

The Religious Foundations of Civil Society*

(Part 1)

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Abstract

This article (part 1 of 2) explores, from a Bahá'í perspective, the loss of a transcendent ethical basis as a central problem of modern social theory. It discusses religion as the source of society's moral foundations and its organizing principles of order, law, and governance. Through an analysis of John Locke's writings on religion and government, the foundations of the concept of civil society are traced to the idea of covenant as embedded in the natural law tradition. Civil society and theocracy are compared, and the implications of dissent and divisive conflict in a consent-based theory of religious toleration are discussed. The article concludes with the collapse, in modernity, of the religious foundations and the disintegration of the classical concept of civil society.

Résumé

Cet article (dont celui-ci est la première partie) examine, dans une perspective bahá'íe, la perte des fondements de l'éthique de la transcendance comme problème central de la théorie sociale moderne. Il examine la religion comme source des fondements moraux de la société et se penche sur ses principes organisateurs d'ordre, de lois et de gouvernance. Par une analyse des écrits de John Locke sur la religion et le gouvernement, l'auteur montre que les fondements du concept même de société civile remontent au concept de covenant, au cœur de la tradition de la loi naturelle. L'article compare les fondements du concept de société civile et de la théocratie, puis examine les conséquences de la dissension et des conflits divisifs dans la théorie de la tolérance religieuse fondée sur le consentement. Enfin, l'article traite du renversement, dans la modernité, des fondements religieux et de la désintégration du concept classique de société civile.

Resumen

Este artículo (la primera de dos partes) explora, desde una perspectiva bahá'í, la pérdida de una base ética transcendente como problema central en la teoría social moderna. El artículo evalúa la religión como fuente de las fundaciones morales de la sociedad y sus principios de organización del orden, de la ley, y

*A draft of this paper was presented at the Twentieth Annual Conference of the Association for Bahá'í Studies in Edmonton, Alberta, Canada, on 29 September 1996.

de la gobernación. Por medio de un análisis de los escritos de John Locke sobre la religión y el gobierno, los fundamentos del concepto de la sociedad civil son rastreados hasta la idea del convenio como integrado en la tradición de la ley natural. Se comparan la sociedad civil y la teocracia y se discuten las implicaciones del disentimiento y el conflicto divisivo dentro del marco de una teoría de tolerancia religiosa basada en el consentimiento. El artículo concluye con el fracaso, en la modernidad, de las bases religiosas y la desintegración del concepto clásico de la sociedad civil.

Should the lamp of religion be obscured," Bahá'u'lláh once wrote, "chaos and confusion will ensue, and the lights of fairness and justice, of tranquillity and peace cease to shine" (*Tablets* 125). Faced by the evidence of the spiritual and moral bankruptcy of modernity, thinkers and scholars have begun to rediscover the connection of which Bahá'u'lláh spoke—that fairness and justice, tranquillity and peace depend not upon human rationality, technology, or even liberty alone, but upon the spiritual-moral wellsprings of religion. As the light of critical scrutiny has been turned upon the far-reaching effects of the modern displacement of religion by secular ideologies as the moral organizing center of society, the same secularism once heralded as the emancipation of civilization is now increasingly identified as the root cause of its disintegration.

This conclusion had been anticipated in the Bahá'í Writings, which affirm that social and moral deterioration is directly related to "the decline of religion as a social force" (Shoghi Effendi, *World Order* 186). "The greater the decline of religion," Bahá'u'lláh had written, "the more grievous the waywardness of the ungodly. This cannot but lead in the end to chaos and confusion" (*Tablets* 64). Modern material civilization cut loose from the moderating influence of spiritual values, He warned, "will prove as prolific a source of evil as it had been of goodness when kept within the restraints of moderation. . . . The day is approaching when its flame will devour the cities. . . ." (*Gleanings* 343). Affirming the central role of religion in the civilizing of human character, 'Abdu'l-Bahá, writing in 1875, explained:

Universal benefits derive from the grace of the Divine religions, for they lead their true followers to sincerity of intent, to high purpose, to purity and spotless honor, to surpassing kindness and compassion, to the keeping of their covenants when they have covenanted, to concern for the rights of others, to liberality, to justice in every aspect of life, to humanity and philanthropy, to valor and to unflagging efforts in the service of mankind. It is religion, to sum up, which produces all human virtues, and it is these virtues which are the bright candles of civilization. (*Secret* 98)

In the 1930s Shoghi Effendi acutely singled out as an agent of social decline the "prevailing spirit of modernism with its emphasis on a purely materialistic

philosophy, which, as it diffuses itself, tends increasingly to divorce religion from man's daily life," resulting in the erosion of "conceptions of duty, of solidarity, of reciprocity and loyalty" (*World Order* 183), as the center of gravity shifts to the individual self. Symptoms of such a society that has lost its spiritual bearings, he wrote, include religious intolerance, racism and xenophobia, terrorism, crime, alcoholism, the weakening of the family, and the breakdown of political and economic structures, to name but a few (*World Order* 187).

In the Bahá'í view, the social disintegration and moral disorientation of the contemporary world should be regarded as one aspect of a simultaneous process that is ultimately regenerative and constructive, rather than solely disruptive and destructive. The collapse of inadequate structures under the weight of unprecedented conditions clears the way for a recovery and renewal of the enduring spiritual foundations upon which a global moral and social order can be constructed. Though grounded in eternal verities about the spiritual nature and purpose of human existence, this process of spiritual and social evolution is forward-looking and cannot be confused with a traditionalism or conservatism that seeks to return to a vanished and unrecoverable (or idealized and imaginary) past.

Sociologist Robert Bellah makes the critical point that social problems that are fundamentally spiritual and ethical in nature can only be remedied by spiritual and ethical means, claiming that the characteristic modern attempt to substitute "a technical-rational model of politics for a religious-moral one . . . only exacerbates tendencies . . . at the heart of our problems. If our problems are, as I believe them to be, centrally moral and even religious," he predicts, "then the effort to sidestep them with purely technical organizational considerations can only worsen them" (xvi). Although the contemporary combination of the morality of self-interest, capitalism, and technological rationality has departed from earlier religiously grounded views, he points out, it does not follow that the only possible alternative is the "literal revival of that earlier conception." On the contrary, "only a new imaginative, religious, moral and social context for science and technology will make it possible to weather the storms that seem to be closing in on us in the late 20th century" (xxi).

The Theme of Civil Society

In recent years the theme of "civil society" has reemerged as a focus of attraction for social theorists in both East and West because, as Seligman has noted, the idea "embodies for many an ethical ideal of the social order, one that, if not overcomes, at least harmonizes the conflicting demands of individual interest and social good" (x). An idea with ancient roots, the classical concept of civil society was referred to by Aristotle as "a community of equals aiming at the best life possible" (7.7) and "a partnership of citizens in a constitution"

(3.3). The idea of the polity as a people united in an order that is defined by reference to a transcendent ethical bond has resonated through the ages in such enduring formulations as Cicero's description of a "commonwealth" (*res publica*) as the "property of a people. But a people is not any collection of human beings brought together in any sort of way, but an assemblage of people in large numbers associated in an agreement with respect to justice and a partnership for the common good" (*De Re Publica* 65).¹ This conception of civil society remained definitive for social and legal theorists of the tradition until the second half of the eighteenth century, when, as Keane puts it, that classical conception "began to implode" (36).

Current discussions of civil society thus refer not to that classical notion of civil society or the state as "a multitude of citizens who have . . . a mutual bond of a moral nature" (as Suárez paraphrased Aristotle in his 1612 *Treatise on Laws* [86]) but to a modern, literally *disintegrated* transformation of the concept which emerges only in the nineteenth century, after "a century-long process of 'disordering'" (Keane 36). In that modern version, the ethical unity that once made the state a "body politic"—a community organized on the principle of unity in diversity—"a composite, like any other whole made up of many parts" (Aristotle 3.1)—has dissolved. The state, now referring exclusively to the institutions of government, has become conceptualized as an entity separate from civil society, which is now construed no longer as the whole but as an autonomous sphere of voluntary associational and ethical life beyond the control of the state.

The contemporary attraction of the concept of civil society, as Seligman points out, has different, and even opposite, constructions for contemporary scholars in Eastern and Western contexts, with distinctive meanings that are "rooted in the abiding differences that characterized the liberal-individualist and socialist traditions in their respective relationship to the conflicting demands of modern society—that is, of the private and public aspects of social existence" (115). While theorists in the West look to civil society to restore the bonds of community dissolved by excessive individualism, scholars in Eastern

1. Even for Cicero, civil society had a divine referent. Accountability for the moral implications of the "universal brotherhood of mankind" was owed to the gods, who had established that fellowship among human beings (*De Officiis* 295). Cicero's works have been an important vehicle transmitting many of the concepts informing Western social thought which are discussed here, including civil society and natural law. Cicero himself states that he, in turn, is passing on the ideas he has learned from his teachers the Greek philosophers Socrates, Plato, Aristotle, and the Stoics (*De Officiis* 3). Cicero's description of a commonwealth, which echoes Aristotle (3.9), has a long history of quotation and paraphrase: Aquinas in *Summa Theologiae* quotes Augustine quoting this passage (1a2a.105,2), and it survives in this distinctively 1990s rendition: "A society is a more or less integrated, self-sustaining, and self-governing complex system of institutions and offices formed by a division of responsibilities in the cooperative endeavors of a people in living their lives and promoting the common good. A people is not just a collection of individuals; a people has an identity and unity by virtue of having a common culture and form of life. . . ." (Adams 156).

Europe are attracted to the concept as promising a sphere of freedom from the experience of stifling totalitarian government. In any case, Seligman argues, the concept of civil society is central to "all attempts to analyze the predominant features of the modern world order and its changing nature in the late twentieth century" (12). And at the heart of that analysis itself, he stresses, must be the question of foundations—"those ideational positions which were central to the original articulation of the idea of civil society and without which any attempt to resurrect this concept must remain meaningless" (4).

In the work of a number of social theorists, the disjunction between public and private institutions that has overtaken the concept of civil society has come to be seen as fundamentally problematic. Attention has been drawn to the unavoidable dependence of public social institutions on private ones such as the family and religion that represent indispensable "seedbeds of virtue": the spiritual-moral foundations provided by religion imbue individuals with the virtues on which the maintenance of public institutions depends (Glendon and Blankenhorn). Yet, as others have emphasized, the relation of dependence between private and public institutions has implications beyond those that ensue from the role of religious belief as the basis of personal morality and virtue. Religion provides not only the foundations but the bricks and cement of society, and even the blueprint for society's own "moral architecture," as Hammond puts it (154)—the shared beliefs and values that unite people into communities, as well as the worldview and the account of the meaning and purpose of life that infuses those moral values with sense. These moral-conceptual foundations, in turn, provide the basis of all legitimation for authority and the source of legal institutions, as well as the touchstone and standard for evaluating the direction of society (Bellah xvi).

Some suggest it is uniquely in the modern West, in the last two hundred years, that the idea has arisen that society could have foundations that were not religious, that "the way we run our society need have nothing to do with our deepest intuitions and our deepest commitments, and vice versa" (Berman, *Interaction* 16). "The idea of a nonreligious state," Bellah writes, "is very modern and very doubtful" (Bellah and Hammond 5). As Hannah Arendt put it:

The numerous difficulties and perplexities, theoretical and practical, that have beset the public, political realm ever since the rise of the secular, the very fact that secularization was accompanied by the rise of absolutism and the downfall of absolutism followed by revolutions whose chief perplexity was where to find an absolute from which to derive authority for law and power, could well be taken to demonstrate that politics and the state needed the sanction of religion even more urgently than religion and the churches had ever needed the support of princes. (160)

In this essay I will explore, from a Bahá'í perspective, the implications of the loss of a transcendent ethical basis for society as a central problem of modern

social theory. I will try to set the issues in a context that recovers and underscores the importance of religion as the source of the beliefs and values that constitute and sustain communities, as well as the organizing and integrating principles of order, law, and governance—and even the concepts of justice and of human rights and freedoms—which have been embraced by secular theorists as their own. In Part 1, I examine the religious foundations of the concept of civil society, analyzing some principal concepts and issues especially as they are developed in the thought of John Locke, “without whom,” as Seligman says, “no appreciation of the modern idea of civil society can proceed” (21). In Part 2, I will explore the potential of the germinal religious concept at the core of the civil society tradition—the idea of covenant—to provide the unifying ethical basis for a global social order that resolves the dilemma of “the squaring of justice and solidarity, of private interest and public good” which “remains the problem of civil society and of citizenship in the modern world” (Seligman 196).

The argument I offer in this essay cannot be reduced to a variant of one of the opposing sides in recent debates between “liberals” and “conservatives,” “traditionalists,” or “communitarians” without completely distorting the actual argument itself and submerging it within the conceptual framework it challenges. The perspective afforded by the Bahá'í Writings does not reduce to any of the sides of current controversies. Any attempt to force it into received categories forecloses on the possibility of discovering the ways in which it offers something genuinely new and provides a more powerful explanatory framework and a more encompassing perspective from which those positions, irreconcilable in the terms of the current framework, can be transcended and the elements of value in each can be retrieved and harmonized.

Religion and Social Unity

It has long been recognized by sociologists that the unifying or collective, and thus the *ordering*, dimension of society is inescapably religious, that the very “phenomenon of cohesion has a religious quality” (Hammond, 139). As Hammond points out, Emile Durkheim’s focus on “the fact of unity more than the fact of religion,” analyzed religion as “more the *expression* of an integrated society than the *source* of society’s integration.” Talcott Parsons, Hammond goes on to say, “observed that the real significance of Durkheim’s work on primitive religion lay in his recognition not that ‘religion is a social phenomenon’ but that ‘society is a religious phenomenon.’ In other words, the very existence of society—the fact of stable social interaction itself—implies religion” (139). From that sociological point of view, the very idea of a “secular society” is something of an oxymoron, while the notion that a society can exist (that is, as a social *order*) without having, in practice, a “religion” only obscures the actual content of the beliefs that particular society holds sacred. As

scholarship on the topic shows, when religion is consciously ejected from political life at the front gate, it inevitably comes in again through a back door as what has been called "civil religion," simply because no structure of political order can exist without some kind of moral architecture, in other words, some set of transcendent beliefs and values that constitute its organizing principles.²

As Hammond argues, in a society where "pluralism" (in the sense of the presence of conflicting moral systems) precludes any shared religious standard for adjudicating rival moral claims, the civil judiciary must take on the role of "articulating the collective's moral architecture" (154). Yet, that "civil" role is inherently "religious" in that the law must be able to make good, in the eyes of all parties, a claim to transcendent authority in order to be able to adjudicate their conflicting claims. When moral pluralism's inherent disunity

makes impossible the use of the rhetoric of any *one* religious tradition . . . pressures are great to create a new religion. In the American case, this new rhetoric is found in the common law and develops in legal institutions. Procedure takes precedence over substantive precepts and standards, not because *procedures* are uniquely required in plural societies—all societies require procedures—but because the *rhetoric* of procedure is required to justify outcomes between parties whose erstwhile religions are different. The rhetoric of procedure thus becomes the new common or civil religion. (Hammond 160)

Emphasizing the crucial role of law's transcendent dimension and challenging "the conventional view of law as the product solely of politics," Berman states: "unless people believe in the law, unless they attach a universal and ultimate meaning to it, unless they see it and judge it in terms of a transcendent truth, nothing will happen. The law will not work—it will be dead" (*Interaction* 74).³ Nevertheless, conventional modern wisdom, forged in the bloody conflicts of a divided Christianity, tends to insist that because (as it seems) religious differences are undecidable, religion is more prone to cause conflicts than to resolve them, and thus any just political order must rise above such differences by containing them within a political structure whose own ordering principles exclude not merely religious differences but religion altogether.

Certainly, to suggest that religion might offer solutions to contemporary problems of political order and religious conflict requires a reevaluation of some of the basic assumptions of modern thought and a radical reorientation of perspective. That project of critical reevaluation requires disclosing and questioning the actual beliefs and values which, embedded in conventional methodological frameworks, construct and constrain the categories of analysis,

2. See Bellah and Hammond; Berman, *Interaction*.

3. See also Simon 65–66.

defining what constitutes "fact." Any new approach, to be just, must begin by maintaining a clear distinction between, on the one hand, the ethical precepts of the divine religions, and on the other, all that has been unjustly asserted as religion or illicitly done or proposed under its name. This vital distinction has become all but obliterated in most usage, and as a result the conflation of the spiritual and ethical teachings revealed to humanity by the founders of the world religions, with the misuse and corruption of religion by hypocrites among Their followers, has led to conceptual confusion and to blaming religion itself for the human abuses that the founders of those religions made it a primary objective to rectify. Another assumption to be questioned is the materialist reductionism that effectively denies (by ignoring or reducing to something else) the continuity, the enduring power, and the influence of ideas originating in revealed religion, especially when those ideas have been transmitted through means that are not themselves "religious." A further obstruction to new insights is the assumption that the historical experience of past religions exhaustively defines and thus predicts all possible contexts and outcomes for religion (hence, it is assumed, even a new religion could have nothing significantly new to offer to the search for solutions to problems of social order).

Exposing the fallacy behind the rejection of religion by Enlightenment secularists like Voltaire, 'Abdu'l-Bahá explains that it is erroneous to indict all religion on the basis of what has been done, hypocritically, in its name, and thus to conclude that

religions are an obstacle to progress, a divisive factor and a cause of malevolence and enmity among peoples. . . . the principles of the Divine religions can hardly be evaluated by the acts of those who only claim to follow them. For every excellent thing, peerless though it may be, can still be diverted to the wrong ends. A lighted lamp in the hands of an ignorant child or of the blind will not dispel the surrounding darkness nor light up the house—it will set both the bearer and the house on fire. Can we, in such an instance, blame the lamp? (*Secret* 72)

At the end of the twentieth century (and, as many claim, at the end of modernity) we must now ask whether, once we have thrown away the lamp, on the mistaken conclusion that Reason alone can penetrate any darkness—can anything we might devise as a substitute to guide our way evade the fact that, as it still performs the same purpose, it is still a species of lamp and, regardless of its form, is dependent for its existence and is in fact determined by, the universally valid laws of nature that govern the phenomenon of light? In other words, can any prescription for human society present itself as reasonable to the mind without tacitly appropriating concepts that owe not merely their historical origins but their content, their coherence, and their inherent moral reasonableness—to religion? Asserting the dependence of all human knowledge and goodness on the divine Source of all good, 'Abdu'l-Bahá states in *The*

Secret of Divine Civilization: “even the minutest details of civilized life derive from the grace of the Prophets of God. What thing of value to mankind has ever come into being which was not first set forth either directly or by implication in the Holy Scriptures?” (96).

But as the elements of spiritual and moral principle become dissociated from their original context and secularized—that is, as spiritual, theocentric ends are replaced by material, self-centered ones—their moral force and cohesive power become diluted until they simply no longer work as social “cement.” Speaking of the power of cohesion and social unity, ‘Abdu’l-Bahá wrote of the various “collective centers which are conducive to association and unity,” including “patriotism . . . nationalism . . . identity of interests . . . political alliance . . . the union of ideals. . . .” Though providing a unifying focus and exerting a unifying force, these forms of cohesion are limited and temporary in their effects and duration, in contrast to the unifying power of the divine precepts themselves: “the real Collective Center is the body of the divine teachings, which include all the degrees and embrace all the universal relations and necessary laws of humanity” (‘Abdu’l-Bahá, *Tablets of the Divine Plan* 93–94). “Nothing can be effected in the world, not even conceivably, without unity and agreement, and the perfect means for engendering fellowship and union is true religion” (‘Abdu’l-Bahá, *Secret* 73). For the “power of creating a real union, one which is both external and of the heart,” a community in which “a hundred thousand souls become as one soul, and unnumbered individuals emerge as one body” is made possible only through “the advent of the Prophets of God” (74):

Consider whether there exists anywhere in creation a principle mightier in every sense than religion, or whether any conceivable power is more pervasive than the various Divine Faiths, or whether any agency can bring about real love and fellowship and union among all people as can belief in an almighty and all-knowing God, or whether except for the laws of God there has been any evidence of an instrumentality for educating all mankind in every phase of righteousness. (83)

Erosion of the Civil Society Tradition

Secularization (by which I mean the abandonment of a transcendently grounded, or religious, worldview as the ethical basis of society) eroded the civil society tradition by stages which have been described (with some variation) by various authors.⁴ We are all familiar with the popular account of

4. I am intentionally not using “secularization” or “secularism” to refer to the differentiation of religious and secular law and authority into separate legal systems. That usage is seriously misleading when discussing the modern era. Unlike the phenomenon I discuss as “secularization,” that “separation” is not a modern phenomenon but, according to Berman, is owed to the late eleventh- and early twelfth-century Papal Revolution of Gregory VII when the pope declared the independence of the church from the secular control of emperors and kings, in a move that led to the rise of modern legal institutions. See Berman, *Law and Revolution*.

the Enlightenment's deposing of religion by Reason as reflected in modern Western political institutions from which religion is wholly expelled. Recent scholarship, however, has put into question many former conventional understandings of the history of early modern political thought. It suggests that modern secularism emerges fully only in the nineteenth century⁵ and contends, contrary to a previous body of opinion, that many of those who in the seventeenth and eighteenth centuries influenced and fashioned modern Western political institutions, including the framers of the U.S. Constitution, still adhered to a worldview that ascribed pivotal importance to religious principles in the legitimacy and maintenance of political order. "When they spoke of religion," emphasizes liberal theorist William Galston, "they had in mind not sectarian particularity, but rather what all revealed religions were thought to have in common: the concepts of divine creation, order, and judgment; and a compact list of fundamental moral commandments" (135). The following representative examples of their argumentation in defense of religion are instructive for the tension they reveal between that religious-moral worldview and the emergent secularizing trend of thought that sought to locate, in Reason and innate moral sympathies, human substitutes for religion as the cement of social order.

Although Benjamin Franklin has been termed "the farthest from conventional piety" among the American founders (Reichley 101), his own belief system, as described in his *Autobiography*, includes key elements of that religious worldview: "I never was without some religious principles," he wrote; "I never doubted, for instance, the existence of the Deity; that he made the world and govern'd it by his Providence; that the most acceptable service to God was the doing of good to men; that our souls are immortal; and that all crime will be punished, and virtue rewarded either here or hereafter" (qtd. in Reichley, 101-2). A letter of Franklin's scolding an aspiring author (thought to be Thomas Paine) about his deist ideas raises the issue of the consequences for public morality when God is removed from from the picture:

I have read your Manuscript with some Attention. By the Argument it contains against the Doctrines of a particular Providence, tho' you allow a general Providence, you strike at the Foundation of all Religion. For without the Belief of a Providence, that takes Cognizance of, guards, and guides, and may favour particular Persons, there is no Motive to Worship a Deity, to fear its Displeasure, or to pray for its Protection. (9:520)

Although the author's subtle reasoning might even persuade some readers, Franklin chided him: "Were you to succeed, do you imagine any Good would be done by it? You yourself may find it easy to live a virtuous Life, without the Assistance afforded by Religion," he conceded, but most people needed religion

5. See, for example, Bonomi 221.

to train them in virtue and restrain them from vice. And in any case, Franklin observed, "perhaps you are indebted to her originally, that is, to your Religious Education, for the Habits of Virtue upon which you now justly value yourself" (9:521).

Expressing similar sentiments, George Washington in his presidential farewell address referred to "religion and morality" as "indispensable supports" of "all the dispositions and habits which lead to political prosperity," warning his fellow citizens:

Where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths, which are the instruments of investigation in courts or justice? And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle. (Qtd. in Reichley 103)

Likewise, John Adams, who would succeed him, claimed: "We have no government armed with power capable of contending with human passions unbridled by morality and religion. Our constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other" (qtd. in Reichley 104, 105); while John Madison maintained that "Before any man can be considered as a member of Civil Society, he must be considered as a subject of the Governor of the Universe" (qtd. in Reichley 88). And finally, even Jefferson, often considered to be among the more "secular" of the founders,⁶ referred to religion as a "supplement to law in the government of men" and "the alpha and omega of the moral law" (qtd. in Reichley 95). Reichley concludes of the American founders' views: "All were convinced of the need for religion as an underpinning for republican government, and though some were skeptical toward some of the tenets of revealed Christianity, all, except perhaps Jefferson, and he not consistently, shared belief in the view of reality on which theist-humanist values are based" (105).

As Bellah has remarked, the statements of Washington and Adams quoted above not only indicate that "the founders of the republic fully understood the relation between the way of life of a people and their form of political organization," but the way they expressed that conviction in "rather negative, circuitous, and almost apologetic terms" betrays the "uneasy compromise" between republicanism and the liberal regime that was already unfolding in the new nation. That the first two presidents were already having to defend religion's importance in their public oratory suggests that the move to displace it was already underway (Bellah and Hammond 17).

6. But compare Bonomi 100.

Although the presence of a background of religious concepts has always been acknowledged, even by those who emphasized the emergent secularizing influences, recent work has brought back to the fore the critical role played by religious ideas in defining the context in which the thought of many early modern thinkers must be understood.⁷ As Sandoz points out, what Perry Miller once called "obtuse secularism" as a "reflexive habit of mind" still prevails and dominates much contemporary scholarship:

God-centered existence is not the twentieth-century commonplace among literate Britons and Americans that it was among our eighteenth-century brethren. . . . The modern reductionist deformations of being into a contracted reality of autonomous man lodged in an equally autonomous nature do not reflect the intellectual horizon of any significant segment of the thinking public of the time, although radically secularizing influences of the French Enlightenment were pushing them that way. Thomas Paine and Ethan Allen, and the more ambiguous instance of Thomas Jefferson, rightly are adduced as evidence of the presence of such influences. But they plainly are exceptions. And even the so-called rationalistic elite probably can best be understood in *religious* terms, as historians recently have begun to argue. . . ." (30)

In sum, many scholars now reject the view that the American founders and earlier "Enlightenment" thinkers such as John Locke were predominantly influenced by a thoroughgoing secular rationalism that displaces God by human reason (Sandoz 28).⁸ Instead, the worldview that informed their political thought was based on an account of human nature as having a spiritual purpose, which distills to the idea of a divine covenant between God and humankind. I suggest that because covenant, although often tacit (because it is taken for granted) is the crucial feature and pivotal concept of this worldview, it is central to an understanding of the concept of civil society, its devolution, and its future prospects. While it is generally recognized that the civil society tradition had its basis in natural law, the covenantal account of human nature was the essential narrative underpinning of Christian natural law thought as it came down to and was interpreted by Locke. It is instructive, therefore, to examine in some detail these connections in Locke's thought to see how covenant and its features underlie natural law and thus shaped his concept of civil society.

Natural Law and Natural Rights

Natural law is usefully defined for our purposes as "a framework in which human actions are lauded or condemned depending on their conformity to the

7. For a recent reassessment of the role of religion in eighteenth-century America and of the interpretive assumptions that led earlier historians to underestimate it, see Bonomi.

8. Contemporary scholarship on Locke (including work by Dunn, Tully, Ashcraft, Cranston, and Goldie) emphasizes the religious framework of his thought. See, for example, Ashcraft, "Faith and Knowledge."

overall teleological design of their creator" (Morrow 202). In his *Second Treatise of Government*, Locke states that the law of nature is the precept "that being all equal and independent, no one ought to harm another in his Life, Health, Liberty or Possessions." The ground of that law is this: "For Men being all the Workmanship of one Omnipotent, and infinitely wise Maker; All the Servants of one Sovereign Master, sent into the World by his order, and about his business, they are his Property, whose Workmanship they are, made to last during his, not one another's Pleasure. . . ." (*Two Treatises* 2.6).⁹ A version of that account of human nature finds its way via Jefferson (with Franklin's editing) into the American Declaration of Independence as the "self-evident" truths that "all men are created equal and endowed by their Creator with certain inalienable rights," among which are "life, liberty, and the pursuit of happiness." In Jefferson's version, the outlines of the frankly theocentric natural-law context in which Locke had found those to be truths that were self-evident to right reason are still discernible.¹⁰ But it was the full context of that account of human nature which gave such a statement coherence by explaining just *how* being created came to entail rights, *why* those rights were inalienable, and why they were specifically *those* rights.

John Dunn has pointed out that as the idea of natural rights, which pertained to a "nature" that was defined in terms of the soul's primary obligation to God, became progressively detached from that context, not only did the idea of rights undergo a change in meaning but the coherence of the very idea of such rights disintegrated. For, once belief that rights originate in divine purposes is removed, there is no longer any such compelling—because transcendent—ground on which to make those particular claims for rights. Other reasons must be sought for why humans should possess rights *equally*; it becomes philosophically unconvincing to claim that rights are *inalienable* and impossible to claim that any human rights are *self-evident* (Dunn, "Rights" 36).¹¹

In what I refer to as the covenant worldview, however, to be created meant, above all, to have a duty. The purpose of life, and of human reason itself, was to know the existence of God, whose handiwork was evident in all creation. The summit of human liberty and volition was to recognize and to give assent to the

9. See also Locke's Essays on the Law of Nature in *Political Essays* 79–133.

10. Locke opens his first Essay on the Law of Nature by stating that the existence of God and human dependence on His will are self-evident and axiomatic: ". . . I assume there will be no one to deny the existence of God, provided he recognises either the necessity for some rational account of our life, or that there is a thing that deserves to be called virtue or vice. This then being taken for granted, and it would be wrong to doubt it, namely, that some divine being presides over the world— . . . it is in obedience to his will that all living beings have their own laws of birth and life. . . ." (*Political Essays* 81). On the derivation of rights from a duty to the Creator, as found in various American state declarations of rights, see Howe.

11. On the incoherence of modern moral philosophy because of the detachment of ideas from their original context, see MacIntyre.

superior authority of divine revelation, thus entering into a covenant to obey God's commands—in other words, to conform every aspect of one's life to the laws and precepts He ordains—with the promise of reward for obedience and the threat of punishment for disobedience. To enter that covenant, by accepting the authority of the Messenger God sends to reveal His will, Locke believed, was “in effect, to return to God himself,” and to render the “natural allegiance due to him” (*Second Vindication* 235). This natural duty, which pertained to each human being, would engender the natural rights to enjoy the particular set of conditions, both moral and material, that was necessary for each individual to fulfill that duty. The provision of those conditions, in turn, as the *sacred* duty of society, was the mark of any rightly constructed social order and the touchstone of political legitimacy.

As Dunn cogently states: “The duty of mankind, as God's creatures, to obey their divine creator was the central axiom of John Locke's thought. The entire framework of his thinking was ‘theocentric’ and the key commitment of his intellectual life as a whole was the epistemological vindication of this framework” (*Rethinking* 55). That view, which reflects the tenor of much contemporary Locke scholarship, will still be startling to those who are familiar with the once conventional interpretation of Locke as the Enlightenment “empiricist” and father of liberalism, who has been blamed (or credited) for the displacement of religion by secularism, of faith by reason, and of authority by individualism that are hallmarks of modern thought.

In his *Essays on the Law of Nature*, however, Locke emphasized that the foundation of the natural law of self-preservation, and of the preservation of mankind, which gave rise to the basic natural rights to life, liberty, and property, was located neither in each person's own egoistic self-interest nor in the principle of utility.¹² The natural right of individual and collective self-preservation was derived from God's purposes for humankind as His “workmanship.” However, it is not so much God's will simply to preserve His workmanship (as Tully emphasizes) which is crucial here, but rather His purposes for creating it, the “business” about which He sends His servants into the world. This difference of emphasis is important because it construes the relationship of the parties to one another not as a proprietary one (a relationship of owner and object owned), but as a covenantal one, which in the case of God and humanity is originally a relationship of gift-giver and beneficiary—with all the differences such a shift implies. That God's purposes for His creatures (rather than His ownership of them) was central to Locke's conception of law is evident in his notation on “Law”:

12. By “property” Locke meant something very different from the modern connotation of that term—not selfish acquisitiveness but the use of resources necessary to life and the fruits of one's labor. For a full discussion of this point, see Tully.

The original and foundation of all law is dependency. A dependent intelligent being is under the power and direction and dominion of him on whom he depends and must be *for the ends appointed him* by that superior being. If man were independent he could have no law but his own will, no end but himself. He would be a god to himself, and the satisfaction of his own will the sole measure and end of all his actions. (*Political Essays* 328–29. Emphasis added.)

What were those “ends” appointed by the Creator for intelligent beings? The evidence of the senses perceiving the natural world, Locke believed, must lead any rightly inclined intelligent being to conclude the existence of a maker of all things, “whom it is necessary to recognize as not only powerful but also wise, [and] it follows from this that he has not created this world for nothing and without purpose.” Nor did it make sense that the Creator would fit out man with all his faculties solely “in order that he may thereby be more splendidly idle and sluggish.” Therefore, Locke reasoned, “it is quite evident that God intends man to do something. . . .” That purpose, he felt, could be partly inferred

from the end in view for all things. For since these derive their origin from a gracious divine purpose and are the work of a most perfect and wise maker, they appear to be intended by him for no other end than his own glory, and to this all things must be related. Partly also we can infer the principle and a definite rule of our duty from man’s own constitution and the faculties with which he is equipped. . . . when he in himself finds sense-experience and reason, he feels himself disposed and ready to contemplate God’s works and that wisdom and power of his which they display, and thereupon to assign and render praise, honour, and glory most worthy of so great and so beneficent a creator. (*Political Essays* 105–6)

As Ashcraft observes, Locke’s “rationalism,” like his ethics, cannot be extracted from the larger religious context of his thought: “It is obvious that Locke includes not only a belief in God but also the fulfillment of a natural-law obligation to love and worship Him, in his definition of ‘rationality’” (“Religion” 201).¹³

Locke explained “the bond of natural law” as being a “natural obligation, that is, to fulfil the duty which it lies upon one to perform by reason of one’s nature” (*Political Essays* 116). The obligation deriving from the relationship in which one stood to the maker of that law—God, the source of all existence—imposed “First, a liability to pay dutiful obedience”—an obligation that derived

13. In *Of the Conduct of the Understanding* Locke writes of theology as the “one science . . . incomparably above all the rest. . . . which, containing the knowledge of God and his creatures, our duty to him and our fellow creatures and a view of our present and future state, is the comprehension of all other knowledge directed to its true end, i.e., the honour and veneration of the Creator and the happiness of all mankind. This is that noble study which is every man’s duty and everyone that can be called a rational creature is capable of” (*John Locke on Education* 77).

partly from the divine wisdom of the lawmaker, and partly from the right which the creator has over his creation. For, ultimately, all obligation leads back to God, and we are bound to show ourselves obedient to the authority of his will because both our being and our work depend upon his will, since we have received these from him, and so we are bound to observe the limits he prescribes; moreover, it is reasonable that we should do what shall please him who is omniscient and most wise. (*Political Essays* 117)

Here again it is evident that the creator's right of dominion over His creation is not reducible to mere property ownership: human life is a gift of grace, the use of which can only be rightly exercised according to the terms the Giver prescribes.¹⁴

The liability to punishment for violation of the law of nature (a law which was a decree of the divine will), Locke says, arises "from a failure to pay dutiful obedience," while "the force of this obligation seems to be grounded in the authority of a lawmaker, so that power compels those who cannot be moved by warnings" (*Political Essays* 117). However, obligation (that is, as the principle of a binding moral duty to obey, as distinct from a pragmatic motivation to do so) is not created by the mere fact of power to punish but rather by the authority to which one is justly subject. Obedience, here, is conceived as the conscientious fulfilment of a duty—not mere servile compliance out of fear. "Indeed, all obligation binds conscience and lays a bond on the mind itself, so that not fear of punishment, but a rational apprehension of what is right, puts us under an obligation. . . ." (*Political Essays* 118).

Locke did not discount the role of fear of punishment—indeed, he held the expectation of divine reward and punishment to be the ultimate guarantee for the integrity of promises as the bonds of human society and the last bulwark against unfettered egoism. The point is that fear of punishment is not unrelated to the moral obligation to obey an authority, but it does not *ground* that moral obligation but *follows* from it. The highest, most "rational" motive for obedience is love and the desire to do what is pleasing to God (or "charity" in its original sense), but even when the will is less than perfectly inclined toward the perfect good (which, after all, is the condition of all but perfect beings) it has available a perfectly rational incentive for obedience: fear of punishment motivates obedience consequent to a belief in God's justice (which is to say, confidence that He will keep His promises to reward the righteous and punish wrongdoers), although the power to punish is not in itself the ground of the moral obligation to obey. As Dunn observes, "The externality of divine authority in Locke's theory . . . gave to every human being the most pressing

14. "If God afford them a temporary mortal life, it is his gift; they owe it to his bounty; they could not claim it as their right, nor does he injure them when he takes it from them" (Locke, *Reasonableness* 7–8).

and decisive reasons for subjecting their own idiosyncratic tastes and preferences to a wholly independent range of requirements. It fused together the demands of rationality and those of morality. It converted the severely external reasons of the divine law of nature into reasons genuinely internal to each human agent's grounds for action" ("Rights" 25). For Locke, the harmonizing of individual and social interests that would characterize his conception of civil society was made possible by this theological-natural law framework, which defined each human being as standing in a relation toward all others not only of equality and freedom, but also of society, as a consequence of standing in a covenantal relation with God.

The Covenant Tradition

The covenantal account of human nature shared by Judaism, Christianity, and Islam is reaffirmed in the Bahá'í Faith as an eternal truth linking the religions. I suggest that it is only an artefact of analytical framework and perspective, and a preoccupation with difference at the level of "surface" features (to the neglect of commonalities in abstract "deep-structure" principles), that yields the conclusion that covenant is a peculiarly "Western" or "Judeo-Christian-Muslim" idea that has no conceptual common ground with non-Western religions or other cultural spiritual traditions. It is present in Native North American worldviews, and indeed one should expect to find elements of the covenant idea in every human society that locates the meaning and purpose of life and the ground of morality in an obligation of transcendent origin.

It is not surprising, then, to find that some of Bahá'u'lláh's teachings about the nature and right ordering of human society—and specifically about freedom, human rights, and religious toleration—bear a strong similarity to, and find anticipations in, the ideas of philosophers in the civil society tradition such as Aristotle, Cicero, and Locke, since those concepts are intimately related to the idea of the divine covenant. To say there are similarities of course is not to imply that there is identity, or that the presence of common elements necessarily implies endorsement of all the views ever put forward by those philosophers. In the Tablet of Wisdom Bahá'u'lláh states that contemporary philosophers owe most of their knowledge to the sages of the past, but that the original source of all that is true in any philosophical system is the perennial wisdom of the revealed Word, for "The essence and the fundamentals of philosophy have emanated from the Prophets" (*Tablets* 145). This is a point on which Locke concurred, writing of the dependence of philosophers on revelation:

He that travels the roads now, applauds his own strength and legs that have carried him so far in such a scantling of time, and ascribes all to his own vigour; little considering how much he owes to their pains, who cleared the woods, drained the bogs, built the bridges, and made the ways passable; without which he might have toiled much with little progress. . . . It is no diminishing to revelation, that reason

gives its suffrage too to the truths revelation has discovered. But it is our mistake to think, that because reason confirms them to us, we had the first certain knowledge of them from thence; and in that clear evidence we now possess them. (*Reasonableness* 145)¹⁵

Bahá'u'lláh states that "Verily We love those men of knowledge who have brought to light such things as promote the best interests of humanity, and We aided them through the potency of Our behest, for well are We able to achieve Our purpose" (*Tablets* 150). His own Revelation, He has explained, contains "The highest essence and most perfect expression of whatsoever the peoples of old have either said or written" (*Tablets* 87). But the philosophers, in contrast, do not always faithfully reflect or transparently transmit the wisdom of revelation. Because the human understanding of truth is relative to each mind's capacity, some "quaffed the crystal, living waters," and "partook of the choice wine" of revealed wisdom, "while others satisfied themselves with the dregs. Everyone receiveth a portion according to his measure" (*Tablets* 145–46). Clearly, then, it would be a *post hoc* fallacy confusing sequence with causation to assume that any continuity between Bahá'u'lláh's teachings and the ideas of philosophers of the past is owed to influence their thought has exerted on Him, much less to take that similarity as evidence of the importation of secular thought into religion.

It is not hard to see why, in a period defined by conflict and struggle over religious authority and toleration in the wake of the Reformation, Locke came to be preoccupied with identifying the essential core of religious belief, that is, "the indispensable conditions of the new covenant, to be performed by all those who would obtain eternal life" (*Reasonableness* 105). In 1695 Locke wrote to the Dutch theologian van Limborch about the book Locke was writing, *The Reasonableness of Christianity*:

this winter, considering diligently wherein the Christian faith consists, I thought that it ought to be drawn from the very fountains of Holy Writ, the opinions and orthodoxies of sects and systems, whatever they may be, being set aside. From an intent and careful reading of the New Testament the conditions of the New Covenant and the teaching of the Gospel became clearer to me, as it seemed to me, than the noontide light. . . ." (*Correspondence* 5:1901)

In articulating the theory of religious liberty expressed in his *Letter concerning Toleration*, written in 1685, Locke had sought to base his argument on religious principles and examples from the Bible and, as can be seen by his reasoning, the logical implications of the covenant. He asserted religious liberty

15. Locke's own writing is heavily indebted to the ideas of others, from Cicero—whom he ranked second after the Bible as a source of ethical principles (*John Locke on Education* 148)—to contemporary tracts on politics and toleration.

and toleration, as well as a "contractual" model of society, not as a secular model against a religious one but as a model of political order that was consonant with religious principles, set against absolutist and intolerant conceptions which, because they conflicted with those principles, were inauthentic as religious models.

Readings of Locke's "contractualism" have tended to categorize him as a "social contract" or "compact" thinker rather than a "covenant" thinker (where the feature distinguishing covenant from the other forms is its reference to God or "link to some transcendent order" [Lutz 31, 39]). But when Locke's writings are taken together, especially his explicit discussions of the covenant, it is clear that the divine referent is always a background presupposition of his thought in the form of natural law as the primal covenant between God and His creatures. The law of nature as "the Will of God, of which that is a Declaration" "stands as an Eternal Rule to all Men, Legislators as well as others" to which all laws must be conformable (*Two Treatises* 2.135).

The debt of modern discourse on rights, liberty, and contractarianism to covenant thought has long been acknowledged by scholars.¹⁶ According to Daniel J. Elazar, the long history of deliberation in medieval Jewish public law about rights and obligations of parties to compacts anticipated the seventeenth-century political theorists precisely because they shared a common source in the biblical covenants ("Covenant as the Basis" 18), while David Little points out that modern doctrines of freedom of religion, including that contained in the U.N. Declaration of Human Rights, far from being reducible to the influence of Enlightenment rationalism, are "unthinkable" apart from the distinctively religious concept of conscience, a concept also asserted in the Qur'án ("Western Tradition" 25).

Exploring the pervasive influence of the "covenantal theme" in medieval and early modern debates about the absolute and ordained powers of God (concerning the questions of omniscience, predestination, and will), and in counterpoint to the idea of the "great chain of being," Francis Oakley argues that "By the seventeenth century 'the idea of a pact or covenant' had for much of the thought of the day 'become a formative presupposition'" (84). This was true not only in religious and political thought, but also in the scientific thought of the day, where the idea of a law of nature imposed upon humankind by the will of God (rather than immanent within it) was applied in turn to the natural world. "The distinction between the absolute and ordained powers or extraordinary and ordinary providence of God, itself reflective of the covenantal vision, not only reverberated through the writings of seventeenth-century theologians but generated echoes and harmonics in the thinking of Francis Bacon, Descartes, and Newton" (Oakley 85)—as well as Locke—while

16. See Elazar, *Covenant Tradition in Politics*.

"evidence abounds to suggest that this covenantal tradition is the appropriate context in which to attempt to understand Robert Boyle's own physiotheological views. . . ." Just as in the realm of spiritual causality God acted by covenanting,

so, too, by analogy and in the realm of natural causality, he has bound himself by covenant with the whole of mankind to sustain the particular order that out of the unfathomable freedom of his will he has chosen to impose upon the natural world. The biblical God is not only a God of power and might; he is also a God who, of his incomprehensible mercy, has condescended to bind himself with promises. (Oakley 84)

Oakley argues that a failure to discern the covenantal tradition as the actual conceptual framework underlying the thinking of early modern philosophers and scientists has led to the mistaken conclusion that their scientific thought must have been in conflict with their religion:

In the context of such commitments, the suggestion that these men in general or Boyle in particular had to wrestle with some unbearable tension between their commitment to the traditional Christian teaching on the divine providence and their scientific vision of the world as a great machine operating in accordance with mechanical laws—that suggestion takes on a very anachronistic coloration. For it simply ignores the covenantal tradition that sustained their thinking. (88)

The influence of sixteenth- and seventeenth-century covenant or "federal" (from a word meaning "covenant") theology in American history and political thought is well established, and fresh aspects of its continuing influence continue to be explored.¹⁷ As Sandoz summarizes:

The great frame of biblical symbolism is comprehended in Exodus, Covenant, and Canaan. That the American Israel understood itself as continuing this history through its pilgrimage to the American wilderness in analogy with the Mosaic adventures is well known but bears repeating. The fact that Americans organized themselves by covenants for civil as well as religious purposes and even in federations of covenants is clear; and that the Constitution itself is framed in the spirit of the covenant, compact, contract symbolism is evident. That this symbolism is indebted to Christian theory is also acknowledged. "Without the strong link that Augustine forged between consent and will, social contract theory would be unthinkable, since it defines consent in terms of will" [writes Patrick Riley]. But then, the whole sequence of biblical covenants linking consent and will lay behind Augustine. . . . (9)

As Bercovitch argues, the pervasive influence of the covenant idea in defining American political self-consciousness is signaled by the distinctive rhetorical

17. See, for example, Bercovitch; Elazar, *Covenant in the Nineteenth Century*.

form of *jeremiad*, which as a “state-of-the-covenant address” (4), linking the call to reform with the threat of divine chastisement, has been a perennial feature of American political oratory from its inception to the present day.

A Fusion of Rationality and Ethics

To understand the particular synthesis of the social and the individual at the heart of the idea of civil society, it is necessary to examine the fusion of rationality and ethics in the distinctive idea of freedom that characterized the covenant view. “Covenant liberty” was a dialectic of freedom and obligation: by binding oneself freely to the covenant, one gained liberation from the enslavement of selfish desire; the supreme achievement of human freedom and agency was submission to the divine law. According to Bellah, the “profoundly social” nature of this “covenant liberty” was reflected in the words of the eighteenth-century New England Baptist leader Isaac Backus:

The true liberty of man is, to know, obey and enjoy his Creator, and to do all the good unto, and enjoy all the happiness with and in his fellow creatures that he is capable of; in order to which the law of love was written in his heart, which carries in its nature union and benevolence to Being in general, and to each being in particular, according to its nature and excellency, and to its relation and connexion with the supreme Being, and ourselves. Each rational soul, as he is part of the whole system of rational beings, so it was and is, both his duty and his liberty to regard the good of the whole in all his actions. (Qtd. in Bellah 20)

As Bellah puts it, the “basic moral norms . . . deriving from that divine order were liberty, justice, and charity, understood in a context of theological and moral discourse which led to a concept of personal virtue as the essential basis of a good society” (xvii). Through the nineteenth century, however, the worldview underlying that vision of moral order would become steadily eroded until today the conception of freedom as “true liberty” that “meant freedom to do the good and was almost equivalent to virtue” has become almost completely displaced by a thoroughly secularized and morally attenuated notion of freedom as the liberty of the autonomous individual to pursue self-interest without interference (Bellah xix).

In the context within which Locke articulated his ideas on religious freedom and civil society, however, the primacy of freedom of conscience was due to a basic principle of the covenant—the importance of genuine belief, or freely given recognition of divine authority, in attaining salvation (eternal life and happiness). For, as Locke wrote, “faith only and sincerity, are the things that procure acceptance with God” (*Letter* 28); in the divine kingdom there could be “none but voluntary subjects” (*Second Vindication* 235).

The religious framework of Locke’s “rationalism” has been mentioned. To be a rational being implied not merely to acknowledge the law of nature but to

acknowledge divine truth, whether that truth was delivered to the mind by the light of reason or by revelation. For Locke, in fact, "a part of the law of nature,"—which he refers to also as the law of reason—was "that man ought to obey every positive law of God, whenever he shall please to make any such addition to the law of his nature" (*Reasonableness* 15). The law of nature itself was most clearly revealed to reason not through reason's own cogitations but in the revealed Scripture. "The Gospel," Locke wrote toward the end of his life, "contains so perfect a body of Ethicks that reason may be excused from that enquiry, since she may find man's duty clearer and easier in revelation than in herself" (*Correspondence* 5:595). The testimony of divine revelation, as reason itself must conclude, had an authority necessarily superior to human reason, and as such "carries with it Assurance beyond Doubt, Evidence beyond Exception" (*Essay* 4.16.14); for Locke, "faith" was the assent of reason to revelation and constituted the supreme degree of assent possible by human reason.

The "highest perfection of intellectual nature," for Locke, lay "in a careful and constant pursuit of true and solid happiness; so the care of our selves, that we mistake not imaginary for real happiness, is the necessary foundation of our *liberty*" (*Essay* 2.21.51).¹⁸ This "real happiness" was spiritual, not material, and to be enjoyed in the afterlife. "A love and reverence" of God based on "a true notion of God, as of the independent Supreme Being, Author and maker of all things, from whom we receive all our good, who loves us, and gives us all things," Who "does all good to those that love and obey him" was the foundation of virtue, without which one could "be happy neither in this, nor in the other world" (Locke, *On Education* 99). Consequently, the "great privilege of finite intellectual Beings" did not consist in having freedom to do whatever their will chose, but rather "the great inlet, and exercise of all the *liberty* Men have, are capable of, or can be useful to them, and that whereon depends the turn of their actions" consisted in "that they can *suspend* their desires, and stop them from determining their *wills* to any action, till they have duly and fairly *examin'd* the good and evil of it as far forth as the weight of the thing requires" (*Essay* 2.21.52).

In this view, the perfection of human freedom and rationality was, in essence, to choose to be determined by the good. Thus, Locke wrote, "If we look upon those *superiour Beings* above us, who enjoy perfect Happiness, we shall have reason to judge that they are more steadily *determined in their choice of Good* than we; and yet we have no reason to think they are less happy, or less free, than we are" (*Essay* 2.21.49). Rejecting the vulgar notion of liberty as license, he observed: "Is it worth the Name of *Freedom* to be at liberty to play the Fool, and draw Shame and Misery upon a Man's self? If to break loose from the conduct of Reason, and to want that restraint of Examination and Judgment,

18. Italics in all passages from Locke are in the original unless otherwise indicated.

which keeps us from chusing or doing the worse, be *Liberty*, true Liberty, mad Men and Fools are the only Freeman" (*Essay* 2.21.50).

Although all desired happiness, and thus sought the good, it was evident that not everyone thought the same thing good. But the apparent existence of a plurality of ultimate human goods, he argued, would only be true "were all the Concerns of Man terminated in this Life," that is, if true happiness could really be found in material pursuits and the satisfaction of desire. Were this the case, there could indeed be no way to judge between different individuals' conflicting choices, or conceptions of their highest good, such as "why one followed Study and Knowledge, and another Hawking and Hunting; why one chose Luxury and Debauchery, and another Sobriety and Riches." The good would be defined by the object one desired. Yet Locke dismissed the conflation of desire's objects and human good as a dangerous delusion, remarking: "'twas a right Answer of the Physician to his Patient, that had sore Eyes. If you have more Pleasure in the Taste of Wine, than in the use of your Sight, Wine is good for you; but if the Pleasure of Seeing be greater to you, than that of Drinking, Wine is naught" (*Essay* 2.21.54).

For Locke, freedom of conscience was fundamental because it was the necessary precondition for fulfilling one's natural duty to God and thus attaining true happiness and the object of existence, for "the end of all religion is to please him, and . . . liberty is essentially necessary to that end" (*Letter* 30). Locke saw religious freedom and toleration as a necessarily *religious* idea required by the scriptural command of "charity, meekness, and good-will in general towards all mankind, even those those that are not Christians" (*Letter* 5). Indeed, he characterized religious toleration as the hallmark of true religion itself.¹⁹

Consent, Authority, and Obligation

While the *Letter concerning Toleration* is a foundational document of modern liberalism, it is possible to see in it, as in Locke's other writings, the extent to which he took seriously not only the rights of individuals but their social obligations, as well as "the civil rights of the community" (45). For Locke, unlike later secular thinkers, the individual person is the bearer of rights not because of any absolute value inhering in individual autonomy for its own sake, and not because of skepticism either about the existence of universally valid religious truth (the law of nature was such a truth) or about the possibility of certain knowledge of it,²⁰ but because it is the individual soul that is uniquely charged with the natural duty to know and love God, and natural rights secure the social conditions necessary for the soul to fulfill that spiritual duty.²¹

19. "the chief characteristic mark of the true church" (*Letter* 5).

20. See, for example, Locke, *Correspondence* 6:295.

21. See Dunn, "Rights" 28.

Far from endorsing a radically individualistic model of society, Locke was convinced that the individual and social dimensions of life were not conflicting but complementary: "In fact, virtuous actions themselves do not clash nor do they engage men in conflict: they kindle and cherish one another. . . . The duties of life are not at variance with one another, nor do they arm men against one another" (*Political Essays* 132). It was the encompassing framework of divine purpose that made possible that harmony and unity of individual and social interests. In Locke's conception, individual rights were located within a context of correlative moral responsibilities both to God and to other human beings. Rightly understood, the individual's freedom of conscience (involving duty to God and to oneself) did not conflict with duties owed to other human beings, and did not supersede the right of society to maintain the conditions of order upon which all its individual members depend. This principle held true with regard to religious associations as well as the whole of civil society.

The principle that linked together the domains, and defined the scope, of freedom and obligation was that the exercise of freedom in the act of recognizing an authority (that is, giving consent, or covenanting) entailed a strong obligation of obedience.²² In the *Two Treatises* Locke explains how that occurs in in civil society:

And thus every Man, by consenting with others to make one Body Politick under one Government, puts himself under an Obligation to every one of that Society, to submit to the determination of the *majority*, and to be concluded by it; or else this *original Compact*, whereby he with others incorporates into *one Society*, would signifie nothing, and be no Compact, if he be left free, and under no other ties, than he was in before in the State of Nature. For what appearance would there be of any Compact? What new Engagement if he were no farther tied by any Decrees of the Society, than he himself thought fit, and did actually consent to? . . . For where the *majority* cannot conclude the rest, there they cannot act as one Body, and consequently will be immediately dissolved again. (2.97-98)

"Immediately dissolved" is no exaggeration; for if each person reserves the right to withdraw "consent" to government in case of disagreement with the society's "Decrees," no authority external to the individual has ever been recognized in the first place. For it is precisely when we are most certain that our own view is right that our prior, unforced consent invokes our current deference, or in other words, loyalty (as the maintenance of commitment under trying conditions). The consent Locke is describing is a process in which an externally originating obligation becomes internalized as responsibility and commitment through the act of promising or covenanting. A solemn promise is willingly given to recognize an "authority" as that which rightfully deserves our

22. See Locke, *Letter 13*; Dunn, *Political Thought*.

obedience, as a duty, without that obedience being contingent upon agreement in the instance, and which has the right to punish us when we don't comply voluntarily.²³ Locke realized that for the obligation of obedience to any kind of authority to be a submission not *of* conscience but *in* conscience, the act of consent that would invoke it must be uncoerced and embraced by choice; the promise or covenant that made one a member of any commonwealth had to be by "express Declaration," or "actually entering into it by positive Engagement, and express Promise and Compact" (*Two Treatises* 2.121–22).

It is important to see that the idea underlying "express consent"—that the obligation of obedience is willingly undertaken—is fundamental to the existence of social trust. Trust in society is possible only when all the members of society—governors and governed alike—are united in their understandings of, and commitment to, the terms of their cooperative relationship. Trust is impossible when the individuals' primary allegiances are to private and competing interests, or when they hold incompatible ethical commitments, or even divergent understandings of the terms that constitute their society. Like the covenant through which the individual enters into an ordered relationship with God, the trust on which society is based (trust being essentially a promise or covenant) simply must be based on voluntary commitment or it is nothing.

While Locke is well known for arguing for the right of populations to resist tyrants, he was really contending that even the monarch had the same obligation as everyone else to the terms of society as a trust relationship, and the same duty to place the law and the public good above selfish desire.²⁴ For Locke, tyranny and rebellion were two sides of the same coin, the two forms of bad faith or breach of trust that threatened the foundations of society.

23. Locke felt that if a person truly believed that a law would require one to do something that would violate conscience, "such a private person is to abstain from the actions that he judges unlawful; and he is to undergo the punishment, which is not unlawful for him to bear; for the private judgment of any person concerning a law enacted in political matters, for the public good, does not take away the obligation of that law nor deserve a dispensation" (*Letter* 43).

24. See *Two Treatises* 2.163. This concept also is not a new one. Absolutism, the idea that the ruler was not limited by any law, sharply contradicted the classical civil society conception of constitution and limited government. Maddox writes: "Limited government was emblazoned upon the political consciousness of the West as 'constitution' long before there were written constitutions. . . . the ancient world perceived with clarity principles of limited but creative government which subsequent experience, especially since the rise of the modern 'sovereign state,' has only clouded. . . . we may with justification speak of embryonic constitutional principles opposing the rule of force as early as the eighth century B.C. . . ." (50–52). Cicero renders the principle thus: "Those who propose to take charge of the affairs of government should not fail to remember two of Plato's rules: first, to keep the good of the people so clearly in view that regardless of their own interests they will make their every action conform to that; second, to care for the welfare of the whole body politic and not in serving the interests of some one party to betray the rest. For the administration of the government, like the office of a trustee, must be conducted for the benefit of those entrusted to one's care, not of those to whom it is entrusted" (*De Officiis* 87).

Dissent and Divisive Conflict

The bonds of society are tested at the boundaries, where competing claims become divisive conflict. Disagreements and disputes arise continually in any society, and the purpose of judicial institutions is to resolve them. Thus it is not the mere existence of disagreement or conflicting claims that signals boundary conditions (or which should properly be regarded as "conflict"), but rather claims that resist resolution or regulation by the authoritative structures and processes of the society. A claim that resists the reach of such structures in fact asserts a different kind of claim. The resistant claim is a radical challenge that is directed against the authority of the structures themselves. As anthropologists have remarked (in terms echoing Locke), resistant or "divisive conflict" escalates through ascending levels of an organizational structure until it is resolved, but if even the highest-level mechanisms for resolution or adjudication fail to resolve it, "irreparable breach" occurs and the organization dissolves" (Beals and Siegel 22–23). Resistant conflict in effect withdraws recognition of the institutions' authority and reneges on the promise of consent.

An important aspect of Locke's theory of toleration concerns those boundary conditions where radical, irremediable disagreement or *dissent* threatens to or does in fact dissolve the bonds of society. In the *Letter* he discusses the two procedures by which "the union that was between the body and some member" (17) comes to be dissolved in the voluntary religious community, which is his ideal case of a society constituted purely by consent.

While Locke is also well known for championing the rights of freedom of conscience and of religious dissent, he articulated these concepts within a specific framework, and those notions become distorted when taken out of that context. Locke was fully aware that whenever an association of any kind creates a space of toleration, or immunity from coercion, for individual actions, unless it sets limits to that freedom, it makes itself vulnerable to sedition—divisive conflict resulting in irreparable breach—if the immunity of toleration is used to pursue aims that undermine and subvert the society itself. Locke himself was particularly sensitive to the fact that contentiousness and factionalism are the discursive forms divisive conflict typically takes. Even the author of the *Letter concerning Toleration* seems to have found it difficult to tolerate those whose propensity to discord and contention, in direct contradiction to the law of God (which, as he pointed out, explicitly forbade discord) marked them as hypocrites more concerned with striving for power and followers than with pleasing God.²⁵

Like the civil society, the ideal religious society Locke describes is based on a

25. One of Locke's closest friends "recalled that 'he cou'd not bear with a sort of Cavillers, who will not drop the Dispute, though they have been often refuted. . . . He spake to such Persons sometimes with a little heat.'" Another "attests that Locke's contempt for 'professed Disputants' was such that 'whenever he had to deal with this sort of folks, if he did not beforehand take a strong resolution of keeping his temper, he quickly fell into a passion'" (Walsmsley 381).

covenant of consent. In the *Letter* Locke argues that, provided that membership in a religious society is by choice and “absolutely free and spontaneous, it necessarily follows, that the right of making its laws can belong to none but the society itself, or at least, which is the same thing, to those whom the society by common consent has authorized thereunto” (14). However, his ideal religious society differs from the civil order in an important respect: in the civil society, consent is to government that impartially enforces the law of nature by protecting the rights of life, liberty, and estate; but obligation to the law of nature itself is not conditional on consent. The law of nature “obliges every one” (Locke, *Two Treatises* 2.6). Natural rights are *inalienable* because the duties of the law of nature are prior to existence itself and thus irresistible. Humans cannot disencumber themselves of those duties by dissenting from the law of nature—and still claim to be rational creatures. Belief in the law of nature is the axiomatic foundation of all society, and thus, as Locke writes in an early manuscript: “the belief of a deity is not to be reckoned amongst purely speculative opinions, for it being the foundation of all morality, and that which influences the whole life and actions of men, without which a man is to be considered no other than one of the most dangerous sorts of wild beasts, and so incapable of all society” (*Political Essays* 137).

But while membership in humanity and accountability to the natural law is involuntary and in no way alterable by an act of the will or of conscience (one cannot kill, steal, and lie with impunity as a conscientious objector to the law of nature), in the ideal religious association the covenant of membership (with all its rights and obligations) is wholly conditional on willing commitment—a fact that has implications for the issues of toleration, coercion, and dissent. But the fact that membership is “voluntary” does not mean that the covenant itself is dissolvable at will but rather that, because the covenant is between the soul and God, it is not enforced by human coercion.

As Locke saw it, while in civil society there can be no dissent from the law of nature and no freedom from its social obligations, in the religious association, in contrast, if someone, once having joined a religion, should come to dissent from its doctrine or be unwilling to abide by its laws or its government, freedom of conscience remained unabridged so long as one was as free to leave a religion as to enter it, and provided that the civil order was founded on the same principle—that enjoyment of basic civil rights is independent of belief or membership.²⁶

26. See *Letter* 13–18. It is important to see that this is not a nonreligious or “secular” principle, but a corollary of the idea of covenant. As such, it is embedded in the structure of Bahá’í law. Shoghi Effendi writes that Bahá’ís must “exercise the utmost vigilance in scrupulously safeguarding the legitimate personal and civil rights of all individuals, whatever be their situation or rank in life, and irrespective of their religion, creed, or race. . . . Civil rights and the transactions of public life are not conditional upon the religious beliefs or privately held convictions of the individual” (letter dated July 1925 to friends in the East; International Bahá’í Archives). See also *Advent of Divine Justice* 35.

As for those who disobeyed the laws of a religion, Locke recommended that "The arms by which the members of this society are to be kept within their duty, are exhortations, admonitions, and advice. If by these means the offenders will not be reclaimed, and the erroneous convinced, there remains nothing farther to be done, but that such stubborn and obstinate persons, who give no ground to hope for their reformation, should be cast out and separated from the society. . . . I hold," he wrote, "that no church is bound by the duty of toleration to retain any such person in her bosom, as after admonition continues obstinately to offend against the laws of the society. For these being the condition of communion, and the bond of society, if the breach of them were permitted without any animadversion, the society would immediately be thereby dissolved" (*Letter* 16). As long as it carried no civil punishment, no "rough usage, of word or action, whereby the ejected person may any ways be damnified in body or estate" (17), excommunication was, Locke argued, the just and in fact the tolerant way for a voluntarily constituted religious society to treat divisive conflict that, if allowed to persist, would destroy the unity, order, and integrity of that community.²⁷ Locke obviously felt that the individual's right to freedom of conscience did not supersede a religion's right not to be dissolved by aggressive dissension from within. In a set of principles he apparently drew up for a religious society to be called "Pacific Christians," he included the following rules:

Nothing being so opposite, or having proved so fatal to unity, love and charity, the first and great characteristic duties of Christianity, as men's fondness of their own opinions, and their endeavours to set them up and have them followed, instead of the Gospel of peace; to prevent these seeds of dissention and division, and maintain unity in the difference of opinions which we know cannot be avoided, if anyone appear contentious, abounding in his own sense rather than in love, and desirous to draw

27. In an interesting manuscript comparatively analyzing civil and ecclesiastical power, Locke wrote of both religious and civil society: "The end of civil society is present enjoyment of what this world affords," while that of religious society was "future expectation of what is to be had in the other world." But although the laws of the latter "be in order to happiness in another world, and so the penalties annexed to them are also of another world; yet the society being in this world and to be continued here, there are some means necessary for the preservation of the society here, which is the expulsion of such members as obey not the laws of it, or disturb its order. And this, I think, is the whole end, latitude, and extent of ecclesiastical power and religious society." "I think no external punishment, i.e., deprivation or diminution of the goods of this life, belongs to the church. Only because for the propagation of the truth (which every [religious] society believes to be its own religion) it is equity it should remove those two evils which will hinder its propagation, (i) disturbance within, which is contradiction or disobedience of any of its members to its doctrines and discipline; (ii) infamy without, which is the scandalous lives or disallowed profession of any of its members; and the proper way to do this, which is in its power, is to exclude and disown such vicious members." It was up to the civil authority, he specified, to enforce those moral laws to which civil penalties were affixed, although, it should be noted, those laws being enforced by the civil authority were, as he called, them the "real part of religion" (*Political Essays* 217, 219).

followers after himself, with destruction or opposition to others, we judge him not to have learned Christ as he ought, and therefore not fit to be a teacher of others. . . .

From every brother that after admonition walketh disorderly, we withdraw ourselves. (*Political Essays* 305–6)²⁸

According to Locke, dissension in religion (as the persistence of conflict that resists resolution) not merely threatens to but does dissolve the bond of the religious association with the dissenter. The “civil” way (both literally and figuratively) to end that relationship—avoiding coercion while preserving the right of both individual conscience and of the religious community—is exit or expulsion.

It is important to note that in arguing against the use of *coercion* in religious matters, Locke was referring to the sometimes brutal, corporal punishments notorious to his time (“galleys, prisons, confiscations, and death” [*Letter* 49])—especially in France after the Edict of Toleration was revoked in 1685—that were used by the civil authority in matters concerning belief, and especially when they were imposed on persons of a different religion.²⁹ The use of civil coercion (that is, punishments depriving the lawbreaker of the temporal goods secured by civil society—life, liberty, and estate) was appropriately exercised by the civil authority in enforcing civil laws and maintaining civil order, which did not concern matters of belief.³⁰ But far from considering religious expulsion to be coercive, Locke regarded it as a simple matter of holding people accountable for their solemn promises, freely given. Nor did it have anything to do with civil rights: “Excommunication,” as such, Locke argued, “neither does nor can deprive the excommunicated person of any of those civil goods that he formerly possessed.” For no one had “any civil right” to partake of the privileges that accrued to membership in a voluntary religious association (*Letter* 17). The right of a religious community to resist aggression from within by excluding (or rather, extruding) divisive conflict, thus, is as necessary a component of the theory of toleration as is the obligation to tolerate those who do not belong to one’s own religion.

In contrast to the ideally constituted voluntary society, in which the recourse for divisive conflict is the dissolution of the relationship, in contemporary political societies—where membership is not only involuntary but where there is no longer any source of moral unity such as the idea of natural law which had

28. Locke is apparently alluding to St. Paul: as for “the unruly and vain talkers and deceivers,” “avoid foolish questions, and genealogies, and contentions, and strivings about the law; for they are unprofitable and vain. . . . A man that is an heretic, after the first and second admonition reject” (Titus 1:10; 3:9–10).

29. See Cranston 106.

30. *Belief*, that is, in the sense of sectarian beliefs. In a larger sense, as I argue here, all civil law implies, and in fact encodes, some corresponding beliefs.

supported classical conceptions of citizenship—the relations of members to one other are not defined in terms of shared participation in an enterprise, but by the absence of shared commitment or agreement on ends and purposes or the “good life.” In such circumstances, radical divisive conflict becomes viewed as the inevitable outcome of the central fact of irreducible disunity, and thus as normative. A point often lost on later interpreters, but which we must take from Locke’s analysis, is that while neither civil nor religious society requires uniformity in things that are (truly) “indifferent,” no society at all is possible where there is radical disunity on the most fundamental beliefs concerning ends.

Theocracy and Civil Society

The terms of reference that define the modern understanding of civil society and the relationship between the “civil” and the “religious” have changed dramatically, and the critical linkages between religion (as the source of the values of a people) and civil order (as its rule-governed collective life) have been obscured from view. In order to recover these connections, and to see how key definitions and assumptions have shifted, it is useful to look closer at what Locke says about religion and civil government in the context in which he was writing. In his argument about the separation of the “ecclesiastical” and the “civil” (a subject which of course already had a history of discussion in Christian, especially Reformed, thought and more immediately in the debates on religion and politics in Restoration England³¹), the distinction involved was not between a religious sphere and an irreligious one, or between a realm of belief and value as separate from the realm of law: Locke took for granted that religious principles (including those implicit in the law of nature as well as in revealed Scripture) were the foundation of the civil order. As Tully writes, Locke saw civil and religious society as “two spheres of religious praxis” (175).

Although denying that any of the contending ecclesiastical factions of Christianity could rightfully claim the authority to enforce its own particular laws of worship on all Christians, Locke acknowledged the justice of theocracy in principle, that is, specifically, a commonwealth like that of the Jews in which all citizens of the commonwealth were members of the same religion—in a sense in which the same could no longer be said of post-Reformation Christians. Locke’s contention that there could be no Christian commonwealth did not rest on any claim that theocracy in itself was inherently unjust, but rather on the argument that the ceremonial law and political constitution of the Jews, as set down in the law of Moses, had been abrogated by the Gospel (and thus could not be invoked by Christians as a scriptural warrant). While reaffirming the Ten Commandments, Christ had prescribed no specific form of government or ceremonies of worship. For the duration of the Christian dispensation, therefore,

31. See Sanders; David Little, *Religion, Order, and Law*.

no proposal for such an order could ever claim the warrant of revelation necessary for all Christians to accept its authority. However, where theocracy was ordained in the Holy Scripture itself, as it had been in the Law of Moses, Locke insisted, its legitimacy was unassailable.³²

But equally significant to Locke's argument was the great troublesome and contradictory fact that the political community of his time both was (in one sense) and was not (in another) composed of people of the same "religion." Within the *Letter* Locke uses "religion" in two distinct senses which exemplify the problem: while, he says, the Christians of the national church as well as those of the separated congregations "are all agreed in the substantial and truly fundamental part of religion" (24), the divergence between them on matters not covered by Scripture had become so intransigent as to make the sects of Christianity "different religions"—as different to one another, it seemed to Locke, as Christianity was to Islam (*Letter* 55).

Locke's rhetorical aim in the passages where he discusses the commonwealth of the Israelites seems to be to show that even what one might take to be the hardest case—theocracy—is compatible with the religious toleration he is arguing for because coercion to membership in a state religion and the imposition of religious doctrines and rites of worship on unbelievers is not a necessary, nor, more critically, is it even a logical or genuine entailment of theocracy. In fact, Locke argues, the only scripturally authentic theocracy (that ordained by Moses), explicitly prohibited coerced membership.³³ Obviously the concept of theocracy Locke is defining excludes the very traits that have since come to be most associated with the term. It can be extracted from the *Letter* that his argument there is based on a definition of theocracy as (1) a community of people who share a religion which (2) comprises a set of *revealed* laws and specific form of government. Neither of these conditions are met by any proposals for a Christian commonwealth—not only because the Gospel provides for no specific form of government but because, in the sense in which it is crucial, seventeenth-century Christians do not belong to the same "religion," as they are not agreed on a single set of beliefs and laws as authoritative—some accepting only the Scriptures, others adding to them further doctrines and rules laid down by their own sect and claiming the latter as

32. See *Letter* 37–38 and Locke, *Reasonableness* 13–16.

33. Particularly, in Exodus 22 where the injunction to the Jews, "He that sacrificeth unto any god, save unto the Lord only, he shall be utterly destroyed," is immediately followed by: "Thou shalt neither vex a stranger, nor oppress him: for ye were strangers in the land of Egypt" (Exodus 22:20–21). Locke's commentary is: "Amongst so many captives taken, of so many nations reduced under their obedience, we find not one man forced into the Jewish religion, and the worship of the true God, and punished for idolatry; though all of them were certainly guilty of it. If any one indeed, becoming a proselyte, desired to be made a denizen of their commonwealth, he was obliged to submit unto their laws; that is, to embrace their religion. But this he did willingly, on his own accord, not by constraint. He did not unwillingly submit, to show his obedience; but he sought and solicited for it, as a privilege. . . ." (*Letter* 39).

necessary to salvation. That lack of foundational unity which had split Christians into different religious societies meant that some other basis had to be found to bind those differing religious societies into a united, civil one. The "commonwealth" could not, Locke argued, be coextensive with the "church"—not because no commonwealth can be based on a shared "religion," but in fact because no commonwealth can be based on anything less. Since a commonwealth comes into being by entering into a relationship of shared acceptance of the authority of a system of law, as long as difference over the authoritative status of laws and institutions divided the religion itself, Christianity could never supply that necessary juridical basis of union for Christians. As a result, the civil commonwealth could exist at all only because the laws and values on which it was based represented the laws and values on which Christians *did* agree. The natural law tradition, with its implicit covenantal account of human purpose and obligations (and, therefore, rights), provided for Locke a minimal foundation, a religious common denominator on which social unity could be possible. Placing it at the ethical center of the political community made it in effect the basis of the civil religion.

Although the coercive imposition of religious law and membership on non-believers has become practically synonymous with theocracy, it can be seen from Locke's treatment of the subject that he viewed religious coercion as a corruption of the concept of theocracy, not its definitive characteristic. Theocracy in its uncorrupt sense is a *commonwealth*, that is, the self-government, by consent, of a people by that people's own legal institutions and according to its own laws (which, distinctively, have the authority of revelation)—*not* the imposition of those laws on others. While to modern ears a "noncoercive theocracy" sounds like a contradiction in terms, in fact it is the other way around: any genuine, that is, revealed, theocracy would have to be noncoercive or it would conflict with the principle of covenant.

The State of Nature and the Instrument of Union

It can be seen that, in their original senses, civil society and theocracy are closely related concepts and not mutually exclusive. As Berman observes, law and religion inevitably imply each other and neither can exist without the other. Any civil society, insofar as its laws encode its essential shared values, has a "civil religion" and thus is a kind of "theocracy" in a sociological sense, while a theocracy, it can be seen, is a civil society or commonwealth in the classic sense of Cicero's "assemblage of people in large numbers associated in an agreement with respect to justice and a partnership for the common good"—where the terms of that agreement are divinely revealed. As Locke seemed to grasp in his discussion of the Israelite commonwealth, a theocracy based on the concept of covenant, with its central sacred principle of willing commitment, creates—not collapses, the civil space as one ordered on the principles of both justice and toleration.

The definitive characteristic of civil society was that condition of being

associated in an agreement, that is, united in a social relationship by a shared attitude of acceptance, or consent, toward a set of laws or system of justice and an enterprise oriented to the common good. As Locke describes it in the *Second Treatise*, political or civil society, or commonwealth (he uses the terms interchangeably) came into being "by setting up a Judge on Earth, with Authority to determine all the Controversies, and redress the Injuries, that may happen to any Member of the Commonwealth" (*Two Treatises* 2.89); elsewhere, he defines it as a condition in which people are "united into one Body, and have a common establish'd Law and Judicature to appeal to, with Authority to decide Controversies between them, and punish Offenders" (*Two Treatises* 2.87).

Locke identifies the absence of such an ordered relationship based on shared recognition of an institutionalized standard of justice as the "state of nature." As Dunn points out, Locke's state of nature is not a psychological or fictive historical condition but a jural one (*Political Thought* 106).³⁴ The "end of Civil Society" was

to avoid, and remedy those inconveniences of the State of Nature, which necessarily follow from every Man's being Judge in his own Case, by setting up a known Authority, to which every one of that Society may Appeal upon any Injury received, or Controversie that may arise, and which every one of the Society ought to obey; where-ever any persons are, who have not such an Authority to Appeal to, for the decision of any difference between them, there those persons are still in the state of Nature. (*Two Treatises* 2.90)

For Locke, the individual sovereignty and collective disunity of the "state of nature" is really, in his words, an "ill condition" (*Two Treatises* 2.127) to be overcome. The state of nature is *unnatural* insofar as it is incomplete, for "God having made Man such a Creature, that, in his own Judgment, it was not good for him to be alone, put him under strong Obligations of Necessity, Convenience, and Inclination to drive him into Society, as well as fitted him with Understanding and Language to continue and enjoy it" (*Two Treatises* 2.77). It should be remembered that the state of nature, despite its absence of agreement, was not a state of liberty from law or from moral obligation, either to God or to other human beings. To be in the state of nature was to be under the law of nature, that is, under the natural law obligation to preserve God's creatures (*Two Treatises* 2.6).³⁵ Nor was it to be free to adopt any arbitrary standard of

34. The idea of the state of nature, and its relation to civil society, goes back at least to Plato, who has Protagoras recount the myth that for mutual protection against the predation of wild beasts, people "sought therefore to save themselves by coming together and founding fortified cities, but when they gathered in communities they injured one another for want of political skill, and so scattered again and continued to be devoured. Zeus therefore, fearing the total destruction of our race, sent Hermes to impart to men the qualities of respect for others and a sense of justice, so as to bring order into our cities and create a bond of friendship and union" (319–20).

35. See Dunn, *Political Thought* 106–7.

justice other than one that impartially enforced that same law of nature. The state of nature, though it may not be Hobbes's state of war, yet is not a state of peace, for peace implies the very establishment of ordered cooperative relations and a system of justice that is definitive of civil society. It is justice that brings about peace, and justice in this sense is the outcome of unity.

As we have seen, Locke was concerned with the proper jurisdiction of civil and religious institutions in a society where, despite the general consensus in Christianity among the majority, divisive sectarianism was intractable because of the absence of any universally recognized source of interpretive authority to decide between the competing claims that had led to the division of Christianity into mutually hostile sects. The absence—with respect to the churches themselves in relation to one another—of the defining condition of civil society in effect had placed a Christendom rent by schism into a state of nature, or endemic disorder—a condition that could also apply to the relationship of groups of people or sovereign states³⁶—the churches of a divided Christianity were in fact without a “Judge on Earth, with Authority to determine all the Controversies.” Only one element would have been able to unite all Christians into a commonwealth or civil society with respect to their religion: a scripturally authorized “law and judicature.” Its absence was the reason why no claim to “theocratic” authority could ever be legitimate under the dispensation of the Gospel. The provision of the necessary instrument of union would require nothing short of a new divine Revelation.

The Two Tables of the Law

In calling for the “civil” to be separate from the “religious,” Locke was not inventing anything new, and, it is crucial to see, his conception of “separation” was itself framed in a religious context. By “religious” (when used in contrast to “civil” and as that which ought not to be mixed up with it) he was referring primarily to the contentious sources of difference between the Christian sects—but not to the broad foundation of religious principle and morality which was uncontested as the basis of the civil society. He was also applying to the problem at hand a conceptual distinction, familiar to Christians, between the two “tables” of the Law—the “religious” duties owed directly to God,” as contained in the first part of the Ten Commandments (laws concerning matters of faith), and the “moral” duties owed to fellow human beings—which made up the rest of the Commandments (laws concerning social behavior and public order) (Little, “Western Tradition” 19).³⁷ While the laws of the “first table,” concerning inner

36. “all Commonwealths are in the state of Nature one with another” (*Two Treatises* 2:183); see also *Two Treatises* 2.145.

37. See Locke, *Letter* 39–43. “The precepts of the first table, which direct man to God, embody the order to the general and ultimate good, which is God; and those of the second table embody the order of justice to be observed between men, namely that nothing undue be done to anyone and that each should be given his due” (Aquinas 1a2a.100.8).

belief and worship applied only to avowed believers, the duties of the "second table," concerning outward behavior in society, justly applied to everyone regardless of belief, as they constituted the moral foundation of the civil order. Locke pointed out in an earlier essay that although "the duties of the second table" were "the vigorous, active part of religion, and that wherein men's consciences are very much concerned," he found they made "but a little part of the disputes of liberty of conscience. I know not whether it be," he added tartly, "if men were more zealous for these, they would be less contentious about the other" (*Political Essays* 143–44).

Locke was concerned to draw the boundary of the public institutions' interest in the otherwise private arena of personal virtue and vice according to the civil government's own end and function: the magistrate ought not "to enjoin the duties of the second table any otherwise than barely as they are subservient to the good and preservation of mankind under government" (*Political Essays* 144).³⁸ Because those revealed moral laws of the second table coincided with the duties entailed by natural law—both forms of law having been dictated by God's will according to His purposes for human individual and collective life—what was necessary and conducive to the existence of any human society was also that which was commanded by revelation.

Thus the requirements of social, temporal order (the sphere of coercion, where humans must judge and punish), and of individual, spiritual autonomy (the sphere of noncoercion, where judgment and punishment is God's), concurred, and Locke could say: "The magistrate commands not the practice of virtues, because they are virtuous and oblige the conscience, or are the duties of man to God and the way to his mercy and favour, but because they are the advantages of man with man, and most of them the strong ties and bonds of society, which cannot be loosened without shattering the whole frame" (*Political Essays* 144). The unity of social and individual interests was provided by the transcendent divine purposes with which both were infused. Thus it was that for Locke, "The *Divine Law*, whereby I mean, that Law which God has set to the actions of Men, whether promulgated to them by the light of Nature, or the voice of Revelation. . . . is the only true touchstone of *moral Rectitude*" (*Essay* 2.28.8).³⁹

38. But even this principle of minimal coercion itself is a religious one and (whether he realized it or not) Locke is closely following Aquinas here. Compare Aquinas 1a2æ 96,2.

39. Patrick Riley comments: "Locke, then, is certain that the divine law, as the only true touchstone of moral rectitude, requires immortality and sanction; that reason alone, though it must not conflict with revelation, is not something out of which a complete 'science of ethics' can be deduced. . . . Perhaps the phrase 'divine law' should always be used when discussing Locke's ultimate moral norm. But since he himself often uses the idea of natural law, it is safe to employ that term so long as one remembers that when Locke is being strict, the natural law is only a part of the divine law; revelation is needed as well to provide a complete touchstone of moral rectitude" (90–91).

Two Aspects of One Reality

But the origin of both duties in the will of God, source of both natural law and revealed law, underscores the fact that the domains of the spiritual and the temporal, the religious and the civil, are ultimately not radically separate but are two aspects of one reality.⁴⁰ The relevant distinction involved that of competence to judge, and thus to impose punishment: only God could judge the sincerity of one's belief, but human authorities could judge moral actions in society. Locke wanted to rectify a prevalent injustice of his time—the subjection of people to civil punishments for not belonging to the state church or observing its rules of worship—by putting things in their proper order. In proposing that membership in religious associations should be voluntary and never compulsory, that different faiths should be free to practice their beliefs (provided they did not engage in sedition against the civil order), and that civil power should be used only to enforce the civil, public laws of morality, public security, and order, while religious institutions should hold only their own community members to be bound by that religion's particular doctrines and code of conduct, Locke was in effect articulating the religious—not secular—principles for the just governance of a religiously plural society. The theocracy of the Israelite commonwealth was the source of the concept of “separation” he was arguing for, and he cites this fact as the highest warrant of its justice.

Locke also argued against the use of punishments involving deprivation of life, liberty, and property, whether imposed by religious or civil authorities, on anyone at all in matters of belief and worship, primarily because it was unwarranted in the Christian scriptures, and secondarily because it was ineffective anyway as coercion could never procure belief.⁴¹ But, as I have shown, it would distort him out of context, and collapse a crucial conceptual distinction, to read this classic argument against coercion in matters of religion as an extension of rights of conscience that belong by definition to the civil domain, into the domain of the voluntary religious community, as if its internal life were also, like the civil sphere, a space undefined by any commitments to particular religious beliefs or a distinctive way of life.

Yet, it should be clear by now, it is not quite correct to say that civil society was itself wholly undefined by commitment to *any* religious belief or to *any*

40. See Little, “Western Tradition” 20.

41. Similarly, ‘Abdu’l-Bahá writes: “The Faith of God must be propagated through human perfections, through qualities that are excellent and pleasing, and spiritual behavior. If a soul of his own accord advances toward God he will be accepted at the Threshold of Oneness. . . . In this way the primary purpose in revealing the Divine Law—which is to bring about happiness in the after life and civilization and the refinement of character in this—will be realized. As for the sword, it will only produce a man who is outwardly a believer, and inwardly a traitor and apostate” (*Secret* 46). However, ‘Abdu’l-Bahá makes it clear here that the purpose of the Divine Law is not confined to happiness in the afterlife but is directly concerned with “civilization and the refinement of character” in this world.

way of life. The very commitment to toleration, to protecting *as a civil right* the freedom of differing belief-based ways of life—that is, of other communities *not* one's own—itself depends on holding a particular set of religious beliefs according to which the use of coercion in such matters would be a violation of one's own duty to God. Likewise, a commitment to justice, to the rule of law, and to the protection of the natural rights of all human beings depended on belief in those axioms which defined human beings' relationship to one another in terms of a higher and prior relationship to their Creator. If any of those premises were denied, ultimately nothing could restrain the selfish ego: "To disobey God in any part of his commands, . . ." wrote Locke, "is direct rebellion; which, if dispensed with in any point, government and order are at an end; and there can be no bounds set to the lawless exorbitancy of unconfined man" (*Reasonableness* 11).

Locke's conviction that some form of religious belief was the necessary ground for a commitment to justice and to the terms of trust on which the maintenance of civil order depended is most decisively demonstrated in his exclusion of atheism from toleration. This often-misunderstood passage did not suggest that law-abiding atheists (or anyone else) should be summarily denied civil rights. Rather, in excluding atheism from toleration he was refusing to grant disbelief in God the status of a moral foundation equivalent to belief in God. For, he wrote, "Promises, covenants, and oaths, which are the bonds of human society, can have no hold upon an atheist. The taking away of God, though but even in thought, dissolves all. Besides also, those that by their atheism undermine and destroy all religion, can have no pretense of religion whereupon to challenge the privilege of a toleration" (*Letter* 47). He was refusing to allow the immunity conferred by toleration to be invoked, by sophistry, on behalf of political aims informed by an opposite, antireligious position.

As Dunn points out, he was not saying that atheism caused people necessarily to act immorally, but "Rather, it was a logical presumption about the necessary absence for them of any good reason, in the last instance, for curbing their own selfish and socially destructive desires" (*Rethinking* 43).⁴² For Locke, as Riley explains, "the notion of a promise could not work without God and his natural laws. The moral rule of promise keeping was ultimately based only on God's requiring it of us. Without natural law and its eternal sanctions, men would have no sufficient motive to observe promises and covenants" (73). More ominously,

42. This assessment is confirmed by Bahá'u'lláh's counsel to Sultan 'Abdu'l-Azíz: "Know thou for a certainty that whoso disbelieveth in God is neither trustworthy nor truthful. This, indeed, is the truth, the undoubted truth. He that acteth treacherously towards God will, also, act treacherously towards his king. Nothing whatever can deter such a man from evil, nothing can hinder him from betraying his neighbor, nothing can induce him to walk uprightly" (*Gleanings* 232–33). See also Bahá'u'lláh, *Tablets* 125.

the atheist position lacked any reason, should it become ascendant, to consider religion worthy of toleration.⁴³

It is important to recognize that for Locke, and, a century later, for the framers of the U.S. Constitution, the fact that a theistic worldview, divine law, and inevitable divine reward and punishment was the moral foundation of the civil order was never in question. In the U.S. constitutional era, the "disestablishment" issue (which was resolved through the First Amendment clause "Congress shall make no law respecting an establishment of religion") primarily concerned doing away with public tax support for churches, which had amounted to extracting involuntary contributions to religious funds from nonbelievers. However, introducing that explicitly financial "disestablishment" in the U.S. Constitution did not contradict the general expectation by the American founders that government ought to operate on the basis of the moral principles of religion. According to Reichley:

As the leaders of the generation of the Revolution passed gradually from the scene, they left a nation that saw no contradiction between the concept of separation of church and state and the concept that the legitimacy of republican government must ultimately be rooted in religion. Alexis de Tocqueville, touring the country early in the nineteenth century, reported, "I do not know whether all Americans have a sincere faith in their religion—for who can search the human heart?—but I am certain that they hold it to be indispensable to the maintenance of republican institutions." (113)

Thus it can even be said that, in a broader sense of the term, the "establishment," that is, institutionalization, of those religious laws that had civil application was never in question, nor even mentioned—except affirmatively—because it was the indispensable foundation of the society.⁴⁴ And it still is, since the deep structure of the Western legal system in general is the biblical moral code and even church canon law, although the religious origins of the civil law have been largely effaced.⁴⁵ As Berman points out, "the canon laws—of marriage, of inheritance, of torts, of crime, of contracts, of property, of equity, of procedure—have entered into the secular systems of the West" (*Interaction* 63). Not only in North America; "In Europe," according to

43. This conclusion seems to have been demonstrated in the twentieth century: intolerance and even the extirpation of religion have been advocated on the basis of *principe*, not only in modern officially atheist states but also in Western academic postmodernism. Writing on behalf of a "militant atheism" in the classroom, deconstructionist Jonathan Culler urges university professors "not to assume that theistic beliefs deserve respect, any more than we would assume that sexist or racist beliefs deserve respect" (80).

44. On "de facto" establishment and the "theological roots of the American principle of separation," see Howe.

45. See Berman, *Law and Revolution* 198. In *The Secret of Divine Civilization* 'Abdu'l-Bahá argues that modern European laws and principles are also fundamentally indebted to Muslim jurisprudence (89).

Dogan, "Christian morals have been absorbed into the State. The philosophy of the Ten Commandments, the prophets and the apostles is embodied in the civil legislation of the whole of Europe" (417). Insofar as a society's civil laws encode the moral values of its people, no state can exist without an "established," or institutionalized, set of beliefs (if only tacit) that define its moral orientation and order its life accordingly. Those beliefs, implicitly, are prior to the laws and institutional structures; without them, "institutions" are a hollow shell. And, inescapably, the moral authority of civil laws depends on an underlying belief in a legitimating worldview or conception of the good that makes those laws right. "In all societies," as Berman claims, ". . . law draws on the sense of the holy partly in order to commit people emotionally to the sense of the just" (*Interaction* 45).

The Collapse of the Religious Foundations

In the modern era, those distinctive concepts of freedom and toleration, like the idea of civil society, became detached from their original religious foundations and anchored to another, increasingly secularized system of thought that rejected any preexisting obligation of divine origin. The idea of the good, demoted from its universal transcendent position, became relativized to the individual. This shift reflected the displacement of the religious view of human nature as a creation of God, by a (sometimes tacit) materialist account of human nature as self-creating and autonomous, of ultimate good as something private and (potentially, at least, since it was wholly subjective) different for each individual. Individual freedom retained its prominent position but became construed as freedom to choose between a plurality of goods or to create one's own good; but in any case, the self, not a transcendent source of that self, was the autonomous measure of its own good. The concept of covenant, as the origin of society, was replaced by a modern notion of social contract in which the people themselves were seen as the authoritative source of the social bond and their private interests the measure of its legitimacy.⁴⁶ By the twentieth century, a process that had begun with the attempt to apply religious principles to mitigate the problem of religious disunity had resulted in the eviction of the religious basis of the entire collective moral system which had been taken for granted as an indispensable foundation and the purpose of championing religious liberty at all.

The loss of the transcendent principle had serious implications for the concept of civil society as the ethical basis of human beings' relation to one another was no longer defined, as it had been for Locke, in terms of their relation to God, but in terms that were increasingly human. The eighteenth-century conception of civil society as an "ethically validated and validating

46. See Bellah, ch. 1.

social space," while "not yet totally casting off its moorings in a Godly benevolence . . . nevertheless came to be characterized by increasing inner-worldliness, that is to say, by human attributes which themselves had to support a vision of the social good" (Seligman 29). As Seligman stresses, the eighteenth-century "Deistic model of the sources of civil society, of course, must not be confused with later, atheistic thought." The significant change "was the disengagement of the moral sense from a direct theological linkage" (30). The significance of this disengagement, he maintains, lies in the divide that opens up between the individual and social, and the public and the private:

When the sources of morality and of constitutive good lay beyond the human world, the distinction between both realms was irrelevant for the conduct of the good life. The field of morality—precisely because it was defined in transcendent terms—embraced both spheres equally and in fact obviated any distinction between them. When, however, the field is inherently human, that distinction within the human world, between the individual and the social, the private and the public, takes on a new resonance and must be addressed in terms of the moral basis of the social order. (30)

Once the human moral sense was "disengaged" from its divine anchor, the logic of that transformation pressed inexorably toward a conception of the public sphere as increasingly one of "a neutral, formally procedural realm of exchange." However,

With the distinction between legality and morality, between right and virtue, the eighteenth-century edifice of civil society, built on the idea of natural sympathy—i.e., on the innate workings of virtue *in the public realm*—came tumbling down. For if one could no longer posit a public virtue or morality (and by the late eighteenth century this could no longer be rooted in a transcendent reality as it was in the natural law tradition), those ideational conditions upon which the whole concept of civil society rested were no longer valid. Hume, Smith, and Kant (and the whole liberal-individualist tradition that developed from their thought) accepted this distinction, within which "value" was relegated to the private sphere and rested essentially within the individual conscience. Within this tradition, civil society as an ethical space has no intrinsic meaning, and its regulative and attendant values are there for the protection and preservation of individual liberties. Here ethical value is the province of the particular individual and not of society as such. (Seligman 51)

The substitute bases of civil society offered by Enlightenment theorists proved to be "insufficient ground upon which to construct new and universal terms of solidarity and mutuality. The search for such unity as both philosophical principle and social desideratum continued within and beyond the civil society tradition throughout the nineteenth century" (Seligman 99).

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