

Christian Natural Law and a Foundation for Religious Freedom: Love, the True, and the Good

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This article is a summary version of my book Christian Natural Law and Religious Freedom: A Foundation Based on Love, the True and the Good (Routledge, forthcoming 2026). It aims to begin a conversation with respect to articulating a theological foundation for religious freedom. For this purpose, I consider natural law in the Christian tradition. In Part I, I briefly survey the diversity of Christian natural law and argue that Radical Orthodoxy enables the identification of common themes across the breadth of Christian natural law. These themes include the Good (a set of basic goods and the common good), the True (divine revelation as specially revealed in Scripture and generally revealed in nature), and Love (the law of love as ultimately displayed through Christ). In Part II, I draw on these themes of Good, True, and Love to sketch a theological framework for religious freedom. Fundamentally, religious freedom is an expression of the Good because it allows people to pursue the good of religion, which contributes to a flourishing community; it is an expression of the True because it aims towards receiving the revelation of God; it is an expression of Love because it brings people to the ultimate Good and Truth — God Himself — which is only possible through the loving sacrifice of Christ on the cross.

INTRODUCTION

The significant increase in scholarly literature on religious freedom underscores the need for a robust theological and ontological foundation. In this respect there is some emerging work which separately explores natural law and religious freedom,¹ theology and religious freedom,² and a Christian conceptual foundation for religious freedom.³ However, there is nothing which combines a specific strand of contemporary Christian theology (Radical Orthodoxy) and natural law to create a robust theoretical foundation for religious freedom. To address this gap, I draw on natural law in the Christian tradition informed by Radical Orthodoxy, or what I call ‘Christian Natural Law’, to

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¹ See, eg, J Daryl Charles, *Natural Law and Religious Freedom: The Role of Moral First Things in Grounding and Protecting the First Freedom* (Routledge, 2018); Karen Taliaferro, *The Possibility of Religious Freedom: Early Natural Law and the Abrahamic Faiths* (Cambridge University Press, 2019); Cory Higdon, ‘Roger Williams, Natural Law, and Religious Liberty’ (2021) 63(1) *Journal of Church and State* 85.

² See, eg, Alex Deagon, ‘Reconciling John Milbank and Religious Freedom: “Liberalism” through Love’ (2019) 34(2) *Journal of Law and Religion* 183 (“‘Liberalism” through Love’); Edward David, *A Christian Approach to Corporate Religious Liberty* (Palgrave Macmillan, 2020); Xavier Menard and Anna Su, ‘Liberalism, Catholic Integralism, and the Question of Religious Freedom’ (2021) 47(4) *Brigham Young University Law Review* 1171; Andrew Walker, *Liberty for All: Defending Everyone’s Religious Freedom in a Pluralistic Age* (Brazos Press, 2021).

³ See, eg, Robert Wilken, *Liberty in the Things of God: The Christian Origins of Religious Freedom* (Yale University Press, 2019) (*Liberty in the Things of God*); Joel Harrison, *Post-Liberal Religious Liberty: Creating Communities of Charity* (Cambridge University Press, 2020) (*Post-Liberal Religious Liberty*); Alex Deagon, *A Principled Framework for the Autonomy of Religious Communities: Reconciling Freedom and Discrimination* (Hart Publishing, 2023) (*A Principled Framework*).

articulate a conceptual and ontological foundation for religious freedom. J Daryl Charles aims to provide an ontological foundation in his work, and I draw on Charles, but I also go beyond him to an explicitly theological grounding which better accounts for the transcendent dimension of religious freedom.⁴ Karen Taliaferro too re-examines the traditions of natural law for the purposes of defending an idea of religious freedom that has appeal in our contemporary secular society.⁵ Though it is not my primary purpose to explain how a theological natural law foundation for religious freedom may be acceptable to modern society, I have addressed this elsewhere through the application of Christian virtues which are shared and universally applicable.⁶

In any case, in this work I also implicitly address the problem by relying on a Christian Natural Law which is post-(secular) liberal but still supports and undergirds the liberal virtues of freedom, equality, and democracy, guiding the community to the true and the good which can be universally accessed and known.⁷ As Taliaferro correctly notes, a ‘purely secular defense of religious freedom’ ‘simply won’t do’, because in order to be legitimate for religion and religious people, such a defence must ‘recognize the authority of the divine law’.⁸ My proposal therefore provides a robust, transcendent foundation for religious freedom through Christian Natural Law, yet I also rely on universal virtues and ideas that have appeal for those who are not part of the Christian or any other religious tradition. Taliaferro rather vaguely discusses natural law as pursuing ‘natural ends’ or the ‘good life’ through the application of reason, but I provide more specificity for a Christian Natural Law foundation of religious freedom which pursues the Good, True, and Love, explaining in detail what these concepts entail.⁹ In this work I will be focusing on the theological ontology of natural law (its source and grounding), not the epistemological question (how we know the natural law through reason), though there will necessarily be some discussion of the epistemological aspect when I consider the relationship between nature, grace, revelation, and reason.¹⁰

Part I articulates what I mean by ‘Christian Natural Law’. First, I broadly outline what is meant by natural law and how different Christian traditions have understood and positioned themselves with respect to the natural law. Second, I explain how some ostensibly secular accounts of natural law are actually theological in the Christian sense. Third, I argue that deploying Radical Orthodoxy enables the identification of general theological principles which hold across the Christian traditions of natural law — the Good, the True, and Love — and these principles comprise ‘Christian Natural Law’. Part II suggests how this ‘Christian Natural Law’ provides a robust ontological and theological foundation for religious freedom. The Good, which is composed of the basic goods and the common good, allows people to pursue the good of religion which contributes to a flourishing human community. The True recognises that religious freedom is aimed at

⁴ Cf Charles (n 1) viii, 14, 33.

⁵ Taliaferro (n 1) 7–8, 15–16, 20–1.

⁶ See, eg, Deagon, “‘Liberalism through Love’ (n 2); Deagon, *A Principled Framework* (n 3) Introduction.

⁷ See, eg, Harrison, *Post-Liberal Religious Liberty* (n 3); Taliaferro (n 1) 23–31. In effect, the pursuit of truth and the good through natural law means the idea has a broad appeal which can be rationally engaged by all. My use of liberal and non-liberal language to explain this phenomenon is the outworking of a theological approach which simultaneously transcends and fulfils liberalism. See, eg, Deagon, “‘Liberalism’ through Love’ (n 2); Deagon, *A Principled Framework* (n 3) Introduction.

⁸ Taliaferro (n 1) 124–6, 129.

⁹ Cf *ibid* 26, 28, 132–3.

¹⁰ For a volume which explores these various ontological and epistemological questions in detail, see George Duke and Robert George (eds), *The Cambridge Companion to Natural Law Jurisprudence* (Cambridge University Press, 2017).

pursuing truth, which is receiving the revelation of God. Love is the culmination of the True and the Good because religious freedom brings people to the ultimate Truth and Good — God Himself — which is also paradigmatically expressed through the Incarnation of Christ.

ARTICULATING ‘CHRISTIAN NATURAL LAW’

Natural law, broadly speaking, promises the ‘possibility of arriving at moral truths by reference to truths of ontology and a metaphysics that is comprehensible to human reason’; natural law therefore offers a ‘secure foundation’ for understanding what is required for individual and common good.¹¹ Drawing from Thomas Aquinas, a 13th century scholastic theologian and the classical proponent of natural law, Robert George notes that the first principle of natural law is that good is to be done and evil is to be avoided. This means the first principle of morality, as apprehended through practical reason, is to will and act in such a way that the good is brought about, which produces ‘integral human fulfilment’.¹² This is specified by considering and identifying the various requirements of human flourishing, such as friendship, knowledge, and religion.¹³ These are elsewhere called the ‘basic goods’.¹⁴ The basic goods are the essential, irreducible forms by which humans consider what is good for them to think, do, and be. John Finnis, a 20th century legal theorist who articulates a modern formulation and revivification of Thomist natural law, argues the basic goods are life, knowledge, play, aesthetic experience, sociability (friendship), practical reasonableness, and religion. These goods are exhaustive, all equally fundamental, and are self-evident and basic in the sense that they are arrived at through practical reflection rather than derived by logic from some higher authority.¹⁵ As will be discussed further below, Finnis claims this implies a theory of natural law can be articulated without reference to God.¹⁶ However, a Christian Natural Law must necessarily contain theological presumptions and theological content.

The Different Christian Traditions of Natural Law

Natural law from the Christian perspective typically begins with Aquinas, and has traditionally found the source of the civil law in a higher law based in the existence and nature of the Christian God.¹⁷ As Jacobs emphasises:

¹¹ Jaqueline Lang, ‘Natural Law Reasoning in Applied Ethics’ in George Duke and Robert George (eds), *The Cambridge Companion to Natural Law Jurisprudence* (Cambridge University Press, 2017) 216, 216.

¹² Robert George, ‘Natural Law, God and Human Dignity’ in George Duke and Robert George (eds), *The Cambridge Companion to Natural Law Jurisprudence* (Cambridge University Press, 2017) 57, 59.

¹³ *Ibid* 59.

¹⁴ See, eg, John Finnis, *Natural Law and Natural Rights* (Oxford University Press, 2nd ed, 2011); See also John Finnis, ‘Aquinas and Natural Law Jurisprudence’ in George Duke and Robert George (eds), *The Cambridge Companion to Natural Law Jurisprudence* (Cambridge University Press, 2017) 17, 18–19.

¹⁵ See generally Finnis, *Natural Law and Natural Rights* (n 14) 59–97. Of course, there are other views and articulations of these basic goods. See, eg, Jonathan Crowe, *Natural Law and the Nature of Law* (Cambridge University Press, 2019) 35. Finnis himself adds the good of ‘marriage’ in later work.

¹⁶ Finnis, *Natural Law and Natural Rights* (n 14) 48–9.

¹⁷ For more detail see Alex Deagon, ‘Rendering to Caesar and God: St Paul, The Natural Law Tradition and the Authority of Law’ (2014) 13(3) *Law, Culture, and the Humanities* 469–92; Alex Deagon, *From Violence to Peace: Theology, Law and Community* (Hart Publishing, 2017) 85–90 (‘*From Violence to Peace*’), which some material in this part draws upon.

[I]t is clear that, in natural law theorizing from antiquity to early modern times, the role of theistic considerations is a crucial matter. Medieval Christian thinkers' beliefs concerning creation, revelation, and providence shaped their conceptions of the scope and power of unaided human reason, the relation of natural law to divine wisdom and divine will, and how 'right reason' is to be understood.¹⁸

Aquinas defines law as 'a dictate of practical reason emanating from the ruler who governs a perfect community', and so there is an eternal law or *lex eterna*, which is God's law and which fulfils these criteria.¹⁹ Since the eternal law of God is a subset of the content of the divine intellect and is therefore truth, and to some extent people by grace know God and know truth, to this extent they know the eternal law.²⁰ The 'divine law' or *lex divina* allows people to participate 'more perfectly in the eternal law' through clarifying the eternal law against the limitations of pure human reason, and consists of the true revelation contained in Holy Scripture, the Old and New Testaments of the Bible.²¹ Those who do not have this law of revelation nevertheless do by nature (illuminated by grace) those things which are of the law, and so know what is good and what is evil by conscience.²² This is the 'natural law' or *lex natura*, which humans apprehend through their possessing a 'share of the Eternal Reason', and so they are able to 'participate in the eternal law through reason'; hence, the natural law is 'the rational creature's participation of the eternal law'.²³

The general Christian tradition of natural law concerns, then, 'the existence of God-given universal principles' which God 'revealed' to humanity; natural law 'is a form of divine law' implanted in all humans to know what is right and good, and is discoverable through the exercise of reason and conscience.²⁴ As noted by Sandberg, 'support for natural law approaches is not divided by denominational lines', and includes many scholars from various traditions including Catholic, Anglican, and Protestant.²⁵ Catholic, Protestant, and Anglican approaches all suggest the general natural law idea that there are 'universal standards found in nature that are normative', and these standards have been 'implanted' in human nature through the exercise of reason.²⁶ The Roman Catholic tradition largely follows Thomas Aquinas articulated above.²⁷ In addition to God's special revelation in Scripture, the Roman Catholic approach has a high emphasis on the traditional teaching of the church as authoritative, and on the power of human reason to discern moral standards.²⁸

¹⁸ J Jacobs, 'Introduction' in J Jacobs (ed), *Reason, Religion, and Natural Law: From Plato to Spinoza* (Oxford University Press, 2012) 8.

¹⁹ Thomas Aquinas, *Summa Theologica*, ed Robert Hutchins, tr Fathers of the English Dominican Province (William Benton, rev ed, 1952) vol 2, 208.

²⁰ *Ibid* 216–17.

²¹ *Ibid* 210–11.

²² *Ibid* 208–9.

²³ *Ibid* 209.

²⁴ Norman Doe, 'Preface' in Norman Doe (ed), *Christianity and Natural Law* (Cambridge University Press, 2017) xiii, xiv.

²⁵ Russell Sandberg, 'Towards a Jurisprudence of Christian Law' in Norman Doe (ed), *Christianity and Natural Law* (Cambridge University Press, 2017) 220, 231.

²⁶ *Ibid* 232. Charles provides a detailed catalogue of perspectives on natural law from across different Christian traditions. See Charles (n 1) xiv, 55–8, 64–76, 260–1, some of which are already cited or engaged in this article.

²⁷ Helen Costigane, 'Natural Law in the Roman Catholic Tradition' in Norman Doe (ed), *Christianity and Natural Law* (Cambridge University Press, 2017) 17, 18–20.

²⁸ *Ibid* 22–4.

Conversely, Protestant approaches (broadly encompassing Reformed, Baptist, Puritan, Evangelical, Lutheran, and Methodist traditions) emphasise the core authority of Scripture as the source of all divine law; access to the natural law is limited and defective due to the pervasive effects of sin on our noetic faculties. Our reason and conscience are corrupted, as is our ability to discern what is good and right. Yet, humans retain a limited moral capacity which is enhanced by common grace.²⁹ The Anglican approach tends to mediate between the Catholic and Protestant perspectives, continuing the Catholic way of relying on a combination of Scripture, reason, and tradition without an ‘over-reliance on ... revealed divine law’.³⁰ ‘Reason is acknowledged as necessary in the interpretation of Scripture’, but Scripture is still given high value.³¹ The Anglican compromise suggests that the distinct emphases of the Catholic and Protestant traditions of natural law do not necessarily imply they are irreconcilable. The Protestant emphasis on sin and grace complements the Catholic emphasis on nature and reason. As will be explained in further detail below through the common source of Thomas Aquinas, our natural reason is indeed limited by sin, but through grace it is sufficiently enhanced to grasp the natural law. The rational creature can in this sense only participate in the eternal law through grace, or divine illumination of their limited natural faculties.³²

This is affirmed by Beckwith. As he explains, when one ‘attends to what Aquinas actually taught (and with which the Catholic Catechism is in full agreement), the distance between’ Protestant and Catholic ideas of natural law ‘seems almost negligible’.³³ Consistent with the Protestant approaches, the Catholic approach to natural law is not independent of scripture/the divine law/divine revelation in three senses. First, ‘the natural law participates in the eternal law, which is also the source of the divine law’; this means ‘God is the source of the natural law’, which includes the rational nature of human beings which also eternally exists in the mind of God.³⁴ Second, natural law is ‘incomplete and inadequate given human nature’ and the ‘fallen state’; Aquinas acknowledges that God must provide the divine law to guide the apprehension of the natural law.³⁵ Just like the Protestants, ‘the Thomistic and Catholic view of natural law does in fact hold that the Fall has had a deleterious effect on our noetic powers’.³⁶ Third, the Bible itself teaches both the existence and the content of the natural law, and therefore deferring to the

²⁹ See, eg, Mary Anne Plaatjies van Huffel, ‘Natural Law in the Reformed Tradition’ in Norman Doe (ed), *Christianity and Natural Law* (Cambridge University Press, 2017) 121, 122, 131; Paul Goodliff, ‘Natural Law in the Baptist Tradition’ in Norman Doe (ed), *Christianity and Natural Law* (Cambridge University Press, 2017) 140, 146. See generally Constance Lee, ‘The Spark That Still Shines: John Calvin on Conscience and Natural Law’ (2019) 8(3) *Oxford Journal of Law and Religion* 615.

³⁰ Will Adam, ‘Natural Law in the Anglican Tradition’ in Norman Doe (ed), *Christianity and Natural Law* (Cambridge University Press, 2017) 58, 66–7.

³¹ *Ibid* 76.

³² Aquinas (n 19) 210.

³³ Francis Beckwith, ‘Natural Law, Catholicism and the Protestant Critique: Why We Are Really Not That Far Apart’ (2019) 25(2) *Christian Bioethics* 154, 160 (‘Natural Law, Catholicism and the Protestant Critique’). See also Francis Beckwith, *Never Doubt Thomas: The Catholic Aquinas as Protestant* (Baylor University Press, 2019); Patrick McKinley Brennan and William Brewbaker III, *Christian Legal Thought: Materials and Cases* (Foundation Press, 2017) 397–426; Stephen Grabill, *Rediscovering the Natural Law in Reformed Theological Ethics* (William B Eerdmans, 2006).

³⁴ Beckwith, ‘Natural Law, Catholicism and the Protestant Critique’ (n 33) 160–1.

³⁵ *Ibid* 161.

³⁶ *Ibid* 162.

authority of Scripture requires acknowledging the natural law.³⁷ There is consequently a consistent theological theme of grace enabling nature, and revelation illuminating reason, across the Christian traditions of natural law.

The Theological Nature of Traditional 'Secular' Natural Law

Even some ostensibly secular accounts of natural law have theological presumptions and theological content. For example, from one perspective, Finnis claims that Aquinas considers the natural law to be self-evident, but that the existence of God is not self-evident, and his will cannot be discovered without revelation. Finnis proceeds to articulate a theory of natural law 'without needing to revert to questions of God's existence and will'.³⁸ He states that according to Aquinas, 'a positive or human law is derived from the natural law by a deductive process', and 'obtains its force from the natural law', which Finnis defines as 'the set of principles of practical reasonableness which order human life and community'.³⁹ Finnis further discusses the origin of the phrase 'natural law' in Cicero and the Stoics, emphasising that a primary use of *natura* refers to 'practical reason according to human nature'.⁴⁰ Hence for Finnis on this account, according to Aquinas, even though the eternal law is from God, human apprehension of the eternal law by the natural law is 'through human reason'.⁴¹

Lloyd Weinreb and Jean Porter reject this interpretation of Aquinas, for according to them Finnis claims that the Thomist natural law theory is not ontological, and is severable from Aquinas' context of the eternal law of God. This is to 'radically distort the Thomist framework', and to 'misconceive' the fact that the 'natural law exists on the basis of the eternal law and eternal reason rationally ordering the universe' — in other words, for Weinreb and Porter, Finnis' account of natural law in Aquinas is not theological enough.⁴² Jean Porter in particular argues that the 'usual approaches' to natural law, and 'particularly to Aquinas', are 'too focused on philosophy to the neglect of theology, the scholastics, and Scripture'.⁴³ To redress this balance, she seeks to 'articulate a theological account of the natural law through the accounts of the scholastics' (and especially Aquinas), in order to 'properly incorporate Scripture', as well as provide a bridge to other perspectives.⁴⁴

Although I am sympathetic to Porter's project, her claim that Finnis' account of Aquinas is not theological enough is probably overstated. Holistically considered, and despite Finnis' own claims to the contrary, the account provided by Finnis is manifestly theological. The human reason referred to by Finnis is actually reason illuminated by revelation, an exercise of nature enabled by grace. According to Finnis, the term 'natural' law and the consequent distinction between 'natural' reason and revelation drawn by some theologians has given 'credence to the supposition that the

³⁷ Ibid 161–2. See, eg, Romans ch 2, vs 14–15 (English Standard Version); Charles (n 1) 55–6; David VanDrunen, *Divine Covenants and Moral Order: A Biblical Theology of Natural Law* (William B Eerdmans, 2014).

³⁸ John Finnis, *Natural Law and Natural Rights* (Oxford University Press, 1980) 48–9.

³⁹ Ibid 280–1.

⁴⁰ Ibid 374–6.

⁴¹ Ibid 400.

⁴² See Lloyd Weinreb, *Natural Law and Justice* (Harvard University Press, 1987) 109; Jean Porter, *Nature as Reason: A Thomistic Theory of Natural Law* (William B Eerdmans, 2005) 38–9.

⁴³ Porter (n 42) 1–2, 5, 45.

⁴⁴ Ibid.

term ‘natural’ signifies immanence and secularism at the expense of transcendence or the supernatural.⁴⁵ Finnis rejects such a supposition as ‘muddled’, arguing that what Plato, Aristotle, and others mean by nature actually ‘implies participation in the divine intellect and divine reason’, entailing ‘faith in the existence of God’.⁴⁶ The ‘assertion of objective norms of human flourishing and principles of human reasonableness’ then lead to the ‘affirmation’ of some transcendent source of these, which the philosophers term God.⁴⁷ Reason is therefore something God-given, and ‘practical reasonableness entails the imitation of God’ where practical reason refers to the human reasoning process which considers what would be good for humans to do, have, get, and be.⁴⁸ Moreover, the ‘basic values grasped by practical reason’ gain an ‘objectivity’, ‘constancy’, and ‘impartiality’ reinforced by faith in God.⁴⁹

Regarding Aquinas and natural law as divine participation in the eternal law, Finnis argues that for Aquinas, it is ‘necessary to postulate an intellect far superior to the human intellect’, which has the ‘power of understanding without imperfection’, ‘allows us to reason’, and ‘activates our individual intelligences through light or illumination’.⁵⁰ Aquinas then ‘identifies this separate intellect as God’, and God’s grace is necessary for proper participation in the eternal law by divinely assisted human reason.⁵¹ Finally, according to Finnis, Aquinas concludes that ‘every activity of reasoning derives from nature’ — which, bearing in mind Finnis’ earlier definition of the term nature as participation in the divine, implies nature is enhanced by grace.⁵² This basis is logically, if not chronologically, prior to Finnis’ articulation of the basic forms of human good, which form the first principles of natural law. In particular, the ‘basic good of practical reasonableness shapes the relation with the other goods’ by ‘guiding one’s commitments’, ‘selection of projects’, and ‘implementation’.⁵³

This position also addresses the fragile objectivity of Finnis’ basic goods. As Anderson articulates, ‘one criticism about these self-evident goods is that Finnis is relying not so much on self-evidence as his own intuition’, which leaves his articulation of the basic goods ‘open to doubt’.⁵⁴ However, the exercise of intuition requires an understanding of the concepts involved (such as the presupposition of the law of non-contradiction), which suggests ‘some knowledge of the nature of being is required’.⁵⁵ In terms of these being ‘human’ goods, ‘the belief about what is good

⁴⁵ Finnis, *Natural Law and Natural Rights* (Oxford University Press, 1980) 394–5.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ M Rhonheimer, ‘Practical Reason, Human Nature, and the Epistemology of Ethics: John Finnis's Contribution to the Rediscovery of Aristotelian Ethical Methodology in Aquinas's Moral Philosophy: A Personal Account’ (2012) 57(5) *Villanova Law Review* 873, 879.

⁴⁹ Finnis, *Natural Law and Natural Rights* (Oxford University Press, 1980) 397.

⁵⁰ *Ibid.* 399–400.

⁵¹ *Ibid.*

⁵² *Ibid.* 401. See also John Finnis, *Natural Law and Natural Rights* (n 14) 30, 378–8, 392–3, 424–25, 477; Germain Grisez, Joseph Boyle and John Finnis, ‘Practical Principles, Moral Truth, and Ultimate Ends’ (1987) 32(1) *American Journal of Jurisprudence* 99; Germain Grisez, ‘Natural Law, God, Religion and Human Fulfilment’ (2001) 46(1) *American Journal of Jurisprudence* 3, 11–14; Germain Grisez, *God? Philosophical Preface to Faith* (St Augustine’s Press, 2004); Robert George, ‘Natural Law’ (2008) 31(1) *Harvard Journal of Law and Public Policy* 171.

⁵³ Finnis, *Natural Law and Natural Rights* (Oxford University Press, 1980) 85–90, 97, 100.

⁵⁴ Owen Anderson, ‘Natural Law and Philosophical Presuppositions’ in Norman Doe (ed.), *Christianity and Natural Law* (Cambridge University Press, 2017) 205, 208. See, eg, Russell Hittinger, *Critique of the New Natural Law Theory* (University of Notre Dame Press, 2020).

⁵⁵ Anderson (n 54) 209.

presupposes claims about being and about the nature of the being for which it is good. These in turn presuppose claims about the nature of reality and God'.⁵⁶ The basic goods 'presuppose God and human nature when understood correctly'.⁵⁷ In other words, Finnis' apparently flimsy intuition actually presupposes theological claims. The basic goods may or may not be self-evident, but Finnis relies on the intuition of practical reason to arrive at them, and that intuition is actually grounded in a theological ontology. The basic goods are correspondingly more securely grounded in theological and metaphysical tradition. Not only is the good itself then ontologically based in God, apprehension of the good through reason is divinely enabled.⁵⁸ The ability to exercise natural reason is illumined by grace and revelation. Therefore Finnis, following Aquinas, utilises the interconnection of grace and nature to articulate his version of a natural law. Despite Finnis' desire to articulate a natural law apart from God's existence and nature, the natural law remains essentially theological.⁵⁹

Moreover, the natural law is theological in a particularly Christian sense. There must be a natural law to make sense of the Christian claims about sin and redemption, and this means it must be the highest human good for humans to know God. This is evident in special revelation, which also states there is a general revelation of God's nature and the moral law.⁶⁰ However, as part of

⁵⁶ Ibid 210.

⁵⁷ Ibid 211.

⁵⁸ Finnis, *Natural Law and Natural Rights* (Oxford University Press, 1980) 401. See John Finnis, *Natural Law and Natural Rights* (n 14) 30, 378–8, 392–3, 424–5, 477; Grisez, Boyle and Finnis (n 52) 99; Grisez, 'Natural Law, God, Religion and Human Fulfilment' (n 52) 3, 11–14; Grisez, *God? Philosophical Preface to Faith* (n 52); George, 'Natural Law' (n 52).

⁵⁹ This is distinct from the explicitly secularist strain of contemporary natural law, led by thinkers such as Michael Moore and Mark Murphy. These depart from Aquinas and Finnis in terms of their religious sources or social conservatism, but continue to affirm the distinguishing features of natural law jurisprudence such as the necessary role of ethics, the central place of a moral basis for legal obligation, and the affirmation of the existence of objective moral values. In this sense, the new natural law remains strongly Thomist in methodology and content, is directed by the related work of Finnis, and to this extent it therefore retains latent theological dimensions. See, eg, Mark Murphy, *Natural Law in Jurisprudence and Politics* (Cambridge University Press, 2006); Michael Moore, 'Good without God', in Robert George (ed), *Natural Law, Liberalism, and Morality* (Clarendon Press, 1996) 221. Crowe provides a comprehensive catalogue in Jonathan Crowe, 'Natural Law Beyond Finnis' (2011) 2(2) *Jurisprudence* 293, 294–6. Moreover, it is worth noting that to have a conception of the common good is necessarily to make a theological claim about what is good for humans as such. Specifically, if there are certain forms of life that are inherently good for humans, and religion is one (all strands of natural law agree with these propositions), then natural law necessarily takes a position on religion as a good. This means natural law necessarily makes a theological claim. Natural law necessarily cannot be theologically neutral. See also Alasdair MacIntyre, *After Virtue* (University of Notre Dame Press, 1981) ch 5.

⁶⁰ See Anderson (n 54) 205. Like Finnis, Crowe's natural law as expressed in his most recent book is ostensibly non-theological. Essentially Crowe argues that while the fundamental principles of natural law do not change as a function of their manifestation in the human social practices which constitute human flourishing, the details of natural law can and do change as the human social practices which constitute human flourishing change in distinct and dynamic historical environments: Crowe, *Natural Law and the Nature of Law* (n 15) 22–6, 29–30, 93–5. However, Crowe's approach is also theological because it can be incorporated into Aquinas' classical natural law as part of an expanded 'divine law' which contains both the book of nature/general revelation about human goods and practices from observation, in conjunction with the book of scripture/special revelation with specific divine commands. As Crowe notes, Aquinas is clear that the content of the natural law can change as God adds to it or as humans learn to flourish differently in different environments across history. Furthermore, as Crowe claims, theological commitments provide the best explanation of and the most plausible foundation for natural law: Jonathan Crowe, 'Philosophical Challenges and Prospects for Natural Law Foundations of Human Rights' in Tom Angier, Iain Benson and Mark Retter (eds), *The Cambridge Handbook of Natural Law and Human Rights* (Cambridge University Press, 2022) 485.

arguments that ‘religious and non-religious people can reach conclusions about moral reality’, Charles contends that the ‘existence of the natural law’ is ‘independent of faith’.⁶¹ Here Charles conflates epistemological and ontological claims. It is of course true that an atheist can correctly reason on moral matters (although, as has already been alluded to, this is qualified in the sense that moral participation requires grace). But this is a separate question from whether the natural law exists independently of God. The ontological claim here is that natural law is necessarily theological. Charles himself affirms this by saying that God is the ‘author of nature’, and by rejecting arguments that natural law is ‘independent of’ or ‘autonomous’ from Christian theology.⁶² In addition, from an epistemological perspective, nature is enhanced by grace, even if we might grant that a non-Christian person is subjectively unaware of that grace operating upon them so they are actually able to grasp the natural law. Taliaferro agrees that natural law in Aquinas is also theological because it is necessarily guided and informed by the divine law, and human reason is enlightened by grace. It is ‘necessary’ to reveal a divine law because humans are not ‘competent’ to judge moral matters unaided; the natural law is therefore necessarily ‘related to something higher’: the ‘creator’ who is ‘the author of nature’.⁶³ As we shall see in the next section, the specific Christian theology of Radical Orthodoxy provides the theoretical foundation for the ontological claim that the natural law is grounded in God, and the epistemological claim that ‘natural’ human reason is enlightened by grace and guided by divine law to know the natural law.

Radical Orthodoxy and the Reconciliation of Christian Natural Law

This work has identified a common theological theme across the Christian traditions of natural law: grace enables nature and revelation illuminates reason.⁶⁴ As Charles argues, despite differences in emphasis, the ‘crucial question is whether human reasoning and human apprehension of basic moral truth are universal, present and operative within human beings by nature’.⁶⁵ Across denominational lines, ‘the historical Christian tradition, without equivocation, answers affirmatively’.⁶⁶ ‘Moreover, the mainstream of that tradition holds to the conviction that although moral depravity is actual and pervasive in terms of its scope’ (as the Protestants hold), ‘it is limited in degree; that is, it neither eradicates our ability to choose the good ... nor releases us from the sense of moral obligation ... (the common good)’ (as the Catholics hold).⁶⁷ The presumption that a common morality based on a common ‘human nature’ is ‘somehow autonomous from divine revelation and grace’ is ‘mistaken’.⁶⁸ Thus, the ability of humans to reason is limited in accordance with a nature affected by sin, yet is also enhanced by common grace and guided by divine revelation.

Deploying Radical Orthodoxy to further explore the operation of grace and revelation in this context reveals three foundational theological principles which hold across these Christian traditions — Love, the True, and the Good — and together these principles comprise what I term a ‘Christian Natural Law’. Religious freedom is part of the basic good of religion and contributes

⁶¹ Charles (n 1) 52–3.

⁶² Ibid 75.

⁶³ Taliaferro (n 1) 26, 28, 30.

⁶⁴ Cf Sandberg (n 25) 221.

⁶⁵ Charles (n 1) 66.

⁶⁶ Ibid 66.

⁶⁷ Ibid. See also Taliaferro (n 1) 112–15.

⁶⁸ Charles (n 1) 72.

to the common good, it aims towards the True which is the revelation of God, and it culminates in the locus of the True and the Good — God Himself — who is revealed in the love of Christ expressed through the Incarnation. As Charles observes:

The orders of creation, of which natural law is a part, are part of biblical theology. They do not exist independent of — or separate from — salvation made known through Christ. Both the ‘creational’ and the ‘salvific’ belong to the divine economy ... and are confessed by [all] Christians creedally.⁶⁹

Radical Orthodoxy reconciles these Christian principles regarding natural law as applied to religious freedom because it brings all these ideas under the rubric of a Christian theology with a focus on the Incarnation. Radical Orthodoxy is a ‘confessional’, post-secular, public theology which is ‘Orthodox’ in the sense that it conforms with the historic Christian creeds and ‘Radical’ in the sense that it critiques secular modernity by returning to the root of Christianity: the Incarnation of Christ.⁷⁰ Radical Orthodoxy critiques secular modernity by grounding theology in an incarnational account of revelation, which eliminates the modern distinction between reason and faith. The secular is not neutral and secular reason does not have its own autonomy; rather, theology and faith are the foundation for the proper exercise of reason.⁷¹ John Milbank, a British philosophical theologian, is the most significant influence behind Radical Orthodoxy.⁷²

On this issue, Milbank agrees that the natural law of Thomas Aquinas is ‘intrinsically theological and transcendent’, in contrast with the secular modern law in its being ‘positivistic and immanent’.⁷³ Indeed, Milbank’s framework for understanding reality, and consequently for interpreting Aquinas, is that accounts of human life, law, and nature must be integrally theological, and this entails the rejection of any recognition of the secular or a ‘pure nature’ — that is, a nature apart from the enlightenment of God’s grace.⁷⁴ Following the model of Aquinas, ‘appeal was made to a natural law of equity rooted in an eternal, divine law’, and this to an extent ‘provides an escape’ from violent coercion by an overwhelming political force.⁷⁵ Milbank thus concludes that a way out of this ‘conundrum is through authentic Pauline theology’, which ‘provides the theological framework for Thomist natural law’.⁷⁶ More recently, Milbank has also argued that attempts to ignore the theological foundations of natural law ‘inevitably denature it’; so-called secular accounts of natural law are actually ‘rival alternative theologies’, as I have already discussed above.⁷⁷ Hence, natural law is founded upon faith united with reason, the rational creature’s participation in the divine intellect enabled by grace.

⁶⁹ Ibid 66.

⁷⁰ See generally Deagon, *From Violence to Peace* (n 17) 17–20 where I provide a more detailed overview.

⁷¹ James KA Smith, *Introducing Radical Orthodoxy: Mapping a Post-Secular Theology* (Baker, 2004) 35–42, 70–5.

⁷² See, eg, John Milbank, *Theology and Social Theory: Beyond Secular Reason* (Blackwell, 2nd ed, 2006); John Milbank, *Beyond Secular Order: The Representation of Being and the Representation of the People* (Blackwell, 2013).

⁷³ John Milbank, ‘Paul Against Biopolitics’ in J Milbank et al (eds), *Paul’s New Moment: Continental Philosophy and the Future of Christian Theology* (Brazos Press, 2010) 21, 24 (‘Paul Against Biopolitics’).

⁷⁴ Cf B Mulcahy, *Aquinas’s Notion of Pure Nature and the Christian Integralism of Henri de Lubac: Not Everything is Grace* (Peter Lang, 2011) 79, 96.

⁷⁵ Milbank, ‘Paul Against Biopolitics’ (n 73) 33, 36.

⁷⁶ Ibid 33.

⁷⁷ John Milbank, ‘A Revisionist Account of Natural Law and Natural Right’ (2018) *Church Life Journal*: <<https://churchlifejournal.nd.edu/articles/a-revisionist-account-of-natural-law-and-natural-right/>>.

Milbank grounds these arguments in Aquinas.⁷⁸ In Aquinas, reason and faith only represent ‘different degrees of intensity’ of ‘participation and divine illumination’.⁷⁹ Reason itself requires faith since it ‘presupposes the operation of faith’, while faith still ‘demands discursive argumentation’ and is ‘higher than reason’ only because it ‘enjoys a deeper participation in the divine reason’, which is ‘pure intellect’.⁸⁰ In other words, faith and reason are on the same plane and strengthen each other insofar as they take part in the divine intellect — though faith is closer to the divine mind than reason is. So ‘good reason’ is an ‘attentive reception’, via the ‘mediation of the senses and discursive operations’, of the ‘divine light of the logos’, through faith.⁸¹ The light of revelation thus ‘strengthens our grasp of natural principles’.⁸² As Milbank notes, to ‘reason truly one must be already illumined by God’.⁸³ Thus, Aquinas offers no support to those who claim there can be a philosophical approach to God independent of theology. Rather, revelation supplements metaphysical reflection and enables the theoretical ascent to Truth.⁸⁴ Revelation, then, is ‘just a higher measure of illumination’, which is ‘conjoined’ intrinsically and inextricably with a ‘created event which symbolically discloses that transcendent reality’, and to which ‘all created events to a lesser degree point’.⁸⁵ This ‘created event’ is the Incarnation, crucifixion, and resurrection of Jesus Christ, the God-man. There can be no separation of reason and revelation, for ‘true reason anticipates revelation’ in the sense that a reason illumined by faith will always point toward revelation – the arrival of true reason in the event of Christ the Word.⁸⁶ In this sense, as religious freedom aims towards the True, it is enhanced and guided by revelation, which is just the Incarnation of Christ.

For as Aquinas clearly states:

To see the essence of God belongs to the created intellect by grace, and not by nature ... it is impossible for any created intellect to see the essence of God by its own natural power ... to know self-subsistent being is natural to the divine intellect alone ... for no creature is its own being but rather has participated being. Therefore the created intellect cannot see the essence of God unless God by his grace unites Himself to the created intellect, as an object made intelligible to it.⁸⁷

Our human intellect and our human ability to discover truth is based purely in God’s grace, his gift of participation in the divine being. We cannot see God by our own ‘natural’ power because to see God is exactly to participate in his being, which is a matter of grace rather than nature. So the grace of God giving Himself through Christ so that we can participate in His being makes Him

⁷⁸ See generally Deagon, *From Violence to Peace* (n 17) 35–8, 58–61, 167, 171–3, which I draw from for the rest of this section.

⁷⁹ John Milbank and Catherine Pickstock, *Truth in Aquinas* (Routledge, 2001) xiii-xiv.

⁸⁰ *Ibid.*

⁸¹ John Milbank, *The Future of Love: Essays in Political Theology* (Cascade Books, 2009) 323–4.

⁸² Milbank and Pickstock, *Truth in Aquinas* (n 79) xiii-xiv.

⁸³ John Milbank, ‘Knowledge: The Theological Critique of Philosophy in Hamann and Jacobi’ in J Milbank et al (eds), *Radical Orthodoxy: A New Theology* (Routledge, 1999) 21, 24 (‘Knowledge’).

⁸⁴ Milbank and Pickstock, *Truth in Aquinas* (n 79) xiii-xiv.

⁸⁵ Milbank, ‘Knowledge’ (n 83) 24.

⁸⁶ *Ibid.*

⁸⁷ Aquinas (n 19) vol 1, 53–4.

intelligible to our human intellect. This participation amplifies our already existing (natural) rational powers to properly comprehend the things of God and His creation:

Our intellect ... because it is elevated above matter in its own nature, can be raised above its own nature to a higher level by grace ... now this increase of the intellectual powers is called the illumination of the intellect ... by this light the blessed are made 'deiform' — that is, like to God ... hence the light of glory cannot be natural to a creature unless the creature has a divine nature, which is impossible. But by this light the rational creature is made deiform.⁸⁸

Thus, by grace, which is the light of participation in God's nature, our intellect is illuminated to become 'deiform', or like God. By grace we as rational creatures participate in the very divine nature of God. It follows that Aquinas' entire treatment of truth must be brought within his philosophical theology, for 'were one to attempt to comprehend a finite reality not as created, that is to say, not in relation to God, then no truth for Aquinas could ensue, since finite realities are of themselves nothing and only what is can be true'.⁸⁹ In other words, our rational comprehension of reality, expressed as 'truth', is predicated on the fact that this reality is created by God and our understanding of it is on the basis of participating in what 'is': the divine Being. The True is ultimately revealed through the Incarnation of Christ, the display of the divine Being.

This theological account of truth also allows a movement from natural or immanent knowledge towards engaging in the quest of comprehending and replicating the divine nature of love. True knowledge does not merely seek purpose and fulfilment in discovering the nature of physical reality, but ultimately reaches for the 'beatific vision', the nature of divine reality.⁹⁰ Truth is not just the pursuit of knowledge (in the pure or abstract sense), but reveals the Good and Love through seeing God. As Aquinas argues:

Hence the intellect which participates in more of the light of glory will see God the more perfectly. And he will have a fuller participation of the light of glory who has more charity, because where there is the greater charity, there is the more desire, and desire in a certain way makes the one desiring apt and prepared to see the thing desired. Hence he who possesses the more charity will see God the more perfectly, and will be the more happy.⁹¹

In other words, the person who has more charity (Love) will see God the more perfectly (True) and will increase one's desire to see God, enhancing participation in the beatific vision (Good). Thus, according to Milbank, for Aquinas fulfilling the natural law means ultimately 'to contemplate the truth ... which ... means ... to seek unity with God in the beatific vision'.⁹² This vision 'only comes by grace', and natural law is therefore linked with divine law 'which gives a

⁸⁸ Ibid 54–5.

⁸⁹ Milbank and Pickstock, *Truth in Aquinas* (n 79) 19–20.

⁹⁰ Ibid 37.

⁹¹ Aquinas (n 19) vol 1, 55.

⁹² John Milbank, 'The History of Natural Law' (2018) *Church Life Journal* <<https://churchlifejournal.nd.edu/articles/the-history-of-natural-law/>>. There is a link here between the Good and the Beautiful. Part of the good is beholding and participating in the beatific vision. Though it is beyond the scope of this article to explore further, I suspect this also may link to the basic good of aesthetic experience articulated by Finnis.

deeper degree of participation in the eternal law of God ... to imagine that one could fulfil the natural law without the aid of grace would be to fall into the heresy of the Pelagians'.⁹³ We can discern the natural law through the exercise of reason, but reason 'can only be perfected by the counsel which is the gift of the Holy Spirit'.⁹⁴ Indeed, for Aquinas, 'the proper exercise of the natural law is dependent on the Incarnation' because the Incarnation of the *Logos*, 'who is also *Nomos* himself', is the ultimate act of grace.⁹⁵

In this sense the Incarnation is the ultimate revelation of God, an act of divine grace, which enables comprehension of the divine (consistent with the Protestants) through divinely guided and illuminated nature (consistent with the Catholics). The Incarnational approach to grace and nature characteristic of Radical Orthodoxy therefore reconciles the Protestant and Catholic traditions of natural law. Moreover, the Incarnation is the theological foundation for natural law and entails Love, the True, and the Good. The Incarnation is Truth, the revelation of God in Christ. Yet the Incarnation as an act of grace also displays Love, Christ selflessly sacrificing Himself on the cross for the forgiveness of sins. And this act of grace which reveals the Truth of Christ divinely enables human participation in the divine relationship, which is the ultimate Good. Therefore, through the gracious revelation of Christ who is the Truth, humans are able to comprehend and participate in the divine economy, which is Love and the Good. Each of these principles of Love, the True, and the Good will be examined in turn to see how they provide a robust Christian natural law foundation for religious freedom in particular.

CHRISTIAN NATURAL LAW AS A FOUNDATION FOR RELIGIOUS FREEDOM

This part explains how a Christian Natural Law provides a robust ontological foundation for religious freedom. The first aspect of this Christian Natural Law is the Good.

Bona: Basic Goods and the Common Good

The first principle of natural law is to pursue Good and avoid evil. The Good is comprised of the basic goods and the common good, which together protect religious freedom. As established in Part II, these aspects of the Good may be superficially secular but are actually theological. Tollefsen notes that, following Aquinas, 'the good of religion holds the highest place among goods ... understanding that good ... as having God as its object ... God, or the apprehension of God, is a good such as to satisfy all desires; this would justify the claim that this good is the highest'.⁹⁶ For Aquinas, the ultimate human end is 'beatitude, perfect fulfilment, to be found only in the beatific vision, a form of intellectual union with the Divine Creator'.⁹⁷ The good of religion has to do with pursuing this end, and entails freedom to facilitate the efforts of persons and communities to establish a harmonious relationship with a transcendent source of meaning and value, which is usually called God. 'Anyone can see that persons' participation in this good depends ... essentially

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Ibid.

⁹⁶ Christopher Tollefsen, 'Natural Law, Basic Goods and Practical Reason' in George Duke and Robert George (eds), *The Cambridge Companion to Natural Law Jurisprudence* (Cambridge University Press, 2017) 133, 144.

⁹⁷ Ibid 156.

upon the freedom with which they choose to act for that good'; the good of religion therefore entails a religious liberty which goes beyond, yet is enmeshed with, temporal existence.⁹⁸

Using the schema provided by Finnis, the relevant basic goods which provide a natural law argument for religious freedom are 'religion' and 'practical reasonableness'. With respect to religion, according to Finnis, religion brings an 'order' to be 'brought into one's character and activity through inner integrity and outer authenticity' through reflecting on 'the lasting order of the whole cosmos' and the 'origin of that order'.⁹⁹ An intelligent human freedom which masters one's character acknowledges the need to subordinate that character to a being which is uniquely 'free, intelligent and sovereign'.¹⁰⁰ Though some may reject the existence or relevance of a traditional Christian God, it is not reasonable to deny that it is

peculiarly important to have thought reasonably and (where possible) correctly about these questions of the origin of the cosmic order and of human freedom and reason ... and ... that importance in large part consists in this: that if there is a transcendent origin of the universal order-of-things and of human freedom and reason, then one's life and actions are in fundamental disorder if they are not brought, as best as one can, into some sort of harmony with whatever can be known or surmised about that transcendent other and its lasting order.¹⁰¹

Charles characterises this as human beings having an 'ultimate duty' to 'follow truth wherever it may lead', recognising that they are subject to a transcendent authority.¹⁰² This is because, as Finnis contends, 'God is an unrestricted, absolute value' and 'harmony with God (religion) is a basic human value'.¹⁰³ Finnis concludes:

The ground for treating religious conscience as especially important is that it is really of great importance that people should seek and form a responsible judgment about an issue of unsurpassed importance: the truth about the origin, significance and destiny of the entire universe and of human beings as the only beings within our experience who are capable of engaging with reality in this uniquely profound way.¹⁰⁴

With respect to practical reasonableness, which is thinking reasonably about how to pursue the basic goods in one's life, there are nine requirements.¹⁰⁵ Two are directly relevant to the question of religious freedom: the requirements of the common good (considered further below), and 'following one's conscience'.¹⁰⁶ The exercise of conscience is essential to make practical moral

⁹⁸ Gerard Bradley, 'Natural Law Theory and Constitutionalism' in George Duke and Robert George (eds), *The Cambridge Companion to Natural Law Jurisprudence* (Cambridge University Press, 2017) 397, 399–400.

⁹⁹ Finnis, *Natural Law and Natural Rights* (n 14) 89.

¹⁰⁰ *Ibid.*

¹⁰¹ *Ibid* 89–90.

¹⁰² Charles (n 1) 105–6.

¹⁰³ Finnis, *Natural Law and Natural Rights* (n 14) 410.

¹⁰⁴ John Finnis, 'Equality and Religious Liberty: Oppressing Conscientious Diversity in England' in Timothy Shah, Thomas Farr and Jack Friedman (eds), *Religious Freedom and Gay Rights: Emerging Conflicts in the United States and Europe* (Oxford University Press, 2016) 21, 26–28.

¹⁰⁵ Finnis, *Natural Law and Natural Rights* (n 14) 100–26.

¹⁰⁶ *Ibid* 125.

judgements, though it is possible that one's conscience can be mistaken. The 'dignity of even the mistaken conscience' 'flows from the fact that practical reasonableness is not simply a mechanism for producing correct judgements, but an aspect of personal full-being, to be respected ... whatever the consequences'.¹⁰⁷ George neatly summarises how both these goods of religion and practical reasonableness support religious freedom:

The natural law argument for religious liberty is founded on the obligation of each person to pursue the truth about religious matters and live in conformity with his conscientious judgements. This obligation is, in turn, rooted in the proposition that religion — considered as conscientious truth-seeking regarding the ultimate sources of meaning and value — is a crucial dimension of human well-being and fulfilment. It is among the basic human goods that provide rational motivation for our choosing. The right to religious liberty follows from the dignity of man as a conscientious truth-seeker.¹⁰⁸

Thus, religious freedom is an important and necessary implication of the goods of religion and practical reasonableness. For people to truly grapple with their place in the universe and their relationship with the transcendent, they must be free to think, act, and gather in ways which enhance this process. Practical reasonableness allows persons to make reasonable moral judgements according to conscience about their religious beliefs and any corresponding external obligations to manifest their beliefs. Even if their conscience is mistaken, their dignity as a human requires their judgements to be respected. In fact, the good of religion is just religious freedom. Any aspect of religion as a good is a function of the free practice of religion. For example, personal wellbeing, communal gathering, and social peace are all the result of the practice of religion, not merely belief in religion. I explain this further below. For religion to be realised as a good it must be practiced freely, which implies generous legal accommodation of religious freedom.

The other relevant requirement of the good of practical reasonableness is to consider that which will enhance the common good. George Duke, adopting a broad definition of the common good for a political community according to Aquinas, states that it is a unity of order which is derived from and applicable to 'the universal good of God'.¹⁰⁹ It consists of justice, which is a 'certain form of equality or a proper relation among persons', and peace, which is 'the proper ordering of citizens and the absence among them of strife and discord'.¹¹⁰ More broadly, the natural law common good is a state of affairs where each individual of a political community and the community as a whole are flourishing.¹¹¹ The common good allows the reconciliation of two contradictory features of political authority: its ultimate purpose is to serve the good of individuals, and 'it can require the subordination of individual goods to the good of the community'.¹¹²

Charles also clarifies that the common good is found in 'promoting the dignity of the human person' through facilitating the conditions by which individuals can most effectively flourish

¹⁰⁷ Ibid 125–6.

¹⁰⁸ George, 'Natural Law, God and Human Dignity' (n 12) 68–9.

¹⁰⁹ George Duke, 'The Common Good' in George Duke and Robert George (ed), *The Cambridge Companion to Natural Law Jurisprudence* (Cambridge University Press, 2017) 369, 374.

¹¹⁰ Ibid.

¹¹¹ Ibid 376.

¹¹² Ibid 389.

separately and together.¹¹³ This has three components. First, ‘respect for the person as such’ in terms of upholding their fundamental and inalienable rights (including freedom of religion); second, the ‘social wellbeing and development’ of the group through ensuring each person in the group has what is needed to lead a fulfilling life (such as sustenance, shelter, family, culture, education, and so on); third, ‘peace’ through the ‘stability and security of a just order’.¹¹⁴ Focusing on religious freedom specifically, Charles agrees that ‘religious freedom is a fundamental good — in fact, the most basic of human goods — which gives meaning to all others’; this is because the denial of religious freedom precedes the denial of all other freedoms such as speech and assembly, and usually results in state and/or vigilante violence.¹¹⁵ Religious freedom is the ‘first freedom — it is the guarantor of all other human freedoms and inalienable rights’.¹¹⁶ Religion exists as a reminder that the state is not the ultimate authority, and religious communities, exercising their autonomy, establish a wide range of mediating associations which serve the community. Hence, ‘religion exists ... to foster the common good’, and freedom of religion is necessary for this process because it guarantees individual and group freedoms within the community.¹¹⁷

Religious freedom contributes directly to the common good in numerous ways.¹¹⁸ Finke and Mataic show that facilitating the autonomy of religious communities is important for the common good by empirically demonstrating how repression of religion is associated with violence and social conflict. ‘Although government restrictions on religion are often justified in an effort to reduce tensions and conflict, research suggests that the opposite occurs; government restrictions are associated with higher levels of tension and conflict’ and, in a vicious cycle, ‘social restrictions lead to higher levels of government restrictions, which in turn lead to persecution that is more violent. Following the heightened violent persecution, religious groups respond with heightened social restrictions.’¹¹⁹ One of the ‘strongest predictors’ for social restrictions are ‘government favouritism for a single religion’, which entails government discrimination against religion.¹²⁰

Similarly, Carlson-Thies argues that an ‘extensive freedom for religious institutions to be distinctive — to depart from generally accepted practices and standards — is necessary to achieving the common good’.¹²¹ Providing autonomy for religious communities to govern themselves enables the creation of diverse facilities and services which develop in accordance with different moral and religious convictions. These diverse convictions do not imply disrespect or harm towards groups that do not believe or act in accordance with such convictions, but rather contribute towards a rich tapestry of understandings which seek to promote common good using different methods.¹²² Diverse institutions provide a safe haven for diverse individuals with varying

¹¹³ Charles (n 1) 214.

¹¹⁴ Ibid 214–15, 259.

¹¹⁵ Ibid 17.

¹¹⁶ Ibid 105.

¹¹⁷ Ibid.

¹¹⁸ See Deagon, *A Principled Framework* (n 3) chs 2, 5, 6, which the below material draws upon.

¹¹⁹ Roger Finke and Dane R Mataic, ‘Promises, Practices and Consequences of Religious Freedom: A Global Overview’ (2019) 15(3) *University of St Thomas Law Journal* 587, 601.

¹²⁰ Ibid 595–600.

¹²¹ Stanley Carlson-Thies, ‘The Common Good Requires Robust Institutional Religious Freedom’ (2019) 15(3) *University of St Thomas Law Journal* 529, 529.

¹²² Ibid 532–3.

self-understandings and convictions, as opposed to policies which flatten or eliminate religious diversity.¹²³

Shah also contends that ‘institutional religious freedom’ is an ‘essential service to the common good’.¹²⁴ Protecting religious institutions is important because they are ‘independent centres of value formation and inculcation that is beneficial to society’ and therefore ‘perform a valuable social function’.¹²⁵ For example, Berg has argued that religious freedom does not simply benefit its adherents, but ‘also preserves space for religion and religious communities to benefit the broader society (including by benefiting individuals)’.¹²⁶ The economic, social, and cultural impact of faith-based organisations significantly enhances the common good.¹²⁷ Violations of religious freedom rights would cause many such organisations to either fold or reduce their services, which would undermine the common good.¹²⁸

Kao and Burke provide extensive empirical support to further justify these claims, drawing from the comprehensive study of global religious freedom by Brian Grim and Roger Finke.¹²⁹ Cultural hostility towards religion can drive a government towards restricting peaceful religious practice and even excluding certain beliefs from the public square. Grim and Finke ‘debunk the myth that religious diversity or religiosity are the drivers of social conflict’; rather, ‘the more a government restricts religion, the more social hostilities tend to increase’.¹³⁰ Such restriction and hostility has an exacerbating effect, leading to the further decline of religious freedom, starting with social marginalisation and progressing to economic and legal penalties, and finally vigilante or state-sanctioned violence.¹³¹ Kao and Burke outline the findings which demonstrate a positive correlation between religious freedom and pluralism, and the consequent creation of conditions which facilitate peaceful coexistence and social flourishing:

Strong religious freedom creates the conditions for authentic religious pluralism to flourish. First, religious freedom affirms the idea that individuals and institutions that

¹²³ Ibid 533. See also Richard W Garnett, ‘Religious Freedom and the Nondiscrimination Norm’ in Austin Sarat (ed), *Legal Responses to Religious Practices in the United States: Accommodation and Its Limits* (Cambridge University Press, 2012) 194, 194–227; Nathan A Berkeley, ‘Religious Freedom and LGBT Rights: Trading Zero Sum Approaches for Careful Distinctions and Genuine Pluralism’ (2015) 50 *Gonzalez Law Review* 1, 1–28.

¹²⁴ Timothy Shah, ‘Institutional Religious Freedom in Full’ (2020) 10(2) *Journal of Christian Legal Thought* 29, 29.

¹²⁵ B Jessie Hill, ‘Reconsidering Hostile Takeover of Religious Organisations’ (2020) 97 *Washington University Law Review* 1833, 1855–6. See also Richard W Garnett, ‘Assimilation, Toleration, and the State’s Interest in the Development of Religious Doctrine’ (2003) 51 *University of California Los Angeles Law Review* 1645.

¹²⁶ See generally Thomas Berg, ‘Religious Freedom and the Common Good: A Summary of Arguments and Issues’ (2019) 15(3) *University of St Thomas Law Journal* 517, 518.

¹²⁷ Ibid 520–1.

¹²⁸ See, eg, Stephen V Monsma, *Pluralism and Freedom: Faith-Based Organizations in a Democratic Society* (Rowman and Littlefield, 2011) 15–44; Stephen V Monsma and Stanley W Carlson-Thies, *Free to Serve: Protecting the Religious Freedom of Faith-Based Organizations* (Brazos Press, 2015); Thomas Berg, ‘Freedom to Serve: Religious Organizational Freedom, LGBT Rights, and the Common Good’ in William N Eskridge Jr and Robin Fretwell Wilson (eds), *Religious Freedom, LGBT Rights, and the Prospects for Common Ground* (Cambridge University Press, 2018) 307.

¹²⁹ See Emilie Kao and Monica Burke, ‘Masterpiece Cakeshop and Authentic Pluralism in a Post-Obergefell World’ (2020) 24(1) *Texas Review of Law and Politics* 97; Brian Grim and Roger Finke, *The Price of Freedom Denied: Religious Persecution and Conflict in the Twenty-First Century* (Cambridge University Press, 2010).

¹³⁰ Kao and Burke (n 129) 99. See also Charles (n 1) 16, 109–110.

¹³¹ Kao and Burke (n 129) 99.

hold different beliefs have equal rights under the law to live according to those beliefs in thought, speech, and action in both the public sphere and in private. It creates a level playing field for the competition of ideas ... Freedom has a pacifying effect on social conflict ... frictions dissipate, creating a virtuous cycle.¹³²

Religious liberty in this sense also ‘protects religion’ by ‘encouraging the pursuit of religion within multiple groups and sites of authority’, which ‘secures the free creation of communities of solidarity, fraternity, and charity’.¹³³ Religious liberty not only protects against coercing faith, but facilitates the quest for ‘true religion’ through providing autonomy to communities which seek transcendent truth for the good of the broader community, or the common good.¹³⁴ As Harrison summarises:

The pursuit of ‘true religion’ then — that is, a quest to orient oneself rightly in relation to God — is also an orientation for the entire community. It is neither simply an extra-temporal good — an end outside of history — nor a single good for individual choosing. Rather, it shapes our institutions, our actions, and our communal economic and political life. As integral to the common good, true religion shapes the bringing about of recognisable social goods — hospitals, schools, institutions of care, cooperative work endeavours, and sites of worship. Civil authority is tasked with pursuing the common good, a vision of right relationship in which virtuous living is encouraged.¹³⁵

Since religious liberty is the ‘desirable’ quest for the pursuit of true religion which shapes our good life, Harrison suggests that religious claims should be generously accommodated.¹³⁶ Taliaferro agrees, observing that ‘the use of natural law theory in actual jurisprudence on religious freedom might result in an increased use of the legal standard of “reasonable accommodation”’ because it ‘employs constructive dialogue and negotiation’.¹³⁷ Thus, religious freedom enhances the common good by respecting the dignity of persons with freedoms, facilitating the creation of communities which enhance ‘cooperative order’ among citizens, and by contributing to social peace.¹³⁸ Understanding religious freedom as the pursuit of ‘true religion’ also points to the second aspect of a Christian Natural Law which undergirds religious freedom: the True.

¹³² Ibid 98–100.

¹³³ Harrison, *Post-Liberal Religious Liberty* (n 3) 21–2.

¹³⁴ Ibid 142–3.

¹³⁵ Ibid 158.

¹³⁶ Ibid 23–4.

¹³⁷ Taliaferro (n 1) 139. See also Deagon, *A Principled Framework* (n 3) which draws on theological perspectives to articulate a principled framework for reconciling religious freedom and equality. Reasonable accommodation is a central aspect of this framework.

¹³⁸ See also Joel Harrison, ‘Dworkin’s Religion and the End of Religious Liberty’ in Rex Ahdar (ed), *Research Handbook on Law and Religion* (Edward Elgar, 2018) 79, 94–8; Alex Deagon, ‘Reconceptualising Law: “Pagan” Violence and Augustinian Peace’ (2020) 33(3) *Journal for the Academic Study of Religion* 286, 298–300.

Aletheia: Divine Revelation

As Charles observes, religious freedom is ‘an ability to order one’s own choices in accordance with truth. At bottom, religious freedom is the condition for the pursuit of truth.’¹³⁹ Taliaferro recognises that the natural law basis for religious freedom also ‘points to a higher truth that is beyond man and even beyond nature, viz, the Christian God, creator of both nature and man’.¹⁴⁰ So the True is an aspect of a Christian Natural Law foundation for religious freedom in two interconnected senses. First, religious freedom aims for the pursuit of truth. Second, the truth religious freedom pursues is theological — in the biblical text, ‘truth’ is translated as *aletheia*, which means the revelation of God through Christ.¹⁴¹ Revelation provides the theological foundation for religious freedom in two further interrelated ways: textually (the idea of religious freedom is derived from the text of Scripture/the divine law itself) and historically/conceptually (the idea of religious freedom was historically developed through analysis of theological concepts derived from the text of Scripture).

Focusing on the pure text, Mathis observes that ‘no explicit biblical mandate for the notion of religious liberty exists, yet biblical ethics and principles support the idea, which permeates both the Old and New Testaments’.¹⁴² Freedom of religion is a faithful way to live out God’s love and grace in the world.¹⁴³ In Acts 4:19–20 (English Standard Version) (‘whether it is right in God’s sight to listen to you rather than to God, you must judge; for we cannot keep from speaking about what we have seen and heard’), we see that God alone exercises authority over conscience, and loyalty to God trumps all other considerations.¹⁴⁴ The consciences of Peter and John ‘dictate obedience to divine commandment over human instruction’.¹⁴⁵ In Matthew 22:21 (English Standard Version) (‘therefore render to Caesar the things that are Caesar’s, and to God the things that are God’s’), Jesus distinguishes between the limited authority of the state and the complete authority of God. Though believers owe some deference to the state, where there is tension between the requirements of the state and the requirements of God, the duty to God prevails.¹⁴⁶ The call to love your neighbour, expressed in the Old Testament (Leviticus 19:18 (English Standard Version)) and affirmed in the New Testament (Matthew 22:37–40 (English Standard Version)), entails ‘extension of religious freedom to all’ as a ‘powerful act of godly love’.¹⁴⁷

Broadening this analysis to include historical and conceptual development on the basis of relevant texts, the principle of religious liberty has a distinctly Christian pedigree, following from key theological doctrines such as intrinsic human dignity through God’s creation of humans in his image, and Christ’s assumption of human nature through the Incarnation.¹⁴⁸ Shah traces the

¹³⁹ Charles (n 1) 16.

¹⁴⁰ Taliaferro (n 1) 122.

¹⁴¹ See Deagon, *From Violence to Peace* (n 17) 121–2, 134–7.

¹⁴² Rebecca Mathis, ‘The Roots of Religious Liberty in Scripture’ (2012) 55(4) *Sewanee Theological Review* 389, 389.

¹⁴³ *Ibid* 390.

¹⁴⁴ *Ibid*. See also Charles (n 1) 160–1.

¹⁴⁵ Mathis (n 142) 393.

¹⁴⁶ *Ibid* 394–9. See also Charles (n 1) 160–1.

¹⁴⁷ Mathis (n 142) 401–2.

¹⁴⁸ See especially Wilken, *Liberty in the Things of God* (n 3); Timothy Shah and Allen Hertzke (eds), *Christianity and Freedom Volume I: Historical Perspectives* (Cambridge University Press, 2016) and the chapters contained in there. For the full account of this argument with further references see Deagon, ‘“Liberalism” through Love’ (n 3) 183; Alex Deagon, ‘Is Religious Liberty Loving in Principle’ in Michael Quinlan and Keith Thompson (eds), *Inclusion*,

development of arguments for universal religious freedom in some of the early patristic writers, including Justin Martyr, Athenagoras, Tertullian, and Lactantius. He notes Tertullian, in particular, advocated for religious freedom (and first coined the term ‘religious liberty’) and in an unprecedented, universal way, claimed it is a fundamental human right or privilege of nature that a person should be able to worship according to their convictions without religion being compelled.¹⁴⁹ Wilken agrees, and emphasises that the ultimate source for Tertullian was the Bible. Tertullian’s approach reflects the biblical view of the dignity and worth of a human being as the *Imago Dei*, clearly articulated in Genesis 1:26–7 (English Standard Version).¹⁵⁰

Conceptually, Christians have always understood that the beliefs grounding their ethics are matters of faith, or persuasion. In particular, as Christ is revealed to the mind, the mind is persuaded. As the mind is transformed by faith, it participates in the glory of Christ by imitating Christ and then loves one’s neighbour as a reflection of Christ, which is the law of love articulated by the Apostle Paul in the New Testament.¹⁵¹ This law of love, modelled on and enabled by the Incarnation and crucifixion of Christ, consequently encourages love for one’s neighbour in terms of humility and sacrifice. Importantly, this is not forced or coerced, but rather freely volunteered as an imitation of Christ in trust that the action will be reciprocated.¹⁵² Charles agrees, observing that ‘Truth does not impose itself by force or violence but rather by the force of its own truth’.¹⁵³ Religious belief ‘cannot be compelled because it is compelled already ... by our own best grasp of the truth ... religion is not so much chosen as it is accepted, as a truth one has discovered or learned.’¹⁵⁴

On the principle of religious liberty more specifically, the ‘law of love’ approach seeks to create a harmonious and inclusive space where a person can freely express, debate, and choose faith perspectives without being subject to state, community, or individual violence. There should not be arbitrary legal or political constraints on the expression of perspectives. Love, in fact, requires going beyond the boundaries of law or moral duty. In particular, we need to go beyond mere legal duty (for example, to just avoid hate speech, blasphemy, or vilification) and selfish interest (the aggressive pursuit of our own agenda without due consideration for alternative views, or the prideful need to be seen as right), desiring to truly act with humility, love, and sacrifice just like Christ did in humbling himself to death on a cross for our forgiveness.¹⁵⁵ Love of neighbour avoids ‘anger, wrath, malice, slander’ and lying, and pursues ‘kindness, humility, meekness and patience’ with honesty, forbearance, compassion, and forgiveness.¹⁵⁶ Most importantly, as noted, perspectives should be adopted by means of peaceful persuasion rather than coercion. The central

Exclusion and Religious Freedom in Contemporary Australia (Connor Court, 2021) 17 (‘Religious Liberty Loving in Principle’). I draw from these sources in this section.

¹⁴⁹ See Timothy Shah, ‘The Roots of Religious Freedom in Early Christian Thought’ in Timothy Shah and Allen Hertzke (eds.), *Christianity and Freedom Volume I: Historical Perspectives* (Cambridge University Press, 2016) 33. See also Wilken, *Liberty in the Things of God* (n 3) 11–18; Taliaferro (n 1) 105–8, 115–120.

¹⁵⁰ See Robert Wilken, ‘The Christian Roots of Religious Freedom’ in Timothy Shah and Allen Hertzke (eds), *Christianity and Freedom Volume I: Historical Perspectives* (Cambridge University Press, 2016) 62. See also Wilken, *Liberty in the Things of God* (n 3) 11–18; Taliaferro (n 1) 105–8, 115–120.

¹⁵¹ Romans ch 13, vs 8–10 (English Standard Version).

¹⁵² Colossians ch 3, vs 8–17 (English Standard Version).

¹⁵³ Charles (n 1) 16.

¹⁵⁴ *Ibid* 105, 160–1.

¹⁵⁵ See Philippians ch 2, vs 3–8 (English Standard Version).

¹⁵⁶ Colossians ch 3, vs 8–13 (English Standard Version).

importance of love in the context of the Christian conceptual foundation for religious freedom points to the third aspect of a Christian Natural Law basis for religious freedom: love.

Agape: The Law of Love, or the Culmination of the True and the Good

This paper has outlined a Christian Natural Law foundation for religious freedom which relies on Love, the True, and the Good. As already seen above, these aspects are symbiotic and mutually reinforcing. Religious freedom ‘cares for truth’ and takes into account the ‘common good’.¹⁵⁷ The natural law as the moral principle which undergirds religious freedom is concerned with upholding the common good and ‘speaking the truth in love’.¹⁵⁸ ‘Divine revelation’ comes through the natural law which means to pursue good, and ‘to pursue the good is, in the words of Jesus, to “love your neighbour.”’¹⁵⁹ ‘Charity in truth’ means ‘love and truth ... cannot exist without the other. Each needs the other’, and this culminates in action which pursues the ‘common social good’.¹⁶⁰ Truth and love are virtues which ‘principally concern our relations to others’, and therefore they ‘furnish the very basis for the common good’.¹⁶¹ The law of love to love your neighbour as yourself, as most significantly expressed in the Parable of the Good Samaritan, underpins ‘the sacred rights of conscience, what we call religious freedom’; the ‘Good Samaritan’ is ‘good’ because he demonstrates the truth of the moral law.¹⁶²

The ‘parameters of religious freedom’ in particular become more defined and principled by incorporating the natural law and divine law which guides us to ‘discern true or good religious practice’.¹⁶³ To ‘reduce [religious freedom] to a purely immanent human right does violence to the very nature of religion, and therefore of religious freedom’; religious freedom ‘is the only human right that recognises two distinct realms of authority, human and divine’, and therefore a transcendent foundation for religious freedom is necessary for it to have universal appeal.¹⁶⁴ This tension of human and divine ultimately points to the Incarnation, the paradox of Jesus as truly and fully both God and man. Paradox is ‘both expected and resolvable because of the person of Christ’.¹⁶⁵ The law of love, then, is the culmination of the True and the Good in Christ. The Truth or *aletheia* of God is primarily revealed through the Incarnation of Christ. The Incarnation perfectly displays the grace of God through demonstrating Christ loving the created order by sacrificing and giving himself for the forgiveness of sins. Therefore, Christ taking on human form and volunteering to die on the cross for people is the ultimate display of the self-giving love characteristic of God. Its concern is for other and not self, and so it manifests the ultimate Good – to love your neighbour as a function of experiencing the love of Christ. It is this revelation of God’s love in Christ which is Truth, or *aletheia*.

¹⁵⁷ Charles (n 1) 131.

¹⁵⁸ Ibid 133. See Ephesians ch 4, v 15 (English Standard Version).

¹⁵⁹ Charles (n 1) 139, 190–1. See Matthew ch 22, vs 37–40 (English Standard Version).

¹⁶⁰ Charles (n 1) 201, 204.

¹⁶¹ Ibid 214.

¹⁶² Ibid 163–4. See Luke ch 10, vs 25–37 (English Standard Version); Deagon, *From Violence to Peace* (n 17) 186–193 for a detailed exposition of the parable which emphasises the harmonisation of difference across ethnic and cultural boundaries.

¹⁶³ Cf Taliaferro (n 1) 8.

¹⁶⁴ Ibid 124.

¹⁶⁵ Ibid 125.

I noted in the Introduction that it was not my primary purpose to persuade those outside the Christian tradition of the plausibility or utility of Christian Natural Law as a foundation for religious freedom. But Christianity does implicitly address this concern. As Harrison notes with respect to religious establishment, Christianity is ‘hospitable to difference’ because the pursuit of universal goods such as education, work, charity, and community in accordance with theological virtues such as love, kindness, humility, and patience is possible for all communities, not just Christians.¹⁶⁶ Christianity also recognises ‘parallel communities of common endeavour’ which seek the good and right relationship, ‘the possibility of harmony – precipitated by some real affinities between different groups, an emphasis on the integrity of civil society as a space of solidarity, and the hope that we are pursuing some shared goals’.¹⁶⁷ Harrison concludes:

If religion entails reaching out to a God who has condescended to us, a God whose life is love, then this necessarily flows into a life of solidarity, fraternity, and charity. In other words, religious liberty only reaches the heights of true liberty when it is rightly oriented to manifesting this end, reflecting what it means to be human.¹⁶⁸

And as John Milbank has said, ‘virtue is democratic because its practice is open to all, especially the supreme virtues of love, trust, hope, mercy, kindness, forgiveness and reconciliation, which we have all in the West, whether avowedly Christians or not, inherited from the teachings of the Bible’.¹⁶⁹ These Christian virtues of humility, sacrifice, forgiveness, and trust characterise the acknowledgement and expression of different faith perspectives, producing peaceful persuasion to the good and true which is inclusive because it can be practiced by all universally. The Christian perspective produces a space for religious liberty and discourse which is characterised by the ‘fruit of the Spirit’: ‘love, joy, peace, patience, kindness, goodness, faithfulness, gentleness, self-control’; for ‘against such things there is no law’.¹⁷⁰ The Christian virtues are beyond law and yet fulfil the law by their nature, and therefore allow us to persuade without coercing, which produces true religious freedom.

For coerced belief is not true belief, and is antithetical to love which must be voluntary. The law of love indicates that just as we would not want to be coerced into belief, so the beliefs of others should not be coerced. Similarly, just as we would not want to coerce others to violate their beliefs, so others should not coerce us to violate our beliefs. Fundamentally then, Christianity requires religious liberty because love does not compel belief. Coerced religion is not true or good religion and so is impotent. Religious freedom is loving because it is informed by and aims to proclaim the truth of the sacrificial love of Christ, seeks the good of the neighbour, and affirms the dignity of the neighbour through cultivation of the Christian virtues, the highest of which is love:

Love is patient and kind; love does not envy or boast; it is not arrogant or rude. It does not insist on its own way; it is not irritable or resentful; it does not rejoice at

¹⁶⁶ Harrison, *Post-Liberal Religious Liberty* (n 3) 203.

¹⁶⁷ *Ibid* 205–6.

¹⁶⁸ *Ibid* 239.

¹⁶⁹ John Milbank and Adrian Pabst, *The Politics of Virtue: Post-Liberalism and the Human Future* (Rowman & Littlefield, 2016) 7.

¹⁷⁰ Galatians ch 5, vs 22–3 (English Standard Version).

wrongdoing, but rejoices with the truth. Love bears all things, believes all things, hopes all things, endures all things. Love never fails.¹⁷¹

The more practical implication of this is that the principle of religious liberty, and associated actions, should be legally protected because it is loving for all people.¹⁷² As Charles poignantly and appropriately concludes, the law of love compels us in

neighbour-love toward those who are oppressed and who stand in dire need by virtue of having their most basic freedoms [such as religious freedom] removed. Recall an important implication of the ‘Good Samaritan’ model. This embodiment of ‘neighbour-love’ will be open to cross religious, ethnic and cultural boundaries in order to help those who stand in dire need. This, then, is the moral ‘first principle’ of the natural law — doing good and preventing evil — and it will not be satisfied until we are advocates for the ‘sacred rights of conscience’.¹⁷³

¹⁷¹ 1 Corinthians ch 13, vs 4–8 (English Standard Version).

¹⁷² See Deagon, ‘Religious Liberty Loving in Principle’ (n 148) 25–32.

¹⁷³ Charles (n 1) 260.