International Civil Religion: Respecting Religious Diversity while Promoting International Cooperation

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ABSTRACT

International civil religion grounds moral claims that permeate and transcend traditional religious paradigms. Given the inevitability of international interactions – interactions that cross geographic, religious, and cultural boundaries – our global society is in need of a universally endorsable framework that undergirds the United Nations international human rights regime. International civil religion provides that framework.

Numerous scholars and moral theorists have incrementally discerned the parameters of civil religion including, *inter alia*, Jean-Jacques Rousseau, Alexis de Tocqueville, Robert Bellah, Martin Marty, and Harold Berman. The tenets of international civil religion infuse the diplomatically drafted United Nations covenants and conventions on human rights, including, *inter alia*, the United Nations Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. This paper stands for the proposition that one best comprehends civil religion by combining certain attributes of political liberalism, the capabilities approach, and cosmopolitanism, to form a lens through which to view the United Nations human rights documents. Such a view maximizes individual religious freedom, limiting it only when individual religious exercise would harm others or prevent their individual religious exercise.

In a progressively pluralistic and increasingly interconnected global society, moral ground rules must not only govern our actions, but also justify that governing. International civil religion provides a valuable and workable worldview for understanding those grounds rules. International civil religion bolsters the power of the human rights regime, bestowing a rationale for that regime that surpasses mere social expediency.
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I. Introduction

Our global society needs a grounding to justify our "ought statements." International civil religion is valuable because it provides that grounding. It allows a plurality of traditional religious adherents to cooperate when addressing moral issues that exist in the haze between the sacred and the profane. Conversations across boundaries – political, cultural, or religious – have become an inescapable reality of the modern world. These boundaries are often deeply embedded and violently defended. The question then becomes, "How can we broker agreement on morally-charged issues if we approach those issues from different religious viewpoints?" In a world where religious diversity abounds, we must seek to define the parameters of a global morality that can be maintained without a global religion. International civil religion, as discerned in the United Nations human rights documents, provides those parameters.

Reasonable people disagree both on their individual religious viewpoints and on the degree those viewpoints should influence their respective societies' politics and diplomatic relations. International civil religion allows individuals to maintain their reasonable religious viewpoints while existing in a diverse community because civil religion venerates individual traditional values while championing no single traditional religion. It distills the overlapping attributes of most traditional religions, permitting traditional religious adherents to continue practicing their faiths while living in community with others whose faiths differ. It provides the international public theologian with a lens through which to view diplomatic endeavors and with a moral grounding to justify those endeavors.

These diplomatic endeavors concerning moral issues are inevitable. The question is not whether nations will interact with each other. The question rather is how nations will interact with each other. In the modern, diverse, global era of interconnected societies, traditional religious motivations cannot effectively drive political discourse, because the conversants do not all share the same motivations, creating a disconnect. International civil religion bridges that disconnect.

And we need such a bridge. The lattice of bilateral and multilateral treaties, trade agreements, military settlements, and aspirational pledges that bind nations are insufficient to resolve religious and moral disputes without a common ground to offer those agreements a root structure. For many, religious convictions trump countervailing values. These sundry pacts and

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4 Appiah, Kwame Anthony. Cosmopolitanism: Ethics in a World of Strangers. W.W. Norton & Company, New York: 2006 at xxi: "The world is getting more crowded: in the next half a century the population of our foraging species will approach nine billion. Depending on the circumstances, conversations across boundaries can be delightful, or vexing: what they mainly are, though, is inevitable."
5 As noted by John Witte, Jr., "There are three things that people will die for – their faith, their freedom, and their family." God's Joust, God's Justice: Law and Religion in the Western Tradition. Wm B. Eerdmans Publishing Co., Grand Rapids, MI: 2006 at xi.
pledges between nations require some common moral foundation upon which – or some metaphorical table across which – state actors can negotiate.

Traditional religion and modern diplomacy may seem analogous to water and oil – simply unable to mix. And yet, diplomats of a majority of countries are presently continuing to distill, disseminate, and discharge an ever-larger umbrella of rights and protections due to all individuals because human beings are just that: human beings. Today, religious pluralism and tolerance prevail in most developed societies, and religious explanations are often insufficient justifications for political and diplomatic decisions. Where traditional religion once provided a foundation to justify the values embedded in human rights norms (even if those norms were not referred to as such), a void exists today that needs to be filled.

In the absence of universal agreement on a traditional religion, civil religion can foster cooperation among people with diverse religions and worldviews within the global community. Religiously diverse peoples, even those with deeply fixed traditional religious beliefs, can cooperate harmoniously with respect to moral issues; those peoples need not agree on the metaphysical reasons for why they share those particular morals. Increasingly, the ties that bind humanity together as a world population are legal ones. Since World War II, international organizations like the United Nations have exerted inordinate amounts of time and resources to draft a cornucopia of human rights covenants and conventions, drafting each document to posit universal thresholds of acceptable human behavior. These U.N. documents attempt to identify

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6 Throughout this paper, "religion" is distinct from "civil religion." "Religion" or to "traditional religion," means "theistic views of the universe and codes of behavior, as well as atheistic, agnostic, rationalistic, and other convictions where both elements are not contained." Lerner, Natan. "Religious Human Rights Under the United Nations" in Religious Human Rights in Global Perspective: Legal Perspectives, eds. Johan D. van der Vyver & John Witte, Jr. Martinus Nijhoff Publishers, The Hague: 1996. p. 82. Lerner goes on to note that the U.N. has refrained from positing a definition of religion to avoid the controversy of proffering any black letter definition. Id. at 131.

7 Throughout this paper, I use derivations of "politics" and "diplomacy" interchangeably out of convenience. However, strictly speaking, the interaction between individuals within a society concerning governance is politics, whereas the interaction between societies concerning governance is diplomacy.

8 Terrell, Timothy P.; Wildman, James H. Rethinking "Professionalism". 41 Emory L.J. 403, 1992 at 422: "Law...is not simply a set of rules and regulations that guide our behavior from time to time. It is far more central to our lives: the legal system embodies our last remaining vestige of a sense of "community" – of shared values and expectations. All the other dimensions of our lives – race, religion, education, the arts, regional loyalty, and so on – divide us as much as they join us together because they are based on matters of "substance" on which we often disagree. ... The traditions, heritage, and perspectives of Americans are now so disparate and isolated within ever smaller subcommunities that no common purpose, direction, or moral values connect us fundamentally. ¶ Except our system of law. Not any particular law, of course, but the system as a whole that embodies the "rule of law" in our society."

9 See, e.g., the U.N. covenant on International Civil and Political Rights ("ICCPR") and Economic, Social and Cultural Rights ("ICESCR"). Other such organizations include the Arab League, the Organization of American States, the European Union, and the Organization for African Union.
common ground upon which nations of the modern world can stand as they venture into the future as a global community. Over time, some of these behaviors have evolved into *jus cogens* norms, such that they are binding even on nations that have not ratified any U.N. convention concerning those behaviors.\(^\text{10}\) These norms are among the tenets or scriptures of international civil religion. As *jus cogens* norms continue to be distilled and disseminated, the consensus on moral issues will continue to grow. To the extent that a citizen deviates from these evolving scriptures, censure can be rendered, with the international community appealing to these scriptures to justify said censure. With the aid of international civil religion as expressed through its scriptures, we need not strive for a traditional religio-political amalgamation that is no longer within the grasp of the global community.

This paper consists of five segments: (I) This introduction; (II) A brief summary of a few key scholars who laid the foundations upon which the concept of international civil religion is built; (III) An overview of a few key U.N. documents that further the aspirations of international civil religion; (IV) A proposed public theology; and (V) Concluding reflections.

### II. Key Scholars

From at least the time of Aristotle, a distinction has been drawn between written laws and the unspoken principles that are supposed to undergird those written laws.\(^\text{11}\) Moral theorists from Aristotle to Appiah have written about these unspoken under-girding moral principles. The father of international law, Hugo Grotius, was also a natural law theorist, thus manifesting his belief that some moral absolutes exist which can permeate and must transcend positive law.\(^\text{12}\) Since Grotius' time, numerous scholars have attested to the same idea.

Several of the more prominent civil religion scholars are Jean-Jacques Rousseau, Alexis de Tocqueville, Robert Bellah, Martin Marty, and Harold Berman have each made significant efforts to identify these unspoken and transcendent moral principles. Rousseau popularized the term "civil religion" and sparked a dialogue about civil religion that has continued to the present day. Tocqueville documented how civil religion somewhat inadvertently developed in American society once government refrained from excessive intervention in traditional religious affairs. Bellah built on Tocqueville's observations to explicitly define the parameters of civil religion in the American context. Marty participated in the civil religion conversation by explaining public theologies – individual understandings and contributions to a communal civil religion. And Berman transitioned the conversation from a theoretical discussion to a legal discussion, thereby setting the stage for an understanding of civil religion's role in public international legislation. These scholars, individually and collectively, crafted a theory of civil religion that informs and supports the human rights regime of public international law, as manifest in the United Nations human rights documents, which will be considered in the following Section III.\(^\text{13}\)

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\(^{12}\) *See, e.g.*, Grotius, Hugo. *De Indes*. 1604-05.

\(^{13}\) See section II, *infra* at 14.
A. Jean-Jacques Rousseau

Rousseau brought the concept of civil religion to the forefront of scholarly debate. He was born in Geneva in 1712 and was raised by his father after his mother died in childbirth.\textsuperscript{14} He was a French Enlightenment philosopher, struggling to reconcile his deist notions of morality with his Calvinist heritage and Catholic education.\textsuperscript{15} Sometimes labeled a subversive for writing against the political mainstream of his day,\textsuperscript{16} Rousseau dedicated a good portion of his scholarship to describing the "virtuous citizen" – one with a compelling answer to the question, "Why, and whom, should I obey?"\textsuperscript{17} Like many deist Enlightenment scholars, he was raised in a religious environment, and he questioned how to prompt moral action without the inducement of traditional religion.\textsuperscript{18} In addressing this query, Rousseau popularized the term (that we translate as) “civil religion” in 1762.\textsuperscript{19}

He discerned the inevitable link between religious and political intolerance,\textsuperscript{20} highlighting the difference between one’s individually held beliefs and those beliefs endorsed by that individual's community.\textsuperscript{21} While individual beliefs can be beneficial, politically established or socially mandated beliefs lead to exclusivity, intolerance, and tyranny.\textsuperscript{22} He avers that societal endorsement of civil intolerance is entirely "contrary to the social spirit,"\textsuperscript{23} because "[w]hatever breaks up social unity is worthless."\textsuperscript{24}

Expressing a preference for the separation of church and state that was to become a dominant theme in Western notions of good government, he advocates religious pluralism to the extent that such pluralism does not interfere with one's civic duties.\textsuperscript{25} Opting for a civil religion in lieu of a governmentally endorsed traditional religion, Rousseau proffers a skeletal framework upon which numerous traditional religious viewpoints can gain purchase.\textsuperscript{26} The only negative

\textsuperscript{15} \textit{Id.} at ix-xii.
\textsuperscript{16} \textit{Id.} at xi.
\textsuperscript{17} \textit{Id.} at xv
\textsuperscript{18} \textit{Id.} at xvi.
\textsuperscript{19} Rousseau at Book 4, Chapter 8, pp. 220-227. Benjamin Franklin had used the terms "public religion" and "civil religion" as early as 1749. \textit{See} Franklin's "Proposals Relating to the Education of Youth in Pennsylvania", where Franklin speaks of a "Publick Religion."
\textsuperscript{20} Rousseau at 220: "[T]heological and civil intolerance...are by nature the same."
\textsuperscript{21} \textit{Id.} at 221.
\textsuperscript{22} \textit{Id.} at 224.
\textsuperscript{23} \textit{Id.} at 224.
\textsuperscript{24} \textit{Id.} at 223.
\textsuperscript{25} \textit{Id.} at 226: "Each man can have in addition such opinions as he pleases, without it being any of the sovereign's business to know what they are. For since the other world is outside the province of the sovereign, whatever the fate of subjects in the life to come, it is none of its business, so long as they are good citizens in this life."
\textsuperscript{26} \textit{Id.} at 226: "The dogmas of civil religion ought to be simple, few in number, precisely worded, without explanations or commentaries. The existence of a powerful, intelligent, beneficent divinity that foresees and provides; the life to come; the happiness of the just; the punishment of the wicked; the sanctity of the social contract and of laws."
dogma that he insists upon is the exclusion of religious intolerance.\textsuperscript{27} After all, "[w]henever theological intolerance is allowed, it is impossible for it not to have some civil effect; and once it does, the sovereign no longer is sovereign, not even over temporal affairs.\textsuperscript{28} Thus, because a national religion had become – even during Rousseau's time – harder to enforce and maintain,\textsuperscript{29} "tolerance should be shown to all those that tolerate others, so long as their dogmas contain nothing contrary to the duties of a citizen.\textsuperscript{30}

Religious tolerance was central to Rousseau's notion of civil religion. In both On the Social Contract and Emile, Rousseau's premise is based upon an understanding of the "immoral society of his day [that] was making immoral men, incapable of reforming a culture in whose corruption they could not help but connive."\textsuperscript{31} Rousseau's biographer goes on to assert that, "[t]he one way to break this impasse was to create a new man who could ... create a new society.\textsuperscript{32} For Rousseau, the central question is what authority an individual should obey, particularly in a fractured society rife with contrasting viewpoints.\textsuperscript{33} After Rousseau began the conversation about civil religion, Tocqueville showed how civil religion developed as a bi-product of a truly democratic society that allowed for religious diversity. Addressing the American experiment, Tocqueville documented how the United States attempted to create precisely such a new society.

B. Alexis de Tocqueville

In his commentary on the American experiment, Alexis de Tocqueville set the stage for much of the subsequent scholarly study of civil religion. He is a scholar upon whom Robert Bellah relies,\textsuperscript{34} and Tocqueville offered a fresh French perspective about how civil religion was developed in America. After traveling to the United States in the 1830s, he wrote Democracy in America, a four-volume commentary on the American experiment.\textsuperscript{35} In these volumes, he critiques the American system of government, the American citizenry, and the American persona. Tocqueville was fascinated by his trip to America, and he sought to understand how a

\begin{footnotes}
\item[27] Id. at 226: "Those who distinguish between civil and theological intolerance are mistaken ... Those two types of intolerance are inseparable. It is impossible to live in peace with those one believes to be damned."
\item[28] Id. at 227. Internal citation omitted.
\item[29] Id. at 227: "[T]here no longer is and never again can be an exclusive national religion."
\item[30] Id. at 227.
\item[31] Id. at xiv. Introduction by Peter Gay.
\item[32] Id. at xiv.
\item[33] This is not to say that Rousseau would have approved of the Jacobin's subsequent uses of his theory as partial justification for their behavior during the French Revolution. Their anti-religious intolerance at times matched and even surpassed the religious intolerance of some of their contemporaries. Some scholars maintain that the Jacobin movement used Rousseau to improve their image, using his name to lend their cause legitimacy while not adhering to the substance of his theories. \textit{See}, e.g., Brinton, Crane. "Political Ideas in the Jacobin Clubs." Political Science Quarterly. Vol. 43, No. 2 (June 1928) at 250-52.
\item[34] Considered \textit{infra}, at 9-10.
\end{footnotes}
nation – having been originally settled as a cluster of colonies settled by many people seeking religious freedom – could still agree on the moral foundations of government. In other words, how could a country that is "eminently democratic" agree upon preferred modes of conduct when they need not agree upon the underlying religious motivations for those modes of conduct?\(^{36}\)

He avers that to achieve political equality, "rights must be given to every citizen."\(^{37}\) That basic premise being established, the question then becomes which rights to include that bear upon the "public morality."\(^{38}\) He notes that it is necessary though not easy to teach people to exercise political rights. "Do you not see that religious belief is shaken and the divine notion of right is declining, that morality is debased and the notion of moral right is fading away?"\(^{39}\) He avers that (despite the democratic nature of the United States) there are certain "customs," "mores," or "habits of the heart" that influence the American populace.\(^{40}\) Among these habits is religion, in particular a religion that is "a political institution which powerfully contributes to the maintenance of a democratic republic."\(^{41}\) After all, "[b]y the side of every religion is to be found a political opinion."\(^{42}\) He refers to the Christianity of many British colonists as "a democratic and republican religion" that has contracted with politics to form "an alliance which has never been dissolved" in America.\(^{43}\)

For Tocqueville, religion affects America both directly and indirectly, "direct[ing] the customs of the community, and ... regulating domestic life."\(^{44}\) He claims that, "every principle of the moral world is fixed and determinate, although the political world is abandoned to the debates and the experiments of men."\(^{45}\) That being said, "[h]itherto no one in the United States has dared to advance the maxim that everything is permissible for the interests of society. ... Thus, while the law permits the Americans to do what they please, religion prevents them from conceiving, and forbids them to commit, what is rash or unjust."\(^{46}\)

Traditional religion is both tangentially influential and foundationally important for the American experiment. Although "[r]eligion takes no direct part in the government of society ... it must be regarded as the first of their political institutions,"\(^{47}\) Tocqueville noted that the "religious aspect" of America had "great political consequences," in that the spirits of religion and freedom "were intimately united and that they reigned in common over the same country."\(^{48}\) Upon inquiring upon the origins of this phenomenon, American religious leaders "attributed the peaceful dominion of religion in their country mainly to the separation of church and state."\(^{49}\)


\(^{37}\) Id. at 56.

\(^{38}\) Id. at 233.

\(^{39}\) Id. at 255.

\(^{40}\) Id. at 310.

\(^{41}\) Id. at 310.

\(^{42}\) Id. at 310.

\(^{43}\) Id. at 311.

\(^{44}\) Id. at 314-15.

\(^{45}\) Id. at 315.

\(^{46}\) Id. at 316.

\(^{47}\) Id. at 316.

\(^{48}\) Id. at 319.

\(^{49}\) Id. at 319.
However, despite this separation, "in forming an alliance with a political power, [traditional] religion augments its authority over a few and forfeits the hope of reigning over all."\textsuperscript{50} Mysteriously, this separation of church and state actually seemed to increase the power of religion within America.\textsuperscript{51}

Tocqueville also avers that, "faith is the only permanent state of mankind."\textsuperscript{52} And this claim is manifest even in democratic nations, for "[i]n proportion as a nation assumes a democratic condition of society and as communities display democratic propensities, it becomes more and more dangerous to connect religion with political institutions."\textsuperscript{53} This does not mean of course, that Tocqueville found no role for traditional religion to play in American society. He notes that even unbelievers acknowledge religious institutions' "influence upon manners and legislation."\textsuperscript{54} Tocqueville's contribution to civil religion cannot be underrated. His social commentary on early America highlights how – even in a nation without a state-sponsored traditional religion – a civil religion was able to emerge to direct and develop moral behavior. Bellah chose Tocqueville's term "habits of the heart,"\textsuperscript{55} as the title of one of his books dealing, in part, with civil religion, and it is to Bellah that we now turn.

\textbf{C. Robert Bellah}

Inspired by Tocqueville, Robert Bellah has devoted a good portion of his scholarship to develop the concept of civil religion. As an American scholar writing during a time of American turmoil, he began exploring the notion of a public morality that need not be anchored to a traditional religious faith in the 1960s.\textsuperscript{56} In 1967, he was teaching sociology at University of California at Berkeley, where student riots and free love reigned in partial reaction to the Vietnam War protests.\textsuperscript{57} Critical legal studies were beginning to take root, the hippie generation was bucking against the establishment reigns, radical feminism and Marxism were in their heyday, "God is Dead" was the mantra of many the young intellectual – in short, society was fracturing, and Bellah, seeing these fractures, sought desperately to find an unguent that could fill the fissures. Bellah turned to civil religion as an appeal to American society, as a pleading for his community to not discard core moral values even if it discarded traditional religious motivations.

Bellah describes civil religion as those "common elements of religious orientation that the majority of [citizens] share ... [that have] played a crucial role in the development of

\begin{itemize}
\item \textsuperscript{50} \textit{Id.} at 321. He goes on to say, "[a]s long as a religion rests only upon those sentiments which are the consolation of all affliction, it may attract the affections of all mankind. But ... [t]he church cannot share the temporal power of the state without being the object of a portion of that animosity which the latter excites." \textit{Id.} at 321-22.
\item \textsuperscript{51} \textit{Id.} at 320: "[T]he real authority of religion was increased by a state of things which diminished its apparent force."
\item \textsuperscript{52} \textit{Id.} at 321.
\item \textsuperscript{53} \textit{Id.} at 322.
\item \textsuperscript{54} \textit{Id.} at 324.
\item \textsuperscript{55} See n. 40, supra.
\item \textsuperscript{56} See, e.g., "Civil Religion in America." \textit{Journal of the American Academy of Arts and Sciences. Winter} 1967.
\item \textsuperscript{57} \url{http://www.robertbellah.com/biography.html}.
\end{itemize}
[societal] institutions ... [and are] expressed in a set of beliefs, symbols, and rituals.”

This civil religion adopts the themes of many religions and belief systems, clothes those beliefs in terminology that is not exclusively theological, and then finds surrogate idols and Ur-texts to give civil religion authority. Civil religion is separate from traditional religious institutions, hovering between and above them. It is an umbrella concept will be construed in singular terms for this paper.

Domestically, the United States has one civil religion that evolves in keeping with the prevailing Zeitgeist. This civil religion applies to all Americans – albeit in different ways and to different degrees. It permeates a patriotic existence. The Pledge of Allegiance is our creed, the Constitution is our scripture, and our founding fathers are our patriarchs. We are devoted to democracy, we pray for our progress, and we are convicted capitalists. Our prisons are our civil religion's purgatory, where we hope the criminal perpetrators prove penitent. We celebrate our saintly soldiers on Memorial Day, and we praise our political prophets such as Martin Luther King, Jr. Nonetheless, civil religion is necessarily amorphous because there are no official interpreters of it. It has no pope, no council of elders, and no weekly service. Paradoxically, civil religion is the unified overtone created from the harmony of conflicting American religio-political mores that sometimes serves to legitimate our government's laws and decisions and to make government more than a mere mechanism of coercion. Civil religion is the apprehension of a universal truth, inhabiting the dialectical space between church and state. After Bellah further developed and defined the collaborative concept of civil religion, Marty posited public theologies as the manner in which individuals contribute to the communally shared concept of civil religion.

D. Martin Marty

Marty's description of public theologies details how diverse individuals contribute to a communal civil religion. Marty is an emeritus professor at the University of Chicago. He has

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58 Id. at 171.
59 Id. at 168.
61 Granted, the assumption of a single civil religion is contentious. American flag burners and military draft dodgers strain the idea of a single civil religion. However, in the single civil religion view, those people may be viewed as people who share the same religion but disagree on its implied behaviors. Or, they may be viewed as civil religion’s heretics. Civil religion is the majority viewpoint, but not the uniformly accepted viewpoint.
62 Newscasters and political pundits might qualify as interpreters of civil religion. However, they are only official insofar as their respective stations and syndicates employ them. While some of these people have amassed substantial followings, such followings are matters of taste rather than of official societal endorsement.
written extensively on religion in modern American public life. Marty has a long history with Bellah, and it is Marty who anchors Bellah's version of civil religion in American history.

Supposing that there is indeed one civil religion in a given society, there are still various ways to understand and interpret that one civil religion. These diverse understandings of the one civil religion are called "public theologies." Marty defines a "public theology" as "an effort to interpret the life of a people in the light of a transcendent reference." However, both domestically and internationally, we are divided on how to "interpret" life, who constitutes the "people" affected by those interpretations, and what exactly is referenced that is "transcendent." Because of these ambiguities, it is more helpful to speak of public theologies rather than of a public theology. Because civil religion is a nebulous concept, public theologians abound, each attempting to posit the attributes of their understanding of civil religion. Individuals and groups assert their public theologies, attempting to steer civil religion in particular directions. Certain attributes of civil religion are ubiquitous, such as those propounded above by Rousseau. However, other attributes are more contentious, and public theologians are divided as to how public theologies should contribute to the communal perception of our civil religion.

Today Americans accept as commonplace that our country does not have an established religion. A (sometimes porous) wall of separation exists between church and state in this country. In the wake of this separation as codified in the First Amendment, Americans were left with a gap to be filled where religious explanations once resided, providing the motivational impetus for moral action. Civil religion is a way to fill that gap. Without a state-endorsed traditional religion to hold the community together, civil religion has served as a substitute adhesive. Much like the literal Wailing Wall in Jerusalem, this figurative American wall of separation has engendered a great deal of debate. This wall of separation is part of America’s civil religion, although activists on all sides of the multi-faceted wall disagree about how high and thick the wall should be, as well as of what "materials" the wall ought to be made. However, the widespread acceptance of this wall's existence permits a degree of religious heterogeneity that was previously impossible to achieve within one community. This wall, while creating an environment for the "religious marketplace" to flourish, has also led to the proliferation of conflicting ideals on how we ought to describe civil religion. Public theologians are waging culture wars both domestically and abroad to determine whose theology should prevail.

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67 By way of a biology analogy, if civil religion is the genus, then public theologies are the multiple species contained within that genus. By way of a denominational analogy, if civil religion corresponds to Christianity, then public theologies would include Presbyterians, Southern Baptists, United Methodists, Roman Catholics, and so on. In more historical terms, the multitude of conflicting public theologies – of different Jerusalems – are attempts by groups and individuals to both describe and shape our one civil religion – our one Athens.
68 See, e.g., Fowler at 15.
Humans tend to define ourselves via opposition, constructing our identities as much by what we are not as by what we are. If a man identifies himself as “Christian,” he implies that he is “not Hindu/Buddhist/Muslim/insert-other-religion-here.” Likewise, by identifying as a “capitalist,” one implies that she is “not communist.” And yet few (if any) people are one hundred percent Christian or Hindu, or one hundred percent capitalist or communist. This binary system of classification of "X" or "Not X" denies the existence of the spectrum of possible public theologies existing between those two poles. These “X” and "Not X" labeling terms may be familiar in a folk sense, but they describe hypothetical states. Nonetheless, public theologians have caused such binaries to permeate our paradigms and our power structures, our mentalities and our governments. By separating religious and political discourse, the United States has allowed religious heterogeneity to flourish. But our nation's borders do not circumscribe his trend towards religious diversity. Religious pluralism is gaining traction in the international community, as reflected by public international law, and Professor Harold Berman did more than almost any other to translate the humanities scholarship concerning civil religion into legal scholarship which has had a bearing on international human rights instruments.

E. Harold Berman

Berman gave civil religion legal traction. A former professor at Harvard and Emory University and a pioneer in the field of law and religion, he devoted a portion of his notable scholarship to the concept of world law. According to Berman, public international law plays a necessary role in establishing a coherent world order. The United Nations serves as a de facto

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69 Even if a person maintains that he is one hundred percent X, how can he defend his contention against others who disagree? Who is the arbiter that evaluates the percentage to which a given person associates with a religion? Further, if X and Y define Hassidic Judaism differently, but both claim to be devoted adherents, is either right or wrong? By what standard can such a determination be made, and who is the final authority on that determination?


71 Likewise, to label concepts, theories, and ideals as either "religious" or "political" creates a false – if not dangerous – binary. Granted, bifurcating religious and political ideals can be useful to classify the belief systems of a community, but such a binary can be harmful if thought of as actually extant.


73 Berman, Harold J. "The Role of International Law in the Twenty-First Century: World Law." 18 Fordham Int'l L.J. 1617. Berman asserts that "world law" is a more appropriate term for the modern interaction between nations than are the terms "international law" or "transnational law," because "world law" encompasses the modern trend of a greater degree of interaction and interdependence between nations than do the other terms. See id.

74 Berman, Harold J. Faith and Order: The Reconciliation of Law and Religion. Scholars Press, Atlanta, GA: 1993 at 281: "Public international law is not only a precondition of the world order; it is also part of a process of creating and re-creating the world order."
world government of sorts, promulgating and maintaining this world order and playing a role quite similar to that played by national governments for individual nations. Berman's conception of this world order involves not just positive law, but also "legal principles whose ultimate source is universally shared conceptions of justice." The treaties, covenants, and conventions promulgated by the United Nations may indeed be examples of positive law, in that they were drafted and adopted by U.N. representatives and delegates; but those positive legal documents contain natural law principles based upon universally shared concepts of justice.

Berman maintains that the U.N. documents – its human rights documents in particular – stand for the proposition that "the entire world, all mankind, despite its many diversities, not only shares some common beliefs concerning human dignity but also has a common concern to protect human dignity by a law that stands above the law of individual states." Berman calls for broader conceptions of both law and religion, such that those engaging in religio-political discourse are capable of appreciating the dialectical relationship between the two disciplines.

Most legal systems – like most traditional religious systems – are heavily ritualized, in that they rely on tradition, that they appeal to the authority of something greater than the text of the laws/scriptures themselves, and that legal and religious systems claim moral universality within their jurisdictions. "Thus sanctity is attributed to law, and without sanctity law loses its force. Without sanctity no coercion will be effective, since the agencies of coercion will themselves be corrupted. That sanctity is the religious dimension of law.”

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75 Id. at 282: "If we view international treaties and conventions as a kind of international legislation, and the United Nations as a kind of international executive and administrative branch, and the International Court of Justice as an international judiciary, then we may say that the world order that is developing at the end of the twentieth century does have legal institutions, albeit weak ones."

76 Id. at 282.

77 Id. at 282: These documents "enact broad principles of liberty, equality, and welfare, principles whose only meaning cannot be derived from the documents themselves but only from the universally shared conceptions of justice that inform the documents."

78 Id. at 282-83.

79 Id. at 284: "If we think of law only in positivist terms as a body of rules laid down by political authorities and backed by coercive sanctions, we will not naturally be led to connect the law of the world community with religion ... Yet law itself, in all societies, encourages the belief in its own sanctity. It puts forward its claim to obedience in ways that appeal not only to the material, impersonal, finite, rational interests of the people who are asked to observe it but also to their faith in a truth, a justice, that transcends social utility ... If, however, one defines religion in terms of shared intuitions and convictions concerning the purpose and meaning of life, shared emotions (as well as shared thoughts) concerning creation and redemption, concerning transcendent values, concerning the nature and destiny of mankind–then it is much harder to exclude legal relations, legal processes, and legal values from its purview."

80 See id. at 284-85.

81 Id. at 284-85.
While acknowledging the interaction between law and religion, Berman recognizes that the two disciplines are capable of both good and evil. Nonetheless, he realizes that law and religion both have roles to play in developing an effective world order. This world law would touch upon all aspects of communal life, from private international trade to environmental concerns. But his advocacy for a world order does not extend to promotion of an established world religion. Rather, Berman's conception of a world order comports with international civil religion, permitting traditional religious diversity while retaining certain universal principles. These universal principles can be maintained through an “interaction between religion and international law in a multicultural, multireligious world... [such that] all great faiths... may unite in affirming the presence of a transcendent spiritual element -- a holy spirit -- in the process of making, interpreting, and applying international law itself.”

Many of these universal principles are embodied in the United Nations' human rights documents, and it is to those documents that we turn in Section III. Rousseau's term of civil religion, as documented by Tocqueville, as developed by Bellah and Marty, and as legally applied by Berman, offers a helpful heuristic for understanding how diverse religious worldviews can cooperatively coexist. The manner in which they can collectively coexist is codified in the human rights documents drafted and disseminated by the United Nations – the scriptures of international civil religion.

### III. International Instruments

The scholars considered above have done much to advance the idea and ideal of national and international civil religion. But civil religion is not limited to scholarship. The international human rights documents promulgated by the United Nations constitute the codification of international civil religion – they are international civil religion's scriptures. That being said, the preceding statement must be qualified in two ways. First, these scriptures do not purport to be divinely inspired. They are not proclaimed to be inerrant but rather profess themselves to be evolving products democratically achieved and resulting from some degree of diplomatic bargaining. Second, these scriptures are not designed to supplant the existing scriptures of any

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82 Id. at 284-85: "To say that religion is a source of world order is not to deny that it is also a source of world disorder...Religion is not necessarily good. Law is not necessarily good. World order is not necessarily good."
83 Id. at 284-85.
84 18 Fordham Int'l L.J. at 1621.
85 Id. at 286: "[A]n established world religion ... would be the worst possible outcome. As between tyranny and anarchy, I prefer anarchy. Out one world is and must remain a pluralist world ... It must also, however, be one world. E pluribus unum. Both plural and one."
87 See nn. 146-147, infra.
88 While human rights documents are the result of diplomatic legislation, they are "understood to precede or predate all international covenants," existing independently of their articulation on paper. Little, David. "Religion, Human Rights, and Public Reason: The Role and Limits of the Secular." Oxford University Press (forthcoming) at 13. In this way, human rights language –
traditional religion. As stated above, civil religion resides among and above traditional religions, highlighting the complementary aspects shared between most reasonable traditional religions while remaining silent about the doctrinal and devotional particulars of any given religion.

Civil religion, as embodied in the documents considered in this section, is a way for global morality to flourish while not depending upon any particular traditional religion for sustenance. It is an allusion to some moral fundamentals shared among traditional religions, making compliance with the tenets of international civil religion more than an attempt to avoid societal reprisal or to promote détente. As the world has become "smaller" and more interconnected through advances in technology, trade, and travel, national boundaries are traversed more easily, and interfaith moral discourse is inevitable. John Rawls noted, "[t]he diversity of reasonable comprehensive religious, philosophical, and moral doctrines found in modern democratic societies ... is a permanent feature of the public culture." Global citizens have to determine how they want their community to function, and public international law is the way through which global citizens codify normative claims that convey their consensus of right and wrong, good and bad.

Despite international variation with respect to (traditional) religion, language, geography, history, culture, race, political views, etcetera, the number of international agreements regarding trade, military support, diplomacy, and human rights advancement have continued to proliferate between nations in recent years. In the absence of a traditional religious explanation of why religiously diverse nations negotiate to reach normative conclusions about the nature and arrangement of temporal existence, international civil religion provides a reason. The central tenet of international civil religion is that every human is possessed of an inherent dignity and an inviolable self worth. Just as many traditional religions value human life as God's creation, the

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89 See n. 59, supra.
90 Rawls, Political Liberalism at 36. See also, Witte, God's Joust at 457: "Religion has proved to be an ineradicable condition of human lives and communities – however forcefully a society might seek to repress or deny its value or validity, however cogently the academy might logically bracket it from its legal and political calculus."
91 Prime examples include the ICCPR, the ICESCR, and the UDHR. See also Albright, Madeleine. The Mighty and the Almighty: Reflections on America, God, and World Affairs. HarperCollins Publishers, New York: 2006 at p. 132: "Articulating moral principles is what movements to establish international norms are in business to do. That is precisely how military aggression, slavery, piracy, torture, religious persecution, and racial discrimination have come to be outlawed. It is also how abuses against women, including domestic violence, 'dowry murders,' 'honor crimes,' trafficking, and female infanticide may one day be further reduced. This is a question not of imposing our views on others, but of convincing enough people in enough places that we are right. That is persuasion, not imposition."
92 See, the Preambles to the U.N. Charter, the UDHR, the ICESCR, and the ICCPR. See also, Albright at 434-35: "Respect for the rights and well-being of each individual is the place where religious faith and a commitment to political liberty have their closest connection. A philosophy based on this principle has the most potential to bring people from opposing viewpoints together
United Nations chooses to extol the value of human life because individuals are worthy of honor and respect as individuals.\textsuperscript{93}

However, in the absence of an agreed upon supernatural touchstone from which to discern moral truths, to what other touchstone shall the global citizen turn? Political leaders from secular states, religious monarchies, and religiously influenced nations interact daily. In light of this diversity in our interconnected world, how are international religio-political disputes to be resolved? What bellwether is to guide our nations' leaders? How are state actors supposed to promote and enforce moral behavior without appealing to religious motivations?

Former U.S. Secretary of State Madeleine Albright asserts, "we should blend realism with idealism, placing morality near the center of our foreign policy even while we debate different understandings of what morality means."\textsuperscript{94} This debate is the international culture war being waged between public theologians regarding civil religion, and it is being waged because civil religion can help address the manifold moral concerns of religiously diverse nations. International civil religion has identifiable texts, and it is capable of mediating consensus among nations regarding its normative claims.

International civil religion has identifiable texts. If the Constitution, the Declaration of Independence, and the various laws of the United States are the "scriptures" of American civil religion, then the United Nations' human rights documents are the scriptures of international civil religion. When the United Nations replaced the League of Nations at the end of the Second World War,\textsuperscript{95} it was formed in the attempt to prevent such horrific events from ever occurring again.\textsuperscript{96} "The modern human rights movement was thus born out of desperation in the aftermath of World War II. It was an earnest attempt to find a world faith to fill a spiritual void ... to harvest ... the rudimentary elements of a new faith and a new law that would unite a badly broken world order."\textsuperscript{97} "Within a generation [of the formation of the United Nations], human rights had become the ‘new civic faith’ of the post-world order."\textsuperscript{98}

The United Nations is presently the flagship of international organizations of nations.\textsuperscript{99} At present, 194 nations are members of the United Nations, each with representation at the General Assembly. It is a secular institution devoted, in part, to defending religio-political goods and goals. The stated purposes of creating the United Nations include "to reaffirm faith in fundamental human rights," "to save succeeding generations from the scourge of war," and "to

\textsuperscript{93} See, the U.N. documents referenced in n. 91.
\textsuperscript{94} Albright at 434.
\textsuperscript{96} Little at 18: Against the background of the Holocaust, "it is hardly surprising that the drafters [of the UDHR and subsequent related documents] drew the conclusions they did about the indispensability of the ‘constitutional essentials’–the set of rights, freedoms and public goods."
\textsuperscript{97} Witte, God's Joust at 70.
\textsuperscript{98} Id. at 71.
\textsuperscript{99} While this assertion is controversial, no other international organization has as geographically representative a membership or as much authority (at least theoretically) to act on behalf of the international community of nations.
promote social progress." Such aspirational language is teeming with moral – if not religious – presuppositions. To "save" succeeding generations from the "scourge" of war assumes that war is a bad thing. To "promote social progress" assumes that social progress is a good thing. Tacit in both of these assumptions is that human life is valuable and worth living.

Civil religion promotes that social progress, because civil religion stands for the proposition that we ought to have faith in human rights because life is worth living and is worth living in particular ways. Professor John Witte, Jr., Director of the Center for the Study of Law and Religion at Emory University, has described the twentieth century developments in human rights as a "world revolution." This revolution, fought in midst of human rights atrocities being perpetrated during the past several decades, "has helped to catalyze a great awakening of religion around the globe." "Religion has become ... the latest 'transnational variable.'"

It is no accident that a good number of the human rights documents strive to ensure religious liberty as well. However, "[h]uman rights principles are as much the problem as they are the solution in a number of current religious and cultural conflicts." This is why Witte claims that "further rights talk alone is insufficient ... human rights norms need a human rights culture to be effective." Witte claims that we have moved from human rights declaration to human rights implementation. He avers that, "religion and human rights need to be brought

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100 U.N. Charter, Preamble.
101 If war leads to death, and we want to prevent war, we want to prevent death. Opting for life over death implies that life is superior to death in this scenario, and thus implies that life is worth living. Likewise, "progress" is improvement, and social progress thus improves a community. If we are advocating for social progress, we are assuming that making communal life better is a good thing. These assumptions implicitly posit normative claims and are religio-moral judgments about the value of life.
102 See n. 92.
103 Witte, God's Joust at 63.
104 Id. at 64.
106 Witte, God's Joust at 64 lists "liberty of conscience and freedom of religious exercise, guarantees of religious pluralism, equality, and nondiscrimination" on the individual and group levels. See also, the 1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

The advancements of religious liberty is in due part to the fact that these newly touted religious rights have led to a new "war for souls" in certain regions – "a theological war" amongst "rival religious communities," leading to "religious balkanization." Witte, God's Joust at 66. Thus, the development of religious freedom has been countered in some countries by "new anti-proselytism laws, cult registration requirements, tightened visa controls, and various other discriminatory restrictions on newly arrived religions." Id. at 66-67.
107 Id. at 67.
108 Id. at 67.
109 Id. at 68.
into a closer symbiosis."\textsuperscript{110} Traditional religions and the human rights regime can harmoniously coexist, and they need to be in dialogue.\textsuperscript{111} For, "[h]uman rights are, in no small part, the modern political fruits of ancient political beliefs and practices."\textsuperscript{112} This dialogue is essential to the success of the human rights regime taking root, for "[r]eligious traditions cannot allow secular human rights norms to be imposed on them from without; they must rediscover them from within."\textsuperscript{113} However, Witte calls for traditional religions to play a greater role in the motivational impetus behind the human rights regime, whereas this paper calls for that role to be played by civil religion while remaining informed by traditional religions. For the moral dictates of any traditional religion bind only the adherents of that particular traditional religion, whereas civil religion has the potential to knit those diverse dictates together.

Regardless, Witte is correct that "human rights must have a more prominent place in the theological discourse of modern religions."\textsuperscript{114} After all, human rights are capable of providing a "new global moral language"\textsuperscript{115} to help establish a civil religion without having to usurp or replace traditional religion. Human rights language has become "something of the \textit{lingua sacra} of the modern human rights movement."\textsuperscript{116} But unlike traditional religious scriptures that have been codified and remain "static," the human rights regime – while "presuppos[ing] the existence of fundamental beliefs and values" – is a "relative system of ideals and values ... [that is] fluid, elastic, and open to challenge and change."\textsuperscript{117} The human rights regime is a "common law of nations" that is capable of adapting itself as necessary to accentuate and accommodate the values embedded within traditional religions.\textsuperscript{118} And such relativism can prove beneficial. The human rights regime not only 	extit{can}, but also 	extit{must} be constantly challenged to improve. It should [also] be discarded ... on cogent proof of a better global norm and practice.\textsuperscript{119}

The U.N. Charter promulgated significant, if aspirational, goals for itself and its members, including the promotion of peace and the establishment just international laws.\textsuperscript{120} From 1945 forward, the United Nations has been drafting and promulgating documents that have

\textsuperscript{110} \textit{Id.} at 68. After all, "these abstract human rights ideals ... depend on the visions and values of human communities and institutions to give them content and coherence." \textit{Id.}

\textsuperscript{111} \textit{Id.} at 69: "Religious communities must reclaim their own voices within the secular human rights dialogue, and reclaim the human rights voices within their own internal religious dialogues."

\textsuperscript{112} \textit{Id.} at 68.

\textsuperscript{113} \textit{Id.} at 69. To divorce tradition religion from human rights would cause four problems: (1)"many rights are cut off from their roots; (2) "the regime of human rights becomes infinitely expandable;" (3) "human rights become too captive to Western libertarian ideals;" (4) "the state is given an exaggerated role to play as the guarantor of human rights." \textit{Id.} at 72-73.

\textsuperscript{114} \textit{Id.} at 74.


\textsuperscript{116} Witte, God's Joust at 75.

\textsuperscript{117} \textit{Id.} at 75.

\textsuperscript{118} \textit{Id.} 76. That being said, the human rights regime is not completely open to relativism, but are "a relatively stable set of ideals by which a person and community might be guided and judged."

\textsuperscript{119} \textit{Id.} at 76-77.

\textsuperscript{120} U.N. Charter, Preamble.
been ratified by an increasing number of countries.  The subject matter covered by some of these documents has been referred to as "generational rights," with the first generation dealing with civil and political rights, the second generation dealing with economic, social, and cultural rights, and the third generation moving beyond the human realm towards environmental issues. The preambles to both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights "[recognize] that these rights derive from the inherent dignity of the human person." Those preambles each go on to "[realize] that the individual having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant[s]." Each of these covenants proceeds to then enumerate and expound upon particular rights and protections that are due to every human from every other human precisely because the actors are human.

Because the covenants were designed to be signed and ratified by nations, those nations are deemed to be the parties agreeing to ensure that the protections of the covenants are duly enforced and made available to their respective citizens. In the ICCPR, such protections include the right to life and freedom of person, religion, speech, assembly, and association. In the ICESCR, such protections include the right to work, to social security, to adequate living standards, to physical/mental health, and to education. Each of these protections further supposes that humans are worthy of protecting, and that these protections are somehow beneficial or valuable to individual humans.

For example, the ICCPR includes, inter alia, the prohibition of "[a]ny advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence." Such a prohibition disallows religiously motivated persecution and warfare waged in the name of any traditional religion. The ICESCR includes, inter alia, "the right of everyone to education ... [that] shall strengthen the respect for human rights and fundamental freedoms ... [and] shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all ... religious groups." Such a right is designed to ensure that diverse religious communities can live together harmoniously in a global community. Both of these examples constitute tenets of international civil religion.

The rights and prohibitions contained within the ICCPR and ICESCR are not meant to unnecessarily limit the ability of individuals, groups, or nations to act consistently with their traditional religious beliefs. Rather, the only limitations imposed upon anyone are those that would trample the moral dictates of international civil religion. As stated in the Universal Declaration of Human Rights:

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121 See, n. 91 supra.
122 See ICCPR.
123 See ICESCR.
124 See ICCPR and ICESCR preambles. (Emphasis in originals).
125 See id.
126 See id.: "Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms."
127 See ICCPR, articles 6, 18, 19, 21, and 22, respectively.
128 See ICESCR, articles 6, 9, 11, 12, and 13, respectively.
129 ICCPR, Art 20, ¶ 2.
130 ICESCR, Art. 13, ¶ 1.
In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.\footnote{UDHR Art 29, ¶ 2.}

The passage above exhibits the notion that civil religion is only minimally restrictive, permitting maximal freedom for all while prohibiting only the exercise of actions that stifle the freedom of others or hinder the spirit of cooperation.\footnote{As stated by Karl Vasak, the UDHR can be thought of as a "modern edition of the New Testament, and the Magna Carta of humanity" and is capable of providing "a constant source of inspiration for governments." "A 30-Year Struggle." UNESCO Courier. November 1977 at 29.}

It is remarkable that so many nations can come to consensus about these particular moral issues without necessarily agreeing on any particular religious worldview. International civil religion mediates this consensus among nations regarding the normative claims embodied in these documents. If civil religion is thought to reward virtue and punish vice, then civil religion must take a stance on what constitutes virtue and vice – which are moral judgments. Civil religion attempts to discern a uniform set of absolutes from the conflicting ideals of varied public theologies. Civil religion “provides meaning, a grounding for values in a culture.”\footnote{Fowler at 261.}

While the United Nations does not self-identify as an arbiter of international civil religion, it advances the ends of international civil religion. The assent of so many nations to the U.N.’s covenants, conventions, and protocols supports the contention that the subject matter of these documents – be it religious liberty issues, the right to self determination, or the acquiescence to nonviolent means of dispute resolution – have moral appeal that transcends many religious worldviews while fitting within them. Further, the existence of\textit{jus cogens} norms suggests that moral imperatives exist that the majority of global citizens are capable of endorsing while maintaining their traditional religious beliefs.\footnote{Granted, U.N. terminology replaces moral language with rights language. However, this substitution of religiously nuanced language with doctrinally neutral rights language widens the circle in which the global citizens wishing to create universal normative propositions can converse. This linguistic substitution allows for the conversants to communicate with unbiased terminology that has not had centuries of culturally specific shellac glazed upon it. The U.N has played a key role in brokering such agreement with respect to religio-political issues. In that sense, the U.N. is furthering the concept of international civil religion by pursuing religio-political goals without invoking traditional religious rhetoric or motivations.}

As detailed in Section II.C.,\footnote{See Section II.C., \textit{supra}.} multiple public theologies exist each attempting to describe and direct the definition of civil religion. Individual public theologies prove of varying value, but each public theology can participate in the civil religion conversation. The following section details one possible public theology – a public theology that this author maintains is a helpful perspective from which to approach international civil religion. The following public theology builds upon the theories of several prominent public theologians, distilling the
beneficial components of each of the scholars' theories, and combining them in a way to offer the maximum possible benefit for the maximum number of people by allowing the widest possible discretion for traditional religious practice while sustaining commitment to the ideals of a cooperative civil religion.

**IV. A Proposed International Public Theology**

Much like international civil religion is one perspective from which to regard international religio-political relations, the following public theology is one way to appreciate international civil religion. Public theologies are lenses through which to discern civil religion. Many of these lenses are equally plausible, but what follows is one particular lens that gives appropriate deference to traditional religion while insisting upon respect for other traditional religions. International public theologians can be divided into two groups. On the level of international policy, a nation's diplomats serve as practical public theologians working towards social justice. Each nation sends delegates to the General Assembly of the United Nations, and those delegates intercede as their nations' clerics to advance their countries' interests in the evolving definition of international civil religion.

On the level of moral theory, scholars are public theologians, and these scholars distill the components of a worldview that supports the principles of international civil religion. The following subsection details how one international public theology could address the concerns of religious pluralism. The following international public theology blends John Rawls' theory of political liberalism, as adopted/adapted by Martha Nussbaum's capabilities approach, and finally overlaid with cosmopolitanism as explained by Kwame Appiah. The reasons for choosing this complex arrangement are partly chronological and partly to maximize the number of potential participants in this conversation. In terms of chronology, Rawls' corpus of relevant scholarship came first, then came Nussbaum, then came Appiah. In terms of maximizing inclusivity, Rawls's theory of political liberalism declares itself to be applicable within one society rather than between or among various societies; Nussbaum's capabilities approach uses many of the tenets of political liberalism, but then applies them to relations between/among societies; then Appiah's version of cosmopolitanism couches moral ideals similar to the preceding two theories without relying as heavily on distinctively Western notions of morality. This public theology crafted from a conglomerate of moral theories allows the moral ideals expressed in political liberalism and the capabilities approach to flourish, while acknowledging that other non-Western perspectives might accommodate the same or similar moral ideals just as well. This paper stands for the proposition that by choosing the best attributes of these theories, and by combining their complementary components in a synergistic fashion, a public international theology emerges that advances important moral ideals while maintaining an appreciation for religious diversity.

Dividing international public theologians into diplomats and scholars is another example of a binary classification, and such binaries were criticized above. See n. 71, supra. However, this binary classification is meant to be merely demonstrative rather than to contain any limiting substantive import that would prevent international public theologians from simultaneously playing both roles, or that would deny the existence of various other roles.

The categorization of the theorists below as "international public theologians" is my own description, and I am not implying that the scholars would self-identify as international public theologians.
A. Political Liberalism

John Rawls was a Harvard University professor specializing in moral and political philosophy. In wrestling with the task of brokering a collective agreement on the ethical underpinnings of society, John Rawls posited the concept of political liberalism. Although political liberalism relies on moral concepts, Rawls' goal is to advance a political ideology rather than moral one. He distinguishes political liberalism from any particular religious worldview, offering political liberalism as an epistemology in which an overlapping consensus of moral worldviews can coexist in harmony. Within this Venn diagram arrangement, justice as fairness is paramount, with justice providing a Rawlsian foundation upon which the scaffolding of political liberalism can be erected. Rawls' scaffolding is capable of supporting and accommodating the vast majority of religious epistemologies the vast majority of the time. Consequently, Rawls theory provides a fertile soil for the human rights regime.

Several of today's prominent moral scholars have addressed the relationship between human rights and religious value. Among them is Professor David Little of Harvard Divinity School, who highlights a "consistent, if carefully circumscribed, rationale on the part of the drafters [of the UDHR] for deliberately excluding all confessional or religious references." Little maintains that it is heuristically useful to understand human rights language in terms of Rawls' notion of public reason. Such a public reason "provides a common, religiously neutral language" capable of existing above religious beliefs, and that "is conceived of as freestanding by being independent of any comprehensive religious or other doctrine."

Little goes on to note five characteristics of human rights language. First, human rights language presupposes the "ideal of democratic citizenship." Second, this language "is

138 See, e.g., Rawls, Political Liberalism at 9.
139 Id. at 24.
140 Id. at 9: "Justice as fairness tries to do this by using a fundamental organizing idea within which all ideas and principles can be systematically connected and related. This organizing idea is that of society as a fair system of social cooperation between free and equal persons viewed as fully cooperating members of society over a complete life."
142 Little at 4.
143 Id. at 4.
144 Id. at 5: "Officially, it neither authorizes nor is authorized by any religious position, yet it espouses a notion of 'reasonable pluralism' and a commitment to tolerance of diverse religious and other convictions so long as adherents to those convictions agree to live in accord with the constitutional essentials presupposed by the idea of public reason." (internal citations to Rawls omitted.)
145 Little at 7.
designed to provide guidance in the face of a large array of divergent and competing comprehensive views." Third, human rights norms help to achieve a Rawlsian overlapping consensus so that the goods protected by the state are bolstered by numerous traditional religious systems. Fourth, human rights language is of a legal nature, thus lending itself to judicial interpretation. And fifth, human rights language is aspirational.

Despite the legal nature of human rights language, the human rights regime is a moral regime. Rawls notes that when moral philosophy began, "ancient religion was a civic religion of public social practice, of civic festivals and public celebrations ... As long as one participated in the expected way and recognized the proprieties, the details of what one believed were not of great importance." This original moral philosophy bears parallels to Rousseau's and Bellah's ideas of civil religion. For instance, this original moral philosophy was "always the exercise of free, disciplined reason alone," neither based on traditional religions nor religious ideas of divine revelation. However, the modern world is not composed of ancient, geographically isolated city-states in which one traditional religion can thrive in each governed community. Nowadays, only through the "oppressive use of state power" could one traditional religion continue to hold societal endorsement.

Thus, Rawls asks how a just society can remain stable in light of reasonable religious pluralism. He proffers justice as fairness — his idea of political liberalism in which an overlapping consensus of reasonable religious worldviews can peacefully coexist while still fulfilling the basic needs of each individual citizen. Political

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146 Id. at 8. Human rights are thus secular in the sense that they are "assumed to be held in common by all citizens [and do] not depend directly on any religious or other comprehensive view." Id. However they are not secular insofar as they are bolstered by numerous religious traditions. See n. 147 infra.


148 Little at 11: "[H]uman rights language constitutes 'outer limits' on matters of conscientious belief by authorizing the legal inhibition of actions deduced from particular theological or philosophical comprehensive doctrines that in practice violate the human rights code."

149 Id. at 11.

150 Rawls, Political Liberalism at xxi. Rawls notes that this original moral philosophy began around the time of Socrates.

151 See Section II. A., C., supra.

152 Rawls, Political Liberalism at xxii.

153 Id. at 37.

154 Id. at 4.

155 Rawls' conception of justice as fairness rests on two foundational principles: (1) "Each person has an equal claim to a fully adequate scheme of equal rights and liberties, which scheme is compatible with the same scheme for all; and in this scheme the equal political liberties, and only those liberties, are to be guaranteed their fair value;" and (2) "Social and economic inequalities are to satisfy two conditions: first, they are to be attached to positions and offices of fair equality and opportunity; and second, they are to be to the greatest benefit to the least advantaged members of society." Id. at 5-6.

156 Rawls avers that basic needs are met by ensuring that each citizen is given access to basic rights and liberties, which he refers to as "primary goods," which consist of: (1) "basic rights and
liberalism offers a political conception of the good that can be endorsed by believers of various traditional religions, because it exists independently of any particular religious doctrine.\textsuperscript{157}

This political liberalism allows for play in the joints. After all, citizens adhering to any reasonable traditional religious worldview can peacefully coexist within a Rawlsian society while still freely "purs[u]ing [their] (permissible) conceptions of the good."\textsuperscript{158} Political liberalism provides a frame upon and within which traditional religions can build, but without some semblance of which a pluralistic society is likely to quarrel over moral issues. It promotes social cooperation without requiring social unity on all issues. Political liberalism provides society a cornerstone without specifying which architectural style society must choose. It provides a metaphorical village in which each reasonable religious worldview may erect its own house of worship.

However, political liberalism does have limitations, and it is subject to criticism as a Western perspective. Rawls' theory requires a democratic society in order to function.\textsuperscript{159} Further, political liberalism cannot accommodate all aspects of those religious worldviews that unequivocally advocate exclusive soteriological claims.\textsuperscript{160} Also, the ideals of political liberalism cannot be achieved overnight. Such a paradigm shift takes time, particularly for those who do not share Rawls' appreciation for democracy. Notwithstanding such criticisms, Rawls hopes that "[g]radually, as the success of political cooperation continues, citizens [will] gain increasing trust and confidence in one another."\textsuperscript{161} If Rawls' hopes come to fruition, society would eventually become a "social union of social unions," in which diversity can flourish.\textsuperscript{162} This Rawlsian union of unions is precisely what civil religion strives for – endorsing cooperation within, between, and among social unions (religious "unions" in particular) to create an overarching

\begin{itemize}
\item[(2)] "freedom of movement and free choice of occupation against a background of diverse opportunities;"
\item[(3)] "powers and prerogatives of offices and positions of responsibility in the political and economic institutions of the basic structure;"
\item[(4)] "income and wealth;"
\item[(5)] "social bases of self-respect."
\end{itemize}

An analysis of the differences between Rawls' primary goods and Nussbaum's central capabilities (see n. 176, infra) is beyond the scope of this paper.

\textsuperscript{157}Rawls, Political Liberalism at 9-10.

\textsuperscript{158}Id. at 74.

\textsuperscript{159}See, e.g., id. at 90. However, note that democratic regimes and constitutional guarantees are not universally endorsed presumptions necessary to establish a functional society. See, e.g., Nietzsche, Friedrich. Beyond Good and Evil: Prelude to a Philosophy of the Future. trans. Walter Kaufman. Vintage Books, New York: November, 1989 at 72: "To love man for God's sake--that so far has been the noblest and most remote feeling attained among men ... The philosopher as we understand him, we free spirits...will make use of religions for his project of cultivation and education, just as he will make use of whatever political and economic states are at hand."


\textsuperscript{161}Id. at 168.

\textsuperscript{162}Id. at 323.
union to which all traditional religions can belong. Nussbaum took this social union of social unions to the next level, broadening the former of those two unions to international proportions.

**B. Political Liberalism Adapted to the Capabilities Approach**

While Rawls limited his analysis of political liberalism to a single society or nation rather than applying it to the relationship between and among societies or nations, Nussbaum widens her analysis to include international relations via her capabilities approach. She claims that the goal of her version of the capabilities approach is:

> To provide the philosophical underpinning for an account of basic constitutional principles that should be respected and implemented by the governments of all nations, as a bare minimum of what respect for human dignity requires ... the best approach to this idea of a basic social minimum is provided by an approach that focuses on human capabilities, that is, what people are actually able to do and to be – in a way informed by an intuitive idea of a life that is worthy of the dignity of the human being.

Her capabilities approach bears a resemblance to Rawls’ overlapping consensus in that it chooses political goals without attempting to ground them in the metaphysical motivations of traditional religions, thus attempting to make her approach a universally endorsable proposition. Like Rawls, she acknowledges that this paradigm shift from the religious to the political is no easy feat. After all, religion has historically been a "central locus of the moral education of the young ... [and] a central vehicle of cultural continuity." However, she goes on to contend that historical resilience of traditional religions does not equate with their metaphysical veracity. The possibility that a better paradigm exists is exactly why the endeavor to discern an international civil religion is worthwhile.

Nussbaum claims that her capabilities approach allows for citizens to expect certain minimums of treatment from their government because each “individual person should be the focus of political thought.” By positing each person as an end in themselves, she hopes that

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163 To invite all religions to belong does not mean that all religions will accept the invitation. As Rawls noted, his theory only accommodates "reasonable" diversity. See n. 154 supra. Unreasonable religions are likely to refuse the invitation.

164 Rawls, Political Liberalism at 272, n. 9.

165 Nussbaum at 5. Her presumption that citizens indeed have the capabilities to become human beings worthy of human dignity bears a striking resemblance to Rawls’ presumption that people have the capacity to be reasonable citizens in a social union of social unions. See, Rawls, Political Liberalism at 19.

166 Nussbaum at 5.

167 Id. at 5-6.

168 Id. at 179-80.

169 Id. at 179-80.

170 Id. at 254.

171 Id. at 12.

172 Id. at 55.
her approach will be able to "make normative recommendations that cross the boundaries of culture, nation, religion, race, and class." However, in her attempt to find morals that transcend religious pluralism, Nussbaum is not advocating moral relativism.

The central question of her capabilities approach is, "What is [X person] actually able to do and to be?" For each person to reach her full potential, Nussbaum's ideal society must promote the central capabilities. Each individual must have the option to exercise these capabilities, because that option is what separates humans from other life forms. Like Rawls, Nussbaum wants the consideration of human equality to transcend religious pluralism. However, unlike Rawls, Nussbaum applies her capabilities approach to the international realm, hoping her capabilities approach will prove useful for both governmental and international institutions, and using nations as her measurable units. She advocates a view of humanity that she hopes will engender "broad cross-cultural resonance and intuitive power." After all, "even a highly moralized globalism needs nation states at its core, because transnational structures (at least all the ones we know about so far) are insufficiently accountable to citizens and insufficiently representative of them."

Nonetheless, despite Nussbaum's adaptation of Rawls' political liberalism and her expansion of the capabilities approach to the international sphere, her theory suffers from some of the same shortcomings. For example, like Rawls, she presupposes democratic regimes. Further, like Rawls' primary goods, Nussbaum's capabilities seem to address first- and second-generation rights, but not the rights of subsequent generations of rights. Thus, without further application, both theories do not sufficiently account for the progressive nature of the United Nations' aspirational development of later generations of rights. The theories of Rawls and Nussbaum provide a floor of protections for humans, but they do not contemplate walls or

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173 Id. at 34.
174 Nussbaum notes, "normative relativism is self-subverting: for, in asking us to defer to local norms, it asks us to defer to norms that in most cases are strongly nonrelativistic. Most local traditions take themselves to be absolutely, not relatively, true. So in asking us to follow the local, relativism asks us not to follow relativism." Id. at 49.
175 Id. at 71.
176 Nussbaum's central capabilities are life; bodily health; bodily integrity; senses, imagination, and thought; emotions; practical reason; affiliation; other species; play; and control over one's environment (both politically and materially). Id. at 78-80. This list of central capabilities has some notable differences from Rawls' list of primary goods. See, p. 15, n. 50, supra.
177 Nussbaum at 71-72.
178 Id. at 86.
179 Id. at 70. Nussbaum further notes that her approach was influential for the U.N.'s Development Program's Human Development Reports from at least 1993 through 1997.
180 Nussbaum at 72.
181 Id. at 105. See also, id. at 75, n. 73: "I also envisage a role for international agencies and international human rights law in implementing theses basic capabilities; but on grounds of accountability, the nation state remains the basic unit."
182 See, her use of rights language and constitutional guarantees on, e.g., pp. 52, 70-71, respectively.
183 Id. at 97. The first- and second-generation rights are discussed on p. 19, supra.
ceilings above that floor. Nonetheless, Rawls and Nussbaum both provide nutrient rich fodder for the development of a helpful public theology.

Both Rawls and Nussbaum are American authors, writing in an American context, and influenced by American ideals. Appiah is of African origin and brings an African heritage to bear on the development of international civil religion. Appiah's cosmopolitanism thus augments the appeal of international civil religion, in part, by adding an international perspective to what has heretofore in this paper been a theory of primarily Western design.

C. Political Liberalism Adapted to the Capabilities Approach with an Overlay of Cosmopolitanism

The less-Western perspective of cosmopolitanism can complement the Western-influenced theories of Rawls and Nussbaum. Cosmopolitanism stands for the proposition of "universality plus difference." According to Kwame Appiah, a cosmopolitan is a citizen not just of a particular locality, city, or country, but is rather a citizen of the cosmos more generally. A cosmopolitan must: (1) recognize obligations to others exceeding those due solely to kith, kin, and fellow citizens; and (2) maintain a significant appreciation of the value of human life, of particular human lives, and of "the practices and beliefs that lend them significance." This simple, two-pronged philosophical mindset allows for a flourishing of co-existing moralities on a global scale, while putting minimal constraints on the content of any individual morality.

Cosmopolitanism is a modest philosophy advancing the idea of "fallibilism—the sense that our knowledge is imperfect, provisional, subject to revision in the face of new evidence." A cosmopolitan believes that international and cross-cultural dialogue is not only possible, but also beneficial. A cosmopolitan strives to sustain a belief in some absolutes while maintaining a humble skepticism of the precise parameters of those absolutes. While respecting a

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184 See e.g., Nussbaum at 75 (averring that the central capabilities give "us the basis for determining a decent social minimum in a variety of areas.").
185 Appiah at 151.
186 Id. at xiv.
187 Id. at xv.
188 See id. at xvi: "Some contemporary philosophers have similarly urged that the boundaries of nations are morally irrelevant—accidents of history with no rightful claim on our conscience." See also, xix: Cosmopolitanism "begins with the simple idea that in the human community, as in national communities, we need to develop habits of coexistence: conversation in its older meaning, of living together, association."
189 Id. at 144.
190 See id. at 57: "Cosmopolitans suppose that all cultures have enough overlap in their vocabulary to begin a conversation. But they don’t suppose, like some universalists, that we could all come to agreement if only we had the same vocabulary."
191 See id. at 104: "Cosmopolitans think human variety matters because people are entitled to shape their lives in partnership with others."
192 See id. at 144: "Cosmopolitans believe in universal truth, too, though we are less certain that we have it all already. It is not skepticism about the very idea of truth that guides us; it is realism about how hard the truth is to find."
pluralistic people's variegated visceral sentiments of right and wrong, the cosmopolitan remains open to dialogue because, "it is often much clearer to us what we should do than why."

The cosmopolitan acknowledges the significance of human passion and its variety, because he realizes that hostility will likely follow if he fails to give due acknowledgment to that passionate variety. In matters of importance coupled with uncertainty, the human instinct is to seek definite answers, then to posit those answers as authoritatively true. Thus, "[t]he temptation is to look for a rule book that could tell you how to arbitrate [religio-moral] conflicts. ... [B]ut then you'd have to agree on the rule book. And even if you did ... there's no reason to think you'd be able to agree on its application." Moral values, after all, require a community to exist.

Humans inevitably view moral issues through the lens of their own meta-narrative, failing to separate theory from data. Thus, unlike empirical science, it is not possible to broker complete global agreement on almost any moral issue. For even if a community can agree that a particular moral value is worthwhile, contention remains regarding how best to achieve that value in a particular situation.

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193 Id. at 63. Robert Schapiro, in writing about the "widespread agreement" to the UDHR, quoted Jacques Maritain as saying that, "yes, we agree about the rights but on the condition that no one asks us why." Schapiro, Robert A. "The Foundations of Law: The Consequences of Human Rights Foundationalism." 54 Emory L.J. 271 (2005) at 274 (internal citations omitted). Schapiro goes on to state, "The diverse participants in drafting the Universal Declaration could not have agreed on ultimate philosophical foundations. Indeed, Maritain's remarks suggest that the attempt to find consensus on underlying principles might have impeded agreement on the rights themselves. Participants may have been less likely to agree to rights that were asserted to rest on foundations they found foreign. Thus, consensus could be reached on the rights themselves, but not on grounding principles. The participants agreed to agree on what they could agree and not to be distracted by areas of disagreement." Id.

194 See Appiah at xx: "Conversations across boundaries can be fraught, all the more so as the world grows smaller and the stakes grow larger."

195 For example, some religious groups appeal to divinely inspired scriptures to attest the veracity of their metaphysical claims.

196 Id. at 11.

197 Id. at 28: "We go astray ... when we think of a moral vocabulary as the possession of a solitary individual ... The concept of kindness, or cruelty, enshrines a kind of social consensus ... The language of values is, after all, language. And ... language is, first and foremost, a public thing, something we share. Like all vocabulary, evaluative language is primarily a tool we use to talk to one another, not an instrument for talking to ourselves."

198 Id. at 41:"If what's reasonable to believe depends on what you believe already, however, then you can't check the reasonableness of all your beliefs."

199 Id. at 43: "[T]he methods of the natural sciences have not led to the kind of progress in our understandings of values that they have led to in our grasp of the facts." The inability to broker complete agreement need not deter us, however, from pursuing an overlapping consensus. See p. 139, supra.

200 Appiah at 58: "[M]ost terms for virtues and vices ...are what philosophers call 'open-textured': two people who both know what they mean can reasonably disagree about whether they apply in a particular case." These terms are "essentially contestable." Id. at 59.
to best further a particular value because: (1) "we can fail to share a vocabulary of evaluation;" 
(2) "we can give the same vocabulary different interpretations;" and (3) "we can give the same 
values different weights." 201

Regardless, a difference of values need not prevent multiple parties from reaching 
agreement on particular moral situations. "[W]e can agree about what to do even when we don't 
agree why." 202 For the goal is not to create a uniform traditional religion to which every person 
in the world must adhere. Rather, "our political coexistence, as subjects or citizens, depends on 
being able to agree about practices while disagreeing about their justification." 203 The only 
prerequisite value that must be shared for cosmopolitanism to flourish is the value of living in 
community. 204

Appiah asserts that, "there are some values that are, and should be, universal, just as there 
are lots of values that are, and must be, local." 205 Therefore, the cosmopolitan pragmatically 
acknowledges the inevitability of interaction across national and religious boundaries, while not 
trying to require a single rulebook from which each community must draw in dealing with 
every possible moral issue. 206 The indigenous habits and beliefs of individual communities are 
worthy of respect, much like individual people are worthy of respect. Yet respect for these 
cultures does not require assimilation to those cultures, for one "can be genuinely engaged with 
the ways of other societies without approving, let alone adopting, them." 207

Even without attempting to impose a one-size-fits-all value system on the global 
population, any consensus brokering will still be a gradual process, because people need time to 
adapt to change. 208 By attempting to pass a new human rights law in the international realm, "we 
are seeking to change the world of law in every nation on the planet," and that is no easy feat. 209 
But we can begin this gradual process now. After all, what is the value of talking or writing 
about a distant and aspirational state of affairs? "[W]e should learn about people in other places, 
take an interest in their civilizations, their arguments, their errors, their achievements, not 
because that will bring us to agreement, but because it will help us get used to one another." 210

201 Id. at 66.
202 Id. at 67. "If my interest is in discouraging theft, I needn't worry that one person might refrain 
from theft because she believes in the Golden Rule; another because of her conception of 
personal integrity; a third because she thinks God frowns on it." Id. at 69.
203 Id. at 70.
204 Id. at 78: "[W]e can live in harmony without agreeing on underlying values (except, perhaps, 
the cosmopolitan value of living together."
205 Id.
206 See n. 4, supra (Appiah's inevitable quote). See also, Witte, God's Joust at 112: "Religion is 
an ineradicable condition of human lives and human communities ... Religion will inevitably 
figure in legal and political life ... Religion must be dealt with because it exists – perennially, 
profoundly, pervasively."
207 Appiah at 7.
208 Id. at 73: "[W]hen it comes to change, what moves people is often not an argument from a 
principle, not a long discussion about values, but just a gradually acquired new way of doing 
things." Appiah goes on to talk about the power of habit on p. 77.
209 Id. at 82.
210 Id. at 78.
For "[c]onversation doesn’t have to lead to consensus about anything, especially not values; it's enough that it helps people get used to one another."

Like the preceding two theories, cosmopolitanism standing alone falls short of being a universally endorsable proposition. It requires the same presupposition as do political liberalism and the capabilities approach: "[E]very human has obligations to every other. Everybody matters: that is our central idea. And it sharply limits the scope of our tolerance." Thus, some justification is required in order to harm anyone else, because "we have obligations to strangers." And yet despite the presuppositions of cosmopolitanism, it is well suited for implementation within the U.N. human rights regime, because it relies on the precept that "the primary mechanism for ensuring these entitlements [moral principles] remains the nation-state." Moreover, cosmopolitanism is a helpful contribution to this public theology because it can be used to express the sentiments of Rawls and Nussbaum in less Western terms, thus giving international civil religion wider cross-cultural appeal.

Aspects of these three theories – Rawlsian political liberalism, Nussbaum's capabilities approach, and Appiah's cosmopolitanism – fuse to create a public theology that is both workable and adaptable. This particular public theology need not be the public theology, but it is merely one of many to offer an alternative moral worldview that seeks to accommodate the vast majority of moral perspectives without relying on any particular traditional religious reasoning. The foregoing public theology is valuable because it is based on chronologically and culturally diverse perspectives. It preserves individual faiths to the maximum degree, circumscribing them only to the extent necessary to prevent the exercise of one individual faith from unduly infringing the exercise of another individual faith. It solicits cooperation while maintaining respect for individuality. It honors tradition and heritage while acknowledging community and promoting peace.

V. Concluding Reflections

International civil religion is a helpful lens through which to view diplomatic relations. The public theology advanced above is an appropriate understanding of international civil religion. It respects religious diversity, presupposing a plurality of religious faiths and presuming a global society. It offers all reasonable individuals and groups the opportunity to remain devout and independent while coexisting harmoniously with other reasonable individuals and groups whose beliefs differ. It acknowledges the inevitability of global interaction, fosters global cooperation, and preserves global diversity.

Although Bellah did not deem an international civil religion possible when he began writing about national civil religion over forty years ago, he has lately modified his theory.

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211 Id. at 85.
212 Id. at 144.
213 Id. at 151.
214 Id. at 153.
215 Id. at 163.
216 Bellah, Robert N., "Can We Imagine a Global Civil Religion?" October 26, 2007 Lecture for The Center for the Study of Law and Religion at Emory University's Silver Anniversary Celebration: "[I]n 1967 ... the flickering flame of the United Nations burns too low to be the
Whether called international civil religion, global civil religion, or world law, these concepts all seek a "viable and coherent world order." As we progress further into the twenty-first century, Bellah was apprehensive about "America’s place in the world, and indeed the kind of world it would have a place in." Religious resources are necessary for the "membership in global civil society," because "religious motivation is a necessary factor ... to transform the growing moral consensus and the significant beginnings of world law into an effective form of global solidarity and global governance."

Nowadays, when the traditional religion of a given community cannot serve as the benchmark against which the moral uprightness of a citizen's action is measured abroad, we have recourse to international civil religion as a guide. The concept of international civil religion is valuable because in our global society, we need something beyond fear of societal reprisal to under-gird our reasonably diverse normative claims.

International civil religion, as described by Rousseau, Tocqueville, Bellah, Marty, and Berman; as manifest by United Nations documents detailing the human rights regime; and as philosophically bolstered by theories such as political liberalism, the capabilities approach, and cosmopolitanism; advances just such a moral foundation. No longer can businessmen and statesmen keep each other in check by appealing to the threat of divine retribution if their counterparts violate an agreement. No longer can a political leader impose his religion on every person with whom he negotiates. No longer should treason be equated with apostasy, nor should the heretic be criminally liable for his religious trespass.

Zooming out a frame, civil religion is just one possible lens through which to view the ongoing struggle to find international moral norms; it is one meta-narrative among many. Civil religion serves as a floor in the global moral community. It does so by positing minimal standards on which the vast majority of us can agree. These standards are usually procedural rather than substantive, in that they guarantee a process by and a framework in which decisions can be made, but the standards do not necessarily determine the decisions themselves.

focus of a cult, but the emergence of a genuine transnational sovereignty would certainly change this ... no, a global civil religion is not possible.”

Id.
218 Id.
219 See n. 73, supra.
220 Bellah. "Can We Imagine a Global Civil Religion?"
221 Id.
222 Id.
223 Maybe the last thing we need is yet another meta-narrative to replace the manifold meta-narratives embodied by so many already extant traditional religions. History has proven time and again that meta-narratives have been used as justifications to perpetrate all manners of atrocity. But that criticism of international civil religion can just as easily be a justification for the necessity of just such a meta-narrative. If it is granted that meta-narratives are historically pervasive – if not inevitable – then the simplest option is to alter the meta-narrative rather than attempt to debunk a type of epistemology that has pervaded virtually every society since immemorial.
224 For example, the UDHR calls nations to give all individuals "the right to life, liberty, and the security of person," but it does not instruct nations of what those terms mean or of how nations should give those rights to their citizens. UDHR, Art. 3.
International civil religion permits the variety of indigenous heritages, races, traditions, and faiths spread throughout the world to continue knitting their cultural quilts, while identifying the common threads woven through them. International civil religion posits aspirations couched in rights-based language.

Admittedly, civil religion may be a heuristic rather than a metaphysical reality. The fact that most people agree on certain baselines of acceptable behavior may not vest those baselines with any transcendent significance. But, in keeping with the sentiments of Thomas Jefferson, there very well may be “an innate moral sentiment that [impels people] toward benevolence.”225 The tasks of civil religion are to identify that "moral sentiment," to describe why/how it is "innate," and to determine what constitutes "benevolence." Despite the daunting contrasts of so many worldviews worldwide, our global social union of social unions continues to wage cultures wars regarding civil religion because we value the answers or hypotheses to the big-picture questions that our public theologies represent.

Work remains to be done. At present, civil religion has been developed primarily as a Western notion. Granted, many of the moral scholars above have helped to expand the purview of civil religion to the international realm, but the fact remains that all of the theories above presuppose (at least some) democratic societies and rational actors capable of unyoking their religious faiths from certain aspects of their political worldviews. Civil religion cannot accommodate every person or belief system; even though it tries to transcend traditional religions, some religious adherents will refuse to compromise or alter their views in a spirit of collaboration. For people whose unshakable theological perspective does not include a belief in the substantial value of individual human beings, civil religion has little to offer. However, as shown by the widespread acceptance of the aforementioned United Nations documents, the tenets of civil religion are gaining credence in the international community.

Future scholarship needs to express the tenets of civil religion by appealing to more than Western ideals. Just as the United Nations used rights-based language instead of the religiously-nuanced language of American civil religion, so must international civil religion find a soil in which its axioms – whether Rawlsian primary goods, Nussbaum's capabilities, Appiah's fallibilism, or some similar theory – can thrive without depending on democracy and Western thinking as requisite nutrients of that soil. The further contributions of Eastern, Middle Eastern, and African scholars to international civil religion could prove invaluable. As moral scholars continue to develop the philosophical grounding of civil religion, and as diplomats continue to amplify the quantity of rights and quality of life within and among nations, the international community will continue to reap the benefits of civil religion by reaching agreement on moral matters that are near and dear to each of us.

225 Bellah, Habits of the Heart at 46, quoting Thomas Jefferson. (internal citations omitted.)