Freedom of thought, conscience, and religion supporting peaceful plural living together

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Chapter 6: Conclusion

Conclusion

Introduction

I have sought to address the extent to which it might be possible to increase the effectiveness of the right to freedom of thought, conscience, and religion as a constitutional mechanism to support peaceful plural living together. This was with a view to facilitating individual, communal, and societal flourishing by providing a re-grounded theoretical basis for the right. At the outset I highlighted the crisis facing modern democracies, symptomatic of a wider global malaise, namely the threat to the very existence of civil society institutions essential to creating plural societies. I explained that the indication in the literature and in global databases was that it was not only institutional pluralism that was under threat, but religious faith pluralism as well. A growing amnesia in relation to the skill of living together publicly despite deep personal faith or belief differences, was compounded by the ever-increasing distance between approaches to public living together in the West and elsewhere. Thus, a polarisation in respect of forms of public living together was occurring on a global scale.

If the enlightenment has been perceived as signalling the triumph of rationalism over religious faith: the attack on the World Trade Centre in New York in September 2011 and the reaction in the Middle East to the Arab Spring (2010 onwards) signalled this trend towards societal polarisation. With religion harnessed to justify acts of violence, giving rise to what Paul Cliteur describes as theo-terrorism[239], and with the consequent government sanctioned muting of plural debate and expressions of religious belief, strong forms of neutrality or religious exclusivism in public life have come to increasingly dominate the global landscape. This has caused the polarisation to become increasingly entrenched.

Despite this polarisation, which at the extreme either insists on one single type of religion for all its citizens or, at the other extreme, seeks to deny the expression of any religious belief in public life at all, these different national approaches have a characteristic in common. They seek to deny religious and, in some cases, institutional, pluralism. Thus pluralism, or at least the protection of minorities envisaged by the framers of the UDHR and the ICCPR, has become something of a pipe dream for so many people across the globe.

[239] Paul Cliteur, *Theoterrorism v. Freedom of Speech: From Incident to Precedent*.

I identified that this polarisation has multiple consequences. This includes at an individual level, for human identity, agency and human flourishing. And at a societal level where, in the absence of independent civil society organisations to provide an environment for individuals to flourish, a strong central government will necessarily have to usurp a role for which it is not designed and which it cannot hope to fulfil. The common language of society morphs into the dictates of a strong centralised government. Not only this, but where individuals cannot or have forgotten how to cohere in groups, governments become increasingly more powerful. Decision making is held in the hands of a few who might be distanced from and lack understanding of the common will or the common good. The risk is that the individual becomes rather lost in the absence of a sense of belonging, in particular if the identity mediated to them through the government is not one that the individual feels comfortable with. All powerful governments, distanced from the body of citizens, then engage on the international diplomatic scene with a lack of connectedness to or sense of emotional awareness of their own national situation, increasing the potential for damaging interactions between nation states.

Not only does this phenomena impact in the relationship between the individual and a national government, but also, in the face of existential threats, such as global warming and technological advancement, it undermines capacity to collaborate. The forgotten skill of engaging in plural dialogue and collaboration limits humankinds' ability to harness its own potential to work nationally and internationally to address these threats.

This polarisation and strong centralisation within nation states also creates large refugee populations, as minority groups are forced to flee in order to find a place to freely exercise their faith or belief. This not only creates a crisis in and of itself but, means the plural environment essential to human flourishing that these groups created in their home state is extinguished and talent and skills otherwise available within that population is denied a voice. Even in the states where these refugee populations find acceptance, refugees are necessarily busy surviving or overcoming deep trauma, and face considerable barriers to actively engaging in and contributing to public life. With the shrinking capacity within most nation states to live plurally, the crisis faced by refugee populations is extreme, since finding acceptance anywhere becomes increasingly challenging.

Over and above this, I posited that one of the key dangers arising from this polarisation is that without the ability, confidence or opportunity to articulate (religious) faith-based virtues publicly, humankind may well find that a general amnesia sets in around societal virtues underpinning plural public living together, law creation and adjudication. This has

implications for the rule of law, in particular the thicker conceptualisation of the rule law adopted by the United Nations and global measures such as the Rule of Law Index. International institutions have adopted a tranche of human rights into the rule of law – hoping perhaps in this way to overcome the increasing global polarisation by encouraging rights compliance through rule of law compliance. However, where society has forgotten how to create a plural discourse around virtue, it is likely to find it a challenge to foster the type of environment necessary to embed the rule of law, particularly a rule of law that incorporates human rights. There is then a risk of what Martin Krygier terms isomorphic mimicry[240], where a state appears to have implemented the rule of law, but the underlying virtues necessary for the operation of the rule of law do not exist, so the rule of law becomes a tick box exercise rather than lived experience of the people subject to it.

I argued that human rights pose something of a conundrum within this broader trend towards polarisation. Originally intended to support both individual and societal flourishing as indicated in article 29 UDHR, human rights have come to be trumped in the West as the shield used to protect individual interests and well-being. FTCR has to some extent been protected from this since, although it has been used predominantly to protect the individual exercise of religious faith and belief, there are examples of it being applied to protect communal enjoyment of the right in so far as it protects the rights of religious communities as civil society organisations. The protection of the individual aspect of human rights is, of course, a fundamentally important task and, coupled with the protection of civil society organisations through rights such as FTCR, current rights protection goes some way to fulfil the original UDHR mandate. I identified, however, that this still does not fulfil the full scope of what was intended for human rights. The UDHR envisaged the individual as inextricably dependent on the society and communities within which they exist, based on the idea that the individual flourishes within community as well as by exercising their own agency and having their individual human dignity recognised.

The focus on the individual as the benefactor of human rights means that rights are consequently bemoaned both within Western liberal democracies and elsewhere - as the crutch that supports individualistic Western values. In the face of these challenges and adopting Rowan William's view that rights are not only worth saving, but can be saved from

[240] Martin Krygier, 'The Rule of Law: Pasts, Presents, and two Possible Futures': 214

this parlous state[241], I posited that FTCR could and should be instrumental in a rescue mission in order to at least bring FTCR back to its intended purpose.

Context and framework

The picture I articulated of a crisis in civil society institutions, coupled with amnesia as to how to engage in plural dialogue and a failure of nerve in respect of human rights, was deliberately pessimistic. This was partly based on evidence I set out, in particular in chapters 2 and 3, but also due to the sense of urgency that arose from a reading of the resources I explored. Despite this urgency, it was, I felt, important to spend time reflecting on freedom of thought, conscience and religion at a theoretical level to identify a way to win hearts and minds over and in order to address the deep divisions that exist globally. Consequently, what I have sought to do is to re-ground FTCR by exploring three theoretical aspects: first the theoretical basis of FTCR (I identified the theory of common grace, the concept of multivalency and the other-regarding theology of Rowan William); second, the theoretical basis for the embedding of FTCR into various constitutional contexts (a plurally re-envisioned Dooyeweerdian framework) and third, a theoretical approach to facilitating the type of dialogue necessary to support the societal aspect of FTCR and to facilitate the type of virtue dialogue necessary to embed the rule of law (the Dooyeweerdian concept of enkaptic interlacement linked to the concept of tradition).

In chapter 1, I situated my research in context and explained the approach I took. In chapters 2-5 I delved more deeply into the more detailed evidence base underlying FTCR trends and the theoretical debate underpinning the purposes that I posit are constituted within FTCR. Namely that, as a constitutional mechanism, FTCR supports individual, communal and societal flourishing through the free exercise of thought, conscience and religion leading to plural living together.

The main focus of my research was on the later, more controversial societal aspect. This relates to the need to support both individual and group interactions in society to facilitate a plural approach to living together. I maintain that despite the potential challenges, even in this third societal aspect, FTCR has universal potential. This is so, particularly in light of the call from the Marrakech and Beirut Declarations, initiatives from the Muslim community and, in

[241] For example, Rowan Williams, 'Rights, Recognition and the Body of Christ,'

resepct of the Beirut Declaration, a multi-faith community and the United Nations Office of the High Commissioner of Human Rights, for a religion-based approach to rights.

In order to better understand FTCR, I then briefly highlighted the historical context of FTCR, identified by John Witte as stemming from the edict of Milan in 313 AD[242], and more recently in its post-World War II formulation in the ICCPR and a number of regional and national human rights instruments. I explained the challenges the right has faced in light of the increased polarisation of views and the amnesia in respect of the very concept of pluralism as a condition for civic life.

Due to its central importance to FTCR, I took as my working definition of pluralism the writing of Iain Benson and Hans-Martien ten Napel who perceive pluralism as 'a philosophical and theological perspective on the world that emphasizes diversity rather than homogeneity [and]… difference rather than sameness' and 'the absence of constraints… that make it [possible] for individuals to live in ways that express their deepest belief about what gives meaning or value to life'[243]. I identified the need to find a multivalent approach to building consensus as essential in order to support a system of pluralism which necessarily flows from the right to FTCR.

I explained how I situate multivalency in the theological theory of common grace, found within the Reformed tradition and used to support the idea that all humankind has the capacity to discern aspects of the intentions of God for humankind. This dialogic multivalent approach was then located within Herman Dooyeweerd's conceptualisation of society as a series of spheres, each sovereign and independent from the government. Government, as a sphere in and of itself, is tasked with minimal intervention as law maker and adjudicator between the spheres. Dooyeweerd's theory of enkaptic interlacement (the interaction of the spheres) was then brought in to highlight how conflicting rights claims might be resolved using a broader theoretical analysis about the key interests at stake, rather than the current system of resolving issues on a casuistic basis. I then posited that Dooyeweerd's Christian approach, with a plural base, but overarching Christian meta-narrative, could give way to a plural metanarrative to facilitate dialogue between polarised nation states and also within them.

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[242] John Witte, *The Reformation of Rights: Law, Religion and, Human Rights in Early Modern Calvinism*: 25.

[243] Iain T Benson, 'Pluralism in Islam, Roman Catholicism, Judaism' in W Cole Durham Jr and Donlu D Thayer eds., *Religion, Pluralism, and Reconciling Difference* (Abingdon: Routledge, 2019): 47-62, 49 and Hans-Martien ten Napel *Constitutionalism, Democracy and Religious Freedom*: 74.

For the Dooyeweerdian approach to work, I argue that it is necessary to establish a discourse within civil society around ethical norms that might inform public policy, law creation and adjudication. To this end and in view of the need for a multivalent route to consensus, I posited that by reflecting on their tradition (in contrast to their core doctrine) civil society groups would be able to identify those aspects of their practice that they are willing to adapt in order to enculturate over time. In doing so, civil society groups could establish some areas where they could identify common ground with other traditions (religious or otherwise). Practiced over time, this could lead to a plural approach to building consensus.

Having outlined the background to my research and given an overview of my theoretical approach, I then moved on to analyse the importance and interaction of the individual, communal and societal aspects of FTCR in more depth. I argued that all three aspects of FTCR are to a certain extent interdependent, but not reliant on the Western Liberal democratic model of governance. This is on the basis that forms of pluralism can be enjoyed in very different constitutional contexts. I highlighted here the work of Aslı Ü Bâli and Hanna Lerner on the crafting of constitutions in the context of deep disagreement within civil society[244].

I moved on to highlight that the right to FTCR has been subject to different treatment across the globe and I questioned whether it would be possible to identify a core content of the right which would support its conceptualisation as a universal human right. I explained the importance of this given the foundational nature of FTCR that I claimed arises in relation to embedding the rule of law. If the rule of law is going to be meaningful in global context, then so must FTCR have meaning. Without building the virtues necessary to embed the rule of law under the protection of the right to FTCR, the rule of law remains something of a paper exercise without practical application.

After this I addressed the need to face the accusation that rights have a Western bias, and in particular the challenges faced by FTCR. I articulated the substantial body of Christian theological thought on human rights and the growth of literature within Islam. The challenges here, however, arise not only in relation to finding common ground between approaches, but in resolving differences within faith traditions, or other approaches. For example, the Western liberal democratic tradition has multiple different approaches to human rights including positivist, natural law and theological approaches. I identified existing scholarship, for

[244] Asli Ü Bâli and Hannah Lerner, 'Introduction' in Asli Ü Bâli and Hannah Lerner eds. *Constitution Writing, Religion, and Democracy*: 1-26, 6-13

example in the work of W. Cole Durham Jr and Donlu Thayer (eds), which posits that there is potential within and beyond these traditions to find common ground in relation to plural living together.

I pointed out that rights theory, whatever its theoretical roots, tended to cover rights in general and that, given its importance, I chose to explore the theoretical basis of FTCR alone. This was not to undermine the interdependence of the tranche of human rights established in the international framework of human rights, but rather to seek to identify a theoretical basis that would foster the acceptance and adoption of FTCR given its central importance.

I next situated my analysis in the spectrum of rights theory located predominantly in legal theory, theology and philosophy. I explained that my position was that whilst human flourishing is inextricably linked to autonomy, I would balance this with an understanding of human flourishing in the context of a social community. To my mind, this necessarily had to be supported by a plural approach grounded in multivalent dialogic reasoning. I aligned my approach in particular with Rowan Williams and George Newlands religion-based approaches but, expanded this based on the concept of common grace to envisage FTCR as a gift. This was to create openness to other approaches, including those found outside a religious base. This aligned with the call in the Marrakech and Beirut Declarations for religions to cohere in their support of human rights. I argued that my approach was teleological in that its aim was to engage FTCR in support of human flourishing individually, in community and in national and international public life. The aim was to take a dialogic multivalent communal approach in order to overcome claims of imperialism of rights and counteract the polarisation of national public life.

The one theoretical approach that acted as the thread that linked aspects of my research into the theoretical basis of FTCR, was the work of Herman Dooyeweerd. I explained how Dooyeweerd's Christian philosophy, grounded in reformed theology, took a transcendental approach based in a Christian metanarrative with an in-built dialogic approach to other philosophical worldviews. Dooyeweerd distinguished his own approach as based on the concept of the absolute sovereignty of God, in particular in relation to law.

I explained that Dooyeweerd's law-idea was based on the understanding that there is an anti-thesis between God and the spirit of the world; that humankind communicates either consciously or subconsciously with God through the heart, their religious centre; that life is organised into spheres over which God is sovereign; and that faith is essential in human nature and human knowledge. For Dooyeweerd the core of the legal and moral order was grounded in the triune God, its creator. He regarded the concept of creation, fall and

redemption as the essential basis for Christian philosophic thought. Law was that which existed at the boundary between God and humankind and was thus, for Dooyeweerd, an expression of God's love for all humankind.

Unity of the spheres into which life was organised was, for Dooyeweerd, rooted in faith in God and his divine provenance. Nevertheless, rather than leave this entirely to the intervention of divine provenance, Dooyeweerd himself worked out a detailed and sophisticated framework for the interaction of the spheres and so envisaged humankind as being instrumental in collaborating with God to create unity between the spheres.

I explained how the interaction of the spheres for Dooyeweerd was mediated by the state, which had a jural function. Some aspects of the spheres were established in cultural and historical contexts, other aspects were supra-temporal. Aspects of the spheres had the capacity for reformation over time. Each sphere had a founding and qualifying function. The founding function was the essence upon which the sphere was formed, the qualifying function described the ways in which things exist. For example, a sports club and a church have founding characteristics which define their existence as a societal entity (sphere). Their qualifying functions are aesthetic and pistic accordingly.

Dooyeweerd developed the idea of enkaptic interlacement as a way of exploring the interactions between the spheres. This is based on the idea that if it is possible to understand the purpose and functioning of the sphere, then it is also possible to understand how spheres do and/or ought to interact. On this basis, it is possible to assess the wider implications of an individual conflict when, for example, the financial interests of the business sphere come into conflict with the pistic interests of the (religious) faith sphere. In this way the enforcement of rights is seen in the context of the wider societal and communal effect rights enjoyment has.

I posited that Dooyeweerd's philosophy had implications for my theoretical approach arising from its situatedness in reformed theology, incorporating the theory of common grace. This linked well with my approach to the underlying theoretical approach to FTCR grounded in common grace, leading to the conceptualisation of human rights as a gift. This also tied in with the need to find a way to resolve rights clashes in ways that were conducive to individual, communal and societal wellbeing. Dooyeweerd's conceptualisation of society as a series of spheres also linked well with the need to re-invigorate an environment for strong civil society institutions. His mechanism for analysing the spheres and their interaction also engaged well with my exploration of tradition as a mechanism to facilitate interactions between different groups in society.

Answering the key research questions

Having explored the context for my research in the first part of chapter 1 and to create a framework for understanding the concepts discussed in chapters 2-5, I next set out the key research questions: namely, to what extent can there be said to still be a universal right to freedom of thought, conscience and religion? Does reformed theology provide a theoretical approach supportive of a universal approach to FTCR in a manner envisaged by the Marrakech and Beirut Declarations? Is it possible to bolster the role of FTCR by analysing its interrelationship with the rule of law? In light of the enhanced role of FTCR that I posit, does the concept of tradition provide a mechanism for facilitating civil society dialogue supporting peaceful plural living together? Prior to exploring these questions in chapters 2-5, I provided a brief summary of the research methodology and methods used, defined some key terms used and explained how I built rigour into my work.

I identified that the research required that I delve into different subject disciplines and combine research methods. I therefore adopted an interdisciplinary methodology posited by Hilde Tobi and Jarl K Kampen, taking a process approach I worked iteratively through the research questions, adopting appropriate methods driven by the research questions as they developed. This required that I keep the overarching research question in mind, namely how might FTCR be used to enhance peaceful plural living together, but that I allow different methods to inform the evidence gathering and exploration of theoretical approaches.

I adopted a doctrinal restatement and recasting approach to gathering case law, creating a data base and examining legal instruments. I then situated this in a comparative and socio-legal analysis of the FTCR global landscape. I then explored theological approaches to human rights, identifying research in the fields of theological philosophy and systematic theology. I explained that the synthesis of my theological and legal research was particularly interesting for me, given the apparent difference in approaches within these disciplines. As I immersed myself in the work of those writing in the different disciplines, it became easier to consider that the synthesis I was making was legitimate, at least within the field of interdisciplinary study. This was made clearer in light of the works of academics such as Dooyeweerd and Williams, who comfortably synthesised their work in law and theology. I then explained that I built rigour into my work through the peer review process to which chapters 2-5 were subject and by presenting my ideas to a variety of different audiences.

In chapter 2 I addressed the first of my research questions, namely can FTCR still be said to be a universal right? I posited that despite high levels of infringements of this right globally,

as evidenced in the case law, in global measures, databases and the reports of UN diplomats, FTCR is, aspirationally at least, still a core universal right. Further, that the Muslim Accords and their comparative religion-based approach, in particular the Marrakech Declaration calling for the revival of the Charter of Medina, lay the foundations for enhancing support for religion-based approaches to rights which can necessarily only flourish in the context of FTCR. In accordance with the *#Faith4Rights Toolkit* which calls for 'space for a cross-disciplinary reflection on the deep, and mutually enriching, connections between religions and human rights', I proposed a dialogic Christian religion-based approach to FTCR. The specified objective was 'to foster the development of peaceful [plural national and international] societies, which uphold human dignity and equality for all, where diversity is not just tolerated but fully respected and celebrated.'[245]

In chapter 3, I started to explore the second research question, namely does Reformed theology, including the philosophy of Herman Dooyeweerd and the theory of common grace, provide a theoretical approach to FTCR that responds to the call in the Marrakech and Beirut Declarations for a plural approach to rights? In that chapter, I located FTCR in the concept of gift which, I argued, creates an approach open to those of other religious faiths and none, positioning the right more firmly in ideas of duty and community and aligning it more strongly with non-Western approaches. I proposed that this would create a more inclusive approach because the theory of common grace regards all humankind as having relevant capacity for providing input into the building of common norms for peaceful plural common public life. This approach is multivalent, accepting of multiple underlying frameworks to support agreed common norms.

Given the variety and complexity of constitutional systems worldwide, chapter 3 posits that universalism and contextualisation (not relativism) is what any theory should be aiming for. I posited an incremental dialogic approach in the light of the work of Bâli and Lerner,[246] who identify the need for gradual steps towards implementation for freedom of thought, conscience, and religion in cultures to which the concept is alien or challenging.[247]

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[245] Beirut Declaration: 4 and United Nations Office of the High Commissioner for Human Rights 'The Collonges Declaration and #Faith4Rights Toolkit' (2019), accessed 17 September 2024, https://www.ohchr.org/sites/default/files/Documents/Press/faith4rights-toolkit.pdf.

[246] Asli Ü Bâli and Hannah Lerner, 'Introduction' in Asli Ü Bâli and Hannah Lerner eds. *Constitution Writing, Religion, and Democracy*: 1-26, 6-13.

[247] Bâli and Lerner posit a contextualised approached based on an analysis of a variety of constitutional approaches to addressing religious divisions and difference in societies, with an overarching incremental approach: Asli Ü Bâli and Hannah Lerner, 'Designing Constitutions in Religiously Divided Societies' ed. Asli Ü Bâli and Hannah Lerner, *Constitution Writing, religion, and democracy* (Cambridge: Cambridge University Press, 2017): 374-394.

I posited that to avoid an uncontrolled cacophony of viewpoints and/or deadlock, fear of difference and/or fear of loss of a power base, this approach needs to sit within a framework capable of organising civil society interaction and dialogue. I proposed Dooyeweerd's Christian philosophy, built on the concept of sphere sovereignty. This is because it is capable of addressing the atomization of society and political centralisation of power. Also, because the discussion envisaged by Dooyeweerd's framework for civil society interactions could account for the idea of human flourishing within a broader concept of human community. It could support not just the resolution of rights clashes, but the enjoyment more broadly of plural public life.

In Chapter 4, I considered the third question, as to whether it was possible to bolster the role of FTCR by analysing its interrelationship with the rule of law. I identified the foundational nature of FTCR for the rule of law, in particular its role in facilitating the exploration of rule of law virtues within any given society. I did this from a theoretical angle by considering academic commentary on the rule of law and how FTCR was situated within it. I then undertook a comparative analysis of key global measures to identify the extent to which there was a correlation between high levels of FTCR, high rule of law compliance and high levels of happiness (as a (very) approximate measure of freedom of thought and conscience). This led me to conclude that whilst they were not necessarily interdependent, there was often a correlation between them in national context.

I found the strongest argument supporting the connection of FTCR and the rule of law to rest in the sociological analysis of Martin Krygier. It is the establishing of rule of law virtues, according to Martin Krygier, that ensures that it is possible to embed the rule of law within society. I argued that without FTCR, the development of rule of law virtues in any given society is likely to be impossible. The rule of law is not a one size fits all list of attributes capable of layering over any given constitutional framework: it is, according to Krygier, sensitive to national context. This means a dialogue around rule of law virtues and national understanding of public living together needs to take place to culturally embed the rule of law. I posited that, at an international level, a plurally informed articulation of virtue needs to underpin the internationalisation of the rule of law.

Focussing on the right to FTCR, I argued that in order to provide a theoretical basis for the complex task of supporting universal aspects of human rights integrated within the rule of law, a theoretical approach to FTCR would need to incorporate approaches appealing to a non-Western context. I consequently synthesised the theory of common grace and the Christian philosophy of society proposed by Dooyeweerd with the other-regarding theology

of Rowan Williams to provide an approach which can account for criticisms of the Western Liberal democratic individualistic approach to human rights.

I adopted Williams view that rights are grounded in the concept of humans as self-giving agents responsible for the building up of others and his argument that this requires cultural skills of 'a habitual mode of seeing another'.[248] In the light of this, I explored in more depth how Dooyeweerd's Christian philosophy could be adapted within a plural metanarrative to accommodate dialogue around virtue building and dispute resolution within societies of very different outlooks. I posited that the synthesis of Dooyeweerd' and Williams theoretical approaches, together with the implications of the theory of common grace that I highlight, imply that: first, there is a universal moral standard that can inform human rights law; second, the voices of those from all religious faith traditions and none are important in both discerning the common meta-narrative supporting human rights and in particular FTCR, and in informing law creation and adjudication based on plurally informed universal norms; third discernment and dialogue are necessary for reaching consensus on universal norms based on a multivalent ethic.

In chapter 5, I addressed my fourth question which was whether the concept of tradition could support an approach which facilitated the type of multivalent dialogue necessitated by the enhanced role of FTCR I had highlighted as necessary in the previous chapters.

I posited a theory to facilitate the multivalent dialogic approach I developed in my research. I proposed the practice of self-reflection by a group on their tradition to help them understand how they contextualise themselves within society over time. This led to the proposition that the ability to adapt tradition to changing societal norms could be harnessed to enable civil society groups to better understand how to enter into dialogue with one another and articulate their perspectives. This was in order to create an inclusive approach to building consensus in respect of norms governing public life.[249] It is anticipated that much common ground could be found and that over time this would build confidence in relation to a plural approach. Where this proves impossible, ongoing dialogue can facilitate an incremental approach to accommodate minority interests.

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[248] Rowan Williams, 'Rights, Recognition and the Body of Christ,' 10:35-10:54, 32:15-33:43.

[249] All the more important in the face of detraditionalization taking place in parts of the world: see Zachary R Calo, 'Law and Religion in a Detraditionalized Europe' in Jessica Giles, Andrea Pinn and Frank S Ravitch eds., *Law, Religion and Tradition* (Cham, Switzerland: Springer International): 135-151; *Lautsi v Italy* (Application no 30814/06) *Oxford Journal of Law and Religion* 1, no. 1 (2012): 289-290 https://doi.org/10.1093/ojlr/rwr008.

Final remarks

Through my analysis of freedom of thought, conscience and religion and the potential for establishing a new theoretical basis I have sought to develop new knowledge in the field of interdisciplinary human rights theory.

After demonstrating the importance of FTCR for plural living together, I set out to answer a set of distinct challenges to this concept. I have argued that despite global differences and high levels of violations, FTCR can still be considered, aspirationally at least, a universal right (chapter 2). Next, I have shown how the theory of common grace, incorporating the concept of gift, can create an open dialogic approach to strengthen the basis of FTCR by opening it up to calls, as for instance in the Marrakech and Beirut Declarations, for a more plural non-Western dominated approach (chapter 3). Then, I have contended that FTCR can be better understood by recognising its foundational role for the rule of law and by reconceptualising its theoretical basis. Here I combined an open dialogic approach within a Dooyeweerdian conceptualisation of civil society as a series of spheres supported by a sophisticated analysis of societal interactions. This was combined with Rowan Williams' 'other regarding' approach which incorporates the idea of 'holding others in loving attention'[250] (chapter 4). After this, I posited that the concept of tradition could support a process of self-reflection by civil society groups. This was to enable them to enter into dialogue with a view to building consensus around societies common norms and to resolve (legal rights) conflicts (chapter 5).

I have underpinned this with an exploration of the implications of Dooyeweerd's Christian philosophy and the theory of common grace for FTCR, predominantly in respect of its societal aspects, but also in relation to its individual aspects. I uniquely consider the implications of FTCR for the rule of law in national and international context and the extent to which the Reformed theological approaches identified might impact this. I have sought to identify an approach that could address accusations of a Western bias underpinning FTCR and, to this end, I uniquely synthesise the theory of common grace with the rights theory of Rowan Williams and the Christian philosophy of Herman Dooyeweerd to posit a dialogic multivalent approach to FTCR. One that is sensitive to the concept of human community and other-regarding approaches. I then uniquely argued that the manner that civil society groups,

[250] Rowan Williams, 'Rights, Recognition and the Body of Christ' 33:35-33:40, 38: 25-35, 44:35-45:32, 48:03-48:55

including religions, develop tradition and enculturate themselves over time could provide a tool for facilitating civil society dialogue. The overarching aim was to seek to reinvigorate the role for FTCR as a constitutional mechanism for peaceful plural living together and human flourishing.