Spieker’s account, Ratzinger only embraced natural-law theory mid-career, after having been critical of it as a young theologian in the 1964 article “Naturrecht, Evangelium und Ideologie in der katholischen Soziallehre.”¹⁸ Doak,

speaks of the “contempt for the nineteenth century” he had as a young theologian, saying he “wanted out of classical Thomism,” and Augustine showed him this path; see Pope Benedict XVI and Peter Seewald, *Last Testament: In His Own Words*, trans. Jacob Phillips (Bloomsbury: London, 2017), 78.

¹³ Nor does Strand deny this.

¹⁴ Doak, “Globalism in Natural Law Theory,” 654.

¹⁵ Strand, “On Method, Nature, and Grace,” 849.

¹⁶ Doak says it is unsurprising that Benedict does not develop a theory of natural law because Benedict is “a theologian, not jurist” (“Globalism in Natural Law Theory,” 654). This is puzzling: many theologians who are not jurists develop theories of natural law, and many pastors who do not treat natural law at the level of theory nevertheless vigorously invoke the natural law in the domain of practical ethics.

¹⁷ Doak suggests Strand did not cite Rhonheimer’s article because it appeared in a law rather than theology journal, and that Strand ignored Spieker because the piece appeared in German. A more obvious motive is that, as Doak himself notes, Strand’s discussion on Benedict on natural law was not the primary concern of his 2017 article. It occupies only a paragraph of the text, which includes no secondary literature at all—regardless of whether it appeared in German or English, or in a law or theology journal. See: Doak, “Globalism in Natural Law Theory,” 654; Manfred Spieker, “The Quiet Prophet: Benedict XVI and Catholic Social Teaching,” trans. David Lutz, *Logos* 21, no. 1 (2018): 64–82; Martin Rhonheimer, “The Secular State, Democracy, and Natural Law,” in *Pope Benedict XVI’s Legal Thought: A Dialogue on the Foundation of Law*, ed. Marta Cartabia and Andrea Simoncini (Cambridge: Cambridge University Press, 2015), 79–92.

¹⁸ Spieker locates this turnabout in Ratzinger’s involvement in the 1980s as prefect for the Congregation for the Doctrine of the Faith in the controversy over liberation theology and in the dispute in the German church over counseling pregnant

for his part, thinks Ratzinger's early criticisms did not target natural law per se, but rather a distorted Enlightenment version of it.¹⁹

To evaluate these narratives, we must examine Ratzinger's thought on natural law in more detail. As we do so, two currents emerge. The first is comprised of those instances where Ratzinger endorses arguments from the natural law, particularly highlighting its role as the foundation of a just democratic political order.²⁰ Benedict's addresses to political assemblies, such as before the *Bundestag* in 2010 and in Westminster Hall in 2011, exemplify the first current. Four aspects of it may be highlighted. First, Benedict contends that the principles on which civil law rests should be derived from reason rather than revelation.²¹ Second, Benedict argues that reason's ability to apprehend truth prevents democratic society from collapsing either into the "dictatorship of relativism" or into the sheer will of the majority. The foundation of civil law in democratic societies is truth itself.²² Hence Ratzinger often points to natural law as that which must

women ("The Quiet Prophet"); see also Joseph Ratzinger, "Naturrecht, Evangelium und Ideologie in der katholischen Soziallehre: Katholische Erwägungen zum Thema," in *Christlicher Glaube und Ideologie*, eds. Klaus von Bismark and Walter Dirks (Stuttgart: Kreuz, 1964), 24–30. For more on Ratzinger's involvement in the *Schwangerschaftskonfliktberatung* controversy, see Achim Pfeiffer, *Religion und Politik in den Schriften Papst Benedikt XVI: Die politischen Implikationen von Joseph Ratzinger* (Marburg: Tectum, 2007), 63–75.

¹⁹ Doak, "Globalism in Natural Law Theory," 662–64.

²⁰ Pope Benedict XVI, "The Listening Heart: Reflections on the Foundations of Law," Address to the *Bundestag*, September 22, 2011, published as "Affirming the Right to Combat Injustice," ch. 8 in *Faith and Politics: Selected Writings* (San Francisco: Ignatius Press, 2018), 162, 174.

²¹ For representative pieces, see Pope Benedict XVI, "Affirming the Right," 162–63; "Address of His Holiness Benedict XVI at Westminster Hall" (2010), published as "The Ethical Foundations of Political Choices," ch. 7 in *Faith and Politics*, 154–55; "Address of His Holiness Benedict XVI at the Meeting with the Civil Authorities and Diplomatic Corps at the Presidential Palace Gardens in Nicosia" (2010), w2.vatican.va/content/benedict-xvi/en/speeches/2010/june/documents/hf_ben-xvi_spe_20100605_autorita-civili.html; "Address of His Holiness Benedict XVI at the Welcome Ceremony and Meeting with Authorities of State at the Elysée Palace, Paris" (2008), w2.vatican.va/content/benedict-xvi/en/speeches/2008/september/documents/hf_ben-xvi_spe_20080912_pari-elysee.html.

²² Joseph Ratzinger, "Mass 'Pro Eligendo Romano Pontifice': Homily of His Eminence Card. Joseph Ratzinger Dean of the College of the Cardinals" (2005), www.vatican.va/gpII/documents/homily-pro-eligendo-pontifice_20050418_en.html; Benedict XVI, "Ethical Foundations," 154; Benedict XVI, "Affirming the Right," 161; Joseph Ratzinger and Jürgen Habermas, *The Dialectics of Secularization: On Reason and Religion*, trans. Brian McNeil (San Francisco: Ignatius Press,

anchor democracy in truth and prevent it from drifting off into the chaotic seas of the naked will of the majority.²³ Third, Benedict proposes natural law as a basis for checking the human desire for technological mastery over nature, which leads, in the Pope's estimation, only to self-destruction.²⁴ Here Benedict develops his idea of "human ecology."²⁵ Finally, continuing in the line of his papal predecessors, Benedict argues that human rights must have a robust metaphysical grounding in the natural law.²⁶

The second current of Ratzinger's natural-law theory is comprised of those instances in which he questions the effectiveness of natural-law arguments. He does so not because he rejects the existence of natural law per se, but rather because of his sense of reason obtaining in history. This attention to historicity has two dimensions. The first stems from Ratzinger's philosophical belief that human reason is historically conditioned: "In practice . . . a pure rational evidential quality independent of history does not exist. Metaphysical and moral reason comes into action only in a historical context."²⁷ As he argues in "Naturrecht, Evangelium und Ideologie," natural-law theory, and the concept of nature involved in it, did not come about through ahistorical philosophical considerations,

2006), 55–61; Ratzinger, "Does God Exist? A Debate of Joseph Ratzinger with Paolo Flores d'Arcais (September 21, 2000)," ch. 9 in *Faith and Politics*, 232–33; Ratzinger, *Church, Ecumenism and Politics: New Essays in Ecclesiology* (New York: Crossroad, 1988), 179, 185, 194, 216.

²³ Joseph Ratzinger, *Europe Today and Tomorrow: Addressing the Fundamental Issues*, trans. Michael J. Miller (San Francisco: Ignatius Press, 2007), 63–64; Ratzinger, *The God of Jesus Christ: Meditations on the Triune God*, trans. Brian McNeil (San Francisco: Ignatius Press, 2008), 46.

²⁴ Joseph Ratzinger, *Dogma and Preaching: Applying Christian Doctrine to Daily Life*, ed. Michael J. Miller, trans. Michael J. Miller and Matthew J. O'Connell (San Francisco: Ignatius Press, 2011), 92; Ratzinger, *God of Jesus Christ*, 46–47.

²⁵ Spieker, Rhonheimer, and Doak all highlight that Benedict refers to the human person when he speaks of "nature" (Spieker, "The Quiet Prophet," 71; Rhonheimer, "The Secular State, Democracy, and Natural Law," 88; Doak, "Globalism in Natural Law Theory," 657). While this is true, one should not overlook the fact that Benedict has an analogical understanding of nature that encompasses all of creation, including human beings. Using this analogical notion of nature, Benedict argues that ecological concern must also concern the human person; see Benedict, "Affirming the Right," 165–66.

²⁶ Ratzinger, *Europe Today and Tomorrow*, 77; Pope Benedict XVI, *Verbum Domini* (2010), §101; Pope Benedict XVI, *Pope Benedict in America: The Full Texts of Papal Talks Given During His Apostolic Visit to the United States* (San Francisco: Ignatius Press, 2008), 95–96.

²⁷ Joseph Ratzinger, "Truth, Values, Power: Touchstones of a Pluralistic Society," ch. 6 in *Faith and Politics*, 95–150, at 147.

but rather was shaped by a concrete historical Christian milieu and its attendant theological beliefs: "Implicitly, the standard of natural law is strongly colored and formed by key Christian ideas and is unthinkable without them."²⁸ He criticizes the prior social teaching of the Church for overlooking historicity in its attempt to express social teaching in abstract, ahistorical formulas.²⁹ He likewise says that natural-law theory at times was misapplied because it was burdened with too much specifically Christian content.³⁰

Though Ratzinger regards the concept of nature that came about in Christianity through the encounter between Greek philosophy and biblical faith as true, he also realizes that this view of nature is no longer widely held. Without it, natural-law arguments can gain little purchase:

What formerly seemed a compelling insight of God-given reason retained its evidential character only for as long as the entire culture, the entire existential context [*der ganze Lebenszusammenhang*], bore the imprint of Christian tradition. To the extent to which the fundamental Christian consensus [*der christliche Grundkonsens*] disintegrated and there remained leftover only a naked reason [*eine nackte Vernunft*],—which refuses to be instructed by any historical reality and wants instead only to listen to itself—the evidential character of morality also fell apart.³¹

This sheds light on Ratzinger's remark to Jürgen Habermas that natural law has become a dull instrument, because the concept of nature on which it relies has been pushed aside by the theory of evolution.³² Elsewhere, Ratzinger says the concept of natural law has become a "laughingstock" (*ins Lächerliche gezogen*).³³ This loss of the sense of nature that existed in Christian contexts leads him to a measure of pessimism about the

²⁸ Ratzinger, "Naturrecht, Evangelium und Ideologie," 29 (translation ours).

²⁹ Ratzinger, "Naturrecht, Evangelium und Ideologie," 29. When responding to Walter Kasper's accusation of Platonism in *Introduction to Christianity*, Ratzinger remarked that theologians should be forbidden to use the word "historical" (*geschichtlich*) for a time, since the word has become a stand-in for everything and nothing; nonetheless, the concept has remained operative in his theology; see Ratzinger, "Glaube, Geschichte und Philosophie: Zum Echo auf *Einführung in das Christentum*," *Hochland* 61 (November/December 1969): 537.

³⁰ Ratzinger, *Church, Ecumenism and Politics*, 201.

³¹ Ratzinger, "Truth, Values, Power," 144 (translation significantly modified).

³² Ratzinger, *Dialectics of Secularization*, 69–70.

³³ Ratzinger, *God of Jesus Christ*, 46.

persuasiveness of natural-law arguments in the contemporary world. Furthermore, it explains in part why Benedict's comments on natural law, especially before political assemblies, often are principally an *apologia* for the existence of natural law itself.³⁴

A second dimension of Ratzinger's stress on historicity is more properly theological: natural law obtains not in a hypothetical order where human nature is untouched by sin and grace, but rather in the real order in which both are active and in which reason needs faith. Ratzinger frequently points to the intelligibility of nature as evidence that it did not come about by chance, but rather was made by an intelligent creator—indeed, insofar as Ratzinger has a natural theology, this is its basic outline. This means that nature herself is not the origin of the laws discovered within her. Rather, they were placed there by the Creator.³⁵ Thus natural law finds its ultimate metaphysical grounding in God, and, correlatively, the existence of natural law points back to its author.³⁶ For Ratzinger, however, this detection of the Creator in the intelligibility of creation does not remain quarantined within the limits of reason alone. Rather, as one proceeds from the intelligibility of nature to the author of this intelligibility, one discovers love at the heart of morality and of reality, and so is opened to an encounter with the incarnate God revealed in Jesus Christ.³⁷ In this journey, one discovers that “the realms of revelation and reason penetrate one another very closely [*greifen . . . ganz eng ineinander*].”³⁸ Ratzinger has long been suspicious of drawing a strict division between reason and revelation. He criticizes the neo-Scholastic attempt to demonstrate the *preambula fidei* independently from faith.³⁹ Likewise he contends that the Thomist division between

³⁴ E.g., in his addresses before the *Bundestag* and in Westminster Hall.

³⁵ Joseph Ratzinger and Peter Seewald, *God and the World: A Conversation with Peter Seewald* (San Francisco: Ignatius Press, 2002), 160–64; Ratzinger, *God of Jesus Christ*, 46; Joseph Ratzinger, *Truth and Tolerance: Christian Belief and World Religions*, trans. Henry Taylor (San Francisco: Ignatius Press, 2004), 238–39; Pope Benedict XVI, General Audience of November 14, 2012 (“Year of Faith: The Ways That Lead to Knowledge of God”), w2.vatican.va/content/benedict-xvi/en/audiences/2012/documents/hf_ben-xvi_aud_20121114.html.

³⁶ Benedict XVI, “Affirming the Right,” 166–67; Joseph Ratzinger, *A Turning Point for Europe? The Church in the Modern World: Assessment and Forecast*, trans. Brian McNeil (San Francisco: Ignatius Press, 1994), 43–44; Benedict XVI, *Verbum Domini*, §9.

³⁷ Joseph Ratzinger, *Gospel, Catechesis, Catechism: Sidelights on the Catechism of the Catholic Church*, trans. Adrian Walker (San Francisco: Ignatius Press, 1997), 16–17.

³⁸ Ratzinger, *Turning Point for Europe?*, 43.

³⁹ Ratzinger, *Truth and Tolerance*, 136.

philosophy and theology has given birth to an inadequate juxtaposition between the two orders. Reason never obtains as “pure,” Ratzinger judges, but rather as historically conditioned—which is not to deny the existence of reason, but rather to affirm “a human reason *in faith*.”⁴⁰

This bears directly on Ratzinger’s thoughts on natural law. In his doctoral dissertation, *Volk und Haus Gottes in Augustins Lehre von der Kirche*, he notes how natural law has come to be thought of as superior both to positive human law and to positive divine law, since natural law is understood to be anchored in being whereas positive law is anchored only in will, which is contingent. This has led the Church to attempt to ground her norms as much as possible in natural law, while divine positive law recedes into the background. Against this tendency, Ratzinger affirms the equality of divine positive law with natural law.⁴¹ Ratzinger proposes that the best way to move forward on the issue of natural law is to consider it analogously to natural theology. Natural theology indisputably exists, but because of sin’s wounding of human nature, supernatural revelation is now morally necessary even for the mere securing of natural theology. The same pattern, Ratzinger says, may be applied to natural law: without supernatural revelation, natural law is practically ungraspable.⁴²

Ratzinger did not abandon this view as a misguided youthful intuition. Sixty years later, we find him making similar remarks in a letter to Marcello Pera.⁴³ Benedict affirms a certain autonomy of the *ordo naturalis* from the *ordo supernaturalis*, but points out dangers with this *duplex ordo* approach. He expresses one in the terms of de Lubac, whom he mentions by name: coming to think of the *ordo naturalis* as self-contained and complete in itself so that the Gospel and what is specifically Christian are regarded as “an ultimately superfluous superstructure.”⁴⁴ Furthermore, Benedict warns, the *duplex ordo* approach can forget the reality of original sin, which leads to embracing naively optimistic positions that do not correspond to reality: “A naïve confidence [*un’ingenua fiducia*] in reason results that does not perceive the actual complexity of rational knowledge in the

⁴⁰ Joseph Ratzinger, “The Dignity of the Human Person,” in *Commentary on the Documents of Vatican II*, ed. Herbert Vorgrimler, 5 vols. (London: Burns & Oates, 1969), 5:120. See our earlier comments on this point in Strand, “On Method, Nature, and Grace,” 849–50.

⁴¹ Joseph Ratzinger, *Volk und Haus Gottes in Augustins Lehre von der Kirche*, Joseph Ratzinger Gesammelte Schriften 1 (Freiburg: Herder, 2011), 400–401.

⁴² Ratzinger, *Volk und Haus Gottes*, 401n6.

⁴³ The letter is a response to Pera’s book *La Chiesa, i diritti umani e il distacco da Dio* and is published in English translation as the preface to *Faith and Politics*.

⁴⁴ Benedict XVI, *Faith and Politics*, 17–18 (preface).

ethical realm.” Benedict continues: “The drama of the dispute about the natural law clearly shows that the metaphysical rationality that is presupposed here is not immediately evident.”⁴⁵ Hence, for Benedict, nature will function “naturally” in the postlapsarian condition only when assisted by grace. This leads him to the bold claim that “the Church community is required as the historic condition for the activity of reason.”⁴⁶

In light of this survey of Benedict on natural law, it is clear that neither Spieker's nor Doak's account of Ratzinger on natural law is satisfying. They fail to see that Ratzinger's ambivalence about natural law continues late into his career and that it is rooted in one of his key theological principles: reason and revelation obtain *in concreto* in a dynamic interplay, since reason is not “pure” but historical, shaped not only by context taken in a general, philosophical sense, but—in a specifically theological sense—by sin, grace, and revelation.

Ratzinger on Church and State

Given this ambivalence, one might wonder why Ratzinger invokes natural law at all. An answer is found in his church–state theory, where natural law has an essential task of providing the state with non-confessional moral resources that it cannot furnish on its own. Before considering this in greater detail, it will be helpful to present the general principles of Ratzinger's political thought. At its core is the conviction that Christianity desacralized the state and opened up a fundamental distinction between secular and sacral authority.⁴⁷ The state is not the whole of human existence and does not encompass all human hope. A consequence is the rejection of the myth of the divine or utopian state.⁴⁸ Thanks to Christianity, Ratzinger opines, the state is no longer the bearer of a religious authority extending to the innermost recesses of conscience, but points beyond itself to another community for its moral basis.⁴⁹

It follows for Ratzinger that membership in the Church is voluntary, and she has no civil authority. He rejects the thesis advanced by many

⁴⁵ Benedict XVI, *Faith and Politics*, 18 (preface; translation modified).

⁴⁶ Thus, as Benedict told the U.S. bishops in 2008, a current exigency is cultivating “a greater sense of the intrinsic relationship between the Gospel and the natural law”; see Ratzinger, *Church, Ecumenism and Politics*, 155, and *Pope Benedict in America*, 54.

⁴⁷ Ratzinger, *Church, Ecumenism and Politics*, 146–47; see also Thomas Rourke, *The Social and Political Thought of Benedict XVI* (Lanham, MD: Lexington Books, 2010), 5.

⁴⁸ Ratzinger, *Church, Ecumenism and Politics*, 143–46.

⁴⁹ Ratzinger, *Church, Ecumenism and Politics*, 156.

Catholic thinkers that the Church, while having no direct authority to mete out civil punishments, can instruct the civil authorities to do so. This authority belongs only to the state, which, on account of its desecularization, is essentially secular.⁵⁰ Ratzinger applauds the development in Catholic thought of a positive concept of the secular, non-messianic state through the adoption of Aristotle and natural law theory.⁵¹ It pertains to the very nature (*Wesen*) of the Church to be separate (*getrennt*) from the state: "It belongs to the Church neither to be a state nor a part of the state but, rather, to be a community based on convictions [*Überzeugungsgemeinschaft*]." ⁵² Ratzinger criticizes the Middle Ages and early modern period for disturbing the proper equilibrium between Church and state, leading to a de facto fusion between the two.⁵³ This was a failure to recognize that faith can only become a political force if it does so after the pattern of Jesus, that is, in powerlessness.⁵⁴

Nonetheless, Ratzinger insists, Christians do not have a negative view of the state as such, even when they are persecuted, and they do what they can to build it up.⁵⁵ The writings of Augustine show awareness that alongside Nero, there was also Constantine, and hence the political was not necessarily evil and unjust, but also could be grounded in truth and justice.⁵⁶ Christians participate in the building up of a coexistence based on truth, freedom, love, and justice, and religious communities are involved in a special way in educating for peace.⁵⁷ At the same time, believers must understand the inherent imperfection of any human ordering, the disregard of which is a major threat to democracy.⁵⁸

Another threat is the state's infringement upon conscience, which Ratzinger calls the ultimate repository of moral norms upon which the state

⁵⁰ Rourke, *Social and Political Thought*, 55, 50; Ratzinger, *Church, Ecumenism and Politics*, 156–57.

⁵¹ Ratzinger, *Church, Ecumenism and Politics*, 201.

⁵² Ratzinger, "Truth, Values, Power," 104–5 (translation modified).

⁵³ Ratzinger, *Church, Ecumenism and Politics*, 156–57. This criticism is repeated elsewhere: Ratzinger, *Church, Ecumenism and Politics*, 45–46; Joseph Ratzinger/Pope Benedict XVI, *Jesus of Nazareth*, vol. 1, *The Baptism in the Jordan to the Transfiguration* (San Francisco: Ignatius Press, 2007), 42.

⁵⁴ Ratzinger/Benedict, *Jesus of Nazareth*, 1:39–40.

⁵⁵ Ratzinger, *Church, Ecumenism and Politics*, 145.

⁵⁶ Joseph Ratzinger, *The Unity of the Nations: A Vision of the Church Fathers* (Washington, DC: Catholic University of America Press, 2015), 93–94.

⁵⁷ Benedict XVI, "Blessed Are the Peacemakers: Message for the 46th World Day of Peace (January 1, 2013)," ch. 9 in *Faith and Politics*, 171, 179.

⁵⁸ Ratzinger, *Church, Ecumenism and Politics*, 195.

is based and which serves as a limit on the power of the state.⁵⁹ He is keen to protect conscience from what he sees as the encroaching power of both state *and* Church.⁶⁰ He even criticizes the Catholic politics of the Middle Ages and early modern period on this point: they falsified faith's claim to truth and turned to coercion, a caricature of what was actually intended.⁶¹ Rejecting the widespread belief that relativism is a necessary condition for liberal democracy, Ratzinger insists that conscience is irrevocably linked to truth, and that "to serve right and to fight against the dominion of wrong is and remains the fundamental task of the politician."⁶²

While Ratzinger is critical of a postmodern notion of freedom divorced from truth, he is basically friendly toward an Enlightenment notion of freedom.⁶³ He traces this concept of freedom back to the new dualism between Church and state that Christianity introduced.⁶⁴ Ultimately freedom must be defined positively if it is to be something positive, which means the recognition of fundamental values, that is, human rights.⁶⁵ Ratzinger insists that the Church must defend, over and against the world, freedom of religion in two senses: the right to be able to choose one's faith freely, as explained in *Dignitatis Humanae*, and the right to live as a believ-

⁵⁹ Rourke, *Social and Political*, 69; Ratzinger, *Church, Ecumenism and Politics*, 160–63.

⁶⁰ "An appeal is made to conscience and to reason: this is the only authority that can decide. It really was a sin to think: then if reason is not ready, we must so to speak 'help' it, with the power of the state. This is a major error" (Ratzinger, "Does God Exist?," 202 [translation modified]).

⁶¹ Ratzinger, *Church, Ecumenism and Politics*, 156–57.

⁶² Ratzinger, "Truth, Values, Power," 132; see also Benedict XVI, "Affirming the Right," 161.

⁶³ In general, Ratzinger views the Enlightenment favorably. He defends the "modern era" (*die Neuzeit*, by which he seems to mean especially the Enlightenment) as part of the authentic European inheritance, particularly against postmodern skepticism about the possibility of knowing truth, and uses the term "enlightenment" (*Aufklärung*) to describe the overcoming of myth that Greek philosophy achieved. When Gad Lerner accuses the Church of having allowed itself to be contaminated by "laicist, Enlightenment thinking [*pensiero laico e illuminista*]," Ratzinger replies that the time has come to transcend these oppositions; see: *Church, Ecumenism and Politics*, 218–19; *Truth and Tolerance*, 28; "Does God Exist?," 208–10. See also Gerald McKenny, "Moral Disagreements and the Limits of Reason: Reflections on MacIntyre and Ratzinger," in *Intractable Disputes About the Natural Law: Alasdair MacIntyre and Critics*, ed. Lawrence S. Cunningham (Notre Dame, IN: University of Notre Dame Press, 2009), 195–226, esp. 214–15.

⁶⁴ "Hence the modern idea of freedom is a legitimate product of the Christian environment" (Ratzinger, *Church, Ecumenism and Politics*, 157).

⁶⁵ Ratzinger, *Church, Ecumenism and Politics*, 178–83.

ing Christian free from persecution.⁶⁶

Just as his attitude toward Enlightenment notions of freedom is positive, so also is Ratzinger's attitude toward democracy, and his criticisms of contemporary political forms are made with an eye to protecting them from harm.⁶⁷ He indicates a preference for the Anglo-Saxon path, which had a basis in the tradition of natural law and Christian consensus, over the attack on Christian tradition that Jean-Jacques Rousseau's version of democracy undertook.⁶⁸ Fundamental for Ratzinger's view of democracy is his belief that authentic liberalism is not opposed to Christianity. Liberalism, he believes, has God as its foundation for its "view of the world and of man." If liberalism rejects Christianity, this is an abandonment of its very foundations, since "the logic of liberalism makes necessary precisely this acknowledgement [*confessione*] of the God of Christian faith."⁶⁹

In the same vein, Ratzinger contends that the Church is necessary for the sound functioning of a democratic state. For Ratzinger, democracy cannot be value-free or value-neutral. Rather, democracy itself must be based on fundamental values that precede the will of the majority.⁷⁰ He embraces Ernst-Wolfgang Böckenförde's thesis that the modern liberal state is a *societas imperfecta*: it needs moral values that the political sphere itself cannot secure.⁷¹ Ratzinger points to Christianity as the source of these values, arguing that Western democracy came about through a mingling of Greek and Christian elements and will not survive apart from these foundations.⁷² For this reason, Ratzinger believes, if we do not "learn to live democracy with a view to Christianity and Christianity with a view to the free democratic state, we will surely gamble away democracy."⁷³ Emboldened by this belief, Ratzinger insists that Christianity has a public character and makes public claims to truth, which the state should affirm through expressions such as displaying crucifixes in schools and marking

⁶⁶ Ratzinger, *Church, Ecumenism and Politics*, 192. He says that the classical theme of *libertas ecclesiae* is relevant here, without further explanation.

⁶⁷ Ratzinger's four theses for the revival of European democracy are: (1) a rediscovery of a firm sense of law, (2) the need for common and obligatory reverence for moral values and for God, (3) the rejection of world revolution and the nation as the highest goods or ends of politics, and (4) the recognition and preservation of freedom of conscience, human rights, academic freedom, and of a free society; see *Church, Ecumenism and Politics*, 219–22.

⁶⁸ Ratzinger, "Truth, Values, Power," 142.

⁶⁹ Benedict XVI, *Faith and Politics*, 19 (preface).

⁷⁰ Ratzinger, *Church, Ecumenism and Politics*, 179.

⁷¹ Ratzinger, *Church, Ecumenism and Politics*, 194.

⁷² Ratzinger, *Church, Ecumenism and Politics*, 194–95, 199, 202–3.

⁷³ Ratzinger, *Church, Ecumenism and Politics*, 203; see also 104.

Christian feast days on the civic calendar.⁷⁴

Critical Assessment

When one considers Ratzinger's political thought as a whole, a tension comes into view: his claim that the state needs Christianity with his commitment to non-confessional, pluralistic democracy. Ratzinger sees the difficulty: "We are faced with a dilemma [*Aporie*]: if the Church gives up this claim [her claim to be public, not merely private], she no longer accomplishes for the state what it needs from her. Yet if the state accepts this claim, it abolishes its own pluralistic character and thus both Church and state are lost."⁷⁵ Ratzinger approaches the dilemma through his particular idea of the faith–reason dialectic. Politics, he insists, is the domain of reason, not faith; when the Church does not respect this limit, it impinges upon the freedom of the state. As we have seen, however, Ratzinger's notion of reason is far from a "pure" reason. Faith purifies reason, corrects it, and helps it discover objective moral principles.⁷⁶ He goes so far as to say that "reason needs revelation in order to be able to function as reason."⁷⁷

With this notion of reason operative, Ratzinger makes his key move in his attempt to resolve the dilemma, which centers on his notion of Christian values. He cannot claim that the state needs the Church as the bearer of true religion, as this would compromise the state's pluralistic character. What he can say is that "the state must recognize that a fundamental system of values based on Christianity [*ein Grundgefüge von christlich fundierten Werten*] is the precondition for its existence."⁷⁸ These values, according to Ratzinger, came about historically in a Christian context through the faith–reason interplay. But he suggests—at least on occasion—that these are moral principles knowable by reason apart from revelation, and so they can be affirmed and enacted even by those who do not profess the Christian faith.⁷⁹ They are non-confessional, in other words, and are shared by the world's great religions—this consensus itself being evidence of a "shared rationality" (*gemeinsame Vernünftigkeit*).⁸⁰

⁷⁴ Ratzinger, *Church, Ecumenism and Politics*, 157, 202, 206–7, 252.

⁷⁵ Ratzinger, *Church, Ecumenism and Politics*, 206.

⁷⁶ Notably, Ratzinger believes reason plays a similar role vis-à-vis faith; see "Ethical Foundations," 155, and *Dialectics of Secularization*, 77–80.

⁷⁷ Given Ratzinger's commitment to de Lubac's theology of the supernatural end, one might conclude that he does not confine reason's need for revelation to the postlapsarian state; see *Church, Ecumenism and Politics*, 206.

⁷⁸ Ratzinger, *Church, Ecumenism and Politics*, 207.

⁷⁹ Ratzinger, *Church, Ecumenism and Politics*, 221.

⁸⁰ Benedict XVI, "Blessed are the Peacemakers," 174, Ratzinger, "Truth, Values,

This leads Ratzinger to say that optimally, the values enacted by the state would be obtained as the “pure insight of reason” apart from revelation.⁸¹

Ratzinger’s belief that the state must remain neutral regarding religion forces him—as strange as it may sound for the former Pope—to propose a type of Christianity within the limits of reason alone when it comes to the contribution Christians are to make to liberal democracies. Despite these values coming about historically (and being preserved at present) in a rich interaction between faith and reason, when they are transferred to the public square, confessional elements must be trimmed off and the kernel that accords with pure reason is to be kept.⁸² J. Christopher Paskewich suggestively names these moral principles “secularized religious values,” explaining that within Ratzinger’s thought, “the revealed truths of Christianity are . . . secularized for general acceptance.”⁸³ This allows Ratzinger, as it were, to have it both ways. He can insist, in harmony with his overarching sense of the historical conditioning of reason, that these values can only come about and be preserved in a Christian society, while also saying that these values are accessible to reason independent of divine revelation or Christian faith, and so people can adhere to them regardless of their religious affiliation.⁸⁴

Here we see, finally, the place Benedict’s appeals to natural law assume within his political theory. Natural law provides him a confessionally neutral apparatus by which Christians can propose moral values to the broader populace. Despite Ratzinger’s reservations about the effectiveness of natural-law arguments, his commitment to a liberal church–state arrangement requires the natural law to claim a wider scope and do more work than it did in an older tradition of Catholic political thought. This tradition appealed to natural law for the temporal ordering of society, but not in a way that required natural law to stand on its own, because it assumed that divine positive law and ecclesiastical law would and should

Power,” 148.

⁸¹ Ratzinger, “Truth, Values, Power,” 147.

⁸² Tracey Rowland’s commentary on *Deus Caritas Est* (§28) claims that Ratzinger endorses “purified reason,” which is something vastly different from Kantian “pure reason.” (*Ratzinger’s Faith: The Theology of Pope Benedict XVI* [Oxford: Oxford University Press, 2008], 119–20). What makes for the distinction, or how it can be arrived at apart from revelation, is not clear to us.

⁸³ J. Christopher Paskewich, “Liberalism Ex Nihilo: Joseph Ratzinger on Modern Secular Politics,” *Politics* 28, no. 3 (2008): 169–76, at 174.

⁸⁴ Ratzinger, *Church, Ecumenism and Politics*, 221; Ratzinger, “Ethical Foundations,” 155; Benedict, “Blessed are the Peacemakers,” 174.

also be brought to bear upon civil law.⁸⁵ Since Ratzinger precludes this possibility as a matter of principle, he must claim (sometimes rather dubiously) that the specific determinations that he advocates are matters of reason alone rather than faith. A consequence of his commitment to Christians proposing secularized religious values is that natural law itself must be secularized, that is, no longer seen in relation to divine positive law when Christians argue in the public square.

To be sure, there are some passages in Ratzinger that suggest otherwise (such as when he argues for crucifixes in public spaces or for the intrinsic relationship of natural law to the Gospel), but these merely point to the fact that Ratzinger's attempt to solve the aforementioned dilemma is not entirely consistent.⁸⁶ That attempt involves endorsing the liberal disestablishment of Christianity while bringing it back under the guise of a rational public ethic. This exposes Ratzinger to attack from both sides: those who want a public ethic that is actually secular, and those who want a public ethic that is more robustly Christian. We begin with the former.

Whether Ratzinger's proposal really respects his liberal commitment to pluralistic democracy is questionable. It is not altogether clear whether Ratzinger believes that the moral values the state requires can actually be known and enacted outside of a Christian context. At times, as we have seen, he suggests this is the case. But such passages cut against the mainline of his thought, which eschews thinking in terms of historically detached "pure" reason and privileges a faith–reason dialectic in which reason needs revelation in order to function properly. This leads to a pessimism about the actual possibility of "secularizing" religious values. Ratzinger thinks attempts to furnish them by returning to a pre-Christian philosophy claiming universality is an artificial abstraction—he calls them "test-tube worldviews" (*Weltanschauungen aus der Retorte*)—doomed to failure, being a mere thought experiment divorced from history. As for democracy finding its moral strength in non-Christian religious sources, Ratzinger says one thinks first of Islam, but a merger here is impossible: Islam "is quite obviously the exact antithesis [*Gegenmodell*] of pluralistic democ-

⁸⁵ This assumption is clear even in those writers, such as Thomas Aquinas, Robert Bellarmine, and Francisco Suárez, who firmly ground their political theory in the natural law. Francis Oakley observes that the high Middle Ages witnessed the constant interplay and mutual influence of Roman private law, ecclesiastical law, and constitutional law; see *The Mortgage of the Past: Reshaping the Ancient Political Inheritance* (New Haven, CT: Yale University Press, 2012), 155.

⁸⁶ Another example is Ratzinger's using divine revelation to determine economic policy decisions, as Strand demonstrated in "On Method, Nature, and Grace."

racy.” Christianity alone can serve democracy.⁸⁷ Such suggestions militate against his claim elsewhere that the values he is proposing are confessionally neutral and not freighting specifically Christian content.

As Gerald McKenny explains, Ratzinger distinguishes between, on the one hand, affirming the moral truth of Christianity as a historical tradition and, on the other, faith in Christian divine revelation: for Ratzinger, “Christianity as a *historical tradition* has embodied moral truth in such a way as to supply its evidential character and . . . this evidential character remains even where the fundamental theological and metaphysical claims of this tradition have been rejected.”⁸⁸ This distinction sheds light on statements from Ratzinger like “Christianity has proved to be the most universal and rational [*rationale*] religious culture,” or the claim that when Catholics demand crucifixes in public spaces, they are fighting for “the basic modicum of humanity and human standards” (*den Grundbestand an Menschlichkeit und an menschlichem Maß*).⁸⁹ These assertions refer to Christianity as a historical tradition, not as a divinely revealed religion—a tradition whose objective superiority Ratzinger thinks can be evident even to the non-believer. Ratzinger has criticized earlier theories of natural law for being loaded up with too much Christian content and still claiming to be natural. One might ask if Ratzinger is not making the same move here in his political theory. McKenny observes that since Ratzinger does not think reason can grasp moral truth without the historical tradition of Christianity, this leads “to the suspicion that the moral values to which he is committed are derived from a historical tradition rather than from a created moral order that is in principle accessible to reason.”⁹⁰ Ratzinger exhorts non-believers to live *veluti si Deus daretur* (“as if God exists”) and to assent to Christianity as a moral tradition even if they do not believe in Christianity’s theological and metaphysical claims.⁹¹ Yet one might ask, what motivation would non-Christians have to do so if they understand themselves to have moved on from Christianity—especially if a motive of that moving-on was Christianity’s moral demands?⁹²

It is unsurprising that a secular thinker would accuse Ratzinger of

⁸⁷ Ratzinger, *Church, Ecumenism and Politics*, 202–3. See also Ratzinger, “Truth, Values, Power,” 104.

⁸⁸ McKenny, “Moral Disagreements,” 219.

⁸⁹ Ratzinger, “Truth, Values, Power,” 148; Ratzinger, *Church, Ecumenism and Politics*, 207.

⁹⁰ McKenny, “Moral Disagreements,” 219.

⁹¹ Joseph Ratzinger, *Christianity and the Crisis of Cultures*, trans. Brian McNeil (San Francisco: Ignatius Press, 2006), 51.

⁹² McKenny, “Moral Disagreements,” 219.

wanting to use the law to impose on the whole populace, including non-believers, moral convictions belonging to Christians alone. Such was Paolo Flores d'Arcais's charge in a 2000 debate with Ratzinger.⁹³ The then-Cardinal Prefect responded that he did not wish the law to promote specifically Christian values, but only natural human values that can be known by natural law. Flores d'Arcais shot back: Christianity's claims about what is natural are really failed attempts to make universal and human what is instead one of many moral viewpoints. "You see how absurd it is to claim that a viewpoint of one form of Christianity coincides with the natural norm. It is a claim that inevitably leads to a refusal to recognize pluralism."⁹⁴ Flores D'Arcais's objection brings to light a flaw in Ratzinger's church-state theory, which is the failure to see that even in his claim to be proposing only natural and universal human values, he is proposing a Christian moral theory. The claim that in invoking natural-law arguments, Christians are moving to some shared neutral ground of pure reason is not convincing, as Ratzinger has placed the natural law within a larger Christian framework. In other words, he still wants Christianity to set the terms of the debate and to determine what is natural (with the magisterium of the Church being the ultimate arbitrator the natural law). The non-confessional, pluralistic claims are, in the end, not respected.

Ratzinger's failure to see this point may be partially due to historical context. A weakness of Ratzinger's thought, like that of many churchmen of his generation, is his penchant for universalizing a brief moment in European history, namely, the 1945–1968 postwar period, marked by the trauma of totalitarianism and a turn toward liberal democracy. Having lived under National Socialism, Ratzinger was deeply concerned with any political forms that might seem to divinize the state. He regarded the union of Church and state as such a form, which threatened both the liberty of citizens and the freedom of faith. In this, his assumptions are exactly the opposite of traditional Catholic political thinkers and the preconciliar popes, who thought that the civil authorities' recognition of the Church placed *limits* on the exercise of state power. The general warming toward liberal democracy on the part of churchmen that took place in Western Europe and North America following World War II led to such conciliar documents as *Dignitatis Humanae* and *Gaudium et Spes*;

⁹³ As Flores d'Arcais puts it elsewhere, Ratzinger "wants to impose on the world the truth of his Roman, Catholic, and apostolic Church on the whole ethical-political horizon" (Paolo Flores d'Arcais, *La sfida oscurantista di Joseph Ratzinger* [Milan: Ponte Alle Grazie, 2010], 49; translation ours).

⁹⁴ Ratzinger, "Does God Exist?," 241.

Ratzinger was very much part of this generation, and living under the rule of devout Christian Democrats like Konrad Adenauer seems to have buoyed his confidence in such regimes.

Whatever the commitment of the postwar states of Western Europe to “values,” the achievement was short lived, since by 1968 the crisis of the great ethical sources was unmistakable. Benedict himself has called attention to the destructive chaos of this historical moment more than once, most recently in his 2019 letter on the sexual abuse scandal.⁹⁵ One could argue that the postwar period was less of an achievement, as Ratzinger identified it, than one of transition, when the political status of divine law had been largely destroyed, but remained strong in the churches, and its wider residual effects on the civil law and on hearts and minds had yet to be undone. In this light, it may be that Ratzinger has wedded himself too closely to what he calls in his 2005 Christmas address to the Roman Curia “the practical forms that are dependent on the historical situation and therefore subject to change.”⁹⁶ His own observations about the fragile fortunes of liberal political thought after Vatican II, especially in Latin America, support this hypothesis.⁹⁷

If a secularist might charge Benedict with injecting too much Christianity into the state, some Catholics might wonder if he has injected enough. The effort to reduce Christianity to its elements that can be grasped by reason alone runs into the problem that Christianity is more

⁹⁵ “Among the freedoms that the Revolution of 1968 sought to fight for was this all-out sexual freedom, one which no longer conceded any norms. The mental collapse was also linked to a propensity for violence. That is why sex films were no longer allowed on airplanes because violence would break out among the small community of passengers. . . . Part of the physiognomy of the Revolution of ’68 was that pedophilia was then also diagnosed as allowed and appropriate. For the young people in the Church, but not only for them, this was in many ways a very difficult time” (Benedict XVI, “The Church and the Scandal of Sexual Abuse,” trans. Anian Christoph Wimmer, *Catholic News Agency*, April 10, 2019, www.catholic-newsagency.com/news/full-text-of-benedict-xvi-the-church-and-the-scandal-of-sexual-abuse-59639). See also Joseph Ratzinger, *Introduction to Christianity*, rev. ed., trans. J. R. Foster, preface trans. Michael J. Miller (San Francisco: Ignatius Press, 2004), 11–18.

⁹⁶ Pope Benedict XVI, “Interpreting Vatican II,” *Origins CNS Documentary Service* 35, no. 32 (January 26, 2006): 538.

⁹⁷ He notes that by the end of the 1960s, the disenchantment with Euro-American liberalism among Latin Americans had spread even to Europe and America; see Joseph Ratzinger, *Principles of Catholic Theology: Building Stones for a Fundamental Theology*, trans. Mary Frances McCarthy, S.N.D. (San Francisco: Ignatius Press, 1987), 383–89.

concerned with the things that can be known by faith. It makes claims not only about God's revelation and grace, but also about the intertwining between human and divine things. For most of the Church's history, her bishops, theologians, and jurists have made far more robust claims for the faith's public role. Preconciliar social encyclicals articulated as a matter of course numerous principles that do not appear in Ratzinger's thought: the state must assist its members so that the spiritual goods for leading a religious life can more easily abound, a duty that includes defending the Church; the separation of Church and state is harmful; true worship is a part of justice (i.e., what man owes to God), and this must find some political expression.⁹⁸ Popes like Leo XIII, as well as the thinkers they drew upon, believed that without the recognition of these principles, the social status of both the divine and the natural law would suffer, along with the overall spiritual health of a given people.⁹⁹ Given that their predictions in large measure have come true, one might argue that Ratzinger's elimination of these principles as a matter of principle, rather than a prudential adjustment to changing circumstances, facilitates the effacing of both Christianity and the natural law from public life.¹⁰⁰

Limiting Catholicism's presence in statecraft to Christianity's "rational" kernel does not make room for the ways that the divine law impacts the understanding of the natural law on certain questions. In theory, a state that only recognized and enforced the dictates of the natural law could end up impeding the Church's mission. Marriage, for example, is an

⁹⁸ See: Gregory XVI, *Mirari Vos* (1832), §23; Pius IX, *Quanta Cura* (1864), §3; Leo XII, *Libertas Praestantissimum* (1888), §§18, 21; Pius XI, *Quas Primas* (1925), §18. A good summary of these principles can be found in Joseph Fenton's essay "Principles Underlying Traditional Church-State Doctrine," in *The Church of Christ: A Collection of Essays by Monsignor Joseph Fenton*, ed. Christian Washburn (Tacoma, WA: Cluny Media, 2016), 288–301. As one scholar notes, "the traditional notions that served as the political foundation of Christendom" are absent from Ratzinger, particularly "any retrieval of political Augustinianism" (Christopher M. Cullen, S.J., "On the Political Order," *Nova et Vetera* [English] 15, no. 3 [2017]: 898).

⁹⁹ Leo XII, *Immortale Dei* (1885), §13–23.

¹⁰⁰ McKenny rightly criticizes Ratzinger's belief that political reason should not be disturbed by Christian eschatology reality, noting that the very Christian moral tradition Ratzinger wants to uphold shows "positive traces of the impact of Christian eschatology on political reason" that have been salutary for social and political life in the West. Insisting on reason's autonomy in the political sphere, McKenny believes, would be counterproductive, keeping "Enlightenment reason alive in spite of Ratzinger's efforts to restore the role of historical tradition" ("Moral Disagreements," 219).

arena where the natural law and revelation are closely intertwined. Thomas Aquinas said that polygamy was not altogether contrary to the natural law.¹⁰¹ Does that mean that the defense of monogamy is an unwarranted loading up of the natural law with Christian content? There is also the thorny issue of the so-called Pauline and Petrine privileges. The state has an obligation under natural law to defend consummated, natural marriages, but the Church claims the right to dissolve them extrinsically when one party converts and the other is willing neither to accept baptism nor live at peace. It seems that a state that abided by the natural law alone would be obliged to withhold recognition of a new marriage contracted under Pauline or Petrine privilege, since they are only intelligible in light of the divine law. Although this is obviously not a practical problem in the West at the moment, there is a significant principle at stake. Since the interests and jurisdictions of the civil and ecclesiastical authorities overlap not only persons, but also significant areas of social life (marriage, education, etc.), many Catholic political thinkers have advocated mutual recognition and cooperation between these authorities.¹⁰² The lack of this feature in Ratzinger's vision, as this example demonstrates, introduces problems wherever grace and divine positive law impact the claims of natural law.

A root of such problems is Ratzinger's opinion that the Church according to her nature should be separate from the state. It seems that Ratzinger thinks that the type of church–state separation found in contemporary liberal democracies is not just a prudential decision about how best to arrange these entities in a particular historical context, but is the optimal ordering of political and social life in principle. His forceful condemnation of the “Constantinian” period of the Church's history suggests a conclusion: that after fifteen hundred years of getting it wrong, the Church finally got her relationship to the state right.¹⁰³ Such a position puts Ratzinger among the liberal interpreters of *Dignitatis Humanae*, who think that the document has committed the Church, as a matter of magisterial teaching,

¹⁰¹ Thomas Aquinas, *Summa theologiae* III, Suppl., q. 65, a. 1.

¹⁰² See Leo XIII, *Immortale Dei*, §13.

¹⁰³ “The use of the State by the Church for its own purposes, climaxing in the Middle Ages and in absolutist Spain of the early modern era, has since Constantine been one of the most serious liabilities of the Church, and any historically minded person is inescapably aware of this. In its thinking, the Church has stubbornly confused faith in the absolute truth manifest in Christ with insistence on an absolute secular status for the institutional Church” (Joseph Ratzinger, *Theological Highlights of Vatican II* [New York: Paulist Press, 2009], 144). This view is not altogether harmonious with the view of Constantine that he articulates elsewhere; see note 56 above.

to separation from the state.¹⁰⁴ This is a more restrictive understanding of the variety of legitimate church–state arrangements than the conciliar declaration itself seems to stipulate.¹⁰⁵ As John Courtney Murray says in his commentary on *Dignitatis Humanae* in the Abbott edition of the documents of Vatican II, “the Council did not wish to condemn the institution of ‘establishment,’ the notion of a ‘religion of the state.’”¹⁰⁶ Avery Dulles echoes this claim, arguing that “*Dignitatis* does not negate earlier Church teaching on the duties of the State toward the true faith.”¹⁰⁷

A related problem with Ratzinger's model is determining what he means by “Christianity” and how it exercises a political role. If he means Christianity in a generic sense, then it is far from clear that the tens of thousands of groups and assemblies that claim the name “Christian” possess and pass on a common moral consensus. In fact, disputes over such questions have been tearing apart ecclesial communities for centuries. Even setting aside such disputes, Christian churches are far too weak in the West as institutions, both internally and in their relations with each other, to act in a consistent or sustained manner on behalf of their ethical teachings in the public square. If by “Christianity” Ratzinger means the Catholic Church and her authoritative teaching, which one assumes he does, there is still the problem of how she exercises a public role. Ratzinger

¹⁰⁴ Martin Rhonheimer, “*Dignitatis humanae*: Not a Mere Question of Church Policy: A Response to Thomas Pink,” *Nova et Vetera* (English) 12, no. 2 (2014): 453; Massimo Faggioli, *Catholicism and Citizenship: Political Cultures in the Church in the Twenty-First Century* (Collegeville, MN: Michael Glazier, 2017), 79, 91–92; Thomas Guarino, *The Disputed Teachings of Vatican II: Continuity and Reversal in Catholic Doctrine* (Grand Rapids, MI: Eerdmans, 2018), 196.

¹⁰⁵ “Religious freedom . . . leaves untouched traditional Catholic doctrine on the moral duty of men and societies toward the true religion and toward the one Church of Christ” (*Dignitatis Humanae*, §1); “If, in view of peculiar circumstances obtaining among peoples, special civil recognition is given to one religious community in the constitutional order of society, it is at the same time imperative that the right of all citizens and religious communities to religious freedom should be recognized and made effective in practice” (*Dignitatis humanae*, §6).

¹⁰⁶ John Courtney Murray, S.J., commentary note to *Dignitatis Humanae*, in *The Documents of Vatican II: With Notes and Comments by Catholic, Protestant, and Orthodox Authorities*, ed. Walter M. Abbott, S.J. (London: Geoffrey Chapman, 1966), 685n17.

¹⁰⁷ Dulles notes that the only official commentary on this point was the final *relatio* of Bishop De Smedt, in which he gave “a decisive answer” explaining that the conciliar text “did not overlook or deny but clearly recalled Leo XIII's teaching on the duties of the public authority [*potestatis publicae*] toward the true religion” (Avery Dulles, S.J., *Church and Society: The Laurence J. McGinley Lectures, 1988–2007* (New York: Fordham University Press, 2008), 354).

does not want the civil authorities to recognize the teaching authority of the Church's bishops, as this would violate the state's secularity. If the role of religion is "to help purify and shed light upon the application of reason to the discovery of objective moral principles," who is responsible for this task at the level of public decisions?¹⁰⁸ He seems to envision individual Christians, armed with their individual consciences, influencing political and social life on their own initiative.¹⁰⁹ If this is the case, then it leaves them in a notably weak position in the practical sphere, isolated from each other and from the hierarchy of the Church. As William Cavanaugh observes, this is a logical consequence of the Lockean ideas that pervade the Anglo-American tradition.¹¹⁰ For Christianity to have anything like a properly political role, even as the guarantor of the natural law, it needs some sort of corporate representation that is established either in civil law or at least in the mores of the populace. Ratzinger denies the legitimacy of the first and acknowledges the diminishing possibility of the second, raising serious issues about the practicability of his proposal.¹¹¹ Nevertheless, his political writings have been warmly received.¹¹²

¹⁰⁸ Ratzinger, "Ethical Foundations," 155.

¹⁰⁹ Although he does not develop this theme at length, his examples are nearly always individuals acting in the face of powerful, hostile forces, rather than taking a common stand as a corporate body. His citation of the characters in Reinhold Schneider's novel on Las Casas (*Church, Ecumenism and Politics*, 168–71), of Thomas More in his address at Westminster ("Ethical Foundations," 153–54), and Josephine Bakhita in *Spe Salvi* (2007), §43, are all cases in point.

¹¹⁰ "Lockean liberalism can afford to be gracious toward 'religious pluralism' precisely because 'religion' as an interior matter is the State's own creation. Locke says that the State cannot coerce the religious conscience because of the irreducibly solitary nature of religious judgment; 'All the life and power of true religion consist in the inward and full persuasion of the mind.' But for the very same reason he categorically denies the social nature of the Church, which is redefined as a free association of like-minded individuals"; see William T. Cavanaugh, "A Fire Strong Enough to Consume the House": The Wars of Religion and the Rise of the State," *Modern Theology* 11, no. 4 (1995): 407 (citing John Locke, *A Letter Concerning Toleration* [Indianapolis, IN: Bobbs-Merrill, 1955], 18, 35).

¹¹¹ Ratzinger favors the German arrangement, which does entail a kind of state recognition of the Church, but not as the teacher of the true religion or even of the natural law; see Pfeiffer, *Religion und Politik*, 113.

¹¹² Neo-conservatives have offered almost unqualified praise for Ratzinger's political proposals. See: Rourke, *Social and Political Thought*; Mark Guerra, ed., *Pope Benedict XVI and the Politics of Modernity* (New York: Routledge, 2014); James Schall, *The Regensburg Lecture* (South Bend, IN: St. Augustine's Press, 2007); Martin Rhonheimer, "Benedict XVI's 'Hermeneutic of Reform and Religious Freedom,'" *Nova et Vetera* (English) 9, no. 4 (2011): 1029–54; George Weigel, *Against the Grain: Christianity and Democracy, War and Peace* (Chestnut Ridge, NY: Cross-

Conclusion

We have traced Ratzinger's ambivalence toward natural law to a deeper tension in his thinking on the Church's place in public life and have questioned the internal consistency of Ratzinger's position. In so doing, we take our direction from Ratzinger himself and his clear-eyed courage as a theologian and pastor. In a private circular first published in 1982 with the title *Bilanz der Nachkonzilszeit*, he pointed out some of the negative factors experienced in the wake of Vatican II (the emptying of churches, seminaries, and convents; an acrimonious and divisive spirit in the Church) and then continued:

Anyone who says all this is quickly accused of pessimism and excluded from the discussion. But there is question here of empirical facts. To feel obliged to deny them is to betray no longer pessimism but a silent despair. No, to see facts is not pessimism; it is objectivity [*Sachlichkeit*]. Only when we face them can we ask what these facts mean, whence they come from and how they are to be met.¹¹³

The facts here concern respect for the natural law among both the faithful and the civil authorities in the Western democracies. On many moral issues where the Church claims that her positions are accessible to reason alone,

road, 2008), 289–98. Even the conservative criticisms of *Caritas in Veritate* Strand noted previously (“On Method, Nature, and Grace,” 835–37) could be couched in such a way as to defend Benedict personally, as in the case of Weigel. Traditionalist authors, who more than any group would be in opposition to Ratzinger's political principles, have largely spared him the criticism they directed against John Paul II, perhaps because the former was more sympathetic to some of their causes, especially liturgically. See, e.g., Christopher A. Ferrara and Thomas E. Woods Jr., *The Great Façade: The Regime of Novelty in the Catholic Church from Vatican II to the Francis Revolution*, 2nd. ed. (Kettering, OH: Angelico, 2015), especially 305–72. While liberation theologians have been unsurprisingly cool toward Ratzinger's political thought, this has largely involved rebuffing Ratzinger's criticism of their project rather than pointing out weaknesses in Ratzinger's own political thinking. See, e.g.: Juan Luis Segundo, *Theology and the Church: A Response to Cardinal Ratzinger and a Warning to the Whole Church*, trans. John W. Diercksmeier (Minneapolis, MN: Seabury-Winston, 1985); Ignacio Ellacuría, “The Christian Challenge of Liberation Theology,” in *Ignacio Ellacuría: Essays on History, Liberation, and Salvation*, ed. Michael E. Lee (Maryknoll, NY: Orbis, 2013), 123–35 (ch. 5). Others have expressed discomfort with Ratzinger's Eurocentrism. See James Corkery, *Joseph Ratzinger's Theological Ideas: Wise Cautions and Legitimate Hopes* (New York: Paulist Press, 2009), 122.

¹¹³ Ratzinger, *Principles of Catholic Theology*, 370 (translation modified).

the social, political, and cultural apparatus of the West has rejected them, to the point that, in many places, the articulation of those teachings in word and deed is treated as a sign of bad manners, a violation of justice, or even a criminal act. Meanwhile, belief in those same teachings among the faithful runs somewhere between a significant minority (as on abortion) to an infinitesimal minority (as on contraception). Making this observation, however unpleasant, is not pessimism; it is objectivity.

We need to acknowledge that something has gone badly amiss. Ratzinger knows this well: few churchmen have decried with greater perspicacity the loss of the sense of God in the West and the concomitant dissolution of moral life that has occurred in recent decades.¹¹⁴ These vast changes in religious and social life since the post–World War II era have not caused him, however, to adjust his political vision, as he has remained tied to the promises of the mid-twentieth century long after that era and its possibilities have passed. In commenting on the sobering-up that some Catholics experienced after the initial enthusiasm of the council faded, Ratzinger remarked, “we cannot return to the past, nor have we any desire to do so.”¹¹⁵ We agree—whether this past be the thirteenth century or the mid-twentieth. We might look back, however, to consider what has gone wrong so that we might admit our failures, and then do some serious thinking about what we might do differently in the future. N.V

¹¹⁴ At the time of the present writing, Benedict continues to do so, such as in his 2019 letter on the sexual abuse crisis, in which he declares the sexual revolution an “egregious event . . . unprecedented in history,” and traces the cause of the crisis ultimately to a loss of belief in God (“The Church and the Scandal of Sexual Abuse”).

¹¹⁵ Ratzinger, *Principles of Catholic Theology*, 393.