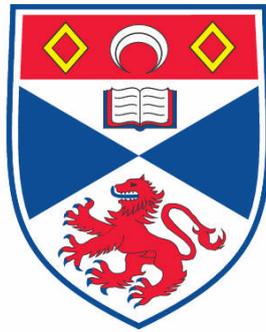


**OBLIGATIONS OF LOVE : INTERNATIONAL POLITICAL
THOUGHT & THE TRADITION OF NATURAL LAW**

Amanda Russell Beattie

**A Thesis Submitted for the Degree of PhD
at the
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Obligations of Love:

International Political Thought & the Tradition of Natural Law

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Submission for the degree of Ph.D.

Submitted 1 August 2007

I, Amanda Russell Beattie, hereby certify that this thesis, which is approximately 95,000 words in length, has been written by me, that it is the record of work carried out by me and that it has not been submitted in any previous application for a higher degree.

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Abstract

Identifying human suffering as a socio-political phenomenon challenging the well-being and development of individuals, this work argues that International Relations requires a re-evaluation of its political structures in light of the ends articulated within the Universal Declaration of Human Rights and its associated International Human Rights Regime. Noting the problem of being, the particular problem of modern cognitive epistemologies this work seeks to ground an alternative philosophical conception of the individual framed within an account of natural law morality. Distinguishing itself from the epistemology of the received view of Modernity, the morality of natural law frames an alternative account of agency, agents, and the community.

In its pre-modern form, natural law accounts for both the theoretical and practical reasoning capacities of the agent noting the ontological equality of every individual similar to modern cosmopolitan assumptions. It distinguishes itself from these accounts noting the relativity, and not universal ends of moral deliberations reflected in the tradition of casuistry. Articulating a moral taxonomy reflecting the ends of 'the good' this methodology is at odds with the stability of static political structures. Consequently, the natural law community is able to sustain an account of political pluralism, developing the unique qualities and characteristics distinguishing each and every agent. The plurality of life paths, alongside the equality of being, is reflected in the common good, the institutional representation of the personal relationships sustaining and furthering the development of morality mirroring the well-being and development of the moral agent.

Articulating the art of politics, the cumulative appraisal of these ideas reveals an objective account of being political. Endorsing 'being human in common', it further

institutionalizes the relationships of being reflected in the synthesis of philia and agape relations accounting for a personal account of politics. Noting the influential nature of coordinated political action, reflected in an ethic of love, this objective interpretation synthesizes local knowledge and customs alongside the universality of 'the good' addressing the particular developmental needs of suffering agents. Culminating in an account of the politics of potential, a realistic appraisal of the ends of this account of being political is mindful that political change, both solitary and in common, reflects the equal capacity of the agent to do both good and evil. Consequently, the hope of the politics of potential distinguishes itself from modern interpretations of politics equally aware of both the positive and negative attributes of contemporary human nature affecting those agents endeavoring to embark on the task of international institutional design.

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As the arguments of this work reveal, I am but one person surrounded by a supportive community without whom this work would never have come to fruition. To all of these people I owe a debt of thanks that I will never be able to repay in full.

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Introduction

Loving Care?

International Relations & the Problem of Human Suffering

Since both sympathy and justice depend to a large degree upon the perception of need, which makes sympathy flow, and upon the understanding of competing interests, which must be resolved, it is obvious that human communities have greater difficulty than individuals in achieving ethical relationships. While rapid means of communication have increased the breadth of knowledge about world affairs among citizens of various nations, and the general advance of education has ostensibly promoted the capacity to think rationally and justly upon the inevitable conflicts of interest between nations, there is nevertheless little hope of arriving at a perceptible increase of international morality through the growth of intelligence and the perfection of means of communication.

*Reinhold Niebuhr,
Moral Man and Immoral Society: A Study in Ethics and Politics*

The inspiration for this work is rooted in the Rwandan genocide one hundred days in which over a million individuals were brutally murdered, five hundred and thirty five thousand women were subject to a vicious campaign of rape, and over two hundred million children were left orphaned.¹ Coalescing around the notion of obligation state, institutional and individual alike this work wonders, how in the face of such human suffering a myriad of international actors and agents stood idly by, aware of the unfolding events, as silent witnesses to yet another genocide. It is a tragedy that is brought to mind by Romeo Dallaire, Lieutenant-General of the Canadian Army and Force Commander for the United Nations in Rwanda, when, in his memoirs, he recalls a conversation between himself and a group of United Nations officials. “Engraved in my brains is the judgment

¹ For a particularly detailed and in-depth account of the atrocities see Philip Gourevitch, *We wish to inform you that tomorrow we will be killed with our families: stories from Rwanda* (London: Picador, 2000) and, Scott Peterson, *Me against my brother: at war in Somalia, Sudan, and Rwanda: a journalist reports from the battle fields of Africa* (London: Routledge, 2000).

of a small group of bureaucrats who came to ‘assess’ the situation in the first weeks of the genocide,” he writes. “We will recommend to our governments not to intervene as the risks are too high, and all that is here are humans.”² Reflecting on events that have ruined the lives of many, Romeo Dallaire underscores the tragedy of great power politics and begs the question of how? In the face of gross human suffering how is it that individual human lives balance precariously in a debate of political obligation and responsible agency? Moreover, it begs the question, is there an alternative account of politics capable of challenging the problem of human suffering? This work embarks on the task of institutional design and seeks to provide an account of political agency that places human well-being and development at the centre of the discipline. The overarching hope of this work is to facilitate a conversation, rooted in human action, challenging the boundaries of ‘inside and outside’ of ‘us and them’ contributing to a perverse sense of otherness in international affairs.

The Rwandan Genocide is one example of a central human and socio-political phenomenon; human suffering. “Suffering,” according to Cynthia Helpert, “is capable of being understood, and necessarily so, as a political question, that is one that opens up a public moral space for decision-making and that demands a public response through the exercise of power.”³ William E. Connolly writes that to suffer, “is to bear, endure or undergo, to submit to something injurious, to become dis-organized. Suffering subsists on the underside of agency, mastery, wholeness, joy and comfort. It is,” he concludes,

² Romeo Dallaire, *Shake Hands with the Devil: The Failure of Humanity in Rwanda* (Toronto: Vintage Canada, 2004).

³ Cynthia Helpert, *Suffering, Politics, and Power, a genealogy in modern political theory* (Albany: State University of New York Press, 2002), 2.

“ubiquitous.”⁴ Anthropologist Paul Farmer notes the inability to define suffering highlighting biographical images with which to contextualize the experience of suffering. “The texture of ‘dire’ affliction is perhaps best felt in the gritty details of biography, and I introduce the stories of Acephie Joseph and Chouchou Louis. The stories of Acephie and Chouchou are anything but ‘anecdotal’,” he writes. “For the epidemiologist as well as the political analyst, they suffered and died in exemplary fashion. Millions of people living in similar circumstances can expect to meet similar fates. What these vices, past and present, share is the experience of occupying the bottom rung of the social ladder in inegalitarian societies.”⁵ Finally, suffering is related to language, or the lack thereof, by David B. Morris noting that suffering is usually a silent process. “Suffering is voiceless in the metaphorical sense that silence becomes a sign of something ultimately unknowable. It implies an experience not just disturbing or repugnant but inaccessible to understanding,” he writes. “In this sense, suffering encompasses an irreducible nonverbal dimension that we cannot know-not at least in any normal mode of knowing-because it happens in a realm beyond language.”⁶ While all these definitions remain different in approach and description they demonstrate that suffering is part of the human experience.

Suffering is intrinsically linked to the way in which we understand ourselves as human beings. With knowledge comes understanding of the self and community. For this reason one can locate suffering in the relationship of structure and agency informing the practice of politics. “What we can do is the primal question that arises from the

⁴ William E. Connolly, “Suffering, justice, and the politics of becoming” *Culture, Medicine and Psychiatry* 20, no. 3 (September 1996): 251 & 252.

⁵ Paul Farmer, “On suffering and structural violence: a view from below. (how poverty influences suffering)” *Daedalus* 125, no. 1 (Winter 1996): 263 & 264.

⁶ David B. Morris, “About Suffering: Voice, Genre, and Moral Community” in *Social Suffering*, ed. Arthur Kleinman, 27 (Berkeley: University of California Press, 1997).

experience of suffering, either in ourselves or in relation to what we see at a distance. Politics sits squarely in the middle of that void between the active and passive, patient and agent, suffer and deliverer,” writes Halpern. “Politics and political theory are constituted and reconstituted around the problematics of agency as these have changed over time.”⁷ Attempts to mitigate the grosser forms of human suffering represent a social agenda informed by a series of beliefs rooted in the capacity and capability of agents and the values of society. Contemporary understandings of the agent situated within a political community are related to a particular understanding of politics professing the universal ideal of human moral progress. The contemporary response to the problem of human suffering, within International Relations, is articulated within the cosmopolitan tradition, investigating the idea of harm and conventions which seek to protect individuals from it, both domestically and globally.

Cosmopolitanism posits that individuals are not only members of their domestic state but that they are simultaneously members of a global community. The international nature of this relationship flies in the face of sovereignty, and in particular, the norm of non-intervention, articulating that individuals are duty bound to care not only for the near and dear, but also for the distant individual. As an ideal type, cosmopolitanism flies in the face of the parochial problem of distance and ultimately, seeks to transcend the bounded nature of international affairs. Identifying three overarching themes in the cosmopolitan tradition, Patrick Hayden shows through an examination of three cosmopolitan ‘moments’ the centrality of the individual, understood as equal beings, alongside a universal understanding of morality engendering a universal interest in the

⁷ Cynthia Halpern, *op. cit.*, 10.

well-being and development of individuals as members of a global community.⁸

“‘Cosmopolitanism’ holds that foreign policy is constrained by moral considerations that transcend the interests of particular communities and even international law,” writes Terry Nardin. “It argues that the division of humanity into territorial states is in fact morally arbitrary, and that international politics as traditionally understood must yield to a transnational politics focused on the interests or rights of individuals.”⁹ Proponents of cosmopolitanism furthermore, articulate the modern idea of human progress, evident within the extension of morality beyond the state as demonstrated by *The Universal Declaration of Human Rights*, *The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, the *Geneva Conventions*, and even humanitarian intervention.¹⁰ These international rules, norms and the practices they sustain represent a broader call to prevent harm at the global level. These ideas are encapsulated in the works of Thomas Pogge and Andrew Linklater, who emphasize, in the first instance, the negative duties of harm, yet remain open to the possibilities of positive duties to actively engage in harm prevention. On the other hand, Terry Nardin articulates a duty to protect focusing on the positive duty to actively challenge the problem of human suffering.

Thomas Pogge critiques contemporary attempts at international institutional designed concerned as he is with the global problem of poverty and its harmful consequences on the global population. The structuring of international affairs harms individuals, upholding unjust rules and institutions which benefit the powerful states of

⁸ Patrick Hayden, *Cosmopolitan Global Politics* (England: Ashgate Publishing Limited, 2005), 11.

⁹ Terry Nardin, “International political theory and the question of justice” *International Affairs* 82, no. 3 (2006): 450.

¹⁰ Andrew Linklater, “The problem of harm in world politics: implications for the sociology of states-systems” *International Studies* 31 (2005): 141-154.

the system. On his interpretation the structure of contemporary international affairs sustains the problem of human suffering, first, by maintaining the current world structures, and second, by continually allowing states to participate and benefit from those unjust structures.¹¹ “My focus is then on the *present* situation, on the radical inequality between the bottom half of humankind, suffering severe poverty, and those in the top seventh, whose per capita share of the global product is 180 times greater than theirs (at market exchange rates),” he writes. “This radical inequality and the continuous misery and death toll it engenders are foreseeably reproduced under the present global institutional order as we have shape it. And most of it could be avoided, I hold, if this global order had been, or were to be, designed differently.”¹² On this account, agents are duty bound to alter traditional international structures of international affairs in line with a minimal conception of justice which he reveals, is articulated in the discourses of international human rights. While Pogge fails to articulate in any great detail his interpretation of justice he develops a Global Resources Dividend (GRD). “The GRD proposal envisions that neither states nor their governments shall have full libertarian property rights over the natural resources in their territory but, instead, can be required to share a small part of the value of any resources they decide to use or sell.”¹³ This proposal, Pogge contends, addresses the unjust nature of international political structures

¹¹ Thomas W. Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms* (Cambridge: Polity Press, 2002).

¹² Thomas Pogge, “Severe Poverty as a Violation of Negative Duties” *Ethics & International Affairs* 19, no. 1 (2005): 55.

¹³ Thomas Pogge, “A Global Resources Dividend” in *Ethics of Consumption: The Good Life, Justice, and Global Stewardship* eds. David A. Crocker & Toby Linden, 511 (New York: Rowman & Littlefield Publishers, Inc., 1988).

and the need for individuals to adequately care for others living in situations of radical inequality.¹⁴

In a similar fashion, Andrew Linklater draws on the cosmopolitan tradition seeking to incorporate a variety of harm conventions into civil society. Articulating a sociological state-system, drawing on the particular work of English School scholar Hedley Bull, he demonstrates how morality and notions of harm are intimately related to the structuring of political engagements. “What is most interesting from this point of view is how far different international systems have thought harm to individuals a moral problem for the world as a whole—a problem which all states, individual and collectively, should labour to solve—and have developed what might be called cosmopolitan harm conventions,” he writes. “These are moral conventions designed to protect individual everywhere from unnecessary suffering, irrespective of their citizenship or nationality, class, gender, race and other distinguishing characteristics.”¹⁵ Articulating a vision of cosmopolitan communities, Linklater challenges the bounded nature of contemporary international politics demonstrating how cosmopolitan harm conventions can alleviate the tensions and priorities of human equality and moral favoritism. Agents, drawing on the negative duty to ‘do no harm’ are simultaneously able to care for the local and the distant.¹⁶ Linklater, on this account, challenges the classical interpretation of international affairs reliant on international sovereignty and the imperfect duties it articulates noting that international treaties, laws, and norms represent the progressive

¹⁴ Thomas Pogge, “Real World Justice” *The Journal of Ethics* 9 (2005): 37.

¹⁵ Andrew Linklater, “The problem of harm in world politics,” 320-321. This is a point also made in “Citizenship, humanity and cosmopolitan harm conventions” *International Political Science Review* 22, no. 3 (2001): 261-267.

¹⁶ Andrew Linklater, “Cosmopolitan Political Communities in International Relations” *International Relations* 16, no. 1 (2002): 135-150. A more elaborate investigation of Linklater’s political communities is offered in Chapter Four.

universal acceptance of harm conventions. It is however a pragmatic appraisal of contemporary international affairs, for as Linklater concludes, the task remains to convince international society to accept these harm conventions leaving to a later date the legal or moral foundations of harm.

Harm on both of these interpretations, is intimately related to the equality, universality, and progressive assumptions of the cosmopolitan discourses. From this vantage point, discussions of cosmopolitan harm conventions proffer one of three options, to remain steadfast in the current political structures contributing to the increasing inequalities and injustices of international affairs. On this account harm principles will falter, the international affairs will remain largely as it is. On the other hand, the system of states, like its historical predecessors may in fact implode, leading to violence, but ultimately, the opportunity to rebuild, from scratch, the structures guiding international engagements typical of the collapse of world orders.¹⁷ A third option, and that endorsed by both Linklater and Pogge is to move forward, challenge the injustice of international affairs, developing the requisite space to engage in politics and in so doing, generate structures supporting the equality of the cosmopolitan individual and the just political community. The inherent assumption within this third option openly accepts the inevitability of moral progress sustaining a clear understanding of justice which is universal in its scope.¹⁸

¹⁷ For a detailed account of the break down and reconstruction of world order see Andrew Williams, *Failed Imagination? New World Orders of the Twentieth Century* (Manchester: Manchester University Press, 1988) where he describes the decay of one order and the emergence of another. It is an interesting juxtaposition in light of the fact made by Robert Goodin, that it is a rare event when those engaged in institutional design on a grand scale are offered a clean slate with which to proceed. See Robert E. Goodin, "Institutions and Their Design" in *The Theory of Institutional Design* ed. Robert E. Goodin, 1-53. (Cambridge: Cambridge University Press, 1996).

¹⁸ Andrew Linklater, "The evolving spheres of international justice" *International Affairs* 75, no. 3 (1999): 474-476. He distinguishes between seven different approaches to understanding justice; 1. Distributive

As the appeal of cosmopolitanism broadens, questions concerning the universality of justice feature prominently in the discourses of international affairs. “Justice considerations have moved to the center of the discipline as questions about transnational justice (justice between individuals within world society) have become as important as international justice (justice between societies within the system of states),” writes Linklater. “Few could have foreseen this dramatic change even fifteen years ago when there were good reasons to suppose that superpower rivalry and bipolarity would survive well into the foreseeable future.”¹⁹ It is interesting that Pogge’s understanding of justice remains firmly embedded in the discourse of international justice per se, focused as he is on the structure and institutions of international affairs. Bearing this in mind, Pogge’s emphasis, in the first instance, on negative duties is not surprising given his awareness of the powerful influence a classical approach to international affairs exerts on the practice of contemporary international politics. While Pogge does not discount the existence and potential for positive duties, he is more concerned with negative and intermediate duties to avoid current and future harm, aware of the imperfect nature of obligation within international affairs. On the other hand, Linklater concerns himself not only with international justice per se, he is also aware of the potential for transnational justice in and amongst individuals at the global level. Unlike Pogge, his notion of community is one particular vehicle capable of challenging the bounded nature of international affairs and in so doing, opening up the possibility of positive duties as well.

Justice; 2. Transnational harm; 3. Global Institutions & Democratic Deficits; 4. Diplomacy & the Global Environment; 5. Immigration & Resettlement; 6. Inter-Cultural Justice; and, 7. Specieism. This does not include creative justice, as discussed by Paul Tillich investigated in Chapter Five. This account of justice proves important for both international and transnational justice incorporating practical reasonableness alongside and ethic of love and just political structures all related to the ends of morality.

¹⁹ Andrew Linklater, “The evolving spheres of international justice” *op. cit.*, 474.

A classical influence on international affairs, in the opinion of Linklater and Pogge necessitates a negative duties first approach. Terry Nardin, on the other hand, offers an alternative account of agency and harm premised on the duty to protect. Distinguishing humanitarian intervention from justice intervention, Nardin knits the moral foundations of the just war tradition with the practicalities of distributive justice examining the relationship of coercion and justice sustaining a particular account of human dignity motivating agency; namely, a duty to protect.²⁰ “It helps us to see that intervention might be a duty because failing to intervene not only leaves innocent people at the mercy of their tormentors but also leaves their tormentors free to act unjustly,” he writes. “To do nothing in the face of violence is to permit that violence, and in so doing, to fail to respect its victims as persons. I fail to respect your rights as a person not only by attacking you but also by remaining indifferent while others attack you.”²¹ This respect extends beyond the victim, to the perpetrators of violence. If an agent disregards their harmful acts, they are disrespectful of the ends of agency and the manner in which those ends are achieved, related as they are to the morality of the original agent.²² Couched in the framework of intervention, Nardin goes one step further than both Linklater and Pogge offering an account of human agency, aware of violent and non-violent harm which individuals, of their very nature, ought to be protected. Consequently, Nardin shows how the duty to protect is in point of fact, a perfect duty,

²⁰ An in-depth examination of the rhetoric of a duty to protect emerges from the rhetoric of The International Commission on Intervention and State Sovereignty, *The responsibility to protect* (Ottawa: International Development Research Center, 2001).

²¹ Terry Nardin, “International political theory and the question of justice” *op. cit.*, 460.

²² An interesting point can be made at this particular juncture, which will become increasingly clear in Chapter Five. In a similar fashion, Jean Bethke Elshtain notes the particular role for otherwise uninvestigated agents in intervention, a point that will be elaborated on in Chapters Four and Five. See her “International Justice as Equal Regard and the Use of Force” *Ethics & International Affairs* 17, no. 2 (2003): 63-75.

when suitably accompanied by an account of justice.²³ Yet, like Pogge and Linklater, flowing throughout his ideas are the assumptions of human equality, universality, and above all else, moral progress.

The cosmopolitan investigation of human suffering represents the dominant discourse addressing the well-being and development of the global community. The assumptions framing each response to harm, poverty and human suffering can all be traced back to the Enlightenment and the Modernity Project. It is, as Stephen Toulmin points out, that Modernity exerts a pre-eminent influence on the discipline of International Relations and the practice of institutional design therein. Modernity, on this account, is represented in the dominant assumptions of European supremacy and hegemony, the centrality of a state-system premised on the idea of political sovereignty, and the distinctly modern theoretical and technical understanding of political engagement shaping the political landscape.²⁴ In the same vein, O'Brien and Penna note that Modernity is reflected in the development, application and circulation of knowledge of the world reflecting the rationalism of Descartes, Galileo, and Hobbes.²⁵ Modernity represents, as Nicholas Onuf writes, "the story of how we denied the world any other purpose than our own and purposely made ourselves over at the same time."²⁶ This story, coalesces in what Stephen Toulmin labels the *standard account* or *received view* of

²³ This idea has gone on to develop alternative ideas of intervention and the duties of states and institutions within international affairs. Beyond the works of Terry Nardin, Michael Walzer and Richard B. Miller articulate alternative modes of understanding intervention premised on the duty to protect. More will be said about these approaches in the concluding chapter of this work.

²⁴ Stephen Toulmin, *Cosmopolis: The Hidden Agenda of Modernity* (Chicago: The University of Chicago Press, 1997), 13. This is not the only interpretation of modernity available to scholars, yet it remains the one endorsed throughout this work. In order to justify this claim, the introduction of Chapter One examines alternative interpretations, noting their shared assumptions and alternative ideas all the while demonstrating the value of Toulmin's interpretation for the ends of this work in particular.

²⁵ Martin O'Brien & Sue Penna, *Theorizing Welfare: Enlightenment and Modern Society* (London: Sage, 1998), 14.

²⁶ Nicholas Greenwood Onuf, *The Republican Legacy in International Thought* (Cambridge: Cambridge University Press, 1998), 19.

Modernity revealing to its agents a cognitive epistemology denying the idea that individuals are part of a greater project, emphasizing technical knowledge premising inter-human dialogue to the detriment of metaphysical ideas, assumptions and conclusions.²⁷

The standard account of Modernity nurtured the idea of political liberty. Seeking a measure of stability in lieu of domestic turmoil, Thomas Hobbes, building on the rationalism of Descartes and Galileo, offered an interpretation of legitimate political authority resulting from agreed upon contract of men. The original works of Hobbes, as well as John Locke and Jean Jacques Rousseau are the subject of Chapter One. Suffice to note at this point, that the works of these authors, delineating the acceptable and non-acceptable spheres of human agency, for individuals and government alike, revolved around a concept of liberty. Liberty, on this account, fostered an isolated existence for the individual. Combined with the distinction of mind and body, the rhetoric of negative liberty lead to the conclusion “that human beings, with their sealed off ‘minds’, are self-sufficient, solitary agents whose interests are separate and often in conflict.”²⁸ It is a problem that is noted by Jung, who points out that this particular distinction isolates individuals from one another. “By objectifying the body as well as the mind as substances (res),” he writes, “the Cartesian plot is oblivious to the body as living subject and thus renders impossible sociability-both interhuman conviviality and interspecific connaturality. Society as a multiple web of relationships is untenable without the lived

²⁷ Stephen Toulmin, *Cosmopolis: The Hidden Agenda of Modernity* (Chicago: The University of Chicago Press, 1997), 13.

²⁸ Niamh Middleton, “Aquinas, the Enlightenment and Darwin” *New Blackfriars* 86, no. 1004 (July 2005): 438.

boy as its root or anchor.”²⁹ The isolated, but liberated, individual subject, set the stage for a subjective account of politics, subtly influencing interpretations of political communities, law, morality and justice.

Enlightenment philosophy espoused a particular conception of the individual as a mover and a doer. This agent reflected the ideals of theoretical first principles and championed the assumption of human progress. It is this agent which was capable of overcoming the negative consequences of suffering. “Modern selves in modern societies tend to understand themselves, as no ancient people could, as living in a man made world, a world in which human knowledge and ingenuity has decisively altered and established the conditions of all human and natural life,” write Halpern. “We are responsible. Human beings are the agents of history, the rational actors accountable for social and technological change.”³⁰ Prior to the onset of the Enlightenment, suffering was an accepted side-effect of the human condition; however, it will be demonstrated how Modernity severed the relationship of nature and grace, altering the concept of being, and the relationships agents share with political structures. Evident within the writings of Thomas Aquinas and the Salamanca Theologians, individual agency was limited to accepting individual hardship. Salvation from suffering was offered through a twofold relationship in which nature and grace sustained the possibility of human happiness, understood as an ongoing challenge, oriented around a particular reading of the teleology of being.³¹ Modernity paved the way for alternative understandings of

²⁹ Hyn Yol Jung, “Enlightenment and the Question of the Other: A Postmodern Audition” *Human Studies* 25, no. 3 (September 2002): 299.

³⁰ Cynthia Halpern, *op. cit.*, 4.

³¹ This particular point will be elaborated on in greater detail in Chapters Two and Three. Suffice to note it refers to the natural motion associated with the ontological assumptions of being within the natural law tradition.

agency and political communities reflecting the ability to overcome human suffering rooted in rational technical knowledge.

Like the laws of physics, modern interpreters of international affairs inherently believed that international political activity could be understood within the rules and laws guiding its cognitive epistemology. “Scientific methodology,” writes Niamh Middleton,” would reveal the laws of man’s nature and existence in the same way that such procedures had demonstrated the movement of the planets was governed by gravity.”³² The received view of Modernity exerts its influence in the Classical interpretations of International Relations.³³ An examination of the works of Hugo Grotius, Samuel Pufendorf, Christian von Wolff and Emmerich de Vattel reveal an historical period ushering in a rational epistemology to the detriment of a simultaneous practical and theoretical ontology dominating scholarly discourses. Reflecting on the moral and legal power one state has to inflict harm, these authors, Andrew Linklater writes, provided an account of *ius gentium* emphasizing not the metaphysics of pre-modern scholars, but the cognitive epistemology of Modernity.³⁴ “Just as legislation is the criterion of law within each state, so agreement between states is the criterion of international law. The age of natural law,” he writes, “had come to an end.”³⁵ The onset of positive law, subtly altered the ideas of associated with the *ius gentium* articulating instead the rules and laws of

³² Niamh Middleton, *op. cit.*, 447.

³³ Andrew Linklater, “The problem of harm in world politics” *op. cit.*, 326. It is at this point that he makes the link between the English School, a classical interpretation of International Relations and the relationship between law, morality and international society. For an interpretive look at the English both historical and contemporary see Tim Dunne, *Inventing international society: a history of the English School* (London: Macmillan, 1998). For a good overview of the Classical Account of International Relations see Robert Jackson, *The global covenant: human conduct in a world of states* (Oxford: Oxford University Press, 2000).

³⁴ See, for example, Hedley Bull, *The Anarchical Society: a study of order in world politics* (London: Macmillan Press, 1995), 4-5.

³⁵ Terry Nardin, “The Moral Basis of Humanitarian Intervention” *Ethics & International Affairs* 16, no. 2 (2002): 63.

international interaction shaping international politics.³⁶ The emerging idea of civil society reflected these norms developing conventions, laws and norms in line with a subjective account of being and politics.

The cognitive epistemology emerging out of the works of Immanuel Kant further reflected the changing assumptions of natural law. His publication of *Perpetual Peace* further endorsed the cognitive epistemology of Modernity providing a pragmatic account of morality. His categorical imperative and metaphysics of morals sustained an account of morality associated with conformity to the law, highlighting rational empiricism over reasonableness, denying a particular role for human emotion and passion, fostering civil and not personal, interaction.³⁷ On this account, cosmopolitanism embodies the universality of rationalism and human equality proffering a particular understanding of human dignity. Moreover, it shares the self-same assumptions of the current political structures sustaining the inequality and injustice harming members of the global population. Bearing this in mind, the challenge of cosmopolitans to extend the equality of being outwith the bounded community and the vision of justice it sustains will remain a difficult and fraught journey captured as it is by the universality of moral progress. On

³⁶ The history of this transition and the ideas of these writers is well-documented by Richard Tuck, *The rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (Oxford: Oxford University Press, 1999).

³⁷ An interesting paradox emerges out of civil society when the norms of sovereignty and human rights interact with the phenomenon of human suffering, a point elaborated on in Chapters One and Five. Flying in the face of bounded obligation and justice, images of individuals suffering instinctively calls for responsible human action. Suffering, understood as a human experience, flies in the face of modernity's boundaries and the manner in which international affairs is conducted. Investigations into the nature of sovereignty, international law, and civil society demonstrate how the structures of international politics also contribute to the domestic suffering of the individual. International law, the primary means of international organization provide a normative function sustaining civil society. On this account, sovereignty supports the ends of international law developing the constitutive rules of international engagement rooted in the primacy of the state itself. Distinguishing between empirical and juridical statehood, Robert Jackson, illustrates how the desire for inclusion within civil society in and of itself contributes to human suffering. Robert H. Jackson, "Quasi-states, dual regimes and neoclassical theory: International Jurisprudence and the Third World" *International Organization* 41, no. 4 (Autumn 1987): 519-549.

this account, perpetual peace is merely a chimera and the more likely outcome will be the entrenchment of the status quo, in light of the particular ends of stability and Modernity; however, a cosmopolitan approach is not the sole means of addressing this particular phenomenon. Distinguishing itself from the ideas and criticisms of a cosmopolitan harm conventions and a duty to protect, one can discern a pre-modern approach with which to investigate the problems of human suffering; namely in the morality of natural law.

Natural law, as it is presented in the ensuing work, is at odds with the universality of cosmopolitanism and its professed illustration of moral progress. It is in agreement, however, with its inherent belief in the equality of all persons. Chapter Two will provide the required definition and description of natural law, morality and justice. Suffice to note at this particular juncture, a pre-modern account of natural law, based primarily on the works of Aquinas and his descendents reveals an emphasis on a relative understanding of situations and human experiences avoiding the problems of positive and negative duties, themselves the product of Modernity. It offers a particular understanding of justice that is simultaneously commutative and transnational neatly sidestepping the problem of enforcement, engendering this distinction focusing instead on the obligations of love motivating human action. An ethic of love, on this account, reflects the motivations, deliberations and actions of the agent offering an alternative to the coercive nature of laws and justice and the morality they represent. The morality of natural law united individuals focusing on human non-instrumental relationships mediated through an account of charity in order to develop an alternative interpretation of being political. The relationships challenge the inequality and injustice of contemporary international

affairs presenting instead a pre-modern response to human suffering which is agent centric focusing, *in this particular instance*, on the individual as an agent of justice.

The ends of the ensuing thought experiment seeks not to draw comparisons between the contemporary and pre-modern social and political systems. Nor does it seek to examine and critically engage with the ends of Modernity itself. Aware of the variety of interpretations offered, it supports the idea of *a received view of Modernity*, furthermore endorsing the criticisms of Modernity offered by Stephen Toulmin. It sets aside the issues of a Modernity Project, and its associated criticisms, facilitating a foray into the practice of institutional design. In so doing it seeks to create the requisite space to develop an alternative account of moral and political agency. Natural law agency sustains an account of justice and morality in order to describe, examine and understand the capacities of the agent proliferating interpersonal and transnational justice in light of pre-existing structural inequalities. In other words, this work represents a search for an alternative vision of being human challenging the cognitive epistemology orienting contemporary moral philosophy and international relations. The morality of natural law thus seeks to engage with the problem of *being*. The appeal of a pre-modern approach rests on the fundamental equality of all beings, like that of cosmopolitanism, but distinguishes itself, by its assumptions of relativity and human potential, evident in the teleology of being itself. These two assumptions sustain alternative structures whereby other forms of knowledge and moral reasoning can flourish. Emerging from this theoretical investigation is vision of the political agent and community endorsing an alternative understanding of morality and justice which is above all else, oriented around the potential of human action.

Acting, as it relates to morality and institutional design shapes the understating of human suffering guiding this work. Defined as the inability to develop one's innate potential; it relates this phenomenon to the lack of experience, or experiences, which are detrimental to the well-being and development of the individual. Suffering like agency, shares an assumed capacity for individual action. As the ensuing pages will illustrate, human experience is the primary source of human knowledge and it is human knowledge that develops an agent's conception of morality. Couched in the framework developed first by Aquinas and sustained by the Scholastic tradition of natural law, this interpretation of human suffering is derived from the morality of natural law sustaining the relationship of theoretical and practical first principles. It is this relationship of knowledge sustaining the actions and experiences of the individual contributing to his or her development. Individuals, on this account, are comprised of seven basis goods; self-integration, practical reasonableness, justice & friendship, religion & holiness, life, knowledge of truth, and finally, work & play.³⁸ The development of these basic human goods provides each individual, with the requisite experiences to develop one's conscience and in so doing, to act. Consequently, agents interact with each other moving towards the ultimate end of human happiness. This account of human suffering, distinguishes itself from cosmopolitan notions of harm and the duty to protect offering a moral maximum, instead of a moral minimum, of justice within the human experience.

Human potential is rooted in the capacities and capabilities of being human. Above all else these capacities represent the ability to will the ends of happiness and to capably act towards those ends. Individuals suffer when they are incapable of acting on

³⁸ Germain Grisez, *The Way of the Lord Jesus: Christian Moral Principles, Vol. 1* (Chicago, United States: Franciscan Herald Press, 1983), 124.

the will's desire to achieve the ultimate ends of happiness.³⁹ "In summary then, Aquinas holds that human beings always act for the sake of an ultimate end, which is happiness," writes Colleen McCluskey. "Although they are not able to will against happiness, they are able to fail to will happiness because they are able not to think about happiness."⁴⁰ Suffering, on this account, manifests itself when a desire for happiness cannot be willed. Moreover, an individual is harmed if he or she can will happiness but lacks the freedom, autonomy, and goods to do so contributing to further injustices to the equality of being characterizing his or her existence. It is the argument of this work that constituted as theoretical subjects situated in an isolated political structure, agents cannot desire the ends of happiness. Similar to the point made by Pogge, the structures of international affairs are key agents inflicting harm on the human population. Similarly, as Linklater points out, the bounded nature of political communities, and the related account of justice, limits the ability of individuals to act autonomously and develop freely. Suffering, on this account, originates at the site where willing cannot transform itself into action, or willing, in and of itself is impossible. It further develops as the structures of society inhibit individuals acting for happiness, reaching its pinnacle when individuals are denied both the capacity to will happiness and the means to act on it. The universality of Modernity's assumptions, and the absolute steadfastness with which they are upheld, underscores this account of human suffering, structuring human agency in the material existence of agents.

³⁹ I am indebted to Steven Lee, Hobart and William Colleges who, when I presented this idea of human suffering originally, pointed out that suffering conceptualized simply as the inability to reach one's innate potential, is an all inclusive category in which any individual could claim to have suffered.

⁴⁰ Colleen McCluskey, "Happiness and Freedom in Aquinas's Theory of Action" *Medieval Philosophy and Theology* 9 (2000): 79.

Chapter One

International Relations, Modernity & the Idea of Westphalia:

The limitations of Stability Hierarchy & the Methodology of Rules

“As for the image of the state of nature, the consequences we draw from our reception of the image come from our having suffered in numerous ways the experience of nature it describes, our knowing or experiencing intuitively, bodily, what it would feel like, perhaps did once feel like, and what necessities it would provoke in us. This is what it means that the experience of order and that of chaos necessarily accompany each other, we know simultaneously always.”

*Cynthia Helpern,
Suffering, Politics, Power: A genealogy in modern political theory.*

Introduction

International order combines actual events and theoretical ideas in order to explain and understand the constitutive structures and actors of international affairs.¹ To that end, world order at the normative and empirical level enjoys a distinct history as well as future trajectory requiring an understanding of the ideas and events shaping its development. Contemporary scholars proffer a myriad of ideas about the nature of order that fall into three general categories distinguishing between order and power, order and liberty, and order and transcendence. On the one hand, order constitutes the development of an international society.² Liberal versions of order, on this account, note the problems of anarchy and a role for states therein but offer recourse to insecurity through the use of institutions and a doctrine of reciprocal domestic disinterest. For realists, the pre-eminent

¹ It is a point noted by Raymond Aron that order, among other things is both empirical and normative, that it relies not just on actions but also on the ideals and values that shape the community. Raymond Aron, *Paix et guerre entre les nations* (Paris: Calman-Levy, 1961); translated as *Peace and War: A Theory of International Relations*, translated by Richard Howard and Annette Baker Fox (New York: Doubleday, 1966).

² Andrew Williams, *op. cit.*, 284.

problem of international order is anarchy. Consequently, a realist account of world order reflects the sum total of rules, laws and institutions that structure a system of states.³ Critical theorists, on the other hand, understand order as that which produces and reinforces shared understandings in and among states at the international level.⁴ Skeptical of order, critical theory focuses on the relationship of structure and agency, arguing that agents are capable of overcoming the anarchy problematic and fashioning a truly universal community of individuals. Regardless of the definition adopted, order, at the international level distinguishes between governance and government⁵ focusing on power politics, institutional design, and the relationship between agents and structure, highlighting above all else, the modern desire for stability.⁶ Moreover, each approach, in its own unique way is linked to the development of the modern social contract tradition, either endorsing or criticizing its sought after ends.⁷

It is a point well noted by scholars that International Relations is ordered around a history which sought a scientific account of politics. Heirs to Modernity's professed belief in an overarching grand theory promoting stability through hierarchy, international order sustains a belief in the rational capacities of the individual at the international level

³ G. John Ikenberry, *After Victory. Institutions, Strategic Restraint, and the Rebuilding of Order After major Wars* (Princeton, N.J.: Princeton University Press, 2000), 23.

⁴ Janice Bailly Mattern, *Ordering International Politics, Identity, Crisis and Representational Force* (New York: Routledge, 2005), 30.

⁵ The distinction between governance and government refers in the first instance to the interaction and action of political agents void of a legitimate governing authority, and in the second instance, political agents guided by a legitimate authority. Within International Relations, world order refers to governance due to its inability to discern a legitimate authority. On the other hand, government is reserved for the domestic state of affairs and the authority that is created and affirmed by the citizens of the polity.

⁶ These general theories of order are ideal types and to quickly note them, they are realism, liberalism and critical theory.

⁷ See, for example, the work of Fiona Robinson, *Globalising care: ethics, feminist theory, and international relations* (Boulder, Colorado: Westview Press, 1999); John Gerard Ruggie, *Constructing the world polity; essays on international institutionalism* (London: Routledge, 1998); and finally, Friedrich Kratochwil, "Of Systems, Boundaries, and Territoriality: An Inquiry into the Formation of the State System" *World Politics* 39, no. 1 (October 1986): 27-52. All of these authors, in different ways, note how International Relations remains embedded within this tradition.

of analysis.⁸ To that end, scholars studying world order work within a series of boundaries divorcing the mind from the metaphysics of man. The dominant image of the individual, a being in motion, embodies Modernity's fascination with theoretical knowledge providing scholars with an original position upon which to foist order. It is Stephen Toulmin who best articulates the influential nature of modernity's assumptions on the epistemology and methodology sustaining this image. He demonstrates through a synthesis of the social and political problems of the 16th and 17th century how a desire for stability in society strengthened the ideal of rationalism evident in the works of Newton, Descartes and Galileo. In the sphere of politics it was the works of Thomas Hobbes, he shows, which extended the ideal of rationalism into domestic political theory.⁹ The institutional designs of Thomas Hobbes, sustained the technical explanation of man and society denying a particular role for practical knowledge.

Modernity is traditionally associated with a series of beliefs; namely the pursuit of mathematical exactitude, intellectual certainty, and moral purity. Broadly speaking it embodies a series of hopes culminating in the desire to find one overarching theory explaining the natural and the social world and the individual's status therein. According to Stephen Toulmin, the works chiefly associated with modernity "committed the modern world to thinking about nature in a new and 'scientific' way, and to use more 'rational'

⁸ See for example the arguments of Tronto, *Moral Boundaries: a political argument for an ethic of care* (London: Routledge, 1993).

⁹ Stephen Toulmin, "Cosmopolis" *op. cit.* This interpretation of modernity will feature prominently in the following arguments of this work. This is not to discount the interpretations of other authors. In fact, in what follows a brief appraisal of alternative interpretations of modernity will follow. Stephen Toulmin's account of modernity is the dominant one in this work for one specific reason; namely, his notion of an ecology of institutions whereby the value of agency based on influence as opposed to traditional power, reflects similar aims and intentions of a natural law account of agency with particular reference to human suffering.

methods to deal with the problems of human life and society.”¹⁰ In a similar fashion Theodor W. Adorno and Max Horkheimer provide an interpretation of modernity. They provide one interpretation of the enlightenment, reflecting on the assumptions and ends associated with the philosophers of that age. “In advance, the Enlightenment recognizes as being and occurrence only what can be apprehended in unity; its ideal is the system from which all and everything follows,” they write. “Its rationalist and empiricist versions do not part company on that point. Even though the individual schools may interpret the axioms differently, the structure of scientific unity has always been the same.”¹¹ Similarly, Jurgen Habermas’s examination of ‘modern’ alongside modernity and enlightenment philosophy is instructive. “With varying content, the term ‘modern’ again and again expresses the consciousness of an epoch that relates itself to the past of antiquity, in order to view itself as the result of a transition from the old to the new”.¹² Building on this idea, he like Adorno, Horkheimer and Toulmin notes the dominance of rational knowledge defining what it is to be a human being. “Modernity revolts against the normalizing functions of tradition; modernity lives on the experience of rebelling against all that is normative. This revolt is one way to neutralize the stands of both morality and utility,” he writes. “The aesthetic consciousness continuously stages a dialectical play between secrecy and public scandal; it is addicted to a fascination with that horror which accompanies the act of profaning, and yet it is always in flight from the

¹⁰ Stephen Toulmin, “Cosmpolis” *op. cit.*, 9 & 10.

¹¹ Theodor W. Adorno & Max Horkheimer, *Dialectic of Enlightenment* (London: Blackwell Verso, 1997), 7. Adorno and Horkheimer go on to note that modernity is but another myth created by individuals and society. Consequently, their interpretation is particularly critical and must be understood as such. In this way it differs from the ideas of Toulmin, although in a similar fashion, it notes the predominance of scientific rational thought.

¹² Jurgen Habermas, “Modernity – An Incomplete Project” in *Postmodern Culture* ed. Hal Foster (London: Pluto Press, 1985), 3.

trivial results of profanation.”¹³ Habermas utilizes this idea of modernity in order to further comment on the appropriate role of practical reasoning in contemporary societies. On his account, practical reason reflects a Kantian, Aristotelian, or utilitarian approach to ethics. For Habermas, however, the only means of reconciling the ends of practical reason in order to achieve a unified sense of purpose is to locate practical reason in the communication of individuals as potential agents as is evidenced in his interpretation of communicative action.¹⁴

The influence of Modernity and the ensuing responses of enlightenment scholars are evident in the contemporary discourses of International Relations. Modernity, it has been demonstrated, culminated with the demise of rhetorical and logical conclusions to moral dilemmas. It led to the end of the casuistic tradition of moral reasoning, a disdain for local knowledge and human experience, making way for the rise of rationality, embodied in the idea of a social contract, a Leviathan, civil society, and the idea of a general will.¹⁵ At the international level, these ideas culminated in the 1648 Treaty of Westphalia. Supporting the primacy of the independent and sovereign state, defined in

¹³ Habermas, “Modernity – An Incomplete Project” *op. cit.* 5.

¹⁴ Jürgen Habermas, *Justification and Application: Remarks on Discourse Ethics*, trans. Ciaran Cronin (Cambridge: Polity Press, 1993). Communicative action has been appropriated by modern scholars who articulate the idea of discourse ethics. The ideas of this work are similarly situated and can be interpreted closely mirroring the aims of these ideas, in particular when discussions of ‘the international’ are compared to the ideas and works of John Dryzek at the end of this chapter, and again when the ideas of community articulated by Richard Shapcott are illustrated in Chapter Four. Yet they differ in one remarkable way. For Habermas, and those who employ his framework, discourse ethics is similarly inward looking with regards to the agent. As Richard Rorty highlights, with the enlightenment individual began to look within themselves in order to understand assumptions of ethics and morality. A natural law ethic distinguishes itself articulating instead an outwards orientation locating the possibility and motivation for ethical and moral action in the recognition of the other ‘the good’. This idea is articulated through the idea of charity to be elaborated on in detail in chapter four. It builds on the idea of a relational ontology articulated in the second chapter and in this way seeks to respond to a variety of the traditional criticisms associated with modern interpretations of natural law. In this way, the value of a pre-modern interpretation of natural law reveals itself.

¹⁵ Stephen Toulmin, “Cosmopolis”, *op. cit.*, & Albert R. Jonsen & Stephen Toulmin, *The Abuse of Casuistry: A History of Moral Reasoning* (Berkeley, California: University of California Press Ltd., 1988).

terms of a national language, culture and religion, the modern state represented a domestic government whose legitimacy lay in the will of a governed people. Westphalia, on this account, sought to loosely create through custom, norms, laws, and institutions a degree of authority where it was otherwise absent. As Ian Ward demonstrates the ideas of social contract thinkers have led to the demise in the interest of others and have cultivated instead, an awareness of the self as well as an account of self-interested responsibility evident in the structures of legal jurisprudence. In his own words, the flaw of enlightenment philosophy relates to the ideas of Modernity; namely, a lack of romantic sentiment cultivating the necessary compassion, friendship and love indicative of an interest in others. Ian Ward provides an interesting rejoinder to the aforementioned interpretations of modernity. His critical approach rests in an understanding of jurisprudential theory which notes the lack of natural principles of justice associated with enlightenment philosophy. He seeks to offer an interpretation of world order which revitalizes the solidarity associated with the humanism of the renaissance. In so doing, he highlights the isolated existence of the individual in contemporary political societies.¹⁶

It is a point much commented upon by John MacMurray that modernity's influence paved the way for an over-zealous fascination with the subject to the detriment of the agent consequently generating a series of societies failing to appreciate the need for both practical and theoretical knowledge. He notes how contemporary philosophical

¹⁶ Ian Ward, *Justice, Humanity and the New World Order* (England: Ashgate Press, 2003), 9. Ward advocates a return to those enlightenment writers in order to rectify this isolation and in so doing recreate the original ideas and motives of such thinkers as Leibniz, Smith, Coleridge and Shakespeare. He labels this approach the 'new humanism' in which the aims and ends of politics are balanced with both sense and sensibility, and approach, he claims is evident in the writings of the founding fathers of the United States of America. His notion of sense and sensibility caters to a particulate sense of charity and compassion within politics which is similar to the ends of Chapters Four and Five of this work. Yet they are distinctly modern interpretations and reflect, like Habermas, an inward orientation to politics. The value Ward offers to this work is the possibility of institutional charity whilst at the same time demonstrating the limited nature of humanism as an approach. This point will be further elaborated on throughout this work.

endeavors focus on the “I” failing to comprehend the essential nature of the individual and community, noting above all else that the “I” is only one component part of the “I and You” relationship. The resulting situation distinguishes a multitude of “I”s sustaining a dualism whereby individuals interact as isolated others and not as individuals in relations. The fascination with the empirical self, the “I”, sustains the modern philosophical image of man producing isolated beings. On this account laws seek to temper the negative interactions of men, further entrenching a subjective account of politics.¹⁷ Political engagements, on this account, are a technical process, sustained by a discourse of negative liberty, and the art of being political, associated with practical reasoning is situated outside the mainstream boundaries of political engagement.

In a similar fashion, C.B. Macpherson highlights the isolated ends of contemporary democracy articulating the phenomenon of possessive individualism. For Macpherson political societies reflect the discourses of scarcity and abundance generating a series of isolated relationships in society. “The basic assumptions of possessive individualism—that man is free and human by virtue of his sole proprietorship of his own person, and that human society is essentially a series of market relations—were deeply embedded in the seventeenth-century foundations,” writes Macpherson. “It was these assumptions that gave the original theory its strength, for they did correspond to the reality of seventeenth-century market society. The assumptions of possessive individualism,” he goes on to conclude, “have been retained in the modern liberal theory, to an extent not always realized. Yet they have failed as foundations of liberal-

¹⁷ John MacMurray, *The form of the personal, Vol. 2. Persons in relation; being the Gifford Lectures delivered in the University of Glasgow in 1954* (London: Faber and Faber Ltd., 1961), 26.

democratic theory.”¹⁸ Like Ward, Macpherson notes the lack of mutual foundations solidifying contemporary political societies and in so doing highlights two central themes of Modernity and its enlightened philosophy. First, this particular course of history is rooted in the use of laws in society, a point similarly noted by Toulmin.¹⁹ Second, whilst rights and liberty articulate the structure of that particular society, the heart and soul are reflected in the values of modern capitalism.

An examination of the ideas of Max Weber provides an insightful understanding of the relationship of the state and capitalism and the isolated existence of the individual therein. He notes the dominance of capitalism in the organization of the state and the ensuing bureaucratization of state institutions. “Everywhere the development of the modern state is initiated through the action of the prince. He paves the way for the expropriation of the autonomous and ‘private’ bearers of executive power who stand beside him, of those who in their own right possess the means of administration, warfare, and financial organization, as well as political usable goods of all sorts,” he writes. “The whole process is a complete parallel to the development of the capitalist enterprise through gradual expropriation of the independent producers. In the end,” he concludes, “the modern state controls the total means of political organization, which actually come together under a single hand.”²⁰ Societies become the end product of the fusion of democracy, associated with rights, and capitalism, associated with a market economy

¹⁸ C.B. MacPherson, *The Political Theory of Possessive Individualism: Hobbes to Locke* (Oxford: Clarendon Press, 1962), 270 & 271.

¹⁹ Stephen Toulmin, “Cosmopolis” *op. cit.*, 133. It is a point that will be returned to in many of the ensuing chapters, that this image of the individual is exhibited in our understanding of the rights-bearing subject identified in the discourse of human rights.

²⁰ Max Weber, “Politics as a Vocation” in *From Max Weber: Essays in Sociology* translated, edited, and with an introduction by H. H. Gerth & C. Wright Mills (Oxford: Oxford University Press, 1946), 82.

geared towards the accumulation of goods.²¹ It is a relationship which, as Leo J. Elders highlights, reflects not the idea of becoming, associated with the teleological ends of natural law. Rather, it is a relationship which mirrors the assumptions of enlightenment political philosophy focused on materiality to the detriment of being.²² Consequently, a doctrine of abundance and scarcity has emerged further increasing the isolated and subjective nature of the political agent contributing to the ongoing problem of human suffering. The necessary relationships needed to sustain an ethics of unity development and wellbeing are, on this interpretation, situated outside the mainstream of political endeavors.

The dominance of the possessive individual in contemporary society reflects one interpretation of modernity with reference to political structures. This, however, is not the sole interpretation of the political ends of modernity. As Quentin Skinner highlights, one can discern a second strand, albeit the less dominant approach, of political organization associated with liberty and solidarity. It is an interpretation which he labels the neo-roman theory. This theory broaches the relationship of civil liberty and political obligation and seeks to provide a symbiotic account of these ideas engendering a particular account of the political community. “When neo-roman theorists discuss the meaning of civil liberty, they generally make it clear that they are thinking of the concept

²¹ This is a point noted by Michael Hardt & Antonio Negri in their work *Empire* (Cambridge: Harvard University Press, 2000). They show the unfolding of enlightenment philosophy and related it back to the ideas emerging within the discourses of modernity. They ultimately reveal how this account of history is reflected in the political sphere of the social contract thinkers, but also highlight the diversity within the term of modernity itself. Not only is it a political concept, it also incorporates sociological, anthropological, theology and philosophical investigations as well. This multiplicity is evident in the examination of the authors under work today. Of equal importance they show, like Quentin Skinner, the presence of a second stream of modernity associated with renaissance humanism and the idea of communities of solidarity.

²² Leo J. Elders, *The Metaphysics of Being of St. Thomas Aquinas, in a historical perspective*, translated by Dr. John Dudley (New York: E.J. Brill, 1993).

in a strictly political sense. They are innocent of the modern notion of civil society as a moral space between rulers and ruled, and have little to say about the dimensions of freedom and oppression inherent in such institutions as the family or the labour market,” he writes. “They concern themselves almost exclusively with the relationship between the freedom of subjects and the powers of the state.”²³ These ideas reflect the ideas of humanism found in the political writings of Machiavelli articulating virtue and honor with reference to the political state and the well-rounded individual therein. It is an account of politics that focused on relationships of solidarity, a solidarity which as Hauke Brunkhorst has shown was severed with the ensuing development of capitalism and modern liberal democracies.²⁴ Bearing all these interpretations in mind the original ideas of Toulmin remain dominant throughout this work. His ecology of institutions which highlight coordinated human agency and institutional design provide the necessary structure needed to challenge the subjective account of being political and the isolated ends of civil agency.

To act in a civil manner is to develop and adhere to a particular code of conduct. Such conduct is fashioned through the codification of rules and regulations engendering the development of the amoral individual and anti-social interactions. It is an assumption of knowledge which assumes, as John MacMurray points out, “that all human behavior follows determined patterns, and that the laws which we obey, are like those which govern all natural objects, discoverable by objective scientific methods of

²³ Quentin Skinner, *Liberty before Liberalism* (Cambridge: Cambridge University Press, 1998), 17.

²⁴ Hauke Brunkhorst, *Solidarity: From Civic Friendship to a Global Legal Community* translated by Jeffrey Flynn (Cambridge: the MIT Press, 2005). More will be said on solidarity in Chapters Four, Five and the Epilogue. Suffice to note it represents one method of understanding political relationships in the community and is particularly important when one discusses communicative action and discourse ethics. Yet it remains primarily, in its modern interpretation linked to the assumptions of the enlightenment, offering an inward looking account of ethics and morality. Thus its associated accounts of justice do little to challenge the isolating structures of the political community.

investigation.”²⁵ Interactions of a civil nature revolve around a shared understanding of laws and rules which shape a society geared towards a particular outcome- survival. Laws, on this account function so as to limit conflict and are related to the boundaries delineating acceptable and unacceptable forms of agency. Human engagement is impersonal, on this interpretation, further entrenching the political boundaries of states, which, in light of Modernity’s universal aims reveals the problem of moral favoritism in light of human equality generating a pervasive sense of ‘otherness’ within international affairs.

The overarching theme of civility, and its associated conception of political society, is evident in the discourses of International Relations seeking to explain and understand, in their own particular way, the events of international affairs. An investigation into the dominant discourses of International Relations, normative and empirical alike demonstrates how normative accounts of international order share the self-same historical ascendancy as their not so distant empirical cousins. Elaborating on the point made by Fiona Robinson, that “the dominant liberal traditions in Western moral and political theory resonate strongly in the so-called settled norms of international relations,”²⁶ this opening chapter seeks, by way of an illustrative account of the history of the social contract tradition to demonstrate that regardless of the framework adopted, be it holistic, individual, rational or normative, the discipline of International Relations structures its over-arching assumptions and aims around a particular epistemology emerging out of the Modernity. In the same vein as Thomas Hobbes, John Locke, and Jean Jacques Rousseau, contemporary scholars share an epistemology that is pervasively

²⁵ John MacMurray, “Persons in Relations” *op. cit.*, 30.

²⁶ Fiona Robinson, *op. cit.*, 4.

theoretical seeking one over-arching account of order. This particular aim has led to a contemporary fascination with the rule of law, embodied in the domestic legal tradition extending into the international level. In so doing, this particular orientation, to the detriment of practical knowledge, sustains a series of pragmatic societies. Moral communities, on this account are non-existent, consequently denying the individual the capacity to develop as a moral and ethical being. Championing the primacy of the state, this account of International Relations fails to comprehend the basic anthropology of the individual as a social and political being.

This chapter offers an acute critique of the manner in which theories of world order account for agency, otherwise referred to as 'being political', representing, in their own particular way, the universal ends of the Enlightenment Project. Noting the burden of agency placed on the individual with the advent of the Enlightenment, it criticizes the dominance of a theoretical epistemology arguing that as the single acceptable understanding of knowledge, it is ill-equipped to provide any individual with the capacity to act in a manner befitting a moral and political agent. An examination of the social contract tradition goes on to detail this series of developments which lead to the dominance of theoretical knowledge and a subjective account of politics denying a place for obligation and responsibility within the traditional boundaries of International Relations. It is this account which espouses the idea of moral progress and human equality, at odds with the modern boundaries of international politics. Consequently, the overall aim of this opening chapter seeks to generate a resounding criticism of international affairs demonstrating how the universality of Modernity's ends, in light of the moral equality associated with being human are at odds with one another. In order to

achieve this end this chapter argues for alternative modes of understanding and explaining the discipline alongside traditional interpretations of international affairs acting as a check and balance on the potential tyranny of a rules based methodology. It paves the way for an alternative account of the individual, the community and the relationship they share which, when properly understood, illustrates that both, the individual and community, are key agents of justice capable of altering the structures that seek to control their actions. To wit, it argues forcefully against the bounded nature of communities, justice and obligation demonstrating the potential of individuals to alter the traditional boundaries of international affairs. The chapter elaborates on the idea of ‘the international’, by way of conclusion, facilitating this claim, and in so doing, generating the metaphysical space in which moral agency can begin anew.

Part I: Modernity & the Traditional Discourses of International Relations

The discipline of International Relations exists within strictly defined parameters of knowledge. Knowledge, it will be shown, which has emphasized, for better or worse, a select few modes of understanding and explaining international affairs. As Martin Hollis and Steve Smith point out, one can distinguish an holistic or individual methodology in order to articulate an empirical or normative account of International Relations.²⁷ Joan C. Tronto is critical of this account noting with despair that this delineation is the product of a particular reading of history situating morality and ethics outside the interactions of high power politics. Distinguishing a ‘morality first’ and ‘politics first’ approach to International Relations, she notes how the latter conception

²⁷ Martin Hollis & Steve Smith, *op. cit.*, 5. In this book the authors offer a distinct chart, similar to that in game theory claiming that works within International Relations rarely bridges the gap between the various categories and that the easiest way to understand the discipline as a whole is to conceive of it falling within these distinct categorizations.

dominates the traditional accounts of International Relations. This distinction, Tronto goes on to argue, is generally associated with the Hobbesian account of public action and private morality engendering a rule-based society concerned with order, stability, and civil interactions.²⁸

Bearing witness to this interpretation is the particular dominance of realist discourses in International Relations. “Realism is an approach to international relations that has emerged gradually through the work of a series of analysts who have situated themselves within, and thus delineated, a distinctive but still diverse style or tradition of analysis,” writes Jack Donnelly.²⁹ Distinguishing a classical, structural and neo-realist interpretation, realism focuses on anarchy, power, and the egoism of states. “The essence of international realism is its belief in the primacy of self-interest over moral principle, of necessity and therefore as of right, in international politics,” writes Steven Forde. “This can mean either that self-interest confers a positive right of some kind, as when the ‘national interest’ is seen as a moral principle, or that morality is wholly inapplicable to international politics.”³⁰ Classical accounts of realism draw on the works of Thucydides, Machiavelli and Hobbes combining the assumption of a negative human nature alongside structural factors with which to explain the absence of morality in international political engagements. On this account, realism focuses on the egoistic actor in an anarchical environment, lacking a legitimate form of political authority, highlighting self-interested deliberations and action. Power, on this account, is the dominant factor in any consideration of political action and justice best articulated in Thucydides’ account of the

²⁸ John C. Tronto, *op. cit.*, 7.

²⁹ Jack Donnelly, *Realism and international relations* (Cambridge: Cambridge University Press, 2000), 6.

³⁰ Steven Forde, “Classical Realism” in *Traditions of International Ethics*, eds. Terry Nardin & David Mapel 62 (Cambridge: Cambridge University Press, 1992).

Melian Dialogue. Justice, on this portrayal reflects the desires of the powerful and the capitulations of the weak.³¹

The relationship of power and self-interest in light of the anarchy of international affairs is further developed in the writings of E.H. Carr, Reinhold Neibhur and Hans J. Morgenthau. According to Carr, politics is the reflection of utopian and realist thought, the two of which will never accord with one another. On this account, politics becomes the balancing of morality and power.³² Bearing this in mind, Andrew Linklater highlights the fact that Carr failed to articulated how this balance ought to be struck.³³ In a similar vein, Morgenthau also examined the relationship of morality within high power politics, arguing forcefully that man strives always towards the good, but the potential for evil runs rampant in politics. Politics reflected in his idea of the national interest represents the struggle of reason over self-interested notions of power in the face of anarchy.³⁴ National interest, according to Jack Donnelly, represents for Morgenthau, a descriptive and prescriptive account of the rules for success in international politics. The success of national interest, however, is tempered by the structural challenges posed in light of a negative view of human nature.³⁵ Reinhold Neibhur also comments on the negative potential of human nature in his related account of political realism. “Such is the social ignorance of peoples, that, far from doing justice to a foe or neighbor, they are as yet unable to conserve their own interests wisely,” he writes. “Since their ultimate

³¹ Thucydides, *The Peloponnesian Wars*, translated by Benjamin Jowett; revised and abridged with an introduction by P. A. Brunt (New York: Washington Square Press, 1963).

³² E.H. Carr, *The Twenty Years Crisis, 1919-1939: an introduction to the study of international relations*, 2nd Edition (London: 1946), 93 & 209.

³³ Andrew Linklater, “The transformation of political community: E. H. Carr, critical theory and international relations” *Review of International Studies* 23 (1997): 323.

³⁴ Hans J. Morgenthau, *Politics Among Nations: the struggle for power and peace* (New York: Knopf, 1973).

³⁵ Jack Donnelly, “Twentieth Century Realism” in *Traditions of International Ethics* ed. Terry Nardin & David Mapel, 92 & 93 (Cambridge: Cambridge University Press, 1992).

interests are always protected best, by at least a measure of fairness toward their neighbors, the desire to gain an immediate selfish advantage always imperils their ultimate interests. If they recognize this fact, they usually recognize it too late.”³⁶

Classical realists, on this account, focus on human nature in the first instance, reflecting upon the structure of international politics in light of this inevitability.

Highlighting the structural emphasis on international politics, and placing primary emphasis on power and self-interest therein, Neorealism emerged as the prominent interpretation of international politics in contemporary affairs. Distinguishing three approaches to understanding international politics, an individual, a state, or a structural epistemology, Kenneth Waltz forcefully argued for the dominance of a structural approach to international affairs articulating an understanding of the state as a black box, denying in the first instance, the classical realist understanding of national interest incorporating a moral component of human nature. Highlighting the anarchy of international politics, the lack of legitimate authority and hierarchical structures tempering state actions, self-interest and power remained, on Waltz’s account, the best method to explain the insecurity and violence characterizing the practice of international politics.³⁷ These ideas influenced both the theory and practice of international politics. The foreign policies of Henry Kissinger and Nikita Khrushchev focused on the balance of power during the Cold War seeking, in light of the arms race and the ensuing security dilemma, the optimal outcome for the state; namely, the acquisition of more power.

³⁶ Reinhold Niebuhr, *Moral Man and Immoral Society: A Study in Ethics and Politics* (Westminster: John Knox Press, 2001), 86.

³⁷ Kenneth Waltz’s, *Theory of international politics* (New York; London: McGraw-Hill, 1979); and *Man, the state and war: a theoretical analysis* (New York; London: Columbia University Press, 1959) are the two most widely cited texts of this contemporary argument.

In light of these changes Charles Beitz sought to blend the otherwise forgotten morality of classical realism into its neorealist interpretation. “Taking these two points together, the morality of states might be understood as the international analogue of nineteenth-century liberalism,” he writes. “It joins a belief in the liberty of individual agents with an indifference to the distributive outcomes of the economic interaction.”³⁸ Emphasizing the influence of Hobbes’s account of power and authority, he articulates a particular role for institutions in domestic states to develop a distributional account of political justice. Upholding the distinctions of domestic and private associated with international sovereignty, Beitz’s work highlights two important phenomena within the practice of international politics. In the first instance, he reiterates alternative traditions, beyond realist assumptions, incorporating institutions and liberal assumptions with which to understand international affairs. Second, he demonstrates, by way of analogy, the influence of the social contract, as a political tradition on the structure of contemporary international affairs highlighting the pre-eminent role of the state, alongside international sovereignty and the norms of non-intervention and non-aggression. Although Beitz’s attempt to integrate morality and realpolitik is troubled, it is an interesting rejoinder to an account of international affairs which remains vibrant even with the eventual end of the Cold War. As the particular works of John Mearsheimer demonstrate, the pre-eminence of realism continues to survive in the face of the moral and ethical challenges of normative accounts of international order.³⁹ Articulating what he labels offensive realism, Mearsheimer’s work demonstrates how power, anarchy and self-interest remain firmly embedded in the structures of contemporary international politics.

³⁸ Charles R. Beitz, *Political Theory and International Relations* (Princeton, New Jersey: Princeton University Press, 1978), 65 & 66.

³⁹ John J. Mearsheimer, *The tragedy of Great Power politics* (New York: W.W. Norton, 2001).

Societal interpretations of international affairs offer an alternative to the power based systemic understanding of world order. Articulating a vision of international civil society, the English School, and the communitarian approach articulated by Michael Walzer emphasize norms, customs, and values around which individuals and society coalesce. From an historical perspective, the English School tradition seeks, among other things, “not to study diplomatic history in the usual sense, nor to discuss current problems,” writes Adam Watson, “but to identify the basic assumptions that lie behind diplomatic activity, the reason why a country conducts a certain foreign policy, the ethical premise of international conflict, and the extent to which international studies could be conducted scientifically.”⁴⁰ The contemporary ideas of the English School have coalesced broadly around two main features, noted by Barry Buzan, a methodology which seeks to bridge the gap between realism and liberalism noting a distinction between an international system, an international society, and a world society.⁴¹ Focusing on the idea of an international society, there is, as Tim Dunne notes, “a consensus that the members are states and that society domain refers to the shared interests exhibited by them for security, prosperity and liberty: to achieve those goals a set of norms, rules and institutions have been created over time, have acquired a high degree of legitimacy.”⁴² The English School advocates a middle road whereby states remain the primary actor in international affairs, albeit a primacy tempered by the

⁴⁰ Adam Watson, “The British Committee for the Theory of International Politics,” Leeds University, <http://www.leeds.ac.uk/polis/englishschool/watson98.doc> (accessed September 27, 2005).

⁴¹ Barry Buzan, “The English School: an underexploited resource in IR” *Review of International Studies* 27 (2001): 474.

⁴² Tim Dunne, “Sociological Investigations: Instrumental, Legitimist and Coercive Interpretations of International Society” *Millennium: Journal of International Studies* 30, no. 1 (2001): 69.

individual rights of its citizens. In so doing, however, it fails to explain the source of the norms and values which shape international society.⁴³

This interpretation of international society bears some similarities to the idea of Michael Walzer. Employing the rhetoric of rights, albeit community and not individual rights, he articulates a vision of international society premised on a domestic analogy. If, he posits, states, like individuals, possess rights, they also have the right to first protect themselves and when faced with threats, in the same vein as domestic crime, seek protection, defense and ultimately punishment. “Our primary perceptions and judgments of aggression,” he concludes, “are the products of analogical reasoning. When the analogy is made explicit, as it is often is among lawyers, the world of states takes on the shape of a political society the character of which is entirely accessible through such notions as crime and punishment, self-defense, law enforcement, and so on.”⁴⁴ Noting six characteristics of international society, he provides a legal framework derived from notions of domestic communities with which to understand international affairs.⁴⁵ Yet for Walzer, and unlike the English School, the legitimacy of a states right to exist and defend itself is rooted in community, the coming together of individuals, coalescing around shared values and customs which ought to be protected.

⁴³ Nicholas Rengger, *International relations, political theory and the problem of order: beyond international relations theory?* (London: Routledge, 2000), 79.

⁴⁴ Michael Walzer, *Just and Unjust Wars, A Moral Argument With Historical Illustrations, Third Edition* (New York: Basic Books, 1977), 58.

⁴⁵ Michael Walzer, “Just and Unjust Wars”, *op. cit.*, 61-63. These six characteristics are: one, the existence of an international society of independent states; two, this international society has laws that establishes the rights of its members- above all else, its territorial integrity and political sovereignty; three, the use of force against one state from another constitutes aggression and is a criminal act; four, aggression identifies two types of violent responses, a war of self defence and a war of law enforcement by the victim and any other member of international society; five, nothing but aggression can justify war; and finally, once the aggressor has been militarily repulsed, it can also be punished.

The English School and Michael Walzer's interpretation of international society display striking differences; yet both are highly legalistic. They differ in that the former employ the rhetoric of rights, namely state rights, derived from the individual as an isolated subject, and the latter emphasizes the community based idea of common practice. This distinction is most apparent when one looks at a state's right to self defence. As Chris Brown points out, in the face of aggression, an English school scholar advocates clearly delineated rules and norms outlining when and where the violation of sovereignty and the norm of non-intervention ought to be broken. Walzer, on the other hand, highlights a community's right to protect itself arguing that states are best equipped to govern their own internal affairs.⁴⁶ Ultimately, both interpretations of international society pay the utmost respect and deference to rules, norms and institutions guiding the interactions of states. With this in mind, Terry Nardin has gone on to interpret international society as nothing more than a practical association. It is an interpretation that provides the political space for states to pursue different ends recognizing the ability of laws to promote mutually accepted practices overcoming a pure governing structure within an international environment. "Practical associations," he writes, "unites those engaged in the pursuit of different and sometimes incompatible ends through their recognition of the worth of those ways of life constituted by the authoritative practices that apply to them as moral agents or as members of a political community."⁴⁷ In light of the legalism of international society, international law plays a key role in determining the structure of a practical association which purporting to uphold civility provides a

⁴⁶ Chris Brown, *Sovereignty, Rights and Justice: international political theory today* (Cambridge: Polity Press, 2002), 92.

⁴⁷ Terry Nardin, *Law, Morality and the Relations of States* (Princeton, New Jersey: Princeton University Press, 1983), 14.

subjective account of International Relations. It exudes a decidedly sterile account of international action similar to domestic laws limiting the consequences of civil interactions. Practical associations note little beyond common predicaments that motivate coordinated action but fail to account for the genuine essence and being uniting individuals throughout the world. The idea of practical association provides a working example of the influence of modernity's assumptions. Beginning with the metaphor of a contract, clearly relegating morality and ethics to the sidelines in the face of civil engagement, practical associations, as described by Nardin achieve stability through a hierarchy of laws and institutions neatly sidestepping the messiness of morality and ethics. Through a clear delineation of acceptable modes of state interaction, practical associations hope to achieve a level of stability in international affairs assuming that all states know their place and act accordingly.

In the same vein as realist interpretations of international affairs societal interpretations are entrenched in a subjective reading of politics. On the face of things, international society appeals to a morality first' approach to international relations, but a deeper investigation into the nature of their assumptions reveals a deep seated problem with their epistemology. Civility, albeit employing the rhetoric of rights and liberty, reveals its egocentricity, and ultimate reliance on laws and boundaries limiting political engagements. Nowhere is the problematic nature of their epistemology better evident than when viewed in light of the discourse of sovereignty. Sovereignty, on this account, functions by limiting the political engagement of asocial and amoral states. "The crucial aspect of this way of being political as far as the problem of order was concerned," Nicholas Rengger writes, "was the division of politics into an 'inside' and an 'outside'

the inside of legitimately constituted territory and the outside of an ‘anarchic’ war of all against all.”⁴⁸ The product of theoretical knowledge the norms of sovereignty uphold and reinforce the structure of international order, both systemic and societal. Providing both the constitutive and substantive rules of international engagement sovereignty supports the idea of a Westphalian international order, influencing the actions of states.⁴⁹

Articulating for the first time the norms of non-intervention and non-aggression in the absence of political authority, sovereignty extended the bounded subjectivity of politics into world order. Nowhere is this better illustrated than in the contemporary understanding of international constitutionalism.

Constitutionalism focuses on “agreed-upon legal and political institutions that operate and allocate rights and limit the exercise of power.”⁵⁰ Employing a rule-based methodology, constitutionalism assumes that through routine actions, accepted and agreed upon customs, described in international law and its institutions, the insecurity and anarchy of international affairs can be controlled. “When political orders are organized in ways that constrain the ability of one actor or group to dominate or wield power arbitrarily or indiscriminately,” Ikenberry writes, “other actors and groups are more likely to abide by rules and outcomes that the political order generates at the moment.

⁴⁸ Nicholas Rengger, “International Relations, Political Theory and the Problem of Order” *op. cit.*, 6.

⁴⁹ A series of treaties that brought about an end to the religious wars that had dominated Europe, the Peace Treaties of Westphalia placed domestic governance in the hands of the people articulating a universal doctrine of religious toleration. The state, due to these conclusions, emerged as the supreme actor in international affairs. States were identified as that body bearing both an international sovereignty over its domestic population and an external sovereignty over the manner in which it conducted its international affairs. The treaties explicitly recognize the idea of territorial sovereignty and respects the independence and jural rights of the state; moreover, the treaties, decidedly legal in their approach, emphasize the importance of laws, customs and institutions as the primary vehicles deigned to establish international civility, and therefore, stability. So interpreted, the Westphalian Peace Treaties established a lack of natural authority within international affairs highlighting the fact that no one body can subsume the interests of the state to an overarching governing principle. John M. Hobson, *The State and International Relations* Cambridge: Cambridge University Press, 2000) offers a good overview of these points.

⁵⁰ G. John Ikenberry, *op. cit.*, 29.

Likewise,” he goes on to say, “when political institutions are deeply entrenched and difficult to overturn or replace, this also reduces the returns to power and increases the continuity of the existing order.”⁵¹ Constitutionalism notes the knowledge gap that exists between actions and intentions of state which, when viewed in light of the security dilemma, pose particular problems to the survival of the state. It thus seeks through institutional arrangements to disseminate knowledge aimed at cooperative action in and amongst states.

Distinguishing themselves from both the systemic and societal approaches to world order Allen Buchanan and Robert O. Keohane articulate a Cosmopolitan Institutional Proposal to understand the dynamism of contemporary international affairs. Building on the synthesis of morality and power offered by Charles Beitz, their particular account of international relations and order illustrates the importance of institutions in international affairs. Articulating a particular understanding of legitimacy, distinguished from the ends of justice, these authors appeal to a wide variety of moralities in order to develop relevant contemporary international institutions.⁵² Legitimacy, on their interpretation works within the constraints of contemporary political sovereignty challenging the moral favoritism contributing to the pervasive sense of otherness in international affairs including external epistemic actors and a moral minimum of justice, all of which, they contend will facilitate the smooth functioning of domestic democracies. This account of institutional design resonates in the ideas of Thomas Pogge, examined in the Introduction, similarly demonstrating a keen awareness of the relationship of coercion

⁵¹ G. John Ikenberry, *op. cit.*, 32-33 & 266. Beyond this problem of change and how world order can not account for it, I am only concerned about the inability of constitutionalism to generate trust to overcome security.

⁵² Allen Buchanan and Robert O. Keohane, “The Legitimacy of Global Governance Institutions” *Ethics & International Affairs* 20, no. 4 (December 2006): 405-437.

and justice examined by Nardin, also interested in the legitimacy of international action in light of human suffering. By far the most exciting contribution of Buchanan and Keohane is the dynamism they attach to institutional design aware of the incomplete knowledge structures shaping the decisions and actions of agents involved in the design process. While the minimal account of justice they employ at the outset is at odds with a pre-modern investigation of suffering, this foray into institutional design, beyond an alternative to the liberal and realist conceptions of constitutional world order demonstrates the previously unaccounted teleological development oriented around the ends of morality.⁵³ Extending this account of institutional design into the practice of war, specifically preventive war, and intervention, Buchanan and Keohane demonstrate the influence of a just war morality in the structures of international affairs, in particular international law, noting however, the inability of such structures to account for a legitimate political authority to examine the actions of states in light of their humanitarian ends.⁵⁴ Bearing this in mind, the appeal of constitutionalism emerges yet again.

Constitutionalism order, and the institutional arrangements it develops generate a pseudo-authority within international affairs. It views institutions as physical organizations with guidelines, operating procedures elucidating particular aims and goals.⁵⁵ Institutions, as David Luban writes, “establish what is to be held normal, what

⁵³ The emphasis of ongoing development in their works bears a striking resemblance to the teleology of being to be developed in Chapter Two. It is this teleology associated with the ontology of the agent, in and of itself, that characterizes a key component of natural law agency and it is not surprising that this element flows through cosmopolitan approaches to institutional design as cosmopolitanism and natural law are related to one another, although the former bears the hallmark assumptions of modernity, which, in light of the aims of this work, is problematic.

⁵⁴ Allen Buchanan and Robert O. Keohane “The Preventive Use of Force: A Cosmopolitan Institutional Proposal” *Ethics & International Affairs* 18, no. 1 (2004): 1-22.

⁵⁵ Institutions, similar to any other conception within the social sciences, are contested and one can see a multitude of definitions suiting one’s particular purpose. Robert Keohane’s article “International Institutions Two Approaches” *International Studies Quarterly* 32, no. 4 (December 1988): 383 defines

must be expected, and what can be relied upon, which rights and duties are attached to which positions, and what makes sense in the community or social domain for which an institution is valid.”⁵⁶ Institutions, in a given issue area provide states with the desired set of rules, regulations and operating procedures, which if followed, create the illusion of having overcome the knowledge gap typically assumed within an anarchical environment. Echoing the reflections of both realist and liberal understandings of world order, Buchanan and Keohane highlight the insecurity arising from the lack of a legitimate political authority in international affairs reflecting the primordial desire of international order; namely, international governance. Legitimacy, on their account, reflects the argument of Ikenberry, that institutions reduce the returns to power, encouraging states to participate in the institutional order not only for immediate, but also intermediate and long term benefits. “The practice of making legitimacy judgments is grounded in a complex belief,” they write “namely, that while it is true that institutions ought to meet standards more demanding than mere mutual benefit (relative to some relevant noninstitutional alternative), they can be worthy of our support even if they do not maximally serve our interests and even if they do not measure up to our highest moral

institutions as “general pattern or categorization of activity or to a particular human-constructed arrangements, formally or informally organized. More generally, Toni Erskine, in her work “Introduction: Making Sense of ‘Responsibility’ in International Relations-Key Questions and Concepts Can Institutions have Responsibilities?” in *Collective Moral Agency and International Relations*, ed. Toni Erskine, 5 (Houndsville: Palgrave MacMillan, 2003) points out that institutions are associated with regimes and regime theory as well as having been associated with formal organizations such as the United Nations, the World Bank, and even Microsoft. While distinctly normative definition in character, a rational definition of institutions is provided by Barbara Koremonos, Charles Lipson, and Duncan Snidal, in “The Rational Design of International Institutions” *International Organization* 55, no. 4 (Autumn, 2001): 762, where they define institutions as explicit arrangements, negotiated among international actors, the prescribe, proscribe, and/or authorize behavior.” Obviously, for institutionalism, it is the last definition which holds the most plausibility; however, institutions for the purposes of this work will be defined in a normative sense within a much looser framework.

⁵⁶ David Luban, “The Publicity Principle” in *The Theory of Institutional Design*, ed. Robert E. Goodin, 199 & 200 (Cambridge: Cambridge University Press, 1996).

standards.”⁵⁷ The ultimate success of a constitutional world order remains, however, debatable.

Constitutionalism seeks stability through the dissemination of knowledge. On this account, it seeks to bridge the gap of intention and action consequently tempering the insecurity associated with self-interested notions of power. Reflecting the ends of societal and systemic and communal understandings of international affairs, the epistemologies of which relate back to the original ideas of Modernity, constitutionalism, reflects the supremacy of theoretical knowledge and a subjective account of international politics. On this account, like the domestic laws and rules shaping political society, international structures seek to isolate and marginalize human interaction championing a universal mode of governance with which to further the moral progress befitting the individuals that constitute its practice. Constitutionalism, so the argument goes, exhibits the technical processes championed by Modernity extending the problematic relationship of equality dating back to its pre-modern descendents. Upholding the civility of international engagements, this approach to international order sustains the boundaries of inside and outside, assuming that human action, experience and development, like the laws of physics, follows a singular, all encompassing life plan. Yet, human moral development remains a unique, albeit shared, experience. Moreover, in light of the definition of human suffering previously investigated, it is increasingly apparent that the current structure of international order is ill-equipped to deal with the contemporary problem of human suffering as it flies in the face of the boundaries international order seeks to uphold.

⁵⁷ Allen Buchanan and Robert O. Keohane, “The Legitimacy of Global Governance Institutions” *op. cit.*, 410.

Part II: The Development of a Social Contract Tradition

The order emerging from a social contract is the product of the post-material metaphysics of Thomas Hobbes which denies the existence of incorporeal entities. Knowledge and human understanding of the self is limited to the material world. So constituted, individuals lack any vestige of a soul and understand themselves as matter both acting and acted upon. Furthermore, the natural world in which they inhabit is a blank slate upon which to impose a particular ordering of society. Hobbes begins his work in the state of nature – a state of war, where all individuals, comprised of the same capacities and capabilities seek to achieve their own survival while working towards the ultimate goal of peace. “Hereby it is manifest that during the time men live without a common power to keep them all in awe, they are in that condition which is called war;” writes Hobbes, “and such a war as is of every man against very man.” Lacking a legitimate governing authority to mitigate the grosser forms of violence, Hobbes seeks to outline the compact among men which, upon the surrendering of their natural rights, creates a Leviathan, that commonwealth constructed and burdened with the responsibility of creating laws seeking political and social harmony engendering stability. It is a tradition that outlines the rightness and wrongness of actions and the punishment of those who would transgress its laws forsaking the elusively sought after social and political stability.

Modernity developed the theoretical epistemologies associated with the scientific studies in general and in particular, physics and geometry. The dominance of this approach is evident in the works of Thomas Hobbes, reflecting a fascination with the stable and eternal laws of geometry. Both disciplines shaped a particular understanding

of knowledge offering an alternative means of understanding the capacities and capabilities of man beyond faith and reason. With its analytical conclusions resting on testable and quantifiable results geometry ultimately lead Hobbes to pursue a scientific method of politics. Denying a place for ‘incorporeal entities’ Hobbes puts forward the idea of man in motion, writing that “life is but a motion of limbs, the beginning whereof is in some principal part within, why may we not say that all automata (Engines that move themselves by springs and wheels as doth a watch) have an artificial life? For what is the heart,” he goes on to ask, “but a spring; and the nerves, but so many strings; and the joints, but so many wheels, giving motion to the whole body, such as was intended by the Artificer?”⁵⁸ This is not to be confused with the teleological essence of the individual,⁵⁹ man in motion supported Hobbes’s idea that individuals come to know their place and role in the world by the influence of other matter acting on them, and even more importantly, went on to support his ideas of the Leviathan, or commonwealth. Through one’s actions, and the actions of others, one could understand the world as it is, and move beyond the metaphysical or ontological idea of an eternal law governing the actions of men. So construed, it was the capacities of men, as free agents, that were not only capable, but responsible for the creation of a society capable of achieving peace.

Arising out of the compact of men was a Leviathan who laid out the laws of civil governance. These laws were not derived from, nor were they associated with any metaphysical notion of justice. Construed as they were from experience they could not

⁵⁸ Thomas Hobbes, *Leviathan*, *Cambridge Texts in the History of Political Thought*, ed. Richard Tuck (Cambridge: Cambridge University Press), 9.

⁵⁹ The idea of a teleological essence will be pursued in greater detail in the ensuing chapters. Suffice to note at this point that the idea that individuals are comprised with an innate teleology is the product of the fusion of the soul with bodily matter sustaining an objective account of dominion. The potential of all individuals to be their own masters and achieve their own unique personal fulfillment is premised on this idea embodying a related account of mutual well-being incorporating a metaphysical motivation of love.

claim to engender any ethical or moral development of individuals and the communities in which they inhabited. The sole concern of the laws was to determine the rightness or wrongness of an action so deemed by the great Leviathan. It was, as Richard Tuck points out, that Hobbes put forth a convincing account of post-skeptical metaphysics. That is to say the individual in a material world has enough knowledge (albeit not a complete knowledge) upon which to choose, act, and fashion a civil society.⁶⁰ Within the works of Hobbes, the idea of man in motion is central to his understanding of nature, the world, and the social environment in which individuals lived out their lives. ‘Man in motion’ places the highest emphasis on the will and self-determination of the individual, and when combined with the idea of the social contract locates responsibility, be it political or otherwise, firmly in the hands of the individual as an empowered agent. Contrary to the religious doctrines which preceded Hobbes in which God was the responsible agent, the material metaphysics of Hobbes completely transferred the responsibility to the individual.⁶¹

It is a point of utmost importance to be noted at this juncture that due to the nature of man’s understanding of the world and the artificial justice derived from the Leviathan, that little concern was devoted to the morality of the agent. It was justice that concerned itself with correct behavior, a derived sense of right and wrong, but paid little attention to

⁶⁰ It is an interesting distinction made by Middleton who, contrasting Enlightenment ideologies of progress with Aquinas’s ideas of becoming, notes that reason, in this framework is associated with emotion and instinct which, guided by grace, sustains rationality. Rationality, on this account is to be a loving individual. Niamh Middleton, *op. cit.*, 447.

⁶¹ It is a point to be pursued in the ensuing chapters that responsibility is the ontology of obligation located in the *ens* of the individual, actualized in the material world; however, Hobbes’ epistemology was influenced by the goals of modernity and therefore could not substantiate an idea of obligation arising in the *ens* and *esse* of individuals, because such an account of obligation requires both an understanding of theoretical and practical knowledge.

the morality and ethics that ought to be involved within action deliberations.⁶² “Civil law is to every subject those rules which the Commonwealth hath commanded him,” Hobbes writes, “by words, writing, or other sufficient sign of the will, to make us of for the distinction of right and wrong; that is the rule”.⁶³ The rules sought to establish and uphold a particular version of liberty, negative liberty, establishing clear demarcations of acceptable human political agency. “By Liberty is understood, according to the proper signification of the word, the absence of external impediments,” Hobbes writes, “which impediments may oft take away a part of man’s power to do what he would, but cannot hinder him from using the power left him according as his reason and judgment shall dictate to him”.⁶⁴ It was a responsibility to the self, emphasizing primarily the well-being of self, overlooking any notion of communal wellbeing and a responsibility to others. Aware of their natural rights, individuals combined a rhetoric of liberty to define areas of acceptable agency and a rights discourse to act accordingly, constituting each in opposition to one another, and in so doing, sustaining a highly isolated environment.

This idea of a contract negotiating the interactions of men was carried on in the works of John Locke, in particular his *Second Treatise on Government*⁶⁵; however, whereas Hobbes’s individual is motivated to achieve security, a Lockean individual is motivated to act for happiness. Born into perfect freedom and sustained by a natural right of punishment, Locke articulated a state of nature sustained by human reason further distinguishing between a state of nature and a state of war. On this account, war is the

⁶² This is a point that is noted by A.P. d’Entreves, “The Case for Natural Law Re-Examined” *Natural Law Forum* 5 (1956): 5-52. It will be elaborated on in further detail in Chapters Four and Five.

⁶³ Thomas Hobbes, “Leviathan” *op. cit.*, 183.

⁶⁴ Thomas Hobbes, “Leviathan” *op. cit.*, 91.

⁶⁵ John Locke, “Two Treatise of Government” ed. Peter Laslett, *Cambridge Texts in the History of Political Thought*, (Cambridge: Cambridge University Press, 2005).

product of individuals acting contrary to reason. “Man living together according to reason, without a common Superior on Earth,” writes Locke, “with Authority to judge between them, *is properly the State of Nature*. But force, or a declared design of force upon the Person of another,” he goes on to write “where there is no common Superior on Earth to appeal for relief, is *the State of War*.”⁶⁶ For Hobbes, a state of nature is a state of war because there does not exist a legitimate authority to punish transgressions; however, for Locke, in a state of nature individuals inherently possess a right of punishment in order to deter avaricious acts potentially compromising one’s self-preservation. For Locke, authority is not the solution to emerge out of a state of nature, or even govern and avoid a state of war, as Hobbes would have his readers believe. Violent conflict, insecurity, and war, for Locke occur in the absence and presence of “a common judge”.

The chief aim of civil society, for Locke, is the protection of private property and the public good. “And thus all private judgment of every particular member being excluded, the community comes to be umpire, by settled standing rules, indifferent, and the same to all parties;” Locke writes, “and by men having authority from the community, for the execution of those rules, decides all the differences that may happen between any members of that society concerning any matter of right; and punishes those offences which any member hath committed against the society, with such penalties as the law has established: whereby it is easy to discern, who are, and who are not, in political society together.”⁶⁷ Men in a state of nature take the decision to form a civil society establishing laws discerning right from wrong and a known and indifferent judge with the authority to determine who has transgressed the laws of civil society backed up

⁶⁶ John Locke, *op. cit.*, 280.

⁶⁷ John Locke, *op. cit.*, 324.

by legitimate use of force.⁶⁸ Political power, according to Locke, exists so as to fashion fair laws and met out equal and deserving punishments “for the Regulating and Preserving of Property, and of employing the force of the Community, in the Execution of such Laws, and in the defence of the Common-wealth from Foreign Injury, and all this only for the Publick Good,” Locke writes.⁶⁹ Yet, so construed, laws according to Locke, do not constrain the actions of man, but rather, seek always to perfect that freedom found in the state of nature. Law, according to Locke, exists for “*the direction of a free and intelligent Agent to his proper interests, and prescribes no farther than is for the General Good of those under that Law.*”⁷⁰ Rules and laws substantiate justice as fairness as a means to overcome naked self-interest according to the principles of freedom and equality within society.

Locke shares with Hobbes a similar concept of human agency. As Locke points out, it is man’s natural ability to labour sustaining a natural right to property. “The *Labour* of his Body, and the *Work* of his hands, we may say, are properly his. Whatsoever then he removes of the State that Nature hath provided, and left it in, he hath mixed his *Labour* with, and joined to it something that is his own, and thereby makes it his *Property.*”⁷¹ Society according to Locke, is intimately related to human agency protecting the natural labour of man. It is human agency structuring society placing the responsibilities of inequalities also in the actions of the individual as agent. Locke goes on to write that, “in some part of the world, (where the Increase of People and Stock, with the *Use of Money*) had made land scarce, and so of some value, the several communities

⁶⁸ John Locke, *op. cit.*, 351.

⁶⁹ John Locke, *op. cit.*, 268.

⁷⁰ John Locke, *op. cit.*, 305.

⁷¹ John Locke, *op. cit.*, 287-288.

settled the Bounds of their distinct territories, and by Laws within themselves, regulated the Properties of Private men of their Societies, and so, *by Compact* and Agreement, *settle the Property* which Labour and industry began.”⁷² Similar to Hobbes, Locke’s conception of society, and therein law, reflects the isolated conflicting ends of human action in common.

The image of man as a doer, an appropriator and accumulator, be it in a civil society, a state of nature, or a state of war is based centrally on the idea of reason. It is reason that governs the agents in action and, according to Locke, obliges all individuals to do no harm. Locke understands Reason as the law of nature, that among other things, “teaches all Mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, Health, Liberty or Possessions.”⁷³ On this account reason is subjective. Drawing on the aforementioned assumptions of Hobbes, Locke’s conceptualizes the individual in technical terms. Responsibility, on this interpretation is to the self, revolving always around the selfish desires of the individual, related to the material existence of man. Furthermore, obligation is also self-interested further entrenching the bounded nature of morality and politics. Tempered with his idea of freedom and legitimate authority, it falls to the commonwealth to direct the wills of self-interested agents in the public sphere, while at the same time, providing a large degree of privacy in those matters outwith the control of the government. Thus, Locke goes on to solidify the boundaries of public and private, of inside and outside that begin to emerge in the works of Hobbes and become part and parcel of the social contract package.

⁷² John Locke, *op. cit.*, 299.

⁷³ John Locke, *op. cit.*, 271.

The tradition of the social contract emerges out of a relationship between the individual and the community. It describes how laws, fashioned from a legitimate authority, outline acceptable behavior and seek to create a civil society in which all individuals are capable of better preserving themselves. Hobbes and Locke, begin in the state of nature, note its failings and prescribes laws that can mitigate the worst forms of insecurity and vice and promote peaceful interactions. Jean Jacques Rousseau, another social contract thinker, examines the relationships the individual enjoys with the state. Unlike his predecessors Rousseau locates the problems of human suffering in the very formation of civil society and the manner in which force is used by authority to uphold the laws. “Man is born free,” Rousseau opens with, and goes on to write that, “and everywhere he is in chains.”⁷⁴ Elaborating on this idea in his essay, *On War*, Rousseau notes that good social order is the product of laws guiding the use of force, illustrating the perverse relationship of modern civil society and law. “It is true that the perfection of the social order consists in the union of force and law; but for this to be so, law must guide force; whereas according to the ideas of princes about their absolute independence, force alone, speaking to citizens in the guise of law and to foreigners in the guise of reason of state, deprives the latter of the power and the former of the will to resist, so that everywhere the vain name of justice only serves as a shield for violence.”⁷⁵ Like the previously examined Hobbes and Locke, Rousseau distinguishes between war and peace as poles from which to theorize the nature of political organization in society. Yet, unlike

⁷⁴ Jean Jacques Rousseau, “On the Social Contract or Principles of Political Right” in *Cambridge Texts in the History of Political Thought, Rousseau, The Social Contract and other later political writings*, ed. Victor Gourevitch, 41 (Cambridge: Cambridge University Press, 1997).

⁷⁵ Jean Jacques Rousseau, “The State of War” in *Cambridge Texts in the History of Political Thought, Rousseau, The Social Contract and other later political writings*, ed. Victor Gourevitch, 163 (Cambridge: Cambridge University Press, 1997).

Hobbes, and similar to Locke, Rousseau does not believe that the state of nature is a state of war, and distinguishing himself further from Locke, he puts forth a peaceable nature of the individual, claiming that war is the product of civil society and could not occur within a state of nature. Such is the case because war, or a state of war, requires lasting structures and relations, whereas the state of nature is in a continuous state of flux.

Individuals pursue freedom in the state of nature, yet unlike Locke and Hobbes, Rousseau's free individual is not an equal individual. Moreover, the individual in the state of nature is guided by instinct and not reason to achieve his own survival. While the desire for self-preservation remains the same, the inequalities of natural freedom are those which encourage individuals to form a social union. Having agreed to come together and form a social compact individuals lose their natural freedom, but in the formation of the general will, a moral and collective body, they enjoy civil freedom and property, but more importantly, moral freedom. It is moral freedom which truly makes man a master of himself. That is to say, it overcomes the passionate desires of man, teaches him to abide by laws and grasp the morality tempering human action. "In order not to be mistaken about these compensations, one has to distinguish clearly between natural freedom which has no other bounds than the individual's forces," writes Rousseau, "and civil freedom which is limited by the general will, and between possession which is merely the effect of force or the right of the first occupant, and property which can only be founded on a positive title."⁷⁶ Unlike his predecessors, Hobbes and Locke, Rousseau moves beyond the material world and begins to offer an alternative conception of justice embodied in the general will, flavored with a distinctly metaphysical and ontological quality. The problem for Rousseau, however, resides in the

⁷⁶ Jean Jacques Rousseau, "On the Social Contract or Principles of Political Right" *op. cit.*, 54.

fact that the role of the general will, to shape legislation and guide the use of force has come to be misunderstood and because of that, the manner in which civil society is established, and the social compact that supports it, is ill-conceived sustaining individual suffering.

The creation of the general will guides the formation of the body politic, a whole self comprised of the constituent selves of the citizens, namely a city. Therein the sovereign and state come to be. The former the active component of the city and the latter, the passive constitutive element of the social pact that legislates at the behest of the general will. If individuals, in the state of nature were equal and guided by justice, and not instinct, it is very much the case that a social pact among men would not be necessary. Yet such is not the case. As Rousseau sees fit to point out, “All justice comes from God, he alone is its source; but if we were capable of receiving it from on high, we would need neither government nor laws.”⁷⁷ Bearing this in mind, it falls to the general will to legislate so as to combine rights and duties and highlight the primary role of justice in civil society. For it is very much the case that single men, guided by self-interest and self-love are very much aware of their own desires but not the well-being of others, but the general will, unaware of individual self-interest is very much determined to legislate for the entirety of the general will. “Individuals see the good they reject, the public wills the good it does not see. All are equally in need of guides:” Rousseau writes. Furthermore, he points out that “The first must be obligated to conform their wills to their reason’ the other must be taught to know what it wills. Then public enlightenment results in the union of understanding and will in the social body, from this union results the

⁷⁷ Jean Jacques Rousseau, “On the Social Contract or Principles of Political Right” *op. cit.*, 66.

smooth cooperation of the parts, and finally the greatest force of the whole.”⁷⁸

Surrendering their natural freedom and creating the social compact individual attains civic equality and freedom and are according to Rousseau, “be forced to be free’.

The true end of self-preservation is peace. Whereas peace, according to Hobbes and Locke, is achievable through the legitimate creation and maintenance of laws in the material world, Rousseau believes otherwise. Peace, in his opinion, “conveys to the soul a fullness of sentiment that makes us love at once our own and other people’s existence, it represents the bond among the beings that unites them in the universal system, it has its full breadth only in the mind of God whom nothing that is can harm and who wants the preservation of all the beings he has created.”⁷⁹ Thus, a peaceful society is a just society and so construed, must allow for the general will to fashion and guide the laws employing force within the state to uphold them. If the general will is denied the capacity to function as such, individuals are not only denied their natural freedom, they are also denied their civic equality and moral freedom and are incapable of tempering their natural instincts and passions. Rousseau is quick to point out that war is not a natural state of affairs but is rather, “born of peace, or at least of the precautions men have taken to secure a lasting peace.”⁸⁰ This is so because war requires lasting and permanent relations which do not exist in a state of nature, but come about through the structures of civil society. Moreover, when justice can not prevail and the passions rule there is a desire to acquire greater degrees of power and force is wielded with this goal thereby denying peace, construed as happiness, perpetuating the state of war.

⁷⁸ Jean Jacques Rousseau, “On the Social Contract or Principles of Political Right” *op. cit.*, 68.

⁷⁹ Jean Jacques Rousseau, “The State of War” *op. cit.*, 173.

⁸⁰ Jean Jacques Rousseau, “The State of War” *op. cit.*, 163.

Rousseau's works provide an account for the necessity of change in social order, and in so doing understands what is lacking in Hobbes and Locke. He not only locates the positive role for passions but takes issue with the manner in which both Locke and Hobbes understand the negative desires and passions of man. Rousseau understands that constrained with amoral conceptions of right and wrong, void of any ethicality, laws deny the role for change and also creative outlets for individuals. For at the end of the day, war is a learned art, a human art and the product of the social order in which the individual lives. The body politic is man made. It is inert and because of this can easily be destroyed. This is contrary to the naturalness of man whose desire for self-preservation leads him to need no more than basic subsistence and a means to survive. "For the state to endure, the liveliness of its passion must therefore make up for the lack of liveliness of its movements, and its will must quicken by as much as its power grows slack. Such is the law of conservation which nature itself establishes among the species and which maintains them all in spite of their inequality."⁸¹ At the end of the day however, Rousseau could not overcome the framework in which he was working. Believing that man was inherently free, but not equal, Rousseau sought to establish a role for absolute justice within the confines of a compact among men that could not accept its origins. He believed that it was justice that could temper the passions and produce a just compact among men. While Rousseau took issue with the natural man of Hobbes and Locke stating among other things, that these philosophers "only know what they see, and they have never seen nature. They know well enough what a Londoner or a Parisian is; but they will never know what a man is."⁸² He could not overcome the idea of self-

⁸¹ Jean Jacques Rousseau, "The State of War" *op. cit.*, 170.

⁸² Jean Jacques Rousseau, "The State of War" *op. cit.*, 165.

interest due to the manner in which he construed his agent. It was, at the end of the day, that agency, for Hobbes, Locke and Rousseau alike, was a technique arising out of theoretical first principles, to the detriment of practical principles.

Part III: International Relations & the side-effects of the Social Contract

The social contract theorists sought to discern a response to the problems of legitimate authority within society. The social contract seeks a legitimate authority tempering the self-interested nature of men generating laws and institutions ensuring a fair and equal society. Sustaining a bounded conception of political community revolving around the rhetoric of negative liberty, it outlines the realms of responsible action for the state and the individual. As Isaiah Berlin has so famously pointed out, the tradition they structured has evolved so that contemporary theorists now endeavor to determine a response to the question; “What is the area within which the subject – a person or groups of persons – is or should be left to do or be what he is able to do or be, without interference by other persons?”⁸³ The influence of this question and the subsequent attempts to answer it, have been far reaching. Within the contemporary discipline of International Relations, scholars have noted the ambiguity of a legitimate governing authority at the international level. Unable to account for an acceptable universal form of world government scholars have employed the theoretical construct of the state of nature generating a plausible account of world order and international governance.

The social contract tradition, however, is problematic and many of the problems that are noted by critics of Hobbes, Locke and Rousseau, are also relevant within the

⁸³ Isaiah Berlin, *Two Concepts of Liberty. An Inaugural lecture Delivered Before the University of Oxford on 31 October 1958* (Oxford: Oxford University Press, 2002), 169.

understanding of the international environment as well.⁸⁴ In the first instance, the social contract tradition sustains a relationship of opposition between the state and individual as agent and actor within the political sphere. Concerned as it is with the security and longevity of civil society, the state is the only actor with a legitimate sense of purpose in the maintenance and sustenance of its citizens. Moreover, the rule based approach to governance, which clearly delineates between the public and private life of citizens, and denies a role for emotions and passions, has determined those individuals who are acceptable political agents and those who are not. Finally, premised as it is on the artificial legitimacy of the government, the product of the contract, this particular tradition can not account for any notion of justice beyond fairness which, retrospectively, increases its dependence on a rule-based methodology. The tradition can not account for goodness in and of itself located outside the boundaries of the created society and therefore addresses each and every situation in a similar fashion denying the possibility of change, uniqueness, and relativity. Together, the sum of these problems represents a subjective account of international affairs. Examined in light of human suffering, a phenomenon transgressing the boundaries of the modern political system, the benefits it seeks to offer are achieved at a high cost of human lives.

Returning briefly to the aforementioned Peace Treaties of Westphalia is to recall the particular doctrine of sovereignty which emerged therein. It was the hope that, so construed, this particular doctrine of sovereignty could provide a series of norms

⁸⁴ Cynthia Helpen, *op. cit.*, notes there is a long and distinguished literature criticizing the social contract position. Beyond her critique one would do well to look at Carole Pateman, *The Sexual Contract* (Stanford: Stanford University Press, 1988); Seyla Benhabib, "The Generalized and the Concrete Other The Kohlberg-Gilligan Controversy and Feminist Theory" in *Feminism as Critique*, ed. By Seyla Benhabib and Drucilla Cornell, 77-95 (Minneapolis: University of Minnesota Press, 1978); Jean Bethke Elshtain, *Public Man, Private Woman* (Princeton: Princeton University Press, 1981); Kathleen Jones, *Compassionate Authority, Democracy and the Representation of Women* (London: Routledge 1993); and finally, Alasdair MacIntyre, *After Virtue: a study in moral theory* (Notre Dame: University of Notre Dame Press, 1981).

propagating a sterile sense of civility premised on clearly outlined modes of behavior. Similar to the negative liberty of the social contract, the ideal of sovereignty sustains a reciprocal disinterest in the domestic ordering of state affairs. On this account, the function of sovereignty extends the boundaries of public and private into the international realm of politics. Interpreted in this light, justice and morality function inside the state and international affairs are deemed anarchical lacking a legitimate form of authority. Sovereignty, emerging from Westphalia shapes the ideas of International Relations engendering a specific understanding of 'the international' framing the boundaries of contemporary international affairs.⁸⁵ It is this idea of inside and outside, of us and them that when interwoven with the ideas of a state of nature, placed anarchy on a pedestal generating a 'war of all against all' mentality within international affairs.

Sovereignty, so conceptualized, provides both the regulative and constitutive rules of international engagement. It is at once, a legal relationship binding and guiding the actions of states, and a normative conception of values aimed at achieving a level of peace within the international arena.⁸⁶ The former embodied in the practices of international trade, the protection offered by international law, the right of diplomatic relations, and a level of organization within their borders, namely the capacity to develop and maintain a civil society.⁸⁷ The normative agenda of Westphalia has proven elusive. The desire for peace, for human preservation beyond survival flies in the face of the conflicts to which states constantly bear witness. "Genocidal politics, major international

⁸⁵ It is a point well noted by Nicholas Rengger "International Relations, Political Theory and the Problem of Order" *op. cit.*, 9.

⁸⁶ Richard Falk, *The Declining World Order: America's Imperial Geopolitics* (New York: Routledge, 2004), 8. This work points out that it is a normative project that has by and large failed to take hold and exert any influence in international affairs.

⁸⁷ At this point, it does well to note the debates about empirical and juridical sovereignty, as well as negative and positive sovereignty as they relate to the development and internal ordering of the state as described by Robert H. Jackson, "Quasi-states, dual regimes, and neoclassical theory" *op. cit.*, 519-812.

and civil wars,” Falk writes, “are indicators of extreme failure, as assessed by common Westphalian standards of performance.”⁸⁸ Situated alongside Westphalian sovereignty the normative agenda represents an attempt to erode the hallmark problem of the disinterested, yet responsible, subject; namely, the isolated and un-obliged selves emerging from the subjective account of political engagement. The value of normative Westphalia, however, lies in its ability to challenge the values of empirical Westphalia and the structure of political sovereignty it endorses. At the international level an emergent clash of legal and normative ideals is challenging the supremacy of sovereignty. Championing the legal doctrine of autonomy, sovereignty does not allow for the intervention into the affairs of states. Yet the normative agenda of Westphalia questions the civil aims of sovereignty and, if interpreted as seeking to achieve peace, requires that agents intervene to mitigate the grosser forms of human suffering that occur therein. To act contrary to the legal postulates of sovereign equality and autonomy violates the traditional norms of international engagement yet it would uphold the normative obligation to offer assistance to those indeed while at the same time obscuring the traditional boundaries of international affairs. On this account, normative Westphalia relates closely to the previously mentioned cosmopolitan harm conventions.

Nowhere is this tension better illustrated than in the discourses of human rights and humanitarian intervention. *The Universal Declaration of Human Rights*, like the Peace Treaties of Westphalia, is a product of its time. Supporting the normative Westphalian agenda, the Declaration exists to protect the very dignity of human life itself. Concerning itself with the welfare of individuals throughout the world, it is the

⁸⁸ Richard Falk, *op. cit.*, 8.

final product of an idea that has floated throughout the course of human history.⁸⁹

December 10, 1948 saw the culmination of the work of the United Nations committee and brought into force the *Universal Declaration of Human Rights*, setting a standard towards which all nations would strive so as to create and foster an environment in which all individuals could thrive.⁹⁰ Constrained by the rationalism of Westphalia, and very much attuned to the modern discourse of sovereignty, the *Declaration* functions within the traditional boundaries of international affairs. It explicitly recognizes the responsibility of the state to care for its citizens and relies on a vague conception of ‘threats to international security’ when seeking outside intervention; however, it represents a key attempt to challenge the problematic nature of ‘otherness’ in international affairs. Recognizing for the first time that individuals throughout the world are linked by a common bond of humanity, the *Declaration*, assumes that inherent within each person are the same constitutive ingredients shaping who they are and their developmental potential. Common human nature links individuals throughout the world, it argues and regardless of geographic location, religion, ethnicity or race, all individual possess, in and of themselves, the right to life itself. However, at the end of the day, the ideals of the Declaration remain hampered by the constitutional world order championing the norms of international sovereignty and the underlying subjectivity of international affairs. The success and failures of the Declaration represent the tensions of moral favoritism and universal equality of Modernity, sovereignty and the over-arching assumption of universal moral progress.

⁸⁹ Micheline R. Ishay, *The History of Human Rights: From Ancient Time to the Globalization Era* (Berkeley, Los Angeles: University of California Press, 2004).

⁹⁰ The United Nations, “The Universal Declaration of Human Rights,” The United Nations, <http://www.un.org/Overview/rights.html> (accessed July 11, 2005).

Similar to the subject of the social contract position, the rights bearing individual suffers at a normative level, as the Declaration fails to address the values and ideals upon which notions of well-being and development must ultimately yield. At the end of the day, calls to eradicate human rights abuses throughout the world reside generally on ideas of common humanity. “The idea of human rights,” Dunne and Wheeler point out, “is that we all have rights by virtue of our common humanity. Individuals have certain kinds of rights as members of particular communities, but human rights belong to humanity and do not depend on their existence on the legal and moral practices of different communities.”⁹¹ Humanity requires an understanding of the sameness of self, an intangible quality that defies the structures of knowledge within which human rights abuses operate. Unlike an individual who, if you harm, suffers, the suffering of humanity calls into question the values that support peace, namely mutuality, trust, care and love; which can ultimately challenge the traditional power discourses of International Relations. It is an intangible argument which requires, above all else, an account of obligation that the legal subject cannot sustain. For within a community, an individual does not generate relationships fostering the ideals of humanity, but rather, engages as an autonomous and independent subject sustaining otherness failing to comprehend that inherently, as a member of this common humanity, her well-being is intrinsically intertwined with the wellbeing of others.⁹² Bearing this in mind, this work speaks not of humanity but of *being* human. Being, in common, connotes an alternative to legal

⁹¹ Tim Dunne and Nicholas J. Wheeler, “Introduction: human rights and the fifty years’ crisis” in *Human Rights in Global Politics*, ed. Tim Dunne and Nicholas J. Wheeler, 4 (Cambridge: Cambridge University Press, 1999).

⁹² This is not to argue against humanity. Indeed, notions of common humanity are intrinsically tied to notions of well-being. It is, rather, to argue that our understanding of the individual as a capable agent, understood as a rights bearing subject, is detrimental to the proliferation of this idea; an argument that is tied to the conception of knowledge and the parameters in which scholar in international relations work.

civility. It promotes personal relationships sustaining a sameness of self and endorsing the idea of mutual well-being. Mutual well-being challenges the isolated other, championing the ideals of love sustained through relationships of obligation supporting a particular understanding of morality and justice, and above all else, an orientation towards ‘the good’.

At this juncture, yet another tension emerges. The discourse of international humanitarian intervention notes that action geared towards increasing human well-being begins at the international level burdening developed states with the responsibility of helping those within other states to develop as dignified individuals. Yet, emerging out of the social contract tradition, the state is a pragmatic society which when so understood, is incapable of escaping the legalism which constitutes its very existence. Situated within the assumptions of the social contract tradition, the state is the product of human creation, and reflects the incomplete knowledge structure in which they operate. The rhetoric of intervention fails to comprehend that as an entity, the state is not obligated and that its responsibility is the product of the self-same treaties that recognize its very existence. Due to the tradition in which it has developed, a state, as an association is decidedly pragmatic and to that end, offers a pragmatic view of morality. Seeking above all else civility, as the opening section described, states are built not on the relationships of agents, but on the isolated interactions of individuals as subject. Consequently, the knowledge required to sustain in the first instance obligation, and beyond that genuine action, is wholly absent.⁹³ In the end, states fall prey to theoretical first principles and a

⁹³ This is to build on the arguments of John MacMurray, “Persons in relations”, *op. cit.*, who notes the following: that states developing out of modernity within the social contract framework sustain a pragmatic interpretation of morality geared not towards mutual ends but rather conformity and stability. Furthermore, it is to note another point that he makes that agency is the actions of capable individuals, but at the end of

technical account of being political concerned with power and security, seeking always stability in an atmosphere of genuine otherness challenging the very idea of humanitarian action and the values it represents. The rhetoric of human rights and humanitarian intervention offer a pointed illustration of the genuine moral desire for human equality, at the same time demonstrating how this equality is at odds with the universality of Modernity. As was illustrated in the Introduction the moral progress embodied in humanitarian practices is constrained by sovereignty and the boundaries it upholds.

Even more interesting is that this rhetoric of humanitarian intervention implies that individuals inhabit a particular space within the international and that within that space suffer. Moreover, within this space, the capacity of the agent to relieve this suffering is real. It is in fact, however, a point to be bluntly stated that individuals suffer within their own domestic environment. Why then, ought a scholar of international relations, be interested in the domestic well-being of the individual within her state? It is because, the manner in which the international has gone on to be constituted, as a static social order, and the values of sovereignty that it seeks to uphold, and the notion of civility to which it clings by the barest of threads, both substantiates the state and its domestic environment and in so doing, generates the problem of suffering. As Chapter Four will demonstrate in more detail, communities need not be bounded and upheld by the ideals of sovereignty. Sovereignty, as Nicholas Rengger writes, is influential due to the manner in which international affairs has unfolded throughout history. In light of the discussions of empirical and juridical sovereignty revealing the sustained inequalities

the day any theory of action must be sustained by a genuine epistemology which, as the investigations of the previous two sections have demonstrated is absent from the works of Hobbes, Locke and Rousseau emphasizing theoretical knowledge to the detriment of an holistic epistemology incorporating theoretical and practical first principles.

both domestically and internationally, it is time to question the value of its function. A reconception of the philosophical foundations of being human, sustained by a natural law interpretation of International Relations, reveals that communities need not be bounded and that the taxonomical value of ‘inside/outside’ ‘us/them’, and ‘domestic/international’ are no longer required. Eliminating the traditional boundaries of political communities incorporating the first principles of reasonable knowledge, alongside theoretical knowledge, facilitates a first step in challenging the grosser forms of human suffering. On this interpretation, the value of a pre-modern investigation of human suffering lies in its relativity in the face of the universality of Modern moral traditions.

It is the argument, upon which this thesis seeks to elaborate, that the realm of the international, beyond any systemic, societal, or communal interpretation, provides the required space to re-conceptualize traditional understandings of knowledge within International Relations facilitating anew agency, agents, and community. The outcome of this thought process, culminating in a particular account of ‘being political’ orients its focus to the well-being and development of all individuals, aware of the very real capacities and capabilities of individuals, similarly constituted at the ontological level, as agents of justice. In order to achieve such goals, it is in the first instance, to conceptualize anew what exactly ‘*the international*’ is. As Rousseau saw fit to point out, nature is not a static concept, but human creations are. He provided the space to understand a particular role for change within the environment of the individual. International order, however, in its current conception is a static entity, when in reality it ought to be understood as in a state of flux, for at the end of the day, the contention of

this work is that there does not exist a natural ordering of international affairs.⁹⁴

International order presents one axis of the dichotomies of a subjective politics, domestic and international communities. An objective account of the natural law community, offered in Chapter Four illustrates the false hope of stability premised on the idea of international order and negative liberty. On this account of international order, states are pragmatic societies which isolate individuals from one another understood as subjects lacking the requisite practical knowledge sustaining action developing their capacities and capabilities. Attempting to tame the anarchy of international affairs, scholars and practitioners have sought through the use of laws, rules and institutions to provide regulatory practices in order to overcome the lack of information and clear intentions that contribute to the problems of insecurity. As the opening section forcefully argued the combined effect of all of these facts remains; international order, within international relations seeks a static ordering of ends, perpetuating a sense of otherness belying the innate teleology of individuals and communities. Denying a specific role for morality and justice, relying as it does on false boundaries and a subjective account of politics, these accounts of order reflect Rousseau's conclusions; namely, that war relates to the peculiar creations of man.

International analyses, to date, represent a piecemeal fragmentation of past histories which ultimately hinge upon the idea of power politics and security cloaked in the discourse of liberty and rights. Through the acquisition and maintenance of power, it is assumed that states can temper the anarchical nature of the international. It is an emphasis that has ultimately led to the misrepresentation of the international as a fixed

⁹⁴ Steve Smith, "is the truth out there? Eight questions about international order," in *International Order and the Future of World Politics*, eds. T.V. Paul & John A. Hall, 9-119 (Cambridge: Cambridge University Press, 1999).

and static entity capable of being harnessed and governed by the actors that constitute its structure; however, such is not the case. The contention herein is that regardless of one's particular interpretation of the international, be it systemic, societal or communal, it fundamentally misconstrues the nature of the international and fails to appreciate that which it ought to examine in the first place, relationships. It is perhaps bizarre to note that in a discipline that calls itself *International Relations*, there is a decided lack of relationships that exist in and amongst the primary actors of international affairs. It should come as little surprise, given the historical trajectory of political theory that such is the case. The epistemological assumptions as they relate to world order delineate between acceptable and non-acceptable forms of knowledge, and in so doing, generate a series of sterile and civil interactions that negate the possibility of caring and loving relationships as a means to overcome anarchy and generate trust; however, relationships provide the key to understanding anew the international and at the same time, provide the means to overcome the decidedly negative orientation of its actions. Similar to the ideas of Carl Schmitt 'the international' takes the idea of 'the political' one step further.⁹⁵ As Schmitt sought to highlight what was most real was the distinction between friend and foe because it was in this particular dichotomy that one began to understand the very fragility of life and the very real and un-escapable fact of human death; however, one could not understand this fact of the human condition within the state. As Schmitt was keen to show liberal states are ill-equipped, and its value orientation so at odds with real life, that it is impossible to understand the friend/enemy distinction within politics, hence

⁹⁵ Carl Schmitt, *The Concept of the Political*, translation, introduction, and noted by George Schwab; with Leo Strauss's notes on Schmitt's essay; translated by J. Harvey Lomax; forward by Tracy B. Strong (Chicago: University of Chicago Press, 1996).

he employs the very metaphysical terminology of ‘the political’.⁹⁶ In the same vein, ‘the international’ is used throughout this thesis to distinguish from the traditional conceptions of world order associated with international affairs articulating an alternative account of being political within international relations.

As it does not exist in space or time, the idea of ‘the international’ is very much a metaphysical entity. One cannot grasp it, nor can one witness it in motion. The product of the relations of its constitutive members, the international is a dynamic entity sustaining its own teleological ends derived from the essence and being of the individual as an agent of justice. A fluid entity, the international changes and adapts to the ever evolving values and ideals as they relate to the constantly changing requirements of the individual pursuing her own individual well-being. To that end, ‘the international’ fails to conform to traditional ideas of world order. It is neither a system nor a society, but is rather a structure that is created, supported and maintained by the wide variety of agents that constitute its very being. It has an ontological status derived from the same ontology that supports the essence and being of the individual. But that is not to say that the international is only the sum of its individual parts. Emanating out of that particular ontology is an independent teleology that understands the actions and motivations of individuals and seeks to ensure that as political agents they have the resources to act as agents of justice. Moreover, as a teleological entity, it is very much a malleable and fluid entity and *contra* the popular theories of order that are challenged by the changing nature of the international, it is only when the international is static that one ought to begin to show signs of worry. At the end of the day, as the nature of the constitutive agents

⁹⁶ Charles E. Frye, “Carl Schmitt’s Concept of the Political” *The Journal of Politics*. 28, no. 4 (November 1966): 818-830.

change and adapt to their experiences and their knowledge and understanding further develops the ideals, values and goals they deem worthy, so to do the structures that guide what has been referred to mistakenly as international order change as well. To impose a fixed identity and associated conception of order is not only impossible, but a futile attempt to quell the problems associated with the discourse of anarchy and to further complicate attempts at overcoming the grosser forms of human suffering and reaching out to those that bear its burdens.

What this alternative idea of the international provides is a move beyond the constraints of sovereignty, and a real opportunity to develop a strong sense of justice and elaborate on the ideals and values that support the actions geared towards its long term acceptance and development. As a metaphysical and ontological entity, the international is that political space linking agents of justice and supporting mutually rewarding relationships. It is to put forth the idea of relationships based on common interests, values and ideals from an agreed upon end. *Vis a vis* the particular problem of human suffering, the particular end in question is human development, well-being and fulfillment. However, in light of both the criticism offered of International Relations in general, and world order in particular, this end is not a static end. As individuals and their communities acquire knowledge and experiences their ideas regarding individual and communal development change. Thus, the ends of well-being and fulfillment are in constant flux changing to meet the needs of individuals. In order to support this teleological account of being political within the concept of 'the international' a strong understanding of ethics and an associated understanding of justice and morality is required. To that end, this thesis, while developing an alternative account to agency and

agents seeks, by way of criticism, to offer an illustrative example of one manner in which the boundaries of International Relations and international affairs can be re-conceptualized. The ensuing work emphasizes relationships in order to develop an account of morality, motivating agents to pursue 'the good'. Articulating an ethic of love, this morality reveals a creative mode of justice challenging the traditional boundaries upheld by sovereignty. Offering an account of moral agency, this work argues that agents of justice, as beings in common, can exercise a degree of influence which translates into viable political power. Properly channeled this power can affect positive political and social change articulation through a combination of theoretical and practical principles the art of 'being political'.

Conclusion

Is a more nuanced account of being political, derived from the personal relationships of individuals' plausible, or even a credible endeavor? Similar to the ideas of John Dryzek who envisions a particular role for discourses as a means to generate transnational democracy, so to can moral relationships challenge the traditional epistemology that shape the ideal types of International Relations.⁹⁷ The reality of the global environment is such that individuals today are interconnected as such a high level then ever before in history. This is not to bring into the fold, the notion of globalization and the associated homogeneity criticism which it fosters. Rather, in reiterating the interconnected lives that a majority of individuals, living within the domestic state share, is to note the newly developing capacities of individuals acting as agents of justice. Throughout history the state has been a purposeful actor as it was the sole means in

⁹⁷ John Dryzek, *Deliberative Global Politics, Discourse and Democracy in a Divided World* (Cambridge: Polity Press, 2006).

which the activity of international engagement could be conceptualized. This is no longer the case. Individuals, conceptualized as agents, are now perfectly situated to challenge the purpose of the state.⁹⁸ Articulating a philosophical account of the moral agent, this work tackles the contemporary problem of ‘being’ in order to demonstrate the value of the individual as an agent of justice.

Elaborating on the idea of *dominion naturale*, this account of being political develops the intricate relationship between action and knowledge required to sustain an objective account of political agency. Emphasizing the innate social and political nature of the individual, the natural law framework elaborates on the anthropology of being tying one’s actions and decisions to one’s very essence engendering a need for a strong sense of morality tempering human development. In so doing, this account of natural agency and the natural law agent provides, by way of a living example, how individuals oriented around like minded goals and ideals, through the vehicle of relationships can develop the required trust challenging the traditional knowledge gap within international affairs. In so doing, it seeks above all else to foster genuine fellowship, oriented around shared intentions permeating ‘the international’ challenging the traditional insecurity and anarchy within which power politics generally unfolds. In effect, it is to place the individual at the center of international engagement so as to challenge the pervasive problem of human suffering offering an alternative framework to theorize about human welfare within the ordering of the natural world addressing always the question- *how ought the individual to be treated?*

⁹⁸ This statement does not discount a role for the state in international affairs in order to address human well-being and development. As the Epilogue will demonstrate a particular institutional ordering presents both the individual and the state as capable agents; however, the emphasis on the individual, at this particular time is only to redress the power imbalance in the relationship each has with the other. A pre-modern approach distinguishes in the first instance, the equality of this relationship.

The overarching aim of this work is to engage in the particular task of institutional design, “to encourage experimentation with different structures in different places”⁹⁹ and in so doing locate that particular space whereby agents are actively political. That space, the international, is deeply personal. It seeks, above all else to challenge the impartial rule governed conception of civil society premised on the relationships of real people. It bridges the actual and the metaphysical, interweaving knowledge of the material, social and ontological modes of existing developing a conception of the community that grows and mutates as the relationships of individuals evolve over time. The outcome of this thought experiment, it is hoped, is not to theorize on the idea of institutional design *per se*, but rather, to create the space whereby positive agency promotes such a conception of justice and brings morality and ethicality into *the mainstream of international politics* demonstrating, above all else, that individuals as agents of justice are honing and developing their capacities and capabilities to affect change. It seeks to put forth an account of living ethically within a community that understands the appeal of universally upheld rules but at the same time, noting the limitations of an unquestioned and universally accepted rule based methodology. This work thus seeks, by way of a critical appraisal of epistemology, to articulate a more partial, relative, and personal approach to relations within *the international*. In so doing, it seeks to provide a tempered critique of International Relations offering a proactive account of international affairs incorporating both theoretical and practical knowledge as a means to both understand and explain its events.

This thesis will, in the next chapter, investigate the tradition of natural law, both historical and contemporary as a means to shape and structure the overarching arguments

⁹⁹ Robert E. Goodin, *op. cit.*, 42.

of this thesis. An examination of the relationship of its ontological, methodological, and epistemological claims provides an interesting alternative to understanding the individual, the community and institutions therein. Moreover, its differentiation in and among universal absolutes and second order normative claims, substantiated by a particular understanding of morality, ethics and practical reasonableness provides a foundation upon which to premise the ideas of the natural law agent and agency sustaining a casuistic interpretation of natural law morality.

Chapter Three focuses explicitly on the works of St. Thomas Aquinas and shows how his metaphysics provide the foundation upon which to begin to understand the powers of individuals as agents. An examination of his notion of freedom, human capacity and capability and action provide the anthropological foundation upon which to understand the potential of all individuals as political and moral agents. This is followed by a critique of the human rights discourse ultimately highlighting the predisposition of the natural law agent to moral development as beings in common.

Chapter Four offers an acute critique of the societies which shape international affairs noting, to the detriment of the development of the agent, the exclusion of moral and ethical principles. Building on the natural law account of agency and agent, this chapter offers an image of natural law communities resting ultimately on the equal relationships of social and political agents. Employing the ideal of equality postulated by the Theologians at the School of Salamanca, this chapter builds on the tradition of morality first examined by Aquinas in order to provide an account of the political communities premised on action, oriented around the ultimate ends of human happiness. In so doing it provides an alternative function for laws, as the norms of justice, upholding

the ends of human happiness, and not the boundaries of the contemporary political societies.

Chapter Five ends by way of an examination of care ethics and the ethic of love arguing that it is the ethics of love, extending out of the ethic of care that provides the means to articulate and actualize the ideas of the natural law tradition demonstrating their relevance to the contemporary discourses of international relations. It transposes the ideas of civility with personableness and returns to the age old problems generated by the sovereignty discourse. It ends by way of an articulation of an alternative to the rule based methodology of international relations and argues that a commitment to morality generates repeated actions fostering trust paving the way out of insecurity and fear replacing traditional ideas of power with development and well-being challenging the inside/outside barrier of international relations. In so doing, it seeks to overcome the pervasive problem of 'otherness' in international affairs promoting *being* in common.

Chapter Two

Agency & Structure:

The Traditions of Natural Law and Casuistry

“If there are no ethical absolutes, human persons, rather than being the norm and source from which other things receive their value, become simply items or commodities with a relative value-inviolable only up to the point at which it is expedient to violate them in order to achieve an objective. It would then make no sense at all to speak of the immeasurable value of the human person. Far from being immeasurable-that is, beyond calculation-the value of a person would be quite specific and quantifiable, something to be weighed in the balance against other values.”

*Germain Grisez & Russell Shaw,
Beyond the new morality: the responsibilities of freedom.*

Introduction

The state is the primary unit in International Relations. Regardless of whether it is a black box, as systemic theories would posit, or a community or society, as others would argue, approaches to world order begin with an understanding of the state as the primary actor in international affairs. Yet, it ought to be clear, emerging out of the previous chapter, that this situation is the result of a particular reading of sovereignty shaping one way of being political. Contrary to this reading of international affairs, the interpretation of ‘the international’ points to an entirely different conceptualization of ‘being political’. Developing further this idea of ‘the international’ this chapter investigates the tradition of natural law in which to situate a proactive and inclusive account of moral agency. Coalescing around shared areas of interest, relationships provide institutional patterns structuring political engagements. Understood as “stable, valued, recurring patterns of behavior,”¹ this informal institutionalization is at odds with

¹ Robert E. Goodin, *op cit.*

constitutionalism; however, it provides the metaphysical site whereby agency can occur outside traditional sites of power and authority. Purposefully vague, relationships focus individual aims within a communal setting providing the means to establish the required degree of human fellowship and understand anew the agency/structure relationship within contemporary ideas of world order. Lacking the boundaries of contemporary politics, this account calls for a strong sense of morality and justice orienting laws and shaping human action sustaining the development of individual relationships.

The following is an examination of the natural law, as an historical and ethical tradition. Detailing the development of ethics as a discipline, the opening section of this chapter illustrates how ethics offers a rational understanding of the individual and community, similarly influenced by Modernity's ideal of scientific empiricism. Critiquing this development, and building on the ideas of Alastair MacIntyre, it notes the lack of a teleological component of being within contemporary ethical discourses; however, unlike MacIntyre, the critique offered herein turns not towards the idea of Virtue Ethics, but rather investigates the idea and tradition of Natural Law in order to frame the 'the international'. Describing the works of the 'new natural lawyers', the second section of this chapter looks at the viability of contemporary natural law interpretations within International Relations developing an account of human agency alongside 'the international'. Noting the problems associated with the 'new natural law' the final section of this chapter investigates the role of casuistry alongside natural law sustaining a methodology in line with an agent centered approach to politics. Arguing that the seemingly innovative natural law of the 'new natural lawyers' is in fact a rational

account of ethics, this chapter refashions the relationship of structure and agency, developing a framework in which to situate an objective account of international affairs.

Natural law (*ius naturale*)² encapsulates the idea of law as an art and a science. It is concerned with a human and divine knowledge of things (*divinarum atque humanarum rerum notitia*), a theory of right and wrong (*iusti atque iniusti scientia*), and with the furtherance of what is good and equitable (*ars boni et aequi*).³ Seeking to ascertain ‘the good’, natural law examines the relationships between ‘ought’ and ‘is’, between the ideal and the real, revealing an absolute standard of justice.⁴ The epistemological and methodological assumptions supporting the absolute standard of justice require clear ontological support which is the result of a highly developed knowledge of the essence of being. As the natural law exists *a priori* to human experience, it is only through human interaction in the natural and social world that an individual accumulates the requisite knowledge of the sensory world, and in the process, acquires an understanding of the laws of nature.⁵ Natural law, on this account, is the participation of the agent in the first theoretical and practical principles of life. Endorsing a particular account of morality and advocating always the ideal of integral human fulfillment, natural law distinguishes itself as one ethical tradition among many that utilizes the idea of reasonableness offering an

² In any instance when a Latin term is given, as a root definition, it will be accompanied in the text by an English translation, which will then be employed throughout the remainder of this work.

³ A.P. d’Entreves, *Natural Law: An Introduction to Legal Philosophy* (London: Hutchinson House, 1951), 19-22 & 95.

⁴ Yves R. Simon, *The Tradition of Natural Law: A Philosopher’s Reflections*, edited by Vukan Kuic; with an introduction by Russell Hittinger (New York: Fordham University Press, 1992), 137.

⁵ Heinrich A. Rommen, *The Natural Law: A Study in Legal and Social History and Philosophy* (Indianapolis: Liberty Fund, Inc., 1998), 143-148.

understanding of the individual and the community that is at once mutually constitutive, understanding the political and social nature of human development.⁶

Natural law has enjoyed an ambiguous relationship with the discipline of International Relations.⁷ It is however an interesting history as natural law has, time and again, provided the necessary justification for subverting accepted political structures. As Sophocles' Antigone argues to avoid almost certain punishment having prepared her brother's body for burial against the edict of the state, political structures are fallible in the face of more ethereal notions of justice.

That order did not come from God. Justice,
That dwells with the gods below, knows no
such law.
I did not think your edicts strong enough
To overrule the unwritten unalterable laws
Of God and heaven, you only being a man.
They are not of yesterday or today, but
everlasting,
Though where they came from, none of us
can tell.
Guilty of their transgression before God
I cannot be, for any man on earth.⁸

Antigone's rebellion offers one of many attempts of agency to subvert accepted political structures.⁹ In the same rebellious sense, the ends of natural law morality are employed throughout this work framing a philosophical account of the moral agent and agency accommodating 'the international'. The teleology of natural law, and its account of

⁶ Practical reasonableness, as a methodology has enjoyed a distinct evolution. While Aristotle referred to this human capacity as *eudaimonia*, Aquinas referred to it as *prudentia*. While the methodology has been interpreted in light of the times, it is important to note that the idea of a universal good, and the teleology of being associated with it has remained constant and is a key characteristic of the moral tradition.

⁷ For a particularly in-depth history of the use and abuse of the natural law within international relations see the work of E.B.F Midgley, *The Natural Law Tradition and the Theory of International Relations* (London: Elek, 1975).

⁸ Sophocles, *Antigone*, ed., Mark Griffith (Cambridge: Cambridge University Press, 1999).

⁹ Kathleen B. Jones, "Citizenship in a Woman-Friendly Polity" *Journal of Women in Culture and Society* 15, no. 4 (1990): 781-812.

justice highlight individual freedom creating a safe place, metaphysically speaking, in which relationships can thrive and human agency rooted in human reason and action can challenge restrictive social and political structures.

Natural law revolves around the idea of reasonableness. This capacity to reason, displayed by all of nature's creatures refers to the interplay of incorporeal and corporeal knowledge, the outcome of which is human action. It assumes a quizzical disposition encouraging individual experience through human interaction sustaining an increased amount of knowledge. Reasonableness is the outcome of a tripartite relationship of assumptions, ontological, epistemological and methodology. The ontological essence of being engenders an epistemological entity eager to participate and acquire an understanding of the world in which it is situated. This epistemological entity is the method through which an acute understanding of morality and justice emerge as human interaction, and participation, fosters a distinct understanding of appropriate and inappropriate behavior. So understood, natural law displays a teleological orientation interested, in the end with ethical behavior, elucidating an interpretation of morality and justice related to the idea of the prudent individual.

Part I: Natural Law & Institutional Design

Historical and contemporary natural law assumptions reveal the primacy of the individual. As an epistemological entity, seeking to acquire first knowledge, and then an understanding of the natural and social world, the natural law individual is a free being, imbued at the outset with a natural teleology. A natural motivation, the product of the ontological source of being and essence, it is this teleological spirit that motivates

individuals to constitute themselves as moral beings.¹⁰ A distinctly personal task, moral constitution requires first, an understanding of morality and justice, emerging as one engages with other individuals, so constituted. Arising from these relationships is the natural law community; however, to place primary emphasis on the role of the individual within the natural law tradition is a misnomer as individuals develop morally in common. Key to the essence and being of the natural law individual is an innate sociability and thus an intrinsic emphasis on human engagements. Individual relations found the natural law epistemology constituting the community providing the structures in which individuals further develop the first principles of knowledge. Added to the ontological, epistemology and methodological assumptions of the natural law is a symbiosis of individual and community purpose. Working together, these two entities provide the means to understand the nature of justice and morality, stemming from the natural teleology of the individual, imbued with the self-same ontology and teleological orientation towards ‘the good’.

This particular set of assumptions have enjoyed a distinct history and have evolved in and out of fashion as societies have altered their ideas on what constitutes a good political order. First reference is made to the ideas of a higher natural law in the plays of Sophocles, in particular his works *Antigone* and *Oedipus the King*.¹¹ Natural

¹⁰ The essence and being of the individual, examined in greater detail in Chapter Three, is referred to as an individual’s quiddity, “The real nature or essence of a thing: that which makes a thing what it is.” The ontology of the individual, within the natural law tradition, draws on the work of Aquinas and has been interpreted in a variety of ways. Suffice to note, in the ensuing section, one particular interpretation, that of basic human goods is offered as one example. As will be elaborated on in greater detail, the quiddity of the individual and the community originate in the essence of being, and transition from incorporeal knowledge to corporeal knowledge through the participatory engagement with the natural law, understood as the first principles of life found within the intellect and will of the agent. It is this particular development that demonstrates how ontology is related to epistemology and methodology within the natural law tradition.

¹¹ A constant theme in Greek literature, natural law was a rhetorical device, used by many artisans, seeking to understand their own place in a larger cosmology from which an account of morality can be derived. In

law, for the Ancients, as William Orton points out, facilitated an understanding of order, contrasting the mythical or semi-mythical ideas of their historical predecessors.¹² The idea of a higher natural law was furthered in the works of Aristotle who popularized the idea of individual *telos*, and individuals situated within the cosmos, a well-rounded nature intent on achieving ‘the good’.¹³ These ideas continued to be debated in the Stoic tradition yet it was the works of Aquinas which resurrected the tradition. Interweaving the pagan ideas of Aristotle within a distinctly Catholic framework, Aquinas’s ideas breathed new life into a faltering ethical tradition. “The attempt to understand morality in the legalistic terms of a natural law is ancient but is now mostly associated with the formulation given it by Thomas Aquinas,” writes Knud Haakonssen. “Earlier natural law is commonly seen as leading up to Aquinas’s paradigmatic version, whereas later natural law is understood as deriving from it.”¹⁴ Aquinas developed the idea of *prudentia*, sustaining the tripartite relationship of ontology, epistemology and methodology that subsequently shaped the ideas of the Scholastic Tradition, and the works of Vitoria, Las Casas, Molina and De Soto.¹⁵ In the same vein as Aquinas, these authors put forth the

Sophocles’ *Oedipus the Kings*, the chorus sings of laws created by heaven and sustained by the Gods which moral man has no particular role developing or creating them. In *Antigone*, the character by the same name speaks of Justice, existing at the level of the Gods, but finding no place in the world of mortal men consequently hindering the ability of mortals to decide on the morality of human action alone. See for example, Sophocles, *Oedipus Rex*, edited by R.D. Dawe (Cambridge: Cambridge University Press, 1982) and Sophocles, *Antigone*, *op. cit.*

¹² William Orton, “The Sources of Natural Law” *International Journal of Ethics* 36, no. 2 (January 1926): 150.

¹³ Alasdair MacIntyre, *A Short History of Ethics: A History of Moral Philosophy from the Homeric Age to the Twentieth Century* (Cornwall: Routledge & Kegan Paul Ltd., 1995), 61.

¹⁴ Knud Haakonssen, *Natural Law and Moral Philosophy from Grotius to the Scottish Enlightenment* (Cambridge: Cambridge University Press, 1996), 15.

¹⁵ These works will be investigated in more detail in the closing section of this chapter and again throughout this work. In particular, it is in Chapter Four where the ideas of *dominion naturale*, natural dominion, a shared essence and being are delved into demonstrating how this shared ontology provides the means to understand individuals as like minded entities and how without it, individuals become nothing more than a subject with rights, the product of one particular moment in time without a history, or sense of purpose.

idea of an ordered universe, the Thomist hierarchy of eternal, natural and positive law, and the tripartite relationships of ontology, methodology and epistemology.¹⁶

Working within the tripartite relationship of Thomist assumptions Vitoria and Las Casas, and others were able to show how a common ontology revealed a natural dominion, demonstrating a universal capacity to reason and deliberate. With the human capacity to reason, however primitive, the Salamanca Theologians argued, came a responsibility to care and treat others in an upright and moral fashion. Capable of discerning an understanding of morality and justice, such beings required the self-same ethical treatment. Consequently, the works of the Salamanca Theologians and their Thomist descendents provided a discourse of obligation and responsibility arguing that educated individuals are burdened with an ethical mandate to care and educate those less enlightened, but equally capable beings. This ontological sameness evident in reasonable deliberations facilitated the acceptance of diverse communities openly accepting alternative moral customs and norms. Articulating an equality of being, the Salamanca Theologians were able to safely endorse a policy of pluralism and care couched in the relativity of pre-modern philosophy and theology. It is this idea of equality reflected in cosmopolitan discourses which remains challenged by the universality of Modernity's assumptions.

The assumptions associated with the reviewed view of Modernity and the ensuing enlightenment philosophies significantly altered the assumptions of natural law. Ontology was forsaken for stability and faith and reason, key components of *prudentia*, were replaced by a responsibility to the self, and egocentric agency. As Richard Rorty

¹⁶ Bernice Hamilton, *Political Thought in Sixteenth-Century Spain: A Study of the political ideas of Vitoria, De Soto, Suarez and Molina* (Oxford: Clarendon Press, 1963), 5.

demonstrates, it is the works of Locke, building on the ideas of Rene Descartes, subsequently interpreted and re-organized in the ideas of Immanuel Kant that a formal theory of knowledge came to overshadow the metaphysical and ontological assumptions of the pre-modern era. “Descartes’s invention of the mind-his coalescence of beliefs and sensations into Lockean ideas-gave philosophers new ground to stand on. It provided a field of inquiry which seemed ‘prior’ to the subjects on which the ancient philosophers had had opinions,” he writes. “Further, it provided a field within which certainty, as opposed to mere opinion, was possible.”¹⁷ In the same vein, Jacques Maritain distinguishes an ontological and non-ontological method of analyzing the world, the former associated with the work of pre-modern philosophers, the latter with the ideas of Descartes and those endorsing the ideas of Modernity.¹⁸ “Today the place of metaphysics is being usurped by logical positivism, whose great discovery is that all assertions which are worthy of the intellect have no meaning at all,” he writes. “The only way to get rid of these evils is to recognize the proper field of competence and the autonomy of our various approaches to reality, at the various stages of the universe of truth, and the unity of order of human knowledge.”¹⁹ These subtle changes are reflected in the works of Pufendorf, Thomasius, Leibniz and Wolff all of whom were influenced by the works of Thomas Hobbes, John Locke, and Jean Jacques Roussau.

Articulating what is now referred to as a classical account of International Relations, the works of these authors paved the way for a new interpretation of natural

¹⁷ Richard Rorty, *Philosophy and the Mirror of Nature* (Princeton, New Jersey: Princeton University Press, 1980), 136 & 137.

¹⁸ Jacques Maritain, *The Range of Reason* (New York: Scribner, 1952), 8.

¹⁹ Jacques Maritain, *Philosophy and the Unity of the Sciences, Address by Jacques Maritain at the twenty-seventh annual meeting of the American Catholic Philosophical Association, University of Notre Dame, 7 April 1953. transcribed from a typewritten manuscript.* Jacques Maritain Center, University of Notre Dame, <http://www.2nd.edu/Departments/Maritain/jm209.htm>

law. Examined cumulatively the epistemology shaping these works emphasized the state, and firmly entrenched the individual as a domestic subject represented by a domestic government. International affairs came to reflect the notion of *ius gentium*- a law of nations. On this account international politics were conducted in the strictest of terms. Diplomatic deference was paid to international treaties which provided the sought after political stability in the absence of genuine authority and internal affairs remained a distinctly private practice. The plurality of political communities was forsaken in light of the universal epistemology shaping the works of these authors. Coupled with the boundaries of international state sovereignty the value of pluralism evident in moral customs and norms throughout the world was forsaken for the elusively sought after certainty and stability. The hierarchy and mutability of laws first established by Aquinas and sustained in the scholastic interpretation of natural law could not survive in such a political climate and the ethos of care, responsibility and obligation transcending moral communities was firmly placed in the responsibility of state leaders. The classical age of international politics had arrived sweeping metaphysical and ontological assumptions under the carpet.

The consequence of these shifting assumptions was far reaching. In particular, it wreaked havoc on the nature of the relationship of agency and structure and the determination of morality and justice therein. “The unusual feature of medieval Christian thought,” writes Brian Tierney, “is that both values-the value of individual persons and the value of Christian community-were asserted with equal passion.”²⁰ Aquinas and the Salamanca Theologians sought to achieve a harmonious individual/community

²⁰ Brian Tierney, *The Idea of Natural Rights, natural law and church law, 1150-1625* (Grand Rapids, Michigan: Wm. B. Eerdmans Publishing Co., 2001), 212.

relationship understanding the reciprocal nature of agency and structure providing dynamic ordering of affairs. What these scholars understood, as John MacMurry points out, was that the interrelation of individuals, as agents, is the very foundation of morality. “It provides a reference beyond themselves for all possible intentions in virtue of which they can be either right or wrong, and this rightness or wrongness is neither technical nor aesthetic, but moral,” he goes on to writes. “Its corollary is that the freedom of any agent—that is to say, his capacity to realize his own being as an agent—is condition, inherently, by the action of all other agents. *My* freedom depends upon how *you* behave.”²¹ This very idea of mutuality, stemming from a singular quiddity promotes a moral ontology that is simultaneously inward and outward articulation an obligation of love respecting the natural equality of being.²² The focus on epistemology, to the detriment of ontology, within the discipline of philosophy, coupled with the historical influence of Westphalia, engendered a move away from the mutuality of being, towards a more pragmatic reading of the state, morality and justice void of any ontological foundation.²³ The values of the medieval era, embodied in the ideas of Aquinas and the Scholastic tradition in particular, placing an equal value in the community and the individual, emphasizing a natural teleology, was placed outside the acceptable boundaries

²¹ John MacMurry, “Persons in relation” *op. cit.*, 9.

²² More will be said on justice in the closing chapter of this work. Suffice to note at this point that a shared individual ontology provides the means to understand how loving one another, in the agapistic tradition, provides an alternative reading to justice beyond the economic notion of ‘to each his due’ as is found in the traditional discourses of International Relations. What is important to note at this particular point is the way in which a singular ontology that is isolated and egocentric fails to provide the required ontology to develop a genuine understanding of justice, in the same way that morality has also been affected by the loss of ontological support.

²³ This particular idea will be investigated in more detail in the final chapter of this work. Suffice to note with the loss of ontology the distributive justice reigns supreme over commutative interpretations. This proportional reading of justice is concerned with fairness and equality and in its contemporary form has come to be associated with social or distributive justice. Justice on this account is bounded, relating to the internal government of states conforming to the norms of international sovereignty limiting the potential for agents to act on their natural obligation and responsibility limited by the ends of anarchy in international affairs.

of political agency. At this point natural law formally attached itself to the institution and discourses of the Roman Catholic Church and the Papacy. Evident in a variety of Papal Encyclicals published throughout the 19th and 20th century, in particular *Rerum novarum* (1891), *Casti Conubii* (1930), *Humanae Vitae* (1968), and *Redemptor Hominis* (1979), the individual's ability to reason and act morally remained grounded in the just and moral political community; however, religion, in light of the received view of Modernity, remained outside the mainstream of political engagements alongside reason and emotion, further contributing to the epistemological grounding of modern political institutional design.²⁴

The onset of WWI, the ensuing inter-war debates captured in the ideas of the classical realists, and the onset of WWII facilitating large scale human tragedy, generated questions regarding the ends of this particular ordering of international affairs. The hope placed in modernity's assumptions on rational empiricism, laws, rules, and the idea of a grand strategy of design was increasingly questioned.²⁵ The malaise, originally associated with the political unrest of the received view of Modernity, re-oriented its critique demanding a practical investigation into the traditional structuring of international affairs. It was, at this time that the assumptions of the morality of natural law resurfaced as evidenced in the documented conversations surrounding the development of The Universal Declaration of Human Rights and the United Nations Education, Science and Cultural Organization (UNESCO) working group. Scholars such as Jacques Maritain began to articulate the practicality of reasonable action sustaining a

²⁴ This is well documented in The Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church* (Vatican City: Libreria Editrice Vaticana, 2004).

²⁵ For a detailed account of the dominance of the social contract beyond modernity and into the contemporary era, see the work of Alasdair MacIntyre, "A Short History of Ethics" *op. cit.*

moral vision of international affairs bridging the plurality of moral communities within a bounded conception of international politics.²⁶ “It would doubtless not be easy, but it would be possible, to establish a common formulation of these practical conclusions or, in other words, of the different rights recognized as pertaining to the human being, in his personal and social existence,” writes Maritain. “On the other hand, it would be quite hopeless to look for a common rational justification of those practical conclusions and of those rights.”²⁷ Rational justification, on his interpretation is limited to an agreement of philosophical underpinnings which, understood in light of the plurality of moral communities constituting the newly emerging United Nations community would prove difficult to achieve. “As long as there is no unity of faith or of philosophy between human beings, the sphere of rational justification will remain one of division,” he concludes. “Only in the sphere of practical assertions (at which each man arrives along speculative lines and by different or contrasting justifications) is an agreement – itself practical – possible.”²⁸ Jacques Maritain and the UNESCO team sought to avoid the philosophical problems of ontology and epistemology seeking only to secure the well-

²⁶ Jacques Maritain represents one scholar writing of many representing the natural law in both an historical and contemporary form. Other scholars, whose work is cited throughout this work include Etienne Gilson, Yves R. Simon, and Mortimer J. Alder. Their works were, in the first instance, motivated by the political and religious unrest in France. It was a continuation of the modern debate concerning the preeminence of epistemology to the detriment of ontology, leading to the contemporary problem of ‘being’. Each of these authors sought to redress this problem in their own particular way. Maritain is of intrinsic importance here because he professed the value of a Thomist interpretation, beyond the historical understanding of his work and sought, throughout his lifetime to develop a contemporary philosophical interpretation of the works of Aquinas to analyze contemporary problems. See for example, John F. X. Kansas, ed. *Jacques Maritain: the Man and His Metaphysics*. [Volume IV of *Etudes maritainiennes/Maritain Studies*.] Mishawaka, IN: American Maritain Association, 1988. He was, in his own way, involved in the task of institutional design.

²⁷ Jacques Maritain, *Communication with regard to the Draft World Declaration on the Rights of Man, United Nations Educational, Scientific and Cultural Organization, Paris, 18 June 1947*. The United Nations, via UNESCO Archives, <http://www.un.org>

²⁸ Jacques Maritain, “Communication” *op. cit.*

being of future generations of the global population.²⁹ In the same vein as the Salamanca Theologians and Aquinas before them, Maritain attempted to demonstrate the viability of reason and action sustaining a plurality of norms and customs oriented around an ethos of care respecting the universal equality of being. What he and his associates could not foresee, was the unfolding of the Cold War and the detrimental effects power, insecurity and the ensuing arms build-up would have on the institution and its aims.

The *realpolitik* ethos surround the Cold War denied any viable institutional innovation. The traditional explanation of international politics remained focused on the state, reflecting the self-interest, power, and anarchy highlighted by the discourses of neo-realism. As hierarchical institutions became further entrenched within international affairs, the innovative capacity of individuals and communities countering the dominance of the state became increasingly difficult. Philosophical considerations of human well-being and development continued, albeit outside the discourses of International Relations per se. Alistair MacIntyre represents one scholar whose examination of Modernity and contemporary morality offered interesting conclusions on the philosophical image of the rights-bearing subject. Arguing that morality in the contemporary era, is comprised of fragments of past ideas, his critique of Modernity's hold on contemporary moral philosophy concluded that society has completely lost its understanding of the nature of morality full-stop. "What we possess, if this is true, are fragments of a conceptual scheme, parts of which now lack contexts from which their significance is derived," he writes. "We possess indeed simulacra of morality, we continue to use many of the key

²⁹ This task, and the diverse points of view brought to the discussions is well documented by UNESCO. See, The United Nations Education, Scientific and Cultural Organization, *Human Rights, Comments and Interpretations. A symposium edited by UNESCO with an introduction by Jacques Martian* (London & New York: Allan Wingate).

expressions. But we have-very largely, it not entirely-lost our comprehension, both theoretical and political, of morality.”³⁰ Morality, he contends, in its true conception, is at odds with the epistemology of Modernity. In order to rectify this particular problem he offers the Aristotelian idea of the Eudaimon, the well rounded individual, seeking ‘the good’ driven by an individual teleology seeking to become a truly virtuous being.³¹ The Eudaimon, unlike the modern subject, is a dynamic agent informed of morality through historical processes educating him or her in the expected roles and customs of a moral society.³² In his own particular way, MacIntyre engages both political and philosophical assumptions in order to investigate, and offer alternatives to, contemporary institutional design. Like Maritain before him, although within an entirely different framework, MacIntyre highlights the centrality of telos and the teleology of being within the discourses of contemporary political philosophy challenging the modern assumptions of stability and predictability in contemporary political structures.

This particular account of morality, offered by MacIntyre, fosters an epistemology and methodology similar to the tradition of natural law focusing on practice and experience shaping communities and noting ‘the good’; however, in many ways it is also noticeably different. While both traditions share a similar historical ascendancy, beginning with the works of Aristotle, emphasizing human experience reflecting an individual teleology, natural law diverges with its Thomistic influences. Teleology, as

³⁰ Alistair MacIntyre, “After Virtue” *op. cit.*, 2.

³¹ Alastair MacIntyre, “After Virtue”, *op. cit.* Virtues, according to MacIntyre, reside within the individual and exist autonomously to human practice. They are, at the end of the day, “those goods by reference to which, whether we like it or not, we define our relationships to those other people with whom we share the kind of purposes and standards which inform practice.” 178. Furthermore, he points out that, “The virtues are to be understood as those dispositions which will not only sustain practices and enable us to achieve goods internal to practices, but which will also sustain us in the relevant kinds of question for the good,” writes MacIntyre, “by enabling us to overcome the harms, dangers and distractions which we encounter, and which will furnish us with increasing self-knowledge and increasing knowledge of the good.”, 204.

³² Alastair MacIntyre, “After Virtue” *op. cit.*.

evidenced in Thomist interpretations of natural law facilitates a particular orientation towards ‘the good’. Moreover, situated alongside the ontology of being, it supports a key distinction within the tradition itself, between first order moral absolutes and second order normative claims. This distinction, oriented towards the self-same goal of human fulfillment provides the necessary pluralism facilitating a variety of intermediary structures catering to the moral constitution of the individual. Noting the hierarchy of laws Aquinas developed an ethical tradition placing equal esteem on both the specific laws that shape particular communities, but also on a reasonableness that would come to associated with a casuistic moral tradition. His particular understanding of human grace, when suffused with his ontological and epistemological assumptions provides a means of understanding human agency premised on an idea of natural dominion. On this account, the morality of natural law supports the ends of *being* human, engendering a particular understanding of moral sustaining the freedom and autonomy of the agent and the community.³³ The relativism echoing throughout his writings is at odds with universal claims of justice; however, his interpretation of morality, reflecting the reasonableness of the agent accounts for both international and intranational justice complementing the natural equality shaping the capacity and capability of being human. It is an understanding of morality that cannot exist within modern accounts of epistemology.

³³ It should also be noted at this point that just as ideas of political order were influenced by modernity affecting a particular philosophical image of the individual, so to did the discourse of ethics evolve. Previously, deontological and teleological ethics were considered parts of a greater whole. With the onset of Modernity, they were aligned in opposition to one another. Deontology emphasized the means of decisions contrary to teleological methods focused on the ends of action. This also fostered the particular problem of the naturalistic fallacy, distinguishing between ought and is, and creating two distinct ethical traditions which, when viewed in light of this particular history, ought to be viewed alongside one another. This has particular implications for notions of agency, to be examined in the third and fourth chapters of this work, and how individuals, as agents of justice, require a strong account of morality guiding their decisions and a defined end orienting that morality. This holistic account of ethics is offered by natural law whose conception of laws, within the community are related to the ends of morality and a derived sense of justice.

Articulating a moral casuistry, investigated in the final section of this chapter, the pre-modern assumptions of natural law reveal an institutional flexibility permitting pluralism and human equality articulating simultaneously an account of structural justice in line with the original teleological orientation as evidenced in the virtue of charity, itself a reflection of the relationship shared within a pre-modern interpretation of love, equality and friendship which goes on to influence justice.

Part II: Contemporary Interpretations of the Natural Law Tradition

Building on the inroads made by MacIntyre, and an invigorated interest in the teleology of being, The ‘new natural lawyers’, John Finnis, Germain Grisez, and Joseph Boyle, Jr., present a contemporary interpretation of natural law morality. Writing at the height of the Cold War, these authors provide an alternative conception of morality, rooted in the basic human goods, arguing the immorality of a nuclear deterrence defence strategy.³⁴ Highlighting a governmental duty to protect the basic human goods of individuals and communities these authors demonstrate how such a strategy violates the intrinsic value of life, one of the basic human goods. Consequently, Finnis et. al, demonstrate how a nuclear deterrent revolving around Mutually Assured Destruction (MAD), City Swapping, and Final Relation, violate the requirements of practical

³⁴ The issue of nuclear deterrence, as a defensive strategy, acquired the greatest amount of attention at the height of the Cold War. It was also at this time that the boundaries of International Relations, as a discipline in general, were its most rigid. Investigating international affairs within a distinctly bi-polar setting, realism remained the theory of the day. Consequently, ethical deliberations were relegated to those scholars who were first and foremost trained as moral philosophers dabbling in International Relations. There is thus a strong literature that develops during the 1980s and into the 1990s discussing the morality of nuclear deterrence, which, in hindsight, shapes a majority of the ethical debates that now inform international affairs. In particular, when speaking of agency in general, and individuals as moral agents, it is the literature of Onora O’Neill, Jean Bethke Elshtain, Henry Shue, and others whose ideas first used in this setting now inform debates surrounding human rights, humanitarian intervention, the ethical use of force. It is for this reason that this section began with the example of the ethicality of nuclear deterrence, to demonstrate one issue area where it is of particular relevance and how the theory framing the particular debate is applicable to other discourses within the discipline generating a critique of the boundaries and knowledge it employs in its arguments.

reasonableness going above and beyond the just use of force, ensuring the death of enemy soldiers and civilians alike.³⁵ With this in mind, Finnis, Grisez and Boyle, Jr. provide a restrictive theory on the immorality of nuclear deterrence arguing that “military action must be directed toward stopping the enemy’s unjust use of force, not toward killing those who are bringing that force to bear,” writing further that “by requiring that the death of an enemy soldier be brought about only as a side-effect of a military act having a different appropriate object, our moral theory would limit warfare as stringently as possible to the pursuit of the good purposes which can justify it.”³⁶ On this account nuclear deterrence is an implausible defense strategy in the 21st century.

Supporting the immorality of nuclear deterrence, the authors go on to offer an interpretation of natural law distinguishable through four characteristics.

1. Individuals are the central focus of the theory as individual agents and members of a community. Each person is dignified and exhibits a human nature that is dominated by reason and not passion. This ability to reason aids in the self-constitution and the development of personal well-being of the individual.
2. It is based on the primary moral principle which states; “In voluntarily acting for human goods and avoiding what is opposed to them, one ought to choose and otherwise will those and only those possibilities whose willing is compatible with integral human fulfillment.
3. Based on this primary moral norm, intermediate principles are derivable that guide the decision of the actor. Firstly, one ought to conduct his or herself in the same manner in which she or he would prefer to be treated by his or her fellow individuals.

³⁵ For a detailed examination of the just use of force see the discourses of the just war tradition of which there is a plethora of sources for example; Jean Bethke Elshtain (ed.) *Just War Theory* (New York: New York University Press, 1992); Lynn Miller, “The Contemporary Significance of the Doctrine of Just War” *World Politics* 16, no. 2 (1964): 254-286; Jack Levy, “Theories of General War” *World Politics* 37, no. 3 (1985): 344-374; Inis Claude, “Just Wars: Doctrines and Institutions” *Political Science Quarterly* 95, no. 1 (1980): 83-96; and finally, Josef Kunz, “The Laws of War” *American Journal of International Law* 50, no. 2, (1956): 313-337.

³⁶ John Finnis, Germain Grisez and Joseph Boyle, Jr., *Nuclear Deterrence, Morality and Realism* (Oxford: Clarendon Press Ltd, 1987), 315.

Second, one should avoid acts premised on hostile feelings; and third, one should not do evil to promote good.

4. Certain features of the real world, namely responsibility must be taken into account when investigating the decisions made by actors. Specifically, an investigation into the ends or means of a decision taken as well as both its intended and non-intended side effects must be examined in order to properly understand the morality of any particular action within a natural law framework.³⁷

This ethical account of morality vis a vis nuclear deterrence places primary emphasis on the ontology of personhood reigniting the key relationship, highlighted by Aquinas, of epistemology, methodology and ontology seeking a strong foundation of justice and morality. It firmly states that the quiddity of the individual and the community lay in the basic human goods, which constitute the very nature of the individual and the community. It is these goods, when properly understood reveal the primary principle of natural law that; *The good is to be done and pursued; the bad is to be avoided*,³⁸ fostering ‘the good’; namely, integral human fulfillment.

The basic human goods are the essence of human nature and contain within them the entire potential of any single individual.³⁹ “These goods are aspects of persons, not realities apart from persons,” write Germain Grisez and Russell Shaw. “Property and

³⁷ John Finnis, Germain Grisez and Joseph M. Boyle Jr., “Nuclear Deterrence” *op. cit.*, 139, 279, 283 & 285-287.

³⁸ Germain Grisez, “The Way of the Lord Jesus” *op. cit.*, 178.

³⁹ It needs to be noted in the first instance, that it is fashionable to speak of human quiddity, essence, being and ontology in terms of human nature. The idea of human nature, a scientific endeavor, is appealing to those within the discipline seeking a foundationalist account of individuality supporting human well-being and calls to further support this discourse and practice. While fruitful in the first instance, it loses its appeal as it begins to be clear that calls to human nature cannot sustain the required degree of action needed to generate human obligation and responsibility vis a vis human development. Human nature is intrinsically related to the egotistical self of the social contract and part and parcel of the rights discourse and rhetoric. Indeed, one of the problems with this account of natural law is its fascination with human nature as it overrides the teleology of being located within the essence of being. This point will be elaborated on in further detail in the final section with the influence of the social contract and modern liberal discourses are investigated vis a vis contemporary natural law and the original ideas of St. Thomas Aquinas. A re-interpretation of his ideas of nature and grace provide the means to renew the idea of *being human* instead of focusing on human nature and rights, per se.

other things extrinsic to persons can be valuable by being useful to persons. But the basic human goods by which they enjoy self-fulfillment must be aspects of persons, not merely things they have.”⁴⁰ They are irreducible internal goods, located in the basic state of affairs of an individual and her environment.⁴¹ Intrinsically valuable, the basic human goods can not be ranked, nor are they commensurable. They are self-evident forms of good accessible to the individual through their own developmental experiences.⁴² Only through an acute understanding of the sensory world will the experiences of the individual develop his or her basic human goods consequently fostering an understanding of the principles of natural law. The new natural lawyers identify seven basic human goods where are further subdivided into reflexive and non-reflexive categories.⁴³ The reflexive goods, so named due to their existential nature, are;

1. Self integration, understood as a harmonious ordering of the individual engaged in freely chosen activities;
2. practical reasonableness, or authenticity, understood as the harmonious interplay of moral reflection, freedom of choice, and the execution of action;
3. justice and friendship, the interpersonal communion of good persons freely choosing to interact with one another; and,
4. religion or holiness, understood as harmony with God, coalescing in a harmonious relationship of individual will, freedom, and individual action supporting one’s essence and being.⁴⁴

⁴⁰ Germain Grisez and Russell Shaw, *Beyond the New Morality: the responsibilities of freedom, the revised edition* (Notre Dame: University of Notre Dame, 1980), 121.

⁴¹ Germain Grisez, “The Way of the Lord Jesus” *op. cit.*, 121.

⁴² John Finnis, *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980), 86-90 & 92.

⁴³ All of the natural lawyers provide, as their foundation, the basic human goods. Similar to the account given by Germain Grisez, adopted herein, John Finnis also highlights seven basic goods which are life, knowledge, play, aesthetic experience, sociability (friendship), practical reasonableness, and religion.

⁴⁴ In choosing to emphasize the works of Germain Grisez, as opposed to John Finnis, the use of God can be construed as problematic leading to questions about the nature of God vis a vis universal absolutes and the problems this poses in a distinctly plural world. Suffice to note, as individuals are constructed within this tradition, as teleological entities comprised of a particular essence and being springing from the metaphysics of Aquinas, one begins to see how faith and reason are two complementary aspects of personhood displaying a varying amount within the lives of individuals. Moreover, as Chapter Four and

Conversely, the non-reflexive goods, so named due to their ontological relationships, are;

1. life itself, including health, physical integrity, safety, and the handing on of life to new persons;
2. knowledge of various forms of truth and the appreciation of various forms of beauty or excellence; and finally,
3. activities of skillful work and play, which in their very performance enrich those who do them.⁴⁵

The interplay of reflexive and non-reflexive goods combined with human experience aids the individual in his or her quest to become a morally constituted being. “The basic human goods are no more and no less than opportunities of being all that one can be,” writes John Finnis. “So far from being heteronomous, they are, in fact, the intrinsic point of one’s autonomy; they outline the worthwhile ‘self’ that one may constitute by one’s self-determination, i.e. by the free choices towards which all one’s practical reasoning is directed.”⁴⁶ So constituted, the natural law individual displays a capacity and capability for agency, choosing in and amongst the basic human goods developing as a moral person. The natural law individual, on this account, is dynamic. Aware of his or her self as an autonomous agent, engaged with other like-minded beings, she or he has always at her disposal a chameleon like ability to change his or her self and future trajectory through alternative decisions and actions so guided by the primary principle of natural law.⁴⁷ With each decision the individual makes, he or she interacts with other agents

Five illustrate, building on the ideas of Anthony J. Lisska, it is possible to construct and account of Thomist natural law void of the revelatory nature of divine law emphasizing the capacity of human reason. Consequently, the role of God, understood as part and parcel of individual faith is not the absolute problem so understood within debates of universality, relativism, and plurality in a diverse world.

⁴⁵ Germain Grisez, “The Way of the Lord Jesus” *op. cit.*, 124.

⁴⁶ John Finnis, *Fundamentals of Ethics* (Oxford: Clarendon Press, 1983), 124.

⁴⁷ Germain Grisez and Russell Shaw, *Fulfillment in Christ; A Summary of Christian Moral Principles* (Notre Dame, University of Notre Dame Press, 2001), 20-21.

participating in the basic human goods developing his or her own morality increasing the development of the natural law.

Like its historical predecessors this particular account of natural law revolves around the idea of reasonableness, herein referred to as practical reasonableness. Itself a basic human good, practical reasonableness is the capacity of the individual to make morally upright decisions and act accordingly. “The term ‘practical reasoning’ signifies all the thinking you need, to be doing what you are doing. Reason is practical not merely devising intelligent ways of pursuing desires which are simply presented to one’s reason as, so to say, independent of and prior to the workings of one’s intelligence,” writes John Finnis. “Rather, reason is practical first of all by *identifying the desirable* (with a view, of course, to pursuing it thereafter and pursuing it intelligently).”⁴⁸ Practical reasoning is thus a methodological device helping the agent to discern an appropriate mode of action predicated on the natural law’s basic principle of morality, which states;

*In voluntarily acting for human goods and avoiding what is opposed to them, one ought to choose and otherwise will only those possibilities whose willing is compatible with a will toward integral human fulfillment.*⁴⁹

Derived from the natural law absolute of ‘the good’, namely integral human fulfillment, this moral principle provides a basic level of guidance supporting moral action but, as noted by the new natural lawyers, it falls short of a specific methodology. As a general criticism, practical reasonableness fails to offer specific guidelines on human agency. Bearing this in mind, these scholars offer what they call the basic requirements, alternatively referred to as modes of responsibility, derived from the idea of practical reasonableness, subtly guiding human engagement within the community sustaining the

⁴⁸ John Finnis, “Fundamentals of Ethics” *op. cit.*, 35.

⁴⁹ Germain Grisez, “The Way of the Lord Jesus” *op. cit.*, 184.

natural law vision of integral human fulfillment through a shared understanding of morality and justice.⁵⁰

Distinctly normative, the requirements of practical reasonableness are dynamic and can change to suit the values and ideals around which a community coalesces. So conceptualized, they have three main objectives. First, the requirements seek to identify immoral acts inconsistent with human fulfillment highlighting instead the morally sound acts to pursue. Second, the requirements promote actions based on reason, and not on emotion promoting in the final instance a respect for the basic human goods, respecting the autonomy and freedom of other like-minded agents consequently avoiding immoral or evil actions.⁵¹ These requirements seek to bridge the gap between the vague principles of natural law and its methodology of reasonableness offering to the agent a means to discern morally appropriate action and in so doing constitute him or her self in line with the ideal of integral human fulfillment. The eight requirements are described below:

1. A Coherent Plan of Life, Detachment and Commitment.

One should not be deterred by felt inertia from action for intelligible goods. In other words, once motivated towards the good, one should actively pursue it in a balanced and harmonious fashion to achieve a balanced personality and individuality.

2. No Arbitrary Preferences Amongst Values.

One should not be moved by a strong desire for one instance of an intelligible good to act for it by choosing to destroy, damage or impede some other instances of an intelligible good.

3. No Arbitrary Preferences Amongst Persons.

⁵⁰ John Finnis, "Natural Law and Natural Rights" *op. cit.*, 100.

⁵¹ Germain Grisez, "The Way of the Lord Jesus" *op. cit.*, 189 & Germain Grisez and Russell Shaw, "Fulfillment in Christ" *op. cit.*, 83.

One should not in response to different feelings towards different persons, willingly proceed with a preference for anyone unless the preference is required by intelligible goods themselves.

4. *The (Limited) Relevance of Consequences: Efficiency, Within Reason.*

One should not choose to act out of emotional aversion except as part of one's avoidance of some intelligible evil other than the inner tension experienced in enduring that aversion.

5. *Efficiency in Pursuing the Definite Goals Which We Adopt for Ourselves and in Avoiding the Definite Harms Which We Choose to Regard as Unacceptable.*

One should not choose on the basis of emotions which bear upon empirical aspects of intelligible goods (or bads) in a way which interferes with a more perfect sharing in the good or avoidance of the bad.

6. *Respect for Every Basic Value in Every Act.*

One should not be moved by hostility to freely accept or choose the destruction, damaging, or impeding of any intelligible human good.

7. *The Requirements of the Common Good.*

One should not be pressed by enthusiasm or impatience to act individualistically for intelligible goods.

8. *Following One's Conscience.*

One should not choose to satisfy an emotional desire except as part of one's pursuit and/or attainment of an intelligible good other than the satisfaction of the desire itself.⁵²

The ability to reason is constitutive of what it is to be a natural law individual. On this account all individuals possess the capacity to reason. The requirements described above help individuals to deliberate and act aware of the fallibility of human nature.

This interpretation of natural law ethics relies heavily on choice. "Moral goodness resides centrally in a person's choice. One is not considered morally good

⁵² Germain Grisez, "The Way of the Lord Jesus" *op. cit.*, 225-226.

merely for having made a few good choices, but for making a set of morally upright commitments and living by them consistently,” writes Grisez. Since moral goodness depends on free choices, it is in one’s own power.”⁵³ The ability to choose freely is of utmost importance for it is in freely choosing to participate in the basic human goods that an individual constitutes herself as a moral individual.⁵⁴ Moral constitution, as Robert P. George goes on to note, is inviolably tied to internal acts of will placing individual freedom at the epicenter of moral development. “Ultimate reasons for action are conditions of free choice. Free choice is the principle of self constitution. And, in an important sense, self-constitution is what the moral life is about,” he goes on to write. “When one makes morally significant choices, that is, choices in which one has ultimate reasons for action (together, of course, with emotional and other subrational motives) one exercises autonomy and constitutes oneself as one sort of person rather than another.”⁵⁵ Experience and practical reason culminate in the idea of conscience, that sight which combines the theoretical and practical knowledge of the agent generating an acute understanding of morality and fashioning goals and values which are integrally related to human development within a community of like-minded individuals.

The idea of a moral conscience is that sight whereby the responsibilities and obligations of reasonableness coalesce with real action generating human experience and knowledge. Properly developed an agent’s conscience assumes three things; first, that an individual possesses the ability to distinguish right from wrong; second, that she has amassed the requisite knowledge of the sensory world to ascertain in advance the

⁵³ Germain Grisez, “The Way of the Lord Jesus” *op. cit.*, 128.

⁵⁴ John Finnis, *Moral Absolutes: Tradition, Revision, and Truth* (Washington, D.C.: The Catholic University of America Press, 1991), 42.

⁵⁵ Robert P. George, *Making Men Moral* (Oxford: Oxford University Press, 1993), 180 & 181.

potential outcome of her decisions; and, finally, that she is able to recognize the relationship that exists between right and wrong, morality and immorality and its bearing on the outcome of her actions.⁵⁶ One cannot legislate for the development of human conscience, yet at the end of the day, it, alongside practical reasonableness is responsible for the upright action and behavior of the agent. While practical reasonableness provides the means to deliberate and choose in and amongst a variety of goods, it is one's conscience that orientates decisions towards the good and thus preserves individual freedom and autonomy demonstrating that as capable agents, individuals are respectful of one another's needs within the community, aware of the danger associated with the encroachment of human development. Yet what this idea of conscience does not speak of is that which motivates individual action in and of itself. This distinction falls to the natural law idea of love.

Understood as "interpersonal communion, a unity of two or more persons which respects and even perfects their uniqueness,"⁵⁷ love is that which motivates individuals to act in a reasonable fashion. It is neither a passion, nor is it a desire. Love is simply a positive orientation towards an object which presupposes knowledge. "Love's direct object, the something loved, is often confused with the object of desire. But even before one desires a particular good, one must have a positive orientation toward it, and that

⁵⁶ Germain Grisez, "The Way of the Lord Jesus" *op. cit.*, 82. Interestingly enough, it is this third component of a moral conscience that is absent from an individual's constitution and development in the social contract tradition. Recall the point made earlier that with the distinction of teleology and deontology investigated alongside the ends of conformity and stability of society meant that right and wrong were typically associated with what was good and desired and what was deemed unwanted. The idea of morality and conscience was easily side-stepped as individuals were singular and not communal individuals. When you situate the individual within a community, construct them as an agent and place them in a relationship in which they play at times a dominant and subservient role, the idea of conscience becomes increasingly important as a means to protect the autonomy and freedom of both agents within the relationship and the agents within the broader community. This is something that the social contract tradition neatly ties up in the ideal of negative liberty which as the thesis progresses will be found increasingly wanting.

⁵⁷ Germain Grisez and Russell Shaw, "Fulfillment in Christ" *op. cit.*, 279.

orientation is love,' write Grisez and Shaw. "Again, when desire is satisfied, one enjoys the good one previously desired and continues to love it; love therefore underlies joy as well. Thus, love is a disposition which orients one to the good which fulfills."⁵⁸ It is to return to the idea of practical reason and recall its goal of a harmonious interaction of the basic human goods. The natural law idea of love will be further developed in the final chapter of this work. Needless to say however, love is intrinsically related to the essence and being of individuality. It recognizes a shared sameness of self reinforcing an idea of mutual well-being. Moreover, the idea of love, as a motivating force and an actual engagement relies on both participation in the basic human goods and thus, a community in which to access them. Key to love is the innate sociability of the individual underscoring the very real need for relationships creating opportunities to participate and experience the basic human goods in a moral community oriented towards 'the good'; namely, mutual and reciprocal integral human fulfillment.

The community, within the new natural law tradition, is premised on the ontological foundations of the basic human goods and grows out of the personal relationships linking all individuals united by a common goal.⁵⁹ It understands the primary importance of the common good, the shared commitments and values of a group of people, and seeks to carve out the most efficient manner to attain such ends.⁶⁰ Recognizing the intrinsic importance of the basic human goods, the natural law community coalesces around the idea of integral human fulfillment premised on the moral constitution of each individual member and endeavoring to provide for them every

⁵⁸ Germain Grisez and Russell Shaw, "Fulfillment in Christ" *op. cit.*, 280.

⁵⁹ Germain Grisez and Russell Shaw, "Beyond the New Morality" *op. cit.*, 56.

⁶⁰ John Finnis, "Natural law and Natural Rights" *op. cit.*, 155 & 156.

opportunity to develop their latent potential.⁶¹ “Community is based,” write Grisez and Shaw, “on a shared commitment in which each individual shoulders his or her special share of the responsibility for realizing the values which originally drew separate persons into the relationships called ‘community’”.⁶² The community has an overt interest in the moral development of its citizens and promotes always the idea of integral human fulfillment. For, just as the individual is comprised of the basic human goods, so to is the community. Coalescing around ‘the good’, it seeks, as its primary objective, to support the values and ideals emerging out of the relationships of individuals participating in the basic human goods. A natural law community is the outcome of a myriad of human relationships and engagements oriented around the moral constitution of the natural law individual. It is thus to note that only by encouraging and furthering these relationships communities act as agents seeking always a greater understanding of justice.⁶³

Articulating this vision of community, the new natural lawyers envision two distinct but interrelated tasks for the community. First, it fosters the common good. “Properly conceived, the common good,” writes Finnis, “is a set of conditions which enables the members of a community to attain for themselves reasonable objective, or to realize reasonably for themselves the value(s), for the sake of which they have reason to collaborate with each other (positively and/or negatively) in a community.”⁶⁴ Arising out

⁶¹ John Finnis, *The Fundamentals of Ethics* (Oxford: Clarendon Press, 1983), 131.

⁶² Germain Grisez and Russell Shaw, “Beyond the New Morality” *op. cit.*, 56.

⁶³ The distinction between a new natural law account of the community and that developed and articulated throughout this work rests on the virtue of charity. Charity, so the argument goes, reflects the interpersonal ethic of love at a transnational level of community demonstrating how the natural law, beyond an internal ordering principle and a commitment to morality is in point of fact, the ordering principle guiding the community. In this way, it distinguishes itself from the common good of the new natural lawyers which rests on the notion of human rights, and articulates instead, a mutual account of well-being supporting the claim that a natural law ethic is, above all else, an outward looking ethic.

⁶⁴ John Finnis, “Natural Law and Natural Rights” *op. cit.*, 155 & 156. This is in contrast to the idea of common morality which, as Joseph Boyle argues in “Natural Law and the Ethics of Tradition” in *Natural*

of human relationships, the common good embodies practical reasonableness on a much larger scale. It notes that which brought individuals together in the first instance, well-being and fulfillment, and etches out a particular means to achieve a higher level of mutual well-being and development aware always of one's autonomy and freedom. The common good is thus one tool whereby individuals can act on their innate potential developing, in line with their innate teleology, their own moral constitution. "It is therefore a fundamental aspect of general justice that common enterprise should be regarded, and practically conducted, not as ends in themselves," writes Finnis, "but as a means of assistance, as ways of helping individuals to 'help themselves' or, more precisely, to constitute themselves."⁶⁵ The purpose of the community, on this interpretation, is to help individuals achieve their own moral constitution sustaining the requisite relationships necessary to do so.

Emerging out of this idea of the common good is a very real need for regulation and authority. "These essential conditions of a complete society reveal the core content of the common good of political society," writes Joseph Boyle, "this good must include all the interests human beings might have insofar as the pursuit of the interests has a communal dimension which requires the decisive regulation and coordination provided

Law Theory; Contemporary Essays, ed. Robert P. George, 124 (Oxford: Clarendon Press, 1992), fails to offer any realistic conception of resolving moral dilemmas, nor does it offer any practical conception of political life and authority. In the same vein as Onora O'Neill writes in "Who Can Endeavor Peace" *Canadian Journal of Philosophy* 12, Supplementary Volume (1986): 41-73, common morality fails to provide the key requisite of political agency at the community level; namely, a method to discern the morally appropriate action thus capturing the ability of the individual, or community, to engage in genuine and realistic agency.

⁶⁵ John Finnis, "Natural Law and Natural Rights" *op. cit.*, 169. The argument will be made in the final section of this chapter that this idea of the common good relies on a distinct understanding of justice that upholds the traditional boundaries of IR, related, as it is to proportional justice and, the idea of a rights bearing agent, thus denying a key component of individuality and integral human fulfillment, teleology.

by public authority.”⁶⁶ The new natural lawyers provide an interpretation of political authority. “Authority (and thus the *responsibility* of governing) in a community is to be exercised by those who can in fact effectively settle coordination problems for that community,” writes Finnis. “This principle is not the last word on the requirements of practical reasonableness in locating authority; but it is the first and most fundamental.”⁶⁷ Aware of the chaos emerging from the multitude of personal relationships this interpretation bypasses the alternative of local reasoning, culminating in unanimity in favor of an authoritative body capable of legislating laws and creating institutions in accord with the common good.⁶⁸ It is, as Grisez and Shaw point out, that “in a very large community, such as a nation, there is a need for an extremely complicated intermediate structure-laws, institutions- between the joint social act constituting the community and the multitude of individual acts performed by the community members as they work to realize their shared commitment.”⁶⁹ This need for intermediate structures, however, is tempered by the observation that individuals must, within this setting, always remain free and autonomous being. “An attempt, for the sake of the common good, to absorb the individual altogether into common enterprise would thus be disastrous for the common good,” writes Finnis, “however much the common enterprise might prosper.”⁷⁰ This point is further noted by Grisez and Shaw who argue, in the same vein, that “genuine community does not come about by denying our individuality, our otherness, in a blind

⁶⁶ Joseph Boyle, “Natural Law and International Ethics”, in *Traditions of International Ethics*, eds. Terry Nardin & David R. Mapel, 132 (Cambridge: Cambridge University Press, 1992).

⁶⁷ John Finnis, “Natural Law and Natural Rights” *op. cit.*, 246.

⁶⁸ This point becomes increasingly important in light of the argument for casuistry to be made in the ensuing section of this chapter.

⁶⁹ Germain Grisez and Russell Shaw, “Beyond the New Morality” *op. cit.*, 49.

⁷⁰ John Finnis, “Natural Law and Natural Rights” *op. cit.*, 169.

effort to submerge ourselves in an anthill society.”⁷¹ Thus, laws and institutions are created at the behest of the governing authority to safeguard the freedom and autonomy of the individual.

An extension of the governing authority, itself an extension of the common good, laws and institutions, it is hoped, will foster an atmosphere in which relationships will flourish providing all individuals with access to the basic human goods. Laws perform a twofold function, reinforcing the freedom and self-determination of the individual while at the same time promoting a moral environment. “Laws can forbid the grosser forms of vice, but certainly cannot prescribe the finer points of virtue. Nevertheless, laws that effectively uphold public morality,” writes Robert P. George, “may contribute significantly to the common good of any community by helping to preserve the moral ecology which will help to shape, for better or worse, the morally self-constituting choices by which people form their character, and in turn affect the milieu in which they and others will in future have to make such choices.”⁷² Noting the impossibility of legislating for the upright and moral development of the individual, a task for the individual’s conscience, legislators develop laws prohibiting those actions which deny pride of place to morality within the community. In order to achieve this, laws subtly guide individuals to make choices in line with practical reasonableness aiding individuals in their ultimate task of moral constitution. For new natural lawyers, then, laws will ultimately yield the greatest achievements when working alongside the governing

⁷¹ Germain Grisez and Russell Shaw, “Beyond the New Morality” *op. cit.*, 56.

⁷² Robert P. George, “Making Men Moral” *op. cit.*, 47.

authority offering to the individual the opportunity to ever engage with others participating in the basic human goods.⁷³

Alongside the laws of the community, institutions exists coordinating human interactions. Institutions, mitigating the chaos of ever larger communities, ensure that individuals are able to constitute themselves morally.⁷⁴ Promoting the ontological foundations of both the community and the individual, they work side by each, at the behest of the political authority ensuring a just distribution of the basic human goods. Justice, on this account, represents the norms of morality, embodied in the laws and institutions of the political community. The common good, on this account represents a proportional interpretation of political interaction assuming that equal distribution will ensure equal developmental potential. So construed, the new natural lawyers provide one means of understanding the remit of the political and offer one way of constituting international affairs; however, this particular interpretation is not without its difficulties. In fact, it represents a rational account of ethics articulating, like its ethical predecessors a subjective account of the political agent. Moving into the final section it seeks to highlight the shortcomings of this particular interpretation, noting how it is captured by the self-same assumptions of Modernity, highlighted in the previous chapter.

Part III: Natural Law, Aquinas & Casuistry

⁷³ Laws, interpreted within the assumptions of the new natural lawyers are similarly conceptualized as those cosmopolitan scholars advocating an international constitutional order. This is countered in the ensuing development of charity offered in Chapter Five. Charity incorporates the personal love ethic of the agent which guides the casuistry of the virtuous agent and in so doing highlights the necessity of an agent centered account of institutional design. In this way, the value of a community understood as degrees of relationships of interest is revealed, a point which is further discussed in the Epilogue. Casuistry provides on of the many necessary supports to the account of ‘the international’ offered herein as one way of improving upon the structural inequalities which exist in the current institutionalization of international politics.

⁷⁴ Germain Grisez and Russell Shaw, “Beyond the New Morality” *op. cit.*, 49.

Returning quickly to the arguments opening this work is to recall the rational social blueprint stemming from the social contract tradition. Centered on individual liberty producing a particular account of order, domestic and international alike, the dominant form of argumentation evident therein sustains over-arching theories dependent on universal values, concrete methodologies elucidating the technical agenda of politics. Theoretical forms of argumentation are constituted by a series of related propositions, derived from a universally accepted maxim upon which its conclusion ultimately rests. Influenced by the idea of Euclidean geometry and seeking the certainty and mathematical rigor associated with its conclusions, modernity influenced the discipline of ethics placing practical reasoning outside the sphere of public agency offering a subjective account of the individual and community which is above all else, rational, amoral and isolated.⁷⁵ Bearing in mind the influential nature of modernity articulated by Alasdair MacIntyre and Richard Rorty, supported again by the previous interpretations of modernity, it is not surprising that the new natural lawyers fell prey to the assumptions associated with the received view of Modernity.

A tradition that focuses on human experience, on action supported by proper deliberation, natural law is an ethical tradition that is interested in practice and for that very reason provides a large degree of individual freedom tempered by an acute understanding of the teleological ends of morality.⁷⁶ Similar to its historical predecessors, the new natural law, upon first glance, seems to uphold the teleology of being incorporating theoretical and practical first principles. Its methodology revolves

⁷⁵ For a valuable depiction of the historical development of ethics, as a discipline, see Alasdair MacIntyre, "A Short History of Ethics" *op. cit.*

⁷⁶ The nature of freedom and St. Thomas Aquinas's interpretation is investigated in the ensuing chapter, as will the link between his doctrines of freedom and epistemology be established as they relate to his ontology of being.

around the individual as a site of knowledge and a community of relationships supporting those endeavoring to achieve a higher degree of moral development; however, the requirements of practical reasonableness shift the traditional focus facilitating a methodology geared towards the theoretical application of rules, principles, and maxims in line with the boundaries of traditional ethics. “Nowadays the received view is that particular moral decisions simply apply universal ethical rules to particular cases;” write Jonsen and Toulmin, “while moral decisions are sound to the extent that they are validly deduced from such rules.”⁷⁷ This particular approach, influenced by the epistemological developments of Modernity proffers one particular mode of constructing moral arguments as a technique conforming to universal laws.⁷⁸ It is this understanding of ethics and morality framing a subjective account of being political within international affairs influencing the discourses of world order and human well-being.⁷⁹ It is related to the distinction between theory and practice, originating within Modernity, supporting theoretical forms of argumentation, to the detriment of practical modes of reasoning. A problem to be sure, the appeal of the natural law framework lies in its teleological orientation revealing the developmental potential of individuals as moral beings.

The requirements of practical reasonableness considerably reduce the role of individual conscience in moral deliberations. The dynamic and innovative capacity and capability of individuals as agents of justice is limited and the potentiality of human moral development is marginalized. Individual conscience is key to the natural law

⁷⁷ Albert R. Jonsen & Stephen Toulmin, *op. cit.*, 23.

⁷⁸ For a particularly interesting critique of this problem with relevance to International Relations, look at the work of Fiona Robinson, *op. cit.*, whose investigation of humanitarian intervention notes the lack of mutuality, contextuality and local insight into a practice that is, on the face of things, other regarding.

⁷⁹ The link between International Relations, pragmatic communities, and pragmatic morality is my own, but links to arguments found within the first and final chapter of this work, building on my idea of personal politics, stemming from human relationships, a theme that flows throughout the entirety of this work.

tradition. It provides the individual with the requisite freedom and autonomy to reason in an ethical and moral manner. As second order claims, these normative requirements are capable of change over time; what is important to note however, is that their development sustains a rational account of ethics well suited to a subject account of politics, sustaining the contemporary liberal individual. The requirements of practical reasonableness and the laws which outline acceptable modes of behavior mitigating the interaction of isolated individuals represent a morality concerned with right and wrong and not with the ultimate attainment of integral human fulfillment. In other words, it is a pragmatic morality sustaining a contractual state/individual relationship. In one fell swoop, a seemingly innovative theoretical argument was lost as its argumentation moved from loosely based principles, in line with human action into a theoretical form of argumentation, focused on processes and not a natural teleology. Moving beyond the original purpose of community within the tradition of natural law, the boundaries of knowledge associated with modernity limited communal agency to the process of government and not, as it ought to have been, on the achievement of higher levels of being. Indeed, an in-depth examination of the common good, articulated by the new natural lawyers reveals a community heavily reliant on the rhetoric of negative liberty, self-determination and above all else, human rights.

The idea of the common good is a series of conditions, premised on the requirements of practical reasonableness, fostering equal access to the basic human goods within the community. It highlights the fact, noted by Joseph Boyle, Jr., that “morality is a matter of thoroughgoing practical reasonableness and practical reason is consistent and

sufficient for the conduction of human affairs.”⁸⁰ Noting the compatibility of a rights discourse with the common good, Finnis further points out to the reader that, “[w]hat the reference to rights contributes in this sketch is simply a pointed expression of what is implicit in the term ‘common good’, namely that each and everyone’s well-being, in each of its basic aspects, must be considered and favored at all times by those responsible for the co-ordination of the common life.”⁸¹ The common good sustains the idea of a common authority, making decisions, creating laws, and developing institutions seeking above all else to marginalize the chaos emerging out of a myriad of individual relationships sustaining the community. Emphasizing co-ordination in lieu of human experience, the new natural lawyers provide a technical outline on how best to organize contemporary political communities. Common authorities, on this account, guard the freedom and autonomy of individuals limiting the negative consequences of human interaction through laws in line with the boundaries of public and private agency as opposed to the ends of integral human fulfillment.

Articulating a rhetoric echoing faintly of liberty, and negative liberty at that, Finnis’s account of the common good sustains a subjective account of being political.⁸² Aware always of individual liberty, he outlines a mode of individual self-determination focused on equality according to the tenets of distributive justice. Seeking to determine the just distribution of the basic human goods the new natural lawyers contribute to the recipient nature of contemporary society. That is to say, individuals are aware of their

⁸⁰ Joseph Boyle, “Natural Law and International Ethics” *op. cit.*, 127.

⁸¹ John Finnis, “Natural Law and Natural Rights” *op. cit.*, 214.

⁸² Recall at this point may of the criticisms of modernity put forth by Alisdair MacIntyre in the opening section of this chapter. He points out that the existence of the modern self is constructed without any vestige of historical or social framework. On this account, rights and their discourses exist filling to void between what the modern self is and how it defines itself in relation to the community. This task, interpreted in light of the aims of this particular work, is failing due to the overarching theoretical epistemology of Modernity.

own particular rights, but remain unaware of the associated duties and obligations as responsible agents.⁸³ Rights, similar to basic human goods are distributed like property, and are apportioned on the assumption that equal access sustains equal developmental potential. Unaware of the diverse and unique environments in which each individual is situated, this account of the common good fails to incorporate local characteristics and personal requirements. Community structure, on this account, reveals a technical form of organization which, similar to the loss of individual conscience, fails to understand the contextual nature of moral development, offering a technical approach to communal governance. Consequently, the manner in which the new natural lawyers conceptualize freedom, and the role of authorities and institutions, sustains the contemporary pragmatic society failing to recall the key role of human relationships facilitating community development. Essentially personal, these relationships are fundamentally at odds with the civil relationships of liberal societies yet it is these very civil relationships that the new natural lawyers seek to establish as they bear an intrinsic relationship to the requirements of practical reasonableness.⁸⁴ Thus, at the end of the day common good, instead of referring to the idea of being in common, highlighting the sociability of integral human fulfillment, seeks rather to delineate, spheres of agency in order to apportion access to the basic human goods. It is thus to note the distinct absence of a mutual and relational ontology of being sustaining reasonableness, morality and justice required of being in common and recalls the idea of possessive individualism, noted by Macpherson who

⁸³ Onora O’Neill, “Agents of Justice” *Metaphilosophy* 32, nos. 1 & 2 (January 2001): 180-195.

⁸⁴ This is a point which will be returned to in the final chapter on love which argues against the boundaries that distinguish one individual from another. In light of the other-regarding nature of the love ethic examined therein, it is interesting to note how it is only giving oneself up to another and allowing free access to the basic human goods that mutual well-being can be sustained and the ideal of natural law justice can be worked towards sustaining higher levels of being.

highlights the intimate relationship of modern pragmatic societies and the relationship they share with capitalist values further isolating the individual in society.⁸⁵

In light of these shortcomings, the ends of this interpretation of natural law, integral human fulfillment, remain central to the ensuing account of agency. Building on this emphasis, the interpretation of natural law developed herein returns to the original works of St. Thomas Aquinas invoking his idea of the ontology of being. In so doing, it demonstrates how agents, communities and the laws that organize them relate not to the boundaries of contemporary political systems but to the ends of being human. This must be done in order to support the aforementioned interpretation of ‘the international’ and the yet to be developed account of natural law agency and the natural law agent, all of which revolve around the assumption of an innate teleology of being. Synthesizing the ideas of the new natural lawyers and the works of St. Thomas Aquinas, the Salamanca Theologians and other contemporary natural law scholars, this account of natural law develop the pre-modern relationship of ontology, methodology, and epistemology anew facilitating a casuist methodology. Building on the aims of Jacques Maritain, questioning the centrality of cognitive epistemology over the ontology of being, it articulates an objective account of politics which is agent centered. This interpretation places primary

⁸⁵ This is not an isolated phenomenon within ethics and international affairs. As Nicholas Rengger illustrates in his article “on the just war tradition in the twenty-first century” *International Affairs* 78 no. 2 (2002) pp. 353-363, this same type of evolution is also evident in the transition from a tradition of just war to a contemporary theory of just war. Demonstrating a process whereby the idea of a just war tradition revolving around practice has become increasingly legal and relevant to the practice of war in the 21st century despite deep chasms in the arguments and assumptions of both the tradition and the modern conception of the liberal state. What is interesting to note is the movement from practical to theoretical argumentation as a tradition is molded so as to suite the needs and development of a contemporary society. In like manner, the natural law is abused when it is transformed from a practice oriented tradition with an anthropological understanding of the individual and community into a process oriented tradition, seeking above all else, rules and principles from which to derive moral and ethical action.

emphasis on individual conscience, and in so doing, reinstates the previously lost idea of individual autonomy and freedom necessary for practical reasoning and human agency. Similar to the malaise which Maritain and his fellow scholars sought to address at the end of WWII, this interpretation of natural law distinguishes itself from modern cosmopolitan endeavors investigated in the Introduction. It envisions an alternative approach to international institutional design reflecting an overarching universal human equality alongside a flexibility and relative moral reasoning process emphasizing the role of the individual as an agent of justice.

Distinguishing itself from the process oriented methodology of Modernity the tradition of casuistry emphasizes reason in moral deliberations. The appeal of a casuistic natural law framework is nicely summarized by Richard B. Miller. A supporter of casuistry, Miller demonstrates its value when the rules guiding the typical interactions of the agent are called into question arguing that casuists investigate whether or not the rules sustaining agency function in the face of moral problems arising in the quotidian existence of agents.⁸⁶ Casuistry supports practical arguments which, contrary to the universal processes associated with Modernity, are not methods for resolving particular problems with definite and guaranteed conclusions, but rather are aligned as closely as possible to human action seeking to resolve practical human problems. Unlike traditional theoretical forms of argumentation, practical argumentations are analogically associated with networks and webs, capable of incorporating a wide variety of possibilities in order to investigate the potential of any series of courses of actions determining the most appropriate course of moral action as indicated by the particular situation. “Instead of

⁸⁶ Richard B. Miller, *Casuistry and Modern Ethics, A Poetics of Practical Reasoning* (Chicago: University of Chicago Press, 1996), 4-5.

aiming strict entailment,” practical arguments, note Jonsen and Toulmin, “draw on the outcomes of previous experiences, carrying over the procedures used to resolve earlier problems and reapply them in new problematic situations. Practical argument,” they go on to note “depend for their power on how closely they present circumstances resemble those of earlier precedent cases for which this particular type of argument was original devised.”⁸⁷ Casuistry, similar to natural law justice, understands that laws speak to the quotidian events of individual experience and not to the extreme cases that test human reason. On this account, laws represent the norms of justice and are mutable and adaptable, a point further elaborated on in Chapter Four. The product of human reason, laws represent the potential that agents possess to change the political structures in tune with the changing values of the community and remain forever rooted in human agency.

Reasoning is the first step of casuistry moving quickly into the realm of human action. “The derivation of precepts from principle requires specification of actions and their morally relevant features. Thus, the task of moral reasoning is only begun, not finished, by indicating the moral principle, writes Boyle, Jr. “The more complex part of the reasoning is clarifying what makes actions of one kind or another compatible or incompatible with the moral principles.”⁸⁸ Casuistry requires, on this account an upright and moral individual engaging in the practice of practical reasoning. Again, the morality of natural law reveals its value offering the prudent individual to the particular task at hand. Drawing on the works of Thomas Aquinas, Jonsen and Toulmin highlight the necessary features of the prudent casuist. “Such a person possess knowledge both of universal principle and of particular situations; is capable of drawing together memory of

⁸⁷ Albert R Jonsen & Stephen Toulmin, *op. cit.*, 35.

⁸⁸ Joseph Boyle, “Just and Unjust Wars: Casuistry and the Boundaries of the Moral World” *Ethics & International Affairs* 11 (1997): 87.

past experiences and foresight into future possibilities; and is able to recognize what is at issue in new and hitherto untried situations,” they write. “The prudent person is aware that although the final end of human life is fixed by divine providence, the means to achieving that end are ‘of manifold variety according to the variety of persons and situations.’”⁸⁹ Centered on human practice and the role of reasonable deliberation, supported by the idea of natural law justice- ‘the good’, casuists situate their own moral taxonomy within a natural law framework incorporating an idea of individual conscience, alongside a particular understanding of human knowledge, both of which are derived from the self-same ontology of being. Thus, natural law and casuistry work hand in hand to avoid laxity and solipsism in the moral deliberations of individual agent situated within a strong community, aware too of the nature of justice and morality and its role therein. At the end of the day, casuistry and natural law combine providing an account of an ethical tradition that is agent centered and in which individuals can work outside the traditional sites of power and authority and begin to affect political change as empowered and capable agents.

Moral action, for the casuist, lies not in the mastery and application of rules derived from theoretical principles providing universally applicable processes, but rather, in the history of human practice coupled with an ability to reason analogically. “Only experience,” Toulmin and Jonsen note, “will give individual agents the particular priorities they need in weighing moral consideration of different kinds and resolving conflict between those different considerations.”⁹⁰ One of the many appeals of casuistry is its awareness of the delicate interplay of theoretical and practical knowledge sustaining

⁸⁹ Albert R. Jonsen & Stephen Toulmin, *op. cit.*, 130.

⁹⁰ Albert R. Jonsen & Stephen Toulmin, *op. cit.*, 314.

genuine human action. Moreover, as its emphasis is on the capacity for dynamism in the face of individual problems of conscience, where appeals to natural obligation are vague, casuistry reflects the teleology of being of the agent. With the onset of new knowledge and improved understanding, so too does the means of human action and its ends change to accommodate a greater understanding of the nature of morality and ethics. Relying on practical arguments, sustained by past experiences, unique situations and the ability to reason out determinate ends casuistry has historically enjoyed a strong relationship with the natural law tradition. Relying on the idea of a moral taxonomy, in which like cases are compared and contrasted with one another, casuistry guides individuals combining past experience with the ability to reason, supported by individual conscience in order to decide upon a moral course of action. Situated in a firmly established paradigm, a casuistic methodology reasons analogically appealing to maxims aware of the particularly unique circumstances of every and any situation providing the opportunity for diversity in action supporting a plurality of actions, in line with a particular account of morality and justice.

It is a point well noted by Richard B. Miller that casuistry, as an ethical tradition, employs a vague epistemology. “Moreover, casuists boast the practical advantage of tackling moral problems without having to enter into difficult philosophical debates that may distract us from urgent issues of the day,” he goes on to write. “Casuists are epistemologically modest: they embrace the idea that we need not establish the place of reason in moral or political philosophy as a necessary step toward resolving practical questions of virtue and decision making.”⁹¹ The seemingly lax nature of casuistic

⁹¹ Richard B. Miller, “Humanitarian Intervention, Altruism, and the Limits of Casuistry” *The Journal of Religious Ethics* 28 no. 1 (2000): 8.

reasoning is problematic only in light of the desire for certainty and stability, key features of Modernity. In fact, it is this flexibility that appealed to those public intellectuals charged with shaping *The Universal Declaration of Human Rights*. “No declaration of the rights of man can ever be exhaustive and final. It must always be expressed in terms of the state of the moral conscience and of civilisation at any given moment in history,” writes Maritain. “And it is just for this reason that, since the considerable success achieved at the end of the eighteenth century by the first written declarations, it has always been a matter of major interest for men to renew these declarations from age to age.”⁹² Similarly, Arnold J. Lein highlights the centrality of education in the development and maintenance of any form of declaration. “Education seems to be the only key that can release the creative energies of the individual for the new era. Self interest is the force of gravity which draws individuals together. That is the force on which the new order must be built,” he writes. “As individuals grow in knowledge, understanding and wisdom, their perspectives will be more complete, their horizons wider and their vision clearer. Their self-interest will find itself on ever higher levels until it ultimately coincides with the common interest of all.”⁹³ The seemingly problematic lack of a distinct methodology disappears when casuistry is situated alongside the ends of natural law. Its morality provides the necessary beacon orienting the theology of the agent and the community sustaining a unified sense of purpose motivating human action in line with the conscientious deliberations of the agent.

⁹² Jacques Maritain, “Communication” *op. cit.*

⁹³ Arnold J. Lien, “A Fragment of Thoughts Concerning the Nature and the Fulfilment of Human Rights” in *Human Rights, Comments and Interpretations. A symposium edited by UNESCO with an introduction by Jacques Maritain* ed. The United Nations Education, Scientific and Cultural Organization, 39 & 30 (London & New York: Allan Wingate).

On this account, natural law and casuistry knit together an ontology, epistemology and methodology articulating a mutual and relational account of human development stressing the contextual nature of moral reasoning. Individually natural law and casuistry present a fragmented account of morality in contemporary affairs. Natural law faithfully maintains the ontological equality of being while casuistry highlights the relativity of moral reason and action. As a whole, natural law and casuistry present an epistemology loyal to the moral ideal of integral human fulfillment recognizing the mutuality of ‘the good’. Aware of the loving disposition motivating human action this account of morality is well placed to challenge the contemporary state boundaries as they relate to international political sovereignty articulating simultaneously an account of justice that is transnational and commutative in its nature. Consequently this ontological and epistemological synthesis is well placed to challenge the structures which limit human agency endorsing an account of love and charity throughout the wider practices of international affairs.

Conclusion

The appeal of natural law lies in its account of morality and derived understanding of justice. Together, they provide both a normative account of right and wrong, but also provide a philosophical account of the individual and the community with which to criticise the current practices of international politics and the structures of international relations. As was demonstrated in the historical depiction of natural law, and its ensuing development, Antigone’s challenge of justice in the face of higher laws provided a reoccurring theme throughout history with which to challenge political injustice. In light of the desire to examine the problems of human suffering, and the

inability of the Universal Declaration of Human Rights to achieve its sought after ends, the justice and morality of natural law has once again been granted a high degree of prominence in the framing of both the questions and answers which this investigation brings to bear. In light of the particular aims and ends framed in the Introduction and Chapter One, with particular reference to the problems of human suffering and the static accounts of world order and the closed political states which comprise its constituent members, this second chapter has articulated a framework which will guide the ensuing three chapters of this work. Yet it has not acknowledged outright the problems associated with this tradition nor has it offered any recourse to their resolution. By way of conclusion, this chapter first highlights the particular problems of natural law assumptions and demonstrates how natural law, in its pre-modern interpretation is adequately able to circumvent these particular problems.

Jurgen Habermas's interpretation of modernity and ensuing account of communicative action examined in Chapter One provides a well-rounded summary of the problems of natural law. According to Habermas, who echoes a variety of authors, the problematic nature of natural law morality rest in its ontological assumptions sustaining its understanding of practical reasonableness. "In modern times, since the abandonment of the concepts of substance and essence which anchored what out to be in the order of things, the architectonics of reason has replaced objective teleology," he writes. "This means that normative content can only be derived reconstructively from the necessary subjective conditions for the objective validity of our experiences and judgments. They can no longer be derived ontologically from being itself."⁹⁴ This problem is similarly

⁹⁴ Jurgen Habermas, *Religion and Rationality: Essays on Reason, God and Morality* edited with an Introduction by Eduardo Mendieta (Cambridge: Polity Press, 1997), 117.

noted by Richard Rorty. He points out that with the onset of the enlightenment individual look not to the community, but rather looks inwards in order to understand the nature of morality and ethics.⁹⁵ The onset of positive knowledge throughout the enlightenment reflected the denigration of ontology to the outskirts of acceptable knowledge highlighting, as was demonstrated in the opening two chapters, theoretical knowledge. Moreover, it reflected the dominance of a positive methodology as was reflected in the ideas of the social contract thinkers. These assumptions are similarly evident in the ordering of the political community which seeks the isolation of the individual, to the detriment of a mutual relationship of the individual and the community.

This problem was addressed by modern rational scholars. As the classical interpretation of natural law exerted its influence on the emerging institutionalization of International Relations, the responsibility of the individual to act as a moral being further revealed itself. As society came to increasingly reflect the normative requirements of right and wrong, articulating in the process a fascination with jurisprudential theory, as evidenced in the works of Hugo Grotius, Samuel Puffendorf and Thomasius Wolff, the lack of unifying relationships placed the burden of proof on the individual to develop a moral code befitting the possessive individual. For Habermas, the answer to this problem rests in his notion of communicative ethics. Yet, an examination of the pre-modern ideas of natural law, begun in this chapter and continued in Chapters Three and Four reveals an alternative method of achieving this notion of mutual self-interest.

The value of a natural law framework rests in the relationship of mutuality enjoyed by the individual and the community. As Brian Tierney highlights, medieval

⁹⁵ Richard Rorty, *Philosophy and the Mirror of Nature* (Princeton, New Jersey: Princeton University Press, 1980).

natural law scholars did not place individuals and the community in a relationship of opposition, as is evident in contemporary accounts of world order. Rather, these two entities were similarly constituted and sought the self-same ends of human well-being and development.⁹⁶ Both the individual and the community reflected the natural teleology of being associated with the morality of natural law. This assumption underscores the philosophical account of the agent as a social and moral being and places primary emphasis on relationships in order to account for the development of the political community. Thus, this account of natural law, and its ensuing development of agency and the community distinguish themselves from discourse ethics articulating in the first instance what is referred to throughout this work as a relational ontology.

A relational ontology draws on the teleology of being sustaining the morality of natural law. It reflects the influence of the ethic of love and virtue of charity engendering an account of agency which reflects the mutuality of being. It articulates the idea that only through an understanding of the role of ‘others’ in the community, will one begin to know and understand one’s self. Like the idea of solidarity reflected in the neo-roman interpretation of liberty, a relational ontology articulates an order of charity uniting individuals in the self-same desire for human development and well-being mediating the idea of civic friendship through an investigation of agape and philia love. The mutuality of being evident in these endeavors not only offers an account of justice with which to challenge the proportional representations of social justice, as investigated in Chapter Four, it also counters the egotistical expression of morality and ethics which challenge modern natural law scholars and a classical interpretation of International Relations.

⁹⁶ Brian Tierney, *The Idea of Natural Rights, natural law and church law, 1150-1625* (Grand Rapids, Michigan: Wm. B. Eerdmans Publishing Co., 2001).

The ontological challenge of traditional accounts of natural law is mediated through an awareness of the self in another. The order of charity which reflects both the self-interested and selfless nature of the agent provides an account of obligation which rests on the self-same desire to know ‘the good’ which intimately links the development of the self with another. In this way a natural law ethic is an outward looking ethic and distinguishes itself from the contemporary ethical discourses of cosmopolitan and discourse ethics. This interpretation is limited to those who engage in a pre-modern interpretation of natural law as it draws again on the mutuality of being and the symbiotic nature of the individual and the community as moral beings in common. The essence and being of the individual reflect the discourse of grace associated with the theology of natural law consequently, it was increasingly problematic for those scholars associated with the enlightenment.

Yet, the outward orientation of ethics achieved through an understanding of the relationship of justice and virtue, alongside the individual ethic of love motivating agency reveals a deep seated reliance on theological explanations in order to counter the ontological problems of natural law. The possibility of a non-theistic approach to natural law is not precluded by this particular response. The mutuality of the individual and the community reveals an alternative interpretation of being sustaining a natural law ethic. While Chapter Three offers one particular reconstruction of Thomistic ethics which neatly sidesteps the problems of grace, there remains another feasible response. An interpretation of the natural law which begins at the community levels offers an example of the ends of agency with which to understand the ends of a love ethic and the associated responsibilities of obligation and morality. The natural law community, albeit a product

of a relational ontology, represents the actuality of being and provides an account of moral politics which rests not on the faith of theism, but rather, on the faith of individuals as moral agents. An account of natural law politics which rests on the faith of peoples echoes the ideas of Max Weber and his examination of politics as a vocation.

Weber engages in his *Politics as a Vocation* in a critique of power politics noting the inherent vanity which drives politicians who are political only for its own sake. In so doing he notes the futility of politics without a particular end noting that it is this end, however it is defined, which culminates in a shared sense of purpose; in other words, faith. “This is fundamental to all history, a point to be proved in detail here. The final result of political action often, no, even regularly, stands in completely inadequate and often even paradoxical relation to its original meaning,” he writes. “But because of this fact, the serving of a cause must not be absent if action is to have inner strength. Exactly what the cause, in the service of which the politician strives for power and uses power, looks like a matter of faith. The politician may serve national, humanitarian, social, ethical, cultural, worldly, or religious ends. The politician may be sustained by a strong belief in ‘progress’- no matter in which sense – or he may coolly reject this kind of belief. He may claim to stand in the service of an ‘idea’ or, rejecting this in principle, he may want to serve external ends of everyday life. However, some kind of faith must always exist.”⁹⁷ The assumptions of the enlightenment place their faith in a positive rationality, as evidenced by the previous investigations of modernity. In so doing, scholars such as Hobbes, Locke and Rousseau marginalized faith rooted in the potential of being. It is possible however, on this understanding of faith to articulate a natural law ethic which

⁹⁷ Max Weber, “Politics as a Vocation” in *From Max Weber: Essays in Sociology* translated, edited, and with an introduction by H. H. Gerth & C. Wright Mills (Oxford: Oxford University Press, 1946), 117.

rests on the hope of individual to seek in common, the ends of well-being and development.

It is bizarre to come across the works of Weber in order to defend the traditional and contemporary criticisms of natural law. Yet there is value in this endeavor. As his definition of faith reveals, faith implies a system of beliefs. For enlightenment thinkers, as he goes on to show, it is rational knowledge evident in the dominance of positivism. All three thinkers previously examined; namely, Hobbes, Locke and Rousseau all demonstrate this idea. In a similar fashion, the cosmopolitan thinkers demonstrate the liberal idea of progress as evidenced in the articulation of harm conventions and the duty to protect. Above all else however, his definition of faith provides the necessary framework in which to situate the politics of potential articulated in the final chapter of this work. It provides the necessary space whereby individual choice, the pinnacle of natural law agency, and the unity of human purpose can come together and achieve the requisite just structures. In so doing, it is possible to articulate a non-ontological and non-theological foundation of natural law morality presupposing the capacity and capability of agents, working in common, to achieve a mutually sought after end. In a manner which recalls, but does not necessitate, a relational ontology, the morality of natural law is revealed to function as a critique and accompaniment to a rational account of politics. In so doing, it paves the way for an account of agency in common with which to challenge the primacy of the state as the pre-eminent actor in International Affairs.

Chapter Three

Agency à la Aquinas:

Developing an account of Natural law Agents

Making oneself accessible to the transcendental attributes of being means that one gives preference to being over having. In the heart of being lie unity, truth, goodness and beauty which invite us to a community with being and fills our minds with perfection.

*Leo J. Elders,
The Metaphysics of St. Thomas Aquinas
(in a historical perspective)*

Introduction

Having established the nature of the problem under investigation, namely human suffering, and how it relates to the structures and agents that sustain international affairs, the previous chapter sought to provide an alternative framework upon which an unconventional account of being political could ultimately rest. The description of the natural law as an historical and moral tradition was situated alongside the tradition of casuistry illustrating the similar historical foundations upon which both rested. It demonstrated the influence of Aquinas on both traditions ultimately interweaving them anew providing an alternative understanding of reasonable capacities and capabilities of the moral agent. Moreover, it hinted at a commutative notion of transnational justice affecting the structural arrangements of world order in which individuals and communities worked through relational institutional patterns subtly influencing the practice of politics. Highlighting the central role that reason and practice play in the ethical and moral deliberations of agents', natural law proffers one particular manner of conceptualizing agents outside contemporary subjectivity. Building on this account, this

chapter offers an image of the prudent agent emerging out of the tapestry of natural law and casuistry.

With his works Hobbes offered to the world the idea of man in motion, building on the assumptions of modern physicists. The idea of man as a machine comprised of various component parts, arms, legs, head and heart, building on the analogy of medicine, provided one particular means of understanding what it was to be a political agent.¹ But as the previous chapters make clear, it is an image of the agent distinguishing ethics from politics breaking from the assumptions of pre-modern philosophers and theologians. This image of man is the focus of the second section of this chapter. Illustrating how the image of the individual as a rights bearing subject, drawn from the human rights regime is influenced by the social contract position and the works of Hobbes, Locke and Rousseau in particular, it seeks to show the shortcomings associated with a philosophical understanding of human nature and its implications for human agency. It is contrasted with the works of Aquinas and his ontology of being. Within the assumptions of Thomas Aquinas there exists another idea of man in motion comprised of a *telos* residing in the will and intellect sustaining a desire for ‘the good’ revolving around Aquinas’s conception of the graceful individual. This account of the individual provides a cyclical image of man in motion. The focus of the first section of this chapter, the natural law individual is understood as the product of a corporeal and incorporeal union of the body and soul represented in the theoretical and practical principles of life. Through the development of moral habits, individuals are capable of developing ‘the good’ consequently engendering a practical understanding of morality and justice underscoring

¹ See for example the works of Gabriella Slomp, *Thomas Hobbes and the political philosophy of Glory* (Basingstoke: Macmillan Press , 2000) which offers a striking account of Hobbes’ conception of the individual as a political agent.

the ontological equality of being.² Chief among these virtues is prudence, evident within the development of one's conscience, as it relates to Aquinas's order of Charity.³ Thus it is that the individual, as an agent, is the source of morality whose actions and relations further develop the first principles of life influencing the moral structures of the political community.

Key to Aquinas's account of agency and the natural law agent is the notion of grace. A wholly Christian concept, grace represents one mode of investigating the fallible nature of human reasoning; however, this very fact denies for the some, the value of Aquinas's assumptions in light of the dominant cognitive epistemologies of Modernity. For theologians grace is intimately tied up with conceptions of the will and ultimately, the human soul bringing to bear the role of a higher authority, or God, in the creation of agents. Aquinas represents a positive orientation motivating human action, highlighting the potential of individuals to do good, aware of the equal capacity to do evil. On this account, he distinguishes himself from Augustine who forcefully argues that individuals, after the original sin, lost their god given grace.⁴ Bearing this in mind, the role of God as creator, in the ontology of Aquinas is incontrovertible.⁵ Indeed, his ontology sustains grace, beyond the original sin, locating it in the natural component of being human. On this account, God's benevolence allows individuals to choose to overcome their shortcoming; however, alternative interpretations of these ends are possible. It is possible to show the value of Aquinas's ethics, in light of these

² Simon Oliver, "The Sweet Delight of Virtue and Grace in Aquinas's Ethics" *International Journal of Systematic Theology* 7, no. 1 (January 2005): 58-61.

³ More will be said on the order of charity in chapter five when it is discussed in reference to civic friendship and in the epilogue when the effects of transnational justice are investigated in more depth.

⁴ Augustine, *The City of God against the Pagans*, *Cambridge Texts in the History of Political Thought*, ed. R. W. Dyson (Cambridge: Cambridge University Press, 1998).

⁵ This point is made clear in Roger Ruston, *Human Rights and the Image of God* (London: SCM-Canterbury Press, 2004).

investigations, demonstrating how Aquinas's representation of law provides a means of constructing an account of ethics, without the representation of a higher authority or God.

Aquinas's account of being rests on the actualities which constitute human existence. As individuals develop they move from one actuality to the next and in so doing progress further along the chain of being. Ultimate happiness for Aquinas is the union of the individual with God. Happiness, on this interpretation, is limited to the ethereal existence of the individual. Anthony Lisska, however, argues forcefully that is this one of many ways of interpreting the works of Aquinas. Arguing forcefully that it is possible to understand within Aquinas a metaphysics of morals without a particular role for eternal laws, Lisska highlights the central importance of practical reason in the ontology of Aquinas. Distinguishing between the essence of being, and the content of being, Lisska demonstrates how a reasonable account of morality can exist for Aquinas, with or without the grace of God. "An essence accounts for the regular causal relations existing in nature. Furthermore, Aquinas can account for this analysis of the concept of essence with or without God," he writes. "Hence, Aquinas's account of natural law – which is in effect an account of an essence of human nature – is independent conceptually from his account of natural law. One need not know the eternal law prior to knowledge of the natural law. Natural law," he concludes, "makes sense in terms of a consideration of the development of dispositional prosperities."⁶ Building on this distinction, the first section of this chapter focuses specifically on the essence of being in

⁶ Anthony J. Lisska, *Aquinas: An Analytical Reconstruction* (Oxford: Clarendon Press, 1996), 105 & 106.

and of itself in order to ground a normative account of agency, the focus of the final section of this chapter.⁷

A variety of methods exist with which to account for a theological or non-theological grounding of ethics. One can endorse an analytical reconstructive approach, as referenced above. On the other hand, one can investigate traditional historical and contemporary texts employing the methods of discourse analysis, and in other instances, develop a hermeneutical interpretation to demonstrate the relevance of previously discarded ideas. With this in mind, Susanne M. Decrane offers a hermeneutical interpretation of Aquinas's account of the common good with reference to feminist ethics. "In fact, classical texts of a tradition may serve as sources of insight and wisdom if retrieved through a rigorous, critical process. To reject classic texts leaves the human community stripped of enduring sources of human wisdom and moral insight," she writes. "This is essential," she concludes, if one is to prevent merely cosmetic realignments of the same oppressive insights and conclusions."⁸ Bearing all this in mind, it is not the object of this work to offer an interpretation of the works of Aquinas, in light of the aforementioned problem of *being*. As the examples of Lisska and DeCrane illustrate, it is possible to interpret anew the ideas and ends of Aquinas, in light of the cognitive epistemology dominating contemporary ethics and morals. In light of the

⁷ This particular representation of the individual as an agent can thus be interpreted in a theological or non-theological manner. That being said, the non-theological interpretation endorsed by Lisska should not be read as existing in contradiction to the ideas offered in the Conclusion to Chapter Two. The point articulated by Lisska which ought to be reinforced at this point is that the interpretation is mutually constituted the choice lies with the reader to determine which series of assumptions provide the soundest foundation for the works of Aquinas and the application of natural law morality to contemporary ethics.

⁸ Susanne M. Decrane, *Aquinas, Feminism, and the Common Good* (Washington, D.C.: Georgetown University Press, 2004), xiii.

objectives of this work, it suffices to note that grace represents a pre-modern account of human fallibility.⁹

Human fallibility links the investigation of structure and agency culminating in contemporary ideas of world order. As the realist discourse investigated in Chapter One reveals, the structuring of international affairs, both historical and contemporary, seeks to temper human fallibility resting on a negative assumption of human nature. Similarly, the English School tradition articulated a particular role for institutions tempering the negative self-interest of the individual. On the other hand, a variety of cosmopolitan interpretations running throughout this work examine the tension of moral progress in light of the fallible nature of human reasoning. Indeed, the examination of human rights, in light of the problems of world order represents one method of protecting the essence of being in light of these negative assumptions. On this account, it is notable that grace, emerging from a distinctly Christian theology represents a greater purpose, namely, a means to understand human action in a positive light. Bearing this distinction, when the ideas and discourses of Aquinas are employed, so to will his language of nature and grace remain. Similarly, contemporary discussions will revolve around the idea of human nature, as it remains the primary discourse of philosophy and international affairs; however, with reference to natural law agency and the natural law agency, this work speaks of 'being human' representing the idea to be elaborated on in the final chapter of the works; namely, *the politics of potential*. Representing both the fallible nature of human reasoning alongside the desire and motivation for agents to act as agents of

⁹ These different interpretations represent a complementary interpretation to that offered by the texts of Weber in the conclusion of chapter two. This chapter seeks to reinforce the individual as part of a relational ontology which supports an outward looking ethic and the mutuality of well-being and development articulated through an ethic of love, friendship and the order of charity to be elaborated on in Chapters Four and Five.

justice, the politics of potential reflects a positive orientation, albeit a tempered one, with which to contrast the inevitability of universal moral progress associated with a modern account of morals, and in particular, the cosmopolitan discourses investigated in the Introduction.

Part I: Thomas Aquinas & the Metaphysics of Being

Ontology is that branch of philosophy concerned with the essence of being. It is Aquinas, the preeminent natural law scholar, whose ontological assumptions influence the tradition.¹⁰ Providing the foundation for individual being situating morality within this self-same structure of assumptions, he fosters a tradition capable of supporting the casuist methodology previously examined.¹¹ “There is no denying that St. Thomas Aquinas’ doctrine of natural law,” writes A.P. d’Entreves, “still represents the most carefully thought out presentation of the ontological view, the most complete and thoroughgoing development of its assumptions and of its implication.”¹² What Aquinas understood, and what has been marginalized within contemporary debates of ethics and international affairs, is that one must look to the anthropological nature of man in order to understand the essence and being of the individual. Aquinas offers a philosophical image of the individual in stark contrast to the rights bearing subject of the 21st century. As reasonable beings intent on understanding the nature of their surroundings, it is only through one’s actions that an individual comes to substantiate who they are potentially and actually. This anthropology of being provides a unique alternative to understand human agency as one’s desire for knowledge fosters human potential. In other words, to

¹⁰ Knud Haakonssen, *op. cit.*, 15.

¹¹ Albert R. Jonsen & Stephen Toulmin, *op.cit.*, 135.

¹² A.P. d’Entreves, “The Case for Natural Law Re-Examined” *op. cit.*, 34 & 35.

be human is to act and one's actions represent the agent's participation in the natural law shaping a just community.

Being, for Aquinas, can not be separated from morality. One exists in the natural world, yet displays a remarkable ignorance of its structures; however, his metaphysics provide individuals with a means to engage and interact in this world predisposed to morality and ethics. As Robert Pasnau points out, what Aquinas understood, and tried to convey was “an extended lesson in morality not just because this is essential to human well-being, but also because these matters are essential to being human.”¹³ Beginning from the ground up, Aquinas premises his account of morality and justice in the natural and social world on the one thing that makes individuals truly human- the capacity to move independent of outside stimuli and come to understand, for themselves the environment in which they are situated. Aquinas supports this anthropology with a metaphysics imbued at the outset with a basic understanding of good and evil complementing this capacity with a theory of knowledge incorporating human senses and experiences within a community. It is for this reason that the most noble of tasks, for individuals is to go out and experience the world for with experience comes knowledge and with knowledge comes understanding culminating in the actualization of human potential.

Questions seventy-five to one-hundred and two of the *Summa Theologica*, entitled “A Treatise on Man”, outline Aquinas' account of the nature of the individual. The centrifugal component of Aquinas' understanding of the individual is the soul. “To seek the nature of the soul,” he writes, “we must premise that the soul is defined as the first

¹³ Robert Pasnau, *Thomas Aquinas on Human Nature: A Philosophical Study of the Summa theologiae Ia 75-89* (Cambridge: Cambridge University Press, 2002), 20.

principle of life in those things that live.”¹⁴ It is within the soul that the essence of the individual is located; the component parts that deal with the nature of the soul itself and the union of the soul with bodily matter proceeding on to earthly existence.¹⁵ The soul, Aquinas writes, “is the highest and noblest of forms. Wherefore it excels corporeal matter in its power by the fact that it has an operation and a power in which corporeal matter has no share whatsoever.”¹⁶ The incorporeal component of individuals, it is the soul shaping the metaphysical qualities of Aquinas’s individual. “Therefore the soul, which is the first principle of life, is not a body, but the actuality of the body,” Aquinas writes. “And this is so in just the way that heat, which is the principle of heating, is not a body, but the actuality of the body.”¹⁷ The soul is of primary importance for Aquinas’ metaphysics for while all of nature’s creatures possess a soul, individual souls distinguish themselves as rational beings. “For Aquinas a human being is not a soul plus a body but a body which has a soul,” writes MacIntyre. “Human experience is bodily experience, and the soul knows and knows about singulars only on the basis of that experience as mediated by imagination-itself a bodily phenomenon-and structured in terms of form by intellect.”¹⁸ The soul, united with the body provides the form of the individual dictating the appetite and desire of the individual in keeping with its genus and species. Bearing this in mind, Aquinas’ depiction of the soul becomes increasingly important and, as James Lehrberger points out, “is the most potential and the least actual. Still, the soul as we know it is the act of matter; but act can be best understood in light of the form-*esse*

¹⁴ Thomas Aquinas, *Summa Theologica*, translated by the Fathers of the English Dominican Province (London: Buns Oates & Washbourne Ltd. Publishers to the Holy See) Ia, q. 75, a. 1.

¹⁵ Robert Pasnau, *op. cit.*, 29.

¹⁶ Aquinas, “Summa Theologica” *op. cit.*, Ia, q. 76, a. 1.

¹⁷ Thomas Aquinas, “Summa Theologica” *op. cit.*, Ia, q. 75, a. 1.

¹⁸ Alasdair MacIntyre, *Three Rival Versions of Moral Enquiry. Encyclopaedia, Genealogy, and Tradition, being Gifford Lectures delivered in the University of Edinburgh in 1988* (Notre Dame, Indiana: University of Notre Dame Press, 1990), 153.

relation.”¹⁹ Individual being, or becoming, is presented by Aquinas in varying degrees of actuality. While the soul is one actuality, in and of itself, the union of the soul with the body represents another stage of individual being. “Considered in itself, the nature of man thus clearly abstracts from every act of existing, but in such a way that may not be excluded from it,” writes Aquinas. “And it is nature considered in this way that we predicate all individual beings.”²⁰ Aquinas’s account of the soul and the subsequent development of the human form, its teleological character goes on to sustain his account of morality.²¹

With the union of the body and the soul, the individual further develops his or her actuality and in so doing, comes to understand his or her quiddity. “And it is because of this, that the human soul among all the intellectual substances has the greatest potency, the human soul is closest to material things;” writes Aquinas. “Thus from the soul and the body there results one act of being in one composite, although this act of being belongs to the soul as not being bodily dependent.”²² Resulting in the production of the intellect and the will, the union of the soul and matter sustain a moral and active individual. The relationship of these two components provides the individual with an innate grasp of the principles of life, morality and an orientation towards ‘the good’. As the singular entity on earth possessing a rational soul, it is the cognitive capacities of the agent sustaining the desires and appetite which, in light of all that has been said, sustains

¹⁹ James Lehrberger, “The anthropology of Aquinas’s ‘De ente et essentia’” *The Review of Metaphysics* 51, no. 4 (June 1998): 6.

²⁰ Thomas Aquinas, *On Being and Essence*, translated with an introduction and notes by Armand Mauer (Toronto, Canada: Pontifical Institute of Mediaeval Studies, 1949), 40.

²¹ Robert Pasnau, *op. cit.*, 29.

²² St. Thomas Aquinas, “On Being and Essence” *op. cit.*, 4.

an ontological framework in which all beings are, in and of themselves, predisposed towards ‘the good’.²³

It is the will that orients the natural *telos* toward the last ends of the individual; namely ‘the good’. The good motivating human action highlights the natural desires of the individual simultaneously demonstrating the freedom and autonomy of the agent. As Aquinas explains in the *Summa Contra Gentiles*, the desire for the good is natural, located in all of nature’s creatures. “There is a desire for good in everything: good, the philosopher tells us, is what all desire,” writes Aquinas. “In things with understanding it is called intellectual or rational desire: will. So created intellectual substances have wills.”²⁴ Comprised of a rational soul, individuals are epistemologically endowed, at the outset, with an innate capacity to know ‘the good’ in its simplest of forms. “Since the essence of good consists in this, that something perfects another as an end, whatever is found to have the character of an end also has that of good,” writes Aquinas. “Now two things are essential to an end: It must be sought or desired by things which have not attained the end, and it must be loved by things which share the end, and be, as it were, enjoyable to them.”²⁵ This innate comprehension motivates action in the first instance, indicative of the developmental potential within the capacities and capabilities of the

²³ Quiddity, in the works of Aquinas is, at certain points in his text, used interchangeably with the idea of essence, or nature. Quiddity is a more specific form of *ens per se* denoting to the reader the specific characteristics of various entities as they are further classified and defined based on their individual characteristics—it is the form of being. Thomas Aquinas, “On Being and Essence” *op. cit.*, 27.

²⁴ Thomas Aquinas, “Summa contra Gentiles, 2.47-8” text from *Summa contra Gentiles* (Opera Omnia, Leonine edn., vol. xiii) in *Thomas Aquinas, Selected Philosophical Writings*, Selected and Translated with an Introduction and notes by Timothy McDermott, 169 (Oxford: Oxford University Press, 1993).

²⁵ Thomas Aquinas, “Quaestiones Disputatae De Veritate” Q. 21, a. 2 corpus as found in Truth, vol. 3, p. 10, a translation of the *De Veritate* by Robert W. Schmidt (Chicago: Henry Regnery, 1954) as quoted in Ronald Duska, “Aquinas’ Definition of The Good: Ethical-Theoretical Notes on De Veritate, Q. 21,” *The Monist* 58, no. 1 (1974): 152. It should be noted that Aquinas discusses his idea of ‘the good’ in a variety of his writings. To examine them in detail is beyond the space allotted, but Susanne DeCrane, *op.cit.*, provides many similar definitions of ‘the good’ all premised on this same idea of happiness. What is interesting to note is the relationship that exists between the idea of ‘the good’ human ‘telos’ and the ability of the individual to achieve such ends.

individual. “So note that in nature classification of actions comes from form, but its exercise comes from an agent causing the action in pursuance of a goal, so that the first source of an activity’s exercise is some goal,” writes Aquinas.²⁶ The will motivates action toward and end further developing the first principles of life. The goal, on this account, is integral human fulfillment. Yet it is a task which can only be achieved with the help of the intellect sustaining the reasoning capacities of the agent.

The intellect is the operation of the soul supporting the epistemological potential of the individual. “Now man is the most perfect of all lower movers,” writes Aquinas. “Therefore the respective principles of both, namely the active and possible intellects, must be in man’s nature and neither of these must be separate, as to its being, from the soul of man.”²⁷ The intellect complements the natural desires of the will developing an innate awareness of universal precepts alongside the first principles of life. As rational beings, individuals are capable of reasoning through information organizing and applying it to future deliberations and actions. “But man [unlike angels] arrives at the knowledge of intelligible truth by advancing from one thing to another; and therefore he is called rational. Reasoning, therefore, is compared to understanding as movement is to rest, or acquisition to possession; of which one belongs to the perfect, the other the imperfect,” he writes. “And since movement always proceeds from something immovable, and ends in something at rest hence it is,” Aquinas further writes, “that human reasoning, by way of inquiry and discovery, advances from certain things simply understood- namely, first

²⁶ Thomas Aquinas, “Public disputations on Evil 6” Text from “Queationes Disputatae de malo” (Opera Omnia, Leonine edn., vol. xxiii) in *Thomas Aquinas, Selected Philosophical Writings*, Selected and Translated with an Introduction and notes by Timothy McDermott, 176 (Oxford: Oxford University Press, 1993).

²⁷ Thomas Aquinas, *Summa contra Gentiles* translated by the Fathers of the English Dominican Province (London: Buns Oates & Washbourne Ltd., Publishers to the Holy See, 1923-1929.), 210.

principles, and, again, by way of judgment, returns by analysis to first principles, in light of which it examines what it has found.”²⁸ Further distinguishing the capacities of the intellect, Aquinas notes the symbiotic role of theoretical and practical knowledge residing in the speculative and practical intellect of the agent. “For it is the speculative intellect which directs what it apprehends, not to operation, but to the consideration of truth; while the practical intellect is that which directs what it apprehends to operation.”²⁹ Reasoning, on this account, is the movement between theoretical and practical first principles in light of acquired experience generated through human action. Of equal importance, the theoretical and practical principles reveal the nature of morality and the universal ends of ‘the good’.³⁰

The will and intellect complement one another sustaining the desires of the agent moving along the actualities of being. Aquinas understood this necessity distinguishing between the absolute and relative superiority of things. “If therefore the intellect and will be considered with regard to themselves, then the intellect is the higher power. And this is clear if we compare their respective objects to one another. For the object of the intellect is more simple and more absolute than the object of the will;” writes Aquinas, “since the object of the intellect is the very idea of the appetible good; and the appetible good, the idea of which is in the intellect, is the object of the will.” The relationship of the intellect and will, however, is not that simple. Aquinas further points out that “since the proper nature of a power is in its order to its object, it follows that the intellect in

²⁸ Thomas Aquinas, “Summa Theologica” *op. cit.*, Ia, q. 79, a. 8.

²⁹ Thomas Aquinas, “Summa Theologica” *op. cit.*, Ia, q. 79, a. 11.

³⁰ Aquinas is here drawing on the distinction made by Aristotle between theoretical and practical knowledge offered in *Nicomachean Ethics*. Distinguishing further between generic and specific types of knowledge he locates morality and the study of ethics in the specific type of practical knowledge elucidating his idea of *phronesis* which went on to shape and influence Aquinas’s idea of prudence derived from *synderesis*.

itself and absolutely is higher and nobler than the will. But relatively and by comparison with something else, we find that the will is sometimes higher than the intellect, from the fact that the object of the will occurs in something higher than that in which occurs the object of the intellect.”³¹ The mutuality of this relationship, in light of the developmental potential of agents is of intrinsic importance to Aquinas’s ontology. “Indeed, more than this, for as the intellect of necessity adheres to the first principles, the will must of necessity, adhere to the last end, which is happiness: since the end is in practical matters what the principle is in speculative matters,” writes Aquinas. “For what befits a thing naturally and immovably must be the root and principles of all else appertaining thereto, since the nature of a thing is the first in everything and every movement arises from something immovable.”³² The relationship of action and ends requires a holistic epistemology of theoretical and practical knowledge sustaining the ontology of being in and of itself. Supporting the morality of natural law, the individual and the community for Aquinas, is this relationship of the will and the intellect.³³

Like the intellect and the will, ‘the good’ and the first principles are related to one another absolutely and relatively. It is the practical intellect noting the first principle of natural law through the special habit *synderesis* substantiating the claim that, individuals, in and of their very essence, are moral beings, in potential. “Wherefore the first principles, bestowed on us by nature, do not belong to a special power, but to a special natural habit, which we call ‘synderesis’,” writes Aquinas. “Whence ‘synderesis’ is said

³¹ Thomas Aquinas, “Summa Theologica” Ia, q. 82, a. 3.

³² Thomas Aquinas, “Summa Theologica” *op. cit.* Ia, q. 82, a. 1.

³³ It should also be stated at this point that this distinction of knowledge types is only to note how the different facets of knowledge are mutually symbiotic. This distinction is important in light of the point made by Nick Rengger and Raymond Aron, arguing that conceptions of world order are the product of both theoretical and practical knowledge which bears interesting conclusions for Aquinas’ theory of agency.

to incite to good and to murmur at evil, inasmuch as through first principles we proceed to discover, and judge of what we have discovered.”³⁴ Synderesis provides the intellect with the vaguest conception of the morality of natural law inciting good and murmuring against evil. Firmly ensconced in the relationship of the will and intellect, it is part and parcel of the first principles of life. On this account, synderesis maintains the primordial claim that action and reason, on the part of the agent are, in and of themselves, moral. Furthermore, the ontology sustaining this claim ensures that all agents are related in and of themselves to the ends of natural law morality, ‘the good.’³⁵ “And so it presupposes that we are well disposed to our goals-the premises of our action-by a right will, in the same way that we are disposed to the premises of speculative thought by the natural light of our agent intellect,” writes Aquinas. “So that just as our speculative mind in subordination to our agent intellect is disposed by science to rightly reason about speculative matters, so our practical mind in subordination to right willing is disposed to act by prudence.”³⁶ Emphasizing human experiences activating the senses synthesizing information in the intellect, Aquinas goes on to develop his idea of conscience, the product of reason and synderesis. Situating this idea of conscience alongside the prudent

³⁴ Thomas Aquinas, “Summa Theologica” *op. cit.*, Ia, q. 72, a. 12.

³⁵ Thomas Aquinas, *Disputed Question on the Soul’s Knowledge of Itself*, translated by Richard T. Lambert (Stillwater, Oklahoma: Translation Clearing House, 1987), 2. Working alongside the physical sense of the individual, the intellect via phantasms, acquire a wide variety of knowledge and begin to develop an understanding of their surroundings. Unlike God and the angels, who do not require bodily matter to acquire knowledge, individuals are not endowed with a natural capacity to know independently. The acquisition of knowledge is a process requiring the use of sensible and intelligible functions, neither of which resides singularly in the form or matter of the whole individual. Bearing this in mind Aquinas elaborates on a five-stage process of knowledge originating at the most basic level of identification generating a variety of taxonomies applied comfortably on a habitual basis. There are five stages to the acquisition of knowledge: the sense must first abstract a sensible thing, it must then, in the second instance store that sensible species in the imagination. Third, the agent intellect abstracts from the individuating conditions the sensible species has preserved and then move on to the fourth stage whereby the abstracted thing is transformed from its sensible to its intelligible forms where it is deposited in the possible intellect. The process is finished when, in the final instance, the species is completely understood. This entire process is embodied in the idea of rash reasoning substantiating the political agent and his or her actions.

³⁶ Thomas Aquinas, “Summa Theologica” *op. cit.*, Ia IIae q. 55 a.6.

individual, Aquinas overcomes the vagueness of *synderesis* sustaining the casuistic interpretation of practical reasoning and natural law morality.

Conscience, according to Aquinas “implies the relation of knowledge to something,” furthermore going on to say that, “the application of knowledge to something is done by some act. Wherefore from this explanation of the name it is clear that conscience is an act.”³⁷ Conscience, on this account, works alongside practical reasoning determining the intentions of the agent and the realm of consequences associated with each particular course of action. “This ‘*synderesis rule*’ is, he maintains, a self-evident principle, such that anyone who understands it must assent to its truth,” writes Haldane. “What it concerns, however, is not the rightness or wrongness of this or that particular action, but rather the polarity of the axis on which conduct lies and the intrinsic attraction of one pole and repulsion of the other. Even granting the truth of the principle,” he furthermore points out, “knowledge of it will not suffice to guide on through life without a more specific capacity to distinguish good from bad courses of action, and it is this capacity which Aquinas follows tradition in identifying with *conscientia*.”³⁸ Capable of reasoning individuals are captured by a rational soul and are prone to errors. Prudence, on this account, takes on an increasingly important role in any account of moral and political agency. “Now in the genus of human acts, the highest cause is the common end of all human life,” writes Aquinas, “and it is this end that prudence intends.”³⁹ Prudence exemplifies the wise individual capable of taking counsel in order to determine the natural ends of his or her existence. Building on the idea of

³⁷ Thomas Aquinas, “*Summa Theologica*” *op. cit.*, Ia, q. 79, a. 13.

³⁸ John Haldane, *Faithful Reason, Essays Catholic and philosophical* (London: Routledge, 2004), 117.

³⁹ Thomas Aquinas, “*Summa Theologica*” *op. cit.*, II-II, q. 47, a. 2.

conscience as action, developing the requisite moral taxonomy prudence advises practical reason sustaining good intentions and moral actions.

Prudence grows in importance in light of the first principles of knowledge. Recalling the habitual nature of the first principles and the limitations of a rational soul, the interpretation of morality, on this account, is limited to the capacities of the agent. Bearing all of this in mind is to note the following points. First, that reason, according to Aquinas, is concerned with universals, and it is the agent, aware of such universals, who applies them to specific cases.⁴⁰ The product of good habits, prudence is the ultimate human virtue, which, when related to the intellect and will of the individual, demonstrates its relation to the ultimate ends of being; namely, the good. Ultimately, upright moral decisions require a virtuous agent. “It is because the infinite number of singulars cannot be comprehended by human reason, that ‘our counsels are uncertain’. Nevertheless experience reduces the infinity of singulars to a certain finite number which occur as a general rule, and the knowledge of these suffices for human prudence.”⁴¹ On this account, laws, custom and norms are mutable, related to the increasing knowledge and cognitive capacities of the agent. Aquinas himself was aware of this mutability concluding that “prudence does not reside in the external senses whereby we know sensible objects, but in the interior sense, which is perfected by memory and experience so as to judge promptly of particular case.”⁴² On this account it is the intentions of the agent which bear scrutiny. In the same vein as casuistry, moral reasoning, on this account, is unable to account for the myriad of possible ends and consequences; however, reasoning and action, guided by prudence, linked as it is the ends of natural law morality,

⁴⁰ Thomas Aquinas, “Summa Theologica” *op. cit.*, II-II, q. 47, a. 3.

⁴¹ Thomas Aquinas, “Summa Theologica” *op. cit.*, II-II, q. 47, a. 3.

⁴² Thomas Aquinas, “Summa Theologica” *op. cit.*, II-II, q. 47, a. 3.

outline action in line with such ends. The responsibility of the agent, in light of these conclusions, lies in listening to the murmurings of synderesis and acting according to the morality of natural law.

Agency, for Aquinas is rooted in the idea of a goal. As he himself states, “every agent, whether it acts by nature or by will, tends towards a goal, though it doesn’t follow that every agent is aware of a goal or deliberates about it.”⁴³ While individuals are free and autonomous agents, they are ordered around a particular end, ‘the good’. The reasoning and actions of the individual are undertaken in light of this fact. “The free is that which is its own cause. Wherefore that which is not the cause of its own acting is not free in action. Now whatever things are not moved, nor act except they be moved by others, are not a cause of their own action,” writes Aquinas. “Therefore self-movers alone have liberty in acting. These alone act by judgment: because the self-mover is divided into mover and moved; and the mover is the appetite moved by intellect, imagination or sense, to which faculties judgment belong.”⁴⁴ Predisposed towards these ends, the will, coupled with the intellect, orients human agency towards the good. This is agency in the general sense, promoting action unrestricted by overarching structures shaping human experience. On the other hand, agency in particular, notes the specific goals individuals seeking higher levels of actuality aware of the changing constitution of the agent. The natural telos of the agent and the ends of the first principles of knowledge complement one another ordering the desires of the agent shaping action geared towards integral human fulfillment. The ontology of being thus requires that the intellect and the

⁴³ Thomas Aquinas, “On the Principles of Nature (complete)” Text from *De Principiis Naturae* (*Opera Omnia*, Leonine edn., vol. xliii) in *Thomas Aquinas, Selected Philosophical Writings, Selected and Translated with an Introduction and notes by Timothy McDermott, 72* (Oxford: Oxford University Press, 1993).

⁴⁴ Thomas Aquinas, “*Summa contra Gentiles*” 1923-1929, *op. cit.*, 114.

will function as two parts of a greater whole and in so doing, fosters a free and autonomous conception of being.

On this account, agency, according to Aquinas, is in and of itself, moral. One cannot distinguish action from morality, because action is rooted in both the intellect and the will wherein the first principles, both practical and theoretical are located. All of which points to one particular conclusion; namely, that Aquinas could not conceptualize an amoral individual. This interpretation of the individual relies on the key relationship of the intellect and will, derived from the Aristotelian idea of knowledge, the distinction between *episteme* and *phronesis*. As the opening chapter of this work highlighted, this distinction became increasingly polarized as practical knowledge was placed outside political agency, seeking universal standards; however, as the discussion of the prudent individual illustrates moral knowledge and action, is constituted not by universals or particulars, in and of themselves, but of a relationship between the two. The clear distinction of these two facets of knowledge, upheld by Modernity, influenced the understanding of morality, providing a theoretical process oriented approach to ethics, as was highlighted in the Chapter Two, influencing a subjective interpretation of the individual and the community. Morality, on this account, concerned itself with right and wrong, not good and evil, and the problematic nature of ‘is’ and ‘ought’ came to be.⁴⁵ As Ralph McNerny highlights, all actions, can be examined in a moral light distinguishing, like Aquinas, between technical and moral action. “The speculative virtues, having geometry and quantum mechanics, say, enable us to perform well certain kinds of mental activity, and to say of someone that she is a good geometer or physicist is not just as such a moral commendation,” he writes. “But if we can appraise some human acts in a non-

⁴⁵ G.E. Moore, *Principia Ethica* (Cambridge: Cambridge University Press, 1993).

moral way, it seems wrong to identify human action and moral action.”⁴⁶ The value of a Thomist framework is that, the manner in which it understands knowledge, holistically, incorporating both theory and practice as a complementary, and not binary, circuitously avoids this problem noting that in and of themselves the ‘is’ of an action is also its ‘ought’ and in so doing, avoids the normative problems of the naturalistic fallacy. Consequently, this framework of moral action provides the necessary framework for an objective account of being political.

Part II: Modernity’s Individual: the rights bearing subject

While international relations, at its most basic concerns itself with the interactions of states co-existing in the international system, there exists within the field the idea that individuals, due to their common humanity deserved to be treated in an ethical manner. Chris Brown points out that “there is a long tradition of interpretation that argues that individuals are the ultimate members of international society, even if the immediate members are states.”⁴⁷ It is a point further noted by R.J. Vincent who, observing a twofold revolution in the discipline highlights the emphasis placed on individuals. “The

⁴⁶Ralph McInerney, “Ethics” in *The Cambridge Companion to Aquinas*, eds. Norman Kretzmann and Eleonore Stump, 204 & 88 (Cambridge: Cambridge University Press, 1993). He goes on to say for Aquinas, “any human action that can be appraised technically can also be appraised morally. In another one of his works, *Aquinas on Human Action: A Theory of Practice* (Washington, D.C.: Catholic University of America Press, 1992), he finds fault with Finnis noting that the distinction between ‘is’ and ‘ought’ or the idea that practical knowledge relies somehow on theoretical knowledge, according to Finnis, is faulty and lies in a mistaken understanding of human function. “Practical arguments are often mixtures of practical and theoretical considerations- of ‘ought’ and ‘is’ judgments- but what must be avoided like sin is any suggestion that our first and primary practical knowledge is dependent on theoretical knowledge of nature. That is Finnis’s fundamental point. It is on this basis that he takes to task other moral philosophers. It is on this basis that he undertakes to save Aristotle from himself and dismiss the heart of his procedure as an erratic boulder on the landscape. In short, Finnis is scandalized by the function argument.”

⁴⁷ Chris Brown, *International relations theory: new normative approaches* (London: Harvester Wheatsheaf, 1992), 94. In this book, he makes the point that within the last twenty or so years there has been a revival in the study of normative applied ethics within the field of International Relations and one of the direct consequences of this has been a revival and re-emergence of ‘naturalism’ within the discipline itself. The idea that, due to their very humanity, there are natural qualities that adhere to being human which are innately discernable and provide a standard by which one can judge proper moral behavior.

first is that while states still constitute the membership of international society, they have taken on a revolutionary purpose, adding the needs and interests of individuals and groups other than states to their traditional preoccupation with peace and security among themselves,” he writes. “The second is that, in taking on these purposes, states have dissolved international society into a world society in which groups and individuals have equal standing with states.”⁴⁸ One need only examine a cosmopolitan understanding of world order in order to discern the nature of the rights-bearing individual. On the other hand, a quick appraisal of the Just War Tradition highlights the ideas associated with *Jus in Bello*, paying particular attention to the protection offered to non-combatants and the indiscriminant use of force within the practice of war itself.⁴⁹ Needless to say, the ethical treatment of the individual, in and of itself, remains firmly embedded in the state/individual relationship placing primary importance on the state as a taxonomical device bringing with it a series of assumptions rooted in the aforementioned received view of Modernity.⁵⁰

Returning to the theme of Modernity that opened this work is to recall that it put forward a series of assumptions rooted in the mathematical rigor of geometry seeking, in the face of domestic political instability, theoretical certainty. In order to achieve this end, a particular type of knowledge had to dominate the ideas of political thinkers. The works of Thomas Hobbes and his descendents quashed the metaphysical and ontological

⁴⁸ R.J. Vincent, *Human rights and international relations* (Cambridge: Published in association with the Royal Institute of International Affairs, by Cambridge University Press, 1986), 93.

⁴⁹ A good synopsis of these arguments is available in Michael Walzer, “Just and Unjust Wars” *op. cit.*

⁵⁰ Indeed as Richard Falk points out in “The Rights of Peoples (In Particular Indigenous Peoples)” in *The Rights of Peoples*, ed. James Crawford, 17 (Oxford: Clarendon Press, 1988), the tension remains as to which actor, the state or the individual is paramount and which will successfully demand a greater amount of attention within the discipline. I argue that this final conclusion is beside the point and recall that the natural law tradition does not put one ahead of the other, but rather argues forcefully for a symbiotic relationship between the individual and the community.

assumptions put forward by Aquinas and the natural law tradition he went on to develop. The emphasis on *episteme*, situated in opposition to *phronesis* altered the nature and understanding of morality, affecting the relation of structure and agency. “It is indeed very important to notice that the demands for a clear and sharp demarcation between law and morals arises in the seventeenth century,” writes d’Entreves, “at the end of a long period of religious strife and social insecurity, when the modern Leviathan comes forward, saying as it were: I am giving you peace and security for which you crave provided you obey my laws. But I am asking nothing from you except the mere fact of obedience. Your religion, your Churches, proclaim *da mihi animas cetera tolle*. I shall take the cetera and leave animas free, for I am not concerned with anything else than outward conformity.”⁵¹ The idea of a human soul as the foundation of both religion and political action was called into question. Moreover, the morality of human actions, in and of itself, was forsaken. The boundaries of Modernity ensured the removal of a reasonable and rational soul to be replaced by a civic account of political agency firmly situated in the public sphere.⁵² Morality was divorced from human action furthering the division of public politics and private morality.

Fostering the social contract tradition, and a series of assumptions rooted in negative liberty, Modernity bears a significant influence on the contemporary ordering of political affairs; namely, global governance and human wellbeing. Both contemporary approaches to world order, as investigated in the opening chapter of this work, and

⁵¹ A.P. d’Entreves, “The Case for Natural Law Re-Examined” *op. cit.*, 21 & 22.

⁵² Indeed, the idea of passion changed fundamentally at this point in time. For Aquinas, passion relates to nature, to man in motion, because passion was the movement from one habit to another and that which incited the development of good habits, namely virtues. On the other hand, Hobbes and his descendents argued that passion was the domain of emotion and when unchecked produced turmoil and instability, it could not be rational. For this reason, it had to be placed outside the boundaries of public agency for to incorporate it would foster conflict and strife.

contemporary approaches to human welfare, namely human rights, are influenced by and remain firmly embedded within the assumptions of Modernity proffering a particular understanding of the state, the individual, and the relationship they share with one another. “The idea of human rights first appears in, and remains deeply enmeshed with, liberal social contract theory,” writes Jack Donnelly, “the only major tradition of social and political theory that begins with individuals endowed with equal and inalienable rights.”⁵³ Conceptualized first and foremost as an agent, the image of the individual sustained by a rhetoric of rights, situated within a constitutional order, is a conception of agency at odds with a Thomistic assumption of human potential. Whereas the Thomist tradition professes a key relationship between the will and the intellect imbued with both practical and theoretical principles, constitutionalism emphasizes *episteme* altering the capacity for moral development. The loss of practical principles has had a detrimental effect on agency, denying the development of prudence and therefore individual conscience. Unable to participate in the universal natural law, individual desire, on this account, is oriented towards the material existence of being, consequently hindering the development of the common good and laws reflecting the normative conditions of justice. On this account morality and action were divorced from one another and what was natural and good was drastically altered as individuals turned towards human bodies to understand the nature of morality and not the actualities of existence, as highlighted by Aquinas.

With the onset of this particular political order, emotivism became the ethical tradition guiding human agency. Evaluative judgments reflected community ideas of

⁵³ Jack Donnelly, “The Social construction of international human rights” in *Human Rights in Global Politics*, ed. Tim Dunne and Nicholas J. Wheeler, 86 (Cambridge: Cambridge University Press, 1999).

right and wrong, related to the adherence to social customs reflecting pre-ordained social roles.⁵⁴ It is a tradition which has extended itself into modern understandings of the individual witnessed in particular in the discourse of rights and its image of the rights-bearing subject. Rooted in the International Human Rights Regime, supported by the *International Bill of Human Rights*,⁵⁵ comprised of the *United Nations Charter*,⁵⁶ the *Universal Declaration of Human Rights*,⁵⁷ and the two *Covenants on Human Rights and the Optional Protocol to the Covenant on Civil and Political Rights*,⁵⁸ the idea of the rights-bearing individual emerges. “In short, the classical rights-bearer is a public figure, an active citizen, or at least someone who could become such if he or she wished. The rights that he or she bears are held against those who would interfere with this role,” writes Chris Brown, “the government, the powers that be.”⁵⁹ The direct result of a scant few years of negotiation, subtly guided by Eleanor Roosevelt at the behest of the newly formed United Nations,⁶⁰ and informally tied to a tradition of natural rights reaching back many centuries,⁶¹ the Declaration offers a decidedly legal interpretation of the individual seeking to protect each and every person from the tyranny of oppression guarding the

⁵⁴ Alasdair MacIntyre, *After Virtue: a study in moral theory* (Notre Dame: University of Notre Dame Press, 1981), 169. This transformation ushered in a new approach to ethics; namely, Emotivism. On this account, evaluative judgments expressed preferences related to an altered understanding of human desires. It is a link that will be made in the ensuing pages that the changed nature of the will altered the idea of human desires which, with a morality related to right and wrong, and not the ends of human happiness, denied pride of place to the moral development of the agent.

⁵⁵ Thomas Buergental, *International Human Rights, in a nutshell* (Minnesota: West Publishing Co., 1995), 28.

⁵⁶ The United Nations, ‘Charter of the United Nations,’ The United Nations, <http://www.un.org/Overview/rights.html> (accessed November 23 November 2003).

⁵⁷ The United Nations, ‘The Universal Declaration of Human Rights,’ *op. cit.*

⁵⁸ The United Nations, ‘The International Covenant on Civil and Political Rights,’ The United Nations, http://www.unhcr.ch/html/menu3/b/a_ccpr.htm (accessed November 24 2005).

⁵⁹ Chris Brown, “Sovereignty, rights and justice” *op. cit.*, 127.

⁶⁰ Micheline R. Ishay, *op. cit.*

⁶¹ Brian Tierney, *op. cit.*

sacrosanct right to life⁶² coalescing around a common understanding and commitment to the dignity and respect for the value of life itself.⁶³ Grounded in the liberal, social contract tradition, human rights are assumed to be at once universally relevant and applicable. “One of the firmest of liberal beliefs is that liberal values are indeed universal, that we would all be liberals were it not for the distorting effects of ignorance on the one hand and privilege on the other,” writes Chris Brown. “Such is the liberal belief and the self-confident strength of this belief is one of liberalism’s greatest political aspects.”⁶⁴ Supported by this liberal ideal rights extend beyond state borders and sustaining a common humanity, linking individuals throughout the world. Yet this idea of ethicality associated with human rights misunderstands the nature and purpose originally intended by the discourse itself. The idea of rights provides an outlined modicum of behavior that is at once accepted because ultimately, it outlines not only the relationship among individuals within society it provides an accepted way of conceptualizing the relationship of individuals and political authority.⁶⁵ Rights, on this reading, seek to establish the elusively sought after political stability.

Contrary to popular belief, individual rights have little bearing on the nature of individual well-being, development, and the idea of innate human potential. It is to note,

⁶² Rhona K. M. Smith, *Textbook on International Rights* (Oxford: Oxford University Press, 2003), 205.

⁶³ Mary Ann Glendon, “Foundations of Human Rights: The Unfinished Business” *The American Journal of Jurisprudence* 1 (1999): 2 & 3.

⁶⁴ Chris Brown, “Universal human rights: a critique” in *Human Rights in Global Politics*, ed. Tim Dunne and Nicholas J. Wheeler, 86 (Cambridge: Cambridge University Press, 1999).

⁶⁵ I am indebted to Nick Onuf who points out that contemporary understanding of the individual come not only from the human rights regime and cosmopolitan ideas of what it is to be a rights bearing agent but also from the idea of a rational utility maximizer. It is worthwhile to acknowledge the existence of this image and the importance it plays vis a vis more positive and rational accounts of politics. The distinctly normative flavor of the argument of this work is better suited to the philosophical image of the normative rights bearing agent. This image sustains the critique of Modernity’s fascination with theoretical knowledge and how it isolates individuals sustaining a subjective account of being political. When speaking of human welfare and human suffering, the image of the individual within the Universal Declaration of Human Rights is intrinsically important because at the end of the day it is not about welfare at all, but rather about the relationships of authority within society.

as Tim Dunne and Nicholas J. Wheeler do, that rights, in and of themselves involve two foundational claims. “First, that there is an identifiable subject who has entitlements; and secondly,” they go on to write, “that to possess a right presupposes the existence of a duty-bearer against whom the right is claimed.”⁶⁶ There is within this understanding of rights, the idea of a relationship between two specific components, the conferrer and the recipient. This is an idea that is further noted by R.J. Vincent who offers a five part definition of a rights. In his opinion, a right is comprised of the following, first, a right holder; second, a claim to some substance; third, a claim which may be asserted, demanded, enjoyed, or enforced; fourth, a claim asserted against some individual or group; and finally, a claim cited in support of one’s particular ground.⁶⁷ Noting the nature of rights defined is to note two distinct problems, on the one hand, there is a distinct lack of ontological status offered within this understanding of human rights. Moreover, if rights are simply an extension of domestic civil society within international affairs, they are incapable of protecting individuals on a global level.⁶⁸ The distinct lack of ontological foundations fail to protect those individuals who suffer, in light of the

⁶⁶ Tim Dunne & Nicholas J. Wheeler, *op. cit.*

⁶⁷ R.J. Vincent, *op. cit.*, 8.

⁶⁸ Mary Ann Glendon, “The Foundations of Human Rights: The Unfinished Business” *op. cit.*, 2 & 3. The underlying premise of the Declaration is the notion of human dignity. Inspired by the horrors of the Second World War (WWII) and the atrocious acts of the Nazi regime the shock waves permeating the international community lent support to a ‘never again’ mentality. That the nations of the international community had allowed for such gross violations to occur against any one single individual, let alone an entire race of people, fostered a collective sense of disgust, but to an even greater extent, a fear that individuals, part of a greater collectivity of humanity could be so denigrated and treated in such a wholly unlawful and inhumane manner at all. The overarching sense of urgency which guided the creation of the Declaration did not investigate the source of such rights, nor did it speculate as to the origin of the adopted idea of dignity. At the end of the day, however, this was not the issue of greatest importance for the framers of the Declaration, while mindful of the fact that, at some point in the future ideological underpinnings would be necessary, at the particular point in time when the document was being crafted, it designed pragmatically to meet the needs of the world’s people. At the end of the day however, ideology was not wholly discounted, the Declaration was designed, in a manner of speaking, like a growing tree, it was fashioned as an interpretive device, as a dynamic force molding and shaping to the needs of the era. It did not foresee how the oncoming political climate of the Cold War would work against such ideas and bear witness to the kidnap, detention and ultimate death of a document as it became intermingled with the ensuing power politics that embodied the Cold War Era.

norms of sovereignty challenging intervention at the most basic of levels. It is to note, as Brown does that “[r]ights have no separate ontological status; they are a by-product of a particular kind of society, one in which the ‘state’ operates constitutionally under the rule of law, is separate from ‘civil society’ and the ‘family’ and in which private and public realms are, in principle, clearly demarcated.”⁶⁹ It is to reiterate, as Costa Douzinas points out, that there is no such thing as a right to rights. “Such a right would be the right of the person to be himself or herself,” he writes, “a unique human being in common with others, a right that would defeat the whole purpose of having rights.”⁷⁰ On this account, human rights fall prey to the bounded nature of contemporary international affairs and the subjective account of being political focused on the recipient nature of the material world. Bearing this in mind, it has not stopped a variety of authors from seeking a moral basis for human rights and a common humanity.

Looking to ground rights within what it is to be a human being, theories of human nature have been utilized as a means to provide a foundation for human rights and the ethical treatment of individuals. As Jack Donnelly points out, there are roughly speaking three different approaches to human nature, the Scientific, Moral/Philosophical, or Social-Scientific/Anthropological perspective. Whereas the first school of thought generally align their assumptions with theories of basic human needs the final approach seeks cross cultural consensus looking at a plurality of norms and values that are at once universal and cultural specific. A moral and philosophical understanding of human nature, on the other hand, premises itself on the inherent belief that individuals are capable of deliberation, reflection and action. Moreover, a philosophical and/or moral

⁶⁹ Chris Brown, “Universal human rights, a critique” *op. cit.*

⁷⁰ Costa Douzinas, *the end of human rights, critical and legal thought at the turn of the century* (Oxford: Hart Publishing, 2000), 335.

understanding of human nature assumes that as human beings, all individuals are capable of acting morally. It is premised, as Jack Donnelly notes, on the idea of human dignity. “Human rights rest on an account of a life of dignity of which human beings are ‘by nature’ suited and the kind of person worthy of and entitled to such a life,” he writes. “And if the rights specified by the underlying theory of human nature are implemented and enforced, they should help to bring into being the envisioned type of person.”⁷¹ Yet even this attempt to found human rights within a moral framework is not without its critics. “The fundamental problem with defending the human rights regime in terms of natural rights thinking is the failure of its advocates to provide a convincing theory of nature which would ground notions of human dignity,” writes Dunne and Wheeler.⁷² Dignity, in and of itself, is also deeply problematic. It fails, on a daily basis, to withstand the philosophical criticism and practical violations sustaining the grosser forms of human suffering generated and sustained by the practices of international affairs.⁷³

A human construct that looks to bodily existence in order to understand moral and ethical behavior, dignity does not put forward a strong account of political obligation and

⁷¹ Jack Donnelly, *International human rights* (Boulder, Colorado: Westview Press, 1993), 21.

⁷² Tim Dunne and Nicholas J. Wheeler, *op. cit.*, 5. At this point on thing in particular should be noted. It is common practice to place theories of natural rights within the tradition of natural law itself. This is a mistake, both natural law and natural rights are distinct traditions that seek different ends and originated for different purposes. The former account offers an objective philosophical image of the agent whereas the latter proffers a subjective account of being human. To confuse the two is to mistake the nature of the traditions themselves; space limitations deny the possibility of arguing this distinction further at this point. The focus will remain on the natural law as a tradition of morality.

⁷³ Dignity is the result, I argue, of looking for a theoretical foundation upon which to speak out against harming other individuals; however, it falls prey to the point made by Robert Pasnau, *op. cit.*, who paraphrasing Aquinas, notes that it is a version of moral behavior that looks towards material and not metaphysical understandings of what it is to be human being. Because it is created, dignity can also be destroyed at will. Moreover, it can be offered and taken away by political authorities at their discretion. For this reason it has little bearing on the ethical treatment of individuals both domestically and internationally. Moreover, it fails to provide human potential because it does not have an ordering of ends that allows individuals to develop in a holistic moral fashion. This can only happen when both theoretical and practical precepts are allowed into the decision making paradigms of individuals. Contrary to the normative value of dignity, the Chapter Five proposes an ethic of love, originating in the essence of being fostering an inviolable account of political obligation and responsibility seeking to further develop and perfect the uniqueness of the natural law agent as a being in common.

responsibility in the face of gross human suffering. As Bhiku Parekh points out, dignity is a comparative concept constructed to achieve a particular human end, and therefore is fallible. “Human beings do not have dignity in the way that they have eyes and ears. It is a human practice, something they choose to confer on themselves and each other because of their mutual acknowledgment of their uniquely shared capacities,” he writes. “They have dignity because they have capacities which non-human do not have and which they consider so significant as to make them the basis of an appropriate and moral practice.”⁷⁴ Dignity, relates both the rational capacities of the individual and the social roles to which they conform as legal entities within the state. It speaks not the idea of being human, and in so doing conforms to the problems associated with the image of man dealt with in contemporary international relations. The problem ultimately lies with the quest to determine morality in the bodily and not natural component of being, a problem noted by Onora O’Neill in an alternative cosmopolitan discourse. “The Declaration approaches justice by proclaiming rights. It proclaims what is to be received, what entitlements everyone is to have; but it says very little about which agents and agencies must do what if these rights are to be secured,” she writes. “Like other charters and declarations of rights, the Universal Declaration looks at justice from the recipients perspective: its focus is on recipience and rights rather than on action and obligation.”⁷⁵ Rights, on this account, are proclaimed with little understanding of the relationships that support them.

The dominance of *episteme*, to the detriment of *phronesis* ensures that the equal and reciprocal relationships associated with an objective account of political agency remain firmly outside the boundaries of contemporary political agency. There exists,

⁷⁴ Bhikhu Parekh, “Non-ethnocentric universalism,” in *Human Rights in Global Politics*, ed. Tim Dunne and Nicholas J. Wheeler, 147 (Cambridge: Cambridge University Press, 1999).

⁷⁵ Onora O’Neill, “Agents of Justice” *op. cit.*, 183.

within the ideas of the initial framers of the *Universal Declaration of Human Rights*, and the political structuring of society, a latent ontological tension. Whereas the framers of the Declaration placed a high degree of faith in the inherent dignity of the human person, rooted in a positive ontology, they failed to address the epistemology guiding the larger goals of the community. In other words, what the framers of the declaration failed to acknowledge was the relationship of liberal justice and capitalism enjoyed. Their account of the political community could not withstand the discourses of scarcity and abundance which structured the ends of the community and in so doing generated the possessive individual noted by C.B. Macpherson.⁷⁶ The isolated nature of the individual within a community could not sustain the necessary relationships needed to foster and sustain the values of well-being and human development. In the end, a culture of reciprocity resulted whereby individuals were well aware of the necessary equity of goods yet failed to grasp the natural equality of being which sustained not only oneself but others as well. The subjective account of being political, further entrenched the dominance of rational knowledge and failed to account for the necessary relationship of theoretical and practical knowledge necessary to sustain a discourse of moral well-being and justice both individually and within the community. Consequently, the associated accounts of political responsibility and obligation necessary for the successful implementation of a global common humanity were doomed to fail.

Objective relationships are equal and reciprocal. They understand the responsibilities of morality and the obligations of justice. Oriented around the ends of human action, an objective account of agency and being political moves beyond

⁷⁶ C.B. Macpherson, C.B. MacPherson, *The Political Theory of Possessive Individualism: Hobbes to Locke* (Oxford: Clarendon Press, 1962).

definitions of human rights previously examined simultaneously providing the necessary ontological foundations required for a global conception of human well-being. The original framers of the *Declaration* relied on a notion of human dignity to frame their original arguments, as Mary Anne Glendon points out.⁷⁷ The philosophical undertones of the document, indicative of human potential and the natural law, as Jacques Maritain writes, were left to another time and day.⁷⁸ Falling prey to the cultural relativism debates, the framers of the Declaration could not foresee the demise of their hopeful aspirations to the assumptions of Modernity. Grounding their account of humanity in theories of human nature, situated within a constitutional world order, the contemporary rights discourse fails to provide individuals with a required understanding of what it is to be a human and relate to other beings *qua* beings remaining firmly embedded in the pragmatism of contemporary ethics and politics. It is a society relating morality to conformity and above all else, the pre-eminence of social roles. Embedded in a subjective account of being, the Declaration provides the useful function outlining the nature and extent of political conformity within the relationship of power and authority within the domestic and international community.

Part III: Natural Law Agency

Contemporary individuals are challenged by their theoretical make-up, on a daily basis, to achieve a higher level of being unable to act as genuine agents. A result of their isolated, amoral and asocial existence individuals lack a true conception of morality

⁷⁷ Mary Anne Glendon, “Foundations of Human Rights: The Unfinished Business” *op. cit.*, 1-14.

⁷⁸ Jacques Maritain, “Introduction” in *Human Rights, Comments and Interpretations. A Symposium edited by UNESCO with an introduction by Jacques Maritain*, ed. The United Nations Education, Scientific and Cultural Organization, 9-17 (London & New York: Allan Wingate); and, “On the Philosophy of Human Rights” in *Human Rights, Comments and Interpretations. A Symposium edited by UNESCO with an introduction by Jacques Maritain*, ed. The United Nations Education, Scientific and Cultural Organization, 55-72 (London & New York: Allan Wingate).

originating in the sameness of self, the *telos* of the natural law individual. Not only does the union of the body and soul provide individuals with means to understand the nature of justice, morality and obligation, it provides individuals with the ability to realize that actions are taken for a multiplicity of purposes, revolving always around a shared end. This sameness of self, one's essence and being, is unfathomable in contemporary rights discourses for it denies the ontological and metaphysical assumptions that support its realization. To be human, in the contemporary discipline of international relations, is the sum of the rights bestowed on any one person through the relationship he or she enjoys with the state. Likewise, the state, working within the aforementioned domestic analogy, is nothing more than the sum of the laws and treaties that recognize its existence. Espousing the values of autonomy, self-determination and disinterested liberty, agency as it relates to both the individual and the state, is limited to the boundaries distinguishing acceptable and non-acceptable spheres of action. Laws, justice and morality speak not to the ends of human action seeking a higher level of actuality, but rather, the action undertaken in the material world failing, at the end of the day, to account for the requisite obligation and responsibility within each and every human action.⁷⁹

Distinguishing herself from typical accounts of human rights, Martha C. Nussbaum provides an interesting alternative to human well-being and development. Articulating "The Capabilities Approach" Nussbaum reinvigorates the Aristotelian study of virtues in order to demonstrate how individuals are imbued with the ability to develop a basic level of rights, but the global population, as a virtuous community must ensure

⁷⁹ This is a very brief account of the origins of contemporary justice. The idea of justice, both liberal and otherwise is investigated in depth in the final section of this work. Suffice to note at this point that the argument will be made that justice can be understood outside its proportional representations that exist within the state but not outside its boundaries. It points to an alternative idea of justice, understood as creative justice, rooted in an alternative relationship of love and reason.

that they have the necessary goods to do so. “The basic intuition from which the capabilities approach begins, in the political arena, is that human abilities exert a moral claim that they should be developed,” she writes. “Capability, not functioning, is the appropriate political goal.”⁸⁰ Fundamental to this idea is the question “What is the individual able to do and to be?”⁸¹ Building on the idea that individuals are constituted by a discernible qualities and that there are certain goods necessary to the development of those qualities, Nussbaum articulates a list similar to that of the basic human goods of the New Natural Lawyers.⁸² Moreover, the list of capabilities, she acknowledges, is open ended and constantly changing, echoing of the teleological orientation of a pre-modern account of natural law. Approaching the problem of human well-being from a similar Aristotelian framework adopted by Alastair MacIntyre, Nussbaum falls short of articulating the idea of the virtuous Eudaimon; however, the presentation of this idea distinguishes itself from contemporary understandings of international human rights. That being said, it is insufficient for the task at hand as its focus rests primarily on how to develop as individuals, failing to offer an account of agency which challenges the structural inequalities of international affairs. Once again the value of a pre-modern interpretation of natural law reveals itself. The morality of natural law articulates not only an ethic of love, but the virtue of charity influencing an account of justice which sustains agency and institutional design catering to human development and well-being.

⁸⁰ Martha Nussbaum, “Capabilities and Social Justice” *The International Studies Review* 4, no. 2 (Summer 2002): 124.

⁸¹ Martha Nussbaum, “Women and equality: The Capabilities approach” *International Labour Review* 138, no. 3 (1999): 233.

⁸² The list, articulated in *Martha C. Nussbaum, Women and Development: The Capabilities Approach* (Cambridge: Cambridge University Press, 2000), is comprised of Life; Bodily Health; Bodily Integrity; Sense, imagination and thought; Emotions; Practical Reason; Affiliation, respect for the self and other; Other Species, respecting other non-human sentient being; Play; and finally, Control over one’s environment, both politically and materially.

Agency, as Onora O’Neill writes, “is manifest in abilities to integrate capacities to reason and to act, and to maintain some independence from other forces and agents.”⁸³ Moral agency incorporates into this definition the inter-related ideas of obligation and responsibility. Additionally, Alasdair MacIntyre writes, “to be an agent is to have the potentiality for living and acting in a state of tension. And this is never simply or mainly a tension or conflict between points of view at the level of abstraction or theory,” he states. “It is always a tension or conflict between socially embodied points of view, between modes of practice.”⁸⁴ Politics, on this reading, simply becomes the union of a variety of agents and actions working within a particular setting generating structures complementing the values and ideals shaping the ends of political agents. On this account, agency is the outcome of individuals being political. When actively engaged, agents create, in the words of Fred Dallmayr, “a constitutive, quasi-transcendental setting or matrix of political life.”⁸⁵ Of utmost importance, these structures go on to develop an agent’s conscience supported by the innate capacity to reason and participate in the natural law. It is to note, as Anthony Lang, Jr. writes, that to engage in politics is a highly personal endeavor which inhabits a particular space in the ambit of human life”.⁸⁶ Consequently, agents have a vested interest in the values structuring their interaction as they explicitly relate to the ends of action and the development of human potential as beings in common.

⁸³ Onora O’Neill, “Who Can Endeavor Peace?” *op. cit.*, 51.

⁸⁴ Alasdair MacIntyre, “Social Structures and their Threats to Moral Agency delivered as the Annual Lecture to the Royal Institute of Philosophy on 24 February 1999” *Philosophy* 74 (1999): 318.

⁸⁵ Fred Dallmayr, *Beyond orientalism: essays on cross-cultural encounter* (Albany, N.Y.: State University of New York Press, 1996), 193.

⁸⁶ Anthony F. Lang, Jr., *Agency and Ethics: the politics of military intervention* (Albany, NY: State University of New York Press, 2002), ix.

Being, in common, similar to the individual agents, originates in the relationship of the will and intellect sustained by the rational soul orienting the ends of human action. Likewise, being in common relies on the holistic relationship of theoretical and practical first principles sustaining moral action with which to achieve ‘the good’. Action, on this account, is of intrinsic importance. “Aquinas distinguishes what he calls human actions from the so-called acts of being human,” writes McCluskey. “He argues that all human actions, insofar as they are human actions and not simply aimless motions, such as twirling one’s hair or scratching one’s face, result from the interaction between the intellect and will.”⁸⁷ It is a point further commented on by Ralph McInerny. “Aquinas maintains that the acts human agents perform are moral acts, which is why the theory of them is moral theory. To be at all plausible, this requires the distinction Aquinas makes between human acts (*actus humani*) and acts of a human being (*actus hominis*),” he writes. “The latter are any and all activities or operations that can truly be attributed to human beings, but not insofar as they are human, not qua human. Human acts constitute the moral order.”⁸⁸ Aquinas can make this distinction because of his metaphysics of being, relating genuine action to the intellect and will consequently aligning them with the capacity to reason. As he writes in the *Summa Theologiae*, “Human beings differ from irrational creatures in this, that they have dominion over their actions. That is why only those actions over which a human being has dominion are called human.”⁸⁹

Dominion, on this account is objective and related, as it is to human action, provides the

⁸⁷ Colleen McCluskey, *op. cit.*, 70.

⁸⁸ Ralph McInerny, “Ethics” *op. cit.*, 196.

⁸⁹ Thomas Aquinas, “Summa Theologica” *op. cit.*, IaIIae, q. 1, a. 1. The idea of dominion takes on an even more important role in the ensuing chapter. Moving into the works of the Salamanca theologians, they pick up on the idea of dominion extending it globally developing an account of equality sustaining universal obligation and a duty of care to those less fortunate and capable of developing their innate natural potential. Dominion becomes a key component of political agency both at the local and distant level.

beginnings of an objective account of being human with which to counter the pragmatic and recipient societies of contemporary international affairs.

Human potential is rooted in the Thomistic notion of dominion, a theological concept associated with the intellect and the will of the individual. “According to this theology,” writes Roger Ruston, “all human beings thus exercise a dominion over ‘inferior creatures analogous to that which is enjoyed by God over the entire creation.’”⁹⁰ Dominion is distinguishable in its interior and external forms; namely, one has dominion over the self and his or her actions, and dominion over a thing, for example a possession. “The primary *dominium* of man is that which he has over his own will: a *dominium* so inherent in any individual that no one but that individual himself may take it from him,” writes Annabel S. Brett. “This *dominium*, moreover is precisely constitutive of humanity; if a man renounces it, he annihilates himself as a human being or as a human being simpliciter.”⁹¹ Dominion grants to the will an inner freedom, the ability of individuals to act in an unconstrained manner to develop according to his or her own telos. “Dominium arises from the freedom of the rational person,” writes Ruston, “who is able to use things and creatures for his or her own ends and who can choose between one course of action and another, depending on whether it will lead to an end that is in accordance with their nature.”⁹² Individual dominion provides a key link between individual freedom and autonomy, action, and reason coalescing in a natural law account of political agency.

⁹⁰ Roger Ruston, *op.cit.*, 49.

⁹¹ Annabel S. Brett, *Liberty, right and nature: Individual Rights in Later Scholastic Thought* (Cambridge: Cambridge University Press, 1997), 13.

⁹² Roger Ruston, *op.cit.*, 82-83.

Aquinas's understanding of human potential does not seek to rectify the problems associated with moral and philosophical accounts of human nature. Aquinas is not concerned with an account of morality and ethics within the social world as his framework does not distinguish between moral and amoral action. Moreover, he is not concerned with a theory of natural rights, a point noted by Richard Tuck, writing that "despite his use of the idea of natural dominion, his [Aquinas's] general theory (and this is of course true of all thirteenth-century theories) was not a genuine natural rights theory."⁹³ Dominion, on this account sustains the moral framework related as it is to the ontology of being. Natural dominion, Ruston points out, "is a gift of nature, not of grace, and a major part of what makes us human beings. If sinners were to lose their natural dominion they would no longer be fully human."⁹⁴ Aquinas illustrates how dominion sustains the autonomy and freedom of the individual simultaneously illustrating how human action and reason facilitates the participation of the agent in the natural law. Moreover, this participatory engagement in morality reveals to individuals, in common, the nature of the laws shaping their community reflecting the norms of justice. Human potential, on this account, is intimately related to natural dominion which, situated alongside grace, sustains the capacity of individuals to reason facilitating an objective understanding of the self, the community, and the nature of political engagement engendering a positive orientation addressing the very real problem of human fallibility.

⁹³ Richard Tuck, *Natural Rights theories: Their origin and development* (Cambridge: Cambridge University Press, 1979), 19.

⁹⁴ Roger Ruston, *op. cit.*, 81 & 82. This was very much the idea put forth by Vitoria, but there were others, such as John Wyclif, who argued against such a notion of natural dominion and postulated that with the fall of man, so to was natural dominion lost, for it was only granted to individuals at the behest of God, the only being in possession of true grace. Vitoria, for obvious reasons, did not agree and claimed that natural dominion was an inherent constitutive part of man found at the outset of his creation to remain with him for all of his days, being a sinner did not remove that part of him.

According to Aquinas, grace perfects nature.⁹⁵ “For grace,” he writes, “is the principle of meritorious works through the medium of virtues, as the essence of the soul is the principles of vital deeds through the medium of powers.”⁹⁶ Grace helps individuals to achieve ‘the good’ residing in the soul refuting the assumption of Augustine; namely that the capacity to do good was lost with the original sin of Adam and Eve. “But in the state of corrupt nature, man falls short of what he could do by his nature, so that he is unable to fulfill it by his own natural powers. Yet because human nature is not altogether corrupted by sin,” writes Aquinas, “so as to be shorn of every natural good, even in the state of corrupted nature, it can, by virtue of its natural endowments, work some particular good, as to build dwellings, plant vineyards, and the like;”⁹⁷ Reason and grace fosters the habits of faith, hope and charity sustaining the cycles of being and actuality within all of nature’s creatures. “Grace is principally the communication of divine goodness so that humanity may move and be moved to its appropriate end,” writes Oliver. “As has been seen, this grace is something internalized with human beings, either by fusion or mediation, raising human nature ecstatically to partake of its final, supernatural end.”⁹⁸ Grace, on this account, complements synderesis generating a prudent agent. Aware of the morality of natural law, the desires of this agent are firmly oriented around a desire for ‘the good’, always aware of the vicious capacity to act contrary to its ends. In other words, the natural law agent sustains hope, in the face of human suffering supporting the ends of practical reasoning prompting moral action in an environment filled with the potential for evil.

⁹⁵ Ralph McNerny, *Ethica Thomistica, The Moral Philosophy of Thomas Aquinas, Revised Edition* (Washington, D.C.: Catholic University of America Press, 1997), 68.

⁹⁶ Thomas Aquinas, “Summa Theologica” *op. cit.*, II-II, q. 110, a. 4.

⁹⁷ Thomas Aquinas, “Summa Theologica” *op. cit.*, I.II, q. 109, a. 2.

⁹⁸ Simon Oliver, *op. cit.*, 66.

Grace represents the idea of human potential. “Hence we must say that for the knowledge of any truth whatsoever man needs Divine help, that the intellect may be moved by God to act,” writes Aquinas. “But he does not need a new light added to his natural light, in order to know the truth in all things, but only in some that surpass his natural knowledge. And yet at times God miraculously instructs some by His grace in things that can be known by natural reason, even as He sometimes brings about miraculously what nature can do.”⁹⁹ Grace is a key component of human agency. Part and parcel of natural dominion grace cultivates prudence supporting the image of the conscientious individual tempering the fallible nature of human reason. Similar to Augustine, Aquinas was acutely aware of the negative consequences of corruption in the material world. “Thomas holds that we have been more wounded by sin in the moral order than in the intellectual order,” writes McInerny. “The lives we lead can cloud our minds, with the result that there is confusion about principles that are all but self-evident.”¹⁰⁰ Situated in the will and intellect, grace works alongside reason cultivating the prudent individual further developing the first principles located therein. Synderesis, grace and natural dominion are all tightly interwoven on this account of moral and political agency. Resting on the potentiality of being, Aquinas elicits an account of agency with which to contrast to the idea of human progress associated with the received view of Modernity.¹⁰¹ Viewed in light the image of the prudent individual, capable of discerning moral and immoral behavior, guided by the method of casuistry, the image of

⁹⁹ Thomas Aquinas, “Summa Theologica” *op. cit.*, Ia-IIae, q. 109, a. 1.

¹⁰⁰ Ralph McInerny, “Ethica Thomistica” *op. cit.*, 119.

¹⁰¹ It is the argument of this work that the epistemology associated with modern constructions of world order and human well-being are ill-equipped to discern human potential as it requires an understanding of both the theoretical and practical components of being. Moreover, when the notion of human potential is adequately addressed and explained it moves towards a particular understanding of obligation and responsibility, key components of political and moral agency that are decidedly absent within the rhetoric of rights associated with a constitutional world order.

the natural law agents provides an alternative manner to conceptualize, beyond human rights and the capabilities approach, human well being placing the onus of security and development, in other words, trust, squarely in the hands of the moral agent. Focusing on the pre-eminent virtue, prudence, the natural law agent provides a living example of morality in action. It represents the moral character of the agent, aware of the fallibility of human nature, couple with the positive assumptions of natural law morality. Prudent, on this interpretation, characterizes the form and function of the agent distinguishing the ontological essence and the actualities of being sustaining the plausibility of Aquinas's metaphysics. On this account, the natural law agent is well suited to the casuistic art of being political to be elaborated on in further detail in Chapters Four and Five.

The natural law individual is the embodiment of political and moral agency. Through deliberation, action and interaction, supported by an awareness of the first principles, the capacity to reason, and the means to acquire independent knowledge and awareness, the natural law agent articulates the required structures necessary to support the well-being and development of human potential. Carving out the requisite space whereby alternative agents, working outside traditional sites of power and authority can effect change, Aquinas' account of agency provides a living example of how to achieve a more just union of individuals and communities alike. The natural law agent is capable of noting the discord arising within competing structures and act, as obliged and responsible agents to remedy the situation. For recall at this point, to be an agent of justice is not only to be constituted by the capacity to deliberate and act in a moral fashion, but to be aware of one's responsibilities therein and in the face of tension and conflict, seek to change the environment accordingly. Emphasizing moral intentions

relating to the ends of ‘the good’, this account of agency is rooted in the conscientious deliberations of the agent. For this reason, the natural law agent is predisposed to the methodology of casuistry seeking moral constitution through the practice of reason and action. Moreover, as free and autonomous beings, working within the moral taxonomy of natural law, agents, on this account are predisposed to act outside the traditional structures of contemporary political affairs articulation through action, the required ethical treatment of all individuals similarly constituted. The notion that the life of the natural law agent is a life of example places a heavy burden on the individual, yet as responsible and obligated agents, ontologically united to other individuals similarly constituted, it is a burden that must be bourn.

The natural law agent, so conceptualized, is the root source of morality. Morality, on this account is related to reason and action. In light of the sameness of self, rooted in reason, all individuals are capable of understanding the true nature of natural law morality. “In other words,” writes Jean Porter, “in order to be a morally good person, it is only necessary that one be able to reason and to will the good accordingly. One need not be capable of an especially high quality of reasoning.”¹⁰² Highlighting again the centrality of reason and intention, the natural law individual, as a free and autonomous being is able to adapt and react to the contextual nature of injustice. Moreover, rooted as it is in the sameness of self, it is a morality that sustains the equality of being of all of nature’s creations. “Aquinas’s commitment to equality as a constitutive dimension of justice is based on a conviction that human beings, while they might share different functional roles (such as masters and slaves), share a basic human nature that establishes a foundational equality between people,” writes Decrane. “He also is committed to

¹⁰² Jean Porter, “The Recovery of Virtue” *op. cit.*, 140.

equality based on his belief that all people are equal in their capacity to attain moral virtue.”¹⁰³ The equality of being increases in importance as the morality of natural law extends outwards beyond the actions of the individual and into the relationships which constitute the natural law community. It is indicative of a twofold account of agency situating the individual and the community alongside one another striving to achieve the ends of ‘the good’. On this account, structure and agency are not bounded, but rather symbiotic parts of a larger whole.¹⁰⁴

Aquinas’s account of agency is unique, combining anthropological and political assumptions rooted in the self-same ontology of being. Eliciting a metaphysics in which all individuals, while unique, are beings in common, he generates a moral framework in which political obligations and responsible action emerge out of a common essence and being. To that end, agents are social and agency is a mutual affair. As Aquinas himself points out, “man is naturally a social being, and so in the state of innocence he would have led a social life.”¹⁰⁵ Beyond this statement however, Aquinas recognizes the mutuality of ‘the good’. “He that seeks the good of the many, seeks in consequence his own good, for two reasons. First, because the individual good is impossible without the common good of the family, state, or kingdom,” writes Aquinas. “Secondly, because, since man is part of the home and state, he must needs consider what is good for him by being prudent about the good of the many. For the good disposition of parts depends on

¹⁰³ Susanne M. DeCrane, *op. cit.*, 78.

¹⁰⁴ This twofold account of agency is reflected in his account of love and how it mediates friendship articulating an order of charity. This will be discussed in detail in Chapter Five. Suffice to note charity distinguishes this work from Aristotelian, Neo-Aristotelian and Virtue Ethics. It also presupposes an outward orientation to ethics and in this way distinguishes itself from communicative action and discourse ethics although it shares many of the same assumptions, as outlined in Chapter One.

¹⁰⁵ Thomas Aquinas, “Summa Theologica” *op. cit.*, Ia, q. 96, a. 4.

their relation to the whole.”¹⁰⁶ While individuals are always working to achieve their own telos, it is an endeavor that is limited by the ability of others to achieve higher levels of actuality as well. In other words, one can only develop and actualize to a higher level of being, limited to the being and actuality of those with whom he or she is engaged. This account of human agency provides individuals with the motivation to act improving their own existence, but also the existence of others rectifying the inequalities associated with a subjective account of political engagement. Natural law agents are, on this interpretation, obligated to one another because they are linked ontologically and understand the shared desire to become. Ontologically similar, and actually unique, all individual action remains oriented towards the final ends of ‘the good’. Understanding, without a measure of a doubt that obligation originates in the shared desire for ‘the good’ and that responsibility is obligation actualized through human action seeking to rectify injustice all individuals, are bound by their very being to help those in need. In direct contradiction to the egocentric rights bearing subject, conceptualized as isolated, amoral and lacking any sense of emotion or passion, natural law agents are obliged to one another because of the very relationships that constitutes who and what they are, naturally socially and politically as beings tending always toward ‘the good’.¹⁰⁷ Aquinas offers a vision of political society in which individuals, and governing authorities work alongside one another to achieve a higher level of well-being and in so doing provides all

¹⁰⁶ Thomas Aquinas, “Summa Theologica” *op. cit.*, II.II, q. 47, a. 10.

¹⁰⁷ Upon first glance, this account of obligation and responsibility is seemingly self-interested and motivated for purely singular ends; however, as the final chapter of this work aims to show such is not the case. Underscoring the mutual ontology of being is a series of relationships rooted in the natural law idea of love which is related to the idea of natural law justice tempering the egocentric motivation sustaining a communal approach to well-being.

individuals with the potential to create and re-create the boundaries that structure human agency.

Conclusion

The natural law agent provides an alternative account of man in motion. In the first instance, it comprises all beings, male and female as equally endowed with the rational capacities to become, noting in the first instance that it is being in common empowering individual action. Furthermore, it paves the way for a dynamic relationship of human agency and structure, contrary to the ideals of world order associated first with Modernity evident in contemporary international affairs. The nature of the *telos* of being, its understanding of morality and justice all rely on human reason in order to develop in complexity. It is only with increasing awareness of being, and the achievement of higher levels of actuality that this knowledge increases in complexity. It is thus to note that with each new revelation the potential for agency and structures to evolve and adapt exists. What an account of natural law agency and agents offers is a demonstration of how the tension that resides in the daily lives of individuals can be used as a means to foster and generate positive change. Premised as it is on individual action, it highlights the centrality of institutional design as a means to remedy problematic social structures and the ethical and moral ideals which communities seek to put into place. The burden and onus of agency were firmly placed in the hands of the individual with the acceptance of the works of Hobbes and his followers; yet, they failed to provide the individuals with the requisite knowledge to fully engage in the task at hand.¹⁰⁸

¹⁰⁸ Political accounts of agency come from a variety of discourses within international relations; for a wide variety of works see for instance, Alexander Wendt, *Social theory of international politics* (Cambridge: Cambridge University Press, 1999); Onora O’Neill, “Agents of Justice” *op. cit.*, or Kenneth Waltz, “Theory

Divorced from the ontological origins of essence and being, the agent, within the social contract tradition is the embodiment of self-love, self-determination and individual well-being. Consequently, emotive and passionate individual actions are curtailed by the boundaries and political structures of international affairs denying the ability of individuals to develop mutually sustaining relationships.¹⁰⁹ This is not to deny that individuals the constitutive members of states, who bear witness to the suffering of others, both near and far, lack empathy and fail to comprehend the very real nature of the pain and suffering experienced by others. It is in fact that contrary, as emotive social beings, individuals are motivated to act; however, the current political structures which situate authority and power in state governments and their institutions inadvertently curtails the ability of individuals as agents of justice to adequately act on their capacities and capabilities. Sustained by an account of ethical potential, rooted in the will of the individual, itself joined to the intellect, the natural law agent provides the means to understand the source of political obligation and responsibility currently missing from contemporary investigations of human agency and in so doing challenge the accepted forms of human suffering that permeate international affairs. What Aquinas labeled as grace, referred to here as human potential, represents a positive orientation to understand the shortcomings of individuals in relations, hopeful of human progress, but aware that moral development ultimately lies within the will of the agent. The politics of potential, so interpreted, present a key feature of a pre-modern approach with which to understand

of international politics” *op. cit.*, all of which utilized different assumptions in order to explain the actions of states and individuals in international affairs.

¹⁰⁹ It is an argument that will pursued in the conclusions of this work that such relationships are key to developing trust which is one alternative to the rule based methodology of the social contract tradition seeking to quell insecurity rooted in a lack of knowledge sustaining anarchy and crisis oriented international affairs.

human suffering, further distinguishing it from its cosmopolitan cousins, endorsing always the universality of equality and moral progress alongside a bounded vision of international affairs.

The natural law agent, holistically comprised of an intellect and will, working in unison, is well-equipped to understand the nature of morality in and of itself and therefore capable of providing an account of justice with which to re-orient the boundaries of politics and provide a more personal motivation to overcome the pervasive otherness of international affairs that challenge the achievement of ‘the good’. Moving beyond the metaphysical essence of the agent, Aquinas articulates a form and function for the agent resting on the development of the virtues. This movement, from one habit to the next, sustaining the morality of natural law is described by Aquinas “Passions are intense motions of the sensitive appetite within the soul which are, in themselves, neither good nor evil,” writes Oliver. “Thus a passion, like any motion always exists between contraries, for example, love and hatred, desire and aversion, joy and sadness. Virtue,” he furthermore writes, “establishes a mean between passions, which is to say that virtue directs the motions of the soul – the passions – to an appropriate rest in fulfillment.”¹¹⁰ Passion provides each and every agent with a natural momentum to experience one good habit after another. Not only does passion motivate human action, it provides the means to develop the moral taxonomy of the casuistic agent. Tempered by the ultimate virtue of prudence, supporting the individual conscience, passions are key to the development of the moral agent. Describing the natural desire of the individual, rooted in the intellect and the will, alongside the capacity of each individual to move independently and acquire knowledge Aquinas describes a circular path of becoming. Linking the essence of being

¹¹⁰ Simon Oliver, *op. cit.*, 59.

and the principle of nature, Aquinas's portrayal of moral agency ascribes to the individual the capacity to act and know in line with his or her form and function described within his or her genus or species. The life of one individual represents a series of repeated habits, the motion of the soul, seeking out the virtues, the positive habits of man's disposition, in particular prudence, the primary virtue of the intellect sustaining moral and ethical behavior.¹¹¹ It is this conception of the moral agent, developing relationships with which to cultivate the habits, that sustains the foundation of the moral community, itself the topic of the ensuing chapter.

¹¹¹ Simon Oliver, *op. cit.*, 52-71.

Chapter Four

Being Human as Human Beings:

Equality, Justice & the Natural Law Community

Individualism and collectivism are two opposed destructive movements in societies. Individualism would destroy society by eliminating its unity, by breaking its members up into a collection of selfish individuals all trying to reduce one another to functions of themselves. Collectivism would destroy society by eliminating its members in an attempt to overcome selfishness by eliminating selves. People very often suppose that the only solution is a compromise between individualism and collectivism: libertarian anarchy up to a point, beyond which selves become slaves.

Germain Grisez

The Way of the Lord Jesus, Christian Moral Principles Vol. 1

Introduction

To date the focus of this work has been on the nature and being of the individual. Describing in some depth the problems associated with the contemporary rights bearing subject, the previous chapter described the ontology and metaphysics of Aquinas framing an account of the natural law agent. It is an image of the individual relying on the combined role of the intellect and will, associated with an understanding of nature, revealing a reasonable function of the agent. The nature of the community substantiating the agent has not been examined. Recall the point made in Chapter Two that the individual is constituted by his or her relationships with others. These relationships support and build a community of like minded and goal oriented individuals. Facilitating the ends of being human, this chapter offers an account of a moral community, complementing the sociability of the agent and the mutuality of 'the good'.

At this point however, it behooves one to return to the idea of natural law noting an important distinction. As illustrated in Chapter Two, one can distinguish the idea of

natural law as an historical tradition and a contemporary account of morality. “There are (at least) two ways to look at the natural law,” writes Jean Porter. “Seen from one perspective, the natural law is more or less equivalent to a universal morality, whether this is seen as grounded in nature in some general sense, or more specifically in the deliverances of practical reason. Seen from another perspective,” she further tells her readers, “the natural law is a specific tradition which cannot be adequately understood apart from some account of its historical development and social location.”¹ Natural law understands itself as a moral tradition. The combination of historical and contemporary ideas, centered on the capacity to reason provides a mutable account of laws, norms and customs related to the ends of human action, framing a particular account of ethical living.² On this account, the value of tradition lies not in its authorities or the boundaries it upholds. “Rather,” as Nicholas Rengger writes, “one has to understand a tradition as part of an ongoing and potentially never-ending conversation in which many different assumptions will take centre stage at various points. What matters,” he concludes, “is the continuity of the tradition.”³ The current interpretation of natural law provides an objective account of agents and communities, remaining faithful to the original equality of being. At the same time, it is an innovative understanding of natural law demonstrating through reason, the casuistic nature of natural law morality articulating the art, and not the science, of being political.

Traditions are influenced by a wide variety of sources. Aquinas proved to be the most influential natural law scholar combining an Aristotelian understanding of nature

¹ Jean Porter, “A tradition of civility: the natural law as a tradition of moral inquiry” *Scottish Journal of Theology* 6 no. 1 (2003): 27.

² This idea of tradition is drawn from Jean Porter, herself reliant on Alastair MacIntyre, Edward Shils, and Hilliard Aronovitch.

³ Nicholas Rengger, “on the just war tradition in the twenty-first century” *op. cit.*, 362.

with the Christian notion of grace. “The Thomistic genius lay in the capacity to see how Greek thought and Catholic doctrine might be synthesized into a Christian philosophy. So far as this vision concerned ethics, it took the form of showing that the previously noted parallels between ideas of virtue originating in the philosophy of classical antiquity and those recurrent within Christian thought could be developed so as to give a rational foundation to ethics,” writes Haldane, “and thereby demonstrate an account of true virtue which could be compelling to any intelligent human being.”⁴ This synthesis produced an account of the prudent agent influencing the tradition of casuistry. “The theological doctrines of circumstance and conscience, prudence and natural law provided the casuists of the high era with an understanding of morality that made casuistry a feasible, respectable, and even necessary activity,” write Jonsen and Toulmin. “The doctrine of natural law gave them a strong but limited system of principles: strong because the principles, though few, were definitely stated and rooted in a generally accepted moral psychology and metaphysics; limited because the principles were of the most general purview.”⁵ On this account, the continuity and dynamism of natural law offer an alternative structure within which to engage in the particular task of institutional design. Moving beyond the bounded nature of international affairs emphasizing, human action this account focuses on the unity of ends and not the ends of pragmatic morality.

Sustaining the idea of the prudent individual and the tradition of casuistry is Aquinas’ understanding of natural law. Building on his synthesis of human action and practical reason, Aquinas shows how natural law is the participation of reasonable beings in the eternal law. “Wherefore, since all things subject to Divine providence are rules

⁴ John Haldane, *op. cit.*

⁵ Albert Jonsen & Stephen Toulmin, *op.cit.*,

and measured by the eternal law, as was stated above; it is evident that all things partake somewhat of the eternal law, in so far as, namely, from its being imprinted on them, they derive their respective inclinations to their proper acts and ends,” writes Aquinas. “It is therefore evident that the natural law is nothing else than the rational creatures participation of the eternal law.”⁶ Natural law, on this account, is part and parcel of the actions constituting the life and development of the individual related to the first principles of life. “To speak of the ‘natural law’ is thus to refer to that part of the general order of things which involves human kind and its progress towards perfection,” writes Haldane. “This law is embodied in natural human tendencies, such as the inclinations to preserve one’s life, to mate and rear children, to co-operate with others in society, and so on.”⁷ Building on the theme of human practices, reflecting the natural equality of being, this chapter illustrates how cultural norms and practices provide one means of interpreting the potentiality of beings in common. Supporting this claim is an examination of the works of the Salamanca Theologians.

Building on the Thomist framework of natural law, Francisco de Vitoria and Bartolomeo de Las Casas elicit an account of human equality further developing the natural dominion of Aquinas. An examination of distant and less educated cultures reveals a shared ontology evident in the practices that constitute being human. This account of equality remains faithful to the emphasis on human action, sustaining a universal understanding of ethical treatment derived from the morality of natural law. Aware of the shared ends of being human the Scholastic scholars frame their ideas of human equality alongside the autonomy and freedom and the natural law agent.

⁶ Thomas Aquinas, “Summa Theologica” *op. cit.*, Ia-IIae, q. 91, a. 2.

⁷ John Haldane, *op. cit.*, 124.

Consequently, they offer a universal account of equality accepting the plurality and diversity of moral communities throughout the world. Aware of this account of equality, this first section critiques the traditional account of political communities within the discourses of International Relations paying particular attention to critical theories of discursive ethics. This is then followed by an examination of the ideas of the Salamanca Theologians. Identifying human equality rooted in the rhetoric of human potential, this middle section paves the way for a natural law interpretation of the community. Ultimately, this conception of the community articulates a relationship of mutuality supporting agency and structure. It simultaneously reveals the ends of commutative justice in order to demonstrate how laws unify individuals consequently orienting the political trajectory of beings in common towards the ultimate ends of human happiness.

Part I: International Relations, Political Communities & Discursive Ethics

Ultimately politics is about human potential. It is to note as Jean Bethke Elshtain does that who we are as individuals and the understanding we have of ourselves both individually and communally, cannot be divorced from political thought. “Without the articulation of what persons are, or can become, a theory of politics remains, at best, incomplete.” Writing further that, “a vision of the complex human subject, a coherent account of the nature of the relations between individuals and society, and an assessment of those moral determinations any responsible theory of historic agency requires.”⁸ Any account of the politics of potential, contrary to the politics of progress flowing through contemporary political communities ultimately relies on an objective conception of being reflecting a social account of morality. The morality of natural law is an objective

⁸ Jean Bethke Elshtain, *Real Politics: At the Center of Everyday Life* (Baltimore: Johns Hopkins University Press, 1997), 14-15 & 179.

interpretation of being that is contrary to a pragmatic and ultimately isolated morality, shaping contemporary political communities. Sustaining a subjective account of being political, morality in its pragmatic form, relates to a subjective notion of dominion focusing on possessions and relationships of power; limiting individual freedom, and in so doing challenging their natural moral development. Emerging out of the theological debates on property and poverty, the idea of dominion increasingly reflected upon ownership and the use of goods. “Right or dominium is the relation of power or authority over other person or things,” writes Brett, “which the pauper lacks.”⁹ Flying in the face of the equality of being characteristic of the natural law agent, this interpretation of dominion bore significant consequences for the nature of the individual, the political community, and the relationship they share with one another.¹⁰

Throughout this work it has been argued that the modern purpose of the state was stability achieved with the outward conformity of its subjects. To achieve this end, political communities elevated the rational capacities of the individual, failing to account for the relationship of passion and emotion in reasoning deliberations. Conceptually, the division of rational and reasonable brought about an alternative understanding of the individual subsequently altering the values of freedom and autonomy within the community. Moreover, the nature of human desire was also transformed. At once it was located outside the will and intellect, and situated within a relationship of passion linked to the newly emerging ideas of utilitarianism and emotivism. Passion, on this account, is irrational; consequently, it must be situated outside the boundaries of public agency

⁹ Annabel S. Brett, *op. cit.*, 12.

¹⁰ A link can be established whereby the discourses of scarcity and abundance noted by C.B. Macpherson among others is tied to the development of private property, the onset of a possessive market economy and the ability of individuals to labor and save the products of their labor. In this way subjective dominion is intimately tied up in the relationship of pragmatic morality and the ends of capitalism within the state.

facilitating political stability. “Calculation was enthroned as the distinctive virtue of the human reason; and the life of the emotions was repudiated, as it distracted one from the demands of clear-headed deliberation,” writes Toulmin. “What began as a theoretical distinction in Descartes, between the intellectual power of human ‘reason’ and the physiological ‘causes’ of emotions, turned into a practical contrast between (good) rationality and (bad) sentiment or impulsiveness.”¹¹ Actions on this account were no longer associated with ‘the good’ but rather, with a newly emerging doctrine of human pleasure and pain.¹²

The evolution of passion, and the ends its sought to achieve, instantaneously transformed the individual from moral beings into agents interested in the accumulation of power. The agent, divorced from his or her actions procures an amoral and agnostic individual. The teleology of being, central to the essence of the individual was lost and subjective dominion came to play a key role in the development of the individual and the community. “On the horizon of western man an attitude of dominating nature emerges,” Elders writes. “It becomes his aim to rearrange the world on the basis of his knowledge.”¹³ Nature’s grace was removed from the individual and being human reflected not one’s inner moral development, but rather their social status within society and the power it bestowed upon them. The emphasis of subjectivity fed into a

¹¹ Stephen Toulmin, *op.cit.*, 134 & 135.

¹² Alasdair MacIntyre, “After Virtue” *op. cit.*, & “A Short History of Ethics” *op.cit.*, 169. Moral judgments, so Hume argues, cannot be judgments of reason because reason can never move us to action, while the whole point and purpose of the use of moral judgments is to guide our actions. Reason is concerned either with relations of ideas, as in mathematics, or with matters of fact. Neither of these can move us to act. We are moved to act not by this or that being the case, but by the prospect of pleasure or pain from what is or will be the case. It is the passions and not reason which are aroused by the prospect of pleasure and pain. Reason can inform the passions as to whether the object they seek exists and as to what the most economical and effective means of seeking it may be.

¹³ Leo J. Elders, *The Metaphysics of Being of St. Thomas Aquinas, in a historical perspective*, translated from Dutch by Dr. John Dudley (New York: E.J. Brill, 1993), 69.

contemporary fascination with hierarchical political structures. Emphasizing power relationships, outlined in the rhetoric of civic rights, examined in Chapter Three, subjective dominion, emerging alongside the received view of Modernity sustained a political vision incorporating the ideals of positive science. In so doing, it cast aside the idea of human potential, emphasizing above all else, human progress offering an account of politics which was decidedly amoral, static, and above all else, scientific. The notion that politics was an art, an ever evolving process was cast aside as static and rigid structures were put in place seeking to guard against the compulsive abuse of power.

Power, on this account is the primary concept guiding the creation of political structures. The constitutional approach to world order, examined in Chapter One, illustrates how political structures can be designed so as to reduce the returns to power tempering the anarchy of international affairs. Power, on this interpretation, is Hobbesian, reflecting the natural equality of all individuals seeking survival in light of insecurity. As Hobbes himself wrote, “power simply is no more, but the excess of the power of one above that of another. For equal powers opposed, destroy one another, and such their oppositions is called contention.”¹⁴ Linked as it is to subjective notions of being, power, on this account, according to C.B. Macpherson, is extractive, and central to the liberal individualist tradition, is agent centric.¹⁵ Contrary to those who understand the

¹⁴ Thomas Hobbes, *The elements of law, natural & political*, ed. Ferdinand Tonnies (Cambridge: Cambridge University Press, 1928), 36.

¹⁵ C.B. Macpherson, *Democratic Theory: Essays in Retrieval* (Oxford: Clarendon Press, 1974), 9-11 & 40-51. Power, in the liberal economic sense, named here, descriptive powers, refers to an individual’s ability to acquire goods so as to overcome scarcity. With regards to ethical power, it denotes not only the ability to acquire goods, necessary to human flourishing and is further sub-divided into developmental power and extractive power. The former refers to the ability to use and develop one’s capacities while the later is power over others, but more specifically, it is the ability to extract benefit from others. It is this form of power that is central to the liberal individualist tradition sustaining a subjective account of political engagement at odds with the developmental potential of the natural law agent.

communal nature of power,¹⁶ extractive power poses problems for the political community constituted by dynamic agents. “If I apperceive life in this way, my goal must be the appropriation of power; and the relation of agents becomes a competition for power,” writes MacMurray. “The problematic of action becomes the effort to achieve my own purpose in the face of resistance from the other. But because of the interdependence of agents, this must be limited by the necessity to maintain the unity of society, that is, the systematic cooperation of agents.”¹⁷ Power, on this account, threatens the elusively sought after political stability. In light of this interpretation, it must be harnessed, reigned in, and controlled.

Seeking to guard against the compulsive abuse of power, individuals, as political agents, have structured their political communities assuming at the outset the intrinsic negative qualities of being human. “This pragmatic mode of society, then, is society maintained by power, and it identifies society with the State, since the power of government is a necessary condition for the existence of such a society,” writes MacMurray. “It conceives the structure of society in terms of law- whether moral or civil –and its maintenance as achieved by power. This yields a mechanical concept of society. Its components are atomic units, inherently isolated or unrelated, and ideally equal.”¹⁸ Aware of the isolated nature of the contemporary agent, Jacques Maritain goes on to comment on its negative consequences for political communities. “Here we have a glimpse into the great defect of classical humanism, the brand of humanism which, since

¹⁶ Hannah Arendt’s, *On Violence* (London: Harcourt Brace & Company, 1970), 122, proposes a communal notion of power. “Power corresponds to the human ability not just to act but to act in concert,” she writes. “Power is never the property of the individual; it belongs to a group and remains in existence only so long as the group keeps together.”

¹⁷ John MacMurray, “Persons in relation” *op.cit.*, 125.

¹⁸ John MacMurray, “Persons in relation” *op. cit.*, 137.

the Renaissance, has occupied the last three centuries,” he writes. “This defect, it seems to me, lies not so much in that which is affirmed in this sort of humanism, as in that which consists of negation, denial, and separation;” he writes. Furthermore saying that the problem ultimately “lies in what one might call an anthropocentric concept of man and culture. One might add that the error involved boils down into affirming that human nature as closed in upon itself or absolutely self-sufficient.”¹⁹ On this account, the agent and the political community are sustained in opposition to one another as they adhere to the pre-ordained rules of social conduct structured by the laws of the state.

Law and power are of the highest importance on this account of the pragmatic society working in communion to sustain political stability. “Law, backed by force, is the technical solution to the problem of a society of persons, and the creation of the state is the highest achievement of technological reason, of our human capacity to devise efficient means to achieve our natural ends,”²⁰ writes MacMurray. Rights are the primary vehicle through which acceptable and non-acceptable forms of behavior temper the compulsive use of power. “The state indeed creates and enforces the right which each individual has in the thing the state declares to be for common use,” writes Macpherson. “In both cases what is created is a right of individuals. The state creates the rights, the individuals have the rights.”²¹ On this account, the function of morality is decidedly different than the notion of morality offered in Chapter Two sustained through the

¹⁹ Jacques Maritain, *The Twilight of Civilization*, translated by Lionel Landry (London: Sheed & Ward, 1946), 10.

²⁰ John MacMurray, “Persons in relation” *op. cit.*, 137.

²¹ C.B. Macpherson, *op.cit.*, 124. On this account of rights, the discourse is not concerned with the well-being and development of the individual as articulated in the United Nations Charter and the Universal Declaration of Human Rights. Instead, rights outline the nature of civic engagements best suited to a constitutional ordering of political affairs, both domestic and international. Modernity’s influence thus runs rampant in this particular interpretation of power focused as it is on limited the returns to power of political authorities competing with one another as equally endowed, but negatively motivated actors.

account of the natural law agent in Chapter Three. Premised on the inherently negative assumptions of human nature, conceptualized as amoral, self-interested, and ultimately isolated, it represents not the development of human potential, but rather, conformity to the law itself.²² “The pragmatic mode of morality will then be conceived as obedience to law-to a moral law which the individual imposes upon himself, and through which he secures the universal intention to maintain the community of action. It will be a morality of self-control, of power over the self, limiting its own freedom for the sake of maintaining community,” writes MacMurray. “It will be expressed in terms of will, obligation and duty, as a set of rules or principles, which are the same for all, and which limit for each the use of his own power to do what he pleases.”²³ Laws, on this account temper desire at odds with the needs of others similarly situated within the community sustaining the negativity of human nature.

From an historical perspective, the problem of establishing any vestige of individual liberty, in light of the problems of political authority and community, became the overarching concern, notes Etienne Balibar, for the social contract theorists examined in Chapter One. “In Locke’s case this limit is represented as natural *positivity*: it is the general horizon in which a notion of ‘human rights’ will subsequently be inscribed-the natural rights to live, or live ‘a human life,’ which a republican constitution transforms into civic rights, mutually granted and limiting the power of the state,” he writes. “In contrast, in Hobbes the limit is represented *negatively*, as a potential *void*, perhaps an abyss, arising from the thesis that every individual has a natural capacity to *resist in death*, by putting her own life at stake among others-an idea that is frighteningly close to

²² Nowhere is this understanding of the individual better encapsulated than with the realist discourse of international affairs.

²³ John MacMurray, “Persons in relation” *op. cit.*, 125.

the idea that equality basically lies in the capacity of people to endanger each other's lives, and therefore to the idea that a violent 'state of nature,' albeit repressed through the civil institutions of the state and the law, always remain latent within or under their authority."²⁴ Laws seek to guide human interaction, and are interwoven with a particular understanding of morality, seeking as A.P. D'Entreves has shown, outward conformity, and not, inner development.²⁵ On this account, laws are related to the boundaries of political communities established to limit the abuse of power stemming from a subjective account of being political.

Building on the negative assumptions of human nature, realism and liberalism alike, both investigated in Chapter One, demonstrate how these assumptions permeate international affairs. Moreover, the point was made that the development of international constitutional political structures and international law, seek to establish political authority challenging the anarchy of international relations. As Tony Lang, Nicholas Rengger and William Walker note, constitutionalism "reflects a just distribution of power and influence within a system."²⁶ As Anne-Marie Slaughter Burley shows, the disciplines of International Law and International Relations, when combined, have much to offer the practice of international politics. "The liberal emphasis on domestic and transnational civil society and the representation of patterns of interest emerging from that society points to the importance of domestic constitutional law as a determinant of international behavior," she writes. "To the extent that a government and its relationship with the society it governs are in fact constituted by a constitution, the limitations placed

²⁴ Etienne Balibar, "'Possessive Individualism' Reversed: From Locke to Derrida" *Constellations* 9, no. 3 (2002): 300-305.

²⁵ A.P. d'Entreves, "The Case for Natural Law Re-Examined" *op. cit.*, 5-52.

²⁶ Anthony F. Lang, Jr., Nicholas Rengger, and William Walker, "The Role(s) of Rules: Some Conceptual Clarifications" *International Relations* 20, no. 2 (2006): 22.

on that government will establish the boundaries of its ability to encumber or foster the ongoing development of civil society both within and across state borders.”²⁷ Laws, on this interpretation function as rules outlining acceptable and unacceptable behavior at the international level. International law like its domestic counterpart, relate and uphold, the boundaries of political communities limiting the abuse of power. Beyond the function of the law however, lies an even greater problem; namely the ends which the laws serve. Upholding the distinction of international and domestic, international laws further entrenches the pervasive sense of otherness limiting agency. On this account, justice and morality exist within the state and assumptions of international and transnational justice are forsaken in lieu of anarchy.

The recent trend in international relations theory distinguishes cosmopolitan and communitarian communities providing a stark contrast to the realist and liberal interpretations of international affairs.²⁸ Representative of the assumptions of communitarianism, Michael Walzer describes political communities as the primary site of morality and justice established through a collectivization process in which the individuality of the agent is neatly sidestepped. “The moral standing of any particular state depends upon the reality of the common life it protects and the extent to which the sacrifices required by that protection are willingly accepted and thought worthwhile,” writes Walzer. “If no common life exists, or if the state doesn’t defend the life that does exist, its own defense may have no moral justification.”²⁹ On the other hand, cosmopolitanism, as shown in the Introduction, situates the moral individual in a

²⁷ Anne-Marie Slaughter Burley, “International Law and International Relations Theory: A Dual Agenda” *The American Journal of International Law* 87, no. 2 (April 1993): 228.

²⁸ Chris Brown, “International Relations Theory” *op. cit.*

²⁹ Michael Walzer, “Just and Unjust Wars” *op. cit.*, 54.

relationship with the larger cosmos, or world view. Distinguishing a moral and a legal conception of cosmopolitanism, Patrick Hayden demonstrates the validity of this particular epistemology. “Moral cosmopolitanism holds that all persons stand in certain moral relations with one another by virtue of the fact that they are all members of a universal community,” he writes. “Legal cosmopolitanism contends that a global political order ought to be constructed, grounded on the equal legal rights and duties of individuals.”³⁰ Whereas Onora O’Neill and Charles Beitz represent the former approach, it is in the works of David Held and Danielle Archibugi that a legal cosmopolitan order comes to light.

The ends of cosmopolitanism, relying on the rights-bearing subject and international law criticize the bounded nature of political justice simultaneously remaining captive to a subjective account of international political engagement. Articulating an agenda of social justice in order to further develop the potential of the global population, cosmopolitans assume a just distribution of goods in common. Social justice, according to Charles Beitz “applies to the whole world the maxim that choices about what policies we should prefer, or what institutions we should establish, should be based on an impartial consideration of the claims of each person who would be affected.” He goes on to conclude, that this cosmopolitanism, “aims to identify principles that are acceptable when each person’s prospects, rather than the prospects of each society or people, are taken fairly into account.”³¹ Offering an alternative to this Rawlsian

³⁰ Patrick Hayden, *op. cit.*, 3.

³¹ Charles R. Beitz, “Social and Liberal Cosmopolitanism” *International Affairs* 75, no. 3 (1999): 519. Commenting on the nature of international liberalism he notes that any relevant account of liberal internationalism, in and amongst a variety of tenets, must include an account of distributive justice incorporating “the distributive responsibilities of states and the extent, if any to which the institutional structure of international order should seek to influence the global distribution of resources and wealth.”

interpretation, Onora O’Neill, drawing on the works of Immanuel Kant, seeks to extend the nature of justice outwith the domestic borders of contemporary states. “In my view this strategy may provide a better route for thinking about justice beyond boundaries than the one Rawls offers, not only because Kant’s strategy of vindication aims deeper, but because it is *more realistic* and *more open*,” she writes. “The greater *realism* lies in Kant’s clear acknowledgment that republican states are not ideally just: they are a compromise we have to make in order to start security freedom under real world conditions, furthermore noting that “Kant’s views on justice are also *more open* in that they do not preclude the possibility that institutions other than states may contribute towards the institutionalization of justice.”³² Despite the different approaches, both account of distributive justice sustains laws relating not to the equality of being, but rather, to resources, and the power they provide. Laws, on this account, reflect the material existence of the political subject.

A primary appraisal of the ends of cosmopolitan justice would seem to reveal an account of being political endorsing the ideal of human potential. Yet the notion of equality sustaining the laws of social justice relates not to the objective account of social morality but rather to the subjectivity of pragmatism. It is an account of political justice that reveals a remarkable similarity to Aquinas’s concept of *epikeia*. As he writes, “‘epikeia’ is a part of justice taken in a general sense,” furthermore noting that “‘epikeia’ is a subjective part of justice; and justice is predicated of it with priority to being

Charles Beitz, Charles R. Beitz, “International Liberalism and Distributive Justice: A Survey of Recent Literature” *World Politics* 51, no. 2 (1999): 270.

³² Onora O’Neill, “Bounded and Cosmopolitan Justice” *Review of International Studies* 26 (2000): 60 & 61.

predicated of legal justice, since legal justice is subjective to the direction of ‘epikeia’.”³³ Likened to contemporary ideas of equity, ‘epikeia’ relates to distributive forms of justice focused on the just distribution of goods within the community. “The act of distributing the goods of the community, belongs to none but those who exercise authority over those goods; and yet distributive justice is also in the subjects to whom those goods are distributed in so far as they are contented by a just distribution,” writes Aquinas. “Moreover distribution of common goods is sometimes made not to the state but to the members of a family, and such distribution can be made by authority of a private individual.”³⁴ Epikeia, relates to subjective forms of dominion, revolving around ideas of ownership, in isolation and in common helping the agent to align the ends of the law and the ends of justice. “In those cases where there seems to be a conflict between the common good and the letter of the law, then Thomistic theory speaks of understanding the intention of the law,” writes Westberg. “The limitations of all human legislation must be recognized, i.e., that the wisdom of legislators is insufficient to anticipate all circumstances. The notion of equity,” he concludes “(epikeia in the Catholic moral tradition), is to describe the kind of wisdom needed by the judge to apply the law flexibly or to ameliorate the letter of the law as it is applied to particular circumstances.”³⁵ This notion of equality, like the distributive form of justice it is associated with, speaks not to the natural potential of the natural law agent. Moreover, it is a form of justice which fails to articulate a viable understanding of political obligation outside those boundaries. Similar to communitarian conceptions of justice which remain firmly embedded within the

³³ Thomas Aquinas, “Summa Theologica” *op. cit.*, II-II, q. 120, a. 2.

³⁴ Thomas Aquinas, “Summa Theologica” *op. cit.*, II-II, q. 61, a. 1.

³⁵ Daniel Westberg, “The Relation between Positive and Natural Law in Aquinas” *Journal of Law and Religion* 11, no. 1 (1994-1995): 19.

domestic community, these two normative conceptions of community are challenged, albeit for different reason, by the ends of international law failing to note the natural equality and the associated obligation of moral relations.

Critical theorists, further distinguish themselves from communitarian and cosmopolitan epistemologies challenging the isolation and otherness of contemporary international affairs. Investigating the normative tension resonant in the relationship of domestic duty and international obligations, Andrew Linklater establishes political communities “as systems of inclusion and exclusion” revealing how communities, so defined, are one means of safeguarding cultural differences simultaneously extending the ethical obligations of humanity outside the modern nation state.³⁶ In the same vein, Richard Shapcott notes the different epistemological origins of cosmopolitanism and communitarianism. “Liberal and communitarian positions,” he notes, “begin with different conceptions of the moral self, and derive from them different conceptions of community.”³⁷ Articulating a dialogic ethic, he argues that communication communities, in the same vein as Linklater’s communities, can recognize cultural diversity simultaneously avoiding the pitfalls of cultural relativism. “To summarise this argument briefly, because interpretative approaches understand that normative principles are generated by historically and culturally located agents, agents whose identities are not fixed and absolute, then they argue it is possible for those agents to successfully engage in dialogue, he writes. “As a result it follows that recognition is most successfully

³⁶ Andrew Linklater, *The Transformation of Political Communities, Ethical Foundations of the Post-Westphalian Era* (Oxford: Polity Press, 1997), 2.

³⁷ Richard Shapcott, *Justice, Community and Dialogue in International Relations* (Cambridge: Cambridge University Press, 2001), 33.

accomplished through acts of communication.”³⁸ Dialogue, on this account, is the vehicle through which ‘the other’ is welcomed into the previously exclusionary political community. Consequently, justice is able to permeate the otherwise exclusive boundaries of the contemporary nation state.

The discursive ethics put forth by critical theorists provides an interesting model guiding the formation and assimilation of a natural law community within the discourses of international relations. Similar to natural law, this approach is premised on the role of human reason. “The philosophical hermeneutic model is based on the premise that reason is akin to understanding and understanding is essentially linguistic,” writes Shapcott. “Understanding, or the fusion of horizons, through conversation, can and does occur in any human society or individual.”³⁹ Discursive ethics locates the central human capacity in language which, when rooted in human agency, provides a discourse extending justice throughout the world. Juxtapose language and communication with action, and the natural law agent begins to situate him or herself within a like-minded community. Above all else the ethical and political account of being human developed by Aquinas is an account of action. Bearing this in mind, subtle, yet crucial differences begin to emerge between the two approaches. An examination of the nature of justice and equality shaping the overall aims of the discourse reveal how natural law, unlike discourse ethics, incorporates an objective sense of justice articulating an idea of equality rooted in the capacities and capabilities of the agents. The objectivity of being is itself possible due to the outward orientation of natural law ethics and recalls that which originally distinguished natural law from discourse ethics and the notion of

³⁸ Richard Shapcott, “Cosmopolitan Conversations: Justice Dialogue and the Cosmopolitan Project,” *Global Society* 16, no. 3 (2002): 222.

³⁹ Richard Shapcott, “Cosmopolitan Conversations” *op. cit.*, 237.

communicative action articulated by Habermas. Moreover, its rhetoric of human potential guiding the overall endeavor that is politics sustains a more personal approach to being political. It facilitates a commutative account of justice that is at once unbounded challenging the isolation and self-sufficiency embodied in the contemporary rights bearing subject.

Part II: The School of Salamanca

The scholars within the School of Salamanca commented on a wide variety of topics. Ranging from economic theory to the laws of motion, from eschatology to the laws of contract, Anthony Pagden and Jeremy Lawrence note their diverse interests highlighting the preeminent role of jurisprudence and moral philosophy.⁴⁰ As Annabel S. Brett writes, “The term ‘School of Salamanca’ and ‘second scholastic’ usually apply to the entire period of sixteenth-century scholasticism, from Vitoria to Suarez.”⁴¹ Building on Aquinas’s idea of dominion, Francisco de Vitoria and Bartolomeo Las Casas furthered the ideals of nature and grace sustaining the metaphysical and anthropological agent. Tempering all of their works was a moral theology which, as Roger Ruston writes, was based “upon a view of the human being as a self-directing, rational animal, having control over his or her own actions, being made in the image of God and requiring for his or her fulfillment to live in an autonomous community.”⁴² All the authors of the school shared one major ambition which, as Anthony Pagden highlights is “the creation of a moral *ordo* based on Aquinas’s singular merger of ancient philosophy and Christian

⁴⁰ Anthony Pagden & Jeremy Lawrence, “Introduction” in *Cambridge Texts in the History of Political Thought, Vitoria: Political Writings* eds. Anthony Pagden & Jeremy Lawrence, xiii (Cambridge: Cambridge University Press, 1991).

⁴¹ Annabel S. Brett, *op. cit.*, 1.

⁴² Roger Ruston, *op. cit.*, 168.

theology, which would afford a greater understanding of man's essential *humanitas*.⁴³

The cumulative effect of their works paved the way for a universal account of obligation rooted in the essence of being itself resting on an objective account of the political agent; namely, relationships.

Embroided in the debates surrounding the well-being and ethical treatment of the American Indians at the hands of the Spanish Crown, brought to light in 1511 by Antonio de Montesino, the School gained a high degree of notoriety arguing the plight of the Indians. Building on the questions of Montesino himself, who in his sermon asks “with what justice do you hold these Indians in such cruel and horrible slavery? With what authority have you waged such detestable wars against these people who were living in their lands so mildly and peacefully, where you have consumed such huge members of them, what unheard-of death and destruction?”⁴⁴ the Salamanca theologians were well situated to ponder the nature and being of the Indians. Professing the innate and natural freedom of all nature's creatures, Vitoria and Las Casas argued that similar to their Spanish conquerors, the American Indians possessed the same likeness of mind providing them with the means to develop their capacities and capabilities as rational beings. Constituted by a rational soul, displayed by their ability to form communities and develop institutions, in the words of Montesino, the Indians were “worthy of love”.⁴⁵ The American Indians, on this account, were accorded a level of natural dominion

⁴³ Anthony Pagden, *The fall of natural man: The American Indian and the origins of comparative ethnology* (Cambridge: Cambridge University Press, 1982), 147.

⁴⁴ Text recorded by Bartolome de Las Casas, *Historia de Las Indias in Obras escogidas* (OE), studio critico y educion por Juan Perez de Tedula Bueso, Madrid: Atlans, 1957-58, 5 vols, vo.. 2, col. 176 (translated by Roger Ruston). As quoted in Roger Ruston, *op. cit.*, 67.

⁴⁵ Text recorded by Bartolome de Las Casas, *Historia de Las Indias in Obras escogidas* (OE), studio critico y educion por Juan Perez de Tedula Bueso, Madrid: Atlans, 1957-58, 5 vols, vo.. 2, col. 176 (translated by Roger Ruston). As quoted in Roger Ruston, *op. cit.*, 67.

consequently they were capable of participating in the natural law as equal and moral beings in potential.

The works of the Salamanca theologians are important as they uphold Aquinas's original account of natural dominion. It was at this time that dominion, as Annabel S. Brett points out, became increasingly tied to an emerging tradition of natural rights evinced by the wide variety of interpretations of the Salamanca Theologies. "In broad terms, the issue lies between those who hold that the School represents a return to an authentic Thomist-Aristotelian theory, depending on the notions of natural law and of right as the object of justice ('objective right')" writes Brett, "and those who, although on the surface may appear faithful to Aristotle and Aquinas, in reality they thought of right as a faculty or liberty of the individual (subjective 'right') and that their political theory is based on such rights and is a forerunner of Hobbes."⁴⁶ As the idea of dominion was further divided into subjective and objective types, the Scholastics neatly side-stepped this problem proffering an account of equality building on the idea of natural dominion.⁴⁷ Complementing the social and political nature of the individual and the ends of justice articulated by Aquinas, the rhetoric of equality substantiated the idea of moral action oriented towards the ends of human happiness. "The scholastics did not just develop the ideal of natural equality from – so to speak the top down. They also elaborated the practical meaning of this ideal in and through a process of reflection and reform directed towards the central institutions of their society, particularly marriage and religious life,"

⁴⁶ Annabel S. Brett, *op. cit.*, I.

⁴⁷ The difference between objective and subjective right is eloquently explained by Roger Ruston, *op. cit.*, 46-48. Objective right refers to a state of affairs describing a relationship between two people- the object of justice, 'the right thing' whereas a subjective right is something possessed by a person. It is objective right that was emphasized in the works of Aquinas and it is subjective rights that have gone on to foster the rights tradition of the contemporary era and shape the rhetoric of rights that supports the rights bearing agent investigated in the previous chapter.

writes Porter. “But as these institutions were transformed, they tended to be rationalized through appeals to an ideal of equality, and by the same token, they became themselves part of the concrete meaning of equality as a social norm.”⁴⁸

Equality, for the Scholastics provided the necessary link between morality and justice within the community. “Justice is the virtue that demands recognition of and respect for the equality between people, established by their shared human nature,” writes Lisa DeCrane.⁴⁹ The Scholastics understood the ontology of being and the metaphysics of morals put forth by Aquinas demonstrating that justice and equality are part and parcel of the relationships constituting the political agent and community.⁵⁰ “For Aquinas true friendship (*amor amicitiae*, as opposed to *amor concupiscentiae*) can only be shared by those who are equals in some sense, particularly in their rational nature,” writes Stephen J. Pope. “Friendship reflects the voluntary decision of a free agent to regard another free agent with affection and benevolence, a choice obviously possible only for beings possessing the capacity of a free will.”⁵¹ Understanding the social and political nature of the individual, alongside the relationship of justice and morality, the Salamanca

⁴⁸ Jean Porter, “A tradition of civility” *op. cit.*, 37.

⁴⁹ Susanne M. DeCrane, *op. cit.*, 78.

⁵⁰ It is common held within the discipline of International Relations that the works of Vitoria and Las Casas provide the first in-depth analysis of the beginnings of natural rights and upon which the idea of contemporary human rights ultimately rest. It is the inherent belief of this work that such is not the case and that Aquinas’s work does not distinguish between subjective and objective dominion. On this account, the Scholastics ought not to be used to provide a foundation for human rights but rather to offer a dialogue on how best to achieve a higher level of well being, both individually and in common. In fact, as the ensuing section of this chapter will highlight, it is the subjective component of dominion that went on to shape society and in so doing, perpetuating the culture of recience with which scholars now contend the assumption of which are at odds with the ends of the Scholastic interpretation of natural law morality.

⁵¹ Stephen J. Pope, “Neither Enemy nor Friend: Nature as Creation in the Theology of Saint Thomas Aquinas” *Zygon* 32, no. 2 (June 1997): 225.

Theologians were able to build upon the anthropology of being articulated by Aquinas and proliferate a universal account of obligation.⁵²

Francisco de Vitoria opens his arguments in a swift and concise manner immediately positioning himself in such a way to employ the Thomist idea of dominium. Shocked and appalled at the recounting of the events in Peru which, he claims, “freezes the blood in my veins”⁵³, he quickly centers the debate in the capacities and capabilities of the American Indians. “In truth, if the Indians are not men but monkey, they are incapable of injury,” he writes to Miguel de Arcos. “But if they are men, and our neighbors, and as they claim vassals of the emperor, I cannot see how to excuse these conquistadors of utter impiety and tyranny; nor can I see what great service they do to His Majesty by ruining his vassals.”⁵⁴ Establishing the naturalness of the Indians and therefore the presence of a rational soul, Vitoria argues they are capable of intentional action. “Where we most differ from other animals is in this capacity for intentional action,” writes G. Scott Davis, “and to have an intention means to initiate a chain of events having an end. Intention makes something *our* act and thus locates it in a moral species.”⁵⁵ Intentionality, on this account, is indicative of reason. It sustains the

⁵² The rhetoric of equality articulated by the Salamanca Theologians only grows in importance throughout this work. It is a necessary component of friendship leading into an account of charity. Charity mediates the Aristotelian account of civic friendship in the works of Aquinas and in so doing distinguishes the unity of purpose and human agency of a natural law ethic from that of the rhetoric of solidarity and liberty associated with the republican stream of modernity and the associated notion of renaissance humanism. In fact, the works of the Salamanca Theologians argued in direct contradiction to the renaissance humanists who used Aristotle’s account of natural slaves to defend the papacy and crown against the crimes they committed against the native Americans.

⁵³ Francisco de Vitoria, “Letter 1: Letter Miguel de Arcos, OP, Salamanca, 8 November [1534]” in *Cambridge Texts in the History of Political Thought, Vitoria: Political Writings* eds. Anthony Pagden & Jeremy Lawrence, 331 (Cambridge: Cambridge University Press, 1991).

⁵⁴ Francisco de Vitoria, “Letter 1” *op. cit.*, 333.

⁵⁵ G. Scott Davis, “Conscience and Conquest: Francisco de Vitoria on Justice in the New World” *Modern Theology* 13, no. 4 (October 1997): 479.

potentiality of moral beings articulating ethical behavior countering the injustice of development.

Vitoria looked to the customs and practices within the community of the Indians as an indication of the potential capacity to experience the natural law. Political organization and cohesive structures of order within the quotidian existence of the Indians provided the requisite foundation upon which Vitoria could argue a position at odds with both the Papacy and the Spanish Crown. “This is self-evident, because they have some order (*ordo*) in their affairs; they have properly organized cities, proper marriages, magistrates and overlords (*domini*), laws, industries, and commerce, all of which require the use of reason,” he writes. “They likewise have a form (species) of religion, and they correctly apprehend things which are evident to other men, which indicates the use of reason. Furthermore,” he goes on to say, “God and nature never fail in things necessary’ for the majority of the species, and the chief attribute of man is reason; but the potential (*potentia*) which is incapable of being realized is in the act (*actus*) is in vain (*frustra*).⁵⁶ Vitoria presented to the Spanish public a work which lambasted the treatment of the Indians at the hands of the Spanish Crown and the Papacy. As Pagden and Lawrence point out, the Indians, in the opinion of Vitoria, “were in full possession of their rights, but without the capacity to exercise them. Their status was similar to that of children, who in Aristotle’s definition were only potentially, but not actually rational beings.”⁵⁷ Similar to the Conquistadors, the American Indians,

⁵⁶ Francisco de Vitoria, “On the American Indians” in *Cambridge Texts in the History of Political Thought, Vitoria, Political Writings*, eds. Anthony Pagden & Jeremy Lawrence, 250 (Cambridge: Cambridge University Press, 1991).

⁵⁷ Anthony Pagden & Jeremy Lawrence, “Introduction,” *op. cit.*, xxv-xxvi.

constituted by a rational soul, were capable, as natural creatures, of developing the virtuous habits of prudence and justice.

Vitoria's works, as Davis points out, sustains the idea of virtue beyond the bounded nature of political communities. "Vitoria was fully aware, as his discussion of the unjust titles makes clear, that the language of the law could not be justly extended across cultures that were not themselves bound by positive law," he writes. "His rejection of those titles in itself marks a commitment to the primacy of virtue, above all the virtue of justice in international affairs."⁵⁸ Resting on potentiality, and the ability to reason, Vitoria sustains an objective account of political engagement relying on the epistemology of being associated with Aquinas's ontology. Writing in *On Dietary Laws*, he investigates the practice of cannibalism and debates the merits of intervening to halt this practice demonstrating the capacity of the natural law as a yardstick against which actions and intentions can be measured.⁵⁹ Paving the way for communal plurality alongside the freedom and autonomy of the agent, Vitoria expresses a mutable account of justice resting on the participatory engagement of the natural law. As Davis further points out, "because the principle reason for invoking the natural law is not to clarify the judgments that the prudent person can already make, but to measure the propriety of positive law as a rational external constraint on social interaction,"⁶⁰ Vitoria offers an account of universal responsibility. "This is the broadest assertion that Vitoria made about the right or the responsibility of civilized societies, Christian or not, to punish those who were 'sinners against nature'," writes Cardozza. "It suggests a universal

⁵⁸ G. Scott Davis, "Conscience and Conquest" *op. cit.*, 493.

⁵⁹ Vitoria, "On Dietary Laws, or Self-Restraint" in *Cambridge Texts in the History of Political Thought, Vitoria, Political Writings*, eds. Anthony Pagden & Jeremy Lawrence, 205-230 (Cambridge: Cambridge University Press, 1991).

⁶⁰ G. Scott Davis, "Conscience and Conquest" *op. cit.*, 482.

responsibility for the well being of one another and, apparently, the right to intervene whenever other people are engaging in practices deemed ‘nefarious’.”⁶¹ The social morality originating in Aquinas, ultimately shapes Vitoria’s account of morality and ethics sustaining a universal mode of ethical engagement at odds with contemporary boundaries, morality and justice.

Deploring the unethical treatment of the American Indians Vitoria provides an anthropology of being like Aquinas before him. “All the rights Vitoria ascribed to the Spaniards required the assumption of the natural sociability of the human species, the bedrock feature of natural law,” writes Streski.⁶² Consequently, Vitoria is able to identify within each being a developmental potential sustaining his account of human equality. Yet Vitoria never experienced first hand the ways of the American Indians. It is the works of Bartolomeo de Las Casas offering a first hand experience of the New World. In his various writings he depicts the abuse suffered by the Indians at the hands of the Spanish conquistadors. “The history written by Las Casas is by no means a desperate enterprise; it seeks to bridge the gap between the representative capacity of discourse and the demands of intolerable events,” writes de Courcelles, “it is conscious of having a beneficial influence on the elaboration of new social norms, on the one hand, and on

⁶¹ James Muldoon, “Francisco De Vitoria and Humanitarian Intervention” *Journal of Military Ethics* 5, no. 2: 136. The author goes on to employ the ideas of Vitoria to discern a natural and a spiritual defense for intervention. “In each case, the goal would be to intervene for the benefit of the people involved. In spiritual terms, the command to teach all nations, the concept with which Vitoria began, could obviously be construed as a good of such value that for a ruler to prevent missionaries from entering his country or for a people to harass and otherwise hinder the work of peaceful missionaries would justify a Christian ruler sending troops to protect the missionaries. In terms of natural law, the refusal to admit peaceful missionaries or merchants or to engage in ‘nefarious’ practices might also justify intervention because missionaries and merchants would enable the members of a society to participate fully in the universal human community and thereby receive numerous benefits.”

⁶² Ivan Streski, “The Religion in Globalization” *Journal of the American Academy of Religion* 72, no. 3 (September 2004): 639.

collective memory, on the other.”⁶³ More importantly, within his works, he records the developmental potential of each being as they acquire the skills identified with modern communities demonstrating the primary epistemological capacity, the capability to reason.

Bartolomeo de Las Casas accepted the social and political nature of man.⁶⁴ “His project has always been to establish the Amerindians as peoples who could be made fully familiar to the European gaze,” writes Pagden. If not entirely civil, he argued, they were no more ‘barbarous’ than some of the remote cultural ancestors- the Greeks, Egyptians, and Romans – of the modern Europeans had been.”⁶⁵ He looked to the capacities and capabilities of each individual discerning the plausibility of a reasonable disposition. “For the good and all-powerful God, in his love for mankind, has created all things for man’s use and protects him whom he has endowed with so many qualities by a singular affection and care (as we have said), and guides his actions and enlightens each one’s mind and disposes him for virtue in accordance with the ability given to him,” writes Las Casas. “Hence it necessarily follows that a rational nature, receiving its power from the

⁶³ Dominique de Courcelles, “Managing the World: The Development of Jus Gentium by the Theologians of Salamanca in the Sixteenth Century” *Philosophy and Rhetoric* 38, no. 1, (2005): 7.

⁶⁴ The majority of the works of Las Casas come to us as a script he prepared for a debate against Juan Gines de Sepulveda held in 1550 surrounding the legality of the imperialism of the Americas by Spain at the behest of the Papacy. The debate that occurred between the noted Dominican Theologian and heralded Aristotelian has been studied at great length. A small account of the origins of the debate is interesting and useful to international relations generally and will be given the briefest account at present. On the 16th of April, 1550, Charles V, Holy Roman Emperor declared a halt to the conquest of America until an answer to the question: Is it lawful for the King of Spain to wage war on the Indians, before preaching the faith to them, in order to subject them to his rule, so that afterward they may be more easily instructed in the faith? At its outset, this debate was premised on the Aristotelian theory of natural slavery, that there existed, in the world, a category of individual that lacks the necessary capacities to reason right and is therefore never able to attain a virtuous state of living, the goal of every individual living in the Greek city-states. The cessation of colonization, for whatever period of time, was an outright victory for Las Casas, who had been campaigning for such an act for quite a long time and it set the stage for a debate between the two scholars about the nature of the capacities of the Indians. For an in depth examination of the history and lead up to this debate see, Lewis Hanke, *All Mankind is One: A Study of the Disputation Between Bartolome de Las Casas and Juan Gines de Sepulveda in 1550 on the Intellectual and Religious Capacity of the American Indians* (Illinois: Northern Illinois Press, 1974).

⁶⁵ Anthony Pagden, “Ius et Factum: Text and Experience in the Writings of Bartolome de Las Casas” *Representations* 33, Special Issue: The New World (Winter 1991): 157.

Creator alone, should include men who, as a rule, are endowed with the best gifts of their nature and are rarely slow witted or barbarous.”⁶⁶ Building on the metaphysical and anthropological assumptions supporting a reasonable disposition, Las Casas demonstrates the existence of political communities long before the arrival of the Spanish settlers. “For Las Casas, no less Vitoria, culture is primarily the medium through which men learn to exploit the God-given potential in nature,” writes Pagden. “Once this initial culture acquiring stage of human development has been reached, the social order of each race begins to grow in complexity, until finally it reaches the level of civility prior to the final step forward.”⁶⁷ On this account, dominion is best exemplified through the customs and norms of the community. “Rather, long before they had heard the word Spaniard they had properly organized states, wisely ordered by excellent laws, religion, and custom,” writes Las Casas. “They cultivated friendship and, bound together in common fellowship, lived in populous cities in which they wisely administered the affairs of both peace and war justly and equitably, truly governed by laws that at very many points surpass ours, and could have won the admiration of the sages of Athens.”⁶⁸ Social communities, on this interpretation, bear witness to the universality of reason substantiating the potential of moral development supporting the natural equality of being.

Las Casas quickly became the noted expert on the daily lives of the Indians mixing his empirical observations with noted sources such as Aquinas and Aristotle.⁶⁹

⁶⁶ Bartolome de Las Casas, *In Defense of the Indians. The Defense of the Most Reverend Lord, Don Fray Bartolome de Las Casas, of the Order of Preachers, Late Bishop of Chiapa, Against the Persecutors and Slanderes of the Peoples of the New World Discovered Across the Seas*, Translated, Edited, and Annotated by Stafford Poole, C.M. (Illinois: Northern Illinois Press, 1974), 35.

⁶⁷ Anthony Pagden, “The fall of natural man” *op. cit.*, 142

⁶⁸ Bartolome de Las Casas, “In Defense of the Indians” *op. cit.*, 42 & 43.

⁶⁹ This was an important point to be made by Las Casas, for he was fighting against a descriptive history stemming from the works of a noted historian, Oviedo, whose account of the Indians came via second hand accounts. Unlike Las Casas, Oviedo himself had never set foot in the colonies. In its pages it depicted a

From this vantage point he observed, “they [the Indians] are of such gentleness and decency that they are, more than the other nations of the entire world, supremely fitted and prepared to abandon the worship of idols and to accept, province by province and people by people, the world of God and the preaching of the truth.”⁷⁰ He demonstrates how having been introduced not only to the teachings of Christ, but also the Arts and Sciences more generally, the Indians possess a keen intellect. “In the liberal arts that they have been taught up to now such as grammar and logic, they are remarkably adept,” recounts Las Casas. “With every kind of music they charm the ears of the audience with wonderful sweetness. They write skillfully and quite elegantly, so that most often we are at a loss to know whether the characters are handwritten or printed.”⁷¹ On this evidence Las Casas articulates an equality of being so powerful it opposes the violent and unjust conduct of the Conquistadors. Arguing that the Indians “are our brothers” the Spaniards, on this account, are obliged as the more enlightened of the species to act in as charitable and benevolent a manner educating the Indians on the ways of civil society. As he points out, “we must consider it possible that some of them are predestined to become renowned and glorious in Christ’s kingdom.”⁷² Furthermore writing “we have no choice but to conclude that the rulers of such nations enjoy the use of reason and that their people and the inhabitants of their provinces do not lack peace and justice. Otherwise they could not

race of beings that were self-less brutes who performed ritual sacrifice and lacked the capacities to understand a chance for a better way of life and the acceptance of Christianity. It was, in actual fact, a battle for authority. As there were no known experts in the field of the nature of the Indians, Bartolome de Las Casas felt that in appealing to past authorities, such as Aquinas and Aristotle, combined with his first hand experience of the Indians, he could dispel the myths that had been propagated about the nature of the Indians by those who had never left Spain, a point that is made by Anthony Pagden in “Ius et Factum: Text and Experience in the Writings of Bartolome de Las Casas” *Representations* 33, Special Issue: The New World (Winter, 1991): 147-162.

⁷⁰ Bartolome de Las Casas, “In Defense of the Indians” *op. cit.*, 28.

⁷¹ Bartolome de Las Casas, “In Defense of the Indians” *op. cit.*, 44.

⁷² Bartolome de Las Casas, “In Defense of the Indians” *op. cit.* 39.

be established or preserved as political entities for long.”⁷³ Similar to Vitoria, Las Casas extends the morality of natural law beyond the modern nation state articulating a universal equality of being. It is an account that rests on an objective ontology building on the natural law tradition first set out by Aquinas.

Vitoria and Las Casas employ the tradition of natural law challenging the accepted social customs and norms of their time. Justice and morality, interpreted in this light, are not bound by the modern political structures shaping political communities. Offering to the discourse of natural law the rhetoric of equality, stemming from the shared capacity to develop the virtues of justice and prudence, the Salamanca Theologians demonstrated that all individuals, united in the teleological quest for ‘the good’ are aware of justice and the ethical treatment with which it is associated. Articulating an equality of being arising from the capacity to reason and the capability to act as free and autonomous agents, Las Casas and Vitoria extend the ends of dominion beyond domestic communities into the international realm. On this account, equality of being is yet to be associated with a universal account cognitive epistemology, typical of enlightenment accounts of human beings. In light of this fact, the Salamanca theologians could endorse moral customs and practices seemingly at odds with the over-arching morality of being within the natural law. Bearing this in mind, the particular problem of ‘otherness’ typical of modern accounts of international affairs did not feature in the pluralism sustained by this particular interpretation of moral equality. The idea of moral favoritism and the obligations of distant others remains a problem of contemporary political discourses, rooted in the universality of moral equality and the bounded nature of political arrangements. As the ensuing section illustrates, the rhetoric of equality

⁷³ Bartolome de Las Casas, “In Defense of the Indians” *op. cit.*, 42.

conceptualizes anew the nature of the political community articulating an objective account of being political stemming from the relationships of the natural law agent.

Part III: The Natural Law Community

The preceding chapters have all focused on the morality of being locating the potential to be in the capacity and capabilities of the individual as a rational and reasonable being. Building on the ideas of Aquinas and the natural law tradition he fathers, this work puts forth an anthropology and metaphysics which is at once both social and moral. As Aquinas points out, agents are social beings. “First, because man is naturally a social being, and so in the state of innocence he would have led a social life,” writes Aquinas. “Now a social life cannot exist among a number of people unless under the presidency of one to look after the common good; for many, as such, seek many things, whereas one attends only to one.”⁷⁴ Aquinas further states that while good in isolation, any thing is better in common noting that “the common good is better than the particular good of one person.”⁷⁵ On this account, the political community plays a key role in the moral development of the individual. Revolving around the idea of the common good, Aquinas outlines a vision of politics as practice sustaining the idea of mutual and relational development. As Jean Porter notes, “for Aquinas, individual and communal good stand in a reciprocal relationships such that the good of the individual is intrinsic to the common good”.⁷⁶ Aquinas himself states as much in the *Summa Theologiae* writing, “it is proper to justice, as compared with the other virtues, to direct man in his relations with others; because it denotes a kind of equality, as its very name

⁷⁴ Thomas Aquinas, “Summa Theologica” *op. cit.*, Ia-IIae, q. 96, a. 4.

⁷⁵ Thomas Aquinas, *Summa Contra Gentiles*, Book III: Providence, Part II, (ed) Vernon J. Bourke, (Notre Dame: University of Notre Dame Press, 1975) p. 220

⁷⁶ Jean Porter, “The Recovery of Virtue” *op. cit.*, 125.

implies;” furthermore noting that “on the other hand the other virtues perfect man in those matters only which befit him in relation to himself.”⁷⁷ Supporting the symbiotic relationship of the individual and the community then is the pre-eminent virtue of justice.

Justice reflects the morality of first principles located in the will revealed by the practical deliberations of the agent. Justice, on this account, reflects the agent’s function evident in the institutional patterns of relationships. “Justice has will or rational appetite for its subject and enables us so to act that we pursue our private ends with an eye to what is due others,” writes Ralph McInerny, “whether because of special business we have undertaken with them or because of the comprehensive good we share as members of the same city, nation, and eventually, species.”⁷⁸ Justice, so understood, is part and parcel of one’s telos. It channels action in accordance with the good not only for the self, but for others as well, noting above all else the mutuality of being evident in the relationship of ‘the good’. “Justice orients the will of the person and the corporate will of the community to attend to the needs of others who have a claim on them,” writes DeCrane, “rather than attending only to the needs of the individual herself or the needs of a particular constituency within the larger group. It is inclusive and comprehensive in its focus. One behaves justly not only with one’s friends, but with all people.”⁷⁹ Emphasizing relationships in and amongst individuals, and not the distribution of resources, Aquinas’s account of commutative justice complements the relational ontology sustaining the natural equality of agents. “Now a twofold order may be considered in

⁷⁷ Thomas Aquinas, “Summa Theologica” *op. cit.*, II-II, q. 57, a. 1. More will be said about the nature of justice, in and of itself, and the way in which it relates to natural law and the formation of communities and the development of individuals in the final two chapters of this work. It is suffice to note that as justice is that concept that links individuals at a metaphysical level it is linked to obligation.

⁷⁸ Ralph McInerny, “Ethics” *op. cit.*, 205.

⁷⁹ Susanne DeCrane, *op. cit.*, 79.

relation to a part. On the first place there is the order of one part to another, to which corresponds the order of one private individual to another,” writes Aquinas. “This order is directed by commutative justice, which is concerned about the mutual dealings between two persons.”⁸⁰ Unlike distributive justice, or social justice, evident within normative accounts of political order and political communities, commutative justice remains aware of the natural sociability and equality of individuals.

Chapter Two outlines a vision of the natural law community. Originating in the actions and interactions of the individual, the political community reflects the institutionalization of relationships sustaining beings in common. Reflecting the virtue of justice, it is an account of the political community that is intrinsically related to the morality of natural law. “In order to understand why Aquinas holds this view, it is necessary to realize that the natural law as he understands it is not just a source of private morality, but the basis of a rational public order,” writes Porter. “To put it another way, the natural law is to the community what humanity is to a human being. That is, it represents the rational character of the community, according to our best understanding of it.”⁸¹ At the most basic of levels, a natural law community, as John Finnis writes, “is a form of unifying relationships between human beings.”⁸² The unification of the community, like the relationships of agents themselves, is motivated by an ethos of love.⁸³ Love, unlike its contemporary conceptions, represents the mutuality of being. Sustaining a relational account of ‘the good’ love mirrors the equality and

⁸⁰ Thomas Aquinas, “Summa Theologica” *op. cit.*, II-II, q. 61, a. 1.

⁸¹ Jean Porter, “The Recovery of Virtue” *op. cit.*, 147.

⁸² John Finnis, “Natural Law and Natural Rights” *op. cit.*, 136.

⁸³ This point will be elaborated in on detail in the final chapter of this work. The relationship between love and the notion of equal regard will be used to develop a ‘personal account’ of politics supporting human action within ‘the international’ moving beyond the domestic ordering of political affairs proliferating an ethic of love in international affairs with which to counter the grosser forms of human suffering.

justice necessitating a relational ontology.⁸⁴ “We love the deepest, most substantial and hidden, the most existing reality of the beloved thing. This is a metaphysical center deeper than all the qualities and essence which we can find and enumerate in the beloved,” writes Maritain. “Love seeks out this center, not, to be sure, as separated from its qualities, but as one with them. This is inexhaustible,” furthermore writing, “so to speak, of existence, bounty and action; capable of giving and of giving itself; another self as a gift, another self which bestows itself.”⁸⁵ Love, on this interpretation, represents the institutionalization of relationships reflected in the just political structures of the community. “Good community implies proper commitment to good purposes expressed in suitable behavior;” write Grisez and Shaw, “ a bad community is one in which either the purposes or the behavior are morally wrong.”⁸⁶ The natural law community, contrary to the boundaries and laws organizing contemporary world order exist wherever two or more individuals, united in a shared interest, work together. Community, reflected in the ends of ‘the good’ unifies individuals and is, in and of itself, unbounded.⁸⁷

‘The good’, according to Aquinas, is human happiness. Happiness, on this account, as Russell Pannier points out, “is understood as a mode of activity, rather than a

⁸⁴ As was highlighted in Chapter Three and the discussion of political and moral agency, obligation is ontological and responsible action is obligation actualized. Love thus represents the movement from reason to act. As will be demonstrated in Chapter Five, love links the idea of power, as becoming with commutative forms of justice which shape the political community which, when investigated in light of the works of the Salamanca Theologians shows can be viewed as an international moral obligation rooted in human nature, a point which is made in Anthony J. Lisska, *op. cit.*, 89-100.

⁸⁵ Jacques Maritain, *The Person and the Common Good* (Indiana: University of Notre Dame Press, 1966), 32.

⁸⁶ Germain Grisez and Russell Shaw, “Beyond the New Morality” *op. cit.*, 48.

⁸⁷ This account of the community reflected in the ends of ‘the good’ is unbounded. One ought to conceptualize it not in geographic and territorial terms associated with the state in International Relations. Instead, one ought to conceptualize the community in terms of degrees of interest which reflect the interests of the natural law agent. On this interpretation ‘the international’ is the largest degree of community possible and it is within this community that agents interact within pre-existing institutions in order to proliferate their notion of morality and justice. All of this will be elaborated in Chapter Five and the Epilogue.

state of emotion.”⁸⁸ It is an end reflected in the twofold distinction of natural law agency. “Every human action is aimed, directly or indirectly, at the attainment or preservation of some one good which the agent believes will perfect him as a human being,” writes Porter, “that is, render him happy; and there is in fact, one end, and one end only, in which human happiness truly can be found.”⁸⁹ Ralph McInerny’s account of human action builds on this particular thought. “When Aquinas speaks of every human agent necessarily seeking the same ultimate end, he means that each and every human agent does good, that is, fulfilling of the kind of agent he is, a human agent,” he writes. “The notion of the human good is implicit in any human action.”⁹⁰ Consequently, the structure of the community is of direct importance for the development of the individual. It sustains the necessary freedom required of particular agency facilitating simultaneously the unifying structures of general agency evidenced in the institutionalization of a relational ontology. On this account the laws of the community coordinate being in common synthesizing particular and communal needs, aware always of the ends of natural law morality.⁹¹

⁸⁸ Russell Pannier “Aquinas on the Ultimate End of Human Existence” *Logos: A Journal of Catholic Philosophical Thought* 3, no. 4 (2000): 184.

⁸⁹ Jean Porter, “The Recovery of Virtue” *op. cit.*, 72.

⁹⁰ Ralph McInerny, “Ethics” *op. cit.*, 200 & 201.

⁹¹ The notion of freedom, within the writings of Aquinas, is not without its difficulties. He maintains that all individuals are free, that is to say, they determine their proper course of action and proceed according to the directives of the will. Yet, the will is a direct result of the divine and all powerful knowledge of God. Thus, the question begs to be asked, is any individual, divinely created, actually free, or, are their actions predicated on the knowledge and will of God? It is with this in mind that John F. Wippel, *Metaphysical Themes in Thomas Aquinas: Studies in Philosophy and the History of Philosophy, Volume 10* (Washington D.C.: The Catholic University of America Press, 1984), 256, writes; “To the extent that divine knowledge causes creatures and, more important for our purposes, the actions of creatures, the problem of safeguarding a place for free creaturely activity becomes more complex. Yet, as he further reminds the reader, the Divine being is both a principle and secondary causal agent and the will of the individual acts as an intermediate between the self-mover and God. Thus, while the creation of an act requires an agent, the agent can be God itself or one step removed and a secondary agent, such as a divinely created creature possessing an intellect and will. However, at this point another problem presents itself. If God is the creator of the will, does God not, indirectly still control the actions and motivations of the will? The short answer is, yes, of course; however, this is not a problem. All individuals possess a teleological drive

Contemporary political interpretations of ‘the good’ are connected to the idea of human well-being and development which, in light of the over-arching theme of human suffering motivating this work, are particularly relevant. Further developing this idea of integral human fulfillment is an account of ‘the good’, emphasizing the natural equality in the actuality of being. At the most basic of levels, this account of ‘the good’ is rooted in the first principles combining theoretical and practical knowledge. “Necessarily and naturally we desire a happiness that is absolute: happiness by virtue of a desire which is unconditional and connatural, or tending toward something required by the capacities of our being,” writes Martian, “absolute happiness, by virtue of a desire which is conditional and transnatural, tending toward something superior to our natural limitations and concerning the constitution of which, consequently, nature cannot possess the idea.”⁹² Reliant on the relationship of nature and grace, ‘the good’ in its original form, in and of itself is teleological; it is dynamic and fluid, increasing in complexity as the knowledge sustaining the actions and interactions of the agent develops. A functional account of ‘the good’, namely, integral human fulfillment, is represented in the developmental potential of every agent. Consequently, this account of ‘the good’ is necessarily related to an understanding of human capacities and capabilities and the particular requirements

tending them towards the ultimate good and the desire one possesses to fulfill this drive is natural and possessed by all creatures in a natural environment. Within the scholastic tradition, one’s teleology revolves around the notion of beatitude, the ultimate happiness, which is union with God. Thus, God serves as a motivating agent of the will in that God, and knowledge and union with him, is, in actual fact, the end towards individuals freely strive towards. As Wippel further points out, in a. 4 of q. 105 of the *Summa Theologiae*, Aquinas argues that God can move the human will by serving as its object (and hence as its final cause) in that God alone is the universal good capable of moving man’s will both sufficiently and efficaciously, p. 256. Thus to understand God as having removed the freedom of the individual in acting towards the ultimate good is to misunderstand the ultimate good as conceived by Aquinas and the derived scholastic tradition. The absolute divine knowledge possessed by God does not remove the freedom and self-determination of the individual, but rather fosters the drive, latent within the will of the individual to fulfill her telos, thereby fostering a healthy idea of human flourishing and well-being.

⁹² Jacques Martian, *Scholasticism and Politics*, translated by Mortimer J. Adler (London: Geoffrey Bles, The Centenary Press, 1940), 121.

of community.⁹³ Individuals function as key agents of justice generating this particular information working within the institutional patterns of the community gaining a working knowledge of others. Reflecting the ends of natural law morality agents influence and alter political structures in light of this information aware of the particular needs of others. Their own personal limitations are tempered by the coordinated efforts of others working within those self-same channels.

Jacques Maritain offers a contemporary vision of a natural law community encapsulated in his *Humanism of the Incarnation*. “A characteristic of the humanism, which I call integral, would be that, far from being limited to the elite, it would care for the masses, for their right to work and to a spiritual life, and for the movement which brings them, we may say to an historically full age,” he writes. “On the social significance of such a humanism, I will simply say that in my opinion it should assume the task of radically transforming the temporal order,” furthermore noting that this vision of community would be based around a “‘personalistic’ civilization and a ‘personalistic’ economy, through which would steam a temporal refraction of the truths of the Gospel.”⁹⁴ Working within the anthropological and metaphysical assumptions of Aquinas, Maritain highlights the personal, communal, pluralist, and Christian, tenets which shape his community. It is a vision of community which, as he writes, “recognizes justice and civic friendship as the essential foundation of that community of human persons which is political society.” Furthermore, he goes on to write, “it holds

⁹³ I am thinking at this point in particular of the idea elaborated on by Martha Nussbaum, *The Capabilities Approach*, which like the new natural lawyers offers a series of requirements that constitute the agent against which his or her development can be monitored. This approach is documented in a variety of her works, in particular; “Women and Human Development” *op. cit.*; “Capabilities and Human Rights” *op. cit.*; and finally, “Women and equality: The capabilities approach” *op. cit.*

⁹⁴ Jacques Maritain, “Scholasticism and Politics” *op. cit.*, 21 & 22.

also to the fundamental role of equality, not only the equality of nature, which is at the root, but the equality to be won as an offspring of justice and as a fruit of the common good flowing back over all.”⁹⁵ Maritain proffers a vision of the community sustaining the freedom of the agent pursuing his or her own needs as distinct individuals within the community. Moreover, he furthers the twofold distinction of first order absolutes and second order normative claims simultaneously providing an account of diversity and plurality within a relational institutional setting.

Communities, according to the natural law tradition, are integrally related to the values of freedom⁹⁶ and autonomy⁹⁷ articulated in the ontology of being. They represent a vision of diversity and plurality at odds with the ethical universalism traditionally associated with discourses of moral absolutes. Natural law communities are as diverse as the agents who constitute them. Consequently, one of the primary tenets of the natural

⁹⁵ Jacques Maritain, *The Rights of Man and Natural Law* (London: Geoffrey Bles: The Centenary Press, 1945), 24.

⁹⁶ Freedom, on this account, is a two-fold distinction. Drawing on the original ideas of Aquinas, it concerns itself with first, the *absence of constraint* and second, the *absence of necessitation*. This distinction is noted by Jacques Maritain’s “Scholasticism and Politics” *op. cit.*, 118. Freedom from constraint concerns itself with the freedom and autonomy of the individual and is intrinsically related to the casuistry of reasoning of the natural law individual. Whereas the absence of necessitation is more closely aligned with the theoretical conception of man and occupies the thoughts of philosophers and theologians, the absence of constraint concerns itself with the actualization of the individual as an epistemological agent. Yet it is also to note that two components, like much of Aquinas’s thought, can not be separated from each other. Working in communion with each other, they provides the means for the intellect to develop, the individual to acquire a knowledge of the world in which he or she is situated, and in so doing develop the habits and virtues of the prudent individual related to the ultimate ends of the happiness.

⁹⁷ It is important, in this instance, to distinguish between autonomy and sovereignty of the individual. This distinction relates to the ability of the individual, living within the community, to achieve his or her ultimate ends. As Jacques Maritain describes in “The Concept of Sovereignty” *The American Political Science Review* 44, no. 2 (June 1950): 352, it is important because it distinguishes between the individual as an isolated atomic unit, similar to liberal ideas of individuals and communities and provides the freedom to understand human beings in relationships. “It is therefore better to say of the people, as of the body politics, that they have a natural and inalienable right to full autonomy, that is, to comparatively supreme independence and power with regard to any part of the whole itself which is composed of them, and in order to have this very whole brought into existence and into activity,” he writes. “It would simply be nonsensical to conceive of the people as governing themselves *separately from themselves and from above themselves.*”

law community is the ideal of pluralism.⁹⁸ “To me this principles signifies that in order to avoid greater evils (which would be the ruin of the community’s peace and lead to the petrification – or even the disintegration – of consciences) the commonwealth could and should tolerate (to tolerate is not to approve) ways of worship more or less distant from the truth;” writes Maritain furthermore noting that, “in consequence the commonwealth would decide to accord to the various spiritual groups which live within it the juridical status which the city itself in its political wisdom adapts on the one hand to their condition and, to the general line of legislation leading towards the virtuous life, and to the prescriptions of the moral law, towards whose fulfillment in the fullest obtainable degree it should endeavor to direct this diversity of forms.”⁹⁹ Emphasizing reason and practice over technical processes, natural law, on this interpretation, is well suited to incorporate ethical plurality. Commenting on this particular attribute, John Haldane writes that natural law, “recognizes that life has departments, and thus that there are activity-specific values and virtues. On the other hand it sees that departments can only be viewed as such when seen as parts of a greater whole. That greater whole, is human life.”¹⁰⁰ It is these departments that reflect the diverse interests of the agent highlighting the multiple opportunities for human interaction. In this way an agent’s love disperses itself in a web-like fashion at odds with the algebraic modes of interaction. It provides multiple avenues of inclusion aware that the diversity within the agent must resonate

⁹⁸ The idea of pluralism elaborated on here is also of significance to ideas of world order which seek above all else, universal ends. Like the distinctions of practical reasoning distinguishing between primary absolutes and second order normative claims, it is pluralism, in and of itself safeguarding the equality of being in common while at the same time promoting the positive values of cultural pluralism at odds with universal notions of human thriving and well-being.

⁹⁹ Jacques Maritain, *True Humanism*, translated by M. R. Adamson, (London: Geoffrey Bles, The Centenary Press, 1938), 160 & 161.

¹⁰⁰ John Haldane, *op. cit.*, 35. He furthermore makes the point that this account is possible as value resides in nature which understands that each form has a variety of functions thus making it possible to provide an account of ethical pluralism that is, in and of itself, foundational.

within the community negating a sense of otherness. Consequently it sustains the requisite freedom for agents to develop as unique beings propelled towards the unifying act of mutual self-revelation.

Politics and political governance are, on this account, an art and not a science. “Because they answer to practical and contingent matters, government and legislation can never be deduced strictly from premises, nor legitimated absolutely by any philosophical or theological reason,” Lisa Sowle Cahill writes.¹⁰¹ In the same vein A.P. d’Entreves notes how politics is not a technical skill, capable of being learnt through the proper application of technique and an understanding of the rules. “It cannot and must not be measured solely by its achievements, by standards of efficiency and success. And the reason for this is that politics always imply a moral responsibility, a deliberation, a willing, a choice. They are not a purely pragmatic science,” he goes on to note, but rather, “deal with the choice of means, but the means are dependent on the end, and the end is a moral one. This end,” he concludes, “is the common good, an end which is higher in value than that of the individual and that of the family, and which constitutes the proper object of politics.”¹⁰² Politics, on this account are a decidedly personal endeavor, revolving around the agent’s capacity to reason. On this account politics represents the interfacing of moral values, blending, in the process, the distinction of public and private agency.

It ought to be clear that this conception of the community does not begin, nor justify its existence on notions of exclusivity. “Political communities endure because

¹⁰¹ Lisa Sowle Cahill, *Love Your Enemies: discipleship, Pacifism, and Just War Theory* (Minneapolis: Fortress Press, 1994), 84.

¹⁰² A.P. d’Entreves, *Aquinas: Selected Political Writings*, translated J.G. Dawson (Oxford: Basil Blackwell, 1959), xii.

they are exclusive, and most establish their peculiar identities by accentuating the differences between insider and aliens,” writes Linklater. “In the history of political community, distinctiveness has often been forged in war or in unifying struggles for national independence.”¹⁰³ As the opening section of this chapter demonstrated, the Salamanca Theologians contributed in their own unique way to moral tradition of natural law, extending a particular version of being human that denied, in the first instance, the boundaries of ‘us and them’ of ‘inside and outside’.¹⁰⁴ Espousing a discourse of equality rooted in the potential capacity and capabilities of agents the Scholastics further developed communities oriented around ‘the good’ recognizing ultimately that not only is ‘the good’. The natural equality they articulated reflected the capacity of one to recognize in another the desire and ability to know ‘the good’. It is this equality of being which underscores the relational ontology and the mutuality of being articulating an open ended conception of the community premised on the loving relationships of the individual as an agent of justice.¹⁰⁵

Love, on this interpretation of community, builds in importance developing the ontological sameness sustaining the relationships of agents. “Genuine community is formed by unselfish love which unites two or many persons. Those who share in community are one insofar as they love the same good; they are disposed together to a

¹⁰³ Andrew Linklater, “The Transformation of Political Community” *op. cit.*, 1 & 2.

¹⁰⁴ Tvetan Todorov, *The Conquest of America, The Question of the Other*, translated from the French by Richard Howard; forward by Anthony Pagden (Norman: University of Oklahoma Press, 1999), 247. His examination of ‘the other’ arising out of his investigation of the conquest of America, like Las Casas stems from an obligation to speak knowledge and understanding and our common failure to do this if we do not seek to better understand that which is baffling within a closed off and unknown community. “I believe in the necessity of ‘seeking the truth’ and in the obligation of making it known; I know that the function of information exists, and that the effect of information can be powerful,” he writes noting that “we remember what can happen if we do not succeed in discovering the other.”

¹⁰⁵ It is this notion of equality which sustains the necessary friendships needed to understand the order of charity linking love and friendship providing the necessary institutionalization in order to influence an interpersonal and transnational account of justice with which to temper the inequalities of international political structures. This justice, commutative justice, is elaborated on in detail in Chapter Five.

common fulfillment, writes Germain Grisez. “The one which is the real community is also many insofar as it fulfills its members in their diverse and complementary possibilities. In true community,” he further writes, “unity is not lessened by the ever-increasing uniqueness of the members, and their individuality is not compromised by the ever-growing solidarity of their common life. Both the uniqueness of each individual and the solidarity of all increases as the good loved in common is effectively desired, pursued, and enjoyed by each and all.”¹⁰⁶ Love, on this account, reflects the emergence of an ethics of action beyond the self-sufficiency similar to neo-Aristotelian and Virtue ethicists. “Let us add that if the ethics of St. Thomas is an ethics of beatitude, it is nevertheless something entirely different from an interested edumionism, because it is also an ethics of love.”¹⁰⁷ Blissfully unaware of the boundaries shaping contemporary politics, and the exclusivity of national identities, the natural law community brings agents one step closer to articulating an ethic of love. Rooted in the ontology of being this ethic represents the institutionalization of a relational ontology capable of achieving the requirements of commutative justice. This ethic is unbounded in its scope. It calls into question the dichotomy of domestic and international demonstrating the viability of international and transnational justice. Moreover, an ethic of love respects the unique diversity of each agent, reflected in the community safeguarding differences simultaneously unifying human action centered wholly on development and well-being.

Conclusion

This account of the political community is, on first glance seemingly domestic and not international. Scholars of international affairs are quick to distinguish between

¹⁰⁶ Germain Grisez, “The Way of the Lord Jesus” *op. cit.*, 577.

¹⁰⁷ Jacques Martian, “Scholasticism and Politics” *op. cit.*, 124.

the domestic and international realm noting how the former provides a legitimate authority and associated laws and institutions whereas the latter, offers no claim to legitimate political authority. Bearing this in mind, justice and obligation are firmly situated within the domestic realm and the task of establishing a feasible and reliable account of international justice, O'Neill notes, proves problematic.¹⁰⁸ Contrary to the arguments of cosmopolitans, as Jean Bethke Elshtain notes, the just existence of any single individual rests primarily on moral luck. "The reigning assumption is that all of us are persons who, through neither fault nor merit of our own, happen to be born within the boundaries of an impoverished country or a wealthy one. Justice, she writes, "consists in righting the balance between these cases."¹⁰⁹ The justice traditionally attributed to this task, however, is primarily economic, or distributive in its assumptions. Similar to the primacy of international sovereignty within International Relations, distributive justice, and the primacy of the state represent the dominant account, but not the sole account, of being political. The plural nature of the natural law community, alongside the equality of being of the Scholastic tradition of natural law provides an opportunity to envision an alternative conception of moral communities. The natural law community flies in the face of traditional boundaries of international affairs, and its associated discourses of justice and morality. The ensuing chapter reveals an account of justice which is simultaneously interpersonal and transnational reflecting the varying degrees of an ethic of love and the order of charity in the wider practices of international affairs.

The natural law community sustains another key feature of a pre-modern investigation of human suffering. Pluralism, conceptualized in light of the overarching

¹⁰⁸ Onora O'Neill "Bounded and Cosmopolitan Justice" *op. cit.*, 45-60.

¹⁰⁹ Jean Bethke Elshtain, "International Justice as Equal Regard and the Use of Force" *op. cit.*, 63.

assumption of human equality distinguishes this account from its contemporary cosmopolitan descendants. Human equality, for the Scholastics was unproblematic, for theirs was not a universal moral framework. Cosmopolitan frameworks situate human equality within a universal assumption of moral progress. Associated with the received view of Modernity, this universality reveals the particular problem of moral favoritism. A primary emphasis on relationships endorses a version of political communities at odds with the boundaries international politics. On this account, communities exist whenever two or more agents decide to engage with one another sharing common interests seeking moral knowledge. Relationships provide, in this instance, a means of furthering the necessary metaphysics and moral psychology necessary, as Maritain points out, incorporating a plethora of customs and norms contributing to the diversity of political life. In the first instance, the metaphysical knowledge supporting the mutuality of being is well placed to cultivate the necessary freedom and autonomy required for plural modes of existence. On the other hand, the moral psychology of the agent, is well situated to challenge the cognitive empiricism of the received view of Modernity. So understood, the universality sustaining a rational account of ethics, bounded justice and morality within the state is challenged articulating instead a more relative and unstructured account of international political action.

Universalism is a key feature of Modernity. It also evident in the political discourses of conquer, a point noted by Todorov.¹¹⁰ Investigating the actions of the Spanish Conquistadors, he demonstrates how the Spanish incursion into the New World, and the subsequent taming of the American Indians, demonstrates a particular role for language. In fact, his argument links knowledge and power in light of the ends of

¹¹⁰ Tzvetan Todorov, *op. cit.*

conquering. Distinguishing between two forms of language, inter-human dialogue and otherworldly communication, he notes how the Spanish Conquistadors excelled in the former. Inter-human dialogue provided the Spaniards with the requisite knowledge to understand the daily existence of the indigenous population. Moreover, it provided the necessary language and political skill to impose an alternative culture and way of life on an pre-existing culture. The imposition of the Spanish way of life on the Amerindians removed the mysticism and spirituality associated with the indigenous population fostering the assumptions of Christianity alongside the social and political culture of the Spaniards. On this account the Conquistadors were the primary vehicle with which to further the ends associated with the received view of modernity outside the domestic boundaries of Europe. Todorov further notes within his account of the conquest the particular lack of otherworldly discourses which would have been at odds with these self-same assumptions of certainty and absolutism. Unable to account for the larger role of the individual in the world, something which the spirituality of the American Indians excelled, Todorov concludes that while the Conquistador may have won the battle, they had in fact, lost the war. For with the onset of inter-human dialogue, associated with Modernity, a particular understanding of institutionalization emerged whereby difference was set aside in favor of procedural neutrality, human rights and liberty. The unique characteristics of individuals were set aside as the equality of being was interwoven with the assumptions of universal moral progress denying a particular role for relationships.

Building on this idea, Fred Dallmayr demonstrates how Todorov's work remains a valuable contribution to International Relations and democratic institutional design. He notes that inter-human dialogue is a key feature of the social contract tradition. In

particular, this form of dialogue sustains within liberal accounts of democracy, both domestic and international, a conception of neutrality and an emphasis on procedural governance. It is an approach sustaining homogenous governance masking the unique characteristics of individuals as human being. “Apart from pointing to continuing dangers of imperialism (cloaked today behind ‘one-world’ formulas), the story brings into view a tension or tensional opposition which is not merely accidental but has a basic or paradigmatic status,” he writes, “the opposition between the egalitarian universalism of modern Western culture and the array of particular ethnic cultures and religious traditions, that is, between a rationalized world view and indigenous worlds.”¹¹¹ The emerging trend towards international democratization within institutions points to a further international homogeneity similar to the original aims of the Spanish Conquistadors, highlighted by Todorov. Bearing this in mind, Dallmayr investigates the role of radical democracy theorists articulating the politics of difference with which to account for individual difference within contemporary societies. “In light of these and related experiences, a politics of difference is liable to be liberating and empowering by reclaiming cultural identities or ways of life ostracized or marginalized by the dominant culture,” writes Dallmayr.¹¹² Individuals, on this account, remain firmly embedded within the distinctive group all the while participating in the larger political community. Echoing the ideas of Maritain, the politics of difference, according to Dallmayr, sustains a mode of being political in which individuals develop their personalities and individuals within and through the larger dominant community group. On this account both the dominant and minority group, and the individuals constituting its existence, co-exist

¹¹¹ Fred Dallmayr, *op. cit.*, 203.

¹¹² Fred Dallmayr, *op. cit.*, 209.

alongside one another. The politics of difference, like the Humanism of the Incarnation articulated by Maritain, require an acute understanding of freedom and autonomy facilitating plurality associated with an objective account of political engagement.

The morality of natural law not only provides an worthwhile account of freedom and autonomy, it does so in such a fashion as to evaluate those customs and norms acceptable within the community itself. As G. Scott Davis highlights, the morality of natural law provides a benchmark against which the propriety of social customs can be measured in light of the ultimate ends of human happiness.¹¹³ The authority of this account of natural law, ultimately rests, not on the governing authority of any political community but in the ability of the agents to reason, both individually and in common. It is the reasoning capacity of the agent institutionalizing communities of equal relationships. It flies in the face of contemporary aims of homogeneity, offering a particular interpretation of the ‘sameness of self’ respecting always the uniqueness of each and every agent. Beyond pluralism this account of the community paves the way for an account of justice, morality and obligation outwith a bounded conception of international affairs. As Anthony J. Lisska highlights, obligation, like morality and justice, is also rooted in human reason. “Practical reason pursues the goods which lead to human well-being. To do the opposite would be to act irrationally. Acting irrationally is opposed to the rational disposition central to the essence of the human person,” writes Lisska. “Furthermore, this is opposed to what we are as human beings. Hence, the ends which make up the human essence, determined by theoretical reason and pursued by practical reason, establish the obligatory actions for human beings.”¹¹⁴ On this account,

¹¹³ G. Scott Davis, “Conscience and Conquest” *op. cit.*, 482.

¹¹⁴ Anthony J. Lisska, *op. cit.*, 109.

the institutionalization of relationships is not only self-evident it is the primary responsibility of the agents. Relationships reveal themselves as the primary obligation of love.

Offering the beginnings of an objective account of being political emphasizing the equality and mutuality of being, relationships, and the ends of justice it is possible to articulate a form of morality flying in the faced of the bounded nature of contemporary justice. “Our time is urgently in need of political imagination and a readiness for experimentation (qualities that often are in short supply),” Dallmayr writes. “Clearly, to avoid the pitfalls of communalism as well as universality assimilation, new paths need to be explored on the levels of both institutional arrangements and of political reflection.”¹¹⁵

In light of cosmopolitanism’s association with the assumptions of the received view of Modernity, in particular its universal equality and morality, as well as the continued dominance of inter-human communication, to the detriment of otherworldly dialogue, the value of a pre-modern interpretation of human suffering increasingly grows in esteem. It articulates an alternative ontology with which to challenge the empiricism of contemporary subjective politics. Upon reflection, a renewed understanding of equality, in light of this conclusion, reveals the value of relativity with which to understand the needs and requirements of other similarly constituted agents. Moreover, a pre-modern framework with which to explore human suffering reveals an alternative understanding of individuals within the larger moral cosmology of being. Unlike contemporary approaches, the morality of natural law articulates a contextual development. Bearing this in mind, a pre-modern examination of human suffering is capable of moving beyond the moral favoritism neatly side-stepping the contemporary boundaries of the state. It

¹¹⁵ Fred Dallmayr, *op. cit.*, 218 & 219.

articulates a conception of justice focused on the common endeavors of moral agents to develop their natural equality in diverse and interesting ways. The benefits of a natural law casuistry lies in the freedom and autonomy it provides to agents to decide which life plan to follow within a moral taxonomy oriented by the morality of natural law reflected in the just structures of the moral community. In so doing it offers a vision of the community in which individuals commit to the ends of natural law morality and meets its obligations through the loving relationships of which they are a part. This community espouses the natural equality of all individuals as agents of justice providing a living example of faith rooted in the unity of human purpose emerging out of the unity of human purpose.

Chapter Five

Being Personal is 'Being Political':

Morality, Justice & the Ethics of Love

"We need a moral philosophy in which the concept of love, so rarely mentioned now by philosophers, can once again be made central."

Iris Murdoch,

Existentialists and Mystics: Writings on Philosophy and Literature

Introduction

This final chapter begins by way of a return to the pre-eminent problem of human suffering. The cosmopolitan approaches articulated in turn by Thomas Pogge, Andrew Linklater and Terry Nardin all reflect contemporary assumptions of morality and human dignity. By their very nature they are rooted in the cognitive epistemology related to the modern assumptions of moral philosophy articulating the universal nature of human equality, the ideal of human moral progress, and the idea of a global community uniting individuals in a common endeavor. Reflecting upon the particular role of positive and negative duties, each scholar articulates the need to alter the current structures of international affairs perpetuating on a daily basis, the grosser forms of human suffering. By way of contrast, this work offers a pre-modern account of human well-being articulating, and re-interpreting in turn the morality of natural law. In so doing, it has articulated a natural law account of agency, the natural law agent, and the natural law community offering, along the way, an objective account of 'being political'. Reflecting both the social and political nature of the agent, emphasizing above all else, a particular role for relationships shaping institutional design the feasibility of this particular interpretation remains to be seen.

Beyond cosmopolitan appeals to human suffering there exist alternative discourses highlighting a particular role for agents and relationships with which to counter suffering. Skeptical of the dominant classical liberalism order of the state feminist discourse highlight the capacity and capabilities of women, as agents, beyond the traditional domestic roles Modernity afforded them. “In confronting liberalism on its own terms, feminists have but two alternatives,” writes Ruhl, “they can either embrace a discourse of sameness, leaving the specific needs of women unmet and unaddressed, or they can endorse a discourse of difference, which itself always references and privileges the masculine self against which claims of difference are made.”¹ Distinguish themselves from contemporary mainstream debates feminist discourses hope to illustrate the restrictive nature of political structures on women and the detrimental affect they have on their daily lives. “Broadly speaking, *feminism* is a practical and intellectual dedication to the discovery and uprooting of ideologies, relationships, and institutions that thwart women’s flourishing and to the creation of new ideologies, relationships, and institutions that promote it,” writes Traina.² It is a point that is similarly noted by DeCrane who seeks to investigate the nature of women’s development and well-being from a Thomist perspective applying in the process a hermeneutical interpretation of his works.³ On this account, feminist discourses offer female agency as one recourse to human suffering. Representing a reaction to the atomic self, feminist ethics provide an alternative response to human suffering than that of moral cosmopolitans, and in so doing, provide an interesting avenue to enter into the realm of institutional design. An investigation into

¹ Lealle Ruhl, “Natural Governance and the Governance of Nature” *Feminist Review* 66 (Autumn): 6 & 7.

² Cristina L. H. Traina, *Feminist Ethics and Natural law: The End of the Anathemas* (Washington, D.C.: Georgetown University Press, 1999), 25.

³ Susanne M. DeCrane, *op. cit.*

the development of care ethics, and the wider relationship feminist ethics shares with international affairs, reveals a remarkable epistemological, ontological and methodological similarity to natural law. Consequently, the inroads of feminist agency in the domestic state add legitimacy to the possibility of alternative institutional purposes to the state and the practices of international affairs more generally.

Bearing this in mind, the relationship of feminist ethics and natural law, can, at first, prove quite a shock. As Lealle Ruhl points out, “it is worth remembering that natural law arguments have not historically served women’s interests well. They have far more often been used to curtail women’s freedom than to protect it.”⁴ Indeed, the patriarchal dominance within the historical and contemporary morality of natural law denies a particularly positive role to women. “In the past, the moral priority assigned to men’s interests was often justified by philosophical denials that women were as fully or perfectly human as men, and especially claims that they were less rational than men,” writes Jagger. “Aristotle, Aquinas, Rousseau, Kant, Hegel, and Nietzsche all argued that women should serve and please men, since their capacity for reason was different from and inferior to men’s.”⁵ Bearing this in mind, as feminist scholars have sought to re-interpret the morality of natural law, they have done so in such a fashion highlighting not only the needs of women, but of the constitutive members of the moral community, men and women alike. To that end, the inclusive nature of natural law morality articulated throughout this work, revolving around a particular understanding of human equality ought to appeal not only to feminist ethics, but to any ethic interested in human flourishing and agency directed towards that end.

⁴ Lealle Ruhl, *op. cit.*, 21.

⁵ Alison M. Jagger, “Ethics Naturalized: Feminism’s Contribution to Moral Epistemology” *Metaphilosophy* 31, no. 5 (October 2002): 454.

This chapter opens with a foray into the ethics of care demonstrating the value of relationships within an account of moral institutional design. In so doing, it articulates the particular relationship of natural law and feminist ethics. Bearing all of this in mind is to note however, that care ethics ultimately, are but one way of interpreting the relationship of morality and human suffering. In seeking to further develop an objective account of politics, and in so doing reveal the full value of pre-modern assumptions with regard to contemporary suffering, this final chapter distinguishes itself from care ethics offering instead an interpretation of *philia* and *agape* with which to develop an ethic of love. Building on the equality of being established in Chapter Four, it demonstrates how the idea of love, within natural law, is intrinsically related to interpersonal and intrastate relationships offering not only a personal morality and ethics, but also an ethic structuring the moral community. Distinguishing itself from classical interpretations of proportional justice the relationship of love, justice and morality represent ‘the personal’. A mode of being political challenging the traditional boundaries of international affairs, ‘the personal’ challenges the ongoing problems of moral favoritism in light of the global problem of human suffering.

Morality and justice, rooted in an ontological equality of being, articulate an ethic of love all of which cumulatively represents an objective account of politics. This account of ‘being political’ is premised on practical reason. It demonstrates how human action challenges contemporary political structures simultaneously challenging the idea of private and public spheres of ethics. It reflects, above all else, an emphasis on relationships sustaining the developmental potential of the individual and the community. Agency, on this account is rooted in the idea of ‘becoming’ reflecting an alternative idea

of power, related to a commutative understanding of justice. Politics, on this account, is decidedly personal, incorporating the emotions and passions of the agent challenging the boundaries of ‘us and them’ of ‘inside and outside’ associated with the Westphalian account of sovereignty and international affairs. It is indicative of an unbounded conception of ‘the good’ sustaining intrapersonal, international, and intranational accounts of justice which are one and the same. Bearing this in mind, the ensuing chapter seeks to illustrate the viability of relationships proffering just political structures in line with the ends of human well-being and development. Moving beyond an ethic of care, articulating instead an ethic of love, this chapter culminates in the presentation of ‘the personal’ revealing in its entirety the tenets of a pre-modern account of natural law, in light of the particular problem of human suffering. Labeled ‘the personal’ this account of being political utilizes the ethic of love in order to mediate the Aristotelian notion of civic friendship demonstrating the institutionalization of charity within ‘the international’. In so doing it seeks to move beyond the traditional challenges of care ethics demonstrating the influential nature of charity with regards to justice. The end result of this institutional endeavor reflects a commutative account of justice endorsing a relational account of international relations which respects the mutuality of being and the diversity of each individual situated within a moral community in order to demonstrate the plausibility of the morality of natural law within International Relations.

Part I: Care Ethics & International Relations

As recounted in Chapter One, Joan C. Tronto, argues that contemporary political boundaries are rooted in Hobbesian assumptions of power and authority.⁶ Sustaining a

⁶ Joan C. Tronto, *op.cit.*,

pragmatic society and morality, these assumptions endorse a 'politics first' approach to political activity unaware of moral and ethical deliberations. Consequently, the capacity and capability of agents to develop their own natural potential, and the potential of others, is severely limited. This interpretation of political engagement is scientific articulating a process limiting insecurity and anarchy. Agency, on this account, is uninformed by the emotions and passions of the agent affecting a particular understanding of international civil society and agency therein. On the other hand, one can distinguish, as Tronto points out, a morality first approach premising moral reflection and action above power politics. This approach has systematically been situated outside the mainstream of high power politics. Incorporating the practical deliberations of moral agents, this approach she demonstrates was conceptually at odds with the particular ends of Modernity in its received view.⁷

Feminist ethics offer a resounding critique of the politics first approach to governance challenging the boundaries of public and private informing the practice of politics. Within feminist scholarship there exist a variety of ethical interpretations. Similar to the rights bearing subject investigated at length in Chapters One and Three, liberal feminists such as Susan Parsons and Judith Webb Kay highlight dignity and humanity within their interpretations of politics, aware of how traditional conceptions of human rights marginalize women's experiences. Articulating a healthy skepticism for politics in general and the assumptions sustaining its practice, social constructivists challenge the traditional association of rationality with public politics and the limitations of moral reasoning. Emphasizing context, norms and ideals, this approach questions previously accepted accounts of politics querying their validity as well as their ends in

⁷ Alison M. Jaggar, *op. cit.*, 55.

light of women's experiences. Social constructivism, however, fails to account for any relationship of justice and well-being, its value laying solely in its skepticism. Finally, feminist naturalism examines 'the natural' informing politics, and in particular, the potential contributions that female agents can offer its practice. "Biological naturalism maps the functioning of bodies and societies (preferably purified of all cultural and especially technological interventions) onto moral norms, extrapolating moral commands from physical and social givens," writes Traina.⁸ Two different streams emerge within a natural approach to feminist discourse, one emphasizing the biological tendencies of women, the other adopting a distinctly teleological anthropology framing feminist agency. It is within this particular stream of feminist ethics that one begins to see a particular relationship of natural law and feminist ethics.

Feminist naturalism articulates a continuous exchange between epistemology and natural sciences. It emphasizes human experience and human practice as a means to understand the social world. "The naturalistic element of feminist naturalism is expressed in its concern for empirical adequacy in general, but its feminist aspect lies in the special focus of that concern, writes Jagger. "Because of its resistance to the devaluation of women and the feminine, feminist naturalism seeks moral understandings that reveal rather than obscure empirical inequalities related to gender."⁹ Biological naturalism has been the pre-eminent representation of feminist naturalism. Highlighting biological, as opposed to the teleological components of agency, it seeks to challenge the ethical rationality associated with the original ends of Modernity. "For feminists, the appeal of naturalism may rest on their rejection of this historical denigration of things

⁸ Cristina L. H. Traina, *op.cit.*, 29.

⁹ Alison M. Jagger, *op. cit.*, 458

female, writes Held. “The body, emotion, embodiment, the natural, and nature, have all been associated with the feminine in different ways in different periods, and have been seen as inferior to a mind, reason, and truth seen as separable from such female naturalness.”¹⁰ In light of the oppression endured by women by theological traditions, it is not surprising that biology and not teleology features so prominently within the discourse. Bearing this in mind, feminist naturalism highlights the capacities and capabilities that distinguish men from women focusing in particular on gender differences. In particular, one can see evidence of this idea in the works of Carol Gilligan who claimed to have discovered, in her female subjects, a mode of practical reasoning at odds with traditional accounts of rational activity. On her account, the biological capacities of women reveal a moral predisposition to care.

Care ethics begins with feminist scholars articulating an account of justice supporting female agency. Emphasizing, in the first instance, the maternal relationships typical of the domestic environment associated with the particular role of women, care offers an alternative to more traditional understandings of responsible political action. Carol Gilligan’s *In a Different Voice*¹¹ first articulated the idea that women reason differently from their male counterparts, taking account of seemingly irrelevant and previously unaccounted for, factors in ethical deliberations. *Contra* the dominant ideas of a male, power dominated discourse, Gilligan argues that the reasoning process of her female subjects reveals an interest in and an accounting of the contextual and situational factors when making decisions. With this in mind Gilligan offers an alternative

¹⁰ Virginia Held, “Moral Subjects: The Natural and the Normative” *Proceedings and Addresses of the American Philosophical Association* 76, no. 2 (November 2002): 7.

¹¹ Carol Gilligan, *In a different voice: psychological theory and women’s development* (Cambridge, Massachusetts: Harvard University Press, 1982).

methodology to the rational and subjective agent and its associated consequentialist deliberations. Articulating the idea that women, due to their vary nature, are caring individuals, Gilligan further developed the maternal notion of caring elaborated on by Sara Ruddick¹² and Nel Noddings¹³. She distinguishes a rights/justice approach to ethics and a responsibility/relational approach to morality arguing that these two traditions are incompatible, the former associated with a politics first, and the latter with a morality first approach to ethical reasoning. “Ultimately, Gilligan’s tendency to oppose justice and care as fundamentally different moral perspectives which are –at best- described as ‘complementary’ seems to reflect a deeply felt tension between the rational values which are thought to underlie justice,” writes Komter, “and the affective origins assumed to be characteristic of care.”¹⁴ Feminists have built on this idea of care. Whilst some scholars remain true to the distinction first articulated by Gillians, others have sought to integrate the approaches providing both a normative and practical account of care, highlighting the possibilities of caring agency.

Conceptually, care implies an engagement. It begins with the recognition of a need and the idea that a degree of action is required to meet it. Joan C. Tronto and Berenice Fisher define care as “a species of activity that includes everything we do to maintain, continue, and repair our ‘world’ so that we can live in it as well as possible.”¹⁵ They identify four components, or phases, of care- caring about, taking care of, care-

¹² Sara Ruddick, *Maternal thinking: towards a politics of peace* (London: Women’s Press, 1990).

¹³ Nel Noddings, *Caring, A Feminine Approach to Ethics & Moral Education* (Berkeley: University of California Press, 1984).

¹⁴ Aafke E. Komter, “Justice, Friendship and Care: Aristotle and Gilligan – Two of a Kind?” *European Journal of Women’s Studies* 2, 151 (1995): 163.

¹⁵ Berenice Fisher and Joan C. Tronto, “Toward a Feminist Theory of Care,” in *Circles of Care: Work and Identity in Women’s Lives* eds. Emily Abel and Margaret Nelson, 40 (Albany, NY: State University of New York Press, 1991).

giving, and care receiving.¹⁶ Virginia Held writes that in order to clarify what care is and means it ought to be viewed in terms of caring relations. “Care is a practice involving the work of care-giving and the standards by which the practices of care can be evaluated,” she writes. “Care must concern itself with the effectiveness of its efforts to meet needs, but also with the motives with which care is provided.”¹⁷ Similarly, Fiona Robinson understands care as a practice, and not, rules and principles highlighting the relational ontology that goes on to support such an ethic.¹⁸ Care, these definitions reveal, is both a value and a practice. As a practice, care, writes Virginia Held, “shows us how to respond to needs and why we should. It builds trust and mutual concern and connectedness between persons.”¹⁹ As a value, care provides the means of evaluating the attitudes and practices within a care ethic highlighting the centrality of equality, nurturance and mutuality, shaping the relationships of the care giver and care receiver.²⁰ Joan C. Tronto adds to these values a role for responsibility and compassion as individuals seek to meet the needs of others within a caring environment.²¹ Actively caring for another is a twofold endeavor. It requires an orientation and disposition towards caring sufficiently motivating agents, and the capacity and capability to care for others. In the same vein, to be cared for, requires a disposition open to the ends of care. In other words, care, above all else, requires of the agent to listen, assess the needs of others and act accordingly. In light of this fact, Traina argues that care embodies the principles of casuistry.²²

¹⁶ Joan C. Tronto, *op. cit.*, 105 & 106.

¹⁷ Virginia Held, *The Ethics of Care* (Oxford: Oxford University Press, 2006), 36.

¹⁸ Fiona Robinson, *op. cit.*, 38 & 39.

¹⁹ Virginia Held, “The Ethics of Care” *op. cit.*, 42.

²⁰ Virginia Held, “The Ethics of Care” *op. cit.*, 64.

²¹ Joan C. Tronto, *op. cit.*, 3.

²² Cristina L. H. Traina, *op. cit.* 143. On this account, care ethics is agent centric, displaying a remarkable series of methodological similarities to casuistry. “In a way that recalls casuistry,” writes Traina, “care reasoning tends to preserve relationships by altering principles and descriptions rather than to ensure

Fiona Robinson's work *Globalizing Care: Ethics, Feminist Theory, and International Relations*,²³ accounts for an ethic of care in International Relations. Transcending the static nature of international affairs employing the values of mutuality, relationality, partiality, responsiveness, and responsibility her institutional design challenges the contemporary problems of human suffering simultaneously envisioning an ethical approach to international affairs. Eliciting a phenomenological approach to ethics, centered on the contextual environment within which relationships develop she writes that "an ethics of care must, in the context of social and political relations, seek to uncover the relationships which exist among and within groups, while at the same time, maintaining a critical stance towards those relations." Furthermore noting that "care ethics involves learning how to listen and be attentive and responsive to the needs and suffering of others. This, in turn, involves a thorough understanding of how relations are constructed and how difference is perceived and maintained through institutions and structures in societies."²⁴ On this account, identities, relationships, and context influence social co-ordination and cooperation determining the response of the more powerful care-giver respectful of the vulnerabilities of the care-receiver. The responsibility to develop trust, and protect the autonomy of each agent is, on this interpretation, mutual. This particular approach to ethics and international affairs, according to Robinson, "would focus instead on the continuous background of interpersonal and social contexts in which all human relations occur, offering us a better starting point for thinking about the claims,

mathematical quality by adhering to these principles and descriptions, and it often refuses to limit itself to a simple yes or no response when faced with a dilemma."

²³ Fiona Robinson, *op. cit.*

²⁴ Fiona Robinson, *op. cit.*, 30.

entitlements, needs, interests, and dignity of persons.”²⁵ Endorsing a proactive account of political engagement Robinson proffers a vision of politics transcending the tensions of sovereignty and human well-being evinced in contemporary approaches to world order. The appeal of a phenomenological approach articulated by Fiona Robinson rests in the sustained action of individuals transcending state boundaries, similar to the community endeavors of Andrew Linklater and Richard Shapcott; however, relying ultimately on the power of language, she like others before her, remains captured by the distinction of domestic and international communities and is unable to offer a suitable alternative to distributive justice.

Care ethics, to date, remain challenged by the innate domesticity of their origins. Bearing this in mind, a variety of scholars have articulated different means of overcoming this particular challenge. Grace Clement endeavors to widen the grasp of care situating it alongside the liberal idea of international justice. Aware of the hierarchy of a male-dominated account of a justice ethic, and a traditionally female account of a care ethic, she postulates that when interwoven and viewed alongside one another a plausible account of the ethics of reasonableness emerges. “In general, I argue that the conflicts between care and justice orientations need not lead us to accept one at the expense of the other; indeed, these conflicts can help us distinguish between better and worse versions of each ethic,” she writes. “Most importantly, they allow us to construct a genuinely feminist ethic of care.”²⁶ In a similar fashion, Marilyn Friedman investigates the impartiality of traditional notions of justice alongside the partiality of care discourses. Noting both the criticisms and proponents of both approaches, she articulates instead,

²⁵ Fiona Robinson, *op. cit.*, 31.

²⁶ Grace Clement, *Care, Autonomy, and Justice, Feminism and the Ethic of Care* (Boulder, Colorado: Westview Press, 1996), 7.

similar to Grace Clement, an integrationist approach. “Can a primary commitment to abstract principles and values be integrated with a primary commitment to particular persons or are we necessarily doomed to a forced choice between them? On this issue, as on the question of whether care and justice are necessarily distinct, my approach is integrationist,” she writes. “One possible sort of integration between person-based and abstract moral commitments is to seek intimate, responsive, and committed relationships with people we know well enough to be reliably familiar with their needs, desires, beliefs, and so on and to settle for abstract, rule-based, equal respect toward the vast numbers of others we cannot know in any particularity.”²⁷ This particular interpretation, like Clement blends a rational account of ethics with the more particular ends of caring. Justice consequently is functional limiting the ends of agency limited to a pragmatic conception of morality. Care ethics, on these interpretations, is at odds with the casuistry of natural law limiting the potential for individual agency in a relational institutionalized setting.

Feminist accounts of morality, on the other hand, investigate the assumptions offered by natural law in order to overcome the parochial challenge of care. Both care ethics and natural law display a concern for the particular and emphasize above all else, the relational nature of human development. “Natural law and feminist ethics share a concern for an implicit or explicit theory of value (in this case, a normative description of flourishing) and a method (a technique for analyzing concrete states of affairs and for deciding how and when to pursue particular, sometimes conflicting, incarnations of flourishing),” writes Traina. “Indispensable here is a means of knitting together

²⁷ Marilyn Friedman, *What are Friends For? Feminist Perspectives on Personal Relations and Moral Theory* (Ithica, N.Y.: Cornell University Press, 1993), 138.

standards for systematic, *social* justice—for instance, for political and economic structures that justly account for women’s particular needs as bearers of children—with probing discussions of *individual* moral integrity and accountability.”²⁸ The mutuality of these assumptions, alongside the universal ends of natural law, so the argument goes, provide the necessary means to overcome the parochial problem of distance articulating a normative care agenda. “Care ethics and natural law theory share a number of important similarities. Both emphasize the inherently social nature of human beings and view the most basic intimate relationships between individuals, such as parent-child relationships and friendship, as the model for theories of justice,” Engster writes. “Both likewise suggest that just relationships among people require attention to the particular needs, concerns, and characteristics of concrete individuals, and as such, endorses a practical and situational moralities.”²⁹ Care ethics, so interpreted, represents an account of morality at odds with modern rationality. It offers not rules and procedures but rather, articulates an approach that reflects the personality and individuality of the agent in question.

Daniel Engster provides an argument for an overarching political theory of care systematically joining the idea of care ethics with the tradition of natural law. She investigates two different natural law approaches, that of John Finnis and the new natural lawyers as well as the ideas of Martha Nussbaum and her Capabilities Approach. Noting the problem of ontology investigated throughout this work she seeks to account for its loss through a particular re-reading of human rights discounting the necessity of teleology. “Natural law theories appear almost necessarily to rely upon metaphysical

²⁸ Cristina L. H. Traina, *op. cit.*, 12.

²⁹ Daniel Engster, “Care Ethics and Natural Law Theory: Toward an Institutional Political Theory of Caring” *The Journal of Politics* 66, no. 1 (February 2004): 122 & 123.

notions of human nature and moral obligation,” she writes. “An alternative, immanent ground for these theories can be found, however, in the intersubjective accounts of human existence developed by care theorists.”³⁰ Relying on a three-fold distinction of rights, those relating to development and dependency work, traditional political and economic rights, and finally, the right of political participation, she fails to incorporate the required ontology sustaining the agency required of both care ethics and the morality of natural law. Relying on Finnis’s interpretation of natural law, this synthesis of care and natural law falls prey to the self-same problem of the new natural law identified in Chapter Two. In the absence of the teleology of being, care ethics, like that interpretation offered by Clement and Friedman, remains a rational account of ethics failing to account for the equality of being necessary to challenge the boundaries and restrictions of contemporary justice relations. Bearing this in mind, the ideas of Traina further reveal their value. As the ensuing section of this work demonstrates human non-instrumental relationships offer a glimpse of political relations at odds with relationships of power, conflict and anarchy evident within traditional accounts of International Relations. Building on the personal ethic of love previously highlighted, the ensuing section goes beyond the current ends of care ethics articulating friendship, charity and a commutative account of justice in order to demonstrate the value of a relational ontology championing the moral ends of well-being and development.

Part II: Philia, Agape & Justice Relationships

Returning once again to the theme of Modernity, interpreted in its received view, is to note the distinct differences of a modern and pre-modern account of the community.

³⁰ Daniel Engster, *op. cit.*, 128.

Commenting on the influence of modern economics Ray Pahl notes the contemporary fascination with negative liberty and reciprocal disinterest. “The old comradely world of friends and neighbors of ‘traditional society’ was being replaced,” he writes, “so it was commonly asserted by the anonymous competitive individualism of capitalist market society.”³¹ The ideal of isolation and reciprocal disinterest are also noted by Konstan. “The qualities of disinterestedness and intimacy are peculiar to modern friendship, then, because individuals bonds now occupy the space freed up by the emergence of the economic spheres governed by market relations,” he writes.³² These ideas are nicely summarized by King who notes, in the language of the Ancients themselves, isolation and the amorality it breeds represent, like the American Indians and the conquistadors, yet another interpretation of barbarism. “Modernity, so far from representing civilization, would appear – at least from an ancient perspective – to represent a new barbarism. Modernity is nervous in the face of self revelation,” he writes. “Thus the probing Other comes to be represented more as peril than prospective ally. Promoters of self-enclosure, we fear self-disclosure.”³³ King, along with Smith reflect on the relevance of civic friendship in light of this distinction concluding that friendship provides an interesting and valuable framework with which to investigate contemporary political interactions.³⁴ What Ancient communities understood, and what is lacking from contemporary political societies, is the knowledge of self-revelation. This point is well captured by King. “Intimate, personal friendship was widely promoted as vital in part simply because, in the

³¹ Ray Pahl, *On Friendship* (Cambridge: Polity Press, 2000), 45 & 46.

³² David Konstan, *Friendship in the Classical World* (Cambridge: Cambridge University Press, 1997), 5.

³³ Preston King, “Friendship in Politics” *Critical Review of International Social and Political Philosophy* 10, no. 2 (June 2007): 129.

³⁴ Preston King & Graham M. Smith, “Introduction” *Critical Review of International Social and Political Philosophy* 10, no. 2 (June 2007): 117-123.

circumstances described it was genuinely possible, and enjoyable and profitable. One could no more do without the loyalty of family and friends than, most of us can do without a pension or state-funded education now,” he writes. “Friends worth the name require a great deal in the way of time and attention. But moderns either do not have the time, or do not take it,” he points out. “They fall back upon their washing machines, dishwashers, cars, banks, telephones. But such means they are well able to divorce the practicalities of self-maintenance from intimacy and to insulate such intimates as they have from one another.”³⁵ Care ethics represents one attempt to regain this particular intimacy in the wider practice of politics emphasizing as it does familial relations with which to understand morality and justice. Ultimately this account of politics remains captured by the structures which it seeks to criticize and fails to elaborate on an alternative account of justice. The vision of agape love first articulated in the second chapter of this work provides an alternative starting point to that of care ethics with which to elaborate on an alternative account of relational politics and in so doing demonstrates how love and charity provide a mediated version of civic friendship with which to understand the wider aims and ends of moral agency.

Love in the most general form, orients one towards the good. “Love belongs to the appetitive power which is a passive faculty. Wherefore its object stands in relation to it as the cause of its movement or act. Therefore the cause of love must needs be love’s object,” writes Aquinas. “Now the proper object of love is the good; because, as stated above (26, 1,2), love implies a certain connaturalness or complacency of the lover for the thing beloved, and to everything, that thing is a good, which is akin and proportionate to

³⁵ Preston King, “Friendship in Politics” *op. cit.*, 129.

it. It follows, therefore, that good is the proper cause of love.³⁶ Love, on this account, is related to the ends of being human. At first this love takes the form of self love, as individuals develop their natural potential. “In this teleological view all beings by their God-given natures seek their own good,” Stephen Pope writes. “It is an inescapable fact of human nature that the self is its own object of natural love.”³⁷ Furthermore he notes that the teleology of the natural law agent “gives rise to a profoundly complementary view of the relations between self- and other love.”³⁸ The mutuality of being evident in the previously articulated relational ontology tempers the selfish nature of self-love with an awareness of the beloved, or other. “For the very fact that two men are alike, having, as it were, one form, makes them to be, in a manner, one in that form: thus two men are one thing in the species of humanity,” Aquinas writes. Furthermore, “the affections of one tend to the other, as being one with him; and he wishes good to him as to himself.”³⁹ Love, so understood, represents the original bond of being human, in common. It represents the primordial obligations of the natural law agent to recognize the good in others and seek its development. In this way, both the ‘I’ and ‘You’, the loved and the beloved develop reflect the natural equality of being sustaining the capacities and capabilities of each and every individual.

This love is agape love. As the primary obligation of agents it explains both the selfish desire evident in the moral potential of all individuals tempered by an understanding the selfless abilities of the agent. In this way the interpretation of agape love offered by Gene Outka goes a long way to explaining the steadfastness and general

³⁶ Thomas Aquinas, “Summa Theologica” *op. cit.*, II-II, q. 27, a. 1.

³⁷ Stephen Pope, “Expressive Individualism and True Self-Love: A Thomistic Perspective” *The Journal of Religion* 71, no. 3 (July 1991): 387.

³⁸ Stephen Pope, “Expressive Individualism and True Self-Love” *op. cit.*, 398.

³⁹ Thomas Aquinas, “Summa Theologica” *op. cit.*, II-II, q. 27, a. 3.

nature of agape love rooted in the natural equality of all individuals. His interpretation of agape focuses, in the first instance, on neighborly love, and not the self-love of contemporary political engagements. “The normative content most often accorded to agape as neighbor-love may be state in summary fashion as follows,” he writes. “Agape is a regard for the neighbor which in crucial respects is independent and unalterable. To these features there is a corollary: the regard is for every person qua human existent, to be distinguished from those special traits, actions, etc, which distinguish particular personalities from each other.”⁴⁰ Love of this sort is motivated not by the particular characteristics sustaining the individuality and personality of the particular person. Rather, agape love is attracted to the ability of individuals, as agents of justice, noting the equal capacity to know the good and the capability to act towards its ends. Individuals, as agents of justice, are motivated to love due to the inherent natural equality associated with being human.

Yet the value of a natural law interpretation of love rests in its ability to overcome the parochial problem attributed to care ethics. Agape love, as Cima and Schubeck demonstrate, is “the inner spirit of love”.⁴¹ Agape accounts for the first instances of self-love and the basic motivations to love another, recognizing in another the natural law equality of ‘the good’. Consequently a love ethic distinguishes itself from contemporary ethical discourses. It is outward looking and sees in another the motivation to act. This differentiates a natural law ethic from cosmopolitan scholars who, drawing

⁴⁰ Outka, *Agape: An Ethical Analysis* (New Haven, London: Yale University Press, 1972), 9.

⁴¹ Lawrence R. Cima & Thomas L. Schubeck “Self-Interest, Love and Economic Justice: A Dialogue Between Classical Economic Liberalism and Catholic Social Teaching” *Journal of Business Ethics* Vol. 30 (2001): 213-231.

on the works of Immanuel Kant, look inwards to understand moral obligation.⁴² It is this inward orientation which ultimately challenges cosmopolitan investigations of harm. The predispose agent articulated in the works of Pogge, Linklater and Nardin all reflect an understanding in which the good of one is similarly the good of another and fails to provide an understanding of the differences sustained in the particular personality and characteristics of the agent within the community. In the same vein, this outward orientation distinguishes the methodology and epistemology of natural law from scholars who draw on the works of Habermas and his notions of communicative action providing an account of discourse ethics. For Habermas and his followers, one overcomes the problems of rationality associated with modernity through conversations, yet, like those philosophers of the enlightenment which he seeks to criticize, Habermas too adopts a similar inward orientation.⁴³ This interpretation of agape love is, however, an individual ethic and reflects the actions of interactions of the individual at the most intimate level of the community. Only when an ethic of love proliferates beyond the close community into the wider interests of the agent and those outward relationships can love influence the wider practices of politics and overcome the traditional challenges associated with care ethics. In order to achieve this end natural law scholars highlight the preeminent virtue of charity. Charity reflects the self-same quality of being noted in the agape accounts of love; however, when charity is examined in light of the relationship it shares with the virtue of justice it demonstrates the institutional potential of a love ethic articulating an account of philia love. Philia love, on this reflects the ideas of civic

⁴² Richard Rorty, *Philosophy and the Mirror of Nature* (Princeton, New Jersey: Princeton University Press, 1980).

⁴³ Jurgen Habermas, *Justification and Application: Remarks on Discourse Ethics*, trans. Ciaran Cronin (Cambridge: Polity Press, 1993).

friendship mediated through a Thomist account of charity taking into consideration the natural equality of being sustaining the natural law agent within the community.

Contemporary accounts of civic friendship are modeled on Aristotle's notion of *philia* relations. "Aristotle by contrast offers a very detailed analysis of the varieties of friendship, of their grounds, likely developments, moral implications, and general casuistry," writes Stern-Gillet. "What he describes as friendship's purest form, viz., virtue or primary friendship, differs significantly from modern friendship. Above all it is essentially a rational association which encompasses what is seen as the essential selves of the friends."⁴⁴ Aristotle's agent was both social and political. On this account, he could not conceive of a life without friendship. "Nobody would chose to live without friendship even if he had all the other good things," he writes. "Indeed those who hold wealth and office and power are thought to stand in special need of friends; for what is the use of such prosperity to them if they are denied the opportunity for beneficence, which is most commonly and most commendably directed towards friends."⁴⁵

Friendships, according to Aristotle are at once mutual and reciprocal. He distinguishes three motivations for friendship rooted in utility, pleasure, and the pre-eminent friendship of goodness. "This kind of friendship, then, is perfect both in point of duration and in all other respects and in it each party receives from the other benefits that are in all respects

⁴⁴ Suzanne Stern-Gillet, *Aristotle's Philosophy of Friendship* (Albany: State University of New York Press, 1995), 8. This is to distinguish between the irrational basis of friendship that characterizes contemporary political discourse. The author also offers an indepth examination of the changing understandings of friendship within the world of the pre-moderns and pre-ancients as well noting how in one sense it is merely institutional and structural, and on other accounts relates to the idea of hospitality of strangers. Reflected in all of these interpretations however is the main thought of the social nature of the political agent and the need for relationships to sustain any degree of ethical living.

⁴⁵ Aristotle, *The Ethics of Aristotle: The Nicomachean Ethics*, translated by J. A. K. Thomason, revised with notes and appendices by Hugh Tredennick, introduction and bibliography by Jonathan Barnes (London, England: Penguin Books, 1976), 258.

the same or similar, as ought to be the case between friends” he writes.⁴⁶ Friendships, he goes on to write, are maintained by equal individuals, eager to better understand ‘the good’ and cultivate it accordingly. As Komter notes, “the essence of friendship consist more in giving than in receiving affection.”⁴⁷ Friendships, so conceptualized are simultaneously internal and external goods, Nancy Sherman points out. “It provides beneficiaries for virtuous action, as well as opportunities for action and sentiment unavailable to the solitary or the childless,” she writes. “In particular, it extends and redefines its boundaries, in which a way that my happiness or complete good comes to include the happiness of others. Thus happiness or good living is ascribable to me, not as an isolated individual, but as an extended self with attachment, or friends.”⁴⁸

Friendships, on this account, reflect the mutuality of ‘the good’. Bearing this in mind, Aristotle’s account of friendship remains at best, incomplete. He cannot account for friendships that endure once virtue has been lost, or indeed, for relationships beginning and enduring in the absence of virtue itself.

Investigating why individuals remain in relationships void of virtue, Sharon Sytsma, articulates a fourth friendship category, agapic friendship. “Agapic friendship can exist independently of friendships of pleasure, utility, and the good, but it can also be an aspect of those friendships. It can be a precursor to such friendships or it can develop out of them,” she writes. “Its distinctive feature is that it does not depend on any special qualifications of the friends involved-not even the presence of virtue.”⁴⁹ Further developing the mutuality and reciprocity of Aristotle’s friendship, Sytsma reveals the

⁴⁶ Aristotle, *op. cit.*, 264.

⁴⁷ Aafke E. Komter, *op. cit.*, 157.

⁴⁸ Nancy Sherman, “Aristotle on Friendship and the Shared Life” *Philosophy and Phenomenological Research* 47, no. 4 (June 1987): 595.

⁴⁹ Sharon E. Sytsma, “Agapic Friendship” *Philosophy and Literature* 27 (2003): 433.

self-less and enduring nature of *agape* love. On her account, agapic friendship, rooted in love better reflects the equality and reciprocity first articulated by Aristotle providing an explanation for the longevity and endurance of unreciprocated relationships. “Once we are aware of others as like ourselves, we are able to experience the same natural and fundamental attitudes toward others as we have toward ourselves,” she writes.

“Understanding that others face the same needs, desires, trials, tribulations, joys, and capacities as we do allows us to identify with them, and this identification encourages feelings of affection for others, since naturally have affection for ourselves. Attending to and being mindful of this sameness is how we cultivate, practice, maintain and develop the virtue of love.”⁵⁰ Her account of agape, so understood, bears striking resemblances to that articulated by Gene Ouka, and his interpretation of agape as equal regard.

Returning once again to the ideas of Aquinas is to note the following- his account of friendship reflects the similar ends of Aristotelian friendship. Aquinas further develops the idea of civic friendship interweaving the ideas of *philia* love with the more general ends of agape love thereby avoiding the Aristotelian challenge noted by Systema. Civic friendship, in the writings of Aquinas, is revealed to be the primary vehicle through which an ethic of love moves beyond the local community. “Friendship extends to a person in two ways: first in respect of himself, and in this way friendship never extends but to one’s friends: secondly, it extends to someone in respect of another, as, when a man has friendship for a certain person, for his sake he loves all belonging to him, be they children, servants, or connected with him in any ways,” Aquinas writes. “Indeed so much do we love our friends that for their sake we love all who belong to them, even if they hurt or hate us; so that, in this way, the friendship of charity extends even to our

⁵⁰ Sharon Sytsma, “Agape Sans Dieu” *Journal of Value Inquiry* 36, no. 1 (2003): 92.

enemies, whom we love out of charity in relation to God, to whom the friendship of charity is chiefly directed.”⁵¹ Charity, on this account, thus influences the wider practice of politics complementing the personal love ethic accompanying his account of moral agency and the agent. “The friendship that is based on the virtuous is directed to none but a virtuous man the principal person, but for his sake we love those who belong to him, even though they be not virtuous,” writes Aquinas, “in this way charity, which above all is friendship based on the virtuous, extends to sinners, whom, out of charity, we love for God’s sake.”⁵² Charity is in actual fact the product of friendships which respect the natural equality of being. It complements the naturally social and moral components of being. It demonstrates the intimate interplay of friendship, equality and agape love evident between agents within the community. In so doing, this account of friendships reflects the underlying capacity to love which distinguishes it from its Aristotelian heritage. “Agape- and this is one of its absolutely crucial features,” writes Stephen Pope, “is unilateral, meaning in part that it is not dependent on a return of affection or regard.”⁵³ A further examination of this tripartite relationship that charity enjoys a particular relationship with the virtue of justice facilitating an alternative to proportional justice; namely, commutative justice further reflecting and entrenching the relational ontology sustaining the agent and community alike. While agape love provides the original source of obligation within the agent, it is the order of charity which provides an institutional rendering of this love taking into account the unity of coordinated agency in light of structural injustice.

⁵¹ Thomas Aquinas, “Summa Theologica” *op. cit.*, IIaIIae 23.1.

⁵² Thomas Aquinas, “Summa Theologica” *op. cit.*, IIaIIae 23.1.

⁵³ Stephen J. Pope, “‘Equal Regard’ versus ‘Special Relations’? Reaffirming the Inclusiveness of Agape” *The Journal of Religion* 77, no. 3 (July 1997): 355.

Jacques Maritain elaborates on Aquinas's order of charity providing a contemporary account of the common good incorporating love, justice, and above all else, civic friendship. The common good sustains the development and well-being of its agents reflecting the teleology of being oriented always towards 'the good'. It builds on the natural sociability of the agent reflecting the need for relationships not only to understand the self, but also to understand the nature of morality and the life with which it is associated. "This common good is at once material, intellectual and moral, and principally moral, as man himself is; it is a common good of human persons," writes Maritain, "Therefore, it is not only something useful, an ensemble of advantages and profits, it is essentially something good in itself, -what the Ancients termed *bonum honestum*. Justice and civic friendship are its cement."⁵⁴ This account of the community furthers the ideals of equality and in so doing, recognizes the intrinsic important of each and ever member of the community as ontologically the same simultaneously constituted by a variety of unquities that make them who they are. "This conception recognizes justice and civic friendship as the essential foundations of that community of human persons which is political society, Maritain furthermore notes. "And, as a result, it holds also to the fundamental role of equality, not only the equality of nature, which is at the root, but the equality to be won as an offspring of justice as a fruit of the common good flowing back over all."⁵⁵ The common good, on this account complements the ends of the natural law community. Proving a contemporary interpretation of charity Maritain broadens the normative framework of care, extending the original idea of moral action of

⁵⁴ Jacques Maritain, "The Ends of Machiavellianism" *The Review of Politics* 4, no. 1(January 1942): 10.

⁵⁵ Jacques Maritain, "The Rights of Man and Natural Law" *op. cit.*, 24.

Schwarzenbach into a natural law discourse of love synthesizing *philia* and *agape* offering an objective account of the common good reflecting the mutuality of being.

Recalling the plurality that marked the natural law community articulated by Maritain in Chapter Four, this notion of the common good, resting on friendship, itself relating back to the charity and love, sustains an all-encompassing and open atmosphere in which agents can develop. “The pluralist city multiplies liberties, whose measure is not uniform, which vary according to a principle of proportionality,” writes Maritain. “Again, this solution gathers the whole unification of the temporal community into one essential and natural point: a simple unity of friendship.”⁵⁶ Friendship rooted in love respects the distinct characteristics of the agent, and justice furthers the development of both the agent and the community. “For justice and law, by ruling man as a moral agent and appealing to reason and free will, deal as such with personality, and transform it to a relation between two wholes – the individual and the social – what would otherwise have been a mere subordination of the part to the wholes,” he writes. “And love, by assuming voluntarily that which would have been compulsion, transfigures it into freedom and into free gift. While the structure of society depends primarily on justice, the vital dynamism and the internal creative force of society depend on civic friendship.”⁵⁷ Ultimately, an account of friendship in the tradition of natural law recalls the relationship of justice and charity. For it is charity which provides the necessary outward orientation sustaining a moral community fostering an agent-centered approach to ethics which is simultaneously interested in the self and the other. In other words, charity is intimately wound up in the concept of a relational ontology sustaining both the agent in the community. Yet,

⁵⁶ Jacques Maritain, “True Humanism” *op. cit.*, 167.

⁵⁷ Jacques Maritain, “The Rights of Man and Natural Law” *op. cit.*, 22.

contemporary ethical discourses fail to account for any vestige of charity in its discourses.

An examination of charity in wider ethical theories reveals four different understandings of justice and charity's relationship. As Alan Buchanan demonstrates first, justice reflects negative duties, and charity positive duties; second; duties of justice can be enforced whereas duties of charity cannot; third, duties of justice are perfect duties whereas charity duties are imperfect; and finally, justice reflects matters of rights and charity does not. Buchanan goes on to note that the absence of charity debates in contemporary ethical discourses is not a problem and that overall reflections of charity offer little to ethical principles guiding the actions of the agent. Buchanan's conclusions reflect his original assumption; namely, that charity can be a form of justice. In light of this, the problems of enforcements and entrenchment he raises with regards to charity remain deeply problematic which can offer one explanation for the dominance of proportional representations and pragmatic accounts of morality in contemporary political societies. Yet to put forth an account of charitable justice is to misconstrue the relationship that these two virtues share.⁵⁸ Charity is not an imperfect obligation or duty. Rather, charity informs justice and its influence is evident in the emphasis this account of justice places on relationships. When charity is examined in light of this relationship it reveals its virtuous nature. It resonates in the loving capacities of the agent, and the well-ordered community. In this way charity is not a proscribed behavior, but rather, is derived from the original ability to love noted in the capacity and capabilities of the agent. The virtue of charity asks agents not to love the specific characteristics which comprise one agent, but rather complements the account of natural law agency which

⁵⁸ Buchanan, *op. cit.*

places primary emphasis on the individual within pre-existing social structures and institutions. One loves, on this account, not for specific ends or purposes, but rather, loves because that is what moral agents do. In this way, there is no need to specify the obligations of charity, they are natural; consequently the previous challenge of proscription and enforcement are rendered unproblematic. Instead, one loves because of the natural relationships he or she enjoys with the ends of natural law morality and all those who seek its ends.

This account of charity emphasizes the possibility of a united human purpose. It reveals a particular conduct, itself related to the prudent individual, reflecting the equality of moral relationships and justice in the community. “In charity, others are loved with the ‘love of friendship (amor umicitive) either in themselves, as friends are normally love, or, lacking this, simply out of the love of God, because as rational beings they are capable of eternal fellowship with God,” writes Pope.⁵⁹ Friendship, based on charity is intrinsically related to the ontological equality of all agents as beings in common representing the particular capacity to know the good and actively seek its development. Unifying this account of the common good is the equality of being. Friendship, on this account necessitates equality. “When there is a natural equality among men, they are fit for friendship” writes Betz. “When they are naturally unequal, but through convention or artifice devise mechanisms by which each considers all others his equals, then they mutually participate in justice, and justice is the very form of the bond which holds them together.”⁶⁰ Contemporary notions of justice which flow throughout a variety of

⁵⁹ Stephen J. Pope, “Aquinas on Almsgiving, Justice and Charity: An Interpretation and Reassessment” *The Heythrop Journal* 32 (1991): 168.

⁶⁰ Joseph Betz, “The Relation Between Love and Justice: A Survey of the Five Possible Positions” *The Journal of Value Inquiry* 4, no. 3 (September 1970): 191.

international relations discourse emphasize social justice, in other words, distributive justice. This point was elaborated on in some detail in Chapter Four. It recalls not the equality of being associated with the natural law agent, but rather, the ideas of equity. In the writings of Aquinas, equity is referred to as *epikeia* which bears a striking resemblance to the ends of pragmatic morality which offers the image of the possessive individual and an associated account of rational politics. Justice, on this interpretation, recalls the relationship that the modern state and capitalism share furthering the isolated existence of the individual.

The confused relationship of charity, love, and justice is well captured by Paul Tillich. In his opinion, contemporary manifestations of love and justice reflects a misunderstanding at the ontological level of analysis which results in a proportional representation of justice which fails to articulate the necessary moral ends of the political community. Critical of contemporary justice, he notes how distributive justice upholds the pragmatism of contemporary political affairs. Presenting an holistic account of love and justice, he goes on to note that love is “the moving power of life” and that “life is being in actuality”.⁶¹ The uniqueness of this particular account is not the division, but rather, the incorporation of a variety of different accounts of loving traditions. “Tillich denies the differentiation of the four kinds of love from which we started, and, indeed, this is the reason why the love related to justice is not *philia*, friendship,” writes Betz. “Philia, agape, epithymia, and eros are qualities of love present in every act of love; they are not kinds of love in their own right. Each contributes to the reunification of different aspects of the separated, but, just as the resulting unit will be one, so is the four-fold force

⁶¹ Paul Tillich, *Love, Power, and Justice: Ontological Analyses and Ethical Applications* (Oxford: Oxford University Press, 1954), 25.

which effects this union.”⁶² Love points the agent in the direction of justice consequently, loving also further develops the practical reasoning of the agent. “Love, in this respect, has the same relation to justice which revelation has to reason. And this is not an accidental analogy. It is rooted in the nature of both revelation and love. Both of them transcend the rational norm without destroying it,” writes Tillich. “And as revelation does not give additional information in the realm where cognitive reason decides, so love does not drive to additional acts in the realm where practical reason decides. Both give another dimension to reason, revelation to cognitive reason, love to practical reason.”⁶³ On this account, a loving disposition informs the moral taxonomy guiding the reasoning of the agent on one level, and on another, informs the structures of the political community through the actions of the agent. Bearing this in mind, creative justice resembles the natural law account of justice reflecting the influence of charity. The shared ontology sustaining Tillich’s account of creative justice is likewise the self-same ontology sustaining the relational ontology of the agent and the community. It is a commutative form of justice which complements the abilities of the agent revealing an altogether alternative conception of political engagements highlighting the potential of agency in common.

When understood as complementary components of justice, agape love and philia love unite and provide an account of justice which is simultaneously interpersonal and transnational. It complements the agent centered account of morality demonstrating the possibility of change all the while working within the pre-existing structures and practices engendering social change in line with the ends of an ethic of love. This unity

⁶² Joseph Betz, *op. cit.*, 199.

⁶³ Paul Tillich, *op. cit.*, 83.

of purpose arising from the naturally social and moral nature of the agent shares similarities to the neo-roman account of liberty articulated by Quentin Skinner which was examined in the opening chapter of this work.⁶⁴ These similarities bear comment because associated with the neo-roman account of liberty is the idea of human solidarity.⁶⁵ As Huake Brunkhorst has demonstrated in his historical description of solidarity, it is a concept which has developed throughout history recalling the political relationships which constitute and uphold society. In its republican interpretation it provides the necessary means for the citizen to achieve his or her freedom. “Solidarity is not the other of justice,” he writes. “Rather, it is nothing but the democratic realization of individual freedom. If the classic republican formula of the common good refers to an objectively recognizable collective good, ‘solidarity’ has from the start an individualistic quality”.⁶⁶ It is this individualism associated with the ends of modernity and its associated enlightenment philosophy which this work seeks to challenge. In a similar fashion to one another, both solidarity and charity sustain a particular relationship with justice. Regardless of which interpretation of modernity one chooses to endorse, be it a republican approach or a liberal/capitalist depiction, solidarity and liberty ultimately sustain an inward and individual account of political relationships. Consequently, the relationship of charity mediates civic friendship and in so doing offers an account of commutative justice which is outward oriented and sustains the capacities and capabilities of the agent in a moral community.

⁶⁴ Quentin Skinner, *Liberty before Liberalism* (Cambridge: Cambridge University Press, 1998).

⁶⁵ See the works of Michael Hardt & Antonio Negri *Empire* (Cambridge: Harvard University Press, 2000). The relationship of liberty and solidarity is emphasized in relation to enlightenment philosophers. They go on to show, like Skinner that this republican influence of modernity exists, albeit an account which has lost out to the influence of the social contract and their associated philosophers.

⁶⁶ Hauke Brunkhorst, *Solidarity: From Civic Friendship to a Global Legal Community* translated by Jeffrey Flynn (Cambridge: the MIT Press, 2005), 3.

The order of charity, like the ethic of love, demonstrates the point made by Jean Porter; namely, that natural law, beyond a reasonable ordering principle guiding agents, is also capable of articulating an order within the community.⁶⁷ This is achieved through the development and implementation of commutative justice. Justice, on this interpretation complements the original assumption sustaining the moral agent as one predisposed to engage in politics. The fact then that commutative justice is both an interpersonal and transnational account of justice complements the idea of an ethic of love as it reflects both the agapistic and philia-like nature of love. Justice and morality are both, on this interpretation selfish and selfless recognizing the mutuality of human development as evident in the relational ontology which emphasizes the role of relationships in the wider practice of politics. Justice originates in the ability to love and extends outwards through the wider institutions and practices of the community. These practices reflect the close community of the individual, as evidence by familial relations and the wider institutions which sustain the community as described within a variety of accounts of civil society. Yet in the same way, these just relations are also conceptually available to agents working within those international and transnational institutions and corporations that sustain the discourses of a global civil society. Yet, as the cosmopolitan discussions of harm revealed, as well as the discussion of care ethics highlight, it is the embedded practices of international institutions which contribute on a daily basis to the perpetual problem of human harm.

A natural law appraisal of the ends of human rights and humanitarian practices, to be undertaken in the epilogue, highlights the fact that politics is a natural activity for a social and moral agent. Moreover, it recognizes that working within the relationships

⁶⁷ Jean Porter, *The Recovery of Virtue* (Louisville, Kentucky: John Knox/Westminster Press, 1996).

sustaining the community there exists a space whereby individuals, as agents of justice, can demonstrate alternative modes of being political articulating the possibility of a unified human purpose as articulated the discourses of love. Relationships not only allow the individual to define her natural potential, they provide the agent the means to endeavor to help others achieve that self-same goal of integral human fulfillment. To that end relationships outline the obligations and responsibilities of the agent both in their general and particular form. Furthermore, when placed alongside the goals of mutual well-being and integral human fulfillment, it is to explicitly state that one is obliged to help others achieve this self same goal and this obligation is rooted in the sameness of self; a sameness of self promoting love and fostering a moral community. It is to make the point, noted by F. Earle Fox, that “obligation is the relationship itself.”⁶⁸ Justice, on this account, is dependent on the depiction of the agent and the relationships the agent develops rooted in an understanding of morality. In light of this understanding, the virtuous agent increases in importance. As the singular being capable of loving and being loved in return, the relationships of the natural law agent set a course of action which, as Stephen J. Pope points out, “retains and perfects rather than eliminates or degrades our humanity.”⁶⁹ This metaphysical account of love explains the motivation to act in a more personal manner aware of the obligations to those individuals, distant and local bearing the burden of suffering. Moreover, it is indicative of an alternative conception of being political premised on the objectivity of natural dominion, articulating a more personal form of individuals relating to one another as beings in common.

⁶⁸ F. Earl Fox, “Defining ‘Oughtness’ and ‘Love’” *The Journal of Religion* 39, no. 3 (July 1959): 174.

⁶⁹ Stephen J. Pope, “Expressive Individualism and True Self-Love” *op. cit.*, 397.

As a social and moral being the natural law agent is predisposed to engage in politics. The political endeavors of the agent reflect the idea that politics is that metaphysical space whereby individuals produce and reproduce social structures and practices which co-ordinate their lives in common. Yet the structures of contemporary international affairs have unwittingly limited this natural tendency towards unity hindering the possibility of forging human relations. Suffering, so the argument goes, is directly related to this isolation which denies the possibility of understanding individuals as persons in relations. Agape and philia represents a particular understanding of love sustaining an objective account of political action. It is a unifying account of politics seeking to bring agents together in order to achieve a higher understanding of being in common. An objective account of political engagement relies on relationships to achieve its ends. 'The international' revolves around shared interests motivating human action. On this account the desire for the ends of integral human fulfillment motivates agents to work in communion with one another in order to understand the morality of natural law. In light of the traditional accounts of justice which reflect the boundaries of 'inside' and 'outside' limiting the possibility of moral behavior to the domestic affairs of the state, the value of charity, as an institutional order reveals itself. Charity extends the obligations of relationships and an ethic of love beyond the local proximity of the agent into the wider interests which constitute the community. Moreover, it further distinguishes this interpretation of natural law morality from that of the new natural lawyers. The emphasis placed on charity and agency lead initiatives facilitated through the interweaving of natural law and casuistry go a long to challenging the rationality of the requirements of practical reasoning emphasizing the moral development which occurs when agents

participate in non-instrumental relationships. The relationship of charity and justice, in light of this fact, is intrinsically important. It provides the primary means of articulating an alternative account of justice reflecting the relational ontology of the agent and the community. The relationship of charity and justice challenges the isolated ends of politics highlighting the potential of persons in relations achieving the ends of natural law morality situated in an unbounded account of the moral community predisposed to the practice of politics.

Part III: ‘The Personal’ as Political

A personal account of agency begins with relations. John MacMurray is one individual attempting to account for a mutual understanding of self, other, and the community premised on relations.⁷⁰ For MacMurray, the idea of ‘the personal’ is expressed in the mutuality of being. Substituting the “I” and the egocentricity which guides contemporary societies, MacMurray argues that one can fashion genuine communities through an understanding of mutual being; namely, the idea that one cannot understand him or herself without another being with whom one can interact. To that end, he describes a personal account of community focused on the “I and You”. With this in mind, he seeks to read into the disciplines of philosophy, theology and politics, the idea that one can only know one’s self, the community, and the place of individuals in the world through the negation of the self; that for every positive relationship, a personal relationship, there exists a negation justifying the positive relations of being. Bearing this in mind, he goes on to argue that religion is the mode of human interaction upon which

⁷⁰ John MacMurray, *The form of the personal, Vol. 1. The self as agent; being the Gifford Lectures delivered in the University of Glasgow in 1953* (London: Faber and Faber Limited: London: 1953) & John MacMurray, “Persons in relation” *op. cit.*

we can, and ought to ground, our understanding of community. This account reveals an appropriate idea of morality and justice articulating the unity of theory and practice improving the human experience.

Moving beyond the ideas of MacMurray, ‘the personal’ is one particular account of being political. It conceptualizes the nature of interactions within ‘the international’ sustaining an objective account of being political. An objective account of being political rests on the unity of political action. Contemporary politics from Modernity onwards isolates the individual as a rights-bearing subject situated in bounded political societies. Society, so the argument goes, elicits loyalty through subservience and conformity. The objectivity of the agent’s function however, belies conformity premised on a relational ontology. Developed within moral communities these relationships note the shared interests uniting individuals in a political project larger than themselves; namely, the attainment of mutual well-being. The unity of being sustaining a shared desire and sense of purpose prompts human action evinced in the politics of the personal. This account of political action is proactive, goal-oriented and human centric. Aware of the grosser forms of human suffering throughout the world an objective account of political engagement challenges the subjectivity of contemporary international affairs. It questions the aims and ends of contemporary order and its ability to facilitate the developmental potential of individuals in light of its isolated and atomic nature.

This account of ‘the personal’ represents a means of understanding relationships of distance sustaining a genuine community within ‘the international’. While this is not an argument for international community, it demonstrates that within the metaphysical space of the international, a personal accounting of politics can, when associated with the

idea of the natural law agent, fosters networks representing the web-like relations that constitute the individual. Moreover, working within the institutional patterns of human interaction, these networks facilitate agency outside traditional sites of power and authority. The personal, on this account is at once both local and distant. It is local in that it is initiated by the agent within the local space in which he or she inhabits extending outwards through an acute understanding of the wide variety of relationships and interests reflected in an agent's institutional participation. It is an experience of knowledge that exists beyond the traditional boundaries of the state represented in loving mutual self-revelation. "For the knowledge of one another, and so of ourselves, can be realized only through a mutual self revelation; and this is possible only when we love one another," writes MacMurray. "Moreover, since our knowledge of one another conditions our activities, both practical and reflective, we find here the ultimate condition of all our knowing and of all our action."⁷¹ The objective interpretation of 'the personal', similar to the idea of the natural law agent and community, is at once both reasonable and rational. It exudes a holistic account of human knowledge sustaining dynamic and creative agency in the face of new and evolving political problems. Motivated by love and not the fear of another, this knowledge, in stark contrast to the knowledge types of international affairs unites individuals in common endeavors reflecting the relativity of casuistry.⁷²

Consequently the unity of purpose reflecting both particular and general agency reveals

⁷¹ John MacMurray, "Persons in relation: *op. cit.*, 212.

⁷² See Anthony F. Lang, Jr., "The Problem of Rules", for Contemporary Politics, forthcoming. His argues, in this article that the rules of international relations, as one way of understanding and guiding interaction, are shaped relies on the relationship of knowledge and security, and the idea that we can derive a sense of security in the knowledgeable intentions of the actors that constitute its structure. This is contrary to the point that genuine intentions of actions can never be known in and of themselves, and that at best, future action is a hypothesis,. One would do well to know the intentions of the agents and what motivates them as a means to engender a trusting environment so as to achieve a heightened sense of security. To that end, it is also to note that knowledge in this sense is motivated by fear, which has we have already stated leads to falsified knowledge and not true knowledge of the self as a purposive agent of international affairs.

itself; mutual development of the self and other oriented around the ends of ‘the good’.

‘The personal’ is guided by a practical knowledge reflecting the loving reason of the agent and the values, norms, and ideals reflected in her actions and desired ends.⁷³

Loving requires a commitment to living life in a particular manner exuding loving care in both personal and social relationships. Moreover, it reflects the internal ordering of the agent. As Gene Outka writes,

In order to judge that an agent is loving we need more than one notable performance, and more than a limited class of actions which he habitually performs or refrains from performing. There ought to be a variety of exemplifications which reflect a long-range policy. The policy persists through time and integrates a cluster of specific objectives. Love ought to be genuinely inward, so that the more one comes to know the agent, the less one senses a discrepancy between manifest operations and deeper aims.⁷⁴

A commitment to love others and to live according to a loving disposition affirms the general approach to human interaction. It ensures that as one becomes increasingly embroiled in the personal aspects of loving others they can maintain the stable, loyal and steadfast underpinnings of a love ethic. This is to recall a similar point made in the second chapter of this work; namely, to live within an ethical tradition is to embrace it whole-heartedly and incorporate it into every action and deliberation of the agent.⁷⁵ The commitment to an ethical tradition, and the values and norms which it upholds, sustains relationships. Providing both individuals, the ‘I and the You’ with the capacity to

⁷³ There is also an argument to be made, but in another time and place, that this type of personal knowledge is a combination of the practical and theoretical knowledge, a distinction which flows throughout the philosophical traditions dating back to the times of Aristotle, evident in the works of Cicero and throughout the ages. It is a distinction which has shaped the deliberative process and the organization of human societies and which has had a distinct bearing on our understanding of morality, justice, and ethics. One would do well to recall the ideas of teleology, deontology, and the pursuit of ends as an endeavor in and of itself versus the consequentialist mode of deliberation with which agents are now currently captured by, a point noted in the conclusions of Chapter Two.

⁷⁴ Gene Outka, “Agape” *op. cit.*, 132.

⁷⁵ Germain Grisez, “The Way of the Lord Jesus” *op. cit.*, 128.

develop it reflects the mutuality of well-being and development.⁷⁶ In light of a loving commitment, mutual self-revelation fosters the necessary knowledge paving the way for trust. It is only with the onset of trust that a normative agenda reflecting human well-being and development can begin to challenge the traditional structures of international affairs offering an alternative to violence, insecurity and anarchy.

‘The personal’ sustains the emotive and impassioned responses to the suffering of others. It carves out a niche for the role of emotional responses of agents reflecting the metaphysical bond both beings share. On this account, suffering remains firmly embedded in the human experience intrinsically caught up in the relationships of action, knowledge and agency itself. “Suffering,” Cynthia Helpert notes, “is the passive voice of acting, as it were. It is the hidden opposite of agency. We suffer what we cannot act, or because we cannot act. Suffering means not being able to act.”⁷⁷ Building on the definitions of suffering offered in the Introduction, the objective account of being political, focuses on the development of human potential. It articulates how all individuals, as beings in common suffer when one cannot further develop.

The mutuality of being, limits the development of the moral agent to the lowest common denominator. Bearing this in mind, ‘the good’ calls on the empowered to act on behalf of those who cannot. On this account genuine knowledge of the self, and the self in relation to others, takes on an impressively important role. Not only does it provide the means to recognize one’s purpose and announce intention, it reflects the relative approach catering to the particular well-being of those who suffer. Moreover, it is

⁷⁶ It is this commitment to morality and love which reflects the ideas of faith articulated by Weber discussed in the conclusion to Chapter Two. For those individuals who seek a non-theistic and non-ontological foundation of natural law morality it rests in the product of this particular commitment which is a moral community.

⁷⁷ Cynthia Helpert, *op. cit.*, 10.

indicative of the web-like community existing beyond the natural boundaries of human engagement. The community, on this account, empowers international agents of justice to engage with those who traditionally fall into the category of 'other'. The value of a relational ontology recognizes that the primordial duty to the self is reflected in our interactions with others; namely, our relations. The normative justification to help those who suffer rests on the natural equality of being reflected in the relational ontology sustaining each and every agent. On this account, the community sustained by 'the personal' is neither exclusive nor inclusive. Aware of both the particular and general needs of others it provides individuals with the capacity to not only will happiness, but act on the love of another to achieve a higher level of being. On this account, 'the personal' supports loving action challenging the grosser forms of human suffering throughout the world. It is the representation of an institutionalized version of charity, in other words, being in common.⁷⁸

A personal politics ultimately relates to practical reasonableness. It is not concerned with the science of politics, or the techniques of political engagement. It offers an alternative to an international common good, which as it is understood in contemporary discourses, focuses on the individual ego and not the individual in relation to others. As John Finnis points out, the common good "is a set of conditions which enables the members of the community to attain for themselves reasonable objective, or to realize reasonably for themselves the value(s), for the sake of which they have reason,

⁷⁸ Taking the argument one step further is to note that it is charity which can ultimately challenge the relationship shared by capitalism and modern liberal democracies which as Brunkhorst points out has severed the relationships necessary for solidarity. If one applies this argument to the morality of natural law it becomes increasingly evident that the discourses of love and charity endorsing a particular account of agency represent the creation of a political space whereby a discourse of moral development can emerge. In so doing one of the by-products of this discourse will be the re-emergence of the original ideas of those charged with the declaration of human rights noting in the first instance that a global account of well-being and development rests in the practical actions and reasons of agents.

to collaborate with each other (positively or negatively) in a community.”⁷⁹ It highlights the centrality of the individual and fails to appreciate the commonness and community which it ought to support. This is not a community focused on shared ends fostering social harmony and co-operation, as was highlighted in Chapter Two and again in Chapter Four. The common good, on this account, upholds the boundaries of ‘public and private’, of ‘state and individual’, and finally of ‘inside and outside’ denying pride of place for the obligations of morality. At odds with the common good grounded in the order of charity, on this interpretation, the common good fails to understand the purpose and intentions of individuals as international agents of justice. It does not create the necessary space supporting moral agency. Rather, it perpetuates isolation and self-sufficiency challenging the development of moral communities.

Aware of the ends of justice, derived from the morality of natural law, a personal account of politics remains rooted in the ends of human action. On this account, the politics of the personal is an art and requires the flexibility to adapt to newly emerging needs and requirements. It does not follow a series of commands linked together forming one over-arching universal plan of action. Like the casuistic agent, a personal politics is mutable and reactive aware of the fallible nature of human reasoning, but oriented towards the good. Couched in the morality of natural law, related to the casuistry of ‘the good’, ‘the personal’ understands the obligation to act and the responsibility to help those in need. Reflecting the ends of ‘the personal’, the community, on this account endeavors to respect and perfect the uniqueness of each individual, all the while respecting the natural equality of each and every agent.

⁷⁹ John Finnis, “Natural law and Natural Rights” (Oxford: Clarendon Press, 1983), 155 & 156.

This alternative conception of being political illustrates an important relationship between freedom, morality and action sustaining any account of moral agency. Morality asks that agents act in a well-intentioned manner committed always to the good. This commitment is a reflection of a disposition open to the ends of love. To love is to act. It recognizes the goodness of others and seeks to participate in that good; however, to love is also to reason practically. The reasonableness of the individual is integrally important in this account of ‘the personal’. It counters the subjectivity of international affairs distinguishing individuals via their rational capacities revealing a sense of purpose. Reason, in this sense, as MacMurray points out, “become, then, the capacity to act, and only in a secondary and derivative sense the capacity to think, that is to say, to pursue a merely theoretical intention.”⁸⁰ A loving disposition premises action over theory illustrating the primacy of agents in order to achieve political and social change. On this account, ‘the personal’ distinguishing itself from the discourse oriented ends of critical theorists. Individuals, in this sense, display a purposefulness beyond the self and in so doing proffer a justifiable understanding of the nature of morality and how best to act upon it. The capacity to reason, beyond giving a sense of purpose provides individuals recalls always that to reason is to love and to love is to act.

The responsibilities of love require listening to the needs of others, giving one’s self to others, and finally forgiving those who would through compulsion, act in contradiction to the stated needs of love.⁸¹ Participatory relationships, rooted in human action, sustain what John Dryzek has called ‘social learning’, the idea that outside the realms of traditional authority agents can exert influence over formal decision making

⁸⁰ John MacMurray, “Persons in relation” *op. cit.*, 26.

⁸¹ Paul Tillich, *op. cit.*, 84-86.

processes and in so doing affect change.⁸² On this account, a personal politics is well suited for the plurality of responses when seeking to help others acquire a higher level of being. For recall, relationships are the obligations of love revealing the needs of others. Bearing this in mind the mutuality of being requires both parties to the ‘I and You’ relationship to participate equally to achieve the ends of morality. Jean Bethke Elshtain elaborates on this idea assimilating equal regard and the just use of force.⁸³ When an agent is a victim of injustice, in the first instance, the responsibility lays with that agent to publicize the injustice in question. Upon hearing the cry for help agents of justice are required to listen and then deliberate on the best course of action, which in some cases, it is acknowledge, is best to do nothing; granted, at other times action is required and to do nothing in such situations is a double injustice. While she notes that individuals react out of pity, or at best empathy, personal agency as described herein is motivated in the first instance out of love, which is enduring, selfless and steadfast. Action, on this account, requires knowledge of the “I” and “YOU” and their particular situation sustaining the right intentions of the empowered agent.⁸⁴

The ability to reason distinguishes the nature of the agent, ‘the international’ and ‘the personal’ sustaining an objective account of being political; however, the ability to reason, absent of a moral taxonomy, is of little value to the agent and the community. The suitability of practical reasonableness relies on the equality of loving relationships. The freedom and autonomy stemming from this account of political engagement builds

⁸² John Dryzek, *op. cit.*, 27 & 28.

⁸³ Jean Bethke Elshtain, “International Justice as Equal Regard and the Use of Force” *op. cit.*, 63 & 64.

⁸⁴ For a detailed examination of the problems of humanitarian response and humanitarian intervention see the arguments of Fiona Robinson previously elaborated on in the previous sections of this chapter. She provides an interesting contrast to the works of Nicholas Wheeler who accounts for humanitarian action in his work Nicholas J. Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000).

on human experience providing a wide variety of means to tackle moral problems. Agapistic responses Outka writes, “encompasses far more than formulated rules placing and governing definite classes of action, even if one agrees that in certain instances it is positively expressed by them.”⁸⁵ Agents, on this account, determine, through past experience and a working knowledge of morality the most suitable course of action, *at that particular moment in time*. The emphasis, on this account, is on human intentions shaped by the natural desires of the agent. On this account, ‘the personal, like the natural law agent and community, is a casuistic mode of political engagement. It moves beyond the methodological rules of legalism and expresses a real need to understand the diversity of each and every situation in which individuals suffer and to treat each situation accordingly.’⁸⁶ A personal account of agency highlights, in the same vein as Fiona Robinson that contextuality must always play a key role in deciding an appropriate course of action.⁸⁷ It focuses on the role of the agent and his or her capacity to reason through a particular problem and when properly informed of the situation at hand and provided with the means to reason accordingly, shapes the action to be undertaken.⁸⁸

In and of itself casuistry is a mode of ethical living. A casuistic natural law framework is well equipped to foster an ethic of love within ‘the international’. Casuistry sustains a personal account of agency geared towards international agents of justice

⁸⁵ Gene Outka, “Agape” *op. cit.*, 123.

⁸⁶ Evidence of this approach is offered by of the failure of humanitarian intervention in the final ten years of the twentieth century. The combinatory effect of the norms of sovereignty, negative liberty, and state autonomy have created some of the worst human disasters as they have failed to acknowledge human suffering, or worse, when action has become inevitable, powerful states adhere to standard operating procedures assumed to be universally applicable which ultimately extend the longevity of the conflict and the human suffering therein.

⁸⁷ Fiona Robinson, *op. cit.*, 154.

⁸⁸ Albert R. Jonsen and Stephen Toulmin, *op. cit.*, contend that this approach exists in everyday life but due to the epistemological tradition that dominates mainstream scholarly discourse, it is rarely overtly recognized, a point articulated at length in Chapter Two. One begins to see traces of it in the Just War Tradition, a point noted by Nicholas J. Rengger in “on the just war tradition in the twenty-first century” *op. cit.*, 353-363. A point also made in Chapter Two.

aware of the capacities and capabilities of all individuals, based on a shared ontology to reason practically. Moreover, the further institutionalization of a relational ontology reveals how individual limitations can be overcome. Acting within the institutions of international affairs individual virtue facilitates the entry of reasonableness in otherwise public agency. Realizing the value of morality as a social ordering principle, its influence is reflected in the just structures wherein the individual acts, incorporating his or her particular knowledge within the wider institutional capabilities of coordinated political action. “Equality of welfare may include apageistic treatments common to everyone,” writes Oukta; however, “equality of freedom may lead to unequal treatment.”⁸⁹ This developmental approach to ethical living releases the subjective individual from its isolation paving the way for an alternative interpretation of ‘being political’. Reflecting the diverse needs of the suffering individual, institutions, on this account are dynamic and flexible. On this account, a personal politics sustains the plurality of being first elicited within a natural law account of morality. The teleology of being, supported by the means and ends of the deliberation process respect the contextuality and social awareness reflected in the institutions facilitating co-ordinated human action heeding the call for an international and intranational conception of justice. The institutionalization of charity within institutional design furthers the opportunities of international and intranational justice reflecting a disposition open to giving and receiving love. Attuned to the well-being and development challenging the particular problem of human suffering this account respects the equality and diversity of each agent.⁹⁰

⁸⁹ Gene Outka, “Agape” *op. cit.*, 123.

⁹⁰ An analysis of the Rwandan Genocide employing a casuistic methodology is offered in the Epilogue which follows. It incorporates the personal love of agape and the wider love of charity in order to generate previously omitted interpretations of the event.

This casuistic framework sustaining a personal account of agency is integrally related to the teleology of being. It points to an interpretative account of ‘the good’; namely human happiness loosely defined as integral human fulfillment and human well-being. It understands however that the manner in which the agent and community understand these ends is, in all likelihood, different. On this account, it provides the freedom of agents as individuals in common to pursue their own particular interpretation of the good. It is for this reason that a natural law framework is of utmost importance for this particular task. It distinguishes between first order absolutes and second order normative claims stating above all else that in pursuing this good, one seeks above all else to do good and avoid evil.⁹¹ The order of charity bears witness to this participatory morality respecting the equality of being and the ends of ‘the good’ at an individual and institutional level. On this account, plurality and diversity remain key components of an objective account of being political.⁹²

The mutuality of being ensures an innate sociability shaping the political responsibilities of the agent. It is, in the opinion of John MacMurray that this particular sense of self further elicits a shared purposiveness within the community. He argues that through human fellowship, or unity, we give meaning to human effort. Described as social and therefore interactive, the sympathy and empathy of the agent reflected in the emotional responses of the agent are very real. Related to the suffering of individuals throughout the world, the purposive nature of the agent induces action sharing, at a

⁹¹ Germain Grisez, “The Way of the Lord Jesus” *op. cit.*, 178.

⁹² At this point the clarity of the problem with human rights as a means to achieve the good should be self-evident having been examined in some depth in Chapters One and Three. Lacking a teleological drive, it conceptualizes human well-being in the philosophical ideal of dignity, itself lacking ontological origins premised on a constructed account of human nature. The stativity of this approach is part and parcel of a constitutional world order, itself the result of a subjective account of political engagement endorsing a rule based methodology and its associated legalism of the contemporary era.

metaphysical level, the pain and deprivation associated with human suffering. A relational ontology describes not only the shared happiness of individuals in common it also elicits a shared understanding of suffering. Traditional modes of agency, delineating spheres of acceptable and unacceptable agency, unwittingly marginalize the emotive responses to shared suffering, both theoretical and actual. The value of the natural law account of agency reinstates the shared benefits and consequences of mutual being. It reflects the inability of all beings to achieve a greater awareness of morality, when one or more individuals fail to thrive. The lack of attention and viable alternatives with which to challenge human suffering represents a double moral failure. It prevents individual development denying a greater sense of purpose within the human community. Taken in their entirety, examples of human suffering demonstrate the current injustice of political structures and institutions culminating in a common global failure to help those in need.

The ultimate conclusion of ‘the personal’ is the community. Sustained by the relationships of equality originating in the ontology of being, the community provides the means to understand not only one’s purpose, but also one’s obligations and responsibilities. The sum total of all of these ideas provides agents with not only a means to understanding the world in which they are a part, but also the manner in which knowledge is applied to create and navigate their actions. This account of being political identifies the role of the agent within the political world simultaneously articulating how interactions with other similarly constituted agents ought to occur. Community, on this account is neither domestic nor international. It highlights the possibilities that can come to fruition through the development and cultivation of the first principles of life, originating in the metaphysics of being.

‘The personal’ as a mode of agency, sustains human fellowship reflecting being, in common. It distinguishes a society from a community placing a high degree of importance on the teleology of ends sustaining the fellowship of moral agents. This is to return to the real idea of a natural law community which, as Grisez and Shaw remind us, “is based instead on a shared commitment in which each individual shoulders his or her special share of the responsibility for realizing the values which originally drew separate persons into the relationships called community.”⁹³ The institutionalization of charitable relations remains, in light of this account, intrinsically important in the formation and sustenance of genuine community.⁹⁴ “The structure of a community,” MacMurray reminds us, “is the nexus or network of the active relations of friendship between all possible pairs of its members.”⁹⁵ *Vis a vis* ‘the international’ it is this idea of nexus or network which will become increasingly important for agents of justice reflecting their ability to influence political structures and practices therein. The recognition of a multitude of pairings represents the vast number of channels in which the agents can operate, both as individuals and in common proliferating prudential calculations of loving morality in a wider institutional setting.

Agency, on this account, is a call to action, beyond the discourses and language shaping critical accounts of international affairs. Actions sustain and develop channels of information beyond traditional sites of authority. The resulting image is a multitude of

⁹³ Germain Grisez and Russell Shaw, “Beyond the New Morality” *op. cit.*, 56.

⁹⁴ This is a point made by Gene Outka, “Agape” *op. cit.*, 42-44 when he contrasts Agape love with the works of Reinhold Niebuhr who emphasizes the negative aspects of communal living over the positive consequences of like Outka does.

⁹⁵ John MacMurray, “Persons in relation” *op. cit.*, 158. It is to note that societies that relate merely through purpose or function are incapable of developing genuine human fellowship sustaining the mutual goals orienting the ends of the community and the organization of its laws. This is to find fault not only with the idea of purposeful associations, but also practical associations, the former criticized and the latter advocated as a resourceful alternative to understanding authority within international relations by Terry Nardin in “Law, Morality and the Relations of States” *op. cit.*

relationships shaping communities of similarly constituted agents. Motivated through a shared sense of purpose agents act so as to promote human well being and development. On this account, ‘the international’ ‘the personal’ and the morality of natural law combine to present an account of objective political interaction sustaining an ethic of love. Agents, so construed, are capable of discerning the more intimate forms of knowledge respecting the uniqueness of those less powerful within the community working towards their well-being.

With this in mind, this chapter proffers a vision of love as a disposition and motivation eliciting the image of the natural law agent alongside the moral community. It articulates a sameness of self from which political obligation and responsible action can emerge. This objective account of being political reverses the accepted primacy of close personal relationships arising out of bounded communities. Instead, this account of being political focuses on the generalities linking all individuals throughout the world. Attracted to the basic ontology of being, a personal account of politics provides an ethic of love in keeping with the original idea of ‘the international’ offered in the opening chapter of this work. Noting that individuals are social entities, it provides, through a relational ontology the means by which individuals understand their obligations to others. It reveals a shared purpose; namely, to help other individuals become more truly human. It is this unity of purpose reveals the required degree of influence necessary to generate political change. Rooted in human action, itself the product of free and autonomous beings, this objective account of being political challenges traditional ideas of power and the political authority it sustains. Power, on this account, represents the influence of agency in common. Sustained by a holistic account of knowledge, power, relates to love

and equality articulating laws within the community uniting individuals offering an outwardly oriented account of ethics in international affairs.

Conclusion

What this chapter has, above all else, sought to do is illustrate that the image of the natural law agent represents an alternative epistemology highlighting reasonableness as opposed to rationality. On this interpretation, the natural law agent, like feminist discourse in general, challenges existing social structures working for a more inclusive and caring political community. While the ends of the natural law agent distinguish him or her self from the ends of feminist ethics, concerned as it is with a universal equality and a relative methodology, feminist ethics offer an example of political agency modifying pre-existing social boundaries. Challenging the rationality of public and private spheres of politics, the ethics of care demonstrates the plausibility of reasonableness in public engagements. In the same vein, Aristotelian interpretations of civic friendship demonstrate the value of non-instrumental relations in the practice of politics. These relationships presuppose moral agency revealing the plausibility of a relational ontology.

Bearing the feminist example in mind, the emphasis on reasonableness shaping the morality of natural law provides a necessary account of ontological equality. This equality sustains the uniqueness of each and every political agent, articulating simultaneously the requisite social structures entrenching a plurality of life plans. So noted, this emphasis on the reasonableness of the individuals, provides the necessary links required to understand the commonness that unites all human beings *qua* human beings. Moreover, this reasonableness, informed by love relates to the overarching

morality of natural law. Feminist scholars, and in particular natural law feminists, routinely claim that the all-inclusive nature of natural law, on their re-interpretation is holistic and therefore benefits not only women, but all members of the community. Bearing this in mind, the interpretation of natural law offered herein, while benefiting from a myriad of hermeneutical, analytical and traditional accounts of the natural law tradition, is not a feminist account. That being said, the equality of being noted first in the works of the Salamanca Theologians frames the discussion of a love ethic and in so doing generates an account of being human, in common. Working together, this account demonstrates how unified agency generates the required political influence in order to achieve a more just political community. Consequently, the inroads made by feminist scholars and their critique of contemporary social structures and boundaries, is instructive of the potential capacities and capabilities of individuals as agents of justice in a contemporary inter-connected age. Likewise, the inclusiveness of this natural law interpretation ought to appeal to feminist discourses as an agenda seeking an inclusive and just political order.

The value and need of the objective account of being political lies in its articulation of an unbounded vision of political engagement. Focusing on the idea of charity, itself the representation of love and friendship it articulates a conception that is relational focusing on the natural equality of each and every person. Premised on commutative justice, derived from the morality of natural law, this account is transnational in nature. It simultaneously frames the conduct of personal and political relations, near and far, building on the union of *philia* and *agape* relations. Transnational justice, on this account, is unbounded in its scope. In light of the universal scope of

human suffering demonstrated in the Introduction, the value of this account of ‘being political’ lies in its inclusive yet relative nature. Couched in the morality of natural law and the ends of ‘the good’, this relativity is framed in a moral taxonomy, respectful of the natural equality of all agents. Bearing this in mind, it is a rigorous reasoning process seeking the best possible course of action, context and knowledge permitting.

Transnational justice deliberations, on this account, avoid the challenge of solipsism and carelessness oriented always towards the well-being of the agent in question, aware of his or her innate moral and social ontology.

As a human experience that cannot be articulated, human suffering is unbounded. Articulating an alternative to the bounded nature of contemporary political engagement the natural law tradition offers a vision of political engagement resting on the equality of being of each and every being. Recognizing the innate potential of all individuals as reasoning being, this approach articulates an account of obligation resting on the relationships of being. It is capable of working within and alongside the contemporary account of international affairs proffering a dynamic and innovative approach to human suffering resting on the capacity and capability of agents of justice. Yet the value of this account lies in its demonstrable appeal. As agents continue to work within the metaphysical space of ‘the international’ united in common interests they articulate through their own actions, the benefits of moral and reasonable approaches to living. The value of this account lies, in the first instance, in its articulation of the plight of those who suffer. In the second instance however, its appeal lies in the fundamental ability of agents, working in common to alter the trajectory of international affairs and its related practices beyond high power politics.

Epilogue

The Politics of Potential

“One should bear in mind that there is nothing as difficult to handle, more dubious in outcome, or more dangerous to organize, than the assumption of responsibility for the introduction of a new form of government. For the person who introduces this new form makes enemies of all those who benefited under the old form, and receives only lukewarm support from all those who would benefit under the new. This half-hearted support is partly due to their fear of their opponents, who have the laws on their side, and partly to the incredulous nature of men. Men do not believe in new things wholeheartedly until they see them firmly established through use.

*Niccolo Machiavelli,
The Prince, and other political writings*

By way of conclusion it is necessary to return to the idea of a relational ontology flowing throughout this work and demonstrate its value *vis a vis* International Relations. A relational ontology recalls both the social nature of the individual and an unbounded account of the community. It reveals a lack attention to the human relationships which constitute the practice of politics understood as the interplay of individual actions and interactions. Politics are the natural outcome of a social being. The moral practice of politics reflects the natural law assumption that as rational and reasonable beings, sustained by the primary principles of knowledge, all individuals are capable of developing a moral taxonomy reflecting the ability to do good and avoid evil in their quotidian affairs. It is these assumptions which flow out of a natural law ethic and shape the manner in which human suffering, beyond the cosmopolitan notions of human harm, has been presented in this work. Suffering not only precludes the development of a moral taxonomy reflecting the ends of well-being and development it also highlights the inability of both the lover and beloved to develop into more fully moral beings.

Suffering, on this account, is a passive and active experience and calls on individuals in light of the ethic of love and order of charity to work so as to remedy this problem.

Natural law agency emphasizes the power of unified action. It is mindful of Stephen Toulmin's observation that political agency in the future will reflect not the traditional power of states and their institutions, but instead, will focus on influence. "In the third phase of Modernity, the name of the game will be *influence* and not *force*; and, in playing on that field, the Lilliputians hold certain advantages."¹ With this in mind, this work questioned the ability of the International Human Rights Regime to generate the necessary political influence in order to adequately challenge the pervasive problem of human suffering throughout the world. It identified the overarching challenge sovereignty poses to the particular task of human development and sought to originate this doctrine in the Peace Treaties of Westphalia. In this way sovereignty mirrors many of the sought after ends of enlightenment philosophy articulating a rational account of politics and a particular understanding of order reflected in the idea of international constitutional governance. The boundaries of 'inside and outside' associated with this account limit the role of justice to domestic politics and the primacy of agency in the state and its representatives demonstrating the link with the continuing prevalence of suffering throughout the world. This was particularly evident in the cosmopolitan notions of harm which opened this work revealing that the structures of contemporary international politics not only perpetuate gross inequalities throughout the world, they also limit the ability of the individual to act as an agent of justice. The subjectivity of international affairs was subsequently examined noting the limited nature of human interactions highlighting the isolated existence of the modern individual.

¹ Stephen Toulmin, "Cosmopolis" *op. cit.*, 208.

An examination of natural law, in its pre-modern conception was then elaborated upon investigating the role of human non-instrumental relationships in order to demonstrate an alternative mode of being political. Along the way this account highlighted the particular idea of a relational ontology with which to conceptualize both the individual and the community. These assumptions revealed an individual pre-disposed to moral agency offering a particular structural arrangement catering to both the moral and social development of individuals. Above all else, these accounts of the individual and the community highlight the natural equality with which to understand the capacities and capabilities of the individual thereby revealing the universal nature of morality alongside the relative ordering of relationships articulating an objective account of politics. This objectivity reveals ‘the personal’ - a particular account of ‘being political’ at odds with the boundaries of international sovereignty championing instead human development and well-being. In so doing, it articulated the possibility of institutional design pre-disposed to achieve the original ends of human rights premised on the ability of the agent to cultivate relationships of interest through a variety of levels of community.

With its emphasis on relations, one recalls at this point the importance of ‘the international’ which revealed an account of order which is process oriented further distinguishing itself from the ends of contemporary world order. The ordering of the moral community, according to a natural law ethic, is simultaneously fluid and open-ended. It is structured through an awareness of the ends of morality; namely, human wellbeing and fulfillment guiding the moral taxonomy of the agent. As the agent loves, that is to say, acts, he or she demonstrates through words and deed the virtue of charity in

the wider institutional setting of international affairs reflecting the teleology of being first evidenced in the ends of human happiness. This teleological orientation to politics does not distinguish local, national or international politics but rather discusses the transnational abilities of the agent in light of the variety of degrees of community in which he or she participates. Like the virtuous warrior engaged in a just war, it is the institutional channels of international politics which provides the agent with the opportunity to further the ends of happiness demonstrating through his or her own conduct the capacity of individuals, in common, to achieve a more just union. 'The international' thus reveals its importance at this juncture. It reflects the widest degree of human interaction very much aware of the coordinating role institutions and their pattern offer to the agent in order to better understand the plight of the suffering other and acquire the necessary information in order to challenge the particular problem in a context-specific manner. It is the individual acting as an agent of justice who is, in the first instance, capable of challenging the bounded nature of International Relations calling into question the distinction of public and private, of inside and outside which limits the possibility of genuine human action. In this way, the importance of a transnational and interpersonal account of justice is further revealed as the drive towards international constitutionalism, the rule of law at the international level, and the state as the pre-eminent actor in international politics seeks to further entrench itself regardless of its ability to adequately meet the needs of individuals throughout the world.

As the high phase of Modernity comes to a close, Stephen Toulmin queries the manner in which individuals will chose to go forward, welcoming a third stage of modernity, or in fact, accepting the status quo and all of its vices. "We may welcome a

prospect that offers new possibilities, but demands novel ideas and more adaptive institutions; and we may see this transition as a reason for hope, seeking only to be clearer about the novel possibilities and demands involved in a world of practical philosophy, multidisciplinary sciences and transnational or subnational institutions,” he writes. “Or we may turn our backs on the promises of the new period, in trepidation, hoping that the modes of life and thought typical of the age of stability and nationhood may survive at least for our own lifetimes.”² Agents, on this account, can choose either to face the future, aware of the decline of the traditional nation state with a legitimacy based on the use of force, or, on the other hand, back into the future with little social forecasting and new ideas guiding the practice of politics. Predicting the demise of physics as the master science, an emerging multiplicity of acceptable and respectable modes of artistry and a co-operative international and transnational approach to dealing with problems affecting the global commons, Stephen Toulmin presents an *ecology of institutions* with which to face the future. “For the moment, the varied political relations and interactions between transnational, subnational and multinational entities, and the function they can effectively serve, still remain to be analyzed, that has, as yet,” he writes, “scarcely come into existence.”³ Offering its own take on the metaphor of ecology, this particular work ponders the politics of potential as one means of approaching the future of international affairs.

Distinguishing itself from Modernity’s ideal of human progress resting upon a scientific and technical account of political engagement, the politics of potential offers the possibility of hope, premised on the capacities and capabilities of the individual

² Stephen Toulmin, “Cosmopolis” *op. cit.*, 203.

³ Stephen Toulmin, “Cosmopolis” *op. cit.*, 207.

conceptualized as an agent of justice. Hope, on this account is intimately related to synderesis and the first principles of reason key to the relationship of the intellect and will. It indicates the capacity for individuals to do good, aware of the fallible nature of human reason. Tempering human progress, hope is keenly aware of the wayward nature of human deliberations and the equal capacity individuals possess to do evil. Ultimately, this twofold capacity means that while individuals are capable of embracing the morality of natural law, so to do they possess the choice to remain firmly embedded in the understandings and assumptions shaping contemporary pragmatic societies.

Consequently, the politics of potential distinguishes itself from Realist and Liberal interpretations of international order articulating a negative understanding of human nature. In the same vein, it distinguishes itself from the cosmopolitan assumptions of universal morality and human progress offering instead a relative approach to governance incorporating both the positive and negative attributes of the agent. Aware of the crises and conflicts associated with International Relations, and the example of the Rwandan Genocide in particular, one begins to see the importance of relationships sustaining an obligation of well-being in light of the natural equality of all individuals. Advocating an institutional arrangement derived from the relationships that constitute the moral agent, the moral taxonomy of natural law casuistry reflects the structures of justice within which to frame the politics of potential.

The politics of potential reflects the ends of natural law morality and the ethics of casuistry. It complements the process oriented approach to order and unbounded account of the political community highlighting the value of agency couched in the possibility of unified human purpose. The value of this particular account is revealed when one

examines the events of the Rwandan genocide. The institutional failures surrounding this incident were well documented in the opening pages of this work. They demonstrated the lack of agency on the part of the United Nations as well as a variety of states and militaries who failed to act or in their attempts to mitigate the conflict, were stymied through the lack of institutional resources available at the time. Nowhere is this problem better documented than in the autobiography of Lieutenant-General Romeo Dallaire.⁴ That the Rwandan genocide is a failure of humanity is unquestionable regardless of the rational or reasonable interpretation one offers. The number of human deaths, the fear and insecurity generated by the disregard for the Geneva Conventions, *The Universal Declaration of Human Rights*, and the Charter of the United Nations continues to challenge the cosmopolitan notion of human progress. Yet it is possible to examine this particular event through the idea of the politics of potential bearing in mind the idea that politics is an art. The politics of potential reveals an alternative vision of politics articulating an alternative ordering of the state, its laws and institutional practices. An account of this vision reveals the necessary assumptions and structures with which to understand anew the ends of the Rwandan genocide paying particular attention to the role of forgiveness, trust, and community building.

The politics of potential stands in stark contrast to the rationality associated with modernity and enlightenment philosophy. It incorporates the positive laws which structure the current political community, but envisions an altogether different purpose for them. In this way it acknowledges the necessity of the state, but articulates an alternative structure to that associated with negative liberty and sovereignty. Laws,

⁴ Romeo Dallaire, *Shake Hands with the Devil: The Failure of Humanity in Rwanda*, (Toronto: Vintage Canada, 2004).

reflecting the order of charity, are the unifying structure of individual agency. As Aquinas himself points out, “laws are nothing else than an ordinance of reason for the common good, made by him who has care of the community, and promulgated.”⁵ Laws represent the norms of justice and similar to the practical knowledge sustaining the moral deliberations of the agent reflect one’s particular level of human knowledge and understanding. It is to recall the point made by Jean Porter that natural law, beyond its requirements of individual reason, provides a normative order around which the community can organize itself. Reflecting the moral taxonomy of the agent, laws within the community are remain mutable and flexible, adapting to the newly emerging needs of the individuals therein. Consequently, as the nature and level of agent based knowledge increases, and the nature of morality develops in complexity, it is reasonable to expect a change in the laws which govern the community. Laws, on this account, orient individual and communal action towards the last ends of the agent, namely ‘the good’ and represent the normative requirements of morality. As Paul E. Sigmund notes, “by defining law as an ordination of reason Aquinas is saying more than simply that it is rational in character. As is clear from his explanation,” he points out, “he has in mind a particular type of reason – reasoning that is teleological or goal-oriented.”⁶ The laws of the community are linked to individual reason, and therefore the intellect and will shaping the desires of the agent and the community that supports him or her. Reflected in this institutional order is the teleology of being, noted in the natural law agent, community, and above all the metaphysical space that is ‘the international’.

⁵ Thomas Aquinas, “Summa Theologica” *op. cit.*, II-II, q. 90, a. 4.

⁶ Paul E. Sigmund, “Law and Politics” in *The Cambridge Companion to Aquinas*, eds. Norman Kretzmann and Eleonore Stump, 222 (Cambridge: Cambridge University Press, 1993).

The product of institutionalized relationships oriented around shared interests, ‘the international’ itself is the product of an unbounded account of political action. Building on the teleology of natural law, individual interests coalesce around the ends of this morality, aware that actions taken represent a commitment to that self-same morality of being. This commitment, evident in the proliferation of charity, reveals the beginnings of trust, developing out of the knowledge ascertained within those loving relations. The politics of potential, distinguishes itself further from traditional accounts of political action, articulating the possibility of trust reflected in the moral relations of agents. Trust, as Annette Baier writes “is accepted vulnerability to another’s possible but not expected ill will (or lack of good-will) toward one.”⁷ Elaborating on this idea of trust, Nicholas Rengger writes that it, “should be understood as the exercise of discretionary power by some agent (individual or artificial) on behalf of another over matters that the trusting agent cares about.”⁸ Insecurity is the product of isolated selves, unaware of the values and ideals motivating self-interested human action. ‘The international’ represented in the institutionalization of loving relationships, articulates shared values reflecting the morality of natural law. On this account, the vulnerabilities of an isolated existence are neatly side-stepped through the unity of being sustained within the relationships constituting the moral agent. This distinction is important for the trust emerging from the relationships of ‘the international’ enables the freedom and autonomy necessary for individuals to act in a manner befitting the mutuality of being committed as they are to the morality of natural law. Trust, related as it is to the unity of being, is

⁷ Annette C. Baier, *Moral Prejudices, Essays on Ethics* (Cambridge, Massachusetts: Harvard University Press, 1995), 99.

⁸ Nicholas Rengger, “The Ethics of Trust in World Politics” *International Affairs* 73, no. 3 (July 1997): 472.

represented in the creative account of justice offered in Chapter Five articulating an alternative notion of power, related to the equality of being united in love and justice. Power, on this interpretation, is the unified influence of agents acting alongside one another to achieve political change. The establishment of trust is the first stage of incorporating a vision of natural law politics within the domain of international affairs. It paves the way for a change in value orientations and provides the means to conceptualize anew a variety of practices informing international affairs and the discourses of International Relations.

A pre-eminent practice in International Relations, humanitarian intervention represents the tensions of sovereignty and morality in contemporary international affairs. It seeks to blend, albeit unsuccessfully the ends of universal morality alongside the military capabilities of the state. “In the old days, ‘humanitarian intervention’ was a lawyer’s doctrine; a way of justifying a very limited set of exceptions to the principles of national sovereignty and territorial integrity,” writes Walzer. “It is a good doctrine, because exceptions are always necessary, principles are never absolute. But we need to rethink it today, as the exceptions become less and less exceptional.”⁹ As Fiona Robinson notes, interventions are generally carried out by the military institutions of the contemporary state.¹⁰ The mandate to intervene is obtained through the legalism of the United Nations Charter and legitimated through the various organs of the institutions itself, in particular the General Assembly and the Security Council; however, upon inspection the legalism of the institution itself challenges the success of each intervention seeking to employ universal standard operating procedures in lieu of a more nuanced and

⁹ Michael Walzer, “The Argument about Humanitarian Intervention” *Dissent* 49, no. 1 (Winter 2002): 29.

¹⁰ Fiona Robinson, *op. cit.*

context specific approach.¹¹ Despite the damning appraisal offered by Robinson it is possible to reorient the ends of humanitarian intervention outside the ideal of sovereignty and non-intervention. Like the orientation of the state within the politics of potential, humanitarian intervention re-conceptualized provides one avenue with which to extend the ends of natural law morality and commutative justice within ‘the international’. At this point, the discourse of feminist ethics and feminist agency is once again instructive demonstrating alternative conceptions of well-being and care in light of the practices of international politics.

Building on her account of care, Fiona Robinson’s work is a valuable indicator of alternative conceptions of humanitarian intervention. Articulating a relational phenomenology sustaining a contextual and particular knowledge of the unique needs and requirements of suffering individuals, humanitarian intervention, on her account, need not be a military endeavor. Indeed, military engagements, constrained by the certainty of standard operating procedures, remain limited in their ability to meet the particular needs of a problem as diverse as human suffering; however, Robinson fails to articulate what bodies ought to spearhead a caring interventionist approach.¹² Sybil Schwarzenbach offers an illustration of how this could be achieved. Developing her idea of reproductive praxis, a feminist interpretation of reasonable action she offers a vision of an international civil service premised on caring relations. Schwarzenbach’s account challenges the boundaries of sovereignty and the traditional mandate of the state’s military institutions and in so doing seeks to offer an account of justice and care

¹¹ One need only investigate the problems associated with the US lead intervention into Somalia and the ongoing problems occurring in Darfur to recognize the limitations of intervention as it is currently practiced.

¹² Fiona Robinson, *op. cit.*

developing further the idea of civic friendship. “Above all else, such a service would explicitly now stress the emotional and perceptual competence central to *politike philia*: the capacity not only to perceive and to understand, but to respond with goodwill (both abstractly and in concrete practice) to other persons who are very different from oneself,” she writes. “And such training in *philia* could not help but affect a nation’s relations outwards as well.”¹³ Noting how the military is an extension of high power politics and the authority of the state its function, in light of an alternative caring trajectory is rendered redundant. On this account the international civil service alongside the casuistry of natural law offers an interesting alternative to the purpose of the state and its institutions within the politics of potential.

Situated within ‘the international’, humanitarian intervention represents a mode of engagement extending the ideal of charity beyond the state. Rooted in human agency, it reveals the ability of agents to reason out their moral duties determining a course of action respectful of the greater equality sustaining the politics of potential. Consequently, humanitarian action, as a mode of agency, is well-suited to a casuistic method. Work in this area has already begun. A noted casuist, Richard B. Miller combines the politics of rescue articulated by Michael Walzer¹⁴ and the just war tradition to reach some insightful and useful conclusions about the practice of humanitarian intervention.¹⁵ Highlighting the problems associated with the responsibility of rescue, and the associated problems of reasoning analogically vis a vis humanitarianism and just war, Miller’s aim, “is to provide a principled basis for mixed motives in humanitarian intervention, paving a

¹³ Sibyl A. Schwarzenbach, “Civic Friendship: A Critique of Recent Care Theory” *op. cit.*, 252.

¹⁴ Michael Walzer, “The Politics of Rescue” *Dissent* (Winter 1995): 35-41.

¹⁵ This article builds on a majority of the arguments he presents in his previous work, Richard B. Miller, *Interpretations of Conflict: Ethics, Pacifism, and the Just-War Tradition* (Chicago: University of Chicago Press, 1991).

middle way between the intuitions of admiration and suspicion in international affairs and removing the apparent disanalogy between just wars and the politics of rescue.”¹⁶

Ultimately challenged by the fact that the just war tradition reasons casuistically about the just use of force, a point noted by Nicholas Rengger in Chapter Two, this foray into the nature of intervention whilst incorrectly framed it elicits some interesting conclusions. Miller provides an example of how, when properly conceptualized outwith the boundaries of sovereignty, casuistry is a valuable tool with which to evaluate the practice of humanitarian intervention.

In contrast to the rescue/just war paradigm offered by Miller, Jean Bethke Elstain, offers an interesting examination of equal regard and justice which, when related to the ethical use of force is indicative of a rhetoric of intervention related to the politics of potential. “I will argue that the just war tradition helps to secure a citizenship model for international justice-this by contrast to the model of victim/victimizer that underlies the humanitarian intervention model, one that invites the use of force as a form of rescue, even welfare,” she writes, “as opposed to the use of force as a way to strengthen or to secure a political community within which accountable officials are responsible for securing civic security, order and minimal decency.”¹⁷ Correlating equal regard with human dignity, Elstain highlights the central role of language underpinning the use of force ensuring treatment in accord with the assumption of human dignity further securing the well-being of domestic citizens. On one level this account of the use of force to restore a just order is similar to notions of well-being and community articulated throughout this work and for this reason, renders a vision of natural law

¹⁶ Richard B. Miller, “Humanitarian Intervention, Altruism, and the Limits of Casuistry” *The Journal of Religions Ethics* 28, no. 1(2000): 10.

¹⁷ Jean Bethke Elstain “International Justice as Equal Regard and the Use of Force” *op. cit.*, 66.

intervention plausible. On the other hand, Elshtain remains firmly centered on a notion of justice which is subjective in its orientation.

The casuistry of humanitarian intervention, related to the ends of natural law interweaves the creative justice of *agape* and *philia* within a relational setting. In the first instance, the loving disposition of the agent requires that he or she listen to the unique needs of others. In this way the uniqueness each and every agent is respected. Furthermore, this information facilitates the development of a context specific action plan meeting the needs of the particular individual. This account of intervention is a two phased endeavor. It is primarily agent centric in that it requires one individual to identify the needs of another furthermore endeavoring to understand the requirements of those needs. In the second instance and intervention requires the agent to work within the institutional relationships generating the necessary influence to achieve unified action. On its own, individual action appears limited, unable to generate the necessary momentum. Yet, when situated in the civil service of care, articulated by Schwarzenbach, it provides the necessary institutional structures representing the ends of the natural law common good. As was shown in Chapter Five, the order of charity is pre-eminently a personal order. Yet, when situated within the broader institutionalization of *philia* relations, it extends outwards into the broader remit of international affairs. Recalling at this point the point made by Stephen J. Pope that Aquinas's order of charity is primarily a reflection of the prudent agent; however, the lack of further institutionalization of charity by Aquinas does not limit the just institutional arrangements of society; rather, the actions of the agent working within institutional structures is, according to Aquinas, the most efficient manner to proliferate justice into

the wider community. Building on the relational account of being, and the natural equality sustaining the virtuous agent, the institutionalization of relationships represents a further development in the morality of natural law in keeping with the original order of charity as presented originally by Aquinas.

This representation of intervention reflects the ability of human agency to affect institutional development. It works within the casuistry of natural law offering a moral taxonomy outside that of the just war tradition, simultaneously offering an account of justice that respects the natural equality of being. On this account, it builds on the shortcomings of Morris and Elshtain reflecting the unity of being articulated in the common good of the natural law community. It respects local custom and knowledge catering to the personal development of the suffering agent. Similar to Toulmin's ecology of institutions, humanitarian intervention represents a shifting focus of the modern states *modus operandi*. "From now on, the overriding concern of administrators and politicians can no longer be to enhance the scope, power, and glory of those centralized national institutions," he writes. "Rather, we need to disperse authority and adapt it more discerningly and precisely: on the one hand, to the needs of local areas and communities, and on the other, to wider transnational functions."¹⁸ Humanitarian intervention, conceptualized within the politics of potential represents both the domestic and transnational themes identified by Toulmin. It demonstrates a respect for the plurality of life forms constituting 'the international' simultaneously revealing a just institutional structure therein. On this account, humanitarian intervention reflects the ends of the order of charity, namely a loving justice which respects and perfects the

¹⁸ Stephen Toulmin, "Cosmopolis" *op. cit.*, 206.

uniqueness of individuals, outside the contemporary ideals of sovereignty and non-intervention.

In light of the emphasis on commutative justice, the traditional modes of punishment and its association with retributive forms of justice within international affairs remains at odds with this relational account of being political. In light of the alternative ends of the state, and the practice of humanitarian intervention, reflections upon the traditional legalism guiding international justice must be reviewed. In the face of gross human tragedy, temporary criminal tribunals as evidenced in the former Yugoslavia and Rwanda are created so as to hold individuals engaged in crimes against humanity accountable. “The principle judicial purpose of these international trials has been to challenge impunity by identifying who was responsible for acts of atrocity-crimes against humanity, genocide and war crimes – and to prosecute them. This has involved both individualizing responsibility for acts of atrocity and, at the same time,” writes Michael Humphrey, “revealing the political and organized character of the crimes committed. These international legal interventions then are designed not only to make perpetrators accountable but also to promote peace by restoring the authority of law, justice, and individual rights after mass atrocity.”¹⁹ Following on from these temporary bodies, the International Criminal Court, a permanent institutions, has developed in order to pursue ‘international criminals’ with a higher degree of authority and legitimacy; however, the ends of such institutions curbing the behavior contributing to human suffering is debatable. “Achieving effective prevention against an entrenched culture of impunity, and fostering inhibitions against widespread rape, pillage, and murder in a

¹⁹ Michael Humphrey, “International intervention, justice and national reconciliation: the role of the ICTY and ICTR in Bosnia and Rwanda” *Journal of Human Rights* 2, no. 4 (2003): 496.

context of habitual violence, cannot be realized through the efforts of a few ad hoc tribunals and national trials here and there,” writes Payam Akhavan.²⁰ It is a point further commented on by David Wippman. “Uncertainties about deterrence should not detract from the many other reasons noted earlier for supporting the prosecution of those who violate international humanitarian law. But such uncertainties, he writes, “should make us wary of exaggerated claims concerning the benefits of such prosecutions.”²¹ Building on the proportional representation of justice, this account of international judicial politics builds on the isolation of contemporary political structures further isolating the individual within society. Heeding neither the well-being of the victim nor the aggressor this account of justice furthers the immorality of its political structures contributing to the detrimental existence of individuals as subjects.

An institutional framework structured around the ideal of charity, and building on the unity of creative justice, seeks in the first instance unity. Unity, alongside human development, can not occur in isolation. Consequently, the ends of any political conflict must have as their end goal reunion. There does not exist a form of punishment within the commutative structures of justice, rather, it builds on the ability of the agent to listen and assimilate knowledge ultimately moving towards the final component of a commutative justice; namely, forgiveness. Forgiveness, on this account, is related to the unity of being, of persons in relations overcoming their isolated existence and seeking, in communion with one another a higher level of being. “The third and most paradoxical form in which justice is united with love is forgiving,” writes Tillich. “Nothing seems to

²⁰ Payam Akhavan, “Beyond Impunity: Can International Criminal Justice Prevent Future Atrocities?” *The American Journal of International Law* 95, no. 1 (January 2001): 31.

²¹ David Wippman, “Atrocities, Deterrence, and the Limits of International Justice” *Fordham International Law Journal* 23 (1999): 488.

contradict more the idea of justice than this doctrine, and everybody who has pronounced it has been accused of promoting injustice and amorality, he further notes. “Without reconciliation there is no reunion. Forgiving love is the only way of fulfilling the intrinsic claim in every being, namely its claim to be reaccepted into the unity to which it belongs. Creative justice demands that this claim be accepted and that he be accepted who is unacceptable in terms of proportional justice.”²² A discourse of forgiveness is proactive in the rebuilding stages of institutional design reconstituting the relationship of the agent and victim through an innate recognition of the sameness of self providing the first steps with which to cultivate a seedbed of trust.

Returning to the aforementioned relationships of equality love and justice, is to note the following: the reconstruction of personal relationships can begin only when an adequate understanding of the past violence is achieved and the victim can accept the aggressor back into society. Conversely, this acceptance must be accompanied by a change in values within the aggressor as well. Forgiveness, like humanitarian intervention already investigated, is in the first instance centered on the loving abilities of the agent. It represents another interpretation of the virtuous warrior first articulated by Aquinas. Yet unlike intervention which focuses on the institutionalization of *philia* relations, forgiveness focuses on *agape* relations. It highlights the necessity of steadfastness in the face of unreciprocated love, or loving in the complete absence of virtue. Forgiveness takes time, and, like the teleology of ‘the good’ itself, may not be achievable in the lifetime of one political agent. Consequently, the complete integration of victim and aggressor into one community represents the progressive movement

²² Paul Tillich, *op. cit.*,

towards the unity of the separated; however, in so doing it paves the way for the more complete development of future generations, reaping the benefits of an ongoing and developmental approach to morality and justice. Bearing this in mind, forgiveness and intervention, understood as two parts of a greater process represent two poles within the institutionalization of relationship each of which respect the fundamental equality and freedom of the moral agent offering the possibility of furthering the development of both the self and the other as required by the ends of natural law morality.

The necessary intervention needed to quell the violence in Rwanda did not occur. Consequently, a casuistic natural law appraisal at this point in time must focus on the role of forgiveness and question what steps have been taken to ensure that both the victims and perpetrators are safe in their chosen community and can begin to develop the necessary personal relationships for the development of the self and the other. These processes reveal how the community can become one in which mutual-self revelation sustains the ends of well-being and development. Once again, the art of politics is instructive. It extends the capacities for moral agency beyond the strict limitations of public politics and demonstrates, contrary to the ends of a pragmatic and subjective society how human practices and interests can utilize human non-instrumental relationships in the practice of politics and in so doing endorse a personal account of being political. The art of politics reflects the observations of Adorno and Horkheimer challenging the logically positive mentality of modernity and recalls the unified relationship of reason and rationality. “For the enlightenment, whatever does not conform to the rule of computation and utility is suspect. So long as it can develop undisturbed by any outward repression, there is no holding it,” they write. “To the

Enlightenment, that which does not reduce to numbers, and ultimately to the one, becomes illusion; modern positivism writes it off as literature.”²³ Following on from this point the fictional literature surrounding the Rwandan Genocide are particularly insightful. In *A Sunday at the pool in Kigali* Gil Courtemanche personalizes the events of the genocide depicting a love story between two characters, Gentile and Valcourt.²⁴ Gentile a native of Rwanda and Valcourt, a Canadian in Rwanda embark on a love affair during the genocide and this relationship is used to highlight the atrocity, ignorance and apathy of the world community. Yet, the manner in which this story portrays the genocide reveals the ability of fiction to pave the way for instances of forgiveness and trust. It demonstrates the inter-racial relationships which pre-date the genocide and continued to exist throughout the atrocities. In so doing it demonstrates how fiction reveals the ability of unified personal relationships needed for safe post-conflict community building.

In a similar fashion, one can examine the lives of particular agents in order to see how their lives have been affected by the tragedy on a personal level noting what institutional channels they are developing in order to spread knowledge and understanding sustaining reunion. In the first instance, one can look to the academic literature investigating the Rwandan Genocide. A diverse series of writings examine the events and questions the failure of the international community to act as obliged agents offering alternative modes of agency in the future. Philip Gourevitch provides a particularly graphic description of the mixed loyalties emerging from familial relations in his work *We wish to inform you that tomorrow we will be killed with our families: stories*

²³ Theodor W. Adorno & Max Horkheimer, *Dialectic of Enlightenment* (London: Blackwell Verso, 1997), 7.

²⁴ Gil Courtemanche, *A Sunday at the pool in Kigali* (Edinburgh: Canongate Books Ltd, 2004).

*from Rwanda*²⁵ noting how close communities were torn apart through the demarcation of racial lines. In so doing he questions the validity of territorial borders and recalls the challenge faced by African nations to achieve a positive level of sovereignty. In the same vein, Scott Peterson wrote his work *Me against my brother: at war in Somalia, Sudan, and Rwanda: a journalist reports from the battle fields of Africa*.²⁶ This work demonstrates the ability of one individual to proliferate information beyond the small closed community and in so doing engages with the wider levels of interest communities. While his efforts were challenged, they demonstrate the potential capacity of one individual striving for goodness in the midst of injustice and immorality.

Finally, one can look at the wider role which civil society, comprised of NGOs, IGOs and a variety of institutions can work together in order to critically examine the failings of one event and generate the necessary information to challenge its occurrence in the future. For recall, casuistry is rarely about hard cases per se, but reflects the quotidian affairs of agents in the community thus it looks to understand events in light of the overarching ends its agents seek. Genocidal events question the capacity of this method to effectively quell large scale suffering and trauma, but provide one avenue for individuals who wish to make a difference and criticize the structures which perpetuate the problem on a global scale. In this way, the works of Romeo Dallaire are again instructive. Beyond his own autobiography and his participation as a consultant in the movie *Hotel Rwanda* he is engaged with the Montreal Genocide Institute itself associated with Concordia University. These two institutions reflect how the interests of one agent intersect creating wider relationships of interests in order to affect political and moral

²⁵ Gourevitch, *op. cit.*.

²⁶ Peterson, *op. cit.*.

change. Romeo Dallaire reflects well the virtuous warrior acting out the art of politics. As a single agent he interweaves positive and creative relationships bridging the gap of legal and reasonable agency in order to further develop knowledge and awareness of the tragic events of Rwanda. In this way he demonstrates the value of the politics of potential.

The Rwandan genocide reflects the ultimate failure of a pragmatic politics and morality. Its laws and territorial boundaries sought to isolate individuals from one another, both in an historical and contemporary sense and in so doing, denied the development of knowledge of the self and other contributing to ill-informed decision making procedures on the part of individuals and institutions alike. In this sense an historical examination of the genocide reveals a decided lack of trust and a commitment to the morality of well-being and development. Yet the ongoing work of individuals within the community is indicative of the necessary forgiveness and healing which is occurring outside the formal boundaries of International Relations. The agent lead initiatives complement the formal juridical process of the International Criminal Tribunal of Rwanda (ICTR) demonstrating the existence of 'artful politics' alongside the logical positive approach associated with pragmatic morality which seeks in its own particular way to generate knowledge in order to create moral communities. The potential benefits of this work reveal the possibility of individuals living side by side respecting the unique differences of particular agents aware of the natural equality which links all individuals together as beings in politics. This proactive approach represents the ends of the politics of potential and goes some way to healing the suffering associated with the Rwandan genocide recalling the capacity of agents to do both good and evil.

The politics of potential, like the ideal of human happiness represents an ideal type. It is not out of the realms of possibility that such a complete community can be achieved, but its achievement is a long and arduous process. Recalling the skepticism originally faced by feminist scholars, advocating agency to achieve a more open and inclusive society, one is mindful of the capacity for otherwise relegated ideas to affect political and social change in light of the achievements of feminists agents to date. For this reason the discussions throughout this work represents the hope of the capacity and capability of individuals, as agents of justice, to achieve greater things; however, it is a hope which, unlike the enlightenment ideals of progress, is very much aware of the fallible nature of human reasoning. Bearing all of this in mind, this particular thought process and foray into the institutional design of international affairs represents, above all else, a critique of the subjective account of international engagements sustaining the isolated and self-sufficient rights bearing subject. The ideal of sovereignty, and its associated order, represent one particular reading of international affairs mitigating the abuse of power simultaneously protecting the right of each and every state to co-exist in a cooperative manner at the international level. Yet the boundaries it sustains and the practices it endorses contribute to the ongoing suffering of individuals. The appeal of the natural law account of agency and agents and the objective account of being political it sustains lies in its ability to check the ends of this particular arrangement mindful of the original ends they sought to achieve. In light of the continuing political atrocities such as the Rwandan genocide, the function and utility of human rights and humanitarian law within contemporary international affairs requires an immediate re-appraisal.

This account of politics does not culminate in one over-arching ordering principle. In so doing it further distinguishes itself from contemporary accounts of political order. Instead, it emphasizes the capacities and capabilities of the individual as an agent of justice. Justice in this instance reflects the natural equality of being similarly evident in its account of morality which is powerful in light of the ideas of community and politics understood as degrees of human relationships. The degrees of human relationships are similar tempered by a personal ethic of love and the wider institutionalization of charity which seek at the end of the day to demonstrate the very basic similarities which characterize what it is to be human. It is this very basic understanding motivating agency challenging the immorality of human suffering and seeking to provide relief to those who bear its burdens. Ultimately this account is but a brief appraisal of the need for alternative accounts of International Relations challenging accepted modes of practice in light of injustice and immorality therein. As the investigations of human harm reveal the ultimate ends of human rights are not being met. It is thus necessary to determine why this is and seek to rectify this particular problem. Natural law not only provides an interest series of assumptions to pose these questions, it also highlights an account of the good life articulating the pre-eminent value of being human, in common with which to order anew international affairs.

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