



Just Wars, Holy Wars, and Jihads: Christian, Jewish, and Muslim Encounters and Exchanges

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Print publication date: 2012

Print ISBN-13: 9780199755042

Published to Oxford Scholarship Online: September 2012

DOI: 10.1093/acprof:oso/9780199755042.001.0001

Angles of Influence

Jihad and Just War in Early Modern Spain

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DOI:10.1093/acprof:oso/9780199755042.003.0006

Abstract and Keywords

This chapter surveys the impact of Muslim culture on conceptions of just war and the righteous warrior in the literature and laws of medieval Christian Spain. The first part contrasts the image of Islam in *The Song of Roland* and in *The Poem of the Cid*. These two works highlight the contrast between the parochialism of French chivalry and the pluralism of Spain. The second section is an analysis of *Las Siete Partidas*, a legal code dating from the reign of Alfonso X of Castile (1252–84). The possibility of a link between Spanish “pluralism” and the Malikite inclination to interpret shari’a with an eye to the public good seems to underlie the more accommodating tendencies of Averroes. The final section focuses on the work of Vitoria, Soto, and the Second Scholastic as an attempt to reinvigorate pluralism against the imperial claims of both the papacy and the Habsburgs. The rise of Grotius marks a defeat in which the lawyers of an emerging Europe of nation-states triumph over the Aristotelian moral theology of Aquinas and the Second Scholastic.

Keywords: Spain, Poem of the Cid, Averroes, Las Siete Partidas, Second Scholastic, The Song of Roland

In the first half of the sixteenth century, a group of Spanish Dominicans—most notably Francisco de Vitoria, Domingo de Soto, and Melchor Cano—developed the moral theology of Aquinas to criticize slavery, the conquest of the Americas, and the emerging doctrine of blood purity.¹ This “Second Scholastic,” or “School of Salamanca,” is frequently credited with laying the foundations for

international law and the modern just war tradition.² In addition, Vitoria and Soto stand firmly against both the “national messianism” and “sectarian apocalypticism” that Norman Housley discerns in fifteenth- and sixteenth-century Spain.³ Given the frequently encountered notion of *convivencia* applied to relations among Christians, Jews, and Muslims of medieval Iberia, it is not unreasonable to wonder whether there might be some influence running from the thinkers of al-Andalus either to the Spanish Dominicans directly or from the Islamic thinkers of the earlier Middle Ages through Thomas Aquinas to his followers in sixteenth-century Spain.⁴ In what follows, I will argue that the more rigorous we make our standards for attributing influences, the less credible these claims become. Even properly chastened, however, I conclude that there are some possible angles of influence that, while so far unproven, show promise for drawing some connections between the medieval Christian encounter with Islam and early modern just war thinking.

A Promising Dead End: Aristotle, Ibn Rushd, and Aquinas

It would be both simple and satisfying if we could draw a line of influence through the great twelfth-century commentator, Ibn Rushd (Averroës). Ibn Rushd followed his grandfather, also named Ibn Rushd, as one of the most important legal scholars of al-Andalus.⁵ He was also one of the greatest commentators on the **(p.126)** works of Aristotle. Furthermore, it is well known that the grandson’s commentaries were both widely available and highly controversial in thirteenth-century Paris.⁶ Thomas himself cites Ibn Rushd in many places, from the commentary on the *Sentences* through the commentaries on Aristotle to the *Summa Theologiae*. If we could reconstruct Ibn Rushd’s account of just war, it would be possible, at least in principle, to consider its impact on Saint Thomas.

Unfortunately, this is not as easy as we would like. Charles Butterworth remarks that unlike al-Farabi, Ibn Rushd “discussed just war only indirectly and even then in no more than one or two of [his] writings.”⁷ Nonetheless, it is possible to reconstruct several components of Ibn Rushd’s understanding of war. Like Plato, and indeed like almost all thinkers before the modern period, Ibn Rushd takes war to be a normal part of social life and preparation for it to be among the “useful civic matters.”⁸ This follows from the need for “the coercion of difficult nations,” due either to the “primary intention of removing from other cities that which they detest ... or to a secondary intention in relation to guarding against what might possibly harm the city from without.”⁹ Ibn Rushd identifies this with “just war.”

In the discussion of jihad in his *Bidayat al-mujtahid* (The Jurist’s Primer), a discussion of conflicting interpretations among the schools of Islamic law, Ibn Rushd expands on the relation of justice to jihad, with explicit reference to the virtuous action enjoined on the community of Muslims. The *Bidayat*, however, is primarily interested in the nature and origins of conflicting legal judgments, and

it is often unclear which interpretation Ibn Rushd intends to follow. Thus, he notes that “scholars agree that all polytheists should be fought,” while acknowledging that Malik, whose school dominated al-Andalus, maintains “that it would not be allowed to attack the Ethiopians and the Turks on the strength of the Tradition of the Prophet: ‘Leave the Ethiopians in peace as long as they leave you in peace.’”¹⁰ Presumably, the tradition applies to the Turks on the principle of analogy and the operative phrase “as long as they leave you in peace.” Ibn Rushd adds that Malik questioned the authenticity of the tradition “but said: ‘People still avoid attacking them.’”¹¹ To the extent that Ibn Rushd, as an adherent of Maliki jurisprudence, is committed to following the founder’s precedent, this may suggest that restraint is preferable in terms of the best interests of the community.

After considering various controversies and their sources in divergent traditions, Ibn Rushd finally pronounces:

Basically, however, the source of their controversy is to be found in their divergent views concerning the motive why the enemy may be slain. Those who think that this is because they are unbelieving do not make exceptions for any polytheist. Others, who are of the opinion that this motive consists in their capacity for fighting, in view of the prohibition to slay female unbelievers, do make an exception for those who are unable to fight or who are not as a rule inclined to fight, such as peasants and serfs.¹²

(p.127) Presumably, given that Malik cites multiple versions of the prohibition on killing women, Ibn Rushd follows the second opinion, but it is not clear whether he takes this to be the best argument.

Noah Feldman, however, notes a distinctively Aristotelian twist in Ibn Rushd’s middle commentary on the *Ethics*, which may clarify his position. He is explicating the discussion of *Ethics* V, chapter 7, where Aristotle argues that “when the law speaks generally but a case arises that is not covered by the general statement, it serves the virtue of equity to correct the omission and to rectify the law.”¹³ Ibn Rushd notes that for Muslim law, “the command in it regarding war is general, until they uproot and destroy entirely whoever disagrees with them.”¹⁴ But virtue dictates that

there are times when peace is more choiceworthy than war. And as for the fact that the Muslim public requires this generality, despite the impossibility of destroying and uprooting their enemies entirely ... is ignorance on their part of the intention of the legislator, may God watch over him. Therefore it is appropriate to say that peace is preferable to war sometimes.¹⁵

Feldman goes on to draw the conclusion that “the duty of holy war has not been lifted, but it has been rationalized by an interpretation that avoids requiring self-destructive behavior from the Muslim community.”¹⁶

This may be too cautious. In his *Decisive Treatise*, Ibn Rushd argues that those capable of understanding them are obliged to study “the books of the Ancients.”¹⁷ These intellectuals are the very same individuals who are charged with interpreting shari’a, Islamic law. In 1125, Ibn Rushd the grandfather distinguished three groups within the community of jurists: those who memorize Malik’s positions without understanding, those who understand the coherence of Malik’s reasoning without being able to reach conclusions on their own, and those who can reason from revelation and principle to positive conclusions. This last group has

the freedom to exercise *ijtihad* [independent judgment] since they have perfected the tools of original legal reasoning on the basis of the revealed texts. The qualifications permitting them to practice *ijtihad* are not a matter of quantitative memorization of legal doctrines; rather, they are the refined qualities of legal reasoning and an intimate knowledge of the Quran, the Sunna, and consensus.¹⁸

The grandfather illustrates here the continuing independence of Andalusian Maliki shari’a, which had initially focused more on Malik’s principles of judicial reasoning, his *ra’y*, than on the specific traditions he transmitted.¹⁹ What counts is not mastery of traditions but refined legal intellect. Ibn Rushd the grandson follows his grandfather and implies that this highest level of jurist should **(p. 128)** understand his activity in terms of the wisdom of the ancient philosophers. It is crucial that jurists think for themselves because difference of opinion is inevitable, if only because “the situations that may arise between people are infinite in number, whereas the texts, actions and tacit approvals of the Prophet are finite in number.”²⁰

Brought together, the components of the grandson’s thinking suggest that war will be a necessity for any community, including that which attempts to subordinate itself to God’s will. Justice requires the implementation of shari’a by authorities informed by philosophical thought. To the extent that Ibn Rushd the grandson follows the lead of Malik, he is committed to protecting noncombatants and to a comparatively restrained policy with regard to combatants. In matters of community uprightness, dealing justly trumps everything. Malik writes, for example, “as for the people with a treaty ... their property and lives are protected by the treaty they made. Only the terms of the treaty are demanded of them.”²¹ In this matter, as in that of safe conduct, the Muslims are bound by their word or by gestures that can be interpreted as words. To do otherwise is to fail to practice jihad in the way of Allah.

Right authority, just cause, reasonable proportion, and discrimination in battle—all of this suggests a close precursor to Thomas Aquinas's account of justice in war, with at least a hint of Aristotelian moral theory in the background. Unfortunately, Thomas does not know Ibn Rushd's *Bidayat*. Nor does he seem to know the remark from Ibn Rushd's commentary isolated by Feldman. Robert Busa's *Index Thomisticum*, which allows electronic searches of the best available editions, returns 142 references to Ibn Rushd in Thomas's works, but none of them seems to be to the commentaries on the *Ethics*.²² Ibn Rushd does not appear in Thomas's commentary on the *Ethics*, nor does he show up in the relevant discussions of *Summa Theologiae* 2a2ae. If there is an important Islamic contribution to this strand of just war thinking, it will have to be approached indirectly.

Ideas in the Air: Marcel Boisard on the Influence of Islam

One of the most widely cited attempts to trace the influence of Islam on Western political thought is Marcel Boisard's "On the Probable Influence of Islam on Western Public and International Law." Boisard, a distinguished diplomat long connected to the International Committee of the Red Cross, acknowledges:

To analyse the influences in the field of law is a difficult task. Identical ideas may be generated spontaneously without showing any imprint whatsoever. What is more, the time lag, generally fairly long, that spans the time between the impact of a symbol and its concrete acceptance is a further source of difficulty.²³

(p.129) But having issued this note of caution, Boisard ranges across time and place with breathtaking abandon and little detailed documentation. Consider the following passages from a single page:

If concrete influences are difficult to determine ... it is nonetheless certain that they deeply affected the popular mind.... The direct victims of combat ... in all probability also contributed to a transmission of certain conceptions and ideas that had been encountered in the Orient. The author of *Don Quixote* was imprisoned in Algiers.... Certain members of European noble families were taken hostage and sent to Muslim courts. Treated as guests, they probably cannot but have been impressed by Muslim culture of which they were the direct propagators upon their return home.²⁴

Invoking probabilities and undocumented "certainties" is unavoidable in a certain kind of popular writing, but it is worrisome in any attempt to trace the specific influence of one set of ideas on another. This is even more the case when popular assertion flies in the face of scholarly consensus.

A troubling example of this occurs in Boisard's discussion of the *Siete Partidas*. The *Siete Partidas* are the most important product of the ambitious project to codify the laws of Castile drawn up under the aegis of Alfonso X.²⁵ Boisard reads

the *Siete Partidas* “both in form and content as a direct adaptation of Muslim law.”²⁶ This does not square with the scholarly consensus, which sees the motivation primarily in the rise of the study of both canon and Roman law in the preceding century. As Robert MacDonald puts it:

The glossators and other university scholars were primarily responsible for the reception of common law into Castile. Common law refers to the juridical system, arising in Italy, that resulted from the contact (but not the fusing) of Justinian Roman law, canon law, and feudal law, and it also takes in maritime law.²⁷

What may have misled Boisard is the status of customary law. The *fueros* of medieval Spain were charters, issued particularly to recaptured frontier towns, that codified relations between citizens and their ostensible rulers. They “could also include modifications of existing law and special legal regulations that then became part of the privileges of the citizenry.”²⁸ They often reconfirmed preexisting practices and in that sense were likely to incorporate the sorts of concessions made to the towns in earlier days by their Muslim overlords.²⁹ In any case, the *Siete Partidas* shows no self-conscious attempt to adapt models drawn from Islamic law.³⁰

How do Muslims themselves figure in the *Siete Partidas*? The discussion of Muslims comes between those of Jews and heresy. The ten statutes begin with a **(p.130)** description of the Muslims as “a people who believe that Mohammed was the Prophet and Messenger of God.”³¹ Although their belief is false, “so long as they live among Christians with their assurance of security, their property shall not be stolen from them or taken by force; and we order that whoever violates this law shall pay a sum equal to double the value of what he took.”³² Christians are enjoined to attempt conversion by “kind words,” never with violence. While the penalty for Christian apostasy is infamy, a crippling legal status, if the apostate renders great service to the community and subsequently repents and seeks to return to the faith, “we consider it proper that he also be released from the penalty of being considered infamous, that he shall not lose his property; and that no one thereafter shall dare to reproach him or his conduct ... just as if he had never renounced the Catholic faith.”³³

Sex with a Christian virgin leads to stoning for the Muslim, but this illustrates no particular antagonism between the religions, since a Christian “man who is accused and convicted of having committed adultery must be put to death.”³⁴ Furthermore, “if Christians who commit adultery with married women deserve death on that account, much more do Jews who have sexual intercourse with Christian women.”³⁵ In fact, Muslims seem to get a slight break here, for “if a Moor has intercourse with a common woman who abandons herself to everyone, for the first offence, they shall be scourged together through the town, and for the second, they shall be put to death.”³⁶ These titles seem to reflect nothing

more than the fact, as James Brundage puts it, that during the thirteenth century, “nonmarital sex became a problem of growing interest to the Church’s lawyers, as did the evidence and procedures in sex cases.”³⁷ Given his desire to be comprehensive in legislating for his realm, if it was a problem for the canon lawyers, it was a problem for Alfonso.

Fallacy and Influence

Nothing I have said above makes it impossible for influence to have flowed in the ways that Boisard imagines, but nothing Boisard has argued shows that it did. What’s maddening about Boisard is the casual willingness to ignore the fallacy of *post hoc ergo propter*. To think that because something happened after something else, it happened because of that something is a powerful temptation. Sometimes it’s true, but sometimes it isn’t. Consider: “I first met Mark’s wife at their wedding. Nine months later, she had her first child.” If I can truthfully say that I had no inappropriate interactions with Mark’s wife, then the fact that the first event took place has no connection to the second. For all we know, the child would have been born had I been stranded at the Dallas airport the weekend of the wedding.

Sometimes it’s just very hard to know. For instance, Sharon LaFraniere, reporting for the *New York Times*, writes on February 6, 2009: **(p.131)**

Nearly nine months after a devastating earthquake in Sichuan Province, China, left 80,000 people dead or missing, a growing number of American and Chinese scientists are suggesting that the calamity was triggered by a four-year-old reservoir built close to the earthquake’s geological fault line.³⁸

Did building the dam so close to the fault line trigger the quake? It might have, but earthquakes are hard to predict in the short run. Over time, it is highly probable that a quake would have occurred regardless. The seismologists, not to mention the lawyers, would like to know whether the building of the dam *caused* the earthquake.

Unfortunately, the very notion of causality is contested. At least since Hume, it has been a subject of intense philosophical debate.³⁹ Putting aside a great number of ontological and methodological issues, however, a minimal condition for claims of causation is that there be sufficient evidence to satisfy certain counterfactual propositions of the form:

If X had not happened, then Y would not have happened.

The attempt here is to capture the idea that Y didn’t simply happen after X but that the occurrence of Y in some sense depended on X. *Post hoc ergo*, in other words, is a fallacy because it assumes precisely what needs to be demonstrated.

If we take “influence” to be a comparatively weak causal connection, then arguments for influence can be arranged along a graded rule of argument forms, from weakest to strongest. Since:

A produced X at time t ; B produced Y at time $t + d$

would be guilty of *post hoc ergo*, the weakest form would be something like:

A did X, then B did Y.

Here we could imagine something like a report of a tennis match, where the reporter can take for granted that his audience understands the context of the game and the importance of each volley to the outcome. An argument for it has a low burden of proof, but it has almost no interest. Presumably, had the audience members actually been there, they could have forgone the report altogether.

The strongest argument would be the counterfactual:

B would not have produced Y at t if A had not produced X at $t - d$.

This seems to capture the fullest form of influence.⁴⁰ Such claims will frequently be of great interest but will have a very high burden of proof, since they assert **(p.132)** not simply person-to-person influence but artifact-to-artifact influence. Since artifacts are themselves the products of human ingenuity, the argument will have to show not simply that A influenced B but that the particular product of A's action at a particular time influenced the different product created by B at a given time. If we take into account the human tendencies to excess on the one hand and pride on the other, even the existence of authenticated first-person statements such as “I could not have written my poem had I not read yours” or “I never read that author; how surprising that he should have anticipated me so closely” offer only partial evidence. For all we know, Wally might have written substantially the same poem if he had never run across Bill's. He might simply be excessive in his admiration.⁴¹

Somewhere in the middle will be the various versions of the argument:

B produced Y at t because A wrote X at $t - d$.

I say “versions” because A's connection to B can be more or less proximate and still have the claim turn out to be true. Thus, the “because” here can be represented by any number of possible counterfactuals, any of which might give a different slant on the sort of influence and the evidence for it. There might, for example, be counterfactuals of commission, of rivalry, of respect or disdain. In short, the types of influence in matters human are both unlimited and unpredictable, and the arguments for influence should mirror those realities.

These arguments will typically need to balance interest and burden of proof, with the one being in direct proportion to the other.

Art history cases such as the following abound:

1. Picasso would not have painted *Les demoiselles d'Avignon* if Courbet had not painted *L'atelier du peintre*.
2. Picasso would not have painted *Les demoiselles d'Avignon* if Cézanne had not painted *Les grandes baigneuses*.

Either or both of these claims might be true. I don't, off the top of my head, know how interesting or controversial they are. I imagine that it would be hard to meet the burden of proof for the strong counterfactual, where no other painting can be substituted in any clause, and the art historian may be left with the much weaker:

3. Because Courbet and Cézanne painted *L'atelier* and *Les grandes baigneuses*, Picasso was in a position to imagine and paint *Les demoiselles*.

Depending on the current interpretive climate, this might be interesting enough to argue, but it might not.⁴² Even where the interpretive stakes are high enough to be interesting, it will be important to remember, as Michael Baxandall puts it, that Y is rarely if ever the passive recipient of influence. "Picasso," as Baxandall writes, **(p.133)** "acted on Cézanne quite sharply. For one thing, he rewrote art history by making Cézanne that much larger and more central a historical fact in 1910 than he had been in 1906."⁴³

Interpreting *Jus in Bello*: A Case Study in Influence

The dual measures of interest and burden of proof will themselves vary with the scholarly milieu. It may be worthwhile, to get a sense of how the proposed analysis is supposed to work, to sketch a conflict between two interpretations and then to imagine how an advocate of Boisard's position might introduce yet a third competitor as candidate for the best explanation. The case I propose is that of the law of war concerning those groups that are immune from attack.⁴⁴ In general, James Turner Johnson and I agree about the contours of medieval just war thinking. But we disagree on a crucial point. I am inclined to argue that the Aristotelian tradition, as modified by Thomas Aquinas in the light of Church teaching, contains all of the resources necessary to generate a fully realized account of justice in the prosecution of war. Johnson, however, maintains that *jus in bello* is only implicit in the theological tradition and requires not just the revival of Roman law but, "second, the somewhat inchoate but widely influential code of conduct for the knightly class, the chivalric code."⁴⁵ Johnson worries over the failure of the canonists and theologians to specify who is immune from

direct attack. "The canonical effort to protect noncombatants in wartime," he writes,

began slowly and with a marked degree of insularity in its expression. Gratian's statement ... denied to certain classes of ecclesiastic the right to participate in war and accordingly extended to them the right of protection in wartime. In the following century Gregory IX's *De Treuga et Pace* extended this earlier canonical list of noncombatants ... to include clerics, monks, friars, other religious, pilgrims, travelers, and peasants cultivating the soil.⁴⁶

Honoré Bonet, however, extends this list to "bishops, abbots, monks, doctors of medicine, pilgrims, women, blind persons, all other men of the Church not named earlier, the deaf, the dumb, woodmen, and farmers," all of whom should be spared, apparently, because "they do nothing to favor one side or another in a war, but rather work, as he says explicitly of the farmer, 'for all men.'"⁴⁷ Bonet, on Johnson's reading, represents an amalgam of "the churchly tradition alongside the chivalric."⁴⁸ The chivalric code, here, is dependent on "the knight's sense of distinctness as a member of a special class." Johnson goes on to characterize this as having

both a positive and a negative side: positively, it encouraged the knights out of a sense of *noblesse oblige* to protect the weak and innocent; negatively, it **(p.134)** led to prejudice and harsh treatment against anyone not of the knightly class who became involved in military combat. But in both its aspects this self-conception as a unique class, with unique responsibilities as well as privileges, came from the tradition of chivalry itself; it was not an ideal grafted on by the Church.⁴⁹

Here is a nice, strong claim for influence. The implication is that had there been no chivalric code, noncombatant immunity would not have developed as it did. How do we test it? On my analysis, we might formulate the counterfactual of influence as:

Had it not been for the tradition of chivalry, the history of noncombatant immunity in the law of war would not have developed as it did.

This, of course, may well be true, but I am interested in a narrower claim, focused on the concept of noncombatant immunity found in the work of the Second Scholastic, specifically in Francisco de Vitoria, who writes, "first, *it is never lawful in itself intentionally to kill innocent persons*," and goes on to expand:

It follows that even in wars against the Turks we may not kill children, who are obviously innocent, nor women, who are presumed innocent at least as far as the war is concerned (unless, that is, it can be proved of a particular

woman that she was implicated in guilt). It follows also that one may not lawfully kill travellers or visitors who happen to be in the enemy's territory, who are presumed innocent. And the same is true of clergy and monks, unless there is evidence to the contrary or they are found actually fighting in the war. I think there can be no doubt about this.⁵⁰

Here and in the parallel discussions *On Homicide* and in the commentary on Thomas's *Summa Theologiae*, 2a2ae, 64, Vitoria cites scripture, canon law, and Thomas himself, equating innocence with regard to war explicitly with not fighting in the war.

My counterclaim, then, would not be that Johnson's counterfactual is incorrect, broadly construed, but that

Had the chivalric tradition never existed, the law of war as understood by the Second Scholastic would have developed unchanged, based on the teachings of Thomas Aquinas and the official documents of the Church alone.

This would, if sustained, yield me the claim that the chivalric tradition was irrelevant to Thomist teaching on just war, from which I could then go on to maintain **(p.135)** that insofar as the distinctive Church teachings merely elaborate, as opposed to furnishing, the central arguments, Thomas and his followers may rightly be seen as thinkers in a distinctly Aristotelian account of ethics in war.⁵¹ Johnson, of course, has a number of potential responses, to which I would then be obligated to provide rejoinders. Even if this debate were never resolved, it would still illustrate how counterfactuals of influence may be formulated and evidence offered for and against.

Suppose, now, that Boisard or someone influenced by him was still convinced of the impact of Islam on medieval and early modern just war thinking. He might return to the claim that despite its stated reliance on "the sayings of the Saints and of wise men of Antiquity," the discussion of "armed conflict" in Alfonso's *Siete Partidas* was

preceded in Muslim Spain around 1280 by the *Villayet*, a text that enumerates the centuries-old Muslim laws of war. Mentioned were the protection of children, old people, women, invalids, and the mentally ill, the safeguard of political representatives and those in need of safe conduct, as well as injunctions against bad faith, and perfidious and disloyal actions.⁵²

To sustain this third rival analysis, Boisard or his representative would first need to identify the provenance and influence of the *Villayet*, for the reference is unclear, and Boisard provides no bibliographical help. Furthermore, they would have to explain an important chronological discrepancy. The consensus among

students of the *Partidas* is that they were “completed between 1256 and 1265.”⁵³ They were preceded, according to some scholars as early as 1253, by another of Alfonso’s legal compilations, *el-Espéculo*.⁵⁴ If these dates are accurate, then the *Villayet* can hardly have been an influence, even if Alfonso’s compilers were using Arabic sources, a point that is also treated skeptically in the literature.⁵⁵

Aside from difficulties in chronology, Boisard and his supporters would have to sustain the claim:

Had it not been for the impact of the *Villayet* (or closely similar documents) on the intellectual community of medieval Spain, the law of war as understood by the Second Scholastic would not have developed as it did.

This is, of course, much stronger than the likelihood that a given document preceded another. But claims for influence *should* be held to that heavier burden of proof. When the *Siete Partidas* introduces the discussion by distinguishing wars as *justa*, *injusta*, *civilis*, and *plusquam civilis*, it would seem to rely on exactly the sort of legal text that students of the document generally assume. Thus, part of the burden of proof will include explaining why what looks like reliance on one sort of **(p.136)** text should really be seen as reliance on a different sort. Until the followers of Boisard meet this burden, they will not advance beyond the questionable claims of *post hoc ergo*.

Islam, Aquinas, and the School of Salamanca

Instead of attempting to argue my interpretation, over and against that of either Johnson or Boisard, I will end by suggesting three potential approaches to seeking an Islamic influence on the just war thinking of the Second Scholastic. One approach would turn on the claim:

Had it not been for the distinctively Maliki approach to jihad in al-Andalus, just war thinking would not have developed as it did.

The Maliki school of shari’a, at least in early medieval al-Andalus, was inclined to restrict “forbidding wrong and commanding right” to the secular authorities, thus limiting the individual impetus to follow this command. Ibn Rushd the grandfather writes that “only the authorities are able to deal with offences of the kind in question across the board.”⁵⁶ Believers should follow the injunction of Qur’an 5:105 to “look to their own souls and ignore the misdeeds of others.”⁵⁷ Dominique Urvoy, tracing the Andalusian development of jihad, sees a move from religious motivation, to the official protection of Islamic lands, to what a contemporary critic sees as “repugnance for military expeditions and ... aversion for holy war.”⁵⁸ That some scholars volunteered for jihad armies in twelfth-century al-Andalus, as Michael Bonner reports, does not necessarily contradict Urvoy’s account of the status of jihad, particularly in al-Andalus’s urban centers.⁵⁹ The project, then, would be to determine whether there is any

evidence to suggest that the distinctively Andalusian attitude toward jihad in the eleventh and twelfth centuries had any impact on thinkers who might have transmitted it to the West.⁶⁰

A second line of research might focus on the Order of Preachers, which got its start in Old Castile. Is there a strand of influence in the early Dominican tradition that might have disposed it to a form of just war thinking that restricted conflict with nonbelievers? The story of Dominic's early religious life in Castile and his subsequent mission to the heretics is well enough known. Jacob de Voragine's life of Dominic in the *Golden Legend* tells of his compassion for a woman whose brother was held by the Muslims and his offer to sell himself in exchange but notes that "God did not allow this, foreseeing that the saint would be needed for the spiritual redemption of many captives."⁶¹ The rules for exchange were well known on both sides and formalized in various *fueros* from at least 1131.⁶² In the thirteenth century, a religious order emerged along the frontier to facilitate ransoming, although there seems to be little evidence for the sort of substitution that Dominic offers.⁶³ In Jean de Mailly's life of Dominic, there is a curious detail (p.137) that may hint at the active choice not to address his work to Muslim-Christian relations. Reginald, dean of an Orléans church, "arrived in Rome, intending to cross the sea with the bishop of Orléans."⁶⁴ A cardinal mentions the newly formed Order of Preachers, and, with a bit of help from the blessed Virgin, Reginald is diverted from the Holy Land and brought into the order. It might be that Dominic persuaded Reginald that preaching to heretics was more valuable than preaching to Muslims, but the text leaves us unsure.

Finally, there is the possibility that Thomas's work in the second part of the *Summa Theologiae* was influenced by a developing argument within the Dominican order, namely a debate about the wisdom of crusading, not in Spain but in the East. In a recent essay, Thomas O'Meara cites Peter Engels's judgment that "while the first Crusaders appeared full of prejudices about an idolatrous religion, the next generation more and more changed their viewpoint."⁶⁵ In particular, William of Tripoli, a Dominican of Acre and exact contemporary of Thomas Aquinas, stands out as a critic of the crusading enterprise as a whole. William displays a detailed understanding of Islam and recommends eschewing military force in favor of "love and true friendship with God and neighbor."⁶⁶

In this, William stands in marked contrast to Humbert of Romans, sometime master-general of the order, who composed his *Treatise on Preaching the Cross against the Pagan Saracen Infidels* not long after 1266. Penny Cole describes the *Treatise* as "an omnibus, a reference collection of ideas and information about crusading up to his own day."⁶⁷ Humbert's goal here, and in the subsequent *Opus Tripartitum*, is to rally the men of Europe to a new crusade. In both, Humbert is clearly animated not only by concern for the Eastern Church but, as

Cole puts it vis-à-vis *On Preaching the Cross*, a “single-minded intractable hostility.” He writes of Muhammad that “the man, and after his death his image should be pelted with excrement.”⁶⁸ Edward Brett, writing of the *Opusculum Tripartitum*, describes the argument as “sophism *par excellence*,” going on to admit that it is “a weak argument, which had no possibility of converting those who postulated the above objection,” namely that of William. Brett concludes that “this is especially apparent when one remembers that those who favored peaceful missionary work bore the mark of respectability, for they included many notable churchmen, even some friars.”⁶⁹

Brett takes William to be one of those notables, and there is a good possibility that Thomas was familiar, if not with William, then with his views. O’Meara notes that William appears in three bulls issued by Urban IV from Orvieto in 1264, while Thomas Aquinas was in residence at the priory there.⁷⁰ It was at this time that Thomas completed the *Summa contra Gentiles*, along with two short works, *Against the Errors of the Greeks* and *On Arguments for the Faith, for the Cantor of Antioch*. This latter piece, in ten brief chapters, is a response to worries about Saracens, “mockers of the faith,” who deride the fact that “we say that Christ is the son of God, since God does not have a wife; and call us insane since we maintain that God is three persons, thinking by this that we mean there are three gods.” Thomas (p.138) goes on to note that “in asserting their errors, they illustrate what the lord says in the Gospel: ‘There are many mansions in my father’s house.’”⁷¹ Although he is willing to help the cantor, Thomas insists that “in these matters deploy moral and philosophical arguments, which the Saracens acknowledge. It is pointless to introduce authorities against them that they do not acknowledge.”⁷² In short, as Torrell puts it, “the Christian arguer cannot aim at proving the faith, but only at defending it and showing that it is not false.”⁷³ From the references to the *Summa contra Gentiles*, he concludes that *On Arguments* was written shortly after that work, probably in 1265. O’Meara follows Torrell in judging the piece “an apologetic of a high quality”⁷⁴ and speculates that Thomas may have been influenced by either the writings of William or some report from Dominicans living in the East.

Unfortunately, Thomas does not appear to mention William, and his references to Muslims generally are few.⁷⁵ What is certain is that almost a decade later, Thomas was summoned by Gregory X to the Council of Lyons, where, among other things, the prospects for a new crusade were to be discussed. “Before the council convened in May 1274,” writes Christopher Tyerman, “Gregory sought advice from politicians and churchmen professionally involved. A number of treatises were submitted containing advice that varied from a catalogue of ecclesiastical, including crusading, shortcomings by a Franciscan to a plea by an Acre Dominican, William of Tripoli, for the conversion, not destruction, of the Muslims.”⁷⁶ The council was also the occasion for Humbert’s *Opus Tripartitum*.

In the end, Humbert's view carried the day, but the project was abandoned after Gregory's death at the beginning of 1276.⁷⁷

Aquinas himself never made it; he died en route, at the beginning of March 1274. While it is almost certain that he was aware of the dispute among his brothers, we do not know what Thomas might have said in the debate between Humbert and William. It is frequently assumed that he was a proponent of crusading, but the grounds for this are uncertain. All of his references to *crucesignatus* come in *Quodlibet II*, the majority of them in question 8, which deals with the remission of sin and the satisfaction of crusading vows. Tyerman cites *Summa Theologiae* 2a2ae, 188, as the point where "Thomas Aquinas needed to spell out the meritorious connection between fighting God's war and a penitential vocation."⁷⁸ It would indeed be helpful to know what Thomas thought of the crusading tradition, but we don't. What we do know is that his family was deeply implicated in the conflicts between the papacy and Frederick II and that criticism of the papal use of the crusade against Christians was widely abroad in the thirteenth century.⁷⁹ Landolfo, Thomas's father, was "one of Frederick's barons.... At least two and probably more of Thomas' brothers served at different times in the imperial army."⁸⁰ Torrell writes:

Rinaldo, the second son, was at first a partisan of Frederick II, but joined the pope when Innocent IV deposed the emperor in 1245. The emperor, however, put him to death in 1246 for conspiring against him. The family **(p.139)** considered him a martyr for the cause of the Church. Thomas, too, seems to have believed the same, since in a dream vision his sister Marotta, recently deceased, informed him of the eternal destiny of his two brothers: Rinaldo was in heaven, while Landolfo was in purgatory, the only thing we know about the latter.⁸¹

Assuming that Landolfo had maintained the family connection with Frederick, it seems that partisans for either side can, at least eventually, make their way to heaven.

Conclusion

I have argued, not with any particular originality, that influence is difficult to document. If we view it as a comparatively weak form of causality, then the best way to interpret claims for influence will be in terms of their ability to license certain counterfactuals. This ability, in turn, will rest on the comparative balance of the evidence for two or more competing counterfactuals. This evidence will itself be of the usual historical sort, turning on documents and artifacts gleaned from the various sources available. Judgments about the influence of one or the other piece of evidence will themselves turn on similar counterfactual claims. All of this will be subject to the shifting norms of historical judgment and the changing base of evidence in a given field. In the case of Cézanne's influence on Mondrian, for instance, there are catalogues documenting which works were in

which exhibits, Mondrian's own remarks about his ongoing work, the writings and recollections of other contemporaries, and so on. In the case of Thomas Aquinas and the School of Salamanca, there is not as much to work with. Almost all of the claims for influence linking the thirteenth-century saint with the sixteenth-century Spanish theologians will be subject to a greater sense of uncertainty than the art historian's claims about Cézanne. So far, I have argued, the claims for Islamic influence on just war thinking in medieval and early modern Spain are even more uncertain. That doesn't mean that the case cannot be made. But at least insistence on basing such claims on the available evidence relevant to the specific counterfactuals will keep our attributions grounded in the data.

Notes:

(1) . For Vitoria and Soto, see G. Scott Davis, "Conquest and Conscience: Francisco de Vitoria on Justice in the New World," *Modern Theology* 13, no. 4 (1997): 475–500; and G. Scott Davis, "Humanist Ethics and Political Justice: Soto, Sepulveda, and the 'Affair of the Indies,'" *Annual of the Society of Christian Ethics* 19 (1999): 193–212. For Cano on *limpieza de sangre*, see Henry Kamen, *The Spanish Inquisition: A Historical Revision* (New Haven, Conn.: Yale University Press, 1997), 247. Surprisingly, there seems to be no extended general history of the School of Salamanca in English. Juan Belda Plans, whose introduction to Melchor Cano, *De locis theologicis*, ed. and trans. Juan Belda Plans (Madrid: Biblioteca de Autores Christianos, 2006), is the most extensive recent discussion of that author and his context, has produced what appears to be the most recent account of the school, *La Escuela de Salamanca y la renovación de la teología en el siglo XVI* (Madrid: Biblioteca de Autores Cristianos, 2000), but I have not been able to consult it. There is a volume by Jaime Brufau Prats, *La Escuela de Salamanca ante el Descubrimiento del Nuevo Mundo* (Salamanca: Editorial San Esteban, 1989), but this is a collection of older essays, only one of which (chap. 8) goes substantially beyond Vitoria and Soto.

(2) . The classic statement of this position is James Brown Scott, *The Spanish Origin of International Law* (Oxford: Oxford University Press, 1934). Within this tradition of interpretation, the later-sixteenth-century Jesuit Francisco Suárez (1548–1617) is invariably coupled with Vitoria. James Turner Johnson affirms the importance of Vitoria and Suárez but argues for the importance of "taking into account representatives from the Netherlands and England as well." See Johnson, *Ideology, Reason, and the Limitation of War: Religious and Secular Concepts, 1200–1740* (Princeton, N.J.: Princeton University Press, 1975), 153. Richard Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (Oxford: Oxford University Press, 1999), acknowledges the importance of the School of Salamanca—he is generally more aware of the importance of Soto than other commentators—but he misreads Vitoria as justifying conquest. Tuck draws, correctly, a distinction

between the scholastic tradition of Vitoria and Soto and the humanist tradition of Grotius but seems, to my mind, to draw the wrong conclusion about how we should think of international ethics. My view, for which I argue in work forthcoming, is that where Suárez is right, he is almost wholly derivative from Vitoria, and where he is most original—in his interpretation of the law of nations—he runs contrary to the best impulses of the Thomist tradition. I am thankful that the argument of this chapter does not require my making good on that argument here.

(3) . See Norman Housley's summary to *Religious Warfare in Europe, 1400–1536* (Oxford: Oxford University Press, 2002), 190–205. Although Housley notes Vitoria as a critic of religious war and cites James Turner Johnson's *Holy War Idea in Western and Islamic Traditions* (University Park: Pennsylvania State University Press, 1997) to that conclusion, his one extended remark on Vitoria distorts his position severely. See Housley, *Religious Warfare*, 15.

(4) . *Convivencia* is more popular with literary and cultural historians than with social historians of medieval Iberia, who are inclined to see mostly indifference of the communities to each other. The notion has taken on a political hue in the light of the attacks of September 11, 2001. Shortly after the attacks, for instance, Maria Rosa Menocal added a postscript to her recently completed volume on the culture of medieval Spain. The book, she remarks, is “an account of and tribute to the culture of tolerance brought to Europe by the Umayyads. But the book is also necessarily an account of the forces of intolerance that were always present and that ultimately triumphed.” See Maria Rosa Menocal, *Ornament of the World: How Muslims, Jews, and Christians Created a Culture of Tolerance in Medieval Spain* (New York: Little, Brown, 2002), 282. A more cautious view is expressed by Thomas Glick in *Islamic and Christian Spain in the Early Middle Ages* (Princeton, N.J.: Princeton University Press, 1979), particularly the introduction, on controversies in Spanish historiography, and chap. 5, on ethnic relations. Glick also adds a helpful introduction to *Convivencia: Jews, Muslims, and Christians in Medieval Spain* (New York: George Braziller, 1992), which he edited with Vivian Mann and Jerrilynn Dodds, in conjunction with an exhibition at the Jewish Museum. Most recently, Kenneth Wolf's “Convivencia in Medieval Spain: A Brief History of an Idea,” *Religion Compass* 3, no. 1 (2009): 72–85, provides a critical introduction with bibliography. The starting point for introductions to the full spectrum of life in al-Andalus and its impact on the rest of the world is Salma Khadra Jayyusi, ed., *The Legacy of Muslim Spain* (Leiden: E. J. Brill, 1992).

(5) . The grandson is the philosopher and commentator known in the West as Averroës. To avoid confusion, I intend to use the convention found in scholars of Islam and distinguish “Ibn Rushd the grandfather” from “Ibn Rushd the grandson” where necessary. Dominique Urvoy, “The ‘Ulama’ of al-Andalus,” in Jayyusi, *The Legacy*, 849–77, gives a broad introduction to the legal history.

Miguel Cruz Hernández, "Islamic Thought in the Iberian Peninsula," in Jayyusi, *The Legacy*, 779–803, locates Ibn Rushd the grandson in the general sweep of Andalusian thought, while Jamal al-Din al-Alawi's "The Philosophy of Ibn Rushd," in Jayyusi, *The Legacy*, 804–29, provides an introduction to that thinker.

(6) . The consensus is that the works of Ibn Rushd the grandson were known no later than 1225 and that through the 1250s, "theses from Arabic philosophy passed into use in the schools and would be so highly assimilated that their Averroist origin would be lost (which explains, among other things, how it is that Thomas frequently uses Averroës without quoting him." Jean-Pierre Torrell, *Saint Thomas Aquinas*, vol. 1: *The Person and His Work* (Washington, D.C.: Catholic University of America Press, 1996), 192. Torrell's notes include references to the most important recent bibliography, in particular the work of the great scholar of Aristotle's ethics and its impact on Aquinas, René Antoine Gauthier.

(7) . Charles Butterworth, "Al-Farabi's Statecraft: War and the Well-Ordered Regime," in James Turner Johnson and John Kelsay, eds., *Cross, Crescent, and Sword: The Justification and Limitation of War in Western and Islamic Tradition* (Westport, Conn.: Greenwood, 1990), 80.

(8) . *Averroës on Plato's "Republic,"* trans. Ralph Lerner (Ithaca, N.Y.: Cornell University Press, 1974), 93. I follow Lerner in giving the pages of Rosenthal's Hebrew edition when citing Ibn Rushd's text; otherwise, I cite Lerner's page numbers. The translator identifies Plato's *Republic* as "the beginning of the second part of political science" (Lerner, 153), the first part of which is covered by Aristotle's *Nicomachean Ethics* and Ibn Rushd's commentary on it. Ibn Rushd himself notes that the second part is laid out in Aristotle's *Politics* and that he has undertaken the commentary on Plato because "Aristotle's book on governance has not yet fallen into our hands" (22).

(9) . Ibid., 26–27.

(10) . "The Chapter on Jihad from Averroes' Legal Handbook *al-Bidaya*," in Rudolph Peters, *Jihad in Classical and Modern Islam* (Princeton, N.J.: Markus Weiner, 1996), 30.

(11) . Ibid.

(12) . Ibid., 35.

(13) . Noah Feldman, "War and Reason in Maimonides and Averroes," in Richard Sorabji and David Rodin, eds., *The Ethics of War: Shared Problems in Different Traditions* (Aldershot, U.K.: Ashgate, 2006), 102. Lerner, *Averroës*, also calls attention to this passage in his note to 60.4, but he doesn't draw the connection to the discussion of equity. Lacking both the Hebrew and the Arabic, not to mention a copy of the dissertation, I can't tell if Feldman or Ibn Rushd keys this

discussion to *EN* V.7. The relevant text is more properly 1137b–1138a, where Aristotle introduces the technical sense of *epieikeia*, which is frequently translated as “equity.”

(14) . Feldman, “War and Reason,” 103.

(15) . Ibid.

(16) . Ibid., 104

(17) . *The Decisive Treatise and Epistle Dedicatory*, trans. Charles Butterworth (Provo, Utah: Brigham Young University Press, 2001), 6.

(18) . Wael B. Hallaq, *Authority, Continuity and Change in Islamic Law* (Cambridge, U.K.: Cambridge University Press, 2001), 4.

(19) . See Alfonso Carmona, “The Introduction of Malik’s Teaching in al-Andalus,” in Peri Bearman, Rudolph Peters, and Frank Vogel, eds., *The Islamic School of Law: Evolution, Devolution, and Progress* (Cambridge, Mass.: Harvard University Press, 2005), 41–56; and Maribel Fierro, “Proto-Malikis, Malikis, and Reformed Malikis in al-Andalus,” in Bearman, Peters, and Vogel, *The Islamic School*, 57–76.

(20) . Yasin Dutton, “The Introduction to Ibn Rushd’s *Bidayat al-Mujtahid*,” *Islamic Law and Society* 1, no. 2 (1994): 197. For an introduction to Maliki jurisprudence, see Yasin Dutton, *The Origins of Islamic Law: The Qur’an, the Muwatta and Madinan Amal* (London: Routledge, 1994). Some important caveats are issued by Christopher Melchert in his review, “*Origins of Islamic Law*,” *Journal of the American Oriental Society* 121, no. 4 (2001): 713–15.

(21) . Malik ibn-Anas, *Al-Muwatta of Imam Malik Ibn Anas: The First Formulation of Islamic Law*, trans. A. A. Bewley (London: Routledge, 1989), 183.

(22) . This is available at www.corpusthomisticum.org. The Web edition is edited by Eduardo Bernot and Enrique Alarcón. The site as a whole is maintained by Alarcón.

(23) . Marcel Boisard, “On the Probable Influence of Islam on Western Public and International Law,” *International Journal of Middle East Studies* 11, no. 4 (1980): 429.

(24) . Ibid., 431.

(25) . See Joseph O’Callaghan, “Alfonso X and the *Partidas*,” his introduction to the *Las Siete Partidas*, 5 vols., ed. Robert I. Burns, trans. Samuel P. Scott (Philadelphia: University of Pennsylvania Press, 2001), 1:xxx–xl, which provides the basic background, with substantial bibliography. Note that the text of the

Partidas is paginated continuously through the five volumes, while each volume has individually paginated frontmatter. Further background, including substantial philological analysis, is provided in Robert MacDonald, *Libro de las Tahuerías: A Special Code of Law, concerning Gambling, Drawn up by Maestro Roldán at the Command of Alfonso X of Castile* (Madison, Wis.: Hispanic Seminary of Medieval Studies, 1995), and, in even greater detail, albeit in Spanish, in Robert MacDonald, *Espéculo: Texto Jurídico atribuido al Rey de Castile Don Alfonso X, el Sabio* (Madison, Wis.: Hispanic Seminary of Medieval Studies, 1990). Innocent readers should not be misled by Boisard's misidentification of the king as Alfonso IX.

(26) . Boisard, "On the Probable Influence," 435

(27) . Robert MacDonald, "Law and Politics: Alfonso's Program of Political Reform," in Robert I. Burns, ed., *The Worlds of Alfonso the Learned and James the Conqueror: Intellect and Force in the Middle Ages* (Princeton, N.J.: Princeton University Press, 1985), 171–72.

(28) . Roger Collins, *Early Medieval Spain: Unity in Diversity, 400–1000* (New York: St. Martin's, 1983), 248.

(29) . Many of the complexities of the interaction between Muslim and Christian in the early Middle Ages can be gleaned from Thomas Glick, *Islamic and Christian Spain*.

(30) . This is not to say that the *Siete Partidas* does not employ vocabulary drawn from Arabic. But these terms had long been part of the Castilian vocabulary. On these matters, see Glick, *Islamic and Christian Spain*, esp. 297–99 and the index entries under "Arabisms."

(31) . *Las Siete Partidas*, 1438.

(32) . Ibid.

(33) . Ibid., 1441.

(34) . Ibid., 1418.

(35) . Ibid., 1436.

(36) . Ibid., 1442.

(37) . James Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago: University of Chicago Press, 1987), 578.

(38) . Sharon LaFraniere, "Scientists Point to Possible Link between Dam and China Quake," *New York Times*, February 6, 2009, p. 1.

(39) . To give merely the basic outline of the story would be a major undertaking. A valuable introduction to the issues may be found in J. L. Mackie, *The Cement of the Universe: A Study in Causation* (Oxford: Oxford University Press, 1974). A very interesting approach, which begins where Mackie leaves off, has been developed by Nancy Cartwright in *Nature's Capacities and Their Measurement* (Oxford: Oxford University Press, 1989). Cartwright deploys notions drawn from economics, which speak to her interest in measurability. The approach to influence through counterfactuals, which I plan to develop here, goes back at least to the 1940s, and a number of important essays are brought together in Ernest Sosa, ed., *Causation and Conditionals* (Oxford: Oxford University Press, 1975). David Lewis's influential essays on causation, including an expanded version of the one in Sosa, are collected in *Philosophical Papers*, vol. 2 (Oxford: Oxford University Press, 1986). His last word on the subject is "Causation as Influence," *Journal of Philosophy* 97, no. 4 (2000): 182-97.

(40) . In "Causation as Influence," Lewis addresses a number of issues having to do with "redundant" causation, as when, for example, one rock hits a bottle a split second before another rock would have. These discussions also help in getting clearer about what sort of constraints there might be on interpreting human interactions and the ascription of influence, but I will not develop them here.

(41) . Perhaps the most famous philosophical example is Descartes's (feigned?) surprise that Augustine anticipated the *cogito*, as in his letter to Colvius of November 14, 1640: "I am obliged to you for drawing my attention to the passage of St. Augustine relevant to my *I am thinking, therefore I exist*. I went today to the library of this town to read it, and I find that he does really use it to prove the certainty of our existence." Descartes, *Philosophical Letters*, trans. and ed. Anthony Kenny (Oxford: Oxford University Press, 1970), 83-84.

(42) . These last paragraphs were written in October 2008, well before I heard of the major exhibition "Cézanne and Beyond" held at the Philadelphia Museum of Art from February 26 to May 17, 2009. That exhibition, juxtaposing as it did the work of Cézanne with a disparate group of subsequent artists, illustrates the complexity of the various forms of influence. If we take just the case of Mondrian, it seems fairly clear that had the Dutch artist not encountered Cézanne's *Gingerpot with Pomegranate and Pears*, he would not have produced his own *Still Life with Gingerpot I* of 1911. This is clearly the precursor of *Still Life with Gingerpot II* of 1912, which in turn gives rise to *Composition No. II* of 1913. From here, there seems to be a clear line of progression to the well-known abstractions of which *Broadway Boogie Woogie* is probably the most famous. How and at which points any of this may be related to Mondrian's membership in the Theosophical Society, beginning in 1909, goes beyond my art history knowledge. See Joop Joosten, "Cézanne and Mondrian: 'A New Way to Express the Beauty of Nature,'" in Joseph Rishel and Katherine Sachs, eds., *Cezanne and*

Beyond (Philadelphia: Philadelphia Museum of Art, 2009), 137–57. The more important point is that whatever lines of influence Cézanne may have had on Mondrian may well have been markedly different from those exercised on Picasso or Jasper Johns. Thus, even the influence of a single figure on subsequent generations may be extremely resistant to generalization. Michael Baxandall's *Patterns of Intention: On the Historical Explanation of Pictures* (New Haven, Conn.: Yale University Press, 1985) has been particularly influential in my thinking on these matters.

(43) . Baxandall, *Patterns of Intention*, 61. Baxandall's strictures on the attribution of "influence" here seem to me very important, and I hope that nothing I say appears contrary to them.

(44) . I propose this as a hypothetical debate, and, with regard to the details, so it is. But I have benefited from extended discussions with Johnson on the matter and am convinced that the disagreement is both real and important. In any case, I am greatly in Johnson's debt.

(45) . James Turner Johnson, *Just War Tradition and the Restraint of War: A Moral and Historical Inquiry* (Princeton, N.J.: Princeton University Press, 1981), 122.

(46) . *Ibid.*, 132.

(47) . *Ibid.*, 141.

(48) . *Ibid.*

(49) . *Ibid.*, 140.

(50) . Francisco de Vitoria, *On the Law of War*, 3.1, in *Political Writings*, ed. Anthony Pagden and Jeremy Lawrence (Cambridge, U.K.: Cambridge University Press, 1991), 314–15; italics in original. The editors go on to note that the early printed editions "amplify the list of innocent non-combatants in this sentence as follows: 'In wars against fellow-Christians, the same argument holds true of harmless farming folk, and other peaceful civilians (*gens togata*).'"

(51) . This is, as it happens, the position I have argued in G. Scott Davis, *Warcraft and the Fragility of Virtue: An Essay in Aristotelian Ethics* (Moscow: University of Idaho Press, 1992).

(52) . Boisard, "On the Probable Influence," 435.

(53) . O'Callaghan, "Alfonso X," xxxix.

(54) . MacDonald, *Espéculo*, xxxi.

(55) . A lively and up-to-date account of Alfonso X's legislative program and its place in the history of his reign can now be found in Peter Linehan, *Spain, 1157–1300: A Partible Inheritance* (Oxford: Blackwell, 2008), esp. 121–32, 204–9.

(56) . Michael Cook, *Commanding Right and Forbidding Wrong in Islamic Thought* (Cambridge, U.K.: Cambridge University Press, 2000), 364.

(57) . Ibid.

(58) . Dominique Urvoy, "Sur l'évolution de la notion de Jihad dans l'Espagne musulmane," *Mélange de la Casa de Velázquez* 9 (1973): 337–38, 352. The disdain for Andalusian laxness emerges with even greater force in Maribel Fierro's discussion of "spiritual alienation and political activism" in twelfth-century Andalusia. According to the received interpretation of the *hadith*, "Islam began as a stranger and shall return to being a stranger just as it began," abandoning jihad was a sign of the "two intoxications" that presage the period of evil in which "the true believer will be considered a liar and will be punished for obeying God." Maribel Fierro, "Spiritual Alienation and Political Activism: The Guruba in al-Andalus during the Sixth/Twelfth Century," *Arabica* 47, no. 2 (2000): 234.

(59) . See Michael Bonner, *Jihad in Islamic History: Doctrines and Practice* (Princeton, N.J.: Princeton University Press, 2006), 111–12.

(60) . One suggestion, which might be of interest to scholars more sympathetic to chivalry, would be to wonder whether the work of the translation "school" at Toledo, which clearly influenced Peter the Venerable (see James Kritzeck, *Peter the Venerable and Islam* [Princeton, N.J.: Princeton University Press, 1964]), also had an impact on the work of the Majorcan polymath and would-be apostle to the Muslims, Ramon Llull, particularly his *Book of the Order of Chivalry*. The situation, however, is made even more complicated by the fact that Llull draws on *Partida* II, title XXI, "Concerning Knights," thus reproducing the conflict among Boisard, Johnson, and myself. See Anthony Bonner, ed., *Doctor Illuminatus: A Ramon Llull Reader* (Princeton, N.J.: Princeton University Press, 1985), for an introduction to the world of Llull studies.

(61) . Jacobus de Voragine, *The Golden Legend*, 2 vols., trans. W. G. Ryan (Princeton, N.J.: Princeton University Press, 1993), 2:46. The intellectual background to the emergence of the fraternal orders is brilliantly articulated in M.-D. Chenu, *Nature, Man, and Society in the Twelfth Century*, ed. and trans. Jerome Taylor and Lester Little (Chicago: University of Chicago Press, 1968), chaps. 6–7. Simon Tugwell, *Early Dominicans: Selected Writings* (Mahwah, N.J.: Paulist, 1982), is a valuable collection of primary texts in translation, with an authoritative historical discussion. The offer to stand ransom is not simply a pious gesture, although Dominic does seem to have offered himself more than once for various good works. Dominic's offer should be seen as part of another

ongoing arena in which Christians and Muslims interacted with the expectation of fair exchange, namely the practice of ransoming captives from one community back to the other. For most of the medieval period, to venture into the frontier put an individual at risk from raiding parties. "The most practical means for a captive to gain freedom," writes James Brodman, "was redemption, i.e., through the payment of a ransom in money or in kind, or through the exchange of a suitable captive held by the other side." James William Brodman, *Ransoming Captives in Crusader Spain: The Order of Merced on the Christian-Islamic Frontier* (Philadelphia: University of Pennsylvania Press, 1986), 6.

(62) . Brodman, *Ransoming Captives*, 7.

(63) . Ibid., 113.

(64) . Tugwell, *Early Dominicans*, 56.

(65) . Thomas F. O'Meara, "The Theology and Times of William of Tripoli, O.P.: A Different View of Islam," *Theological Studies* 69 (2008): 81–82.

(66) . Ibid., 95. William plays a prominent role in Palmer Throop, *Criticism of the Crusade: A Study of Public Opinion and Crusade Propaganda* (Amsterdam: Swets and Zeitlinger, 1940), which translates notable sections of *De Statu Saracenorum*. A critical edition of that work, and of the *Notitia de Machometo*, has now been produced, but I have not been able to consult it. O'Meara, "The Theology and Times," provides the relevant references. Elizabeth Siberry downplays the importance of William in *Criticism of Crusading, 1095–1274* (Oxford: Oxford University Press, 1985), but she cannot dismiss the reality of a debate within the Dominican community about the time when Aquinas was finishing the *Secunda Secundae*, which is central to my argument below. Discussing Siberry, Hans Eberhard Mayer writes that the book "is useful as a rich collection of material and for its study of twelfth-century crusading criticism, but it is a curiously one-sided piece of work. While the defenders of the papacy with regard to the crusades against heretics and the Hohenstaufen are taken at face value, the critics are throughout dismissed." Hans Eberhard Mayer, *The Crusades*, 2nd ed., trans. John Gillingham (Oxford: Oxford University Press, 1988), 320.

(67) . Penny Cole, "Humbert of Romans and Crusade," in Marcus Bull and Norman Housley, ed., *The Experience of Crusading*, vol. 1 (Cambridge, U.K.: Cambridge University Press, 2003), 164. Humbert of Romans is not as well studied as might be expected of such an important figure. Edward T. Brett, *Humbert of Romans: His Life and Views of Thirteenth-Century Society* (Toronto: Pontifical Institute of Medieval Studies, 1984), is the most detailed discussion in English. Tugwell, *Early Dominicans*, 31–35, has a very valuable discussion. Humbert figures prominently in Penny Cole, *The Preaching of the Crusades to the Holy Land, 1095–1270* (Cambridge, Mass.: Medieval Society of America,

1991). Cole notes that she is at work on a critical edition of *On Preaching the Crusade*, but as of this writing, it has not appeared.

(68) . Cole, "Humbert of Romans," 167.

(69) . Brett, *Humbert of Romans*, 179.

(70) . O'Meara, "The Theology and Times," 86–87.

(71) . Thomas Aquinas, *De rationibus fidei ad Cantorem Antiochem*, in *Corpus Thomisticum*, ed. Robert Busa, online edition of the Leonine text of 1968, cap. 1, at www.corpusthomisticum.org.

(72) . Ibid.

(73) . Torrell, *Saint Thomas Aquinas*, 352.

(74) . O'Meara, "The Theology and Times," 88.

(75) . The *Index Thomisticus* notes thirty-two instances of "Saracen" and its cognates in twenty-six works. "Muhammad," in variations of "Mahumetus," occurs in six works. *Summa Theologiae* 2a2ae, 10, on unbelief generally, distinguishes the unbelief of the Jews and the heretics from "infidelitas gentilium sive Paganorum" (the disbelief of the gentiles or pagans), but it is not clear how broad a scope is intended. The one occurrence of "Saracen" in this question—"Christiani possunt habere servos infideles, vel Iudaeos vel etiam Paganos sive Saracenos" (Christians may have servants who are unbelievers, whether Jews or even pagans or Saracens; a. 9, arg. 3)—leaves it unclear whether "Saracenos" are identical to "Paganos" or merely a subset of them.

(76) . Christopher Tyerman, *God's War: A New History of the Crusades* (Cambridge, Mass.: Harvard University Press, 2006), 815.

(77) . See *ibid.*, 815–16.

(78) . *Ibid.*, 256.

(79) . Housley seems inclined to follow Siberry in discounting much of this criticism, writing of Throop's remark on "the decaying prestige of a papacy too inclined to use spiritual weapons for apparently secular aims" that "this argument is valid only if it can be shown that public opinion was uniformly or at least overwhelmingly hostile to the use of the crusade against Christian lay powers. Joseph Strayer was doubtful if this could be proved." Norman Housley, *The Italian Crusades: The Papal-Angevin Alliance and the Crusades against Christian Lay Powers, 1254–1343* (Oxford: Oxford University Press, 1982), 6–7. While this would be true of popular opinion generally, it is hard to imagine that such criticisms would not have been common in the household of "one of

Frederick's barons." To imagine that Thomas, as a religious, would have been an unquestioning supporter of the pope is an anachronistic projection of contemporary wishes onto medieval realities. Still, this remains speculative.

(80) . Simon Tugwell, ed., *Albert and Thomas: Selected Writings* (Mahwah, N.J.: Paulist, 1988), 201.

(81) . Torrell, *Saint Thomas Aquinas*, 3.